



**NEW JERSEY LICENSED SITE REMEDIATION PROFESSIONALS ASSOCIATION (LSRPA)
TOPICS FOR GUIDANCE DEVELOPMENT AND CONSIDERATIONS FOR PRIORITIZATION
MARCH 16, 2010**

The successful implementation of the Licensed Site Remediation Professional (LSRP) program requires the development of technical guidance documents for use by the regulated community and LSRPs. The LSRPA recognizes the importance of such guidance to support LSRPs in the exercise of professional judgment associated with the remediation of contaminated sites. The requirement for the development of such guidance is contained within the Site Remediation Reform Act [SRRA – C:58:10C-14c(3)]. The LSRPA has an inherent interest in the development and review of such documents and is pleased to have the opportunity be part of the interested party participation requirement mandated in SRRA.

The LSRPA suggests that the following general precepts be incorporated in the development of guidance documents. These precepts support the concept that guidance should provide a framework that does not preempt LSRP professional judgment:

1. Technical guidance documents should reflect state-of-the-practice approaches and methodologies within the industry and must be updated on a continuing basis to reflect new developments and applications in science and technology;
2. Guidance documents should not outline or memorialize prescriptive steps. Rather, they should focus on outlining available methodologies, techniques and approaches to achieve objectives, while highlighting the circumstances in which they have been used successfully;
3. Conclusions associated with specific technical approaches contained in guidance should not be provided as requirements, but as recommendations leading to alternate approaches;
4. Guidance must not be used in place of promulgated standards or regulations;
5. The scope (including timelines) addressed by guidance documents should not exceed or be inconsistent with SRRA and/or promulgated regulations.

Setting Guidance Topic Priorities



The LSRPA recognizes that there are several 'drivers' for modifying existing guidance and for creating additional new guidance. These include:

1. Updating existing guidance to keep pace with scientific advances, the peer-reviewed literature, and technical innovation, thereby enhancing the effective application of professional judgment by LSRPs.
2. Developing guidance on topics currently not addressed by the Department to support the work of LSRPs.
3. Developing guidance to replace prescriptive sections of the Technical Requirements for Site Remediation (TRSR).

With the above in mind, the LSRPA has identified the following topics in three categories. We have also highlighted with an asterisk (*) those that we believe should receive the highest priority in order to ensure the success of the LSRP Program.

Existing Guidance Topics

1. *Immediate Environmental Concern (IEC) Guidance: In the Administrative Requirements for the Remediation of Contaminated Sites (ARRCS), mandatory timeframes for IECs became effective on March 1, 2010, while regulatory timeframes were in place on November 4, 2009. These represent the shortest notification and response timeframes currently active, but implementation by the regulated community and LSRPs is severely hampered in the absence of guidance on these matters.
2. *Vapor Intrusion (VI): A VI investigation can reveal an IEC condition, thereby elevating case priority. There are VI requirements in the ARRCS and TRSR that do not correlate with the existing VI guidance dated October 2005. Implementation of these investigations is hampered by this lack of clarity, particularly in view of the fact that the Department is currently revising the VI guidance without the benefit of stakeholder input. Additionally, the internally contradictory VI-related IEC requirements in the four sources (i.e., VIG, IEC Guidance, TRSR and ARRCS) represents an overload of often inconsistent information.
3. Light Non-Aqueous Phase Liquid (LNAPL): In ARRCS, the mandatory timeframes for LNAPL also went into force on March 1, 2010 while the regulatory timeframes in the TRSR – which includes a specific reference to this guidance document – were effective on November 4, 2009. The recently issued Interim guidance contains limited input from the LSRPA that will assist the regulated community and LSRPs. We believe that the current Interim draft should be modified through further stakeholder input and a timeframe for revision and finalization established.



4. Concrete Recycling: The existing guidance for sampling and analysis of concrete should be evaluated and updated as necessary.

New Guidance Topics

1. *Demonstrating Attainment with Remediation Standards: Once the remediation of delineated impacts is completed, technical guidance outlining acceptable general methodologies to demonstrate attainment of applicable remediation standards is needed. These methodologies should include: addressing the point of compliance; use of a range statistical calculations; and the role of fate-and-transport modeling, along with improved guidance on the derivation of site-specific impact to ground water soil remediation standards.
2. *Conceptual Site Model (CSM): The October 2005 VI Guidance and the March 2010 Interim Draft LNAPL Guidance both include a CSM approach. The clear need for an iterative investigation approach to the development of a comprehensive understanding of the overall site is critical when prescriptive approaches are inappropriate. Guidance on the development, use and applicability of CSMs for the design and implementation of remediation investigations and strategies is fundamental to the application of the scientific method to site investigation, and a critical aspect of professional judgment that should be made available as soon as possible.
3. *Compendium of Analytical Methodologies: Clear and concise guidance from NJDEP regarding acceptable analytical methodologies is of paramount importance to the LSRP Program. This includes the identification of acceptable Quality Assurance/ Quality Control (QA/QC) criteria (e.g., data quality objectives, data validation, data usability) to avoid inappropriate application of laboratory analytical data.
4. *Ecological Investigation & Compliance: Guidance is needed to ensure the proper application of new EPH criteria in addressing ecological concerns. Ecological evaluations are a standard requirement in the remediation process for all sites and technical guidance is needed to ensure that qualified personnel are available for this task.
5. Presumptive Remedies: The narrative clarifying presumptive remedies has not been completed; these requirements become effective in May 2010. This guidance is needed prior to the effective date to allow the regulated community and LSRPs to develop appropriate measures for future development.
6. Land Use Permitting: The Environmental Protection Transition Team report of January 15, 2010 identified conflicting practices between DEP and other State land



use policies. This has created an unpredictable process that adversely influences complex remediation projects and retards development, business investment and economic growth. Guidance for land use permitting with stakeholder input will create a process that is accessible, understandable, efficient and usable by the regulated community, developers and LSRPs.

Guidance Topics Related to the TRSR

1. *Natural Remediation: A guidance document updated to reflect current state-of-the-practice application is needed for LSRPs to prepare Remedial Action Permits where decreasing trends and natural attenuation presence are applicable. Sections of the TRSR related to this topic should be evaluated in terms of transition from regulation to guidance.
2. *Sensitive Receptor Evaluation (FAQ): The November 26, 2010 TRSR regulatory timeframe for completion of initial receptor evaluation forms and reports makes it imperative that guidance on sensitive receptors be available well in advance of that date to allow development of the needed information to complete the evaluation. Related sections of the TRSR should be evaluated to consider moving this information from regulation to guidance.
3. *Historic Fill: The existing guidance on evaluating and remediating historic fill is unclear. In particular, the requirements for defining such areas require refinement, as well as the practical incorporation of such areas in RAOs and Ground Water Remediation Permits.
4. Waste Disposal: Waste classification and disposal regulations are complex and often do not align with sampling and analysis procedures used in remedial investigations. There are significant liabilities associated with mischaracterization of waste and its disposal that require careful consideration in the decision making process. Guidance to avoid these pitfalls is needed.
5. Clean Fill: Selection of appropriate clean fill sources and types, on-site reuse and importation of contaminated material is needed for the development of remedial actions involving soil removal and replacement.

These are the topics the LSRPA has identified for priority in guidance development. As the LSRP program continues to advance and additional technical or administrative issues are identified, the LSRPA will highlight those topics to the Department for further consideration.