

ii. The filing of a plan of liquidation pursuant to Chapter 11 of the United States Bankruptcy Code (11 U.S.C. §§ 1101 et seq.); or

iii. Events covered by (a)1 through 15 above.

(b) An owner or operator who is required to complete and submit a General Information Notice pursuant to (a) above shall use the form found on the Department's website at www.nj.gov/dep/srp/srra/forms, which is certified in accordance with N.J.A.C. 7:26B-1.6, to the Department at the address provided on the form, which includes the following:

1. Site identification information, including site identification number if known;
2. Current property owner identification and contact information;
3. Current business operator and/or business owner identification and contact information;
4. Identification and description of the transaction triggering ISRA;
5. Applicable NAICS number(s) for the industrial establishment;
6. The date of public release of the closure decision and a copy of the appropriate public announcement, if any;
7. The date of execution of the agreement of transfer, sale or option to purchase and the name and address of the other parties to the transfer or sale, as applicable;
8. The proposed date for closing or transferring operations;
9. The name, address and telephone number of the authorized agent and the principal whom the authorized agent represents. The owner or operator shall notify the Department in writing, at the address provided at N.J.A.C. 7:26B-1.5, of any change of identity, address, or telephone number of the authorized agent. Where the Department is required by this chapter to notify or otherwise communicate with the person conducting the remediation of the site, written notice to or communication with the authorized agent by the Department shall be sufficient;
10. The applicable fees required pursuant to N.J.A.C. 7:26C-4;
11. Written authorization to allow access; and
12. Any additional information required by the Department from a specific owner or operator.

(c) An owner or operator may withdraw the notice required pursuant to (a) above if the owner or operator determines that none of the transactional events listed in (a) above will occur; provided, however, that any such owner or operator may have statutory liability for conducting the remediation pursuant to other statutes, including, without limitation, the Site Remediation Reform Act, N.J.S.A.

58:10C-1 et seq. The withdrawal of the notice does not alter or affect any statutory liability of the owner or operator for conducting the remediation.

(d) An owner or operator submitting a general information notice shall notify the Department, in writing, of any changes, amendments or other necessary modifications to the information contained in the general information notice, within 30 calendar days of the person's discovery that the information provided to the Department in the person's original General Information Notice is incorrect, inaccurate or incomplete.

(e) An owner or operator that is closing operations shall amend the General Information Notice submitted in accordance with (b) above for any subsequent event listed in (a) above that occurs prior to the issuance of a final remediation document, or a licensed site remediation professional's certification of a remedial action workplan for the industrial establishment.

Special amendment, R.2004 d.206, effective May 6, 2004 (to expire August 15, 2004).

See: 36 N.J.R. 2931(a).

In (a)5, substituted "NAICS" for "SIC".

Adopted concurrent amendment, R.2004 d.343, effective August 15, 2004.

See: 36 N.J.R. 2931(a), 36 N.J.R. 4298(c).

Provisions of R.2004 d.206 adopted without change.

Administrative correction.

See: 42 N.J.R. 778(a).

Recodified in part from N.J.A.C. 7:26B-3.3 and 3.4 and amended by R.2012 d.095, effective May 7, 2012.

See: 43 N.J.R. 1935(a), 44 N.J.R. 1339(b).

Rewrote the introductory paragraph of (a); deleted former (b); recodified N.J.A.C. 7:26B-3.3(a) as (b); rewrote (b); deleted former N.J.A.C. 7:26B-3.3(b) through (d); recodified N.J.A.C. 7:26B-3.4(a) and (b) as (c) and (d); in (c), substituted "(a) above" for "N.J.A.C. 7:26B-3.2(a)"; and added (e).

Case Notes

Department of Environmental Protection (DEP) issued negative declaration approvals under Industrial Site Recovery Act (ISRA) in accordance with its then-extant regulations, even though environmental sampling was not conducted. In re Railroad Realty Associates, 313 N.J.Super. 225, 712 A.2d 1165 (N.J.Super.A.D. 1998).

7:26B-3.3 Remediation requirements

(a) An owner or operator shall remediate the industrial establishment in accordance with this chapter and the Administrative Requirements for the Remediation of Contaminated Sites, N.J.A.C. 7:26C, when any of the events listed in N.J.A.C. 7:26B-3.2(a) occur.

(b) An owner or operator or other person who entered into a remediation agreement or a remediation agreement amendment with the Department prior to November 4, 2009, or an owner or operator who submitted a remediation certification to the Department on or after November 4, 2009, shall remediate the industrial establishment in accordance with that agreement or certification, this chapter, and the Administrative Requirements for the Remediation of Contaminated Sites, N.J.A.C. 7:26C.

(c) An owner or operator of an industrial establishment who wishes to transfer ownership or operations of the industrial establishment prior to completion of all applicable requirements of ISRA and this chapter shall submit to the Department a completed Remediation Certification form, available at the Department's website at www.nj.gov/dep/srp/srra/forms, that includes the following:

1. An estimate of the cost of the remediation prepared and certified by a licensed site remediation professional;

2. A certification by the owner or operator of the industrial establishment describing:

i. The statutory liability of the owner or operator pursuant to ISRA to perform and to complete the remediation of the industrial establishment;

ii. The liability of the owner or operator for penalties for violating the act, subject to the defenses to liability and limitations thereon;

iii. The requirement of the owner or operator to perform the remediation the Department requires;

iv. The requirement of the owner or operator to allow the Department access to the industrial establishment pursuant to ISRA at N.J.S.A. 13:1K-10;

v. The requirement of the owner or operator to comply with the provisions of the Site Remediation Reform Act, N.J.S.A. 58:10C-1 et seq., and this chapter; and

vi. The requirement of the owner or operator to prepare and submit any document the Department requires for the remediation of the industrial establishment;

3. Evidence of the establishment of a remediation funding source in an amount of the estimated cost of the remediation and in accordance with N.J.A.C. 7:26C-5; and

4. Evidence of the payment of all applicable fees in accordance with N.J.A.C. 7:26C-4.

The following annotations apply to N.J.A.C. 7:26B-3.3 prior to its recodification in part to N.J.A.C. 7:26B-3.2 by R.2012 d.095:

Special amendment, R.2004 d.206, effective May 6, 2004 (to expire August 15, 2004).

See: 36 N.J.R. 2931(a).

In (a)6, substituted "NAICS" for "SIC".

Adopted concurrent amendment, R.2004 d.343, effective August 15, 2004.

See: 36 N.J.R. 2931(a), 36 N.J.R. 4298(c).

Provisions of R.2004 d.206 adopted without change.

Special amendment, R.2009 d.361, effective November 4, 2009 (to expire May 4, 2011).

See: 41 N.J.R. 4467(a).

In the introductory paragraph of (a), inserted "on a General Information Notice form available from the Department, which is" and substituted "on the form" for "at N.J.A.C. 7:26B-1.5"; in the introductory paragraph of (a)10, inserted "receptor evaluation,"; in (a)10i, inserted "and in the Technical Requirements for Site Remediation rules at N.J.A.C. 7:26E-1.15"; in (a)10ii, inserted "except that no schedule may allow for more time than is established in the timeframes set forth in the Administrative Requirements for the Remediation of Contam-

inated Sites rules at N.J.A.C. 7:26C-3"; in the introductory paragraph of (c), substituted "For a General Information Notice submitted to the Department prior to November 4, 2009, the" for "The"; and added (d).
Readoption of special amendment, R.2011 d.251, effective September 8, 2011.

See: 43 N.J.R. 1077(a), 43 N.J.R. 2581(b).

Provisions of R.2009 d.361 readopted with one change, effective October 3, 2011: in the introductory paragraph of (a), substituted "form, found on the Department's website at <http://www.nj.gov/dep/srp/srra/forms>" for "General Information Notice form available from the Department".

The following annotation applies to N.J.A.C. 7:26B-3.3 subsequent to its recodification in part to N.J.A.C. 7:26B-3.2 by R.2012 d.095:

New Rule, R.2012 d.095, effective May 7, 2012.

See: 43 N.J.R. 1935(a), 44 N.J.R. 1339(b).

Former N.J.A.C. 7:26B-3.3, General information notice, recodified in part to 7:26B-3.2.

7:26B-3.4 Remediation funding source requirements

(a) The owner or operator shall establish and maintain a remediation funding source in accordance with N.J.A.C. 7:26C-5:

1. Within 30 days of the Department's approval or a licensed site remediation professional's certification of a remedial action workplan for the industrial establishment;

2. Upon the submittal of a remediation certification pursuant to N.J.A.C. 7:26B-3.2(c); or

3. In accordance with the terms of a remediation agreement or remediation agreement amendment.

The following annotations apply to N.J.A.C. 7:26B-3.4 prior to its recodification in part to N.J.A.C. 7:26B-3.2 by R.2012 d.095:

Special amendment, R.2009 d.361, effective November 4, 2009 (to expire May 4, 2011).

See: 41 N.J.R. 4467(a).

Rewrote (a).

Readoption of special amendment, R.2011 d.251, effective September 8, 2011.

See: 43 N.J.R. 1077(a), 43 N.J.R. 2581(b).

Provisions of R.2009 d.361 readopted without change.

The following annotation applies to N.J.A.C. 7:26B-3.4 subsequent to its recodification in part to N.J.A.C. 7:26B-3.2 by R.2012 d.095:

New Rule, R.2012 d.095, effective May 7, 2012.

See: 43 N.J.R. 1935(a), 44 N.J.R. 1339(b).

Former N.J.A.C. 7:26B-3.4, Revisions to the general information notice or withdrawal of required notice by an owner or operator, recodified in part to 7:26B-3.2.

SUBCHAPTER 4. (RESERVED)

SUBCHAPTER 5. ALTERNATE COMPLIANCE OPTIONS

7:26B-5.1 (Reserved)

Special amendment, R.2009 d.361, effective November 4, 2009 (to expire May 4, 2011).

See: 41 N.J.R. 4467(a).

In (a), substituted "In the case of a transactional event listed at N.J.A.C. 7:26B-3.2(a) and the Department received the general infor-

mation notice required pursuant to N.J.A.C. 7:26B-3 prior to November 4, 2009, the" for "An".

Readoption of special amendment, R.2011 d.251, effective September 8, 2011.

See: 43 N.J.R. 1077(a), 43 N.J.R. 2581(b).

Provisions of R.2009 d.361 readopted with one change, effective October 3, 2011: in (a), substituted "for which" for "and".

Repealed by R.2012 d.095, effective May 7, 2012.

See: 43 N.J.R. 1935(a), 44 N.J.R. 1339(b).

Section was "Expedited review".

7:26B-5.2 (Reserved)

Repealed by R.2012 d.095, effective May 7, 2012.

See: 43 N.J.R. 1935(a), 44 N.J.R. 1339(b).

Section was "Area of concern review".

7:26B-5.3 Regulated underground storage tank waiver

(a) The owner or operator may, upon submittal of the notice required pursuant to N.J.A.C. 7:26B-3.2(a), apply to the Department for a regulated underground storage tank waiver in accordance with (c) below.

(b) The Department's approval of a regulated underground storage tank waiver application authorizes the owner or operator to close operations or transfer ownership or operations of an industrial establishment prior to the issuance of a final remediation document or prior to a licensed site remediation professional's certification of a remedial action workplan, and without the submittal of a remediation certification if the only areas of concern or the only discharges at the industrial establishment are from an underground storage tank or tanks regulated pursuant to N.J.S.A. 58:10A-21 et seq. and N.J.A.C. 7:14B.

(c) To apply for a regulated underground storage tank waiver, the owner or operator shall submit a completed ISRA Alternate Compliance Option Application, available on the Department's website at www.nj.gov/dep/srp/srra/forms, certified in accordance with N.J.A.C. 7:26B-1.6, to the Department, at the address provided at N.J.A.C. 7:26B-1.5, which includes the following:

1. The name and location of the site, including street address, city or town, municipality, county, zip code, tax block and lot numbers of the site and the ISRA case number;

2. A preliminary assessment report that demonstrates that the only area of concern at the industrial establishment is an underground storage tank or tanks as defined pursuant to N.J.S.A. 58:10A-22 and N.J.A.C. 7:14B or a preliminary assessment and site investigation report which demonstrates that the only discharged hazardous substances or hazardous wastes at the industrial establishment or that has migrated offsite, above the applicable remediation standards, are from a discharge from that underground storage tank or tanks;

3. A certification by the owner or operator of the industrial establishment that the owner or operator is in compliance with the provisions of N.J.S.A. 58:10A-21 et

seq., N.J.A.C. 7:14B, N.J.A.C. 7:26C and N.J.A.C. 7:26E for all underground storage tanks at the industrial establishment that are covered by that act;

4. A copy of proof of financial responsibility pursuant to N.J.A.C. 7:14B-15; and

5. Payment of all applicable fees required pursuant to N.J.A.C. 7:26C-4.

(d) The owner or operator shall be deemed in compliance with the provisions of N.J.S.A. 58:10A-21 et seq. and N.J.A.C. 7:14B as it relates to the subject discharge of a hazardous substance or hazardous waste from an underground storage tank, if the owner or operator has been issued an order by, or has entered into an agreement with the Department to remediate that discharge and the owner or operator is in compliance with that order or agreement.

(e) The owner or operator:

1. May close operations or transfer ownership or operation of an industrial establishment upon receipt of the Department's written approval of the regulated underground storage tank waiver application; or

2. Shall remediate the industrial establishment in accordance with this chapter and the Administrative Requirements for the Remediation of Contaminated Sites, N.J.A.C. 7:26C, if the Department disapproves the regulated underground storage tank waiver application.

Special amendment, R.2009 d.361, effective November 4, 2009 (to expire May 4, 2011).

See: 41 N.J.R. 4467(a).

In (c)3, deleted "and" from the end; added new (c)4; and recodified former (c)4 as (c)5.

Readoption of special amendment, R.2011 d.251, effective September 8, 2011.

See: 43 N.J.R. 1077(a), 43 N.J.R. 2581(b).

Provisions of R.2009 d.361 readopted without change.

Amended by R.2012 d.095, effective May 7, 2012.

See: 43 N.J.R. 1935(a), 44 N.J.R. 1339(b).

Rewrote (b), the introductory paragraph of (c), and (c)3 and (e); and in (c)5, updated the N.J.A.C. reference.

7:26B-5.4 Remediation in progress waiver

(a) The owner or operator may, upon the submittal of the notice required pursuant to N.J.A.C. 7:26B-3.2(a), apply to the Department for a remediation in progress waiver in accordance with (c) below.

(b) The Department's approval of a remediation in progress waiver application authorizes the owner or operator to close operations or transfer ownership or operations of the industrial establishment without the submittal of a remediation certification, prior to the issuance of a final remediation document or prior to a licensed site remediation professional's certification of a remedial action workplan.

(c) To apply for a remediation in progress waiver, the owner or operator shall submit a completed ISRA Alternate Compliance Option Application, available on the Department's

website at www.nj.gov/dep/srp/srra/forms, certified in accordance with N.J.A.C. 7:26B-1.6, to the Department at the address provided at N.J.A.C. 7:26B-1.5, which includes the following:

1. The name and location of the site, including street address, city or town, municipality, county, zip code, tax block and lot numbers of the site and the ISRA case number;

2. A preliminary assessment report and, as applicable, a site investigation report that demonstrates that:

i. There have been no discharges of a hazardous substance or a hazardous waste at the industrial establishment during the owner's or operator's period of ownership or operation; or

ii. Any discharged hazardous substance or hazardous waste that occurred at the industrial establishment during the owner's or operator's ownership or operation has been remediated, and the owner or operator includes identification of the spill incident numbers and a copy of a final remediation document for the remediation of those discharges;

3. Evidence that establishes that the property occupied by the industrial establishment for which the waiver is sought is being remediated by a prior owner or operator pursuant to ISRA, the Spill Compensation and Control Act, N.J.S.A. 58:10-23.11 et seq., or other applicable state laws and regulations, or the industrial establishment is currently in the process of an equivalent remediation pursuant to the Resource Conservation and Recovery Act, 42 U.S.C. §§ 6901 et seq., the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §§ 9601 et seq. or any other applicable Federal law;

4. A certification by the owner or operator that any transferee of the industrial establishment has been notified that the industrial establishment is the subject of a remediation;

5. A certification by the owner or operator that:

i. A remediation funding source for the cost of the remediation at the industrial establishment has been established as required pursuant to N.J.A.C. 7:26C-5; or

ii. A financial assurance was established prior to June 16, 1993 and the amount of the financial assurance is consistent with the current cost estimate developed in accordance with N.J.A.C. 7:26E, for the remediation or the implementation of the remedial action workplan at the industrial establishment; and

6. Payment of all applicable fees required pursuant to N.J.A.C. 7:26C-4.

(d) The owner or operator:

1. May close operations or transfer ownership or operation of an industrial establishment upon receipt of the

Department's written approval of the remediation in progress waiver application; or

2. Shall remediate the industrial establishment in accordance with this chapter and the Administrative Requirements for the Remediation of Contaminated Sites, N.J.A.C. 7:26C, if the Department disapproves the remediation in progress waiver application.

Amended by R.2012 d.095, effective May 7, 2012.

See: 43 N.J.R. 1935(a), 44 N.J.R. 1339(b).

Rewrote (b), the introductory paragraph of (c), and (d); added new (c)2; deleted former (c)3; recodified former (c)2 as (c)3; rewrote (c)3; and in (c)5i and (c)6, updated the N.J.A.C. reference.

7:26B-5.5 (Reserved)

Special amendment, R.2009 d.361, effective November 4, 2009 (to expire May 4, 2011).

See: 41 N.J.R. 4467(a).

In (a), substituted "In the case of a transactional event listed at N.J.A.C. 7:26B-3.2(a) and the Department received the general information notice required pursuant to N.J.A.C. 7:26B-3 prior to November 4, 2009, the" for "The".

Readoption of special amendment, R.2011 d.251, effective September 8, 2011.

See: 43 N.J.R. 1077(a), 43 N.J.R. 2581(b).

Provisions of R.2009 d.361 readopted without change.

Repealed by R.2012 d.095, effective May 7, 2012.

See: 43 N.J.R. 1935(a), 44 N.J.R. 1339(b).

Section was "Limited site review".

7:26B-5.6 (Reserved)

Repealed by R.2012 d.095, effective May 7, 2012.

See: 43 N.J.R. 1935(a), 44 N.J.R. 1339(b).

Section was "Minimal environmental concern review".

7:26B-5.7 Limited conveyance

(a) The owner of an industrial establishment may, upon submittal of the notice required pursuant to N.J.A.C. 7:26B-3.2(a), apply to the Department for a certificate of limited conveyance in accordance with (c) below.

(b) The Department's approval of a certificate of limited conveyance shall be valid for three years from the date of issuance and authorizes the owner of an industrial establishment to transfer up to one third the total appraised value of the real property of the industrial establishment upon the licensed site remediation professional's issuance of a response action outcome or certification of a remedial action workplan or remediation certification for the subject portion of the industrial establishment to be conveyed without the owner or operator conducting a remediation of the entire industrial establishment.

(c) To apply for a certificate of limited conveyance, the owner or operator shall submit a completed limited conveyance application available on the Department's website at www.nj.gov/dep/srp/srra/forms, certified in accordance with N.J.A.C. 7:26B-1.6, to the Department at the address provided at N.J.A.C. 7:26B-1.5, which includes the following: