

i. AS equals the average salary of a full-time Department employee working in the Department's hazardous waste program assigned to the activity. In calculating the average salary of a Department employee, the salaries for Direct support and Division overhead positions shall be included along with the salaries for employees assigned to the activity;

ii. FB equals the fringe benefits of a full-time Department employee working in the Department's hazardous waste program assigned to the activity, calculated as a percentage of the average salary. The percentage is set by the New Jersey Department of the Treasury, and is based upon costs associated with pensions, health benefits, workers' compensation, disability benefits, unused sick leave, and the employer's share of FICA;

iii. IC equals indirect costs attributable to a full time Department employee working in the Department's hazardous waste program assigned to the activity, calculated at the rate negotiated annually between the Department and the United States Environmental Protection Agency, multiplied by the sum of AS and FB;

iv. OE equals operating expenses (including without limitation: postage, telephone, travel, supplies, clerical support, other support staff and data system management) attributable to a full-time Department employee working in the Department's hazardous waste program assigned to the activity;

v. LS equals the budgeted annual cost of legal services rendered by the Department of Law and Public Safety, Division of Law, in connection with the Department's hazardous waste activities, divided by the total number of billable Department employee positions which the Department projects will be funded by the revised fee schedule; and

vi. BH equals the average number of hours which each Department employee working in the Department's hazardous waste program spends annually performing activities for which fees are imposed under N.J.A.C. 7:26G-3.3.

(d) Promptly after completing the report described in (c) above, the Department shall provide a copy of the report to each person required to have paid a fee under N.J.A.C. 7:26-3.3 within the one-year period covered by the report.

(e) Promptly after making the adjustment to the fees pursuant to the report described in (c) above, the Department shall publish a notice of administrative change in the New Jersey Register pursuant to N.J.A.C. 1:30-2.7(c), setting forth adjusted fees, in N.J.A.C. 7:26G-3.3 and the operative date thereof. The notice shall state that the report is available, and shall direct interested persons to contact the Department for a copy of the report and to submit comments within 45 days of the date of publication of the notice. The Department shall provide a copy of the

report to each person requesting a copy. The Department will evaluate the comments submitted and publish its responses in the New Jersey Register prior to the operative date of the adjusted fees.

#### SUBCHAPTER 4. HAZARDOUS WASTE MANAGEMENT SYSTEM: GENERAL

##### 7:26G-4.1 Incorporation by reference

(a) This subchapter incorporates by reference up to July 31, 1998 and prospectively incorporates by reference 40 C.F.R. Part 260, as amended and supplemented, except as provided in (b) and (c) below.

(b) The following provisions of 40 C.F.R. Part 260 are not incorporated by reference: 260.1(b)(1), 260.2, the following definitions at 260.10: "Act or RCRA," "Administrator," and "Regional Administrator"; and 260.20(b) through (e).

(c) The following provisions of 40 C.F.R. Part 260 are incorporated by reference with the specified changes:

1. 260.1(a), after "chapter" add "and N.J.A.C. 7:26G";

2. 260.1(b)(3), after "chapter" add "and N.J.A.C. 7:26G";

3. 260.1(b)(4), after "chapter" add "and/or N.J.A.C. 7:26G"; and

4. 260.10 Definitions:

i. "Existing tank system or existing component," after "for which installation has commenced on or prior to July 14, 1986." add "For non-HSWA tanks (that is, inground tank systems, onground tank systems, aboveground tank systems and underground tank systems that can be entered for inspection), Existing tank system or existing component means a tank system or component that is used for the storage or treatment of hazardous waste and that is in operation, or for which installation has commenced on or prior to October 21, 1996.

ii. "Manifest," after "Manifest" add "or State Manifest"; after "EPA form 8700-22" add "as modified by the State"; after "EPA form 8700-22A," add "or a form approved by the Department"; replace "part 262" with "N.J.A.C. 7:26G-6";

iii. "New tank system or new tank component," at the end of the paragraph add "For non-HSWA tanks (that is, inground tank systems, onground tank systems, aboveground tank systems and underground tank systems that can be entered for inspection), Existing tank system or existing component means a tank system or component that is used for the storage or treatment of

hazardous waste and that is in operation, or for which installation has commenced on or prior to October 21, 1996.

5. 260.20(a), after “parts 260 through 266” delete “and 268” and replace with “, 268 and N.J.A.C. 7:26A-7.”; after “of this chapter” add “or N.J.A.C. 7:26G.”; after “testing or analytical method to part 261, 264, or 265” add “of this chapter.”; after “Section 260.22 sets forth additional requirements for petitions to exclude a waste” add “or waste-derived material.”; after “the lists of hazardous wastes in subpart D of part 261” add “of this chapter. N.J.A.C. 7:26G-4.2 sets forth additional requirements for petitions to amend N.J.A.C. 7:26A-7 to include additional hazardous wastes for categories of hazardous waste as universal waste. All petitions for rule-making will be subject to N.J.A.C. 1:30, Rules for Rule-making. All petitions for rulemaking are governed by N.J.A.C. 1:30-3.6 and 7:1-1.2.”;

6. 260.21(b) deleted “§ 260.20(b)” and replace with “N.J.A.C. 7:1-1.2 and 1:30-3.6”;

7. 260.21(d), after “will be incorporated in” add “and will be in addition to”;

8. 260.33(a), delete “in the region where the recycler is located”;

9. 260.33(b), delete “this decision may not be appealed to the Administrator.” and replace with “a hearing may be requested in accordance with the provisions of the Administrative Procedure Act.”;

10. 260.40(a), replace “261.6(a)(2)(iv)” with “261.6(a)(2)(iii)”;

11. 260.41, replace “261.6(a)(2)(iv)” with “261.6(a)(2)(iii)”;

12. Appendix I to Part 260 first paragraph, after “of the regulations they should comply.” add “Appendix I contains guidance, not regulations. If any part of the appendix is inconsistent with the regulations, the regulations are controlling.”;

13. Appendix I to Part 260 last paragraph, after “encouraged to write to EPA” add “and the Department”; after “(513) 684-5362” add “and New Jersey Department of Environmental Protection, Division of Solid and Hazardous Waste, Bureau of Hazardous Waste Regulation, PO Box 414, 120 South Stockton Street, Trenton, NJ 08625-0414, (609)292-7081.”

(d) When used in the term “EPA form,” the definition of “Manifest,” “Federal Agency” and “Person” at 40 C.F.R. 260.10, in the Appendix I to 40 C.F.R. Part 260, and 40 C.F.R. 260.11(a), the term “Agency” or “EPA” means the United States Environmental Protection Agency.

(e) When used in the definition for “hazardous waste constituent” at 40 C.F.R. 260.10, the term “Administrator” means the Administrator of the United States Environmental Protection Agency or his or her designee.

(f) When used in the following Federal citation, the terms “EPA” and “Environmental Protection Agency” shall not be replaced with a State term, but shall retain its meaning: 40 C.F.R. 260.11(a).

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

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

Amended (c)5.

Amended by R.1999 d.19, effective January 19, 1999.

See: 30 N.J.R. 3128(a), 31 N.J.R. 166(a).

Rewrote (a); in (d), added C.F.R. reference; and added (f).

## 7:26G-4.2 State definitions

The following words and terms, when used in this chapter, shall have the following meanings unless the context clearly indicates otherwise:

“Administrator” as used in the provisions of the Code of Federal Regulations which are incorporated by reference, means the Commissioner of the New Jersey Department of Environmental Protection or his or her designee, except where specifically noted, then it means the Administrator of the United States Environmental Protection Agency or his or her designee.

“Agency” or “EPA” as used in the provisions of the Code of Federal Regulations which are incorporated by reference, means the New Jersey Department of Environmental Protection, except when specifically noted, then it means the United States Environmental Protection Agency.

“Applicant” means the person who submits an application for a permit under this chapter and in whose name the permit is to be issued, and for the purposes of N.J.A.C. 7:26G-7, the person who files an application for an approved registration statement and in whose name the approved registration statement is to be issued.

“Approved registration” means the registration of a hazardous waste treatment, storage, or disposal facility or transporter issued by the Department after review and approval of the registration statement.

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