

**NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION
SITE REMEDIATION PROGRAM**

FEE GUIDANCE DOCUMENT

**Effective May 7, 2012
Version 1.1**

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I. GENERAL INTRODUCTION

The purpose of this guidance is to assist persons in determining what fees apply to them when they are doing business with the Department's Site Remediation Program and also, when those fees are due.

All of the administrative requirements for conducting a remediation, including remediation fees, are consolidated in the ADMINISTRATIVE REQUIREMENTS FOR THE REMEDIATION OF CONTAMINATED SITES (ARRCS) rules at Subchapter 4 (N.J.A.C. 7:26C-4). This does not mean, however, that all fees that are due and payable are consolidated in that Subchapter. For example, fees to be paid by a person conducting a linear construction project are set forth in ARRCS at N.J.A.C. 7:26C-16.3. Similarly, if you are an underground storage tank owner or operator, you are also subject to UST owner/operator fees, all of which remain in the Underground Storage Tank rules, N.J.A.C. 7:14B. It is therefore incumbent on every person to check all applicable rules and regulations to determine whether fees in addition to those discussed in this guidance are due and payable.

To aid in that regard, this guidance is arranged in eight sections. The first section describes the four types of fees that are codified in ARRCS Subchapter 4, including the Annual Remediation Fee, Individual Document Review Fees, Remedial Action Permit Fees, and Oversight Cost Billing.

The remaining sections of this guidance discuss fees and circumstances that are specific to UST owners/operators, persons that trigger Industrial Site Recovery Act (ISRA), persons who are remediating a discharge from an unregulated heating oil tank (UHOT), fees applicable to those persons engaged in linear construction projects, and finally which fees are applicable to municipalities. Child care center fees are currently under review and will be added to guidance document in near future.

Keep in mind the following as you read this guidance:

- ARRCS Subchapter 4 provides that the Department may annually reevaluate the annual remediation fee and the remedial action permit fee pursuant to formulas set forth in the ARRCS rules at N.J.A.C. 7:26C-4.2 and 5 respectively. Accordingly, these fees are subject to change. The Department will publish any revised fees in the Annual Site Remediation Reform Act Program Fee Calculation Report pursuant to N.J.A.C. 7:26C-4.2(c), in Subchapter 4 of the ARRCS rules, and in updated versions of this guidance.
- Examples provided throughout this guidance are for illustrative purposes only. This guidance does not take into consideration every combination or scenario. If your specific scenario is not discussed within this guidance and additional questions remain after reading this guidance, please contact the Department representative identified in Appendix B whose stated expertise most closely fits with your circumstances.
- It is important to note that the requirements for establishment of a Remedial Funding Source (RFS) and Financial Assurance (FA) are separate and distinct from the annual remediation and other fees included in Subchapter 4 of the ARRCS rules and discussed in this guidance. Persons who are obligated to maintain RFS or FA must continue to do so even once in the LSRP program. See Subchapter 5 in the ARRCS rule for RFS and FS

requirements and <http://www.state.nj.us.dep/srp/enforcement/rfs.htm> for additional related information.

II. ARRCS SUBCHAPTER 4 FEES AND OVERSIGHT COSTS

A. INTRODUCTION

This guidance applies to the following five categories of persons, each of whom is a “person responsible for conducting the remediation,” (see ARRCS at N.J.A.C. 7:26C-2.2 for a list of triggers and 2.3 for what that person is required to do once 2.2 is triggered):

- Any person who executes or is otherwise subject to a memorandum of agreement, memorandum of understanding, administrative consent order, remediation agreement, or administrative order to remediate a contaminated site;
- The owner or operator of an industrial establishment subject to N.J.S.A. 13:1K-6 et seq. for the remediation of a discharge;
- The owner or operator of an underground storage tank subject to N.J.S.A. 58:10A-21 et seq. for the remediation of a discharge;
- Any other person who discharges a hazardous substance or is in any way responsible for a hazardous substance, pursuant to N.J.S.A. 58:10-23.11g, that was discharged at a contaminated site, or
- Any other person who is remediating a site.

Subchapter 4 of ARRCS contains the following four types of fees, each of which will be discussed in this section:

- Annual Remediation Fees (N.J.A.C. 7:26C-4.3)
- Individual Document Review Fees (N.J.A.C. 7:26C-4.4)
- Remedial Action Permit Fees (N.J.A.C. 7:26C-4.6)
- Oversight Costs (N.J.A.C. 7:26C-4.7, 8 and 10)

B. DEFINITIONS

“Annual remediation fee” is the fee that the person responsible for conducting the remediation is required to pay to the Department on an annual basis when the person is required to conduct remediation.

“Child care center fees” are the fees that an owner or operator of a child care center are required to pay pursuant to the Administrative Requirements for the Remediation of Contaminated Sites N.J.A.C. 7:26C4.4. (currently under review)

“Contamination” or “contaminant” means any discharged hazardous substance as defined in N.J.S.A. 58:10-23.11b, hazardous waste as defined in N.J.S.A. 13:1E-38, or pollutant as defined in N.J.S.A. 58:10A-3.

“Contaminated media additive” is that part of the annual remediation fee that reflects a dollar value for each contaminated medium (ground water, surface water, or sediment) contaminated by a discharge at a site or area of concern. See, N.J.A.C. 7:26C-4.2(b)5 and 6.

“Contaminated area of concern” (CAOC) means, for the purpose of assessing the annual remediation fee, an area of concern, pursuant to the Technical Requirements for Site Remediation N.J.A.C. 7:26E-1.8, where contamination has been confirmed to have impacted soil above the applicable standard. **NOTE: Each contaminated area of concern is to be identified individually, as a separate and distinct area, for the purposes of calculating the applicable fee, and no areas of concern may be combined unless specified categorically.**

C. ANNUAL REMEDIATION FEE

1. Exceptions to paying the annual remediation fee

The following persons responsible for conducting the remediation do not have to pay the annual remediation fee in the following circumstances (see N.J.A.C. 7:26C-4.3(i)):

- Upon receipt of notice from the Department that it has assigned a full time case manager to the entire site; or
- If that person is the owner or operator of an unregulated heating oil tank system (see Section V of this guidance).

Additionally, a **governmental entity** that is not liable under the Spill Act at N.J.S.A. 58:10-23.11g.d(4) is required to pay the annual fee, however certain conditions and exceptions apply. Go to Section VIII of this guidance for a full discussion.

Finally, a **public entity, or a non-profit organization that meets the definition set forth at 26 U.S.C. §501(c)3**, that is remediating a brownfield development area is also required to pay the annual remediation fee, but the rules allow favorable treatment in calculating the fee. Go to Section VIII of this guidance for a full discussion.

2. Determining the Annual Remediation Fee using Contaminated Area of Concern Categories and Contaminated Media Additives

The annual remediation fee is structured to provide a monetary incentive for the person responsible for conducting the remediation to quickly remediate the site. This incentive arises from the fact that the annual remediation fee is based on the number of contaminated areas of concern and on the types of contaminated media (ground water, sediment, and ground water contaminated above a Surface Water Quality Standard that is migrating into surface water). As remediation progresses, such that areas of concern and/or contaminated media are remediated, the total annual remediation fee will necessarily decrease for the site.

To put it in the form of an equation:

$$\text{The annual remediation fee} = \text{The contaminated area of concern Category fee} + \text{The contaminated media additive fee}$$

Where:

The **contaminated area of concern Category fee** is based upon the number of areas of concern at the particular site; and

The **contaminated media additive fee** is based on the number of contaminated media at the site

To calculate the **contaminated area of concern fee**, the person responsible for conducting the remediation should:

- Determine how many contaminated areas of concern exist on site;
- Determine which contaminated area of concern fee category (discussed below) applies;
- Multiply the base fee set forth at N.J.A.C. 7:26C-4.3 by the multiplier for that category.

To calculate the **contaminated media fee**, the person responsible for conducting the remediation should:

- Determine how many media are contaminated at the site; and
- Multiply that number by the contaminated media base fee set forth at N.J.A.C. 7:26C-4.3(a)2;

So, the annual fee equation presented above can be further refined as follows:

$$\text{Annual Fee} = (\text{CAOC Base fee} \times \text{Category multiplier}) + (\text{CM Base fee} \times \text{Number of contaminated media})$$

Where: **CAOC** = Contaminated Areas of Concern

CM = Contaminated Media

The next two sections of this guidance discuss the Contaminated Area of Concern Categories and the Contaminated Media Additive.

3. Contaminated Area of Concern Categories

The contaminated area of concern fee consists of four fee categories which are described in the ARRCs rules at N.J.A.C. 7:26C-4.2(b)4. Each category is listed and described below.

Category 1: 0 - 1 CAOCs; (\$450); Four types of CAOCs fall into Category 1:

- Zero or one areas of concern, none of which consists of contamination from a regulated underground storage tank (regulated underground storage tanks fall in Category 2 and higher)

- Where historic fill is the only contaminated area of concern (See Appendix A for further discussion and example of historic fill);
- The number of CAOCs has not been determined based on the information known at the time the fee is calculated or
- Where a single regulated heating oil tank system is the only area of concern at the site.

For example, consider a CAOC that resulted from a contamination hot spot impacting soils, only. Here, there is one CAOC, and therefore the applicable category is Category 1.

Taking the above example one step further, let's say the hot spot also resulted in a plume of contaminated ground water. There is still only one CAOC, and the applicable category is Category 1. Additionally, since ground water is impacted, the contaminated media fee (discussed below) also applies.

Taking the above example one more step, let's say that the soil hot spot is remediated but the contaminated ground water plume remains to be remediated. There are now zero contaminated areas of concern, and the applicable category is Category 1. Again, however, since ground water is impacted, the contaminated media fee (discussed below) also applies.

The fee for Category 1 sites is the base fee. For 2012, the base fee is \$450 (see N.J.A.C. 7:26C-4.3(a)2).

Note: Category 1 Fees also may apply when all CAOCs and impacted media are remediated before the initial annual fee is due and the annual remediation fee is being submitted as required prior to the issuance of the RAO.

Category 2: 2 - 10 CAOCs; (\$900); Two types of CAOCs fall into Category 2:

- Those sites with two to 10 CAOCs; or
- Those sites on which are located any number of regulated underground storage tank systems, except a single regulated heating oil tank system provided there are no other soil CAOCs at the site.

Note:As an example, if the site contains 15 regulated underground storage tank system areas and these were the only areas of concern at the site, the person would be subject to Category 2 fees. However, if this same site also had one other type of contaminated area of concern, the Department would consider the number of areas of concern at this site as 16, and the person would be subject to Category 3 fees.

The fee for Category 2 sites is two times the base fee. For 2012, the Category 2 fee is \$900 (see N.J.A.C. 7:26C-4.3(a)2).

Category 3: 11 - 20 CAOCs; (\$5000); Three types of CAOCs fall into Category 3:

- Those sites with 11 to 20 soil CAOCs;
- Those sites with 11 through 20 soil CAOCs, at least one of which is a contaminated regulated underground storage tank area of concern; or
- There is at least one sanitary landfill area of concern, whether by itself or with any other contaminated area of concern.

The fee for Category 3 sites is 11 times the base fee. For 2012, the Category 2 fee is \$5000 (see N.J.A.C. 7:26C-4.3(a)2).

Category 4: >20 CAOCs; (\$9500); Two types of CAOCs fall into Category 4:

- Those sites with more than 20 soil CAOCs; or
- Those sites with more than 20 soil contaminated areas of concern, at least one of which is a contaminated regulated underground storage tank area of concern.

The fee for Category 4 sites is 22 times the base fee. For 2012, the Category 2 fee is \$9,500 (see N.J.A.C. 7:26C-4.3(a)2).

4. Contaminated Media Additives

Contaminated media additives apply when contaminants have impacted ground water, surface water and/or sediments (see N.J.A.C. 7:26C- 4.2(b)6). Media fees must always be accompanied by a CAOC Category Fee above (i.e., 0-1 CAOC at a minimum)

The **Ground Water Contaminated Media Additive** applies when ground water contamination above the standard is present at a site. The person responsible for conducting the remediation is only to include the contaminated ground water additive once for each site, regardless of the size of the plume or the number of plumes (distinct or comingled) at the site. This contaminated media - ground water additive applies until a ground water remedial action permit has been issued and/or an LSRP has issued a RAO for all of the contaminated ground water attributable to the site. A contaminated ground water additive applies to sites conducting background ground water investigations until that contamination is proven to be unrelated to the site. See Appendix A for further discussion and example on historic fill as it relates to the groundwater media additive.

The **Sediment Contaminated Media Additive** applies when sediments are contaminated above the applicable screening value specified in the Department's "Guidance for Sediment Quality Evaluation" (<http://www.nj.gov/dep/srp/regs/sediment/>) and the contaminant is attributable to the site. This contaminated media - sediment additive applies until an LSRP has issued an RAO for all of the contaminated sediment attributable to the site.

The **Ground Water Migrating into Surface Water Contaminated Media Additive** applies when there is an ongoing, unpermitted discharge from ground water at the site to surface water at levels that exceed the applicable Surface Water Quality Standards, N.J.A.C. 7:9B. The contaminated surface water additive applies until an LSRP has determined that the discharge to surface water no longer exceeds the Surface Water Quality Standards.

For 2012, the fee for each contaminated media is \$1,400 (see N.J.A.C. 7:26C-4.3(a)2).

5. Annual Remediation Fee Table

The following table summarizes the annual remediation fee categories and the contaminated media additives discussed above.

Annual Remediation Fees for 2012		
Citation	Fee	Citation Summary
N.J.A.C. 7:26C- 4.3(a)2i	\$450	Category 1: 0-1 CAOC
N.J.A.C. 7:26C- 4.3(a)2ii	\$900	Category 2: 2-10 CAOC
N.J.A.C. 7:26C- 4.3(a)2iii	\$5,000	Category 3: 11-20 CAOC
N.J.A.C. 7:26C- 4.3(a)2iv	\$9,500	Category 4: >20 CAOC
N.J.A.C. 7:26C- 4.3(a)2	\$1,400	Media – Ground Water
N.J.A.C. 7:26C- 4.3(a)2	\$1,400	Media – Sediment
N.J.A.C. 7:26C- 4.3(a)2	\$1,400	Media – Ground Water Migrating into Surface Water

6. Submitting the Annual Remediation Fee with the Reporting Form

After identifying the number of CAOCs and the applicable contaminated media additives, and calculating the amount of the annual fee, the person responsible for conducting the remediation should then submit the fee with the “Annual Remediation Fee Reporting Form” (see N.J.A.C. 7:26C- 4.3(a)3 and 4).

7. Annual Remediation Fee Due Dates

- Due dates for fees where contamination was discovered and remediation began **after** May 7, 2012

For persons who began conducting remediation after May 7, 2012, the first annual remediation fee is due upon the earliest of the following:

- 1) The submittal of the preliminary assessment report;
- 2) The submittal of a site investigation report;
- 3) The submittal of the first remedial phase document; or
- 4) Forty-five days after the date the person responsible for conducting the remediation is required to notify the Department of the name and contact information of the LSRP hired to conduct the remediation and of the scope of the remediation, after the occurrence of one of the triggering events listed under N.J.A.C. 7:26C-2.3(a)2i through iv (see N.J.A.C. 7:26C-4.3(a)3).

- Due dates for fees where remediation began **before** May 7, 2012

For persons who began conducting remediation before May 7, 2012, the first annual remediation fee is due on June 20, 2012, the date that falls 45 days from the May 7, 2012 deadline for those persons to hire an LSRP.

The payment of the second and subsequent annual remediation fees is staggered throughout the year based on the county in which the site is located to spread the task of creating, mailing, and processing the volume of invoices for these cases throughout the year. To determine the grouping of the counties, the Department inventoried the number of known contaminated sites in each county and then grouped the counties such that there would be approximately the same

number of sites in each group, and the number of payments that the Department would be required to process would be approximately equal in each quarter of the year.

The amount due for the first annual remediation fee is a prorated amount based on when the second annual remediation fee is due. The amounts due for each set of counties are listed in lines 1 through 4 of proposed Table 4-1 (see N.J.A.C. 7:26C-4.3(a)4i), reproduced below.

Note: Table 4-1 only applies to persons who began conducting remediation before May 7, 2012 without an LSRP and are continuing remediation after hiring an LSRP by the May 7, 2012 deadline. Prorating does NOT apply to persons who opted in to the LSRP program prior to May 7, 2012 and have already been billed their first annual remediation fee. These persons will receive their next annual remediation fee invoice a year after the first billing date and annually thereafter.

Table 4-1

I. County of Origin of Site	II. Fee Amount Due June 20, 2012	III. Number of Contaminated Media	Initial Fee Amount By Category				VIII. Anniversary Date for Second and Subsequent Annual Remediation Fees
			IV. 0-1 Contaminated Areas of Concern Cat. 1	V. 2-10 Contaminated Areas of Concern Cat. 2	VI. 11-20 Contaminated Areas of Concern Cat. 3	VII. >21 Contaminated Areas of Concern Cat. 4	
1. Hudson, Middlesex, Monmouth	25% of Full Annual Remediation Fee	No Contaminated Media	\$ 113	\$ 225	\$ 1,250	\$ 2,375	September 1, 2012 and each September 1 thereafter
		1 Contaminated Media	\$ 463	\$ 575	\$ 1,600	\$ 2,725	
		2 Contaminated Media	\$ 813	\$ 925	\$ 1,950	\$ 3,075	
		3 Contaminated Media	\$ 1,163	\$ 1,275	\$ 2,300	\$ 3,425	
2. Atlantic, Hunterdon, Morris, Passaic, Union	50% of Full Annual Remediation Fee	No Contaminated Media	\$ 225	\$ 450	\$ 2,500	\$ 4,750	December 1, 2012 and each December 1 thereafter
		1 Contaminated Media	\$ 925	\$ 1,150	\$ 3,200	\$ 5,450	
		2 Contaminated Media	\$ 1,625	\$ 1,850	\$ 3,900	\$ 6,150	
		3 Contaminated Media	\$ 2,325	\$ 2,550	\$ 4,600	\$ 6,850	
3. Cape May, Cumberland, Gloucester, Mercer, Ocean, Salem, Somerset, Sussex, Warren, Out-of-State	75% of Full Annual Remediation Fee	No Contaminated Media	\$ 338	\$ 675	\$ 3,750	\$ 7,125	March 1, 2013 and each March 1 thereafter
		1 Contaminated Media	\$ 1,388	\$ 1,725	\$ 4,800	\$ 8,175	
		2 Contaminated Media	\$ 2,438	\$ 2,775	\$ 5,850	\$ 9,225	
		3 Contaminated Media	\$ 3,488	\$ 3,825	\$ 6,900	\$ 10,275	
4. Bergen, Burlington, Camden, Essex	100% of Full Annual Remediation Fee	No Contaminated Media	\$ 450	\$ 900	\$ 5,000	\$ 9,500	June 1, 2013 and each June 1 thereafter
		1 Contaminated Media	\$ 1,850	\$ 2,300	\$ 6,400	\$ 10,900	
		2 Contaminated Media	\$ 3,250	\$ 3,700	\$ 7,800	\$ 12,300	
		3 Contaminated Media	\$ 4,650	\$ 5,100	\$ 9,200	\$ 13,700	

For example, Hudson County is one of the counties set forth at line 1 of Table 4-1. For a site located in Hudson County, the due date for the second annual remediation fee is September 1, 2012. That person's first annual remediation fee, due on June 20, 2012, is 25 percent of the full annual remediation fee, which represents the three months until the second annual remediation fee is due.

The date that the second annual remediation fee is due to the Department is also determined by the county in which the site is located, as indicated for each set of counties listed in lines 1

through 4 of Table 4-1 above. **Using the example from above**, the anniversary date for the second annual remediation fee for a site located in Hudson County is September 1, 2012; all subsequent annual remediation fees would be due on September 1 of each following year.

The amount due for the second annual remediation fee and all subsequent annual remediation fees is the full annual remediation fee as indicated in line 4 of Table 4-1, irrespective of the county in which the site is located.

If a site is located in more than one county, the date that the annual remediation fee is due shall be based on the county that first appears in Table 4-1.

The annual remediation fee submittal due date establishes the anniversary date for that remediation for submittal of subsequent annual remediation fees. Each year until an LSRP has issued an RAO for all CAOCs and all contaminated media at the site, the person responsible for conducting the remediation must pay the annual remediation fee as the Department directs in its annual remediation fee invoice (see N.J.A.C. 7:26C-4.3(a)5).

8. Increases and Reductions in amount of annual remediation fee

If the person responsible for conducting the remediation determines that **additional** contaminated soil areas of concern exist or that **additional** environmental media are contaminated, that person is required to let the Department know that the CAOC portion or the contaminated media portion of the annual fee calculation may need to be adjusted upwards. The person is required to notify the Department at least 90 days prior to the annual remediation fee anniversary date (see N.J.A.C. 7:26C-4.3(e), by submitting an Annual Remediation Fee Reporting Form. The Department will reflect the fee increase in the annual remediation fee invoice it issues for the remediation.

Conversely, if the person responsible for conducting the remediation receives an RAO for one or more CAOCs or contaminated media such that the net result is **fewer** contaminated areas of concern or contaminated media, that person may request the Department to lower the annual fee. To do so, the person is required to notify the Department by submitting the Annual Remediation Fee Reporting Form at least 90 days prior to the annual remediation fee anniversary date. The person must also submit, with the Form, adequate documentation of the basis for the reduction (see N.J.A.C. 7:26C-4.3(d)). The Department will review the request, and if acceptable, the reduced fee will be reflected in the next annual remediation fee invoice.

All fees must be paid to the Department before the RAO is issued. The initial annual fee shall be paid before RAO issuance, even in those cases involving the completion of the entire remediation before any of the events listed above.

NOTE: If an LSRP issues an RAO for all CAOCs and all contaminated media, the person responsible for conducting the remediation is no longer required to pay an annual remediation fee. However, if applicable, Remedial Action Permit fees detailed in Section II.E. below, as established in the Administrative Requirements for the Remediation of Contaminated Sites N.J.A.C. 7:26C-4.6, still apply.

D. INDIVIDUAL DOCUMENT REVIEW FEES

Individual document review fees that apply to persons remediating unregulated heating oil tanks and that apply to child care center certifications are discussed in Sections V and VI of this guidance.

The following individual document review fees are only due if the person is NOT subject to the annual remediation fees for CAOC and/or media additives discussed above: submittal of a biennial certification and submittal of a confidentiality claim. These certifications/claims, discussed in detail below, should be submitted to the Department on the appropriate form or questionnaire available at www.nj.gov/dep/srp/srra/forms, and should be accompanied by the applicable individual document review fee (N.J.A.C. 7:26C-4.4(a)3 and 5).

Any person responsible for conducting the remediation who is submitting a proposal for a discharge to ground water is required to submit a fee with the proposal (see N.J.A.C. 7:26C-4.4(c), regardless of whether the person is also required to pay the annual fee.

1. Biennial Certification Fees (without a Remedial Action Permit)

When a person responsible for conducting the remediation has implemented a remedial action that includes institutional and/or engineering controls, and the Department has not yet issued a remedial action permit for the operation, maintenance and monitoring of the remedial action, the person is required to submit a biennial certification fee with each biennial certification (see N.J.A.C. 7:26C-4.4(a)3). The biennial certification fee is \$375.

2. Confidentiality Claims

The person responsible for conducting the remediation who wishes to assert a confidentiality claim in accordance with N.J.A.C. 7:26C-15.1(a)2 concerning information submitted to the Department pursuant to the requirements of N.J.A.C. 7:14B, N.J.A.C. 7:26B, N.J.A.C. 7:26C, N.J.A.C. 7:26D, and/or N.J.A.C. 7:26E, is required to submit a review fee when submitting documentation to support such a claim to the Department for review. The confidentiality claim fee is \$500.

3. Discharge to Ground Water Proposal Fee

A person responsible for conducting the remediation that requires a Discharge to Ground Water approval from the Department is required to submit a fee with the proposal (see N.J.A.C. 7:26C-4.4(c)). The discharge to ground water proposal fee is \$350.

Individual Document Review Fees		
Citation	Fee	Citation Summary
N.J.A.C. 7:26C-4.4(a)3	\$375	Biennial certification fee (without a Remedial Action permit)
N.J.A.C. 7:26C-4.4(a)5	\$500	Confidentiality claim
N.J.A.C. 7:26C-4.4(c)	\$350	Discharge to ground water proposal fee

E. REMEDIAL ACTION PERMIT FEES

Remedial action permit (RAP) fees are codified in the ARRCs rules at N.J.A.C. 26C-4.6, and

summarized below. RAP fees are applicable to soil and ground water remediation components of a site clean-up such as Deed Notice, Declaration of Environmental Restriction, Classification Exception Area, or on-going active ground water remediation system requiring long-term operation and maintenance. (For existing cases with these types of controls in place currently, the permit fees will not apply until converted to a remedial action permit).

Detailed guidance documents listed below should be consulted for more information:

Soil:

http://www.nj.gov/dep/srp/guidance/srra/draft_rem_action_permit_guidance_soils.pdf

Ground Water:

http://www.nj.gov/dep/srp/guidance/srra/draft_rem_action_permit_guidance_gw.pdf

Remedial Action Permit Fees for 2012		
Citation	Fee	Citation Summary
Application, Modification, Transfer, Termination Fees		
N.J.A.C. 7:26C-4.6(a)	\$600	Soil Remedial Action - Permit Application
N.J.A.C. 7:26C-4.4(a)	\$400	Soil Remedial Action - Permit Modification
N.J.A.C. 7:26C-4.6(a)	\$300	Soil Remedial Action - Permit Transfer
N.J.A.C. 7:26C-4.6(a)	\$600	Soil Remedial Action - Permit Termination
N.J.A.C. 7:26C- 4.6(a)	\$800	GW Remedial Action – Natural Attenuation Permit Application
N.J.A.C. 7:26C- 4.6(a)	\$600	GW Remedial Action - Natural Attenuation Permit Modification
N.J.A.C. 7:26C- 4.6(a)	\$300	GW Remedial Action - Natural Attenuation Permit Transfer
N.J.A.C. 7:26C- 4.6(a)	\$800	GW Remedial Action - Natural Attenuation Permit Termination
N.J.A.C. 7:26C-4.6(a)	\$1,000	GW Remedial Action – Active System Permit Application
N.J.A.C. 7:26C-4.6(a)	\$800	GW Remedial Action – Active System Permit Modification
N.J.A.C. 7:26C-4.6(a)	\$300	GW Remedial Action – Active System Permit Transfer
N.J.A.C. 7:26C-4.6(a)	\$1,000	GW Remedial Action – Active System Permit Termination
Annual Fees		
N.J.A.C. 7:26C-4.6(b)	\$300	Soil Annual – with a deed notice without engineering controls
N.J.A.C. 7:26C-4.6(b)	\$550	GW Annual – natural attenuation remedial action
N.J.A.C. 7:26C-4.6(b)	\$320	Soil Annual – with a deed notice and engineering controls
N.J.A.C. 7:26C-4.6(b)	\$650	GW Annual – any other ground water remedial action

F. OVERSIGHT COSTS BILLING (Hour for Hour Billing)

The Department will maintain the practice of assigning dedicated staff to oversee remediation on existing cases, and billing the person responsible for conduction remediation for related oversight costs. In addition, the Department has identified circumstances where it will assign dedicated staff to oversee remediation efforts. When the Department determines that the assignment of dedicated staff is necessary, in addition to the annual remediation fee or other required fees noted herein the person responsible for conducting remediation is also required to pay the Department’s oversight costs, as reflected in periodic invoices, pursuant to N.J.A.C. 7:26C-4.3(g) and 4.7(a).

Circumstances that trigger the assignment of dedicated staff thereby requiring payment of Department oversight costs include:

- Immediate Environmental Concern (IEC) cases
- Direct oversight cases pursuant to SRRA, N.J.S.A. 58:10C-28
- Emergency response cases

Circumstances that may trigger the assignment of dedicated staff include:

- Brownfield Development Area (BDA) cases (guidance under development)
- State and Federal Facilities
- State or Federally funded projects
- Federally regulated sites through CERCLA or RCRA

Should your specific circumstance not be adequately addressed in this Guidance, Appendix B below includes a list of contacts in specific categories of interest. Select the most appropriate category for your circumstances and contact the designated Department representative for assistance.

III. REGULATED UNDERGROUND STORAGE TANK NON-REMEDIATION FEES

Non-remediation fees contained in the Underground Storage Tank rules at N.J.A.C. 7:14B-3 are summarized below. These fees are for the registration, modification, installation and closure of an underground storage tank system and associated apparatus. These non-remediation fees apply irrespective of when remediation was initiated.

UST Non-Remediation Fees		
Citation	Fee	Citation Summary
N.J.A.C. 7:14B-3.1	\$150	The owner or operator of an underground storage tank system shall submit a Registration Fee for each facility upon registration of the facility with the Department.
N.J.A.C. 7:14B-3.2(b)	\$150	The owner or operator shall pay the Facility Certification fee per facility for the three year facility certification cycle and after receiving an invoice from the Department within the time frame set forth in the invoice.
N.J.A.C. 7:14B-3.3	\$35	The Fee for duplicate Registration Certificates per document

UST Non-Remediation Fees		
Citation	Fee	Citation Summary
N.J.A.C. 7:14B-3.5(c)	\$450	Permit for the installation or substantial modification of an underground storage tank system.
N.J.A.C. 7:14B-3.10(a)1	\$50	Nonrefundable examination application fee (see N.J.A.C. 7:14B-3.10(d) below).
N.J.A.C. 7:14B-3.10(a)2	\$375	Individual UST Certification (see N.J.A.C. 7:14B-3.10(f) below)
		Table continued next page
N.J.A.C. 7:14B-3.10(a)3	\$50	UST Business Firm Certification (see N.J.A.C. 7:14B-3.10(e) below).
N.J.A.C. 7:14B-3.10(a)4	\$375	Renewal of Individual UST Certification.
N.J.A.C. 7:14B-3.10(a)5	\$50	Renewal of UST Business Firm Certification.
N.J.A.C. 7:14B-3.10(a)6	\$30	Amendment to Individual UST Certification card and certificate (see N.J.A.C. 7:14B-3.10(g) below).
N.J.A.C. 7:14B-3.10(a)7	\$30	Replacement of UST Certification card or certificate (see N.J.A.C. 7:14B-3.10(h) below).
N.J.A.C. 7:14B-3.10(a)8	\$15	Duplicate UST certificate, as required by N.J.A.C. 7:14B-13.1(c).
N.J.A.C. 7:14B-3.10(d)	\$50	Individuals failing examinations shall pay an additional nonrefundable fee for each subsequent application for each classification.
N.J.A.C. 7:14B-3.10(e)	\$50	Business firms applying for UST certification shall pay a single filing fee per application, regardless of the number of classifications for which application is being made. Business firms applying for additional classifications after the original UST certification is issued shall pay an additional application fee.
N.J.A.C. 7:14B-3.10(f)	\$375	Individual applicants satisfying the UST certification requirements shall pay for the certification or the renewal of the certification. Individuals adding additional classifications after the original certification card is issued do not need to pay an additional certification fee.
N.J.A.C. 7:14B-3.10(g)	\$30	Issuance of a new UST certification card or certificate required as a result of amendment to a certification shall result in a fee to the individual.
N.J.A.C. 7:14B-3.10(h)	\$30	Issuance of a replacement UST certification card or certificate required as a result of loss shall result in a fee to the individual or business firm.

IV. INDUSTRIAL SITE RECOVERY ACT REMEDIATION FEES

There are two alternative compliance options available through the Industrial Site Recovery Act Rules which have an associated fee identified in the rule, N.J.A.C. 7:26B-5. The person responsible for conducting the remediation seeking a certificate of limited conveyance (N.J.A.C. 7:26B-5.7(c)9) or a de minimis quantity exemption (N.J.A.C. 7:26B-5.9(e)) shall comply with

the requested compliance options and submit all required documentation with the applicable fee upon submission of the required form.

ISRA Alternative Compliance Options Fees		
Citation	Fee	Citation Summary
N.J.A.C. 7:26B-5.7(c)9	\$600	Limited conveyance application fee.
N.J.A.C. 7:26B-5.9(e)2	\$300	De minimis quantity exemption application fee.

V. UNREGULATED HEATING OIL TANK PROGRAM FEES

The person responsible for conducting the remediation of a site on which the only area of concern is an unregulated heating oil tank (UHOT) is not required to pay any annual fees discussed in Section II above. However, UHOT owners are subject to the individual document review fees set forth in the following table. Each fee should accompany the applicable document when that document is submitted to the Department, and should also be accompanied by the applicable form, found on the Department’s website at www.nj.gov/dep/srp/srra/forms. Further guidance on the UHOT program can be found at: <http://www.nj.gov/dep/srp/unregulatedtanks/>

Unregulated Heating Oil Tank Fees		
Citation	Fee	Citation Summary
N.J.A.C. 7:26C- 4.4(a)1	\$400	Remedial action report for tanks not regulated by N.J.A.C. 7:14B
N.J.A.C. 7:26C-4.4(d)	\$400	On-Site Coordinator Discharge Authorization
N.J.A.C. 7:26C-4.4(a)2	\$100	Re-issuance of NFA letter for unregulated heating oil tank system

VI. CHILD CARE CENTERS

This section of the guidance is under review and will be added to the guidance in the near future.

VII. LINEAR CONSTRUCTION

Pursuant to N.J.A.C. 7:26C-16.2, within 45 days of initiating a linear construction project on property that is known or suspected to be contaminated, the person conducting the project must hire an LSRP to manage the project, notify the Department of the project, and provide the name of the LSRP who has been retained, using forms available at www.nj.gov/dep/srp/srrp/forms. The notification of project implementation that is submitted to the Department must be accompanied by a fee, as specified in the table below. Within 60 days after the linear construction project is completed or upon DEP’s request, whichever occurs sooner, a final report describing management of contamination encountered during the project must be submitted along with the applicable fee, which is based on the number of contaminated properties or parts of properties with the linear construction project.

Linear Construction Project Fees		
Citation	Fee	Citation Summary
N.J.A.C. 7:26C-16.3(a)1	\$450	Notification of linear construction project
N.J.A.C. 7:26C-16.3(a)2i	\$1,000	Project extends through 1-5 contaminated properties or parts of contaminated properties
N.J.A.C. 7:26C-16.3(a)2ii	\$3,000	Project extends through 6-10 contaminated properties or parts of contaminated properties
N.J.A.C. 7:26C-16.3(a)2iii	\$5,000	Project extends through 11 or more contaminated properties or parts of contaminated properties

VIII. FEE REQUIREMENTS FOR GOVERNMENT ENTITIES and NON-PROFITS

A. Government Entities

The Spill Compensation and Control Act (Spill Act) at N.J.S.A. 58:10-23.11(g) exempts government entities from joint and several liability where the government entity involuntarily acquires title to a site by virtue of its function as a sovereign or where the government entity acquires the property by any means for the purpose of promoting redevelopment of that property. The government entity is not liable for any discharge that occurred prior to its ownership of a site that it acquires as a result of bankruptcy, tax delinquency, abandonment, escheat, eminent domain, or condemnation.

As a practical matter, many government entities, usually municipalities may own a number of such sites but may also lack the revenue to remediate any or all of these properties. As monies become available, they may undertake a part of the remediation, then stop when funding runs dry, and resume at a later date when additional funding becomes available. Although these municipalities are obligated to hire an LSRP to conduct any remediation and to remediate in compliance with all applicable rules, these municipalities do not have to conduct the remediation within the mandatory timeframes in the ARRCs rules (although they are encouraged to do so), and are exempt from paying the initial annual remediation fee and subsequent annual remediation fees for years during which they are not remediating (see N.J.A.C. 7:26C-1.4(f)). However, pursuant to N.J.A.C. 7:26C-4.3(a)7, the municipality is required to pay the annual remediation fees discussed in Part II.C of this guidance, but only during any 12 month period during which the governmental entity performs remediation. The fee is due within 45 days of commencing remediation and is subject to the following conditions:

- The date on which the governmental entity pays the first annual remediation fee becomes that governmental entity's anniversary date on which each subsequent annual remediation fee shall be due;
- If the governmental entity determines to stop remediation for any reason, the governmental entity is required to notify the Department 90 days prior to the governmental entity's anniversary date and is thereafter not required to pay subsequent annual remediation fees until such time as the governmental entity determines to resume remediation; and

- When the governmental entity determines to resume remediation, the governmental entity is required to notify the Department; the date of this notification then becomes the governmental entity's new anniversary date.

However, there is no liability protection to the municipality if it caused or contributed to the discharge of a hazardous substance, or if the municipality acquired ownership of the property by condemnation or eminent domain and that property is being remediated in a timely manner by another party. In cases where the municipality is a responsible party, the municipality must hire an LSRP by May 7, 2012 to oversee the investigation and cleanup of the site, adhere to all mandatory deadlines in the ARRCs rule, and pay initial and subsequent annual remediation fees discussed in this guidance as applicable.

B. Non-Profits

A public entity, or a non-profit organization that meets the definition set forth at 26 U.S.C. §501(c)3, that is remediating a brownfield development area is also required to pay the annual remediation fee. However, these entities may calculate the fee by considering the entire brownfield development area as a single site (rather than having to count and pay for every contaminated area of concern at the site, as discussed above); and may determine the number of contaminated media (also discussed above) site-wide, rather than counting contaminated media for each site within the brownfield development area.

APPENDIX A - Ground Water/Historic Fill

Ground Water/Historic Fill: Ground water contamination at a site is only the result of historic fill (i.e., no operational discharges); the following steps outlines what is required to establish CEA and Remedial Action Permit:

I. Remediation Fees/CEA

1. An annual remediation fee of \$ 450.00 (0-1 contaminated area of concern (CAOC)) is required and will continue every year until a Response Action Outcome is issued by a Licensed Site Remediation Professional (LSRP). No Ground Water Media Additive fee is necessary.
2. CEA/WRA fact sheet is submitted to the Department. The Department establishes the CEA and is responsible for the CEA.
3. No fee for the establishment of the CEA/WRA.
4. No Biennial Certification is required nor is a biennial certification fee assessed for the CEA.
5. No Ground Water Remedial Action Permit is required

II. Remedial Action Soil Permit is required

1. Permit Application fee of \$600 to establish soil permit – with a deed notice and engineering controls. (This is in addition to the \$450.00 annual remediation fee discussed in I.1 above until RAO is issued. RAO cannot be issued until Permit is in place).
2. Deed Notice for engineering control (filed with the county clerk).
3. Financial Assurance established (if permittees do not meet the exemption).
4. Annual permit fees (\$320 annual fee). This fee will be assessed for the duration that the permit is in place, even after a RAO is issued.
5. Submission of Remedial Action Protectiveness Certification (Biennial Certification). No fee is associated with the biennial certification since the annual fees cover the Department's costs.

Example: site with ground water contamination from historic fill and no operational discharges.

1. In year 2, a Remedial Action Soil Permit is applied for.
2. In year 3 a Response Action Outcome is issued by an LSRP.

	Activity	Fee(s) Due	Total Fees Due for Year
Year 1	Remediating Site. Annual remediation fee applies	Annual Remediation Fee Category 1: \$450.00	\$450.00
Year 2	Remediating Site. Annual remediation fee and Remedial Action Soil Permit application fees applies	Annual Remediation Fee Category 1: \$450 Remedial Action Soil Permit Application Fee: \$600	\$1,050
Year 3	Remediating Site. Annual	Annual	\$770

	remediation fee. Remedial Action Soil Permit annual fees apply. Issue Response Action Outcome.	Remediation Fee Category 1: \$450 Remedial Action Soil Permit Annual Fee: \$320	
Year 4 and on	Remedial Action Soil Permit annual fee applies	Remedial Action Soil Permit Annual Fee: \$320	\$320

APPENDIX B - DEP Contacts

<u>Category</u>	<u>Representative</u>	<u>Phone number</u>
Regulated UST Fees Kirstin.Pointin-Hahn@dep.state.nj.us	Kirstin Pointin-Hahn, Chief	(609) 292-2943
ISRA Fees Kirstin.Pointin-Hahn@dep.state.nj.us	Kirstin Pointin-Hahn, Chief	(609) 292-2943
Unregulated Heating Oil Tank Fees Gary.Sanderson@dep.state.nj.us	Gary Sanderson, Supervisor	(609) 292-1251
Child Care Center Fees Diane.Pupa@dep.state.nj.us	Diane Pupa, Section Chief	(609) 292-8602
Remedial Action Permit Fees Wayne.Howitz@dep.state.nj.us	Wayne Howitz, Asst. Director	(609) 984-1351
Individual Review Fees Kirstin.Pointin-Hahn@dep.state.nj.us	Kirstin Pointin-Hahn, Chief	(609) 292-2943
Oversight Cost Billing Gary.Czock@dep.state.nj.us	Gary Czock, Supervisor	(609) 633-0701
Annual Remediation Fees Gary.Czock@dep.state.nj.us	Gary Czock, Supervisor	(609) 633-0701
Brownfield Development Timothy.Bartle@dep.state.nj.us	T. Bartle, Chief	(609) 292-1251