

CHAPTER 1E

DISCHARGES OF PETROLEUM AND OTHER
HAZARDOUS SUBSTANCES

Authority

N.J.S.A. 13:1D-125 through 133, 13:1K-1 et seq.,
58:10-23.11, and 58:10-46 through 50.

Source and Effective Date

R.2007 d.93, effective February 27, 2007.
See: 38 N.J.R. 4285(a), 39 N.J.R. 1253(a).

Chapter Expiration Date

Chapter 1E, Discharges of Petroleum and Other Hazardous Substances, expires on February 27, 2012.

Chapter Historical Note

Chapter 1E, Discharges of Petroleum and Other Hazardous Substances, was adopted as R.1977 d.115, effective March 31, 1977. See: 9 N.J.R. 68(c), 9 N.J.R. 217(c).

Chapter 1E, Discharges of Petroleum and Other Hazardous Substances, was readopted as R.1985 d.377, effective July 15, 1985. See: 17 N.J.R. 865(a), 17 N.J.R. 1759(a). Pursuant to Executive Order No. 66(1978), Chapter 1E, Discharges of Petroleum and Other Hazardous Substances, expired on July 15, 1990.

Chapter 1E, Discharges of Petroleum and Other Hazardous Substances, was adopted as new rules by R.1990 d.398, effective August 6, 1990. See: 22 N.J.R. 1651(a), 22 N.J.R. 2284(a).

Subchapter 5, Hazardous Substance Discharge: Reports and Notices, was recodified from N.J.A.C. 7:1-7 by R.1990 d.457, effective September 17, 1990. See: 22 N.J.R. 1457(a), 22 N.J.R. 2965(a).

Public Notice: Notice to adopt rules concerning petroleum and other hazardous substances. See: 23 N.J.R. 2507(a).

Chapter 1E, Discharges of Petroleum and Other Hazardous Substances, was repealed and Chapter 1E, Discharges of Petroleum and Other Hazardous Substances, was adopted as new rules by R.1991 d.465, effective September 3, 1991, operative September 11, 1991. See: 23 N.J.R. 1335(a), 23 N.J.R. 2656(a).

Subchapter 7, Confidentiality Claims, Subchapter 8, Confidentiality Determinations, Subchapter 9, Disclosure and Use of Confidential Information, and Subchapter 10, Treatment of Confidential Information, were adopted as new rules by R.1992 d.186, effective April 20, 1992. See: 23 N.J.R. 2848(a), 24 N.J.R. 1484(a).

Pursuant to Executive Order No. 66(1978), Chapter 1E, Discharges of Petroleum and Other Hazardous Substances, was readopted as R.1996 d.462, effective September 3, 1996. As part of R.1996 d.462, Appendix C, Mapping and Digital Data Standards, was recodified to N.J.A.C. 7:1 Appendix A. See: 28 N.J.R. 2730(a), 28 N.J.R. 4424(b).

Petition for Rulemaking: Notice of Receipt of and Action on a Petition for Rulemaking. See: 28 N.J.R. 5499(a), 29 N.J.R. 704(a).

Chapter 1E, Discharges of Petroleum and Other Hazardous Substances, was readopted as R.2001 d.355, effective August 31, 2001. See: 33 N.J.R. 1255(a), 33 N.J.R. 3518(a).

Chapter 1E, Discharges of Petroleum and Other Hazardous Substances, was readopted as R.2007 d.93, effective February 27, 2007. See: Source and Effective Date. See, also, section annotations.

CHAPTER TABLE OF CONTENTS

SUBCHAPTER 1. GENERAL PROVISIONS

- 7:1E-1.1 Scope
- 7:1E-1.2 Construction
- 7:1E-1.3 Severability
- 7:1E-1.4 Relationship to Federal and State Law
- 7:1E-1.5 State non-liability
- 7:1E-1.6 Definitions
- 7:1E-1.7 Hazardous substances
- 7:1E-1.8 Environmentally sensitive areas
- 7:1E-1.9 Access
- 7:1E-1.10 Waiver
- 7:1E-1.11 Applicability

SUBCHAPTER 2. PREVENTION AND CONTROL OF
DISCHARGES AT MAJOR FACILITIES

- 7:1E-2.1 Scope
- 7:1E-2.2 Storage
- 7:1E-2.3 Tank car or tank truck loading or unloading areas
- 7:1E-2.4 In-facility pipes for hazardous substances
- 7:1E-2.5 Process areas for hazardous substances
- 7:1E-2.6 Facility drainage and secondary containment
- 7:1E-2.7 Marine transfer facilities
- 7:1E-2.8 Illumination
- 7:1E-2.9 Flood hazard areas
- 7:1E-2.10 Visual inspections and monitoring
- 7:1E-2.11 Housekeeping and maintenance
- 7:1E-2.12 Employee training
- 7:1E-2.13 Security
- 7:1E-2.14 Standard operating procedures
- 7:1E-2.15 Recordkeeping
- 7:1E-2.16 Integrity testing

SUBCHAPTER 3. TRANSMISSION PIPELINES

- 7:1E-3.1 Scope
- 7:1E-3.2 Registration of transmission pipelines
- 7:1E-3.3 Standards
- 7:1E-3.4 Discharge cleanup information

SUBCHAPTER 4. PLANS

- 7:1E-4.1 Scope
- 7:1E-4.2 Discharge prevention, containment and countermeasure plans
- 7:1E-4.3 Discharge cleanup and removal plan
- 7:1E-4.4 Financial responsibility
- 7:1E-4.5 Preparation and submission of plans
- 7:1E-4.6 Approval and conditional approval of plans
- 7:1E-4.7 Denial or revocation of approval of plans
- 7:1E-4.8 Amendment of plans
- 7:1E-4.9 Plan renewals
- 7:1E-4.10 Mapping criteria
- 7:1E-4.11 Certifications

SUBCHAPTER 5. DISCHARGE NOTIFICATION,
RESPONSE AND REPORTING

- 7:1E-5.1 Scope
- 7:1E-5.2 Notification of historical discharges
- 7:1E-5.3 Discharge notification
- 7:1E-5.4 Notification of aircraft discharges
- 7:1E-5.5 Notification of malfunctions in discharge detection systems
- 7:1E-5.6 Justification of delay
- 7:1E-5.7 Discharge response
- 7:1E-5.8 Confirmation report and recordkeeping
- 7:1E-5.9 Reporting responsibilities of the Department
- 7:1E-5.10 Discharge reporting requirements of local officials
- 7:1E-5.11 Amendment of plans following a discharge

SUBCHAPTER 6. CIVIL ADMINISTRATIVE PENALTIES
AND REQUESTS FOR ADJUDICATORY HEARINGS

- 7:1E-6.1 Scope
- 7:1E-6.2 Applicability
- 7:1E-6.3 Procedures for issuance of administrative orders and assessment, settlement and payment of civil administrative penalties
- 7:1E-6.4 Procedures for requesting and conducting adjudicatory hearings
- 7:1E-6.5 Civil administrative penalty determination—general
- 7:1E-6.6 Civil administrative penalty for submitting inaccurate or false information
- 7:1E-6.7 Civil administrative penalty for failure to allow lawful entry and inspection
- 7:1E-6.8 Civil administrative penalties for violations of rules adopted pursuant to the Act
- 7:1E-6.9 Conditions of grace period

SUBCHAPTER 7. CONFIDENTIALITY CLAIMS

- 7:1E-7.1 Procedure for making a claim
- 7:1E-7.2 Designation by claimant of an addressee for notices and inquiries
- 7:1E-7.3 Correspondence, inquiries and notices

SUBCHAPTER 8. CONFIDENTIALITY DETERMINATIONS

- 7:1E-8.1 Time for making confidentiality determinations
- 7:1E-8.2 Notice of initial confidentiality determination, and of requirement to submit substantiation of claim
- 7:1E-8.3 Substantiation of confidentiality claims
- 7:1E-8.4 Time for submission of substantiation
- 7:1E-8.5 Final confidentiality determination
- 7:1E-8.6 Treatment of information pending confidentiality determination
- 7:1E-8.7 Availability of information to the public after determination that information is not confidential
- 7:1E-8.8 Preparation of final public copy
- 7:1E-8.9 Class confidentiality determinations
- 7:1E-8.10 Classes of information which are not confidential information

SUBCHAPTER 9. DISCLOSURE AND USE OF
CONFIDENTIAL INFORMATION

- 7:1E-9.1 Disclosure of confidential information to other public agencies
- 7:1E-9.2 Disclosure of confidential information to contractors
- 7:1E-9.3 Disclosure to alleviate an imminent and substantial danger
- 7:1E-9.4 Notice to claimants of disclosure of confidential information
- 7:1E-9.5 Disclosure by consent
- 7:1E-9.6 Incorporation of confidential information into cumulations of data
- 7:1E-9.7 Disclosure of confidential information in rulemaking, permitting, and enforcement proceedings
- 7:1E-9.8 Hearing before disclosure of information for which a confidentiality claim has been made

SUBCHAPTER 10. TREATMENT OF CONFIDENTIAL
INFORMATION

- 7:1E-10.1 Nondisclosure of confidential information
- 7:1E-10.2 Safeguarding of confidential information
- 7:1E-10.3 Confidentiality agreements
- 7:1E-10.4 Wrongful access or disclosure; penalties

APPENDIX A. LIST OF HAZARDOUS SUBSTANCES

APPENDIX B. FINANCIAL FORMS

SUBCHAPTER 1. GENERAL PROVISIONS

Law Review and Journal Commentaries

Environmental Crimes: Considerations in Prosecutions. Ed Neafsey, Edward Bonanno, 159 N.J.L.J. 37 (1994).

7:1E-1.1 Scope

(a) This chapter covers the discharge of hazardous substances as defined in this chapter. These rules set forth guidelines and procedures to be followed by all persons in the event of a discharge of a hazardous substance. They also set forth certain registration, reporting, design, operational, and maintenance requirements for owners and operators of major facilities and transmission pipelines which handle hazardous substances.

(b) This subchapter prescribes the provisions that are generally applicable. The following shall govern how certain terms are defined for use in this chapter, which persons are subject to this chapter, and the Department's rights of access for determining compliance with this chapter and the Act.

Amended by R.1996 d.252, effective June 3, 1996.
See: 27 N.J.R. 2337(a), 27 N.J.R. 2882(a), 28 N.J.R. 2858(a).

In (a) deleted exception for discharges pursuant to permit.
Amended by R.2007 d.93, effective April 2, 2007.
See: 38 N.J.R. 4285(a), 39 N.J.R. 1253(a).

In (a), inserted "operational."

Case Notes

Terms defined in Spill Compensation and Control Act regulations were not void for vagueness. In re Adoption of N.J.A.C. 7:1E, 255 N.J.Super. 469, 605 A.2d 733 (A.D.1992).

Spill Compensation and Control Act regulations which required reporting of discharges were constitutional. In re Adoption of N.J.A.C. 7:1E, 255 N.J.Super. 469, 605 A.2d 733 (A.D.1992).

Spill Compensation and Control Act regulations which did not specify discharge quantity were not unconstitutional on their face. In re Adoption of N.J.A.C. 7:1E, 255 N.J.Super. 469, 605 A.2d 733 (A.D.1992).

7:1E-1.2 Construction

(a) These rules, being necessary to promote the public health and welfare, and to protect the environment, shall be liberally construed so as to permit the Department to discharge its statutory functions under the Act.

(b) The Commissioner may amend or repeal this chapter in conformance with the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and N.J.A.C. 1:30.

7:1E-1.3 Severability

If any section, subsection, provision, clause or portion of this chapter or the application thereof to any person or circumstance is adjudged invalid or unconstitutional by a court of competent jurisdiction, the remainder of this chapter and the application thereof to other persons or circumstances shall not be affected thereby, and shall remain in full force and effect.