



RI COMPLETE STATUTORY DEADLINE

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Statutory Deadline for RI Completion

(N.J.S.A. 58:10C-27a(3))

Statutory Language:

“The department shall undertake direct oversight of a remediation of a contaminated site under the following conditions: ... unless a longer period has been ordered by a court, the person responsible for conducting the remediation has, prior to the date of enactment of N.J.S.A. 58:10C-1 et seq., failed to complete the remedial investigation of the entire contaminated site 10 years after the discovery of a discharge at the site and has failed to complete the remedial investigation of the entire contaminated site within five years after the date of enactment of N.J.S.A. 58:10C-1 et seq.”





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Who does it apply to?

Sites with discharges/CAOCs where the contamination was or should have been identified due to an obligation to complete a PA and/or SI **on or before May 7, 1999**, pursuant to:

- ISRA (N.J.A.C. 7:26B)
- UST Rules (N.J.A.C. 7:14B)
- Administrative or Court Order
- Remediation Agreement
- Spill Act Directive





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What must persons responsible for affected sites do?

"...complete the remedial investigation of the entire contaminated site within five years after the date of enactment of N.J.S.A. 58:10C-1 et seq."

Compliance date is May 7, 2014





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What sites are exempt from this provision?

- Sites being overseen by the Federal government
"Federal lead sites"
- Federal facilities
- Spill Act Exempt entities
- Sites that were in compliance due to a litigation settlement that occurred prior to May 7, 2009 or was pending on that date
- Sites with long-term monitoring after receiving a No Further Action determination from DEP





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What is the “penalty” for failure to comply?

- Placement in Direct Department Oversight which includes the following:
 - Required to establish a remediation trust fund
 - DEP will review and approve remediation documents
 - DEP will select the remedial action
 - Increased public involvement required
 - Enforcement fines and penalties





Statutory Deadline for RI Completion Policy Statement

Interpretation of SRRRA Requirement to Complete the Remedial Investigation by May 2014

http://www.nj.gov/dep/srp/timeframe/policy_statement.pdf

- This document defines/explains:
 - Entire contaminated site
 - Complete the remedial investigation
 - Nature and extent of the contamination
 - The need to attain remediation standards prior to issuance of a Response Action Outcome





What does “Entire Contaminated Site” mean?

“Entire contaminated site” means all discharges and CAOCs, which include:

- All environmental media (soil, ground water, surface water, sediment, and air)
- Any location where contamination exists onsite, or
- Any location where onsite discharges have migrated or are migrating offsite at a concentration above any remediation standard or screening criterion





What does “Complete the RI” mean?

“Complete the remedial investigation” means the following must be determined:

- Nature and extent of a discharge both on and off site
- Impacts and potential impacts to receptors presented by the discharge
- The need for a remedial action; if ‘yes’,
 - Collection of information to support the evaluation of possible remedial actions





What does “Complete the Remedial Investigation” mean?

“Complete the remedial investigation” means the submission of the following work done in compliance with the Technical Requirements:

- RI Report (N.J.A.C. 7:26E- 4.9)
- An updated Receptor Evaluation as part of the RI Report (N.J.A.C. 7:26E-4.9(a)2)
- A determination of whether a remedial action is required for the site/CAOC (N.J.A.C. 7:26E-4.9(a)6ii(2))





What does “Nature and extent of a contaminant” mean?

The “Nature and extent of a contaminant” means

- Delineation to the applicable remediation standards at the time the Remedial Investigation Report is submitted





What does “Nature and extent of a contaminant” mean?

Delineation **does not mean** that “clean zone” samples, indicating contaminant concentrations are at or below the applicable standards, are required for all environmental media to complete the remedial investigation





When does sufficient data exist?

- The LSRP should use:
 - Applicable regulations
 - Guidance
 - Professional judgment

to determine when sufficient data exists to demonstrate “the nature and extent of a discharge of a contaminant”





When is “clean zone” sampling required?

- Delineation “clean zone” sampling **is required** to demonstrate Attainment of the Applicable Remediation Standards
 - At the conclusion of the remedial action
 - Prior to the issuance of the RAO





Compliance

The Department wants as many of these sites to complete the Remedial Investigation phase before the statutory deadline!





What has the Department done to facilitate compliance?

- Identified cases that fit the criteria and have not completed the RI
- June 2013 letters to responsible parties
Based on the Department's data, complete remedial investigation is required by May 7, 2014
- Provided a mechanism to submit documentation to correct the Department's data





Recent Amendments to SRRA (P.L. 2013, c. 283)

The statute gives responsible parties an extension to complete the Remedial Investigation for sites that had the obligation to remediate on or before May 7, 1999





Meet Certain Criteria

The person responsible for conducting the remediation shall certify, in an application submitted electronically by the licensed site remediation professional retained by the person responsible for conducting the remediation, that the following 7 conditions have been met:





What are the 7 conditions?

1. An LSRP has been retained to conduct a remediation of the site
2. Mandatory remediation timeframes have been met for the site at the time of the certification





What are the 7 conditions?

3. The following reports, as applicable, have been submitted, are technically complete, and are in compliance with the Department's rules:
 - The Initial Receptor Evaluation
 - Immediate Environmental Concern source control report
 - Light non-aqueous phase liquid interim remedial measure report (free product)
 - Preliminary Assessment report
 - Site Investigation report





What are the 7 conditions?

4. A Remediation Funding Source (RFS) has been established, if required by section 25 of the Brownfield Act,

OR

5. A Remediation Trust Fund for the estimated cost of the RI has been established pursuant to section 25 of SRRA, if RFS was not required previously





What are the 7 conditions?

6. All known oversight costs not in dispute on the date of enactment of the bill (January 17, 2014), have been paid to the Department
7. All annual fees for the remediation and RFS surcharges have been paid to the Department





Meet Certain Criteria

- Application can only be made via the DEP Online portal
- Application will include the submittal of:
 - Extension request form
 - Authorization form signed by RP allowing LSRP to submit extension request





Meet Certain Criteria

- Submission must be made by March 7, 2014
- The submitted application shall be deemed approved upon receipt by the Department
- Receive extension of two (2) years, to March 7, 2016, to complete the remedial investigation





Delay in Receiving Funding From HDSRF

The statute also allows for an extension to complete the RI due to a delay in receiving state funding from the Hazardous Discharge Site Remediation Fund.





Delay in Receiving Funding From HDSRF

The person responsible for conducting the remediation shall certify, in an application submitted electronically to the Department, that an administratively and technically complete HDSRF application for funding has been submitted by March 7, 2014.





Delay in Receiving Funding From HDSRF

- Application can only be made via the DEP Online portal
- Application will include the submittal of:
 - Extension request form
 - Authorization form signed by RP allowing LSRP to submit extension request





Delay in Receiving Funding From HDSRF

- Submission must be made by March 7, 2014
- The submitted application shall be deemed approved upon receipt by the Department





Delay in Receiving Funding From HDSRF

- Every six months after the submission of the application for the extension, the applicant shall submit to the Department a certification with an update on the status of the funding application.





Delay in Receiving Funding From HDSRF

If the HDSRF provisions are met:

- Provides an extension of no more than two years after receipt of funding, or
- Provides an extension of no more than two years after the applicant is no longer eligible for funding





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The Department may undertake direct oversight of a remediation during the extension if:

- the conditions imposed under the bill are no longer met, or
- the person responsible for conducting the remediation fails to meet a subsequent mandatory remediation timeframe.





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The Department is required to post notice of all extensions on its website including the following information:

- The name of the site
- Location of the site, and
- The length of the extension





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For more information:

<http://www.nj.gov/dep/srp/timeframe/extension>





Questions?

Thank you!

