

LSRPA: Speeding Remediation by Removing Paperwork

By David Morris, LSRP, and Sue Boyle

Paperwork and the bureaucratic management of the assignment and review process are now two of the leading reasons environmental remediation projects in New Jersey are delayed.

Data show it takes the New Jersey Department of Environmental Protection (NJDEP) about 1.5 years on average to issue permits where active soil or groundwater remediation is complete and protections are in place. That processing time has doubled in just a few years.

But what if many of these permits could be issued in 45 days? If the simplest permits could be fast-tracked, it would allow the NJDEP to concentrate on the most complex of projects, freeing more brownfields for redevelopment and productive reuse while preserving the protections for the public and environment.

And NJDEP already has the authority to do it - if it chooses to do so.

There are a number of reasons for the ongoing delays, including mistakes on submissions and delays caused by the pandemic. All are exacerbated by the way the NJDEP chooses to review and issue what are known as Remedial Action Permits (RAPs).

To be clear, when the NJDEP receives a RAP application all the work is done. All that remains is for the NJDEP to issue the “paper” permit stating the ongoing environmental controls are in place and will be maintained.

Once the NJDEP issues the RAP, a Licensed Site Remediation Professional (LSRP) can issue a Response Action Outcome (RAO), indicating the remediation is protective and complete. And then – and only then – can redevelopment begin.

Until 2009, NJDEP managed all remediation cases, so there was no permit program. With that year’s Site Remediation Reform Act, the legislature required NJDEP’s site remediation program to create a permit program for the first time and established LSRPs as the agents to oversee and guide remediation projects.

The law provided three options for a permit program and the site remediation program, a novice within NJDEP in issuing permits, chose the most restrictive. If the NJDEP chose what is known as a general permit - used successfully by many other permitting programs in the NJDEP as allowed under the law - review times for RAP applications would be a fraction of what they are today.

A general permit could be issued within 45 days if the application is complete and if both the LSRP and the person responsible for conducting remediation certify that the

specific remedial conditions established in rule protect public health, safety, and the environment.

Under existing programs for RAPs and RAOs, persons responsible for completing remediation face NJDEP enforcement actions and an LSRP faces disciplinary action if an audit finds the remedy is not protective. The audit program for general permits could work the same way.

Since 2009, when the LSRP program was created, only 3 percent of the more than 19,000 RAOs have been withdrawn by the LSRP because later information questioned the protectiveness of the remedy. A small fraction of less than 1 percent have been invalidated by the NJDEP. To us, NJDEP's own data show that the LSRP program is working and is protective.

Given that 99 percent-plus of RAOs are valid, the NJDEP's increasing review times, and more than a dozen years of the LSRP program's documented success, general permits for simple RAP permits are the logical next step to accelerate project completion and relieve the self-imposed burden on NJDEP staff.

A general permit, however, should not be applied to all applications. All RAP permit applications are not the same, just like all remediation projects are not the same. General permits would be limited to remediation projects considered low risk to the public and environment.

But for most projects an extensive review of the RAP permit application does not make the remedy more protective. It just takes more time. NJDEP already has the tools it needs to affirm protectiveness of the remedies permitted over time through the biennial certification process.

A general permit program, which is already used extensively in other NJDEP programs, makes sense for remediation as well. Permits would move faster. Redevelopment would move faster. And the strong protections already in place for people and the environment would remain the same.

David Morris, President of the Licensed Site Remediation Professionals Association (LSRPA), is Vice President for Environmental Services at the international firm of Tectonic Engineering Consultants, Geologists & Land Surveyors DPC, Inc. Sue Boyle, is the Executive Director of the LSRPA and a Senior Consultant at GEI Consultants, Inc.,