

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;

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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.

“Commercial hazardous waste facility” means any hazardous waste facility which accepts hazardous waste from more than one inter-company generator for treatment, storage or disposal at a site other than where the hazardous waste was generated.

“Commingling” means the transferring, bulking, or mixing of hazardous waste from one or more hazardous waste packages, containers, transport units or transport vehicles into another.

“Commissioner” means the Commissioner of the New Jersey Department of Environmental Protection.

“Compliance inspection” is a site inspection performed by a representative of the Department’s hazardous waste enforcement program of a generator, transporter, or facility to verify compliance with previously cited violations.

“Compliance review” is an analysis conducted by a representative of the hazardous waste enforcement program at one of the Department’s enforcement field offices to verify compliance with cited violations where the generator, transporter or facility has submitted written material for review. An example is where a contingency plan or personnel training plan has been submitted in response to violations discovered during a previously conducted initial inspection.

“Consignment state” means the state in which the designated facility is located.

“Consolidation” means the movement of closed containers of hazardous waste from one hazardous waste transport unit or transport vehicle to another.

“Department” or “DEP” means the New Jersey Department of Environmental Protection.

“Department of Transportation” or “DOT” means the “U.S. Department of Transportation”.

“Destination facility” means a facility that treats, disposes of, or recycles a particular category of universal waste, except those management activities described in N.J.A.C. 7:26A-7.2(d)1 and (d)3 and 7.3(d)1 and (d)3. A facility at which a particular category of universal waste is only accumulated, is not a destination facility for purposes of managing that category of universal waste.

“Director” as used in the provisions of the Code of Federal Regulations which are incorporated by reference, means the Director of the Division of Solid and Hazardous Waste of the New Jersey Department of Environmental Protection or his designee, except when specifically noted.

“Environmental and Health Impact Statement” means a statement as to the realistically identifiable, probable impact of the proposed hazardous waste facility upon the geology, soils, hydrology, air quality, ecology, land use, socioeconomics, aesthetics, history and archeology; a listing of adverse environmental impacts which cannot be avoided; a description of the steps to be taken to minimize adverse environmental impacts during construction and operation both at the project site and in the surrounding region; and a reference list of pertinent published information relating to the project, the project site and the surrounding region.

“Generator inspection” is an inspection of a generator as defined at 40 C.F.R. 260.10 who generates 100 kilograms or more, but less than 1,000 kilograms of non-acutely toxic hazardous waste per month and less than one kilogram of acute hazardous waste per month; and those who generate less than 100 kilograms per month non-acutely toxic hazard-

ous waste, less than one kilogram of acute hazardous waste, but accumulate greater than 1,000 kilograms and less than 6,000 kilograms of non-acutely toxic hazardous waste at any one period of time. A generator’s category will be based upon hazardous waste manifest history and the quantity of hazardous waste present at the facility at the time of inspection by enforcement personnel.

“Hazardous waste cab” means any powered device to which a hazardous waste transport unit can be attached for transporting hazardous waste off-site or to a hazardous waste facility by road.

“Hazardous waste transport unit” means any portable non-powered device that is used to contain and transport hazardous waste off-site or to a hazardous waste facility by road, rail, water, or air and that is not normally disposed of with the waste. Hazardous waste transport unit includes, but is not limited to, roll-off containers, hoppers/dumpsters, rail cars, barges, trailer boxes/vans, trailer dumps, trailer tanks, and trailer vacs.

“Hazardous waste vehicle” means any self-propelled device that is used to move hazardous waste off-site or to a hazardous waste facility by road. Hazardous waste vehicle is any combination of hazardous waste cab and transport unit, whether detachable or permanently attached, and includes, but is not limited to, straight boxes/vans, straight dumps, straight tanks, straight vacs, straight roll-offs, and pick-up trucks.

“HSWA” means the 1984 Hazardous and Solid Waste Amendments to the Resource Conservation and Recovery Act.

“Large quantity generator inspection” is an inspection of a generator who generates 1,000 kilograms or more of non-acutely toxic hazardous waste per month, or one kilogram of acutely hazardous waste per month; and those who generate less than these amounts but accumulate greater than 6,000 kilograms of non-acutely toxic hazardous waste at any one period of time. A generator’s category will be based upon hazardous waste manifest history and the quantity of hazardous waste present at the facility at the time of inspection by enforcement personnel.

“Major commercial hazardous waste facility” is defined at N.J.S.A. 13:1E-42.1 and 51 as “any commercial hazardous waste facility which has a total capacity to treat, store or dispose of more than 250,000 gallons of hazardous waste, or the equivalent thereof, as determined by the Department, except that any facility which would otherwise be considered a major hazardous waste facility pursuant to this section solely as the result of the recycling or re-refining of any hazardous wastes which are or contain gold, silver, osmium, platinum, palladium, iridium, rhodium, ruthenium or copper shall not be considered a major hazardous waste facility for the purposes of this Act.”

“Non-major commercial hazardous waste facility” is a commercial hazardous waste facility which does not have a total capacity to treat, store or dispose of less than or equal to 250,000 gallons of hazardous waste, or the equivalent thereof, as determined by the Department.

“Non-commercial hazardous waste facility” means any area, plan or other facility for the treatment, storage or disposal of hazardous waste which is not a commercial hazardous waste facility.

“Permit” means the approval issued by the Department to construct and/or operate a hazardous waste facility and shall mean the approved registration statement and engineering design approval described in the Solid Waste Management Act.

“Pesticide” means any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest, or intended for use as a plant regulator, defoliant, or desiccant, other than any article that:

1. Is a new animal drug under FFDCRA section 201(w); or
2. Is an animal drug that has been determined by regulation of the Secretary of Health and Human Services not to be a new animal drug; or
3. Is an animal feed under FFDCRA section 201(x) that bears or contains any substances described by paragraph 1 or 2 of this definition.

“Prime contractor” means any person who enters into an oral or written agreement to store, collect, process, transfer, treat, or dispose of hazardous waste in this State through the use, control or possession of any cab, vehicle, trailer, container, transport unit or single-unit vehicle.

“Resource Conservation and Recovery Act,” “RCRA,” “Subtitle C of RCRA,” “RCRA Subtitle C,” “Subtitle C” or “the Act” as used in the provisions of the Code of Federal Regulations which are incorporated by reference, when referring to either an operating permit or to the Federal hazardous waste program as a whole (that is, not a specific provision of RCRA), mean the New Jersey Solid Waste Management Act, N.J.S.A. 13:1E-1 et seq. or any other comparable provision of New Jersey’s statutes and implementing regulations, except when specifically noted, then it means the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended, 42 U.S.C. §§ 6901 et seq. When the Federal language incorporated by reference refers to a specific provision of RCRA (except after references to RCRA section 3008 and 3008(h)) add the phrase “or any comparable provisions of New Jersey’s statutes and implementing regulations”. After references to RCRA sections 3008 and 3008(h) add the phrase “or N.J.S.A. 13:1E-9 or any other comparable provisions of New Jersey’s statutes and implementing regulations.”

“Registrant” means an applicant who has obtained an approved registration statement and who has registered hazardous waste vehicles (the hazardous waste cab and transport unit individually if detachable).

“Recycling or reclamation facility” means any place, equipment or plant designed and/or operated for the purpose of recycling or reclamation, to collect, store, process or to redistribute separated waste so as to return the material to market.

“Regional Administrator” as used in the provisions of the Code of Federal Regulations which are incorporated by reference, means the Director of the Division of Solid and Hazardous Waste of the New Jersey Department of Environmental Protection or his or her designee, except when specifically noted, then it means the Regional Administrator for the EPA Region in which the facility is located or his or her designee.

“Registration statement” means an application for approved registration executed on forms provided by the Department and containing such information as may be required.

“State CAA Director” as used in 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.

“State Director” or “State RCRA Director” as used in 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.

“Subcontractor” means any person who engages in the storage, collection, processing, transfer, treatment, or disposal of hazardous waste in this State through the use, control or possession of any cab, vehicle, trailer, container, transport unit or single-unit vehicle pursuant to an oral or written agreement entered into by or on behalf of another person.

“Thermostat” means a temperature control device that contains metallic mercury in an ampule attached to a bimetal sensing element, and mercury-containing ampules that have been removed from these temperature control devices in compliance with the requirements of N.J.A.C. 7:26A-7.2(d)3ii or 7.3(d)3ii.

“Universal waste” means any of the following hazardous wastes that are managed under the universal waste requirements of N.J.A.C. 7:26A-7:

1. Batteries as described in N.J.A.C. 7:26A-7.1(b);
2. Pesticides as described in N.J.A.C. 7:26A-7.1(c); and
3. Thermostats as described in N.J.A.C. 7:26A-7.1(d).

“Universal waste handler” means a generator (as defined in 40 C.F.R. § 260.10) of universal waste or the owner or operator of a facility, including all contiguous property, that receives universal waste from other universal waste handlers, accumulates universal waste, and sends universal waste to another universal waste handler, to a destination facility, or to a foreign destination. Universal waste handler does not mean a person who treats (except under the provisions of N.J.A.C. 7:26A-7.2(d) or 7.3(d)), disposes of, or recycles universal waste or a person engaged in the off-site transportation of universal waste by air, rail, highway, or water, including a universal waste transfer facility.

“Universal waste transporter” means a person engaged in the off-site transportation of universal waste by air, rail, highway or water.

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

Added definitions “battery”, “destination facility”, “pesticide”, “thermostat”, “universal waste”, “universal waste handler”, and “universal waste transporter”.

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

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

Inserted “State CAA Director”; and changed “State Director” definition to “State Director” or “State RCRA Director”.

#### **7:26G-4.3 Petitions to amend N.J.A.C. 7:26A-7 to include additional hazardous wastes**

(a) Any person seeking to add a hazardous waste or a category of hazardous waste to the universal waste regulations of N.J.A.C. 7:26A-7 may petition for a regulatory amendment under this section, 40 C.F.R. 260.20 as incorporated by reference herein, and N.J.A.C. 7:26A-7.

(b) To be successful, the petitioner must demonstrate to the satisfaction of the Department that regulation under the universal waste regulations of N.J.A.C. 7:26A-7 is appropriate (in accord with the reasons for establishing the universal waste system as set forth in 60 F.R. 25492, May 11, 1995) for the waste or category of waste; will improve management practices for the waste or category of waste; and will improve implementation of the hazardous waste program. The petition shall include the information required by 40 C.F.R. 260.20(b) as incorporated by reference herein. The petition should also address as many of the factors listed in N.J.A.C. 7:26A-7.7(b) as apply to the waste or category of waste addressed in the petition.

(c) The Department shall grant or deny a petition using the factors listed in N.J.A.C. 7:26A-7.7(b). The decision will be based on the weight of evidence showing that regulation under N.J.A.C. 7:26A-7 is appropriate for the waste or category of waste, will improve management practices for the waste or category of waste, and will improve implementation of the hazardous waste program.

(d) The Department may request additional information needed to evaluate the merits of the petition.

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

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

## **SUBCHAPTER 5. IDENTIFICATION AND LISTING OF HAZARDOUS WASTE**

### **7:26G-5.1 Incorporation by reference**

(a) This subchapter incorporates by reference up to July 31, 1998 and prospectively incorporates by reference 40 C.F.R. Part 261, Federal Regulations on Identification and Listing of Hazardous Waste, and its appendices, as amended and supplemented, except as provided in (b) and (c) below.

(b) The following provisions of 40 C.F.R. Part 261 are not incorporated by reference: 40 C.F.R. Part 261 Appendix IX.

(c) The following provisions of 40 C.F.R. Part 261 are incorporated by reference with the specified changes:

1. Operative dates of regulations first promulgated by EPA are determined as follows:

i. Operative dates of rules originally promulgated by USEPA under the authority of the Hazardous and Solid Waste Amendments (HSWA) and incorporated by reference on October 21, 1996, shall not be altered, because these rules are operative in all states at the time of adoption.

ii. Operative dates of rules incorporated by reference on October 21, 1996, originally promulgated by USEPA under the authority of the Resource Conservation and Recovery Act (RCRA), shall be removed and replaced with October 21, 1996, because these rules are not operative in authorized states until state adoption of the rules.

iii. Operative dates of rules incorporated by reference after October 21, 1996, but prior to August 1, 1998, originally promulgated by USEPA under the authority of the Resource Conservation and Recovery Act (RCRA), shall be removed and replaced with January 19, 1999, because these rules are not operative in authorized states until state adoption of the rules.

iv. Operative dates of rules incorporated through prospective incorporation by reference shall become operative in accordance with N.J.A.C. 7:26G-1.4(k) and (l).

v. See 40 C.F.R. 271.1 Table 1, which lists all HSWA regulations. Other regulations are promulgated under RCRA.

2. The phrase “in the Region where the sample is collected” shall be omitted from 40 C.F.R. 261.4(e)(3)(iii).

3. 40 C.F.R. 261.5(c)(4), replace "40 C.F.R. Part 279" with "N.J.A.C. 7:26A-6";

4. 40 C.F.R. 261.5(c)(6), replace "40 C.F.R. Part 273" with "N.J.A.C. 7:26A-7";

5. 40 C.F.R. 261.5(f)(3)(vii), replace "part 273 of this chapter" with "N.J.A.C. 7:26A-7";

6. 40 C.F.R. 261.5(g)(3)(vii), replace "part 273 of this chapter" with "N.J.A.C. 7:26A-7";

7. 40 C.F.R. 261.5(j), replace "part 279 of this chapter" with "N.J.A.C. 7:26A-6";

8. 40 C.F.R. 261.6(a)(5), replace "State requirements analogous to 40 C.F.R. Part 273." with "N.J.A.C. 7:26A-7";

9. 40 C.F.R. 261.9, replace "part 273 of this chapter" with "N.J.A.C. 7:26A-7" and replace "under 40 C.F.R. part 273:" with "at N.J.A.C. 7:26A-7";

10. 40 C.F.R. 261.9(a), replace "40 C.F.R. 273.2" with "N.J.A.C. 7:26A-7.1(b)";

11. 40 C.F.R. 261.9(b), replace "40 C.F.R. 273.3;" with "N.J.A.C. 7:26A-7.1(c)";

12. 40 C.F.R. 261.9(c), replace "40 C.F.R. 273.4." with "N.J.A.C. 7:26A-7.1(d).";

13. 40 C.F.R. 261.38(c)(1)(i), after "State RCRA and CAA Directors," remove "in Authorized States or Regional RCRA and CAA Directors in Unauthorized States";

14. 40 C.F.R. 261.38(c)(1)(i)(A), after "The generator must submit a one-time notice to the," remove "Regional or";

15. 40 C.F.R. 261.38(c)(1)(ii)(E), after "Name and mailing address of the," remove "Regional or State Directors" and insert "State Director."

(d) When used in the following Federal citations, the term "Administrator" shall mean the Administrator of the United States Environmental Protection Agency or his or her designee: 40 C.F.R. 261.10 and 11.

(e) When used in the following Federal citations, the term "EPA" means the United States Environmental Protection Agency: 40 C.F.R. 261.3(a)(2)(v), 261.6(a)(3)(i)(A), 261.6(a)(3)(i)(B), 261.22(a)(1) and (2), 261.22(b), 261.24(a), 261.24(b), 261.38 footnotes to Table 1, and 261.38(c)(1)(i)(C)(2).

(f) When used in the following Federal citation, the term "Regional Administrator" shall not be substituted by a state term, but shall retain its meaning: 40 C.F.R. 261.4(f)(1).

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

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

Inserted (b).

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

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

Rewrote the section.

## 7:26G-5.2 (Reserved)

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

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

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

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

Section was "Additional special requirements for hazardous waste generated by conditionally exempt small quantity generators".

## 7:26G-5.3 (Reserved)

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

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

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

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

Section was "Requirements for universal waste".

## 7:26G-5.4 Swine food

Pursuant to the Solid Waste Management Act, the definition of solid waste shall not include solid animal or vegetable wastes collected by swine producers, licensed by the State Department of Agriculture, who collect, prepare and feed such wastes to swine on their own farms.

## SUBCHAPTER 6. STANDARDS APPLICABLE TO GENERATORS OF HAZARDOUS WASTE

### 7:26G-6.1 Incorporation by reference

(a) This subchapter incorporates by reference up to July 31, 1998 and prospectively incorporates by reference 40 C.F.R. Part 262, Federal regulations on the standards applicable to generators of hazardous waste, as amended and supplemented, except as provided in (b) and (c) below.

(b) The following provisions of 40 C.F.R. Part 262 are not incorporated by reference: Appendix to Part 262—Uniform hazardous waste manifest and instructions for EPA Form 8700-22 only.

(c) The following provisions of 40 C.F.R. Part 262 are incorporated by reference with the specified changes:

1. 40 C.F.R. 262.10(g), after "penalties prescribed in section 3008 of the Act" add ", and N.J.S.A. 13:1E-9 and N.J.A.C. 7:26G-2";

2. 40 C.F.R. 262.11, delete the language at paragraph "(d)" and replace it with the following: "If the waste is determined to be hazardous, the generator shall refer to N.J.A.C. 7:26G-5, 8 through 11, and N.J.A.C. 7:26A-7 for possible exclusions or restrictions pertaining to management of the specific waste.";

3. 40 C.F.R. 262.20(a), after “according to the instructions included in the appendix to part 262” add “for EPA form 8700-22A, and for EPA form 8700-22, according to the instructions in the appendix to N.J.A.C. 7:26G-6. If an out-of-state manifest is used, the generator shall complete Items A-K of the manifest even if the instructions on the back of the out-of-state manifest do not address these shaded portions.”;

4. 40 C.F.R. 262.21(a), at the end of the paragraph add “If the consignment State for the shipment is New Jersey, the generator shall use the manifest supplied by the Department.”;

5. 40 C.F.R. 262.21(b), at the end of the paragraph add “In these situations, the generator shall use the manifest supplied by the Department.”;

6. 40 C.F.R. 262.23(a)(3), after “in accordance with 262.40(a)” add “and forward one copy to the generator State and one copy to the consignment State”;

7. 40 C.F.R. 262.23, after “subsection (e)”, add new subsection “(f) The generator is responsible for assuring that the Department and the consignment state receive copies of the completed manifest containing the handwritten signature of the owner or operator of the designated facility. If the designated facility is located in a state that does not mandate its facilities to return copies of the completed manifests to the generator state and the consignment state, the generator must so distribute these copies. The generator may provide photocopies to satisfy this requirement, if the manifest form provided by the consignment State does not contain a sufficient number of copies. In the case of an interstate shipment for which the manifest has not been returned, the Department will provide notification to the consignment state and to the State in which the shipment may have been delivered (or to EPA, in the case of unauthorized states)”;

8. 40 C.F.R. 262.32(b), remove 110 and replace with 119; after “HAZARDOUS WASTE—Federal” add “and/or State”; after “If found, contact the nearest police or public safety authority or the U.S. Environmental Protection Agency” add “or the New Jersey Department of Environmental Protection”; before “Manifest Document Number” add “State”;

9. 40 C.F.R. 262.40(a), after “signed in accordance with § 262.23(a) for three years” delete “or until he receives a signed copy from” and replace with “and a signed copy from the owner or operator of the”;

10. 40 C.F.R. 262.41(a), delete “EPA Form 8700-13A” and replace with “forms approved by the Department”;

11. 40 C.F.R. 262.42(a)(1), after “to determine the status of the hazardous waste” add “and contact the Department at 609-292-7081 to inform the Department of the situation”;

12. 40 C.F.R. 262.42(a)(2), after “must submit an exception report to the EPA Regional Administrator” delete “for the Region in which the generator is located”;

13. 40 C.F.R. 262.43, delete “sections 2002(a) and 3002(6) of the Act” and replace with “N.J.S.A. 13:1E-1 et seq., N.J.S.A. 13:1D-1 et seq., or any comparable provisions of New Jersey’s statutes and implementing regulations”;

14. 40 C.F.R. 262.54(e). Delete the last sentence of the paragraph and replace with “For all export shipments, the primary exporter shall obtain the manifest from the Department.”;

15. 40 C.F.R. 262.60(c). Delete the last sentence of the paragraph and replace with “For all import shipments, the person who imports the waste shall obtain the manifest from the Department.”;

16. 40 C.F.R. 262.10(d), replace “State requirements analogous to 40 C.F.R. 273” with “N.J.A.C. 7:26A-7”;

17. 40 C.F.R. 262.80(a), replace “State requirements analogous to 40 C.F.R. 273.” with “N.J.A.C. 7:26A-7.”;

18. 40 C.F.R. 262.89(a)2, replace “State requirements analogous to 40 C.F.R. 273.” with “N.J.A.C. 7:26A-7.”

(d) When used in the following Federal citations, the term “Environmental Protection Agency” shall not be replaced with a State term, but shall retain its meaning: 40 C.F.R. 262.53(b), 262.56(b), 262.81(k), 262.83(b)(1)(i), 262.83(b)(2)(i), 262.84(e), 262.85(g), 262.87(a) and 262.89(e).

(e) When used in the following Federal citations, the term “Administrator” means the Administrator of the United States Environmental Protection Agency or his or her designee: 40 C.F.R. 262.11(c)(1), 262.12(a), 262.12(b), 262.55, 262.56, 262.57, and 262.80 through 262.89.

(f) When used in “EPA identification number,” “EPA form,” “EPA hazardous waste number,” “US EPA ID number,” “EPA Acknowledgment of Consent” and in the following Federal citations, the term “EPA” means the United States Environmental Protection Agency: 40 C.F.R. 262.51, 262.53, 262.54, and 262.80 through 89.

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

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

Inserted (c)2 and (d).

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 (c), changed C.F.R. reference in 1, and added 16 through 18; rewrote (d); in (e) and (f), changed C.F.R. references; and in (f), inserted a reference to “EPA Acknowledgement of Consent”.

#### 7:26G-6.2 Waste code(s)

(a) The proper waste code(s) that accurately describe the shipment of hazardous waste shall be entered on the Haz-

ardous Waste Manifest and determined according to the following hierarchy:

Table A. Wastes which can be described only by one or more Federal F, K, P, or U codes (40 C.F.R. 261.31 through 261.33 as incorporated by reference at N.J.A.C. 7:26G-5)

Waste composition	Manifest completion	
	Item I	Item J
1. One F, K, P, or U waste	Use the applicable F, K, P or U code	
2. Mixture of two or more F, K, P, and/or U wastes	Use the listed code for the component forming the highest percentage by weight or volume of the total waste depending on units reported in Item 14	All other acutely hazardous listed codes

Table B. Wastes which can be described by Federal F, K, P, or U codes and Federal characteristic (D) code(s) (40 C.F.R. 261.31 through 261.33 and 40 C.F.R. 261.21 through 261.24 respectively, as incorporated by reference at N.J.A.C. 7:26G-5)

Waste composition	Manifest completion	
	Item I	Item J
1. One F, K, P, or U waste that exhibits RCRA characteristic(s) (D wastes)	F, K, P or U code	
2. Mixture of two or more F, K, P, or U wastes which exhibits RCRA characteristic(s) (D wastes)	F, K, P or U code for the listed waste forming the highest percentage by weight or volume of the total waste depending on the units reported in Item 14	all other acutely hazardous listed code(s)

Table C. Waste is not Federal F, K, P, or U code but displays one or more Federal characteristics (D waste) (40 C.F.R. 261.31 through 261.33 and 40 C.F.R. 261.21 through 261.24 respectively, as incorporated by reference at N.J.A.C. 7:26G-5)

Waste composition	Manifest completion	
	Item I	Item J
1. Waste displays only one characteristic	D code for the characteristic	
2. Waste displays multiple characteristics	D code for the first characteristic displayed according to the following order: 1. Ignitability 2. Reactivity 3. Corrosivity 4. TC toxicity	

### 7:26G-6.3 Rejected loads

(a) If all or part of a shipment of hazardous waste is rejected by a hazardous waste facility or if a transporter is unable to deliver a shipment of hazardous waste to the designated hazardous waste facility, the hazardous waste facility owner or operator, the transporter, and the generator shall comply with the following requirements:

1. If all or part of the shipment of hazardous waste is immediately rejected by the hazardous waste facility or if the transporter is unable to deliver the shipment of hazardous waste to the designated hazardous waste facility, the transporter shall contact the generator, who shall instruct the transporter to return the shipment to the generator or to deliver the shipment to an alternate hazardous waste facility.

i. If the shipment of hazardous waste is returned to the generator, the Manifest shall be completed as follows:

(1) In the Discrepancy Indication space of the Manifest, the facility operator shall indicate the reason(s) for the rejection and that the waste is to be returned to the generator. The facility operator shall complete, sign and date the Certification of Receipt (Section 20) on the Manifest;

(2) The transporter shall receive manifest copies 1, 2, 3, and 5 from the facility operator and shall return the shipment to the generator. The facility operator shall retain manifest copy 4;

(3) The generator, upon receiving the rejected shipment, shall certify the return receipt (signature and date) in the Special Handling Instructions and Additional Information section of the Manifest;

(4) The generator shall then distribute manifest copies 1, 2, 3, and 5 as indicated on the form, except that if the shipment was rejected by an out-of-state facility which did not return the manifest copies 1, 2, 3, and 5, the generator shall notify the consignment state and the generator state of receipt of the waste and shall provide those states with a photocopy of the generator's manifest copy; and

(5) The generator shall arrange to dispose of the waste at an authorized facility using another manifest in accordance with this subchapter.

ii. If the shipment of hazardous waste is delivered to an alternate hazardous waste facility, the Manifest shall be completed as follows:

(1) The designated facility operator shall indicate the reason(s) for the rejection and that the waste is to be shipped to an alternate facility in the Discrepancy Indication space of the Manifest. The designated facility operator shall complete, sign, and date the Certification of Receipt (Section 20) on the Manifest;

(2) The transporter shall indicate the alternate facility's name, address, EPA Identification Number, and telephone number in the Special Handling Instruction and Additional Information section;

(3) The designated facility operator shall photocopy the manifest and retain the copy;

(4) After receipt of the original manifest copies 1, 2, 3, 4, and 5 from the designated facility operator, the transporter shall transport the hazardous waste to the indicated alternate authorized facility;

(5) Upon receipt of the originally rejected shipment, the alternate facility operator shall certify receipt (signature and date) in Section 15 of the Manifest; and

(6) The alternate facility operator shall then distribute manifest copies 1, 2, 3, and 5 and retain copy 4.

2. If a hazardous waste facility rejects all or part of a shipment of hazardous waste after the Manifest has been distributed by the facility, the hazardous waste facility owner or operator, the transporter, and the generator shall comply with the following requirements:

i. The owner or operator of the hazardous waste facility shall describe the nature of the rejection in Section 19 of the facility's manifest copy;

ii. The owner or operator of the hazardous waste facility shall ship the waste to the generator with three photocopies of the revised manifest, each copy to be signed by the owner or operator, the transporter returning the hazardous waste to the generator, and the generator;

iii. The generator shall retain one copy of the revised signed manifest, return one copy to the transporter returning the hazardous waste to the generator, and return one copy to the owner or operator of the hazardous waste facility;

iv. The owner or operator shall notify the generator state and the consignment state of the rejection by sending to each state a photocopy of the revised signed manifest copy, returned to the owner or operator by the generator in accordance with (a)2iii above, showing that the generator received the waste; and

v. The owner or operator, the generator, and the transporter returning the hazardous waste to the generator shall each retain a copy of the revised, signed manifest.

(b) If a shipment of hazardous waste is rejected by a designated facility after a transporter has mixed or commingled hazardous waste, the transporter shall accept the return shipment of the rejected wastes.

(c) If a transporter accepts a return shipment of rejected wastes under (b) above, the transporter shall:

1. Promptly place and secure the rejected waste in a transfer facility; and

2. Make arrangements with an authorized facility to receive and manage the commingled waste.

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

## SUBCHAPTER 7. STANDARDS APPLICABLE TO TRANSPORTERS OF HAZARDOUS WASTE

### 7:26G-7.1 Incorporation by reference

(a) This subchapter incorporates by reference up to July 31, 1998 and prospectively incorporates by reference 40 C.F.R. Part 263 Federal regulations on the standards applicable to transporters of hazardous waste, as amended and supplemented, except as provided in (b) and (c) below:

(b) The following provisions of 40 C.F.R. Part 263 will not be incorporated: 40 C.F.R. 263.12.

(c) The following provisions of 40 C.F.R. 263 are incorporated by reference with the specific changes:

1. 40 C.F.R. 263.10(c)2, replace "of different DOT shipping descriptions by placing them into a single container" with "and has the shipment of hazardous waste rejected by the designated facility. The transporter shall comply with the requirements at N.J.A.C. 7:26G-6.3(b)-(c) and will not be subject to the provisions at § 262.34."

2. 40 C.F.R. 263.30(a), after "local authorities" add "[including the Department at 609-292-7172 (if this number is inoperable, notify the New Jersey State Police at 609-882-2000)]".

3. 40 C.F.R. 263.10(d), replace "State requirements analogous to 40 C.F.R. Part 273" with "N.J.A.C. 7:26A-7."

(d) When used in the following citations, the term "Administrator" means the Administrator of the Environmental Protection Agency or his designee: 40 C.F.R. 263.11.

(e) When used in the following citations, the term "EPA" means the United States Environmental Protection Agency: 40 C.F.R. 263.11, 263.20(a), 263.20(c), 263.20(e)(2) and 263.20(f)(2).

(f) When used in EPA acknowledgment of consent, the term "EPA" means the United States Environmental Protection Agency.

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 (c), added 3; and added (f).

### 7:26G-7.2 Registration statement and registration requirements

(a) Registration statement approval, renewal, and revocation requirements are as follows:

1. Prior to operation, a hazardous waste transporter shall obtain an approved registration statement from the Department.

2. The application for an approved registration statement shall be executed on forms provided by the Department, and shall state such information as required below, as well as any additional information that the Department may require from a specific applicant. This information includes the following:

i. Proof of compliance with the minimum financial responsibility requirements covering public liabilities, property damage and environmental restoration set out at 49 C.F.R. Part 387;

ii. Disclosure of any conviction for any criminal offense during the 10 year period prior to application for a license under state or Federal law for acts involving the illegal storage, transportation or disposal of hazardous waste against any owner, officer, or employee of the firm seeking a license;

iii. Vehicle identification numbers and license plate numbers;

iv. For any leased hazardous waste vehicles (hazardous waste cab and transport unit individually if detachable), a copy of the Motor Vehicle Registration card, a copy of the lease which meets the requirements of (a)11 below, a sworn affidavit described at (a)12 below, and certification described at (a)13 below; and

v. For those transporters intending to operate a hazardous waste transfer facility pursuant to N.J.A.C. 7:26G-7.4, the address of each such facilities and an indication whether each property, where the transfer facility is to be located, is owned or leased by the transporter. For any leased property, a copy of the written lease.

3. Any person who files an application for an approved registration statement shall also submit the disclosure statement described in N.J.A.C. 7:26-16.4. The requirement of a disclosure statement shall not apply to any person specifically exempted under N.J.A.C. 7:26-16.3(d).

4. Any applicant who claims to be exempted under N.J.A.C. 7:26-16.3(d) from the requirement of a disclosure statement shall submit an affidavit stating the basis for the claim. The applicant claiming the exemption shall also file an alternative information statement on forms supplied by the Department, containing the following information:

i. The names and addresses of all officers, director or partners of any business concern seeking a license and all persons or business concerns holding more than 10 percent of the equity in or more than 10 percent of the liability of the business concern seeking a license;

ii. The names and addresses of all officers, directors, or partners of any business concern disclosed pursuant to (a)4i above and all persons holding more than 10 percent equity share in or more than 10 percent of the debt liability of any business concern disclosed pursuant to (a)4i above;

iii. The name and address of any company in the field of hazardous waste management in which the business concern seeking a license or officers, directors, or partners of the business concern hold an equity interest;

iv. A description of the experience, credentials, and licenses in the field of hazardous waste management possessed by the key employees, officers, directors, or partners of the business concern seeking a license;

v. A listing and explanation of any notices, administrative orders or license revocations issued by any state or Federal authority citing a violation of any administrative rule relating to hazardous waste management against the business concern seeking a license or against any key employee, officer, director, or partner of the business concern;

vi. A listing and explanation of any judgement of liability or conviction under State or Federal statute or local ordinance concerning hazardous waste management against the business concern seeking a license or against any key employee, officer, director, or partner of the business concern; and

vii. Any other information the Department may require that relates to the competency or reliability of the applicant.

5. Every hazardous waste approved registration statement issued by the Department shall indicate on its face an annual renewal/expiration date, which, unless otherwise established by the Department, shall be September 30. The approved registration statement shall expire on the renewal date unless renewed pursuant to this paragraph. Prior to October 1 in each calendar year or such other date as the Department may establish, each registrant shall submit to the Department a registration statement updating the information contained in the previous registration statement. Such information shall be submitted on forms supplied by the Department. Transporters who are also the owner or operator of one or more hazardous waste transfer facilities shall include on the registration statement renewal the addresses of all such facilities and an indication whether each property, where the transfer facility is to be located, is owned or leased by the transporter. For any leased property, a copy of the written lease. In no case shall the submission of an updated registration statement alter the conditions under which the approved registration statement was granted.

6. The failure to submit updated registration statement and all applicable fees (see N.J.A.C. 7:26G-3) on or before October 1 in each calendar year or the failure to submit an updated disclosure statement pursuant to N.J.A.C. 7:26-16 and all applicable fees or the failure to comply with a final order of the Department shall be sufficient cause for the Department to revoke the approved registration or to declare it expired. Any registrant who receives a notice of intent to revoke or to declare an approved registration expired, shall have 15 days from receipt of the notice to submit to the Department a request for a hearing pursuant to N.J.A.C. 7:26G-2.3.

7. Except for information regarding the operation of hazardous waste transfer facilities, a registrant shall notify the Department in writing within 30 days of change of information supplied on the current registration statement, or on any leases submitted for registered hazardous waste vehicles (hazardous waste cab and transport unit

individually if detachable), or on any documentation of employment of the operators of leased equipment submitted pursuant to (a)11 below. Written notifications regarding transfer facilities shall occur prior to operations and include the following information: the address of each such facilities and an indication whether each property, where the transfer facility is to be located, is owned or leased by the transporter. For any leased property, a copy of the written lease.

8. No person shall be issued a hazardous waste approved registration statement nor shall any hazardous waste approved registration statement be renewed, if the applicant has failed to provide the accurate and complete information required on the application for issuance or the updating hazardous waste transporter registration statement for renewal.

9. No person shall be issued a hazardous waste approved registration statement if that person is disqualified for any of the reasons set forth in N.J.A.C. 7:26-16.8.

10. The Department, after notice and opportunity for hearing pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1, may revoke the approved registration statement of a hazardous waste transporter for the causes listed in this paragraph which are in addition to, and not a limitation of, any disqualifying reasons set forth in N.J.A.C. 7:26-16.8 and 16.9:

i. Failure to maintain the financial responsibility requirements as required above;

ii. Violation of any applicable provision of the Solid Waste Management Act (N.J.S.A. 13:1E-1 et seq.), this chapter, any administrative order issued by the Department or any environmental protection statute or implementing regulations of this State;

iii. A pattern of violations of the environmental protection statutes or regulations of this or any other State, or the Federal government; or

iv. Failure to submit updated information for the registration statement renewal or to submit the appropriate fee.

11. An applicant who files a lease in connection with the registration statement for a hazardous waste vehicle (hazardous waste cab and transport unit individually if detachable) which the applicant will operate shall ensure that such lease is signed and dated by the parties thereto, provides for the exclusive use, control and possession by the applicant during the lease and also includes:

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

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

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

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

v. A provision that the lease shall not be assigned to any person.

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

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

13. An applicant who files a lease in connection with the registration statement for a hazardous waste vehicle (hazardous waste cab and transport unit individually if detachable) which an employee of the applicant will operate shall certify that the operator of the hazardous waste vehicle (hazardous waste cab and transport unit individually if detachable) is or will become an employee of the applicant and will be under the exclusive management, direction, and control of the applicant. In addition, the applicant shall certify that the applicant is responsible to supervise, direct and control the hazardous waste activities to be performed by such an employee.

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

15. A person who has not obtained an approved registration statement shall not, through a subcontractor or any other means, engage or contract to engage in the transportation, storage, collection, processing, transfer, treatment, or disposal of hazardous waste in this State through the use, control or possession of any hazardous waste vehicle (hazardous waste cab and transport unit individually if detachable) registered to any other person, or through any other means.

16. A person is not required to obtain an approved registration from the Department solely because that person is transporting hazardous waste through New Jersey, if roadways or highways in New Jersey constitute a segment of such person's route, the hazardous waste being transported through New Jersey is not discharged from the hazardous waste vehicle, and hazardous waste from the person's hazardous waste vehicle is not collected, treated, processed, transferred, consolidated, commingled, or disposed of in New Jersey. Provided that these requirements are satisfied, the exemption from registration is not affected if the person's hazardous waste vehicle stops in New Jersey for any of the following reasons:

i. The vehicle suffers a mechanical breakdown which makes repair necessary;

ii. The operator of the hazardous waste vehicle must stop for a mandatory rest or break; or

iii. The operator of the hazardous waste vehicle temporarily stores hazardous waste at a hazardous waste transfer facility for 10 days or less in compliance with N.J.A.C. 7:26G-7.4.

(b) Hazardous waste vehicle registration requirements are as follows:

1. Any device used for the transportation of hazardous waste shall be registered with the Department as a hazardous waste vehicle (hazardous waste cab and transport unit individually if detachable).

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

3. The Department shall not issue a registration certificate and hazardous waste decal to any registrant who fails to submit the updated registration statement, the updated disclosure statement and the applicable fees (see N.J.A.C. 7:26G-3) on or before October 1.

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

5. New Jersey Department of Environmental Protection (NJDEP) hazardous waste transporter registration certificates and decals shall be void if altered. Department representatives shall confiscate altered or stolen hazardous waste transporter registration certificate and decals upon discovery.

6. All hazardous waste vehicles (the hazardous waste cab and transport unit individually if detachable) used in the transporting of hazardous waste shall properly and conspicuously display, on both sides of the vehicle, a current New Jersey hazardous waste decal and the New Jersey Department of Environmental Protection (NJDEP) registration number. The NJDEP registration number shall be in letters and numbers at least three inches in height. Current hazardous waste decals must be permanently affixed to each hazardous waste vehicle (the hazardous waste cab and transport unit individually if detachable) prior to use on a public roadway or highway and prior to the hazardous waste vehicle (the hazardous waste cab and transport unit individually if detachable) being placed into service or before receiving waste.

i. A copy of any lease filed in connection with the registration of the hazardous waste (the hazardous waste cab and transport unit individually if detachable) shall be carried within the vehicle at all times and available to the Department upon inspection or request.

ii. Only the current year's decals shall be displayed. For hazardous waste vehicles (the hazardous waste cab and transport unit individually if detachable) which are owned by the registrant, the registrant shall, upon the interruption or termination of the exclusive use, possession or control of any such equipment by the registrant, notify the Department, return the NJDEP registration certificate to the Department, and remove and destroy the NJDEP registration number and decals on such hazardous waste vehicles (the hazardous waste cab and transport unit individually if detachable). A registrant of hazardous waste vehicles (the hazardous waste cab and transport unit individually if detachable) which are leased shall, upon the expiration of the lease or upon the interruption or termination of the exclusive use, possession or control of any such equipment by the registrant, notify the Department, return the NJDEP registration certificate to the Department, and remove and destroy the NJDEP registration number and decals on such hazardous waste vehicles (the hazardous waste cab and transport unit individually if detachable).

#### 7:26G-7.3 Other requirements

(a) All hazardous waste transporters shall comply with the following United States Department of Transportation (USDOT) regulations, with all the modifications that the New Jersey Department of Transportation has made in incorporating them into N.J.A.C. 16:49-2.1, and that the

New Jersey State Police has made in incorporating them into N.J.A.C. 13:60-1.1:

1. The Hazardous Materials Regulations at 49 C.F.R. Parts 171 through 180, as amended and supplemented; and
2. The Motor Carrier Safety Regulations at 49 C.F.R. Parts 390 through 397, as amended and supplemented.

(b) The Department shall exercise fully its authority to enter and inspect vehicles transporting or registered to transport hazardous waste, while in operation on the highways of this State or areas incidental thereto, or at the premise or places of business of the owner or lessor of such vehicles.

(c) If the hazardous waste is rejected by the designated facility or if the transporter is unable to deliver the shipment of hazardous waste to the designated facility and no alternate facility is noted on the manifest, the transporter shall comply with all applicable transporter requirements at N.J.A.C. 7:26G-6.3(a).

#### 7:26G-7.4 Requirements for hazardous waste transfer facilities

(a) A hazardous waste transfer facility shall be operated by a licensed hazardous waste transporter, who owns or leases the property upon which the transfer facility is located. If the property is leased, the lease shall be a written agreement between the property owner and the licensed hazardous waste transporter which discloses the hazardous nature of the operation.

(b) Except during emergencies in transportation, hazardous waste storage, consolidation, or commingling may be conducted only at a hazardous waste transfer facility as described in (a) above or an authorized hazardous waste facility, which is designated on the manifest. Storage, consolidation, or commingling of hazardous waste in transit shall not occur except as authorized under this section, and within the time limits established in this section.

(c) The owner or operator of the hazardous waste transfer facility shall notify the Department in writing prior to conducting activities at the transfer facility. The owner or operator of hazardous waste transfer facility shall submit, as part of the initial transporter license application, the annual hazardous waste transporter license renewal at N.J.A.C. 7:26G-7.2(a)5, or written notification to update transporter license information at N.J.A.C. 7:26G-7.2(a)7, the address of the hazardous waste transfer facility and an indication whether the property where the transfer facility is located is owned or leased by the transporter. If the hazardous waste transfer facility is to be operated pursuant to a lease in accordance with (a) above, a copy of the lease shall be submitted as part of the hazardous waste transporter license application, license renewal, or written notification to update license information.

(d) The owner or operator of the hazardous waste transfer facility shall maintain at the transfer facility a written operating log (or logs, as necessary) documenting the movement of hazardous waste into and out of the hazardous waste facility and any hazardous waste transfers occurring at the facility and documenting compliance with the conditions set forth at (f) and (g) below. At a minimum, the log(s) shall include the following information:

1. The date each hazardous waste arrives at the transfer facility;
2. The decal number of the waste bearing portion of the vehicle;
3. A description (including the USDOT shipping description) and the quantity of each hazardous waste received on a vehicle when it arrives at the transfer facility;
4. The state manifest document number or manifest document number or associated with each hazardous waste load;
5. Location of each hazardous waste within the facility;
6. A notation of any consolidation or commingling performed;
7. The date each hazardous waste departs from the transfer facility;
8. A description (including the USDOT description) and quantity of hazardous waste on the vehicle when it departs from the transfer facility; and
9. Cross references to specific manifest document numbers involved in the consolidation or commingling of hazardous waste loads.

(e) Each transporter utilizing the hazardous waste transfer facility shall enter the necessary information on the log(s) regarding his hazardous waste shipment.

(f) A hazardous waste transporter, who stores or consolidates closed containers of manifested shipments of hazardous waste at a hazardous waste transfer facility for a period of 10 days or less, is not subject to regulations at N.J.A.C. 7:26G-8 through 12 except as noted herein, provided that the following requirements are met:

1. The transporter consolidating the containers of hazardous waste is a licensed hazardous waste transporter in the State of New Jersey;
2. The hazardous waste transfer facility is not located at the interim status or permitted hazardous waste facility indicated as the designated facility on the hazardous waste manifests;
3. The hazardous waste is held in closed containers which meet the applicable U.S. Department of Transportation packaging regulations specified in 49 C.F.R. Parts 171 through 180, as amended;

4. The hazardous waste containers are in good condition (that is, no severe rusting, apparent defects or deterioration) and are not leaking;

5. The storage or consolidation of the containers of hazardous waste complies with the hazardous materials segregation criteria at 49 C.F.R. 177.848 or 174.81, and with the guidance on incompatible hazardous waste mixtures in Appendix V of 40 C.F.R. Part 265;

6. The containers of hazardous waste remain closed, and no waste or other materials shall be removed from or added to the containers except to commingle hazardous wastes with identical USDOT shipping descriptions in accordance with (g) below or as necessary to respond to an emergency situation; and

7. The newly consolidated waste load shall be removed from the transfer facility at or prior to reaching the 10 day limit by the component of the waste load which has been at the transfer facility the longest.

(g) A hazardous waste transporter who commingles hazardous waste with identical USDOT shipping descriptions (provided the commingling does not constitute treatment) at a transfer facility for a period of 10 days or less is not subject to regulations at N.J.A.C. 7:26G-8 through 12 except as noted herein, provided the following requirements are met:

1. The transporter commingling the waste is a licensed hazardous waste transporter in the State of New Jersey;

2. The hazardous waste transfer facility is not located at the interim status or permitted hazardous waste facility indicated as the designated facility on the manifests;

3. The hazardous waste is commingled between containers which meet the applicable US Department of Transportation packaging regulations specified in 49 C.F.R. 107, 171 through 180, as amended;

4. The hazardous wastes that are commingled are designated on the generators' hazardous waste manifests for receipt by the same designated hazardous waste facility;

5. The hazardous waste transporter amends the generators' manifests to reflect the commingling of hazardous wastes by the transporter, and to describe accurately the containers and quantities of hazardous wastes shipped after the commingling; and

6. The newly commingled waste load shall be removed from the transfer facility at or prior to reaching the 10 day limit by the component waste which has been at the transfer facility the longest.

(h) The commingling of hazardous wastes of different USDOT shipping descriptions is prohibited.