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## CHAPTER 26G

## HAZARDOUS WASTE

## Authority

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

## Source and Effective Date

R.2002 d.140, effective April 15, 2002.  
See: 33 N.J.R. 3794(a), 34 N.J.R. 1669(b).

## Chapter Expiration Date

Chapter 26G, Hazardous Waste, expires on April 15, 2007.

## Chapter Historical Note

Chapter 26G, Hazardous Waste, was adopted by R.1996 d.500,  
effective October 21, 1996. See: 28 N.J.R. 1693(a), 28 N.J.R. 4606(a).

Chapter 26G, Hazardous Waste, was readopted as R.2002 d.140,  
effective April 15, 2002. See: Source and Effective Date. See, also,  
section annotations.

## Law Review and Journal Commentaries

Proving Bad Faith in Environmental Coverage Actions. Patrick  
Nucciarone, Jeffrey A. Cohen, Alexa Richman-La Londe, 149 N.J.L.J.  
468 (1997).

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**SUBCHAPTER 1. GENERAL PROVISIONS**

**7:26G-1.1 Scope of rules**

(a) Unless otherwise provided by rule or statute, this chapter shall constitute the rules of the Department of Environmental Protection which govern the registration, operation, closure and post-closure maintenance of hazardous waste facilities in the State of New Jersey as may be approved by the Department; registration, operation, and maintenance of hazardous waste transporting operations and facilities in the State of New Jersey; and a fee schedule for services provided by the Department to hazardous waste facilities, generators and transporters.

(b) The definitions, exemptions, exclusions and discussions of solid and hazardous waste found in this chapter are for the purposes of classifying and regulating hazardous waste and do not provide any exemptions from the definition or regulation of solid waste found at N.J.A.C. 7:26.

(c) Hazardous waste facilities are exempt from district solid waste planning of N.J.A.C. 7:26-6, Solid Waste Planning Regulations; the Solid Waste Utility Control Act, N.J.S.A. 48:13A-1 et seq.; the Solid Waste Collection Regulatory Reform Act, N.J.S.A. 48:13A-7.1 et seq.; and those provisions of the Solid Waste Management Act, N.J.S.A. 13:1E-1 et seq., which relate to district solid waste planning.

(d) In addition to the rules in this chapter, all hazardous waste facilities are required to obtain other necessary approvals.

Amended by R.2001 d.86, effective March 5, 2001.  
See: 32 N.J.R. 2536(a), 33 N.J.R. 880(a).  
Rewrote (c).

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

(a) These rules shall be liberally construed to permit the Department to discharge its statutory functions.

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

**7:26G-1.3 Practice where rules do not govern**

The Department may rescind, amend or expand these rules from time to time, and such rules shall be filed with the Office of Administrative Law as provided by law. In any matter concerning hazardous waste management that arises not governed by these rules, the Department shall exercise its discretion within the authority of N.J.S.A. 13:1E-1 et seq., 58:10-23.11, 58:10A-1 et seq., 47:1A-2, 13:1D-9 and 18 and all other legislatively conferred powers.

**7:26G-1.4 Incorporation by reference of the Code of  
Federal Regulations**

(a) Unless specifically excluded by these rules, when a provision of the Code of Federal Regulations (C.F.R.) is incorporated by reference, all notes, comments, appendices, diagrams, tables, forms, figures, and publications are also incorporated by reference.

(b) Prospective incorporation by reference means the ongoing process, beginning May 6, 2002, whereby all provisions of regulations incorporated into this Chapter from the Federal regulations at 40 C.F.R. Subparts 124, 260-266, 268, and 270 are continually automatically updated in order to maintain consistency with the most current Federal rules. Thus, any supplements, amendments, and any other changes including, without limitation, repeals or stays that affect the meaning or operational status of a Federal rule, brought about by either judicial or administrative action and adopted or otherwise noticed by USEPA in the Federal Register, shall be paralleled by a similar change to the New Jersey rule so that the New Jersey rule will have the same meaning and status as its Federal counterpart. Similarly, to maintain consistency, all new Federal regulations are also adopted into this Chapter by this automatic process.

(d) Failure to pay a fee within 30 days of receipt by the violator of notice of the nonpayment from the Department shall be considered a continuing violation. For a continuing violation, the Department may increase the amount of the base penalty calculated pursuant to (c) above by the amount obtained by multiplying the base penalty dollar amount by 1.0 percent for each day that the fee is past due.

#### **7:26G-2.9 Civil administrative penalty for economic benefit**

The Department may, in addition to any other civil administrative penalty assessed pursuant to this subchapter include as an additional civil administrative penalty the economic benefit (in dollars) which the violator has realized as a result of not complying with, or by delaying compliance with, the requirements of the Act, or any rule promulgated, any administrative order, permit, license or other operating authority issued, or any Part A permit application filed, pursuant to the Act. If the total economic benefit was derived from more than one violation, the total economic benefit may be apportioned among the violations from which it was derived so as to increase each civil administrative penalty assessment to an amount no greater than \$50,000 per violation.

### **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 = 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;

4. Inspection fee for a generator:

i. Large quantity generator: \$2,842; and

ii. Small quantity generator: \$1,047;

5. Inspection fee for compliance inspection: \$867.00;

6. Inspection fee for compliance reviews: \$562.00.

(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 timekeeping 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 be-

tween the fee provided in (e)1ii, (e)3ii or (e)8 above 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 for Hazardous Waste Manifest forms is \$10.00 for a package of 10 forms and shall accompany the request for forms.

(g) 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.

#### 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 Adjustment of fees

(a) The Department shall adjust the fees for each activity described in N.J.A.C. 7:26G-3.3 with the exception of the fees referenced at N.J.A.C. 7:26G-3.3(c)1, as necessary, based upon the following formula:

$$\text{Fee} = (\text{hours required}) \times (\text{hourly rate})$$

where "hours required" and "hourly rate" are as set forth in the Hazardous Waste Fee Schedule Report as provided in (c) below.

(b) The Department shall adjust the transporter registration fee described in N.J.A.C. 7:26G-3.3(g), as necessary, based upon the following formula:

$$\text{Total Revenue Needed to Carry Out Program} = (\text{Total Hours Required to Carry Out Program}) \times (\text{Hourly Rate})$$

Where Total Hours Required and the Hourly Rate are as set forth in the Hazardous Waste Fee Schedule Report as provided in (c) below; and where Total Revenue Needed to Carry Out Program is then apportioned among the four types of vehicles required to be registered under this subchapter in the manner noted in the Hazardous Waste Fee

Schedule Report resulting in the adjusted fees for the four vehicle types.

(c) The Department shall prepare a Hazardous Waste Fee Schedule Report. This report shall include the following:

1. The Department's estimate of the number of hours which will be required to perform each type of activity for which fees are assessed under N.J.A.C. 7:26G-3.3(a) through (f) and an estimate of the total hours required to carry out the transporter regulatory program to be paid for by the fees assessed under N.J.A.C. 7:26G-3.3(g). In formulating the estimate, the Department shall consider the following factors:

i. The Department's timekeeping records and/or workplan projections for a period of at least nine months, ending no more than six months before the completion of the report;

ii. The Department's timekeeping records and/or workplan projections from previous years, if the Department determines that it does not have sufficient data to reliably determine the number of hours required to perform the activity;

iii. Any other factors relevant to the estimate, provided that the report explains any such other factors, and explains how such factors support the estimate;

iv. If the Department determines that the creation of additional classifications of regulated entities or activities would result in a substantially more equitable assessment of fees, the Department may establish such additional classifications, and shall report them in the Hazardous Waste Fee Schedule Report. The Department's determination shall be in its reasonable discretion, based upon its review of the data upon which the report is based. In the report, the Department shall set forth the hours required to perform an activity for such additional classes. This subparagraph provides only for the creation of additional classification of types of facilities or activities for which fees are assessed under the Department's rules, and shall not be construed to provide for the assessment of fees for types of facilities or activities not already contained in the Department's rules; and

v. If the Department reports a decrease in the number of hours spent performing an activity, compared with the expected level of activity, and such decrease is due solely or in part to a lack of Department staff sufficient to perform the activity, the Department may set the fee at the level necessary to defray the cost of sufficient staff to perform the expected activity; and

2. A statement of the hourly rate for calculating fees. The hourly rate for an activity is the average cost of one hour of the Department's hazardous waste program's staff time needed to perform the activity, calculated according to the following formula:

$$\frac{(\text{AS} + \text{FB} + \text{IC} + \text{OE} + \text{IS})}{\text{BH}}$$

where:

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

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

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

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

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

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

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

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

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

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

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

(a) This subchapter incorporates by reference up to May 6, 2002 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 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”;

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).

Administrative change.

See: 32 N.J.R. 1796(a).

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

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

In (a), substituted “May 6, 2002” for “July 31, 1998”.

### 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” 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.