

**STATE OF NEW JERSEY**  
**DEPARTMENT OF ENVIRONMENTAL PROTECTION**  
**NOTICE OF RULE WAIVER/MODIFICATION/SUSPENSION**  
**PURSUANT TO EXECUTIVE ORDER NO. 103 (MURPHY) (MARCH 9, 2020)**  
**COVID-19 STATE OF EMERGENCY**

Temporary Rule Suspension adopted by Catherine R. McCabe, Commissioner, Department of Environmental Protection

Date: June 17, 2020

Authority: N.J.S.A. App.A:9-45 & App. A:9-47; Executive Order No. 103 (Murphy)(EO 103)

Effective Date: June 17, 2020

Expiration Date: Concurrent with the expiration of EO 103

This is an emergency adoption of a temporary rule suspension of certain provisions of the Department of Environmental Protection's (Department) Administrative Requirements for Site Remediation at N.J.A.C. 7:26C-4, Fees and Oversight Costs. Section 6 of EO 103, issued in response to the COVID-19 pandemic, authorizes agency heads to waive/suspend/modify any existing rule, where the enforcement of the rule would be detrimental to the public welfare during the emergency, notwithstanding the provisions of the Administrative Procedure Act or any law to the contrary. Pursuant to that authority, and with the approval of the Governor and in consultation with the State Director of Emergency Management and the Commissioner of the Department of Health, the Department is suspending its rules as follows:

The Department's Site Remediation Reform Act (SRRA) Program's annual remediation fee and the fees associated with annual remediation permits, as provided at N.J.A.C. 7:26C-4.2 and 4.5, are calculated using a formula that is based upon the SRRA Program's budget and staffing for the fiscal year. The Department calculates the fees for upcoming State Fiscal Years (FY) as of the December 1 that precedes the upcoming State FY.

On April 14, 2020, Governor Murphy signed P.L. 2020, ch. 19, which extended State FY 2020. Rather than ending on June 30, 2020, State FY 2020 will end on September 30, 2020. State FY 2021 will begin on October 1, 2020 and will end on June 30, 2021. P.L. 2020, Chapter 19 also requires an evaluation of State budget needs in May 2020 and requires the Governor to present a revised budget message to the legislature by August 25, 2020.

Given the financial uncertainty surrounding the COVID-19 pandemic and the extension of the State FY, it is not possible for the Department to determine the SRRA Program's budget for State FY 2021 and, in turn, the annual fees calculated based upon that budget.

As calculation of the SRRA Program fees on the extended start of FY 2021 may create disparity among members of the regulated community as the fees are invoiced based on a specific anniversary date which may fall between July 1, 2020, and September 30, 2020, the Department has determined a temporary suspension of the requirement under N.J.A.C. 7:26C-4.2(c) and 4.5(e) to calculate the SRRA Program fees for FY2021 is necessary.

For State FY 2021, the Department is not adjusting the SRRA Program's annual remediation fee and the fees associated with annual remediation permits, as provided at N.J.A.C. 7:26C-4.2(c) and 4.5(e). Rather, the fees for State FY 2020, as published in the June 17, 2019, New Jersey Register at 51 N.J.R. 1069(a) shall remain in effect until FY 2022.

Information regarding the State FY 2020 fees is available in the Fee Guidance Document for FY 2020, available on the Department's web site ([www.nj.gov/dep/srp/guidance/srra/fee\\_guidance\\_document.pdf](http://www.nj.gov/dep/srp/guidance/srra/fee_guidance_document.pdf)).

I find that suspension of the rules above is necessary because enforcement of the existing rules would be detrimental to the public welfare during this emergency.

June 17, 2020

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Date



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Catherine R. McCabe, Commissioner  
Department of Environmental Protection