New Jersey
Department of Environmental Protection

Site Remediation Program

Technical Guidance for Investigating Child Care Centers and Educational Facilities

Effective ----- -, 20--

Version 1.0

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APPENDICES

1.0 INTENDED USE OF GUIDANCE DOCUMENT

This guidance is designed to help the person responsible for conducting the remediation to comply with the New Jersey Department of Environmental Protection (NJDEP) requirements established by the Technical Requirements for Site Remediation (Technical Rules), N.J.A.C. 7:26E, dated May 2012. This guidance will be used by many different people 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 for a person to vary from the technical requirements in regulation 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, the 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, the 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, the 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 DEP employee, for her contributions to this document. The following people were on the committee who prepared this document:

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2.0 PURPOSE

The purpose of this document is to provide guidance for the evaluation of a child care center/educational facility (CCC/EF), and outlines the following:

- how to conduct a Preliminary Assessment (PA) that conforms to the standards and direction identified in the "Technical Rules for Site Remediation", N.J.A.C. 7:26E and the NJDEP Preliminary Assessment Technical Guidance, respectively;
- how to conduct an environmental evaluation of a CCC/EF, which includes specific requirements that may not be addressed by "Technical Rules for Site Remediation" and applicable technical guidance; and
- the differences between a CCC Remedial Action Outcome (RAO) and a typical RAO Letter.

The purpose of this guidance document specific to a CCC (may apply to an EF in some instances), in regards to conducting an environmental review for the purposes of licensing that CCC through the New Jersey Department of Children and Families (NJDCF), is the following:

- provide guidance on when the owner/operator of a CCC must hire an LSRP to issue a RAO document for child care licensing purposes;
- explain the regulatory process to document that a potable drinking water supply is present, which meets all applicable drinking water standards;
- explain how to initiate the investigation of the indoor air at a CCC and/or EF under the regulatory authority of the New Jersey Department of Health (NJDOH), as well as the NJDEP; and
- explain how to conduct an investigation that documents there are no direct contact issues within the play area(s) and other contact points throughout a subject site, and how to remediate certain types of contaminants, which are not regulated by the NJDEP.

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

Limitations: If inconsistencies exist between this technical guidance and any statutes, regulations or policy determinations based upon the guidance, the requirements of the statutes, regulations or policy determinations will overrule. Accordingly, this guidance should not suffice as a substitute for a thorough analysis of the law and regulations as they apply to the facts of any specific project or proposal. Since other New Jersey state agency rules apply, consideration of all applicable rules and guidance is necessary.

3.0 SCOPE OF GUIDANCE AND AUTHORITY

Extensive legislative changes occurred in 2007 with regard to the environmental regulation of New Jersey's CCC/EFs, which required several state agencies to amend, as well as implement new policy and adopt new rules. These changes are summarized below.

3.1 Madden Legislation (P.L. 2007, c.1)

In January 2007, Governor Jon Corzine signed legislation to help ensure that CCC/EFs are environmentally safe for the children and other occupants attending them. The Madden Act was a January 2007 supplement to Title 52 of the New Jersey Revised Statutes (State Government, Departments and

Officers); specifically New Jersey Statute 52:27D-130.4 entitled "*Rules, regulations adopted by DHSS relative to contaminated property; certification; definitions; enforcement*". It also amended and supplemented P.L. 1983, c330 (the Industrial Site Recovery Act and Rules, formerly ECRA). The legislation can be referenced at: http://www.njleg.state.nj.us/2006/bills/PL07/1_.pdf

The Madden Legislation mandates stricter regulations regarding CCC licensing. NJDCF regulations now require licensed applicants to certify that any building or property proposed for the site of a CCC was not previously used for operations that could pose an environmental concern. If the site is considered an environmental high risk, the applicant must certify that the site has been remediated to NJDEP standards. The site must also receive a final remediation document under the regulatory authority of the NJDEP and must meet environmental indoor air requirements established by NJDOH. In addition, the legislation mandates stricter regulation of EFs seeking a construction permit or a Certificate of Occupancy (CO).

The Madden Legislation requires that a final remediation document, for the entire site, be issued *prior to* the issuance of a construction permit. An RAO Letter as per the Site Remediation Reform Act (SRRA), N.J.S.A. 58-10C, is currently the acceptable document. The Madden Legislation states:

> b. (1) No construction permit shall be issued for the construction or alteration of any building or structure to be used as a child care center licensed pursuant to the provisions of P.L. 1983, c. 492 or for educational purposes, on a site that was previously used for industrial, storage, or high hazard purposes, such as a nail salon, dry cleaning facility, or gasoline station, or on a contaminated site, on a site on which there is suspected contamination, or on an industrial site that is subject to the provisions of the "Industrial Site Recovery Act", P.L. 1983, c.330 (C.13:1K-6 et al.), except after submission by the applicant to the construction official of documentation sufficient to establish that the Department of Environmental Protection has approved a remedial action workplan for the entire site or that the site has been remediated consistent with the remediation standards and other remediation requirements established pursuant to section 35 of P.L. 1993, c.139 (C.58:10B-12) and a no further action letter has been issued by the Department of Environmental Protection for the entire site.

Therefore, according to the Madden Legislation, if a CCC/EF located on an environmentally high risk site applies for a local construction permit, it must meet two sets of criteria prior to the municipality issuing the construction permit to the proposing CCC/EF. The CCC/EF must:

- Obtain certification for indoor environmental quality from the NJDOH, if the proposed CCC/EF will be occupying an existing building (a construction permit can be acquired without NJDOH clearance if the building will be new construction).
- Demonstrate that the site has been remediated to current NJDEP standards and that a final remediation document has been obtained. This document may consist of either a Remedial Action Workplan (RAW) or an RAO.

Construction permits may be issued, however, in cases where that permit is necessary to make changes to a CCC/EF in order to bring it into compliance with NJDOH indoor environmental quality standards (or NJDEP remediation requirements, as per N.J.A.C. 7:26E-5).

Additionally, the Madden Legislation further stipulates that a CO cannot be issued for occupancy of any building or structure to be utilized as a CCC/EF that is undergoing a *change in use*, unless that building or structure has received a "Safe Building Interior Certification" from the NJDOH and a "final remediation document" has been issued by the NJDEP. A CO must be acquired from the local construction official AND if the location was previously used for factory/industrial purposes, storage/warehousing, high hazard use, dry cleaner/nail salon, gas station or funeral home, as stipulated via any of the following New Jersey Uniform Construction Codes (NJUCC), respectively: F, S, H, B, M and A; or the site is contaminated or is suspected to be contaminated or subject to the "Industrial Site Recovery Act" (ISRA), then an "entire site" final remediation document under the jurisdiction of the NJDEP, is required.

Property that has previously been used for agriculture or has been documented to have historic fill emplaced or is identified to contain naturally-occurring contaminants or diffuse anthropogenic pollution (DAP), is considered "suspected to be contaminated", for purposes of this guidance document and contaminants related to such, must be addressed during the remediation process.

Note: When determining whether or not a proposed location is subject to the Madden Legislation, please include a copy of the existing CO in the PA report. The CO will be useful in determining if there will be a "change-in-use" trigger which may make the property subject to the Madden Legislation. The New Jersey Department of Community Affairs (NJDCA) - Code Assistance Unit (609-984-7609) may assist you in this determination. Code identification and assistance can be located on the NJDCA website at the following link: http://www.state.nj.us/dca/divisions/codes/codreg.

3.2 Amendments to the Department of Children and Families Manual of Requirements for Child Care Centers - Physical Plant Requirements

Since the 2007 child care regulatory reforms, the NJDCF Office of Licensing (OOL) has made amendments to the Manual of Requirements for Child Care Centers, N.J.A.C. 10:122-5.2 - Physical Plant Requirements. At the time of the initial application, renewal application or relocation, the facility operator is required to obtain and submit one of the following documents to the OOL:

- a RAW or RAO letter (the RAO letter under the SRRA is the acceptable document), or
- an NJDEP Child Care Facility Approval (CCFA) Letter, or
- a previously issued NJDEP No Further Action (NFA) letter which indicates that no further remediation is required for the site

Additionally, for CCCs, the facility operator is required to obtain and submit to the OOL a "Safe Building Interior Certification" issued by the NJDOH. For CCC's that are co-located in a building or other structure that contains a dry cleaner or nail salon, the investigator is required to obtain indoor air sample(s), of which, the result(s) must demonstrate that there is no impact to the CCC prior to a license being issued or renewed by the OOL.

"The Manual of Requirements for Child Care Centers", N.J.A.C. 10:122 (effective September 1, 2013), may be referenced at: http://www.state.nj.us/dcf/providers/licensing/laws/CCCmanual.pdf.

3.3 NJDOH published Standards for Indoor Environmental Certification and for Licensure of Indoor Environmental Consultants (N.J.A.C. 8:50)

These standards were published in The New Jersey Register, effective on September 8, 2009. The standards are used to assist indoor environmental consultants and CCC/EF owners in acquiring licenses and certifications required under the law and can be accessed at the following web link: http://www.state.nj.us/health/iep/ccc_ieha.shtml.

3.4 Site Remediation Reform Act (P.L. 2009, c.60)

On May 7, 2009, the Site Remediation Reform Act (SRRA), N.J.S.A. 58-10C, was adopted, and became effective November 4, 2009. The SRRA requires that all persons responsible for conducting remediation of a contaminated site, except for the remediation of discharges from unregulated underground storage tanks (USTs), who initiate remediation after November 4, 2009, to utilize the services of an LSRP. The statute directs the NJDEP to inspect documents submitted by an LSRP and conduct additional review of documents related to sensitive populations such as those housed in child care facilities.

The main NJDEP regulations that this document is based upon, which were created or amended under SRRA, are the "Administrative Requirements for the Remediation of Contaminated Sites", N.J.A.C. 7:26C and "Technical Requirements for Site Remediation", N.J.A.C. 7:26E, respectively. The noted regulations, as well as SRRA, can be referenced at the following web link: www.nj.gov/dep/srp/regs.

4.0 GUIDANCE FOR LICENSE RENEWALS, EXPANSIONS & RELOCATIONS

4.1 Renewal of Child Care Center Licenses

The owner/operator of a licensed CCC that possesses a license which is expiring in the near future, for a site where the NJDEP's Child Care Unit had previously issued a NFA or Child Care Facility Approval (CCFA) Letter, is not required to hire an LSRP for license renewal purposes. The NJDCF-OOL will use the previously issued NFA or CCFA Letter and a NJDCF-OOL "Attestation Form" completed by the licensed CCC owner/operator to renew the center's license. If the owner/operator is not able to attest to the fact that conditions have remained the same at the CCC, then the NJDEP will become involved in the re-licensing process. **Note:** Reviews by the NJDEP will be subject to a $225.00 renewal fee pursuant to the Administrative Requirements for the Remediation of Contaminated Sites (N.J.A.C. 7:26C-4.3).

4.2 Child Care Center and Educational Facilities Expansions

If the footprint of the CCC building is expanded, that expansion is subject to the Madden legislation and triggers the process of obtaining a RAO. A new PA, SI (and if applicable a "remediation action") will be necessary prior to issuance of a new RAO by an LSRP, so that the expanding CCC can obtain a NJDCF-OOL license.

In certain situations, however, expansions of the operational area of a CCC may not require a new RAO to be issued by an LSRP (for NJDCF licensing purposes). The investigator should contact NJDCF–OOL at (877) 667-9845, if they believe that a new RAO may not be necessary during expansion.

Another example of when an RAO may be needed would be if the CCC is acquiring additional buildings or play areas to increase operational area. This would apply if the building(s)/play area(s) are on the same or different property, as the currently licensed CCC.

The investigator may reference the "Issuance of Response Action Outcomes" Administrative Guidance document for additional information on issuance of an RAO during CCC/EF expansions, at the following website: http://www.nj.gov/dep/srp/guidance/#rao.

Whether the footprint is expanding or the CCC/EF is expanding by acquiring additional building(s), the potential for indoor environmental issues may be a concern. For a CCC (and any applicable EF), the 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 – DCF-OOL Licensing Requirements

The historic use of the property on which a newly proposed or relocating CCC is to be established, must be evaluated to determine if the site is subject to the Madden Act. If the location is subject to the Madden Act, the owner/operator is required to hire an LSRP to obtain an RAO prior to the issuance of a NJDCF child care center license.

The LSRP must determine if the new location was previously occupied by a CCC, and if so, the time period of that occupation must be documented. The site use must be re-evaluated for the period of any identified vacancy. If the desired new location has been vacant at any time after it received an NFA or a Child Care Facility Approval Letter from the NJDEP or RAO from an LSRP, then a new RAO must be issued for the newly located CCC.

In certain cases where a pre-existing NJDEP NFA, Child Care Facility Approval Letter or RAO exists, those documents, along with the NJDCF-OOL "Recertification Form" completed by the CCC owner/operator, may still be acceptable for licensing purposes. If, at the time that a new license is desired, and the owner/operator is not able to certify that site conditions since the time of issuance of the aforementioned letters, have not changed or the pre-existing CCC has not operated at the location for over a year, an RAO from an LSRP is required. The investigator should contact NJDCF–OOL at (877) 667-9845 to determine if a new RAO is necessary or whether the previously issued NJDEP NFA, Child Care Facility Approval Letter or RAO, suffices. Each physical location is unique and may need to be addressed on a case by case basis for determination of whether an RAO will be necessary.

Newly proposed or relocating CCCs will also be required, by NJDOH, to evaluate any potential indoor concerns based upon site history, building age and prior use. At a minimum, radon, lead and asbestos are typical potential indoor environmental concerns. Please contact the NJDOH-Indoor Environments program, at (609) 826-4950 regarding questions pertaining to a newly proposed or relocating a center.

5.0 PRELIMINARY ASSESSMENT GUIDANCE

5.1 Site History

The investigator must conduct a diligent and comprehensive inquiry while researching the site's history. Please refer to the *Preliminary Assessment Technical Guidance Document* posted on the Site Remediation Website (http://www.nj.gov/dep/srp/guidance/#pa_soils) for information regarding specific methods for compiling site history. Additional research and/or resources may be necessary to identify all past operations at the site and the NJDEP recommends using as many sources as possible; some are detailed in this section. The scope of the PA for a CCC/EF should identify all AOCs on the entire property (i.e. entire lot[s]) that the CCC/EF is to be located, regardless of leasehold boundaries.

Determine if the site or site structures were ever used for any industrial purposes. If yes, be sure to 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. Understanding what buildings the children (sensitive population) will occupy and where the play area(s) will be located in reference to past operations at the site is critical, so that children are not exposed or potentially exposed to contamination or any environmental hazards. Past operations may have impacted various media at the site including, but not limited to soil, groundwater, drinking water, sediment, building interiors, etc. Determine if the site or structure was previously used for one or more of the following NJUCCs, 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

Be sure to list all applicable NJUCC designations of past operations at the site in the PA report. The investigator should reference the NJDCA website in order to determine if any additional NJUCC codes have been added to the above list: http://www.state.nj.us/dca/divisions/codes/codreg.

5.1.1 Letter of Prior Use, Uniform Construction Code Notification & Certificate of Occupancy

- *DCF Requirements*: In accordance with the 2007 and 2011 NJDCF "Amendments to the Manual of Requirements for Child Care Centers", the CCC owner is responsible for submitting a "Letter of Prior Use" to the NJDCF-OOL as part of the license packet. The "Letter of Prior Use" is issued by the construction official of the municipality where the CCC is located or will be located. This letter indicates whether the building in which the CCC is located, or will be located, has ever housed a CCC operation that required classification, pursuant to the NJUCC, N.J.A.C. 5:23 et seq.

- *DOH Requirements*: If, while conducting the PA and/or site investigation (SI), it is discovered that the property did in fact house the operations designated by the NJUCC codes F, H, S, B, M or A, the investigator for the CCC/EF should notify NJDOH and NJDCF-OOL (CCC only), *in writing*, of these operations. Be advised that former operations such as a funeral home, printing operations, etc. or any other operation that could impact the indoor air quality may also trigger the notification requirement to NJDOH and NJDCF. The NJDCF-OOL prefers contact via email at: dcf_ool@dcf.state.nj.us Refer to Section 8.0 of this guidance document for NJDOH contact information.

Note: As noted in Section 3.1 above, the investigator should include a copy of the existing CO in the PA report. The CO will be useful in determining if there will be a "change-in-use" trigger which may make them subject to the Madden legislation. The NJDCA-Code Assistance Unit, may assist you in this determination. Contact information for NJDCA is listed in Section 3.1.

5.1.2 Hazardous Site Identification

- The United States Department of Labor (USDOL), Standard Industrial Codes (SIC) manual was formerly used to classify industry and also lists many types of operations that utilize hazardous substances in the course of their routine operations. Government entities such as the Federal Occupational Safety & Health Administration (OSHA) still use this system to classify industry under their purview and some tax offices of local municipalities may still as well. A 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, developed an industrial classification system termed the "North American Industry Classification System" (NAICS) which was developed to replace the above noted USDOL SIC manual. The NAICS lists industries in "Sectors" and the 2012 version of the NAICS 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 child care facility 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 has utilized or is suspected to have utilized a "hazardous substance" present on the current HSL, must be investigated for all potential contamination that may have been discharged. 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 repair (i.e., repair, painting) etc., have been documented to have introduced hazardous compounds to the environment. 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 Aerials

A review of the aerial photographic history of the site is necessary as per the NJDEP's *Preliminary Assessment Technical Guidance Document*. The following are important considerations for reviewing aerial photographs specific to CCC/EFs which are to be considered 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. **Note:** Any off-site play area that may be proximal, distant or on a separate property from the CCC/EF, should also be reviewed.

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

5.3 Utilities – Historic/Current Conditions

Evaluation of site utilities requires the investigator to understand 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

A determination must be made as to 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 of concern.

If the substance used to heat a premises was historically or is currently, fuel oil, 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.). Describe the UST/AST size, construction (i.e., steel, fiberglass, etc.) and the location of fill pipes and/or vent pipes. Identify the location of all current or former UST/AST location(s) on the site map. Also, note the condition of the UST/AST fill pipes and fuel lines to the extent possible.

5.3.2 Underground Storage Tanks

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

Determine the status of the UST (In-Use, Out of Service, Removed, Abandoned-In-Place). If "Removed" or "Abandoned-In-Places", provide whether or not a NFA or RAO letter was issued for the 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, must also be determined by checking the NJDEP's "Data Miner" web database and UST registration database, prior to a final remediation document being issued.

5.3.3 Propane or Other Natural Gas Tanks

Identify, on a scaled map, all former or existing propane tanks, and/or USTs/ASTs and their proximity to the building(s), outdoor play areas and other areas where children will be present.

5.3.4 Electric

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

5.3.5 Universal Waste

The potential and presumptive presence of Universal Waste should be evaluated (i.e., lighting components, insulation, tiling, etc.).

5.3.6 Waste Disposal

The investigator should identify current/historic waste disposal practices, including use of septic systems or public sewers. For sites that have "public" sewer connections, the investigator should evaluate any differences between construction dates and the dates of first "public" sewer service connections. This will assist the investigator in determining if other waste disposal practices were being utilized historically (i.e., such as identifying floor drains, sinks and toilets that terminate in drywells or into other non-treatment disposal points). The investigator should depict the entire path and terminus of each drainage feature, all former or existing septic system and leach fields and/or seepage pits, on a scaled site map.

5.3.7 Storm Water

Where storm water management features are not present or include an overland flow component, evaluate the potential for contaminated surficial run-off from current or prior operational or storage areas toward the outdoor play area location. For historic industrial operations which are known to have operated or are suspected to have existed, evaluate the potential of a discharge of non-contact cooling water associated with non-potable water systems, co-mingling of waste flows, chemical waste lines, and wastewater treatment features.

5.4 Current Site Conditions

The investigator must determine whether the site is an operating CCC/EF (if a CCC, whether it is occupied by children or staff) or if it is a proposed site. If it is an existing CCC that is renewing their license without any modifications to the site/structure, current site conditions should be verified. For CCCs that will be expanded or modified, plans for the expansion and/or modification shall be reviewed and discussed with the NJDCF-OOL. For sites that were never used as a CCC/EF (either renovations of an existing building or a new construction), a full site PA shall be performed as described in the NJDEP's *Preliminary Assessment Technical Guidance Document*.

While conducting a PA, an initial site visit should be made and a summary of observations shall be provided for that visit. If historic or current operations indicate environmental areas of concern may exist or have existed historically, the investigator must determine where the AOCs are/were located on-site, and if sampling via a SI is required (See Section 9.0 of this document).

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

The investigator should determine if the CCC/EF is the only occupant of the property, if the CCC/EF shares space with other tenants, and 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 investigator to understand 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 investigator must identify any outdoor play area(s) and describe in detail its construction and design, such as type of play surface (e.g., mulch, rubber mat, pavers, asphalt, sand, pour-in-place rubber surface, etc.), fence details (size, egress, and material) and size/dimension of the play area(s). If climbing equipment is present at a CCC, refer to NJDCF's "Manual of Requirements for Child Care Centers" (N.J.A.C. 10:122), for specifications on acceptable equipment.

If the play area is off-site, provide a description of the play area, as noted above, and provide the following information: address, block and lot, and owner(s) of the property.

If the off-site play area is on public land, the investigator must determine if the off-site play area has any potential concerns by referencing the NJDEP's Known Contaminated Site List (KCSL). If a site of concern is identified at that public parcel, provide the Program Interest # of the identified site in the PA Report. The investigator should also determine the reason the case has been identified on the KCSL and must make a determination if that off-site play area is a potential threat to the CCC population of concern. NJDCF-OOL will determine if the off-site, public lands, play area, is acceptable for use by a CCC, based on the information submitted for the portion of the play area.

If the off-site play area is not on public land, **a PA report must be completed for the off-site play area property**. In addition, the investigator should determine if AOCs are present on or adjacent to the off-site play area; if yes, a site investigation is required as noted in Section 9.0 of this document.

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.

5.5 Preliminary Assessment Report Preparation

The following includes a description of general PA Report requirements, as stipulated in N.J.A.C. 7:26E-3.2 as well as in NJDEP guidance and recommendations for the completion of the PA Report.

In accordance with N.J.A.C. 7:26E-3.2, the person responsible for conducting the remediation must prepare a PA Report that presents all of the information identified, evaluated or collected during the preliminary assessment data gathering activities. The PA Report must 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 areas of concern 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 area of concern identified;
- A recommendation for each area of concern identified at the site, that states either:
    - The area of concern is potentially contaminated and additional investigation or remediation is required; or
    - The area of concern is not suspected to contain contaminants above the applicable remediation standards and no further investigation or remediation is required and 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 area of concern 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.

All reports must be submitted along with 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 the need for 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. It is recommended that the investigator 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
- Areas of known groundwater contamination where a CEA has NOT been established
- Area of known groundwater 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 cleaner(s)
- Auto body/Repair shop(s)
- Gas/Service Station(s)
- Historic Fill Identified Areas
- Chromate Sites
- Any other Federal or State Government site identified to have had a discharge

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

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

Without thoroughly understanding the type and/or extent of contamination that may emanate from any one of these types of sites, maintaining a school or child care center nearby may put a sensitive population at risk. It is critical that the investigator carefully evaluate any sites of concern until the risk is either mitigated or determined not to be a threat, based on the available information pertaining to those sites.

6.2 Web Resources for Identification & Notification Purposes

6.2.1 Identifying Nearby Contaminated Sites (Radius Searches)

The investigator may access the following NJDEP electronic resources to identify the above potential sources of contamination:

- NJ GeoWeb
- NJGIS
- NJDEP's Data Miner Report(s)

It is recommended that the investigator access any/all other resources available to identify the potential sources of contamination that may impact the CCC/EF.

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 investigators conducting remediation at contaminated sites as required by SRRA and the Technical Requirements for Site Remediation. Properly recording the true X-Y Coordinates of CCCs and EFs, strengthens protection of the sensitive populations that they maintain.

Note: The investigator should be sure to cross-reference the site location with other mapping sources so that the X-Y coordinates are accurately recorded as representing the "main entrance" 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 their investigator 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

All CCCs 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 at any relocation of a CCC.

The first step toward demonstrating that safe drinking water is provided is to determine the source of the drinking water at a CCC/EF property. The water is either 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.

7.1 Public Community Water System

If an existing or proposed CCC/EF is/will be connected to a community water system, it shall 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 town/city at the end of the page to determine what water systems serve that area.

- For a CCC, the required documentation noted above, shall 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 a potable well on the property, 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 the 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 the BSDW, the CCC/EF shall conduct the following:

7.2.1 Sampling

Conduct sampling of the water using a NJ certified laboratory (specifically certified for drinking water analytical methods) to demonstrate the potable water meets the Maximum Contaminant Levels (MCLs) 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/EFs 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/EFs. Refer to Appendix C 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 shall 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 the 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 its 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 the BSDW will be necessary. **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 DCF-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 DCF-OOL license renewal, a copy of the Certification shall be provided to DCF- 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 investigator shall 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 (VOCs)

In the event the drinking water supplied by an on-site potable well exhibits exceedances of the drinking water MCLs and/or the Ground Water Remediation Standards (GWRS), N.J.A.C. 7:26D-2.2 for VOCs, the CCC/EF and/or the investigator shall notify the following:

- NJDEP Hotline at 1-877-WARN DEP
- NJDEP BSDW at (609-292-5550)
- DCF-OOL at (877-667-9845)
- NJDOE Executive County Superintendent of Schools for the appropriate county: http://www.nj.gov/education/counties (for EFs only)

- NJDEP SRP/Child Care Unit at (609-633-1479)
- Local/County Health Department

The site PA shall be reviewed by the investigator to determine whether a source of the contamination is/was present on site. An investigation of any potential on site sources, if identified, will be required to be conducted by an LSRP.

For information regarding potable water Immediate Environmental Concern (IEC) procedures, reference the "IEC Technical Guidance" at: http://www.nj.gov/dep/srp/guidance/#iec.
Conversely if the investigator has reviewed the PA and is confident current or past site operations are not the cause of the well contamination, the NJDEP's Hotline (1-877-WARN-DEP) should be notified and the matter reported as an "unknown, off-site source" of contamination.

7.3.2 Nitrate, Coliform, and Lead

In the event the drinking water supplied by an on-site potable well exhibits concentrations above the applicable drinking water standards for nitrate, coliform, or lead, the CCC/EF shall notify the following:

- NJDEP BSDW at (609-292-5550)
- DCF-OOL at (877-667-9845)
- NJDOE Executive County Superintendent of Schools for the appropriate county: http://www.nj.gov/education/counties (for EFs only)
- NJDEP SRP/Child Care Unit at (609-633-1479)
- Local/County Health Department

Considering the potential health effects to young children of even short term exposure to these three contaminants, the above notifications shall be made within 24 hours of becoming aware of contaminant levels that exceed standards. Typically, these contaminants are not a result of hazardous substance discharges, and thus, the BSDW and/or 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, and any other contaminant with a New Jersey drinking water MCL

In the event the drinking water supplied by an on-site potable well exhibits concentrations above an applicable drinking water standard for any regulated compound not listed in items 7.3.1 or 7.3.2 above, the CCC/EF shall notify the following:

- NJDEP BSDW at (609-292-5550)
- DCF-OOL at (877-667-9845)
- NJDOE Executive County Superintendent of Schools for the appropriate county: http://www.nj.gov/education/counties (for EFs only)
- NJDEP SRP/Child Care Unit at (609-633-1479)
- Local/County Health Department

Typically, for the contaminants included in this category, a single sampling result above the applicable drinking water standard would not constitute a BSDW compliance violation, as compliance would be based on a running annual average of four quarterly sampling results; **however,** considering that the consumers of a center's water supply are young children, even a single result indicating an elevated level may warrant requiring the center to 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

The evaluation of the indoor environment in a building that is to be used as a CCC/EF is under the regulatory authority of the NJDOH. On September 8th, 2009, the 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 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 a 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 noted previously, 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 which may impact the indoor environment. The IEHA will also contain an assessment to determine if adjacent businesses are known or suspected to contain 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 the NJDOH can conduct an IEHA. To assist the licensed firm in structuring the IEHA report, the NJDOH has developed forms which must be completed when an IEHA is conducted, these can be found at: http://www.nj.gov/health/iep/ccc_ieha_submission.shtml. These forms provide the basis for the final IEHA report but the IEHA may also include any other relevant documents, reports or evaluations used to conduct the assessment. The 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. The 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 needs to be aware of the magnitude and scope of an IEHA and must 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 a LIEC.

While the LSRP will not have the direct responsibility to evaluate every interior environmental concern, the LSRP should be aware of the contaminants that will be considered during the IEHA. Those may include but not limited to, the assessment of asbestos containing material (ACM), VOCs, metals, mold, radon, lead-based paint, formaldehyde, inorganic compounds (including mercury), vapor intrusion (VI), and pesticides.

In order for the indoor environment of any CCC/EF to be fully evaluated, many 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 VOCs that may be present in the indoor air, is another typical indoor air sampling method. Many testing regimens are site-specific and often developed in consultation with the NJDOH.

The LSRP will have direct responsibility for the assessment of outside environmental conditions, which 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 and/or contaminated soil, groundwater contamination from either an on-site or off-site source, and any potential for VI. 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 the 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.

The NJDOH typically requires that the PA/SI and any remediation work be completed, a RAO issued, and the IEHA completed prior to conducting any review or site inspection(s). 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 addressing the outcome of those issues, prior to the LIEC and the NJDOH completing their work. The reports describing all remedial activities must be made available for evaluation during the IEHA process.

The NJDOH is available to discuss any 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 Heath
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

The NJDEP/SRP may require VI testing, based on information provided during a PA/SI, including a targeted evaluation of Indoor Air, which is separate and distinct from the IEHA testing of the NJDOH Indoor Environments Program. SRP investigations of indoor air require sub-slab sampling in addition to the analysis of indoor air. All indoor air sampling results accrued during SRP's sampling requirements are evaluated by both the NJDEP and the NJDOH, although as noted above, each uses different criteria to evaluate the data. Therefore, the requirements to perform an indoor air evaluation under NJDEP authority, may be imposed after the issuance of the RAO, based on the information submitted in the RAO package at the conclusion of an LSRP investigation.

9.0 SITE INVESTIGATION SAMPLING GUIDANCE

9.1 Identifying Areas of Concern

The nature of previous site operations and any AOCs that are identified from the PA, will dictate how a SI will be conducted. The identification of AOCs, where they are located, and how they should be addressed will be the main focus when one is conducting an environmental evaluation at a CCC/EF. Areas of concern may be present on the CCC/EF property of concern as well as adjacent and off-site properties. The investigator should evaluate all pertinent AOCs on-site, as well as any potential impact from nearby contaminated sites. The SI shall be performed in accordance with N.J.A.C. 7:26E, as well as "The Technical Guidance for Site Investigation of Soil, Remedial Investigation of Soil, and Remedial Action Verification of Sampling for Soil which can be referenced at the following web link: http://www.nj.gov/dep/srp/guidance/#si_ri_ra_soils.

When determining what AOCs may require a site investigation, the investigator should consider the following:

9.1.1 Exposed Play Areas - (i.e., grass or soil cover)

A play area is considered a potential AOC due to the possibility of direct contact exposure to children, from soils that may harbor contaminants. Sampling should be conducted to determine the presence or absence of contamination and ensure that the play area is protective.

9.1.2 Covered or Capped Play Areas - (i.e., artificial turf, asphalt, mulch, etc.),

The requirement for sampling will depend on any identified association (historic or current) with another on-site or off-site AOC. Sampling of the play area must be performed, if contamination is suspected in site soils, whether a cover or cap exists or not.

9.1.3 Other AOCs

Other scenarios may include the identification of possible contaminants via a site history review, such as the presence of historic fill. Other examples may include AOCs which may also be present within that same play area (i.e., UST and/or AST). Sampling in those instances should follow the appropriate guidance document which provides direction for the type of AOC that is identified.

9.1.4 Leasehold Scenarios

Conduct an SI at AOCs on the leasehold portion of the property, and evaluate any AOCs off of the leasehold that could reasonably impact CCC/EF leaseholds and outdoor play areas.

9.1.5 Entire Site Scenarios

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.

When the investigator identifies an AOC located off of the CCC/EF site or beyond the leasehold portion of the CCC/EF site, they should determine if the property with the AOC is listed on the State's KCSL by checking the NJDEP "Data Miner" report listed on the SRP website: http://www.state.nj.us/dep/srp/kcsnj.

If the property is listed on the KCSL, the investigator should request any/all files for the site from the NJDEP's Office of Open Public Records (www.nj.gov/dep/opra) and evaluate if the AOC poses a potential impact to the CCC/EF. If the off-site AOC(s) are not on a property listed on the KCSL after checking "Data Miner", the investigator should collect samples (e.g., soil, water, etc.) at the CCC/EF site if needed, to determine potential impacts to the CCC/EF.

9.2 General Sampling Guidance

Soil samples collected at CCC/EFs should be collected in accordance with this guidance document as well as the "Technical Guidance for Site Investigation of Soil, Remedial Investigation of Soil, and Remedial Action Verification Sampling for Soil".

Please note that if the complete site history of the CCC/EF cannot be determined, then soil sampling of the play area must be conducted by the investigator, to insure that the children will not be exposed to any potential contamination in the play area soil.

The play area should also be sampled, regardless of whether a permeable or impermeable cover exists, if any AOC (defined in N.J.A.C. 7:26E) has been identified at this location which potentially could have

discharged hazardous substances or has a naturally occurring element (see section 9.9 below), and/or applied pesticides or herbicides.

Analytical parameters for sites with incomplete histories should consist of USEPA target compound list/target analyte list (TCL/TAL) compounds plus tentatively identified compounds (TICs). If soil sample(s) are collected for the VOC component of the TCL/TAL, samples should be acquired from a depth prescribed in the NJDEP's Field Sampling Procedures Manual (latest version). Additional parameters not included on the TCL/TAL list should include extractable petroleum hydrocarbons (EPHC), pH, hexavalent chromium and tertiary butyl alcohol (TBA).

9.3 Outdoor Play Areas

9.3.1 On-site Play Areas

Recommended sampling is a minimum of two soil samples 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. Sample locations should be representative of the entire play area as well as 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, and analytical parameters should be based on the guidance in item 9.2 above.

9.3.2 Off-Site Play Areas on Private Property

For an off-site, outdoor play area located on privately owned property, a separate PA report is required to be conducted by the investigator. The off-site play area may need soil sampling performed by the investigator if an AOC exists on that property, if contamination is suspected or if the play area exhibits a direct contact scenario (i.e. bare soil). All analytical parameters shall include any contaminants which were identified in the PA (suspected or verified) and/or based on the hazardous compounds which may have been utilized at the property where the play area resides.

If data gaps (missing information) exist in the site history of the property that the off-site play area will be located, then soil sampling of the play area is required to verify there is no direct contact exposure to any potential contaminants. An RAO may not be issued without the proper sampling being performed. All analytical parameters shall include the suspected contaminants identified in the PA for the property where the off-site play area is located, based on any hazardous compounds identified in the off-site PA.

9.3.3 Off-Site Play Areas on Public Property

CCCs that utilize an outdoor play area(s), which are off-site and located on publicly owned (i.e., public schools, municipal parks, etc.) lands, are typically not required to have soil sampling performed. However, verification is required that the property where the off-site play area is located, is not listed on the NJDEP's KCSL. The investigator may verify this by checking the NJDEP's "Data Miner" report.

9.4 Underground Storage Tanks

If the PA identifies "former" (including "abandoned-in-place") or "active", on-site, unregulated (see N.J.A.C. 7:14B-1.4 for unregulated units) or regulated USTs, then the appropriate sampling should be performed as follows.

Analytical parameters shall be based on the type of material stored in the UST, as per the Technical Guidance for Investigation of Underground Storage Tank Systems, *Table 1 – In Service UST Sampling*

Frequency and N.J.A.C. 7:26E-2.1, Table 2-1.

Based on the contents of the UST (heating oil, gasoline, etc.), the investigator must perform a soil (and groundwater investigation if warranted) SI to verify the integrity of the former or existing UST, as per the Technical Guidance for Investigation of Underground Storage Tank Systems, which can be referenced at: http://www.nj.gov/dep/srp/guidance/#ust

All registration requirements as per N.J.A.C. 7:14B-2 shall be adhered to as well.

Be advised that tank tightness integrity testing (i.e., pressure testing) alone will not be an acceptable method of verifying the integrity of an existing tank.

If the fill port for a UST lies within the boundary or in close proximity to the outdoor play area or in an area that the children have potential for direct contact during any activity, a surface soil sample should be collected within two feet of the fill port.

9.5 Pole Mounted/Ground Level Transformer

If a transformer is within, adjacent to, or in close proximity to the outdoor play area, soil samples should be collected by the investigator. One soil sample should be collected at zero to six inches below ground surface, within the portion of the outdoor play area that is within closest proximity to the transformer. Analytical parameters shall include polychlorinated biphenyls (PCBs) and EPHCs as described in N.J.A.C. 7:26E *Table 2-1 - Analytical Requirements for Petroleum Storage and Discharge Areas*.

9.6 Former Agricultural Use/Orchard Use

If the PA identifies the site as having been formerly utilized for farming and/or orchards, the possible use of pesticides should be addressed for any area where the children have the potential for direct contact with soils. The area of potential direct contact exposure requires a SI, as per N.J.A.C. 7:26E-3.3, consisting of one soil sample per play area (minimum of two samples, if only one play area exists). At least one sample should be biased towards areas with the highest potential for direct contact (i.e., near play equipment, etc.) and one sample should be collected near a non-disturbed area (i.e., fence line), which will depict non-disturbed soil conditions. Discrete soil samples should be collected at a depth of zero to six inches and analyzed for arsenic, lead, mercury and organo-chlorine pesticides (EPA Method SW-846, 8081).

9.7 Historic Fill

If historic fill is suspected to exist at a CCC/EF location, the investigator is required to determine whether historic fill is present pursuant to N.J.A.C. 7:26E-3.12(a) and follow the steps outlined in section 5.2.1 of the Historic Fill Material Technical Guidance (http://www.nj.gov/dep/srp/guidance/#historic_fill). If historic fill is determined to be present, the investigator may either remediate historic fill material as per the Historic Fill Material Guidance, under the assumption that it is contaminated or they may perform soil sampling to determine whether or not the historic fill material is contaminated above the NJDEP's RDCSRS as per N.J.A.C. 7:26D-4. If sampling is performed, a SI shall be performed by the investigator as per N.J.A.C. 7:26E-3.4/5.2 and as per the Historic Fill Material Technical Guidance. If historic fill is determined to be contaminated the investigator shall delineate the historic fill horizontally and vertically for both physical extent and determination of contaminant levels. Refer to Section 10.2.2 for remediation measures regarding historic fill.

9.8 Diffuse Anthropogenic Pollution (DAP)

One other type of potential contaminant(s) generally associated in urban settings, which may exist at a property that proposes to construct a CCC/EF, however, a contaminant that is not regulated by the NJDEP, is one termed "DAP". The NJDEP has separated DAP from being linked to the presence of historic fill (not directly emplaced) and has determined that DAP shall not be a regulated contaminant.

The term, DAP, describes broadly distributed pollutants present in surficial soil, often arising from multiple sources, which have been historically generated by human activities but as noted, not intentionally emplaced at the site of concern. DAP generally results from airborne deposition but may also be a remnant of random, non-attributable, non-point sources. DAP contaminants typically include PAHs and metals, which may be present above health-based soil remediation standards. PAHs are abundant in the urban environment and are typically petroleum-related. DAP is usually limited to the upper six inches of soil or less. DAP is usually identified inadvertently when the investigator is in the process of interpreting analytical results during the remediation process.

If an investigator suspects DAP is present, they should rule-out or confirm this condition and act accordingly pursuant to rules and guidance. This determination includes evaluating PA findings and ascertaining if other point or non-point sources are impacting the area, as all AOCs must be addressed. The investigator may reference the "Diffuse Anthropogenic Pollution Administrative Guidance Document", at the following web link: http://www.nj.gov/dep/srp/guidance/#dap_guidance.

9.9 Naturally Occurring Elements

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 (i.e., volcanic deposits, weathering, etc.) that have formed the state's land mass. These levels are of concern when present at a CCC/EF where children may come into direct contact with the soil.

Elements that have been found to exceed the June 2008 NJDEP Residential Direct Contact Soil Remediation Standards (RDCSRS) are arsenic and vanadium. Other naturally occurring elements that have been detected in concentrations above the Impact to Groundwater 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 asenopyrite 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)*.

If elevated levels of a naturally occurring element(s) have been determined to be present at a CCC/EF above any current RDCSRS, and children have the potential of direct contact with that contaminant, action is recommended to protect the child care population from the detected element(s). In this case, the use of a background evaluation to justify no action would not be acceptable. Refer to Section 10.2 of this guidance document for remediation requirements regarding naturally occurring elements at a CCC/EF.

The NJDEP recommends that the LSRP notify the municipal & county health departments in all instances

involving potential direct contact exposure from naturally occurring elements detected at a CCC/EF.

9.10 Reporting Requirements and Notification of Discharge

9.10.1 Technical Report Submissions

In order to adequately document any investigation conducted, the SI report shall meet the reporting requirements as outlined in the "Technical Requirements for Site Remediation", N.J.A.C. 7:26E-1.6, General Reporting Requirements, including maps with all sampling locations and analytical results. All applicable forms and spreadsheets can be referenced on the Department's website: http://www.nj.gov/dep/srp/srra/forms.

9.10.2 Discharge Notification Requirements

If at any time during the SI investigation, a discharge occurs or contamination is identified from an unidentified discharge not previously reported to NJDEP, or immediate environmental concern conditions are identified, the NJDEP Notification Hotline (1-877-WARNDEP or 1-877-927-6337) shall be notified pursuant to ARRCS, N.J.A.C. 7:26C-1.7 and the "Technical Requirements for Site Remediation", N.J.A.C. 7:26E-1.11. The NJDEP's "Confirmed Discharge Notification" form may be accessed at: http://www.nj.gov/dep/srp/srra/forms.

The NJDEP Notification Hotline does not have to be called for contaminants that are the result of the placement of *historic fill*, the application of *pesticides from former agricultural operations*, contaminants determined to be from *naturally occurring elements* or *DAP*.

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, the NJDOH must be notified (see Section 8.0 above for NJDOH contact information).

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

10.1 RI Guidance

The investigator completing a RI for a CCC/EF will address the RI in the same regard as other RIs completed under NJDEP purview. Therefore, the investigator shall follow all current regulations for a RI, specifically the "Technical Requirements for Site Remediation", N.J.A.C. 7:26E, which can be referenced at the following web link: http://www.nj.gov/dep/srp/regs as well as any RI guidance, such as: http://www.nj.gov/dep/srp/guidance/#si_ri_ra_soils.

10.2 RA Guidance

As in the case of the RI phase noted above, the investigator completing a RA for a CCC/EF will address the RA in mostly the same regard as any RA performed under NJDEP purview. Therefore, the investigator shall follow all current regulations (N.J.A.C. 7:26E) and guidance for a RA, as referenced in the web links provided in item 10.1 above.
The investigator is obligated to identify, delineate and remediate all area(s) of concern if contamination is known or suspected or determined to exceed RDCSRS. The difference for CCCs is that regardless of whether the NJDEP regulates the contamination detected or not, the elevated contaminants must still be addressed to protect the sensitive population of a CCC.

Presumptive Remedy, Section 47 of the SRRA, states as follows:

The NJDEP may require the use of an "unrestricted use remedial action" or a "presumptive remedy" at a site or AOC, where new construction is proposed for a sensitive population such as child care facilities licensed pursuant to P.L.1983, c.492 (C.30:5B-1 et seq.), public school or private school as defined in N.J.S.A. 18A:1-1, or as a charter school established pursuant to P.L.1995, c.426 (C.18A:36A-1 et seq.), and residential sites or where there is a change in use of the site to residential, child care center or public school or private school as defined in N.J.S.18A:1-1, or as a charter school established pursuant to P.L.1995, c.426 (C.18A:36A-1 et seq.), or another purpose involving a sensitive population.

The SRRA can be referenced at the following web link: http://www.nj.gov/dep/srp/regs/statutes/srra.pdf.

If the person responsible for conducting the remediation demonstrates to the 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 the NJDEP. Refer to the "Presumptive and Alternative Remedy Guidance" for additional reference: http://www.nj.gov/dep/srp/guidance/#presumptive_alt_remedy.

10.2.1 Play Area Remediations

Remediating a play area with a barrier in lieu of performing the proper RI/RA, is not acceptable. If contamination is discovered, the investigator is obligated (except contamination related to naturally occurring elements, historic fill, DAP and/or historic pesticides) to call the NJDEP Hotline (1-877-WARN-DEP) and report the contamination. The person responsible (property owner) for remediation, is obligated to remediate the property in accordance with the ARRCS Rule, N.J.A.C. 7:26C and "The Technical Requirements for Site Remediation", N.J.A.C. 7:26E.

10.2.2 Historic Fill

Upon completion of the delineation of historic fill material, remedial options include, either removing the contaminated fill and establishing a clean zone to RDCSRS or leaving the fill in place and filing an Institutional Control (i.e. Deed Notice) with the municipality that the property of concern resides in, which serves as a notification to the public and to any prospective property purchaser, of the existence of contaminated historic fill. If the contaminated fill is left in place, appropriate "Engineering Controls" are required, which shall serve to prevent direct contact to the identified contaminants. For CCC/EFs where restricted use will be implemented, pursuant to N.J.A.C. 7:26E-5.3, a presumptive remedy is required for contaminated historic fill, therefore, the investigator should reference the "Presumptive and Alternate Remedy Technical Guidance".

A Remedial Action Permit (RAP) must be applied for and granted by the NJDEP after the engineering controls are established and the Deed Notice is filed, as applicable to the RAP Guidance: http://www.nj.gov/dep/srp/guidance/#rap_soils. The RAP shall be obtained from the NJDEP prior to issuance of a RAO and receiving the NJDCF-OOL License.

10.2.3 Natural Background Elements

As noted above, concentrations of natural elements may exceed the NJDEP's RDCSRS. Those elements, however, are associated with natural background levels in site soils and will not be regulated by the NJDEP as per N.J.S.A. 58:10B, which does not require remediation beyond natural background levels. To minimize potential direct contact at a CCC/EF, the NJDEP recommends an impermeable barrier be installed over the surface of any outdoor play area or areas that children frequently contact, in its entirety,

in order to protect users from direct contact with elevated, naturally occurring elements. The existence of such a barrier must be included in the narrative of the RAO document and its location depicted on the RAO map.

10.2.4 Diffuse Anthropogenic Pollution (DAP)

As noted above, DAP is not regulated by the NJDEP. As in the case of natural background elements which exceed specific RDCSRS, NJDEP recommends an impermeable barrier be installed over the surface of any outdoor play area or areas that children frequently contact, in its entirety, in order to protect users from direct contact with DAP contaminants. The existence of such a barrier must be included in the narrative of the RAO document and its location depicted on the RAO map.

10.2.5 Barriers

Materials installed to prevent direct contact for either "natural background" or "DAP" scenarios, over outdoor play areas, do NOT have to be installed along with the application of an "Institutional Control" (i.e., Deed Notice), nor is the barrier considered an "Engineering Control" under that scenario. An "Institutional Control" is required to address scenarios of contamination that are regulated by the NJDEP, such as historic fill. In addition, neither elevated levels of naturally occurring elements or DAP would require the CCC/EF to obtain a NJDEP Remedial Action Permit (RAP) for either soil or groundwater media.

The barrier may consist of impermeable materials, such as hard surfacing, poured rubber, rubber matting, etc., coupled with a less impermeable barrier to meet the thickness recommendations described in the NJDEP's Presumptive Remedies Table. For examples of barrier materials, please refer to the NJDEP's "Guidance for Presumptive and Alternative Remedies" (http://www.nj.gov/dep/srp/guidance/#presumptive_alt_remedy). The barrier should be documented via a cross-section detailing the materials used (all layers if multiple materials proposed), along with a narrative outlining the installation process and future maintenance plan for the chosen barrier. The barrier should be maintained at all times.

The existence of such a barrier must be included in the RAO narrative. The RAO child care map should depict the location of all installed barriers. The barriers installed over outdoor play areas are recommended by the NJDEP to protect the occupants from exposure to harmful contaminants and a barrier's continued presence and integrity should be maintained as noted. The NJDEP also strongly recommends that the CCC maintain documentation that provides proof of installation and proper, continued maintenance (integrity verification) of a barrier installed over an outdoor play area, for the purpose of presenting that documentation upon request, to any regulating entity.

10.3 Report Submittals

For preparation of all reports, including but not limited to a Site Investigation Report, Remedial Investigation Report, Remedial Action Workplan and/or Remedial Action Report, refer to the Technical Requirements for Site Remediation (NJAC 7:26E): http://www.nj.gov/dep/srp/regs.

11.0 RAO ISSUANCE FOR CCCs (EFs IF APPLICABLE)

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

Historically, the NJDCF-OOL accepted two types of "clearance" letters issued by the NJDEP for a given

property - 1) Standard NJDEP NFA letters or 2) Child Care Facility Approval (CCFA) Letters.

The standard NJDEP NFA letters accepted by NJDCF-OOL in the past may not have been specific to all child care center related issues necessary for NJDCF-OOL licensing purposes. If a previously issued NJDEP NFA or CCFA Letter does not specifically address both the direct contact issues at the site, especially in the play area(s) and the drinking water quality at the proposed or relocating CCC, an LSRP will have to issue an RAO, which addresses those issues. An RAO must include the child care specific language or be an entire site RAO.

The NJDEP may still issue their CCFA Letter for sites that do not identify contamination after a PA is completed, without the necessity of an LSRP and in lieu of an RAO. The circumstances allowing the NJDEP to do so, however, are limited (i.e. no contaminated AOCs are identified). If the investigator submitting the PA believes an NJDEP issued approval letter may be appropriate, that party may request that document from the NJDEP's Child Care Unit (Michael Justiniano: 609-633-1426).

11.2 Child Care Facility RAO Issuance – "Entire Site" or "Child Care Leasehold"

Due to the May 2012 implementation of SRRA, NJDCF–OOL now requires new and relocating CCCs (and EFs if an OOL license is applicable at an EF) to retain an LSRP for their issuance of an RAO letter, prior to the issuance of a NJDCF-OOL license.

The LSRP must issue an RAO for any newly proposed and/or relocating CCC. One of two types of RAOs may be issued: an "Entire Site" or "Child Care Leasehold" RAO.

An "Entire Site" RAO is issued if the entire property (the entire property that the proposed CCC is to occupy, not a leasehold portion) has been addressed by the PA (and any necessary SI, RI or RA) and all identified areas of concern have been adequately addressed, as per the Technical Requirements for Site Remediation (N.J.A.C. 7:26E).

A "Child Care Leasehold" RAO may be issued for a portion of any property lot(s) on which a CCC is to occupy, depending on the specific circumstances at the property that the "Child Care Leasehold" RAO is issued for. Examples: if a child care center is a tenant of a building; there exist multiple occupancies at the property of concern; terms of the lease that outline the CCC's operational area; etc. The "Child Care Leasehold" RAO must be more specific as to the exact areas that the proposed CCC will occupy and the accompanying map should be more detailed than one issued for an "Entire Site" RAO (see Section 11.5 below for leasehold scenarios).

Since any RAO issued for a CCC is required to be accompanied by an accurate map of the CCC and play area(s), as well as the as-built construction plan for any play areas (and in leasehold situations, a description of the leasehold space), the physical construction of the CCC building(s) and play area(s) need to be complete prior to issuance of the RAO by an LSRP.

If the CCC and play area(s) have been constructed prior to issuing a RAO, then the "Entire Site" RAO may be issued to the CCC owner. If the CCC building(s) and play area(s) have not been constructed prior to issuing a RAO, and an RAO is desired for the property, then an "Entire Site" RAO (non-child care) may be issued to the property owner. A Child Care Facility RAO ("Entire Site" or "Child Care Leasehold") will still be necessary once building(s) and play area(s) construction is completed for a CCC operation, in order to acquire a NJDCF-OOL license. Either one of the designations: "Entire Site" or "Child Care Leasehold", must appear in the reference line (designated Re:) on the first page of the RAO Letter, at the time that document is issued.

11.3 RAO Notice Inserts

LSRPs are permitted to use notices in the RAO to qualify or otherwise limit the scope of a remediation. There are currently fifteen (15) "notices" listed in the RAO shell document included as an appendix to ARRCS. There are three notices, however, which are CCC specific and should be used as appropriate:

- Child Care Building Interiors Not Addressed
- Child Care Center Notices
- Child Care Center Specific - Multi-Tenant Situations

The appropriate RAO notice inserts to include in RAO letters for CCC licensing purposes, are listed in the RAO Guidance Document, as well as in ARRCS: http://www.nj.gov/dep/srp/regs/arrcs/index.html. Appendix D of ARRCS contains a list of all RAO notices and associated language.

Note: If the property where the child care center is located, has an Institutional Control (i.e., Deed Notice) applied to it from a prior remediation, the "Remedial Action Type" on the first page of the RAO letter should be "Restricted Use" and the insert referencing "Existing Classification Exception Area or Deed Notice from Prior Remediation" should be included in the RAO.

11.4 Child Care Center Figures - Attachments

A Child Care Facility RAO must include, as an attachment, a scaled CCC site map which depicts the structure(s) that house the children, all outdoor play areas, and any other major structures or appurtenances associated with the CCC. Refer to Section 5.0 of this document for all map requirements. Other attachments may be included, which are necessary to further demarcate the CCC location.

11.5 SRRA Form Submittals

A "Child Care Center/Educational Facility Remediation Form", which can be downloaded at: http://www.nj.gov/dep/srp/srra/forms should accompany any document submittal to the NJDEP. Separate submittals of the "Preliminary Assessment/Site Investigation Form", "Remedial Investigation Report Form" and "Response Action Outcome Form" are not required. All forms may be referenced via the NJDEP Forms Library at: http://www.nj.gov/dep/srp/srra/forms
Note: Other NJDEP Site Remediation Program forms may be applicable.

11.6 Factors to be Considered Upon Issuing an "Entire Site" or "Leasehold" RAO

Whether an LSRP is issuing a Child Care Facility RAO, either "Entire Site" or "Child Care Leasehold", it is beneficial to define the limits of the "Site" or the "Leasehold" to avoid confusion and make clear the scope of the RAO. The limits of the scope of the RAO are to be clearly depicted in a companion figure attached to each RAO.

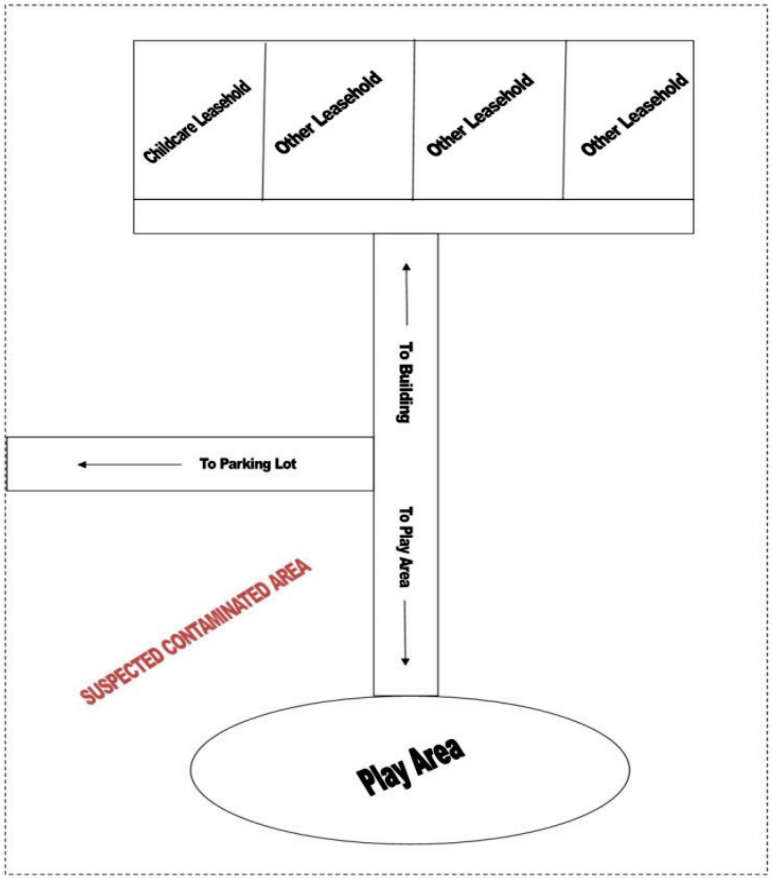
If the CCC owner is also the owner of the property, then the LSRP must complete a PA (SI, RI, RA if necessary) for the entire site and issue an "Entire Site" Child Care Facility RAO. Child Care Facility RAOs for "Leaseholds" are not acceptable when the receiving entity owns both the property and CCC.

In situations where the CCC owner is not the property owner, the LSRP may issue a Child Care Facility RAO, for "Leaseholds", if AOCs and/or contamination identified on certain portions of the site are not a threat or potential threat to the CCC, will not affect its operation, nor expose the children to any current or future risk. **Note:** A PA report **must be prepared for the entire site**, not just the child care leasehold portion, and any remediation must address all area(s) of concern on the child care leasehold portion of the

site (and in some instances, beyond the leasehold), prior to the RAO being issued for licensing purposes.

The LSRP must be mindful that since the RAO is certifying the protectiveness of the leasehold for use as a CCC (and EF when applicable), they must evaluate the potential for exposure to contamination at the CCC, and in doing so, cannot limit the evaluation strictly to the leasehold boundaries determined in the operational contract for the subject property.

For example, the configuration of a given CCC (and applicable EFs), 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 evaluation by the LSRP must include the path to and from the outdoor play area and that path must be evaluated for the potential of the children to come in contact with contaminated media along that path, regardless of whether or not the path is defined as a leased area. Consequently, that evaluation may lead the LSRP to the conclusion that a remediation outside the boundaries of the "specified" leasehold (as per the property lease agreement), may be necessary, in order to ensure that the RAO is protective of the occupants of the CCC (and/or EF). **Note:** Additional scenarios may exist and should be addressed accordingly. The figure below provides a depiction of this scenario.



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*.

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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.

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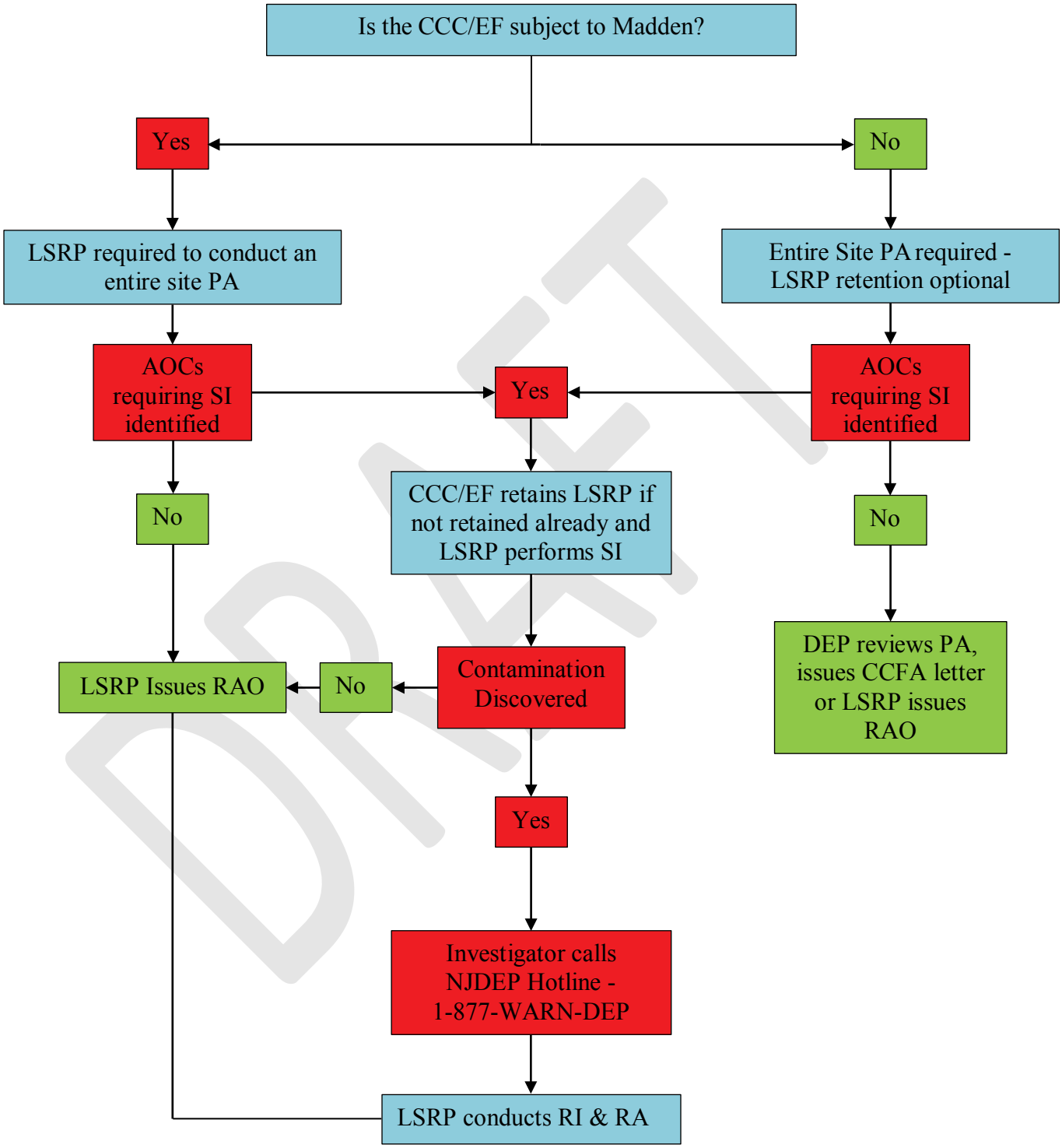
Sanders, Paul F., Ph.D. May 2003. *Ambient Levels of Metals in New Jersey Soils*. NJDEP/Division of Science, Research & Technologies.

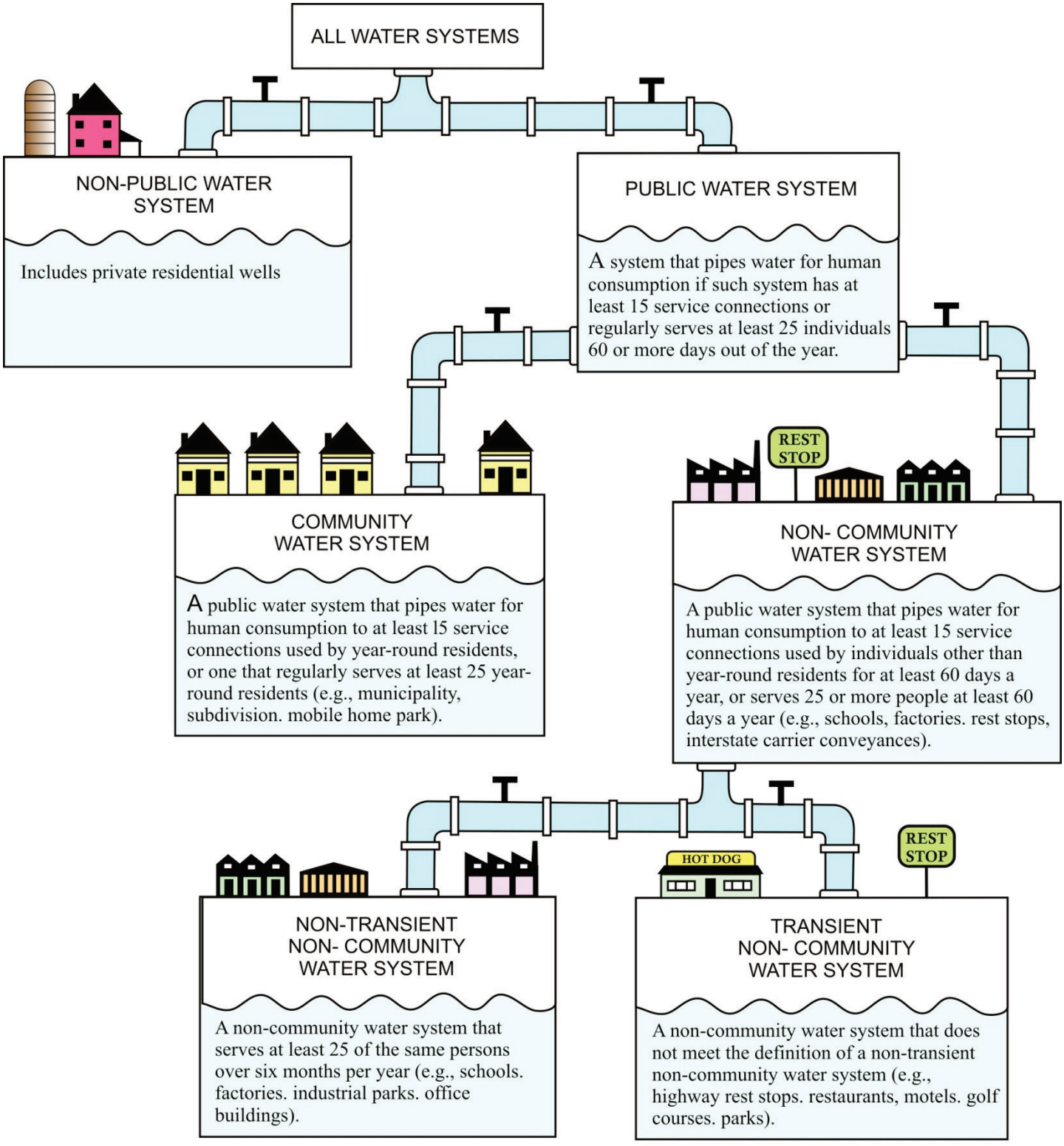
Schick K. June 24, 2013. *Selected Sites with Potentially Naturally Occurring Elevated Background Arsenic and/or Beryllium Levels*. NJDEP/Site Remediation Program.

APPENDICES

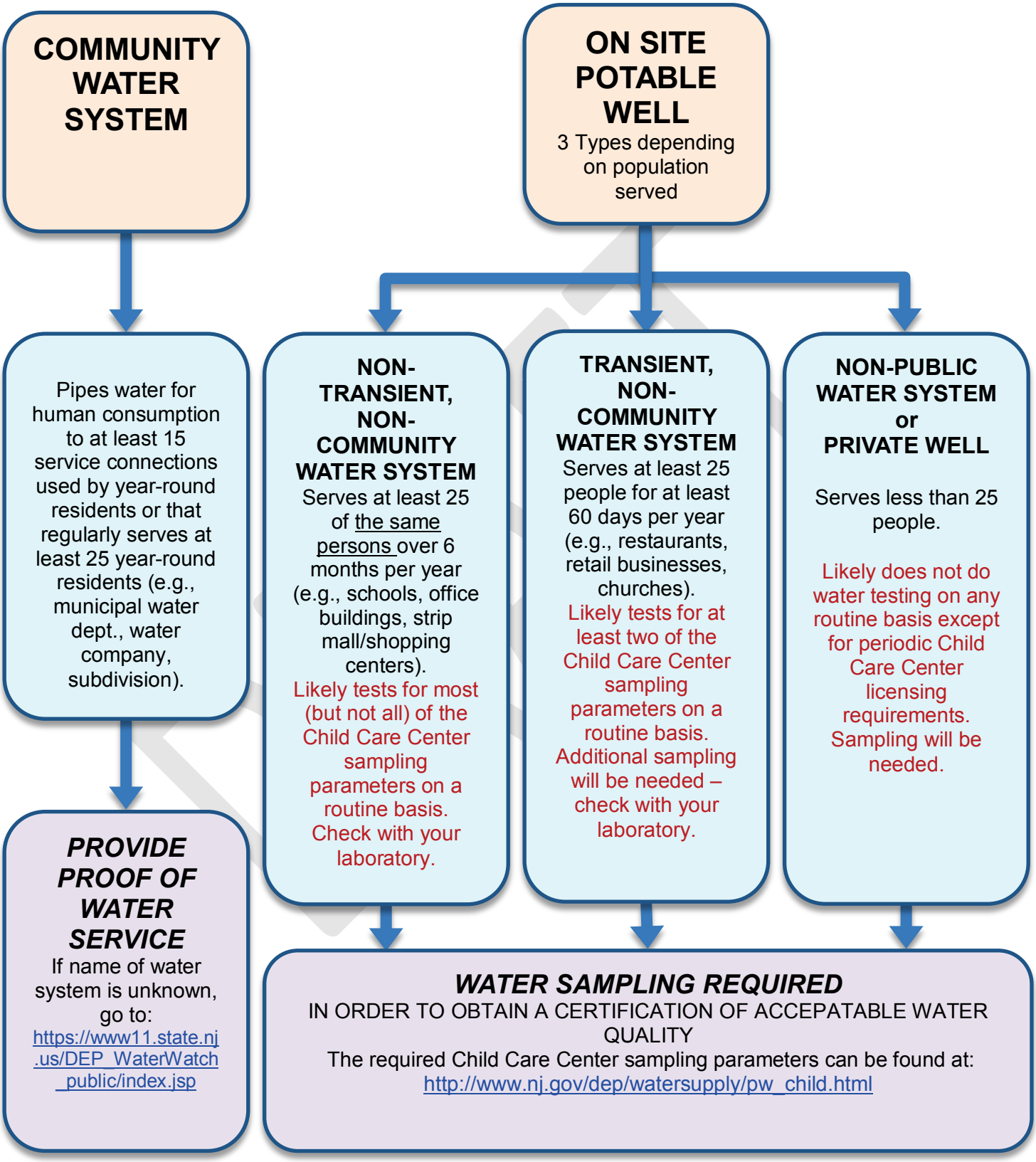
Appendix A - Madden Applicability and LSRP Requirements



Appendix B - Water Systems Chart



Appendix C - Types of Water Supplies and Sampling Requirements



Appendix D - List of RAO Notices

1 Well Decommissioning
2 Building Interiors Not Addressed (Non-Child Care)
3 Building Interiors Addressed
4 Regional Natural Background Levels of Materials in Soil
5 Existing Classification Exception Area or Deed Notice from Prior Remediation(s)
6 Child Care Building Interiors Not Addressed
7 Child Care Center Notices
8 Child Care Center Specific - Multi-Tenant Situations
9 Soils Only Response Action Outcome when Ground Water Contamination remains from that Area(s) of Concern or Entire Site
10 Known Onsite Contamination Source Not Yet Remediated
11 Ground Water Contamination due to Regional Historic Fill
12 Ground Water Contamination not yet under Investigation
13 Contamination Remains On-Site due to Off-site Contamination
14 Order of Magnitude Change to a Remediation Standard after approval of a RAW
15 Order of Magnitude Change to a Remediation Standard after Approval of a Final Remediation Document
16 ISRA Specific Notices:
- RCRA Situations - Bureau of Case Assignment and Initial Notice Referral
- Multi-Tenant Situations - Bureau of Case Assignment and Initial Notice Referral
- Landfill Situations - Bureau of Case Assignment and Initial Notice Referral

Notes:
Notices 6-8 are CCC-specific and should be used as appropriate.
Notices 2, 10, 12 and 16 are applied to CCCs based on the type and status of remediation.
Notices 5, 9, and 13 require consideration and potential actions prior to use, as either direct contact or potential vapor intrusion concerns must be ruled-out, prior to being safely applied (case-by-case).
Notice 11 may be used for Regional Historic Fill, however, where the investigator identifies VOCs in ground water, additional action may be necessary.

There are currently five (5) additional RAO notices available for the use by LSRPs, as follows:

A In-Service Railroad Lines, Spurs and Sidings Not Remediated
B Historic Fill Not Remediated for RAO-A
C Soil Contamination from an Off-Site Source Not Remediated – General
D Soil Contamination from an Off-Site Source Not Remediated – Diffuse Anthropogenic Pollution
E Naturally Occurring Levels of Constituents in Ground Water

Notes:
Notice A and D are functional, however, there may be some conflicts for use in CCC situations.
Notices B, C, and E require consideration and potential actions prior to use, as either direct contact or potential vapor intrusion concerns must be ruled-out, prior to being safely applied (case-by-case).

Appendix E - Glossary

Child Care Center Site – The operating area, either property owned by or leased by a NJDCF licensed CCC (or proposed to be so), that includes all buildings that reside on the property or leasehold which are utilized by the operating CCC, and also including all play areas and any areas where children traverse to access those play areas or other portions of that site. The CCC site also includes any off-site play area that is proposed to be utilized by the CCC of record.

A NJDCF licensed CCC may encompass an entire municipal tax block(s) and/or lot(s) that the CCC operates on, or may occupy a portion of a block(s) and/or lot(s), if the licensed CCC is not the sole occupant of the property (leasehold instance).

Educational Facility – For use as a private school 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.).

Leasehold – The portion of a property (see "property" definition) that the CCC/EF is designated to occupy, as defined in the terms of the lease agreement between the CCC/EF and the leasing property owner.

Licensed Site Remediation Professional (LSRP) – An individual who is licensed by the designated board pursuant to section 7 of P.L. 2009, c.60 (C.58:10C-7) or the NJDEP pursuant to section 12 of P.L. 2009, c.60 (C.58:10C-12).

Property – Property means the land on which a CCC/EF occupies, within a designated municipal Block(s) and Lot(s) as depicted on that municipality's tax record maps.

Remediation – "Remediation" or "remediate" means all necessary actions to investigate and cleanup or respond to any known, suspected, or threatened discharge, including, as necessary, the preliminary assessment, site investigation, remedial investigation and remedial action; provided, however, that "remediation" or "remediate" shall not include the payment of compensation for damage to, or loss of, natural resources.

Response Action Outcome – As defined in the Site Remediation Reform Act, P.L. 2009, c.60, is a written determination by an LSRP that the site was remediated in accordance with all applicable statutes, rules and guidance, and based upon an evaluation of the historical use of the site, or of any area of concern at that site, as applicable, and any other investigation or action the NJDEP deems necessary, there are no contaminants present at the site, at the area of concern or areas of concern, or at any other site to which a discharge originating at the site has migrated, or that any contaminants present at the site or that have migrated from the site have been remediated in accordance with applicable remediation statutes, rules and guidance and all applicable permits and authorizations have been obtained.

Technical Requirements for Site Remediation, N.J.A.C. 7:26E – The minimum technical requirements to investigate and remediate contamination at any site. The distinct components of the remediation process may include preliminary assessment, site investigation, remedial investigation, remedial alternative analysis, feasibility study and remedial action.

Universal Waste – Materials that may not be an apparent concern and appear innocuous, such as lighting components, tiling, insulation, paint, etc., of a building, however, may harbor contaminants of concern (i.e. mercury, lead, asbestos, etc.)

Appendix F - 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
CO	Certificate of Occupancy
DAP	Diffuse Anthropogenic Pollutant
DCF	Department of Children and Families
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
USEPA	United States Environmental Protection Agency
UST	Underground Storage Tank
VI	Vapor Intrusion
VOC	Volatile Organic Compound