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**Vulnerability Issues  
Site Remediation Program**

**Administrative Consent Order Case Issues**

Total number of Administrative Consent Order/Remediation Agreements (ACO/RA) is 932. The Bureau of Case Management has 169 ACO cases with an average age of 8 years. On these cases demands for stipulated penalties have been issued 4 times, statutory penalties 5 times and 3 notices of violation have been issued in the past 3 years. Since the beginning of FY '00 a total of 39 enforcement actions have been issued. The average time necessary to develop and issue an enforcement action is 363 days. Field Operations currently has 19 active ACO's with an average age of 5.8 years. 5 of these have stipulated penalties and 2 have been referred for enforcement action. On average these ACO's are in the Remedial Action phase.

**Voluntary Cleanup Program**

There are 4921 active MOAs with an average age of 3.5 years. The average case duration varies from 341 days to 4 years depending upon size and complexity of the case. The issuance of NFAs in the voluntary cleanup program has dropped by 16% in the last fiscal year due to influx of more cases and completion of the SOL process. 7% of all active MOA cases are considered non-performers and are issued 15-day termination notices.

**Pre-SARA Sites (Teenagers)**

There are a total of 56 Superfund pre-SARA sites; 36 EPA lead sites and 20 DEP lead sites. Of these pre-SARA sites all of DEP's have had some level of remedial action taken. Four of DEP's sites are in the construction phase and the remaining 16 sites are in operation & maintenance.

**Case loads –**

- 1.) Total universe of active assigned remedial cases: 9,958 cases
- 2.) Universe of active cases with groundwater contamination: 6,476 cases
- 3.) New cases received/year (July 01 – Jan 02): 1,260 cases
- 4.) Average review times of documents submitted by the Regulated/consulting Communities: 120 days
- 5.) Average time for consulting/regulated community to remediate a contaminated Site/to get NFA: 4 years

**Workload increases since FY'97 (over the past 5 years)**

- 1.) % Increase in the universe of active assigned remedial cases/year: 25%
- 2.) % Universe of active cases with groundwater contamination/year: 25%

3.) % Increase in average document review times by the program:	50%
4.) % Increase in assigned caseloads:	25%
5.) % Increase in average length time to complete a site remediation:	37%
Average Review time for Support (geologists, Technical coordinators):	101 days
Average Review times of documents by case managers:	120 days
Total review time case manager & support:	220 days

**Institutional and Engineering Controls**

1.) Total number of Deed Notices approved by the program:	379
2.) Total number of ground water Classification Exception Areas (CEAs) Exceedances of the groundwater quality standards:	1,412
Total number of groundwater Classification Exception Areas(CEAs) mapped	95%
% of CEA for Natural Attenuation:	90%

**Indirect Cost/Billing Recovery**

Due to two significant events (I.E. duPont de Nemours, et al. vs. NJDEP decision of August 1, 1995 and the “Brownfields and Contaminated Site Remediation Act” of January 6, 1998) the site remediation program’s ability to recover its full administrative expenses has been reduced by 45 - 50% (the value of the indirect rate). This equates to, in any given year, absent any significant recoveries from past expenses, the Program operating from the start of the fiscal year in a deficit.

**Significant Data NOT Released**

**Remedial Priority Scoring List**

The Program evaluated approximately 6000 sites and has applied the Remedial Priority Scoring System as codified in N.J.A.C. 7:26F. Due to the enforcement sensitive nature of the ongoing scoring process, and regulatory procedures adopted, requests for a list of the sites scored in *draft* have declined.

Although we have the RPS, which identifies the priority order by which public funds are spent for cleanups, due to the number of IEC cases and the staff and funding limitations these sites on the RPS list are not being addressed.

**SOL Initiative List**

As a proactive initiative, prior to legislative amendments to the Statute of Limitations legislation the Program evaluated approximately 4600 sites (subset of the 6000 sites mentioned above) and has applied the Remedial Priority Scoring System as a comparative risk assessment tool . Requests for a list for the SOL sites have been

honored; due to the enforcement sensitive nature of the ongoing scoring process, requests for a list of the sites by draft score have declined.

**Spill Compensation and Control Fund**

Due to insufficient balance, the Spill Fund will have to begin prorating payments to claimants who are the innocent victims of hazardous discharges for the first time in the 20+ years since the fund's inception. The current unreserved balance in the fund is approximately \$300,000. The taxes received into the fund annually equal SRPs authorized administrative costs against the fund.

DEP currently has the following major claims that will be valid in total at \$2.275 million that we will have to pay within the next 12 months:

East Hanover	Morris	Water Supply	\$1,000,000
Hopatcong	Sussex	Waterline	\$ 75,000
Jersey City	Hudson	UST Remediation	\$ 100,000
Lacey Township	Ocean	Water Supply	\$ 750,000
Northvale	Bergen	Drum Removal	\$ 150,000
Wall Township	Monmouth	Residential Vapors	\$ 100,000
Woodbridge-			
Seawaren Penninsula	Middlesex	Soil Remediation	\$ 100,000

Spill Fund also has just over 1000 claims for water treatment maintenance. The costs to maintain these systems is approximately \$750,000 per year. A significant number of claims involving the maintenance of filters exist in the following municipalities:

Atlantic	Buena
	Egg Harbor
	Galloway
	Port Republic
Bergen	Saddle River
	Upper Saddle River
Camden	Waterford
	Winslow
Gloucester	Franklin
	Monroe
Hunterdon	Readington
Mercer	Pennington
Morris	Montville
Somerset	Bridgewater
	Warren
Warren	Hackettstown

NRD?

In addition there are over 400 additional claims that are in various process of review. The estimated exposure to the Spill Fund from these 400 pending claims could be as high as \$20 million.

### **Sanitary Landfill Fund**

This fund would have to start prorating claims. There are over 500 pending claims for primarily property value diminution. An average property value diminution claim is \$50,000.

### **Hazardous Discharge Site Remediation Fund**

The (HDSRF) the State's Brownfield Fund with a current balance of \$10.7 million There are over 143 projects pending at \$17.2 million.

**Environmental Quality users Information System (EQuIS)** – The Site Remediation Program has been requiring the remediation community to submit environmental data electronically since 1997. To date, the program cannot generate reports to review or share this data with other programs or to the public.

\* **Well Permitting** – The Site Remediation Program has made its areas of contaminated groundwater (CEAs) available to the Well Permitting program by an electronic computer database. The program allows well permit locations to be checked against CEAs. The database provides the levels, specific contaminants; location and duration of the contaminant plume as well as any necessary treatment or sampling that may be required.  
\* ~~Water Allocation program has not utilized this database when issuing well permits, but is awaiting the completion of NJEMS.~~

### **Underground Storage Tank Inspections/Enforcement** –

The 9,142 UST facilities in New Jersey have not all been inspected due to resource constraints. The program, with assistance from County Environmental Health Act (CEHA) counties was only able to inspect 6% of the universe (during FY 01).

**Underground Injection Control Program (UIC)** – EPA requires inspections and monitoring of UIC sites. The Site Remediation Program issues corrective action remediation re-injection of treated groundwater permits. EPA is requiring these sites to be inspected as UIC sites. SRP has not dedicated resources to conduct these inspections in the past.

**Biennial Certification** - The Brownfield and Contaminated Site Remediation Act (P.L. 1997, 278) requires owners of property with an institutional control (deed notice, CEA) to conduct biennial inspections and certify that the controls in place are protective. The Site Remediation Program is adopting these requirements in the proposal and re-adoption of the Technical Requirements from Site Remediation (N.J.A.C. 7:26E). Until now, the program has not required biennial inspections of the 1,412 CEAs issued. We currently only receive approximately 15% of the biennial certifications required. However, once notified approximately 85% of the parties submit them.

### Cost Recovery



The average time to resolve a cost recovery case is 195 days. Approximately 85% of the cases initiated will result in a successful recovery and the current active case list consists of 317 cases.

### File Reviews

Currently it takes 10 days from the date of file review request receipt to get a party in to review a file. This is down from 35 days 2 years ago. The new "public availability law" requires that files be available in 7 days.

### Northern Field Office

The Northern Field Office is run down, poorly maintained field office located in West Orange. The building is on a month to month lease and the landlord is recalcitrant about maintaining the building. The security is non-existent, the cubicles cramped, the carpeting is dirty and worn out with overloaded storage space. Due the fact the Office is on a month to month lease some of the newer DEP enhancements regarding the computer links and telephone communications systems have not been installed.

### Private Well Testing Act



The bill requires testing for lead, among other contaminants. The program estimates the major impact from the bill to be an order of magnitude increase in the number of IEC cases. Bureau of Safe Drinking Water is now estimating that there will be 20,000 samples collected pursuant to the law. It has be our experience that 10- 15 % of the wells will be contaminated with hazardous substances, making them Spill Fund eligible. That will mean the Claims Administration will need to handle 2000- 3000 claims a year just from this law. Of these claims, if we **conservatively** estimate that only 10% result in Alternate Water Supply cases, we are faced with a workload of 200-300 cases. That is **ten times** more than we currently handle per year. Additionally, cases that result in waterline extensions take about two years to complete. This would mean that we could conceivably be carrying 400- 600 cases at any given time.

### Indoor Air from Contaminated Groundwater



The issue is relatively new as it relates to vapors from dissolved constituent plumes entering homes at above chronic levels. This issue is not an isolated incident (Wall Township) and has become an issue across the country. As more cases of this type surface it may cause the protectiveness of sites with natural attenuation remedies and the protectiveness of the ground water quality standards to be reevaluated.