



# Amendments to Site Remediation Rules

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# Amended Rules

- Discharge of Petroleum and Other Hazardous Substances (DPOHS) – N.J.A.C. 7:1E
- New Jersey Pollutant Discharge Elimination System (NJPDES) – N.J.A.C. 7:14A
- Underground Storage Tank (UST) – N.J.A.C. 7:14B
- Industrial Site Recovery Act (ARRCS) – N.J.A.C. 7:26C
- Administrative Requirements for the Remediation of Contaminated Sites (ARRCS) – N.J.A.C. 7:26C
- Technical Requirements for Site Remediation (TRSR) – N.J.A.C. 7:26E





# DPOHS - N.J.A.C. 7:1E

- Amended N.J.A.C. 7:1E-5.7
  - For a site with a discharge cleanup and removal (DCR) plan, person responsible for conducting the remediation shall remediate **EITHER** pursuant to DCR plan **OR** ARRCS





# NJPDES – N.J.A.C. 7:14A

- Updated definitions to comport with new Heating Oil Tank System Remediation Rules (N.J.A.C. 7:26F)
- Clarified applicability of permit-by-rule to remediations
  - What discharges to ground water qualify for permit-by-rule
  - When permit by rule can be invalidated





# UST – N.J.A.C. 7:14B

- Various amendments to comport with Heating Oil Tank System Remediation Rules
- Did **NOT** adopt penalty points
- In penalties section, added a citation to N.J.A.C. 7:14B-12.4, civil administrative penalties for violations of the rules governing the certification of individuals and business firms





# UST – N.J.A.C. 7:14B

- Do not need to retain LSRP and include name in response plan
- Instead, name of “contractor”
  - LSRP
  - Individuals certified pursuant to N.J.A.C. 7:14B-13 or 16 to address system closure and equipment failure
  - Contractor with hazardous material emergency response capability
- Owner/operator required to notify Department of investigation of suspected release
- RAO required applies to a “clean pull”





# ISRA – N.J.A.C. 7:26B

- Owner or operator shall establish remediation funding source within 14 days of Department receipt of remedial action workplan certified by LSRP
- Based on Des Champs court decision, deleted requirement that owner or operator demonstrate that site is not contaminated above any remediation standard to obtain a de minimis quantity exemption





# ARRCS – N.J.A.C. 7:26C

- Deleted subchapter 13, which pertained to remediation of unregulated heating oil tanks
- Updated multiple definitions
  - Amended “person” to include a responsible corporate official, which includes a managing member of a limited liability company or a general partner of a partnership
  - Clarified who is a “statutory permittee”
- Clarified to whom ARRCS applies, including person evaluating a child care center
- Discharge of mineral oil with less than 50 parts per million PCBs **EXEMPT** from ARRCS N.J.A.C. 7:26C-2.3







# ARRCS – N.J.A.C. 7:26C

- Clarified when a landfill is subject to ARRCS
- Updated certifications for person responsible for conducting the remediation
- Specified offsite discharges migrating onto a site are required to be called into the Hotline
- Clarified timeframes for notifying Department of retention, dismissal of LSRP, retention of replacement LSRP
  - 2 business days if immediate environmental concern
  - 45 days other situations





# ARRCS – N.J.A.C. 7:26C

- Added statutory timeframe to complete remedial investigation for those sites subject to N.J.S.A. 58:10C-27a(3) and 27.1
- Site is subject to direct Department oversight if miss statutory or mandatory timeframe
- Sites subject to N.J.S.A. 58:10C-27a(3) and 27.1 are not eligible for an extension to the statutory timeframe to complete the remedial investigation





# ARRCS – N.J.A.C. 7:26C

- Updated fees
  - Child care evaluations = Category 1
  - Single regulated heating oil tank = Category 2
- Applicable fees are those stated in the most recent “Annual Site Remediation Reform Act Program Fee Calculation Report”
- Media fee not applicable once demonstrate that only source of contamination is historic fill





# ARRCS – N.J.A.C. 7:26C

- Clarified requirements regarding financial assurance, when financial assurance will be returned
- LSRP cannot issue Response Action Outcome cannot until all monitoring wells are decommissioned or otherwise accounted for pursuant to N.J.A.C. 7:9D
- Did **NOT** adopt amendments to N.J.A.C. 7:26C-6.4 regarding withdrawal or invalidation of Response Action Outcome





# ARRCS – N.J.A.C. 7:26C

- Require documentation of property owner's permission when applying deed notice to site, if person responsible for conducting the remediation is not the property owner
- Remedial action permit not required for ground water contamination caused by historically applied pesticides
- Amended requirements for remedial action permits when site is subdivided





# ARRCS – N.J.A.C. 7:26C

- Department can unilaterally issue initial or modified remedial action permit, if person responsible for conducting the remediation does not submit application
- If permittee cannot certify protectiveness of remedy, must take all actions necessary to ensure remedy is protective before next biennial certification is due
- Clarified process to transfer remedial action permit when statutory permittee is no longer a statutory permittee





# ARRCS – N.J.A.C. 7:26C

- Specified violations of Technical Requirements and Heating Oil Tank System Remediation Rules are subject to enforcement provisions in ARRCS
- Updated several penalties to comport with Water Pollution Control Act (N.J.S.A. 58:10A-1 et seq.)
- Added penalties for
  - Missing statutory timeframes
  - Violations of Heating Oil Tank System Remediation Rules





# ARRCS – N.J.A.C. 7:26C

- Deleted penalties for violations of N.J.A.C. 7:26C-13
- Added new section regarding request for adjudicatory hearing
- Added new section regarding procedures for assessment, payment, and settlement of State costs







# ARRCS – N.J.A.C. 7:26C

- Clarified requirements regarding Hazardous Discharge Site Remediation Fund (HDSRF) and Petroleum Underground Storage Tank (PUST) Fund
- Amended requirements regarding direct oversight
  - What is due to the Department and when
  - Adjustments to direct oversight





# ARRCS – N.J.A.C. 7:26C

- Amended Appendix B, Model Deed Notice
- Amended Appendix D, Model Response Action Outcome
  - Includes new Notices
  - Specifies requirements for decommissioning wells





# TRSR – N.J.A.C. 7:26E

- TRSR do not apply to persons remediating discharges from unregulated heating oil tank systems
- Clarified that alternative fill requirements are not subject to variance
- Updated several definitions





# TRSR – N.J.A.C. 7:26E

- Clarified that immediate environmental concern requirements apply to both LSRPs and subsurface evaluators
- Updated quality assurance/quality control requirements
- Did **NOT** adopt deletion of analysis for tentatively identified compounds for discharges of No. 2 heating oil





# TRSR – N.J.A.C. 7:26E

- Amended requirements regarding use of “alternative fill” – must meet...
  - “Like on like”
  - “75th percentile”
  - “Volume required to restore the pre-remediation topography and elevation of the receiving area of concern”
- If do not meet any one of the above, must obtain Department approval **PRIOR** to bringing material to site
- Also need **PRIOR** Department approval if moving contaminated material onsite to area not previously contaminated





# TRSR – N.J.A.C. 7:26E

- “New construction at residences, schools, and child care centers”
  - Applies to construction that commenced on or after May 7, 2010
  - Updated remedial action requirements for such sites
  - No longer require vapor barrier if not required based on contaminants present





# TRSR – N.J.A.C. 7:26E

- No longer specify that remedial action workplan due 60 days prior to implementation; still must be submitted prior to implementation
- Specified information to be submitted as part of discharge to ground water proposal
- Amended remedial action regulatory timeframes to account for sites subject to N.J.S.A. 58:10C-27 and 27.1 (statutory requirement to complete remedial investigation by either May 7, 2014 or May 7, 2016)
- Amended Appendix A, Laboratory data deliverables formats



# Questions?



**Site Remediation website**

**[www.nj.gov/dep/srp/](http://www.nj.gov/dep/srp/)**

**Department of Environmental Protection rule  
website**

**[www.nj.gov/dep/rules/](http://www.nj.gov/dep/rules/)**

