

(b) The Department representative(s) conducting an inspection or sanitary survey pursuant to (a) above shall carry identification, and shall present it upon request.

#### 7:10-1.5 Severability

If any provision of this chapter or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications, and to this end, the provisions of this chapter are declared to be severable.

## SUBCHAPTER 2. GENERAL REQUIREMENTS

### 7:10-2.1 Department inventory of public water systems

(a) The Department, through the Bureau of Safe Drinking Water, shall at all times maintain a current inventory of all public water systems in the State, and all changes in said inventory shall be reported to the Administrator by January 1 of each year.

(b) Whenever a public water system is established or abandoned, the owner shall so notify the Department in writing.

### 7:10-2.2 Department recordkeeping and reporting

The Department, through the Bureau of Safe Drinking Water, shall keep such records, in such a manner, and for such times as shall be required under the National Regulations, 40 CFR 142.14, and shall submit each report to the Administrator and make each report available to the public as required under 40 CFR 142.15.

### 7:10-2.3 Plan for the provision of potable water in emergencies

The Department shall prepare and maintain, within the Bureau of Safe Drinking Water, a plan for the provision of safe drinking water under emergency circumstances. The Department shall review and update such plan as necessary.

#### Statutory References

N.J.S.A. 58:12A-7.

### 7:10-2.4 Reporting of changes to plants and emergencies

(a) A supplier of water shall notify in writing the Bureau of Safe Drinking Water at least five working days prior to undertaking any planned change in the treatment plant or its operation that may either temporarily or permanently tend to lessen the quality of water furnished, or increase the likelihood of the delivery of water that does not meet the standards set forth in N.J.A.C. 7:10-5.

(b) A supplier of water shall notify the Department by telephone at (609) 292-5550 during business hours, or (609)

292-7172 during non-business hours, within six hours of the occurrence of any emergency that may tend to lessen the quality or pressure of delivered water, or increase the likelihood of delivery of water that does not meet the standards set forth in N.J.A.C. 7:10-5.

### 7:10-2.5 Ban on further connections to over-extended or otherwise inadequate systems

Whenever the Department determines that additional water service connections to any public water system may result in a degradation of service to existing users due to deficiencies in such public water system such as inadequate source, distribution or storage capacities, or inadequate pressure or volume, the Department may prohibit, by order, such additional connections. Upon receipt of such an order prohibiting additional water service connections, the supplier of water shall have 20 days to request a hearing in writing in accordance with N.J.A.C. 7:10-3.5 on said order. At the hearing, the supplier of water has the burden of showing that the prohibition on additional connections should not be imposed.

### 7:10-2.6 Program information

Unless otherwise specified, any questions concerning the requirements of this chapter shall be directed to the Bureau of Safe Drinking Water, Water Supply Element, New Jersey Department of Environmental Protection, CN 426, Trenton, NJ 08625-0426, (609) 292-5550. All forms referenced in these rules can be obtained from the Bureau.

## SUBCHAPTER 3. CIVIL ADMINISTRATIVE PENALTIES AND REQUESTS FOR ADJUDICATORY HEARINGS

### 7:10-3.1 Scope

This subchapter governs the Department's assessment of civil administrative penalties and the issuance of orders for the violation of any provision of the State Act or any regulation, rule, permit or order adopted or issued by the Department pursuant thereto. This subchapter shall also govern the procedure for assessment, settlement and payment of civil administrative penalties and for requesting an adjudicatory hearing on appeal from a notice of civil administrative penalty assessment or administrative order.

#### Statutory References

N.J.S.A. 58:12A-10.

### 7:10-3.2 Authority

(a) Whenever the Department finds that a person has violated any provision of the State Act, or any regulation, rule, permit, or order adopted or issued by the Department pursuant thereto, the Department may, singly or in combi-

nation, pursue the remedies specified in (a)1 through 4 below. Pursuit of any of the remedies specified under this section shall not preclude the Department from seeking any other remedy. The Department may:

1. Issue an order requiring the person found to be in violation to comply in accordance with N.J.A.C. 7:10-3.3;
2. Bring a civil action for injunctive and other relief in accordance with N.J.A.C. 7:10-3.9;
3. Levy a civil administrative penalty in accordance with N.J.A.C. 7:10-3.6 and/or 3.7; and/or
4. Bring an action for a civil penalty in accordance with N.J.A.C. 7:10-3.8.

#### Statutory References

N.J.S.A. 58:12A-4(c), 58:12A-9(i), 58:12A-10.

### 7:10-3.3 Procedures for issuing an administrative order pursuant to the State Act

(a) Whenever the Department finds that a person has violated any provision of the State Act, or any regulation, rule, permit, or order adopted or issued by the Department pursuant thereto, the Department may issue an order specifying the provision or provisions of the State Act, regulation, rule, permit, or order of which the person is in violation citing the action which constituted the violation, ordering abatement of the violation, and giving notice to the person of his or her right to a hearing on the matters contained in the order. The ordered party shall have 20 days from receipt of the order within which to deliver to the Department a written request for a hearing in accordance with N.J.A.C. 7:10-3.5. After the hearing and upon finding that a violation has occurred, the Department may issue a final order. If no hearing is requested, then the order shall become final after the expiration of the 20-day period. A request for hearing shall not automatically stay the effect of the order.

### 7:10-3.4 Procedures for assessment, settlement and payment of civil administrative penalties for violations

(a) To assess a civil administrative penalty under the State Act, the Department shall notify the violator by certified mail (return receipt requested) or by personal service. This notice of civil administrative penalty assessment shall:

1. Identify the section of the State Act, rule, administrative order or permit violated;
2. Concisely state the alleged facts which constitute the violation;
3. Specify the amount of the civil administrative penalty to be imposed; and
4. Advise the violator of the right to request an adjudicatory hearing pursuant to N.J.A.C. 7:10-3.5.

(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 assessment becomes a final order, as follows:

1. If no hearing is requested pursuant to N.J.A.C. 7:10-3.5, a notice of civil administrative penalty assessment becomes a final order on the 21st 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. 7:10-3.5(b), a notice of civil administrative penalty assessment becomes a final order 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. 7:10-3.5(c), a notice of civil administrative penalty assessment becomes a final order upon receipt of notice of such denial; or

4. If the Department grants the hearing request, a notice of civil administrative penalty assessment becomes a final order upon receipt by the violator of a final order in a contested case.

(c) The Department may treat an offense as a first offense solely for the purpose of determining the civil administrative penalty under N.J.A.C. 7:10-3.6 or 3.7 if the violator has not committed the same offense in the three years immediately preceding the date of the pending offense.

(d) The Department may settle any civil administrative penalty assessed pursuant to N.J.A.C. 7:10-3.6 or 3.7 according to the following factors:

1. Mitigating or extenuating circumstances not previously considered in the notice of civil administrative penalty assessment pursuant to N.J.A.C. 7:10-3.6;

2. The timely implementation by the violator of measures leading to compliance not previously considered in the assessment of penalties pursuant to N.J.A.C. 7:10-3.6;

3. The nature, timing and effectiveness of measures taken to mitigate the effects of the violation or prevent future similar violations not previously considered in the notice of civil administrative penalty assessment pursuant to N.J.A.C. 7:10-3.6;

4. The compliance history of the violator not previously considered in the notice of civil administrative penalty assessment pursuant to N.J.A.C. 7:10-3.6;

5. The deterrent effect of the penalty not previously considered in the notice of civil administrative penalty assessment pursuant to N.J.A.C. 7:10-3.6; and/or

6. Any other terms or conditions acceptable to the Department.