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NEW JERSEY STATE DEPARTMENT OF ENVIRONMENTAL PROTECTION
NEW JERSEY ADMINISTRATIVE CODE
TITLE 7
CHAPTER 26
SUBCHAPTER 3

TRANSPORTATION

Statutory Authority: N.J.S.A. 13:1B-3, 13:1D-1 et seq., 13:1D-125 et seq., 13:1E-1 et seq., 13:1E-9, 26:2C-1 et seq., 47:1A-1 et seq., 58:10-23.11, and 58:10A-1 et seq.

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7:26-3.1 Improper transportation prohibited

(a) Unless specifically exempted at N.J.A.C. 7:26-3.3(a) and 7:26A-6.6(a), the transportation of organic and/or combustible matter, including off-specification used oil as defined at N.J.A.C. 7:26A-1.3, or other forms of solid waste, on the roadways and highways in this State shall be made only through the use of:

1. Transportation systems established, operated and maintained in accordance with the rules set forth in this subchapter;

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2. Other methods of transportation as may be approved by the Department

7:26-3.2 Registration

(a) No person shall engage or continue to engage in the transportation of solid waste in this State without first obtaining an approved registration statement from the Department. The registration period shall be biennial, unless otherwise established by the Department, and shall run from July 1 through June 30 of each odd numbered year. Annual registration shall continue through the registration period of calendar year 2002. Therefore, in accordance with this subsection, the odd numbered year for biennial registration shall begin the year 2003. For solid waste collection and disposal vehicles operated by a public entity, the registration period shall be five years commencing July 1, 2001. An approved registration statement shall expire at the end of the registration period unless renewed pursuant to (d) below.

1. No person shall act as a prime contractor or subcontractor for the transportation of solid waste in this State without first obtaining an approved registration statement from the Department.

- i. For the purposes of this subchapter, a "prime contractor" means any person who enters into an oral or written agreement with a generator to store, collect, process, transfer, treat, or dispose of solid waste in this State through the use, control or possession of any solid waste transport unit.

- ii. For the purposes of this subchapter, a "subcontractor" means any person who engages in the storage, collection, processing, transfer, treatment, or disposal of solid waste in this State through the use, control or possession of any solid waste vehicle, pursuant to an oral or written agreement entered into with a prime contractor for the performance of all or part of the prime contract. A lease, pursuant to this subchapter, of solid waste vehicle operators and/or equipment to a permittee, licensee, or exempt transporter, shall not, for purposes of this subchapter, be considered a subcontract.

2. Any device used for transportation of solid waste shall be registered with the Department as either a solid waste cab, trailer, container, or single-unit vehicle.

3. The registration statement shall be signed by the person engaged in or desiring to engage in the transportation of solid waste, shall be executed on forms prescribed by and furnished by the Department and shall state such information necessary and proper to the enforcement of this subchapter, as the Department may require.

4. A registrant shall not allow, through a subcontract or any other means, any such registered equipment to be used by another person, unless such person is an employee of the applicant or registrant, or unless such use is in accordance with a lease of vehicle operators pursuant to this subchapter.

5. A person who has not obtained an approved registration statement shall not, through a subcontract or any other means, engage or contract to engage in the transportation,

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storage, collection, processing, transfer, treatment, or disposal of solid waste in this State through the use, control or possession of any solid waste vehicle, registered to any other person, or through any other means. The leasing of solid waste vehicle operators and/or equipment to a permittee, licensee, or exempt transporter, pursuant to this subchapter, shall not be deemed engaging or contracting to engage in said solid waste activities.

6. In addition to obtaining an approved registration statement from the Department, the person engaged in or desiring to engage in the transportation of solid waste shall comply with all of the rules and regulations of the New Jersey Motor Vehicle Commission. No person shall engage or continue to engage in the transportation of solid waste in this State without first obtaining an approved registration statement from the Department. The leasing of solid waste vehicle operators and/or equipment to a permittee, licensee, or exempt transporter, pursuant to this subchapter, shall not be deemed engaging or contracting to engage in said solid waste activities.

(b) After July 2, 1984, any person who files an application for approval of a registration statement shall submit with the application the disclosure statement described in N.J.A.C. 7:26-16.4. The requirement of a disclosure statement shall not apply to any person specifically exempted under N.J.A.C. 7:26-16.3(d) and/or 16.6(k), but shall apply in the case of a licensee or permittee which must file a disclosure statement for any lessor which holds a beneficial interest in the licensee or permittee pursuant to N.J.A.C. 7:26-16.6(i) or (j).

(c) No person shall engage in the transportation of solid waste in this State if such an operation does not meet the transporter requirements listed in this subchapter. In addition, the transporter shall comply with any other conditions or limitations which may be specified on the approved registration.

1. New Jersey Department of Environmental Protection (N.J.D.E.P.) solid waste transporter registration certificates and decals shall be void if altered. Departmental representatives shall confiscate altered or stolen solid waste transporter registration certificates and decals upon discovery.

(d) Prior to May 1 of each registration period, each registrant, shall submit to the Department a registration statement updating the information contained in the previous registration statement. This update shall be on forms furnished by the Department. In no case shall the submission of an updated registration statement alter the conditions under which the approved registration was granted.

(e) A registrant shall notify the Department in writing within 30 days of any change in the information supplied on its current registration statement, or on any leases submitted for registered solid waste vehicles, or on any documentation of leased operators of equipment submitted pursuant to (j) below.

(f) The failure to submit an updated registration statement and all applicable fees (see N.J.A.C. 7:26-4) on or before May 1 in each registration period or such other date as the Department may establish or the failure to submit an updated disclosure statement pursuant to

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N.J.A.C. 7:26-16 and all applicable fees on or before March 1 of each calendar year, shall be sufficient cause for the Department to revoke the approved registration of a solid waste transporter or to declare it expired.

1. The Department shall withhold the registration certificates and solid waste decals of any registrant who fails to submit the updated registration statement, the updated disclosure statement and the applicable fees (see N.J.A.C. 7:26-4 and 16) in accordance with (f) above. Any registrant who receives a notice of intent to revoke or declare an approved registration expired shall have 15 days from receipt of the notice to submit to the Department a request for a hearing pursuant to N.J.A.C. 7:26-5.3.

2. No person shall engage in or continue to engage in the transportation of solid waste during the period when a solid waste decal and registration certificate are withheld pursuant to this subsection.

(g) No person shall be issued an approved registration if that person is disqualified for any of the reasons set forth in N.J.A.C. 7:26-16.8.

(h) All solid waste vehicles, registered with the Department for the transportation of solid waste, must be owned or leased by the applicant, and, if leased, a copy of the lease, along with a copy of the Motor Vehicles Registration card, shall be supplied when filing the registration statement.

(i) A permittee, licensee or exempt transporter who, files a lease in connection with the registration statement for a solid waste vehicle, which the permittee, licensee or exempt transporter will operate, shall ensure that such lease is signed and dated by the parties thereto, provides for the exclusive use, control and possession of such equipment by the permittee, licensee, or exempt transporter during the lease and also includes:

1. The dates on which the lease begins and ends, during which the permittee, licensee, or exempt transporter will have exclusive use, possession and control over the equipment;

2. The amount and method of payment for the lease;

3. The company or person responsible for payment of gas, oil, maintenance and insurance for the equipment;

4. The company or person responsible for payment of any tipping fees;

5. Identification of the equipment by vehicle identification number (VIN) as it appears on the Motor Vehicles Registration card, license plate number, state which issued license plate and vehicle type;

6. A provision that the lease shall not be assigned to any person; and

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7. The lease shall be submitted along with an affidavit or certification by the president, chief executive officer, managing partner or sole proprietor or other appropriate officer or key employee of the permittee or licensee for whom a disclosure statement has been filed in accordance with N.J.A.C. 7:26- 16.4(a)10, or if an exempt transporter, by the president, chief executive officer, managing partner or sole proprietor, or other appropriate officer or official, or key employee of the exempt transporter. The following statement shall immediately precede the signature of the affiant or certifier:

i. "I swear (or certify) that I am the (title) of (name of licensee, permittee, or exempt transporter) and am authorized to make this certification/affidavit on behalf of (name of licensee, permittee, or exempt transporter), and that I have personal knowledge of the facts set forth below.

ii. The lease filed by me as part of this registration statement for the equipment, vehicle type....., with the VIN number:, license number:, issued by the State of, contains the true terms of the lease and has a bonafide business purpose and is not filed with the purpose of preventing the discovery of information which would disqualify, for any reason set forth in N.J.S.A. 13:1E-133, the lessor or any other person from receiving a license.

iii. I further swear (or certify) that my company and I understand that it must exercise exclusive use, possession and control over each piece of solid waste equipment which is included in this application for a registration statement while such equipment is used to transport solid waste.

iv. I further swear (or certify) that my company and I understand that it must take reasonable measures to ensure that the above-described equipment will not, during the period of the lease, be used by any other person for the purpose of transporting solid waste."

In the case of a certification, the certification shall end with the following statement immediately preceding the signature and date: "I am aware that if any of the foregoing information or statement is willfully false, I am subject to punishment."

(j) In addition to the requirements of (i) above, when a permittee, licensee, or exempt transporter files a lease in connection with an application for a registration statement for a solid waste vehicle, the lease shall provide that the leased equipment is or will be under the exclusive management, direction, and control of the permittee, licensee, or exempt transporter while being used to conduct solid waste activities for the licensee, permittee, or exempt transporter. This subsection is in no way intended to affect whether the operator or operators of solid waste vehicles leased to a permittee, licensee, or exempt transporter are or should be deemed to be employees of the permittee, licensee, or exempt transporter.

(k) In all situations in which the Department issues decals to a permittee, licensee, or exempt transporter for affixation to the solid waste vehicle(s) of a lessor from which the permittee, licensee, or exempt transporter is leasing solid waste vehicles, the permittee,

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licensee, or exempt transporter to which the lessor has leased solid waste vehicles, and the lessor itself, are under independent obligations to notify the Department, return the NJDEP registration certificate to the Department, and remove and destroy the NJDEP registration number and decals from the solid waste vehicles of the lessor at the expiration and non-renewal of the lease pursuant to which the decals were issued. Such decals, after the expiration and non-renewal of the lease pursuant to which the decals were issued or at the expiration of the decals (whichever comes first), shall be deemed expired. When used for solid waste transportation purposes, such vehicles may only be used pursuant to the lease, and in compliance with all requirements of this subchapter.

1. Failure to remove and destroy such decals and registration numbers after the expiration and non-renewal of the lease shall constitute a violation of this subchapter, and shall subject both the lessor and the permittee, licensee, or exempt transporter to penalties and licensing action. It shall be an affirmative defense to a penalty proceeding or licensing action for a permittee, licensee or exempt transporter if it can show that it made reasonable efforts to remove and destroy the decal and gave the Department timely written notice of its inability to remove and destroy the decal.

2. All expired decals and registration numbers shall be confiscated by the Department upon discovery.

3. Use of decaled vehicles by a lessor receiving decals for its vehicles pursuant to a lease, for the transportation of solid waste within, or into or out of New Jersey other than pursuant to a lease with a permittee, licensee, or exempt transporter, and in conformity with (j) above, shall constitute unlicensed hauling, and shall subject the lessor to penalties and debarment from involvement in the solid and hazardous waste and recycling industry in the State of New Jersey, including a prohibition on leasing solid or hazardous waste vehicles or solid or hazardous waste operators to permittees, licensees, and exempt transporters.

(l) Permittees, licensees and exempt transporters shall, for purposes of solid waste activities and to the extent provided for under New Jersey law, be responsible for the actions and omissions of their lessors and their vehicle operators, and for selecting lessors and vehicle operators with appropriate qualifications; and the fact that the underlying relationship between a permittee, licensee or exempt transporter, and a lessor and/or vehicle operators was other than that of employer-employee shall be no defense in a licensing or enforcement action taken against the permittee, licensee, or exempt transporter because of the actions, omissions, or lack of qualifications of the lessor or vehicle operator.

(m) The Department, after notice and opportunity for hearing pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1, may revoke the registration of a solid waste transporter for the following:

1. Any of the disqualifying reasons set forth in N.J.A.C. 7:26-16.8 and 16.9;

2. Violation of any applicable provision of the Solid Waste Management Act, N.J.S.A. 13:1E-1 et seq. the Solid Waste Utility Control Act, N.J.S.A. 48:13A-1 et seq., this

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chapter, any administrative order issued by the Department, or any environmental protection statute of this State; or

3. A pattern of violations of the environmental protection statutes or regulations of this or any other State or of the United States.

7:26-3.3 Exemptions and conditions

(a) The provisions of this subchapter shall not be applicable to the following:

1. Persons transporting only their own household solid waste in passenger automobiles bearing general registration plates; and

2. Persons transporting only their own solid waste in vehicles registered with a State motor vehicles agency as having a maximum gross vehicle weight of 9,000 pounds for a single vehicle or 16,000 pounds combined maximum gross vehicle weight for a vehicle pulling a trailer.

(b) No provision of these rules shall be interpreted as permitting the transportation of domestic sewage in any manner other than that prescribed by law.

(c) Vehicles exempt under this section as solid waste vehicles are not permitted to discharge solid waste at or near areas where solid waste vehicles required to be registered in accordance with N.J.A.C. 7:26-3.2 are unloading or where heavy equipment is operating.

(d) A person transporting solid waste through New Jersey, when roadways and highways in New Jersey constitute a segment of such person's route, is not required to obtain an approved registration with the Department if the circumstances listed in (d)1 and 2 below exist, and at least one of the circumstances listed in (d)3, 4 or 5 below exists:

1. The solid waste being transported through New Jersey is not discharged from the solid waste vehicle and the solid waste transport unit is not uncoupled or unloaded from the solid waste cab or solid waste single unit vehicle;

2. Solid waste is not being collected, treated, processed, transferred, or disposed of in New Jersey by the solid waste vehicle;

3. Solid waste is not being stored in excess of 24 hours in the solid waste transport unit while in New Jersey;

4. The solid waste vehicle has a mechanical breakdown and repair is necessary; and

5. The operator of the solid waste vehicle must stop for a mandatory rest or break, not to exceed 24 hours.

7:26-3.4 Transportation requirements (general)

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- (a) Length of service routes shall be kept consistent with the proper operation of solid waste vehicles and/or equipment in order that the area or route services can be completed during a normal operating day.
- (b) All collected solid waste shall be properly deposited at an approved facility in accordance with N.J.A.C. 7:26-1 and 2. Solid waste or recyclable materials shall be deposited at a solid waste or recycling facility only to the extent the materials contained in an individual load are waste types and recyclable materials permitted for acceptance at that facility and commingled only to the extent permitted in the operating approvals for that facility.
- (c) Unless an emergency, such as inclement weather, equipment breakdown or accident warrants, no solid waste shall be allowed to remain or be stored in any solid waste transport units in excess of 24 hours.
- (d) No solid waste vehicle shall be used for transportation if the design of the solid waste vehicle is such that any solid waste material will spill, leak or cause emissions therefrom.
- (e) No solid waste vehicle used for transportation, shall be used beyond its design capabilities or in such a manner that littering, leakage, spillage or emissions therefrom of solid wastes will occur.
- (f) All solid waste vehicles used for the transportation of solid waste shall be maintained in good working condition to protect the health and safety of the workers and citizens of this State and to provide prompt and efficient service. The registered operator of any transportation system shall provide a means of continuous service in the event an emergency arises.
- (g) All workers or collection crews operating solid waste transportation systems shall take reasonable care to protect the property of customers being served. Any damage or spillage of solid waste as a result of the transporter's actions shall be his or her responsibility.
- (h) Each registered solid waste vehicle, except those exempted from fee payment under N.J.A.C. 7:26-3.3, and those meeting the requirements at N.J.A.C. 7:26-3.5(f) used in the collection or transportation of solid waste shall properly, permanently, and conspicuously display a current State of New Jersey solid waste decal and the New Jersey Department of Environmental Protection (N.J.D.E.P.) registration number and the name of the registered company in letters and numbers at least three inches in height, and, except for solid waste containers, shall carry the current N.J.D.E.P. registration certificate in the solid waste cab. Current solid waste decals must be permanently affixed to the driver's side of each solid waste vehicle, prior to transport of solid waste to, from or within New Jersey or prior to the unit being placed into service or before receiving waste.

1. A copy of any lease filed in connection with the solid waste registration of a solid waste vehicle shall be carried in the solid waste cab and made available to Department representatives upon inspection or request.

2. Only current period decals shall be displayed. Expired decals must be removed from the solid waste vehicle prior to affixing current registration period decals. The registrant of solid waste vehicles which are owned by the registrant shall, upon the interruption or termination of the exclusive use, possession or control of any such equipment by the registrant, notify the Department, return the N.J.D.E.P. registration certificate to the

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Department, and remove and destroy the N.J.D.E.P. registration number and decal on such solid waste vehicles. A registrant of solid waste vehicles, which are leased shall, upon the expiration of the lease, or upon the interruption or termination of the exclusive use, possession or control of any such equipment by the registrant, notify the Department, return the N.J.D.E.P. registration certificate to the Department, and remove and destroy the N.J.D.E.P. registration number and decal on such solid waste vehicles.

3. In addition, there shall be affixed to the driver's side of each registered solid waste vehicle, in letters and numbers at least three inches in height, the capacity of the solid waste transport unit in cubic yards, in tons or in gallons, so as to be visible to the operator of the solid waste facility.

(i) Tarpaulins or covers shall be provided and used as needed while transporting solid wastes.

(j) All solid waste vehicles used for transportation of solid waste shall, except for operations of their collection service routes, access and exit solid waste facilities in accordance with designated solid waste vehicle routes as specified in either the appropriate district solid waste management plan or the permit for the particular solid waste facility.

(k) Any transporter that transports solid waste to or from an intermodal container facility operating without authorization pursuant to N.J.A.C. 7:26-3.6 shall be subject to all applicable penalties for violation of New Jersey solid waste planning rules at N.J.A.C. 7:26-6, including revocation of transporter registration, certification and transporter license.

(l) Any person that transports regulated medical waste to or from a collection facility operating without authorization pursuant to N.J.A.C. 7:26-3A.39 shall be subject to all applicable penalties set forth at N.J.A.C. 7:26-5 including revocation of transporter registration, certification and transporter license.

(m) All solid waste transporters shall haul solid waste in accordance with the Solid Waste Management Plan developed by the county or district of waste origin pursuant to N.J.A.C. 7:26-6. In a district which has designated in its District Solid Waste Management Plan a weighing facility or facilities for waste leaving the district, transporters shall deliver solid waste to a designated in-district weighing facility before the solid waste is removed from the district for out-of-district transfer, materials recovery, or disposal.

7:26-3.5 Transporter requirements (specific)

(a) Rules concerning sewage sludge and other fecal material include:

1. All solid waste vehicles used for the transportation of such wastes shall be of such a design so as to preclude any spillage or leakage or emissions in violation of N.J.A.C. 7:27 therefrom.

2. Sewage sludge and other fecal material shall not be intermixed with other wastes of a chemical or industrial nature for transportation to a disposal operation.

(b) All solid waste vehicles used for transportation or bulky wastes shall be of such a design so as to preclude any spillage or leakage or emissions in violation of N.J.A.C. 7:27 therefrom.

(c) Radioactive materials regulated by the Atomic Energy Act of 1954 and lethal chemicals

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shall not be transported in or through the State of New Jersey without prior approval in writing by all authorities having jurisdiction in such matters and by the New Jersey Department of Environmental Protection.

(d) Rules concerning transportation of asbestos and asbestos-containing waste materials follow:

1. All solid waste vehicles used for the transportation of asbestos and asbestos-containing waste materials shall be of such a design so as to prevent any spillage or leakage or emissions therefrom.

2. No transporter shall transport asbestos and/or asbestos-containing waste materials unless such waste is properly packaged in accordance with 40 C.F.R. 61.150 and N.J.A.C. 7:26-2.12.

3. The asbestos or asbestos-containing waste materials shall be transported in a manner that prevents the rupture of the asbestos containers in loading, transport, and unloading operations.

4. Once collected, asbestos and/or asbestos containing waste materials shall be transported directly from the point of generation to the solid waste landfill or transfer station permitted to receive such wastes.

5. There shall be no visible air emissions during loading, transporting, or unloading operations.

(e) Each transporter, who hauls solid waste directly to out-of-State facilities from districts which have not designated an in-county weighing facility pursuant to N.J.A.C. 7:26-6, shall maintain a daily record of waste transported directly out-of-State. The record shall be retained for a period of at least one year or longer in the event of a unresolved enforcement action or at the Department's request. The daily record shall include but not be limited to the following information:

1. Identification of the transporter's DEP registration number and solid waste decal number;

2. Identification of the out-of-State disposal facility where the solid waste was disposed including the state in which the facility is located, the facility name and location address of the facility;

3. The cubic yardage or tonnage of solid waste types: ID 10 through ID 27, including any variants;

4. Date of delivery to the out-of-district facility;

5. The license plate number and State of the solid waste vehicle; and

6. The place of origin of the waste identified by municipality, county and state, except in those instances where the waste is transported from a transfer station or materials recovery facility to a final disposal facility. In those instances, the facility ID of the transfer station or materials recovery facility shall be listed instead of the municipality, county and state as indicated above.

(f) Requirements concerning all solid waste intermodal containers used to transport solid

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waste solely by rail follow:

1. All solid waste containers used to transport solid waste solely by rail shall meet or exceed the applicable requirements of the Association of American Railroads (AARM-930), incorporated herein by reference, as amended and supplemented, for containers. AARM-930 may be purchased from the Association of American Railroads at the following address: 50 F. Street, NW, Washington, DC 20001.

2. All solid waste containers used to transport solid waste solely by rail shall be clearly marked per railroad regulations with a unique number, that cannot be replicated by any other shipper.

3. All solid waste containers used to transport solid waste solely by rail shall be registered with the Department in accordance with N.J.A.C. 7:26-3.2 and pay fees in accordance with N.J.A.C. 7:26-4.4.

(g) Each transporter, who hauls solid waste directly to out-of-State facilities from districts which have not designated an in-county weighing facility pursuant to N.J.A.C. 7:26-6, shall submit monthly summaries of wastes transported directly out-of-State to the Division of Sustainable Waste Management, Bureau of Solid Waste Planning and Licensing and the Solid Waste Coordinator for the district of origin on forms provided by the Department (or duplication of same), no later than 20 days after the last day of each month. The summary shall include, but not be limited to, the following information:

1. Identification of the out-of-State disposal facility where the solid waste was disposed including the state in which the facility is located, the facility name and location address of the facility;

2. The tonnages and types of waste disposed of at each out-of-State facility; and

3. A listing by out-of-State disposal facility of the origin of the waste identified by New Jersey municipality and county and State.

(h) O and D form requirements for transporters hauling solid waste to in-State solid waste facilities are as follows:

1. The Department shall provide the registered transporter with an approved O and D form. The transporter shall thereafter duplicate the form for use with each load of solid waste destined for an in-State solid waste facility.

2. Prior to transport of the solid waste to the disposal site, the transporter shall complete the O and D form and sign it, thereby certifying the accuracy of the information provided.

3. The completed and signed O and D form shall be given to the facility operator in accordance with N.J.A.C. 7:26-2.13(c).

(i) Transporters of asbestos and asbestos containing waste materials shall be responsible for providing respirators, any mandatory training and fit testing for its drivers and passengers.

7:26-3.6 Intermodal container facility

(a) This section contains the regulations of the Department governing the

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authorization and operation of intermodal container facilities.

1. This section shall not apply to a rail carrier that transfers solid waste to or from rail cars. 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 issued a certificate or license, pursuant to 49 U.S.C. §§ 10901 or 10902, by the United States Surface Transportation Board (or its predecessor agency) and holds out to the general public that the operations at the facility for which the exemption under this section is applicable are being conducted by it or on its behalf as part of its rail transportation services. Such rail carriers, although exempted from this section, are fully subject to regulation pursuant to N.J.A.C. 7:26-2D.

2. Intermodal container facilities shall handle only containerized solid waste as defined at N.J.A.C. 7:26-1.6 and limited to the following solid waste types identified and listed at N.J.A.C. 7:26-2.13 as ID 10, 12, 13, 13C, 23, 25, 27, 72, 73, and 74. Such facilities shall not accept or in any manner handle hazardous waste or regulated medical waste, as defined at N.J.A.C. 7:26-1.4 and 3A.6, respectively. This subsection does not prohibit the operator of an authorized intermodal container facility from conducting other solid waste, regulated medical waste, or hazardous waste management activities at the site of the intermodal container facility, provided the operator complies with all applicable permitting and operating requirements for such activities pursuant to this chapter and N.J.A.C. 7:26G.

(b) A person registered and licensed in accordance with N.J.A.C. 7:26-3, 16 and 16A to transport solid waste in the State of New Jersey that seeks to operate an intermodal container facility shall submit an application containing all of the following information. Three copies of the entire application and all accompanying documents shall be submitted to the Department at the address specified in (c) below, and at the same time one copy each to the host municipality and district solid waste plan implementation agency:

1. The name, address and telephone number of the person or persons seeking to operate the proposed facility;

2. Photocopies of documents as evidence of the applicant's registration and licensing as a solid waste transporter pursuant to N.J.A.C. 7:26-3, 16 and 16A;

3. Photocopies of documents as evidence of all authorizations for siting, construction and operation, and conformance with all local, regional, State or Federal requirements of any governmental agency, or other body with jurisdiction over any aspect of the proposed facility;

4. A description of the geographical location of the facility, identifying the name of the municipality in which the facility is located and the address of the facility;

5. A copy of the tax map showing the lot and block numbers of the facility site and of all adjoining properties;

6. A description of the current use of the facility site and of all adjoining properties;

7. An administrative action issued by the district solid waste management plan implementing agency, established pursuant to N.J.S.A. 13:1E-21b(1), of the district

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where the facility is proposed to be located, which shall include any applicable comments from the host municipality. The Department may issue an authorization in the absence of a district administrative action should the Department determine, at its discretion, that the intermodal container facility is needed to help fulfill the objectives of the adopted and approved Statewide Solid Waste Management Plan or individual district solid waste management plans. In the event of such a determination, the Department shall notify the host district and municipality of its determination and reasons justifying facility authorization in writing prior to any approval of operations;

8. A list of all solid wastes by waste type as defined at N.J.A.C. 7:26-2.13, to be received and transferred at the facility;

9. A description of the maximum amount of each type of solid waste to be received and transferred at the facility each day, expressed in tons per day and cubic yards per day, or gallons where applicable;

10. A description of the sources of the containerized solid waste and the anticipated disposal locations of the waste, both in-State and out-of-State;

11. A description of the type(s) and number of containers that will be used at the facility and the type and means of storage and staging of the containers;

12. Three copies of a site plan, prepared, signed, and sealed by a licensed New Jersey professional engineer or surveyor. The site plan must:

- i. Identify the placement of all equipment, buildings, activities and areas related to the receipt, loading, unloading and temporary storage of containerized solid waste;
- ii. Be drawn to a scale no greater than one inch equals 100 feet;
- iii. Indicate the routing of vehicles between the facility and all nearby roadways serving the site, as well as the traffic flow within the site. Such routing must ensure safe and efficient vehicular and pedestrian circulation, parking, and loading and unloading of containers;
- iv. Delineate floodplains as defined at N.J.A.C. 7:13-1.2;
- v. Delineate the location of State-designated wetlands, New Jersey Pinelands, existing or suitable agricultural lands, Federal or New Jersey-registered historic sites and other environmentally sensitive areas such as State parks, wildlife management areas and National Wildlife Refuges;
- vi. Identify the direction of water runoff both on-site and off-site and the screening and landscaping on the site;
- vii. Indicate topographic contours, drawn at two-foot intervals; and
- viii. Indicate all site access controls to be employed at the facility;

13. An original current 7.5 minute USGS Quadrangle map with the boundary of the facility plotted thereon. The map shall delineate any public access roads to the site and any streams, ponds or other potential sensitive receptors such as, but not limited to, hospitals, schools, and shopping areas within a one-half mile radius of the site;

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14. A copy of the deed of record establishing ownership of the facility property or, if the applicant is a person other than the landowner, a legal agreement (for example, a lease) to use the real property for the purpose of operating the facility;

15. A description of the design capacity of the facility, setting forth the number and types of all vehicles arriving at the facility and the number and types of all vehicles leaving the facility on a daily basis, stating the maximum number of vehicles per hour that will arrive at and leave the facility;

16. A copy of any New Jersey air pollution control permit application as applicable, in accordance with N.J.A.C. 7:27;

17. A narrative describing the facility operations from the receipt of containerized waste through the point of transfer to destination. The narrative must clearly demonstrate 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; and

18. Where applicable, additional information in support of a request for a variance from the 72-hour storage time limit, pursuant to (o) below.

(c) The application described at (b) above shall be submitted in triplicate, along with the application fee set forth at N.J.A.C. 7:26-4.7, to:

New Jersey Department of Environmental Protection
Division of Sustainable Waste Management
Bureau of Solid Waste Permitting
Mail Code 401-02C
PO Box 420
401 East State Street
Trenton, New Jersey 08625-0420

(d) Within 45 days after the Department receives the application submitted pursuant to (b) above, the Department will take one of the following actions:

1. Issue either a letter of authorization to operate the intermodal container facility that shall specify that any other waste management activities conducted at the site where the intermodal container facility is operated shall be conducted in compliance with all applicable permitting and operational requirements under this chapter, or a denial of the application, to the applicant, with a copy to the host municipality and district solid waste plan implementation agency. A letter of authorization shall not be transferred to any other person;

2. Notify the applicant in writing of missing information, with a copy of the notice sent to the host municipality and district solid waste plan implementation agency; or

3. Notify the applicant in writing of any information that does not satisfy the requirements of (b) above, with a copy of the notice sent to the host municipality and district solid waste plan implementation agency.

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(e) An applicant shall submit to the Department and to the host municipality and district solid waste plan implementation agency any additional or corrected information required pursuant to (d)2 or 3 above within 30 days of receipt of the notification from the Department of missing and/or insufficient information.

(f) The Department will deny without prejudice the application of any applicant that fails to submit the additional or corrected information required pursuant to (d)2 or 3 above or that otherwise fails to meet the application criteria of these regulations. The applicant may thereafter submit a new application for authorization to operate an intermodal container facility at the same location pursuant to the requirements of this section.

(g) All intermodal container facilities authorized by the Department pursuant to this section shall operate in accordance with the following standards:

1. Solid waste shall not remain at any intermodal container facility for more than 72 hours, except that ID 72 liquid solid waste may be stored for up to 180 days in sealed containers and ID 10 (non-putrescible), ID 13, ID 13C and ID 27 solid wastes for which a variance from the 72-hour storage time limit has been approved by the Department pursuant to (o) below may be stored for up to 10 days. An intermodal container facility at which solid waste is staged or stored for more than 72 hours, or at which ID 72 liquid solid waste is stored for more than 180 days, or at which ID 10 (non-putrescible), ID 13, ID 13C or ID 27 solid wastes for which a variance from the 72-hour storage time limit has been approved by the Department pursuant to (o) below is stored for more than 10 days shall be deemed to be an unpermitted solid waste facility, and shall be subject to all penalties authorized pursuant to applicable statutes and rules.

2. Solid waste received, stored or transferred at any intermodal container facility shall at all times be contained in sealed containers registered as solid waste containers with the Department in accordance with N.J.A.C. 7:26-3 that do not leak any liquids or solid materials and are not opened for any purpose at the facility, except that an ID 72 liquid solid waste container may be opened briefly for the purpose of sampling the liquid provided the container is immediately resealed.

3. Solid waste contained in solid waste containers at any intermodal container facility shall not emit odors that are detectable at the facility or in the vicinity of the facility.

4. Access to any intermodal container facility shall be restricted to facility operators, solid waste vehicle operators and authorized visitors only. Effective security procedures shall be implemented to control entry and exit at all times. 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.

5. The Department's designated representatives and inspectors shall have the right to enter and inspect any building or any other portion of any intermodal container 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;

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- iii. Investigating an actual or suspected source of pollution of the environment;
- iv. Ascertaining compliance or non-compliance with the statutes, rules, regulations, or policies of the Department, including conditions of the facility's letter of authorization or any other permit or certificate issued by the Department; and
- v. Reviewing and copying all applicable records described in this section, which shall be maintained at the facility at all times and shall be made available on request to Department representatives and inspectors at all reasonable times for review and inspection.

6. Intermodal container facilities shall comply with the requirements of the Federal Occupational Safety and Health Administration and all other applicable standards of any agency for the operation of the facility and the maintenance of the health and safety of the employees or other persons.

7. Routine housekeeping and maintenance procedures shall be implemented at the facility to prevent the accumulation of dust, debris and to maintain general cleanliness throughout the facility and in the working environment.

8. Any release or discharge of any solid waste at the intermodal container facility shall be immediately reported by the facility operator or its designee to the DEP Emergency Response 24-hour Hot Line at 1-877-WARNDEP. The report shall specify the type of substance discharged in 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.

9. The intermodal container 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.

10. Unless exempted under N.J.A.C. 7:26-6.3, all containerized solid waste accepted at the intermodal container facility from New Jersey sources shall be disposed of in accordance with applicable District Solid Waste Management Plans. Any out-of-State solid waste accepted at an intermodal container facility shall be disposed of consistent with the provisions set forth in the approved District Solid Waste Management Plan for the district in which the facility is located, or, where applicable, at permitted out-of-State disposal facilities authorized by the receiving state.

11. The intermodal container facility operator shall develop and maintain at the site an operations and maintenance (O&M) manual that shall describe all operating conditions and procedures of the facility. The O&M manual shall be made available to all facility personnel. The O&M manual shall be prepared in accordance with N.J.A.C. 7:26-2.10(b)9.

(h) An intermodal container facility operator shall maintain the following records at the facility site at all times and shall file reports as follows:

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1. Daily records shall be maintained on forms supplied by the Department, in accordance with N.J.A.C. 7:26-2.13. These reports shall note the name of the registered transporter, transporter's DEP registration number, vehicle plate number, waste type, waste quantity, solid waste container DEP registration number, source, destination facility name and State registration number and quantity, by vehicle, of all solid waste received, transferred and shipped at the facility. The records shall specify the source and date of every shipment of waste received and the destination and date of every shipment of waste out of the facility. Quantities of solid waste shall be listed in tons and cubic yards. Quantities of liquid solid wastes shall be listed in gallons.

2. The daily records shall be compiled into standard quarterly reports, which shall be submitted to the following address within 20 days of the end of each calendar quarter:

New Jersey Department of Environmental Protection
Division of Sustainable Waste Management
Bureau of Solid Waste Planning and Licensing
Mail Code 401-02C
PO Box 420
401 East State Street
Trenton, New Jersey 08625-0420

3. Records that document all violations of any local, State or Federal requirements including violations of the intermodal container facility authorization issued by the Department.

4. Records that document all incidents in which a transporter not registered and licensed pursuant to N.J.A.C. 7:26-3, 16 and 16A, or container not registered pursuant to N.J.A.C. 7:26-3, was denied transfer privileges at the facility. These records shall specify the vehicle driver's name, the vehicle license number, the vehicle registration number, the name of the company operating the vehicle, the solid waste registration number of the company, the date and time of the denial, the size of the vehicle or container, and the type of solid waste in the container. These incidents shall also be reported within 24 hours to the DEP Emergency Response 24-hour Hot Line at 1-877-WARNDEP.

(i) Any person that conducts any of the activities of an intermodal container facility as defined in this section without authorization from the Department, or without a solid waste transfer station permit issued pursuant to N.J.A.C. 7:26-2A, shall be deemed to be operating an unpermitted solid waste facility and 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.

(j) Any authorized intermodal container facility that accepts unauthorized waste, or fails to operate in compliance with the requirements of this section, shall be deemed an unpermitted solid waste facility and 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.

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(k) Any authorized intermodal container facility that accepts containerized solid waste from a transporter not registered and licensed pursuant to N.J.A.C. 7:26-3, 16 and 16A shall be subject to penalties for violation New Jersey solid waste planning rules at N.J.A.C. 7:26-6, including, but not limited to, revocation of transporter, registration, certification and licensing, and revocation of intermodal container facility authorization.

(l) The Department may revoke the authorization of an intermodal container facility if that facility fails to comply with the requirements for such facilities or any law in any way related to the operation of an intermodal container facility pursuant to New Jersey statute or the Department determines that any of the causes for modification in (m) below are sufficient cause for revocation in order to protect human health, safety and the environment.

(m) The Department may modify an intermodal container facility authorization for the following reasons. The operator shall pay a fee as specified in N.J.A.C. 7:26-4.7(e) on issuance of any intermodal facility authorization modification:

1. The Department determines that there are material and significant alterations or additions to the authorized facility or operation that occurred after the Department issued the existing letter of authorization that warrant the imposition of conditions different from or lacking in the existing authorization;

2. The Department receives information that was not available at the time it issued the letter of authorization that would have warranted the issuance of conditions in the authorization different from those imposed in the existing authorization. This information may include, but not be limited to, information concerning the effects of the facility on the properties surrounding the facility or the effects of the facility on the environment;

3. A change in Federal or State laws, regulations or policies governing solid waste management;

4. The regulatory compliance record of the intermodal container facility operator;

5. A relevant judicial decision after the authorization was issued; or

6. An operator of an intermodal container facility shall request a modification of its authorization whenever the operator proposes to change any aspect of the operation as originally described in the application. Such changes include, but are not limited to, changes in the amount and type of solid waste managed at the facility.

i. A request for modification of the intermodal container facility authorization pursuant to this paragraph need not be submitted for a change in the origin or disposal location for containerized waste transported to or from the facility, provided:

(1) The waste is transported only to disposal facilities that possess all required permits and authorizations pursuant to Federal and state law where such facility is located; and

(2) The intermodal container facility notifies the Department and the district from which the waste originated of the change in origin or

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disposal location within 24 hours of any shipment of waste.

(n) The Department shall provide 30-day prior notice of a modification to an authorization to operate an intermodal container facility pursuant to (m) above and its reasons for determining a modification is warranted. This notice shall be sent to the operator of the facility and the host municipality and district solid waste plan implementation agency.

(o) The owner/operator of an intermodal container facility may obtain a variance from the 72-hour storage time limit in (g)1 above for ID 10 (non-putrescible), ID 13, ID 13C and ID 27 solid wastes if the Department finds, as a result of a demonstration by the owner/operator, that no additional hazard or potential hazard will be posed to human health or the environment.

1. The owner/operator shall apply to the Department for the variance. The application shall address the relevant criteria contained in (o)2 below.

2. In deciding whether to grant a variance based on no additional hazard or potential hazard, the Department will consider:

- i. The types and amounts of solid wastes stored;
- ii. The method of storage;
- iii. Whether any contaminants are likely to be released into the environment; and
- iv. Other relevant factors.

3. If a variance is granted under this paragraph, the owner/operator will be allowed to store ID 10 (non-putrescible), ID 13, ID 13C and ID 27 solid wastes at the intermodal container facility for up to 10 days. The Department shall require the owner/operator to construct and operate the facility in the manner that was demonstrated to meet the requirements for the variance. If the facility is not constructed and operated in the manner that was demonstrated to meet the requirements for the variance, the facility shall be deemed an unpermitted solid waste facility and 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.

7:26-3.7 Smoking, smoldering or burning solid waste in solid waste vehicles

(a) No transporter shall provide service where waste materials to be collected and transported show evidence of smoking, smoldering or burning.

(b) All wastes in transit that must be dumped in an emergency due to smoking, smoldering or burning shall be the responsibility of the transporter. The operator of the solid waste vehicle shall immediately notify the police and fire departments having jurisdiction. The transporter shall be responsible for cleanup of all materials dumped in an emergency.

(c) In the event of an incident involving smoking, smoldering or burning solid waste in any solid waste vehicle, the registrant shall notify the Department at 1-877-WARNDEP within 24 hours of the incident.

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7:26-3.8 Applicability

See N.J.A.C. 7:26G to find additional hazardous waste rules.