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## ADOPTION SECTION

### **ENVIRONMENTAL PROTECTION**

#### **SITE REMEDIATION PROGRAM**

##### **Notice of Administrative Corrections**

##### **Specially Adopted Rules to Implement the Site Remediation Reform Act, P.L. 2009, c. 60**

##### **Ground Water Quality Standards**

##### **N.J.A.C. 7:9C-1.1 and 7:9C Appendix Table 1**

##### **Underground Storage Tanks**

##### **N.J.A.C. 7:14B-3.5 and 15.1**

##### **Industrial Site Recovery Act Rules**

##### **N.J.A.C. 7:26B-1.4, 1.5, 1.10, 4.3 and 8.1**

##### **Administrative Requirements for the Remediation of Contaminated Sites**

##### **N.J.A.C. 7:26C-1.3, 1.5, 3.3, 4.3, 5.1, 5.13, 6.5, 7.2, 9.5, 9.10, 9.11 and 10.5, and 7:26C**

##### **Appendices A and B**

##### **Remediation Standards**

##### **N.J.A.C. 7:26D Appendix 1 Table 1A**

##### **Technical Requirements for Site Remediation**

##### **N.J.A.C. 7:26E-1.4, 1.8, 1.9, 1.14, 1.17, 1.18, 2.1, 3.6, 3.7, 4.4, 4.8, 6.3 and 6.7, and 7:26E**

##### **Appendices A and H**

##### **Highlands Water Protection and Planning Act Rules**

##### **N.J.A.C. 7:38-2.4 and 9.2**

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**Take notice** that the Department of Environmental Protection discovered errors in the following rules: Ground Water Quality Standards, N.J.A.C. 7:9C; Underground Storage Tanks, N.J.A.C. 7:14B; Industrial Site Recovery Act Rules, N.J.A.C. 7:26B; Administrative Requirements for the Remediation of Contaminated Sites, N.J.A.C. 7:26C; Remediation Standards, N.J.A.C. 7:26D; Technical Requirements for Site Remediation, N.J.A.C. 7:26E, and Highlands Water Protection and Planning Act Rules; N.J.A.C. 7:38. On December 7, 2009, the Department adopted the Administrative Requirements for the Remediation of Contaminated Sites rules, N.J.A.C. 7:26C, and related amendments to other Department rules to implement the Site Remediation Reform Act (SRRA), N.J.S.A. 58:10C-1 et seq., and related amendments to the Industrial Site Recovery Act (ISRA), N.J.S.A. 13:1K-6 et seq., the Spill Compensation Control Act (the Spill Act), N.J.S.A. 58:23-11 et seq., and the Brownfield and Contaminated Site Remediation Act (the Brownfield Act), N.J.S.A. 58:10B-1 et seq. (see 41 N.J.R. 4467(a)). The corrections set forth in this notice are the result of review of the special adopted rules and amendments, and are in addition to those set forth in the Department's notice of administrative corrections published in the April 19, 2010 New Jersey Register at 42 N.J.R. 778(a). This notice of administrative corrections is published pursuant to N.J.A.C. 1:30-2.7.

At N.J.A.C. 7:9C-1.1(b), the missing closing parenthesis in the citation to the Site Remediation Reform Act, N.J.S.A. 58:10C-1 et seq., is added.

At N.J.A.C. 7:9C Appendix Table 1, the spelling of "Phenol" is corrected in the "Constituent" column, and the CAS No. is corrected from 08-95-2 to 108-95-2 in the "CASRN" column. This Appendix was originally promulgated as part of N.J.A.C. 7:9-6, which subchapter

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was recodified with amendments effective October 4, 2005 (see 36 N.J.R. 4374(b) and 37 N.J.R. 4226(b)). While the proposal Summary appropriately describes the amendments proposed to the entry for Phenol, CAS number 108-95-2 in Appendix Table 1, the published proposed rule text of Table 1 truncated the CAS number by placing the number 1, which is the first number of the CAS number, 108-95-2, at the end of the substance name, resulting in the erroneous substance name “Phenol1” and an erroneous CAS number, “08-95-2.” This error persisted in the published notice of adoption and into the Code, through the 10-5-05 Code update. The Department is now correcting this misprint.

At N.J.A.C. 7:9C Appendix Table 1, Explanation of Terms, the spelling of “nephelometric” in the term “(Total)” is corrected.

At N.J.A.C. 7:14B-3.5(d), the citation is corrected from N.J.A.C. 7:26C-9 to N.J.A.C. 7:26C-4.

At N.J.A.C. 7:14B-15.1(i), the mailing address is corrected.

At N.J.A.C. 7:26B-1.4, the definition of “Transferring ownership or operations,” paragraph 5, the citation is corrected from N.J.A.C. 7:26B-2.1(a)4 to N.J.A.C. 7:26B-2.1(a)5.

At N.J.A.C. 7:26B-1.5(a) and 4.3(a), the web address is corrected to [www.nj.gov/dep/srp/srra/forms](http://www.nj.gov/dep/srp/srra/forms).

At N.J.A.C. 7:26B-1.10(b)1, N.J.A.C. 7:26C-4.3(a)5, at the table in N.J.A.C. 7:26C-9.5(b) in the violation for N.J.A.C. 7:26E-8.2(e)3, and N.J.A.C. 7:26E-6.3(f)1, the word “remedial” is

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replaced with the word “response” in the term “remedial action outcome” to match the term defined in N.J.A.C. 7:26C-1.4.

At N.J.A.C. 7:26B-8.1(a), the missing word “with” is added.

At N.J.A.C. 7:26B-8.1(b), the citation is corrected from N.J.A.C. 7:26C-4 and 5 to N.J.A.C. 7:26C-4.5 because N.J.A.C. 7:26C-5 has nothing to do with Department costs to review remediation documents, whereas this is the purpose of N.J.A.C. 7:26C-4.5.

At N.J.A.C. 7:26C-1.3, in the definition of “licensed site remediation professional,” the missing “et” is added to “et seq.” in the statutory citation.

At N.J.A.C. 7:26C-1.5(b)1, the punctuation at the end of the introductory paragraph is corrected, replacing the period with a colon.

At N.J.A.C. 7:26C-3.3(a)3, the spelling of “non-aqueous” is corrected.

At N.J.A.C. 7:26C-5.1(a)5, the description originally codified at N.J.A.C. 7:26C-5.1(a)7 is added, as both N.J.A.C. 7:26C-5.1(a)5 and 7 pertain to the requirements at N.J.A.C. 7:26C-5.11. The citation in N.J.A.C. 7:26C-5.1(a)7 to N.J.A.C. 7:26C-5.13 should have been to N.J.A.C. 7:26C-5.11.

At N.J.A.C. 7:26C-5.1(a)6, the word “and” is added at the end, as N.J.A.C. 7:26C-5.1(a)7 is being deleted.

Existing N.J.A.C. 7:26C-5.1(a)7 is being deleted, as this information is now included in N.J.A.C. 7:26C-5.1(a).

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At N.J.A.C. 7:26C-5.1(a)8, the paragraph is recodified as N.J.A.C. 7:26E-5.1(a)7, and the internal citation is corrected from N.J.A.C. 7:26C-5.14 to N.J.A.C. 7:26C-5.13.

At N.J.A.C. 7:26C-5.13(d), “monies” in the second sentence is corrected as “moneys” to match the plural word form used in the first sentence.

At N.J.A.C. 7:26C-6.5(b)2, the spelling of “Tertiary” is corrected.

At N.J.A.C. 7:26C-7.2(a)1iii, the spacing within the citation to N.J.S.A. 58:10-23.11 et seq. is corrected.

At N.J.A.C. 7:26C-7.2(b)4, the cross-reference is corrected from N.J.A.C. 7:26C-7.8 to N.J.A.C. 7:26C-7.7.

At the Table in N.J.A.C. 7:26C-9.5(b), in the violation for N.J.A.C. 7:14B-9.5(b), “insure” is corrected as “ensure”; in the citation N.J.A.C. 7:14B-10.1(a)2, the opening parenthesis is added before “a”; in the violation for N.J.A.C. 7:14B-10.3(b)1, “profession engineer” is corrected as “professional engineer”; immediately before the violation for N.J.A.C. 7:26C-13.2(a), adding the header row designating Subchapter 13, Remediation of Unregulated Heating Oil Tank Systems; at the violation for N.J.A.C. 7:26E-1.12(b)1, a hyphen is added to “non-aqueous”; the violation for N.J.A.C. 7:26E-1.12(b)4 is deleted, as this rule provision does not exist; and in the violation for N.J.A.C. 7:26E-5.1(c), the phrase “standards rule and guidelines” is corrected as “standards, rules and guidelines” to reflect the subsection’s content.

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At N.J.A.C. 7:26C-9.10(d)2, the punctuation in the last line of the address is corrected by the placement of a colon after “Attention.”

At N.J.A.C. 7:26C-9.11(b)1, the incomplete phrase “remove the discharge or threatened of a hazardous substance” is completed through the addition of “discharge” after “threatened.” The missing term is evident from the context of the phrase, and matches the use of “discharge or threatened discharge” in N.J.A.C. 7:26C-9.11(c)1.

At N.J.A.C. 7:26C-10.5(b)3, “therefore” is corrected as “therefor.”

At N.J.A.C. 7:26C Appendix A, a superfluous “the” is deleted from subparagraph 6a.

At N.J.A.C. 7:26C Appendix B, in the fourth paragraph within paragraph 5, the incomplete last sentence, “The new Deed Notice shall be executed and recorded by,” is completed by the addition of “[*name of person or corporation etc. filing new deed notice*].” The missing text is identical to that for the same purpose in paragraph 4, which also addresses the execution of a new deed notice, and in keeping with the acting party description (“[*name of person/corporation etc.*.]”) in the preceding third paragraph within paragraph 5.

At N.J.A.C. 7:26D Appendix 1, Table 1A, the spelling of the word “Health” is corrected in the column heading “Ingestion-Dermal Health Based Criterion.”

At N.J.A.C. 7:26D Appendix 1, Table 1A, the CAS No. for Zinc is corrected from 7740-66-6 to 7440-66-6.

At N.J.A.C. 7:26E-1.4(k), a superfluous “either” is deleted.

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At N.J.A.C. 7:26E-1.4(n), the word “except” is corrected to “exempt.”

At N.J.A.C. 7:26E-1.8, in the definition for “impermeable,” “10<-7>” is replaced with “10<sup>-7</sup>.”

At N.J.A.C. 7:26E-1.9(d)2, a superfluous “the” is deleted.

At N.J.A.C. 7:26E-1.14(b)3iv, 1.17(c)1 and 1.18(d)1, the cross-reference from N.J.A.C. 7:26E-2.1(a)17 is corrected to N.J.A.C. 7:26E-2.1(a)16.

At N.J.A.C. 7:26E-1.14(b)4 and 1.18(d)2, the mailing address to which indoor air sampling data are to be sent at the New Jersey Department of Health and Senior Services is corrected.

At N.J.A.C. 7:26E-2.1(a)4iii, “%2F” is replaced with a superscripted ® (registered trademark symbol) throughout the subparagraph.

At N.J.A.C. 7:26E-2.1(a)13, the word “Program” is added after the phrase “Contract Laboratory” to correct the name of the document.

At N.J.A.C. 7:26E-2.1(d), Table 2-1, the spelling of “Naphtha” in the “Light Petroleum Distillates” Petroleum Product is corrected.

At N.J.A.C. 7:26E-2.1(d), Table 2-1, for the petroleum product category “Waste Vehicular Crankcase Oil,” in the “Soil/Sediment” column, footnote “1” is added to “VO+TICs,” as this footnote applies to all VO+TICs listed in this table.

At N.J.A.C. 7:26E-3.6(a)4i, the spelling of “contaminant” is corrected.

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At N.J.A.C. 7:26E-3.7(a)2 and 4.4(a)4ii, the word “Geodata” after the web address is corrected to the text “Digital Data.”

At N.J.A.C. 7:26E-4.4(g)4, the spelling of “stratigraphy” is corrected.

At N.J.A.C. 7:26E-4.8(c)12, the web address is corrected to <http://www.nj.gov/dep/srp/guidance/techgis/>.

At N.J.A.C. 7:26E-6.7(b)7, “on” is replaced with “and.”

At N.J.A.C. 7:26E Appendix A, footnote 2, the spelling of “arochlor” is corrected.

At N.J.A.C. 7:26E Appendix H, in the second sentence of the second paragraph of the Public Notice, “have been sent” is corrected as “has been sent” to match the singular “copy.”

At N.J.A.C. 7:38-2.4(b)8 and 9.2(d)15, the statutory cross-reference is changed from SRRA, N.J.S.A. 58:10C-1 et seq., to the Brownfield Act, N.J.S.A. 58:10B-1 et seq., to comport the rule text with the exemptions provisions of the Highlands Water Protection and Planning Act (the Highlands Act) at N.J.S.A. 13:20-28 that specifically exempt sites that are being remediated according to the Brownfield Act, but not according to SRRA. Since the Brownfield Act was amended by SRRA and cross-references back to SRRA, this change does not affect the universe of sites to which this Highlands Act exemption applies.

**Full text** of the corrected rules follows (additions indicated in boldface **thus**; deletions indicated in italicized brackets */thus/*):



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## CHAPTER 9C

### GROUND WATER QUALITY STANDARDS

#### SUBCHAPTER 1. GROUND WATER QUALITY STANDARDS

##### 7:9C-1.1 Scope of chapter

(a) (No change.)

(b) This chapter provides the basis for protection of ambient ground water quality, through the establishment of constituent standards for ground water pollutants. These constituent standards are applicable to the development of: ground water protection standards pursuant to the New Jersey Pollutant Discharge Elimination System (NJPDES; N.J.A.C. 7:14A); ground water remediation standards; and other requirements and regulatory actions applicable to discharges that cause or may cause pollutants to enter the ground waters of the State, including non-point and diffuse sources regulated by the Department. Other relevant laws through which the Ground Water Quality Standards may be applied include, but are not limited to, the Spill Compensation and Control Act (N.J.S.A. 58:10-23.11 et seq.), the Brownfield and Contaminated Site Remediation Act (N.J.S.A. 58:10B-1 et seq.), the Site Remediation Reform Act (N.J.S.A. 58:10C-1 et seq.), the Solid Waste Management Act (N.J.S.A. 13:1E-1 et seq.), the Industrial Site Recovery Act (N.J.S.A. 13:1K-6 et seq.), the Underground Storage of Hazardous Substances Act (N.J.S.A. 58:10A-21 et seq.), the Realty Improvement Sewerage and Facilities Act (N.J.S.A. 58:11-23 et seq.), and the Pesticide Control Act of 1971 (N.J.S.A. 13:1F-1 et seq.).

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(c) (No change.)

APPENDIX

Table 1

Specific Ground Water Quality Criteria - Class II-A and Practical Quantitation Levels

<u>Constituent</u>	<u>CASRN</u>	<u>Ground Water Quality Criterion*</u>	<u>Practical Quantitation Level (PQL)*</u>	<u>Higher of PQL and Ground Water Quality Criterion (µg/L)*</u>
...				
/Phenol1/ <b>Phenol</b>	/08-95-2/ <b>108-95-2</b>	2,000	10	2,000
...				

Explanation of Terms:

...

(Total) means the concentration of metal in an unfiltered sample following treatment with hot dilute mineral acid (as defined in “Methods for Chemical Analysis of Water & Wastes,” USEPA-600/4-79-020, March 1979) or other digestion defined by the analytical method. However samples that contain less than 1 [nephelometric/ **nephelometric** turbidity unit (NTU) and are properly preserved, may be directly analyzed without digestion.

...

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## CHAPTER 14B

### UNDERGROUND STORAGE TANKS

#### SUBCHAPTER 3. FEES

##### 7:14B-3.5 Program fees and oversight costs

(a) - (c) (No change.)

(d) The cost for the Department review of any remediation document not listed in (c) above shall be assessed pursuant to N.J.A.C. 7:26C-~~9~~4.

(e) (No change.)

#### SUBCHAPTER 15. FINANCIAL RESPONSIBILITY REQUIREMENTS

##### 7:14B-15.1 Applicability and general requirements

(a) - (h) (No change.)

(i) Within 30 calendar days after the cancellation or expiration of any form of financial assurance established to meet the requirements of this chapter, the issuing financial institution shall notify the Department in writing of the expiration or cancellation. The financial institution shall include in the notification the name of the insured policy holder, the policy number as applicable and the address of all sites covered by the financial mechanism. The written notification shall be sent to the address below:

New Jersey Department of Environmental Protection

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/Division of Remediation Management and Response

Bureau of Fund Management, Compliance & Recovery/

**Bureau of Case Assignment & Initial Notice**

PO Box 028

401 East State Street

Trenton, NJ 08625-0028

Attn: Registration and Billing Unit

CHAPTER 26B

INDUSTRIAL SITE RECOVERY ACT RULES

SUBCHAPTER 1. GENERAL INFORMATION

7:26B-1.4 Definitions

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

...

“Transferring ownership or operations” means:

- 1.-4. (No change.)

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5. Any transfer of an industrial establishment to a trust, except where grantor and beneficiary are identical or are members of the same family. As used in this paragraph, “family” means any of the relations included at N.J.A.C. 7:26B-2.1(a)/4/5.

...

#### 7:26B-1.5 Forms and submissions

(a) Unless otherwise instructed by the Department, any person may obtain any form or application required by this chapter, the Underground Storage Tanks rules, N.J.A.C. 7:14B, and the Industrial Site Recovery Act rules, N.J.A.C. 7:26B, by downloading it from the Department’s website at [[www.nj.gov/dep/srp/srra/forms/](http://www.nj.gov/dep/srp/srra/forms/)] [www.nj.gov/dep/srp/srra/forms](http://www.nj.gov/dep/srp/srra/forms) or by contacting the Department at the address below. Unless otherwise instructed by the Department, the person shall submit all forms, applications and documents required by this chapter to the address indicated on the form. If no address is indicated, then submit the form to the following address:

New Jersey Department of Environmental Protection

Bureau of Case Assignment and Initial Notice

401 East State Street, 5th floor

PO Box 434

Trenton, New Jersey 08625-0434

Telephone: (609) 292-2943

(b)-(c) (No change.)

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7:26B-1.10 Liability for ISRA compliance

(a) (No change.)

(b) An owner or operator shall not transfer ownership or operations of an industrial establishment until:

1. The Department has issued a no further action letter, or a licensed site remediation professional has issued a [remedial] **response** action outcome, for the industrial establishment pursuant to N.J.A.C. 7:26C-6;

2. - 4. (No change.)

(c) - (g) (No change.)

SUBCHAPTER 4. REMEDIATION AGREEMENT AND REMEDIATION CERTIFICATION

7:26B-4.3 Remediation certification

(a) 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/

**www.nj.gov/dep/srp/srra/forms**, that includes the following:

1.-4. (No change.)

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## SUBCHAPTER 8. PROGRAM FEES AND OVERSIGHT COSTS

### 7:26B-8.1 Fee schedule

(a) Except as provided below, the owner or operator shall pay all applicable fees required by this section in accordance **with** N.J.A.C. 7:26B-8.4, upon submittal to the Department of each and every request, application or submission listed below.

1. - 13. (No change.)

(b) The cost for the Department review of any remediation document not listed in (a) above shall be assessed pursuant to N.J.A.C. 7:26C-~~4~~ and 5~~4~~**5**.

(c) – (e) (No change.)

## CHAPTER 26C

### ADMINISTRATIVE REQUIREMENTS FOR THE REMEDIATION

### OF CONTAMINATED SITES

## SUBCHAPTER 1. GENERAL INFORMATION

### 7:26C-1.3 Definitions

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

...

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“Licensed site remediation professional” means an individual who has been issued a license pursuant to N.J.S.A. 58:10C-1 et seq.

...

#### 7:26C-1.5 Certifications

(a) (No change.)

(b) The person responsible for conducting the remediation pursuant to N.J.A.C. 7:26C-2.3(a) shall certify all submissions as follows:

1. For all documents that are required to be certified pursuant to the applicable provisions of the Underground Storage Tanks rules, N.J.A.C. 7:14B, the Industrial Site Recovery Act rules, N.J.A.C. 7:26B, the Technical Requirements for Site Remediation rules, N.J.A.C. 7:26E, and this chapter, 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



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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. (No change.)

(c) - (e) (No change.)

### SUBCHAPTER 3. REMEDIATION TIMEFRAMES AND EXTENSION REQUESTS

#### 7:26C-3.3 Mandatory remediation timeframes

(a) The person responsible for conducting the remediation shall:

1. - 2. (No change.)

3. Complete the installation of a light [non-aquous/ **non-aqueous** phase liquid (LNAPL) recovery system, initiate operational monitoring and submit an interim remedial action report, pursuant to the Technical Requirements for Site Remediation rules, at N.J.A.C.

7:26E-1.12(b), no later than one year from:

i. - ii. (No change.)

(b) - (d) (No change.)

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#### SUBCHAPTER 4. FEES AND OVERSIGHT COSTS

##### 7:26C-4.3 Individual review fees

(a) The person responsible for conducting the remediation shall submit to the Department, at the address noted on the appropriate document submission form or questionnaire, provided by the Department at [www.nj.gov/dep/srp/srra/forms](http://www.nj.gov/dep/srp/srra/forms), the applicable nonrefundable document review fee pursuant to this section each time that the person submits any of the following documents to the Department unless the person is subject to an annual remediation fee:

1. - 4. (No change.)

5. Child care center [remedial/ **response** action outcome or child care center renewal certification] \$225.00.

(b) – (c) (No change.)

#### SUBCHAPTER 5. REMEDIATION FUNDING SOURCE

##### 7:26C-5.1 Scope

(a) This subchapter establishes the requirements for:

1. - 4. (No change.)

5. The procedures for adjusting the amount of the remediation funding source **and for returning the remediation funding source**, in N.J.A.C. 7:26C-5.11;

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6. The disbursement of funds from a remediation funding source, in N.J.A.C. 7:26C-5.12;

**and**

/7. The return of the remediation funding source, in N.J.A.C. 7:26C-5.13; and/

/8./7. The procedures the Department will use to draw on the funding in the remediation funding source when a person has failed to perform the remediation, in N.J.A.C. 7:26C-  
/5.14/5.13.

7:26C-5.13 Failure to perform the remediation

(a) - (c) (No change.)

(d) A person may petition the Department for authority to perform the remediation and to avail itself of all or some of the moneys in the remediation funding source established by another person pursuant to this subchapter. The Department may, in its discretion, disburse all or some of the /monies/ **moneys** to the petitioner.

#### SUBCHAPTER 6. FINAL REMEDIATION DOCUMENTS

7:26C-6.5 Scope of final remediation document and covenant not to sue

(a) (No change.)

(b) Any covenant not to sue that accompanies a final remediation document is without prejudice to any rights that the Department, the Commissioner, and the Administrator of the New Jersey Spill Compensation Fund may have against the person responsible for conducting the

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remediation and any person in any way responsible for a discharge, pursuant to the Spill

Compensation and Control Act, N.J.S.A. 58:10-23.11g, with respect to liability for:

1. (No change.)

2. Cleanup and removal costs, damages, and injunctive relief available to the Plaintiffs in the United States District Court for the District of New Jersey, in the case captioned *NJDEP et al. v. Amerada Hess Corp. et al.*, C.A. No. 3:07-5284, and subsequently pending in the United States District Court for the Southern District of New York, captioned as *In Re; Methyl [Tertiary] Tertiary Butyl Ether ("MTBE") Products Liability Litigation*, MDL No. 1358; and

3. (No change.)

## SUBCHAPTER 7. REMEDIAL ACTION PERMITS

### 7:26C-7.2 Permittees of remedial action permits

(a) Each of the following persons shall comply with this subchapter, including any applicable remedial action permit the Department issues pursuant to this subchapter:

1. The permittees for a remedial action permit include, without limitation, each of the following statutory permittees:

i. - ii. (No change.)

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iii. Any other person in any way responsible, pursuant to the Spill Compensation and Control Act, N.J.S.A. 58:10-~~23.11~~**et/23.11 et** seq., for any hazardous substance that was discharged; and

iv. (No change.)

2. (No change.)

(b) If there is more than one person responsible for compliance with a remedial action permit pursuant to (a) above, each such person, as a co-permittee, is jointly and severally liable for:

1. - 3. (No change.)

4. Maintenance of financial assurance for engineering controls pursuant to N.J.A.C. 7:26C-~~7.8~~**7.7**.

## SUBCHAPTER 9. ENFORCEMENT

### 7:26C-9.5 Civil administrative penalty determination

(a) (No change.)

(b) The following summary of rules contained in the “Subchapter and Violation” column of the following tables is provided for informational purposes only. In the event that there is a conflict between the rule summary in the following tables and the corresponding rule provision, then the corresponding rule provision shall prevail. The “Citation” column lists the citation and shall be used to determine the specific rule to which the violation applies. In the “Type of

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Violation” column, “M” identifies a violation as minor and “NM” identifies a violation as non-minor. The length of the applicable grace period for a minor violation is indicated in the “Grace Period” column. The “Base Penalty” column indicates the applicable base penalty for each violation.

<u>Subchapter and Violation</u>	<u>Citation</u>	<u>Type of Violation</u>	<u>Grace Period Days</u>	<u>Base Penalty</u>
...				
<u>Underground Storage Tanks N.J.A.C. 7:14B</u>				
...				
9	Out-of-Service Underground Storage Tank Systems and Closure of Underground Storage Tank Systems			
...				
Failure to [insure] <b>ensure</b> the site investigation report is prepared by individual certified in subsurface evaluation per N.J.A.C. 7:14B-13 or a licensed site remediation professional, as required, depending upon the date that closure was initiated.	7:14B-9.5(b)	NM		\$8,000

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<u>Subchapter and Violation</u>	<u>Citation</u>	<u>Type of Violation</u>	<u>Grace Period Days</u>	<u>Base Penalty</u>
...				
10 Permitting Requirements for Underground Storage Tanks				
...				
Failure to obtain a construction permit pursuant to the New Jersey Uniform Construction Code, N.J.A.C. 5:23, prior to repair, installation or upgrade of an underground storage tank system.	7:14B-10.1(a)2	M	30	\$4,000
...				
Failure to submit a scaled copy of the plans and specification for the proposed underground storage tank system installation, modification or upgrade which are signed and sealed by a New Jersey [profession] <b>professional</b> engineer.	7:14B-10.3(b)1	M	30	\$4,000
...				
<u>Administrative Requirements for the Remediation of Contaminated Sites N.J.A.C. 7:26C</u>				
...				
8 Access				
...				
Failure to initiate and vigorously pursue site access via legal action and provide written confirmation to the Department, as required.	7:26C-8.2(d)	M	30	\$4,000

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<u>Subchapter and Violation</u>	<u>Citation</u>	<u>Type of Violation</u>	<u>Grace Period Days</u>	<u>Base Penalty</u>
<b>13 Remediation of Unregulated Heating Oil Tank Systems</b>				
Failure to use either an appropriately certified subsurface evaluator or a licensed site remediation professional to perform the remediation of a discharge from an unregulated heating oil tank system.	7:26C-13.2(a)	NM		\$8,000

...

Technical Requirements for Site Remediation N.J.A.C. 7:26E

...

1 General Information

...

Failure to notify the Department of the discovery of light non-aqueous phase liquid (LNAPL) and initiate free product recovery as required.	7:26E-1.12(b)1	NM		\$20,000
---	----------------	----	--	----------

...

/Failure to complete the installation of a recovery system, initiate operational monitoring, and submit required information concerning LNAPL recovery within required timeframe.	7:26E-1.12(b)4	NM		\$20,000/
---	----------------	----	--	-----------

...



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<u>Subchapter and Violation</u>	<u>Citation</u>	<u>Type of Violation</u>	<u>Grace Period Days</u>	<u>Base Penalty</u>
5 Remedial Action Selection				
...				
Failure to select a remedial action that reduces contamination to below all applicable remediation standards or eliminates exposure to contamination above the applicable remediation standards based on the current and future land use for the site and all listed standards, rules and guidelines.	7:26E-5.1(c)	NM		\$8,000
...				
8 Engineering and Institutional Controls				
Failure to include a copy of the recorded deed notice, stamped "Filed," or notice, as applicable, with the /Remedial/ <b>Response</b> Action Outcome and an electronic copy in a read only format, including all of the exhibits, to those individuals and groups listed in N.J.A.C. 7:26E-8.2(g).	7:26E-8.2(e)3	NM		\$8,000
...				

7:26C-9.10 Procedures for requesting and conducting adjudicatory hearings

(a) - (c) (No change.)

(d) The violator shall send the request for an adjudicatory hearing to:

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1. (No change.)
2. New Jersey Department of Environmental Protection

Bureau of Enforcement and Investigations

PO Box 028

Trenton, New Jersey 08625-0028

Attention: Hearing Request

7:26C-9.11 Spill Compensation and Control Act directive

(a) (No change.)

(b) Pursuant to the Spill Compensation and Control Act, the Department may direct persons who are in any way responsible for a hazardous substance at a site to:

1. Clean up and remove the discharge or threatened **discharge** of a hazardous substance, including the actual removal of the contamination or measures designed to prevent or mitigate risk to the public health and safety and the environment; or

2. (No change.)

(c) - (g) (No change.)

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SUBCHAPTER 10. TECHNICAL ASSISTANCE GRANTS

7:26C-10.5 Application for technical assistance grant

(a) (No change.)

(b) After reviewing the application for eligibility, administrative completeness, and technical acceptability, the Department will notify the contact person for the community group in writing as follows:

1. - 2. (No change.)

3. The community group is not eligible for a technical assistance grant, with a statement of the reason(s) [therefore] **therefor**.

(c) (No change.)

APPENDIX A

DEVELOPER CERTIFICATION

IN THE MATTER OF THE :  
  
[Insert Site Name, : DEVELOPER  
  
Program Interest Number (Preferred ID)] : CERTIFICATION  
  
AND :

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[Insert Name of Person]

:

\_\_\_\_\_

Name of Authorized Individual

\_\_\_\_\_

Authorized Individual's Title

\_\_\_\_\_

Name of Person

\_\_\_\_\_

Address of Person

hereby certifies, on behalf of [*insert name of person*], that he or she is authorized to make this binding Certification for the [*describe here the real property that [insert name of person] is remediating, including any name by which the Site is known, the street address, all blocks and lots, the municipality, county and the DEP program interest name and program interest number (preferred ID)*] [(the Site)], and, with regard to that Site,

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[*insert name of person*] further certifies as follows:

1. - 5. (No change.)

6. [*Insert name of person*] is not a corporate successor to, affiliated with, or otherwise related to any person described below such that [*insert name of person*] would be liable for the contamination other than by acquiring title to the site:

a. Any entity that [*the*] [*Insert name of person*] has reason to believe has discharged at the Site any hazardous substance as defined pursuant to N.J.S.A. 58:10-23.11b, hazardous waste as defined pursuant to N.J.S.A. 13:1E-38, or pollutant defined pursuant to N.J.S.A. 58:10A-3;

b. - c. (No change.)

7. - 9. (No change.)

...

## APPENDIX B

### MODEL TERMINATION OF DEED NOTICE

FILED AT THE OFFICE OF THE

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REGISTER OF

[county] COUNTY

IN DEED BOOK [*volume*], Pages

[*pages*]

AS TO

BLOCK(S) , LOT(S) , TAX MAP OF THE [county] County

IN ACCORDANCE WITH N.J.S.A. 58:10B-13, THIS DOCUMENT IS TO BE RECORDED

IN THE SAME MANNER AS DEEDS AND OTHER INTERESTS IN REAL PROPERTY.

Prepared by:

\_\_\_\_\_

Recorded by:

\_\_\_\_\_

*[Signature, Officer of County*

*Recording Office]*

*[Print name below signature]*

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This Termination of Deed Notice is made as of [month day, year] by [name of property owner].

1. - 4. (No change.)

5. EFFECTIVE DATE OF TERMINATION OF DEED NOTICE. This Termination of Deed Notice shall take effect on the date this Termination of Deed Notice or the date the new Deed Notice for Block(s) \_\_\_\_\_, Lot(s) \_\_\_\_\_ is recorded in the Office of the Register of [county], whichever is later, or, if this Termination of Deed Notice and the new Deed Notice are simultaneously recorded in the Office of the Register of [county], on the date of such simultaneous recording.

...

{Appropriate consecutive paragraph number}. EXECUTION OF NEW DEED NOTICE FOR BLOCK(S) \_\_\_\_\_, LOT(S) \_\_\_\_\_. Although the Department has determined that a change in conditions warrants the termination of the Deed Notice as to Block(s) \_\_\_\_\_, Lot(s) \_\_\_\_\_, soil contamination remains on Block(s) \_\_\_\_\_, Lot(s) \_\_\_\_\_, in concentrations that do not allow for the unrestricted use of the Property. Thus, the approved remedial action

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includes a new Deed Notice for Block(s) \_\_\_\_\_, Lot(s) \_\_\_\_\_. The new Deed Notice shall be executed and recorded by [*name of person or corporation etc. filing new deed notice*].

...

A. - D. (No change.)

#### **EXHIBITS A and B**

(No change.)



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CHAPTER 26D

REMEDIATION STANDARDS

APPENDIX 1

SOIL REMEDIATION STANDARDS TABLES

Table 1A - Residential Direct Contact Health Based Criteria and Soil Remediation Standards

(mg/kg)

<b>Contaminant</b>	<b>CAS No.</b>	<b>Ingestion-Dermal /Heath/ Health Based Criterion</b>	<b>Inhalation Health Based Criterion</b>	<b>Soil PQL</b>	<b>Residential Direct Contact Soil Remediation Standard</b>
...					
Zinc	[7740-66-6] <b>7440-66-6</b>	23,000	NA	6	23,000

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## CHAPTER 26E

### TECHNICAL REQUIREMENTS FOR SITE REMEDIATION

#### SUBCHAPTER 1. GENERAL INFORMATION

##### 7:26E-1.4 Notification and public outreach

(a) - (j) (No change.)

(k) If the person responsible for conducting the remediation proposes to bring contaminated material on to the site in an amount that is in excess of the amount that is needed to complete the remediation requirements, to raise the topographic level in the floodplain, or to construct the engineering controls approved by the Department in *[either]* a remedial action workplan pursuant to N.J.A.C. 7:26C-8, the person shall obtain the Department's prior approval, comply with the Department's Alternative Fill Protocol, and comply with all of the following:

1. - 2. (No change.)

(l) - (m) (No change.)

(n) If contamination migrates off site and the affected media is limited to historic fill, the person responsible for conducting the remediation is *[except]* **exempt** from the requirements of (l) above.

(o) - (s) (No change.)

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#### 7:26E-1.8 Definitions

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

...

“Impermeable” means a layer of natural and/or man-made material of sufficient thickness, density and composition so as to have a maximum permeability for water of  $10^{-7}$   $10^{-7}$  cm/sec at the maximum anticipated hydrostatic pressure.

...

#### 7:26E-1.9 General remediation requirements

(a) - (c) (No change.)

(d) The person responsible for conducting the remediation shall make submissions to the Department pursuant to this chapter as follows:

1. (No change.)

2. One copy on CD of the site-specific health and safety plan pursuant to N.J.A.C. 7:26E-1.10; quality assurance project plan, pursuant to N.J.A.C. 7:26E-2.2, with [the] each remedial phase report as applicable;

3. - 6. (No change.)

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7:26E-1.14 Immediate environmental concern requirements

(a) (No change.)

(b) The person responsible for conducting the remediation that identifies an IEC condition shall:

1. - 2. (No change.)

3. Within five days after identifying the IEC condition, submit the following to the Department:

i. - iii. (No change.)

iv. All analytical results with full laboratory data deliverables, pursuant to N.J.A.C. 7:26E-2.1(a)/17/16, with a Potable Water Data form available from the Department;

4. Within five days after identifying the IEC condition submit the analytical results from all indoor air sampling to the New Jersey Department of Health and Senior Services at the following address:

NJDHSS

Indoor Environments Program /Director/

135 E. State Street

PO Box 369

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4th Floor

Trenton, NJ 08625-0369; and

5. (No change.)

(c) - (d) (No change.)

7:26E-1.17 Receptor evaluation - ground water

(a) - (b) (No change.)

(c) If no contaminant concentration is detected in any potable well sample in excess of any Class II ground water remediation standard, within 14 days after receipt of the analytical results from the laboratory, the person responsible for conducting the remediation shall:

1. Submit all analytical results to the Department with full laboratory data deliverables pursuant to N.J.A.C. 7:26E-2.1(a)/17/16 with the Full Laboratory Data Deliverables form available from the Department; and

2. (No change.)

(d) (No change.)

7:26E-1.18 Receptor evaluation - vapor intrusion

(a) - (c) (No change.)

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(d) If no contaminant concentration is detected in any indoor air sample in excess of any Department indoor air screening level, within 14 days after receipt of the analytical results from the laboratory, the person responsible for conducting the remediation shall:

1. Submit all analytical results to the Department with full laboratory data deliverables pursuant to N.J.A.C. 7:26E-2.1(a)/17/16 with the Full Laboratory Data Deliverables form available from the Department;

2. Submit all analytical results to the New Jersey Department of Health and Senior Services at the following address:

/NJDHSS

Consumer, Environmental & Occupational Health Service

PO Box 360

Trenton, NJ 08648; and/

**NJDHSS**

**Indoor Environments Program**

**135 E. State Street**

**PO Box 369**

**4th Floor**

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**Trenton, NJ 08625-0369; and**

3. (No change.)

(e) - (h) (No change.)

SUBCHAPTER 2. QUALITY ASSURANCE FOR SAMPLING AND LABORATORY ANALYSIS

7:26E-2.1 Quality assurance requirements

(a) The person responsible for conducting the remediation shall ensure that the following quality assurance procedures are followed for all sampling and laboratory analysis activities.

1. - 3. (No change.)

4. Non-aqueous samples to be analyzed for volatile organics shall be sampled using the procedures specified in either USEPA SW846 Method 5035 (USEPA Publication "Test Methods for Evaluating Solid Waste," third edition, final update III, December 1996, incorporated herein by reference, as amended and supplemented) or the USEPA Contract Laboratory Program Statement of Work for Organic Analysis, Multi Media, Multi Concentration, Revision OLMO4.2, incorporated herein by reference, as amended and supplemented. All samples are to be preserved in the field with the appropriate preservation solution except for the following:

i. - ii. (No change.)

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iii. Samples collected using a field core sampling/storage device (that is, En Core<sup>®</sup> or equivalent. En Core<sup>®</sup> is a product of En Novative Technologies Inc. of Green Bay, Wisconsin.) and the samples are shipped to and analyzed by the laboratory within 48 hours of sampling or the samples are shipped to the laboratory and transferred to vials containing the appropriate preservation solution within 48 hours of sampling need not be preserved in the field.

5. - 12. (No change.)

13. Acceptable matrix cleanup methods include, without limitation, those methods contained in the EPA Publication SW846 or the EPA “Contract Laboratory **Program** Statement of Work for Organics Analysis, Multi-Media, Multi-Concentration” in effect as of the date of sample analysis.

14. - 18. (No change.)

(b) - (c) (No change.)

(d) The person responsible for conducting the remediation shall analyze samples for petroleum hydrocarbons contamination (PHC) pursuant to the Department’s Protocol for Addressing EPH Contamination Guidance and as follows:

1. - 3. (No change.)



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TABLE 2-1

ANALYTICAL REQUIREMENTS FOR PETROLEUM STORAGE AND  
DISCHARGE AREAS

<u>Petroleum Product</u>	<u>Soil/Sediment</u>	<u>Water</u>
...		
Light Petroleum Distillates (/Naphtha/ <b>Naphtha</b> , Stoddard Solvent, Paint Thinner, etc.)	VO+TICs <sup>1</sup>	VO+TICs <sup>1</sup>
...		
Waste Vehicular Crankcase Oil	PHC <sup>3</sup> . Analyze 25 percent of the samples for VO+TICs <sup>1</sup> , SVO+TICs <sup>2</sup> , PCBs, Lead when PHC are detected. <sup>7</sup>	VO+TICs <sup>1</sup> , SVO+TICs <sup>2</sup> , Lead
...		

(e) (No change.)

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### SUBCHAPTER 3. PRELIMINARY ASSESSMENT AND SITE INVESTIGATION

#### 7:26E-3.6 Site investigation - soil

(a) The site investigation shall satisfy the following requirements for all soil investigations:

1. - 3. (No change.)

4. All soil samples to be analyzed for volatile organics shall be collected as follows:

i. A bulk sampling device that will collect an intact core (for example, splitspoon) shall be used to minimize [~~cantaminant~~] **contaminant** loss during sampling; and

ii. - iii. (No change.)

5. - 7. (No change.)

(b) - (c) (No change.)

#### 7:26E-3.7 Site investigation--groundwater

(a) Except as provided in (b) below, the site investigation of each area of concern shall include at least one groundwater sample if any soil contaminant detected in the area of concern has a water solubility greater than 100 milligrams per liter at 20 degrees Celsius to 25 degrees Celsius as documented by a peer-reviewed reference; and

1. (No change.)

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2. Any part of the area of concern at which the soil contamination was detected is located within 2,000 feet of a public supply well, as determined from a map of public supply wells which is available from the Department's Bureau of Revenue, Maps and Publications (609-777-1038), or through the Department's internet home page (<http://www.state.nj.us/dep/njgs>, then select "[Geodata] **Digital Data**"). A groundwater sample is not required if documentation acceptable to the Department is provided in the site investigation report (N.J.A.C. 7:26E-3.13) demonstrating that groundwater sampling was not necessary.

(b) - (g) (No change.)

#### SUBCHAPTER 4. REMEDIAL INVESTIGATIONS

##### 7:26E-4.4 Remedial investigation of ground water

(a) A remedial investigation of groundwater for an area of concern shall be conducted if:

1. - 3. (No change.)

4. Any contaminant in an area of concern has a water solubility greater than 100 milligrams per liter at 20 degrees Celsius to 25 degrees Celsius as listed in a peer reviewed reference; and

i. (No change.)

ii. Any part of the area of concern at which the soil contamination was detected is located within 2,000 feet of a public supply well, as determined from a map of public

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supply wells which is available from the Department Bureau of Revenue, Maps and Publications (609-777-1038) or through the Department's Internet home page (<http://www.state.nj.us/dep/njgs>, then select "[Geodata] **Digital Data**"). A groundwater sample is not required if documentation acceptable to the Department is provided in the remedial investigation report (N.J.A.C. 7:26E-4.8) specifying why such sampling was not considered necessary.

(b) - (f) (No change.)

(g) All ground water monitoring wells and piezometers shall:

1. - 3. (No change.)

4. Have split spoon samples collected during drilling through unconsolidated or overburden material using American Society of Testing Materials (ASTM) Method D1586-84, incorporated herein by reference, if appropriate. Split spoon samples shall be logged every five feet and at any change in soil lithology and at all zones that show obvious signs of contamination. At least one drilling location per area of concern shall include continuous split spoon samples to define the subsurface [stratigraphy] **stratigraphy**. Drilling logs shall include all data required pursuant to N.J.A.C. 7:26E-3.6, Soil investigations. Other methods may be used if documentation acceptable to the Department is provided indicating that the methods were appropriate;

5. - 11. (No change.)

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(h) - (i) (No change.)

#### 7:26E-4.8 Remedial investigation report

(a) - (b) (No change.)

(c) The remedial investigation report shall include the following data and information:

1. - 11. (No change.)

12. The results of any ecological assessments and evaluations conducted, including, without limitation, characterization of natural resource injuries, in accordance with N.J.A.C. 7:26E-4.7(b). This information shall be submitted in a format compatible with the Department's Geographic Information System (see N.J.A.C. 7:1 Appendix A. For additional guidance, see the version of the Department's "Guidance for the submission and use of Data in GIS Compatible Formats" most recent to the time of submission. This guidance document may be found at [<http://www.state.nj.us/dep/srp/regs/techgis/techgis05.htm/> <http://www.nj.gov/dep/srp/guidance/techgis>.) In lieu of an ecological investigation or an ecological risk assessment for groundwater, the person responsible for conducting the remediation shall include the following information in the remedial investigation report:

i. - iii. (No change.)

13. - 15. (No change.)

(d) - (g) (No change.)

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## SUBCHAPTER 6. REMEDIAL ACTION

### 7:26E-6.3 Specific remedial action requirements

(a) - (e) (No change.)

(f) The person responsible for conducting the remediation that is implementing an active ground water remediation shall include a monitoring plan in the remedial action workplan with a schedule designed to demonstrate that:

1. There is a decreasing trend of contaminant concentrations in the ground water and that the ground water remediation standards will be attained in the treatment zone using the Mann-Whitney U test using Appendix C or the Department's [Remedial/ **Response** Action Outcome guidance shall be used make this determination;

2. - 4. (No change.)

(g) - (h) (No change.)

### 7:26E-6.7 Remedial action report

(a) (No change.)

(b) The person responsible for conducting the remediation shall include the following in the remedial action report:

1. - 6. (No change.)

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7. A copy of a deed notice, stamped “Filed” if applicable pursuant to N.J.A.C. 7:26E-8.2(d), along with a Remedial Action Permit form [on] **and** a remedial action permit application fee pursuant to N.J.A.C. 7:26C-4.4; and

8. (No change.)

(c) - (g) (No change.)

## APPENDIX A

### Laboratory Data Deliverables Formats

...

<sup>2</sup> Method blanks for nonaqueous samples shall consist of performing the entire analytical procedure without any actual sample being present. The appropriate amount of sodium sulfate as specified in the current Statements of Work for Organics would be substituted as the “sample” for the semivolatile and pesticide/[arochlor]**arochlor** fractions.

## APPENDIX H

### MODEL PUBLIC NOTICE FOR A DGW PROPOSAL

The model public notice in this appendix contains blanks and matter in brackets [ ]. These blanks shall be replaced with the appropriate information prior to publication in appropriate local

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newspapers. As provided at N.J.A.C. 7:26E-7.2(c), the wording of this model public notice shall not be otherwise changed or modified.

### **Public Notice**

...

Brief description of the proposed discharge: [Include a description of the site including the remedial action, type of discharge (e.g., treated ground water or in situ bioremediation), discharge unit (e.g., injection well, overland flow, lagoon, etc.) and treatment proposed and the name and description of the formation receiving the discharger]. A copy of this public notice /have/ **has** been sent to the Municipal Clerk and designated local health official for [Municipality, County or region].

...

## **CHAPTER 38**

### **HIGHLANDS WATER PROTECTION AND PLANNING ACT RULES**

#### **SUBCHAPTER 2. JURISDICTION, APPLICABILITY AND EXEMPTIONS**

##### **7:38-2.4 Highlands applicability determination**

(a) (No change.)

(b) Any person proposing to undertake any activity in the preservation area that requires any environmental land use or water permit from the Department other than, as provided at (c)



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below, a NJPDES permit or TWA, shall either clearly stipulate that the proposed activity is subject to the Highlands Act in an application to the Department for an HPAA, or obtain a Highlands Applicability Determination, before submitting an application for the environmental land use or water permit unless the activity is one of the following:

1. - 7. (No change.)

8. The remediation of any contaminated site pursuant to N.J.S.A. [58:10C-1 et seq./ **58:10B-1 et seq.** , provided no residential, commercial, or industrial development is undertaken concurrently with, or subsequent to, the remediation. Any concurrent or subsequent development at the site is subject to the requirements of this chapter for a Highlands applicability determination and HPAA as applicable;

9. - 10. (No change.)

(c) - (g) (No change.)

## SUBCHAPTER 9. APPLICATION CONTENTS

### 7:38-9.2 Application requirements for a Highlands Applicability Determination

(a) - (c) (No change.)

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(d) In addition to providing all the information required at (b) and (c) above, the following information shall be provided if an applicant is seeking a letter of exemption from the requirements of the Highlands Act:

1. - 14. (No change.)

15. For the remediation of any contaminated site pursuant to N.J.S.A. [58:10C-1 et seq.]

**58:10B-1 et seq.** pursuant to N.J.A.C. 7:38-2.3(a)15:

i. - iv. (No change.)

16. - 17. (No change.)

(e) – (f) (No change.)