

**CHAPTER 26D
REMEDICATION STANDARDS**

Authority

N.J.S.A. 13:1D-1 et seq., 58:10-23.11a et seq.,
58:10A-1 et seq. and 58:10B-1 et seq.

Source and Effective Date

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).

Chapter Expiration Date

Chapter 26D, Remediation Standards, expires on June 2, 2013.

Chapter Historical Note

Chapter 26D, Remediation Standards, was adopted as new rules by R.2008 d.144, effective June 2, 2008. See: Source and Effective Date.

Petition for Rulemaking. See: 41 N.J.R. 2344(b), 2345(a).

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SUBCHAPTER 1. GENERAL INFORMATION

7:26D-1.1 Purpose

(a) This chapter implements the provisions of the Brown-field and Contaminated Site Remediation Act, N.J.S.A. 58:10B-1.1 et seq., and other statutes, by establishing minimum standards for the remediation of contaminated ground water and surface water, and by establishing the minimum residential direct contact and non-residential direct contact soil remediation standards.

(b) This chapter does not establish the minimum impact to ground water soil remediation standards; these standards shall be developed by the Department on a site-by-site basis, pursuant to the Department's authority under N.J.S.A. 58:10B-12a.

(c) This chapter supplements the requirements in the Technical Requirements for Site Remediation rules, N.J.A.C. 7:26E.

7:26D-1.2 Scope

(a) Except as provided in N.J.A.C. 7:26D-1.1(b) and unless otherwise provided by rule or statute, this chapter shall constitute the rules of the Department concerning minimum standards for the remediation of ground water, surface water and soil.

(b) Remediating ground water, surface water, or soil to any applicable standard set forth in this chapter shall not relieve any person from:

1. Complying with more stringent requirements or provisions imposed under any other Federal, State, or local applicable statutes or regulations;

2. Complying with any impact to ground water soil remediation standard established by the Department as provided in N.J.A.C. 7:26D-1.1(b); and

3. Obtaining any and all permits required by Federal, State or local statutes or regulations.

(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, safety and the environment.

(d) Nothing in this chapter shall be construed to limit the authority of the Department to establish discharge limits for pollutants, or to prescribe penalties for violations of those limits pursuant to any statutory authority, or to require the complete removal of any illegally discharged hazardous substances, hazardous waste, or pollutants pursuant to law.

(e) The person responsible for conducting the remediation shall not be required to remediate to a level or concentration that is lower than the regional natural background level.

7:26D-1.3 Construction and severability

(a) This chapter shall be liberally construed to permit the Department to effectuate the purposes of the statutes listed in N.J.A.C. 7:26D-1.4(a).

(b) If any subchapter, section, subsection, provision, clause, or portion of this chapter, or the application thereof to any person, is adjudged unconstitutional or invalid by a court of competent jurisdiction, such judgment shall be confined in its operation to the subchapter, section, subsection, provision, clause, portion, or application directly involved in the controversy in which such judgment shall have been rendered and it shall not affect or impair the remainder of this chapter or the application thereof to other persons.

7:26D-1.4 Applicability

(a) Except as provided in N.J.A.C. 7:26D-1.1(b), this chapter establishes the minimum remediation standards for ground water, surface water and soil for any contaminated site in New Jersey including, without limitation, those sites subject to:

1. The Industrial Site Recovery Act (ISRA), N.J.S.A. 13:1K-6 et seq.;
2. The New Jersey Underground Storage of Hazardous Substances Act (UST), N.J.S.A. 58:10A-21 et seq.;
3. The Spill Compensation and Control Act, N.J.S.A. 58:10-23.11a et seq.;
4. The Solid Waste Management Act, N.J.S.A. 13:E-1 et seq.;
5. The Water Pollution Control Act, N.J.S.A. 58:10A-1 et seq.;

6. The Brownfield and Contaminated Site Remediation Act, N.J.S.A. 58:10B-1 et seq.;

7. The Comprehensive Regulated Medical Waste Management Act, N.J.S.A. 13:1E-48.1 et seq.;

8. The Major Hazardous Waste Facilities Siting Act, N.J.S.A. 13:1E-49 et seq.;

9. The Sanitary Landfill Facility Closure and Contingency Fund Act, N.J.S.A. 13:1E-100 et seq.; and

10. The Regional Low-Level Radioactive Waste Disposal Facility Siting Act, N.J.S.A. 13:1E-177 et seq.

(b) The requirements of this chapter shall be applied pursuant to N.J.A.C. 7:26E-1.3(c) regardless of whether remediation is conducted with Department oversight pursuant to N.J.A.C. 7:26C.

(c) Notwithstanding any other provision of this chapter, 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.

7:26D-1.5 Definitions

The following words and terms, when used in this chapter, shall have the following meanings unless the context clearly indicates otherwise:

“Alternative remediation standard” or “ARS” means a residential use or non-residential use soil remediation standard that is established using site specific factors following the procedures set forth in N.J.A.C. 7:26D-7 Appendices 5 and 6, pursuant to this chapter.

“Carcinogen” means a contaminant capable of inducing a cancer response, including Group A (Human Carcinogen), Group B (Probable Human Carcinogen) and Group C (Possible Human Carcinogen) categorized in accordance with the USEPA Guidelines for Carcinogen Risk Assessment, 51 Fed. Reg. 33932 (1986), as amended and supplemented.

“Contaminated site” means a contaminated site as defined pursuant to the Technical Requirements for Site Remediation rules at N.J.A.C. 7:26E-1.8.

“Contamination” or “contaminant” means contamination or a contaminant as defined pursuant to the Technical Requirements for Site Remediation rules at N.J.A.C. 7:26E-1.8.

“Department” means the New Jersey Department of Environmental Protection.

“Discharge” means a discharge as defined pursuant to the Technical Requirements for Site Remediation rules at N.J.A.C. 7:26E-1.8.