

May 2014 Remedial Investigation Due Date Extension

Frequently Asked Questions (updated February 28, 2014)

1. Where can I find information about the May 7, 2014 Remedial Investigation deadline and if it applies to my case?

The Department has established a web page devoted to the “May 2014 Remedial Investigation Complete Deadline” (see <http://www.nj.gov/dep/srp/timeframe/>). This page provides a description of the case specific criteria that triggers the May 2014 Deadline and identifies which cases are exempt. In addition, this page includes, but is not limited to a “Policy Statement” regarding this deadline, information on Direct Oversight should the deadline be missed, notification that went to Licensed Site Remediation Professionals (LSRPs) and answers to 29 additional frequency asked questions.

2. What criteria must be met in order to qualify for a Remedial Investigation extension?

Public Law 2013, c.283 established six criteria in order to qualify for the Remedial Investigation extension. These criteria are as follows:

- LSRP retained;
- Applicable Mandatory Timeframes (MTF) have been met prior to the submission of the extension application;
- MTF submissions are technically complete;
- A Remediation Funding Source or Remediation Trust Fund, as applicable, has been established (unless otherwise not required);
- All known oversight costs, not in dispute at the time of the effective date of the legislation, must be paid; and
- All annual fees and 1% surcharge payments must be paid.

3. When must a complete extension application be submitted?

The complete application must be submitted electronically by the retained Licensed Site Remediation Professional using the Department’s online DEP Portal by March 7, 2014. No paper extension applications will be accepted.

4. What if I have a case that is subject to the Remedial Investigation deadline but is not properly reflected as such in the Department’s records?

The person responsible for conducting the remediation and the retained Licensed Site Remediation Professional should apply for the extension. In addition, a letter of explanation on why the case is subject to the Remedial Investigation deadline should be sent under separate cover to:

Bureau of Case Assignment & Initial Notice
Site Remediation Program
NJ Department of Environmental Protection
401-05H
PO Box 420
Trenton, NJ 08625-0420
Attn: May 2014 RI Extension

The Department will review the facts presented in the explanation and respond appropriately.

5. If the person responsible for conducting remediation certifies an application for the extension and the retained Licensed Site Remediation Professional submits the request via the online DEP Portal, is the extension automatic?

As provided in subsection c. of section 1 of Public Law 2013, c.283, upon submission of an application for the extension, the application is deemed approved. The Department may revoke the extension if the application is subsequently found to be incorrect, incomplete, false or otherwise deficient. Any Department revocation must be done in writing. Please note that the Department will be auditing these applications. The Department may undertake Direct Oversight of a case at any time if the criteria were not met at the time of application or any time thereafter.

6. How should I proceed in applying for the extension if I do not have enough money to pay upfront to complete the required remedial work or establish a Remediation Trust Fund?

It may be best to submit a technically complete application for financial assistance to the Hazardous Discharge Site Remediation Fund (HDSRF) by March 7, 2014. Loans are available for this purpose. The New Jersey Economic Development Authority (NJEDA) will evaluate applications to determine the applicants' ability to repay a loan.

7. If I submitted an application to the HDSRF, do I automatically receive an extension?

No, an extension is not automatic. Complete applications to the HDSRF and the extension must have been submitted by March 7, 2014. The Department and the NJEDA will review the HDSRF application. An extension for up to two (2) years shall be provided from when the applicant either receives State funding or is deemed no longer eligible for State funding.

8. After an extension application is submitted, and I do not receive any written revocation, can I assume that my remedial investigation due date is May 7, 2016?

A person responsible for conducting a remediation can only be assured that the due date for the remedial investigation will remain as May 7, 2016 if that person remains in full compliance with

the criteria established in Public Law 2013, c.283. In addition, P.L. 2013 c.283 requires the Department to post a report on its website that lists the name and location of the cases receiving an extension along with the length of the extension. Data Miner users can also access the "Site Search Report," drill down into Activity Tracking, and identify the date associated with the activity tracking task "Remedial Investigation to be Completed" to confirm the due date for completing the remedial investigation.

9. What if I submitted an extension request for a mandatory timeframe submission, which is then approved by the Department, and the new due date is after March 7, 2014. Can I still qualify for the extension?

Yes, provided that you meet the new submission date.

10. If I previously missed a mandatory timeframe due date, can I still apply for the extension?

Yes, provided you make a technically complete mandatory timeframe submittal on or before March 7, 2014, the due date for the extension application.

11. I am establishing a Remediation Trust Fund and the Trustee wants to modify the language of the Department's model Trust Agreement. Is this allowed?

No. The Department is not allowing for any changes to the model Remediation Trust Fund Agreement. The person responsible for conducting the remediation must certify on the Trust Agreement that the language meets the wording of the model document. The model Remediation Trust Fund Agreement language has been historically accepted by many Trustees.

12. Does the 1% surcharge need to be paid if I am establishing a Remediation Trust Fund just for the purpose of the May 2014 Remedial Investigation Deadline Extension?

No. The 1% surcharge is not being assessed on Remediation Trust Funds established just for the May 2014 Remedial Investigation Extension.

13. Will the Department allow the "bundling" of multiple cases under one Remediation Trust Fund?

The Department will allow bundling of multiple cases under one Remediation Trust Fund provided the person responsible for conducting remediation is the same entity for all bundled cases. The Department is allowing this as an option for the following reasons: 1% surcharges do not need to be assessed/invoiced on a per case basis; it is expected that the duration of the Remediation Trust Fund will be short term; and there are benefits for both the regulated community and the Department from streamlining this process. Instructions, forms, and related attachments

regarding “bundling” can be found in the [May 2014 Remedial Investigation Deadline Extension](#) web page.

14. How frequently does the Remediation Trust Fund bundling spreadsheet need to be submitted since there will likely be different remediation activities ongoing at different schedules at multiple cases?

The Department expects the spreadsheet to be submitted at least annually and no more frequently than quarterly. Disbursements can be made no more frequently than every three (3) months. Based on this, the Department is limiting the maximum number of changes to the Remediation Trust Fund amount (increases or decreases), including the annual cost reviews, to nine (9) entries per case on the “Spreadsheet for Bundling Cases”. As the remedial investigation proceeds, it is expected that the cost at some cases will increase while the cost at other cases will decrease due to disbursements or changes in scope. As long as the overall amount of the Remediation Trust Fund covers the remaining overall cost for the bundled cases at the time of submission of the “Remediation Trust Fund Bundling Spreadsheet” or the overall amount of the Remediation Trust Fund is being increased within the next 30 days, it is acceptable for the person responsible for conducting remediation to reallocate or rebalance funds among the cases. The balance of the Remediation Trust Fund must match the balance of the outstanding remedial investigation costs.

15. Can monies posted in the Remediation Trust Fund established for the extension be used for a remediation cost not related to the remedial investigation (for example, conducting an interim remedial measure, putting a treatment system on a potable well, installing a sub-slab vapor extraction system, etc.)?

No. The money posted can be used only for completing the remedial investigation.

16. I need to establish a Remediation Funding Source to qualify for the extension? Can I submit this through the online portal along with the extension application?

Yes, but you must also submit the signed original of the Remediation Funding Source, as required by the Department.

17. I am currently subject to the Industrial Site Recovery Act and I have not established my Remediation Funding Source as required by section 25 of P.L. 1993, c.139 (C.58:10B-3) because to-date, I have not been required to by law. Am I required to post a Remediation Trust Fund to qualify for the extension?

No. You may establish any of the Remediation Funding Sources provided for in P.L.1993, c.139 (C.58:10B-3) for the cost of the remedial investigation in order to qualify for the extension.

However, you must establish this Remediation Funding Source by March 7, 2014. Additionally, you will be required to establish for the estimated cost of the entire remediation at such time as you are required to do so pursuant to law. This is only allowable for parties subject to the Industrial Site Recovery Act and who have not been required to-date to establish a Remediation Funding Source pursuant to law. A 1% surcharge will not be required to be paid if establishing for the extension; a 1% surcharge will be required at such time as you are required to establish the Remediation Funding Source pursuant to law.

18. **(Added February 20, 2014)** How do I proceed if the “May 7, 2014 Remedial Investigation Complete Timeframe Extension Conditions” Data Miner report (http://datamine2.state.nj.us/DEP_OPRA/OpraMain/categories?category=Case+Tracking) indicates that a preliminary assessment or site investigation, as appropriate, has not been submitted?

If you have documentation that the preliminary assessment or site investigation was previously submitted to the Department, certify this through the DEP Online May 2014 RI Timeframe Extension service and continue. If a preliminary assessment or site investigation, as appropriate, was not previously submitted to the Department but has been completed, submit the report along with the Preliminary Assessment/Site Investigation form (<http://www.nj.gov/dep/srp/srra/forms/>), then complete the DEP Online May 2014 RI Timeframe Extension service. Both actions must be completed by March 7, 2014.

19. **(Added February 28, 2014)** I submitted a Site Evaluation Submission (SES) under the ECRA Program. Will the Department accept the SES as a Preliminary Assessment for the purpose of the May 2014 Remedial Investigation Extension Request?

Yes, the Department will accept the SES as a Preliminary Assessment for the purpose of the May 2014 Remedial Investigation Extension Request.