CVP/SRAG Meeting
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Direct oversight

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NJDEP Site Remediation and Waste Management Program
Site is subject to compulsory direct oversight when:

- Statutory RI timeframe is missed
- Mandatory timeframe is missed
- Expedited site-specific timeframe is missed
- Schedule established per ACO or court order is missed
- Party conducting the remediation has been the object of two enforcement actions during a 5-yr period after 5/7/09
Direct Oversight – Key Points

➢ All timeframes apply to the site **NOT** the party who is conducting the remediation

➢ No notice from the NJDEP is required for compulsory direct oversight

➢ Once a site is in direct oversight, it is always in direct oversight until.............
Direct Oversight Requirements
N.J.A.C. 7:26C-14.2(b)

➢ Remediate as NJDEP directs, using an LSRP
➢ Submit feasibility study
➢ Implement remedy the NJDEP selects
➢ Submit public participation plan - 30 days
➢ Submit remediation cost review - 60 days
➢ Establish Remediation Trust Fund - 90 days
➢ NJDEP must approve disbursements
➢ Pay annual RFS surcharge
Adjustments to the Direct Oversight Requirements

N.J.A.C 7:26C-14.4 allows:

- NJDEP may adjust certain direct oversight requirements when it's in the public interest and protective of public health and safety and the environment
A party can **earn** certain adjustments to the direct oversight requirements by:

- Must be willing to remediate
- Comply with the direct oversight requirements
- Settle any penalty obligation
- Enter into an Administrative Consent Order (ACO)
What needs to be completed to earn DO ACO adjustments?

- Public Participation Plan submitted
- Initial RFS Cost Estimate submitted and approved
- RFS and surcharge (1st adjustment) - any form of RFS mechanism, other than self-guarantee, is allowed & established pre-ACO
Earning Adjustments to the Direct Oversight Requirements

- Earned Adjusted DO ACO requirements:
  - Establish new timeframes
  - If due date for submission of the RIR is met, then additional adjustments will be allowed
  - Stipulated penalties for any future non-compliance
Earning Adjustments to the Direct Oversight Requirements

➢ Additional *Earned* Adjustments Include:

- Proceed with the remediation without prior NJDEP approval
- Pay annual remediation fees in lieu of direct oversight costs
- Submittals continue to go through the Inspection/Review process
- Feasibility Study is not required to be submitted
- Person responsible for conducting the remediation chooses the protective remedy
Earning Adjustments to the Direct Oversight Requirements

➢ Pre-purchaser ACO:

- Buyer must not be related to any person who is the discharger or any way responsible; not the owner or operator of the site; not the discharge or a person in any way responsible

- ACO must be fully executed **PRIOR** to closing on the property

- ACO will establish new timeframes

- RFS required but annual surcharge is waived
Direct Oversight - Stats

➢ AONOCAPAS
  - 28 issued to date
  - 14 being drafted

➢ Full DO ACOs
  - 7 executed

➢ Adjusted DO ACOs
  - 16 executed to date
  - 33 in process

➢ Pre-purchaser ACO
  - 15 executed to date
  - 5 in process
When Does Direct Oversight End?

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NJDEP Site Remediation and Waste Management Program
When does direct oversight end?

➢ When a Response Action Outcome is issued for the full scope of remediation being addressed by the direct oversight case. (Note: As a precondition to the issuance of the RAO, all applicable remedial action permits must be obtained.)
Can Direct Oversight be triggered after a Response Action Outcome is issued?

➢ Yes

➢ If the Final Remediation Document is either rescinded (NFA) or invalidated (RAO) because the remediation is no longer protective, new remediation timeframes will be established (N.J.A.C. 7:26C-6.4(d)). Non-compliance with subsequent missed expedited or mandatory timeframes will again trigger direct oversight.