

NJDEP Technical Guidance Document: Response to Comments

Document: " *Immediate Environmental Concern Technical Guidance Document Version 2.0* "

Comment Period: *February 8, 2018 to February 22, 2018*

Committee Chairperson: *Andrew Sites*

Comment #	Page	Section	Subsection	COMMENTS	RESPONSE
1	N/A	General		Why do GWRS need to be addressed as an IEC when MCLs are the trigger? Why isn't the IEC addressed to MCLs, then GWRS handled as a non-IEC issue once MCLs are met? For some sites, it does not make much of a difference for gasoline-related constituents (as MCLs = Class IIA GWQS); however for other sites (e.g sites in the Pinelands), the Class I Pinelands GWQS = Practical Quantitation Levels (PQLs). In some cases there is a several order of magnitude difference between PQLs and MCLs (e.g. total xylenes PQL = 2 ug/l MCL = 1,000 ug/l).	The Technical Requirement for Site Remediation (7:26E-1.8) defines a potable well IEC as an exceedance of any Class II Ground Water Quality Standard. Since both public supply wells and production wells used for human consumption meet the definition of potable well, the DEP must enforce all of the mandated requirements for an IEC.
2	7	4	1	Regarding the second paragraph of this section, specifically "The investigator should notify the water purveyor of the exceedance of the GWRS, and should negotiate a remedy with the water purveyor.", if potability is determined by the MCL and the MCL is not being exceeded or no MCL is established for that contaminant, why would the investigator be responsible for the treatment at the supply? Treatment should be focused back at the source area to treat the groundwater to below GWRS.	The RP must negotiate a remedy which may be for monitoring the impacted well(s) or other appropriate options. Source control would also be required as specified in the requirements for an IEC.
3	7	4	1	Should specify if there are separate standards for production wells besides GWRS.	The DEP is not aware of any specific promulgated standards for production wells.
4	7	4	1	I think a table, bullet list, and/or flow chart showing each of the potable well IEC scenarios, applicable standards, and procedures would compliment the text.	The DEP appreciates this comment but does not concur that a special table or flow chart is warranted. There are only two sets of standards, the GWRs for private wells and the State MCLs for all public wells.

5	7	4	1	The first line on this page - "...production well used for human consumption (i.e., bottling plant)." I would add "either at the site, and/or offsite.." between the word consumption and the parenthesis.	The DEP agrees with this change.
6	7	4	1.1	Is there an obligation to follow the new off-site source guidance (i.e. complete a PA) prior to calling in an off-site source?	Yes.
7	7	4	1.1	Last paragraph, 2nd sentence. I would change the beginning to "if the new IEC originates from an offsite source, and it is..."	Agreed.
8	7	4	1.1	Fourth sentence, change to "..and is caused.."	Agreed.
9	7	4	1.1	Add reference to http://www.nj.gov/dep/srp/guidance/srra/offsite_source_guidance.pdf and comingled plume guidance.	Agreed.
10	7	4.1		The first line on page 7 states, "...production well used for human consumption (i.e., bottling plant)." Change to "(e.g. bottling plant)". The term "i.e." is an abbreviation for "id est" which is Latin for "that is" which then specifies only bottling plants are included, while the term "e.g." is an abbreviation for "exempli gratia" which is Latin for "for example", making the statement more inclusive of other potential users. The terms "i.e." is misused at least seven other times throughout the document, and should be revised.	Agreed.
11	7,8	4	1.1	This section describes the process of identification of an off-site source for an IEC, and notes that " the investigator, however, should continue to address the IEC until the PA/SI and pertinent justification are submitted to the Department using the PA/SI form." Later in this section , it is noted that if it is found that the IEC is related to an off-site source, the DEP will seek reimbursement for their costs. However, there is no discussion of reimbursement to the investigator for the activities related to the off-site source if proven true. Even if they don't think they are the Responsible Party (RP), an investigator has a lot of work to do until they can prove they are not the RP. It appears that these investigators cannot get reimbursed from public funds at this point, though the avenue to sue an RP once identified is available. It seems more straight-forward if an investigator could apply for reimbursement. If the DEP was managing an IEC from the start, it would use public funds, and go after the RP when identified. The non-RP should not have that burden; they are a victim too and should get fast relief from public funds, which the DEP can recover since they would be pursuing the RP anyway. This is an issue with the IEC program.	For clarity, the following sentence : "The Department will conduct an investigation to identify the source of the contamination and then pursue cost recovery" will be inserted immediately before "If the off-site source claim..." Reimbursement for costs related to IECs by Spill Found is not an issue that can be addressed by this committee. It is recommended that this question would best be answered by contacting the Environmental Claims Administration (609-777-0101).

12	9	4	1.3	If a public supply well is found to be impacted, does this document require that letters will be sent to all residents potentially receiving water? Should there be a reference to the RP working with the water purveyor to ensure that notification is made (i.e. through existing Purveyor-run notification system)?	The Investigator is only required to notify the water purveyor in writing. The water purveyor will determine the need to notify the residents receiving water, consistent with the Safe Drinking Water Act regulations.
13	9	4	1.3	Last paragraph - I would characterize "every 2-weeks" as a minimum by saying something like "...at least once every 2-weeks.	Agreed.
14	10	4	1.4	Can compliance averaging be used for the three samples collected? If not, please specify.	Compliance averaging is not allowed per Section 4.1.4 of this guidance document.
15	10	4	1.4	Should specify who is authorized to design and install a POET system.	The DEP is not aware of any specific licenses other than a plumbing license that are needed to install a POET system.
16	10	4	1.4	Last paragraph of 4.1.4 - provide clarification regarding what analysis is required. Full analyte list vs just those COCs that had been previously detected.	Agreed, this section will be amended accordingly.
17	12	4	1.6	Initial CKE Map heading has redundant "GIS Compatible" wording. Keep in the next section that is about GIS deliverable.	Agreed, this heading will be revised accordingly.
18	15	4	1.8	I think you should move the IEC timeline to the front of section 4.	The DEP believes the IEC timeline is more appropriate at the end of the section.