

### §349-N. Incentives

Subject to section 349-Q, and notwithstanding any other provision of law relating to penalties, the department may adjust or mitigate penalties for violations of environmental requirements in accordance with this section. [PL 2011, c. 304, Pt. A, §1 (NEW).]

**1. No gravity-based penalties.** If the department determines that a regulated entity satisfies all of the conditions of section 349-O, the department may not impose in any administrative proceeding or seek in any civil action any gravity-based penalty for a violation that is discovered and disclosed by the regulated entity.

[PL 2011, c. 304, Pt. A, §1 (NEW).]

**2. Reduction of gravity-based penalties by 75%.** If the department determines that the regulated entity satisfies the conditions of section 349-O, subsections 2 to 9, the department shall reduce by 75% gravity-based penalties that would otherwise be associated with violations discovered and disclosed by the regulated entity.

[PL 2011, c. 304, Pt. A, §1 (NEW).]

**3. No recommendation for criminal prosecution.** If the department determines that the regulated entity satisfies the conditions of section 349-O, subsections 2 to 9, the department may not recommend that criminal charges be brought against the regulated entity if the department determines that the violation is not part of a pattern or practice that demonstrates or involves:

A. A prevalent management philosophy or practice that conceals or condones environmental violations; or [PL 2011, c. 304, Pt. A, §1 (NEW).]

B. High-level corporate officials' or managers' conscious involvement in, or willful blindness to, violations of state or federal environmental laws. [PL 2011, c. 304, Pt. A, §1 (NEW).]

Whether or not the department recommends the regulated entity for criminal prosecution under this section, the department may recommend for prosecution the criminal acts of individual managers or employees under existing policies guiding the exercise of enforcement discretion.

[PL 2011, c. 304, Pt. A, §1 (NEW).]

**4. No routine request for environmental audit reports.** The department may not request an environmental audit report in connection with a routine inspection of a regulated entity. If the department has reason to believe that a violation by a regulated entity of an environmental requirement has occurred, the department may seek any information relevant to identifying violations or determining liability or the extent of harm resulting from the violation.

[PL 2011, c. 304, Pt. A, §1 (NEW).]

#### SECTION HISTORY

PL 2011, c. 304, Pt. A, §1 (NEW).

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