



NJDEP to Expand Site Remediation Municipal Ticketing Initiative

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The NJDEP (or the “Department”) Site Remediation Program (“SRP”) has been experimenting in recent years with expedited enforcement proceedings utilizing its “Municipal Ticketing Initiative.” Through the Municipal Ticketing Initiative, NJDEP issues “tickets” for certain obvious violations of the Site Remediation Reform Act, primarily including the failure to retain a Licensed Site Remediation Professional. Upon issuance of a ticket, the applicable municipal court will set a hearing date, and a state attorney will send a letter to the offender proposing to settle the violation upon compliance with the applicable requirements. If the offender and the state attorney cannot reach a settlement, the matter will go to trial in municipal court. From start to finish, this process takes between three to six months.

Traditionally, NJDEP has enforced the requirements of the SRP through the administrative order and civil penalty process. The Department still relies on administrative proceedings to prosecute complicated enforcement matters, but this process can take several years to complete. As a result, NJDEP is looking to expand its use of the Municipal Ticketing Initiative wherever possible. In fact, NJDEP is working to automate the ticketing process and to expand the ticketed violations so that responsible parties will receive tickets for other types of violations, including failure to conduct a receptor evaluation, failure to establish a classification exception area, failure to obtain a remedial action permit, or failure to comply with other mandatory aspects of the SRP.

As of February 2017, the Department reported that, through its Municipal Ticketing Initiative, it had issued 55 tickets at 37 contaminated sites, and had collected over \$160,000 in penalties. As noted above, legal counsel may assist with negotiating settlement and reducing penalties sought by NJDEP in connection with tickets. Negotiated penalties often are significantly lower than the applicable penalty, and have ranged from \$1,500 to \$12,500. In

contrast, the Department may seek to impose penalties of up to \$50,000 per day for continuing violations, and may request a bench warrant if an offender fails to appear for a scheduled hearing. As a result, it is beneficial to address tickets in a timely manner, but it is important to note that NJDEP may still seek a penalty even if the offender comes into compliance after receiving the ticket. New Jersey Department of Environmental Protection v. Hood, 2016 WL 6518596 (App. Div. Nov. 3, 2016).

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