In House Rules
Friendly Reminders

**Attendance:**

- Please enter your first and last name and organization you represent in the chat box in lieu of a sign-in sheet.

- If you have dialed into the meeting, please email Amy.DaSilva@dep.nj.gov. We are unable to identify the names of dialed in attendees.
Questions/Speaking Etiquette:

• Please make sure your microphone is muted and your camera is off.

• To request the opportunity to ask a question, raise your hand and you will be called on in the order in which your hand is raised. If time is limited, only one person per organization will be acknowledged.

• When called on to speak, you may un-mute yourself and, if you would like, turn on your camera.

• When you have finished speaking, please re-mute yourself and turn off your camera.
Stakeholder Meeting Goals

Discussing the effects of the proposed rule change concepts.
  • ARRCS, N.J.A.C. 7:26C.
  • Technical Requirements (TRSR), N.J.A.C. 7:26E.

Summarizing the differences with the existing rules, by section.
  • This will not include discussion of rule chapter structure (organization, subsection, numbering, etc.).
  • Although a proposed rule change may be repeated throughout the chapter for consistency, we will discuss the change concept only once, given the time constraints of this meeting.

Obtaining the regulated community’s input and feedback on the proposed rulemaking concepts.
NJDEP Rulemaking Team

Assistant Commissioner’s Office, Contaminated Site Remediation & Redevelopment
• Judith Andrejko, Esq., Regulatory Officer / Facilitator

Remediation Review Element, Contaminated Site Remediation & Redevelopment
• Lynne Mitchell, Assistant Director / Rule Manager
• Samantha Gleisner

Bureau of Case Assignment and Initial Notice, Contaminated Site Remediation & Redevelopment
• Rafael Rivera, Section Chief

Bureau of Field Operations, Contaminated Site Remediation & Redevelopment
• Amy DaSilva
General Changes to N.J.A.C. 7:26C and 7:26E

• ARRCS 1.6
• ARRCS 7.3
• ARRCS 7.4
• TRSR 1.15
• TRSR Appendix A

Removing requirement for paper submittals and requiring electronic submissions to improve efficiency, save space, and contribute to the environmental impact of not using paper.
General Changes to N.J.A.C. 7:26C and 7:26E

- ARRCS 1.4
- ARRCS 2.2
- ARRCS 6.4
- ARRCS 9.10

Existing rule uses the term “invalidation” for when a response action outcome is not protective and the licensed site remediation professional either can’t make the necessary changes to the response action outcome or refuses to make the necessary changes.

The proposed concept of “annulment” would be used in situations when the licensed site remediation professional can’t change the response action outcome due to incapacitation, death, or non-renewal of license.
General Changes to N.J.A.C. 7:26C and 7:26E

- ARRCS 1.3
- ARRCS 1.7
- ARRCS 2.3
- ARRCS 10.6
- ARRCS 14.2
- ARRCS 16.2
- ARRCS Appendix B
- TRSR 5.2

Adding definition of “retained” to be consistent with statutory SRRA 2.0 additions
Comments? Questions?
Updates to ARRCS
N.J.A.C. 7:26C
1.2 Adding Site Remediation Professional Licensing Board Regulations, N.J.A.C. 7:26l, to the list of referenced rules.

1.3 Removing memorandum of agreement.

1.7 Adding language requiring a person responsible for conducting the remediation to respond to public inquiries in accordance with SRRA 2.0 requirements.
2.3 The Department proposes to note that a licensed site remediation professional does not have to be retained to conduct sampling or an investigation, provided that the sampling/investigation is not: (1) legally required; (2) conducted to obtain a response action outcome; and (3) conducted to investigate, clean up, or respond to any known, suspected, or threatened discharge of a contaminant. This language mirrors that in the statutory SRRA 2.0 additions.

2.4 Adding language based on the statutory obligations of a licensed site remediation professional regarding due diligence and remediation.
3.1 Timeframes run with the site regardless of who owns the property as noted in the statutory SRRA 2.0 additions.

3.3 Removing the word “entire” and replacing it with “contaminated”:

7:26C-3.3 Statutory and mandatory remediation timeframes
(a) The person responsible for conducting the remediation who is remediating any discharge that was identified or should have been identified (for example, through a preliminary assessment or site investigation) prior to May 7, 1999, shall complete the remedial investigation of the entire site . . .
3.5 Existing rule phrasing is unclear:

“a description of the cause or causes for the extra time needed to complete the work; . . .”

Stakeholders unsure how to request time to extend a timeframe. Proposed change asks for the reason timeframe not met and why extra time is needed.
Comments? Questions?
4.4 When a financial audit is conducted by the Department and it is determined that the person responsible for conducting the remediation is able to pay (does not have a financial hardship), then the person responsible for conducting the remediation will also have to pay...

4.5 and 4.6 Will include fees for new permit structure changes, based on revised ARRCS Subchapter 7 (discussion on Subchapter 7 to follow)
5.2 Proposed changes made to allow for residences, childcare centers, and small businesses to continue to be exempt from posting financial assurance when they move from the site.

5.5 The existing rule addresses revocation/termination of an environmental insurance policy, which are changes that happen mid-policy period. The Department is adding renewal/cancel, which are changes at the end of the policy term. This language ensures the rule addresses the full policy period.
5.6 Proposed changes made that the Department must approve the disbursement of remediation funding source when the site is in direct oversight, pursuant to the SRRA 2.0 statutory changes.

5.12 Removing environmental insurance policy and letter of credit from disbursements options because money cannot be disbursed from them.

5.1, 5.2, 5.9, and 5.14 New surety bond section per SRRA 2.0.
6.2 Adding that indoor air remediation standards must be considered when issuing a response action outcome (RAO).
Comments? Questions?
A licensed site remediation professional must be retained for the duration of the permit, pursuant to the SRRA 2.0 statutory changes.

7.2 Moved from existing ARRCS 7.4
• Who needs to have a permit.

7.3 Moved from existing ARRCS 7.2
• Deed notice requirements
  • Revise 30 days to 60 days to notify of municipal subdivision.
  • Incorporating current subdivision policy.
  • A process to terminate the deed notice is being added.
7.4 Moved from existing 7.3.
- Adding information for classification exception area (CEA) from existing 7.9.
- Adding information for CEA application map submissions.
- Ground water samples should be taken at least 90 days apart to lift the CEA.

7.5 Adding a new section for indoor air notification area including creating, maintaining, and removing the indoor air notification area based on the indoor air remediation standards. This was modeled after existing 7.3.
7.6 Moved from existing 7.10.

Specifying that if there is one permittee or multiple permittees that are not exempt from financial assurance, they must establish financial assurance; it was not limited to multiple permittees.

Residential, childcare, and small business owners are exempt from financial assurance regardless of if they relocate.

Removing provision to disburse money from financial assurance.
Adding a new section that will explain the single remedial action permit, focused permits, and the focused permit requirements.

- **Permit I** (soil remedial action permit with deed notice + no engineering control)
- **Permit II** (soil remedial action permit with presumptive remedy (not required))
- **Permit III** (soil remedial action permit with alternative remedy (pre-approved by Department))
- **Permit IV** (soil remedial action permit with historic fill area of concern only; only property owner)
- **Permit V** (ground water monitored natural attenuation (MNA) plume on-site)
7.8 Moved from existing 7.5.

Adding indoor air remedial action permit and notification area.

When applying for remedial action permit include a copy of any final remediation document that has been issued; not limited to just no further action letters.

Adding what to include in a ground water monitoring plan.
Comments? Questions?
7.9 Moved from existing 7.6.

Adding indoor air remedial action requirements.
7.10 Combining existing ARRCS 7.7, 7.8, and 7.9 regarding bi-certs and separating the requirements out by section / media (soil, groundwater, indoor air).

Results of any sampling must be submitted with bi-certs.

Inspections conducted at the site must be submitted with the bi-certs.

Adding bi-cert requirements for indoor air that were modeled after the ground water permit.
7.11 Renaming this section to “Administrative Changes.” Not changing the transfer / change application. Adding additional administrative changes.

• Address change is moving to this section
• Can remove statutory permittee if deceased
• Changing a permittee name
• Updating block and lot designations is free
• Updating contact information for existing permittee is free
N.J.A.C. 7:26C-7
(Continued)

7.12 Adding the addition or removal of a permit component as a trigger for a modification to account for changes made under the new remedial action permit paradigm.
   • Moved address change requirements to administrative section.

7.13 Remedial action permit termination.
   • Added revocation language.
7.3, 7.8, Appendix B  Clarifying process for a municipal subdivision and allowing 60 days for the changes to be made.

7.1, 7.3, 7.8, 7.9, 7.10, 7.12, and 7.13  Added notice in lieu of deed notice as an option.

7.8 and 7.10  Adding operation, maintenance, & monitoring plan for POETS and active ground water remedial action systems.
Comments? Questions?
9.5 Updating penalty table to account for the new remedial action permit paradigm.
   • Penalty amounts are consistent with previous amounts.

9.10 Adding revocation of a permit as a decision warranting a hearing.
   • Updated the name of the program to Contaminated Site Remediation and Redevelopment.

   • Clarifying purpose of the section - does not apply to Spill Act liens.
Updating signature requirements to meet the statutory requirements for recorded documents.

Simplifying the instructions.

Revising 30 days to 60 days for notification of property transfer.
Proposing modifications to the signature requirements, so that the Model Termination of Deed Notice meets the statutory requirements for recorded documents.

Simplifying the document instructions.
Adding new response action outcome (RAO) notices.

*Same as in the response action outcome guidance document*

- Transfer of monitoring well use (Redesignated Use)

*Also adding provisions for GIS layers in the following:*

- Indeterminate Vapor Intrusion (VI) Pathway Not Yet Evaluated
- Long-Term Vapor Intrusion Monitoring
Comments? Questions?
Updates to TRSR
N.J.A.C. 7:26E
1.7 Removing submission of a variance form.
   • Adding language to note you cannot vary from the requirements of the new focused permits.

1.8 “Contaminated site,” “immediate environmental concern (IEC),” and “remediation” definitions being updated to SRRA 2.0 statutory changes.
   • Adding definition of “direct contact” to reflect remediation standards pathway adoptions.
   • Adding definitions of “donor site or donor area of concern” and “receiving area of concern” for alternative fill.
1.11 Adding unoccupied structures, as added to statutory language in SRRA 2.0.

1.12 Removing the phrase “for a contaminated site.”
   • Clarifying that an initial receptor evaluation is required when conducting a preliminary assessment / site investigation regardless of whether contamination is known.
1.14 Removing phrase “door-to-door.”

1.15 Removing immediate environmental concern (IEC) form and spreadsheet requirement per the Department’s June 10, 2014 Listserv.

- Adding soil source area to the GIS map requirement.
- Removing Department of Health standards from the rules.
- Adding Department of Health notifications for childcare facilities and educational facilities.
Comments? Questions?
N.J.A.C. 7:26E-3.7 and 4.5

Adding requirement for conducting a vapor intrusion investigation if there is a vapor intrusion trigger.
4.1 Adding the Department’s Remedial Investigation Complete Policy Statement.
5.1 Adding soil gas screening levels, which are the trigger for doing an indoor air investigation.

5.2 Updating the section related to alternative fill, which is consistent with Department guidance.
5.5 Adding pre-purchaser defense in accordance with the Spill Act changes made in SRRA 2.0.

5.7 Submitting a revised classification exception area (CEA) in the remedial action report.
Comments? Questions?
Final Comments? Final Questions?
Thank You for Joining Us!