

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Chapter 1D, Agricultural Preserve Demonstration Program, was repealed by R.1980 d.433, effective October 7, 1980.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Subchapter 1, General Provisions of the Department of Environmental Protection, was repealed and Subchapter 1, General Provisions of the Department of Protection, was adopted as new rules by R.1992 d.441, effective October 9, 1992.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. The petitioner may provide the text of the requested proposed rule;

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 accordance with N.J.A.C. 1:30-4.1(c).

(f) In accordance with N.J.A.C. 1:30-4.2(a), within 60 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 describing the Department's action on the petition in accordance with (g) below.

(g) In accordance with N.J.S.A. 52:14B-4(f) and N.J.A.C. 1:30-4.2(a), the Department shall take one of the following actions on the petition:

1. Deny the petition, in which case the notice of action shall explain the reasons for the denial;
2. Grant the petition and initiate rulemaking within 90 days of granting the petition; or
3. Refer the matter for further deliberations. The Department shall conclude its further deliberations within 90 days of the referral. Upon conclusion of such further deliberations, the Department shall either deny the petition and provide a written statement of its reasons or grant the petition and initiate rulemaking within 90 days of granting the petition. 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.

Amended by R.2002 d.355, effective November 4, 2002.

See: 34 N.J.R. 2386(a), 34 N.J.R. 3818(a).

Rewrote (b)2; in (e)3, substituted "accordance" for "compliance" and amended the N.J.A.C. reference; rewrote (f) and (g).

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.