



**New Jersey
Department of Environmental Protection**



**Site Remediation and
Waste Management Program**

**Technical Guidance for Investigating Child Care
Centers and Educational Facilities**

February 2017

Version 1.0

Table of Contents

1.0	INTENDED USE OF GUIDANCE DOCUMENT	5
2.0	PURPOSE	5
3.0	SCOPE OF GUIDANCE	6
3.1	Legal Overview	6
3.1.1	Madden Legislation	6
3.1.2	Manual of Requirements for Child Care Centers	6
3.1.2.1	Prior Use Certification	7
3.1.2.2	Safe Building Interior Certification	7
3.1.2.3	Response Action Outcome	8
3.1.3	New Jersey Department of Environmental Protection.....	8
3.1.3.1	Response Action Outcome	8
3.1.3.2	Safe Drinking Water Act Rules, N.J.A.C. 7:10.....	8
3.1.4	Uniform Construction Code, N.J.A.C. 5:23	8
3.2	Technical Overview	9
4.0	GUIDANCE FOR LICENSE RENEWALS, EXPANSIONS & RELOCATIONS	10
4.1	Renewal of Child Care Center Licenses	10
4.2	Child Care Center Expansions and Educational Facilities Alterations	10
4.3	Newly Proposed or Relocating Child Care Center – NJDCF Licensing Requirements....	10
5.0	PRELIMINARY ASSESSMENT GUIDANCE	11
5.1	Site History	11
5.1.1	Hazardous Site Identification	11
5.2	Aerial Photography / Sanborn Map Review	12
5.2.1	Aerial Photography	12
5.2.2	Sanborn Maps	12
5.3	Utilities – Historic/Current Conditions	13
5.3.1	Heating	13
5.3.2	Underground Storage Tanks.....	13
5.3.3	Electric	13
5.3.4	Waste Disposal (Sanitary & Process)	13
5.3.5	Storm Water.....	14
5.4	Current Site Conditions	14
5.4.1	Outdoor Play Areas	15
5.5	Preliminary Assessment Report Preparation.....	15

6.0	NEARBY AND ADJACENT SITES OF CONCERN	15
6.1	Radius Search.....	16
6.2	Web Resources for Identification & Notification Purposes	16
6.2.1	Identifying Nearby Contaminated Sites (Radius Searches)	16
6.2.2	Recording Geo Spatial Data	17
6.3	Notification of Findings of Radius Search.....	17
7.0	NOTIFICATION OF SAFE DRINKING WATER.....	17
7.1	Public Community Water System	17
7.2	On-Site Well.....	18
7.2.1	Sampling.....	18
7.2.2	Analysis.....	18
7.2.3	Reporting.....	18
7.3	Drinking Water Standard Exceedance.....	19
7.3.1	Volatile Organic Compounds (VOC's).....	19
7.3.2	Nitrate, Coliform, and Lead	19
7.3.3	Inorganic compounds, radiological contaminants, other contaminants with a New Jersey drinking water MCL	19
8.0	EVALUATION OF INDOOR ENVIRONMENTS.....	20
8.1	Indoor Environmental Health Assessment (IEHA).....	20
8.2	LSRP/IEHA Coordination	20
8.3	NJDEP Evaluation of Indoor Air	22
9.0	SITE INVESTIGATION (SI) SAMPLING GUIDANCE	22
9.1	Leasehold vs. Entire Site	22
9.1.1	Leasehold Scenarios.....	22
9.1.2	Entire Site Scenarios.....	22
9.2	Play Areas	23
9.2.1	Exposed Play Areas (grass, soil, mulch, etc., cover where contact with underlying soil is a potential, i.e. permeable cover) On-Site or Located Off- site on Private Property.....	23
9.2.2	Covered or Capped Play Areas (i.e., artificial turf, asphalt, etc.) On-Site or Located Off-site on Private Property.....	23
9.2.3	Off-Site Play Areas on Public Property	23
9.3	Issues to be Aware of During the SI Phase.....	23
9.3.1	Former Agricultural Use/Orchard Use.....	23
9.3.2	Historic Fill.....	23

9.3.3	Diffuse Anthropogenic Pollution (DAP)	24
9.3.4	Natural Background	24
9.4	General Sampling Guidance	24
9.5	Reporting Requirements and Notification of Discharge	25
10.0	REMEDIAL INVESTIGATION (RI) - REMEDIAL ACTION (RA) GUIDANCE	25
10.1	RI Guidance	25
10.2	RA Guidance	25
10.3	Issues to be Aware of During the RA Phase	26
10.3.1	Former Agricultural Use/Orchard Use	26
10.3.2	Historic Fill	26
10.3.3	Diffuse Anthropogenic Pollution (DAP)	26
10.3.4	Natural Background	26
11.0	RAO ISSUANCE FOR CCC/EFs	26
11.1	Previously Issued NFAs and Child Care Facility Approval Letters for CCCs	26
11.2	Entire Site or Child Care Facility RAO Issuance	27
11.2.1	RAO Issuance for Educational Facilities that are not licensed by NJDCF - OOL	28
11.3	RAO Notice Inserts	29
11.4	Child Care Center Figures and Attachments to the RAO	30
11.5	Submittals for CCC/EFs	30
12.0	REFERENCES	31

APPENDICES

Appendix A - Role of Government Agencies	32
Appendix B - Types of Water Supplies and Sampling Requirements	33
Appendix C - Acronyms	34

1.0 INTENDED USE OF GUIDANCE DOCUMENT

This guidance document is designed to help the person responsible for conducting remediation at a child care center or educational facility to comply with New Jersey Department of Environmental Protection (NJDEP) requirements established by the Technical Requirements for Site Remediation (Technical Rules), N.J.A.C. 7:26E. This guidance will be used by different persons involved in the remediation of a contaminated site, such as Licensed Site Remediation Professionals (LSRP), Non-LSRP environmental consultants and other environmental professionals. Therefore, the generic term “investigator” will be used to refer to any person that uses this guidance to remediate a contaminated site on behalf of a remediating party, including the remediating party itself.

The procedures to request a variance from the technical requirements are outlined in the Technical Rules at N.J.A.C. 7:26E-1.7. Variances from a technical requirement or departure from guidance must be documented and adequately supported with data or other information. In applying technical guidance, NJDEP recognizes that professional judgment may result in a range of interpretations on the application of the guidance to site conditions.

This guidance supersedes previous NJDEP guidance issued on this topic. Technical guidance may be used immediately upon issuance. However, NJDEP recognizes the challenge of using newly issued technical guidance when a remediation affected by the guidance may have already been conducted or is currently in progress. To provide for the reasonable implementation of new technical guidance, NJDEP will allow a 6-month “phase-in” period between the date the technical guidance is issued final (or the revision date) and the time it should be used.

This guidance was prepared with stakeholder input. Special thanks to Diane Pupa, former NJDEP employee, and Dave Oster, Section Chief SRP Northern Field Office, for their contributions to this document. The following people were on the committee that prepared this document:

New Jersey Department of Environmental Protection representatives:

Alphonse Inserra - Chairperson	(Site Remediation & Waste Management Program)
Kathleen Kunze - Guidance Comm. Rep.	(Site Remediation & Waste Management Program)
Ellen Hutchinson	(Site Remediation & Waste Management Program)
Michael Justiniano	(Site Remediation & Waste Management Program)
Linda Walsh	(Division of Water Supply & Geoscience)

Licensed Site Remediation Professionals:

Philip I. Brilliant	(Brilliant Environmental Services, LLC)
Ronald Dooney	(TERMS Environmental Services, Inc.)
David Morris	(Tectonic Engineering & Surveying Consultants P.C.)
Paul Sakson	(Paul D. Sakson Associates, Inc.)

Other State Agencies:

Joslyn Bjorseth	(NJ Department of Children & Families)
Anna Smith	(NJ Department of Children & Families)
Gary Centifonti	(NJ Department of Health – Indoor Environments)
Katharine McGreevey	(NJ Department of Health – Indoor Environments)
Staff	(NJ Department of Community Affairs)
Leonard Colner	(NJ Department of Education)

2.0 PURPOSE

The purpose of this technical guidance is to provide the child care center/educational facility (CCC/EF), Licensed Site Remediation Professional (LSRP), or other investigator with a broad overview of, and direction on, the major assessments, remediation, and other environmental work that is necessary for a person to obtain the licenses and other approvals required to operate a CCC/EF in New Jersey. NJDEP also presents in this technical guidance a framework for the CCC/EF, LSRP, or other investigator to work through and satisfy these requirements.

3.0 SCOPE OF GUIDANCE

NJDEP has provided expanded guidance in this document. Typically, the NJDEP Site Remediation Program focus in technical guidance has been on achieving compliance with the rules governing the remediation of a contaminated site. Technical guidance for the licensing of a CCC or an EF, however, presents a broader set of issues. First, there are more statutes and rules that apply to this process than to the remediation of a contaminated site. Second, there are more regulatory agencies involved, including at least three New Jersey departments in addition to the NJDEP: the New Jersey Department of Health (NJDOH), the New Jersey Department of Children and Families (NJDCF), and the New Jersey Department of Community Affairs (NJCA). Third, there are additional issues that one needs to address in the child care process that go beyond the issues typically addressed in the remediation of a contaminated site. These broader issues include the need to evaluate potential health risks posed to individuals occupying a building, such as indoor air quality, asbestos contamination, lead paint, radon, and drinking water.

As a result, NJDEP has gone beyond its previous technical guidance to include a brief legal discussion of the environmental issues relating to the licensing of a CCC or an EF in New Jersey. In the first part of this overview, NJDEP presents a discussion of some of the major statutes and regulations that apply to this licensing, including an identification of the New Jersey departments that oversee each of the relevant program areas. It is important that the CCC/EF, LSRP or other investigator become familiar with and understand the full breadth of this legal framework for environmental issues. NJDEP also wishes to emphasize that the content of this technical guidance builds upon, but extends beyond, much of the technical guidance NJDEP has previously issued. While NJDEP uses previously issued technical guidance as the organizational structure for this technical guidance, the focus here is on issues that are unique to the licensing of a CCC or an EF, thus requiring the need to go beyond the scope of existing technical guidance.

3.1 Legal Overview

A person seeking approval for a new, expanded, or relocated CCC or EF is required to comply with a number of laws and regulations, including those discussed below. In this section NJDEP provides an overview of the regulatory requirements applicable to the licensing process for a CCC or an EF. It is important that the CCC/EF, applicant, LSRP or other investigator use the most recent versions of the applicable statutes, regulations, guidance, forms, and websites.

3.1.1 Madden Legislation

Perhaps the most pertinent piece of legislation to the licensing of a CCC or an EF is the Madden Legislation, N.J.S.A. 52:27D-130.4 and -130.5, available at http://www.njleg.state.nj.us/2006/bills/PL07/1_.pdf, which establishes some of the investigations and approvals that are necessary for a person to acquire a license to operate a CCC or an EF.

An EF is a private or public school as defined in N.J.S.A. 18A:1-1, or a charter school as defined pursuant to P.L.1995, c.426 (C.18A:36A-1 et seq.). A CCC is defined in N.J.A.C.10:122-1.2.

The Madden Legislation requires an applicant to pursue two parallel tracks in order to obtain a license from NJDCF to operate a CCC or an EF. One track focuses on the interior of the building that will house the CCC or EF. The applicant must obtain a certificate from NJDOH documenting that the interior of the building is safe. The second track focuses on the real property on which the CCC/EF is located. The goal of this track is to ensure that there is no contamination at the property, or that any contamination is properly remediated. To satisfy this requirement, the applicant must hire an LSRP to conduct all necessary remediation before issuing a Response Action Outcome (RAO). NJDEP's statutes and rules regulate the work of the LSRP.

3.1.2 Manual of Requirements for Child Care Centers

Another important piece of the State's regulatory structure for the licensing of a CCC is the *Manual of Requirements for Child Care Centers*, N.J.A.C. 10:122, available at

<http://www.state.nj.us/DCF/providers/licensing/laws/CCCmanual.pdf>, which NJDCF promulgated pursuant to the Child Care Center Licensing Law, N.J.S.A. 30:5B-1 to -15. The *Manual of Requirements for Child Care Centers* requires a person to acquire a license from NJDCF in order to operate a CCC in New Jersey. NJDCF issues a regular license when it finds that the operator of the CCC is in full compliance with the provisions of this manual, N.J.A.C. 10:122-1.1(c). The *Manual of Requirements for Child Care Centers* requires an applicant to address:

- Radon gas (N.J.A.C. 10:122-5.2(a)19);
- Lead paint (N.J.A.C. 10:122-5.2(h));
- Site contamination (N.J.A.C. 10:122-5.2(i)3.i);
- Indoor environmental health assessment (N.J.A.C. 10:122-5.2(i)3.iii);
- Water supply (N.J.A.C. 10:122-5.2(i)4);
- Safe building interior (N.J.A.C. 10:122-5.2(i)7); and
- Asbestos (N.J.A.C. 10:122-5.2(j)).

The *Manual of Requirements for Child Care Centers* also requires the following three items as part of an application: a letter of prior use; a safe building interior certification; and an RAO. A brief description of each is provided in the following paragraphs.

3.1.2.1 Prior Use Certification

The *Manual of Requirements for Child Care Centers* requires an applicant to submit a written certification in the form of a “Letter of Prior Use” for the proposed center or facility, N.J.A.C. 10:122-5.2(i)1. This certification is to provide notice whether the property has previously housed operations designated by one or more of the following Uniform Construction Codes (UCC), N.J.A.C. 5:23. The “Letter of Prior Use” is issued by the construction official of the municipality where the CCC is located or will be located:

- Group A – funeral home;
- Group B – dry cleaner or nail salon;
- Group F – factory/industrial;
- Group H – high hazard;
- Group M – gas station; or
- Group S – storage/warehouse.

3.1.2.2 Safe Building Interior Certification

The presence of any of the above noted prior uses triggers additional requirements as per N.J.A.C. 10:122-5.2(i)3. For example, if the applicant proposes a CCC or EF in a building or other structure that:

- Housed a use that was or would have been classified as a UCC Group A, B, F, H, M or S;
- Is in a building constructed in 1978 or earlier;
- Is co-located in a building or other structure that contains a dry cleaner or nail salon;
- Has or previously had exterior environmental conditions that could affect indoor air quality.

If any of the above scenarios apply, the applicant must demonstrate that there is no impact to the proposed CCC or EF, as per N.J.A.C. 10:122-5.2(i)8. The applicant must employ an indoor environmental consultant, licensed by NJDOH, N.J.A.C. 8:50, to sample indoor air, in order to document that there is no impact to the CCC or EF. Once the applicant has adequately addressed each of the issues raised by these prior uses, the *Manual of Requirements for Child Care Centers* requires the applicant to submit a “Safe Building Interior Certification” (N.J.A.C. 10:122-5.2(i)7), which the applicant obtains from NJDOH (N.J.A.C. 8:50); see also <http://nj.gov/health/eohap/childcare/index.shtml>.

3.1.2.3 Response Action Outcome

The *Manual of Requirements for Child Care Centers* (N.J.A.C. 10:122-5.2(i)3.i) also requires the applicant for a CCC to establish that no further remediation is required for either the leasehold portion of a site or entire site as indicated by one of the following documents:

- a Response Action Outcome (RAO);
- a No Further Action (NFA) letter, N.J.A.C. 7:26C-13); or
- a Child Care Facility Approval (CCFA) letter, N.J.A.C. 10:122-5.2(h).

Section 4.0 further discusses NFA and CCFA letters and Section 3.1.3.1 discusses an RAO.

3.1.3 New Jersey Department of Environmental Protection

3.1.3.1 Response Action Outcome

An RAO is a written determination issued by an LSRP which documents that any contamination at a site has been remediated pursuant to NJDEP rules: The Administrative Requirements for the Remediation of Contaminated Sites, N.J.A.C. 7:26C, and the Technical Requirements for Site Remediation, N.J.A.C. 7:26E. Remediation is defined in N.J.A.C. 7:26E-1.8. These rules are available at www.nj.gov/dep/srp/regs .

Please note that an LSRP is an individual who is licensed by the designated board pursuant to section 7 of P.L. 2009, c.60(C.58:10C-7), or by NJDEP pursuant to section 12 of P.L. 2009, c.60 (C.58:10C-12). A list of LSRPs is available at http://www.nj.gov/dep/srp/srra/lrsp/lrsp_list.htm.

The *Manual of Requirements for Child Care Centers* (N.J.A.C. 10:122-5.2(i)6) requires an applicant to submit to the NJDCF - Office of Licensing (OOL) an RAO to document that no further remediation is needed for the site. If the CCC has an existing license, then the applicant may submit a copy of the CCFA letter that NJDEP previously issued for the center.

3.1.3.2 Safe Drinking Water Act Rules, N.J.A.C. 7:10

In order to ensure that the CCC or EF has a safe source of drinking water, the *Manual of Requirements for Child Care Centers* (N.J.A.C. 10:122-5.2(i)4) requires an applicant to address drinking water depending upon the proposed site's source of drinking water.

If a proposed site for a CCC or EF is connected to a public community water system, the applicant must provide NJDCF - OOL with documentation of the name of the public community water system and a letter indicating that safe, potable water is available at the proposed CCC or EF, N.J.A.C. 10:122-5.2(i)4.

If the proposed site's source of drinking water is from an on-site potable well, the applicant must obtain a "Certification of Acceptable Drinking Water" from NJDEP's Bureau of Safe Drinking Water. The applicant must submit this certificate to the NJDCF - OOL, in order to document that safe, potable water is available at the proposed CCC or EF, N.J.A.C. 10:122-5.2(i)4.

3.1.4 Uniform Construction Code, N.J.A.C. 5:23

An applicant for a CCC or EF must obtain a Certificate of Occupancy (CO) from the local construction official by submitting the following documents to that official:

- an RAO (noted above in 3.1.3.1); and
- if applicable, a safe building interior certification (noted above in 3.1.2.2).

The Uniform Construction Code (UCC) may be referenced via the web at the following internet address:
http://www.state.nj.us/dca/divisions/codes/codreg/pdf_regs/njac_5_23_1.pdf

Note: The licensing of a CCC by NJDCF requires an environmental evaluation of the CCC during the initial, and in some cases, during the licensing renewal process. In contrast, an EF only requires an environmental evaluation, when or if, an applicant for an EF submits an application to a municipality for acquiring a construction permit.

3.2 Technical Overview

NJDEP begins this technical guidance in Section 4 with an overview of the statutory and legal framework that governs the application process for the licensing of a CCC or EF.

In the remaining sections of this technical guidance NJDEP focuses the investigator's attention on remediation issues that are unique to a CCC or EF:

- **Section 5** supplements the "Preliminary Assessment Technical Guidance," which is available at http://www.nj.gov/dep/srp/guidance/#pa_soils;
- **Section 6** supplements the "Off-Site Source Ground Water Investigation Technical Guidance," which is available at http://www.nj.gov/dep/srp/guidance/#offsite_gw_invstg, by providing additional guidance on the assessment and evaluation of nearby and adjacent sites that may have an impact on a proposed CCC or EF;
- **Section 7** provides additional guidance on acquiring a "Safe Drinking Water Certification;"
- **Section 8** provides additional guidance on the evaluation of the indoor air environment of a proposed CCC or EF, also see NJDEP's Vapor Intrusion Pathway Guidance Document available at: <http://www.nj.gov/dep/srp/guidance/vaporintrusion/index.html>;
- **Section 9** supplements the "Technical Guidance for Site Investigation of Soil, Remedial Investigation of Soil, and Remedial Action Verification Sampling for Soil," which is available at http://www.nj.gov/dep/srp/guidance/#si_ri_ra_soils, and the "Ground Water Technical Guidance: Site Investigation, Remedial Investigation, Remedial Action Performance Monitoring," at http://www.nj.gov/dep/srp/guidance/#pa_si_ri_gw, by including additional focus on investigating potential discharges in those areas that are unique to a CCC or EF;
- **Section 10** supplements both the "Technical Guidance for Site Investigation of Soil, Remedial Investigation of Soil, and Remedial Action Verification Sampling for Soil," which is available at http://www.nj.gov/dep/srp/guidance/#si_ri_ra_soils, and the "Ground Water Technical Guidance: Site Investigation, Remedial Investigation, Remedial Action Performance Monitoring," which is available at http://www.nj.gov/dep/srp/guidance/#pa_si_ri_gw, by including additional focus on remedial investigation and remedial actions that are unique to a CCC or EF; and
- **Section 11** supplements the "Guidance for the Issuance of Response Action Outcomes," which is available at <http://www.nj.gov/dep/srp/guidance/#rao>

Note: If inconsistencies or conflicts exist between the Technical Guidance for Investigating Child Care Centers and Educational Facilities and any statute or regulation, the requirements of the statute or regulation control. Accordingly, this technical guidance is not a substitute for a thorough analysis of the statutes and regulations as they may apply to the facts of any specific project or proposal. Since multiple New Jersey state agency rules apply, it is necessary for an applicant to consider the most recent version of all applicable statutes, rules, and guidance.

4.0 GUIDANCE FOR LICENSE RENEWALS, EXPANSIONS & RELOCATIONS

4.1 Renewal of Child Care Center Licenses

Existing CCC's that have already fulfilled environmental requirements and obtained one of the approval letters listed below can renew their license by filling out a NJDCF - OOL Attestation Form:

- No Further Action Letter issued by NJDEP for the CCC
- Child Care Facility Approval Letter issued by NJDEP
- Child Care Response Action Outcome issued by LSRP

In addition, if the CCC is not connected to a community water system, a drinking water certification issued by NJDEP's Bureau of Safe Drinking Water dated within 90 days of the licensing application must accompany NJDCF's Attestation Form.

If the CCC owner/operator cannot attest that site conditions have remained the same, an LSRP must be hired to evaluate the property and issue an RAO.

4.2 Child Care Center Expansions and Educational Facilities Alterations

If the CCC plans to conduct construction that will result in the expansion of the footprint of the building (e.g., a new wing), acquire more buildings, and/or expand the play area(s), the expansion triggers the process of obtaining a new RAO for the entire new footprint of the CCC. A new PA (and if applicable SI, RIR, RAR, RAP) will be necessary prior to issuance of a new RAO by an LSRP. In certain cases, where the expansion of the operational area does not require construction (e.g., occupying new rooms in an existing building), a new RAO may not be required for NJDCF licensing purposes. The CCC should contact NJDCF - OOL at (877) 667-9845 to determine if a new RAO is necessary during expansion.

If an EF is applying for a construction permit for the construction/renovation, alteration or change in use of any building or structure, and the site was previously used for industrial/factory, storage/warehouse, high hazard purposes, a funeral home, a nail salon, dry cleaning facility, gas station, is on a contaminated site, or is on a site on which there is suspected contamination, or on a site subject to the "Industrial Site Recovery Act", an LSRP is required to evaluate the site and issue an RAO for the entire site. For further information regarding the EF scenarios noted above, refer to: <http://www.nj.gov/dep/dccrequest/schools.html>.

Whether the CCC is expanding or the EF meets the conditions noted above, the potential for indoor environmental issues may be a concern. For a CCC and EF, NJDOH will require an evaluation of any potential indoor concerns based upon site history, building age and prior use. At a minimum, radon, lead, and asbestos are potential indoor environmental concerns. Please contact the NJDOH-Indoor Environments Program, at (609) 826-4950, regarding questions on any expansion scenario.

4.3 Newly Proposed or Relocating Child Care Center – NJDCF Licensing Requirements

The historic use of a property on which a newly proposed or relocating CCC is to occupy must be evaluated by an LSRP and an RAO issued prior to obtaining a NJDCF CCC license.

In certain cases, where a pre-existing NJDEP NFA or CCFA letter, or an RAO exists for a property, as noted in section 4.1 of this guidance, those documents, together with the NJDCF - OOL "Recertification Form" completed by the CCC owner/operator, may be acceptable for licensing purposes. Along with those documents it is required that the physical building must have housed a licensed CCC within the past year. The CCC should contact NJDCF - OOL at (877) 667-9845 to determine if a new RAO is necessary or whether the previously issued NJDEP NFA or CCFA letter, or RAO, will suffice. Each physical location is unique and may need to be addressed on a case-by-case basis to determine if an RAO will be necessary.

Newly proposed or relocating CCC's are also required by NJDOH to evaluate any potential indoor concerns based upon site history, building age, and/or prior use. Radon, lead, and asbestos, among others, are typical indoor environmental concerns. Please contact the NJDOH - Indoor Environments program, at (609) 826-4950 for questions pertaining to a newly proposed or relocating center.

5.0 PRELIMINARY ASSESSMENT GUIDANCE

5.1 Site History

The first step in the process of obtaining an RAO is for the LSRP to complete a Preliminary Assessment (PA). The PA for a CCC/EF is completed in the same manner as a PA for other sites under NJDEP purview. The PA identifies all Areas of Concern (AOCs) that may be a concern for the CCC/EF. The definition of an AOC can be found at N.J.A.C. 7:26E. The LSRP shall follow the "Technical Requirements for Site Remediation," N.J.A.C. 7:26E, which can be referenced on the web <http://www.nj.gov/dep/srp/regs> as well as the current version of the *Preliminary Assessment Technical Guidance Document* located at http://www.nj.gov/dep/srp/guidance/#pa_soils. The scope of the PA for a CCC/EF should identify all AOC's on the entire property (i.e., all lots) where the CCC/EF is to be located, regardless of leasehold boundaries.

The PA will provide information about the past use of the site and site structures and provide specific information as to the actual operations and processes that occurred at the property. This includes former/current owners and operators, specific hazardous substances used or stored on-site (historically/currently), waste discharges, etc. Knowledge of former operations is particularly important if the site has been reconfigured or rezoned/renamed in tax documents. Since children are a sensitive population, it is critical to understand what buildings they will occupy and where the play area(s) will be located in reference to past operations at the site, to ensure that children are not exposed to contamination or any environmental hazards. Past operations may have impacted various media at the site including soil, ground water, drinking water, sediment, building interiors, etc. The PA must document if the site or structure was previously used for one or more of the following UCC's as per N.J.A.C. 5:23-3:

- F – Factory/Industrial
- H – High Hazard
- S - Storage/Warehouse
- B – Dry Cleaners/Nail Salon
- M – Gas Station
- A – Funeral Home

The LSRP should list all applicable UCC designations for past operations at the site in the PA report. The LSRP should reference the NJDCA website in order to determine if any additional UCC codes have been added to the above list at <http://www.state.nj.us/dca/divisions/codes/codereg>.

The LSRP should include a copy of the existing Certificate of Occupancy in the PA report. The CO will be useful in determining if there will be a "change-in-use" which may trigger the Madden Legislation. The NJDCA - Code Assistance Unit, may assist you in this determination. Contact information for NJDCA is listed in Section 3.1.4 of this document.

5.1.1 Hazardous Site Identification

The LSRP should identify all past operations at the site using as many sources as necessary. Sources may include:

- The United States Department of Labor (USDOL), Standard Industrial Classification (SIC) Manual, was formerly used to classify industry and also lists many types of operations that utilize hazardous substances in the course of their operations. Government entities such as the Federal Occupational Safety & Health

Administration (OSHA) still use this system to classify industry under their purview and some local municipal tax offices may as well. An SIC is a number that is assigned to a business based on its mode of operation; SIC codes are listed on the local tax assessor's property record. Businesses are grouped in Divisions A through J and assigned a "Major Group" number. All or some of the Major Groups listed in Divisions A, B, C, D, E, G and I of the SIC manual may have utilized or have the potential to discharge hazardous substances. The USDOL SIC manual can be referenced at the following web link: http://www.osha.gov/pls/imis/sic_manual.html.

- The United States Department of Commerce, in conjunction with Canada and Mexico, has developed an industrial classification system termed the "North American Industry Classification System" (NAICS). NAICS was developed to replace the above noted USDOL SIC manual. The NAICS lists industries in "Sectors" and the 2012 version identifies twenty-four (24) sectors of businesses. Of those twenty-four listings, the following sectors include businesses that utilize or have the potential to discharge hazardous substances: 11, 21, 22, 23, 31-33, 42, 44-45, 48-49, 54, 56, 62 & 81. All business types identified within those categories, which operated or currently operate on a CCC property, should trigger an evaluation of the property that addresses the type of operations identified. You may reference the NAICS manual at <http://www.census.gov/cgi-bin/sssd/naics/naicsrch?chart=2012>.
- NJDEP Hazardous Substance List (HSL) - Any former site operation that utilized or is suspected to have utilized a "hazardous substance" present on the current HSL, must be investigated for potential hazardous substance discharges and resultant contamination of environmental media. The HSL may be referenced at <http://www.state.nj.us/dep/opppc/docforms/rppr05appxbalpa.pdf>.
- Other historic operations – Operations which may or may not be covered in the above referenced manuals and lists, that could have impacted the site adversely, should be investigated for potential or suspected hazardous substance discharges. Operations that may not be immediately associated with the utilization of hazardous substances such as public utilities, freight transport, agricultural use, demolition and automotive painting and repair, etc., have been documented as sources of hazardous substance discharge. Therefore, understanding the specific type of business processes performed at a site, along with any hazardous material that may have been used in former site operations, is critical to ensuring a proper environmental evaluation.

5.2 Aerial Photography / Sanborn Map Review

5.2.1 Aerial Photography

As part of the PA, an LSRP conducts a review of the aerial photographic history of the site as per NJDEP's *Preliminary Assessment Technical Guidance Document*. The following are important considerations for reviewing aerial photographs specific to CCC/EF's in addition to the aforementioned PA Technical Guidance Document:

- Aerial photographs should be reviewed for the property that the current or proposed CCC/EF is located or will be located on, as well as for the properties that share borders with the property of concern and any off-site play areas located on private property.

For a broader scope of the site's historic use, an LSRP can utilize a photo library source that provides a chronological sequence of aerial photographs, which span many years or decades. Viewing historic aerial photos, regardless of site size, is a vital tool that may provide information missing from historical records.

5.2.2 Sanborn Maps

If Sanborn maps are available for the site, the LSRP should conduct a comprehensive review of all available Sanborn maps to determine historic operations and to help in identifying potential areas of concern. The

Sanborn maps often contain information on building construction and site features such as production wells, underground and aboveground storage tanks, production and storage areas, etc.

5.3 Utilities – Historic/Current Conditions

The LSRP should evaluate site utilities. The LSRP should provide details regarding the origin, points of entry and departure of all utilities, as well as the path to the structures and/or property that each specific utility serves.

5.3.1 Heating

The LSRP should determine the provider, source, method and substance used to heat any previous or current structures on-site (i.e., steam, natural gas, propane, electric, fuel oil, etc.) and how the material used for that purpose was delivered to and stored at the property.

If the substance used to heat a premises was historically or is currently fuel oil, the LSRP should determine whether the storage tank is/was an underground storage tank (UST) or an aboveground storage tank (AST) and the oil type (#2, #4, etc.). The LSRP should describe the UST/AST size, construction (i.e., steel, fiberglass, etc.), location of fill and vent pipes, indicate the location of all current or former UST/AST's on the site map, and note the condition of the UST/AST fill pipes vents and lines to the extent possible.

5.3.2 Underground Storage Tanks

If an UST is located within or immediately adjacent to the play area and CCC building, refer to the Site Investigation section of this document and N.J.A.C. 7:26E for investigation requirements for an UST and all applicable NJDEP UST guidance. If an UST is regulated, be sure to provide the registration number.

The LSRP should determine the status of the UST (In-Use, Out of Service, Removed, Abandoned-In-Place). If "Removed" or "Abandoned-In-Place," document whether or not an NFA or RAO letter was issued for that AOC.

If applicable, include the Tank Management System (TMS) reference numbers, UST closure numbers, incident numbers, that will be part of any final remediation document. Regulated UST details such as contents, size, use, can be determined by checking NJDEP's "Data Miner" web database and UST registration database, prior to issuance of the final remediation document.

5.3.3 Electric

The LSRP should inspect electrical service from the property line to the breaker panel for the evaluation of major components, such as potential polychlorinated biphenyl (PCB)-containing, pole-mounted and/or grade-level transformers and capacitors, both inside and outside the structure(s).

5.3.4 Waste Disposal (Sanitary & Process)

The LSRP should identify current and /historic waste disposal practices, including use of septic systems or public sewers. For sites that have public sewer connections, the LSRP should evaluate any differences between construction dates and the dates of first public sewer service connections. This will assist the LSRP in determining if other waste disposal practices were being utilized historically (e.g., floor drains, sinks and toilets that terminate in drywells or into other non-treatment disposal points). The LSRP should evaluate historic industrial operations for potential discharge of non-contact cooling water, co-mingling of waste flows, chemical waste lines, and wastewater treatment features. The LSRP should depict the entire path and terminus of each drainage feature, all former or existing septic systems, leach fields or seepage pits, on a scaled site map.

5.3.5 Storm Water

Where storm water management features are not present or include an overland flow component, the LSRP should evaluate the potential for contaminated surficial run-off from current or prior operational or storage areas toward existing or proposed outdoor play area(s).

5.4 Current Site Conditions

When conducting a PA, an initial site visit should be made by the LSRP and a summary of observations should be provided. If current or historic site operations indicate that areas of concern exist or may have existed at the site, the LSRP should determine where the areas of concern are/were located, and if sampling via a Site Investigation (SI) is required (see Section 9.0 of this document).

Upon completion of the construction and/or renovation (including play areas), the LSRP should conduct a follow-up site visit in order to gain a true representation of current site conditions that will enable the generation of an accurate site map.

Based on the site visit, a scaled site map should provide, at a minimum, the following features:

- Map Scale
- Legend
- North Arrow
- Cross streets (clearly depicted and labeled)
- Site boundary
- Leasehold boundary (if applicable)
- Building footprint
- Areas of Concern
- Classification Exception Area (CEA) boundary (if applicable)
- Deed Notice boundary (if applicable)
- Location of play area(s) and fencing
- Pertinent Utilities
- Potable well location (if applicable)
- Sample Locations (if applicable)
- Adjoining units/businesses in a multi-tenant building (i.e., strip mall)
- Adjoining properties with the potential to impact the CCC/EF property
- Adjacent buildings that are not contiguous with the child care building (with a brief description of their operations and any potential impacts to the play area), AOCs and utilities (see above).
- Off-site play area mapped in relation to the existing/proposed CCC/EF
- Surface Media Details (i.e. paved/unpaved areas)

Note: Additional site maps are suggested for purposes of clarity. For example, any significant information obtained as a result of the radius search should be included as a separate map.

The LSRP should also determine if the CCC/EF is the only occupant of the property, if the CCC/EF shares space with other tenants, or if the CCC/EF owner is also the property owner. If the site shares space (multi-storied building, strip mall, etc.), identify the neighboring businesses and describe their operations. Understanding the surrounding operations will help the LSRP identify potential impacts (soil, ground water, indoor air) to the CCC/EF. Refer to Section 11.0 of this document to determine what type of RAO is appropriate and what notices are required for each occupancy situation.

If the CCC/EF is co-located (sharing the same roof) with a dry cleaner or nail salon, then indoor air sampling is required; refer to Section 8.0 below.

5.4.1 Outdoor Play Areas

The LSRP should identify any outdoor play area(s) and describe in detail construction and design, such as type of play surface (e.g., mulch, rubber mat, pavers, asphalt, sand, pour-in-place rubber surface, etc.), details of fencing (size, egress, and material) and dimensions of the play area(s).

If the play area is off-site, provide a description of the play area, as noted above, and provide the address, block and lot, and identity of property owner.

If the off-site play area is on public land (e.g., municipal or county park), the LSRP should determine if any potential concerns exist by referencing NJDEP's Known Contaminated Site List (KCSL). If the public parcel is identified as a site of concern, provide the Program Interest number of the identified site in the PA Report. The LSRP should determine the reason why the site has been identified on the KCSL, and determine if conditions at the off-site play area pose a potential threat to the CCC population of concern. NJDCF - OOL will determine if the off-site, public land play area is acceptable for use by a CCC, based on the information submitted for that portion of the public land that will be utilized as a play area by children.

If the off-site play area is not on public land, **a PA should be completed for the off-site play area property.** In addition, the LSRP should determine if areas of concern are present on or adjacent to the off-site play area; if yes, an SI should be conducted as noted in Section 9.0 of this document.

5.5 Preliminary Assessment Report Preparation

In accordance with N.J.A.C. 7:26E-3.2, a PA Report prepared by an LSRP presents all of the information identified, evaluated, or collected during the PA data gathering activities.

As per N.J.A.C. 7:26E-3.2, the PA Report shall include the following:

- Scaled site plans detailing lot and block numbers, property and leasehold boundaries, current and historical structures, areas where fill has been brought on-site, vegetated, paved and unpaved areas, all AOCs and active and inactive wells, scaled historical site plan(s) and facility as-built construction drawings, if available;
- A summary of the data and information evaluated and all phases of work previously conducted for each AOC identified;
- A recommendation for each AOC identified at the site, that states either:
 - The AOC is potentially contaminated and additional investigation or remediation is required; or
 - The AOC is not suspected to contain contaminants above the applicable remediation standards and no further investigation or remediation is required and an explanation of the rationale behind that determination;
- An "Order of Magnitude" evaluation, an evaluation of the protectiveness of existing engineering and/or institutional controls, and an evaluation of any alternative remediation standards utilized for each AOC identified at the site, for which a final remediation document was filed or issued; including a recommendation that either no further remediation is required or future remediation is necessary;
- Documentation that safe drinking water is being provided (See Section 7.0 of this guidance).

The CCC/EF PA report submitted by the LSRP to NJDEP should be accompanied by a completed CCC/EF Remediation Form and Case Inventory Document (CID). For additional guidance on the preparation of the PA Report, refer to the *Preliminary Assessment Technical Guidance Document* at the web link provided at the beginning of this section.

6.0 NEARBY AND ADJACENT SITES OF CONCERN

The purpose of this section is to emphasize that the LSRP should conduct a comprehensive evaluation of nearby "sites of concern" that may have an impact on a new or existing CCC/EF. The presence of a site of concern does not

indicate that an impact is ongoing or is imminent, but rather, may occur, so exercising responsible professional and technical judgment is advised.

6.1 Radius Search

Conducting a comprehensive radius search to identify nearby sites of concern is a critical tool in evaluating any potential impact to the proposed or existing CCC/EF. The LSRP should determine if the proposed or existing CCC/EF is or will be within, at a minimum, a **400-foot** radius of the following “potential” sources of contamination:

- New Jersey Environmental Management Systems (NJEMS) sites
- Known and Contaminated Sites List (KCSL) sites
- Known contaminated sites with institutional controls (i.e., a Deed Notice and/or a CEA)
- USTs registered pursuant to all State and Federal regulations
- Unregulated UST sites
- Area of known ground water contamination where a CEA has NOT been established
- Area of known ground water contamination where the source of the contamination has NOT been identified
- Sites that have or may have triggered the requirements of the Industrial Site Recovery Act, N.J.S.A. 13:1K-6 **et seq.**
- Sites regulated pursuant to the New Jersey Pollutant Discharge Elimination System (NJPDES) Rules, N.J.A.C. 7:14A-1, and the discharge points for sites regulated pursuant to NJPDES
- Dry cleaners
- Auto body/Repair shops
- Gas/Service Stations
- Historic Fill Identified Areas
- Chromate Sites
- Any other Federal or State Government site identified to have had a discharge

In particular, note any sites nearby or adjacent to the CCC/EF observed during the site visit, which may be of concern, now or in the future. Examples include:

- if the CCC/EF is co-located with a dry cleaner or nail salon (see Section 8.0 of this document)
- if the CCC/EF co-exists with industrial tenants (leaseholds) in the same building or property
- if an adjacent or nearby site has contamination that is not delineated or is unmitigated
- if an adjacent or nearby site is out of compliance with environmental statutes, rules, regulations, etc.
- if an adjacent or nearby site has an unknown source, contaminated ground water plume, etc.

6.2 Web Resources for Identification & Notification Purposes

6.2.1 Identifying Nearby Contaminated Sites (Radius Searches)

The following NJDEP electronic resources are available to identify potential sources of contamination:

- NJ GeoWeb
- NJGIS (Geographic Information System)
- NJDEP’s Data Miner Reports

The LSRP should access any other resources available to identify potential sources of contamination that may impact the CCC/EF. The LSRP may reference the Site Remediation Program’s Data Miner Report and electronic information systems web page at: <http://www.nj.gov/dep/srp/> and <http://www.nj.gov/dep/srp/gis/index.html> .

6.2.2 Recording Geo Spatial Data

Recording the X and Y State Plane Coordinates by the investigator is a critical piece of information used to spatially locate a CCC/EF onto dedicated NJDEP-GIS layers. These sensitive populations can then be identified and recorded on Receptor Evaluation Forms by LSRP's conducting remediation at contaminated sites as required by SRRA and the Technical Requirements for Site Remediation.

Note: The LSRP should be sure to cross-reference the site location with other mapping sources so that the X-Y coordinates are accurately recorded as the location of the CCC/EF site for the NJDEP to have a standard reference point for all locations.

6.3 Notification of Findings of Radius Search

If the CCC/EF is located or will be located within **close proximity** (minimum 400 feet) to any of the above potential sources of contamination, the owner/operator or the LSRP for the CCC/EF should notify the NJDOH and/or NJDCF - OOL (EF if applicable), *in writing*, of the proximity of the CCC/EF to these potential sources of contamination, to ensure that any potential health threats to the CCC/EF are addressed pursuant to NJDOH and/or NJDCF - OOL regulations. The NJDCF - OOL prefers contact via email at the following address dcf_ool@dcf.state.nj.us. Refer to Section 8.0 of this document for NJDOH contact information.

7.0 NOTIFICATION OF SAFE DRINKING WATER

Pursuant to N.J.A.C. 10:122, all CCC's applying for a NJDCF - OOL license must demonstrate that the CCC provides safe drinking water before the NJDCF - OOL will approve an application to operate a CCC or issue a license renewal. Documentation regarding safe drinking water is required upon initial licensing, at each 3-year license renewal period and for any relocation of a CCC.

The first step in demonstrating that safe drinking water is available is to determine the source of the drinking water at a CCC/EF property. Water may be provided by a public community water system or by an on-site well. If the CCC/EF leases the property at which it operates, it may determine drinking water source by contacting the landlord/property owner. Refer to Appendix B of this guidance for a better understanding of the type of water systems referenced below.

This document provides guidance on evaluating and assuring the chemical quality of the water entering from the public community water system or entering the CCC/EF from the on-site well. It does not address the presence of contaminants from within public or private water service lines (including contribution from the water service lateral as it enters an improvement), plumbing, fixtures, on-site treatment, and piping. Investigators should refer to and comply with the most current statutes, rules, and guidance for these sources of contamination.

7.1 Public Community Water System

If an existing or proposed CCC/EF is or will be connected to a community water system, it should provide the following documentation:

- A copy of a recent water bill indicating service to the physical address of the CCC/EF and/or a letter from the community water system stating that service is provided to the physical address of the CCC/EF. If the name of the community water system is not known, reference the following website https://www9.state.nj.us/DEP_WaterWatch_public/index.jsp.
- Enter the county and municipality at the end of the page to determine what water systems serve that area. For a CCC, the required documentation noted above should be provided to NJDCF - OOL with the child care license application packet.

7.2 On-Site Well

If a CCC/EF is NOT connected to a public community water system but rather is served by an on-site potable well, then a letter from the NJDEP Bureau of Safe Drinking Water (BSDW), entitled “*Certification of Acceptable Water Quality*” (i.e., Certification), is necessary to document that safe drinking water is provided at the CCC/EF. In order for BSDW to determine if a Certification can be issued for a CCC/EF, it must receive and evaluate well sampling results.

Specifically, to obtain a Certification from BSDW, the CCC/EF should do the following:

7.2.1 Sampling

Conduct sampling of the potable well water using a NJ certified laboratory (specifically certified for drinking water analytical methods), to demonstrate the potable water meets the Maximum Contaminant Levels (MCL’s) and action levels established by the state of New Jersey for non-transient, non-community water systems, including radiological contaminants. Information on NJ certified laboratories can be referenced at <http://www.nj.gov/dep/oqa/certlabs.htm> or by calling the NJDEP Office of Quality Assurance (OQA) at (609) 292-3950. Specific CCC sampling requirements may be referenced at http://www.nj.gov/dep/watersupply/pw_child.html. Select the checklist that applies: “*New or Proposed Center*” or “*License Renewal*.”

Note: On-site wells for CCC/EF’s may be one of three types of well classifications (non-transient/non-community water system, transient/non-community water system or private well/non-public water system). In all three cases, testing of the well water is necessary to evaluate the water quality for CCC/EF’s. Refer to Appendix B of this guidance to determine which of the three types of well classifications applies for the facility. Depending upon the well classification, the facility may already routinely sample for some of the required CCC sampling parameters as part of other state requirements.

7.2.2 Analysis

After sampling, analytical results should be submitted to the BSDW for determination of compliance with N.J.A.C. 10:122-5.2(i)4.

- If the laboratory analytical results indicate an exceedance of a drinking water MCL or other action level, see Section 7.3 below.

7.2.3 Reporting

Complete and return to BSDW an administratively and technically complete “Checklist for Completing the Child Care Center Safe Drinking Water Requirements,” which can be accessed at http://www.nj.gov/dep/watersupply/pw_child.html. Select the appropriate checklist that meets your site specific needs; either “*New or Proposed Center*” (also used for a relocation of an existing licensed center) or “*License Renewal*.” **Note:** Incomplete checklists will not be reviewed and will be returned.

Following review of the submitted analytical results, BSDW will issue a Certification to the CCC/EF, if appropriate. If this Certification indicates that it is a “*conditional*” approval, then ongoing requirements set by BSDW must be followed. **Note:** Failure to comply with the conditions of the approval may impact a CCC’s NJDCF license status.

If a CCC is applying for an initial NJDCF - OOL license or is relocating an existing licensed CCC, a copy of the Certification shall be included with the PA Report. If the facility is applying for a NJDCF - OOL license renewal, a copy of the Certification should be provided to NJDCF - OOL with the application packet.

7.3 Drinking Water Standard Exceedance

Please note that in **ALL** cases indicated below, the goal is to **prevent exposure** of the CCC/EF occupants to any contaminants detected at elevated levels in the drinking water. Measures to address each situation will vary depending on the types of contaminants, levels detected, occupancy of the facility, and sources present. The CCC/EF should immediately take steps to minimize any exposure upon **initial** discovery of elevated levels. It is unacceptable to continue using the drinking water at a facility until an investigation is conducted or until the source is determined and abated. Commercially bottled water may be appropriate until the facility's drinking water supply demonstrates compliance. **Note:** *Bottled water is not an acceptable long-term solution to drinking water exceedances.* The requirements below apply to initial and renewal license applications, and any relocation of an existing licensed CCC/EF.

7.3.1 Volatile Organic Compounds (VOC's)

In the event the drinking water supplied by an on-site potable well exhibits exceedances of the New Jersey state drinking water standards (MCL's) and/or the Class II Ground Water Remediation Standards (GWRS), N.J.A.C. 7:26D-2.2, from discharges of hazardous substances, the investigator shall immediately call the Department's hotline at 1-877 WARNDEP (or 1-877-927-6337) and immediately notify the DEP case manager, if one is assigned.

In addition, within 5 to 14 days, the following entities shall be notified, pursuant to N.J.A.C.7:26E-1.11 (and the IEC guidance):

- The impacted CCC/EF, in writing
- The impacted Property Owner, in writing
- Local/County Health Department, in writing

Notification should also be made to:

- NJDCF - OOL at (877-667-9845)
- NJDEP BSDW at (609-292-5550)
- NJDOE Executive County Superintendent of Schools for the appropriate county:
<http://www.nj.gov/education/counties> (for EFs only)

7.3.2 Nitrate, Coliform, and Lead

The investigator should follow the protocols outlined in 7.3.1 above.

Note: Typically, these contaminants are not a result of hazardous substance discharges, therefore, the DEP, Bureau of Safe Drinking Water and/or the county health department will determine if treatment is necessary to remedy the drinking water and how to proceed.

7.3.3 Inorganic compounds, radiological contaminants, other contaminants with a New Jersey drinking water MCL

The investigator should follow the protocols outlined in 7.3.1 above.

Note: Typically, for the contaminants included in this category, a single sampling result that exceeds the applicable drinking water standard would not constitute a DEP, Bureau of Safe Drinking Water compliance violation, as compliance would be based on a running annual average of four quarterly sampling results; **however**, considering that the consumers of a CCC/EF's water supply are children, even a single result indicating an elevated level may require that the center take steps to reduce the children's exposure as a precautionary measure. Any such requirements will be determined on a case-by-case basis.

8.0 EVALUATION OF INDOOR ENVIRONMENTS

Evaluation of the indoor environment in a building that is to be used as a CCC/EF is under the regulatory authority of NJDOH. On September 8th, 2009, NJDOH adopted regulations entitled, “Standards for Indoor Environment Certification and for Licensure of Indoor Environmental Consultants” (N.J.A.C. 8:50), which detail the licensing procedures for **Licensed Indoor Environmental Consultants (LIECs)** and the requirements for conducting an **Indoor Environmental Health Assessment (IEHA)**. The regulations outline how to:

- Obtain a license to be an LIEC or licensed consulting firm
- Conduct an IEHA of buildings to be used as either a CCC or EF
- Conduct an IEHA of certain facilities required to obtain a construction permit for the reconstruction, alteration, conversion or repair of a building to be used as a CCC/EF, if that building had been:
 - used for industrial, storage or high hazard purposes, as a nail salon, for dry cleaning or as a gasoline station; or
 - located on a contaminated site, a site suspected of contamination or a site that is subject to the Industrial Site Recovery Act, N.J.S.A. 13:1K-6 et seq., and the rules promulgated pursuant thereto at N.J.A.C. 7:26B; and
 - in receipt of a “Safe Building Interior Certification.”

Note: Be advised, as part of the *Amendments to the Manual of Requirements for Child Care Centers*, N.J.A.C. 10:122-5.2, a CCC co-located in a structure that also houses a dry cleaner or nail salon, must conduct indoor air sampling before the CCC can receive an initial or renewed license.

8.1 Indoor Environmental Health Assessment (IEHA)

An IEHA is an evaluation conducted to assess conditions inside a building, which may impact the health of its occupants. The goal of the IEHA is to thoroughly evaluate the indoor environment to ensure that there are no health risks to the occupants of a CCC/EF. The IEHA will evaluate the entire indoor environment, not just indoor air. The IEHA will include an evaluation of the historic uses and operations in the building as well as current activities that may impact the indoor environment. The IEHA will also include an assessment to determine if adjacent businesses are known or suspected of containing contaminants that may have an impact on the indoor environment of the building. Additionally, a CCC/EF that is co-located in a structure that contains a dry cleaner or nail salon must obtain indoor air sampling results to demonstrate that there is no impact to the CCC/EF. Details regarding the types of chemical substances or building materials that are assessed during an IEHA are outlined in NJDOH regulations (N.J.A.C. 8:50).

Only firms licensed by NJDOH can conduct an IEHA. To assist the licensed firm in structuring the IEHA report, NJDOH has developed forms which must be completed when an IEHA is conducted. These can be found at <http://www.nj.gov/health/ceohs/environmental-occupational/indoor-envi-education-facilities/>. The forms provide the basis for the final IEHA report but the IEHA may also include other relevant documents, reports or evaluations used to conduct the assessment. NJDOH conducts on-site inspections of every CCC/EF that is required to perform an IEHA, to verify the accuracy and completeness of environmental conditions described in the IEHA. NJDOH will issue a “Safe Building Interior Certification” after their assessment is completed.

8.2 LSRP/IEHA Coordination

Although most LSRPs are not LIECs, the LSRP should have an understanding of the IEHA requirements when conducting a PA. The LSRP should be aware of the magnitude and scope of an IEHA and should understand the environmental issues, both inside and outside the building that will be evaluated. The LSRP should be aware that the PA report being completed may be submitted to the NJDOH as part of the IEHA evaluation. The LSRP should also be aware that the IEHA may include the Remedial Action Workplan (RAW), the Remedial Action Report (RAR) for any environmental remediation that occurred, and any previously issued NFA or RAO.

The information required on the IEHA forms is similar to that outlined in NJDEP's PA/SI guidance. When potential, current, or historic indoor environmental exposure concerns are identified, sampling will be conducted to assess levels of contaminants within building materials and/or indoor air. Typically, sampling is conducted by an LIEC.

Interior environmental concerns may include but are not limited to, the assessment of asbestos containing material (ACM), volatile organic compounds, hexavalent chromium, mercury, mold, radon, lead-based paint, formaldehyde, pesticides and other organic or inorganic compounds.

In order for the indoor environment of any CCC/EF to be fully evaluated, different sampling methods and procedures may need to be utilized. Sampling methods developed by the USEPA, the Occupational Safety and Health Administration (OSHA), the National Institute for Occupational Safety and Health (NIOSH) and the American Society for Testing and Materials (ASTM) may be utilized while conducting an IEHA. NIOSH Methods 2016 for formaldehyde and 6009 for mercury are examples of common analytical methods used by a LIEC. USEPA Method TO-15, utilized to evaluate VOC's, is another typical indoor air sampling method. Many testing procedures are site-specific and often developed in consultation with NJDOH.

The LSRP typically has responsibility for the assessment of exterior environmental conditions and areas of concern that could potentially impact the IEHA. These may include: USTs not in the leased space/property but on the property, known contaminated sites in the vicinity of the CCC/EF, historic fill or contaminated soil, ground water contamination from either an on-site or off-site source, and any other potential for vapor intrusion (VI) in a CCC/EF structure. An LSRP may conduct site remediation activities that involve VI testing, including a targeted evaluation of the indoor air. These remedial activities are separate and distinct from the IEHA and remain under the jurisdiction of NJDEP. The LSRP should be aware that the indoor air samples collected during a VI investigation can be used during an IEHA but may not suffice for a complete IEHA evaluation. During an IEHA, an adequate number of indoor air samples must be collected to be representative of the occupied space so that an exposure assessment can be conducted.

The LSRP should be aware that all indoor air sampling results are evaluated by both the NJDEP and NJDOH. While the NJDEP utilizes residential and non-residential indoor air screening levels, the NJDOH does not. The NJDOH evaluates indoor air data on a case-by-case basis using a site specific exposure model. The NJDOH evaluation uses two exposure models; one for evaluating a lifetime excess cancer risk and one for evaluating non-cancer health effects. Information on each specific model is available on the NJDOH website (see web address below) or in N.J.A.C. 8:50-4.

NJDOH typically requires that the PA/SI and any remediation work be completed, an RAO issued, and the IEHA completed prior to conducting any review or site inspection. Typically, the PA/SI/RI/RA activities will have already identified and resolved the exterior and subsurface conditions that may impact the IEHA. If not, however, those issues must be resolved and documentation submitted describing the resolution, prior to the LIEC and NJDOH completing their work. Reports documenting all remedial activities should be made available for evaluation during the IEHA process.

NJDOH is available to discuss concerns or questions regarding the IEHA and should be contacted prior to performing any indoor air evaluation. Their office can be reached by phone at (609) 826-4950, by email at: iep.program@doh.state.nj.us or via mail at the following address:

**New Jersey Department of Health
Environmental and Occupational Health Assessment Program
135 East State Street
P.O. Box 369 (4th Floor)
Trenton, NJ 08625-0369**

For more information regarding the IEHA procedure, please refer to the NJDOH website at: <http://www.state.nj.us/health/iep/index.shtml>.

8.3 NJDEP Evaluation of Indoor Air

A vapor intrusion (VI) investigation conducted by an LSRP, which is separate and distinct from the IEHA testing of the NJDOH Indoor Environments Program, may be required based upon information gathered during any phase of remedial activities, typically during the PA or SI phases. When the LSRP conducts VI investigations, sub-slab sampling in addition to the analysis of indoor air sampling is necessary to evaluate if there is potential vapor intrusion impacting the CCC/EF from contaminated soil and/or ground water. All indoor air sampling results obtained during VI sampling events are required to be submitted by the LSRP to both NJDEP and NJDOH as per N.J.A.C. 7:26E. VI indoor air results are reviewed by both NJDEP and NJDOH, although as noted above, each uses different criteria to evaluate the data. If NJDEP determines, based upon review of any documents submitted by the LSRP, that there is a potential VI concern for the CCC/EF, a VI investigation will be needed to verify the protectiveness of the RAO. For more information on NJDEP vapor intrusion, see N.J.A.C. 7:26E-1.15 and the NJDEP Vapor Intrusion Technical Guidance, which may be referenced at the following web address: <http://www.nj.gov/dep/srp/guidance/vaporintrusion/index.html>

9.0 SITE INVESTIGATION (SI) SAMPLING GUIDANCE

9.1 Leasehold vs. Entire Site

If the LSRP identifies areas of concern that are potentially contaminated and may impact the CCC/EF, a Site Investigation (SI) is the next step in obtaining an RAO. The scope of the SI for a CCC/EF is determined by the relationship of the CCC/EF to the property. The LSRP should first determine whether the CCC/EF owns the property or is a tenant at the site or if the CCC/EF occupies the entire site regardless of ownership.

The leasehold or entire site that a CCC/EF occupies is designated by municipal block(s) and lot(s) as depicted on that municipality's tax record maps. If the CCC/EF leases the property, the leasehold is defined as that portion of the property the CCC/EF occupies pursuant to the terms of the lease agreement between the CCC/EF and the leasing property owner.

The SI for a CCC/EF is completed in the same manner as an SI for other sites under NJDEP purview with additional emphasis on play areas and AOCs off-site or outside the leasehold. The LSRP shall follow the Technical Requirements for Site Remediation, N.J.A.C. 7:26E, which can be referenced on the web at <http://www.nj.gov/dep/srp/regs>, as well as current versions of the *Technical Guidance for Site Investigation of Soil, Remedial Investigation of Soil and Remedial Action Verification Sampling for Soil* http://www.nj.gov/dep/srp/guidance/#si_ri_ra_soils, and the *Ground Water Technical Guidance: Site Investigation, Remedial Investigation, Remedial Action Performance Monitoring* http://www.nj.gov/dep/srp/guidance/#pa_si_ri_gw. When determining which AOCs may require a site investigation, the LSRP should consider the following specific to a CCC/EF.

9.1.1 Leasehold Scenarios

The LSRP should conduct an SI at all identified AOC's on the leasehold portion of the property, and evaluate any AOCs off of the leasehold, that could reasonably impact CCC/EF leasehold and outdoor play areas.

9.1.2 Entire Site Scenarios

The LSRP should conduct an SI at all AOCs on the entire property and evaluate any off-site AOCs that could reasonably impact the CCC/EF and play areas. Please note this scenario applies if the CCC/EF owns the property or leases the entire property.

In either scenario, when the LSRP identifies AOCs located off of the CCC/EF site or leasehold, the LSRP should determine if the property with the AOC's is listed on the NJDEP's KCSL by reviewing the NJDEP "Data Miner" report on the SRP website: <http://www.state.nj.us/dep/srp/kcsnj> and evaluate if the AOCs pose

a potential impact to the CCC/EF. If any AOCs represent a potential concern for the CCC/EF, the LSRP should collect the necessary SI samples (e.g., soil, water, vapor intrusion) at the CCC/EF site to determine potential impacts to the CCC/EF.

9.2 Play Areas

9.2.1 Exposed Play Areas (permeable cover where potential contact with underlying soil could occur, i.e.: grass, soil, mulch, etc.) On-Site or Located Off-site on Private Property

SI sampling shall be performed as per N.J.A.C. 7:26E and applicable guidance if AOCs (discharges, historic fill, past agricultural use, past industrial use, DAP, etc.) are identified at the play area and/or contamination is suspected in soil at the play area.

Sampling should be considered to ensure that the play area is protective, even if no AOCs are identified, since there is the potential for direct contact exposure to children at an exposed play area. Samples should be collected at a frequency of one soil sample for play areas up to 350 square feet in size. Additional soil samples should be collected at a frequency of one sample for every additional 500 square feet of play area. A reduced sampling frequency may be appropriate for large areas based upon professional judgement. Sample locations should be representative of the entire play area, biased towards play area equipment. Samples should be collected at a depth interval of zero to six inches within the first native soil or fill material encountered to evaluate direct contact exposure.

9.2.2 Covered or Capped Play Areas (i.e., artificial turf, concrete asphalt, etc.) On-Site or Located Off-site on Private Property

SI sampling shall be performed as per N.J.A.C. 7:26E and applicable guidance if AOCs (discharges, historic fill, past agricultural use, past industrial use, DAP, etc.) are identified at the play area and/or contamination is suspected in soil at the play area, despite the presence of a cover/cap.

If no AOCs are identified, no sampling is required.

9.2.3 Off-Site Play Areas on Public Property

CCCs that utilize outdoor play areas, which are off-site and located on publicly owned property (i.e., public schools, municipal parks, etc.), are typically not required to have soil sampling performed. However, the LSRP should verify that the property where the off-site play area is located is not listed on the NJDEP's KCSL by checking the NJDEP's "Data Miner" report or is not otherwise suspected of being contaminated.

9.3 Issues to be Aware of During the SI Phase

9.3.1 Former Agricultural Use/Orchard Use

If the PA identifies the site as having been formerly utilized for farming or orchards, the potential for use of pesticides will need to be evaluated by the LSRP. An SI will need to be conducted by the LSRP, as per N.J.A.C. 7:26E-3 and the Historically Applied Pesticide Technical Guidance that can be referenced online at <http://www.nj.gov/dep/srp/guidance/#hap>. As per the referenced guidance, discrete soil samples should be collected from a depth of zero to six inches and analyzed for arsenic, lead, and organo-chlorine pesticides.

9.3.2 Historic Fill

If historic fill is suspected to exist at a CCC/EF location, the LSRP should determine whether historic fill is present pursuant to N.J.A.C. 7:26E-3.12 and follow the steps outlined in the *Historic Fill Material Technical*

Guidance at http://www.nj.gov/dep/srp/guidance/#historic_fill. Any SI performed by the LSRP shall be conducted as per N.J.A.C. 7:26E-3.12 and as per the *Historic Fill Material Technical Guidance*.

9.3.3 Diffuse Anthropogenic Pollution (DAP)

If an LSRP suspects that DAP is present, the LSRP should rule-out or confirm this condition and act accordingly pursuant to rules and guidance. This determination includes evaluating the PA findings to determine whether any identified AOCs may be the source of the contamination. The LSRP should reference the *Diffuse Anthropogenic Pollution Administrative Guidance Document* http://www.nj.gov/dep/srp/guidance/#dap_guidance for technical guidance during the SI.

9.3.4 Natural Background

Levels of naturally occurring elements have been detected above applicable soil remediation standards in certain areas of New Jersey. These naturally occurring elements have been deposited in higher concentrations than typical background, from historic geologic events (volcanic deposits, weathering, etc.) that have formed the state's land mass.

Elements that have been found to exceed NJDEP's Soil Remediation Standards, N.J.A.C. 7:26D, include arsenic and vanadium. Other naturally occurring elements that have been detected in concentrations above the Impact to Ground Water Soil Remediation Standards (IGWSRS) are beryllium and mercury (*Ambient Levels of Metals in New Jersey Soils: Paul F. Sanders, Ph.D., May 2003*). Although levels of arsenic have been introduced to state soils from the application of historic pesticides (former agricultural/orchard use), arsenic is known to exist at elevated concentrations in naturally occurring glauconitic sands, silts and clays in some counties of central and southern New Jersey (Burlington, Gloucester, Middlesex, Monmouth). Arsenic is also naturally occurring in arsenopyrite rock (and soils derived from it) found in the Newark Basin in Essex County (*Selected Sites with Potentially Naturally Occurring Elevated Background Arsenic and/or Beryllium Levels, by Kevin Schick, NJDEP/SRP June 24, 2013*).

These contaminants are of concern when present at a CCC/EF where children may come into direct contact with the soil. However, they are not regulated by NJDEP when found to be naturally occurring and not from a discharge. An SI as per N.J.A.C. 7:26E-3.8 should be performed by the LSRP to confirm natural background contamination. Refer to Section 10.0 of this guidance document for remedial options regarding naturally occurring elements at a CCC/EF.

9.4 General Sampling Guidance

Analytical parameters for areas of concern at a given site are based upon N.J.A.C. 7:26E, applicable NJDEP guidance for the type of AOC, as well as information from the PA site history. For sites with exposed play areas the following parameters should be considered for sampling: TCL SVO+TICS, TAL Metals, TCL Pesticides and PCBs. Additional parameters may be warranted based upon available site information and at the discretion of the LSRP (e.g., extractable petroleum hydrocarbons (EPH), pH, hexavalent chromium, TCL VO+TIC'S, tertiary butyl alcohol (TBA), etc.).

All analytical results shall be compared to the Soil Remediation Standards (SRS), N.J.A.C. 7:26D, and evaluated using the *Technical Guidance for the Attainment of Remediation Standards and Site Specific Criteria* http://www.nj.gov/dep/srp/guidance/#attainment_comp. Although the primary concern for a CCC/EF is direct contact, compliance with the SRS for different media/pathways should be evaluated as per the above referenced guidance to address all potential threats to the receptor. Compliance with the SRS should be discussed in the remedial phase report(s) and on the CID.

9.5 Reporting Requirements and Notification of Discharge

If at any time during site investigation or remedial activities a discharge occurs or contamination is identified which has not previously been reported to NJDEP, or IEC conditions are identified, the NJDEP Notification Hotline (1-877-WARNDEP or 1-877-927-6337) shall be called pursuant to ARRCS, N.J.A.C. 7:26C-1.7, and N.J.A.C. 7:26E-1.11. This also includes contamination discovered in a play area. In addition, a “Confirmed Discharge Notification” form must be submitted to NJDEP. The NJDEP’s “Confirmed Discharge Notification” form may be accessed at <http://www.nj.gov/dep/srp/srra/forms>.

If the contamination discovered is within the play area of a CCC/EF, the CCC/EF, NJDCF and NJDOH should be notified in addition to the NJDEP Notification Hotline.

As per N.J.A.C. 7:26E-1.15(g), if an indoor air contaminant of concern is determined to exceed NJDOH’s notification levels for indoor air, NJDOH must be notified (see Section 8.0 above for NJDOH contact information).

Note: NJDOH notification levels for indoor air are no longer being updated on the NJDEP website.

10.0 REMEDIAL INVESTIGATION (RI) - REMEDIAL ACTION (RA) GUIDANCE

10.1 RI Guidance

The LSRP completing an RI for a CCC/EF should conduct the RI in the same manner as other RIs completed under NJDEP purview with additional emphasis on play areas and AOCs off-site or outside of the leasehold. The LSRP shall follow the “Technical Requirements for Site Remediation”, N.J.A.C. 7:26E, which can be referenced on the web at <http://www.nj.gov/dep/srp/regs>, as well as any current RI guidance such as http://www.nj.gov/dep/srp/guidance/#pa_si_ri_gw and http://www.nj.gov/dep/srp/guidance/#si_ri_ra_soils

10.2 RA Guidance

The LSRP completing an RA for a CCC/EF will conduct the RA as per N.J.A.C. 7:26E and current applicable guidance as per the web links provided above. Remedial actions specific to CCC/EF’s are noted in N.J.A.C. 7:26E-5.3.

As per N.J.A.C. 7:26E- 5.3, for any remediation initiated on or after May 7, 2010, when new construction of, or a change in use to, a residence, a school, or CCC will occur, the person responsible for conducting remediation shall implement at that AOC: **an unrestricted use remedial action, a presumptive remedy, or an alternative remedy**. Specific requirements are noted in N.J.A.C. 7:26E-5.3, *Table 5-1- Presumptive Remedies for Soil Contamination at Schools, Child Care Centers, and Residences*. *Table 5-1* addresses remedial actions required if using a presumptive remedy at play areas, existing and new building footprints, permeable and impermeable surfaces, vegetative cover and landscaping as well as other scenarios at a CCC/EF.

If the LSRP demonstrates to NJDEP that the use of an unrestricted use remedial action or a presumptive remedy is impractical due to conditions at the site, or that an “alternative remedy” would be equally protective over time as a presumptive remedy, then an alternative remedy for the site that is protective of the public health and safety may be proposed for review and approval by NJDEP. The Alternate Remedy/Remedial Action Pre-Approval form can be obtained at <http://www.nj.gov/dep/srp/srra/forms/>.

Refer to the *Presumptive and Alternative Remedy Technical Guidance* for additional guidance: http://www.nj.gov/dep/srp/guidance/#presumptive_alt_remedy.

If a restricted use remedial action is conducted, a Remedial Action Permit (RAP) shall be obtained as per N.J.A.C. 7:26E-5 after engineering controls are constructed and the Deed Notice (institutional control) is filed with the county records office. Once the RAP is received, the LSRP may issue the RAO and the license from the NJDCF - OOL may be obtained.

10.3 Issues to be Aware of During the RA Phase

10.3.1 Former Agricultural Use/Orchard Use

Remedial action options for contamination due to former agricultural use are outlined in the NJDEP's *Historically Applied Pesticide Technical Guidance* document, which can be referenced at <http://www.nj.gov/dep/srp/guidance/#hap>. Remedial options include removal, blending, treatment and/or the use of engineering and institutional controls. As noted above, a presumptive or alternative remedy as per N.J.A.C. 7:26E-5.3 will be required if contamination remains at a CCC/EF.

10.3.2 Historic Fill

Upon completion of the delineation of historic fill material, remedial options include either removal or leaving the fill in place with the use of engineering and institutional controls.

Remedial action requirements for historic fill at a CCC/EF are outlined in N.J.A.C. 7:26E-5.3 and 5.4 as well as in the *Presumptive and Alternate Remedy Technical Guidance* and the *Historic Fill Material Technical Guidance*.

10.3.3 Diffuse Anthropogenic Pollution (DAP)

If DAP has been confirmed at the CCC/EF, to minimize potential direct contact at a CCC/EF, an impermeable barrier should be installed over the surface of any outdoor play area or areas that children frequently contact, in its entirety in accordance with the presumptive remedy guidance. The barrier should consist of impermeable materials such as hard surfacing, poured rubber, or rubber matting, etc. The LSRP will include language noting the existence of such a barrier in the narrative of the RAO document and depict its location on the RAO map.

The NJDEP requests that the LSRP notify NJDCF and the municipal & county health departments in all instances involving potential direct contact exposure from DAP detected at a CCC/EF.

10.3.4 Natural Background

Concentrations of natural elements that exceed NJDEP's Soil Remediation Standards, N.J.A.C. 7:26D, which have been demonstrated to be associated with natural background levels, will not require remediation beyond natural background levels.

To minimize potential direct contact at a CCC/EF, an impermeable barrier should be installed over the surface of any outdoor play area or areas that children frequently contact, in its entirety in accordance with the presumptive remedy guidance. The barrier should consist of impermeable materials such as hard surfacing, poured rubber, or rubber matting, etc. The LSRP will include language noting the existence of such a barrier in the narrative of the RAO document and depict its location on the RAO map.

The NJDEP requests that the LSRP notify NJDCF and the municipal & county health departments in all instances involving potential direct contact exposure from naturally occurring elements detected at a CCC/EF.

11.0 RAO ISSUANCE FOR CCC/EFs

11.1 Previously Issued NFAs and Child Care Facility Approval Letters for CCCs

Historically, NJDCF - OOL accepted two types of "clearance" letters issued by NJDEP for a given property: a standard NJDEP No Further Action (NFA) letter or a NJDEP Child Care Facility Approval (CCFA) letter.

The standard NJDEP NFA letters accepted by NJDCF - OOL in the past may not have been specific to all CCC related issues necessary for NJDCF - OOL licensing purposes. If a previously issued NJDEP NFA or CCFA letter does not specifically address the direct contact issues at the site, especially in the play area(s), and the drinking water quality at the proposed or relocating CCC or site conditions have changed, the CCC/EF must hire an LSRP and obtain an RAO.

Note: NJDEP no longer issues CCFA letters and an RAO must be acquired to gain a NJDCF - OOL license.

11.2 Entire Site or Child Care Facility RAO Issuance

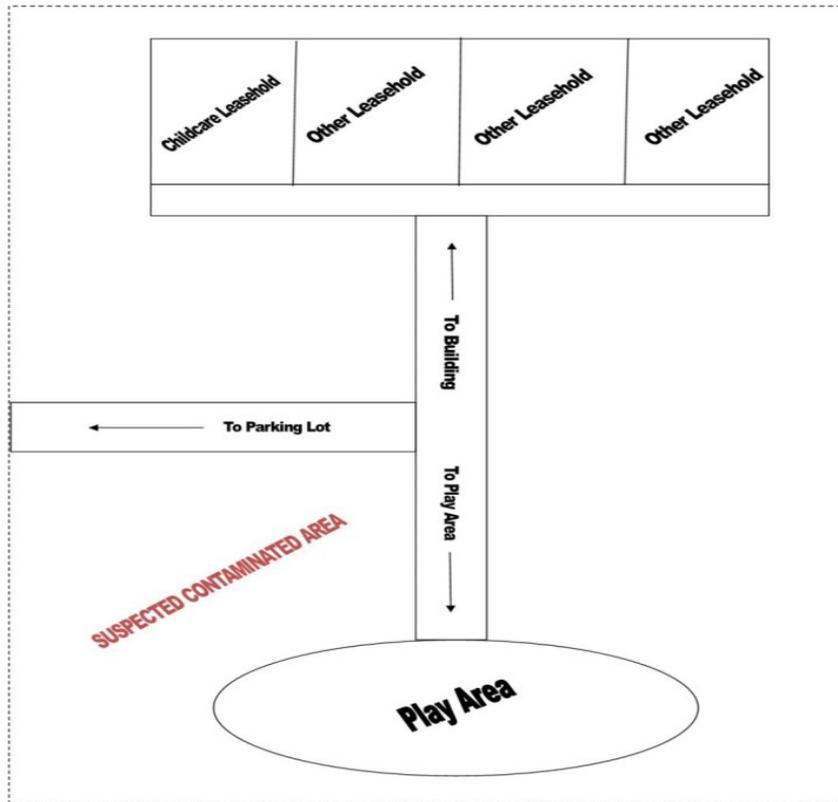
One of **two** types of RAOs may be issued to the CCC: an “Entire Site” or “Child Care Facility” RAO.

An “**Entire Site**” RAO is issued by an LSRP to a CCC when a PA has been completed for the entire property (blocks and lots the proposed CCC is to occupy, including private property for any off-site play areas), all identified AOC’s on the property have been adequately addressed via an SI, RI, RA pursuant to N.J.A.C. 7:26E and applicable guidance, and AOC’s identified off the property have been determined not to be a threat to the CCC or have been mitigated. An Entire Site RAO would be needed if the CCC owns the property or leases the entire property.

A “**Child Care Facility**” RAO may be issued by an LSRP when a CCC leases a portion of a larger property, the CCC does not own the property, a PA has been completed for the entire property (all blocks and lots, not just the leasehold area where the CCC will operate), including any private off-site property to be utilized as a play area, all identified areas of concern on the leasehold have been addressed as necessary through an SI, RI, RA pursuant to N.J.A.C. 7:26E and all applicable areas of concern identified at the property but not on the leasehold the CCC occupies, have been determined not to be a threat to the CCC leasehold area or have been mitigated.

In either scenario, the LSRP should determine whether areas of concern or contamination identified on and off the property or leasehold are a potential threat to the CCC during the remedial phases conducted prior to the issuance of the RAO.

For example, the configuration of a given CCC may necessitate that the children walk from the building defined as a leased space, to an outdoor play area also defined in the lease. In order for the RAO to be protective, the LSRP should evaluate potential areas of concern off the leasehold which may pose a direct contact exposure on the path to and from the outdoor play area. Consequently, that evaluation may lead the LSRP to the conclusion that remedial actions outside the boundaries of the leasehold (as per the property lease agreement), may be necessary, in order to ensure that the RAO is protective for the CCC. The figure below provides a depiction of this scenario.



The physical construction of the CCC building(s) and play area(s) should be complete prior to issuance of the RAO by an LSRP since the RAO issued for a CCC describes the as-built construction of the play area(s) and includes a map of the play area which NJDCF - OOL uses for licensing purposes. Please note that NJDEP conducts field inspections at CCC play areas to verify the RAO play area description matches the as-built construction on site. In the event of a discrepancy, the issuance of a CCC license may be impacted or NJDEP may request that the RAO be amended.

In situations where the CCC building(s) and play area(s) have not been constructed, and an RAO is desired for the property, an LSRP can issue a non-child care RAO to the property owner. If NJDCF - OOL requires the CCC to obtain an RAO for licensing purposes, a “Child Care Facility” RAO or “Entire Site” RAO issued to the CCC will be necessary once building and play area construction are complete. Either “Entire Site” or “Child Care Facility” would be noted in the reference line (designated Re:) on the first page of the RAO Letter and the RAO should be issued to the CCC applying for the license.

For situations where a new RAO is required for a CCC expansion, a PA will need to be submitted and/or updated by an LSRP for the block(s) and lot(s) of the CCC. The PA and RAO will need to address both the original and expansion areas.

For further information regarding RAOs, see the “Guidance for the Issuance of Response Action Outcomes” at <http://www.nj.gov/dep/srp/guidance/#rao>.

11.2.1 RAO Issuance for Educational Facilities that are not licensed by NJDCF - OOL

All EF’s that are subject to the Madden Legislation, must hire an LSRP to obtain an RAO. See Section 4.2 of this guidance for further information regarding when EF’s are subject to the Madden Legislation. Information related to EF’s is available on the internet <http://www.nj.gov/dep/dccrequest/schools.html>. As per Section

11.3 below, an EF RAO should not contain CCC notices referenced below, unless the school is obtaining a license from NJDCF - OOL. RAO letters for EFs without a licensed CCC should follow the RAO model with any inserts applicable to the situation or areas of concern on the property. The RAO model can be referenced at <http://www.nj.gov/dep/srp/srra/forms/>.

11.3 RAO Notice Inserts

When the LSRP issues an RAO to a CCC (either “Entire Site” or “Child Care Facility”) notices specific to CCC’s are needed. The following three notices are CCC specific:

- Child Care Building Interiors Not Addressed
- Child Care Center Notices – Regarding drinking water source, off-site impacts, the outdoor play area construction and any relocation and/or expansions
- Child Care Center Specific - Multi-Tenant Situations

The first two notices above should appear in every CCC RAO. The third notice is to be used when applicable. Other notice inserts, not specific to a CCC, may also be necessary based upon the conditions at the site (e.g., Existing Deed Notice/Classification Exception Area from a Prior Remediation, Regional Natural Background Levels of Materials in Soil, Ground Water Contamination due to Regional Historic Fill, etc.).

When an LSRP issues an RAO, there are a number of prescribed notices embedded in ARRCs, Appendix D, shell documents. There are also a number of additional RAO notices that were established subsequent to the initial ARRCs Rule’s release, that LSRPs may also use. Current RAO notices can be accessed on the web at <http://www.nj.gov/dep/srp/srra/forms/>. Additional information on RAO issuance and notices can be referenced in the following guidance <http://www.nj.gov/dep/srp/guidance/#rao>.

Please note that typically no language changes are permitted for the RAO or notices other than where selections are permitted in the model RAO (noted in bold, brackets, and italics). An RAO may be required to be amended if the language deviates from the model documents.

The following scenarios include other common issues to avoid. These issues typically result in a request for an RAO amendment:

- Multi-Tenant Situations - The notice is not in the RAO when the CCC is a tenant on a multi-tenant site, the language in this notice has been left out for AOC’s which have not been addressed;
- A property where the CCC is located has an Institutional Control (i.e. Deed Notice/ Classification Exception Area) from a prior remediation and the notice “Existing Classification Area or Deed Notice from Prior Remediation” has been left out of the RAO;
- Order of Magnitude notices not included when needed if prior remediation has taken place on a site as applicable;
- Non CCC notices have been included in the RAO when unnecessary;
- Non CCC notices have been omitted from the RAO when needed;
- The “Remedial Action Type” is incorrect when choosing “Restricted Use with Permit Requirements” vs “Unrestricted Use”. As per the “Guidance for the Issuance of Response Action Outcomes” <http://www.nj.gov/dep/srp/guidance/#rao>, if a restriction was previously established then any subsequent RAO(s) cannot be issued as Unrestricted Use unless contamination is remediated and the previous restriction is lifted by the NJDEP.

An EF RAO should not contain the CCC notices referenced above unless the school is obtaining a license from NJDCF - OOL. EF RAO letters for schools without a licensed CCC should follow the RAO model with any inserts applicable to the situation/AOC’s on the property.

11.4 Child Care Center Figures and Attachments to the RAO

A map should accompany all CCC RAOs. The scaled site map should depict the structure(s) that house the children, all outdoor play areas, leasehold areas/boundaries if applicable, and any other major structures or appurtenances associated with the CCC. Refer to Section 5.0 of this document for further map details. Other attachments may be included which are necessary to further demarcate the CCC location.

11.5 Submittals for CCC/EFs

If a Site Investigation Report, Remedial Investigation Report, Remedial Action Workplan, Remedial Action Report and/or an RAO have been prepared by an LSRP for a CCC/EF to submit to NJDEP, any such report is required to contain the applicable information pursuant to N.J.A.C. 7:26E. Please refer to <http://www.nj.gov/dep/srp/regs>.

All CCC/EF reports and/or RAOs submitted to NJDEP should be accompanied by a completed CCC/EF Remediation Form and CID available at <http://www.nj.gov/dep/srp/srra/forms/>.

Note: For a CCC/EF, separate submittals of other forms such as the Preliminary Assessment/Site Investigation Form, Remedial Investigation Report Form, Response Action Outcome Form, are not needed.

12.0 REFERENCES

Madden Legislation (P.L. 2007, c.1). January 11, 2007. Senate No. 2261, State of New Jersey 212th Legislature. Sponsors: Madden, Jr., Fred H.; Sweeney, Stephen M.; Mayer, David R.; Moriarty, Paul D.; Greenwald, Louis D.; Greenstein, Linda R.

New Jersey Department of Children and Families. September 1, 2013. *Manual of Requirements for Child Care Centers – N.J.A.C. 10:122.*

New Jersey Department of Environmental Protection. Amended July 1, 2013. *Administrative Requirements for the Remediation of Contaminated Site - N.J.A.C. 7:26C.* Statutory authority: N.J.S.A. 13:1D-1 et seq., 13:1K-6, 58:10B-1 et seq., 58:10C-1 et seq. and 58:10-23.11a et seq.

New Jersey Department of Environmental Protection. Amended July 1, 2013. *Industrial Site Recovery Act Rules – N.J.A.C. 7:26B.* Statutory authority: N.J.S.A. 13:1D-1 et seq., 13:1K-6, 58:10B-1 et seq., 58:10-23.11a et seq., and 58:10C-1 et seq.

New Jersey Department of Environmental Protection. Amended January 5, 2009. *Pollutant Discharge Elimination System – N.J.A.C. 7:14A-1.* Statutory authority: N.J.S.A. 13:1B-3 et seq., 13:1D-1 et seq., 13:1E-1 et seq., 26-2C-1 et seq., 58:10-23.11 et seq., 58:10A-1 et seq., 58:11-49 et seq., 58:11-64 et seq., 58:11A-1 et seq., and 58:12A-1 et seq.

New Jersey Department of Environmental Protection. Amended January 4, 2011. *Safe Drinking Water Act Rules N.J.A.C. 7:10.* Statutory authority: N.J.S.A. 13:1D-1 et seq., 58:11-9.1 et seq., 58:11-23 et seq., and 58:12A-1 et seq.

New Jersey Department of Environmental Protection. Amended May 7, 2012. *Technical Requirements for Site Remediation – N.J.A.C. 7:26E.* Statutory authority: N.J.S.A. 13:1D et seq., 13:1E et seq., 13:1K-6 et seq., 58:10-23.11a et seq., 58:10A-1 et seq., 58:10A-21 et seq., and 58:10B-1 et seq.

New Jersey Department of Environmental Protection. Amended July 1, 2013. *Underground Storage Tanks - N.J.A.C. 7:14B.* Statutory authority: N.J.S.A. 13:1D et seq., 13:1E et seq., 13:1K-6 et seq., 58:10-23.11a et seq., 58:10A-1 et seq., 58:10A-21 et seq., 58:10B-1 et seq. and 58:10C-1 et seq.

New Jersey Department of Health. September 8, 2009. *Standards for Indoor Environment Certification and for Licensure of Indoor Environmental Consultants - N.J.A.C. 8:50.* Authority: P.L. 2007, c. 1 (approved January 11, 2007), particularly at §§1 and 2, N.J.S.A. 52:27D-130.4 and 130.5.

Sanders, Paul F., Ph.D. May 2003. *Ambient Levels of Metals in New Jersey Soils.* NJDEP/Division of Science, Research & Technologies.

Schick K. June 24, 2013. Selected Sites with Potentially Naturally Occurring Elevated Background Arsenic and/or Beryllium Levels. NJDEP/Site Remediation Program.

Appendix A – Role of Government Agencies

Department of Children and Families (DCF)

(877-667-9845)

The Office of Licensing (OOL) within DCF is responsible for evaluating existing and prospective child care centers and ultimately issuing the child care center’s license. All DCF required documents must be submitted to the OOL prior to licensing.

Department of Environmental Protection (DEP)

BNFO – (973-631-6401)
BSDW – (609-292-5550)

- The DEP/Northern Field Office (NFO) conducts inspection and review of the Response Action Outcome (RAO) and associated reports issued by the Licensed Site Remediation Professional (LSRP) on behalf of a CCC/EF. The LSRP submits the RAO simultaneously to DCF, DOH, DEP and the municipal construction office upon issuance.
- CCC/EFs that have wells that are used for potable water must obtain a “Certification of Acceptable Drinking Water” from the DEP Bureau of Safe Drinking Water (BSDW)

Department of Community Affairs (DCA)

(609-292-7899)

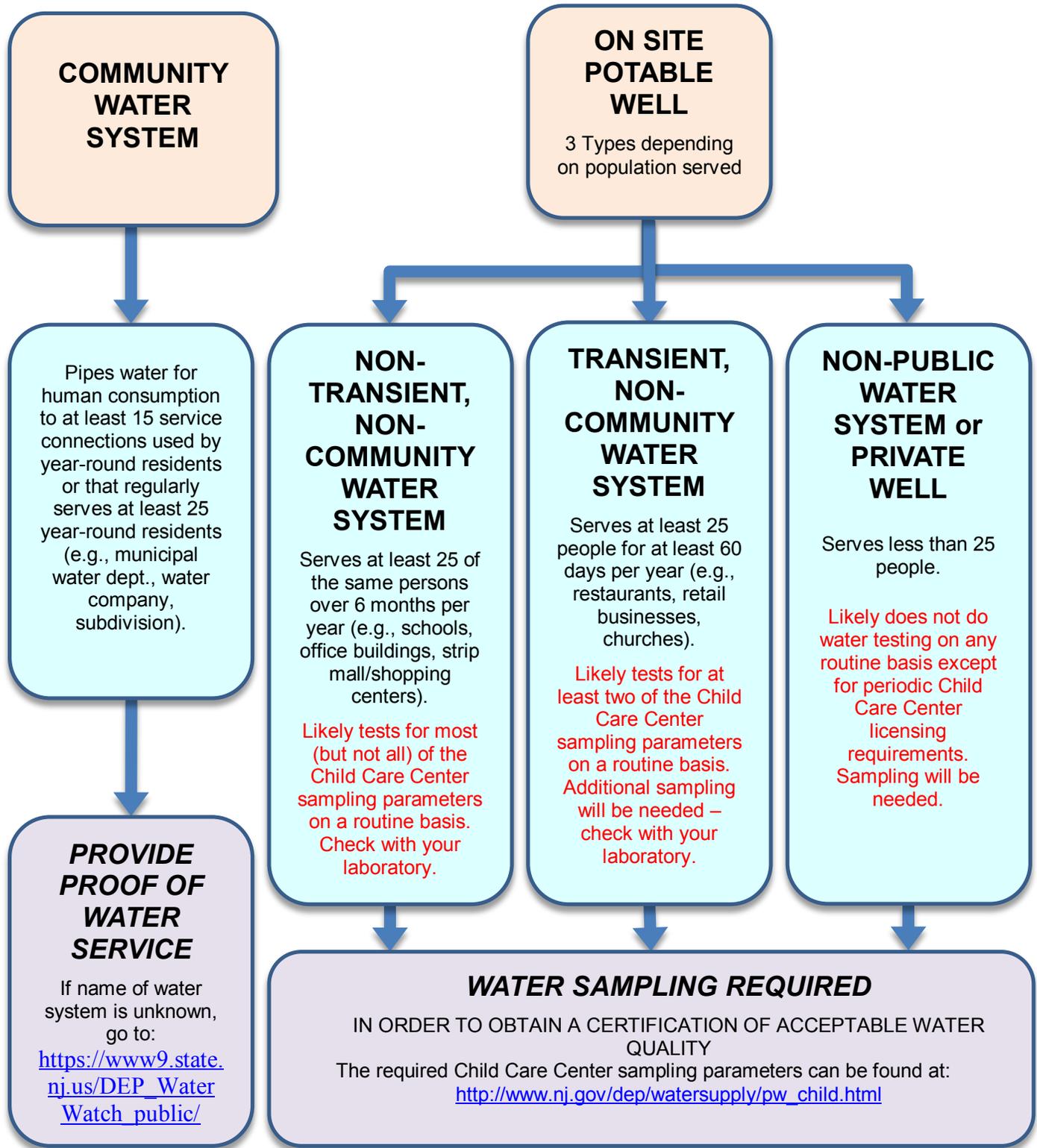
- Under DCA jurisdiction, the municipal construction office issues the construction permits and certificate of occupancy for a CCC/EF. The RAO must be issued prior to the construction official approving any construction permit and/or certificate of occupancy.
- The municipal construction office also issues the “Letter of Prior Use” as referenced in Section 3.3 of this guidance document, which is to be submitted to DCF-OOL.

Department of Health (DOH)

(609-826-4950)

- The DOH is responsible for the regulation of the indoor environment at a CCC/EF.
- When required an Indoor Environmental Health Assessment (IEHA) is prepared by a licensed indoor environmental consultant (LIEC).
- The DOH reviews the IEHA and, when it is deemed acceptable, issues a “Safe Building Interior Certification”.

Appendix B - Types of Water Supplies and NJDEP Sampling Requirements



Appendix C - Acronyms

ACM	Asbestos Containing Material
AOC	Area(s) of Concern
ARRCS	Administrative Requirements for the Remediation of Contaminated Sites
AST	Aboveground Storage Tank
ASTM	American Society for Testing and Materials
BSDW	Bureau of Safe Drinking Water
CCC	Child Care Center
CEA	Classification Exception Area
CID	Case Inventory Document
CO	Certificate of Occupancy
DAP	Diffuse Anthropogenic Pollutant
DCF	Department of Children and Families
DEP	Department of Environmental Protection
DOH	Department of Health
EF	Educational Facility
EPHC	Extractable Petroleum Hydrocarbon
GWRS	Ground Water Remediation Standards
HSL	Hazardous Substance List
IEC	Immediate Environmental Concern
IEHA	Indoor Environmental Health Assessment
IGWRS	Impact to Ground Water Soil Remediation Standards
ISRA	Industrial Site Recovery Act
KCSL	Known and Contaminated Site List
LIEC	Licensed Indoor Environmental Consultant
LSRP	Licensed Site Remediation Professional
MCL	Maximum Contaminant Levels
NAICS	North American Industry Classification System
NFA	No Further Action
NIOSH	National Institute for Occupational Safety and Health
N.J.A.C.	New Jersey Administrative Code
NJDCA	New Jersey Department of Community Affairs
NJDCF	New Jersey Department of Children & Families
NJDEP	New Jersey Department of Environmental Protection
NJDOE	New Jersey Department of Education

NJDOH	New Jersey Department of Health
N.J.S.A.	New Jersey Statutes Annotated
NJUCC	New Jersey Uniform Construction Codes
OOL	Office of Licensing
OSHA	Occupational Safety & Health Administration
PA	Preliminary Assessment
PCBs	Polychlorinated Biphenyls
RA	Remedial Action
RAO	Response Action Outcome
RAP	Remedial Action Permit
RAR	Remedial Action Report
RAW	Remedial Action Workplan
RDCSRS	Residential Direct Contact Soil Remediation Standards
SI	Site Investigation
SIC	Standard Industrial Code
SRP	Site Remediation Program
SRRA	Site Remediation Reform Act
TCL/TAL	USEPA target compound list/target analyte list
TMS	Tank Management System
UCC	Uniform Construction Code
USEPA	United States Environmental Protection Agency
UST	Underground Storage Tank
VI	Vapor Intrusion
VOC	Volatile Organic Compound