

CHAPTER 26C

DEPARTMENT OVERSIGHT OF THE
REMEDICATION OF CONTAMINATED SITES

Authority

N.J.S.A. 13:1D-1 et seq., 13:1E-1 et seq., 13:1K-6 et seq.,
58:10-23.11 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.198, effective April 21, 2003.
See: 34 N.J.R. 3703(a), 35 N.J.R. 2319(a).

Chapter Expiration Date

Chapter 26C, Department Oversight of the Remediation of Contami-
nated Sites, expires on April 21, 2008.

Chapter Historical Note

Chapter 26C, Department Oversight of the Remediation of Contami-
nated Sites, was adopted as R.1993 d.186, effective May 17, 1993. See:
24 N.J.R. 1281(b), 25 N.J.R. 2002(a).

Petition for Rulemaking: Notice of Receipt of and Action on a Peti-
tion for Rulemaking. See: 28 N.J.R. 5499(a), 29 N.J.R. 704(a).

Pursuant to Executive Order No. 66(1978), Chapter 26C was re-
adopted as R.1997 d.499, effective October 23, 1997. As part of R.1997
d.499, Subchapter 2, Procedures for the Identification of the Appropriate
Oversight Document, was renamed Oversight Documents; Subchapter 3,
Memorandum of Agreement, was repealed and a new Subchapter 3,
Administrative Process for Voluntary Cleanups was adopted; Sub-
chapter 4, Spill Compensation and Control Act Directive; Subchapter 5,
Administrative Consent Orders; Subchapter 6, Hazardous Discharge
Site Remediation Fund; Subchapter 7, Remediation Funding Source;
Subchapter 8, Site Access; Subchapter 9, Oversight Costs; and Sub-
chapter 10, Civil Administrative Penalties and Requests for Adjudi-
catory Hearings, were adopted as new rules; Appendix A, Standard
Memorandum of Agreement; Appendix E, Standard Letter of Credit;
Appendix F, Standard Standby Trust Agreement; Appendix G, Standard
Fully Funded Trust Agreement; Appendix H, Standard Surety Bond;
and Appendix I, Oversight Cost Formula, were repealed; Appendix C,
Standard Responsible Party Oversight Document, was recodified as
Appendix A, Standard Administrative Consent Order; and Appendix D,
Standard Publicly Conducted Administrative Consent Order was re-
codified as Appendix B, effective November 17, 1997. See: 29 N.J.R.
46(a), 29 N.J.R. 4957(a).

Chapter 26C, Department Oversight of the Remediation of Contami-
nated Sites, was readopted as R.2003 d.198, effective April 21, 2003.
See: Source and Effective Date. See, also, section annotations.

Law Review and Journal Commentaries

Historic Pesticide Contamination Task Force Issues Report. Bruce S.
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New Growth in Old Ground. Bernard A. Weintraub, 147 N.J.L.J. 761
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Nucciarone, Jeffrey A. Cohen, Alexa Richman-La Londe, 149 N.J.L.J.
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CHAPTER TABLE OF CONTENTS

SUBCHAPTER 1. GENERAL INFORMATION

- 7:26C-1.1 Scope
- 7:26C-1.2 Certifications
- 7:26C-1.3 Definitions
- 7:26C-1.4 Dispute resolution
- 7:26C-1.5 General provisions
- 7:26C-1.6 Forms and submissions
- 7:26C-1.7 Liberal construction
- 7:26C-1.8 Severability

SUBCHAPTER 2. OVERSIGHT DOCUMENTS AND NO
FURTHER ACTION LETTERS

- 7:26C-2.1 Scope
- 7:26C-2.2 Memorandum of agreement
- 7:26C-2.3 Administrative consent order
- 7:26C-2.4 Administrative order
- 7:26C-2.5 Review of a remedial action report for remediation of
discharges from an underground storage tank not
regulated pursuant to N.J.A.C. 7:14B
- 7:26C-2.6 No further action letters

SUBCHAPTER 3. ADMINISTRATIVE PROCESS FOR
VOLUNTARY CLEANUPS

- 7:26C-3.1 Scope
- 7:26C-3.2 Memorandum of agreement application
- 7:26C-3.3 Memorandum of agreement by rule
- 7:26C-3.4 Remediation of a site, scheduled for a publicly funded
remediation

SUBCHAPTER 4. SPILL COMPENSATION AND CONTROL
ACT DIRECTIVE

- 7:26C-4.1 Scope
- 7:26C-4.2 Spill Compensation and Control Act directive

SUBCHAPTER 5. ADMINISTRATIVE CONSENT ORDERS

- 7:26C-5.1 Scope
- 7:26C-5.2 Types and language of administrative consent orders
- 7:26C-5.3 Procedures for entry into administrative consent orders

SUBCHAPTER 6. HAZARDOUS DISCHARGE SITE
REMEDICATION FUND

- 7:26C-6.1 Scope and requirements
- 7:26C-6.2 Application for loans and grants
- 7:26C-6.3 Grants for reimbursement of prior remediation costs
- 7:26C-6.4 Disbursements of grants and loans

SUBCHAPTER 7. REMEDIATION FUNDING SOURCE

- 7:26C-7.1 Scope
- 7:26C-7.2 Establishing remediation funding sources
- 7:26C-7.3 Determination of remediation funding source amount
- 7:26C-7.4 Remediation trust fund requirements
- 7:26C-7.5 Environmental insurance policy requirements
- 7:26C-7.6 Line of credit requirements
- 7:26C-7.7 Self-guarantee requirements
- 7:26C-7.8 Remediation funding source surcharge
- 7:26C-7.9 Changes in the remediation funding source amount
- 7:26C-7.10 Disbursements from the remediation funding source
- 7:26C-7.11 Return of the remediation funding source
- 7:26C-7.12 Failure to perform the remediation

SUBCHAPTER 8. SITE ACCESS

- 7:26C-8.1 Scope
- 7:26C-8.2 Site access

SUBCHAPTER 9. OVERSIGHT COSTS

- 7:26C-9.1 Scope
- 7:26C-9.2 Fixed oversight costs
- 7:26C-9.3 Oversight cost formula
- 7:26C-9.4 Oversight cost review
- 7:26C-9.5 Payment for oversight costs

SUBCHAPTER 10. CIVIL ADMINISTRATIVE PENALTIES AND REQUESTS FOR ADJUDICATORY HEARINGS

- 7:26C-10.1 Scope
- 7:26C-10.2 Applicability
- 7:26C-10.3 Grace period applicability; procedures
- 7:26C-10.4 Civil administrative penalty determination
- 7:26C-10.5 Penalty adjustment factors
- 7:26C-10.6 Civil administrative penalty for submitting inaccurate or false information
- 7:26C-10.7 Civil administrative penalty for economic benefit
- 7:26C-10.8 Procedures for assessment and payment of civil administrative penalties
- 7:26C-10.9 Procedures for requesting and conducting adjudicatory hearings

SUBCHAPTER 11. PETROLEUM UNDERGROUND STORAGE TANK REMEDIATION UPGRADE AND CLOSURE FUND

- 7:26C-11.1 Scope
- 7:26C-11.2 Application for loans and grants
- 7:26C-11.3 Grants for reimbursement of prior remediation costs
- 7:26C-11.4 Disbursements of grants and loans

APPENDIX A. STANDARD ADMINISTRATIVE CONSENT ORDER

APPENDIX B. STANDARD PUBLICLY CONDUCTED ADMINISTRATIVE CONSENT ORDER

APPENDIX C. COVENANT NOT TO SUE

APPENDIX D. DEVELOPER CERTIFICATION

APPENDIX E THROUGH I. (RESERVED)

SUBCHAPTER 1. GENERAL INFORMATION

7:26C-1.1 Scope

This chapter identifies the administrative procedures for a person to participate in the remediation of a contaminated site or of a potentially contaminated site under Department oversight, and presents the procedures to determine the applicable oversight document.

Amended by R.1997 d.499, effective November 17, 1997.
See: 29 N.J.R. 46(a), 29 N.J.R. 4957(a).

Rewrote (a), and eliminated the paragraph delineation; and deleted existing (b) through (d).

Case Notes

Provision of environmental cleanup agreement requiring purchaser to provide subsequent purchaser or lessee with copy of any declaration of environmental restrictions imposed or required for site was ambiguous under New Jersey law as to whether it obligated purchaser to execute declaration that would be required only if vendor remediated property to less stringent standard, or merely imposed duty for purchaser to provide

copies of any previously executed declaration. *Sumitomo Machinery Corp. of America, Inc. v. AlliedSignal, Inc.*, C.A.3 (N.J.)1996, 81 F.3d 328.

7:26C-1.2 Certifications

(a) Certifications, signed as specified in (b) below, shall be submitted to the Department as follows:

1. Except as specified in (a)2 below, for all documents that are required to be certified pursuant to the applicable provisions of N.J.A.C. 7:14B, 7:26B, 7:26C, and 7:26E, the person responsible for conducting the remediation shall include the following certification with the document.

“I certify under penalty of law that I have personally examined and am familiar with the information submitted herein including all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, to the best of my knowledge, I believe that the submitted information is true, accurate and complete. I am aware that there are significant civil penalties for knowingly submitting false, inaccurate or incomplete information and that I am committing a crime of the fourth degree if I make a written false statement which I do not believe to be true. I am also aware that if I knowingly direct or authorize the violation of any statute, I am personally liable for the penalties.”

2. For remediation funding sources:

“I certify under penalty of law that I am fully aware of the requirements of N.J.S.A. 58:10B-3 as they pertain to remediation funding sources. Specifically, I am aware of the responsibilities to establish and maintain the remediation funding source. Additionally, I acknowledge that the remediation funding source as required by N.J.A.C. 7:26C-7 shall be maintained until such time as an alternative remediation funding source is submitted to the Department and it has been approved by the Department in writing or the Department determines that it is no longer necessary to maintain a remediation funding source. I am aware that there are significant civil penalties for knowingly submitting false, inaccurate or incomplete information and that I am committing a crime of the fourth degree if I make a written false statement which I do not believe to be true. I am also aware that if I knowingly direct or authorize the violation of any statute, I am personally liable for the penalties.”

(b) The certifications required in (a)1 and 2 above shall be signed and dated original certifications, not photocopies, and shall be notarized.

(c) The person submitting the certification required by (a)1 and 2 above shall ensure that they are signed as follows:

1. For a corporation, by a principal executive officer of at least the level of vice president;