ISRA & Other Transaction-Triggered Environmental Laws

New Jersey's unique transaction-triggered environmental law, the Industrial Site Recovery Act (ISRA), is designed to ensure that a wide array of commercial and industrial properties are investigated, addressed and cleaned up, primarily at the time of property or business sale or transfer, or cessation of operations at the affected property. The firm's environmental team, deeply versed in transaction-triggered environmental laws including ISRA, counsels clients on the unique compliance requirements associated with these laws, providing essential guidance to ensure seamless transactions to prevent costly delays and, where possible, avoid client entanglement in environmental liabilities for which they are not already responsible.

ISRA compliance is often complex and typically requires the involvement of a class of specially authorized environmental consultants known as Licensed Site Remediation Professionals (LSRPs) to achieve regulatory closure.

Our services related to ISRA, and other transaction-triggered environmental laws begin with determining potential applicability of ISRA to particular business events. If ISRA is triggered and we are representing the triggering party, we develop compliance and process management strategies to guide clients through the entire remediation process, working closely with LSRPs to conduct a preliminary assessment (PA) and site investigation (SI), and if contamination is discovered a remedial investigation (RI) and remedial action (RA). This process works towards the issuance of a Response Action Outcome (RAO) by the LSRP, which certifies that the remediation is complete and satisfies ISRA obligations, allowing the transaction to proceed. Such RAOs also carry with them requirements for post-RAO permits that guide continuing post-closure environmental responsibilities if contaminants remain in soil and groundwater.

When representing the purchasers of ISRA-subject sites, we likewise assess compliance responsibilities and assure that the responsible ISRA-triggering party proceeds through the process in an appropriate manner. We typically work with environmental consultants in our assessment process.

We draft and negotiate robust environmental provisions within purchase and sale agreements, leases, and other transactional documents to address ISRA obligations. We draft and negotiate environmental service agreements with LSRPs and other environmental consulting professionals and contractors. Our attorneys also assist clients in

exploring and applying for various ISRA waivers and exemptions, which can significantly streamline or eliminate the need for full ISRA compliance.

For the many cleanups that require that a remediation funding source be posted in favor of NJDEP to assure compliance with cleanup obligations, we advise on the various options to satisfy this requirement, such as fully funded trusts, letters of credit, surety bonds, self-insurance or environmental insurance policies, and work with financial institutions that issue such financial instruments. Likewise, where financial assurances must be posted in favor of NJDEP to assure compliance with post-RAO permits, we advise and assist on establishing the requisite assurances.

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Experience

Representative Matters

- Representing a family-owned industrial production and supply chain company and affiliated trusts and estate in connection with a proposed $32 million sale and leaseback of a 160,000 square foot warehouse, construction of a 90,000 square foot flex facility, zoning and land use approvals, ISRA compliance, tax planning, and corporate reorganizations.
- Representing a leader in innovative water solutions in compliance with the ISRA at a former manufacturing facility, including vapor intrusion and remediation program issues.
- Representing L'Oréal USA in a national real estate and environmental engagement supporting acquisitions, leasing, development, and operation of manufacturing and research facilities, including ISRA compliance, renewable energy and power off-take agreements, sustainability initiatives, and tax assessment matters. The firm's recent work includes advising L'Oréal on the development and opening of its flagship New Jersey Research & Innovation facility, featuring an onsite solar microgrid, battery storage, EV charging infrastructure, and peak-shaving controls.
- Provided real estate and land use support in the firm's successful representation of Des Champs Laboratories, in which the New Jersey Appellate Division struck down an unauthorized NJDEP regulation that would have significantly expanded cleanup obligations under the ISRA.
- Represented a manufacturing client in the sale of an industrial property involving ISRA-triggered environmental liabilities, negotiating an agreement shifting remediation obligations to the buyer, requiring environmental insurance, post-closing access rights, recorded institutional controls, and collateral securing ongoing obligations.
- Advising a national media and information company on ISRA compliance and PFAS-related contamination issues at multiple New Jersey facilities, including pursuing claims against former owners and managing environmental issues in property dispositions.
- Representing a multinational climate-control manufacturer in long-running regulatory proceedings with the NJDEP, including negotiating settlements, overseeing ISRA compliance, and pursuing insurance coverage for environmental liabilities.
- Representing the country's largest ready-mix concrete supplier in environmental and ISRA compliance matters related to real estate and stock acquisitions in New Jersey, including oversight of remediation obligations for

acquired properties.

- Serving as New Jersey environmental counsel to a multinational specialty coatings manufacturer in connection with ISRA compliance, remediation liability allocation, operating permits, and the acquisition and disposition of environmentally complex properties.
- Represented a global medical equipment manufacturer in environmental permitting, ISRA compliance, and international corporate reorganizations, including resolution of Clean Water Act disputes resulting in $20–$50 million in avoided compliance costs.

Insights & More

Client Alerts

NJDEP Overhauls Remediation Standards for Contaminated Sites in New Jersey
6.07.21

Connecticut Enacts Transfer Act Amendments Including Eventual Transition from Transaction-Triggered to Release-Based Program
11.17.20

Atlantic Richfield v. Christian: Despite Initial Concerns, SCOTUS Decision Does Not Open Floodgates for State Court Challenges to EPA-Approved CERCLA Remedies
8.11.20

Publications

Environmental Issues in Real Estate and Commercial Transactions
2027

ISRA Compliance: Environmental Issues in Transactions, Brownfield Redevelopment and the Site Remediation Reform Act
2013

Seminars & Events

ISRA Compliance
1985 – forward