

13. The operator shall maintain a record of the quantity of each authorized waste type accepted for disposal, in accordance with N.J.A.C. 7:26-2.13 and 3.2. In the event that the facility is exempt from the use of scales to physically weigh the waste, volume to weight conversions shall be made by means of formulae furnished by the Department. Transfer stations and materials recovery facilities shall use the formula in N.J.A.C. 7:26-2B.

14. Departmental inspectors shall have the right to enter and inspect any building or other portion of the facility, at any time. This right to inspect includes, but is not limited to:

- i. Sampling any materials on site;
- ii. Photographing any portion of the facility;
- iii. Investigating an actual or suspected source of pollution of the environment;
- iv. Ascertaining compliance or non-compliance with the statutes, rules or regulations of the Department, including conditions of the facility's SWF permit or other permit or certificate issued by the Department; or
- v. Reviewing and copying all applicable records, which shall be furnished upon request and made available at all reasonable times for inspection.

15. The quantity of waste received by the facility operator shall not exceed the system's designed handling, storage, processing or disposal capacity as identified in that facility's SWF permit or other permit certificate. The designed processing and disposal capacity approved within any solid waste facility permit, other permit certificate or approval conditions as a ton per day operational maximum shall be inclusive of all solid waste received at the facility as well as all tonnages of source separated recyclables received;

16. The facility shall be operated in a manner that employs the use of the equipment and those techniques for the receipt, storage, handling, processing or disposal of incoming waste and process residues that are specifically authorized by the facility's SWF permit;

17. The operator shall provide a means of removing mud, solid waste or other debris from the tires of all vehicles. Vehicle tires shall be cleaned prior to the vehicle's departure from the facility's boundaries; and

18. The approved final O and M manual shall be maintained at the facility. A written description of any proposed changes to the approved, final O and M manual shall be submitted to the Department for review. These proposed changes shall not be implemented at the facility until the Department approves the changes.

Amended by R.1974 d.234, effective August 21, 1974.  
See: 6 N.J.R. 343(c).  
Amended by R.1978 d.72, effective February 27, 1978.  
See: 9 N.J.R. 459(d), 10 N.J.R. 146(a).

Amended by R.1983 d.570, effective December 5, 1983.

See: 15 N.J.R. 660(a), 15 N.J.R. 2040(b).

(p) deleted.

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

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

Repealed rule was general operational requirements for incinerators, transfer stations, processing facility and resource recovery facilities. Amended by R.1989 d.216, effective April 17, 1989.

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

Required that vehicles be registered as "solid waste vehicles" in (b)9, at (b)10, operator's designation of area for exempt solid waste vehicles made mandatory.

Amended by R.1993 d.508, effective October 18, 1993.

See: 24 N.J.R. 3286(c), 25 N.J.R. 4763(a).

Emergency Amendment R.1996 d.114, effective January 26, 1996 (operative January 29, 1996, to expire March 26, 1996).

See: 28 N.J.R. 1305(a).

Adopted concurrent proposal, R.1996 d.202, effective March 26, 1996.

See: 28 N.J.R. 1305(a), 28 N.J.R. 2380(a).

Added (b)19 and (c).

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)9, amended Division reference and inserted reference to a solid waste decal; in (b)10, inserted third through fifth sentences, inserted reference to ACWM waste in seventh sentence, and deleted last sentence prohibiting scavenging.

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 (b)19 and (c). Readopted provisions of Emergency Amendment R.1997 d.404 without change.

#### Case Notes

Under Tort Claims Act (N.J.S.A. 59:1-1 et seq.) State agencies and counties are immune from nuisance claims in suit regarding the regulations of a landfill; private operator of landfill does not share in public entities immunity. *East Brunswick v. Bd. of Freeholders of Middlesex Co.*, 224 N.J.Super. 44, 539 A.2d 756 (Ch.Div.1987).

#### 7:26-2.12 Generator requirements for disposal of asbestos containing waste materials

(a) Generators of asbestos-containing waste materials, including sources subject to 40 C.F.R. 61.142, 61.144, 61.145, 61.146, and 147, shall comply with the standards for waste disposal at 40 C.F.R. 61.149 and 40 C.F.R. 61.150.

(b) Generators of regulated asbestos containing material shall submit a written notification of intention to demolish in accordance with (d) and (e) below at least 10 days prior to beginning the demolition activity.

(c) Generators of regulated asbestos containing material shall submit a written notification to renovate in accordance with (d) and (e) below at least 10 days prior to beginning the renovation activity unless the combined amount of RACM to be stripped, removed, dislodged, cut, drilled, or similarly disturbed is:

1. Less than 260 linear feet on pipes or 160 square feet on other facility components; or

2. Less than 35 cubic feet of facility components where the length or area could not be measured prior to stripping, removal, dislodging, cutting, or drilling.

(d) The written notification required by (b) and (c) above shall include:

1. Name, address and telephone number of the generator.
2. Quantity and nature of waste to be disposed;
3. Name, address, telephone number, and New Jersey Department of Environmental Protection registration number of the transporter;
4. Name and address of the sanitary landfill at which disposal will occur;
5. Date and time of disposal; and
6. A copy of any written notification required by 40 CFR 61.145 to 61.155.

(e) The written notification required by (b) and (c) above shall be submitted to:

New Jersey Department of Environmental Protection  
Division of Solid and Hazardous Waste  
PO Box 414  
Trenton, NJ 08624-0414

(f) The Department may allow less than 10 days prior notification, where emergency circumstances require.

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

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

Repealed rule was "Guidelines and criteria for the preparation of engineering designs".

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

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

At (b)3., "collector-hauler" replaced by "transporter"; at 4. "landfill" replaced by "sanitary landfill", CFR cite corrected and address changed at (c).

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 C.F.R. references and recodified a portion of (a) as (b); recodified former (b) through (d) as (d) through (f); inserted new (c); in (d)3, amended subsection references and inserted reference to telephone number and waste decal; and in (e), amended subsection references.

#### Case Notes

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.

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).

#### 7:26-2.13 Solid waste facility; records

(a) Each solid waste facility permittee shall maintain a daily record of wastes received. The record shall include:

1. Identification of the solid waste facility by name and facility identification number;
2. Identification of the transporter by the Department of Environmental Protection registration number assigned and solid waste decal number;
3. The cubic yard, tonnage or gallon capacity of the solid waste vehicle or solid waste container for each of three categories of wastes as follows:
  - i. Solids: Wastes ID 10 through 27 received (in cubic yards or tons);
  - ii. Septage and liquid sewage sludges: Waste ID 73 and 74 received (in gallons);
  - iii. Bulk liquid and semiliquids: Waste ID 72 received (in gallons);
4. Date and time of delivery to the facility;
5. The license plate number and State initials of the solid waste vehicle; and
6. The place of origin of the waste identified by municipality, county and State or in the case of the waste from a transfer station or materials recovery facility, the facility ID number of the transfer station shall also be listed.

7. In addition to the information required in (a)1 through 6 above, sanitary landfills which accept asbestos and asbestos-containing waste materials shall:

- i. Maintain a separate daily record of the asbestos and asbestos-containing waste received, which shall include:

(1) Date and time of delivery;

(2) Identification of the transporter by name and by the New Jersey Department of Environmental Protection registration number assigned to the transporter;

(3) Quantity in cubic yards and/or tons of the waste;

(4) Name and address of the generator; and

(5) For rejected shipments, the reason for rejection and disposition of the shipment after rejection; and

ii. By the 20th day of every month, submit a copy of the daily record required by (a)7i above, covering the asbestos disposal activity of the previous calendar month. The information shall be submitted to:

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

8. In addition to the requirements of (a)1 through 7 above, transfer stations and materials recovery facilities subject to this section which receive more than 31,200 tons of solid waste annually shall install and operate computerized scales for the reporting requirements in N.J.A.C. 7:26-2.13. Transfer stations and materials recovery facilities which do not have scales shall report data in accordance with N.J.A.C. 7:26-2.11(b)13.

(b) The daily record shall be maintained at the operating facility on forms provided by the Department or duplication of same, or on systems acceptable to the Department, shall be kept for five years, and shall be available for inspection by representatives of the Department, county lead agency certified by the Department pursuant to N.J.S.A. 26:3A-2 for any county from which solid waste is received, or the local health department at any time during normal working hours.

(c) The information required to be recorded in the daily record, as set forth in (a) above, shall be supplied by the transporter to the facility operator and by the facility weighmaster or operator on a waste origin/disposal (O and D) form (or duplication of same). Where processing takes place at a transfer station or materials recovery facility prior to delivery to a designated district facility pursuant to N.J.A.C. 7:26-6, the waste remaining after processing shall be designated within the O and D form and daily record as the same waste type as originally received at the transfer station or materials recovery facility. At no time may processing be used to change the original waste type designation of outgoing solid waste from a transfer station or materials recovery facility. Further, at no time may ID 27 solid waste be subjected to mechanized processing, such as grinding, shredding or baling, at transfer stations or materials recovery facilities, such that the physical appearance or the material is altered prior to disposal at a designated district facility.

1. An approved O and D form shall be provided by the department to each registered transporter. The transporter shall thereafter duplicate the form for use with each load of solid waste.

2. Prior to disposing of the solid waste, the transporter shall complete the O and D form and sign it, thereby certifying the accuracy of the information provided; and

3. The facility operator shall verify that the form has been completed by a registered transporter, that the waste as identified by the transporter may be disposed of at the facility in compliance with the host District Solid Waste Management Plan and the facility's registration, and, where applicable, the facility's computer recording of scale data is in conformance with the information supplied, and sign the completed form.

4. The facility operator shall retain all O and D forms for a minimum of one year and shall make them available for inspection by representatives of the department or the

local health department at any time during normal working hours.

5. If an O and D form is not completed and signed by a registered transporter for each solid waste vehicle, or if the waste disposal would not be in compliance with the facility's registration, as required in (c)3 above, the facility operator shall deny the transporter the right to dispose of the solid waste at the facility.

(d) The following solid waste collection and disposal operations are exempt from complying with the provisions of (c) above:

1. Noncommercial industrial facilities which dispose of only solid waste generated by that industrial firm;

2. Municipally operated facilities which accept only solid waste which is collected by that municipality's transporters and which is generated within that municipality;

3. Sludge farming operations which accept only ID 12 solid waste and which report to the Division of Water Resources;

4. Recycling facilities which accept only recyclable materials which have been separated at the point of generation for sale or reuse; and

5. Operations exempt from registration pursuant to N.J.A.C. 7:26-3.3(a).

(e) Monthly summaries of wastes received shall be submitted by the owner/operator of each facility to the Division of Solid and Hazardous Waste, Bureau of Recycling and Planning and the Solid Waste Coordinator for the district of destination on forms provided by the Department (or duplication of same), no later than 20 days after the last day of each month.

1. All solid waste facilities shall include the following within the monthly summary:

i. The tonnages and types of solid waste received by origin from each county (including municipality) and out-of-State source;

ii. The tonnages and types of solid waste returned to the county or state of origin by facility of receipt;

iii. The tonnages, types and origin (by county and municipality) of source separated recyclable materials or recyclable materials removed from the waste stream. In cases where recyclable materials are separated from mixed solid waste at the transfer station or materials recovery facility, and hence the origin (by county and municipality) cannot be identified at the time of receipt, the transfer station shall allocate the amount of recyclable materials proportionally to each municipality on the basis of the total amount of solid waste received for the calendar month;

iv. The identification of end-markets, manufacturers or recycling centers by specific name and location used

for the materials designated as recyclable materials and the amount of materials sent to each specific end-market, manufacturer or recycling center. The requirements for transportation to, and identification of, end-markets, manufacturers, and recycling centers shall be the same as at N.J.A.C. 7:26A;

v. The tonnage and types of recyclable materials being stored at the transfer station or materials recovery facility at the end of the reporting month;

(f) Any certified county or local health agency certified by the Department pursuant to N.J.S.A. 26:3A-2 or a local health department authorized to perform solid waste enforcement which seeks to obtain customer lists for enforcement purposes, shall comply with the procedures at N.J.A.C. 14:3-10.15(b)4.

(g) Waste identification and definition of solids includes the following:

1. Solid wastes; waste ID number and definitions:

i. 10 Municipal (household, commercial and institutional): Waste originating in the community consisting of household waste from private residences, commercial waste which originates in wholesale, retail or service establishments, such as, restaurants, stores, markets, theatres, hotels and warehouses, and institutional waste material originated in schools, hospitals, research institutions and public buildings.

ii. 12 Dry sewage sludge: Sludge from a sewage treatment plant which has been digested and dewatered and does not require liquid handling equipment.

iii. 13 Bulky waste: Large items of waste material, such as appliances and furniture. Discarded automobiles, trucks and trailers and large vehicle parts, and tires are included under this category.

iv. 13C Construction and demolition waste: Waste building material and rubble resulting from construction, remodeling, repair, and demolition operations on houses, commercial buildings, pavements and other structures. The following materials may be found in construction and demolition waste: treated and untreated wood scrap; tree parts, tree stumps and brush; concrete, asphalt, bricks, blocks and other masonry; plaster and wallboard; roofing materials; corrugated cardboard and miscellaneous paper; ferrous and non-ferrous metal; non-asbestos building insulation; plastic scrap; dirt; carpets and padding; glass (window and door); and other miscellaneous materials; but shall not include other solid waste types.

v. 23 Vegetative waste: 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. Also included are non-crop residues such as leaves, grass clippings, tree parts, shrubbery and garden wastes.

vi. 25 Animal and food processing wastes: Processing waste materials generated in canneries, slaughterhouses, packing plants or similar industries, including animal manure when intended for disposal and not reuse. Also included are dead animals. Animal manure, when intended for reuse or composting, is to be managed in accordance with the criteria and standards developed by the Department of Agriculture as set forth at N.J.S.A. 4:9-38.

vii. 27 Dry industrial waste: Waste materials resulting from manufacturing, industrial and research and development processes and operations, and which are not hazardous in accordance with the standards and procedures set forth at N.J.A.C. 7:26G. Also included are nonhazardous oil spill cleanup waste, dry nonhazardous pesticides, dry nonhazardous chemical waste, and residue from the operations of a scrap metal shredding facility.

viii. 27A Waste material consisting of asbestos or asbestos containing waste.

ix. 27I Waste material consisting of incinerator ash or ash containing waste.

(h) Waste identification and definition of liquids include the following:

1. Liquid wastes; waste ID number and definitions:

i. 72 Bulk liquid and semiliquids: Liquid or a mixture consisting of solid matter suspended in a liquid media which is contained within, or is discharged from, any one vessel, tank or other container which has the capacity of 20 gallons or more. Not included in this waste classification are septic tank clean-out wastes and liquid sewage sludge.

ii. 73 Septic tank clean-out wastes: Pumping from septic tanks and cesspools. Not included are wastes from a sewage treatment plant.

iii. 74 Liquid sewage sludge: Liquid residue from a sewage treatment plant consisting of sewage solids combined with water and dissolved materials.

(i) The following waste types have been consolidated under other categories:

1. 11 Institutional (see 10, Municipal);

2. 14 Construction and demolition (see 13, Bulky Waste);

3. 5 Pesticides: (see 27, Dry industrial waste and N.J.A.C. 7:26-8);

4. 16 Hazardous waste containers (see N.J.A.C. 7:26G);

5. 17 Dry hazardous waste (see N.J.A.C. 7:26G);

6. 18 Dry nonhazardous chemical waste (see 27, Dry industrial waste);

7. 19 Junked autos (see 13, Bulky waste);
8. 20 Tires (see 13, Bulky waste);
9. 21 Dead animals (see 25, Animal and food processing waste);
10. 22 Leaves and chopped tree wastes (see 23, Vegetative waste);
11. 24 Tree stumps (see 13, Bulky waste);
12. 26 Oil spill cleanup wastes (see 27, Dry industrial waste and N.J.A.C. 7:26-8);
13. 28 Infectious waste (see N.J.A.C. 7:26-1.4 and the requirements established by the New Jersey Department of Health);
14. 70 Waste oil and sludges (see N.J.A.C. 7:26-8);
15. 71 Semisolid waste oils and sludge (see N.J.A.C. 7:26-8);
16. 75 Pesticide liquids (see 72 Bulk liquid and semi liquids and N.J.A.C. 7:26G);
17. 76 Liquid hazardous waste (see N.J.A.C. 7:26G);
18. 77 Liquid chemical waste (see N.J.A.C. 7:26G);

(j) Solid waste shall be identified at the point of generation. For waste received at a transfer station or materials recovery facility, the transfer station is not the point of generation. Solid waste which is received by a transfer station or materials recovery facility shall retain the ID type identified in the O and D form. The type of solid waste shall not change due to the removal of recyclable materials or the processing of solid waste.

(k) For all waste disposed of within or leaving the district for further transfer, materials recovery or disposal (either in-State or out-of-State), each waste district shall record at a minimum the following information: district of waste origin; the identity of the transfer facility (if applicable); the identity of the final destination facility; the tonnage or cubic yards of waste; the waste type; and the tonnage or cubic yards of any material recycled. This information shall be compiled on forms provided by the Department (or duplication of same) into monthly summaries, which shall be retained for a period of one year or longer in the event of an unresolved enforcement action. Each district shall compile the monthly summaries into an annual report on a form provided by the Department which is to be submitted to the Division of Solid and Hazardous Waste, Bureau of Recycling and Planning, no later than February 1 of the following year. If a district chooses to impose an in-district weighing requirement consistent with N.J.A.C. 7:26-6.10(b)2, to institute a mechanism to ensure the payment of outstanding debt and other financial obligations, the district may gather this information through in-district weighing, but only for the period set forth in N.J.A.C. 7:26-6.10(b)2. Districts which do not conduct in-district weighing shall develop an alternate recordkeeping method to ensure that accurate

information is collected on a monthly basis as set forth above.

(l) The operator of a designated district weighing facility shall ensure that all weighing is conducted in a manner that facilitates proper operation and minimizes systems interruptions.

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

See: 8 N.J.R. 374(d), 8 N.J.R. 509(a).

Amended by R.1978 d.72, effective February 27, 1978.

See: 9 N.J.R. 459(d), 10 N.J.R. 146(a).

Amended by R.1983 d.192, effective June 6, 1983.

See: 14 N.J.R. 883(a), 15 N.J.R. 894(c).

(a)5 and new (c) added; existing (c)-(e) recodified (d)-(f).

Amended by R.1983 d.570, effective December 5, 1983.

See: 15 N.J.R. 660(a), 15 N.J.R. 2040(b).

(d)-(f) Substantially amended.

Emergency Amendment, R.1984 d.148, effective April 2, 1984.

See: 16 N.J.R. 930(a).

(a)6 and new (c) and (d) added, existing (c)-(f) redesigned (e)-(h); inspection by local health department added to (b), monthly summary submittal deleted.

Adopted concurrent proposal, R.1984 d.231, filed June 4, 1984.

See: 16 N.J.R. 930(a), 16 N.J.R. 1497(a).

Provisions of emergency amendment R.1984 d.148 readopted with technical and substantive changes, requiring solid waste transporters to provide landfill operators with documentation of origin and contents of waste load.

Amended by R.1985 d.65, effective February 19, 1985.

See: 16 N.J.R. 440(a), 17 N.J.R. 446(a).

(a)7 added.

Correction: Added text in (a) "resource recovery facilities and transfer stations".

See: 18 N.J.R. 983(a).

Amended by R.1988 d.73, effective February 16, 1988.

See: 19 N.J.R. 171(a), 20 N.J.R. 393(a).

Section title was Sanitary landfills, resource recovery facilities and transfer stations; records.

In (a), the above was repealed and "Each solid waste facility permittee" was substituted.

Correction: Added text to (g)1vi "oil spill cleanup waste, dry nonhazardous pesticides, dry nonhazardous".

See: 20 N.J.R. 1958(b).

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

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

Added text to (g)1 in "Also included are . . .".

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.1989 d.216, effective April 17, 1989.

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

Added tonnage as an available description for the capacity of a solid waste vehicle; replaced vehicles with solid waste vehicle and changed 15th to 20th day of month for submitting daily records; changed address.

Public Notice: Notice of receipt of petition for rulemaking.

See: 23 N.J.R. 2187(c).

Action on Petition for Rulemaking: Amend Type 27 waste and amend certain classes of waste from interdistrict and intradistrict waste flow orders.

See: 23 N.J.R. 2428(b).

Amended by R.1993 d.27, effective January 4, 1993.

See: 24 N.J.R. 1995(a), 25 N.J.R. 92(a).

Revised the description of dry industrial waste, ID 27, to specifically state that the residue from the operations of a scrap metal shredding facility is included within this class of solid waste.

Amended by R.1993 d.508, effective October 18, 1993.

See: 24 N.J.R. 3286(c), 25 N.J.R. 4763(a).

Emergency Amendment R.1996 d.114, effective January 26, 1996 (operative January 29, 1996, to expire March 26, 1996).

See: 28 N.J.R. 1305(a).

Adopted concurrent proposal, R.1996 d.202, effective March 26, 1996.

See: 28 N.J.R. 1305(a), 28 N.J.R. 2380(a).

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)2, added reference to solid waste decal number; in (a)7 and (e), amended Department and Division references; and added (g)viii and (g)ix.

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 (a)3ii; recodified existing (a)3iii and (a)3iv as (a)3ii and (a)3iii; rewrote (a)8; deleted (c)6; deleted (e)1vi through (e)1viii and (e)2; and added (k) and (l). Readopted provisions of Emergency Amendment R.1997 d.404 with changes effective December 1, 1997.

#### Law Review and Journal Commentaries

Environmental Law—Administrative Procedure—Solid Waste. P.R. Chenoweth, 134 N.J.L.J. No. 13, 54 (1993).

Relief from Exorbitant Garbage Disposal Costs. Sandra T. Ayres, 138 N.J.L.J. No. 8, S22 (1994).

#### Case Notes

Solid waste collector violated site-specific waste flow directives and interim relief orders; certificate of public convenience and necessity revoked and penalties assessed. Board of Regulatory Commissioners v. Jersey Carting, Inc., 93 N.J.A.R.2d (EPE) 56.

#### 7:26-2.14 Solid waste facility performance partnership agreements

(a) Any thermal destruction facility, sanitary landfill, materials recovery facility, transfer station, municipal solid waste composting or co-composting facility processing greater than 100 tons per day may negotiate a 15-year solid waste facility performance partnership agreement (SWFPPA) with the Department.

##### 1. The eligibility requirements for a SWFPPA follow:

i. The solid waste facility shall have obtained all applicable permits and licenses required by the Department and shall have been in operation for at least one year;

ii. The solid waste facility shall be in substantial compliance with all permit conditions; and

iii. The solid waste facility shall not have a history of substantial noncompliance with environmental obligations as defined in (r) below.

2. The Department shall convene an informational meeting at least annually with the owners and/or operators of the facilities listed in (a) above to outline the SWFPPA planning process.

(b) The SWFPPA shall include the following:

1. A discussion of the operating conditions and requirements in the facility's existing permit, their associated environmental and/or agricultural impacts and the potential to improve operating conditions over those required by the permit. This discussion shall, at a minimum, address:

- i. Facility storage requirements;
- ii. Litter control;
- iii. Fugitive dust controls;
- iv. Odor controls;
- v. Noise controls;
- vi. Equipment and facility on-line availability;
- vii. On-site vehicle routing and traffic; and
- viii. Off-site vehicle routing;

2. A discussion of the long-term environmental goals and milestones selected by the applicant for inclusion in the SWFPPA. The applicant shall select those goals and milestones which will reduce the existing environmental and operational impacts of the facility, emissions and discharges from the facility and achieve Federal, State or solid waste management district pollution prevention goals. The applicant shall select from the goals and milestones listed below and/or propose alternative goals and milestones:

i. An accounting of the inputs and outputs of materials at the facility, including estimates of the quantities of raw materials used and wastes generated at each source;

ii. Baselines to be utilized to measure progress towards achieving the goals and milestones established in the SWFPPA;

iii. Methods to increase the recovery of materials from solid waste through the addition of manual or mechanical materials recovery systems in furtherance of State and solid waste management district recycling goals;

iv. Methods to reduce levels of discarded products containing heavy metals, particularly those containing cadmium, lead and mercury from the solid waste disposal stream. This reduction shall be based on a materials balance for the facility;

v. Methods to reduce levels of discarded products containing volatile organic compounds from the solid waste disposal stream. This reduction shall be based on a materials balance for the facility;

vi. Methods to reduce energy usage by the facility, including both the facility equipment usage and vehicle transportation. This reduction shall be based on an energy balance for the facility and vehicle transportation;

- vii. Methods to eliminate or reduce levels of hazardous substances used by facility through material or product substitution or other means;
  - viii. Methods to reduce the quantity of household hazardous waste, small quantity generator waste and/or universal waste disposed of by the solid waste facility;
  - ix. Formulation of a landfill mining plan to extract valuable resources for recycling, reduce the size of the landfill footprint, reclaim additional disposal capacity or otherwise improve resource management;
  - x. Methods to reduce the likelihood of accidental spills or releases of hazardous substances;
  - xi. Methods to reduce the level of the facility's process residue and/or the development of programs to more effectively treat or use residue as a product;
  - xii. Methods to reduce water usage by the facility;
  - xiii. Methods to reduce wastewater discharges by the facility; and
  - xiv. Methods to reduce direct and/or fugitive air emissions from the facility;
3. A schedule for improving operational conditions identified pursuant to (b)1 above and specific methodologies for effecting the improvements;
4. A schedule for achieving the goals and milestones established pursuant to (b)2 above;
5. A discussion of the policies and procedures established to create a compliance assurance program, including:
- i. Internal inspection schedules to ensure that all site conditions and operations are in compliance with internal assurance policies and standard operating procedures and environmental obligations;
  - ii. Procedures for correcting actual noncompliance observed during inspections; and
  - iii. Procedures for reporting noncompliance to the appropriate facility official and tracking corrective actions;
6. A discussion explaining the facility specific data and information and direct measurement utilized to develop the goals and milestones established pursuant to (b)2 above. This discussion may also include information based on reasonable calculations and estimates from the best available data and/or experience and judgment; and
7. The SWFPPA shall be developed for a 15 year period, with major goals and milestones scheduled to be reviewed on a five-year basis in accordance with the procedure established at (l) below.
- (c) At least one year prior to the submission of a draft SWFPPA pursuant to (d) below, the SWF permittee and representatives from the Department shall meet to develop the long-term environmental goals and milestones of the specific SWFPPA and the timeframe for submission.
- (d) The SWF permittee shall submit a draft SWFPPA to the Department for review to determine consistency with the statewide solid waste management plan adopted pursuant to N.J.S.A. 13:1E-6 in effect at the time of the submission, and the requirements of (b) above.
- 1. The Department shall provide comments, in writing, on the draft SWFPPA to the SWF permittee within 90 days of receipt.
  - 2. The SWF permittee may amend the draft SWFPPA accordingly and/or negotiate any contested issue(s) with the Department to reach a consensus.
  - 3. The SWF permittee shall submit the final SWFPPA reflecting the consensus reached by the SWF permittee and the Department, for execution by the Department.
- (e) The Department's review shall be coordinated with the appropriate solid waste management district to ensure that the SWFPPA is consistent with existing or established goals for pollution prevention established in the appropriate district solid waste management plan.
- (f) Upon joint execution of the SWFPPA, the SWF permittee and the Department shall agree to the following:
- 1. The SWFPPA shall replace the SWF permit renewal process and requirements set forth at N.J.A.C. 7:26-2.7 and the duration of the SWF permit shall be that established for the SWFPPA unless the SWF permittee is disqualified pursuant to (p) below.
  - 2. The SWFPPA shall replace the SWF compliance monitoring schedule established pursuant to N.J.A.C. 7:26-4. The compliance monitoring schedule in the SWFPPA shall be based on the goals and milestones established in accordance with (b) above and satisfaction of the criteria in (f)3i through iii below.