

CHAPTER 26B

ENVIRONMENTAL CLEANUP RESPONSIBILITY ACT RULES

Authority

N.J.S.A. 13:1D-1 et seq., 13:1K-6 et seq., specifically
N.J.S.A. 13:1K-10, and 58:10-23.11 et seq.

Source and Effective Date

R.1992 d.497, effective November 18, 1992.
See: 24 N.J.R. 2773(b), 24 N.J.R. 4524(a).

Executive Order No. 66(1978) Expiration Date

Chapter 26B, Environmental Cleanup Responsibility Act Rules, expires on November 18, 1997.

Chapter Historical Note

Chapter 26B, Environmental Cleanup Responsibility Act Rules, was originally adopted as R.1987 d.528, effective December 21, 1987 (operative January 1, 1988). See: 19 N.J.R. 681(a), 19 N.J.R. 2435(a). Pursuant to Executive Order No. 66(1978) Chapter 26B was readopted as R.1992 d.497, effective November 18, 1992. See: Source and Effective Date.

Law Review and Journal Commentaries

Overturing Environmental Regulations: A Primer on Breaching the Regulatory Walls. John A. McKinney, Jr., J. Wylie Donald, 160 N.J.Law. 48 (Mag.) (April 1994).

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ENVIRONMENTAL CLEANUP RESPONSIBILITY
ACT

SUBCHAPTER 1. GENERAL PROVISIONS

7:26B-1.1 Scope and authority

This chapter constitutes the rules governing the implementation of the Environmental Cleanup Responsibility Act, P.L. 1983 c.330 (N.J.S.A. 13:1K-6 et seq.). The provisions of any law, rule or regulation to the contrary notwithstanding, the closing, terminating, or transferring of operations of an industrial establishment is subject to the provisions of this chapter and the Act.

7:26B-1.2 Construction

This chapter shall be liberally construed to allow the Department to implement fully its statutory functions pursuant to the Act.

Case Notes

Leaving materials in unguarded drums was not storage, for purposes of notice and reporting. Matter of Fabritex Mills, Inc., 231 N.J.Super. 224, 555 A.2d 649 (A.D.1989).

Cessation of substantially all operations triggers notice and reporting requirements. Matter of Fabritex Mills, Inc., 231 N.J.Super. 224, 555 A.2d 649 (A.D.1989).

7:26B-1.3 Definitions

The following words and terms, when used in this chapter, shall have the following meanings unless the context clearly indicates otherwise.

“ACO” means an Administrative Consent Order.

“Act” or “ECRA” means the Environmental Cleanup Responsibility Act, P.L. 1983, c.330 (N.J.S.A. 13:1K-6 et seq.).

“Agricultural commodity” means any plant or part thereof, or animal or animal product, produced by a person (including farmers, ranchers, vineyardists, plant propagators, Christmas tree growers, aquaculturists, floriculturists, orchardists, foresters, or other comparable persons) primarily for sale, consumption, propagation, or other use by man or animals.

“Authorized agent” means the person authorized to represent the owner or operator, or both, for matters covered by the Act and this chapter except as provided at N.J.A.C. 7:26B-1.13.

“Cessation of all or substantially all the operations” means the cessation of operations that involve the generation, manufacturing, refining, transportation, treatment, storage, handling or disposal of hazardous substances and wastes, resulting in at least a 90 percent reduction in the total value of the units of product output from the entire industrial establishment. For industrial establishments that have an undefined unit of product output, the following criteria are to be applied:

1. Ninety percent reduction in number of employees; or
2. Ninety percent reduction in area of operations.

“Cleanup plan” means a plan for the cleanup of an industrial establishment and any contamination, including any off-site contamination which has emanated or is emanating from the industrial establishment, approved by the Department pursuant to this chapter, as required at N.J.A.C. 7:26B-5.3, including, but not limited to, a description of the location, types, and quantities of any and all hazardous substances and wastes that will remain at the industrial establishment and those hazardous substances and wastes to be removed; a description of the types, volume, and location of any storage vessels, surface impoundments, or landfills or any other structures, vessels, contrivances, or units containing hazardous substances and wastes; recommendations regarding the most practicable method of cleanup; a reasonable time schedule for cleanup plan implementation; and an accurate and detailed cost estimate to implement the cleanup plan. If the evaluation of an industrial establishment for cleanup purposes necessitates additional information, a cleanup plan may also include, at the discretion of the Department, graphic and narrative descriptions of the geographic, geologic, and hydrogeologic characteristics at the industrial establishment and an evaluation of all residual soil, groundwater, and surface water contamination.