

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.2000 d.364, effective August 7, 2000.
See: 32 N.J.R. 3291(b).

Executive Order No. 66(1978) Expiration Date

Chapter 1, Department Organization, expires August 7, 2005.

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Subchapter 3, Sulfur in Fuels, and Subchapter 4, Importation of Solid and Liquid Waste from Outside New Jersey, were repealed by R.1980 d.433, effective October 7, 1980.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Subchapter 6, Bureau of Solid Waste Management Procedural Rules, was repealed by R.1987 d.235, effective June 1, 1987.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Cleanup Responsibility Act Rules, and Subchapter 4, Fee Schedule for Environmental Cleanup Responsibility Act, were repealed by R.1987 d.528, effective December 21, 1987, operative January 1, 1988.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: Source and Effective Date.

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, seven Assistant Commissioners, and the Director of the Policy, Planning and Science Program 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 and oversees the following unit:

1. The Office of Equal Opportunity and Contract Assistance, which is responsible for the development and implementation of the Department’s Equal Opportunity program.

(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 Counselors have the responsibilities set forth in (d)1 and 2 below:

1. The 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.”

2. The Counselor and Legal Policy Advisor oversees the following organizational units:

- i. 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);

- ii. The Office of Audit, which is responsible for external audits of grants, contracts and leases, as well as internal financial and operational audits of Department programs;

- iii. The Office of the Records Custodian, which manages the Department’s response to requests for government records under the Open Public Records Act; and

- iv. 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 Director of the Policy, Planning and Science Program 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 Director of the Policy, Planning and Science Program oversees the following organizational units:

1. The Policy Group, which coordinates department-wide smart growth initiatives and 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 Environmental Assessment and Risk Analysis Element, which provides human health and ecological risk and impacts assessments; and

- ii. The Office of Innovative Technology and Market Development, which disseminates information about and fosters implementation of innovative environmental technologies;

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

4. The Environmental Justice Program, 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 oversees the following organizational units:

1. The Office of Communications, which includes the Department's Public Information Office, and, in addition, 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 Business Affairs, which serves as a liaison between the Department and the business community, local, county and State government, and their representatives for the purpose of facilitating understanding of and compliance with Department permitting requirements for urban development and other economic growth projects;

3. The Office of Legislative Affairs, which is responsible for managing the Department's relations with Congress, the Legislature, and county and municipal governments, and their agencies. The Office of Legislative Affairs monitors State and Federal legislation, and coordinates Department testimony on legislation;

4. The Press Office, which serves as the Department's liaison with the media and is responsible for communicating with the media about a variety of issues and events on a daily basis, preparing news releases and coordinating conferences; and

5. The Office of Local Government Affairs, which serves as the Department's liaison to local governments and is responsible for administering grants to support environmental projects on the local level, and for assisting department programs in communicating with local governments.

(g) The Assistant Commissioner for Compliance and Enforcement implements the Department's overall compliance and enforcement policies and supervises the Department's enforcement programs associated with water pollution; hazardous waste management; solid waste management; land use; pesticides; local environmental management; and air pollution. The Assistant Commissioner for Compliance and Enforcement also oversees the issuance and settlement of enforcement documents for the above programs as well as radiation and pollution prevention. The Assistant Commissioner for Compliance and Enforcement supervises the Bureau of Enforcement Services. The Assistant Commissioner for Compliance and Enforcement oversees the following organizational units:

1. County Environmental and Waste Enforcement;
2. Water Compliance and Enforcement;
3. Air Compliance and Enforcement; and
4. Pesticide Control and Land Use Enforcement.

(h) The Assistant Commissioner for Environmental Regulation oversees the Department's air quality programs, including permit programs and other air quality management work; water quality permitting; low-interest financing for environmental infrastructure; radiation protection; the prevention of toxic catastrophes and of discharges of hazardous substances; the collection of chemical inventory, environmental release and materials accounting data; pollution prevention; certification of environmental laboratories; and the Department's quality assurance program. The Assistant Commissioner for Environmental Regulation oversees the following organizational units:

1. The Division of Air Quality, which includes Air Quality Permitting, Air Quality Management and Air Quality Evaluation. Air Quality Permitting is responsible for evaluating facility-wide air pollution control permits for major facilities; evaluating applications for new or modified equipment which emit air contaminants; and overseeing the measurement of air contaminant emissions. Air Quality Management monitors air quality, evaluates stationary, mobile and natural sources of air pollution, and develops air quality regulations. The Bureau of Air Quality Evaluation is responsible for reviewing air quality modeling and risk assessments;

2. The Division of Environmental Safety, Health and Analytical Programs, which includes the Office of Quality Assurance and the Radiation Protection Program. The Office of Quality Assurance develops and administers the Department's quality assurance policies and procedures and administers the laboratory certification program. The Radiation Protection Program licenses radiological technologists and users of radioactive materials, assesses exposure to non-ionizing radiation, and administers the radon program;

3. The Division of Pollution Prevention and Release Prevention, which is responsible for the implementation of the Pollution Prevention Act, including facility-wide permitting and the integration of multimedia pollution prevention into media-specific permit programs, the Toxic Catastrophe Prevention Act, Community and Worker Right to Know Act, and the discharge prevention aspects of the Spill Compensation and Control Act. The Division also implements the Small Business Assistance Program and "One Stop," a coordinated permitting and compliance assistance process which identifies all permits required for a development or significant facility start-up or expansion project and maintains consistent contact throughout the process; and

4. The Division of Water Quality, which is responsible for stormwater permitting; reviewing permit applications

for construction and operation of wastewater treatment facilities, sanitary sewers and alternative design septic systems; issuing New Jersey Pollutant Discharge Elimination System (NJPDES) permits for discharges to surface and ground waters; and regulating the discharge of contaminants and toxics into wastewater treatment facilities. The Division is additionally responsible for regulating the management of residuals such as sludge and food wastes; assisting municipalities with planning, design, construction, and management of municipal wastewater treatment and conveyance facilities as well as combined sewer corrective actions; and administering the New Jersey environmental infrastructure finance program.

(i) The Assistant Commissioner for Site Remediation and Waste Management oversees the Department programs responsible for solid and hazardous waste permitting and planning, for evaluating potentially contaminated sites; overseeing the cleanup of contaminated sites conducted by responsible parties as well as the cleanup of sites with public funds; implementing the Industrial Site Recovery Act and the Underground Storage of Hazardous Substances Act; undertaking emergency activities related to discharges of hazardous substances and wastes; and maintaining a master list of contaminated waste sites in the State. The Assistant Commissioner for Site Remediation additionally oversees the administration of the New Jersey Spill Compensation Fund and the processing of claims against the Sanitary Landfill Contingency Fund. The Assistant Commissioner oversees the following organizational units:

1. The Office of Brownfield Reuse, which coordinates brownfield remediation and reuse efforts and pilots innovative approaches to expedite the revitalization process;
2. The Office of Dredging and Sediment Technology, which has primary responsibility for the regulation of dredging projects and the management of dredged material in the tidal waters of the State;
3. The Division of Remediation Management and Response, which oversees the remediation of contaminated sites conducted by responsible parties; implements the Industrial Site Recovery Act and the underground storage tank program, and is responsible for conducting remediation with public funds when private funds are not available;
4. The Division of Remediation Support, which oversees resource allocations, conducts initial contaminated site evaluation, sampling, and data validation, and determines if there is a responsible party to recover costs for cleanups at sites remediated with public funds. The Division also provides program contracting, technical, data management, public outreach, regulatory development and enforcement support to the Department's site remediation programs. Remediation Support is also responsible for undertaking emergency response activities related to the discharge of hazardous substances, emergency planning, and homeland security; and

5. The Division of Solid and Hazardous Waste, which is responsible for permitting facilities that treat, store and/or dispose of hazardous and solid waste. Responsibilities include development of rules, policies and procedures to maintain Federal authorization to implement the Federal Resource Conservation and Recovery Act for hazardous waste management in New Jersey; planning source reduction, recycling and market development activities; administering solid waste planning programs; administering a background disclosure program for persons seeking to obtain certain solid waste permits and licenses; and administering the Department's solid waste financial assistance programs.

(j) The Assistant Commissioner for Natural and Historic Resources supervises organizational units responsible for fish, wildlife, and endangered and threatened nongame species management; natural lands, forest, and State parks management; historic preservation; open space acquisition and outdoor recreational development projects; shore protection; and dam safety. The Assistant Commissioner for Natural and Historic Resources oversees the following organizational units:

1. The Division of Fish and Wildlife, which manages and enforces regulations concerning New Jersey's wildlife, endangered and nongame species, and marine and freshwater fisheries;
2. The Division of Parks and Forestry, which is responsible for natural lands management, historic preservation, forest management, forest fire service and management of State parks;
3. The Green Acres Program, which purchases land for State parks, forests, and wildlife management areas, and provides funds to municipalities, counties, and non-profit organizations for open space acquisition and/or outdoor recreational development projects;
4. The Engineering and Construction Program, which oversees shore protection projects, waterway maintenance, dam safety, and flood plain management; and
5. The Office of Natural Resource Restoration, which provides assessments of injuries to New Jersey's natural resources associated with oil or other hazardous substance releases and performs restoration of those resources in conjunction with other State or Federal agencies and responsible parties.

(k) The Assistant Commissioner for Land Use Management oversees permitting involving freshwater and coastal wetlands, coastal area facility review, waterfront development, and flood hazard area control (stream encroachment). The Assistant Commissioner additionally oversees programs that assure adequate and safe water supplies, establish water quality standards, characterize geological and groundwater resources, and perform ambient monitoring of the State's fresh and marine surface waters. The Assistant Commissioner for Land Use Management oversees the following organizational units:

1. The Land Use Regulation Program, which includes the Bureau of Coastal Regulation (southern), the Bureau of Inland Regulation (northern) and the Bureau of Tidelands Management. The Land Use Regulation Program is responsible for the regulation and permitting of activities in freshwater and coastal wetlands, flood hazard areas, the coastal zone and tidelands;

2. The Water Supply Administration, which includes the Bureau of Water Allocation and the Bureau of Safe Drinking Water. The Water Supply Administration is responsible for well construction activities, water allocation permitting and water resource management activities, safe drinking water construction permitting, water supply construction loans, and private well testing activities. Other programs include source water assessments, physical connections, capacity development, drought management and drinking water security;

3. The Division of Watershed Management, which includes the Bureaus of Southern and Northern Watershed Planning; Environmental Analysis and Restoration; Program Evaluation and Monitoring, and the Outreach and Education Team. The Division of Watershed Management is responsible for water resource policy and planning, water quality planning, water supply planning, total maximum daily load development, water resource model development, watershed management and citizen education activities;

4. The Water Monitoring and Standards Program, which includes the Bureau of Marine Water Monitoring, the Bureau of Freshwater and Biological Monitoring, and the Bureau of Water Quality Standards and Assessment. The Water Monitoring and Standards Program is responsible for ambient monitoring and assessment of the State's fresh and marine surface waters and groundwater based on their physical, chemical and biological characteristics; the Integrated 305(b)/303(d) Water Quality/Impaired Waterbodies Report; development of surface and groundwater quality standards; implementing the monitoring portion of the Shellfish Resource Recovery Program; and the State's Clean Lakes Program; and

5. The New Jersey Geological Survey (NJGS), which includes the Bureau of Water Resources and the Bureau of Geology and Topography. The NJGS is responsible for geology, historic fill and groundwater resource mapping and information, aquifer recharge evaluation, well head protection area delineation, geoscience research, geographical information services, State boundary maintenance, shore protection resource assessments, ambient groundwater quality characterization and assessment of watersheds and their water supplies.

(l) The Assistant Commissioner for Management and Budget oversees the Department's administrative, financial, contracting, human resources, and central services activities. The Assistant Commissioner oversees the following organizational units:

1. Budget and Finance;
2. Financial Operations;
3. General Services;
4. Management Information Systems and Technology;
5. The Division of Human Resources Management;
6. Occupational Health and Safety;
7. The Office of Information Resources Management (OIRM); and
8. The Office of Organizational Development.

Amended by R.2003 d.422, effective October 1, 2003.

See: 35 N.J.R. 5082(a).

Rewrote the section.

7:1-1.3 Communicating with the Department

(a) Persons seeking information from the Department may contact the appropriate offices and programs described at N.J.A.C. 7:7-1.2. The Department publishes a guide to its offices, programs, and staff, entitled Easy Access, which is available from the Department's Office of Communications at (609) 777-3373 and can also be found at the Department's web site, www.state.nj.us/dep.

(b) Requests for inspection, copying, or obtaining a copy of any government record required to be made available under N.J.S.A. 47:1A-1 et seq., (Open Public Records Act), should be submitted to:

Department of Environmental Protection
Office of the Records Custodian
401 East State Street
PO Box 442
Trenton, NJ 08625- 0442
E-mail: Records.Custodian@dep.state.nj.us
Website: www.state.nj.us/dep/opra

(c) Publications, press releases, notices of public hearings and other forums, scientific studies, and a variety of other information is maintained and made available at the DEP Public Access Center, 401 East State Street, 1st Floor, Trenton, New Jersey. The Public Access Center is open weekdays from 9:00 A.M. to 5:00 P.M., and its staff is available by telephone at (609) 777 DEP3. Written inquiries should be submitted to:

Public Access Center
Department of Environmental Protection
401 East State Street
PO Box 402
Trenton, NJ 08625-0402

(d) Information concerning the types of permits required for a project, timing of permit review, and instructions for completing permit applications may be obtained from:

Department of Environmental Protection
Office of Pollution Prevention and Right to Know
401 East State Street
PO Box 423
Trenton, NJ 08625-0423

(e) The Department publishes the DEP Bulletin, which is a semi-monthly publication listing the construction permit applications recently filed or acted upon by the Department. Using the DEP Bulletin, interested persons can determine the status of Coastal Area Facility Review Act (CAFRA) permits, Federal consistency activity permits, freshwater wetlands individual and general permits, general groundwater petroleum products cleanup permits, NJPDES permits, solid waste facility permits, flood hazard area control (stream encroachment) permits, tidal wetlands permits, treatment works approvals, and waterfront development permits. The DEP Bulletin also includes a calendar of events of interest, a schedule of public hearings (which, however, does not constitute an official notice of a hearing), and a list of Environmental Impact Statements acted upon. The DEP Bulletin is available at municipal clerks' offices and county planning board offices. Annual subscriptions (24 issues) are available to individuals for a \$50.00 fee. Persons interested in subscribing to the DEP Bulletin should contact:

Department of Environmental Protection
Documents Distribution Center
PO Box 420
Trenton, NJ 08625-0420
(609) 292-1553

(f) Subpoenas for the production of Department records and/or testimony from Department employees must be served upon the Department at the following address:

Department of Environmental Protection
Office of Legal Affairs
401 East State Street
PO Box 402
Trenton, NJ 08625-0402

Amended by R.2003 d.422, effective October 1, 2003.

See: 35 N.J.R. 5082(a).

Rewrote (b).

7:1-1.4 Effect of delegation of authority

(a) No provision of Title 7 of the New Jersey Administrative Code or of any other rules of the Department which delegates any power, duty or authority of the Department or the Commissioner to any delegee shall be construed to limit the power or authority of the Commissioner over the delegated subject matter. Without limiting the generality of the foregoing, the Commissioner may take any action for which responsibility has been delegated to a delegee, with the same force and effect as if such responsibility had not been delegated. Such actions include, without limitation, the grant or denial of an application for a permit; revocation of a permit; action on any other application to the Department; or the issuance of an administrative order, administrative consent order, directive, notice of violation, or penalty assessment.

(b) The election to exercise any delegated power, duty or authority shall be solely within the discretion of the Commissioner.

(c) No provision of this section shall be construed as affecting any substantive or procedural provisions of Title 7 of the New Jersey Administrative Code or of any other rules of the Department, except to the extent that any such provision delegates any power, duty, or authority of the Department or the Commissioner to any delegee. No provision of this section shall be construed as affecting the right of any person to an administrative hearing under N.J.S.A. 52:14B-10, or administrative review under N.J.S.A. 52:14B-12.