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TITLE 7. ENVIRONMENTAL PROTECTION
CHAPTER 26. SOLID WASTE
SUBCHAPTER 2D. REQUIREMENTS ON RAIL CARRIERS THAT TRANSFER CONTAINERIZED OR
NONCONTAINERIZED SOLID WASTE TO OR FROM RAIL CARS

N.J.A.C. 7:26-2D.1 (2009)

7:26-2D.1 Requirements on rail carriers that transfer containerized or noncontainerized solid waste to or from rail cars

(a) For the purpose of this subchapter, the term "rail carrier" shall mean a person as defined in 49 U.S.C. § 10102(5) that provides common carrier railroad transportation and has been approved pursuant to 49 U.S.C. §§ 10901 or 10902, by the United States Surface Transportation Board (or its predecessor agency) or otherwise has been recognized as a rail carrier by such agency, and holds out to the general public that the operations at the facility are being conducted by it or on its behalf as part of its rail transportation services.

(b) A rail carrier that transfers containerized or noncontainerized solid waste to or from rail cars shall provide the Division of Solid and Hazardous Waste with the following information prior to commencing solid waste transportation operations within the State of New Jersey: a description of the geographical location of the rail carrier's facility, identifying the name of the municipality in which the facility is located and the address of the facility. This information shall be sent to:

New Jersey Department of Environmental Protection
Division of Solid and Hazardous Waste
401 East State Street, PO Box 414
Trenton, New Jersey 08625-0414

(c) A rail carrier that engages in the transportation of solid waste at a facility owned by such rail carrier within the State of New Jersey exclusively in the form of sealed containers of solid waste, and that does not engage in any form of solid waste tipping (such as onto the floor of a building or other structure), processing, sorting or compaction, or the removal of solid waste from a container to transfer to another container or vehicle, shall comply with the following requirements:

1. The rail carrier shall provide the Division of Solid and Hazardous Waste with the following information, in addition to the information required by (b) above, prior to commencing solid waste transportation operations: a narrative from an officer of the rail carrier describing the facility operations and certifying that containers will not be opened and that employees, the public or the environment will not be exposed to solid waste except as allowed in accordance with this section. This information shall be sent to the same address as in (b) above.

2. The rail carrier shall operate in accordance with the following standards:

i. Nonputrescible solid waste shall not remain at the rail facility for more than 10 days, except that ID 72 liquid solid waste may be stored for up to 180 days in sealed containers. Putrescible solid waste shall not remain at the rail facility for greater than 72 hours;

ii. Solid waste received, stored or transferred at the rail facility shall at all times be contained in sealed containers that do not leak any liquids or solid materials and are not opened for any purpose at the facility, except that a container holding ID 72 liquid solid waste may be opened briefly for the purpose of sampling the liquid provided the container is immediately resealed;

iii. The operation shall not result in the migration of odors outside the confines of the rail carrier's property or the emission, except by locomotive or locomotive engine, of air contaminants in violation of *N.J.A.C. 7:27-5.2(a)*;

iv. All solid waste containers staged or stored at the facility shall be secured at all times in a manner that prevents unauthorized access to the containers and their contents;

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v. An adequate water supply and adequate fire-fighting equipment shall be maintained or be readily available to extinguish any and all types of fires. Fire-fighting procedures, including the telephone numbers of local fire, police, ambulance and hospital facilities, shall be posted in and around the facility at all times;

vi. The queuing and staging of solid waste vehicles on any public roadway is prohibited;

vii. The queuing and staging of solid waste vehicles shall be conducted so as to prevent traffic backups and related traffic hazards on access roads servicing the facility;

viii. Facilities and all appurtenances, other than those owned or operated by rail carriers, including vehicles while on-site, shall be positioned and buffered in such a manner that sound levels generated by the operation shall not exceed limits established pursuant to the Noise Control rules, *N.J.A.C. 7:29*, and rail carriers shall at all times comply with the noise emission standards set forth in Title 49 C.F.R. Part 210, and any applicable regulation promulgated pursuant to the State Noise Control Act, *N.J.S.A. 13:1G-1* et seq.;

ix. Only solid waste vehicles properly registered, pursuant to *N.J.A.C. 7:26-3*, with the Division of Solid and Hazardous Waste, unless exempt from the registration requirement pursuant to *N.J.A.C. 7:26-3.3*, and displaying the appropriate registration number and solid waste decal shall be admitted at the facility;

x. The Department's designated representatives and inspectors shall have the right to enter and inspect any building or any other portion of the rail facility, at any time. This right to enter and inspect includes, but is not limited to:

(1) Observing and sampling any materials on-site;

(2) Photographing any portion of the facility, solid waste vehicles, containers, and container contents;

(3) Investigating an actual or suspected source of pollution of the environment;

(4) Ascertaining compliance or noncompliance with the statutes, rules, or regulations of the Department; and

(5) Reviewing and copying all records required by Federal or State statutes or regulations, which shall be made available on request to Department representatives and inspectors at all reasonable times for review and inspection;

xi. Any release or discharge of any solid waste that would harm human health and the environment at the facility shall be immediately reported by the facility operator or its designee to the DEP Emergency Response 24-hour Hotline at 1-877-WARNDEP. The report shall specify the type of substance discharged and the estimated quantity, the nature of the discharge, the location of the discharge, any action being taken or proposed to be taken in order to mitigate the discharge, and any other information concerning the incident the Department may request at the time of notification;

xii. The facility operator shall designate an on-site emergency coordinator who will be available during all hours of operation for the purpose of handling emergency situations, such as, but not limited to, spills, discharges or releases of solid wastes at the facility;

xiii. The facility shall maintain daily records of waste received in accordance with *N.J.A.C. 7:26-3.6(h)1*, and shall submit quarterly reports within 20 days of the end of each calendar quarter summarizing waste receipts in accordance with *N.J.A.C. 7:26-3.6(h)2*; and

xiv. Any rail carrier that fails to operate in compliance with the requirements of this section shall be subject to all applicable penalties pursuant to the Solid Waste Management Act, *N.J.S.A. 13:1E-1* et seq., and *N.J.A.C. 7:26-5*.

(d) A rail carrier that engages in the transportation of solid waste at a facility owned by such rail carrier within the State of New Jersey, and that engages in any form of solid waste tipping (such as onto the floor of a building or other structure), processing, sorting or compaction, or the removal of solid waste from a container to transfer to another container or vehicle, shall comply with the following requirements:

1. All facility processing, tipping, sorting, loading, storage and compaction of materials (that is, solid waste and mixtures of solid waste and recyclable materials) shall occur within the confines of an enclosed building that complies with all requirements of the Uniform Construction Code;

2. Facility shall have concrete or equivalent tipping floors or ramps to ensure proper containment and channeling of wastewater to sanitary sewer connections or holding tanks and constructed to withstand heavy vehicle

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usage, in compliance with applicable rules regarding the discharge of wastewater and the utilization of holding tanks at *N.J.A.C. 7:14B*;

3. Facilities shall have a system that collects, stores, and properly disposes of wastewater generated during normal operations, including wash-out and cleaning of equipment, trucks, and floors, in compliance with the applicable rules regarding wastewater and stormwater management at *N.J.A.C. 7:14A*;

4. Within each 24-hour period, the operator shall clean each area where waste has been deposited or stored;

5. No waste shall be stored overnight without effective treatment to prevent odors associated with putrefaction;

6. Facility property surrounding the actual waste management area shall be maintained free of litter, debris, and accumulations of unprocessed waste, process residuals and effluents. Methods (such as fencing) of effectively controlling windblown papers and other lightweight materials shall be implemented;

7. Methods of effectively controlling dust shall be implemented in order to prevent migration outside the enclosed building and off-site;

8. The operation shall not result in the migration of odors outside the confines of the enclosed building or the emission of air contaminants, except by locomotive or locomotive engine, in violation of *N.J.A.C. 7:27-5.2(a)*;

9. An adequate water supply and adequate fire-fighting equipment shall be maintained or be readily available to extinguish any and all types of fires. Fire-fighting procedures, including the telephone numbers of local fire, police, ambulance and hospital facilities, shall be posted in and around the facility at all times;

10. The operator shall effectively control insects, other arthropods and rodents at the facility by means of a program in compliance with *N.J.A.C. 7:30*, and implemented by an applicator of pesticides, certified in accordance with the New Jersey Pesticide Control Code, *N.J.A.C. 7:30*;

11. The facility shall operate certified scales for the reporting requirements of *N.J.A.C. 7:26-2.13* for waste transported by trucks;

12. Facilities' on-site roadways and storage areas shall have concrete or asphalt paving in those areas subject to vehicle loading and unloading activities;

13. The queuing and staging of solid waste vehicles on any public roadway is prohibited;

14. The queuing and staging of solid waste vehicles shall be conducted so as to prevent traffic backups and related traffic hazards on access roads servicing the facility;

15. Facilities and all appurtenances, other than those owned or operated by rail carriers, including vehicles while on-site, shall be positioned and buffered in such a manner that sound levels generated by the operation shall not exceed limits established pursuant to the Noise Control rules, *N.J.A.C. 7:29*, and rail carriers shall at all times comply with the noise emission standards set forth in Title 49 C.F.R., Part 210, and any applicable regulation promulgated pursuant to the State Noise Control Act, *N.J.S.A. 13:1G-1* et seq.;

16. Only solid waste vehicles properly registered pursuant to *N.J.A.C. 7:26-3* with the Division of Solid and Hazardous Waste, unless exempt from the registration requirement pursuant to *N.J.A.C. 7:26-3.3*, and displaying the appropriate registration number and solid waste decal shall be admitted for loading or unloading of any solid waste at the facility;

17. The facility shall designate a secure area under the facility's control, located at a safe distance from the tipping area, where solid waste may be unloaded from those solid waste vehicles that are either exempt from registration requirements of *N.J.A.C. 7:26-3.3* or which must be manually unloaded. Bulky items and recyclable materials may be provided for in this manner;

18. The facility may establish a separate secure area for the drop-off and/or transfer of asbestos and asbestos-containing waste material (ACWM). The facility shall ensure that the container used for drop-off and/or transfer is fully enclosed and located on an impermeable surface. No person other than facility personnel or a licensed commercial asbestos removal contractor may load the asbestos or ACWM into the container used for drop-off and/or transfer;

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19. Rail carrier transfer stations and materials recovery facilities who receive, store or transfer only ID 72 liquid wastes are not required to comply with (d)1 and 2, 4 through 7, 10, 17 and 18 above; however, these rail carriers shall operate in accordance with the following standards:

i. Rail carriers may pump ID 72 liquid waste directly from or to rail cars and other transportation vehicles provided all loading and unloading areas employed are equipped with a means of secondary containment or diversion designed to prevent leaked waste from being discharged to the environment. The secondary containment or diversion system shall block all probable routes by which leaked waste could reasonably be expected to become discharge and have a capacity to contain the volume of the largest compartment in any tank car or tank truck utilizing the area;

ii. A rail carrier shall not store ID 72 wastes other than in containers and/or aboveground tanks;

iii. Containers and aboveground tanks used to store ID 72 liquid wastes shall be in good condition (no severe rusting, apparent structural defects or deterioration) and not leaking (no visible leaks);

iv. Containers and aboveground tanks shall be equipped with a secondary containment system consisting of dikes, berms, or retaining walls, and a floor that shall cover the entire area within the secondary containment system and be sufficiently impervious to waste materials to prevent any waste materials released into the contaminant system from migrating out of the system to the soil, groundwater or surface water;

v. Before a facility receives, stores, or transfers ID 72 liquid waste, the facility shall obtain a detailed chemical and physical analysis of a representative sample of the waste. At a minimum, the analysis shall contain all of the information that must be known to receive, store or transfer the waste. This analysis may include published or documented data on the waste, or on wastes generated in similar processes. The analysis shall be repeated as necessary to ensure it is accurate and up to date;

vi. Rail carriers that receive, store or transfer incompatible wastes or mixtures of incompatible wastes and other materials shall take precautions to prevent reactions that generate extreme heat or pressure, fire or explosions, or violent reactions; produce uncontrolled toxic mists, fumes or gases in sufficient quantities to threaten human health or the environment; produce uncontrolled flammable fumes or gases in sufficient quantities to pose risk of fires or explosions; damage the structural integrity of the equipment or the facility; or through other like means threaten human health or the environment. The facility shall document compliance with precautions upon request by the Department of Environmental Protection. This documentation may be based on references to published scientific literature, data from trial tests (for example, bench scale or pilot scale tests), waste analysis, or the results of treatment of similar wastes by similar treatment processes and under similar operating conditions; and

vii. Upon detection of a release of ID 72 liquid waste to the environment, the facility shall stop the release; contain the released material; clean up and properly manage the released wastes and other materials; and if necessary, repair and replace any leaking storage or treatment containers or tanks prior to returning them to service;

20. A rail facility shall not accept or in any manner handle hazardous waste as defined at *N.J.S.A. 13:1E-38* or regulated medical waste as defined at *N.J.S.A. 13:1E-48.3* except in compliance with all applicable requirements for such activities pursuant to this chapter and *N.J.A.C. 7:26G*. If the facility inadvertently accepts an unauthorized waste type, the facility shall immediately report the event to the Department's Hotline at 1-877-WARNDEP, and place the waste in a secure area under the facility's control, located a safe distance away from active waste areas, until the operator receives instruction from the Department as to the proper disposal of the waste;

21. Nonputrescible solid waste shall not remain at the rail facility for more than 10 days, except that ID 72 liquid solid waste may be stored for up to 180 days in sealed containers. Putrescible solid waste shall not remain at any rail facility for greater than 72 hours;

22. Effective security procedures shall be implemented to control entry and exit at all times;

23. The Department's designated representatives and inspectors shall have the right to enter and inspect any building or other portion of a rail facility, at any time. This right to enter and inspect includes, but is not limited to:

i. Observing and sampling any materials on-site;

ii. Photographing any portion of the facility, solid waste vehicles, containers, and container contents;

iii. Investigating an actual or suspected source of pollution of the environment;

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iv. Ascertaining compliance or noncompliance with the statutes and regulations of the Department; and

v. Reviewing and copying all records that are required to be maintained by Federal or State law, which shall be made available on request to the Department representatives and inspectors at all reasonable times for review and inspection;

24. Any release or discharge of any solid waste at the rail facility shall be immediately reported by the facility operator or its designee to the DEP Emergency Response 24-hour Hotline at 1-877-WARNDEP. The report shall specify the type of substance discharged and the estimated quantity, the nature of the discharge, the location of the discharge, any action being taken or proposed to be taken in order to mitigate the discharge, and any other information concerning the incident the Department may request at the time of notification;

25. The rail carrier shall designate an on-site emergency coordinator who will be available during all hours of operation for the purpose of handling emergency situations such as, but not limited to, spills, discharges, or releases of solid wastes at the facility;

26. Any rail facility that fails to operate in compliance with the requirements of this section shall be subject to all applicable penalties pursuant to the Solid Waste Management Act, *N.J.S.A. 13:1E-1* et seq., and *N.J.A.C. 7:26-5*; and

27. The rail carrier shall comply with the following recordkeeping and reporting requirements at each and every facility owned or operated by it within the State of New Jersey that is engaged in the transportation of solid waste pursuant to (d) above:

i. The facility shall maintain a daily record of wastes received. The record shall include the information specified in *N.J.A.C. 7:26-2.13(a)*;

ii. The daily record shall be maintained, shall be kept, and shall be available for inspection in accordance with *N.J.A.C. 7:26-2.13(b)*;

iii. The facility shall verify, retain, and make available for inspection a waste origin/disposal (O and D) form for each load of solid waste received in accordance with *N.J.A.C. 7:26-2.13(c)*; and

iv. The facility shall submit monthly summaries of wastes received to the Division of Solid and Hazardous Waste, Bureau of Recycling and Planning and the solid waste coordinator for the county in which the facility is located on forms provided by the Department (or duplicates of same), no later than 20 days after the last day of each month. The monthly summaries shall include the information specified in *N.J.A.C. 7:26-2.13(e)*.