



# Enforcement **Alert**

*Making You Aware of Anticipated Enforcement Activities*

Compliance and Enforcement

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## **Certification of Laboratories and Facilities Performing Analytical Testing of Solid and Hazardous Wastes**

### **Who is affected by this initiative?**

Any laboratory or facility (including Class B, Class D, and treatment, storage and disposal (TSD) facilities) that performs measurements on solid and or hazardous waste or has a permit or approval issued by the New Jersey Department of Environmental Protection (Department) that requires sampling and analysis in order to determine compliance with the regulations is affected. To be in compliance, certification by the Department's Office of Quality Assurance (OQA) is required. Examples of this are: a hazardous waste TSD facility must be certified for all analyses performed in compliance with its permit or whenever measurement data is used to make or justify a regulatory decision; generators of hazardous waste must use a certified laboratory when performing analysis to determine whether a generated waste is hazardous.

### **Why is DEP requiring a certified laboratory?**

By requiring a certified laboratory to perform analyses, the Department is ensuring the quality of the results and therefore can better ensure the proper management, treatment or disposal of the material being analyzed. For example, a person who generates a solid waste must determine if that waste is a hazardous waste through knowledge or testing. In instances where testing is used, the Department must be assured that the testing results are valid. In addition, facilities which accept hazardous wastes must ensure these materials have been properly classified in order to manage them correctly. If this determination is made by testing then the results must be valid.

The validity of test results is established when the laboratory that conducted the analyses is certified by the Department for the analyses performed. Results obtained from a laboratory without such certification are considered meaningless. This position is established by N.J.A.C. 7:18-1.4 which states "A laboratory that analyzes samples for the purpose of establishing compliance with any regulatory program shall obtain and maintain certification as a certified environmental laboratory in accordance with this chapter. An analysis performed by a laboratory that is not a certified laboratory does not establish compliance with any regulatory program".

### **What is DEP doing?**

The Department has the responsibility to ensure that all laboratories and other entities (including Class B, Class D, and treatment, storage and disposal (TSD) facilities) are certified for all analyses performed in compliance with its environmental programs. Accordingly,

- By August 2, 2004, all business entities must submit a completed application to the OQA for certification of all analyses conducted and used to support the Department's Class B, Class D, and TSD facility activities.
- Effective January 1, 2005, the Department will strictly enforce the requirement for business entities that perform the analyses used to support the Department's Class B, Class D and TSD facility activities to obtain New Jersey environmental laboratory certification.

# COMPLIANCE ADVISORY

The Department has notified facilities that accept hazardous waste and recyclable materials for treatment, storage, disposal or processing, that any testing of these materials must be done by a certified laboratory. Failure to comply with this regulation may result in a fine of up to \$50,000 per day per violation and potential revocation of the facility's operating authority.

## What should I do?

The following is a general list of things to check to ensure compliance and is by no means a complete list of requirements with which you need to comply.

- 1) Submit to the Department one of the following:
  - a) A statement that the facility does not use laboratory analysis to verify compliance; or,
  - b) A statement that the facility is in compliance with the laboratory certification requirements of N.J.A.C. 7:18 for each method used to verify compliance; or,
  - c) Submit a schedule to achieve compliance with the requirements of N.J.A.C. 7:18 in a letter or other document to the Bureau of Hazardous Waste and Transfer Facilities, PO Box 414, Trenton, NJ 08625-0414.
- 2) Apply for certification to perform your own analyses. The application that all Class B, Class D and TSD facilities must submit to the OQA shall include a listing of personnel performing all analytical tests, a list of methods for which they are requesting certification, and Standard Operating Procedures for all of these methods. The OQA will conduct on-site audits to evaluate the ability of Class B, Class D, and TSD facilities to perform these measurements consistent with the requirements established at N.J.A.C. 7:18.

## Who should I contact with questions?

### Office of Quality Assurance

Stuart Nagourney , Environmental Laboratory Certification Officer

**(609) 292-3950**

### Bureau of Hazardous Waste & Transfer Facilities

Anthony Fontana, Chief

**(609) 292-9880**

### Bureau of Hazardous Waste Compliance and Enforcement

**Central Field Office**, Joseph Mirabella, Supervisor

(Mercer, Middlesex, Monmouth, Ocean and Union Counties)

**(609) 584-4250**

**Northern Field Office**, Jeffrey Sterling, Supervisor

(Bergen, Essex, Hudson, Hunterdon, Morris, Passaic, Somerset,

Sussex and Warren Counties)

**(973) 299-7571**

**Southern Field Office**, Farouk Afrasiabi, Supervisor

(Atlantic, Burlington, Camden, Cape May, Cumberland,

Gloucester and Salem Counties)

**(856) 614-3650**

## Where can I get more information?

The following web sites can be accessed for additional information:

<http://www.state.nj.us/dep/oqa/labcert.html> (Office of Quality Assurance)

[http://www.state.nj.us/dep/legal/nj\\_env\\_law.htm](http://www.state.nj.us/dep/legal/nj_env_law.htm) (Listing of New Jersey Environmental Statutes and Corresponding Regulations)

<http://www.bna.com/trials/ehspicform.htm> (Resource that allows you to view Environmental Laws and Regulation on-line)

Please note this advisory is intended to be a summary explanation of a department initiative. It does not include all potentially applicable requirements. If you have any questions related to compliance with this initiative, please contact the Enforcement number listed above.