

CHAPTER 26

SOLID WASTE

Authority

N.J.S.A. 13:1E-1 et seq., 13:1B-3 and 13:1D-9.

Source and Effective Date

R.1996 d.578, effective November 18, 1996.
See: 28 N.J.R. 2114(a), 28 N.J.R. 5248(a).

Executive Order No. 66(1978) Expiration Date

Chapter 26, Solid Waste, expires on November 18, 2001.

Chapter Historical Note

Chapter 26, Bureau of Solid Waste Management, was filed and became effective prior to September 1, 1969, pursuant to authority delegated at N.J.S.A. 26:2C-1, et seq. and N.J.S.A. 26:2D-1 et seq. Amendments to Chapter 26 became effective July 1, 1974 as R.1974 d.172. See: 5 N.J.R. 369(b), 6 N.J.R. 305(c).

Subchapter 2 was partially repealed and partially recodified to Subchapter 2A and a new Subchapter 2, Disposal, was adopted by R.1987 d.235, effective June 1, 1987. See: 18 N.J.R. 883(a), 19 N.J.R. 928(b).

Subchapter 2A, Additional Specific Disposal Regulations for Sanitary Landfills, was partially recodified from Subchapter 2 and the remainder was adopted as new rules by R.1987 d.235, effective June 1, 1987. See: 18 N.J.R. 883(a), 19 N.J.R. 928(b).

Subchapter 2B, Additional, Specific Disposal Regulations for Thermal Destruction Facilities, Transfer Stations, Materials Recovery Facilities, Co-Composting and Composting Facilities, was adopted as new rules by R.1987 d.235, effective June 1, 1987. See: 18 N.J.R. 883(a), 19 N.J.R. 928(b). Subchapter 2B, was renamed Additional, Specific Disposal Regulations for Thermal Destruction Facilities, Transfer Stations, Materials Recovery Facilities, Co-Composting and Solid Waste Composting Facilities by R.1996 d.578, effective November 18, 1996. See: 28 N.J.R. 2114(a), 28 N.J.R. 5248(a).

Subchapter 3, was adopted as R.1984 d.279, effective July 2, 1984. See 16 N.J.R. 986(a), 16 N.J.R. 1766(a). Subchapter 3 expired on June 9, 1985 and a new Subchapter 3, Transportation, was adopted as R.1985 d.558, effective November 4, 1985. See: 17 N.J.R. 1041(a), 17 N.J.R. 2609(a).

Subchapter 3A, Special Medical Waste, was adopted as an emergency new rule by R.1988 d.429, effective August 10, 1988 (to expire October 9, 1988). See: 20 N.J.R. 2321(a). The concurrent proposal was adopted as R.1988 d.523, effective October 7, 1988. See: 20 N.J.R. 2321(a), 20 N.J.R. 2760(a). Subchapter 3A, Special Medical Waste, was repealed and a new Subchapter 3A, Regulated Medical Waste, was adopted as an emergency repeal and new rule by R.1989 d.396, effective June 26, 1989. See: 21 N.J.R. 2109(a). The concurrent proposal was adopted as R.1989 d.506, effective August 25, 1989. See: 21 N.J.R. 2109(a), 21 N.J.R. 2967(a).

Subchapter 4, Fees for Solid Waste, Excluding Hazardous Waste, was amended by R.1975 d.110, effective April 29, 1975. See: 7 N.J.R. 101(a), 7 N.J.R. 259(a). Subchapter 4 was further amended by R.1976 d.327, effective November 1, 1976. See: 8 N.J.R. 374(d), 8 N.J.R. 510(d); and R.1978 d.205, effective July 1, 1978. See: 10 N.J.R. 327(c). Subchapter 4, Fees for Solid Waste, Excluding Hazardous Waste, was renamed Fees for Solid Waste by R.1996 d.578, effective November 18, 1996. See: 28 N.J.R. 2114(a), 28 N.J.R. 5248(a).

Subchapter 4A, Hazardous Waste Fees, was adopted as R.1989 d.54, effective January 17, 1989. See: 20 N.J.R. 1995(a), 21 N.J.R. 190(a).

Subchapter 4A was repealed by R.1996 d.500, effective October 21, 1996. See: 28 N.J.R. 1693(a), 28 N.J.R. 4606(a).

Subchapter 5, Rules of Practice and Procedure, was adopted, pursuant to authority of N.J.S.A. 13:1E-1 et seq., by R.1973 d.300, effective October 23, 1973. See: 5 N.J.R. 370(c). Subchapter 5 was further amended by R.1982 d.433, effective December 6, 1982. See: 14 N.J.R. 1138(a), 14 N.J.R. 1367(a); and R.1984 d.279, effective July 2, 1984. See: 16 N.J.R. 986(a), 16 N.J.R. 1766(a). Pursuant to Executive Order No. 66(1978), Subchapter 5, Rules of Practice and Procedure, expired on October 7, 1985 and the Department does not intend to readopt its provisions. Subchapter 5, Rules of Practice and Procedure, was repealed by R.1987 d.235, effective June 1, 1987. See: 18 N.J.R. 883(a), 19 N.J.R. 928(b). Subchapter 5, Civil Administrative Penalties and Requests for Adjudicatory Hearings, was adopted as R.1990 d.50, effective January 16, 1990. See: 21 N.J.R. 2734(a), 22 N.J.R. 187(a).

Subchapter 6, was adopted as R.1979 d.502, effective December 31, 1979. See: 11 N.J.R. 616(b), 12 N.J.R. 71(b). Subchapter 6 was repealed and a new Subchapter 6, Interdistrict and Intradistrict Solid Waste Flow, was adopted by R.1982 d.434, effective December 6, 1982, in accordance with a New Jersey Supreme Court decision modifying Department of Environmental Protection authority to direct the inter-district flow of waste (A.A. Mastrangelo, Inc., et al. v. Commr. Env. Prot., August 11, 1982). See: 14 N.J.R. 1027(b), 14 N.J.R. 1368(a).

Subchapter 7, Labeling, Records and Transportation Requirements, was adopted as R.1978 d.72, effective February 27, 1978. See: 9 N.J.R. 459(d), 10 N.J.R. 146(a). Subchapter 7 was repealed by R.1996 d.500, effective October 21, 1996. See: 28 N.J.R. 1693(a), 28 N.J.R. 4606(a).

Subchapter 8, Hazardous Waste Criteria, Identification and Listing, was adopted as R.1981 d.281, effective August 6, 1981. See: 12 N.J.R. 511(a), 13 N.J.R. 484(b). Public Notice: Petition for Rulemaking. See: 22 N.J.R. 994(a). Public Notice: Action on Petition for Rulemaking. See: 22 N.J.R. 994(d). Subchapter 8, Hazardous Waste Criteria, Identification and Listing, was repealed by R.1996 d.500, effective October 21, 1996. See: 28 N.J.R. 1693(a), 28 N.J.R. 4606(a).

Subchapter 9, Requirements for Hazardous Waste Facilities, was adopted as R.1981 d.370, effective October 8, 1981. See: 12 N.J.R. 511(a), 13 N.J.R. 706(b). Subchapter 9 was repealed by R.1996 d.500, effective October 21, 1996. See: 28 N.J.R. 1693(a), 28 N.J.R. 4606(a).

Subchapter 10, Additional Operational and Design Standards for Hazardous Waste Facilities, was adopted as R.1982 d.324, effective October 4, 1982. See: 13 N.J.R. 567(a), 14 N.J.R. 1089(d). Subchapter 10 was repealed by R.1996 d.500, effective October 21, 1996. See: 28 N.J.R. 1693(a), 28 N.J.R. 4606(a).

Subchapter 11, Additional Requirements for Hazardous Waste Facilities Operating Under Existing Facility Status, was adopted as R.1981 d.370, effective October 8, 1981. See: 12 N.J.R. 511(a), 13 N.J.R. 706(b). Subchapter 11 was repealed by R.1996 d.500, effective October 21, 1996. See: 28 N.J.R. 1693(a), 28 N.J.R. 4606(a).

Subchapter 12, Hazardous Waste Facility Permit Requirements, was adopted as R.1981 d.370, effective October 8, 1981. See: 12 N.J.R. 511(a), 13 N.J.R. 706(b). Subchapter 12 was repealed by R.1996 d.500, effective October 21, 1996. See: 28 N.J.R. 1693(a), 28 N.J.R. 4606(a).

Subchapter 13, Siting Criteria for New Major Commercial Hazardous Waste Facilities, was adopted as R.1983 d.276, effective July 5, 1983. See: 15 N.J.R. 113(a), 15 N.J.R. 1096(a). Subchapter 13 was repealed by R.1996 d.500, effective October 21, 1996. See: 28 N.J.R. 1693(a), 28 N.J.R. 4606(a).

Subchapter 13A, Hazardous Waste Facilities Siting Commission: Policies and Procedures, was adopted as R.1984 d.304, effective July 16, 1984. See: 16 N.J.R. 408(b), 16 N.J.R. 1989(a). Subchapter 13A was repealed by R.1996 d.500, effective October 21, 1996. See: 28 N.J.R. 1693(a), 28 N.J.R. 4606(a).

Subchapter 14, Resource Recovery Grants or Loans, was adopted as R.1981 d.184, effective June 4, 1981. See: 13 N.J.R. 9(a), 13 N.J.R.

340(d). Subchapter 14 was repealed by R.1996 d.578, effective November 18, 1996. See: 28 N.J.R. 2114(a), 28 N.J.R. 5248(a).

Subchapter 14A, Resource Recovery and Solid Waste Disposal Facility Loans, was adopted as R.1988 d.268, effective June 20, 1988. See: 19 N.J.R. 828(a), 20 N.J.R. 1346(a).

Subchapter 15, Recycling Grants and Loans Program, was adopted as R.1982 d.32, effective February 16, 1982. See: 13 N.J.R. 865(a), 14 N.J.R. 206(b).

Subchapter 16, Solid and Hazardous Waste Licensing and Revocation—Disclosure Statements and Integrity Review was adopted as R.1984 d.279, effective July 2, 1984. See: 16 N.J.R. 986(a), 16 N.J.R. 1425(a), 16 N.J.R. 1766(a).

Subchapter 16A, Special Rules for Submission of Disclosure Statements by Existing Licensees and Applicants Whose Applications Were Pending Before the Department Prior to July 2, 1984, was adopted as R.1984 d.279, effective July 2, 1984. See: 16 N.J.R. 986(a), 16 N.J.R. 1766(a).

Subchapter 17, Availability of Information; Confidential Business Information, was adopted as R.1988 d.57, effective February 1, 1988. See: 19 N.J.R. 1869(a), 20 N.J.R. 273(a). Subchapter 17, Availability of Information; Confidential Business Information, was repealed and a new Subchapter 17, Confidentiality Determinations, was adopted by R.1996 d.578, effective November 18, 1996. See: 28 N.J.R. 2114(a), 28 N.J.R. 5248(a).

Chapter 26, Bureau of Solid Waste Management, was renamed Division of Waste Management and amended by R.1984 d.279, effective July 2, 1984. See: 16 N.J.R. 986(a), 16 N.J.R. 1425(a), 16 N.J.R. 1766(a). Amendments to Chapter 26 became effective June 1, 1987 as R.1987 d.235. See: 18 N.J.R. 883(a), 19 N.J.R. 928(b).

Pursuant to Executive Order No. 66(1978), Chapter 26, Bureau of Solid Waste Management, was readopted as R.1990 d.578, effective October 25, 1990. See: 22 N.J.R. 2882(a), 22 N.J.R. 3514(a). The expiration date of Chapter 26, Bureau of Solid Waste Management, was extended by gubernatorial directive from October 25, 1995 to October 25, 1996. See: 27 N.J.R. 4700(a). The expiration date of Chapter 26, Division of Waste Management, was further extended by gubernatorial directive from October 25, 1996 to November 25, 1996. See 28 N.J.R. 4959(a).

Pursuant to Executive Order No. 66(1978), Chapter 26, Bureau of Solid Waste Management, was readopted as Chapter 26, Solid Waste, by R.1996 d.578, effective November 18, 1996. See: Source and Effective Date. See, also, section annotations.

OAL Note: All amendments and repeals in Emergency Adoption R.1997 d.404, with the exception of new rule N.J.A.C. 7:26-1.9 and amendments to N.J.A.C. 7:26-1.11, N.J.A.C. 7:26-1.12, N.J.A.C. 7:26-1.13, N.J.A.C. 7:26-6.10, and N.J.A.C. 7:26-6.11, which became operative on September 2, 1997, shall 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).

Research Note

The Water Quality Regulations of the Interstate Sanitation Commission appear as Appendix A to Title 7.

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SUBCHAPTER 1. GENERAL PROVISIONS

7:26-1.1 Scope of rules

(a) Unless otherwise provided by rule or statute, this chapter shall constitute the rules of the Department of Environmental Protection that govern the registration, operation, maintenance, and closure of sanitary landfills and other solid and hazardous waste facilities in the State of New Jersey as may be approved by the Department; registration, operation, and maintenance of solid waste transporting operations and facilities in the State of New Jersey; a fee schedule for services provided by the Department to solid and hazardous waste facilities, generators and transporters; and the assessment of civil administrative penalties. These rules shall not apply to the following:

1. The purchase, sale, collection, storage, transport or controlled processing of source separated or commingled source separated recyclable, recycled or secondary non-hazardous materials, which would otherwise be handled as solid waste pursuant to this chapter for introduction or reintroduction into the economic mainstream as raw materials for further processing or as products for use, provided that such materials are free from putrescible matter and are not mixed with solid or liquid waste as defined herein. Specifically not exempted are solid waste materials (including fuel and reusable energy), or thermal destruction facilities. These rules shall not apply only if the conditions in (a)1i or ii below are met.

(3) Documentation of all contaminants and their concentrations of any such contaminants contained in the material in comparison to current Department SCC guidance levels, or as specified by the Department pursuant to (g)5iv(1) above, sampled and analyzed in accordance with N.J.A.C. 7:26E or as otherwise specified by the Department on a case-by-case basis, including field observations and all available field analytical data. The documentation shall include the results of all samples (screening, post-excavation, and waste pile/classification) collected during investigation of the area, excavation, or generation of the material including all historical analyses;

(4) The concentration limits for contaminants in the material during the proposed use or reuse and the rationale for those limits, and a description of the quality assurance procedures that will be used or reused to monitor material produced in the future for use or reuse;

(5) A scaled site map depicting all sample locations and the location of the proposed use or reuse of the material; and

(6) A determination of the waste classification of the material and the rationale used for that classification;

v. Copies of the analytical package (chain of custody, sampling methods, QA/QC data) used to evaluate the material;

vi. A description of any treatment undertaken prior to the use of the material;

vii. A description of the measures to be taken during handling and transportation of the material to minimize environmental and human health impacts; and

viii. The schedule for initiation and completion of the beneficial use project.

6. The Department may require additional information in order to ensure that the proposed beneficial use project will meet the requirements of (g)1 and 2 above.

7. The Department shall issue a certificate of authority to operate for a beneficial use project or deny the application for a certificate of authority to operate for a beneficial use project, in writing to the applicant, within 90 days of receipt of a complete application.

8. The owner and/or operator of a beneficial use project shall submit, on an annual basis, a report to the Department detailing the amount of material used, the date(s) of such use, the location(s) of the use, and any other information as required by the Department in the certificate of authority to operate.

9. The Department shall order an immediate termination of all operations at a beneficial use project if it determines that termination is necessary to protect human

health and the environment. The owner and/or operator of the beneficial use project shall be provided the opportunity for a hearing on the termination within 20 days of issuance of the order to terminate.

Amended by R.1982 d.433, effective December 6, 1982.

See: 14 N.J.R. 1138(a), 14 N.J.R. 1367(a).

Amended by R.1984 d.40, effective February 21, 1984.

See: 15 N.J.R. 2017(a), 16 N.J.R. 367(b).

“Variance” not readopted.

R.1984 d.174, effective April 25, 1984.

See: 16 N.J.R. 1100(a).

Filed as an emergency rule to expire June 24, 1984. Also proposed concurrently.

R.1984 d.399, effective August 17, 1984.

See: 16 N.J.R. 1100(a), 16 N.J.R. 1627(a), 16 N.J.R. 2367(a).

Readopted without change, Emergency R.1984 d.174.

Amended by R.1985 d.666, effective January 6, 1986.

See: 17 N.J.R. 1040(a), 18 N.J.R. 99(a).

(e) added.

Emergency Amendment and Concurrent Proposal, R.1987 d.231, effective April 30, 1987 (expires June 29, 1987).

See: 19 N.J.R. 886(a).

Subsection (f) added.

Readoption of Concurrent Proposal, R.1987 d.311, effective June 29, 1987.

See: 19 N.J.R. 1452(a).

Correction: “May” substituted for “shall” in (a) and (d)1; added text to (d) “This subsection sets forth the”.

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

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

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

Added (g).

Adopted Concurrent Proposal, R.1989 d.55, effective December 23, 1988.

See: 20 N.J.R. 2817(a), 21 N.J.R. 198(a).

Provisions of Emergency Amendment R.1988 d.547, readopted with a change in (g)4iv: added “emergency”.

Administrative change in (b)1.

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

Amended by R.1996 d.578, effective December 16, 1996.

See: 28 N.J.R. 2114(a), 28 N.J.R. 5248(a).

In (c)2, added reference to class of facilities; in (d)1, deleted one year limitation period reference relating to certificates; in (d)1i, substituted “Department” for “Commissioner”; deleted (e) and (g); recodified former (f) as (e); substantially amended (e); added new (f) and (g).

Case Notes

Sludge Management Plan exempted sludge-only thermal reduction facilities from permitting requirement of the Solid Waste Management Act. Terminal Const. Corp. v. Hoboken-Union City-Weehawken Sewerage Authority, 244 N.J.Super. 537, 582 A.2d 1288 (A.D.1990), certification denied 126 N.J. 323, 598 A.2d 883.

7:26-1.8 Exemption from registration—land application and sewage sludge operations

(a) The following class of solid waste operations is hereby exempted from registration as required under N.J.S.A. 13:1E-4 and N.J.A.C. 7:26.

1. Operations for the land application of non-hazardous solid waste (including wastewater and potable water treatment sludge) and storage facilities for such non-hazardous solid waste which receive:

i. A temporary emergency or final New Jersey Pollutant Discharge Elimination system (NJPDES) permit issued pursuant to N.J.A.C. 7:14A; and

ii. An approval of the assessment of the environmental impact of the proposed operation which may be included in the NJPDES permit.

(b) All sewage sludge management equipment and operations for which permits are obtained pursuant to N.J.A.C. 7:14A and/or 7:27, except operations involving the transportation of sewage sludge or the commingling of sewage sludge with municipal solid waste, are exempt from the registration requirements of N.J.S.A. 13:1E-4 and N.J.A.C. 7:26.

(c) Transporters of marketable residual product are exempt from the registration requirements of N.J.S.A. 13:1E-4 and N.J.A.C. 7:26.

New Rule, R.1986 d.162, effective May 5, 1986.

See: 17 N.J.R. 2945(a), 18 N.J.R. 982(a).

Old rule recodified to 7:26-1.9.

Amended by R.1996 d.578, effective December 16, 1996.

See: 28 N.J.R. 2114(a), 28 N.J.R. 5248(a).

In (a), amended N.J.A.C. reference; and added (b) and (c).

Case Notes

There is implied duty on part of Department of Environmental Protection, when deciding whether facility using sludge-derived products is exempt from permitting requirements, to give notice to affected municipalities and to consider their public health and safety concerns and zoning and land-use regulations, but there is no requirement of plenary or general public hearing. *Holgate Property Associates v. Township of Howell*, 145 N.J. 590, 679 A.2d 613 (1996).

7:26-1.9 Temporary exemption from solid waste facility permit modification procedures for permitted solid waste facilities

(a) General criteria for all exemptions are as follows:

1. Any exemption granted to a permitted solid waste facility pursuant to this section shall be consistent with the purpose and intent of the Solid Waste Management Act, N.J.S.A. 13:1E-1 et seq.; and

2. No exemption shall be granted for a significant modification which will pose a threat to public health or the environment.

(b) This subsection sets forth the specific criteria for temporarily exempting modifications to permitted solid waste facilities, which are not small-scale solid waste facilities as defined at N.J.A.C. 7:26-1.4 or are Class I sanitary landfill as defined at N.J.A.C. 7:26-1.4, from the solid waste permit modification procedures at N.J.A.C. 7:26-2.6.

1. A temporary permit modification approval shall be granted to a solid waste facility provided that:

i. The temporary permit modification approval shall not be issued for a period exceeding six months and may, in the Department's discretion, be extended for one additional consecutive six month period;

ii. Issuance of a temporary permit modification approval prior to the time that such modification to the solid waste facility permit can be issued pursuant to N.J.A.C. 7:26-2.6 is essential in order to ensure the viability of the facility to avoid a disruption in the provision of solid waste services. Such a disruption would be inconsistent with the purpose and intent of the Solid Waste Management Act and the District Solid Waste Management Plan;

iii. The modification to facility engineering design and/or operation shall be consistent with the protection of public health, safety and the environment under the circumstances. Notwithstanding any other requirement specified in Title 7 of the New Jersey Administrative Code, the facility engineering design and/or operational modification(s) to be implemented shall be those specified as conditions in the temporary permit modification approval;

iv. All preparatory work necessary to permit safe and environmentally sound operation of the facility can be accomplished prior to implementing the proposed modification(s) to the facility engineering design and/or its operations; and

v. A schedule has been established and incorporated into the temporary permit modification approval which provides for the formal processing of the request for facility modification of engineering design and/or operation in accordance with all requirements of N.J.A.C. 7:26-2.6. The schedule may call for accomplishing one or more milestones related to procedural requirements outlined at N.J.A.C. 7:26-2.6 after modification(s) of the facility engineering design and/or operation have been implemented.

2. Notwithstanding any other provision of this chapter, the facility permittee shall submit the following in an application for a temporary permit modification approval:

i. Amendments to the approved environmental and health impact statement (if applicable) or a complete and detailed description of changes in environmental impacts that will result from the proposed modification(s) in facility engineering design and/or operation and additional mitigation measures being or proposed to address such impacts. Traffic impacts shall be re-evaluated if the proposed modification results in an increase in waste acceptance;

ii. Amendments to the approved Operations and Maintenance Manual for the facility, that reflect changes made necessary due to the proposed modification(s) in facility engineering design and/or operation; and

iii. Amended engineering design(s) for the facility, reflecting changes proposed that are the result of the proposed modification(s) subject to review.

(c) The owner or operator of any solid waste facility exempted pursuant to this section shall comply with all conditions set forth in its temporary permit modification approval. Non compliance with a temporary permit modification approval shall subject the holder to a penalty pursuant to N.J.S.A. 13:1E-9 and/or suspension or revocation of authority to implement engineering design and/or operational modification(s).

1. The owner or operator of a facility for which temporary approval has been revoked or suspended shall be afforded the opportunity for a hearing pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., subsequent to the revocation or suspension. The request for a hearing shall be submitted to the Office of Legal Affairs, Attention: Adjudicatory Hearing Requests, Department of Environmental Protection, PO Box 402, Trenton, NJ 08625-0402.

2. The granting of a temporary permit modification approval shall not be interpreted as entitling the holder to a solid waste facility permit modification.

Emergency New Rule, R.1997 d.404, effective September 2, 1997 (to expire November 1, 1997).

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

Former section "Public access to information and requirements for Department determination of confidentiality" recodified as N.J.A.C. 7:26-1.12.

7:26-1.10 Transfer station facility master performance permits

By June 16, 1997, every facility holding a transfer station master performance permit shall submit an application for a solid waste facility permit in accordance with the procedures set forth in N.J.A.C. 7:26-2.4 and 7:26-2B.

Repeal and New Rule, R.1996 d.578, effective December 16, 1996.
See: 28 N.J.R. 2114(a), 28 N.J.R. 5248(a).

Case Notes

No public hearing required prior to issuance of master performance permit. *Mount Olive Tp. v. Department of Environmental Protection*, 225 N.J.Super. 94, 541 A.2d 1089 (A.D.1988).

Department of Environmental Protection not estopped from denying public hearing before issuing master performance permit. *Mount Olive Tp. v. Department of Environmental Protection*, 225 N.J.Super. 94, 541 A.2d 1089 (A.D.1988).

Performance permit was properly issued although though permit differed from district solid waste management plan. *Mount Olive Tp. v. Department of Environmental Protection*, 225 N.J.Super. 94, 541 A.2d 1089 (A.D.1988).

Master performance permit was properly issued to solid waste transfer station. *Mount Olive Tp. v. Department of Environmental Protection*, 225 N.J.Super. 94, 541 A.2d 1089 (A.D.1988).

7:26-1.11 (Reserved)

Emergency recodification to N.J.A.C. 7:26-1.13 by R.1997 d.404, effective September 2, 1997 (to expire November 1, 1997).

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

Section was "Burden of Proof".

7:26-1.12 Public access to information and requirements for Department determination of confidentiality

Any confidential information obtained or used in the administration of the State solid waste program, shall be treated in accordance with N.J.A.C. 7:26-17.

R.1982 d.97, effective April 5, 1982.

See: 13 N.J.R. 724(a), 14 N.J.R. 338(a).

Recodified by R.1986 d.162, effective May 5, 1986.

See: 17 N.J.R. 2945(a), 18 N.J.R. 982(a).

Recodified from 7:26-1.8.

Amended by R.1988 d.57, effective February 1, 1988.

See: 19 N.J.R. 1869(a), 20 N.J.R. 273(a).

Changed reference from 7:14A-11 to 7:26-17.

Administrative Correction.

See: 25 N.J.R. 4595(b).

Amended by R.1996 d.578, effective December 16, 1996.

See: 28 N.J.R. 2114(a), 28 N.J.R. 5248(a).

Substituted "solid waste program" for "hazardous waste program".

Emergency recodification from N.J.A.C. 7:26-1.9 by R.1997 d.404, effective September 2, 1997 (to expire November 1, 1997).

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

Former N.J.A.C. 7:26-1.12, "Exemption from SWF permitting—leaf composting facility—(leaf mulching only operations)", was repealed by R.1996 d.578, effective December 16, 1996.

7:26-1.13 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 N.J.A.C. 7:26 or that they are not otherwise subject to the rules in N.J.A.C. 7:26 shall demonstrate and appropriately document that they satisfy all terms of the law releasing them from the requirements of N.J.A.C. 7:26.

(b) In an enforcement action, or on specific request of the Department, persons claiming that a certain material is not a solid waste shall demonstrate and appropriately document that the material is not a solid waste.

(c) In an enforcement action, or on specific request of the Department, persons claiming that a certain material is conditionally exempt from N.J.A.C. 7:26 shall demonstrate and appropriately document that they satisfy all terms of the law that renders the material conditionally exempt from N.J.A.C. 7:26.

New Rule, R.1990 d.65, effective February 5, 1990.

See: 21 N.J.R. 3219(a), 22 N.J.R. 382(a).

Amended by R.1996 d.500, effective October 21, 1996.

See: 28 N.J.R. 1693(a), 28 N.J.R. 4606(a).

Recodified from 7:26-1.13 and amended by R.1996 d.578, effective December 16, 1996.

See: 28 N.J.R. 2114(a), 28 N.J.R. 5248(a).

Added references to specific request of the Department throughout; and in (c), substituted "an approved alternative use" for "a legal disposition". Section was "Exemption from SWF permitting—leaf composting facilities (leaves only)".

Emergency recodification from N.J.A.C. 7:26-1.11 by R.1997 d.404, effective September 2, 1997 (to expire November 1, 1997).
See: 29 N.J.R. 4170(a).

SUBCHAPTER 2. DISPOSAL

7:26-2.1 Scope and applicability

(a) This subchapter and N.J.A.C. 7:26-2A and 2B shall constitute the rules and regulations of the Department governing the disposal of nonhazardous solid waste unless specifically exempted by N.J.A.C. 7:26-1.1, 1.7, or 1.8.

(b) This subchapter does not apply to hazardous waste. See N.J.A.C. 7:26G. However, hazardous waste facilities and activities, both major and minor, are not exempt from the requirements of registration, approval and regulation under the Solid Waste Management Act except where expressly so provided. The principal rules pursuant to the Act, governing the registration and other aspects of the regulation of such facilities and activities, are set forth elsewhere in this chapter. See also other chapters of the New Jersey Administrative Code where applicable.

New Rule, R.1987 d.235, effective June 1, 1987.
See: 18 N.J.R. 883(a), 19 N.J.R. 928(b).

Original rule was "Dumps prohibited".
Amended by R.1987 d.534, effective December 21, 1987.
See: 19 N.J.R. 1035(a), 19 N.J.R. 2426(a).
Added text in (b) "However hazardous waste . . ."
Emergency Amendment, R.1988 d.547, effective October 26, 1988 (expires December 25, 1988).
See: 20 N.J.R. 2817(a).
Added sections 1.11 or 1.12 to (a).
Adopted Concurrent Proposal, R.1989 d.55, effective December 23, 1988.
See: 20 N.J.R. 2817(a), 21 N.J.R. 198(a).
Provisions of Emergency Amendment R.1988 d.547, readopted without change.
Amended by R.1996 d.500, effective October 21, 1996.
See: 28 N.J.R. 1693(a), 28 N.J.R. 4606(a).
Amended by R.1996 d.578, effective December 16, 1996.
See: 28 N.J.R. 2114(a), 28 N.J.R. 5248(a).
In (a), amended N.J.A.C. references; and deleted (c).

Case Notes

Disposing of solid waste in landfills other than those designated by state waste flow was warranted revocation of operating certificate. Matter of Allegations of Violations by Fiore and Sons, 95 N.J.A.R.2d (EPE) 88.

Receiving and storing construction and demolition debris; operating solid waste facility without a permit. DEPE v. Zanetich, 94 N.J.A.R.2d (EPE) 138.

7:26-2.2 Construction

(a) These rules shall be liberally construed to permit the Department to discharge its statutory functions.

As amended, R.1984 d.279, effective July 2, 1984.
See: 16 N.J.R. 986(a), 16 N.J.R. 1766(a).

New (c) added, former (c)-(g) made (d)-(h). In (g), "the information supplied on its" was "status as listed on his". In (h), "June" was "July" and "or to declare it expired" added. (i) added.
New Rule, R.1987 d.235, effective June 1, 1987.
See: 18 N.J.R. 883(a), 19 N.J.R. 928(b).
Rule was "Registration".

7:26-2.3 Purpose

(a) This subchapter is promulgated for the following purposes:

1. To establish the procedure for obtaining and maintaining a solid waste facility permit;
2. To establish the submission requirements for an environmental and health impact statement (EHIS) for solid waste facilities;
3. To establish the general engineering design requirements for solid waste facilities; and
4. To establish the general operational requirements for solid waste facilities.

New Rule, R.1987 d.235, effective June 1, 1987.
See: 18 N.J.R. 883(a), 19 N.J.R. 928(b).
Rule was "Domestic refuse".

7:26-2.4 Application procedures for a solid waste facility permit

(a) Prior to preparing and submitting the application for a solid waste facility (SWF) permit, other than for facilities specified in (c) below, the applicant may schedule a pre-application conference with the Department to discuss the registration, environmental and health impact statement and engineering submission requirements and the review procedures. At least two weeks prior to the scheduled pre-application conference, the applicant should submit information in the form of reports, maps, studies and other relevant project documentation providing a sufficient basis for review by the Department. The material submitted prior to the pre-application conference may include the following:

1. A site location map plotted on a USGS topographic map;
2. A written description of the type of facility;
3. A written estimate of the proposed design capacity of the facility;
4. A written description of the type of waste to be handled;
5. A written plan establishing the tentative construction schedules;
6. A written scope-of-work outlining the proposed EHIS, geotechnical investigation or engineering design;

7. Written documentation that the facility is included in the solid waste management plan pursuant to N.J.S.A. 13:1E-23 or that an application has been submitted to the appropriate public authority seeking inclusion in the solid waste management plan.

(b) A complete application for a SWF permit, except for applications for small-scale facilities identified in (c)1 and 2 below, shall include the following:

1. All fees, required by N.J.A.C. 7:26-4, owed and paid in accordance with N.J.S.A. 13:1D-120 et seq.;
2. Documentation establishing that the facility has been included in the applicable district solid waste management plan;
3. The disclosure statement described in N.J.A.C. 7:26-16. The requirement of a disclosure statement shall not apply to any person specifically exempted under N.J.A.C. 7:26-16.3(d);
4. A registration statement meeting the requirements of N.J.A.C. 7:26-2.8;
5. An EHIS prepared in accordance with N.J.A.C. 7:26-2.9;
6. An engineering design prepared in accordance with N.J.A.C. 7:26-2.10;
7. For sanitary landfills, a closure plan prepared and submitted in accordance with N.J.A.C. 7:26-2A.9; and
8. All applications for a SWF permit shall be submitted to:

Assistant Director for Engineering
 Division of Solid and Hazardous Waste
 Department of Environmental Protection
 CN 414
 Trenton, N.J. 08625-0414

(c) A complete application for a SWF permit for a small-scale solid waste facility as identified in (c)1 or 2 below, shall include the following:

1. For a small-scale thermal destruction facility:
 - i. Documentation and information sufficient to demonstrate, to the satisfaction of the Department, that the facility meets the following criteria:
 - (1) The waste intended for thermal destruction is nonhazardous;
 - (2) The waste is generated at the site of the thermal destruction operation, at other associated intracompany plants located within the State of New Jersey, or is regulated medical waste received by the onsite small-scale incinerator in conformance with the requirements of N.J.A.C. 7:26-3A;

(3) The small-scale thermal destruction unit has a design capacity of less than 800 pounds per hour (9.6 tons per day);

(4) The facility has been included in the applicable solid waste management plan; and

(5) The thermal destruction unit will be operated in compliance with N.J.A.C. 7:26-2.11 and all other applicable Departmental regulations.

- ii. A registration statement meeting the requirements of N.J.A.C. 7:26-2.8;
- iii. An EHIS sufficient to meet only the requirements set forth at N.J.A.C. 7:26-2.9 (d)1;
- iv. An engineering design prepared in accordance with N.J.A.C. 7:26-2.10;
- v. The disclosure statement described in N.J.A.C. 7:26-16. The requirement of a disclosure statement shall not apply to any person specifically exempted under N.J.A.C. 7:26-16.3(d); and
- vi. This exemption from full application requirements is limited to one small-scale thermal destruction unit for each company site.

2. For a small-scale materials recovery facility or transfer station:

i. Documentation sufficient to demonstrate, to the satisfaction of the Department, that the capacity of the facility is less than 100 tons per day;

ii. A registration statement meeting the requirements of N.J.A.C. 7:26-2.8;

iii. An EHIS sufficient to meet only the requirements set forth at N.J.A.C. 7:26-2.9 (d)2;

iv. An engineering design prepared in accordance with N.J.A.C. 7:26-2.10;

v. Documentation that the facility has been included in the applicable solid waste management plan; and

vi. The disclosure statement described in N.J.A.C. 7:26-16. The requirement of a disclosure statement shall not apply to any person specifically exempted as set forth at N.J.A.C. 7:26-16.3(d).

(d) Upon receipt of the initial application materials, the Department shall assign an application number to the application. All correspondence on written comments relating to the application shall thereafter refer to the assigned application number.

(e) All applications shall be signed by the applicant as follows:

1. The completed registration statement shall be signed 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

v. A presentation of the results and calculations, clearly noted, of all required design testing; and

vi. A projection of the life expectancy of the facility.

9. An operations and maintenance (O and M) manual shall be prepared and submitted as part of the engineering design. The O and M manual shall include the following:

i. A description of the proposed methods of facility operation, including, but not limited to, the following:

(1) Hours of operation;

(2) Types of equipment (indicate capacity and number of units);

(3) Implementation schedule for the solid waste facility;

(4) Monitoring;

(5) Security; and

(6) Methods to be employed to meet the operational requirements of N.J.A.C. 7:26-2.11.

ii. An inspection plan, which shall include a schedule for inspecting all applicable major aspects of facility operation necessary to ensure compliance with the requirements of this subchapter and N.J.A.C. 7:26-2A or 2B, as applicable. The frequency of inspection shall be based on the rate of potential equipment deterioration or malfunction and the probability of an adverse incident occurring if the deterioration or malfunction goes undetected between inspections. Areas of the facility subject to spills such as loading and unloading areas and areas in which significant adverse environmental or health consequences may result if breakdown occurs, shall be inspected daily, when in use. The plan shall include a schedule for inspecting monitoring, safety and emergency equipment, security devices and process operating and structural equipment. The plan shall identify the types of problems which are to be looked for during the inspection and the frequency of inspection:

(1) The inspection plan shall include a program for detecting and preventing the disposal of regulated hazardous wastes. This program shall include, at a minimum, but not be limited to, the following:

(A) Random inspection of incoming loads unless the owner or operator takes other steps to ensure that incoming loads do not contain regulated hazardous waste or PCB hazardous waste;

(B) Records of any inspections;

(C) Training of facility personnel to recognize regulated hazardous waste; and

(D) Notification procedures to report to the Department any discovery of regulated hazardous waste at the facility.

iii. A maintenance plan, which shall include an analysis of all applicable major aspects of the facility operation based on applicable industry established rates of potential equipment deterioration or malfunction if available, an analysis of spare parts inventory needs, schedules for anticipated repairs and maintenance contracts with local equipment dealers to supply standby or emergency equipment;

iv. A safety plan which shall include a description of the proposed measures to protect facility and other personnel from injury during operation;

v. A description of the proposed measures to handle unusual peak loadings which may exceed designed facility capacity;

vi. A description of the proposed measures to handle incoming waste flow during periods of short term facility shutdown for normal equipment repairs and also for periods of longer term facility shutdown for more extensive repairs.

10. The Department will review the O and M manual and notify the applicant of any deficiencies which need to be addressed. The necessary changes shall be incorporated into a final O and M manual. The final O and M manual shall be submitted to the Department subsequent to completion of the construction phase, but at least 60 days prior to initiating full-scale operations. Full-scale facility operations shall not be initiated before formal Departmental approval of the final O and M manual.

11. A landscaping plan delineating the existing site vegetation to be retained, and discussing the methods to be employed in order to ensure protection during the clearing, grading and construction phases of the project and the supplemental vegetation to be planted, shall be submitted as part of the engineering design. Information relating to vegetation type, location and purpose, such as for buffer, screening or aesthetics, and schedules for planting, shall accompany the plan. Facility exterior grounds shall be landscaped in a manner which enhances the visual appearance of the property.

12. Foundation sources and basis documents supporting all factual information submitted and all conclusions drawn, shall be identified.

New Rule, R.1985 d.65, effective February 19, 1985.

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

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

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

This section was recodified without change to 2.12.

Amended by R.1996 d.578, effective December 16, 1996.

See: 28 N.J.R. 2144(a), 28 N.J.R. 5248(a).

In (a), deleted two references to exemptions under N.J.A.C. 7:26-2.4(c) and amended the references made to 7:26-2B; rewrote (b)1; in (b)4i, amended N.J.A.C. reference; in (b)5vi, added reference to storm water drainage, sanitary sewer, water supply, and energy systems; in (b)6, substituted "North American Datum of 1983" for "New Jersey Plane Coordinate Datum of 1927"; deleted (b)7iii; in (b)9, amended reference to manual from preliminary manual; added

(b)9ii(1); and in (b)10, amended reference to manual from preliminary manual.

7:26-2.11 General operational requirements

(a) The operational requirements identified in this section are general requirements for all solid waste facilities. Additional operational requirements for sanitary landfills are set forth in N.J.A.C. 7:26-2A.8. Additional operational requirements for thermal destruction facilities are set forth in N.J.A.C. 7:26-2B.8. Additional operational requirements for transfer stations and materials recovery facilities are set forth at N.J.A.C. 7:26-2B.9 and 2B.10.

(b) The general operational requirements for all solid waste disposal facilities are as follows:

1. Within each 24 hour period the operator shall clean each area where waste has been deposited or stored, except for those storage areas at thermal destruction facilities which are designed for multiple day storage capability and as exempted by 10 below; for sanitary landfill all areas where waste has been deposited shall be covered with the appropriate cover material except as permitted by (b)10 below;

2. No waste shall be stored overnight at any facility without effective treatment to prevent odors associated with putrefaction;

3. Facility property surrounding the actual disposal area shall be maintained free of litter, debris, and accumulations of unprocessed waste, process residues and effluents. Methods of effectively controlling wind-blown papers and other lightweight materials such as fencing shall be implemented at all facilities;

4. Methods of effectively controlling dust shall be implemented at all facilities in order to prevent offsite migration;

5. The operation of the facility shall not result in odors associated with solid waste being detected off site in any area of human occupancy;

6. The operator shall maintain all facility systems and related appurtenances in a manner that facilitates proper operation and minimizes system downtime. When requested, the operator of the facility shall furnish proof that provisions have been made for the repair and replacement of equipment which becomes inoperative;

7. An adequate water supply and adequate fire-fighting equipment shall be maintained at the facility or be readily available to extinguish any and all types of fires. Fire-fighting procedures as delineated in the approved O and M manual, including the telephone numbers of local fire, police, ambulance and hospital facilities, shall be posted in and around the facility at all times;

8. The operator shall effectively control insects, other arthropods and rodents at the facility by means of a program in compliance with the requirements of the New Jersey Pesticide Control Code, N.J.A.C. 7:30, and implemented by an applicator of pesticides, certified in accordance with the New Jersey Pesticide Control Code, N.J.A.C. 7:30;

9. Only solid waste vehicles properly registered, pursuant to N.J.A.C. 7:26-3, with the Division of Solid and Hazardous Waste, unless exempt from the registration requirement pursuant to N.J.A.C. 7:26-3.3, and displaying the appropriate registration number and solid waste decal shall be admitted for loading or unloading of any solid waste at the facility. Solid waste vehicles exempt from registration shall not be admitted to the tipping area when registered, commercial type solid waste vehicles including, but not limited to, compactor trucks, trailers or any solid waste vehicle that tilts or uses other mechanical means to discharge its solid waste are being unloaded, or when other heavy equipment is being operated in the tipping area. The facility shall be sufficiently staffed to ensure that this requirement is not violated;

10. The operator shall designate a secure area under the facility's control, located a safe distance from the tipping area, where solid waste may be unloaded from those solid waste vehicles which are exempt for the registration requirements of N.J.A.C. 7:26-3.3. Bulky items and recyclable materials may be provided for in this manner. The operator may establish a separate secure area, with the approval of the Department, for the drop-off and/or transfer of asbestos and asbestos-containing waste material (ACWM) separate and apart from the disposal areas described in this paragraph or in N.J.A.C. 7:26-2A.8(l)2i and ii. The operator shall ensure that the container used for drop-off and/or transfer is fully enclosed and located on an impermeable surface. No person other than facility personnel or a licensed commercial asbestos removal contractor may load the asbestos or ACWM into the container used for drop-off and/or transfer. The facility operator shall be responsible for the sanitary conditions and orderly operation of the designated areas. It shall be the operator's responsibility to remove the bulky items, recyclable materials, ACWM or other waste from the designated area at a frequency so as not to exceed the storage capacity of the areas;

11. The operator shall at all times comply with the conditions of the SWF permit, as well as all other permits or certificates required and issued by the Department or any other governmental agency. The operator shall not receive, store, handle, process or dispose of waste types not specifically identified in that facility's SWF permit or other permit or certificate issued by the Department;

12. The operator shall designate a secure area under the facility's control, located a safe distance from the active disposal area, where solid waste, including suspected hazardous waste, which the facility is not permitted to receive shall be deposited until the operator receives instruction from the Department as to the proper disposal of the unpermitted waste;

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

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

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

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

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

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

18. The approved final O and M manual shall be maintained at the facility. A written description of any

proposed changes to the approved, final O and M manual shall be submitted to the Department for review. These proposed changes shall not be implemented at the facility until the Department approves the changes.

19. No operator shall transfer or allow to be transferred or otherwise alter, Type 13C waste destined for out-of-State disposal by adding or subtracting other waste types to the load once a transporter weighs the load of Type 13C waste at the designated district facility and receives a certified O and D form.

(c) The operator of a designated district disposal facility shall ensure that all weighing and inspection procedures carried out pursuant to N.J.A.C. 7:26-2.13(c)6 are conducted in a manner that facilitates proper operation and minimizes system interruptions. Changes in the design of the facility required in order to install equipment and to otherwise comply with the requirements of this subsection shall be submitted in accordance with N.J.A.C. 7:26-2.6.

Amended by R.1974 d.234, effective August 21, 1974.

See: 6 N.J.R. 343(c).

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

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

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

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

(p) deleted.

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

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

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

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

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

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

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

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

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

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

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

Added (b)19 and (c).

Amended by R.1996 d.578, effective December 16, 1996.

See: 28 N.J.R. 2114(a), 28 N.J.R. 5248(a).

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

Case Notes

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

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

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

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

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

1. Less than 260 linear feet on pipes or 160 square feet on other facility components; or
2. Less than 35 cubic feet of facility components where the length or area could not be measured prior to stripping, removal, dislodging, cutting, or drilling.

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

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

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

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

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

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

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

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

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

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

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

Amended by R.1996 d.578, effective December 16, 1996.

See: 28 N.J.R. 2114(a), 28 N.J.R. 5248(a).

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

Case Notes

Proposed sludge management facility was "facility" within meaning of the Solid Waste Management Act; sewage sludge to be handled by facility was "solid waste" within meaning of the Act; the Act preempted local zoning and planning regulations. *Ocean County Utilities Auth. v. Planning Bd. of Berkeley Twp., Ocean Co.*, 221 N.J.Super. 621, 535 A.2d 550 (Law Div.1987) affirmed 223 N.J.Super. 461, 538 A.2d 1307.

DEP complied with all Federal and State statutory and regulatory provisions in issuance of Air Pollution Control Permit and Solid Waste Permit to applicant. In the Matter of NJPDES Permit No. N.J. 0055247, et al., 216 N.J.Super. 1, 522 A.2d 1002 (App.Div.1987) certification denied 108 N.J. 185, 527 A.2d 1390 (1987).

7:26-2.13 Solid waste facilities; records

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

1. Identification of the solid waste facility by name and facility identification number;
2. Identification of the transporter by the Department of Environmental Protection registration number assigned and solid waste decal number;
3. The cubic yard, tonnage or gallon capacity of the solid waste vehicle or solid waste container for each of four categories of wastes as follows:
 - i. Solids: Wastes ID 10 through 27 received (in cubic yards or tons);
 - ii. Solids: Waste ID 13C weighed or weighed and inspected prior to transportation out-of-State;
 - iii. Septage and liquid sewage sludges: Waste ID 73 and 74 received (in gallons);
 - iv. Bulk liquid and semiliquids: Waste ID 72 received (in gallons);
4. Date and time of delivery to the facility;
5. The license plate number and State initials of the solid waste vehicle; and
6. The place of origin of the waste identified by municipality, county and State or in the case of the waste from a transfer station or materials recovery facility, the facility ID number of the transfer station shall also be listed.
7. In addition to the information required in (a)1 through 6 above, sanitary landfills which accept asbestos and asbestos-containing waste materials shall:

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

- (1) Date and time of delivery;

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

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

(4) Name and address of the generator; and

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

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

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

8. In addition to the information required in (a)1 through 7 above, transfer stations and materials recovery facilities which are not specifically provided with waste flow to their facility pursuant to N.J.A.C. 7:26-6, and which accept solid waste from districts or states other than where the facility is located, shall maintain the following additional information in the daily record:

i. The tonnages and types of solid waste received by municipality and by district or by out-of-State source. This amount shall be the total received prior to removal of materials for recycling. The types shall be listed by each ID type;

ii. The tonnages and types of solid waste returned to the state or county (including municipality) of origin. The transfer station and materials recovery facility is not considered the origin of the solid waste it receives;

iii. The tonnages and types of source separated recyclable materials and recyclable materials separated from the solid waste received by origin (by county and municipality); and

iv. The tonnages, types and destinations of recyclable materials which leave the transfer station or materials recovery facility to end markets, manufacturers or recycling centers for further processing pursuant to the following:

(1) Recyclable materials may only be transported to the above noted destinations, pursuant to the requirements of N.J.A.C. 7:26A;

(2) End markets, manufacturers and recycling centers shall mean the same as the definitions found at N.J.A.C. 7:26A-1.3;

(3) Destinations for recyclable material shall be listed by specific location and name of each end-market, manufacturer or recycling center; and

(4) Class B recyclable materials transported to an in-state recycling center for further processing shall be transported only to those recycling centers approved by the Department pursuant to N.J.A.C. 7:26A.

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

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

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

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

3. The facility operator shall verify that the form has been completed by a registered transporter, that the waste as identified by the transporter may be disposed of at the facility in compliance with the waste flow rules at N.J.A.C. 7:26-6.5 and the facility's registration, and, where applicable, the facility's computer recording of scale data is in conformance with the information supplied, and sign the completed form.

4. The facility operator shall retain all O and D forms for a minimum of one year and shall make them available for inspection by representatives of the department or the local health department at any time during normal working hours.

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

6. For each load of Type 13C waste weighed pursuant to N.J.A.C. 7:26-6.3(a)9ii, the designated district facility operator shall verify and return to each registered transporter of Type 13C waste, the completed O and D form which must accompany the Type 13C waste during transit. The O and D form shall contain the following information:

- i. The registered name and telephone number of the owner/operator of each registered unit of a solid waste vehicle;
- ii. The transporter vehicle plate number(s);
- iii. The N.J.D.E.P. registration number for each registered unit of the solid waste vehicle;
- iv. The gross vehicle weight as recorded by the facility scale;
- v. The date the vehicle was weighed;
- vi. Identification of the designated district weighing facility by name and facility identification number; and
- vii. The signature of the facility weighmaster certifying that the form has been completed by the transporter and that the gross weight figure is true and accurate for loads going out-of-State.

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

1. Noncommercial industrial facilities which dispose of only solid waste generated by that industrial firm;
2. Municipally operated facilities which accept only solid waste which is collected by that municipality's transporters and which is generated within that municipality;
3. Sludge farming operations which accept only ID 12 solid waste and which report to the Division of Water Resources;
4. Recycling facilities which accept only recyclable materials which have been separated at the point of generation for sale or reuse; and
5. Operations exempt from registration pursuant to N.J.A.C. 7:26-3.3(a).

(e) Monthly summaries of wastes received shall be submitted by the owner/operator of each facility to the Division of Solid and Hazardous Waste, Office of Recycling and Planning, the county within which the facility is located and any solid waste authority operating within the county within which the facility is located on forms provided by the Department (or duplication of same), no later than 20 days after the last day of each month.

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

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

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

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

iv. The identification of end-markets, manufacturers or recycling centers by specific name and location used for the materials designated as recyclable materials and the amount of materials sent to each specific end-market, manufacturer or recycling center. The requirements for transportation to, and identification of, end-markets, manufacturers and recycling centers shall be the same as N.J.A.C. 7:26-2.13(a)8iv above;

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

vi. Payments made to a designated district facility in lieu of disposing of solid waste pursuant to N.J.A.C. 7:26-2B.9(a)iii. The summary shall include the name of the district to which the payment was made, the amount of solid waste not delivered and the amount of the payment;

vii. The tonnage and types of solid waste sent to the designated facility in the district in which the transfer station or materials recovery facility is located where an in-lieu of payment has been made;

viii. The tonnage and origin of Type 13C waste that is weighed or weighed and inspected from each county and municipality prior to transportation out-of-State; and

2. Discrepancies between the amount and/or type of solid waste received at a transfer station or materials recovery facility and the amount and/or type of solid waste returned to the district designated facility or transported out-of-State which are not substantiated in the monthly summary pursuant to (e)1 above shall be deemed a violation of N.J.S.A. 13:1E-1 et seq., N.J.S.A. 48:13A-1 et seq., this chapter and in violation of the registration to operate a solid waste facility issued pursuant thereto and shall subject the facility to the provisions and penalties of N.J.S.A. 13:1E-9 and 48:13A-12 and all other applicable laws. Any discrepancy listed in (e)2i or ii below is a violation of N.J.S.A. 13:1E-1 et seq., N.J.S.A. 48:13A-1 et seq., this chapter, and the registration to operate a solid waste facility issued pursuant thereto, and shall subject the facility to penalties under N.J.S.A. 13:1E-9, 48:13A-12, and all other applicable laws and regulations:

i. A discrepancy between the following amounts:

(1) The amount or type of source-separated recyclables received at the facility for the month plus the amount or type of recyclables removed from solid waste received by the facility for the month as reported under (e)1iii above; and

(2) The change since the preceding month in the amount of each type of recyclable materials stored at the facility as reported under (e)1v above plus the amount or type of recyclable materials sent to end-markets at the end of the month as reported under N.J.A.C. 7:26-2.13(e)1iv.

ii. A discrepancy between the following amounts:

(1) The amount and type of solid waste received at the facility for the month as reported under (e)1i above; and

(2) The amount and type of solid waste returned to the county or state of origin as reported under (e)1ii above plus the amount and type of solid waste for which in-lieu payments have been made as reported under (e)1vi above.

iii. A discrepancy between the following amounts:

(1) The amount and type of solid waste received at the facility for which in-lieu payments have been made as reported under (e)1vi above; and

(2) The amount and type of solid waste sent to the designated facility in the county in which the transfer station or materials recovery facility is located as reported under (e)1vii above.

iv. A discrepancy between any of the amounts listed in (e)2i through iii above, and the corresponding amounts reported in the monthly summary under (e)1 above.

(f) Any certified county or local health agency certified by the Department pursuant to N.J.S.A. 26:3A-2 or a local

health department authorized to perform solid waste enforcement which seeks to obtain customer lists for enforcement purposes, shall comply with the procedures at N.J.A.C. 14:3-10.15(b)4.

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

1. Solid wastes; waste ID number and definitions:

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

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

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

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

v. 23 Vegetative waste: Waste materials from farms, plant nurseries and greenhouses that are produced from the raising of plants. This waste includes such crop residues as plant stalks, hulls, leaves and tree wastes processed through a wood chipper. Also included are non-crop residues such as leaves, grass clippings, tree parts, shrubbery and garden wastes.

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

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

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

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

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

1. Liquid wastes; waste ID number and definitions:

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

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

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

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

1. 11 Institutional (see 10, Municipal);
2. 14 Construction and demolition (see 13, Bulky Waste);
3. 5 Pesticides: (see 27, Dry industrial waste and N.J.A.C. 7:26-8);
4. 16 Hazardous waste containers (see N.J.A.C. 7:26G);
5. 17 Dry hazardous waste (see N.J.A.C. 7:26G);
6. 18 Dry nonhazardous chemical waste (see 27, Dry industrial waste);
7. 19 Junked autos (see 13, Bulky waste);
8. 20 Tires (see 13, Bulky waste);
9. 21 Dead animals (see 25, Animal and food processing waste);
10. 22 Leaves and chopped tree wastes (see 23, Vegetative waste);
11. 24 Tree stumps (see 13, Bulky waste);

12. 26 Oil spill cleanup wastes (see 27, Dry industrial waste and N.J.A.C. 7:26-8);

13. 28 Infectious waste (see N.J.A.C. 7:26-1.4 and the requirements established by the New Jersey Department of Health);

14. 70 Waste oil and sludges (see N.J.A.C. 7:26-8);

15. 71 Semisolid waste oils and sludge (see N.J.A.C. 7:26-8);

16. 75 Pesticide liquids (see 72 Bulk liquid and semi liquids and N.J.A.C. 7:26G);

17. 76 Liquid hazardous waste (see N.J.A.C. 7:26G);

18. 77 Liquid chemical waste (see N.J.A.C. 7:26G);

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

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

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

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

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

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

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

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

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

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

(d)-(f) Substantially amended.

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

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

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

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

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

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

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

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

(a)7 added.

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

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

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

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

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

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

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

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

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

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

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

Adopted Concurrent Proposal, R.1989 d.55, effective December 23, 1988.

See: 20 N.J.R. 2817(a), 21 N.J.R. 198(a).

Provisions of emergency amendment R.1988 d.547, readopted without change.

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

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

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

Public Notice: Notice of receipt of petition for rulemaking.

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

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

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

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

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

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

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

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

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

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

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

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

Amended by R.1996 d.500, effective October 21, 1996.

See: 28 N.J.R. 1693(a), 28 N.J.R. 4606(a).

Amended by R.1996 d.578, effective December 16, 1996.

See: 28 N.J.R. 2114(a), 28 N.J.R. 5248(a).

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

Law Review and Journal Commentaries

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

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

Case Notes

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

7:26-2.14 Solid waste facility performance partnership agreements

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

1. The eligibility requirements for a SWFPPA follow:

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

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

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

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

(b) The SWFPPA shall include the following:

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

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

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

- i. An accounting of the inputs and outputs of materials at the facility, including estimates of the quantities of raw materials used and wastes generated at each source;
- ii. Baselines to be utilized to measure progress towards achieving the goals and milestones established in the SWFPPA;
- iii. Methods to increase the recovery of materials from solid waste through the addition of manual or mechanical materials recovery systems in furtherance of State and solid waste management district recycling goals;
- iv. Methods to reduce levels of discarded products containing heavy metals, particularly those containing cadmium, lead and mercury from the solid waste disposal stream. This reduction shall be based on a materials balance for the facility;

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

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

vii. Methods to eliminate or reduce levels of hazardous substances used by facility through material or product substitution or other means;

viii. Methods to reduce the quantity of household hazardous waste, small quantity generator waste and/or universal waste disposed of by the solid waste facility;

ix. Formulation of a landfill mining plan to extract valuable resources for recycling, reduce the size of the landfill footprint, reclaim additional disposal capacity or otherwise improve resource management;

x. Methods to reduce the likelihood of accidental spills or releases of hazardous substances;

xi. Methods to reduce the level of the facility's process residue and/or the development of programs to more effectively treat or use residue as a product;

xii. Methods to reduce water usage by the facility;

xiii. Methods to reduce wastewater discharges by the facility; and

xiv. Methods to reduce direct and/or fugitive air emissions from the facility;

3. A schedule for improving operational conditions identified pursuant to (b)1 above and specific methodologies for effecting the improvements;

4. A schedule for achieving the goals and milestones established pursuant to (b)2 above;

5. A discussion of the policies and procedures established to create a compliance assurance program, including:

i. Internal inspection schedules to ensure that all site conditions and operations are in compliance with internal assurance policies and standard operating procedures and environmental obligations;

ii. Procedures for correcting actual noncompliance observed during inspections; and

iii. Procedures for reporting noncompliance to the appropriate facility official and tracking corrective actions;

6. A discussion explaining the facility specific data and information and direct measurement utilized to develop the goals and milestones established pursuant to (b)2 above. This discussion may also include information based on reasonable calculations and estimates from the best available data and/or experience and judgment; and

7. The SWFPPA shall be developed for a 15 year period, with major goals and milestones scheduled to be reviewed on a five-year basis in accordance with the procedure established at (l) below.

(c) At least one year prior to the submission of a draft SWFPPA pursuant to (d) below, the SWF permittee and representatives from the Department shall meet to develop the long-term environmental goals and milestones of the specific SWFPPA and the timeframe for submission.

(d) The SWF permittee shall submit a draft SWFPPA to the Department for review to determine consistency with the statewide solid waste management plan adopted pursuant to N.J.S.A. 13:1E-6 in effect at the time of the submission, and the requirements of (b) above.

1. The Department shall provide comments, in writing, on the draft SWFPPA to the SWF permittee within 90 days of receipt.

2. The SWF permittee may amend the draft SWFPPA accordingly and/or negotiate any contested issue(s) with the Department to reach a consensus.

3. The SWF permittee shall submit the final SWFPPA reflecting the consensus reached by the SWF permittee and the Department, for execution by the Department.

(e) The Department's review shall be coordinated with the appropriate solid waste management district to ensure that the SWFPPA is consistent with existing or established goals for pollution prevention established in the appropriate district solid waste management plan.

(f) Upon joint execution of the SWFPPA, the SWF permittee and the Department shall agree to the following:

1. The SWFPPA shall replace the SWF permit renewal process and requirements set forth at N.J.A.C. 7:26-2.7 and the duration of the SWF permit shall be that established for the SWFPPA unless the SWF permittee is disqualified pursuant to (p) below.

2. The SWFPPA shall replace the SWF compliance monitoring schedule established pursuant to N.J.A.C. 7:26-4. The compliance monitoring schedule in the SWFPPA shall be based on the goals and milestones established in accordance with (b) above and satisfaction of the criteria in (f)3i through iii below.

3. If the plant operator or emergency coordinator determines that the facility has had an uncontrolled discharge, a discharge above standard levels permitted by the Department, or a fire or explosion, he or she shall:

i. Immediately notify appropriate local authorities if an assessment indicates that evacuation of local areas may be advisable;

ii. Immediately notify the Department at (609) 292-7172; and

iii. When notifying the Department, report the type of substance and the estimated quantity discharged, if known, the location of the discharge, actions the person reporting the discharge is currently taking or proposing to take in order to mitigate and discharge and any other information concerning the incident which the Department may request at the time of notification.

4. The plant operator shall take all reasonable measures to ensure that fires, explosions and discharges do not recur or spread to other areas of the facility. These measures shall include, where applicable, the cessation of process operations and the collection and containment of released waste;

5. Immediately after an emergency, the plant operator or emergency coordinator shall provide for treating, storing or disposing of waste, contaminated soil or water or any other material contaminated as a result of the discharge, fire or explosion;

6. The plant operator or emergency coordinator shall insure that no waste is processed until cleanup procedures are completed and all emergency equipment listed in the contingency plan is again fit for its intended use;

7. The plant operator or emergency coordinator shall notify the Department and appropriate local authorities when operations in the affected areas of the facility have returned to normal; and

8. Within 15 days after the incident, the plant operator or emergency coordinator shall submit a written report on the incident to the Department. The report shall include, but not be limited to:

i. The name, address and telephone number of the facility;

ii. The date, time and description of the incident;

iii. The extent of injuries, if applicable, with names and responsibilities indicated;

iv. An assessment of actual damage to the environment, if applicable;

v. An assessment of the scope and magnitude of the incident;

vi. A description of the immediate actions that have been initiated to clean up the affected area and prevent a recurrence of a similar incident; and

vii. An implementation schedule for undertaking measures to effect cleanup and avoid recurrence of the incident, if applicable.

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

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

500 tons-per-day capacity replaced by 250 tons-per-day minimum that allows an inspector to be stationed at a thermal destruction facility. Amended by R.1996 d.500, effective October 21, 1996.

See: 28 N.J.R. 1693(a), 28 N.J.R. 4606(a).

Amended by R.1996 d.578, effective December 16, 1996.

See: 28 N.J.R. 2114(a), 28 N.J.R. 5248(a).

In (b), substituted "facilities operations" for the "the testing phase"; rewrote (c), (j), and (n); in (d)2, inserted reference to electronic storage system; in (e) and (t)4, amended reference from facilities operating at a specified capacity to district facilities generally; in (m), inserted reference to owner and amended analysis requirements; substantially amended (p); inserted new (r)2; recodified existing (r)2 through (r)5 as (r)3 through (r)6; and in (r)4, added reference to minimum detection levels.

7:26-2B.9 Additional operational requirements for transfer stations and materials recovery facilities not specifically provided with a waste flow to their facility pursuant to N.J.A.C. 7:26-6.

(a) This section sets forth additional operational requirements for transfer stations and materials recovery facilities not specifically provided with a waste flow to their facility pursuant to N.J.A.C. 7:26-6.

(b) Transfer stations and materials recovery facilities may accept solid waste from any in-State solid waste district, out-of-State source, or any combination thereof provided:

1. The transfer station or materials recovery facility has been formally included within the district solid waste management plan of the district(s) within which it is located and has received all necessary State and local approvals. Transfer stations and materials recovery facilities do not need to be incorporated within the solid waste management plan of each district from which solid waste or recyclables are collected; only the district within which its facility is located;

2. The recordkeeping and O and D form requirements of N.J.A.C. 7:26-2.13 are met;

3. For solid waste from in-State:

i. Solid waste received at the facility is returned to the district where the waste was originally generated or the same amount and type of solid waste is brought to the district where the waste was originally generated no later than by the end of the next calendar month following receipt at the transfer station or materials recovery facility;

ii. Where material is removed for recycling from the solid waste received, the same type or amount of solid waste less the amount of materials removed for recycling shall be returned to the district in which the material was originally generated no later than by the

end of the next calendar month following receipt at the transfer station or materials recovery facility; or

iii. On the 30th day of the next calendar month following receipt at the transfer station or materials recovery facility, an in-lieu payment is made to the district designated disposal facility in an amount suitable to compensate for the tonnage which would otherwise have gone to the facility. The payment shall be made pursuant to the designated facility's tariff for special in-lieu payments pursuant to N.J.A.C. 14:11-7.10 for the amount and type of waste which was generated in that district and not returned. In such instances, said waste shall be disposed of at the designated facility in the district in which the transfer station or materials recovery facility is located. Records maintained pursuant to N.J.A.C. 7:26-2.13 shall so indicate the disposal and the in-lieu payments made.

4. For solid waste from out-of-State:

i. Solid waste received at the facility or the same amount and ID type of solid waste is transported out-of-State no later than by the end of the next calendar month following receipt at the transfer station or materials recovery facility; or

ii. If material is removed from recycling from the solid waste received, the same ID type or amount of solid waste less the amount of materials removed for recycling shall be transported out-of-State no later than by the end of the next calendar month following receipt at the transfer station or materials recovery facility; and

5. The receiving facility's tariff and permit requirements are met.

(c) Transfer stations and materials recovery facilities which receive more than 31,200 tons of solid waste annually shall install and operate computerized scales for the reporting requirements in N.J.A.C. 7:26-2.13 and 3.2. Transfer stations and materials recovery facilities which do not have scales must report data on a cubic yard basis.

(d) The transfer station or materials recovery facility shall determine the ID type of the solid waste as provided at N.J.A.C. 7:26-2.13. As provided therein, the transfer station is not the generator of solid waste received from other counties.

New Rule, R.1993 d.508, effective October 18, 1993.
See: 24 N.J.R. 3286(c), 25 N.J.R. 4763(a).

Case Notes

Waste flow control regulations favored district's designated facilities at expense of out-of-state providers of processing and disposing services, and discriminated against interstate commerce; heightened scrutiny test was applicable under dormant commerce clause analysis; overruling *J. Filiberto Sanitation*, 857 F.2d 913. *Atlantic Coast Demolition & Recycling, Inc. v. Board of Chosen Freeholders of Atlantic County*, C.A.3 (N.J.)1995, 48 F.3d 701, rehearing and rehearing in banc denied, on remand 893 F.Supp. 301.

7:26-2B.10 Additional operational requirements for transfer stations and materials recovery facilities provided with waste flow to their facility pursuant to N.J.A.C. 7:26-6

(a) This section sets forth additional operational requirements for transfer stations and materials recovery facilities provided with waste flow to their facility pursuant to N.J.A.C. 7:26-6.

(b) All district designated facilities shall accept solid waste from transfer stations or materials recovery facilities provided that the requirements of N.J.A.C. 7:26-2.13 are met. A district designated facility that has established a tariff for special in-lieu payment pursuant to N.J.A.C. 14:11-7.10 may accept payment from transfer stations or materials recovery facilities pursuant to that tariff, in-lieu of accepting the solid waste.

(c) Pursuant to N.J.A.C. 14:11-7.10, all transfer stations and materials recovery facilities subject to this section may establish a tariff rate for in-lieu payments made pursuant to N.J.A.C. 7:26-2B.9.

(d) Transfer stations and materials recovery facilities subject to this section which receive more than 31,200 tons of solid waste annually shall install and operate computerized scales for the reporting requirements in N.J.A.C. 7:26-2.13 and 3.2. Transfer stations and materials recovery facilities which do not have scales must report data on a cubic yard basis.

Amended by R.1993 d.508, effective October 18, 1993.
See: 24 N.J.R. 3286(c), 25 N.J.R. 4763(a).

APPENDIX

COMPOST QUALITY MONITORING PARAMETERS

<u>Parameter</u>	<u>Unit</u>
Stability—respirometry	mg O ₂ /kg
O ₂ consumed	VS/hr
Soluble salts-electrical	mmhos/cm
Fecal coliform	MPN/g
Salmonella	MPN/4 g
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 ² /m ³
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.578, effective December 16, 1996.
See: 28 N.J.R. 2114(a), 28 N.J.R. 5248(a).

SUBCHAPTER 3. TRANSPORTATION

7:26-3.1 Improper transportation prohibited

(a) The transportation of organic and/or combustible matter, including used oil as defined at N.J.A.C. 7:26A-1.3, or other forms of solid waste on the roadways and highways in this State shall be made only through the use of:

1. Transportation systems established, operated and maintained in accordance with the rules set forth in this subchapter;
2. Other methods of transportation as may be approved by the Department.

Amended by R.1989 d.216, effective April 17, 1989.
See: 20 N.J.R. 2668(a), 21 N.J.R. 1002(b).

"Collection" and "haulage" replaced by "transportation" throughout.
Amended by R.1996 d.578, effective December 16, 1996.
See: 28 N.J.R. 2114(a), 28 N.J.R. 5248(a).

In (a), inserted reference to used oil.

Case Notes

Township ordinances were not preempted, with exception of section of township ordinance permitting township to ban persons deviating from access routes from further access to solid waste facility. *Clyde v. Mansfield Tp.*, 263 N.J.Super. 140, 622 A.2d 270 (A.D.1993).

Claim of broker status; unregistered transporter of solid waste was subject to fine. In the Matter of Penn Foundry, Inc., 94 N.J.A.R.2d (EPE) 36.

7:26-3.2 Registration

(a) No person shall engage or continue to engage in the transportation of solid waste in this State without first obtaining an approved registration statement from the Department. The registration year, unless otherwise established by the Department, shall run from May 1 through April 30. An approved registration statement shall expire at the end of the registration year unless renewed pursuant to (d) below.

1. No person shall act as a prime contractor or subcontractor of solid waste in this State without first obtaining an approved registration statement from the Department.

i. For the purposes of this subchapter, a "prime contractor" means any person who enters into an oral or written agreement to store, collect, process, transfer, treat, or dispose of solid waste in this State through the use, control or possession of any cab, vehicle, trailer, container, transport unit or single-unit vehicle.

ii. For the purposes of this subchapter, a "subcontractor" means any person who engages in the storage, collection, processing, transfer, treatment, or disposal of solid waste in this State through the use, control or possession of any cab, vehicle, trailer, container, transport unit or single-unit vehicle pursuant to an oral or written agreement entered into by or on behalf of another person.

2. Any device used for transportation of solid waste shall be registered with the Department as either a solid waste cab, trailer, container, or single-unit vehicle.

3. The registration statement shall be signed by the person engaged in or desiring to engage in the transportation of solid waste, shall be executed on forms prescribed by and furnished by the Department and shall state such information necessary and proper to the enforcement of this subchapter, as the Department may require.

4. A registrant shall not allow, through a subcontract or any other means, any such registered equipment to be used, controlled or possessed by another person, unless such person is an employee of the applicant or registrant.

5. A person who has not obtained an approved registration statement shall not, through a subcontract or any other means, engage or contract to engage in the transportation, storage, collection, processing, transfer, treatment, or disposal of solid waste in this State through the use, control or possession of any solid waste cab, vehicle, trailer, container, transport unit, or single-unit vehicle registered to any other person, or through any other means.

6. In addition to obtaining an approved registration statement from the Department, the person engaged in or desiring to engage in the transportation of solid waste shall comply with all of the rules and regulations of the New Jersey Division of Motor Vehicles. No person shall engage or continue to engage in the transportation of solid waste in this State without first obtaining an approved registration statement from the Department.

(b) After July 2, 1984, any person who files an application for approval of a registration statement shall submit with the application the disclosure statement described in N.J.A.C. 7:26-16.4. The requirement of a disclosure statement shall not apply to any person specifically exempted under N.J.A.C. 7:26-16.3(d).

(c) No person shall engage in the transportation of solid waste in this State if such an operation does not meet the transporter requirements listed in this subchapter. In addition, the transporter shall comply with any other conditions or limitations which may be specified on the approved registration.

1. New Jersey Department of Environmental Protection (N.J.D.E.P.) solid waste transporter registration certificates and decals shall be void if altered. Departmental representatives shall confiscate altered or stolen solid waste transporter registration certificates and decals upon discovery.

(d) Prior to May 1 of each calendar year, or such other date as the Department may establish, each registrant, not including hazardous waste transporters, shall submit to the Department a registration statement updating the information contained in the previous registration statement. This update shall be on forms furnished by the Department. In no case shall the submission of an updated registration statement alter the conditions under which the approved registration was granted.

(e) A registrant shall notify the Department in writing within 30 days of any change in the information supplied on its current registration statement, or on any leases submitted for registered solid waste vehicles, cabs, trailers, containers, single-unit vehicles or transport units, or on any documentation of employment of the operators of leased equipment submitted pursuant to (j) below.

(f) The failure to submit an updated registration statement and all applicable fees (see N.J.A.C. 7:26-4) on or before June 1 in each calendar year or the failure to submit an updated disclosure statement pursuant to N.J.A.C. 7:26-16 and all applicable fees shall be sufficient cause for the Department to revoke the approved registration of a solid waste transporter or to declare it expired.

1. The Department shall withhold the registration certificate and solid waste decal of any registrant who fails to submit the updated registration statement, the updated disclosure statement and the applicable fees (see N.J.A.C. 7:26-4 and 16) on or before June 1.

2. No person shall engage in or continue to engage in the transportation of solid waste during the period when a solid waste decal and registration certificate are withheld pursuant to this subsection.

(g) No person shall be issued an approved registration if that person is disqualified for any of the reasons set forth in N.J.A.C. 7:26-16.8.

(h) All solid waste cabs, trailers, containers or single-unit vehicles, registered with the Department for the transportation of solid waste must be owned or leased by the applicant, and, if leased, a copy of the lease, along with a copy of the Motor Vehicles Registration card, shall be supplied when filing the registration statement.

(i) An applicant who files a lease in connection with the registration statement for a solid waste vehicle, cab, trailer, single-unit vehicle, transport unit or container which the applicant will operate shall ensure that such lease is signed and dated by the parties thereto, provides for the exclusive use, control and possession by the applicant during the lease and also includes:

1. The dates on which the lease begins and ends, during which the applicant will have exclusive use, possession and control over the equipment;

2. The amount and method of payment for the lease;

3. The company or person responsible for payment of gas, oil, maintenance and insurance for the equipment;

4. The company or person responsible for payment of any tipping fees;

5. Identification of the equipment by vehicle identification number (VIN) as it appears on the Motor Vehicles Registration card, license plate number, state which issued license plate and vehicle type;

6. A provision that the lease shall not be assigned to any person; and

7. The lease shall be submitted along with an affidavit which shall be sworn to or affirmed and signed and dated by the president, chief executive officer, managing partner or sole proprietor of the applicant before a person legally competent to take an oath or affirmation, who shall himself or herself subscribe and date the signature of the affiant and shall indicate the basis of his or her authority to take oaths and affirmations. The following statement shall immediately precede the signature of the affiant:

i. "I swear (or affirm) that the lease filed by me as part of this registration statement for the equipment, vehicle type: _____, with the VIN number: _____, license number: _____, issued by the State of: _____, contains the true terms of the lease and has a bonafide business purpose and is not filed with the purpose of preventing the discovery of information which would disqualify, for any reason set forth in N.J.S.A. 13:1E-133, the lessor or any other person from receiving a license. I further swear (or affirm) that my company, the applicant, will exercise exclusive use, possession and control over each piece of solid waste equipment which is included in this application for a registration statement. I further swear (or affirm) that the above-described equipment will not, during the period of registration, be used, controlled or possessed by any other person. I am aware that if any of the foregoing information or statement is willfully false, I am subject to punishment."

(j) In addition to the requirements of (i) above, an applicant who files a lease in connection with the registration statement for a solid waste vehicle, cab, trailer, single-unit vehicle or transport unit which an employee of the applicant will operate shall certify that the operator of the solid waste vehicle, cab, trailer, single-unit vehicle or transport unit is or will become an employee of the applicant and will be under the exclusive management, direction, and control of the applicant. In addition, the applicant shall certify that the applicant is responsible to supervise, direct and control the solid waste activities to be performed by such an employee.

(k) The Department, after notice and opportunity for hearing pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1, may revoke the registration of a solid waste transporter for the following:

1. Any of the disqualifying reasons set forth in N.J.A.C. 7:26-16.8 and 16.9;
2. Violation of any applicable provision of the Solid Waste Management Act, N.J.S.A. 13:1E-1 et seq. the Solid Waste Utility Control Act, N.J.S.A. 48:13A-1 et seq., this chapter, any administrative order issued by the Department, or any environmental protection statute of this State; or
3. A pattern of violations of the environmental protection statutes or regulations of this or any other State or of the United States.

As amended, R.1980 d.250, effective June 9, 1980.

See: 12 N.J.R. 70(b), 12 N.J.R. 391(d).

As amended, R.1981 d.49, effective February 6, 1981.

See: 13 N.J.R. 129(a).

(d): Amend "February 1" to "March 15."

As amended, R.1984 d.279, effective July 2, 1984.

See: 16 N.J.R. 986(a), 16 N.J.R. 1766(a).

(a): references to the Bureau deleted.

New (b) added, former (b)-(e) made (c)-(f). In (c), "without first obtaining" was "without having"; in (e), May 1 was March 15, "initial registration" was "implementation", hazardous waste haulers excepted from May 1 updating and required to file by October 1.

(g) and (h) added.

Amended by R.1985 d.558, effective November 4, 1985.

See: 17 N.J.R. 1041(a), 17 N.J.R. 2609(a).

Text "or hazardous" deleted.

Amended by R.1987 d.535, effective December 21, 1987.

See: 19 N.J.R. 1610(a), 19 N.J.R. 2434(a).

Added registrant and its operators to subsection (d).

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

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

New (h) added requiring all applicants to own or lease a vehicle being registered and if leased a copy of the lease must be supplied.

Amended by R.1996 d.500, effective October 21, 1996.

See: 28 N.J.R. 1693(a), 28 N.J.R. 4606(a).

Amended by R.1996 d.578, effective December 16, 1996.

See: 28 N.J.R. 2114(a), 28 N.J.R. 5248(a).

Substantially amended section.

Case Notes

Dewatered sludge is solid waste; registrations and licenses to provide solid waste transportation services. In the matter of Solid Waste Services, Inc. 94 N.J.A.R.2d (EPE) 61.

7:26-3.3 Exceptions and conditions

(a) The provisions of this subchapter shall not be applicable to the following:

1. Persons transporting only their own household solid waste in passenger automobiles bearing general registration plates;
2. Persons transporting only their own solid waste in vehicles registered with the New Jersey Division of Motor Vehicles as having a maximum gross weight of 8,000 pounds; and
3. A person transporting used oil from mobile field changing operations.

(b) No provision of these rules shall be interpreted as permitting the transportation of domestic sewage in any manner other than that prescribed by law.

(c) Vehicles not registered with the Department as solid waste vehicles are not permitted to discharge solid waste at or near areas where commercial type solid waste vehicles are unloading or where heavy equipment is operating.

(d) A person transporting solid waste through New Jersey, when roadways and highways in New Jersey constitute a segment of such person's route, is not required to obtain an approved registration with the Department the circumstances listed in (d)1 and 2 below exist, and at least one of the circumstances listed in (d)3, 4 or 5 below exists:

1. The solid waste being transported through New Jersey is not discharged from the solid waste transportation vehicle;
2. Solid waste is not being collected, treated, processed, transferred, or disposed of in New Jersey by the solid waste transportation vehicle;
3. Solid waste is not being stored in excess of 24 hours in the solid waste transportation vehicle or container while in New Jersey;
4. The solid waste transportation vehicle has a mechanical breakdown and repair is necessary; and
5. The operator of the solid waste transportation vehicle must stop for a mandatory rest or break.

As amended, R.1974 d.234, eff. August 21, 1974.

See: 6 N.J.R. 343(c).

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

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

"Hauling" replaced by "transporting", "vehicles" as "solid waste vehicles" and maximum gross weight in (a)2 changed from 5,000 to 8,000 pounds.

Amended by R.1996 d.578, effective December 16, 1996.

See: 28 N.J.R. 2114(a), 28 N.J.R. 5248(a).

Added (a)3 and (d).

7:26-3.4 Transporter requirements (General)

(a) Length of service routes shall be kept consistent with the proper operation of solid waste vehicles and/or equipment in order that the area or route services can be completed during a normal operating day.

(b) All collected solid waste shall be properly deposited at an approved facility in accordance with N.J.A.C. 7:26-1 and 2. Solid waste or recyclable materials shall be deposited at a solid waste or recycling facility only to the extent the materials contained in an individual load are waste types and recyclable materials permitted for acceptance at that facility and commingled only to the extent permitted in the operating approvals for that facility.

(c) Unless an emergency, such as inclement weather, equipment breakdown or accident warrant, no solid waste shall be allowed to remain or be stored in any solid waste vehicles in excess of 24 hours.

(d) No solid waste vehicle shall be used for transportation if the design of the solid waste vehicle is such that any solid waste material will spill onto the roadways and highways of this State.

(e) No solid waste vehicle used for transportation shall be used beyond its design capabilities or in such a manner that littering and spillage of solid waste onto the roadways and highways of this State will occur.

(f) All solid waste vehicles used for the transportation of solid waste shall be maintained in good working condition to protect the health and safety of the workers and citizens of this State and to provide prompt and efficient service. The registered operator of any transportation system shall provide a means of continuous service in the event an emergency arises.

(g) All workers or collection crews operating solid waste transportation systems shall take reasonable care to protect the property of customers being served. Any damage or spillage of solid waste as a result of the transporter's actions shall be his or her responsibility.

(h) Each registered unit, including each container, of a solid waste vehicle, except those exempted from fee payment under N.J.A.C. 7:26-3.3, used in the collection or transportation of solid waste shall properly, permanently, and conspicuously display a current State of New Jersey solid waste decal and the New Jersey Department of Environmental Protection (N.J.D.E.P.) registration number in letters and numbers at least three inches in height, and, except for containers, shall carry the current N.J.D.E.P. registration certificate in the solid waste vehicle. Current solid waste decals must be permanently affixed to both sides of each solid waste vehicle, cab, trailer, single-unit vehicle, transport unit and container prior to use on a public roadway or highway and prior to the unit being placed into service or before receiving waste.

1. A copy of any lease filed in connection with the solid waste registration of a vehicle, cab, trailer, single unit vehicle, transportation unit or container shall be carried in the vehicle and made available to Department representatives upon inspection or request.

2. Only current year decals shall be displayed. The registrant of solid waste vehicles, cabs, trailers, single-unit vehicles, transport units and containers which are owned by the registrant shall, upon the interruption or termination of the exclusive use, possession or control of any such equipment by the registrant, notify the Department, return the N.J.D.E.P. registration certificate to the Department, and remove and destroy the N.J.D.E.P. registration number and decal on such solid waste vehicles, cabs, single-unit vehicles, transport units, trailers and containers. A registrant of solid waste vehicles, cabs, trailers, single-unit vehicles, transport units and containers which are leased shall, upon the expiration of the lease, or upon the interruption or termination of the exclusive use, possession or control of any such equipment by the registrant, notify the Department, return the N.J.D.E.P. registration certificate to the Department, and remove and destroy the N.J.D.E.P. registration number and decal on such solid waste vehicles, cabs, trailers, single-unit vehicles, transport units and containers.

3. In addition, there shall be affixed to both sides of each registered solid waste vehicle, cab, trailer, single-unit vehicle, transport unit and container in letters and numbers at least three inches in height, the capacity of the container in cubic yards, in tons or in gallons, with the appropriate unit designated, so as to be visible to the operator of the solid waste facility.

(i) Tarpaulins or covers shall be provided and used as needed while transporting solid wastes.

(j) All solid waste vehicles used for transportation of solid waste shall, except for operations of their collection service routes, access and exit solid waste facilities in accordance with designated solid waste vehicle routes as specified in either the appropriate district solid waste management plan or the permit for the particular solid waste facility.

(k) Any transporter that transports solid waste to or from an intermodal container facility operating without authorization pursuant to N.J.A.C. 7:26-3.6 shall be subject to all applicable penalties for violation of New Jersey waste flow rules at N.J.A.C. 7:26-6, including revocation of transporter registration, certification and transporter license.

(l) Any person that transports regulated medical waste to or from a collection facility operating without authorization pursuant to N.J.A.C. 7:26-3A.39 shall be subject to all applicable penalties set forth at N.J.A.C. 7:26-5 including revocation of transporter registration, certification and transporter license.

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

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

Amended by R.1987 d.535, effective December 21, 1987.

See: 19 N.J.R. 1610(a), 19 N.J.R. 2434(a).

Added (j).

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

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

References to "collection and haulage" changed to "transportation", "vehicles" changed to "solid waste vehicles", at (h) requirement that N.J.D.E.P. registration number be permanently displayed.

Amended by R.1996 d.169, effective April 1, 1996.

See: 27 N.J.R. 801(a), 28 N.J.R. 1834(a).

Added (k).

Amended by R.1996 d.578, effective December 16, 1996.

See: 28 N.J.R. 2114(a), 28 N.J.R. 5248(a).

In (b), inserted N.J.A.C. reference and added last sentence; substantially amended (h); and added (l).

Case Notes

New Jersey's waste flow control laws violated commerce clause. *Atlantic Coast Demolition & Recycling, Inc. v. Board of Chosen Freeholders of Atlantic County*, D.N.J.1996, 931 F.Supp. 341.

Township ordinances were not preempted, with exception of section of township ordinance permitting township to ban persons deviating from access routes from further access to solid waste facility. *Clyde v. Mansfield Tp.*, 263 N.J.Super. 140, 622 A.2d 270 (A.D.1993).

Regulation sets standards for use of collection vehicles to prevent spillage of solid wastes onto roadways; statute and regulations preempt municipal zoning ordinance as to sanitary landfill access road construction. *Chester Twp. v. Dept. of Environmental Protection*, 181 N.J.Super. 445, 438 A.2d 334 (App.Div.1981).

7:26-3.5 Transporter requirements (Specific)

(a) Rules concerning sewage sludge and other fecal material include:

1. All solid waste vehicles used for the transportation of such wastes shall be of such a design as to preclude any spillage or leakage onto the roadways and highways of the State.

2. Sewage sludge and other fecal material shall not be intermixed with other wastes of a chemical or industrial nature for transportation to a disposal operation.

(b) All solid wastes vehicles used for transportation of bulky wastes shall be of such a design so as to preclude any spillage onto the roadways and highways of the State.

(c) Radioactive materials regulated by the Atomic Energy Act of 1954 and lethal chemicals shall not be transported in or through the State of New Jersey without prior approval in writing by all authorities having jurisdiction in such matters and by the New Jersey Department of Environmental Protection.

(d) Rules concerning transportation of asbestos and asbestos-containing waste materials follow:

1. All solid waste vehicles used for the transportation of asbestos and asbestos-containing waste materials shall be of such a design so as to prevent any spillage or leakage or emissions therefrom.

2. No transporter shall transport asbestos and/or asbestos-containing waste materials unless such waste is properly packaged in accordance with 40 C.F.R. 61.150 and N.J.A.C. 7:26-2.12.

3. The asbestos or asbestos-containing waste materials shall be transported in a manner that prevents the rupture of the asbestos containers in loading, transport, and unloading operations.

4. Once collected, asbestos and/or asbestos containing waste materials shall be transported directly from the point of generation to the solid waste landfill or transfer station permitted to receive such wastes.

5. Transportation and disposal of asbestos and asbestos-containing waste materials shall be conducted in accordance with waste flow requirements of N.J.A.C. 7:26-6.

6. There shall be no visible air emissions during loading, transporting, or unloading operations.

(e) Rules concerning transportation and disposal of Type 13C waste follow:

1. Every transporter of Type 13C waste shall complete a waste origin/disposal (O and D) form in accordance with the requirements of N.J.A.C. 7:26-2.13(c).

2. Every transporter of Type 13C waste transporting that waste out-of-State for disposal shall, upon the collection of Type 13C waste, report to the designated district facility for the county where the waste was generated for weighing or weighing and inspection, verification of the completed O and D form and receipt of the verified O and D form prior to transporting the load out-of-State for disposal. The transporter shall retain the O and D form during transit to serve as verification that the load was originally weighed as required by this paragraph and submit a copy of the O and D form in accordance with the requirements of (e)4 below.

3. The transporter shall obtain from the out-of-State facility a dump ticket receipt which should contain the following information:

i. The name, address and state facility ID number, if applicable, of the disposal facility;

ii. The transporter vehicle plate number(s) for each unit of the solid waste vehicle;

iii. The N.J.D.E.P. registration number and decal number for each registered unit of the solid waste vehicle;

iv. The gross vehicle weight, the net vehicle weight and the total tonnage of Type 13C waste disposed as recorded by the facility scale;

v. If the out-of-State facility does not have a scale, the total volume in cubic yards, of Type 13C waste disposed;

vi. The date the vehicle was weighed; and

vii. The signature of the facility weighmaster or operator.

4. Every transporter of Type 13C waste disposing of such waste at an out-of-State disposal facility shall, within 10 days of weighing at the designated district facility, submit a copy of the O and D form described in N.J.A.C. 7:26-2.13(c)6 above attached to a copy of the out-of-State dump ticket receipt described in (e)3 above to the New Jersey designated district facility where the Type 13C waste was originally weighed or weighed and inspected.

5. Every transporter of Type 13C waste disposing of such waste at an out-of-State disposal facility shall retain the original O and D form described in N.J.A.C. 7:26-2.13(c)6 above and the out-of-State dump ticket receipt described in (e)3 above for a period of three years from the date of disposal of the Type 13C waste at the out-of-State disposal facility.

6. No transporter shall transfer or allow to be transferred, or otherwise alter, Type 13C waste destined for out-of-State disposal by adding or subtracting any waste types to the load after weighing at the designated district facility and receipt of the certified O and D form.

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

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

(e) added.

Amended by R.1985 d.558, effective November 4, 1985.

See: 17 N.J.R. 1041(a), 17 N.J.R. 2609(a).

Substantially amended.

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

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

Reference to "collection and haulage" changed to "transportation", "vehicle" changed to "solid waste vehicle" and CFR cite updated. Old (d) deleted. Old (e) recodified as new (d).

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

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

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

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

Added (e).

Amended by R.1996 d.578, effective December 16, 1996.

See: 28 N.J.R. 2114(a), 28 N.J.R. 5248(a).

In (d)2, amended N.J.A.C. references and rewrote (d)4.

7:26-3.6 Intermodal container facility

(a) This section contains the regulations of the Department governing the authorization and operation of intermodal container facilities. Such facilities shall handle only containerized solid waste as defined at N.J.A.C. 7:26-1.4 and limited to the following solid waste types identified and listed at N.J.A.C. 7:26-2.13 as ID 10, 12, 13, 23, 25, 27, 72, 73, and 74. Such facilities shall not accept or in any manner handle regulated medical waste or hazardous waste, as defined at N.J.A.C. 7:26-1.4 and 3A.6 respectively. This subsection does not prohibit the operator of an authorized intermodal container facility from conducting other solid waste, regulated medical waste, or hazardous waste management activities at the site of the intermodal container facility, provided the operator complies with all applicable permitting and operating requirements for such activities pursuant to this chapter.

(b) A person registered and licensed in accordance with N.J.A.C. 7:26-3, 16 and 16A to transport solid waste in the State of New Jersey that seeks to operate an intermodal container facility shall submit an application containing all of the following information. Three copies of the entire application and all accompanying documents shall be submitted to the Department at the address specified in (c) below, and at the same time one copy each to the host municipality and district solid waste plan implementation agency:

1. The name, address and telephone number of the person or persons seeking to operate the proposed facility;
2. Photocopies of documents as evidence of the applicant's registration and licensing as a solid waste transporter pursuant to N.J.A.C. 7:26-3, 16 and 16A;
3. Photocopies of documents as evidence of all authorizations for siting, construction and operation, and conformance with all local, regional, State or Federal requirements of any governmental agency, or other body with jurisdiction over any aspect of the proposed facility;

4. A description of the geographical location of the facility, identifying the name of the municipality in which the facility is located and the address of the facility;

5. A copy of the tax map showing the lot and block numbers of the facility site and of all adjoining properties;

6. A description of the current use of the facility site and of all adjoining properties;

7. A letter of consistency with the district solid waste management plan from the district solid waste management plan implementing agency, established pursuant to N.J.S.A. 13:1E-21b(1), of the district where the facility is proposed to be located, which shall include any applicable comments from the host municipality. The Department may issue an authorization in the absence of a district letter of plan consistency should the Department determine, at its discretion, that the intermodal container facility is needed to help fulfill the objectives of the adopted and approved Statewide Solid Waste Management Plan or individual district solid waste management plans. In the event of such a determination, the Department shall notify the host district and municipality of its determination and reasons justifying facility authorization in writing prior to any approval of operations;

8. A list of all solid wastes by waste type as defined at N.J.A.C. 7:26-2.13, to be received and transferred at the facility;

9. A description of the maximum amount of each type of solid waste to be received and transferred at the facility each day, expressed in tons per day and cubic yards per day, or gallons where applicable;

10. A description of the sources of the containerized solid waste and the anticipated disposal locations of the waste, both in-State and out-of-State;

11. A description of the type(s) and number of containers that will be used at the facility and the type and means of storage and staging of the containers;

12. Three copies of a site plan, prepared, signed, and sealed by a licensed New Jersey professional engineer or surveyor. The site plan must:

- i. Identify the placement of all equipment, buildings, activities and areas related to the receipt, loading, unloading and temporary storage of containerized solid waste;
- ii. Be drawn to a scale no greater than one inch equals 100 feet;
- iii. Indicate the routing of vehicles between the facility and all nearby roadways serving the site, as well as the traffic flow within the site. Such routing must ensure safe and efficient vehicular and pedestrian circulation, parking, and loading and unloading of containers;

iv. Delineate floodplains as defined at N.J.A.C. 7:13-1.2;

v. Delineate the location of State-designated wetlands, New Jersey Pinelands, existing or suitable agricultural lands, Federal or New Jersey-registered historic sites and other environmentally sensitive areas such as State parks, wildlife management areas and National Wildlife Refuges;

vi. Identify the direction of water runoff both on-site and off-site and the screening and landscaping on the site;

vii. Indicate topographic contours, drawn at two-foot intervals; and

viii. Indicate all site access controls to be employed at the facility;

13. An original current 7.5 minute USGS Quadrangle map with the boundary of the facility plotted thereon. The map shall delineate any public access roads to the site and any streams, ponds or other potential sensitive receptors such as, but not limited to, hospitals, schools, and shopping areas within a one-half mile radius of the site;

14. A copy of the deed of record establishing ownership of the facility property or, if the applicant is a person other than the landowner, a legal agreement (for example, a lease) to use the real property for the purpose of operating the facility;

15. A description of the design capacity of the facility, setting forth the number and types of all vehicles arriving at the facility and the number and types of all vehicles leaving the facility on a daily basis, stating the maximum number of vehicles per hour that will arrive at and leave the facility;

16. A copy of any New Jersey air pollution control permit application as applicable, in accordance with N.J.A.C. 7:27; and

17. A narrative describing the facility operations from the receipt of containerized waste through the point of transfer to destination. The narrative must clearly demonstrate that containers will not be opened and that

employees, the public or the environment will not be exposed to solid waste except as allowed in accordance with this section.

(c) The application described in (b) above shall be submitted in triplicate, along with the application fee set forth in N.J.A.C. 7:26-4.7, to:

Bureau of Resource Recovery and Transfer Facilities
 Division of Solid and Hazardous Waste
 New Jersey Department of Environmental Protection
 CN 414
 Trenton, New Jersey 08625-0414

(d) Within 45 days after the Department receives the application submitted pursuant to (b) above, the Department will take one of the following actions:

1. Issue either a letter of authorization to operate the intermodal container facility that shall specify that any other waste management activities conducted at the site where the intermodal container facility is operated shall be conducted in compliance with all applicable permitting and operational requirements under this chapter, or a denial of the application, to the applicant, with a copy to the host municipality and district solid waste plan implementation agency. A letter of authorization shall not be transferred to any other person;

2. Notify the applicant in writing of missing information, with a copy of the notice sent to the host municipality and district solid waste plan implementation agency; or

3. Notify the applicant in writing of any information that does not satisfy the requirements of (b) above, with a copy of the notice sent to the host municipality and district solid waste plan implementation agency.

(e) An applicant shall submit to the Department and to the host municipality and district solid waste plan implementation agency any additional or corrected information required pursuant to (d)2 or 3 above within 30 days of receipt of the notification from the Department of missing and/or insufficient information.

(f) The Department will deny without prejudice the application of any applicant that fails to submit the additional or corrected information required pursuant to (d)2 or 3 above or that otherwise fails to meet the application criteria of these regulations. The applicant may thereafter submit a new application for authorization to operate an intermodal container facility at the same location pursuant to the requirements of this section.

(g) All intermodal container facilities authorized by the Department pursuant to this section shall operate in accordance with the following standards:

1. Solid waste shall not remain at any intermodal container facility for more than 72 hours, except that ID 72 liquid solid waste may be stored for up to 180 days in sealed containers. An intermodal container facility at **which** solid waste is staged or stored for more than 72 hours, or at which ID 72 liquid solid waste is stored for more than 180 days, shall be deemed to be an illegal solid waste transfer station, and shall be subject to all penalties authorized pursuant to applicable statutes and rules.

2. Solid waste received, stored or transferred at any intermodal container facility shall at all times be contained in sealed containers registered as solid waste containers with the Department in accordance with N.J.A.C. 7:26-3 that do not leak any liquids or solid materials and are not opened for any purpose at the facility, except that an ID 72 liquid solid waste container may be opened briefly for the purpose of sampling the liquid provided the container is immediately resealed.

3. Solid waste contained in solid waste containers at any intermodal container facility shall not emit odors that are detectable at the facility or in the vicinity of the facility.

4. Access to any intermodal container facility shall be restricted to facility operators, solid waste vehicle operators and authorized visitors only. Effective security procedures shall be implemented to control entry and exit at all times. All solid waste containers staged or stored at the facility shall be secured at all times in a manner that prevents unauthorized access to the containers and their contents.

5. The Department's designated representatives and inspectors shall have the right to enter and inspect any building or any other portion of any intermodal container facility, at any time. This right to enter and inspect includes, but is not limited to:

- i. Observing and sampling any materials on site;
- ii. Photographing any portion of the facility, solid waste vehicles, containers, and container contents;
- iii. Investigating an actual or suspected source of pollution of the environment;
- iv. Ascertaining compliance or non-compliance with the statutes, rules, regulations, or policies of the De-

partment, including conditions of the facility's letter of authorization or any other permit or certificate issued by the Department; and

v. Reviewing and copying all applicable records described in this section, which shall be maintained at the facility at all times and shall be made available on request to Department representatives and inspectors at all reasonable times for review and inspection.

6. Intermodal container facilities shall comply with the requirements of the Federal Occupational Safety and Health Administration and all other applicable standards of any agency for the operation of the facility and the maintenance of the health and safety of the employees or other persons.

7. Routine housekeeping and maintenance procedures shall be implemented at the facility to prevent the accumulation of dust, debris and to maintain general cleanliness throughout the facility and in the working environment.

8. Any release or discharge of any solid waste at the intermodal container facility must be immediately reported by the facility operator or its designee to the DEP Emergency Response 24-hour Hot Line at (609)292-7172. The report must specify the type of substance discharged in estimated quantity, the nature of the discharge, the location of the discharge, any action being taken or proposed to be taken in order to mitigate the discharge, and any other information concerning the incident the Department may request at the time of notification.

9. The intermodal container facility operator shall designate an on-site emergency coordinator who will be available during all hours of operation for the purpose of handling emergency situations, such as, but not limited to, spills, discharges or releases of solid wastes at the facility.

10. Unless exempted under N.J.A.C. 7:26-6.3, all containerized solid waste accepted at the intermodal container facility from New Jersey sources shall be disposed of in accordance with the Interdistrict and Intradistrict Solid Waste Flow rules at N.J.A.C. 7:26-6. An intermodal container facility shall not accept containers in which solid waste generated from more than one New Jersey district or county, or out-of-State source, has been mixed. Any out-of-State solid waste accepted at an intermodal container facility shall be disposed of consistent with the provisions set forth in the approved District Solid Waste Management Plan for the district in which the facility is located, or at permitted out-of-State disposal facilities authorized by the receiving state.

11. The intermodal container facility operator shall develop and maintain at the site an operations and maintenance (O&M) manual that shall describe all operating conditions and procedures of the facility. The O&M manual shall be made available to all facility personnel.

The O&M manual shall be prepared in accordance with N.J.A.C. 7:26-2.10(b)9.

(h) An intermodal container facility operator shall maintain the following records at the facility site at all times and shall file reports as follows:

1. Daily records shall be maintained on forms supplied by the Department, in accordance with N.J.A.C. 7:26-2.13. These reports shall note the name of the registered transporter, transporter's DEP registration number, vehicle plate number, waste type, waste quantity, solid waste container DEP registration number, source, destination facility name and State registration number and quantity, by vehicle, of all solid waste received, transferred and shipped at the facility. The records shall specify the source for every shipment of waste received and the destination of every shipment of waste out of the facility. Quantities of solid waste shall be listed in tons and cubic yards. Quantities of liquid solid wastes shall be listed in gallons.

2. The daily records shall be compiled into standard quarterly reports, which shall be submitted to the following address within 20 days of the end of each calendar quarter:

Bureau of Recycling and Planning
Division of Solid and Hazardous Waste
New Jersey Department of Environmental Protection
CN 414
Trenton, NJ 08625-0414

3. Records that document all violations of any local, State or Federal requirements including violations of the intermodal container facility authorization issued by the Department.

4. Records that document all incidents in which a transporter not registered and licensed pursuant to N.J.A.C. 7:26-3, 16 and 16A, or container not registered pursuant to N.J.A.C. 7:26-3, was denied transfer privileges at the facility. These records shall specify the vehicle driver's name, the vehicle license number, the vehicle registration number, the name of the company operating the vehicle, the solid waste registration number of the company, the date and time of the denial, the size of the vehicle or container, and the type of solid waste in the container. These incidents shall also be reported within 24 hours to the Department's Office of Enforcement field office nearest the facility.

(i) Any person that conducts any of the activities of an intermodal container facility as defined in this section without authorization from the Department, or without a solid waste transfer station permit issued pursuant to N.J.A.C. 7:26-2A, shall be deemed to be operating an illegal solid waste facility and shall be subject to all applicable penalties pursuant to the Solid Waste Management Act, N.J.S.A. 13:1E, and N.J.A.C. 7:26-5.

(j) Any authorized intermodal container facility that accepts unauthorized waste, or fails to operate in compliance with the requirements of this section, shall be deemed an illegal solid waste facility and shall be subject to all applicable penalties pursuant to the Solid Waste Management Act, N.J.S.A. 13:1E, and N.J.A.C. 7:26-5.

(k) Any authorized intermodal container facility that accepts containerized solid waste from a transporter not registered and licensed pursuant to N.J.A.C. 7:26-3, 16 and 16A shall be subject to penalties for violation of New Jersey waste flow rules at N.J.A.C. 7:26-6, including, but not limited to, revocation of transporter registration, certification and licensing, and revocation of intermodal container facility authorization.

(l) The Department may revoke the authorization of an intermodal container facility if that facility fails to comply with the requirements for such facilities or any law in any way related to the operation of an intermodal container facility pursuant to New Jersey statute or the Department determines that any of the causes for modification in (m) below are sufficient cause for revocation in order to protect human health, safety and the environment.

(m) The Department may modify an intermodal container facility authorization for the following reasons. The operator shall pay a fee as specified in N.J.A.C. 7:26-4.7(e) on issuance of any intermodal facility authorization modification:

1. The Department determines that there are material and significant alterations or additions to the authorized facility or operation that occurred after the Department issued the existing letter of authorization that warrant the imposition of conditions different from or lacking in the existing authorization;

2. The Department receives information that was not available at the time it issued the letter of authorization that would have warranted the issuance of conditions in the authorization different from those imposed in the existing authorization. This information may include, but not be limited to, information concerning the effects of the facility on the properties surrounding the facility or the effects of the facility on the environment;

3. A change in Federal or State laws, regulations or policies governing solid waste management;

4. The regulatory compliance record of the intermodal container facility operator;

5. A relevant judicial decision after the authorization was issued; or

6. An operator of an intermodal container facility shall request a modification of its authorization whenever the operator proposes to change any aspect of the operation as originally described in the application. Such changes include, but are not limited to, changes in the amount and type of solid waste managed at the facility.

i. A request for modification of the intermodal container facility authorization pursuant to this paragraph need not be submitted for a change in the origin or disposal location for containerized waste transported to or from the facility, provided:

(1) The waste is transported only to disposal facilities that possess all required permits and authorizations pursuant to Federal and state law where such facility is located; and

(2) The intermodal container facility notifies the Department and the district from which the waste originated of the change in origin or disposal location within 24 hours of any shipment of waste.

(n) The Department shall provide 30-day prior notice of a modification to an authorization to operate an intermodal container facility pursuant to (m) above and its reasons for determining a modification is warranted. This notice shall be sent to the operator of the facility and the host municipality and district solid waste plan implementation agency.

New Rule, R.1996 d.169, effective April 1, 1996.
See: 27 N.J.R. 801(a), 28 N.J.R. 1834(a).

7:26-3.7 Smoking, smoldering or burning solid waste in solid waste vehicles

(a) No transporter shall provide service where waste materials to be collected and transported show evidence of smoking, smoldering or burning.

(b) All wastes in transit that must be dumped in an emergency due to smoking, smoldering or burning shall be the responsibility of the transporter. The operator of the solid waste vehicle shall immediately notify the police and fire departments having jurisdiction. The transporter shall be responsible for cleanup of all materials dumped in an emergency.

(c) In the event of an incident involving smoking, smoldering or burning solid waste in any solid waste vehicle, the registrant shall notify the Department at (609) 292-7172 within 24 hours of the incident.

Amended by R.1989 d.216, effective April 17, 1989.
See: 20 N.J.R. 2668(a), 21 N.J.R. 1002(b).

References to "collector-haulers" changed to "transporter", "solid waste vehicle" added in title line.

Amended by R.1996 d.578, effective December 16, 1996.
See: 28 N.J.R. 2114(a), 28 N.J.R. 5248(a).

Added (c).

7:26-3.8 Applicability

See N.J.A.C. 7:26G to find additional hazardous waste rules.

R.1982 d.433, effective December 6, 1982.
See: 14 N.J.R. 1138(a), 14 N.J.R. 1367(a).
Amended by R.1985 d.558, effective November 4, 1985.
See: 17 N.J.R. 1041(a), 17 N.J.R. 2609(a).

Deleted text "The regulations in ... with hazardous waste." and added "additional".

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

SUBCHAPTER 3A. REGULATED MEDICAL WASTE

7:26-3A.1 Purpose, scope and applicability

(a) The purpose of this subchapter is to establish a program for regulated medical waste pursuant to the New Jersey Comprehensive Regulated Medical Waste Management Act, N.J.S.A. 13:1E-48.1 et seq.

(b) The rules in this subchapter apply to regulated medical waste as defined at N.J.A.C. 7:26-3A.6. that is generated, stored, transported, collected, transferred, treated, destroyed, disposed of or otherwise managed in New Jersey.

(c) Generators, transporters, collection facilities and owners or operators of intermediate handling facilities (for example, treatment and destruction facilities, incineration facilities, and disposal facilities) that generate, store, transport, collect, transfer, treat, destroy, dispose of or otherwise manage regulated medical waste in New Jersey shall comply with this subchapter.

(d) In addition to the requirements of this subchapter, all applicable requirements of the Department of Health shall be met.

(e) In addition to the requirements of this subchapter, generators, transporters, collection facilities and owners and operators of intermediate handling facilities and destination facilities shall comply with all applicable Federal, State, county and local statutes, rules and ordinances.

(f) Any fee under this subchapter that is subject to N.J.A.C. 7:1L shall be payable in installments in accordance with N.J.A.C. 7:1L.

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.578, effective December 16, 1996.

See: 28 N.J.R. 2114(a), 28 N.J.R. 5248(a).

Inserted references to collected medical waste and collection facilities throughout; deleted former (f); and recodified (g) as (f).

7:26-3A.2 Construction

This subchapter shall be liberally construed to permit the Department to implement its statutory duties.

7:26-3A.3 Severability

If any section, subsection, provision, clause or portion of this subchapter, or the application thereof to any person, is adjudged unconstitutional or invalid by a court of competent

jurisdiction, the remainder of this subchapter shall not be affected thereby.

7:26-3A.4 Record retention

(a) The length of time that parties shall keep records required under this subchapter is automatically extended in the case where EPA, the Departments or another State agency initiates an enforcement action, for which those records are relevant, until the conclusion of the enforcement action.

(b) All records, reports, logs and tracking forms required to be made and/or kept in accordance with this subchapter shall be made available for inspection by the Department.

7:26-3A.5 Definitions

For the purposes of this subchapter, all of the terms defined in N.J.A.C. 7:26-1.4 are hereby incorporated by reference. In addition, the following terms, when used in this subchapter, shall have the following meanings:

“Administrator” means the Administrator of the United States Environmental Protection Agency.

“Alternative or innovative technology” means any technology, including proprietary or patented methods, that permanently alters the composition, volume, weight, or other relevant waste or material characteristics of regulated medical waste, through chemical, biological, or physical means so as to have a beneficial and long-term effect on the environment by reducing the quantity (volume or weight), infectiousness, toxicity, or constituent mobility of waste or materials generated, recovered, recycled, treated, transported, disposed of or otherwise managed. The term also includes products or production processes that promote or enhance material recovery, recycling or marketing of secondary materials, or that reduce or eliminate waste or emissions at the source of generation.

“Biologicals” means preparations made from living organisms and their products, including vaccines, cultures, etc., intended for use in diagnosing, immunizing or treating humans or animals or in research pertaining thereto.

“Blood products” means any product derived from human blood, including but not limited to blood plasma, platelets, red or white blood corpuscles, and other derived licensed products, such as interferon, etc.

“Body fluids” means liquid emanating or derived from humans and limited to blood; dialysate; amniotic, cerebrospinal, synovial, pleural, peritoneal and pericardial fluids; and semen and vaginal secretions.

“Central collection point” means a location where a generator consolidates regulated medical waste brought together from original generation points prior to its transport off-site or its treatment on-site (for example, incineration).

“Collection facility” means a facility where individual shipments of packaged, tracked regulated medical waste are assembled and/or consolidated, or transferred between vehicles, but are not opened or unpackaged prior to transport off-site for disposal.

“Commercial facility” means a facility or on-site generator, accepting regulated medical waste from other generators for on-site collection, storage, shipment or disposal, for a fee in excess of the costs actually incurred by the facility or on-site generator for managing the regulated medical waste.

“Consolidated tracking form” means the tracking *form on* which a transporter consolidates or transfers other tracking forms representing shipments of regulated medical waste.

“Container” means any portable device in which a regulated medical waste is stored, transported, disposed of or otherwise handled. The term “container” does not include items listed in the table at N.J.A.C. 7:26-3A.6(a).

“Decontamination” means the process of reducing or eliminating the presence of harmful substances, such as infectious agents, so as to reduce the likelihood of disease transmission from those substances.

“Departments” means the New Jersey Department of Environmental Protection and the New Jersey Department of Health.

“Destination facility” means the disposal facility, the incineration facility, or the facility that both treats and destroys regulated medical waste, to which a consignment of such is intended to be shipped, specified in Box 8 of the Medical Waste Tracking Form. The term “destination facility” also means any generator or facility that treats and destroys its own regulated medical waste.

“Destroyed regulated medical waste” means regulated medical waste that is no longer generally recognizable as regulated medical waste because all components of the waste have been ruined, torn apart, or mutilated to produce unrecognizable and unusable pieces smaller than three-quarters of an inch, except that all sharps must be smaller than one-half inch. It does not mean compaction or encapsulation except through:

1. Processes such as thermal treatment or melting, during which treatment and destruction occur;
2. Processes such as shredding, grinding, tearing, or breaking, during which only destruction takes place; or
3. Processes that melt plastics and fully encapsulate metallic or other sharps and seals waste completely in a container that will not be penetrated by undestroyed sharps.

“Destruction facility” means a facility that destroys regulated medical waste by ruining or mutilating it, or tearing it apart.

1. This section shall not apply to transporters that are generators of less than 50 pounds of regulated medical waste per month and that transport RMW pursuant to N.J.A.C. 7:26-3A.17(a).

(b) All transporters shall maintain at each site and in each vehicle used to transport regulated medical waste a copy of the Spill Management Plan and appropriate equipment and supplies for cleaning up a spill of regulated medical waste, including but not limited to, the following:

1. A spill containment and cleanup kit in each area utilized for the collection, transfer, storage, treatment, packaging or other such handling of regulated medical waste. All vehicles operating under a New Jersey regulated medical waste transporter registration, or any out-of-State transporter transporting regulated medical waste through New Jersey in accordance with N.J.A.C. 7:26-3A.27(g), shall carry a spill containment and cleanup kit in the vehicle whenever regulated medical waste is transported. Personnel shall be trained in the use of the kit. The kit shall contain, at a minimum, the following:

i. Absorbent material for spilled liquids. The absorbent material shall have a rated capacity of one gallon of liquid for every cubic foot of regulated medical waste that is usually managed in the area for which the kit is provided or 10 gallons, whichever is less.

ii. One gallon of disinfectant in a sprayer capable of dispersing its charge in a mist and in a stream. The disinfectant shall be of hospital grade and of a formulation described in (c) below and be effective against mycobacteria.

iii. Fifty plastic bags that meet the requirements of N.J.A.C. 7:26-3A.11(b)2, 3 and 4 along with sealing tape (or devices for sealing), and appropriate labels as required by N.J.A.C. 7:26-3A.14. The plastic bags shall be large enough to overpack any box or other container usually used by the customers of the transporter for regulated medical waste packaging;

iv. Two sets of overalls, gloves, boots, caps, protective eye covering, and protective breathing devices all of which must be disposable and impermeable to liquids. Overalls, boots and caps shall be oversized or fitted to medical waste handlers and be made of a moisture resistant or moisture-proof material. When sharps are known not to be present, gloves for handling regulated medical waste shall be durable and moisture resistant or moisture proof. When sharps are known to be present or may be present, gloves for handling such waste shall be puncture resistant or puncture proof in addition to being moisture resistant. Boots shall be of durable moisture resistant or moisture proof material that does not tear under the stress of walking. At a minimum, protective breathing devices shall include surgical masks. The kit shall also contain tape for sealing wrists and ankles of the protective overalls;

v. Scoops, shovels, push brooms, and buckets;

vi. A first-aid kit, boundary marking tape, fire extinguisher, lights, and other appropriate safety equipment;

vii. A suitable means of communication for summoning aid in an emergency, and

viii. A copy of the approved Spill Management Plan as described at (a) above.

(c) Disinfection and routine decontamination procedures for soiled surfaces include, but are not limited to, the following:

1. Exposure to hot water of at least 82 degrees Celcius (180 degrees Fahrenheit) for a minimum of 15 seconds; or

2. Exposure to a chemical sanitizer by rinsing with or immersion in a chemical disinfectant. Such disinfectants shall be registered with the USEPA as hospital disinfectants that are tuberculocidal, fungicidal, virucidal and effective against HIV-1. Also approved for this specific purpose as a disinfectant is ten percent volume/volume of sodium hypochlorite and water.

(d) In case of any spill of any regulated medical waste, the transporter shall immediately take steps to contain and clean up the regulated medical waste in accordance with the procedures specified in the Spill Management Plan.

1. The spill of any medical waste by a transporter shall be immediately reported by the transporter or its designee to the DEP Emergency Response 24-hour Hotline at (609)292-7172.

2. The transporter shall submit a written accident report to the Department within 48 hours of the occurrence of any spill of regulated medical waste on an accident report form provided by the Department. A copy of the report shall be kept on file for a minimum of three years from the date of submission in the same location as the registration certificate. The record retention period shall be extended during the course of any unresolved litigation, or when otherwise required by the Department.

New Rule, R.1996 d.578, effective December 16, 1996.

See: 28 N.J.R. 2114(a), 28 N.J.R. 5248(a).

Former section, "Temporary authorization to operate a regulated medical waste incinerator", was recodified to N.J.A.C. 7:26-3A.38.

7:26-3A.38 Temporary authorization to operate a regulated medical waste incinerator

(a) This section applies only to and sets forth requirements for an authorization to operate an incinerator that accepts regulated medical waste for disposal.

(b) Notwithstanding the requirements of N.J.A.C. 7:26-2 and 2B, but subject to the requirements of N.J.A.C. 7:26-16, the owner or operator of an incinerator shall be authorized to operate that incinerator if the following requirements are met:

1. The owner or operator shall submit documentation as submitted to the Department demonstrating that the incinerator was in operation accepting regulated medical waste for disposal on or before March 6, 1989;

2. The owner or operator of the disposal facility continues to accept regulated medical waste for disposal;

3. The owner or operator registers and pays fees as a regulated medical waste destination facility in accordance with N.J.A.C. 7:26-3A.8;

4. The owner or operator of the facility shall have a current certificate to operate control apparatus or equipment pursuant to N.J.A.C. 7:27;

5. The owner or operator shall be or is fully permitted pursuant to N.J.A.C. 7:26-2 and 2B prior to expiration of the facility's current certificate to operate control apparatus or equipment issued pursuant to N.J.A.C. 7:27. For the purposes of the temporary authorization, any application for a renewal or extension of the current certificate shall be considered an expiration of the current certificate;

6. No waste shall be stored overnight at any facility without effective treatment to prevent odors associated with putrefaction;

7. Facility property surrounding the actual disposal area shall be maintained free of litter, debris, and accumulations of unprocessed waste, process residues and effluents. Methods of effectively controlling windblown papers and other lightweight materials such as fencing shall be implemented;

8. The operation of the facility shall not result in odors associated with solid waste being detected off site in any area of human occupancy;

9. The owner or operator shall maintain all facility systems and related appurtenances in a manner that facilitates proper operation and minimizes system downtime. When requested, the operator of the facility shall furnish proof that provisions have been made for the repair and replacement of equipment which becomes inoperative;

10. An adequate water supply and adequate fire-fighting equipment shall be maintained at the facility or be readily available to extinguish any and all types of fires. Fire-fighting procedures, including the telephone numbers of the local fire, police, ambulance and hospital facilities, shall be posted in and around the facility at all times;

11. The owner or operator shall effectively control insects, other arthropods and rodents at the facility by means of a program in compliance with the requirements of the New Jersey Pesticide Control Code, N.J.A.C. 7:30, and implemented by an applicator of pesticides, certified in accordance with the New Jersey Pesticide Control Code, N.J.A.C. 7:30;

12. The facility owner or operator shall be responsible for the sanitary condition and orderly operation of the area;

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

i. Sampling any materials on site;

ii. Photographing any portion of the facility;

iii. Investigating an actual or suspected source of pollution of the environment;

iv. Ascertaining compliance or non-compliance with the statutes, rules or regulations of the Department, including conditions of the facility's authorization or permit issued by the Department; or

v. Reviewing and copying all applicable records, which shall be furnished upon request and made available at all reasonable times for inspection.

14. An operation and maintenance manual meeting the requirements of N.J.A.C. 7:26-2B.4(a)17 through 20 shall be maintained at the facility;

15. The owner or operator shall obtain or has obtained all applicable permits and approvals required by Federal, State, county and local ordinance;

16. The facility shall not pose a threat to the public health, safety or the environment; and

17. The facility shall only accept regulated medical waste from transporters who have NJDEP registration numbers and who have a certificate of public convenience and necessity issued by the Department, unless the transporter is exempt from these requirements pursuant to N.J.A.C. 7:26-3A.17(a) or unless the transporter is the U.S. Postal Service and the generator who has shipped the waste has complied with N.J.A.C. 7:26-3A.17(b).

Recodified from 7:26-3A.37 and amended by R.1996 d.578, effective December 16, 1996.

See: 28 N.J.R. 2114(a), 28 N.J.R. 5248(a).

Former section, "Intermediate handlers and destination facilities", was recodified to N.J.A.C. 7:26-3A.40. In (b)17, deleted reference to EPA.

7:26-3A.39 Collection facilities for medical wastes

(a) This section contains the regulations of the Department governing the authorization and operation of noncommercial and commercial collection facilities for regulated medical waste. Such facilities shall accept and handle only medical waste and regulated medical waste as defined at N.J.A.C. 7:26-3A.5. Such facilities shall not accept or handle solid waste as defined at N.J.A.C. 7:26-1.4 and 1.6 other than medical waste and regulated medical waste, hazardous waste as defined at N.J.A.C. 7:26G, or recyclable material as defined at N.J.A.C. 7:26A-1.3.

(b) Any registered regulated medical waste generator that conducts activities as a collection facility and that generates regulated medical waste in the ordinary course of business at the same site, such as a doctor or hospital, that operates on a noncommercial basis and accepts only medical wastes from other generators registered pursuant to N.J.A.C. 7:26-3A.8 and home self-care medical wastes in accordance with N.J.A.C. 7:26-3A.16(h) for collection for transportation off-site for treatment and/or disposal in accordance with this subchapter shall operate as a noncommercial collection facility and shall comply with the requirements at (b)1 through 3 below and at (i) and (k)4 below.

1. Noncommercial collection facilities are exempt from registration as regulated medical waste transporters pursuant to N.J.A.C. 7:26-3A.8 provided they are operated in compliance with N.J.A.C. 7:26-3A.27(e).

2. Noncommercial collection facilities shall comply with the standards for the operation of collection facilities at (i) below.

3. The boundaries of noncommercial collection facilities shall be limited to the site for which the owner and/or operator of the facility is registered as a regulated medical waste generator pursuant to N.J.A.C. 7:26-3A.8 or as an exempted transporter pursuant to N.J.A.C. 7:26-3A.27(e), including buildings on the site and vehicles registered pursuant to N.J.A.C. 7:26-3, 3A, 16 and 16A at the site for the purpose of transporting medical wastes.

(c) Any collection facility that does not meet the criteria in (b) above as a noncommercial collection facility shall obtain authorization as a commercial collection facility pursuant to (d) below and shall operate in accordance with the requirements of this section.

(d) A person registered and licensed pursuant to this subchapter and N.J.A.C. 7:26-3, 16, and 16A to transport regulated medical waste in the State of New Jersey that seeks to operate a commercial collection facility for medical waste shall submit an application containing the information listed at (d)1 through 15 below. All maps of the proposed facility shall be prepared in a manner and format consistent with N.J.A.C. 7:1E, Appendix C. Three copies of the application and all accompanying documents shall be submitted to the Department at the address specified in (e) below, and one copy each to the host municipality and district solid waste management plan implementation agency:

1. The name, address and telephone number of the person or persons seeking to operate the proposed commercial collection facility;

2. A photocopy of the applicant's authorized registration as a regulated medical waste transporter obtained pursuant to N.J.A.C. 7:26-3, 3A, 16 and 16A;

3. Photocopies of all authorizations for siting, construction and operation obtained pursuant to applicable local,

regional, State or Federal agency with jurisdiction over any aspect of the proposed facility;

4. A copy of the tax map showing the lot and block numbers of the facility site and of all adjoining properties;

5. A description of the current use of the facility site and of all adjoining properties;

6. Documentation establishing that the facility has been included in the applicable district solid waste management plan. The Department may issue an authorization in the absence of a letter of consistency if it determines that the collection facility is needed to help fulfill the objectives of the adopted and approved Statewide Regulated Medical Waste Management Plan or any individual district regulated medical waste management plan. The Department shall notify the host county and municipality of such a determination and the reasons justifying facility authorization in writing prior to any approval of operations;

7. A description of the maximum amount and types of waste to be received and transferred at the facility each day, expressed in tons or gallons per day, as applicable;

8. A description of the sources of the waste and the anticipated disposal locations of the waste, both in State and out of State;

9. A description of the type(s) and number of containers that will be used at the facility and the type and means of storage and staging of the containers;

10. Three copies of a site plan, prepared, signed, and sealed by a licensed New Jersey professional engineer, surveyor or architect. The site plan shall:

i. Identify the placement of all equipment, buildings, activities and areas related to the receipt, loading, unloading and temporary storage of regulated medical waste;

ii. Be drawn to a scale no greater than one inch equals 100 feet;

iii. Indicate the routing of vehicles between the facility and all nearby roadways serving the site, as well as the traffic flow within the site. Such routing must ensure safe and efficient vehicular and pedestrian circulation, parking, and loading and unloading of packages of regulated medical waste;

iv. Delineate floodplains as defined at N.J.A.C. 7:13;

v. Delineate the location of State-designated wetlands, New Jersey Pinelands, existing or suitable agricultural lands, Federal or New Jersey-registered historic sites and other environmentally sensitive areas such as State parks, wildlife management areas and National Wildlife Refuges;

vi. Identify the direction of water runoff both on-site and off-site and the screening and landscaping on the site;

vii. Indicate topographic contours, drawn at three-foot intervals; and

viii. Indicate all site access controls to be employed at the facility;

11. An original current 7.5 minute USGS Quadrangle map with the boundary of the facility plotted thereon. The map shall delineate any public access roads to the site and any streams, ponds or other potential sensitive receptors such as, but not limited to, hospitals, schools, and shopping areas within a one-half mile radius of the site;

12. A copy of the deed of record establishing ownership of the facility property or, if the applicant is a person other than the landowner, a legal agreement (for example, a lease) to use the real property for the purpose of operating the facility;

13. A description of the design capacity of the facility, setting forth the number and types of all vehicles arriving at the facility and the number and types of all vehicles leaving the facility on a daily basis, stating the maximum number of vehicles per hour that will arrive at and leave the facility;

14. A copy of any New Jersey air pollution control permit application as applicable, in accordance with N.J.A.C. 7:27; and

15. A narrative describing the facility operations from the receipt of waste through the point of transfer to destination. The narrative must clearly demonstrate that packages and containers will not be opened and that employees, the public or the environment will not be exposed to regulated medical waste or medical waste.

(e) The application described in (d) above shall be submitted in triplicate, along with the application fee set forth in N.J.A.C. 7:26-3A.8, to:

Bureau of Registration
Division of Solid and Hazardous Waste
New Jersey Department of Environmental Protection
CN 414
Trenton, New Jersey 08625-0414

(f) Within 45 days after the Department receives the application submitted pursuant to (d) above, the Department shall take one of the following actions:

1. Issue a letter of authorization to operate the commercial collection facility, or a denial of the application, to the applicant and provide a copy of the letter of authorization or denial to the host municipality and district solid waste management plan implementation agency. A letter of authorization shall not be transferred to any other person;

2. Notify the applicant in writing of missing information and provide a copy of the letter of deficiency to the host municipality and district solid waste management plan implementation agency; or

3. Notify the applicant in writing of any information that does not satisfy the requirements of (d) above and provide a copy of the letter of deficiency to the host municipality and district solid waste management plan implementation agency.

(g) An applicant shall submit to the Department and to the host municipality and district solid waste management plan implementation agency any additional or corrected information required pursuant to (f)2 or 3 above within 30 days of receipt of the notification from the Department of missing and/or insufficient information.

(h) The Department shall deny without prejudice the application of any applicant that fails to submit the additional or corrected information required pursuant to (f)2 or 3 above or that otherwise fails to meet the application criteria of this section. The applicant may thereafter submit a new application for authorization to operate a commercial collection facility at the same location pursuant to the requirements of this section.

(i) The operating standards for collection facilities are as follows:

1. The maximum amount of regulated medical wastes at a collection facility including regulated medical wastes in any vehicles staged at the facility shall not exceed 300,000 pounds at any time unless a higher amount is specified in the facility's letter of authorization.

2. Collection facilities shall not receive medical wastes in excess of 150,000 pounds per day unless a higher amount is specified in the facility's letter of authorization.

3. Collection facility operators shall comply with all requirements for transporters at N.J.A.C. 7:26-3A.27 through 3A.37.

4. Collection facilities shall accept only regulated medical waste managed in accordance with this subchapter.

5. Collection facilities shall allow only collection and transportation vehicles registered in accordance with this subchapter and N.J.A.C. 7:26-2, 16, 16A and 27, and operated in accordance with N.J.A.C. 7:26-3 and this subchapter to transport regulated medical waste to and from the facility.

6. Regulated medical waste received, stored or transferred at any collection facility shall at all times remain fully contained in sealed packages and containers packaged, marked and labeled pursuant to this subchapter that do not leak any liquids or solid materials, are not opened for any purpose at the facility and are registered as solid waste containers pursuant to N.J.A.C. 7:26-3. Secondary outer packaging or containers may be removed so long as the primary packaging that contains the regulated medical waste and meets the performance requirements for packaging at N.J.A.C. 7:26-3A.11 is not opened, ruptured or compromised in any way.

7. Regulated medical waste shall not remain at a non-commercial collection facility for more than 90 consecutive calendar days, which period shall include weekends and holidays. A noncommercial collection facility at which waste is staged or stored for more than 90 days shall be deemed to be an illegal solid waste transfer station, and shall be subject to all penalties authorized pursuant to applicable statutes and rules.

8. Unless exempted under N.J.A.C. 7:26-6.3, all regulated medical waste accepted at a collection facility from New Jersey sources shall be disposed of in accordance with the Interdistrict and Intradistrict Solid Waste Flow rules at N.J.A.C. 7:26-6. A collection facility shall not accept packages or containers in which regulated medical waste generated from more than one New Jersey district or county, or out-of-state source, has been mixed. Any out-of-State waste accepted at a collection facility shall be disposed of consistent with the provisions set forth in the approved District Solid Waste Management Plan for the district in which the facility is located, or at permitted out-of-State disposal facilities authorized by the receiving state.

9. Regulated medical waste at any collection facility shall not emit odors that are detectable at the facility or in the vicinity of the facility. Any waste that does emit any odor shall be immediately disposed of in accordance with this subchapter.

10. Access to any collection facility shall be restricted to facility operators, regulated medical waste vehicle operators and authorized visitors only. Effective security procedures shall be implemented to control entry and exit at all times. All regulated medical waste packages and containers staged or stored at the facility shall be secured at all times in a manner that prevents unauthorized access to the packages and containers and their contents.

11. The Department's designated representatives and inspectors shall have the right to enter and inspect any building or any other portion of any collection facility, including vehicles, at any time. This right to enter and inspect includes, but is not limited to:

- i. Observing and sampling any wastes or other materials on site;
- ii. Photographing any portion of the facility, regulated medical waste vehicles, regulated medical waste packages and containers;
- iii. Investigating an actual or suspected source of pollution of the environment or any release of regulated medical waste;
- iv. Ascertaining compliance or noncompliance with the statutes, rules, regulations, or policies of the Department, including conditions of the facility's letter of authorization or any other permit or certificate issued by the Department; and

v. Reviewing and copying all applicable records described in this section, which shall be maintained at the facility at all times and shall be made available on request to Department representatives and inspectors at all reasonable times for review and inspection.

12. Collection facilities shall comply with the requirements of the Federal Occupational Safety and Health Administration and all other applicable standards of any agency for the operation of the facility and the maintenance of the health and safety of the employees and other persons.

13. Routine housekeeping and maintenance procedures shall be implemented at the facility to prevent the accumulation of dust and/or debris and to maintain general cleanliness throughout the facility and in the working environment.

14. Any areas or surfaces at a commercial collection facility that have come into contact with regulated medical waste shall be disinfected immediately in accordance with the Spill Management Plan approved pursuant to N.J.A.C. 7:26-3A.37.

15. Any release or discharge of any regulated medical waste at a collection facility shall be immediately reported by the facility operator or its designee to the DEP Emergency Response 24-hour Hotline at (609)292-7172. This telephone report shall specify the type of waste or substance discharged in estimated quantity, the nature of the discharge, the location of the discharge, any action being taken or proposed to be taken in order to mitigate the discharge, and any other information concerning the incident the Department may request at the time of notification. In addition, the facility operator or emergency coordinator designated pursuant to (j) below shall:

- i. Immediately identify the character, source, amount, and extent of any discharge and notify all appropriate State or local agencies with designated response roles if assistance is needed;
- ii. Assess possible hazards to public health or the environment that may result and notify appropriate local authorities if such assessment indicates that evacuation of local areas may be advisable;
- iii. Ensure that no regulated medical waste is processed in the affected unit and area until cleanup procedures are completed and all equipment is again fit for its intended use;
- iv. Notify the Department and appropriate local authorities when operations have returned to normal; and
- v. Submit a written report on the incident to the Department within 15 days after the incident. The written report shall include, but not be limited to, the name, address, and telephone number of the facility; the date, time, and description of the incident; the extent of any injuries of any severity, with names and job responsibilities of those persons injured indicated;

an assessment of actual damage to the environment; an assessment of the scope and magnitude of the incident; a description of the immediate actions initiated to clean up and disinfect the affected area; a description of actions taken to prevent a recurrence of a similar incident and, an implementation schedule for undertaking long-term measures to effect cleanup and avoid recurrence of the incident, if applicable.

16. Deliveries of regulated medical waste to collection facilities shall be scheduled in such a manner as to minimize truck queuing on the facility property as well as on the street or road leading to the entrance. On-site traffic control measures shall be implemented to provide orderly vehicle movement at collection facilities. If, at any time, the additional traffic generated by the operation of the facility results in congestion of surrounding roads and intersections, corrective measures shall be developed and implemented immediately to alleviate traffic-related problems.

17. No regulated medical waste or medical waste shall be staged, placed or stored beyond the confines of a building at the collection facility or a regulated medical waste vehicle registered pursuant to this subchapter, N.J.A.C. 7:26-3, 16 or 16A.

18. Collection facilities shall pay all fees and register in accordance with all applicable regulations for any other waste management activities conducted at the facility, in addition to the complying with the requirements of this subchapter.

(j) Additional operating requirements for commercial collection facilities are as follows:

1. The commercial collection facility operator shall designate an on-site emergency coordinator who is available during all hours of operation for the purpose of handling emergency situations such as, but not limited to, spills, discharges or releases of medical wastes at the facility.

2. The commercial collection facility operator shall develop and maintain at the site an operations and maintenance (O&M) manual that shall describe all operating conditions and procedures of the facility. The O&M manual shall be made available to all facility personnel. The O&M manual shall be prepared in accordance with N.J.A.C. 7:26-2.10(b)9.

3. All personnel directly involved in any commercial collection facility waste management activities or who operate, service or monitor any facility equipment, machinery or system at the facility shall successfully complete a training program of classroom instruction, which shall be combined with on-the-job training as needed. The training program shall:

i. Provide fire fighting training, instructions for implementing the Spill Management Plan in accordance with N.J.A.C. 7:26-3A.37 and ensure that facility personnel are able to effectively respond to any equipment malfunction and emergency situation that may arise;

ii. Provide instructions in the use and operation of safety equipment, procedures for inspecting, maintaining and repairing facility equipment, machinery and monitoring systems and the procedures to be followed during planned and unplanned shutdown of operations;

iii. Contain instructions that ensure the facility's compliance with the requirements of this chapter and the conditions of any Departmental letters of authorization and permits issued for the facility;

iv. Contain instruction for the constant monitoring of incoming loads for conformance with the requirements of this section and the identification and proper handling of suspected unauthorized wastes;

v. Be completed by all facility personnel within two weeks after the date of their employment and prior to work assignment at the facility;

vi. Be conducted on an annual basis for all facility personnel in the form of a planned annual review of the complete training program; and

vii. Be documented in the form of detailed training records that record the names of personnel trained, the dates when training occurred and the type and extent of training provided. The training documentation shall be maintained at the facility for three years from the date the training occurred.

4. Any commercial collection facility operator and any person designated by such operator to operate part or all of the collection facility or to conduct any of its waste-related activities shall be registered as a regulated medical waste transporter pursuant to N.J.A.C. 7:26-3A.3, 16 and 16A.

5. The commercial collection facility shall maintain sufficient staff to ensure the proper, orderly and safe operation of all facility systems and equipment, along with the ability to handle all routine facility maintenance requirements.

6. Fire detection and protection systems shall be maintained in operable condition at all times. Fire-fighting equipment shall be available on-site or on call to extinguish any and all fires. Fire fighting procedures shall be posted in each area of the facility and shall include the telephone number of local fire and police departments.

7. Noise control shall be implemented to ensure that sound levels generated by the facility operation, including vehicles, shall not exceed the standards set forth in Noise Control rules at N.J.A.C. 7:29.

8. One complete set of the commercial collection facility's operating records, the O&M manual and these rules shall be kept on file at the facility, and shall be available to facility personnel and for inspection by the Department or its designated representatives.

9. The commercial collection facility's material management system's safety appliances and related appurtenances shall, at all times, be kept in the proper operating order through an effective inspection, planned maintenance, repair and parts replacement program as described in the O&M manual. As part of this program, the facility operator shall maintain an inventory of spare parts and replacement equipment, records of all inspections, as well as have access to back up equipment to ensure continued operation of the facility.

10. Regulated medical waste shall not remain at a commercial collection facility for more than 14 consecutive calendar days, which period shall include weekends and holidays. A commercial collection facility at which waste is staged or stored for more than 14 calendar days shall be deemed to be an illegal solid waste transfer station, and shall be subject to all penalties authorized pursuant to applicable statutes and rules.

(k) A collection facility operator shall maintain the following records at the facility at all times and shall file reports as follows. The operator shall retain records and reports for three years.

1. A commercial collection facility shall maintain daily records that shall note the source, destination and quantity, by vehicle, of all regulated medical waste received, transferred and shipped to and from the facility. The records shall specify the source for every shipment of regulated medical waste received and the destination of every shipment of regulated medical waste out of the facility. Quantities of regulated medical waste shall be listed in tons or gallons as appropriate.

i. The daily records shall be compiled into quarterly reports in accordance with N.J.A.C. 7:26-2.13 and shall be submitted to the following address within 20 days of the end of each calendar quarter:

Bureau of Medical Waste and Technical Assistance
Division of Solid and Hazardous Waste
New Jersey Department of Environmental Protection
CN 414
Trenton, NJ 08625-0414

2. A commercial collection facility shall maintain records that document all violations of any local, State and Federal requirements, including violations of the collection facility authorization issued by the Department.

3. A commercial collection facility shall maintain records that document all incidents in which a transporter not registered and licensed pursuant to this subchapter

and N.J.A.C. 7:26-3, 16 and 16A, or a container not registered pursuant to N.J.A.C. 7:26-3, was denied transfer privileges at the facility. These records shall specify the vehicle driver's name, the vehicle license number, the vehicle registration number, the name of the company operating the vehicle, the solid waste registration number of the company, the date and time of the denial, the size of the vehicle or container, and the tracking form numbers for the waste in the container. These incidents shall also be reported within 24 hours to the Department's Central Regional Field Enforcement Office or the Environmental Hotline at (609) 292-7172.

4. All collection facilities shall maintain records in accordance with N.J.A.C. 7:26-3A.34, 3A.43 and 3A.44, except that noncommercial facilities are not required to comply with N.J.A.C. 7:26-3A.44(a)1 and 2.

(l) Any person that conducts any of the activities of a commercial collection facility as defined in this section without authorization from the Department, or without a solid waste transfer station permit issued pursuant to N.J.A.C. 7:26-2A, shall be deemed to be operating an illegal solid waste facility and shall be subject to all applicable penalties pursuant to the Solid Waste Management Act, N.J.S.A. 13:1E, and N.J.A.C. 7:26-5.

(m) Any authorized commercial collection facility that accepts unauthorized waste, or fails to operate in compliance with the requirements of this section, shall be deemed an illegal solid waste facility and shall be subject to all applicable penalties pursuant to the Solid Waste Management Act, N.J.S.A. 13:1E, and N.J.A.C. 7:26-5.

(n) Any authorized commercial collection facility that accepts regulated medical waste from a transporter not registered and licensed pursuant to this subchapter and N.J.A.C. 7:26-3, 16 and 16A shall be subject to penalties for violation of New Jersey waste flow rules at N.J.A.C. 7:26-6, including, but not limited to, revocation of transporter registration, certification and licensing, and revocation of collection facility authorization.

(o) The Department may revoke the authorization of a commercial collection facility if that facility fails to comply with the requirements for such facilities or any law in any way related to the operation of a commercial collection facility pursuant to New Jersey statute or the Department determines that any of the causes for modification in (p) below are sufficient cause for revocation in order to protect human health, safety and the environment.

(p) The Department may modify a commercial collection facility authorization for the following reasons and the operator shall pay a fee as specified in N.J.A.C. 7:26-3A.8 on issuance of any commercial collection facility authorization modification:

1. The Department determines that there are material and significant alterations or additions to the authorized

commercial collection facility or operation that occurred after Department issued the existing letter of authorization that warrant the imposition of conditions different from or lacking in the existing authorization;

2. The Department receives information that was not available at the time it issued the letter of authorization that would have warranted the issuance of conditions in the authorization different from those imposed in the existing authorization. This information may include, but is not limited to, information concerning the effects of the facility on the properties surrounding the facility or the effects of the facility on the environment;

3. A change in Federal or State laws, regulations or policies governing solid waste and/or regulated medical waste management;

4. The regulatory compliance record of the collection facility operator;

5. A relevant judicial decision after the authorization was issued; or

6. An operator of a commercial collection facility shall request a modification of its authorization whenever the operator proposes to change any aspect of the operation as originally described in the application. Such change include, but are not limited to, changes in the amount and type of regulated medical waste managed at the facility, and changes in the sources of regulated medical waste and changes in the regulated medical waste disposal location.

(q) The Department shall provide 30-day prior notice of a modification to an authorization to operate a commercial collection facility pursuant to (p) above and its reasons for determining a modification is warranted. This notice shall be sent to the operator of the facility and the host municipality and district solid waste management plan implementation agency.

New Rule, R.1996 d.578, effective December 16, 1996.
See: 28 N.J.R. 2114(a), 28 N.J.R. 5248(a).

Former section, "Use of tracking form for intermediate handlers and destination facilities", was recodified to N.J.A.C. 7:26-3A.41.

7:26-3A.40 Intermediate handlers and destination facilities

(a) N.J.A.C. 7:26-3A.40 through 3A.44 apply to owners and operators of intermediate handler or destination facilities located in New Jersey that manage regulated medical waste and owners and operators of facilities in another state that receive regulated medical waste generated in New Jersey. Facilities that are subject to the above sections include:

1. Destination facilities, including treatment and destruction facilities, facilities that cause the regulated medical waste to meet the conditions of N.J.A.C. 7:26-3A.6(b)3 or 4 including incineration facilities, alternative or innovative technology facilities and disposal facilities; and

2. Intermediate handlers, including alternative or innovative technology or other facilities that either treat or destroy the regulated medical waste, but do not cause it to meet the conditions of N.J.A.C. 7:26-3A.6(b)3 or 4.

(b) The rule paragraphs noted in (a) above also apply to generators with on-site incinerators who accept regulated medical waste for disposal.

(c) No person shall engage in the treatment and/or destruction of regulated medical waste in New Jersey unless such person:

1. Registers the site as an intermediate handler or destination facility in accordance with N.J.A.C. 7:26-3A.8;

2. Obtains a tariff in accordance with N.J.S.A. 13:1E-48.12.b if operating commercially;

3. Uses treatment and/or destruction process(es) authorized by the Department and DOH pursuant to N.J.A.C. 7:26-3A.47;

4. Obtains the specific approval of the Department and DOH to operate an alternative or innovative technology approved pursuant to N.J.A.C. 7:26-3A.47 for the treatment and/or destruction of regulated medical waste at the registered facility; and

5. Complies with all other environmental statutes applicable to the facility, including but not limited to, the Solid Waste Management Act, N.J.S.A. 13:1E-1 et seq., the Water Pollution Control Act, N.J.S.A. 58:10A-1 et seq., the Air Pollution Control Act, N.J.S.A. 26:2C-1 et seq., and the rules and regulations adopted thereunder, and any permits or orders issued pursuant thereto.

Recodified from 7:26-3A.38 and amended by R.1996 d.578, effective December 16, 1996.

See: 28 N.J.R. 2114(a), 28 N.J.R. 5248(a).

In (a), amended N.J.A.C. references and inserted reference to intermediate handlers and destination facilities; in (a)1 and (a)2, inserted reference to alternative or innovative technology facilities; and added (c). Former section, "Tracking form discrepancies for intermediate handlers and destination facilities", was recodified to N.J.A.C. 7:26-3A.42.

7:26-3A.41 Use of the tracking form for intermediate handlers and destination facilities

(a) The owner or operator of a destination facility when receiving a tracking form shall:

1. Sign and date each copy of the tracking form to certify that the regulated medical waste listed on the tracking form was received;

2. Note any discrepancies as defined in N.J.A.C. 7:26-3A.42(a) on the tracking form;

3. Immediately give the transporter "Copy 3—Transporter Copy" of the signed tracking form:

Amended by R.1996 d.578, effective December 16, 1996.
See: 28 N.J.R. 2114(a), 28 N.J.R. 5248(a).

Deleted reference to Part A permit application.

7:26-5.10 Severability

If any provision of this subchapter or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications, and to this end, the provisions of this subchapter are declared to be severable.

SUBCHAPTER 6. INTERDISTRICT AND INTRADISTRICT SOLID WASTE FLOW

7:26-6.1 Authority

This subchapter is promulgated pursuant to the policies set forth in and the authority delegated to the Department of Environmental Protection by the Solid Waste Management Act, N.J.S.A. 13:1E-1 et seq. and the Solid Waste Utility Control Act, N.J.S.A. 48:13A-1 et seq.

Amended by R.1996 d.578, effective December 16, 1996.
See: 28 N.J.R. 2114(a), 28 N.J.R. 5248(a).

Law Review and Journal Commentaries

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

Case Notes

Operator of transfer station and recycling center was entitled to preliminary injunctive relief on commerce clause challenge to constitutional validity of solid waste flow regulations; no showing that relief would dismantle significant portion of existing waste flow scheme. Atlantic Coast Demolition & Recycling, Inc. v. Board of Chosen Freeholders of Atlantic County, D.N.J.1995, 893 F.Supp. 301.

Emergency order issued by Dep't of Environmental Protection and Bd. of Public Utilities redirecting county's solid waste flows from closed landfill to transfer station in Pennsylvania did not exceed territorial jurisdiction of those agencies; DEP and BPU were required to comply with procedural requisites regarding amendment to county waste flow plan. In the Matter of Certain Amendments to the Adopted and Approved Solid Waste Management Plan of the Camden County Solid Waste Management District, 214 N.J.Super. 247, 518 A.2d 1105 (App. Div.1986).

Propriety of selection of site for county landfill by board of chosen freeholders. Twp. Committee of South Harrison Twp. v. Bd. of Chosen Freeholders of Gloucester Cty., 213 N.J.Super. 179, 516 A.2d 1140 (Law Div.1985), reversed 210 N.J.Super. 370, 510 A.2d 42 (1986).

Waste flow redirection regulations promulgated in compliance with Supreme Court decision upheld as reasonable and not violative of the Commerce Clause; ultimate waste flow stream redirection decision properly made by Board of Public Utilities; economic repercussion assessment made; trial-type evidentiary hearing on regulations not required. Elizabeth v. State, Dept. of Environmental Protection, 198 N.J.Super. 41, 486 A.2d 356 (App.Div.1984).

Former N.J.A.C. 7:26-1.11 through 1.15 specifically directing waste flow streams held beyond legislative authority of the Department; regulations more appropriately the realm of the Board of Public Utilities; Department authorized to provide only general direction to

solid waste flow. A.A. Mastrangelo, Inc. v. Dept. of Environmental Protection, 90 N.J. 666, 449 A.2d 516 (1982).

Discussion of former N.J.A.C. 7:1-4.2 scheme for determination of out-of-state waste. Hackensack Meadowlands Development Commission v. Municipal Sanitary Landfill Authority, 127 N.J.Super. 160, 316 A.2d 711 (Ch.Div.1974); reversed 68 N.J. 451, 348 A.2d 505 (1975), vacated and remanded 97 S.Ct. 987, 430 U.S. 141, 51 L.Ed.2d 224, on remand 73 N.J. 562, 376 A.2d 888 (1977).

Jurisdiction regarding authorization of solid waste facility. In re Combustion Equipment Assoc's, 169 N.J.Super. 305, 404 A.2d 1194 (App.Div.1979). Authority of solid waste management districts to direct solid waste to specific disposal facilities (opinions rendered on statutory grounds). Att'y Gen. Form Op. 1980—No. 3.

7:26-6.2 Purpose

The New Jersey Department of Environmental Protection has reviewed and approved the adopted solid waste management plans for all 22 of the solid waste management districts in New Jersey. Based on these plans, it is evident that, at least for the short term, interdistrict solutions to planning issues are required. Further, the Department has determined that the public interest requires the designation of in-State specific disposal facilities to serve as the ultimate destination of certain waste streams. This subchapter sets forth the designations by the Department, of intradistrict and interdistrict waste flows, and designated specific facilities to serve specific geographic areas. This subchapter also sets forth the policy for the flow of solid waste prior to receipt at the ultimate designated facility.

Amended by R.1993 d.508, effective October 18, 1993.
See: 24 N.J.R. 3286(c), 25 N.J.R. 4763(a).
Amended by R.1996 d.578, effective December 16, 1996.
See: 28 N.J.R. 2114(a), 28 N.J.R. 5248(a).

7:26-6.3 Types of waste covered

(a) This subchapter applies to all solid waste, as defined in N.J.A.C. 7:26-2.13, with the exception of the following:

1. Bulk liquid and semi-liquids, ID type 72;
2. Septic tank clean-out wastes, ID type 73;
3. Liquid sewage sludge, ID type 74;
4. Dry sewage sludge, ID type 12;
5. Dry industrial waste, ID type 27, but only if such waste is residue from the operations of a scrap metal shredding facility, provided that the operator of the scrap metal shredding facility satisfies the requirements of (a)5i through iv below:

i. The owner/operator of the scrap metal shredding facility shall obtain the Department's approval of a quality control plan for the facility, which ensures that before shredding the motor vehicles, appliances, or source separated, non-putrescible ferrous and non-ferrous metals received by the facility, the facility removes components that could affect the nonhazardous characteristics of the residue from the operations of the facility. As provided in the quality control plan, the facility may reject any motor vehicles, appliances or

source separated non-putrescible ferrous and non-ferrous metal if inspection reveals that components that could affect the non-hazardous characteristics of the residue are present. The facility is considered the generator of the components it accepts for processing, and shall dispose of these components in accordance with all applicable laws, orders and regulations (including N.J.A.C. 7:26G, if applicable). The components to be removed include, without limitation, the following:

- (1) Batteries and cable ends;
- (2) Gas tanks;
- (3) Catalytic converters;
- (4) Unspent airbag canisters;
- (5) Transformers;
- (6) PCB capacitors; and
- (7) Fluorescent lighting fixtures;

ii. The owner/operator of the scrap metal processing facility shall obtain the Department's approval of a sampling and analytical plan which insures monitoring of the characteristics of the residue from the operations of the facility, as set forth in N.J.A.C. 7:26G-5 and the most recent edition of the USEPA publication SW-846 "Test Methods for Evaluating Solid Waste-Physical/Chemical Methods," incorporated herein by reference. The operator shall perform sampling and analysis quarterly, including without limitation the Toxicity Characteristic Leaching Procedure (TCLP) parameter as set forth in N.J.A.C. 7:26G-5. The operator shall submit the analysis performed in accordance with the approved sampling to the Division of Solid and Hazardous Waste for classification on January 15, April 15, July 15 and October 15, provided however that if the Department approves less frequent sampling and analysis, the owner/operator shall submit the analysis on the dates specified in the Department's approval of that sampling. Upon a request by the facility and as approved by the Department, the sampling frequency of the approved sampling and analytical plan may be reduced. The owner/operator of the facility shall submit a revised sampling and analytical plan which documents how the accuracy and precision criteria as required in SW-846 will be maintained with a reduced schedule;

iii. On February 15 and August 1 of every year the owner/operator of the scrap metal shredding facility shall submit to the department and to the solid waste district in which the facility is located, a report on forms provided by the Department consistent with the Department's Annual Recycling Tonnage Reporting Manual including the following information:

- (1) The total amount of each type of materials which the facility received in the six-month period ending January 1st and July 1st of every year;

(2) The total amount of residue disposed of by the facility;

(3) The total amount of ferrous and non-ferrous metal remaining after shredding; and

(4) The report shall be submitted to the following:

New Jersey Department of Environmental Protection

Division of Solid and Hazardous Waste

CN 414

Trenton, NJ 08625

Office of Recycling and Planning; and

iv. The scrap metal shredding facility shall either maintain a scale certified under N.J.A.C. 13:47B-1 and provide specific truck load weigh data to the district in which the facility is located, or transport the residue through the district's weighing facilities to be weighed before the residue is transported for disposal;

6. Source separated Class A recyclable material, Class B recyclable material, Class C recyclable material and Class D recyclable material as such terms are defined at N.J.A.C. 7:26A-1.3;

7. Hazardous waste, as defined at N.J.A.C. 7:26G-5; and

8. Non-residentially generated chemically treated wood, such as wood treated with creosote, pentachlorophenol (PCP) or chromated copper arsenate (CCA), or scrap tires that are destined for incineration and/or energy recovery provided that the following conditions are met:

i. The chemically treated wood or scrap tires are separated at the point of generation from other solid waste;

ii. The chemically treated wood or scrap tires transported for incineration and energy recovery are transported by a solid waste transporter licensed under N.J.A.C. 7:26-3, 16 and 16A. Transporters delivering chemically treated wood scrap or scrap tires to an out-of-State power generating incinerator pursuant to (a)8iv(1) below shall submit a tonnage report to the Department at the address specified at (a)8v below by March 1 of each year for the prior calendar year that specifies the total amount of material received, in tons, from New Jersey sources;

iii. Each load of chemically treated wood or scrap tires is accompanied by the waste origin/waste disposal form satisfying the requirements of N.J.A.C. 7:26-2.13(c); and

iv. The chemically treated wood or scrap tires are delivered to one or both of the following:

- (1) An out-of-State power generating incinerator authorized or permitted by the receiving state to accept such materials for utilization as fuel; or

(2) An in-State power generating incinerator, including a resource recovery facility, that is approved by the Department to accept such materials for utilization as fuel subject to a review of the facility's operating permit, incoming materials specifications and written narrative explanation of operation. An in-state resource recovery facility that accepts chemically treated wood or scrap tires shall obtain an approved tariff for the receipt of these materials pursuant to N.J.A.C. 7:26H-5 and modify its solid waste facility permit pursuant to N.J.A.C. 7:26-2.6. Each approved in-state power generating facility, with the exception of an in-state resource recovery facility which must report such activity in its facility monthly volume report pursuant to N.J.A.C. 7:26-2.13, shall submit a tonnage report specifying the total amount of chemically treated wood or scrap tires received, in tons, from New Jersey sources, to the Department at the address specified at (a)8v below by March 1 of each year for the prior calendar year.

v. Applications for approval and annual tonnage reports shall be submitted to:

New Jersey Department of Environmental Protection
Division of Solid and Hazardous Waste
CN 414
Trenton, N.J. 08625

9. Type 13C waste, as defined at N.J.A.C. 7:26-1.4, provided that the Type 13C waste is not commingled with any other waste type(s) and one of the following conditions are met:

i. Recyclable components of the Type 13C waste stream are source separated or source separated and commingled; or

ii. Type 13C waste being transported out-of-State for disposal, including multi-district loads, is first weighed and recorded at the designated district facility prior to disposal at a facility permitted to accept C&D waste; or

iii. Type 13C waste, including multi-district loads, is disposed of at a permitted in-State solid waste facility which is permitted to accept C&D waste.

Public Notice: Notice of receipt of petition for rulemaking.
See: 23 N.J.R. 2187(c).

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

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

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

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

If certain conditions are met, exempts the residue from the operation of scrap metal shredding facilities from the waste flow rules.

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

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

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

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

Added (a)8 and 9.

Amended by R.1996 d.500, effective October 21, 1996.

See: 28 N.J.R. 1693(a), 28 N.J.R. 4606(a).

Amended by R.1996 d.578, effective December 16, 1996.

See: 28 N.J.R. 2114(a), 28 N.J.R. 5248(a).

In (a)5ii and (a)7, amended N.J.A.C. references; in (a)6, inserted reference to Class C and Class D materials; and added (a) 8.

Law Review and Journal Commentaries

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

7:26-6.4 Informational requirements

Any person registered with the Department for the collection, transportation, and/or disposal of solid wastes affected by this subchapter shall, upon request by the Department, submit, in such form as the Department may deem appropriate, information concerning the sources of wastes collected, and his/her transportation and disposal patterns.

7:26-6.5 District waste flow planning requirements and disposal facility designations

(a) Waste flows within, into and out of the Atlantic County District:

1. All solid waste types 10, 23, and 25 generated from within all Atlantic County municipalities shall be directed to the Atlantic County Transfer Station, facility number 0108M, located in Egg Harbor Township, Atlantic County, New Jersey, prior to disposal at permitted out-of-State facilities in accordance with the laws and regulations of the receiving state. (Effective August 8, 1990).

i. Up to 12 tons per day of waste types 10 and 27 generated at the Atlantic County Community College and the Atlantic County Vocational Technical School, and from other commercial, industrial, and governmental generators as may later be determined by agreement between Atlantic County and relevant generators and haulers, shall be disposed of at the Atlantic County Resource Recovery Facility, facility number 0112C, located in Hamilton Township, Atlantic County, New Jersey.

2. All solid waste types 13 and 27 generated from within all Atlantic County municipalities shall be directed to the Atlantic County Landfill, facility number 0108N, located in Egg Harbor Township, Atlantic County, New Jersey.

(b) Waste flows within, into and out of the Bergen County District:

1. Two hundred and fifty thousand (250,000) tons per year of processible solid waste types 10 and 23 generated from within Bergen county and processed at the Sal-Car Transfer Station, facility number 02267b, located in Hillsdale Boro, Bergen County, the DiBella Transfer Station, facility number 0247B, located in Park Ridge Boro, Bergen County, the National Transfer Station, facility number 0231A, located in Lodi Boro, Bergen County, the Garofalo Transfer Station, facility number 0221A, located in Garfield City, Bergen County, and the United Carting Transfer Station, facility number 0218A, located in Fairview Boro, Bergen County, shall be transported directly to the Essex County Resource Recovery Facility, facility number 0714X, located in Newark, Essex County, New Jersey. (Effective May 1, 1991).

i. All residual ash generated from the operation of the Essex County RRF shall be disposed of by the Bergen County Utilities Authority (BCUA) consistent with the agreement between the BCUA and Essex County and in compliance with the Essex County RRF facility permit at permitted and approved out-of-State landfill facilities. (Effective May 1, 1991).

ii. Bypass waste and nonprocessable waste generated from the operation of the Essex County RRF shall be disposed of consistent with the agreement between the BCUA and Essex County and in accordance with the provisions of the approved Essex County District Solid Waste Management Plan. (Effective May 1, 1991).

2. At the request of Essex County, processible solid waste types 10 and 23 generated within Bergen County in an amount not to exceed 1,600 tons per week in 1992, 2,000 tons per week from January 4, 1993 through February 28, 1993, and 1,700 tons per week from March 1, 1993 through July 31, 1993 shall be transported to the Essex County Resource Recovery Facility, facility number 0714X, located in Newark, New Jersey, on an as needed basis from one of the transfer stations set forth in (b)1 above or (b)4 below.

3. Except as may be required by the terms of (b)2 above, to the extent that the five private transfer stations set forth in (b)1 above process tonnages in excess of the 250,000 tons noted above, all excess processible solid waste types 10, 13, 23, 25 and 27 shall be directed from each individual transfer station to an approved out-of-State disposal facility as provided in the Bergen County Plan. (Effective May 19, 1992).

4. All remaining solid waste types 10, 13, 23, 25 and 27 generated within Bergen County and not processed by the five transfer stations identified in (b)1 above shall continue to be directed to the Bergen County Utilities Authority Transfer Station, facility number 0232C, located in North Arlington, Bergen County, prior to transportation to an approved out-of-State disposal facility as provided in the Bergen County Plan. (Effective May 1, 1991).

5. All solid waste type 10 generated from within North Arlington shall be disposed of at the HMDC 1-E landfill, facility number 0239D, located in North Arlington, Bergen County. Upon closure of the HMDC 1-E Landfill, all solid waste type 10 generated from within North Arlington shall be redirected to the Bergen County Utilities Authority Transfer Station, facility number 0232C, located in North Arlington, Bergen County, prior to transportation to permitted out-of-State disposal facilities in accordance with the laws and regulations of the receiving state.

(c) Waste flows within, into and out of the Burlington County District:

1. All solid waste types 10, 13, 23, 25 and 27 generated from within all Burlington County municipalities, with the exception of (c)1i noted below, shall be disposed of at the Burlington County Landfill, facility number 0318A, located in Florence and Mansfield Townships, Burlington County, New Jersey.

i. All waste types 10, 23, and 27 generated at the Fort Dix Army Base and the McGuire Air Force Base, located within New Hanover and North Hanover Townships, shall be disposed of at the Fort Dix Heat Recovery Incinerator, facility number 0325A, located in New Hanover Township, Burlington County. All non-processible and non-hazardous residual waste shall be disposed of at the Burlington County Landfill.

(d) Waste flows within, into and out of the Camden County District:

1. All residential waste types 10, 13, 23, 25 and 27 generated in Chesilhurst Borough, Waterford Township and Winslow Township shall be directed to the Winslow Township Transfer Station, facility number 0436I, located in Winslow Township, Camden County, New Jersey. Once transferred, the waste from the Winslow Township Transfer Station shall be disposed of at the South Camden Resource Recovery Facility, Facility Number 0408C, except for waste type 25 which shall continue to be directed from the transfer station to out-of-State disposal in accordance with the laws and regulations of the receiving state.

i. All commercial waste types 10, 13, 23, and industrial waste type 27 generated in Chesilhurst Borough, Waterford Township and Winslow Township shall be disposed of directly at the South Camden Resource Recovery Facility, Facility Number 0408C, except that waste type 25 shall continue to be disposed of directly out-of-State in accordance with the laws and regulations of the receiving state.

2. All waste types 23 and 27 and nonprocessable 13 generated from within the Camden County municipalities of Audubon Borough, Cherry Hill Township, Haddonfield Borough, Haddon Township, Lindenwold Borough, Merchantville Borough, Pennsauken Township, Tavistock Borough, and Voorhees Township shall be disposed of at the Pennsauken Township Sanitary Landfill, facility numbers 0427D1SE01, 0427D1SE03, and 0427A-E1, located in Pennsauken Township, Camden County, New Jersey.

i. All waste type 25 generated from within the Camden County municipalities of Audubon, Cherry Hill, Haddonfield, Haddon Township, Lindenwold, Merchantville, Pennsauken, Tavistock and Voorhees shall be disposed of out-of-state in an approved facility in accordance with the laws and regulations of the receiving state.

ii. All waste types 10 and processible 13 generated from within the Camden County municipalities of Audubon, Cherry Hill, Haddonfield, Haddon Township, Lindenwold, Merchantville, Pennsauken, Tavistock, and Voorhees shall be disposed of at the South Camden Resource Recovery Facility, facility number 0408C, located in Camden City, Camden County. (Effective January 13, 1992).

3. All solid waste types 10, 13, 23, and 27 generated within the Camden County municipalities of Audubon Park, Barrington, Bellmawr, Berlin Borough, Berlin Township, Brooklawn, Camden City, Chesilhurst, Clementon, Collingswood, Gibbsboro, Gloucester City, Gloucester Township, Haddon Heights, Hi-Nella, Laurel Springs, Lawnside, Magnolia, Mt. Ephraim, Oaklyn, Pine Hill, Pine Valley, Runnemede, Somerdale, Stratford, Waterford, Winslow and Woodlynne shall be directed to the South Camden Resource Recovery Facility, facility number 0408C, located in Camden City, Camden County, New Jersey.

i. All waste type 25 from the municipalities listed in (d)3 above, and ash from the operation of the South Camden Resource Recovery Facility shall be disposed of at approved out-of-State facilities in accordance with the laws and regulations of the receiving state.

ii. All of the bypass and nonprocessable waste from the operation of the South Camden Resource Recovery Facility shall be disposed of at the Pennsauken Township Sanitary Landfill, facility numbers 0427D1SE01, 0427D1SE03, and 0427A-E1, located in Pennsauken Township, Camden County, New Jersey. Also, in the event that nonhazardous ash from the operation of the resource recovery facility cannot be disposed of at an out-of-State facility, such ash shall be disposed of at the Pennsauken Township Sanitary Landfill. (Effective January 13, 1992).

iii. In the event a unified rate system is established for all solid waste facilities within Camden County, all solid waste types 10, 13, 23, 25 and 27 generated from within Berlin Borough and Berlin Township shall be directed to the Winslow Township Transfer Station, facility number 0436I, located in Winslow Township, Camden County, New Jersey. Once transferred, the

waste from the Winslow Township Transfer Station shall be disposed of at the South Camden Resource Recovery Facility, facility number 0408C, located in Camden City, Camden County, New Jersey, except that waste type 25 shall be directed from the transfer station to permitted out-of-State disposal facilities in accordance with the laws and regulations of the receiving state.

(e) Waste flows within, into and out of the Cape May County District:

1. All waste types 10, 13, 23, 25, and 27 generated from within the Cape May County municipalities of Avalon, Cape May City, Cape May Point Boro, Dennis, Lower, Middle, North Wildwood, Ocean City, Sea Isle City, Stone Harbor, Upper, West Cape May, West Wildwood, Wildwood, Wildwood Crest, and Woodbine shall be disposed of at the Cape May County regional landfill, facility number 0511C, located in Borough of Woodbine and Township of Upper, Cape May County, New Jersey.

(f) Waste flows within, into and out of the Cumberland County District:

1. All waste types 10, 13, 23, 25, and 27 generated from within the Cumberland County municipalities of Bridgeton, Commercial, Deerfield, Downe, Fairfield, Greenwich, Hopewell, Lawrence, Maurice River, Millville, Stow Creek, Shiloh, Upper Deerfield, and Vineland shall be disposed of at the Cumberland County regional landfill, facility number 0603B, located in Deerfield Township, Cumberland County, New Jersey.

(g) Waste flows within, into and out of the Essex County District:

1. All solid waste types 10, 13, 23, 25, and 27 generated from within the Essex County municipalities of Irvington, Livingston, Maplewood, Millburn, and South Orange are hereby directed to the Waste Management of New Jersey Transfer Station, located at 100 Avenue A, in the City of Newark, Essex County, New Jersey.

2. All solid waste types 10, 23, 25, and 27 generated from within the Essex County municipality of Newark are hereby directed to the Waste Management of New Jersey Transfer Station, located at 100 Avenue A, in the City of Newark, Essex County, New Jersey.

3. All solid waste types 10, 13, 23, 25, and 27 generated from within the Essex County municipalities of Belleville, Bloomfield, Caldwell, Cedar Grove, East Orange, Essex Fells, Fairfield, Glen Ridge, Montclair, North Caldwell, Nutley, Orange, Roseland, Verona, West Caldwell and West Orange are hereby directed to the Solid Waste Transfer and Recycling, Inc. Transfer Station, located at 442 Frelinghuysen Avenue, in the City of Newark, Essex County, New Jersey.

4. All solid waste type 13 generated from within the Essex County municipality of Newark is hereby directed to the Solid Waste Transfer and Recycling, Inc. Transfer Station, located at 442 Frelinghuysen Avenue, in the City of Newark, Essex County, New Jersey.

5. Upon commencement of operations of the Solid Waste Transfer and Recycling, Inc. Transfer Station, located at Hill Street, in the City of Orange, Essex County, New Jersey, all solid waste types 10, 23, 25, and 27 generated from within the Essex County municipalities of Belleville, Bloomfield, Caldwell, Cedar Grove, East Orange, Essex Fells, Fairfield, Glen Ridge, Montclair, North Caldwell, Nutley, Orange, Roseland, Verona, West Caldwell and West Orange shall be directed to this facility.

6. All solid waste types 10, 23, and 27 generated within the municipalities of Belleville, Bloomfield, Caldwell, Cedar Grove, East Orange, Essex Fells, Fairfield, Glen Ridge, Irvington, Livingston, Maplewood, Millburn, Montclair, Newark, North Caldwell, Nutley, Orange, Roseland, South Orange, Verona, West Caldwell, and West Orange is directed to the Essex County Resource Recovery Facility, facility number 0714X, located in Newark, Essex County, New Jersey.

i. All waste types 13, 25 and nonprocessable type 27 from the municipalities listed in (g)6 above, shall be disposed of at approved out-of-state facilities in accordance with the laws and regulations of the receiving state. Out-of-State disposal shall be via the Solid Waste Transfer and Recycling, Inc., Transfer Station, facility number 0714R, located in Newark, Essex County, New Jersey.

7. Two hundred and fifty thousand (250,000) tons per year of processible solid waste types 10 and 23 generated from within Bergen County and processed at the transfer stations listed in (b)1 above shall be directed to the Essex County Resource Recovery Facility, facility number 0714X, located in Newark, Essex County, New Jersey. (Effective May 1, 1991). In addition, at the request of Essex County, processible solid waste types 10 and 23 generated within Bergen County in an amount not to exceed 1,600 tons per week in 1992, 2,000 tons per week from January 4, 1993 through February 28, 1993, and 1,700 tons per week from March 1, 1993 through July 31, 1993 shall be transported to the Essex County Resource Recovery Facility, facility number 0714X, located in Newark, New Jersey, on an as needed basis from one of the transfer stations set forth in (b)1 and 4 above.

i. All residual ash generated from the operation of the Essex County RRF shall be disposed of by the BCUA consistent with the agreement between the BCUA and Essex County and in compliance with the Essex County RRF facility permit at permitted and approved out-of-State landfill facilities. (Effective May 1, 1991).

ii. Bypass waste and nonprocessable waste generated from the operation of the Essex County RRF shall be disposed of consistent with the agreement between the BCUA and Essex County and in accordance with the provisions of the approved Essex County District Solid Waste Management Plan. (Effective May 1, 1991).

(h) Waste flows within, into and out of the Gloucester County District:

1. All solid waste types 10, 13, 23, 25 and 27 generated from within the Gloucester County municipalities of Clayton, Deptford, East Greenwich, Elk, Franklin, Glassboro, Greenwich, Harrison, Logan, Mantua, Monroe, National Park, Newfield, Paulsboro, Pitman, South Harrison, Swedesboro, Washington, Wenonah, West Deptford, Westville, Woodbury, Woodbury Heights, and Woolrich, shall be disposed of at the Gloucester County Landfill, facility number 0816A, located in South Harrison Township, Gloucester County, New Jersey.

2. When the Gloucester County resource recovery facility becomes operational, solid waste types 10, 13, 23 and 25 generated in all of Gloucester County's municipalities shall be directed to the resource recovery facility, facility number 0820I, located in West Deptford Township, Gloucester County, New Jersey.

3. All bypass waste and non-hazardous ash from the resource recovery facility shall be disposed of at the Gloucester County Landfill, facility number 0816A, located in South Harrison Township, Gloucester County, New Jersey.

(i) Waste flows within, into and out of the Hackensack Meadowlands District:

1. The Hackensack Meadowlands Development Commission shall accept certain waste flows from Bergen and Hudson Counties as described in (b) above and (j) below.

(j) Waste flows within, into and out of the Hudson County District:

1. All waste types 13, 23, 25, and 27 generated from within the Hudson County municipalities of Bayonne City, East Newark Boro, Guttenberg Town, Harrison Town, Hoboken City, Jersey City, Kearny Town, North Bergen Township, Secaucus Town, Union City, Weehawken Township and West New York town shall be directed to the Hackensack Meadowlands Development Commission Baler facility, facility number 0239C, located in North Arlington, Bergen County, New Jersey for handling prior to transportation to out-of-State permitted disposal facilities in accordance with the laws and regulations of the receiving state. (Effective February 4, 1991).

2. All waste type 10 generated from within the Hudson County municipalities of Bayonne City, East Newark Boro, Guttenberg Town, Harrison Town, Hoboken City, Jersey City, Kearny Town, North Bergen Township, Secaucus Town, Union City, Weehawken Township and West New York Town shall be directed to the Hackensack Meadowlands Development Commission Baler facility, facility number 0239C, located in North Arlington, Bergen County, New Jersey, for baling prior to disposal at the Hackensack Meadowlands Development Commission 1-E landfill, facility number 0907W, located in North Arlington, Bergen County, New Jersey. (Effective February 4, 1991).

3. Upon closure of the HMDC 1-E landfill, all waste type 10 generated from within the Hudson County municipalities of Bayonne City, East Newark Boro, Guttenberg Town, Harrison Town, Hoboken City, Jersey City, Kearny Town, North Bergen Township, Secaucus Town, Union City, Weehawken Township and West New York Town shall be directed to the Hackensack Meadowlands Development Commission Baler facility, facility number 0239C, located in North Arlington, Bergen County, New Jersey for handling prior to transportation to out-of-State permitted disposal facilities in accordance with the laws and regulations of the receiving state. (Effective February 4, 1991).

(k) Waste flows within, into and out of the Hunterdon County District:

1. All solid waste types 10, 13, 23, 25, and 27 generated from within the Hunterdon County municipalities of Alexandria, Bethlehem, Bloomsbury, Califon, Clinton Town, Clinton Township, Delaware, East Amwell, Flemington, Franklin, Glen Gardener, Hampton, High Bridge, Holland, Kingwood, Lambertville, Lebanon Boro, Lebanon Township, Milford, Raritan, Readington, Tewksbury, Union and West Amwell shall be transported to the Hunterdon County transfer station, facility number 1006B, located in Clinton Township, Hunterdon County.

2. All solid waste types 10, 13, 23, 25, and 27 generated from within the Hunterdon County municipalities of Stockton and Frenchtown shall be transported to the Hunterdon County transfer station, facility number 1006B, located in Clinton Township, Hunterdon County.

3. Up to 100 tons per day of processible solid waste generated within Hunterdon County shall be transported from the Hunterdon County Transfer Station, facility number 1006B, located in Clinton Township, Hunterdon County, New Jersey, to the Warren County Resource Recovery Facility, facility number 2117A, located in Oxford Township, Warren County, New Jersey, through the year 2001. (Effective June 1, 1988).

(l) Waste flows within, into and out of the Mercer County District:

1. All solid waste types 10, 13, 23, 25, and 27 generated from within all Mercer County municipalities shall be directed to the Mercer County Transfer Station, facility number 1102D, located in Ewing Township, Mercer County, New Jersey, for processing prior to disposal at the G.R.O.W.S. landfill in Bucks County, Pennsylvania, in accordance with the laws and regulations of the receiving state. (Effective November 1, 1988).

(m) Waste flows within, into and out of the Middlesex County District:

1. All solid waste types 10, 13, 23, 25, and 27 generated from within all municipalities in Middlesex County shall be disposed of at the Middlesex County Utilities Authority Landfill (Edgeboro), facility number 1204A, located in East Brunswick, Middlesex County, New Jersey. (Effective July 19, 1990).

(n) Waste flows within, into and out of the Monmouth County District:

1. All solid waste types 10, 13, 23, 25, and 27 generated from within all Monmouth County municipalities shall be disposed of at the Monmouth County Reclamation Center Landfill and Shredder Facility, facility numbers 1336F and 1336D, located in Tinton Falls Borough, Monmouth County, New Jersey.

(o) Waste flows within, into and out of the Morris County District:

1. All solid waste types 10, 13, 23, 25, and 27 generated from within the Morris County municipalities of Chester Borough, Chester Township, Dover, Jefferson, Mendham Borough, Mendham Township, Mine Hill, Mount Arlington, Mount Olive, Netcong, Randolph, Rockaway Borough, Rockaway Township, Roxbury, Victory Gardens, Washington, and Wharton shall be directed to the Morris County Transfer Station, facility number 1427F, located in Mount Olive Township, Morris County, New Jersey, prior to disposal at permitted out-of-State facilities in accordance with the laws and regulations of the receiving state. (Effective January 2, 1988).

2. All solid waste types 10, 13, 23, 25, and 27 generated from within the Morris County municipalities of Boonton Borough, Boonton Township, Butler, Chatham Borough, Chatham Township, Denville, East Hanover, Florham Park, Hanover, Harding, Kinnelon, Lincoln Park, Madison, Montville, Morris Plains, Morris Township, Morristown, Mountain Lakes, Parsippany-Troy Hills, Passaic, Pequannock, and Riverdale shall be directed to the Morris County Transfer Station, facility number 1429J, located in Parsippany-Troy Hills Township, Morris County, New Jersey, prior to disposal at permitted out-of-State facilities in accordance with the laws and regulations of the receiving state. (Effective January 2, 1988).

(p) Waste flows within, into and out of the Ocean County District:

1. All solid waste types 10, 13, 23, 25, and 27 generated from within all Ocean County municipalities shall be disposed of at the Ocean County Landfill Corporation landfill, facility number 1518B, located in Manchester Township, Ocean County, New Jersey.

(q) Waste flows within, into and out of the Passaic County District:

1. All solid waste types 10 (except medical wastes), 13 (except large bulky wastes including such items as cable larger than six feet, foam insulation, tires, etc.), 23 (except leaves), 25, and 27 (except dry industrial waste such as plastics, rags, bulk powders, and containers with tar and paint residues, etc.) generated from within the Passaic County municipalities of Haledon, Hawthorne, North Haledon, Passaic City, Prospect Park, and Paterson shall be directed to the Pen Pac, Inc., Fulton Street Transfer Station, facility number 1608H, located in the City of Paterson, Passaic County, New Jersey. Waste received at this facility will be transported to permitted out-of-State disposal facilities in accordance with the laws and regulations of the receiving state. (Effective January 23, 1989).

2. Upon issuance of all required departmental permits, all solid waste types 10 (except medical wastes), 13 (except large bulky wastes including such items as cable larger than six feet, foam insulation, tires, etc.), 23 (except leaves), 25, and 27 (except dry industrial waste such as plastics, rags, bulk powders, and containers with tar and paint residues, etc.) generated from within the Passaic County municipalities of Bloomingdale, Clifton, Little Falls, Pompton Lakes, Ringwood, Totowa, Wanaque, Wayne, West Milford, and West Paterson shall be directed to the Pen Pac, Inc., Totowa Transfer Station, facility number 1612B, located in Totowa Borough, Passaic County, New Jersey. Waste received at this facility will be transported to permitted out-of-State disposal facilities in accordance with the laws and regulations of the receiving state.

3. Only solid waste types 10, 13, and 27, which are prohibited from the Fulton Street and Totowa Transfer Stations as indicated in (q)1 and 2 above, generated from all Passaic County municipalities shall be directed to Pen Pac, Inc., Iowa Avenue Transfer Station, facility number 1608A, located in the City of Paterson, Passaic County, New Jersey. Waste received at this facility will be transported to permitted out-of-State disposal facilities in accordance with the laws and regulations of the receiving state.

(r) Waste flows within, into and out of the Salem County District:

1. All waste types 10, 13, 23, 25 and 27 generated from within the Salem County municipalities of Alloway, Carney's Point, Elmer, Elsinboro, Lower Alloways Creek, Mannington, Oldmans, Pennsville, Penns Grove, Pilesgrove, Pittsgrove, Quinton, Salem City, Upper Pittsgrove and Woodstown, shall be disposed of at the Salem County regional landfill, facility number 1701B, located in Alloway Township, Salem County, New Jersey.

(s) Waste flows from within, into and out of the Somerset County District:

1. All nonputrescible, recyclable (commercial and institutional) waste type 10 and all waste type 27 generated from within the Somerset County municipalities of Bound Brook, Franklin, Manville, Millstone, Montgomery, Raritan, Rocky Hill, Somerville, and South Bound Brook, shall be directed to the Somerset Intermediate Recycling Center Transfer Station, facility number 1808K, located in Franklin Township, Somerset County, New Jersey, prior to disposal at permitted out-of-State facilities in accordance with the laws and regulations of the receiving state. (Effective January 2, 1988).

2. All solid waste types 10, 13, 23, 25, and 27 generated from within the Somerset County municipalities of Bedminster, Bernards, Bernardsville, Branchburg, Bridgewater, Far Hills, Green Brook, Hillsborough, North Plainfield, Peapack-Gladstone, Warren, and Watchung, and all solid waste types 10, 13, 23, and 25 generated from within the Somerset County municipalities of Bound Brook, Franklin, Manville, Millstone, Montgomery, Raritan, Rocky Hill, Somerville, and South Bound Brook not directed to the Somerset Intermediate Recycling Center Transfer Station, shall be directed to the Bridgewater Resources, Inc. Transfer Station, facility number 1806A, located in Bridgewater Township, Somerset County, New Jersey, prior to disposal at permitted out-of-state facilities in accordance with the laws and regulations of the receiving state or pursuant to (s)3 below. (Effective January 2, 1988).

3. Up to 1,400 tons per week of processible solid waste generated within Somerset County shall be transported from the Bridgewater Resources, Inc. Transfer Station to the Warren County Resource Recovery Facility, facility number 2117A, located in Oxford Township, Warren County, New Jersey, through the year 2001. (Effective June 30, 1989). From January 1, 2002 through November 30, 2008, Somerset County shall increase the processible waste it directs to the Warren County Resource Recovery Facility to 1,977 tons per week.

(t) Waste flows within, into and out of the Sussex County District:

1. All solid waste types 10, 13 and 23 generated from within the Sussex County municipality of Hopatcong shall be disposed of at Hopatcong Sanitary Landfill, facility number 1912A, located in Hopatcong Borough, Sussex County, New Jersey.

i. Upon closure of this facility, all solid waste types 10, 13 and 23 generated from the Sussex County municipality of Hopatcong Borough shall be disposed of at the new Sussex County Landfill, facility number 1913C, located in Lafayette Township, Sussex County, New Jersey.

ii. All solid waste types 25 and 27 generated from within the Sussex County municipality of Hopatcong Borough shall be disposed of at the Sussex County Landfill, facility number 1913C located in Lafayette Township, Sussex County, upon commencement of operations. Prior to commencement of landfill operations, waste shall be disposed of at the Sussex County Transfer Station, facility number 1913D.

2. All solid waste types 10, 13, 23, 25 and 27 generated from within the Sussex County municipalities of Andover Borough, Andover Township, Branchville, Byram, Frankford, Franklin, Fredon, Green, Hamburg, Hampton, Hardyston, Lafayette, Montague, Newton, Ogdensburg, Sandyston, Sparta, Stanhope, Stillwater, Sussex, Vernon, **Walpack** and Wantage shall be disposed of at the Sussex County Landfill, facility number 1913C, located in Lafayette Township, Sussex County, New Jersey, upon commencement of operations. Prior to the commencement of landfill operations, waste shall be disposed of at the Sussex County Transfer Station, Facility Number 1913D.

(u) Waste flows within, into and out of the Union County District:

1. All solid waste type 10 collected by municipal vehicles and generated from within the Union County municipalities of Summit and New Providence shall be directed to the Summit Transfer Station, facility number 2018A, located in Summit, Union County, New Jersey, prior to disposal at permitted out-of-State facilities in accordance with the laws and regulations of the receiving state. (Effective January 2, 1988).

2. All solid waste types 10, 13, and 23 generated from within the Union County municipality of Linden and collected by municipal vehicles shall be disposed of at the Linden Landfill, facility number 2009A, located in Linden, Union County, New Jersey. (Effective January 2, 1988).

3. All solid waste types 10, 13, and 23 formerly delivered by private citizens to the Elizabeth Public Works Convenience Center and all solid waste types 10, 13, and 23 generated from within the Union County municipalities of Elizabeth, Hillside, Roselle, Roselle Park, and Union Township and collected by municipal vehicles or White Brothers Trucking, and all solid waste types 10 and 13 generated by hospitals from within these same Union County municipalities shall be directed to the Ellesor Transfer Station, facility number 2004D, located in Elizabeth, Union County, New Jersey, prior to disposal at permitted out-of-State facilities in accordance with the laws and regulations of the receiving state. (Effective January 2, 1988).

4. All solid waste types 10, 13, 23, 25, and 27 generated from within the Union County municipalities of Berkeley Heights, Clark, Cranford, Fanwood, Garwood, Kenilworth, Mountainside, Plainfield, Rahway, Scotch Plains, Springfield, Westfield, and Winfield; all solid waste type 10 generated within the Union County municipalities of

New Providence and Summit not directed to the Summit Transfer Station pursuant to (u)1. above; all solid waste type 13, 23, 25, and 27 generated from within the Union County municipalities of New Providence and Summit; all solid waste types 10, 13, and 23 generated from within the Union County municipalities of Elizabeth, Hillside, Roselle, Roselle Park, and Union Township not directed to the Ellesor Transfer Station pursuant to (u)3 above; all solid waste types 25 and 27 generated from within the Union County municipalities of Elizabeth, Hillside, Roselle, Roselle Park, Union Township and Linden; and all solid waste types 10, 13 and 23 generated within the Union County municipality of Linden not directed to the Linden Landfill pursuant to (u)2 above, shall be directed to the Automated Modular Systems Transfer Station, facility number 2009I, located in Linden, Union County, New Jersey, prior to disposal at permitted out-of-State facilities in accordance with the laws and regulations of the receiving state. (Effective January 2, 1988).

5. For the purposes of this rule for Union County, municipal vehicles shall constitute collection vehicles owned or operated by a municipality, or collection vehicles owned or operated by a private entity which operates pursuant to a municipal contract.

6. When the Union County resource recovery facility, facility number 2013C, located in Rahway City, Union County, becomes operational, processable non-recyclable solid wastes generated from all Union County municipalities shall be redirected to the energy recovery facility. Ash from the resource recovery facility and all bypass and nonprocessable waste shall be disposed of at the Empire Landfill located in Lackawanna County, Pennsylvania, in accordance with the laws and regulations of the receiving state.

(v) Waste flows within, into and out of the Warren County District:

1. All processible portions of solid waste types 10, 23, and 27 generated from within all Warren County municipalities shall be disposed of at the Warren County Resource Recovery Facility, facility number 2117A, located in Oxford Township, Warren County, New Jersey. (Effective June 1, 1988).

2. All nonprocessable, nonrecyclable portions of solid waste types 10, 23, and 27, all solid waste types 13 and 25 generated from within all Warren County municipalities, and all ash, bypass and nonprocessable waste from the Warren County Resource Recovery Facility shall be disposed of at the Warren County Landfill, facility 2123D, located in White Township, Warren County, New Jersey. (Effective June 1, 1988).

3. Up to 100 tons per day of processible solid waste generated from within Hunterdon County shall be transported from the Hunterdon County Transfer Station, facility number 1006B, located in Clinton Township, Hunterdon County, New Jersey, to the Warren County Re-

source Recovery Facility through the year 2001. (Effective June 1, 1988).

4. Up to 1,400 tons per week of processible solid waste generated from within Somerset County shall be transported from the Bridgewater Resources Transfer Station, facility number 1806A, located in Bridgewater Township, Somerset County, New Jersey, to the Warren County Resource Recovery Facility through the year 2001. (Effective June 30, 1989). From January 1, 2002 through November 30, 2008, Somerset County shall increase the processible waste it directs to the Warren County Resource Recovery Facility to 1,977 tons per week.

(w) The dates set forth in parentheses in the preceding subsections indicate when the emergency redirection orders originally implementing the subsections provisions became effective.

(x) If any section, subsection, provision, clause, or portion of this subchapter, 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.

As amended, R.1984, d.4, effective January 17, 1984.

See: 15 N.J.R. 1914(a), 16 N.J.R. 134(a).

(k) substantially amended; (o)11 revised; (p)9-13 added; (v) substantially amended.

As amended, R.1984 d.41, effective February 21, 1984.

See: 15 N.J.R. 1417(a), 16 N.J.R. 367(c).

(m)liii and iv revised.

As amended R.1984 d.474, effective October 15, 1984.

See: 16 N.J.R. 1000(a), 16 N.J.R. 2806(a).

(c)13 deleted; previous (c)14 redesignated (c)111 (l)1 substantially revised.

As amended, R.1984 d.475, effective October 15, 1984.

See: 16 N.J.R. 1149(a), 16 N.J.R. 2808(a).

Substantially amended.

Amended by R.1985 d.317, effective June 17, 1985.

See: 17 N.J.R. 517(b), 17 N.J.R. 1560(a).

(a)8iii added.

Amended by R.1985 d.503, effective October 7, 1985.

See: 15 N.J.R. 517(a), 17 N.J.R. 2388(a).

(k)3 added. This amendment was adopted jointly with the Board of Public Utilities.

Amended by R.1986 d.159, effective May 5, 1986.

See: 17 N.J.R. 2590(a), 18 N.J.R. 983(b).

(p)5i and (p)6i-ii added.

Amended by R.1986 d.164, effective May 5, 1986.

See: 17 N.J.R. 2591(a), 18 N.J.R. 983(c).

Deleted old (d)3 through (d)8 and inserted new (d)3-5.

Amended by R.1987 d.71, effective January 20, 1987.

See: 18 N.J.R. 2171(a), 19 N.J.R. 202(a).

(c) substantially amended.

Amended by R.1987 d.72, effective January 20, 1987.

See: 18 N.J.R. 1773(a), 19 N.J.R. 202(b).

(d) substantially amended.

Amended by R.1988 d.357, effective August 1, 1988.

See: 19 N.J.R. 1142(a), 20 N.J.R. 1910(a).

The amendments to this section were jointly adopted with Public Utilities. The section was substantially amended.

Amended by R.1989 d.308, effective June 5, 1989.

See: 20 N.J.R. 1048(a), 21 N.J.R. 1558(a).

The amendments were jointly adopted with the Board of Public Utilities. Essex County solid waste redirected from HMDC 1-C landfill to 3 transfer stations for processing and transfer to out-of-state facilities.

Amended by R.1990 d.324, effective July 2, 1990.

See: 21 N.J.R. 1486(a), 22 N.J.R. 2005(b).

All Bergen County solid waste, except type 10, directed to facility 0239E1SP01.

Amended by R.1991 d.113, effective March 4, 1991.

See: 22 N.J.R. 284(a), 23 N.J.R. 719(a).

The amendments to this section were jointly adopted with the Board of Public Utilities.

Gloucester City added to waste flow list in (d)1. Designated out-of-state facility deleted by name in (d)1, new (d)4i and (d)5. Added new (d)3, redesignated existing (d)3 as (d)4. Recodified (d)4 as (d)5. Replaced (d)5 and (d)6. Added (d)7. Added (g)6. Repealed (h)1-5 and added new (h)1. Recodified and amended (h)6 to (h)2; (h)6i repealed and added new (h)3. Deleted (t)1 through 8. Recodified (t)9 as (t)1. Added (t)1ii. Deleted (t)10 through 14. Added (t)2. Amended by R.1993 d.109, effective March 1, 1993.

See: 24 N.J.R. 3291(a), 25 N.J.R. 991(a).

Waste flows updated and simplified for all counties; amendments adopted solely by DEPE, in accordance with Executive Order No. 38(1991) Reorganization Plan 002(1991).

Law Review and Journal Commentaries

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

Solid Waste—Environmental Law—Equitable Estoppel. Judith Nal- lin, 137 N.J.L.J. No. 1, 50 (1994).

Will Carbone Spark Solid Waste Crisis. Leslie Jeddiss Lang, 137 N.J.L.J. No. 9, 10 (1994).

Case Notes

Regulation which designated facilities for waste disposal within each of 22 waste-management districts was unconstitutional under dormant commerce clause; process through which facilities were designated to dispose of each district's waste impermissibly discriminated against out-of-state disposal facilities. Atlantic Coast Demolition & Recycling, Inc. v. Board of Chosen Freeholders of Atlantic County, C.A.3 (N.J.) 1997, 112 F.3d 652.

Rule requiring deposit of waste collected in county at transfer station for processing and subsequent disposal was not per se invalid under Commerce Clause. J. Filiberto Sanitation, Inc. v. State of N.J. Dept. of Environmental Protection, C.A.3 (N.J.)1988, 857 F.2d 913.

New Jersey's waste flow control laws violated commerce clause. Atlantic Coast Demolition & Recycling, Inc. v. Board of Chosen Freeholders of Atlantic County, D.N.J.1996, 931 F.Supp. 341.

Emergency waste redirection order; retroactive codification by amendments to administrative code. Passaic County Utilities Authority v. DiBella Sanitation Service, Inc., 272 N.J.Super. 238, 639 A.2d 745 (A.D.1994).

County health department; contract with county utilities authority; regulation of solid waste. Passaic County Utilities Authority v. DiBella Sanitation Service, Inc., 272 N.J.Super. 238, 639 A.2d 745 (A.D.1994).

County could not charge solid waste hauler with transporting waste out of county in violation of waste disposal plan. Passaic County Utilities Authority v. DiBella Sanitation Service, Inc., 272 N.J.Super. 238, 639 A.2d 745 (A.D.1994).

Environmental Rights Act to supplement actions by Department of Environmental Protection against solid waste hauler. Morris County Transfer Station, Inc. v. Frank's Sanitation Service, Inc., 260 N.J.Super. 570, 617 A.2d 291 (A.D.1992).

Franchisee was entitled to preliminary injunction against hauler diverting waste collected in county. *Morris County Transfer Station, Inc. v. Frank's Sanitation Service, Inc.*, 260 N.J.Super. 570, 617 A.2d 291 (A.D.1992).

Solid waste facility constructed, acquired or operated under Solid Waste Management Act is subject to Act. *Matter of Recycling & Salvage Corp.*, 246 N.J.Super. 79, 586 A.2d 1300 (A.D.1991).

Cease and desist order was supported by evidence. *Matter of Recycling & Salvage Corp.*, 246 N.J.Super. 79, 586 A.2d 1300 (A.D. 1991).

Authority to require recycling facility to obtain approval to receive waste. *Matter of Recycling & Salvage Corp.*, 246 N.J.Super. 79, 586 A.2d 1300 (A.D.1991).

Finding that business was not recycling facility was supported by evidence. *Matter of Recycling & Salvage Corp.*, 246 N.J.Super. 79, 586 A.2d 1300 (A.D.1991).

Emergency waste flow orders were exempt from Sherman Anti-Trust Act. *Matter of Fiorillo Bros. of N.J., Inc.*, 242 N.J.Super. 667, 577 A.2d 1316 (A.D.1990), certification denied 122 N.J. 363, 585 A.2d 371.

Emergency order redirecting solid waste flows from closed landfill to transfer station in Pennsylvania did not exceed territorial jurisdiction of agencies. In the *Matter of Certain Amendments to the Adopted and Approved Solid Waste Management Plan of the Camden County Solid Waste Management District*, 214 N.J.Super. 247, 518 A.2d 1105 (App. Div.1986).

Court order barring Philadelphia from using privately-owned, state regulated New Jersey landfill not violative of Federal Commerce Clause as not a mere protectionist measure and as the state interest in enforcing injunction outweighed the burden on interstate commerce.

Boro of Glassboro v. Gloucester Cty. Bd. of Chosen Freeholders, 100 N.J. 134, 495 A.2d 49 (1985), certiorari denied 106 S.Ct. 532, 474 U.S. 1008, 88 L.Ed.2d 464 (1985).

Redirection of solid waste flow for 180 days due to economic emergency condition at landfill, which would have a direct environmental impact, proper: Board of Public Utilities' and Department of Environmental Protection's action in ordering redirection reasonable. In re *New Jersey Bd. of Public Utilities*, 200 N.J.Super. 544, 491 A.2d 1295 (App.Div.1985).

7:26-6.6 Procedure for modification of waste flows pursuant to an amendment to a District Solid Waste Management Plan

(a) This section shall govern the procedures to be followed in the event that a Board of Chosen Freeholders or the Hackensack Commission adopts a plan amendment, in accordance with N.J.S.A. 13:1E-23, which provides for the modification of existing waste flows.

(b) Upon receipt of a plan amendment, the Department shall review the plan amendment for a determination of completeness, which determination shall be made within 30 days of receipt by the Department.

1. Incomplete plan amendments shall be returned to the district, with a written explanation of the reasons for such determination and a request for the additional information required to make the plan amendment complete.

2. Upon receipt of the additional information the Department shall review the plan amendment in accordance with this subsection.

(c) The Department shall, after notice pursuant to N.J.S.A. 52:14B-4 and N.J.A.C. 1:30, conduct a public hearing at least 15 days following publication of the proposed waste flow modification or plan amendment in the New Jersey Register.

(d) The Department may, concurrent with, or following approval by the Commissioner of the relevant portions of the plan amendment, adopt the proposed waste flow modification pursuant to N.J.S.A. 52:14B-1 et seq. and N.J.A.C. 1:30.

Amended by R.1996 d.578, effective December 16, 1996.

See: 28 N.J.R. 2114(a), 28 N.J.R. 5248(a).

Substantially amended (b); in (c), inserted reference to plan amendment, deleted (d), relating to submission of recommendations; and recodified former (e) as (d).

Case Notes

Waste flow control regulations favored district's designated facilities at expense of out-of-state providers of processing and disposing services, and discriminated against interstate commerce; heightened scrutiny test was applicable under dormant commerce clause analysis; overruling *J. Filiberto Sanitation*, 857 F.2d 913. *Atlantic Coast Demolition & Recycling, Inc. v. Board of Chosen Freeholders of Atlantic County, C.A.3 (N.J.)* 1995, 48 F.3d 701, rehearing and rehearing in banc denied, on remand 893 F.Supp. 301.

Procedural defects did not invalidate amendment and emergency order redirecting flow of solid waste in county. *Matter of Certain Amendments to Adopted and Approved Solid Waste Management Plan of Hudson County Solid Waste Management Dist.*, 133 N.J. 206, 627 A.2d 614 (1993).

Department of Environmental Protection was required to adhere to procedural requirements of Administrative Procedure Act governing rule making with respect to adoption of plan amendment. *Matter of Certain Amendments to Adopted and Approved Solid Waste Management Plan of Hudson County Solid Waste Management Dist.*, 133 N.J. 206, 627 A.2d 614 (1993).

Emergency adoption of solid waste flow redirection order must conform with emergency rule-making procedures of Administrative Procedure Act. *Matter of Certain Amendments to Adopted and Approved Solid Waste Management Plan of Hudson County Solid Waste Management Dist.*, 258 N.J.Super. 290, 609 A.2d 501 (A.D. 1992), certification granted 130 N.J. 398, 614 A.2d 620, affirmed in part, reversed in part 133 N.J. 206, 627 A.2d 614.

Order governing place of disposal of solid waste must be jointly issued by Department of Environmental Protection (DEP) and Board of Public Utilities (BPU). *Matter of Certain Amendments to Adopted and Approved Solid Waste Management Plan of Hudson County Solid Waste Management Dist.*, 258 N.J.Super. 290, 609 A.2d 501 (A.D. 1992), certification granted 130 N.J. 398, 614 A.2d 620, affirmed in part, reversed in part 133 N.J. 206, 627 A.2d 614.

Emergency waste flow redirection order was invalid. *Matter of Certain Amendments to Adopted and Approved Solid Waste Management Plan of Hudson County Solid Waste Management Dist.*, 258 N.J.Super. 290, 609 A.2d 501 (A.D.1992), certification granted 130 N.J. 398, 614 A.2d 620, affirmed in part, reversed in part 133 N.J. 206, 627 A.2d 614.

DEP complied with all Federal and State statutory and regulatory provisions in issuance of Air Pollution Control Permit and Solid Waste Permit to applicant. In the *Matter of NJPDES Permit No. N.J.*

0055247, et al., 216 N.J.Super. 1, 522 A.2d 1002 (App.Div.1987) certification denied 108 N.J. 185 (1987).

Emergency order issued by Dep't of Environmental Protection and Bd. of Public Utilities redirecting county's solid waste flows from closed landfill to transfer station in Pennsylvania did not exceed territorial jurisdiction of those agencies; DEP and BPU were required to comply with procedural requisites regarding amendment to county waste flow plan. In the *Matter of Certain Amendments to the Adopted and Approved Solid Waste Management Plan of the Camden County Solid Waste Management District*, 214 N.J.Super. 247, 518 A.2d 1105 (App. Div.1986).

7:26-6.7 Procedure for emergency direction or redirection of solid waste flow

(a) Upon a determination by the Department that an emergency condition, including, but not limited to, the unanticipated closure of a disposal facility or restricted access thereto, requires the redirection of waste flows, the Department may, order such redirection.

(b) The Department shall, within 20 days of such redirection, determine the likely duration of the redirection.

1. If the expected duration is 90 days or less, the Department's redirection shall remain in effect.

2. If the expected duration is greater than 90 days but not more than 180 days, the Department shall, by public notice, request written comment for a 30-day period. The Department may modify such waste flow redirection on the basis of comments received.

3. If the expected duration is greater than 180 days, the Department shall order the affected districts to submit a plan amendment which provides for the modification of existing waste flows.

Amended by R.1996 d.578, effective December 16, 1996.

See: 28 N.J.R. 2114(a), 28 N.J.R. 5248(a).

Law Review and Journal Commentaries

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

Environmental Law—Solid Waste. P.R. Chenoweth, 137 N.J.L.J. No. 16, 51 (1994).

Case Notes

Injunction would constitute "emergency condition" within meaning of emergency solid waste flow redirection regulation. *Atlantic Coast Demolition & Recycling, Inc. v. Board of Chosen Freeholders of Atlantic County, D.N.J.* 1995, 893 F.Supp. 301.

Emergency order redirecting of solid waste to another disposal facility must be based on sufficient credible evidence that emergency existed. *Matter of Emergency Redirection of Solid Waste from Atlantic County to Cape May County Landfill*, 275 N.J.Super. 1, 645 A.2d 144 (A.D.1994).

Economic hardship did not create "emergency" that would justify ordering redirection of solid waste. *Matter of Emergency Redirection of Solid Waste from Atlantic County to Cape May County Landfill*, 275 N.J.Super. 1, 645 A.2d 144 (A.D.1994).

"Emergency" supporting emergency redirection of solid waste to another disposal facility; definition. *Matter of Emergency Redirection*

of Solid Waste from Atlantic County to Cape May County Landfill, 275 N.J.Super. 1, 645 A.2d 144 (A.D.1994).

Procedural defects did not invalidate amendment and emergency order redirecting flow of solid waste in county. Matter of Certain Amendments to Adopted and Approved Solid Waste Management Plan of Hudson County Solid Waste Management Dist., 133 N.J. 206, 627 A.2d 614 (1993).

Department of Environmental Protection was required to adhere to procedural requirements of Administrative Procedure Act governing rule making with respect to adoption of plan amendment. Matter of Certain Amendments to Adopted and Approved Solid Waste Management Plan of Hudson County Solid Waste Management Dist., 133 N.J. 206, 627 A.2d 614 (1993).

Emergency adoption of solid waste flow redirection order must conform with emergency rule-making procedures of Administrative Procedure Act (APA). Matter of Certain Amendments to Adopted and Approved Solid Waste Management Plan of Hudson County Solid Waste Management Dist., 258 N.J.Super. 290, 609 A.2d 501 (A.D. 1992), certification granted 130 N.J. 398, 614 A.2d 620, affirmed in part, reversed in part 133 N.J. 206, 627 A.2d 614.

Order governing place of disposal of solid waste must be jointly issued by Department of Environmental Protection (DEP) and Board of Public Utilities (BPU). Matter of Certain Amendments to Adopted and Approved Solid Waste Management Plan of Hudson County Solid Waste Management Dist., 258 N.J.Super. 290, 609 A.2d 501 (A.D. 1992), certification granted 130 N.J. 398, 614 A.2d 620, affirmed in part, reversed in part 133 N.J. 206, 627 A.2d 614.

Emergency waste flow was invalid. Matter of Certain Amendments to Adopted and Approved Solid Waste Management Plan of Hudson County Solid Waste Management Dist., 258 N.J.Super. 290, 609 A.2d 501 (A.D.1992), certification granted 130 N.J. 398, 614 A.2d 620, affirmed in part, reversed in part 133 N.J. 206, 627 A.2d 614.

Emergency order issued by Dep't of Environmental Protection and Bd. of Public Utilities redirecting county's solid waste flows from closed landfill to transfer station in Pennsylvania did not exceed territorial jurisdiction of those agencies; DEP and BPU were required to comply with procedural requisites regarding amendment to county waste flow plan. In the Matter of Certain Amendments to the Adopted and Approved Solid Waste Management Plan of the Camden County Solid Waste Management District, 214 N.J.Super. 247, 518 A.2d 1105 (App. Div.1986).

Redirection of solid waste flow for 180 days due to economic emergency condition at landfill, which would have a direct environmental impact, proper; Board of Public Utilities' and Department of Environmental Protection's action in ordering redirection reasonable. In re New Jersey Bd. of Public Utilities, 200 N.J.Super. 544, 491 A.2d 1295 (App.Div.1985).

7:26-6.8 Procedure for applying for a rate for planning related to dry industrial waste, ID type 27, which is residue from a scrap metal shredding facility

(a) The solid waste district in which one or more scrap metal shredding facilities is located may, in accordance with the procedure set forth in N.J.S.A. 48:13A-1 et seq., apply to the Department for the establishment of a rate to recover the reasonable costs of monitoring the generation and disposal of the residue from the operations of such facilities, consistent with the district's interest in planning for the disposal of waste generated within the district. This reasonable rate shall reflect such costs, which include, without limitation, the cost of performing the following activities:

1. Recordkeeping concerning the amount and type of materials received by scrap metal shredding facilities, the amount of residue generated by these facilities, and the amount of ferrous and non-ferrous metal remaining after the shredding process; and

2. Developing a 10 year planning forecast for the future disposal of the residue.

(b) If the scrap metal shredding facility maintains a scale certified under N.J.A.C. 13:47B-1 and provides specific truck load weigh data to the district in which the facility is located, the district's application for a reasonable rate shall not include either the cost of redirecting the residue through the district's facilities solely for the purpose of weighing and recording the residue or the cost of weighing the residue.

New Rule, R.1993 d.27, effective January 4, 1993.
See: 24 N.J.R. 1995(a), 25 N.J.R. 92(a).

7:26-6.9 Transporting solid waste between solid waste districts and out-of-State

(a) Notwithstanding the designation of specific disposal facilities for ultimate disposal of certain waste streams, it shall not be a violation of N.J.A.C. 7:26-6 or any franchise approvals issued pursuant to N.J.S.A. 48:13A-5 or solid waste generated in a district to be transported out of that district or for out-of-district waste to enter a solid waste district for the processing or recovery of materials provided the requirements of N.J.A.C. 7:26-2.11, 2.13, and 2B.9 are met.

(b) Facilities designated by solid waste districts for the ultimate in-State disposal of solid waste shall accept out-of-district waste from transfer stations or materials recovery facilities provided the requirements of N.J.A.C. 7:26-2.13 are met.

New Rule, R.1993 d.508, effective October 18, 1993.
See: 24 N.J.R. 3286(c), 25 N.J.R. 4763(a).

Case Notes

Waste flow control regulations favored district's designated facilities at expense of out-of-state providers of processing and disposing services, and discriminated against interstate commerce; heightened scrutiny test was applicable under dormant commerce clause analysis; overruling *J. Filiberto Sanitation*, 857 F.2d 913. *Atlantic Coast Demolition & Recycling, Inc. v. Board of Chosen Freeholders of Atlantic County, C.A.3 (N.J.)1995*, 48 F.3d 701, rehearing and rehearing in banc denied, on remand 893 F.Supp. 301.

Preliminary injunction would be granted, on commerce clause grounds, to restrain enforcement of New Jersey flow control regulations of construction and demolition materials in accordance with alternative regulatory plan allowing all mixed loads of such waste, containing both recyclables and nonrecyclables, to go to any in-state or out-of-state recycling facilities and allowing disposal of unrecyclable residue without regard to existing control regulations. *Atlantic Coast Demolition & Recycling, Inc. v. Board of Chosen Freeholders of Atlantic County, D.N.J.1995*, 909 F.Supp. 229.

Court order barring Philadelphia from using privately-owned, state regulated New Jersey landfill not violative of Federal Commerce Clause as not a mere protectionist measure and as the state interest in enforcing injunction outweighed the burden on interstate commerce. *Boro of Glassboro v. Gloucester Cty. Bd. of Chosen Freeholders*, 100 N.J. 134, 495 A.2d 49 (1985), certiorari denied 106 S.Ct. 532, 474 U.S. 1008, 88 L.Ed.2d 464 (1985).

7:26-6.10 Modifications to district solid waste management plans; plan amendments

(a) Each plan amendment to a district solid waste management plan or program shall comply with the requirements of this section.

(b) For the purposes of this section, a plan amendment means a modification to the district solid waste management plan, which, if implemented, would have a significant impact on the environment, property rights, public and private funds or the overall solid waste management system. A plan amendment includes, but is not limited to, the following:

1. An interdistrict agreement between two or more districts for the purpose of managing solid waste and/or recyclables on a regional basis;

2. The designation of an in-district weighing facility(ies), if a district chooses. If a district chooses to impose a weighing requirement in order to collect any fees or charges for ensuring the payment of outstanding debt and other fee obligations, the district shall submit, within 180 days, an alternative means of collecting such fees or charges which does not rely on in-district weighing. Following submission of said plan, districts may continue to collect any fees or charges through in-district weighing pending the Department's review of the alternative method of collecting fees or charges.

3. A solid waste disposal contract entered into by the district or authority;

4. The deletion of a solid waste facility other than those listed at N.J.A.C. 7:26-6.11(b)7;

5. The identification of new or a change in the identity of existing designated plan implementation agency or agencies;

6. The method of financing solid waste management in the district, including any mechanism to be instituted by the district for ensuring the payment of outstanding debt and other financial obligations;

7. The inclusion of new facilities, including landfills, resource recovery facilities, transfer stations, materials recovery facilities, solid waste and co-composting facilities, recycling facilities for Class B, Class C and Class D materials, permanent household hazardous waste collection sites, and new regulated medical waste collection, treatment, processing and disposal facilities and compost facilities;

8. An increase in the amount of material received during a 24 hour period at an existing permitted solid waste facility greater than 100 tons per day.

9. A modification to any district solid waste and recycling policy and/or program, including, but not limited to, short and long-term disposal strategies, methods for achieving designated recycling goals and blanket facility inclusion policies; and

10. Any modification to the solid waste management plan as may be identified by the Department.

(c) Upon the development of a solid waste plan amendment, a board of chosen freeholders or the Hackensack Meadowlands Development Commission shall hold a public hearing for the purpose of receiving comments from persons interested in or affected by the adoption of the plan amendment.

1. The designated plan implementation agency shall publish notice of a public hearing concerning the plan amendment in a newspaper of general circulation in the county or district once each week for two consecutive weeks, the second publication date being not less than 10 calendar days prior to the public hearing date. For the purposes of determining weekly publication, Sunday is considered the first day of the week, in conformance with N.J.S.A. 13:1E-23.

2. The notice of the public hearing concerning the plan amendment shall provide a detailed description of the plan amendment and, at a minimum, contain the following information:

i. The date, time and place of the public hearing;

ii. The name and address of the district solid waste coordinator;

iii. When and where the plan amendment can be reviewed; and

iv. In the case of a facility, a description and the site location, by municipality, street address, lot and block number, the proposed or expanded capacity and the waste types which will be received.

(d) The board of chosen freeholders or the Hackensack Meadowlands Development Commission shall submit to the Department a complete plan amendment which shall include the following:

1. One copy of the adopting ordinance or resolution;

2. Twenty copies of the plan amendment;

3. One copy of the public hearing transcript;

4. One copy of the public notice accompanied by an affidavit of publication issued by the publishing newspaper; and

5. For any plan amendment which proposes to incorporate a facility site, 20 copies of an 8½ inch x 11 inch tax

map identifying the location of the site, the street address, and the lot and block numbers.

(e) The plan amendment in (d) above shall be submitted to:

New Jersey Department of Environmental Protection
Division of Solid and Hazardous Waste
Recycling and Planning Element
CN 414
Trenton, N.J. 08625-0414

(f) Upon receipt of a plan amendment submitted pursuant to (d) and (e) above, the Department shall review the plan amendment for completeness. Within 10 working days of receipt of the plan amendment, the Department shall notify, in writing, the entity that submitted the plan amendment whether the plan amendment is complete or incomplete.

(g) The Department shall submit a copy of a complete plan amendment to the Advisory Council on Solid Waste Management in the department, and to the agencies, bureaus and divisions in the Department identified at N.J.S.A. 13:1E-23 for review and recommendations.

(h) Upon review of the plan amendment and upon receipt of recommendations provided pursuant to (f) above, the Department shall approve, modify or reject a plan amendment within 150 days of receipt of a complete plan amendment and shall certify such determination to the board of chosen freeholders or to the Hackensack Meadowlands Commission. If the Department takes no action on a complete plan amendment within 150 days, the plan amendment shall be deemed approved.

New Rule, R.1996 d.578, effective December 16, 1996.
See: 28 N.J.R. 2114(a), 28 N.J.R. 5248(a).
Emergency Amendment, by R.1997 d.404, effective September 2, 1997
(to expire November 1, 1997).
See: 29 N.J.R. 4170(a).

Rewrote (b)2; and in (b)6, inserted reference to mechanism for ensuring payment of obligations.

7:26-6.11 Administrative actions concerning a district solid waste management plan

(a) Each administrative action taken relative to a district solid waste management plan or program shall comply with the requirements of this section.

(b) For the purposes of this section, a solid waste management plan administrative action includes, but is not limited to, the following:

1. The use of Resource Recovery Investment Tax (RRIT) grant moneys and/or the development of the associated disbursement schedules;
2. The designation of or change to prior approved truck routes to or from solid waste facilities;

3. The inclusion of new recycling facilities for processing Class A or Class C recyclable materials, or replacement units at existing regulated medical waste facilities;

i. The inclusion and/or expansion of recycling and compost facilities shall be, at the discretion of the district, subject to any previous blanket inclusion policies approved by the Department and shall be undertaken by the district in accordance with the approved district solid waste management plan. This paragraph is intended to supplement and not replace any previously approved blanket inclusion policy for a *district*.

ii. Any blanket inclusion amendment approved by the Department shall contain a provision requiring, among other things, notification to the public as to the location for the receipt of written comments and the starting and ending dates for the written comment period.

4. The expansion of capacity of any size, other than that specified at N.J.A.C. 7:26-6.10(a)8, for any regulated solid waste facility;

5. The modification of an existing facility including acceptance of additional waste types, on-site operational changes and expansions of facility buffer zones or expansions into buffer zones for ancillary operational activities;

6. The modification of a recycling program, including the designation of additional materials for recycling, procurement strategies, market strategies, public education, private incentive programs, waste audit strategies, yard waste programs, per container programs, and enforcement strategies;

7. The deletion of any facility which is included in the plan for more than two years but for which a complete permit application has not been made, or the deletion of any facility which is included in the plan but has not been in operation for more than two years;

8. Unless specifically noted by the Department within a plan certification document, any information collected and/or submitted by the district plan implementation agency, including, but not limited to, solid waste studies, reports, data collection, compost inventories, and weekly waste averaging (when the daily rate has already been included in the plan);

9. The reaffirmation of an existing district solid waste disposal strategy subsequent to the final disposition of the *Atlantic Coast Demolition and Recycling, Inc. v. Board of Chosen Freeholders of Atlantic County*, Civil Action No. 93-cv-02669 (D.N.J. May 1, 1997) case, provided that the plan implementation agency has held a public hearing on such reaffirmation for the purpose of receiving comments from persons interested in or affected by the amendment. Notice of such hearing shall be published in newspapers of general circulation in the district not less than 10 days prior to the hearing and shall include the information set forth in (c)2 above.

10. Any other administrative action as may be identified by the Department.

(c) Nothing contained in this section shall be construed to subrogate the district solid waste management planning process. The board of chosen freeholders or the Hackensack Meadowlands Development Commission, in its discretion, may hold a public hearing prior to the adoption of any administrative district solid waste plan action.

(d) The board of chosen freeholders or the Hackensack Meadowlands Development Commission or the designated implementation agency of the affected district shall submit to the Department a letter that describes in detail the administrative action to be taken relative to the district solid waste management program.

1. The letter concerning the administrative action shall be submitted to the address at N.J.A.C. 7:26-6.10(e)6.

(e) Upon receipt of a letter describing the administrative action, submitted pursuant to (d) above, the Department shall review the information provided. Within 10 working days of receipt of the letter, the Department shall notify, in writing, the entity that submitted the letter concerning the administrative action of its receipt of such letter.

(f) The Department shall approve an administrative action within 30 working days of receipt of the letter describing the administrative action pursuant to (d) above, unless it determines that the described action is subject to the requirements for a solid waste management plan amendment pursuant to N.J.A.C. 7:26-6.10. In the event the Department fails to respond to a letter concerning an administrative action within the 30 day period, the administrative action shall be deemed approved.

New Rule, R.1996 d.578, effective December 16, 1996.
See: 28 N.J.R. 2114(a), 28 N.J.R. 5248(a).
Emergency New Rule, R.1997 d.404, effective September 2, 1997 (to expire November 1, 1997).
See: 29 N.J.R. 4170(a).

Inserted new (b)9 and recodified former (b)9 as (b)10.

7:26-6.12 Compliance with district solid waste management plan

(a) Any contract or renewed contract for solid waste collection and/or disposal which is inconsistent with an amendment to the applicable solid waste management plan and which was executed prior to the approval of the such amendment and subsequent to the effective date of this chapter, and which is for a term in excess of one year, shall be renegotiated in order to bring such contract into conformance with the provisions of the amended solid waste management plan and this chapter.

1. Any solid waste collection operation or disposal facility registered by the Department and operating pursuant to a contract or a renewed contract as described in this subsection shall be deemed to be in violation of the Act and this chapter and of the district solid waste

management plan if such renegotiation is not completed within 90 days of the effective date of this amendment, unless such solid waste collection operation or disposal facility applies to the Department, and obtains, for good cause shown, an extension of time to complete such renegotiation.

(b) All solid waste facility operators and transporters registered with the Department shall operate in compliance with the applicable district solid waste management plan as well as any amendments to and/or approved administrative actions concerning such plan. Any facility operator or transporter who fails to comply with the applicable solid waste management plan as well as any amendment to or approved administrative actions concerning such plan shall be deemed to be in violation of the Act and this chapter and shall be subject to the applicable penalties provided under the Act and this chapter, and any other applicable law or regulation.

New Rule, R.1996 d.578, effective December 16, 1996.
See: 28 N.J.R. 2114(a), 28 N.J.R. 5248(a).

SUBCHAPTERS 7 THROUGH 14. (RESERVED)

SUBCHAPTER 14A. RESOURCE RECOVERY AND SOLID WASTE DISPOSAL FACILITY LOANS

7:26-14A.1 Scope

This subchapter shall constitute the rules of the Department of Environmental Protection governing the disposition of appropriations from the Resource Recovery and Solid Waste Disposal Facility Fund established pursuant to P.L. 1985, c.330, c.331 and c.335. Additionally P.L. 1985, c.335 appropriated to the Resource Recovery and Solid Waste Disposal Facility Fund \$50,000,000 from the Natural Resources Bond Fund established pursuant to P.L. 1980 c.70. Appropriations from the Fund shall be used for loans to local government units for the construction and operation of resource recovery facilities and environmentally sound sanitary landfill facilities or other approved solid waste facilities which are identified and included in a district solid waste management plan approved pursuant to the provisions of the Solid Waste Management Act, N.J.S.A. 13:1E-1 et seq. Any loan agreements which are executed pursuant to P.L. 1985 c.330, c.331 and c.335 after June 20, 1988, shall be in accordance with this subchapter.

Amended by R.1996 d.578, effective December 16, 1996.
See: 28 N.J.R. 2114(a), 28 N.J.R. 5248(a).

Loan usage amended to include operation of specified facilities; and deleted provision relating to conforming specified loan agreements to N.J.A.C. rule.

7:26-14A.2 Construction

This subchapter shall be construed so as to permit the Department to discharge its statutory functions and to effectuate the purposes of the law.

7:26-14A.3 Purpose

(a) This subchapter is promulgated for the following purposes:

1. To implement the purposes and objectives of the Natural Resources Bond Act, P.L. 1980, c.70, and the Resource Recovery and Solid Waste Disposal Facility Bond Act, P.L. 1985, c.330, c.331, and c.335;
2. To establish policies and procedures for the distribution of funds appropriated from the Resource Recovery and Solid Waste Disposal Facility Fund as loans to local government units within the State to help defray the costs of constructing and operating resource recovery facilities and environmentally sound sanitary landfill facilities and other approved solid waste facilities. This includes local government unit contracts with vendors who contract with the local government unit to undertake such projects to service the local government unit's recovery and disposal needs;
3. To protect the public and the State by insuring that funds appropriated are spent in a proper manner and for the intended purposes;
4. To assure that the distribution and use of funds are consistent with the laws and policies of the State;
5. To establish minimum standards of conduct to prevent conflicts of interest and to insure proper administration of loans; and
6. To establish accounting procedures for the administration of loans.

Amended by R.1996 d.578, effective December 16, 1996.
See: 28 N.J.R. 2114(a), 28 N.J.R. 5248(a).

(a)2 amended to include operation of specified facilities.

7:26-14A.4 Definitions

The following words and terms, when used in this subchapter, shall have the following meanings unless the context clearly indicates otherwise.

"1980 Act" means the Natural Resources Bond Act of 1980, P.L. 1980, c.70.

"1985 Act" means the Resource Recovery and Solid Waste Disposal Facility Bond Act of 1985, P.L. 1985, c.330, c.331 and c.335.

"Approved solid waste facility" means and includes the plants and structures and other real and personal property acquired, constructed or operated or to be acquired, constructed or operated by any local government unit, including materials recovery facilities, incinerators, resource recovery facilities, sanitary landfill facilities or other plants for the disposal and/or recovery of solid waste.

"Commissioner" means the Commissioner of the Department of Environmental Protection or the Commissioner's designee;

"Construct" and "construction" means, in addition to the usual meanings thereof, the designing, engineering, financing, extension, repair, remodeling, or rehabilitation, or any combination thereof, of a resource recovery facility or an environmentally sound sanitary landfill facility or any component part thereof.

"Department" means the Department of Environmental Protection.

"Division" means the Division of Solid and Hazardous Waste in the Department.

"Environmentally sound sanitary landfill facility" means a sanitary landfill facility which is equipped with a liner or liners, a leachate control and collection system, and a groundwater pollution monitoring system, or any other pollution control or other engineering device required by the Department pursuant to law or rule and regulation, and which is identified and included in a district solid waste management plan pursuant to the provisions of the Solid Waste Management Act, N.J.S.A. 13:1E-1, et seq.

"Escrow account" means the account established with the escrow bank or the Department for receipt, investment and disbursement of the Fund loan monies.

"Escrow agent" means the entity or individual responsible for authorizing disbursements from the escrow account pursuant to the terms of the Fund loan agreement and the escrow agreement.

"Escrow bank" means the financial institution designated as the escrow bank pursuant to an escrow agreement entered into by the borrower.

"Full scale operation" means the point of time at which a facility becomes commercially available to operate at the facility for which it was designed.

"Fund" means the Resource Recovery and Solid Waste Disposal Facility Fund established pursuant to P.L. 1985, c.330.

"Loan project officer" means, with respect to the local government unit or the State, the person designated to communicate, negotiate and receive all notices and communications relating to the loan agreement or the project.

“Local government unit” means a county, municipality, municipal or county utility authority, an implementing agency pursuant to an approved Solid Waste Management Plan, or any other political subdivision of this State authorized to construct, operate, or arrange for the construction or operation of a resource recovery facility or an environmentally sound sanitary landfill facility.

“Project” means any work relating to the construction or operation of a resource recovery facility or an environmentally sound sanitary landfill facility or an approved solid waste facility by a local government unit.

“Project cost” means the expenses incurred in connection with:

1. The acquisition by purchase, lease, or otherwise of a project; the development of a project; and the construction of any project authorized by the 1985 Act;
2. The acquisition by purchase, lease or otherwise and the development of any real or personal property for use

in connection with any project authorized by the 1985 Act, including any rights or interests therein;

3. The execution of any agreements and franchises deemed by the Department to be necessary or useful and convenient in connection with any project authorized by the 1985 Act;

4. The procurement of engineering, inspection, planning, legal, financial, geological, hydrological or other professional services, including the services of a bond registrar or an authenticating agent;

5. The issuance of bonds, or any interest or discount thereon;

6. The administrative, organizational, operating or other expenses incident to the financing, completing and placing into service of projects authorized by the 1985 Act or any related contractual arrangements for providing resource recovery or environmentally sound sanitary landfill facility services;