

13. A certification stating that financial responsibility demonstrated pursuant to N.J.A.C. 7:1E-4.5 and submitted to the Department pursuant to N.J.A.C. 7:1E-4.4(a)9 is in full force and effect;

14. Information supplementing any information previously provided to the Department if additional relevant information is discovered, or if it is determined that the information previously provided was false, inaccurate or misleading;

15. Any other information concerning the discharge which the Department may request; and

16. A fully executed certification pursuant to N.J.A.C. 7:1E-4.11.

(d) Any person required to submit a confirmation report pursuant to (a) above shall promptly notify the Department in writing of any additional or corrected information which becomes available after the submission of a confirmation report, within 10 days of the availability of that information. Such information shall reference the date, title and author of the confirmation report which is being supplemented.

(e) Any person required to submit a confirmation report for a discharge at a major facility or transmission pipeline shall submit the confirmation report to:

Bureau of Discharge Prevention
New Jersey Department of Environmental Protection
401 East State Street
CN 424
Trenton, New Jersey 08625-0424
Attention: Discharge Confirmation Report

(f) Any person required to submit a written report pursuant to N.J.A.C. 7:1E-5.2, shall submit the report to:

Site Remediation Program
Discharge Response Element
New Jersey Department of Environmental Protection
401 East State Street
CN 028
Trenton, New Jersey 08625-0028
Attention: Discharge Report

Amended by R.1996 d.252, effective June 3, 1996.
See: 27 N.J.R. 2337(a), 27 N.J.R. 2882(a), 28 N.J.R. 2858(a).
Amended by R.1996 d.462, effective October 7, 1996.
See: 28 N.J.R. 2730(a), 28 N.J.R. 4424(b).

Case Notes

Commencing transfer operations of leaking gasoline in severe weather conditions that increased risk of discharge warranted civil administrative penalties. Department of Environmental Protection v. Stolt-Nielsen, 95 N.J.A.R.2d (EPE) 157.

7:1E-5.9 Reporting responsibilities of the Department

(a) Upon obtaining any information which leads it to suspect that a discharge has occurred in a municipality's jurisdiction, the Department shall immediately notify orally the contact persons for the governing body of the municipality and the local board of health as specified in (b) below, unless these entities have been notified previously.

(b) The governing body of the municipality and the local board of health shall provide the Department with the name, address and telephone number of a 24 hour contact point and an alternate 24 hour contact point. The governing body of the municipality and the local board of health may change the contact point and alternate contact point upon written notice to the Department. If a contact point and an alternate contact point are not specified, the local police department or local fire department shall be the points designated by the Department to receive notification pursuant to (a) above.

(c) Within 10 days of the initial oral notification required by (a) above, the Department shall issue a letter confirming and, if appropriate, expanding upon that initial oral notification.

(d) The Department shall take appropriate action to verify that a discharge has occurred as suspected, including the authorization of agent(s) or officer(s) of the municipality or local board of health by an appropriate Department official to investigate the site of the suspected discharge. Such investigation shall include conducting visual assessment of the site of the discharge and contacting any persons potentially responsible for the discharge.

(e) The agent(s) or officer(s) of the municipality shall report all findings to the Department.

7:1E-5.10 Discharge reporting requirements of local officials

(a) When any governing body of a municipality or local board of health obtains information which leads it to suspect that a discharge has occurred, the governing body or local board of health shall immediately notify, as specified in (b) below, the Department, unless the Department has already been notified of the discharge.

(b) The governing body or local board of health shall provide the Department with information regarding any discharge pursuant to (a) above in the format specified at N.J.A.C. 7:1E-5.3(a).

(c) The local governing body and the local board of health shall coordinate all responses to the discharge with the Department.

7:1E-5.11 Amendment of plans following a discharge

(a) Following submission of a confirmation report pursuant to N.J.A.C. 7:1E-5.8, the Department may review a

facility's DPCC and DCR plans and may require the owner or operator of the facility to amend the plans if it finds that a plan does not meet the requirements of this chapter or that amendment of the plan is necessary to prevent and contain similar discharges.

(b) Amendments required by the Department shall become part of the DPCC or DCR plan within 30 days after approval by the Department, unless the Department specifies another effective date. The owner or operator shall implement the amendment of the plan as soon as possible, in accordance with a schedule submitted by the owner or operator and approved by the Department.

SUBCHAPTER 6. CIVIL ADMINISTRATIVE PENALTIES AND REQUESTS FOR ADJUDICATORY HEARINGS

Subchapter Historical Note

Public Notice: Petition for Rulemaking. See: 28 N.J.R. 5499(a)

7:1E-6.1 Scope

This subchapter shall govern the Department's assessment of civil administrative penalties for violation of any provision of the Act, including any rule, regulation, plan, information request, access request, order or directive promulgated or issued pursuant to the Act. This subchapter shall also govern the procedures for requesting an adjudicatory hearing on a notice of civil administrative penalty assessment, an administrative order, conditions of approval for any plan, or amendment to a plan, or a denial or revocation of approval of a plan or amendment to a plan required under the Act.

7:1E-6.2 Applicability

(a) The Department may assess a civil administrative penalty of not more than \$50,000 for any discharge less than 100,000 gallons, not more than \$10,000,000 for any discharge of 100,000 gallons or more, and not more than \$50,000 for each violation of the Act or of any rule, regulation, plan, information request, access request, order or directive promulgated or issued pursuant to the Act.

(b) Each violation of any provision of the Act, or any rule, regulation, plan, information request, access request, order or directive promulgated or issued pursuant thereto shall constitute a separate and distinct offense.

(c) Each day during which a violation continues shall constitute an additional, separate, and distinct offense.

(d) The Department may, in its discretion, treat an offense as a first offense solely for civil administrative penalty determination purposes, if the violator has not committed the same offense in the five years immediately preceding the date of the pending offense.

(e) Neither the assessment of a civil administrative penalty nor the payment of any such civil administrative penalty shall be deemed to affect the availability of any other enforcement provisions provided for by the Act, or any other statute, in connection with the violation for which the assessment is levied.

7:1E-6.3 Procedures for issuance of administrative orders and assessment, settlement and payment of civil administrative penalties

(a) In order to assess a civil administrative penalty under the Act, for violation of the Act or any rule, regulation, plan, information request, access request, order or directive promulgated or issued pursuant to the Act, the Department shall, by means of an administrative order or notice of civil administrative penalty assessment, notify the violator by certified mail (return receipt requested) or by personal service. The Department may, in its discretion, assess a civil administrative penalty for more than one offense in a single administrative order or notice of civil administrative penalty assessment or in multiple administrative orders or notices of civil administrative penalty assessment. This Administrative Order or Notice of Civil Administrative Penalty Assessment shall:

1. Identify the section of the Act, rule, plan, request, order or directive violated;
2. Concisely state the facts which constitute the violation;
3. Order such violation to cease;
4. Specify the amount of the civil administrative penalty to be imposed; and
5. Advise the violator of the right to request an adjudicatory hearing pursuant to the procedures in N.J.A.C. 7:1E-6.4.

(b) Payment of the civil administrative penalty is due upon receipt by the violator of the Department's Final Order in a contested case or when a Notice of Civil Administrative Penalty becomes a Final Order, as follows:

1. If no hearing is requested pursuant to the procedures in N.J.A.C. 7:1E-6.4, a Notice of Civil Administrative Penalty Assessment becomes a Final Order on the 21st calendar day following receipt of the Notice of Civil Administrative Penalty Assessment by the violator;
2. If the Department denies the hearing request pursuant to N.J.A.C. 7:1E-6.4(a), a Notice of Civil Administrative Penalty becomes a Final Order and is deemed received on the 21st day following receipt of the Notice of Civil Administrative Penalty Assessment by the violator;
3. If the Department denies the hearing request pursuant to N.J.A.C. 7:1E-6.4(c), a Notice of Civil Administrative Penalty Assessment becomes a Final Order upon receipt by the violator of such denial; or