

CHAPTER 26E

TECHNICAL REQUIREMENTS
FOR SITE REMEDIATION

Authority

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

Source and Effective Date

R.2012 d.095, effective May 7, 2012.
See: 43 N.J.R. 1935(a), 44 N.J.R. 1339(b).

Chapter Expiration Date

Chapter 26E, Technical Requirements for Site Remediation, expires on May 7, 2019.

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of R.1997 d.124, effective May, 19, 1997 (operative July 18, 1997), Subchapter 5, Remedial Alternative Analysis, was repealed and a new Subchapter 5, Remedial Action Selection, was adopted.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. As a part of R.2003 d.29, Subchapter 8, Engineering and Institutional Controls, Appendix F, Groundwater Classification Exception Area Fact Sheet, and Appendix G, Contour Map Reporting Form, were adopted as new rules, effective February 3, 2003. See: 34 N.J.R. 170(a), 35 N.J.R. 710(a).

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

Subchapter 7, Permit Identification and Application Schedule, was renamed Permit Identification, Permit Application Schedule and Discharge to Ground Water Proposals; and Appendix B, Well Search Format and Appendix F, Groundwater Classification Exception Area Fact Sheet, were repealed by special adoption R.2009 d.361, effective November 4, 2009 (to expire May 11, 2011). See: 41 N.J.R. 4467(a). Provisions of R.2009 d.361 were readopted without change as R.2011 d.251, effective September 8, 2011. See: 43 N.J.R. 1077(a), 43 N.J.R. 2581(b).

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

Petition for Rulemaking. See: 42 N.J.R. 733(c), 1085(b).

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, 2010 to May 7, 2012. See: 43 N.J.R. 186(c).

In accordance with N.J.S.A. 52:14B-5.1b, Chapter 26E, Technical Requirements for Site Remediation, was scheduled to expire on May 7, 2014. See: 43 N.J.R. 1203(a).

Chapter 26E, Technical Requirements for Site Remediation, was repealed and adopted as new rules by R.2012 d.095, effective May 7, 2012. See: Source and Effective Date.

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SUBCHAPTER 1. GENERAL INFORMATION

7:26E-1.1 Scope

(a) This chapter establishes the technical requirements to remediate a contaminated site and ensure that the remediation is protective of public health and safety and of the environment.

(b) The remediation performed pursuant to this chapter does 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 Federal, State, or local statute or regulation, except as expressly provided in this chapter.

(c) The person responsible for conducting the remediation shall conduct any additional remediation the Department determines is necessary to protect public health and safety and the environment from contamination.

7:26E-1.2 Liberal construction

This chapter, being necessary to promote the public health and welfare, and to protect the environment, shall be liberally construed in order to permit the Commissioner and the Department to effectuate the purposes of N.J.S.A. 13:1D-1 et seq., 13:1E-1 et seq., 13:1K-6 et seq., 13:1K-15 et seq., 58:10-23.11a et seq., 58:10A-1 et seq., 58:10A-21 et seq., 58:10B-1 et seq. and 58:10C-1 et seq.

7:26E-1.3 Applicability

This chapter applies to any person to whom the Administrative Requirements for the Remediation of Contaminated Sites, N.J.A.C. 7:26C, apply.

7:26E-1.4 Severability

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

7:26E-1.5 General remediation requirements

(a) The person responsible for conducting the remediation shall conduct remediation pursuant to this chapter and N.J.A.C. 7:26C-1.2.

(b) Any person conducting remediation pursuant to this chapter shall apply, pursuant to N.J.A.C. 7:26C-1.2(a)3, any available and appropriate technical guidance concerning site remediation as issued by the Department, or shall provide a written rationale and justification for any deviation from guidance. The Department's technical guidance can be found on the Department's website at www.nj.gov/dep/srp/srra/guidance.

(c) The person responsible for conducting the remediation of a site shall remediate:

1. To comply with the Remediation Standards, N.J.A.C. 7:26D; or
2. To comply with the standards or criteria developed by the Department under N.J.S.A. 58:10B-12a for that site prior to June 2, 2008, provided:
 - i. A remedial action workplan or a remedial action report containing standards or criteria developed for the site under N.J.S.A. 58:10B-12a was submitted to the Department before December 2, 2008;
 - ii. The remedial action workplan or a remedial action report meets the requirements of N.J.A.C. 7:26E-5.5 or 5.7, respectively, and is approved as written by a licensed site remediation professional; and
 - iii. The standards or criteria developed by the Department under N.J.S.A. 58:10B-12a for the site are not greater by an order of magnitude than the remediation standards otherwise applicable under N.J.A.C. 7:26D.

(d) All work being conducted at a site pursuant to this chapter shall be documented and included in reports which contain the information required pursuant to the reporting sections of N.J.A.C. 7:26E-1 through 5.

(e) The person responsible for conducting the remediation has a continuing obligation to ensure that the Department receives all complete, accurate and relevant information regarding remediation performed pursuant to this chapter.

(f) The person responsible for conducting the remediation shall provide site specific information and documents related to remediation at a site when, and in the manner, requested by the Department.

(g) All borings and wells must be installed and decommissioned pursuant to the Well Construction and Maintenance; Sealing of Abandoned Wells rules, N.J.A.C. 7:9D.