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TITLE 7. ENVIRONMENTAL PROTECTION
CHAPTER 26. SOLID WASTE
SUBCHAPTER 6. SOLID WASTE PLANNING REGULATIONS

N.J.A.C. 7:26-6.1 (2019)

§ 7:26-6.1 Authority

This subchapter is promulgated pursuant to the policies set forth in and the authority delegated to the Department of Environmental Protection by the Solid Waste Management Act, N.J.S.A. 13:1E-1 et seq. and the Solid Waste Utility Control Act, N.J.S.A. 48:13A-1 et seq.

7:26-6.2 Purpose

Pursuant to the Solid Waste Management Act, the Department is charged with developing procedures to assure the orderly preparation of a solid waste management plan for every solid waste management district and the approval, modification, or rejection of such a solid waste management plan, and the certification of the determinations to the board of chosen freeholders or the New Jersey Meadowlands Commission, as the case may be, which submitted such plan. This subchapter sets forth the rules to conduct these tasks.

7:26-6.3 Types of wastes covered

- (a) This subchapter applies to all solid waste, as defined in N.J.A.C. 7:26-2.13, with the exception of the following:
1. Bulk liquids and semi-liquids, ID type 72;
 2. Septic tank clean-out wastes, ID type 73;
 3. Liquid sewage sludge, ID type 74;
 4. Dry sewage sludge, ID type 12;
 5. Dry industrial waste, ID type 27, but only if such waste is residue from the operations of a scrap metal shredding facility, provided that the operator of the scrap metal shredding facility satisfies the requirements of (a)5i through iv below:
 - i. The owner/operator of the scrap metal shredding facility shall obtain the Department's approval of a quality control plan for the facility, which ensures that before shredding the motor vehicles, appliances, or source separated, non-putrescible ferrous and non-ferrous metals received by the facility, the facility removes components that could affect the nonhazardous characteristics of the residue from the operations of the facility. As provided in the quality control plan, the facility may reject any motor vehicles, appliances or source separated non-putrescible ferrous and non-ferrous metal if inspection reveals that components that could affect the non-hazardous characteristics of the residue are present. The facility is considered the generator of the components it accepts for processing, and shall dispose of these components in accordance with all applicable laws, orders and regulations (including N.J.A.C. 7:26G, if applicable). The components to be removed include, without limitation, the following:
 - (1) Batteries and cable ends;
 - (2) Gas tanks;
 - (3) Catalytic converters;
 - (4) Unspent airbag canisters;
 - (5) Transformers;
 - (6) PCB capacitors; and

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- (7) Fluorescent lighting fixtures;
 - ii. The owner/operator of the scrap metal processing facility shall obtain the Department's approval of a sampling and analytical plan which insures monitoring of the characteristics of the residue from the operations of the facility, as set forth in N.J.A.C. 7:26G-5 and the most recent edition of the USEPA publication SW-846 "Test Methods for Evaluating Solid Waste-Physical/Chemical Methods," incorporated herein by reference. The operator shall perform sampling and analysis quarterly, including without limitation the Toxicity Characteristic Leaching Procedure (TCLP) parameter as set forth in N.J.A.C. 7:26G-5. The operator shall submit the analysis performed in accordance with the approved sampling to the Division of Solid and Hazardous Waste for classification on January 15, April 15, July 15 and October 15, provided however that if the Department approves less frequent sampling and analysis, the owner/operator shall submit the analysis on the dates specified in the Department's approval of that sampling. Upon a request by the facility and as approved by the Department, the sampling frequency of the approved sampling and analytical plan may be reduced. The owner/operator of the facility shall submit a revised sampling and analytical plan which documents how the accuracy and precision criteria as required in SW-846 will be maintained with a reduced schedule;
 - iii. On February 15 and August 1 of every year, the owner/operator of the scrap metal shredding facility shall submit to the Department and to the solid waste district in which the facility is located, a report on forms provided by the Department consistent with the Department's Annual Recycling Tonnage Reporting Manual including the following information:
 - (1) The total amount of each type of materials which the facility received in the six-month period ending January 1st and July 1st of every year;
 - (2) The total amount of residue disposed of by the facility;
 - (3) The total amount of ferrous and non-ferrous metal remaining after shredding; and
 - (4) The report shall be submitted to the following address:

New Jersey Department of Environmental Protection
Division of Solid and Hazardous Waste
Bureau of Solid Waste Planning and Licensing
Mail Code 401-02C
P.O. Box 420
401 East State Street
Trenton, NJ 08625-0420; and
 - iv. The scrap metal shredding facility shall either maintain a scale certified under N.J.A.C. 13:47B-1 and provide specific truck load weigh data to the district in which the facility is located, or transport the residue through the district's weighing facilities to be weighed before the residue is transported for disposal;
6. Source separated Class A recyclable material, Class B recyclable material, Class C recyclable material and Class D recyclable material as such terms are defined at N.J.A.C. 7:26A-1.3;
 7. Hazardous waste, as defined at N.J.A.C. 7:26G-5; and
 8. Non-residentially generated chemically treated wood, such as wood treated with creosote, pentachlorophenol (PCP) or chromated copper arsenate (CCA), or scrap tires that are destined for incineration and/or energy recovery provided that the following conditions are met:
 - i. The chemically treated wood or scrap tires are separated at the point of generation from other solid waste;
 - ii. The chemically treated wood or scrap tires transported for incineration and energy recovery are transported by a solid waste transporter licensed under N.J.A.C. 7:26-3, 16 and 16A. Transporters

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delivering chemically treated wood scrap or scrap tires to an out-of-State power generating incinerator pursuant to (a)8iv(1) below shall submit a tonnage report to the Department at the address specified at (a)8v below by March 1 of each year for the prior calendar year that specifies the total amount of material received, in tons, from New Jersey sources;

- iii. Each load of chemically treated wood or scrap tires is accompanied by the waste origin/waste disposal form satisfying the requirements of N.J.A.C. 7:26-2.13(c); and
- iv. The chemically treated wood or scrap tires are delivered to one or both of the following:
 - (1) An out-of-State power generating incinerator authorized or permitted by the receiving state to accept such materials for utilization as fuel; or
 - (2) An in-State power generating incinerator, including a resource recovery facility, that is approved by the Department to accept such materials for utilization as fuel subject to a review of the facility's operating permit, incoming materials specifications and written narrative explanation of operation. An in-state resource recovery facility that accepts chemically treated wood or scrap tires shall obtain an approved tariff for the receipt of these materials pursuant to N.J.A.C. 7:26H-5 and modify its solid waste facility permit pursuant to N.J.A.C. 7:26-2.6. Each approved in-state power generating facility, with the exception of an in-state resource recovery facility which must report such activity in its facility monthly volume report pursuant to N.J.A.C. 7:26-2.13, shall submit a tonnage report specifying the total amount of chemically treated wood or scrap tires received, in tons, from New Jersey sources, to the Department at the address specified at (a)8v below by March 1 of each year for the prior calendar year.
- v. Applications for approval and annual tonnage reports shall be submitted to:

New Jersey Department of Environmental Protection
Division of Solid and Hazardous Waste
Bureau of Solid Waste Planning and Licensing
Mail Code 401-02C
P.O. Box 420
401 East State Street
Trenton, N.J. 08625-0420

7:26-6.4 Informational requirements

Any person registered with the Department for the collection, transportation, and/or disposal of solid wastes affected by this subchapter shall, upon request by the Department, submit, in such form as the Department may deem appropriate, information concerning the sources of wastes collected, and his/her transportation and disposal patterns.

7:26-6.5 (Reserved)

7:26-6.6 (Reserved)

7:26-6.7 (Reserved)

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7:26-6.8 Procedure for applying for a rate for planning related to dry industrial waste, ID type 27, which is residue from a scrap metal shredding facility

- (a) The solid waste district in which one or more scrap metal shredding facilities is located may, in accordance with the procedure set forth in N.J.S.A. 48:13A-1 et seq., apply to the Department for the establishment of a rate to recover the reasonable costs of monitoring the generation and disposal of the residue from the operations of such facilities, consistent with the district's interest in planning for the disposal of waste generated within the district. This reasonable rate shall reflect such costs, which include, without limitation, the cost of performing the following activities:
 1. Recordkeeping concerning the amount and type of materials received by scrap metal shredding facilities, the amount of residue generated by these facilities, and the amount of ferrous and non-ferrous metal remaining after the shredding process; and
 2. Developing a 10 year planning forecast for the future disposal of the residue.
- (b) If the scrap metal shredding facility maintains a scale certified under N.J.A.C. 13:47B-1 and provides specific truck load weigh data to the district in which the facility is located, the district's application for a reasonable rate shall not include either the cost of redirecting the residue through the district's facilities solely for the purpose of weighing and recording the residue or the cost of weighing the residue.

7:26-6.9 (Reserved)

7:26-6.10 Modifications to district solid waste management plans; plan amendments

- (a) Each plan amendment to a district solid waste management plan or program shall comply with the requirements of this section.
- (b) For the purposes of this section, a plan amendment means a modification to the district solid waste management plan, which, if implemented, would have a significant impact on the environment, property rights, public and private funds or the overall solid waste management system. A plan amendment includes, but is not limited to, the following:
 1. An interdistrict agreement between two or more districts for the purpose of managing solid waste and/or recyclables on a regional basis;
 2. The designation of an in-district weighing facility(ies), if a district chooses. If a district chooses to impose a weighing requirement in order to collect any fees or charges for ensuring the payment of outstanding debt and other fee obligations, the district shall submit, within 180 days, an alternative means of collecting such fees or charges which does not rely on in-district weighing. Following submission of said plan, districts may continue to collect any fees or charges through in-district weighing pending the Department's review of the alternative method of collecting fees or charges.
 3. A solid waste disposal contract entered into by the district or authority;
 4. The deletion of a solid waste facility other than those listed at N.J.A.C. 7:26-6.11(b)7;
 5. The identification of new or a change in the identity of existing designated plan implementation agency or agencies;
 6. The method of financing solid waste management in the district, including any mechanism to be instituted by the district for ensuring the payment of outstanding debt and other financial obligations;
 7. The inclusion of new facilities, including landfills, resource recovery facilities, transfer stations, materials recovery facilities, solid waste and co-composting facilities, recycling facilities for Class B (except those described at N.J.A.C. 7:26A-1.4(a) or 3.7(a)), Class C (except those identified at N.J.A.C. 7:26A-1.4(a)13) and Class D materials, permanent household hazardous waste collection sites, and new regulated medical waste treatment, processing and disposal facilities;

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8. An increase in the amount of material received during a 24 hour period at an existing permitted solid waste facility greater than 100 tons per day.
 9. A modification to any district solid waste and recycling policy and/or program, including, but not limited to, short and long-term disposal strategies, methods for achieving designated recycling goals and blanket facility inclusion policies;
 10. Any increase in the solid waste disposal capacity of an existing permitted landfill other than that specified at N.J.A.C. 7:26-6.11(b)10; and
 11. Any modification to the solid waste management plan as may be identified by the Department.
- (c) Upon the development of a solid waste plan amendment, a board of chosen freeholders or the New Jersey Meadowlands Commission shall hold a public hearing for the purpose of receiving comments from persons interested in or affected by the adoption of the plan amendment.
1. The designated plan implementation agency shall publish notice of a public hearing concerning the plan amendment in a newspaper of general circulation in the county or district once each week for two consecutive weeks, the second publication date being not less than 10 calendar days prior to the public hearing date. For the purposes of determining weekly publication, Sunday is considered the first day of the week, in conformance with N.J.S.A. 13:1E-23.
 2. The notice of the public hearing concerning the plan amendment shall provide a detailed description of the plan amendment and, at a minimum, contain the following information:
 - i. The date, time and place of the public hearing;
 - ii. The name and address of the district solid waste coordinator;
 - iii. When and where the plan amendment can be reviewed; and
 - iv. In the case of a facility, a description and the site location, by municipality, street address, lot and block number, the proposed or expanded capacity and the waste types which will be received.
- (d) The board of chosen freeholders or the New Jersey Meadowlands Commission shall submit to the Department a complete plan amendment which shall include the following:
1. One copy of the adopting ordinance or resolution;
 2. Twenty copies of the plan amendment;
 3. One copy of the public hearing transcript and any substantive comments submitted to the county or district or designated plan implementation agency prior to the close of any stated comment period;
 4. One copy of the public notice accompanied by an affidavit of publication issued by the publishing newspaper; and
 5. For any plan amendment which proposes to incorporate a facility site, 20 copies of an 8 1/2 inch x 11 inch tax map identifying the location of the site, the street address, and the lot and block numbers.
- (e) The plan amendment in (d) above shall be submitted to:
- New Jersey Department of Environmental Protection
Division of Solid and Hazardous Waste
Bureau of Solid Waste Planning and Licensing
Mail Code 401-02C
P.O. Box 420
401 East State Street
Trenton, N.J. 08625-0420
- (f) Upon receipt of a plan amendment submitted pursuant to (d) and (e) above, the Department shall review the plan amendment for completeness. Within 10 working days of receipt of the plan amendment, the

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Department shall notify, in writing, the entity that submitted the plan amendment whether the plan amendment is complete or incomplete.

- (g) The Department shall submit a copy of a complete plan amendment to the Advisory Council on Solid Waste Management in the department, and to the agencies, bureaus and divisions in the Department identified at N.J.S.A. 13:1E-23 for review and recommendations.
- (h) Upon review of the plan amendment and upon receipt of recommendations provided pursuant to (g) above, the Department shall approve, modify, or reject a plan amendment within 150 calendar days of receipt of a complete plan amendment and shall certify such determination to the board of chosen freeholders or to the New Jersey Meadowlands Commission. If the Department takes no action on a complete plan amendment within 150 calendar days, the plan amendment shall be deemed approved.

7:26-6.11 Administrative actions concerning a district solid waste management plan

- (a) Each administrative action taken relative to a district solid waste management plan or program shall comply with the requirements of this section.
- (b) For the purposes of this section, a solid waste management plan administrative action includes, but is not limited to, the following:
 - 1. The use of Resource Recovery Investment Tax (RRIT) grant moneys and/or the development of the associated disbursement schedules;
 - 2. The designation of or change to prior approved truck routes to or from solid waste facilities;
 - 3. The inclusion of new recycling facilities for processing Class A or Class C recyclable materials (as identified at N.J.A.C. 7:26A-1.4(a)14), or replacement units at existing regulated medical waste facilities;
 - i. The inclusion and/or expansion of recycling and compost facilities shall be, at the discretion of the district, subject to any previous blanket inclusion policies approved by the Department and shall be undertaken by the district in accordance with the approved district solid waste management plan. This paragraph is intended to supplement and not replace any previously approved blanket inclusion policy for a district.
 - ii. Any blanket inclusion amendment approved by the Department shall contain a provision requiring, among other things, notification to the public as to the location for the receipt of written comments and the starting and ending dates for the written comment period.
 - 4. The expansion of capacity of any size, other than that specified at N.J.A.C. 7:26-6.10(b)8 and 10, for any regulated solid waste facility. Only one capacity increase over the operational life of the regulated solid waste facility may be accomplished via administrative action.
 - 5. The modification of an existing facility including acceptance of additional waste types, on-site operational changes and expansions of facility buffer zones or expansions into buffer zones for ancillary operational activities;
 - 6. The modification of a recycling program, including the designation of additional materials for recycling, procurement strategies, market strategies, public education, private incentive programs, waste audit strategies, yard waste programs, per container programs, and enforcement strategies;
 - 7. The deletion of any facility which is included in the plan for more than two years but for which a complete permit application has not been made, or the deletion of any facility which is included in the plan but has not been in operation for more than two years;
 - 8. Unless specifically noted by the Department within a plan certification document, any information collected and/or submitted by the district plan implementation agency, including, but not limited to, solid waste studies, reports, data collection, compost inventories, and weekly waste averaging (when the daily rate has already been included in the plan);

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9. The reaffirmation of an existing district solid waste disposal strategy subsequent to the final disposition of the Atlantic Coast Demolition and Recycling, Inc. v. Board of Chosen Freeholders of Atlantic County, Civil Action No. 93-cv-02669 (D.N.J. May 1, 1997) case, provided that the plan implementation agency has held a public hearing on such reaffirmation for the purpose of receiving comments from persons interested in or affected by the amendment. Notice of such hearing shall be published in newspapers of general circulation in the district not less than 10 calendar days prior to the hearing and shall include the information set forth in N.J.A.C. 7:26-6.10(c)2;
 10. Any increase in the solid waste disposal capacity of an existing permitted landfill which is less than or equal to the volume equivalent of the acceptance of an additional 100 tons per day of solid waste over the smaller of 10 years or the remaining life of the existing permitted landfill. Such capacity increase may only be done via administrative action if the facility has signed a Silver Track II for Landfills Covenant with the Department. Additionally, only one capacity increase over the operational life of the permitted landfill may be accomplished via administrative action; and
 11. The operation of a solid waste intermodal container facility;
 12. The operation of a commercial collection facility for medical waste;
 13. The operation of a RD & D project pursuant to N.J.A.C. 7:26-1.7;
 14. Any other administrative action as may be identified by the Department.
- (c) Nothing contained in this section shall be construed to subrogate the district solid waste management planning process. The board of chosen freeholders or the New Jersey Meadowlands Commission, in its discretion, may hold a public hearing prior to the adoption of any administrative district solid waste plan action.
- (d) The board of chosen freeholders or the New Jersey Meadowlands Commission or the designated implementation agency of the affected district shall submit to the Department a letter that describes in detail the administrative action to be taken relative to the district solid waste management program.
1. The letter concerning the administrative action shall be submitted to the address at N.J.A.C. 7:26-6.10(e).
- (e) Upon receipt of a letter describing the administrative action, submitted pursuant to (d) above, the Department shall review the information provided. Within 10 working days of receipt of the letter, the Department shall notify, in writing, the entity that submitted the letter concerning the administrative action of its receipt of such letter.
- (f) The Department shall approve, modify or reject an administrative action within 30 working days of receipt of the letter describing the administrative action pursuant to (d) above, unless it determines that the described action is subject to the requirements for a solid waste management plan amendment pursuant to N.J.A.C. 7:26-6.10. In the event the Department fails to respond to a letter concerning an administrative action within the 30 day period, the administrative action shall be deemed approved.

7:26-6.12 Compliance with district solid waste management plan

- (a) Any contract or renewed contract for solid waste collection and/or disposal which is inconsistent with an amendment or approved administrative action to the applicable solid waste management plan, and which was executed prior to the approval of such amendment or approved administrative action and subsequent to December 16, 1996, and which is for a term in excess of one year, shall be renegotiated in order to bring such contract into conformance with the provisions of the amended solid waste management plan and this chapter.
 1. Any solid waste collection operation or disposal facility registered by the Department and operating pursuant to a contract or a renewed contract as described in this subsection shall be deemed to be in violation of the Act and this chapter and of the district solid waste management plan if such renegotiation is not completed within 90 calendar days of the effective date of this amendment or approved administrative action, unless such solid waste collection operation or disposal facility applies

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to the Department, and obtains, for good cause shown, an extension of time to complete such renegotiation.

- (b) All solid waste facility operators and transporters registered with the Department shall operate in compliance with the applicable district solid waste management plan as well as any amendments to and/or approved administrative actions concerning such plan. Any facility operator or transporter who fails to comply with the applicable solid waste management plan as well as any amendment to or approved administrative actions concerning such plan shall be deemed to be in violation of the Act and this chapter and shall be subject to the applicable penalties provided under the Act and this chapter, and any other applicable law or regulation.