

8. The O and M manual for the sanitary landfill shall include the following, in addition to the O and M requirements set forth in the general engineering requirements, N.J.A.C. 7:26-2.10(b)9:

i. A description of how the operations and maintenance of the sanitary landfill will meet the requirements set forth in N.J.A.C. 7:26-2A.8;

ii. An occupational health and safety plan established in conformance with the safety and health standards of the Federal Department of Labor, Occupational Safety and Health Administration pursuant to 29 CFR 1926 and 1910 Safety and Health Standards and Industrial Standards;

iii. A community relations plan for facilities with a design capacity of 500 tons per day or greater, identifying the steps that the owner and/or operator will take to transfer information and solicit input from the community in which the facility is located. The community relations plan should contain the following:

(1) An opportunity for two open meetings with local officials, or their representatives, and the general public of the district affected by the proposed facility prior to and during facility construction. The purpose of such meetings will be to inform the community of the nature of operations proposed for the facility, including the progress of construction and projected initial tipping fees;

(2) An opportunity for an annual open meeting with the community or its representatives subsequent to the initial startup of operations. The purpose of these meetings is to allow community input and to provide a forum for exchanging ideas; and

(3) A notification procedure, whereby the community is provided a report of findings in the case of an emergency incident at the facility.

iv. A facility staffing plan containing the following:

(1) A written job description for each position, including duties and performance standards. The description shall include the requisite skills, education, and other qualifications deemed necessary for employees assigned to each position; and

(2) An explanation of the criteria and reasons used in selecting the required number and types of positions.

v. A written training plan which shall include the type and amount of both the initial and annual follow-up training to be provided to facility personnel;

vi. An emergency contingency plan which delineates procedures for responding to fire, explosions or any unplanned sudden or non-sudden releases of harmful constituents to the air, soil or surface water. The emergency contingency plan shall be submitted to the

local police and fire departments, and to the local and county health departments or other offices of emergency management. The emergency contingency plan shall contain:

(1) A description of the actions facility personnel shall take in the event of various emergency situations;

(2) A description of arrangements made with the Department and local police and fire departments which allow for immediate entry into the facility by their authorized representatives should the need arise, such as in the case of personnel responding to an emergency situation; and

(3) A list of names, addresses and phone numbers (office and home) of all persons qualified to act as emergency coordinator for the facility. This list shall be kept up to date. Where more than one person is listed, one shall be named as primary emergency coordinator and the others shall be listed in the order in which they will assume responsibility as alternates.

Amended by R.1996 d.578, effective December 16, 1996.

See: 28 N.J.R. 2114(a), 28 N.J.R. 5248(a).

Substantially amended (a).

¹ So in original.

7:26-2A.6 Sanitary landfill environmental performance standards

(a) Any sanitary landfill subject to regulation pursuant to N.J.A.C. 7:26-2A.1(c) shall contain a leachate containment system, leachate collection system, leachate treatment/disposal system, gas venting system, surface drainage control system, monitoring system, a final capping system and any other system or environmental control measure required by the Department, and shall be designed and constructed in accordance with the performance standards set forth in this section.

(b) In the design and construction of a sanitary landfill subject to regulation pursuant to N.J.A.C. 7:26-2A.1(c), consideration shall be given to ground and surface water conditions, geology, soils, topographic features, solid waste types and quantities, social, geographic and economic factors, and esthetic and environmental impacts in order to protect the environment and to minimize and control adverse impacts.

(c) The following are the performance standards for sanitary landfills:

1. The sanitary landfill shall not cause or result in any decrease in the quality of the ground or surface water over background at the relevant point of compliance of the sanitary landfill, within the uppermost aquifer or surface water adjacent to the sanitary landfill, beyond that allowed by N.J.A.C. 7:9B, Ground Water Quality Standards or N.J.A.C. 7:9-6, Surface Water Quality Standards,

as applicable. The relevant point of compliance means the property boundary of the sanitary landfill, or 150 meters from the toe or slope of the landfilled area, whichever is less.

(d) The alternate design for a sanitary landfill located in a stable low permeable defined geologic formation having a hydraulic conductivity of less than 1×10^{-6} cm/sec., the standard for the design for the containment and leachate collection systems shall consist, at a minimum, of the following:

1. An impervious liner consisting of three feet of clay or soil admixture having a hydraulic conductivity equal to or less than 1×10^{-7} cm/sec. designed and constructed in accordance with N.J.A.C. 7:26-2A.7(c); and

2. A leachate collection system consisting of a one foot sand drainage layer having a hydraulic conductivity equal to or greater than 1×10^{-2} cm/sec. The collection pipe spacing and liner slope shall be designed to ensure that the leachate head on the liner does not exceed one foot at any time based on actual flows from the area of drainage at real time events. The leachate collection system shall be constructed as specified in N.J.A.C. 7:26-2A.7(d);

3. An applicant may submit an alternate design for the containment and leachate collection system. The Department will only approve such alternate design if the applicant is able to demonstrate, to the satisfaction of the Department, that the alternate system design is an equivalent system in terms of structural integrity as (d)1 and 2 above, meets or exceeds the performance and efficiency requirements of (d)1 and 2 above and meets the performance standard established in (c) above.

(e) The standard design for all sanitary landfills, except as noted in (e)1 below, not located in stable low permeable geologic formations of sufficient thickness, having a hydraulic conductivity of less than 1×10^{-6} cm/sec., shall, at a minimum, construct a composite liner system consisting of a geomembrane liner in compressive contact with a two-foot layer of compacted clay or admixture liner with a hydraulic conductivity of no more than 1×10^{-7} cm/sec. The design and performance of the sanitary landfill shall insure an environmentally sound operation with consideration given to the geology, groundwater quality and groundwater usage of the area.

1. A sanitary landfill located in a geologic area in which the bedrock is at or near the surface and that serves as a direct source for a public community water system, shall, at a minimum, have a containment system consisting of a double composite liner system. The primary and secondary geomembrane liners in the double composite liner system shall be in compressive contact with a clay or admixture liner below the geomembrane liner. A leak detection/collection system shall be located between the primary composite liner and the secondary composite liner.

(f) The evaluation of the performance of the sanitary landfill in the geologic formation within which it is located shall be analyzed with a three-dimensional mass transport model. A two-dimensional mass transport model may be utilized, if approved by the Department, after the applicant demonstrates that the configuration of the site specific geology of vertical versus horizontal extent allows for an evaluation equal to an evaluation resulting from a three-dimensional mass transport model. The mass transport model shall have the capacity to represent the real world situation in accordance with the requirements set forth at Appendix A. Sanitary landfills that employ a double composite liner system are exempt from the requirements of this subsection.

(g) All sanitary landfills regulated pursuant to N.J.A.C. 7:26-2A.1(c) shall be designed and constructed, in accordance with (h) below, to protect environmentally sensitive areas including, but not limited to, the following:

1. The flood fringe areas of the flood hazard area as identified by the Department pursuant to the State Flood Hazard Area Control Act, N.J.S.A. 58:16A-50 et seq.;

2. Wetland buffer areas as identified by the Department pursuant to the Wetlands Coastal Resource and Development Policies, N.J.A.C. 7:7E;

3. Lands in municipally approved farmland preservation programs, farmland preservation programs or lands which have been dedicated to agricultural use by the purchase of their development easements pursuant to the provisions of the Agriculture Retention and Development Act, N.J.S.A. 4:1C-11 et seq., or equivalent independent county/municipal programs;

4. The watershed area for waters classified by the Department as FW-1 waters or FW-2 Trout Protection Water pursuant to the Surface Water Quality Standards, N.J.A.C. 7:9-4;

5. Areas within 1000 feet of any lake or pond and 500 feet of any river or stream;

6. The Pinelands Area as established by N.J.S.A. 13:18A-11a of the Pinelands Protection Act, N.J.S.A. 13:18A-1 et seq.;

7. Areas directly underlain by cavernous limestone, dolomite, or marble;

8. Areas directly overlying past or present subsurface mining activities;

9. Areas within three miles from either end of the nearest runway of any public-use airport owned by a public agency or designated by the Federal Aviation Administration as a reliever airport as determined by the Division of Aeronautics of the New Jersey Department of Transportation;

10. Areas which will encroach upon, damage or destroy any area, site, structure, or object included in the Register of Historic Places established by N.J.S.A. 13:1B-15.128 et seq.;

11. Within the buffer zone area of specimen trees as determined and defined by the Division of Parks and Forestry; and

12. Areas with slopes exceeding 15 percent.

(h) In order to protect the environmentally sensitive areas identified in (g) above, the Department shall require the design, construction and operation of additional control systems or increased performance of the required systems to minimize and control adverse impacts and prevent pollution. The Department will consider documentation, submitted by the applicant, demonstrating that the topographical and geological conditions, in conjunction with the design, construction, operation and maintenance of the sanitary landfill in accordance with this subchapter, will adequately prevent pollution of the environmentally sensitive area.

1. The additional environmental control systems or increased performance of the systems required to protect the environmentally sensitive areas identified in (g) above shall at a minimum include the following for the particular identified area:

	<u>Environmentally Sensitive Area Impacted</u>	<u>Type of System Upgrading Required</u>
i.	Flood fringe areas of flood hazard area, N.J.A.C. 7:26-2A.6(g)1;	Upgrading of the surface drainage system. Increase in the design storm size;
ii.	Wetlands buffer areas, N.J.A.C. 7:26-2A.6(g)2;	Upgrading of the surface drainage system. Increase in the design storm size;
iii.	Lands in farmland preservation programs or municipally approved farmland preservation programs, N.J.A.C. 7:26-2A.6(g)3;	Site configuration restrictions; Operational restrictions;
iv.	Watershed areas of FW-1 water or FW-2 Trout Production Waters, N.J.A.C. 7:26-2A.6(g)4;	Upgrading of the surface drainage system. Increase in the design storm size;
v.	1000 feet of lakes or ponds and 500 feet of rivers or streams, N.J.A.C. 7:26-2A.6(g)5;	Upgrading of the surface drainage system. Increase in the design storm size;
vi.	Pinelands Protection Area, N.J.A.C. 7:26-2A.6(g)6;	Upgrading of the surface drainage system. Increase in the design storm size;
vii.	Cavernous limestone, dolomite and marble, N.J.A.C. 7:26-2A.6(g)7;	Site configuration restrictions; Upgrading of the subgrade support; Upgrading of the surface drainage system;
viii.	Subsurface mining, N.J.A.C. 7:26-2A.6(g)8;	Site configuration restrictions; Upgrading of the subgrade support;
ix.	Three miles to public use airport, N.J.A.C. 7:26-2A.6(g)9;	Operational restrictions;
x.	Historic site preservation, N.J.A.C. 7:26-2A.6(g)10;	Site configuration restrictions;
xi.	Buffer zones of specimen trees, N.J.A.C. 7:26-2A.6(g)11;	Site configuration restrictions;
xii.	Slopes exceeding 15 percent, N.J.A.C. 7:26-2A.6(g)12;	Site configuration restrictions; Upgrading of the

Environmentally Sensitive Area Impacted

Type of System Upgrading Required
surface drainage system.
Increase in the designed storm size.

(i) Sanitary landfill setback areas and buffer zones shall be designed and constructed in accordance with the following:

1. In areas in which the groundwater flow velocity, in the geologic formation in which the proposed sanitary landfill will be located, is equal to or greater than one foot per day, the minimum setback area shall be 300 feet from the toe of the slope of the landfill to the property boundary line.

2. In areas in which the groundwater flow velocity, in the geologic formation in which the proposed sanitary landfill will be located, is less than one foot per day, the setback may be reduced based on the geology and topography of the area, the groundwater quality and usage, and the performance standards set forth in (c) above and as determined in accordance with (f) above, but in no case shall the setback area be less than 150 feet.

3. A greater separation than that required by (i)1 or 2 above may be required based on the geology and topography of the area, the groundwater quality, usage, and proximity of potable water wells and the performance standards set forth at (c) above and as determined in accordance with (f) above to prevent pollution within the aquifers.

4. A minimum of 50 feet of buffer zone within the setback area shall be maintained at all landfills.

(j) Reductions in the performance of the sanitary landfill set forth in (d) and (e) above and the design standards and construction requirements set forth in N.J.A.C. 7:26-2A.7 for Class II and III sanitary landfills shall be permitted by the Department based upon the following:

1. The performance required of Class II sanitary landfills shall be based upon the waste type to be disposed of at the sanitary landfill and shall be in accordance with the following analyses:

i. Historical data of the waste type proposed to be disposed of at the sanitary landfill demonstrating the degradation and immobilization of the waste within the soil matrix under similar conditions; or

ii. An analysis, by a New Jersey certified laboratory, of a composite sample of the waste, which shall include, but not be limited to, the following:

(1) A total analysis of metals listed in N.J.A.C. 7:26G-5 (40 C.F.R. 261.24), performed in accordance with the most current version of the American Water Works Association, AWWA Standard Method, Part 300;

(2) Extraction procedures for the metals listed in N.J.A.C. 7:26G-5 (40 C.F.R. 261.24) using an extractant at a pH of 5 and with site water shall be performed in accordance with the most current version of the USEPA "Test Methods for Evaluating Solid Waste," SW 846 USEPA, Section 2 and USEPA "Solid Waste Leaching Procedure SW 924;"

(3) Steam distillation of any suspected organic shall be performed in accordance with the most current version of the USEPA "Test Methods for Evaluating Solid Waste SW 846;" Section 4.

iii. Background analysis shall be performed on soils taken from the proposed site in accordance with (j)ii(1) and (2) above.

iv. Split sampling, if required, shall be performed concurrently with the Department at a time and place to be agreed upon by the applicant and the Department. A certified copy of the bill for the Department's analysis of the waste and soils for split sampling performed in accordance with (j)1ii and iii above, shall be forwarded to the applicant, who shall pay the bill within 30 days thereafter. Payment of the bill in full shall be a condition of the final permit approval; and

v. A mass transport model meeting the requirements of (f) above shall be used to analyze the extent of any possible potential contaminant migration based on the site geology and groundwater flow at a maximum discharge rate.

2. The design standards and construction requirements set forth at N.J.A.C. 7:26A-2.7 may be reduced in as approved by the Department for Class II sanitary landfills as determined based upon the waste analysis performed in accordance with (j)1 above and the following:

- i. Site access control and security;
- ii. Length and scale of the operation; and
- iii. Location of the proposed sanitary landfill in regards to the following:
 - (1) Geologic location in accordance with (d) and (e) above;
 - (2) Impacts on environmentally sensitive areas in accordance with (g) and (h) above;
 - (3) Groundwater flow velocity in accordance with (i)1 and 2 above; and
 - (4) The geologic and groundwater impacts and the geotechnical analysis needed for the two-dimensional model shall be determined based upon a preliminary investigation performed in accordance with N.J.A.C. 7:26-2A.5(a)6.

3. The performance required for Class III sanitary landfills may be reduced and Class III sanitary landfills may be exempted from one or more of the design standards or construction requirements of N.J.A.C. 7:26-2A.7 based on the following:

- i. Site access control and security;
- ii. Length and scale of the disposal operation; and
- iii. Location of the landfill in regards to the following:
 - (1) Geologic location in accordance with (d) and (e) above;
 - (2) Impacts on environmentally sensitive areas in accordance with (g) and (h) above; and
 - (3) Groundwater flow velocity in accordance with (i)1 and 2 above.

Amended by R.1990 d.578, effective November 19, 1990.

See: 22 N.J.R. 2882(a), 22 N.J.R. 3514(a).

Design requirement changed from 200 feet to 20 feet at (g)15.

Amended by R.1996 d.500, effective October 21, 1996.

See: 28 N.J.R. 1693(a), 28 N.J.R. 4606(a).

Amended by R.1996 d.578, effective December 16, 1996.

See: 28 N.J.R. 2114(a), 28 N.J.R. 5248(a).

Substantially amended (c), (e), (g) and (h); in (d), inserted text "The alternative design"; in (d)1, inserted reference to soil admixture; and in (f), added last sentence.

7:26-2A.7 Sanitary landfill engineering design standards and construction requirements

(a) The following are the general sanitary landfill engineering design standards and construction requirements:

1. All sanitary landfills regulated by N.J.A.C. 7:26-2A.1(c) shall be designed and constructed with a leachate containment system, leachate collection system, leachate treatment/disposal system, monitoring system, a surface drainage control system, gas venting system, a final capping system and any other systems or control measures required pursuant to the design standards and construction requirements set forth in this subchapter, unless exempted by N.J.A.C. 7:26-2A.6(j)3;
2. An on-site baseline consisting of two vertical and horizontal control monuments shall be constructed and installed in accordance with the New Jersey Map Filing Law, N.J.S.A. 46:23-9, and Department specifications, as provided in "Guidelines for Establishing Vertical and Horizontal Control Monuments on a Sanitary Landfill" contained in the technical manual entitled Division of Solid Waste Management, Bureau of Landfill Engineering, Landfill Permits, prepared and made available by the Department.

i. The control monuments shall be installed with, at a minimum, Second Order accuracy in accordance with the "Classification, Standards of Accuracy, and General Specifications of Geodetic Control Survey" published by the U.S. Department of Commerce 1980. The control monuments shall be tied into the national or state geodetic survey network and keyed into the North American Datum of 1983.

(c) 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.

Amended by R.1974 d.234, effective August 21, 1974.
 See: 6 N.J.R. 343(c).
 Amended by R.1983 d.269, effective July 5, 1983.
 See: 15 N.J.R. 662(a), 15 N.J.R. 1095(b).
 Amended by R.1989 d.54, effective January 17, 1989.
 See: 20 N.J.R. 1995(a), 21 N.J.R. 190(a).
 Added text "of solid waste, excluding hazardous waste".
 Repeal and New Rule, R.1989 d.216, effective April 17, 1989.
 See: 20 N.J.R. 2668(a), 21 N.J.R. 1002(b).
 Amended by R.1995 d.205, effective April 17, 1995.
 See: 26 N.J.R. 3922(a), 27 N.J.R. 1576(b).
 Amended by R.1996 d.578, effective December 16, 1996.
 See: 28 N.J.R. 2114(a), 28 N.J.R. 5248(a).

In (a), inserted reference to thermal destruction facilities and composting facilities; and in (b), added last sentence.

Case Notes

Operator was liable for certain taxes and escrow accounts on solid waste disposed in its facilities under joint order issued by Department of Environmental Protection and Board of Public Utilities requiring landfill to remain open beyond intended closing date and requiring operator to extend credit to cash-based haulers in amount of rate increase. *Edgeboro Disposal, Inc. v. Division of Taxation*, 284 N.J.Super. 208, 664 A.2d 942 (A.D.1993).

Solid waste collector who failed to comply with terms of rate increase allowance; refund. In the Matter of the Petition of A. Fiore and Sons, Inc., 94 N.J.A.R.2d (EPE) 124.

7:26-4.2 Payment of fees

(a) Fees for activities related to solid waste transporters and facilities shall be paid by certified check or money order and made payable to "Treasurer, State of New Jersey" at the following address:

New Jersey Department of Environmental Protection
 Division of Solid and Hazardous Waste
 120 S. Stockton Street
 CN 414
 Trenton, N.J. 08625-0414

(b) Engineering design fees and transporter registrations may be paid in person at the address set forth in (a) above.

Repeal and New Rule, R.1989 d.216, effective April 17, 1989.
 See: 20 N.J.R. 2668(a), 21 N.J.R. 1002(b).
 Amended by R.1996 d.578, effective December 16, 1996.
 See: 28 N.J.R. 2114(a), 28 N.J.R. 5248(a).

7:26-4.3 Fee schedule for solid waste facilities

(a) The fee schedule for solid waste annual facility registration is as follows:

1. Each solid waste facility permittee shall pay an annual facility registration update fee of \$1,010. The annual facility registration update fee is due at the time the annual registration update is submitted, but in no event later than May 1 of each calendar year.

(b) Each solid waste facility permittee shall pay the applicable annual fee listed in the following table for compliance monitoring services. The fees are payable in equal quarterly installments, due on January 1, April 1, July 1 and October 1 of each year. The operator of one intermodal container facility authorized pursuant to N.J.A.C. 7:26-3.6 shall pay the annual fee listed below on January 1 of each year.

Type of Facility	Compliance Monitoring Fees
Sanitary Landfill—operating at 31,200 tons per year (tpy) or more	\$22,988
Sanitary Landfill—operating at less than 31,200 tpy	\$6,386
Transfer Stations and Materials Recovery Facilities—operating at 31,200 tpy or more	\$16,946
Transfer Stations and Materials Recovery Facilities—operating at less than 31,200 tpy	\$5,894
Thermal Destruction Facilities—operating at 9.6 tons per day or more	\$21,072
Thermal Destruction Facilities—operating at less than 9.6 tons per day	\$1,834
Intermodal Container Facilities	\$260
Solid Waste Composting and Co-Composting Facilities	\$3,144

(c) The following tables set forth the classifications of solid waste facilities:

1. Thermal destruction facilities:

- Class A: small scale thermal destruction facility (as such term is defined at N.J.A.C. 7:26-1.4)
- Class B: design capacity greater than 9.6 tons per day

2. Sanitary landfills:

- Class A: Class I sanitary landfill (as such term is defined at N.J.A.C. 7:26-1.4)
- Class B: Class II sanitary landfill (as such term is defined at N.J.A.C. 7:26-1.4)
- Class C: Class III sanitary landfill (as such term is defined at N.J.A.C. 7:26-1.4)

3. Transfer stations and materials recovery facilities:

- Class A: design capacity of less than 100 tons per day
- Class B: design capacity of at least 100 tons per day

4. Compost facilities:

- Class A: vegetative food waste and paper brought in separated form
- Class B: separated compostable waste-no inorganic material (e.g. glass, metal, plastic, etc.)
- Class C: mixed waste requiring manual and/or mechanical separation processes before composting

5. Sanitary landfill closure plan submissions:

Closure Plan

Class A: less than 10 acres

Class B: 10 to 30 acres

Class C: more than 30 acres

(d) The following table sets forth fees (in dollars) for services for the classes of solid waste facilities set forth in (c) above, specified by activity. The Department may, in its discretion, refrain from commencing work or suspend work at any time until the applicant or permittee has paid the designated fee.

1. Thermal Destruction Facilities

	Class	
	A	B
a. Administrative completeness determination	6,734	13,467
b. Engineering design report review	29,460	106,054
c. Permit renewal	21,884	58,077
d. Major modification to permit	9,595	32,826
e. Minor modification to permit	4,040	7,575
f. Transfer of ownership of permit	5,724	9,932
g. Minor technical review	1,010	2,020

2. Sanitary Landfill Facilities

	Class		
	A	B	C
a. Administrative completeness determination	10,100	7,575	3,788
b. Engineering design report review	106,054	73,228	53,027
c. Permit renewal	63,128	42,927	25,251
d. Major modification to permit	20,201	11,615	9,090
e. Minor modification to permit	11,363	7,575	5,050
f. Transfer of ownership of permit	12,626	9,090	7,828
g. Minor technical review	1,515	1,010	505

3. Transfer Stations and Materials Recovery Facilities

	Class	
	A	B
a. Administrative completeness determination	5,050	7,575
b. Engineering design report review	23,736	27,776
c. Permit renewal	20,706	25,251
d. Major modification to permit	11,615	20,201
e. Minor modification to permit	3,535	5,050
f. Transfer of ownership of permit	5,555	5,555
g. Minor technical review	1,010	1,515

4. Compost Facilities

	Class		
	A	B	C
a. Administrative completeness determination	2,525	7,575	7,575
b. Engineering design report review	12,626	22,726	50,502
c. Permit renewal	11,110	17,676	27,776
d. Major modification to permit	4,040	11,615	17,676
e. Minor technical reviews	1,010	1,515	1,515
f. Transfer of ownership of permit	3,535	5,555	5,555

5. Closure Plan

	Class		
	A	B	C
a. Administrative completeness determination	1,178	1,768	2,946
b. Engineering design report review	8,417	12,626	16,834
c. Major modification to approval	2,525	3,788	5,050
d. Minor modification to approval	842	1,683	2,525
e. Transfer of ownership of approval	1,683	2,525	3,788
f. Minor technical review	421	842	1,263

6. Annual Topographic Map Submissions

a. Engineering design report review

2,805

(e) For submissions concerning disruption, methane venting systems, on-site disposal, cover material, beneficial use reviews, RD&D reviews, hearing officer's report, construction facility inspection, contaminated soil reviews, or the solid waste facility performance partnership agreement, the applicant/permittee shall request an initial review of the submission. As part of its initial review, the Department shall determine the fees for performing its services in connection with the submission. Such fees shall be equal to the number of hours estimated by the Department to be required for the performance of such services, multiplied by an hourly rate of \$84.17.

(f) The omission of any type of service from the fee schedules set forth in (a), (b), (d) and (e) above shall not be construed as a waiver of the Department's authority to assess fees for such services. An applicant/permittee making a submission which it believes is not included in any of the schedules set forth in (a), (b), (d) and (e) above shall request an initial review of the submission. As part of its initial review, the Department shall determine the fees for performing its services in connection with the submission. The solid waste facility performance partnership agreement will be assessed a fee based on the hour for hour negotiation of the document with the permittee. This assessment will allow for the flexibility required by the Department and the permittee in establishing its permit pursuant N.J.A.C. 7:26-2.14. Such fees shall be equal to the number of hours estimated by the Department to be required for the performance of such services, multiplied by an hourly rate of \$84.17. The Department will calculate the fee for performance of the Department's services as follows:

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

2. If the Department determines, in its discretion, that such activity is not of a type listed in (a), (b), (d) or (e) 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 \$84.17.

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

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

Amended by R.1989 d.54, effective January 17, 1989.

See: 20 N.J.R. 1995(a), 21 N.J.R. 190(a).

Deleted "hazardous wastes" from (a)3i.

Repeal and New Rule, R.1989 d.216, effective April 17, 1989.

See: 20 N.J.R. 2668(a), 21 N.J.R. 1002(b).

Note: Reference to the repeal of N.J.A.C. 7:26-4.3 was inadvertently left out of the headings to the notices of proposal and adoption (20 N.J.R. 2668(a), 21 N.J.R. 1002(b)); however, language in the Summary of the proposal and subsequent introduction of new material clearly demonstrated the Department's intention to repeal and replace the rule.

Amended by R.1991 d.368, effective July 15, 1991.

See: 22 N.J.R. 3079(a), 23 N.J.R. 2166(b).

Deleted "facilities"; added "annual facility registration, volume monitoring and planning consistency activities" in (a).

Deleted "a facility monitoring fee from all facilities that are", "be paid when submitting the annual registration update", "The fee is \$500.00 per year."; added "The permittee for a facility who is", "at such facility", "pay an annual facility volume monitoring fee of \$902.00. The annual facility volume monitoring fee is due at the time the annual registration update is submitted but in no event later than May 1 of each calendar year." in (a)1.

Substituted old text with new text in (a)2.

Substituted old text with new text in (a)3.

Deleted (a)4 through 11.

Added (c), (d), (e), (f), (g), (h).

Amended by R.1991 d.368, effective July 14, 1991 (operative March 1, 1992).

See: 22 N.J.R. 3079(a), 23 N.J.R. 2166(b).

N.J.A.C. 7:26-4.3(b) made operative.

Administrative Correction to (b), thermal destruction facilities.

See: 24 N.J.R. 1121(a).

Administrative Correction to (b).

See: N.J.R. June 1, 1992.

Amended by R.1993 d.98, effective March 1, 1993.

See: 24 N.J.R. 1999(a), (see also 24 N.J.R. 2687(a)), 25 N.J.R. 990(b).

Added new structure at (b).

Amended by R.1996 d.169, effective April 1, 1996.

See: 27 N.J.R. 801(a), 28 N.J.R. 1834(a).

In (b) added fee for intermodal container facilities.

Amended by R.1996 d.578, effective December 16, 1996.

See: 28 N.J.R. 2114(a), 28 N.J.R. 5248(a).

Amended classes and fees.

7:26-4.4 Fee schedule for transporters

(a) For solid waste transporters, excluding those solely transporting hazardous waste, an annual registration and inspection fee shall be paid.

(b) The registration year shall extend from May 1 through April 30. Fees shall be payable prior to May 1 of each calendar year.

(c) All transporters shall pay an annual fee of \$178.00 for each solid waste cab or for each single-unit solid waste vehicle.

(d) All transporters shall pay an annual fee of \$178.00 for each solid waste trailer.

(e) All transporters shall pay an annual fee of \$22.00 for each solid waste container.

(f) The registration of a single-unit solid waste vehicle, solid waste trailer, solid waste cab, and solid waste container is non-transferable.

(g) All transporters shall pay a fee of \$25.00 for the replacement of a lost or stolen decal.

(h) All transporters shall pay a fee of \$10.00 for the replacement of a lost, stolen, or plate changes of registration card.

Repeal and New Rule, R.1989 d.216, effective April 17, 1989.

See: 20 N.J.R. 2668(a), 21 N.J.R. 1002(b).

Rule at this cite formerly entitled "Engineering design review (per design)".

Amended by R.1991 d.368, effective July 15, 1991 (operative July 15, 1991).

See: 22 N.J.R. 3079(a), 23 N.J.R. 2166(b).

Added "an annual" and changed fees in (c), (d), (e).

Deleted (g).

Amended by R.1996 d.578, effective December 16, 1996.

See: 28 N.J.R. 2114(a), 28 N.J.R. 5248(a).

In (b), deleted prohibition of pro rata adjustment; in (c) through (e), amended fees; and added (g) and (h).

7:26-4.5 County enforcement activity fees for solid waste control program

(a) General provisions are as follows:

1. Scope: Unless otherwise provided by state or statute, the following shall constitute the rules of the Department of Environmental Protection concerning fees to be charged for enforcement activities undertaken by county health departments pursuant to the Solid Waste Management Act, N.J.S.A. 13:1E-1 et seq., and the County Environmental Health Standards of Administrative Procedure and Performance, N.J.A.C. 7:1H.

2. Construction: This section shall be liberally construed to permit the Department and its component divisions to effectuate the purposes of the above referenced laws.

3. Purpose: This section is promulgated for the following purposes:

i. To aid counties in the development and implementation of a solid waste control program; and

ii. To provide a basis for the Department to review county department fees for enforcement activities related to their solid waste control program based upon the objectives in N.J.S.A. 13:1E et seq. and N.J.A.C. 7:26-1.

4. Definitions: The following words and terms, when used in this section, shall have the following meanings. Where words and terms are used which are not defined herein, the definitions of those words and terms will be the same as the definitions at N.J.A.C. 7:26-1.4.

"County department" means a county department of health established pursuant to P.L. 1975, c.329

(N.J.S.A. 26:3A2-1 et seq.) as amended and supplemented, with the purpose of providing environmental health programs throughout the county and other local health programs in any municipality which contracts therefor with the county board (N.J.S.A. 26:3A2-21 et seq.)

“Owner or operator” means and includes, in addition to the usual meanings thereof, every owner of record of any interest in land whereon a sanitary landfill facility is located, and any person or corporation which owns a majority interest in any other corporation which owns a majority interest in any sanitary landfill facility.

“Program” means a solid waste control program prepared by the county department pursuant to this section and the procedures and standards authorized by the County Environmental Health Standards of Administrative Procedure and Performance, N.J.A.C. 7:1H, and which has been submitted to the Department for review.

(b) Enforcement activity fee schedule established: In accordance with N.J.S.A. 13:1E-9, there is hereby established a fee schedule which shall apply to all sanitary landfill facilities required to be registered with the Department and subject to a county department program.

1. Duties and powers of the county department are as follows:

i. Any county department may charge and collect from the owner or operator of any sanitary landfill facility fees established by ordinance or resolution adopted by the county governing body. Such fees shall be established in accordance with this section for the purpose of enforcing the rules and regulations adopted by the Department related to solid waste collection and disposal, and in conformance with all applicable County Environmental Health Standards of Administrative Procedure and Performance, N.J.A.C. 7:1H, adopted pursuant to the County Environmental Health Act, N.J.S.A. 26:3A2-21 et seq.

ii. Within six months of the effective date of this section and by September 1 of each succeeding year as part of its annual work program, pursuant to the County Environmental Health Act, N.J.S.A. 26:3A2-21 et seq., a county department shall submit to the Department a Solid Waste Control Program (Program). The Program shall be submitted to each municipality located in the county for review and comment prior to its submittal to the Department and shall contain monitoring and enforcement activities at least equivalent to those set forth in N.J.A.C. 7:1H-3.4(a) through (u) and shall also include the following:

(1) Identification and number of operating facilities to be inspected;

(2) Projection of the number of inspections to be conducted by facility name (minimum twice per month);

(3) Purpose of inspections;

(4) A description of the procedures for:

(A) Determining inspection frequency;

(B) Accounting for activities performed;

(C) Actions to be taken after inspections have been performed; and

(D) Taking legal action.

(5) In each succeeding year, a report on the previous year's activities, including a detailed financial statement of the previous year's expenditures, actual amount of fees collected and any surplus which can be credited to the next year's costs.

iii. The Program shall include certain county budgetary costs as follows, provided they are both reasonable and necessary. The Department may consider additional costs based upon particular local needs and abilities provided the Department is satisfied that those additional costs are both reasonable and necessary.

(1) Personnel: Identify type, number, and salary required, including benefits therefor;

(2) Local training: In addition to county department training costs, personnel performing solid waste inspections shall also be trained by the Department through the arrangement of joint inspections with departmental inspectors experienced in facility inspections. It shall be the responsibility of the county department to arrange such joint training inspections;

(3) Protective equipment;

(4) Vehicles and maintenance;

(5) Test equipment;

(6) Laboratory and analysis;

(7) Office equipment and supplies;

(8) Secretarial, office and general administrative support; and

(9) Costs based on (b)1ii(1) through (5) above.

2. Fees for the Program are as follows:

i. After review by the Department of its Program, and pursuant to a resolution or ordinance adopted by the county governing body, any county department may charge and collect fees from the owner or operator of any sanitary landfill facility within its jurisdiction, as follows:

(1) At the maximum rate of \$0.01 per cubic yard of solid waste accepted for disposal at a facility;