

Case Notes

Dentist had duty to protect sanitation worker stuck in forearm by dental instrument while collecting trash; dentist consciously disregarded regulatory requirements regarding disposal of medical waste materials; sanitation worker claimed emotional distress, fearing HIV infection. *De Milio v. Schragger*, 285 N.J. Super. 183, 666 A.2d 627 (L.1995).

7:26-3A.20 Generators exporting regulated medical waste

(a) Generators (including transporters, collection facilities, transfer stations, and intermediate handlers that initiate tracking forms) that export regulated medical waste to a foreign country (for example, Canada) for treatment, destruction, or disposal, shall request that the destination facility provide written confirmation that the waste was received. If the generator has not received that confirmation from the destination facility within 45 days from the date of acceptance of the waste by the first transporter, the generator shall submit an exception report as required under N.J.A.C. 7:26-3A.22.

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

In (a), inserted reference to collection facilities and transfer stations.

7:26-3A.21 Generator recordkeeping

(a) Each generator shall:

1. Keep the copy of each tracking form required by N.J.A.C. 7:26-3A.19 and the signed "Copy 1—Generator Copy" of each completed tracking form signed by the owner or operator of the destination facility, intermediate handler or collection facility for at least three years from the date the waste was accepted by the initial transporter unless the Department specifically requires an additional retention period; and

2. Retain a copy of all exception reports required to be submitted pursuant to N.J.A.C. 7:26-3A.22(b) for at least three years after the day the exception report was submitted unless the Department specifically requires an additional retention period.

(b) Each generator who treats and destroys regulated medical waste on-site by a method or process other than incineration, shall maintain the following records:

1. The approximate quantity by weight, of regulated medical waste that is subject to the treatment and destruction processes;

2. The approximate percent, by weight, of total waste treated and destroyed that is regulated medical waste; and

3. For regulated medical waste accepted from other generators, the name and address of the generators, the date the waste was accepted from each generator, the weight of waste accepted from each generator, and the date the waste was treated and destroyed for each generator.

(c) Each generator in (b) above shall maintain records for a period of at least three years from the date the waste was treated and destroyed, unless the Department specifically requires an additional retention period.

(d) Generators of more than 200 pounds of regulated medical waste during the reporting period of June 22 through June 21 of each calendar year shall submit annual generator reports to the Department on forms available from the Department at the address listed at N.J.A.C. 7:26-3A.8(f)4. The generator annual report shall cover all regulated medical waste generated, treated or destroyed, and disposed of during the reporting period. The generator annual report shall be submitted to the Department by July 21 of each calendar year and shall include, but not be limited to, the following information:

1. The date of the report;

2. A description of the regulated medical waste, identified by Waste Class;

3. The total quantity in pounds for the year for each Waste Class of regulated medical waste generated, treated, destroyed, or disposed of;

4. The name and NJDEP solid waste transporter registration number of every transporter who transported the generator's regulated medical waste;

5. The name and address of each intermediate handler or destination facility and a description of quantity in pounds for each Waste Class of regulated medical waste sent to each facility; and

6. The method of treatment, destruction or disposal of each Waste Class by quantity in pounds (for example, on-site treatment, on-site incineration, disposal via sanitary sewer).

(e) Generators of regulated medical waste that is reused or recycled shall comply with the reporting requirements of N.J.A.C. 7:26-3A.6(b)6iii and 7iii.

(f) All copies of the generator's annual reports, tracking forms and other documents required to be maintained under this subchapter as well as copies of the Department's compliance inspection reports and the certificate of generator registration for the site shall be retained at the generator's site, for at least three years from the date that the documents were due, or created, unless the Department specifically requires an additional retention period.

(g) Generators required to file Annual Generator Reports pursuant to (d) above shall have the option to file the required data electronically via the Division of Solid and Hazardous Waste's Internet web site at <http://www.state.nj.us/dep/online>.

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

In (a)1, inserted reference to the generator copy; in (a)2, inserted three year provision; deleted (d); recodified former (h) as (d); rewrote (e); deleted (f); recodified former (i) as (f) and substantially amended. Amended by R.2002 d.181, effective June 17, 2002.

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

In (f), deleted "logs," preceding "tracking"; added (g).

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

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

In (d), rewrote the introductory paragraph.

7:26-3A.22 Exception reporting for generators

(a) A generator shall contact the owner or operator of the destination facility, transporter(s), intermediate handler(s) and collection facility(s), as appropriate, to determine the status of any tracked waste if the generator does not receive a copy of the completed tracking form with the handwritten signature of the owner or operator of the destination facility within 35 days of the date the waste was accepted by the initial transporter.

(b) A generator shall submit a generator exception report, as described below, to the Department at the address listed at N.J.A.C. 7:26-3A.8(d) if the generator has not received a completed copy of the tracking form signed by the owner or operator of the destination facility within 45 days of the date the waste was accepted by the initial transporter, or if the tracking form for the waste was consolidated onto a new tracking form by a transporter or a collection facility in accordance with N.J.A.C. 7:26-3A.33, within 60 days of the date the waste was accepted by the initial transporter. The exception report must be post-marked on or before the 46th day following the date the waste was accepted by the initial transporter, or for loads consolidated by transporters or collection facilities, on or before the 61st day, and shall include:

1. A legible copy of the original tracking form for which the generator does not have confirmation of delivery; and
2. A cover letter signed by the generator or his authorized representative explaining the efforts taken to locate the regulated medical waste, and its final disposition if ascertained, and the results of those efforts.

(c) A copy of the generator exception report shall be kept by the generator for a period of a least three years from the date the exception report was submitted unless the Department specifically requires an additional retention period.

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

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

In (a), inserted reference to collection facilities; in (b), inserted provisions relating to consolidated tracking forms and consolidated loads; and in (c), amended the starting date for measuring required record retention period.

7:26-3A.23 Additional reporting for generators

The Department and the Administrator may require generators to furnish additional information concerning the quantities and management methods of medical waste as they deem necessary under Resource Conservation Recovery Act (RCRA) Section 11004 and as the Department deems necessary under N.J.S.A. 13:1D-9.

7:26-3A.24 Generators of regulated medical waste who incinerate regulated medical waste on-site

(a) The requirements of N.J.A.C. 7:26-3A.25 and 3A.26 shall apply to generators of regulated medical waste who incinerate regulated medical waste on-site.

(b) Generators of regulated medical waste that incinerate such waste on-site and that accept regulated medical waste accompanied by a regulated medical waste tracking form are also subject to the requirements of N.J.A.C. 7:26-3A.39 through 3A.43.

(c) In addition, owners and operators of incinerators are required to comply with the requirements of N.J.A.C. 7:26-2, 2B, 4 and 16 unless they are temporarily authorized to operate in accordance with N.J.A.C. 7:26-3A.38.

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

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

In (b), amended N.J.A.C. references.

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

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

In (c), amended N.J.A.C. reference.

7:26-3A.25 Recordkeeping for generators with on-site incinerators

(a) Generators shall keep a generator on-site incinerator operating log at their incineration facility that includes, but shall not be limited to, the following information:

1. The date each incineration cycle was begun;
2. The length of the incineration cycle;
3. The total quantity in pounds of solid waste and medical waste incinerated, per incineration cycle;
4. An estimate of the quantity in pounds of regulated medical waste incinerated, per incineration cycle; and
5. The quantity in pounds of ash generated and transported off-site, including dates of transport and the name, address, and NJDEP solid waste registration number of the transporters and the name and address of the disposal facilities utilized.

(b) Generators with on-site incinerators that accept regulated medical waste from other generator(s) shall maintain the following information, in addition to the on-site incinerator operating log required by (a) above, for each shipment of regulated medical waste accepted:

1. The date the waste was accepted;
2. The name and address of the generator who originated the shipment. If the generator is not located in New Jersey, then use the state permit or identification number of the other state and if the other state does not issue a permit or identification number, then use the generator's address;
3. The total weight in pounds of the regulated medical waste accepted from the originating generator; and