

CHAPTER 1

RULES OF PRACTICE AND PROCEDURE

Authority

N.J.S.A. 13:1B-3(d), 13:1B-3(e), 13:1B-5(a),
13:1K-15 et seq., and 52:14B-4(b).

Source and Effective Date

R.1995 d.480, effective August 7, 1995.
See: 27 N.J.R. 2332(a), 27 N.J.R. 3399(b).

Executive Order No. 66(1978) Expiration Date

Chapter 1, Rules of Practice and Procedure, expires August 7, 2000.

Chapter Historical Note

All provisions of Chapter 1, Rules of Practice and Procedure, became effective prior to September 1, 1969.

1971 Revisions: New Rules became effective August 25, 1971 as R.1971 d.143. See: 3 N.J.R. 176.

1973 Revisions: The original text of subchapter 3 (Sulfur in Fuels) became effective November 21, 1973 as R.1973 d.326. See: 5 N.J.R. 404(a).

1974 Revisions: The original text to subchapter 4 (Importation of Solid and Liquid Waste from Outside New Jersey) became effective February 1, 1974 as R.1974 d.10. See: 6 N.J.R. 58(a). Amendments became effective March 12, 1974 as R.1974 d.64. See: 6 N.J.R. 134(a).

1976 Revisions: Subchapter 6 was adopted effective September 20, 1976 as R.1976 d.296. See: 8 N.J.R. 460(d). Subchapter 5 was adopted effective October 13, 1976 as R.1976 d.318. See: 8 N.J.R. 375(b), 8 N.J.R. 510(c).

1980 Revisions: Subchapters 3 and 4 were repealed on October 7, 1980 as R.1980 d.433. See: 12 N.J.R. 454(b), 12 N.J.R. 643(a).

1983 Revisions: Subchapter 3 was adopted as an Emergency Adoption effective December 30, 1983 as R.1983 d.649. See: 16 N.J.R. 151(a).

1984 Revisions: The subchapter 3 became effective March 5, 1984 as R.1984 d.81. See: 16 N.J.R. 151(a), 16 N.J.R. 523(a).

1985 Revisions: Subchapter 4 was adopted effective September 16, 1985 (operative October 1, 1985) as R.1985 d.487. See: 17 N.J.R. 1622(a), 17 N.J.R. 2260(a).

1986 Revisions: Subchapter 3 was readopted effective March 5, 1986 as R.1986 d.87. See: 18 N.J.R. 242(a), 18 N.J.R. 645(a). Subchapter 7 was adopted effective June 16, 1986 as R.1986 d.229. See: 17 N.J.R. 1826(a), 18 N.J.R. 1272(a). There was a Public Notice for section 3.8: The Department will be soliciting public comments on the draft ECRA Sampling Plan Guide. See: 18 N.J.R. 1714(c).

1987 Revisions: Subchapter 6 "Bureau of Solid Waste Management Procedural Rules" was repealed effective June 1, 1987 as R.1987 d.235. 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Cleanup Responsibility Act Rules" and Subchapter 4 "Fee Schedule for Environmental Cleanup Responsibility Act" were repealed effective December 21, 1987 (operative January 1, 1988) as R.1987 d.528. See: 19 N.J.R. 681(a), 19 N.J.R. 2435(a).

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

Pursuant to Executive Order No. 66(1978), Chapter 1 was readopted as R.1990 d.457. Subchapter 2, Emergency Containment and Disposal of Pesticides, was recodified as N.J.A.C. 7:30-11 by R.1990 d.457, effective September 17, 1990. Subchapter 7, Hazardous Substance

Discharge: Reports and Notices, was recodified as N.J.A.C. 7:1E-5 by R.1990 d.443. See: 22 N.J.R. 1457(a), 22 N.J.R. 2758(a).

Repeal and new rule, Subchapter 1, 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 was readopted as R.1995 d.480. See: Source and Effective Date.

See section annotations for specific rulemaking activity.

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SUBCHAPTER 1. GENERAL PROVISIONS OF THE DEPARTMENT OF ENVIRONMENTAL PROTECTION

7:1-1.1 Organization of the Department of Environmental Protection

(a) The Commissioner is the administrator and head of the Department of Environmental Protection (Department), and has the duties listed in N.J.S.A. 13:1B-3.

(b) The Counselor to the Commissioner is the Commissioner's legal liaison with the Department of Law and Public Safety. The Counselor advises the Commissioner regarding policy implications of legal issues that arise in connection with the Department's work.

(c) The Office of Dispute Resolution provides a forum other than the administrative and trial courts for resolution of disagreements involving the Department. This forum is intended to reduce or avoid costly and protracted legal

proceedings, and establish more meaningful lines of communication among environmental regulators, the regulated community and other persons affected by Department actions. The Office of Dispute Resolution engages in the following forms of alternative dispute resolution:

1. Facilitation, which involves an informal meeting between the affected party and the Department staff to determine whether the parties can mutually resolve the differences that separate them. The Office of Dispute Resolution's role in facilitation is to structure this informal meeting to focus on the disputed issues and the ultimate goal. The informal meeting usually takes place before the Department's action has been formally contested; and

2. Mediation, which involves an effort by the affected parties to develop a joint resolution of the issue and agree on a future course of action. In mediation, the Office of Dispute Resolution acts as an impartial third party to help the parties explore options for resolution that may not previously have been considered. Mediation frequently takes place after the disputed action has been formally contested and scheduled for an administrative hearing or a trial.

(d) The Chief of Staff is second in command to the Commissioner, coordinates staff functions in the Commissioner's office, is responsible for the day-to-day administration of Department activities, and oversees the following organizational units:

1. The Office of Audit, which provides the Department with external audits of grants, contracts, and leases, and internal financial and operational audits of its programs;

2. The Office of Equal Opportunity and Public Contract Assistance, which is responsible for the development and implementation of the Department's affirmative action program. The office monitors all personnel practices to ensure compliance with equal employment opportunity and affirmative action policies, investigates all complaints of alleged discrimination, and, in the Department's contracting processes, enforces compliance with Federal and State statutes concerning micro, urban, small, and socially and economically disadvantaged businesses; and

3. The Office of Information Resources Management, which is responsible for overseeing all computer management activities, including development of standards and policies, modernization of hardware and software to encourage intersystem compatibility, reviewing and approving procurement requests, and serving as a liaison to state government's central oversight agencies. The Office is also responsible for coordinating the Department's Geographic Information System (GIS), and for developing and publishing mapping and digital data standards, incorporated herein by reference as Appendix A, for the GIS.

(e) The Department has seven Assistant Commissioners, as follows:

1. Enforcement;
2. Environmental Regulation;
3. Legislative and Program Coordination;
4. Management and Budget;
5. Natural and Historic Resources;
6. Policy and Planning; and
7. Site Remediation.

(f) The Assistant Commissioner for Enforcement oversees overall Department enforcement policies and generally supervises the Department's enforcement programs associated with the following: water pollution; coastal and land use management; hazardous waste management; solid waste management; and air pollution. The Assistant Commissioner for Enforcement also manages the issuance and settlement of enforcement documents for radiation; pesticides; noise; toxic release; discharge prevention; laboratory quality assurance; and Right-to-Know. The Assistant Commissioner for Enforcement implements and generally supervises Operation Clean Shores, the Cooperative Coastal Monitoring Program, the Adopt-a-Beach program, the Water Watch program and the County Environmental Health Act. A summary of the major organizational units overseen by the Assistant Commissioner for Enforcement follows:

1. The Division of Enforcement Field Operations, is directly responsible for enforcement associated with hazardous waste management, solid waste management, air pollution control, water pollution control, and safe drinking water. The Division also oversees enforcement policy and issues and settles enforcement documents for the pesticide, radiation, noise, toxic release, discharge prevention, Right-to-Know and laboratory quality assurance programs;

2. The Coastal and Land Use Enforcement Management Unit is responsible for enforcement matters involving freshwater and coastal wetlands, coastal area facility review, waterfront development, stream encroachment and dam safety. This unit also provides coordination with the State Police, Marine Bureau, and the Department's Division of Fish, Game and Wildlife;

3. The Office of Enforcement Coordination is responsible for assuring that a uniform enforcement policy is implemented throughout the Department. The office is also responsible for developing and reviewing enforcement provisions of regulations, handling economic issues related to enforcement cases for all programs listed above, and managing Enforcement's computer system. The office also supervises the Department's County Environmental Health Act program, Operation Clean Shores, the Adopt-a-Beach program, Phase III of the Sewage Infrastructure Improvement Act program, the Cooperative Coastal Monitoring program, and the Water Watch program.