



LSRPA TECHNICAL MEETING WITH NJDEP
JULY 7, 2009

Meeting Attendees

Nick De Rose, Langan
Steve Posten, AMEC
Julian Davies, Sovereign
Duff Collins, Woodard Curran
Kathi Stetser, Roux
Jim Mack, NJIT
Michael Metlitz, Whitman
Ted Toskos, MACTEC
Swati Toppin, NJDEP
Barry Frasco, NJDEP
Tessie Field, NJDEP

Introductions

NJDEP and LSRPA agreed to take and distribute minutes of this meeting to LSRPA membership after NJDEP review and approval. Meeting minutes will be circulated to Barry Frasco on that basis.

“May” Oversight Triggers: Barry Frasco confirmed that NJDEP would be posting ‘May’ triggers for NJDEP oversight today (July 7, 2009) on the SRP website. Nick asked about what an LSRP’s role would be in assessing these triggers for new sites. Barry noted that he had not addressed this particular issue and recommended that LSRPA review guidance with this question in mind and provide suggestions to him. NJDEP is working on the process for evaluating triggers for existing sites, however, this should not generally be an LSRP’s responsibility during the Interim LSRP Program for existing cases that do not use an LSRP. Barry emphasized the importance and benefit of RP’s being proactive to avoid direct oversight. Guidance will be in effect upon publication on the web.

The Following Agenda Items were presented for discussion;

1. Interim Technical Regulations Revisions

- RAPS / Variance Concepts
- Receptor Evaluation
- New Triggers for GW Investigation

2. Topics for Future Guidance

- Compliance Averaging
- Use of Conceptual Site Model
- Updating Natural Remediation Compliance Program
- Updating Historic Fill Regulations

3. Training for application of IGW ARS's

1. Interim Technical Regulations Revisions

- Response Action Performance Standard (RAPS)/ Variance Concepts
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Tessie Field explained that the Department is developing a new set of regulations to implement the Site Remediation and Reform Act (SRRA), to be called the Administrative Requirements for Remediation of Contaminated Sites (ARRCS). This will serve as the new Oversight Regulations for the LSRP program. In addition, revisions to the Technical Requirements for Site Remediation, ISRA and UST Regulations are being prepared. This entire package will be published by November 3, 2009.

The revisions to the Technical Requirements for Site Remediation will eliminate 'pre-approval' of variances. AN LSRP will be able to vary from the strict Tech. Requirements as long as appropriate technical justification is provided. Steve Posten asked how disagreements between parties over such variations from the tech. regs. would be resolved. Barry Frasco explained that, ultimately, NJDEP will evaluate the expected effectiveness of the Remedial Action. Julian Davies suggested that LSRPA will review and comment on the Mass LSP approach for processing disputes.

The RAPS hierarchy will appear in ARRCS. The RAPS hierarchy will incorporate those appropriate portions of Section 14 c of the SRRA which allow an LSRP to exercise professional judgment to cite NJDEP guidance, US EPA and other States Guidance as well as other relevant, applicable, and appropriate methods and practices that ensure the protection of public health, safety and the environment. Nick and Duff pointed out the importance and need to incorporate reference to 'Professional Judgment' in ARRCS. Tessie Field agreed and indicated she would review appropriate sections of ARRCS with this in mind.

- Receptor Evaluation

Tessie Field explained that this new sub-chapter will bring together multiple sections in existing regulations and combine into one place. It will place greater emphasis on considering land use surrounding the site to ensure that sensitive receptors such as schools are identified. Goal is to ensure that IEC's that threaten receptors are identified and properly addressed early in the assessment process. LSRPA acknowledged the importance of performing effective Receptor Evaluations and that this should include developing a Conceptual Site Model (CSM).

Duff Collins suggested that NJDEP consider ways to create incentives for risk-reduction early on in the process. Examples of risk-reduction measures include "small volume" or "time critical"

source reduction efforts in areas where sensitive receptors (such as children) may be in direct contact with contamination. Soil excavation/removal, fence installation, and vapor mitigation actions such as sub-slab depressurization are three types of time-critical exposure mitigation/source reduction efforts. In addition to protecting the public health, NJDEP incentives for RPs to conduct these risk-reduction efforts early in the site remediation might be to reduce the site ranking level and ultimately the number of “direct oversight” cases.

Mike Metlitz asked about Mandatory Timeframes that might relate to the Receptor Evaluation. NJDEP stated that they are considering a one-year timeframe for initial submission. However, the receptor evaluation process should be continuous one through the remedial process continues and should be resubmitted with each key deliverable. In addition, Tessie explained that Mandatory Timeframes will be in both ARRCs and the Tech Regs. Those in ARRCs will serve as direct oversight triggers. Timeframes in the Tech Regs will be ‘subordinate’ timeframes without strict application.

Steve Posten and Nick DeRose suggested the Department review the ASTM standard for Development of Conceptual Site Models, as there is a good summary discussion and presentation of a source-pathway-receptor conceptual model (following from completion of the PA/SI process and development of the physical/chemical/hydrogeologic CSM).

- New Triggers for Groundwater Investigation

Discussion of potential additional requirements for well installation for VOC releases. NJDEP expressed the opinion that ground water sampling is needed at most sites with VOC releases. Nick De Rose and others were concerned that this approach combined with the current guidance relative to the Impact to Ground Water (IGW) pathway as well as related guidance would result in overly conservative approaches requiring unnecessary investigation of ground water and soil remediation, especially in light of the to-be-issued requirements for ongoing receptor evaluations. Tessie Fields and Barry Frasco discussed this concept; however they do not expect that the additional ground water sampling requirements will be in Interim Rules. Nick De Rose suggests that this topic deserves further discussion and perhaps additional direction in addressed through development of a new guidance document. (See below)

2. Topics for Future Guidance Documents

Barry Frasco points out that, as guidance documents are developed and changes made, all references must identify the particular version of a document was used. Therefore, NJDEP plans on maintaining a complete library of approved guidance and associated publication dates.

- Historic Fill

Kathi Stetser expressed the concern of the LSRPA about groundwater investigation triggers for Historic Fill. Tessie Field described a possible approach involving collection of one groundwater sample from within the area of Historic Fill. If there was an exceedance of Ground Water Remediation Standards associated with the historic fill, a CEA would need to be established along with limited biennial certification requirements. Under this scenario, there would be no requirement for active groundwater remediation.

Anthropogenic impacts were also discussed; however, since they are not addressed in legislation, an LSRP would need to make the case that the impacts were regional/ background.

This is complicated, because regulation does not allow for consideration of man-made impacts. The conclusion was that more guidance/discussion is appropriate for this topic.

- Use of Conceptual Site Model

Previous discussion during the meeting acknowledged the importance and role of developing a Conceptual Site Model to identify source, migration pathways and receptors. In the interest of time, there was no further discussion on this topic.

- Updating Natural Remediation Compliance Requirements

Nick De Rose briefly summarized that the LSRPA members are interested in having this as a topic for future guidance and, in particular, we are interested in identifying alternatives to the Mann-Whitney U-Test to identify plumes that are amenable to Natural Remediation. There was no substantive discussion on this topic.

3. Training for application of IGW ARS's

As previously discussed during the topic of additional triggers for ground water investigation, the need for examples of how to apply the IGW Pathway Alternative Remediation Standards was touched upon. Nick De Rose made the suggestion that development of this type of guidance should be completed together with consideration of guidance for triggers for ground water investigations.

4. Additional Topics

Barry Frasco pointed out that NJDEP and LSRPA should initially consider working together on developing a standard format to be followed for Technical Guidance Documents. Also, both NJDEP and LSRPA representatives acknowledged that the process of developing guidance must include all interested parties, as per the stipulation of the SRRA. NJDEP is working on developing a process to accomplish this involvement. The LSRPA is in the process of developing procedures for involving all interested stakeholder groups to participate in the LSRPA and the work of its committees.

Follow Up

- Nick De Rose will follow-up with minutes to be reviewed by the NJDEP and approved by LSRPA Board for posting on its website. The two groups will plan on meeting again in six weeks.
- LSRPA is invited to provide a summary of Guidance Concepts/Topics to NJDEP for additional discussion and consideration. LSRPA and NJDEP agreed to work together to identify the top priorities to work on.