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ADOPTIONS SECTION

ENVIRONMENTAL PROTECTION

SITE REMEDIATION AND WASTE MANAGEMENT

Notice of Administrative Corrections and Changes

New Jersey Pollutant Discharge Elimination System

Solid Waste

Administrative Requirements for the Remediation of Contaminated Sites

Technical Requirements for Site Remediation

N.J.A.C. 7:14A-7.5; 7:26-2A.9, 2C.5, and 6.10; 7:26C-4.3, 7, 9.5, and 7:26C Appendix D; and 7:26E-1.15 and 7:26E Appendix B

Take notice that the Department of Environmental Protection (Department) discovered errors in the text of the following program rules: the New Jersey Pollutant Discharge Elimination System (NJPDES) rules at N.J.A.C. 7:14A-7.5; the Solid Waste rules at N.J.A.C. 7:26-2A.9, 2C.5, and 6.10; the Administrative Requirements for the Remediation of Contaminated Sites (ARRCS) at N.J.A.C. 7:26C-4.3, 7, 9.5, and 7:26C Appendix D; and the Technical Requirements for Site Remediation at N.J.A.C. 7:26E-1.15 and 7:26E Appendix B. Through this notice of administrative correction, published pursuant to N.J.A.C. 1:30-2.7, the Department is correcting cross-references and a section heading, and updating contact information.

On August 6, 2018, the Department published its adoption of amendments to the Heating Oil Tank System (HOTS) Remediation Rules at N.J.A.C. 7:26F-1.10(a) and 4.4(c)2, which were cross-referenced in the NJPDES rules at N.J.A.C. 7:14A-7.5(a)4. See 49 N.J.R. 2055(a); 50

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N.J.R. 1715(a). N.J.A.C. 7:14A-7.5(a)4 references N.J.A.C. 7:26F-1.10(a) and 4.4(c)2. As a result of the amendments to the HOTS Remediation Rules, the cross-reference should be to N.J.A.C. 7:26F-1.11 and 3.3(e). As part of the adoption of the HOTS Remediation Rules the Department amended N.J.A.C. 7:14A-7.5(b), which addressed permits-by-rule related to site remediation activities, by dividing N.J.A.C. 7:14A-7.5(b) into 7.5(b) and (c). As new N.J.A.C. 7:14A-7.5(c) lists the types of discharges to ground water that are eligible for such permits-by-rule, its cross-reference at N.J.A.C. 7:14A-7.5(a)5 should also have been changed from “pursuant to (b)3” to “as listed in (c)3.”

In the Solid Waste rule, N.J.A.C. 7:26-6.10(b)7 incorrectly cross-references N.J.A.C. 7:26A-1.4(a)14 to refer to recycling facilities for Class C materials. N.J.A.C. 7:26A-1.4(a)14 is a universal waste exemption, not a Class C materials exemption. The correct cross-reference is N.J.A.C. 7:26A-1.4(a)13, which is for recycling facilities for Class C material.

In ARRCs at N.J.A.C. 7:26C-4.3(a)2, the cross-reference to N.J.A.C. 7:26-4.2(c) is incorrect; N.J.A.C. 7:26 refers to the Solid Waste rules. The correct cross-reference is to ARRCs at N.J.A.C. 7:26C-4.2(c), the annual remediation fee formula. Also, there is an error in the heading of N.J.A.C. 7:26C-7, Deed Notices, Ground Water Classification Exceptions Areas, and Remedial Action Permits. The correct heading is Deed Notices, Ground Water Classification Exception Areas, and Remedial Action Permits (“Classification Exception Areas”). In the penalty tables in ARRCs at N.J.A.C. 7:26C-9.5(b), a violation of N.J.A.C. 7:14B-13, Certifications of individuals and business firms, erroneously cites to “N.J.A.C.” 58:10A-21 et seq, which does not exist. The correct citation is to the Underground Storage Tank Act, “N.J.S.A.” 58:10A-21 et seq.

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The Department is correcting or updating its contact information at N.J.A.C. 7:26-2A.9(g)8 and 20 and 2C.5(c); 7:26C Appendix D, Model Response Action Outcome Document; and 7:26E Appendix B, Model Public Notice for a Discharge to Ground Water Proposal. The Department is updating the address of the New Jersey Department of Health at N.J.A.C. 7:26E-1.15(g) and (h).

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

CHAPTER 14A

NEW JERSEY POLLUTANT DISCHARGE ELIMINATION SYSTEM

SUBCHAPTER 7. REQUIREMENTS FOR DISCHARGES TO GROUNDWATER (DGW)

7:14A-7.5 Authorization of discharges to ground water by permit-by-rule

(a) Any person responsible for any of the following discharges to ground water is deemed to have a permit-by-rule:

1. – 3. (No change.)

4. Discharges to ground water from activities associated with the installation, development, and sampling of monitoring wells or associated with soil sampling in accordance with a NJPDES permit or, for activities not included in a NJPDES permit, in accordance with either the Technical Requirements for Site Remediation, including, but not limited to, the requirements of N.J.A.C. 7:26E-1.5(b) and (h), or the Heating Oil Tank System Remediation

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Rules at N.J.A.C. 7:26F, including, but not limited to, the requirements of N.J.A.C. 7:26F-

[1.10(a)]**1.11** and [4.4(c)2] **3.3(e)**; and

5. Discharges to ground water from wells, other than discharges that occur during the course of a remediation [pursuant to (b)3] **as listed in (c)3** below, that occur during aquifer tests for the purpose of obtaining hydrogeologic data, provided that such discharges do not exceed 30 calendar days in duration.

(b) – (f) (No change.)

CHAPTER 26

SOLID WASTE

SUBCHAPTER 2A. ADDITIONAL, SPECIFIC DISPOSAL REGULATIONS FOR SANITARY LANDFILLS

7:26-2A.9 Closure and post-closure care of sanitary landfills

(a) – (f) (No change.)

(g) Pursuant to N.J.S.A. 13:1E-100 et seq., the requirements for the Closure Act escrow account are as follows:

1. – 7. (No change.)

8. Every Closure Act escrow account established pursuant to this section shall be based upon and governed by the standard escrow agreement provided for such purpose by the Department. Any revision to an escrow agreement shall first be approved by the Department and filed by the Department with the accredited financial institution as escrow agent. A copy of the standard escrow agreement provided by the Department may be

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obtained from the New Jersey Department of Environmental Protection, Division of Solid and Hazardous Waste, Bureau of Solid Waste Planning and Licensing, Mail Code 401-02C, PO Box 420, **401 East State Street**, Trenton, [NJ] **New Jersey** 08625-0420, Attention: Escrow Section;

9. – 19. (No change.)

20. The owner and/or operator of every sanitary landfill must arrange, with the financial institution wherein the funds are to be deposited, for a monthly statement of the Closure Act escrow account to be sent to [Mail Code 401-02C,] **the New Jersey Department of Environmental Protection, Division of Solid and Hazardous Waste**, Bureau of Solid Waste Planning and Licensing, [New Jersey Department of Environmental Protection,] **Mail Code 401-02C**, PO Box 420, **401 East State Street**, Trenton, New Jersey 08625-0420, Attention: Escrow Section; provided, however, the Department may at its discretion upon written petition from the owner and/or operator relieve the owner and/or operator from the requirement for the monthly statement of the Closure Act escrow account and substitute a quarterly (that is, once every three months) statement requirement therefor if it determines that monthly reporting on an account of less than \$25,000 would impose an unnecessary burden on the financial institution;

21.-22. (No change.)

(h) – (j) (No change.)

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SUBCHAPTER 2C. PARTICIPATION BY LANDFILLS IN SILVER TRACK II TIER OF SILVER AND GOLD TRACK PROGRAM FOR ENVIRONMENTAL PERFORMANCE

7:26-2C.5 Development of the Silver Track II Covenant

(a) – (b) (No change.)

(c) If, at any time during the Silver Track II Covenant term, a participating entity anticipates an inability to meet a commitment set forth in its Silver Track II Covenant, the Silver Track II participating entity shall submit the following to the **New Jersey Department of Environmental Protection**, Division of Solid and Hazardous Waste, **Bureau of Solid Waste Permitting, Mail Code 401-02C**, PO Box [414] **420, 401 East State Street**, Trenton, [NJ 08625-0414] **New Jersey 08625-0420**, in writing 10 days before such failure is expected to occur:

1. – 3. (No change.)

(d) (No change.)

SUBCHAPTER 6. SOLID WASTE PLANNING REGULATIONS

7:26-6.10 Modifications to district solid waste management plans; plan amendments

(a) (No change.)

(b) For the purposes of this section, a plan amendment means a modification to the district solid waste management plan, which, if implemented, would have a significant impact on the environment, property rights, public and private funds, or the overall solid waste management system. A plan amendment includes, but is not limited to, the following:

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1. – 6. (No change.)

7. The inclusion of new facilities, including landfills, resource recovery facilities, transfer stations, materials recovery facilities, solid waste and co-composting facilities, recycling facilities for Class B (except those described at N.J.A.C. 7:26A-1.4(a) or 3.7(a)), Class C (except those identified at N.J.A.C. 7:26A-1.4(a)[14]**13**), and Class D materials, permanent household hazardous waste collection sites, and new regulated medical waste treatment, processing, and disposal facilities;

8. – 11. (No change.)

(c) – (h) (No change.)

CHAPTER 26C

ADMINISTRATIVE REQUIREMENTS FOR THE REMEDIATION OF CONTAMINATED SITES

SUBCHAPTER 4. FEES AND OVERSIGHT COSTS

7:26C-4.3 Annual remediation fee

(a) Except as provided in (i) below, the person responsible for conducting the remediation that is subject to N.J.A.C. 7:26C-2.3 shall submit the applicable annual remediation fee to the Department pursuant to this section.

1. (No change.)

2. Until the first day of the State fiscal year following the Department's publication of the first Annual Site Remediation Reform Act Program Fee Calculation Report in accordance with N.J.A.C. [7:26]**7:26C**-4.2(c), the person responsible for conducting the remediation

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shall pay an annual remediation fee, which shall be calculated by multiplying the number of contaminated media by \$1,400, and adding to the resultant dollar amount the fee listed at (a)2i through iv below, for the applicable contaminated area of concern category as determined pursuant to N.J.A.C. 7:26C-4.2(b). Thereafter, the person responsible for conducting the remediation shall pay the applicable annual remediation fee indicated in the most recent Annual Site Remediation Reform Act Program Fee Calculation Report:

i. – iv. (No change.)

3. – 7. (No change.)

(b) – (j) (No change.)

SUBCHAPTER 7. DEED NOTICES, GROUND WATER CLASSIFICATION EXCEPTION[S] AREAS, AND REMEDIAL ACTION PERMITS

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 Violation"

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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.

		Type of	Grace Period	Base
<u>Subchapter and Violation</u>	<u>Citation</u>	<u>Violation</u>	<u>Days</u>	<u>Penalty</u>
...				
<u>Underground Storage Tanks N.J.A.C.</u>				
<u>7:14B</u>				
...				
13 Certification of individuals and business firms				
...				
Failure to ensure all services performed on regulated underground storage tank systems pursuant to [N.J.A.C.] N.J.S.A. 58:10A-21 et seq. and N.J.A.C. 7:14B are performed by a certified individual or under the immediate, on-site supervision of a certified individual, and that remediation is being conducted by a LSRP.	7:14B-13.1(d)	NM		\$5,000 for the first offense; \$10,000 for the second offense; \$20,000 for the third and each

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subsequent

offense

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(Agency Note: the text of N.J.A.C. 7:26C Appendix D contains permanent brackets in the existing text; therefore, text in this appendix intended to be deleted through this notice is indicated in cursive braces {thus}.)

APPENDIX D

MODEL RESPONSE ACTION OUTCOME DOCUMENT

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CONDITIONS

Pursuant to N.J.S.A. 58:10B-12o, [Insert Name of Person(s) Responsible for Conducting the Remediation] and any other person who is liable for the cleanup and removal costs, and remains liable pursuant to the Spill Compensation and Control Act, N.J.S.A. 58:10-23.11 et seq. shall inform the Department in writing, on a form available from the Department, within 14 calendar days after its name or address changes. Any notices you submit pursuant to this paragraph shall reference the above case numbers and shall be sent to:

New Jersey Department of Environmental Protection

Bureau of Case Assignment and Initial Notice {- Case Assignment Section}

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Mail Code 401-05H

401 East State Street, 5th Floor

P.O. Box {434} **420**

Trenton, {N.J. 08625-0434} **NJ 08625-0420**

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CHAPTER 26E

TECHNICAL REQUIREMENTS FOR SITE REMEDIATION

SUBCHAPTER 1. GENERAL INFORMATION

7:26E-1.15 Receptor evaluation - vapor intrusion

(a) – (f) (No change.)

(g) When any indoor air results are greater than the Department of Health [and Senior Services]

notification levels for indoor air available on the Department's website at

www.nj.gov/dep/srp/srra/guidance, the person responsible for conducting the remediation

shall:

1. (No change.)

2. Immediately notify the New Jersey Department of Health [and Senior Services],

Consumer, [and] Environmental **and Occupational** Health Service[s], Indoor Environments

Program at 609-826-4950; and

3. (No change.)

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(h) Within 14 days of receipt of the analytical results, the person responsible for conducting the remediation shall submit on a CD in Adobe Portable Document Format (PDF), all indoor and ambient air analytical results, including all maps and figures related to the indoor air sampling, and a sample location spreadsheet to the New Jersey Department of Health [and Senior Services], Consumer, Environmental and Occupational Health Service, **ATTN: Childcare Unit**, PO Box [360] **369**, Trenton, NJ [08625-0360] **08625-0369**.

(i) (No change.)

APPENDIX B

MODEL PUBLIC NOTICE FOR A DISCHARGE TO GROUND WATER PROPOSAL

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Comments and written requests for a non-adversarial public hearing shall be sent to:

NJ Department of Environmental Protection

Site Remediation **and Waste Management** Program

Bureau **of** Case Assignment and Initial Notice

Mail Code 401-05H

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

P.O. Box 420

Trenton, NJ 08625-0420

ATTN: DGW proposal