

CHAPTER 26A
RECYCLING RULES

Authority

N.J.S.A. 13:1E-1 et seq., specifically N.J.S.A. 13:1E-6, 13:1E-99.11 et seq., 13:1E-99.35 and 13:1E-99.36.

Source and Effective Date

R.1996 d.577, effective November 18, 1996.
See: 28 N.J.R. 2240(a), 28 N.J.R. 5360(a).

Executive Order No. 66(1978) Expiration Date

Chapter 26A, Recycling Rules, expires on November 18, 2001.

Chapter Historical Note

Chapter 26A, Recycling Rules, was adopted as R.1991 d.529, effective November 18, 1991. See: 22 N.J.R. 3088(a), 23 N.J.R. 3452(a). Subchapter 6, Used Motor Oil, was adopted as R.1993 d.342, effective July 6, 1993. See: 24 N.J.R. 2382(a), 25 N.J.R. 2863(a).

Pursuant to Executive Order No. 66(1978), Chapter 26A, Recycling Rules, was readopted as R.1996 d.577, effective November 18, 1996. See: Source and Effective Date. As part of R.1996 d.577, the heading of Subchapter 2, Annual Fees for a General or Limited Approval to Operate a Recycling Center For Class B Recyclable Material, was changed to Annual Fees for a General or Limited Approval to Operate a Recycling Center For Class B, Class C and Class D Recyclable Material; the heading of Subchapter 3, Approval of Recycling Centers For Class B Recyclable Materials, was changed to Approval of Recycling Centers For Class B, Class C and Class D Recyclable Materials; the heading of Subchapter 4, Operational Standards and General Rules For Recycling Centers Which Receive, Store, Process or Transfer Class A and Class B Recyclable Material; Right of Entry and Inspection, was changed to Operational Standards and General Rules For Recycling Centers Which Receive, Store, Process or Transfer Class A, Class B, Class C and Class D Recyclable Material; Right of Entry and Inspection; Subchapter 6, Used Motor Oil, was repealed, and Subchapter 6, Standards For the Management of Used Oil, was adopted as new rules; and Subchapter 7, Standards For the Management of Class D Universal Waste, was adopted as new rules, effective December 16, 1996. See, also, section annotations.

N.J.A.C. 7:26A-1.3, 3.1, and 4.1 were amended by Emergency Adoption R.1997 d.404, effective September 2, 1997 (to expire November 1, 1997), with the amendments to become operative upon final disposition of *Atlantic Coast Demolition and Recycling, Inc. v. Board of Chosen Freeholders of Atlantic County*. See: 29 N.J.R. 4170(a). The provisions of R.1997 d.404 were readopted by R.1997 d.510, effective October 31, 1997, with changes upon adoption effective December 1, 1997. The concurrent amendments to N.J.A.C. 7:26A-1.3, 3.1, and 4.1 became operative on November 10, 1997, the date of final disposition (denial of certiorari by the United States Supreme Court) of *Atlantic Coast Demolition and Recycling, Inc. v. Board of Chosen Freeholders of Atlantic County*. All changes upon adoption became operative on December 1, 1997. See: 29 N.J.R. 5084(a).

Law Reviews and Journal Commentaries

Counties scramble to meet U.S. Court's trash mandate. Cheryl Winokur, 150 N.J.L.J. 609 (1997).

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SUBCHAPTER 1. GENERAL PROVISIONS

7:26A-1.1 Scope and authority

(a) Unless otherwise provided by rule or statute, this chapter shall constitute the rules of the Department governing the operation of recycling centers pursuant to the Solid Waste Management Act, N.J.S.A. 13:1E-1 et seq., particularly the New Jersey Statewide Mandatory Source Separation and Recycling Act, N.J.S.A. 13:1E-99.11 et seq.

(b) This chapter shall not apply to hazardous waste, except for universal waste exempted from hazardous waste regulation as provided at N.J.A.C. 7:26A-7.

(c) The use or reuse of material that would otherwise become solid waste pursuant to N.J.A.C. 7:26 as fill material, aggregate substitute, fuel substitute, or landfill cover which in some cases may be recycling, are reviewed and approved in accordance with N.J.A.C. 7:26-1.7(g).

Amended by R.1996 d.500, effective October 21, 1996.
See: 28 N.J.R. 1693(a), 28 N.J.R. 4606(a).
Amended by R.1996 d.577, effective December 16, 1996.
See: 28 N.J.R. 2240(a), 28 N.J.R. 5360(a).

In (b), deleted N.J.A.C. references and inserted exception; added (c).

7:26A-1.2 Construction and severability

(a) This chapter shall be liberally construed to permit the Department to effectuate the purposes of the Solid Waste Management Act, N.J.S.A. 13:1E-1 et seq.

(b) If any subchapter, section, subsection, provision, clause, or portion of this chapter, or the application thereof to any person, is adjudged unconstitutional or invalid by a court of competent jurisdiction, such judgment shall be confined in its operation to the subchapter, section, subsection, provision, clause, portion, or application directly involved in the controversy in which such judgment shall have been rendered and it shall not affect or impair the remainder of this chapter or the application thereof to other persons.

(c) The Department may amend, repeal or rescind this chapter as necessary and in conformance with the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq.

7:26A-1.3 Definitions

The following words and terms, when used in this chapter, shall have the meanings set forth below. All terms which are used in this chapter and which are not defined herein but which are defined in N.J.A.C. 7:26 shall have the same meanings as in that subchapter.

“Aboveground tank” means a tank used to store or process used oil that is not an underground storage tank as defined in 40 C.F.R. 280.12 or N.J.A.C. 7:14B.

“Act” means the New Jersey Statewide Mandatory Source Separation and Recycling Act, N.J.S.A. 13:1E-99.11 et seq.

“Applicant” means any person seeking a general or limited approval to operate a recycling center.

“Battery” means a device consisting of one or more electrically connected electrochemical cells which is designed to receive, store, and deliver electric energy. An electrochemical cell is a system consisting of an anode, cathode, and an electrolyte, plus such connections (electrical and mechanical) as may be needed to allow the cell to deliver or receive electrical energy. The term battery also includes an intact, unbroken battery from which the electrolyte has been removed.