

(e) A permittee shall not transfer the SWF permit directly to a new owner or operator without the Department's approval.

1. Any transfer of a permit must be preapproved by the Department, and a written request for permission to allow such transfer must be received by the Department at least 180 days in advance of the proposed transfer of ownership or operational control of a facility. The request for approval shall include the following:

i. A registration statement, completed by the prospective new permittee on forms provided by the Department;

ii. A disclosure statement as required by N.J.A.C. 7:26-16.4 completed by the proposed transferee;

iii. A demonstration that the financial responsibility requirements of N.J.A.C. 7:26-2A.9 will be met by the proposed new permittee; and

iv. A written agreement between the existing permittee and the proposed new permittee containing a specific future date for transfer of ownership or operations.

2. A new owner or operator may commence operations at the facility only after the existing permit has been revoked and a permit is issued pursuant to N.J.A.C. 7:26-2.4.

3. The permittee of record remains liable for ensuring compliance with all conditions of the permit unless and until the existing permit is revoked and a new permit is issued in the name of the new owner or operator.

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

Amended by R.1986 d.388, effective September 22, 1986.
See: 17 N.J.R. 2719(a), 18 N.J.R. 1932(a).

(f) added.

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

Repealed disrupted landfill requirement.

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

Required fees to be submitted at time of permit renewal application and referenced, at (b)2.v., updated environmental and health impact statement.

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) and (b)4, amended N.J.A.C. reference.

Administrative change.
See: 30 N.J.R. 3948(a).

7:26-2.8 Registration and general prohibitions

(a) The registration statement shall be executed, in accordance with the requirements of N.J.A.C. 7:26-2.4(e), on forms furnished by the Department, and shall state such information necessary and proper for the enforcement of this subchapter as the Department may require.

(b) Prior to May 1 of each calendar year, each permittee shall submit to the Department, a statement updating the information contained in the initial registration statement. This update shall be on forms furnished by the Department. In no case shall submission of an updated statement alter the conditions of the permit.

(c) The permittee shall notify the Department in writing within 30 days of any change in the information set forth in this current registration statement.

(d) The failure to submit an updated registration statement and to submit all applicable fees, required by N.J.A.C. 7:26-4, on or before July 1 of each calendar year shall be sufficient cause for the Department to revoke the permit or take such other enforcement action as is appropriate.

(e) No person shall engage or continue to engage, unless exempt by N.J.A.C. 7:26-1.1, 1.7 or 1.8 in the disposal of solid waste in this State without first having filed a completed application for and received approval of a SWF Permit.

1. No person shall be issued an approved registration or a SWF permit if that person is disqualified for any of the reasons set forth in N.J.A.C. 7:26-16.8.

(f) No person shall begin construction or operation of a solid waste facility without obtaining a SWF Permit unless exempt pursuant to N.J.A.C. 7:26-1.1, 1.7 or 1.8.

(g) No person shall continue to operate a solid waste facility, unless exempt pursuant to N.J.A.C. 7:26-1.1, 1.7 or 1.8 without obtaining a SWF Permit. All existing Certificates of Approved Registration and Engineering Design Approval shall constitute an approved SWF Permit until the duration of the Certificate of Approved Registration and Engineering Design Approval expires or a modification is requested by the permittee or required by the Department.

(h) The fulfillment of the application and approval requirements set forth in this subchapter shall not exempt the applicant from obtaining all other permits or approvals required by law or regulations.

(i) No person shall engage or continue to engage in the disposal of solid waste in this State if such an operation does not comply with the operational requirements of N.J.A.C. 7:26-2.11, unless specifically exempted by N.J.A.C. 7:26-1.1, 1.7 or 1.8.

(j) No person shall engage or continue to engage in disposal of solid waste in this State in a manner which does not meet all the conditions, restrictions, requirements or any other provisions set forth in its SWF permit.

(k) Except for minor modifications as set forth at N.J.A.C. 7:26-2.6(d), no permit condition shall be modified, revised or otherwise changed without prior written approval of the Department.

(l) No owner shall transfer ownership of the permit without receiving prior written approval of the Department, in accordance with N.J.A.C. 7:26-2.7(e).

(m) No permittee shall begin construction of a sanitary landfill until the Department approves the final Quality Assurance/Quality Control Plan submitted in accordance with N.J.A.C. 7:26-2A.8.

(n) No permittee shall begin operating a sanitary landfill, composting or co-composting facility, transfer station, materials recover facility, or thermal destruction facility until:

1. The Department approves the final Operations and Maintenance manual in accordance with N.J.A.C. 7:26-2.10; and

2. The Department receives and approves the certification of construction prepared by a N.J. licensed professional engineer in accordance with N.J.A.C. 7:26-2A.9(a).

(o) No thermal destruction facility shall begin operations until:

1. The Department receives and approves the certification of the construction prepared by a N.J. licensed professional engineer in accordance with N.J.A.C. 7:26-2B; and

2. The Department approves the testing period results in accordance with standards and procedures set forth in N.J.A.C. 7:26-2B.8(c).

(p) The owner or operator of any solid waste facility which is determined by the Department to be operating in an environmentally unsound manner shall:

1. Within 90 days of notification by the Department, submit a plan to close or environmentally upgrade the facility in conformance with the applicable standards, as determined by the Department and set forth in this chapter;

2. Within 90 days of receipt of written approval by the Department of the submitted plan, begin to close or construct the environmental upgrading at the facility; and

3. Within one year of receipt of written approval by the Department of the submitted plan, complete closure or construction of the environmental upgrading at the facility.

(q) A one time extension of the compliance schedule established by (p) above shall be granted by the Department provided the facility owner or operator demonstrates that he or she has made a good faith effort to meet the schedule.

(r) Should the closure or environmental upgrading required pursuant to (p) above not be completed or should continued operations be determined by the Department to be environmentally unsound despite the implementation of the plan approved pursuant to (p) above, the solid waste facility shall temporarily or permanently cease operations and close or enter into receivership, as provided for in N.J.S.A. 13:1E-9, for that period of time necessary to rectify the environmentally unsound conditions.

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

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

Repealed "Smoking, smoldering or burning landfill".

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.

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.578, effective December 16, 1996.

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

In (e), (f), (g) and (i), amended N.J.A.C. references; in (k), inserted text "Except for . . . 7:26-2.6(d)"; and added (p) through (r).

Administrative change.

See: 30 N.J.R. 3948(a).

Case Notes

Denial and revocation of licenses was justified for recycling facility that handled solid waste without a permit. Department of Environmental Protection and Energy v. Tempesta & Sons, Inc., 96 N.J.A.R.2d (EPE) 247.

7:26-2.9 Environmental and Health Impact Statement requirements

(a) The Environmental and Health Impact Statement, (hereinafter EHIS), shall be prepared utilizing a systematic, interdisciplinary approach in order to ensure the integrated assessment of technical, economic, environmental and social parameters potentially affected by the proposed facility.

(b) An EHIS prepared and submitted pursuant to this section shall address each category described at (c)3 below. The magnitude and detail of the environmental inventory, the environmental assessment, the health impact assessment and the overall EHIS shall reflect the type, size and location of the proposed solid waste facility. Where the information addressing a requirement of the inventory is supplied in the engineering designs or reports, reference to such designs or reports may be noted in the inventory, provided the appropriate section and page number of the design or report is cross referenced and indexed. If any category described at (c)3 below presents no impact relative to the proposed facility, a notation of non-applicability shall be entered in the environmental inventory for that category. The Department shall allow variances to the requirements of this section for any category, or to reduce the size of the general area to be described in the inventory relative to site specific impacts, if the applicant demonstrates during the pre-application conference that specific categories are not applicable or the area is not appropriately subject to the EHIS based on the type, size and location of the proposed solid waste facility.

(c) The EHIS for all solid waste facilities other than solid waste facilities for which specific requirements are set forth in (d) below, shall contain the following:

(s) A solid waste facility classified as a level 1 facility pursuant to (f)3i above may be eligible for a facility wide permit if the Department formally adopts a facility wide permit program.

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

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

Repealed by R.1987 d.235, effective June 1, 1987.

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

This section was applicability.

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

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

Administrative change.

See: 30 N.J.R. 3948(a).

SUBCHAPTER 2A. ADDITIONAL, SPECIFIC DISPOSAL REGULATIONS FOR SANITARY LANDFILLS

7:26-2A.1 Scope and applicability

(a) This subchapter shall constitute the rules of the Department governing the design, construction, operation, maintenance, closure and post-closure care of sanitary landfills.

(b) The requirements of this subchapter are in addition to the general engineering design submission requirements in N.J.A.C. 7:26-2.10 and the general operational requirements in N.J.A.C. 7:26-2.11.

(c) This subchapter shall apply to the following facilities:

1. All newly proposed sanitary landfills and all existing sanitary landfills proposing to expand their existing operations onto previously unfilled permitted areas; and

2. Any existing sanitary landfills operating as an open dump or in an environmentally unsound manner which the Department determines needs to be environmentally upgraded.

(d) This subchapter does not apply to hazardous waste landfills. See N.J.A.C. 7:26G.

(e) The provision of this subchapter and N.J.A.C. 7:26-2 shall not be interpreted as permitting the disposal of domestic sewage, sewage sludge, or septage in any manner other than that prescribed by law.

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).

7:26-2A.2 Construction

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

Case Notes

Solid Waste Management Act and regulations preempt municipal zoning ordinance with respect to construction of sanitary landfill access road; construction approval by Department proper. *Chester Twp. v. Dept. of Environmental Protection*, 181 N.J.Super. 445, 438 A.2d 334 (App.Div.1981).

7:26-2A.3 Purpose

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

1. To establish additional engineering design submission requirements for sanitary landfills;
2. To establish requirements and standards for the design and construction of sanitary landfills to insure that adverse impacts are minimized and controlled and that pollution of the environment is prevented; and
3. To establish additional requirements for the operation, maintenance, inspection and monitoring of sanitary landfills to ensure the proper operation of the sanitary landfill so as to minimize and control adverse impacts and prevent pollution of the environment.

7:26-2A.4 General prohibitions and requirements

(a) Open dumps are declared to be a nuisance, hazardous to human health, and are prohibited.

(b) No new sanitary landfill shall be constructed or any existing landfill continue to operate where solid waste is or would be in contact with the surface or ground waters. This provision shall not apply to cleanfill.

(c) Leachate from any sanitary landfill shall not be allowed to drain or discharge into the surface water or groundwater except as permitted pursuant to the NJPDES regulations, N.J.A.C. 7:14A.

(d) No sanitary landfill shall be operated in a manner that would result in the impairment of the quality of the surface or groundwaters to a degree that would degrade the quality of either the surface or ground waters beyond the classification established by the Department in the Surface Water Quality Standards, N.J.A.C. 7:9-4, or the Ground Water Quality Standards, N.J.A.C. 7:9-6.

(e) No sanitary landfill shall be operated in a manner that would result in the degradation of the ambient air quality beyond the standards established by the Department pursuant to N.J.A.C. 7:27.

(f) No sanitary landfill shall be operated in a manner that would result in soil erosion and sedimentation beyond the standards established by the Department of Agriculture pursuant to N.J.A.C. 2:90.

(g) No new sanitary landfill shall begin construction without first applying for a NJPDES permit pursuant to N.J.A.C. 7:14A and approval of its Soil Erosion and Sediment Control Plan pursuant to N.J.A.C. 2:90. No new sanitary

landfill shall begin operation without first obtaining a NJPDES permit and approval of its Soil Erosion and Sediment Control Plan.

(h) No existing sanitary landfill shall continue to operate without obtaining a NJPDES permit, and approval of its Soil Erosion and Sediment Control plan in accordance with N.J.A.C. 2:90.

(i) No new sanitary landfill shall begin construction or operation if located within the following distances of an airport, as measured from the nearest runway to the nearest property line without the design and implementation of an effective bird deterrent plan approved by this Department and the New Jersey Department of Transportation.

1. Within 10,000 feet of any airport runway which is equal to or greater than 3,000 feet in length and that services turbo-engine planes; or

2. Within 5,000 feet of any airport runway which is less than 3,000 feet in length and that services prop-engine planes.

(j) The owner and/or operator proposing a new landfill or lateral expansion within a five-mile radius of any airport runway end used by turbojet or piston-type aircraft shall notify the affected airport and the appropriate Federal Aviation Administration (FAA) office.

(k) No existing sanitary landfill shall continue to operate, within the restricted zone of an airport as set forth in N.J.A.C. 7:26-2A.6(g)11, when it is determined by the Department and the Bureau of Aviation of the Department of Transportation to present a real or potential attraction for birds, until an effective deterrent plan is implemented.

(l) No person shall engage in the disposal of solid waste at a facility that does not meet the operational and maintenance requirements of this subchapter and N.J.A.C. 7:26-2. In addition, each permittee shall comply with any condition, limitation, or discharge requirement which may be specified in the SWF permit for that facility;

(m) The owner or operator of an existing sanitary landfill shall be required to design in accordance with N.J.A.C. 7:26-2A.7(f)3 or 4, and after Departmental approval of the design, construct, operate and maintain, a gas collection, venting and monitoring system when gas is detected at the points set forth at N.J.A.C. 7:26-2A.7(f)3 or 4;

(n) The owner or operator of an existing sanitary landfill shall install a groundwater monitoring system in accordance with the requirements of N.J.A.C. 7:14A-6.

(o) The owner or operator of an existing sanitary landfill shall be required to design and after Departmental approval of the design, construct, operate and maintain a leachate control collection and treatment system when leachate is determined to be impacting the quality of the surface and groundwaters of the area.

(p) The owner or operator of an existing sanitary landfill shall install a groundwater monitoring system in accordance with the requirements of N.J.A.C. 7:14A.

(q) The following waste types as defined in N.J.A.C. 7:26-2.13(h) and (i) shall not be disposed of in sanitary landfills:

1. Hazardous waste as defined by N.J.A.C. 7:26G;
2. Septic tank clean-out wastes, waste ID number 73;
3. Liquid sewage sludge, waste ID number 74;
4. Radioactive materials regulated by the Atomic Energy Act of 1954, 42 U.S.C. §§ 2011 et seq.;
5. Regulated medical waste, Class 1 through 7, as defined in N.J.A.C. 7:26-3A.5, unless as otherwise provided at N.J.A.C. 7:26-3A.20; and
6. Bulk liquid and semiliquids, waste ID number 72.

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).

Deleted (b) through (d); recodified existing (e) through (l) as (b) through (i); inserted new (j); recodified existing (m) through (s) as (k) through (q); in (q), amended N.J.A.C. references; and added (q)5 and (q)6.

Administrative change.

See: 30 N.J.R. 3948(a).

Case Notes

Use variance and site plan approval for enlargement of solid waste facility required submission of application to modify solid waste management plan. Ippolito v. Tenafly Board of Adjustment, 95 N.J.A.R.2d (EPE) 17.

7:26-2A.5 Additional engineering design submittal requirements for sanitary landfills

(a) In addition to the requirements of N.J.A.C. 7:26-2.10, the engineering design submission requirements for sanitary landfills shall include the following:

1. A regional map prepared and submitted in accordance with N.J.A.C. 7:26-2.10(b)4 which shall include, but not be limited to, the following additional information:
 - i. Location of all public community water supply wells and all wells permitted to pump over 100,000 gallons per day or 70 gallons per minute within one and one-half miles of the property line of the landfill. The service areas, if any, of the public community water systems, as defined in N.J.A.C. 7:10-1.3, within one and one-half miles of the property line of the sanitary landfill; and
 - ii. Location of all water wells within one-half mile of the property line of the sanitary landfill;

2. A site plan map delineating the existing contours of the proposed sanitary landfill area prepared and submitted in accordance with N.J.A.C. 7:26-2.10(b)6 which shall include, but not be limited to, the following additional information:

i. Delineation of the area-wide modular development of the sanitary landfill's construction and operations and, where applicable, the lateral limits of previously filled areas;

ii. Delineation of the vertical and horizontal control monuments and property corner markers. The elevations, in relation to the National Geodetic Vertical Datum of 1929 (Mean Sea Level 1929) of the control monuments, shall be indicated and keyed into the North American Datum of 1983;

iii. Location of all monitoring devices including, but not limited to, all groundwater monitoring wells, lysime-

ters, gas monitoring wells, gas vents, piezometers, inclinometers and bore hole extensometers. Elevations of the monitoring wells and piezometers shall be determined to the top of the outer casing and for the adjacent ground surface. The horizontal and vertical location shall be represented as required by N.J.A.C. 7:26-2.10(b)6i. In areas, as dictated by the site geology, the vertical location accuracy may be required to be accurate to the nearest 0.01 foot; and

iv. Location of all borings, excavations and test pits. The horizontal and vertical location of all borings shall be represented as required by N.J.A.C. 7:26-2.10(b)6i. In areas, as dictated by the site geology, the vertical location accuracy may be required to be accurate to the nearest 0.01 foot;

3. Additional site plan maps which delineate in plan view and in detailed cross-sectional view the following: