



STATE OF NEW JERSEY  
DEPARTMENT OF ENVIRONMENTAL PROTECTION



Vanessa Day, Manager, NRO

October 9, 2013

ACE Academy

# Statutory and regulatory authority

## **The Air Pollution Control Act:**

N.J.S.A.26:2C-1 et seq. and N.J.A.C. 7:27-1.1  
et seq.

# Enforcement Documents

- Warning Letter
- Notice of Violation (NOV)
  - Field NOV (FNOV)
  - Idling NOV
- Administrative Order (AO)
- Administrative Order and Notice of Civil Administrative Penalty Assessment (AONOCAPA)
- Settlement Documents

# Related Matters

- Penalty Avoidance
  - Affirmative Defense
  - Self Disclosure
- Where to Find Enforcement Information
  - Dataminer
  - Enforcement Blotter
  - Compliance Advisories
- Contact Information Update

C&E-001  
11/12

*State of New Jersey*  
DEPARTMENT OF ENVIRONMENTAL PROTECTION  
COMPLIANCE & ENFORCEMENT  
Mail Code 401-04B, P.O. Box 420  
Trenton, New Jersey 08625-0420

File # _____
PI # _____

**WARNING LETTER**

Site Name: \_\_\_\_\_ Site Address: \_\_\_\_\_

Municipality: \_\_\_\_\_ Block: \_\_\_\_\_ Lot: \_\_\_\_\_ County: \_\_\_\_\_ Zip: \_\_\_\_\_

Property Owner or Responsible Entity: \_\_\_\_\_

PO/RE Address: \_\_\_\_\_ City: \_\_\_\_\_ State: \_\_\_\_\_

Zip: \_\_\_\_\_ Phone: \_\_\_\_\_ E-Mail: \_\_\_\_\_

Person interviewed and title: \_\_\_\_\_

On \_\_\_\_\_ a representative from the New Jersey Department of Environmental Protection (Department) conducted a compliance evaluation of your facility or site. Based on facts observed or known as a result of that compliance evaluation, your facility or site was found to need corrective action to bring it in compliance with current law and to prevent further enforcement action by the Department.

The following Rules apply to your facility or site: (insert appropriate citations)

Observations: \_\_\_\_\_

# Notice of Violation (NOV)

- Informal Action
- No Penalty Initially Issued
- Compliance Date
- Grace Period

New Jersey Department of Environmental Protection  
Division of Air & Hazardous Materials Enforcement  
**FIELD NOTICE OF VIOLATION/NOTICE OF POTENTIAL VIOLATIONS**

Air PI # \_\_\_\_\_ Facility Name \_\_\_\_\_

Facility Address \_\_\_\_\_ Municipality \_\_\_\_\_ County \_\_\_\_\_

Owner/Operator/Contact \_\_\_\_\_ Mailing Address \_\_\_\_\_ Zip \_\_\_\_\_

Contact Email \_\_\_\_\_ Contact Phone \_\_\_\_\_

On \_\_\_\_\_, a NJDEP AIR C&E representative conducted an inspection at the above-mentioned facility. This NOTICE is issued based on facts observed or known to the Department's representative to warn you that violation(s) of the New Jersey Air Pollution Control Act (N.J.S.A. 26:2C-1 et seq.) and the New Jersey Air Pollution Control regulations (N.J.A.C. 7:27-1 et seq.) were observed. **See reverse side of this form for further explanation of the purpose of this NOTICE.**

**POTENTIAL VIOLATION(S):**

Description of potential violation(s) found; (Itemize and provide description of potential non-compliance and citation below)

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**VIOLATIONS:** Check appropriate box(es).

You installed a significant source without first obtaining an air permit. [N.J.A.C. 7:27-8.3(a) or N.J.A.C. 7:27-22.3(a)]. List equipment make, model #, serial #, year manufactured on space provided below.

You operated a significant source without first having obtained a valid operating certificate, or operated the significant source with an expired operating certificate. [N.J.A.C. 7:27-8.3(b) or N.J.A.C. 7:27-22.3(b)]. List equipment make, model #, serial #, year manufactured on space provided below.

Other(s) - Itemize and provide description of non-compliance and citation below. Include any violation(s) of permit conditions below.

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# Field NOV- Corrective Action

**CORRECTIVE ACTION(S)** -The below Corrective Action(s) outline the timeframes pursuant to the Grace Period Law during which you may voluntarily take action to come into compliance. Depending on the nature of violation(s) cited in this **NOTICE**, corrective action or compliance assistance recommendations for violation(s) that are not subject to the Grace Period Law may also be listed below: (be specific and provide specific deadlines)

[ ] Within \_\_\_\_\_ days from \_\_\_\_\_ (today's date), submit air permit application or modification and obtain an approved air permit. [N.J.A.C. 7:27-8.3(a) or N.J.A.C. 7:27-22.3(a)]

[ ] Other(s) - Itemize and provide description of corrective action(s) with specific dates and citation below

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**ISSUED BY:** \_\_\_\_\_ **Signature:** \_\_\_\_\_ **Badge #:** \_\_\_\_\_ **Date:** \_\_\_\_\_

**RECEIVED BY:** \_\_\_\_\_ **Signature:** \_\_\_\_\_ **Date:** \_\_\_\_\_

**FOR QUESTIONS REGARDING THIS NOTICE:**

Please contact the Department representative issuing this **NOTICE** at the location indicated (**Inspector must check appropriate box below**)

<input type="checkbox"/> Southern Regional Enforcement - Air 2 Riverside Drive, Suite 201 Camden, New Jersey 08103 Telephone: (856) 614-3601 Fax: (856) 614-3613	<input type="checkbox"/> Northern Regional Enforcement - Air 7 Ridgedale Ave. Cedar Knolls, NJ 07927 Telephone: (973) 656-4444 Fax (973) 656-4080	<input type="checkbox"/> Central Regional Enforcement - Air 22 South Clinton Ave; 4 Station Plaza Mail Code 22-03A; P.O. Box 420 Trenton, NJ 08625-0420 Telephone: (609) 292-3187; Fax (609) 292-6450
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# Field NOV – Idling Violation

- Violations of Subchapter 14.3 and 15.8
- Violation to Property Owners
- Violation to Motor Vehicles

# Administrative Order (AO)

- An AO is issued to mandate compliance with statutory and regulatory requirements, without the assessment of a civil administrative penalty.
- If the facility does not achieve compliance with the provisions of the AO, a penalty may be assessed.

# Administrative Order and Notice of Of Civil Administrative Penalty Assessment (AONOCAPA)

- An AONOCAPA is issued to mandate compliance with statutory and regulatory requirements and the assessment of a civil administrative penalty.
- Penalty assessments are calculated based on the Civil Administrative Penalty Schedule found in N.J.A.C. 7:27A-3 et seq.

# Hearing Requests

- An AO and AONOCAPA are formal documents that can be appealed.
- Submitted to the Department's Office of Legal Affairs (OLA) with copy to the Regional Office.
- Twenty days to file the hearing request.

# Settlement Agreements

- Compliance Achieved
  - Pre-issuance of enforcement action
  - Post-issuance of enforcement action
- Penalty Payment only issue

# Administrative Consent Order (ACO)

- Longer timeframe for compliance solutions
- Compliance Schedule
- Penalties and/or Stipulated Penalties
- Force Majeure Clause

# Affirmative Defense

- Affirmative Defense (AD) to penalty liability may be provided for air pollution violations which result from:
  - a non-recurring equipment malfunction
  - equipment start-up
  - equipment shut-down
  - necessary equipment maintenance

# Affirmative Defense

- A person reporting a violation and asserting an entitlement to an affirmative defense has to meet statutory requirements:
  - Notification to the Department Hotline  
**(1-877-WARNDEP)**
  - Submit 30 day letter documenting Affirmative Defense to the Regional Office,.



# Affirmative Defense

- AD entitlement criteria:
  - the facility was being operated with due care
  - violation did not result from an operator error
  - violation was not caused by failure to maintain equipment with due care
  - All reasonable steps were taken to minimize emissions.
  - If malfunction, not part of a recurrent pattern
  - Poses no threat to public health, welfare, or environment

# Self Disclosure

- Tier 1 (Minor) Violations eligible for 100% reduction
- Tier 2 (Non-Minor) Violations eligible for 75% reduction
- Generally, Major facilities are not entitled to Self Disclosure penalty reductions

# Self Disclosure

- Website for self-disclosure information & forms:  
<http://www.nj.gov/dep/enforcement/self-disclosure.htm>
- In order to self-disclose a violation, complete the Self Disclosure Report and send to:
  - New Jersey Department of Environmental Protection  
Compliance and Enforcement  
Mail Code 401-04B  
P.O. Box 420  
Trenton, NJ 08625-0420  
Attn: Self-Disclosures

# Data Miner

- On July 7, 2002, the Open Public Records Act (OPRA), became effective.
- Prior to submitting an OPRA request, DEP invites you to search our online archive of information:  
<http://www.nj.gov/dep/opra/index.html>
  - what violations of environmental laws and permit conditions were found or were reported to us.
  - what environmental incidents were reported to DEP in your community.
  - what type of enforcement actions were issued



Please be advised that Dataminer reports go offline on Sundays due to maintenance purposes.

Within DEP Data Miner, you will find a variety of reports that will provide you with up to the minute results. In order to provide flexibility, many of these reports require the user to enter some criteria, which will result in a customized document.

The DEP is dedicated to making environmental information readily available to our constituents while maintaining user confidence in the data. The information provided within NJDEP Data Miner and the viewing experience will continue to expand and improve as we work towards providing our constituents with an informative and easy-to-use environment.

The information contained in this site is the best available according to the procedures and standards of each of the contributing programs. The Department's programs are regularly maintaining the information in their databases, in order to maintain the quality and timeliness of the data. However, unintentional inaccuracies may occur. The Department has made every effort to present the information in a clear and understandable way for a variety of users. However, we cannot be responsible for the misuse or misinterpretation of the information presented by this system. Therefore, under no circumstances shall the State of New Jersey be liable for any actions taken or omissions made from reliance on any information contained herein from whatever source nor shall the State be liable for any other consequences from any such reliance.

**INSTRUCTION**



Click the above button to start mining.

# Enforcement Blotter

- The New Jersey DEP Enforcement Blotter lists enforcement actions taken by the Department addressing environmental violations within the past 14 days.
- Website:  
[http://datamine2.state.nj.us/DEP\\_OPRA/OpraMain/categories?category=Enforcement%20Blotters](http://datamine2.state.nj.us/DEP_OPRA/OpraMain/categories?category=Enforcement%20Blotters)



## Enforcement Blotters

- [Enforcement Action Blotter \(last 14 days\)](#)

This report displays information on Enforcement Actions that have been issued in the past 14 days.

- [Enforcement Action Blotter by Date](#)

This report displays information on Enforcement Actions that have been issued during an entered date range. The date range search will return Enforcement Actions which have been issued by the Department between those dates.

- [Site Visit Blotter by Date](#)

This report shows both Inspections done and Incidents reported in the same municipality. The user is prompted for a specified period of time.

- [Site Visits in the Last 14 Days](#)

This report shows both Inspections done and Incidents reported in the same municipality within the last 14 days.



[contact dep](#) | [privacy notice](#) | [legal statement](#)

# NJDEP C&E Compliance Advisories

- Website:

<http://www.nj.gov/dep/enforcement/advisories-air.htm>

- You can subscribe to the NJDEP C&E Advisories as they are issued at:

<http://www.nj.gov/dep/enforcement/listserv.html>



**Director**  
**Air and Hazardous Waste Compliance**  
**and Enforcement**

**Edward M. Choromanski**

State of New Jersey  
Department of Environmental Protection  
Air Compliance & Enforcement  
Mail Code 401-04B  
PO Box 420  
Trenton, NJ 08625-0420

phone: (609) 633-7288

Fax: (609)292-9938

# Central Regional Office

- New Location

401 E. State Street, 4<sup>th</sup> floor, Trenton

## Staff are located at three regional offices :

- **Northern Region**

Vanessa Day, Manager

phone (973) 656-4444

fax (973) 656-4080

- (Bergen, Essex, Hunterdon, Hudson, Morris, Passaic, Somerset, Sussex, Union, Warren counties)

- **Central Region**

Chris Odgers, Manager

phone (609)292-6493

fax (609) 292-6450

- (Burlington, Mercer, Middlesex, Monmouth, Ocean counties )

- **Southern Region**

Richelle Wormley, Manager

phone (856) 614-3601

fax (856) 614-3613

- (Atlantic, Camden, Cape May, Cumberland, Gloucester, Salem counties)

Questions ?