

Procedures to Request Issuance of a Treble Damage Directive

Pursuant to the Spill Compensation and Control Act, N.J.S.A. 58:10-23.11 et seq., responsible parties have a right of contribution against all other dischargers and persons in any way responsible for a discharged hazardous substance or other persons who are liable for the cost of the cleanup and removal of that discharge of a hazardous substance. In order to be granted an award for treble damages by the court from one or more responsible parties (“contribution defendants”), the court must find that certain conditions have been met in accordance with N.J.S.A. 58:10-23.11f(a)2-3. One of these conditions is that the contribution defendant is a person who was named on or subject to a directive issued by the Department and failed or refused to comply with such a directive.

A contribution plaintiff may request that the Department issue a treble damages directive to the dischargers and persons in any way responsible for a discharged hazardous substance at the Site. The request should include:

- 1) The name, address and registered agent of the potentially responsible part(ies) and that party’s connection to the Site.
- 2) Evidence that a discharge of hazardous substances occurred during that party’s ownership or operation of the Site and all documentation to support such claims.
- 3) Evidence that demonstrates the contribution plaintiff gave 30 days notice to the contribution defendant(s) of the plaintiff’s intention to seek treble damages pursuant to this subsection and gave the contribution defendant(s) an opportunity to participate in the cleanup.
- 4) Evidence that demonstrates the contribution defendant(s) failed or refused to enter into a settlement agreement with the contribution plaintiff.
- 5) Evidence that demonstrates the contribution plaintiff entered into an agreement with the Department to remediate the site.

The Department will then evaluate such a request to determine if sufficient information and associated documentation has been submitted. If so, the Department may issue a directive to one or more of the responsible parties.