



**New Jersey Water Environment Association
Site Remediation Committee**

Presents a seminar on:

**Licensed Site Remediation Professional (LSRP) Program:
Hands-On Experience**

June 16, 2010

PROGRAM

8 AM Registration and Continental Breakfast

- 8:30 - 8:45 **Welcome:**
Joseph Fallon, *The ELM Group, Inc. (ELM) and NJWEA Site Remediation Committee Chair*
- 8:45 - 9:30 **LSRP: Program Vision**
Mark Pedersen, *Bureau Chief, NJDEP*
Bruce Katcher, Esq., *Manko Gold & Katcher (Governor Christie Transition Team)*
- 9:30 – 9:50 **Break**
- 9:50 – 10:50 **Status of Rules, Policy, & Guidance**
Biff Lowry, *NJDEP, Moderator*
Barry Frasco, *NJDEP*, Mark Pedersen, *NJDEP* and Mark Fisher, *LSRP, The ELM Group, Inc.*
- 10:50 – 11:50 **Opting In or Out of the LSRP Program**
Kenneth Goldstein *LSRP, Ransom Environmental, Moderator*
Mark Pedersen, *NJDEP*; Curtis Michael, Esq., *Hartz Mountain Real Estate, Inc.*
- 11:50 – 1:15 **Lunch**
- 1:15 – 2:00 **Case Study: Vapor Intrusion**
Jennifer Elder-Brady, *Arcadis*
John Boyer, *NJDEP*
- 2:00 – 2:45 **Case Study: IEC involving Groundwater**
Ira Whitman, *LSRP, Whitman*
Richard Britton, *LSRP, Whitman*
- 2:45 – 3:00 **Break**
- 3:00 – 4:00 **LSRP Panel Discussing Hypothetical Case Situations and Responses**
Joseph Hochreiter, *Senior Environmental Consulting, LLC, Moderator*
Michael Weaver, *LSRP, Atlantic Environmental Consulting Services, LLC*
Kenneth Goldstein, *LSRP, Ransom Environmental*
Mark Fisher, *LSRP, The ELM Group, Inc.*
David Robinson, *LSRP, Whitman*

Wine and Cheese Networking Reception to Follow



Site Remediation Reform

Mark J. Pedersen
Site Remediation Program

NJDEP SRP - Site Remediation Reform Act (SRRA) - Windows Internet Explorer

http://www.nj.gov/dep/srp/srra/

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NJDEP SRP - Site Remediation Reform Act (SRRA)

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Site Remediation Reform Act (SRRA)

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What's New

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Special Notice: If you are an LSRP planning to submit a document, please click [here](#).

Faced with the challenge of ensuring that more than 20,000 contaminated sites in New Jersey are properly remediated in a timely manner, the Department of Environmental Protection (NJDEP) worked closely with the New Jersey Legislature and stakeholders to develop legislation that will dramatically change the process used to conduct environmental investigations and cleanups. On May 7, 2009, Governor Jon Corzine signed the [Site Remediation Reform Act, N.J.S.A. 58:10C-1 et seq.](#) [pdf] ("SRRA") into law. The Governor also signed [Executive Order #140](#),



SRRA Resources

- Application for LSRP
- Background
- Forms
- Guidance Documents
- Training & Events
- Community Assistance
- Frequently Asked Questions (FAQ) and Program Contacts
- Remediation Funding Source Guide

Related Links



Current Stats

- Temporary LSRPs – 360 (as of April 30, 2010)

Case statistics *(as of April 30, 2010)

- “New” cases using LSRPs – 358
- Cases requesting to opt in – 66
- Total new cases '10 – 1296
- Total NFAs in '10 – 1690
- Documents submitted by an LSRP:
 - PA/SI – 51
 - RAO – 55
 - RAR – 8



Rule Strategy

- Propose interim rule as the final rule.
- Some amendments, fixes
- IPR-type process
- APA process – public comment
- Propose major revisions to Tech regs and a new ARRCs rule by May 2011
- Adopt final rules before May 2012



The Learning Curve

- Response Action Outcome (RAO)
- Mandatory/Regulatory Timeframes
- Receptor Evaluation (RE)
 - Initial vs. full evaluation
- Immediate Environmental Concern (IEC)
- New cases vs. Opting-in



Common Problems with RAOs

- Scope/type of remediation improperly described (e.g. says full site when it should say AOC, or says unrestricted when it should say limited restricted)
- AOCs are not addressed
- Building interior insert missing
- Inappropriately modified RAO insert
- RAO is being issued without confirmation that outstanding fee and oversight costs have been paid
- Wrong fee accompanying RAO
- Missing PI and/or case number



Common Problems with RAOs

- “LSRP ” is not truly an LSRP
- Phase 1/2 vs PA/SI; yet certified by LSRP that the RAO meets the rules.
- Wrong forms; no forms



Amend vs. Invalidate??????

During this transitional period, when the DEP discovers errors or omissions in a RAO:


- If the problems are administrative in nature, the Department may ask the LSRP to issue an amended RAO that will supersede the prior RAO.
- If the problems are technical in nature, the Department may invalidate the RAO. If the RAO is invalidated, the LSRP will issue a new RAO when the issues have been resolved.



Mandatory Vs. Regulatory

	Regulatory Timeframe	Mandatory Timeframe
■ Receptor Evaluation	9 months	1 year
■ IEC source control	9 months	1 year
■ LNAPL	9 months	1 year
■ PA/SI or UST SIR	9 months	1 year

IMPORTANT NOTE: TIMEFRAMES APPLY TO EXISTING
& NEW



Receptor Evaluation Time Frames

When did they really start?

- Although the regulatory timeframe and mandatory timeframe for an Initial RE is Nov. 26, 2010 and March 1, 2011 respectively, the following requirements applied as of Nov. 4, 2009:
- See NJAC 7:26E 1.17 and 1.18 (GW and VI evaluations)




!UPDATE!

- Cases that had knowledge of ground water contamination and have not completed their Receptor Evaluation for GW and VI,
and
Are not under site specific remediation timeframe or enforcement
- Will be considered to have started March 1, 2010.



Immediate Environmental Concerns

- Do you know what an IEC is????? Rules, guidance.
- **To be an IEC –must have 3 conditions**
 - **A discharged Hazardous Substance.**
 - **A path way linking Discharged substance to Receptor**
 - **A Receptor (human) being exposed above acceptable limits**
- Regulatory and Mandatory timeframes are on place now for all cases.
- **All** are vapors and potable contamination exceedences, **must** be reported to the Department per the tech regs.
- Case managers will be assigned to all new cases with IEC conditions.
- If you have a case manager, call them asap.
- If you are not familiar with the VIG, you need to be.



New cases - Processing

- All other new cases will go through the new review process
- DEP will be in “**compliance assistance**” mode for next 2 years; communication will be via phone calls, meetings, etc...
- No NODs
- Some new cases will have case manager assigned based on criteria in Section 21; case manager will decide on how to conduct reviews
- New annual fees will apply unless case manager assigned for the entire site



Opt In Requests

- “Request to Proceed without Department Pre-approvals” Form is **only** required for sites that have been continuously conducting remediation with Department oversight since prior to 11/4/09 and that want to proceed without the Dept’s pre-approval using a LSRP.
- Must wait for Department approval before submitting annual fee and proceeding without oversight.
- Sites that have not had Department oversight or that initiate remediation after 11/4/09 do **not** need to submit the Request to Proceed without Department Pre-approvals Form



Reminders

- As of May 2009, all persons responsible for conducting a cleanup have an affirmative obligation to remediate. Do not wait for the DEP to reach out to you. This include historic fill sites.
- As of Nov. 2009, all **new** cases must hire an LSRP and proceed with remediation without waiting for DEP approvals
- As of May 7, 2012 **all** cases will have to hire an LSRP



Stop Work Points

- LSRP/RP must communicate with DEP before proceeding with remediation under these conditions:
 - IEC conditions
 - Alternative Presumptive Remedy
 - Alternative or site-specific remediation standard that requires modeling
 - Bringing contaminated materials to a site above what is needed for grading.
 - Landfill closures and disruptions
 - Selection of a remedial action that will render the property un-useable.



Next Steps

- Stakeholder Process:
 - Over hundred volunteers
 - Steering Committee
 - Four workgroups:
 - Near Term Priorities
 - Measures of Success
 - Tech Regulations
 - Guidance Documents



Let's do it right

- Make sure you have read SRRRA
- Make sure you have read the 11/4/09 rules – ARRCs and Tech regs
- Make sure you have read the guidance docs
- Make sure you are on the listserv
- Make sure you know forms you need to submit
- Make sure you are talking to us!!!!!!

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Not sure what to do?

- Call us. There is a list of contacts on the website
- FAQs are going up shortly as are new guidance charts
- Webpage is being revamped to be more user friendly
- Sign up for the Listserv
- **<http://www.nj.gov/dep/srp/srra/>**



Site Remediation Reform:
Transition Team Issues
New Jersey Water Environment Association
June 16, 2010



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Governor Elect's Transition Team

- Subcommittee - Dep't of Environmental Protection
- Chair – Marcia A. Karrow
- 16 members and staff
- Comprehensive review of NJDEP operations, including Site Remediation
- Stakeholder input broad based
- Produced 21-page report
 - <http://www.state.nj.us/governor/news/reports/Environmental%20Protection.pdf>

General Recommendations Relevant to Site Remediation

- Leadership and Management
 - Establish environmental goals and priorities to protect natural resources and provide stable and predictable business climate for regulated community
 - Performance metrics: establish metrics to ensure accountability and prudent resource (human, fiscal) allocation

General Recommendations Relevant to Site Remediation (cont'd)

■ Regulatory Reform

- Transparent decision-making, adhering to the rule of law; proper use of sound science, economic and fiscal analysis
- Regulatory process - understandable and easy to navigate

Transition Overview – Principal Recommendations

- Site Remediation Reform
 - Continue to advance Site Remediation Reform Act (SRRA) reforms
 - Re-examine risk management strategies
- Land Use Reform
 - Only other program singled out for one of Principal Recommendations

Site Remediation Reform

- Description of Reforms
 - Licensed Site Remediation Professionals (LSRPs) given authority to oversee cleanups without NDJEP approvals at every step
 - NJDEP given increased authority to oversee cleanups where RP not meeting time frames and additional remedy selection authority

Site Remediation Reform – Policy Issues

- Guidance documents: concern with overuse and prescriptive nature; procedural and substantive requirements without APA rulemaking Trust in LSRPs to use professional judgment
 - Code of conduct – loss of license
 - Extensive educational, experiential criteria
- Inherent inflexibility of Tech Regs – inconsistent with exercise of professional judgment
- Short time frames under SRRA
 - To adopt Interim Rules (without notice/comment)
 - To develop guidance

Site Remediation Reform - Legal Issues

- In addition to remediation standards established under applicable statutes:
 - LSRP “shall apply any available and appropriate technical guidelines concerning site remediation as issued by the department”
 - NJDEP “shall provide interested parties the opportunity to participate in the development and review of technical guidelines”

Site Remediation Reform - Legal Issues (cont'd)

- Where “guidelines issued by the dep’t are not appropriate or necessary, in the professional judgment of the [LSRP], to meet the remediation requirements” – LSRP may use
 - Relevant EPA or other state guidance
 - “Other relevant, applicable and appropriate methods and practices that ensure the protection of the public health, safety and of the environment”

Site Remediation Reform - Legal Issues (cont'd)

- N.J.S.A.58:10B-12(b)3: “avoid the use of redundant conservative assumptions by the use of parameters that provide a wide margin of safety and which avoid the use of unrealistic conservative exposure parameters”

Recommended Actions

- Revise Interim rule to limit scope to minimum SRRA required elements
 - E.g., subject vapor intrusion to fuller public review and comment (+ separate recommendation to re-examine VI rules)
- Ensure guidance developed with stakeholder input and applied per APA
- Require documents to be submitted online
 - Expedites submittal
 - Reduces OPRA costs and requirements to produce

Recommended Actions (cont'd)

- Ensure timely establishment of LSRP Board
- Apply compliance assistance approach to all site remediation professionals and responsible parties
 - Not just LSRPs and new cases
 - Many new requirements apply to all cases
- Refrain from using overly conservative assumptions in standard setting and risk management strategies
 - E.g., reexamine groundwater classification in certain areas such as historic fill

Recommended Actions (cont'd)

- Provide clear guidance on reuse of recycled building materials and clear rules for class B recycling operations to encourage recycling
- Encourage reuse of concrete, asphalt and other construction materials at brownfields sites
- Natural Resource Damages
 - Transfer to Site Remediation Program
 - Adopt regulations regarding assessment, restoration and recovery that are transparent and predictable

Questions/Discussion

Thank you for your participation.

For further information, please contact:

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