

7:26C-2.5 Record retention

(a) The person responsible for conducting the remediation shall maintain and preserve all data, documents and information concerning remediation of a contaminated site, including, but not limited to, technical records and contractual documents, and raw sampling and monitoring data, whether or not the data and information, including technical records and contractual documents, were developed by the licensed site remediation professional or that person's divisions, employees, agents, accountants, contractors, or attorneys, that relate in any way to the contamination at the site.

(b) Upon the receipt of a written request from the Department, the person responsible for conducting the remediation shall submit to the Department all data and information, including technical records and contractual documents concerning contamination at the site, including raw sampling and monitoring data, whether or not such data and information were developed as part of the remediation. The person responsible for conducting the remediation may reserve its right to assert a privilege regarding such documents, except that no claim of confidentiality or privilege may be asserted with respect to any data related to site conditions, sampling or monitoring.

(c) The person responsible for conducting the remediation shall submit three electronic copies of all records referenced in (a) above, to the Department at the time of the issuance of a final remediation document.

SUBCHAPTER 3. REMEDIATION TIMEFRAMES AND EXTENSION REQUESTS

7:26C-3.1 Scope

(a) This subchapter contains provisions that specify the requirements for:

1. Complying with, and requesting an extension from, regulatory timeframes pursuant to N.J.A.C. 7:26C-3.2;
2. Complying with mandatory remediation timeframes pursuant to N.J.A.C. 7:26C-3.3;
3. Complying with expedited site specific remediation timeframes pursuant to N.J.A.C. 7:26C-3.4; and
4. Requesting an extension of mandatory or site specific remediation timeframe pursuant to N.J.A.C. 7:26C-3.5.

7:26C-3.2 Regulatory timeframes

(a) The person responsible for conducting the remediation shall comply with the regulatory timeframes established by all applicable statutes, rules and guidance, including, but not limited to, the Underground Storage Tank rules, N.J.A.C. 7:14B, the Industrial Site Recovery Act rules, N.J.A.C.

7:26B, the Technical Requirements for Site Remediation rules, N.J.A.C. 7:26E and this chapter.

(b) The person responsible for conducting the remediation may request an extension of a regulatory timeframe by complying with the following:

1. Complete a Remediation Timeframe Extension Request form, available from the Department at www.nj.gov/dep/srp/srra/forms, and submit the form to the address noted on the form no later than 30 days prior to the end date of the regulatory timeframe. The following information shall be included:

- i. The end date of the regulatory timeframe;
- ii. The amount of time beyond the end date of the regulatory timeframe needed to complete the required work, but not in an amount that would exceed any mandatory remediation timeframe in N.J.A.C. 7:26C-3.3 or an expedited site specific timeframe established pursuant to N.J.A.C. 7:26C-3.4;
- iii. A description of the cause or causes of the need for the extra time needed to complete the work; and
- iv. The steps taken to minimize the extra time needed to complete the work; and

2. Submit any additional information the Department requests.

(c) The request for an extension of a regulatory timeframe submitted in accordance with (b) above shall be deemed to be approved by the Department unless the Department notifies the person in writing that the extension request is denied.

(d) If the person responsible for conducting the remediation expects to or has missed a regulatory timeframe that may result in the person exceeding a mandatory remediation timeframe as established in N.J.A.C. 7:26C-3.3, or an expedited site specific timeframe established pursuant to N.J.A.C. 7:26C-3.4, the regulatory timeframe extension request shall not be deemed to be approved pursuant to (c) above.

7:26C-3.3 Mandatory remediation timeframes

(a) The person responsible for conducting the remediation shall:

1. Submit the preliminary assessment, site investigation report, as applicable, and the initial receptor evaluation within one year from the later of the following dates:

- i. March 1, 2010 if remediation was initiated prior to November 4, 2009; or
- ii. When the earliest of any of the events listed at N.J.A.C. 7:26C-2.2(b) occurs;

2. Complete the delineation of the immediate environmental concern contaminant source, initiate immediate environmental concern contaminant source control and submit to the Department an Immediate Environmental

Concern Contaminant Source Control Report, pursuant to the Technical Requirements for Site Remediation rules, at N.J.A.C. 7:26E-1.14, no later than one year from the later of the following dates:

- i. March 1, 2010 if remediation was initiated prior to November 4, 2009; or
 - ii. The date the person was required to report the immediate environmental concern to the Department pursuant to the Technical Requirements for Site Remediation rules, at N.J.A.C. 7:26E-1.14; and
3. Complete the installation of a light non-aqueous phase liquid (LNAPL) recovery system, initiate operational monitoring and submit an interim remedial action report, pursuant to the Technical Requirements for Site Remediation rules, at N.J.A.C. 7:26E-1.12(b), no later than one year from:

- i. March 1, 2010 if remediation was initiated prior to November 4, 2009; or
- ii. The date the person identified the presence of LNAPL free product.

(b) The timeframes set forth in (a) above shall not be extended based on the fact that a person other than the person who initiated the remediation assumes responsibility for the remediation pursuant to N.J.A.C. 7:26C-2.2(b)1.

(c) When the Department determines that a person responsible for conducting the remediation has failed to meet a mandatory remediation timeframe, that person shall become subject to direct oversight of the Department pursuant to the Site Remediation Reform Act, N.J.S.A. 58:10C-27, for the site, area of concern or condition to which the mandatory remediation timeframe applies.

(d) A person responsible for conducting the remediation may request an extension of a mandatory remediation timeframe pursuant to N.J.A.C. 7:26C-3.5.

Administrative correction.
See: 42 N.J.R. 1862(a).

7:26C-3.4 Expedited site specific remediation timeframes

(a) The Department may establish an expedited site specific remediation timeframe that shall apply to a particular site, based upon the following criteria:

1. The risk to the public health and safety, or to the environment; and
2. The compliance history of the person responsible for conducting the remediation.

(b) The Department shall notify in writing the person responsible for conducting the remediation when the Department has established an expedited site specific remediation timeframe for a site for which the person is responsible for conducting the remediation.

(c) The person responsible for conducting the remediation shall comply with every expedited site specific remediation timeframe.

(d) When the Department determines that a person responsible for conducting the remediation has failed to meet an expedited site specific remediation timeframe, that person shall be subject to the direct oversight pursuant to the Site Remediation Reform Act, N.J.S.A. 58:10C-27, for the site, area of concern or condition to which the expedited site specific remediation timeframe applies.

(e) A person responsible for conducting the remediation may request an extension of an expedited site specific remediation timeframe pursuant to N.J.A.C. 7:26C-3.5.

7:26C-3.5 Extension of a mandatory or an expedited site specific remediation timeframe

(a) The person responsible for conducting the remediation who wants an extension from the mandatory or expedited site specific remediation timeframe shall request an extension of a timeframe as follows:

1. The person shall provide a written rationale for the request in a completed Remediation Timeframe Extension Request Form available from the Department at www.nj.gov/dep/srp/srra/forms and submit the form to the Department at the address noted on the form no later than 60 days prior to the end date of the mandatory remediation timeframe or the expedited site specific remediation timeframe. The following information shall be included:

- i. The end date of the mandatory remediation timeframe or the expedited site specific remediation timeframe;
- ii. The amount of time beyond the end date of the mandatory remediation timeframe or the expedited site specific remediation timeframe needed to complete the required work;
- iii. A description of the cause or causes for the extra time needed to complete the work; and
- iv. The steps taken to minimize the extra time needed to complete the work; and

2. The person shall provide any other information the Department requests.

(b) The person responsible for conducting the remediation shall continue any remediation during the time that the Department reviews the extension request submitted pursuant to (b) above, unless the Department directs otherwise.

(c) An extension request submitted pursuant to (a) above shall be deemed to be granted in the following circumstances with limitations as indicated:

1. A delay by the Department in reviewing or granting a permit or required submittal, provided that:

i. The person responsible for conducting the remediation timely filed a technically and administratively complete permit application or submittal; and

ii. The period of extension shall equal the actual duration of the delay; or

2. A delay in the provision of Federal or state funding for remediation, provided that the person responsible for conducting the remediation timely filed a technically and administratively complete application for funding and that the period of extension shall equal the actual duration of the delay.

(d) The Department may grant an extension of a mandatory remediation timeframe or of an expedited site specific timeframe by granting the approval in writing if appropriate and adequate rationale has been provided pursuant to (a) above and when an extension is needed as a result of the following:

1. A delay in obtaining access to property in accordance with N.J.A.C. 7:26C-8, provided that the person responsible for conducting the remediation demonstrates that good faith efforts have been undertaken to gain access, access has not been granted by the property owner, and, after good faith efforts have been exhausted, a complaint was filed in the Superior Court to gain access;

2. Other site-specific circumstances that may warrant an extension, as the Department may determine, including but not limited to:

i. On-going litigation, the outcome of which will have a direct bearing on the person's ability to meet the mandatory remediation or expedited site specific timeframe;

ii. The fact that the person is an owner of a small business who can demonstrate to the Department's satisfaction that he or she does not have sufficient monetary resources to meet the mandatory remediation or expedited site specific timeframe; or

3. Other circumstances beyond the control of the person responsible for conducting the remediation, such as fire, flood, riot, or strike.

2. The payment of the applicable individual fees for the person responsible for conducting the remediation, pursuant to N.J.A.C. 7:26C-4.3;

3. The payment of remedial action permit fees, pursuant to N.J.A.C. 7:26C-4.4;

4. The methodology the Department will use to calculate its costs in overseeing remediation and the payment of those costs, pursuant to N.J.A.C. 7:26C-4.5;

5. The procedures by which a person may request a review of an oversight cost invoice from the Department, pursuant to N.J.A.C. 7:26C-4.6; and

6. How a person is to make payments to the Department of the fees and costs in this subchapter, pursuant to N.J.A.C. 7:26C-4.7.

7:26C-4.2 Annual remediation fee for a person initiating remediation on or after November 4, 2009

(a) Except as provided in (h) below, the person responsible for conducting the remediation that is subject to N.J.A.C. 7:26C-2.4 shall submit the applicable annual remediation fee to the Department pursuant to this section.

1. A person subject to this section shall pay a non-refundable annual remediation fee, which shall be the sum of the applicable category fee as determined pursuant to (a)2 below, and the total contaminated media fee as calculated pursuant to (a)3 below.

2. The applicable category fee shall be assessed as follows:

i. The fee for zero to one contaminated areas of concern where the number of contaminated areas of concern is undetermined, determined to be one, or where the site is limited to historic fill: \$450.00;

ii. The fee for:

(1) Two through 10 contaminated areas of concern: \$900.00; and

(2) Any number of contaminated regulated underground storage tank system areas, excluding regulated heating oil tank systems, provided there are no other contaminated areas of concern at the site: \$900.00;

iii. The fee for 11 through 20 contaminated areas of concern, or one or more landfills: \$5,000; and

iv. The fee for more than 20 contaminated areas of concern: \$9,500.

3. The total contaminated media fee is as follows. A fee shall be assessed for each separate contaminated medium that is present at the site as determined from the following list. The total contaminated media fee shall be the sum of the individual contaminated medium fees.

SUBCHAPTER 4. FEES AND OVERSIGHT COSTS

7:26C-4.1 Scope

(a) This subchapter contains provisions that specify the requirements for:

1. The payment of an annual remediation fee for the person responsible for conducting the remediation that is subject to N.J.A.C. 7:26C-2.4, pursuant to N.J.A.C. 7:26C-4.2;

- i. Ground water \$1,400;
- ii. Surface water sediment \$1,400; and
- iii. Ground water contaminated above an applicable Surface Water Quality Standard that is an unpermitted discharge to surface water \$1,400.

4. The person responsible for conducting the remediation shall submit the first annual remediation fee and a completed Annual Remediation Fee Reporting form, found on the Department's website at www.nj.gov/dep/srp/srra/forms, to the address noted on the form upon the earliest of the following:

- i. The submittal of a preliminary assessment report;
- ii. The submittal of a site investigation report;
- iii. The submittal of the first remedial phase document; or
- iv. Two hundred and seventy days after any event listed at N.J.A.C. 7:26C-2.2(b).

5. For each subsequent year, the Department shall invoice the person responsible for conducting the remediation for the annual remediation fee on the anniversary date of the first year that the annual fee was submitted pursuant to (a)4 above.

(b) The person responsible for conducting the remediation shall identify all contaminated areas of concern individually and shall not combine contaminated areas of concern or contaminated media for the purpose of determining the amount of the annual remediation fee.

(c) The person responsible for conducting the remediation that receives an RAO for a contaminated area of concern may submit a new Annual Remediation Fee Reporting form 90 days prior to the annual remediation fee anniversary date.

(d) The person responsible for conducting the remediation that discovers an additional contaminated area of concern shall submit a new Annual Remediation Fee Reporting form 90 days prior to the annual remediation fee anniversary date.

(e) The person responsible for conducting the remediation shall continue to pay an annual remediation fee to the Department until a response action outcome for all of the contaminated areas of concern and contaminated media at the site have been filed with the Department.

(f) If the Department makes a determination that it will undertake direct oversight of a portion or condition of the site pursuant to N.J.S.A. 58:10C-27, the person responsible for conducting the remediation shall pay the annual remediation fee every year and the Department's oversight costs pursuant to N.J.A.C. 7:26C-4.5.

(g) If the Department makes a determination that it will undertake direct oversight of the entire site pursuant to N.J.S.A. 58:10C-27, the person responsible for conducting

the remediation shall continue to pay the annual remediation fee until it submits the first direct oversight document required by the Department and at that point shall pay the Department's oversight costs pursuant to N.J.A.C. 7:26C-4.5.

(h) The person responsible for conducting the remediation does not have to pay the annual remediation fee in the following circumstances:

1. Upon receipt of notice from the Department that it has assigned a full time case manager to the entire site;
2. If that person is remediating a child care center; or
3. If that person is the owner or operator of an unregulated heating oil tank system.

7:26C-4.3 Individual review fees

(a) The person responsible for conducting the remediation shall submit to the Department, at the address noted on the appropriate document submission form or questionnaire, provided by the Department at www.nj.gov/dep/srp/srra/forms, the applicable nonrefundable document review fee pursuant to this section each time that the person submits any of the following documents to the Department unless the person is subject to an annual remediation fee:

1. Preliminary assessment report \$375.00;
2. Site investigation report \$750.00;
3. Remedial action report for unregulated heating oil tank system \$400.00;
4. Biennial certification, unless the person responsible for conducting the remediation has a remedial action permit that covers the biennial certification \$375.00; and
5. Child care center response action outcome or child care center renewal certification \$225.00.

(b) If the person responsible for conducting the remediation does not submit a document review fee with a document pursuant to this section, the Department will not review, or otherwise process, the submitted document.

(c) The person responsible for conducting the remediation of a discharge from an unregulated heating oil tank system shall pay the following fees, as applicable:

1. \$350.00 fee for a discharge to ground water proposal pursuant to N.J.A.C. 26C-13.5(b)1;
2. \$400.00 for an on-scene coordinator discharge authorization pursuant to N.J.A.C. 7:26C-13.5(b)3; and
3. All applicable fees pursuant to the New Jersey Pollutant Discharge Elimination System rules, N.J.A.C. 7:14A.

Administrative correction.
See: 42 N.J.R. 1862(a).

4. For a violation identified by an "NM" as non-minor in the "Type of Violation" column, or for a violation that is identified by an "M" as minor in the "Type of Violation" column, but for which the conditions at N.J.A.C. 7:26C-9.3 are not satisfied, the Department:

- i. Shall identify the corresponding base penalty dollar amount for the rule violated as listed in (c) below;
- ii. Shall adjust the amount of the base penalty by applying the factors in N.J.A.C. 7:26C-9.6(a), as applicable; and
- iii. May multiply the penalty calculated pursuant to subparagraph (a)4 above by the number of days the violation existed.

(b) The following summary of rules contained in the "Subchapter and Violation" column of the following tables is provided for informational purposes only. In the event that there is a conflict between the rule summary in the following tables and the corresponding rule provision, then the corresponding rule provision shall prevail. The "Citation" column lists the citation and shall be used to determine the specific rule to which the violation applies. In the "Type of Violation" column, "M" identifies a violation as minor and "NM" identifies a violation as non-minor. The length of the applicable grace period for a minor violation is indicated in the "Grace Period" column. The "Base Penalty" column indicates the applicable base penalty for each violation.

<u>Subchapter and Violation</u>	<u>Citation</u>	<u>Type of Violation</u>	<u>Grace Period Days</u>	<u>Base Penalty</u>
<u>Discharges of Petroleum and Other Hazardous Substances N.J.A.C. 7:1E</u>				
Failure to conduct remediation in accordance with N.J.A.C. 7:26C.	7:1E-5.7(a)2ii	NM		\$20,000
<u>Underground Storage Tanks N.J.A.C. 7:14B</u>				
1 General Information				
Failure to submit proper certifications.	7:14B-1.7(a)	M	30	\$4,000
Failure to conduct all site investigation and tank closure activity, using an individual certified in subsurface evaluation and/or closure in accordance with N.J.A.C. 7:14B-13 when required.	7:14B-1.8(a)1	NM		\$8,000
Failure to conduct all site investigation and tank closure activities in accordance with N.J.A.C. 7:26C-2.4, including using a licensed site remediation professional, when required.	7:14B-1.8(a)2	NM		\$8,000
Failure to comply with the regulatory timeframes in this chapter.	7:14B-1.8(a)3	NM		\$8,000
3 Fees				
Failure to pay fees or oversight costs.	7:14B-3.5(a)	M	30	20 percent of outstanding amount; \$1,000 minimum
7 Release Reporting and Investigation				
Failure to perform an investigation of a suspected release, in accordance with N.J.A.C. 7:14B-7.2(a) within seven days of discovery of the suspected release.	7:14B-7.1(a)	NM		\$8,000
Failure to perform a Site Investigation within the required timeframe, in accordance with N.J.A.C. 7:26E-3.3, when the seven-day investigation was inconclusive in confirming or disproving a suspected release.	7:14B-7.2(b)	NM		\$8,000
Failure to immediately report a confirmed discharge as required.	7:14B-7.3(a)	NM		\$8,000
Failure to perform the remedial actions set forth in N.J.A.C. 7:14B-8.	7:14B-7.3(c)	NM		\$8,000
Failure to implement the release response plan when a discharge has been confirmed.	7:14B-7.3(d)	NM		\$8,000

<u>Subchapter and Violation</u>	<u>Citation</u>	<u>Type of Violation</u>	<u>Grace Period Days</u>	<u>Base Penalty</u>
Failure to report a discharge of a reportable quantity of hazardous substances other than petroleum or waste oil to the National response Center per 40 CFR Part 302.	7:14B-7.3(e)	M	30	\$4,000
Failure to perform a site investigation within the required timeframe in accordance with N.J.A.C. 7:26E-3.3 and submit a site investigation report in accordance with N.J.A.C. 7:26E-3.13 when required due to a suspected discharge.	7:14B-7.4	NM		\$8,000
8 Remediation Activities				
Failure to take immediate action upon confirming a release.	7:14B-8.1(a)	NM		\$8,000
Failure to take immediate action to determine the source of the discharge upon confirming a release.	7:14B-8.1(a)1	NM		\$8,000
Failure to take immediate action to cease use of the underground storage tank system upon confirming a release.	7:14B-8.1(a)2	NM		\$8,000
Failure to take immediate action to mitigate any fire, safety or health hazard upon confirming a release.	7:14B-8.1(a)3	NM		\$20,000
Failure to take immediate action to conduct a visual inspection to detect and mitigate the effects of evident discharges upon confirming a release.	7:14B-8.1(a)4	NM		\$8,000
Failure to take immediate action to properly remove all hazardous substances from the underground storage tank system upon confirming a release.	7:14B-8.1(a)5	NM		\$20,000
Failure to take immediate action to repair, replace or close the underground storage tank system upon confirming a release.	7:14B-8.1(a)6	NM		\$8,000
Failure to take immediate action to comply with the reporting requirements at N.J.A.C. 7:14B-7.3 upon confirming a release.	7:14B-8.1(a)7	NM		\$8,000
Failure to perform a remedial investigation in accordance with N.J.A.C. 7:26E-4.	7:14B-8.2(a)1	NM		\$8,000
Failure to perform a remedial action in accordance with the requirements of N.J.A.C. 7:26E-6.	7:14B-8.2(a)2	NM		\$8,000
Failure to determine the classification of any wastes that are generated during the remedial investigation or remedial action.	7:14B-8.2(a)3	M	60	\$4,000
Failure to remove all non-hazardous wastes from the site or treat soils on site in accordance with N.J.A.C. 7:26E-5 and 6, or reuse soils in accordance with N.J.A.C. 7:26E-6.2(b) upon Department approval, within six months after generation.	7:14B-8.2(a)4	M	90	\$4,000
Failure to remove all hazardous wastes from the site within 90 days of generation.	7:14B-8.2(a)5	M	30	\$4,000
Failure to submit the remedial investigation Report to the Department and local health agencies within the required timeframe.	7:14B-8.3(a)	NM		\$8,000
Failure to submit a Remedial Action Selection report prepared in accordance with N.J.A.C. 7:26E within the required timeframe.	7:14B-8.3(a)1	NM		\$8,000

<u>Subchapter and Violation</u>	<u>Citation</u>	<u>Type of Violation</u>	<u>Grace Period Days</u>	<u>Base Penalty</u>
Commenced a remedial action which does not meet the criteria in N.J.A.C. 7:26B-6.2(b) without the Department's approval of a remedial action workplan.	7:26B-6.2(a)	NM		\$8,000
Failure to submit, within the required timeframe, a certification that there are no areas of concern at the industrial establishment where hazardous substances have migrated or are migrating from, involving remediation of groundwater or surface water, and a summary and schedule of completed and proposed soil remedial actions.	7:26B-6.2(c)	NM		\$8,000
Failure to certify the notification referenced in N.J.A.C. 7:26B-6.2(c).	7:26B-6.2(d)	M	30	\$4,000
Failure to submit a notification in accordance with N.J.A.C. 7:26E-1.4.	7:26B-6.2(e)	NM		\$8,000
Failure to submit progress reports when required.	7:26B-6.2(f)	M	30	\$8,000
Failure to submit a remedial action workplan to the Department within the required timeframe.	7:26B-6.2(g)	NM		\$8,000
Failure to submit a remedial action workplan to the Department within the required timeframe when conducting the remediation pursuant to the Administrative Requirements for the Remediation of Contaminated Sites rules at N.J.A.C. 7:26C-2.4.	7:26B-6.2(h)	NM		\$8,000
Failure to submit a ground water or surface water remedial action workplan within the required timeframe for Department approval.	7:26B-6.3(a)	NM		\$8,000
Failure to submit a ground water or surface water remedial action workplan to the Department within the required timeframe when conducting the remediation pursuant to the Administrative Requirements for the Remediation of Contaminated Sites rules at N.J.A.C. 7:26C-2.4.	7:26B-6.3(b)	NM		\$8,000
Failure to submit a Remediation Funding Source upon the Department's approval or licensed site remediation professional's certification of a remedial action workplan.	7:26B-6.4	NM		\$5,000
Failure to remediate a site in accordance with a schedule.	7:26B-6.5	NM		\$8,000
Failure to submit all workplans and reports documenting completion of remediation.	7:26B-6.6	M	30	\$8,000
Failure to submit a negative declaration.	7:26B-6.7	NM		\$8,000
8 Program fees and oversight costs				
Failure to pay fees and oversight costs.	7:26B-8	M	30	20 percent of outstanding amount; \$1,000 minimum
Remediation Agreements				
Failure to submit workplans and reports that comply with N.J.A.C. 7:26E and that conform to the Department's comments, in accordance with the remediation agreement.	specific remediation agreement paragraphs	NM		\$8,000

<u>Subchapter and Violation</u>	<u>Citation</u>	<u>Type of Violation</u>	<u>Grace Period Days</u>	<u>Base Penalty</u>
Failure to implement approved workplans in accordance with approved schedule and the conduct of additional work required by the Department, in accordance with the remediation agreement.	specific remediation agreement paragraphs	NM		\$8,000
Failure to comply with remediation funding source (RFS) requirements in a remediation agreement.	specific remediation agreement paragraphs	NM		\$8,000
Failure to comply with any other administrative requirements of a remediation agreement, including but not limited to payment of oversight costs and fees; payment of RFS surcharge; submittal of cost review.	specific remediation agreement paragraphs	M	30	\$4,000

Administrative Requirements for the Remediation of Contaminated Sites N.J.A.C. 7:26C

1	General Requirements				
	Failure to conduct remediation in accordance with all applicable statutes, rules, and guidance.	7:26C-1.2(a)	NM		\$8,000
	Failure to conduct additional remediation using the services of a licensed site remediation professional when notified by the Department.	7:26C-1.4(b)	NM		\$8,000
	Failure to properly certify all submissions.	7:26C-1.5	M	30	\$4,000
	Failure to submit forms, applications and documents as required.	7:26C-1.6	M	30	\$4,000
2	Obligations of the Persons Responsible for Conducting the Remediation of a Contaminated Site				
	Failure to conduct remediation as required.	7:26C-2.3(a)	NM		\$20,000
	Failure to conduct remediation as required.	7:26C-2.4	NM		\$20,000
	Failure to retain records as required and to submit them upon issuance of final remediation document and/or upon request.	7:26C-2.5	NM		\$8,000
3	Remediation Timeframes and Extension Requests				
	Failure to remediate the site or area of concern pursuant to the schedules in N.J.A.C. 7:14B, 7:26B, 7:26C and 7:26E or an administration consent order or remediation agreement.	7:26C-3.2(a)	NM		\$8,000
	Failure to comply with the mandatory timeframe for submittal of a preliminary assessment and site investigation report.	7:26C-3.3(a)1	NM		\$8,000
	Failure to comply with the mandatory timeframe for submittal of an initial receptor evaluation report.	7:26C-3.3(a)1	NM		\$20,000
	Failure to comply with the mandatory timeframe for delineation of the immediate environmental concern contaminant source, initiation of immediate environmental concern contaminant source control and submittal of Immediate Environmental Concern Contaminant Source Control Report.	7:26C-3.3(a)2	NM		\$20,000
	Failure to comply with the mandatory timeframe for delineation of light non-aqueous phase liquid (LNAPL) free product, completion of LNAPL recovery system installation, initiation of LNAPL recovery system monitoring, and submittal of interim remedial action report.	7:26C-3.3(a)3	NM		\$20,000

<u>Subchapter and Violation</u>	<u>Citation</u>	<u>Type of Violation</u>	<u>Grace Period Days</u>	<u>Base Penalty</u>
Administrative Consent Orders				
Failure to submit workplans and reports that comply with N.J.A.C. 7:26E and that conform to the Department's comments, in accordance with an administrative consent order.	specific administrative consent order paragraphs	NM		\$8,000
Failure to implement approved workplans in accordance with approved schedule and the conduct of additional work required by the Department, in accordance with an administrative consent order.	specific administrative consent order paragraphs	NM		\$8,000
Failure to comply with RFS requirements in an administrative consent order.	specific administrative consent order paragraphs	NM		\$8,000
Failure to comply with any other administrative requirements of an administrative consent order, including but not limited to payment of oversight costs and fees; payment of RFS surcharge; submittal of cost review.	specific administrative consent order paragraphs	M	30	\$4,000
<u>Technical Requirements for Site Remediation N.J.A.C. 7:26E</u>				
1 General Information				
Failure to comply with this chapter and guidance when conducting remediation pursuant to any of the applicable statutes.	7:26E-1.3(a)	NM		\$8,000
Failure to remediate to the applicable standards.	7:26E-1.3(c)	NM		\$8,000
Failure to conduct remediation consistent with the requirements of 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.	7:26E-1.3(d)	NM		\$8,000
Failure to comply with notification requirements.	7:26E-1.4(a) through (e)	NM		\$8,000
Failure to provide a copy of the remedial action workplan or updates or status reports if requested by the municipality.	7:26E-1.4(f)	M	30	\$4,000
Failure to provide public notice of remediation activities at the site using either a sign or notification letters.	7:26E-1.4(h)	NM		\$8,000
Failure to comply with all requirements when using a sign for public notification.	7:26E-1.4(i)	M	30	\$4,000
Failure to comply with all requirements when using notification letters for public notification.	7:26E-1.4(j)	M	30	\$4,000
Failure to obtain the Department's prior approval, comply with guidance, and send additional notification of excess fill material as required.	7:26E-1.4(k)	NM		\$8,000
Failure to send, update, publish fact sheet, and notify affected property owner as required, when contamination migrates off site.	7:26E-1.4(l)	M	30	\$4,000
Failure to notify adjoining property owner of soil contamination via certified mail.	7:26E-1.4(m)	M	30	\$4,000
Failure to include the rationale for an alternative public notification plan with the applicable remedial phase report.	7:26E-1.4(p)	M	30	\$4,000

<u>Subchapter and Violation</u>	<u>Citation</u>	<u>Type of Violation</u>	<u>Grace Period Days</u>	<u>Base Penalty</u>
Failure to conduct additional public outreach when the Department determined there is substantial public interest.	7:26E-1.4(q)	NM		\$8,000
Failure to make submissions to, and/or get approvals from, Pinelands Commission.	7:26E-1.4(s)	M	30	\$4,000
Failure to submit proper certifications and to submit forms and submissions as required.	7:26E-1.5	M	30	\$4,000
Failure to submit workplans and reports in the proper format and in a timely manner.	7:26E-1.6	M	30	\$4,000
Failure to include in the applicable remedial phase report the rationale for varying from a technical requirement or guidance.	7:26E-1.7(a)	NM		\$8,000
Failure to conduct remediation pursuant to the regulatory timeframes established in this chapter and submit all documents, forms, and other submissions as required in this chapter.	7:26E-1.9(a)	NM		\$8,000
Failure to comply with the Site Remediation Program's guidance documents in effect at the time that the work was conducted.	7:26E-1.9(b)	NM		\$8,000
Failure to properly submit required documents.	7:26E-1.9(d)	M	30	\$4,000
Failure to prepare or implement a health and safety plan.	7:26E-1.10	NM		\$8,000
Failure to implement an interim response measure to contain or stabilize contamination.	7:26E-1.12(a)	NM		\$20,000
Failure to notify the Department of the discovery of light non-aqueous phase liquid (LNAPL) and initiate free product recovery as required.	7:26E-1.12(b)1	NM		\$20,000
Failure to complete LNAPL delineation, installation of recovery system, and submit report within the required timeframe.	7:26E-1.12(b)2	NM		\$20,000
Failure to conduct remediation with the Department's oversight in situations where such oversight is required.	7:26E-1.13	NM		\$8,000
Failure to address an immediate environmental concern (IEC) condition in accordance with the Department's IEC Guidance.	7:26E-1.14(a)	NM		\$20,000
Failure to immediately notify the Department upon the discovery of an IEC condition.	7:26E-1.14(b)1	NM		\$20,000
Failure to mitigate the IEC impacts within the required timeframe.	7:26E-1.14(b)2	NM		\$20,000
Failure to submit the required information within the required timeframe.	7:26E-1.14(b)3	NM		\$20,000
Failure to implement an IEC engineered system response action within the required timeframe.	7:26E-1.14(b)4	NM		\$20,000
Failure to submit an IEC engineered system response action report with the required form within the required timeframe.	7:26E-1.14(c)	NM		\$20,000
Failure to initiate control of the IEC contaminant source using the Department's guidance, complete the delineation of the IEC contaminant source, and submit an IEC contaminant source control report with the required form within the required timeframe.	7:26E-1.14(d)	NM		\$20,000

<u>Subchapter and Violation</u>	<u>Citation</u>	<u>Type of Violation</u>	<u>Grace Period Days</u>	<u>Base Penalty</u>
Failure to submit a completed CEA/Well Restriction Area (WRA) Fact Sheet Form, and the required information.	7:26E-8.3(b)	M	30	\$4,000
Failure to submit to the Department a monitoring/maintenance certification, for a deed notice and any engineering controls that are described in the deed notice, every two years on the anniversary of the date stamped on the deed notice that indicates when the deed notice was recorded.	7:26E-8.4(c)1	NM		\$8,000
Failure to submit to the Department a monitoring/maintenance certification, for a ground water classification exception area, every two years on the anniversary of the date that the Department established the ground water classification exception area.	7:26E-8.4(c)2	NM		\$8,000
Failure to submit to the Department a monitoring/maintenance certification, for all other engineering and institutional controls (besides a deed notice or ground water classification exception area), every two years on the anniversary of when the engineering or institutional control was in place.	7:26E-8.4(c)3	NM		\$8,000
Failure to submit a biennial certification for all remedial actions and all engineering and institutional controls for the site to the Department in accordance with N.J.A.C. 7:26E-8.4(c) and biennially thereafter on that same date.	7:26E-8.4(d)	NM		\$8,000
Failure to monitor the protectiveness of a remedial action that includes a deed notice or declaration of environmental restrictions as required, including evaluation of land use changes; conducting site inspections; comparing laws and standards; keeping a maintenance log.	7:26E-8.5(a)	NM		\$8,000
Failure to prepare a biennial certification report and/or a remedial action protectiveness certification form that includes the information listed at N.J.A.C. 7:26E-8.5(b)1 through 10.	7:26E-8.5(b)	NM		\$8,000
Failure to certify to the Department that the deed notice or declaration of environmental restrictions, including all engineering controls, is being properly maintained, and the remedial action that includes the deed notice or declaration of environmental restrictions continues to be protective of public health and the environment.	7:26E-8.5(c)1	NM		\$8,000
Failure to submit a written and electronic version of the monitoring report along with the certification.	7:26E-8.5(c)2	NM		\$8,000
Failure to submit the monitoring report and the certification in accordance with the schedule in N.J.A.C. 7:26E-8.4(c), to the municipal and county clerks; the local, county and regional health department; each owner of the property; or the Department.	7:26E-8.5(c)3	NM		\$8,000
Failure of the person who is relinquishing the obligation to notify the Department of a change in obligations within 30 days of the effective date of the change.	7:26E-8.5(d)1	NM		\$8,000
Failure of the person who is assuming the obligation to notify the Department of a change in obligations within 30 days of the effective date of the change.	7:26E-8.5(d)2	NM		\$8,000

<u>Subchapter and Violation</u>	<u>Citation</u>	<u>Type of Violation</u>	<u>Grace Period Days</u>	<u>Base Penalty</u>
Failure to conduct the monitoring and maintenance of a ground water remedial action, and submit a biennial certification, as required.	7:26E-8.6(a)	NM		\$8,000
Failure to monitor the protectiveness of a remedial action that includes a ground water classification exception area.	7:26E-8.6(b)	NM		\$8,000
Failure to prepare a Biennial Certification Report using the required form that includes all of the criteria outlined in N.J.A.C. 7:26E-8.6(b)1 through 14.	7:26E-8.6(c)	NM		\$8,000
Failure to submit the required certification and form to the listed entities according to the schedule at N.J.A.C. 7:26E-8.4(c), including a statement that the biennial certification report supporting the certification is available upon request and including contact information.	7:26E-8.6(d)	NM		\$8,000
Failure to monitor the protectiveness of a remedial action that includes any other engineering or institutional control.	7:26E-8.7(a)	NM		\$8,000
Failure to prepare a monitoring report that includes all the information listed at N.J.A.C. 7:26E-8.7(b)1 through 9.	7:26E-8.7(b)	NM		\$8,000
Failure to submit the required certification and monitoring report concerning proper maintenance of each engineering or institutional control.	7:26E-8.7(c)	NM		\$8,000

Administrative correction.
See: 42 N.J.R. 1862(a).

7:26C-9.6 Penalty adjustment factors

(a) For violations that meet the criteria set forth at N.J.A.C. 7:26C-9.5(a)4, the Department may adjust the base penalty listed in the table at N.J.A.C. 7:26C-9.5(c) based on the following factors:

1. The Department may increase the amount of the penalty based on the compliance history of the violator as follows:

i. The second time that the same violation occurs, the Department may increase the amount of the penalty by a factor of two; and

ii. The third time the violation occurs and for each subsequent occurrence, the Department may increase the penalty by a factor of five.

2. The Department may increase the penalty by up to 100 percent if the violation is the result of any intentional, deliberate, purposeful, knowing or willful act or omission by the violator.

7:26C-9.7 Civil administrative penalty for submitting inaccurate or false information

(a) The Department may assess a civil administrative penalty pursuant to this section against each violator who submits inaccurate information or who makes a false statement, representation or certification in any application, record or other document required to be submitted or maintained pursuant to this chapter.

(b) Each day, from the day that the violator knew or had reason to know that it submitted inaccurate or false information to the Department until the day of receipt by the Department of a written correction by the violator, shall be an additional, separate and distinct violation.

(c) The Department shall assess a civil administrative penalty for violations described in this section as follows:

1. For each intentional, deliberate, purposeful, knowing or willful act or omission by the violator, the civil administrative penalty per act or omission shall be up to \$20,000 for the first offense, up to \$40,000 for the second offense and up to \$50,000 for the third and each subsequent offense; and