

Administrative guidance for Licensed Site Remediation Professionals and Subsurface Evaluators when encountering contamination that is suspected to be unrelated to a known discharge undergoing remediation

When conducting remedial activities, Licensed Site Remediation Professionals and Subsurface Evaluators (LSRP/SSE) may encounter contamination that is suspected to be unrelated to the site under investigation (the subject site). This document provides administrative guidance for the LSRP/SSE under three scenarios (outlined below) depending on where the contamination was identified in relation to the subject site and whether the subject site is a heating oil tank at a residential property:

1. Contamination suspected to be unrelated to the subject site is identified **on** the subject site, and the subject site is **not** a heating oil tank at a residential property.
2. Contamination suspected to be unrelated to the subject site is identified **off** the subject site and the subject site is **not** a heating oil tank at a residential property.
3. Contamination is identified either **on or off** the subject site and the subject site **is** a heating oil tank at a residential property

Scenario 1: Contamination suspected to be unrelated to the subject site is identified on the subject site, and the subject site is not a heating oil tank at a residential property

If contaminants are identified on the subject site and they are suspected to be unrelated to a known discharge at the subject site, then the person responsible for conducting remediation of the subject site can retain an LSRP* and complete an investigation to demonstrate that the contaminants are the result of migration onto the property from an off-site source and the subject site is not a contributor to that contamination. The investigation must be conducted in accordance with N.J.A.C. 7:26E-3.9 or 3.10, as appropriate. Steps 1 through 4 below provide administrative guidance outlining this approach:

** A Subsurface Evaluator is limited to the remediation of an unregulated heating oil tank and may not perform an investigation pursuant to N.J.A.C. 7:26E-3.9 or 3.10. Only an LSRP is authorized to perform the investigation and submit documents associated with for an investigation conducted pursuant to N.J.A.C. 7:26E-3.9 or 3.10.*

1. For all sites, including ISRA sites, the person responsible for conducting remediation at the subject site, their designee, or the LSRP is required to immediately call the DEP Hotline (1-877-WARNDEP) to report the observed discharge (contaminants identified on the subject site) to the Department. The operator will note the information reported and provide an incident number. It is important to record the incident number; it will be needed later in the

process after the investigation pursuant to N.J.A.C. 7:26E-3.9 or 3.10, as appropriate, is completed (see Step b.ii below).

2. The person responsible for conducting remediation at the subject site is required to submit a Confirmed Discharge Notification (CDN) form within 14 days of the date that the contamination was detected.

Note: For circumstances where contamination on the site undergoing remediation was identified prior to issuance of this guidance and has been addressed as part of an existing SRP case, the person responsible for conducting remediation, their designee, or LSRP is not required to report the contamination as noted in Steps 1 and 2 above. In these circumstances, proceed to Step 4 of this guidance. The RAO-A issued under Step 4.b.ii. of this guidance can specifically reference the contaminant and media within the RAO-A without reporting a new incident number. In all other circumstances where contamination is identified on the site undergoing remediation and is suspected to be from an upgradient off-site source, Steps 1, 2, and 3 are required.

3. The person responsible for conducting remediation is required to retain an LSRP and notify the Department an LSRP has been retained to complete an investigation associated with the discharge reported in Step 1.
4. The LSRP is required to perform an investigation pursuant to N.J.A.C. 7:26E-3.9, "Site investigation - determination of off-site source of contamination in soil and ground water," or 3.10, "Site investigation - determination of off-site source of contamination in surface water and sediment," as appropriate.
 - a. If the investigation conducted pursuant to N.J.A.C. 7:26E-3.9 or 3.10 DOES NOT demonstrate that the observed contamination is from an off-site source and it is the result of a discharge or contributions from an on-site source, then the responsible party is required to remediate the contamination in accordance with N.J.A.C. 7:26C and N.J.A.C. 7:26E.
 - b. If the investigation conducted pursuant to N.J.A.C. 7:26E-3.9 or 3.10 demonstrates that the observed contamination is from an off-site source and the subject site is not contributing to that contamination, then the person responsible for conducting remediation or designee should:
 - i. Call the DEP Hotline (1-877-WARNDEP) and tell the operator that you are ***"reporting a discharge in soil/groundwater/surface water/sediment that is not related to my site under investigation and that the contamination is verified to be from an unknown off-site source."*** Provide the following information to the DEP Hotline operator even if you are not prompted to do so:
 - 1) Identify if the sampling conducted to confirm the ***verified unknown off-site source**** was completed on or off the subject site.

- 2) Identify the address and land use of the property where the sampling was conducted (residential or non-residential).
- 3) Identify all contaminants detected (related to the off-site source), contaminant concentrations, and the media that is impacted (i.e., ground water, surface water, soils, sediments etc.).
- 4) Identify whether a PA/SI* was conducted to confirm a verified unknown off-site source*.
- 5) Identify the program interest number of the subject site (the site where the off-site source investigation was performed).
- 6) Identify any available information regarding proximal receptors that may be impacted (schools, daycares, residences, etc.).
- 7) Obtain a new Incident Number from the DEP Hotline operator for the verified unknown off-site source.

* *In order to ensure proper data entry, it is essential that the caller specify this language for the DEP Hotline operator to accurately reflect the intent of the caller..*

- ii. The LSRP should then issue an Area of Concern RAO (RAO-A) for the contamination that was reported to the DEP Hotline in Step 1 above. The incident number that was initially provided (in Step 1) should be referenced along with the new incident number provided by the DEP Hotline Operator (Step b.i.6 above). The RAO insert “Contamination Remains On-Site due to Off-site Contamination” must also be completed and included within the RAO.
5. To assist the Department with properly locating the verified unknown off-site source, the Department requests the person responsible for conducting remediation submit the Electronic Data Deliverables (EDD) which support the verified unknown off-site source to the Department via email at srpedd@dep.nj.gov as applicable (EDD are not required for investigations associated with heating oil tanks that are used for on-site consumption in a one to four family residential building). Submittal of EDD to the email address will assist the Department in expeditiously evaluating risk to receptors. Submitting the EDD to the email address provided does not eliminate the requirement at N.J.A.C. 7:26E-1.6 to submit EDD with key document submissions.
 6. The LSRP or person conducting remediation may be contacted by the Department and asked to provide information such as analytical data and maps related to the identification of the verified unknown off-site source.

Scenario 2: Contamination suspected to be unrelated to the subject site is identified only off the subject site, and the subject site is not a heating oil tank at a residential property

If contaminants are encountered off-site (off of the subject site) during remediation of a subject site and they are suspected to be unrelated to the subject site (i.e., they have only been detected off the subject site and not on the subject site), then the person responsible for conducting remediation at the subject site does not have an obligation to investigate the source of the contamination unless that person is also a responsible party for the off-site property where the contamination was detected.

When this scenario is encountered, the LSRP/SSE or person responsible for conducting remediation should:

1. For all cases, including ISRA cases, Call the DEP Hotline (1-877-WARNDEP) and report that ***“an unknown off-site source of contamination has been identified.”*** Provide the following information to the DEP Hotline operator even if you are not prompted to do so:
 - a. Identify that the contamination was observed ***off*** of the subject site.
 - b. Identify the address of the off-site property and whether the off-site property (where the unknown off-site source of contamination was detected) is residential or non-residential.
 - c. Identify the contaminants, the concentrations, and the media that are impacted (soils, ground water, surface water, sediments, etc.) associated with the off-site contamination.
 - d. Identify that the detected unknown ***“off-site contamination was never detected on the subject site and all available information supports the conclusion that the contamination is unrelated to the subject site.”****
 - e. Identify the Program Interest Number of the site that was conducting the investigation that resulted in the detection of the unknown off-site contamination.
 - f. Identify any available information regarding proximal receptors that may be impacted (schools, child care centers, residences, etc.).
- * ***In order to ensure proper data entry, it is essential that the caller specify this language for the DEP Hotline operator to accurately reflect the intent of the caller.***
2. To assist the Department with properly locating the unknown off-site source, the Department requests that the LSRP submit Electronic Data Deliverables (EDD) for the observed contamination to the Department via email at srpedd@dep.nj.gov as applicable (EDD are not required for investigations associated with heating oil tanks that are used for on-site consumption in a one to four family residential building). Submittal of EDD to the email address will assist the Department in expeditiously evaluating risk to receptors. Submitting the EDD to the email address provided does not eliminate the requirement at N.J.A.C. 7:26E-1.6 to submit EDD with the next key document submission associated with the subject site.
3. The LSRP/SSE or person responsible for conducting remediation may be contacted by the Department and asked to provide information such as analytical data and maps related to the identification of the unknown off-site source.

Note: *Additional action will be required by the responsible party for the subject site if the source of contamination is ultimately determined to be related to the subject site.*

Scenario 3: Contamination is identified either on or off the subject site and the subject site is a heating oil tank at a residential property

If an LSRP/SSE encounters contaminants on or off the subject site and the subject site is a heating oil tank at a residential property, then the LSRP/SSE or person responsible for conducting remediation should:

1. Call the DEP Hotline (1-877-WARNDEP) and report that ***“an unknown source of contamination has been identified during a residential heating oil tank investigation.”**** Provide the following information to the DEP Hotline operator even if you are not prompted to do so:
 - a. Identify if the sampling conducted was completed “on the subject site” or “off the subject site.”
 - b. Identify the address where the contamination was detected and if detected “off the subject site,” identify whether the off-site property is residential or non-residential.
 - c. Identify the contaminants, the concentrations, and the media that is impacted (soils, ground water, surface water, sediments, etc.).
 - d. Identify that the ***contamination was identified during “a residential heating oil tank investigation.”****
 - e. Identify the Program Interest Number, if available, of the subject site (the site that was conducting the investigation that resulted in the detection of the unknown source of contamination).
 - f. Identify any available information regarding proximal receptors that may be impacted (schools, child care centers, residences, etc.).

* ***In order to ensure proper data entry, it is essential that the caller specify this language for the DEP Hotline operator to accurately reflect the intent of the caller.***
2. Please be advised, the LSRP/SSE or person responsible for conducting remediation may be contacted by the Department and asked to provide information such as analytical data and maps related to the identification of the unknown source.

Note: *Additional action will be required by the responsible party for the subject site if the source of contamination is ultimately determined to be related to the subject site.*