Who at NJDEP Is Handling Your NOV or AONOCAPA and Why It Matters



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An NJDEP Notice of Violation (NOV) or Administrative Order and Notice of Civil Administrative Penalty Assessment (AONOCAPA) is usually issued by one NJDEP representative but may direct you to contact another representative with questions or concerns. So, who at NJDEP is handling your NOV or AONOCAPA, and how should that affect your approach?

NJDEP is a large agency with separate regulatory programs, enforcement functions, supervisors, bureau chiefs, directors, assistant commissioners, and senior leadership. Understanding who is involved is important when responding to an NOV or AONOCAPA or trying to resolve a broader enforcement dispute.

NJDEP's organizational structure is available on the department's website and can be helpful in understanding how the relevant program fits within the larger agency. The current organizational chart is available here.

Understand Who Is Handling the Matter

The first step is to understand who is handling the matter. Routine enforcement matters are typically handled by front-line staff with review and approval by supervisors, but more complicated matters may involve higher levels of management, including bureau chiefs, directors, assistant commissioners, or the commissioner's office.

Companies can often tell when a matter has attracted senior-management attention. More senior officials may begin participating in meetings or correspondence. The size of the penalty, the issues involved, or the public significance of the matter may also make higher-level involvement more likely.

Know When Escalation May Be Appropriate

Generally, it makes sense to begin negotiations with front-line staff because they know the facts and have primary responsibility for the matter. Escalation may make sense, however, where there is a specific legal, policy, or factual disagreement that could materially change the outcome.

Staff may be focused on the specific regulatory requirement, inspection findings, or compliance history. A bureau chief or director may be more concerned with consistency and program policy. Senior management may also consider broader enforcement policy, litigation risk, or the practical consequences of a proposed resolution.

Timing matters. Escalating too early can be counterproductive. If there is not yet a concrete issue for management to decide, senior officials may simply defer to staff. First impressions at the management level also matter, so a company should have a clearly developed issue before seeking higher-level review.

Senior-management involvement also does not necessarily mean NJDEP will become more flexible. Different decisionmakers may have different approaches to penalties, corrective actions, and settlement. Understanding those approaches can be important to determining how to present the issue.

When escalation is appropriate, it is often useful to explain to staff why the issue is being elevated rather than treating escalation as an effort to bypass them.

Conclusion

The practical takeaway is that responding to an NOV or AONOCAPA requires more than understanding the underlying regulation. It also requires understanding who is making the relevant decision, what authority that person has, and whether the issue should remain at the staff level or be presented to senior management.

Visit our NJDEP Enforcement Insights page for additional guidance, updates, and resources.