

SOLID WASTE

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

APPENDIX COMPOST QUALITY MONITORING PARAMETERS

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

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

SUBCHAPTER 2D. REQUIREMENTS ON RAIL CARRIERS THAT TRANSFER CONTAINERIZED OR NONCONTAINERIZED SOLID WASTE TO OR FROM RAIL CARS

- 7:26-2D.1 Requirements on rail carriers that transfer containerized or noncontainerized solid waste to or from rail cars

SUBCHAPTER 3. TRANSPORTATION

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

SUBCHAPTER 3A. REGULATED MEDICAL WASTE

- 7:26-3A.1 Purpose, scope and applicability
- 7:26-3A.2 Construction
- 7:26-3A.3 Severability
- 7:26-3A.4 Record retention
- 7:26-3A.5 Definitions
- 7:26-3A.6 Definition of regulated medical waste
- 7:26-3A.7 Mixtures
- 7:26-3A.8 Registration and fees for regulated medical waste generators, and owners and operators of transporters, collection facilities, transfer stations, intermediate handlers and destination facilities

- 7:26-3A.9 Education
- 7:26-3A.10 Segregation requirements
- 7:26-3A.11 Packaging requirements
- 7:26-3A.12 Storage of regulated medical waste prior to transport, treatment, destruction, or disposal
- 7:26-3A.13 Decontamination standards for reusable containers
- 7:26-3A.14 Labeling requirements
- 7:26-3A.15 Marking (identification) requirements
- 7:26-3A.16 General requirements for regulated medical waste generators, transporters, collection facilities, intermediate handlers and destination facilities
- 7:26-3A.17 Exemptions
- 7:26-3A.18 Solid waste facility acceptance of regulated medical waste
- 7:26-3A.19 Generator use of tracking form
- 7:26-3A.20 Generators exporting regulated medical waste
- 7:26-3A.21 Generator recordkeeping
- 7:26-3A.22 Exception reporting for generators
- 7:26-3A.23 Additional reporting for generators
- 7:26-3A.24 Generators of regulated medical waste who incinerate regulated medical waste on-site
- 7:26-3A.25 Recordkeeping for generators with on-site incinerators
- 7:26-3A.26 Reporting for generators that incinerate regulated medical waste on-site
- 7:26-3A.27 Transporters
- 7:26-3A.28 Transporter acceptance of regulated medical waste
- 7:26-3A.29 (Reserved)
- 7:26-3A.30 Vehicle requirements
- 7:26-3A.31 Tracking form requirements for transporters
- 7:26-3A.32 Transporter compliance with the tracking form
- 7:26-3A.33 Transporters consolidating waste to a new tracking form
- 7:26-3A.34 Recordkeeping for transporters of regulated medical waste
- 7:26-3A.35 Transporter reporting
- 7:26-3A.36 Additional reporting for transporters of regulated medical waste
- 7:26-3A.37 Transporter management of spills
- 7:26-3A.38 Temporary authorization to operate a regulated medical waste incinerator
- 7:26-3A.39 Collection facilities for medical wastes
- 7:26-3A.40 Intermediate handlers and destination facilities
- 7:26-3A.41 Use of the tracking form for intermediate handlers and destination facilities
- 7:26-3A.42 Tracking form discrepancies for intermediate handlers and destination facilities
- 7:26-3A.43 Recordkeeping for collection facilities, intermediate handlers and destination facilities
- 7:26-3A.44 Additional reporting for collection facilities, intermediate handlers and destination facilities
- 7:26-3A.45 Rail transporters
- 7:26-3A.46 Rail shipment tracking form requirements
- 7:26-3A.47 Alternative or innovative technology authorization
- 7:26-3A.48 Requirements for generators using out-of-State facilities disposing of regulated medical waste from New Jersey
- 7:26-3A.49 Duration of the letter of authorization; letter of authorization renewal requirements; continuation of an expiring letter of authorization and transfer of an existing letter of authorization for commercial collection facilities

SUBCHAPTER 4. FEES FOR SOLID WASTE

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

SUBCHAPTER 4A. (RESERVED)

SUBCHAPTER 5. CIVIL ADMINISTRATIVE PENALTIES AND REQUESTS FOR ADJUDICATORY HEARINGS

- 7:26-5.1 Scope and purpose
- 7:26-5.2 Procedures for assessment and payment of civil administrative penalties
- 7:26-5.3 Procedures to request an adjudicatory hearing to contest an administrative order and/or a notice of civil administrative penalty assessment, and procedures for conducting adjudicatory hearings
- 7:26-5.4 Civil administrative penalties for violation of rules adopted pursuant to the Act
- 7:26-5.5 Civil administrative penalty determination
- 7:26-5.6 Civil administrative penalty for submitting inaccurate or false information
- 7:26-5.7 Civil Administrative penalty for failure to allow lawful entry and inspection
- 7:26-5.8 Civil administrative penalty for failure to pay a fee
- 7:26-5.9 Civil administrative penalty for economic benefit
- 7:26-5.10 Grace period applicability; procedures
- 7:26-5.11 Severability

SUBCHAPTER 6. SOLID WASTE PLANNING REGULATIONS

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

SUBCHAPTERS 7 THROUGH 14. (RESERVED)

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

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

SUBCHAPTER 15. RECYCLING GRANTS AND LOANS PROGRAM

- 7:26-15.1 Scope
- 7:26-15.2 Construction

- 7:26-15.3 Practice where these rules do not govern
- 7:26-15.4 Definitions
- 7:26-15.5 Application and award procedure for Recycling Tonnage Grants
- 7:26-15.6 Application and award procedures for Recycling Business Loans
- 7:26-15.7 Application and award procedures for Planning and Programs Grants and Education Grants
- 7:26-15.8 Application and award procedure for Supplementary Projects
- 7:26-15.9 Execution of award documents
- 7:26-15.10 Unused monies
- 7:26-15.11 Debarment
- 7:26-15.12 Discriminatory practices
- 7:26-15.13 Procedure for withholding or rescission of grants
- 7:26-15.14 Return of grants
- 7:26-15.15 Procedure for termination of loans and loan guarantees
- 7:26-15.16 Severability

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

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

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

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

SUBCHAPTER 17. CONFIDENTIALITY DETERMINATIONS

- 7:26-17.1 Scope
- 7:26-17.2 Definitions
- 7:26-17.3 Procedure for making a confidentiality claim
- 7:26-17.4 Designation by claimant of an addressee for notices and inquiries
- 7:26-17.5 Correspondence, inquiries and notices
- 7:26-17.6 Time for making confidentiality determinations
- 7:26-17.7 Notice of initial confidentiality determination and of requirement to submit substantiation of claim
- 7:26-17.8 Substantiation of confidentiality
- 7:26-17.9 Time for submission of substantiation
- 7:26-17.10 Final confidentiality determination
- 7:26-17.11 Treatment of information pending confidentiality determination
- 7:26-17.12 Availability of information to the public after determination that information is not confidential

Adopted Concurrent Proposal, R.1989 d.55, effective December 23, 1988.

See: 20 N.J.R. 2817(a), 21 N.J.R. 198(a).

Provisions of Emergency Amendment R.1988 d.547, readopted without change.

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

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

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

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

In (a), amended N.J.A.C. references; and deleted (c).

Amended by R.2004 d.408, effective November 15, 2004.

See: 35 N.J.R. 4405(a), 36 N.J.R. 5098(b).

In (a), substituted "N.J.A.C. 7:26A, 2B, 2C and 2D" for "N.J.A.C. 7:26A and 2B" preceding "shall constitute"; added (c).

Case Notes

Disposing of solid waste in landfills other than those designated by state waste flow was warranted revocation of operating certificate. Matter of Allegations of Violations by Fiore and Sons, 95 N.J.A.R.2d (EPE) 88.

Receiving and storing construction and demolition debris; operating solid waste facility without a permit. DEPE v. Zanetich, 94 N.J.A.R.2d (EPE) 138.

7:26-2.2 Construction

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

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

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

New (c) added, former (c)-(g) made (d)-(h). In (g), "the information supplied on its" was "status as listed on his". In (h), "June" was "July" and "or to declare it expired" added. (i) added.

New Rule, R.1987 d.235, effective June 1, 1987.

See: 18 N.J.R. 883(a), 19 N.J.R. 928(b).

Rule was "Registration".

7:26-2.3 Purpose

(a) This subchapter is promulgated for the following purposes:

1. To establish the procedure for obtaining and maintaining a solid waste facility permit;
2. To establish the submission requirements for an environmental and health impact statement (EHIS) for solid waste facilities;
3. To establish the general engineering design requirements for solid waste facilities; and
4. To establish the general operational requirements for solid waste facilities.

New Rule, R.1987 d.235, effective June 1, 1987.

See: 18 N.J.R. 883(a), 19 N.J.R. 928(b).

Rule was "Domestic refuse".

7:26-2.4 Application procedures for a solid waste facility permit

(a) Prior to preparing and submitting the application for a solid waste facility (SWF) permit, other than for facilities specified in (c) below, the applicant may schedule a pre-application conference with the Department to discuss the registration, environmental and health impact statement and

engineering submission requirements and the review procedures. At least two weeks prior to the scheduled pre-application conference, the applicant should submit information in the form of reports, maps, studies and other relevant project documentation providing a sufficient basis for review by the Department. The material submitted prior to the pre-application conference may include the following:

1. A site location map plotted on a USGS topographic map;
2. A written description of the type of facility;
3. A written estimate of the proposed design capacity of the facility;
4. A written description of the type of waste to be handled;
5. A written plan establishing the tentative construction schedules;
6. A written scope-of-work outlining the proposed EHIS, geotechnical investigation or engineering design;
7. Written documentation that the facility is included in the applicable district solid waste management plan pursuant to N.J.S.A. 13:1E-23 or that an application has been submitted to the appropriate public authority seeking inclusion in the solid waste management plan.

(b) A complete application for a SWF permit, except for applications for small-scale facilities identified in (c)1 and 2 below, shall include the following:

1. All fees, required by N.J.A.C. 7:26-4, owed and paid in accordance with N.J.S.A. 13:1D-120 et seq.;
2. Documentation establishing that the facility has been included in the applicable district solid waste management plan;
3. The disclosure statement described in N.J.A.C. 7:26-16. The requirement of a disclosure statement shall not apply to any person specifically exempted under N.J.A.C. 7:26-16.3(d);
4. A registration statement meeting the requirements of N.J.A.C. 7:26-2.8;
5. An EHIS prepared in accordance with N.J.A.C. 7:26-2.9;
6. An engineering design prepared in accordance with N.J.A.C. 7:26-2.10;
7. For sanitary landfills, a closure plan prepared and submitted in accordance with N.J.A.C. 7:26-2A.9; and
8. All applications for a SWF permit shall be submitted to:

Assistant Director for Permitting and
Technical Programs
Division of Solid and Hazardous Waste
Department of Environmental Protection
PO Box 414
Trenton, N.J. 08625-0414

(c) A complete application for a SWF permit for a small-scale solid waste facility as identified in (c)1 or 2 below shall include the following:

1. For a small-scale thermal destruction facility:

i. Documentation and information sufficient to demonstrate, to the satisfaction of the Department, that the facility meets the following criteria:

(1) The waste intended for thermal destruction is nonhazardous;

(2) The waste is generated at the site of the thermal destruction operation, at other associated intracompany plants; or is regulated medical waste, or home self-care waste managed as regulated medical waste, that is received and managed by the operator of the small-scale incinerator in conformance with the requirements of N.J.A.C. 7:26-3A;

(3) The small-scale thermal destruction unit is not a major facility as defined at N.J.A.C. 7:27-8.1;

(4) The facility has been included in the applicable district solid waste management plan; and

(5) The thermal destruction unit will be operated in compliance with N.J.A.C. 7:26-2.11 and all other applicable Departmental regulations.

ii. A registration statement meeting the requirements of N.J.A.C. 7:26-2.8;

iii. An EHIS sufficient to meet only the requirements set forth at N.J.A.C. 7:26-2.9 (d)1;

iv. An engineering design prepared in accordance with N.J.A.C. 7:26-2.10 and 2B.5;

v. The disclosure statement described in N.J.A.C. 7:26-16. The requirement of a disclosure statement shall not apply to any person specifically exempted under N.J.A.C. 7:26-16.3(d); and

vi. This exemption from full application requirements is limited to one small-scale thermal destruction unit for each company site.

2. For a small-scale materials recovery facility or transfer station:

i. Documentation sufficient to demonstrate, to the satisfaction of the Department, that the capacity of the facility is less than 100 tons per day;

ii. A registration statement meeting the requirements of N.J.A.C. 7:26-2.8;

iii. An EHIS sufficient to meet only the requirements set forth at N.J.A.C. 7:26-2.9 (d)2;

iv. An engineering design prepared in accordance with N.J.A.C. 7:26-2.10 and 2B.5;

v. Documentation that the facility has been included in the applicable district solid waste management plan; and

vi. The disclosure statement described in N.J.A.C. 7:26-16. The requirement of a disclosure statement shall not apply to any person specifically exempted as set forth at N.J.A.C. 7:26-16.3(d).

(d) Upon receipt of the initial application materials, the Department shall assign an application number to the application. All correspondence on written comments relating to the application shall thereafter refer to the assigned application number.

(e) All applications shall be signed by the applicant as follows:

1. The completed registration statement shall be signed 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, State, Federal or other public agency, by either a principal executive officer or ranking elected official.

2. All engineering designs and reports and the environmental and health impact statement required by this subchapter and other information requested as "Addendums" by the Department pursuant to (f) and (g)4 below, in addition to the documents required to be submitted pursuant to N.J.A.C. 7:26-2.9 and 2.10, shall be signed by a person described in (e)1 above or by a duly authorized representative of that person. A person is a duly authorized representative only if:

i. The authorization is made in writing by a person described in (e)1 above;

ii. The authorization specified either an individual or a position having responsibility for the overall operation of the regulated facility or activity, such as the position of plant manager, or positions of equivalent responsibility (a duly authorized representative may be either a named individual or any individual occupying the named position); and

iii. The written authorization is submitted to the Department.

24. For 30 days following receipt of a request for an adjudicatory hearing, the Department may attempt to settle the dispute by conducting such proceedings, meetings, and conferences as it deems appropriate.

25. If Department efforts at settlement fail, the Department shall file the request for a hearing with the Office of Administrative Law. The hearing shall be held before an administrative law judge and 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.

New Rule, R.1987 d.235, effective June 1, 1987.

See: 18 N.J.R. 883(a), 19 N.J.R. 928(c).

Rule was "Submission of engineering designs".

Emergency Amendment, R.1988 d.547, effective October 26, 1988 (expires December 25, 1988).

See: 20 N.J.R. 2817(a).

(c)1 added text "Unless otherwise exempted by N.J.A.C. 7:26-1.7(g)1.11 or 1.12" and "vegetative waste".

Adopted Concurrent Proposal, R.1989 d.55, effective December 23, 1988.

See: 20 N.J.R. 2817(a), 21 N.J.R. 198(a).

Provisions of Emergency Amendment R.1988 d.547, readopted without change.

Administrative change in (f)22iii.v.

See: 23 N.J.R. 3325(b).

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

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

Substantially amended section.

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 (c)2iv, added reference to N.J.A.C. 7:26-2B.5; in (c)13 substituted "N.J.A.C. 7:26-2.7(e)" for "N.J.A.C. 7:26-2.7(d)" preceding ", the Department shall provide public notice,".

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

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

In (a)7, inserted "applicable district" prior to "solid"; in (b)8, substituted "Permitting and Technical Programs" for "Engineering"; rewrote (c)1i(2) through (4); in (g)6ii, substituted "borders" for "boarders" prior to "of which lie"; rewrote (g)7; in (g)11, substituted "(g)2" for "(g)6 in the introductory paragraph; in (g)14iii, amended the N.J.A.C. references.

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

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

In (c), deleted "located within the State of New Jersey" following "intracompany plants" in 1i(2).

Case Notes

Solid waste disposal facility could not require review of application for solid waste facility permit. *Regional Recycling, Inc. v. State, Dept. of Environmental Protection*, 256 N.J.Super. 94, 606 A.2d 817 (A.D. 1991), affirmed 127 N.J. 568, 606 A.2d 815.

Amendment to solid waste management plan which eliminated landfill from plan was invalid. *Waste Disposal, Inc. v. Monmouth County Bd. of Chosen Freeholders*, 254 N.J.Super. 205, 603 A.2d 145 (L.1991).

Modification procedures provided by regulations promulgated under Solid Waste Management Act constituted sufficient safeguards and adequately protected public interest. *Matter of Pennsauken Solid Waste Management Authority*, 238 N.J.Super. 233, 569 A.2d 826 (A.D.1990).

Proposed sludge management facility was "facility" within meaning of the Solid Waste Management Act; sewage sludge to be handled by facility was "solid waste" within meaning of the Act; the Act preempted local zoning and planning regulations. *Ocean County Utilities Auth. v. Planning Bd. of Berkeley Twp., Ocean Co.*, 221 N.J.Super. 621, 535 A.2d 550 (Law Div.1987) affirmed 223 N.J.Super. 461, 538 A.2d 1307.

Requirements for submission of sanitary landfill engineering design; statute and regulations preempt municipal zoning ordinance as to landfill access road construction. *Chester Twp. v. Dept. of Environmental Protection*, 181 N.J.Super. 445, 438 A.2d 334 (App.Div.1981).

Operation of solid waste facilities and hauling solid waste without required approvals; solid waste permits denied. *Mitchell Environmental, Inc. v. DEPE*, 94 N.J.A.R.2d (EPE) 210.

7:26-2.5 Public hearing procedures

(a) The Department shall be responsible for scheduling and conducting a public hearing in reasonable proximity to the location of the proposed facility.

(b) The Department shall designate a hearing officer who shall exercise reasonable discretion in the conduct of the hearing and shall encourage general discussion of the proposed facility, including public comment on the proposed operation, tentative approval or other action to be taken by the Department.

(c) The public hearing shall be a non-adversarial hearing at which any interested person may submit oral or written statements and data concerning the proposed operation, tentative approval or other agency action.

(d) The Department may make a presentation at the public hearing, describing the proposed facility and explaining the basis for the issuance of the tentative approval or other proposed action.

(e) The applicant shall appear at the public hearing on a tentative approval and be available to answer questions regarding the proposed facility. Failure of an applicant to appear and answer relevant questions at the public hearing may result in revocation of the tentative approval and denial of the application. The applicant may make a presentation at the public hearing, describing the proposed facility.

(f) The public hearing proceedings shall be transcribed or recorded and the transcript shall be part of the administrative record.

(g) The hearing officer, to the extent feasible, shall conduct the hearing in the following manner:

1. All interested persons shall be afforded the opportunity to appear and comment at the hearing;
2. Time shall be allotted for individuals to present comments where necessary to accommodate those present and to limit repetition;
3. Testimony on irrelevant matters shall be excluded; and
4. The hearing officer shall ensure that the hearing proceeds in an orderly fashion.

(h) To help ensure that relevant questions are answered at the public hearing, such questions may be submitted to the Department no later than five days prior to the public hearing. At the time of the hearing, the Department or the applicant, in the Department's discretion, will make every reasonable effort to answer these questions and other relevant questions received at the hearing.

(i) (Reserved)

(j) In the event that a response to a question cannot be given at the hearing, a written response shall be prepared after the hearing by either the Department or the applicant, at the Department's discretion. A copy of that written response shall be included in the hearing officer's report and shall be provided to the individual asking the question and others requesting copies of the hearing officer's report.

(k) The cost of advertisement and other expenses of the public hearing, including provision and preparation of the transcript, will be certified to the applicant who shall pay the bill within 30 days thereafter. Payment of the bill, in full, shall be a condition of final permit issuance.

As amended, R.1974 d.234, effective August 21, 1984.

See: 6 N.J.R. 343(c).

As amended, R.1975 d.190, effective June 27, 1975.

See: 7 N.J.R. 360(b).

As amended, R.1976 d.303, effective November 1, 1976.

See: 8 N.J.R. 374(d), 8 N.J.R. 590(a).

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

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

(v): Copies of analyses formerly forwarded to the Bureau.

New Rule, R.1987 d.235, effective June 1, 1987.

See: 18 N.J.R. 883(a), 19 N.J.R. 928(e).

Repealed Sanitary landfill operational requirements (General).

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

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

Case Notes

Amendment to solid waste management plan which eliminated landfill from plan invalid. *Waste Disposal, Inc. v. Monmouth County Bd. of Chosen Freeholders*, 254 N.J.Super. 205, 603 A.2d 145 (L.1991).

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

7:26-2.6 Procedures and grounds for modification, revocation and reissuance and termination of SWF permits

(a) When the Department receives any information concerning a solid waste facility, it may determine whether or not one or more of the causes listed at (a)4 below for modification or revocation and reissuance exist.

1. If cause exists, the Department may modify, or revoke and reissue the SWF permit, subject to the limitations of this section, and may require the SWF permittee to submit an updated or new application in accordance with (e) below, if appropriate. When a permit is modified, only the SWF permit conditions subject to modification may be reopened for public comment. If a permit is revoked and reissued, the entire permit shall be reopened for public comment and the permit shall be reissued for a new term.

2. If a cause does not exist under this subsection or (c) below, the Department shall not modify or revoke and reissue the permit. The Department shall notify the person submitting the request that cause does not exist for a permit condition modification or a revocation and reissuance of the permit.

3. If a permit modification satisfies the criteria in (d) below for a minor modification, the permit may be modified without issuance of a tentative approval or public comment thereon. Otherwise, a tentative approval of the modified SWF permit conditions or of the revoked and reissued SWF permit shall be prepared pursuant to (e) below and the procedures in N.J.A.C. 7:26-2.4 (g) 11 through 25 followed.

4. The following may be cause for modification of permit conditions or revocation and reissuance of the SWF permit at the discretion of the Department.

i. There are material and significant alterations or additions to the permitted facility or operation which occurred after permit issuance which justify the application of permit conditions that are different from or absent in the existing permit. For the purpose of this subchapter, a material and significant alteration or addition is defined as:

(1) A major alteration to or addition of a new structure to the facility, which is not deemed to be a minor modification as set forth at (d) below and which would result in a significant change in the approved environmental impacts of the facility;

(2) An increase in the approved capacity of the facility which would result in a significant change in the approved environmental impacts of the facility; and

(3) A major alteration in the operations of the facility which would result in a significant change in the approved environmental impacts of the facility;

ii. The Department has received information that was not available at the time of permit issuance that would have justified the application of different permit conditions at the time of issuance. This shall include any information indicating that the effects on the environment are unacceptable or that the facility is being operated in an environmentally unsound manner;

iii. The standards or regulations on which the permit was based have been changed by promulgation of amended standards or regulations or by a judicial decision after the permit was issued. Permits may be modified for this cause only as follows:

(1) For promulgation of amended standards or regulations, when the permit condition to be modified was based on a requirement of N.J.A.C. 7:26, and the Department has revised, repealed or modified that portion of the regulation on which the permit condition was based; and

(2) For judicial decisions, a court of competent jurisdiction has remanded and stayed a Department regulation or guideline, if the remand and stay concerned that portion of the regulation or guideline on which the permit condition was based and a request is filed by the permittee.

5. The Department shall follow the applicable procedures in (e) below while pursuing a modification or revocation and reissuance of any permit under this section.

(b) The Department may modify or, alternatively, revoke and reissue a permit if cause exists for termination under (c) below and the Department determines that modification or revocation and reissuance is appropriate.

(c) When the Department receives any information concerning a facility, it may determine whether or not one or more of the causes listed below for termination of the permit exist and shall proceed as set forth below.

1. The following are causes for terminating a permit during its term or for denying a permit renewal application.

- i. Noncompliance with any condition of the permit;
- ii. The permittee's failure in the application, during the permit issuance process or at any subsequent time during the permitted operations of the facility to disclose fully all relevant facts, or the permittee's misrepresentation of any relevant facts at any time, including a material and significant alteration or addition to the permitted facility;
- iii. A determination by the Department that the facility is being operated in an environmentally unsound manner;
- iv. A determination that the permitted activity endangers human health or the environment, or has the potential to do so, and can only be regulated to acceptable levels by permit modification or termination; or
- v. A change in ownership or operational control of a permitted facility not in compliance with N.J.A.C. 7:26-2.7(e);

7:26-3A.6 Definition of regulated medical waste

(a) A regulated medical waste is any solid waste, generated in the diagnosis, treatment (for example, provision of medical services), or immunization of human beings or animals, in research pertaining thereto, or in the production or testing of biologicals, that is not excluded or exempted under (b) below, and that is listed or meets any waste characteristic classification criteria described in the following table:

**TABLE
REGULATED MEDICAL WASTE**

Waste Class	Description
1. Cultures and Stocks	Cultures and stocks of infectious agents and associated biologicals, including: cultures from medical and pathological laboratories; cultures and stocks of infectious agents from research and industrial laboratories; wastes from the production of biologicals; discarded live and attenuated vaccines; and culture dishes and devices used to transfer, inoculate, and mix cultures.
2. Pathological Wastes	Human pathological wastes, including tissues, organs, and body parts and body fluids that are removed during surgery or autopsy, or other medical procedures, and specimens of body fluids and their containers.
3. Human Blood and Blood Products	Liquid waste human blood; blood; items saturated and/or dripping with human blood; or items that or items that were saturated and/or dripping with human blood that are now caked with dried human blood; including serum, plasma, and other blood components, and their containers, which were used or intended for use in either patient care, testing and laboratory analysis or the development of pharmaceuticals. Intravenous bags (only if they have come into contact with blood or other regulated body fluid), soft plastic pipettes and plastic blood vials are also included in this category.
4. Sharps	Sharps that were used in animal or human patient care or treatment or in medical research, or industrial laboratories, including sharp, or potentially sharp if broken, items such as, but not limited to, hypodermic needles, all syringes to which a needle can be attached (with or without the attached needle) and their components, including those from manufacturing research, manufacturing and marketing, pasteur pipettes, scalpel blades, blood vials, carpules, needles with attached tubing, acupuncture needles and culture dishes (regardless of presence of infectious agents). Also included are other types of broken or unbroken glassware that were in contact with infectious agents, such as used slides and cover slips.
5. Animal Waste	Contaminated animal carcasses, body parts, and bedding of animals that were known to have been exposed to infectious agents during research (including research in veterinary hospitals), production of biologicals, or testing of pharmaceuticals. Carcasses that are not known to have been exposed to agents infectious to humans are considered Waste Type ID 25, and, therefore, are not included in this class.

Waste Class	Description
6. Isolation Wastes	Biological waste and discarded materials contaminated with blood, excretion, exudates, or secretions from humans who are isolated to protect others from certain highly communicable diseases, or isolated animals known to be infected with highly communicable diseases.
7. Unused Sharps	The following unused, discarded sharps, that were intended to be used: hypodermic needles, suture needles, syringes, and scalpel blades.

(b) The following are excluded from the definition of regulated medical waste:

1. Hazardous waste identified or listed under the regulations in 40 C.F.R. Part 261;
2. Household waste, generated in households utilizing home self-care as defined in N.J.A.C. 7:26-3A.5(b);
3. Ash from incineration of regulated medical waste once the incineration process has been completed;
4. Residues from treatment and destruction processes once the regulated medical waste has been both treated and destroyed;
5. Human corpses, remains and anatomical parts that are intended for interment or cremation;
6. Biological materials, including, but not limited to, those blood or blood products and pathological waste listed at (a)2 and 3 above, intended for use, reuse or recycling as raw materials or products, except materials classified as Class-6 Isolation Wastes, pursuant to (a)6 above if the following conditions are met:
 - i. The materials are used, reused or recycled in accordance with all applicable Federal, State and local statutes and regulations for handling and managing the materials;
 - ii. The materials and their by-products are managed as regulated medical waste when discarded after use, reuse or recycling if not treated and destroyed as those terms are defined at N.J.A.C. 7:26-3A.5; and
 - iii. The generator of the materials reports the type, destination, and method of use, reuse or recycling of the materials to the Bureau of Resource Recovery and Technical Programs in the Department at the address given at N.J.A.C. 7:26-3A.8(f)4 and the district solid waste coordinator of the district where the material originated at least once per year, or on request of the Department or any other agency;
7. Nonbiological materials intended for use, reuse or recycling, except materials classified as Class-6, Isolation Waste pursuant to (a)6 above, if the following conditions are met:
 - i. The generator treats all used materials, or any unused materials, that have come into contact with a regulated body fluid or blood, or pathological waste as

defined at (a) above at the site of generation before shipping the materials off site;

ii. The generator destroys all sharps at the site of generation before shipping the destroyed sharps off site for recycling of the devices' component raw materials; and

iii. The generator of the materials reports the type, quantity, destination, and method of use, reuse or recycling of the materials to the Bureau of Resource Recovery and Technical Programs in the Department at the address given at N.J.A.C. 7:26-3A.8(f)4 and the district solid waste coordinator of the district where the material originated at least once per year, or on request of the Department or any other agency; and

8. RMW, or non-regulated medical waste managed as RMW, that is either generated by a person and is less than 100 pounds or has become the property of a person other than the original generator except through the sale or transfer of assets, and where such person has not generated RMW within a two year period prior to requesting the exemption nor to the best of their knowledge plans to generate RMW in the future, may have a "one time only" exemption from registering as a generator and may offer RMW to a licensed RMW transporter using its own number as the generator number. The Department shall issue an authorization for this exemption in response to written notification sent to the address listed at N.J.A.C. 7:26-3A.8(f)4 prior to the disposal of the RMW in order for a one-time exemption of this type to be valid. Authorizations for registration exemption will not be granted to persons the Department expects will generate RMW in the future.

(c) The following are exempted from the definition of regulated medical waste:

1. Etiologic agents being transported interstate pursuant to the requirements of the U.S. Department of Transportation, U.S. Department of Health and Human Services, and all other applicable shipping requirements are exempt from the requirements of this subchapter; and

2. Samples of regulated medical waste transported off-site by the EPA, the Department, the Department of Health or the New Jersey Department of Law and Public Safety for enforcement purposes are exempt from the requirements of this subchapter during the enforcement proceeding.

(d) In accordance with DHSS rules (N.J.A.C. 8:27), body art establishments shall comply with the provisions of N.J.S.A. 13:1E-48.1 et seq., the Comprehensive Regulated Medical Waste Management Act, and all rules promulgated pursuant to the aforementioned Act.

(e) Acupuncturists shall comply with the provisions of N.J.S.A. 13:1E-48.1 et seq., the Comprehensive Regulated Medical Waste Act, and all rules promulgated pursuant to the aforementioned Act.

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 text "or meets . . . criteria described" and amended descriptions in medical waste table; and added (b)6 and (b)7.

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

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

In (a)3 inserted "(only if they have come in contact with blood or other regulated body fluid)" following "Intravenous bags", in (a)4 inserted "acupuncture needles" following "attached tubing," in (a)5 added a second sentence; added (b)8; and added (d) and (e).

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

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

In (b), substituted "Bureau of Resource Recovery and Technical Programs" for "Bureau of Medical Waste and Technical Assistance" and updated the N.J.A.C reference in 6iii and 7iii.

7:26-3A.7 Mixtures

(a) Except as provided in (b) below, mixtures of solid waste and regulated medical waste listed in N.J.A.C. 7:26-3A.6(a) are a regulated medical waste.

(b) Mixtures of hazardous waste identified or listed in 40 C.F.R. Part 261 and regulated medical waste listed in N.J.A.C. 7:26-3A.6(a) are subject to the requirements in this subchapter, unless the mixture is subject to the hazardous waste manifest requirements in 40 C.F.R. Part 262 or 40 C.F.R. Part 266. In addition, the applicable hazardous waste requirements of N.J.A.C. 7:26-1 also apply.

7:26-3A.8 Registration and fees for regulated medical waste generators, and owners and operators of transporters, collection facilities, transfer stations, intermediate handlers and destination facilities

(a) Any person that generated regulated medical waste in this State shall register with the Department as a regulated medical waste generator in accordance with (e) below, and shall pay annual fees in accordance with the following:

1. For computation of the annual regulated medical waste generator fee, generators of regulated medical waste are divided, according to the amount of waste generated into five categories as explained in the following table:

Generator Category	Pounds Generated Per Year	Base Fee Category
1	less than 50	\$ 85.00
2	50-200	\$ 255.00
3	greater than 200-300	\$ 425.00
4	greater than 300-1,000	\$ 850.00
5	greater than 1,000	\$2,950.00

i. For annual regulated medical waste generator fee purposes only, quantities of body fluids and blood and blood products that are discharged or removed from a human and are disposed of into a sanitary sewer system, which shall be in compliance with all applicable Federal, State, and county and local statutes, rules and ordinances, shall not be included in a generator's annual calculation of regulated medical waste generated, but at a minimum, if the generator generates no other regulated medical waste, the generator shall be included in generator category 1.

(b) Any person that engages or continues to engage in the transportation of regulated medical waste in this State, except generators that transport their own waste and that meet the requirements of N.J.A.C. 7:26-3A.17(a), shall register with the Department as a regulated medical waste transporter in accordance with (e) below, and pay annual fees in accordance with the following:

1. All regulated medical waste commercial transporters shall pay an annual fee of \$3,950.00.

2. All noncommercial generator transporters of RMW (except radiopharmacies listed at (b)3 below) shall pay an annual fee of \$650.00.

3. All noncommercial generator transporters of RMW that transport solely spent radiopharmaceuticals back to a radiopharmacy to allow for the safe decay of the radioactive material prior to disposal as RMW shall pay an annual fee of \$200.00.

(c) Commercial intermediate handlers, intermediate handlers treating, destroying or disposing of their RMW on-site and owners and operators of destination facilities shall register with the Department as a regulated medical waste intermediate handler or destination facility in accordance with (e) below, and pay annual fees in accordance with the following:

1. All regulated medical waste intermediate handlers and destination facilities shall register with the Department and pay an annual registration, compliance inspection, technical advisement and report analysis fee in accordance with the following:

i. A destination facility that treats and destroys less than 1,000 pounds of regulated medical waste produced shall pay a registration fee of \$50.00 per year.

ii. A destination facility that treats and destroys from 1,000 pounds up to and including 10,000 pounds of, regulated medical waste produced per year shall pay a registration fee of \$500.00 per year.

iii. A destination facility that treats and destroys more than 10,000 pounds of regulated medical waste per year shall pay a registration fee of \$2,000 per year.

2. A commercial intermediate handler shall pay an annual registration fee of \$1,500.

3. A noncommercial intermediate handler, or an intermediate handler treating only its own waste that treats any quantity of liquid regulated medical waste that is disposed of into the sanitary sewer system, and treats less than 10,000 pounds of nonliquid regulated medical waste per year and sends that waste off-site as RMW for treatment, destruction or disposal is exempt from the intermediate handler annual registration fee but shall register as an intermediate handler pursuant to this section.

4. Persons that only dispose of regulated medical waste that they generate by placing body fluids or blood and blood products into the sanitary sewer system, in compliance with all applicable Federal, State, county and local statutes, rules and ordinances, shall not be considered an intermediate handler or destination facility.

(d) Each person authorized by the Department pursuant to N.J.A.C. 7:26-3A.39 to operate a collection facility for medical wastes shall pay fees in accordance with the following:

1. Commercial collection facilities shall pay an application fee of \$500.00. The application fee shall be submitted with the application required pursuant to N.J.A.C. 7:26-3A.39(c).

2. Commercial collection facilities shall pay an annual fee of \$350.00 for the costs of registration, quarterly compliance monitoring, and review and maintenance of the quarterly reports submitted pursuant to N.J.A.C. 7:26-3A.39(j) and the annual reports submitted pursuant to N.J.A.C. 7:26-3A.44.

3. Collection facilities shall pay the costs of any other inspections or activities conducted by the Department for the authorization, inspection, and revocation of authorization to operate a collection facility. Such costs shall be in accordance with the fee schedule set forth at (f) below and N.J.A.C. 7:26-4.3.

4. Commercial collection facilities shall pay a fee of \$250.00 for an authorization modification issued pursuant to N.J.A.C. 7:26-3A.39(o), which shall be paid on issuance of the authorization modification.

5. Noncommercial collection facilities collecting up to 2,000 pounds of medical wastes per year shall not pay an annual fee.

6. Noncommercial collection facilities collecting more than 2000 pounds of medical wastes per year shall pay an annual fee of \$150.00 for the cost of registration.

(e) Each person operating a transfer station and authorized by the Department to manage medical waste pursuant to N.J.A.C. 7:26-3A.39 shall pay an annual fee of \$2,000 in addition to all other solid waste transfer station facility-related fees pursuant to N.J.A.C. 7:26-4, for the costs of registration under this subchapter, review and maintenance of reports, and compliance monitoring.

(f) Each generator, transporter, intermediate handler, collection facility, transfer station and destination facility shall register with the Department on regulated medical waste registration forms prescribed by and available from the Department at the address listed below and shall state such information as necessary and proper to the enforcement of this subchapter, as the Department may require. No pro rata adjustment or refund for prior registration year payment of fees shall be made by the Department. Fees shall be payable to the Department 30 days after the beginning of each respective registration year in accordance with the following schedule:

1. The registration year for generators shall extend from July 22 through July 21 of each calendar year and fees shall be payable by August 20 of each calendar year;

2. The registration year for transporters shall extend from May 1 through April 30 of each calendar year and fees shall be payable by May 30 of each calendar year;

3. The registration year for intermediate handlers, collection facilities and destination facilities shall extend from January 1 through December 30 of each calendar year and fees shall be payable by January 29 of each calendar year; and

4. The Department's address for regulated medical waste is:

Bureau of Resource Recovery and Technical
Programs
Division of Solid and Hazardous Waste
New Jersey Department of Environmental Protec-
tion
PO Box 414
Trenton, New Jersey 08625-0414

(g) The Department shall charge fees for regulated medical waste program services as follows:

1. Any person not registered for regulated medical waste activities in accordance with the requirements of this subchapter that requests a written interpretation of any solid waste regulation from the Department shall submit a fee of \$150.00 with the request for interpretation.

2. Any person that requests the authorization of an alternative or innovative technology pursuant to N.J.A.C. 7:26-3A.47(a) shall submit a fee of \$1,500 with the request for the authorization; and

3. Any person that requests the authorization of an alternative or innovative technology demonstration program pursuant to N.J.A.C. 7:26-3A.47(c) shall submit a fee of \$2,000 with the request for authorization of the demonstration program.

(h) The omission of any type of Department service from the fee schedule set forth in (f) above shall not prevent the Department from assessing a reasonable fee for such service. Any person that requests a Department service not listed at (f) above shall request an initial review of the service for purposes of determining the fee for performing such service.

1. If the Department determines that the service is of a type listed in (g)1 through 3 above, the fee shall be the applicable fee specified at (g) above.

2. If the Department determines that the service is not one of those listed in (g)1 through 3 above, the fee shall be equal to the Department's estimate of the number of person-hours required to perform such activity, multiplied by the hourly rate of \$74.73.

(i) The Department shall charge an excess fee at the hourly rate of \$55.88 for excess person-hours required to perform any service for which a fee is established pursuant to (a) through (g) above. The Department shall notify the applicant or permittee of such excess fee in writing before performing the additional work.

(j) The determination of a fee pursuant to (h) above shall expire 90 days after the date such determination was 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 request for services for which the fee determination has expired, such applicant or permittee shall request a redetermination of the fee in writing, and the Department shall redetermine the fee in accordance with (h) above, as applicable.

(k) The Department may refrain from commencing work on the service for which a fee is established pursuant to (g) through (i) above until the Department receives full payment of such fee. If the Department has commenced work on the service the Department may suspend such work until it receives full payment of such fee.

(l) Any generator that fails to register pursuant to this section and that submits the annual fee pursuant to (a) above later than August 20 of each calendar year shall pay a late fee in the amount of 25 percent of the annual fee up to 15 days, 50 percent up to six months, and 100 percent up to one year, in addition to the annual fee. Neither the assessment of a late fee nor the payment of a late fee shall prevent the Department from taking any appropriate enforcement action.

(m) Any generator that submits the annual generator report required by N.J.A.C. 7:26-3A.21(d), 30 or more days after such report is due shall pay a late fee of \$50.00. Neither the assessment nor the payment of a late fee shall prevent the Department from taking any appropriate enforcement action.

Amended by R.1990 d.358, effective July 16, 1990.

See: 22 N.J.R. 1478(a), 22 N.J.R. 2145(a).

Generator categories expanded to 5; fees restructured.

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, amended base fees; in (a)1i, inserted "annual" preceding "regulated medical waste" and inserted reference to discharged fluids and blood; substantially amended (b) and (c), inserted new (d); recodified former (d) as (f); in (f), inserted references to collection facilities and transfer stations, and to refunds for prior years; in (f)2, deleted reference to 1989 registration year; rewrote (e) and (g) through (h); and added (i) through (m).

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, increased Pounds Generated Per Year for Generator Categories 3 and 4.

Amended by R.2002 d181., effective June 17, 2002.

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

In (h), inserted "(except radiopharmacies listed at (b)3 below)" following "RMW" in 2 and added 3; in (d)5, inserted "not" following "shall" and deleted "of \$10.00 for the cost of registration"; in (f)4, inserted "Resource Recovery and" preceding "Technical" and substituted "Programs" for "Assistance".

7:26-3A.9 Education

The supervisory personnel of all transporters, except generators that transport their own regulated medical waste and satisfy the requirements of N.J.A.C. 7:26-3A.17(a), collection facilities, intermediate handlers and destination facilities shall attend education and training sessions provided by the Department, and shall also be required to disseminate the information obtained at the sessions to all employees.

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

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

Inserted reference to collection facilities.

7:26-3A.10 Segregation requirements

(a) Generators shall segregate regulated medical waste intended for transport off-site to the extent practicable prior to placement in containers according to (b) below.

(b) Generators shall segregate regulated medical waste into:

1. Sharps (Classes 4 and 7 as defined at N.J.A.C. 7:26-3A.6(a)) including sharps containing residual fluid;
2. Fluids (quantities greater than 20 cubic centimeters); and
3. Other regulated medical waste.

(c) Other regulated medical waste described at (b)3 above may be included in sharps containers. Such containers shall be managed at all times as sharps containers in accordance with N.J.A.C. 7:26-3A.11. The waste in these containers shall not be allowed to putrefy or be malodorous in any detectable manner.

Case Notes

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

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

7:26-4.2 Payment of fees

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

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

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

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

7:26-4.3 Fee schedule for solid waste facilities

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

1. Each solid waste facility permittee shall pay an annual facility registration update fee of \$6,006. The annual facility registration update fee is due at the time the annual registration update is submitted, but in no event later than May 1 of each calendar year.

(b) Each solid waste facility permittee shall pay the applicable annual fee listed in the following table for compliance monitoring services. The fees are payable in equal quarterly installments, due on January 1, April 1, July 1 and October 1 of each year.

Type of Facility	Compliance Monitoring Fees
Sanitary Landfill—operating at 31,200 tons per year (tpy) or more	\$ 8,286
Sanitary Landfill—operating at less than 31,200 tpy	\$ 5,418
Transfer Stations and Materials Recovery Facilities—operating at 31,200 tpy or more	\$ 8,286
Transfer Stations and Materials Recovery Facilities—operating at less than 31,200 tpy	\$ 5,418

Type of Facility	Compliance Monitoring Fees
Thermal Destruction Facilities—operating at 9.6 tons per day or more	\$ 8,286
Thermal Destruction Facilities—operating at less than 9.6 tons per day	\$ 1,806
Solid Waste Composting and Co-Composting Facilities	\$ 8,286
Closed Landfills	\$451.00
Landfill Disruption	\$451.00
Research Demonstration & Development/Certificate of Authority to Operate	\$ 8,286

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

1. Thermal destruction facilities:

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

2. Sanitary landfills:

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

3. Sanitary landfill closure plan submissions:

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

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

1. Thermal Destruction Facilities

	Class	
	A	B
i. Initial permit	\$83,286	\$271,452
ii. Permit renewal	\$49,355	\$140,661
iii. Major modification to permit	\$22,210	\$ 74,032
iv. Minor modification to permit	\$12,339	\$ 18,508
v. Transfer of ownership of permit	\$12,956	\$ 22,827
vi. Minor technical review	\$ 3,085	\$ 6,169

2. Sanitary Landfill Facilities

	Class		
	A	B	C
i. Initial permit	\$157,131	\$111,737	\$78,566
ii. Permit renewal	\$101,262	\$ 69,836	\$40,156
iii. Major modification to permit	\$ 41,902	\$ 26,538	\$17,808
iv. Minor modification to permit	\$ 15,713	\$ 10,475	\$ 6,984
v. Transfer of ownership of permit	\$ 17,459	\$ 12,338	\$10,825
vi. Minor technical review	\$ 2,095	\$ 1,397	\$698.00
vii. Landfill disruptions	\$ 3,485	\$ 3,485	\$ 3,485

3. Transfer Stations and Materials Recovery Facilities

i. Initial permit	\$138,680
ii. Permit renewal with modification(s)	\$109,047
iii. Permit renewal without modification(s)	\$ 31,141
iv. Major modification to permit	\$ 77,906
v. Minor modification to permit	\$ 11,206
vi. Transfer of ownership of permit with modification(s)	\$109,047
vii. Transfer of ownership of permit without modification(s)	\$ 31,141
viii. Minor technical review	\$ 2,586

4. Closure Plan

	Class		
	A	B	C
i. Initial closure plan approval	\$13,243	\$19,864	\$27,299
ii. Closure plan renewals	\$ 5,808	\$ 8,712	\$11,617
iii. Major modification to approval	\$ 3,485	\$ 5,227	\$ 6,970
iv. Minor modification to approval	\$ 1,162	\$ 2,323	\$ 3,485
v. Transfer of ownership of approval	\$ 2,323	\$ 3,485	\$ 5,227
vi. Minor technical review	\$697.00	\$ 1,394	\$ 2,091

5. Annual Topographic Map Submissions

i. Engineering design report review	\$ 3,525
-------------------------------------	----------

(e) For submissions concerning methane venting systems, on-site disposal, cover material, RD & D reviews, hearing officer's report, construction facility inspection, contaminated soil reviews, or the solid waste facility performance partnership agreement, the applicant/permittee shall request an initial review of the submission. As part of its initial review, the Department shall determine the fees for performing its services in connection with the submission. Such fees shall be equal to the number of hours estimated by the Department to be required for the performance of such services, multiplied by an hourly rate of \$106.00.

(f) The omission of any type of service from the fee schedules set forth in (a), (b), (d) and (e) above shall not be construed as a waiver of the Department's authority to assess fees for such services. An applicant/permittee making a submission which it believes is not included in any of the schedules set forth in (a), (b), (d) and (e) above shall request an initial review of the submission. As part of its initial review, the Department shall determine the fees for performing its services in connection with the submission. The solid waste facility performance partnership agreement will be assessed a fee based on the hour for hour negotiation of the document with the permittee. This assessment will allow for the flexibility required by the Department and the permittee in establishing its permit pursuant N.J.A.C. 7:26-2.14. Such fees shall be equal to the number of hours estimated by the Department to be required for the performance of such services, multiplied by an hourly rate of \$106.00. The Department will calculate the fee for performance of the Department's services as follows:

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

2. If the Department determines, in its discretion, that such activity is not of a type listed in (a), (b), (d) or (e) above, the fee shall be equal to the Department's estimate of the number of person-hours required to perform such activity, multiplied by the hourly rate of \$106.00.

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

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

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

1. Beneficial Use Review

i. In-State (no sampling results)	\$534.00
ii. In-State (sampling results)	\$962.00
iii. Out-of-State (no sampling results)	\$321.00
iv. Out-of-State (sampling results)	\$962.00

2. For additional activities such as pre-application meetings and site visits or any other activity which the Department determines, in its discretion, is required to fully evaluate the applicant's submission, the Department shall determine the fee for performing the additional services. Such fees shall be equal to the number of hours estimated by the Department to be required for the performance of such services, multiplied by an hourly rate of \$106.00.

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

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

Deleted "hazardous wastes" from (a)3i.

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

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

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

Amended by R.1991 d.368, effective July 15, 1991.

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

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

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

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

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

Deleted (a)4 through 11.

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

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

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

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

Administrative Correction to (b), thermal destruction facilities.

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

Administrative Correction to (b).

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

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

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

Added new structure at (b).

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

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

In (b) added fee for intermodal container facilities.

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

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

Amended classes and fees.

Administrative correction.

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

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

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

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

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.

7:26-4.4 Fee schedule for transporters

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

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

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

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

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

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

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

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

(i) Fees will be prorated as follows:

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

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

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

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

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

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

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

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

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

Deleted (g).

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

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

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

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

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

Rewrote the section.

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

(a) General provisions are as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(3) Purpose of inspections;

(4) A description of the procedures for:

(A) Determining inspection frequency;

(B) Accounting for activities performed;

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

(D) Taking legal action.

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

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

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

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

(3) Protective equipment;

(4) Vehicles and maintenance;

(5) Test equipment;

(6) Laboratory and analysis;

(7) Office equipment and supplies;

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

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

2. Fees for the Program are as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

In (a)4, deleted "department".

7:26-4.6 (Reserved)

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

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

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

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

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

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".

7:26-4.7 Fee schedule for intermodal container facilities

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

1. Pay an application fee of \$11,206. Such fee shall be submitted with the application required pursuant to N.J.A.C. 7:26-3.6(b);

2. Pay an annual fee of \$216.00 on January 1 of each year for the costs of reviewing and maintaining the quarterly reports submitted pursuant to N.J.A.C. 7:26-3.6(e);

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

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

5. Pay a fee of \$2,586 for an authorization modification issued pursuant to N.J.A.C. 7:26-3.6(m), which shall be paid on issuance of the authorization modification.

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

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

(b)1 and 2 added.

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

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

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

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

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

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

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

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

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

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

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

Substantially amended.

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

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

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

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

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

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

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

Increased fees throughout.

7:26-4.8 Confidentiality claims

Any person submitting information to the Department and asserting a confidentiality claim in accordance with the procedures set forth in N.J.A.C. 7:26-17 shall pay a fee of \$350.00.

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

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

In (a) and (b), "Board of Public Utilities" was "Board of Public Utility Commissioners", reference to form N.J.B.S.W.M. 41 deleted. Repealed by R.1989 d.216, effective April 17, 1989.

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

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

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

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

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

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

Updated the N.J.A.C reference.

SUBCHAPTER 4A. (RESERVED)

**SUBCHAPTER 5. CIVIL ADMINISTRATIVE
PENALTIES AND REQUESTS FOR
ADJUDICATORY HEARINGS**
7:26-5.1 Scope and purpose

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

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

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

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

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

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

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

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

Deleted references to Part A permit application.

Case Notes

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

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

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

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