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Update on Key Environmental Regulations Impacting Asphalt Production

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NJAPA

Agenda

- NJDEP Enforcement
 - Air Permitting
 - Water
 - Environmental Justice
- NJDEP Dirty Dirt Regulations
- Recycled Asphalt Pavement
 - NJDEP Guidance Document
 - High RAP Statute

NJDEP Enforcement: Air Permitting

NJ Air Quality Permitting

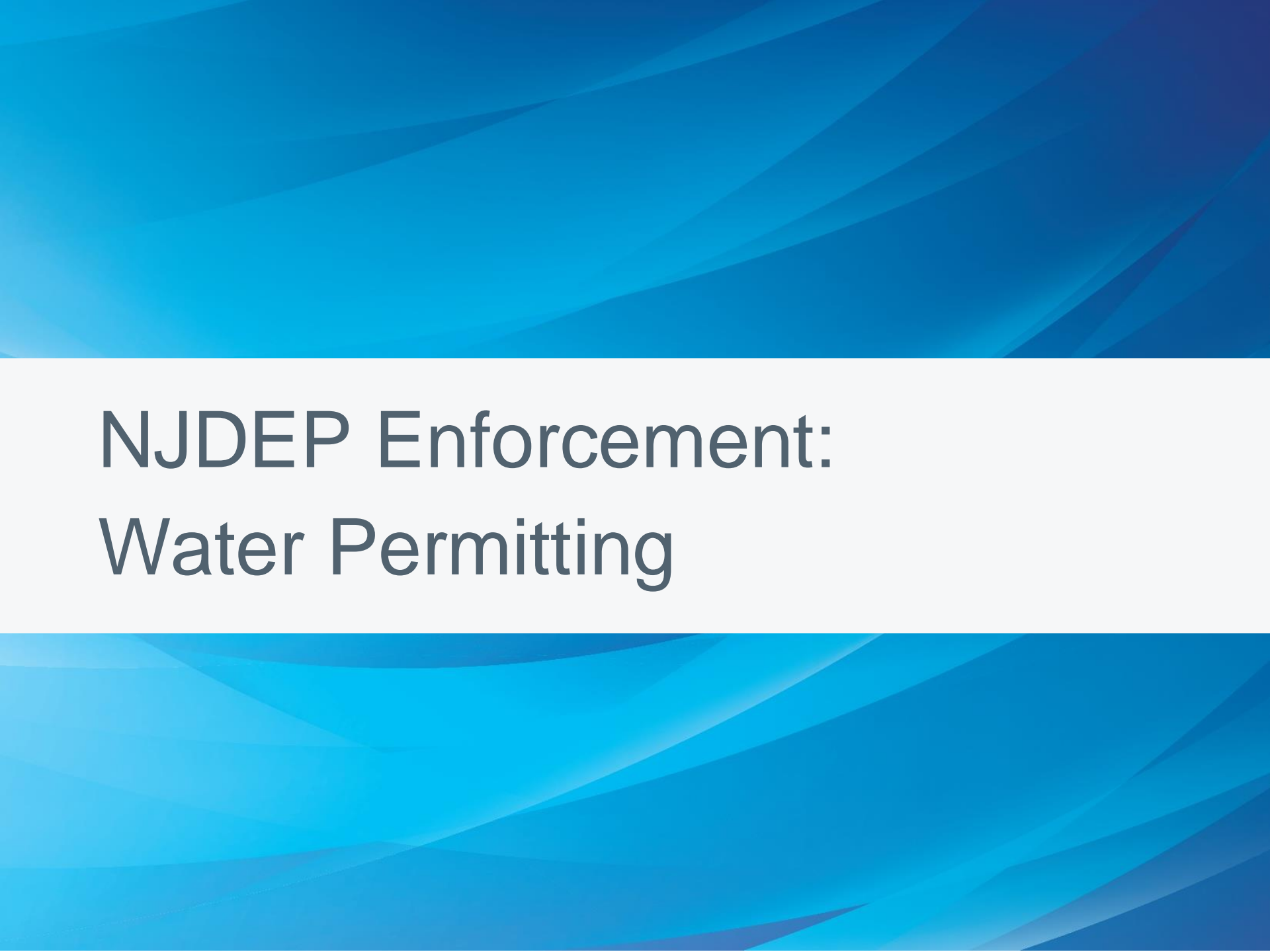
- Subchapter 8 v. Title V
Individual Permits v. General Permits (minor sources only)
- Requirements
 - Monitoring
 - Recordkeeping
 - Organization and completeness
- Common Permitted Sources:
Crushing and screening units, concrete plants, asphalt plants, recycling operations
- Common Permitted Equipment:
Crushers, conveyors, feed hoppers, hot mix silos



Key Air Issues



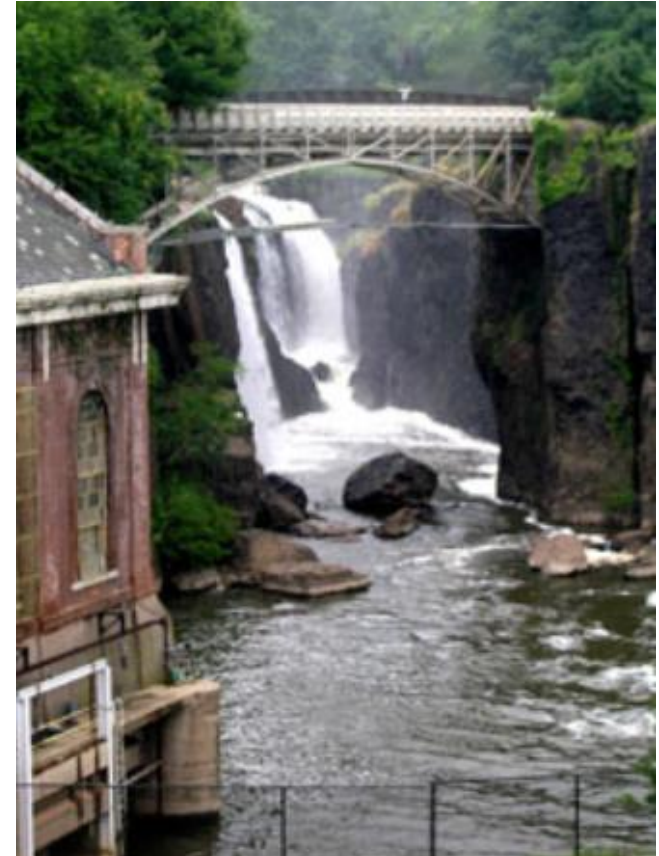
- Ramped up enforcement targeting visible emissions, odor, and dust
 - Impact of Environmental Justice
- Heightened recordkeeping of visual dust inspections for BMPs
- Violations for exceeding maximum allowable emissions (e.g., opacity)
- Not applying permit exemptions to asphalt cement (AC) tanks

The background of the slide is a vibrant blue with abstract, overlapping geometric shapes that create a sense of depth and movement. A horizontal white band runs across the middle of the slide, providing a clean space for the text.

NJDEP Enforcement: Water Permitting

NJ Water Quality Permitting


- NJPDES – New Jersey Pollutant Discharge Elimination System Monitoring
 - Stormwater discharges
 - Process wastewater discharges
- General & Individual
 - SWPPP
 - DCP
- Water Use Registration/ Water Allocation Permit
 - In addition to permits needed to drill wells
 - 100,000 gallons per day
 - Potential but less = WUR
 - Actual diversion = WAP



Key Water Issues



- Ramped up enforcement
 - NJPDES
 - Neighbor complaints regarding appearance of discharge
 - Increased inspections, focus on all areas of runoff and record keeping
 - Requiring individual permits following enforcement
 - Water Use/Allocation
 - Focus on all sources included in registration/permit
 - Requiring WAP for stormwater diversions
-

The image features a central white horizontal band containing text, set against a background of abstract, overlapping blue shapes in various shades of cyan and blue. The text is centered and reads:

NJDEP Enforcement: Environmental Justice

Environmental Justice

- Landmark EJ legislation aimed at reducing pollution in historically overburdened communities
- Requires consideration of disproportionate impacts
- NJDEP published EJ rules on April 17, 2023
- K&LG coordinated with industry groups to submit comments addressing concerns



Rise of Enforcement

String of enforcement actions by NJDEP and in collaboration with the Office of Attorney General



NJDEP Dirty Dirt Regulations

Dirty Dirt Law

- On January 21, 2020, New Jersey passed the Dirty Dirt Law
- Amends the existing A-901 solid waste licensing law to regulate those engaged in soil and fill recycling services
- Applies to “soil and fill recycling services”



Exceptions & Exemptions

Exceptions

Class A recyclables

Class B recyclables taken to a permitted Class B recycling center

Materials for which NJDEP has approved a BUD application; and

- Virgin quarry products
- Certification program

Exemptions

Generate less than 15 cubic yards of non-restricted soil and fill recyclable materials

Use a truck or trailer that has a loading capacity of < 15 cy yards

Maintain a storage yard containing < 100 cy of non-restricted soil and fill recyclable materials; and

Maintain appropriate records and make these available to NJDEP upon request

Dirty Dirt Law: Fill Material

- NJDEP interpretation of RAP under Dirty Dirt law:
 - A901 License not required for RAP used as an aggregate substitute for reintroduction into the asphalt production process
 - A901 License required for RAP used for fill purposes.
- NJDEP requires a deed notice for RAP used as alternative fill










NJDEP Regulations

STATE OF NEW JERSEY
 DEPARTMENT OF ENVIRONMENTAL PROTECTION
 DIVISION OF SUSTAINABLE WASTE MANAGEMENT

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State of New Jersey
 Division of Law Environmental Enforcement
 A-901 Unit - Phone (609) 376-3270
Electronic copies of Registration Forms

Acrobat Reader is required to view and print these files: You may download a freeware version of Adobe Acrobat here:		
You may order NJ Division of Law Environmental Enforcement Finger print cards online here: IMPORTANT MESSAGE: Finger print cards should only be requested for individuals who work or reside outside the state of New Jersey. Those who work or reside in the state of New Jersey do not need to request finger print cards.		
<u>A901 DEBARMENT LIST</u>		
Form Name	MS Word	PDF
Notice of Surrender	N/A	
SOIL AND FILL RECYCLING INFORMATION		
DIRTY DIRT COMPLIANCE ADVISORY - July 8, 2022	N/A	
DIRTY DIRT COMPLIANCE ADVISORY - March 16, 2022	N/A	
SOIL AND FILL RECYCLING - FREQUENTLY ASKED QUESTIONS (FAQ) - July 6, 2022	N/A	
CERTIFICATION FOR THE USE OF NON-RESTRICTED SOIL AND FILL RECYCLABLE MATERIALS	N/A	
PL 2019 C 397 (DIRTY DIRT LAW)	N/A	

- Registration deadline: July 2022
- A901 License applications due one month after the NJDEP adopts rules
- NJDEP published proposed rules on January 21, 2025

Recycled Asphalt Pavement

RAP Legislation

- Historic negotiations with NJDEP and State officials to expand recycling alternatives
- NJAPA and industry lead role
- P.L. 2017, Ch. 325 – Amended Solid Waste Management Act to permit additional uses of RAP as fill material
 - Effective October 2018
 - Adopted to provide a practical solution to the “crisis” – vast accumulation of RAP
 - Permitted Uses include bedrock quarry reclamation, sub-base material and surface materials for a parking lot, far road or pathway
 - NJDEP was to implement regulations by October 2018

RAP Guidance

- On August 15, 2023, NJAPA met with NJDEP to discuss RAP Guidance
 - Initial draft released in March 2013
- NJAPA submitted two rounds of comments
- Latest comments pending NJDEP review
- Key remaining issues:
 - Definition of “sensitive population”
 - Six-month storage limitation of RAP
 - Regulation of RAP under the Dirty Dirt Law

P.L. 2023, c. 160: Law Requirements

- Requires NJDOT and local contracting unit to authorize use of recycled materials
 - 35% for base and intermediate pavement course
 - 20% surface pavement course
- Authorizes for low volume roads that do not receive state funds:
 - 50% for base and intermediate pavement course
 - 35% for surface pavement course



Wrap-Up

KEY TAKEAWAYS

- Consider aggressive enforcement climate in permitting and regulatory compliance
- Assess environmental justice impacts to operations
- Be familiar with key RAP guidelines, re-use, recycling and reclamation standards
- Stay engaged on developments related to licensing requirements for recyclable soil and fill material

THANK YOU!
K&L GATES