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Formerly Utilized Sites Remedial Action Program (FUSRAP)

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# ADMINISTRATIVE RECORD

for Maywood, New Jersey

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U.S. Department of Energy



State of New Jersey <sup>May 11 8 43 AM '95</sup>

Christine Todd Whitman  
Governor

Department of Environmental Protection

Robert C. Shinn, Jr.  
Commissioner

Mr. Lester K. Price, Director  
Former Sites Restoration Division  
Department of Energy  
Oak Ridge Operations  
P.O. Box 20001  
Oak Ridge, Tennessee 37831-8723

APR 27 1995

Dear Mr. Price:

Re: Cost Factors Used By New Jersey When Calculating Oversight Costs

This letter is written per your request and in accordance with our conversations concerning the Department of Energy (DOE) funding the New Jersey Department of Environmental Protection (DEP or Department) to conduct remedial oversight at DOE's sites in the State of New Jersey. On November 7, 1994 I wrote requesting information concerning New Jersey entering into the Federal Facility Agreements (FFA) for the Wayne and Maywood sites. A copy of the FFA for the Wayne site was subsequently provided. Review of this document has proven quite useful.

Approximately two years ago, when discussions concerning oversight costs were initiated, the Department had provided DOE a copy of a Memorandum of Agreement (MOA) package. The MOA is an agreement between a party conducting remedial activities, and the Department, whereby the Department stipulates that as long as our oversight activities are funded, we will review documents and guide the party through the remediation of their site. We also provide approval/comment letters on all documents submitted under the MOA. At the conclusion of remedial activities, and if all activities were conducted with approved methodologies, the Department will provide a No Further Action letter. This MOA was developed as a part of DEP's voluntary cleanup program which has proven to be extremely successful.

In an effort to provide you with an approximation of the costs that would be associated with entering into a remedial oversight agreement with DEP, I have had three cost runs done by our time accounting system. The runs cover State Fiscal Years 1992, 1993 and 1994. Attached to this letter are synopsis' of the time and associated costs for the three sites on which we have been most involved: Middlesex Sampling Plant, Maywood Interim Storage Site and Wayne Interim Storage Site. Also attached is a copy of a DEP brochure entitled "OVERSIGHT COST REIMBURSEMENT" which explains how oversight costs are derived.

The indirect rate on the attached pages has been replaced with the federal cognizant agency rate. In Federal Fiscal Year 1994 the rate was 30.43%. This rate is negotiated between the New Jersey Department of Treasury and the Environmental Protection Agency annually. The crossed out rates given in the columns marked "%" are the old rates that are applied to State lead remedial

sites. The hours that the Department has collectively spent on the listed DOE sites are also indicated on the left hand side of the sheet.

I hope that these figures will give you an idea about the time New Jersey has spent on our FUSRAP sites. As we continue to discuss funding for New Jersey's oversight of DOE's sites, we would also like to discuss the possibility of funding of our past costs. These are the costs that I have provided on the attached, annotated spread sheets.

Thank you for your consideration in this matter and please contact me directly with questions at (609) 633-1455.

Sincerely,



Bruce Venner, Chief  
Bureau of Federal Case Management

c: Ronald T. Corcory, Assistant Director

MIDDLESEX SAMPLING PLANT, 239 MOUNTAIN AVENUE, MIDDLESEX BOROUGH, MIDDLESEX COUNTY  
 ANALYSIS OF EXPENDITURES  
 TIME PERIOD COVERED: 07/01/91 - 06/24/94

23-Aug-94

MIDDLESEX

NJ0890090012

PART A: CASE MANAGEMENT TEAM COSTS

Hours	FY	SALARIES	%	ADDITIVE	SUBTOTAL	%	FRINGE	SUBTOTAL	%	INDIRECT	TOTAL
165.5	1992	4,304.78	22.28%	\$959.10	\$5,263.88	28.65%	\$1,508.10	\$6,771.99	134.24%	<del>\$9,090.72</del> 2060.72	\$15,862.70 8832.71
10.5	1993	251.43	22.84%	\$57.43	\$308.86	29.35%	\$90.65	\$399.51	134.04%	<del>\$536.90</del> 121.57	\$935.80 521.08
20	1994	523.22	22.00%	\$115.11	\$638.33	29.35%	\$187.35	\$825.68	05.48%	<del>\$788.86</del> 251.05	\$1,614.08 1076.73
TOTAL CASE MANAGEMENT COSTS											\$18,412.54 10430.5
PART B: DIRECT COSTS											0
TOTAL SITE CLEANUP COSTS											\$18,412.54

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WAYNE INTERIM STORAGE SITE, 868 BLACK OAK RIDGE ROAD, WAYNE TOWNSHIP, PASSAIC COUNTY  
 ANALYSIS OF EXPENDITURES  
 TIME PERIOD COVERED: 07/01/91 - 06/24/94

23-Aug-94

WAYNEINTER

NJ11891837980

PART A: CASE MANAGEMENT TEAM COSTS

<i>hours</i>	FY	SALARIES	%	ADDITIVE	SUBTOTAL	%	FRINGE	SUBTOTAL	%	INDIRECT	TOTAL
402	1992	9,868.15	22.28%	\$2,198.62	\$12,066.77	28.65%	\$3,457.13	\$15,523.90	<del>134.24%</del>	<del>\$20,059.29</del> 4723.91	\$36,363.19 20247.82
3525	1993	8,525.80	22.84%	\$1,947.29	\$10,473.09	29.35%	\$3,073.85	\$13,546.95	<del>134.24%</del>	<del>\$18,185.42</del> 4122.54	\$31,782.36 17669.29
488.8	1994	12,148.84	22.00%	\$2,672.74	\$14,821.58	29.35%	\$4,350.14	\$19,171.72	<del>85.48%</del>	<del>\$18,305.16</del> 5833.95	\$37,476.88 25005.67
TOTAL CASE MANAGEMENT COSTS											<del>\$105,572.44</del> 62922.78
PART B: DIRECT COSTS											0
TOTAL SITE CLEANUP COSTS											<del>\$105,572.44</del> =====

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MAYWOOD INTERIM STORAGE SITE (AKA MAYWOOD CHEMICAL SITES), WEST HUNTER AVE., MAYWOOD BOROUGH, BERGEN COUNTY  
 ANALYSIS OF EXPENDITURES  
 TIME PERIOD COVERED: 07/01/91 - 06/24/94

23-Aug-94

MAYWOOD

NJD980529762

PART A: CASE MANAGEMENT TEAM COSTS

<i>hours</i>	FY	SALARIES	%	ADDITIVE	SUBTOTAL	%	FRINGE	SUBTOTAL	%	INDIRECT	TOTAL
433.8	1992	10,928.12	22.28%	\$2,434.79	\$13,362.91	28.65%	\$3,828.47	\$17,191.38	134.24%	<del>\$23,077.71</del> 5281.34	\$40,269.08 22,422.72
621.7	1993	14,297.82	22.84%	\$3,265.62	\$17,563.44	29.35%	\$5,154.87	\$22,718.31	134.24%	<del>\$30,407.06</del> 913.18	\$53,215.37 29,631.49
259	1994	6,864.57	22.00%	\$1,510.21	\$8,374.78	29.35%	\$2,458.00	\$10,832.77	95.48%	<del>\$10,343.13</del> 3296.91	\$21,175.90 4,129.18
TOTAL CASE MANAGEMENT COSTS											<del>\$114,660.36</del> 56,183.39

PART B: DIRECT COSTS

0

TOTAL SITE CLEANUP COSTS

~~\$114,660.36~~  
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Health and Human Services on an annual basis. The negotiated composite Fringe Benefit Rate of 21.70% is added to NJDEPE's share of F.I.C.A. taxes - 7.65% - to develop the total Fringe Benefit Rate.

Indirect Cost Rate - 95.48%\*

The Indirect Cost Rate represents NJDEPE's costs which are incurred for a common purpose and are not readily assignable to individual cases. Examples of indirect costs incurred by NJDEPE include program operating costs, building rent, utilities such as heat and lights, and both salary and non-salary costs incurred by NJDEPE management (Commissioner, Assistant Commissioner, Director and Assistant Director).

\* All of the factors detailed above are subject to amendment. These amendments will be noticed in the New Jersey Register before they become effective.

Resolution of Disputed Costs

In the event that the party does not agree with NJDEPE's oversight costs, the party should notify the assigned Case Manager of the specific conflict in an attempt to resolve it. If the conflict cannot be resolved between the Case Manager and the party, the party should contact the Case Manager's Section Chief. Such action will trigger an internal review of the disputed hours and associated costs to assure they are correct and reasonable. If the party still disputes the costs after receiving feedback on the results of the NJDEPE's review the party may raise the issue to the level of Bureau Chief, and if still in conflict to the Assistant Director. It is NJDEPE's goal that any disputes related to oversight costs be resolved at the earliest possible opportunity. The NJDEPE established this process to handle these disputes in the most amicable fashion possible, thereby avoiding costly litigation. Though the NJDEPE will readily review data surrounding disputed costs and adjust costs determined to be invalid, it is NJDEPE's policy that valid oversight costs are not negotiable.

Cost Recovery Actions

Any NJDEPE oversight costs which are not reimbursed by the participating party, such as past oversight costs due or costs which were agreed to be paid under a NJDEPE oversight

document, will be referred to the Department of Law and Public Safety for cost recovery action.

Methods for Reducing Oversight Costs

There are two straight-forward methods for reducing NJDEPE oversight costs on a project, which in turn will result in cleanups being completed faster. The first, and most important, is to ensure that any submissions to NJDEPE are prepared in accordance with the NJDEPE's technical standards, specifically N.J.A.C. 7:26D, which became effective on July 1, 1993. This ensures that the submittals will meet NJDEPE's minimum technical requirements for remedial activities. The second method is to keep the lines of communication open with the NJDEPE Case Manager by calling when you have questions regarding work and corresponding via letter whenever it is necessary. Adhering to these simple guidelines will help to create a productive, proactive, relationship between NJDEPE and the regulated community and ultimately make the remedial process faster and easier.

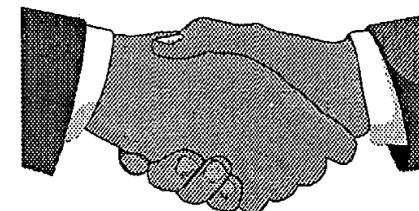
If you have any questions regarding the NJDEPE Oversight Cost System detailed above, please contact your assigned Case Manager or write to:

NJDEPE  
Site Remediation Program  
CN 028  
Trenton, New Jersey 08625



New Jersey Department of Environmental Protection & Energy

**OVERSIGHT COST REIMBURSEMENT**



This brochure answers commonly asked questions regarding the New Jersey Department of Environmental Protection and Energy's (NJDEPE) collection of oversight costs and provides general information to the regulated community on the NJDEPE oversight cost system.

### NJDEPE's Oversight Cost System

The Division of Responsible Party Site Remediation (DRPSR) of NJDEPE is responsible for providing guidance on and approval of privately conducted and funded remedial activities at contaminated sites throughout the State of New Jersey. The NJDEPE uses the term "oversight costs" to broadly define the costs incurred by the NJDEPE during its oversight of these remedial activities.

The NJDEPE's policy to require payment of oversight costs is a direct result of Legislative decisions. As the Legislature does not provide any general state funds to the Site Remediation Program, all costs incurred must be recovered to continue program activities. The NJDEPE requires the payment of oversight costs when the parties which are responsible for the contamination conduct the remedial action. Similarly, the NJDEPE also requires payment of oversight costs when the remediation is being conducted by parties which may not be responsible for the discharge, such as developers or banks, yet which will benefit from the NJDEPE's guidance and approval of their work. The payment of oversight costs means that none of the NJDEPE's costs of assuring an adequate cleanup are borne by the taxpayer.

### Statutory Authority to Collect Oversight Costs

The authority to collect oversight costs is granted to NJDEPE under the Spill Compensation and Control Act, N.J.S.A. 58:10-23.11 et seq., and the Water Pollution Control Act, N.J.S.A. 58:10A-1 et seq. The Spill Compensation and Control Act ("Spill Act") defines "cleanup and removal costs" as "all costs associated with a discharge, incurred by the State..." The Water Pollution Control Act authorizes the Commissioner of NJDEPE to seek "any reasonable costs incurred by the State in removing, correcting or terminating the adverse effects upon water quality resulting from any unauthorized discharge of pollutants..." Both statutes authorize the State to recover oversight costs whether the NJDEPE performs the remedial activities itself or oversees remedial activities performed by a participating party.

The NJDEPE's regulatory authority for the collection of oversight costs is detailed in N.J.A.C. 7:26C, which became effective on July 1, 1993.

### Job Numbers and Activity Codes

The NJDEPE currently assigns an 8-digit Job Number to each individual project undertaken by NJDEPE to account for time expended by NJDEPE employees on any given site. Some sites, especially major cleanup projects, are broken down into subsites and, therefore, have several Job Numbers to account for the varying remedial activities which may be ongoing. The NJDEPE also requires that employees use a 4-digit Activity Code with the Job Number to represent the actual activity performed during the specified time period, such as remedy selection or Administrative Consent Order negotiations. These Job Numbers and Activity Codes are coded on all documents processed by NJDEPE, including timesheets, vendor invoices, employee expense vouchers and revenue documents. All NJDEPE employees submit timesheets with Job Numbers and Activity Codes on a biweekly basis, which are then subject to the review and approval of that employee's supervisor. This ensures that the employee is providing an accurate accounting of the hours worked on a project.

### Billing Methods

NJDEPE has a standardized procedure for billing parties for the costs incurred during each billing period. Billings by the NJDEPE will include an accounting of the personnel time accrued for the billing period and an itemization of the factors (the salary additive rate, fringe benefit rate and indirect cost rate defined below) which have been calculated by the Oversight Cost Formula. If requested, the NJDEPE can provide the party with a computer print-out of NJDEPE personnel which coded time to a specific Job Number during that billing period.

When a party receives a request for payment from NJDEPE, the party must submit payment in the form of a cashiers or certified check to the NJDEPE within thirty calendar days, unless some other timeframe is referenced in the oversight document. The party must also submit NJDEPE Form 062A to account for this payment. The party will receive a copy of NJDEPE 062A to acknowledge the NJDEPE's receipt of payment.

### Oversight Cost Formula

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The NJDEPE uses an Oversight Cost Formula to calculate the actual costs accrued by NJDEPE during its oversight of a cleanup. This formula considers staff time dedicated to a project, the salary of the individual staff member, any applicable direct costs (in terms of NJDEPE sampling and analytical costs, contractor expenses, etc.), salary additive rate, fringe benefit rate and indirect cost rate to establish the billable amount. Although more information is given on these rates below, the formula looks like this:

(sum of bi-weekly coded hours attributable to a staff member x hourly staff salary rate) x (1 + salary additive factor) x (1 + fringe benefit factor) x (1 + indirect cost factor) = A

Direct Costs = B

A + B = Total Oversight Costs

This formula has been developed to represent actual NJDEPE costs and not merely a flat rate which may be much higher or lower than actual NJDEPE costs. A flat fee structure, such as permit fees, would not ensure that the costs associated with a specific case were paid by the party conducting remedial activities at a site. This policy decision was made by NJDEPE with input and support from the regulated community.

### Current Oversight Cost Formula Factors

Salary Additive Rate - 22.00%

The Salary Additive Rate represents the NJDEPE employee's 'down-time', including vacation time, administrative leave, sick leave, holiday time and other approved "absent with pay" allowances.

Fringe Benefit Rate - 29.35%

The Fringe Benefit Rate represents NJDEPE's contribution for the employee's pension, health benefits, worker's compensation, temporary disability and F.I.C.A. (Federal Insurance Contributions Act). This rate is developed by the Department of the Treasury's Office of Management and Budget and is negotiated with the United States Department of

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