

career offender or a member of a career offender cartel or an associate of a career offender or career offender cartel, where such identification, membership or association creates a reasonable belief that the participation of that person in any activity required to be licensed under this act would be inimical to the policies of N.J.S.A. 13:1E-126 et seq. For the purposes of this subsection, "career offender" means any person whose behavior is pursued in an occupational manner or context for the purpose of economic gain, utilizing such methods as are deemed criminal violations of the public policy of this State; and a "career offender cartel" means any group of persons who operate together as career offenders. Also, for purposes of this subsection, association of a person required to be listed in a disclosure statement, or shown to have a beneficial interest in the business of the applicant, permittee, or licensee, with career offenders or members of career offender cartels, will be considered "inimical" to the policies of N.J.S.A. 13:1E-126 et seq. where the nature and quality of the association create a risk that the career offender or member of a career offender cartel might exercise some degree of influence or control over the applicant with regard to operations required to be licensed under N.J.S.A. 13:1E-126 et seq. or other business incidental to such operations.

(f) No license shall be approved by the Department with respect to the approval of an initial license, if there are current prosecutions or pending charges in any jurisdiction against any person required to be listed in the disclosure statement, or otherwise shown to have a beneficial interest in the business of the applicant or the permittee, for any of the crimes enumerated in (b) above, provided, however, that at the request of the applicant, permittee or the person charged, the Department shall defer decision upon such application during the pendency of such charge.

(g) No license shall be approved by the Department if any person required to be listed in the disclosure statement, or otherwise shown to have a beneficial interest in the business of the applicant, permittee or the licensee, has pursued economic gain in an occupational manner or context which is in violation of the criminal or civil public policies of this State, where such pursuit creates a reasonable belief that the participation of that person in any activity required to be licensed under this chapter would be inimical to the policies of N.J.S.A. 13:1E-126 et seq. For the purposes of this subsection, "occupational manner or context" means the systematic planning, administration, management or execution of an activity for financial gain. Also for the purposes of this subsection, pursuit of economic gain in an occupational manner or context which is in violation of the criminal or civil public policies of this State will be considered "inimical" to the policies of the act where the nature and quality of the activity in question create a risk that the applicant will, after licensure, engage in civil or criminal violations of the Solid Waste Utility Control Act, N.J.S.A. 48:13A-1 et seq., the New Jersey Antitrust Act, N.J.S.A. 56:9-1 et seq., the Solid Waste Management Act, N.J.S.A. 13:1E-1 et seq., or other New Jersey environmental statutes

and their implementing regulations while engaged in any activity required to be licensed under N.J.S.A. 13:1E-126 et seq. or other business incidental to such activities.

(h) No license shall be approved by the Department if the applicant, permittee or licensee refuses to comply with inquiries as required under N.J.A.C. 7:26-16.7.

(i) No license shall be approved by the Department if the applicant, permittee or licensee in its application, disclosure statement or any other materials supplied to the Department or the Attorney General shall supply information which is untrue or misleading as to a material fact pertaining to the disqualification criteria.

(j) A license may be approved by the Department for any applicant or permittee if the information contained within the disclosure statement and investigative report, including any determination made by the Attorney General concerning the character, honesty and integrity of any person required to be listed in the disclosure statement, or otherwise shown to have a beneficial interest in the business of the applicant or permittee, would not require disqualification pursuant to (a), (b), (c), (d), (e), (g), (h) or (i) above.

(k) A license approved by the Department for any applicant, licensee or permittee pursuant to this section is nontransferable and shall be valid only for the length of time for which it is given.

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.

#### Case Notes

Failure to demonstrate rehabilitation after conviction for disqualifying crime justifies denial of solid waste transporter license. *Bolus v. Solid Waste Management Division, DEPE, 96 N.J.A.R.2d (EPE) 4.*

Failure to disclose criminal indictment for involvement in solid waste disposal conspiracy warranted denial of application for solid waste licensure. *PJV Transport v. Division of Solid Waste Management, 95 N.J.A.R.2d (EPE) 50.*

Application for license to collect solid and hazardous waste; insufficient showing of integrity, reliability, expertise and competence. *Sasso's Sea-Gull Disposal, Inc. v. DEPE, 94 N.J.A.R.2d (EPE) 67.*

#### 7:26-16.9 Cause for license revocation

(a) In addition to any other cause set forth in this chapter, any license may be revoked by the Department for any of the following causes:

1. Any cause which would require disqualification, pursuant to N.J.S.A. 7:26-16.8, from receiving a license upon original application;
2. Fraud, deceit, or misrepresentation in securing the license, or in the conduct of the licensed activity;
3. Offering, conferring or agreeing to confer any benefit to induce any other person to violate the provisions of N.J.S.A. 13:1E-1 et seq., N.J.S.A. 13:1E-126 et seq., or

of any other law relating to the collection, transportation, treatment, storage, transfer or disposal of solid waste or hazardous waste, or of any rule adopted pursuant thereto;

4. Coercion of a customer by violence or economic reprisal or the threat thereof to utilize the services of any permittee or licensee; or

5. Preventing, without authorization of the Department, any permittee or licensee from disposing of solid waste or hazardous waste at a licensed, authorized or approved treatment, storage, transfer or disposal facility.

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 "transfer" after "storage,"; in (a)4, inserted "permittee or" before "licensee"; in (a)5, inserted "permittee or" before "licensee", inserted " , authorized or approved" before "treatment", and inserted " , transfer" before "or disposal facility".

#### Case Notes

Commissioner of Department of Environmental Protection was obliged to impose civil administrative penalties against generator and transporter. *Rollins Environmental Services (NJ), Inc. v. Weiner*, 269 N.J.Super. 161, 634 A.2d 1356 (A.D.1993).

Each truckload of hazardous waste, which was not accompanied by written manifest was separate offense; penalty against generator was warranted despite generator's claim that it was victim of transporter's fraud and the department's negligence in enforcing its regulations. *Rollins Environmental Services (NJ), Inc. v. Weiner*, 269 N.J.Super. 161, 634 A.2d 1356 (A.D.1993).

Hazardous waste generator or transporter is strictly liable for violation of regulations governing transportation and disposal of hazardous waste. *Rollins Environmental Services (NJ), Inc. v. Weiner*, 269 N.J.Super. 161, 634 A.2d 1356 (A.D.1993).

Penalty for each truckload of hazardous waste that transporter accepted from generator was warranted. *Rollins Environmental Services (NJ), Inc. v. Weiner*, 269 N.J.Super. 161, 634 A.2d 1356 (A.D.1993).

Flagrant and repeated violations warranted revocation of solid waste disposal licenses and denial of permit applications. *DEPE v. Pucillo & Sons*, 96 N.J.A.R.2d (EPE) 87.

Oil trading company not corporation in good standing; no basis to oppose proposed revocation and denial of application for hazardous waste license. *Department of Environmental Protection v. N.O.C. Enterprises, Inc.* 93 N.J.A.R.2d (EPE) 227.

Dumping of hazardous wastes; mislabeled manifests; penalties. *Department of Environmental Protection v. Rollins Environmental Services, Inc.* 92 N.J.A.R.2d (EPE) 67.

#### 7:26-16.10 Administrative hearing; requests

(a) Any applicant or permittee who is denied an initial license pursuant to this subchapter shall, upon written request transmitted to the Department within 30 days of that denial, be afforded the opportunity for a hearing thereon in the manner provided for contested cases pursuant to the "Administrative Procedure Act," N.J.S.A. 52:14B-1 et seq.

(b) Any licensee who receives a notice of intent to revoke a license or notice of refusal to renew a license shall have 20 days from receipt of the notice to transmit to the Department a request for a hearing.

(c) Requests for hearings shall be sent to the: Office of Legal Affairs, ATTENTION: Adjudicatory Hearing Requests, New Jersey Department of Environmental Protection, 401 East State Street, 7th Floor, P.O. Box 402, Mail Code 401-04L, Trenton, New Jersey 08625-0402.

Administrative correction heading and change in (c).

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

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), inserted "or permittee" after "applicant"; in (b), substituted "a license or notice of refusal" for "or refuse", and substituted "20" for "15".

Amended by R.2015 d.089, effective May 18, 2015.

See: 46 N.J.R. 2305(a), 47 N.J.R. 991(a).

In (c), updated the address.

#### 7:26-16.11 Severance of disqualifying individuals

(a) Notwithstanding the disqualification of any applicant, permittee or licensee pursuant to N.J.A.C. 7:26-16.8 or 16.9, the Department may issue or renew a license if the applicant, permittee or licensee severs the interest of or affiliation with the person who would otherwise cause that disqualification.

(b) Where the disqualifying individual is the owner of an equity interest or interest in the debt liability of the licensee, permittee or applicant, the individual must completely divest himself or herself of that interest. Where immediate sale of the interest would work an economic hardship on the individual, the licensee, permittee or applicant, the Department may, in its discretion, allow for divestiture over a period of time not to exceed one year.

(c) Arrangements such as blind trusts will be acceptable only as part of a divestiture arrangement under which the trustee is obliged to sell the disqualifying individual's interest within a period not to exceed two years.

(d) Before the Department will issue or renew a license to an applicant, permittee or licensee which has severed a disqualifying individual, the applicant, permittee or licensee must submit to the Department an affidavit, sworn to by the chief executive officer, attesting to the severance of the disqualifying individual and describing the terms, circumstances and conditions of that severance. Any instruments pertaining to that severance (such as a trust agreement) shall be submitted with the affidavit.

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

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

Added references to permittee and neutralized gender references throughout.

#### 7:26-16.12 License revocation; ineligibility for reapplication

(a) The Department will not issue a license to any person who has had an application denied, or a license revoked, for any of the reasons set forth in N.J.A.C. 7:26-16.8 or 16.9, for a period of 5 years following such denial or revocation.