



Summary of EO 103 Site Remediation & Waste Management Program Timeframe Extension Actions

May 21, 2021





EO 103 and Timeframes

- February 1, 2021 Notice of Rule Waiver/Modification/Suspension
 - <https://www.nj.gov/dep/covid19regulatorycompliance/docs/srp-remedial-timeframes-20210201.pdf>
- Need to have LSRP retained:
 - By March 18, 2021 (45 days after Notice was signed) for existing cases
 - Pursuant to N.J.A.C. 7:26C-2.3 for new cases moving forward (and existing cases if current LSRP dismissed)





EO 103 and Timeframes

- Extends remedial action timeframes for remediations **subject** to statutory timeframes one year
 - May 2021 RTF or MTF extended to May 2022
 - May 2023 MTF extended to May 2024
- Extends timeframes for remediations **not subject** to statutory timeframes 455 days (including subsequent timeframes)
- If an RTF was extended to an MTF, both timeframes are extended the same amount of time (i.e., the MTF is not reset to two years from the new RTF)



2014 Statutory Universe (soil+impacted media)



- **May 6, 2019 remedial action RTF with no extensions**
 - Remedial action **MTF** was May 6, 2021 prior to Notice of Rule Waiver
 - Per Notice of Rule Waiver, new remedial action **MTF** will be May 6, 2022



2014 Statutory Universe (soil+impacted media)



- **May 6, 2019 remedial action RTF with one (1) year approved extension**
 - Remedial action **RTF** was May 6, 2020 prior to Notice of Rule Waiver
 - Per Notice of Rule Waiver, new remedial action **RTF** will be May 6, 2021
 - Per Notice of Rule Waiver, new remedial action **MTF** will be May 6, 2022





2014 Statutory Universe (soil+impacted media)

- **May 6, 2019 remedial action RTF with two (2) year approved extension**
 - Remedial action May 6, 2021 due date represents both **RTF** and **MTF** prior to Notice of Rule Waiver
 - Per Notice of Rule Waiver, new remedial action timeframe will be May 6, 2022 (represents both **RTF** and **MTF**)
- Extension request required only if extending the new established **MTF** (May 6, 2022)
 - Submit at least 60 days prior to May 6, 2022 **MTF** but not sooner than 6 months





2016 Statutory Universe (soil only)

- **May 6, 2019 remedial action RTF with no extensions**
 - Remedial action MTF was May 6, 2021 prior to Notice of Rule Waiver
 - Per Notice of Rule Waiver, new remedial action MTF will be May 6, 2022





2016 Statutory Universe (soil only)

- **May 6, 2019 remedial action RTF with one (1) year approved extension**
 - Remedial action **MTF** was May 6, 2021 prior to Notice of Rule Waiver
 - Per Notice of Rule Waiver, new remedial action **MTF** will be May 6, 2022





2016 Statutory Universe (soil only)

- **May 6, 2019 remedial action RTF with two (2) year approved extension request**
 - Remedial action May 6, 2021 due date represents both **RTF** and **MTF** prior to Notice of Rule Waiver
 - Per Notice of Rule Waiver, new remedial action timeframe will be May 6, 2022 (represents both **RTF** and **MTF**)
- Extension request required only if extending the new establish **MTF** (May 6, 2022)
 - Submit at least 60 days prior to May 6, 2022 **MTF** but not sooner than 6 months



2016 Statutory Universe (soil+impacted media)



- **May 6, 2021 remedial action RTF with no extensions**
 - Remedial action MTF was May 6, 2023 prior to Notice of Rule Waiver
 - Per Notice of Rule Waiver, new remedial action RTF will be May 6, 2022
 - Per Notice of Rule Waiver, new remedial action MTF will be May 6, 2024
- Extension request only required if extending new remedial action RTF (May 6, 2022)
 - Submit at least 30 days prior to May 6, 2022 RTF but not sooner than 6 months



2016 Statutory Universe (soil+impacted media)



- **May 6, 2021 remedial action RTF with one (1) year approved extension**
 - Remedial action RTF was May 6, 2022 prior to Notice of Rule Waiver
 - Per Notice of Rule Waiver, new remedial action RTF will be May 6, 2023
 - Per Notice of Rule Waiver, new remedial action MTF will be May 6, 2024
- Extension request required only if extending new established remedial action RTF (May 6, 2023)
 - Submit at least 30 days prior to May 6, 2023 RTF but not sooner than 6 months



2016 Statutory Universe (soil+impacted media)



- **May 6, 2021 remedial action RTF with two (2) year approved extension request**
 - Remedial action May 6, 2023 due date represents both **RTF** and **MTF** prior to Notice of Rule Waiver
 - Per Notice of Rule Waiver, new remedial action timeframe will be May 6, 2024 (represents both **RTF** and **MTF**)
- Extension request required only if extending the new establish **MTF** (May 6, 2024)
 - Submit at least 60 days prior to May 6, 2024 **MTF** but not sooner than 6 months





Non-statutory Cases

- Timeframes for all submittals listed in the Notice of Rule Waiver that are due between March 9, 2020 and the end date of EO 103 are extended 455 days
- Example (using DataMiner Case Tracking Tool)
 - Site investigation due March 10, 2020
 - New Due date for site investigation will be June 8, 2021 (March 10, 2020 + 455 days)
 - Soil-only: Remedial investigation will be due June 8, 2024 and remedial action will be due June 7, 2027
 - Soil+impacted media: Remedial investigation will be due June 8, 2026 and remedial action will be due June 7, 2031





Administrative Consent Orders

- Extensions for timeframes established in an Administrative Consent Order will mirror the type of case:
 - If the ACO is for a case that **is not subject** to statutory timeframes, the timeframes established in the ACO that are due between March 9, 2020 and the end date of EO 103 are extended for 455 days
 - If the ACO is for a case that **is subject** to statutory timeframes, the timeframes established in the ACO that are due between March 9, 2020 and the end date of EO 103 are extended for one year
 - **Note:** above bullets do not apply if an ACO issued on or after February 1, 2021 explicitly states the timeframes established already incorporate the extension pursuant to the Notice
- Subsequent timeframes are also extended





Statutory May 2014 soil-only cases

- Omitted from Notice of Rule Waiver
- Remedial action **RTF** February 6, 2019 [N.J.A.C. 7:26E-5.8(b)1i]
- Remedial action **MTF** February 6, 2021
- If submit extension request by May 1, 2021, NJDEP will extend **MTF** for one year, to February 6, 2022
 - https://www.nj.gov/dep/srp/srra/listserv_archives/2021/20210218_srra.html





Statutory Cases: ACOs & RIR

- Timeframe extension for submittal of remedial investigation reports set forth in an ACO and remediation is subject to statutory timeframes omitted from Notice of Rule Waiver
- For due dates between March 9, 2020 and August 16, 2021, inclusive, PRCR must submit timeframe extension request to Department by August 16, 2021
- On and after August 17, 2021 and until the Notice is no longer in effect, PRCR must submit extension request timely pursuant to ARRCs (requirements to submit extension requests 30 and 60 days prior to timeframe in effect)
- Department will:
 - Approve a 1-year extension if the case falls within the effective dates of the Notice
 - Extend all subsequent Remedial Action timeframes 1-year as allowed by the Notice
- PRCR may submit an extension request for any future due dates





Statutory Cases: ACOs & RAR

- Timeframe extension for submittal of remedial action report:
 - Set forth in ACO
 - Subject to statutory timeframes
 - Timeframe occurs **after** May 7, 2021
- Timeframe is automatically extended for **one year** from the date set forth in the ACO
- **No action is required** on the part of the person responsible for conducting the remediation or the retained LSRP; the timeframe(s) will automatically be extended by the Department





Regulated UST SI Report

- Timeframe extensions for submittal of site investigation reports as required for regulated underground storage tank remediations omitted from Notice of Rule Waiver
- For due dates between March 9, 2020 and August 16, 2021, inclusive, PRCR must submit timeframe extension request to Department by August 16, 2021
- On and after August 17, 2021 and until the Notice is no longer in effect, PRCR must submit extension request timely pursuant to ARRCs (requirements to submit extension requests 30 and 60 days prior to timeframe in effect)
- Department will:
 - Approve a 455-day extension if the case falls within the effective dates of the Notice
 - Extend all subsequent case specific timeframes listed in the Notice by 455 days
- PRCR may submit an extension request for any future due dates



EO 103 Extended Timeframes Due June 7, 2021 through August 16, 2021



- For timeframes for **non-statutory** cases extended by EO 103 due between June 7, 2021 (455 days from signing of EO 103) and August 16, 2021, inclusive:
 - PRCR will be given until August 16, 2021 to submit a timeframe extension request (whether for a regulatory timeframe or mandatory timeframe)
 - Extension requests submitted for submittal of such documents after August 16, 2021 will not be approved



EO 103 Extended Timeframes On or After August 17, 2021



- For timeframes for **non-statutory** cases extended by EO 103 due on or after August 17, 2021:
 - PRCR required to submit timeframe extension request a minimum of either 30 (regulatory) or 60 (mandatory) days prior to the timeframe and pursuant to ARRCS, N.J.A.C. 7:26C-3.2(b) and N.J.A.C. 7:26C-3.5(d), respectively
 - Description of the cause or causes of the need for the extension should not be limited to simply stating “because of COVID”
 - The three Notices, as well as EO 107, allowed for persons responsible for remediation to continue with remedial activities during this public emergency, and therefore other substantive causes need to be stated





Remedial Action Permit Applications

- If the PRCR withdrew a RAP application **submitted prior to March 1, 2021 for a statutory case** and the following conditions are met:
 - The Department has not issued either a Notice of Administrative or Technical Deficiencies for the original RAP application
 - The request to withdraw the RAP application was received by the Department prior to April 1, 2021
 - The revised RAP application is received on or before May 6, 2022
- Then an additional RAP application fee will not be charged when the subsequent RAP application is submitted provided
 - The request to withdraw the application was submitted to Gary Sanderson, Bureau Chief, Bureau of Remedial Action Permitting at Gary.Sanderson@dep.nj.gov





If LSRP Is Not Retained...

- If the person responsible for conducting the remediation did not retain an LSRP by March 18, 2021 (45 days after issuance of the February 1, 2021 Notice)
 - For timeframes due between March 9, 2020 and January 31, 2021, inclusive:
 - Timeframe is extended 270 days in accordance with the August 17, 2020 Notice
 - For timeframes due on or after February 1, 2021:
 - **Timeframe will not be extended any number of days** in accordance with the February 1, 2021 Notice





What Is Not Covered...

- Expedited site-specific timeframes **are not** covered by the Rule Waiver



Additional Information



www.nj.gov/dep/srp/executive_order/extension_information.html

