

## RECYCLING RULES

**CHAPTER 26A**  
**RECYCLING RULES**

**Authority**

N.J.S.A. 13:1E-1 et seq., specifically N.J.S.A. 13:1E-6, 13:1E-99.11 et seq., 13:1E-99.35 and 13:1E-99.36.

**Source and Effective Date**

R.1996 d.577, effective November 18, 1996.  
See: 28 N.J.R. 2240(a), 28 N.J.R. 5360(a).

**Executive Order No. 66(1978) Expiration Date**

Chapter 26A, Recycling Rules, expires on November 18, 2001.

**Chapter Historical Note**

Chapter 26A, Recycling Rules, was adopted as R.1991 d.529, effective November 18, 1991. See: 22 N.J.R. 3088(a), 23 N.J.R. 3452(a). Subchapter 6, Used Motor Oil, was adopted as R.1993 d.342, effective July 6, 1993. See: 24 N.J.R. 2382(a), 25 N.J.R. 2863(a).

Pursuant to Executive Order No. 66(1978), Chapter 26A, Recycling Rules, was readopted as R.1996 d.577, effective November 18, 1996. See: Source and Effective Date. As part of R.1996 d.577, the heading of Subchapter 2, Annual Fees for a General or Limited Approval to Operate a Recycling Center For Class B Recyclable Material, was changed to Annual Fees for a General or Limited Approval to Operate a Recycling Center For Class B, Class C and Class D Recyclable Material; the heading of Subchapter 3, Approval of Recycling Centers For Class B Recyclable Materials, was changed to Approval of Recycling Centers For Class B, Class C and Class D Recyclable Materials; the heading of Subchapter 4, Operational Standards and General Rules For Recycling Centers Which Receive, Store, Process or Transfer Class A and Class B Recyclable Material; Right of Entry and Inspection, was changed to Operational Standards and General Rules For Recycling Centers Which Receive, Store, Process or Transfer Class A, Class B, Class C and Class D Recyclable Material; Right of Entry and Inspection; Subchapter 6, Used Motor Oil, was repealed, and Subchapter 6, Standards For the Management of Used Oil, was adopted as new rules; and Subchapter 7, Standards For the Management of Class D Universal Waste, was adopted as new rules, effective December 16, 1996. See, also, section annotations.

N.J.A.C. 7:26A-1.3, 3.1, and 4.1 were amended by Emergency Adoption R.1997 d.404, effective September 2, 1997 (to expire November 1, 1997), with the amendments to become operative upon final disposition of *Atlantic Coast Demolition and Recycling, Inc. v. Board of Chosen Freeholders of Atlantic County*. See: 29 N.J.R. 4170(a). The provisions of R.1997 d.404 were readopted by R.1997 d.510, effective October 31, 1997, with changes upon adoption effective December 1, 1997. The concurrent amendments to N.J.A.C. 7:26A-1.3, 3.1, and 4.1 became operative on November 10, 1997, the date of final disposition (denial of certiorari by the United States Supreme Court) of *Atlantic Coast Demolition and Recycling, Inc. v. Board of Chosen Freeholders of Atlantic County*. All changes upon adoption became operative on December 1, 1997. See: 29 N.J.R. 5084(a).

**Law Reviews and Journal Commentaries**

Counties scramble to meet U.S. Court's trash mandate. Cheryl Winokur, 150 N.J.L.J. 609 (1997).

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**SUBCHAPTER 1. GENERAL PROVISIONS**

**7:26A-1.1 Scope and authority**

(a) Unless otherwise provided by rule or statute, this chapter shall constitute the rules of the Department governing the operation of recycling centers pursuant to the Solid Waste Management Act, N.J.S.A. 13:1E-1 et seq., particularly the New Jersey Statewide Mandatory Source Separation and Recycling Act, N.J.S.A. 13:1E-99.11 et seq.

(b) This chapter shall not apply to hazardous waste, except for universal waste exempted from hazardous waste regulation as provided at N.J.A.C. 7:26A-7.

(c) The use or reuse of material that would otherwise become solid waste pursuant to N.J.A.C. 7:26 as fill material, aggregate substitute, fuel substitute, or landfill cover which in some cases may be recycling, are reviewed and approved in accordance with N.J.A.C. 7:26-1.7(g).

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.577, effective December 16, 1996.  
See: 28 N.J.R. 2240(a), 28 N.J.R. 5360(a).

In (b), deleted N.J.A.C. references and inserted exception; added (c).

**7:26A-1.2 Construction and severability**

(a) This chapter shall be liberally construed to permit the Department to effectuate the purposes of the Solid Waste Management Act, N.J.S.A. 13:1E-1 et seq.

(b) If any subchapter, section, subsection, provision, clause, or portion of this chapter, or the application thereof to any person, is adjudged unconstitutional or invalid by a court of competent jurisdiction, such judgment shall be confined in its operation to the subchapter, section, subsection, provision, clause, portion, or application directly involved in the controversy in which such judgment shall have been rendered and it shall not affect or impair the remainder of this chapter or the application thereof to other persons.

(c) The Department may amend, repeal or rescind this chapter as necessary and in conformance with the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq.

**7:26A-1.3 Definitions**

The following words and terms, when used in this chapter, shall have the meanings set forth below. All terms which are used in this chapter and which are not defined herein but which are defined in N.J.A.C. 7:26 shall have the same meanings as in that subchapter.

“Aboveground tank” means a tank used to store or process used oil that is not an underground storage tank as defined in 40 C.F.R. 280.12 or N.J.A.C. 7:14B.

“Act” means the New Jersey Statewide Mandatory Source Separation and Recycling Act, N.J.S.A. 13:1E-99.11 et seq.

“Applicant” means any person seeking a general or limited approval to operate a recycling center.

“Battery” means a device consisting of one or more electrically connected electrochemical cells which is designed to receive, store, and deliver electric energy. An electrochemical cell is a system consisting of an anode, cathode, and an electrolyte, plus such connections (electrical and mechanical) as may be needed to allow the cell to deliver or receive electrical energy. The term battery also includes an intact, unbroken battery from which the electrolyte has been removed.

“Beneficial use” means the use or reuse of a material, which would otherwise become solid waste, as landfill cover, aggregate substitute, fuel substitute or fill material or the use or reuse in a manufacturing process to make a product

or as an effective substitute for a commercial product. Beneficial use of a material shall not constitute recycling or disposal.

17. The transportation of universal waste and the transportation for recycling of other source separated Class D recyclable materials, except for used oil managed by universal waste transporters, provided the transportation is in compliance with the standards for transportation of universal waste as set forth at N.J.A.C. 7:26A-7.4.

(b) The general requirements applicable to all exemptions set out in (a) above are as follows:

1. The receipt, storage, processing or transfer of recyclable material shall be conducted in a manner consistent with the protection of public health, safety and the environment in light of the nature, scale and location of the exempted activity;

2. All persons operating pursuant to an exemption in (a) above shall ensure that the receipt, storage, processing or transfer of materials pursuant to the exemption is conducted in a manner which minimizes degradation of existing transportation patterns, ambient acoustical conditions, drainage and soils characteristics, surface and ground water quality, wetlands, applicable Federal, State or local land uses including the Pinelands and agricultural development areas, dedicated recreational or open space areas, floodways and endangered or threatened wildlife and vegetation, consistent with applicable municipal, county, State and Federal law and regulations;

3. Activities exempted pursuant to this section which exceed or violate the criteria for exemptions specified in (a) above and of this subsection, or which are conducted in a manner which endangers the public health, welfare and safety or the environment, or which are in violation of Federal, State or local law, shall be subject to regulation as a recycling center pursuant to this chapter or subject to the solid waste rules pursuant to N.J.A.C. 7:26;

4. With the exception of the exempted activities set forth at (a)5, 7, and 8 above, tonnage reports shall be submitted in accordance with N.J.A.C. 7:26A-4.4(c);

5. All persons operating pursuant to an exemption in (a) above except for small quantity handlers of universal waste operating pursuant to N.J.A.C. 7:26A-7.2 shall provide a written notice of such operation to the New Jersey Department of Environmental Protection, Division of Solid and Hazardous Waste, Permitting Element, CN 414, Trenton, New Jersey 08626-0414, the host municipality, and host county prior to the commencement of operations.

i. Any person submitting a written notice of an exempt operation shall make the following certification:

"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 further certify that the operation described herein satis-

fies the criteria for exemption as set forth in N.J.A.C. 7:26A-1.4. 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 termination of any exemption."

ii. The certification shall be signed as follows:

(1) For a corporation, by a principal executive officer of at least the level of vice president;

(2) For a partnership or sole proprietorship, by a general partner or the proprietor, respectively; or

(3) For a municipality, State, Federal or other public agency, by either a principal executive officer or ranking elected official; and

iii. The certification shall be signed by a person described in (b)5ii above or by a duly authorized representative of that person. A person is a duly authorized representative only if:

(1) The authorization is made in writing by a person described in (b)5ii above;

(2) The authorization specifies either an individual or a position having responsibility for the overall operation of the operation or activity, such as the position of plant manager, or positions of equivalent responsibility; and

(3) The written authorization is submitted to the Department.

6. Exemption from the requirement of a general or limited approval pursuant to (a) above shall not constitute an exemption from applicable county or municipal laws or regulations.

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

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

Substantially amended section.

**7:26A-1.5 Burden of proof**

(a) In an enforcement action, or on specific request of the Department, persons claiming that they qualify for any exclusion or exemption in this chapter or that they are not otherwise subject to the rules in this chapter shall demonstrate and appropriately document that they satisfy all terms of the law releasing them from the requirements of this chapter.

(b) In an enforcement action, or on specific request of the Department, persons claiming that a certain material is not a recyclable material shall demonstrate and appropriately document that the material is not recyclable and that there is an approved alternate use for the material.

New Rule, R.1996 d.577, effective December 16, 1996.

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

**SUBCHAPTER 2. ANNUAL FEES FOR A  
GENERAL OR LIMITED APPROVAL TO  
OPERATE A RECYCLING CENTER FOR  
CLASS B, CLASS C AND CLASS D  
RECYCLABLE MATERIAL**

**7:26A-2.1 Fees for general or limited approval**

(a) The following apply to the application fee for general or limited approval:

1. All applicants for a general approval to operate a recycling center for Class B recyclable material shall submit an application fee of \$5,892 at the time of application.

i. The application fee for general approval will cover the Department's costs of conducting county and Statewide recycling plan consistency reviews, reviewing information submitted in accordance with N.J.A.C. 7:26A-3.2(a), 3.4 and 3.8, preparing letters of administrative completeness and incompleteness, advising applicants on technical deficiencies, and preparing approval and denial letters in accordance with N.J.A.C. 7:26A-3.5.

2. All applicants for a limited approval to operate a recycling center for Class B recyclable material shall submit an application fee of \$2,000 at the time of application.

i. The application fee for limited approval will cover the Department's costs of conducting municipal law consistency reviews, reviewing information submitted in accordance with N.J.A.C. 7:26A-3.4, 3.7 and 3.8, preparing letters of administrative completeness and incompleteness, advising applicants on technical deficiencies and preparing approval and denial letters in accordance with N.J.A.C. 7:26A-3.5.

3. All applicants for a general approval to operate a recycling center for Class C recyclable material shall submit an application fee of \$5,976 at the time of application.

i. The application fee for general approval will cover the Department's costs of conducting county and Statewide recycling plan consistency reviews, reviewing information submitted in accordance with N.J.A.C. 7:26A-3.2(a), 3.4, 3.8 and 3.19, preparing letters of administrative completeness and incompleteness, advising applicants on technical deficiencies, and preparing approval and denial letters in accordance with N.J.A.C. 7:26A-3.5.

4. All applicants for a general approval to operate a recycling center for Class D recyclable material shall submit an application fee of \$13,367 at the time of application.

i. The application fee for general approval will cover the Department's costs of conducting county and statewide recycling plan consistency reviews, reviewing information submitted in accordance with N.J.A.C. 7:26A-3.2(a), 3.4 and 3.19, preparing letters of administrative completeness and incompleteness, advising applicants on technical deficiencies, and preparing approval and denial letters in accordance with N.J.A.C. 7:26A-3.5.

(b) The following apply to the annual fee for general approval and the monthly fee for limited approval:

1. All persons who possess a general approval to operate a recycling center for Class B recyclable material shall be billed an annual fee of \$6,067 on May 1 for each fiscal year beginning on July 1 and ending on June 30. The fee is payable within 30 days of billing. For newly approved recycling centers, the first annual fee is due on the first May 1 immediately following the issuance of the general approval.

i. The annual fee for general approval will cover the Department's costs of reviewing modification submittals and issuing letters of approval or denial for modifications, advising recycling center owners or operators on technical compliance matters, facility compliance inspections, conducting market research, analysis and development activities, review and analysis of annual report data and other technical analyses required to implement the recycling program.

2. All persons who possess a limited approval to operate a recycling center for Class B recyclable material shall submit a fee of \$250.00 per month for each month of operation authorized by the limited approval. The fee for the total number of months of authorized operation is due 15 days from the date of issuance of the limited approval.

i. The monthly fee for limited approval will cover the Department's costs of reviewing modification submittals and issuing letters of approval or denial for modifications, advising recycling center owners or operators on technical compliance matters, facility compliance inspections, conducting market analysis and development activities, review and analysis of final report data and other technical analyses required to implement the recycling program.

3. All persons who possess a general approval to operate a recycling center for Class C recyclable material shall be billed an annual fee of \$3,763 on May 1 for each fiscal year beginning on July 1 and ending on June 30. The fee is payable within 30 days of billing. For newly approved recycling centers, the first annual fee is due on the first May 1 immediately following the issuance of the general approval.

i. The annual fee for general approval will cover the Department's costs of reviewing modification submittals and issuing letters of approval or denial for modifications, advising recycling center owners or operators on technical compliance matters, facility compliance inspections, conducting market research, analysis and development activities, review and analysis of annual report data and other technical analyses required to implement the recycling program.

4. All persons who possess a general approval to operate a recycling center for Class D recyclable material shall be billed an annual fee of \$8,005 on May 1 for each fiscal year beginning on July 1 and ending on June 30. The fee is payable within 30 days of billing. For newly approved recycling centers, the first annual fee is due on the first May 1 immediately following the issuance of the general approval.

i. The annual fee for general approval will cover the Department's costs of reviewing modification submittals and issuing letters of approval or denial for modifications, advising recycling center owners or operators on technical compliance matters, facility compliance inspections, conducting market research, analysis and development activities, review and analysis of annual report data and other technical analyses required to implement the recycling programs.

(c) All fees in (a) and (b) above may be adjusted annually in accordance with N.J.A.C. 7:26A-2.2.

Amended by R.1995 d.205, effective April 17, 1995.  
See: 26 N.J.R. 3922(a), 27 N.J.R. 1576(b).  
Amended by R.1996 d.577, effective December 16, 1996.  
See: 28 N.J.R. 2240(a), 28 N.J.R. 5360(a).

Raised fees throughout; inserted (a)3 and (a)4; in (b)1, inserted payable in 30 days provision and amended activities covered by fee; in (b)2, changed fee due date and amended activities covered by fee; inserted (b)3 and (b)4; in (c), deleted text relating to period which fee is applicable.

**7:26A-2.2 Adjustment of fees**

(a) The Department may adjust the fees for each activity provided in N.J.A.C. 7:26A-2.1 annually, based upon the following formula:

$$\text{Fee} = (\text{hours required}) \times (\text{hourly rate})$$

where "hours required" and "hourly rate" are as set forth in the Recycling Center Fee Report provided in (b) below.

(b) When the Department adjusts any fees for recycling centers, the Department will prepare a Recycling Center Fee Report. The report will include the following:

1. A statement of the hours required to perform each type of activity for which fees are assessed under N.J.A.C. 7:26A-2.1. The statement will be based upon the Department's timekeeping records for a period of at least nine months, ending no more than six months before the

completion of the report, subject to the adjustments provided in (b)1i and ii below.

i. If the Department determines that it has not performed an activity a sufficient number of times within the one-year period to provide data sufficient to reliably determine the hours required to perform the activity, the Department may supplement data from that period with data collected in previous years.

ii. With respect to activities to be performed more than once in the period covered by the fee (such as several compliance monitoring inspections to be performed in a one-year period), the data upon which the report is based may show a decrease in the amount of time required to perform an activity, all or part of which decrease results from a lack of Department staff sufficient to perform the activity the expected number of times within the period. In such event, the Department may maintain the fee at the level required to defray the cost of staff sufficient to perform the activity the expected number of times within the period; and

2. A statement of the hourly rate for calculating fees. The hourly rate is the average cost of one hour of Department staff time, calculated according to the following formula:

$$\frac{(\text{AS} + \text{FB} + \text{IC} + \text{OE} + \text{LS})}{\text{BH}}$$

where:

i. AS equals the average salary of a full-time employee working in the Department's recycling center approval program;

ii. FB equals the fringe benefits of a full-time employee working in the Department's recycling center approval program, calculated as a Department of Treasury set percentage times the average salary, and is based upon costs associated with pensions, health benefits, workers' compensation, disability benefits, unused sick leave, and the employer's share of FICA;

iii. IC equals indirect costs attributable to a full-time employee working in the Department's recycling center approval program, calculated at the rate negotiated annually between the Department and the United States Environmental Protection Agency times the total of the average salary plus fringe benefits;

iv. OE equals normal operating expenses (including without limitation postage, telephone, travel, supplies and data system management) attributable to a full-time employee working in the Department's recycling center approval program;

v. LS equals the budgeted annual cost of legal services rendered by the Department of Law and Public Safety, Division of Law, in connection with the Department's recycling center activities, divided by the total

number of Department employee positions which the Department projects will be funded by the revised fee schedule; and

vi. BH equals the average number of hours which each Department employee working in the Department's recycling program spends annually performing activities for which fees are to be assessed under N.J.A.C. 7:26A-2.1(a)4 and (a)5.

(c) Promptly after completing the report described in (b) above, the Department will provide a copy of the report to each person required to have paid a fee under N.J.A.C. 7:26A-2.1 within the one-year period covered by the report.

(d) Promptly after completing the report described in (b) above, the Department will publish a notice in the New Jersey Register stating that the report is available, and directing interested persons to contact the Department for a copy of the report. The Department will provide a copy of the report to each person requesting a copy.

Amended by R.1996 d.577, effective December 16, 1996.  
See: 28 N.J.R. 2240(a), 28 N.J.R. 5360(a).

Amended name of report throughout; in (a), substituted "may" for "will"; and in (b), report was required annually.

### 7:26A-2.3 Payment of fees

Payment of all fees shall be made by check or money order, payable to "Treasurer, State of New Jersey" and shall be submitted to:

New Jersey Department of Environmental Protection  
Bureau of Revenue  
CN 420  
Trenton, New Jersey 08625-0420

Amended by R.1996 d.577, effective December 16, 1996.  
See: 28 N.J.R. 2240(a), 28 N.J.R. 5360(a).

## SUBCHAPTER 3. APPROVAL OF RECYCLING CENTERS FOR CLASS B, CLASS C OR CLASS D RECYCLABLE MATERIALS

Law Review and Journal Commentaries  
Hazardous Wastes. Steven P. Bann, 135 N.J.L.J. 66 (1993).

### 7:26A-3.1 General requirements applicable to all recycling centers which receive, store, process or transfer Class B, Class C or Class D recyclable material

(a) No recycling center shall receive, store, process or transfer any Class B, Class C or Class D recyclable material without the prior written approval of the Department. The procedures for obtaining approval are set forth at N.J.A.C. 7:26A-3.2, 3.4, 3.5, 3.7, 3.8, and 3.18 through 3.20. All persons issued a general or limited approval to operate a recycling center for Class B, Class C and/or Class D recyclable material pursuant to this subchapter shall comply with all conditions of the approval.

(b) Any person who operates a recycling center for the receipt, storage, processing or transfer of Class B, Class C or Class D, recyclable material without the prior written approval of the Department shall be considered to be operating an unlicensed solid waste facility and shall be subject to penalties as set forth in N.J.S.A. 13:1E-9 and N.J.A.C. 7:26-5 in addition to penalties which may be assessed by other regulatory agencies pursuant to their authority. That person may also be subject to penalties for violations of any other Department rules and the statutes under which such rules are promulgated.

(c) Any facility which received written Departmental approval to receive, store, process or transfer any source separated Class B recyclable materials prior to November 18, 1991 may continue to do so if all other requirements of the Solid Waste Management Act, N.J.S.A. 13:1E-1 et seq. and this chapter have been met.

(d) Prior to filing an application with the Department for recycling center general approval, and concurrent with or subsequent to filing for inclusion in the applicable district Solid Waste Management Plan, the applicant shall publish a notice in a newspaper of general circulation within the host municipality which indicates that the applicant will apply to the county for inclusion of a recycling center in the solid waste management plan of the district in which the recycling center is located and will apply to the Department for recycling center approval. The notice shall include the following:

1. The name of the proposed recycling center, the name of the owner or operator of the proposed recycling center and the nature of the project;
2. The generally recognized address of the proposed recycling center, as well as the block and lot of the proposed recycling center;
3. An indication that a copy of the application for county plan inclusion may be examined at the office of the solid waste or recycling coordinator of the county in which the recycling center is located or at the applicable municipal clerk's office; and
4. An indication that comments regarding the application for county plan inclusion can be made at the public hearing which shall be held by the board of chosen freeholders, submitted to the county clerk's office or submitted to the office of the solid waste or recycling coordinator of the county in which the recycling center is located.

(e) The notice shall be published two times by the applicant with the second publication being no less than 15 days prior to the public hearing held by the applicable board of chosen freeholders. The applicant shall forward a copy of the notice to the New Jersey Department of Environmental Protection, Division of Solid and Hazardous Waste, and to the municipality in which the recycling center will be operating, upon its publication.

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.

**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. 7:1E, Appendix C. 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 transferring 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 information 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  
 CN 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.

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; 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).

**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.

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-3.5 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, and 3.18 through 3.20 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”).

4. Upon receipt of the Addendum, the Department shall review the Addendum to determine administrative completeness in accordance with this subsection.

(b) Within 90 days of issuance of the letter of administrative completeness, the Department will issue a general approval to operate a recycling center for a period not to exceed five years where the Department determines the following:

1. That the application meets the criteria for a general approval of N.J.A.C. 7:26A-3; and
2. That the applicant fails to meet any of the criteria for denial or revocation of a general approval set forth at N.J.A.C. 7:26A-3.11 and 3.12.

(c) Within 90 days of the issuance of the letter of administrative completeness, the Department will issue a letter of denial of the application to operate a recycling center where the Department determines the following:

1. That the application fails to meet the criteria for a general approval of N.J.A.C. 7:26A-3; or
2. That the applicant meets any of the criteria for denial or revocation of a general approval set forth at N.J.A.C. 7:26A-3.11 and 3.12.

(d) No recycling center shall receive Class B, Class C or Class D recyclable materials and commence operation until it has received written approval from the Department, unless operating pursuant to an exemption as set forth at N.J.A.C. 7:26A-1.4.

(e) The general approval will accomplish the following:

1. Authorize the receipt, storage, processing or transferring of Class B, Class C or Class D recyclable materials at the recycling center;
2. Indicate the conditions of operation which shall be met by the recycling center owner or operator prior to the receipt, storage, processing or transfer of the source-separated recyclable materials approved to be received, stored, processed or transferred at the recycling center; and
3. Indicate the limitations on recycling center operation, including, but not limited to:
  - i. Limitation on the amount of contaminants which may be present in any truckload of source-separated recyclable materials received at the recycling center;
  - ii. Limitation on the amount of residue which may be produced as a result of receiving, storing, processing or transferring source-separated recyclable materials at the recycling center; and
  - iii. Limitation on the commingling of Class B, Class C or Class D materials at the recycling center.

(f) All recycling centers receiving a general approval to operate a recycling center shall prominently post and maintain a legible sign, at or near the entrance to the recycling center, indicating that it is an approved New Jersey Department of Environmental Protection recycling center. In addition, the sign shall also indicate those items detailed in N.J.A.C. 7:26A-3.2(a)16i and ii.

Amended by R.1996 d.577, effective December 16, 1996.  
See: 28 N.J.R. 2240(a), 28 N.J.R. 5360(a).

In (a), inserted additional N.J.A.C. references and added last sentence; in (a)1, inserted 30 day time limitation; in (a)2, inserted specific information to include in report and added last three sentences; inserted (a)3 and (a)4; and in (e), inserted references to Classes C and D.

**7:26A-3.6 Application for renewal of a general approval to operate a recycling center**

(a) Applications for renewal of general approvals issued pursuant to this subchapter shall be submitted at least three months prior to expiration of the current approval and shall comply with all requirements for renewal set forth in this subchapter. One copy of the application for renewal of a general approval shall be submitted by the applicant to the municipal clerk of the municipality in which the recycling center is located, and to the solid waste or recycling coordinator of the county in which the recycling center is located.

(b) Applicants for renewal of existing general approvals shall certify in writing to the Department that there have been no changes in the operations of the recycling center since the issuance of the general approval in order to renew the approval in its existing form. In the event that there have been changes in the operations of the recycling center or where changes are planned, the application for renewal of a general approval shall be accompanied by a written request to modify the general approval in accordance with N.J.A.C. 7:26A-3.10.

(c) In a case where the person who has received the general approval pursuant to this subchapter does not comply with (a) and (b) above and continues to operate without renewal of its general approval, the Department may take actions which include, but are not limited to, the following:

1. Appropriate enforcement action including the assessment of penalties under N.J.S.A. 13:1E-9; and
2. Require the person who has received the general approval to file an application as a new applicant for a general approval in accordance with N.J.A.C. 7:26A-3.2, 3.4 or 3.8 and pay the annual fee as per N.J.A.C. 7:26A-2.

(d) Within 30 days of receipt of an application for renewal of a recycling center approval, the Department will determine whether the application is administratively complete. An application for renewal is administratively complete where it satisfies the requirements for renewal set forth in this subchapter, including the requirements for modification of a recycling center application set forth in N.J.A.C. 7:26A-3.10, where modifications will be made.

Also, a fee must be submitted in accordance with N.J.A.C. 7:26A-2 for an application to be administratively complete.

1. If a renewal application is deemed administratively complete in accordance with paragraph (d) above, the Department will issue a letter to the applicant indicating the administrative completeness of the application.

2. If a renewal application fails to meet the criteria for administrative completeness in accordance with paragraph (d) above, the Department will advise the applicant that the application is incomplete and will specify in writing what additional information is required for administrative completeness.

(e) Within 60 days of issuance of the letter of administrative completeness, the Department will grant an extension of the approval for a period not to exceed five years where the Department determines the following:

1. That the renewal application meets the criteria of N.J.A.C. 7:26A-3; and

2. That the applicant fails to meet any of the criteria for denial or revocation of a general approval set forth at N.J.A.C. 7:26A-3.11 and 3.12.

(f) Within 60 days of the issuance of the letter of administrative completeness, the Department will issue a letter of denial of the renewal application where the Department determines the following:

1. That the application fails to meet the criteria of N.J.A.C. 7:26A-3; or

2. That the applicant meets any of the criteria for denial or revocation of a general approval set forth at N.J.A.C. 7:26A-3.11 and 3.12.

(g) No recycling center shall receive Class B, Class C or Class D recyclable material and commence operation until it has received written approval from the Department.

(h) All persons granted a renewal pursuant to (d) above shall continue to pay the annual fee as specified in N.J.A.C. 7:26A-2.

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

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

In (g), inserted references to Classes C and D.

**7:26A-3.7 Application procedure for limited approval to operate a recycling center for the receipt, storage, processing or transfer of Class B recyclable material**

(a) A person may operate a recycling center for the receipt, storage, processing or transferring of Class B recyclable materials for a period of time not to exceed 180 days provided that prior approval of the Department has been obtained and a fee has been submitted in accordance with N.J.A.C. 7:26A-2 to the Department. The following information shall be submitted to the Department in order to obtain limited approval:

1. The information required pursuant to N.J.A.C. 7:26A-3.2(a)1, 2, 3, 4, 5, 6, 7, 8, and 9.

2. A written schedule for completion of the recycling operation; and

3. Written evidence that the municipal planning board or board of adjustment has been notified of the submission of the application for the proposed recycling operation and directed to provide any comments on the application to the Department at the address specified in (l) below.

(b) Persons applying to the Department for a limited approval to operate a recycling center for Class B recyclable materials shall notify the applicable county solid waste and recycling coordinator of this application.

(c) The Department may require the issuance of a performance bond or letter of credit for persons granted a limited approval to operate a recycling center in accordance with the criteria of N.J.A.C. 7:26A-3.4(c).

(d) Prior to the issuance of a limited approval to operate a recycling center for Class B 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.

(e) Within 30 days of receipt of an application for a limited approval submitted pursuant to (a) above, the Department will determine whether the application is administratively complete. An application is administratively complete where it satisfies the information submission requirements of (a) through (d) above and where a fee has been submitted in accordance with N.J.A.C. 7:26A-2.

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

2. If an application fails to meet the criteria for administrative completeness in accordance with paragraph (e) above, the Department will advise the applicant that the application is incomplete and will specify in writing what additional information is required for administrative completeness.

(f) Within 30 days of the issuance of the letter of administrative completeness, the Department will issue to the applicant a limited approval to operate a recycling center, valid for a specified period of time, not to exceed 180 days, where the Department determines the following:

1. That the application meets the criteria of N.J.A.C. 7:26A-3; and

2. That the applicant fails to meet any of the criteria for denial or revocation of a limited approval set forth at N.J.A.C. 7:26A-3.11 and 3.12.

**7:26A-3.11 Increase in design capacity at recycling centers for Class B recyclable materials**

(a) An owner or operator seeking approval of an increase in design capacity at an approved recycling center for Class B recyclable materials shall submit a request to the Department, in writing, for the proposed increase and shall submit updated information pursuant to the requirements of N.J.A.C. 7:26-3.2(a), 3.4, or 3.8, as applicable. The owner or operator shall also provide written notice of the request to the solid waste or recycling coordinator of the applicable district.

(b) The Department shall review the request and determine whether additional information is necessary to adequately address issues of public or environmental health, safety or welfare. If such additional information is required, the Department shall so notify the owner or operator in writing within 30 days of receipt of the request for approval. The owner or operator shall submit, in writing, the additional information requested by the Department within 15 days of receipt of the request for additional information.

(c) No later than 60 days following receipt of the request for approval and any additional information submitted pursuant to (b) above, the Department shall deny the request for approval or declare its intent to approve the request and shall so notify the owner or operator in writing.

(d) Within five days of receipt of the Department's notice of intent to approve a request for an increase in design capacity, the owner or operator shall notify the district solid waste or recycling coordinator of its receipt of such notice and shall also publish notice thereof in a newspaper of general circulation in the county where the facility is located.

1. The notice shall be published not less than 30 calendar days prior to the proposed effective date of the Department's approval and shall contain the following:

i. A description of the location by municipality, street address, lot and block number, of the recycling center, the waste types received and the proposed increase in capacity;

ii. A statement justifying the necessity for the increase in design capacity; and

iii. The name and address of the district solid waste or recycling coordinator and the Department to which comments on the request for approval may be submitted.

(e) The proposed increase in design capacity shall become effective within 30 days following the publication of the newspaper notice pursuant to (d) above unless:

1. The Department determines that there is sufficient public interest to necessitate a public hearing; or

2. The district plan implementation agency of the district in which the facility is located passes a resolution expressly challenging the proposed increase in design capacity at the recycling center in question and initiates the solid waste management plan amendment process pursuant to N.J.A.C. 7:26-6.

(f) In the event that a public hearing is required pursuant to (e) above, the Department shall schedule and conduct a public hearing in accordance with the requirements of N.J.A.C. 7:26-6.10(c).

(g) The district plan implementation agency shall approve or deny the request for an increase in design capacity within three months following the public hearing held pursuant to (f) above. In the event the district plan implementation agency fails to take action on a request for an increase in capacity within such three month period, the Department may approve or deny an increase in design capacity in accordance with the provisions of (a) through (c) above.

(h) The Department shall approve any request for an increase in design capacity unless it determines that the increase poses a threat to the environment or public health, safety or welfare.

New Rule, R.1996 d.577, effective December 16, 1996.  
See: 28 N.J.R. 2240(a), 28 N.J.R. 5360(a).  
Former section recodified to N.J.A.C. 7:26A-3.12.

**7:26A-3.12 Criteria for denial of a general or limited approval to operate a recycling center**

(a) The following constitutes the criteria for denial of a general or limited approval and will result in the issuance of a letter of denial of general or limited approval to operate a recycling center:

1. Failure to submit any of the information required pursuant to this subchapter;

2. Failure of a recycling center operating pursuant to a general approval to maintain inclusion in the applicable district solid waste management plan;

3. Failure to correct any deficiencies in information submitted pursuant to this subchapter as determined by the Department, within 45 days of receipt of a letter detailing said deficiencies;

4. Failure to demonstrate that only source separated recyclable materials will be received, stored, processed or transferred at the recycling center; and

5. Failure to submit the appropriate fee required pursuant to N.J.A.C. 7:26A-2.

(b) In addition to the criteria for denial of a general or limited approval set out in (a) above, the Department may also deny a general or limited approval on the basis of the following criteria:

1. The applicant has been denied a license or registration pursuant to N.J.S.A. 13:1E-1 et seq.;
2. The applicant has been denied a certificate of public convenience and necessity pursuant to N.J.S.A. 48:13A-1 et seq.;
3. The applicant has had its registration, license or certificate of public convenience and necessity revoked by the DEP; or
4. The applicant has committed any of the acts which are criteria for approval revocation set forth at N.J.A.C. 7:26A-3.12(a)1 through (a)6.

(c) If the Department denies an application for a general or limited approval to operate a recycling center and bases the denial on a written determination that the facility for which the application was made is a solid waste facility for which a registration statement and engineering design is required pursuant to N.J.S.A. 13:1E-5, the owner or operator of the facility, in any appeal of the Department's denial, shall have the burden to show by a preponderance of the evidence that the facility for which the application was made is not a solid waste facility for which a registration statement and engineering design is required pursuant to N.J.S.A. 13:1E-5.

Recodified from 7:26A-3.11 and amended by R.1996 d.577, effective December 16, 1996.

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

In (a), deleted reference to renewal of general approval; in (a)3, changed filing deadline from 45 days; deleted (a)4; recodified former (a)5 and (a)6 as (a)4 and (a)5; and in (b)3, deleted reference to revocation by Board of Public Utilities. Former section recodified to N.J.A.C. 7:26A-3.13.

#### **7:26A-3.13 Procedures and criteria for revoking a general or limited approval**

(a) The Department may revoke a general or limited approval upon a determination that a person holding a general or limited approval has:

1. Violated any provision of N.J.S.A. 13:1E-1 et seq., the Act, or any rule, regulation or administrative order promulgated pursuant to N.J.S.A. 13:1E-1 et seq. and the Act;
2. Violated any solid waste utility law at N.J.S.A. 48:2-1 et seq. or 48:13A-1 et seq., or any rule, regulation or administrative order promulgated pursuant to N.J.S.A. 48:2-1 et seq. or 48:13A-1 et seq.;
3. Violated any provision of any laws related to pollution of the waters, air or land surfaces of the State or of any other State or Federal environmental laws including criminal laws related to environmental protection;
4. Refused or failed to comply with any lawful order of the Department;
5. Failed to comply with any of the conditions of the general or limited approval issued by the Department;

6. Transferred a general or limited approval to a new owner or operator pursuant to N.J.A.C. 7:26A-3.14 without the prior approval of the Department;

7. Has failed to obtain any required permit or approval from the Department or other State or Federal agency; or

8. Has committed any of the acts which are criteria for denial of a general or limited approval set forth in N.J.A.C. 7:26A-3.11.

(b) The Department will revoke a general or limited approval by providing the holder of an approval with written notice of the action which details the reasons for the action. The Department will also notify the solid waste or recycling coordinator of the county in which the recycling center is located of any revocation of a general approval or the applicable municipal planning board of any revocation of a limited approval.

Recodified from 7:26A-3.12 by R.1996 d.577, effective December 16, 1996.

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

Former section recodified to N.J.A.C. 7:26A-3.14.

#### **7:26A-3.14 Appeal procedure**

(a) An applicant who believes himself or herself to be aggrieved with respect to the following decisions made by the Department may appeal the decision within 20 calendar days after the date of the decision and request an administrative hearing:

1. Denial of a general or limited approval, or any part thereof; or
2. Revocation or modification of a previously issued approval.

(b) Requests for an administrative hearing shall be submitted to:

Office of Legal Affairs  
 ATTENTION: Adjudicatory Hearing Requests  
 Department of Environmental Protection  
 401 East State Street, CN 402  
 Trenton, New Jersey 08625-0402

(c) All requests for an administrative hearing shall be submitted in writing to the Department and shall contain:

1. The name, address and telephone number of the person making the request;
2. A statement of the legal authority and jurisdiction under which the request for a hearing is made;
3. A brief and clear statement of the Department decision being appealed, indicating the specific grounds for the applicant's appeal;

4. A statement of all facts alleged to be at issue and their relevance to the Department decision for which a hearing is requested. Any legal issues associated with the alleged facts at issue must also be included; and

5. All information supporting the request or other written documents relied upon to support the request, unless this information is already in the administrative record (in which case, such information shall be specifically referenced in the request).

(d) A hearing request not received by the Department within 20 calendar days after the date of the Department decision being appealed will be denied by the Department.

(e) If the applicant or interested party fails to include all the information required by (c) above, the Department may deny the hearing request.

(f) Following receipt of a complete request for a hearing pursuant to (c) above, the Department may attempt to informally settle the dispute by conducting such proceedings, meetings and conferences as deemed appropriate.

(g) If the Department determines that the matter is a contested case, the Department will file the request for an administrative hearing with the Office of Administrative Law. Such hearings will be conducted in accordance with the provisions of the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. and N.J.S.A. 52:14F-1 et seq. and the Uniform Administrative Procedure Rules N.J.A.C. 1:1. In making such determination, the Department will evaluate the request to determine whether a contested case exists and whether there are issues of fact which, if assumed to be true, might change the Department's decision. Where only issues of law are raised by a request for a hearing, the request will be denied. Denial by the Department of a request for a contested case hearing shall constitute the final decision of the Department for the purposes of judicial appeal.

Recodified from 7:26A-3.13 and amended by R.1996 d.577, effective December 16, 1996.

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

In (b), changed Department name. Former section recodified to N.J.A.C. 7:26A-3.15.

#### **7:26A-3.15 Transfer of a general or limited approval to operate a recycling center**

(a) A general or limited approval to operate a recycling center shall not be transferred to a new owner or operator without the Department's prior approval.

1. Any transfer of an approval must be pre-approved by the Department, and a written request for permission to allow such transfer must be received by the Depart-

ment at least 60 days in advance of the proposed transfer of ownership or operational control of a recycling center. The request for approval shall include the following:

i. The name, address and social security number of all prospective new owners or operators;

ii. A written certification by the proposed transferee that the terms and conditions contained in the general or limited approval will be met by the proposed transferee; and

iii. A written agreement between the current owner or operator of the recycling center and the proposed new owner or operator containing a specific future date for transfer of ownership or operational control.

2. A new owner or operator may commence operations at the recycling center only after the existing approval has been revoked and a new approval is issued to the new owner or operator pursuant to N.J.A.C. 7:26A-3.5 or 3.7.

3. The owner or operator of record of the approved recycling center remains liable for ensuring compliance with all conditions of the approval unless and until the existing approval is revoked and a new approval is issued to the new owner or operator pursuant to N.J.A.C. 7:26A-3.5 or 3.7.

4. Compliance with the transfer requirements set forth in this subsection shall not relieve the owner or operator of record of the approved recycling center from the separate responsibility of providing notice of such transfer pursuant to the requirements of any other statutory or regulatory provision.

(b) For the purposes of this section, the transfer of a controlling interest in the stock or assets of a recycling center holding a general or limited approval from the Department shall constitute the transfer of a general or limited approval pursuant to (a) above.

(c) One copy of the written request to transfer a general approval shall be submitted by the owner or operator of the recycling center to the applicable solid waste or recycling coordinator of the county in which the recycling center is located. One copy of the written request to transfer a limited approval shall be submitted by the owner or operator of the recycling center to the applicable municipal planning board. The Department shall notify county or municipal officials of determinations concerning the transfer of general or limited approvals.

Recodified from 7:26A-3.14 by R.1996 d.577, effective December 16, 1996.

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

Former section recodified to N.J.A.C. 7:26A-3.16.

**7:26A-3.16 Filing requirements for existing recycling centers which receive, store, process or transfer Class B recyclable material**

(a) Any facility receiving, storing, processing or transferring vegetative food waste and/or yard trimmings under the terms and conditions of a solid waste facility permit or an exemption pursuant to N.J.A.C. 7:26 prior to December 16, 1996 may continue to operate under such terms and conditions until the Department approves or denies the facility owner and/or operator's application for an exemption or general approval. By June 14, 1997,, the Department will assess the information currently on file for each such facility, and will provide the owner and/or operator of each such facility with a written list of additional information required to be submitted to the Department in order to qualify for an exemption pursuant to N.J.A.C. 7:26A-1.4(a)14 or obtain a recycling center approval pursuant to N.J.A.C. 7:26A-3.2(a), 3.4 and 3.18.

(b) Within 180 days of receipt of the Department's assessment pursuant to (a) above, all owners or operators of such facilities shall comply with all applicable criteria and operational standards as set forth in this chapter.

(c) By April 15, 1997, any owner or operator of a leaf mulching activity under an exemption from solid waste facility permitting authorized pursuant to N.J.A.C. 7:26 shall comply with the criteria set forth at N.J.A.C. 7:26A-1.4(a), as well as all other applicable rules of this chapter.

(d) Any facility operating under a solid waste facility permit or an authorized exemption from solid waste facility permitting issued prior to December 16, 1996 may continue to operate until such time as the Department has made a determination regarding its application for a general approval to operate a recycling center for the receipt, storage, processing or transfer of Class C recyclable materials pursuant to the procedures of this subchapter.

(e) A facility operating for the receipt, storage, processing or transfer of Class C recyclable materials, and for which written Departmental approval was issued prior to December 16, 1996 shall not modify its operation unless such modification is approved by the Department pursuant to N.J.A.C. 7:26A-3.10.

Recodified from 7:26A-3.15 and amended by R.1996 d.577, effective December 16, 1996.

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

Substantially amended section. Former section recodified to N.J.A.C. 7:26A-3.17.

**7:26A-3.17 Record keeping and annual report; confidentiality of records**

(a) All recycling centers holding a general approval shall maintain daily records of all materials received, stored, processed or transferred. Said records shall indicate, at a minimum:

1. A daily record of the amounts of each recyclable material by type and municipality of origin which are received, stored, processed or transferred each day, expressed in tons, cubic yards, cubic feet or gallons. Those operators specifying this information in cubic yards shall also indicate the conversion ratio of the materials from cubic yards to tons;

2. The name, address and telephone number of the end-markets for all recyclable materials transported from the recycling center, including the amounts, in tons, cubic yards, cubic feet or gallons, transported to each end-market. Those persons specifying this information in cubic yards shall also indicate the conversion ratio of the materials from cubic yards to tons; and

3. The amount of residue disposed of, expressed in tons, cubic yards, cubic feet or gallons, including the name and New Jersey Department of Environmental Protection solid waste registration number of the solid waste collector/hauler contracted to provide the haulage/disposal service. Those persons specifying the amount of residue in cubic yards shall also indicate the conversion ratio of the residue from cubic yards to tons.

(b) All recycling centers holding a general approval shall retain the information required pursuant to N.J.A.C. 7:26A-3.2(a)16iii for three calendar years following the calendar year for which reporting is required pursuant to (c) and (d) below.

(c) All recycling centers operating pursuant to a general approval shall submit an annual report containing monthly summary statements of the information required pursuant to (a) above to the New Jersey Department of Environmental Protection, Division of Solid and Hazardous Waste, on or before March 1 of each year, for the previous calendar year. The summaries shall include the following:

1. Monthly totals of the amount of recyclable material received from each customer by municipality of origin;
2. Monthly totals of the amount of recyclable product transferred to each end-market; and
3. The amount of residue disposed of during each month.

(d) As a condition of approval to operate a recycling center for the receipt, storage, processing or transfer of Class B, Class C or Class D recyclable materials, the Department may require the filing of the information required in (a) above at more frequent intervals which shall be specified in the general approval to operate a recycling center issued by the Department.

(e) All recycling centers operating pursuant to a general approval shall certify in writing to the Department that all residue generated at the recycling center has been disposed of in accordance with the solid waste management rules at N.J.A.C. 7:26. The certification shall be submitted annually as part of the annual report required pursuant to (c) and (d) above.

(f) All information submitted to the Department pursuant to this chapter shall be handled in accordance with the requirements of the Public Records law, N.J.S.A. 47:1-1 et seq. The Department will hold confidential all end-market information, as well as information pertaining to the municipality of origin of recyclable material, submitted pursuant to N.J.A.C. 7:26A-3.2, 3.7, and 3.17 through 3.20 for a period of two years from the date on which the information is submitted to the Department, where specified as confidential by the applicant and where there are no health, safety or environmental concerns which require the release of the information, as determined by the Department.

Recodified from 7:26A-3.16 and amended by R.1996 d.577, effective December 16, 1996.

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

In (c), changed report submission date; in (d), inserted reference to Classes C and D; and in (f), inserted N.J.A.C. references.

**7:26A-3.18 Additional application requirements for general approval to operate a recycling center for the receipt, storage, processing or transfer of Class C recyclable materials**

(a) Prior to the receipt, storage, processing or transfer of any Class C recyclable material at a recycling center, the owner or operator shall submit to the Department, in addition to the information required pursuant to N.J.A.C. 7:26A-3.2, the following information:

1. A facility design plan prepared in accordance with N.J.A.C. 7:26A-3.2(a)4, including the following:

i. Type of facility (that is, sole source or regional) and including a list of intended users of the site, if regional;

ii. Compost windrow and curing pile dimensions, with cross sectional views;

iii. Dimensions and details of the proposed receiving, pre-processing, composting curing and storage areas. If grass will be accepted, the dimensions and details of the proposed grass clippings co-mixing area and the composting and curing areas delineating the location of windrows and curing piles;

iv. The location of all utilities including, but not limited to, water, sanitary sewer, and storm water systems;

v. A design plan addressing the following safety issues:

(1) A description of fire protection and control procedures to be employed at the site; and

(2) A description of vector, dust and litter controls;

vi. The nearest sensitive neighboring receptor(s) (residential, commercial, institutional), providing approximate distances to property lines from the recycling center;

vii. The impact that the proposed recycling center will have on existing transportation patterns; and

viii. The soil characteristics for the site according to the soil surveys published by the appropriate Natural Resource Conservation Service District;

2. An operations plan prepared in accordance with N.J.A.C. 7:26A-3.2(a)13, including the following:

i. A description of the anticipated quantities (in cubic yards) and variation of each material to be handled by the facility on an annual basis, indicating "on-site" capacity and maximum annual capacity, if different;

ii. Designation of persons responsible for operation, control and maintenance of facility;

iii. The hours and days of operation during the active composting season and during the final curing/distribution season, if different;

iv. Methods for measuring incoming materials;

v. Methods for removing and recovering for recycling or disposal non-compostable wastes from the incoming recyclable materials stream, methods for removal, storage and disposal of any hazardous wastes, including designation of disposal sites for non-compostable waste;

vi. Methods to control traffic and to expedite unloading;

vii. A description of windrow methods, including:

(1) How windrows will be aerated, frequency of aeration and equipment used on site for this purpose;

(2) A list of additives, where applicable, to be employed such as water or nitrogen sources to maintain the proper moisture content or carbon to nitrogen ratios;

(3) How the compost windrows will be constructed and situated on the site, giving dimensions of windrows including width, height and length, and providing spacing distance between aisles; and

(4) The term of the composting process from the time of windrow formation to such time as the curing pile is broken down for final product processing and distribution;

viii. The staging steps relating to anticipated delivery rates, defining the number of trucks daily, hourly and peak hourly in volume and weight of materials brought on site, the staging procedures prior to formation of windrows, and storage procedures for finished compost prior to its removal off-site;

ix. If grass is to be accepted for composting:

(1) The maximum quantity to be composted;

(2) The length of storage time upon acceptance;

(3) The ratio of mixture (for example, three parts leaves to one part grass);

(4) Methods of mixing with partially decomposed leaves and/or wood chips including equipment and machinery to be used;

(5) The frequency of aeration; and

(6) The composting duration;

x. The proposed facility operating safety procedures and environmental monitoring procedures (that is, testing for moisture, temperature, and oxygen in wind-rows);

xi. Methods to control soil erosion and meet the New Jersey Soil Erosion and Sediment Control Regulations, N.J.A.C. 4:24-43;

xii. Leachate and storm water run-off and drainage control measures;

xiii. Methods to minimize, manage and monitor odors to prevent detection of odors off site and meet the New Jersey Air Pollution Control Regulations, N.J.A.C. 7:27;

xiv. Methods to minimize, manage and monitor noise at nearby residential and/or commercial property lines demonstrating the ability to meet the New Jersey noise control rules, N.J.A.C. 7:29. Manufacturer specifications on sound level ranges for all equipment to be used shall be provided;

xv. Contingency operations plan in the event of wind, heavy rain, snow, freezing or other inclement weather conditions;

xvi. Any refinement steps prior to finished product distribution, such as screening.

xvii. Plans for monitoring, sampling and testing the composting materials for process control and product quality assurance as specified in N.J.A.C. 7:26A-4.5; and

xviii. Plans for marketing the finished compost.

3. A description of the impact that the proposed facility will have on surface and ground water quality and any existing wetlands;

4. A description of the impact that the proposed facility will have on applicable Federal, State or local land uses including the Pinelands area and agricultural development areas, dedicated recreational or open space areas, floodways and endangered or threatened wildlife and vegetation;

(b) In addition to the requirements of N.J.A.C. 7:26A-3.2(a) above, the owner or operator of a recycling center receiving Class C recyclable materials other than or in addition to yard trimmings shall submit a facility design plan, including the following:

1. A flow diagram of the proposed processing steps for food waste material, along with a total mass balance;

2. A description of all equipment to be utilized consistent with the requirements of N.J.A.C. 7:26A-3.2(a)8, including a demonstration that the proposed equipment to be used is compatible with the proposed process and throughput; and

3. Profile views of the site indicating access roads, water drainage (swales, ditches, etc.), existing and final grade, facility superstructure, utilities, and other structures.

New Rule, R.1996 d.577, effective December 16, 1996.  
See: 28 N.J.R. 2240(a), 28 N.J.R. 5360(a).

**7:26A-3.19 Additional application requirements for general approval to operate a recycling center for the receipt, storage, processing or transfer of Class D recyclable materials**

(a) Prior to the receipt, storage, processing or transfer of any Class D recyclable materials at a recycling center, the owner or operator of the recycling center shall submit to the Department, in addition to the information required pursuant to N.J.A.C. 7:26A-3.2, the following information:

1. The EPA ID number assigned to the facility;

2. A description of the preparedness and prevention procedures and equipment required by N.J.A.C. 7:26A-6.7(c)1;

3. A copy of the contingency plan as required by N.J.A.C. 7:26A-6.7(c)2;

4. A description of the secondary containment system for containers or tanks to demonstrate compliance with N.J.A.C. 7:26-6.7(e)3 or 4, including at least the following:

i. Drawings and a description of the basic design parameters, dimensions and materials of construction of the containment system;

ii. The capacity of the containment system relative to the number and volume of containers or tanks within the system;

iii. A description of how the design promotes drainage or how the containers or tanks are protected from contact with standing liquids in the containment system;

iv. Provisions for preventing or managing accumulated precipitation or run-on; and

v. A description of how accumulated liquids will be analyzed and removed to prevent overflow;

5. A demonstration of compliance with labeling requirements of N.J.A.C. 7:26A-6.7(e)6;

6. A description of closure procedures and/or copy of the closure plan to demonstrate compliance with N.J.A.C. 7:26A-6.7(e)8;

- 7. A copy of an analysis plan as required by N.J.A.C. 7:26A-6.7(f);
- 8. A description of the method used to comply with the tracking requirements of N.J.A.C. 7:26A-6.7(g); and
- 9. A demonstration of compliance with the residue management requirements in accordance with N.J.A.C. 7:26A-6.7(j).

New Rule, R.1996 d.577, effective December 16, 1996.  
See: 28 N.J.R. 2240(a), 28 N.J.R. 5360(a).

**7:26A-3.20 Filing requirements for existing used oil facilities which receive, store, process or transfer of Class D recyclable material**

(a) Any facility processing used oil under the terms and conditions of a hazardous waste facility permit or existing facility status issued prior December 16, 1996 may continue to operate under such terms and conditions until the Department approves or denies the facility owner and/or operator's application for general approval. By June 14, 1997, the Department shall assess the information currently on file for each such facility, and will provide the owner and/or operator of each such facility with a written list of additional information required to be submitted to the Department to obtain a recycling center approval pursuant to N.J.A.C. 7:26A-3.2(a), 3.4 and 3.19.

(b) Within 180 days of receipt of notice requesting additional information pursuant to (a) above, the owner or operator of the facility shall submit the requested information, along with any applicable fees, to the Department at the address specified at N.J.A.C. 7:26A-3.2(c).

(c) A recycling center operating for the receipt, storage, processing or transfer of Class D recyclable materials, and for which a hazardous waste facility permit or existing facility status was issued prior to December 16, 1996, shall not modify its operation unless such modification is approved by the Department pursuant to N.J.A.C. 7:26A-3.10.

New Rule, R.1996 d.577, effective December 16, 1996.  
See: 28 N.J.R. 2240(a), 28 N.J.R. 5360(a).

**SUBCHAPTER 4. OPERATIONAL STANDARDS AND GENERAL RULES FOR RECYCLING CENTERS WHICH RECEIVE, STORE, PROCESS OR TRANSFER CLASS A, CLASS B, CLASS C AND CLASS D RECYCLABLE MATERIAL; RIGHT OF ENTRY AND INSPECTION**

**7:26A-4.1 Operational standards for recycling centers which receive Class A, Class B, Class C and Class D recyclable materials**

(a) All owners or operators of recycling centers which receive, store, process or transfer Class A, Class B, Class C,

or Class D recyclable material shall comply with the following operational standards:

1. All recyclable materials received, stored, processed or transferred at all recycling centers shall conform to the following criteria:

i. The recyclable materials shall have been separated at the point of generation from other waste materials or separated at a permitted solid waste facility authorized to separate recyclable materials from the incoming waste stream;

ii. The recyclable materials shall consist only of Class A recyclable materials, or of Class B, or Class C or Class D recyclable materials which the Department has approved pursuant to N.J.A.C. 7:26A-3 for receipt, storage, processing or transfer at the recycling center; and

iii. Class A recyclable materials maybe commingled only with other Class A recyclable materials. Class B recyclable materials may be commingled only with other Class B recyclable materials and only to the extent authorized in the general or limited approval issued pursuant to N.J.A.C. 7:26A-3.5 or 3.7. Class C recyclable materials may be commingled only with other Class C recyclable materials and only to the extent authorized in the general approval issued pursuant to N.J.A.C. 7:26A-3.5.

2. Residue shall not be stored on-site for a period in excess of six months;

3. All residue shall be removed from the recycling center site in accordance with each district's waste plan;

4. All residue shall be stored separately from recyclable material and in a manner which prevents run-off, leakage or seepage from the residue storage area into, on or around the soil of the residue storage area;

5. At no time shall any hazardous waste, as defined in N.J.A.C. 7:26, be received, stored, processed or transferred at any recycling center as defined in N.J.A.C. 7:26A-1.3 except for used oil and universal waste as provided pursuant to N.J.A.C. 7:26A-4.7, 6 and 7;

6. At no time shall capacitors or electronic components which contain polychlorinated biphenyls (PCBs) and which are attached to, or detached from, appliances or other scrap metal be shredded, sheared or baled;

7. The operation and related activities of a recycling center shall be in conformance with all applicable Federal, State, county, municipal, and other local laws and regulations including, but not limited to, nuisance codes, the noise control rules at N.J.A.C. 7:29, the air pollution control rules at N.J.A.C. 7:27, the stream encroachment rules at N.J.A.C. 7:13, the New Jersey Pollutant Discharge Elimination System (NJPDDES) rules at N.J.A.C. 7:14A, the Soil Erosion and Sediment Control Act, N.J.S.A.

4:24-1 et seq., and with all applicable fire and safety codes;

8. Recycling centers shall be operated in such a manner that the recycling center property is maintained free of litter and debris and such that tracking of mud into nearby streets is prevented; and

9. All recycling centers located within the Pinelands Protection Area shall be operated in a manner consistent with the goals of the comprehensive management plan developed by the Pinelands Commission pursuant to the Pinelands Protection Act, N.J.S.A. 13:18A-1 et seq., and shall obtain all approvals required by the Pinelands Commission.

(b) The construction of all recycling centers shall be in conformance with the New Jersey Uniform Construction Code, N.J.S.A. 52:27D-119 et seq., and the rules promulgated pursuant thereto.

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.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; in (a) 5, added exception.

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).

Readopted provisions of Emergency Amendment R.1997 d.404 without change.

#### 7:26A-4.2 Inclusion in district solid waste management plans

No recycling center, as defined in N.J.A.C. 7:26A-1.3, with the exception of those recycling centers operating pursuant to an approval granted under N.J.A.C. 7:26A-3.7, shall commence operations unless and until it is included in the applicable district solid waste management plan.

#### 7:26A-4.3 Right of entry

(a) The New Jersey Department of Environmental Protection or an authorized representative acting pursuant to the County Environmental Health Act, N.J.S.A. 26:3A2-1 et seq. shall have the right to enter and inspect any building or other portion of a recycling center, recycling depot or any site at which an exempted activity is conducted pursuant to N.J.A.C. 7:26A-1.4(a), at any time in order to determine compliance with the provisions of all applicable laws or rules and regulations adopted pursuant thereto. This right to inspect includes, but is not limited to:

1. Sampling any materials on site;
2. Photographing any portion of the recycling center;
3. Investigating an actual or suspected source of pollution of the environment; and

4. Ascertaining compliance or non-compliance with the statutes, rules or regulations of the Department, including conditions of the recycling center approval issued by the Department.

(b) The right of entry specified in (a) above shall be limited to normal operating hours for the purpose of reviewing and copying all applicable records, which shall be made available to the Department during an inspection and submitted to the Department upon request.

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

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

In (a), changed Department name and inserted "recycling depot".

#### 7:26A-4.4 Tonnage reporting requirements

(a) All operators of recycling centers shall provide a recycling tonnage report by February 1 of each year to all municipalities from which recyclable material is received in the previous calendar year. The report shall detail the amount of each source separated recyclable material, expressed in tons or cubic yards. Those persons specifying this information in cubic yards shall also indicate the conversion ratio of the materials from cubic yards to tons.

(b) All transporters of recyclable materials shall be required to provide a recycling tonnage report by February 1 of each year to all municipalities from which source separated recyclable material is received in the previous calendar year for those instances where source separated recyclable materials are transported to manufacturers and recycling centers located in states other than New Jersey. The report shall detail the amount of each source separated recyclable material, expressed in tons or cubic yards, brought to a manufacturer or recycling center. Those persons specifying this information in cubic yards shall also indicate the conversion ratio of the materials from cubic yards to tons.

(c) Except as otherwise provided in N.J.A.C. 7:26A-1.4(b)4, all persons operating pursuant to an exemption set forth at N.J.A.C. 7:26A-1.4 shall provide recycling tonnage reports by February 1 of each year to the applicable municipalities, to the county and to the Department for the previous calendar year. The report shall detail the amount of each source separated recyclable material, expressed in tons, cubic yards, cubic feet, or gallons received, stored, processed or transferred. Those persons specifying this information in cubic yards shall also indicate the conversion ratio of the materials from cubic yards to tons.

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

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

In (c), inserted text "Except as otherwise provided in N.J.A.C. 7:26A-1.4(b)4,".

#### 7:26A-4.5 Additional design and operational requirements for recycling centers which receive, store, and process Class C recyclable materials

(a) In addition to the requirements of N.J.A.C. 7:26A-4.1, the following operational and design criteria apply to recycling centers receiving Class C recyclable materials consisting only of yard trimmings:

1. A recycling center shall not be located on land which has been purchased with money from any Green Acres bond act or which is designated as land for recreation and conservation purposes and listed in the Green Acres recreational land inventory prepared by individual municipalities and counties and approved by the Department pursuant to N.J.S.A. 13:8A-1, 13:8A-20 and 13:8A-35, and N.J.A.C. 7:36, unless the approval of the Department and of the State House Commission has been received and any and all conditions of said approvals are complied with. Evidence of those approvals shall be submitted to the Department as part of the application for general approval to operate.

2. Traffic associated with the operation of the recycling center shall not result in an unacceptable decrease in the existing level of service described and defined in the New Jersey Department of Transportation Highway Access Management Code at N.J.A.C. 16:47 of any major intersection or public roadway within a one-half mile radius of the recycling center.

3. The recycling center shall have sufficient capacity to handle projected incoming volumes of yard trimmings.

4. The perimeter of the composting activity area shall be separated from any and all adjacent residential, commercial and/or other sensitive land uses through the establishment of an effective vegetative visual screen buffer.

5. The entrance to the access road shall be fenced or otherwise secured to prevent unauthorized access to the site.

6. To provide sufficient support for vehicles, to prevent the tracking of soil onto public roads and to minimize the generation of dust, those areas of the recycling center subject to vehicular usage shall be suitably compacted and where necessary paved.

7. The active composting surface shall be an improved surface, such as compacted clay, gap-graded crushed aggregate, asphalt or other such surface that can withstand heavy equipment use. The surface shall be sloped to prevent ponding of liquids and to prevent surface runoff from directly entering any surface waters.

8. A sign shall be posted at the entrance of the recycling center which identifies the hours of operation.

9. An adequate water supply and fire-fighting equipment shall be readily available to extinguish any fires. The telephone number of the local fire department shall be posted at the entrance to the recycling center.

10. Operation of the recycling center shall be under the supervision and control of a properly trained individual during all hours of operation, and access to the recycling center shall be prohibited when the recycling center is closed.

11. Within one year of the start up of the recycling center, the recycling center operator shall attend a com-

posting course sponsored by the Rutgers Cooperative Extension, the appropriate county agricultural or resource management agents or any other similar course recognized by the Department.

12. Yard trimmings shall be received only during times when the recycling center operator or owner is present.

13. All yard trimmings delivered to the recycling center for processing shall be removed from bags, boxes or similar containers prior to any processing steps except that yard trimmings in biodegradable bags need not be removed from such bags if the processing equipment provides for a shredding or cutting action. All discarded bags, boxes and similar containers shall be placed in a suitable refuse receptacle in the staging area of the recycling center for removal to an off-site disposal facility in accordance with N.J.A.C. 7:26-6.

14. If the incoming material contains grass, processing of such material shall begin on the day of receipt.

15. Recycling centers which provide composting of the Class C material shall operate in accordance with the following:

i. Prior to windrow formation, dry yard trimmings shall be moistened to saturation without producing excessive runoff;

ii. To facilitate drainage and to reduce surface water ponding, each windrow shall be constructed and positioned in such a manner that it is perpendicular to the contours of the ground surface;

iii. A windsock shall be installed at the recycling center in order to indicate wind direction so that the recycling center operator may determine appropriate times for windrow turning operations;

iv. The recycling center shall employ one of the following methods of windrow composting as defined below, or any other composting method approved by the Department:

(1) A minimal technology method, in which windrows are constructed and reconstructed after each turning to a maximum height of 12 feet with a corresponding base not to exceed a maximum of 24 feet. A minimum separation of 16 feet measured from the pile base of the windrow to the next adjacent pile base shall be maintained to provide ample working space. Windrows shall be turned and reconstructed, at a minimum, one time per year during the three year composting cycle;

(2) A low level technology method, in which windrows are constructed and reconstructed after each turning to a maximum height of 6 feet with a corresponding base not to exceed a maximum of 14 feet in width. A minimum separation of 16 feet measured from the pile base of the windrow to the next adjacent pile base shall be provided along at least one

side of the longest dimension of each windrow pile to provide ample working space. Windrows shall be turned and reconstructed, at a minimum, three times during the 12 to 18 month compost cycle, once during the first two months of the composting cycle, at four to six months into the composting cycle and final again at the tenth month;

(3) An intermediate technology method, in which windrows are constructed and reconstructed after each turning to a maximum height and base width which corresponds to the specific windrow turning equipment used. The minimum separation distance between windrows shall also correspond to the recommended operation of the specific windrow turning equipment used. After initial windrow formation and aeration, windrows shall be turned and reconstructed, at a minimum, once per week for the first month. During the remainder of the 12 month composting cycle, temperature and oxygen concentration within the windrows shall be monitored, and further turnings shall be scheduled to prevent temperatures from exceeding 140 degrees Fahrenheit and to prevent oxygen levels from dropping below five percent for prolonged periods; or

(4) A high level technology method, in which windrows are constructed and reconstructed within an enclosed facility with air flow controlled venting. Forced aeration or mechanical agitation shall be controlled to complete the compost cycle in three to six months;

v. Materials staging and processing shall be done in areas on the site which meet the following buffer distance requirements:

Level of technology	Buffer with leaves only (FT)	Use for grass	Buffer with grass (FT)
(1) Minimal	2500 <sup>1</sup>	No	N/A
(2) Low	50/500 <sup>2</sup>	No	N/A
(3) Intermediate	50/150/250 <sup>3</sup>	Yes	1000 <sup>4</sup> ; or
(4) High	50 <sup>5</sup>	Yes	50 <sup>5</sup>

Notes:

1. From operations to sensitive land uses.
2. From operations to property line/to sensitive land uses.
3. From operating to property line/to sensitive land uses/to inhabited structure.
4. From grass clipping staging and handling areas to sensitive land uses.
5. Building setback for enclosed operations.

vi. The design capacity of the finished compost storage area shall not exceed 15 months of production. Finished compost shall not be stored at the recycling center for more than 15 months;

vii. Finished compost shall be tested once each year, at a minimum, in accordance with an appropriate monitoring and sampling plan established by the Department as part of the recycling center approval. Samples of the compost produced at the recycling center shall be analyzed for the parameters listed in Appendix A to this subchapter, incorporated herein by reference, according to the indicated method. Results of all laboratory analysis for each parameter specified in Appendix A shall be recorded and maintained at the recycling center;

viii. The laboratory used to perform the analysis of the finished compost product shall be certified in accordance with N.J.A.C. 7:18 for the equipment and testing procedures required in (a)15vi above;

ix. The Department shall approve an alternate sampling schedule if the recycling center can demonstrate that less frequent testing will adequately monitor the quality of the finished compost in an equivalent manner. Such demonstration provision may be based on the recycling center's operational history, the quality of the finished compost and the quality of the incoming material;

x. In addition to the recordkeeping requirements of N.J.A.C. 7:26A-3.17, the recycling center shall maintain the following records:

- (1) The quantity of yard trimmings received daily, expressed as cubic yards of leaves, grass and/or brush;
- (2) The source of yard trimmings received daily; and
- (3) The results of laboratory analyses of finished compost;

xi. The following information shall be made available for inspection by the Department pursuant to N.J.A.C. 7:26A-4.3:

- (1) The results of compost analyses and name(s) of certified laboratory(ies);
- (2) The quantity, type and source of incoming material;
- (3) The quantity and types of recovered recyclables;
- (4) The quantity of disposed residue, and sites receiving residue; and
- (5) The standard procedures employed to ensure data reliability.

16. The recycling center shall submit to the Department within one year of receipt of its general approval to operate, a final closure plan containing a schedule and description of the steps necessary to close the recycling center including the estimated cost of closure and a description of the means by which the closure will be financed.

17. The recycling center shall notify the Department in writing at least 60 days prior to the proposed closure date for the recycling center.

18. The recycling center shall publish a notice of closure in a newspaper of general circulation in the district where the recycling center is located and in districts or communities sending at least 25 percent of their yard trimmings to the recycling center. Such notice shall be published at least 15 days prior to closure.

19. Within 30 days of ceasing operation, all residuals, unprocessed yard trimmings and recyclables shall be removed from the site and recycled or disposed as appropriate.

20. The Department shall determine that a recycling center is considered closed when all the requirements of the closure plan have been met.

(b) In addition to the requirements of N.J.A.C. 7:26A-4.1, the following operational and design criteria apply to recycling centers receiving Class C recyclable material other than or in addition to yard trimmings:

1. Traffic associated with the operation of the recycling center shall not result in an unacceptable decrease in the existing level of service as described and defined in the New Jersey Department of Transportation Highway Access Management Code at N.J.A.C. 16:47, of any major intersection or public roadway within a one-half mile radius of the recycling center.

2. The recycling center shall have sufficient capacity to handle projected incoming volumes of Class C recyclable material.

3. The perimeter of the composting activity area shall be separated from any and all adjacent residential, commercial and/or other sensitive land uses through the establishment of an effective vegetative visual screen buffer.

4. The entrance to the access road shall be fenced or otherwise secured to prevent unauthorized access to the site.

5. To provide sufficient support for vehicles to prevent the tracking of soil onto public roads and to minimize the generation of dust, those areas of the recycling center subject to vehicular usage shall be suitably compacted and where necessary paved.

6. The composting structure shall withstand wear and tear of normal operations. The floor shall be impermeable ( $10^{-5}$  cm/sec or greater) and be sloped to prevent ponding of liquids and to direct leachate to a leachate collection system. Leachate control shall be provided wherever leachate is generated.

7. The recycling center operations shall be fully enclosed except in those cases where vegetative food material is the only food material received.

8. Any recycling center not fully enclosed shall meet the buffer requirements for recycling centers handling grass clippings described in (a)15 above.

9. An adequate water supply and fire-fighting equipment shall be readily available to extinguish any fires. The telephone number of the local fire department shall be posted at the entrance to the recycling center.

10. An operations and maintenance (O&M) manual specific to the recycling center shall be prepared, updated as needed, and available at the recycling center for inspection by Departmental pursuant to N.J.A.C. 7:26A-4.3. The O&M manual shall include any and all information to enable supervisory and operating personnel to determine the sequence of operations, routine maintenance schedules, plans, policies, procedures, and legal requirements that must be adhered to. The O&M manual shall include a quality assurance/quality control (QA/QC) plan which outlines the monitoring, sampling and analysis plans for testing the compost process and product.

11. The recycling center equipment shall be operated in conformance with the manufacturer and/or vendor specifications or appropriately documented modifications. Such equipment specifications, including modifications, shall be included in the operations and maintenance manual.

12. Employees shall be properly trained in the recycling center operations, maintenance procedures, and safety and emergency procedures.

13. A recycling center-specific training manual shall be developed and made available to each employee.

14. Operation of the recycling center shall be under supervision and control of a properly trained individual during all hours of operation.

15. Access to the recycling center shall be prohibited when the recycling center is closed.

16. Processing of incoming material shall begin within three days of receipt. If the incoming material contains grass and/or other highly putrescible materials, processing of such material shall begin on the working day of receipt of such material.

17. Incoming, unprocessed material shall not be mixed with finished compost.

18. The composting process shall meet the criteria for a process to further reduce pathogens (PFRP) in accordance with 40 C.F.R., Part 503. One of the three following methods shall be used:

i. Windrow method, which meets PFRP as follows:

(1) Maintenance of aerobic conditions; and

(2) A minimum of five turnings over 15 consecutive days, maintaining a temperature of not less than 55 degrees Celsius (131 degrees Fahrenheit).

ii. Aerated static pile method, which meets PFRP as follows:

(1) Pile insulated with six to 12 inches of insulating material (for example, sawdust, cured compost, or wood chips); and

(2) Temperature of at least 55 degrees Celsius (131 degrees Fahrenheit) maintained throughout the mixture for three consecutive days; or

iii. Enclosed (within) vessel composting method, which meets PFRP as follows:

(1) Temperature maintained at 55 degrees Celsius (131 degrees Fahrenheit) throughout the mixture for at least three consecutive days.

19. The recycling center shall monitor the temperature of the material in the composting process to ensure that pathogen reduction criteria are met. Temperature readings shall be recorded daily during PFRP.

20. The design capacity of the finished compost storage area shall not exceed 15 months of production, in accordance with the marketing plan prepared and submitted in accordance with N.J.A.C. 7:26A-3.

21. Finished compost shall not be stored at the recycling center for more than 15 months.

22. Stored finished compost that is not used or sold within 15 months shall be removed or reprocessed for use or sale.

23. The Department shall establish an appropriate monitoring and sampling schedule for a one-year start-up period as part of the recycling center approval.

24. Using information gained during the one-year start-up period, a monitoring and sampling schedule for ongoing operations shall be developed, as part of the recycling center approval, in consultation with the Department based on statistical methods for quality assurance.

25. Compost samples shall be obtained in accordance with the approved QA/QC plan. Samples of the compost produced at the facility shall be analyzed for the compost quality monitoring parameters listed in Appendix A in accordance with the appropriate methods as approved in the sampling plan. Results of all laboratory analysis for each parameter specified in Appendix A shall be recorded and maintained at the facility. Quality assurance results shall be reported to the Department pursuant to (b)28 below.

26. The laboratory used to perform the analysis of the finished compost product shall be certified in accordance with N.J.A.C. 7:18 for the equipment and testing procedures required pursuant to (b)25 above.

27. In addition to the recordkeeping requirements of N.J.A.C. 7:26A-3.17, the recycling center shall maintain the following records:

i. Daily temperature and moisture monitoring of the composting process;

ii. The quantity of material received daily expressed as cubic yards;

iii. The source of material received daily;

iv. The results of laboratory analyses of finished compost;

v. The retention time of the finished compost; and

vi. The sale and distribution of recovered materials.

28. Quarterly reports shall be submitted to the Department within 30 days after the end of each calendar quarter. Such reports shall include the following:

i. Results of compost analyses and name(s) of certified laboratory(ies);

ii. The quantity, type and source of incoming materials;

iii. The quantity and types of recovered recyclables;

iv. The quantity of compost produced;

v. The quantity of compost sold and/or distributed, and the end markets to which the compost is sold or distributed;

vi. The quantity of disposed residue, and sites receiving residue;

vii. Daily temperature readings and retention times during PFRP;

viii. A summary of leachate management (collected and reused or treated and disposed);

ix. A summary of major maintenance on leachate, temperature or other monitoring and control systems in operation; and

x. The standard procedures employed to ensure data reliability.

29. The recycling center shall, after one year of approval, submit to the Department a final closure plan containing a schedule and description of the steps necessary to close the recycling center including the estimated cost of closure and the plans to finance.

30. An update to the final closure plan as needed shall be submitted in writing at least 180 days prior to the proposed closure date for the recycling center.

31. The recycling center shall notify the Department in writing at least 60 days prior to the proposed closure date for the recycling center.

32. The recycling center shall publish a notice of closure in a newspaper of general circulation in the district where the recycling center is located and in districts or communities sending at least 25 percent of their Class C recycling material to the recycling center. Such notice shall be published at least 30 days prior to closure.

33. Within 10 days of ceasing operation, all residuals and unprocessed Class C recyclable material shall be removed from the site and recycled or disposed, as appropriate, and the recycling center shall arrange for a final cleaning of any containers, equipment, machines, floors and recycling center surfaces in which Class C recyclable materials or residue was processed or stored.

34. The Department shall determine that a recycling center is closed when all of the requirements of the closure plan have been met.

(c) Compost produced by recycling centers which process Class C recyclable materials shall be subject to the following:

1. Compost given away or offered for sale by the recycling center must contain a label describing the recommended safe uses and application rates, and restrictions, if any, on use of the product. If compost is offered for bulk sale, signs or printed literature containing the above information shall be available on the bill of lading to the purchaser or persons receiving the compost.

2. Compost given away or offered for sale shall satisfy the general requirements established at 40 C.F.R Part 503, specifically 40 C.F.R 503.13(b)(3), the Class A pathogen requirements in 40 C.F.R. 503.32(A), and one of the vector attraction reduction requirements in 40 C.F.R. 503.33(b)(1) through 503.33(b)(8).

New Rule, R.1996 d.577, effective December 16, 1996.  
See: 28 N.J.R. 2240(a), 28 N.J.R. 5360(a).

**7:26A-4.6 Operational standards for recycling centers for Class D recyclable materials (Reserved)**

**7:26A-4.7 Additional operational standards for recycling centers which receive, store and process Class D recyclable materials—used oil**

For the purposes of this chapter, a used oil processor or re-refiner is a recycling center for Class D recyclable materials—used oil. Such recycling center shall be designed and operated in accordance with the requirements of N.J.A.C. 7:26A-6.7.

New Rule, R.1996 d.577, effective December 16, 1996.  
See: 28 N.J.R. 2240(a), 28 N.J.R. 5360(a).

**APPENDIX A**

**COMPOST QUALITY MONITORING PARAMETERS**

Parameter	Unit
Stability—respirometry	mg O <sub>2</sub> /kg

Parameter	Unit
O <sub>2</sub> consumed	VS/hr
Soluble salts—electrical	mmhos/cm
Fecal coliform	MPN/g
Salmonella	MPN/4g
pH	
Regulated parameters:	
Arsenic (As)	mg/kg dry wt.
Cadmium (Cd)	mg/kg dry wt.
Chromium (Cr)	mg/kg dry wt.
Copper (Cu)	mg/kg dry wt.
Lead (Pb)	mg/kg dry wt.
Mercury (Hg)	mg/kg dry wt.
Molybdenum (Mo)	mg/kg dry wt.
Nickel (Ni)	mg/kg dry wt.
Selenium (Se)	mg/kg dry wt.
Zinc (Zn)	mg/kg dry wt.
Man-Made Inerts >4 mm, <13 mm	visual
Film plastic >4 mm	cm <sup>2</sup> /m <sup>3</sup>
Sharps	PRS

Notes:

1. VS means volatile solids.
2. MPN means most probable number per gram of total solids in the sewage sludge or compost. MPN is an index of the number of coliform bacteria, reported by the multiple-tube fermentation procedure of the coliform test, that, more probably than any other number, would give the results shown by the laboratory examination; it is not an actual enumeration.
3. Mmhos is a unit of electrical conductivity; it is the reciprocal of ohm.
4. Man-made inert material includes glass shards and metal fragments that pose a human and animal safety hazard with unprotected exposure or through direct ingestion.
5. Film plastic can be a potential hazard to small animals through direct ingestion.

New Rule, R.1996 d.577, effective December 16, 1996.  
See: 28 N.J.R. 2240(a), 28 N.J.R. 5360(a).

**SUBCHAPTER 5. REQUIREMENTS FOR PROCESSING DISCARDED APPLIANCES THAT CONTAIN REFRIGERANT FLUID**

**7:26A-5.1 Requirements for processing discarded appliances, motor vehicles, machines or other goods which contain refrigerant fluid**

(a) No shearing, shredding, baling or other actions which could cause release of refrigerant fluid shall take place prior to recovery of such refrigerant fluid.

(b) Recovery of refrigerant fluid shall be performed in a manner such that no venting of refrigerant fluid occurs.

(c) Recovered refrigerant fluid shall be delivered to a facility which has agreed to reprocess the refrigerant fluid to specifications suitable for reentry into commerce. If arrangements cannot be made with a reprocessing facility to accept recovered refrigerants, or if the refrigerants cannot

be otherwise made suitable for reuse, the person who recovered the refrigerant shall store or dispose of the material in accordance with applicable laws and regulations.

(d) Recovery and disposition of refrigerant fluid must comply with all applicable laws, regulations and guidelines, including, but not limited to, the following:

1. Safety standards of the Occupational Safety and Health Administration (OSHA), including standards for handling compressed gases at 29 C.F.R. 1910.101 and standards for air contaminants at 29 C.F.R. 1910.1000;
2. Persons transporting recovered chlorofluorocarbons mixed or combined with a hazardous waste shall comply with the Department's hazardous waste rules at N.J.A.C. 7:26G, particularly N.J.A.C. 7:26G-5 and 7:26G-6;
3. Recovered refrigerant fluid shall be stored and transported in containers in accordance with the requirements at 49 C.F.R., particularly Chapter 1 and Subchapter C; and
4. Recovery, storage and transport of refrigerants shall comply with Air Conditioning and Refrigerant Institute (ARI) guideline K for containers for recovered refrigerants, incorporated herein by reference.
5. The provisions of Title VI of the Clean Air Act Amendments of 1990.

Amended by R.1996 d.500, effective October 21, 1996.  
See: 28 N.J.R. 1693(a), 28 N.J.R. 4606(a).

## SUBCHAPTER 6. STANDARDS FOR THE MANAGEMENT OF USED OIL

### 7:26A-6.1 Applicability

(a) This section identifies those materials which are subject to regulation as used oil under this subchapter. This section also identifies some materials that are not subject to regulation as used oil under this subchapter, and indicates whether these materials may be subject to regulation as hazardous waste under 40 C.F.R. Parts 260 through 266, 268, 270, and 124, as incorporated by reference at N.J.A.C. 7:26G.

1. The Department presumes that used oil is to be recycled unless a used oil handler disposes of used oil, or sends used oil for disposal. Except as provided in N.J.A.C. 7:26A-6.2, the rules of this subchapter apply to used oil, and to materials identified in this section as being subject to regulation as used oil, whether or not the used oil or material exhibits any characteristics of hazardous waste identified in 40 C.F.R. Part 261, subpart C, as incorporated by reference at N.J.A.C. 7:26G-5.

2. The following requirements apply to mixtures of used oil and hazardous waste:

i. The following requirements apply to mixtures of used oil and listed hazardous waste:

(1) Mixtures of used oil and hazardous waste that are listed in 40 C.F.R. Part 261, subpart D, as incorporated by reference at N.J.A.C. 7:26G-5 are subject to regulation as hazardous waste under 40 C.F.R. Parts 260 through 266, 268, 270, and 124, as incorporated by reference at N.J.A.C. 7:26G, rather than as used oil under this subchapter;

(2) Used oil containing more than 1,000 ppm total halogens is presumed to be a hazardous waste because it has been mixed with halogenated hazardous waste listed in 40 C.F.R. Part 261, subpart D, as incorporated by reference at N.J.A.C. 7:26G-5. Persons may rebut this presumption by demonstrating that the used oil does not contain hazardous waste (for example, by using an analytical method from SW-846, Edition III to show that the used oil does not contain significant concentrations of halogenated hazardous constituents listed in Appendix VIII of 40 C.F.R. Part 261 as incorporated by reference at N.J.A.C. 7:26G-5);

(A) The rebuttable presumption does not apply to metalworking oils/fluids containing chlorinated paraffins, if they are processed, through a tolling arrangement as described in N.J.A.C. 7:26A-6.4(f)3, to reclaim metalworking oils/fluids. The presumption does apply to metalworking oils/fluids if such oils/fluids are recycled in any other manner, or disposed; and

(B) The rebuttable presumption does not apply to used oils contaminated with chlorofluorocarbons (CFCs) removed from refrigeration units where the CFCs are destined for reclamation. The rebuttable presumption does apply to used oils contaminated with CFCs that have been mixed with used oil from sources other than refrigeration units.

ii. Mixtures of used oil and hazardous waste that solely exhibit one or more of the hazardous waste characteristic identified in 40 C.F.R. Part 261, subpart C, as incorporated by reference at N.J.A.C. 7:26G-5 and mixtures of used oil and hazardous waste that is listed in 40 C.F.R. Part 261, subpart D, as incorporated by reference at N.J.A.C. 7:26G-5 solely because it exhibits one or more of the characteristics of hazardous waste identified in 40 C.F.R. Part 261, subpart C, as incorporated by reference at N.J.A.C. 7:26G-5 are subject to the following:

(1) Except as provided in (a)2ii(3) below, the mixture is subject to regulation as hazardous waste under 40 C.F.R. Part 260 through 266, 268, 270, and 124, as incorporated by reference at N.J.A.C. 7:26G rather than as used oil under this subchapter, if the resultant mixture exhibits any characteristics of hazardous waste identified in 40 C.F.R. Part 261, subpart C, as incorporated by reference at N.J.A.C. 7:26G-5;

**7:26A-6.7 Standards for used oil processors and re-refiners**

(a) Standards for used oil processors and re-refiners and used oil processing and re-refining facilities are as follows:

1. The requirements of this section apply to owners and operators of facilities that process used oil. Processing means chemical or physical operations designed to produce from used oil, or to make used oil more amenable for production of, fuel oils, lubricants, or other used oil-derived products. Processing includes, but is not limited to: blending used oil with virgin petroleum products, blending used oils to meet the fuel specification, filtration, simple distillation, chemical or physical separation and re-refining. The requirements of this section do not apply to:

- i. Transporters that conduct incidental processing operations that occur during the normal course of transportation as provided in N.J.A.C. 7:26A-6.6(b); or
- ii. Burners that conduct incidental processing operations that occur during the normal course of used oil management prior to burning as provided in (b) below.

2. Used oil processors/re-refiners who conduct the following activities are also subject to the requirements of other applicable provisions of this subchapter as indicated in (a)2i through v below;

- i. Processors/re-refiners who generate used oil shall also comply with N.J.A.C. 7:26A-6.4;
- ii. Processors/re-refiners who transport used oil shall also comply with N.J.A.C. 7:26A-6.6;
- iii. Except as provided in (a)2iii(1) below, processors/re-refiners who burn off-specification used oil for energy recovery shall also comply with N.J.A.C. 7:26A-6.8. Processor/re-refiners burning used oil for energy recovery under the following conditions are not subject to N.J.A.C. 7:26A-6.8:

(1) The used oil is burned for purposes of processing used oil, which is considered burning incidentally to used oil processing;

iv. Processors/re-refiners who direct shipments of off-specification used oil from their facility to a used oil burner or first claim that used oil that is to be burned for energy recovery meets the used oil fuel specifications set forth in N.J.A.C. 7:26A-6.2 shall also comply with N.J.A.C. 7:26A-6.8; and

v. Processors/re-refiners who dispose of used oil also shall comply with N.J.A.C. 7:26A-6.9;

vi. Processors/re-refiners shall comply with the requirements for a Class D recycling facility of this subchapter and all applicable requirements of N.J.A.C. 7:27 and the regulations promulgated pursuant to the Federal Clean Air Act.

(b) The standards for notification for used oil processors and re-refiners are as follows:

1. Used oil processors and re-refiners shall comply with these requirements and obtain an EPA identification number unless they have already notified the USEPA of their hazardous waste activities in accordance with the requirements of RCRA section 3010;

2. A used oil processor or re-refiner who has not received an EPA identification number may obtain one by notifying the Regional Administrator of USEPA Region II of their used oil activity by submitting either:

i. A completed EPA Form 8700-12 (To obtain EPA Form 8700-12 call RCRA/Superfund Hotline at 1-800-424-9346 or 703-920-9810); or

ii. A letter requesting an EPA identification number. Call the RCRA/Superfund Hotline to determine where to send a letter requesting an EPA identification number. The letter should include the following:

- (1) The processor or re-refiner company name;
- (2) The owner of the processor or re-refiner company;
- (3) The mailing address for the processor or re-refiner;
- (4) The name and telephone number for the processor or re-refiner point of contact;
- (5) The type of used oil activity (that is, process only, process and re-refine); and
- (6) The location of the processor or re-refiner facility.

(c) General facility standards for used oil at processing facilities and re-refining facilities are as follows:

1. Owners and operators of used oil processing and re-refining facilities shall comply with the following preparedness and prevention requirements:

i. Facilities shall be maintained and operated to minimize the possibility of a fire, explosion, or any unplanned sudden or non-sudden release of used oil to air, soil, or surface water which could threaten human health or the environment;

ii. All facilities shall be equipped with the following, unless none of the hazards posed by used oil handled at the facility could require a particular kind of equipment specified in (c)1ii(1) through (4) below:

- (1) An internal communications or alarm system capable of providing immediate emergency instruction (voice or signal) to facility personnel;
- (2) A device, such as a telephone (immediately available at the scene of operations) or a hand-held two-way radio, capable of summoning emergency as-

sistance from local police departments, fire departments, or State or local emergency response teams;

(3) Portable fire extinguishers, fire control equipment (including special extinguishing equipment, such as that using foam, inert gas, or dry chemicals), spill control equipment and decontamination equipment; and

(4) Water at adequate volume and pressure to supply water hose streams, or foam producing equipment, or automatic sprinklers, or water spray systems;

iii. All facility communications or alarm systems, fire protection equipment, spill control equipment, and decontamination equipment, where required, shall be tested and maintained as necessary to assure its proper operation in time of emergency;

iv. Standards for access to communications or alarm system are as follows:

(1) Whenever used oil is being poured, mixed, spread, or otherwise handled, all personnel involved in the operation shall have immediate access to an internal alarm or emergency communication device, either directly or through visual or voice contact with another employee, unless such a device is not required pursuant to (c)1ii above;

(2) If there is ever just one employee on the premises while the facility is operating, the employee shall have immediate access to a device, such as a telephone (immediately available at the scene of operation) or a hand-held two-way radio, capable of summoning external emergency assistance, unless such a device is not required pursuant to (c)1ii above;

v. The owner or operator shall maintain aisle space to allow the unobstructed movement of personnel, fire protection equipment, spill control equipment, and decontamination equipment to any area of facility operation in an emergency, unless aisle space is not needed for any of these purposes; and

vi. Standards for arrangements with local authorities are as follows:

(1) The owner or operator shall make the following arrangements, as appropriate for the type of used oil handled at the facility and the potential need for the services of these organizations:

(A) Arrangements to familiarize police, fire departments, and emergency response teams with the layout of the facility, properties of used oil handled at the facility and associated hazards, places where facility personnel would normally be working, entrances to roads inside the facility, and possible evacuation routes;

(B) Where more than one police and fire department might respond to an emergency, agreements designating primary emergency authority to a specific police and a specific fire department, and agreements with any others to provide support to the primary emergency authority;

(C) Agreements with State emergency response teams, emergency response contractors, and equipment suppliers; and

(D) Arrangements to familiarize local hospitals with the properties of used oil handled at the facility and the types of injuries or illnesses which could result from fires, explosions, or releases at the facility; and

(2) Where State or local authorities decline to enter into such arrangements, the owner or operator shall document the refusal in the operating record; and

2. Owners and operators of used oil processing and refining facilities shall comply with the following contingency plan and emergency procedure requirements:

i. The purpose and implementation of the contingency plan is as follows:

(1) Each owner or operator shall have a contingency plan for the facility. The contingency plan shall be designed to minimize hazards to human health or the environment from fires, explosions, or any unplanned sudden or non-sudden release of used oil to air, soil, or surface water.

(2) The provisions of the plan shall be carried out immediately whenever there is a fire, explosion, or release of used oil which could threaten human health or the environment;

ii. The following are the minimum contents of the contingency plan:

(1) The contingency plan shall describe the actions facility personnel shall take to comply with (c)2i and 2vi above in response to fires, explosions, or any unplanned sudden or non-sudden release of used oil to air, soil, or surface water at the facility;

(2) If the owner or operator has already prepared a Spill Prevention, Control, and Countermeasures (SPCC) Plan in accordance with 40 C.F.R. Part 112, or 40 C.F.R. Part 1510, or a Discharge Prevention, Containment and Countermeasure (DPCC) Plan per N.J.A.C. 7:1E, the owner or operator need only amend that plan to incorporate used oil management provisions that are sufficient to comply with the requirements of this section;

(3) The plan shall describe arrangements agreed to by local police departments, fire departments, hospitals, contractors, and State and local emergency response teams to coordinate emergency services, pursuant to (c)1vi above;

(4) The plan shall list names, addresses, and phone numbers (office and home) of all persons qualified to act as emergency coordinator (see (c)2v below), and this list shall be kept up to date. Where more than one person is listed, one shall be named as primary emergency coordinator and others shall be listed in the order in which they will assume responsibility as alternates;

(5) The plan shall include a list of all emergency equipment at the facility (such as fire extinguishing systems, spill control equipment, communications and alarm systems (internal and external), and decontamination equipment), where this equipment is required. This list shall be kept up to date. In addition, the plan shall include the location and a physical description of each item on the list, and a brief outline of its capabilities;

(6) The plan shall include an evacuation plan for facility personnel where there is a possibility that evacuation could be necessary. This plan shall describe signal(s) to be used to begin evacuation, evacuation routes, and alternate evacuation routes (in cases where the primary routes could be blocked by releases of used oil or fires);

iii. A copy of the contingency plan and all revisions to the plan shall be:

(1) Maintained at the facility; and

(2) Submitted to all local police departments, fire departments, hospitals, and State and local emergency response teams that may be called upon to provide emergency services;

iv. The contingency plan shall be reviewed, and immediately amended, if necessary, whenever:

(1) Applicable regulations are revised;

(2) The plan fails in an emergency;

(3) The facility changes-in its design, construction, operation, maintenance, or other circumstances-in a way that materially increases the potential for fires, explosions, or releases of used oil, or changes the response necessary in an emergency;

(4) The list of emergency coordinators changes; or

(5) The list of emergency equipment changes;

v. At all times, there shall be at least one employee either on the facility premises or on call (that is, available to respond to an emergency by reaching the

facility within a short period of time) with the responsibility for coordinating all emergency response measures. This emergency coordinator shall be thoroughly familiar with all aspects of the facility's contingency plan, all operations and activities at the facility, the location and characteristic of used oil handled, the location of all records within the facility, and facility layout. In addition, this person shall have the authority to commit the resources needed to carry out the contingency plan. The emergency coordinator's responsibilities are more fully spelled out in (c)2vi below. Applicable responsibilities for the emergency coordinator vary, depending on factors such as type and variety of used oil handled by the facility, and type and complexity of the facility; and

vi. The following are the emergency procedures to be implemented in an emergency situation:

(1) Whenever there is an imminent or actual emergency situation, the emergency coordinator (or the designee when the emergency coordinator is on call) shall immediately:

(A) Activate internal facility alarms or communication systems, where applicable, to notify all facility personnel; and

(B) Notify appropriate State or local agencies with designated response roles if their help is needed;

(2) Whenever there is a release, fire, or explosion, the emergency coordinator shall immediately identify the character, exact source, amount, and a real extent of any released materials. The emergency coordinator may do this by observation or review of facility records or shipping papers and, if necessary, by chemical analysis;

(3) Concurrently, the emergency coordinator shall assess possible hazards to human health or the environment that may result from the release, fire, or explosion. This assessment shall consider both direct and indirect effects of the release, fire, or explosion (for example, the effects of any toxic, irritating, or asphyxiating gases that are generated, or the effects of any hazardous surface water run-offs from water of chemical agents used to control fire and heat-induced explosions);

(4) If the emergency coordinator determines that the facility has had a release, fire, or explosion which could threaten human health, or the environment, outside the facility, the emergency coordinator shall report his findings as follows:

(A) If the emergency coordinator's assessment indicated that evacuation of local areas may be advisable, the emergency coordinator shall immediately notify appropriate local authorities and shall

be available to help appropriate officials decide whether local areas should be evacuated; and

(B) The emergency coordinator shall immediately notify either the government official designated as the on-scene coordinator for the geographical area (in the applicable regional contingency plan under 40 C.F.R. part 1510 ), or the National Response Center (using their 24-hour toll free number 800/424-8802). The report shall include:

- (I) The name and telephone number of reporter;
- (II) The name and address of facility;
- (III) The time and type of incident (for example, release, fire);
- (IV) The name and quantity of material(s) involved, to the extent known;
- (V) The extent of injuries, if any; and
- (VI) The possible hazards to human health, or the environment, outside the facility;

(5) During an emergency, the emergency coordinator shall take all reasonable measures necessary to ensure that fires, explosions, and releases do not occur, recur, or spread to other used oil or hazardous waste at the facility. These measures shall include, where applicable, stopping processes and operation, collecting and containing released used oil, and removing or isolating containers;

(6) If the facility stops operation in response to a fire, explosion, or release, the emergency coordinator shall monitor for leaks, pressure buildup, gas generation, or ruptures in valves, pipes, or other equipment, wherever this is appropriate;

(7) Immediately after an emergency, the emergency coordinator shall provide for recycling, storing, or disposing of recovered used oil, contaminated soil or surface water, or any other material that results from a release, fire, or explosion at the facility;

(8) The emergency coordinator shall ensure that, in the affected area(s) of the facility:

(A) No waste or used oil that may be incompatible with the released material is recycled, treated, stored, or disposed of until cleanup procedures are completed; and

(B) All emergency equipment listed in the contingency plan is cleaned and fit for its intended use before operations are resumed; and

(C) The owner or operator shall notify the Regional Administrator, and appropriate State and local authorities that the facility is in compliance with (c)2vi(8)(A) and (B) above, before operations are resumed in the affected area(s) of the facility; and

(9) The owner or operator shall note in the operating record the time, date and details of any incident that requires implementing the contingency plan. Within 15 days after the incident, he or she shall submit a written report on the incident to the Regional Administrator. The report shall include:

- (A) The name, address, and telephone number of the owner or operator;
- (B) The name, address, and telephone number of the facility;
- (C) The date, time, and type of incident (for example, fire, explosion);
- (D) The name and quantity of material(s) involved;
- (E) The extent of injuries, if any;
- (F) An assessment of actual or potential hazards to human health or the environment, where this is applicable; and
- (G) The estimated quantity and disposition of recovered material that resulted from the incident.

(d) The standards for rebuttable presumption for used oil processors and re-refiners are as follows:

1. To ensure that used oil managed at a processing/re-refining facility is not hazardous waste under the rebuttable presumption of N.J.A.C. 7:26A-6.1(a)2i(2), the owner or operator of a used oil processing/re-refining facility shall determine whether the total halogen content of used oil managed at the facility is above or below 1,000 ppm;
2. The owner or operator shall make this determination by:
  - i. Testing the used oil; or
  - ii. Applying knowledge of the halogen content of the used oil in light of the materials or processes used;
3. If the used oil contains greater than or equal to 1,000 ppm total halogens, it is presumed to be a hazardous waste because it has been mixed with halogenated hazardous waste listed in 40 C.F.R. Parts 261.31, 261.32, and 261.33 as incorporated by reference at N.J.A.C. 7:26G-5. The owner or operator may rebut the presumption, except as set forth in (d)3i and ii below, by demonstrating that the used oil does not contain hazardous waste (for example, by using an analytical method from SW-846, Edition III, to show that the used oil does not contain significant concentrations of halogenated hazardous constituents listed in Appendix VIII of 40 C.F.R. Part 261, as incorporated by reference at N.J.A.C. 7:26G-5.

i. The rebuttable presumption does not apply to metalworking oils/fluids containing chlorinated paraffins, if they are processed, through a tolling agreement, to reclaim metalworking oils/fluids. The presumption does apply to metalworking oils/fluids if such oils/fluids are recycled in any other manner, or disposed; or

ii. The rebuttable presumption does not apply to used oils contaminated with chlorofluorocarbons (CFCs) removed from refrigeration units where the CFCs are destined for reclamation. The rebuttable presumption does apply to used oils contaminated with CFCs that have been mixed with used oil from sources other than refrigeration units; and

4. If rebuttal is unsuccessful, hazardous waste shall be shipped off-site by a licensed New Jersey hazardous waste transporter as required by 40 C.F.R. 262.34, as incorporated by reference at N.J.A.C. 7:26G-6.

(e) The used oil management standards for used oil processors and re-refiners are as follows:

1. Used oil processor/re-refiners are subject to all applicable Spill Prevention, Control and Countermeasures (40 C.F.R. Part 112) and N.J.A.C. 7:1E in addition to the requirements of this section. Used oil processors/re-refiners are also subject to the Underground Storage Tank (40 C.F.R. Part 280 and N.J.A.C. 7:14B) standards for used oil stored in underground tanks whether or not the used oil exhibits any characteristics of hazardous waste, in addition to the requirements of this section as follows:

2. Used oil processors/re-refiners shall not store used oil in units other than tanks, containers, or units subject to regulation under 40 C.F.R. Parts 264 or 265, as incorporated by reference at N.J.A.C. 7:26G-8 or 9;

3. Containers and aboveground tanks used to store or process used oil at processing and re-refining facilities shall be:

i. In good condition (no severe rusting, apparent structural defects or deterioration); and

ii. Not leaking (no visible leaks);

4. Containers used to store or process used oil at processing and re-refining facilities shall be equipped with a secondary containment system meeting the following:

i. The secondary containment system shall consist of, at a minimum:

(1) Dikes, berms or retaining walls; and

(2) The floor shall cover the entire area within the dike, berm, or retaining wall; or

(3) An equivalent secondary containment system; and

ii. The entire containment system, including walls and floor, shall be sufficiently impervious to used oil to

prevent any used oil released into the containment system from migrating out of the system to the soil, groundwater, or surface water;

5. Existing aboveground tanks used to store or process used oil at processing and re-refining facilities shall be equipped with a secondary containment system meeting the following:

i. The secondary containment system shall consist of, at a minimum:

(1) Dikes, berms or retaining walls; and

(2) The floor shall cover the entire area within the dike, berm, or retaining wall except areas where existing portions of the tank meet the ground; or

(3) An equivalent secondary containment system; and

ii. The entire containment system, including walls and floor, shall be sufficiently impervious to used oil to prevent any used oil released into the containment system from migrating out of the system to the soil, groundwater, or surface water;

6. New aboveground tanks used to store or process used oil at processing and re-refining facilities shall be equipped with a secondary containment system meeting the following:

i. The secondary containment system shall consist of, at a minimum:

(1) Dikes, berms or retaining walls; and

(2) The floor shall cover the entire area within the dike, berm, or retaining wall; or

(3) An equivalent secondary containment system; and

ii. The entire containment system, including walls and floor, shall be sufficiently impervious to used oil to prevent any used oil released into the containment system from migrating out of the system to the soil, groundwater, or surface water;

7. The following are the label standards for used oil transfer facilities:

i. Containers and aboveground tanks used to store or process used oil at processing and re-refining facilities shall be labeled or marked clearly with the words "Used Oil"; and

ii. Fill pipes used to transfer used oil into underground storage tanks at processing and re-refining facilities shall be labeled or marked clearly with the words "Used Oil";

8. Upon detection of a release of used oil to the environment not subject to the requirements of 40 C.F.R. Part 280, subpart F or N.J.A.C. 7:14B, an owner/operator shall perform the following cleanup steps:

- i. Stop the release;
  - ii. Contain the released used oil;
  - iii. Clean up and manage properly the released used oil and other materials; and
  - iv. If necessary, repair or replace any leaking used oil storage containers or tanks prior to returning them to service; and
9. The closure standards for used oil processors and re-refiners are as follows:
- i. Owners and operators who store or process used oil in aboveground tanks shall comply with the following requirements:
    - (1) At closure of a tank system, the owner or operator shall remove or decontaminate used oil residues in tanks, contaminated containment system components, contaminated soils, and structures and equipment contaminated with used oil, and manage them as hazardous waste, unless the materials are not hazardous waste under 40 C.F.R. Parts 260 through 266, 268, 270 and 124, as incorporated by reference at N.J.A.C. 7:26G; and
    - (2) If the owner or operator demonstrates that not all contaminated soils can be practicably removed or decontaminated as required in 8i(1) above, then the owner or operator shall close the tank system and perform post-closure care in accordance with the closure and post-closure care requirements that apply to hazardous waste landfills found at 40 C.F.R. 265.310, as incorporated by reference at N.J.A.C. 7:26G-9.
  - ii. Owners and operators who store used oil in containers shall comply with the following requirements:
    - (1) At closure, containers holding used oils or residues of used oil shall be removed from the site; and
    - (2) The owner or operator shall remove or decontaminate used oil residues, contaminated containment system components, contaminated soils, and structures and equipment contaminated with used oil, and manage them as hazardous waste, unless the materials are not hazardous waste under 40 C.F.R. Part 261, as incorporated by reference at N.J.A.C. 7:26G-5.
  - (f) The following are the analysis plan standards for used oil processors and re-refiners.
    1. Owners or operators of used oil processing and re-refining facilities shall develop and follow a written analysis plan describing the procedures that will be used to comply with the analysis requirements of N.J.A.C. 7:26A-6.7(d) and, if applicable, N.J.A.C. 7:26A-6.8(d). The owner or operator shall keep the plan at the facility as follows:
      2. At a minimum, where the owner or operators is making a rebuttable presumption for used oil in N.J.A.C. 7:26A-6.7(d), the plan shall specify the following:
        - i. Whether sample analyses or knowledge of the halogen content of the used oil will be used to make this determination,
        - ii. If sample analyses are used to make this determination, the plan shall contain the following:
          - (1) The sampling method used to obtain representative samples to be analyzed. A representative sample may be obtained using one of the sampling methods in Appendix I of 40 C.F.R. Part 261, as incorporated by reference at N.J.A.C. 7:26G-5 as follows:
            - (A) One of the sampling methods in Appendix I of 40 C.F.R. Part 261, as incorporated by reference at N.J.A.C. 7:26G-5; or
            - (B) A method shown to be equivalent under 40 C.F.R. 260.2 and 260.21, as incorporated by reference at N.J.A.C. 7:26G-4;
          - (2) The frequency of sampling to be performed, and whether the analysis will be performed on-site or off-site; and
          - (3) The methods used to analyze used oil for the parameters specified in N.J.A.C. 7:26A-6.7(d); and
        - iii. The type of information that will be used to determine the halogen content of the used oil; and
      3. At a minimum, the plan shall specify the following if N.J.A.C. 7:26A-6.8(d) is applicable:
        - i. Whether sample analyses or other information will be used to make this determination;
        - ii. If sample analyses are used to make this determination, the plan shall contain the following:
          - (1) The sampling method used to obtain representative samples to be analyzed. A representative sample may be obtained using either:
            - (A) One of the sampling methods in Appendix I of 40 C.F.R. Part 261, as incorporated by reference at N.J.A.C. 7:26G-5; or
            - (B) A method shown to be equivalent under N.J.A.C. 7:26G-4;
          - (2) Whether used oil will be sampled and analyzed prior to or after any processing/re-refining;
          - (3) The frequency of sampling to be performed, and whether the analysis will be performed on-site or off-site; and
          - (4) The methods used to analyze used oil for the parameters specified in N.J.A.C. 7:26A-6.8(d); and

iii. The type of information that will be used to make the on-specification used oil fuel determination.

(g) The used oil tracking standards for transporters and transfer facilities are as follows:

1. Used oil processors/re-refiners shall keep a record of each used oil shipment accepted for processing/re-refining. These records may take the form of a log, invoice, manifest, bill of lading or other shipping documents. Records for each shipment shall include the following information:

i. The name and address of the transporter who delivered the used oil to the processor/re-refiner;

ii. The name and address of the generator or processor/re-refining from whom the used oil was sent for processing/re-refining;

iii. The EPA identification number of the transporter who delivered the used oil to the processor/re-refiner;

iv. The EPA identification number (if applicable) of the generator or processor/re-refiner from whom the used oil was sent for processing/re-refining;

v. The quantity of used oil accepted; and

vi. The date of acceptance;

2. Used oil processor/re-refiners shall keep a record of each shipment of used oil that is shipped to a used oil burner, processor/ re-refiner, or disposal facility. These records may take the form of a log, invoice, manifest, bill of lading or other shipping documents. Records for each shipment shall include the following information:

i. The name and address of the transporter who delivers the used oil to the burner, processor/re-refiner or disposal facility;

ii. The name and address of the burner, processor/re-refiner or disposal facility who will receive the used oil;

iii. The EPA identification number of the transporter who delivers the used oil to the burner, processor/re-refiner or disposal facility;

iv. The EPA identification number of the burner, processor/re-refiner, or disposal facility who will receive the used oil;

v. The quantity of used oil shipped; and

vi. The date of shipment; and

3. The records described in (g)1 and 2 above shall be maintained on-site for at least three years.

(h) The following are the operating record and reporting standards for used oil processors and re-refiners:

1. The owner or operator shall keep a written operating record at the facility. The following information shall

be recorded, as it becomes available, and maintained in the operating record until closure of the facility:

i. Records and results of used oil analyses performed as described in the analysis plan required under N.J.A.C. 7:26A-6.9(f); and

ii. Summary reports and details of all incidents that require implementation of the contingency plan as specified in N.J.A.C. 7:26A-6.7(c)2;

2. A used oil processor/re-refiner shall report to the Department, in the form of a letter, on a biennial basis (by March 1 of each even numbered year), the following information concerning used oil activities during the previous calendar year:

i. The EPA identification number, name, and address of the processor/re-refiner;

ii. The calendar year covered by the report; and

iii. The quantities of used oil accepted for processing/re-refining and the manner in which the used oil is processed/re-refined, including the specific processes employed.

(i) Used oil processors/re-refiners who initiate shipments of used oil off-site shall ship the used oil using a used oil transporter who has obtained an EPA identification number.

(j) Owners and operators who generate residues from the storage, processing, or re-finishing of used oil shall manage the residues as specified in N.J.A.C. 7:26A-6.1(a)5.

#### **7:26A-6.8 Standards for used oil burners who burn off-specification used oil for energy recovery**

(a) The following are the applicability standards for used oil burners:

1. The requirements of this section apply to used oil burners except as specified in (a)1i and ii below. A used oil burner is a facility where used oil not meeting the specification requirements in N.J.A.C. 7:26A-6.2 is burned for energy recovery in devices identified in (b)1 below. Facilities burning used oil for energy recovery under the following conditions are not subject to this section:

i. The used oil is burned by the generator in an on-site space heater under the provisions of N.J.A.C. 7:26A-6.4(e); or

ii. The used oil is burned by a processor/re-refiner for purposes of processing used oil, which is considered burning incidentally to used oil processing.

2. Used oil burners who conduct the following activities are also subject to the requirements of other applicable provisions of this subchapter as follows:

i. Burners who generate used oil shall also comply with N.J.A.C. 7:26A-6.4;

ii. Burners who transport used oil shall also comply with N.J.A.C. 7:26A-6.6;

iii. Except as provided in N.J.A.C. 7:26A-6.8(b)2, burners who process or re-refine used oil shall also comply with N.J.A.C. 7:26A-6.7;

iv. Burners who direct shipments of off-specification used oil from their facility to a used oil burner or first claim that used oil that is to be burned for energy recovery meets the used oil fuel specifications set forth in N.J.A.C. 7:26A-6.2 shall also comply with N.J.A.C. 7:26A-6.9; and

v. Burners who dispose of used oil shall comply with N.J.A.C. 7:26A-6.10; and

3. This section does not apply to persons burning used oil that meets the used oil fuel specification of N.J.A.C. 7:26A-6.2, provided that the burner complies with the requirements of N.J.A.C. 7:26A-6.9.

(b) Restrictions on burning used oil are as follows:

1. Off-specification used oil fuel shall not be burned for energy recovery except in the devices specified below and provided a "Permit to Construct, Install or Alter Control Apparatus or Equipment and Certificate to Operate Control Apparatus or Equipment" has been issued for the device in accordance with the provisions of N.J.A.C. 7:27-8 only in the following devices:

i. Industrial furnaces as defined in N.J.A.C. 7:26-1.4;

ii. Boilers, as defined in N.J.A.C. 7:26-1.4, that are identified as follows:

(1) Industrial boilers located on the site of a facility engaged in a manufacturing process where substances are transformed into new products, including the component parts of products, by mechanical or chemical processes; or

(2) Utility boilers used to produce electric power, steam, heated or cooled air, or other gases or fluids for sale;

iii. Hazardous waste incinerators subject to regulation under 40 C.F.R. Parts 264 or 265, as incorporated by reference at N.J.A.C. 7:26G-8 or 9;

2. With the following exception, used oil burners shall not process used oil unless they also comply with the requirements of N.J.A.C. 7:26A-6.7:

i. Used oil burners may aggregate off-specification used oil with virgin oil or on-specification used oil for purposes of burning, but shall not aggregate for purposes of producing on-specification used oil.

(c) Notification standards for used burners are as follows:

1. Used oil burners which have not previously complied with the notification requirements of RCRA section 3010 shall comply with these requirements and obtain an EPA identification number;

2. A used oil burner who has not received an EPA identification number may obtain one by notifying the Regional Administrator of EPA Region II of their used oil activity by submitting either:

i. A completed EPA Form 8700-12 (To obtain EPA Form 8700-12 call RCRA/Superfund Hotline at 1-800-424-9346 or 703-920-9810); or

ii. A letter requesting an EPA identification number. Call the RCRA/Superfund Hotline to determine where to send a letter requesting an EPA identification number. The letter should include the following information:

- (1) The burner company name;
- (2) The owner of the burner company;
- (3) The mailing address for the burner;
- (4) The name and telephone number for the burner point of contact;
- (5) The type of used oil activity; and
- (6) The location of the burner facility.

(d) The rebuttable presumption standards for used oil burners are as follows:

1. To ensure that used oil managed at a used oil burner facility is not hazardous waste under the rebuttable presumption of N.J.A.C. 7:26A-6.1(a)2i(2), a used oil burner shall determine whether the total halogen content of used oil managed at the facility is equal to and less than or more than 1,000 ppm;

2. The used oil burner shall determine if the used oil contains equal to and less than or more than 1,000 ppm total halogens by:

i. Testing the used oil;

ii. Applying knowledge of the halogen content of the used oil in light of the materials or processes used; or

iii. If the used oil has been received from a processor/refiner subject to regulation under N.J.A.C. 7:26A-6.7, using information provided by the processor/re-refiner;

3. If the used oil contains more than or equal to 1,000 ppm total halogens, it is presumed to be a hazardous waste because it has been mixed with halogenated hazardous waste listed in 40 C.F.R. Part 261, subpart D, as incorporated by reference at N.J.A.C. 7:26G-5. The used oil owner or operator may rebut the presumption, except as set forth below by demonstrating that the used oil does not contain hazardous waste (for example, by using an analytical method from SW-846, Edition III, or later) to show that the used oil does not contain significant concentrations of halogenated hazardous constituents listed in Appendix VIII of 40 C.F.R. Part 261, as incorporated by reference at N.J.A.C. 7:26G-5).