



## State of New Jersey

DEPARTMENT OF ENVIRONMENTAL PROTECTION

JON S. CORZINE  
Governor

LISA P. JACKSON  
Commissioner

October 5, 2006

Justin R. Lauterbach, General Manager  
Gary R. Brown, President  
RT Environmental Services, Inc.  
215 West Church Road  
King of Prussia, PA 19406

Dear Mr. Lauterbach and Mr. Brown:

I am responding to your September 15, 2006 letter that outlined your concerns regarding the Site Remediation & Waste Management Program's (SRWM) implementation of the newly adopted Grace Period Rule (amendments to N.J.A.C. 7:26C). Thank you for taking time to communicate problems you anticipate based upon the presentations that other Department of Environmental Protection (DEP) staff members and I made at Rutgers University on September 12, 2006.

To restate from your letter, you are concerned that the issuance of Notices of Deficiency, particularly in cases where DEP's response to the subject submittal has been long delayed, will be viewed as an adversarial approach. The response you predict will be increased appeals to the Technical Review Panel (TRP) and ultimately reluctance on the part of developers to conduct remediation in New Jersey. You mention concerns about strict interpretation of the Technical Requirements and about information that may be required on New Jersey Environmental Management System (NJEMS).

The issuance of Notices of Deficiency is not a requirement of the rule. In issuing a NOD, we are allowing an opportunity for the correction of deficiencies prior to the application of the grace period provisions. This approach is consistent with the pre-adoption process that involved the issuance of comment or deficiency letters. The benefit to those conducting the remediation is that site-specific circumstances that may prompt varying interpretations concerning the application of Tech Rule provisions can be discussed. Many who commented on the proposed rule noted that a cooperative and collaborative approach often yields the most protective and cost-effective remedy. This approach has been preserved under the SRWM grace period implementation plan.

The NOD will vary from comment or deficiency letters issued prior to rule adoption in two ways: the name, and the fact that the NOD will identify the specific rule citation that authorizes the requirement. If they are consistent with the Technical Requirements, those submittals made prior to the effective date of the rule, which we have not yet reviewed, should be approved. If we find that submitted documents do not comply with the Technical Requirements, parties will have the opportunity for correction prior to the application of the grace period provisions. Neither the Grace Period Rule nor the implementation plan imposes additional requirements or

information to be submitted related to NJEMS. NJEMS is simply the tool that we will use to track the status of violations and issue enforcement actions when needed.

The TRP has been an effective tool in resolving site-specific technical disputes. It is hard to predict what impact the new rule will have on the volume of requests to the TRP. We hope that parties will be able to resolve technical issues with the case managers and, if necessary, the management team.

I share your concerns about the impact that high caseloads have had on our ability to issue timely responses. We are considering every option that may provide relief in this area. I have directed staff to establish reasonable due dates for corrective actions required in the NOD, recognizing that our workload may prevent us from quickly reviewing even the most promptly made submittals. Extensions may also be granted if warranted. Please be assured that no enforcement action will be issued if violations arise due to a delay on the part of DEP.

I hope this addresses your concerns about the Grace Period Rule. If you have additional questions about the Grace Period Rule implementation, please contact Linda Grayson in the Bureau of Risk Management, Initial Notice and Case Assignment at (609) 633-7234.

Sincerely,

A handwritten signature in cursive script, appearing to read 'Irene Kropp', written in black ink.

Irene Kropp

Assistant Commissioner

Site Remediation & Waste Management Program