



SITE REMEDIATION PROGRAM TRANSFORMATION - Year in Review

December 2010





Goals of the Site Remediation Reform Act and the LSRP Program

- SRRA and LSRP program are not intended to reduce SRP staff numbers
- Goal of Reforms and LSRP program
 - Free up SRP's existing limited resources to allow us to focus on our high risk/high priority cases.
 - Establish time frames to get and keep cases moving forward





Who is Involved in the Transformation?

- NJDEP
 - Senior management committed to consistent message to all stakeholders
 - Culture shift is needed for Department staff and managers
- External Stakeholders
 - External stakeholders play an important role in environmental protection and economic growth
 - Culture shift is needed for all external stakeholders





Why Are We Doing This ?

- We heard stakeholders concerns
 - Rules too prescriptive
 - Take guidance out of rules
 - Want authority to use professional judgment
 - Develop guidance to assist LSRPs
 - Guidance can serve as baseline for evaluating alternate approaches





STAKEHOLDER TEAMS





Stakeholder Involvement Is Key

- Stakeholder Process
 - Over one hundred volunteers
 - Steering Committee
 - Four teams
 - Near Term Priorities
 - Measures of Success
 - Tech Regulations
 - Guidance Documents





Near-Term Priorities Group (NTPG)

- Purpose of group - with stakeholder input, identify short term priorities for making program successful
- To work within group to develop practical approaches to achieve goals





Measures of Success (MOS) Team

- Purpose of group - to develop measures for evaluating strengths and weaknesses of program to ensure that it is effective
- Will be used for continual program evaluation and annual reporting to legislature





Technical Regulations Team

- Take guidance out
 - Only include remedial objectives, required actions and time frames
- Focus will be on outcome
 - Remedy must be protective
- Stakeholder input to Tech Rule revisions
 - Will ensure rule is clear and implementable
- Committee of 50+ members





Technical Guidance Teams

- 16 Topic-Specific Teams
- Identifies actions, tactics, and technical issues "to be considered" to meet topic specific remedial objectives
- Provides one or more approaches to remediation (that NJDEP will accept)





RULES





Interim Rules

- SRRA mandated Department adopt rules to implement LSRP program
- Interim rule created ARRCs, impacted several other rules (Tech Regs, UST, ISRA, etc.)
- Need to be readopted by October 2011
- Proposal scheduled for February 2011





Implementation of LSRP Program

- Currently running two parallel programs
 - Traditional case management
 - LSRP directs and oversees remediation
- Programs established by 2009 amendments to ARRCs, Tech Rules, ISRA and UST rules
- After May 2012, all sites will be directed and overseen by LSRPs





Proposed Readoption of Interim Rules

Nov 2009 (effective
for 18 months)

Interim Rules

Oct 2011
(expires)

May 2011
(proposal)

Full LSRP Rules

May 2012
(adoption)

Feb 2011
(proposed)

**Readoption of
Interim Rules**

Oct 2011
(adoption)





Timelines for SRRA Rulemaking

Nov 2009 (effective
for 18 months)

Interim Rules

Jan 2011
(proposal)

Readoption of Interim Rules

Oct 2011
(adoption)

ARRCS, Tech Regs, UST, ISRA

Oct 2010
(proposal)

Time Frame/VC Rules

ARRCS, Tech Regs

March 2010
(adoption)

May 2011
(proposal)

Full LSRP Rules

ARRCS, Tech, UST, ISRA

May 2012
(adoption)





Rule Strategy

- Rules currently being modified for proposal include:
 - Administrative Requirements for the Remediation of Contaminated Sites (N.J.A.C. 7:26C)
 - Technical Requirements for Site Remediation (N.J.A.C. 7:26E)
 - New rules - Unregulated Heating Oil Tanks (UHOT; N.J.A.C. 7:26F)





Rule Strategy

- Extensive stakeholder process should reduce the number of comments on rule proposals so we can meet our goals of:
 - Proposing all three rules by May 2011
 - Adopting final rules by May 2012





RULES ARRCS





Administrative Requirements for the Remediation of Contaminated Sites

- Will reflect full implementation of LSRP program
- Major amendments to ARRCs will add
 - Provisions for Direct Oversight
 - Mandatory time frames for RI and RA
 - Formula for calculating fees
 - Biennial certification requirements for remedial action permits
- Will remove provisions for traditional case management remediation





RULES TECHNICAL REQUIREMENTS





Technical Requirements for Site Remediation

- This rulemaking activity is separate but concurrent with interim rulemaking process
- Complete overhaul of Technical Requirements with upfront stakeholder input
- Coincides with Full LSRP Program implementation





Technical Requirements for Site Remediation

- Revisions to streamline rule, moving proscriptive requirements into guidance documents; focus on goal, not process
- Rule will require "what," guidance will provide "how"
- Keep current structure of PA, SI, RI, RA





Technical Requirements for Site Remediation

- New Subchapter for requirements that effect all remedial phases: IECs, Receptor Evaluations, IRMs, etc.
- New Subchapter for reporting requirements: Consistent reporting requirements
- Conceptual Site Model (CSM): Process of evaluating risk posed by the site during the course of the remediation





Technical Requirements vs. Technical Guidance

- The "What" (goals, objectives) will be in Technical Requirements
- Example: Goal of SI is to determine whether contamination is present at site at concentrations above regulatory concern
- These requirements will be enforceable
 - Enforcement will be against person conducting remediation (RP), not LSRP





Technical Regulations vs. Technical Guidance

- The "How" (nuts and bolts) will be in Technical Guidance documents
 - Guidance will not be enforceable
 - LSRP will use as part of best professional judgment to direct and oversee remediation
 - LSRP Board will evaluate LSRP best professional judgment and determine if action should be taken against LSRP





OTHER RULES





Industrial Site Recovery Act Rules Underground Storage Tank Rules

- Amendments to ISRA and UST rules to move remediation requirements to Technical Requirements
- Non-remediation ISRA and UST requirements will remain





Unregulated Heating Oil Tank Rules

- New rule
- Combine all requirements for unregulated heating oil tanks into one rule
- Will be detailed and proscriptive
- Subsurface evaluators and LSRPs can perform work
- Department will issue NFA for all UHOT cases, including work performed by LSRP





**RULES -
TIME FRAME/VAPOR
INTRUSION RULE PROPOSAL
(OCTOBER 2010)**





Time Frames/Vapor Concern Rule

- Amends Technical Requirements and ARRCs rules to extend regulatory and mandatory time frames
- Amends Technical Requirements to create new class of Immediate Environmental Concern (IEC) cases known as "vapor concern" cases
- Will be adopted by February 2011





Time Frames/Vapor Concern Rule

- Regulatory time frames changed from 9 months to 1 year
- Mandatory time frames changed from 1 year to 2 years for:
 - LNAPL recovery system report
 - IEC source control report
 - Initial receptor evaluation report
 - Complete PA/SI report (ISRA) or SI report for UST





Example: Changes to Submittal of Initial Receptor Evaluation

Regulatory time frame

November 26, 2010 —————> March 1, 2011

Corresponding mandatory time frame

March 1, 2011 —————> March 1, 2012





Time Frames/Vapor Concern Rule

- Provides additional time for vapor intrusion (VI) IEC reporting - from 5 to 14 days
- Changes IEC VI trigger from indoor air screening levels (IASLs) to rapid action levels (RALs)
- Establishes new category Vapor Concern (VC) cases
- Establishes requirements and time frames for Vapor Concern cases





Vapor Concern Cases

- VC = When indoor air levels ...
 - Exceed VI screening level (VI-IASL)
And
 - Below VI rapid action levels (VI-RAL)





TECHNICAL GUIDANCE





Technical Guidance Committees (Basis for formation)

- Site Remediation Reform Act (SRRRA)
N.J.S.A. 58:10C-14c(3)

The Department shall provide interested parties the opportunity to participate in the development and review of technical guidelines issued for the remediation of contaminated sites





Technical Guidance Committees Objectives

- Evaluate Technical Requirements related to Committee-specific topic areas
- Remove all "guidance" from Technical Requirements and incorporate into guidance documents stakeholder process
- Make recommendations to Tech Rule committee
- Develop training course





Technical Guidance Committees

- 15 Technical Guidance Committees
- Committees consist of
 - 3-5 NJDEP Staff
 - 5-8 Stakeholders
- Stakeholders represent various groups like LSRPA, remediating parties, trade associations
- Typically meet twice/month
 - Some more frequently
 - Using "GotoMeeting" web based tool





15 Guidance Committees

- Vapor Intrusion
- LNAPL
- Receptor Evaluation
- Presumptive Remedies
- IEC
- Clean/Alternative Fill
- Tech Rules Ground Water
- Tech Rules Soil
- Historic Fill
- Technical Impracticability
- Monitored Natural Remediation
- Conceptual Site Model
- Analytical Methods
- Eco Investigation
- Attainment
- Linear Construction





Technical Guidance Committees Dispute Resolution

- If Committee cannot resolve issue
 - Guidance Committee prepares written brief
 - Committee chair discusses w/oversight team
 - Oversight team determines if issue needs to be referred to NJDEP management for decision
 - Once referred, decision is no longer within control of Technical Guidance Committee





Additional Guidance Committees

- RPS Scoring
 - Will help evaluate progress on a site
 - Will help develop policy on how to handle sites based on score





"OPTING IN"





"Opting In" Before May 2012

"Opting in" is business decision that all responsible parties, developers, municipalities need to think about TODAY!!!!!!





"Opting In" Before May 2012

- May 2012 is just around the corner
- NJDEP will not be able to process/review all case reports "in house" before May 2012
- NJDEP will not be able to issue NFAs for all existing cases before May 2012





"Opting In" Before May 2012

- "Opting in" means that the remediating party must hire a LSRP
- The LSRP will ensure the remediation moves quickly
- NJDEP will not review or approve reports or workplans (even those previously submitted)
- This business decision, NJDEP cannot do it for you





Benefits of "Opting In"

- LSRP Benefits
 - LSRP takes control of remedial decision making based on best professional judgment
 - Empowers decision making to LSRP
 - Variance allowances to LSRP without pre-approval
 - More freedom in application of Conceptual Site Models
 - Real time decision making
 - Working together with LSRP to facilitate and expedite cleanups
 - Two way communication
 - Direct access to Department technical support
 - Kickoff meetings as requested





Benefits of "Opting In"

- Remediation Party Benefits
 - Predictable annual fees (certainty in budgeting; some exceptions i.e., IEC reviews will be directly billed)
 - Control of Remediation and Funding Allocation by remediation party (within regulatory time frames)
 - Real time decision making (no waiting for Department review and comments)





Benefits of "Opting In"

- Remediation Party Benefits
 - Compliance assistance (no NODs)
 - LSRP assistance
 - As of May 2012 all cases will be required to have LSRP - between now and then Department resources are available to assist remediating party
 - Bottom line - it is a business decision





Benefits of "Opting In"

- Frees up case managers to work on high priority/risk cases
- LSRP of record is bound by code of conduct
- Effect will be that LSRP will need to move remediation forward, regardless of case history

Note: Remediating Party must pay outstanding oversight fees





Who has "Opted In"

- 600+ cases have already "opted in"
 - 450+ "large portfolio" cases (i.e., major oil companies)
 - Another 760+ "large portfolio" cases are in process
 - 150+ individual sites/smaller portfolio cases





LSRP BOARD





LSRP Board

- 13 members
 - Commissioner or designee (SRP Assistant Commissioner)
 - State Geologist
 - 11 public members
 - 6 LSRPs
 - 3 from Statewide environmental organizations
 - 1 from business community
 - 1 from academic community





LSRP Board

- 11 of 13 members seated
 - 2 State members
 - 9 public members approved by Senate
- 2 vacant positions
 - 1 position nominated but no hearing set
 - Academic position still to be nominated
- First meeting held November 15, 2010





LSRP Board

- Board meetings are open to the public
- Moving fast - meeting every two weeks for next six months
- Board is working on Bylaws and Rules
- Board is working on budget





LSRP Board

- NJDEP issue bid proposal for contractor to develop 1st licensing exam soon
- NJDEP staff will be assigned to support Board as needed
- Near future, Board will have dedicated web site with information regarding news, members, meeting dates, minutes, etc.





LSRP Board

- LSRP Board enforces against LSRPs
 - Based on Code of Conduct
 - Professional judgment
- NJDEP enforces against Remediating Parties
 - Based on regulations





INSPECTION/REVIEW PROCESS





Goals of NJDEP Review

- Is remediation protective of human health and environment?
- Is there sufficient data to demonstrate that remediation is protective?





NJDEP Inspection/Review Goals and Tools

- Initial review of forms and fees for administrative completeness
- Technical inspection and review
 - Developing rigorous, consistent process that will meet goals of LSRP program
 - Forms are an important tool of inspection/review process
 - Forms were developed by NJDEP staff and are effective at helping us identify problems and inconsistencies





Inspection/Review Tools

- Forms contain information that can trigger review
 - LSRP varied from rules or guidance
 - Alternative remediation standard is requested
 - Property use will be residential, school, or child care
 - Publicly funded cases (grant/loans)
 - Apparent technical inconsistencies





Inspection/Review Flow Process

- Technical submissions go to central location for distribution
 - Brief review and assign to inspector
- Inspectors conduct inspection of
 - Report form
 - Case Inventory Document (CID)
 - Receptor Evaluation (if submitted)
 - Fact sheet





Inspection/Review Flow Process

- Inspectors determine
 - If report needs to be reviewed
 - Level of review
 - Reviewer assignment
- Levels of review
 - Component
 - General
 - Comprehensive





Technical review

- Component Review
 - Review focuses on specific sections or area of concern in document submitted
- General Review
 - Review focuses on key document forms, case inventory document (CID), executive summary and site history is available, tables, figures, conclusions/recommendations
- Comprehensive Review
 - A thorough review of document
 - Conducted similar to traditional case management





Technical review

- General review cases
 - Day care
 - Publicly funded cases
 - Preliminary assessments
 - Response Action Outcomes (RAOs)





Results of Technical Review

If NJDEP identifies problems or has questions about a submitted document staff will:

- Call LSRP for clarification
- Request submission of additional data or information
- Meet with LSRP
- Meet with remediating party
- Determine with the LSRP if additional investigation or remediation is required?





Results of Technical Review

- Issues identified (work not in full compliance with existing Technical Requirements) staff will determine if it is:
 - Something easily corrected
 - Something that can be done during next phase.
or
 - Something that needs to be done now
 - Contact LSRP
 - Majority conduct needed work
 - If not, comment letter and referral to enforcement





Results of Review of RAO

Determine if remediation is protective

- If Remedial Action Report data do not support RAO
 - Call LSRP and REMEDIATING PARTY
 - Meet with LSRP and RP if necessary
 - Write comment letter
- Administrative issues
- Technical issues





Results of Review of RAO

- Technical issues meeting to determine next steps
 - If work can be conducted within agreed upon time frame
 - Agreement will be confirmed in letter
 - If longer time frame is needed
 - NJDEP requests that LSRP withdraw RAO
 - NJDEP can invalidate if LSRP does not withdraw





Common Issues with RAOs

- RAO issued with no:
 - Program Interest Number
 - Case Tracking Number
 - Child Care License Number
- RAO shell document language altered
- Building interior RAO insert language not used
- Misapplication of Order of Magnitude Analysis





Common Issues with RAOs

- Remedial Action Type incorrect, for example:
 - Unrestricted Use RA for site with CEA
 - Entire Site RA for Area of Concern remediation
- RAO was issued when soil results exceed IGW screening levels and ground water investigation was not performed





Common Issues with RAOs

- ISRA Remediation In Progress Waivers
 - RAO cannot be issued by LSRP
 - Department will issue Remediation in Progress Waiver to close second ISRA case





ENFORCEMENT





Enforcement - Key Points to Remember

- NJDEP takes enforcement actions against RPs not LSRPs
- Enforcement against LSRPs is responsibility of LSRP Board





Enforcement - Key Points to Remember

- Requests for extension of regulatory time frames are automatically approved (if properly submitted)
- Requests for extension of mandatory time frames (if properly submitted) are
 - Automatically approved for certain circumstances or
 - May be approved by Department on a case-by-case basis





Enforcement Goals

- Pre-Enforcement Compliance Assistance
- Enforcement of regulatory time frames to avoid missed mandatory time frames
- Refer LSRPs to board for investigation when warranted





Enforcement - Keeping Cases On Track Until May of 2012

- Existing cases (non-LSRP)
 - Traditional enforcement Case manager issues NOD, then NOV, then refers to Bureau of Enforcement and Investigations for penalties as needed)
- LSRP cases (new cases and "opt in" cases)
 - "Compliance assistance" Inspectors/reviewers will work with LSRP/RP to help bring cases into compliance





Preparing for May of 2012

NJDEP is

- Approving all opt in requests if oversight costs are paid
- For low priority cases - Sending letters encouraging RPs to opt in and hire LSRP now
- Identifying cases "not continuously remediating"
 - Considered as "new" cases and are required to hire an LSRP
- Ramping up pre-enforcement compliance assistance efforts on old triggers





STATISTICS





Current LSRP Program Statistics

As of November 2010 Monthly Report

Running total since November 2009

- 427 Temporary LSRP Licenses (34 Denied)
- 1011 New cases* required to use LSRP
- 625 Cases Opted-In (23 Denied)
- 703 Documents submitted by LSRP:

124 PA
62 SI
77 PA/SI
38 RIR
25 RAW
88 RAR
289 RAO





LSRP Key Documents Reviewed

As of December 1, 2010

Running total since November 2009

- 465 Inspection/Reviews Completed
- 238 Inspection/Reviews Pending
- 26 day average for inspection and review to be completed





Current LSRP Program Stats

As of December 1, 2010

Running total since January 15, 2010

- 45 Remedial Action Permit Applications Received
- 42 Remedial Action Permits Issued
 - 31 Soil Permits
 - 3 day avg. processing time for Soil Permits
 - 11 Ground Water Permits (all Natural Attenuation)
 - 7 day avg. processing time for Ground Water Permits





Traditional/LSRP Stats

As of December 1, 2010

Running total since November 2009

- **272** Total Immediate Environmental Concern cases*
- **142** IECS identified since November 2009
 - **110** involve Vapors
 - **4** VCs Identified since 10/4/10

* IEC = *Receptor &/or Source is NOT Controlled*





Traditional/LSRP Stats

As of December 1, 2010

Running total since November 2009

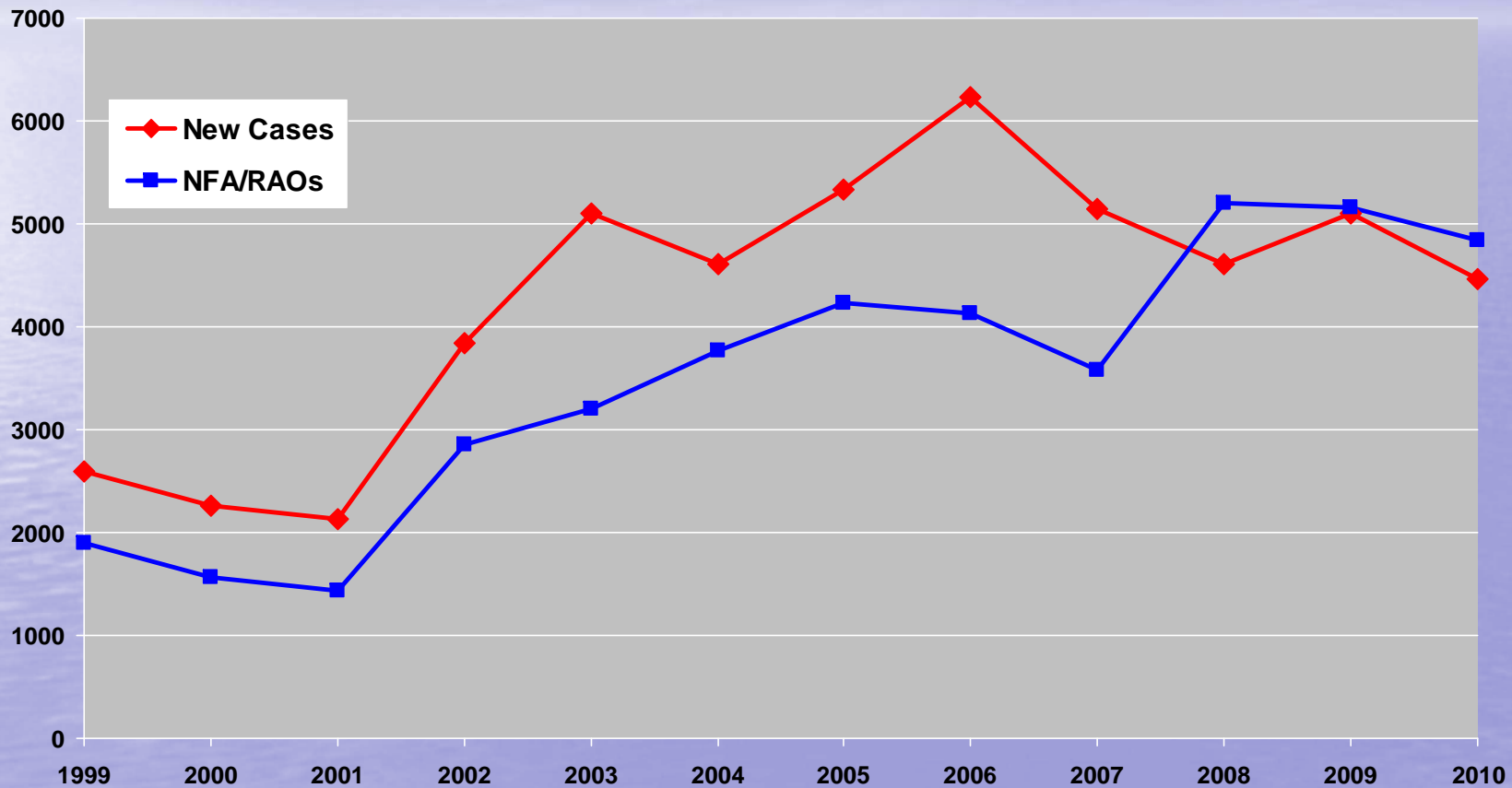
- **221** cases where LNAPL identified
- **210** LNAPL Free Product Reporting Form-
Initial Recovery Form received
- **22** LNAPL Free Product RI and IRM
Report received





Number of New Cases Versus NFA/RAOs

2010 Estimated using actual data excluding child care registrations



Projected





CONCLUSION





Reminders

As of May 2009

- All persons responsible for conducting cleanup have affirmative obligation to remediate
 - Do not wait for NJDEP to reach out to you
 - This includes historic fill sites
- All "new cases" must hire LSRP and proceed with remediation without NJDEP approvals



November 2009 rules define "new case"



Let's Do It Right

Make sure you

- Read the SRRA statute
- Read SRP rules - ARRCS and Technical Requirements
- Read guidance documents (as they are developed)
- Visit SRP's Training and Information website
<http://www.nj.gov/dep/srp/srra/training/> often





Let's Do It Right

- Sign up for the listserv at <http://www.nj.gov/dep/srp/> to receive important information and updates
- Know which forms you need to submit
 - Technical consultation requires LSRP retention form?????





Not Sure What To Do?

- Make sure you are talking to us!!!!!!
- List of contacts on NJDEP website
- FAQs, new information goes up all the time
- Webpage being updated to be more user friendly

