

**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of R.1997 d.124, effective May, 19, 1997 (operative July 18, 1997), Subchapter 5, Remedial Alternative Analysis, was repealed and a new Subchapter 5, Remedial Action Selection, was adopted.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**

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

Historic Pesticide Contamination Task Force Issues Report. Bruce S. Katcher, 155 N.J.L.J. 1155 (1999).

ISRA: What You Need to Know. Richard J. Conway, Jr., 160 N.J.Law. 16 (Mag.) (April 1994).

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Natural Resource Damages: New Jersey's New Approach. Dennis Krumhotz and Marilyn R. Greenberg, 155 N.J.L.J. 705 (1999).

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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.

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

1. To meet the remediation standards at N.J.A.C. 7:26D and the impact to groundwater soil remediation standards set by the Department for a particular site pursuant to its authority under N.J.S.A. 58:10B-12a; or

2. To meet 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 is 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-6; 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 or more, than the remediation standards otherwise applicable under N.J.A.C. 7:26D.

(e) 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".

Amended by R.2008 d.144, effective June 2, 2008.

See: 39 N.J.R. 1574(a), 39 N.J.R. 2307(a), 40 N.J.R. 3187(a).

Added new (d); and recodified former (d) as (e).

**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’t. 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 (Reserved)

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).

Repealed by R.2008 d.144, effective June 2, 2008.

See: 39 N.J.R. 1574(a), 39 N.J.R. 2307(a), 40 N.J.R. 3187(a).

Section was “Minimum groundwater and surface water remediation standards”.

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:

ii. Within two weeks after completing the well search, determine if any potable wells exist within 1,000 feet of each area of concern with groundwater contamination and:

(1) Within 24 hours after determining the existence of a potable well, notify the assigned case manager by telephone. If a case manager is not assigned, notify the Department hotline at 1-877 WARNDEP or (877) 927-6337;

(2) Within eight weeks after identifying the potable wells, sample each existing potable well identified pursuant to the well search suspected to be contaminated by the site in question; and

(3) Within 45 days after completing sampling of the potable wells, submit all analytical results to the Department as full laboratory data deliverables, pursuant to N.J.A.C. 7:26E-2(a)13;

iii. Perform the following actions if any of the analytical results for the potable well samples collected pursuant to (e)3ii(2) above indicate that any of the potable wells are contaminated above the drinking water standards for contaminants that are suspected to be from the site:

(1) Within two weeks after submitting the analytical results to the Department, identify each potable well that exists within 1,000 feet to one-half mile of each area of concern with groundwater contamination and perform all sampling and reporting requirements as set forth at (e)3ii; and

(2) Repeat the process of identifying and sampling potable wells pursuant to (e)3i, ii and iii(1) above, by identifying and sampling potable wells at each successive half-mile intervals until either no more potable wells are identified, or no contaminants above the drinking water standard are identified;

iv. Determine the direction of groundwater flow for each affected aquifer as follows:

(1) Install a minimum of three groundwater monitoring wells or piezometers in each affected aquifer or water bearing zone to determine the groundwater flow direction in that zone. Install and survey the monitoring wells or piezometers pursuant to N.J.S.A. 58:4A-4.1 et seq. and N.J.A.C. 7:26E-4.4(g) to provide for adequate triangulation;

(2) Collect a minimum of two rounds of synoptic static water levels a minimum of 30 calendar days apart to provide a more accurate indication of the groundwater flow direction. The water levels may be taken to evaluate seasonal variations in flow direction;

(3) If the site is located in an area that is tidally influenced, synoptic ground and surface water levels shall be collected during two fair weather sampling

events separated by a minimum 30-day period where each event entails collecting hourly water levels from all applicable wells and the surface water for a minimum 71-hour period; and

(4) Collect water level measurements and determine groundwater flow direction, taking into account activities in the area which may affect flow direction, such as pumping wells or seasonally used pumping wells and injection wells; and

v. Conduct a groundwater remedial investigation pursuant to N.J.A.C. 7:26E-4.4.

(f) A prospective purchaser shall commence a potable water investigation no later than 30 calendar days after acquiring the property, in accordance with the requirements and schedule in (e)3 above.

(g) To support a claim that all or part of groundwater contamination detected in onsite groundwater samples is caused by background groundwater contamination, a background groundwater investigation shall be conducted as follows:

1. Groundwater flow direction shall be determined pursuant to N.J.A.C. 7:26E-3.7(e)3iv;

2. A minimum of one background monitoring well shall be installed in each water bearing zone that is believed to contain background groundwater contamination. A sufficient number of additional monitoring wells shall be installed to evaluate all offsite sources potentially affecting onsite groundwater quality. All monitoring wells shall be installed in accordance with N.J.S.A. 58:4A-4.1 et seq. and N.J.A.C. 7:9D. Each background monitoring well shall be located:

i. Beyond the influence of all onsite areas of concern;

ii. At the upgradient property boundary of the site, as determined by N.J.A.C. 7:26E-3.7(e)3iv;

iii. Such that the offsite ground water impacting this well will migrate along a predicted ground water flow path that will intercept the area of concern; and

iv. Outside the zone of influence of any nearby pumping wells that would prevent upgradient ground water from flowing onto the site;

3. Background monitoring well(s) shall be sampled concurrently with collection of onsite ground water samples for all onsite contaminants believed to be originating from background sources;

4. Results of the background ground water investigation shall be evaluated as follows:

i. No further remediation is required for ground water if:

(1) Contaminants detected in the area of concern monitoring well, as well as the contaminants' parent products, were never historically used on the site as documented pursuant to N.J.A.C. 7:26E-3.1 and 3.3;

(2) There is no additional evidence of an onsite discharge; and

(3) Contamination is present in the background monitoring well(s); and

ii. Additional remediation may be required when contamination is present in the area of concern monitoring well but not in the background monitoring well or contamination is present in both the area of concern monitoring well and the background monitoring well. In these cases, the Department shall consider the contribution of the background contamination in the determination of the applicable ground water remediation standards for the site. Factors for determining the contribution of the offsite contamination to onsite contamination shall include, but not be limited to, contaminant attenuation rates, contaminant degradation rates, and ground water flow velocity; and

5. The person responsible for conducting the remediation shall notify the Department pursuant to N.J.A.C. 7:26E-1.4(g) if that person determines, pursuant to (f)4 above, that groundwater contamination exists upgradient of the 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 (1-877 WARNDP 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), added "any soil contaminant . . . reference; and"; deleted (a)1; recodified former (a)2 as (a)1; added new (a)2; in (b)4, substituted 'in effect . . . informed of the remediation' for 'at the time of remedial action workplan approval'; in (c)2, deleted "; any method-specific requirements pursuant to N.J.A.C. 7:26E-4.4(g) shall be conducted, if groundwater monitor wells or piezometers are used' and added the last sentence; in (c)3i, increased types of excavations which previously included only underground storage tanks which were source of contamination; in (c)3ii, added last sentence; and added (f).

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.

Administrative correction.

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

### 7:26E-3.8 Site investigation—surface water and sediment

(a) If a surface water body is on or adjacent to the site, the person responsible for conducting the remediation shall determine if there is any evidence that discharges to the surface water body have occurred or are occurring. Such evidence shall include, without limitation:

1. Known historical or on-going discharges to the surface water body, as determined pursuant to N.J.A.C. 7:26E-3.1;

2. Stressed vegetation, sheens, seeps, discolored soil or sediment along the shoreline or on the surface water body;

3. Evidence of stream impacts from historical discharges including historical ecological studies documenting differences in organism population density and diversity in areas potentially impacted by the site relative to areas not impacted by the site; or

4. Existing onsite ground water contamination in excess of the applicable State Surface Water Quality criteria, N.J.A.C. 7:9B or the Federal Surface Water Quality criteria, 40 C.F.R. Part 131, whichever is more stringent, which discharges to the surface water body. Onsite ground water contamination in excess of the applicable surface water criteria shall be delineated to the applicable surface water criteria. Ground water delineation samples shall be collected along the ground water flow path between the area of concern and the surface water body and analyzed for applicable contaminants.

(b) If there is evidence that discharges to the surface water body have occurred, pursuant to (a) above, then a surface water investigation is required. The investigation of surface water and sediment shall be conducted according to the following:

1. The quality assurance and quality control requirements pursuant to N.J.A.C. 7:26E-2;

2. Surface water samples are required to evaluate standing water bodies, or, for flowing water, upgradient, downgradient, and discharge point water samples are required when there is reason to believe surface water may have been impacted by contamination emanating from the site. Sampling shall be designed to account for seasonal or short-term flow and water quality fluctuations due to dry versus wet weather flow, system hydraulics (obtaining flow-proportioned samples where applicable) and potential contaminant characteristics (for example, density, solubility); and

3. Sediments in surface water bodies shall be analyzed when there is reason to believe sediments may have been impacted by contamination emanating from the site as follows:

i. Sediment sampling for streams and similar water bodies shall be completed in accordance with N.J.A.C. 7:26E-3.9(d)3 (Swales/Culverts).

ii. Sediment sampling for ponded bodies of water shall be completed in accordance with N.J.A.C. 7:26E-3.9(c) (Surface Impoundments).

iii. In addition to other required analyses, surface water sediments shall also be analyzed for total organic carbon, pH, and particle size. These data are required to develop appropriate remediation standards.

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

(2) Results and implications of field measurements or area-specific changes in sampling protocol due to field conditions;

(3) Significance of information generated in the library search of tentatively identified compounds/unknown compounds; and

(4) Recommendations for either additional remediation or no further remediation for each area of concern.

(c) The site investigation report shall also include the following data and information:

1. Results of all analyses, copies of all laboratory data sheets and the required laboratory data deliverables pursuant to N.J.A.C. 7:26E-2.1 (Quality Assurance Requirements). Laboratory data deliverables may be submitted as a separate attachment;

2. A summary table of analytical methods and quality assurance indicators pursuant to N.J.A.C. 7:26E-2.2(a)1v;

3. A table summarizing all sampling results, including sample location, media, sample depth, field and laboratory identification numbers, analytical results, and comparison to applicable remediation standards organized by area of concern:

i. All contaminant concentrations exceeding the applicable remediation standards shall be identified;

ii. Samples with method detection limits (MDLs) (or practical quantitation levels (PQLs) if available) exceeding the applicable remediation standard shall be identified and an explanation provided in the table key;

iii. Soils/solids sample results shall be reported in milligrams per kilogram on a dry weight basis, and aqueous sample results shall be reported in micrograms per liter;

iv. All ground water data for the same aquifer zone shall be located in the same section of the table; and

v. The data in the summary table shall be presented both as a hard copy and an electronic deliverable using the format outlined in detail in the Site Remediation Program's Electronic Data Interchange Manual in effect as of the date the report is submitted. The Electronic Data Interchange Manual may be obtained at <http://www.state.nj.us/dep/srp/hazsite/index.html> or by calling (609) 292-9418. Electronic deliverables are not required if the summary table is prepared as part of the remediation of a specific discharge event or for an area of concern that consists of a storage tank storing heating oil for on-site consumption in a one to four family residential building where there has been no groundwater impact.

(1) The following locational information shall be submitted:

(A) Horizontal data points shall be reported in New Jersey state plane coordinates using the North American Datum of 1983 (NAD 1983), in accordance with the Department's Mapping and Digital Data Standards at N.J.A.C. 7:1D Appendix A, using units of U.S. survey feet;

(B) Locational information collected in latitude and longitude shall be converted to New Jersey state plane coordinates. Conversion programs can be obtained at <http://www.state.nj.us/dep/srp/hazsite/index.html>.

(2) All vertical data points should be reported as depth below ground surface, and in mean sea level using the North American Vertical Datum of 1988 (NAVD 1988) in accordance with the Department's mapping and digital data guidance which can be referenced at <http://www.state.nj.us/dep/gis/>.

(3) All submissions of electronic data which contain locational information should be also include a metadata file. For guidance in creating a metadata file, see the version of the Department's mapping and digital data guidance most recent to the time of submission. This guidance document is located at <http://www.state.nj.us/dep/gis/>.

4. Stratigraphic logs, which include soil/rock physical characteristics and field instrument readings detected during drilling for each soil boring, test pit and monitoring well;

5. Stratigraphic cross sections of the site using information from monitoring wells, test pits and borings, if available;

6. All soil boring, piezometer, and monitoring well records, including the State permit numbers and as-built specifications, if applicable;

7. The following information shall be reported for each monitoring well sampled for each ground water sampling event. All measurements shall be to the nearest 0.01 feet:

i. Before purging:

(1) The date, time, and weather conditions;

(2) The well identification number and State well permit number;

(3) The photoionization detector (PID) and/or flame ionization detector (FID) reading taken from the well immediately after the cap is removed;

(4) The thickness of free product, if present, as determined pursuant to N.J.A.C. 7:26E-2.1(a)11;

(5) pH, dissolved oxygen, temperature, and specific conductance;

(6) The total depth of the well from the top of casing or surveyors mark if present;

(7) The depth from the top of the casing to the top of the screen;

(8) The depth from the top of the casing to the water; and

(9) The estimated water volume in the well.

ii. After purging:

(1) The start and end time for purging;

(2) The purge method;

(3) The purge rate(s);

(4) The total volume purged;

(5) The depth from the top of the casing to the water after purging; and

(6) pH, dissolved oxygen, temperature, and specific conductance.

iii. Before sampling:

(1) The depth from the top of the casing to the water before sampling.

iv. After sampling:

(1) The start and end time for sampling;

(2) pH, dissolved oxygen, temperature, and specific conductance; and

(3) The sampling method.

v. Any comments concerning field observations during the ground water sampling event, such as slow recharge, turbidity, odor, sheen, PID and/or FID readings, model number and ionization potential of PID and/or FID used, shall also be reported; and

8. Any other data and information obtained pursuant to N.J.A.C. 7:26E-3.3 through 3.12.

(d) The site investigation report shall also include the following legible maps and diagrams:

1. Site and area of concern base maps pursuant to N.J.A.C. 7:26E-3.2(a)3i;

2. Sample location map(s), including:

i. All sample locations, sample depths and contaminant concentrations shall also be plotted on the map. Where an entire contaminant class is not detected or is less than the applicable remediation standard, contaminants need not be listed individually;

ii. Map scale (including bar scale) and orientation (including north arrow);

iii. Field identification numbers for all samples; and

iv. If more than one map is submitted, maps shall be presented as overlays, keyed to the base map in (d)1 above; sample locations may be superimposed on the site or area of concern map in (d)1 above. Alternatively, individual maps may be submitted which have a common coordinate system and common scale, provided each map details the features of the base map in (d)1, above;

3. If applicable, a map of the distribution of surface water, structure and airborne contaminants, including sample location numbers and contaminant concentrations;

4. Photos may be submitted to document the location of all soil and sediment sample locations; and

5. A groundwater elevation contour map and a Contour Map Reporting Form set forth in Appendix G, incorporated herein by reference, for each aquifer for which groundwater flow was determined. Each map shall indicate the direction of groundwater flow relative to site features, and include a north arrow and bar scale.

Recodified from 7:26E-3.10 and 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), amended N.J.A.C. reference; in (b)4ii(4), substituted "remediation" for "action"; in (c)3, added "organized by area of concern"; added (c)3iv and v; inserted new (c)7; recodified former (c)7 as (c)8; and in (c)8, amended N.J.A.C. reference.

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

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

In (c)3v, inserted "or for an area of concern that consists of an underground storage tank storing heating oil for on-site consumption in a one to four family residential building where there has been no ground water impact" following "event" in the last sentence.

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.

## SUBCHAPTER 4. REMEDIAL INVESTIGATIONS

### 7:26E-4.1 Remedial investigation requirements

(a) A remedial investigation is necessary at each area of concern with contaminants which exceed the applicable unrestricted use soil remediation standards or the applicable groundwater or surface water remediation standard pursuant to N.J.A.C. 7:26E-1.13. The purposes of a remedial investigation are to:

1. Delineate the horizontal and vertical extent of contaminants in all media at the site pursuant to (b) below;

2. Determine the general surface and subsurface characteristics of the site, including, without limitation, the depth to ground water;

3. Identify the migration paths and actual or potential receptors of contaminants on or through air, soil, bedrock, sediment, ground water, surface water, and structures at a contaminated site;

4. Collect and evaluate all data necessary to evaluate remedial action alternatives. These data may be gathered through studies including, without limitation, treatability studies, bench scale studies and pilot scale studies (these studies may be conducted pursuant to EPA 540/2-89/058 "Guide for Conducting Treatability Studies Under CERCLA").

i. Any such data collection, shall be initiated as soon as the general extent of contamination is known, usually after the first delineation phase and, at a minimum, these studies shall be initiated by the end of the second delineation phase;

5. Collect and evaluate all data necessary to evaluate the actual and potential ecological impacts and to characterize all natural resource injuries, including the nature and extent of injury to soil, water, flora and fauna, caused by the contaminants of potential ecological concern at the site;

6. Collect all data necessary to develop permit limitations for any discharge to an environmental medium which may be required for any remedial action alternative under consideration;

7. Identify containment and/or stabilization activities to prevent contaminant exposure to onsite receptors and to prevent the offsite migration of contaminants while remedial alternatives are being evaluated.

(b) The delineation of the horizontal and vertical limits of contamination to the applicable unrestricted use remediation standard for all media shall be conducted as part of the remedial investigation. When the future use of an area under investigation is known to be restricted and the property owner has agreed to place a deed notice on the property appropriately restricting its use, the person responsible for conducting the remediation may delineate the horizontal and vertical limit of the soil contamination to the applicable restricted use standard or the applicable ground water impact soil cleanup criteria, whichever is lower. The person responsible for conducting the remediation at the site shall determine if soil contamination has migrated off the property, at any depth, above the applicable unrestricted use standard. Delineation samples shall be biased to identify any migration paths of the contaminant. Samples shall be biased based on professional judgment, area history, discolored soil, stressed vegetation, drainage patterns, field instrument measurements, odor and other field indicators. Delineation shall be accomplished by either:

1. Presentation of sample data that indicates contamination is below the applicable remediation standard. This may be accomplished after a remedial action has been implemented; or

2. By establishment of a contaminant gradient as follows:

i. Contaminant levels decrease by:

(1) Ten percent or more between the initial characterization sample and each of two sequential delineation samples; or

(2) A factor of five or more between the initial characterization sample and a single delineation sample; and

ii. Once a contaminant gradient has been established, the approximate limits of contamination may be reasonably estimated by extrapolation in order to complete the remedial investigation. However, when a contaminant gradient is used to estimate the limits of contamination, the extent of contamination above the applicable unrestricted use remediation standard shall be confirmed using laboratory analyses prior to the completion of a remedial action; and

3. If a vertical soil contaminant gradient has not been established to the water table:

i. For contaminants having water solubility greater than 100 milligrams per liter at 20 degrees Celsius to 25 degrees Celsius, saturated zone soil shall be delineated for residual product pursuant to N.J.A.C. 7:26E-2.1(a)11, and for direct contact soil cleanup criteria; and

ii. For other contaminants, delineate for direct contact soil cleanup criteria.

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), inserted "restricted use"; deleted (a)4ii, substantially amended (a)5; deleted (a)7; recodified former (a)8 as (a)7; substantially amended (b); in (b)2ii, added "in order to complete . . . completion of the remedial action; and"; and added (b)3.

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

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

In (a), inserted "soil" preceding "remediation standards" and "or the applicable groundwater or surface water remediation standard pursuant to N.J.A.C. 7:26E-1.13" preceding "The purposes".

**7:26E-4.2 Remedial investigation workplan**

(a) If a remedial investigation workplan is required by the Department in an oversight document or by the ISRA or UST programs, the workplan shall include proposals to complete all applicable requirements pursuant to N.J.A.C. 7:26E-4.1 and 4.3 through 4.7. The remedial investigation workplan shall be presented in a format that corresponds to the outline of this section.

(b) The remedial investigation workplan shall include:

1. A detailed schedule for all remedial investigation activities, including timelines and target dates for:

i. The start and completion of all field activities;

ii. Receipt of analytical results required in N.J.A.C. 7:26E-4.1 and 4.3 through 4.7; and

iii. Submission of all reports to the Department;

2. A description of the role of principal personnel who will participate in the remedial investigation:

i. The information in (b)2i(1) and (2) below about project personnel, including the project manager and, if applicable, a facility contact, legal contact, and contractor and subcontractor contacts, shall be provided. In addition, the telephone number of the project manager shall be provided.

(1) Responsibilities; and

(2) Authority on the project.

ii. If the principal personnel designated on the project change, information for the new personnel shall be submitted to the Department within 30 calendar days of such change;

3. The following historical information, unless the remediation is directed at either a specific discharge event, rather than a particular area of concern at a site, or any underground tank or underground tank system:

i. Historical site plans, if available, after completion of a due diligence search, and facility as-built construction drawing detailing, at a minimum, all information pursuant to N.J.A.C. 7:26E-3.2(a) and, in addition, topography using two-foot contours, potential contaminant conduits including all subsurface utilities. Maps depicting the entire site shall be scaled at one inch to 200 feet or less and individual area of concern maps shall be scaled at one inch to 40 feet or less. If more than one map is submitted, maps shall be presented as overlays, keyed to a base map; and

ii. An interpretive aerial history pursuant to N.J.A.C. 7:26E-3.1(c)1vi including all photos. Matched pairs shall be provided, if available, to allow for stereo viewing. Photos shall include a north arrow, bar scale, date and source of photo, and site boundaries. Matte finish reproductions are preferred;

4. Descriptions of the following unless the remediation is directed at either a specific discharge event, rather than a particular area of concern at a site, or any underground tank or underground tank system. If applicable, the Department Geographic Information System shall be used as a source of information for (b)4i through vi below:

i. The physical conditions of the site and surroundings, including a general description of soils, geology, hydrogeology, and topography;

ii. The usage, distance to, flow direction, and names of surface water bodies within one-half mile of the site boundary, with emphasis upon water bodies topographically or hydraulically downgradient of the site that may receive site discharges or runoff;

iii. A copy of the United States Geologic Survey (USGS) 7.5 minute topographic quadrangle that includes the site and an area of at least a one mile radius around the site shall be required. This map shall be that USGS revision in effect at the time of the report and shall clearly note the facility location and property boundaries. When a portion of the USGS quadrangle is used, the scale (including a bar scale), north arrow, contour interval, longitude and latitude, along with the name and date of the USGS quadrangle shall be noted on the map;

iv. In addition, a wetlands map from the "National Wetlands Inventory" which provides a wetlands map superimposed on a USGS 7.5 minute topographic quadrangle shall be included;

v. Copies of boring logs from on-site construction; and

vi. Land use within a 1,000 foot radius of the site boundary including proximity of the site to environmentally sensitive areas and/or sensitive human receptors (for example, residences, schools, parks);

5. A description of each area of concern including dimensions, suspected contaminants, and suspected source of discharge;

6. An area of concern sampling summary table of proposed sampling and analysis shall be presented in the remedial investigation workplan text or on the sample location map specified in (b)7 below, according to the following headings (a suggested format is included in Table 4-1):

i. Location: Use the same alpha or numeric designation as shown on the scaled sampling location map;

ii. Matrix: Waste, soil, surface water, ground water, or sediment;

iii. Sample depth:

(1) Soil/sediment—depth of sample increment which will be analyzed;

(2) Ground water—indicate water bearing zone to be sampled (water table, confined, and semi-confined) and sample depth;

(3) Surface water—indicate depth of water sample.

iv. Analytical parameters for each sample (for example, priority pollutant metals, full priority pollutant scan); and

v. Sampling method;

7. Proposed sample locations shall be indicated on a sample location map, scaled as in (b)3i above. Sample locations may be superimposed on maps presented pursuant to (b)3i above;

8. Other sampling proposals including any proposals to conduct the following studies:

(d) The remedial investigation report shall include the following legible maps and diagrams:

1. Site and area of concern base maps pursuant to N.J.A.C. 7:26E-4.2(b)3i. If more than one map is submitted pursuant to (d)2 below, maps shall be presented as overlays, keyed to the base map or each map shall include all the information shown on the base map. Sample locations may be superimposed on the base maps.

2. Sample location map(s), including:

i. All ground water, soil, sediments and other sample locations; sample depth and contaminant concentration shall also be plotted on the map;

ii. Map scale (including bar scale) and orientation (including north arrow);

iii. Field identification numbers for all samples;

iv. A groundwater elevation contour map and a completed Contour Map Reporting Form (see Appendix G) for each set of static water level measurements for each aquifer for which groundwater flow was determined, indicating the direction of groundwater flow and site features, and including a north arrow and appropriate bar scale;

v. Top of bedrock contour map if bedrock was encountered in a sufficient number of borings to prepare a map;

vi. Isopleth maps for ground water contaminant concentrations for each round of sampling; isopleth maps for soil sample results may also be provided;

vii. Maps depicting the horizontal and vertical extent of any free and/or residual product zones in ground water or soil, as determined pursuant to N.J.A.C. 7:26E-2.1(a)11, for each round of sampling;

viii. If data for more than 25 samples are presented for an area of concern, soil, ground water and sediment contaminant isopleth maps and cross section diagram(s) showing concentrations of potential contaminants shall be submitted, including:

(1) Horizontal and vertical distribution of contaminants in the soil and sediment, with sample point location numbers and contaminant concentrations; and

(2) Horizontal and vertical distribution of contaminants in the ground water, with sample point location numbers and contaminant concentrations; and

ix. All monitoring well, piezometer, or other ground water sampling point locations including depth of the open borehole interval and/or screened interval;

3. If applicable, map of the distribution of surface water, structure and airborne contaminants, including sample location numbers and contaminant concentrations;

4. The same alpha or numeric labels, if assigned in the remedial investigation workplan, shall be used in the remedial investigation report; and

5. Photos may be submitted to document the location of all soil and sediment sample locations.

Recodified from 7:26E-4.9 and amended by R.1997 d.124, effective May 19, 1997 (operative July 18, 1997); 7:26E-4.8(c)14i operative November 19, 1997).

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

N.J.A.C. references amended throughout section; substantially amended (c)3i; added (c)3i(6); substantially amended (c)3ii; added (c)4i; rewrote (c)7; in (c)12, inserted reference to evaluations and added second sentence; inserted new (c)14; recodified former (c)14 as (c)15; inserted new (d)2vii; recodified former (d)vii and viii as (d)viii and ix; and deleted Tables 4-2 through 4-3a, providing database information. Former section "Remedial investigation workplan" was repealed.

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

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

Rewrote (c)12.

Administrative change.

See: 32 N.J.R. 1796(a).

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

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

Rewrote (b) and (d).

Administrative correction.

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

**7:26E-4.9 (Reserved)**

Recodified to 7:26E-4.8 and amended by R.1997 d.124, effective May 19, 1997 (operative July 18, 1997).

**SUBCHAPTER 5. REMEDIAL ACTION SELECTION**

**7:26E-5.1 Remedial action selection**

(a) The purpose of remedial action selection is to select, develop and implement the most appropriate action for a particular contaminated site or area of concern being investigated pursuant to N.J.A.C. 7:26E-3 and 4.

(b) A person selecting a remedial action shall first establish the remedial action objectives/goals for the site or area of concern by:

1. Identifying all media of concern;

2. Selecting applicable remediation standards based on the current and future land use for the site;

3. For each media of concern, selecting between active treatment versus containment and exposure controls; and

4. For contaminated soil, selecting among an unrestricted use, limited restricted use or restricted use remedial action.

(c) A person responsible for conducting a remediation for a site shall select a remedial action that reduces or elimi-

nates exposure to contaminants above the applicable remediation standard. In determining the appropriate remedial action that will reduce or eliminate exposure to contaminants above the applicable remediation standard, the person responsible for conducting the remediation shall select, develop, and implement a remedial action that is based on the following factors:

1. The ability of the remedial action to protect the public health and safety and the environment, including:

i. The technical performance and effectiveness of the remedial action in attaining compliance with the applicable remediation standards;

ii. The reliability of the remedial action in maintaining compliance with the applicable remediation standards;

iii. The degree to which the proposed remedial action reduces toxicity, mobility, or volume of contaminants through treatment, reuse or recycling;

iv. The degree to which the remedial action minimizes risks and short-term impacts associated with the implementation of the remedy and with any contamination left on-site, while still providing long-term protection; and

v. The degree to which the potential for off-site migration of contamination through erosion, subsurface migration or other migration pathways is mitigated or eliminated;

2. The implementability of the proposed remedial action, including:

i. The engineering and scientific feasibility and availability of the technologies that the proposed remedial action would employ. If treatability, bench scale, or pilot studies have been conducted pursuant to N.J.A.C. 7:26E-4.1(a)4, these results shall be utilized to determine whether or not the proposed remedial action is technically feasible;

ii. The ability of the person responsible for conducting the remediation to implement the proposed remedial action within a reasonable time frame. A proposed remedial action will be considered timely if it will achieve the applicable remediation standard within five years from the time the remedy is implemented, or in the case where Department approval of a remedial action workplan is required or sought, five years from remedial action workplan approval. Remedial actions to address immediate environmental concerns shall be considered timely as specific by the Department in an oversight document pursuant to N.J.A.C. 7:26C; and

iii. The property owner's written agreement to the implementation of the limited restricted use or restricted use remedial action including all requirements for engineering and institutional controls pursuant to N.J.A.C. 7:26E-8;

3. The consistency of the proposed remedial action with other applicable Federal, State and local laws and regulations, including, without limitation, the provisions of the Pinelands Protection Act, P.L. 1979, c.111 (N.J.A.C. 13:18A-1 et seq.), any rules promulgated pursuant thereto, and the provisions of section 502 of the National Parks and Recreation Act of 1978, 16 U.S.C. § 4711;

4. The potential impacts of the proposed remedial action on the local community, including, without limitation:

i. The potential impacts to the community identified by the responses that the person responsible for conducting the remediation receives from the notice provided to the local government in accordance with N.J.A.C. 7:26E-1.4(a); and

ii. The degree to which the proposed remedial action is consistent with the local land use Master Plan; and

5. The potential for the selected action to cause natural resource injury.

i. Examples of remedial actions that may cause natural resource injury include, without limitation:

(1) Pumping ground water that deprives a wetland of its primary water source;

(2) Capping a landfill which involves destroying adjacent wetland; and

(3) Pump and treat ground water remedial action with discharge to surface water.

ii. Examples of information that would be evaluated when assessing a ground water remedial action include, without limitation:

(1) Whether the site is located in a water supply surplus or deficit area as defined in the State's Water Supply Master Plan (New Jersey Department of Environmental Protection, "Water for the 21st Century: The Vital Resource," August 1996) or the version most recent to the submission;

(2) Whether the remedial action will be active or passive; and

(3) If a pump and treat remedial action is proposed, the volume of water to be pumped over the life of the action, the estimated duration of pumping, and where the treated water would be discharged.

(d) A person responsible for conducting the remediation may select an innovative remedial action technology for any site, area of concern or contaminated media, upon review and approval of an application submitted to the Department. The application for use of an innovative remedial action technology shall include:

1. Information demonstrating that the proposed technology has been verified by:

- i. The U.S. Environmental Protection Agency;
  - ii. Another state regulatory agency that has a current reciprocity agreement with the Department for technology acceptance;
  - iii. An independent verification organization which maintains a current agreement with the Department for technology acceptance; or
  - iv. The Department; and
2. A report that includes detailed description of the following:
- i. The technology, including, without limitation, a process flow diagram, and a detailed description of the operational and environmental data of the technology under a full range of conditions, including, without limitation, laboratory scale and pilot test scale operational results clearly demonstrating the effectiveness and efficiency of the technology under various conditions;
  - ii. The sampling and analytical methods including the quality assurance/quality control protocols to generate the data to verify or certify that the technology will operate as claimed and achieve acceptable and reproducible results;
  - iii. The resource requirements, natural resource impacts, discharges and by-products and co-products generated through implementation of the technology and description of the environmental controls to be utilized to address impacts; and
  - iv. The demonstrated performance range of the technology, including, without limitation, the anticipated reduction of contaminant concentrations achieved for each constituent and for each media of concern;

(e) A person responsible for conducting the remediation who selects a limited restricted use or restricted use remedial action for soil contamination shall comply with the Department's requirements for the use of engineering and institutional controls at N.J.A.C. 7:26E-8.

(f) Nothing in this subchapter shall be construed to limit the requirements to conduct a feasibility study pursuant to the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. §§ 9601 et seq.) or a corrective measures study pursuant to the Resource Conservation and Recovery Act (42 U.S.C. §§ 6901 et seq.).

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

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

Rewrote (b)4; in (c), deleted a former 5, and rewrote former 6 as 5; inserted a new (d), recodified former (d) and (e) as (e) and (f); and rewrote the new (e).

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

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

In (a), deleted the second sentence in the introductory paragraph; in (c), added Iv and 2iii; rewrote (e).

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

(a) The person responsible for conducting the remediation shall demonstrate to the Department that the proposed remedial action is appropriate by submitting a remedial action selection report to the Department for approval, prior to implementation of the remedial action, when:

- 1. The selected remedial action is a restricted use remedial action, except for interim response actions immediately necessary to contain or stabilize a discharge in order to prevent damage to public health, safety or the environment.
- 2. The selected remedial action utilizes an innovative remedial action technology;
- 3. The selected remedial action will take longer than five years to complete from the time the remedial action is implemented, or the remedial action workplan is approved by the Department; or
- 4. The selected remedial action is being implemented to address ground water, surface water or sediment contamination or ecological impact.

(b) A remedial action selection report is not required if the site being remediated is subject to the requirements for preparing a feasibility study pursuant to CERCLA or a corrective measures study pursuant to RCRA.

(c) The remedial action selection report shall be presented in a format that corresponds to the outline of this section, except that for innovative remedial action technologies the format shall include the information required at N.J.A.C. 7:26E-5.1(d), and shall include:

- 1. A detailed description of the selected remedial action including, without limitation, specifications for engineering and institutional controls and a plan for monitoring of such controls pursuant to N.J.A.C. 7:26E-8;
- 2. A list of the remediation standards that the proposed remedial action will comply with for each media of concern at each area(s) of concern;
- 3. A discussion of how the proposed remedial action satisfies all of the criteria pursuant to N.J.A.C. 7:26E-5.1(c), (d), if applicable, and (e); and
- 4. The Department may require the submittal of any additional information regarding remedial action selection which is necessary for the Department to determine if the remedy is appropriate.

(d) Where Department pre-approval of a remedial action workplan is required pursuant to N.J.A.C. 7:26E-6.1(b), or sought, the remedial action selection report should be submitted in conjunction with the final remedial investigation report, N.J.A.C. 7:26E-4.8. If the remedial action selection report is not submitted with the final remedial investigation report, the remedial action selection report shall be submitted with the remedial action workplan, N.J.A.C. 7:26E-6.2.

(e) Where Department pre-approval of a remedial action workplan is not required or sought, the remedial action selection report shall be submitted with the remedial action report, N.J.A.C. 7:26E-6.7.

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) and (c).

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)1 and (e), amended the N.J.A.C. references.

## APPENDIX

### (RESERVED)

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

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

## SUBCHAPTER 6. REMEDIAL ACTION

### 7:26E-6.1 Remedial action requirements

(a) The person responsible for conducting the remedial action shall notify the Department and the local governing body pursuant to N.J.A.C. 7:26E-1.4.

(b) Each remedial action implemented at a contaminated site shall:

1. Be approved by the Department prior to implementation, if a remedial action selection report is also required pursuant to N.J.A.C. 7:26E-5.2(a);

2. Comply with all applicable remediation standards in effect at the time the remedial action workplan is approved by the Department, provided, however, that if the applicable numeric remediation standards decrease by an order of magnitude or more prior to the issuance of a No Further Action Letter for the area of concern or the site, the person responsible for conducting the remediation shall be responsible for any additional necessary remediation to achieve the new remediation standards;

3. Comply with all applicable Federal, State, and local laws, regulations, and requirements; and

4. Not in itself cause an uncontrolled or unpermitted discharge or transfer of contaminants from one media to another.

(c) Single phase remediations, where the remedial action is conducted concurrently with sampling to delineate the contamination and to confirm contaminant removal, are acceptable.

(d) Free and/or residual product determined to be present pursuant to N.J.A.C. 7:26E-2.1(a)11 shall be treated or removed when practicable, or contained when treatment or removal are not practicable. Likewise, natural ground water remediation for dissolved phase contamination may be implemented if it is determined by the Department that active ground water remediation for the dissolved phase is impracticable or not cost-effective. Decisions regarding the practicability of a remedial decision shall be made by the Department on a case by case basis. Natural remediation of free and/or residual product will not be allowed.

(e) Institutional controls shall be required whenever a restricted use remedy or a limited restricted use remedy is used to remediate a site.

(f) The person responsible for conducting the remediation of historic fill material shall do so pursuant to N.J.A.C. 7:26E-6.2(c). Remedies for any other fill material, not meeting the definition of historic fill material, shall be selected pursuant to N.J.A.C. 7:26E-5.1.

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), inserted reference to notifying local governing body; in (b)1, substituted "if a remedial action selection report is also required pursuant to criteria in N.J.A.C. 7:26E-5.2(a)" for "unless the remedial action is a permanent remedy pursuant to N.J.A.C. 7:26E-5.1(c)"; in (b)2, added "in effect at the time ... new remediation standards"; rewrote (b)5; and added (d) through (g).

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

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

Added (b)5i and (b)5ii.

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

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

In (b), rewrote 5; and in (e), substituted "restricted use remedy or a limited restricted use" for "non-permanent" preceding "remedy".

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

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

In (b), deleted 5; deleted (g).

### 7:26E-6.2 Remedial action workplan

(a) If a remedial action workplan is required by the Department in an oversight document or pursuant to the ISRA or UST programs, or if the person responsible for conducting the remediation elects to obtain Department pre-approval for the workplan, the workplan shall be submitted in accordance with the schedule contained in that document, if applicable, and shall be presented in a format that corresponds directly to the outline of this section. The workplan shall include:

1. The remedial investigation report, pursuant to N.J.A.C. 7:26E-4.8, shall be presented as the first section of the remedial action workplan. If the remedial investigation report was previously submitted to the Department, either a summary of the report or a copy of the findings/recommendation section of the report may be submitted;

4. Each gas, electric, water, sewer, cable company and all other utilities that service the site or have a license or easement to cross the site;

5. The Pinelands Commission if the site is located within an area subject to the jurisdiction of the Pinelands Commission; and

6. Any other person who requests a copy.

(h) Any person who chooses to redevelop or change the use of a site in a manner inconsistent with a remedial action that includes an engineering and/or institutional control, or conduct additional remediation or other activities that may compromise the integrity of an engineering control, such that the remedy no longer meets the applicable health risk standard, or is no longer protective of public health, safety and of the environment, shall obtain the Department's prior written approval of such activities by submitting:

1. A memorandum of agreement application, pursuant to N.J.A.C. 7:26C-3, for the Department's oversight of activity, if the person is not already subject to the Department's oversight for the site;

2. A remedial action workplan pursuant to N.J.A.C. 7:26E-6.2 prior to implementation of such activities; and

3. A request to the Department, pursuant to (i) below, to remove or modify, as appropriate, the declaration of environmental restrictions or deed notice.

(i) Any person may submit a written request along with the memorandum of agreement application, at the address provided at N.J.A.C. 7:26C-1.4(e), to remove or modify a remedial action that includes an engineering and/or institutional control. The person shall submit a copy of the existing deed notice or declaration of environmental restrictions stamped "filed" and documentation supporting the removal or modification based on the following:

1. The performance of subsequent remediation;
2. A change in conditions at the site;
3. The Department's revision of soil remediation standards; or
4. A change in the maintenance or monitoring requirements in this chapter.

(j) The Department will evaluate the request submitted pursuant to (h) above and within 90 calendar days after the Department's receipt of the written request will either:

1. Approve the request with the condition that:
  - i. The property owner records with the office of each county recording officer, pursuant to (f) above, a notice executed by the Department, that the use of the site is no longer restricted or that the restriction has been changed and that the declaration of environmental restrictions or deed notice is therefore either terminated

or modified. Any Department approved modified declaration of environmental restrictions or deed notice delineating the new restrictions shall be recorded pursuant to this section;

ii. The applicant provides written notice to each municipality in which the site is located, with a copy to the Department sent to the address provided at N.J.A.C. 7:26C-1.4, of the removal or change of the restrictive use conditions; and

iii. The applicant provides an electronic copy in a read only format, of all information required in (c) above, for the approved modified declaration of environmental restrictions or deed notice as required pursuant to (f) and (g) above; or

2. Issue a written denial of the request.

Administrative correction.

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

Amended by R.2004 d.341, effective September 7, 2004.

See: 36 N.J.R. 913(a), 36 N.J.R. 4130(a).

In (g), deleted former 5 and recodified 6 and 7 as 5 and 6.

**7:26E-8.3 Groundwater classification exception areas**

(a) A groundwater classification exception area serves as an institutional control by providing notice that there is groundwater pollution in a localized area caused by a discharge at a contaminated site. The area and depth of groundwater pollution will be determined based on actual groundwater contamination, as well as fate and transport modeling. The Department will establish a groundwater classification exception area as part of a remedial action for groundwater at a contaminated site when the groundwater does not meet the groundwater quality standards, pursuant to N.J.A.C. 7:9C.

(b) The person responsible for conducting the remediation shall submit the following information to the Department as part of the remedial action workplan pursuant to N.J.A.C. 7:26E-6.2:

1. For each groundwater sampling point, a list of all contaminants and their concentrations, that do not meet the groundwater quality standards, from the most recent 24 months of groundwater sampling;
2. A description of the fate and transport of the contaminant plume, using the most mobile and persistent contaminants present that exceed the groundwater quality standards, including:
  - i. The horizontal and vertical distances that the contaminated groundwater plume is expected to travel before contaminant concentrations decrease to or below the applicable groundwater quality standards;
  - ii. A proposed expiration date for the classification exception area; and
  - iii. All other information required by Appendix F, incorporated herein by reference;

3. The following maps consistent with the requirements of N.J.A.C. 7:26E-8.2(d)2;

- i. A USGS Quadrangle map (paper copy only), indicating the location of the site;
- ii. A map, in paper and electronic formats, indicating the predicted extent of the groundwater contaminant plume; and
- iii. A map (paper copy only) showing all properties, according to tax block and lot with a reference to the year of the referenced tax map, under which the contaminant plume is located and is expected to migrate;

4. Information regarding current and projected use of the groundwater in the aquifer(s) in which the groundwater classification exception area is located, as follows:

- i. The current groundwater use based on the most recent well search conducted pursuant to this chapter; and
- ii. The future groundwater use for a 25-year planning horizon based on the following, without limitation:
  - (1) The New Jersey Water Supply Master Plan;
  - (2) Department of Environmental Protection, Bureau of Water Allocation;
  - (3) Municipal master plans;
  - (4) Zoning plans;
  - (5) Local water purveyor plans and planning data pertaining to the existence of water lines and proposed future installation of water lines;
  - (6) Local planning officials;
  - (7) County and local boards of health; and
  - (8) Local and/or county ordinances restricting installation of potable wells; and

5. Copies of the certified letters, return receipt requested, notifying the following persons of the need to establish the groundwater classification exception area:

- i. The municipal and county clerks for each municipality and county in which the groundwater classification exception area will be located;
- ii. The local, county and regional health department for each municipality and county in which the groundwater classification exception area will be located;
- iii. The designated County Environmental Health Act agency for each county in which the groundwater classification exception area will be located;
- iv. The county planning board for each county in which the groundwater classification exception area will be located;

v. The Pinelands Commission if the groundwater classification exception area will be located within the jurisdiction of that Commission;

vi. New Jersey Department of Environmental Protection, Water Supply Administration:

- (1) Bureau of Safe Drinking Water; and
- (2) Bureau of Water Allocation; and

vii. If the groundwater classification exception area is located in a groundwater use area, each owner of any real property within the groundwater classification exception area.

(c) The Department will establish a groundwater classification exception area based upon the projected area of the contaminant plume in the groundwater, pursuant to (b) above.

(d) The Department may revise or reestablish a groundwater classification exception area at any time to more accurately reflect groundwater conditions using any relevant data, including any data submitted along with the certification required by N.J.A.C. 7:26E-8.6.

(e) The Department will remove a groundwater classification exception area based upon groundwater data, collected pursuant to N.J.A.C. 7:26E-8.6(a) 7, that indicate that the contaminant concentrations in the groundwater meet all of the applicable groundwater quality standards.

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

#### **7:26E-8.4 Monitoring, maintenance, and biennial certification—who has obligation and when**

(a) The persons responsible for monitoring the protective-ness of a remedial action that includes an engineering and/or institutional control and for submitting the biennial certifications pursuant to this subchapter include, without limitation, each of the following:

1. Any person with a legal obligation to conduct the remediation, including, without limitation, each of the following:
  - i. A person in any way responsible, pursuant to the Spill Compensation and Control Act, N.J.S.A. 58:10-23.11a et seq., for the hazardous substance that was the subject of the remedial action that includes the engineering and/or institutional control;
  - ii. The owner of the site of the discharge at the time of the remedial action that includes the engineering and/or institutional control;
  - iii. An owner or operator that triggered the Industrial Site Recovery Act, N.J.S.A. 13:1K-6 et seq., for the industrial establishment that was the subject of the remedial action that includes the engineering and/or institutional control;