

4. If the person responsible for the minor violation seeks additional time beyond the specified grace period to achieve compliance, the person shall request an extension of the specified grace period. The request shall be made in writing no later than one week before the end of the specified grace period and include the anticipated time needed to achieve compliance, the specific cause or causes of the delay, and any measures taken or to be taken to minimize the time needed to achieve compliance. The Department may, at its discretion, approve in writing an extension, which shall not exceed 90 days, to accommodate the anticipated delay in achieving compliance. In exercising its discretion to approve a request for an extension, the Department may consider the following:

- i. Whether the violator has taken reasonable measures to achieve compliance in a timely manner;
- ii. Whether the delay has been caused by circumstances beyond the control of the violator;
- iii. Whether the delay will pose a risk to the public health, safety and natural resources; and
- iv. Whether the delay will materially or substantially undermine or impair the goals of the regulatory program.

5. If the person responsible for the minor violation fails to demonstrate to the Department that the violation has been corrected and compliance achieved within the specified grace period, or within the approved extension, if any, the Department may, in accordance with the provisions of this chapter, impose a penalty that is retroactive to the date the notice of violation under (d)1 above was issued.

6. The person responsible for a minor violation shall not request more than one extension of a grace period specified in a notice of violation.

New Rule, R.2006 d.202, effective June 5, 2006.  
See: 37 N.J.R. 1285(a), 38 N.J.R. 2426(a).

### SUBCHAPTER 3. HAZARDOUS WASTE FEES

#### 7:26G-3.1 General provisions

In accordance with N.J.S.A. 13:1E-1 et seq., specifically N.J.S.A. 13:1E-6, 13:1E-18, 13:1E-42.2 and 13:1E-60d, there is hereby established a fee schedule for hazardous waste generators, transporters, and treatment, storage, or disposal facilities. Notwithstanding provisions in N.J.A.C. 7:26-4, this subchapter constitutes the rules of the Department for hazardous waste fees. 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.

#### 7:26G-3.2 Payment of fees

(a) Fees for activities related to hazardous waste generators, transporters, and treatment, storage, or disposal facilities shall be paid by certified check or money order payable to: Treasurer, State of New Jersey. Payment shall be submitted to:

New Jersey Department of Environmental  
Protection  
Bureau of Revenue  
PO Box 417  
Trenton, New Jersey 08625-0417

(b) All fees shall be paid within 30 days of the date on the bill issued by the Department unless otherwise specified herein. A person who fails to pay a fee within the time due shall be subject to penalties pursuant to N.J.A.C. 7:26G-2.8.

#### 7:26G-3.3 Fee schedule for hazardous waste facilities, generators, and transporters

(a) Fees for generators filing a biennial report in accordance with 40 C.F.R. §§ 261.5(e), 261.5(f), 262.41 and 262.44 (as incorporated by reference at N.J.A.C. 7:26G-5 and 6) shall be based on quantities of hazardous waste generated during the odd numbered calendar year preceding the even numbered reporting year and on whether or not the report is submitted electronically, and, for electronic submissions, whether it is accurate and complete. Hazardous waste generator biennial reporting fees are as follows:

1. Less than 1.1 tons of hazardous waste: \$34.00 for complete, accurate electronic reports; \$135.00 for incomplete, inaccurate, or paper reports.
2. Equal to or greater than 1.1 tons but less than 10 tons of hazardous waste generated: \$68.00 for complete, accurate electronic reports; \$270.00 for incomplete, inaccurate, or paper reports.
3. Equal to or greater than 10 tons but less than 100 tons of hazardous waste generated: \$127.00 for complete, accurate electronic reports; \$507.00 for incomplete, inaccurate, or paper reports.
4. Equal to or greater than 100 tons but less than 150 tons of hazardous waste generated: \$253.00 for complete, accurate electronic reports; \$1,013 for incomplete, inaccurate, or paper reports.
5. Equal to or greater than 150 tons of hazardous waste generated: \$405.00 for complete, accurate electronic reports; \$1,621 for incomplete, inaccurate, or paper reports.

(b) The manifest processing fee for generators and hazardous waste facilities is as follows:

1. Generators located in the State of New Jersey: \$10.00 per manifest.

2. Hazardous waste facilities: \$10.00 per manifest for waste received from generators located outside of the State of New Jersey unless exempt under N.J.A.C. 7:26G-3.4(c). A hazardous waste facility will not be assessed a manifest processing fee for waste received from New Jersey generators.

(c) Fees for conducting inspections and compliance reviews for generators and facilities are as follows:

1. Inspection fee for a major commercial hazardous waste facility, as defined at N.J.S.A. 13:1E-42.1, shall be determined by the following formula:

$F = \text{Fee}$

$T =$  Inspection time (expressed as a percentage of the Department's total annual time for all major facilities)

$W =$  Total quantity of hazardous waste generated and manifested off-site and hazardous waste manifested into the facility (expressed as a percentage of total hazardous waste generated and received annually from off-site for all major facilities)

$I =$  Total annual cost for inspecting major commercial hazardous waste facilities.

$F = (T + W)/2 \times I$

2. Inspection fee for a commercial hazardous waste facility, other than a major hazardous waste facility as defined at N.J.S.A. 13:1E-42.1, per inspection: \$1,442;

3. Inspection fee for a non-commercial hazardous waste facility; \$3,154; and

4. Annual fee for a generator:

i. Large quantity generator: \$980.00;

ii. Small quantity generator: \$600.00; and

iii. Conditionally exempt small quantity generator: \$40.00.

(d) Fees for waste classification and delisting are as follows. Fees for waste classification shall be paid upon submission of each request for classification. A fee shall be assessed for each separate waste classification requested. Fees for each step in the delisting process shall be submitted prior to the commencement of review/action by the Department:

1. Fee for the classification of wastes where the total volume of waste to be classified is greater than or equal to 200 cubic yards of solids or 500 gallons of liquids, per classification: \$477.00;

2. Fee for the classification of wastes where the total volume of waste to be classified is less than 200 cubic yards of solids or less than 500 gallons of liquids, per classification: \$239.00;

3. Fee for the review of sampling plans submitted in support of waste classification requests, for each plan submitted: \$275.00;

4. Fees for evaluating site specific waste streams for delisting pursuant to N.J.A.C. 7:26G-4 (40 C.F.R. § 260.22) shall be paid upon submission of the document, or in the case of the New Jersey Register notices, prior to the preparation of the notice, and are as follows:

i. Review of delisting petition: \$42,227;

ii. Development, monitoring, and review of sampling plan: \$1,377;

iii. Development and publication of public notice in the New Jersey Register: \$13,770.

(e) Fees for permitting/review activities are as follows:

1. Fees for review of a permit application for a new hazardous waste facility, expansion of 50 percent or more at a major hazardous waste facility, as defined at N.J.S.A. 13:1E-51, and expansion of any facility that includes a new type of hazardous waste management unit among those listed below shall be paid at time of application submission and are as follows:

i. Land disposal (without storage) as defined in 40 C.F.R. § 268.2(c) (that is, landfills, surface impoundments, waste piles, injection wells, land treatment facilities, salt dome formations, salt bed formations, underground mines or caves, and concrete vaults or bunkers intended for disposal purposes): \$60,355;

ii. Storage and/or treatment including containers, tanks, drip pads, miscellaneous units, and containment buildings: \$32,764, subject to any rebate available under (e)13 below;

iii. Incineration (including boilers and industrial furnaces) with trial burn: \$137,955;

iv. Incineration (including boilers and industrial furnaces) without trial burn: \$120,711;

2. Fees for review of permit renewal application shall be paid at time of renewal application submission and are as follows:

i. Land disposal (without storage) as defined in 40 C.F.R. § 268.2(c) (that is, landfills, surface impoundments, waste piles, injection wells, land treatment facilities, salt dome formations, salt bed formations, underground mines or caves, and concrete vaults or bunkers intended for disposal purposes): \$32,764;

ii. Non-commercial storage and/or treatment, including containers, tanks, drip pads, miscellaneous units, and containment buildings: \$24,142;

iii. Commercial storage and/or treatment, including containers, tanks, drip pads, miscellaneous units, and containment buildings: \$44,835;

iv. Incineration (including boilers and industrial furnaces) with trial burn: \$94,844;

v. Incineration (including boilers and industrial furnaces) without trial burn: \$77,600;

3. Fees for permit issuance/denial for a facility with "existing facility status" prior to February 3, 1992 shall be

paid by June 2, 1992 or at the time of public notice of the draft permit/denial, whichever is earliest. Fees for permit issuance/denial for a facility with "existing facility status" after February 3, 1992 shall be paid at the time of public notice of the draft permit/denial. These fees are as follows:

- i. Land disposal (without storage) as defined in 40 C.F.R. § 268.2(c) (that is, landfills, surface impoundments, waste piles, injection wells, land treatment facilities, salt dome formations, salt bed formations, underground mines or caves, and concrete vaults or bunkers intended for disposal purposes): \$60,355;
  - ii. Storage and/or treatment, including containers, tanks, drip pads, miscellaneous units, and containment buildings: \$32,764, subject to any rebate available under (e)13 below;
  - iii. Incineration (including boilers and industrial furnaces) with trial burn: \$137,955;
  - iv. Incineration (including boilers and industrial furnaces) without trial burn: \$120,711;
4. Fees for the issuance of a closure plan approval shall be paid at time of submission of the application for closure and are as follows:
- i. Closure with soil sampling plan: \$10,778;
  - ii. Closure without soil sampling plan: \$6,467;
5. The fee for the approval/denial of existing facility changes pursuant to N.J.A.C. 7:26G-12 (40 C.F.R. § 270.72) shall be paid at time of submission of request for change and is: \$862.00;
6. (Reserved)
7. The fee for permit modifications shall be paid at time of modification request and are as follows:
- i. Class 1 modifications: \$1,207;
  - ii. Class 2 modifications: \$5,001;
  - iii. Class 3 modifications: \$20,262;
8. The fee for a RD & D permit (as described at 40 C.F.R. § 270.65) shall be paid at time of application for permit and is: \$32,764, subject to any rebate under (e)13 below;
9. The fee for issuance of an emergency permit is: \$5,518;
10. The fee for treatability study annual report shall be paid at time of submission of report and is: \$174.00;
11. The fee for permit exemption qualification determinations shall be paid at time of submission of request and is: \$1,035;
12. The fee for review of Environmental Health and Impact Statements shall be paid at time of submission and is: \$17,244;
13. A non-commercial hazardous waste facility which has paid a fee under (e)1ii, (e)3ii, or (e)8 above may request a rebate of part of the fee. The request shall be in writing and delivered to the Department after the final permit for the facility is issued, but no later than 20 days after the final permit is issued. If the Department's time-

keeping records show that the actual cost to the Department to issue the final permit is more than 10 percent less than the fee provided in (e)1ii, (e)3ii, or (e)8 above, the Department shall rebate the difference between the fee provided in (e)1ii, (e)3ii, or (e)8 above and the actual cost. Facilities requesting a rebate of part of the fee under (e)15 below shall make the request in writing and deliver it to the Department after the Department action on the activity, but no later than 20 days after the action is completed. If the Department's timekeeping records show that the actual cost to the Department is more than 10 percent less than the estimated fee, the Department shall rebate the difference between the estimated fee and the actual cost.

14. All costs associated with public participation in the permit process (including, but not limited to, public hearing costs such as stenographer fees and public hearing notice, and costs for public notices of draft permits and closure plans where no public hearing is scheduled, etc.) shall be paid by the permit applicant. The applicant will be billed by the Department prior to permit issuance.

15. If the Department determines that the activity is of a type listed in (e)1 through 12 above, the amount of the fee shall be equal to the amount listed in (e)1 through 12 above. If the Department determines that such activity is not of a type listed in (e)1 through 12 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 \$86.22, subject to any rebate available under (e)13 above.

(f) The fee schedule for hazardous waste transporters is as follows:

1. All hazardous waste transporters shall pay a biennial fee. A State of New Jersey hazardous waste transporter registration decal will be issued for each hazardous waste cab and transport unit (as defined at N.J.A.C. 7:26G-4.2) for which a fee is paid. The fee registration period shall be biennial, unless otherwise established by the Department, and shall extend from July 1 through June 30 of each odd numbered year. Annual registration fees shall continue through the registration period of calendar year 2002. In accordance with N.J.A.C. 7:26G-3.3(g), the odd numbered year for biennial registration shall begin calendar year 2003. The fee shall accompany the submission of the biennial registration application. Fees shall be payable prior to May 1 of each registration period. All vehicles registered with the Department must be owned or leased by the applicant. If the vehicle is leased, a copy of the lease must be submitted with the registration application. The registration of a hazardous waste transporter is non-transferable and fees are not refundable. The biennial registration fees are as follows:

- i. Each hazardous waste cab: (\$20.00 for calendar year 2002) \$40.00;
- ii. Each hazardous waste transport unit, either detachable or with a permanently attached hazardous waste

cab, having a capacity less than or equal to one ton (one ton = one cubic yard = 200 gallons): (\$85.00 for calendar year 2002) \$170.00;

iii. Each hazardous waste transport unit without a hazardous waste trailer having a capacity greater than one ton (one ton = one cubic yard = 200 gallons): (\$117.00 for calendar year 2002) \$234.00; and

iv. Each hazardous waste transport cab with permanently attached hazardous waste transport unit with a capacity greater than one ton (one ton = one cubic yard = 200 gallons): (\$137.00 for calendar year 2002) \$274.00.

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

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

Rewrote (a).

Amended by R.2002 d.140, effective May 6, 2002.

See: 33 N.J.R. 3794(a), 34 N.J.R. 1669(b).

Rewrote section.

Amended by R.2003 d.454, effective November 17, 2003.

See: 35 N.J.R. 321(a), 35 N.J.R. 5268(b).

Rewrote (c).

Amended by R.2007 d.350, effective November 5, 2007.

See: 39 N.J.R. 1953(a), 39 N.J.R. 4834(a).

Deleted former (f); and recodified former (g) as (f).

#### Case Notes

Hazardous waste transporter fees authorized under Solid Waste Management Act were not a form of hidden tax revenue production. *American Trucking Associations, Inc. v. State*, 324 N.J.Super. 1, 734 A.2d 314 (N.J.Super.A.D. 1999).

#### 7:26G-3.4 Exemption from fee payment

(a) Conditionally exempt small quantity generators meeting the requirements of N.J.A.C. 7:26G-5 are exempt from the manifest processing fee.

(b) Transporters acting as the generator on the manifest when picking up waste from a conditionally exempt small quantity generator are exempt from the manifest processing fee.

(c) Hazardous waste facilities which accept waste from out-of-State conditionally exempt small quantity generators are exempt from the manifest processing fee for those manifested shipments only.

#### 7:26G-3.5 (Reserved)

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".

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

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

(a) This subchapter incorporates by reference up to November 5, 2007 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. "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 rulemaking will be subject to N.J.A.C. 1:30, Rules for Rulemaking. All petitions for rulemaking are governed by N.J.A.C. 1:30-3.6 and 7:1D-1.1.";

6. 260.21(b), delete "\$ 260.20(b)" and replace with "N.J.A.C. 7:1D-1.1 and 1:30-3.6";