

**CHAPTER 26A  
RECYCLING RULES**

**Authority**

N.J.S.A. 13:1B-3, 13:1D-1 et seq., 13:1D-125 et seq., 13:1E-1 et seq., 13:1E-9, 26:2C-1 et seq., 47:1A-1 et seq., 58:10-23.11 and 58:10A-1 et seq.

**Source and Effective Date**

R.2002 d.182, effective May 17, 2002.  
See: 33 N.J.R. 4273(a), 34 N.J.R. 2088(a).

**Chapter Expiration Date**

In accordance with N.J.S.A. 52:14B-5.1d, the expiration date of Chapter 26A, Recycling Rules, was extended by gubernatorial directive from May 17, 2007, to November 18, 2007. See: 39 N.J.R. 2248(d).

**Chapter Historical Note**

Chapter 26A, Recycling Rules, was adopted as R.1991 d.529, effective November 18, 1991. See: 22 N.J.R. 3088(a), 23 N.J.R. 3452(a).

Subchapter 6, Used Motor Oil, was adopted as R.1993 d.342, effective July 6, 1993. See: 24 N.J.R. 2382(a), 25 N.J.R. 2863(a).

Pursuant to Executive Order No. 66(1978), Chapter 26A, Recycling Rules, was readopted as R.1996 d.577, effective November 18, 1996. As part of R.1996 d.577, Subchapter 2, Annual Fees for a General or Limited Approval to Operate a Recycling Center For Class B Recyclable Material, was changed to Annual Fees for a General or Limited Approval to Operate a Recycling Center For Class B, Class C and Class D Recyclable Material; Subchapter 3, Approval of Recycling Centers For Class B Recyclable Materials, was changed to Approval of Recycling Centers For Class B, Class C and Class D Recyclable Materials; Subchapter 4, Operational Standards and General Rules For Recycling Centers Which Receive, Store, Process or Transfer Class A and Class B Recyclable Material; Right of Entry and Inspection, was changed to Operational Standards and General Rules For Recycling Centers Which Receive, Store, Process or Transfer Class A, Class B, Class C and Class D Recyclable Material; Right of Entry and Inspection; Subchapter 6, Used Motor Oil, was repealed, and Subchapter 6, Standards For the Management of Used Oil, was adopted as new rules; and Subchapter 7, Standards For the Management of Class D Universal Waste, was adopted as new rules, effective December 16, 1996. See: 28 N.J.R. 2240(a), 28 N.J.R. 5360(a).

N.J.A.C. 7:26A-1.3, 3.1, and 4.1 were amended by Emergency Adoption R.1997 d.404, effective September 2, 1997 (to expire November 1, 1997), with the amendments to become operative upon final disposition of Atlantic Coast Demolition and Recycling, Inc. v. Board of Chosen Freeholders of Atlantic County. See: 29 N.J.R. 4170(a).

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

Chapter 26A, Recycling Rules, was readopted as R.2002 d.182, effective May 17, 2002. As a part of R.2002 d.182, Subchapter 7, Standards for the Management of Class D Universal Waste, was repealed and Subchapter 7, Standards for the Management of Class D Universal Waste, was adopted as new rules. See: Source and Effective Date. See, also, section annotations.

**Law Review and Journal Commentaries**

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

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**SUBCHAPTER 1. GENERAL PROVISIONS**

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

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

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

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

Amended by R.1996 d.500, effective October 21, 1996.  
See: 28 N.J.R. 1693(a), 28 N.J.R. 4606(a).  
Amended by R.1996 d.577, effective December 16, 1996.  
See: 28 N.J.R. 2240(a), 28 N.J.R. 5360(a).

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

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

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

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

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

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

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

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

1. All applicants for a general approval to operate a recycling center for Class B recyclable material shall submit an application fee of \$5,281 at the time of application.

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

2. All applicants for a limited approval to operate a recycling center for Class B recyclable material shall submit an application fee of \$2,400 at the time of application.

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

3. All applicants for a general approval to operate a recycling center for Class C recyclable material shall submit an application fee of \$11,582 at the time of application.

i. The application fee for general approval will cover the Department's costs of conducting county and Statewide recycling plan consistency reviews, reviewing information submitted in accordance with N.J.A.C. 7:26A-3.2(a), 3.4 and 3.18, preparing letters of administrative completeness and incompleteness, advising applicants on technical deficiencies, and preparing approval and denial letters in accordance with N.J.A.C. 7:26A-3.5.

4. All applicants for a general approval to operate a recycling center for Class D recyclable material shall submit an application fee of \$15,700 for used oil facilities and \$5,233 for all other types of Class D facilities at the time of application.

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

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

1. All persons who possess a general approval to operate a recycling center for Class B recyclable material shall be billed an annual fee of \$4,724 on May 1 for each fiscal year beginning on July 1 and ending on June 30. The fee is payable within 30 days of billing. For newly approved recycling centers, the first annual fee is due on the first May 1 immediately following the issuance of the general approval.

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

2. All persons who possess a general approval to operate a recycling center for Class C recyclable material shall be billed an annual fee of \$7,928 on May 1 for each fiscal year beginning on July 1 and ending on June 30. The fee is payable within 30 days of billing. For newly approved recycling centers, the first annual fee is due on the first May 1 immediately following the issuance of the general approval.

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

3. All persons who possess a general approval to operate a recycling center for Class D recyclable material shall be billed an annual fee of \$7,106 on May 1 for each fiscal year beginning on July 1 and ending on June 30. The fee is payable within 30 days of billing. For newly approved recycling centers, the first annual fee is due on the first May 1 immediately following the issuance of the general approval.

i. The annual fee for general approval will cover the Department's costs of advising recycling center owners or operators on technical compliance matters, conducting market research, analysis and development activities, review and analysis of annual report data and

other technical analyses required to implement the recycling center programs.

4. All persons who possess a general approval to operate a recycling center for Class B, Class C or Class D recyclable material shall be billed the following amounts for Research Demonstration and Development (RD & D) approvals, renewal of general approval, transfers of ownership, and modifications.

	Class		
	B	C	D
i. RD & D approvals	\$ 2,400	\$9,652	estimated fee per N.J.A.C. 7:26A-2.1(c))
ii. Renewals	\$960.00	\$4,826	\$3,140
iii. Modifications	\$ 2,400	\$4,826	\$3,140
iv. Transfer of ownership	\$ 1,440	\$3,378	\$2,093

5. All composting operations exempt under N.J.A.C. 7:26A-1.4(a) shall pay a compliance fee of \$1,381 for an exemption determination inspection.

(c) The following apply to the annual fee for compliance monitoring. The annual fee for compliance monitoring will cover the Department's costs of facility compliance inspections and case management activities related to compliance monitoring:

1. All persons who possess a general approval to operate a recycling center for Class B recyclable material shall be billed an annual fee of \$8,286 for compliance monitoring on May 1 for each fiscal year beginning on July 1 and ending on June 30. The fee is payable within 30 days of billing. For newly approved recycling centers, the first annual fee is due on the first May 1 immediately following the issuance of the general approval.

2. All persons who possess a limited approval to operate a recycling center for Class B recyclable material shall submit a fee of \$690.00 per month for each month of operation authorized by the limited approval. The fee for the total number of months of authorized operation is due 15 days from the date of issuance of the limited approval.

i. The monthly fee for limited approval will cover the Department's costs of advising recycling center owners or operators on technical compliance matters, and facility compliance inspections.

3. All persons who possess a general approval to operate a recycling center for Class C recyclable material shall be billed an annual fee of \$8,286 for compliance monitoring on May 1 for each fiscal year beginning on July 1 and ending on June 30. The fee is payable within 30 days of billing. For newly approved recycling centers, the first annual fee is due on the first May 1 immediately following the issuance of the general approval.

4. All persons who possess a general approval to operate a recycling center for Class D recyclable material—Used Oil shall be billed an annual fee of \$8,923 on May 1 for each fiscal year beginning on July 1 and ending on June 30. The fee is payable within 30 days of billing. For newly approved recycling centers, the first annual fee is due on the first May 1 immediately following the issuance of the general approval.

5. All persons who possess a general approval to operate a recycling center for Class D recyclable material—Other shall be billed an annual fee of \$8,286 on May 1 for each fiscal year beginning on July 1 and ending on June 30. The fee is payable within 30 days of billing. For newly approved recycling centers, the first annual fee is due on the first May 1 immediately following the issuance of the general approval.

(d) The omission of any type of service from the fee schedules set forth in (a), (b) or (c) above shall not be construed as a waiver of the Department's authority to assess fees for such services. An applicant/permittee making a submission which it believes is not included in any of the schedules set forth in (a) above shall request an initial review of the submission. As part of its initial review, the Department shall determine the fees for performing its services in connection with the submission. Such fees shall be equal to the number of hours estimated by the Department to be required for the performance of such services, multiplied by an hourly rate of \$106.00. The Department will calculate the fee for performance of the Department's services as follows:

1. If the Department determines, in its discretion, that the activity is of a type listed in (a) above, the amount of the fee shall be equal to the amount listed in (a) above.

2. If the Department determines, in its discretion, that such activity is not of a type listed in (a) above, the fee shall be equal to the Department's estimate of the number of person-hours required to perform such activity, multiplied by the hourly rate of \$106.00.

(e) A determination of a fee made pursuant to (d) above shall expire on the date which is 90 days after the date such determination has been issued, unless the applicant or permittee has paid such fee to the Department in full before expiration. If the applicant or permittee desires to continue to pursue the submission for which the fee determination has expired, such applicant or permittee shall request a redetermination of the fee in writing, and the Department shall redetermine the fee in accordance with (d) above, as applicable.

(f) The Department may, in its discretion, refrain from commencing work on the activity which is the subject of a fee determined pursuant to (d) above until the Department has received full payment of the fee. If the Department has already commenced work, the Department may, in its discretion, suspend such work until it has received full payment of the fee.

Amended by R.1995 d.205, effective April 17, 1995.  
 See: 26 N.J.R. 3922(a), 27 N.J.R. 1576(b).  
 Amended by R.1996 d.577, effective December 16, 1996.  
 See: 28 N.J.R. 2240(a), 28 N.J.R. 5360(a).  
 Raised fees throughout; inserted (a)3 and (a)4; in (b)1, inserted payable in 30 days provision and amended activities covered by fee; in (b)2, changed fee due date and amended activities covered by fee; inserted (b)3 and (b)4; in (c), deleted text relating to period which fee is applicable.  
 Administrative change.  
 See: 30 N.J.R. 3948(a).  
 Amended by R.2003 d.454, effective November 17, 2003.  
 See: 35 N.J.R. 321(a), 35 N.J.R. 5268(b).  
 Rewrote the section.

**7:26A-2.2 (Reserved)**

Amended by R.1996 d.577, effective December 16, 1996.  
 See: 28 N.J.R. 2240(a), 28 N.J.R. 5360(a).  
 Amended name of report throughout; in (a), substituted "may" for "will"; and in (b), report was required annually.  
 Repealed by R.2003 d.454, effective November 17, 2003.  
 See: 35 N.J.R. 321(a), 35 N.J.R. 5268(b).  
 Section was "Adjustment of fees".

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

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

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

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

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

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

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

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

(b) Any person who operates a recycling center for the receipt, storage, processing or transfer of Class B, Class C or

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

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

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

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

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

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

1. That the application meets the criteria for a general approval of N.J.A.C. 7:26A-3; and
2. That the applicant fails to meet any of the criteria for denial or revocation of a general approval set forth at N.J.A.C. 7:26A-3.12 and 3.13.

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

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

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

(e) The general approval will accomplish the following:

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

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

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

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

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

Administrative change.

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

Amended by R.2001 d.86, effective March 5, 2001.

See: 32 N.J.R. 2536(a), 33 N.J.R. 880(a).

In (a), amended N.J.A.C. reference.

Amended by R.2002 d.182, effective June 17, 2002 (operative December 17, 2002).

See: 33 N.J.R. 4273(a), 34 N.J.R. 2088(a).

In (b)2, amended the N.J.A.C. reference.

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

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

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

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

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

(d) Within 30 days of receipt of an application for renewal of a recycling center approval, the Department will determine whether the application is administratively complete. An application for renewal is administratively complete where it satisfies the requirements for renewal set forth in this subchapter, including the requirements for modification of a recycling center application set forth in N.J.A.C. 7:26A-3.10, where modifications will be made. Also, a fee must be submitted in accordance with N.J.A.C. 7:26A-2 for an application to be administratively complete.

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

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

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

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

2. That the applicant fails to meet any of the criteria for denial or revocation of a general approval set forth at N.J.A.C. 7:26A-3.12 and 3.13.

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

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

2. That the applicant meets any of the criteria for denial or revocation of a general approval set forth at N.J.A.C. 7:26A-3.12 and 3.13.

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

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

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

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

Amended by R.2002 d.182, effective June 17, 2002 (operative December 17, 2002).

See: 33 N.J.R. 4273(a), 34 N.J.R. 2088(a).

In (e)2 and (f)2, amended the N.J.A.C. references.

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

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

1. The information required pursuant to N.J.A.C. 7:26A-3.2(a)1, 2, 3, 4, 5, 6, 7, 8, 11, 12, 13, 14, and 16(i). The application shall include a site map that identifies the placement of all equipment, buildings, activities and areas related to the receipt, storage, processing and transferring of all unprocessed and processed recyclable materials and meets the requirements of N.J.A.C. 7:26A-3.2(a)9ii, v, vii and viii;

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

3. The application shall be certified with the certification described at N.J.A.C. 7:26A-3.2(b)1 signed by the appropriate person as described at N.J.A.C. 7:26A-3.2(b)2.

(b) Persons applying to the Department for a limited approval to operate a recycling center for Class B recyclable materials shall submit one copy of the application for limited approval to the municipal clerk of the municipality in which the recycling center is located and one copy to the solid waste or recycling coordinator of the county in which the recycling center is located.

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

(d) Prior to the issuance of a limited approval to operate a recycling center for Class B recyclable materials, and where the Department determines that additional information is needed to adequately address public or environmental health, safety or welfare, the applicant shall submit the additional information requested by the Department.

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

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

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

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

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

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

In (b)2 and (c), inserted additional N.J.A.C. references; and in (f), changed Department and Division names.

Amended by R.2002 d.182, effective June 17, 2002 (operative December 17, 2002).

See: 33 N.J.R. 4273(a), 34 N.J.R. 2088(a).

In (c), rewrote the second sentence.

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

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

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

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

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

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

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

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

iii. The name and address of the district solid waste or recycling coordinator and the Department to which

comments on the request for approval may be submitted.

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

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

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

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

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

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

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

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

Former section recodified to N.J.A.C. 7:26A-3.12.

Amended by R.2002 d.182, effective June 17, 2002 (operative December 17, 2002).

See: 33 N.J.R. 4273(a), 34 N.J.R. 2088(a).

In (a), inserted reference to Class C or Class D.

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

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

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

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

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

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

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

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

1. The applicant has been denied a license or registration pursuant to N.J.S.A. 13:1E-1 et seq.;

2. The applicant has been denied a certificate of public convenience and necessity pursuant to N.J.S.A. 48:13A-1 et seq.;

3. The applicant has had its registration, license or certificate of public convenience and necessity revoked by the DEP; or

4. The applicant has committed any of the acts which are criteria for approval revocation set forth at N.J.A.C. 7:26A-3.13(a)1 through 8.

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

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

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

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

Administrative change.

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

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

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

1. Violated any provision of N.J.S.A. 13:1E-1 et seq., the Act, or any rule, regulation or administrative order promulgated pursuant to N.J.S.A. 13:1E-1 et seq. and the Act;

2. Violated any solid waste utility law at N.J.S.A. 48:2-1 et seq. or 48:13A-1 et seq., or any rule, regulation or administrative order promulgated pursuant to N.J.S.A. 48:2-1 et seq. or 48:13A-1 et seq.;

3. Violated any provision of any laws related to pollution of the waters, air or land surfaces of the State or of any other State or Federal environmental laws including criminal laws related to environmental protection;

4. Refused or failed to comply with any lawful order of the Department;

5. Failed to comply with any of the conditions of the general or limited approval issued by the Department;

6. Transferred a general or limited approval to a new owner or operator pursuant to N.J.A.C. 7:26A-3.15 without the prior approval of the Department;

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

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

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

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

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

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

Administrative change.

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

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

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

1. Denial of a general or limited approval, or any part thereof; or

2. Revocation or modification of a previously issued approval.

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