

NJDEP TECHNICAL GUIDANCE RESPONSE TO COMMENTS

COMMITTEE: Soils PA/SI/RI Technical Guidance Committee
DOCUMENT: PRELIMINARY ASSESSMENT GUIDANCE

Comment Period Start: Monday, April 4, 2011

Comment Period End: Monday May 16, 2010

	Page	Chapter	Section	Subsection	COMMENTS	RESPONSE
1	2				Appendices should not be numbered as part of the report.	Numbering and format of the document has been modified to be consistent with all SRP guidance documents.
2	3	1	0		Do not reuse the same words, rewrite: "The following section provides technical guidance within the framework of Site Remediation in New Jersey for Preliminary Assessment compliance. This guidance supersedes previous Department guidance issued on this topic, pursuant to N.J.S.A. 26:10C-16, and was prepared with stakeholder input.	This language is common to all SRP guidance developed to implement SRRA+F26 and not specific to this document.
3	3	1	1	1	Delete "this" from the first sentence; the paragraph is generic reference not specific to this document.	This language is common to all SRP guidance developed to implement SRRA. and not specific to this document.
4	3	1	1	1	The committee should be acknowledged in a forward or separate cover page; not part of guidance. Response:	This format is common to all SRP guidance developed to implement SRRA. and not specific to this document and does not effect the guidance contained in the document.
5	3	1	1		The word "the" (first paragraph, 2nd to last line) immediately after "this" should be deleted, as it is not necessary.	The word "the" has been deleted to make the sentence grammatically correct.
6	4	1	2		Delete "to determine if there may be any potentially contaminated areas of concern that require further investigation." This criteria is stated in NJAC 7:26E 3.1.	The entire purpose of a Preliminary Assessment is to identify areas of concern that may be potentially contaminated. The purpose of the guidance is to establishment the framework to determine if contaminated areas of concern exist at a site.

7	4	1	2		"can determine the appropriate level of detail". This statement contradicts the whole intent of having LSRPs by allowing anyone, trained or untrained, to determine some of the most basic information required for Remedial Activities. The appropriate level of detail is now, and should be, described in 7:26E, in order for the LSRP to properly evaluate the Site and AOCs. This sentence should be deleted entirely.	The Guidance is to be used by more than just LSRPs and it is up to the investigator to determine how much detail needs to be in the report to present the information gathered to prepare the preliminary assessment report. Ultimately if the information will be used to support a response action outcome a LSRP will make the final determination if enough information was gathered.
8	4	2			This should be relabeled Chapter 3. Chapter 2 should be Potential Areas of Concern (place 2.18 here as Chapter 2). You should have a description of what you're looking for before explaining how to look for them.	The Committee appreciates the suggestion but decided on a different approach.
9	4	1	1.2	2nd Para	Appendix II is cited in the text on Pages 4, 5, etc. before Appendix I on Page 7. Please check the order of citations.	The order of the appendix citation does not effect the overall guidance. No changes were made.
10	4	1	2		The purpose of the PA is also to establish the innocent landowner defense under the Spill compensation and Control Act in transactional due diligence. This should be discussed.	It can be inferred that the completion of a Preliminary Assessment following the guidance will also meet the due diligence requirements of the Spill Act.
11	4		1.2		The purpose section should include the statutory PA definition. This is important upfront and forms the basis for all the requirements, LSRP objectives and RPs responsibility. For instance in addition to identify all contamination at the site the responsibility also includes identifying if contamination is migrating off site.	The purpose of the guidance is to provide the Investigator with the necessary frame work to complete a Preliminary Assessment. Regulatory or statutory requirements are codified in the rules and laws governing remediation in New Jersey.
12	5			several locations in document	Since site "naturally vegetated", shouldn't that read since site first developed or utilized, a site could have been naturally vegetated since before our time, shouldn't the historical timeline for the potential of contamination be when site is first in use?	The guidance has been modified throughout the document to reflect proper due diligence includes an assessment back to 1932 or before the site was first developed.
13	5	2	1		Regarding Block and Lots, I believe information should be identified if the property ever changed block and lots, and supporting documentation shall be submitted if this were the case.	The guidance has been modified to take this comment into consideration.
14	5		2.2	2.2.1	We should be clear that all information operation and environmental information shall be back to 1932 and should include back to naturally vegetated based on diligent inquiry.	The guidance has been modified throughout the document to reflect proper due diligence includes an assessment back to 1932 or before the site was first developed.

15	5		2.1		add LAT and LONG of facility?	The LAT and LONG information is required on the PA/SI Form which must accompany all Preliminary Assessment Reports. Inclusion of this information in the report is not a necessary requirement
16	5	2			...must be signed by both the responsible party and the investigator or LSRP	Although the text the comment pertains to was eliminated from the guidance document investigator as defined in the guidance can mean someone other than a LSRP. If the preliminary assessment is required to be submitted to the Department, the PA/SI form must be certified by the Person Responsible for Conducting the Remediation and the designated LSRP. Based on the number of existing cases under Department oversight filed before November 2009, by the time the preliminary assessment guidance is finalized and approved for use the Department does not anticipate that the non-LSRP signature will be a viable option any longer.
17	5	2	2	1	In addition the narrative list of resources ie tax records sanborn ect should be reworded to state that these are standard and readily available information sources that need to be diligently evaluated to determine if information is available for the specific site under evaluation.	Changes were made to the guidance to take this comment into consideration.
18	6	2	2	2	include contact info for people interviewed?	Changes were made to the guidance to take this comment into consideration.
19	6	2	3	1	"Naturally vegetated" is ambiguous. A site that's been abandoned for 20 years is naturally vegetated, and the AOC are hidden as a result. Instead, a phrase like "prior to any use or construction" or "before the site was developed for any commercial, industrial or agricultural use" or "virgin state" would be a lot clearer.	The guidance has been modified throughout the document to reflect proper due diligence includes an assessment back to 1932 or before the site was first developed.
20	6	2	3	1	include agricultural with industrial/commercial	Changes were made to the guidance to take this comment into consideration.
21	6	2	2	2	All information sources <u>shall</u> or must be accurately presented in the PA. Do we want it inaccurately presented?	Should has been replaced with shall.
22	6	2	3	1	Per Statutory defintion shall be history back to 1932 and based on diligent inquiry based on information to naturally vegitated.	The guidance has been modified throughout the document to reflect proper due diligence includes an assessment back to 1932 or before the site was first developed.
23	6	2	2	1	Copies of information relied upon should be included in the report to the greatest degree possible, or the reader should be directed to an electronic copy on disk submitted with the report.	The regulations require a summary of any documents relied upon to support the investigators decisions and all documents relied upon to support a RAO must be submitted with the RAO.

24	6	2	3	1	The current TRSR requires historic review until at least 1932, OR the property was naturally vegetated. NJAC 7:26E-3.1(b)vi.	The guidance has been modified throughout the document to reflect proper due diligence includes an assessment back to 1932 or before the site was first developed.
25	6	2	2		Change to "Owners/Operators"	Owner and operator have been changed to the plural.
26	6	2	4		Repetative - covered under Chapter 2.1 Owners/Operators; 2.3 through 2.4	The commettee disagrees with commentor. 2.3 pertains to past owners and operatos where information regarding the types of operation and hazardous materials may only be avaibale though a records search. 2.4 pertains to current operation which should be aparant based on an inspection as well as interviews with the owner or operator. It is expected that the information gathered to completre 2.4 will by default be more detailed because it is based on current operations.
27	6	2	2	1	...site was naturally vegetated <i>to the extent possible [or practicable]</i>	The guidance has been modified throughout the document to reflect proper due diligence includes an assessment back to 1932 or before the site was first developed.
28	7	2	5	1	The photographic history should to back to 1932	The Technical Regulations require the Preliminary Assessment to assess the site history back to natural vegetation or 1932 which ever is earlier. Aerial Photographs for all of New Jersey are available back to the early 1940s and in many cases earlier. If the investigator does not review photos to the required timeframe the investigator must document in the report the deviation from the guidance and why an assessment of photos dating to earlier times was determined to be unnecessary.
29	7	2	5	1	"Should include" add "if over 2 acres shall include"	The Technical Regulations no longer specifies a site size to determine if aerial photos should be reviewed. The Investigator must document why aerial photos were not reviewed if a review was not conducted.

30	7	2	5	1	Some commercially available digital aerial photography resolution is quite good. The use of geo-coded aerial photography should be encouraged (e.g. GIS based applications).	Any available source of aerial photographs may be used provided the resolution is clear enough to adequately identify if historic areas of concern existed on the subject site. Appendix A of the guidance is meant to be a "working document" that can be added too to include additional resources. The commenter is encouraged to provide the DEP with additional sources to that investigators may benefit from the use of additional available sources of photographs.
31	7	2	5	1	The guidance references aerial photography research back to 1932. Is this not the general requirement, see above. Aerial photographs are generally available from the 1940s.	The Technical Regulations require the Preliminary Assessment to assess the site history back to natural vegetation or 1932 which ever is earlier. Aerial Photographs for all of New Jersey are available back to the early 1940s and in many cases earlier. If the investigator does not review photos to the required timeframe the investigator must document in the report the deviation from the guidance and why an assessment of photos dating to earlier times was determined to be unnecessary.
32	8	2	5	2	visual evidence of former or current disturbance (pavement patches; pavement sections; linear features in soil or pavement; former footprints of structures or containers; changes in vegetation color/density)	The section has been reworded to consider the suggested change.
33	8	2	6		Why only Sanborn referenced? Business directories? Title and Deeds? McRae's? How do you find these references? Note: The radius search note should be included in this section since Sanborn maps are usually included in the Radius search.	This section specifically pertain to the review of Sanborn maps and what to look for on the maps. the review of the other document the commenter mentions are addressed in other parts of chapter 2
34	8	2	2.5.2	4th Para	It indicates references to the surrounding properties are not necessary. PA should indicate if there are sensitive populations such as residences, day care centers, schools, etc. in the vicinity of the site.	Aerial photographs are reviewed to learn about the past use of the target site. The presence of a "sensitive population" near a site in 1950 may not be relevant today. Relevant sensitive receptors should be identified.
35	8		2.5.2		Highly recommend that if they do not include the photos they provide dates, photos used to make assessment. Referenced materials should be in the report.	The guidance says " The dates and scale of each aerial photograph should be stated in the preliminary assessment report." All documents relied upon must be submitted with the Response Action Outcome if it was not included with the Preliminary Assessment Report.

36	9	2	6	2	Full reproducible copies of the Sanborn Insurance Maps should be included electronically if excerpted copies (e.g., 8.5 by 11 inches) have been printed in the report.	The guidance says " The dates and scale of each aerial photograph should be stated in the preliminary assessment report." All documents relied upon must be submitted with the Response Action Outcome if it was not included with the Preliminary Assessment Report.
37	9	2	7	1	Without knowledge of specific past farming practices (e.g. crops grown, USDA/Soil Conservation District recommendations, or local tradition), specific historic herbicide/pesticide usage is largely unknown.	The same logic holds true for all past hazardous material usage. An educated guess needs to be made about what may have been used on site based on past operations conducted on site. The primary point is, if a site investigation is determined to be necessary all hazardous materials used on site must be considered not just the list of materials currently used on site.
38	9	2	7		What are hazardous materials, pollutants and substances (definitions or references)? Do De minimus quantities exist, if so where is the citation? This information should be included in a guidance document.	The terms in question are defined in the regulations and the statutes upon which the regulations are promulgated. There is no definition of de minimus as it pertains to an investigation conducted pursuant to the Technical Regulation. If a discharge is suspected it requires investigation. If the cleanup standards are exceeded remediation may be necessary.
39	9	2	6	2	If no Sanborn Maps were available for the subject site, check the appropriate box on the Preliminary Assessment Report Form.	This appears to be a copy of the guidance and not a suggested change.
40	9	2	7	1	An investigator should not be required to speculate as to what hazardous materials may have been used on-site based on the type of historical operations that were conducted at the site in the past without any historical documentation that validates the assumptions.	The purpose of the PA is to research all past and current operations conducted on site and to identify areas of concern. If the investigator does not attempt to narrow the list of hazardous materials used on site by historic operators, then any areas identified as needing a site investigation must be sampled for the full Target Compound List (TCL) because the investigator will not be able to justify anything less. This surely will result in a "complete SI but may also result in a lot of unnecessary expenditures of funds. Why sample a drum storage pad for the full TCL if it can be documented that only hydraulic oil was staged in the area?
41	9		2.6.2		Highly recommend that if they do not include the sanborn maps they provide dates, photos used to make assessment. Referenced materials should be in the report	The guidance already says " The dates of each map should be stated in the preliminary assessment report." Not all referenced material can be provided due to cost constraints but the sources should be identified so if necessary a second investigator can reach the same conclusions after conducting a similar review.

42	10	2	8	1	Differentiate between cess pool, septic system, and sewer service(s).	The comment is not understood regardign a suggested change thus no chage was made to the guidance. In general there is a significant construction difference between a cess pool and a septic system and a sewer service to a local or on-site treatment works.
43	11	2	10	1	delete "...radiation above background is found, contact the Department's Bureau of Environmental Radiation..." It is beyond the scope of a PA to screen using instrumentation for radiation above background, and suffices to say "if radioactive materials are known or confirmed to be present...notify the Department for further guidance at:..."	The commenter is correct, field screening for the presence of radioactive materials is beyond the scope of a PA. The suggested wording change has been made.
44	12	2	10	2	If no radio active materials were identified as used, stored or disposed on-site, check the appropriate box on the Preliminary Assessment Report Form. .	Response: This appears to be a copy of the guidance and not a suggested change
45	12	2	11	2	If there are no known discharges at the subject site, check the appropriate box on the Preliminary Assessment Report Form.	This appears to be a copy of the guidance and not a suggested change.
46	12		2.11.1 & 2.13.1		include statement they need to review Federal State and local records same as 2.12.1	The suggested change has ben made.
47	13	2	12	2	If no permits were received or applied for, check the appropriate space on the Preliminary Assessment Report Form.	This appears to be a copy of the guidance and not a suggested change.
48	15	2	14		The discussion on fill material should clearly differentiate between structural fill and "historic" fill, and should also point out that the term "historic fill" has taken on two meanings (fill historically placed on a property based on NJGS maps, for example, with no indication as to whether it is contaminated or not versus fill that is known to be contaminated	The wording of this section has been changed slightly to make it clearer. However historic fill a has a distinct definition in both law and regulation. If it exists on site it is assumed to be contaminated unless proven to be otherwise.
49	15	2	14	1	It would be helpful to include other sources or recommendations on methods of investigation (historic topographic maps, local land development records, aerial photos, etc.)	The sources listed in the guidance are readily available for over 90% of all sites and should be consulted. Other sources may only be available for some sites and certainly can be used if they contain important environmental information about a site.
50	15	2	13	2	If no enforcement actions were identified, check the appropriate box on the Preliminary Assessment Report Form.	This appears to be a copy of the guidance and not a suggested change.
51	15	2	14	1	Aerial photography may be useful as well to delineate potential historic fill areas.	The comment is true in some instances but the guidance was not revised as a result. Historically many areas were filled prior to the advent of aerial photography.
52	16	2	14	2	If fill material is not present at the site, check the appropriate box on the Preliminary Assessment Report Form.	This appears to be a copy of the guidance and not a suggested change.

53	16	2	15	2	If onsite landfills dumps or disposal areas are not identified on site, check the appropriate box on the Preliminary Assessment Report Form.	This is a copy of the guidance and not a suggested change.
54	16		2.15.1		last sentence : "potentially" not potential	The grammatical error has been corrected.
55	16	2	2.15		The title in this section is not consistent with the corresponding title in the Table of Contents.	The difference in titles has been corrected.
56	16	2	15		Define the terms "dump," "disposal area," "landfill," "sanitary/MSW landfill," and "hazardous waste landfill" based on NJDEP regulations (e.g. Solid Waste, ARRCs, and TRSR).	This section of the guidance is meant to address all areas where solid or hazardous waste has been dumped or buried on site.
57	16	2	17	2	The guidance should emphasize the importance of professional judgment in determining the protectiveness of previous reports, remedies, and NFA/RAO documents.	The use of "professional judgment" is necessary for all stages of the remedial process. It does not seem necessary to emphasize a particular importance for this task as the commenter suggests.
58	17	2	17		...data gathering activities should	Response: The Order of Magnitude analysis and past remedy evaluation is a regulatory requirement of the Technical Regulations and therefore this evaluation is a required task, if applicable, and not open to professional judgment. If the site or area was previously remediated these evaluations must be completed.
59	17	2	17	2	Bullets 2, 3, and 4 go beyond the scope of PA activities, particularly for remedies approved by the Department. The investigator SHOULD be compelled to note if biennial inspections and certifications are being prepared, but not to prepare a critical review of the engineering and institutional controls themselves.	A PA does not include the collection of samples but it does include a review of environmental documents for a site including a review of institutional controls. It also includes a site inspection to verify the findings of the historical document review. The site inspection certainly can include an assessment of whether engineering controls are being maintained pursuant to existing controls detailed in the recorded deed notice. All of the bullets can be addressed without intrusive site investigation activities.
60	17	2	16	2	If remediation has not previously been conducted or is ongoing at the site, check the appropriate box on the Preliminary Assessment Report Form.	This is a copy of the guidance and not a suggested change.
61	17	2	17	2	If no remedies previously approved by the Department in a remedial action work plan or equivalent document were identified for the site, check the appropriate box on the Preliminary Assessment Report Form	This is a copy of the guidance and not a suggested change.
62	17, 18	2	2.17, 2.17.3		Please check the numbering for these sections.	Any numbering errors will be corrected.

63	17	2	17	2	In the bulleted items immediately beneath Section 2.17.2, a copy of the applicable Deed Notice shall be submitted, as it would help identify what the contaminant(s) are, the depth, the location, etc.	A copy of the deed notice can be provided but the tasks outlined here are designed to determine if the requirements of the deed notice are being followed. The bulleted items are tasks not items for submission. Submission of the deed notice although helpful won't substitute for a proper assessment of the current condition of a site.
64	18	2	17	4	The section after "Note:" is very confusing and should be re-worded.	The wording of the notation has been modified to make it clearer. F90
65	18	2	17	5	Same comment as above for 2.17.2. In bullet number 2, the inspector should only be required to verify that controls are "being monitored and maintained".	The purpose of a PA is to identify if a site or area of concern is potentially contaminated and requires further remediation and to determine if the site or area of concern remains protective of human health and the environment. If the inspector determines a site is not being monitored and maintained the inspector must answer the next question; Has this lack of maintenance and monitoring changed the protectiveness of the original remedy?
66	18		2.17.5		Suggest the PA guidance address situation where the contamination is > order of Mag but LSRP makes determination existing engineering & Institutional controls are adequate or have been modified to address the situation. I believe the situation will come up often where a site received NFA with or without controls deed notice in place but still remains protective and nothing else is required. ie capped site with deed notice and one contaminant is elevated but cap still protective.	Section 2.17.5i(2) already addresses the concern of the commenter. no changes made.
67	19	2	17	5	For bullet number 3, "all of the factors and assumptions" should be revised to reflect reasonable factors that the investigator can ascertain within the scope of a PA, such as "...the land use serving as the basis for site specific remediation standard...". Same comment as above for bullet number 2 under ii.	The facts that resulted in a site specific remediation standard being approved will be contained in the documents that must be part of the preliminary assessment data gathering. The conditions that resulted in the site specific remediation standard shall be compared to the current site conditions to determine if the site or area remains protective of human health and the environment.
68	19	2	17	5(iii)	If no areas of concern have been identified at the site for which a final remediation document was filed or issued, check the appropriate box on the Preliminary Assessment Report Form.	This is a copy of the text from the guidance not a comment or suggested change.

69	20	2	18	1	1st paragraph should start with " <i>The investigator should generally differentiate AOCs that are present at distinct locations on site, even if the characteristics of the AOCs are similar.</i> For example: Area A-1 is a 1,000 gallon gasoline UST <i>located in the northwest corner of the site</i> , Area A-2 is a 10,000 gallon heating oil UST <i>in the southwest corner of the site</i> ,..." The way this is currently written, it implies that a tank farm consisting of 8 ASTs of similar size and contents would have to be individually treated as 8 AOCs.	The examples in the guidance have been revised.
70	20		2.18.1	B	Loading docks belong in "Staging Areas"?	The loading docks was moved to staging areas.
71	20		2.18.1	para 2	It might be clearer to use "location" consistently, not switch to "area"	The text has been reworded to be more consistent.
72	20				page 20 Lists process area sinks and piping which receive process waste in section C. Perhaps add in section F "other general process and production areas that use hazardous and/or potentially hazardous materials". There could be other process areas from which a discharge could take place.	The suggested addition has been made. All inspectors must keep in mind the suggested list is not all inclusive. Every site will differ and each area where hazardous materials were used,, treated, stored or disposed must be assessed for the potential that the environment may have been impacted.
73	20	2	2.18.1	2nd Para	1st sentence, please insert word "be" before "given".	The entire paragraph has been rewritten for the sake of clarity
74	21		2.18.1	F	add burn pits, incinerators	The suggested addition has been made. All inspectors must keep in mind the suggested list is not all inclusive. Every site will differ and each area where hazardous materials were used,, treated, stored or disposed must be assessed for the potential that the environment may have been impacted.
75	21		2.18.1	E	add elevator shafts	The suggested addition has been made. Inspectors must keep in mind the suggested list is not all inclusive. Every site will differ and each area where hazardous materials were used,, treated, stored or disposed must be assessed for the potential that the environment may have been impacted.
76	21	2	2.18.1	D	Needs more specific citations.	Inspectors must keep in mind the suggested list is not all inclusive. Every site will differ and each area where hazardous materials were used,, treated, stored or disposed must be assessed for the potential that the environment may have been impacted.

77	22		2.18.2	bullet 2	The idea of deciding that an AOC "is not expected to contain contaminants above the ..standards" could be misleading. In reality, it's a two-step process: First, is there evidence of a discharge? or is a discharge likely for some other reason? Then second, did it result in soil contamination (i.e. are any soil stds exceeded)? The problem is that the second step requires sampling, not thinking.	The selected language is a close paraphrase of the Technical Regulations and therefore it has not been revised.
78	22	2	18	2	One of the following determinations findings should be made and presented in the Preliminary Assessment report for each potential AOC identified at the subject site: <u>Response:</u> The suggested change was accepted.	
79	22				• The A discharge of hazardous materials may have occurred at this AOC and it is potentially contaminated. Therefore and additional an investigation or remediation is required of this AOC is recommended; or	The suggested change was accepted.
80	23		2.19.2		".. The location of the site, SPECIFIC locations of the areas..."	The suggested change was accepted.
81	23		2.2		Preliminary assessment Site Inspection, Shall inspection include photo documentation? I think that the inspection should include as much photo documentation as feasible although phot documentation is not mentioend in the Tech Regs under PA or the SI. That should be changed in the Tech Regs. Phot documentation is extremely useful.	Photo documentaion of site conditions is always helpful and correctly pointed out not a requirement of the Regulations.
82	23	2	18	2	If no potential AOCs were identified at the subject site that require sampling, check the appropriate box on the Preliminary Assessment Report Form.	This is a reprint of a portion of the guidance not a comment or suggested change.
83	23	2	20		The experience of the investigator is critical to understanding the current and historic site operations.	No response necessary.
84	23		2.2		I believe we must make it clear that an inspection(s) is standard assessment practice to verify observable and current site conditions. We must make it clear that standard includes if a LSRP relies on work from another LSRP it requires as site inspection to verify observable conditions see statute 16f.	Language has been added to identify the LSRPs role in the required site inspection.
85	24	3	1		The person responsible for conducting the remediation or the potential buyer who needs the innocent purchaser defense under the Spill Act should prepare/submit the PA Report.	If a report is submitted to the Department it must be certified by a LSRP and the person responsible for conducting the remediation who may be a purchaser seeking an innocent purchaser defense. See the ARCS rule at N.J.A.C. 7:26C-1.3 for the definition of person responsible for conducting the remediation for further guidance.

86	24	3	2		"It is strongly recommended..." The format of the PAR should follow a logical narrative format focusing on the conceptual site model that is readily comprehensible by the professional and lay reader alike.	The Technical Regulations do not specify a required report format. The purpose of chapter 3 of the guidance is to suggest a format and detail what must be in each report regardless of the chosen format. Each LSRP can develop their own format if desired.
87	24				We always instruct our staff to write reports that tell the whole story. Reliance on a form, or the format and sequence in the form does not yield a professional product nor does it provide a readable narrative.	No response necessary
88	25	3	2		The site history should always be discussed in detail. Work performed by others should be clearly referenced as such. All work relied upon by the LSRP should be included in electronic form or as an attachment to the PAR.	All portions of the report should be detailed enough to support any conclusions. Provided all the information required of the Technical Regulation at N.J.A.C. 7:26E-3.2 is included in the report it is at the discretion of the person responsible for conducting the remediation and the designated LSRP what supporting documentation will be included with the report. All information relied upon to issue a Response Action Outcome (RAO) must be included with the RAO.
89	25			3.2	remove Phrase " should be something like and replace with for example:	The suggested change has been made.
90	25				In addition the first sentence of the note for radius search should be clarified that radius searches for surrounding properties do not be include unless they include information that pertains to the environmental or history of the site under investigation.	The language has been made stronger and clearer to not submit radius searches.
91	26	3	2		A commercial radius search can be a very useful tool in evaluating a sites history, especially in an urban environment. If the radius report has been relied upon, it should be included as part of the work product.	Only the relevant relied upon portions of a radius search should be provided.
92	26				Further, if the report is being prepared to establish the USEPA and NJDEP requirements for due diligence, then a combined PAR / Phase I Environmental Assessment is appropriate.	The preliminary assessment report must contain all the information required pursuant to N.J.A.C. 7:26E-3.1 and 3.2. If the person responsible for conducting the remediation chooses to include additional information to meet the requirements of other laws or regulations the additional information should not be presented in any way to diminish the required information.

93	26				A combined Phase I/PAR that combines the TRSR, this guidance, the federal AAI requirements, and the ASTM E-1527-05 scopes should be acceptable.	The preliminary assessment report must contain all the information required pursuant to N.J.A.C. 7:26E-3.1 and 3.2. If the person responsible for conducting the remediation chooses to include additional information to meet the requirements of other laws or regulation+F110s the additional information should not be presented in any way to diminish+F112 the required information.
94	26				NJDEP has previously accepted combined Phase I/PARs and has established ample precedent for the combined format.	The preliminary assessment report must contain all the information required pursuant to N.J.A.C. 7:26E-3.1 and 3.2. If the person responsible for conducting the remediation chooses to include additional information to meet the requirements of other laws or regulations the additional information should not be presented in any way to diminish the required information.
95	26	3	2		The NJDEP Child Care and Educational Facilities Unit is requiring that radius searches be conducted for potential and current child care as a prerequisite to their licensure.	The 400 foot radius search is no longer required for Child Care submissions.
96	26				In the absence of formal guidance from the Child Care and Educational Facilities Unit should address/include any additional data gathering requirements from NJDEP SRP programs.	This document sets forth the guidance to comply with Technical Requirements for Site Remediation. Guidance for child care centers can be found on the Department's web page at http://www.nj.gov/dep/dccrequest/
97	27	4	1	1	"use professional judgment". Since non professionals will be using these guidelines, how is this applicable?	This comment is subject to a wide range of opinions that cannot be quantified in a few sentences. The Site Remediation Reform Act at section 16c which is commonly referred to as the code of ethics for LSRPs starts with "A licensed site remediation professional shall not provide professional services outside the areas of professional competency" Likewise a non professional should recognize when an area of investigation is beyond their level of skill and defer the continued investigation to those capable of performing the task to the regulations.
98	27, 28	4	4.1.1, 4.1.2	2nd Para, 3rd Para	Needs more specific citation such as N.J.A.C. 7:26E-1.8	A reference to N.J.A.C. 7:26E-1.8 has been added in the appropriate sections of the guidance.

99	27	4	0		The text in this section should be incorporated into the Section 3 text to make for a more readable and comprehensible document. See above.	The committee envisions section 4 of the guidance to be a running commentary detailing the most common mistakes seen in submissions to the Department and how to avoid making the same mistakes over and over. Section 3 will only change if the regulations change. Therefore it will remain a separate section subject to change as needed as SRRA and the LSRP program develops.
100	27	4	1	1	Where (B) identifies the age of the area, I think another item shall be added to identify the specific years, to cross reference when specific chemicals were utilized, etc., to help determine what is required (Si for specific parameters, etc.).	Original item D now bullet item 4 appears to address the commenter's suggestion to list the chemicals stored in each area by year.
101	27		4.1.1	B	add the dates of AOC use, if known	The suggested change was made.
102	27		4.1.1	E	the volume of EACH material, if known	The suggested change was made.
103	27		4.1.1	F	add a discussion of type and construction of the surface on which container rests (i.e. concrete, asphalt, soil). Or you might add this to (H).	Language was added to former F now bullet item 6.
104	28			4.1.2	recommend you actually include definition. It is critical.	The section now identified as A.1.2 has been reworded.
105	29	4	12		...site was naturally vegetated to the extent possible [or practicable]	Neither the Technical Regulations or the law uses the term "or practical" thus it has not been added to the guidance.
106	29				If the DEP issued a NFA determination based on 3 samples using correct parameters then the investigator should be able to rely on this data and not re-open the AOC. The technical Regulations do not require AOCs to be re-opened for this reason.	The commenter has missed the point of this section of the guidance. Historic NFA's cannot be taken on face value and accepted F124by a LSRP without an assessment to determine if the area or site remains protective of human health and the environment.
106	29	4	12		The whole section on the reliability of NFA's needs to be rewritten. If NJDEP found the information submitted compelling enough to issue an NFA, the LSRP should be able to rely upon that. The LSRP should, of course, independently vet the information upon which the NFA was issued, but the bottom line is NFA should be reliable.	The section has been rewritten for clarity. However, a LSRP's highest priority in the performance of professional services shall be the protection of public health and safety and the environment. A LSRP cannot continue to rely on a NFA the LSRP knows through a vetting of the historic information is not protective public health and safety and the environment.

108	29	4	1	2	Again, if the NJDEP already determined that NFA was required for this AOC based on the data that was generated at the time, and there is no other reason to re-open the AOC other than the fact that the standards have been lowered, then the AOC should remain closed unless the data does not pass the Order of Magnitude test.	The order of magnitude test is only one part of verifying a former remedy remains protective. For Example, if the NFA was based on successful sampling for TPH but the investigator now knows PCBs should have been a targeted parameter for analysis then sampling for PCBs should be conducted.
110	29		4.1.2	p29, para1	This is another instance of the "naturally vegetated" phrase.	The guidance has been modified throughout the document to reflect proper due diligence includes an assessment back to 1932 or before the site was first developed
111	30		4.1.3		Could you emphasize the difference between historic fill versus "use-related waste, debris, or by-products". Sites are often "filled" during use with waste materials, burn pit debris, or soil scraped from other areas on the same site. None of this is historic fill for the purposes of a PA.	The presence of any non native fill material should be identified during the completion of a preliminary assessment. All filled areas need to be assessed for the potential presence of hazardous materials.
112	30	4	4.1.3	4th Para	Needs more specific citation such as N.J.A.C. 7:26E-1.8 and E-3.12.	The guidance was not changed in this particular situation.
113	30	4	1	2	"The Preliminary Assessment data gathering should not be considered complete until all parties contacted for information have responded to the request for information and the information obtained has been reviewed." When do you determine that no response is forthcoming? There can be many reasons, some quite valid, when no response will be sent.	There is no set rule to answer this comment. The investigator needs to document the attempted methods to reach a potential source of information. Calling a source once and leaving a message and never following up if the source does not call back is unacceptable. Documenting you reached out to source multiple times through different media and never got a response should be sufficient. Every case will be different.
114	30	4	12		diligent (not "all") efforts to contact...("all" should not be used in this guidance)	As referenced to an earlier comment on the same topic there is no set rule when a search for information can be considered complete. If it is believed the source has critically important knowledge about a site such as confirming where drums were buried on a site then a single phone call with no immediate response does not appear sufficient. On the other hand expending a lot of effort to confirm that ABC Books a business that operated on site from 1960-1965 was a book supplier does not appear to be as critical. The level of effort to track down sources will be determined on a case by case basis but all efforts to track down a source should be documented to support a diligent effort to obtain the information.
115	31	4	14		...area specific (not "special")	The typographical error was corrected.

116	31	4	15		The section should differentiate between pole-mounted and pad-mounted transformers. Allow issuance of full-site RAO with an exclusion for transformers; it is unacceptable otherwise	Full site means full site, not full site minus certain areas of concern. The guidance is clear when transformers subject to an ISRA investigation may be excluded from the required investigation. Otherwise, if the RAO will or must include the entire site, transformers are a potential area of concern.
117	31	4	1	4	Closure of tank systems meeting NJAC 7:26E - 6.3 b(6)i(4) do not require sampling, so this statement is confusing. It would be better to reference those sections in NJAC 7:26E that concern underground storage tanks and explain how those requirements should have been met.	Appendix A is common errors the Department has seen made in the past with a frequent occurrence. The point the guidance is making is if the RAO will be for the entire site all heating oil underground storage tanks are areas of concern. Not being regulated by N.J.A.C. 7:14B does not eliminate the tank as an area of concern.
118	31		4.1.4		Mention that tanks of "unknown contents" must be treated as though they had contained any of the containerable liquids used on site, i.e. not knowing what was in the tank does not get you off the hook for sampling.	The suggested addition has been incorporated into the guidance.
119	31		4.1.5		Distinguish between pole-mounted transformers and pad-mounted transformers. For the pad-mounted ones, the pad and it's surroundings (including under the pad) need to be assessed.	The guidance applies to all transformers. Regardless of who takes responsibility to remediate a discharge from a transformer, if a discharge has occurred the discharge must be addressed before an entire site RAO can be issued.
120	32	4	1	6	Please replace link (Wikipedia) with real definitions.	The link to Wikipedia has been removed.
121	33	4	17		...site was naturally vegetated <i>to the extent possible [or practicable]</i>	Neither the Technical Regulations or the law uses the term "or practical" thus it has not been added to the guidance.
122	33	4	1	8	Pesticide mixing areas identified as being located historically on site should be targeted more heavily than open areas	The misspelling of than has been corrected.
123	34	4	1	8	The above-referenced report is not definitive when it comes to determining whether sampling should be conducted at a site that was formerly used as farmland (which includes many sites throughout NJ). It is unclear whether sampling is required at former agricultural sites when there is no evidence or information regarding potential pesticide use.	Without definitive proof that pesticides were not used on former agricultural sites the assumption should be they were used and pesticides should be a targeted concern in any mixing area or obvious areas where spills occurred.
124	35				The Princeton collection of Sanborn Insurance maps is not complete; however, those maps that are available are generally of higher quality than the commercial sources.	Thank you for the input.
125					Quality of the map is critical to the interpretation of the data. If the symbol is not legible, the investigator can not draw any conclusions.	The committee agrees with this statement and presumes a conscientious investigator might seek a second map of higher quality from another source

126	36	4	2	3	A commercial entity (historicaerials.com) should not be advertised in the guidance. Remove the sentence of make a generic reference to on line commercial services.	By no means is the guidance a commercial endorsement of any available product.
127					<p>General Comment: The guidance uses the wording should rather than shall throughout. This guidance is not intended for the LSRP community (a regulated body), but for professionals and non-professionals. For this reason, the use of professional judgment cannot be included with this document. Minimum standards for level of detail for inquiries and reporting format must be required not left to the discretion of the person (potentially no qualifications or experience)".</p>	<p>The Department's Technical Regulations are being modified to be more performance based rather than the current command and control based. Unless the guidance refers to a specific regulatory requirement that must be met where shall is the appropriate word, departures from the guidance must be documented and adequately supported with data or other information pursuant to N.J.A.C. 7:26E-1.7.</p>