

NOTE: THIS IS A COURTESY COPY OF THIS RULE. ALL OF THE DEPARTMENT'S RULES ARE COMPILED IN TITLE 7 OF THE NEW JERSEY ADMINISTRATIVE CODE.

N.J.A.C. 7:26C  
ADMINISTRATIVE REQUIREMENTS FOR THE REMEDIATION OF  
CONTAMINATED SITES

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

Date last amended  
May 7, 2012

For the regulatory history and effective dates see the Administrative Code

Rule expiration date  
September 8, 2018

---

SUBCHAPTER 14. DIRECT OVERSIGHT

7:26C-14.1 Scope

(a) This subchapter contains provisions that specify:

1. The compulsory direct oversight triggers and requirements applicable when the person responsible for conducting the remediation becomes subject to the compulsory statutory provisions for direct oversight in N.J.A.C. 7:26C-14.2;
2. The discretionary direct oversight triggers and the criteria the Department will evaluate when considering a remediation of a contaminated site for direct oversight in N.J.A.C. 7:26C-14.3; and
3. The criteria the Department will evaluate in determining whether to adjust the applicable requirements for the remediation of a contaminated site in direct oversight in N.J.A.C. 7:26C-14.4.

NOTE: THIS IS A COURTESY COPY OF THIS RULE. ALL OF THE DEPARTMENT'S RULES ARE COMPILED IN TITLE 7 OF THE NEW JERSEY ADMINISTRATIVE CODE.

7:26C-14.2 Compulsory direct oversight

(a) The person responsible for conducting the remediation shall comply with the statutory requirements for direct oversight, pursuant to N.J.S.A. 58:10C-27, whenever:

1. The person responsible for conducting the remediation has been the object of two enforcement actions, concerning the remediation, during any five-year period after May 7, 2009;
2. The person responsible for conducting the remediation has failed to meet:
  - i. A mandatory remediation timeframe established by the Department pursuant to N.J.A.C. 7:26C-3.3, including any extension thereof granted by the Department;
  - ii. An expedited site-specific timeframe established by the Department pursuant to N.J.A.C. 7:26C-3.4, including any extension thereof granted by the Department; or
  - iii. A schedule established pursuant to an administrative order or court order; or
3. A discharge was discovered prior to May 7, 1999 and the person responsible for conducting the remediation has failed to complete the remedial investigation of the entire contaminated site by May 7, 2014.

(b) The person responsible for conducting the remediation that is in direct oversight as described in (a) above, shall:

1. Proceed with the remediation as the Department directs, including retaining a licensed site remediation professional if one has not yet been retained;
2. Conduct and submit a feasibility study to the Department for approval;
3. Implement each remedial action the Department selects for the site;
4. Submit an initial remediation cost review, pursuant to N.J.A.C. 7:26C-5.10(a), within 60 days after the applicable event in (a) above, and submit an annual remediation cost review on the same calendar day each year thereafter;
5. Establish a remediation trust fund pursuant to N.J.A.C. 7:26C-5.4 in the amount of the estimated cost of the remediation, within 90 days after the applicable event in (a), above, and maintain a remediation trust fund in the amount of the estimated cost of the remediation;
6. Pay an annual remediation funding source surcharge pursuant to N.J.A.C. 7:26C-5.9;
7. Obtain the Department's prior approval before making any disbursements from the remediation trust fund;

NOTE: THIS IS A COURTESY COPY OF THIS RULE. ALL OF THE DEPARTMENT'S RULES ARE COMPILED IN TITLE 7 OF THE NEW JERSEY ADMINISTRATIVE CODE.

8. Ensure that all submissions prepared by the licensed site remediation professional concerning the remediation required by the Department are provided simultaneously to the Department and the person responsible for conducting the remediation;

9. Submit a proposed public participation plan, with a schedule, to the Department for approval pursuant to N.J.S.A. 58:10C-27.c.7, that contains the strategy for soliciting public comment concerning the remediation from the members of the surrounding community concerning the remediation of the site, within 30 days after the applicable event in (a), above; and

10. Implement the Department-approved public participation plan to solicit public comment concerning the remediation from the members of the surrounding community.

#### 7:26C-14.3 Discretionary direct oversight

(a) The Department may evaluate undertaking direct oversight of a portion, a condition, or the entire remediation of a contaminated site when the contamination at the site:

1. Includes chromate chemical production waste and either of the following apply:

i. Hexavalent chromium (Cr+6) is detected in the soil in excess of 20 milligrams per kilogram of dry weight soil (mg/kg or ppm); or

ii. The Cr+6 contamination in ground water exceeds 70 micrograms per liter of solution (ug/l or ppb);

2. Has injured more than one environmentally sensitive natural resource;

3. Has contributed to sediments contaminated by polychlorinated biphenyl, mercury, arsenic, or dioxin in a surface water above the Department's Ecological Screening Criteria as found on the Department website at [www.nj.gov/dep/srp/guidance/ecoscreening](http://www.nj.gov/dep/srp/guidance/ecoscreening), and the concentration of any of these substances exceeds either of the following:

i. The severe effects level for freshwater conditions; or

ii. The effects range medium for saline conditions; or

4. The Department has ranked the site in the category requiring the highest priority pursuant to the ranking system developed pursuant to N.J.S.A. 58:10-23.16.

(b) The Department will consider the following criteria when evaluating, pursuant to (a) above, whether to undertake direct oversight of a portion, a condition, or the entire remediation of a contaminated site:

1. The extent that the person responsible for conducting the remediation:

NOTE: THIS IS A COURTESY COPY OF THIS RULE. ALL OF THE DEPARTMENT'S RULES ARE COMPILED IN TITLE 7 OF THE NEW JERSEY ADMINISTRATIVE CODE.

- i. Is in compliance with all applicable remediation statutes and regulations;
- ii. Has implemented an interim response action necessary to contain or stabilize contaminants in all media to prevent contaminant migration and exposure of receptors;
- iii. Has entered into a voluntary agreement with the Department to resolve the natural resource injury caused by discharges at a site if such damage has occurred; and
- iv. Has implemented green remediation as part of remediation; and

2. Whether:

- i. Ground water contamination is greater than 5 acres;
- ii. Wetland soil or sediment contamination is greater than 5 acres;
- iii. Surface water sediment contamination exceeds, for any given contaminant, the severe effects level concentration for freshwater conditions or the effects range medium concentration for saline conditions pursuant to the Department's Ecological Screening Criteria as found on the Department's website at [www.nj.gov/dep/srp/guidance/ecoscreening](http://www.nj.gov/dep/srp/guidance/ecoscreening);
- iv. Surface water contamination exceeds, for any given contaminant, an acute aquatic surface water quality standard, pursuant to N.J.A.C. 7:9B-1.14(f);
- v. Ground water contamination, which is discharging to surface water, exceeds, for any given contaminant, the acute aquatic surface water quality standard, pursuant to N.J.A.C. 7:9B-1.14(f);
- vi. Soil contamination, except for pesticides, exceeds, for any given contaminant, 100 times the greatest value in the Department's Ecological Screening Criteria, which are available at [www.nj.gov/dep/srp/guidance/ecoscreening](http://www.nj.gov/dep/srp/guidance/ecoscreening); or
- vii. Pesticide soil contamination exceeds 1 mg/kg for any given pesticide.

(c) When the Department determines to undertake discretionary direct oversight of the remediation of a contaminated site:

1. The Department shall inform the person responsible for conducting the remediation in writing of its decision; and
2. The person responsible for conducting the remediation shall, upon receipt of the Department's written notice pursuant to (c)1, above, comply with the requirements for direct oversight listed at N.J.A.C. 7:26C-14.2(b).

NOTE: THIS IS A COURTESY COPY OF THIS RULE. ALL OF THE DEPARTMENT'S RULES ARE COMPILED IN TITLE 7 OF THE NEW JERSEY ADMINISTRATIVE CODE.

7:26C-14.4 Adjustments in direct oversight

(a) The Department may determine that certain direct oversight requirements established in this subchapter are not applicable to a specific case based upon a finding that such an action would be:

1. In the public interest; and
2. Protective of public health and safety and the environment.

(b) When the Department makes a determination pursuant to (a) above, the Department shall notify the person responsible for conducting the remediation of its determination, and the person responsible for conducting the remediation may discontinue implementing those requirements upon receipt of the Department's determination.