

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.1997 d.124, effective February 18, 1997.
See: 28 N.J.R. 1098(a), 28 N.J.R. 2298(a), 29 N.J.R. 2278(b).

Executive Order No. 66(1978) Expiration Date

Chapter 26E, Technical Requirements for Site Remediation, expires on February 18, 2002.

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 was re-adopted as R.1997 d.124, effective February 18, 1997. See: Source and Effective Date. 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of R.1997 d.124, effective May, 19, 1997 (operative July 18, 1997), Subchapter 5, Remedial Alternative Analysis, was repealed and a new Subchapter 5, Remedial Action Selection, was adopted.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, also, section annotations.

Law Review and Journal Commentaries

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

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).

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.

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 which 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 Hazardous Site Discharge 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 July 18, 1997 shall be in full compliance with this chapter, as readopted with amendments operative July 18, 1997 (see 29 N.J.R. 2278(b)), except that work conducted pursuant to workplans which were submitted to the Department prior to July 18, 1997 may be conducted pursuant to N.J.A.C. 7:26E as originally adopted, 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".

7:26E-1.4 Notification

(a) The person responsible for conducting the remediation 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.