

Public Notification and Outreach Regulations N.J.A.C. 7:26E-1.4
(Effective date: September 2, 2008)

Frequently Asked Questions (FAQs)

August 6, 2009

1. If the Remedial Investigation (RI) was initiated prior to September 2, 2008, do the public notification requirements apply?

Remediating parties who initiated their Remedial Investigation (RI) prior to the effective date of the regulations, September 2, 2008 are not required to prepare a sensitive population checklist and map under the current public notification requirements.

However, the sensitive population checklist requirements will be folded into the receptor evaluation as part of the interim rules establishing a Licensed Site Remediation Program in the fall. After the interim rules are published, all remediating parties will be required to prepare this information and update it periodically as part of a receptor evaluation, regardless of when they started their RI.

If the Remedial Investigation (RI) was initiated prior to the effective date of September 2, 2008, the remediating party must provide public notification by posting a sign or sending a notification letter before September 2, 2009.

If the determination that contamination has migrated off site was made prior to the effective date, a fact sheet shall be prepared, distributed, published, and submitted to the Department before September 2, 2009.

2. Who is identified as the “*the person responsible for conducting the remediation*”?

N.J.A.C. 7:26E-1.8 defines "person responsible for conducting the remediation" to include any person who executes or is otherwise subject to an oversight document, and any person who is performing the remediation or has control over the person (for example, contractor or consultant) who is performing the remediation, including, without limitation, an owner or operator who is subject to either Industrial Site Recovery Act (ISRA) or the Underground Storage Tank Rules.

3. How do I find a Preferred ID (PI #)?

A PI# is unique to each case. It can be found by using DEP Data Miner (link: http://datamine2.state.nj.us/dep/DEP_OPRA/).

4. How can I identify the case manager assigned to my case?

The case manager can be identified, by using DEP Data Miner. From http://datamine2.state.nj.us/DEP_OPRA/OpraMain/categories?category=Site+Case+sub-category, select "Municipal Reports (All Sites)" from the list of SRP Municipal Reports. Enter the **County and Municipality** of the site of interest where prompted, and click **OK**. Find the site of interest and click on "Site Detail," located under the "Site Activity Information" column. Another chart, entitled Site Detailed Report, should appear. Click on "Case Oversight Info" under the "More Info" column. Another chart, entitled "Case Oversight Report," should appear, with a column labeled "Case Manager."

5. Can a remediating party identify an outside party as the point of contact (i.e. attorney, consultant) to be listed on the Sensitive Population and Resource Checklist, posted on the sign, used in a letter and/or fact sheet?

Yes, the remediating party should identify the individual or firm that would be best able to answer inquiries about the site from the general public.

6. Should a creek be identified as a surface water body on the Sensitive Population and Resource Checklist?

Yes, a creek is considered to be a surface water body and can be identified on i-MapNJ using the “Aerial Photos 2002” data layer. Instructions for using i-Map are available at *Using i-MapNJ to Identify Sensitive Populations and Resources* (http://www.nj.gov/dep/srp/guidance/public_notification/imapnj.htm).

7. If there are no sensitive populations and resources identified within 200 feet of the site boundary, is public notification by sign or letter still required?

Yes, public notification pursuant to N.J.A.C. 7:26E 1.4(g) is required regardless of whether sensitive populations and resources are identified.

8. Does the party responsible for conducting the remediation have to notify the current occupant(s)/tenant(s) of the site?

Yes, public notification should be provided to current occupant(s)/tenant(s) of record.

9. If a site is very large, but the remediation is being conducted on a small section of the site, what does the Department consider to be the “site boundary”?

In most cases, the site boundary is easily identified as the block and lot on the municipal tax map. In cases where the remediation is being conducted on a small subsection of an extremely large site, the remediating party can request the Department to approve an alternative boundary for the purpose of public notification.

10. How can a remediating party determine if a language other than English is predominantly spoken by property owners and tenants in the area within 200 feet of the property boundary?

The Department anticipates that most remediating parties are already aware of whether a language other than English is predominantly spoken in the neighborhoods surrounding their sites. Common signs in another language can be an indication of an alternative language. If the person responsible for conducting the remediation is unsure whether property owners and tenants speak a language other than English, they may choose to contact the municipality for guidance and information.

Information about the percentage of people speaking languages other than English in a given area is available by accessing census information on <http://factfinder.census.gov/home/saff/main.html>. By entering a zip code of interest, one can access data on those who "Speak a Language Other than English at Home". You can either enter a specific address or find a link for a map under the "Social Characteristics" section. The map tool allows “zooming in” to a particularly area of town revealing census tract information in the vicinity of the site of interest. The information is based on 2000 Census data.

11. If the site is not in or near an Environmental Justice (EJ) neighborhood, but is located in the same municipality as an EJ neighborhood, is the remediating party required to identify the EJ neighborhood on the Sensitive Population and Resource Checklist?

Yes, because there can be increased sensitivity to remediation projects in a municipality that contains an EJ neighborhood, it is important for all parties involved in the remedial project to be aware that the EJ neighborhood is present.

There are currently five (5) environmental justice petitions approved by the New Jersey Environmental Justice Task Force. The designated Environmental Justice Petition neighborhoods are located in the following five (5) municipalities: Camden, Linden, Long Branch, Newark, and Ringwood. For additional information on the DEP’s EJ Program, please visit the DEP’s Environmental Justice webpage at <http://www.nj.gov/dep/ej/>. At present, the US Environmental Protection Agency does not designate Environmental Justice areas. Information about EPA’s environmental justice activities in the state may be found at <http://www.nj.gov/dep/ej/>.

12. What documentation do I have to submit to the Department, if I decide to conduct public notification by sign?

You must submit a photograph of the sign and site information required pursuant to N.J.A.C. 7:26E-1.4(h) 5, in both electronic/digital format and in hard copy.

13. What is the phone number for the Office of Community Relations that is required to be posted on the sign?

The correct telephone number for the Office of Community Relations is (609) 984-3081 or toll free at 1-800-253-5647.

14. If the person responsible for conducting the remediation does not want to list an individual's name as the point of contact on the sign, what alternatives are available?

The person responsible for conducting the remediation can list the title of the point of contact for the site together with the name of the site. For example, one can list "Project Manager for the XYZ Chemical Company Site" on the sign, as the point of contact.

15. If the site has more than one case number or Preferred ID (PI#) number, are separate signs required, for each case number or PI number?

No, separate signs are not required; however, the point of contact for each PI# must be clearly stated on the sign, should they differ.

16. If the remediating party chooses to provide public notice by sending notification letters, when should the letters be sent?

If a remediating party chooses to provide public notice by sending notification letters, the regulations require letters to be sent two weeks prior to the initiation of field activities associated with the Remedial Investigation and every two years of the Remedial Action. The remediating party should also send notification letters two weeks prior to the initiation of field activities related to the Remedial Action.

17. Can notification letters be sent by using services provided by United Parcel Service (UPS) or Federal Express (FedEx)?

Yes, notices sent pursuant to N.J.A.C. 7:26E-1.4 may be sent using UPS or FedEx. The remediating party should retain any documentation that the delivery service provides which lists all intended recipients.

18. When sending notification letters by certified mail or using the certificate of mailing service, is the remediating party required to submit return receipts to the Department?

When notification letters are sent using certified mail, return receipts are not required to be submitted to the Department. However, a remediating party should retain the return receipt(s) for their records, should they ever need to document that notification letters were sent. The United States Postal Service (USPS) certificate of mailing service does not provide the option of a return receipt. If the certificate of mailing service is used, the remediating party should retain any forms prepared for use by the USPS.

19. How can I identify tenants in an area?

You may choose to contact the property owners, the municipality, or the property management company associated with the property to identify tenants. You may also use the certificate of mailing service offered by the USPS. This service is not only more cost effective, but also allows the delivery of mail to "Current Resident", if you are unable to identify individual tenants by name.

20. When is a remediating party required to prepare, distribute and publish a fact sheet?

A remediating party must prepare, distribute and publish a fact sheet two weeks after the determination that contamination has migrated off the property of the discharge. A remediating party also must update, redistribute and republish the fact sheet once the extent of the contamination has been delineated.

21. If contamination in ground water migrates from the property of the discharge and soil contamination is present only in on-site soils, does the fact sheet need to include information about the on-site soil contamination?

Yes, the remediating party is required to include information in the fact sheet about all contamination detected both on site and off site.

22. The contaminant concentration(s) are required to be included in the fact sheet. How can I identify contaminant concentration(s) when there are multiple rounds of sampling events that have occurred over many years? Can I include classes of chemical contaminants, or must I identify each contaminant individually?

For most sites, the range of contaminant concentration(s) should be listed in the fact sheet. Each chemical need not be identified in fact sheets for sites that have multiple contaminants, thus identifying classes of chemical contaminants is acceptable. For example, a fact sheet can list gasoline-related constituents including but not limited to benzene, toluene and methyl tertiary butyl ether. The Department recommends focusing on the contaminant or class of contaminants that is driving the clean up.

The fact sheet must list all contaminants, by name, with the range of concentrations detected for each for sites with 10 or less contaminants. The remediation standard for each should also be included.

23. Is the remediating party required to include a description of indoor air and soil gas contamination in the fact sheet?

Yes, a brief description of indoor air or soil gas contamination detected should be included. Specific location information should not be listed in the fact sheet as individual property owners may not want this information widely distributed to the public.

24. Is the remediating party required to distribute fact sheets to owners/tenants located within 200 feet of the site boundary or 200 feet of the ground water contamination plume?

The fact sheet and any updates shall be sent to each owner and tenants located within 200 feet of the site boundary. However, the Department encourages remediating parties to distribute fact sheets to owners and tenants located within 200 feet of the ground water contamination plume.

25. Can an abbreviated version of the fact sheet be used for publication purposes?

Yes, a template for an abbreviated version of the fact sheet is available at http://www.nj.gov/dep/srp/guidance/public_notification/template_factsheet_general.doc.

26. What section of a newspaper should the fact sheet be published?

The fact sheet may be published in any section of a newspaper, with the exception of the classified or legal sections.

27. Publication of the fact sheet is required in how many newspapers?

A fact sheet is required to be published as a display advertisement in *one* daily *or* weekly newspaper of general circulation in the vicinity of the site.

28. Publication of the fact sheet is required in how many issues of a single newspaper?

The fact sheet is not required for publication in more than one issue of the same newspaper.

29. Can you place a notification letter and/or fact sheet in an apartment building lobby, rather than send by mail?

No, a letter or fact sheet cannot be posted in an apartment building lobby in lieu of mailing. A remediating party may choose to post a letter or fact sheet in the lobby in addition to mailing.

30. If multiple apartment buildings are located on a lot that is located within 200 feet of the site boundary, but only one of the apartment buildings is actually within 200 feet, is the remediating party required to send notification letters/fact sheets to all the tenants or just the tenants residing in the building that is located within 200 feet of the site boundary?

Notification letters, fact sheets and any updates must be sent to each owner of all real property, as shown on the *current municipal tax duplicate*, and the tenants of those properties, located within 200 feet of the site boundary. Therefore, all tenants that reside in buildings that are located on a tax lot, which are within 200 feet from the site boundary, must receive notification.

31. Can a remediating party add additional language to the sign, letters, or fact sheets?

Yes, a remediating party may add language in addition to the required language to a notification sign, letter, or fact sheet.

32. When can I propose an alternative plan?

The public notification rules allow for a proposed alternative plan to be submitted in lieu of posting a sign or sending notification letters. The Department will also consider an alternative plan in lieu of sending a fact sheet. The Department encourages remediating parties to submit an alternative plan for sites that have conducted adequate public notification before the rules were promulgated and for sites where an alternative method of public notification may better suit the community.

33. For sites that are being remediated under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) or the Resource Conservation and Recovery Act (RCRA) is notification still required pursuant to N.J.A.C. 7:26E-1.4?

Yes, the notifications required pursuant to N.J.A.C. 7:26E-1.4 are not intended to satisfy the public participation requirements applicable to Superfund sites subject to the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), the National Contingency Plan, or the Resource Conservation and Recovery Act (RCRA).

However, if the remediating party has fulfilled or is fulfilling their public participation requirements under CERCLA or RCRA, they may choose to submit a proposed alternative plan to the assigned case manager, listing the public participation activities that have been or will be conducted pursuant to CERCLA or RCRA. If the case manager determines that the proposed alternative plan provides adequate public notice and fulfills the intent of the N.J.A.C. 7:26E-1.4, the Department will provide a written approval.

34. Can I provide one document to satisfy more than one public notification requirement?

Yes, for example, if you choose to conduct public notification by letter and have determined that contamination has migrated off site, you may choose to send one fact sheet, and include all content requirements for both the letter and the fact sheet in one document. Please see the Guidance for Notification and Public Outreach Requirements Triggered by Determination that Contamination has Migrated Off-Site for information regarding the consolidation of documents at http://www.nj.gov/dep/srp/guidance/public_notification/offsiteguide/.

35. For sites that have completed remedial action, but are currently awaiting review and the issuance of a No Further Action Letter (NFA), does the remediating party have to conduct public notification?

No, a remediating party that is awaiting review and issuance of an NFA is not required to conduct public notification. However, if the report is deficient and the requested NFA is not issued, the remediating party may be required to conduct public notification pursuant to N.J.A.C. 7:26E-1.4.

36. If a remediating party prepared a Biennial Certification for a site with a Classification Exception Area (CEA), does the owner have to conduct public notification?

For sites that are required to sample and report results as part of their Biennial Certification, public notification pursuant to 7:26E-1.4(g) is required for all sites. If the contamination has migrated from the property of discharge, public notification pursuant to N.J.A.C. 7:26E -1.4(k) is also required. However, all notification requirements pursuant to N.J.A.C. 7:26E-8.3(b)5 (ground water CEA requirements) still apply.

Changes in land use in the vicinity of an established CEA may prompt the Department to require additional public outreach pursuant to N.J.A.C. 7:26E-1.4(o).

37. If you have a Deed Notice with an NFA and you plan to disturb the engineering control (i.e. CAP), do I have to comply with the Public Notification and Outreach rules?

If you plan to disturb an engineering control (cap) on a site with a Deed Notice and an NFA, you are required to comply with the Public Notification and Outreach regulations if the disruption will exceed 60 days or if the disruption will result in a permanent change to the cap.

38. I am a property owner of an apartment building and I just discovered a leaking heating oil tank. Am I exempt from the public notification requirements?

Yes, remediation of all unregulated heating oil tank discharges are exempt from these requirements.

New Jersey Department of Environmental Protection

Site Remediation Program

Office of Community Relations (609) 984-3081

