

New Jersey Department of Environmental Protection Policy Statement

Interpretation of Technical Requirements for Site Remediation requirement to “complete the remedial investigation” (N.J.A.C. 7:26E-4.10)

I. Purpose of document

This document is intended to set forth the Department’s policy regarding the Technical Requirements for Site Remediation (Technical Requirements) to complete the remedial investigation of a contaminated site or area of concern (N.J.A.C. 7:26E-4.10).

This policy supersedes “New Jersey Department of Environmental Protection Policy Statement: Interpretation of SRRA Requirement to Complete the Remedial Investigation by May 2014” established in June 2013.

If the remedial investigation does not include actual clean zone sampling data to demonstrate contaminant delineation to the applicable remediation standards and screening criteria, such sampling data are required to demonstrate attainment of the applicable remediation standards at the conclusion of the remedial action and prior to the Department issuing a remedial action permit, if applicable, and issuance of the Response Action Outcome (RAO).

This document addresses:

- What “contaminated site” means and applies to
- What “contamination” means
- What “complete the remedial investigation” means
- What “nature and extent of a discharge of a contaminant” means
- The need to attain remediation standards and screening criteria prior to issuance of a Response Action Outcome

II. What “contaminated site” means

“Contaminated site” is defined in the Technical Requirements at N.J.A.C. 7:26E-1.8 as “all portions of environmental media and any location where contamination is emanating, or which has emanated there from, that contain one or more contaminants at a concentration above any remediation standard or screening criterion.”

This definition can apply to the entire property or specific area(s) of concern.

Environmental media include soil, ground water, surface water, sediment, and air.

Contamination is defined in the Technical Requirements at N.J.A.C. 7:26E 1.8: “‘Contamination’ or ‘contaminant’ means any discharged hazardous substance as defined pursuant to N.J.S.A. 58:10-23.11b, hazardous waste as defined pursuant to N.J.S.A. 13:1E-38, or pollutant as defined pursuant to N.J.S.A. 58:10A-3.”

III. What “complete the remedial investigation” means

For the purposes of defining “complete the remedial investigation” for this document, the Department is using the definition of “remedial investigation” found in the Technical Requirements at N.J.A.C. 7:26E-1.8:

“‘Remedial investigation’ means a process to determine (1) the nature and extent of a discharge of a contaminant at a site or a discharge of a contaminant that has migrated or is migrating from the site, (2) the problems presented by a discharge, and may include data collected, site characterization, sampling, monitoring, and (3) the gathering of any other sufficient and relevant information necessary to determine the necessity for remedial action and to support the evaluation of remedial actions if necessary.” (NOTE: the numbers in parentheses do not appear in the regulatory definition; they have been added to help interpret the following.)

In order for the licensed site remediation professional and the Department to consider the remedial investigation complete, the following must be determined:

1. The nature and extent, both horizontally and vertically, of a discharge of a contaminant in all environmental media both on and off site;
2. The impacts and potential impacts to receptors in all environmental media presented by the discharge of a contaminant; and
3. The need for a remedial action, if one is necessary, and collection of information to support the evaluation of possible remedial actions.

Completion of the remedial investigation is demonstrated by the submission of the following:

1. A remedial investigation report pursuant to the Technical Requirements (N.J.A.C. 7:26E-4.9) (Note: this covers the nature and extent of the discharge of a contaminant in all environmental media);
2. An updated receptor evaluation as part of the remedial investigation report [N.J.A.C. 7:26E-4.9(a)2] (Note: this covers the problems presented by the discharge of a contaminant in all environmental media); and
3. A determination of whether a remedial action is required for the site/contaminated area(s) of concern pursuant to the Technical Requirements [N.J.A.C. 7:26E-4.9(a)6ii(2)] (Note: this covers determining the necessity for remedial action and to support the evaluation of remedial actions, if necessary).

From a performance-based perspective, a remedial investigation can be considered complete when the Licensed Site Remediation Professional (LSRP), in his or her independent professional judgment, can conclude: (1) there is sufficient information to know the nature and extent of a discharge of a

contaminant both on-site and off-site; (2) there is sufficient information to know which, if any, receptors have been or may be impacted by the discharge being remediated; and (3) additional delineation is not necessary in order to select an appropriate remedial action to protect public health and the environment.

IV. What “nature and extent of a discharge of a contaminant” means

The Department interprets “the nature and extent of a discharge of a contaminant” to mean: delineation to the applicable remediation standards and screening criteria at the time the remedial investigation report is submitted. Delineation is the process used to determine the horizontal and vertical extent of the concentration of a contaminant in excess of a remediation standard or screening criterion.

The LSRP may use the following Department technical guidance documents when delineating contaminants:

- Technical Guidance for Site Investigation of Soil, Remedial Investigation of Soil, and Remedial Action Verification Sampling for Soil, March 2015, Version 1.2 (see https://www.nj.gov/dep/srp/guidance/srra/soil_inv_si_ri_ra.pdf)
- Ground Water Technical Guidance: Site Investigation, Remedial, Investigation, Remedial Action Performance Monitoring, April 3, 2012, Version 1.0 (see https://www.nj.gov/dep/srp/guidance/srra/gw_inv_si_ri_ra.pdf)
- Ecological Evaluation Technical Guidance, August 2018, Version 2.0 (see https://www.nj.gov/dep/srp/guidance/srra/ecological_evaluation.pdf)
- Vapor Intrusion Technical Guidance, January 2018, Version 4.1 (see https://www.nj.gov/dep/srp/guidance/vaporintrusion/vig_main.pdf?version_4.1)

The LSRP shall use applicable regulations, guidance, and independent professional judgment to determine when sufficient information exist to demonstrate “the nature and extent of a discharge of a contaminant.” The LSRP is encouraged to employ multiple lines of evidence, including, but not limited to: analytical data indicating that contaminant concentrations are at or below the applicable remediation standards or screening criteria; extrapolation or modeling based on existing data; application of conceptual site models; or other means for determining the extent of the contamination. As such, samples indicating contaminant concentrations are at or below the applicable remediation standards and screening criteria (i.e., clean zone samples) are not required for all environmental media to complete the remedial investigation.

The remedial investigation report shall include information, including the scientific or technical justification, documenting and supporting how the LSRP determined the nature and extent of the contamination.

V. Attainment of remediation standards and screening criteria / Issuance of Remedial Action Permit and Response Action Outcome

While the remedial investigation does not need to include actual clean zone sampling data to demonstrate contaminant delineation to the applicable remediation standards and screening criteria, such sampling data are required to demonstrate attainment of the applicable remediation standards and screening criteria at the conclusion of the remedial action and prior to the Department issuing a remedial action permit, if applicable, and the LSRP issuing the Response Action Outcome (RAO).