

4. Information supporting the request and specific reference to or copies of other written documents relied upon to support the request;

5. An estimate of the time required for the hearing (in days and/or hours); and

6. A request, if necessary, for a barrier-free hearing location for physically disabled persons.

(c) If the violator fails to include all the information required by (b) above, the Department may deny the hearing request.

(d) All adjudicatory hearings shall be conducted in accordance with the Administrative Procedures Act, N.J.S.A. 52:14B-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1.

(e) Requests for adjudicatory hearings shall be sent to:

Office of Legal Affairs
New Jersey Department of Environmental Protection
PO Box 402
Trenton, New Jersey 08625-0402
Attention: Hearing Request

Amended by R.2000 d.352, effective August 21, 2000.
See: 31 N.J.R. 3561(a), 32 N.J.R. 3091(a).

7:1E-6.5 Civil administrative penalty determination— general

(a) For violations other than those set forth in (c) below and N.J.A.C. 7:1E-6.6 through 6.8, the Department may assess a civil administrative penalty for offenses described in this subchapter within the following ranges:

1. Up to \$20,000 for the first offense;
2. Up to \$35,000 for the second offense; and
3. Up to \$50,000 for the third and each subsequent offense.

(b) The Department may, in its discretion, set the amount determined pursuant to (a) above to assess a civil administrative penalty on the basis of the following factors:

1. The compliance history of the violator;
2. The number, frequency and severity of the offense(s);
3. The measures taken by the violator to mitigate the effects of the current offense and to prevent future offenses;
4. The deterrent effect of the penalty; or
5. Other specific circumstances of the violator or offense.

(c) The Department may assess a civil administrative penalty, pursuant to the Department Oversight of Contaminated Sites rule, N.J.A.C. 7:26C-10.4 and 10.5, for a person's violation of an obligation to cleanup and remove a discharge pursuant to N.J.A.C. 7:1E-5.

Amended by R.2003 d.198, effective May 19, 2003.
See: 34 N.J.R. 3703(a), 35 N.J.R. 2319(a).

In (a), inserted "(c) below and" preceding the N.J.A.C. references; added (c).

7:1E-6.6 Civil administrative penalty for submitting inaccurate or false information

(a) The Department may assess a civil administrative penalty against each violator who submits inaccurate information or who makes a false statement, representation, or certification in any DPCC plan, DCR plan, registration, record, or other document submitted or maintained, or who falsifies, tampers with, or renders inaccurate any monitoring device or method required to be maintained under the Act or any rule, regulation, plan, order or directive pursuant thereto.

(b) Each time the violator submits inaccurate or false information to the Department shall be an additional, separate, and distinct offense.

(c) The Department shall determine the amount of the civil administrative penalty for offenses described in this section based on the conduct of the violator as follows:

1. For each intentional, deliberate, purposeful, knowing or willful act or omission by the violator, the civil administrative penalty, for each act or omission, is up to \$20,000 for the first offense, up to \$40,000 for the second offense, and up to \$50,000 for the third and each subsequent offense; and
2. For all other conduct, the civil administrative penalty, for each act or omission, is up to \$1,000 for the first offense, up to \$2,000 for the second offense, and up to \$5,000 for the third and each subsequent offense.

7:1E-6.7 Civil administrative penalty for failure to allow lawful entry and inspection

(a) The Department may assess a civil administrative penalty against each violator who refuses, inhibits or prohibits immediate lawful entry and inspection of any premises, building, vessel or place, except private residences, by an authorized Department representative.

(b) Each day that a violator refuses, inhibits or prohibits immediate lawful entry and inspection of any premises, building, or place, except private residences, by an authorized Department representative, shall be an additional, separate and distinct offense.

(c) The amount of the civil administrative penalty for offenses described in this section is up to \$10,000 for the

first offense, up to \$20,000 for the second offense, and up to \$50,000 for the third and each subsequent offense.

7:1E-6.8 Civil administrative penalties for violations of rules adopted pursuant to the Act

(a) Civil administrative penalties for offenses described in (c)2 and 4 below shall not be assessed until the time allotted under the applicable schedule for upgrading approved by the Department has expired.

(b) Civil administrative penalties for offenses described in (c)2 and 4 below shall apply to major facilities only. All other civil administrative penalties shall apply to all persons.

(c) The Department shall determine the amount of the civil administrative penalty for offenses described in this section on the basis of the provision violated and the frequency of the violation. Violations identified as minor or non-minor in accordance with N.J.S.A. 13:1D-125 et seq. are set forth in this section. The Department will provide a grace period for any violation identified as minor, in accordance with N.J.A.C. 7:1E-6.9. The number of each of the following paragraphs corresponds to the number of the corresponding subchapter in N.J.A.C. 7:1E.

1. The violations of N.J.A.C. 7:1E-1, General provisions, and the civil administrative penalties for each violation are as set forth in the following table, unless modified by (d) below. In no case shall the assessed penalty be less than zero or more than the statutory limit.

Citation	Minor ³	Minor Days ⁴
N.J.A.C. 7:1E-1.11(a)	NM	

Base Penalty for each Violation

Gallons	Penalty
>0-9	\$ 500
10-55	\$ 1,000
56-499	\$ 2,000
500-999	\$ 3,000
1,000-4,999	\$ 5,000
5,000-9,999	\$ 7,500
10,000-19,999	\$ 10,000
20,000-29,999	\$ 15,000
30,000-39,999	\$ 20,000
40,000-49,999	\$ 25,000
50,000-59,999	\$ 30,000
60,000-69,999	\$ 35,000

Gallons	Penalty
70,000-79,999	\$ 40,000
80,000-89,999	\$ 45,000
90,000-99,999	\$ 50,000
100,000-149,999	\$ 75,000
150,000-199,999	\$ 100,000
200,000-299,999	\$ 200,000
300,000-399,999	\$ 400,000
400,000-499,999	\$ 800,000
500,000-599,999	\$ 1,000,000
600,000-699,999	\$ 2,000,000
700,000-799,999	\$ 3,000,000
800,000-899,999	\$ 4,000,000
900,000-999,999	\$ 5,000,000
1,000,000-1,999,999	\$ 6,000,000
2,000,000-2,999,999	\$ 7,000,000
3,000,000-3,999,999	\$ 8,000,000
4,000,000-4,999,999	\$ 9,000,000
5 million or greater	\$ 10,000,000

The base penalty may be reduced or increased by applying the following factors¹:

Cause of Discharge

Intentional or Gross Negligence	—50% increase from base
Accidental	—50% reduction from base
Homeowner	—75% reduction from base

Initiate Response to Discharge (from the time the discharge was detected or should have been detected):

Over 2 hours	—20% increase from base
Within 2 hours	—No change from base
Within 1 hour	—20% reduction from base
Within 15 minutes	—40% reduction from base

Area of Impact:

Into waters of the State	—30% increase from base
Off the facility but not into waters of the State	—No change from base
Contained on the facility but not into waters of the State	—30% reduction from base

Discharge History (Number of discharges not contained on the facility within the previous 12 months):

Five or more discharges	—100% increase from base
1-4 discharges	—50% increase from base
Zero discharges	—No change from base

¹The penalty for each violation is calculated by summing the base penalty and the resultant percentage of the base penalty for each of the applicable factors.

2. The violations of N.J.A.C. 7:1E-2, Prevention and Control of Discharges at Major Facilities, and the civil administrative penalty amounts for each violation are as set forth in the following table, unless revised pursuant to (d) below:

Category of Offense ²	Citation	First Offense	Second Offense	Third or Subsequent Offense	Minor ³	Minor Days ⁴
No secondary containment for an aboveground storage tank	2.2(a)1	\$10,000	\$20,000	\$50,000	NM	
Failure to surface the base underlying a storage tank with impermeable material	2.2(a)2	\$ 5,000	\$10,000	\$15,000	NM	
Failure to equip a pipe with remotely activated or readily accessible valves	2.2(a)3	\$ 2,000	\$ 4,000	\$10,000	M	90
Failure to perform initial integrity testing or static head product testing	2.2(a)4	Penalty assessed on a per tank basis			NM	