

# **FREQUENTLY ASKED QUESTIONS ON LICENSING FOR CHILD CARE CENTERS**

## **The following (questions 1-24) address DEP Requirements:**

1. What are the new DEP requirements to obtain a child care center license?
2. What exactly is a No Further Action (NFA) letter?
3. My site does not have a high hazard historical use (Uniform Construction Code Groups F, S, H, or B); do I still have to get a No Further Action (NFA) letter?
4. What is the process I should follow to obtain a No Further Action Letter (NFA)?
5. What is a Preliminary Assessment (PA)?
6. What is a Site Investigation (SI)?
7. Do I need to hire a consultant to obtain a No Further Action Letter (NFA) or conduct an environmental review?
8. How do I select an environmental consultant?
9. Can I submit a Phase I Environmental Audit in order to obtain an NFA?
10. Who pays for a PA and/or SI?
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12. Do I have to submit a Preliminary Assessment (PA) every time I submit a license renewal application?
13. How can I check on the status of my reports that were submitted to DEP?
14. Can I have the PA done via the Cleanup Star Program?
15. What happens if the Site Investigation soil samples show exceedances?
16. Who signs the Memorandum of Agreement (MOA)?
17. Can I get a No Further Action Letter (NFA) just for the area upon which the daycare is located, instead of the entire site?
18. When should I start pursuing the No Further Action Letter (NFA)?
19. What about new construction? What are the DEP requirements when you are planning new construction on a former contaminated site?
20. Where do I send documents for review?
21. How do I certify my center provides safe drinking water?
22. How can I identify the public water system that serves my child care center?
23. Does DEP need my safe drinking water certification?
24. Do I have to conduct a 400-foot radius search for contaminated sites?

## **The following (questions 25-28) address Non-DEP Requirements:**

25. What is a Letter of Prior Uses? How do I find out the past uses of my building?
26. Do I need to send a copy of the construction code official's Letter of Prior Uses to DEP?
27. What are the requirements if I am located near a dry cleaner or nail salon?
28. What indoor air requirements do I have to meet?

### **1. What are the new DEP requirements to obtain a child care center license?**

As of June 1, 2007, before a license to operate can be issued or renewed, regulations now require applicants pursuing child care licenses to:

- Obtain a No Further Action Letter (NFA)
- Certify that the center provides safe drinking water

### **2. What exactly is a No Further Action (NFA) letter?**

An NFA certifies the property has been evaluated and reviewed, and is deemed to pose no health concern. This can be accomplished by an applicant working with a consultant to submit reports that demonstrate there is no health risk, pursuant to the Technical Requirements for Site Remediation (N.J.A.C. 7:26E).

### **3. My site does not have a high hazard historical use (Uniform Construction Code Groups F, S, H, or B); do I still have to get a No Further Action (NFA) letter?**

Yes. *All* child care centers must receive an NFA, at the time of renewal or issuance of a new license.

### **4. What is the process I should follow to obtain a No Further Action Letter (NFA)?**

The first step in the NFA process is to conduct a Preliminary Assessment (PA) of the building and surrounding property, in accordance with the Technical Requirements for Site Remediation (N.J.A.C. 7:26 E). Here is a quick overview of how the process works:

- If, as a result of the PA, it can be demonstrated that there are no potential areas of concern on the property, then DEP will issue the NFA letter.
- If the results of the PA identify an area of concern, then a Site Investigation (SI) of the property must be conducted.
  - If the results of the SI indicate that no areas of concern require remediation, then the DEP will issue the NFA.
  - If the results of the SI indicate that the need for remediation, then a Remedial Investigation (RI) and Remedial Action (RA) must be performed on the area of concern. Upon successful completion of the RI and RA, DEP will issue an NFA. This process could be more time consuming.

### **5. What is a Preliminary Assessment (PA)?**

The PA is the process of identifying the presence of any potentially contaminated areas of concern, pursuant to N.J.A.C. 7:26E-3 Technical Requirements for Site Remediation (Tech Regs). The PA includes an extensive site history, including any known or possible associated hazardous materials and any other relevant information. Please see the Tech Regs for specific information on PAs.

### **6. What is a Site Investigation (SI)?**

The SI reports on various types of environmental data—soil, dust, water etc., and evaluates this data to determine whether or not there are discharged contaminants at the site that could pose a health concern. If such contaminants are present and exceed NJ Guidance Levels and/or applicable standards, additional remediation will be necessary. Please see the Tech Regs for specific information on SIs.

**7. Do I need to hire a consultant to obtain a No Further Action Letter (NFA) or conduct an environmental review?**

Environmental consultants conduct environmental reviews often and are very familiar with the NFA process. While hiring a professional is not required, most will find it more efficient and timely to use a consultant. When a Preliminary Assessment (PA) submitted to DEP does not meet the requirements, it will be returned to the sender as deficient. Again, an environmental consultant may save time in submitting an acceptable PA.

**8. How do I select an environmental consultant?**

The State of New Jersey does not keep a register of environmental consultants. You can find consultants under “Environmental Services” in the Yellow Pages or you may consult with your attorney or local health department for recommendations. Please see *How to Choose an Environmental Consultant Fact Sheet* for additional details.

**9. Can I submit a Phase I Environmental Audit in order to obtain an NFA?**

No. A Phase I Environmental Assessment, while similar, is not equivalent to a Preliminary Assessment (PA). The PA must be conducted in accordance with the Technical Requirements for Site Remediation (N.J.A.C. 7:26E).

**11. Who pays for a PA and/or SI?**

Generally, the site owner has responsibility, however, the NJDEP Oversight Rules (N.J.A.C. 7:26C) do not specify who pays the fees associated with the PA or SI. Therefore, this can be negotiated between the parties interested in meeting this requirement.

**11. Where can I find funding for the new requirements?**

At this time, no public funds exist to meet the new requirements.

**12. Do I have to submit a Preliminary Assessment (PA) every time I submit a license renewal application?**

At this time, the rule requires a No Further Action (NFA) with each initial renewal application. However, DEP can consider recent NFAs in the renewal process.

**13. How can I check on the status of my reports that were submitted to DEP?**

You can see the status of your document reviews at:

[http://datamine2.state.nj.us/DEP\\_OPRA/OpraMain/categories?category=Child%20Care%20Educational%20Facility%20Category](http://datamine2.state.nj.us/DEP_OPRA/OpraMain/categories?category=Child%20Care%20Educational%20Facility%20Category)

**14. Can I have the PA done via the Cleanup Star Program?**

No.

**15. What happens if the Site Investigation soil samples show exceedances?**

If an analysis of soil samples indicates there are exceedances, or levels of a contaminant that exceed the soil cleanup criteria, corrective actions must be implemented. The applicant must sign a Memorandum of Agreement with DEP, and conduct a Remedial Investigation and Remedial Action.

**16. Who signs the Memorandum of Agreement (MOA)?**

If a MOA is needed, anyone can sign; most often, it is the party responsible for the contamination or the person requesting the MOA. Consult with the property owner if this step is required. By signing the MOA, the party agrees to pay all associated costs and fees for DEP review. Please visit this Web site for more information:

<http://www.nj.gov/dep/srp/volclean/>

**17. Can I get a No Further Action Letter (NFA) just for the area upon which the daycare is located, instead of the entire site?**

Yes. DEP can issue an NFA for the building area but it must include any areas children might access such as parking lots, play grounds, etc.

**18. When should I start pursuing the No Further Action Letter (NFA)?**

DEP will not accept a Preliminary Assessment (PA) conducted earlier than six months prior to the expected opening or renewal date. Upon receipt of the environmental review package, DEP needs approximately four to six weeks to review the PA, provided it is administratively and technically complete. If remediation needs to occur, the timeline will increase depending on the nature of the corrective action that must be taken.

**19. What about new construction? What are the DEP requirements when you are planning new construction on a former contaminated site?**

As referenced in P.L. 2007, C.1, prior to receiving a construction permit from the municipality, educational centers and child care facilities are required to conduct a review of environmental conditions. If the location of the site was previously a Uniform Construction Code Groups F (factory/industrial), H (high hazard), S (storage), B (nail salon/dry cleaner) or M (gas station), a contaminated site, subject to Industrial Site Remediation Act, or suspected of being contaminated, there must be a Remedial Action Work Plan approved by DEP or a No Further Action Letter (NFA) issued by DEP before a construction official can issue the construction permit. If an approved Remedial Action Work Plan, rather than an NFA, is used for obtaining a construction permit, then an NFA must be obtained before a Certificate of Occupancy (CO) can be issued.

**20. Where do I send documents for review?**

State of New Jersey  
Department of Environmental Protection  
Enforcement & Assignment Element  
Child Care/Educational Facility Unit  
P.O. Box 028  
401 East State Street, 5th Fl  
Trenton, NJ 08625-0028

**21. How do I certify my center provides safe drinking water?**

There are two ways to certify safe drinking water:

- If your Child Care Facility is connected to a community water system, you need to document the name of the community water system, the unique Public Water System Identification Number, and either a copy of a recent water bill indicating service to the Child Care Center's address, or a letter from the public community water system certifying service to the address.
- If the Child Care Facility is on a private system, you need to follow the Safe Drinking Water requirements to certify potable wells and produce results of annual tests showing the water is safe to drink.

Please see *How to Certify Safe Drinking Water is Being Provided to Child Care Centers* for more information.

**22. How can I identify the public water system that serves my child care center?**

To determine the name of the public water system serving a residence or child care vicinity is, please visit: <http://www.state.nj.us/dep/swap/creport.htm>. Use the drop down menus at the bottom of this web page to search by, county, municipality, and/or Public Works Identification number.

**23. Does DEP need my safe drinking water certification?**

Yes. The potable water certification should be submitted with the Preliminary Assessment (PA) as part of the environmental review package.

**24. Do I have to conduct a 400-foot radius search for contaminated sites?**

No. DEP no longer requires a radius search to satisfy the environmental requirements.

**25. What is a Letter of Prior Uses? How do I find out the past uses of my building?**

The Letter of Prior Uses identifies historic uses of the property. It often may be provided by the construction code official of the municipality in which the property is located. A listing of municipal construction code officials can be found on the Department of Community Affairs web site at: <http://www.nj.gov/dca/codes/misc/muniroster.htm>. Any questions about the Uniform Construction Code should be directed to the Department of Community Affairs, Code Assistance Unit at (609) 984-7609. *The letter of prior uses does not fulfill the Preliminary Assessment or No Further Action Letter (NFA) requirement.*

**26. Do I need to send a copy of the construction code official's Letter of Prior Uses to DEP?**

No.

**27. What are the requirements if I am located near a dry cleaner or nail salon?**

DCF requires the operator of a child care center located in the same building or structure as a dry cleaner or nail salon to provide indoor air sampling results to demonstrate no impact on air quality at the child care center. Follow the Department of Health and Senior Services guidance for all indoor environmental activity. The DHSS Indoor Environments Program can be reached at 609-631-6749. DHSS Guidance can be found on the DHSS web site at <http://www.nj.gov/health/eoh/tsrp/>.

**28. What indoor air requirements do I have to meet?**

Contact the Department of Health and Senior Services, Indoor Environments Program, to determine what steps, if any, are necessary to address the risks posed by the prior historical use. The DHSS, Indoor Environments Program can be reached at 609-631-6749. DHSS Guidance can be found on the DHSS web site at <http://www.nj.gov/health/eoh/tsrp/>.