

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

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

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

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

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

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

Case Notes

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

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

(a) Prior to the receipt, storage, processing or transfer of any Class B, Class C or Class D recyclable materials at a recycling center, the owner or operator of the recycling center shall submit to the Department the information set forth in this subsection. All maps of the proposed recycling center shall be prepared in a manner and format consistent with N.J.A.C. 7:1, Appendix A. The applicant shall submit a minimum of three complete sets of the application. Additional complete sets may be required based upon the type, scale, location, and potential environmental impacts of the proposed recycling center. The owner or operator of a recycling center for Class C recyclable materials shall submit the additional information required pursuant to N.J.A.C. 7:26A-3.18. The owner or operator of a recycling center for Class D recyclable materials shall submit the additional information required pursuant to N.J.A.C. 7:26A-3.19 and 20.

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

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

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

between the recycling center and any solid waste hauler or disposal operation registered with the Department;

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

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

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

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

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

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

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

9. A site plan map, prepared, signed and sealed in accordance with N.J.S.A. 45:8-35.1 et seq. by a licensed professional engineer or surveyor, which identifies (plots) the placement of all equipment, buildings, activities and areas related to the receipt, storage, processing and trans-

ferring of all unprocessed and processed recyclable materials. This site plan shall also:

- i. Be drawn to a scale no larger than one inch equals 100 feet;
 - ii. Indicate the routing of vehicles between the recycling center and all nearby roadways serving the site, as well as the traffic flow within the site, and indicate the provisions incorporated into the site plan to ensure safe and efficient vehicular and pedestrian circulation, parking, loading and unloading;
 - iii. Delineate the floodplain as defined at N.J.A.C. 7:13-1.2;
 - iv. Delineate the incidence of wetlands, New Jersey Pinelands, prime agricultural lands, historic sites (where applicable) and other environmentally sensitive areas;
 - v. Identify the direction of water runoff both on and off-site and the screening and landscaping provisions which may be incorporated at the site;
 - vi. Indicate topographic contours drawn at two-foot intervals;
 - vii. Indicate the location and dimensions, in feet, of the unprocessed and processed materials stockpile areas. Also, based on this information, the total cubic yard storage capacity of the unprocessed and processed materials stockpile areas shall be indicated. The applicant shall also indicate whether the applicant wishes to reserve the right to use unprocessed material stockpile space as processed material stockpile space in certain instances; and
 - viii. Indicate the site access controls to be employed at the recycling center;
10. An original 7.5 minute USGS Quadrangle map which includes the boundary of the recycling center plotted on the map. The map shall delineate any public access roads to the site and any streams or ponds and sensitive receptors (for example, hospitals, schools, playgrounds, homes, etc.) within a one-half mile radius of the site;
11. A copy of the deed of record establishing ownership of the recycling center property or, if the applicant is other than the landowner, a legal agreement (for example, a legal lease agreement) to use the real property in question for the intended purpose;
12. A description of the design capacity of the recycling center setting forth the number and types of vehicles bringing material to the recycling center for receipt, storage or processing, and the number and types of vehicles transferring products and residue from the site on a daily basis;
13. A copy of a New Jersey air pollution control permit application required pursuant to N.J.A.C. 7:27-8.2(a)1 where applicable;

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

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

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

i. Hours of operation of the recycling center;

ii. An incoming materials specification sheet which shall be provided to all persons bringing, delivering or sending Class B, Class C, or Class D recyclable material to the recycling center and which shall include the following information:

(1) A listing of the source separated materials to be received by the recycling center;

(2) The size, weight, or other restrictions regarding materials to be received; and

(3) A notice that vehicles delivering materials to the recycling center will be inspected and, if found to contain more than allowable amounts of contaminants as specified per N.J.A.C. 7:26A-3.5(e)3i, will be barred from offloading vehicle payload; and

(4) A notice that persons bringing materials to the recycling center shall certify the amount of material per load, the municipality of origin of that material, and other information contained on the Recyclable Materials Receipt Form.

iii. A Recyclable Materials Receipt Form which shall be provided to all persons bringing recyclable material to the recycling center and which shall maintain the following information for each vehicle delivering recyclable material to the recycling center:

(1) The amount of source separated recyclable material received, expressed in tons, cubic yards, cubic feet or gallons. Those persons specifying this information in cubic yards shall also indicate the conversion ratio of the materials from cubic yards to tons;

(2) The municipality of origin of the material received;

(3) The name of the person bringing source separated recyclable materials to the facility;

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

(5) A certification, to be completed and signed by the person delivering recyclable material to the recycling center at the time of delivery, that the informa-

tion contained on the Recyclable Materials Receipt Form is true, accurate and complete.

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

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

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

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

- i. For a corporation, by a principal executive officer of at least the level of vice president;
- ii. For a partnership or sole proprietorship, by a general partner or the proprietor, respectively; or
- iii. For a municipality, county, State, Federal or other public agency, by either a principal executive officer or ranking elected official.

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

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

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

(e) Every owner or operator of a recycling center for the receipt, storage, processing or transfer of Class B, Class C or

Class D recyclable material seeking approval pursuant to this subchapter shall submit a fee as required by N.J.A.C. 7:26A-2.

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

(g) All persons who submit an application for a general approval to operate a recycling center for Class C recyclable materials pursuant to this subchapter shall also comply with the requirements of N.J.A.C. 7:26A-4.5.

(h) All persons who submit application for a general approval to operate a recycling center for Class D recyclable materials pursuant to this subchapter shall also comply with the requirements of N.J.A.C. 7:26A-4.6 and 4.7.

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

Inserted references to Classes C and D throughout; substantially amended (a); in (a)9, inserted N.J.S.A. reference; in (a)9vii, added last sentence; in (a)16iii(4), inserted EPA ID reference; in (b)1, added last sentence; and added (g) and (h).
 Administrative change.
 See: 30 N.J.R. 3948(a).

Case Notes

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

7:26A-3.3 Mobile recycling equipment

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

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

(b) Persons operating mobile recycling processing equipment for Class B, Class C or Class D recyclable material shall comply with all applicable statutes and regulations, including, but not limited to, the New Jersey Air Pollution Control Act, N.J.S.A. 26:2C-1 et seq. and 26:2D-1 et seq., and the New Jersey Noise Control Act of 1971, N.J.S.A. 13:1G-1 et seq.

Amended by R.1996 d.577, effective December 16, 1996.
 See: 28 N.J.R. 2240(a), 28 N.J.R. 5360(a).
 Inserted references to Classes C and D throughout.

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

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

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

(c) Prior to issuance of approval to operate a recycling center, the Department may require an applicant to obtain and submit to the Department a performance bond or letter of credit in an amount determined by the Department as necessary to effectuate the proper removal, transportation and disposition of all materials which may be abandoned on a recycling center site. The criteria to be evaluated by the Department to determine if a performance bond or letter of credit is needed, and to be used in establishing the performance bond or letter of credit amount, are the following:

1. The history of enforcement actions taken by the Department against the applicant involving violations of any environmental statutes of the State, of the Department's solid waste management rules, N.J.A.C. 7:26, of this chapter, and of all other rules contained in Title 7 of the New Jersey Administrative Code, and the history of enforcement actions taken by the State, county or local government or any political subdivision of the State, county or local government;

2. The current cost of disposal, including site preparation and transportation costs, at a permitted solid waste facility which would receive the materials which may be abandoned on a site based on the maximum storage capacity of the recycling center;

3. The amount of material to be received, stored, processed or transferred at the recycling center over the duration of the general approval;

4. The types of materials to be received, stored, processed or transferred at the recycling center;

5. Whether the lease agreements related to property or equipment are less than three years in duration;

6. Whether the lease agreements related to property or equipment restrict the operation of the proposed recycling center; and

7. An analysis of the stability of end-markets for the Class B, Class C or Class D recyclable material received, stored, processed or transferred at the recycling center, which analysis shall consider the following:

- i. The length of time the end-market has been in business;

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

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

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

Inserted references to Classes C and D throughout.

7:26A-3.5 General approval

(a) Within 30 days of receipt of an application for recycling center general approval submitted pursuant to N.J.A.C. 7:26A-3.2(a), the Department will determine whether the application is administratively complete. An application is administratively complete where it satisfies the information submission requirements of N.J.A.C. 7:26A-3.2(a), 3.4, 3.8, 3.18 and 3.19 and where a fee has been submitted pursuant to N.J.A.C. 7:26A-2. The procedures for Department review and approval of an application for a recycling center general approval are as set forth in (a)1 through 4 below and in (b) and (c) below:

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

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

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