

State of New Jersey
Executive Order #140

Governor Jon S. Corzine

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WHEREAS, the State of New Jersey has been endowed by nature with extraordinary and diverse ecosystems; ranging from the Highlands to the Shore; from the Delaware and New York Bays to the Hudson, Delaware, Passaic, and Raritan rivers; from the dunes and grasslands on the Atlantic to the Pinelands; from flatlands and marshes to forests and mountains; from rich soils to pristine ponds, lakes, and aquifers; and

WHEREAS, partially as a result of this diversity, the State is the most densely populated in the Nation, with its population able to enjoy natural settings of enormous beauty and ecosystems of great variety; and

WHEREAS, since colonial times, the richness of the State's natural heritage has allowed the State to flourish and created abundant opportunities for agriculture, trade, and commerce, and the growth of business has attracted more residents and reinforced the development of business within the State, which in turn attracted more residents, and this dynamic, with the Nation's technological development, eventually brought heavy industry as well as large numbers of manufacturing, chemical, and refining enterprises to the State; and

WHEREAS, for decades, these industries have contributed to the State's growth and prosperity, providing jobs and enriching living standards for all, yet many of these same enterprises have released pollution into the State's air, soil, surface and ground water, and these by-products of industrial production have damaged numerous natural resources, threatened human health and safety, and degraded our environment; and

WHEREAS, our economic prosperity and, as science has shown, our existence as a species depend on responsible stewardship of our environment and protecting our varied ecosystems from pollution and other harmful by-products of industrial production; and

WHEREAS, for more than three decades, the State has made extraordinary efforts to reduce or eliminate the health and safety impact of pollution on humans, especially children and other sensitive populations, and halt the impact of pollution on the State's ecosystems, its natural resources, its soils, and waters, particularly through its Site Remediation Program that oversees the clean-up of sites where a hazardous substance has been discharged; and

WHEREAS, there are more than 19,000 sites in the Site Remediation Program with more being added daily, and given resource limitations, the Program has had difficulty in evaluating the sites, moving them quickly through the clean-up process, and verifying that the work was done appropriately; and

WHEREAS, almost three years ago, the New Jersey Department of Environmental Protection (DEP) began to work with all interested entities, from members of the State Legislature to environmental advocacy groups to consultants and persons responsible for conducting site clean-ups to include more sites in the clean-up program, improve the speed of site clean-ups, reduce the chance that any site-based pollution would damage human health, compromise safety of workers or eventual residents, threaten natural resources, including bodies of water, drinking water, and aquifers; and the environment; and

WHEREAS, participants in those same meetings also resolved to expand DEP's legal authority to address site-based pollution; and

WHEREAS, as the culmination of that inclusive process, both houses of the Legislature passed the Assembly Committee Substitute for Assembly Bill No. 2962, a lengthy and complex bill, which establishes a licensing program for site remediation professionals and makes various other changes to the statutes governing the remediation of polluted sites (the Legislation); and

WHEREAS, the Legislation moves the DEP from direct supervision of the clean-up of polluted sites to a compliance and enforcement and monitoring role of independent professionals conducting such work; and

WHEREAS, among its other provisions, the Legislation establishes the Site Remediation Professional Licensing Board (the Board), requires the DEP to inspect all documents and information submitted by an LSRP, authorizes the DEP to review the performance of a clean-up under a broad range of circumstances, and mandates that the DEP shall undertake direct oversight of a contaminated site under certain conditions and authorizes, but does not require the DEP to undertake that direct oversight under other conditions; and

WHEREAS, the DEP will promulgate rules to implement the Legislation, and given the complexity and range of issues, it would be helpful for those affected by the Legislation to have a sense of the direction of how the DEP and the Office of the Governor will work together to implement it;

NOW, THEREFORE, I, JON S. CORZINE, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. At sites where groundwater has been impacted by pollutants above remediation standards, or where the site may be used as residential housing, or for educational purposes, including use as a child care or day care center, a public, private, or charter school, or a playground or ball field, the DEP shall increase its auditing, monitoring, and review of conditions at the site, including the performance of on-site inspections, and its inspection of the LSRP's submissions to ensure that public health, safety, and the environment are protected as the Site Remediation Program transitions to a compliance and enforcement role.
2. Within 60 days of this Order, the DEP shall develop guidelines governing the circumstances in which it is authorized to undertake direct oversight of a remediation of a contaminated site, as set forth in section 27.b of the Legislation.
3. During the 24 months immediately following the effective date of the Legislation, the DEP's review of 10% of all documents submitted by LSRPs shall include at least one review of case documents submitted by every LSRP.
4. The DEP shall prepare annual reports on the implementation of the Legislation to the Governor, the Senate Environment Committee, and the Assembly Environment and Solid Waste Committee. The first report shall be due on or before December 31, 2010, and the remaining reports shall be due on or before December 31 of each following year.
5. The DEP shall issue technical assistance grants to a minimum of five local community environmental groups per year during the temporary phase of the LSRP program to evaluate remediation methods or interpret the work of temporary LSRPs.
6. To further the transparency of the operations of the Site Remediation Program, as soon as an internet site with document posting capability is established, the DEP shall post on such site every document submitted by an LSRP in connection with a contaminated site as well as all audit findings within 60 days of their being finalized.
7. The DEP shall work with the Governor's Appointments Office to locate persons of the highest professional caliber to serve as members of the Board. In addition to the qualifications set forth in the Legislation, the Appointments Office shall make every reasonable effort to ensure that one appointee to the Board shall have expertise in public health, and another appointee shall be a hydrologist, provided that nothing in this Order alters the number or functioning of Board. The Appointments Office shall not submit initial nominations to the Senate until each of the eleven nominees have been named; subsequent nominations shall not be subject to this process. As soon as the Board can begin work, it shall promulgate rules insulating an LSRP's professional judgment from economic pressures to the maximum extent practicable.
8. The DEP shall take steps to ensure that the appropriate provisions of this Executive Order are proposed as rules.

9. This Order shall take effect immediately.

GIVEN, under my hand and seal this 7th
day of May, Two Thousand and Nine,
and of the Independence of the United
States, the Two Hundred and Thirty-third.

/s/ Jon S. Corzine

Governor

[seal]

Attest:

/s/ William J. Castner, Jr.

Chief Counsel to the Governor