

# Good Morning!

## Pre-Purchase ACOs

**Ann Wolf, Jackie Bobko, & Erica Najar**  
Bureau of Enforcement & Investigations (BEI)



# Contact Information

**Ann Wolf, Chief**

Bureau of Enforcement & Investigations

[Ann.Wolf@dep.nj.gov](mailto:Ann.Wolf@dep.nj.gov)

**Jackie Bobko, Supervising Enforcement Manager**

Bureau of Enforcement & Investigations

[Jackie.Bobko@dep.nj.gov](mailto:Jackie.Bobko@dep.nj.gov)

**Erica Najar, Enforcement Manager**

Bureau of Enforcement & Investigations

[Erica.Najar@dep.nj.gov](mailto:Erica.Najar@dep.nj.gov)

**Jacob Fitzpatrick, Enforcement Manager**

Bureau of Enforcement & Investigations

[Jacob.Fitzpatrick@dep.nj.gov](mailto:Jacob.Fitzpatrick@dep.nj.gov)





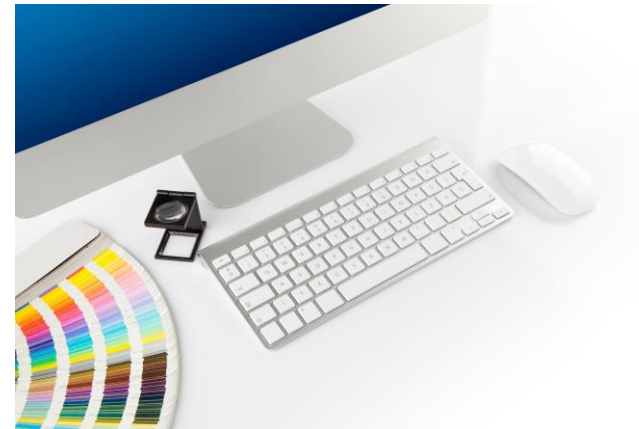
# Acronyms

- **ACO** - Administrative Consent Order
- **ARRCS** - Administrative Requirements for the Remediation of Contaminated Sites
- **ARF** - Annual Remediation Fee
- **GIN** - General Information Notice
- **ISRA** - Industrial Site Recovery Act
- **LSRP** - Licensed Site Remediation Professional
- **DO** - Direct Oversight
- **PA/SI** - Preliminary Assessment/Site Investigation
- **RAO** - Response Action Outcome
- **RFS** - Remediation Funding Source
- **SCUF** - Site and Contact Information Update Form
- **SRRA** - Site Remediation Reform Act



# Internet Location

The Certification Form and Guidance Document will be uploaded to the SRP web page soon.



# What is a Pre-Purchase ACO?

- ACO for parties who are under contract to purchase a site that is subject to direct oversight.
- Allows certain adjustments to direct oversight.
- New compliance timeframes are given to the buyer to complete remediation.
- Without the benefits of a Pre-Purchase ACO, a buyer of a site subject to direct oversight must strictly comply with all the direct oversight requirements set forth at N.J.A.C. 7:26C-14.2(b).



# Timeframes

- SRRA established a **statutory** timeframe for the completion of the remedial investigation either May 7, 2014, or May 7, 2016, provided certain criteria for an extension were met for sites where a discharge had been discovered prior to May 7, 1999.
- In addition, SRRA authorized the Department to establish **mandatory** and **expedited site-specific** timeframes for certain aspects and phases of the remediation, including but not limited to:
  - IRE
  - PA/SI
  - RIR
  - RAR
  - LNAPL Reporting form & IRM Report
  - IEC Source Control Report



ARRCS (N.J.A.C. 7:26C-3.3 and 3.4)

SRRA (N.J.S.A. 58:10C-1 et seq.)



# Timeframes

These defined timeframes apply to the site, not the person responsible for conducting the remediation, and therefore do not change if there is a change in the person responsible for conducting the remediation.

- N.J.A.C. 7:26C-3.3(c)



# Timeframes

If a statutory, mandatory, or expedited site-specific timeframe is missed, the site is subject to direct oversight by the Department [see ARRCS, N.J.A.C. 7:26C-14.2(a)].

The direct oversight requirements are a more prescriptive remediation process for the person responsible for conducting remediation. Some of the direct oversight requirements include, but are not limited to, the posting of a RFS, Department approval of all submissions, and the Department will direct how the remediation proceeds. A complete list of the direct oversight requirements can be found in ARRCS at N.J.A.C. 7:26C-14.2(b).



# Direct Oversight

SRRA and ARRCS include provisions that allow the Department to make adjustments to certain direct oversight requirements, including when the Department determines that such adjustments are in the public interest and protective of public health and safety and the environment.

SRRA (N.J.S.A. 58:10C-27.g.) and ARRCS (N.J.A.C. 7:26C-14.4)



# Direct Oversight

- DEP will execute ACOs prior to purchase with buyers of contaminated sites subject to direct oversight which allow for adjustments to certain direct oversight requirements.
- Once a buyer of a site acquires title of a contaminated property, the buyer becomes a person “in any way responsible” for remediating the site pursuant to the Spill Compensation and Control Act (N.J.S.A 58:23-11 et seq.).
- Without the benefits of a Pre-Purchase ACO, a buyer of a site subject to direct oversight must strictly comply with all the direct oversight requirements set forth at N.J.A.C. 7:26C-14.2(b).





# Timing of ACO Execution

- A Pre-Purchase ACO must be **fully executed** by the Department (signed by all parties) **prior** to the buyer closing on the property (i.e., prior to becoming a Spill Act responsible party).
- The fully executed ACO becomes effective at closing.



# Eligibility

The site must be in direct oversight

(Missed a statutory, mandatory or expedited site-specific timeframe)

And the buyer must not:

- Be a discharger of a hazardous substance at the contaminated site, a person in any way responsible for a hazardous substance at the contaminated site, or a person otherwise liable for cleanup and removal costs at the contaminated site;
- Currently own nor has ever owned the contaminated site, nor has the buyer ever previously been the operator of the contaminated site; and
- Be a predecessor, successor, subsidiary, partner, shareholder, assign, trustee in bankruptcy, responsible corporate official, or receiver appointed pursuant to a proceeding in law or equity, to any discharger, including any other prior owner of, or any prior tenant at, the contaminated site.



# Adjustments Made to Direct Oversight

- Any type of RFS mechanism (except self-guarantee) can be used;
- The 1% RFS annual surcharge fee is waived (does not apply to ISRA sites);
- Proceed with remediation without prior Department approval;
- Pay annual remediation fees in lieu of Department's oversight costs;
- Submittals continue to go through the Department's Inspection/Review process;
- A Feasibility Study is not required to be submitted;
- The person responsible for conducting remediation chooses the remedy; and
- No public notice.



# Direct Oversight Requirements That Are Not Adjusted

- An LSRP must be retained/maintained to oversee the remediation;
- All known contaminated areas of concern must be addressed, including any contamination which has migrated offsite;
- A Remediation Cost Review form must be submitted;
- An RFS must be established for the full cost of remediation; and
- Establish timeframes for all applicable documents.



# Industrial Establishments Under ISRA

- Make sure there are no ISRA triggers where filings were not made.
- Each Industrial Establishment at a site must obtain an RAO based on a PA/SI.



# Industrial Establishments Under ISRA

- Prior to closing, a GIN or amendment to existing GIN must be submitted.
- Prior to closing, the buyer agrees to submit an ISRA Remediation Certification form and sign sections F and G. Concurrently with the submittal of the Remediation Certification, the buyer agrees to submit the following:
  - Remediation Cost Review and RFS-FA form;
  - Establish and maintain an RFS;
  - The 1% annual RFS surcharge and annually thereafter;
  - The Site and Contact Information Update Form (SCUF)



# Due Diligence

- The buyer should contact the DEP after doing an “appropriate inquiry”.
  - **Note:** conducting a PA/SI could help the potential buyer get the maximum benefit of due diligence.
- Examples of conducting “appropriate inquiry”:
  - Conducting a PA/SI
  - Conducting an Open Public Records Act (“OPRA”) review of the Department’s file for the site
  - Utilizing DEP DataMiner to see the status of the site and what is out of compliance (i.e., regulatory and mandatory timeframes for remedial reports, outstanding fees/bills, violations by date, etc.)



# How to Request a Pre-Purchase ACO (Pt. 1)

- If the buyer meets all three (3) requirements, the buyer should:
  1. Send a cover letter to DEP requesting ACO (directions are in the Guidance Document);
  2. Submit a Pre-Purchase ACO Certification form to certify the 3 conditions.
- The Department requests a minimum two-month lead time to craft the ACO.





# How to Request a Pre-Purchase ACO (Pt. 2)

A copy of the current deed and a copy of the purchase and sale agreement must be attached to the cover letter.

Make sure necessary information such as site address, block and lots, etc. match throughout the documents being submitted. If information does not match, this could delay the process.



# How to Request a Pre-Purchase ACO (Pt. 3)

A Pre-Purchase ACO Certification form must be submitted for the buyer and all related entities (parent company, holding company, urban renewal entity, etc.) or if an assignment of rights is occurring (each entity requires their own form to be submitted).



# Other Scenarios

- Sherriff's Sale
- Municipal Tax Sale Certificate
- Bankruptcy



Please contact the Department.





New Jersey Department of Environmental Protection  
Site Remediation and Waste Management Program

PRE-PURCHASE ADMINISTRATIVE CONSENT ORDER CERTIFICATION FORM  
PURSUANT TO N.J.S.A 58:10C-27

Please complete ONE Pre-Purchase Administrative Consent Order ("ACO") Certification form for each prospective purchaser and any related entities, if applicable, since all entities must each certify.

SECTION A. EXISTING SITE NAME AND LOCATION

Site Name: \_\_\_\_\_  
Physical Street Address: \_\_\_\_\_  
Tax Block & Lot Address: \_\_\_\_\_  
Municipality: \_\_\_\_\_ Zip Code: \_\_\_\_\_  
(Township, Borough or City) County: \_\_\_\_\_  
Program Interest (PI) Number(s) \_\_\_\_\_

SECTION B. PROSPECTIVE PURCHASER

Name of Entity Executing ACO: \_\_\_\_\_  
Full Legal Name of the Entity Representative Signing ACO: \_\_\_\_\_  
Title: \_\_\_\_\_  
(Note: "Authorized Signatory" is not an acceptable title)  
Month & Year of Incorporation/Formation: \_\_\_\_\_  
State of Incorporation/Formation: \_\_\_\_\_  
Anticipated Date of Closing: \_\_\_\_\_  
Phone Number: \_\_\_\_\_ Ext: \_\_\_\_\_  
Business Address: \_\_\_\_\_  
Mailing Address (if different than business address): \_\_\_\_\_  
City/Town: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_  
Email Address: \_\_\_\_\_

**NOTE:** Signatories for Section B. on the Pre-Purchase ACO Certification form must match signatories on the Pre-Purchase ACO.

SECTION C. RELATED ENTITIES

(i. e., PARENT COMPANY, HOLDING COMPANY, ASSIGNOR OF RIGHTS ENTITY, URBAN RENEWAL ENTITY, ETC.)

Please complete ONE Pre-Purchase ACO Certification form for each prospective purchaser and any related entities, if applicable, since all entities must each certify. The entity executing the ACO must match the entity signing the contract of sale; otherwise, an assignment of rights agreement is needed.

Full Legal Name of the Related Entity: \_\_\_\_\_  
Full Legal Name of Representative: \_\_\_\_\_  
Title: \_\_\_\_\_  
(Note: "Authorized Signatory" is not an acceptable title)  
Month & Year of Incorporation/Formation: \_\_\_\_\_  
State of Incorporation/Formation: \_\_\_\_\_  
Phone Number: \_\_\_\_\_ Ext: \_\_\_\_\_  
Mailing Address: \_\_\_\_\_  
City/Town: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_  
Email Address: \_\_\_\_\_

Explanation of Entities Relationship to Buyer: \_\_\_\_\_

By signing this form, the prospective purchaser and any entities related to the transaction certify the following three conditions are true pursuant to N.J.S.A 58:10C-27:

1. The buyer must not be a discharger of a hazardous substance at the contaminated site, a person in any way responsible for a hazardous substance at the contaminated site, or a person otherwise liable for cleanup and removal costs at the contaminated site;
2. The buyer must not currently own nor has ever owned the contaminated site, nor has the buyer ever previously been the operator of the contaminated site;
3. The buyer must not be a predecessor, successor, subsidiary, partner, shareholder, assign, trustee in bankruptcy, responsible corporate official, or receiver appointed pursuant to a proceeding in law or equity to discharger, including any other prior owner of, or any prior tenant at, the contaminated site.

*I certify under penalty of law that I have personally examined and am familiar with the information submitted herein, including all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, to the best of my knowledge, I believe that the submitted information is true, accurate and complete. I am aware that there are significant civil penalties for knowingly submitting false, inaccurate, or incomplete information and that I am committing a crime of the fourth degree if I make a written false statement which I do not believe to be true. I am also aware that if I knowingly direct or authorize the violation of any statute, I am personally liable for the penalties.*

Entity: \_\_\_\_\_

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Name/Title: \_\_\_\_\_

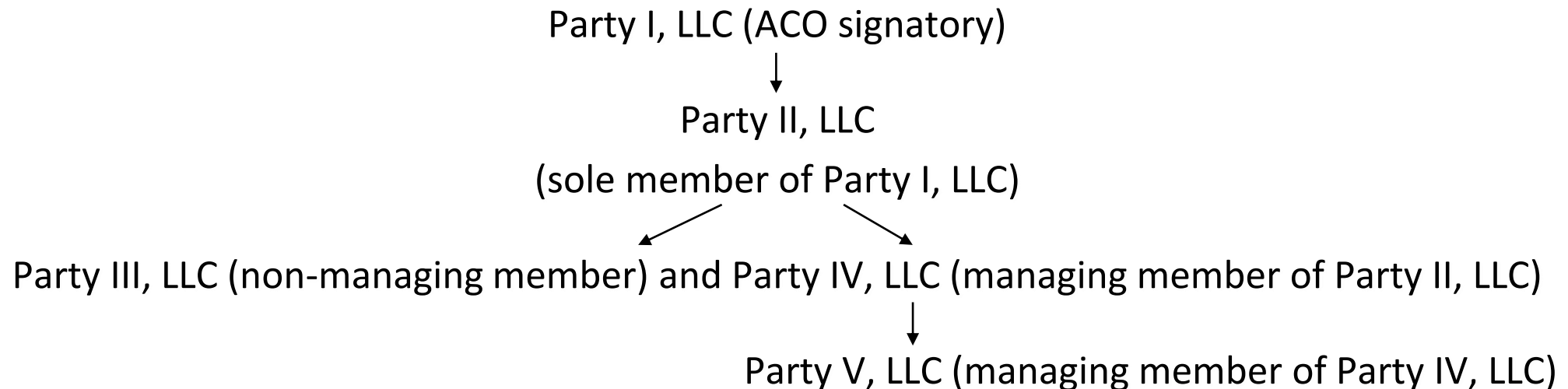
**NOTE:** Please see the Departments Pre-Purchase ACO document for further guidance.

# Example of Related Entities

Example of assignment of rights/related entities/signatory block:

Party, LLC executed a contract of sale with the seller. Party, LLC then executed an assignment agreement assigning all of their rights, title, and interests to Party I, LLC.

Party I, LLC is signing the ACO. They have a sole member, Party II, LLC. Party II, LLC then has two members, Party III, LLC (non-managing member) and Party IV, LLC (managing member). Party IV has one managing member, Party V, LLC.





# Example of Related Entities Pt. 2

ACO signatory block:

Party I, LLC,  
a Delaware limited liability company

By: Its Sole Member, Party II, LLC, a Delaware limited liability company

By: Its Managing Member, Party IV, LLC, a Delaware limited liability company

By: Its Managing Member, Party V, LLC, a Delaware limited liability company

By: \_\_\_\_\_

John Smith, Authorized Signatory



# Violations, Liens & Judgments

Current property owner or operator might have:

- Outstanding monies that do not have a lien yet
- Spill Act liens
- Other liens (ex. municipal property lien)

Identify any outstanding enforcement actions in other program areas:

- Violations
- Assessed penalties
- Docketed penalty judgments



# Remediation Objective

Confirm if an RAO-E is the remediation objective if the site is not subject to ISRA.





# Consequences if ACO Signatory Does Not Comply

- Requirements of full direct oversight will be reinstated.
- Any owner of a contaminated site that does not comply are subject to penalties.
- After appropriate notification of non-compliance, the Department can draw down on the RFS and use that money to conduct remediation at the site.



# After Closing

The buyer must provide the date the closing occurred.

Within 30 days after closing the buyer will:

- Submit a SCUF
- Retain LSRP
- Submit certified cost estimate
- Submit RFS, if not already submitted for ISRA
- Submit overdue annual remediation fees



# Questions?

**Ann Wolf, Chief**

Bureau of Enforcement & Investigations

[Ann.Wolf@dep.nj.gov](mailto:Ann.Wolf@dep.nj.gov)

**Jackie Bobko, Supervising Enforcement Manager**

Bureau of Enforcement & Investigations

[Jackie.Bobko@dep.nj.gov](mailto:Jackie.Bobko@dep.nj.gov)

**Erica Najar, Enforcement Manager**

Bureau of Enforcement & Investigations

[Erica.Najar@dep.nj.gov](mailto:Erica.Najar@dep.nj.gov)

**Jacob Fitzpatrick, Enforcement Manager**

Bureau of Enforcement & Investigations

[Jacob.Fitzpatrick@dep.nj.gov](mailto:Jacob.Fitzpatrick@dep.nj.gov)



# Timeframes and Extensions

**Rafael Rivera, Section Chief**

Bureau of Case Assignment and Initial Notice

[Rafael.Rivera@dep.nj.gov](mailto:Rafael.Rivera@dep.nj.gov)



# Site Remediation Reform Act (SRRA)

**SRRA** (N.J.S.A. 58:10C-1, et seq.)

- Required the Department to establish mandatory timeframes for key phases of the remediation, PA/SI, RI, and RA
- Regulatory timeframes were established to keep RPs on track and avoid missing mandatory time frames



# Summary of Regulatory and Mandatory Timeframes for Remediation

## site remediation program



njdep home

### What's New!

Updated soil remedial action permit guidance available

9 May 2022

Revised Chapters 1, 2, and 4 of the Field Sampling Procedures Manual now available

14 March 2022

February 8, 2022 CVP/SRAG Meeting

14 February 2022

Reminder - LSRP requirement to notify when timeframes will not be met

2 February 2022

Updated Historically Applied Pesticide Technical Guidance Document now available!

2 February 2022

New Interim specific ground water quality criterion established for chloroperfluoropolyether carboxylates (CIPFPECAs)

18 January 2022

New Jersey Site Remediation Professional Licensing Board Statement Regarding Continuing Education Credits for Licensed Site Remediation Professional Renewal Applications

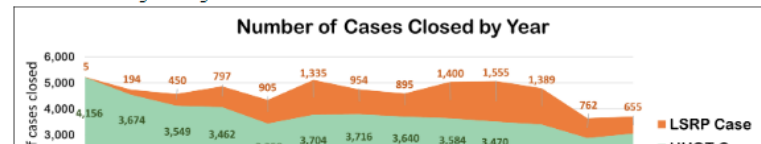
## Site Remediation & Waste Management Program

The enactment of the Site Remediation Reform Act (SRRA) in 2009 established the [Licensed Site Remediation Professional \(LSRP\) program](#) and fundamentally changed the process for how sites are remediated in the state of New Jersey. In August 2019, Governor Philip Murphy signed legislation to further improve the effectiveness of the LSRP program.

With the primary goal of reducing the threat of contamination to public health and the environment, the LSRP program has demonstrated success in accelerating the process of returning contaminated properties to productive use. At the end of 2021, the Site Remediation and Waste Management Program (SRWMP) reported 14,461 contaminated sites. Of these sites, 11,205 were active LSRP cases.

Perhaps one of the best measures of reducing the threat of contamination to public health, safety and the environment is the total number of cases closed by issuance of a final remediation document (a No Further Action Letter issued by the Department or a Response Action Outcome issued by an LSRP). Final remediation documents can be issued for areas of concern at a contaminated property (such as removal of an underground storage tank) or for entire commercial and industrial properties. From 2009 to 2021, nearly 60,000 cases were closed.

[Click to view larger image](#)



### SRP Contacts

Executive Order 103 (2020) Regulatory Compliance Issues

### About SRP

Community Corner

Contaminants of Emerging Concern

Forms Library

Guidance Library

Home Heating Oil Cleanups/UHOT

Listserv Archives

NJ Statutes Related to Site Remediation

Quick References Guide

Rules

SRP Data

SRP Licensing Board

Training

- All Other Topics -

Find an LSRP

## Site Remediation Program

[SRRA](#) [Quick References](#)

## Quick References Guides

### Quick References and Other Guides

#### I. Important Messages

1. [Affirmative Obligation to Cleanup](#)
2. [Summary of Regulatory and Mandatory Timeframes for Remediation](#)
3. [Varying from Rule and Applying Technical Guidance](#)
4. [Revised Remedial Investigation Complete Policy Statement](#)

#### II. Quick Reference Guides

1. [Initiating Remediation, Preliminary Assessment \(PA\) and Site Investigation \(SI\)](#)
2. [Remedial Investigation \(RI\), Remedial Action \(RA\) and Response Action Outcome \(RAO\)](#)
3. [Receptor Evaluation](#)
4. [Immediate Environmental Concern \(IEC\)](#)
5. [Light Non-Aqueous Phase Liquid \(LNAPL\) Requirements](#)
6. [Notification and Public Outreach](#)
7. [RFS/FA - Remedial Funding Source/Financial Assurance](#)
8. [UHOT - Heating Oil Tank System Remediation Cases](#)
9. [Remedial Action Permits for Soil](#) - Posted May 2, 2022
10. [Remedial Action Permits for Ground Water](#) - Posted May 2, 2022
11. [Alternative ISRA compliance options](#)
12. [RCRA, CERCLA and Federal Facility Sites - Process and Permit Requirements](#)

#### III. Miscellaneous

1. [Acronym glossary](#)

<https://www.state.nj.us/dep/srp/>





# Summary of Regulatory and Mandatory Timeframes for Remediation

## site remediation program

[njdep home](#)



### Site Remediation & Waste Management Program

The enactment of the Site Remediation Reform Act (SRRA) in 2009 established the [Licensed Site Remediation Professional \(LSRP\) program](#) and fundamentally changed the process for how sites are remediated in the state of New Jersey. In August 2019, Governor Philip Murphy signed legislation to further improve the effectiveness of the LSRP program.

With the primary goal of reducing the threat of contamination to public health and the environment, the LSRP program has demonstrated success in accelerating the process of returning contaminated properties to productive use. At the end of 2021, the Site Remediation and Waste Management Program (SRWMP) reported 14,461 contaminated sites. Of these sites, 11,205 were active LSRP cases.

Perhaps one of the best measures of reducing the threat of contamination to public health, safety and the environment is the total number of cases closed by issuance of a final remediation document (a No Further Action Letter issued by the Department or a Response Action Outcome issued by an LSRP). Final remediation documents can be issued for areas of concern at a contaminated property (such as removal of an underground storage tank) or for entire commercial and industrial properties. From 2009 to 2021, nearly 60,000 cases were closed.

<https://www.state.nj.us/dep/srp/>

**What's New!**

Reminder - LSRP requirement to notify when timeframes will not be met  
2 February 2022

Updated Historically Applied Pesticide Technical Guidance Document now available!  
2 February 2022

New Interim specific ground water quality criterion established for chloroperfluoropolyether carboxylates (CIPFPEAs)  
18 January 2022

New Jersey Site Remediation Professional Licensing Board Statement Regarding Continuing Education Credits for Licensed Site Remediation Professional Renewal Applications Submitted After December 31, 2022  
10 January 2022

Reminder - Notice

[SRP Contacts](#)

**Executive Order 103 (2020) Regulatory Compliance Issues**

[About SRP](#)

[Community Corner](#)

[Contaminants of Emerging Concern](#)

[Forms Library](#)

[Guidance Library](#)

[Home Heating Oil Cleanups/UHOT](#)

[Listserv Archives](#)

[NJ Statutes Related to Site Remediation](#)

[Quick References Guide](#)

# Summary of Regulatory and Mandatory Timeframes for Remediation

## Executive Order 103 Window

- Certain timeframes between March 9, 2020 to January 11, 2022
- 1 YR RA Extension for Statutory cases - LSRP Required
- 455 days for Non-Statutory cases - LSRP Required
  - Subsequent timeframes also extended
- 270 days for Non-Statutory cases - LSRP Not Required
  - Subsequent timeframes were not extended

[https://www.state.nj.us/dep/srp/executive\\_order/extension\\_information.html](https://www.state.nj.us/dep/srp/executive_order/extension_information.html)







# Timeframes: Case Tracking Tool

site remediation program

njdep home



SRP Contacts

Executive Order 103 (2020) Regulatory Compliance Issues

About SRP

Community Corner

Contaminants of Emerging Concern

Forms Library

Guidance Library

Home Heating Oil Cleanups/UHOT

Listserv Archives

NJ Statutes Related to Site Remediation

Quick References Guide

Rules

SRP Data

SRP Licensing Board

Training

- All Other Topics -

Find an LSRP

Become an LSRP

Data Miner

Site Remediation & Waste Management Program

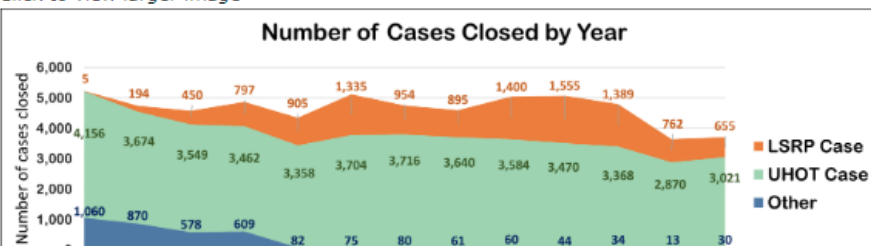
The enactment of the Site Remediation Reform Act (SRRA) in 2009 established the [Licensed Site Remediation Professional \(LSRP\) program](#) and fundamentally changed the process for how sites are remediated in the state of New Jersey. In August 2019, Governor Philip Murphy signed legislation to further improve the effectiveness of the LSRP program.

With the primary goal of reducing the threat of contamination to public health and the environment, the LSRP program has demonstrated success in accelerating the process of returning contaminated properties to productive use. At the end of 2021, the Site Remediation and Waste Management Program (SRWMP) reported 14,461 contaminated sites. Of these sites, 11,205 were active LSRP cases.

Perhaps one of the best measures of reducing the threat of contamination to public health, safety and the environment is the total number of cases closed by issuance of a final remediation document (a No Further Action Letter issued by the Department or a Response Action Outcome issued by an LSRP). Final remediation documents can be issued for areas of concern at a contaminated property (such as removal of an underground storage tank) or for entire commercial and industrial properties. From 2009 to 2021, nearly 60,000 cases were closed.

[Click to view larger image](#)

Number of Cases Closed by Year



Year	LSRP Case	UHOT Case	Other	Total
2009	5	1,060	870	1,915
2010	194	3,674	578	4,446
2011	450	3,549	609	4,608
2012	797	3,462	82	4,341
2013	905	3,358	75	4,338
2014	1,335	3,704	80	5,119
2015	954	3,716	61	4,731
2016	895	3,640	60	4,595
2017	1,400	3,584	44	4,988
2018	1,555	3,470	34	5,059
2019	1,389	3,368	13	4,770
2020	762	2,870	30	3,662
2021	655	3,021	30	3,706

What's New!

Updated soil remedial action permit guidance available  
9 May 2022

Revised Chapters 1, 2, and 4 of the Field Sampling Procedures Manual now available  
14 March 2022

February 8, 2022 CVP/SRAG Meeting  
14 February 2022

Reminder - LSRP requirement to notify when timeframes will not be met  
2 February 2022


Updated Historically Applied Pesticide Technical Guidance Document now available!  
2 February 2022

New Interim specific ground water quality criterion established for chloroperfluoropolyether carboxylates (CIPFPECAs)  
18 January 2022

New Jersey Site Remediation Professional Licensing Board Statement Regarding Continuing Education Credits for Licensed Site Remediation Professional Renewal Applications Submitted After December 31, 2022  
10 January 2022

<https://www13.state.nj.us/DataMiner>

# Timeframes: Case Tracking Tool



## DEP DataMiner

Home Search Contact Help

---

### Introduction to DEP DataMiner

Welcome to the new version of **DEP DataMiner**. Here, you will find a variety of reports that will provide you with up to the minute results. In order to provide flexibility, many of these reports require the user to enter some criteria, which will result in a customized document.


The information contained in this site is the best available according to the procedures and standards of each of the contributing programs. The Department's programs are regularly maintaining the information in their databases, in order to maintain the quality and timeliness of the data. However, unintentional inaccuracies may occur. The Department has made every effort to present the information in a clear and understandable way for a variety of users. However, we cannot be responsible for the misuse or misinterpretation of the information presented by this system. Therefore, under no circumstances shall the State of New Jersey be liable for any actions taken or omissions made from reliance on any information contained herein from whatever source nor shall the State be liable for any other consequences from any such reliance.

#### Search Options

[Search by Site](#) ?

[Search by Category](#) ?

[Search Published Documents](#) ?



## DEP DataMiner

Home Search Contact Help

---

Home > Search By Category

Category Keyword

#### Search by Category

Welcome to the New Jersey Department of Environmental Protection's online reports portal, NJDEP Data Miner. Within you will find a variety of reports that will provide you with up to the minute results from many different environmental media and subjects. In order to provide flexibility, many of these reports require the user to enter some criteria, which will result in a customized document.

Report Category

[Submit](#)

## CASE TRACKING (9)

This category is designed to enable the requestor to find upcoming and past due tasks. These reports are intended to assist persons responsible for conducting remediation and LSRPs in evaluating due dates for required submittals, and whether the Department is in receipt of these submittals. If the requester knows the PI Number, the name of the organization conducting the remediation or License Site Professional (LSRP) License Number, a search can be performed. The search will retrieve a list of cases for which past due tasks, as well as upcoming due tasks, are identified based on the data entered in the Department's data management system. These reports do not capture every regulatory or mandatory timeframe due date established in Site Remediation rules (i.e., ARRCs, UST, ISRA or Technical Requirements).

### ▶ Case Inventory Documents and associated AOCs by PI Number and Case Activity

This report displays Areas of Concern that were included in a Case Inventory Document (CID) submitted to the Department, and allows CIDs to be downloaded. The report also lists any registered USTs associated with the AOCs.

### ▶ Case Tracking Tool by LSRP

This report enables the requestor to identify incomplete upcoming and past due tasks associated with a case that corresponds to the PI Number that is entered into the "prompt field." If there is more than one active case for the PI Number all case schedules with upcoming and past due tasks associated with each case that are considered by the Department to be incomplete will be retrieved.

### ▶ Case Tracking Tool by Selected Organization Responsible for the Remediation

This report enables the requestor to identify incomplete upcoming and past due tasks associated with a case that corresponds to the name of organization conducting the remediation that was entered into the "prompt field." If there is more than one active case for the organization, all case schedules with upcoming and past due tasks associated with each case that are considered by the Department to be incomplete will be retrieved. If you don't know the full name, please enter partial name.

### ▶ Case Tracking Tool by Selected PI Number

This report enables the requestor to identify incomplete upcoming and past due tasks associated with a case that corresponds to the PI Number that is entered into the "prompt field." If there is more than one active case for the PI Number all case schedules with upcoming and past due tasks associated with each case that are considered by the Department to be incomplete will be retrieved.



<https://www13.state.nj.us/DataMiner>



# Timeframes: Case Tracking Tool

PI Name	County	Municipality
	Union	Union Twp

Activity Number	Name	Document Title	Case Status
LSR110001			LSRP Oversight

## Regulatory and Mandatory Timeframes

The following dates represent the Regulatory and Mandatory Timeframes applicable to this case, as calculated from the appropriate triggering event [see N.J.A.C. 7:26C-2.2(a)]. Please see the Schedule below for applicable required submissions for the case.

**Note: If the Remedial Investigation Regulatory and Mandatory Timeframe dates in both columns are both the same, either May 7, 2014 or May 7, 2016, the date in these columns represents a Statutory Timeframe.**

Date Remediation was Required to be Initiated	5/23/1996
---	-----------

Task	Regulatory Timeframe	Mandatory timeframe
Remedial Investigation	5/7/2016	5/7/2016
Remedial Action	5/6/2022	5/6/2024

## Schedules

The following dates represent the due dates, and completed dates when applicable, for required submissions and/or forms related to the case.

Task	Due Date	Received/ Completed Date
LSRP Annual Remediation Fee Form Received	12/30/2011	4/11/2012
Remedial Investigation Completed	5/7/2016	5/6/2016
Remedial Investigation Report Received	5/7/2016	5/6/2016
Remedial Action Report Due	5/6/2022	
Remedial Action to be Completed for All CAOCs	5/6/2022	



# Site Search Report – E0 103 Extension

## Activity Tracking Report

Run At: 5/17/2022 10:49 AM49

PI Number: [REDACTED]

LSR200001


Activity Class Description	Licensed Site Professional Program	
Activity Type Description	LSRP New Case	
Assigned To	Description	Completed Date
SRP CLEARING HOUSE, LSRP	Date Remediation was Required to be Initiated	12/12/18
SRP CLEARING HOUSE, LSRP	LSRP Obligation Event Date	12/12/18
	LSRP Confirmed Discharge Notification Form Received	4/2/20
SRP CLEARING HOUSE, LSRP	LSRP Retention Form Received	4/7/20
WARD, KAREN	OSB Cost Recovery-Review Complete	4/29/20
SRP CLEARING HOUSE, LSRP	LSRP Annual Remediation Fee Form Received	3/17/21
SRP CLEARING HOUSE, LSRP	EO 103 Extension Applied	9/30/21
SRP CLEARING HOUSE, LSRP	Remedial Investigation Completed	2/1/22
SRP CLEARING HOUSE, LSRP	Site Investigation Report Received	5/16/22
SRP CLEARING HOUSE, LSRP	Remedial Investigation Report Received	5/16/22
SRP CLEARING HOUSE, LSRP	Remedial Action Report Received	5/16/22
SRP CLEARING HOUSE, LSRP	Remedial Investigation Mandatory Timeframe	3/11/25
SRP CLEARING HOUSE, LSRP	Remedial Action Mandatory Timeframe	12/10/26
SRP CLEARING HOUSE, LSRP	LSRP Receptor Evaluation (Initial) Due	
SRP CLEARING HOUSE, LSRP	Remedial Action to be Completed for All CAOCs	

<https://www13.state.nj.us/DataMiner>



# Remedial Timeframe Notification Form

Only check off the boxes that apply and complete corresponding section



New Jersey Department of Environmental Protection  
Site Remediation and Waste Management Program

**REMEDIAL TIMEFRAME NOTIFICATION FORM**

☐ Extension Request  
☐ Lengthen Remedial Investigation Report (RIR) Timeframe Notification  
☐ Contaminated Media Notification

- If lengthening request only complete section E. Do not complete section C.
- If contaminated media notification only complete section D. Do not complete section C.
- Check the Regulatory Timeframe dates on the data miner case tracking tool report before completing the form. If the dates are incorrect, please contact BCAIN before submitting the form (email [SRWM\\_NJEMS@dep.nj.gov](mailto:SRWM_NJEMS@dep.nj.gov))

- **NOTE:** ARFF submission for contaminated media will not update timeframes. A Remedial Timeframe Notification Form must be submitted. See September 27, 2017

Listserv. [https://www.nj.gov/dep/srp/srra/listserv\\_archives/2017/20170927\\_srra.html](https://www.nj.gov/dep/srp/srra/listserv_archives/2017/20170927_srra.html)





# Extensions: Regulatory Timeframes

- Remedial timeframe notification forms must be submitted at least 30 days prior to the Regulatory timeframe
- Complete section (C) of the form and provide a justification for the extension
- The justification must specify why timeframe will not be met and steps taken to minimize the delay
- Extension request to a regulatory timeframe cannot exceed the mandatory timeframe
- PA, SI, IRE, LNAPL IRM: 1 yr. max from regulatory timeframe
- RI, RA: 2 yr. max from regulatory timeframe



# Extensions: Mandatory Timeframes

- Remedial Timeframe Notification forms must be submitted at least 60 days prior to the Mandatory timeframe
- Complete section (C) of the form and provide a justification for the extension
- The justification must be reasonable, specify why timeframe will not be met and steps taken to minimize the delay
- Extension request are deemed approved in the following circumstances:
  - Delay by the department in reviewing or granting a permit or required submittal. Must be technically and administratively complete
  - A delay in federal or state funding for remediation. Funding application must be technically and administratively complete.
- Extension shall equal the actual duration of the delay





# Most Common Extension Denials

- Remedial Timeframe Notification Form not received on time
  - Regulatory Timeframe at least 30 days prior
  - Mandatory Timeframe at least 60 days prior
- Previously missed timeframes
- Inadequate justification



# Extension Denial Example

## Justification for Extension

1. Describe the cause or causes of the need for additional time to complete the work:

Requesting an extension to the Remedial Investigation deadline detailed in the ACO due to the typical issues encountered while attempting to gain offsite access and in consideration of the difficulties of conducting remedial work during the Covid-19 pandemic.

2. Describe in detail the steps taken to minimize the additional time needed to complete the work:

*(For any site where access is a cause of the need for additional time to complete the work, detail the steps taken to obtain access)*

3. Additional information:



# Adequate Extension Justification

## Continuously and Diligently Remediating Documentation:

- Since site investigations began in 1990, a total of 185 soil samples have been collected, 81 groundwater sampling events have been completed, and two near-slab soil gas samples have been collected. The soil sample analytical tables are included with this submission as **Table 1A**, **Table 1B**, **Table 1C**, and **Table 1D**. Groundwater and near slab sample analytical tables are included with this submission as **Table 2** and **Table 3**, respectively. Figures showing monitoring wells and soil sample locations are included as **Figure 2** and **Figure 3**, respectively. Near slab sample locations are also presented on **Figure 3**.
- RAW approval was granted for the site by NJDEP in April 2002. The approved remedial action was natural attenuation enhanced with periodic high vacuum extraction (HVE) events.
- An RIR was submitted to NJDEP in September 2013 to document the completion of site investigation and remediation activities for the remedial investigation phase of the Site. The report indicated that soil and groundwater delineation were complete for remedial investigation purposes, and that investigation of the vapor intrusion pathway was complete.
- Previous remediation events completed at the site include the following:
  - UST system removals were completed in 1979, 1993, 2001, 2004, and 2009.
  - Remedial excavations were completed during UST removals in 1993 and 2004.
  - Hydraulic lifts were removed from the site during the UST system removal activities completed in 2004.
  - Limited excavations were completed at multiple on-site locations in July 2004 to address soil concentrations related to historic fill present at the site.
  - A total of 38 HVE events were completed at the site between December 1999 and September 2004.
    - The wells targeted during the HVE events were one or more of the following: MW-3, MW-4, MW-6, MW-10, MW-12.
    - An estimated total of 1,015 pounds of LNAPL was recovered and an estimated 164 gallons of vapor phase LNAPL was treated as a result of the HVE events completed.
    - HVE events were suspended in September 2004 due to decreasing groundwater concentrations.
- Activities conducted between 2019 and 2022:
  - Groundwater monitoring was completed in July 2020, December 2020, April 2021, June 2021, September 2021, and February 2022.
  - Natural Source Zone Depletion (NSZD) monitoring and sampling was conducted in April 2020. This included soil gas sampling and temperature/conductivity profiling at three monitoring wells. This work was conducted as part of a final remedial action (RA) option assessment and development process for the site.
  - Monitoring wells MW-21 and MW-22D were installed in November 2020 and October 2020, respectively to delineate the horizontal and vertical extent of groundwater impact.



# Adequate Extension Justification

## Schedule/Timeline:

Based on the regulatory requirements to complete the additional work described above, the following is the planned timeline to completion:

### 2022:

- March/April: Remedy development, soil evaluation.
- June:
  - Groundwater monitoring
  - Monitoring well installations (if required)
  - Soil sampling (if required)
  - Remedy implementation
- July and October: Post-remediation groundwater monitoring.

### 2023:

- January, April, July, October: Post-remediation groundwater monitoring.

### 2024:

- January and April: Post-remediation groundwater monitoring
- May/June: RAR and GWRAP application preparation.
- July: RAR and GWRAP submission.

### 2025:

- February: NJDEP approval of RAP.
- April/May: RAO Issuance by LSRP.



# Extensions: Site Search Report

Activity Tracking Report

## Activity Tracking Report

05/30/2018 10:17 AM

PI Number:

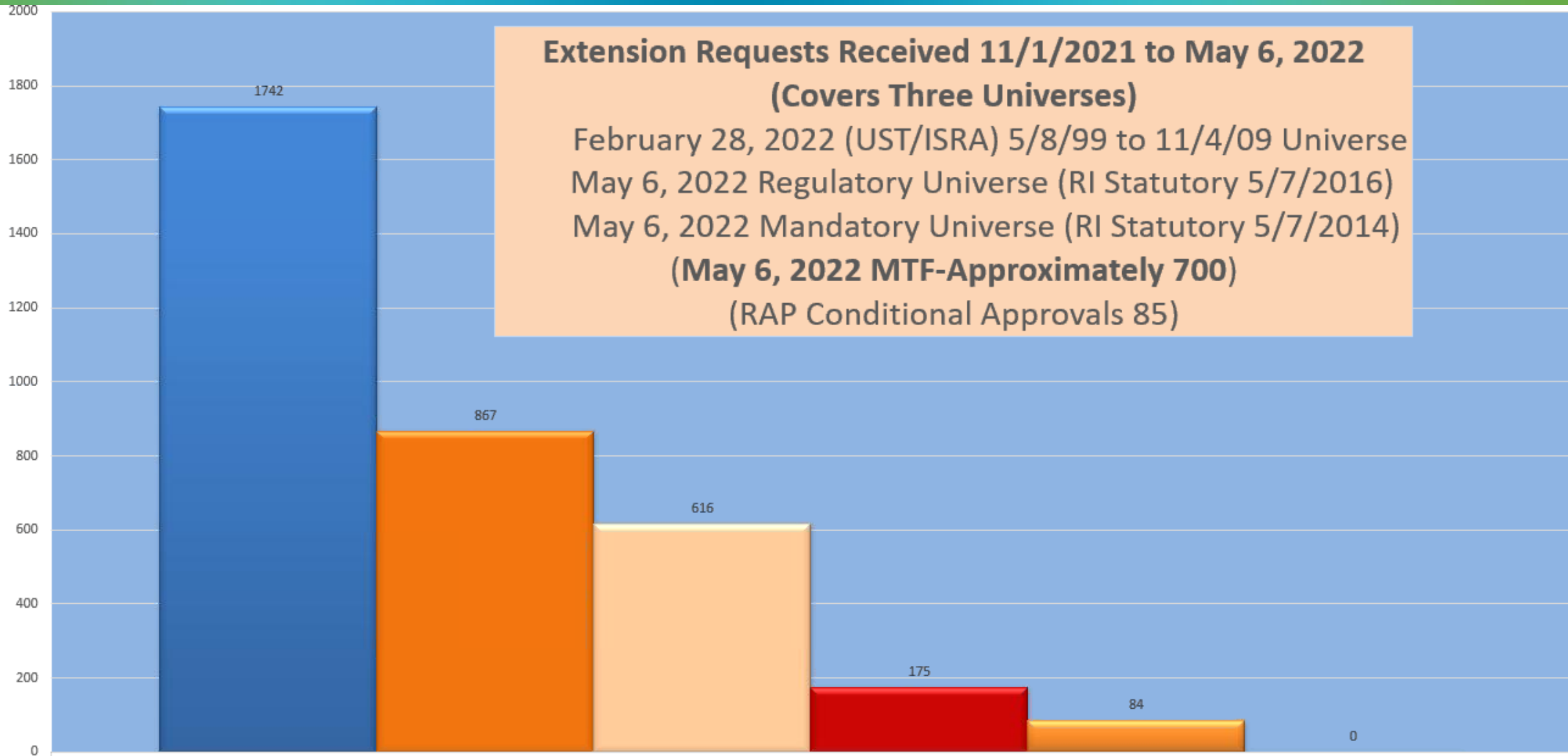
LSR120001

Activity Class Description	Licensed Site Professional Program	
Activity Type Description	LSRP - SRRA Conversion Case	
Assigned To	Description	Completed Date
SRP CLEARING HOUSE, LSRP	Remedial Investigation Regulatory Timeframe	3/1/15
SRP CLEARING HOUSE, LSRP	Remedial Action Workplan Received	3/17/15
SRP CLEARING HOUSE, LSRP	Remedial Investigation Completed	3/17/15
SRP CLEARING HOUSE, LSRP	Remedial Investigation Report Received	3/17/15
SRP CLEARING HOUSE, LSRP	Site Investigation Report Received	3/17/15
SRP CLEARING HOUSE, LSRP	LSRP Retention Form Received	8/7/15
	LSRP Dismissal Form Received	8/7/15
SRP CLEARING HOUSE, LSRP	Rem.Timeframe Notification Form Rec'd-Extension Request	12/4/17
SRP CLEARING HOUSE, LSRP	Remedial Action Regulatory Timeframe	3/1/18



**Extension Requests Received 11/1/2021 to May 6, 2022  
(Covers Three Universes)**

February 28, 2022 (UST/ISRA) 5/8/99 to 11/4/09 Universe  
May 6, 2022 Regulatory Universe (RI Statutory 5/7/2016)  
May 6, 2022 Mandatory Universe (RI Statutory 5/7/2014)  
**(May 6, 2022 MTF-Approximately 700)**  
(RAP Conditional Approvals 85)



EXTENSIONS	1742
APPROVED RTF	867
APPROVED MTF	616
DENIED RTF	175
DENIED MTF	84
PENDING	0



# Lengthening

- Lengthening request: Section E #2 must be equal to the boxes checked off under #5 that apply

**SECTION E. LENGTHEN RIR TIMEFRAME NOTIFICATION**  
(Complete this section only if you are lengthening the Remedial Investigation Report Regulatory Timeframe)

1. Is the request for an Industrial Establishment subject to ISRA? ..... ☐ Yes ☐ No

2. Indicate the number of additional years requested beyond the initial Remedial Investigation Report Regulatory Timeframe due date. **Number of Years:**  (Maximum of 4 years)

3. The initial Remedial Investigation Report Regulatory Timeframe Due Date: .....

4. The revised Remedial Investigation Report Regulatory Timeframe Due Date: .....

5. **Justification (check all that apply)**

☐ Access to real property not owned or controlled by the person responsible for conducting the remediation is required, or contamination has impacted an environmentally sensitive natural resource, as defined in N.J.A.C. 7:26E-1.8.

☐ Ground water contamination exists in a consolidated aquifer or a dense non-aqueous phase liquid exists in ground water.

☐ Ground water contamination exists in more than one aquifer or there are two or more distinct ground water contaminant plumes.

☐ The person responsible for conducting the remediation wants a final remediation document for the entire site, the discharge was not discovered prior to May 7, 1999, and the site does not include an industrial establishment that

- Lengthening only applies to the Remedial Investigation phase
- Lengthening and Media will change all RI and RA tasks (including the Regulatory Timeframe Tasks).





# Contacts

## General Questions/Extensions/Lengthening/Media/DataMiner Concerns

- BCAIN Duty Officer (609) 292-2943
- [SRWM\\_NJEMS@dep.nj.gov](mailto:SRWM_NJEMS@dep.nj.gov) (Data errors only)

## Remediation Timeframes

- Consequences if Missed/Direct Oversight Requirements
- Including denials to Extension Requests
- Compliance Assistance Duty Officer 609-633-1480

Submit all Remedial Timeframe Notifications via email to [srp\\_submissions@dep.nj.gov](mailto:srp_submissions@dep.nj.gov). Paper copies will not be required, unless requested by the Department



# Questions?

## For Site Specific Questions

Rafael Rivera, Section Chief

Bureau of Case Assignment and Initial Notice

[Rafael.Rivera@dep.nj.gov](mailto:Rafael.Rivera@dep.nj.gov)



# Financial Assurance

**Michael Infanger, Supervisor**

Bureau of Remedial Action Permitting

Michael.Infanger@dep.nj.gov



# Financial Assurance Requirements

## Legislative Mandate

Site Remediation Reform Act – established permitting program to regulate operation, maintenance, and inspection of engineering or institutional controls

- **N.J.S.A. 58:10C-19 establishes FA**
- **If you have an engineering control, you need to post FA unless all permittees are exempt.**



# FA Exemptions

- Government entity (municipality, agency, public university)
- Innocent Purchaser (bought before May 2009)
- Childcare/school (K – 12)
- Residences
- Small business who is remediating a site at which they operate and **that they own**



# FA – Types of Mechanisms

1. **Remediation Trust Fund** - cash held in escrow
2. **Line of Credit** - open line of cash available
3. **Letter of Credit** - promise of cash to a beneficiary (DEP)
4. **Environmental Insurance** - claims based available funds to DEP
5. **Surety Bonds** – may be used before ARRCs rule change



# Estimating FA Amount

Costs of maintaining the engineering control including:

- Maintenance/inspection of cap/engineering control
- Ground Water – include servicing, labor, power, sampling parameters
- Biennial reporting and permit fees

Value is calculated over the duration of the engineering control

- Permanent Engineering control represented as 30 years
- Minimum value \$30,000.00 for permanent engineering control





# FINANCIAL INSTRUMENT PITFALLS

Difficulties with:

- Knowing where to find the model financial instruments
- Choosing the right model financial instrument
- Knowing how to identify wrong financial instruments



# STATUTE CITATIONS

## BROWNFIELDS


- ESTABLISHES REMEDIATION FUNDING SOURCES
- **N.J.S.A. 58:10B-3 (If you see this on a document, it is not FA!)**

## SITE REMEDIATION REFORM ACT

- ESTABLISHES FINANCIAL ASSURANCE
- **N.J.S.A. 58:10C-19**



# On the Forms Web Page

▶ <b>Petroleum UST Fund Application (Unregulated)</b> (Including Residential Heating Oil Tanks)	<a href="#">Form</a> pdf 396 Kb	<a href="#">Instructions</a> pdf 185 Kb	1.2 - 9/17/2018
● <b>Project Summary Sheet Spreadsheet</b> Note: See the <a href="#">SRP Financial Assistance Petroleum UST Fund page</a> for more information & guidance.	<a href="#">Spreadsheet</a> xls 60 Kb		1.0
▶ <b>Public Notification and Outreach form</b> Note: The Public Notification and Outreach form may now be uploaded in a service, see the links in the <a href="#">NJDEP Online Services section</a> above. This form is for mail-in submission only, not for use with the NJDEP Online service.	<a href="#">Form</a> pdf 221 Kb	<a href="#">Instructions</a> pdf 158 Kb	1.9 - 6/22/2020
▶ <b>Remedial Timeframe Notification</b>	<a href="#">Form</a> pdf 192 Kb	<a href="#">Instructions</a> pdf 163 Kb	1.3 - 9/17/2018
▶ <b>Remediation Cost Review and RFS-FA Form</b>	<a href="#">Form</a> pdf 273 Kb	<a href="#">Instructions</a> pdf 220 Kb	2.2 - 9/23/2020
● <b>RFS/FA Model Financial Mechanism Language</b>	<a href="#">RFS Guide Page</a>		
● <b>Self Guarantee Application</b>	<a href="#">Form</a> pdf 58 Kb	<a href="#">Instructions</a> pdf 34 Kb	1.3 - 6/12/2014
▶ <b>Site and Contact Information Update Form</b> (Name change. Was "Name and Address Change Reporting" form)	<a href="#">Form</a> pdf 174 Kb	<a href="#">Instructions</a> pdf 45 Kb	1.3 - 10/18/2017

# RFS/FA Guidance Website

## What are acceptable RFS and Financial Assurance (FA) mechanisms?

All RFS and FA mechanisms must comport with the format and language of the model documents found at the links below.

### Remediation Funding Source (RFS)

- [Remediation Trust Fund Agreement](#) - Please see [N.J.A.C. 7:26C-5.4](#) for specific requirements.
- [Line of Credit Agreement](#) - Please see [N.J.A.C. 7:26C-5.6](#) for specific requirements.
- [Letter of Credit](#) - Please see [N.J.A.C. 7:26C-5.7](#) for specific requirements.
- Environmental Insurance Policy - Please see DEP's regulatory requirements at [N.J.A.C. 7:26C-5.5](#).
- [Self Guarantee Application](#) - Please see the Self Guarantee Application Instructions for more information and [N.J.A.C. 7:26C-5.8](#) for specific requirements. **(Not for use as Financial Assurance.)**
- Loan or Grant from the [Hazardous Discharge Remediation Fund](#) - Please see [N.J.A.C. 7:26C-5.2](#) for specific requirements.
- [Surety Bond](#) - Please see N.J.S.A. 58:10B-3.i for specific requirements.

### Financial Assurance (FA) - *(To be used for Remedial Action Permits only)*

- [Remediation Trust Fund Agreement for FA](#) - Please see [N.J.A.C. 7:26C-5.4](#) for specific requirements.
- [Line of Credit Agreement for FA](#) - Please see [N.J.A.C. 7:26C-5.6](#) for specific requirements.
- [Letter of Credit for FA](#) - Please see [N.J.A.C. 7:26C-5.7](#) for specific requirements.
- Environmental Insurance Policy - Please see DEP's regulatory requirements at [N.J.A.C. 7:26C-5.5](#).
- [Surety Bond](#) - Please see N.J.S.A. 58:10B-3.i for specific requirements.



### Direct Oversight

- [Remediation Trust Fund Agreement for Direct Oversight](#) - Please see [N.J.A.C. 7:26C-14.2\(b\)](#) for specific requirements.

# FA Reporting Requirements

## Remediation Cost Review – Due Biennially

- Documents and reaffirms the amount of FA that is being maintained
- If there are any changes to the cost estimate, the actions taken must be indicated on the Remediation Cost Review and RFS/FA form (Section C – Check all that apply!)






# RFS/FA form when using existing RFS as FA

## SECTION C. PURPOSE OF SUBMISSION

Check all that apply

- ☐ Initial Remediation Funding Source pursuant to N.J.A.C. 7:26C-5.2(a) (*attach original RFS instrument and 1% surcharge payment, as applicable*)
- ☐ Initial Financial Assurance for a Remedial Action Permit pursuant to N.J.A.C. 7:26C-7 (*attach original FA instrument*)
- ☐ Initial Direct Oversight Remediation Trust Fund Agreement pursuant to N.J.A.C. 7:26C-14.2(b)5 (*attach original RTF instrument and 1% surcharge payment*)
  
- ☐ Initial Direct Oversight Remediation Cost Review pursuant to N.J.A.C. 7:26C-14.2(b)4
- ☐ Annual Remediation Cost Review pursuant to N.J.A.C. 7:26C-5.10 (*attach RFS instrument verification and valuation*)
- ☐ Biennial Cost Review pursuant to N.J.A.C. 7:26C-7.10 (*Remedial Action Permits*)
  
- ☐ Change in Remediation Funding Source or Financial Assurance Amount pursuant to N.J.A.C. 7:26C-5.11 
- ☐ Change in Remediation Funding Source or Financial Assurance Mechanism pursuant to N.J.A. 7:26C-5.11(d)
- ☐ Remediation Funding Source Disbursement Notification pursuant to N.J.A.C. 7:26C-5.12(a)
- ☐ Remediation Funding Source Disbursement Request pursuant to N.J.A.C. 7:26C-5.12(b) – Direct Oversight only
- ☐ Remediation Funding Source/Financial Assurance Disbursement Request pursuant to N.J.A.C. 7:26C-5.13(d) – Department held RFS/FA
  
- ☐ Request Release of the Remediation Funding Source or Financial Assurance pursuant to N.J.A.C. 7:26C-5.11(e)
- ☐ Using a Remediation Funding Source as Financial Assurance



# Annual Valuations

- **Valuations/Verifications (apply to Line of Credit, Remediation Trust Fund, Surety Bond, Environmental Insurance Policy)**
- **Due Annually**
  - Provides current value of mechanism
  - Verifies mechanism is still valid and will be in effect for next 12 months
  - Letters of credit do not require annual valuation





# FA and Residential Condominium Association

If the Permittee is a residential condominium association

- FA mechanism is not required to be secured if documentation of annual association budget reflects amount dedicated to operation, maintenance, and inspection of engineering controls equal to estimated amount required
- The association should indicate the line item(s) that contain the permit costs.



# Send Valuations to BRAP – NO RFS/FA FORM

Valuation letters from RTF trustees, banks, or insurance companies  
Condo association budgets

Make address as simple as possible:

USPS Address:

FA Coordinator, BRAP 5<sup>th</sup> Floor  
Mail Code 401 – 05S  
P.O. BOX 420  
TRENTON, NJ 08625

For overnight couriers, etc.:

FA Coordinator, BRAP 5<sup>th</sup> Floor  
Mail Code 401 – 05S  
401 East State Street  
TRENTON, NJ 08608



# Changes in FA Amount or Mechanism Type

Requires the filing of a Remediation Cost Review and RFS/FA Form

- Reductions or Increases require an update detailed cost estimate
- Replacement FA mechanism in a consistent amount only require the form

**This does not require a Soil/Ground Water  
permit modification!**



# Amendments of Financial Instruments

## Remediation Trust Fund Agreements

- Amendments allowed pursuant to Section 16
- Just as easy to submit a new agreement

Line of Credit – a new document will usually be required

Surety Bond / EIP – check with provider



# Letters of Credit

**Most Common Form of FA**

**Any Change Requires An Amendment – Requires Approval**

**Have the bank put the PI# on the amendment.**

**Also Inform The Department If A Non-renewal Notice Is Coming.**



# Questions?

**Michael Infanger**

Bureau of Remedial Action Permitting

[Michael.Infanger@dep.nj.gov](mailto:Michael.Infanger@dep.nj.gov)



# **BREAK**

**Next NJDEP Session  
begins at 1:30 pm**





# Common Deficiencies with Remedial Action Permit (RAP) Applications and Tips

**Michael Gaudio, Supervisor**

Bureau of Remedial Action Permitting (BRAP)

[Michael.Gaudio@dep.nj.gov](mailto:Michael.Gaudio@dep.nj.gov)



# Background

- BRAP's mission is to issue Soil and Ground Water (GW) RAPs that are protective of public health and safety, and the environment
- As part of that mission, BRAP's goal is to protect NJ residents and workers from direct contact to soil contamination, and to maintain, restore, and enhance the designated use(s) of the ground water resource



# Soil and Ground Water RAP Applications

## Most Common Deficiencies

- Soil and ground water contamination is not horizontally and vertically delineated to the Remediation Standards pursuant to N.J.A.C. 7:26E-4.2 and 4.3
- Modeling is not acceptable at the remedial action stage and clean (below the applicable Remediation Standard) sampling is required; see the NJDEP Policy Statement: Interpretation of Technical Requirements for Site Remediation requirement to “complete the remedial investigation”

**Tips: Discuss how delineation is complete in the RAR and Section K (Other Information) of the RAP Application, and provide a map(s) showing the clean sampling points in all directions, including receptors**



# Soil and Ground Water RAP Applications

## Most Common Deficiencies (cont'd)

- Lack of or no explanation regarding:
  - Variances from rules
  - Deviations from guidance documents
- Lack of multiple lines of evidence to support Professional Judgment

**Tip: More explanation/discussion is needed within the RAR and Section K (Other Information Provided) of the RAP Applications**



# Soil and Ground Water RAP Applications

## Most Common Deficiencies (cont'd)

GIS compatible map of the CEA, Deed Notice or Notice in Lieu of Deed Notice Shape is not submitted

- A GIS compatible map of the Deed Notice or the Notice in Lieu of Deed Notice shape should be emailed to [srpgis\\_dn@dep.nj.gov](mailto:srpgis_dn@dep.nj.gov)
- A GIS compatible map of the CEA shape should be emailed to [srpgis\\_cea@dep.nj.gov](mailto:srpgis_cea@dep.nj.gov)

**Tip: Ensure that the email of the GIS compatible map of the CEA, Deed Notice or Notice in Lieu of Deed Notice Shape is sent just prior to submitting the RAP Application**



# Ground Water RAP Applications

## Common Deficiencies

Receptor Evaluation is not complete

- Door-to-door survey results not provided
- Door-to-door survey incomplete
- Potable or irrigation wells within the sampling trigger distances not sampled
- Vapor Intrusion (VI) Pathway not investigated\*

*\*Trigger distances are applied from the edge of the ground water contaminant plume based on linear interpolation of the ground water data (**NOT** a monitoring well itself) when determining which buildings should be investigated.*

**Tips:** The RAR should focus on the evaluation of receptors and how trigger distances were determined. Remember the further your delineation sampling points are from the source increases the number of receptors that will need to be evaluated.



# Ground Water RAP Applications

## Common Deficiencies (cont'd)

CEA/WRA Fact Sheet Form issues

- CEA shape not acceptable
- missing contaminants
- missing cross-section figures

**Tips: CEA shape should be drawn to clean (below the applicable GWRS) sampling points in all directions and be sure to include all contaminants and required exhibits.**





# Ground Water RAP Applications

## Common Deficiencies (cont'd)

Ground Water Monitoring Plan (GWMP) issues

- GWMP not included
- no sentinel well
- not enough wells for triangulation
- sampling frequency
- GWMP Spreadsheet does not match up with text of RAR

**Tips: Keep receptors in mind when submitting the GWMP and support sampling frequency and monitoring well selection in the RAR.**



# Ground Water RAP Applications

## Common Deficiencies (cont'd)

- Vapor Intrusion Long-Term Monitoring Plan for Structures with sub-slab soil gas contamination missing
- Sub-Slab Soil Gas Contamination > Residential Soil Gas Screening Levels for Non-Residential Structure needs to be part of the RAP to ensure site use does not change

**Tip: Don't forget to include VI issues with your Ground Water RAP Application**



# MNA Ground Water RAP

## Applications Common Deficiencies

Monitored Natural Attenuation (MNA) is not the appropriate ground water remedial action

- No decreasing trends for contaminants of concern in ground water, which indicates source material may remain
- Not enough ground water sampling events conducted after the last active remedial action at the site
- Evidence of free and residual product remains (i.e., sheen, elevated contaminant levels, etc.); MNA of free and/or residual product is prohibited pursuant to N.J.A.C. 7:26E-5.1(e)

**Tips:** Make sure RAR supports why MNA is the appropriate ground water remedial action and conduct post-remedial sampling to demonstrate product no longer exists/has been removed



# Active Ground Water RAP

## Applications Common Deficiencies

Active ground water remedial action is not the appropriate remedy

- Free product recovery in the form of socks/sorbent pads
- High Intensity Targeted (HIT)/Enhanced Fluid Recovery (EFR) events
- Manual recovery (e.g., bailing) of free product in impacted wells

**Tips:** Make sure the active ground water remedial action addresses the entire extent of the product body and that the Ground Water Monitoring Plan includes post-remedial sampling. Contact BRAP with any questions or request a technical consultation

[https://www.nj.gov/dep/srp/srra/technical\\_consultation/](https://www.nj.gov/dep/srp/srra/technical_consultation/)



# Soil RAP Applications

## Common Deficiencies

- Soil RAP Applications and CEA/WRA Fact Sheet Forms for Historic Fill (HF) only should contain typical HF compounds

**Tip: Do not include/attribute VOCs to HF**

- Migration to Ground Water (MGW) Exposure Pathway is not properly addressed

**Tips: Visit the NJDEP Remediation Standards' webpage (<https://nj.gov/dep/srp/guidance/rs/>) and read the guidance documents on this issue. Discuss in the RAR how the MGW exposure pathway was addressed as well as on the Initial Soil RAP Application.**



# Soil RAP Applications

## Common Deficiencies (cont'd)

Extractable Petroleum Hydrocarbon (EPH) soil contamination that remains is not addressed in accordance with the Department's Evaluation of EPH in Soil Technical Guidance document

### Tips:

- **Delineate to applicable default product limits**
- **Remediate EPH contamination in excess of the Category 1 and 2 thresholds or alternative thresholds calculated**
- **Remediate EPH contamination in excess of the 30,000 mg/kg ceiling limit**



# Soil RAP Applications

## Common Deficiencies (cont'd)

Use the correct model Financial Assurance (FA) document when an engineering control is in place and FA is required

- Please refer to the “Remediation Funding Source (RFS) and Financial Assurance (FA) Guidance” for model FA documents; you need to scroll down to the FA documents for the correct models

**Tip: Do not use the Remediation Funding Source model when submitting a RAP Application**





# Questions?

**Michael Gaudio, Supervisor**

Bureau of Remedial Action Permitting (BRAP)

[Michael.Gaudio@dep.nj.gov](mailto:Michael.Gaudio@dep.nj.gov)



# RAO Updates, Tips & Common Errors

**Jon Balog**

Bureau of Inspection and Review

[Jonathan.Balog@dep.nj.gov](mailto:Jonathan.Balog@dep.nj.gov)



# Disclaimer

The following information is related to general concepts only.  
For discussion of site-specific scenarios, please contact BIR.



# RAO Online Service

- RAOs now submitted through Online Service Portal
- Can still be submitted via email to [srp\\_submissions@dep.nj.gov](mailto:srp_submissions@dep.nj.gov)



# RAO Guidance Version 3.1

- Updated November 2021
- Removed some language from Section V (*Response Action Outcome Variations*)
- Re-worked parts A, B, and C of Section VI (*Issuing RAOs Involving Ground Water Remedies and Coordination with Remedial Action Permits*) to provide more clarity and better align with the GW RAP Guidance



# RAO Withdrawals

- Part of October 2021 Update
- Page 54 of the RAO Guidance Document (Attachment 3) now provides guidance on the RAO withdrawal process.
- Model language of an RAO Withdrawal Letter is provided.



# New Notices

- Commingled Plume Notices:
  - Similar constituents – on-site and off-site Sources
  - Similar constituents – multiple on-site discharges
  - Dissimilar constituents – multiple on-site discharges





# New Notices

- Transfer of Monitoring Well Use (Redesignated Use)
  - Used to indicate that a monitoring well will be left open to be used to monitor groundwater contamination associated with an unrelated case



# New Notices

- Indeterminate Vapor Intrusion Pathway Not Yet Evaluated
  - Used when a VI evaluation of a building has been triggered but not conducted
  - Think: Active service stations, dry cleaners, refinery operations, etc.
- Long-Term Vapor Intrusion Monitoring
  - Contamination above soil gas screening levels, but below indoor air screening levels/remediation standards



# Certain Shell Scenarios/Instructions

- Attachment 4 (page 56) of the RAO Guidance Document
- Provides suggested RAO language to use in certain frequently occurring scenarios



# Recent RAO Issues

- AOCs must be clearly specified in the Scope of Remediation
  - For example, referring to an AOC as just “AOC-1” is insufficient. Need to specify what “AOC-1” *actually* is.
- Scope of Remediation should be for the contamination or source of contamination, not a general impacted media.
- The ISRA Multi-Tenant Notice requires that a map clearly depicting the Leasehold area be attached to the RAO letter.



# Recent RAO Issues

- USTs on the CID must correspond to the Scope of Remediation on the RAO and the UST Registration Database.
- Incident numbers being closed out with the RAO should be included in the Re: section.
- Incident numbers ***not*** being addressed with an RAO and remaining open at the site should be called out with a Notice.



# Recent RAO Issues

- Well Decommissioning Notice
  - Two different variations available:
    1. The first language option should be used when all site-related monitoring wells have been decommissioned.
    2. The second option should be used in Limited Restricted Use RAOs when some wells have been decommissioned but others are remaining open to monitor the continuing GW investigation as part of a GW RAP.



# Recent RAO Issues

- RAO Amendments should **NOT** be submitted separately via the RAO service.
- BIR Inspector/Reviewer will ask for the Amendment and assist with the process.
- Finalized Amendment should be emailed to the BIR Inspector/Reviewer.





# Non-RAO issues and Tips

- Each phase of remediation completed needs to be certified with each applicable Online Portal Service.
  - Completing the Remedial Action Online Service with a report labeled “Remedial Investigation/Remedial Action Report” will **not** end-date the *Remediation Investigation to be Completed* task.
  - The RI service will need to be submitted as well to certify that it’s been completed.



# Non-RAO issues and Tips

- The second, confirmed off-site source hotline number should be referenced in the **Activity** column (Column T) of the CID, not in the incident number column (Column H).



# Questions?

## **RAO Point of Contact:**

Jonathan Balog

[Jonathan.Balog@dep.nj.gov](mailto:Jonathan.Balog@dep.nj.gov)

(609) 984-7861

## **For Modifications:**

Atwood Davis

[Atwood.Davis@dep.nj.gov](mailto:Atwood.Davis@dep.nj.gov)

(609) 633-1337



# Documentation of Professional Judgment and other tips

**Lynne Mitchell, Assistant Director**

Remediation Review Element

[Lynne.Mitchell@dep.nj.gov](mailto:Lynne.Mitchell@dep.nj.gov)

609-649-0635



# When the Department asks for more information

When the Department asks for more information, it is to ensure:

- that the record is complete
- that the LSRP's professional judgment is clear

The majority of the time, the Department agrees with an LSRP's conclusion after their professional judgment is explained fully



# Documentation of Independent Professional Judgment

## What it is:

- documentation of the factors considered during decision making
- how those factors influenced decisions or actions
- a written discussion including all information identified and evaluated

## What it is not:

**A written statement that professional judgment was utilized without any supporting documentation or any explanation that focuses solely on cost**



# Examples of Professional Judgment Documentation

- Multiple lines of evidence
- Technical justification
- Detailed analysis
- Data evaluation
- Evaluation of receptors
- Evaluation of health and safety
- Long term effectiveness





# Reminders

- Permit writer, inspector, and reviewer have no previous knowledge of the site
- Permit writer, inspector, and reviewer do not have copies of previous submittals – unless submitted through the portal
- Permit writer, inspector, and reviewer do not know what is going on at neighboring properties



# Insufficient Justification

## **Comment from the NTD:**

According to information contained within the RAR dated September 2020, the contaminant plume is not delineated North and West of MW-X, West of MW-Y, and North of MW-Z.

## **Response from the LSRP:**

Based on my independent review as the LSRP, it is my professional judgment that the plume is horizontally delineated by monitoring wells MW-A, MW-B, MW-C, MW-D, and MW-E.

No other information was provided



# Insufficient Documentation

## Comment from the NTD:

Prior to issuance of the Ground Water Remedial Action Permit (RAP), sampling of the potable wells at... is required

## Response from the LSRP:

A building is marked on tax assessment record for this parcel. Access was requested to sample the potable well at this property. However, access was not granted. All surrounding wells were sampled, specifically all potable wells located between the site and this lot were sampled. The sampling has indicated no impact of the site to the potable wells in the area and therefore a MNA ground water permit is appropriate.

The LSRP response did not include the construction details for the potable wells



# Sufficient Documentation

The planned sub-slab soil gas (SSSG) samples could not be collected since the hammer drill was not capable of penetrating through more than 20-inches of concrete slab. No penetrations, cracks, or other potential preferential pathways that might promote VI were identified during the initial or subsequent annual building surveys. The slab extends approximately 10-inches above ground surface based on measurements recorded from the outside of the building.

SSSG collection was not practicable, therefore one near-slab soil gas (NSSG) sample was collected from within 5-feet of the northeast side of the building, and one NSSG sample collected from the southeast side of the building. This is technically justified because of the following:

- The maintenance garage is adjacent/connected to the office on the southwest side of the building (Figure 1);
- Multiple underground utilities are present in the space between the offices to the southwest (Figure 2);
- The locations selected for the NSSG samples were biased towards the contaminated ground water plume; and
- All other adjacent buildings within the trigger distance had SSSG samples collected.



# Supporting Independent Professional Judgment

Submissions should include:

- Clear table of contents
- Section number on RAP forms
- Detailed information
- Multiple lines of evidence
- Copies of previous submittals or sections of submittals if relevant to your conclusion

“Professional judgment is not designed to be a mathematical calculation, but rather drawing a conclusion based on a progression of empirical facts, some more relevant than others.” VIT



# Most Common Deficiencies

- Failure to provide multiple lines of evidence for professional judgment
- Administrative errors in the Deed Notice, FA, and RAO
- Failure to complete the RI for all receptors
- Failure to completely delineate to the standards in the RA, extrapolation is not acceptable in the RA



# Varying from Rule and Deviating from Guidance

- Variances from the Tech Regs may be acceptable with sufficient technical justification, in accordance with N.J.A.C. 7:26E-1.7(a)
- Deviations from guidance may be acceptable with sufficient technical justification

**Variances from the rule and deviations from guidance are required to be documented in key document submittals (N.J.A.C. 7:26E-1.5)**

**Some things are not negotiable (N.J.A.C. 7:26E-1.7(b))**





# **You can not vary from these, pursuant to N.J.A.C. 7:26E-1.7(b)**

1. A regulatory timeframe, site-specific expedited timeframe, or mandatory timeframe;
2. A requirement to obtain or comply with a permit;
3. A requirement to submit a document;
4. A requirement to comply with a remediation standard;
5. A requirement to comply with a quality assurance laboratory requirement;
6. A requirement to obtain the Department's prior written approval;
7. The requirements of N.J.A.C. 7:26E-5.2(b); or
8. The requirement to not import hazardous waste as fill material, pursuant to N.J.A.C. 7:26E-5.2(f).



# Variances from the Tech Regs

- Every variance is a review trigger and will be evaluated
- Many are reviewed and accepted without contacting the LSRP
- It is necessary to provide sufficient information to explain why a variance is protective
- Don't skimp on the information



# Final Notes

- Don't skimp on information
- Tell the whole story
- We agree with the LSRP's decisions the majority of the time, when we understand how they got there
- Be nice to my staff when they reach out to you for more information



# Questions?

**Lynne Mitchell, Assistant Director**  
Remediation Review Element  
[Lynne.Mitchell@dep.nj.gov](mailto:Lynne.Mitchell@dep.nj.gov)  
609-649-0635



# **BREAK**

**Next NJDEP Session  
begins at 3:30 pm**



# Receptor Evaluations

**Diane Gard, Supervisor, Receptor Review Team**  
Bureau of Inspection and Review  
[Diane.Gard@dep.nj.gov](mailto:Diane.Gard@dep.nj.gov)



# Clarification: No RE if RAO within 1 year

- [7:26E-1.12\(b\)](#) The person responsible for conducting the remediation who completes an unrestricted use remedial action is not required to conduct a receptor evaluation, **except as pursuant to [N.J.A.C. 7:26E-1.16](#)**, when a final remediation document is filed with the Department within one year





# Ecological Evaluation

## 7:26E-1.16 Receptor evaluation - ecological

(a) The person responsible for conducting the remediation shall conduct an ecological receptor evaluation as follows:

1. Determine if any environmentally sensitive natural resources, other than ground water:
  - i. Are present on the site or area of concern;
  - ii. Are adjacent to the site or area of concern; or
  - iii. May be, have been, or are impacted by contamination from the site or area of concern and



# Ecological Evaluation

2. Determine if any contaminant concentration is present at the site or area of concern that exceeds any ecological screening criterion or any aquatic surface water quality standard.



# Receptor Evaluation

Even if contamination never left the site, the following are required:

- Well search
- Door-to-door survey
- Potable well sampling
- Ecological evaluation



# Updating the Receptor Evaluation

Receptors must be re-evaluated, and the RE Form updated whenever these conditions are identified:

- The known concentration or extent of the contamination in any medium increases,
- A new area of concern is identified,
- A new receptor is identified, or
- A new exposure pathway is identified.

The RE Form must be submitted with: IEC Source Control Report, Remedial Investigation Report and/or Remedial Action Report.



# Common Issues: Receptor Evaluations

- Door-to-door survey must be conducted when any potable or irrigation wells are within one-half mile of each point of ground water contamination [N.J.A.C.7:26E-1.14\(a\)1.ii.](#)
- A well search must be updated every **2 years** [N.J.A.C.7:26E-1.14\(a\)3](#)
- Ecological evaluation required even when historic fill is the only contamination
  - Ecological Evaluation Technical Guidance, Section 5.0



# Common Deficiencies: Vapor Intrusion

- Insufficient number of soil gas samples [N.J.A.C. 7:26E-1.15\(c\)2](#), VIT 3.3.1.4, Table 3-2
- Soil gas/indoor air sampling is > 5 years and not re-evaluated in RIR/RAR submissions
- Indoor air samples must be collected when contamination is present in soil vapor above the applicable Soil Gas Screening Level – regardless of the contaminant's presence in ground water



# Vapor Intrusion Investigation Must be Completed Even if...

- Building/Structure is seldom occupied, not occupied, will not be occupied, cannot be accessed, or is scheduled to be razed
- Contamination in soil gas is related to a suspected offsite source or commingled plume





# Reporting a Vapor Concern or Immediate Environmental Concern Condition

- If the data triggers VC or IEC conditions, you must file the VC or the IEC Response Action Forms to the Department within 14 days after receipt of the analytical results [N.J.A.C. 7:26E-1.15\(e\)](#) & [N.J.A.C. 7:26E-1.11\(a\)](#)

<https://www.nj.gov/dep/srp/srra/forms/>



# Receptor Evaluations and RI Complete

- LSRPs are responsible to ensure receptors are protected and today's standards/screening levels are met.
- Old Department approval letters are only one line of evidence
- All receptors are required to be investigated for the RI to be complete



# RI Complete Policy Statement

For the LSRP and the Department to consider the RI 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.



# Questions?

## **For Receptor Evaluations:**

Diane Gard

Bureau of Inspection and Review

[Diane.Gard@dep.nj.gov](mailto:Diane.Gard@dep.nj.gov)

## **For Vapor Intrusion Investigation/Mitigation:**

Nicole Kalaigian

Bureau of Environmental Evaluation and Risk Assessment

[Nicole.Kalaigian@dep.nj.gov](mailto:Nicole.Kalaigian@dep.nj.gov)



# **NJDEP Vapor Intrusion Technical (VIT) Guidance Update & Clarifications**

**Nicole Kalaigian, Research Scientist**

Bureau of Environmental Evaluation & Risk Assessment

[Nicole.Kalaigian@dep.nj.gov](mailto:Nicole.Kalaigian@dep.nj.gov)



# Vapor Intrusion Resources

## Site Remediation Program

[SRP Home](#) | [DEP Home](#)

[Guidance Documents](#) ▶ Vapor Intrusion

### Vapor Intrusion Pathway

The presence of volatile chemicals in contaminated soil or ground water offers the potential for chemical vapors to migrate through subsurface soils and/or preferential pathways (such as underground utilities) thereby impacting the indoor air quality of area buildings. Vapor intrusion refers to this migration of volatile chemicals from the subsurface into overlying buildings. The vapor intrusion information linked from this page represent specific guidance developed by the Department to assist in the investigation of the vapor intrusion pathway at contaminated sites.

[The Vapor Intrusion Technical Guidance](#) Version 5.0, Posted May 2021

It is recommended that the user periodically refer to the NJDEP Vapor Intrusion web site for the latest information on the vapor intrusion pathway.

#### Vapor Intrusion Technical Information and Updates:

- ▶ [Background Levels of Volatile Organic Chemicals in Homes: A Review of Recent Literature](#) Posted August 2016
- ▶ [Installation Procedures for Permanent Sub-slab Probes](#) Posted August 2016
- ▶ [Vapor Intrusion Template Letters & Results Tables](#) Posted October 2021
- ▶ [Vapor Intrusion Screening Levels and Indoor Air Remediation Standards Tables](#) Posted May 2021
- ▶ Comparison of 2013 and 2021 Vapor Intrusion Screening Levels and Indoor Air Remediation Standards
  - ▶ [Comparison of 2013 and 2021 Ground Water Screening Levels](#) Posted May 2021
  - ▶ [Comparison of 2013 and 2021 Soil Gas Screening Levels](#) Posted May 2021
  - ▶ [Comparison of 2013 Indoor Air Screening Levels and 2021 Indoor Air Remediation Standards](#) Posted May 2021
  - ▶ [Comparison of 2013 and 2021 Rapid Action Levels](#) Posted May 2021
- ▶ [Vapor Intrusion Screening Levels Basis and Background](#) Posted May 2021
- ▶ [Indoor Air Remediation Standards for the Vapor Intrusion Exposure Pathway Basis and Background](#) Posted May 2021
- ▶ [Revised Instructions for the Johnson & Ettinger Spreadsheets - NJDEP Version](#) Posted May 2021
- ▶ [Important Information about Vapor Mitigation Systems and Power Outages](#) Posted 5 November 2012, Updated 5 March 2018
- ▶ [List of Certified Labs](#)

### Analysis of naphthalene and 2-methylnaphthalene for vapor intrusion samples

The Department completed its evaluation of the provisions of N.J.A.C. 7:26E-2.1(c)3 and the Vapor Intrusion Technical Guidance (Version 3.1) as it relates to the analysis of naphthalene and 2-methylnaphthalene for vapor intrusion (VI) samples. Based on a continuing review of scientific information, effective July 16, 2013, the Department is requiring the following:

The analysis for 2-methylnaphthalene will not be required for VI samples collected during the investigation of kerosene, jet fuel, diesel fuel, fuel oil No. 2, and heavier petroleum products. The Department intends to update the Technical Requirements for Site Remediation to remove the requirement to analyze VI samples for 2-methylnaphthalene. Until the rule is updated, persons responsible can apply a variance pursuant to N.J.A.C. 7:26E-1.7 to not perform this analysis. The Department has already updated other posted web documents to reflect this change.

Naphthalene analysis will be required for VI samples collected during the investigation of kerosene, jet fuel, diesel fuel, fuel oil No. 2, and heavier petroleum products. In addition to USEPA Method TO-17, the Department will also allow the use of USEPA Method TO-15, NJDEP Method Low Level TO-15 and USEPA Method TO-13 A. Any laboratory performing the methods must have the applicable laboratory certifications and must have a demonstrated reporting limit of less than or equal to 3 ug/m3 consistent with N.J.A.C. 7:26E-2.1(a)3.

[Vapor Intrusion Pathway Archive documents](#)



#### Additional Vapor Intrusion Information

- ▶ [DEP Contacts for Vapor Intrusion](#)
- ▶ [Community Outreach Guidance](#)
- ▶ [Fact Sheet: Evaluating Indoor Air Near VOC Contaminated Sites](#)
- ▶ [Fact Sheet: Subsurface Depressurization Systems](#)
- ▶ [Common Household Sources of Background Indoor Air Contamination](#)
- ▶ [NJDOH's Fact Sheet: Potential Health Risks Associated with Exposures to Trichloroethylene \(TCE\) in the Indoor Air \[pdf\]](#) Posted 1 June 2016

[Help for the file formats](#)

#### Related Links

- ▶ [NJDEP Office of Quality Assurance](#)
- ▶ [New Analytical Method for Volatile Organics in Air NJDEP-LLTO-15- 3/2007](#)

<http://www.state.nj.us/dep/srp/guidance/vaporintrusion/>



# May 2021 VIT 5.0

- Derivation and application of the VI standards, screening levels, and alternative values (Appendix G)
- Changes from Indoor Air Screening Levels to Indoor Air Remediation Standards (IARSs) and explanation of derivation
- Guidance for development of alternative IARSs and Vapor Intrusion Screening Levels (VISLs) (**nonresidential only**)
  - Calculator; IARS, Soil Gas Screening Levels (SGSLs), Rapid Action Levels (RALs)
- Coordination with, and submittals to NJDOH





# Applying Trigger Distances to Ground Water

Trigger distances must be applied from edge of ground water (GW) plume based upon linear **interpolation** of GW data:

- 100' non-PHC-related contamination/free product
- 30' PHC-related contamination/free product

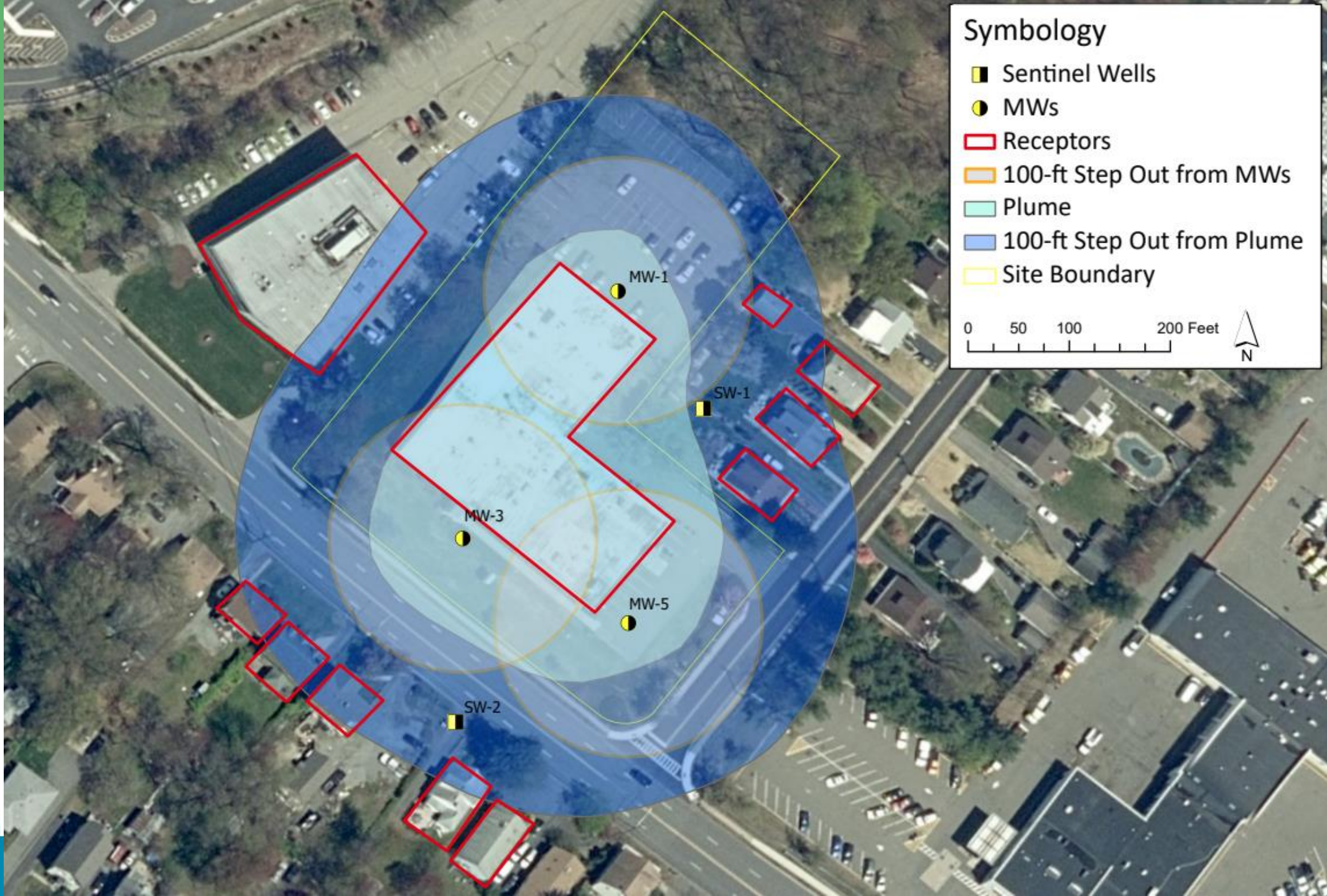
(PHC = petroleum hydrocarbon)











# Applying Trigger Distances to Ground Water (cont'd)

- Preferential pathway(s)
- GW data >5 years old may not represent current conditions
- Timeframe begins upon discovery of historic data (trigger date pursuant to N.J.A.C. 7:26E-1.15)





# Section 3.1.3 Iterative Nature of VI Investigations

- Any IA results > IARS, step-out all buildings within 100ft of impacted building (N.J.A.C. 7:26E-1.15(e)6)
  - Timeframes consistent with receptor evaluation
- \*Update receptor evaluation when:
  - Site conditions change
  - GW concentrations increase or new contaminants
  - New receptor

\* = not an exhaustive list



# Unoccupied Buildings & Vacant Land

- Unoccupied buildings **must** be investigated
- If VI pathway is complete in unoccupied building, some form of mitigation is typically necessary
- 58:10C-16.1. **Remediation professionals' obligations relative to unoccupied structure** - provide certified document(s) that:
  - Building is unoccupied
  - Building will remain unoccupied
  - Building will be razed



# Indeterminate VI Pathway (IVIP) Status

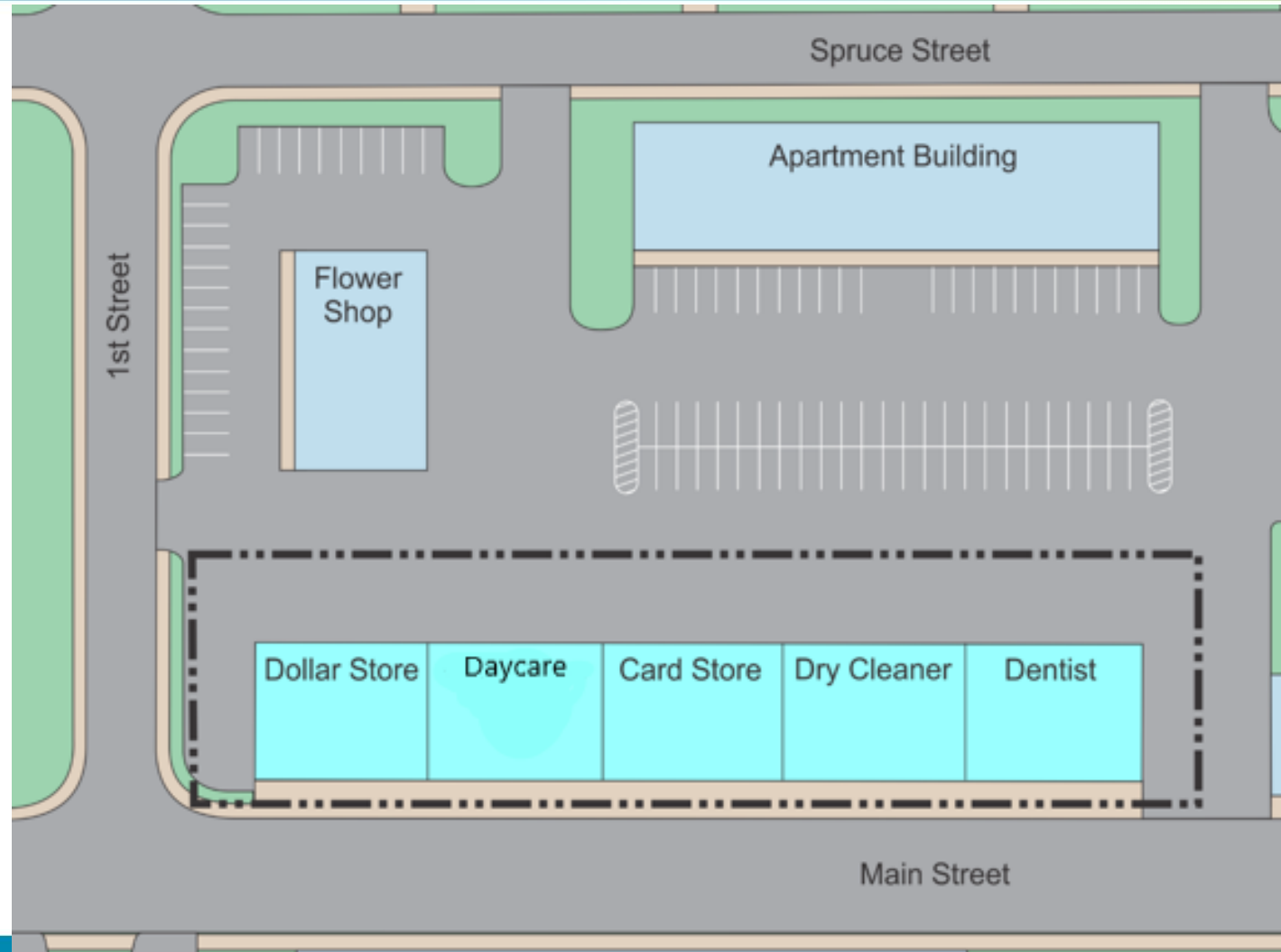
- IVIP Status: Situation where building triggers VII but completeness of the VI pathway is not resolved
- SSGS sampling still required for VII
  - Documents condition to address future changes in property use
- Requires variance
- Documented in key document submissions and remedial action permit forms
  - Boilerplate language: VIT sections 3.5.2 & 3.9



# Strip Malls

## Background IA contamination NOT APPLICABLE for neighboring leaseholds

- Ex: dry cleaner + adjacent leaseholds
- Tables 3-2 & 3-3 for #SSSG & IA samples
- Evaluating each leasehold may be appropriate



# Long Term Monitoring Plan Termination

Table 6-2  
*Long Term Monitoring Sampling Designs*

SSSG >10X NJDEP SGSL	SSSG > NJDEP SGSL and $\leq 10X$ NJDEP SGSL
<u>First through fifth year LTM:</u> 1 Annual inspection of building. 2. Annual sampling of IA in heating season <sup>1</sup>  <u>Sixth year LTM &amp; beyond:</u> 1. Annual inspection of building 2. Sampling IA every five years in heating season <sup>1</sup>	<u>First year LTM:</u> 1 Annual inspection of building 2. Sampling of IA during heating season <sup>1</sup>  <u>After first year LTM:</u> 1. Annual inspections of building 2. Sampling of IA every five years <sup>1</sup>

- 2 rounds compliant SG and IA
- 4 months apart
- 1 sampling event in heating season





# General Clarifications

- Tech Regs do not dictate the method utilized for analysis, only compound list
  - Initial samples shall be analyzed for the compound list in Table 1 of the NJDEP Method LLTO-15 plus TICs
  - COCs and breakdown ("daughter") products thereafter
- Access issues
- Indoor Air Building Survey (Appendix D)
- ND result is not acceptable when RL exceeds VI GWSL, SGSL, or IARS
- Paper copies of data deliverables still required
  - Electronic copies are appreciated



# Questions?

**VI Investigation & Mitigation: Nicole Kalaigian**

[Nicole.Kalaigian@dep.nj.gov](mailto:Nicole.Kalaigian@dep.nj.gov)

**VISLs / IARSs: Erica Snyder**

[Erica.Snyder@dep.nj.gov](mailto:Erica.Snyder@dep.nj.gov)

**Receptor Evaluation: Diane Gard**

[Diane.Gard@dep.nj.gov](mailto:Diane.Gard@dep.nj.gov)



# Thank You!

