

i. Implementation of measures that can reasonably be expected to prevent a recurrence of the same type of violation will result in a reduction equal to the bottom of the range;

4. Any unusual or extraordinary costs or impacts directly or indirectly imposed on the public or the environment as a result of the violation; and/or

5. Other specific circumstances of the violator or the violation.

New Rule, R.2002 d.356, effective November 4, 2002.
See: 34 N.J.R. 1792(a), 34 N.J.R. 3819(a).

7:26H-5.22 Vehicles used to transport food not to be used to transport solid waste; exceptions and penalties

(a) Except as provided in (b), (c) or (d) below, no vehicle, including any truck, trailer or other haulage vehicle other than a truck tractor, utilized for the transportation of solid waste in this State, shall be subsequently utilized for the transportation of fresh food or fresh food products, including meat, poultry, produce or other non-processed fresh food products intended for sale for human consumption. The presence of refrigeration equipment in a vehicle shall be prima facie evidence that the vehicle is used for the transportation of fresh food or fresh food products, unless the vehicle is lawfully registered, equipped and operated for the transportation of medical waste.

(b) No vehicle which is registered pursuant to State solid waste laws and regulations for lawful solid waste transportation activities in this State shall be utilized for the transportation of fresh food or fresh food products, including meat, poultry, produce or other non-processed fresh food products intended for sale for human consumption, unless that vehicle has been appropriately cleaned and sanitized in accordance with rules adopted by the Department, after consultation with the Department of Health and Senior Services, prior to any use for the transportation of fresh food or fresh food products.

(c) The provisions of this section shall not apply to any vehicles utilized for the transportation of source separated recyclable materials as defined in section 2 of P.L. 1987, c. 102 (N.J.S.A. 13:1E-99.12).

(d) A vehicle, including any truck, trailer or other haulage vehicle other than a truck tractor, owned or operated by any person engaging in the transportation of fresh produce intended for human consumption, may be utilized for the transportation of vegetative waste material generated from the fresh produce that was transported in that vehicle if the vegetative waste material is transported without delay to a vegetative waste composting facility.

(e) Any owner or operator who knowingly violates the provisions of N.J.S.A. 48:13A-12.1 is guilty of a crime of the third degree.

(f) The provisions of N.J.S.A. 2C:43-3 to the contrary notwithstanding, any person convicted of a violation of the provisions of N.J.S.A. 48:13A-12.1 is subject to a fine of not less than \$7,500 for a first offense, not more than \$10,000 for a second offense and not more than \$25,000 for a third and every subsequent offense. Each day during which the violation continues constitutes an additional, separate and distinct offense.

(g) If a person is convicted of a violation of the provisions of N.J.S.A. 48:13A-12.1, the court shall, in addition to the penalties provided under that statute, require the person to perform community service for a term of not more than 90 days, and the person shall forthwith forfeit his right to operate a motor vehicle over the highways of this State for a period of not less than six months nor more than one year.

(h) All conveyances used or intended for use in the unlawful transportation of solid waste in violation of the provisions of N.J.S.A. 48:13A-12.1 are subject to forfeiture to the State pursuant to the provisions of P.L. 1981, c. 387 (N.J.S.A. 13:1K-1 et seq.).

New Rule, R.2002 d.356, effective November 4, 2002.
See: 34 N.J.R. 1792(a), 34 N.J.R. 3819(a).

7:26H-5.23 Severability

If any provision of this subchapter or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications, and to this end, the provisions of this subchapter are declared to be severable.

New Rule, R.2002 d.356, effective November 4, 2002.
See: 34 N.J.R. 1792(a), 34 N.J.R. 3819(a).

SUBCHAPTER 6. UNIFORM BID SPECIFICATIONS FOR MUNICIPAL SOLID WASTE COLLECTION CONTRACTS

7:26H-6.1 Purpose

The purpose of this subchapter is to establish uniform bidding practices for municipal solid waste collection contracts in order to promote competition among solid waste collectors, protect the interests of consumers and to enhance the Department's ability to adequately supervise the existence of effective competition.

Amended by R.2002 d.356, effective November 4, 2002.
See: 34 N.J.R. 1792(a), 34 N.J.R. 3819(a).

7:26H-6.2 Scope and applicability

(a) This subchapter constitutes the rules governing the implementation of N.J.S.A. 48:13A-7.22 which mandates the

establishment, in rules and regulations, uniform bid specifications for municipal solid waste collection contracts.

(b) Every municipality which provides municipal solid waste collection services shall conform to the requirements of this subchapter. These rules shall apply only to those municipal solid waste collection contracts which are required to be publicly advertised pursuant to the Local Public Contracts Law, N.J.S.A. 40A:11 et seq.

Administrative change.
See: 30 N.J.R. 3948(a).

7:26H-6.3 Definitions

For the purposes of this subchapter, all of the terms defined in N.J.A.C. 7:26-1.4 are hereby incorporated by reference. The following words and terms, when used in this subchapter, shall have the following meanings unless the context clearly indicates otherwise.

“Bid guarantee” means the bid bond, cashier’s check or certified check submitted as part of the bid proposal, payable to the contracting unit, ensuring that the successful bidder will enter into a contract.

“Bid proposal” means all documents, proposal forms, affidavits, certificates, and statements to be submitted by the bidder in response to the contracting unit’s advertisement for bids.

“Bid specifications” means all documents requesting bid proposals for municipal solid waste collection services as described herein, the form of which is located at Appendix A at the end of this subchapter, incorporated hereby by reference.

“Certificate of insurance” means a document showing that an insurance policy has been written and includes a statement of the coverage of the policy.

“Collection site” means the location of waste containers on collection day.

“Collection source” means a generator of designated collected solid waste to whom service will be provided under the contract.

“Commercial waste” means any waste type 10, as defined at N.J.A.C. 7:26-2.13, generated by wholesale, retail or service establishments.

“Consent of surety” means a contract guaranteeing that the Surety will provide a performance bond on behalf of the bidder in the event that the bidder is awarded the contract.

“Contract” means the written agreement executed by and between the successful bidder and the governing body and shall include the bid proposal and the bid specifications.

“Contract administrator” is the person authorized by the contracting unit to administer contracts for solid waste collection services.

“Contracting unit” means a municipality or any board, commission, committee, authority or agency, and which has administrative jurisdiction over any district other than a school district, project, or facility, included or operating in whole or in part, within the territorial boundaries of any county or municipality which exercises functions which are appropriate for the exercise by one or more units of local government, and which has statutory power to make purchases and enter into contracts or agreements for the performance of any work or the furnishing or hiring of any materials or supplies usually required, the costs or contract price of which is to be paid with or out of public funds.

“Contractor” means the lowest responsible bidder to whom award of the contract shall be made.

“Designated collected solid waste” means garbage, refuse and other discarded materials resulting from industrial, commercial and agricultural operations and from domestic and community activities and shall include all other waste materials including liquids. Solid waste shall not consist of recyclable materials, hazardous waste, or solid animal and vegetable waste collected by swine producers licensed by the State Department of Agriculture to collect, prepare and feed such wastes to swine on their own farms.

“Governing body” means the governing body of the municipality, when the contract or agreement is to be entered into by, or on behalf of, a municipality, as further defined by N.J.S.A. 40A:11-2.

“Institutional waste” means any waste type 10, as defined at N.J.A.C. 7:26-2.13, generated by hospitals, colleges, schools, nursing homes, medical and dental professional buildings, research and development processes, and laboratories.

“Legal newspaper” means a publication, as defined at N.J.S.A. 35:1-2.1, selected by the contracting unit for publishing advertisements for municipal solid waste collection contracts.

“Litter” means all garbage, refuse and other discarded materials deposited in the litter receptacles belonging to the governing body.

“Multi-family home” means any housing in which four or more units of dwelling space are occupied, or are intended to be occupied, by three or more persons who live independently of one another.

“Proposal forms” means the documents to be submitted by the bidder on which the prices for services to be provided under the contract are set forth.