



## LEGAL Q&A

**Q** Is it possible to obtain a “No Further Action Letter” from the State of New Jersey where, in fact, “further action” is definitely required by someone?

**A** Under the old framework at NJDEP, a responsible party would typically petition NJDEP for a “No Further Action Letter” (NFA). As custom would have it, purchasers and lenders in real estate transactions would request an NFA confirming the obvious – that is—that, literally, no further action is required because the property has been remediated to applicable commercial or residential standards, as the case may be. In atypical circumstances, under the old system, NJDEP might have issued an NFA where contamination of a regional nature existed, or perhaps in cases where the consultant or attorney pushed the State hard enough. Alternatively, the State might have issued a “mini NFA” providing clearance for a particular constituent or discrete area of concern, in lieu of a “site wide” approval. With the new LSRP Program in full swing, owners, operators and lenders should take notice of the “form” approvals available to licensed consultants. NFAs are now replaced by Response Action Outcomes (RAOs). The consultant issuing the RAO (now standing in the shoes of NJDEP), has optional language to be included in the final approval, confirming that, in fact, contamination exists. In such cases, for example, where off-site contamination has migrated onto another property, a “final approval” may evidence not that “no further action” is required – but, rather, that no further action is currently required by a particular owner or operator. **Bottom line: Read the fine print.**



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