

iii. The disposal facility shall furnish a receipt to each customer who has made a deposit.

iv. Upon closing any account the balance of any deposit remaining after the closing bill for service has been settled shall be returned promptly to the depositor with interest due. Where return of the deposit is made in cash, surrender of the receipt or, in lieu thereof, proof of identity may be required.

4. Non-credit customers disposing of waste shall pay by cash or check before leaving the facility. Cash customers who repeatedly fail to pay their disposal charges in full may not be admitted to the facility until they establish a prepayment or charge account. Any charge customer who has a history of repeatedly leaving the facility without paying may be required to make a prepayment before being allowed to dispose of any solid waste at the facility. The prepayment shall be based on the cubic yard capacity of the vehicle and the type of waste contained within the vehicle in accordance with authorized rates contained in the facility's tariff. This prepayment shall be paid with cash or money order and a refund shall be given the customer after disposal, if appropriate.

Amended by R.1997 d.510, effective October 31, 1997 (operative November 10, 1997).

See: 29 N.J.R. 4170(a), 29 N.J.R. 5084(a).

Deleted (b)2v(1); and recodified existing (b)2v(2) and (b)2v(3) as (b)2v(1) and (b)2v(2). Readopted provisions of Emergency Amendment R.1997 d.404 without change.

7:26H-4.8 Solid waste disposal tariff format

All solid waste disposal utility tariffs shall conform to the format set forth in N.J.A.C. 7:26H-4.3.

Amended by R.1997 d.510, effective October 31, 1997 (operative November 10, 1997).

See: 29 N.J.R. 4170(a), 29 N.J.R. 5084(a).

Recodified existing (a) and (a)1 as the undesignated paragraph; and deleted (a)2, (b), and (c). Readopted provisions of Emergency Amendment R.1997 d.404 without change.

7:26H-4.9 Solid Waste Disposal Uniform Tariff Forms

All solid waste disposal utilities shall use the following forms as guides in filing their solid waste uniform tariff.

TARIFF COVER PAGE

1. Application

This Tariff contains the terms and conditions and schedules of rates governing the services furnished by a public utility and holder of a Certificate of Public Convenience and Necessity (#) for the collection and/or disposal of solid waste. The Utility's principal location is:

- Street Address
City, State, Zip code
Telephone Number

2. Territory Served

Processing, Transfer and/or Disposal Services are applicable to solid waste received from the Counties of:

By the filing of this Tariff Document, the Utility named above agrees to conform with all rules and regulations promulgated by the District Solid Waste Management Plans and the New Jersey Department of Environmental Protection in accordance with N.J.S.A. 48:13A-1 et seq., and N.J.S.A. 13:1E-1 et seq.

TABLE OF CONTENTS

Table with 2 columns: Item and Page. Items include Cover Page, Table of Contents, Terms and Conditions, Hours of operation, Other provisions, Waste types accepted, Unacceptable waste types, Billing and payment procedures, Schedule of Rates.

STANDARD TERMS AND CONDITIONS

- 1. Hours and dates of operation: The utility shall accept wastes and/or operate in accordance with the following schedule: The utility will not accept wastes or will be closed on the following legal holidays:
2. Other provisions:
3. Acceptable waste types:
4. Unacceptable waste types:
5. Billing and payment procedures:

SCHEDULE OF RATES

RATE SCHEDULE NO. _____

Table with 3 columns: Application in: Type I.D. Number, Waste Description, Rate Net of Applicable, Taxes Surcharges and Host Community Benefits. Rows include 10 Municipal Solid Waste and 13 Bulky Waste.

The above rates are exclusive of applicable taxes.

Amended by R.1997 d.510, effective October 31, 1997 (operative November 10, 1997).

See: 29 N.J.R. 4170(a), 29 N.J.R. 5084(a).

Deleted "Rate Schedule No. ___ Intermediate Processing Facility". Readopted provisions of Emergency Amendment R.1997 d.404 without change.

Administrative change.

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

7:26H-4.10 (Reserved)

New Rule, R.1993 d.508, effective October 19, 1993.

See: 24 N.J.R. 3286(c), 25 N.J.R. 4763(a).

Recodified from 14:11-7.10 by R.1996 d.253, effective June 3, 1996. See: 28 N.J.R. 78(a), 28 N.J.R. 247(a), 28 N.J.R. 1147(a), 28 N.J.R. 2908(a).

Repealed by R.1997 d.510, effective October 31, 1997 (operative November 10, 1997).

See: 29 N.J.R. 4170(a), 29 N.J.R. 5084(a).

Readopted Emergency Repeal R.1997 d.404. Section was "In-lieu payment rates for solid waste".

7:26H-4.11 (Reserved)

Repealed by R.1997 d.510, effective October 31, 1997 (operative November 10, 1997).

See: 29 N.J.R. 4170(a), 29 N.J.R. 5084(a).

Readopted Emergency Repeal R.1997 d.404. Section was "Petitions for special in-lieu payment tariff provision".

SUBCHAPTER 5. SOLID WASTE COLLECTION REGULATORY REFORM

7:26H-5.1 Purpose

(a) The purpose of this subchapter is to:

1. Establish rules and procedures for regulatory reform and the eventual termination of traditional public utility rate regulation of the solid waste collection industry; and
2. Establish a responsible State supervisory role to ensure safe, adequate and proper solid waste collection service at competitive rates.

Law Review and Journal Commentaries

Environmental Law—Solid Waste. P.R. Chenoweth, 138 N.J.L.J. 72 (1994).

7:26H-5.2 Authority

These rules are promulgated pursuant to the authority vested in the Department by N.J.S.A. 48:13A et seq., 13:1E-1 et seq., 48:2-21 and 48:13A-7.1 et seq. and shall be construed in conformity with, and not in derogation of, such statutes.

Amended by R.1996 d.253, effective June 3, 1996.
See: 28 N.J.R. 78(a), 28 N.J.R. 247(a), 28 N.J.R. 1147(a), 28 N.J.R. 2908(a).

7:26H-5.3 Scope

These rules shall govern the pricing practices of the solid waste collection industry and will provide for the compilation of data to monitor the extent and effect of competition in the solid waste collection industry.

7:26H-5.4 Rates

(a) No solid waste collector shall charge or receive rates or charges for solid waste collection service which are greater than or less than rates or charges that would result from effective competition.

(b) Upon expiration of the transition period a solid waste collector shall have the discretion to adjust their service charges to a sum which shall result in competitive pricing. During and after the transition period, the Department, within its authority pursuant to the Act, shall supervise the solid waste collection industry to promote effective competition and prohibit anti-competition practices of undercharging and overcharging.

Emergency amendment R.1996 d.114, effective January 26, 1996 (operative January 29, 1996; to expire March 26, 1996).

See: 28 N.J.R. 1305(a).

Adopted concurrent proposal, R.1996 d.202, effective March 26, 1996.

See: 28 N.J.R. 1305(a), 28 N.J.R. 2380(a).

Added (c). Changes upon adoption effective May 6, 1996.

Amended by R.1996 d.253, effective June 3, 1996.

See: 28 N.J.R. 78(a), 28 N.J.R. 247(a), 28 N.J.R. 1147(a), 28 N.J.R. 2908(a).

Amended by R.1997 d.510, effective October 31, 1997 (operative November 10, 1997).

See: 29 N.J.R. 4170(a), 29 N.J.R. 5084(a).

Deleted (c). Readopted provisions of Emergency Amendment R.1997 d.404 without change.

7:26H-5.5 Definitions

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

"Act" means P.L. 1991, c.381, known as the Solid Waste Collection Regulatory Reform Act.

"CPI" means the averaged Consumer Price Index as reported by the United States Department of Labor, Bureau of Labor Statistics for the New York Urban and Philadelphia area for all urban consumers for the calendar year period just ended.

"Materials recovery" means the processing and separation of solid waste utilizing manual or mechanical methods for the purpose of recovering recyclable materials for disposition and recycling prior to the disposal of the residual solid waste at an authorized solid waste facility.

"Materials recovery facility" means a transfer station or other authorized solid waste facility at which nonhazardous solid waste, which materials is not source separated by the generator thereof prior to collection, is received for on-site processing and separation utilizing manual or mechanical methods for the purposes of recovering recyclable materials for disposition and recycling prior to the disposal of the residual solid waste at an authorized solid waste facility.

"Rate bands" means the minimum/maximum parameters established under N.J.A.C. 14:3-11.7(c) by which a solid waste collector may adjust the service fee of their uniform tariff during the transition period.

"Septic waste" means pumping from septic tanks and cesspools, but shall not include wastes from a sewage treatment plant.

"Solid waste" means garbage, refuse, and other discarded material resulting from industrial, commercial and agricultural operations, and from domestic and community activities, and shall include all other waste materials including liquids, except for solid animal and vegetable wastes collected by swine producers licensed by the State Department of Agriculture to collect, prepare and feed such wastes to swine on their own farms.

“Solid waste collection” means the activity related to pickup and transportation of solid waste from its source or location to an authorized solid waste facility, but does not include activity related to the pickup, transportation or unloading of septic waste.

“Solid waste collection services” means the services provided by persons engaging in the business of solid waste collection.

“Solid waste collector” means a person engaged in the collection of solid waste and holding a certificate of public convenience and necessity pursuant to sections 7 and 10 of P.L. 1970, c.40 (N.J.S.A. 48:13A-6 and 48:13A-9).

“Solid waste disposal” means the storage, treatment, utilization, processing or final disposal of solid waste.

“Solid waste disposal services” means the services provided by persons engaging in the business of solid waste disposal.

“Solid waste facility” means and includes the plants, structures and other real and personal property acquired, constructed or operated or to be acquired, constructed or operated by any person pursuant to the provisions of P.L. 1970, c.39 (N.J.S.A. 13:1E-1 et seq.) or any other act, including transfer stations, incinerators, resource recovery facilities, sanitary landfill facilities or other plants for the disposal of solid waste, and all vehicles, equipment and other real and personal property and rights therein and appurtenances necessary or useful and convenient for the collection or disposal of solid waste in a sanitary manner.

“Transition period” means the 48 month successive period commencing on April 14, 1992 and terminating on April 13, 1996.

“Transition year” means the successive 12-month period commencing on April 14 of that year. The first transition year commences April 14, 1992.

“Uniform tariff” means a tariff filed in the form required by N.J.A.C. 14:11-7.8, using the component rate structures and formulas provided by N.J.A.C. 14:11-7.7 and 7.8(b) through (d) and containing the certification required by N.J.A.C. 14:11-7.8(e).

Amended by R.1996 d.253, effective June 3, 1996.
See: 28 N.J.R. 78(a), 28 N.J.R. 247(a), 28 N.J.R. 1147(a), 28 N.J.R. 2908(a).

7:26H-5.6 Annual fee

(a) Every solid waste collector shall pay an annual fee of \$100.00. The annual fee shall be paid within 30 days from the date of the invoice issued by the Department. The annual fee will cover part of the costs of supervising the **solid** waste collection industry. The annual fee is in addition to the annual assessment required by N.J.S.A. 48:2-59 et seq.

(b) All checks for payment of the fees and charges established pursuant to (a) above shall be made payable to the order of the Treasurer, State of New Jersey.

1. Payments of such fees and charges shall be mailed to New Jersey Department of Environmental Protection, Bureau of Revenue, 428 East State Street-4th Floor, CN 402, Trenton, New Jersey 08625-0402.

(c) Nonpayment of the annual fee set forth in (a) above shall result in suspension or revocation of the Certificate of Public Convenience and Necessity, subject to the notice and hearing requirements of N.J.S.A. 52:14B-9.

Amended by R.1996 d.253, effective June 3, 1996.
See: 28 N.J.R. 78(a), 28 N.J.R. 247(a), 28 N.J.R. 1147(a), 28 N.J.R. 2908(a).

7:26H-5.7 Rate adjustments

(a) The following pertain to disposal costs adjustments:

1. Before a solid waste disposal facility may implement an initial rate or revised rate, whether interim or final, granted by order of the Department, such solid waste disposal facility shall give at least 14 days written notice of such initial or revised rate to all solid waste collectors authorized to use such solid waste disposal facility. Said notice shall be posted at the facility.

2. In the event of a decrease in disposal rates or charges received at an authorized solid waste facility, a solid waste collector may adjust its rate or charges by the full amount of such decrease.

3. In the event of an increase in disposal rates or charges received at an authorized solid waste facility, a solid waste collector may adjust its rates or charges by the full amount of such increase.

4. Before a solid waste collector may implement a rate adjustment, every customer affected thereby shall receive 10 days prior written notice of the adjustment, which notice shall include:

- i. The date on which the adjustment become effective;
- ii. The amount of the new rates and charges; and
- iii. A statement that customers have the right at any time, unless contractually obligated by a service agreement, to choose an alternate solid waste collector and that collection services are available to customers on a competitive basis.

(b) The following pertain to contracts of sale for collection services:

1. In every instance where a solid waste collector enters into a contract or agreement with a customer or government entity for the provision of collection services such solid waste collector shall file with the Department, Divi-

sion of Solid and Hazardous Waste, two copies of the proposed contract.

2. All contracts for residential service entered into pursuant to this subsection shall contain a provision which permits the party contracting to receive collection services to terminate such contract upon 30 days written notice.

3. In the event a solid waste collector contracts with a municipal governing body, as defined by N.J.S.A. 40A:11-2(2)(b), for the provision of municipal solid waste collection services, which contract must be publicly bid pursuant to N.J.S.A. 40A:11-4, such contract is not subject to the provisions of (a)2 and 3 above.

i. If a solid waste collector enters into a contract or agreement with a municipal governing body for municipal solid waste collection service in a territory in which the successful bidder is currently tariffed to provide service, the successful bidder shall file Uniform Tariff Sheet(s) within 21 days of the award of the contract which state that "Provision of service for the municipality of (collector to provide the name of municipality) is authorized by operation of the Local Public Contracts Law, N.J.S.A. 40A:11-1 et seq., as outlined in the contract on file with the New Jersey Department of Environmental Protection, Division of Solid and Hazardous Waste, PO Box 414, Trenton, New Jersey 08625-0414." The collector shall file two copies of the contract with the Department.

ii. If a solid waste collector enters into a contract or agreement with a municipal governing body for municipal solid waste collection service which would be in an expanded service area, the successful bidder shall file, within 21 days of the award of the contract, the initial Uniform Tariff Sheet(s) for that expanded service area only which state that "Provision of service in this County for the municipality of (collector to provide the name of the municipality) is authorized by operation of the Local Public Contracts Law, N.J.S.A. 40A:11-1 et seq., as outlined in the contract on file with the New Jersey Department of Environmental Protection, Division of Solid and Hazardous Waste, PO Box 414, Trenton, New Jersey 08625-0414." The solid waste collector shall file two copies of the contract with the Department.

Emergency amendment R.1996 d.114, effective January 26, 1996 (operative January 29, 1996; to expire March 26, 1996).

See: 28 N.J.R. 1305(a).

Adopted concurrent proposal, R.1996 d.202, effective March 26, 1996.

See: 28 N.J.R. 1305(a), 28 N.J.R. 2380(a).

Changes upon adoption effective May 6, 1996.

Amended by R.1996 d.253, effective June 3, 1996.

See: 28 N.J.R. 78(a), 28 N.J.R. 247(a), 28 N.J.R. 1147(a), 28 N.J.R. 2908(a).

Amended by R.1997 d.510, effective October 31, 1997 (operative November 10, 1997).

See: 29 N.J.R. 4170(a), 29 N.J.R. 5084(a).

In (a)1, deleted the third and fourth sentences. Readopted provisions of Emergency Amendment R.1997 d.404 without change.

Administrative change.

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

Case Notes

Rules promulgated under the Solid Waste Collection Regulatory Reform Act were not vague. *Waste Management of Cent. Jersey, Inc. v. State*, Dept. of Environmental Protection and Energy, 278 N.J.Super. 56, 650 A.2d 379 (A.D.1994).

Preventing new entrants from using solid waste collection rate bands during transition year in which they entered market was permissible. *Waste Management of Cent. Jersey, Inc. v. State*, Dept. of Environmental Protection and Energy, 278 N.J.Super. 56, 650 A.2d 379 (A.D. 1994).

Solid waste collection contract rules were proper. *Waste Management of Cent. Jersey, Inc. v. State*, Dept. of Environmental Protection and Energy, 278 N.J.Super. 56, 650 A.2d 379 (A.D.1994).

7:26H-5.8 Refunds

(a) If the Department orders a solid waste collector to pay a refund pursuant to N.J.S.A. 48:13A-7.10b(2), the solid waste collector shall pay said refund, plus simple interest at a rate equal to 400 basis points over the short-term applicable Federal Rate established by the Internal Revenue Service under 26 U.S.C. § 1274, in effect on the date of the order.

(b) Any solid waste collector whose rates or charges have been adjusted pursuant to N.J.S.A. 48:13A-7.10b(2) shall file with the Department, revised Uniform Tariff sheet(s).

(c) Whenever a solid waste collector implements an adjustment pursuant to (b) above, every customer affected thereby shall receive 10 days prior written notice of the adjustment, which notice shall include:

1. The date on which the adjustment becomes effective;
2. The amount of the new rates and charges;
3. A copy of the applicable rate schedule; and
4. A statement that customers have the right at any time to choose an alternate solid waste collector and that collection services are available to customers on a competitive basis.

(d) Unless otherwise ordered by the Department, any refund requirement to be made pursuant to N.J.S.A. 48:13A-7.10(b)2 shall be by bill credit to current customers affected by the excessive rates, and by refund check to former customers affected by the excessive rates in the first billing cycle subsequent to entry of the final Department order.

Amended by R.1996 d.253, effective June 3, 1996.

See: 28 N.J.R. 78(a), 28 N.J.R. 247(a), 28 N.J.R. 1147(a), 28 N.J.R. 2908(a).

7:26H-5.9 Monitoring effective competition; records

(a) All books, records, accounts, documents and other writings relating to the business of solid waste collection, including accident reports, annual reports and customer lists, shall be created and maintained in accordance with the requirements of N.J.A.C. 7:26H-1.20.