

Administrative Guidance for Addressing Unknown Off-Site Sources of Contamination
(version 2.0)

When conducting remedial activities, contamination may be encountered that is suspected to be unrelated to the site under investigation (the subject site). This document provides administrative guidance for addressing this contamination under three scenarios:

The subject site is not a heating oil tank at a residential property and:

1. Contamination suspected to be unrelated to the subject site is identified **on** the subject site
2. Contamination suspected to be unrelated to the subject site is identified **off** the subject site

The subject site is a heating oil tank at a residential property and:

3. Contamination is identified either on or off the subject site.
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Scenario 1: Contamination suspected to be unrelated to the subject site is identified **on the subject site, and the subject site is **not** a heating oil tank at a **residential property****

If contaminants are identified **on** the subject site and they are suspected to be unrelated to a known discharge at the subject site, then the person responsible for conducting remediation (PRCR) of the subject site can retain an LSRP* and complete an investigation to demonstrate that the contaminants are the result of migration onto the property from an off-site source and the subject site is not a contributor to that contamination. The investigation must be conducted in accordance with N.J.A.C. 7:26E-3.9 or 3.10, as appropriate. Steps 1 through 4 below provide administrative guidance outlining this approach:

1. If the observed contamination **has not** previously been reported to the Department the PRCR, their designee, or the LSRP is required to immediately call the DEP Hotline (1-877-WARNDEP) to report the observed discharge (contaminants identified on the subject site) to the Department. The operator will note the information reported and provide an *incident number*. It is important to record the *incident number*; it will be needed later in the process after the investigation pursuant to N.J.A.C. 7:26E-3.9 or 3.10, as appropriate, is completed (see Step 3.b.ii below).

*A Subsurface Evaluator is limited to the remediation of an unregulated heating oil tank and may not perform an investigation pursuant to N.J.A.C. 7:26E-3.9 or 3.10. Only an LSRP is authorized to perform the investigation and submit documents associated with for an investigation conducted pursuant to N.J.A.C. 7:26E-3.9 or 3.10.

- a. The PRCR at the subject site is also required to submit a Confirmed Discharge Notification (CDN) form to the Department within 14 days of the date that the contamination was detected.
 - b. The PRCR is required to retain an LSRP and notify the Department an LSRP has been retained to complete an investigation associated with the discharge reported in Step 1.
 - c. **Proceed to Step 3 of this guidance, below.**
2. If the observed contamination **has** previously been reported to the Department under an existing SRP case, the PRCR, their designee, or LSRP is **not** required to report the contamination as noted in Step 1 above. **In these circumstances, proceed to Step 3 of this section of this guidance, below.** The RAO-A issued under Step 4.b.ii. of this section of this guidance can specifically reference the contaminant and media within the RAO-A without reporting a new *incident number*.
 3. The PRCR is required to perform an investigation to demonstrate that the contaminants are the result of migration onto the property from an off-site source and the subject site is not a contributor to that contamination. As appropriate, this investigation shall be performed pursuant to either: (1) N.J.A.C. 7:26E-3.9, "Site investigation - determination of off-site source of contamination in soil and ground water," or (2) N.J.A.C. 7:26E-3.10, "Site investigation - determination of off-site source of contamination in surface water and sediment." Note that both of these sections of the rule require the performance of a preliminary assessment (PA), and, if necessary, a site investigation (SI) pursuant to N.J.A.C. 7:26E-3 to determine whether a source of the observed contamination exists on site.
 - a. If the investigation conducted pursuant to N.J.A.C. 7:26E-3.9 or 3.10 **does not** demonstrate that the observed contamination is from an unknown off-site source, and it is the result of a discharge or contributions from an on-site source, then the responsible party is required to remediate the contamination in accordance with N.J.A.C. 7:26C and N.J.A.C. 7:26E.
 - b. If the investigation conducted pursuant to N.J.A.C. 7:26E-3.9 or 3.10 **does** demonstrate that the observed contamination is from an off-site source and the subject site is not contributing to that contamination, then the person responsible for conducting remediation or designee should:
 - i. Call the DEP Hotline (1-877-WARNDEP) and tell the operator, using the specific terms **highlighted and underlined** below, that you are "**reporting a discharge in soil/groundwater/surface water/sediment that is not related to my site under investigation and that the contamination is verified to be from an unknown off-site source.**" Provide the following information to the DEP Hotline operator even if you are not prompted to do so.

- 1) Identify if the sampling conducted to confirm the **verified unknown off-site source** was completed on or off the subject site.
 - 2) Identify the address and land use of the property where the sampling was conducted (residential or non-residential).
 - 3) Identify all contaminants detected (related to the off-site source), contaminant concentrations, and the media that are impacted (i.e., ground water, surface water, soils, sediments etc.).
 - 4) Identify whether a **PA/SI** was conducted to confirm a **verified unknown off-site source**.
 - 5) Identify the program interest number of the subject site (the site where the off-site source investigation was performed).
 - 6) Identify any available information regarding proximal receptors that may be impacted (schools, daycares, residences, etc.).
 - 7) Obtain a new Incident Number from the DEP Hotline operator for the **verified unknown off-site source**.
- ii. The LSRP should then issue an Area of Concern RAO (RAO-A) for the contamination determined to be from an unknown off-site source. The **RAO insert** “**Contamination Remains On-Site due to Off-site Contamination**” must also be completed and included within the RAO.
- 1) If Step 1 was followed above (“...contamination **has not** previously been reported to the Department...), then: (1) the *incident number* that was initially provided (in Step 1) should be referenced as the “Communication Center #” in the “**Re: Response Action Outcome**” header section of the RAO-A, and (2) the *incident number* provided in the second call to the DEP Hotline (Step 3.b.i, above) should be referenced in the **RAO insert**.
 - 2) If Step 2 was followed above (“...contamination **has** previously been reported to the Department...”), then: (1) no *incident number* should be referenced in the “**Re: Response Action Outcome**” header section of the RAO-A (leave blank), and (2) the *incident number* provided in the only call to the DEP Hotline (Step 3.b.i, above) should be referenced in the **RAO insert**.

Note: For additional details regarding conducting an off-site source investigation, refer to the Department’s Off-site Source Ground Water Investigation Technical Guidance located at: <http://www.nj.gov/dep/srp/guidance/>.

Scenario 2: Contamination suspected to be unrelated to the subject site is identified only off the subject site, and the subject site is not a heating oil tank at a residential property

If contaminants are encountered off-site (**off** of the subject site) during remediation of a subject site and they are suspected to be unrelated to the subject site (i.e., they have only been detected

off the subject site and not on the subject site), then the PRCR at the subject site does not have an obligation to investigate the source of the contamination unless that person is also a responsible party for the off-site property where the contamination was detected.

When this scenario is encountered, the PRCR, their designee, or the LSRP should:

1. Call the DEP Hotline (1-877-WARNDEP) and report to the operator, using the specific terms **highlighted and underlined** below, that ***“an unknown off-site source of contamination has been identified.”*** Provide the following information to the DEP Hotline operator even if you are not prompted to do so.
 - a. Identify that the contamination was observed **off** of the subject site.
 - b. Identify the address of the off-site property and whether the off-site property (where the unknown off-site source of contamination was detected) is residential or non-residential.
 - c. Identify the contaminants, the concentrations, and the media that are impacted (soils, ground water, surface water, sediments, etc.) associated with the off-site contamination.
 - d. Identify that the detected unknown **“off-site contamination was never detected on the subject site and all available information supports the conclusion that the contamination is unrelated to the subject site.”**
 - e. Identify the Site Remediation Program - Program Interest (SRP PI) Number of the site that was conducting the investigation that resulted in the detection of the unknown off-site contamination.
 - f. Identify any available information regarding proximal receptors that may be impacted (schools, child care centers, residences, etc.).

Scenario 3: Contamination is identified either on or off the subject site and the subject site is a heating oil tank at a residential property

If an LSRP or Subsurface Evaluator (SSE) encounters contaminants on or off the subject site and the subject site is a heating oil tank at a residential property, then the PRCR, their designee, or the LSRP/SSE should:

1. Call the DEP Hotline (1-877-WARNDEP) and report to the operator, using the specific terms **highlighted and underlined** below, that ***“an unknown off-site source of contamination has been identified during a residential heating oil tank investigation.”*** Provide the following information to the DEP Hotline operator even if you are not prompted to do so
 - a. Identify if the sampling conducted was completed “on the subject site” or “off the subject site.”
 - b. Identify the address where the contamination was detected and if detected “off the subject site,” identify whether the off-site property is residential or non-residential.
 - c. Identify the contaminants, the concentrations, and the media that are impacted (soils, ground water, surface water, sediments, etc.).

- d. Identify that the **contamination was identified during “a residential heating oil tank investigation.”**
 - e. Identify the SRP PI Number, if available, of the subject site (the site that was conducting the investigation that resulted in the detection of the unknown source of contamination).
 - f. Identify any available information regarding proximal receptors that may be impacted (schools, child care centers, residences, etc.).
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General Conditions:

1. For Scenarios 1 and 2: To assist the Department with properly locating the verified unknown off-site source, the Department requests the PRCR submit the Electronic Data Deliverables (EDD) which support the verified unknown off-site source to the Department via email at srpedd@dep.nj.gov as applicable. Submittal of EDD to the email address will assist the Department in expeditiously evaluating risk to receptors. Submitting the EDD to the email address provided does not eliminate the requirement at N.J.A.C. 7:26E-1.6 to submit EDD with key document submissions. EDD are not required for investigations associated with heating oil tanks that are used for on-site consumption in a one to four family residential building.
2. For all Scenarios: The PRCR, their designee, or the LSRP may be contacted by the Department and asked to provide information such as analytical data and maps related to the identification of the verified unknown off-site source.
3. For all Scenarios: Additional action will be required by the PRCR for the subject site if the source of contamination is ultimately determined to be related to the subject site.