

TITLE 7

ENVIRONMENTAL PROTECTION

CHAPTER 1

DEPARTMENT ORGANIZATION

Authority

N.J.S.A. 13:1B-3d, 13:1B-3e, 13:1B-5a and 52:14B-4b.

Source and Effective Date

R.2005 d.293, effective August 5, 2005.
See: 37 N.J.R. 3336(a).

Chapter Expiration Date

Chapter 1, Department Organization, expires on August 5, 2010.

Chapter Historical Note

Chapter 1, Rules of Practice and Procedure, was adopted and became effective prior to September 1, 1969.

Subchapter 3, Sulfur in Fuels, was adopted as R.1973 d.326, effective November 21, 1973. See: 5 N.J.R. 404(a).

Subchapter 4, Importation of Solid and Liquid Waste from Outside New Jersey, was adopted as R.1974 d.10, effective February 1, 1974. See: 6 N.J.R. 58(a).

Subchapter 6, Bureau of Solid Waste Management Procedural Rules, was adopted as R.1976 d.296, effective September 20, 1976. See: 8 N.J.R. 460(d).

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

Subchapter 3, Sulfur in Fuels, and Subchapter 4, Importation of Solid and Liquid Waste from Outside New Jersey, were repealed by R.1980 d.433, effective October 7, 1980. See: 12 N.J.R. 454(b), 12 N.J.R. 643(a).

Subchapter 3, Interim Environmental Cleanup Responsibility Act Rules, was adopted as emergency new rules by R.1983 d.649, effective December 30, 1983. See: 16 N.J.R. 151(a).

Subchapter 3, Interim Environmental Cleanup Responsibility Act Rules was adopted as new rules by R.1984 d.81, effective March 5, 1984. See: 16 N.J.R. 151(a), 16 N.J.R. 523(a).

Subchapter 4, Fee Schedule for Environmental Cleanup Responsibility Act, was adopted new rules by R.1985 d.487, effective September 16, 1985, operative October 1, 1985. See: 17 N.J.R. 1622(a), 17 N.J.R. 2260(a).

Pursuant to Executive Order 66(1978), Subchapter 3, Interim Environmental Cleanup Responsibility Act Rules, was readopted as R.1986 d.87, effective March 5, 1986. See: 18 N.J.R. 242(a), 18 N.J.R. 645(a).

Subchapter 7, Hazardous Substance Discharge: Reports and Notice, was adopted as R.1986 d.229, effective June 16, 1986. See: 17 N.J.R. 1826(a), 18 N.J.R. 1272(a).

Subchapter 6, Bureau of Solid Waste Management Procedural Rules, was repealed by R.1987 d.235, effective June 1, 1987. See: 18 N.J.R. 883(a), 19 N.J.R. 928(b).

Subchapter 3, Interim Environmental Cleanup Responsibility Act Rules, and Subchapter 4, Fee Schedule for Environmental Cleanup Responsibility Act, were repealed by R.1987 d.528, effective December 21, 1987, operative January 1, 1988. See: 19 N.J.R. 681(a), 19 N.J.R. 2435(a).

Subchapter 1, General Provisions of the Department of Environmental Protection, was adopted as R.1988 d.403, effective July 25, 1988. See: 20 N.J.R. 2058(a).

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. Subchapter 2, Emergency Containment and Disposal of Pesticides, was recodified as N.J.A.C. 7:30-11, and Subchapter 7, Hazardous Substance Discharge: Reports and Notices, was recodified as N.J.A.C. 7:1E-5, by R.1990 d.457, effective September 17, 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 Environmental 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, were recodified as N.J.A.C. 7:1D, General Practice and Procedure, by administrative change. See: 32 N.J.R. 1796(a).

Chapter 1, Department Organization, was repealed and Chapter 1, Department Organization, was adopted as new rules by R.2000 d.364, effective August 7, 2000. See: 32 N.J.R. 3291(b).

Chapter 1, Department Organization, was readopted as R.2005 d.293, effective August 5, 2005. See: Source and Effective Date. See, also, section annotations.

Petition for Rulemaking. See: 39 N.J.R. 2546(b), 3413(a).

Law Review and Journal Commentaries

Litigating an Administrative Environmental Case. John R. Tassini, 155 N.J.L.J. 710 (1999).

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SUBCHAPTER 1. GENERAL PROVISIONS

7:1-1.1 Definitions

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

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

“Delegee” means the Chief of Staff, Counselor to the Commissioner, any Deputy or Assistant Commissioner, Director, or other individual within the Department, or any organizational unit within the Department, to whom or to which any power, duty or authority of the Commissioner or the Department has been delegated.

“Department” means the New Jersey Department of Environmental Protection.

“Organizational unit” means any division, office, bureau or other entity within the Department.

7:1-1.2 Organization of the Department

(a) The Commissioner is the administrator and head of the Department, and has the duties listed in N.J.S.A. 13:1B-3. The Deputy Commissioner, the Chief of Staff, two Counselors to the Commissioner, eight Assistant Commissioners, report directly to the Commissioner.

(b) The Deputy Commissioner, who is second in command to the Commissioner, provides policy recommendations to the Commissioner and serves as Acting Commissioner in the Commissioner’s absence or disability.

(c) The Chief of Staff, who coordinates staff functions in the Commissioner’s office, is responsible for the day-to-day administration of Department activities.

(d) Two Counselors to the Commissioner serve as the Commissioner’s legal liaisons with the Department of Law and Public Safety and advise the Commissioner regarding policy implications of legal issues that arise in connection with the Department’s work. In addition, the lead Counselor to the Commissioner serves as the Department’s Ethics Liaison Officer and the Department’s liaison to all of the agencies allocated to the Department in accordance with the New Jersey Constitution and commonly known as “in but not of agencies.” The lead Counselor to the Commissioner oversees the following units:

1. The Office of Legal Affairs, which, pursuant to Executive Order No. 6(1990), is the legal liaison with the Division of Law (in the Department of Law and Public Safety) and with the Office of Administrative Law regarding rulemaking, adjudicatory hearing requests, and final decisions in contested cases. The office includes the Department’s Administrative Practice Officer and the staff to the Department’s Ethics Liaison Officer. This office also manages subpoenas of Department employees and records, and requests for ethics advice from Department employees, and serves as the central filing point for other communications with legal consequences (such as bankruptcy and tort claim notices); and

2. The Office of Dispute Resolution, which provides a forum other than the administrative and trial courts for resolution of disagreements between affected parties and the Department regarding Departmental actions. The Office of Dispute Resolution employs alternative dispute resolution processes, primarily mediation, and acts as an impartial third party to assist affected parties and the Department in reaching a joint resolution of the issue(s) and agreeing on a future course of action. Mediation most often takes place after a Departmental decision has been formally contested and scheduled for an administrative hearing. The affected party may request mediation contemporaneously with its appeal of the Department’s decision in accordance with guidelines available from the Office of Dispute Resolution.

(e) The Assistant Commissioner for Policy, Planning and Science provides support to the Commissioner in the Commissioner’s capacity as a member of the State Planning Commission, and is responsible for coordinating, to the extent allowed by law, the implementation of the aspects of the State Development and Redevelopment Plan relevant to the Department’s environmental protection mission and goals. The Assistant Commissioner for Policy, Planning and Science oversees the following organizational units:

1. The Policy Team, which develops linkages between environmental regulation and public health and natural resource protection;

2. The Division of Science, Research and Technology, which provides scientific and technical information to the Department’s programs and includes the following:

- i. The Bureau of Environmental Assessment, which provides human health and impacts assessments;

- ii. The Bureau of Sustainable Communities and Innovative Technology, which disseminates information about and fosters implementation of innovative environmental technologies; and

- iii. The Bureau of Natural Resources Science, which conducts natural resource research and provides technical assistance, including ecological risk assessment, to other programs in support of the natural resource protection goals of the Department;

3. The Office of Coastal Planning and Program Coordination, which administers New Jersey’s Federally approved Coastal Management Program; and

4. The Office of Environmental Justice, which provides citizens in disenfranchised communities with information on opportunities to participate in the environmental decision-making process at the State level.

(f) The Assistant Commissioner for Communications and Legislation oversees the Department’s communications with the business community, local, county and State government, and the media; monitors State and Federal legislation; coordinates Department testimony on legislation; and manages and maintains oversight for the content of the Department’s website. The Assistant Commissioner for Communications and Legislation oversees the following organizational units:

1. The Office of Communications, which includes the Department’s Public Access Center, and which monitors and supports public outreach and education activities, provides centralized communications support, and provides editorial and graphic arts services to the Department;

2. The Office of Legislative Affairs, which monitors and tracks all State and Federal legislation, coordinates with all relevant Department offices and other State agencies to develop the Department’s position on each piece of legislation, which may include the drafting and submission of amendments to the bill sponsor; tracks and