

**CHAPTER 26A
RECYCLING RULES**

Authority

N.J.S.A. 13:1B-3, 13:1D-1 et seq., 13:1D-125 et seq., 13:1E-1 et seq., 13:1E-9, 13:1E-99.94 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.2009 d.52, effective January 7, 2009.
See: 40 N.J.R. 7(a), 41 N.J.R. 742(a).

Chapter Expiration Date

In accordance with N.J.S.A. 52:14B-5.1b, Chapter 26A, Recycling Rules, expires on January 7, 2016. See: 43 N.J.R. 1203(a).

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. As part of R.1996 d.577, 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; 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; 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A, Class B, Class C and Class D Recyclable Material; Right of Entry and Inspection; Subchapter 6, Used Motor Oil, was repealed, and Subchapter 6, Standards For the Management of Used Oil, was adopted as new rules; and Subchapter 7, Standards For the Management of Class D Universal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: 28 N.J.R. 2240(a), 28 N.J.R. 5360(a).

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 as 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).

Subchapter 8, Requirements for Transporters of Source Separated Materials, was adopted as new rules by R.2001 d.86, effective March 5, 2001. See: 32 N.J.R. 2536(a), 33 N.J.R. 880(a).

Chapter 26A, Recycling Rules, was readopted as R.2002 d.182, effective May 17, 2002. As a part of R.2002 d.182, Subchapter 7, Standards for the Management of Class D Universal Waste, was repealed and Subchapter 7, Standards for the Management of Class D Universal Waste, was adopted as new rules. See: 33 N.J.R. 4273(a), 34 N.J.R. 2088(a).

In accordance with N.J.S.A. 52:14B-5.1d, the expiration date of Chapter 26A, Recycling Rules, was extended by gubernatorial directive from May 17, 2007, to November 18, 2007. See: 39 N.J.R. 2248(d).

In accordance with N.J.S.A. 52:14B-5.1c, Chapter 26A, Recycling Rules, was scheduled to expire on May 16, 2008. See: 40 N.J.R. 7(a).

In accordance with N.J.S.A. 52:14B-5.1d, the expiration date of Chapter 26A, Recycling Rules, was extended by gubernatorial directive from May 16, 2008 to January 7, 2009. See: 40 N.J.R. 3718(b).

Chapter 26A, Recycling Rules, was readopted as R.2009 d.52, effective January 7, 2009. As a part of R.2009 d.52, Subchapter 2, Annual Fees for a General or Limited Approval to Operate a Recycling Center for Class B, Class C, and Class D Recyclable Material, was renamed Fees for a General or Limited Approval to Operate a Recycling Center for Class B, Class C, and Class D Recyclable Material; Subchapter 4, Design and 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, was renamed Design and 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; and Subchapter 9, Civil Administrative Penalties and Requests for Adjudicatory Hearings, Subchapter 10, Standards for Generators of Source Separated Recyclable Materials, Subchapter 11, Standards for Municipalities, and Subchapter 12, Standards for Counties, were adopted as new rules, effective February 2, 2009. See: Source and Effective Date. See, also, section annotations.

Subchapter 13, Electronic Waste Management, was adopted as new rules by R.2012 d.055, effective March 5, 2012. See: 43 N.J.R. 2087(a), 44 N.J.R. 577(a).

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23. The receipt and composting of farm feedstocks where the activity meets the following criteria:

- i. The activity is conducted on a farm;
- ii. Only the following feedstocks are received or composted:
 - (1) Dry livestock manures;
 - (2) Animal feed;
 - (3) Leaves;
 - (4) Corn stalks;
 - (5) Hay;
 - (6) Silage; and
 - (7) Other farm feedstocks, except grass clippings, that meet the definition vegetative waste set forth at N.J.A.C. 7:26-2.13(g)1v;
- iii. No more than 10,000 cubic yards of feedstocks are received or composted per year;
- iv. Any applicable permits or approvals for on-site composting have been obtained from the Department and the New Jersey Department of Agriculture;
- v. At least low level technology windrow composting as described at N.J.A.C. 7:26A-4.5(a)14vi shall be used as the composting method;
- vi. The windrow composting area shall not exceed five acres;
- vii. A buffer distance of 50 feet shall be maintained between composting activities and the facility property line; and
- viii. Within one year of the start-up of the compost operation, the composting operator shall attend a composting course sponsored by the Rutgers Cooperative Extension, the appropriate county agricultural or resource management agents, or any other similar course approved by the Department. Proof of timely attendance at such a course shall be retained by the composting operator and made available to the Department upon request; and

24. The receipt and storage of architectural salvage items at a commercial enterprise.

(b) The general requirements applicable to all exemptions set out in (a) above are as follows:

1. The receipt, storage, processing or transfer of recyclable material shall be conducted in a manner consistent with the protection of public health, safety and the environment in light of the nature, scale and location of the exempted activity;

2. All persons operating pursuant to an exemption in (a) above shall ensure that the receipt, storage, processing or transfer of materials pursuant to the exemption is conducted in a manner which minimizes degradation of existing transportation patterns, ambient acoustical conditions, ambient air quality, drainage and soils characteristics, surface and ground water quality, wetlands, applicable Federal, State or local land uses including the Pinelands Area and agricultural development areas, dedicated recreational or open space areas floodways and endangered or threatened wildlife and vegetation, consistent with applicable municipal, county, State and Federal law and regulations;

3. Activities exempted pursuant to this section which exceed or violate the criteria for exemptions specified in (a) above and of this subsection, or which are conducted in a manner which endangers the public health, welfare and safety or the environment, or which are in violation of Federal, State or local law, shall be subject to regulation as a recycling center pursuant to this chapter or subject to the solid waste rules pursuant to N.J.A.C. 7:26;

4. With the exception of the exempted activities set forth at (a)5, 7, 8, 14, 15, 16, 17, 19 and 22 above, tonnage reports shall be submitted in accordance with N.J.A.C. 7:26A-4.4(b);

5. All persons operating pursuant to an exemption in (a) above except for small quantity handlers of universal waste operating pursuant to N.J.A.C. 7:26A-7.2 shall provide a written notice of such operation to the New Jersey Department of Environmental Protection, Division of Solid and Hazardous Waste, Bureau of Recycling and Planning, PO Box 414, Trenton, New Jersey 08625-0414, the host municipality, and host county prior to the commencement of operations.

i. Any person submitting a written notice of an exempt operation shall make the following certification:

“I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I further certify that the operation described herein satisfies the criteria for exemption as set forth in N.J.A.C. 7:26A-1.4. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment. I understand that, in addition to criminal penalties, I may be liable for a civil administrative penalty pursuant to N.J.A.C 7:26-5 and

that submitting false information may be grounds for termination of any exemption.”

ii. The certification shall be signed as follows:

(1) For a corporation, by a principal executive officer of at least the level of vice president;

(2) For a partnership or sole proprietorship, by a general partner or the proprietor, respectively; or

(3) For a municipality, State, Federal or other public agency, by either a principal executive officer or ranking elected official; and

iii. The certification shall be signed by a person described in (b)5ii above or by a duly authorized representative of that person. A person is a duly authorized representative only if:

(1) The authorization is made in writing by a person described in (b)5ii above;

(2) The authorization specifies either an individual or a position having responsibility for the overall operation of the operation or activity, such as the position of plant manager, or positions of equivalent responsibility; and

(3) The written authorization is submitted to the Department.

6. Exemption from the requirement of a general or limited approval pursuant to (a) above shall not constitute an exemption from applicable county or municipal laws, including local zoning and site plan ordinances, or regulations.

7. The holder of a general or limited approval or any person that engages in activities listed at N.J.A.C. 7:26A-1.4(a) at the site of an approved recycling center, is subject to the district solid waste management plan requirements identified at N.J.A.C. 7:26-6.11 and the general approval modification requirements at N.J.A.C. 7:26A-3.10 for those additional activities conducted at the site of the approved recycling center.

8. Any person holding a permit, certificate of authority to operate or other approval for a solid waste facility pursuant to N.J.A.C. 7:26 or a general or limited approval pursuant to this chapter that allows persons engaging in activities listed at this section the use of an access road through or on its site to a public thoroughfare is subject to the district solid waste management plan requirements identified at N.J.A.C. 7:26-6.11 and the general approval modification requirements at N.J.A.C. 7:26A-3.10 for those additional activities associated with additional vehicular traffic conducted at the site of the solid waste facility or recycling center.

(c) Recycling centers, which receive, store, process, or transfer only Class A recyclable materials, are not subject to

the approval requirements in N.J.A.C. 7:26A-3 but are subject to the operational standards at N.J.A.C. 7:26A-4.

Amended by R.1996 d.577, effective December 16, 1996.

See: 28 N.J.R. 2240(a), 28 N.J.R. 5360(a).

Substantially amended section.

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

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

Rewrote (a); added (b)7 and (c).

Amended by R.2002 d.182, effective June 17, 2002 (operative December 17, 2002).

See: 33 N.J.R. 4273(a), 34 N.J.R. 2088(a).

Rewrote the section.

Petition for Rulemaking.

See: 35 N.J.R. 4135(a).

Administrative correction.

See: 35 N.J.R. 4883(a).

Petition for Rulemaking.

See: 35 N.J.R. 4921(a).

Amended by R.2005 d.223, effective July 5, 2005.

See: 36 N.J.R. 4602(a), 37 N.J.R. 2497(a).

In (a), added 22; in (b), rewrote 4.

Amended by R.2009 d.52, effective February 2, 2009.

See: 40 N.J.R. 7(a), 41 N.J.R. 742(a).

Section was “Exemptions”. In the introductory paragraph of (a)1, insert “a” preceding “general”; rewrote (a)1i; in (a)1ii, substituted “that” for “who” and substituted a period for a semicolon at the end; in (a)2, substituted the first occurrence of “that” for “which”; rewrote the introductory paragraph of (a)12; in (a)13vii, substituted the second occurrence of “that” for “which”; rewrote (a)13xi, (a)17 and (a)18; added new (a)20iii; recodified former (a)20iii through (a)20v as (a)20iv through (a)20vi; in (a)21, deleted “and” from the end; in (a)22v, substituted a semicolon for a period at the end; added (a)23 and (a)24; in (b)2, inserted “Area”; in (b)4, inserted “14, 15, 16, 17,”; in (b)6, inserted “, including local zoning and site plan ordinances,”; rewrote (b)7; and added (b)8.

7:26A-1.5 Burden of proof

(a) In an enforcement action, or on specific request of the Department, persons claiming that they qualify for any exclusion or exemption in this chapter or that they are not otherwise subject to the rules in this chapter shall demonstrate and appropriately document that they satisfy all terms of the law releasing them from the requirements of this chapter.

(b) In an enforcement action, or on specific request of the Department, persons claiming that a certain material is not a recyclable material shall demonstrate and appropriately document that the material is not recyclable and that there is an approved alternate use for the material.

New Rule, R.1996 d.577, effective December 16, 1996.

See: 28 N.J.R. 2240(a), 28 N.J.R. 5360(a).

7:26A-1.6 Incorporation by reference of the Code of Federal Regulations

(a) Portions of this chapter that are prospectively incorporated by reference from any portion of 40 C.F.R. Part 273, Federal Regulations on Hazardous Waste, shall be understood in the manner set forth in this section.

(b) Unless specifically excluded by these rules, when a provision of the Code of Federal Regulations (C.F.R.) is incorporated by reference, all notes, comments, appendices,

diagrams, tables, forms, figures, and publications are also incorporated by reference.

(c) Prospective incorporation by reference means the ongoing process, beginning on the most recent Federal Register date following December 17, 2002, whereby all provisions of regulations incorporated into this chapter from the Federal regulations at 40 C.F.R. Part 273 are continually and automatically updated in order to maintain consistency with the most current Federal rules. Thus, any supplements, amendments, and any other changes including, without limitation, repeals or stays that affect the meaning or operational status of a Federal rule, brought about by either judicial or administrative action and adopted or otherwise noticed by USEPA in the Federal Register, shall be paralleled by a similar automatic update to the New Jersey rule so that the New Jersey rule will have the same meaning and status as its Federal counterpart. Similarly, to maintain consistency, all new Federal regulations are also adopted into this chapter by this automatic process.

(d) Provisions of 40 C.F.R. Part 273 incorporated by reference are prospective and all internal references contained therein are also incorporated prospectively for the purposes of that provision, unless otherwise noted. Each internal reference to the C.F.R. shall be interpreted to include in addition to the Federal citation, any changes or additions or deletions made to that citation by the corresponding State subchapter. For example, all references within the C.F.R. to 40 C.F.R. Part 273 shall include the changes, additions and deletions which N.J.A.C. 7:26A-7 makes to 40 C.F.R. Part 273.

(e) Provisions of the C.F.R. which are excluded from incorporation by reference in these rules are excluded in their entirety, unless otherwise specified. If there is a cross reference to a Federal citation which was specifically entirely excluded from incorporation, the cross referenced citation is not incorporated by virtue of the cross reference. Provisions that have been excluded from incorporation by reference are also excluded from the process of prospective incorporation by reference.

(f) Federal statutes and regulations that are cited in 40 C.F.R. Part 273 that are not specifically adopted by reference shall be used to assist in interpreting the Federal regulations in 40 C.F.R. Part 273.

(g) In the event that there are inconsistencies or duplications in the requirements of the provisions incorporated by reference from the C.F.R. and the rules set forth in this chapter, the provisions incorporated by reference from the C.F.R. shall prevail, except where the rules set forth in this chapter are more stringent.

(h) Nothing in these provisions incorporated by reference from the C.F.R. shall affect the Department's authority to enforce statutes, rules, permits or orders administered or issued by the Commissioner.

(i) New Federal rules, amendments, supplements, repeals and other changes at 40 C.F.R. Part 273, brought about through administrative or judicial action, shall be automatically incorporated through the prospective incorporation process in N.J.A.C. 7:26A.

(j) New Federal rules, amendments, supplements, repeals, and other changes at 40 C.F.R. Part 273, brought about through administrative or judicial action, adopted by USEPA after July 1, 1998 but prior to December 17, 2002 shall be prospectively incorporated by reference and effective December 17, 2002 and operative either March 17, 2003 or on the operative date set by USEPA the relevant Federal Register Notice, whichever is later, unless the Department publishes a notice of proposal repealing the adoption in New Jersey of the Federal regulation in whole or in part, and/or proposing to otherwise amend the affected State rules.

(k) On or after December 17, 2002, new Federal rules, amendments, supplements, and other changes, brought about by either judicial or administrative action, automatically incorporated through the prospective incorporation by reference process shall be effective upon publication in the Federal Register and operative 90 days from the publication date or on the operative date cited by USEPA in the relevant Federal Register Notice, whichever is later, unless the Department publishes a notice of proposal repealing the adoption in New Jersey of the Federal regulation in whole or in part, and/or proposing to otherwise amend the affected State rules.

New Rule, R.2002 d.182, effective June 17, 2002 (Operative December 17, 2002).

See: 33 N.J.R. 4273(a), 34 N.J.R. 2088(a).

7:26A-1.7 Right of entry and inspection

(a) The New Jersey Department of Environmental Protection or an authorized representative acting pursuant to the County Environmental Health Act, N.J.S.A. 26:3A2-1 et seq., shall have the right to enter and inspect any building or other portion of a recycling center, recycling depot or any site at which an exempted activity is conducted pursuant to N.J.A.C. 7:26A-1.4(a), at any time in order to determine compliance with the provisions of all applicable laws or rules and regulations adopted pursuant thereto. This right to inspect includes, but is not limited to:

1. Sampling any materials on site;
2. Photographing any portion of the recycling center;
3. Investigating an actual or suspected source of pollution of the environment; and
4. Ascertaining compliance or non-compliance with the statutes, rules or regulations of the Department, including conditions of the recycling center approval issued by the Department.

(b) The right of entry specified in (a) above shall be limited to normal operating hours for the purpose of reviewing and copying all applicable records, which shall be

made available to the Department during an inspection and submitted to the Department upon request.

Amended by R.1996 d.577, effective December 16, 1996.

See: 28 N.J.R. 2240(a), 28 N.J.R. 5360(a).

In (a), changed Department name and inserted "recycling depot".
Recodified from N.J.A.C. 7:26A-4.3 and amended by R.2009 d.52,
effective February 2, 2009.

See: 40 N.J.R. 7(a), 41 N.J.R. 742(a).

Section was "Right of entry". In the introductory paragraph of (a), inserted a comma following "et seq."

SUBCHAPTER 2. FEES FOR A GENERAL OR LIMITED APPROVAL TO OPERATE A RECYCLING CENTER FOR CLASS B, CLASS C, AND CLASS D RECYCLABLE MATERIAL

7:26A-2.1 Fees for general or limited approval

(a) The following apply to the application fee for general or limited approval:

1. All applicants for a general approval to operate a recycling center for Class B recyclable material shall submit an application fee of \$5,281 at the time of application.

i. The application fee for general approval will cover the Department's costs of conducting county and Statewide recycling plan consistency reviews, reviewing information submitted in accordance with N.J.A.C. 7:26A-3.2(a), 3.4 and 3.8, preparing letters of administrative completeness and incompleteness, advising applicants on technical deficiencies, and preparing approval and denial letters in accordance with N.J.A.C. 7:26A-3.5.

2. All applicants for a limited approval to operate a recycling center for Class B recyclable material shall submit an application fee of \$2,400 at the time of application.

i. The application fee for limited approval will cover the Department's costs of conducting municipal law consistency reviews, reviewing information submitted in accordance with N.J.A.C. 7:26A-3.4, 3.7 and 3.8, preparing letters of administrative completeness and incompleteness, advising applicants on technical deficiencies and preparing approval and denial letters in accordance with N.J.A.C. 7:26A-3.5.

3. All applicants for a general approval to operate a recycling center for Class C recyclable material shall submit an application fee of \$11,582 at the time of application.

i. The application fee for general approval will cover the Department's costs of conducting county and Statewide recycling plan consistency reviews, reviewing information submitted in accordance with N.J.A.C. 7:26A-3.2(a), 3.4 and 3.18, preparing letters of administrative completeness and incompleteness, advising applicants on technical deficiencies, and preparing approval and denial letters in accordance with N.J.A.C. 7:26A-3.5.

4. All applicants for a general approval to operate a recycling center for Class D recyclable material shall submit an application fee of \$15,700 for used oil facilities and \$5,233 for all other types of Class D facilities at the time of application.

i. The application fee for general approval will cover the Department's costs of conducting county and statewide recycling plan consistency reviews, reviewing information submitted in accordance with N.J.A.C. 7:26A-3.2(a), 3.4 and 3.19, preparing letters of administrative completeness and incompleteness, advising applicants on technical deficiencies, and preparing approval and denial letters in accordance with N.J.A.C. 7:26A-3.5.

(b) The following apply to the annual fee for general approval and the monthly fee for limited approval:

1. All persons who possess a general approval to operate a recycling center for Class B recyclable material shall be billed an annual fee of \$4,724 on May 1 for each fiscal year beginning on July 1 and ending on June 30. The fee is payable within 30 days of billing. For newly approved recycling centers, the first annual fee is due on the first May 1 immediately following the issuance of the general approval.

i. The annual fee for general approval will cover the Department's costs of advising recycling center owners or operators on technical compliance matters, conducting market research, analysis and development activities, review and analysis of annual report data and other technical analyses required to implement the recycling center program.

2. All persons who possess a general approval to operate a recycling center for Class C recyclable material shall be billed an annual fee of \$7,928 on May 1 for each fiscal year beginning on July 1 and ending on June 30. The fee is payable within 30 days of billing. For newly approved recycling centers, the first annual fee is due on the first May 1 immediately following the issuance of the general approval.

i. The annual fee for general approval will cover the Department's costs of advising recycling center owners or operators on technical compliance matters, conducting market research, analysis and development activities, review and analysis of annual report data and other technical analyses required to implement the recycling center program.

3. All persons who possess a general approval to operate a recycling center for Class D recyclable material shall be billed an annual fee of \$7,106 on May 1 for each fiscal year beginning on July 1 and ending on June 30. The fee is payable within 30 days of billing. For newly approved recycling centers, the first annual fee is due on the first May 1 immediately following the issuance of the general approval.

i. The annual fee for general approval will cover the Department's costs of advising recycling center owners or operators on technical compliance matters, conducting market research, analysis and development activities, review and analysis of annual report data and other technical analyses required to implement the recycling center programs.

4. All persons who possess a general approval to operate a recycling center for Class B, Class C or Class D recyclable material shall be billed the following amounts for Research, Development and Demonstration (RD & D) approvals, renewal of general approval, transfers of ownership, and modifications.

	Class		
	B	C	D
i. RD & D approvals	\$ 2,400	\$9,652	estimated fee per N.J.A.C. 7:26A-2.1(e)
ii. Renewals	\$960.00	\$4,826	\$3,140
iii. Modifications	\$ 2,400	\$4,826	\$3,140
iv. Transfer of ownership	\$ 1,440	\$3,378	\$2,093

5. All persons who possess a general approval to operate a multi-class recycling center, shall be billed the applicable annual fee and the applicable fee for an initial application and renewal of general approval set forth at (b)5i through viii below. A modification of a multi-class facility is billed according to (b)5xi through xiii below for the type of activity being added to the existing facility. If more than one type of activity is added, then the respective fee shall be billed for each type of activity.

Type of Multi-Class Facility	Annual Fee	Application Fee	Renewal Fee	Modification Fee
i. Class B and C	\$8,792	\$14,223	\$5,306	-----
ii. Class B and D	\$7,970	\$18,341	\$3,620	-----
iii. Class B and D – Oil only	\$7,970	\$18,341	\$3,620	-----
iv. Class B and D – Universal Waste only	\$7,970	\$ 7,898	\$3,620	-----
v. Class C and D	\$10,808	\$21,491	\$6,396	-----
vi. Class C and D – Oil only	\$10,808	\$21,491	\$6,396	-----
vii. Class C and D – Universal Waste only	\$10,808	\$14,199	\$6,396	-----
viii. Class B, C and D	\$11,672	\$24,132	\$6,876	-----
ix. Class B, C and D – Oil only	\$11,672	\$24,132	\$6,876	-----
x. Class B, C and D – Universal Waste only	\$11,672	\$16,839	\$6,876	-----
xi. Any Class/add or modify Class B	-----	-----	-----	\$2,400
xii. Any Class/add or modify Class C	-----	-----	-----	\$4,826
xiii. Any Class/add or modify Class D	-----	-----	-----	\$3,140

(c) The fee schedule for recycling center annual compliance monitoring services is as follows:

I. For State fiscal year 2006:

i. Each recycling center shall pay the applicable annual fee listed in the following table for compliance monitoring services. The fees are billable in equal quarterly installments, during July, October, January and April of State fiscal year 2006. Each invoice shall be payable within 30 days following issuance of the invoice. For newly approved recycling centers, the first annual fee is due on the first July immediately following the issuance of the general approval.

Type of Center	State Fiscal Year 2006 Compliance Monitoring Fees
Class B – General Approval	\$9,130
Class C – General Approval	\$9,130
Class D – General Approval: Used Oil	\$12,175
Class D – General Approval: Other than Used Oil	\$12,175
Exempt composting facilities compliance inspection	\$1,015

ii. All persons that possess a limited approval to operate a recycling center for Class B recyclable material shall submit a fee of \$700.00 per month for each month of operation authorized by the limited approval.

The fee for the total number of months of authorized operation shall be billed during July for the previous one year period. The monthly fee for limited approval shall be applied to offset the Department's costs of advising recycling center owners or operators on technical compliance matters, and to facility compliance inspections.

iii. All persons that are in the business of removing automotive mercury switches shall pay an annual fee of \$445.00 for compliance monitoring services. The fee will be billed during July of each year. The fee is payable within 30 days of billing.

2. For each State fiscal year following State fiscal year 2006, the fees set forth at (c)1 above shall be annually adjusted pursuant to N.J.A.C. 7:26A-2.4 and 2.5. The billing schedule for the annually adjusted fees shall be the same as the billing schedule for the fees that are assessed under (c)1 above.

(d) The omission of any type of service from the fee schedules set forth in (a), (b) or (c) above, the omission of a fee for a modified type of facility, or if the Department determines that performing its services will exceed the fee the Department charges for annual compliance monitoring services listed at (c) above, shall not prevent the Department from assessing a reasonable fee such services at any time whether prior to, during or after the Department has performed its services. An applicant/permittee that believes a service is not included in (a) above may request the Department to provide an estimate of the fee for that service. As part of its initial review, the Department shall charge the fees for performing its services in connection with the submission. An estimated fee calculated under this subsection is not binding on the Department. The final fee to be charged by the Department shall be based on actual hours worked, multiplied by an hourly rate for recycling center regulation services for State fiscal year 2006 of \$115.00. For each State fiscal year after State fiscal year 2006, the hourly rate shall be annually adjusted pursuant to N.J.A.C. 7:26A-2.4. 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) above, the amount of the fee shall be equal to the amount listed in (a) above.

2. If the Department determines, in its discretion, that such activity is not of a type listed in (a) 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 for recycling center regulation services for State fiscal year 2006 of \$115.00. For each State fiscal year after State fiscal year 2006, the hourly rate shall be annually adjusted pursuant to N.J.A.C. 7:26A-2.4.

(e) A determination of an estimated fee made pursuant to (d) 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 may request a redetermination of the fee in writing, and the Department shall redetermine the fee in accordance with (d) above, as applicable.

(f) The Department may refrain from commencing work on the activity which is the subject of a fee determined pursuant to (a), (b), (c) or (d) above until the Department receives full payment of the fee. If the Department has commenced work, the Department may suspend such work until it receives full payment of such fee.

Amended by R.1995 d.205, effective April 17, 1995.

See: 26 N.J.R. 3922(a), 27 N.J.R. 1576(b).

Amended by R.1996 d.577, effective December 16, 1996.

See: 28 N.J.R. 2240(a), 28 N.J.R. 5360(a).

Raised fees throughout; inserted (a)3 and (a)4; in (b)1, inserted payable in 30 days provision and amended activities covered by fee; in (b)2, changed fee due date and amended activities covered by fee; inserted (b)3 and (b)4; in (c), deleted text relating to period which fee is applicable.

Administrative change.

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

Amended by R.2003 d.454, effective November 17, 2003.

See: 35 N.J.R. 321(a), 35 N.J.R. 5268(b).

Rewrote the section.

Amended by R.2008 d.16, effective January 7, 2008.

See: 38 N.J.R. 5227(a), 40 N.J.R. 133(a).

Deleted (b)5; rewrote (c), and the introductory paragraph of (d); in (d)2, substituted "recycling center regulation services for State fiscal year 2006 of \$115.00" for "of \$106.00", and inserted the last sentence; in (e), substituted "an estimated" for "a" and "may" for "shall" preceding "request a redetermination"; and rewrote (f).

Amended by R.2009 d.52, effective February 2, 2009.

See: 40 N.J.R. 7(a), 41 N.J.R. 742(a).

In (b)4, substituted a comma for "Demonstration and" following "Research" and inserted "and Demonstration"; and added (b)5.

7:26A-2.2 (Reserved)

Amended by R.1996 d.577, effective December 16, 1996.

See: 28 N.J.R. 2240(a), 28 N.J.R. 5360(a).

Amended name of report throughout; in (a), substituted "may" for "will"; and in (b), report was required annually.

Repealed by R.2003 d.454, effective November 17, 2003.

See: 35 N.J.R. 321(a), 35 N.J.R. 5268(b).

Section was "Adjustment of fees".

7:26A-2.3 Payment of fees

(a) Payment of all fees for activities related to recycling shall be paid in U.S. dollars by certified check, government purchase order or check, or money order, payable to "Treasurer, State of New Jersey" and mailed or hand delivered to the following address, unless the Department authorizes some other means of payment:

New Jersey Department of Environmental
Protection
Solid and Hazardous Waste Management Program
P.O. Box 414
401 East State Street
Trenton, NJ 08625-0414

(b) The Department may, in its discretion, refrain from commencing work or suspend work at any time until the applicant has paid the designated fee.

(c) All compliance monitoring fees shall be paid in U.S. dollars by certified check, government purchase order or check, or money order, payable to "Treasurer, State of New Jersey" and mailed, along with the fee invoice, to the following address:

Department of Treasury
 Division of Revenue
 P.O. Box 417
 Trenton, NJ 08646-0417

Amended by R.1996 d.577, effective December 16, 1996.

See: 28 N.J.R. 2240(a), 28 N.J.R. 5360(a).

Amended by R.2008 d.16, effective January 7, 2008.

See: 38 N.J.R. 5227(a), 40 N.J.R. 133(a).

Inserted designation (a); rewrote (a); and added (b) and (c).

7:26A-2.4 Recycling center fee hourly rate calculation

(a) The Department shall calculate the recycling center fee hourly rate in accordance with (b) below and shall be used in calculating compliance monitoring fees in accordance with N.J.A.C. 7:26A-2.5.

(b) The Department shall calculate the recycling center fee hourly rate for the upcoming State fiscal year (SFY) as of the December 1 that precedes the upcoming SFY as follows:

$$\text{Hourly Rate} = \frac{\text{AS} + \text{FB} + \text{IC} + \text{OE} + \text{LS}}{\text{BH}}$$

Where:

AS = The average annual salary of the Direct Program staff assigned to the activity, plus a component that reflects the salaries for Direct Support and Division Overhead staff who perform functions related to the fee activity. To calculate AS, the Department divides the applicable number of Direct Support staff and Division Overhead staff salaries by the number of Direct Program staff and adds this figure to the average salary of the Direct Program staff.

FB = The average fringe benefits for an employee calculated as a percentage of the average salary. The New Jersey Department of Treasury sets the percentage based on costs associated with pensions, health benefits, workers compensation, disability benefits, unused sick leave and the employer's share of the Federal Income Compensation Act (FICA) contribution. The percentage is annually set by the New Jersey Department of Treasury.

IC = The indirect costs, which are calculated at a rate negotiated annually between the Department and the United States Environmental Protection Agency. Indirect costs are those costs incurred for a common or joint purpose, benefiting more than one objective and not readily assignable to the cost objective specifically benefited without effort disproportionate to the result achieved. Indirect costs consist of Department management salaries and operating expenses,

divisional indirect salaries and related expenses (personnel, fiscal and general support staff), building rent and the Department allocation of indirect costs listed in the Statewide Allocation Plan prepared annually by the State Department of the Treasury. Indirect costs do not include the salaries for Division Overhead staff and Direct Support personnel. To calculate the IC, the current negotiated rate is multiplied by the sum of AS and FB.

OE = The average operational expenses attributable to a Direct Program Staff position. Operating expenses include costs incurred in connection with the program for such items as postage, telephone, training, travel, supplies, equipment maintenance, vehicle maintenance and data system management (internal systems such as the New Jersey Environmental Management System (NJEMS) and external mainframe applications through the Office of Information Technology).

LS = The budgeted annual costs of legal services performed in connection with each of the types of activities for which fees are assessed divided by the total number of Direct Program staff funded through the various fee programs.

BH = 1,428. The billable hours, which is the average number of hours each Direct Program staff position spends annually performing activities for which fees are assessed, is determined by starting with the total number of days in the calendar year, 365. Then weekends and holidays are subtracted. This figure is further reduced by subtracting days for an average number of used employee leave time (vacation, sick and administrative leave days). Finally, the figure is adjusted by subtracting days for training and other non-billable staff time (such as medical surveillance, time sheet preparation, staff meetings, and other general functions). This results in 204 working days annually that can be allocated to specific objectives (204 days multiplied by seven hours per workday equals the 1,428 billable hours used for most calculations).

(c) Each year, the Department shall prepare a Recycling Center Fee Hourly Rate Calculation Report detailing the factors used to calculate the hourly rate and the excess hourly rate. During the month of December, the Department shall publish in the New Jersey Register a notice that includes a summary of the report and the hourly rate and excess hourly rate. The notice shall state that the report is available, and shall 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 and shall post a copy of the report on the Department's website at www.state.nj.us/dep.

New Rule, R.2008 d.16, effective January 7, 2008.

See: 38 N.J.R. 5227(a), 40 N.J.R. 133(a).

7:26A-2.5 Compliance monitoring fee calculation

(a) This section shall apply to all compliance monitoring fees for recycling centers.

(b) The Department shall calculate compliance monitoring fees for the upcoming State fiscal year as of December 1 prior to that State fiscal year calculated, as follows:

1. Calculate task hours by determining the number of hours (determined from time coding and/or workload analysis) required to perform the specific program function for which the Direct Program staff are being employed.

2. Multiply the hourly rate derived pursuant to N.J.A.C. 7:26A-2.4 by the specific task hours for each type of activity for which a fee is listed pursuant to (b)1 above to derive the compliance monitoring fee.

(c) Each year, the Department shall prepare an Annual Compliance Monitoring Fee Calculation Report detailing the factors used to calculate each fee. During the month of February, the Department shall publish in the New Jersey Register a notice that includes a summary of the report and the hourly rate and the task hours used to calculate each fee. The notice shall state the report is available, and shall 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 and shall post a copy of the report on the Department's website at www.state.nj.us/dep.

(d) Fees under this subchapter are assessed per occurrence and shall not be prorated or refunded.

New Rule, R.2008 d.16, effective January 7, 2008.
See: 38 N.J.R. 5227(a), 40 N.J.R.133(a).

SUBCHAPTER 3. APPROVAL OF RECYCLING CENTERS FOR CLASS B, CLASS C OR CLASS D RECYCLABLE MATERIALS

Law Review and Journal Commentaries

Hazardous Wastes. Steven P. Bann, 135 N.J.L.J. 66 (1993).

7:26A-3.1 General requirements applicable to all recycling centers which receive, store, process or transfer Class B, Class C or Class D recyclable material

(a) No recycling center shall receive, store, process or transfer any Class B, Class C or Class D recyclable material without the prior written approval of the Department. The procedures for obtaining approval are set forth at N.J.A.C. 7:26A-3.2, 3.4, 3.5, 3.7, 3.8, and 3.18 through 3.20. All persons issued a general or limited approval to operate a recycling center for Class B, Class C and/or Class D recyclable material pursuant to this subchapter shall comply with all conditions of the approval.

(b) Any person who operates a recycling center for the receipt, storage, processing or transfer of Class B, Class C or Class D, recyclable material without the prior written approval of the Department shall be considered to be operating an unlicensed solid waste facility and shall be subject to

penalties as set forth in N.J.S.A. 13:1E-9 and N.J.A.C. 7:26-5 in addition to penalties which may be assessed by other regulatory agencies pursuant to their authority. That person may also be subject to penalties for violations of any other Department rules and the statutes under which such rules are promulgated.

(c) Prior to filing an application with the Department for recycling center general approval, and concurrent with or subsequent to filing for inclusion in the applicable district Solid Waste Management Plan, the applicant shall publish a notice in a newspaper of general circulation within the host municipality which indicates that the applicant will apply to the solid waste management district for inclusion of a recycling center in the solid waste management plan of the district in which the recycling center is located and will apply to the Department for recycling center approval. The notice shall include the following:

1. The name of the proposed recycling center, the name of the owner or operator of the proposed recycling center and the nature of the project;

2. The generally recognized address of the proposed recycling center, as well as the block and lot of the proposed recycling center;

3. An indication that a copy of the application for district solid waste management plan inclusion may be examined at the office of the solid waste or recycling coordinator of the solid waste management district in which the recycling center is located or at the applicable municipal clerk's office; and

4. An indication that comments regarding the application for district solid waste management plan inclusion can be made at the public hearing which shall be held by the board of chosen freeholders or the New Jersey Meadowlands Commission, submitted to the county clerk's office or submitted to the office of the solid waste or recycling coordinator of the solid waste management district in which the recycling center is located.

(d) The notice shall be published two times by the applicant with the second publication being no less than 15 days prior to the public hearing held by the applicable board of chosen freeholders. The applicant shall forward a copy of the notice to the New Jersey Department of Environmental Protection, Solid and Hazardous Waste Management Program, and to the municipality in which the recycling center will be operating, upon its publication.

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

Inserted references to class C and D throughout; in (a), inserted additional N.J.A.C. references; inserted (d)1 through (d)3; in (e), inserted "general" preceding "approval" and substituted "concurrent with or subsequent to" for "prior to"; and in (f), changed name of the Department and the Division.

Amended by R.1997 d.510, effective October 31, 1997 (operative November 10, 1997).
See: 29 N.J.R. 4170(a), 29 N.J.R. 5084(a).

Deleted (d); and recodified existing (e) and (f) as (d) and (e). Readopted provisions of Emergency Amendment R.1997 d.404 without change.

Amended by R.2009 d.52, effective February 2, 2009.

See: 40 N.J.R. 7(a), 41 N.J.R. 742(a).

Deleted former (c); recodified former (d) and (e) as (c) and (d); in the introductory paragraph of (c), substituted "solid waste management district" for "county"; in (c)3 and (c)4, substituted "district solid waste management" for the first occurrence of "county" and "solid waste management district" for the second occurrence of "county"; in (c)4, inserted "or the New Jersey Meadowlands Commission"; and in (d), deleted "Division of" preceding "Solid" and inserted "Management Program".

Case Notes

Operating unlicensed recycling activity triggers civil administrative penalties. Department of Environmental Protection v. Voorhees Environmental Corporation, 97 N.J.A.R.2d (EPE) 43.

7:26A-3.2 Application procedure for general approval to operate a recycling center for the receipt, storage, processing or transfer of Class B, Class C or Class D recyclable material

(a) Prior to commencing receipt, storage, processing or transfer of any Class B, Class C or Class D recyclable materials at a recycling center, the owner or operator of the recycling center shall submit to the Department the information set forth in this subsection. All maps of the proposed recycling center shall be prepared in a manner and format consistent with N.J.A.C. 7:1D, Appendix A. The applicant shall submit a minimum of three complete sets of the application. Additional complete sets may be required based upon the type, scale, location, and potential environmental impacts of the proposed recycling center. The owner or operator of a recycling center for Class C recyclable materials shall submit the additional information required pursuant to N.J.A.C. 7:26A-3.18. The owner or operator of a recycling center for Class D recyclable materials shall submit the additional information required pursuant to N.J.A.C. 7:26A-3.19 and 3.20.

1. The name, address and telephone number of the person or persons seeking to own and operate the proposed recycling center, and the address of the recycling center if different from the above;

2. A description of the geographical location of the recycling center identified by the name of the municipality in which the recycling center is located, by a tax map showing the lot and block numbers of the recycling center site and of all adjoining properties, and by a zoning map showing the current land use of the recycling center site and of all adjoining properties;

3. A listing, by name, address and telephone number, of all persons owning five percent or more of corporation stock in the recycling center, or a listing of the general and limited partners where applicable. In the case where no persons own five percent or more of corporation stock in the recycling center, the names of the corporation principals shall be listed. The owner or operator of the re-

cycling center shall list any intra-corporate relationships between the recycling center and any solid waste hauler or disposal operation registered with the Department;

4. A listing of the material or materials, including the types of any reasonably anticipated contaminants, to be received, stored, processed or transferred at the recycling center;

5. The maximum amount of each material, including contaminants, to be received, stored, processed or transferred at the recycling center per day, expressed in tons, cubic yards, cubic feet or gallons per day. Those persons specifying this information in cubic yards per day shall also indicate the conversion ratio of the materials from cubic yards to tons;

6. A listing of all products and residue resulting from the proposed recycling activities, and the amount of such products and residue expressed in tons, cubic yards, cubic feet or gallons per day. Those persons specifying this information in cubic yards per day shall also indicate the conversion ratio of the material from cubic yards to tons;

7. The name, address and telephone number of planned end-markets for the materials received, stored, processed or transferred by the recycling center.

i. End-market contracts or agreements shall be submitted as evidence of the applicant's ability to sell the products resulting from the proposed activities of the recycling center;

ii. Where end-market contracts or agreements are not available at the time of application for a general approval to operate a recycling center, the applicant shall submit letters of interest from prospective end-market users of the products resulting from the applicant's recycling operation. Letters of interest may be based on information provided by the applicant to prospective end-market users such as a description of the equipment to be used at the recycling center and the specifications of the products resulting from recycling center operation;

8. A description, including manufacturer's specification sheets, of all equipment to be utilized for the receipt, storage, processing or transferring of each Class B, Class C, or Class D recyclable material received, stored, processed or transferred, including the name of the equipment manufacturer, model number and operating capacity of the equipment. Also, a written statement by the applicant that no Class B, Class C, or Class D recyclable material will be received, stored, processed, or transferred at the recycling center until the equipment identified by the applicant is installed or situated at the recycling center site;

9. A site plan map, prepared, signed and sealed by a licensed professional engineer or other professional qualified in accordance with the State Board of Professional Engineers and Land Surveyors rules, N.J.A.C. 13:40,

which identifies (plots) the placement of all equipment, buildings, activities and areas related to the receipt, storage, processing and transferring of all unprocessed and processed recyclable materials. This site plan shall also:

- i. Be drawn to scale no smaller than one inch equals 100 feet;
 - ii. Indicate the routing of vehicles between the recycling center and all nearby roadways serving the site, as well as the traffic flow within the site, and indicate the provisions incorporated into the site plan to ensure safe and efficient vehicular and pedestrian circulation, parking, loading and unloading;
 - iii. Delineate the floodplain as defined at N.J.A.C. 7:13-1.2;
 - iv. Delineate the incidence of wetlands, Pinelands Area, prime agricultural lands, historic sites (where applicable) and other environmentally sensitive areas;
 - v. Identify the direction of water runoff both on and off-site and the screening and landscaping provisions which may be incorporated at the site;
 - vi. Indicate topographic contours drawn at two-foot intervals;
 - vii. Indicate the location and dimensions, in feet, of the unprocessed and processed materials stockpile areas. Also, based on this information, the total cubic yard storage capacity of the unprocessed and processed materials stockpile areas shall be indicated. The applicant shall also indicate whether the applicant wishes to reserve the right to use unprocessed material stockpile space as processed material stockpile space in certain instances;
 - viii. Indicate the site access controls to be employed at the recycling center; and
 - ix. Delineate the location of all utilities including, but not limited to, water sanitary sewer, and storm water systems.
10. An original 7.5 minute USGS Quadrangle map which includes the boundary of the recycling center plotted on the map. The map shall delineate any public access roads to the site and any streams or ponds and sensitive receptors (for example, hospitals, schools, playgrounds, homes, etc.) within a one-half mile radius of the site;
11. A copy of the deed of record establishing ownership of the recycling center property or, if the applicant is other than the landowner, a legal agreement (for example, a legal lease agreement) to use the real property in question for the intended purpose;
12. A description of the design capacity of the recycling center setting forth the number and types of vehicles bringing material to the recycling center for receipt, storage or processing, and the number and types of vehicles

transferring products and residue from the site on a daily basis;

13. A copy of a New Jersey air pollution control permit application required pursuant to N.J.A.C. 7:27-8.2(a)1 where applicable;

14. A written narrative explanation of the recycling center operation from the receipt of recyclable materials to the point of transfer of end-products;

15. Documentation establishing that the recycling center is included in the solid waste management plan of the solid waste management district within which the recycling center is located;

16. An operations plan which shall include, at a minimum, the following:

- i. Hours of operation of the recycling center;
- ii. An incoming materials specification sheet which shall be provided to all persons bringing, delivering or sending Class B, Class C, or Class D recyclable material to the recycling center and which shall include the following information:
 - (1) A listing of the source separated materials to be received by the recycling center;
 - (2) The size, weight, or other restrictions regarding materials to be received; and
 - (3) A notice that vehicles delivering materials to the recycling center will be inspected and, if found to contain more than allowable amounts of contaminants as specified per N.J.A.C. 7:26A-3.5(e)3i, will be barred from offloading vehicle payload; and
 - (4) A notice that persons bringing materials to the recycling center shall certify the amount of material per load, the municipality of origin of that material, and other information contained on the Recyclable Materials Receipt Form.
- iii. A Recyclable Materials Receipt Form which shall be provided to all persons bringing recyclable material to the recycling center and which shall maintain the following information for each vehicle delivering recyclable material to the recycling center:
 - (1) The amount of source separated recyclable material received, expressed in tons, cubic yards, cubic feet or gallons. Those persons specifying this information in cubic yards shall also indicate the conversion ratio of the materials from cubic yards to tons;
 - (2) The municipality of origin of the material received;
 - (3) The name of the person bringing source separated recyclable materials to the facility;

(4) The vehicle license plate number, NJDEP registration number, if an NJDEP registered vehicle is used and EPA ID number, if an EPA registered vehicle is used; and

(5) A certification, to be completed and signed by the person delivering recyclable material to the recycling center at the time of delivery, that the information contained on the Recyclable Materials Receipt Form is true, accurate and complete.

iv. An incoming materials inspection plan which shall detail the manner by which all vehicles entering the facility with recyclable materials to be stored, processed or transferred will be inspected to determine the contents of the vehicle payload area, including the incidence of or extent of contaminants which may be present in the truckload of recyclable materials received;

17. A description of the methods to be used to control traffic and to expedite unloading;

18. A description of the leachate and storm water run-off and drainage control measures that will be used to meet the applicable provisions of the Stormwater Management rules at N.J.A.C. 7:8-5 and 6 and the Pollutant Discharge Elimination System rules at N.J.A.C. 7:14A-24 and 25;

19. A description of the methods that will be used to control soil erosion and meet the New Jersey Soil Erosion and Sediment Control Regulations, N.J.S.A. 4:24-43;

20. A description of the methods that will be used to minimize, manage and monitor noise at nearby residential and/or commercial property lines demonstrating the ability to meet the New Jersey noise control rules, N.J.A.C. 7:29. Manufacturer specifications on sound level ranges for all equipment to be used shall be provided; and

21. A description of the impact that traffic associated with the proposed recycling center will have on existing transportation patterns.

(b) The information required pursuant to (a) above shall be accompanied by the written certification in (b)1 below.

1. "I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment. I understand that, in addition to criminal penalties, I may be liable for a civil administrative penalty pursuant to N.J.A.C. 7:26-5 and that submitting false information may be grounds for denial, revocation or termination of any solid waste facility permit, recycling center approval (general or limited), or vehicle registration for which I may be seeking approval or now hold."

2. The certification in (b)1 above shall be signed by the applicant as follows:

i. For a corporation, by a principal executive officer of at least the level of vice president;

ii. For a partnership or sole proprietorship, by a general partner or the proprietor, respectively; or

iii. For a municipality, county, State, Federal or other public agency, by either a principal executive officer or ranking elected official.

(c) One original and two copies of the information required pursuant to (a) above shall be submitted to:

New Jersey Department of Environmental Protection
Solid and Hazardous Waste Management Program
PO Box 414
401 East State Street, 2nd Floor, West Wing
Trenton, New Jersey 08625-0414

(d) One copy of the information required pursuant to (a) above shall be submitted by the applicant to the solid waste or recycling coordinator of the solid waste management district in which the recycling center is located. The applicant shall also forward one copy of the information required pursuant to (a) above to the municipal clerk of the municipality in which the recycling center is located. The applicant may delete confidential end-market information, required pursuant to (a)7 above, from these submittals.

(e) Every owner or operator of a recycling center for the receipt, storage, processing or transfer of Class B, Class C or Class D recyclable material seeking approval pursuant to this subchapter shall submit a fee as required by N.J.A.C. 7:26A-2.

(f) All persons who seek a general approval to operate a recycling center for tires, tree stumps, tree parts or wood waste pursuant to this subchapter shall also comply with the requirements at N.J.A.C. 7:26A-3.8.

(g) All persons who submit an application for a general approval to operate a recycling center for the receipt, storage, processing or transfer of any Class B recyclable material pursuant to this subchapter shall submit information demonstrating compliance with the design and operational requirements of N.J.A.C. 7:26A-4.8.

(h) All persons who submit an application for a general approval to operate a recycling center for the receipt, storage, processing or transfer of Class C recyclable material pursuant to this subchapter shall submit information demonstrating compliance with the design and operational requirements of N.J.A.C. 7:26A-4.5.

(i) All persons who submit an application for a general approval to operate a recycling center for the receipt, storage, processing or transfer of any Class D recyclable materials

pursuant to this subchapter shall submit information demonstrating compliance with the operational requirements of N.J.A.C. 7:26A-4.6 and 4.7.

(j) All persons who submit an application for a general approval to operate a recycling center for the receipt, storage, processing or transfer of any Class B, C or D recyclable materials pursuant to this subchapter shall submit information demonstrating compliance with the design and operational requirements of N.J.A.C. 7:26A-4.1(a)4 and 10 through 14.

Amended by R.1996 d.577, effective December 16, 1996.

See: 28 N.J.R. 2240(a), 28 N.J.R. 5360(a).

Inserted references to Classes C and D throughout; substantially amended (a); in (a)9, inserted N.J.S.A. reference; in (a)9vii, added last sentence; in (a)16iii(4), inserted EPA ID reference; in (b)1, added last sentence; and added (g) and (h).

Administrative change.

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

Administrative change.

See: 32 N.J.R. 1796(a).

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)9i, substituted "smaller" for "larger"; in (b)1, inserted "recycling center approval (general or limited)" in last sentence.

Amended by R.2002 d.182, effective June 17, 2002 (operative December 17, 2002).

See: 33 N.J.R. 4273(a), 34 N.J.R. 2088(a).

Rewrote the section.

Amended by R.2009 d.52, effective February 2, 2009.

See: 40 N.J.R. 7(a), 41 N.J.R. 742(a).

Section was "Application procedure for general approval to operate a recycling center for the receipt, storage, processing or transfer of Class b, Class C or Class D recyclable material". In the introductory paragraph of (a), substituted "Class B" for "Class b" and inserted "pursuant" preceding "to N.J.A.C. 7:26A-3.18"; rewrote the introductory paragraph of (a)9 and (a)18; in (a)9iv, substituted "Pinelands Areas" for "New Jersey Pinelands"; updated the address in (c); and in (d), substituted "solid waste management district" for "county".

Case Notes

Statutory policy of encouraging uniform statewide solid waste management scheme, which precludes municipalities from imposing local land use regulations on solid waste facilities, applies equally to regulations governing establishment and operation of recycling centers. *Township of Howell v. Fred McDowell, Inc.*, 300 N.J.Super. 491, 693 A.2d 490 (A.D.1997).

7:26A-3.3 Mobile recycling equipment

(a) Persons operating mobile recycling processing equipment for Class B, Class C or Class D recyclable material shall operate such equipment only as follows:

1. At a site which possesses a general or limited approval from the Department and in manner which conforms to the approval for the site; or
2. Pursuant to an exemption at N.J.A.C. 7:26A-1.4(a) and in a manner which conforms to the criteria of the exemption.

(b) Persons operating mobile recycling processing equipment for Class B, Class C or Class D recyclable material shall comply with all applicable statutes and regulations, including, but not limited to, the New Jersey Air Pollution Control Act,

N.J.S.A. 26:2C-1 et seq. and 26:2D-1 et seq., and the New Jersey Noise Control Act of 1971, N.J.S.A. 13:1G-1 et seq.

Amended by R.1996 d.577, effective December 16, 1996.

See: 28 N.J.R. 2240(a), 28 N.J.R. 5360(a).

Inserted references to Classes C and D throughout.

7:26A-3.4 Supplemental requirements for a general approval

(a) Prior to the issuance of a general approval to operate a recycling center for the receipt, storage, processing or transfer of Class B, Class C or Class D recyclable materials, and where the Department determines that additional information is needed to adequately address public or environmental health, safety or welfare, the applicant shall submit the additional information requested by the Department.

(b) Prior to the receipt of Class B, Class C or Class D recyclable materials and commencement of operations at the recycling center, the applicant must receive all other applicable local, State, or Federal permits or approvals.

(c) Prior to issuance of approval to operate a recycling center, the Department may require an applicant to obtain and submit to the Department evidence of financial assurance in an amount determined by the Department as necessary to effectuate the proper removal, transportation and disposition of all materials which may be abandoned on a recycling center site. For privately-owned facilities, the financial assurance shall be a performance bond or letter of credit. The wording of the performance bond or letter of credit must be identical to the wording specified in (d) or (e) below, respectively. For publicly-owned facilities, the financial assurance may be an identification of specific funds which are to be wholly dedicated to ensure payment of the financial obligation. The criteria to be evaluated by the Department to determine if financial assurance is needed, and to be used in establishing the financial assurance amount, are the following:

1. The history of enforcement actions taken by the Department against the applicant involving violations of any environmental statutes of the State, of the Department's solid waste management rules, N.J.A.C. 7:26, of this chapter, and of all other rules contained in Title 7 of the New Jersey Administrative Code, and the history of enforcement actions taken by the State, county or local government or any political subdivision of the State, county or local government;
2. The current cost of disposal, including site preparation and transportation costs, at a permitted solid waste facility which would receive the materials which may be abandoned on a site based on the maximum storage capacity of the recycling center;
3. The amount of material to be received, stored, processed or transferred at the recycling center over the duration of the general approval;

4. The types of materials to be received, stored, processed or transferred at the recycling center;
5. Whether the lease agreements related to property or equipment are less than three years in duration;
6. Whether the lease agreements related to property or equipment restrict the operation of the proposed recycling center; and

7. An analysis of the stability of end-markets for the Class B, Class C or Class D recyclable material received, stored, processed or transferred at the recycling center, which analysis shall consider the following:
 - i. The length of time the end-market has been in business;

ii. The length of time the end-market has been accepting the Class B, Class C, or Class D recyclable material and using it as a raw material in a manufacturing process, or for Class D recyclable material only, the length of time the end-market has been using the Class D recyclable material for further processing, reuse or burning for energy recovery; and

iii. The number of end-markets in New Jersey, nationally and internationally which accept the Class B, Class C, or Class D recyclable material in question.

(d) A surety bond guaranteeing performance of closure as specified in N.J.A.C. 7:26A-3.4(c) above must be worded as follows, except that the instructions in brackets are to be replaced with the relevant information and the brackets deleted:

Performance bond

Date bond executed: _____

Effective date: _____

Principal: [legal name and business address of owner or operator]

Type of organization: [insert "individual," "joint venture," "partnership" or "corporation"] _____

State of incorporation: _____

Surety(ies): [name(s) and business address(es)] _____

New Jersey facility registration number, name, address, and closure amount(s) for each recycling center guaranteed by this bond:

Total penal sum of bond: \$ _____

Surety's bond number: _____

Know All Persons by These Presents, That we, the Principal and Surety(ies) hereto are firmly bound to the New Jersey Department of Environmental Protection (hereinafter called NJDEP), in the above penal sum for the payment of which we bind ourselves, our heirs, executors, administrators, successors, and assigns jointly and severally; provided that, where the Surety(ies) are corporations acting as co-sureties, we, the Sureties, bind ourselves in such sum "jointly and severally" only for the purpose of allowing a joint action or actions against any or all of us, and for all other purposes each Surety binds itself, jointly and severally with the Principal, for the payment of such sum only as is set forth opposite the name of such Surety, but if no limit of liability is indicated, the limit of liability shall be the full amount of the penal sum.

Whereas said Principal is required, under the recycling rules of the State of New Jersey at N.J.A.C. 7:26A, issued under the

authority of N.J.S.A. 13:1E-1 et seq., to have a recycling center approval in order to own or operate each recycling center identified above, and

Whereas said Principal is required to provide financial assurance for closure as a condition of the recycling center approval;

Now, Therefore, the conditions of this obligation are such that if the Principal shall faithfully perform closure, whenever required to do so, of each facility for which this bond guarantees closure, in accordance with the closure plan and other requirements of the recycling center approval as such plan and approval may be amended, pursuant to all applicable laws, statutes, rules, and regulations, as such laws, statutes, rules, and regulations may be amended;

Or, if the Principal shall provide alternate financial assurance as specified in N.J.A.C. 7:26A-3.4(c), and obtain NJDEP's written approval of such assurance, within 90 days after the date notice of cancellation is received by both the Principal and the NJDEP from the Surety(ies), then this obligation shall be null and void, otherwise it is to remain in full force and effect.

The Surety(ies) shall become liable on this bond obligation only when the Principal has failed to fulfill the conditions described above. Upon notification by the NJDEP that the Principal has been found in violation of the closure plan and recycling center approval requirements regarding closure, for a facility for which this bond guarantees performance of closure, the Surety(ies) shall either perform closure in accordance with the closure plan and other requirements of the recycling center approval or place the closure amount guaranteed for the facility into an account as directed by NJDEP.

Upon notification by NJDEP that the Principal has failed to provide alternate financial assurance as specified in N.J.A.C. 7:26A-3.4(c), and obtain written approval of such assurance from NJDEP during the 90 days following receipt by both the Principal and NJDEP of a notice of cancellation of the bond, the Surety(ies) shall place funds in the amount guaranteed for the facility(ies) into an account as directed by NJDEP.

The Surety(ies) hereby waive(s) notification of amendments to closure plans, permits, applicable laws, statutes, rules, and regulations and agrees that no such amendment shall in any way alleviate its (their) obligation on this bond.

The liability of the Surety(ies) shall not be discharged by any payment or succession of payments hereunder, unless and until such payment or payments shall amount in the aggregate to the penal sum of the bond, but in no event shall the obligation of the Surety(ies) hereunder exceed the amount of said penal sum.

The Surety(ies) may cancel the bond by sending notice of cancellation by certified mail to the owner or operator and to NJDEP, provided however, that cancellation shall not occur during the 120 days beginning on the date of receipt of the notice of cancellation by both the Principal and NJDEP, as evidenced by the return receipts.

The principal may terminate this bond by sending written notice to the Surety(ies), provided, however, that no such notice shall become effective until the Surety(ies) receive(s) written authorization for termination of the bond by NJDEP.

Principal and Surety(ies) hereby agree to adjust the penal sum of the bond yearly so that it guarantees a new closure amount, provided that the penal sum does not increase by more than 20 percent in any one year, and no decrease in the penal sum takes place without the written permission of NJDEP.

In Witness Whereof, The Principal and Surety(ies) have executed this Performance bond and have affixed their seals on the date set forth above.

The persons whose signatures appear below hereby certify that they are authorized to execute this surety bond on behalf of the Principal and Surety(ies) and that the wording of this surety bond is identical to the wording specified in N.J.A.C.

7:26A-3.4(d) as such regulation was constituted on the date this bond was executed.

Principal

[Signature(s)]

[Name(s)]

[Title(s)]

[Corporate seal]

Corporate Surety(ies)

[Name and address]

State of incorporation: _____

Liability limit: \$ _____

[Signature(s)]

[Name(s) and title(s)]

[Corporate seal]

[For every co-surety, provide signature(s), corporate seal, and other information in the same manner as for Surety above.]

Bond premium: \$ _____

(e) A letter of credit, as specified in N.J.A.C. 7:26A-3.4(c) above must be worded as follows, except that instructions in brackets are to be replaced with the relevant information and the brackets deleted:

Irrevocable Standby Letter of Credit

Commissioner, New Jersey Department of
Environmental Protection
c/o Division of Solid and Hazardous Waste
401 E. State Street, PO box 414
Trenton NJ 08625-0414

Dear Sir or Madam:

We hereby establish our Irrevocable Standby Letter of Credit No. _____ in your favor, at the request and for the account of [owner's or operator's name and address] up to the aggregate amount of [in words] U.S. dollars \$_____, available upon presentation, by you or your duly authorized representative, of:

(1) our sight draft, bearing reference to this letter of credit No. _____, and

(2) your signed statement reading as follows: "I certify that the amount of the draft is payable pursuant to the recycling rules of the State of New Jersey at N.J.A.C. 7:26A, issued under the authority of N.J.S.A. 13:1E-1 et. seq."

This letter of credit is effective as of [date] and shall expire on [date at least one year later], but such expiration date shall be automatically extended for a period of [at least one year] on [date] and on each successive expiration date, unless, at least 120 days before the current expiration date, we notify both you and [owner's or operator's name] by certified mail that we have decided not to extend this letter of credit beyond the current expiration date. In the event you are so notified, any unused portion of the credit shall be available upon presentation of your sight draft for 120 days after the date of receipt by both you and [owner's or operator's name], as shown on the signed return receipts.

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Whenever this letter of credit is drawn on under and in compliance with the terms of this credit, we shall duly honor such draft upon presentation to us, and we shall deposit the amount of the draft directly into an account in accordance with your instructions.

We certify that the wording of this letter of credit is identical to the wording specified in N.J.A.C. 7:26A-3.4(e) as such regulations were constituted on the date shown immediately below.

[Signature(s) and title(s) of official(s) of issuing institution] [Date]

This credit is subject to [insert "the most recent edition of the Uniform Customs and Practice for Documentary Credits, published and copyrighted by the International Chamber of Commerce," or "the Uniform Commercial Code"].

Amended by R.1996 d.577, effective December 16, 1996.

See: 28 N.J.R. 2240(a), 28 N.J.R. 5360(a).

Inserted references to Classes C and D throughout.

Amended by R.2002 d.182, effective June 17, 2002 (operative December 17, 2002).

See: 33 N.J.R. 4273(a), 34 N.J.R. 2088(a).

Added (d) and (e).

7:26A-3.5 General approval

(a) Within 30 days of receipt of an application for recycling center general approval submitted pursuant to N.J.A.C. 7:26A-3.2(a), the Department will determine whether the application is administratively complete. An application is administratively complete where it satisfies the information submission requirements of N.J.A.C. 7:26A-3.2 and where a fee has been submitted pursuant to N.J.A.C. 7:26A-2. The procedures for Department review and approval of an application for a recycling center general approval are as set forth in (a)1 through 4 below and in (b) and (c) below:

1. If an application is deemed administratively complete in accordance with (a) above, the Department will, within 30 days of receipt of the application, issue a letter to applicant indicating the administrative completeness of the application.

2. If an application fails to meet the criteria for administrative completeness in accordance with (a) above, the Department will advise the applicant that the application is incomplete and will specify in writing what additional data, reports, specifications, plans or other information is required for administrative completeness, and a deadline by which such additional information shall be submitted. The Department shall not make a decision on any application until such time as the applicant has submitted the requested additional information. Failure to submit the requested additional information as required shall constitute cause for denial of the application without prejudice. A determination of incompleteness shall stop any review and shall stay the time limitations set forth in (a)1 above and (c) below.

3. Within 30 days of receiving the notice of incompleteness, the applicant shall submit the requested additional information to the Department as an addendum to the application for a recycling center general approval ("Addendum").

4. Upon receipt of the Addendum, the Department shall review the Addendum to determine administrative completeness in accordance with this subsection.

(b) Within 90 days of issuance of the letter of administrative completeness, the Department will issue a general approval to operate a recycling center for a period not to exceed five years where the Department determines the following:

1. That the application meets the criteria for a general approval of N.J.A.C. 7:26A-3; and
2. That the applicant fails to meet any of the criteria for denial or revocation of a general approval set forth at N.J.A.C. 7:26A-3.12 and 3.13.

(c) Within 90 days of the issuance of the letter of administrative completeness, the Department will issue a letter of denial of the application to operate a recycling center where the Department determines the following:

1. That the application fails to meet the criteria for a general approval of N.J.A.C. 7:26A-3; or
2. That the applicant meets any of the criteria for denial or revocation of a general approval set forth at N.J.A.C. 7:26A-3.11 and 3.12.

(d) No recycling center shall receive Class B, Class C or Class D recyclable materials and commence operation until it has received written approval from the Department, unless operating pursuant to an exemption as set forth at N.J.A.C. 7:26A-1.4.

(e) The general approval will accomplish the following:

1. Authorize the receipt, storage, processing or transferring of Class B, Class C or Class D recyclable materials at the recycling center;
2. Indicate the conditions of operation which shall be met by the recycling center owner or operator prior to the receipt, storage, processing or transfer of the source-separated recyclable materials approved to be received, stored, processed or transferred at the recycling center; and
3. Indicate the limitations on recycling center operation, including, but not limited to:
 - i. Limitation on the amount of contaminants which may be present in any truckload of source-separated recyclable materials received at the recycling center;
 - ii. Limitation on the amount of residue which may be produced as a result of receiving, storing, processing or transferring source-separated recyclable materials at the recycling center; and
 - iii. Limitation on the commingling of Class B, Class C or Class D materials at the recycling center.

(f) All recycling centers receiving a general approval to operate a recycling center shall prominently post and maintain a legible sign, at or near the entrance to the recycling center, indicating that it is an approved New Jersey Department of Environmental Protection recycling center. In

addition, the sign shall also indicate those items detailed in N.J.A.C. 7:26A-3.2(a)16i and ii.

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

In (a), inserted additional N.J.A.C. references and added last sentence; in (a)1, inserted 30 day time limitation; in (a)2, inserted specific information to include in report and added last three sentences; inserted (a)3 and (a)4; and in (e), inserted references to Classes C and D.

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

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), amended N.J.A.C. reference.

Amended by R.2002 d.182, effective June 17, 2002 (operative December 17, 2002).

See: 33 N.J.R. 4273(a), 34 N.J.R. 2088(a).

In (b)2, amended the N.J.A.C. reference.

7:26A-3.6 Application for renewal of a general approval to operate a recycling center

(a) Applications for renewal of general approvals issued pursuant to this subchapter shall be submitted at least three months prior to expiration of the current approval and shall comply with all requirements for renewal set forth in this subchapter. One copy of the application for renewal of a general approval shall be submitted by the applicant to the municipal clerk of the municipality in which the recycling center is located, and to the solid waste or recycling coordinator of the solid waste management district in which the recycling center is located.

(b) Applicants for renewal of existing general approvals shall certify in writing to the Department that there have been no changes in the operations of the recycling center since the issuance of the general approval in order to renew the approval in its existing form. In the event that there have been changes in the design or operations of the recycling center or where either design or operational changes are planned, the application for renewal of a general approval shall be accompanied by a written notification of the modification for which the applicant intends to apply, in accordance with the requirements for modifications of general approvals at N.J.A.C. 7:26A-3.10, and payment of the designated modification fee at N.J.A.C. 7:26A-2. The Department will not incorporate modifications into general approvals for recycling centers through the approval renewal process without a designated fee being paid with the initial written notification of said modifications.

(c) In a case where the person who has received the general approval pursuant to this subchapter does not comply with (a) and (b) above and continues to operate without renewal of its general approval, the Department may take actions which include, but are not limited to, the following:

1. Appropriate enforcement action including the assessment of penalties under N.J.S.A. 13:1E-9; and
2. Require the person who has received the general approval to file an application as a new applicant for a

general approval in accordance with N.J.A.C. 7:26A-3.2, 3.4 or 3.8 and pay the annual fee as per N.J.A.C. 7:26A-2.

(d) Within 30 days of receipt of an application for renewal of a recycling center approval, the Department will determine whether the application is administratively complete. An application for renewal is administratively complete where it satisfies the requirements for renewal set forth in this subchapter, including the requirements for modification of a recycling center application set forth in N.J.A.C. 7:26A-3.10, where modifications will be made. Also, a fee must be submitted in accordance with N.J.A.C. 7:26A-2 for an application to be administratively complete.

1. If a renewal application is deemed administratively complete in accordance with paragraph (d) above, the Department will issue a letter to the applicant indicating the administrative completeness of the application.

2. If a renewal application fails to meet the criteria for administrative completeness in accordance with paragraph (d) above, the Department will advise the applicant that the application is incomplete and will specify in writing what additional information is required for administrative completeness.

(e) Within 60 days of issuance of the letter of administrative completeness, the Department will grant an extension of the approval for a period not to exceed five years where the Department determines the following:

1. That the renewal application meets the criteria of N.J.A.C. 7:26A-3; and

2. That the applicant fails to meet any of the criteria for denial or revocation of a general approval set forth at N.J.A.C. 7:26A-3.12 and 3.13.

(f) Within 60 days of the issuance of the letter of administrative completeness, the Department will issue a letter of denial of the renewal application where the Department determines the following:

1. That the application fails to meet the criteria of N.J.A.C. 7:26A-3; or

2. That the applicant meets any of the criteria for denial or revocation of a general approval set forth at N.J.A.C. 7:26A-3.12 and 3.13.

(g) No recycling center shall receive Class B, Class C or Class D recyclable material and commence operation until it has received written approval from the Department.

(h) All persons granted a renewal pursuant to (d) above shall continue to pay the annual fee as specified in N.J.A.C. 7:26A-2.

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

In (g), inserted references to Classes C and D.
Amended by R.2002 d.182, effective June 17, 2002 (operative December 17, 2002).

See: 33 N.J.R. 4273(a), 34 N.J.R. 2088(a).

In (e)2 and (f)2, amended the N.J.A.C. references.

Amended by R.2008 d.16, effective January 7, 2008.

See: 38 N.J.R. 5227(a), 40 N.J.R. 133(a).

Rewrote (b).

Amended by R.2009 d.52, effective February 2, 2009.

See: 40 N.J.R. 7(a), 41 N.J.R. 742(a).

In (a), substituted "solid waste management district" for "county".

7:26A-3.7 Application procedure for limited Class B recycling center approval to operate a recycling center for the storage, processing or transfer of Class B recyclable material

(a) A person may operate a limited Class B recycling center for the storage, processing or transferring of Class B recyclable materials generated on site for a period of time not to exceed 180 days, provided that prior approval of the Department has been obtained and a fee has been submitted in accordance with N.J.A.C. 7:26A-2 to the Department. A person who has obtained prior approval to operate a limited Class B recycling center pursuant to this subsection may also receive Class B recyclable materials, but only for use at the specific site for which the Department granted approval to operate the limited class B recycling center. The following information shall be submitted to the Department in order to obtain a limited Class B recycling center approval:

1. The information required pursuant to N.J.A.C. 7:26A-3.2(a)1 through 8, 11, 12, 13, 14, and 16(i). The application shall include a site map that identifies the placement of all equipment, buildings, activities and areas related to the storage, processing and transferring of all unprocessed and processed recyclable materials and meets the requirements of N.J.A.C. 7:26A-3.2(a)9ii, v, vii and viii;

2. A written schedule for completion of the recycling operation; and

3. The application shall be certified with the certification described at N.J.A.C. 7:26A-3.2(b)1 signed by the appropriate person as described at N.J.A.C. 7:26A-3.2(b)2.

(b) The Department shall issue an approval to operate a limited Class B recycling center only under the following circumstances:

1. An approval to operate a limited Class B recycling center has been issued for the specific site no more than once before; and

2. Only one approval for one 180-day time period is issued for any site located contiguous to a site for which a limited approval has been issued pursuant to this subsection.

(c) Persons applying to the Department for a limited approval to operate a recycling center for Class B recyclable materials shall submit one copy of the application for limited approval to the municipal clerk of the municipality in which the recycling center is located and one copy to the solid waste

or recycling coordinator of the solid waste management district in which the recycling center is located.

(d) The Department may require the issuance of a performance bond or letter of credit for persons granted a limited approval to operate a recycling center in accordance with the criteria of N.J.A.C. 7:26A-3.4(c).

(e) Prior to the issuance of a limited approval to operate a recycling center for Class B recyclable materials, and where the Department determines that additional information is needed to adequately address public or environmental health, safety or welfare, the applicant shall submit the additional information requested by the Department.

(f) Within 30 days of receipt of an application for a limited approval submitted pursuant to (a) above, the Department will determine whether the application is administratively complete. An application is administratively complete when it satisfies the information submission requirements of (a) through (e) above and where a fee has been submitted in accordance with N.J.A.C. 7:26A-2.

1. If an application is deemed administratively complete in accordance with paragraph (f) above, the Department will issue a letter to the applicant indicating the administrative completeness of the application.

2. If an application fails to meet the criteria for administrative completeness in accordance with paragraph (f) above, the Department will advise the applicant that the application is incomplete and will specify in writing what additional information is required for administrative completeness.

(g) Within 30 days of the issuance of the letter of administrative completeness, the Department will issue to the applicant a limited approval to operate a recycling center, valid for a specified period of time, not to exceed 180 days, where the Department determines the following:

1. That the application meets the criteria of N.J.A.C. 7:26A-3;
2. That the applicant fails to meet any of the criteria for denial or revocation of a limited approval set forth at N.J.A.C. 7:26A-3.12 and 3.13; and
3. The conditions in (b) above have been satisfied.

(h) Within 30 days of the issuance of the letter of administrative completeness, the Department will issue a letter of denial of the application where the Department determines the following:

1. That the application fails to meet the criteria of N.J.A.C. 7:26A-3;
2. That the applicant meets any of the criteria for denial or revocation of a limited approval set forth at N.J.A.C. 7:26A-3.12 and 3.13; or

3. The conditions in (b) above have not been satisfied.

(i) No recycling center shall commence operation until it has received written approval from the Department.

(j) The limited approval will indicate the conditions, if any, which must be met by the recycling center owner or operator for the approval to remain in effect for a time period not to exceed 180 days.

(k) Within 45 days after the expiration of the time period covered by the limited approval to operate a recycling center, a final report shall be prepared by the person issued the limited approval and submitted to the Department, the solid waste or recycling coordinator of the solid waste management district in which the recycling center is located, and to the applicable municipal planning board. The final report shall contain the following information:

1. The name, address and telephone number of the person or persons to whom the Department has issued the limited approval to operate a recycling center;
 2. The location of the approved recycling center, if different than in (k)1 above, including the street address, lot and block, municipality and county;
 3. A listing of the total amount of each Class B recyclable material stored, processed or transferred during the period of approved operation, expressed in tons, cubic yards, cubic feet or in gallons. Those persons specifying this information in cubic yards shall also indicate the conversion ratio of the materials from cubic yards to tons;
 4. The amount of residue disposed of, expressed in tons, cubic yards, cubic feet or gallons, including the name and New Jersey Department of Environmental Protection solid waste registration number of the solid waste collector/hauler which provided the haulage/disposal service. Those persons specifying the total amount of residue in cubic yards shall also indicate the conversion ratio of the residue from cubic yards to tons;
 5. A written certification by the person issued a limited approval that, to the best of her or his knowledge after diligent inquiry, all residue has been disposed of in accordance with the solid waste management rules at N.J.A.C. 7:26-6; and
 6. The name, address and telephone number of the end-markets for all Class B recyclable materials transported from the recycling center, including the amounts, in tons, cubic yards, cubic feet or gallons, transported to each end-market. Those persons specifying this information in cubic yards shall also indicate the conversion ratio of the materials from cubic yards to tons.
- (l) All persons operating a recycling center pursuant to a limited approval shall take such measures as are necessary to ensure that no illegal and unauthorized dumping occurs at the recycling center site.

(m) One original and two copies of the information required pursuant to (a) and (k) above shall be submitted to:

The New Jersey Department of Environmental Protection
Solid and Hazardous Waste Management Program
PO Box 414
401 East State Street, 2nd Floor, West Wing
Trenton, New Jersey 08625-0414

(n) The Department may extend the duration of the approval where the holder of the limited approval petitions the Department in writing explaining the need for an extension and where the Department determines that an extension is necessary to protect the public or environmental health, safety or welfare. Petitions shall be submitted to the address set out in (m) above. Concurrent with the submission of the petition to the Department, the petitioner shall also notify the applicable municipal planning board and solid waste management district solid waste or recycling coordinator of its request for an extension of the limited approval. In no event will the Department:

1. Extend the duration of the limited approval for more than 50 percent of the time of the original limited approval; or

2. Issue more than one limited approval to the same applicant for the same site within one calendar year commencing on the date of issuance of the limited approval.

(o) All persons who seek limited approval to operate a recycling center for tires, tree stumps, tree parts or wood waste pursuant to this subchapter must also comply with the requirements at N.J.A.C. 7:26A-3.8.

Amended by R.1996 d.577, effective December 16, 1996.

See: 28 N.J.R. 2240(a), 28 N.J.R. 5360(a).

In (a)1, changed N.J.A.C. references; substantially amended (a)3; in (l), changed Department and Division names; and in (m), deleted reference to limited approvals and added text "Concurrent with ... Department,".

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

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

Rewrote (a)1 and added 4.

Amended by R.2002 d.182, effective June 17, 2002 (operative December 17, 2002).

See: 33 N.J.R. 4273(a), 34 N.J.R. 2088(a).

Rewrote the section.

Amended by R.2009 d.52, effective February 2, 2009.

See: 40 N.J.R. 7(a), 41 N.J.R. 742(a).

Section was "Application procedure for limited approval to operate a recycling center for the receipt, storage, processing or transfer of Class B recyclable material". Rewrote the introductory paragraph of (a); in (a)1, substituted "through" for " , 2 ,3, 4, 5, 6, 7," and deleted "receipt," preceding "storage"; added new (b); recodified former (b) through (n) as (c) through (o); in (c) and in the introductory paragraphs of (k) and (n), substituted "solid waste management district" for "county"; in the introductory paragraph of (f), substituted "(e)" for "(d)"; in (f)1 and (f)2, substituted "(f)" for "(e)"; in (g)1, deleted "and" from the end; in (g)2, substituted "; and" for a period at the end; added (g)3; in (h)1, deleted "or" from the end; in (h)2, substituted "; or" for a period at the end; added (h)3; in (k)2, substituted "(k)1" for "(j)1"; in (m), substituted "(k)" for "(j)" and updated the address; and in the introductory paragraph of (n), substituted "(m)" for "(l)".

7:26A-3.8 Tire, tree stump, tree parts or wood waste recycling centers: additional requirements for general or limited approval

(a) The methods of processing tires that may be approved by the Department are limited to slicing, shredding, chipping, crumbing or other activities as determined by the Department. At no time shall incineration, landfilling, abandonment or other disposal of tires, in whole or in part, occur at the recycling center.

(b) The owner or operator of a tire recycling center shall take all steps necessary to ensure that no mosquito colony formation or development is allowed to occur on the recycling center site.

(c) A fire control plan for the recycling center shall be filed with and approved by the local fire official or other person of competent jurisdiction and shall be filed with the local municipal code enforcement officer prior to operation of a recycling center for tires, tree stumps, tree parts or wood waste.

7:26A-3.9 Storage of Class B materials and Class D materials that are not universal waste

(a) The temporary storage of unprocessed and processed Class B or Class D recyclable material that is not universal waste at recycling centers shall be limited to the amount indicated in the general or limited approval to operate.

(b) Notwithstanding (a) above, in no event shall unprocessed Class B or Class D recyclable material that is not universal waste be stored at recycling centers approved pursuant to this subchapter for a period in excess of one year from the date of its receipt.

(c) The storage of petroleum contaminated soil at a recycling center approved to receive this material shall be subject to additional storage requirements as indicated in the approval issued pursuant to N.J.A.C. 7:26A-3.5.

Amended by R.1996 d.577, effective December 16, 1996.

See: 28 N.J.R. 2240(a), 28 N.J.R. 5360(a).

Inserted references to Class D throughout.

Amended by R.2009 d.52, effective February 2, 2009.

See: 40 N.J.R. 7(a), 41 N.J.R. 742(a).

Section was "Storage of Class B and Class D materials". In (a) and (b), inserted "that is not universal waste".

7:26A-3.10 Modifications of general or limited approvals

(a) All holders of a general or limited approval to operate a recycling center pursuant to this subchapter shall obtain prior approval from the Department for any modification of the general or limited approval.

(b) Modifications to the general or limited approval to operate a recycling center which require the prior approval of the Department include the following:

1. Any change affecting the conditions of the general or limited approval issued pursuant to N.J.A.C. 7:26A-3.5 or 7:26A-3.7; and

2. Any change to the information submitted pursuant to N.J.A.C. 7:26A-3.2(a), 3.4, 3.7, 3.8, 3.18, 3.19 or 3.20, except that changes in end-market information submitted pursuant to N.J.A.C. 7:26A-3.2(a)7 shall not require the prior approval of the Department but shall be handled in accordance with (f) below.

(c) The holder of the general or limited approval shall notify the Department in writing of the intended modification and shall update the information submitted pursuant to N.J.A.C. 7:26A-3.2(a), 3.4, 3.7, 3.8, 3.18, 3.19 or 3.20. The holder shall also submit one copy of the written request for modification to the municipal clerk of the municipality in which the recycling center is located and one copy to the solid waste or recycling coordinator of the solid waste management district in which the recycling center is located.

(d) The Department will review the information submitted in accordance with (c) above and will determine whether additional information is necessary to adequately address public or environmental health, safety or welfare. If such additional information is required, the Department will notify the holder in writing within 30 days of receipt of the request. Thereafter, the owner or operator shall submit to the Department in writing the additional information.

(e) Upon determining that the information submitted for modification review is complete, the Department will approve or deny the modification according to the criteria of (a) through (d) above and will notify the holder in writing. The holder shall not institute the modification until it receives written approval from the Department.

(f) Within one week of any change to the end-market information submitted to the Department pursuant to N.J.A.C. 7:26A-3.2(a)7, the holder shall submit to the Department a written notification which details any change in the use of the recyclable material transferred from the recycling center to an end-market or in the end-market location to which the recyclable material is transferred. The written notification shall be sent to:

New Jersey Department of Environmental
Protection
Solid and Hazardous Waste Management Program
PO Box 414
401 East State Street, 2nd Floor, West Wing
Trenton, New Jersey 08625-0414

(g) The Department will notify the solid waste or recycling coordinator of the solid waste management district in which the recycling center is located, and the applicable municipal planning board, of any approval or denial of modification to a general or limited approval.

(h) Applicants shall pay fees pursuant to the requirements at N.J.A.C. 7:26A-2 at the time that the applicant submits an application for modifications of general or limited approvals, including those modifications referenced during approval renewals pursuant to the requirements of N.J.A.C. 7:26A-3.6(b).

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)2 and (c), inserted additional N.J.A.C. references; and in (f), changed Department and Division names.

Amended by R.2002 d.182, effective June 17, 2002 (operative December 17, 2002).

See: 33 N.J.R. 4273(a), 34 N.J.R. 2088(a).

In (c), rewrote the second sentence.

Amended by R.2008 d.16, effective January 7, 2008.

See: 38 N.J.R. 5227(a), 40 N.J.R. 133(a).

Added (h).

Amended by R.2009 d.52, effective February 2, 2009.

See: 40 N.J.R. 7(a), 41 N.J.R. 742(a).

In (a), substituted "holders of" for "owners and operators of recycling centers which have received"; in (c) and (g), substituted "solid waste management district" for "county"; in (c), substituted "holder of the general or limited approval" for the first occurrence of "owner or operator" and "holder" for the second occurrence of "owner or operator"; in (e) through (f), substituted "holder" for "owner or operator" throughout; and updated the address in (f).

7:26A-3.11 Increase in design capacity at recycling centers for Class B, Class C, and Class D recyclable materials

(a) A holder of a general approval seeking approval of an increase in design capacity at an approved recycling center for Class B, Class C, or Class D recyclable materials shall submit a request to the Department, in writing, for the proposed increase and shall submit updated information pursuant to the requirements of N.J.A.C. 7:26-3.2(a), 3.4, or 3.8, as applicable. The holder shall also provide written notice of the request to the solid waste or recycling coordinator of the applicable district.

(b) The Department shall review the request and determine whether additional information is necessary to adequately address issues of public or environmental health, safety or welfare. If such additional information is required, the Department shall so notify the holder in writing within 30 days of receipt of the request for approval. The holder shall submit, in writing, the additional information requested by the Department within 15 days of receipt of the request for additional information.

(c) No later than 60 days following receipt of the request for approval and any additional information submitted pursuant to (b) above, the Department shall deny the request for approval or declare its intent to approve the request and shall so notify the holder in writing.

(d) Within five days of receipt of the Department's notice of intent to approve a request for an increase in design capacity, the holder shall notify the district solid waste or recycling coordinator of its receipt of such notice and shall

also publish notice thereof in a newspaper of general circulation in the county where the facility is located.

1. The notice shall be published not less than 30 calendar days prior to the proposed effective date of the Department's approval and shall contain the following:

- i. A description of the location by municipality, street address, lot and block number, of the recycling center, the waste types received and the proposed increase in capacity;
- ii. A statement justifying the necessity for the increase in design capacity; and
- iii. The name and address of the district solid waste or recycling coordinator and the Department to which comments on the request for approval may be submitted.

(e) The proposed increase in design capacity shall become effective within 30 days following the publication of the newspaper notice pursuant to (d) above unless:

1. The Department determines that there is sufficient public interest to necessitate a public hearing; or

2. The district plan implementation agency of the district in which the facility is located passes a resolution expressly challenging the proposed increase in design capacity at the recycling center in question and initiates the solid waste management plan amendment process pursuant to N.J.A.C. 7:26-6.

(f) In the event that a public hearing is required pursuant to (e) above, the Department shall schedule and conduct a public hearing in accordance with the requirements of N.J.A.C. 7:26-6.10(c).

(g) The district plan implementation agency shall approve or deny the request for an increase in design capacity within three months following the public hearing held pursuant to (f) above. In the event the district plan implementation agency fails to take action on a request for an increase in capacity within such three month period, the Department may approve or deny an increase in design capacity in accordance with the provisions of (a) through (c) above.

(h) The Department shall approve any request for an increase in design capacity unless it determines that the increase poses a threat to the environment or public health, safety or welfare.

New Rule, R.1996 d.577, effective December 16, 1996.

See: 28 N.J.R. 2240(a), 28 N.J.R. 5360(a).

Former section recodified to N.J.A.C. 7:26A-3.12.

Amended by R.2002 d.182, effective June 17, 2002 (operative December 17, 2002).

See: 33 N.J.R. 4273(a), 34 N.J.R. 2088(a).

In (a), inserted reference to Class C or Class D.

Amended by R.2009 d.52, effective February 2, 2009.

See: 40 N.J.R. 7(a), 41 N.J.R. 742(a).

In (a), substituted "A holder of a general approval" for "An owner or operator" and substituted "holder" for the second occurrence of "owner

or operator"; and in (b), (c) and the introductory paragraph of (d), substituted "holder" for "owner or operator" throughout.

7:26A-3.12 Criteria for denial of a new general or limited approval, a renewal of an existing general approval or an extension of a limited approval to operate a recycling center

(a) The following constitutes the criteria for denial of a general or limited approval and will result in the issuance of a letter of denial of general or limited approval to operate a recycling center:

1. Failure to submit any of the information required pursuant to this subchapter;

2. Failure of an applicant for a general approval to maintain inclusion of a proposed recycling center in the applicable district solid waste management plan;

3. Failure to correct any deficiencies in information submitted pursuant to this subchapter as determined by the Department, within 45 days of receipt of a letter detailing said deficiencies;

4. Failure to demonstrate that only source separated recyclable materials will be received, stored, processed or transferred at the recycling center; and

5. Failure to submit the appropriate fee required pursuant to N.J.A.C. 7:26A-2.

(b) In addition to the criteria for denial of a general or limited approval set out in (a) above, the Department may also deny a general or limited approval on the basis of the following criteria:

1. The applicant has been denied a license or registration pursuant to N.J.S.A. 13:1E-1 et seq.;

2. The applicant has been denied a certificate of public convenience and necessity pursuant to N.J.S.A. 48:13A-1 et seq.;

3. The applicant has had its registration, license or certificate of public convenience and necessity revoked by the DEP; or

4. The applicant has committed any of the acts which are criteria for approval revocation set forth at N.J.A.C. 7:26A-3.13(a)1 through 8.

(c) If the Department denies the issuance of a new or renewed general approval, or an extension of a limited approval, to operate a recycling center and bases the denial on a written determination that the facility for which the application was made is a solid waste facility for which a registration statement and engineering design is required pursuant to N.J.S.A. 13:1E-5, the applicant, in any appeal of the Department's denial, shall have the burden to show by a preponderance of the evidence that the facility for which the application was made is not a solid waste facility for which a

registration statement and engineering design is required pursuant to N.J.S.A. 13:1E-5.

Recodified from 7:26A-3.11 and amended by R.1996 d.577, effective December 16, 1996.

See: 28 N.J.R. 2240(a), 28 N.J.R. 5360(a).

In (a), deleted reference to renewal of general approval; in (a)3, changed filing deadline from 45 days; deleted (a)4; recodified former (a)5 and (a)6 as (a)4 and (a)5; and in (b)3, deleted reference to revocation by Board of Public Utilities. Former section recodified to N.J.A.C. 7:26A-3.13.

Administrative change.

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

Amended by R.2009 d.52, effective February 2, 2009.

See: 40 N.J.R. 7(a), 41 N.J.R. 742(a).

Section was "Criteria for denial of a general or limited approval to operate a recycling center". Rewrote (a)2; and in (c), substituted "the issuance of a new or renewed" for "an application for a" and "applicant" for "owner or operator of the facility"; inserted the first occurrence of "approval," inserted "an extension of a" and inserted a comma following the second occurrence of "approval".

7:26A-3.13 Procedures and criteria for revoking a general or limited approval

(a) The Department may revoke a general or limited approval upon a determination that a person holding a general or limited approval has:

1. Violated any provision of N.J.S.A. 13:1E-1 et seq., the Act, or any rule, regulation or administrative order promulgated pursuant to N.J.S.A. 13:1E-1 et seq. and the Act;
2. Violated any solid waste utility law at N.J.S.A. 48:2-1 et seq. or 48:13A-1 et seq., or any rule, regulation or administrative order promulgated pursuant to N.J.S.A. 48:2-1 et seq. or 48:13A-1 et seq.;
3. Violated any provision of any laws related to pollution of the waters, air or land surfaces of the State or of any other State or Federal environmental laws including criminal laws related to environmental protection;
4. Refused or failed to comply with any lawful order of the Department;
5. Failed to comply with any of the conditions of the general or limited approval issued by the Department;
6. Transferred a general or limited approval to a new owner or operator pursuant to N.J.A.C. 7:26A-3.15 without the prior approval of the Department;
7. Has failed to obtain any required permit or approval from the Department or other State or Federal agency; or
8. Has committed any of the acts which are criteria for denial of a general or limited approval set forth in N.J.A.C. 7:26A-3.11.

(b) The Department will revoke a general or limited approval by providing the holder of an approval with written notice of the action which details the reasons for the action. The Department will also notify the solid waste or recycling coordinator of the solid waste management district in which

the recycling center is located of any revocation of a general approval or the applicable municipal planning board of any revocation of a limited approval.

Recodified from 7:26A-3.12 by R.1996 d.577, effective December 16, 1996.

See: 28 N.J.R. 2240(a), 28 N.J.R. 5360(a).

Former section recodified to N.J.A.C. 7:26A-3.14.

Administrative change.

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

Amended by R.2009 d.52, effective February 2, 2009.

See: 40 N.J.R. 7(a), 41 N.J.R. 742(a).

In (b), substituted "solid waste management district" for "county".

7:26A-3.14 Appeal procedure

(a) An applicant that believes it is aggrieved with respect to the following decisions made by the Department may appeal the decision within 20 calendar days after the date of the decision and request an administrative hearing:

1. Any term of a general or limited approval;
2. Denial of a general or limited approval, or any part thereof; or
3. Revocation or modification of a previously issued approval.

(b) Requests for an administrative hearing shall be submitted to:

Office of Legal Affairs
 ATTENTION: Adjudicatory Hearing Requests
 Department of Environmental Protection
 401 East State Street, PO Box 402
 Trenton, New Jersey 08625-0402

and to:

New Jersey Department of Environmental Protection
 Solid and Hazardous Waste Management Program
 Bureau of Recycling and Planning
 401 East State Street, 2nd floor, East Wing
 PO Box 414
 Trenton, New Jersey 08625-0414

(c) All requests for an administrative hearing shall be submitted in writing to the Department and shall contain:

1. The name, address and telephone number of the person making the request;
2. A statement of the legal authority and jurisdiction under which the request for a hearing is made;
3. A brief and clear statement of the Department decision being appealed, indicating the specific grounds for the applicant's appeal;
4. A statement of all facts alleged to be at issue and their relevance to the Department decision for which a hearing is requested. Any legal issues associated with the alleged facts at issue must also be included; and

5. All information supporting the request or other written documents relied upon to support the request, unless this information is already in the administrative record (in which case, such information shall be specifically referenced in the request).

(d) A hearing request not received by the Department within 20 calendar days after the date of the Department decision being appealed will be denied by the Department.

(e) If the applicant or interested party fails to include all the information required by (c) above, the Department may deny the hearing request.

(f) Following receipt of a complete request for a hearing pursuant to (c) above, the Department may attempt to informally settle the dispute by conducting such proceedings, meetings and conferences as deemed appropriate.

(g) If the Department determines that the matter is a contested case, the Department will file the request for an administrative hearing with the Office of Administrative Law. Such hearings will be conducted in accordance with the provisions of the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. and N.J.S.A. 52:14F-1 et seq. and the Uniform Administrative Procedure Rules N.J.A.C. 1:1. In making such determination, the Department will evaluate the request to determine whether a contested case exists and whether there are issues of fact which, if assumed to be true, might change the Department's decision. Where only issues of law are raised by a request for a hearing, the request will be denied. Denial by the Department of a request for a contested case hearing shall constitute the final decision of the Department for the purposes of judicial appeal.

Recodified from 7:26A-3.13 and 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), changed Department name. Former section recodified to N.J.A.C. 7:26A-3.15.

Amended by R.2009 d.52, effective February 2, 2009.

See: 40 N.J.R. 7(a), 41 N.J.R. 742(a).

In the introductory paragraph of (a), substituted "that" for "who" and "it is" for "himself or herself to be"; added new (a)1; recodified former (a)1 and (a)2 as (a)2 and (a)3; and in (b), inserted "and to" and the second address.

7:26A-3.15 Transfer of a general or limited approval to operate a recycling center

(a) A general or limited approval to operate a recycling center shall not be transferred to a new owner or operator without the Department's prior approval.

1. Any transfer of an approval must be pre-approved by the Department, and a written request for permission to allow such transfer must be received by the Department at least 60 days in advance of the proposed transfer of ownership or operational control of a recycling center. The request for approval shall include the following:

i. The name, address and social security number of all prospective new owners or operators;

ii. A written certification by the proposed transferee that the terms and conditions contained in the general or limited approval will be met by the proposed transferee; and

iii. A written agreement between the current owner or operator of the recycling center and the proposed new owner or operator containing a specific future date for transfer of ownership or operational control.

2. A new owner or operator may commence operations at the recycling center only after the existing approval has been revoked and a new approval is issued to the new owner or operator pursuant to N.J.A.C. 7:26A-3.5 or 3.7.

3. The owner or operator of record of the approved recycling center remains liable for ensuring compliance with all conditions of the approval unless and until the existing approval is revoked and a new approval is issued to the new owner or operator pursuant to N.J.A.C. 7:26A-3.5 or 3.7.

4. Compliance with the transfer requirements set forth in this subsection shall not relieve the owner or operator of record of the approved recycling center from the separate responsibility of providing notice of such transfer pursuant to the requirements of any other statutory or regulatory provision.

(b) For the purposes of this section, the transfer of a controlling interest in the stock or assets of a recycling center operating pursuant to a general or limited approval from the Department shall constitute the transfer of a general or limited approval pursuant to (a) above.

(c) One copy of the application to transfer a general or limited approval shall be submitted to the municipal clerk of the municipality in which the recycling center is located and one copy to the solid waste or recycling coordinator of the solid waste management district in which the recycling center is located. The Department shall notify county and municipal officials of determinations concerning the transfer of general or limited approvals.

Recodified from 7:26A-3.14 by R.1996 d.577, effective December 16, 1996.

See: 28 N.J.R. 2240(a), 28 N.J.R. 5360(a).

Former section recodified to N.J.A.C. 7:26A-3.16.

Amended by R.2002 d.182, effective June 17, 2002 (operative December 17, 2002).

See: 33 N.J.R. 4273(a), 34 N.J.R. 2088(a).

Rewrote (c).

Amended by R.2009 d.52, effective February 2, 2009.

See: 40 N.J.R. 7(a), 41 N.J.R. 742(a).

In (b), substituted "operating pursuant to" for "holding"; and in (c), substituted "solid waste management district" for "county".

7:26A-3.16 (Reserved)

Recodified from 7:26A-3.15 and amended by R.1996 d.577, effective December 16, 1996.

See: 28 N.J.R. 2240(a), 28 N.J.R. 5360(a).

Substantially amended section. Former section recodified to N.J.A.C. 7:26A-3.17.

Administrative change.

See: 30 N.J.R. 3948(a).
 Repealed by R.2002 d.182, effective June 17, 2002 (operative December 17, 2002).
 See: 33 N.J.R. 4273(a), 34 N.J.R. 2088(a).
 Section was "Filing requirements for existing recycling centers which receive, store, process or transfer Class C recyclable material".

7:26A-3.17 Recordkeeping and annual report; confidentiality of records

(a) All holders of a general approval shall maintain daily records of all materials received, stored, processed or transferred. Said records shall indicate, at a minimum:

1. A daily record of the amounts of each recyclable material by type and municipality of origin which are received, stored, processed or transferred each day, expressed in tons, cubic yards, cubic feet or gallons. Those operators specifying this information in cubic yards shall also indicate the conversion ratio of the materials from cubic yards to tons;

2. The name, address and telephone number of the end-markets for all recyclable materials transported from the recycling center, including the amounts, in tons, cubic yards, cubic feet or gallons, transported to each end-market. Those persons specifying this information in cubic yards shall also indicate the conversion ratio of the materials from cubic yards to tons; and

3. The amount of residue disposed of, expressed in tons, cubic yards, cubic feet or gallons, including the name and New Jersey Department of Environmental Protection solid waste registration number of the solid waste collector/hauler contracted to provide the haulage/disposal service. Those persons specifying the amount of residue in cubic yards shall also indicate the conversion ratio of the residue from cubic yards to tons.

(b) All holders of a general approval shall retain the information required pursuant to N.J.A.C. 7:26A-3.2(a)16iii for three calendar years following the calendar year for which reporting is required pursuant to (c) and (d) below.

(c) All holders of a general approval shall submit an annual report containing monthly summary statements of the information required pursuant to (a) above to the New Jersey Department of Environmental Protection, Solid and Hazardous Waste Management Program, on or before March 1 of each year, for the previous calendar year. The summaries shall include the following:

1. Monthly totals of the amount of recyclable material received from each customer by municipality of origin;
2. Monthly totals of the amount of recyclable product transferred to each end-market; and
3. The amount of residue disposed of during each month.

(d) As a condition of approval to operate a recycling center for the receipt, storage, processing or transfer of Class B,

Class C or Class D recyclable materials, the Department may require the filing of the information required in (a) above at more frequent intervals which shall be specified in the general approval to operate a recycling center issued by the Department.

(e) All holders of a general approval shall certify in writing to the Department that all residue generated at the recycling center has been disposed of in accordance with the solid waste management rules at N.J.A.C. 7:26. The certification shall be submitted annually as part of the annual report required pursuant to (c) and (d) above.

(f) All information submitted to the Department pursuant to this chapter shall be handled in accordance with the requirements of the Public Records law, N.J.S.A. 47:1-1 et seq. The Department will hold confidential all end-market information, as well as information pertaining to the municipality of origin of recyclable material, submitted pursuant to N.J.A.C. 7:26A-3.2, 3.7, and 3.17 through 3.20 for a period of two years from the date on which the information is submitted to the Department, where specified as confidential by the applicant and where there are no health, safety or environmental concerns which require the release of the information, as determined by the Department.

Recodified from 7:26A-3.16 and amended by R.1996 d.577, effective December 16, 1996.

See: 28 N.J.R. 2240(a), 28 N.J.R. 5360(a).

In (c), changed report submission date; in (d), inserted reference to Classes C and D; and in (f), inserted N.J.A.C. references.

Amended by R.2009 d.52, effective February 2, 2009.

See: 40 N.J.R. 7(a), 41 N.J.R. 742(a).

Section was "Record keeping and annual report; confidentiality of records". In the introductory paragraph of (a) and in (b), substituted "holders of" for "recycling centers holding"; in the introductory paragraph of (c) and in (e), substituted "holders of" for "recycling centers operating pursuant to"; and in the introductory paragraph of (c), deleted "Division of" preceding "Solid" and inserted "Management Program".

7:26A-3.18 Additional application requirements for general approval to operate a recycling center for the receipt, storage, processing or transfer of Class C recyclable materials

(a) Prior to the receipt, storage, processing or transfer of any Class C recyclable material at a recycling center, the owner or operator shall submit to the Department, in addition to the information required pursuant to N.J.A.C. 7:26-3.2, the following information:

1. A description of the plans for monitoring, sampling and testing the composting materials for process control and product quality assurance as specified in N.J.A.C. 7:26A-4.5;
2. A description of the contingency operations plan in the event of wind, heavy rain, snow, freezing or other inclement weather conditions;
3. A description of fire protection and control procedures to be employed at the site;

4. A description of vector, dust and litter controls;
5. A description of the nearest sensitive neighboring receptor(s) (residential, commercial, institutional), providing approximate distances to property lines from the recycling center;
6. A description of the soil characteristics for the site according to the soil surveys published by the appropriate Natural Resource Conservation Service District;
7. A description of the methods that will be used to minimize, manage and monitor odors to prevent detection of odors off site and meet the New Jersey Air Pollution Control rules, N.J.A.C. 7:27;
8. A description of the impact that the proposed facility will have on surface and ground water quality and any existing wetlands; and
9. A description of the impact that the proposed facility will have on applicable Federal, State or local land uses including the Pinelands Area and agricultural development areas, dedicated recreational or open space areas, floodways and endangered or threatened wildlife and vegetation.

(b) In addition to the requirements of N.J.A.C. 7:26A-3.2(a), the owner or operator of a recycling center receiving Class C recyclable materials other than or in addition to yard trimmings shall submit a facility design plan, including the following:

1. A flow diagram of the proposed processing steps for all material received, along with a total mass balance;
2. A description of all equipment to be utilized consistent with the requirements of N.J.A.C. 7:26A-3.2(a)8, including a demonstration that the proposed equipment to be used is compatible with the proposed process and throughput; and
3. Profile views of the site indicating access roads, water drainage (swales, ditches, etc.), existing and final grade, facility superstructure, utilities, and other structures.

New Rule, R.1996 d.577, effective December 16, 1996.

See: 28 N.J.R. 2240(a), 28 N.J.R. 5360(a).

Administrative change.

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

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)1, amended N.J.A.C. reference; in (b), deleted "above" preceding "the owner" in the introductory paragraph; in (b)1, substituted "all material received" for "food waste material".

Amended by R.2002 d.182, effective June 17, 2002 (operative December 17, 2002).

See: 33 N.J.R. 4273(a), 34 N.J.R. 2088(a).

Rewrote (a).

Amended by R.2009 d.52, effective February 2, 2009.

See: 40 N.J.R. 7(a), 41 N.J.R. 742(a).

In (a)9, substituted "Area" for "area".

7:26A-3.19 Additional application requirements for general approval to operate a recycling center for the receipt, storage, processing or transfer of Class D recyclable materials

(a) Prior to commencing receipt, storage, processing or transfer of used oil at a recycling center, the owner or operator of the recycling center shall submit to the Department, in addition to the information required pursuant to N.J.A.C. 7:26A-3.2, the following information:

1. The EPA ID number assigned to the facility;
2. A description of the preparedness and prevention procedures and equipment required by N.J.A.C. 7:26A-6.7(c)1;
3. A copy of the contingency plan as required by N.J.A.C. 7:26A-6.7(c) 2;
4. A description of the secondary containment system for containers or tanks to demonstrate compliance with N.J.A.C. 7:26A-6.7(e)4, 5 or 6, including at least the following:
 - i. Drawings and a description of the basic design parameters, dimensions and materials of construction of the containment system;
 - ii. The capacity of the containment system relative to the number and volume of containers or tanks within the system;
 - iii. A description of how the design promotes drainage or how the containers or tanks are protected from contact with standing liquids in the containment system;
 - iv. Provisions for preventing or managing accumulated precipitation or run-on; and
 - v. A description of how accumulated liquids will be analyzed and removed to prevent overflow;
5. A demonstration of compliance with labeling requirements of N.J.A.C. 7:26A-6.7(e)7;
6. A description of closure procedures and/or copy of the closure plan to demonstrate compliance with N.J.A.C. 7:26A-6.7(e)9;
7. A copy of an analysis plan as required by N.J.A.C. 7:26A-6.7(f);
8. A description of the method used to comply with the tracking requirements of N.J.A.C. 7:26A-6.7(g); and
9. A demonstration of compliance with the residue management requirements in accordance with N.J.A.C. 7:26A-6.7(j).

(b) Prior to commencing the receipt, storage, processing or transfer of any latex paints, antifreeze, lamps (light bulbs), oil-based paints, batteries, mercury-containing equipment and consumer electronics at a recycling center, the owner or oper-

ator of the recycling center shall submit to the Department, in addition to the information required pursuant to N.J.A.C. 7:26A-3.2, the following information:

1. The EPA ID number assigned to the facility;
2. A description of the preparedness and prevention procedures and equipment required by N.J.A.C. 7:26A-4.6(b);
3. A copy of the contingency plan as required by N.J.A.C. 7:26A-4.6(c);
4. A description of the secondary containment system for containers or tanks to demonstrate compliance with N.J.A.C. 7:26A-4.6(d)1iii or (d)2ii, including at least the following:
 - i. Drawings and a description of the basic design parameters, dimensions and materials of construction of the containment system;
 - ii. The capacity of the containment system relative to the number and volume of containers or tanks within the system;
 - iii. A description of how the design promotes drainage or how the containers or tanks are protected from contact with standing liquids in the containment system;
 - iv. Provisions for preventing or managing accumulated precipitation or run-on; and
 - v. A description of how accumulated liquids will be analyzed and removed to prevent overflow;
5. A description of the design and operation of process buildings to demonstrate compliance with N.J.A.C. 7:26A-4.6(d)3, if applicable. The description shall include at least the following:
 - i. Drawings and a description of the basic design parameters, dimensions and materials of construction of the process building;
 - ii. The design capacity of the building relative to the volume of recyclable materials to be stored or processed within the building; and
 - iii. A description of the liquid collection and removal system required by N.J.A.C. 7:26A-4.6(d)3iii (if applicable), including a discussion of how accumulated liquids will be characterized and removed;
6. A demonstration of compliance with labeling requirements of N.J.A.C. 7:26A-4.6(e); and
7. A description of closure procedures and/or copy of the closure plan to demonstrate compliance with N.J.A.C. 7:26A-4.6(g).

New Rule, R.1996 d.577, effective December 16, 1996.
 See: 28 N.J.R. 2240(a), 28 N.J.R. 5360(a).
 Administrative change.
 See: 30 N.J.R. 3948(a).

Amended by R.2002 d.182, effective June 17, 2002 (operative December 17, 2002).

See: 33 N.J.R. 4273(a), 34 N.J.R. 2088(a).

In (a), substituted "Prior to commencing receipt" for "Prior to the receipt" preceding "storage," and substituted "used oil" for "any Class D recyclable materials" following "or transfer of" in the introductory paragraph; added (b).

Amended by R.2009 d.52, effective February 2, 2009.

See: 40 N.J.R. 7(a), 41 N.J.R. 742(a).

In the introductory paragraph of (b), deleted "thermostats," preceding "lamps" and substituted "equipment" for "devices".

7:26A-3.20 Filing requirements for existing used oil facilities which receive, store, process or transfer of Class D recyclable material

(a) Any facility processing used oil under the terms and conditions of a hazardous waste facility permit or existing facility status issued prior December 16, 1996 may continue to operate under such terms and conditions until the Department approves or denies the facility owner and/or operator's application for general approval. By June 14, 1997, the Department shall assess the information currently on file for each such facility, and will provide the owner and/or operator of each such facility with a written list of additional information required to be submitted to the Department to obtain a recycling center approval pursuant to N.J.A.C. 7:26A-3.2(a), 3.4 and 3.19.

(b) Within 180 days of receipt of notice requesting additional information pursuant to (a) above, the owner or operator of the facility shall submit the requested information, along with any applicable fees, to the Department at the address specified at N.J.A.C. 7:26A-3.2(c).

(c) A recycling center operating for the receipt, storage, processing or transfer of Class D recyclable materials, and for which a hazardous waste facility permit or existing facility status was issued prior to December 16, 1996, shall not modify its operation unless such modification is approved by the Department pursuant to N.J.A.C. 7:26A-3.10.

New Rule, R.1996 d.577, effective December 16, 1996.

See: 28 N.J.R. 2240(a), 28 N.J.R. 5360(a).

SUBCHAPTER 4. DESIGN AND 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

7:26A-4.1 Design and operational standards for recycling centers which receive Class A, Class B, Class C and Class D recyclable materials

(a) All owners or operators of recycling centers which receive, store, process or transfer Class A, Class B, Class C, or Class D recyclable material shall comply with the following design and operational standards:

1. All recyclable materials received, stored, processed or transferred at all recycling centers shall conform to the following criteria:

i. The recyclable materials shall have been separated at the point of generation from other waste materials or separated at a permitted solid waste facility authorized to separate recyclable materials from the incoming waste stream;

ii. The recyclable materials shall consist only of Class A recyclable materials, or of Class B, or Class C or Class D recyclable materials which either the Department has approved pursuant to N.J.A.C. 7:26A-3 for receipt, storage, processing or transfer at the recycling center under a general or limited approval or are being recycled as a part of an activity that is exempt from general or limited approval pursuant to N.J.A.C. 7:26A-1.4; and

iii. Class A recyclable materials may be commingled only with other Class A recyclable materials. Class B recyclable materials may be commingled only with other Class B recyclable materials and only to the extent authorized in a general or limited approval issued pursuant to N.J.A.C. 7:26A-3.5 or 3.7. Class C recyclable materials may be commingled only with other Class C recyclable materials and only to the extent authorized in a general approval issued pursuant to N.J.A.C. 7:26A-3.5.

2. Residue shall not be stored on-site for a period in excess of six months;

3. All residue shall be removed from the recycling center site in accordance with each district's waste plan;

4. All residue shall be stored separately from recyclable material and in a manner which prevents run-off, leakage or seepage from the residue storage area into, on or around the soil of the residue storage area;

5. At no time shall any hazardous waste, as defined in N.J.A.C. 7:26, be received, stored, processed or transferred at any recycling center as defined in N.J.A.C. 7:26A-1.3 except for used oil and universal waste as provided pursuant to N.J.A.C. 7:26A-4.7, 6 and 7;

6. At no time shall capacitors or electronic components which contain polychlorinated biphenyls (PCBs) and which are attached to, or detached from, appliances or other scrap metal be shredded, sheared or baled;

7. The operation and related activities of a recycling center shall be in conformance with all applicable Federal and State laws and regulations;

8. Recycling centers shall be operated in such a manner that the recycling center property is maintained free of litter and debris and such that tracking of mud into nearby streets is prevented;

9. All recycling centers located within the Pinelands Area shall be operated in a manner consistent with the goals of the comprehensive management plan developed by the Pinelands Commission pursuant to the Pinelands Protection Act, N.J.S.A. 13:18A-1 et seq., and shall obtain all approvals required by the Pinelands Commission;

10. Traffic associated with the operation of the recycling center shall not result in an unacceptable decrease in the existing level of service described and defined in the New Jersey Department of Transportation Highway Access Management Code at N.J.A.C. 16:47 of any major intersection or public roadway within a one-half mile radius of the recycling center;

11. The operation and related activities of all classes of recycling centers shall be in conformance with municipal ordinances, including, but not limited to ordinances concerning ingress and egress, traffic patterns, parking, signage, operational hours, noise, dust, and structure height;

12. Recycling center operations shall be separated from any and all areas of human use or occupancy through the establishment and maintenance of an effective visual screen buffer;

13. The entrance to the access road shall be fenced or otherwise secured to prevent unauthorized access to the site;

14. To provide sufficient support for vehicles, to prevent the tracking of soil onto public roads and to minimize the generation of dust, those areas of the recycling center subject to vehicular usage shall be suitably compacted and where necessary paved; and

15. An adequate water supply and fire-fighting equipment shall be readily available to extinguish any fires. The telephone number of the local fire department shall be posted at the entrance to the recycling center.

(b) The construction of all recycling centers shall be in conformance with the New Jersey Uniform Construction Code, N.J.S.A. 52:27D-119 et seq., and the rules promulgated pursuant thereto.

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).

Inserted references to Classes C and D throughout; in (a) 5, added exception.

Amended by R.1997 d.510, effective October 31, 1997 (operative November 10, 1997).

See: 29 N.J.R. 4170(a), 29 N.J.R. 5084(a).

Readopted provisions of Emergency Amendment R.1997 d.404 without change.

Amended by R.2002 d.182, effective June 17, 2002 (operative December 17, 2002).

See: 33 N.J.R. 4273(a), 34 N.J.R. 2088(a).

In (a), inserted "design and" preceding "operational" in the introductory paragraph, rewrote 7 and added 10 through 14.

Amended by R.2009 d.52, effective February 2, 2009.

See: 40 N.J.R. 7(a), 41 N.J.R. 742(a).

In the introductory paragraph of (a), substituted "Class B" for "Class b"; rewrote (a)iii; in (a)liii, substituted "may be" for "maybe" following the first occurrence of "materials" and substituted "a" for "the" preceding "general" twice; in (a)9, deleted "Protection" preceding "Area"; added new (a)11; recodified former (a)11 through (a)14 as (a)12 through (a)15; and rewrote (a)12.

7:26A-4.2 Inclusion in district solid waste management plans

No recycling center, as defined in N.J.A.C. 7:26A-1.3, with the exception of those recycling centers operating pursuant to an approval granted under N.J.A.C. 7:26A-3.7, shall commence operations unless and until it is included in the applicable district solid waste management plan.

7:26A-4.3 (Reserved)

Recodified to N.J.A.C. 7:26A-1.7 by R.2009 d.52, effective February 2, 2009.
 See: 40 N.J.R. 7(a), 41 N.J.R. 742(a).
 Section was "Right of entry".

7:26A-4.4 Tonnage reporting requirements

(a) All operators of recycling centers shall provide a recycling tonnage report by March 1 of each year to the county of origin (if requested) and all municipalities from which recyclable material is received in the previous calendar year. For operators of Class A recycling centers, this report shall also be submitted to the Department. The report shall detail the amount of each source of separated recyclable material, expressed in gallons, tons or cubic yards, accepted from each municipality. Those persons specifying this information in cubic yards shall also indicate the conversion ratio of the materials from cubic yards to tons. Those persons reporting the recycling of lamps shall also report the volume of the received materials in linear feet. Non-tubular lamps may be reported as individual units. Those persons reporting on mercury-containing equipment shall also report the number of devices received. Lamps or mercury containing equipment which are shipped using a hazardous waste manifest may be reported in pounds or gallons.

(b) Except as otherwise provided in N.J.A.C. 7:26A-1.4(b)4, all persons operating pursuant to an exemption set forth at N.J.A.C. 7:26A-1.4 shall provide recycling tonnage reports by March 1 of each year to the applicable municipalities, to the county and to the New Jersey Department of Environmental Protection, Solid and Hazardous Waste Management Program, Bureau of Recycling and Planning, P.O. Box 414, 401 East State Street, Trenton, New Jersey 08625-0414 for the previous calendar year. The report shall detail the amount of each source separated recyclable material, expressed in tons, cubic yards, cubic feet, or gallons received, stored, processed or transferred. Those persons specifying this information in cubic yards shall also indicate the conversion ratio of the materials from cubic yards to tons. Those persons reporting the recycling of lamps shall also report the volume of the received materials in linear feet. Non-tubular lamps may be reported as individual units. Those

persons reporting on mercury-containing equipment shall also report the number of devices received. Lamps or mercury containing equipment which are shipped using a hazardous waste manifest may be reported in pounds or gallons.

Amended by R.1996 d.577, effective December 16, 1996.
 See: 28 N.J.R. 2240(a), 28 N.J.R. 5360(a).
 In (c), inserted text "Except as otherwise provided in N.J.A.C. 7:26A-1.4(b)4."
 Amended by R.2001 d.86, effective March 5, 2001.
 See: 32 N.J.R. 2536(a), 33 N.J.R. 880(a).
 Rewrote (a); deleted former (b) and recodified former (c) as (b).
 Amended by R.2002 d.182, effective June 17, 2002 (operative December 17, 2002).
 See: 33 N.J.R. 4273(a), 34 N.J.R. 2088(a).
 Rewrote the section.
 Amended by R.2009 d.52, effective February 2, 2009.
 See: 40 N.J.R. 7(a), 41 N.J.R. 742(a).

Substituted "equipment" for "devices" throughout; in (a) and (b), substituted "March" for "February"; in (b), deleted "Division of" preceding "Solid" and inserted "Management Program" and "401 East State Street,".

7:26A-4.5 Additional design and operational requirements for recycling centers that receive, store, process or transfer Class C recyclable materials

(a) In addition to the requirements of N.J.A.C. 7:26A-4.1, the following operational and design criteria apply to recycling centers receiving Class C recyclable material:

1. A recycling center shall not be located on land which has been purchased with money from any Green Acres bond act or which is designated as land for recreation and conservation purposes and listed in the Green Acres recreational land inventory prepared by individual municipalities and counties and approved by the Department pursuant to N.J.S.A. 13:8A-1, 13:8A-20 and 13:8A-35, and N.J.A.C. 7:36, unless the approval of the Department and of the State House Commission has been received and any and all conditions of said approvals are complied with. Evidence of those approvals shall be submitted to the Department as part of the application for general approval to operate.
2. The recycling center shall have sufficient capacity to handle projected incoming volumes of Class C recyclable material.
3. Operation of the recycling center shall be under the supervision and control of a properly trained individual during all hours of operation, and access to the recycling center shall be prohibited when the recycling center is closed.
4. Class C recyclable materials shall be received only during times when the recycling center operator or owner is present.
5. All Class C recyclable materials delivered to the recycling center for processing shall be removed from bags, boxes or similar containers prior to any processing steps except that Class C recyclable materials in paper or

biodegradable plastic bags need not be removed from such bags if the processing equipment provides for a shredding or cutting action. All discarded bags, boxes and similar containers shall be placed in a suitable refuse receptacle in the staging area of the recycling center for removal to an off-site disposal facility in accordance with N.J.A.C. 7:26-6.

6. If the incoming material contains grass or other highly putrescible material that are known to cause odors, the material shall be accepted only in areas of the site that are at least 1,000 feet from any areas of human use or occupancy unless the recycling center operation or receiving and preprocessing area is fully enclosed, or other measures approved by the Department are taken to prevent odors associated with the receipt of such materials from migrating off site. The Department may allow the recycling center to use a certificate of authority to operate an RD&D project obtained pursuant to N.J.A.C. 7:26-1.7(f) to demonstrate that the measures taken are suitable to prevent off-site impacts.

7. Processing of incoming material shall begin within three calendar days of receipt, except that if the incoming material contains grass or other highly putrescible materials, processing of such material shall begin on the same day of receipt of such material.

8. The recycling center shall submit to the Department within one year of receipt of its general approval to operate, a final closure plan containing a schedule and description of the steps necessary to close the recycling center including the estimated cost of closure and a description of the means by which the closure will be financed.

9. The recycling center shall notify the Department in writing at least 60 days prior to the proposed closure date for the recycling center.

10. The recycling center shall publish a notice of closure in a newspaper of general circulation in the district where the recycling center is located and in districts or communities sending at least 25 percent of their yard trimmings to the recycling center. Such notice shall be published at least 30 days prior to closure.

11. Within 30 days of ceasing operation, all residuals, unprocessed Class C recyclable material and recyclables shall be removed from the site and recycled or disposed as appropriate and the recycling center shall arrange for a final cleaning of any containers, equipment, machines, floors and recycling center surfaces in which Class C recyclable materials or residue was processed or stored.

12. The Department shall determine that a recycling center is considered closed when all the requirements of the closure plan have been met.

13. An update to the final closure plan as needed shall be submitted to the Department in writing at least 180 days prior to the proposed closure date for the recycling center.

14. Recycling centers that provide composting of yard trimmings shall operate in accordance with the following:

i. Within one year of the start up of the recycling center, the recycling center operator shall attend a composting course sponsored by the Rutgers Cooperative Extension, the appropriate county agricultural or resource management agents or any other similar course recognized by the Department;

ii. The active composting surface shall be an improved surface, such as compacted clay, gap-graded crushed aggregate, asphalt or other such surface that can withstand heavy equipment use. The surface shall be sloped to prevent ponding of liquids and to prevent surface runoff from directly entering any surface waters;

iii. Prior to windrow formation, dry yard trimmings shall be moistened to saturation without producing excessive runoff;

iv. To facilitate drainage and to reduce surface water ponding, each windrow shall be constructed and positioned in such a manner that it is perpendicular to the contours of the ground surface;

v. A windsock shall be installed at the recycling center in order to indicate wind direction so that the recycling center operator may determine appropriate times for windrow turning operations;

vi. Windrow composting shall be conducted as follows:

(1) A minimal technology method, in which windrows are constructed and reconstructed after each turning to a maximum height of 12 feet with a corresponding base not to exceed a maximum of 24 feet. A minimum separation of 16 feet measured from the pile base of the windrow to the next adjacent pile base shall be maintained to provide ample working space. Windrows shall be turned and reconstructed, at a minimum, one time per year during the three year composting cycle;

(2) A low level technology method, in which windrows are constructed and reconstructed after each turning to a maximum height of six feet with a corresponding base not to exceed a maximum of 14 feet in width. A minimum separation of 16 feet measured from the pile base of the windrow to the next adjacent pile base shall be provided along at least one side of the longest dimension of each windrow pile to provide ample working space. Windrows shall be turned and reconstructed, at a minimum, three times during the 12 to 18 month compost cycle, once during the first two months of the composting cycle, at four to six

i. A completed EPA Form 8700-12 (To obtain ordering information for EPA Form 8700-12 call RCRA/Superfund Hotline at 1-800-424-9346 or 703-920-9810); or

ii. A letter requesting an EPA identification number. Call the RCRA/ Superfund Hotline to determine where to send a letter requesting an EPA identification number. The letter should include the following:

- (1) The transporter company name;
- (2) The owner of the transporter company;
- (3) The mailing address for the transporter;
- (4) The name and telephone number for the transporter point of contact;
- (5) The type of transport activity (that is, transport only, transport and transfer facility, transfer facility only);
- (6) The location of all transfer facilities at which used oil is stored; and
- (7) The name and telephone number for a contact at each transfer facility; and

3. Owners or operators of used oil transfer facilities shall notify the Department in writing of the location of the transfer facility prior to conducting any used oil activities at the transfer facility. The notification shall be mailed to the New Jersey Department of Environmental Protection, Waste Compliance and Enforcement and Release Prevention, bureau of Hazardous Waste Compliance and Enforcement, 300 Horizon Center, PO box 407, Trenton, New Jersey 08625-0407.

(d) The standards for used oil transportation are as follows:

1. A used oil transporter shall off load all used oil received at or to:

- i. Another used oil transporter, provided that the transporter has obtained an EPA identification number;
- ii. A used oil processing/re-refining facility who has obtained an EPA identification number;
- iii. An off-specification used oil burner facility who has obtained an EPA identification number; or
- iv. An on-specification used oil burner facility;

2. Transporters of used oil that meets the definition of a hazardous material in 49 CFR 171.8 shall comply with the following United States Department of Transportation (USDOT) regulations, as modified by the Transportation of Hazardous Materials rules at N.J.A.C. 16:49-2.1, and the Motor Carrier Safety Regulations at N.J.A.C. 13:60:

i. The Hazardous Materials Regulations at 49 CFR Parts 171 through 180, as amended and supplemented; and

ii. The Motor Carrier Safety Regulations at 49 CFR Parts 390 through 397, as amended and supplemented.

3. Standards for a used oil discharge during transportation are as follows:

i. In the event of a discharge of used oil during transportation, the transporter shall comply with the applicable requirements of N.J.A.C. 7:1E and take appropriate immediate action to protect human health and the environment (for example, notify local authorities, dike the discharge area);

ii. If a discharge of used oil occurs during transportation and an official (State or local government or a Federal Agency) acting within the scope of official responsibilities determines that immediate removal of the used oil is necessary to protect human health or the environment, that official may authorize the removal of the used oil by transporters who do not have EPA identification numbers;

iii. An air, rail, highway, or water transporter who has discharged used oil shall:

(1) Give notice, if required by 49 C.F.R. 171.15 to the National Response Center (800-424-8802 or 202-426-2675); and

(2) Report in writing as required by 49 C.F.R. 171.16 to the Director, Office of Hazardous Materials Regulations, Materials Transportation Bureau, Department of Transportation, Washington, DC 20590;

iv. A water transporter who has discharged used oil shall give notice as required by 33 C.F.R. 153.203; and

v. A transporter shall clean up any used oil discharge that occurs during transportation or take such action as may be required or approved by federal, state, or local officials so that the used oil discharge no longer presents a hazard to human health or the environment.

(e) The rebuttable presumption for used oil applies as follows to used oil transporters.

1. To ensure that used oil is not a hazardous waste under the rebuttable presumption of N.J.A.C. 7:26A-6.1(a)2i(2), the used oil transporter shall determine whether the total halogen content of used oil being transported or stored at a transfer facility is equal to and less than or more than 1,000 ppm;

2. The transporter shall make this determination by:

- i. Testing the used oil; or
- ii. Applying knowledge of the halogen content or the used oil in light of the materials or processes used;

3. If the used oil contains more than or equal to 1,000 ppm total halogens, it is presumed to be a hazardous waste because it has been mixed with halogenated hazardous waste listed in 40 C.F.R. Part 261, subpart D, as incor-

porated by reference at N.J.A.C. 7:26G-5. The owner or operator may rebut the presumption by demonstrating that the used oil does not contain hazardous waste (for example, by using an analytical method from SW-846, Edition III, or later) to show that the used oil does not contain significant concentrations of halogenated hazardous constituents listed in Appendix VIII of 40 C.F.R. Part 261, as incorporated by reference at N.J.A.C. 7:26G-5.

i. The rebuttable presumption does not apply to metalworking oils/fluids containing chlorinated paraffins, if they are processed, through a tolling arrangement as described in N.J.A.C. 7:26A-6.4(e)3, to reclaim metalworking oils/fluids. The presumption does apply to metalworking oils/fluids if such oils/fluids are recycled in any other manner, or disposed; and

ii. The rebuttable presumption does not apply to used oils contaminated with chlorofluorocarbons (CFCs) removed from refrigeration units if the CFCs are destined for reclamation. The rebuttable presumption does apply to used oils contaminated with CFCs that have been mixed with used oil from sources other than refrigeration units;

4. If rebuttal is unsuccessful, the used oil transporter shall ensure further transportation or reshipment of this hazardous waste is accomplished by a licensed New Jersey hazardous waste transporter; and

5. Records of analyses conducted or information used to comply with (e)1 through 4 above shall be maintained on-site by the transporter for at least three years.

(f) The standards for used oil storage at transfer facilities are as follows:

1. Used oil transporters are subject to all applicable Spill Prevention, Control and Countermeasures regulations (40 C.F.R. Part 112) as well as the applicable requirements of N.J.A.C. 7:1E, regulations adopted pursuant to the Federal Clean Air Act, and N.J.A.C. 7:27 in addition to the requirements of this section. Used oil transporters are also subject to the Underground Storage Tank standards (40 C.F.R. Part 280 and N.J.A.C. 7:14B) for used oil stored in underground tanks whether or not the used oil exhibits any characteristics of hazardous waste, in addition to the requirements of this section;

2. Used oil transfer facilities are transportation related facilities including loading docks, parking areas, storage areas and other areas where shipments of used oil are held for more than 24 hours during the normal course of transportation and not longer than 35 days. Transfer facilities that store used oil for more than 35 days and also process used oil are subject to regulation under N.J.A.C. 7:26A-6.7. Transfer facilities that store used oil for more than 35 days but do not process used oil are subject to all of the requirements of N.J.A.C. 7:26A-6.7 except N.J.A.C. 7:26A-6.7(a)2vi;

3. Owners or operators of used oil transfer facilities may not store used oil in units other than tanks, containers, or units subject to regulation under 40 C.F.R. Parts 264 or 265, as incorporated by reference at N.J.A.C. 7:26G-8 or 9;

4. Containers and aboveground tanks used to store used oil at transfer facilities shall be:

i. In good condition (no severe rusting, apparent structural defects or deterioration); and

ii. Not leaking (no visible leaks).

5. Containers used to store used oil at transfer facilities shall be equipped with a secondary containment system meeting the following:

i. The secondary containment system shall consist of, at a minimum:

(1) Dikes, berms or retaining walls; and

(2) The floor shall cover the entire area within the dikes, berms, or retaining walls; or

(3) An equivalent secondary containment system; and

ii. The entire containment system, including walls and floors, shall be sufficiently impervious to used oil to prevent any used oil released into the containment system from migrating out of the system to the soil, groundwater, or surface water;

6. Existing aboveground tanks used to store used oil at transfer facilities shall be equipped with a secondary containment system meeting the following:

i. The secondary containment system shall consist of, at a minimum:

(1) Dikes, berms or retaining walls; and

(2) The floor shall cover the entire area within the dike, berm, or retaining wall except areas where existing portions of the tank meet the ground; or

(3) An equivalent secondary containment system; and

ii. The entire containment system, including walls and floors, shall be sufficiently impervious to used oil to prevent any used oil released into the containment system from migrating out of the system to the soil, groundwater, or surface water;

7. New aboveground tanks used to store used oil at transfer facilities shall be equipped with a secondary containment system.

i. The secondary containment system shall consist of, at a minimum:

(1) Dikes, berms or retaining walls; and

(2) A floor. The floor shall cover the entire area within the dike, berm, or retaining wall; or

(3) An equivalent secondary containment system.

ii. The entire containment system, including walls and floors, shall be sufficiently impervious to used oil to prevent any used oil released into the containment system from migrating out of the system to the soil, groundwater, or surface water.

8. The following are the standards for labels for used oil storage:

i. Containers and aboveground tanks used to store used oil at transfer facilities shall be labeled or marked clearly with the words "Used Oil"; and

ii. Fill pipes used to transfer used oil into underground storage tanks at transfer facilities shall be labeled or marked clearly with the words "Used Oil".

9. Upon detection of a release of used oil to the environment not subject to the requirements of 40 C.F.R. Part 280, subpart F or N.J.A.C. 7:14B, the owner/operator of a transfer facility shall perform the following cleanup steps:

i. Stop the release;

ii. Contain the released used oil;

iii. Clean up and manage properly the released used oil and other materials; and

iv. If necessary, repair or replace any leaking used oil storage containers or tanks prior to returning them to service.

(g) The tracking standards for used oil transporters are as follows:

1. Used oil transporters shall keep a record of each used oil shipment accepted for transport. These records shall be available for inspection at all times while the used oil is being transported. Records for each shipment shall include:

i. The name and address of the generator, transporter, or processor/re-refiner who provided the used oil for transport;

ii. The EPA identification number (if applicable) of the generator, transporter, or processor/re-refiner who provided the used oil for transport;

iii. The quantity of used oil accepted;

iv. The date of acceptance; and

v. The signature, dated upon receipt of the used oil, of a representative of the generator, transporter, or processor/re-refiner who provided the used oil for transport;

2. Used oil transporters shall keep a record of each shipment of used oil that is delivered to another used oil transporter, or to a used oil burner, processor/re-refiner, or disposal facility. These records shall be available for inspection at all times while the used oil is being transported. Records of each delivery shall include:

i. The name and address of the receiving facility or transporter;

ii. The EPA identification number of the receiving facility or transporter;

iii. The quantity of used oil delivered;

iv. The date of delivery; and

v. The signature, dated upon receipt of the used oil, of a representative of the receiving facility or transporter;

3. Used oil transporters shall maintain the records described in paragraphs (g)2i through iv above for each shipment of used oil exported to any foreign country.

4. The records described in (g)1 through 3 above shall be maintained for at least three years.

(h) Transporters who generate residues from the storage or transport of used oil shall manage the residues as specified in N.J.A.C. 7:26A-6.1(a)5.

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)1ii and (a)1iii, amended the N.J.A.C. references; added (a)5 and (a)6.

Amended by R.2002 d.182, effective June 17, 2002 (operative December 17, 2002).

See: 33 N.J.R. 4273(a), 34 N.J.R. 2088(a).

In (c), inserted "and transfer facilities" following "oil transporters" in the introductory paragraph and added 3; in (g), inserted the second sentence in the introductory paragraphs of 1 and 2.

Amended by R.2009 d.52, effective February 2, 2009.

See: 40 N.J.R. 7(a), 41 N.J.R. 742(a).

Rewrote (d)2 and (f)2.

7:26A-6.7 Standards for used oil processors and re-refiners

(a) Standards for used oil processors and re-refiners and used oil processing and re-refining facilities are as follows:

1. The requirements of this section apply to owners and operators of facilities that process used oil. Processing means chemical or physical operations designed to produce from used oil, or to make used oil more amenable for production of, fuel oils, lubricants, or other used oil-derived products. Processing includes, but is not limited to: blending used oil with virgin petroleum products, blending used oils to meet the fuel specification, filtration, simple distillation, chemical or physical separation and re-refining. The requirements of this section do not apply to:

i. Transporters that conduct incidental processing operations that occur during the normal course of transportation as provided in N.J.A.C. 7:26A-6.6(b); or

ii. Burners that conduct incidental processing operations that occur during the normal course of used oil management prior to burning as provided in (b) below.

2. Used oil processors/re-refiners who conduct the following activities are also subject to the requirements of other applicable provisions of this subchapter as indicated in (a)2i through vi below;

i. Processors/re-refiners who generate used oil shall also comply with N.J.A.C. 7:26A-6.4;

ii. Processors/re-refiners who transport used oil shall also comply with N.J.A.C. 7:26A-6.6;

iii. Except as provided in (a)2iii(1) below, processors/re-refiners who burn off-specification used oil for energy recovery shall also comply with N.J.A.C. 7:26A-6.8. Processor/re-refiners burning used oil for energy recovery under the following conditions are not subject to N.J.A.C. 7:26A-6.8:

(1) The used oil is burned for purposes of processing used oil, which is considered burning incidentally to used oil processing;

iv. Processors/re-refiners who direct shipments of off-specification used oil from their facility to a used oil burner or first claim that used oil that is to be burned for energy recovery meets the used oil fuel specifications set forth in N.J.A.C. 7:26A-6.2 shall also comply with N.J.A.C. 7:26A-6.8; and

v. Processors/re-refiners who dispose of used oil also shall comply with N.J.A.C. 7:26A-6.9;

vi. Processors/re-refiners shall comply with the requirements for a Class D recycling facility of this chapter (including the requirement to obtain a Class D recycling center approval pursuant to N.J.A.C. 7:26A-3) and all applicable requirements of N.J.A.C. 7:27 and the regulations promulgated pursuant to the Federal Clean Air Act.

(b) The standards for notification for used oil processors and re-refiners are as follows:

1. Used oil processors and re-refiners shall comply with these requirements and obtain an EPA identification number unless they have already notified the USEPA of their hazardous waste activities in accordance with the requirements of RCRA section 3010;

2. A used oil processor or re-refiner who has not received an EPA identification number may obtain one by notifying the Regional Administrator of USEPA Region II of their used oil activity by submitting either:

i. A completed EPA Form 8700-12 (To obtain EPA Form 8700-12 call RCRA/Superfund Hotline at 1-800-424-9346 or 703-920-9810); or

ii. A letter requesting an EPA identification number. Call the RCRA/Superfund Hotline to determine where to send a letter requesting an EPA identification number. The letter should include the following:

(1) The processor or re-refiner company name;

(2) The owner of the processor or re-refiner company;

(3) The mailing address for the processor or re-refiner;

(4) The name and telephone number for the processor or re-refiner point of contact;

(5) The type of used oil activity (that is, process only, process and re-refine); and

(6) The location of the processor or re-refiner facility.

(c) General facility standards for used oil at processing facilities and re-refining facilities are as follows:

1. Owners and operators of used oil processing and re-refining facilities shall comply with the following preparedness and prevention requirements:

i. Facilities shall be maintained and operated to minimize the possibility of a fire, explosion, or any unplanned sudden or non-sudden release of used oil to air, soil, or surface water which could threaten human health or the environment;

ii. All facilities shall be equipped with the following, unless none of the hazards posed by used oil handled at the facility could require a particular kind of equipment specified in (c)1ii(1) through (4) below:

(1) An internal communications or alarm system capable of providing immediate emergency instruction (voice or signal) to facility personnel;

(2) A device, such as a telephone (immediately available at the scene of operations) or a hand-held two-way radio, capable of summoning emergency assistance from local police departments, fire departments, or State or local emergency response teams;

(3) Portable fire extinguishers, fire control equipment (including special extinguishing equipment, such as that using foam, inert gas, or dry chemicals), spill control equipment and decontamination equipment; and

(4) Water at adequate volume and pressure to supply water hose streams, or foam producing equipment, or automatic sprinklers, or water spray systems;

iii. All facility communications or alarm systems, fire protection equipment, spill control equipment, and decontamination equipment, where required, shall be tested and maintained as necessary to assure its proper operation in time of emergency;

2. A used oil generator, transporter, processor/re-refiner, or burner who first claims that used oil that is to be burned for energy recovery meets the specifications for used oil fuel under N.J.A.C. 7:26A-6.2, shall keep copies of analyses of the used oil (or other information used to make the determination) for three years.

(d) The notification standards for used oil fuel marketers are as follows:

1. A used oil fuel marketer subject to the requirements of this section shall comply with these requirements and obtain an EPA identification number unless they have already notified the USEPA of its hazardous waste activities in accordance with the requirements of RCRA section 3010;

2. A used oil marketer who has not received an EPA identification number may obtain one by notifying the Regional Administrator of USEPA Region II of their used oil activity by submitting either:

i. A completed EPA Form 8700-12 (To obtain EPA Form 8700-12 call the RCRA/Superfund Hotline at 1-800-424-9346 or 703-920-9810); or

ii. A letter requesting an EPA identification number. Call the RCRA/Superfund Hotline to determine where to send a letter requesting an EPA identification number. The letter should include the following information:

- (1) The marketer company name;
- (2) The owner of the marketer;
- (3) The mailing address for the marketer;
- (4) The name and telephone number for the marketer point of contact; and
- (5) The type of used oil activity (that is, generator directing shipments of off-specification used oil to a burner).

(e) The tracking standards for used oil fuel marketers are as follows:

1. Any used oil fuel marketer who directs a shipment of off-specification used oil, shall prepare and send the receiving facility an invoice containing the following information:

- i. An invoice number;
- ii. The used oil fuel marketer's own EPA identification number and the EPA identification number of the receiving facility;
- iii. The names and addresses of the shipping and receiving facilities;
- iv. The quantity of off-specification used oil to be delivered;

v. The date(s) of shipment or delivery; and

vi. The following statement: "This used oil is subject to NJDEP regulation under N.J.A.C. 7:26A-6";

2. Any used oil fuel marketer who directs a shipment of off-specification used oil to a burner shall keep a record of each shipment of used oil to the used oil burner. These records may take the form of a log, invoice, manifest, bill of lading or other shipping documents. Records for each shipment shall include the following information:

- i. The name and address of the transporter who delivers the used oil to the burner;
- ii. The name and address of the burner who will receive the used oil;
- iii. The EPA identification number of the transporter who delivers the used oil to the burner;
- iv. The EPA identification number of the burner;
- v. The quantity of used oil shipped; and
- vi. The date of shipment;

3. A generator, transporter, processor/re-refiner, or burner who first claims that used oil that is to be burned for energy recovery meets the fuel specifications under N.J.A.C. 7:26A-6.2 shall keep a record of each shipment of used oil to an on-specification used oil burner. Records for each shipment shall include the following information:

- i. The name and address of the facility receiving the shipment;
- ii. The quantity of used oil fuel delivered;
- iii. The date of shipment or delivery; and
- iv. A cross-reference to the record of used oil analysis used to make the determination that the oil meets the specification as required under N.J.A.C. 7:26A-6.9(c)1.

4. The records described in (e)2 and 3 above shall be maintained on site for at least three years.

(f) The following are the notice standards for used oil marketers:

1. Before a used oil generator, transporter, or processor/re-refiner directs the first shipment of off-specification used oil fuel to a burner, her or she shall obtain a one-time written and signed notice from the used oil burner certifying that:

- i. The burner has notified the Department stating the location and general description of used oil management activities; and
- ii. The burner will burn the off-specification used oil only in an industrial furnace or boiler identified in N.J.A.C. 7:26A-6.8(b)1; and

2. The certification described (f)1 above shall be maintained for three years from the date the last shipment of off-specification used oil is shipped to the burner.

7:26A-6.10 Prohibition on the use of used oil as a dust suppressant and disposal of used oil

(a) The requirements of this section apply to all used oils that cannot be recycled and are therefore being disposed.

(b) The following are the disposal standards for used oil:

1. Used oils that are identified as a hazardous waste and cannot be recycled in accordance with this subchapter shall be managed in accordance with the hazardous waste management requirements of 40 C.F.R. Parts 260 through 266, 268, 270 and 124, as incorporated by reference at N.J.A.C. 7:26G.

2. Used oils that are not hazardous wastes and cannot be recycled under this subchapter shall be disposed in accordance with the solid waste management requirements of N.J.A.C. 7:26.

(c) The use of used oil as a dust suppressant is prohibited.

**SUBCHAPTER 7. STANDARDS FOR THE
MANAGEMENT OF CLASS D UNIVERSAL
WASTE**

7:26A-7.1 Incorporation by reference: standards for the management of universal waste

(a) This subchapter prospectively incorporates by reference up to July 1, 1998 and prospectively incorporates by reference 40 C.F.R. Part 273, Federal Regulations on Universal Waste, and its appendices, as amended and supplemented, except as provided in (b) and (c) below.

(b) The following provisions of 40 C.F.R. Part 273 are not incorporated by reference. If there is a cross reference to a Federal citation specifically entirely excluded from incorporation, then the cross referenced citation is not incorporated by virtue of the cross reference, and is also excluded from the process of prospective incorporation by reference:

1. 40 C.F.R. Part 273.6, the definition of "universal waste." The definition at N.J.A.C. 7:26A-1.3 shall apply.

(c) The following provisions of 40 C.F.R. Part 273 are incorporated by reference with the specified changes:

1. 40 C.F.R. 273.1(a), add as (5) and (6):

"(5) Oil-based finishes

(6) Consumer electronics";

2. 40 C.F.R. 273.1(b), add paragraph (c), State Definitions

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

i. "Administrator" as used in the provisions of the Code of Federal Regulations which are incorporated by reference, means the Commissioner of the New Jersey Department of Environmental Protection or his designee, except where specifically noted, then it means the Administrator of the United States Environmental Protection Agency or his or her designee.

ii. "EPA," "EPA Regional Office" and "Regional EPA Office" as used in the provisions of the Code of Federal Regulations which are incorporated by reference, means the New Jersey Department of Environmental Protection, except when specifically noted, then it means the United States Environmental Protection Agency.

iii. "Department of Transportation" or "DOT" means the "U.S. Department of Transportation."

3. 40 C.F.R. 273.1(b), after "regulation under 40 C.F.R. Parts 260 through 272" add "as incorporated by reference at N.J.A.C. 7:26G";

4. 40 C.F.R. 273.6 Definitions;

i. "Large Quantity Handler of Universal Waste," replace parenthetical text "(batteries, pesticides, or thermostats, calculated collectively)" with the phrase "calculated collectively";

ii. "Small Quantity Handler of Universal Waste," replace parenthetical text "(batteries, pesticides, or thermostats, calculated collectively)" with the phrase "calculated collectively";

5. 40 C.F.R. 273.18(g) and 273.38(g), replace "appropriate regional EPA office" with "the Department of Environmental Protection's Solid and Hazardous Waste Management Program" and replace "EPA regional office" with "Solid and Hazardous Waste Management Program";

6. 40 C.F.R. 273.32(b)(4) and (5), add "Universal waste shall include all State listed universal wastes, not only those given as examples."

7. 40 C.F.R. 273.60(b), add paragraph (c): "The owner or operator of a destination facility located in the State of New Jersey that recycles universal waste shall obtain, from the Department, prior written approval to operate a Class D recycling center pursuant to N.J.A.C. 7:26A-3 et seq."

(d) The term "EPA" as used in "EPA Identification Number," "EPA Acknowledgment of Consent" and the "notification to EPA as required by 40 C.F.R. Part 165," as used in the Code of Federal Regulations which are incorporated herein by reference, means the United States Environmental Protection Agency.

(e) The following Class D recyclable materials, which are hazardous waste, may either be handled as hazardous waste in accordance with the provisions of N.J.A.C. 7:26G, or as universal waste in accordance with the provisions contained in this chapter:

1. Lamps (light bulbs);
2. Oil-based finishes;
3. Batteries;
4. Mercury-containing equipment; and
5. Consumer electronics.

(f) Universal wastes are also Class D recyclable materials when destined for recycling in New Jersey.

Amended by R.2009 d.52, effective February 2, 2009.
See: 40 N.J.R. 7(a), 41 N.J.R. 742(a).

Rewrote (c)1; in (c)5, inserted "and 273.38(g)", deleted "Division of" preceding "Solid" twice and inserted "Management Program" twice; deleted former (e)1; recodified former (e)2 through (e)6 as (e)1 through (e)5; and in (e)4, substituted "equipment" for "devices".

7:26A-7.2 State-listed universal wastes; applicability

(a) The Department, pursuant to 40 C.F.R. 273.80 and associated USEPA guidance, herein lists universal wastes additional to the Federal universal waste program at 40 C.F.R. Part 273. The following sections of this chapter set forth standards for the handling of the following additional wastes that may be managed as universal waste in New Jersey, and apply to all persons handling the additional wastes in (a)1 and 2 below.

1. Oil-based finishes, as defined in N.J.A.C. 7:26A-1.3, except the following:
 - i. Oil-based finishes that are not yet discarded, or designated for disposal; and
 - ii. Oil-based finishes that are not hazardous wastes. An oil-based finish is a hazardous waste if it exhibits one or more of the characteristics identified in 40 C.F.R. Part 261, subpart C as incorporated by reference at N.J.A.C. 7:26G-5.
2. Consumer electronics, as defined in N.J.A.C. 7:26A-1.3, except the following:
 - i. Consumer electronics that are not yet discarded, or designated for disposal; and
 - ii. Consumer electronics that are not hazardous wastes. A consumer electronic is a hazardous waste if it exhibits one or more of the characteristics identified in 40 C.F.R. Part 261, subpart C as incorporated by reference at N.J.A.C. 7:26G-5.

Amended by R.2009 d.52, effective February 2, 2009.
See: 40 N.J.R. 7(a), 41 N.J.R. 742(a).

In the introductory paragraph of (a), inserted "(a)" preceding "1" and substituted " and 2" for "through 3"; deleted former (a)1; and recodified former (a)2 and (a)3 as (a)1 and (a)2.

7:26A-7.3 Mixtures of universal waste with waste of other classification

(a) Mixtures of universal waste and hazardous waste are subject to regulation as hazardous waste under 40 C.F.R. Parts 260 through 266, 268, 270, and 124, as incorporated by reference at N.J.A.C. 7:26G.

(b) Mixtures of universal waste and household hazardous waste or conditionally exempt small quantity generator hazardous waste regulated under 40 C.F.R. 261.5, as incorporated by reference at N.J.A.C. 7:26G-5, are subject to regulation as universal waste under this subchapter.

7:26A-7.4 Management standards for small quantity handlers

(a) A small quantity handler of the State-listed universal wastes in N.J.A.C. 7:26A-7.2 shall comply with all requirements of 40 C.F.R. Part 273 Subpart b pertaining generally to all universal wastes.

(b) A small quantity handler of universal waste shall manage consumer electronics in a way that prevents releases of any universal waste or component of a universal waste to the environment, as follows:

1. A small quantity handler of universal waste shall contain any consumer electronic that shows evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions in a container. The container shall be closed, structurally sound, compatible with the contents of the consumer electronic, and shall lack evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions;
2. A small quantity handler of universal waste may disassemble ("demanufacture") consumer electronics into its marketable components; this shall exclude any processing or treatment (examples: including, but not limited to, crushing, shredding or thermally altering) of these components; and
3. A small quantity handler of universal waste who generates solid waste as a result of the activities listed at N.J.A.C. 7:26A-7.4(b), shall determine whether the solid waste exhibits a characteristic of hazardous waste identified in 40 C.F.R. Part 261, subpart C as incorporated by reference at N.J.A.C. 7:26G-5.

(c) A small quantity handler of universal waste shall manage oil-based finishes, in its original or otherwise appropriate and labeled packaging, in a way that prevents releases of any universal waste or component of a universal waste to the environment, as follows:

1. A small quantity handler of universal waste shall contain any oil-based finishes that show evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions in a container. The container shall be closed, structurally sound, compatible with

the contents of the oil-based finishes, and shall lack evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions.

2. A small quantity handler of universal waste shall not in any way process any oil-based finishes (examples: including, but not limited to, opening, repackaging, blending, filtering). A small quantity handler who wants to process oil-based finishes shall apply for a Class D recycling center approval in accordance with N.J.A.C. 7:26A-3.

3. A small quantity handler of universal waste shall manage containers or packages containing oil-based finishes in an area equipped with a secondary containment system meeting the following requirements:

i. The secondary containment system shall consist of, at a minimum:

(1) Dikes, berms, or retaining walls, and a floor which shall cover the entire area within the dike, berm, or retaining walls; or

(2) A secondary containment system equivalent to (c)3i(1) above; and

ii. The entire secondary containment system, including walls and floor, shall be sufficiently impervious to prevent any universal wastes released into the containment system from migrating out of the system to the soil, groundwater or surface water.

Amended by R.2009 d.52, effective February 2, 2009.

See: 40 N.J.R. 7(a), 41 N.J.R. 742(a).

Deleted former (c); recodified former (d) as (c); in (c)1, inserted "any" following "contain" and substituted "show" for "shows"; in (c)2, inserted "repackaging," and inserted the last sentence; and added (c)3.

7:26A-7.5 Management standards for large quantity handlers

(a) A large quantity handler of the State-listed universal wastes in N.J.A.C. 7:26A-7.2 shall comply with all requirements of 40 C.F.R. 273 Subpart C pertaining generally to all universal wastes.

(b) A large quantity handler of universal waste shall manage consumer electronics in a way that prevents releases of any universal waste or component of a universal waste to the environment, as follows:

1. A large quantity handler of universal waste shall contain any consumer electronic that shows evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions in a container. The container shall be closed, structurally sound, compatible with the contents of the consumer electronics, and shall lack evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions; and

2. A large quantity handler of universal waste may not conduct disassembling ("demanufacturing") or processing (examples: including, but not limited to, crushing, shedding

or thermally altering) activities on consumer electronics. A large quantity handler who wants to demanufacture or process consumer electronics shall apply for a Class D Approval in accordance with N.J.A.C. 7:26A-3.

(c) A large quantity handler of universal waste shall manage oil-based finishes in a way that prevents releases of any universal waste or component of a universal waste to the environment, as follows:

1. A large quantity handler of universal waste shall manage oil-based finishes in its original packaging, unless the large quantity handler is repackaging oil-based finishes in accordance with (c)5 below.

2. A large quantity handler of universal waste shall contain any oil-based finishes that show evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions in a container. The container shall be closed, structurally sound, compatible with the contents of the oil-based finishes, and shall lack evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions; and

3. A large quantity handler of universal waste may not conduct processing (examples: including, but not limited to, filtering, blending, or tinting) activities on oil-based finishes. A large quantity handler who wants to process oil-based finishes shall apply for a Class D recycling center approval in accordance with N.J.A.C. 7:26A-3.

4. A large quantity handler of universal waste shall manage containers or packages containing oil-based finishes in an area equipped with a secondary containment system meeting the following requirements:

i. The secondary containment system shall consist of, at a minimum:

(1) Dikes, berms, or retaining walls, and a floor which shall cover the entire area within the dike, berm, or retaining walls; or

(2) A secondary containment system equivalent to (c)4i(1) above; and

ii. The entire secondary containment system, including walls and floor, shall be sufficiently impervious to prevent any universal wastes released into the containment system from migrating out of the system to the soil, groundwater or surface water.

5. A large quantity handler of universal waste may repackaging oil-based finishes (that is, open containers of oil-based finishes and transfer the contents into other containers or tanks) provided that:

i. Containers and tanks used to hold oil-based finishes shall be in good condition (no severe rusting, apparent structural defects or deterioration) and not leaking (no visible leaks);

ii. Containers and tanks holding oil-based finishes shall be kept closed during storage, except when it is necessary to add or remove oil-based finishes; and

iii. Containers or tanks holding oil-based finishes shall be equipped with a secondary containment system meeting (c)4i and ii above.

(d) A large quantity handler of universal waste shall submit a report to the Department in the form of a letter, by March 1st, of the types and amounts of universal waste which were received, stored and shipped in the preceding calendar year. The report shall also indicate the municipality of origin of any universal waste that was shipped out-of-State for recycling. This report shall be submitted to the following address:

Universal Waste Project Manager
 New Jersey Department of Environmental
 Protection
 Solid and Hazardous Waste Management Program
 401 East State Street
 PO Box 414
 Trenton, NJ 08625-0414

Amended by R.2009 d.52, effective February 2, 2009.
 See: 40 N.J.R. 7(a), 41 N.J.R. 742(a).

Deleted former (c); recodified former (d) and (e) as (c) and (d); rewrote (c); and in (d), inserted the second sentence and updated the address.

7:26A-7.6 Standards for universal waste transporters

Transporters of State-listed universal wastes shall comply with the Federal requirements for Federally listed universal wastes at 40 C.F.R. Part 273, Subpart D, Standards for Universal Waste Transporters, at 40 C.F.R. 273.50 through 273.56 and 40 C.F.R. Subpart F, Import Requirements, at 40 C.F.R. 273.70.

7:26A-7.7 Labeling of containers of additional universal wastes

(a) Universal waste consumer electronics devices shall be clearly labeled or marked clearly, individually or by closed container with the following phrase: "Universal Waste—Consumer Electronics."

(b) A container (or multiple container package unit), tank, transport vehicle or other vessel in which oil-based waste finishes contained, shall be labeled or marked clearly with the following phrase: "Universal Waste—Oil-based Finish."

Amended by R.2009 d.52, effective February 2, 2009.
 See: 40 N.J.R. 7(a), 41 N.J.R. 742(a).

Deleted former (b); recodified former (c) as (b).

7:26A-7.8 Standards for the processing of universal waste at recycling centers for Class D recyclable materials

Processors of universal wastes, both those listed Federally at 40 C.F.R. 273.9 and those listed by the State of New Jersey

at N.J.A.C. 7:26A-7.2, shall comply with the design and operating standards at N.J.A.C. 7:26A-4.6.

7:26A-7.9 Petitions to designate other wastes as universal wastes

(a) Any person may petition USEPA for inclusion of new materials in the Federal universal waste program set forth at 40 C.F.R. Part 273. Procedures may be found at 40 C.F.R. Part 273, Subpart G, specifically, 40 C.F.R. 273.80(a) et seq.

(b) Pursuant to N.J.S.A. 52:14b-4(f) and N.J.A.C. 7:1D-1.1, any person may petition the Department of Environmental Protection for the inclusion of new materials in the State's universal waste program. Petitioners shall send all petitions to:

Office of Legal Affairs
 Department of Environmental Protection
 Attn: Rulemaking Petitions
 PO 402
 401 East State Street
 Trenton, NJ 08625-0402

SUBCHAPTER 8. REQUIREMENTS FOR TRANSPORTERS OF SOURCE SEPARATED MATERIALS

7:26A-8.1 Reporting requirements

All transporters of source separated recyclable materials transported to manufacturers and recycling centers located in states other than New Jersey shall provide the county(ies) of origin (if requested) and all municipalities of origin, by February 1 of each year, a recycling tonnage report covering all such source separated materials transported the previous calendar year. The report shall detail the municipality of origin, the name and location of the manufacturer or recycling center and the amount of each source separated recyclable material, expressed in gallons, tons or cubic yards, brought to each manufacturer or recycling center from each specific municipality of origin. Those persons specifying this information in cubic yards shall also indicate the conversion ratio of the materials from cubic yards to tons.

7:26A-8.2 Exemptions

(a) A transporter of source separated Class A, Class B, Class C, or noncombustible Class D recyclable materials is not subject to the regulations at N.J.A.C. 7:26-3 provided the recyclable material is being shipped for recycling to any of the following locations:

1. An in-State recycling center holding a general or limited approval pursuant to this chapter;

2. A site operating pursuant to an exemption from the requirement to obtain a general or limited approval in accordance with N.J.A.C. 7:26A-1.4;

3. A recycling depot. The transport of Class B materials to a recycling depot shall be limited to the transport of non-container plastic materials;

4. A manufacturer; or

5. A scrap processing facility.

(b) (Reserved)

Amended by R.2009 d.52, effective February 2, 2009.

See: 40 N.J.R. 7(a), 41 N.J.R. 742(a).

In the introductory paragraph of (a), inserted "Class A," and "for recycling" and updated the N.J.A.C. reference; in (a)2, deleted "or" from the end; in (a)3, substituted a semicolon for a period at the end; and added (a)4 and (a)5.

7:26A-8.3 Prohibitions

(a) Transporters shall not mix source separated recyclable materials, whether designated by the county in which it is generated or not, with solid waste, for any purpose.

(b) The Department may grant a written exemption from this provision in cases of emergency.

New Rule, R.2009 d.52, effective February 2, 2009.

See: 40 N.J.R. 7(a), 41 N.J.R. 742(a).

7:26A-8.4 Transporters of recyclable materials

(a) No vehicle or transport unit used for the transportation of recyclable materials shall be used in a manner where littering, spillage, or emissions of recyclable materials will occur.

(b) All vehicles or transport units used to transport recyclable materials shall be maintained in good working condition to protect the health and safety of the workers and citizens of this State.

(c) Tarpaulins or covers shall be provided and used as needed while transporting recyclable materials.

New Rule, R.2009 d.52, effective February 2, 2009.

See: 40 N.J.R. 7(a), 41 N.J.R. 742(a).

SUBCHAPTER 9. CIVIL ADMINISTRATIVE PENALTIES AND REQUESTS FOR ADJUDICATORY HEARINGS

7:26A-9.1 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., as amended by the Mandatory Source Separation and Recycling Act, N.J.S.A. 13:1E-99.11 et seq., (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, unless said violation is governed by the Solid Waste rules, N.J.A.C. 7:26. 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.

7:26A-9.2 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. 7:26A-9.3.

(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. 7:26A-9.3, 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. 7:26A-9.3 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. 7:26A-9.3 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.

7:26A-9.3 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, P.O. Box 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 that 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);
6. A request, if necessary, for a barrier-free hearing location for physically disabled persons; and
7. A clear indication of any willingness to negotiate a settlement with the Department prior to the Department's processing of the hearing request to the Office of Administrative Law.

(b) A copy of the hearing request shall be sent to the Department's Solid Waste Compliance and Enforcement Program at P.O. Box 407, Trenton, New Jersey 08625-0407.

(c) 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.

(d) If the violator fails to include all the information required by (a) above, the Department may deny the hearing request.

(e) All adjudicatory hearings shall be conducted in accordance with the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1.

7:26A-9.4 Civil administrative penalties for violation of rules adopted pursuant to the Act

(a) The Department may assess a civil administrative penalty pursuant to this section of not more than \$50,000 for each violation of each requirement of any rule listed in N.J.A.C. 7:26A-9.4(g).

(b) Each violation of a rule listed in N.J.A.C. 7:26A-9.4(g) shall constitute an additional, separate and distinct violation.

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

(d) For each parameter that is required to be monitored, sampled or reported, the failure to so monitor, sample or report shall constitute an additional, separate and distinct violation.

(e) Where any requirement of any rule listed in N.J.A.C. 7:26A-9.4(g) may pertain to more than one act, condition, occurrence, item, unit, waste or parameter, the failure to comply with such requirement as it pertains to each such act, condition, occurrence, item, unit, waste or parameter shall constitute an additional, separate and distinct violation.

(f) The Department shall determine the amount of a civil administrative penalty for each violation of any rule listed in (g) below on the basis of the provision violated, according to the procedure in (f)1 through 5 below. For a violation of a requirement or condition of an administrative order, permit, license or other operating authority, the Department may in its sole discretion identify the corresponding requirement of any rule summary listed in (g) below and determine the amount of the civil administrative penalty on the basis of the rule provision violated.

1. Identify the rule violated as listed in (g)1 through 8 below;
2. Identify the corresponding base penalty dollar amount for the rule violated as listed in (g)1 through 8 below;
3. Multiply the base penalty dollar amount times the following multipliers for each factor to obtain the severity penalty component, as applicable:

<u>Severity Factor</u>	<u>Multiplier</u>
i. Violator had violated the same rule less than 12 months prior to the violation	1.00
ii. Violator had violated a different rule less than 12 months prior to the violation	0.50

<u>Severity Factor</u>	<u>Multiplier</u>
iii. Violator had violated the same rule during the period which began 24 months prior to the violation and ended 12 months prior to the violation	0.50
iv. Violator had violated a different rule during the period which began 24 months prior to the violation and ended 12 months prior to the violation	0.25

4. To obtain the civil administrative penalty, add all of the severity penalty components pursuant to (f)3 above, to the base penalty. If the sum total exceeds \$50,000, then the civil administrative penalty shall be \$50,000.

Example:

Base penalty (for violation of N.J.A.C. 7:26A-3.1(a)) = \$3,000
 Subparagraph (f)3iii applies: $0.50 \times 3000 = 1500$
 Subparagraph (f)3iv applies: $0.25 \times 3000 = + 750$
 Civil administrative penalty \$5,250

5. For the purpose of this section, violation of the "same rule" means violation of the same specific requirement of a rule. Where a rule has a list of specific requirements, the same item on the list must be violated to be considered violation of the "same rule."

(g) The Rule Summary in this subsection, which summarizes certain provisions in N.J.A.C. 7:26A, is provided for informational purposes only. In the event that there is a conflict between the rule Summary in this subsection and a provision in N.J.A.C. 7:26A, then the provisions in N.J.A.C. 7:26A shall prevail.

1. The violations of N.J.A.C. 7:26A-3, Approval of Recycling Centers for Class B, Class C and Class D Recyclable Materials, whether the type of violation is minor (M) or non-minor (NM), the applicable grace period if the violation is minor, and the civil administrative base penalty for each violation, are as set forth in the following table.

<u>Rule</u>	<u>Rule Summary</u>	<u>Base Penalty</u>	<u>Type of Violation</u>	<u>Grace Period (days)</u>
N.J.A.C. 7:26A-3.1(a)	Failure of approved recycling center to comply with all approval conditions.	\$3,000	M	30
7:26A-3.5(f)	Failure of recycling center to post a legible sign at the recycling center entrance indicating its approval and listing items detailed in N.J.A.C. 7:26A-3.2(a)13i and ii.	\$3,000	M	30
7:26A-3.6	Failure to submit renewal application for a general approval to the Department at least three months prior to the current approval expiration and to comply with all submittal requirements.	\$3,000	M	30

recycling plan, and the municipal recycling ordinance passed pursuant to N.J.S.A. 13:1E-99.11 et seq.

i. The municipality shall provide both classroom and on-the-job instruction to augment the coordinator's skills. Such training may address:

- (1) The use of computers and software to maintain tonnage records;
- (2) Techniques of communication to the public;
- (3) Enforcement practices;
- (4) Identification of recyclable and waste materials, including hazardous waste, refrigerants, and other environmentally dangerous materials; and/or
- (5) Foreign languages.

ii. The municipality shall maintain detailed records of this training, specifying names of personnel trained, the dates when training occurred and the type and extent of training provided. The training documentation shall be maintained at the facility for three years from the date the training occurred.

(b) The governing body of the municipality shall adopt an ordinance establishing a recycling program sufficient to achieve the designated recovery targets set forth in the district recycling plan.

1. The ordinance shall require persons generating municipal solid waste within the municipal boundaries to source separate from the municipal solid waste stream, in addition to leaves, the recyclable materials designated in the district solid waste plan, and may designate additional recyclable materials for which markets have been secured.

2. The ordinance shall provide for a collection system for leaves generated from residential premises and shall require that residents source separate leaves from solid waste, and, unless the leaves are stored or recycled for composting or mulching by the generator, place the leaves for collection in the manner provided by the ordinance. Alternately, the ordinance may prohibit the placement of leaves for collection or disposal as solid waste, and specify that all residents shall mulch or compost the leaves generated at those premises.

3. The ordinance shall set forth standards governing the inclusion, in all new multi-family housing developments that require subdivision or site plan approval, of collection or storage facilities which allow for the placement and temporary storage of all recyclable materials required of other residences by the ordinance. For the purposes of this provision, "multifamily housing" shall mean three or more housing units.

4. The municipal source separation ordinance shall specify the municipal official(s) by title that shall enforce the ordinance, and issue fines as needed.

7:26A-11.2 Recordkeeping and reporting

(a) The governing body of each municipality shall, between January 1 and April 30 of each year, submit a recycling tonnage report on forms provided by the Department, or by electronic means as approved by the Department to:

New Jersey Department of Environmental Protection
 Solid and Hazardous Waste Management Program
 Bureau of Recycling and Planning
 401 East State Street, 2nd floor, East Wing
 PO Box 414
 Trenton, New Jersey 08625-0414

7:26A-11.3 Notification to all generators of the source separation requirements of the municipal ordinance

The governing body of each municipality shall, at least once every six months, notify all persons occupying residential, commercial, and institutional premises within its municipal boundaries of local recycling opportunities, and the source separation requirements of the ordinance. The governing body of a municipality may place an advertisement in a newspaper circulating in the municipality, post a notice in public places where public notices are customarily posted, include a notice with other official notifications periodically mailed to taxpayers, or any combination thereof, as the municipality deems necessary and appropriate.

7:26A-11.4 Collection of source separated recyclables

(a) Each municipality shall provide for a collection system for the materials designated in the municipal ordinance. Each municipality shall provide for this collection in those instances where collection is not otherwise provided for by the generator, the county, inter-local service agreement or joint service program, or other private or public recycling program operator.

(b) A municipality may require that every solid waste transporter holding a certificate of public convenience and necessity and serving clients within the municipality bid on a contract for the collection or disposition of recyclable materials, if required to do so by the district recycling plan of the county in which the transporter engages in solid waste collection.

(c) The governing body of each municipality shall, at least once every 36 months, review and revise the master plan and development regulations it has adopted pursuant to P.L. 1975, c. 291 (N.J.S.A. 40:55D-1 et seq.). The revisions shall reflect changes in Federal, State, county and municipal laws, policies and objectives concerning the collection, disposition and recycling of designated recyclable materials. The revised master plan shall include provisions for the collection, disposition and recycling of recyclable materials designated in the municipal recycling ordinance, within any development

proposal for the construction of 50 or more units of single-family residential housing or 25 or more units of multi-family residential housing and any commercial or industrial development proposal for the use of 1,000 square feet or more of land.

(d) The governing body of a municipality may limit the collection of designated recyclable materials to specified operating hours in order to preserve peace and quiet in neighborhoods during the hours when most residents are asleep.

7:26A-11.5 Source separation exemption

(a) The governing body of a municipality may exempt persons occupying commercial and institutional premises within its municipal boundaries from the source separation requirements of its recycling ordinance.

1. The municipal coordinator shall develop and make available a form or model letter for persons who wish to apply for this exemption by June 2, 2009.

2. The municipal coordinator shall review the applicant's documentation of alternate provision for the recycling of those materials designated in the district recycling plan that may be found in the solid waste generated at that location.

3. The municipal coordinator shall review the written reports submitted by the providers of this alternate service, and, where required, the generators' annual written reports, of the total number of tons recycled.

4. The municipal coordinator shall ascertain that the recycling facilities receiving the exempted waste are permitted to perform that recycling.

5. If found to be sufficient to meet the requirements for issuance of an exemption, as detailed in an applicable municipal ordinance, the municipal recycling coordinator (or other municipal official as may be identified in the applicable municipal ordinance) shall issue the exemption approval in writing.

6. The municipal coordinator shall keep a record of all generators who have received the exemption, and the destination of the waste or identity of the waste transporters handling the waste, and shall report this list annually to the applicable county recycling coordinator.

7. The municipal coordinator (or other designated municipal official) shall revoke the exemption of a generator upon failure to meet the conditions of the exemption.

ment, unit or committee of the county government, or district, in the case of the New Jersey Meadowlands Commission, to supervise the implementation of the district solid waste management plan, including the county recycling plan (except in the case of the New Jersey Meadowlands Commission). This subchapter sets forth the regulatory obligations of the designated implementation agency.

7:26A-12.2 Planning by the designated agency

(a) The designated implementation agency shall prepare, or cause to be prepared, a district solid waste management plan and county recycling plan (except in the case of the New Jersey Meadowlands Commission) to implement the requirements of the Solid Waste Management Act (SWMA) at N.J.S.A. 13:1E-21 et seq., the New Jersey Statewide Mandatory Source Separation and Recycling Act (Recycling Act) at N.J.S.A. 13:1E-99.11 et seq., and the Statewide Solid Waste Management Plan, as may be adopted by the Department. The designated agency shall update this plan and submit such updates to the Department, as required by the SWMA, the Recycling Act or the Statewide Solid Waste Management Plan. Updated district plans shall include, but not be limited to, the following components:

1. Identification of the agency (or agencies) designated to implement the district plan. In those instances where more than one agency is identified, the plan shall identify the responsibility(ies) of each agency;

2. An inventory of the quantity of solid waste generated within the district for the 10-year period commencing with the adoption of the updated district solid waste management plan;

3. An inventory of all solid waste and recycling facilities (lot and block and street address) including approved waste types and amounts, hours of operation and approved truck routes (in the case of solid waste facilities);

4. An outline of the solid waste disposal strategy to be utilized by the district for a 10-year planning period;

5. A procedure for the processing of applications for inclusion of solid waste and recycling facilities within the district solid waste management plans. The procedure shall state the applicant requirements for inclusion into the district plan and the specific county review process/procedures, including time frames for county approvals or rejections and subsequent submittals to the Department. The criteria for inclusion shall not include a requirement that local zoning or planning board approval(s) be obtained as a condition for inclusion within the district solid waste management plan, nor shall such a requirement be made a condition for subsequent construction or operation of any facility;

6. Utilizing the data supplied in the State Solid Waste Management Plan that identifies the additional tonnage of recycled materials in the municipal solid waste stream (by material commodity type) required by each county to meet

SUBCHAPTER 12. STANDARDS FOR COUNTIES

7:26A-12.1 Applicability

Each county's board of chosen freeholders, and the New Jersey Meadowlands Commission, shall designate a depart-

group of manufacturers, by June 1 in the calendar year of the notification of the collection obligation.

(b) In addition to meeting the content requirements at N.J.A.C. 7:26A-13.6, a collection plan must provide for recycling resources and capacity sufficient to address the collection obligation of the submitting manufacturer or group of manufacturers as follows:

1. An individual manufacturer's collection plan must provide for the collection, transportation, and recycling of the individual manufacturer's collection obligation; and

2. A collection plan submitted by a group of manufacturers must provide for the collection, transportation, and recycling of the sum of the collection obligations of all participating manufacturers.

(c) Each manufacturer or group of manufacturers shall submit an annual report to the Department by February 1 of the year following a calendar year in which it had a collection obligation that includes the following:

1. The total weight of televisions and covered electronic devices other than televisions collected for recycling in the previous program year pursuant to the collection plan; and

2. For a television manufacturer or a group of manufacturers that includes one or more television manufacturers, the total number of all new televisions manufactured by the television manufacturer or, for a group of manufacturers, by each television manufacturer in the group, that were sold in New Jersey in the previous program year.

(d) A manufacturer who chooses to submit a collection plan and an annual report as part of a group, shall, at least 30 days prior to the submittal of each group collection plan, participate in the preparation and submission to the Department of a Group Designation Form, which is available on the Department's website at <http://www.nj.gov/dep/dshw/recycling/EWaste/manufacturers.html>.

(e) Each Group Designation Form submitted pursuant to (d) above shall provide the following information:

1. A name identifying the group;

2. The name, title, telephone number, email address and mailing address of the group's contact person, to whom the Department should address all communication regarding the submission of the collection plan and the annual report and whom the group has authorized to act on its behalf;

3. For each manufacturer participating in the group, its name, the program interest number assigned to it when it initially registered with the Department under N.J.A.C. 7:26A-13.3 and the name of the manufacturer's contact person;

4. Signature and certification by each manufacturer as to the veracity of the information contained in the Group Designation Form and all attachments thereto and to the authorization of the named contact person to act on its behalf in all matters pertaining to the submittal of collection plans and annual reports; and

5. Signature and certification by each manufacturer's contact person and the group's contact person as to the veracity of the information contained in the Group Designation Form and all attachments thereto.

(f) Each manufacturer or group of manufacturers shall implement, at its own expense, its plan for the collection, transportation, and recycling of covered electronic devices by January 1 of each calendar year for which it has a collection obligation.

(g) A manufacturer shall continue to carry out the collection program as set forth in the approved plan for the entire program year, even if that manufacturer meets or exceeds its collection obligation before the end of the program year.

(h) A manufacturer or group of manufacturers may amend any element of an approved plan, but shall not implement any such amendment unless and until the Department has approved it.

7:26A-13.5 Submission and certification of required documents and payments

(a) Each manufacturer shall submit the following completed forms and payment as set forth in (b) through (e) below:

1. The registration form, as required at N.J.A.C. 7:26A-13.3(e)1;

2. The Group Designation Form, as required at N.J.A.C. 7:26A-13.4(d);

3. The collection plan, as required at N.J.A.C. 7:26A-13.4(a);

4. The annual report, as required at N.J.A.C. 7:26A-13.4(c); and

5. The registration or registration renewal fee payment, as required at N.J.A.C. 7:26A-13.3(e)2.

(b) Except as provided at (f) below, each manufacturer shall submit the required documents in (a) above by sending a copy on electronic media, such as a compact disk (CD), digital video/versatile disk (DVD) or flash drive, in portable document format (PDF) or any equivalent format as approved by the Department, via the postal service, a delivery service, or other commonly accepted method of delivery, to the address listed on the registration form until such time that the Department requires the electronic submission of these documents through a web-based submission program. Within 180 days after receipt of written notification from the Department that its web-based submission program is operational, all

required documents under (a)1 through 4 above shall be submitted to the Department through the web-based submission program in a manner compatible with the Department's computer system.

(c) The manufacturer shall pay the registration or registration renewal fee required under (a)5 above, by check or money order payable to "Treasurer, State of New Jersey" and shall submit the payment with the registration form, until such time that the Department requires the electronic payment of this fee. Within 180 days after receipt of written notification from the Department that its electronic payment system is operational, the fee shall be submitted to the Department through the electronic payment system in a manner compatible with the Department's computer system.

(d) The date of the submission of the completed registration form, collection plan, annual report, and registration or registration renewal fee payment that are not submitted through a web-based submission program can be documented by submitting the documents in a way that will provide documentation of the submittal date, such as by certified mail. The date of the web-based submission can be documented by printing the appropriate website confirmation screen.

(e) Each registration form shall be certified in accordance with N.J.A.C. 7:26A-13.3(e)4.

(f) A manufacturer or group of manufacturers that is filing a claim of confidentiality regarding its collection plan shall submit that collection plan in accordance with N.J.A.C. 7:26A-13.6(c).

7:26A-13.6 Required contents of a collection plan; confidentiality

(a) A collection plan submitted in accordance with N.J.A.C. 7:26A-13.4 shall include the following:

1. The methods and services that will be used to collect used covered electronic devices, including, but not limited to:

i. The locations, including street addresses, of the collection sites to be utilized. The collection plan must provide for at least one collection site in every county in the State, unless the plan provides documentation that the county for which the plan does not provide collection coverage is already adequately covered by the collection plan of another manufacturer, group of manufacturers or other entity;

ii. Each collection site's hours of operation;

iii. A description of how each collection site will be staffed and secured;

iv. A listing of any limitations to be imposed on the quantity and type of material to be accepted, and whether any additional electronic equipment not required to be collected under the Electronic Waste Man-

agement Act will be accepted (for example, DVD players, VCRs, scanners, printers, or other computer and television peripherals and equipment);

v. A description of the collection methods to be utilized for consumers who are not physically able to travel to a collection site without assistance;

vi. A description of the collection methods to be employed for heavy (50 pounds in weight or heavier) or unwieldy covered electronic devices, including, but not limited to, flat screen televisions with screens greater than 40 inches measured diagonally and projection televisions;

vii. A description of how the collected covered electronic devices will be stored prior to transport to an authorized recycler;

viii. Certification that there will be no fee or cost charged a consumer for the collection, transportation or recycling of any covered electronic device other than a fee for a premium service provided for in an approved collection plan;

ix. An explanation of the extent to which, if any, there is coordination with county and municipal government recycling programs;

x. A description of the methods to be used to ensure that personal information contained on hard drives or similar data storage devices is secured from access by the general public and any untrained persons or employees; and

xi. Certification that each collector, transporter, or authorized recycler of covered electronic devices who is participating in a manufacturer's or group of manufacturers' approved collection plan is compliant with all applicable requirements of N.J.A.C. 7:26A-13.11;

2. The processes and methods that will be used to recycle collected covered electronic devices, including, but not limited to:

i. The name and location of each authorized recycler to which collected covered electronic devices will be transported. The collection plan must also include, for an authorized recycler located in a state other than New Jersey:

(1) A copy of the operating permit or approval issued by the state where the authorized recycler is located;

(2) Documentation that the facility is operating in accordance with all applicable rules and regulations; and

(3) A certification executed by the recycler stating that the recycler is aware of and has agreed to comply with the requirements of this subchapter;

$$R = \frac{a}{b - c} \times 100$$

Where:

R = return share expressed as a percentage;

a = the total weight of all of an individual manufacturer's brands;

b = the total weight of all collected covered electronic devices, other than televisions; and

c = the total weight of collected orphan devices;

5. The collection obligation of each manufacturer of covered electronic devices other than televisions for which a return share is determined, that is, its return share in weight, is determined as follows:

$$RW = R \times TW$$

Where:

RW = return share in weight expressed in pounds;

R = return share expressed as a percentage, calculated at (b)4 above; and

TW = total weight in pounds of covered electronic devices other than televisions projected to be collected in New Jersey from consumers during the program year to which the return share in weight will apply, or the total weight in pounds of covered electronic devices other than televisions collected in New Jersey from consumers during the most recent program year for which the Department has data, as determined at (b)6 below; and

6. The Department will project the total weight in pounds of covered electronic devices other than televisions that will be collected in New Jersey from consumers during the following program year by calculating the sum of the weight in pounds of covered electronic devices other than televisions reflected in the most recently submitted manufacturers' annual reports.

(c) The Department will determine the collection obligation for each manufacturer of televisions, that is, its television collection share, using the following data and steps:

1. The Department will acquire national market share data from an entity that has expertise in gathering market share sales data in the electronics sector, in particular, the television market. The Department will acquire sales data for the most recent 12-month period available for purchase at the time concerning televisions, including brand identification, sold to consumers throughout the United States;

2. The Department will use the market share data acquired in accordance with (c)1 above to:

i. Generate a list of brands of televisions and the number of televisions that are identified for each brand; and

ii. Assign each identified brand to the appropriate television manufacturer;

3. Using the data in (c)2 above, the television collection share of each manufacturer is calculated as follows:

$$S = \frac{a}{b} \times 100$$

Where:

S = television collection share, expressed as a percentage;

a = the total units sold of all of an individual manufacturer's brands; and

b = the total units sold of all brands;

4. The collection obligation of each television manufacturer, that is, its television collection share by weight is determined as follows:

$$CW = S \times GW$$

Where:

CW = television collection share in weight, expressed in pounds;

S = television collection share expressed as a percentage, calculated at (d)3 above; and

GW = the gross television recycling goal in pounds to be collected in New Jersey from consumers during the program year to which the return share in weight will apply, determined at (d)5 below; and

5. The Department will determine the gross television recycling goal for the following program year by calculating the sum of the weight in pounds of televisions reflected in the most recently submitted manufacturers' annual reports.

(d) By March 1 of each year, the Department will publish on its website and provide to each identified manufacturer a Preliminary Collection Obligation Report for the following program year. The Preliminary Collection Obligation Report will set forth the collection obligation of each identified manufacturer, including, as appropriate, the return share or television collection share for each of its brands, and the total return share or television collection share thereof. The Preliminary Collection Obligation Report will also include supporting data, such as the results of the sampling conducted by the Department pursuant to (b)1 above.

(e) A manufacturer may comment on the collection obligation or any supporting data provided in the Preliminary Collection Obligation Report by submitting comments by April 1 of the year the Department provided the Preliminary Collection Obligation Report to the Department at the following address:

DEP Climate and Env. Mgt. Solid and Hazardous
Waste
Mail Code 401-02C
P.O. Box 420
Trenton, New Jersey 08625-0420.

(f) A manufacturer commenting under (e) above who proposes that it receive an alternative collection obligation shall include in the proposal:

1. A detailed explanation of the grounds for the alternative collection obligation;
2. An alternative calculation;
3. The basis for the alternative calculation. If the alternative collection obligation is not based on the results of the Department's sampling, the basis for the alternative calculation of the return share shall include a report documenting the sampling conducted by the manufacturer in accordance with (c)2 above;
4. Documentary evidence supporting an alternative collection obligation; and
5. Complete contact information for requests for additional information and clarification.

(g) By May 1 of each year, the Department will review any collection obligation comments received pursuant to (e) and (f) above and will publish on its website and provide to each identified manufacturer a Final Collection Obligation Report that will include the final collection obligations, a summary of any comments received and the Department's response to the comments.

(h) When determining compliance with a collection obligation, a manufacturer or group of manufacturers may apply the total weight of all covered electronic devices collected from consumers during a program year towards that program year's collection obligation.

7:26A-13.10 Review of collection plans

(a) The Department will review each submitted plan for the collection of covered electronic devices to ensure the plan includes all the information required pursuant to N.J.A.C. 7:26A-13.6, and that implementation of the plan could reasonably be expected to result in the attainment of the manufacturer's or group of manufacturers' collection obligation.

(b) In reviewing the collection plans, the Department will ensure that at least one electronics collection opportunity is available in each county throughout the State and in such a manner as to be convenient, to the maximum extent practicable and feasible, to all consumers in a given county. In the event there is not at least one such collection opportunity provided for in each county, the Department will work with the manufacturers to assign responsibility for additional collection opportunities based on the collection obligations of each manufacturer and the relative burden such an additional collection opportunity would place on the manufacturer.

(c) Except as provided at (d) and (e) below, no fees or costs may be charged to consumers for the collection, transportation, or recycling of covered electronic devices under these rules.

(d) A school or local government unit may be charged a fee for the reasonable costs incurred by an authorized recycler in the collection, transportation or recycling of covered electronic devices generated by that school or local government unit.

(e) The plan may provide for a fee to be charged to a consumer for a premium service if the Department has approved both the premium service and the fee for the service.

(f) After the Department reviews a manufacturer's collection plan, it will issue a written determination, either requesting additional information or determining the plan to be administratively complete. A collection plan is administratively complete if it contains all of the information required in N.J.A.C. 7:26A-13.6(a). If the Department requests additional information, the manufacturer shall submit the additional information within 30 days of receipt of the request.

(g) Upon the Department's determination that a collection plan is administratively complete, the Department will perform a technical review to determine if the plan fulfills the intent of the Electronic Waste Management Act and the requirements of this section and this subchapter. Upon completion of the technical review, the Department will issue a written determination either requesting additional information or approving or rejecting the plan. If the Department requests additional information, the manufacturer shall submit the additional information within 30 days of receipt of the request.

(h) Failure to timely and fully respond to a request for additional information under (g) above for administrative completeness or under (h) for the technical review constitutes a failure to provide a plan in violation of this subchapter and the Electronic Waste Management Act.

(i) The Department may reject the collection plan, in whole or in part, and may impose additional requirements as a condition of approval. A collection plan that the Department deems to be administratively complete will be considered as "pending approval" for the purposes of compliance with N.J.A.C. 7:26A-13.7.

7:26A-13.11 Performance requirements for collectors, transporters, and authorized recyclers

(a) A collector, transporter, or authorized recycler of covered electronic devices who is participating in a manufacturer's or group of manufacturers' approved collection plan shall comply with the United States Environmental Protection Agency's "Plug-In to eCycling Guidelines for Materials Management," incorporated herein by reference and available at <http://www.epa.gov/waste/partnerships/plugin/pdf/guide.pdf>.

(b) In addition to the requirements at (a) above, a collector of covered electronic devices participating in a manufacturer's or group of manufacturers' approved collection plan shall comply with the Department's requirements applicable to universal waste handlers at N.J.A.C. 7:26A-7.4 and 7.5.

(c) In addition to the requirements at (a) above, a transporter of covered electronic devices participating in a manufacturer's or group of manufacturers' approved collection plan shall comply with the Department's requirements applicable to universal waste transporters at N.J.A.C. 7:26A-7.6.

(d) In addition to the requirements at (a) above, an authorized recycler shall comply with "Responsible Recycling (R2) Practices for Use in Accredited Certification Programs for Electronics Recyclers," as supplemented or amended, and incorporated herein by reference, available at <http://www.epa.gov/waste/conserva/materials/ecycling/r2practices.htm>. An authorized recycler of covered electronic devices shall also comply with the requirements for Class D recycling facilities at N.J.A.C. 7:26A-3. An authorized recycler of covered electronic devices located in a state other than New Jersey shall also comply with the receiving state's rules and regulations, including any requirements for the maintenance of any permit or approval.

7:26A-13.12 Requests for administrative hearings

(a) Subject to the limits on third-party hearings at N.J.S.A. 52:14B-3.1 through 3.3, a party who believes it is aggrieved with respect to the Department's decision to approve or disapprove the collection plan of a manufacturer or group of manufacturers may, within 20 calendar days after the date of the decision, request an administrative hearing by submitting the request, in writing to:

Office of Legal Affairs
 ATTENTION: Adjudicatory Hearing Requests
 Department of Environmental Protection
 401 East State Street, 4th Floor
 Mail Code 401-04L
 PO Box 420
 Trenton, NJ 08625-0420

and to:

Climate and Env. Mgt. Solid and Hazardous
 Waste
 Department of Environmental Protection
 401 East State Street, 2nd Floor
 Mail Code 401-02C
 P.O. Box 420
 Trenton, NJ 08625-0420.

(b) A request for an administrative hearing shall contain:

1. The name, address, telephone number and e-mail address of the person making the request;

2. A statement of the legal authority and jurisdiction under which the request for a hearing is made;

3. A brief and clear statement of the Department decision being appealed, indicating the specific grounds for the appeal;

4. A statement of all facts alleged to be at issue and their relevance to the Department decision for which a hearing is requested. Any legal issues associated with the alleged facts at issue must also be included; and

5. All information supporting the request or other written documents relied upon to support the request, unless this information is already in the administrative record (in which case, such information shall be specifically referenced in the request).

(c) A hearing request not received by the Department within 20 calendar days after the date of receipt of the Department decision being appealed will be denied by the Department.

(d) If the requester does not include all the information required by (b) above, the Department may deny the hearing request.

(e) Following receipt of a complete request for a hearing pursuant to (b) above, the Department may attempt to informally settle the dispute by conducting such proceedings, meetings and conferences as deemed appropriate.

(f) If the Department determines that the matter is a contested case, the Department will transmit the matter to the Office of Administrative Law. Any proceedings will be conducted in accordance with the provisions of the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. and 52:14F-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1. In making such determination, the Department will evaluate the request to determine whether a contested case exists and whether there are issues of fact which, if assumed to be true, might change the Department's decision. Where only issues of law are raised by a request for a hearing, the request will be denied. Denial by the Department of a request for an administrative hearing shall constitute the final decision of the Department for the purposes of judicial appeal.