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CHAPTER 1D

GENERAL PRACTICE AND PROCEDURE

Authority

N.J.S.A. 13:1B-3(d), 13:1B-3(e), 13:1B-5(a), 13:1D-1 et seq., and Executive Order No. 34(1976).

Source and Effective Date

R.2000 d.353, effective July 31, 2000.
See: 32 N.J.R. 1892(a), 32 N.J.R. 3090(b).

Executive Order No. 66(1978) Expiration Date

Chapter 1D, General Practice and Procedure, expires July 31, 2005.

Chapter Historical Note

Chapter 1D, Agricultural Preserve Demonstration Program, was adopted as R.1977 d.20, effective January 26, 1977. See: 8 N.J.R. 506(a), 9 N.J.R. 62(b).

Chapter 1D, Agricultural Preserve Demonstration Program, was repealed by R.1980 d.433, effective October 7, 1980. See: 12 N.J.R. 454(b), 12 N.J.R. 643(a).

Chapter 1D, Allocation of Water Supply Costs for Emergency Water Projects, was adopted as R.1983 d.639, effective January 17, 1984. See: 15 N.J.R. 117(a), 16 N.J.R. 130(b).

Pursuant to Executive Order No. 66(1978), Chapter 1D, Allocation of Water Supply Costs for Emergency Water Projects, was readopted as R.1988 d.589, effective November 28, 1988. See: 20 N.J.R. 2197(a), 20 N.J.R. 3135(a).

Pursuant to Executive Order No. 66(1978), Chapter 1D, Allocation of Water Supply Costs for Emergency Water Projects, was readopted as R.1993 d.497, effective September 13, 1993. See: 25 N.J.R. 2635(b), 25 N.J.R. 4595(a). Pursuant to Executive Order No. 66(1978), Chapter 1D expired on September 13, 1998.

Chapter 1D, General Practice and Procedure, was originally codified in Chapter 1 of Title 7 as N.J.A.C. 7:1-1.2, Procedure to petition for a rule, Subchapter 5, Debarment, Suspension and Disqualification from Department Contracting, and Appendix A, Mapping and Digital Data Standards. Chapter 1, Rules of Practice and Procedure, became effective prior to September 1, 1969.

Subchapter 5, Debarment, Suspension, and Disqualification from Department Contracting, of Chapter 1, Rules of Practice and Procedure, was adopted as R.1976 d.318, effective October 13, 1976. See: 8 N.J.R. 375(b), 8 N.J.R. 510(c).

Pursuant to Executive Order No. 66(1978), Chapter 1, Rules of Practice and Procedure, was readopted as R.1990 d.457, effective August 15, 1990. See: 22 N.J.R. 1457(a), 22 N.J.R. 2965(a).

Subchapter 1, General Provisions of the Department of Environmental Protection, was repealed and Subchapter 1, General Provisions of the Department of Protection, was adopted as new rules by R.1992 d.441, effective October 9, 1992. See: 24 N.J.R. 4085(a).

Pursuant to Executive Order No. 66(1978), Chapter 1, Rules of Practice and Procedure, was readopted as R.1995 d.480, effective August 7, 1995. See: 27 N.J.R. 2332(a), 27 N.J.R. 3399(b).

N.J.A.C. 7:1-1.2, Procedure to petition for a rule, Subchapter 5, Debarment, Suspension and Disqualification from Department Contracting, and Appendix A, Mapping and Digital Data Standards, of Chapter 1, Rules of Practice and Procedure, were recodified as N.J.A.C. 7:1D by administrative change. See: 32 N.J.R. 1796(a).

Pursuant to Executive Order No. 66(1978), Chapter 1D, General Practice and Procedure, was readopted as R.2000 d.353, effective July 31, 2000. See: Source and Effective Date. See, also, section annotations.

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SUBCHAPTER 1. PETITIONS FOR RULES

7:1D-1.1 Procedure to petition for a rule

(a) Unless otherwise provided in Title 7 of the New Jersey Administrative Code, this section shall constitute the Department of Environmental Protection's rules regarding the disposition of all requests for rulemaking pursuant to N.J.S.A. 52:14B-4(f).

(b) Any interested person may petition the Department of Environmental Protection to promulgate, amend or repeal any rule of the Department of Environmental Protection. Such petition must be in writing, signed by the petitioner, and must state clearly and concisely:

1. The full name and address of the petitioner;
2. The substance or nature of the rulemaking which is requested;
3. The reasons for the request;
4. The petitioner's interest in the request, including any relevant organization affiliation or economic interest;
5. The statutory authority under which the Department of Environmental Protection may take the requested action; and
6. Existing Federal or State statutes and rules which the petitioner believes may be pertinent to the request.

(c) Petitions for the promulgation, amendment or repeal of a rule by the Department of Environmental Protection shall be addressed to:

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

(d) Any document submitted to the Department of Environmental Protection that is not in substantial compliance with this section shall not be deemed to be a petition for rulemaking requiring further agency action.

(e) Upon receipt by the Department of a petition for rulemaking, the following shall occur:

1. The petition shall be dated, stamped and logged;
2. The petition shall be referred to the relevant Department division or other Department office, as appropriate; and
3. A notice of petition shall be prepared and filed within 15 days of receipt with the Office of Administrative Law in compliance with N.J.A.C. 1:30-3.6(a).

(f) Within 30 days following receipt of a petition, the Department shall mail to the petitioner and file with the Office of Administrative Law for publication in the New Jersey Register a notice of action on the petition which shall contain the information prescribed by N.J.A.C. 1:30-3.6(b).

(g) In accordance with N.J.A.C. 1:30-3.6(c), the Department's action on a petition may include:

1. Denial of the petition;
2. Filing a notice of proposed rule or a notice of pre-proposal for a rule with the Office of Administrative Law; or
3. Referral of the matter for further deliberations, the nature of which shall be specified and which shall conclude upon a specified date. The results of these further deliberations shall be mailed to the petitioner and shall be submitted to the Office of Administrative Law for publication in the New Jersey Register.

New Rule, R.1989 d.419, effective August 7, 1989.

See: 21 N.J.R. 102(a), 21 N.J.R. 2302(a).

Notice of Action of Petition for Safe Drinking Water Act regulations.

See: 22 N.J.R. 2364(c).

Amended by R.2000 d.353, effective August 21, 2000.

See: 32 N.J.R. 1892(a), 32 N.J.R. 3090(b).

In (c), changed name and address.

SUBCHAPTER 2. DEBARMENT, SUSPENSION AND DISQUALIFICATION FROM DEPARTMENT CONTRACTING

7:1D-2.1 Definitions

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

“Affiliates” means persons having an overt or covert relationship such that any one of them directly or indirectly controls or has the power to control another.

“Commissioner” means the Commissioner of the Department of Environmental Protection.

“Debarment” means an exclusion from contracting, on the basis of a lack of responsibility evidenced by an offense, failure, or inadequacy of performance, for a reasonable period of time commensurate with the seriousness of the offense, failure or inadequacy of performance.

“Department” means the Department of Environmental Protection.

“DEP contracting” means any arrangement giving rise to an obligation to supply any thing to or perform any service for the Department of Environmental Protection, other than by virtue of State employment, or to supply any thing to or perform any service for a private person where the DEP provides substantial financial assistance and retains the right to approve or disapprove the nature or quality of the goods or service or the persons who may supply or perform the same.

“Disqualification” means a debarment or a suspension which denies or revokes a qualification to bid or otherwise engage in DEP contracting which has been granted or applied for pursuant to statute, or rules and regulations.

“Person” means any natural person, company, firm association, corporation, or other entity.

“State” means the State of New Jersey, or any of the departments or agencies in the executive branch of government with the lawful authority to engage in contracting.

“Suspension” means an exclusion from DEP contracting for a temporary period of time, pending the completion of an investigation of legal proceedings.

7:1D-2.2 Causes for debarment

(a) The Department of Environmental Protection shall debar a person in the public interest for any of the following causes:

1. Commission of a criminal offense as an incident to obtaining or attempting to obtain a public or private contract, or subcontract thereunder, or in the performance of such contract or subcontract;
2. Violation of the Federal Organized Crime Control Act of 1970, or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, perjury, false swearing, receiving stolen property, obstruction of justice, or any other offense indicating a lack of business integrity or honesty;

(c) A suspension may include all known affiliates of a person, provided that each decision to include an affiliate is made on a case by case basis after giving due regard to all relevant facts and circumstances. The offense, failure or inadequacy of performance or an individual may be imputed to a person with whom he is affiliated, where such conduct was accomplished within the course of his official duty or was effectuated by him with the knowledge or approval of such person.

(d) A request for a hearing under (a) above shall be filed with the Department at the following address:

Office of Legal Affairs
ATTENTION: Adjudicatory Hearing Requests
Department of Environmental Protection
401 East State Street
PO Box 402
Trenton, New Jersey 08625-0402

Administrative change to (d).

See: 23 N.J.R. 3325(b).

Amended by R.2000 d.353, effective August 21, 2000.

See: 32 N.J.R. 1892(a), 32 N.J.R. 3090(b).

7:1D-2.8 Applicability

The rules contained herein governing debarment or suspension shall be applicable to existing practices and procedures of the department and all agencies within the control or jurisdiction of the department, under laws that concern prequalification for State contracting to the extent that such practices and procedures may concern the disqualification of any person from State contracting.

7:1D-2.9 Exclusions

Any exclusion from department contracting under these rules by virtue of debarment, suspension or disqualification shall extend to all State contracting and subcontracting within the control or jurisdiction of the department; provided, however, if the commissioner determines that it is essential to the public interest and files a finding thereof with the Attorney General, the commissioner may grant an exception from total exclusion with respect to a particular contract.

7:1D-2.10 Notice

Insofar as practicable, prior notice shall be given by the commissioner to the Attorney General and the Treasurer of any proposed debarment or suspension under these rules.

7:1D-2.11 Lists

The department shall provide the State Treasurer with the names of all persons suspended or debarred and the effective date and term thereof, if any.

7:1D-2.12 Discretion

Nothing required by these rules shall be construed to limit the authority of the commissioner or any agency within the control or jurisdiction of the department to refrain from contracting within the discretion allowed by law.

APPENDIX A

New Jersey Department of Environmental Protection
Mapping the Present to Protect New Jersey's Future
MAPPING AND DIGITAL DATA STANDARDS

prepared by:

New Jersey Department of Environmental Protection
The Bureau of Geographic and Information Analysis

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May, 1995

Summary

The New Jersey Department of Environmental Protection (DEP) has developed a Geographic Information System (GIS) for use by the DEP for the storage and analysis of cartographic (mapped) and related environmental scientific and regulatory database information. A GIS is a computer mapping system used in the analysis of geographic data and databases. The DEP requires that mapped information be submitted according to the standards of this document such that the data can be input to the DEP/GIS for review and analysis. This document details three important GIS concepts regarding the creation, capture and delivery of mapped information.

First, all basemaps regardless of scale must meet a definable standard, such as United States National Map Accuracy Standard's (NMAS), referenced in this document, or be of survey quality. This will guarantee true positional accuracy of data layers. The NJDEP has produced a series of photobase maps at quad (1:24000) and quarterquad (1:12000) scales which meet NMAS (See Basemap Availability).

Secondly, geographic data shall be mapped in state plane coordinates (SPC). SPC means a geographic reference system in the horizontal plane describing the position of points or features with respect to other points in New Jersey. The official survey base of the state is known as the New Jersey State Plane Coordinate System whose geodetic positions have been adjusted on the North American Datum of 1983 (NAD83) as per Chapter 218, Laws of New Jersey 1989. Although this official survey base is defined in meters, the NJDEP will accept and prefers state plane coordinators in survey feet.

Thirdly, geographic data must be fully documented (Section 6.0 and 9.0) and delivered to the DEP in digital format, as shown in Table 1 of this document. There are several

different formats such as a simple space delimited ASCII file of coordinates, a .DXF file from AutoCad, or an Arc/Info export file, depending on the mapping requirements.

For more information concerning GIS, the user community in New Jersey, data availability, and GPS, the 1995 New Jersey GIS Resource Guide is available from the Bureau of Geographic Information and Analysis (BGIA), PO Box 428, Trenton, NJ (609) 984-2243 for the cost of reproduction (\$20).

Note: Rules, contracts and/or other regulatory documents from the DEP may specify items required such as content, scale, format or media.

MAPPING AND DIGITAL DATA STANDARDS FOR THE NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION GEOGRAPHIC INFORMATION SYSTEM

1.0 INTRODUCTION

Geographic Information System (GIS) technology has become a state-of-the-art tool for innovative efforts nationally to protect the natural environment and public health. The New Jersey Department of Environmental Protection (DEP) acquired GIS software (ARC/INFO) in 1987 to provide technical and analytical support to the DEP's decision-making process. To adequately protect the environment, the NJDEP must make decisions based on sound, accurate spatial data. This document details the basic standards for creating, converting and encoding analog spatial data into a digital form for use on a GIS.

The DEP/GIS is administered by the Bureau of Geographic and Information and Analysis (BGIA). The BGIA is responsible for the day to day operations of the system, training, coordination of data base development, pilot applications, GIS research, and user support. In support of these roles, the BGIA has established a core set of standards for all data development and input for the DEP/GIS. Basic standards will assure consistent data quality and documentation, compatibility between data sets, and facilitate interactive analysis and assure the quality of results derived from the DEP/GIS. For more information concerning GIS, aerial photography, geodetic control, and global positioning (GPS), the 1995 New Jersey GIS Resource Guide, is available from the BGIA, (609) 984-2243.

Geographic data must be delivered to the DEP in digital format, according to Table 1 of this document. This can be as simple as an ASCII file of coordinates, space delimited on 3.5" diskette, to a .DXF file from AutoCad, to an Arc/Info export file, depending on the mapping requirements.

2.0 BASEMAPS

Cartographic (locational) data input into the GIS must be derived from or mapped to georeferenced basemaps that meet or exceed National Map Accuracy Standards (NMAS) or be of survey quality. Recompiling data from sources which are not planimetric to georeferenced basemaps is always required. Basemaps at any scale should always meet NMAS at a minimum (Section 8.0). Data derived from GPS technology must also meet a standard and be documented (Section 7.0).

Over the years the DEP has produced several series of quality basemaps which are GIS compatible. In several cases these maps are synoptic and statewide, such as the photo basemaps associated with the 1991 and 1986 overflights. In other cases the basemaps cover specific areas only, such as the 1977-78 Tidelands photo basemaps which cover coastal tidal New Jersey only. The basemaps described here were produced on stable base mylar, are photo-images, and meet a definable mapping standard. These maps in mylar and paper are acceptable basemaps which should be used whenever possible to generate GIS compatible data and/or to use as a recompilation base. The various Basemap sources are described below.

All the maps described herein with the exception of the 1991/92 products are referenced in NAD27. For this reason, the 1991 Basemap quads (1:24000) and quarterquads (1:12000) series, referenced in NAD83, are highly recommended over all other sources listed for mapping at these scales (See Basemap Availability).

1991 Aerial Photographs and Basemaps

In February and March of 1991 the DEP and the USGS flew a joint high altitude aerial mission over New Jersey producing a set of quarterquad centered color infrared (CIR) photos at 1:40000. These frames are available from the USGS National Earth Science Information Center (703) 648-6045. The frames are available for review at the DEP's Tidelands Element, 9 Ewing Street, Trenton.

The DEP then created a set of hardcopy chronoflex quarterquad (1:12000) and photoquad basemaps (1:24000) (Figure 1) for the public and regulated community to meet the requirements of DEP mandated mapping. This series of maps is referenced in state plane coordinates in NAD83. Mylar copies, the preferred base, are available from the contractor (See Basemap Availability). Paper prints are available from Mapsales. This series of maps represents the best maps available statewide at these two scales for mapping. Soft copy digital images of both quads and quarterquads are also available at both scales (See Basemap Availability).

1986 Freshwater Wetlands Quarterquad Maps (1:12000)