

Site Remediation Reform Act (SRRA) Listserv Archives

July 24, 2012 - [SRRA] ARRCs and DCR Plans

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To: srra@listserv.state.nj.us

Date & Time: 7/24/2012 09:00 AM

Subject [SRRA] ARRCs and DCR Plans

[SRRA] ARRCs and DCR Plans

The purpose of this listserv message is to discuss when:

* The requirement in the Discharge of Petroleum and Other Hazardous Substances (DPHS) rules, N.J.A.C. 7:1E, to clean up a leak at a major facility pursuant to a discharge cleanup and removal plan (DCR plan) is triggered, and

* When the requirement to remediate all discharges pursuant to both the DCR Plan and the Administrative Requirements for the Remediation of Contaminated Sites (ARRCS), N.J.A.C. 7:26C, including hiring an LSRP to oversee that remediation, is triggered.

The Department recently amended the DPHS rules at N.J.A.C. 7:1E-5.7(a)2 to now require any person responsible for a discharge to take all necessary and appropriate measures to contain, mitigate, cleanup and remove the discharge by:

- i. Following the facility's approved DCR plan . . . AND (emphasis added)
- ii. Remediating the discharge pursuant to the Administrative Requirements for the Remediation of Contaminated Sites, N.J.A.C. 7:26C"

A "leak" under N.J.A.C. 7:1E is not a "discharge" and thus does not trigger any of the requirements to remediate under ARRCs, N.J.A.C. 7:26C. For example, a leak to a containment area that does not exit the containment area to the lands or waters of the State is not a discharge because it is contained. Leaks are to be cleaned up pursuant to a major facility's DCR plan, and no LSRP involvement is required.

However, where there is a "discharge" (see definition of that term in ARRCs at N.J.A.C. 7:26C-1.6 and the Technical Requirements for Site Remediation at N.J.A.C. 7:26E-1.8), the discharge must be remediated pursuant to both the DCR plan and the ARRCs rules. All remediation of a discharge must be overseen by an LSRP, except for those discharges specifically carved out at N.J.A.C. 7:26C-1.5(e)

* A petroleum discharge of less than 100 gallons that does not reach State waters and is cleaned up as prescribed

* A discharge that results from a passenger motor vehicle accident, or

* A discharge that the Department refers to Emergency Response or to a CEHA)

This does not mean, however, that the discharge cannot be immediately addressed under the DCR plan. It just means that the LSRP has to sign off on whatever actions were taken to address the spill. This is exactly the same procedure that would occur on a site for which no DCR plan was required but where the person responsible for conducting the remediation used an interim remedial measure to address the discharge.

Finally, nothing in either ARRCs or the Technical Requirements prevents the facility from immediately addressing a discharge, and in fact, facilities are required to do so. The Brownfield and Contaminated Site Remediation Act at N.J.S.A. 58:10B-19 and the Technical Requirements for Site Remediation at N.J.A.C. 7:26E-1.10 require "as a first priority" that the person responsible for conducting the remediation shall have a continuing responsibility to identify and implement "any interim remedial measure necessary to remove, contain or stabilize a source of contamination to prevent contaminate migration and to protect the public health and safety and the environment." Accordingly, discharges that are remediated as interim remedial measures are not subject to

the public notification provisions of ARRCs at that phase of the remediation.

SRP Site Remediation Reform Act (SRRA) Web site:

<https://www.nj.gov/dep/srp/srra/>

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