

## Site Remediation Reform Act (SRRA) Listserv Archives

### April 21, 2020 - [SRRA]: COVID-19 Update - EO 122

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**Subject** [SRRA]: COVID-19 Update - EO 122

[SRRA]: COVID-19 Update - EO 122

In light of the dangers posed by COVID-19 and to mitigate community spread of the disease, on April 8, 2020, New Jersey Governor Phil Murphy issued Executive Order 122 (<https://nj.gov/infobank/eo/056murphy/pdf/EO-122.pdf>) (EO 122), requiring, in relevant part, that all "non-essential" construction projects cease, effective April 10, 2020. Every organization operating in New Jersey should review EO 122 and other COVID-19 executive orders ([https://nj.gov/infobank/eo/056murphy/approved/eo\\_archive.html](https://nj.gov/infobank/eo/056murphy/approved/eo_archive.html)) carefully.

The Department of Environmental Protection (DEP) has received inquiries from regulated entities and other stakeholders questioning whether remediation activities must stop under EO 122.

Section 2 of EO 122 defines "Essential construction projects to include "(l) Any project that is ordered or contracted for by Federal, State, county, or municipal government, or any project that must be completed to meet a deadline established by the Federal government; (m) "Any work on a non-essential construction project that is required to ... remediate a site ..."

Based on these two paragraphs, construction related to site remediation projects are allowed to continue under EO 122.

Notwithstanding any of the above, all remedial activities must be conducted in accordance with the social distancing directives set forth in EO 107 and EO 122. For further information on EO 107 see the March 26, 2020 listserv "COVID-19 Update" ([https://www.nj.gov/dep/srp/srra/listserv\\_archives/2020/20200326\\_srra.html](https://www.nj.gov/dep/srp/srra/listserv_archives/2020/20200326_srra.html)). DEP acknowledges that essential on-site staffing determinations will differ for each circumstance. In adapting operations during this time, every organization must consider arrangements that further the social distancing requirements and objectives of EO 122. This could include staggering on-site construction activities as well as determining which construction must be accomplished immediately and which can be postponed to a later date. All efforts should be made to minimize site activities and to protect staff, contractors, and the general public.

During this Public Health Emergency and State of Emergency, the person responsible for conducting the remediation and the environmental professional (such as a retained licensed site remediation professional or certified subsurface evaluator) should document all activities conducted during the remediation. It is essential that any variation from rule or deviation from guidance is described and a thorough explanation provided, including scientific and technical rationale, that details how the remediation remains protective of public health and safety and of the environment.

It is recommended that all persons involved in remediation activities consider the concepts outlined in the recent EPA guidance available at [https://www.epa.gov/sites/production/files/2020-04/documents/interim\\_guidance\\_on\\_site\\_field\\_work\\_decisions\\_due\\_to\\_impacts\\_of\\_covid.pdf](https://www.epa.gov/sites/production/files/2020-04/documents/interim_guidance_on_site_field_work_decisions_due_to_impacts_of_covid.pdf) and <https://www.epa.gov/newsreleases/epa-takes-action-guide-health-and-safety-decisions-cleanup-sites-during-covid-19>.

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