

(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
CN 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) Hazardous waste generator biennial reporting fees are as follows. Biennial reporting fees shall be based on manifest information for the calendar year preceding the year in which the bill is issued:

1. Hazardous waste generators manifesting less than 13.2 tons of hazardous waste per year: \$67.00.

2. Hazardous waste generators manifesting equal to or greater than 13.2 tons but less than 10 tons of hazardous waste per year: \$134.00.

3. Hazardous waste generators manifesting equal to or greater than 10 tons but less than 100 tons of hazardous waste per year: \$248.00.

4. Hazardous waste generators manifesting equal to or greater than 100 tons but less than 150 tons of hazardous waste per year: \$501.00.

5. Hazardous waste generators manifesting equal to or greater than 150 tons of hazardous waste per year: \$801.00.

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

1. Generators located in the State of New Jersey: \$9.00 per manifest.

2. Hazardous waste facilities: \$9.00 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 on an annual basis by the following formula:

$$\begin{aligned}
 F &= \text{Fee} \\
 T &= \text{Inspection time (expressed as a percentage of the Department's total annual time for all major facilities)} \\
 W &= \text{Total quantity of hazardous waste generated and manifested off-site and hazardous waste manifested into the facility (expressed as a percentage of total hazardous waste generated and received annually from off-site for all major facilities)} \\
 I &= \text{Total annual cost for inspecting major commercial hazardous waste facilities} \\
 F &= (T + W)/2 \times I
 \end{aligned}$$

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: \$930.00;

3. Inspection fee for a non-commercial hazardous waste facility: \$1,639;

4. Inspection fee for a generator:

i. Large quantity generator: \$2,180; and

ii. Small quantity generator: \$517.00

5. Inspection fee for compliance inspection: \$829.00

6. Inspection fee for compliance reviews: \$454.00

(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: \$431.00;

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: \$216.00;

3. Fee for the review of sampling plans submitted in support of waste classification requests, for each plan submitted: \$249.00;

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: \$38,143;

ii. Development, monitoring, and review of sampling plan: \$1,244;

iii. Development and publication of public notice in the New Jersey Register: \$12,438;

(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): \$62,377.

ii. Storage and/or treatment including containers, tanks, drip pads, miscellaneous units, and containment buildings: \$33,862, subject to any rebate available under (e)13 below

iii. Incineration (including boilers and industrial furnaces) with trial burn: \$142,576

iv. Incineration (including boilers and industrial furnaces) without trial burn: \$124,754

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): \$33,862

ii. Non-commercial storage and/or treatment, including containers, tanks, drip pads, miscellaneous units, and containment buildings: \$24,951

iii. Commercial storage and/or treatment, including containers, tanks, drip pads, miscellaneous units, and containment buildings: \$46,337

iv. Incineration (including boilers and industrial furnaces) with trial burn: \$98,021

v. Incineration (including boilers and industrial furnaces) without trial burn: \$80,199

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): \$62,377

ii. Storage and/or treatment, including containers, tanks, drip pads, miscellaneous units, and containment buildings: \$33,862, subject to any rebate available under (e)13 below

- iii. Incineration (including boilers and industrial furnaces) with trial burn: \$142,576
 - iv. Incineration (including boilers and industrial furnaces) without trial burn: \$124,754
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: \$11,139
 - ii. Closure without soil sampling plan: \$6,683
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: \$891.00.
6. The fee for the approval/denial of ownership or operational control changes shall be paid at the time of submission of the request and is: \$1,337.
7. The fee for permit modifications shall be paid at time of modification request and are as follows:
- i. Class 1 modifications: \$1,248.
 - ii. Class 2 modifications: \$5,168.
 - iii. Class 3 modifications: \$20,941.
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: \$33,862, subject to any rebate under (e)13 below.
9. The fee for issuance of an emergency permit is: \$5,703.
10. The fee for treatability study annual report shall be paid at time of submission of report and is: \$178.00.
11. The fee for permit exemption qualification determinations shall be paid at time of submission of request and is: \$1,069.
12. The fee for review of Environmental Health and Impact Statements shall be paid at time of submission and is: \$17,822.

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 between the fee provided in (e)1ii, (e)3ii, or (e)8 above and the actual cost. Facilities requesting a rebate of part of the fee under (e)15 below shall make the request in writing and deliver it to the Department after the Department action on the activity, but no later than 20 days after

the action is completed. If the Department's timekeeping records show that the actual cost to the Department is more than 10 percent less than the estimated fee, the Department shall rebate the difference between the estimated fee and the actual cost.

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

15. If the Department determines that the activity is of a type listed in (e)1 through 12 above, the amount of the fee shall be equal to the amount listed in (e)1 through 12 above. If the Department determines that such activity is not of a type listed in (e)1 through 12 above, the fee shall be equal to the Department's estimate of the number of person-hours required to perform such activity, multiplied by the hourly rate of \$89.11, 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 an annual registration 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 year shall extend from October 1 through the following September 30. The fee shall accompany the submission of the annual registration application. 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 annual registration fees are as follows:

- i. Each hazardous waste cab: \$21.00;
- 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;
- 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): \$191.00; 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): \$212.00.

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:

$$\text{Total Revenue Needed to Carry Out Program} = (\text{Total Hours}$$

$$\text{Required to Carry Out Program}) \times (\text{Hourly Rate})$$

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:

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

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;