

(d) No license shall be approved by the Department if the Attorney General determines that there is a reasonable suspicion to believe that a person required to be listed in the disclosure statement, or shown to have a beneficial interest in the business of the applicant or the licensee other than an equity interest or debt liability by the investigation thereof, does not possess a reputation for good character, honesty and integrity, and that person or the applicant fails, by clear and convincing evidence, to establish his reputation for good character, honesty and integrity.

(e) No license shall be approved by the Department with respect to the approval of an initial license, if there are current prosecutions or pending charges in any jurisdiction against any person required to be listed in the disclosure statement, or shown to have a beneficial interest in the business of the applicant or the licensee other than equity interest or debt liability by the investigation, for any of the offenses enumerated in (b) above, provided, however, that at the request of the applicant or the person charged, the department shall defer decision upon such application during the pendency of such charge.

(f) No license shall be approved by the Department if any person required to be listed in the disclosure statement, or shown to have a beneficial interest in the business of the applicant or the licensee other than an equity interest or debt liability by the investigation thereof, has pursued economic gain in an occupational manner or context which is in violation of the criminal or civil public policies of this State, where such pursuit creates a reasonable belief that the participation of that person in any activity required to be licensed under this chapter would be inimical to the policies of N.J.S.A. 13:1E-126 et seq. For purposes of this section, "occupational manner or context" means the systematic planning, administration, management, or execution of an activity for financial gain.

(g) No license shall be approved by the Department if the applicant refuses to comply with inquiries as required under N.J.A.C. 7:26-16.7.

(h) No license shall be approved by the Department if the applicant in its application, disclosure statement or any other materials supplied to the Department or the Attorney General shall supply information which is untrue or misleading as to a material fact pertaining to the disqualification criteria.

Case Notes

Failure to demonstrate rehabilitation after conviction for disqualifying crime justifies denial of solid waste transporter license. *Bolus v. Solid Waste Management Division, DEPE, 96 N.J.A.R.2d (EPE) 4.*

Failure to disclose criminal indictment for involvement in solid waste disposal conspiracy warranted denial of application for solid waste licensure. *PJV Transport v. Division of Solid Waste Management, 95 N.J.A.R.2d (EPE) 50.*

Application for license to collect solid and hazardous waste; insufficient showing of integrity, reliability, expertise and competence. *Sasso's Sea-Gull Disposal, Inc. v. DEPE, 94 N.J.A.R.2d (EPE) 67.*

7:26-16.9 Cause for License Revocation

(a) In addition to any other cause set forth in this Chapter, any license may be revoked by the Department for any of the following causes:

1. Any cause which would require disqualification, pursuant to N.J.S.A. 7:26-16.8, from receiving a license upon original application;
2. Fraud, deceit, or misrepresentation in securing the license, or in the conduct of the licensed activity;
3. Offering, conferring or agreeing to confer any benefit to induce any other person to violate the provisions of N.J.S.A. 13:1E-1 et seq., N.J.S.A. 13:1E-126 et seq., or of any other law relating to the collection, transportation, treatment, storage, or disposal of solid waste or hazardous waste, or of any rule or regulation adopted pursuant thereto;
4. Coercion of a customer by violence or economic reprisal or the threat thereof to utilize the services of any licensee;
5. Preventing, without authorization of the Department any licensee from disposing of solid waste or hazardous waste at a licensed treatment, storage or disposal facility.

Case Notes

Commissioner of Department of Environmental Protection was obliged to impose civil administrative penalties against generator and transporter. *Rollins Environmental Services (NJ), Inc. v. Weiner, 269 N.J.Super. 161, 634 A.2d 1356 (A.D.1993).*

Each truckload of hazardous waste, which was not accompanied by written manifest was separate offense; penalty against generator was warranted despite generator's claim that it was victim of transporter's fraud and the department's negligence in enforcing its regulations. *Rollins Environmental Services (NJ), Inc. v. Weiner, 269 N.J.Super. 161, 634 A.2d 1356 (A.D.1993).*

Hazardous waste generator or transporter is strictly liable for violation of regulations governing transportation and disposal of hazardous waste. *Rollins Environmental Services (NJ), Inc. v. Weiner, 269 N.J.Super. 161, 634 A.2d 1356 (A.D.1993).*

Penalty for each truckload of hazardous waste that transporter accepted from generator was warranted. *Rollins Environmental Services (NJ), Inc. v. Weiner, 269 N.J.Super. 161, 634 A.2d 1356 (A.D. 1993).*

Oil trading company not corporation in good standing; no basis to oppose proposed revocation and denial of application for hazardous waste license. *Department of Environmental Protection v. N.O.C. Enterprises, Inc. 93 N.J.A.R.2d (EPE) 227.*

Dumping of hazardous wastes; mislabeled manifests; penalties. *Department of Environmental Protection v. Rollins Environmental Services, Inc. 92 N.J.A.R.2d (EPE) 67.*

7:26-16.10 Administrative hearing; requests

(a) Any applicant who is denied an initial license pursuant to this subchapter shall, upon a written request transmitted to the Department within 30 days of that denial, be afforded the opportunity for a hearing thereon in the manner provided for contested cases pursuant to the "Administrative Procedure Act", N.J.S.A. 52:14B-1 et seq.

(b) Any licensee who receives a notice of intent to revoke or refuse to renew a license shall have 15 days from receipt of the notice to transmit to the Department a request for a hearing.

(c) Requests for hearings shall be sent to the Office of Legal Affairs, ATTENTION: Adjudicatory Hearing Requests, Department of Environmental Protection, CN 402, Trenton, New Jersey 08625-0402.

Administrative correction heading and change in (c).
See: 23 N.J.R. 3325(b).

7:26-16.11 Severance of disqualifying individuals

(a) Notwithstanding the disqualification of any applicant or licensee pursuant to N.J.A.C. 7:26-16.8 or 16.9, the department may issue or renew a license if the applicant or licensee severs the interest of or affiliation with the person who would otherwise cause that disqualification.

(b) Where the disqualifying individual is the owner of an equity interest or interest in the debt liability of the licensee or applicant, he must completely divest himself of that interest. Where immediate sale of the interest would work an economic hardship on the individual, the licensee or applicant, the Department may, in its discretion, allow for divestiture over a period of time not to exceed one year.

(c) Arrangements such as blind trusts will be acceptable only as part of a divestiture arrangement under which the trustee is obliged to sell the disqualifying individual's interest within a period not to exceed two years.

(d) Before the Department will issue or renew a license to an applicant or licensee which has severed a disqualifying individual, the applicant or licensee must submit to the Department an affidavit, sworn to by the chief executive officer, attesting to the severance of the disqualifying individual and describing the terms, circumstances and conditions of that severance. Any instruments pertaining to that severance (such as a trust agreement) shall be submitted with the affidavit.

7:26-16.12 License revocation; Ineligibility for reapplication

(a) The Department will not issue a license to any person who has had an application denied, or a license revoked, for any of the reasons set forth in N.J.A.C. 7:26-16.8 or 16.9, for a period of 5 years following such denial or revocation.

(b) A person that is a business concern shall be considered as the same person if the management structure of the concern includes the person or persons that were the cause of the original disqualification.

7:26-16.13 Fees charged by the Attorney General and the Department

Note: The fee for the Attorney General is adopted pursuant to Section 3.d of P.L. 1983, c.392, N.J.S.A. 13:1E-128d. The fee for the Department is adopted pursuant to N.J.S.A. 13:1E-18.

(a) Every business concern of any type subject to the disclosure requirements of P.L. 1983, c.392 (N.J.S.A. 13:1E-126 et seq.) shall submit, upon initial filing and annually thereafter, a fee to the Attorney General to cover the cost of enforcing P.L. 1983, c.392 (N.J.S.A. 13:1E-126 et seq.) and a fee to the Department to cover the cost of reviewing disclosure statements, contracting with the Attorney General for post-licensing compliance checks, including special investigations, conducting investigations to verify claims of exemption from A-901, securing confidential documents, and other functions in the administration and performance of duties by the Department pursuant to P.L. 1983, c.392 (N.J.S.A. 13:1E-126 et seq.). The fee for the Attorney General shall be \$100.00 per each individual and the fee for the Department shall be \$500.00 per each individual required to be listed in the disclosure statement (other than a non-supervisory employee required to be listed pursuant to N.J.A.C. 7:26-16.4(a)9 or shown to have a beneficial interest in the business of the applicant or licensee other than an equity interest or debt liability interest), in addition to a per-company fee to be calculated as follows:

1. Business concerns with one individual required to be listed pursuant to N.J.A.C. 7:26-16.3 and 16.4 shall pay an annual per-company fee of \$635.00;

2. Business concerns with two or three individuals required to be listed pursuant to N.J.A.C. 7:26-16.3 and 16.4 shall pay an annual per-company fee of \$1,775;

3. Business concerns with four to seven individuals required to be listed pursuant to N.J.A.C. 7:26-16.3 and 16.4 shall pay an annual per-company fee of \$5,150; and

4. Business concerns with more than seven individuals required to be listed pursuant to N.J.A.C. 7:26-16.3 and 16.4 shall pay an annual per-company fee of \$15,650.

(b) The applicant shall calculate the amount of each fee due and submit to the Department a check for the total fee amount, made payable to "New Jersey Department of Environmental Protection". The Department shall forward the Attorney General's fee to the Attorney General. An application or disclosure statement will not be accepted as complete for filing unless accompanied by the appropriate fee payment.

(c) If on the basis of investigation the Department or the Attorney General determines that a person not listed on the disclosure statement should have been listed thereon, the Department and Attorney General may require the payment of additional separate fees along with the submission of additional information pertaining to that person. The applicant shall pay such additional separate fees promptly upon demand. Nothing in this subsection shall be construed as limiting the power of the Department to deny or revoke a license if the Department finds the omission of a person from the disclosure statement was intended to mislead or conceal information from the Department.

(d) If a business concern subject to P.L. 1983 c.392 (N.J.S.A. 13:1E-126 et seq.) files a change of information pursuant to N.J.A.C. 7:26-16.6, and discloses thereon an individual not listed in the disclosure statement information (including any amendments) currently on file with the Department, the business concern shall pay additional separate fees of \$100.00 to the Attorney General and \$500.00 to the Department per each individual so disclosed (other than a non-supervisory employee required to be listed pursuant to

N.J.A.C. 7:26-16.4(a)9). Individuals disclosed pursuant to N.J.A.C. 7:26-16.6 shall be considered to be additions to previously disclosed individuals for the purpose of calculating the per-company portion of the fee. Business concerns shall be required to pay the difference between a lower and higher per-company fee where newly disclosed individuals bring the total number of disclosed individuals to a level requiring a higher fee pursuant to (a) above.