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### **Does My Site Require a Vapor Intrusion Investigation?**

On November 10, 2010, the NJDEP clarified its vapor intrusion policy as it relates to investigations at sites with #2 fuel oil and or diesel fuel contamination. Most importantly, it noted that a vapor intrusion investigation was not required simply because there had been a discharge of #2 heating oil and/or diesel fuel. Additionally, the NJDEP noted that the presence of petroleum odors in a building was not a trigger to conduct a vapor intrusion investigation. Rather the presence of odors should be construed as indication of a possible discharge which would benefit from an investigation. Below is a summary of the NJDEP's clarified vapor intrusion policy.

In its new policy, the NJDEP carved out an exception to N.J.A.C. 7:26E-1.18(a)(3), which requires a Person Responsible for Conducting the Remediation ("PRCR") to conduct a vapor intrusion investigation when free product is identified in ground water within one hundred (100) feet of a building. However, the NJDEP reminded its stakeholders that the presence of #2 fuel oil and or diesel fuel on the water table or within the saturated zone would require the collection and analysis of a groundwater sample for the presence of VO+TICs and SVO+TICs pursuant to the Technical Requirements for Site Remediation. See N.J.A.C. 7:26:E-2.1(d). After performing the groundwater analysis, a vapor intrusion investigation is only required if any groundwater sample collected within thirty (30) feet of a building contains a contaminant in excess of any vapor intrusion ground water screening level ("VIGWSL").

A vapor intrusion investigation would also be required if any of the following conditions are met: (i) soil gas or indoor air contamination is detected at concentrations that exceed the applicable vapor intrusion soil gas or indoor air screening levels; (ii) a landfill is located on or adjacent to the site; (iii) a wet basement or a sump in a building contains free product and /or ground water containing any contaminant listed in Table one (1) of the NJDEP's Vapor Intrusion

Guidance (“VIG”); methanogenic (methane generating) conditions are present that may cause an explosion; or (v) any other information indicates that human health may be impacted via the vapor intrusion pathway. See N.J.A.C. 7:26E-1.18(a)(4).

Finally, the NJDEP noted that its new policy does not change or alter any requirements to address free product pursuant to N.J.A.C. 7:26E-1.12 (Control of ongoing sources and implementation of interim remedial measures) or the mandatory time frames found within the Administrative Requirements for the Remediation of Contaminated Sites (“ARRCS”) 7:26C-3.3 (Mandatory Remediation Time Frames).

If you have an Underground or Above Ground Storage Tank Site with possible vapor intrusion issues and would like further information on this issue or have a question regarding environmental laws and/or regulations, please do not hesitate to contact me directly.