

STATE OF NEW JERSEY
DEPARTMENT OF ENVIRONMENTAL PROTECTION
NOTICE OF RULE WAIVER/MODIFICATION/SUSPENSION
PURSUANT TO EXECUTIVE ORDER NO. 103 (MURPHY) (MARCH 9, 2020)
COVID-19 STATE OF EMERGENCY

Temporary Rule Modification adopted by Catherine R. McCabe, Commissioner, New Jersey Department of Environmental Protection

Date: April 9, 2020

Authority: N.J.S.A. App.A:9-45 & App. A:9-47; Executive Order No. 103 (Murphy)

Effective Date: April 9, 2020

Expiration Date: Concurrent with the termination of Executive Order No. 103 (Murphy)

This is an emergency adoption of a temporary rule modification of certain provisions of N.J.A.C. 7:26-3A.1 (Regulated Medical Waste rules) as set forth in more detail below. Section 6 of Executive Order No. 103 (Murphy) (EO 103), dated March 9, 2020, issued in response to the COVID-19 pandemic, authorizes agency heads to waive, suspend or modify any existing rule, where the enforcement of the rule would be detrimental to the public welfare during the emergency, notwithstanding the provisions of the Administrative Procedure Act or any law to the contrary. Pursuant to that authority, with the approval of the Governor and in consultation with the State Director of Emergency Management and the Commissioner of the Department of Health, the Department of Environmental Protection is modifying the Regulated Medical Waste rules as follows:

N.J.A.C. 7:26-3A.8 requires any generator of regulated medical waste, save certain limited exceptions, to register with the Department of Environmental Protection as a regulated medical waste generator in accordance with the provisions set forth therein.

This adoption is necessary to facilitate New Jersey's rapid response to the escalation of the COVID-19 pandemic by supporting the expedited establishment of testing sites, temporary field hospitals, diagnostic laboratories and other facilities that may generate regulated medical waste during the pandemic by temporarily replacing the formal regulated medical waste generator registration with a more informal process. To that end, the below rule relieves any new facility that generates regulated medical waste in this State from the requirement to formally register with the Department, complete various forms, and pay an annual fee prior to initiating operations that would generate regulated medical waste as necessary to protect public safety.

The Department hereby modifies N.J.A.C. 7:26-3A.8 to provide that, unless otherwise exempt under N.J.A.C. 7:26, any facility that begins generating regulated medical waste, as defined at N.J.A.C. 7:26-3A.6 and in connection with the COVID-19 pandemic, after the date of this adoption shall be exempt from the formal regulated medical waste generator registration process set forth at N.J.A.C. 7:25-3A.8. In order to be eligible for this exemption, a new medical waste generator must comply with the following steps. First, a new medical waste generator must submit the following documentation to the Department prior to beginning any act or process that either (1) produces regulated medical waste, or (2) first causes a regulated medical waste to become subject to regulation: (a) official documentation identifying the facility of origin, such as proof of licensure by the Department of Health, and (b) a description of facility location(s) and operations, including, but not limited to, its method of disposal of regulated medical waste. Second, once the medical waste is available for transport from the generator's facility, the generator shall: (1) advise any person that engages in the transportation of regulated medical waste from its facility that the generator has identified its operations and locations to DEP pursuant to this rule modification; (2) provide the transporter a copy of the electronic mail submission made to the Department as required above; and (3) indicate that pursuant to this rule modification the generator is not required to obtain a generator ID number at this time. A generator that complies with these requirements shall be considered a registered regulated medical waste generator for purposes of N.J.A.C. 7:26-3A.28(b) while this adoption remains in effect.

This informal registration information shall be submitted to the Department at covid19rmw@dep.nj.gov.

This adoption, and any information registrations thereunder, shall remain in place only for the duration of the Public Health Emergency and State of Emergency declared by EO 103. Any facility that continues generating regulated medical waste after the expiration of EO 103 shall register in accordance with N.J.A.C. 7:26-3A.8 and shall not be entitled to rely on an information registration to continue operations after expiration of this adoption.

I find that modification of the rules above is necessary because enforcement of the existing rules would be detrimental to the public welfare during this emergency.

Date: 4/9/20


Catherine R. McCabe, Commissioner
Department of Environmental Protection