

CHAPTER 26**SOLID WASTE****Authority**

N.J.S.A. 13:1E-1 et seq., 13:1B-3, 13:1D-1 et seq., 13:1E-9, 13:1D-125 et seq., 26:2C-1 et seq., 47:1A-1 et seq., 58:10-23.11 and 58:10A-1 et seq.

Source and Effective Date

R.2002 d.181, effective May 17, 2002.
See: 33 N.J.R. 4218(a), 34 N.J.R. 2049(a).

Chapter Expiration Date

Chapter 26, Solid Waste, expires on May 17, 2007.

Chapter Historical Note

Chapter 26, Bureau of Solid Waste Management, was filed and became effective prior to September 1, 1969, pursuant to authority delegated at N.J.S.A. 26:2C-1, et seq. and N.J.S.A. 26:2D-1 et seq. Amendments to Chapter 26 became effective July 1, 1974 as R.1974 d.172. See: 5 N.J.R. 369(b), 6 N.J.R. 305(c).

Subchapter 2 was partially repealed and partially recodified to Subchapter 2A and a new Subchapter 2, Disposal, was adopted by R.1987 d.235, effective June 1, 1987. See: 18 N.J.R. 883(a), 19 N.J.R. 928(b).

Subchapter 2A, Additional Specific Disposal Regulations for Sanitary Landfills, was partially recodified from Subchapter 2 and the remainder was adopted as new rules by R.1987 d.235, effective June 1, 1987. See: 18 N.J.R. 883(a), 19 N.J.R. 928(b).

Subchapter 2B, Additional, Specific Disposal Regulations for Thermal Destruction Facilities, Transfer Stations, Materials Recovery Facilities, Co-Composting and Composting Facilities, was adopted as new rules by R.1987 d.235, effective June 1, 1987. See: 18 N.J.R. 883(a), 19 N.J.R. 928(b). Subchapter 2B, was renamed Additional, Specific Disposal Regulations for Thermal Destruction Facilities, Transfer Stations, Materials Recovery Facilities, Co-Composting and Solid Waste Composting Facilities by R.1996 d.578, effective November 18, 1996. See: 28 N.J.R. 2114(a), 28 N.J.R. 5248(a).

Subchapter 3, was adopted as R.1984 d.279, effective July 2, 1984. See 16 N.J.R. 986(a), 16 N.J.R. 1766(a). Subchapter 3 expired on June 9, 1985 and a new Subchapter 3, Transportation, was adopted as R.1985 d.558, effective November 4, 1985. See: 17 N.J.R. 1041(a), 17 N.J.R. 2609(a).

Subchapter 3A, Special Medical Waste, was adopted as an emergency new rule by R.1988 d.429, effective August 10, 1988 (to expire October 9, 1988). See: 20 N.J.R. 2321(a). The concurrent proposal was adopted as R.1988 d.523, effective October 7, 1988. See: 20 N.J.R. 2321(a), 20 N.J.R. 2760(a). Subchapter 3A, Special Medical Waste, was repealed and an new Subchapter 3A, Regulated Medical Waste, was adopted as an emergency repeal and new rule by R.1989 d.396, effective June 26, 1989. See: 21 N.J.R. 2109(a). The concurrent proposal was adopted as R.1989 d.506, effective August 25, 1989. See: 21 N.J.R. 2109(a), 21 N.J.R. 2967(a).

Subchapter 4, Fees for Solid Waste, Excluding Hazardous Waste, was amended by R.1975 d.110, effective April 29, 1975. See: 7 N.J.R. 101(a), 7 N.J.R. 259(a). Subchapter 4 was further amended by R.1976 d.327, effective November 1, 1976. See: 8 N.J.R. 374(d), 8 N.J.R. 510(d); and R.1978 d.205, effective July 1, 1978. See: 10 N.J.R. 327(c). Subchapter 4, Fees for Solid Waste, Excluding Hazardous Waste, was renamed Fees for Solid Waste by R.1996 d.578, effective November 18, 1996. See: 28 N.J.R. 2114(a), 28 N.J.R. 5248(a).

Subchapter 4A, Hazardous Waste Fees, was adopted as R.1989 d.54, effective January 17, 1989. See: 20 N.J.R. 1995(a), 21 N.J.R. 190(a). Subchapter 4A was repealed by R.1996 d.500, effective October 21, 1996. See: 28 N.J.R. 1693(a), 28 N.J.R. 4606(a).

Subchapter 5, Rules of Practice and Procedure, was adopted, pursuant to authority of N.J.S.A. 13:1E-1 et seq., by R.1973 d.300, effective October 23, 1973. See: 5 N.J.R. 370(c). Subchapter 5 was further amended by R.1982 d.433, effective December 6, 1982. See: 14 N.J.R. 1138(a), 14 N.J.R. 1367(a); and R.1984 d.279, effective July 2, 1984. See: 16 N.J.R. 986(a), 16 N.J.R. 1766(a). Pursuant to Executive Order No. 66(1978), Subchapter 5, Rules of Practice and Procedure, expired on October 7, 1985 and the Department does not intend to readopt its provisions. Subchapter 5, Rules of Practice and Procedure, was repealed by R.1987 d.235, effective June 1, 1987. See: 18 N.J.R. 883(a), 19 N.J.R. 928(b). Subchapter 5, Civil Administrative Penalties and Requests for Adjudicatory Hearings, was adopted as R.1990 d.50, effective January 16, 1990. See: 21 N.J.R. 2734(a), 22 N.J.R. 187(a).

Subchapter 6, was adopted as R.1979 d.502, effective December 31, 1979. See: 11 N.J.R. 616(b), 12 N.J.R. 71(b). Subchapter 6 was repealed and a new Subchapter 6, Interdistrict and Intradistrict Solid Waste Flow, was adopted by R.1982 d.434, effective December 6, 1982, in accordance with a New Jersey Supreme Court decision modifying Department of Environmental Protection authority to direct the inter-district flow of waste (A.A. Mastrangelo, Inc., et al. v. Commr. Env. Prot., August 11, 1982). See: 14 N.J.R. 1027(b), 14 N.J.R. 1368(a).

Subchapter 7, Labeling, Records and Transportation Requirements, was adopted as R.1978 d.72, effective February 27, 1978. See: 9 N.J.R. 459(d), 10 N.J.R. 146(a). Subchapter 7 was repealed by R.1996 d.500, effective October 21, 1996. See: 28 N.J.R. 1693(a), 28 N.J.R. 4606(a).

Subchapter 8, Hazardous Waste Criteria, Identification and Listing, was adopted as R.1981 d.281, effective August 6, 1981. See: 12 N.J.R. 511(a), 13 N.J.R. 484(b). Public Notice: Petition for Rulemaking. See: 22 N.J.R. 994(a). Public Notice: Action on Petition for Rulemaking. See: 22 N.J.R. 994(d). Subchapter 8, Hazardous Waste Criteria, Identification and Listing, was repealed by R.1996 d.500, effective October 21, 1996. See: 28 N.J.R. 1693(a), 28 N.J.R. 4606(a).

Subchapter 9, Requirements for Hazardous Waste Facilities, was adopted as R.1981 d.370, effective October 8, 1981. See: 12 N.J.R. 511(a), 13 N.J.R. 706(b). Subchapter 9 was repealed by R.1996 d.500, effective October 21, 1996. See: 28 N.J.R. 1693(a), 28 N.J.R. 4606(a).

Subchapter 10, Additional Operational and Design Standards for Hazardous Waste Facilities, was adopted as R.1982 d.324, effective October 4, 1982. See: 13 N.J.R. 567(a), 14 N.J.R. 1089(d). Subchapter 10 was repealed by R.1996 d.500, effective October 21, 1996. See: 28 N.J.R. 1693(a), 28 N.J.R. 4606(a).

Subchapter 11, Additional Requirements for Hazardous Waste Facilities Operating Under Existing Facility Status, was adopted as R.1981 d.370, effective October 8, 1981. See: 12 N.J.R. 511(a), 13 N.J.R. 706(b). Subchapter 11 was repealed by R.1996 d.500, effective October 21, 1996. See: 28 N.J.R. 1693(a), 28 N.J.R. 4606(a).

Subchapter 12, Hazardous Waste Facility Permit Requirements, was adopted as R.1981 d.370, effective October 8, 1981. See: 12 N.J.R. 511(a), 13 N.J.R. 706(b). Subchapter 12 was repealed by R.1996 d.500, effective October 21, 1996. See: 28 N.J.R. 1693(a), 28 N.J.R. 4606(a).

Subchapter 13, Siting Criteria for New Major Commercial Hazardous Waste Facilities, was adopted as R.1983 d.276, effective July 5, 1983. See: 15 N.J.R. 113(a), 15 N.J.R. 1096(a). Subchapter 13 was repealed by R.1996 d.500, effective October 21, 1996. See: 28 N.J.R. 1693(a), 28 N.J.R. 4606(a).

Subchapter 13A, Hazardous Waste Facilities Siting Commission: Policies and Procedures, was adopted as R.1984 d.304, effective July 16, 1984. See: 16 N.J.R. 408(b), 16 N.J.R. 1989(a). Subchapter 13A was repealed by R.1996 d.500, effective October 21, 1996. See: 28 N.J.R. 1693(a), 28 N.J.R. 4606(a).

Research Note

The Water Quality Regulations of the Interstate Environmental Commission appear as Appendix A to Title 7.

Law Reviews and Journal Commentaries

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

CHAPTER TABLE OF CONTENTS

SUBCHAPTER 1. GENERAL PROVISIONS

- 7:26-1.1 Scope of rules
- 7:26-1.2 Construction and severability
- 7:26-1.3 (Reserved)
- 7:26-1.4 Definitions
- 7:26-1.5 (Reserved)
- 7:26-1.6 Definition of solid waste
- 7:26-1.7 Exemption from SWF permitting
- 7:26-1.8 Exemption from registration—land application and sewage sludge operations
- 7:26-1.9 Temporary exemption from solid waste facility permit modification procedures for permitted solid waste facilities
- 7:26-1.10 Transfer station facility master performance permits
- 7:26-1.11 (Reserved)
- 7:26-1.12 Public access to information and requirements for Department determination of confidentiality
- 7:26-1.13 Burden of proof

SUBCHAPTER 2. DISPOSAL

- 7:26-2.1 Scope and applicability
- 7:26-2.2 Construction
- 7:26-2.3 Purpose
- 7:26-2.4 Application procedures for a solid waste facility permit
- 7:26-2.5 Public hearing procedures
- 7:26-2.6 Procedures and grounds for modification, revocation and reissuance and termination of SWF permits
- 7:26-2.7 Duration of the permit; permit renewal requirements; continuation of an expiring permit and transfer of an existing permit
- 7:26-2.8 Registration and general prohibitions
- 7:26-2.9 Environmental and Health Impact Statement requirements
- 7:26-2.10 General engineering design submission requirements
- 7:26-2.11 General operational requirements
- 7:26-2.12 Generator requirements for disposal of asbestos containing waste materials
- 7:26-2.13 Solid waste facility; records
- 7:26-2.14 Solid waste facility performance partnership agreements

SUBCHAPTER 2A. ADDITIONAL, SPECIFIC DISPOSAL REGULATIONS FOR SANITARY LANDFILLS

- 7:26-2A.1 Scope and applicability
- 7:26-2A.2 Construction
- 7:26-2A.3 Purpose
- 7:26-2A.4 General prohibitions and requirements
- 7:26-2A.5 Additional engineering design submittal requirements for sanitary landfills
- 7:26-2A.6 Sanitary landfill environmental performance standards
- 7:26-2A.7 Sanitary landfill engineering design standards and construction requirements
- 7:26-2A.8 Sanitary landfill operational and maintenance requirements
- 7:26-2A.9 Closure and post-closure care of sanitary landfills

APPENDIX A GUIDELINES FOR A GROUND WATER MODELING EFFORT

SUBCHAPTER 2B. ADDITIONAL, SPECIFIC DISPOSAL REGULATIONS FOR THERMAL DESTRUCTION FACILITIES, TRANSFER STATIONS, MATERIALS RECOVERY FACILITIES, CO-COMPOSTING AND SOLID WASTE COMPOSTING FACILITIES

- 7:26-2B.1 Scope and applicability

Subchapter 14, Resource Recovery Grants or Loans, was adopted as R.1981 d.184, effective June 4, 1981. See: 13 N.J.R. 9(a), 13 N.J.R. 340(d). Subchapter 14 was repealed by R.1996 d.578, effective November 18, 1996. See: 28 N.J.R. 2114(a), 28 N.J.R. 5248(a).

Subchapter 14A, Resource Recovery and Solid Waste Disposal Facility Loans, was adopted as R.1988 d.268, effective June 20, 1988. See: 19 N.J.R. 828(a), 20 N.J.R. 1346(a).

Subchapter 15, Recycling Grants and Loans Program, was adopted as R.1982 d.32, effective February 16, 1982. See: 13 N.J.R. 865(a), 14 N.J.R. 206(b).

Subchapter 16, Solid and Hazardous Waste Licensing and Revocation—Disclosure Statements and Integrity Review was adopted as R.1984 d.279, effective July 2, 1984. See: 16 N.J.R. 986(a), 16 N.J.R. 1425(a), 16 N.J.R. 1766(a).

Subchapter 16A, Special Rules for Submission of Disclosure Statements by Existing Licensees and Applicants Whose Applications Were Pending Before the Department Prior to July 2, 1984, was adopted as R.1984 d.279, effective July 2, 1984. See: 16 N.J.R. 986(a), 16 N.J.R. 1766(a).

Subchapter 17, Availability of Information; Confidential Business Information, was adopted as R.1988 d.57, effective February 1, 1988. See: 19 N.J.R. 1869(a), 20 N.J.R. 273(a). Subchapter 17, Availability of Information; Confidential Business Information, was repealed and a new Subchapter 17, Confidentiality Determinations, was adopted by R.1996 d.578, effective November 18, 1996. See: 28 N.J.R. 2114(a), 28 N.J.R. 5248(a).

Chapter 26, Bureau of Solid Waste Management, was renamed Division of Waste Management and amended by R.1984 d.279, effective July 2, 1984. See: 16 N.J.R. 986(a), 16 N.J.R. 1425(a), 16 N.J.R. 1766(a). Amendments to Chapter 26 became effective June 1, 1987 as R.1987 d.235. See: 18 N.J.R. 883(a), 19 N.J.R. 928(b).

Pursuant to Executive Order No. 66(1978), Chapter 26, Bureau of Solid Waste Management, was readopted as R.1990 d.578, effective October 25, 1990. See: 22 N.J.R. 2882(a), 22 N.J.R. 3514(a). The expiration date of Chapter 26, Bureau of Solid Waste Management, was extended by gubernatorial directive from October 25, 1995 to October 25, 1996. See: 27 N.J.R. 4700(a). The expiration date of Chapter 26, Division of Waste Management, was further extended by gubernatorial directive from October 25, 1996 to November 25, 1996. See 28 N.J.R. 4959(a).

Pursuant to Executive Order No. 66(1978), Chapter 26, Bureau of Solid Waste Management, was readopted as Chapter 26, Solid Waste, by R.1996 d.578, effective November 18, 1996. See: 28 N.J.R. 2114(a), 28 N.J.R. 5248(a).

Chapter 26 was extensively amended by Emergency Adoption R.1997 d.404, effective September 2, 1997 (to expire November 1, 1997). New rule N.J.A.C. 7:26-1.9 and the amendments to N.J.A.C. 7:26-1.9, 1.11, 6.10, and 6.11 became operative on September 2, 1997. All other amendments and repeals were 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. Concurrent new rule N.J.A.C. 7:26-1.9 and the concurrent amendments to N.J.A.C. 7:26-1.9, 1.11, 6.10 and 6.11 became operative on October 31, 1997. All other concurrent amendments and repeals 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).

Chapter 26, Solid Waste, was readopted as R.2002 d.181, effective May 17, 2002. See: Source and Effective Date. See, also, section annotations.

SOLID WASTE

- 7:26-2B.2 Construction
- 7:26-2B.3 Purpose
- 7:26-2B.4 Additional engineering design submission requirements for thermal destruction facilities
- 7:26-2B.5 Additional engineering design submission requirements and design requirements for transfer stations and materials recovery facilities
- 7:26-2B.6 Additional engineering requirements for solid waste composting and co-composting facilities
- 7:26-2B.7 Additional operational requirements for solid waste composting and co-composting facilities
- 7:26-2B.8 Additional operational requirements for thermal destruction facilities
- 7:26-2B.9 Additional operational requirements for transfer stations and materials recovery facilities
- 7:26-2B.10 (Reserved)

SUBCHAPTER 2C. PARTICIPATION BY LANDFILLS IN SILVER TRACK II TIER OF SILVER AND GOLD TRACK PROGRAM FOR ENVIRONMENTAL PERFORMANCE

- 7:26-2C.1 Purpose and scope
- 7:26-2C.2 Definitions
- 7:26-2C.3 Silver Track II application process for sanitary landfills
- 7:26-2C.4 Eligibility criteria for landfills seeking participation in Silver Track II
- 7:26-2C.5 Development of the Silver Track II Covenant
- 7:26-2C.6 Pollution Prevention and Sustainability Plan
- 7:26-2C.7 Community Outreach Plan provisions
- 7:26-2C.8 Reduction of green house gas emissions
- 7:26-2C.9 Flexibilities and incentives
- 7:26-2C.10 Procedures for withdrawal of Silver Track II status
- 7:26-2C.11 Revocation of Silver Track II status
- 7:26-2C.12 Procedures for renewal of Silver Track II status
- 7:26-2C.13 Requests for an adjudicatory hearing
- 7:26-2C.14 Request for a stay of the effective date of a Departmental determination
- 7:26-2C.15 Deferral track

APPENDIX COMPOST QUALITY MONITORING PARAMETERS

SUBCHAPTER 3. TRANSPORTATION

- 7:26-3.1 Improper transportation prohibited
- 7:26-3.2 Registration
- 7:26-3.3 Exemptions and conditions
- 7:26-3.4 Transportation requirements (general)
- 7:26-3.5 Transporter requirements (specific)
- 7:26-3.6 Intermodal container facility
- 7:26-3.7 Smoking, smoldering or burning solid waste in solid waste vehicles
- 7:26-3.8 Applicability

SUBCHAPTER 3A. REGULATED MEDICAL WASTE

- 7:26-3A.1 Purpose, scope and applicability
- 7:26-3A.2 Construction
- 7:26-3A.3 Severability
- 7:26-3A.4 Record retention
- 7:26-3A.5 Definitions
- 7:26-3A.6 Definition of regulated medical waste
- 7:26-3A.7 Mixtures
- 7:26-3A.8 Registration and fees for regulated medical waste generators, and owners and operators of transporters, collection facilities, transfer stations, intermediate handlers and destination facilities
- 7:26-3A.9 Education
- 7:26-3A.10 Segregation requirements
- 7:26-3A.11 Packaging requirements
- 7:26-3A.12 Storage of regulated medical waste prior to transport, treatment, destruction, or disposal
- 7:26-3A.13 Decontamination standards for reusable containers
- 7:26-3A.14 Labeling requirements

- 7:26-3A.15 Marking (identification) requirements
- 7:26-3A.16 General requirements for regulated medical waste generators, transporters, collection facilities, intermediate handlers and destination facilities
- 7:26-3A.17 Exemptions
- 7:26-3A.18 Solid waste facility acceptance of regulated medical waste
- 7:26-3A.19 Generator use of tracking form
- 7:26-3A.20 Generators exporting regulated medical waste
- 7:26-3A.21 Generator recordkeeping
- 7:26-3A.22 Exception reporting for generators
- 7:26-3A.23 Additional reporting for generators
- 7:26-3A.24 Generators of regulated medical waste who incinerate regulated medical waste on-site
- 7:26-3A.25 Recordkeeping for generators with on-site incinerators
- 7:26-3A.26 Recordkeeping for generators who incinerate regulated medical waste on-site
- 7:26-3A.27 Transporters
- 7:26-3A.28 Transporter acceptance of regulated medical waste
- 7:26-3A.29 (Reserved)
- 7:26-3A.30 Vehicle requirements
- 7:26-3A.31 Tracking form requirements for transporters
- 7:26-3A.32 Transporter compliance with the tracking form
- 7:26-3A.33 Transporters consolidating waste to a new tracking form
- 7:26-3A.34 Recordkeeping for transporters of regulated medical waste
- 7:26-3A.35 Transporter reporting
- 7:26-3A.36 Additional reporting for transporters of regulated medical waste
- 7:26-3A.37 Transporter management of spills
- 7:26-3A.38 Temporary authorization to operate a regulated medical waste incinerator
- 7:26-3A.39 Collection facilities for medical wastes
- 7:26-3A.40 Intermediate handlers and destination facilities
- 7:26-3A.41 Use of the tracking form for intermediate handlers and destination facilities
- 7:26-3A.42 Tracking form discrepancies for intermediate handlers and destination facilities
- 7:26-3A.43 Recordkeeping for collection facilities, intermediate handlers and destination facilities
- 7:26-3A.44 Additional reporting for collection facilities, intermediate handlers and destination facilities
- 7:26-3A.45 Rail transporters
- 7:26-3A.46 Rail shipment tracking form requirements
- 7:26-3A.47 Alternative or innovative technology authorization
- 7:26-3A.48 Requirements for generators using out-of-State facilities disposing of regulated medical waste from New Jersey
- 7:26-3A.49 Duration of the letter of authorization; letter of authorization renewal requirements; continuation of an expiring letter of authorization and transfer of an existing letter of authorization for commercial collection facilities

SUBCHAPTER 4. FEES FOR SOLID WASTE

- 7:26-4.1 General provisions
- 7:26-4.2 Payment of fees
- 7:26-4.3 Fee schedule for solid waste facilities
- 7:26-4.4 Fee schedule for transporters
- 7:26-4.5 County enforcement activity fees for solid waste control program
- 7:26-4.6 Adjustment of fees
- 7:26-4.7 Fee schedule for intermodal container facilities
- 7:26-4.8 Confidentiality claims

SUBCHAPTER 4A. (RESERVED)

SUBCHAPTER 5. CIVIL ADMINISTRATIVE PENALTIES AND REQUESTS FOR ADJUDICATORY HEARINGS

- 7:26-5.1 Scope and purpose
- 7:26-5.2 Procedures for assessment and payment of civil administrative penalties
- 7:26-5.3 Procedures to request an adjudicatory hearing to contest an administrative order and/or a notice of civil administrative penalty assessment, and procedures for conducting adjudicatory hearings

- 7:26-5.4 Civil administrative penalties for violations of rules adopted pursuant to the Act
- 7:26-5.5 Civil administrative penalty determination
- 7:26-5.6 Civil administrative penalty for submitting inaccurate or false information
- 7:26-5.7 Civil administrative penalty for failure to allow lawful entry and inspection
- 7:26-5.8 Civil administrative penalty for failure to pay a fee
- 7:26-5.9 Civil administrative penalty for economic benefit
- 7:26-5.10 Severability

SUBCHAPTER 6. SOLID WASTE PLANNING REGULATIONS

- 7:26-6.1 Authority
- 7:26-6.2 Purpose
- 7:26-6.3 Types of waste covered
- 7:26-6.4 Informational requirements
- 7:26-6.5 through 7:26-6.7 (Reserved)
- 7:26-6.8 Procedure for applying for a rate for planning related to dry industrial waste, ID type 27, which is residue from a scrap metal shredding facility
- 7:26-6.9 (Reserved)
- 7:26-6.10 Modifications to district solid waste management plans; plan amendments
- 7:26-6.11 Administrative actions concerning a district solid waste management plan
- 7:26-6.12 Compliance with district solid waste management plan

SUBCHAPTERS 7 THROUGH 14. (RESERVED)

SUBCHAPTER 14A. RESOURCE RECOVERY AND SOLID WASTE DISPOSAL FACILITY LOANS

- 7:26-14A.1 Scope
- 7:26-14A.2 Construction
- 7:26-14A.3 Purpose
- 7:26-14A.4 Definitions
- 7:26-14A.5 Eligibility for project loans
- 7:26-14A.6 Application procedures
- 7:26-14A.7 Use and disclosure of information
- 7:26-14A.8 Loan terms and administration of disbursements
- 7:26-14A.9 Payment procedures
- 7:26-14A.10 Loan agreement
- 7:26-14A.11 Effect of loan agreement
- 7:26-14A.12 Repaid funds
- 7:26-14A.13 Fraud and other unlawful or corrupt practices
- 7:26-14A.14 Administration and performance of loan
- 7:26-14A.15 Access
- 7:26-14A.16 Assignment
- 7:26-14A.17 Publicity and signs
- 7:26-14A.18 Debarment
- 7:26-14A.19 Termination of loans
- 7:26-14A.20 Certifications
- 7:26-14A.21 Administrative hearings
- 7:26-14A.22 Severability
- 7:26-14A.23 through 7:26-14A.26 (Reserved)

SUBCHAPTER 15. RECYCLING GRANTS AND LOANS PROGRAM

- 7:26-15.1 Scope
- 7:26-15.2 Construction
- 7:26-15.3 Practice where these rules do not govern
- 7:26-15.4 Definitions
- 7:26-15.5 Application and award procedures for Recycling Tonnage Grants
- 7:26-15.6 Application and award procedures for Recycling Business Loans
- 7:26-15.7 Application and award procedures for Planning and Program Grants and Education Grants
- 7:26-15.8 Application and award procedure for Supplementary Projects
- 7:26-15.9 Execution of award documents
- 7:26-15.10 Unused monies

- 7:26-15.11 Debarment
- 7:26-15.12 Discriminatory practices
- 7:26-15.13 Procedure for withholding or rescission of grants
- 7:26-15.14 Return of grants
- 7:26-15.15 Procedure for termination of loans and loan guarantees
- 7:26-15.16 Severability

SUBCHAPTER 16. SOLID AND HAZARDOUS WASTE LICENSING AND REVOCATION—DISCLOSURE STATEMENTS AND INTEGRITY REVIEW

- 7:26-16.1 Scope and authority
- 7:26-16.2 Definitions
- 7:26-16.3 Licensure; filing of disclosure statement
- 7:26-16.4 Content of disclosure statement
- 7:26-16.5 Investigative report by Attorney General
- 7:26-16.6 Change of information on disclosure statement; sales or transfers of ownership
- 7:26-16.7 Additional information; duty to cooperate
- 7:26-16.8 Disqualification criteria
- 7:26-16.9 Cause for license revocation
- 7:26-16.10 Administrative hearing; requests
- 7:26-16.11 Severance of disqualifying individuals
- 7:26-16.12 License revocation; ineligibility for reapplication
- 7:26-16.13 Annual solid waste license approval renewal; fees
- 7:26-16.14 Confidential information
- 7:26-16.15 through 7:26-16.19 (Reserved)
- 7:26-16.20 Policies on disqualification
- 7:26-16.21 Convicted persons generally
- 7:26-16.22 Persons convicted of environmental crimes
- 7:26-16.23 "Independent contractors," or "consultants"
- 7:26-16.24 (Reserved)

SUBCHAPTER 16A. SPECIAL RULES FOR SUBMISSION OF DISCLOSURE STATEMENTS BY EXISTING LICENSEES AND APPLICANTS WHOSE APPLICATIONS WERE PENDING BEFORE THE DEPARTMENT PRIOR TO JULY 2, 1984

- 7:26-16A.1 Scope and applicability; conflicts
- 7:26-16A.2 Schedule for submitting disclosure statements
- 7:26-16A.3 Applications pending on July 2, 1984

SUBCHAPTER 17. CONFIDENTIALITY DETERMINATIONS

- 7:26-17.1 Scope
- 7:26-17.2 Definitions
- 7:26-17.3 Procedure for making a confidentiality claim
- 7:26-17.4 Designation by claimant of an addressee for notices and inquiries
- 7:26-17.5 Correspondence, inquiries and notices
- 7:26-17.6 Time for making confidentiality determinations
- 7:26-17.7 Notice of initial confidentiality determination and of requirement to submit substantiation of claim
- 7:26-17.8 Substantiation of confidentiality
- 7:26-17.9 Time for submission of substantiation
- 7:26-17.10 Final confidentiality determination
- 7:26-17.11 Treatment of information pending confidentiality determination
- 7:26-17.12 Availability of information to the public after determination that information is not confidential
- 7:26-17.13 Preparation of final public copy
- 7:26-17.14 Class confidentiality determinations
- 7:26-17.15 Disclosure of confidential information to other public agencies
- 7:26-17.16 Disclosure of confidential information to contractors
- 7:26-17.17 Disclosure to alleviate an imminent and substantial danger
- 7:26-17.18 Notice to claimants of disclosure of confidential information
- 7:26-17.19 Disclosure by consent
- 7:26-17.20 Incorporation of confidential information into cumulations of data
- 7:26-17.21 Disclosure of confidential information in rulemaking, permitting and enforcement proceedings

- 7:26-17.22 Hearing before disclosure of information for which a confidentiality claim has been made
 7:26-17.23 Nondisclosure of confidential information
 7:26-17.24 Safeguarding of confidential information
 7:26-17.25 Confidentiality agreements
 7:26-17.26 Wrongful access or disclosure; penalties

SUBCHAPTER 1. GENERAL PROVISIONS

7:26-1.1 Scope of rules

(a) Unless otherwise provided by rule or statute, this chapter shall constitute the rules of the Department of Environmental Protection that govern the registration, operation, maintenance, and closure of sanitary landfills and other solid waste facilities in the State of New Jersey as may be approved by the Department; registration, operation, and maintenance of solid waste transporting operations and facilities in the State of New Jersey; a fee schedule for services provided by the Department to solid waste facilities, generators and transporters; and the assessment of civil administrative penalties. These rules shall not apply to the following:

1. The purchase, sale, collection, storage, transport or controlled processing of source separated or commingled source separated recyclable, recycled or secondary non-hazardous materials, which would otherwise be handled as solid waste pursuant to this chapter for introduction or reintroduction into the economic mainstream as raw materials for further processing or as products for use, provided that such materials are free from putrescible matter and are not mixed with solid or liquid waste as defined herein. Specifically not exempted are solid waste materials (including fuel and reusable energy), or thermal destruction facilities. These rules shall not apply only if the conditions in (a)1i or ii below are met.

- i. The use or reuse of material, which would otherwise become solid waste under this chapter, directly as a product or incorporated into any form of raw material to be used in the manufacturing of a product shall meet the generally accepted product specifications and standards for similar manufactured products or raw materials. The used or reused material shall not present a greater risk to human health or the environment than the use of the product or raw material it is replacing.

- ii. The use or reuse of materials that would otherwise become solid waste pursuant to this chapter as fill material, aggregate substitute, fuel substitute or landfill cover shall be approved as beneficial use pursuant N.J.A.C. 7:26-1.7.

- iii. Specifically not exempt are those used or reuses of materials which, if released to the environment through transport, storage or other handling will cause pollution of the surface or ground water of this State or

which may pose a substantial or material threat to the public health, safety or welfare in the environment.

2. Container-pickup facilities as herein defined;

3. Source separated food waste fed to livestock in the State of New Jersey as approved by the New Jersey Department of Agriculture;

4. Recycling depots as defined at N.J.A.C. 7:26A-1.3 where individuals or organizations deposit separate materials such as newsprint, bottles, cans, and so forth, prior to transport to the secondary materials industry;

5. Convenience centers as defined at N.J.A.C. 7:26-1.4;

6. The intra-plant transport, temporary storage or other handling of plant generated waste materials. Specifically not exempt are those materials to be, or which are, deposited on or in the lands of this State for periods exceeding six months, or which through transport, storage or other handling will cause pollution of the surface or ground waters of this State, or which may pose a substantial or material threat to the public health, safety or welfare;

7. Any discharge of a mixture of domestic sewage and other waste that are discharged into a sewer system to a domestic treatment works, as defined in N.J.A.C. 7:14A, which is authorized in accordance with N.J.A.C. 7:14A and local ordinances.

- i. This exemption does not include transport or discharge by waste transporters;

8. Recycling operations and recycling centers approved and operated pursuant to N.J.A.C. 7:26A; and

9. A small vehicle transfer area meeting the following requirements:

- i. Solid waste is transferred from a collection vehicle not exceeding 16,000 pounds gross vehicle weight directly to a registered solid waste collection vehicle;

- ii. Such solid waste is collected in the collection vehicle not exceeding 16,000 pounds gross vehicle weight because the point of generation is not accessible to a registered solid waste collection vehicle (that is, down a narrow lane or private driveway, or on public property such as a park or beach);

- iii. All waste collected at the small vehicle transfer area shall be removed by the end of each operating day (or next operating day if collected on a weekend or holiday);

- iv. Waste received in the area shall not be processed, segregated, sorted, or handled in any fashion other than direct transfer from the collection vehicle not exceeding 16,000 pounds gross vehicle weight into the registered collection vehicle or other collection container;

v. Area operations shall not result in the generation of odors, litter, dust, leachate, or any other negative environmental impacts;

vi. Small vehicle transfer areas shall receive approval from the municipality in which they are located prior to commencing transfer operations. In addition, operators of small vehicle transfer areas shall notify the Department in writing and the respective county health department following municipal approval and prior to commencing operations; and

vii. The operator of a small vehicle transfer area is subject to compliance with all other applicable solid waste regulations.

(b) In addition to the rules in this chapter, all solid waste landfill facilities are required to obtain a permit pursuant to the New Jersey "Water Pollution Control Act", N.J.S.A. 58:10A-1 et seq., and the regulations promulgated thereunder, "Regulations Concerning the New Jersey Pollutant Discharge Elimination System", N.J.A.C. 7:14A.

(c) The exemptions set out at (a)1 through 9 above are not applicable to activities associated with hazardous waste or regulated medical waste.

As amended, R.1981 d.84, effective March 6, 1981.
See: 12 N.J.R. 569(f), 13 N.J.R. 194(c).

(b) added.

As amended, R.1982 d.433, effective December 6, 1982.
See: 14 N.J.R. 1138(a), 14 N.J.R. 1367(a).

(c) added.

As amended, R.1983 d.610, effective January 3, 1984.
See: 15 N.J.R. 1800(a), 16 N.J.R. 47(b).

(a)6 added.

Amended by R.1987 d.534, effective December 21, 1987.
See: 19 N.J.R. 1035(a), 19 N.J.R. 2426(a).

Substantially amended.

Amended by R.1989 d.54, effective January 17, 1989.
See: 20 N.J.R. 1995(a), 21 N.J.R. 190(a).

Substantially amended (a).

Amended by R.1989 d.216, effective April 17, 1989.
See: 20 N.J.R. 2668(a), 21 N.J.R. 1002(b).

Added "hazardous" to the description of waste facilities, replaced "collection and haulage" with "solid waste transportation"; specific listing of the fee schedule elements deleted and replaced with generalized statement.

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.578, effective December 16, 1996.

See: 28 N.J.R. 2114(a), 28 N.J.R. 5248(a).

In (a), inserted reference to civil administration penalties; in (a)1, inserted text "which would otherwise . . . to this chapter" and added last sentence; added (a)1i to (a)1iii; substantially amended (a)3; in (a)4, substituted "depots" for "centers" and inserted N.J.A.C. reference; inserted new (a)5; recodified former (a)5 and (a)6 as (a)6 and (a)7; added (a)8; and, in (c), made conforming changes and inserted reference to regulated medical waste.

Amended by R.2001 d.86, effective March 5, 2001.

See: 32 N.J.R. 2536(a), 33 N.J.R. 880(a).

In (a), deleted "and hazardous" preceding "waste facilities" throughout.

Amended by R.2002 d.181, effective June 17, 2002.

See: 33 N.J.R. 4218(a), 34 N.J.R. 2049(a).

Added (a)9.

Case Notes

New Jersey's waste flow control laws violated commerce clause. *Atlantic Coast Demolition & Recycling, Inc. v. Board of Chosen Freeholders of Atlantic County*, D.N.J.1996, 931 F.Supp. 341.

Regulations did not exclude from definition of "sanitary landfill" a sole source facility which ceased operating prior to enactment of modern environmental statutes. *Johnson Machinery Co., Inc. v. Manville Sales Corp.*, 248 N.J.Super. 285, 590 A.2d 1206 (A.D.1991).

DEP complied with all Federal and State statutory and regulatory provisions in issuance of Air Pollution Control Permit and Solid Waste Permit to applicant. In the Matter of NJPDES Permit No. N.J. 0055247, et al., 216 N.J.Super. 1, 522 A.2d 1002 (App.Div.1987) certification denied 108 N.J. 185, 527 A.2d 1390 (1987).

Recycling center operates as solid waste facility where it accepts and buries materials as landfill. *New Jersey Department of Environmental Protection v. South Brunswick Asphalt*, 96 N.J.A.R.2d (EPE) 289.

Solid waste disposal violations debarred collectors from owing and operating any solid waste or recycling business within state. *Department of Environmental Protection v. Chad Lennon*, 95 N.J.A.R.2d (EPE) 33.

7:26-1.2 Construction and severability

(a) These rules shall be liberally construed to permit the Department to discharge its statutory function.

(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 in any judicial or administrative proceeding, such decision 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.

As amended, R.1984 d.279, effective July 2, 1984.

See: 16 N.J.R. 986(a), 16 N.J.R. 1766(a).

Formerly the Department and the Bureau of Solid Waste Management.

Amended by R.1992 d.100, effective March 2, 1992.

See: 23 N.J.R. 2453(b), 24 N.J.R. 788(a).

Severability clarified that if any provision of a rule is invalidated in any judicial or administrative proceeding, all other provisions of the rule remain in effect.

7:26-1.3 (Reserved)

As amended, R.1984 d.279, effective July 2, 1984.

See: 16 N.J.R. 986(a), 16 N.J.R. 1766(a).

Bureau Chief deleted.

Amended by R.1996 d.500, effective October 21, 1996.

See: 28 N.J.R. 1693(a), 28 N.J.R. 4606(a).

Repealed by R.1996 d.578, effective December 16, 1996.

See: 28 N.J.R. 2114(a), 28 N.J.R. 5248(a).

Section was "Practice where rules do not govern".

7:26-1.4 Definitions

The following words and terms, when used in this chapter, shall have the following meanings unless the context clearly indicates otherwise.

"Act" means the Solid Waste Management Act, N.J.S.A. 13:1E-1 et seq., as amended and supplemented.

Case Notes

Operator was liable for certain taxes and escrow accounts on solid waste disposed in its facilities under joint order issued by Department of Environmental Protection and Board of Public Utilities requiring landfill to remain open beyond intended closing date and requiring operator to extend credit to cash-based haulers in amount of rate increase. *Edgeboro Disposal, Inc. v. Division of Taxation*, 284 N.J.Super. 208, 664 A.2d 942 (A.D.1993).

Solid waste collector who failed to comply with terms of rate increase allowance; refund. In the Matter of the Petition of A. Fiore and Sons, Inc., 94 N.J.A.R.2d (EPE) 124.

7:26-4.2 Payment of fees

(a) Fees for activities related to solid waste transporters and facilities shall be paid by certified check or money order and made payable to "Treasurer, State of New Jersey" at the following address:

New Jersey Department of Environmental Protection
 Division of Solid and Hazardous Waste
 PO Box 414
 Trenton, NJ 08625-0414

(b) Engineering design fees and transporter registrations may be paid in person at the address set forth in (a) above.

Repeal and New Rule, R.1989 d.216, effective April 17, 1989.
 See: 20 N.J.R. 2668(a), 21 N.J.R. 1002(b).
 Amended by R.1996 d.578, effective December 16, 1996.
 See: 28 N.J.R. 2114(a), 28 N.J.R. 5248(a).
 Administrative change.
 See: 30 N.J.R. 3948(a).

7:26-4.3 Fee schedule for solid waste facilities

(a) The fee schedule for solid waste annual facility registration is as follows:

1. Each solid waste facility permittee shall pay an annual facility registration update fee of \$1,010. The annual facility registration update fee is due at the time the annual registration update is submitted, but in no event later than May 1 of each calendar year.

(b) Each solid waste facility permittee shall pay the applicable annual fee listed in the following table for compliance monitoring services. The fees are payable in equal quarterly installments, due on January 1, April 1, July 1 and October 1 of each year. The operator of one intermodal container facility authorized pursuant to N.J.A.C. 7:26-3.6 shall pay the annual fee listed below on January 1 of each year.

Type of Facility	Compliance Monitoring Fees
Sanitary Landfill—operating at 31,200 tons per year (tpy) or more	\$22,988
Sanitary Landfill—operating at less than 31,200 tpy	\$6,386
Transfer Stations and Materials Recovery Facilities—operating at 31,200 tpy or more	\$16,946

Type of Facility

Type of Facility	Compliance Monitoring Fees
Transfer Stations and Materials Recovery Facilities—operating at less than 31,200 tpy	\$5,894
Thermal Destruction Facilities—operating at 9.6 tons per day or more	\$21,072
Thermal Destruction Facilities—operating at less than 9.6 tons per day	\$1,834
Intermodal Container Facilities	\$260
Solid Waste Composting and Co-Composting Facilities	\$3,144

(c) The following tables set forth the classifications of solid waste facilities:

1. Thermal destruction facilities:

- Class A: small scale thermal destruction facility (as such term is defined at N.J.A.C. 7:26-1.4)
- Class B: design capacity greater than 9.6 tons per day

2. Sanitary landfills:

- Class A: Class I sanitary landfill (as such term is defined at N.J.A.C. 7:26-1.4)
- Class B: Class II sanitary landfill (as such term is defined at N.J.A.C. 7:26-1.4)
- Class C: Class III sanitary landfill (as such term is defined at N.J.A.C. 7:26-1.4)

3. Transfer stations and materials recovery facilities:

- Class A: design capacity of less than 100 tons per day
- Class B: design capacity of at least 100 tons per day

4. Compost facilities:

- Class A: vegetative food waste and paper brought in separated form
- Class B: separated compostable waste-no inorganic material (e.g. glass, metal, plastic, etc.)
- Class C: mixed waste requiring manual and/or mechanical separation processes before composting

5. Sanitary landfill closure plan submissions:

- Closure Plan
- Class A: less than 10 acres
 - Class B: 10 to 30 acres
 - Class C: more than 30 acres

(d) The following table sets forth fees (in dollars) for services for the classes of solid wastes facilities set forth in (c) above, specified by activity. The Department may, in its discretion, refrain from commencing work or suspend work at any time until the applicant or permittee has paid the designated fee.

1. Thermal Destruction Facilities

a. Completeness determination	Class	
	A	B
	6,734	13,467

b. Engineering design report review	29,460	106,054	
c. Permit renewal	21,884	58,077	
d. Major modification to permit	9,595	32,826	
e. Minor modification to permit	4,040	7,575	
f. Transfer of ownership of permit	5,724	9,932	
g. Minor technical review	1,010	2,020	
2. Sanitary Landfill Facilities			
	Class		
	<u>A</u>	<u>B</u>	<u>C</u>
a. Completeness determination	10,100	7,575	3,788
b. Engineering design report review	106,054	73,228	53,027
c. Permit renewal	63,128	42,927	25,251
d. Major modification to permit	20,201	11,615	9,090
e. Minor modification to permit	11,363	7,575	5,050
f. Transfer of ownership of permit	12,626	9,090	7,828
g. Minor technical review	1,515	1,010	505
3. Transfer Stations and Materials Recovery Facilities			
	Class		
	<u>A</u>	<u>B</u>	
a. Completeness determination	5,050	7,575	
b. Engineering design report review	23,736	27,776	
c. Permit renewal	20,706	25,251	
d. Major modification to permit	11,615	20,201	
e. Minor modification to permit	3,535	5,050	
f. Transfer of ownership of permit	5,555	5,555	
g. Minor technical review	1,010	1,515	
4. Compost Facilities			
	Class		
	<u>A</u>	<u>B</u>	<u>C</u>
a. Completeness determination	2,525	7,575	7,575
b. Engineering design report review	12,626	22,726	50,502
c. Permit renewal	11,110	17,676	27,776
d. Major modification to permit	4,040	11,615	17,676
e. Minor modification to permit	1,515	3,535	7,575
f. Minor technical reviews	1,010	1,515	1,515
g. Transfer of ownership of permit	3,535	5,555	5,555
5. Closure Plan			
	Class		
	<u>A</u>	<u>B</u>	<u>C</u>
a. Completeness determination	1,178	1,768	2,946
b. Engineering design report review	8,417	12,626	16,834
c. Major modification to approval	2,525	3,788	5,050
d. Minor modification to approval	842	1,683	2,525
e. Transfer of ownership of approval	1,683	2,525	3,788
f. Minor technical review	421	842	1,263

6. Annual Topographic Map Submissions

a. Engineering design report review	2,805
-------------------------------------	-------

(e) For submissions concerning disruption, methane venting systems, on-site disposal, cover material, RD & D reviews, hearing officer's report, construction facility inspection, contaminated soil reviews, or the solid waste facility performance partnership agreement, the applicant/permittee shall request an initial review of the submission. As part of its initial review, the Department shall determine the fees for performing its services in connection with the submission. Such fees shall be equal to the number of hours estimated by the Department to be required for the performance of such services, multiplies by an hourly rate of \$84.17.

(f) The omission of any type of service from the fee schedules set forth in (a), (b), (d) and (e) above shall not be construed as a waiver of the Department's authority to assess fees for such services. An applicant/permittee making a submission which it believes is not included in any of the schedules set forth in (a), (b), (d) and (e) above shall request an initial review of the submission. As part of its initial review, the Department shall determine the fees for performing its services in connection with the submission. The solid waste facility performance partnership agreement will be assessed a fee based on the hour for hour negotiation of the document with the permittee. This assessment will allow for the flexibility required by the Department and the permittee in establishing its permit pursuant N.J.A.C. 7:26-2.14. Such fees shall be equal to the number of hours estimated by the Department to be required for the performance of such services, multiplied by an hourly rate of \$84.17. The Department will calculate the fee for performance of the Department's services as follows:

1. If the Department determines, in its discretion, that the activity is of a type listed in (a), (b), (d) or (e) above, the amount of the fee shall be equal to the amount listed in (a), (b), (d) or (e).

2. If the Department determines, in its discretion, that such activity is not of a type listed in (a), (b), (d) or (e) above, the fee shall be equal to the Department's estimate of the number of person-hours required to perform such activity, multiplied by the hourly rate of \$84.17.

(g) A determination of a fee made pursuant to (e) or (f) above shall expire on the date which is 90 days after the date such determination has been issued, unless the applicant or permittee has paid such fee to the Department in full before expiration. If the applicant or permittee desires to continue to pursue the submission for which the fee determination has expired, such applicant or permittee shall request a redetermination of the fee in writing, and the Department shall redetermine the fee in accordance with (e) or (f) above, as applicable.

(h) The Department may, in its discretion, refrain from commencing work on the activity which is the subject of a fee determined pursuant to (e) or (f) above until the Department has received full payment of the fee. If the Department has already commenced work, the Department may, in its discretion, suspend such work until it has received full payment of the fee.

(i) The following table sets forth fees (in dollars) for services in reviewing beneficial use applications and issuing certificates of authority to operate (CAO) a beneficial use project pursuant to N.J.A.C. 7:26-1.7(g). The Department may, in its discretion, refrain from commencing work or suspend work at any time until the applicant has paid the designated fee.

1. Beneficial Use Review	
a. In-State (no sampling results)	\$275.00
b. In-State (sampling results)	\$642.00
c. Out-of-State	\$183.00

2. For additional activities such as pre-application meetings and site visits or any other activity which the Department determines, in its discretion, is required to fully evaluate the applicant's submission, the Department shall determine the fee for performing the additional services. Such fees shall be equal to the number of hours estimated by the Department to be required for the performance of such services, multiplied by an hourly rate of \$91.70.

Amended by R.1989 d.54, effective January 17, 1989.
See: 20 N.J.R. 1995(a), 21 N.J.R. 190(a).

Deleted "hazardous wastes" from (a)3i.
Repeal and New Rule, R.1989 d.216, effective April 17, 1989.
See: 20 N.J.R. 2668(a), 21 N.J.R. 1002(b).

Note: Reference to the repeal of N.J.A.C. 7:26-4.3 was inadvertently left out of the headings to the notices of proposal and adoption (20 N.J.R. 2668(a), 21 N.J.R. 1002(b)); however, language in the Summary of the proposal and subsequent introduction of new material clearly demonstrated the Department's intention to repeal and replace the rule.

Amended by R.1991 d.368, effective July 15, 1991.
See: 22 N.J.R. 3079(a), 23 N.J.R. 2166(b).

Deleted "facilities"; added "annual facility registration, volume monitoring and planning consistency activities" in (a).

Deleted "a facility monitoring fee from all facilities that are", "be paid when submitting the annual registration update", "The fee is \$500.00 per year."; added "The permittee for a facility who is", "at such facility", "pay an annual facility volume monitoring fee of \$902.00. The annual facility volume monitoring fee is due at the time the annual registration update is submitted but in no event later than May 1 of each calendar year." in (a)1.

Substituted old text with new text in (a)2.

Substituted old text with new text in (a)3.

Deleted (a)4 through 11.

Added (c), (d), (e), (f), (g), (h).

Amended by R.1991 d.368, effective July 14, 1991 (operative March 1, 1992).

See: 22 N.J.R. 3079(a), 23 N.J.R. 2166(b).

N.J.A.C. 7:26-4.3(b) made operative.

Administrative Correction to (b), thermal destruction facilities.

See: 24 N.J.R. 1121(a).

Administrative Correction to (b).

See: 24 N.J.R. 2058(a).

Amended by R.1993 d.98, effective March 1, 1993.

See: 24 N.J.R. 1999(a), (see also 24 N.J.R. 2687(a)), 25 N.J.R. 990(b).

Added new structure at (b).

Amended by R.1996 d.169, effective April 1, 1996.

See: 27 N.J.R. 801(a), 28 N.J.R. 1834(a).

In (b) added fee for intermodal container facilities.

Amended by R.1996 d.578, effective December 16, 1996.

See: 28 N.J.R. 2114(a), 28 N.J.R. 5248(a).

Amended classes and fees.

Administrative correction.

See: 29 N.J.R. 127(b).

Amended by R.2001 d.86, effective March 5, 2001.

See: 32 N.J.R. 2536(a), 33 N.J.R. 880(a).

In (d), rewrote tables; in (e), deleted "beneficial use reviews"; added new (i).

7:26-4.4 Fee schedule for transporters

(a) For solid waste transporters, excluding those solely transporting hazardous waste, a biennial registration and inspection fee shall be paid. Annual registration shall continue through the registration period of calendar year 2002. In accordance with (b) below, the odd numbered year for biennial registration shall begin calendar year 2003. The five year registration period for public entities shall begin calendar year 2001. The registration of a solid waste transporter is non-transferable and fees are non-refundable.

(b) The registration period shall be biennial, except that it will be five years for public entities, unless otherwise established by the Department, and shall extend from July 1 through June 1 of each odd numbered year, except that it will extend from July 1 through June 1 of every fifth year after 2001 for public entities. Fees shall be payable prior to May 1 of each registration period.

(c) All transporters shall pay a biennial fee of \$40.00 (\$20.00 for calendar year 2002) for each solid waste cab.

(d) All transporters shall pay a biennial fee of \$60.00 (\$30.00 for calendar year 2002) for each solid waste trailer.

(e) All transporters shall pay a biennial fee of \$60.00 (\$30.00 for calendar year 2002) except that public entities shall pay a registration period fee of \$22.00 (fee set as of March 1999) for each solid waste container.

(f) All transporters shall pay a biennial fee of \$100.00 (\$50.00 for calendar year 2002) for each solid waste single vehicle.

(g) All transporters shall pay a biennial fee of \$60.00 (\$30.00 for calendar year 2002) for the registration of containers meeting the requirements at N.J.A.C. 7:26-3.5(f).

(h) The registration of a solid waste vehicle is non-transferable.

(i) Fees will be prorated as follows:

1. Solid waste vehicles registered after May 1 of the second year of the registration period shall be assessed half the fee listed above for said solid waste vehicle.

2. Public entities registering after May 1 of the second year shall be prorated year for year except that containers shall not be prorated.

(j) All transporters shall pay a fee of \$10.00 as a replacement fee for lost, stolen, or plate changes of registration cards.

Repeal and New Rule, R.1989 d.216, effective April 17, 1989.

See: 20 N.J.R. 2668(a), 21 N.J.R. 1002(b).

Rule at this cite formerly entitled "Engineering design review (per design)".

Amended by R.1991 d.368, effective July 15, 1991 (operative July 15, 1991).

See: 22 N.J.R. 3079(a), 23 N.J.R. 2166(b).

Added "an annual" and changed fees in (c), (d), (e).

Deleted (g).

Amended by R.1996 d.578, effective December 16, 1996.

See: 28 N.J.R. 2114(a), 28 N.J.R. 5248(a).

In (b), deleted prohibition of pro rata adjustment; in (c) through (e), amended fees; and added (g) and (h).

Amended by R.2002 d.181, effective June 17, 2002.

See: 33 N.J.R. 4218(a), 34 N.J.R. 2049(a).

Rewrote the section.

7:26-4.5 County enforcement activity fees for solid waste control program

(a) General provisions are as follows:

1. Scope: Unless otherwise provided by state or statute, the following shall constitute the rules of the Department of Environmental Protection concerning fees to be charged for enforcement activities undertaken by county health departments pursuant to the Solid Waste Management Act, N.J.S.A. 13:1E-1 et seq., and the County Environmental Health Standards of Administrative Procedure and Performance, N.J.A.C. 7:1H.

2. Construction: This section shall be liberally construed to permit the Department and its component divisions to effectuate the purposes of the above referenced laws.

3. Purpose: This section is promulgated for the following purposes:

i. To aid counties in the development and implementation of a solid waste control program; and

ii. To provide a basis for the Department to review county department fees for enforcement activities related to their solid waste control program based upon the objectives in N.J.S.A. 13:1E et seq. and N.J.A.C. 7:26-1.

4. Definitions: The following words and terms, when used in this section, shall have the following meanings. Where words and terms are used which are not defined herein, the definitions of those words and terms will be the same as the definitions at N.J.A.C. 7:26-1.4.

"County department" means a county department of health established pursuant to P.L. 1975, c.329 (N.J.S.A. 26:3A2-1 et seq.) as amended and supplemented, with the purpose of providing environmental health programs throughout the county and other local health programs in any municipality which contracts therefor with the county board (N.J.S.A. 26:3A2-21 et seq.)

"Owner or operator" means and includes, in addition to the usual meanings thereof, every owner of record of any interest in land whereon a sanitary landfill facility is located; and any person or corporation which owns a majority interest in any other corporation which owns a majority interest in any sanitary landfill facility.

"Program" means a solid waste control program prepared by the county department pursuant to this section and the procedures and standards authorized by the County Environmental Health Standards of Administrative Procedure and Performance, N.J.A.C. 7:1H, and which has been submitted to the Department for review.

(b) Enforcement activity fee schedule established: In accordance with N.J.S.A. 13:1E-9, there is hereby established a fee schedule which shall apply to all sanitary landfill facilities required to be registered with the Department and subject to a county department program.

1. Duties and powers of the county department are as follows:

i. Any county department may charge and collect from the owner or operator of any sanitary landfill facility fees established by ordinance or resolution adopted by the county governing body. Such fees shall be established in accordance with this section for the purpose of enforcing the rules and regulations adopted by the Department related to solid waste collection and disposal, and in conformance with all applicable County Environmental Health Standards of Administrative Procedure and Performance, N.J.A.C. 7:1H, adopted pursuant to the County Environmental Health Act, N.J.S.A. 26:3A2-21 et seq.

ii. Within six months of the effective date of this section and by September 1 of each succeeding year as part of its annual work program, pursuant to the County Environmental Health Act, N.J.S.A. 26:3A2-21 et seq., a county department shall submit to the Department a Solid Waste Control Program (Program). The Program shall be submitted to each municipality located in the county for review and comment prior to its submittal to the Department and shall contain monitoring and enforcement activities at least equivalent to those set forth in N.J.A.C. 7:1H-3.4(a) through (u) and shall also include the following:

(1) Identification and number of operating facilities to be inspected;

(2) Projection of the number of inspections to be conducted by facility name (minimum twice per month);

(3) Purpose of inspections;

(4) A description of the procedures for:

(A) Determining inspection frequency;

(B) Accounting for activities performed;

(C) Actions to be taken after inspections have been performed; and

(D) Taking legal action.

(5) In each succeeding year, a report on the previous year's activities, including a detailed financial statement of the previous year's expenditures, actual amount of fees collected and any surplus which can be credited to the next year's costs.

iii. The Program shall include certain county budgetary costs as follows, provided they are both reasonable and necessary. The Department may consider additional costs based upon particular local needs and abilities provided the Department is satisfied that those additional costs are both reasonable and necessary.

(1) Personnel: Identify type, number, and salary required, including benefits therefor;

(2) Local training: In addition to county department training costs, personnel performing solid waste inspections shall also be trained by the Department through the arrangement of joint inspections with departmental inspectors experienced in facility in-

spections. It shall be the responsibility of the county department to arrange such joint training inspections;

(3) Protective equipment;

(4) Vehicles and maintenance;

(5) Test equipment;

(6) Laboratory and analysis;

(7) Office equipment and supplies;

(8) Secretarial, office and general administrative support; and

(9) Costs based on (b)1ii(1) through (5) above.

2. Fees for the Program are as follows:

i. After review by the Department of its Program, and pursuant to a resolution or ordinance adopted by the county governing body, any county department may charge and collect fees from the owner or operator of any sanitary landfill facility within its jurisdiction, as follows:

(1) At the maximum rate of \$0.01 per cubic yard of solid waste accepted for disposal at a facility;

(2) In the event that any solid waste is measured, upon acceptance for disposal, by other than cubic yards, the fee shall be assessed on the equivalents utilized pursuant to the Sanitary Landfill Closure and Contingency Fund Act, P.L. 1981, c.306, and the Recycling Act, P.L. 1981, c.278;

(3) Fees shall be assessed and collected by a county department each month in the manner provided for in (b)2 of this section;

(4) Except as otherwise provided for herein, the owner or operator of every sanitary landfill facility subject to a county department program shall submit to the appropriate county department, on or before the 20th of each month, a fee equal to \$0.01 per cubic yard of solid waste accepted for disposal during the preceding month, together with a completed copy of Department form No. SFA-001 which is submitted for that month to the Department in accordance with the escrow account reporting requirements pursuant to the Sanitary Landfill Facility Closure and Contingency Fund Act, P.L. 1981, c.306.

ii. Subject to the approval of the Department, a higher fee may be assessed in the event that the county department documents the need for a greater amount in a succeeding year's program.

3. Utilization of fees: Fees provided for in this section shall be utilized exclusively to fund county solid waste monitoring and enforcement activities as identified in the Program.

R.1974, d.234, effective August 21, 1974.

See: 6 N.J.R. 343(c): The rule originally at this cite was entitled "Exemptions".

Deleted and Reserved by R.1975 d.110, effective April 29, 1975.

See: 7 N.J.R. 101(a), 7 N.J.R. 259(a).

R.1983 d.50, effective March 7, 1983.

See: 14 N.J.R. 1328(a), 15 N.J.R. 330(d).

Recodified by R.1989 d.216, effective April 17, 1989.

See: 20 N.J.R. 2668(a), 21 N.J.R. 1002(b).

Amended by R.1996 d.578, effective December 16, 1996.

See: 28 N.J.R. 2114(a), 28 N.J.R. 5248(a).

In (a)4, deleted "department".

7:26-4.6 Adjustment of fees

(a) The Department may adjust the fees for each activity provided in N.J.A.C. 7:26-4.3, 4.4 and 15.6, based upon the following formula:

$$\text{Fee} = (\text{hours required}) \times (\text{hourly rate})$$

where "hours required" and "hourly rate" are as set forth in the Annual Solid Waste Fee Schedule Report provided in (b) below.

(b) Whenever the Department adjusts any fees for solid waste activities, the Department shall prepare a Solid Waste Fee Report. The report shall include the following:

1. The Department's actual number of hours to perform each type of activity and the estimate of the number of hours which will be required to perform each type of activity for which fees are assessed under N.J.A.C. 7:26-4.3, 4.4 and 15.6. In reporting the actual hours and formulating the estimate, the Department shall consider the following factors:

i. The Department's timekeeping records for a period of at least nine months, ending no more than six months before the completion of the report;

ii. The Department's timekeeping records from previous years, if the Department determines that it has not performed an activity a sufficient number of times within the period covered by the report to provide data sufficient to reliably determine the hours required to perform the activity;

iii. Any other factors relevant to the estimate, provided that the report explains any such other factors considered, and explains how such factors support the estimate;

iv. If the Department determines that the creation of additional classifications of facilities or activities would result in a substantially more equitable assessment of fees, the Department may establish such additional classifications. The Department's determination shall be in its reasonable discretion, based on its review of the data upon which the report is based. In the report, the Department shall set forth the hours required to perform an activity for such additional classes. The Department may also consolidate existing classifications of facilities or activities for which it determines that the same number of hours is required to perform an activity for more than one classification of facility or activity. This subparagraph (b)1 provides only for the creation of additional classifications (or consolidation of existing classifications) of types of facilities or activities for which fees are assessed under the Department's rules, and shall not be construed to provide for the assessment of fees for types of facilities or activities not already contained in the Department's rules;

v. With respect to fees assessed for an activity to be performed more than once in the period covered by the fee (such as an annual compliance monitoring fee assessed for several compliance monitoring inspections to be performed in a one-year period), the data upon which the report is based may show a decrease in the amount of time required to perform an activity, all or part of which decrease results from a lack of Department staff sufficient to perform the activity the expected number of times within the period. In such event, the Department may maintain the fee at the level required to defray the cost of staff sufficient to perform the activity the expected number of times within the period. If the Department has performed the activity for any category of facilities at an average frequency less than the frequency upon which the fee is based, the

Department shall credit the total excess fees paid by the facilities in the category against the revenues necessary to fund the same activity for the following year; and

2. A statement of the hourly rate for calculating fees. The hourly rate is the average cost of one hour of Department staff time, calculated according to the following formula:

$$\frac{(AS + FB + IC + OE + LS)}{BH}$$

where:

i. AS equals the average salary of a full-time Department employee working in the Department's solid waste program, including costs of direct support and Division overhead positions;

ii. FB equals the fringe benefits of a full-time Department employee working in the Department's solid waste program, calculated as a percentage of the average salary, which percentage is set by the New Jersey Department of the Treasury, and is based upon costs associated with pensions, health benefits, workers' compensation, disability benefits, unused sick leave, and the employer's share of FICA;

iii. IC equals indirect costs attributable to a full-time Department employee, calculated at the rate negotiated annually between the Department and the United States Environmental Protection Agency, multiplied by the sum of AS and FB;

iv. OE equals operating expenses (including without limitation postage, telephone, travel, supplies and data system management) attributable to a full-time Department employee working in the Department's solid waste program;

v. LS equals the budgeted annual cost of legal services rendered by the Department of Law and Public Safety, Division of Law, in connection with the Department's solid waste activities, divided by the total number of billable Department employee positions which the Department projects will be funded by the revised fee schedule; and

vi. BH equals the average number of hours which each Department employee working in the Department's solid waste program spends annually performing activities for which fees are to be imposed under N.J.A.C. 7:26-4.3, 4.4 or 15.6.

(c) Promptly after completing the report described in (b) above, the Department shall provide a copy of the report to each person required to have paid a fee under N.J.A.C. 7:26-4.3, 4.4 or 15.6 within the period covered by the report.

(d) Promptly after making the adjustment of fees pursuant to the report described in (b) above, the Department shall publish in the New Jersey Register a notice of administrative change, pursuant to N.J.A.C. 1:30-2.7(c), setting forth adjusted fees and the operative date thereof. The Department shall also publish a notice of the adjusted fees and the operative date thereof in the DEPE Bulletin, and mail a copy of the notice to each owner or operator of a registered solid waste vehicle or facility; to the County Board of Chosen Freeholders of each solid waste management district and to the district solid waste management implementing agency as designated in accordance with N.J.S.A. 13:1E-21; and the Hackensack Meadowlands Development Commission. The notice shall state that the report is available, and direct interested persons to contact the Department for a copy of the report. The Department shall provide a copy of the report to each person requesting a copy.

New Rule, R.1992 d.311, effective August 3, 1992.

See: 24 N.J.R. 3690(a), 24 N.J.R. 2726(a).

Amended by R.1996 d.578, effective December 16, 1996.

See: 28 N.J.R. 2114(a), 28 N.J.R. 5248(a).

In (a), substituted "may adjust" for "shall adjust"; and in (b), report was required annually; in (b)2i, inserted reference to direct support and overhead costs.

Case Notes

Solid waste collection utility rates adjusted downward. In the Matter of the petition of Bridgewater Resources to Increase Rates, 94 N.J.A.R.2d (EPE) 17.

7:26-4.7 Fee schedule for intermodal container facilities

(a) Each person authorized by the Department pursuant to N.J.A.C. 7:26-3.6 to operate an intermodal container facility shall:

1. Pay an application fee of \$500.00. Such fee shall be submitted with the application required pursuant to N.J.A.C. 7:26-3.6(b);

2. Pay an annual fee of \$150.00 on January 1 of each year for the costs of reviewing and maintaining the quarterly reports submitted pursuant to N.J.A.C. 7:26-3.6(e);

3. Pay the compliance monitoring fee set forth at N.J.A.C. 7:26-4.3(b);

4. Pay the costs of any other inspections or activities conducted by the Department as related to the authorization, inspection, and revocation of authorization to operate an intermodal container facility. Such costs shall be in accordance with the fee schedule set forth at N.J.A.C. 7:26-4.3; and

5. Pay a fee of \$250.00 for an authorization modification issued pursuant to N.J.A.C. 7:26-3.6(m), which shall be paid on issuance of the authorization modification.

As amended, R.1982 d.289, effective September 7, 1982 (operative September 15, 1982).

See: 14 N.J.R. 368(a), 14 N.J.R. 979(b).

(b)1 and 2 added.

As amended, R.1980 d.250, effective June 9, 1980.

See: 12 N.J.R. 70(b), 12 N.J.R. 391(d).

As amended, R.1981 d.49, effective February 6, 1981.

See: 13 N.J.R. 129(a).

(a): Amend "April 1 through March 31" to "May 1 through April 30".

(b): Amend "April 1 through March 31" to "May 1 through April 30".

As amended, R.1984 d.279, effective July 2, 1984.

See: 16 N.J.R. 986(a), 16 N.J.R. 1766(a).

(b): "October 1 through September 30" was "May 1 through April 30."

Amended by R.1989 d.54, effective January 17, 1989.

See: 20 N.J.R. 1995(a), 21 N.J.R. 190(a).

Substantially amended.

Repealed by R.1989 d.216, effective April 17, 1989.

See: 20 N.J.R. 2668(a), 21 N.J.R. 1002(b).

The rule at this cite was entitled "Fee schedule for transporting".

New Rule, R.1996 d.169, effective April 1, 1996.

See: 27 N.J.R. 801(a), 28 N.J.R. 1834(a).

7:26-4.8 Confidentiality claims

Any person submitting information to the Department and asserting a confidentiality claim in accordance with the procedures set forth in N.J.A.C. 7:26-17 or 7:26-16.4 shall pay a fee of \$350.

As amended, R.1984, d.279, effective July 2, 1984.

See: 16 N.J.R. 986(a), 16 N.J.R. 1766(a).

In (a) and (b), "Board of Public Utilities" was "Board of Public Utility Commissioners", reference to form N.J.B.S.W.M. 41 deleted.

Repealed by R.1989 d.216, effective April 17, 1989.

See: 20 N.J.R. 2668(a), 21 N.J.R. 1002(b).

The rule formerly at this cite was entitled "Exemption from fee payment".

New Rule, R.1996 d.578, effective December 16, 1996.

See: 28 N.J.R. 2114(a), 28 N.J.R. 5248(a).

SUBCHAPTER 4A. (RESERVED)

SUBCHAPTER 5. CIVIL ADMINISTRATIVE PENALTIES AND REQUESTS FOR ADJUDICATORY HEARINGS

7:26-5.1 Scope and purpose

(a) This subchapter shall govern the Department's assessment of civil administrative penalties for violations of the Solid Waste Management Act, N.J.S.A. 13:1E-1 et seq., including the Comprehensive Regulated Medical Waste Management Act, P.L. 1989, c.34, amending and supplementing the Solid Waste Management Act (hereinafter "the Act"), including violation of any rule promulgated, any administrative order, permit, license or other operating authority issued, any district solid waste management plan approved, pursuant to the Act. This subchapter shall also govern the procedures for requesting adjudicatory hearings on a notice of civil administrative penalty assessment or an administrative order.

(b) The Department may assess a civil administrative penalty of not more than \$50,000 for each violation of each provision of the Act, or any rule promulgated, any administration order, permit, license or other operating authority issued, any district solid waste management plan approved, pursuant to the Act.

(c) Each day during which a violation continues shall constitute an additional, separate and distinct violation.

(d) Neither the assessment of a civil administrative penalty nor the payment of any such civil administrative penalty shall be deemed to affect the availability of any other enforcement provision provided for by N.J.S.A. 13:1E-1 et seq. or any other statute, in connection with the violation for which the assessment is levied.

(e) Nothing in this subchapter is intended to affect the Department's authority to revoke or suspend any permit, license or other operating authority issued under the Act. Specifically, the Department may revoke or suspend a permit, license or other operating authority, without regard to whether or not a civil administrative penalty has been or will be assessed pursuant to this subchapter.

(f) For purposes of this subchapter, any person who undertakes or performs an obligation imposed upon another person pursuant to the Act, or any rules promulgated, any administrative, order, permit, license or other operating authority issued, any district solid waste management plan approved, pursuant to the Act, may at the discretion of the Department be subject to a civil administrative penalty pursuant to this subchapter in the same manner and in the same amount as such other person.

Amended by R.1996 d.578, effective December 16, 1996.

See: 28 N.J.R. 2114(a), 28 N.J.R. 5248(a).

Deleted references to Part A permit application.

Case Notes

In criminal prosecution the State was required to offer evidence establishing that land was acquired after the enactment of statute and that the United States had not filed an acceptance of exclusive jurisdiction. *State v. Ingram*, 226 N.J.Super. 680, 545 A.2d 268 (L.1988).

7:26-5.2 Procedures for assessment and payment of civil administrative penalties

(a) In order to assess a civil administrative penalty under the Act, for violation of the Act, or any rule promulgated, any administrative order, permit, license or other operating authority issued, any district solid waste management plan approved pursuant to the Act, the Department shall, by means of notice of civil administrative penalty assessment, notify the violator by certified mail (return receipt requested) or by personal service. The Department may, in its discretion, assess a civil administrative penalty for more than one violation in a single notice of civil administrative penalty assessment or in multiple notices of civil administrative

penalty assessment. This notice of civil administrative penalty assessment shall:

1. Identify the section of the Act, rule, administrative order, permit, license, district solid waste management plan violated;
2. Concisely state the facts which constitute the violation;
3. Specify the amount of the civil administrative penalty to be imposed; and
4. Advise the violator of the right to request an adjudicatory hearing, pursuant to the procedures in N.J.A.C. 7:26-5.3.

(b) Payment of the civil administrative penalty is due upon receipt by the violator of the Department's final order of a contested case or when a notice of civil administrative penalty assessment becomes a final order, as follows:

1. If no hearing is requested pursuant to N.J.A.C. 7:26-5.3, the notice of civil administrative penalty assessment becomes a final order on the 21st day following receipt by the violator of the notice of civil administrative penalty assessment;
2. If a hearing is requested pursuant to N.J.A.C. 7:26-5.3 and the Department denies the hearing request, a notice of civil administrative penalty assessment becomes a final order upon receipt by the violator of notice of such denial; or
3. If a hearing is requested pursuant to N.J.A.C. 7:26-5.3 and an adjudicatory hearing is conducted, a notice of civil administrative penalty assessment becomes a final order upon receipt by the violator of a final order of a contested case.

Amended by R.1996 d.578, effective December 16, 1996.
See: 28 N.J.R. 2114(a), 28 N.J.R. 5248(a).

In (a) and (a)1, deleted references to Part A permit application.

Case Notes

Violator's ability to pay penalty under Solid Waste Management Act. *DEPE v. Summco, Inc.*, 94 N.J.A.R.2d (EPE) 252.

Company penalized for odors from plant. Department of Environmental Protection and Energy v. *Westchester Lace, Inc.*, 94 N.J.A.R.2d (EPE) 243.

7:26-5.3 Procedures to request an adjudicatory hearing to contest an administrative order and/or a notice of civil administrative penalty assessment, and procedures for conducting adjudicatory hearings

(a) To request an adjudicatory hearing to contest an administrative order and/or a notice of civil administrative penalty assessment issued pursuant to the Act, the violator shall submit the following information in writing to the Department, at Office of Legal Affairs, ATTENTION: Adjudicatory Hearing Requests, Department of Environmental Protection, CN 402, Trenton, New Jersey 08625-0402:

1. The name, address, telephone number of the violator and its authorized representative;
2. The violator's defenses, to each of the Department's findings of fact in the findings section of the administrative order or notice of civil administrative penalty assessment, stated in short and plain terms;
3. An admission or denial of each of the Department's findings of fact in the findings section of the administrative order or notice of civil administrative penalty assessment. If the violator is without knowledge or information sufficient to form a belief as to the truth of a finding, the violator shall so state and this shall have the effect of a denial. A denial shall fairly meet the substance of the findings denied. When the violator intends in good faith to deny only a part or a qualification of a finding, the violator shall specify so much of it as is true and material and deny only the remainder. The violator may not generally deny all of the findings but shall make all denials as specific denials of designated findings. For each finding which the violator denies, the violator shall allege the fact or facts as the violator believes such fact or facts to be;
4. Information supporting the request and specific reference to or copies of all written documents relied upon to support the request;
5. An estimate of the time required for the hearing (in days and/or hours); and
6. A request, if necessary, for a barrier-free hearing location for physically disabled persons.

(b) If the Department does not receive the written request for a hearing within 20 days after receipt by the violator of the notice of a civil administrative penalty assessment and/or an administrative order being challenged, the Department shall deny the hearing request.