

## **Additional Notices Available for Response Action Outcomes (RAOs)**

The rules for the preparation and issuance of Response Action Outcomes (RAOs) are established by the Administrative Requirements for the Remediation for Contaminated Sites (ARRCS) at N.J.A.C. 7:26C-6 and the Model Response Action Outcome Document included in Appendix D.

The Department is aware that the Model RAO Document does not address certain situations. When appropriate, the Department works with remediating parties and LSRPs to ensure that RAOs accurately reflect site-specific conditions and implemented remedial actions. The Department continues to develop guidance and policy for the remediation of all contaminated sites.

The document below is comprised of two sections. Section I provides the RAO Notices that can be inserted into the RAO, without prior Departmental approval, under the listed conditions. Section II provides the process to be used to modify the RAO Model or RAO Notices under all other conditions requiring prior Departmental approval.

### **I. RAO Notices – no Department approval required**

The following RAO Notices may be used as described below without prior Department approval:

- In-Service Railroad Lines, Spurs and Sidings Not Remediated
- Historic Fill Not Remediated for RAO-A
- Soil Contamination From an Off-Site Source Not Remediated – General
- Soil Contamination From an Off-Site Source Not Remediated – Diffuse Anthropogenic Pollution
- Naturally Occurring Levels of Constituents in Ground Water

### **In-Service Railroad Line, Spurs and Sidings Not Remediated**

**Use of this Notice:** The following Notice should be used when one or more railroad lines, spurs and/or sidings have not been investigated and/or remediated and will remain in service at the site.

Please be advised that this Response Action Outcome does not include the remediation of contamination that may be present within, or directly adjacent to, the in-service railroad line, spur and/or siding at this site. Contamination that may be present may include, but is not limited to, polynuclear aromatic hydrocarbons, polychlorinated biphenyls (PCBs) and metals. Remediation of this area is not required while the railroad line, spur and/or siding remain in-service. Please note that you may have an affirmative obligation, pursuant to the Brownfield and Contaminated Site Remediation Act, N.J.S.A. 58:10B-1.3, to remediate any contamination associated with the railroad line, spur and/or siding within specific regulatory and mandatory timeframes and within the statutory timeframe specified at N.J.S.A. 58:10C-27 at such time that these areas are no longer in-service. Please consult [www.nj.gov/dep/srp/srra/](http://www.nj.gov/dep/srp/srra/) for additional guidance.

### **Known Onsite Contamination Source Not Remediated - Historic Fill (RAO-A)**

**Use of this Notice:** The following Notice should be used when an Area of Concern RAO (RAO-A) is issued and historic fill has been identified at the site but has not been remediated (Example: a clean UST closure or when remediation is limited to one or more AOCs).

Please be advised that this Response Action Outcome does not include the remediation of contamination in the form of historic fill. In the event that an Entire Site RAO is to be issued, the historic fill must be remediated in accordance with N.J.A.C. 7:26E.

### **Soil Contamination From an Off-Site Source Not Remediated- General**

**Use of this Notice:** The following Notice should be used when soil contamination that was caused by an off-site source has not been remediated. The person responsible for conducting remediation must ensure that a site preliminary assessment and site investigation (PA/SI) of the entire site has been completed that documents that the source of contamination is from off-site and that activities at the site did not contribute to the contamination.

Please be advised that contamination in the soil at this site exists above the Department's applicable soil Remediation Standards, N.J.A.C. 7:26D-4. Based on completion of a preliminary assessment and site investigation (PA/SI) of the entire site, as applicable, pursuant to N.J.A.C. 7:26E-3, I have confirmed that the source of this contamination is from an off-site source and that there is no on-site contribution to this contamination. This aspect of the site was reported to the Department and assigned the Department's Hotline incident number(s) 00-00-00-0000-00. Any redevelopment on this site should take into consideration the potential for direct contact soil exposure.

### **Soil Contamination From an Off-Site Source Not Remediated - Diffuse Anthropogenic Pollution**

**Use of this Notice:** The following Notice should be used when soil contamination that is identified is consistent with diffuse anthropogenic pollution (DAP) and has not been remediated. The person responsible for conducting remediation must ensure that a PA/SI has been completed that documents that the source of contamination is from off-site and that activities at the site did not contribute to the contamination.

Please be advised that contamination in the soil at this site exists above the Department's applicable soil Remediation Standards, N.J.A.C. 7:26D-4. Based on an evaluation of data and the Department's "Diffuse Anthropogenic Pollution (DAP) Guidance," it has been determined that surficial contamination that was identified during the evaluation of the site is consistent with DAP. This impact to soils at the site was not required to be reported to the Department's Hotline and therefore no incident number was generated. Development or redevelopment on this site should take into consideration the potential for direct contact soil exposure to contaminants in soil caused by DAP.

## **Naturally Occurring Levels of Constituents in Ground Water**

**Use of this Notice:** The following notice should be used when exceedance of the New Jersey Ground Water Remediation Standards are caused by naturally occurring constituents found in ground water. Note that this discussion primarily applies to metals, and excludes anthropogenic background including, but not limited to, synthetic organic chemicals such as petroleum byproducts/hydrocarbons, chlorinated compounds, and any compound that cannot be considered naturally occurring.

Please be advised that concentrations of [\$\$Insert specific materials\$\$] were detected in the ground water at this site above the Department's Ground Water Remediation Standards (N.J.A.C. 7:26D-2). However, these concentrations are associated with naturally occurring levels of these constituent(s) in the ground water. Pursuant to N.J.S.A. 58:10B, remediation beyond naturally occurring levels is not required. Development or redevelopment on this site should take into consideration the potential for exposure to constituents that exceed the Ground Water Quality Standards (N.J.A.C. 7:9C).

## **II. Approval Process for Modification of the RAO Model or RAO Notices**

Remediating parties and LSRPs must receive the Department's approval PRIOR to making any changes to the RAO model language other than the RAO Notices referenced in Section I above. The procedures for the Department's approval are outlined herein:

1. Contact both the Assistant Director and Bureau Chief of the Bureau of Inspection and Review by email to request changes to the model RAO language.
2. Include an explanation of why the change(s) is necessary in the email. Prepare the proposed language and attach it to the email.
3. The Department will provide its acceptance, rejection or suggested modification of the proposed change(s) via email.
4. After the Department accepts the change(s), it is strongly recommended that the LSRP include a description of the change and document the Department's approval in the case record such as in appropriate sections of the Remedial Action Report (RAR) and Case Inventory Document (CID).