



# NYSDEC Requiring Site Owners to Investigate Emerging Contaminants

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Over the past few years, a number of state agencies have begun to take steps to address emerging contaminants like per- and -polyfluororalkyl substances (“PFAS”) and 1,4 dioxane. Just this past January, we reported on our blog that the NJDEP set the most stringent limits in the country for perfluorooctanoic acid (“PFOA”) and perfluorononanoic acid (“PFNA”) in drinking water and adopted a regulation that added PFNA to the List of Hazardous Substances under the New Jersey Spill Compensation and Control Act (See our January 30, 2018 Blog Article [NJDEP Takes a Further Step in Regulating Emerging Contaminants](#) reprinted at the top of this Update). Now the New York State Department of Environmental Conservation (“NYSDEC”) is undertaking a statewide evaluation of remediation sites to better understand the risk posed by certain emerging contaminants. As part of this effort, the NYSDEC is requesting that owners of certain remediation sites throughout New York investigate the presence of PFAS and 1,4 dioxane in groundwater. The NYSDEC has specifically noted that sampling and analysis of these compounds also has been integrated into standard practice for all environmental site remediations going forward.

The NYSDEC has begun issuing letters to notify owners of remediation sites of the new investigation requirements and to request that site owners sample their properties for certain emerging contaminants within a specified timeframe. Attached to the letters is a guidance document (Groundwater Sampling for Emerging Contaminants – February 2018) that describes the NYSDEC’s implementation of this new program and sets forth recommended sampling analysis and reporting protocols and procedures. The letters ask the owners to contact the NYSDEC to discuss the scope of the requested groundwater sampling within ten (10) business days after receipt. If the owner declines, the NYSDEC may perform the sampling itself.

This new initiative has the potential to significantly impact a party's remediation obligations if emerging contaminants are found above reporting limits. The NYSDEC may seek to reopen closed sites or expand the scope of existing investigations and cleanups. The sites that are the most likely to be identified by the NYSDEC for sampling are those sites that have the potential for emerging contaminant contamination, like fire training centers, bulk storage facilities, landfills, airports, and Department of Defense (DoD) facilities. As the NYSDEC continues to develop its understanding of the potential risks associated with emerging contaminants, new requirements may be on the horizon.

For more information, please contact the author Jaan M. Haus at [jhaus@riker.com](mailto:jhaus@riker.com) or any attorney in our [Environmental Practice Group](#).

### **Attorney:**

Jaan M. Haus

### **Practice:**

Environmental Law