

Direct Oversight Public Participation Plan Guidance Document

Contaminated Site Remediation & Redevelopment Program
New Jersey Department of Environmental Protection



The public participation plan required for sites that are subject to Direct Oversight must be submitted to the New Jersey Department of Environmental Protection (NJDEP) for approval within 90 days of triggering Direct Oversight (N.J.A.C. 7:26C-14). Approval will be conditioned upon the plan being site-specific, commensurate with site conditions and the level of public interest at the site, and remaining flexible to accommodate ongoing changes in community concerns. For example, the public participation plan for a contaminated site located in an industrial area may not be as comprehensive as a plan for a site that has an off-site ground water plume located in a residential area. In other words, a one-size-fits-all approach is not appropriate when preparing a public participation plan.

When developing the public participation plan, a critical factor to consider is the potential impacts to off-site properties from contamination emanating from the site. There may be heightened community concern when there is off-site migration of contamination, resulting in questions regarding health and property value. The public participation plan is an opportunity to provide basic site information and solicit community input on activities associated with the investigation and remediation of a site in advance of requesting access to nearby properties to conduct investigation activities or potable well or vapor intrusion sampling. Informing the public early in the remediation process allows the person responsible for conducting the remediation (PRCR) and their Licensed Site Remediation Professional (LSRP) to deliver a message that is clear and consistent. Engaging in public dialogue allows the PRCR and their LSRP to learn of community concerns and to adjust planned remedial activities accordingly, thus avoiding complications and delays.

The PRCR and their LSRP should use their knowledge of the existing site conditions and experience working in the neighborhood to develop a public participation plan that is appropriate for the site and community. In addition, to assess the level of public interest, the PRCR and their LSRP should conduct interviews with local municipal officials, health officials, and representatives of local environmental organizations.

Public participation plans should:

- Be site-specific
- Meet the needs of the community in which the site is located
- Include a strategy for soliciting public comment concerning the remediation from the members of the surrounding community
- Be as rigorous as necessary to reflect the level of public concern and severity of site conditions and be proactive in nature to allay concerns

At a minimum the plan should include:

- Establishing and maintaining a mailing list. The list should include:
 - Owners and tenants within 200 feet of the property boundary
 - The municipal clerk of each municipality in which the site is located
 - The county health department and the local health agency
 - Local news media interested in receiving information about the site, if applicable
 - Names from sign-in sheets from any public meeting regarding the site
 - NJDEP, Office of Community Relations
 - NJDEP, Case Manager, if applicable
- A draft example of the public notification letter (see below) that will be sent to the mailing list.

Notification letters

The purpose of notification letters is to provide those on the mailing list with background information about the site and the remedial activities associated with the site. The letters also solicit comments on the investigation and remediation during the 30-day public comment period. The PRCR or LSRP should respond to all comments provided during the 30-day public comment period individually or via a Response Summary. The Response Summary should address all of the comments received in one document that is distributed to the mailing list.

- Notification letters should be sent to the mailing list within 45 days of NJDEP approval of the public participation plan.
 - Letters should be sent using the Certificate of Mailing Service provided by the US Postal Service, or other certification that provides proof of mailing.
 - A copy of the letter and proof of mailing should be provided to the NJDEP within 45 days of mailing.
- Notification letters should be updated and resent to the mailing list in advance of any major remedial milestones including, but not limited to:
 - Completion of the Remedial Investigation
 - Submittal of the Remedial Action Workplan (can be combined with completion of Remedial Investigation if timing coincides)
- In the event there is a substantive change to site conditions or the remedial approach, or if an impact to receptors is identified, it may be necessary to update and resend notification letters to the mailing list.
- Following the issuance of a Response Action Outcome (RAO), a notification letter should be sent to the mailing list informing the public that the RAO was issued. The RAO notification letter is informational only without a request for public comment.
- Periodic updates, every two years at minimum, on the progress of the site are necessary if no other correspondence is being sent to the mailing list.
- If any comments have been received, the PRCR and their LSRP should develop a Response Summary and distribute copies of the summary to all parties who provide comment, the information repositories, and the NJDEP site file.

- The written responses to comments and/or Response Summary should be made available prior to the PRCR/LSRP initiating the remedial milestone that is being commented on.
- The Department recommends that all public participation plans include notification letters. However, if a different method is selected, the PRCR and their LSRP are encouraged to submit a public participation plan that describes how the method selected is best suited to the site and surrounding community.

All correspondence to the public should include:

- A history of the site operations that caused contamination
- A description of the site conditions including the source, contaminants of concern, affected media (e.g., soil, ground water, and/or vapor intrusion), and the extent of contamination
- A description of the remedial activities undertaken thus far, currently underway, and planned for the future, with a schedule
- A description of how the public should submit comments, including whether to submit:
 - To the PRCR or LSRP or both; and
 - Via hardcopy or email or both
- Contact information for the PRCR and/or LSRP, including mailing address, email address, and phone number
- An explicit statement that the PRCR is soliciting public comment via a 30- day public comment period
- An explicit statement that comments will be considered and will receive a written response. The PRCR and their LSRP can choose to prepare a Response Summary and make the summary available to the public instead of preparing individual responses
- An explicit statement that the PRCR and their LSRP will provide electronic copies of remedial documents, upon request.
- The availability of a local or electronic repository for all of the above correspondence and appropriate remedial documents. If an electronic repository is created, the notification letter should include a web address for the electronic repository and a statement as to how members of the public who do not have computer or internet access can request documents.

Additional Actions

The Public Participation Plan should be flexible and allow for additional public participation in the event that the level of public concern increases. In the event of substantial public participation related to the off-site migration of contamination, notification letters should be sent to property owners and tenants within 200 feet of the known extent of contamination.

If additional public participation is necessary, it can be in any combination of:

- Public Information Meeting
- Attending meetings of the local governing body
- Briefings for local, county, or state or elected officials or community groups
- Webpage
- News Releases
- Community Interviews

- Interviews with environmental organizations, such as Environmental Commission
- Telephone Hotlines
- Fact Sheets
- Workshops
- Exhibits
- Other, based on the needs of the specific community

Local and health officials should be notified that a public meeting will be held upon their request, in the event that the level of public participation warrants a public meeting. All public participation plan submissions can be emailed to srp_submissions@dep.nj.gov. If emailing is not possible, submissions may be mailed in hard copy to:

NJDEP Office of Community Relations
401 East State Street
PO Box 420
Mail Code 401-05N
Trenton, NJ 08625-0420