

PRE-PURCHASER ADMINISTRATIVE CONSENT ORDERS

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The NJDEP recently approved the use of Pre-Purchaser Administrative Consent Orders (ACOs). This tool allows a buyer with no connection to the Person Responsible for Conducting the Remediation (PRCR) to purchase a Site that is in Direct Oversight (DO) with modifications to the DO requirements.

Under DO, remediation timeframes are tied to the Site, not to the PRCR. However, ARRCS (N.J.A.C. 7:26C-14.4) allows NJDEP to adjust certain direct oversight requirements. The new Pre-Purchaser ACO allows for the following adjustments:

- ▶ A Remediation Cost Review must still be certified by an LSRP and a Remedial Funding Source must be established for the full remediation cost; however the 1% annual surcharge is waived.
- ▶ The entire contaminated Site must still be remediated, but the PRCR selects the remedy and remediation proceeds without prior NJDEP approval.
- ▶ Annual Remediation Fees replace DO costs.
- ▶ The Feasibility Study is waived.
- ▶ Submittals are reviewed by the Bureau of Inspection & Review.
- ▶ A new Remedial Investigation Timeframe will be established, but no extensions will be available.

Three to four months prior to a proposed property transaction, the prospective purchaser must submit a letter to NJDEP providing basic identifying information on the Site and certifying that they have no prior connection to the Site or current PRCR.

The Pre-Purchaser ACO must be executed with NJDEP prior to the transfer of ownership (not necessarily the date the Deed is recorded). If a deal does not go through, the Pre-Purchaser Agreement is cancelled with no obligation from the purchaser.

The NJDEP hopes to make this a collaborative effort that fosters property transactions while bringing contaminated Sites, that have languished for years in DO, into compliance.

Advanced GeoServices Corp. was founded in 1992 as a specialty environmental engineering firm serving private sector clients. Effective February 1, 2018, we have joined Montrose Environmental, with over 40 offices across the country. For additional information please feel free to contact Rick Shoyer at (856) 354-2273, or Chris Valligny at (610) 840-9100.



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