

"Solid waste disposal services" means the services provided by persons engaging in the business of solid waste disposal.

"Solid waste facility" means and includes the plants, structures and other real and personal property acquired, constructed or operated or to be acquired, constructed or operated by any person pursuant to this subchapter or any other act, including transfer stations, incinerators, resource recovery facilities, sanitary landfill facilities or other plants for the disposal of solid waste, and all vehicles, equipment and other real and personal property and rights therein and appurtenances necessary or useful and convenient for the collection or disposal of solid waste in a sanitary manner.

"Tariff" means the Department form required by N.J.A.C. 7:26H4.

"Transfer station" means a solid waste facility at which solid waste is transferred from a solid waste collection vehicle to a licensed solid waste haulage vehicle for transportation to a solid waste facility.

"Vegetative waste" means any type 23 waste, as defined at N.J.A.C. 7:26-2.13(g), including waste materials from farms, plant nurseries and greenhouses that are produced from the raising of plants. This waste includes such crop residues as plant stalks, hulls, leaves and tree wastes processed through a wood chipper.

"Yard trimmings compost facility" means a recycling center which is designed and operated for the purpose of composting grass clippings, leaves and brush exclusively and shall also include leaf mulching operations.

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).

Added "Peak rate"; and deleted "Mixed district load". Readopted provisions of Emergency Amendment R.1997 d.404 without change.

Amended by R.2002 d.356, effective November 4, 2002.

See: 34 N.J.R. 1792(a), 34 N.J.R. 3819(a).

In "Hazardous waste", amended the N.J.A.C. reference; in "Multiple dwelling", substituted "four" for "three"; added "Tariff"; deleted "Uniform tariff".

7:26H-1.5 Offices and hours

(a) All inquiries and correspondence relative to this chapter should be directed to the following address:

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

(b) All offices of the Department are open from 8:00 A.M. to 5:00 P.M., legal holidays, Saturdays and Sundays excluded.

7:26H-1.6 Certificate of public convenience and necessity

(a) No person shall engage in the business of solid waste collection or solid waste disposal as defined by N.J.S.A. 48:13A-3 unless such person is the holder of a certificate of public convenience and necessity issued by the Department.

(b) Unless otherwise provided by statute or Department rule, no certificate shall be issued to any person until such person has registered with and is licensed by the Department in accordance with N.J.A.C. 7:26-16.

(c) No person may bid for a solid waste collection contract or solid waste disposal contract with a municipality or other political subdivision or commercial or industrial entity unless that person is the holder of a certificate of public convenience and necessity issued by the Department.

(d) In the event that a license, as defined at N.J.A.C. 7:26-16.2, is denied, revoked, or withdrawn, the certificate shall immediately become invalid.

(e) Collectors that transport septic waste and/or sewage sludge are not subject to the provisions of this chapter.

Amended by R.1996 d.253, effective June 3, 1996.

See: 28 N.J.R. 78(a), 28 N.J.R. 247(a), 28 N.J.R. 1147(a), 28 N.J.R. 2908(a).

Amended by R.2002 d.356, effective November 4, 2002.

See: 34 N.J.R. 1792(a), 34 N.J.R. 3819(a).

In (b), deleted the reference to N.J.A.C. 7:26-3; added (e).

Case Notes

Municipal procedure for negotiation of public contracts after unsuccessful competitive bidding proper; unsuccessful bidder lacked standing to challenge award as it would not be entitled to contract if challenge successful; award justified; contention that contractor was morally irresponsible due to lack of PUC Certificate was patently frivolous. *Interstate Waste Removal Co., Inc. v. Bd. of Commissioners, City of Bordentown*, 140 N.J.Super. 65, 355 A.2d 197 (App.Div.1976).

7:26H-1.7 (Reserved)

Amended by R.1996 d.253, effective June 3, 1996.

See: 28 N.J.R. 78(a), 28 N.J.R. 247(a), 28 N.J.R. 1147(a), 28 N.J.R. 2908(a).

Repealed by R.2002 d.356, effective November 4, 2002.

See: 34 N.J.R. 1792(a), 34 N.J.R. 3819(a).

Section was "Registration".

7:26H-1.8 Application for a certificate

(a) Each applicant for a certificate shall file an application with the Department with:

1. The full name, business address, date of birth of the applicant or, if the applicant is a business concern, of any officers, directors, partners or key employees thereof, or if the business is a corporation, all persons holding five percent or more of the issued and outstanding stock of the applicant corporation;
2. A description of the applicant's experience, training, or education in the solid waste collection and/or solid waste disposal industry together with all supporting data

in order to enable the Department to determine the applicant's qualifications to engage in such business;

3. Proof of financial responsibility including with each application a statement of financial condition;

4. New utilities shall furnish a schedule of proposed rates and charges for the character of service proposed to be rendered;

5. A copy of an approval letter pursuant to N.J.A.C. 7:26-16; and

6. Any other information the Department may deem necessary to determine the qualifications of the applicant to engage in the business of solid waste collection and/or disposal.

(b) The Department shall not begin processing an application for a certificate until the applicant has submitted a complete application which includes the items listed at (a)1 through 6 above.

Amended by R.1996 d.253, effective June 3, 1996.

See: 28 N.J.R. 78(a), 28 N.J.R. 247(a), 28 N.J.R. 1147(a), 28 N.J.R. 2908(a).

Amended by R.2002 d.356, effective November 4, 2002.

See: 34 N.J.R. 1792(a), 34 N.J.R. 3819(a).

In (a), rewrote 4 and 5.

Case Notes

Requirements for obtaining certificate of public convenience and necessity to operate solid waste transfer station were neither overly broad nor burdensome. *Matter of Recycling & Salvage Corp.*, 246 N.J.Super. 79, 586 A.2d 1300 (A.D.1991).

Discussion of moral integrity as an issue in Certificate decision; local regulation of solid waste disposal and zoning thereof preempted by Solid Waste Management Act and Solid Waste Utility Control Act. *Little Falls Twp. v. Bardin*, 173 N.J.Super. 397, 414 A.2d 559 (App.Div. 1979), certiorari denied.

7:26H-1.9 Issuance of certificate

(a) The procedures for Department review and approval or denial of an application for a certificate shall be in accordance with the following:

1. Upon receipt of an application, the Department shall review the application for completeness. After reviewing the application, the Department shall within 30 calendar days of receipt of the application notify the petitioner, in writing, whether the application is complete or incomplete.

2. If the application is deemed incomplete, the Department shall provide the applicant with a written list of the deficiencies required to make the application complete. Failure to correct the deficiencies shall constitute cause for denial of the application without prejudice. A determination of incompleteness shall stop any review until such time as a completed application is received by the Department.

3. Within 14 calendar days after receiving a notification of deficiency, the applicant shall inform the Department, in writing, of its intent to either withdraw the application or supply the requested information and the failure to supply the requested information within 60 calendar days after receiving notification of deficiency shall constitute cause for denial of the application without prejudice.

(b) The Department may impose such conditions as it finds to be proper and necessary when issuing a certificate of public convenience and necessity either in the form of a certificate or by its order.

(c) The Department may deny, after hearing, any request for a certificate of public convenience and necessity for any applicant who failed to obtain a certificate prior to operating, managing or otherwise engaging in solid waste collection.

Amended by R.1991 d.221, effective May 6, 1991.

See: 22 N.J.R. 1112(a), 23 N.J.R. 1439(b).

Stylistic changes only.

Amended by R.1996 d.253, effective June 3, 1996.

See: 28 N.J.R. 78(a), 28 N.J.R. 247(a), 28 N.J.R. 1147(a), 28 N.J.R. 2908(a).

Amended by R.2002 d.356, effective November 4, 2002.

See: 34 N.J.R. 1792(a), 34 N.J.R. 3819(a).

In (c), deleted "authority to issue" following "any request for".

Case Notes

Proper denial of right to cross-examination during Certificate proceedings; local regulation of solid waste disposal and zoning thereof preempted by Solid Waste Management Act and Solid Waste Utility Control Act. *Little Falls Twp. v. Bardin*, 173 N.J.Super. 397, 414 A.2d 559 (App.Div.1979), certiorari denied.

Board empowered to grant Certificate applications ex parte without a full hearing; competitors did not have right to intervene; no requirement for showing or finding that existing service inadequate. In re: *Application for Certificate of Public Convenience and Necessity*, 134 N.J.Super. 500, 342 A.2d 219 (App.Div.1975).

7:26H-1.10 Application form

Every person engaged in solid waste collection or solid waste disposal on May 6, 1970, or thereafter shall, before obtaining a certificate of public convenience and necessity, complete the application form available for such purpose upon request at the address specified in N.J.A.C. 7:26H-1.5.

Amended by R.1996 d.253, effective June 3, 1996.

See: 28 N.J.R. 78(a), 28 N.J.R. 247(a), 28 N.J.R. 1147(a), 28 N.J.R. 2908(a).

7:26H-1.11 Revocation or suspension of certificate

(a) The Department may, upon notice, after hearing, by order in writing, revoke or suspend a certificate of public convenience and necessity issued to any person engaged in the solid waste collection or solid waste disposal business upon finding that such person:

1. Has refused or failed to comply with any lawful order of the Department; or