



Site Remediation Reform

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Site Remediation Program

Overview of SRRA

- Licensed Site Remediation Professional program
 - LSRP Board issues licenses, oversees conduct
 - Temporary licenses- NJDEP to issue
 - LSRP mandatory, *except*
 - Subsurface evaluators- UHOT's, limited RUST work
 - Not necessary for pre-purchase due diligence (PA,SI)
 - LSRP must certify all work under standards, regs and guidance per SRRA
 - LSRP issues **R**esponse **A**ction **O**utcome in lieu of NJDEP No Further Action letter (except UHOTs)
 - ISRA- NFA or may use LSRP process.

Overview of SRRA (Cont'd)

- New affirmative obligation to perform remediation
- Changes to NJDEP Case Management System
 - LSRP oversees most cases
 - NJDEP retains direct oversight in defined categories
 - Limits remedy selection
 - Posting of trust fund
 - Public participation plan
 - Mandatory timeframes to perform work
 - Engineering and institutional control permit program
 - Monitor, maintain, biennial certification
 - Financial assurance
 - Permit fees

Overview of SRRA (cont'd)

- Remedy selection: changes/limitations
 - Direct oversight cases- NJDEP selects based on FS
 - Unrestricted, presumptive or alternative remedy for sensitive uses
 - Acute health/safety hazard- treatment or removal
 - Development on landfills limited
 - Disapproval of remedies that render property unusable for redevelopment or recreational use
- Site Ranking System/database
 - May trigger NJDEP review of LSRP submittals; direct oversight (high priority category)

Overview of SRRA (cont'd)

- ISRA changes for “transfers”
 - LSRP certified RAWP submitted (approved?) to NJDEP in lieu of NJDEP-approved RAWP
 - LSRP remediation certification submitted to NJDEP in lieu of remediation agreement
- Remediation Funding Source (ISRA; AOs; ACOs)
 - New exemptions
 - May now also use letter of credit
 - May reduce based on LSRP certification
 - Self guarantee- audited financials, unqualified auditor's op.

Site Remediation Reform Act

- Signed into law May 7, 2009
- Executive Order
 - Increase auditing for sensitive populations
 - Prepare Guidance for direct oversight
 - Audit at least one submittal from each LSRP
 - Prepare annual report on implementation
 - Issue TAGs
 - Post submittals when technically feasible
 - Begin to identify potential Board members

Timetable

- **Deliverables to be completed by 2 months**
- Issue Guidelines for “May” Category of Direct Oversight

Timetable

- **Deliverables to be completed by 3 months**
- Post Guidance for Presumptive Remedies
- Issue License Application
- Post License Approval/Denial Criteria
- Post License Fees (application/annual)

Timetable

- **Deliverables to be completed by 6 months**
- Publish Interim Rules
- Draft Board Rules for Proposal
- LSRP Program Begins

Timetable

- **Deliverables to be completed by 12 months**
- Propose SRRA Rules
- Finalize Ranking System

New issues develop daily

This presentation reflects current thoughts, not final decisions.

In Preparation for LSRP.....

- Piloting- existing cases
 - ◆ Pushing proactive work - DEP approval at set dates
 - ◆ DEP will review work based on new paradigm
 - ◆ Forms once available
 - ◆ Feedback to refine process

In Preparation for LSRP.....

Transition for Regulated UST Cases

Most lower priority ground water and soil-only cases will receive a letter in next 2 months with 2 options:

1. Volunteer to go LSRP (180 days post-bill signing); or
2. Complete RI, or RA (existing RAW approval), independently on an extended schedule without interim reports. Submission due in 3 years with final RIR\RAW or NFA (as appropriate).

(Note: Any SRRA Mandatory Timeframes adopted in temporary rule will still apply)

In Preparation for LSRP....

- Managing change
- Outreach – Speeches
- Accepting input
- Tech Reg training
- Teams

Our Teams

- Rules – Interim, SRRRA+, Board, Tech Regs
- Mandatory timeframes
- Audit Processes
- Temporary License Applications
- Presumptive Remedies
- IEC guidance for LSRPs
- NJEMS & e-submittals
- Forms
- LSRP exam

Our Teams

- Key Documents
- Case Management Process
- O&M permits
- Enforcement Strategy (including referrals to Board)
- Technical Assistance Grants
- Fees
- RAO – certification, invalidation, etc
- Guidance documents

Guidance documents

- Temporary licenses
- Presumptive remedies
- Alternate remedies
- Direct Oversight “may” category
- Tech Regs and Section 14
- Ecological Remediation Goals

First Step - Temporary licenses

- Guidelines for applying
- Criteria for 10 yrs real experience will be clarified in guidelines
- 40 hrs of H&S and Tech Regs
- Application and Annual Fees

- **Need to be temporary LSRP to be nominated as an LSRP board member **

Temporary licenses

- 2 Categories of temp LSRP licenses:
 - LSRP/Full - Bachelors degree, all cases
 - LSRP/UST - no Bachelors degree, experience as a substitute, limited to work USTs

Permanent Licenses

- DEP will establish first test for permanent licenses – contract out
- Board will establish process for review of applications
- Board will issue permanent LSRP licenses
- Only one category of permanent LSRP license

Interim SRRA Rules

- Adopted in 6 months - effective for 18 months, no public comment period
- Will include: Changes to existing rules – Tech, Oversight, Fix inconsistencies
- Also will include: Section 30, RFS changes, Direct Oversight, Fees, RP Enforcement, Presumptive Remedy (1 year from enactment), TAG, Process issues (how to submit, what to submit, etc), Mandatory Timeframes

Mandatory Timeframes

- Receptor Evaluation
- Control of ongoing sources of contamination
- Establishment of interim remedial measures
- Immediate Environmental Concerns
- Phases (PA, SI, RI, RA)
- Completion of remediation
- Any other activities deemed necessary by the DEP

Mandatory Timeframes

- Applies upon enactment to all new cases – but we need the interim rule first
- Interim Rule will have: Receptor Evaluations (new form), IEC notification, PA/SI
- IEC – Will be the only one that applies to all new and existing cases
- Final Rule – those above plus others, phased in, & applied to all cases
- One “miss” equals direct oversight

The Future of DEP Oversight

- Section 30 (a) – creates an affirmative requirement to remediate
 - Will not issue new MOAs
 - Limited, if any, use of ACOs (remove template from oversight rule). Settlements?
 - Oversight rule will be merged into interim rule
 - Key provision – You must move forward without DEP approval

Section 30 – Who Needs an LSRP

- Section 30(b): 180 days after enactment, anyone **initiating remediation** needs an LSRP; and complies with 1-9.
- **This means:** new discharges, notification of an ISRA event, new PA,SI,RI,RAW,RAR (key document) which creates a new case in NJEMS, case with existing NFA which is reopened, key document for existing case that never submitted any information before, parties with no remedial activity in the last 2 years.
- Exceptions - anyone directed to work at peril.

Section 30 – Existing Cases

- Section 30(c1): Immediately, everyone who initiated a cleanup prior to act and prior to temporary licenses complies with 4-9 including **mandatory timeframes** but no LSRP
- Section 30(c2): **Recalcitrant** must comply with 1-9 if DEP mandates includes LSRP
- Section 30(c3): **Everyone** must comply with 1-9 three years from enactment includes LSRP

Section 30 – “Opting in”

- Anyone who wants to volunteer before 3 years.
- Comply with Sec. 30(a) 1-3 plus the 4-9.
- Process to opt in will be a request DEP via a standardized form
- Current thinking – DEP will be saying yes, with limited exceptions, such as outstanding oversight costs

Direct Oversight - “Shalls”

- Section 27(a) 1. If you get 2 enforcement documents during any 5 year period after enactment - AO, AONOCAPA, Court Order.
- Section 27(a) 2. If you miss any mandatory, AO or Court Ordered timeframe
- Section 27(a) 3. If you have been in the system 10 years prior to enactment, you have 5 years to complete an RI for your entire site before you trigger Direct Oversight.

The Board

- Board will take enforcement against LSRPs
- Anyone can petition the board for investigation
- DEP and DAG staff the board
- Rules have to be out in 18 months, so DEP will begin drafting
- Rules will contain enforcement provisions for LSRPs, referral and investigation processes, continuing education, code of conduct, decision making (RAPS), etc

LSRP Decision Making Hierarchy

- Section 14(c)
 - 1. Standards (remediation, environmental, DHSS, etc)
 - 2. Regulations
 - 3. DEP guidelines
 - 4. EPA/other State guidelines
 - 5. Appropriate methods and practices

Library Concept

- In order to ensure we all know what rules, guidance documents, policies were in effect at a given time, DEP will establish an electronic library with dated documents.
- We will not be establishing a database of variances.
- We will look for input on what guidance needs to be developed for the LSRP and RP community.

New World Order for LSRPs

- Move forward **without** prior DEP approval
- Highest priority is public health and safety and the environment – License to Protect.
- LSRPs accountable for their decisions
- Change in client relationship
- Change in DEP relationship
- DEP will work with LSRP association and stakeholders on guidance documents

