

CHAPTER 26E

TECHNICAL REQUIREMENTS FOR SITE REMEDIATION

Authority

N.J.S.A. 13:1D-1 et seq., 13:1E-1 et seq., 13:1K-6 et seq.,
58:10-23.11a et seq., 58:10A-1 et seq., 58:10A-21 et seq.,
and 58:10B-1 et seq.

Source and Effective Date

R.2003 d.29, effective December 17, 2002.
See: 34 N.J.R. 170(a), 35 N.J.R. 710(a).

Chapter Expiration Date

In accordance with N.J.S.A. 52:14B-5.1d, the expiration date of Chapter 26E, Technical Requirements for Site Remediation, was extended by gubernatorial directive from December 17, 2009, to December 17, 2010. See: 42 N.J.R. 69(b).

Chapter Historical Note

Chapter 26E, Technical Requirements for Site Remediation, was adopted as R.1993 d.245, effective June 7, 1993 (operative July 1, 1993). See: 24 N.J.R. 1695(a), 25 N.J.R. 2281(b).

Pursuant to Executive Order No. 66(1978), Chapter 26E, Technical Requirements for Site Remediation, was readopted as R.1997 d.124, effective February 18, 1997. As a part of R.1997 d.124, effective May, 19, 1997 (operative July 18, 1997), Subchapter 5, Remedial Alternative Analysis, was repealed and a new Subchapter 5, Remedial Action Selection, was adopted. See: 28 N.J.R. 1098(a), 28 N.J.R. 2298(a), 29 N.J.R. 2278(b).

Chapter 26E, Technical Requirements for Site Remediation, was readopted as R.2003 d.29, effective December 17, 2002, and Subchapter 8, Engineering and Institutional Controls, was adopted as R.2003 d.29, effective February 3, 2003. See: Source and Effective Date. See, also, section annotations.

Subchapter 7, Permit Identification and Application Schedule, was renamed Permit Identification, Permit Application Schedule and Discharge to Ground Water Proposals; and Appendix B, Well Search Format and Appendix F, Groundwater Classification Exception Area Fact Sheet, were repealed by special adoption R.2009 d.361, effective November 4, 2009 (to expire May 4, 2011). See: 41 N.J.R. 4467(a).

In accordance with N.J.S.A. 52:14B-5.1d, the expiration date of Chapter 26E, Technical Requirements for Site Remediation, was extended by gubernatorial directive from December 17, 2007 to December 17, 2009. See: 40 N.J.R. 150(b).

Petition for Rulemaking. See: 42 N.J.R. 733(c).

Law Review and Journal Commentaries

Corrective Action. Norman W. Spindel and Andrea Wolff, 151 N.J.L.J. 752 (1998).

Historic Pesticide Contamination Task Force Issues Report. Bruce S. Katcher, 155 N.J.L.J. 1155 (1999).

ISRA: What You Need to Know. Richard J. Conway, Jr., 160 N.J.Law. 16 (Mag.) (April 1994).

Liability Limitations: Even With New Protections, Purchasers Must Be Diligent. Todd L. Normane, 151 N.J.L.J. 748 (1998).

Natural Resource Damages: New Jersey's New Approach. Dennis Krumhotz and Marilynn R. Greenberg, 155 N.J.L.J. 705 (1999).

Who is "In Any Way Responsible" Under the Spill Act? Matthew S. Slowinski, 150 N.J.L.J. 301 (1997).

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SUBCHAPTER 1. GENERAL INFORMATION

7:26E-1.1 Scope

(a) This chapter constitutes the minimum technical requirements to investigate and remediate contamination at any site.

(b) Any remediation performed pursuant to this chapter shall not relieve any person from:

1. Complying with more stringent requirements or provisions imposed by any other Federal, State or local applicable statutes or regulations; or
2. Obtaining any and all permits required by State, Federal or local statute or regulation, except as expressly provided herein.

(c) No provision of this chapter shall be construed to limit the Department's authority to require additional remediation based upon site-specific conditions in order to protect human health and the environment.

(d) The Department's approval of any document pursuant to this chapter shall not be interpreted as an approval of any remediation costs eligible for reimbursement pursuant to N.J.S.A. 13:1E-116, N.J.S.A. 58:10B-28, or any other law.

Amended by R.2003 d.198, effective May 19, 2003.

See: 34 N.J.R. 3703(a), 35 N.J.R. 2319(a).

Added (d).

7:26E-1.2 Liberal construction

These rules, being necessary to promote the public health and welfare, and to protect the environment, shall be liberally construed in order to permit the Commissioner and the Department to effectuate the purposes of N.J.S.A. 13:1D-1 et seq., 13:1E-1 et seq., 13:1K-6 et seq., 58:10-23.11a et seq., 58:10A-1 et seq., 58:10A-21 et seq., 58:10B-1 et seq. and 58:10C-1 et seq.

Special amendment, R.2009 d.361, effective November 4, 2009 (to expire May 4, 2011).

See: 41 N.J.R. 4467(a).

Inserted "and to protect the environment," and "58:10B-1 et seq., and N.J.S.A. 58:10C-1 et seq.," and deleted "and" preceding "58:10A-21".

7:26E-1.3 Applicability

(a) Any person conducting remediation pursuant to any of the following statutes shall comply with this chapter and all guidance found on the Department's website, www.nj.gov/dep/srp/srra/guidance:

1. The Industrial Site Recovery Act (ISRA);
2. The New Jersey Underground Storage of Hazardous Substances Act (UST);
3. The Spill Compensation and Control Act;
4. The Solid Waste Management Act;
5. The Water Pollution Control Act;
6. The Resource Conservation and Recovery Act (RCRA);
7. The Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended by Superfund Amendments and Reauthorization Act of 1986 (42 U.S.C. §§9601 et seq.) (CERCLA);
8. The Brownfield and Contaminated Site Remediation Act, N.J.S.A. 58:10B-1 et seq.; and
9. The Site Remediation Reform Act, N.J.S.A. 58:10C-1 et seq.

(b) The requirements of this chapter are applicable as follows: