



## **Notice of Proposed Rule Changes Concerning Site Remediation Compliance Timeframes and Vapor IEC Requirements**

### **Who is affected by these changes?**

On November 4, 2009, the Department adopted interim rules to implement the Site Remediation Reform Act and related statutory amendments. The interim rules, which include both regulatory and mandatory time frames, apply to all persons who are responsible for conducting remediation in New Jersey regardless of when remediation was initiated or whether a licensed site remediation professional has been retained. Those who have an affirmative obligation to remediate and who may be affected by the time frames are listed at N.J.S.A. 58:10B-1.3.

### **Why is DEP making these changes?**

As required by the Site Remediation Reform Act, in the fall of 2009 the Department adopted interim rules containing the time frames discussed herein. The Department received input from stakeholders in the spring of 2010 and learned of significant concerns regarding compliance with these time frames. As a result, the Department has published a proposal to amend the existing rule. The Department has proposed to extend the compliance time frames, and has proposed to revise the definition for vapor intrusion Immediate Environmental Concern (IEC), which is the trigger for some time frames related to immediate environmental concerns, so that the definition better comports with the definition of immediate environmental concern in the Site Remediation Reform Act.

### **What are the Changes?**

- The Department has proposed to extend the mandatory time frames contained in the current rule by one year. There will be only one mandatory time frame, the time frame associated with the installation of a recovery system for light non-aqueous phase liquids (N.J.A.C. 7:26C-3.3(a)3), that may run prior to the date that the new rules become effective. A person responsible for conducting remediation who anticipates being unable to comply with this mandatory time frame should apply for an extension in accordance with N.J.A.C. 7:26C-3.5.
- Since some of the regulatory time frames in the current rule may run before the new rule can be adopted, the Department will exercise its enforcement discretion and will not take enforcement action against a person for failure to meet a regulatory time frame contained in the current rule if the time frame for that requirement is proposed for amendment, provided that the person responsible for conducting the remediation meets the proposed regulatory time frame.

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- The Department has proposed to amend the definition of a vapor intrusion immediate environmental concern, from a vapor level that exceeds the Indoor Air Screening Level to a vapor level that exceeds the Rapid Action Levels. The Department has proposed new requirements and related regulatory time frames for the evaluation and mitigation of circumstances where a vapor level exceeds the Indoor Air Screening Level but is below the Rapid Action Level. In light of the anticipated change in the vapor intrusion immediate environmental concern definition, when a vapor level exceeds the Indoor Air Screening Level but is below the Rapid Action Level the Department will exercise its enforcement discretion concerning compliance with current vapor immediate environmental concern requirements and time frames, provided the person responsible for conducting remediation complies with the proposed requirements and time frames that pertain to these situations.
- The Department has proposed an amendment to clarify that the requirement to conduct a preliminary assessment/site investigation applies to a person subject to the Industrial Site Recovery Act and that the requirement to conduct a site investigation applies to a person subject to the Underground Storage of Hazardous Substances Act.
- The Department has proposed an amendment to clarify that the person responsible for conducting the remediation is required to include in the scope and detail of the initial receptor evaluation all information known at time of submittal and that that person is then required to include new findings related to receptor impacts in updated receptor evaluation reports required pursuant to N.J.A.C. 7:26E-1.15(d).

## **When do these changes become effective?**

The changes contained in the rule proposal described above are effective upon adoption of the rule. The Department's decision to exercise its enforcement discretion, as described herein, is effective immediately and will apply until it adopts the proposed amendments referenced above, or until otherwise terminated by the Department.

## **What should I do?**

Contact a licensed site remediation professional or an environmental consultant to see if the requirements described in the compliance advisory apply to your site and/or visit the links below for more information to ensure that you understand your obligations to meet these time frames. Environmental consultants and over 400 licensed site remediation professionals are available to assist you in meeting these regulatory and mandatory time frames. A list of temporary licensed site remediation professionals can be found at [http://datamine2.state.nj.us/DEP\\_OPRA/OpraMain/categories?category=SRRA](http://datamine2.state.nj.us/DEP_OPRA/OpraMain/categories?category=SRRA) . Also, refer to the comprehensive directory of information needed to understand and comply with the Site Remediation Reform Act and sign-up for the list serve to receive email notices of any updates at <http://www.nj.gov/dep/srp/srra/> .

You are invited to comment on the rule proposal containing the changes described herein. The proposal appeared in the New Jersey Register on October 4, 2010.

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## Where can I get more information?

**Visit the following Web sites for additional information regarding this advisory:**

- ◆ A summary of all regulatory and mandatory time frames for site remediation, including the proposed changes described herein, can be accessed at:  
[http://www.nj.gov/dep/srp/srra/training/matrix/new\\_responsibilities/timeframe\\_req.pdf](http://www.nj.gov/dep/srp/srra/training/matrix/new_responsibilities/timeframe_req.pdf)
- ◆ A copy of the proposed rule can be accessed via the DEP website at:  
<http://www.nj.gov/dep/rules/proposals/100410a.pdf>

## Who should I contact with questions?

For more information a contacts list is available at [http://www.nj.gov/dep/srp/srra/srra\\_contacts.htm](http://www.nj.gov/dep/srp/srra/srra_contacts.htm). If you are currently working with the Department on an existing case and have questions regarding this advisory please contact your assigned case manager for clarification.

**Visit the following Web site for general information:**

Contact NJDEP: <http://www.nj.gov/cgi-bin/dep/contactdep.pl>

**To comment on this advisory:**

<http://www.nj.gov/dep/enforcement/survey.html>

Please note this advisory is intended to be a summary explanation of a department initiative. It does not include all potentially applicable requirements. If you have any questions related to compliance with this initiative, please consult the SRP contact list referenced above.