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ENVIRONMENTAL PROTECTION

SITE REMEDIATION PROGRAM

Notice of Administrative Corrections and Changes

Underground Storage Tanks

N.J.A.C. 7:14B-2.2, 4.1, 13.1, 15.1, and 16.2

Industrial Site Remediation Act Rules

N.J.A.C. 7:26B-1.4

Administrative Requirements for the Remediation of Contaminated Sites

N.J.A.C. 7:26C-1.7, 2.2, 3.3, 3.5, 4.8, 4.9, 5.10, 7.4, 7.5, 7.7, 7.9, 7.10, 9.1, 9.10, 13.3, 13.4, and

7:26C Appendix D

Technical Requirements for Site Remediation

N.J.A.C. 7:26E-1.6, 3.5, , 5.3, and 7:26E Appendix A

Take notice that the Department of Environmental Protection has discovered errors in the following rules: Underground Storage Tanks (UST) rules, N.J.A.C. 7:14B; Industrial Site Recovery Act Rules (ISRA Rules), N.J.A.C. 7:26B; Administrative Requirements for the Remediation of Contaminated Sites (ARRCS), N.J.A.C. 7:26C; and Technical Requirements for Site Remediation (Technical Requirements), N.J.A.C. 7:26E. This notice of administrative corrections and changes is published pursuant to N.J.A.C. 1:30-2.7.

On December 7, 2009, the Department adopted ARRCS 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 the 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) and 43 N.J.R. 1077(a) and 2581(b).) The errors that the Department is correcting arise from that rulemaking.

Erroneous cross-references are updated or corrected at N.J.A.C. 7:26B-1.4 (definition of “remediation certification”); 7:26C-1.7(d)2ii, 2.2(a)2ii, 3.3(b), 3.5(b), 5.10(a) and (b), 7.4(b), 7.5(b)7, (c)7, and (d)8, 7.7(a)2ii and (a)4, 7.9(b)1, 7.10(a)1, 9.1(a)5, and 7:26C Appendix D; and 7:26E-3.5.

1. In the definition of “remediation certification” at N.J.A.C. 7:26B-1.4, the cross-reference to N.J.A.C. 7:26B-4.3 is corrected as N.J.A.C. 7:26B-3.3. Effective May 7, 2012 (see 43 N.J.R. 1935(a) and 44 N.J.R. 1339(b)), N.J.A.C. 7:26B-4.3 was repealed and its provisions relocated to N.J.A.C. 7:26B-3.3.

2. At N.J.A.C. 7:26C-1.7(d)2ii, the cross-reference to N.J.A.C. 7:14B-8.1(a)6 is corrected as N.J.A.C. 7:14B-8.1(b)6. Effective May 7, 2012, *Id.*, N.J.A.C. 7:14B-8.1(a)6 was recodified as N.J.A.C. 7:14B-8.1(b)6 concurrent with the adoption of N.J.A.C. 7:26C-1.7. Also at N.J.A.C. 7:26C-1.7(d)2ii, the cross-reference to N.J.A.C. 7:14B-9.3 is deleted. Effective May 7, 2012, *Id.*, N.J.A.C. 7:14B-9.3 was repealed and its provisions relocated to N.J.A.C. 7:14B-9.2, concurrent with the adoption of N.J.A.C. 7:26C-1.7.

3. The purpose of the list of events that appears at N.J.A.C. 7:26C-2.2 has always been to set forth the events that would trigger compliance with ARRCs. It implements SRRA at N.J.S.A. 58:10B-1.3, which places an affirmative obligation to remediate the discharge of a

hazardous substance on, among others, the owner or operator of a regulated underground storage tank that has discharged a hazardous substance.

In an effort to capture all of the provisions of the UST rules that would trigger the obligation to remediate, the first version of N.J.A.C. 7:26C-2.2(a)2ii, then codified at N.J.A.C. 7:26C-2.2(b)2ii, cross referenced all of the occasions that an UST owner/operator may discover a discharge, namely when required to repair, replace or close the UST according to N.J.A.C. 7:14B-8.1(a)6, when required to close an out-of-service UST system according to N.J.A.C. 7:14B-9.1(d) and when required to follow the closure requirements of N.J.A.C. 7:14B-9.21. See 41 N.J.R. 4467(a), 4486 (December 7, 2009). Already, the cross reference to N.J.A.C. 7:14B-9.21 was wrong because it erroneously referred to a non-existent paragraph in Subchapter 9 of the UST rules, N.J.A.C. 7:14B-9.21. The citation at that time should have been to N.J.A.C. 7:14B-9.2, which deals with closure of an UST. This provision was adopted without change as a part of the adoption of the specially adopted rules. See 43 N.J.R. 1077(a) (May 2, 2011) for the proposal and 43 N.J.R. 2581(b)(October 3, 2011) for the adoption.

In the next iteration of N.J.A.C. 7:27C-2.2, the Department rewrote the section to replace the criteria for determining when a person has initiated remediation with a new section that sets forth the criteria for determining when a person is required to remediate a site. As the Department stated in the proposal Summary, “As of May 2012, all sites must be remediated using an LSRP, so therefore it is no longer necessary to determine when remediation at a site was initiated.” See 43 N.J.R. 1935(a), 1949 (August 15, 2011). The Department went on to list the criteria, including “. . . 2) an owner or operator of a regulated underground storage tank system determines that there has been a known or suspected discharge from the system, undertakes closure of the UST system, or is required to conduct an unknown source investigation; . . .” *Id.*

At the rule text, the Department fixed the cross-reference to N.J.A.C. 7:14B-9.2, but added “(a)1” because, prior to an additional, simultaneous amendment, N.J.A.C. 7:14B-9.2(a)1 had required the owner or operator to notify the Department and other governmental entities of closure activities undertaken on the UST.

Simultaneously, however, the Department recodified the notification provision from N.J.A.C. 7:14B-9.2(a)1 to N.J.A.C. 7:14B-9.2(a)2, amending it to require notification through the Department’s electronic portal, and added a new registration requirement to N.J.A.C. 7:14B-9.2(a)1. However, the Department failed to notice the ramifications on N.J.A.C. 7:26C-2.2(a). Accordingly, the cross reference to N.J.A.C. 7:14B-9.2(a)1 is changed to N.J.A.C. 7:14B-9.2(a)2.

4. At N.J.A.C. 7:26C-3.3(b), the cross-reference to N.J.A.C. 7:26C-2.2(b)1 is corrected as N.J.A.C. 7:26C-2.2. Effective May 7, 2012, *Id.*, N.J.A.C. 7:26C-2.2, Criteria for determining when a person has initiated remediation, which included paragraph (b)1, was repealed and replaced with N.J.A.C. 7:26C-2.2, Criteria for determining when a person is responsible for remediating a site, which contains only one subsection. As of May 7, 2012, all sites must be remediated by a licensed site remediation professional; therefore, it was no longer necessary to determine when remediation at a site was initiated. (See 43 N.J.R. 1935(a), proposal Summary at 1949.)

5. At N.J.A.C. 7:26C-3.5(b), the cross-reference to “(b) above” for the process for requesting an extension of a site remediation timeframe is corrected as “(a) above,” as N.J.A.C. 7:26C-3.5(a) contains that request procedure.

6. At N.J.A.C. 7:26C-5.10(a), the cross-reference to N.J.A.C. 7:26C-5.2(m) is corrected as N.J.A.C. 7:26C-5.2(l). There is no N.J.A.C. 7:26C-5.1(m), and the referenced requirements for submission of a remediation funding source are at N.J.A.C. 7:26C-5.2(l).

7. At N.J.A.C. 7:26C-5.10(b), the cross-reference to N.J.A.C. 7:26C-7.4(b)1 is corrected as N.J.A.C. 7:26C-7.7(a)1. Effective May 7, 2012 (see 43 N.J.R. 1935(a) and 44 N.J.R. 1339(b)), N.J.A.C. 7:26C-7.4(b)1 was recodified as N.J.A.C. 7:26C-7.7(a)1.

8. At N.J.A.C. 7:26C-7.4(b)4, the cross-reference to N.J.A.C. 7:26C-7.7 is corrected as N.J.A.C. 7:26C-7.10. Effective May 7, 2012, *Id.*, N.J.A.C. 7:26C-7.7 was recodified as N.J.A.C. 7:26C-7.10.

9. At N.J.A.C. 7:26C-7.5(b)7, (c)7, and (d)8, the cross-reference to N.J.A.C. 7:26C-4.4(a) is corrected as N.J.A.C. 7:26C-4.6. Effective May 7, 2012, *Id.*, N.J.A.C. 7:26C-4.4(a) was recodified as N.J.A.C. 7:26C-4.6.

10. At N.J.A.C. 7:26C-7.7(a)2ii, the cross-reference to “(b)1 above” is corrected as “(a)1 above.” Effective May 7, 2012, *Id.*, N.J.A.C. 7:26C-7.4(b)1 was recodified as N.J.A.C. 7:26C-7.7(a)1.

11. At N.J.A.C. 7:26C-7.7(a)4, the cross-reference to N.J.A.C. 7:26C-4.4 is corrected as N.J.A.C. 7:26C-4.6. Effective May 7, 2012, *Id.*, N.J.A.C. 7:26C-4.4 was recodified as N.J.A.C. 7:26C-4.6.

12. At N.J.A.C. 7:26C-7.9(b)1, the cross-reference to N.J.A.C. 7:26C-7.4(c)4 is corrected as N.J.A.C. 7:26C-7.5(c)4. There is no N.J.A.C. 7:26C-7.4(c)4, and the referenced requirements for ground water monitoring are at N.J.A.C. 7:26C-7.5(c)4.

13. At N.J.A.C. 7:26C-7.10(a)2, the cross-reference to N.J.A.C. 7:26C-7.7(b)1 is corrected as N.J.A.C. 7:26C-7.7(a)1. There is no N.J.A.C. 7:26C-7.7(b)1, and the referenced biennial certification requirements are at N.J.A.C. 7:26C-7.7(a)1.

14. N.J.A.C. 7:26C-9.1(a)5 provides that N.J.A.C. 7:26C-9 governs administrative enforcement actions the Department may take for a person's violation of the Underground Storage of Hazardous Substances Act, N.J.S.A. 58:10A-21 et seq., and the Underground Storage Tanks rules, specifically "N.J.A.C. 7:14B-1.3 and 7 through 14." The reference to N.J.A.C. 7:14B-1.3, the "Purpose" section of Chapter 14B, is an obvious error, as the section contains no requirements to be violated. The correct reference is to N.J.A.C. 7:14B-1 and 3, corresponding to the inclusion of references to provisions of both subchapters in the civil administrative penalty tables in N.J.A.C. 7:26C-9.5(b).

15. At N.J.A.C. 7:26C Appendix D, under "Order of Magnitude Change to a Remediation Standards after approval of a Remediation Action Workplan," the cross-reference to N.J.S.A. 58:10B-(12)j is corrected as N.J.S.A. 58:10B-12.j, and, under "Order of Magnitude Change to a Remediation Standards after Approval of a Final Remediation Document," the cross-reference to N.J.S.A. 58:10B-(13)e is corrected as N.J.S.A. 58:10B-13.e. Also in Appendix D, under "ISRA Specific – Multi-Tenant Situations – Bureau of Case Assignment and Initial Notice Referral," an extraneous period in the next-to-last sentence is deleted.

16. At N.J.A.C. 7:26E-3.5(b), the cross-reference to N.J.A.C. 7:26-4.3 is corrected as N.J.A.C. 7:26E-4.3. N.J.A.C. 7:26-4.3 is the fee schedule for solid waste facilities in the Solid Waste rules, and the referenced requirements for a remedial investigation of ground water are at N.J.A.C. 7:26E-4.3.

Punctuation errors are corrected and extraneous words are removed at N.J.A.C. 7:14B-4.1(k)3 and 13.1(k); and 7:26C-1.7(l), 3.3(a)3 and 4, and 7:26C Appendix D .

1. At N.J.A.C. 7:14B-4.1(k)3, extraneous periods are deleted before the phrase in parentheses and within the parentheses, and a period added at the end of the sentence.

2. At N.J.A.C. 7:14B-13.1(k), an extraneous comma is deleted following the cross-reference.

3. At N.J.A.C. 7:27C-1.7(l), a comma is added separating the phrases “extent of communication” and “actions performed to minimize the impact to the public.”

4. At N.J.A.C. 7:27C-3.3(a)3 and 4, the extraneous word “rules” after “Technical Requirements for Site Remediation” is deleted.

5. At N.J.A.C. 7:27C Appendix D, the text after the placeholders for Block and Lot in the Model Response Action Outcome (RAO) Document is deleted. This text indicates that block and lot numbers are to be included only when the RAO is issued for an ISRA Industrial Establishment or Child Care Center that is only a smaller leasehold portion of a larger site. This is in direct contravention with the regulatory requirement at N.J.A.C. 7:26C-6.2(a)5 which requires that all RAOs, without limitation, be issued according to specific tax block and lot, or, if no block and lot are available, then other specific identification of the property that was remediated. Also in Appendix D, under “Child Care Building Exteriors Not Addressed,” several references to the Department of Health and Senior Services are updated as the Department of Health.

Department addresses are updated at N.J.A.C. 7:14B-2.2, 13.1(k), 15.1(i) and 16.2; 7:26C-4.8(c), 4.9(b), 9.10(d)1 and 2, 13.3(c), 13.4(c), and Appendix D; and 7:26E-1.6(a)6.

At N.J.A.C. 7:26E Appendix A, Part I, section (f), footnote 2, “aroclor” is corrected as “aro chlor.”

At N.J.A.C. 7:26C-5.3 Table 5-1, the phrase “and vapor barrier” is removed from the contamination type historic fill and/or all other discharged contaminants not otherwise excluded in N.J.A.C. 7:26E-5.3, subcategory/scenario Building Footprint - Existing Construction, Option #2 (for crawl spaces and basements with a dirt floor). Upon adoption of the existing rules, the Department stated that it would not go forward with amendments that would have required prophylactic installation of vapor barriers. See 44 N.J.R. 1339(b), 1421, Response to Comments 577 and 578, where the Department stated “These requirements exceed the Department’s authority to establish the technical requirements to remediate a contaminated site to ensure that the remediation is protective of public health and safety and of the environment. Prophylactic installation of vapor barriers in situations where there are no vapor intrusion concerns exceeds the Department’s authority to regulate the remediation of contaminated sites.” Accordingly, the requirement in Table 5-1 to install a vapor barrier should also have been deleted.

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

CHAPTER 14B

UNDERGROUND STORAGE TANKS

SUBCHAPTER 2. REGISTRATION REQUIREMENTS AND PROCEDURES

7:14B-2.2 Registration and certification procedures

(a) (No change.)

(b) The owner or operator shall obtain all registration and certification forms from and accurately complete, sign, date, and return all such documents to the address below:

New Jersey Department of Environmental Protection

Bureau of Case Assignment and Initial Notice

Mail Code 401-~~/05G/~~**05H**

~~/PO Box 434/~~

401 East State Street, 5th floor

P.O. Box 420

Trenton, New Jersey 08625-~~/0434/~~**0420**

Telephone: (609) 292-2943

(c)-(f) (No change.)

SUBCHAPTER 4. UNDERGROUND STORAGE TANK SYSTEMS: DESIGN, CONSTRUCTION AND INSTALLATION

7:14B-4.1 Performance standards for new underground storage tank systems

(a) – (j) (No change.)

(k) The tank and piping installation practices and procedures described in the following codes and standards, incorporated herein by reference, as amended and supplemented, shall be used to comply with (a)4 above:

1. – 2. (No change.)

3. American National Standards Institute Standard B31.3, “Petroleum Process Piping,” and American National Standards Institute Standard B31.4, “Liquid Transportation Systems for Hydrocarbons, Liquid Petroleum, Liquid Petroleum Gas, and Anhydrous Ammonia and Alcohols” *[.]* (obtained from Global Engineering Documents at 15 Inverness Way East, Englewood, Colorado 80122*[.]*).

(d) (No change.)

SUBCHAPTER 13. CERTIFICATION OF INDIVIDUALS AND BUSINESS FIRMS

7:14B-13.1 General requirements for certification and services

(a) – (j) (No change.)

(k) If a certified individual listed as the business firm’s certifying individual pursuant to N.J.A.C. 7:14B-13.3(b) below*[.]* either leaves the business firm or loses his or her certification, the certified business firm shall so notify the Department, in writing at the following address:

New Jersey Department of Environmental Protection

Examination and Licensing Unit

[PO Box 441] **Mail Code 401-04E**

P.O. Box 420

Trenton, NJ 08625-*[0441]***0420**

Notification shall be made within three working days of the individual leaving the business firm or losing his or her certification. The Department shall withdraw the business firm's

certification if a replacement name of an individual certified in that classification of service is not submitted within 30 calendar days of notification.

(l) – (n) (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

Bureau of Case Assignment & Initial Notice

[PO Box 028]

Mail Code 401-05H

401 East State Street, **5th Floor**

P.O. Box 420

Trenton, NJ 08625-~~/0028~~**/0420**

Attn: Registration and Billing Unit

7:14B-16.2 General requirements for certification

(a) – (i) (No change.)

(j) When a certified individual listed as the business firm's certifying individual on the certification card issued pursuant to (c) above leaves the business firm, the certified business firm shall so notify the Department, in writing at the address below. Notification shall be made by the business firm within three working days of the individual leaving the business firm. The Department shall withdraw the business firm's certification if a replacement name of an individual certified in that classification of service is not submitted within 30 calendar days of the individual leaving the business firm.

New Jersey Department of Environmental Protection

Examination and Licensing Unit

Mail Code 401-04E

/428/ **401** E. State St.

P.O. Box */441/* **420**

Trenton, NJ 08625-*/0441/***0420**

(k) – (n) (No change.)

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.

...

“Remediation certification” means a certification prepared pursuant to N.J.A.C. 7:26B-~~/4.3~~**3.3** which, when submitted to the Department by the owner or operator of an industrial establishment, authorizes the owner or operator to transfer ownership or operations prior to the issuance of a final remediation document or a licensed site remediation professional’s certification of a remedial action workplan.

...

CHAPTER 26C

ADMINISTRATIVE REQUIREMENTS FOR THE REMEDIATION OF CONTAMINATED SITES

SUBCHAPTER 1. GENERAL INFORMATION

7:26C-1.7 Notification and public outreach

(a) – (c) (No change.)

(d) The person responsible for conducting the remediation shall notify the Department in writing, on the Confirmed Discharge Notification form available from the Department at www.nj.gov/dep/srp/srra/forms, within 14 days after the occurrence of any of the following events:

1. (No change.)

2. The owner or operator of a regulated underground storage tank:

i. (No change.)

ii. Is required to close a regulated underground storage tank[,] pursuant to N.J.A.C.

7:14B-8.1[(a)6]/(b)6, 9.1(d), or 9.2 [or 9.3]; or

iii. (No change.)

(c) – (k) (No change.)

(l) Except as provided in (l)4ii and (m) below, if contamination migrates off site in any environmental medium, the person responsible for conducting the remediation shall prepare, distribute and publish a fact sheet, which shall include a description of the site's industrial history, source(s) of contamination, description of contamination, current remedial status, proposed remedial actions with a schedule, extent of contamination, actions performed to minimize the impact to the public, and a list of online resources for information about the contaminants, as follows:

1. – 5. (No change.)

(m) – (q) (No change.)

SUBCHAPTER 2. OBLIGATIONS OF THE PERSON RESPONSIBLE FOR CONDUCTING THE REMEDIATION OF A CONTAMINATED SITE

7:26C-2.2 Criteria for determining when a person is required to remediate a site

(a) Unless exempted pursuant to N.J.A.C. 7:26C-1.4(c) or (d), a person shall remediate a site in accordance with this chapter when:

1. (No change.)

2. The owner or operator of a regulated underground storage tank:

i. (No change.)

ii. Undertakes closure of a regulated underground storage tank pursuant to N.J.A.C. 7:14B-8.1(b)6, 9.1(d) and 9.2(a)1/2; or

iii. (No change.)

3. – 7. (No change.)

SUBCHAPTER 3. REMEDIATION TIMEFRAMES AND EXTENSION REQUESTS

7:26C-3.3 Mandatory remediation timeframes

(a) The person responsible for conducting the remediation who meets the criteria in N.J.A.C. 7:26C-1.4(a)1 through 5 shall:

1. – 2. (No change.)

3. Initiate immediate environmental concern contaminant source control and submit an Immediate Environmental Concern Contaminant Source Control Report, pursuant to the Technical Requirements for Site Remediation [rules], at N.J.A.C. 7:26E-1.11, no later than two years from the later of the following dates:

i. – ii. (No change.)

4. Complete a remedial investigation for the delineation of light non-aqueous phase liquid (LNAPL), initiate implementation of an LNAPL interim remedial measure, initiate monitoring, and submit an LNAPL interim remedial measure report with a form available from the Department's website at www.nj.gov/dep/srp/srra/forms, pursuant to the Technical Requirements for Site Remediation [rules], at N.J.A.C. 7:26E-1.10, within two years from the later of the following dates:

i. – ii. (No change.)

5. – 6. (No change.)

(b) The timeframes set forth in (a) above shall not be extended based on the fact that a person other than the person who initiated the remediation assumes responsibility for the remediation pursuant to N.J.A.C. 7:26C-2.2[(b)1].

(c) – (d) (No change.)

7:26C-3.5 Extension of a mandatory or an expedited site specific remediation timeframe

(a) (No change.)

(b) The person responsible for conducting the remediation shall continue any remediation during the time that the Department reviews the extension request submitted pursuant to [(b)](a) above, unless the Department directs otherwise.

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

SUBCHAPTER 4. FEES AND OVERSIGHT COSTS

7:26C-4.8 Oversight cost review

(a) – (b) (No change.)

(c) The person responsible for conducting the remediation shall submit an oversight cost review request to the Department at the following address:

New Jersey Department of Environmental Protection

/Site Remediation/

Office of Direct Billing and Cost Recovery

Mail Code 401-06L

401 East State Street, **6th Floor**

PO Box */413/***420**

Trenton, NJ 08625-*/0413/***0420**

(d) – (i) (No change.)

7:26C-4.9 Payment of fees and oversight costs

(a) (No change.)

(b) The person responsible for conducting the remediation shall make all payments of fees and oversight costs required by this chapter:

1. (No change.)

2. By mailing payments to the following address unless otherwise indicated on the first page of a billing invoice:

New Jersey Department of Environmental Protection

Bureau of Case Assignment & Initial Notice

Mail Code 401-05H

401 E. State Street, **5th Floor**

P.O. Box ~~434~~**420**

Trenton, NJ 08625-~~0434~~**0420**

(c) (No change.)

SUBCHAPTER 5. REMEDIATION FUNDING SOURCE AND FINANCIAL ASSURANCE

7:26C-5.10 Remediation cost review

(a) The person responsible for conducting the remediation shall submit to the Department 365 days after the date that that person is required to submit a remediation funding source pursuant to N.J.A.C. 7:26C-~~5.2(m)~~**5.2(I)**, and annually thereafter on the same calendar day, a detailed cost review on a form, found on the Department's website at www.nj.gov/dep/srp/srra/forms, that is certified by the person responsible for conducting the remediation and by the licensed site remediation professional, that includes the following:

1. – 3. (No change.)

(b) The person responsible for conducting the remediation who is subject to a remedial action permit shall submit to the Department, on the same schedule that the person is required to submit the biennial certification pursuant to N.J.A.C. 7:26C-~~7.4(b)1~~**7.7(a)1**, an estimate of the future

costs to operate, maintain, and inspect all engineering controls, on a form available on the Department's website at www.nj.gov/dep/srp/srra/forms, that includes the following:

1.-3. (No change.)

SUBCHAPTER 7. DEED NOTICES, GROUND WATER CLASSIFICATION EXCEPTIONS AREAS AND REMEDIAL ACTION PERMITS

7:26C-7.4 Permittees of remedial action permits

(a) (No change.)

(b) If more than one person is 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-[7.7]**7.10.**

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

7:26C-7.5 Application for a remedial action permit

(a) (No change.)

(b) The person responsible for conducting the remediation shall apply for a remedial action permit for a soil remedial action that includes an engineering or institutional control by submitting the following to the Department:

1. – 6. (No change.)

7. A permit application fee for a soil remedial action permit, pursuant to N.J.A.C. 7:26C-
[4.4(a)]**4.6**.

(c) The person responsible for conducting the remediation shall apply for a ground water remedial action permit for a monitored natural attenuation remedial action by submitting the following to the Department:

1. – 6. (No change.)

7. A permit application fee for a ground water remedial action permit, pursuant to N.J.A.C. 7:26C-[4.4(a)]**4.6**.

(d) The person responsible for conducting the remediation shall apply for a ground water remedial action permit for an active ground water remedial action by submitting the following to the Department:

1. – 7. (No change.)

8. A permit application fee for a ground water remedial action permit, pursuant to N.J.A.C. 7:26C-[4.4(a)]**4.6**.

7:26C-7.7 General conditions applicable to all remedial action permits

(a) The permittee shall:

1. (No change.)

2. If there is more than one remedial action permit for a site:

i. (No change.)

ii. Submit all of the biennial remedial action protectiveness certification forms at the same time, when the first biennial certification is due to the Department pursuant to ~~[(b)1]/(a)1~~ above, and biennially thereafter on that same date;

3. (No change.)

4. Pay all applicable remedial action permit fees pursuant to N.J.A.C. 7:26C-~~[4.4]~~**4.6**.

(b) (No change.)

7:26C-7.9 Specific conditions applicable to ground water remedial action permits

(a) (No change.)

(b) The permittee shall determine the protectiveness of the round water remedial action in preparation for submitting a ground water biennial remedial action protectiveness certification report form by:

1. Determining the effectiveness of the remediation by evaluating the data gathered by the monitoring program required pursuant to N.J.A.C. 7:26C-~~[7.4(c)4]~~**7.5(c)4** and (d)5.

2. – 7. (No change.)

(c) – (f) (No change.)

7:26C-7.10 Financial assurance for remedial action permits for remedial actions that include engineering controls

(a) Except as provided in (c) below, the permittee implementing a remedial action that includes an engineering control shall:

1. Submit to the Department, biennially on the same schedule that the permittee is required to submit the biennial certification pursuant to N.J.A.C. 7:26C-~~7.7(b)1~~**7.7(a)1**, an estimate of the future costs to operate, maintain, and inspect all engineering controls that are part of each remedial action at the site; and

2. (No change.)

(b) – (g) (No change.)

SUBCHAPTER 9. ENFORCEMENT

7:26C-9.1 Scope

(a) This subchapter governs administrative enforcement actions the Department may take for a person's violation of any of the following:

1. – 4. (No change.)

5. The Underground Storage of Hazardous Substances Act, N.J.S.A. 58:10A-21 et seq., and the Underground Storage Tanks rules, specifically N.J.A.C. 7:14B-~~1.3~~**1, 3**, and 7 through 14;

6. – 7. (No change.)

(b) (No change.)

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:

1. The Office of Legal Affairs

New Jersey Department of Environmental Protection

401 East State Street, 4th Floor

Mail Code 401-042

P.O. Box 402

Trenton, [New Jersey] **NJ** 08625-0402

Attention: Hearing Request; and

2. New Jersey Department of Environmental Protection

Site Remediation Program

Bureau of Enforcement and Investigation[s/

Mail Code 401-05I

P.O. Box [028]**420**

Trenton, [New Jersey] **NJ** 08625-[0028]**0420**

Attention: Hearing Request

SUBCHAPTER 13. REMEDIATION OF UNREGULATED HEATING OIL TANK SYSTEMS

7:26C-13.3 Person responsible for conducting the remediation of an unregulated heating oil tank system using a certified subsurface evaluator

(a) – (b) (No change.)

(c) All submissions required by this section shall be made to:

New Jersey Department of Environmental Protection

Bureau of Case Assignment and Initial Notice

Mail Code 401-05H

401 E. State St., **5th Floor**

P.O. Box ~~434~~**420**

Trenton, NJ 08625-~~0434~~**0420**

7:26C-13.4 Person responsible for conducting the remediation of an unregulated heating oil tank system using a licensed site remediation professional

(a) – (b) (No change.)

(c) All submissions required by this section shall be made to:

New Jersey Department of Environmental Protection

Bureau of Case Assignment and Initial Notice

Mail Code 401-05H

401 E. State St., **5th Floor**

P.O. Box ~~434~~**420**

Trenton, NJ 08625-~~0434~~**0420**

APPENDIX D

MODEL RESPONSE ACTION OUTCOME DOCUMENT

...

Block: ____ Lot: ____ *[[Include when issued for an ISRA Industrial Establishment or Child Care Center that is only a smaller leasehold portion of a larger site (Leasehold Portion)]]*

...

NOTICES

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Child Care Building Interiors Not Addressed

Please be advised that this Response Action Outcome does not address the remediation of hazardous substances that may exist in building interiors or equipment, including, but not limited to, radon, asbestos and lead. [Select one: As a result, any risks to human health presented by any building interior or equipment remains. The requirements in the Department of Children and Families licensing regulation requires you to contact the Department of Health *[and Senior Services]*, Indoor Environments Program to determine what steps, if any, are necessary to address the risks posed by the prior historical use. The Department of Health *[and Senior Services]*, Indoor Environments Program can be reached at *[609-631-6749]* **(609) 826-4950**. Department of Health *[and Senior Services]* guidance can be found at www.nj.gov/health/eoh/tsrp. OR However, these issues were evaluated as part of an Indoor Environmental Health Assessment conducted pursuant to N.J.A.C. 8:50. Documentation related to the Indoor Environmental Health Assessment [Select one: has been OR will be] submitted to

the Department of Health [and Senior Services] - Indoor Environments Program under separate cover.]

...

Order of Magnitude Change to a Remediation Standard after approval of a Remedial Action Workplan

Please be advised that this Response Action Outcome is based on the implementation and completion of the Remedial Action Workplan and any addenda in accordance with the terms of the [Select: [date] Department approval OR [date Remedial Action Workplan approved by --- Name LSRP---, Licensed Site Remediation Professional. Subsequent to the approval of the Remedial Action Workplan, the Department changed remediation standards as such, [list contaminants] exist on site above the current [Select as applicable: soil, ground water or surface water] remediation standards. However, as the standards for these contaminants did not change by an order of magnitude, additional remediation is not required at this time pursuant to N.J.S.A. 58:10B-(12)j/12.j.

Order of Magnitude Change to a Remediation Standard after Approval of a Final Remediation Document

Please be advised that this Response Action Outcome is being issued for a site that is subject to a No Further Action Letter issued by the [Select: [date] Department OR [date Response Action Outcome prepared by ---Name LSRP---, Licensed Site Remediation Professional. Subsequent to the issuance of that final remediation document, the Department changed remediation standards.

[list contaminants] exist on site above the current [Select as applicable: soil, ground water or surface water] remediation standards. However, these contaminant concentrations are within an order of magnitude of the current remediation standards and as a result additional remediation is not required at this time pursuant to N.J.S.A. 58:10B-1(13)e/13.e.

...

ISRA Specific - Multi Tenant Situations - Bureau of Case Assignment and Initial Notice Referral

Please be advised that this Response Action Outcome is for the leasehold portion of the above referenced property only. The leasehold portion is the area defined by [Define the Area of the leasehold portion] and identified on the enclosed map. [Select One: It does not include any other areas of concern on the property. OR It does not include the [specify any known Area(s) of Concern] located at the above referenced property which service(s) the multi-tenant facility including non-subject tenants. OR It does not include the [specify any known Contaminated Area(s) of Concern] located at the above referenced property which service(s) the multi-tenant facility including non-subject tenants. This aspect of this site was reported to the Department and assigned the Department's Hotline incident number(s) 00-00-00-0000-00. Please note that there is an affirmative obligation, pursuant to the Brownfield and Contaminated Site Remediation Act, N.J.S.A. 58:10B-1.3, on any "person responsible for conducting remediation" to remediate the remaining contamination, within specific regulatory and mandatory timeframes[.] and within the statutory timeframe specified at N.J.S.A. 58:10C-27. [Select if applicable: This contamination is being addressed under Department Program Interest #____.]

...

CHAPTER 26E

TECHNICAL REQUIREMENTS FOR SITE REMEDIATION

SUBCHAPTER 1. GENERAL INFORMATION

7:26E-1.6 General reporting requirements

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

1. – 5. (No change.)

6. Submit a geographic information system (GIS) compatible site plan that includes the site boundaries and the location of all areas of concern as polygons. For assistance see [/www.nj.gov/dep/srp/guidance/techgis/](http://www.nj.gov/dep/srp/guidance/techgis/) www.nj.gov/dep/srp/gis/index.html.

(b) (No change.)

SUBCHAPTER 3. PRELIMINARY ASSESSMENT AND SITE INVESTIGATION

7:26E-3.5 Site investigation – ground water

(a) (No change.)

(b) If the concentration of any contaminant in the ground water exceeds any ground water remediation standard, then the person responsible for conducting the remediation shall conduct a remedial investigation of the ground water pursuant to N.J.A.C. 7:26E-4.3.

SUBCHAPTER 5. REMEDIAL ACTION

7:26E-5.3 Remedial action requirements for residences, schools, and child care centers

(a) – (e) (No change.)

Table 5-1

Presumptive Remedies for Soil Contamination at
Schools, Child Care Centers, and Residences

Contamination Type	Subcategories/Scenarios	Presumptive Remedy/Remediation Goal	Remedial Action – Schools, Child Care Centers, and Type II Residential	Remedial Action – Type I Residential
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Historic Fill and/or all other discharged contaminants not otherwise excluded in N.J.A.C. 7:26E- 5.3	Building Footprint - Existing Construction	Restricted Use	Option #1. <i>Barrier</i> - Minimum of four inches of concrete; <i>Buffer</i> - Minimum four inches of sub base; <i>Demarcation</i> - Not required ; and <i>Inspection</i> – Annual. Option #2 (for crawl spaces and basements with a dirt floor). <i>Barrier</i> - Minimum of one foot clean fill [and vapor barrier]; <i>Buffer</i> - Minimum of one foot clean fill; <i>Demarcation</i> - Visible contamination boundary marker; and <i>Inspection</i> - Semi-annual.	Same engineering control requirement as Schools, Child Care Centers and Type II Residential
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APPENDIX A

LABORATORY DATA DELIVERABLES FORMATS

I. Full Laboratory Data Deliverables are required for the following analytical data:

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

(f) USEPA/CLP Analyses

Data deliverables are defined in each Statement of Work offered by the USEPA.

(www.epa.gov/superfund/programs/clp/) As such, data are to be submitted according to the data deliverables listed in the Statements of Work used by the laboratory and in effect as of the date of sample analysis by the laboratory. Additionally, mass spectral negative proofs¹ are required where applicable, "clean" soil method blanks² for nonaqueous samples are not permitted, and laboratory internal chain of custody documentation is required.

¹ (No change.)

² 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/~~aroclor~~**arochlor** fractions.

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

II. (No change.)