

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, 2007 to December 17, 2009. See: 40 N.J.R. 150(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of R.1997 d.124, effective May, 19, 1997 (operative July 18, 1997), Subchapter 5, Remedial Alternative Analysis, was repealed and a new Subchapter 5, Remedial Action Selection, was adopted.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.

Law Review and Journal Commentaries

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CHAPTER TABLE OF CONTENTS

SUBCHAPTER 1. GENERAL INFORMATION

- 7:26E-1.1 Scope
- 7:26E-1.2 Liberal construction
- 7:26E-1.3 Applicability

- 7:26E-1.4 Notification
- 7:26E-1.5 Certifications
- 7:26E-1.6 Documenting compliance with the technical requirements
- 7:26E-1.7 Criteria for going beyond the minimum technical requirements
- 7:26E-1.8 Definitions
- 7:26E-1.9 Health and safety plan
- 7:26E-1.10 Severability
- 7:26E-1.11 Bias for action
- 7:26E-1.12 Requirement for Department oversight of remediation
- 7:26E-1.13 Minimum groundwater and surface water remediation standards

SUBCHAPTER 2. QUALITY ASSURANCE FOR SAMPLING AND LABORATORY ANALYSIS

- 7:26E-2.1 Quality assurance requirements
- 7:26E-2.2 Quality assurance project plan

SUBCHAPTER 3. PRELIMINARY ASSESSMENT AND SITE INVESTIGATION

- 7:26E-3.1 Preliminary assessments
- 7:26E-3.2 Preliminary assessment
- 7:26E-3.3 Site investigation
- 7:26E-3.4 Site investigation—general sampling requirements
- 7:26E-3.5 Site investigation—building interiors
- 7:26E-3.6 Site investigation—soil
- 7:26E-3.7 Site investigation—groundwater
- 7:26E-3.8 Site investigation—surface water and sediment
- 7:26E-3.9 Site investigation—area specific requirements
- 7:26E-3.10 Site investigation—background investigation in soil
- 7:26E-3.11 Site investigation—ecological evaluation
- 7:26E-3.12 Site investigation—historic fill material
- 7:26E-3.13 Site investigation report

SUBCHAPTER 4. REMEDIAL INVESTIGATIONS

- 7:26E-4.1 Remedial investigation requirements
- 7:26E-4.2 Remedial investigation workplan
- 7:26E-4.3 Remedial investigation of soil
- 7:26E-4.4 Remedial investigation of ground water
- 7:26E-4.5 Remedial investigation of surface water, wetlands and sediment
- 7:26E-4.6 Remedial investigation of landfills and historic fill material
- 7:26E-4.7 Remedial investigation of ecological receptors
- 7:26E-4.8 Remedial investigation report
- 7:26E-4.9 (Reserved)

SUBCHAPTER 5. REMEDIAL ACTION SELECTION

- 7:26E-5.1 Remedial action selection
- 7:26E-5.2 Remedial action selection report

APPENDIX

SUBCHAPTER 6. REMEDIAL ACTION

- 7:26E-6.1 Remedial action requirements
- 7:26E-6.2 Remedial action workplan
- 7:26E-6.3 Specific remedial action requirements
- 7:26E-6.4 Post-remedial action requirements
- 7:26E-6.5 Remedial action schedule
- 7:26E-6.6 Remedial action progress reports
- 7:26E-6.7 Remedial action report

SUBCHAPTER 7. PERMIT IDENTIFICATION AND APPLICATION SCHEDULE

- 7:26E-7.1 Permit identification

SUBCHAPTER 8. ENGINEERING AND INSTITUTIONAL CONTROLS

- 7:26E-8.1 General requirements
- 7:26E-8.2 Deed notice requirements
- 7:26E-8.3 Groundwater classification exception areas
- 7:26E-8.4 Monitoring, maintenance, and biennial certification—who has obligation and when
- 7:26E-8.5 Monitoring, maintenance, and biennial certification—requirements for deed notices and declarations of environmental restrictions
- 7:26E-8.6 Monitoring, maintenance, and biennial certification—specific requirements for groundwater classification exception areas
- 7:26E-8.7 Monitoring, maintenance, and biennial certification—engineering and institutional controls

APPENDIX A. Laboratory Data Deliverables Formats

APPENDIX B. Well Search Format

APPENDIX C. Mann-Whitney U-Test

APPENDIX D. Historic Fill Database

APPENDIX E. Model Deed Notice

APPENDIX F. Groundwater Classification Exception Area Fact Sheet

APPENDIX G. Contour Map Reporting Form

APPENDIX H. Model Public Notice

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, 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., and 58:10A-21 et seq.

7:26E-1.3 Applicability

(a) This chapter establishes the minimum technical requirements that form the basis of the Department's review of the remediation of any contaminated site in New Jersey, including, without limitation, those sites and activities subject to:

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); and
8. The Brownfield and Contaminated Site Remediation Act.

(b) Any person seeking Department review of work undertaken pursuant to this chapter shall:

1. Execute an oversight document with the Department pursuant to N.J.A.C. 7:26C;
2. Comply with the requirements of N.J.A.C. 7:26B; or
3. Comply with the requirements of N.J.A.C. 7:14B.

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

1. For any site at which a particular phase of remediation was commenced prior to July 1, 1993, the Department shall evaluate such work to determine whether the work is in substantial compliance with this chapter, as originally adopted effective June 7, 1993 (see 25 N.J.R. 2881(b)), and therefore acceptable to the Department.

2. Any work conducted after February 3, 2003 shall be in full compliance with this chapter, except that work conducted pursuant to workplans which were submitted to the Department prior to February 3, 2003 may be conducted pursuant to N.J.A.C. 7:26E in effect as of August 2, 1999, as long as work is conducted within six months of Department approval of the workplan.

(d) All applicable remediation standards and remedial actions that involve real property located in the Pinelands area shall be consistent with the provisions of the Pinelands Protection Act, N.J.S.A. 13:18A-1 et seq. and any rules promulgated pursuant thereto, and with section 502 of the National Parks and Recreation Act of 1978, 16 U.S.C. § 4711.

Amended by R.1997 d.124, effective May 19, 1997 (operative July 18, 1997).

See: 28 N.J.R. 1098(a), 28 N.J.R. 2298(a), 29 N.J.R. 2278(b).

In (a)1, substituted "Industrial Site Recovery Act (ISRA)" for "Environmental Cleanup and Responsibility Act (ECRA)"; added (a)6 through (a)8; subdivided (c), inserting the introductory paragraph; in (c)1, substituted "shall evaluate" for "may evaluate" and inserted reference to original adoption; added (c)2; and added (d).

Administrative correction.
See: 29 N.J.R. 2664(b).

In (c)2, in the second clause, changed "May 19, 1997" to "July 18, 1997".
Amended by R.1999 d.241, effective August 2, 1999.
See: 30 N.J.R. 2373(a), 31 N.J.R. 2167(a).

Rewrote (a)8.
Amended by R.2003 d.29, effective February 3, 2003.
See: 34 N.J.R. 170(a), 35 N.J.R. 710(a).

In (c)2, substituted "February 3, 2003" for "July 18, 1997" throughout, and substituted "in effect as of August 2, 1999" for "as originally adopted".

7:26E-1.4 Notification

(a) The person responsible for conducting the remediation, excluding remediations of areas of concern that consist of underground storage tanks storing heating oil for on-site consumption in a one to four family residential building, shall notify the following persons in writing:

1. The Department, prior to the initiation of any sampling activities at a contaminated site which is not already known to the Department pursuant to either a Department regulatory reporting requirement or Department oversight of the remediation;
2. The municipal clerk of each municipality in which the site is located, if the site is not RCRA or CERCLA subject, 45 calendar days prior to:
 - i. The submission of the remedial action selection report to the Department pursuant to N.J.A.C. 7:26E-5.2; or
 - ii. The finalization of the engineering design plans for the selected remedial action of sites being remediated where Department pre-approval of a remedial action workplan is not required or sought; and
3. The Department, and the municipal clerk of each municipality in which the site is located, 45 calendar days prior to the implementation of the remedial action when Department pre-approval of the remedial action workplan is not required unless written notification has otherwise been provided.

(b) Whenever immediate environmental concern conditions are identified, the person responsible for conducting the remediation shall immediately notify the Department case manager, or the hotline (1-877 WARNDEP or 1-877-927-6337) if no case manager is assigned or the case manager is unavailable. Stabilization of the immediate environmental concern condition shall be initiated immediately under Department oversight pursuant to N.J.A.C. 7:26C. If an interim response action in response to an immediate environmental concern is to be conducted, the person responsible for conducting the action shall immediately notify the Department and the municipal clerk of each municipality in which the site is located of the intent to conduct the interim response action. If the remediation is being conducted in

response to an emergency situation the notifications to the Department required pursuant to (a) above will be satisfied through compliance with N.J.A.C. 7:1E.

(c) The notifications to the municipal clerk pursuant to (a) and (b) above are not intended to satisfy the public participation requirements applicable to sites being investigated or remediated pursuant to the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §§ 9601 et seq. and the National Contingency Plan, 40 C.F.R. Part 300.

(d) The notifications pursuant to (a) above shall be in writing and shall include the following information:

1. The name and address of the person responsible for implementing the remedial action or interim response action;
2. The name of the site;
3. The valid EPA site identification number or the Department's Program Interest Number (Preferred ID). If neither number is available, the number provided by the Department's hotline may be substituted (1-877 WARNDEP or 1-877-927-6337);
4. The street address of the site;
5. The lot and block of the site;
6. A brief description of the current use and occupancy of the site;
7. The nature of the sampling activities or remedial action to be performed;
8. The anticipated start date of the sampling activities or remedial action;
9. The location of the site in a GIS-compatible format (that is, latitude and longitude or State Plane Coordinates); and
10. A copy of any declaration of environmental restriction or similar document, which identified any engineering and institutional controls associated with the remedial action.

(e) The information required to be sent to the Department pursuant to (a) above shall be submitted to the assigned case manager or, if no case manager has been assigned, to the following address:

Division of Remediation Support
PO Box 434
Trenton, NJ 08625-0434
Attention: Case Assignment Section

(f) The person responsible for remediating a contaminated site located within the jurisdiction of the Pinelands Commission as defined pursuant to N.J.S.A. 13:18A-1 et seq. shall:

1. Submit copies of all final reports or workplans for preliminary assessments, site investigations, remedial investigations and remedial actions to the Pinelands

Commission concurrently with submission of such documents to the Department;

2. Submit, for approval, a copy of the remedial design and construction documents along with a completed Pinelands application to the Pinelands Commission prior to implementing a remedial action; and

3. Not begin any construction activity at the site until the activity has been approved pursuant to the provisions of the Pinelands Comprehensive Management Plan (N.J.A.C. 7:50) including any Memorandum of Agreement entered into between the Department and the Pinelands Commission.

(g) The information required to be sent to the Pinelands Commission pursuant to (f)1 and 2 above shall be submitted to the following address:

The Pinelands Commission
P.O. Box 7
New Lisbon, NJ 08064-0007

(h) The person responsible for conducting the remediation shall notify the Department pursuant to this subsection if that person determined that contamination migrated onto their site from another site. The person responsible for conducting the remediation shall notify their assigned case manager, or if they are not assigned a case manager, the Department hotline at 1-877 WARNDEP or 1-877-927-6337.

Amended by R.1997 d.124, effective May 19, 1997 (operative July 18, 1997).

See: 28 N.J.R. 1098(a), 28 N.J.R. 2298(a), 29 N.J.R. 2278(b).

In (a)1, inserted "contaminated"; added (a)2; recodified former (a)2 as (a)3; in (b), inserted first two sentences; inserted new (c); recodified former (c) and (d) as (d) and (e), and inserted new (d)3, 9 and 10; recodified former (d)3 through 7 as (d)4 through 8; in (e), deleted "and (b)" following "pursuant to (a)", inserted "assigned case manager ... assigned, to the", and amended address; and added (f) through (h).

Amended by R.1999 d.241, effective August 2, 1999.

See: 30 N.J.R. 2373(a), 31 N.J.R. 2167(a).

In (a), rewrote the introductory paragraph.

Amended by R.2003 d.29, effective February 3, 2003.

See: 34 N.J.R. 170(a), 35 N.J.R. 710(a).

In (d)3 and (h), changed the hotline for the department.
Administrative correction.

See: 35 N.J.R. 1928(a).

7:26E-1.5 Certifications

(a) If a document prepared pursuant to this chapter is to be submitted to the Department, it shall be signed and certified pursuant to N.J.A.C. 7:26C, 7:26B or 7:14B.

7:26E-1.6 Documenting compliance with the technical requirements

(a) All work being conducted at a site pursuant to this chapter, whether or not being done with Department oversight, shall be documented and included in reports which follow the format and contain the information required pursuant to the reporting sections of N.J.A.C. 7:26E-2 through 8. If a report has already been submitted to the Department pursuant to another Department regulatory

program, including, but not limited to, N.J.A.C. 7:14B, 7:26B or 7:26C, then a summary of what was included in the previously submitted report may be submitted. The summary shall include a reference to the Department program to which the report was submitted and the date that it was submitted. Any reports prepared pursuant to this chapter may be combined into a single report.

(b) When the remediation is conducted with Department oversight, the person responsible for conducting the remediation shall submit workplans (if applicable) and reports in a timely manner pursuant to the schedule contained in the oversight document which the person executed with the Department pursuant to N.J.A.C. 7:26C, or as the Department requires pursuant to ISRA or UST. The workplan and/or report shall comply with the format and contain the information required pursuant to N.J.A.C. 7:26E-2 through 8.

(c) In order to provide flexibility in the technical requirements for site remediation described in this chapter, the Department has identified certain limited situations, as specified through this chapter, when alternate sampling, analytical, or investigatory methods may be used without Department pre-approval.

1. Such alternate methods may be used if the person responsible for conducting the remediation documents in the applicable remedial phase report (that is, preliminary assessment, site investigation, remedial investigation, remedial action) rationale acceptable to the Department for using the alternate method.

2. The Department will review the documentation, either as part of the Department's oversight during the remediation or at a later time when the site becomes a Department priority for site remediation.

3. The Department will evaluate the alternate method in terms of its site-specific application, based upon the documentation provided and other appropriate information available to the Department, in terms of the extent to which the alternate method:

i. Has previously been either used successfully or approved by the Department in writing in other similar situations; or

ii. Reflects current technology as documented in peer-reviewed professional journals; and

iii. Provides results which are verifiable and reproducible;

iv. Can be expected to achieve the same results or objectives as the method which it proposes to replace;

v. Furthers the attainment of the goals of the specific remedial phase for which it is used; and

vi. Is consistent with the overall scheme of this chapter to ensure the remediation of contaminated sites in a manner which is protective of human health and the environment.

semivolatile organic compounds means the analysis of a sample for either:

1. Those priority pollutants listed as base neutral and acid compounds in Appendix B, Table II of N.J.A.C. 7:14A; or

2. Those target compound list compounds identified as semivolatiles in the version of the EPA Contract Laboratory Program Statement of Work for Organic Analysis, Multi-Media, Multi-Concentration in effect as of the date on which the laboratory is performing the analysis.

“Site investigation” means the collection and evaluation of data adequate to determine whether or not discharged contaminants exist at a site or have migrated or are migrating from the site at levels of excess of the applicable remediation standards. A site investigation shall be developed based upon the information collected pursuant to the preliminary assessment. The requirements of a site investigation are set forth at N.J.A.C. 7:26E-3.

“Soil” means the unconsolidated mineral and organic matter on the surface of the earth that has been subjected to and influenced by geologic and other environmental factors.

“Specific discharge event” means a discharge that meets the criteria in N.J.A.C. 7:26E-3.7(b).

“Spill Act” means the Spill Compensation and Control Act, N.J.S.A. 58:10-23.11a et seq.

“Surface water” means water defined as surface water pursuant to the Surface Water Quality Regulations, N.J.A.C. 7:9B.

“SWMA” means the Solid Waste Management Act, N.J.S.A. 13:1E-1 et seq.

“Tank” means a stationary device designed to contain an accumulation of hazardous substances, hazardous wastes, or pollutants which is constructed of non-earthen materials (for example, concrete, steel, plastic) that provide structural support.

“Target analyte list” or “TAL” means the list of inorganic compounds/elements designated for analysis as contained in the version of the EPA Contract Laboratory Program Statement of Work for Inorganics Analysis, Multi-Media, Multi-Concentration in effect as of the date on which the laboratory is performing the analysis. For the purpose of this chapter, a Target Analyte List scan means the analysis of a sample for Target Analyte List compounds/elements.

“Targeted compound” means a hazardous substance, hazardous waste, or pollutant for which a specific analytical method is designed to detect that potential contaminant both qualitatively and quantitatively.

“Target compound list plus 30” or “TCL + 30” means the list of organic compounds designated for analysis (TCL) as

contained in the version of the EPA “Contract Laboratory Program Statement of Work for Organics Analysis, Multi-Media, Multi-Concentration” in effect as of the date on which the laboratory is performing the analysis, and up to 30 non-targeted organic compounds (plus 30) as detected by gas chromatography/mass spectroscopy (GC/MS) analysis. For the purposes of this chapter, a Target Compound List + 30 scan means the analysis of a sample for Target Compound List compounds and up to 10 non-targeted volatile organic compounds and up to 20 non-targeted semivolatile organic compounds using GC/MS analytical methods. Non-targeted compound criteria shall be pursuant to the version of the EPA “Contract Laboratory Program Statement of Work for Organics Analysis, Multi-Media, Multi-Concentration” in effect as of the date on which the laboratory is performing the analysis.

“Tentatively identified compound” or “TIC” means a non-targeted compound detected in a sample using a GC/MS analytical method which has been tentatively identified using a mass spectral library search. An estimated concentration of the TIC is also determined.

“Timely manner” means that, except for immediate environmental concern cases, the person responsible for conducting the remediation completes the remedial activities at a contaminated site or area of concern either:

1. Within five years, if soil is the only contaminated media at the site and the remediation will achieve unrestricted or limited restricted use standards; or

2. In compliance with a remedial action schedule approved in writing by the Department.

“Underground storage tank” means any one or combination of tanks, including appurtenant pipes, lines, fixtures, and other related equipment, used to contain an accumulation of hazardous substances, hazardous wastes or pollutants, the volume of which, including the volume of the appurtenant pipes, lines, fixtures and other related equipment, is 10 percent or more beneath the surface of the ground.

“Unknown compound” means a non-targeted compound which cannot be tentatively identified. Based on the analytical method used, the estimated concentration of the unknown compound may or may not be determined.

“Unrestricted use remedial action” means any remedial action for soil that does not require the continued use of either engineering or institutional controls to meet the established health risk or environmental standards.

“Unrestricted use standard” means a numeric soil remediation standard that, when achieved, restores the contaminated soil to a condition or quality suitable for any use. The unrestricted use standard is the lowest of any numeric standard, without limitation, any residential soil remediation standard, any non-residential soil remediation standard and any applicable impact-to-groundwater soil standard.

“UST” means the New Jersey Underground Storage of Hazardous Substances Act, N.J.S.A. 58:10A-21 et seq.

“Volatile organics” means organic compounds amenable to analysis by the purge and trap technique. For the purposes of this chapter, analysis of volatile organics means the analysis of a sample for either those priority pollutants listed as amenable for analysis using EPA method 624 or those target compounds identified as volatiles in the version of the EPA “Contract Laboratory Program Statement of Work for Organics Analysis, Multi-Media, Multi-Concentration” in effect as of the date on which the laboratory is performing the analysis.

“Waste oil” means a petroleum based or synthetic oil which, through use, storage or handling has become unsuitable for its original purpose due to the presence of impurities or loss of original properties.

“Waters” means the ocean and its estuaries to the seaward limit of the State’s jurisdiction, all springs, streams and bodies of surface or ground water, whether natural or artificial, within the boundaries of this State.

“Wetland” means any freshwater or coastal wetland.

“WPCA” means the Water Pollution Control Act, N.J.S.A. 58:10A-1 et seq.

Amended by R.1997 d.124, effective May 19, 1997 (operative July 18, 1997).

See: 28 N.J.R. 1098(a), 28 N.J.R. 2298(a), 29 N.J.R. 2278(b).

Added “Active ground water remediation”, “Background ground water contamination”, “Contamination”, “Damages”, “Effective solubility”, “Engineering controls”, “Environmentally sensitive area”, “Historic fill material”, “Immediate environmental concern”, “Injury”, “Institutional controls”, “Mineral oil”, “Natural background soil level”, “Natural ground water remediation”, “Non-permanent remedial action”, “Order of magnitude”, “Permanent remedial action”, “Region of the site”, “Remedial action costs”, “Remedial action selection”, “Remedial action selection report”, “Residual product”, “Residual saturation point”, “Restricted use standard”, “Retardation”, “Specific discharge event”, “Unrestricted use standard” and “Waste oil”; amended “Applicable remediation standard”, “Area of concern”, “Commissioner”, “Contaminated site”, “Department”, “Diligent inquiry”, “Discharge”, “Fill material”, “Free product”, “Person responsible for conducting the remediation”, “Preliminary assessment”, “Remedial action”, “Remedial investigation”, “Remediation”, “Site investigation”, “Surface water”, “Tank”, “Targeted compound”, and “Underground storage tank”; and deleted “Contaminant”, “ECRA”, “Hazardous constituent”, “Hazardous substance”, “Innovative and emerging treatment technologies”, “Permanent remedy”, and “Remedial alternative analysis”.

Amended by R.1997 d.499, effective November 17, 1997.

See: 29 N.J.R. 46(a), 29 N.J.R. 4957(a).

Added “Declaration of environmental restrictions”.

Amended by R.1999 d.241, effective August 2, 1999.

See: 30 N.J.R. 2373(a), 31 N.J.R. 2167(a).

Rewrote the section.

Amended by R.2003 d.29, effective February 3, 2003.

See: 34 N.J.R. 170(a), 35 N.J.R. 710(a).

Rewrote the section.

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

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

Rewrote “Area of concern”.

Administrative correction.

See: 37 N.J.R. 4245(a).

Case Notes

In cases involving environmental cleanup, an entity may be strictly liable under the New Jersey Spill Compensation and Control Act, N.J.S.A. 58:10-23.11 through 58:10-23.24, for damages for the loss of use of natural resources adversely affected by its discharge of hazardous substances. *New Jersey Dep’t of Env’tl. Protection & Administrator v. Exxon Mobil Corp.*, 393 N.J. Super. 388, 923 A.2d 345, 2007 N.J. Super. LEXIS 174 (App.Div. 2007).

7:26E-1.9 Health and safety plan

Any person conducting remediation activities shall prepare a site-specific health and safety plan which shall be adhered to by all personnel involved in the remediation. The plan shall be in accordance with the most recently adopted and applicable general industry (29 CFR 1910) and construction (29 CFR 1926) standards of the Federal Occupational Safety and Health Administration (OSHA), U.S. Department of Labor, as well as any other Federal, State or local applicable statutes or regulations.

7:26E-1.10 Severability

If any section, subsection, provision, clause or portion of these regulations is adjudged invalid or unconstitutional by a court of competent jurisdiction, the remainder of these regulations shall not be affected thereby.

7:26E-1.11 Bias for action

As a first priority during remediation, contaminants in all media should be contained and/or stabilized to prevent contaminant exposure to receptors and to prevent further movements of contaminants through any pathway.

7:26E-1.12 Requirement for Department oversight of remediation

(a) The person responsible for conducting the remediation shall investigate and remediate contaminated sites with Department oversight as specified in N.J.A.C. 7:26C and, in addition, in the following circumstances:

1. Sites suspected or known to be contaminated with anthropogenic radionuclide contamination of any media; and
2. Sites with immediate environmental concern conditions.

New Rule, R.1997 d.124, effective May 19, 1997 (operative July 18, 1997).

See: 28 N.J.R. 1098(a), 28 N.J.R. 2298(a), 29 N.J.R. 2278(b).

7:26E-1.13 Minimum groundwater and surface water remediation standards

(a) This section sets forth the minimum remediation standards that apply to groundwater and surface water for purposes of the remediation of a contaminated site pursuant to this chapter.

(b) The minimum groundwater remediation standards are:

1. The following numeric groundwater remediation standards:

i. The Ground Water Quality Standards, N.J.A.C. 7:9C, Appendix, Tables 1 and 2;

ii. The standards resulting from application of the procedures in N.J.A.C. 7:9C-1.7(c)2 through 6, for the derivation of a new criterion where a specific contaminant is not listed in N.J.A.C. 7:9C, Appendix, Table 1; and

iii. The standards resulting from application of the procedures in N.J.A.C. 7:9C-1.7(c)3 for the derivation of

a new criterion when the Department determines that current scientific information indicates that a specifically listed numeric criterion is no longer appropriate. The Department will post criteria developed pursuant to (b)1ii and iii above on the Department's website at http://www.state.nj.us/dep/wmm/bFbm/is_text.html;

2. The following narrative groundwater remediation standards:

i. The general groundwater quality policies in N.J.A.C. 7:9C-1.2;

ii. The narrative groundwater quality criteria in N.J.A.C. 7:9C-1.7;

iii. The groundwater quality antidegradation policy in N.J.A.C. 7:9C-1.8;

iv. The remediation requirements in N.J.A.C. 7:26E-1 through 8 in order to both:

(1) Address the adverse impact of the contamination on the groundwater itself; and

(2) Limit additional risks posed by the contamination to the public health and safety and to the environment;

v. Removal, treatment, or containment of free and residual product pursuant to N.J.A.C. 7:26E-6.1(d);

vi. Ensure no release of contaminants to the ground surface, structures or air in concentrations that pose a threat to human health; and

vii. The following factors, as applicable on a site-specific basis, for selecting an appropriate groundwater remedial action:

(1) The location of the contaminated site relative to groundwater use;

(2) The potential human and environmental exposure to the groundwater contamination;

(3) The present, projected, and potential groundwater use at the site and in the area surrounding the site over the 25 years after the selection of the groundwater remedy;

(4) Ambient groundwater quality at the site and in the area surrounding the site resulting from both natural and human activities;

(5) The physical and chemical characteristics of the contaminants of concern; and

(6) The criteria in N.J.A.C. 7:26E-6.3(d)1i, to determine when natural remediation is appropriate as a remedial action for groundwater contamination.

(c) The person responsible for conducting the remediation is not required to remediate groundwater to a level or concentration that is lower than the level or concentration of

the regional natural background level or concentration for any particular hazardous substance or pollutant.

(d) The Department will not accept alternate numeric groundwater remediation standards developed based on a site-specific risk assessment.

(e) The minimum surface water remediation standards are:

1. The more stringent of either the numeric New Jersey Surface Water Quality Standards pursuant to N.J.A.C. 7:9B-1.14(c) and (d) or the numeric Federal Surface Water Criteria, 40 CFR Part 131; and

2. The following narrative surface water remediation standards:

i. The general surface water quality policies included in N.J.A.C. 7:9B-1.5;

ii. The narrative surface water quality criteria included in N.J.A.C. 7:9B-1.14;

iii. The remediation requirements in N.J.A.C. 7:26E-1 through 8 in order to both:

(1) Address the adverse impact of the contamination on the surface water itself; and

(2) Limit additional risks posed by the contamination to the public health and safety and to the environment;

iv. Removal, treatment, or containment of free and residual product pursuant to N.J.A.C. 7:26E-6.1(d); and

v. The following narrative criteria, as applicable on a site-specific basis, for selecting an appropriate surface water remedial action:

(1) The location of the contaminated site relative to surface water use;

(2) The potential human and environmental exposure to the surface water contamination;

(3) The present and projected surface water use at the site and in the area surrounding the site;

(4) Ambient surface water quality at the site and in the area surrounding the site resulting from both natural and human activities; and

(5) The physical and chemical characteristics of the contaminants of concern.

(f) The Department will not accept alternate numeric surface water remediation standards developed based on a site-specific risk assessment.

New Rule, R.2003 d.29, effective February 3, 2003.

See: 34 N.J.R. 170(a), 35 N.J.R. 710(a).

Administrative correction.

See: 35 N.J.R. 1928(a).

Administrative correction.

See: 37 N.J.R. 4245(a).

**SUBCHAPTER 2. QUALITY ASSURANCE FOR
SAMPLING AND LABORATORY ANALYSIS**

7:26E-2.1 Quality assurance requirements

(a) The person responsible for conducting the remediation shall ensure that the following quality assurance procedures be followed for all sampling and laboratory analysis activities.

1. Laboratories performing analyses shall conform to the following:

i. For the analysis of any aqueous samples for a parameter or category of parameters for which laboratory certification exists pursuant to N.J.A.C. 7:18, the laboratory shall be certified for that specific parameter or category of parameters pursuant to N.J.A.C. 7:18;

ii. For the analysis of non-aqueous samples using specific analytical methods contained in the EPA Publication SW-846, "Test Methods for Evaluating Solid Waste", third edition, update IIB, January 1995, as amended and supplemented, for a parameter or category of parameters for which certification exists pursuant to N.J.A.C. 7:18, the laboratory shall be certified for that specific parameter or category of parameters pursuant to N.J.A.C. 7:18 or, at a minimum, have obtained temporary approval to analyze regulatory samples pursuant to N.J.A.C. 7:18-2.5(c);

iii. For the analysis of samples using USEPA Contract Laboratory Program (CLP) analytical methods for a parameter or category or parameters for which certification exists pursuant to N.J.A.C. 7:18, the laboratory shall be certified for that specific parameter or category of parameters pursuant to N.J.A.C. 7:18 or, at a minimum, have obtained temporary approval to analyze regulatory samples pursuant to N.J.A.C. 7:18-2.5(c); or

iv. For the analysis of aqueous and non-aqueous samples for parameters or categories of parameters not contained in (a)1i through iii above, the person responsible for conducting the remediation is also responsible for ensuring that the selected laboratory is capable of performing the analysis. At such time as N.J.A.C. 7:18 incorporates procedures for parameters or categories of parameters not contained in (a)1i through iii above, the procedures in N.J.A.C. 7:18 shall be followed.

2. The Department shall reject analytical data as follows:

i. For laboratories performing analyses pursuant to (a)1i above, decertification or suspension of a laboratory pursuant to N.J.A.C. 7:18 for any given parameter or category of parameters shall result in the rejection of all analytical data for that given parameter or category of parameters generated after the date of decertification or suspension.

ii. For laboratories performing analyses pursuant to (a)1ii above, decertification or suspension of a laboratory pursuant to N.J.A.C. 7:18 for any given parameter or category of parameters shall result in the rejection of all analytical data for that given parameter or category of parameters generated after the date of decertification or suspension.

iii. For laboratories performing analyses pursuant to (a)1iii above, decertification or suspension of a laboratory pursuant to N.J.A.C. 7:18 for any given parameter or category of parameters shall result in the rejection of all analytical data for that given parameter or category of parameters generated after the date of decertification or suspension.

3. Except as provided in (a) 5 below, analytical methods used shall have been published or approved by organizations with recognized expertise in the development of standardized analytical methods. These organizations include, without limitation:

- i. The EPA;
- ii. The American Society for Testing and Materials (ASTM);
- iii. The American Public Health Association (APHA);
- iv. The National Institute for Occupational Safety and Health (NIOSH);
- v. The Association of Official Analytical Chemists (AOAC);
- vi. The U.S. Army Toxic and Hazardous Materials Agency (USATHAMA);
- vii. The American Water Works Association (AWWA);
- viii. The Department;
- ix. The United States Department of Defense;
- x. The United States Department of Energy; and
- xi. The United States Department of Interior.

4. Non-aqueous samples to be analyzed for volatile organics shall be sampled using the procedures specified in either USEPA SW846 Method 5035 (USEPA Publication "Test Methods for Evaluating Solid Waste," third edition, final update III, December 1996, incorporated herein by reference, as amended and supplemented) or the USEPA Contract Laboratory Program Statement of Work for Organic Analysis, Multi Media, Multi Concentration, Revision OLMO4.2, incorporated herein by reference, as amended and supplemented. All samples are to be preserved in the field with the appropriate preservation solution except for the following: