



Q&A

Marc D. Policastro

Q In New Jersey, if groundwater contamination exists above applicable cleanup standards, is it always necessary to fully remediate groundwater to meet applicable cleanup standards?

A No. The New Jersey Department of Environmental Protection ("NJDEP") will permit "exceptions" to strict compliance with the State's "Groundwater Cleanup Standards". NJDEP will approve a Classification Exception Area ("CEA"), authorizing an owner or operator to leave groundwater contamination in place, without aggressively remediating the particular constituents at issue. In certain cases, a CEA may also be approved in the context of an active remediation strategy. In all cases, the applicant must demonstrate the anticipated duration or "term" of the CEA, or the point at which it is anticipated that contamination will sufficiently degrade to meet strict compliance. Applicants must also map the boundaries of the proposed CEA and identify the particular contaminants that will be subject to the exception. The NJDEP will also require applicants to address the presence or absence of potable wells and receptors. Significantly, both residential and commercial development may be achieved in concert with CEAs and other related controls authorized by NJDEP.



Marc D. Policastro is a shareholder at Giordano Halleran & Ciesla, P.C. in the firm's Environmental Practice Area and Real Estate, Land Use and Development Practice Area. He can be reached at (732) 741-3900 or at mpolicastro@ghclaw.com.