

February 2020

Client Advisory

## Soil and Fill Recyclable Materials Industry Scrambles to Comply with New Law Aimed to Crack Down on Illegal Dumping

**How New Jersey's soil and fill recycling businesses will be impacted.**

New Jersey Governor Phil Murphy recently signed Senate bill S-1683 (A-4267) extending many compliance requirements for the solid waste industry. This effort to overhaul rules applicable to soil and fill recycling businesses comes after major cases of alleged illegal dumping made headlines in the past year, including a report about a seven-story pile of waste and debris that had been created on property in a residential section of Vernon Township. Soil tests found that the pile contained elevated levels of chemicals which are harmful to human health. This new law will prevent this, and similar situations, from happening again.

### Who the New Law Affects

The new law gives the New Jersey Department of Environmental Protection ("NJDEP") greater oversight of businesses that engage in, or provide, soil and fill recycling services. These businesses include any corporation, association, firm, partnership, sole proprietorship, trust, limited liability company, or other commercial organization providing services for the collection, transportation, processing, brokering, storage, purchase, sale, or disposition of soil and fill recyclable materials.

Soil and fill recyclable materials include, but are not limited to: broken or crushed brick, block, concrete, or other similar manufactured materials; soil or soil that may contain aggregate substitute or other debris or material, generated from land clearing, excavation, demolition, or redevelopment activities that would otherwise be managed as solid waste, and that may be returned to the economic mainstream in the form of raw materials for further processing or for use as fill material.

As a result of this new law, businesses which might not have otherwise been required to comply with the stringent "A-901" licensure process (for example, any business transporting or selling soil or fill materials) now must follow the procedure to obtain a valid license. Violators of the new regulations can be subjected to third-degree criminal penalties and civil fines of up to \$100,000 per day. Criminal cases may also be pursued by the State Attorney General's office, while local health boards could seek civil cases.

### What You Need to Do

#### Due by April 20, 2020: Register with the DEP

If your business does not hold a valid, permanent A-901 License and is currently engaged in soil and fill recycling services, you

must first register with the NJDEP on or before **April 20, 2020**. To register with the NJDEP, you must complete and submit a Soil and Fill Recycling Registration Form, found [here](#). There is no cost to register. If you are uncertain that the services you provide are subject to this law, the NJDEP recommends you register as a precaution. This guarantees you can continue your services past July 20, 2020, though you will still need to file for an A-901 License by October 19, 2020 to continue operating. Please refer to the next section for more on this.

#### Due by October 19, 2020: Complete A-901 License

Once registered with the DEP, you must file a complete (full disclosure) Soil and Fill Recycling License application, commonly referred to as an A-901 License, with the Attorney General's Office by **October 19, 2020**. The applications will be reviewed by the Attorney General's Office, with assistance from the New Jersey State Police, the NJDEP, and other agencies to ensure a business concern has the necessary reliability, integrity, competency, and expertise before granting a Soil and Fill Recycling (A-901) License. If you do not file for an A-901 License or miss this deadline, your Soil and Fill Recycling Registration will automatically expire.

#### For Further Information and Assistance

If you have questions or would like more information about the soil and fill recycling registration and A-901 licensing processes, or A-901 license renewals, annual reporting requirements, or claims issues, please contact [Nicholas J. Lochetta, II](#) at 609.580.3709, or email at [nlochetta@archerlaw.com](mailto:nlochetta@archerlaw.com). A significant portion of Nick's business counseling practice is dedicated to representing clients with the acquisition and maintenance of New Jersey A-901 licenses. He also represents clients in the defense of claims involving alleged failure to obtain required regulatory permission to operate in the solid and hazardous waste industry. In the licensing process, Nick also handles the negotiation and review of the resulting contracts and related documents for transportation and disposal situations.

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