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TITLE 7. ENVIRONMENTAL PROTECTION
CHAPTER 26A. RECYCLING RULES
SUBCHAPTER 1. GENERAL PROVISIONS

N.J.A.C. 7:26A-1.1 (2017)

7:26A-1.1 Scope and authority

(a) Unless otherwise provided by rule or statute, this chapter shall constitute the rules of the Department governing the operation of recycling centers and the conduct of recyclable materials generators and transporters, and of governing municipalities and counties that have jurisdiction over recyclable materials pursuant to the Solid Waste Management Act, N.J.S.A. 13:1E-1 et seq., particularly the New Jersey Statewide Mandatory Source Separation and Recycling Act, N.J.S.A. 13:1E-99.11 et seq. This chapter also includes the Department's electronic waste recycling program rules regarding the recycling of a used covered electronic device, pursuant to the Electronic Waste Management Act, N.J.S.A. 13:1E-99.94 et seq.

(b) This chapter shall not apply to hazardous waste, except for universal waste exempted from hazardous waste regulation as provided at N.J.A.C. 7:26A-7.

(c) The use or reuse of material that would otherwise become solid waste pursuant to N.J.A.C. 7:26 as fill material, aggregate substitute, fuel substitute, or landfill cover which in some cases may be recycling, are reviewed and approved in accordance with N.J.A.C. 7:26-1.7(g).

(d) Unprocessed recyclable materials, post-consumer materials, and used or abandoned materials that are or will be deposited on or in the lands of the State for any period exceeding six months, including by stockpiling, staging or storing, are solid waste that shall be managed in accordance with the Solid Waste rules, N.J.A.C. 7:26, unless:

1. The storage activity is exempt from the requirement to obtain a general or limited approval pursuant to N.J.A.C. 7:26A-1.4(a) and the materials are managed pursuant to N.J.A.C. 7:26A-1.4(b);

2. A general or limited approval to operate specifies a period that is longer than six months, pursuant to N.J.A.C. 7:26A-3.9;

3. A specific storage time period is set forth in a limited or general approval issued pursuant to this chapter;

4. The Department authorizes, in writing, a time period longer than six months;

5. The material is a product that has been produced by an approved or exempt recycling facility; or

6. The material is approved for use under N.J.A.C. 7:26-1.7(g).

(e) This chapter shall not apply to the composting and on-site use of farm feedstocks where the feedstocks are composted as follows:

1. The feedstocks are composted on a farm;

2. Only the following site-generated feedstocks are composted:

i. Dry livestock manures;

ii. Animal feed;

iii. Leaves;

iv. Corn stalks;

v. Hay;

vi. Silage; and

vii. Other farm feedstocks, except grass clippings, that meet the definition of vegetative waste set forth at N.J.A.C. 7:26-2.13(g)1v;

3. No more than 5,000 cubic yards of feedstocks are composted per year;

4. The composting method used shall be at least low level technology windrow composting pursuant to N.J.A.C. 7:26A-4.5(a)14vi;

5. The windrow composting area shall not exceed three acres; and

6. The composting complies with all applicable requirements of the New Jersey Department of Agriculture, Natural Resources Conservation Service and other local, State or Federal agencies.

7:26A-1.2 Construction and severability

(a) This chapter shall be liberally construed to permit the Department to effectuate the purposes of the Solid Waste Management Act, N.J.S.A. 13:1E-1 et seq.

(b) If any subchapter, section, subsection, provision, clause, or portion of this chapter, or the application thereof to any person, is adjudged unconstitutional or invalid by a court of competent jurisdiction, such judgment shall be confined in its operation to the subchapter, section, subsection, provision, clause, portion, or application directly involved in the controversy in which such judgment shall have been rendered and it shall not affect or impair the remainder of this chapter or the application thereof to other persons.

(c) The Department may amend, repeal or rescind this chapter as necessary and in conformance with the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq.

7:26A-1.3 Definitions

The following words and terms, when used in this chapter, shall have the meanings set forth below. All terms which are used in this chapter and which are not defined herein but which are defined in N.J.A.C. 7:26 shall have the same meanings as in that chapter. If any of the words or terms defined below or at N.J.A.C. 7:26 are defined differently at N.J.A.C. 7:26A-13.2, the definitions at N.J.A.C. 7:26A-13.2 shall apply to the use of those words or terms in N.J.A.C. 7:26A-13.

"Aboveground tank" means a tank used to store or process used oil that is not an underground storage tank as defined in 40 C.F.R. 280.12 or N.J.A.C. 7:14B.

"Act" means the New Jersey Statewide Mandatory Source Separation and Recycling Act, N.J.S.A. 13:1E-99.11 et seq.

"Applicant" means any person seeking a general or limited approval to operate a recycling center.

"Architectural salvage item" means any component removed from a building that is scheduled for or is undergoing demolition or renovation for the purpose of reinstallation in or on any building. Architectural salvage items are not solid waste.

"Area of human use or occupancy" means any commercial, residential, or active or passive recreational property and shall refer to the area frequented by persons and not outer boundary areas of sites owned by persons that are not frequented for use.

"Battery" means a device consisting of one or more electrically connected electrochemical cells which is designed to receive, store, and deliver electric energy. An electrochemical cell is a system consisting of an anode, cathode, and an electrolyte, plus such connections (electrical and mechanical) as may be needed to allow the cell to deliver or receive electrical energy. The term battery also includes an intact, unbroken battery from which the electrolyte has been removed.

"Beneficial use" means the use or reuse of a material, which would otherwise become solid waste, as landfill cover, aggregate substitute, fuel substitute or fill material or the use or reuse in a manufacturing process to make a product or as an effective substitute for a commercial product. Beneficial use of a material shall not constitute recycling or disposal.

"Biodegradable plastic" means plastic products that are designed to biodegrade and compost and which meet the specifications of the American Society for Testing and Materials document--ASTM D 6400-99--entitled "Standard Specifications for Compostable Plastics," incorporated herein by reference.

"Biomass" means any organic matter that is available on a renewable or recurring basis (excluding old-growth timber), including dedicated energy crops and trees, agricultural food and feed crop residues, aquatic plants, wood and wood residues, animal wastes, and other waste materials.

"Brush" means branches, woody plants and other like vegetative material. Leaves and grass do not constitute brush.

"Class A recyclable material" means a source separated non-putrescible recyclable material specifically excluded from Department approval prior to receipt, storage, processing or transfer at a recycling center in accordance with N.J.S.A. 13:1E-99.34b, which material currently includes source separated non-putrescible metal, glass, paper, plastic containers, and corrugated and other cardboard.

"Class B recyclable material" means a source separated recyclable material which is subject to Department approval prior to receipt, storage, processing or transfer at a recycling center in accordance with N.J.S.A. 13:1E-99.34b, and which includes, but is not limited to, the following:

1. Source separated, non-putrescible, waste concrete, asphalt, brick, block, asphalt-based roofing scrap and wood waste;

2. Source separated, non-putrescible, waste materials other than metal, glass, paper, plastic containers, corrugated and other cardboard resulting from construction, remodeling, repair and demolition operations on houses, commercial buildings, pavements and other structures;

3. Source separated whole trees, tree trunks, tree parts, tree stumps, brush and leaves provided that they are not composted;

4. Source separated scrap tires; and

5. Source separated petroleum contaminated soil.

"Class C recyclable material" means a source separated compostable material which is subject to Department approval prior to the receipt, storage, processing or transfer at a recycling center in accordance with N.J.S.A. 13:1E-99.34b, and which includes, but is not limited to, organic materials such as:

1. Source separated food waste;

2. Source separated biodegradable plastic;

3. Source separated yard trimmings, including any biodegradable paper bags in which the yard trimmings are collected;

4. Source separated biomass; and

5. Lakeweed generated from the cleaning of aquatic flora from freshwater lakes.

"Class D recyclable material" means a source separated recyclable material which is subject to Department approval prior to receipt, storage, processing or transfer at a recycling center in accordance with N.J.S.A. 13:1E-99.34b, and which includes, but is not limited to, the following:

1. Used oil, as defined in this section and which includes, but is not limited to, the following:

i. Used lubricant oil;

ii. Used coolant oil (non-contact heat transfer fluids);

iii. Used emulsion oil; and

iv. Any other synthetic oil or oil refined from crude oil, which has been used, and as a result of such use is contaminated by physical or chemical impurities;

2. Antifreeze;

3. Latex paints;

4. Lamps (light bulbs);

5. Oil-based finishes;

6. Batteries;

7. Mercury-containing equipment; and

8. Consumer electronics.

"Class D recycling center" means a facility that receives, stores, processes, or transfers Class D recyclable materials as defined in this section.

"Commingled" means a combining of source separated recyclable materials for the purpose of recycling.

"Compostable" means able to undergo physical, chemical, thermal and/or biological degradation under aerobic conditions such that the material to be composted enters into and is physically indistinguishable from the finished compost (humus), and which ultimately mineralizes (biodegrades to carbon dioxide, water, and biomass) in the environment at a rate like that of known compostable materials such as paper and yard trimmings.

"Composting" means the controlled biological degradation of organic matter to make compost.

"Consumer" means any New Jersey resident who uses or purchases lubricating or other automotive oil for personal use, or who generates used motor oil through personal use of lubricating or other automotive oil.

"Consumer electronics" means any appliance used in the home or business that includes circuitry. Consumer electronics includes the components and sub-assemblies that collectively make up the electronic products and may, when individually broken down, include batteries, mercury switches, capacitors containing PCBs, cadmium plated parts and lead or cadmium containing plastics. Examples of consumer electronics include, but are not limited to, computers, printers, copiers, telefacsimiles, VCRs, stereos, televisions, and telecommunication devices.

"Container" means any portable device in which a material is stored, transported, treated, disposed of, or otherwise handled.

"Contaminant" means solid waste which adheres to, or which is otherwise contained on or in, source separated recyclable materials.

"Curing" means the last stage of composting that occurs after much of the readily metabolized material has decomposed. Curing provides for additional stabilization of the composted material.

"Department" or "NJDEP" means the New Jersey Department of Environmental Protection.

"Designated district or municipal recycling coordinator" means the individual designated pursuant to N.J.S.A. 13:1E-99.13 or 13:1E-99.16, respectively.

"Do-it-yourselfer used oil collection center" means any site or facility that accepts and/or aggregates and stores used oil collected only from household do-it-yourselfer used oil generator.

"End-market" means any person which receives processed or unprocessed source separated recyclable material and utilizes the material as a finished product or as a raw material for a manufacturing process.

"Existing tank" means a tank that is used for the storage or processing of used oil and that is in operation, or for which installation has commenced on or prior to December 16, 1996. Installation shall be considered to have commenced if the owner or operator has obtained all Federal, State, and local approvals or permits necessary to begin installation of the tank and if either:

1. A continuous on-site installation program has begun; or

2. The owner or operator has entered into contractual obligations-which cannot be canceled or modified without substantial loss for installation of the tank to be completed within a reasonable time.

"Farm" means any establishment that produced and sold, or normally would have sold, $ 1,000 or more of agricultural products during the previous calendar year.

"FIFRA" means the Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. §§ 136 through 136y.

"General approval" means an approval to operate a recycling center for the receipt, storage, processing or transfer of Class B, Class C or Class D recyclable material.

"Generator" means any person, by site, whose act or process produces waste or recyclable materials, including, but not limited to, used oil, universal waste, or hazardous waste, or whose act first causes a waste or recyclable material to become subject to regulation or separated for collection. For universal wastes, "generator" means any person, by site, whose act or process produces hazardous waste identified or listed in N.J.A.C. 7:26G-5 or whose act first causes a hazardous waste to become subject to regulation.

"Grace period" means the period of time afforded under N.J.S.A. 13:1D-125 et seq., commonly known as the Grace Period Law, for a person to correct a minor violation in order to avoid imposition of a penalty that would be otherwise applicable for such violation.

"Household do-it-yourselfer used oil" means oil that is derived from households, such as used oil generated by individuals who generate used oil through the maintenance of their personal vehicles.

"Household do-it-yourselfer used oil generator" means an individual who generates household do-it-yourselfer used oil.

"Lamp" or "universal waste lamp" means the bulb or tube portion of an electric lighting device. A lamp is specifically designed to produce radiant energy, most often in the ultraviolet, visible, and infra-red regions of the electromagnetic spectrum. Examples of common universal waste lamps include, but are not limited to, fluorescent, high intensity discharge, neon, mercury vapor, high pressure sodium, and metal halide lamps.

"Large quantity handler of universal waste" means a universal waste handler, as defined in this section, who accumulates 5,000 kilograms or more, total, of universal waste (calculated collectively) at any time. Such designation as a large quantity handler of universal waste is retained through the end of the calendar year in which 5,000 kilograms or more total of universal waste is accumulated.

"Leachate" means a liquid which has come in contact with or percolated through a porous solid and extracted dissolved and suspended material. Condensate from gases that pass through a porous solid may also contain dissolved or suspended material.

"Limited approval" means an approval to operate a recycling center for the receipt, storage, processing or transfer of Class B recyclable material for a period of time not to exceed 180 days.

"Manufacturer" means any person which utilizes Class A recyclable material or non-container plastic materials as raw materials in the production of new paper, metal, glass or plastic products.

"Mobile recycling equipment" is equipment which processes Class B, Class C or Class D recyclable material and which does not operate from a permanent location but which is capable of being transported from site to site.

"Motor oil retailer" means any person who annually sells to consumers more than 500 gallons of lubricating and/or other automotive oil in container for use off the premises where sold.

"New tank" means a tank that will be used to store or process used oil and for which installation has commenced after December 16, 1996.

"Non-container plastic materials" means source separated nonputrescible plastic materials other than plastic containers.

"Off-site" means any site other than the specific site or point of generation of recyclable materials.

"Oil-based finishes" means any paint or other finish which may exhibit, or is known to exhibit, a hazardous waste characteristic, or which contains a listed hazardous waste, and is in its original packaging, or otherwise appropriately contained and clearly labeled. Examples of oil-based finishes include, but are not limited to, oil-based paints, lacquers, stains, and aerosol paint cans.

"Old-growth timber" means wood or plant matter taken from a forest in the late successional stage of forest development, including plant matter taken from the forest floor. Late successional forests contain live and dead trees of various sizes, species, composition, and age class structure. The age and structure of old-growth timber varies significantly by forest type and from one biogeoclimatic zone to another.

"On-site" means the same or geographically contiguous property which may be divided by public or private right-of-way, provided that the entrance and exit between the properties is at a cross-roads intersection, and access is by crossing as opposed to going along the right of way. Non-contiguous properties owned by the same person but connect-

ed by a right-of-way which such person controls and to which the public does not have access, are also considered on-site property.

"Person" means an individual, trust, firm, joint stock company, corporation (including a government corporation), corporate official, partnership, association, Federal agency, state, municipality, commission, political subdivision of a state, county or municipality, or any interstate body.

"Pesticide" means any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest, or intended for use as a plant regulator, defoliant, or desiccant, other than any article that:

1. Is a new animal drug under the Federal Food Drug and Cosmetic Act (FFDCA) section 201(w); or

2. Is an animal drug that has been determined by regulation of the U.S. Secretary of Health and Human Services not to be a new animal drug; or

3. Is an animal feed under FFDCA section 201(x) that bears or contains any substances described at paragraph 1 or 2 above.

"Plastic container" means any formed or molded and hermetically sealed, or made airtight with a metal or plastic cap, rigid container, other than a plastic bottle, intended for single-use and having a capacity of at least eight ounces, but less than five United States gallons, with a minimum wall thickness of not less than 0.010 inches, and composed primarily of thermoplastic synthetic polymeric material.

"Processing" means the treatment or transformation of source separated recyclable materials so as to conform to end-market specifications, including, but not limited to, separating material by type, grade or color, crushing, grinding, shredding or bailing or removing contaminants. (See also "used oil processing" below.)

"Product" means the material or the good generated as a result of processing source separated recyclable materials for which no further processing is required prior to final utilization.

"Rebuttable presumption for used oil" means used oil containing more than 1000 ppm total halogens is presumed to be a hazardous waste because it has been mixed with halogenated hazardous waste listed in 40 C.F.R. Part 261, subpart D, as incorporated by reference at N.J.A.C. 7:26G-5. Persons may rebut this presumption by demonstrating that the used oil does not contain hazardous waste (for example, by using an analytical method from SW-846, Edition III, to show that the used oil does not contain significant concentrations of halogenated hazardous constituents listed in Appendix VIII of 40 C.F.R. Part 261, as incorporated by reference at N.J.A.C. 7:26G-5). The rebuttable presumption does not apply to metalworking oils/fluids containing chlorinated paraffins, if they are processed, through a tolling agreement to reclaim metalworking oils/fluids. The presumption does apply to metalworking oils/fluids if such oils/fluid are recycled in any other manner or disposed. The rebuttable presumption does not apply to used oils contaminated with chlorofluorocarbons (CFCs) removed from refrigeration units where the CFCs are destined for reclamation. The rebuttable presumption does apply to used oils contaminated with CFCs that have been mixed with used oil from sources other than refrigeration units. EPA publication SW-846, Third Edition, is available from the Government Printing Office, Superintendent of Documents, P.O. Box 371954, Pittsburgh, PA 15250-7954. (202) 512-1800 (Document number: 955-001-00000-1.)

"Recover" means to remove refrigerant fluid in any condition from a refrigerator, freezer, air conditioner, chiller, or similar appliance and store it in an external container without necessarily testing or processing it in any way.

"Recyclable material" means those materials which would otherwise become solid waste and which may be collected, separated or processed and returned to the economic mainstream in the form of raw materials or products.

"Recycling" means any process by which materials which would otherwise become solid waste are collected, separated or processed and returned to the economic mainstream in the form of raw materials or products.

"Recycling center" means a facility designed and operated solely for receiving, storing, processing or transferring source separated recyclable materials (Class A, Class B, Class C and/or Class D recyclable material). Recycling centers shall not include recycling depots, manufacturers, or scrap processing facilities.

"Recycling center for Class A recyclable materials" or "Class A recycling center" means a facility that receives, stores, processes, or transfers Class A recyclable materials as defined in this section.

"Recycling center for Class B recyclable materials" or "Class B recycling center" means a facility that receives, stores, processes, or transfers Class B recyclable materials as defined in this section.

"Recycling center for Class C recyclable materials" or "Class C recycling center" means a facility that receives, stores, processes, or transfers Class C recyclable materials as defined in this section.

"Recycling depot" means a facility designed and operated for receiving and temporarily storing, for a period not to exceed two months, Class A recyclable materials and/or non-container plastic materials prior to their transport to a recycling center or end-market.

"Refrigerant fluid" means the following Class I or Class II substance as defined by section 602 of Title VI of the Clean Air Act Amendments of 1990 *(42 U.S.C. 7671)* and additional substances that are listed by the United States Environmental Protection Agency that are used as a refrigerant in any appliance including any personal, household, commercial or industrial air conditioner, refrigerator, chiller, freezer or similar appliance:

Class I

Group I

chlorofluorocarbon-11 (CFC-11)

chlorofluorocarbon-12 (CFC-12)

chlorofluorocarbon-113 (CFC-113)

chlorofluorocarbon-114 (CFC-114)

chlorofluorocarbon-115 (CFC-115)

Group II

halon-1211

halon-1301

halon-2402

Group III

chlorofluorocarbon-13 (CFC-13)

chlorofluorocarbon-111 (CFC-111)

chlorofluorocarbon-112 (CFC-112)

chlorofluorocarbon-211 (CFC-211)

chlorofluorocarbon-212 (CFC-212)

chlorofluorocarbon-213 (CFC-213)

chlorofluorocarbon-214 (CFC-214)

chlorofluorocarbon-215 (CFC-215)

chlorofluorocarbon-216 (CFC-216)

chlorofluorocarbon-217 (CFC-217)

Group IV

carbon tetrachloride

Group V

methyl chloroform

Class II

hydrochlorofluorocarbon-21 (HCFC-21)

hydrochlorofluorocarbon-22 (HCFC-22)

hydrochlorofluorocarbon-31 (HCFC-31)

hydrochlorofluorocarbon-121 (HCFC-121)

hydrochlorofluorocarbon-122 (HCFC-122)

hydrochlorofluorocarbon-123 (HCFC-123)

hydrochlorofluorocarbon-124 (HCFC-124)

hydrochlorofluorocarbon-131 (HCFC-131)

hydrochlorofluorocarbon-132 (HCFC-132)

hydrochlorofluorocarbon-133 (HCFC-133)

hydrochlorofluorocarbon-141 (HCFC-141)

hydrochlorofluorocarbon-142 (HCFC-142)

hydrochlorofluorocarbon-221 (HCFC-221)

hydrochlorofluorocarbon-222 (HCFC-222)

hydrochlorofluorocarbon-223 (HCFC-223)

hydrochlorofluorocarbon-224 (HCFC-224)

hydrochlorofluorocarbon-225 (HCFC-225)

hydrochlorofluorocarbon-226 (HCFC-226)

hydrochlorofluorocarbon-231 (HCFC-231)

hydrochlorofluorocarbon-232 (HCFC-232)

hydrochlorofluorocarbon-233 (HCFC-233)

hydrochlorofluorocarbon-234 (HCFC-234)

hydrochlorofluorocarbon-235 (HCFC-235)

hydrochlorofluorocarbon-241 (HCFC-241)

hydrochlorofluorocarbon-242 (HCFC-242)

hydrochlorofluorocarbon-243 (HCFC-243)

hydrochlorofluorocarbon-244 (HCFC-244)

hydrochlorofluorocarbon-251 (HCFC-251)

hydrochlorofluorocarbon-252 (HCFC-252)

hydrochlorofluorocarbon-253 (HCFC-253)

hydrochlorofluorocarbon-261 (HCFC-261)

hydrochlorofluorocarbon-262 (HCFC-262)

hydrochlorofluorocarbon-271 (HCFC-271)

"Refrigerant reprocessing facility" means a facility which receives captured refrigerant fluid, stored and transported in the appropriate containers, and cleans or otherwise reprocesses these refrigerant fluids to a level of purity consistent with industry standards for the use to which the reprocessed refrigerant fluid will be put, and which then returns the reprocessed refrigerant fluid to commerce.

"Re-refining distillation bottoms" means the heavy fraction produced by vacuum distillation of filtered and dehydrated used oil. The composition of still bottoms varies with column operation and feedstock.

"Research, development and demonstration (RD&D) approval" means a certificate of authority to operate issued pursuant to N.J.A.C. 7:26-1.7(f) for a new or innovative technology or innovative operational process modification made to an existing recycling center or operation.

"Residue" means any solid waste generated as a result of processing source separated recyclable materials at a recycling center which must be disposed of as solid waste in accordance with the waste plan of the district in which the recycling center is located or if classified as a hazardous waste pursuant to N.J.A.C. 7:26G, shall be disposed of in accordance with the applicable hazardous waste regulations set forth at N.J.A.C. 7:26G.

"Retail service station" means any person whose on-going automotive maintenance and/or repair business entails the removal and/or replacement of automotive lubricating oils.

"Scrap processing facility" means a commercial industrial facility designed, and operated for receiving, storing and transferring source separated, nonputrescible ferrous and nonferrous metal, which materials are purchased by the owner or operator thereof, and which are altered or reduced in volume or physical characteristics onsite by mechanical methods, including, but not limited to, baling, cutting, torching, crushing, or shredding, for the purposes of resale for remelting, refining, smelting or remanufacturing into raw materials or products.

"Small quantity handler of universal waste" means a universal waste handler, as defined in this section, who accumulates less than 5,000 kilograms total of universal waste (all types of universal wastes calculated collectively) at any time.

"Solid waste" means that which is defined as solid waste in N.J.A.C. 7:26-1.6.

"Source separated recyclable materials" means recyclable materials which are separated at the point of generation by the generator thereof from solid waste for the purposes of recycling.

"Source separated supermarket waste" or "SSSW" means waste that includes only vegetative waste such as, but not limited to, flower waste, culled or spoiled produce and produce preparation trimmings.

"Surface water" means water at or above the land's surface which is neither ground water nor contained within the unsaturated zone, including, but not limited to, the ocean and its tributaries, all springs, streams, rivers, lakes, ponds, wetlands, and artificial waterbodies.

"Tank" means any stationary device designed to contain an accumulation of recyclable materials which is constructed primarily of non-earthen materials (for example, wood, concrete, steel, plastic) which provides structural support.

"Thermal treatment" means the treatment of recyclable material in a device that uses elevated temperatures as the primary means to change the physical, chemical, or biological character or composition of the recyclable material.

"Total municipal solid waste stream" means the sum of the municipal solid waste stream disposed of as solid waste, as measured in tons, plus the total number of tons of material separated from municipal solid waste and recycled.

"Total solid waste stream" means the aggregate amount of solid waste generated from all sources of generation, including the municipal solid waste stream. This includes all non-hazardous materials disposed and recycled.

"Universal waste" means any of the following hazardous wastes that are subject to the universal waste requirements of N.J.A.C. 7:26A-7, whether incorporated by reference from 40 C.F.R. Part 273 or listed additionally by the Department:

1. Batteries;

2. Pesticides;

3. Lamps;

4. Mercury-containing equipment;

5. Oil-based finishes; and

6. Consumer electronics.

"Universal waste handler" means a generator, as defined in this section, of universal waste or the owner or operator of a facility, including all contiguous property, that receives universal waste from other universal waste handlers, accu-

mulates universal waste, and sends universal waste to another universal waste handler, to a destination facility, or to a foreign destination. "Universal waste handler" does not mean a person who treats (except under the provisions of N.J.A.C. 7:26A-7.2(d)1 or 3, or N.J.A.C. 7:26A-7.3(d)1 or 3), disposes of, or recycles universal waste, or a person engaged in the off-site transportation of universal waste by air, rail, highway, or water, including a universal waste transfer facility.

"Universal waste transfer facility" means any transportation-related facility including loading docks, parking areas, storage areas and other similar areas where shipments of universal waste are held during the normal course of transportation for ten days or less.

"Universal waste transporter" means a person engaged in the off-site transportation of universal waste by air, rail, highway, or water.

"Used oil" means any oil that has been refined from crude oil, or any synthetic oil, that has been used and as a result of such use, is contaminated by physical or chemical impurities, or unused oil that is contaminated by physical or chemical impurities through storage or handling and is determined to be a solid waste by the generator.

"Used oil aggregation point" means any site or facility that accepts, aggregates, and/or stores used oil collected only from other used oil generation sites owned or operated by the owner or operator of the aggregation point, from which used oil is transported to the aggregation point in shipments of no more than 55 gallons. Used oil aggregation points may also accept used oil from household do-it-yourselfer used oil generators.

"Used oil burner" means a facility where used oil not meeting the specification requirements in N.J.A.C. 7:26A-6.2 is burned for energy recovery in devices identified in N.J.A.C. 7:26A-6.8(b).

"Used oil collection center" means any site or facility that is registered or approved by the municipality or county to manage used oil and accepts and/or aggregates and stores used oil collected from used oil generators regulated under N.J.A.C. 7:26A-6.4 that bring used oil to the collection center in shipments of no more than 55 gallons pursuant to N.J.A.C. 7:26A-6.4(e). Used oil accumulation centers may also accept used oil from household do-it-yourselfer used oil generators.

"Used oil fuel marketer" means any person who conducts either of the following activities:

1. Directs a shipment of off-specification used oil from such person's facility to a used oil burner; or

2. First claims that used oil that is to be burned for energy recovery meets the used oil fuel specifications set forth in N.J.A.C. 7:26A-6.2.

"Used oil generator" means any person, by site, whose act or process produces used oil or whose act first causes used oil to become subject to regulation.

"Used oil handler" means a generator of used oil, or the owner or operator of a facility that receives used oil.

"Used oil processing" means chemical or physical operations designed to produce from used oil, or make used oil more amenable for the production of, fuel oils, lubricants, or other used oil-derived products. Used oil processing includes, but is not limited to, blending used oil with virgin petroleum products, blending used oils to meet the used oil fuel specification, filtration, simple distillation, chemical or physical separation and re-refining.

"Used oil processor or re-refiner" means a facility that processes used oil.

"Used oil transfer facility" means any transportation related facility including loading docks, parking areas, storage areas, and other areas where shipments of used oil are held for more than 24 hours during the normal course of transportation and not longer than 35 days. Transfer facilities that store used oil for more than 35 days are subject to regulation under N.J.A.C. 7:26A-6.7 as used oil processors, except that these facilities are not subject to the requirements of N.J.A.C. 7:26A-6.7(a)2vi, unless used oil processing is also performed.

"Used oil transporter" means any person who transports used oil, any person who collects used oil from more than one generator and transports the collected oil, and owners and operators of used oil transfer facilities. Used oil transporters may consolidate or aggregate loads of used oil for purposes of transportation but, with the following exception, may not process used oil. Transporters may conduct incidental processing operations that occur in the normal course of used oil transportation (for example, settling and water separation), but that are not designed to produce (or make more amenable for production of) used oil derived products or used oil fuel.

"Yard trimmings" means grass clippings, leaves, wood chips from tree parts, and brush.

7:26A-1.4 Activities exempt from general or limited approval

(a) The activities listed below are exempted from the requirement to obtain a general or limited approval pursuant to N.J.A.C. 7:26A-3 and, unless otherwise specified, the solid waste planning requirements at N.J.A.C. 7:26-6.10 or 6.11. The specific criteria applicable to these activities are as follows:

1. Manufacturers shall not be required to obtain a general or limited approval pursuant to N.J.A.C. 7:26A-3 for the receipt, storage or processing of source separated recyclable materials. This exemption shall also apply to:

i. Asphalt manufacturing plants that receive solely source separated recyclable asphalt millings or larger pieces, and preconsumer asphalt shingles or other asphalt-based roofing scrap, or a combination thereof prior to their introduction into the asphalt manufacturing process. The materials shall be delivered to the manufacturing plant directly from the site of generation unless intermediate storage is authorized by the Department; or

ii. Pallet manufacturers and/or refurbishers that process non-salvageable wood pallet materials generated from their manufacturing and refurbishing activities. Storage of processed wood materials shall not exceed one year.

2. The recycling of source separated recyclable materials that are generated, processed and reused as a product exclusively at the point of generation where all applicable county and municipal approvals have been obtained for that activity. Specifically excluded from this exemption are source separated petroleum contaminated soils, and the receipt, storage, processing or transfer of materials generated off-site;

3. Recycling activities in which tree branches, tree limbs, tree trunks, brush and wood chips derived from tree parts are to be received, stored, processed or transferred provided that:

i. Only the amount of unprocessed material which the equipment on-site or as may be readily available is capable of processing within a one-week period up to a maximum of 7,500 cubic yards is stored on-site;

ii. Storage of material on-site shall not exceed one year;

iii. Storage of processed material on-site shall not exceed 7,500 cubic yards; and

iv. Processing is limited to four times per year and each processing event shall be limited to a two-week time period, unless prior approval is received from the Department;

4. Tire retreaders and tire remolders which receive, store, process or transfer tires provided that:

i. Only that amount of material which the equipment on-site is capable of processing within a two-month period is stored on-site; and

ii. Storage of material on-site shall not exceed one year;

5. Any person or recycling center which receives less than 5,000 scrap tires per month and which does not process the scrap tires provided that:

i. Storage of materials on-site shall not exceed six months;

ii. Tires shall only be stored in a totally enclosed structure or in roll-off containers or trailers dedicated to scrap tire storage;

iii. The provisions of N.J.A.C. 7:26A-3.8(b) and (c) are met; and

iv. The tires are transferred to an end-market or to a recycling center approved to receive, store, process or transfer scrap tires, or to a tire facility herein exempted;

6. Recycling operations in which scrap tires are received, stored and processed into artificial reef units for use in artificial reef projects approved by the Department, provided:

i. Only that amount of material which the equipment on-site is capable of processing within a two-month period is stored on-site; and

ii. Storage of material on-site shall not exceed six months;

7. Any person, with the exception of a recycling center operating pursuant to a general or limited approval in accordance with N.J.A.C. 7:26A-3, which receives source separated Class B recyclable materials, with the exception of scrap tires, leaves, non-container plastic materials and petroleum contaminated soil for temporary storage and meets the criteria in (a)7iii below and either:

i. Operates for a specified 60-day period that commences from the start date of the project as indicated in the notification letter required pursuant to (b)5 below, provided all material stored temporarily are removed from the temporary storage site by the end of the specified 60-day period and temporary storage pursuant to this subparagraph shall not occur more than twice within the same calendar year or in succession; or

ii. Operates on a continuous basis, provided all materials stored temporarily are stored in roll-off containers or other similar containers.

iii. Such person shall also meet the following criteria:

(1) Materials shall be stored in a manner which prevents runoff, leakage or seepage from the storage area into or onto the ground surface around the storage area, and shall be stored in accordance with all applicable county and municipal laws and regulations;

(2) No source separated Class B recyclable material which is received and stored as per this exemption shall be processed in any way, including further separation;

(3) Source separated Class B recyclable material which is stored as per this exemption shall be transferred only to a recycling center approved to receive, store, process or transfer the Class B recyclable material. Documentation from such recycling center(s), such as a legal contract or letter of agreement, that provides that the recycling center(s) will receive the material stored as per this exemption shall be provided to the Department along with the written notification required pursuant to N.J.A.C. 7:26A-1.4(b)5; and

(4) Records of the daily amount and type of the Class B recyclable materials received, stored and transferred, including the name and address of the recycling center to which the materials are transferred, shall be kept and shall be maintained for three years from the date of recording by the person or recycling center operating pursuant to this exemption. The required records shall be kept on site, be made available to the Department during an inspection and be submitted to the Department upon request;

8. Those generators of source separated petroleum contaminated soil who arrange for mobile recycling equipment to process source separated petroleum contaminated soil at its point of generation;

9. Any person or recycling center which receives, stores, processes and transfers non-container plastic materials provided that:

i. Only the amount of material that the equipment on-site is capable of processing within a two-month period is stored on-site; and

ii. Storage of material on-site shall not exceed six months;

10. Land clearing activities that have been approved in accordance with a municipal planning ordinance, whereby on-site trees, including tree stumps, tree trunks and tree parts, are uprooted, processed into wood chips at the point of generation and either utilized on-site as a product or transferred off-site for utilization as a product. This exemption shall not apply to the receipt, storage, processing or transfer of trees, including tree stumps, tree trunks or tree parts, that have been generated off-site;

11. Any person or recycling center which receives, stores, processes or transfers source separated textiles for reuse or recycling purposes;

12. Leaf mulching activities on land deemed actively devoted to agricultural or horticultural use, as defined in the Farmland Assessment Act of 1964, N.J.S.A. 54:4-23.5, provided that the activity is consistent with the State Agriculture Development Committee rule at N.J.A.C. 2:76-2A.7, Natural resource conservation agricultural management practice, and provided that:

i. Leaves delivered for mulching shall be removed from bags, boxes or similar containers prior to spreading. All discarded bags, boxes and similar containers shall be placed in a suitable refuse receptacle in a staging area for removal to an off-site disposal facility;

ii. Within seven days of delivery, the leaves shall be spread onto the field in a thin layer no higher than six inches; and

iii. No later than the next tillage season, the layered leaves shall be incorporated into the soil;

13. The receipt of yard trimmings for composting where the activity meets the following criteria:

i. Only yard trimmings are received and no more than 10,000 cubic yards are received per year;

ii. If grass clippings are received, they shall constitute no more than 10 percent by volume of all yard trimmings received per year;

iii. The receipt and processing is not conducted on land which has been purchased with money from any Green Acres bond act or which is designated as land for recreation and conservation purposes and listed in the Green Acres recreational land inventory prepared by individual municipalities and counties and approved by the Department pursuant to N.J.S.A. 13:1E-1, 13:8A-20 and 13:8A-35, and N.J.A.C. 7:36;

iv. The receipt and processing is not conducted on lands which are county or municipally owned parks, wildlife sanctuaries, recreational facilities, or other similar open public spaces;

v. The facility is included by administrative action pursuant to the requirements at N.J.A.C. 7:26-6.11 in the solid waste management plan of the solid waste management district within which the facility is to be located;

vi. The windrow composting area shall not exceed three acres. In addition, composting windrows shall terminate no closer than 50 feet from any property line and 150 feet from the property line of any area of human use or occupancy, or if grass clippings are received, the composting windrows shall terminate a minimum of 500 feet from the property line of any area of human use or occupancy;

vii. Prior to operation, the composting area, related yard trimming staging and finished compost storage areas and access roads shall be graded in a manner that prevents the accumulation of surface water on site without resulting in a discharge of leachate off site or an adverse impact to natural drainage conditions of surrounding properties. Once original grading is completed in the manner that fulfills the requirements of the local soil conservation office, the four areas of the site referenced above shall be maintained throughout the life of the operation. Any disturbance of the natural environmental setting caused by any necessary land clearing and grading shall be held to a minimum;

viii. The perimeter of the composting operation shall be separated from any and all adjacent residential and/or commercial land uses by an effective visual screen buffer;

ix. The access road shall be fenced or otherwise secured to prevent unauthorized access;

x. Yard trimmings shall be received only during times when the operator or owner is present;

xi. A sign that identifies the hours of operation shall be posted at the entrance to the facility;

xii. An adequate water supply and fire-fighting equipment shall be readily available to extinguish any fires. The telephone number of the local fire department shall be posted at the entrance;

xiii. The composting operation shall follow the approved method of windrow composting set forth at (a) 13xiii(1) through (7) below, or other composting method approved by the Department which results in the aerobic biodegradation of the yard trimmings received:

(1) Upon receipt, all yard trimmings delivered for processing shall be removed from bags, boxes or similar containers prior to windrow formation except that yard trimmings in paper or biodegradable plastic bags need not be removed from such bags if the processing equipment provides for a shredding or cutting action. All discarded bags, boxes and similar containers shall be placed in a suitable refuse receptacle in the staging area for removal to an off-site disposal facility;

(2) Prior to windrow formation, dry yard trimmings shall be moistened to saturation without producing excess runoff;

(3) Yard trimmings shall be placed in windrows within the week of receipt;

(4) To facilitate drainage and to reduce surface water ponding, each windrow shall be constructed and positioned in such a manner so that it is perpendicular to the contours of the ground surface;

(5) Windrows shall be constructed and reconstructed after each turning to a maximum height of six feet with a corresponding base not to exceed a maximum of 14 feet in width;

(6) A minimum separation of 16 feet measured from the pile base of the windrow to the next adjacent pile base shall be provided along at least one side of the longest dimension of each windrow pile to provide ample working space; and

(7) Windrows shall be turned and reconstructed, at a minimum, once per month. Windrows shall be turned and reconstructed, at a minimum, twice per month when grass clippings have been co-mixed with leaves or wood chips. Grass clippings shall be mixed at minimum ratio of five parts leaves or wood chips to one part grass clippings by volume. More frequent windrow turning and reconstruction may occur at the discretion of the owner or operator; and

xiv. Within one year of start-up of the compost operation, yard trimming composting operators shall attend a composting course sponsored by the Rutgers Extension, County Agricultural or Resource Management Agents or other courses approved by the Department;

14. The collection, consolidation and transfer for recycling, treatment or disposal of universal waste and the collection, consolidation and transfer for recycling of other source separated Class D recyclable materials, except for used oil, latex paints and antifreeze, managed by small quantity handlers of universal waste provided the operation is in compliance with the standards for small quantity handlers of universal waste as incorporated by reference at N.J.A.C. 7:26A-7.1(a) and 7.4;

15. The collection, consolidation and transfer for recycling, treatment or disposal of universal waste and the collection, consolidation and transfer for recycling of other source separated Class D recyclable materials, except for used oil, latex paints and antifreeze, managed by large quantity handlers of universal waste provided the operation is in compliance with the standards for large quantity handlers of universal waste as incorporated by reference at N.J.A.C. 7:26A-7.1(a) and 7.5;

16. The transportation of universal waste and the transportation for recycling of other source separated Class D recyclable materials, except for used oil, managed by universal waste transporters, provided the transportation is in compliance with the standards for transportation of universal waste as incorporated by reference at N.J.A.C. 7:26A-7.1(a);

17. The collection, consolidation, repackaging (including opening containers and transferring the contents into other containers or tanks), and transfer for recycling of source separated Class D recyclable materials, except for used oil and those Class D recyclable materials that are also universal waste, provided that the operation is in compliance with N.J.A.C. 7:26A-4.6(d), (e) and (f);

18. The receipt of yard trimmings for composting where the finished compost product is applied on site on land deemed actively devoted to agricultural or horticultural use, as defined in the Farmland Assessment Act of 1964, N.J.S.A. 54:4-23.5 and consistent with the State Agriculture Development Committee rule at N.J.A.C. 2:76-2A.8, Agricultural management practice for on-farm compost operations operating on commercial farms, or on mined lands being restored under an approved restoration plan and where the activity meets the criteria below:

i. Yard trimmings shall be removed from bags, boxes or similar containers prior to windrow formation except that yard trimmings in paper or biodegradable plastic bags need not be removed from such bags if the processing equipment provides for a shredding or cutting action. All discarded bags, boxes and similar containers shall be placed in a suitable refuse receptacle in a staging area for removal to an off-site disposal facility;

ii. Yard trimmings shall be placed in windrows within the week of receipt;

iii. Composting windrows shall terminate no closer than 50 feet from any property line and 150 feet from the property line of any area of human use or occupancy, or if grass clippings are received, the composting windrows shall terminate a minimum of 500 feet from the property line of any area of human use or occupancy;

iv. Yard trimmings shall be received only during times when the operator or owner is present;

v. An adequate water supply and fire-fighting equipment shall be readily available to extinguish any fires;

vi. The composting operation shall incorporate a composting method that results in the aerobic biodegradation of the yard trimmings received; and

vii. The on-site use of the final compost product shall be subject to an approved agricultural management plan, mining area restoration plan, or other plan defining appropriate methods of compost product use and rates of application, developed by the Natural Resources Conservation Service, or other applicable local, State or Federal agency;

19. The receipt of less than 1,000 cubic yards of leaves per day at a site for transfer to a recycling center holding a general approval pursuant to N.J.A.C. 7:26A-3 for the receipt and processing of leaves or to other sites exempted from the requirement to obtain a general approval and operating pursuant to N.J.A.C. 7:26A-1.4, or other specific use approved in writing by the Department where the receipt and transfer activity meets the criteria below:

i. The perimeter of the leaf receipt and transfer activity areas shall be separated from any and all adjacent residential, recreational and/or commercial land uses by an effective visual screen buffer;

ii. Leaf receipt and transfer operation areas shall terminate no closer than 150 feet from the property line of any area of human use or occupancy;

iii. Leaves shall be removed from the site within 30 days of receipt; and

iv. Records of the daily volume of leaves received and transferred, including the name and address of the site to which the leaves are transferred shall be kept and shall be maintained for three years from the date of recording. The required records shall be made available to the department during an inspection and be submitted to the department upon request;

20. Any construction company or contractor which through the course of construction and demolition activities generates source separated concrete, asphalt, brick, and block, may receive, store, process, and transfer the material provided that:

i. The company or contractor is the sole generator of the material;

ii. The unprocessed material shall be stored in accordance with N.J.A.C. 7:26A-1.4(a)7i, ii, and iii(1) and (4) and all applicable county or municipal laws or regulations;

iii. The processing of the material shall be conducted at the contractor's or construction company's yard and in accordance with either N.J.A.C. 7:26A-1.4(a)7i or ii;

iv. A schedule for the completion of the processing activities shall be provided to the Department along with the written notification required pursuant to N.J.A.C. 7:26A-1.4(b)5. A written notification is required each time the material stored on-site is to be processed. Processing may not begin until the contractor has received a written response from the Department;

v. The company or contractor shall be the sole end-user and/or end-market of the end product that is generated and the end product shall be used exclusively for future projects of the company or contractor. Sale of the processed material is strictly prohibited; and

vi. The processed material shall only be stored on-site for a period of one year;

21. The recycling of source separated Class C recyclable materials that are generated on site, and processed exclusively at the point of generation into a product for sale and/or use off site;

22. The receipt of less than 3,000 cubic yards of leaves per year, and/or 1,000 cubic yards of grass clippings per year, at a site for transfer to a recycling center holding a general approval pursuant to N.J.A.C. 7:26A-3 for the receipt and processing of leaves and/or grass, or to other sites exempted from the requirement to obtain a general or limited approval to operate pursuant to N.J.A.C. 7:26-1.4, or other specific use approved in writing by the Department where the receipt and transfer activity meets the criteria below:

i. Leaves shall be removed from the site within 45 days of receipt;

ii. Grass shall be placed promptly in nonleaking containers, such as roll-offs, upon receipt at the facility. The container shall be covered immediately following loading and shall remain fully covered until removed from the site;

iii. No grass clippings or leachate shall remain on the ground after loading into non-leaking containers as specified in (a)22ii above;

iv. Containers shall be removed from the site within two days of the placement of any grass in the container; and

v. Records of the daily volume of leaves and grass clippings received and transferred, including the name and address of the site to which the leaves are transferred, shall be kept and maintained at the facility for three years from the date that the records were generated. The required records shall be made available to the Department during an inspection and shall be submitted to the Department upon request;

23. The receipt and composting of farm feedstocks where the activity meets the following criteria:

i. The activity is conducted on a farm;

ii. Only the following feedstocks are received or composted:

(1) Dry livestock manures;

(2) Animal feed;

(3) Leaves;

(4) Corn stalks;

(5) Hay;

(6) Silage; and

(7) Other farm feedstocks, except grass clippings, that meet the definition vegetative waste set forth at N.J.A.C. 7:26-2.13(g)1v;

iii. No more than 10,000 cubic yards of feedstocks are received or composted per year;

iv. Any applicable permits or approvals for on-site composting have been obtained from the Department and the New Jersey Department of Agriculture;

v. At least low level technology windrow composting as described at N.J.A.C. 7:26A-4.5(a)14vi shall be used as the composting method;

vi. The windrow composting area shall not exceed five acres;

vii. A buffer distance of 50 feet shall be maintained between composting activities and the facility property line; and

viii. Within one year of the start-up of the compost operation, the composting operator shall attend a composting course sponsored by the Rutgers Cooperative Extension, the appropriate county agricultural or resource management agents, or any other similar course approved by the Department. Proof of timely attendance at such a course shall be retained by the composting operator and made available to the Department upon request; and

24. The receipt and storage of architectural salvage items at a commercial enterprise.

(b) The general requirements applicable to all exemptions set out in (a) above are as follows:

1. The receipt, storage, processing or transfer of recyclable material shall be conducted in a manner consistent with the protection of public health, safety and the environment in light of the nature, scale and location of the exempted activity;

2. All persons operating pursuant to an exemption in (a) above shall ensure that the receipt, storage, processing or transfer of materials pursuant to the exemption is conducted in a manner which minimizes degradation of existing transportation patterns, ambient acoustical conditions, ambient air quality, drainage and soils characteristics, surface and ground water quality, wetlands, applicable Federal, State or local land uses including the Pinelands Area and agricultural development areas, dedicated recreational or open space areas floodways and endangered or threatened wildlife and vegetation, consistent with applicable municipal, county, State and Federal law and regulations;

3. Activities exempted pursuant to this section which exceed or violate the criteria for exemptions specified in (a) above and of this subsection, or which are conducted in a manner which endangers the public health, welfare and safety or the environment, or which are in violation of Federal, State or local law, shall be subject to regulation as a recycling center pursuant to this chapter or subject to the solid waste rules pursuant to N.J.A.C. 7:26;

4. With the exception of the exempted activities set forth at (a)5, 7, 8, 14, 15, 16, 17, 19 and 22 above, tonnage reports shall be submitted in accordance with N.J.A.C. 7:26A-4.4(b);

5. All persons operating pursuant to an exemption in (a) above except for small quantity handlers of universal waste operating pursuant to N.J.A.C. 7:26A-7.2 shall provide a written notice of such operation to the New Jersey Department of Environmental Protection, Division of Solid and Hazardous Waste, Bureau of Recycling and Hazardous Waste Management, 401 East State Street, P.O. Box 420, Mail Code 401-02C Trenton, New Jersey 08625-0420, the host municipality, and host county prior to the commencement of operations.

i. Any person submitting a written notice of an exempt operation shall make the following certification:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I further certify that the operation described herein satisfies the criteria for exemption as set forth in N.J.A.C. 7:26A-1.4. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment. I understand that, in addition to criminal penalties, I may be liable for a civil administrative penalty pursuant to N.J.A.C 7:26-5 and that submitting false information may be grounds for termination of any exemption."

ii. The certification shall be signed as follows:

(1) For a corporation, by a principal executive officer of at least the level of vice president;

(2) For a partnership or sole proprietorship, by a general partner or the proprietor, respectively; or

(3) For a municipality, State, Federal or other public agency, by either a principal executive officer or ranking elected official; and

iii. The certification shall be signed by a person described in (b)5ii above or by a duly authorized representative of that person. A person is a duly authorized representative only if:

(1) The authorization is made in writing by a person described in (b)5ii above;

(2) The authorization specifies either an individual or a position having responsibility for the overall operation of the operation or activity, such as the position of plant manager, or positions of equivalent responsibility; and

(3) The written authorization is submitted to the Department.

6. Exemption from the requirement of a general or limited approval pursuant to (a) above shall not constitute an exemption from applicable county or municipal laws, including local zoning and site plan ordinances, or regulations.

7. The holder of a general or limited approval or any person that engages in activities listed at N.J.A.C. 7:26A-1.4(a) at the site of an approved recycling center, is subject to the district solid waste management plan requirements identified at N.J.A.C. 7:26-6.11 and the general approval modification requirements at N.J.A.C. 7:26A-3.10 for those additional activities conducted at the site of the approved recycling center.

8. Any person holding a permit, certificate of authority to operate or other approval for a solid waste facility pursuant to N.J.A.C. 7:26 or a general or limited approval pursuant to this chapter that allows persons engaging in activities listed at this section the use of an access road through or on its site to a public thoroughfare is subject to the district solid waste management plan requirements identified at N.J.A.C. 7:26-6.11 and the general approval modification requirements at N.J.A.C. 7:26A-3.10 for those additional activities associated with additional vehicular traffic conducted at the site of the solid waste facility or recycling center.

(c) Recycling centers, which receive, store, process, or transfer only Class A recyclable materials, are not subject to the approval requirements in N.J.A.C. 7:26A-3 but are subject to the operational standards at N.J.A.C. 7:26A-4.

7:26A-1.5 Burden of proof

(a) In an enforcement action, or on specific request of the Department, persons claiming that they qualify for any exclusion or exemption in this chapter or that they are not otherwise subject to the rules in this chapter shall demonstrate and appropriately document that they satisfy all terms of the law releasing them from the requirements of this chapter.

(b) In an enforcement action, or on specific request of the Department, persons claiming that a certain material is not a recyclable material shall demonstrate and appropriately document that the material is not recyclable and that there is an approved alternate use for the material.

7:26A-1.6 Incorporation by reference of the Code of Federal Regulations

(a) Portions of this chapter that are prospectively incorporated by reference from any portion of 40 C.F.R. Part 273, Federal Regulations on Hazardous Waste, shall be understood in the manner set forth in this section.

(b) Unless specifically excluded by these rules, when a provision of the Code of Federal Regulations (C.F.R.) is incorporated by reference, all notes, comments, appendices, diagrams, tables, forms, figures, and publications are also incorporated by reference.

(c) Prospective incorporation by reference means the ongoing process, beginning on the most recent Federal Register date following December 17, 2002, whereby all provisions of regulations incorporated into this chapter from the Federal regulations at 40 C.F.R. Part 273 are continually and automatically updated in order to maintain consistency with the most current Federal rules. Thus, any supplements, amendments, and any other changes including, without limitation, repeals or stays that affect the meaning or operational status of a Federal rule, brought about by either judicial or administrative action and adopted or otherwise noticed by USEPA in the Federal Register, shall be paralleled by a similar automatic update to the New Jersey rule so that the New Jersey rule will have the same meaning and status as its Federal counterpart. Similarly, to maintain consistency, all new Federal regulations are also adopted into this chapter by this automatic process.

(d) Provisions of 40 C.F.R. Part 273 incorporated by reference are prospective and all internal references contained therein are also incorporated prospectively for the purposes of that provision, unless otherwise noted. Each internal reference to the C.F.R. shall be interpreted to include in addition to the Federal citation, any changes or additions or deletions made to that citation by the corresponding State subchapter. For example, all references within the C.F.R. to 40 C.F.R. Part 273 shall include the changes, additions and deletions which N.J.A.C. 7:26A-7 makes to 40 C.F.R. Part 273.

(e) Provisions of the C.F.R. which are excluded from incorporation by reference in these rules are excluded in their entirety, unless otherwise specified. If there is a cross reference to a Federal citation which was specifically entirely excluded from incorporation, the cross referenced citation is not incorporated by virtue of the cross reference. Provisions that have been excluded from incorporation by reference are also excluded from the process of prospective incorporation by reference.

(f) Federal statutes and regulations that are cited in 40 C.F.R. Part 273 that are not specifically adopted by reference shall be used to assist in interpreting the Federal regulations in 40 C.F.R. Part 273.

(g) In the event that there are inconsistencies or duplications in the requirements of the provisions incorporated by reference from the C.F.R. and the rules set forth in this chapter, the provisions incorporated by reference from the C.F.R. shall prevail, except where the rules set forth in this chapter are more stringent.

(h) Nothing in these provisions incorporated by reference from the C.F.R. shall affect the Department's authority to enforce statutes, rules, permits or orders administered or issued by the Commissioner.

(i) New Federal rules, amendments, supplements, repeals and other changes at 40 C.F.R. Part 273, brought about through administrative or judicial action, shall be automatically incorporated through the prospective incorporation process in N.J.A.C. 7:26A.

(j) New Federal rules, amendments, supplements, repeals, and other changes at 40 C.F.R. Part 273, brought about through administrative or judicial action, adopted by USEPA after July 1, 1998 but prior to December 17, 2002 shall be prospectively incorporated by reference and effective December 17, 2002 and operative either March 17, 2003 or on the operative date set by USEPA the relevant Federal Register Notice, whichever is later, unless the Department publishes a notice of proposal repealing the adoption in New Jersey of the Federal regulation in whole or in part, and/or proposing to otherwise amend the affected State rules.

(k) On or after December 17, 2002, new Federal rules, amendments, supplements, and other changes, brought about by either judicial or administrative action, automatically incorporated through the prospective incorporation by reference process shall be effective upon publication in the Federal Register and operative 90 days from the publication date

or on the operative date cited by USEPA in the relevant Federal Register Notice, whichever is later, unless the Department publishes a notice of proposal repealing the adoption in New Jersey of the Federal regulation in whole or in part, and/or proposing to otherwise amend the affected State rules.

7:26A-1.7 Right of entry and inspection

(a) The New Jersey Department of Environmental Protection or an authorized representative acting pursuant to the County Environmental Health Act, N.J.S.A. 26:3A2-1 et seq., shall have the right to enter and inspect any building or other portion of a recycling center, recycling depot or any site at which an exempted activity is conducted pursuant to N.J.A.C. 7:26A-1.4(a), at any time in order to determine compliance with the provisions of all applicable laws or rules and regulations adopted pursuant thereto. This right to inspect includes, but is not limited to:

1. Sampling any materials on site;

2. Photographing any portion of the recycling center;

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

4. Ascertaining compliance or non-compliance with the statutes, rules or regulations of the Department, including conditions of the recycling center approval issued by the Department.

(b) The right of entry specified in (a) above shall be limited to normal operating hours for the purpose of reviewing and copying all applicable records, which shall be made available to the Department during an inspection and submitted to the Department upon request.

THIS IS A COURTESY COPY OF THIS RULE. ALL OF THE DEPARTMENT'S RULES ARE COMPILED IN TITLE 7 OF THE NEW JERSEY ADMINISTRATIVE CODE.

TITLE 7. ENVIRONMENTAL PROTECTION
CHAPTER 26A. RECYCLING RULES
SUBCHAPTER 2. FEES FOR A GENERAL OR LIMITED APPROVAL TO OPERATE A RECYCLING CENTER FOR CLASS B, CLASS C, AND CLASS D RECYCLABLE MATERIAL

N.J.A.C. 7:26A-2.1 (2015)

7:26A-2.1 Fees for general or limited approval

(a) The following apply to the application fee for general or limited approval:

1. All applicants for a general approval to operate a recycling center for Class B recyclable material shall submit an application fee of $ 5,281 at the time of application.

i. The application fee for general approval will cover the Department's costs of conducting county and Statewide recycling plan consistency reviews, reviewing information submitted in accordance with N.J.A.C. 7:26A-3.2(a), 3.4 and 3.8, preparing letters of administrative completeness and incompleteness, advising applicants on technical deficiencies, and preparing approval and denial letters in accordance with N.J.A.C. 7:26A-3.5.

2. All applicants for a limited approval to operate a recycling center for Class B recyclable material shall submit an application fee of $ 2,400 at the time of application.

i. The application fee for limited approval will cover the Department's costs of conducting municipal law consistency reviews, reviewing information submitted in accordance with N.J.A.C. 7:26A-3.4, 3.7 and 3.8, preparing letters of administrative completeness and incompleteness, advising applicants on technical deficiencies and preparing approval and denial letters in accordance with N.J.A.C. 7:26A-3.5.

3. All applicants for a general approval to operate a recycling center for Class C recyclable material shall submit an application fee of $ 11,582 at the time of application.

i. The application fee for general approval will cover the Department's costs of conducting county and Statewide recycling plan consistency reviews, reviewing information submitted in accordance with N.J.A.C. 7:26A-3.2(a), 3.4 and 3.18, preparing letters of administrative completeness and incompleteness, advising applicants on technical deficiencies, and preparing approval and denial letters in accordance with N.J.A.C. 7:26A-3.5.

4. All applicants for a general approval to operate a recycling center for Class D recyclable material shall submit an application fee of $ 15,700 for used oil facilities and $ 5,233 for all other types of Class D facilities at the time of application.

i. The application fee for general approval will cover the Department's costs of conducting county and statewide recycling plan consistency reviews, reviewing information submitted in accordance with N.J.A.C. 7:26A-3.2(a), 3.4 and 3.19, preparing letters of administrative completeness and incompleteness, advising applicants on technical deficiencies, and preparing approval and denial letters in accordance with N.J.A.C. 7:26A-3.5.

(b) The following apply to the annual fee for general approval and the monthly fee for limited approval:

1. All persons who possess a general approval to operate a recycling center for Class B recyclable material shall be billed an annual fee of $ 4,724 on May 1 for each fiscal year beginning on July 1 and ending on June 30. The fee is payable within 30 days of billing. For newly approved recycling centers, the first annual fee is due on the first May 1 immediately following the issuance of the general approval.

i. The annual fee for general approval will cover the Department's costs of advising recycling center owners or operators on technical compliance matters, conducting market research, analysis and development activities, review and analysis of annual report data and other technical analyses required to implement the recycling center program.

2. All persons who possess a general approval to operate a recycling center for Class C recyclable material shall be billed an annual fee of $ 7,928 on May 1 for each fiscal year beginning on July 1 and ending on June 30. The fee is payable within 30 days of billing. For newly approved recycling centers, the first annual fee is due on the first May 1 immediately following the issuance of the general approval.

i. The annual fee for general approval will cover the Department's costs of advising recycling center owners or operators on technical compliance matters, conducting market research, analysis and development activities, review and analysis of annual report data and other technical analyses required to implement the recycling center program.

3. All persons who possess a general approval to operate a recycling center for Class D recyclable material shall be billed an annual fee of $ 7,106 on May 1 for each fiscal year beginning on July 1 and ending on June 30. The fee is payable within 30 days of billing. For newly approved recycling centers, the first annual fee is due on the first May 1 immediately following the issuance of the general approval.

i. The annual fee for general approval will cover the Department's costs of advising recycling center owners or operators on technical compliance matters, conducting market research, analysis and development activities, review and analysis of annual report data and other technical analyses required to implement the recycling center programs.

4. All persons who possess a general approval to operate a recycling center for Class B, Class C or Class D recyclable material shall be billed the following amounts for Research, Development and Demonstration (RD & D) approvals, renewal of general approval, transfers of ownership, and modifications.

		Class		
		B	C	D
i.	RD & D approvals	$ 2,400	$ 9,652	estimated fee per N.J.A.C. 7:26A-2.1(e))
ii.	Renewals	$ 960.00	$ 4,826	$ 3,140
iii.	Modifications	$ 2,400	$ 4,826	$ 3,140
iv.	Transfer of ownership	$ 1,440	$ 3,378	$ 2,093

5. All persons who possess a general approval to operate a multi-class recycling center, shall be billed the applicable annual fee and the applicable fee for an initial application and renewal of general approval set forth at (b)5i through viii below. A modification of a multi-class facility is billed according to (b)5xi through xiii below for the type of activity being added to the existing facility. If more than one type of activity is added, then the respective fee shall be billed for each type of activity.

Type of Multi-Class Facility	Annual Fee	Application Fee	Renewal Fee	Modification Fee
i. Class B and C	$ 8,792	$ 14,223	$ 5,306	-------
ii. Class B and D	$ 7,970	$ 18,341	$ 3,620	-------
iii. Class B and D - Oil only	$ 7,970	$ 18,341	$ 3,620	-------
iv. Class B and D - Universal Waste only	$ 7,970	$ 7,898	$ 3,620	-------
v. Class C and D	$ 10,808	$ 21,491	$ 6,396	-------
vi. Class C and D - Oil only	$ 10,808	$ 21,491	$ 6,396	-------
vii. Class C and D - Universal Waste only	$ 10,808	$ 14,199	$ 6,396	-------
viii. Class B, C and D	$ 11,672	$ 24,132	$ 6,876	-------
ix. Class B, C and D - Oil only	$ 11,672	$ 24,132	$ 6,876	-------
x. Class B, C and D - Universal Waste only	$ 11,672	$ 16,839	$ 6,876	-------
xi. Any Class/add or modify Class B	-------	-------	-------	$ 2,400
xii. Any Class/add or modify Class C	-------	-------	-------	$ 4,826
xiii. Any Class/add or modify Class D	-------	-------	-------	$ 3,140

Type of Multi-Class Facility	Annual Fee	Application Fee	Renewal Fee	Modification Fee

(c) The fee schedule for recycling center annual compliance monitoring services is as follows:

1. For State fiscal year 2006:

i. Each recycling center shall pay the applicable annual fee listed in the following table for compliance monitoring services. The fees are billable in equal quarterly installments, during July, October, January and April of State fiscal year 2006. Each invoice shall be payable within 30 days following issuance of the invoice. For newly approved recycling centers, the first annual fee is due on the first July immediately following the issuance of the general approval.

Type of Center	State Fiscal Year 2006 Compliance Monitoring Fees
Class B - General Approval	$ 9,130
Class C - General Approval	$ 9,130
Class D - General Approval: Used Oil	$ 12,175
Class D - General Approval: Other than Used Oil	$ 12,175
Exempt composting facilities compliance inspection	$ 1,015

ii. All persons that possess a limited approval to operate a recycling center for Class B recyclable material shall submit a fee of $ 700.00 per month for each month of operation authorized by the limited approval. The fee for the total number of months of authorized operation shall be billed during July for the previous one year period. The monthly fee for limited approval shall be applied to offset the Department's costs of advising recycling center owners or operators on technical compliance matters, and to facility compliance inspections.

iii. All persons that are in the business of removing automotive mercury switches shall pay an annual fee of $ 445.00 for compliance monitoring services. The fee will be billed during July of each year. The fee is payable within 30 days of billing.

2. For each State fiscal year following State fiscal year 2006, the fees set forth at (c)1 above shall be annually adjusted pursuant to N.J.A.C. 7:26A-2.4 and 2.5. The billing schedule for the annually adjusted fees shall be the same as the billing schedule for the fees that are assessed under (c)1 above.

(d) The omission of any type of service from the fee schedules set forth in (a), (b) or (c) above, the omission of a fee for a modified type of facility, or if the Department determines that performing its services will exceed the fee the Department charges for annual compliance monitoring services listed at (c) above, shall not prevent the Department from assessing a reasonable fee such services at any time whether prior to, during or after the Department has performed its services. An applicant/permittee that believes a service is not included in (a) above may request the Department to provide an estimate of the fee for that service. As part of its initial review, the Department shall charge the fees for performing its services in connection with the submission. An estimated fee calculated under this subsection is not binding on the Department. The final fee to be charged by the Department shall be based on actual hours worked, multiplied by an hourly rate for recycling center regulation services for State fiscal year 2006 of $ 115.00. For each State fiscal year after State fiscal year 2006, the hourly rate shall be annually adjusted pursuant to N.J.A.C. 7:26A-2.4. The Department will calculate the fee for performance of the Department's services as follows:

1. If the Department determines, in its discretion, that the activity is of a type listed in (a) above, the amount of the fee shall be equal to the amount listed in (a) above.

2. If the Department determines, in its discretion, that such activity is not of a type listed in (a) above, the fee shall be equal to the Department's estimate of the number of person-hours required to perform such activity, multiplied by the hourly rate for recycling center regulation services for State fiscal year 2006 of $ 115.00. For each State fiscal year after State fiscal year 2006, the hourly rate shall be annually adjusted pursuant to N.J.A.C. 7:26A-2.4.

(e) A determination of an estimated fee made pursuant to (d) above shall expire on the date which is 90 days after the date such determination has been issued, unless the applicant or permittee has paid such fee to the Department in full

before expiration. If the applicant or permittee desires to continue to pursue the submission for which the fee determination has expired, such applicant or permittee may request a redetermination of the fee in writing, and the Department shall redetermine the fee in accordance with (d) above, as applicable.

(f) The Department may refrain from commencing work on the activity which is the subject of a fee determined pursuant to (a), (b), (c) or (d) above until the Department receives full payment of the fee. If the Department has commenced work, the Department may suspend such work until it receives full payment of such fee.

7:26A-2.2 (Reserved)

7:26A-2.3 Payment of fees

(a) Payment of all fees for activities related to recycling shall be paid in U.S. dollars by certified check, government purchase order or check, or money order, payable to "Treasurer, State of New Jersey" and mailed or hand delivered to the following address, unless the Department authorizes some other means of payment:

New Jersey Department of Environmental Protection

Division of Solid and Hazardous Waste

401 East State Street, 2nd Floor, West Wing

P.O. Box 420, Mail Code 401-02C

Trenton, NJ 08625-0420

(b) The Department may, in its discretion, refrain from commencing work or suspend work at any time until the applicant has paid the designated fee.

(c) All compliance monitoring fees shall be paid in U.S. dollars by certified check, government purchase order or check, or money order, payable to "Treasurer, State of New Jersey" and mailed, along with the fee invoice, to the following address:

Department of Treasury

Division of Revenue

P.O. Box 417

Trenton, NJ 08646-0417

7:26A-2.4 Recycling center fee hourly rate calculation

(a) The Department shall calculate the recycling center fee hourly rate in accordance with (b) below and shall be used in calculating compliance monitoring fees in accordance with N.J.A.C. 7:26A-2.5.

(b) The Department shall calculate the recycling center fee hourly rate for the upcoming State fiscal year (SFY) as of the December 1 that precedes the upcoming SFY as follows:

$$\text{Hourly Rate} = \frac{(AS+FB+IC+OE+LS)}{BH}$$

Where:

AS = The average annual salary of the Direct Program staff assigned to the activity, plus a component that reflects the salaries for Direct Support and Division Overhead staff who perform functions related to the fee activity. To calculate AS, the Department divides the applicable number of Direct Support staff and Division Overhead staff salaries by the number of Direct Program staff and adds this figure to the average salary of the Direct Program staff.

FB = The average fringe benefits for an employee calculated as a percentage of the average salary. The New Jersey Department of Treasury sets the percentage based on costs associated with pensions, health benefits, workers compensation, disability benefits, unused sick leave and the employer's share of the Federal Income Compensation Act (FICA) contribution. The percentage is annually set by the New Jersey Department of Treasury.

IC = The indirect costs, which are calculated at a rate negotiated annually between the Department and the United States Environmental Protection Agency. Indirect costs are those costs incurred for a common or joint purpose, benefiting more than one objective and not readily assignable to the cost objective specifically benefited without effort disproportionate to the result achieved. Indirect costs consist of Department management salaries and operating expenses, divisional indirect salaries and related expenses (personnel, fiscal and general support staff), building rent and the Department allocation of indirect costs listed in the Statewide Allocation Plan prepared annually by the State Department of the Treasury. Indirect costs do not include the salaries for Division Overhead staff and Direct Support personnel. To calculate the IC, the current negotiated rate is multiplied by the sum of AS and FB.

OE = The average operational expenses attributable to a Direct Program Staff position. Operating expenses include costs incurred in connection with the program for such items as postage, telephone, training, travel, supplies, equipment maintenance, vehicle maintenance and data system management (internal systems such as the New Jersey Environmental Management System (NJEMS) and external mainframe applications through the Office of Information Technology).

LS = The budgeted annual costs of legal services performed in connection with each of the types of activities for which fees are assessed divided by the total number of Direct Program staff funded through the various fee programs.

BH = 1,428. The billable hours, which is the average number of hours each Direct Program staff position spends annually performing activities for which fees are assessed, is determined by starting with the total number of days in the calendar year, 365. Then weekends and holidays are subtracted. This figure is further reduced by subtracting days for an average number of used employee leave time (vacation, sick and administrative leave days). Finally, the figure is adjusted by subtracting days for training and other non-billable staff time (such as medical surveillance, time sheet preparation, staff meetings, and other general functions). This results in 204 working days annually that can be allocated to specific objectives (204 days multiplied by seven hours per workday equals the 1,428 billable hours used for most calculations).

(c) Each year, the Department shall prepare a Recycling Center Fee Hourly Rate Calculation Report detailing the factors used to calculate the hourly rate and the excess hourly rate. During the month of December, the Department shall publish in the New Jersey Register a notice that includes a summary of the report and the hourly rate and excess hourly rate. The notice shall state that the report is available, and shall direct interested persons to contact the Department for a copy of the report. The Department shall provide a copy of the report to each person requesting a copy and shall post a copy of the report on the Department's website at www.state.nj.us/dep.

7:26A-2.5 Compliance monitoring fee calculation

(a) This section shall apply to all compliance monitoring fees for recycling centers.

(b) The Department shall calculate compliance monitoring fees for the upcoming State fiscal year as of December 1 prior to that State fiscal year calculated, as follows:

1. Calculate task hours by determining the number of hours (determined from time coding and/or workload analysis) required to perform the specific program function for which the Direct Program staff are being employed.

2. Multiply the hourly rate derived pursuant to N.J.A.C. 7:26A-2.4 by the specific task hours for each type of activity for which a fee is listed pursuant to (b)1 above to derive the compliance monitoring fee.

(c) Each year, the Department shall prepare an Annual Compliance Monitoring Fee Calculation Report detailing the factors used to calculate each fee. During the month of February, the Department shall publish in the New Jersey Register a notice that includes a summary of the report and the hourly rate and the task hours used to calculate each fee. The notice shall state the report is available, and shall direct interested persons to contact the Department for a copy of the report. The Department shall provide a copy of the report to each person requesting a copy and shall post a copy of the report on the Department's website at www.state.nj.us/dep.

(d) Fees under this subchapter are assessed per occurrence and shall not be prorated or refunded.

THIS IS A COURTESY COPY OF THIS RULE. ALL OF THE DEPARTMENT'S RULES ARE COMPILED IN TITLE 7 OF THE NEW JERSEY ADMINISTRATIVE CODE.

TITLE 7. ENVIRONMENTAL PROTECTION
CHAPTER 26A. RECYCLING RULES
SUBCHAPTER 3. APPROVAL OF RECYCLING CENTERS FOR CLASS B, CLASS C OR CLASS D RECYCLABLE MATERIALS

N.J.A.C. 7:26A-3.1 (2015)

7:26A-3.1 General requirements applicable to all recycling centers which receive, store, process or transfer Class B, Class C or Class D recyclable material

(a) No recycling center shall receive, store, process or transfer any Class B, Class C or Class D recyclable material without the prior written approval of the Department. The procedures for obtaining approval are set forth at N.J.A.C. 7:26A-3.2, 3.4, 3.5, 3.7, 3.8, and 3.18 through 3.20. All persons issued a general or limited approval to operate a recycling center for Class B, Class C and/or Class D recyclable material pursuant to this subchapter shall comply with all conditions of the approval.

(b) Any person who operates a recycling center for the receipt, storage, processing or transfer of Class B, Class C or Class D, recyclable material without the prior written approval of the Department shall be considered to be operating an unlicensed solid waste facility and shall be subject to penalties as set forth in N.J.S.A. 13:1E-9 and N.J.A.C. 7:26-5 in addition to penalties which may be assessed by other regulatory agencies pursuant to their authority. That person may also be subject to penalties for violations of any other Department rules and the statutes under which such rules are promulgated.

(c) Prior to filing an application with the Department for recycling center general approval, and concurrent with or subsequent to filing for inclusion in the applicable district Solid Waste Management Plan, the applicant shall publish a notice in a newspaper of general circulation within the host municipality which indicates that the applicant will apply to the solid waste management district for inclusion of a recycling center in the solid waste management plan of the district in which the recycling center is located and will apply to the Department for recycling center approval. The notice shall include the following:

1. The name of the proposed recycling center, the name of the owner or operator of the proposed recycling center and the nature of the project;

2. The generally recognized address of the proposed recycling center, as well as the block and lot of the proposed recycling center;

3. An indication that a copy of the application for district solid waste management plan inclusion may be examined at the office of the solid waste or recycling coordinator of the solid waste management district in which the recycling center is located or at the applicable municipal clerk's office; and

4. An indication that comments regarding the application for district solid waste management plan inclusion can be made at the public hearing which shall be held by the board of chosen freeholders or the New Jersey Meadowlands Commission, submitted to the county clerk's office or submitted to the office of the solid waste or recycling coordinator of the solid waste management district in which the recycling center is located.

(d) The notice shall be published two times by the applicant with the second publication being no less than 15 days prior to the public hearing held by the applicable board of chosen freeholders. The applicant shall forward a copy of the notice to the New Jersey Department of Environmental Protection, Division of Solid and Hazardous Waste, and to the municipality in which the recycling center will be operating, upon its publication.

7:26A-3.2 Application procedure for general approval to operate a recycling center for the receipt, storage, processing or transfer of Class B, Class C or Class D recyclable material

(a) Prior to commencing receipt, storage, processing or transfer of any Class B, Class C or Class D recyclable materials at a recycling center, the owner or operator of the recycling center shall submit to the Department the information set forth in this subsection. All maps of the proposed recycling center shall be prepared in a manner and format consistent with N*.J.A.C. 7:1D*, Appendix A. The applicant shall submit a minimum of three complete sets of the application. Additional complete sets may be required based upon the type, scale, location, and potential environmental impacts of the

proposed recycling center. The owner or operator of a recycling center for Class C recyclable materials shall submit the additional information required pursuant to N.J.A.C. 7:26A-3.18. The owner or operator of a recycling center for Class D recyclable materials shall submit the additional information required pursuant to N.J.A.C. 7:26A-3.19 and 3.20.

1. The name, address and telephone number of the person or persons seeking to own and operate the proposed recycling center, and the address of the recycling center if different from the above;

2. A description of the geographical location of the recycling center identified by the name of the municipality in which the recycling center is located, by a tax map showing the lot and block numbers of the recycling center site and of all adjoining properties, and by a zoning map showing the current land use of the recycling center site and of all adjoining properties;

3. A listing, by name, address and telephone number, of all persons owning five percent or more of corporation stock in the recycling center, or a listing of the general and limited partners where applicable. In the case where no persons own five percent or more of corporation stock in the recycling center, the names of the corporation principals shall be listed. The owner or operator of the recycling center shall list any intra-corporate relationships between the recycling center and any solid waste hauler or disposal operation registered with the Department;

4. A listing of the material or materials, including the types of any reasonably anticipated contaminants, to be received, stored, processed or transferred at the recycling center;

5. The maximum amount of each material, including contaminants, to be received, stored, processed or transferred at the recycling center per day, expressed in tons, cubic yards, cubic feet or gallons per day. Those persons specifying this information in cubic yards per day shall also indicate the conversion ratio of the materials from cubic yards to tons;

6. A listing of all products and residue resulting from the proposed recycling activities, and the amount of such products and residue expressed in tons, cubic yards, cubic feet or gallons per day. Those persons specifying this information in cubic yards per day shall also indicate the conversion ratio of the material from cubic yards to tons;

7. The name, address and telephone number of planned end-markets for the materials received, stored, processed or transferred by the recycling center.

i. End-market contracts or agreements shall be submitted as evidence of the applicant's ability to sell the products resulting from the proposed activities of the recycling center;

ii. Where end-market contracts or agreements are not available at the time of application for a general approval to operate a recycling center, the applicant shall submit letters of interest from prospective end-market users of the products resulting from the applicant's recycling operation. Letters of interest may be based on information provided by the applicant to prospective end-market users such as a description of the equipment to be used at the recycling center and the specifications of the products resulting from recycling center operation;

8. A description, including manufacturer's specification sheets, of all equipment to be utilized for the receipt, storage, processing or transferring of each Class B, Class C, or Class D recyclable material received, stored, processed or transferred, including the name of the equipment manufacturer, model number and operating capacity of the equipment. Also, a written statement by the applicant that no Class B, Class C, or Class D recyclable material will be received, stored, processed, or transferred at the recycling center until the equipment identified by the applicant is installed or situated at the recycling center site;

9. A site plan map, prepared, signed and sealed by a licensed professional engineer or other professional qualified in accordance with the State Board of Professional Engineers and Land Surveyors rules, N.J.A.C. 13:40, which identifies (plots) the placement of all equipment, buildings, activities and areas related to the receipt, storage, processing and transferring of all unprocessed and processed recyclable materials. This site plan shall also:

i. Be drawn to scale no smaller than one inch equals 100 feet;

ii. Indicate the routing of vehicles between the recycling center and all nearby roadways serving the site, as well as the traffic flow within the site, and indicate the provisions incorporated into the site plan to ensure safe and efficient vehicular and pedestrian circulation, parking, loading and unloading;

iii. Delineate the floodplain as defined at N.J.A.C. 7:13-1.2;

iv. Delineate the incidence of wetlands, Pinelands Area, prime agricultural lands, historic sites (where applicable) and other environmentally sensitive areas;

v. Identify the direction of water runoff both on and off-site and the screening and landscaping provisions which may be incorporated at the site;

vi. Indicate topographic contours drawn at two-foot intervals;

vii. Indicate the location and dimensions, in feet, of the unprocessed and processed materials stockpile areas. Also, based on this information, the total cubic yard storage capacity of the unprocessed and processed materials stockpile areas shall be indicated. The applicant shall also indicate whether the applicant wishes to reserve the right to use unprocessed material stockpile space as processed material stockpile space in certain instances;

viii. Indicate the site access controls to be employed at the recycling center; and

ix. Delineate the location of all utilities including, but not limited to, water sanitary sewer, and storm water systems.

10. An original 7.5 minute USGS Quadrangle map which includes the boundary of the recycling center plotted on the map. The map shall delineate any public access roads to the site and any streams or ponds and sensitive receptors (for example, hospitals, schools, playgrounds, homes, etc.) within a one-half mile radius of the site;

11. A copy of the deed of record establishing ownership of the recycling center property or, if the applicant is other than the landowner, a legal agreement (for example, a legal lease agreement) to use the real property in question for the intended purpose;

12. A description of the design capacity of the recycling center setting forth the number and types of vehicles bringing material to the recycling center for receipt, storage or processing, and the number and types of vehicles transferring products and residue from the site on a daily basis;

13. A copy of a New Jersey air pollution control permit application required pursuant to N.J.A.C. 7:27-8.2(a)1 where applicable;

14. A written narrative explanation of the recycling center operation from the receipt of recyclable materials to the point of transfer of end-products;

15. Documentation establishing that the recycling center is included in the solid waste management plan of the solid waste management district within which the recycling center is located;

16. An operations plan which shall include, at a minimum, the following:

i. Hours of operation of the recycling center;

ii. An incoming materials specification sheet which shall be provided to all persons bringing, delivering or sending Class B, Class C, or Class D recyclable material to the recycling center and which shall include the following information:

(1) A listing of the source separated materials to be received by the recycling center;

(2) The size, weight, or other restrictions regarding materials to be received; and

(3) A notice that vehicles delivering materials to the recycling center will be inspected and, if found to contain more than allowable amounts of contaminants as specified per N.J.A.C. 7:26A-3.5(e)3i, will be barred from offloading vehicle payload; and

(4) A notice that persons bringing materials to the recycling center shall certify the amount of material per load, the municipality of origin of that material, and other information contained on the Recyclable Materials Receipt Form.

iii. A Recyclable Materials Receipt Form which shall be provided to all persons bringing recyclable material to the recycling center and which shall maintain the following information for each vehicle delivering recyclable material to the recycling center:

(1) The amount of source separated recyclable material received, expressed in tons, cubic yards, cubic feet or gallons. Those persons specifying this information in cubic yards shall also indicate the conversion ratio of the materials from cubic yards to tons;

(2) The municipality of origin of the material received;

(3) The name of the person bringing source separated recyclable materials to the facility;

(4) The vehicle license plate number, NJDEP registration number, if an NJDEP registered vehicle is used and EPA ID number, if an EPA registered vehicle is used; and

(5) A certification, to be completed and signed by the person delivering recyclable material to the recycling center at the time of delivery, that the information contained on the Recyclable Materials Receipt Form is true, accurate and complete.

iv. An incoming materials inspection plan which shall detail the manner by which all vehicles entering the facility with recyclable materials to be stored, processed or transferred will be inspected to determine the contents of the vehicle payload area, including the incidence of or extent of contaminants which may be present in the truckload of recyclable materials received;

17. A description of the methods to be used to control traffic and to expedite unloading;

18. A description of the leachate and storm water run-off and drainage control measures that will be used to meet the applicable provisions of the Stormwater Management rules at N.J.A.C. 7:8-5 and 6 and the Pollutant Discharge Elimination System rules at N.J.A.C. 7:14A-24 and 25;

19. A description of the methods that will be used to control soil erosion and meet the New Jersey Soil Erosion and Sediment Control Regulations, N.J.S.A. 4:24-43;

20. A description of the methods that will be used to minimize, manage and monitor noise at nearby residential and/or commercial property lines demonstrating the ability to meet the New Jersey noise control rules, N.J.A.C. 7:29. Manufacturer specifications on sound level ranges for all equipment to be used shall be provided; and

21. A description of the impact that traffic associated with the proposed recycling center will have on existing transportation patterns.

(b) The information required pursuant to (a) above shall be accompanied by the written certification in (b)1 below.

1. "I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment. I understand that, in addition to criminal penalties, I may be liable for a civil administrative penalty pursuant to N.J.A.C. 7:26-5 and that submitting false information may be grounds for denial, revocation or termination of any solid waste facility permit, recycling center approval (general or limited), or vehicle registration for which I may be seeking approval or now hold."

2. The certification in (b)1 above shall be signed by the applicant as follows:

i. For a corporation, by a principal executive officer of at least the level of vice president;

ii. For a partnership or sole proprietorship, by a general partner or the proprietor, respectively; or

iii. For a municipality, county, State, Federal or other public agency, by either a principal executive officer or ranking elected official.

(c) One original and two copies of the information required pursuant to (a) above shall be submitted to:

New Jersey Department of Environmental Protection
Division of Solid and Hazardous Waste
401 East State Street, 2nd Floor, West Wing
P.O. Box 420, Mail Code 401-02C
Trenton, New Jersey 08625-0420

(d) One copy of the information required pursuant to (a) above shall be submitted by the applicant to the solid waste or recycling coordinator of the solid waste management district in which the recycling center is located. The applicant shall also forward one copy of the information required pursuant to (a) above to the municipal clerk of the mu-

nicipality in which the recycling center is located. The applicant may delete confidential end-market information, required pursuant to (a)7 above, from these submittals.

(e) Every owner or operator of a recycling center for the receipt, storage, processing or transfer of Class B, Class C or Class D recyclable material seeking approval pursuant to this subchapter shall submit a fee as required by N.J.A.C. 7:26A-2.

(f) All persons who seek a general approval to operate a recycling center for tires, tree stumps, tree parts or wood waste pursuant to this subchapter shall also comply with the requirements at N.J.A.C. 7:26A-3.8.

(g) All persons who submit an application for a general approval to operate a recycling center for the receipt, storage, processing or transfer of any Class B recyclable material pursuant to this subchapter shall submit information demonstrating compliance with the design and operational requirements of N.J.A.C. 7:26A-4.8.

(h) All persons who submit an application for a general approval to operate a recycling center for the receipt, storage, processing or transfer of Class C recyclable material pursuant to this subchapter shall submit information demonstrating compliance with the design and operational requirements of N.J.A.C. 7:26A-4.5.

(i) All persons who submit an application for a general approval to operate a recycling center for the receipt, storage, processing or transfer of any Class D recyclable materials pursuant to this subchapter shall submit information demonstrating compliance with the operational requirements of N.J.A.C. 7:26A-4.6 and 4.7.

(j) All persons who submit an application for a general approval to operate a recycling center for the receipt, storage, processing or transfer of any Class B, C or D recyclable materials pursuant to this subchapter shall submit information demonstrating compliance with the design and operational requirements of N.J.A.C. 7:26A-4.1(a)4 and 10 through 14.

7:26A-3.3 Mobile recycling equipment

(a) Persons operating mobile recycling processing equipment for Class B, Class C or Class D recyclable material shall operate such equipment only as follows:

1. At a site which possesses a general or limited approval from the Department and in manner which conforms to the approval for the site; or

2. Pursuant to an exemption at N.J.A.C. 7:26A-1.4(a) and in a manner which conforms to the criteria of the exemption.

(b) Persons operating mobile recycling processing equipment for Class B, Class C or Class D recyclable material shall comply with all applicable statutes and regulations, including, but not limited to, the New Jersey Air Pollution Control Act, N.J.S.A. 26:2C-1 et seq. and 26:2D-1 et seq., and the New Jersey Noise Control Act of 1971, N.J.S.A. 13:1G-1 et seq.

7:26A-3.4 Supplemental requirements for a general approval

(a) Prior to the issuance of a general approval to operate a recycling center for the receipt, storage, processing or transfer of Class B, Class C or Class D recyclable materials, and where the Department determines that additional information is needed to adequately address public or environmental health, safety or welfare, the applicant shall submit the additional information requested by the Department.

(b) Prior to the receipt of Class B, Class C or Class D recyclable materials and commencement of operations at the recycling center, the applicant must receive all other applicable local, State, or Federal permits or approvals.

(c) Prior to issuance of approval to operate a recycling center, the Department may require an applicant to obtain and submit to the Department evidence of financial assurance in an amount determined by the Department as necessary to effectuate the proper removal, transportation and disposition of all materials which may be abandoned on a recycling center site. For privately-owned facilities, the financial assurance shall be a performance bond or letter of credit. The wording of the performance bond or letter of credit must be identical to the wording specified in (d) or (e) below, re-

spectively. For publicly-owned facilities, the financial assurance may be an identification of specific funds which are to be wholly dedicated to ensure payment of the financial obligation. The criteria to be evaluated by the Department to determine if financial assurance is needed, and to be used in establishing the financial assurance amount, are the following:

1. The history of enforcement actions taken by the Department against the applicant involving violations of any environmental statutes of the State, of the Department's solid waste management rules, *N.J.A.C. 7:26*, of this chapter, and of all other rules contained in Title 7 of the New Jersey Administrative Code, and the history of enforcement actions taken by the State, county or local government or any political subdivision of the State, county or local government;

2. The current cost of disposal, including site preparation and transportation costs, at a permitted solid waste facility which would receive the materials which may be abandoned on a site based on the maximum storage capacity of the recycling center;

3. The amount of material to be received, stored, processed or transferred at the recycling center over the duration of the general approval;

4. The types of materials to be received, stored, processed or transferred at the recycling center;

5. Whether the lease agreements related to property or equipment are less than three years in duration;

6. Whether the lease agreements related to property or equipment restrict the operation of the proposed recycling center; and

7. An analysis of the stability of end-markets for the Class B, Class C or Class D recyclable material received, stored, processed or transferred at the recycling center, which analysis shall consider the following:

i. The length of time the end-market has been in business;

ii. The length of time the end-market has been accepting the Class B, Class C, or Class D recyclable material and using it as a raw material in a manufacturing process, or for Class D recyclable material only, the length of time the end-market has been using the Class D recyclable material for further processing, reuse or burning for energy recovery; and

iii. The number of end-markets in New Jersey, nationally and internationally which accept the Class B, Class C, or Class D recyclable material in question.

(d) A surety bond guaranteeing performance of closure as specified in N.J.A.C. 7:26A-3.4(c) above must be worded as follows, except that the instructions in brackets are to be replaced with the relevant information and the brackets deleted:

Click here to view form.

(e) A letter of credit, as specified in N.J.A.C. 7:26A-3.4(c) above must be worded as follows, except that instructions in brackets are to be replaced with the relevant information and the brackets deleted:
Irrevocable Standby Letter of Credit

Commissioner, New Jersey Department of
Environmental Protection
c/o Division of Solid and Hazardous Waste
401 E. State Street, P.O. Box 0420
Mail Code 401-02C
Trenton NJ 08625-0420

Dear Sir or Madam:

We hereby establish our Irrevocable Standby Letter of Credit No. ..... in your favor, at the request and for the account of [owner's or operator's name and address] up to the aggregate amount of [in words] U.S. dollars....., available upon presentation, by you or your duly authorized representative, of:

(1) our sight draft, bearing reference to this letter of credit No....., and

(2) your signed statement reading as follows: "I certify that the amount of the draft is payable pursuant to the recycling rules of the State of New Jersey at N.J.A.C. 7:26A, issued under the authority of N.J.S.A. 13:1E-1 et. seq."

This letter of credit is effective as of [date] and shall expire on [date at least one year later], but such expiration date shall be automatically extended for a period of [at least one year] on [date] and on each successive expiration date, unless, at least 120 days before the current expiration date, we notify both you and [owner's or operator's name] by certified mail that we have decided not to extend this letter of credit beyond the current expiration date. In the event you are so notified, any unused portion of the credit shall be available upon presentation of your sight draft for 120 days after the date of receipt by both you and [owner's or operator's name], as shown on the signed return receipts.

Whenever this letter of credit is drawn on under and in compliance with the terms of this credit, we shall duly honor such draft upon presentation to us, and we shall deposit the amount of the draft directly into an account in accordance with your instructions.

We certify that the wording of this letter of credit is identical to the wording specified in N.J.A.C. 7:26A-3.4(e) as such regulations were constituted on the date shown immediately below.

[Signature(s) and title(s) of official(s) of issuing institution] [Date]

This credit is subject to [insert "the most recent edition of the Uniform Customs and Practice for Documentary Credits, published and copyrighted by the International Chamber of Commerce," or "the Uniform Commercial Code"].

7:26A-3.5 General approval

(a) Within 30 days of receipt of an application for recycling center general approval submitted pursuant to N.J.A.C. 7:26A-3.2(a), the Department will determine whether the application is administratively complete. An application is administratively complete where it satisfies the information submission requirements of N.J.A.C. 7:26A-3.2 and where a fee has been submitted pursuant to N.J.A.C. 7:26A-2. The procedures for Department review and approval of an application for a recycling center general approval are as set forth in (a)1 through 4 below and in (b) and (c) below:

1. If an application is deemed administratively complete in accordance with (a) above, the Department will, within 30 days of receipt of the application, issue a letter to applicant indicating the administrative completeness of the application.

2. If an application fails to meet the criteria for administrative completeness in accordance with (a) above, the Department will advise the applicant that the application is incomplete and will specify in writing what additional data, reports, specifications, plans or other information is required for administrative completeness, and a deadline by which such additional information shall be submitted. The Department shall not make a decision on any application until such time as the applicant has submitted the requested additional information. Failure to submit the requested additional information as required shall constitute cause for denial of the application without prejudice. A determination of incompleteness shall stop any review and shall stay the time limitations set forth in (a)1 above and (c) below.

3. Within 30 days of receiving the notice of incompleteness, the applicant shall submit the requested additional information to the Department as an addendum to the application for a recycling center general approval ("Addendum").

4. Upon receipt of the Addendum, the Department shall review the Addendum to determine administrative completeness in accordance with this subsection.

(b) Within 90 days of issuance of the letter of administrative completeness, the Department will issue a general approval to operate a recycling center for a period not to exceed five years where the Department determines the following:

1. That the application meets the criteria for a general approval of N.J.A.C. 7:26A-3; and

2. That the applicant fails to meet any of the criteria for denial or revocation of a general approval set forth at N.J.A.C. 7:26A-3.12 and 3.13.

(c) Within 90 days of the issuance of the letter of administrative completeness, the Department will issue a letter of denial of the application to operate a recycling center where the Department determines the following:

1. That the application fails to meet the criteria for a general approval of N.J.A.C. 7:26A-3; or

2. That the applicant meets any of the criteria for denial or revocation of a general approval set forth at N.J.A.C. 7:26A-3.12 and 3.13.

(d) No recycling center shall receive Class B, Class C or Class D recyclable materials and commence operation until it has received written approval from the Department, unless operating pursuant to an exemption as set forth at N.J.A.C. 7:26A-1.4.

(e) The general approval will accomplish the following:

1. Authorize the receipt, storage, processing or transferring of Class B, Class C or Class D recyclable materials at the recycling center;

2. Indicate the conditions of operation which shall be met by the recycling center owner or operator prior to the receipt, storage, processing or transfer of the source-separated recyclable materials approved to be received, stored, processed or transferred at the recycling center; and

3. Indicate the limitations on recycling center operation, including, but not limited to:

i. Limitation on the amount of contaminants which may be present in any truckload of source-separated recyclable materials received at the recycling center;

ii. Limitation on the amount of residue which may be produced as a result of receiving, storing, processing or transferring source-separated recyclable materials at the recycling center; and

iii. Limitation on the commingling of Class B, Class C or Class D materials at the recycling center.

(f) All recycling centers receiving a general approval to operate a recycling center shall prominently post and maintain a legible sign, at or near the entrance to the recycling center, indicating that it is an approved New Jersey Department of Environmental Protection recycling center. In addition, the sign shall also indicate those items detailed in N.J.A.C. 7:26A-3.2(a)16i and ii.

7:26A-3.6 Application for renewal of a general approval to operate a recycling center

(a) Applications for renewal of general approvals issued pursuant to this subchapter shall be submitted at least three months prior to expiration of the current approval and shall comply with all requirements for renewal set forth in this subchapter. One copy of the application for renewal of a general approval shall be submitted by the applicant to the municipal clerk of the municipality in which the recycling center is located, and to the solid waste or recycling coordinator of the solid waste management district in which the recycling center is located.

(b) Applicants for renewal of existing general approvals shall certify in writing to the Department that there have been no changes in the operations of the recycling center since the issuance of the general approval in order to renew the approval in its existing form. In the event that there have been changes in the design or operations of the recycling center or where either design or operational changes are planned, the application for renewal of a general approval shall be accompanied by a written notification of the modification for which the applicant intends to apply, in accordance with the requirements for modifications of general approvals at N.J.A.C. 7:26A-3.10, and payment of the designated modification fee at N.J.A.C. 7:26A-2. The Department will not incorporate modifications into general approvals for recycling centers through the approval renewal process without a designated fee being paid with the initial written notification of said modifications.

(c) In a case where the person who has received the general approval pursuant to this subchapter does not comply with (a) and (b) above and continues to operate without renewal of its general approval, the Department may take actions which include, but are not limited to, the following:

1. Appropriate enforcement action including the assessment of penalties under N.J.S.A. 13:1E-9; and

2. Require the person who has received the general approval to file an application as a new applicant for a general approval in accordance with N.J.A.C. 7:26A-3.2, 3.4 or 3.8 and pay the annual fee as per N.J.A.C. 7:26A-2.

(d) Within 30 days of receipt of an application for renewal of a recycling center approval, the Department will determine whether the application is administratively complete. An application for renewal is administratively complete where it satisfies the requirements for renewal set forth in this subchapter, including the requirements for modification of a recycling center application set forth in N.J.A.C. 7:26A-3.10, where modifications will be made. Also, a fee must be submitted in accordance with N.J.A.C. 7:26A-2 for an application to be administratively complete.

1. If a renewal application is deemed administratively complete in accordance with paragraph (d) above, the Department will issue a letter to the applicant indicating the administrative completeness of the application.

2. If a renewal application fails to meet the criteria for administrative completeness in accordance with paragraph (d) above, the Department will advise the applicant that the application is incomplete and will specify in writing what additional information is required for administrative completeness.

(e) Within 60 days of issuance of the letter of administrative completeness, the Department will grant an extension of the approval for a period not to exceed five years where the Department determines the following:

1. That the renewal application meets the criteria of N.J.A.C. 7:26A-3; and

2. That the applicant fails to meet any of the criteria for denial or revocation of a general approval set forth at N.J.A.C. 7:26A-3.12 and 3.13.

(f) Within 60 days of the issuance of the letter of administrative completeness, the Department will issue a letter of denial of the renewal application where the Department determines the following:

1. That the application fails to meet the criteria of N.J.A.C. 7:26A-3; or

2. That the applicant meets any of the criteria for denial or revocation of a general approval set forth at N.J.A.C. 7:26A-3.12 and 3.13.

(g) No recycling center shall receive Class B, Class C or Class D recyclable material and commence operation until it has received written approval from the Department.

(h) All persons granted a renewal pursuant to (d) above shall continue to pay the annual fee as specified in N.J.A.C. 7:26A-2.

7:26A-3.7 Application procedure for limited Class B recycling center approval to operate a recycling center for the storage, processing or transfer of Class B recyclable material

(a) A person may operate a limited Class B recycling center for the storage, processing or transferring of Class B recyclable materials generated on site for a period of time not to exceed 180 days, provided that prior approval of the Department has been obtained and a fee has been submitted in accordance with N.J.A.C. 7:26A-2 to the Department. A person who has obtained prior approval to operate a limited Class B recycling center pursuant to this subsection may also receive Class B recyclable materials, but only for use at the specific site for which the Department granted approval to operate the limited class B recycling center. The following information shall be submitted to the Department in order to obtain a limited Class B recycling center approval:

1. The information required pursuant to N.J.A.C. 7:26A-3.2(a)1 through 8, 11, 12, 13, 14, and 16(i). The application shall include a site map that identifies the placement of all equipment, buildings, activities and areas related to the storage, processing and transferring of all unprocessed and processed recyclable materials and meets the requirements of N.J.A.C. 7:26A-3.2(a)9ii, v, vii and viii;

2. A written schedule for completion of the recycling operation; and

3. The application shall be certified with the certification described at N.J.A.C. 7:26A-3.2(b)1 signed by the appropriate person as described at N.J.A.C. 7:26A-3.2(b)2.

(b) The Department shall issue an approval to operate a limited Class B recycling center only under the following circumstances:

1. An approval to operate a limited Class B recycling center has been issued for the specific site no more than once before; and

2. Only one approval for one 180-day time period is issued for any site located contiguous to a site for which a limited approval has been issued pursuant to this subsection.

(c) Persons applying to the Department for a limited approval to operate a recycling center for Class B recyclable materials shall submit one copy of the application for limited approval to the municipal clerk of the municipality in which the recycling center is located and one copy to the solid waste or recycling coordinator of the solid waste management district in which the recycling center is located.

(d) The Department may require the issuance of a performance bond or letter of credit for persons granted a limited approval to operate a recycling center in accordance with the criteria of N.J.A.C. 7:26A-3.4(c).

(e) Prior to the issuance of a limited approval to operate a recycling center for Class B recyclable materials, and where the Department determines that additional information is needed to adequately address public or environmental health, safety or welfare, the applicant shall submit the additional information requested by the Department.

(f) Within 30 days of receipt of an application for a limited approval submitted pursuant to (a) above, the Department will determine whether the application is administratively complete. An application is administratively complete when it satisfies the information submission requirements of (a) through (e) above and where a fee has been submitted in accordance with N.J.A.C. 7:26A-2.

1. If an application is deemed administratively complete in accordance with paragraph (f) above, the Department will issue a letter to the applicant indicating the administrative completeness of the application.

2. If an application fails to meet the criteria for administrative completeness in accordance with paragraph (f) above, the Department will advise the applicant that the application is incomplete and will specify in writing what additional information is required for administrative completeness.

(g) Within 30 days of the issuance of the letter of administrative completeness, the Department will issue to the applicant a limited approval to operate a recycling center, valid for a specified period of time, not to exceed 180 days, where the Department determines the following:

1. That the application meets the criteria of N.J.A.C. 7:26A-3;

2. That the applicant fails to meet any of the criteria for denial or revocation of a limited approval set forth at N.J.A.C. 7:26A-3.12 and 3.13; and

3. The conditions in (b) above have been satisfied.

(h) Within 30 days of the issuance of the letter of administrative completeness, the Department will issue a letter of denial of the application where the Department determines the following:

1. That the application fails to meet the criteria of N.J.A.C. 7:26A-3;

2. That the applicant meets any of the criteria for denial or revocation of a limited approval set forth at N.J.A.C. 7:26A-3.12 and 3.13; or

3. The conditions in (b) above have not been satisfied.

(i) No recycling center shall commence operation until it has received written approval from the Department.

(j) The limited approval will indicate the conditions, if any, which must be met by the recycling center owner or operator for the approval to remain in effect for a time period not to exceed 180 days.

(k) Within 45 days after the expiration of the time period covered by the limited approval to operate a recycling center, a final report shall be prepared by the person issued the limited approval and submitted to the Department, the solid waste or recycling coordinator of the solid waste management district in which the recycling center is located, and to the applicable municipal planning board. The final report shall contain the following information:

1. The name, address and telephone number of the person or persons to whom the Department has issued the limited approval to operate a recycling center;

2. The location of the approved recycling center, if different than in (k)1 above, including the street address, lot and block, municipality and county;

3. A listing of the total amount of each Class B recyclable material stored, processed or transferred during the period of approved operation, expressed in tons, cubic yards, cubic feet or in gallons. Those persons specifying this information in cubic yards shall also indicate the conversion ratio of the materials from cubic yards to tons;

4. The amount of residue disposed of, expressed in tons, cubic yards, cubic feet or gallons, including the name and New Jersey Department of Environmental Protection solid waste registration number of the solid waste collector/hauler which provided the haulage/disposal service. Those persons specifying the total amount of residue in cubic yards shall also indicate the conversion ratio of the residue from cubic yards to tons;

5. A written certification by the person issued a limited approval that, to the best of her or his knowledge after diligent inquiry, all residue has been disposed of in accordance with the solid waste management rules at N.*J.A.C. 7:26-6*; and

6. The name, address and telephone number of the end-markets for all Class B recyclable materials transported from the recycling center, including the amounts, in tons, cubic yards, cubic feet or gallons, transported to each end-market. Those persons specifying this information in cubic yards shall also indicate the conversion ratio of the materials from cubic yards to tons.

(*l*) All persons operating a recycling center pursuant to a limited approval shall take such measures as are necessary to ensure that no illegal and unauthorized dumping occurs at the recycling center site.

(m) One original and two copies of the information required pursuant to (a) and (k) above shall be submitted to:

The New Jersey Department of Environmental Protection
Division of Solid and Hazardous Waste
401 East State Street, 2nd Floor, West Wing
P.O. Box 420, Mail Code 401-02C
Trenton, New Jersey 08625-0420

(n) The Department may extend the duration of the approval where the holder of the limited approval petitions the Department in writing explaining the need for an extension and where the Department determines that an extension is necessary to protect the public or environmental health, safety or welfare. Petitions shall be submitted to the address set out in (m) above. Concurrent with the submission of the petition to the Department, the petitioner shall also notify the applicable municipal planning board and solid waste management district solid waste or recycling coordinator of its request for an extension of the limited approval. In no event will the Department:

1. Extend the duration of the limited approval for more than 50 percent of the time of the original limited approval; or

2. Issue more than one limited approval to the same applicant for the same site within one calendar year commencing on the date of issuance of the limited approval.

(*o*) All persons who seek limited approval to operate a recycling center for tires, tree stumps, tree parts or wood waste pursuant to this subchapter must also comply with the requirements at N.J.A.C. 7:26A-3.8.

7:26A-3.8 Tire, tree stump, tree parts or wood waste recycling centers: additional requirements for general or limited approval

(a) The methods of processing tires that may be approved by the Department are limited to slicing, shredding, chipping, crumbing or other activities as determined by the Department. At no time shall incineration, landfilling, abandonment or other disposal of tires, in whole or in part, occur at the recycling center.

(b) The owner or operator of a tire recycling center shall take all steps necessary to ensure that no mosquito colony formation or development is allowed to occur on the recycling center site.

(c) A fire control plan for the recycling center shall be filed with and approved by the local fire official or other person of competent jurisdiction and shall be filed with the local municipal code enforcement officer prior to operation of a recycling center for tires, tree stumps, tree parts or wood waste.

7:26A-3.9 Storage of Class B materials and Class D materials that are not universal waste

(a) The temporary storage of unprocessed and processed Class B or Class D recyclable material that is not universal waste at recycling centers shall be limited to the amount indicated in the general or limited approval to operate.

(b) Notwithstanding (a) above, in no event shall unprocessed Class B or Class D recyclable material that is not universal waste be stored at recycling centers approved pursuant to this subchapter for a period in excess of one year from the date of its receipt.

(c) The storage of petroleum contaminated soil at a recycling center approved to receive this material shall be subject to additional storage requirements as indicated in the approval issued pursuant to N.J.A.C. 7:26A-3.5.

7:26A-3.10 Modifications of general or limited approvals

(a) All holders of a general or limited approval to operate a recycling center pursuant to this subchapter shall obtain prior approval from the Department for any modification of the general or limited approval.

(b) Modifications to the general or limited approval to operate a recycling center which require the prior approval of the Department include the following:

1. Any change affecting the conditions of the general or limited approval issued pursuant to N.J.A.C. 7:26A-3.5 or 7:26A-3.7; and

2. Any change to the information submitted pursuant to N.J.A.C. 7:26A-3.2(a),3.4, 3.7, 3.8, 3.18, 3.19 or 3.20, except that changes in end-market information submitted pursuant to N.J.A.C. 7:26A-3.2(a)7 shall not require the prior approval of the Department but shall be handled in accordance with (f) below.

(c) The holder of the general or limited approval shall notify the Department in writing of the intended modification and shall update the information submitted pursuant to N.J.A.C. 7:26A-3.2(a), 3.4, 3.7, 3.8, 3.18, 3.19 or 3.20. The holder shall also submit one copy of the written request for modification to the municipal clerk of the municipality in which the recycling center is located and one copy to the solid waste or recycling coordinator of the solid waste management district in which the recycling center is located.

(d) The Department will review the information submitted in accordance with (c) above and will determine whether additional information is necessary to adequately address public or environmental health, safety or welfare. If such additional information is required, the Department will notify the holder in writing within 30 days of receipt of the request. Thereafter, the owner or operator shall submit to the Department in writing the additional information.

(e) Upon determining that the information submitted for modification review is complete, the Department will approve or deny the modification according to the criteria of (a) through (d) above and will notify the holder in writing. The holder shall not institute the modification until it receives written approval from the Department.

(f) Within one week of any change to the end-market information submitted to the Department pursuant to N*.J.A.C. 7:26A-3.2(a)*7, the holder shall submit to the Department a written notification which details any change in the use of the recyclable material transferred from the recycling center to an end-market or in the end-market location to which the recyclable material is transferred. The written notification shall be sent to:

New Jersey Department of Environmental Protection
Division of Solid and Hazardous Waste
401 East State Street, 2nd Floor, West Wing
P.O. Box 420, Mail Code 401-02C
Trenton, New Jersey 08625-0420

(g) The Department will notify the solid waste or recycling coordinator of the solid waste management district in which the recycling center is located, and the applicable municipal planning board, of any approval or denial of modification to a general or limited approval.

(h) Applicants shall pay fees pursuant to the requirements at N.J.A.C. 7:26A-2 at the time that the applicant submits an application for modifications of general or limited approvals, including those modifications referenced during approval renewals pursuant to the requirements of N.J.A.C. 7:26A-3.6(b).

7:26A-3.11 Increase in design capacity at recycling centers for Class B, Class C, and Class D recyclable materials

(a) A holder of a general approval seeking approval of an increase in design capacity at an approved recycling center for Class B, Class C, or Class D recyclable materials shall submit a request to the Department, in writing, for the proposed increase and shall submit updated information pursuant to the requirements of N.J.A.C. 7:26-3.2(a), 3.4, or 3.8, as applicable. The holder shall also provide written notice of the request to the solid waste or recycling coordinator of the applicable district.

(b) The Department shall review the request and determine whether additional information is necessary to adequately address issues of public or environmental health, safety or welfare. If such additional information is required, the Department shall so notify the holder in writing within 30 days of receipt of the request for approval. The holder shall submit, in writing, the additional information requested by the Department within 15 days of receipt of the request for additional information.

(c) No later than 60 days following receipt of the request for approval and any additional information submitted pursuant to (b) above, the Department shall deny the request for approval or declare its intent to approve the request and shall so notify the holder in writing.

(d) Within five days of receipt of the Department's notice of intent to approve a request for an increase in design capacity, the holder shall notify the district solid waste or recycling coordinator of its receipt of such notice and shall also publish notice thereof in a newspaper of general circulation in the county where the facility is located.

1. The notice shall be published not less than 30 calendar days prior to the proposed effective date of the Department's approval and shall contain the following:

i. A description of the location by municipality, street address, lot and block number, of the recycling center, the waste types received and the proposed increase in capacity;

ii. A statement justifying the necessity for the increase in design capacity; and

iii. The name and address of the district solid waste or recycling coordinator and the Department to which comments on the request for approval may be submitted.

(e) The proposed increase in design capacity shall become effective within 30 days following the publication of the newspaper notice pursuant to (d) above unless:

1. The Department determines that there is sufficient public interest to necessitate a public hearing; or

2. The district plan implementation agency of the district in which the facility is located passes a resolution expressly challenging the proposed increase in design capacity at the recycling center in question and initiates the solid waste management plan amendment process pursuant to N.J.A.C. 7:26-6.

(f) In the event that a public hearing is required pursuant to (e) above, the Department shall schedule and conduct a public hearing in accordance with the requirements of N.J.A.C. 7:26-6.10(c).

(g) The district plan implementation agency shall approve or deny the request for an increase in design capacity within three months following the public hearing held pursuant to (f) above. In the event the district plan implementation agency fails to take action on a request for an increase in capacity within such three month period, the Department may approve or deny an increase in design capacity in accordance with the provisions of (a) through (c) above.

(h) The Department shall approve any request for an increase in design capacity unless it determines that the increase poses a threat to the environment or public health, safety or welfare.

7:26A-3.12 Criteria for denial of a new general or limited approval, a renewal of an existing general approval or an extension of a limited approval to operate a recycling center

(a) The following constitutes the criteria for denial of a general or limited approval and will result in the issuance of a letter of denial of general or limited approval to operate a recycling center:

1. Failure to submit any of the information required pursuant to this subchapter;

2. Failure of an applicant for a general approval to maintain inclusion of a proposed recycling center in the applicable district solid waste management plan;

3. Failure to correct any deficiencies in information submitted pursuant to this subchapter as determined by the Department, within 45 days of receipt of a letter detailing said deficiencies;

4. Failure to demonstrate that only source separated recyclable materials will be received, stored, processed or transferred at the recycling center; and

5. Failure to submit the appropriate fee required pursuant to N.J.A.C. 7:26A-2.

(b) In addition to the criteria for denial of a general or limited approval set out in (a) above, the Department may also deny a general or limited approval on the basis of the following criteria:

1. The applicant has been denied a license or registration pursuant to N.J.S.A. 13:1E-1 et seq.;

2. The applicant has been denied a certificate of public convenience and necessity pursuant to N.J.S.A. 48:13A-1 et seq.;

3. The applicant has had its registration, license or certificate of public convenience and necessity revoked by the DEP; or

4. The applicant has committed any of the acts which are criteria for approval revocation set forth at N.J.A.C. 7:26A-3.13(a)1 through 8.

(c) If the Department denies the issuance of a new or renewed general approval, or an extension of a limited approval, to operate a recycling center and bases the denial on a written determination that the facility for which the application was made is a solid waste facility for which a registration statement and engineering design is required pursuant to N.J.S.A. 13:1E-5, the applicant, in any appeal of the Department's denial, shall have the burden to show by a preponderance of the evidence that the facility for which the application was made is not a solid waste facility for which a registration statement and engineering design is required pursuant to N.J.S.A. 13:1E-5.

7:26A-3.13 Procedures and criteria for revoking a general or limited approval

(a) The Department may revoke a general or limited approval upon a determination that a person holding a general or limited approval has:

1. Violated any provision of N.J.S.A. 13:1E-1 et seq., the Act, or any rule, regulation or administrative order promulgated pursuant to N.J.S.A. 13:1E-1 et seq. and the Act;

2. Violated any solid waste utility law at N.J.S.A. 48:2-1 et seq. or 48:13A-1 et seq., or any rule, regulation or administrative order promulgated pursuant to N.J.S.A. 48:2-1 et seq. or 48:13A-1 et seq.;

3. Violated any provision of any laws related to pollution of the waters, air or land surfaces of the State or of any other State or Federal environmental laws including criminal laws related to environmental protection;

4. Refused or failed to comply with any lawful order of the Department;

5. Failed to comply with any of the conditions of the general or limited approval issued by the Department;

6. Transferred a general or limited approval to a new owner or operator pursuant to N.J.A.C. 7:26A-3.15 without the prior approval of the Department;

7. Has failed to obtain any required permit or approval from the Department or other State or Federal agency; or

8. Has committed any of the acts which are criteria for denial of a general or limited approval set forth in N.J.A.C. 7:26A-3.12.

(b) The Department will revoke a general or limited approval by providing the holder of an approval with written notice of the action which details the reasons for the action. The Department will also notify the solid waste or recycling coordinator of the solid waste management district in which the recycling center is located of any revocation of a general approval or the applicable municipal planning board of any revocation of a limited approval.

7:26A-3.14 Appeal procedure

(a) An applicant that believes it is aggrieved with respect to the following decisions made by the Department may appeal the decision within 20 calendar days after the date of the decision and request an administrative hearing:

1. Any term of a general or limited approval;

2. Denial of a general or limited approval, or any part thereof; or

3. Revocation or modification of a previously issued approval.

(b) Requests for an administrative hearing shall be submitted to:

Office of Legal Affairs
ATTENTION: Adjudicatory Hearing Requests
Department of Environmental Protection
401 East State Street, 7th Floor, West Wing
PO Box 402, Mail Code 401-04L
Trenton, New Jersey 08625-0402

and to:

New Jersey Department of Environmental Protection
Division of Solid and Hazardous Waste
Bureau of Recycling and Hazardous Waste Management
401 East State Street, 2nd floor, West Wing
P.O. Box 420, Mail Code 401-02C
Trenton, New Jersey 08625-0420

(c) All requests for an administrative hearing shall be submitted in writing to the Department and shall contain:

1. The name, address and telephone number of the person making the request;

2. A statement of the legal authority and jurisdiction under which the request for a hearing is made;

3. A brief and clear statement of the Department decision being appealed, indicating the specific grounds for the applicant's appeal;

4. A statement of all facts alleged to be at issue and their relevance to the Department decision for which a hearing is requested. Any legal issues associated with the alleged facts at issue must also be included; and

5. All information supporting the request or other written documents relied upon to support the request, unless this information is already in the administrative record (in which case, such information shall be specifically referenced in the request).

(d) A hearing request not received by the Department within 20 calendar days after the date of the Department decision being appealed will be denied by the Department.

(e) If the applicant or interested party fails to include all the information required by (c) above, the Department may deny the hearing request.

(f) Following receipt of a complete request for a hearing pursuant to (c) above, the Department may attempt to informally settle the dispute by conducting such proceedings, meetings and conferences as deemed appropriate.

(g) If the Department determines that the matter is a contested case, the Department will file the request for an administrative hearing with the Office of Administrative Law. Such hearings will be conducted in accordance with the provisions of the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. and N.J.S.A. 52:14F-1 et seq. and the Uniform Administrative Procedure Rules N.J.A.C. 1:1. In making such determination, the Department will evaluate the request to determine whether a contested case exists and whether there are issues of fact which, if assumed to be true, might change the Department's decision. Where only issues of law are raised by a request for a hearing, the request will be denied. Denial by the Department of a request for a contested case hearing shall constitute the final decision of the Department for the purposes of judicial appeal.

7:26A-3.15 Transfer of a general or limited approval to operate a recycling center

(a) A general or limited approval to operate a recycling center shall not be transferred to a new owner or operator without the Department's prior approval.

1. Any transfer of an approval must be pre-approved by the Department, and a written request for permission to allow such transfer must be received by the Department at least 60 days in advance of the proposed transfer of ownership or operational control of a recycling center. The request for approval shall include the following:

i. The name, address and social security number of all prospective new owners or operators;

ii. A written certification by the proposed transferee that the terms and conditions contained in the general or limited approval will be met by the proposed transferee; and

iii. A written agreement between the current owner or operator of the recycling center and the proposed new owner or operator containing a specific future date for transfer of ownership or operational control.

2. A new owner or operator may commence operations at the recycling center only after the existing approval has been revoked and a new approval is issued to the new owner or operator pursuant to N.J.A.C. 7:26A-3.5 or 3.7.

3. The owner or operator of record of the approved recycling center remains liable for ensuring compliance with all conditions of the approval unless and until the existing approval is revoked and a new approval is issued to the new owner or operator pursuant to N.J.A.C. 7:26A-3.5 or 3.7.

4. Compliance with the transfer requirements set forth in this subsection shall not relieve the owner or operator of record of the approved recycling center from the separate responsibility of providing notice of such transfer pursuant to the requirements of any other statutory or regulatory provision.

(b) For the purposes of this section, the transfer of a controlling interest in the stock or assets of a recycling center operating pursuant to a general or limited approval from the Department shall constitute the transfer of a general or limited approval pursuant to (a) above.

(c) One copy of the application to transfer a general or limited approval shall be submitted to the municipal clerk of the municipality in which the recycling center is located and one copy to the solid waste or recycling coordinator of the solid waste management district in which the recycling center is located. The Department shall notify county and municipal officials of determinations concerning the transfer of general or limited approvals.

7:26A-3.16 (Reserved)

7:26A-3.17 Recordkeeping and annual report; confidentiality of records

(a) All holders of a general approval shall maintain daily records of all materials received, stored, processed or transferred. Said records shall indicate, at a minimum:

1. A daily record of the amounts of each recyclable material by type and municipality of origin which are received, stored, processed or transferred each day, expressed in tons, cubic yards, cubic feet or gallons. Those operators specifying this information in cubic yards shall also indicate the conversion ratio of the materials from cubic yards to tons;

2. The name, address and telephone number of the end-markets for all recyclable materials transported from the recycling center, including the amounts, in tons, cubic yards, cubic feet or gallons, transported to each end-market. Those persons specifying this information in cubic yards shall also indicate the conversion ratio of the materials from cubic yards to tons; and

3. The amount of residue disposed of, expressed in tons, cubic yards, cubic feet or gallons, including the name and New Jersey Department of Environmental Protection solid waste registration number of the solid waste collector/hauler contracted to provide the haulage/disposal service. Those persons specifying the amount of residue in cubic yards shall also indicate the conversion ratio of the residue from cubic yards to tons.

(b) All holders of a general approval shall retain the information required pursuant to N.J.A.C. 7:26A-3.2(a)16iii for three calendar years following the calendar year for which reporting is required pursuant to (c) and (d) below.

(c) All holders of a general approval shall submit an annual report containing monthly summary statements of the information required pursuant to (a) above to the New Jersey Department of Environmental Protection, Solid and Hazardous Waste Management Program, on or before March 1 of each year, for the previous calendar year. The summaries shall include the following:

1. Monthly totals of the amount of recyclable material received from each customer by municipality of origin;

2. Monthly totals of the amount of recyclable product transferred to each end-market; and

3. The amount of residue disposed of during each month.

(d) As a condition of approval to operate a recycling center for the receipt, storage, processing or transfer of Class B, Class C or Class D recyclable materials, the Department may require the filing of the information required in (a) above at more frequent intervals which shall be specified in the general approval to operate a recycling center issued by the Department.

(e) All holders of a general approval shall certify in writing to the Department that all residue generated at the recycling center has been disposed of in accordance with the solid waste management rules at N.J.A.C. 7:26. The certification shall be submitted annually as part of the annual report required pursuant to (c) and (d) above.

(f) All information submitted to the Department pursuant to this chapter shall be handled in accordance with the requirements of the Public Records law, N.J.S.A. 47:1-1 et seq. The Department will hold confidential all end-market information, as well as information pertaining to the municipality of origin of recyclable material, submitted pursuant to N.J.A.C. 7:26A-3.2, 3.7, and 3.17 through 3.20 for a period of two years from the date on which the information is submitted to the Department, where specified as confidential by the applicant and where there are no health, safety or environmental concerns which require the release of the information, as determined by the Department.

7:26A-3.18 Additional application requirements for general approval to operate a recycling center for the receipt, storage, processing or transfer of Class C recyclable materials

(a) Prior to the receipt, storage, processing or transfer of any Class C recyclable material at a recycling, center, the owner or operator shall submit to the Department, in addition to the information required pursuant to N.J.A.C. 7:26-3.2, the following information:

1. A description of the plans for monitoring, sampling and testing the composting materials for process control and product quality assurance as specified in N.J.A.C. 7:26A-4.5;

2. A description of the contingency operations plan in the event of wind, heavy rain, snow, freezing or other inclement weather conditions;

3. A description of fire protection and control procedures to be employed at the site;

4. A description of vector, dust and litter controls;

5. A description of the nearest sensitive neighboring receptor(s) (residential, commercial, institutional), providing approximate distances to property lines from the recycling center;

6. A description of the soil characteristics for the site according to the soil surveys published by the appropriate Natural Resource Conservation Service District;

7. A description of the methods that will be used to minimize, manage and monitor odors to prevent detection of odors off site and meet the New Jersey Air Pollution Control rules, N.J.A.C. 7:27;

8. A description of the impact that the proposed facility will have on surface and ground water quality and any existing wetlands; and

9. A description of the impact that the proposed facility will have on applicable Federal, State or local land uses including the Pinelands Area and agricultural development areas, dedicated recreational or open space areas, floodways and endangered or threatened wildlife and vegetation.

(b) In addition to the requirements of N.J.A.C. 7:26A-3.2(a), the owner or operator of a recycling center receiving Class C recyclable materials other than or in addition to yard trimmings shall submit a facility design plan, including the following:

1. A flow diagram of the proposed processing steps for all material received, along with a total mass balance;

2. A description of all equipment to be utilized consistent with the requirements of N.J.A.C. 7:26A-3.2(a)8, including a demonstration that the proposed equipment to be used is compatible with the proposed process and throughput; and

3. Profile views of the site indicating access roads, water drainage (swales, ditches, etc.), existing and final grade, facility superstructure, utilities, and other structures.

7:26A-3.19 Additional application requirements for general approval to operate a recycling center for the receipt, storage, processing or transfer of Class D recyclable materials

(a) Prior to commencing receipt, storage, processing or transfer of used oil at a recycling center, the owner or operator of the recycling center shall submit to the Department, in addition to the information required pursuant to N.J.A.C. 7:26A-3.2, the following information:

1. The EPA ID number assigned to the facility;

2. A description of the preparedness and prevention procedures and equipment required by N.J.A.C. 7:26A-6.7(c)1;

3. A copy of the contingency plan as required by N.J.A.C. 7:26A-6.7(c) 2;

4. A description of the secondary containment system for containers or tanks to demonstrate compliance with N.J.A.C. 7:26A-6.7(e)4, 5 or 6, including at least the following:

i. Drawings and a description of the basic design parameters, dimensions and materials of construction of the containment system;

ii. The capacity of the containment system relative to the number and volume of containers or tanks within the system;

iii. A description of how the design promotes drainage or how the containers or tanks are protected from contact with standing liquids in the containment system;

iv. Provisions for preventing or managing accumulated precipitation or run-on; and

v. A description of how accumulated liquids will be analyzed and removed to prevent overflow;

5. A demonstration of compliance with labeling requirements of N.J.A.C. 7:26A-6.7(e)7;

6. A description of closure procedures and/or copy of the closure plan to demonstrate compliance with N.J.A.C. 7:26A-6.7(e)9;

7. A copy of an analysis plan as required by N.J.A.C. 7:26A-6.7(f);

8. A description of the method used to comply with the tracking requirements of N.J.A.C. 7:26A-6.7(g); and

9. A demonstration of compliance with the residue management requirements in accordance with N.J.A.C. 7:26A-6.7(j).

(b) Prior to commencing the receipt, storage, processing or transfer of any latex paints, antifreeze, lamps (light bulbs), oil-based paints, batteries, mercury-containing equipment and consumer electronics at a recycling center, the owner or operator of the recycling center shall submit to the Department, in addition to the information required pursuant to N.J.A.C. 7:26A-3.2, the following information:

1. The EPA ID number assigned to the facility;

2. A description of the preparedness and prevention procedures and equipment required by N.J.A.C. 7:26A-4.6(b);

3. A copy of the contingency plan as required by N.J.A.C. 7:26A-4.6(c);

4. A description of the secondary containment system for containers or tanks to demonstrate compliance with N.J.A.C. 7:26A-4.6(d)1iii or (d)2ii, including at least the following:

i. Drawings and a description of the basic design parameters, dimensions and materials of construction of the containment system;

ii. The capacity of the containment system relative to the number and volume of containers or tanks within the system;

iii. A description of how the design promotes drainage or how the containers or tanks are protected from contact with standing liquids in the containment system;

iv. Provisions for preventing or managing accumulated precipitation or run-on; and

v. A description of how accumulated liquids will be analyzed and removed to prevent overflow;

5. A description of the design and operation of process buildings to demonstrate compliance with N.J.A.C. 7:26A-4.6(d)3, if applicable. The description shall include at least the following:

i. Drawings and a description of the basic design parameters, dimensions and materials of construction of the process building;

ii. The design capacity of the building relative to the volume of recyclable materials to be stored or processed within the building; and

iii. A description of the liquid collection and removal system required by N.J.A.C. 7:26A-4.6(d)3iii (if applicable), including a discussion of how accumulated liquids will be characterized and removed;

6. A demonstration of compliance with labeling requirements of N.J.A.C. 7:26A-4.6(e); and

7. A description of closure procedures and/or copy of the closure plan to demonstrate compliance with N.J.A.C. 7:26A-4.6(g).

7:26A-3.20 Filing requirements for existing used oil facilities which receive, store, process or transfer of Class D recyclable material

(a) Any facility processing used oil under the terms and conditions of a hazardous waste facility permit or existing facility status issued prior December 16, 1996 may continue to operate under such terms and conditions until the Department approves or denies the facility owner and/or operator's application for general approval. By June 14, 1997, the Department shall assess the information currently on file for each such facility, and will provide the owner and/or operator of each such facility with a written list of additional information required to be submitted to the Department to obtain a recycling center approval pursuant to N.J.A.C. 7:26A-3.2(a), 3.4 and 3.19.

(b) Within 180 days of receipt of notice requesting additional information pursuant to (a) above, the owner or operator of the facility shall submit the requested information, along with any applicable fees, to the Department at the address specified at N.J.A.C. 7:26A-3.2(c).

THIS IS A COURTESY COPY OF THIS RULE. ALL OF THE DEPARTMENT'S RULES ARE COMPILED IN TITLE 7 OF THE NEW JERSEY ADMINISTRATIVE CODE.

(c) A recycling center operating for the receipt, storage, processing or transfer of Class D recyclable materials, and for which a hazardous waste facility permit or existing facility status was issued prior to December 16, 1996, shall not modify its operation unless such modification is approved by the Department pursuant to N.J.A.C. 7:26A-3.10.

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TITLE 7. ENVIRONMENTAL PROTECTION
CHAPTER 26A. RECYCLING RULES
SUBCHAPTER 4. DESIGN AND OPERATIONAL STANDARDS AND GENERAL RULES FOR RECYCLING CENTERS WHICH RECEIVE, STORE, PROCESS OR TRANSFER CLASS A, CLASS B, CLASS C AND CLASS D RECYCLABLE MATERIAL

N.J.A.C. 7:26A-4.1 (2015)

7:26A-4.1 Design and operational standards for recycling centers which receive Class A, Class B, Class C and Class D recyclable materials

(a) All owners or operators of recycling centers which receive, store, process or transfer Class A, Class B, Class C, or Class D recyclable material shall comply with the following design and operational standards:

1. All recyclable materials received, stored, processed or transferred at all recycling centers shall conform to the following criteria:

i. The recyclable materials shall have been separated at the point of generation from other waste materials or separated at a permitted solid waste facility authorized to separate recyclable materials from the incoming waste stream;

ii. The recyclable materials shall consist only of Class A recyclable materials, or of Class B, or Class C or Class D recyclable materials which either the Department has approved pursuant to N.J.A.C. 7:26A-3 for receipt, storage, processing or transfer at the recycling center under a general or limited approval or are being recycled as a part of an activity that is exempt from general or limited approval pursuant to N.J.A.C. 7:26A-1.4; and

iii. Class A recyclable materials may be commingled only with other Class A recyclable materials. Class B recyclable materials may be commingled only with other Class B recyclable materials and only to the extent authorized in a general or limited approval issued pursuant to N.J.A.C. 7:26A-3.5 or 3.7. Class C recyclable materials may be commingled only with other Class C recyclable materials and only to the extent authorized in a general approval issued pursuant to N.J.A.C. 7:26A-3.5.

2. Residue shall not be stored on-site for a period in excess of six months;

3. All residue shall be removed from the recycling center site in accordance with each district's waste plan;

4. All residue shall be stored separately from recyclable material and in a manner which prevents run-off, leakage or seepage from the residue storage area into, on or around the soil of the residue storage area;

5. At no time shall any hazardous waste, as defined in N.J.A.C. 7:26, be received, stored, processed or transferred at any recycling center as defined in N.J.A.C. 7:26A-1.3 except for used oil and universal waste as provided pursuant to N.J.A.C. 7:26A-4.7, 6 and 7;

6. At no time shall capacitors or electronic components which contain polychlorinated biphenyls (PCBs) and which are attached to, or detached from, appliances or other scrap metal be shredded, sheared or baled;

7. The operation and related activities of a recycling center shall be in conformance with all applicable Federal and State laws and regulations;

8. Recycling centers shall be operated in such a manner that the recycling center property is maintained free of litter and debris and such that tracking of mud into nearby streets is prevented;

9. All recycling centers located within the Pinelands Area shall be operated in a manner consistent with the goals of the comprehensive management plan developed by the Pinelands Commission pursuant to the Pinelands Protection Act, N.J.S.A. 13:18A-1 et seq., and shall obtain all approvals required by the Pinelands Commission;

10. Traffic associated with the operation of the recycling center shall not result in an unacceptable decrease in the existing level of service described and defined in the New Jersey Department of Transportation Highway Access Management Code at N.J.A.C. 16:47 of any major intersection or public roadway within a one-half mile radius of the recycling center;

11. The operation and related activities of all classes of recycling centers shall be in conformance with municipal ordinances, including, but not limited to ordinances concerning ingress and egress, traffic patterns, parking, signage, operational hours, noise, dust, and structure height;

12. Recycling center operations shall be separated from any and all areas of human use or occupancy through the establishment and maintenance of an effective visual screen buffer;

13. The entrance to the access road shall be fenced or otherwise secured to prevent unauthorized access to the site;

14. To provide sufficient support for vehicles, to prevent the tracking of soil onto public roads and to minimize the generation of dust, those areas of the recycling center subject to vehicular usage shall be suitably compacted and where necessary paved; and

15. An adequate water supply and fire-fighting equipment shall be readily available to extinguish any fires. The telephone number of the local fire department shall be posted at the entrance to the recycling center.

(b) The construction of all recycling centers shall be in conformance with the New Jersey Uniform Construction Code, N.J.S.A. 52:27D-119 et seq., and the rules promulgated pursuant thereto.

7:26A-4.2 Inclusion in district solid waste management plans

No recycling center, as defined in N.J.A.C. 7:26A-1.3, with the exception of those recycling centers operating pursuant to an approval granted under N.J.A.C. 7:26A-3.7, shall commence operations unless and until it is included in the applicable district solid waste management plan.

7:26A-4.3 (Reserved)

7:26A-4.4 Tonnage reporting requirements

(a) All operators of recycling centers shall provide a recycling tonnage report by March 1 of each year to the county of origin (if requested) and all municipalities from which recyclable material is received in the previous calendar year. For operators of Class A recycling centers, this report shall also be submitted to the Department. The report shall detail the amount of each source of separated recyclable material, expressed in gallons, tons or cubic yards, accepted from each municipality. Those persons specifying this information in cubic yards shall also indicate the conversion ratio of the materials from cubic yards to tons. Those persons reporting the recycling of lamps shall also report the volume of the received materials in linear feet. Non-tubular lamps may be reported as individual units. Those persons reporting on mercury-containing equipment shall also report the number of devices received. Lamps or mercury containing equipment which are shipped using a hazardous waste manifest may be reported in pounds or gallons.

(b) Except as otherwise provided in N.J.A.C. 7:26A-1.4(b)4, all persons operating pursuant to an exemption set forth at N.J.A.C. 7:26A-1.4 shall provide recycling tonnage reports by March 1 of each year to the applicable municipalities, to the county and to the New Jersey Department of Environmental Protection, Division of Solid and Hazardous Waste, Bureau of Recycling and Hazardous Waste Management, 401 East State Street, P.O. Box 420, Mail Code 401-02C, Trenton, New Jersey 08625-0420 for the previous calendar year. The report shall detail the amount of each source separated recyclable material, expressed in tons, cubic yards, cubic feet, or gallons received, stored, processed or transferred. Those persons specifying this information in cubic yards shall also indicate the conversion ratio of the materials from cubic yards to tons. Those persons reporting the recycling of lamps shall also report the volume of the received materials in linear feet. Non-tubular lamps may be reported as individual units. Those persons reporting on mercury-containing equipment shall also report the number of devices received. Lamps or mercury containing equipment which are shipped using a hazardous waste manifest may be reported in pounds or gallons.

7:26A-4.5 Additional design and operational requirements for recycling centers that receive, store, process or transfer Class C recyclable materials

(a) In addition to the requirements of N.J.A.C. 7:26A-4.1, the following operational and design criteria apply to recycling centers receiving Class C recyclable material:

1. A recycling center shall not be located on land which has been purchased with money from any Green Acres bond act or which is designated as land for recreation and conservation purposes and listed in the Green Acres recreational land inventory prepared by individual municipalities and counties and approved by the Department pursuant to N.J.S.A. 13:8A-1, 13:8A-20 and 13:8A-35, and N.J.A.C. 7:36, unless the approval of the Department and of the State House Commission has been received and any and all conditions of said approvals are complied with. Evidence of those approvals shall be submitted to the Department as part of the application for general approval to operate.

2. The recycling center shall have sufficient capacity to handle projected incoming volumes of Class C recyclable material.

3. Operation of the recycling center shall be under the supervision and control of a properly trained individual during all hours of operation, and access to the recycling center shall be prohibited when the recycling center is closed.

4. Class C recyclable materials shall be received only during times when the recycling center operator or owner is present.

5. All Class C recyclable materials delivered to the recycling center for processing shall be removed from bags, boxes or similar containers prior to any processing steps except that Class C recyclable materials in paper or biodegradable plastic bags need not be removed from such bags if the processing equipment provides for a shredding or cutting action. All discarded bags, boxes and similar containers shall be placed in a suitable refuse receptacle in the staging area of the recycling center for removal to an off-site disposal facility in accordance with N.J.A.C. 7:26-6.

6. If the incoming material contains grass or other highly putrescible material that are known to cause odors, the material shall be accepted only in areas of the site that are at least 1,000 feet from any areas of human use or occupancy unless the recycling center operation or receiving and preprocessing area is fully enclosed, or other measures approved by the Department are taken to prevent odors associated with the receipt of such materials from migrating off site. The Department may allow the recycling center to use a certificate of authority to operate an RD&D project obtained pursuant to N.J.A.C. 7:26-1.7(f) to demonstrate that the measures taken are suitable to prevent off-site impacts.

7. Processing of incoming material shall begin within three calendar days of receipt, except that if the incoming material contains grass or other highly putrescible materials, processing of such material shall begin on the same day of receipt of such material.

8. The recycling center shall submit to the Department within one year of receipt of its general approval to operate, a final closure plan containing a schedule and description of the steps necessary to close the recycling center including the estimated cost of closure and a description of the means by which the closure will be financed.

9. The recycling center shall notify the Department in writing at least 60 days prior to the proposed closure date for the recycling center.

10. The recycling center shall publish a notice of closure in a newspaper of general circulation in the district where the recycling center is located and in districts or communities sending at least 25 percent of their yard trimmings to the recycling center. Such notice shall be published at least 30 days prior to closure.

11. Within 30 days of ceasing operation, all residuals, unprocessed Class C recyclable material and recyclables shall be removed from the site and recycled or disposed as appropriate and the recycling center shall arrange for a final cleaning of any containers, equipment, machines, floors and recycling center surfaces in which Class C recyclable materials or residue was processed or stored.

12. The Department shall determine that a recycling center is considered closed when all the requirements of the closure plan have been met.

13. An update to the final closure plan as needed shall be submitted to the Department in writing at least 180 days prior to the proposed closure date for the recycling center.

14. Recycling centers that provide composting of yard trimmings shall operate in accordance with the following:

i. Within one year of the start up of the recycling center, the recycling center operator shall attend a composting course sponsored by the Rutgers Cooperative Extension, the appropriate county agricultural or resource management agents or any other similar course recognized by the Department;

ii. The active composting surface shall be an improved surface, such as compacted clay, gap-graded crushed aggregate, asphalt or other such surface that can withstand heavy equipment use. The surface shall be sloped to prevent ponding of liquids and to prevent surface runoff from directly entering any surface waters;

iii. Prior to windrow formation, dry yard trimmings shall be moistened to saturation without producing excessive runoff;

iv. To facilitate drainage and to reduce surface water ponding, each windrow shall be constructed and positioned in such a manner that it is perpendicular to the contours of the ground surface;

v. A windsock shall be installed at the recycling center in order to indicate wind direction so that the recycling center operator may determine appropriate times for windrow turning operations;

vi. Windrow composting shall be conducted as follows:

(1) A minimal technology method, in which windrows are constructed and reconstructed after each turning to a maximum height of 12 feet with a corresponding base not to exceed a maximum of 24 feet. A minimum separation of 16 feet measured from the pile base of the windrow to the next adjacent pile base shall be maintained to provide ample working space. Windrows shall be turned and reconstructed, at a minimum, one time per year during the three year composting cycle;

(2) A low level technology method, in which windrows are constructed and reconstructed after each turning to a maximum height of six feet with a corresponding base not to exceed a maximum of 14 feet in width. A minimum separation of 16 feet measured from the pile base of the windrow to the next adjacent pile base shall be provided along at least one side of the longest dimension of each windrow pile to provide ample working space. Windrows shall be turned and reconstructed, at a minimum, three times during the 12 to 18 month compost cycle, once during the first two months of the composting cycle, at four to six months into the composting cycle and final again at the 10th month;

(3) An intermediate technology method, in which windrows are constructed and reconstructed after each turning to a maximum height and base width which corresponds to the specific windrow turning equipment used. The minimum separation distance between windrows shall also correspond to the recommended operation of the specific windrow turning equipment used. After initial windrow formation and aeration, windrows shall be turned and reconstructed, at a minimum, once per week for the first month. During the remainder of the 12-month composting cycle, temperature and oxygen concentration within the windrows shall be monitored, and further turnings shall be scheduled to prevent temperatures from exceeding 140 degrees Fahrenheit and to prevent oxygen levels from dropping below five percent for prolonged periods;

(4) A high level technology method, in which windrows are constructed and reconstructed within an enclosed facility with air flow controlled venting. Forced aeration or mechanical agitation shall be controlled to complete the compost cycle in three to six months; or

(5) Any other method approved in writing by the Department.

vii. Operations shall be performed in areas on the site which meet the following buffer distance requirements:

	Level of technology	Buffer with leaves only (FT)	Use for grass	Buffer with grass (FT)
(1)	Minimal	2500[1]	No	N/A
(2)	Low	50/500[2]	No	N/A
(3)	Intermediate	50/150/250[3]	Yes	1000[4]; or
(4)	High	50[5]	Yes	50[5]

Notes:
1. From materials staging and processing to area of human use
2. From materials staging and processing to property line/to

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Level of technology	Buffer with leaves only (FT)	Use for grass	Buffer with grass (FT)
area of human use or occupancy.			
3. From materials staging and processing to property line/to area of human use or occupancy/to inhabited structure.			
4. From grass clipping staging and handling areas to area of human use or occupancy.			
5. Building setback for enclosed operations.			

viii. Finished compost shall be tested once each year, at a minimum, in accordance with an appropriate monitoring and sampling plan established by the Department as part of the recycling center approval. Samples of the compost produced at the recycling center shall be analyzed for the parameters listed in Appendix A to this subchapter, incorporated herein by reference, according to the indicated method. Results of all laboratory analysis for each parameter specified in Appendix A shall be recorded and maintained at the recycling center;

ix. The laboratory used to perform the analysis of the finished compost product shall be certified in accordance with N.J.A.C. 7:18 for the equipment and testing procedures required in (a)14viii above;

x. The Department shall approve an alternate sampling schedule if the recycling center can demonstrate that less frequent testing will adequately monitor the quality of the finished compost in an equivalent manner. Such demonstration provision may be based on the recycling center's operational history, the quality of the finished compost and the quality of the incoming material;

xi. In addition to the recordkeeping requirements of N.J.A.C. 7:26A-3.17, the recycling center shall maintain the following records:

(1) The quantity of yard trimmings received daily, expressed as cubic yards of leaves, grass and/or brush;

(2) The source of yard trimmings received daily; and

(3) The results of laboratory analyses of finished compost;

xii. The following information shall be made available for inspection by the Department pursuant to N.J.A.C. 7:26A-1.7:

(1) The results of compost analyses and name(s) of certified laboratory(ies);

(2) The quantity, type and source of incoming material;

(3) The quantity and types of recovered recyclables;

(4) The quantity of disposed residue, and sites receiving residue; and

(5) The standard procedures employed to ensure data reliability.

15. Recycling centers that process Class C recyclable material other than or in addition to yard trimmings shall operate in accordance with the following minimum requirements in addition to site specific requirements set forth in the general approval:

i. The composting structure shall withstand wear and tear of normal operations. The operating pad shall be impermeable (hydraulic conductivity less than 10**[-5]** cm/sec) and be sloped to prevent ponding of liquids and to direct leachate to a leachate collection system. Leachate control shall be provided wherever leachate is generated.

ii. The recycling center operations shall be fully enclosed in a structure, or structures, with complete walls and roof and shall include an air management system permitted by the Department pursuant to N.J.A.C. 7:27 that is capable of removing odors and noxious compounds. The building shall have a minimum setback of 50 feet from the property line of the recycling center. The Department may allow the recycling center to use a certificate of authority to operate an RD&D project obtained pursuant to N.J.A.C. 7:26-1.7(f) to demonstrate that the specific materials received do not require full enclosure that would prevent leachate problems and off-site impacts such as odors from typical food wastes. Based on the results of the RD&D project the Department may issue a general approval to allow other forms of structures or other measures that would be adequate to prevent on and off-site impacts.

iii. An operations and maintenance (O&M) manual specific to the recycling center shall be prepared, updated as needed, and available at the recycling center for inspection by Departmental personnel pursuant to N.J.A.C. 7:26A-1.7. The O&M manual shall include any and all information to enable supervisory and operating personnel to determine the sequence of operations, routine maintenance schedules, plans, policies, procedures, and legal requirements that must be adhered to. The O&M manual shall include a quality assurance/quality control (QA/QC) plan which outlines the monitoring, sampling and analysis plans for testing the compost process and product.

iv. The recycling center equipment shall be operated in conformance with the manufacturer and/or vendor specifications or appropriately documented modifications. Such equipment specifications, including modifications, shall be included in the operations and maintenance manual.

v. Employees shall be properly trained in the recycling center operations, maintenance procedures, and safety and emergency procedures.

vi. A recycling center-specific training manual shall be developed and made available to each employee.

vii. Operation of the recycling center shall be under supervision and control of a properly trained individual during all hours of operation.

viii. Access to the recycling center shall be prohibited when the recycling center is closed.

ix. Incoming, unprocessed material or admixtures shall not be mixed with finished compost or other products of the process except in strict accordance with the conditions specified in the general approval.

x. The composting process shall meet the criteria for a process to further reduce pathogens (PFRP) in accordance with 40 CFR Part 503. One of the three following methods shall be used:

(1) Windrow method, which meets PFRP as follows:

(A) Maintenance of aerobic conditions; and

(B) A minimum of five turnings over 15 consecutive days, maintaining a temperature of not less than 55 degrees Celsius (131 degrees Fahrenheit).

(2) Aerated static pile method, which meets PFRP as follows:

(A) Pile insulated with six to 12 inches of insulating material (for example, sawdust, cured compost, or wood chips); and

(B) Temperature of at least 55 degrees Celsius (131 degrees Fahrenheit) maintained throughout the mixture for three consecutive days; or

(3) Enclosed (within) vessel composting method, which meets PFRP as follows:

(A) Temperature maintained at 55 degrees Celsius (131 degrees Fahrenheit) throughout the mixture for at least three consecutive days.

xi. The recycling center shall monitor the temperature of the material in the composting process to ensure that pathogen reduction criteria are met. Temperature readings shall be recorded daily during PFRP.

xii. The Department shall establish an appropriate monitoring and sampling schedule for a one-year start-up period as part of the recycling center approval.

xiii. Using information gained during the one-year start-up period, a monitoring and sampling schedule for ongoing operations shall be developed, as part of the recycling center approval, in consultation with the Department based on statistical methods for quality assurance.

xiv. Compost samples shall be obtained in accordance with the approved QA/QC plan. Samples of the compost produced at the facility shall be analyzed for the compost quality monitoring parameters listed in Appendix A in accordance with the appropriate methods as approved in the sampling plan. Results of all laboratory analysis for each parameter specified in Appendix A shall be recorded and maintained at the facility. Quality assurance results shall be reported to the Department pursuant to (a)15xvii below.

xv. The laboratory used to perform the analysis of the finished compost product shall be certified in accordance with N.J.A.C. 7:18 for the equipment and testing procedures required pursuant to (a)15xiv above.

xvi. In addition to the recordkeeping requirements of N.J.A.C. 7:26A-3.17, the recycling center shall maintain the following records:

(1) Daily temperature and moisture monitoring of the composting process;

(2) The quantity of material received daily expressed as cubic yards;

(3) The source of material received daily;

(4) The results of laboratory analyses of finished compost;

(5) The retention time of the finished compost; and

(6) The sale and distribution of recovered materials.

xvii. Quarterly reports shall be submitted to the Department within 30 days after the end of each calendar quarter. Such reports shall include the following:

(1) The results of compost analyses and the name(s) of certified laboratory(ies);

(2) The quantity, type and source of incoming materials;

(3) The quantity and types of recovered recyclables;

(4) The quantity of compost produced;

(5) The quantity of compost sold and/or distributed, and the end markets to which the compost is sold or distributed;

(6) The quantity of disposed residue, and sites receiving residue;

(7) Daily temperature readings and retention times during PFRP;

(8) A summary of leachate management (collected and reused or treated and disposed);

(9) A summary of major maintenance on leachate, temperature or other monitoring and control systems in operation; and

(10) The standard procedures employed to ensure data reliability.

(b) Compost produced by recycling centers which process Class C recyclable materials shall be subject to the following:

1. Compost given away or offered for sale by the recycling center must contain a label describing the recommended safe uses and application rates, and restrictions, if any, on use of the product. If compost is offered for bulk sale, signs or printed literature containing the above information shall be available on the bill of lading to the purchaser or persons receiving the compost.

2. Compost given away or offered for sale shall satisfy the following requirements:

i. Compost derived from yard trimmings shall satisfy the requirements established at 40 C.F.R. 503.13(b)3; and

ii. Compost derived from other than or in addition to yard trimmings shall satisfy the requirements established at 40 C.F.R. 503.13(b)3, the Class A pathogen requirements at 40 C.F.R. 503.32(a), and one of the vector attraction reduction requirements in 40 C.F.R. 503.33(b)1 through 8.

7:26A-4.6 Additional design and operational standards for recycling centers which receive, store, process, or transfer Class D recyclable materials--latex paints, antifreeze, lamps (light bulbs), oil-based finishes, batteries, mercury-containing equipment and consumer electronics, including universal waste

(a) Provisions of this section apply to recycling centers which receive, store, process, or transfer latex paints, antifreeze, lamps, oil-based finishes, batteries, mercury-containing equipment and consumer electronics. Some lamps, oil-based finishes, batteries, mercury-containing equipment and consumer electronics may also be universal wastes. Provisions of this subsection apply equally to those materials which are being handled as universal wastes and those which

are not. Universal wastes, when not recycled or destined for recycling under the provisions of this chapter, shall not be handled by a Class D recycling center.

(b) Owners and operators shall comply with the following preparedness and prevention requirements:

1. Facilities shall be maintained and operated to minimize the possibility of a fire, explosion, or any unplanned sudden or non-sudden release of Class D recyclable materials to air, soil, or surface water which could threaten human health or the environment;

2. All facilities shall be equipped with the following, unless none of the hazards posed by the recyclable materials handled at the facility could require a particular kind of equipment specified in (b)2i through iv below:

i. An internal communications or alarm system capable of providing immediate emergency instruction (voice or signal) to facility personnel;

ii. A device, such as a telephone (immediately available at the scene of operations) or a hand-held two-way radio, capable of summoning emergency assistance from local police departments, fire departments, or State or local emergency response teams;

iii. Portable fire extinguishers, fire control equipment (including special extinguishing equipment, such as that using foam, inert gas, or dry chemicals), spill control equipment and decontamination equipment; and

iv. Water at adequate volume and pressure to supply water hose streams, or foam producing equipment, or automatic sprinklers, or water spray systems;

3. All facility communications or alarm systems, fire protection equipment, spill control equipment, and decontamination equipment, where required, shall be tested and maintained as necessary to assure its proper operation in time of emergency;

4. Standards for access to communications or alarm system are as follows:

i. Whenever recyclable materials are being processed or otherwise handled, all personnel involved in the operation shall have immediate access to an internal alarm or emergency communication device, either directly or through visual or voice contact with another employee, unless such a device is not required pursuant to (b)2 above; and

ii. If there is ever only one employee on the premises while the facility is operating, the employee shall have immediate access to a device, such as a telephone (immediately available at the scene of operation) or a hand-held two-way radio, capable of summoning external emergency assistance, unless such a device is not required pursuant to (b)2 above;

5. The owner or operator shall maintain aisle space to allow the unobstructed movement of personnel, fire protection equipment, spill control equipment, and decontamination equipment to any area of facility operation in an emergency, unless aisle space is not needed for any of these purposes; and

6. Standards for arrangements with local authorities are as follow:

i. The owner or operator shall make the following arrangements, as appropriate for the type of recyclable material handled at the facility and the potential need for the services of these organizations:

(1) Arrangements to familiarize police, fire departments, and emergency response teams with the layout of the facility, properties of recyclable material handled at the facility and associated hazards, places where facility personnel would normally be working, entrances to roads inside the facility, and possible evacuation routes;

(2) Where more than one police and fire department might respond to an emergency, agreements designating primary emergency authority to a specific police and a specific fire department, and agreements with any others to provide support to the primary emergency authority;

(3) Agreements with State emergency response teams, emergency response contractors, and equipment suppliers; and

(4) Arrangements to familiarize local hospitals with the properties of recyclable materials handled at the facility and the types of injuries or illnesses which could result from fires, explosions, or releases at the facility; and

ii. Where State or local authorities decline to enter into such arrangements, the owner or operator shall document the refusal in the operating record.

(c) Owners and operators shall comply with the following contingency plan and emergency procedure requirements:

1. The purpose and implementation of the contingency plan is as follows:

i. Each owner or operator shall have a contingency plan for the facility. The contingency plan shall be designed to minimize hazards to human health or the environment from fires, explosions, or any unplanned sudden or non-sudden release of recyclable materials to air, soil, or surface water.

ii. The provisions of the plan shall be carried out immediately whenever there is a fire, explosion, or release of recyclable materials which could threaten human health or the environment;

2. The following are the minimum contents of the contingency plan:

i. The contingency plan shall describe the actions facility personnel shall take to comply with (b)7i and ii above in response to fires, explosions, or any unplanned sudden or non-sudden release of universal waste to air, soil, or surface water at the facility;

ii. If the owner or operator has already prepared a Spill Prevention, Control, and Countermeasures (SPCC) Plan in accordance with 40 C.F.R. Part 112 or 40 C.F.R. Part 1510, or a Discharge Prevention, Containment and Countermeasure (DPCC) Plan per N.J.A.C. 7:1E, the owner or operator need only amend that plan to incorporate universal waste management provisions that are sufficient to comply with the requirements of this section;

iii. The plan shall describe arrangements agreed to by local police departments, fire departments, hospitals, contractors, and State and local emergency response teams to coordinate emergency services, pursuant to (b)6 above;

iv. The plan shall list names, addresses, and phone numbers (office and home) of all persons qualified to act as emergency coordinator (see (c)5 below), and this list shall be kept up to date. Where more than one person is listed, one shall be named as primary emergency coordinator and others shall be listed in the order in which they will assume responsibility as alternates;

v. The plan shall include a list of all emergency equipment at the facility (such as fire extinguishing systems, spill control equipment communications and alarm systems (internal and external), and decontamination equipment), where this equipment is required. This list shall be kept up to date. In addition, the plan shall include the location and a physical description of each item on the list, and a brief outline of its capabilities; and

vi. The plan shall include an evacuation plan for facility personnel where there is a possibility that evacuation could be necessary. This plan shall describe signal(s) to be used to begin evacuation, evacuation routes, and alternate evacuation routes (in cases where the primary routes could be blocked by releases of recyclable materials or fires);

3. A copy of the contingency plan and all revisions to the plan shall be:

i. Maintained at the facility; and

ii. Submitted to all local police departments, fire departments, hospitals, and State and local emergency response teams that may be called upon to provide emergency services;

4. The contingency plan shall be reviewed, and immediately amended, if necessary, whenever:

i. Applicable regulations are revised;

ii. The plan fails in an emergency;

iii. The facility changes--in its design, construction, operation, maintenance, or other circumstances--in a way that materially increases the potential for fires, explosions, or releases of recyclable materials, or changes the response necessary in an emergency;

iv. The list of emergency coordinators changes; or

v. The list of emergency equipment changes;

5. At all times, there shall be at least one employee either on the facility premises or on call (that is, available to respond to an emergency by reaching the facility within a short period of time) with the responsibility for coordinating all emergency response measures. This emergency coordinator shall be thoroughly familiar with all aspects of the facility's contingency plan, all operations and activities at the facility, the location and characteristics of recyclable materials

handled, the location of all records within the facility, and the facility layout. In addition, this person shall have the authority to commit the resources needed to carry out the contingency plan. The emergency coordinator's responsibilities are more fully spelled out in (c)6 below. Applicable responsibilities for the emergency coordinator vary, depending on factors such as type and variety of recyclable materials handled by the facility, and type and complexity of the facility; and

6. The emergency coordinator shall implement the following procedures in an emergency situation:

i. Whenever there is an imminent or actual emergency situation, the emergency coordinator (or the designee when the emergency coordinator is on call) shall immediately:

(1) Activate internal facility alarms or communication systems, where applicable, to notify all facility personnel; and

(2) Notify appropriate State or local agencies with designated response roles if their help is needed;

ii. Whenever there is a release, fire, or explosion, the emergency coordinator shall immediately identify the character, exact source, amount, and a real extent of any released materials. The emergency coordinator may do this by observation or review of facility records or shipping papers and, if necessary, by chemical analysis;

iii. Concurrently, the emergency coordinator shall assess possible hazards to human health or the environment that may result from the release, fire, or explosion. This assessment shall consider both direct and indirect effects of the release, fire, or explosion (for example, the effects of any toxic, irritating, or asphyxiating gases that are generated, or the effects of any hazardous surface water run-offs from water or chemical agents used to control fire and heat-induced explosions);

iv. If the emergency coordinator determines that the facility has had a release, fire, or explosion which could threaten human health, or the environment, outside the facility, the emergency coordinator shall report his findings as follows:

(1) If the emergency coordinator's assessment indicated that evacuation of local areas may be advisable, the emergency coordinator shall immediately notify appropriate local authorities and shall be available to help appropriate officials decide whether local areas should be evacuated; and

(2) The emergency coordinator shall immediately notify either the government official designated as the on-scene coordinator for the geographical area (in the applicable regional contingency plan under 40 C.F.R. Part 1510), or the National Response Center (using its 24-hour toll free number 800/424-8802). The report shall include:

(A) The name and telephone number of reporter;

(B) The name and address of facility;

(C) The time and type of incident (for example, release, fire);

(D) The name and quantity of material(s) involved, to the extent known;

(E) The extent of injuries, if any; and

(F) The possible hazards to human health, or the environment, outside the facility;

v. During an emergency, the emergency coordinator shall take all reasonable measures necessary to ensure that fires, explosions, and releases do not occur, recur, or spread to other recyclable materials at the facility. These measures shall include, where applicable, stopping processes and operation, collecting and containing released recyclable materials, and removing or isolating containers;

vi. If the facility stops operation in response to a fire, explosion, or release, the emergency coordinator shall monitor for leaks, pressure buildup, gas generation, or ruptures in valves, pipes, or other equipment, wherever this is appropriate;

vii. Immediately after an emergency, the emergency coordinator shall provide for recycling, storing, or disposing of recovered recyclable materials, contaminated soil or surface water, or any other material that results from a release, fire, or explosion at the facility;

viii. The emergency coordinator shall ensure that, in the affected area(s) of the facility:

(1) No waste or recyclable material that may be incompatible with the released material is recycled, treated, stored, or disposed of until cleanup procedures are completed; and

(2) All emergency equipment listed in the contingency plan is cleaned and fit for its intended use before operations are resumed; and

(3) The owner or operator shall notify the Regional Administrator, and appropriate State and local authorities that the facility is in compliance with (c)6viii(1) and (2) above, before operations are resumed in the affected area(s) of the facility; and

ix. The owner or operator shall note in the operating record the time, date and details of any incident that requires implementing the contingency plan. Within 15 days after the incident, he or she shall submit a written report on the incident to the Regional Administrator. The report shall include:

(1) The name, address, and telephone number of the owner or operator;

(2) The name, address, and telephone number of the facility;

(3) The date, time, and type of incident (for example, fire, explosion);

(4) The name and quantity of material(s) involved;

(5) The extent of injuries, if any;

(6) An assessment of actual or potential hazards to human health or the environment, where this is applicable; and

(7) The estimated quantity and disposition of recovered material that resulted from the incident.

(d) Owners and operators shall not store, process, or transfer recyclable materials in units other than containers, tanks or process buildings subject to regulation under this chapter or other units subject to regulation under 40 C.F.R. Parts 264 or 265, as incorporated by reference at N.J.A.C. 7:26G-8 or 9.

1. Additional standards for containers used to store or process Class D recyclable materials are as follows:

i. Containers used to store or process recyclable materials at Class D recycling centers shall be:

(1) In good condition (no severe rusting, apparent structural defects or deterioration); and

(2) Not leaking (no visible leaks);

ii. Containers holding recyclable materials shall be kept closed during storage, except when it is necessary to add or remove recyclable materials; and

iii. Containers used to store or process liquid recyclable materials at Class D recycling centers shall be equipped with a secondary containment system meeting the following:

(1) The entire secondary containment system, including walls and floor, shall be sufficiently impervious to prevent any recyclable materials released into the containment system from migrating out of the system to the soil, groundwater, or surface water; and

(2) The secondary containment system shall consist of, at a minimum:

(A) Dikes, berms, or retaining walls, and a floor which shall cover the entire area within the dike, berm, or retaining wall; or

(B) A secondary containment system equivalent to (d)1iii(2)(A) above.

2. Additional standards for tanks used to store or process Class D recyclable materials are as follows:

i. Tanks used to store or process recyclable materials at recycling centers shall be:

(1) In good condition (no severe rusting, apparent structural defects or deterioration); and

(2) Not leaking (no visible leaks); and

ii. Tanks used to store or process liquid recyclable materials at Class D recycling centers shall be equipped with a secondary containment system meeting the following:

(1) The entire secondary containment system, including walls and floor, shall be sufficiently impervious to prevent any recyclable materials released into the containment system from migrating out of the system to the soil, groundwater, or surface water; and

(2) The secondary containment system shall consist of, at a minimum:

(A) Dikes, berms, or retaining walls, and a floor which shall cover the entire area within the dike, berm, or retaining wall; or

(B) A secondary containment system equivalent to (d)2ii(2)(A) above.

3. Additional standards for process buildings used to store or process recyclable materials are as follows:

i. Process buildings shall be completely enclosed with a floor, walls, and a roof to prevent exposure to the elements (for example, precipitation, wind, run-on);

ii. Floors shall be sufficiently impervious to prevent any recyclable materials released into the process building from migrating out of the building to the soil, groundwater, or surface water; and

iii. Process buildings used to store or process liquid recyclable materials at Class D recycling centers shall be equipped with a liquid collection and removal system meeting the following:

(1) The floor must be sloped to drain liquids to a sump or other collection device; and

(2) Accumulated liquids must be collected and removed at the earliest practical time.

(e) Owners and operators shall comply with the following label standards:

1. Containers and above ground tanks used to store or process universal waste at processing facilities shall be labeled or marked clearly with the words "Class D Recyclable Material" and, as applicable, "Universal Waste," and the type of universal waste (example: "Oil-based Finish"); and

2. Piping used to transfer recyclable materials to or from containers, tanks or process areas at recycling centers shall be labeled or marked clearly with the words "Class D Recyclable Material" and, as applicable, "Universal Waste," and also represent the type of universal waste (example: "Oil-based Finish");

(f) Upon detection of a release of recyclable materials to the environment not subject to the requirements of 40 C.F.R. Part 280, subpart F or N.J.A.C. 7:14b, an owner/operator shall perform the following cleanup steps:

1. Stop the release;

2. Contain the released recyclable materials;

3. Clean up and manage properly the released recyclable materials and other materials; and

4. If necessary, repair or replace any leaking recyclable materials storage containers or tanks prior to returning them to service;

(g) Owners and operators shall comply with the following closure standards:

1. Owners and operators who store or process Class D recyclable materials in tanks shall comply with the following requirements:

i. At closure of a tank system, the owner or operator shall remove or decontaminate recyclable materials residues in tanks, contaminated containment system components, contaminated soils, and structures and equipment contaminated with recyclable materials, and manage them as hazardous waste, unless the materials are not hazardous waste under 40 C.F.R. Part 261, as incorporated by reference at N.J.A.C. 7:26G-5; and

ii. If the owner or operator demonstrates that not all contaminated soils can be practicably removed or decontaminated as required in (g)1i above, then the owner or operator shall close the tank system and perform post-closure care in accordance with the closure and post-closure care requirements that apply to hazardous waste landfills found at 40 C.F.R. 265.310, as incorporated by reference at N.J.A.C. 7:26G-9.

2. Owners and operators who store, process, or transfer Class D recyclable materials in containers shall comply with the following requirements:

i. At closure, containers holding Class D recyclable materials or residues shall be removed from the site; and

ii. The owner or operator shall remove or decontaminate recyclable materials residues, contaminated containment system components, contaminated soils, and structures and equipment contaminated with Class D recyclable materials, and manage them as hazardous waste, unless the materials are not hazardous waste under 40 C.F.R. Part 261, as incorporated by reference at N.J.A.C. 7:26G-5.

3. Owners and operators who store or process recyclable materials in process buildings shall remove or decontaminate recyclable materials residues, contaminated containment system components, contaminated soils, and structures and equipment contaminated with recyclable materials, and manage them as hazardous waste, unless the materials are not hazardous waste under 40 C.F.R. Part 261, as incorporated by reference at N.J.A.C. 7:26G-5.

(h) Owners and operators shall maintain, as part of the daily record required by N.J.A.C. 7:26A-3.17(a), summary reports and details of all incidents that require implementation of the Contingency Plan specified in (c) above.

7:26A-4.7 Additional design and operational standards for recycling centers which receive, store and process Class D recyclable materials--used oil

For the purposes of this chapter, a used oil processor or re-refiner is a recycling center for Class D recyclable materials--used oil. Such recycling center shall be designed and operated in accordance with the requirements of N.J.A.C. 7:26A-6.7.

7:26A-4.8 Additional design and operational standards for recycling centers which receive, store, process or transfer Class B recyclable materials

(a) In addition to the requirements of N.J.A.C. 7:26A-4.1, recycling centers receiving Class B recyclable material shall be designed with a buffer zone around the entire perimeter of the recycling center of at least 25 feet.

(b) In addition to the requirements of N.J.A.C. 7:26A-4.1 and (a) above, the following operational and design criteria apply to recycling centers receiving Class B petroleum contaminated soil:

1. The facility shall be maintained and operated to minimize the possibility of a fire, explosion, or any unplanned sudden or non-sudden release of contaminants to air, soil, or surface water, which could threaten human health or the environment.

2. The facility shall be equipped with the following, unless none of the hazards posed by the petroleum contaminated soil handled at the facility could require a particular kind of equipment specified below:

i. An internal communications or alarm system capable of providing immediate emergency instruction (voice or signal) to facility personnel;

ii. A device, such as a telephone (immediately available at the scene of operations) or a hand-held two-way radio, capable of summoning emergency assistance from local police departments, fire departments, or State or local emergency response teams;

iii. Portable fire extinguishers, fire control equipment (including special extinguishing equipment, such as that using foam, inert gas, or dry chemicals), spill control equipment and decontamination equipment; and

iv. Water at adequate volume and pressure to supply water hose streams, foam producing equipment, automatic sprinklers, or water spray systems.

3. All facility communications or alarm systems, fire protection equipment, spill control equipment, and decontamination equipment, where required, shall be tested and maintained as necessary to assure its proper operation in time of an emergency.

4. Owners and operators of petroleum contaminated soil facilities shall have a contingency plan for the facility. The provisions of the plan shall be carried out immediately whenever there is a fire, explosion, or release of contaminants which could threaten human health or the environment. The contingency plan shall contain at a minimum:

i. A description of the actions facility personnel shall take in response to fires, explosions, or any unplanned sudden or non-sudden release of contaminants to air, soil, or surface water at the facility;

ii. If the owner or operator has already prepared a Spill Prevention, Control and Countermeasures (SPCC) Plan in accordance with 40 C.F.R. Part 112 or 40 C.F.R. Part 1510, or a Discharge Prevention, Containment, and Countermeasures (DPCC) Plan per N.J.A.C. 7:1E, the owner or operator need only amend that plan to incorporate petroleum contaminated soil management provisions that are sufficient to comply with the requirements of this section;

iii. The plan shall describe arrangements agreed to by local police departments, fire departments, hospitals, contractors, and State and local emergency response teams to coordinate emergency services;

iv. The plan shall list names, addresses, and phone numbers (office and home) of all persons qualified to act as emergency coordinator and this list shall be kept up to date. Where more than one person is listed, one shall be named as primary emergency coordinator and others shall be listed in the order in which they will assume responsibility as alternates;

v. The plan shall include a list of all emergency equipment at the facility (such as fire extinguishing systems, spill control equipment, communications and alarm systems (internal and external), and decontamination equipment), where this equipment is required. This list shall be kept up to date. In addition, the plan shall include the location and a physical description of each item on the list, and a brief outline of its capabilities; and

vi. The plan shall include an evacuation plan for facility personnel where there is the possibility that evacuation could be necessary. This plan shall describe signal(s) to be used to begin evacuation, evacuation routes, and alternate evacuation routes (in cases where the primary routes could be blocked by releases of contaminants or fires).

5. A copy of the contingency plan and all revisions shall be maintained at the facility and submitted to all local police departments, fire departments, hospitals, and State and local emergency response teams that may be called upon to provide emergency services.

6. The contingency plan shall be reviewed, and immediately amended, if necessary, whenever:

i. Applicable regulations are revised;

ii. The plan fails in an emergency;

iii. The facility changes its design, construction, operation, maintenance, or other circumstances in a way that materially increases the potential for fires, explosions, or releases of contaminants, or changes the response necessary in any emergency;

iv. The list of emergency coordinators changes; or

v. The list of emergency equipment changes.

7. All portions or areas of a facility (indoors or outdoors) in which petroleum contaminated soils are routinely stored, handled, processed, or transferred shall be equipped with primary containment structures and/or equipment which are designed and operated so that any leak will be prevented from becoming a discharge.

i. If petroleum contaminated soil is to be stored indoors, the primary containment system shall be a containment building which is designed and operated as follows:

(1) The containment building shall be completely enclosed with a floor, walls, and a roof to prevent exposure to the elements (for example, precipitation, wind, run-on), and to assure containment of managed petroleum contaminated soils;

(2) The floor and containment walls of the unit shall be designed and constructed of materials of sufficient strength and thickness to support themselves, the petroleum contaminated soil, and any personnel and heavy equipment that operate within the unit. The containment walls shall also be able to prevent failure due to the pressure gradients, settlement, compression, or uplift, and the stresses of daily operation, including the movement of heavy equipment within the unit and contact of such equipment with the containment walls. The unit shall be designed so that it has sufficient structural strength to prevent collapse or other failure; and

(3) The primary containment system shall be equipped with a liquid collection and removal system to minimize the accumulation of liquid on the primary containment system of the building:

(A) The primary containment system shall be sloped to drain liquids to the associated collection system; and

(B) Leaked wastes or other liquids shall be collected and removed in as timely a manner as is necessary to minimize hydraulic head on the containment system and to prevent overflow of the sump or collection system.

ii. If petroleum contaminated soil is to be stored outdoors, the primary containment system shall be designed and operated as follows:

(1) The soil shall be underlined by a base which is free of cracks or gaps and is sufficiently impervious to contain leaked waste and accumulated precipitation until the collected material is detected and removed;

(2) The base shall be sloped or the containment system shall be otherwise designed and operated to drain and remove liquids resulting from leaks or precipitation;

(3) Run-on into the containment system shall be prevented;

(4) Leached wastes, accumulated precipitation or other liquids shall be collected and removed in as timely a manner as is necessary to minimize hydraulic head on the containment system and to prevent the overflow of the sump or collection system; and

(5) All petroleum contaminated soils, with the exception of the working pile, shall be covered with either six inches of soil containing less than 1,000 ppm TPH, or a tarpaulin panel. If a tarpaulin panel is used, it shall be manufactured with 16-mil woven fabric or equivalent, as approved by the Department.

8. Upon detection of a release of contaminants to the environment, the facility shall perform the following cleanup steps:

i. Stop the release;

ii. Contain the released contaminants;

iii. Clean up and properly manage the released contaminants and other materials; and

iv. If necessary, repair or replace any leaking soil containment systems prior to returning them to service.

9. Upon closure of the facility, the owner or operator shall remove or decontaminate petroleum contaminated soils, containment system components, and structures and equipment and manage them as hazardous waste, unless the materials are not hazardous waste under N.J.A.C. 7:26G-5.

10. All equipment and portions of the facility designated for the storage or processing of petroleum contaminated soils shall be visually inspected each operating day for integrity and leaks.

11. The facility shall sample and test all incoming soil and all processed soil in accordance with the sampling protocol specified in the general approval issued pursuant to N.J.A.C. 7:26A-3.5.

12. Records shall be maintained for all visual inspections. These records shall document that inspections were performed, any problems found, and the subsequent correction of such problems. All records shall be kept for a minimum of three years.

13. The facility shall maintain on-site, a written operating record showing analysis records, tracking records, and summary reports of incidents requiring implementation of the contingency plan. This information shall be made available to Department personnel upon request and shall be kept for a minimum of three years.

14. The facility shall process all source separated petroleum contaminated soil received at the recycling center by thermal treatment or other Department approved physical, chemical, or biological treatment technology, as specified in the general approval issued pursuant to N.J.A.C. 7:26A-3.5. This requirement does not apply to petroleum contaminated soil if, upon receipt at the facility, the soil is subjected to laboratory analysis by a laboratory that is certified pursuant to N.J.A.C. 7:18, and the results of that laboratory analysis show that the incoming shipment of soil complies as received with Department-approved analytical limits established for certain end markets, as specified in the general approval issued to the facility pursuant to N.J.A.C. 7:26A-3.5.

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APPENDIX A

COMPOST QUALITY MONITORING PARAMETERS

Parameter	Unit
Stability--respirometry	mg O[2]/kg
O[2] consumed	VS/hr
Soluble salts--electrical	mmhos/cm
Fecal coliform	MPN/g
Salmonella	MPN/4g
pH	
Regulated parameters:	
Arsenic (As)	mg/kg dry wt.
Cadmium (Cd)	mg/kg dry wt.
Chromium (Cr)	mg/kg dry wt.
Copper (Cu)	mg/kg dry wt.
Lead (Pb)	mg/kg dry wt.
Mercury (Hg)	mg/kg dry wt
Molybdenum (Mo)	mg/kg dry wt.
Nickel (Ni)	mg/kg dry wt.
Selenium (Se)	mg/kg dry wt.
Zinc (Zn)	mg/kg dry wt.
Man-Made Inerts >4 mm, <13 mm	visual
Film plastic >4 mm	cm<2>/m<3>
Sharps	PRS

Notes:

1. VS means volatile solids.
2. MPN means most probable number per gram of total solids in the sewage sludge or compost. MPN is an index of the number of coliform bacteria, reported by the multiple-tube fermentation procedure of the coliform test, that, more probably than any other number, would give the results shown by the laboratory examination; it is not an actual enumeration.
3. Mmhos is a unit of electrical conductivity; it is the reciprocal of ohm.
4. Man-made inert material includes glass shards and metal fragments that pose a human and animal safety hazard with unprotected exposure or through direct ingestion.
5. Film plastic can be a potential hazard to small animals through direct ingestion.

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TITLE 7. ENVIRONMENTAL PROTECTION
CHAPTER 26A. RECYCLING RULES
SUBCHAPTER 5. REQUIREMENTS FOR PROCESSING DISCARDED APPLIANCES THAT CONTAIN REFRIGERANT FLUID

N.J.A.C. 7:26A-5.1 (2009)

7:26A-5.1 Requirements for processing discarded appliances, motor vehicles, machines or other goods which contain refrigerant fluid

(a) No shearing, shredding, baling or other actions which could cause release of refrigerant fluid shall take place prior to recovery of such refrigerant fluid.

(b) Recovery of refrigerant fluid shall be performed in a manner such that no venting of refrigerant fluid occurs.

(c) Recovered refrigerant fluid shall be delivered to a facility which has agreed to reprocess the refrigerant fluid to specifications suitable for reentry into commerce. If arrangements cannot be made with a reprocessing facility to accept recovered refrigerants, or if the refrigerants cannot be otherwise made suitable for reuse, the person who recovered the refrigerant shall store or dispose of the material in accordance with applicable laws and regulations.

(d) Recovery and disposition of refrigerant fluid must comply with all applicable laws, regulations and guidelines, including, but not limited to, the following:

1. Safety standards of the Occupational Safety and Health Administration (OSHA), including standards for handling compressed gases at 29 C.F.R. 1910.101 and standards for air contaminants at 29 C.F.R. 1910.1000;

2. Persons transporting recovered chlorofluorocarbons mixed or combined with a hazardous waste shall comply with the Department's hazardous waste rules at N.J.A.C. 7:26G, particularly N.J.A.C. 7:26G-5 and 7:26G-6;

3. Recovered refrigerant fluid shall be stored and transported in containers in accordance with the requirements at 49 C.F.R., particularly Chapter 1 and Subchapter C; and

4. Recovery, storage and transport of refrigerants shall comply with Air Conditioning and Refrigerant Institute (ARI) guideline K for containers for recovered refrigerants, incorporated herein by reference.

5. The provisions of Title VI of the Clean Air Act Amendments of 1990.

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TITLE 7. ENVIRONMENTAL PROTECTION
CHAPTER 26A. RECYCLING RULES
SUBCHAPTER 6. STANDARDS FOR THE MANAGEMENT OF USED OIL

N.J.A.C. 7:26A-6.1 (2015)

7:26A-6.1 Applicability

(a) This section identifies those materials which are subject to regulation as used oil under this subchapter. This section also identifies some materials that are not subject to regulation as used oil under this subchapter, and indicates whether these materials may be subject to regulation as hazardous waste under 40 C.F.R. Parts 260 through 266, 268, 270, and 124, as incorporated by reference at N.J.A.C. 7:26G.

1. The Department presumes that used oil is to be recycled unless a used oil handler disposes of used oil, or sends used oil for disposal. Except as provided in N.J.A.C. 7:26A-6.2, the rules of this subchapter apply to used oil, and to materials identified in this section as being subject to regulation as used oil, whether or not the used oil or material exhibits any characteristics of hazardous waste identified in 40 C.F.R. Part 261, subpart C, as incorporated by reference at N.J.A.C. 7:26G-5.

2. The following requirements apply to mixtures of used oil and hazardous waste:

i. The following requirements apply to mixtures of used oil and listed hazardous waste:

(1) Mixtures of used oil and hazardous waste that are listed in 40 C.F.R. Part 261, subpart D, as incorporated by reference at N.J.A.C. 7:26G-5 are subject to regulation as hazardous waste under 40 C.F.R. Parts 260 through 266, 268, 270, and 124, as incorporated by reference at N.J.A.C. 7:26G, rather than as used oil under this subchapter;

(2) Used oil containing more than 1,000 ppm total halogens is presumed to be a hazardous waste because it has been mixed with halogenated hazardous waste listed in 40 C.F.R. Part 261, subpart D, as incorporated by reference at N.J.A.C. 7:26G-5. Persons may rebut this presumption by demonstrating that the used oil does not contain hazardous waste (for example, by using an analytical method from SW-846, Edition III to show that the used oil does not contain significant concentrations of halogenated hazardous constituents listed in Appendix VIII of 40 C.F.R. Part 261 as incorporated by reference at N.J.A.C. 7:26G-5);

(A) The rebuttable presumption does not apply to metalworking oils/fluids containing chlorinated paraffins, if they are processed, through a tolling arrangement as described in N.J.A.C. 7:26A-6.4(f)3, to reclaim metalworking oils/fluids. The presumption does apply to metalworking oils/fluids if such oils/fluids are recycled in any other manner, or disposed; and

(B) The rebuttable presumption does not apply to used oils contaminated with chlorofluorocarbons (CFCs) removed from refrigeration units where the CFCs are destined for reclamation. The rebuttable presumption does apply to used oils contaminated with CFCs that have been mixed with used oil from sources other than refrigeration units.

ii. Mixtures of used oil and hazardous waste that solely exhibit one or more of the hazardous waste characteristic identified in 40 C.F.R. Part 261, subpart C, as incorporated by reference at N.J.A.C. 7:26G-5 and mixtures of used oil and hazardous waste that is listed in 40 C.F.R. Part 261, subpart D, as incorporated by reference at N.J.A.C. 7:26G-5 solely because it exhibits one or more of the characteristics of hazardous waste identified in 40 C.F.R. Part 261, subpart C, as incorporated by reference at N.J.A.C. 7:26G-5 are subject to the following:

(1) Except as provided in (a)2ii(3) below, the mixture is subject to regulation as hazardous waste under 40 C.F.R. Part 260 through 266, 268, 270, and 124, as incorporated by reference at N.J.A.C. 7:26G rather than as used oil under this subchapter, if the resultant mixture exhibits any characteristics of hazardous waste identified in 40 C.F.R. Part 261, subpart C, as incorporated by reference at N.J.A.C. 7:26G-5;

(2) Except as specified in (a)2ii(3) below, the mixture is subject to regulation as used oil under this subchapter, if the resultant mixture does not exhibit any characteristics of hazardous waste identified under 40 C.F.R. Part 261, subpart C, as incorporated by reference at N.J.A.C. 7:26G-5; or

(3) The mixture is subject to regulation as used oil under this subchapter, if the mixture is of used oil and a waste which is hazardous solely because it exhibits the characteristic of ignitability and is not listed in N.J.A.C. 7:26G (for example, mineral spirits), provided that the mixture does not exhibit the characteristic of ignitability under 40 C.F.R. 261.21, as incorporated by reference at N.J.A.C. 7:26G-5; and

iii. Mixtures of used oil and conditionally exempt small quantity generator hazardous waste regulated under 40 C.F.R. 261.5, as incorporated by reference at N.J.A.C. 7:26G-5 are subject to regulation as used oil under this subchapter.

3. The following requirements apply to materials containing or otherwise contaminated with used oil:

i. Except as provided in (a)3ii below, materials containing or otherwise contaminated with used oil from which the used oil has been properly drained or removed to the extent possible such that no visible signs of free-flowing oil remain in or on the material:

(1) Are not used oil and thus not subject to this subchapter; and

(2) If applicable are subject to the hazardous waste regulations of 40 C.F.R. Parts 260 through 266, 268, and 270, as incorporated by reference at N.J.A.C. 7:26G;

ii. Materials containing or otherwise contaminated with used oil that are burned for energy recovery are subject to regulation as used oil under this subchapter; and

iii. Used oil drained or removed from materials containing or otherwise contaminated with used oil is subject to regulation as used oil under this subchapter.

4. The following requirements apply to mixtures of used oil with products:

i. Except as provided in (a)4ii below, mixtures of used oil and fuels or other fuel products are subject to regulation as used oil under this subchapter; and

ii. Mixtures of used diesel engine crankcase oil and diesel fuel mixed on-site by the generator of the used diesel engine crankcase oil for use in the generator's own vehicles are not subject to this subchapter once the used diesel engine crankcase oil and diesel fuel have been mixed and provided that the blending is less than or equal to a maximum rate of five percent (that is, a 19 to 1 virgin fuel to used diesel engine crankcase oil dilution). Prior to mixing, the used diesel engine crankcase oil is subject to the requirements of N.J.A.C. 7:26A-6.4.

5. The following requirements apply to materials derived from used oil:

i. Materials that are reclaimed from used oil that are beneficially used or reused and are not burned for energy recovery or used in a manner constituting disposal (for example, re-refined lubricants) are:

(1) Not used oil and thus are not subject to this subchapter; and

(2) Not solid wastes and are thus not subject to the hazardous waste regulations of 40 C.F.R. Parts 260 through 266, 268, 270 and 124, as incorporated by reference at N.J.A.C. 7:26G;

ii. Materials produced from used oil that are burned for energy recovery (for example, used oil fuels) are subject to regulation as used oil under this subchapter;

iii. Except as provided in (a)5iv below, materials derived from used oil that are disposed of or used in a manner constituting disposal are:

(1) Not used oil and thus are not subject to this subchapter; and

(2) Are solid wastes and thus are subject to the hazardous waste regulations of 40 C.F.R. Parts 260 through 266, 268, 270, and 124, as incorporated by reference at N.J.A.C. 7:26G if the materials are listed or identified as hazardous wastes; and

iv. Used oil re-refining distillation bottoms that are used as feedstock to manufacture asphalt products are not subject to this subchapter.

6. Wastewater, the discharge of which is subject to regulation under either section 402 or section 307(b) of the Clean Water Act (including wastewaters at facilities which have eliminated the discharge of wastewater), contaminated with de minimis quantities of used oil are not subject to the requirements of this subchapter. For purposes of this para-

graph, "de minimis" quantities of used oils are defined as small spills, leaks, or drippings from pumps, machinery, pipes, and other similar equipment during normal operations or small amounts of oil lost to the wastewater treatment system during washing or draining operations. This exception shall not apply if the used oil is discarded as a result of abnormal manufacturing operations resulting in substantial leaks, spills, or other releases, or to used oil recovered from wastewaters.

7. Used oil that is placed directly into a crude oil or natural gas pipeline is subject to the management standards of this subchapter only prior to the point of introduction to the pipeline. Once the used oil is introduced to the pipeline, the material is exempt from the requirements of this subchapter.

8. Used oil produced on vessels from normal shipboard operations is not subject to this subchapter until it is transported ashore.

9. In addition to the requirements of this subchapter, marketers and burners of used oil who market used oil containing any quantifiable level of PCBs are subject to the requirements found at 40 C.F.R. 761.20(e).

7:26A-6.2 Used oil specifications

(a) Used oil burned for energy recovery, and any fuel produced from used oil by processing, blending, or other treatment, is considered to be off-specification used oil and is subject to regulation under this subchapter unless it is shown not to exceed any of the allowable levels of the constituents and properties in the specification shown in Table 1 below. Once used oil that is to be burned for energy recovery has been shown not to exceed any specification and the person making that showing complies with N.J.A.C. 7:26A-6.9(c), (d) and (e)3, the used oil is considered to be on-specification used oil and is no longer subject to this subchapter, except for (b) below and N*.J.A.C. 7:26A-6.3(d)* and (e).

TABLE 1

Used Oil not exceeding any specification level is not subject to this subchapter when burned for Energy Recovery (except as noted below). n1

Constituent/property	Allowable level
Arsenic	5 ppm maximum
Cadmium	2 ppm maximum
Chromium	10 ppm maximum
Lead	100 ppm maximum
Flash point	100 [degree]F minimum
Total halogens	1,000 ppm maximum n2

NOTE: Applicable standards for the burning of used oil containing PCBs are also imposed by 40 C.F.R. 761.20(e).

1. The specification does not apply to mixtures of used oil and hazardous waste that continue to be regulated as hazardous waste (see N.J.A.C. 7:26A-6.1).
2. Used oil containing more than 1,000 ppm total halogens is presumed to be a hazardous waste under the rebuttable presumption provided under N.J.A.C. 7:26A-6.1(a)2i. Such used oil is subject to 40 C.F.R. Part 266, subpart H, as incorporated by reference at N.J.A.C. 7:26G-10 rather than this subchapter when burned for energy recovery unless the presumption of mixing can be successfully rebutted.

(b) On-specification used oil may be directly burned for energy recovery in any device, furnace, or boiler, provided a "Permit to Construct, Install or Alter Control Apparatus or Equipment and Certificate to Operate Control Apparatus or Equipment" or other required authorization is obtained for the device in accordance with N.J.A.C. 7:27-8, 20, or 22 prior to burning.

7:26A-6.3 Prohibitions

(a) Used oil shall not be managed in surface impoundments or waste piles unless the units are subject to regulation under 40 C.F.R. Part 264 or 265, as incorporated by reference at N.J.A.C. 7:26G-8 or 9.

(b) The use of used oil as a dust suppressant is prohibited.

(c) Off-specification used oil fuel shall not be burned for energy recovery except in the devices specified below, and provided a "Permit to Construct, Install or Alter Control Apparatus or Equipment and Certificate to Operate Control Apparatus or Equipment" or other authorization is obtained for such device prior to burning in accordance with N.J.A.C. 7:27-8 or 22:

1. Industrial furnaces as defined in N.J.A.C. 7:26-1.4;

2. Boilers, as defined in N.J.A.C. 7:26-1.4, that are identified as follows:

i. Industrial boilers located on the site of a facility engaged in a manufacturing process where substances are transformed into new products, including the component parts of products, by mechanical or chemical processes; or

ii. Utility boilers used to produce electric power, steam, heated or cooled air, or other gases or fluids for sale; and

3. Hazardous waste incinerators subject to regulation under 40 C.F.R. Parts 264 or 265, as incorporated by reference at N.J.A.C. 7:26G-8 or 9.

(d) On-specification used oil shall not be directly burned for energy in any residential or Category I institutional device, furnace or boiler defined pursuant to N.J.A.C. 7:27-8.

(e) The burning of on-specification used oil in oil-fired space heaters is prohibited except if the used oil fired space heaters meet the requirements of N.J.A.C. 7:26A-6.4(e).

(f) The burning of off-specification used oil in a space heater is prohibited in accordance with N.J.A.C. 7:27-20.7(a).

7:26A-6.4 Standards for used oil generators, DIY generators and motor oil retailers

(a) Except as provided in (a)1 through 4 below, this section applies to all used oil generators. A used oil generator is any person, by site, whose act or process produces used oil or whose act first causes used oil to become subject to regulation.

1. Except as provided in (f) below, household do-it-yourselfer used oil generators are not subject to regulation under this subchapter.

2. Vessels at sea or at port are not subject to this section. For purposes of this section, used oil produced on vessels from normal shipboard operations is considered to be generated at the time it is transported ashore. The owner or operator of the vessel and the person(s) removing or accepting used oil from the vessel are co-generators of the used oil and are both responsible for managing the waste in compliance with this section once the used oil is transported ashore. The co-generators may decide among them which party will fulfill the requirements of this section.

3. Mixtures of used diesel engine crankcase oil and diesel fuel mixed by the generator of the used diesel engine crankcase oil for use in the generator's own vehicles are not subject to this subchapter once the used diesel engine crankcase oil and diesel fuel have been mixed and provided that the blending is less than or equal to a maximum rate of five percent (that is, a 19 to 1 virgin fuel to used diesel engine crankcase oil dilution). Prior to mixing, the used diesel engine crankcase oil fuel is subject to the requirements of this section.

4. Farmers who generate an average of 25 gallons per month or less of used oil from vehicles or machinery used on the farm in a calendar year are not subject to the requirements of this subchapter.

(b) Used oil generators who conduct the following activities are subject to the requirements of other applicable provisions of this subchapter as indicated in (b)1 through 5 below:

1. Generators who transport used oil, except under the self-transport provisions of (f)1 or 2 below, shall also comply with N.J.A.C. 7:26A-6.6.

2. Generators who process or re-refine used oil shall also comply with N.J.A.C. 7:26A-6.7.

3. Generators who burn off-specification used oil for energy recovery shall also comply with N.J.A.C. 7:26A-6.8.

4. Generators who direct shipments of off-specification used oil from their facility to a used oil burner or first claim that used oil that is to be burned for energy recovery meets the used oil fuel specifications set forth in N.J.A.C. 7:26A-6.2 shall also comply with N.J.A.C. 7:26A-6.9.

5. Generators who dispose of used oil shall also comply with N.J.A.C. 7:26A-6.10.

(c) Generators of used oil who mix hazardous waste with used oil are subject to the following:

1. Mixtures of used oil and hazardous waste shall be managed in accordance with N.J.A.C. 7:26A-6.1(a)2; and

2. The rebuttable presumption for used oil of N.J.A.C. 7:26A-6.1(a) 2i(2) applies to used oil managed by generators. Under the rebuttable presumption for used oil, used oil containing greater than 1,000 ppm total halogens is presumed to be a hazardous waste and thus shall be managed as hazardous waste and not as used oil unless the presumption is rebutted. However, the rebuttable presumption does not apply to certain metalworking oils/fluids and certain used oils removed from refrigeration units.

(d) Used oil generators that store used oil are subject to the following:

1. Used oil generators are subject to all applicable Spill Prevention, Control and Countermeasures regulations (40 C.F.R. Part 112), N.J.A.C. 7:1E, regulations promulgated pursuant to the Federal Clean Air Act, and N.J.A.C. 7:27, in addition to the requirements of this section. Used oil generators are also subject to the Underground Storage Tank requirements of N.J.A.C. 7:14B and 40 C.F.R. Part 280 for used oil stored in underground tanks whether or not the used oil exhibits any characteristics of hazardous waste, in addition to the requirements of this section;

2. Used oil generators shall not store used oil in units other than tanks, containers, or units subject to regulation under 40 C.F.R. Part 264 or 265, as incorporated by reference at N.J.A.C. 7:26G-8 or 9;

3. Containers and aboveground tanks used to store used oil at generator facilities shall be:

i. In good condition (no severe rusting, apparent structural defects or deterioration); and

ii. Not leaking (no visible leaks);

4. Used oil generators shall label containers, tanks and pipes in accordance with the following:

i. Containers and aboveground tanks used to store used oil at generator facilities shall be labeled or marked clearly with the words "Used Oil"; and

ii. Fill pipes used to transfer used oil into underground storage tanks at generator facilities shall be labeled or marked clearly with the words "Used Oil";

5. Upon detection of a release of used oil to the environment not subject to the requirements of 40 C.F.R. Part 280, Subpart F, or N.J.A.C. 7:14B, a generator shall perform the following cleanup steps:

i. Stop the release;

ii. Contain the released used oil;

iii. Clean up and manage properly the released used oil and other materials; and

iv. If necessary to prevent future releases, repair or replace any leaking used oil storage containers or tanks prior to returning them to service.

(e) Generators may burn on-specification used oil in used oil-fired space heaters provided that:

1. The heater burns only used oil that the owner or operator generates or used oil received from household do-it-yourself used oil generators;

2. The heater is designed to have a maximum capacity of not more than 0.5 million BTU per hour;

3. The combustion gases from the heater are vented to the ambient air; and

4. The generator obtains a "Permit to Construct, Install or Alter Control Apparatus or Equipment and Certificate to Operate Control Apparatus or Equipment" or other required authorization in accordance with N.J.A.C. 7:27-8, 20, or 22 prior to operating the space heater.

(f) Except as provided in (f)1 through 3 below, used oil generators shall ensure that their used oil is transported off-site only by transporters who have obtained EPA identification numbers.

1. Generators may transport, without an EPA identification number, used oil that is generated at the generator's site and used oil collected from household do-it-yourselfer generators to a used oil collection center provided that:

i. The generator transports the used oil in a vehicle owned by the generator or owned by an employee of the generator;

ii. The generator transports no more than 55 gallons of used oil at any time; and

iii. The generator transports the used oil to a used oil collection center that is registered or recognized by a county or municipal government to manage used oil.

2. Generators may transport, without an EPA identification number, used oil that is generated at the generator's site to an aggregation point provided that:

i. The generator transports the used oil in a vehicle owned by the generator or owned by an employee of the generator;

ii. The generator transports no more than 55 gallons of used oil at any time; and

iii. The generator transports the used oil to an aggregation point that is owned and/or operated by the same generator.

3. Used oil generators may arrange for used oil to be transported by a transporter without an EPA identification number if the used oil is reclaimed under a contractual agreement pursuant to which reclaimed oil is returned by the processor/re-refiner to the generator for use as a lubricant, cutting oil, or coolant. The contract (known as a "tolling arrangement") shall indicate:

i. The type of used oil and the frequency of shipments;

ii. That the vehicle used to transport the used oil to the processing/re-refining facility and to deliver recycled used oil back to the generator is owned and operated by the used oil processor/re-refiner; and

iii. That reclaimed oil will be returned to the generator.

(g) Do-it-yourselfer used oil generators and motor oil retailers are subject to the following:

1. No do-it-yourselfer shall relinquish possession of used oil except to:

i. A do-it-yourselfer used oil collection center or used oil aggregation point during hours of operation;

ii. A district or municipally sponsored household hazardous waste collection event; or

iii. A facility authorized by the State in which it is located to accept used oil.

2. No do-it-yourselfer shall discharge water, antifreeze, industrial waste or any other contaminant into a used oil collection tank, or mix water, antifreeze, industrial waste or any other contaminant with used oil in any container which is then discharged into a used oil collection tank except for antifreeze or other similar materials at the approval of the collection site owner for ease of transportation for recycling.

3. Nothing in this subchapter shall require the owner or operator of a used oil collection center to accept used oil which the owner or operator reasonably suspects to contain water, antifreeze, industrial waste or any other contaminant.

4. No person shall sell or offer for sale, at retail or at wholesale for direct retail sale in this State, any motor oil in containers unless the following statement is prominently displayed on the label:

DON'T POLLUTE--CONSERVE RESOURCES; RETURN USED OIL TO COLLECTION CENTER

5. Motor oil retailers shall conspicuously post and maintain a durable and legible sign, not less than 11 inches high by 15 inches wide, containing the following statement in characters no less than one inch in height:

DON'T POLLUTE--CONSERVE RESOURCES; RETURN USED MOTOR OIL TO A COLLECTION CENTER FOR RECYCLING

i. The sign shall be displayed in the following manner:

(1) Suspended from the ceiling, or affixed to a wall, shelf, or freestanding display, at a height no greater than eight feet above the ground at its highest point and no less than four feet above the ground at its lowest point; and

(2) Adjacent to the motor oil display area of the sales counter.

7:26A-6.5 Standards for used oil collection and aggregation points

(a) Pursuant to N.J.S.A. 13:1E-99.36, owners or operators of all reinspection stations permitted by the Motor Vehicle Commission and all retail service stations that have used oil collection tanks on the premises shall accept do-it-yourselfer used oil for recycling in accordance with the following:

1. Owners and operators of such reinspection and service stations shall post and maintain a durable and legible sign, as required at (c)2iii below.

2. Owners and operators shall not be required to accept used oil that they reasonably suspect to contain water, anti-freeze, industrial waste or any other contaminant.

3. Owners and operators shall not be required to accept more than two gallons of DIY used oil from any person at one time.

4. Owners and operators may charge a reasonable fee to defray the costs of managing the DIY used oil.

(b) Do-it-yourselfer used oil collection centers are subject to the following:

1. This subsection applies to owners or operators of all do-it-yourselfer (DIY) used oil collection centers. A DIY used oil collection center is any site or facility that accepts/aggregates and stores used oil collected only from household do-it-yourselfer generators.

2. Owners or operators of all DIY used oil collection centers shall comply with the generator standards in N.J.A.C. 7:26A-6.4.

(c) Used oil collection centers are subject to the following:

1. This subsection applies to owners or operators of used oil collection centers. A used oil collection center is any site or facility that accepts/aggregates and stores used oil collected from used oil generators regulated under the provisions of N.J.A.C. 7:26A-6.4(f)1. Used oil collection centers may also accept used oil from household do-it-yourselfers;

2. Owners or operators of all used oil collection centers shall:

i. Comply with the generator standards in N.J.A.C. 7:26A-6.4;

ii. Be registered or recognized by the county or municipality to manage used oil; and

iii. Within 90 days of becoming subject to this subchapter, post and maintain a durable and legible sign, no less than 11 inches high by 15 inches wide, containing the following statement in characters no less than one inch in height:

USED OIL COLLECTION CENTER

RECYCLE YOUR USED MOTOR OIL HERE

LIMIT: (if the used oil collection center sets a limit on the amount of used oil accepted, it shall be displayed as part of the sign)

FEE: (If the used oil collection center charges a fee for this service, the fee shall be displayed as part of the sign.)

(1) The sign shall be posted on an outside wall of the collection center, or other appropriate location, facing a public thoroughfare, to provide the public with an unobstructed view of the sign. This sign shall be displayed at a height no greater than eight feet above ground at its highest point and no less than four feet above the ground at its lowest point.

(d) The standards for used oil aggregation points owned by the generator are as follows:

1. This subsection applies to owners or operators of all used oil aggregation points. A used oil aggregation point is any site or facility that accepts, aggregates, and/or stores used oil collected only from other used oil generation sites owned or operated by the owner or operator of the aggregation point, from which used oil is transported to the aggrega-

tion point in shipments of no more than 55 gallons under the provisions of this subchapter. Used oil aggregation points may also accept used oil from household do-it-yourselfers.

2. Owners or operators of all used oil aggregation points shall comply with the generator standards in N.J.A.C. 7:26A-6.4.

7:26A-6.6 Standards for used oil transporter and transfer facilities

(a) The standards that apply to used oil transporters and transfer facilities are as follows:

1. Except as provided in (a)1i through iv below, this section applies to all used oil transporters. Used oil transporters are persons who transport used oil, persons who collect used oil from more than one generator and transport the collected oil, and owners and operators of used oil transfer facilities;

i. This section does not apply to on-site transportation;

ii. This section does not apply to generators who transport shipments of used oil totaling 55 gallons or less from the generator to a used oil collection center as specified in N.J.A.C. 7:26A-6.4(f)1;

iii. This section does not apply to generators who transport shipments of used oil totaling 55 gallons or less from the generator to a used oil aggregation point owner or operated by the same generator as specified in N.J.A.C. 7:26A-6.4(f)2; or

iv. This section does not apply to transportation of used oil from household do-it-yourselfer used oil generators to a regulated used oil generator, collection center, aggregation point, processor/re-refiner, or burner subject to the requirements of this subchapter. Except as provided in 1i through 1iii above, this section does, however, apply to transportation of collected household do-it-yourselfer used oil from regulated used oil generators, collection centers, aggregation points, or other facilities where household do-it-yourselfer used oil is collected;

2. Transporters who import used oil from abroad or export used oil outside of the United States are subject to the requirements of this section from the time the used oil enters and until the time it exits the United States;

3. Unless trucks previously used to transport hazardous waste are emptied as described in 40 C.F.R. 261.7, as incorporated by reference at N.J.A.C. 7:26G-5 prior to transporting used oil, the used oil is considered to have been mixed with the hazardous waste and shall be managed as hazardous waste unless, under the provisions of N.J.A.C. 7:26A-6.1(a)2, the hazardous waste/used oil mixture is determined not to be hazardous waste;

4. Used oil transporters shall comply with the applicable Federal Motor Carrier Safety and Federal Hazardous Materials Transportation regulations. Used oil transporters who conduct the following activities are also subject to other applicable provisions of this subchapter as indicated in (a)4i through v below:

i. Transporters who generate used oil shall also comply with N.J.A.C. 7:26A-6.4;

ii. Transporters who process or re-refine used oil, except as provided in (b) below, shall also comply with N.J.A.C. 7:26A-6.7;

iii. Transporters who burn off-specification used oil for energy recovery shall also comply with N.J.A.C. 7:26A-6.8;

iv. Transporters who direct shipments of off-specification used oil from their facility to a used oil burner or first claim that used oil that is to be burned for energy recovery meets the used oil fuel specifications set forth in N.J.A.C. 7:26A-6.2 shall also comply with N.J.A.C. 7:26A-6.8; and

v. Transporters who dispose of used oil shall also comply with N.J.A.C. 7:6A-6.10;

5. A used oil transporter, who transports used oil or collects and transports used oil, and who is not exempted from this section as provided at (a)1 above, shall also comply with the standards concerning solid waste transportation at N.J.A.C. 7:26-3, including approved registration statement and vehicle registration requirements; and

6. A person transporting used oil from mobile field changing operations shall not be subject to the standards concerning solid waste transportation at N.J.A.C. 7:26-3.

(b) The following are restrictions on transporters who are not also processors or re-refiners:

1. Used oil transporters shall consolidate or aggregate loads of used oil for purposes of transportation. However, except as provided in (b)2 below, used oil transporters may not process used oil unless they also comply with the requirements for processors/re-refiners in N.J.A.C. 7:26A-6.7; and

2. Transporters may conduct incidental processing operations that occur in the normal course of used oil transportation (for example, settling and water separation), but that are not designed to produce (or make more amenable for production of) used oil derived products unless they also comply with the processor/re-refiner requirements in N.J.A.C. 7:26A-6.7.

(c) Notification standards for used oil transporters and transfer facilities are as follows:

1. Used oil transporters shall comply with this subsection and obtain an EPA identification number unless they have already notified the USEPA of their hazardous waste management activities in accordance with the requirements of Resource Conservation and Recovery Act (RCRA) section 3010;

2. A used oil transporter who has not received an EPA identification number may obtain one by notifying the USEPA Region II of its used oil activity by submitting either:

i. A completed EPA Form 8700-12 (To obtain ordering information for EPA Form 8700-12 call RCRA/Superfund Hotline at 1-800-424-9346 or 703-920-9810); or

ii. A letter requesting an EPA identification number. Call the RCRA/Superfund Hotline to determine where to send a letter requesting an EPA identification number. The letter should include the following:

(1) The transporter company name;

(2) The owner of the transporter company;

(3) The mailing address for the transporter;

(4) The name and telephone number for the transporter point of contact;

(5) The type of transport activity (that is, transport only, transport and transfer facility, transfer facility only);

(6) The location of all transfer facilities at which used oil is stored; and

(7) The name and telephone number for a contact at each transfer facility; and

3. Owners or operators of used oil transfer facilities shall notify the Department in writing of the location of the transfer facility prior to conducting any used oil activities at the transfer facility. The notification shall be mailed to the New Jersey Department of Environmental Protection, Bureau of Hazardous Waste and UST Compliance and Enforcement, Mail Code 09-03, P.O. Box 420, Trenton, New Jersey 08625-0420.

(d) The standards for used oil transportation are as follows:

1. A used oil transporter shall off load all used oil received at or to:

i. Another used oil transporter, provided that the transporter has obtained an EPA identification number;

ii. A used oil processing/re-refining facility who has obtained an EPA identification number;

iii. An off-specification used oil burner facility who has obtained an EPA identification number; or

iv. An on-specification used oil burner facility;

2. Transporters of used oil that meets the definition of a hazardous material in 49 CFR 171.8 shall comply with the following United States Department of Transportation (USDOT) regulations, as modified by the Transportation of Hazardous Materials rules at N.J.A.C. 16:49-2.1, and the Motor Carrier Safety Regulations at N.J.A.C. 13:60:

i. The Hazardous Materials Regulations at 49 CFR Parts 171 through 180, as amended and supplemented; and

ii. The Motor Carrier Safety Regulations at 49 CFR Parts 390 through 397, as amended and supplemented.

3. Standards for a used oil discharge during transportation are as follows:

i. In the event of a discharge of used oil during transportation, the transporter shall comply with the applicable requirements of N.J.A.C. 7:1E and take appropriate immediate action to protect human health and the environment (for example, notify local authorities, dike the discharge area);

ii. If a discharge of used oil occurs during transportation and an official (State or local government or a Federal Agency) acting within the scope of official responsibilities determines that immediate removal of the used oil is necessary to protect human health or the environment, that official may authorize the removal of the used oil by transporters who do not have EPA identification numbers;

iii. An air, rail, highway, or water transporter who has discharged used oil shall:

(1) Give notice, if required by 49 C.F.R. 171.15 to the National Response Center (800-424-8802 or 202-426-2675); and

(2) Report in writing as required by 49 C.F.R. 171.16 to the Director, Office of Hazardous Materials Regulations, Materials Transportation Bureau, Department of Transportation, Washington, DC 20590;

iv. A water transporter who has discharged used oil shall give notice as required by 33 C.F.R. 153.203; and

v. A transporter shall clean up any used oil discharge that occurs during transportation or take such action as may be required or approved by federal, state, or local officials so that the used oil discharge no longer presents a hazard to human health or the environment.

(e) The rebuttable presumption for used oil applies as follows to used oil transporters.

1. To ensure that used oil is not a hazardous waste under the rebuttable presumption of N.J.A.C. 7:26A-6.1(a)2i(2), the used oil transporter shall determine whether the total halogen content of used oil being transported or stored at a transfer facility is equal to and less than or more than 1,000 ppm;

2. The transporter shall make this determination by:

i. Testing the used oil; or

ii. Applying knowledge of the halogen content or the used oil in light of the materials or processes used;

3. If the used oil contains more than or equal to 1,000 ppm total halogens, it is presumed to be a hazardous waste because it has been mixed with halogenated hazardous waste listed in 40 C.F.R. Part 261, subpart D, as incorporated by reference at N.J.A.C. 7:26G-5. The owner or operator may rebut the presumption by demonstrating that the used oil does not contain hazardous waste (for example, by using an analytical method from SW-846, Edition III, or later) to show that the used oil does not contain significant concentrations of halogenated hazardous constituents listed in Appendix VIII of 40 C.F.R. Part 261, as incorporated by reference at N.J.A.C. 7:26G-5.

i. The rebuttable presumption does not apply to metalworking oils/fluids containing chlorinated paraffins, if they are processed, through a tolling arrangement as described in N.J.A.C. 7:26A-6.4(e)3, to reclaim metalworking oils/fluids. The presumption does apply to metalworking oils/fluids if such oils/fluids are recycled in any other manner, or disposed; and

ii. The rebuttable presumption does not apply to used oils contaminated with chlorofluorocarbons (CFCs) removed from refrigeration units if the CFCs are destined for reclamation. The rebuttable presumption does apply to used oils contaminated with CFCs that have been mixed with used oil from sources other than refrigeration units;

4. If rebuttal is unsuccessful, the used oil transporter shall ensure further transportation or reshipment of this hazardous waste is accomplished by a licensed New Jersey hazardous waste transporter; and

5. Records of analyses conducted or information used to comply with (e)1 through 4 above shall be maintained onsite by the transporter for at least three years.

(f) The standards for used oil storage at transfer facilities are as follows:

1. Used oil transporters are subject to all applicable Spill Prevention, Control and Countermeasures regulations (40 C.F.R. Part 112) as well as the applicable requirements of N.J.A.C. 7:1E, regulations adopted pursuant to the Federal Clean Air Act, and N.J.A.C. 7:27 in addition to the requirements of this section. Used oil transporters are also subject to the Underground Storage Tank standards (40 C.F.R. Part 280 and N.J.A.C. 7:14B) for used oil stored in underground

tanks whether or not the used oil exhibits any characteristics of hazardous waste, in addition to the requirements of this section;

2. Used oil transfer facilities are transportation related facilities including loading docks, parking areas, storage areas and other areas where shipments of used oil are held for more than 24 hours during the normal course of transportation and not longer than 35 days. Transfer facilities that store used oil for more than 35 days and also process used oil are subject to regulation under N.J.A.C. 7:26A-6.7. Transfer facilities that store used oil for more than 35 days but do not process used oil are subject to all of the requirements of N.J.A.C. 7:26A-6.7 except N.J.A.C. 7:26A-6.7(a)2vi;

3. Owners or operators of used oil transfer facilities may not store used oil in units other than tanks, containers, or units subject to regulation under 40 C.F.R. Parts 264 or 265, as incorporated by reference at N.J.A.C. 7:26G-8 or 9;

4. Containers and aboveground tanks used to store used oil at transfer facilities shall be:

i. In good condition (no severe rusting, apparent structural defects or deterioration); and

ii. Not leaking (no visible leaks).

5. Containers used to store used oil at transfer facilities shall be equipped with a secondary containment system meeting the following:

i. The secondary containment system shall consist of, at a minimum:

(1) Dikes, berms or retaining walls; and

(2) The floor shall cover the entire area within the dikes, berms, or retaining walls; or

(3) An equivalent secondary containment system; and

ii. The entire containment system, including walls and floors, shall be sufficiently impervious to used oil to prevent any used oil released into the containment system from migrating out of the system to the soil, groundwater, or surface water;

6. Existing aboveground tanks used to store used oil at transfer facilities shall be equipped with a secondary containment system meeting the following:

i. The secondary containment system shall consist of, at a minimum:

(1) Dikes, berms or retaining walls; and

(2) The floor shall cover the entire area within the dike, berm, or retaining wall except areas where existing portions of the tank meet the ground; or

(3) An equivalent secondary containment system; and

ii. The entire containment system, including walls and floors, shall be sufficiently impervious to used oil to prevent any used oil released into the containment system from migrating out of the system to the soil, groundwater, or surface water;

7. New aboveground tanks used to store used oil at transfer facilities shall be equipped with a secondary containment system.

i. The secondary containment system shall consist of, at a minimum:

(1) Dikes, berms or retaining walls; and

(2) A floor. The floor shall cover the entire area within the dike, berm, or retaining wall; or

(3) An equivalent secondary containment system.

ii. The entire containment system, including walls and floors, shall be sufficiently impervious to used oil to prevent any used oil released into the containment system from migrating out of the system to the soil, groundwater, or surface water.

8. The following are the standards for labels for used oil storage:

i. Containers and aboveground tanks used to store used oil at transfer facilities shall be labeled or marked clearly with the words "Used Oil"; and

ii. Fill pipes used to transfer used oil into underground storage tanks at transfer facilities shall be labeled or marked clearly with the words "Used Oil".

9. Upon detection of a release of used oil to the environment not subject to the requirements of 40 C.F.R. Part 280, subpart F or N.J.A.C. 7:14B, the owner/operator of a transfer facility shall perform the following cleanup steps:

i. Stop the release;

ii. Contain the released used oil;

iii. Clean up and manage properly the released used oil and other materials; and

iv. If necessary, repair or replace any leaking used oil storage containers or tanks prior to returning them to service.

(g) The tracking standards for used oil transporters are as follows:

1. Used oil transporters shall keep a record of each used oil shipment accepted for transport. These records shall be available for inspection at all times while the used oil is being transported. Records for each shipment shall include:

i. The name and address of the generator, transporter, or processor/re-refiner who provided the used oil for transport;

ii. The EPA identification number (if applicable) of the generator, transporter, or processor/re-refiner who provided the used oil for transport;

iii. The quantity of used oil accepted;

iv. The date of acceptance; and

v. The signature, dated upon receipt of the used oil, of a representative of the generator, transporter, or processor/re-refiner who provided the used oil for transport;

2. Used oil transporters shall keep a record of each shipment of used oil that is delivered to another used oil transporter, or to a used oil burner, processor/re-refiner, or disposal facility. These records shall be available for inspection at all times while the used oil is being transported. Records of each delivery shall include:

i. The name and address of the receiving facility or transporter;

ii. The EPA identification number of the receiving facility or transporter;

iii. The quantity of used oil delivered;

iv. The date of delivery; and

v. The signature, dated upon receipt of the used oil, of a representative of the receiving facility or transporter;

3. Used oil transporters shall maintain the records described in paragraphs (g)2i through iv above for each shipment of used oil exported to any foreign country.

4. The records described in (g)1 through 3 above shall be maintained for at least three years.

(h) Transporters who generate residues from the storage or transport of used oil shall manage the residues as specified in N.J.A.C. 7:26A-6.1(a)5.

7:26A-6.7 Standards for used oil processors and re-refiners

(a) Standards for used oil processors and re-refiners and used oil processing and re-refining facilities are as follows:

1. The requirements of this section apply to owners and operators of facilities that process used oil. Processing means chemical or physical operations designed to produce from used oil, or to make used oil more amenable for production of, fuel oils, lubricants, or other used oil-derived products. Processing includes, but is not limited to: blending

used oil with virgin petroleum products, blending used oils to meet the fuel specification, filtration, simple distillation, chemical or physical separation and re-refining. The requirements of this section do not apply to:

i. Transporters that conduct incidental processing operations that occur during the normal course of transportation as provided in N.J.A.C. 7:26A-6.6(b); or

ii. Burners that conduct incidental processing operations that occur during the normal course of used oil management prior to burning as provided in (b) below.

2. Used oil processors/re-refiners who conduct the following activities are also subject to the requirements of other applicable provisions of this subchapter as indicated in (a)2i through vi below;

i. Processors/re-refiners who generate used oil shall also comply with N.J.A.C. 7:26A-6.4;

ii. Processors/re-refiners who transport used oil shall also comply with N.J.A.C. 7:26A-6.6;

iii. Except as provided in (a)2iii(1) below, processors/re-refiners who burn off-specification used oil for energy recovery shall also comply with N.J.A.C. 7:26A-6.8. Processor/re-refiners burning used oil for energy recovery under the following conditions are not subject to N.J.A.C. 7:26A-6.8:

(1) The used oil is burned for purposes of processing used oil, which is considered burning incidentally to used oil processing;

iv. Processors/re-refiners who direct shipments of off-specification used oil from their facility to a used oil burner or first claim that used oil that is to be burned for energy recovery meets the used oil fuel specifications set forth in N.J.A.C. 7:26A-6.2 shall also comply with N.J.A.C. 7:26A-6.8; and

v. Processors/re-refiners who dispose of used oil also shall comply with N.J.A.C. 7:26A-6.9;

vi. Processors/re-refiners shall comply with the requirements for a Class D recycling facility of this chapter (including the requirement to obtain a Class D recycling center approval pursuant to N.J.A.C. 7:26A-3) and all applicable requirements of N.J.A.C. 7:27 and the regulations promulgated pursuant to the Federal Clean Air Act.

(b) The standards for notification for used oil processors and re-refiners are as follows:

1. Used oil processors and re-refiners shall comply with these requirements and obtain an EPA identification number unless they have already notified the USEPA of their hazardous waste activities in accordance with the requirements of RCRA section 3010;

2. A used oil processor or re-refiner who has not received an EPA identification number may obtain one by notifying the Regional Administrator of USEPA Region II of their used oil activity by submitting either:

i. A completed EPA Form 8700-12 (To obtain EPA Form 8700-12 call RCRA/Superfund Hotline at 1-800-424-9346 or 703-920-9810); or

ii. A letter requesting an EPA identification number. Call the RCRA/Superfund Hotline to determine where to send a letter requesting an EPA identification number. The letter should include the following:

(1) The processor or re-refiner company name;

(2) The owner of the processor or re-refiner company;

(3) The mailing address for the processor or re-refiner;

(4) The name and telephone number for the processor or re-refiner point of contact;

(5) The type of used oil activity (that is, process only, process and re-refine); and

(6) The location of the processor or re-refiner facility.

(c) General facility standards for used oil at processing facilities and re-refining facilities are as follows:

1. Owners and operators of used oil processing and re-refining facilities shall comply with the following preparedness and prevention requirements:

i. Facilities shall be maintained and operated to minimize the possibility of a fire, explosion, or any unplanned sudden or non-sudden release of used oil to air, soil, or surface water which could threaten human health or the environment;

ii. All facilities shall be equipped with the following, unless none of the hazards posed by used oil handled at the facility could require a particular kind of equipment specified in (c)1ii(1) through (4) below:

(1) An internal communications or alarm system capable of providing immediate emergency instruction (voice or signal) to facility personnel;

(2) A device, such as a telephone (immediately available at the scene of operations) or a hand-held two-way radio, capable of summoning emergency assistance from local police departments, fire departments, or State or local emergency response teams;

(3) Portable fire extinguishers, fire control equipment (including special extinguishing equipment, such as that using foam, inert gas, or dry chemicals), spill control equipment and decontamination equipment; and

(4) Water at adequate volume and pressure to supply water hose streams, or foam producing equipment, or automatic sprinklers, or water spray systems;

iii. All facility communications or alarm systems, fire protection equipment, spill control equipment, and decontamination equipment, where required, shall be tested and maintained as necessary to assure its proper operation in time of emergency;

iv. Standards for access to communications or alarm system are as follows:

(1) Whenever used oil is being poured, mixed, spread, or otherwise handled, all personnel involved in the operation shall have immediate access to an internal alarm or emergency communication device, either directly or through visual or voice contact with another employee, unless such a device is not required pursuant to (c)1ii above;

(2) If there is ever just one employee on the premises while the facility is operating, the employee shall have immediate access to a device, such as a telephone (immediately available at the scene of operation) or a hand-held two-way radio, capable of summoning external emergency assistance, unless such a device is not required pursuant to (c)1ii above;

v. The owner or operator shall maintain aisle space to allow the unobstructed movement of personnel, fire protection equipment, spill control equipment, and decontamination equipment to any area of facility operation in an emergency, unless aisle space is not needed for any of these purposes; and

vi. Standards for arrangements with local authorities are as follows:

(1) The owner or operator shall make the following arrangements, as appropriate for the type of used oil handled at the facility and the potential need for the services of these organizations:

(A) Arrangements to familiarize police, fire departments, and emergency response teams with the layout of the facility, properties of used oil handled at the facility and associated hazards, places where facility personnel would normally be working, entrances to roads inside the facility, and possible evacuation routes;

(B) Where more than one police and fire department might respond to an emergency, agreements designating primary emergency authority to a specific police and a specific fire department, and agreements with any others to provide support to the primary emergency authority;

(C) Agreements with State emergency response teams, emergency response contractors, and equipment suppliers; and

(D) Arrangements to familiarize local hospitals with the properties of used oil handled at the facility and the types of injuries or illnesses which could result from fires, explosions, or releases at the facility; and

(2) Where State or local authorities decline to enter into such arrangements, the owner or operator shall document the refusal in the operating record; and

2. Owners and operators of used oil processing and re-refining facilities shall comply with the following contingency plan and emergency procedure requirements:

i. The purpose and implementation of the contingency plan is as follows:

(1) Each owner or operator shall have a contingency plan for the facility. The contingency plan shall be designed to minimize hazards to human health or the environment from fires, explosions, or any unplanned sudden or non-sudden release of used oil to air, soil, or surface water.

(2) The provisions of the plan shall be carried out immediately whenever there is a fire, explosion, or release or used oil which could threaten human health or the environment;

ii. The following are the minimum contents of the contingency plan:

(1) The contingency plan shall describe the actions facility personnel shall take to comply with (c)2i and 2vi above in response to fires, explosions, or any unplanned sudden or non-sudden release of used oil to air, soil, or surface water at the facility;

(2) If the owner or operator has already prepared a Spill Prevention, Control, and Countermeasures (SPCC) Plan in accordance with 40 C.F.R. Part 112, or 40 C.F.R. Part 1510, or a Discharge Prevention, Containment and Countermeasure (DPCC) Plan per N.J.A.C. 7:1E, the owner or operator need only amend that plan to incorporate used oil management provisions that are sufficient to comply with the requirements of this section;

(3) The plan shall describe arrangements agreed to by local police departments, fire departments, hospitals, contractors, and State and local emergency response teams to coordinate emergency services, pursuant to (c)1vi above;

(4) The plan shall list names, addresses, and phone numbers (office and home) of all persons qualified to act as emergency coordinator (see (c)2v below), and this list shall be kept up to date. Where more than one person is listed, one shall be named as primary emergency coordinator and others shall be listed in the order in which they will assume responsibility as alternates;

(5) The plan shall include a list of all emergency equipment at the facility (such as fire extinguishing systems, spill control equipment, communications and alarm systems (internal and external), and decontamination equipment), where this equipment is required. This list shall be kept up to date. In addition, the plan shall include the location and a physical description of each item on the list, and a brief outline of its capabilities;

(6) The plan shall include an evacuation plan for facility personnel where there is a possibility that evacuation could be necessary. This plan shall describe signal(s) to be used to begin evacuation, evacuation routes, and alternate evacuation routes (in cases where the primary routes could be blocked by releases of used oil or fires);

iii. A copy of the contingency plan and all revisions to the plan shall be:

(1) Maintained at the facility; and

(2) Submitted to all local police departments, fire departments, hospitals, and State and local emergency response teams that may be called upon to provide emergency services;

iv. The contingency plan shall be reviewed, and immediately amended, if necessary, whenever:

(1) Applicable regulations are revised;

(2) The plan fails in an emergency;

(3) The facility changes-in its design, construction, operation, maintenance, or other circumstances-in a way that materially increases the potential for fires, explosions, or releases of used oil, or changes the response necessary in an emergency;

(4) The list of emergency coordinators changes; or

(5) The list of emergency equipment changes;

v. At all times, there shall be at least one employee either on the facility premises or on call (that is, available to respond to an emergency by reaching the facility within a short period of time) with the responsibility for coordinating all emergency response measures. This emergency coordinator shall be thoroughly familiar with all aspects of the facility's contingency plan, all operations and activities at the facility, the location and characteristic of used oil handled, the location of all records within the facility, and facility layout. In addition, this person shall have the authority to commit the resources needed to carry out the contingency plan. The emergency coordinator's responsibilities are more fully spelled

out in (c)2vi below. Applicable responsibilities for the emergency coordinator vary, depending on factors such as type and variety of used oil handled by the facility, and type and complexity of the facility; and

vi. The following are the emergency procedures to be implemented in an emergency situation:

(1) Whenever there is an imminent or actual emergency situation, the emergency coordinator (or the designee when the emergency coordinator is on call) shall immediately:

(A) Activate internal facility alarms or communication systems, where applicable, to notify all facility personnel; and

(B) Notify appropriate State or local agencies with designated response roles if their help is needed;

(2) Whenever there is a release, fire, or explosion, the emergency coordinator shall immediately identify the character, exact source, amount, and a real extent of any released materials. The emergency coordinator may do this by observation or review of facility records or shipping papers and, if necessary, by chemical analysis;

(3) Concurrently, the emergency coordinator shall assess possible hazards to human health or the environment that may result from the release, fire, or explosion. This assessment shall consider both direct and indirect effects of the release, fire, or explosion (for example, the effects of any toxic, irritating, or asphyxiating gases that are generated, or the effects of any hazardous surface water run-offs from water of chemical agents used to control fire and heat-induced explosions);

(4) If the emergency coordinator determines that the facility has had a release, fire, or explosion which could threaten human health, or the environment, outside the facility, the emergency coordinator shall report his findings as follows:

(A) If the emergency coordinator's assessment indicated that evacuation of local areas may be advisable, the emergency coordinator shall immediately notify appropriate local authorities and shall be available to help appropriate officials decide whether local areas should be evacuated; and

(B) The emergency coordinator shall immediately notify either the government official designated as the on-scene coordinator for the geographical area (in the applicable regional contingency plan under 40 C.F.R. part 1510), or the National Response Center (using their 24-hour toll free number 800/424-8802). The report shall include:

(I) The name and telephone number of reporter;

(II) The name and address of facility;

(III) The time and type of incident (for example, release, fire);

(IV) The name and quantity of material(s) involved, to the extent known;

(V) The extent of injuries, if any; and

(VI) The possible hazards to human health, or the environment, outside the facility;

(5) During an emergency, the emergency coordinator shall take all reasonable measures necessary to ensure that fires, explosions, and releases do not occur, recur, or spread to other used oil or hazardous waste at the facility. These measures shall include, where applicable, stopping processes and operation, collecting and containing released used oil, and removing or isolating containers;

(6) If the facility stops operation in response to a fire, explosion, or release, the emergency coordinator shall monitor for leaks, pressure buildup, gas generation, or ruptures in valves, pipes, or other equipment, wherever this is appropriate;

(7) Immediately after an emergency, the emergency coordinator shall provide for recycling, storing, or disposing of recovered used oil, contaminated soil or surface water, or any other material that results from a release, fire, or explosion at the facility;

(8) The emergency coordinator shall ensure that, in the affected area(s) of the facility:

(A) No waste or used oil that may be incompatible with the released material is recycled, treated, stored, or disposed of until cleanup procedures are completed; and

(B) All emergency equipment listed in the contingency plan is cleaned and fit for its intended use before operations are resumed; and

(C) The owner or operator shall notify the Regional Administrator, and appropriate State and local authorities that the facility is in compliance with (c)2vi(8)(A) and (B) above, before operations are resumed in the affected area(s) of the facility; and

(9) The owner or operator shall note in the operating record the time, date and details of any incident that requires implementing the contingency plan. Within 15 days after the incident, he or she shall submit a written report on the incident to the Regional Administrator. The report shall include:

(A) The name, address, and telephone number of the owner or operator;

(B) The name, address, and telephone number of the facility;

(C) The date, time, and type of incident (for example, fire, explosion);

(D) The name and quantity of material(s) involved;

(E) The extent of injuries, if any;

(F) An assessment of actual or potential hazards to human health or the environment, where this is applicable; and

(G) The estimated quantity and disposition of recovered material that resulted from the incident.

(d) The standards for rebuttable presumption for used oil processors and re-refiners are as follows:

1. To ensure that used oil managed at a processing/re-refining facility is not hazardous waste under the rebuttable presumption of N.J.A.C. 7:26A-6.1(a)2i(2), the owner or operator of a used oil processing/re-refining facility shall determine whether the total halogen content of used oil managed at the facility is above or below 1,000 ppm;

2. The owner or operator shall make this determination by:

i. Testing the used oil; or

ii. Applying knowledge of the halogen content of the used oil in light of the materials or processes used;

3. If the used oil contains greater than or equal to 1,000 ppm total halogens, it is presumed to be a hazardous waste because it has been mixed with halogenated hazardous waste listed in 40 C.F.R. Parts 261.31, 261.32, and 261.33 as incorporated by reference at N.J.A.C. 7:26G-5. The owner or operator may rebut the presumption, except as set forth in (d)3i and ii below, by demonstrating that the used oil does not contain hazardous waste (for example, by using an analytical method from SW-846, Edition III, to show that the used oil does not contain significant concentrations of halogenated hazardous constituents listed in Appendix VIII of 40 C.F.R. Part 261, as incorporated by reference at N.J.A.C. 7:26G-5.

i. The rebuttable presumption does not apply to metalworking oils/fluids containing chlorinated paraffins, if they are processed, through a tolling agreement, to reclaim metalworking oils/fluids. The presumption does apply to metalworking oils/fluids if such oils/fluids are recycled in any other manner, or disposed; or

ii. The rebuttable presumption does not apply to used oils contaminated with chlorofluorocarbons (CFCs) removed from refrigeration units where the CFCs are destined for reclamation. The rebuttable presumption does apply to used oils contaminated with CFCs that have been mixed with used oil from sources other than refrigeration units; and

4. If rebuttal is unsuccessful, hazardous waste shall be shipped off-site by a licensed New Jersey hazardous waste transporter as required by 40 C.F.R. 262.34, as incorporated by reference at N.J.A.C. 7:26G-6.

(e) The used oil management standards for used oil processors and re-refiners are as follows:

1. Used oil processor/re-refiners are subject to all applicable Spill Prevention, Control and Countermeasures (40 C.F.R. Part 112) and N.J.A.C. 7:1E in addition to the requirements of this section. Used oil processors/re-refiners are also subject to the Underground Storage Tank (40 C.F.R. Part 280 and N.J.A.C. 7:14B) standards for used oil stored in underground tanks whether or not the used oil exhibits any characteristics of hazardous waste, in addition to the requirements of this section as follows:

2. Used oil processors/re-refiners shall not store used oil in units other than tanks, containers, or units subject to regulation under 40 C.F.R. Parts 264 or 265, as incorporated by reference at N.J.A.C. 7:26G-8 or 9;

3. Containers and aboveground tanks used to store or process used oil at processing and re-refining facilities shall be:

i. In good condition (no severe rusting, apparent structural defects or deterioration); and

ii. Not leaking (no visible leaks);

4. Containers used to store or process used oil at processing and re-refining facilities shall be equipped with a secondary containment system meeting the following:

i. The secondary containment system shall consist of, at a minimum:

(1) Dikes, berms or retaining walls; and

(2) The floor shall cover the entire area within the dike, berm, or retaining wall; or

(3) An equivalent secondary containment system; and

ii. The entire containment system, including walls and floor, shall be sufficiently impervious to used oil to prevent any used oil released into the containment system from migrating out of the system to the soil, groundwater, or surface water;

5. Existing aboveground tanks used to store or process used oil at processing and re-refining facilities shall be equipped with a secondary containment system meeting the following:

i. The secondary containment system shall consist of, at a minimum:

(1) Dikes, berms or retaining walls; and

(2) The floor shall cover the entire area within the dike, berm, or retaining wall except areas where existing portions of the tank meet the ground; or

(3) An equivalent secondary containment system; and

ii. The entire containment system, including walls and floor, shall be sufficiently impervious to used oil to prevent any used oil released into the containment system from migrating out of the system to the soil, groundwater, or surface water;

6. New aboveground tanks used to store or process used oil at processing and re-refining facilities shall be equipped with a secondary containment system meeting the following:

i. The secondary containment system shall consist of, at a minimum:

(1) Dikes, berms or retaining walls; and

(2) The floor shall cover the entire area within the dike, berm, or retaining wall; or

(3) An equivalent secondary containment system; and

ii. The entire containment system, including walls and floor, shall be sufficiently impervious to used oil to prevent any used oil released into the containment system from migrating out of the system to the soil, groundwater, or surface water;

7. The following are the label standards for used oil transfer facilities:

i. Containers and aboveground tanks used to store or process used oil at processing and re-refining facilities shall be labeled or marked clearly with the words "Used Oil"; and

ii. Fill pipes used to transfer used oil into underground storage tanks at processing and re-refining facilities shall be labeled or marked clearly with the words "Used Oil";

8. Upon detection of a release of used oil to the environment not subject to the requirements of 40 C.F.R. Part 280, subpart F or N.J.A.C. 7:14B, an owner/operator shall perform the following cleanup steps:

i. Stop the release;

ii. Contain the released used oil;

iii. Clean up and manage properly the released used oil and other materials; and

iv. If necessary, repair or replace any leaking used oil storage containers or tanks prior to returning them to service; and

9. The closure standards for used oil processors and re-refiners are as follows:

i. Owners and operators who store or process used oil in aboveground tanks shall comply with the following requirements:

(1) At closure of a tank system, the owner or operator shall remove or decontaminate used oil residues in tanks, contaminated containment system components, contaminated soils, and structures and equipment contaminated with used oil, and manage them as hazardous waste, unless the materials are not hazardous waste under 40 C.F.R. Parts 260 through 266, 268, 270 and 124, as incorporated by reference at N.J.A.C. 7:26G; and

(2) If the owner or operator demonstrates that not all contaminated soils can be practicably removed or decontaminated as required in 8i(1) above, then the owner or operator shall close the tank system and perform post-closure care in accordance with the closure and post-closure care requirements that apply to hazardous waste landfills found at 40 C.F.R. 265.310, as incorporated by reference at N.J.A.C. 7:26G-9.

ii. Owners and operators who store used oil in containers shall comply with the following requirements:

(1) At closure, containers holding used oils or residues of used oil shall be removed from the site; and

(2) The owner or operator shall remove or decontaminate used oil residues, contaminated containment system components, contaminated soils, and structures and equipment contaminated with used oil, and manage them as hazardous waste, unless the materials are not hazardous waste under 40 C.F.R. Part 261, as incorporated by reference at N.J.A.C. 7:26G-5.

(f) The following are the analysis plan standards for used oil processors and re-refiners:

1. Owners or operators of used oil processing and re-refining facilities shall develop and follow a written analysis plan describing the procedures that will be used to comply with the analysis requirements of N.J.A.C. 7:26A-6.7(d) and, if applicable, N.J.A.C. 7:26A-6.9(c). The owner or operator shall keep the plan at the facility as provided in (f)2 and 3 below.

2. At a minimum, where the owner or operators is making a rebuttable presumption for used oil in N.J.A.C. 7:26A-6.7(d), the plan shall specify the following:

i. Whether sample analyses or knowledge of the halogen content of the used oil will be used to make this determination,

ii. If sample analyses are used to make this determination, the plan shall contain the following:

(1) The sampling method used to obtain representative samples to be analyzed. A representative sample may be obtained using one of the sampling methods in Appendix I of 40 C.F.R. Part 261, as incorporated by reference at N.J.A.C. 7:26G-5 as follows:

(A) One of the sampling methods in Appendix I of 40 C.F.R. Part 261, as incorporated by reference at N.J.A.C. 7:26G-5; or

(B) A method shown to be equivalent under 40 C.F.R. 260.2 and 260.21, as incorporated by reference at N.J.A.C. 7:26G-4;

(2) The frequency of sampling to be performed, and whether the analysis will be performed on-site or off-site; and

(3) The methods used to analyze used oil for the parameters specified in N.J.A.C. 7:26A-6.7(d); and

iii. The type of information that will be used to determine the halogen content of the used oil; and

3. At a minimum, the plan shall specify the following if N.J.A.C. 7:26A-6.8(d) is applicable:

i. Whether sample analyses or other information will be used to make this determination;

ii. If sample analyses are used to make this determination, the plan shall contain the following:

(1) The sampling method used to obtain representative samples to be analyzed. A representative sample may be obtained using either:

(A) One of the sampling methods in Appendix I of 40 C.F.R. Part 261, as incorporated by reference at N.J.A.C. 7:26G-5; or

(B) A method shown to be equivalent under N.J.A.C. 7:26G-4;

(2) Whether used oil will be sampled and analyzed prior to or after any processing/re-refining;

(3) The frequency of sampling to be performed, and whether the analysis will be performed on-site or off-site; and

(4) The methods used to analyze used oil for the parameters specified in N.J.A.C. 7:26A-6.8(d); and

iii. The type of information that will be used to make the on-specification used oil fuel determination.

(g) The used oil tracking standards for used oil processors and re-refiners are as follows:

1. Used oil processors/re-refiners shall keep a record of each used oil shipment accepted for processing/re-refining. These records may take the form of a log, invoice, manifest, bill of lading or other shipping documents. Records for each shipment shall include the following information:

i. The name and address of the transporter who delivered the used oil to the processor/re-refiner;

ii. The name and address of the generator or processor/re-refining from whom the used oil was sent for processing/re-refining;

iii. The EPA identification number of the transporter who delivered the used oil to the processor/re-refiner;

iv. The EPA identification number (if applicable) of the generator or processor/re-refiner from whom the used oil was sent for processing/re-refining;

v. The quantity of used oil accepted; and

vi. The date of acceptance;

2. Used oil processor/re-refiners shall keep a record of each shipment of used oil that is shipped to a used oil burner, processor/re-refiner, or disposal facility. These records may take the form of a log, invoice, manifest, bill of lading or other shipping documents. Records for each shipment shall include the following information:

i. The name and address of the transporter who delivers the used oil to the burner, processor/re-refiner or disposal facility;

ii. The name and address of the burner, processor/re-refiner or disposal facility who will receive the used oil;

iii. The EPA identification number of the transporter who delivers the used oil to the burner, processor/re-refiner or disposal facility;

iv. The EPA identification number of the burner, processor/re-refiner, or disposal facility who will receive the used oil;

v. The quantity of used oil shipped; and

vi. The date of shipment; and

3. The records described in (g)1 and 2 above shall be maintained on-site for at least three years.

(h) The following are the operating record and reporting standards for used oil processors and re-refiners:

1. The owner or operator shall keep a written operating record at the facility. The following information shall be recorded, as it becomes available, and maintained in the operating record until closure of the facility:

i. Records and results of used oil analyses performed as described in the analysis plan required under N.J.A.C. 7:26A-6.7(f); and

ii. Summary reports and details of all incidents that require implementation of the contingency plan an specified in N.J.A.C. 7:26A-6.7(c)2;

2. A used oil processor/re-refiner shall report to the Department, in the form of a letter, on a biennial basis (by March 1 of each even numbered year), the following information concerning used oil activities during the previous calendar year:

i. The EPA identification number, name, and address of the processor/re-refiner;

ii. The calendar year covered by the report; and

iii. The quantities of used oil accepted for processing/re-refining and the manner in which the used oil is processed/re-refined, including the specific processes employed.

(i) Used oil processors/re-refiners who initiate shipments of used oil off-site shall ship the used oil using a used oil transporter who has obtained an EPA identification number.

(j) Owners and operators who generate residues from the storage, processing, or re-fining of used oil shall manage the residues as specified in N.J.A.C. 7:26A-6.1(a)5.

7:26A-6.8 Standards for used oil burners who burn off-specification used oil for energy recovery

(a) The following are the applicability standards for used oil burners:

1. The requirements of this section apply to used oil burners except as specified in (a)1i and ii below. A used oil burner is a facility where used oil not meeting the specification requirements in N.J.A.C. 7:26A-6.2 is burned for energy recovery in devices identified in (b)1 below. Facilities burning used oil for energy recovery under the following conditions are not subject to this section:

i. The used oil is burned by the generator in an on-site space heater under the provisions of N.J.A.C. 7:26A-6.4(e); or

ii. The used oil is burned by a processor/re-refiner for purposes of processing used oil, which is considered burning incidentally to used oil processing.

2. Used oil burners who conduct the following activities are also subject to the requirements of other applicable provisions of this subchapter as follows:

i. Burners who generate used oil shall also comply with N.J.A.C. 7:26A-6.4;

ii. Burners who transport used oil shall also comply with N.J.A.C. 7:26A-6.6;

iii. Except as provided in N.J.A.C. 7:26A-6.8(b)2, burners who process or re-refine used oil shall also comply with N.J.A.C. 7:26A-6.7;

iv. Burners who direct shipments of off-specification used oil from their facility to a used oil burner or first claim that used oil that is to be burned for energy recovery meets the used oil fuel specifications set forth in N.J.A.C. 7:26A-6.2 shall also comply with N.J.A.C. 7:26A-6.9; and

v. Burners who dispose of used oil shall comply with N.J.A.C. 7:26A-6.10; and

3. This section does not apply to persons burning used oil that meets the used oil fuel specification of N.J.A.C. 7:26A-6.2, provided that the burner complies with the requirements of N.J.A.C. 7:26A-6.9.

(b) Restrictions on burning used oil are as follows:

1. Off-specification used oil fuel shall not be burned for energy recovery except in the devices specified below and provided a "Permit to Construct, Install or Alter Control Apparatus or Equipment and Certificate to Operate Control Apparatus or Equipment" has been issued for the device in accordance with the provisions of N.J.A.C. 7:27-8 only in the following devices:

i. Industrial furnaces as defined in N.J.A.C. 7:26-1.4;

ii. Boilers, as defined in N.J.A.C. 7:26-1.4, that are identified as follows:

(1) Industrial boilers located on the site of a facility engaged in a manufacturing process where substances are transformed into new products, including the component parts of products, by mechanical or chemical processes; or

(2) Utility boilers used to produce electric power, steam, heated or cooled air, or other gases or fluids for sale;

iii. Hazardous waste incinerators subject to regulation under 40 C.F.R. Parts 264 or 265, as incorporated by reference at N.J.A.C. 7:26G-8 or 9;

2. With the following exception, used oil burners shall not process used oil unless they also comply with the requirements of N.J.A.C. 7:26A-6.7:

i. Used oil burners may aggregate off-specification used oil with virgin oil or on-specification used oil for purposes of burning, but shall not aggregate for purposes of producing on-specification used oil.

(c) Notification standards for used burners are as follows:

1. Used oil burners which have not previously complied with the notification requirements of RCRA section 3010 shall comply with these requirements and obtain an EPA identification number;

2. A used oil burner who has not received an EPA identification number may obtain one by notifying the Regional Administrator of EPA Region II of their used oil activity by submitting either:

i. A completed EPA Form 8700-12 (To obtain EPA Form 8700-12 call RCRA/Superfund Hotline at 1-800-424-9346 or 703-920-9810); or

ii. A letter requesting an EPA identification number. Call the RCRA/Superfund Hotline to determine where to send a letter requesting an EPA identification number. The letter should include the following information:

(1) The burner company name;

(2) The owner of the burner company;

(3) The mailing address for the burner;

(4) The name and telephone number for the burner point of contact;

(5) The type of used oil activity; and

(6) The location of the burner facility.

(d) The rebuttable presumption standards for used oil burners are as follows:

1. To ensure that used oil managed at a used oil burner facility is not hazardous waste under the rebuttable presumption of N.J.A.C. 7:26A-6.1(a) 2i(2), a used oil burner shall determine whether the total halogen content of used oil managed at the facility is equal to and less than or more than 1,000 ppm;

2. The used oil burner shall determine if the used oil contains equal to and less than or more than 1,000 ppm total halogens by:

i. Testing the used oil;

ii. Applying knowledge of the halogen content of the used oil in light of the materials or processes used; or

iii. If the used oil has been received from a processor/refiner subject to regulation under N.J.A.C. 7:26A-6.7, using information provided by the processor/re-refiner;

3. If the used oil contains more than or equal to 1,000 ppm total halogens, it is presumed to be a hazardous waste because it has been mixed with halogenated hazardous waste listed in 40 C.F.R. Part 261, subpart D, as incorporated by reference at N.J.A.C. 7:26G-5. The used oil owner or operator may rebut the presumption, except as set forth below by demonstrating that the used oil does not contain hazardous waste (for example, by using an analytical method from SW-846, Edition III, or later) to show that the used oil does not contain significant concentrations of halogenated hazardous constituents listed in Appendix VIII of 40 C.F.R. Part 261, as incorporated by reference at N.J.A.C. 7:26G-5).

i. The rebuttable presumption does not apply to metalworking oils/fluids containing chlorinated paraffins, if they are processed, through a tolling arrangement as described in N.J.A.C. 7:26A-6.4(e)3 to reclaim metalworking

oils/fluids. The presumption does apply to metalworking oils/fluids if such oils/fluids are recycled in any other manner, or disposed.

ii. The rebuttable presumption does not apply to used oils contaminated with chlorofluorocarbons (CFCs) removed from refrigeration units where the CFCs are destined for reclamation. The rebuttable presumption does apply to used oils contaminated with CFCs that have been mixed with used oil from sources other than refrigeration units.

4. Records of analyses conducted or information used to comply with (d)1 through 3 above shall be maintained by the burner for at least three years.

(e) The used oil storage standards for used oil burners are as follows:

1. Used oil burners are subject to all applicable Spill Prevention, Control and Countermeasures (40 C.F.R. Part 112) and N.J.A.C. 7:1E in addition to the requirements of this section. Used oil burners are also subject to the Underground Storage Tank (40 C.F.R. Part 280 and N.J.A.C. 7:14B) standards for used oil stored in underground tanks whether or not the used oil exhibits any characteristics of hazardous waste, in addition to the requirements of this subchapter.

2. Used oil burners shall not store used oil in units other than tanks, containers, or units subject to regulation under 40 C.F.R. Parts 264 or 265, as incorporated by reference at N.J.A.C. 7:26G-8 or 9;

3. Containers and aboveground tanks used to store oil at burner facilities shall be:

i. In good condition (no severe rusting, apparent structural defects or deterioration); and

ii. Not leaking (no visible leaks);

4. Containers used to store used oil at burner facilities shall be equipped with a secondary containment system meeting the following:

i. The secondary containment system shall consist of, at a minimum:

(1) Dikes, berms or retaining walls; and

(2) The floor shall cover the entire area within the dike, berm, or retaining wall; and

ii. The entire containment system, including walls and floor, shall be sufficiently impervious to used oil to prevent any used oil released into the containment system from migrating out of the system to the soil, groundwater, or surface water.

5. Existing aboveground tanks used to store used oil at burner facilities shall be equipped with a secondary containment system meeting the following.

i. The secondary containment system shall consist of, at a minimum:

(1) Dikes, berms or retaining walls; and

(2) The floor shall cover the entire area within the dike, berm, or retaining wall except areas where existing portions of the tank meet the ground; or

(3) An equivalent secondary containment system; and

ii. The entire containment system, including walls and floor, shall be sufficiently impervious to used oil to prevent any used oil released into the containment system from migrating out of the system to the soil, groundwater, or surface water.

6. New aboveground tanks used to store used oil at burner facilities shall be equipped with a secondary containment system meeting the following:

i. The secondary containment system shall consist of, at a minimum:

(1) Dikes, berms or retaining walls; and

(2) The floor shall cover the entire area within the dike, berm, or retaining wall; or

(3) An equivalent secondary containment system; and

ii. The entire containment system, including walls and floor, shall be sufficiently impervious to used oil to prevent any used oil released into the containment system from migrating out of the system to the soil, groundwater, or surface water.

7. The labeling standards for used oil burners are as follows:

i. Containers and aboveground tanks used to store used oil at burner facilities shall be labeled or marked clearly with the words "Used Oil"; and

ii. Fill pipes used to transfer used oil into underground storage tanks at burner facilities shall be labeled or marked clearly with the words "Used Oil".

8. Upon detection of a release of used oil to the environment not subject to the requirements of 40 C.F.R. Part 280 subpart F or N.J.A.C. 7:14B, a burner shall perform the following cleanup steps:

i. Stop the release;

ii. Contain the released used oil;

iii. Clean up and manage properly the released used oil and other materials; and

iv. If necessary, repair or replace any leaking used oil storage containers or tanks prior to returning them to service.

(f) The following are the tracking standards for used oil burners:

1. Used oil burners shall keep a record of each used oil shipment accepted for burning. These records may take the form of a log, invoice, manifest, bill of lading, or other shipping documents. Records for each shipment shall include the following information:

i. The name and address of the transporter who delivered the used oil to the burner;

ii. The name and address of the generator or processor/re-refiner from whom the used oil was sent to the burner;

iii. The EPA identification number of the transporter who delivered the used oil to the burner;

iv. The EPA identification number (if applicable) of the generator or processor/re-refiner from whom the used oil was sent to the burner;

v. The quantity of used oil accepted; and

vi. The date of acceptance.

2. The records described in (f)1 above shall be maintained on-site for at least three years.

(g) The notice standards for used oil burners are as follows:

1. Before a burner accepts the first shipment of off-specification used oil fuel from a generator, transporter, or processor/re-refiner, the burner shall provide to the generator, transporter, or processor/re-refiner a one-time written and signed notice certifying that:

i. The burner has notified EPA stating the location and general description of his used oil management activities; and

ii. The burner will burn the used oil only in an industrial furnace or boiler identified in (b) above;

2. The certification described in (g)1 above shall be maintained for three years from the date the burner last receives shipment of off-specification used oil from that generator, transporter, or processor/re-refiner.

(h) Burners who generate residues from the storage or burning of used oil shall manage the residues as specified in N.J.A.C. 7:26A-6.1(a)5.

7:26A-6.9 Standards for used oil fuel marketers

(a) The following are the applicability standards for used oil fuel marketers:

1. Any person who conducts either of the following activities is subject to the requirements of this section:

i. Directs a shipment of off-specification used oil from their facility to a used oil burner; or

ii. First claims that used oil that is to be burned for energy recovery meets the used oil fuel specifications set forth in N.J.A.C. 7:26A-6.2;

2. The following persons are not used oil fuel marketers subject to this section:

i. Used oil generators, and transporters who transport used oil received only from generators, unless the generator or transporter directs a shipment of off-specification used oil from their facility to a used oil burner. However, processors/re-refiners who burn some used oil fuel for purposes of processing are considered to be burning incidentally to processing. Thus, generators and transporters who direct shipments of off-specification used oil to processor/re-refiners who incidentally burn used oil are not marketers subject to this section;

ii. Persons who direct shipments of on-specification used oil and who are not the first person to claim the oil meets the used oil fuel specifications of N.J.A.C. 7:26A-6.2; and

3. Any person subject to the requirements of this section shall also comply with one of the following:

i. The standards for used oil generators at N.J.A.C. 7:26A-6.4;

ii. The standards for used oil transporters and transfer facilities at N.J.A.C. 7:26A-6.6;

iii. The standards for used oil processors and re-refiners at N.J.A.C. 7:26A-6.7; or

iv. The standards for used oil burners who burn off-specification used oil for energy recovery at N.J.A.C. 7:26A-6.8.

(b) A used oil fuel marketer may initiate a shipment of off-specification used oil only to a used oil burner who:

1. Has an EPA identification number; and

2. Burns the used oil in an industrial furnace or boiler identified in N.J.A.C. 7:26A-6.8(b)1.

(c) The standards for on-specification used oil fuel are as follows:

1. A used oil generator, transporter, processor/re-refiner, or burner shall determine that used oil that is to be burned for energy recovery meets the fuel specifications of N.J.A.C. 7:26A-6.2 by performing analyses or obtaining copies of analyses or other information documenting that each shipment of used oil fuel meets the specifications. Such used oil that is to be burned for energy recovery is not subject to further regulation under this subchapter. A copy of this analysis or other information shall be provided to the facility receiving the shipment of used oil fuel upon request by the facility; and

2. A used oil generator, transporter, processor/re-refiner, or burner who first claims that used oil that is to be burned for energy recovery meets the specifications for used oil fuel under N.J.A.C. 7:26A-6.2, shall keep copies of analyses of the used oil (or other information used to make the determination) for three years.

(d) The notification standards for used oil fuel marketers are as follows:

1. A used oil fuel marketer subject to the requirements of this section shall comply with these requirements and obtain an EPA identification number unless they have already notified the USEPA of its hazardous waste activities in accordance with the requirements of RCRA section 3010;

2. A used oil marketer who has not received an EPA identification number may obtain one by notifying the Regional Administrator of USEPA Region II of their used oil activity by submitting either:

i. A completed EPA Form 8700-12 (To obtain EPA Form 8700-12 call the RCRA/Superfund Hotline at 1-800-424-9346 or 703-920-9810); or

ii. A letter requesting an EPA identification number. Call the RCRA/Superfund Hotline to determine where to send a letter requesting an EPA identification number. The letter should include the following information:

(1) The marketer company name;

(2) The owner of the marketer;

(3) The mailing address for the marketer;

(4) The name and telephone number for the marketer point of contact; and

(5) The type of used oil activity (that is, generator directing shipments of off-specification used oil to a burner).

(e) The tracking standards for used oil fuel marketers are as follows:

1. Any used oil fuel marketer who directs a shipment of off-specification used oil, shall prepare and send the receiving facility an invoice containing the following information:

i. An invoice number;

ii. The used oil fuel marketer's own EPA identification number and the EPA identification number of the receiving facility;

iii. The names and addresses of the shipping and receiving facilities;

iv. The quantity of off-specification used oil to be delivered;

v. The date(s) of shipment or delivery; and

vi. The following statement: "This used oil is subject to NJDEP regulation under N.J.A.C. 7:26A-6";

2. Any used oil fuel marketer who directs a shipment of off-specification used oil to a burner shall keep a record of each shipment of used oil to the used oil burner. These records may take the form of a log, invoice, manifest, bill of lading or other shipping documents. Records for each shipment shall include the following information:

i. The name and address of the transporter who delivers the used oil to the burner;

ii. The name and address of the burner who will receive the used oil;

iii. The EPA identification number of the transporter who delivers the used oil to the burner;

iv. The EPA identification number of the burner;

v. The quantity of used oil shipped; and

vi. The date of shipment;

3. A generator, transporter, processor/re-refiner, or burner who first claims that used oil that is to be burned for energy recovery meets the fuel specifications under N.J.A.C. 7:26A-6.2 shall keep a record of each shipment of used oil to an on-specification used oil burner. Records for each shipment shall include the following information:

i. The name and address of the facility receiving the shipment;

ii. The quantity of used oil fuel delivered;

iii. The date of shipment or delivery; and

iv. A cross-reference to the record of used oil analysis used to make the determination that the oil meets the specification as required under N.J.A.C. 7:26A-6.9(c)1.

4. The records described in (e)2 and 3 above shall be maintained on site for at least three years.

(f) The following are the notice standards for used oil marketers:

1. Before a used oil generator, transporter, or processor/re-refiner directs the first shipment of off-specification used oil fuel to a burner, her or she shall obtain a one-time written and signed notice from the used oil burner certifying that:

i. The burner has notified the Department stating the location and general description of used oil management activities; and

ii. The burner will burn the off-specification used oil only in an industrial furnace or boiler identified in N.J.A.C. 7:26A-6.8(b)1; and

2. The certification described (f)1 above shall be maintained for three years from the date the last shipment of off-specification used oil is shipped to the burner.

7:26A-6.10 Prohibition on the use of used oil as a dust suppressant and disposal of used oil

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(a) The requirements of this section apply to all used oils that cannot be recycled and are therefore being disposed.

(b) The following are the disposal standards for used oil:

1. Used oils that are identified as a hazardous waste and cannot be recycled in accordance with this subchapter shall be managed in accordance with the hazardous waste management requirements of 40 C.F.R. Parts 260 through 266, 268, 270 and 124, as incorporated by reference at N.J.A.C. 7:26G.

2. Used oils that are not hazardous wastes and cannot be recycled under this subchapter shall be disposed in accordance with the solid waste management requirements of N.J.A.C. 7:26.

(c) The use of used oil as a dust suppressant is prohibited.

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TITLE 7. ENVIRONMENTAL PROTECTION
CHAPTER 26A. RECYCLING RULES
SUBCHAPTER 7. STANDARDS FOR THE MANAGEMENT OF CLASS D UNIVERSAL WASTE

N.J.A.C. 7:26A-7.1 (2015)

7:26A-7.1 Incorporation by reference: standards for the management of universal waste

(a) This subchapter prospectively incorporates by reference up to July 1, 1998 and prospectively incorporates by reference 40 C.F.R. Part 273, Federal Regulations on Universal Waste, and its appendices, as amended and supplemented, except as provided in (b) and (c) below.

(b) The following provisions of 40 C.F.R. Part 273 are not incorporated by reference. If there is a cross reference to a Federal citation specifically entirely excluded from incorporation, then the cross referenced citation is not incorporated by virtue of the cross reference, and is also excluded from the process of prospective incorporation by reference:

1. 40 C.F.R. Part 273.6, the definition of "universal waste." The definition at N.J.A.C. 7:26A-1.3 shall apply.

(c) The following provisions of 40 C.F.R. Part 273 are incorporated by reference with the specified changes:

1. 40 C.F.R. 273.1(a), add as (5) and (6):

"(5) Oil-based finishes

(6) Consumer electronics";

2. 40 C.F.R. 273.1(b), add paragraph (c), State Definitions

The following words and terms, when used in this chapter shall have the following meanings unless the context clearly indicates otherwise:

i. "Administrator" as used in the provisions of the Code of Federal Regulations which are incorporated by reference, means the Commissioner of the New Jersey Department of Environmental Protection or his designee, except where specifically noted, then it means the Administrator of the United States Environmental Protection Agency or his or her designee.

ii. "EPA," "EPA Regional Office" and "Regional EPA Office" as used in the provisions of the Code of Federal Regulations which are incorporated by reference, means the New Jersey Department of Environmental Protection, except when specifically noted, then it means the United States Environmental Protection Agency.

iii. "Department of Transportation" or "DOT" means the "U.S. Department of Transportation."

3. 40 C.F.R. 273.1(b), after "regulation under 40 C.F.R. Parts 260 through 272" add "as incorporated by reference at N.J.A.C. 7:26G";

4. 40 C.F.R. 273.6 Definitions;

i. "Large Quantity Handler of Universal Waste," replace parenthetical text "(batteries, pesticides, or thermostats, calculated collectively)" with the phrase "calculated collectively";

ii. "Small Quantity Handler of Universal Waste," replace parenthetical text "(batteries, pesticides, or thermostats, calculated collectively)" with the phrase "calculated collectively";

5. 40 C.F.R. 273.18(g) and 273.38(g), replace "appropriate regional EPA office" with "the Department of Environmental Protection's Division of Solid and Hazardous Waste" and replace "EPA regional office" with "Division of Solid and Hazardous Waste";

6. 40 C.F.R. 273.32(b)(4) and (5), add "Universal waste shall include all State listed universal wastes, not only those given as examples."

7. 40 C.F.R. 273.60(b), add paragraph (c): "The owner or operator of a destination facility located in the State of New Jersey that recycles universal waste shall obtain, from the Department, prior written approval to operate a Class D recycling center pursuant to N.J.A.C. 7:26A-3 et seq."

(d) The term "EPA" as used in "EPA Identification Number," "EPA Acknowledgment of Consent" and the "notification to EPA as required by 40 C.F.R. Part 165," as used in the Code of Federal Regulations which are incorporated herein by reference, means the United States Environmental Protection Agency.

(e) The following Class D recyclable materials, which are hazardous waste, may either be handled as hazardous waste in accordance with the provisions of N.J.A.C. 7:26G, or as universal waste in accordance with the provisions contained in this chapter:

1. Lamps (light bulbs);

2. Oil-based finishes;

3. Batteries;

4. Mercury-containing equipment; and

5. Consumer electronics.

(f) Universal wastes are also Class D recyclable materials when destined for recycling in New Jersey.

7:26A-7.2 State-listed universal wastes; applicability

(a) The Department, pursuant to 40 C.F.R. 273.80 and associated USEPA guidance, herein lists universal wastes additional to the Federal universal waste program at 40 C.F.R. Part 273. The following sections of this chapter set forth standards for the handling of the following additional wastes that may be managed as universal waste in New Jersey, and apply to all persons handling the additional wastes in (a)1 and 2 below.

1. Oil-based finishes, as defined in N.J.A.C. 7:26A-1.3, except the following:

i. Oil-based finishes that are not yet discarded, or designated for disposal; and

ii. Oil-based finishes that are not hazardous wastes. An oil-based finish is a hazardous waste if it exhibits one or more of the characteristics identified in 40 C.F.R. Part 261, subpart C as incorporated by reference at N.J.A.C. 7:26G-5.

2. Consumer electronics, as defined in N.J.A.C. 7:26A-1.3, except the following:

i. Consumer electronics that are not yet discarded, or designated for disposal; and

ii. Consumer electronics that are not hazardous wastes. A consumer electronic is a hazardous waste if it exhibits one or more of the characteristics identified in 40 C.F.R. Part 261, subpart C as incorporated by reference at N.J.A.C. 7:26G-5.

7:26A-7.3 Mixtures of universal waste with waste of other classification

(a) Mixtures of universal waste and hazardous waste are subject to regulation as hazardous waste under 40 C.F.R. Parts 260 through 266, 268, 270, and 124, as incorporated by reference at N.J.A.C. 7:26G.

(b) Mixtures of universal waste and household hazardous waste or conditionally exempt small quantity generator hazardous waste regulated under 40 C.F.R. 261.5, as incorporated by reference at N.J.A.C. 7:26G-5, are subject to regulation as universal waste under this subchapter.

7:26A-7.4 Management standards for small quantity handlers

(a) A small quantity handler of the State-listed universal wastes in N.J.A.C. 7:26A-7.2 shall comply with all requirements of 40 C.F.R. Part 273 Subpart b pertaining generally to all universal wastes.

(b) A small quantity handler of universal waste shall manage consumer electronics in a way that prevents releases of any universal waste or component of a universal waste to the environment, as follows:

1. A small quantity handler of universal waste shall contain any consumer electronic that shows evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions in a container. The container

shall be closed, structurally sound, compatible with the contents of the consumer electronic, and shall lack evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions;

2. A small quantity handler of universal waste may disassemble ("demanufacture") consumer electronics into its marketable components; this shall exclude any processing or treatment (examples: including, but not limited to, crushing, shredding or thermally altering) of these components; and

3. A small quantity handler of universal waste who generates solid waste as a result of the activities listed at N.J.A.C. 7:26A-7.4(b), shall determine whether the solid waste exhibits a characteristic of hazardous waste identified in 40 C.F.R. Part 261, subpart C as incorporated by reference at N.J.A.C. 7:26G-5.

(c) A small quantity handler of universal waste shall manage oil-based finishes, in its original or otherwise appropriate and labeled packaging, in a way that prevents releases of any universal waste or component of a universal waste to the environment, as follows:

1. A small quantity handler of universal waste shall contain any oil-based finishes that show evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions in a container. The container shall be closed, structurally sound, compatible with the contents of the oil-based finishes, and shall lack evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions.

2. A small quantity handler of universal waste shall not in any way process any oil-based finishes (examples: including, but not limited to, opening, repackaging, blending, filtering). A small quantity handler who wants to process oil-based finishes shall apply for a Class D recycling center approval in accordance with N.J.A.C. 7:26A-3.

3. A small quantity handler of universal waste shall manage containers or packages containing oil-based finishes in an area equipped with a secondary containment system meeting the following requirements:

i. The secondary containment system shall consist of, at a minimum:

(1) Dikes, berms, or retaining walls, and a floor which shall cover the entire area within the dike, berm, or retaining walls; or

(2) A secondary containment system equivalent to (c)3i(1) above; and

ii. The entire secondary containment system, including walls and floor, shall be sufficiently impervious to prevent any universal wastes released into the containment system from migrating out of the system to the soil, groundwater or surface water.

7:26A-7.5 Management standards for large quantity handlers

(a) A large quantity handler of the State-listed universal wastes in N.J.A.C. 7:26A-7.2 shall comply with all requirements of 40 C.F.R. 273 Subpart C pertaining generally to all universal wastes.

(b) A large quantity handler of universal waste shall manage consumer electronics in a way that prevents releases of any universal waste or component of a universal waste to the environment, as follows:

1. A large quantity handler of universal waste shall contain any consumer electronic that shows evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions in a container. The container shall be closed, structurally sound, compatible with the contents of the consumer electronics, and shall lack evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions; and

2. A large quantity handler of universal waste may not conduct disassembling ("demanufacturing") or processing (examples: including, but not limited to, crushing, shedding or thermally altering) activities on consumer electronics. A large quantity handler who wants to demanufacture or process consumer electronics shall apply for a Class D Approval in accordance with N.J.A.C. 7:26A-3.

(c) A large quantity handler of universal waste shall manage oil-based finishes in a way that prevents releases of any universal waste or component of a universal waste to the environment, as follows:

1. A large quantity handler of universal waste shall manage oil-based finishes in its original packaging, unless the large quantity handler is repackaging oil-based finishes in accordance with (c)5 below.

2. A large quantity handler of universal waste shall contain any oil-based finishes that show evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions in a container. The container shall be closed, structurally sound, compatible with the contents of the oil-based finishes, and shall lack evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions; and

3. A large quantity handler of universal waste may not conduct processing (examples: including, but not limited to, filtering, blending, or tinting) activities on oil-based finishes. A large quantity handler who wants to process oil-based finishes shall apply for a Class D recycling center approval in accordance with N.J.A.C. 7:26A-3.

4. A large quantity handler of universal waste shall manage containers or packages containing oil-based finishes in an area equipped with a secondary containment system meeting the following requirements:

i. The secondary containment system shall consist of, at a minimum:

(1) Dikes, berms, or retaining walls, and a floor which shall cover the entire area within the dike, berm, or retaining walls; or

(2) A secondary containment system equivalent to (c)4i(1) above; and

ii. The entire secondary containment system, including walls and floor, shall be sufficiently impervious to prevent any universal wastes released into the containment system from migrating out of the system to the soil, groundwater or surface water.

5. A large quantity handler of universal waste may repackage oil-based finishes (that is, open containers of oil-based finishes and transfer the contents into other containers or tanks) provided that:

i. Containers and tanks used to used to hold oil-based finishes shall be in good condition (no severe rusting, apparent structural defects or deterioration) and not leaking (no visible leaks);

ii. Containers and tanks holding oil-based finishes shall be kept closed during storage, except when it is necessary to add or remove oil-based finishes; and

iii. Containers or tanks holding oil-based finishes shall be equipped with a secondary containment system meeting (c)4i and ii above.

(d) A large quantity handler of universal waste shall submit a report to the Department in the form of a letter, by March 1st, of the types and amounts of universal waste which were received, stored and shipped in the preceding calendar year. The report shall also indicate the municipality of origin of any universal waste that was shipped out-of-State for recycling. This report shall be submitted to the following address:

New Jersey Department of Environmental Protection
Division of Solid and Hazardous Waste
Bureau of Recycling and Hazardous Waste Management
401 East State Street, 2nd Floor, West Wing
P.O. Box 420, Mail Code 401-02C
Trenton, NJ 08625-0420

7:26A-7.6 Standards for universal waste transporters

Transporters of State-listed universal wastes shall comply with the Federal requirements for Federally listed universal wastes at 40 C.F.R. Part 273, Subpart D, Standards for Universal Waste Transporters, at 40 C.F.R. 273.50 through 273.56 and 40 C.F.R. Subpart F, Import Requirements, at 40 C.F.R. 273.70.

7:26A-7.7 Labeling of containers of additional universal wastes

(a) Universal waste consumer electronics devices shall be clearly labeled or marked clearly, individually or by closed container with the following phrase: "Universal Waste--Consumer Electronics."

(b) A container (or multiple container package unit), tank, transport vehicle or other vessel in which oil-based waste finishes contained, shall be labeled or marked clearly with the following phrase: "Universal Waste--Oil-based Finish."

7:26A-7.8 Standards for the processing of universal waste at recycling centers for Class D recyclable materials

Processors of universal wastes, both those listed Federally at 40 C.F.R. 273.9 and those listed by the State of New Jersey at N.J.A.C. 7:26A-7.2, shall comply with the design and operating standards at N.J.A.C. 7:26A-4.6.

7:26A-7.9 Petitions to designate other wastes as universal wastes

(a) Any person may petition USEPA for inclusion of new materials in the Federal universal waste program set forth at 40 C.F.R. Part 273. Procedures may be found at 40 C.F.R. Part 273, Subpart G, specifically, 40 C.F.R. 273.80(a) et seq.

(b) Pursuant to N.J.S.A. 52:14b-4(f) and N.J.A.C. 7:1D-1.1, any person may petition the Department of Environmental Protection for the inclusion of new materials in the State's universal waste program. Petitioners shall send all petitions to:

Office of Legal Affairs

Department of Environmental Protection

Attn: Rulemaking Petitions

401 East State Street, 7th Floor, West Wing

P.O. Box 402, Mail Code 401-04L

Trenton, NJ 08625-0402

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TITLE 7. ENVIRONMENTAL PROTECTION
CHAPTER 26A. RECYCLING RULES
SUBCHAPTER 8. REQUIREMENTS FOR TRANSPORTERS OF SOURCE SEPARATED MATERIALS

N.J.A.C. 7:26A-8.1 (2009)

§ 7:26A-8.1 Reporting requirements

All transporters of source separated recyclable materials transported to manufacturers and recycling centers located in states other than New Jersey shall provide the county(ies) of origin (if requested) and all municipalities of origin, by February 1 of each year, a recycling tonnage report covering all such source separated materials transported the previous calendar year. The report shall detail the municipality of origin, the name and location of the manufacturer or recycling center and the amount of each source separated recyclable material, expressed in gallons, tons or cubic yards, brought to each manufacturer or recycling center from each specific municipality of origin. Those persons specifying this information in cubic yards shall also indicate the conversion ratio of the materials from cubic yards to tons.

7:26A-8.2 Exemptions

(a) A transporter of source separated Class A, Class B, Class C, or noncombustible Class D recyclable materials is not subject to the regulations at N.J.A.C. 7:26-3 provided the recyclable material is being shipped for recycling to any of the following locations:

1. An in-State recycling center holding a general or limited approval pursuant to this chapter;

2. A site operating pursuant to an exemption from the requirement to obtain a general or limited approval in accordance with N.J.A.C. 7:26A-1.4;

3. A recycling depot. The transport of Class B materials to a recycling depot shall be limited to the transport of non-container plastic materials;

4. A manufacturer; or

5. A scrap processing facility.

(b) (Reserved)

7:26A-8.3 Prohibitions

(a) Transporters shall not mix source separated recyclable materials, whether designated by the county in which it is generated or not, with solid waste, for any purpose.

(b) The Department may grant a written exemption from this provision in cases of emergency.

7:26A-8.4 Transporters of recyclable materials

(a) No vehicle or transport unit used for the transportation of recyclable materials shall be used in a manner where littering, spillage, or emissions of recyclable materials will occur.

(b) All vehicles or transport units used to transport recyclable materials shall be maintained in good working condition to protect the health and safety of the workers and citizens of this State.

(c) Tarpaulins or covers shall be provided and used as needed while transporting recyclable materials.

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TITLE 7. ENVIRONMENTAL PROTECTION
CHAPTER 26A. RECYCLING RULES
SUBCHAPTER 9. CIVIL ADMINISTRATIVE PENALTIES AND REQUESTS FOR ADJUDICATORY HEARINGS

N.J.A.C. 7:26A-9.1 (2015)

§ 7:26A-9.1 Scope and purpose

(a) This subchapter shall govern the Department's assessment of civil administrative penalties for violations of the Solid Waste Management Act, N.J.S.A. 13:1E-1 et seq., as amended by the Mandatory Source Separation and Recycling Act, N.J.S.A. 13:1E-99.11 et seq., (hereinafter "the Act"), including violation of any rule promulgated, any administrative order, permit, license or other operating authority issued, any district solid waste management plan approved, pursuant to the Act, unless said violation is governed by the Solid Waste rules, N.J.A.C. 7:26. This subchapter shall also govern the procedures for requesting adjudicatory hearings on a notice of civil administrative penalty assessment or an administrative order.

(b) The Department may assess a civil administrative penalty of not more than $ 50,000 for each violation of each provision of the Act, or any rule promulgated, any administration order, permit, license or other operating authority issued, any district solid waste management plan approved, pursuant to the Act.

(c) Each day during which a violation continues shall constitute an additional, separate and distinct violation.

(d) Neither the assessment of a civil administrative penalty nor the payment of any such civil administrative penalty shall be deemed to affect the availability of any other enforcement provision provided for by N.J.S.A. 13:1E-1 et seq. or any other statute, in connection with the violation for which the assessment is levied.

(e) Nothing in this subchapter is intended to affect the Department's authority to revoke or suspend any permit, license or other operating authority issued under the Act. Specifically, the Department may revoke or suspend a permit, license or other operating authority, without regard to whether or not a civil administrative penalty has been or will be assessed pursuant to this subchapter.

(f) For purposes of this subchapter, any person who undertakes or performs an obligation imposed upon another person pursuant to the Act, or any rules promulgated, any administrative, order, permit, license or other operating authority issued, any district solid waste management plan approved, pursuant to the Act, may at the discretion of the Department be subject to a civil administrative penalty pursuant to this subchapter in the same manner and in the same amount as such other person.

7:26A-9.2 Procedures for assessment and payment of civil administrative penalties

(a) In order to assess a civil administrative penalty under the Act, for violation of the Act, or any rule promulgated, any administrative order, permit, license or other operating authority issued, any district solid waste management plan approved pursuant to the Act, the Department shall, by means of notice of civil administrative penalty assessment, notify the violator by certified mail (return receipt requested) or by personal service. The Department may, in its discretion, assess a civil administrative penalty for more than one violation in a single notice of civil administrative penalty assessment or in multiple notices of civil administrative penalty assessment. This notice of civil administrative penalty assessment shall:

1. Identify the section of the Act, rule, administrative order, permit, license, district solid waste management plan violated;

2. Concisely state the facts which constitute the violation;

3. Specify the amount of the civil administrative penalty to be imposed; and

4. Advise the violator of the right to request an adjudicatory hearing, pursuant to the procedures in N.J.A.C. 7:26A-9.3.

(b) Payment of the civil administrative penalty is due upon receipt by the violator of the Department's final order of a contested case or when a notice of civil administrative penalty assessment becomes a final order, as follows:

1. If no hearing is requested pursuant to N.J.A.C. 7:26A-9.3, the notice of civil administrative penalty assessment becomes a final order on the 21st day following receipt by the violator of the notice of civil administrative penalty assessment;

2. If a hearing is requested pursuant to N.J.A.C. 7:26A-9.3 and the Department denies the hearing request, a notice of civil administrative penalty assessment becomes a final order upon receipt by the violator of notice of such denial; or

3. If a hearing is requested pursuant to N.J.A.C. 7:26A-9.3 and an adjudicatory hearing is conducted, a notice of civil administrative penalty assessment becomes a final order upon receipt by the violator of a final order of a contested case.

7:26A-9.3 Procedures to request an adjudicatory hearing to contest an administrative order and/or a notice of civil administrative penalty assessment, and procedures for conducting adjudicatory hearings

(a) To request an adjudicatory hearing to contest an administrative order and/or a notice of civil administrative penalty assessment issued pursuant to the Act, the violator shall submit the following information in writing to the Department, at Office of Legal Affairs, ATTENTION: Adjudicatory Hearing Requests, Department of Environmental Protection, 401 East State Street, P.O. Box 402, Mail Code 401-04L, Trenton, New Jersey 08625-0402:

1. The name, address, telephone number of the violator and its authorized representative;

2. The violator's defenses, to each of the Department's findings of fact in the findings section of the administrative order or notice of civil administrative penalty assessment, stated in short and plain terms;

3. An admission or denial of each of the Department's findings of fact in the findings section of the administrative order or notice of civil administrative penalty assessment. If the violator is without knowledge or information sufficient to form a belief as to the truth of a finding, the violator shall so state and this shall have the effect of a denial. A denial shall fairly meet the substance of the findings denied. When the violator intends in good faith to deny only a part or a qualification of a finding, the violator shall specify so much of it as it true and material and deny only the remainder. The violator may not generally deny all of the findings but shall make all denials as specific denials of designated findings. For each finding that the violator denies, the violator shall allege the fact or facts as the violator believes such fact or facts to be;

4. Information supporting the request and specific reference to or copies of all written documents relied upon to support the request;

5. An estimate of the time required for the hearing (in days and/or hours);

6. A request, if necessary, for a barrier-free hearing location for physically disabled persons; and

7. A clear indication of any willingness to negotiate a settlement with the Department prior to the Department's processing of the hearing request to the Office of Administrative Law.

(b) A copy of the hearing request shall be sent to Solid Waste Compliance and Enforcement, P.O. Box 420, Mail Code 09-01, Trenton, New Jersey 08625-0420.

(c) If the Department does not receive the written request for a hearing within 20 days after receipt by the violator of the notice of a civil administrative penalty assessment and/or an administrative order being challenged, the Department shall deny the hearing request.

(d) If the violator fails to include all the information required by (a) above, the Department may deny the hearing request.

(e) All adjudicatory hearings shall be conducted in accordance with 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.

7:26A-9.4 Civil administrative penalties for violation of rules adopted pursuant to the Act

(a) The Department may assess a civil administrative penalty pursuant to this section of not more than $ 50,000 for each violation of each requirement of any rule listed in N.J.A.C. 7:26A-9.4(g).

(b) Each violation of a rule listed in N.J.A.C. 7:26A-9.4(g) shall constitute an additional, separate and distinct violation.

(c) Each day during which a violation continues shall constitute an additional, separate and distinct violation.

(d) For each parameter that is required to be monitored, sampled or reported, the failure to so monitor, sample or report shall constitute an additional, separate and distinct violation.

(e) Where any requirement of any rule listed in N.J.A.C. 7:26A-9.4(g) may pertain to more than one act, condition, occurrence, item, unit, waste or parameter, the failure to comply with such requirement as it pertains to each such act, condition, occurrence, item, unit, waste or parameter shall constitute an additional, separate and distinct violation.

(f) The Department shall determine the amount of a civil administrative penalty for each violation of any rule listed in (g) below on the basis of the provision violated, according to the procedure in (f)1 through 5 below. For a violation of a requirement or condition of an administrative order, permit, license or other operating authority, the Department may in its sole discretion identify the corresponding requirement of any rule summary listed in (g) below and determine the amount of the civil administrative penalty on the basis of the rule provision violated.

1. Identify the rule violated as listed in (g)1 through 8 below;

2. Identify the corresponding base penalty dollar amount for the rule violated as listed in (g)1 through 8 below;

3. Multiply the base penalty dollar amount times the following multipliers for each factor to obtain the severity penalty component, as applicable:

Severity Factor	Multiplier
i. Violator had violated the same rule less than 12 months prior to the violation	1.00
ii. Violator had violated a different rule less than 12 months prior to the violation	0.50
iii. Violator had violated the same rule during the period which began 24 months prior to the violation and ended 12 months prior to the violation	0.50
iv. Violator had violated a different rule during the period which began 24 months prior to the violation and ended 12 months prior to the violation	0.25

4. To obtain the civil administrative penalty, add all of the severity penalty components pursuant to (f)3 above, to the base penalty. If the sum total exceeds $ 50,000, then the civil administrative penalty shall be $ 50,000.

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Example:
Base penalty (for violation of N.J.A.C. 7:26A-3.1(a) = $ 3,000
Subparagraph (f)3iii applies: 0.50 x 3000 = 1500
Subparagraph (f)3iv applies: 0.25 x 3000 = + 750
Civil administrative penalty $5,250
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5. For the purpose of this section, violation of the "same rule" means violation of the same specific requirement of a rule. Where a rule has a list of specific requirements, the same item on the list must be violated to be considered violation of the "same rule."

(g) The Rule Summary in this subsection, which summarizes certain provisions in N.J.A.C. 7:26A, is provided for informational purposes only. In the event that there is a conflict between the rule Summary in this subsection and a provision in N.J.A.C. 7:26A, then the provisions in N.J.A.C. 7:26A shall prevail.

1. The violations of N.J.A.C. 7:26A-3, Approval of Recycling Centers for Class B, Class C and Class D Recyclable Materials, whether the type of violation is minor (M) or non-minor (NM), the applicable grace period if the violation is minor, and the civil administrative base penalty for each violation, are as set forth in the following table.

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Rule	Rule Summary	Base Penalty	Type of Violation	Grace Period (days)
N.J.A.C.				
7:26A-3.1(a)	Failure of approved recycling center to comply with all approval conditions.	$3,000	M	30
7:26A-3.5(f)	Failure of recycling center to post a legible sign at the recycling center entrance indicating its approval and listing items detailed in N.J.A.C. 7:26A-3.2(A)13i and ii	$3,000	M	30
7:26A-3.6	Failure to submit renewal application for a general approval to the Department at least three months prior to the current approval expiration and to comply with all submittal requirements.	$3,000	M	30
7:26A-3.7(j)	Failure, within 45 days after expiration of the time period authorized by the limited approval to operate a recycling facility, to file a final report with the Department.	$3,000	M	30
7:26A-3.7(k)	Failure of persons operating a limited approved recycling center to ensure that no illegal dumping occurs.	$4,500	NM	
7:26A-3.8(a)	Failure to limit processing method for tires to slicing, shredding, chipping, crumbing or other method approved by the Department, prohibition to incinerating, landfilling, abandoning or otherwise illegally disposing of tires.	$4,500	NM	
7:26A-3.8(b)	Failure by the owner or operator of a tire recycling center to ensure that no mosquito colony formation develops.	$4,500	NM	
7:26A-3.8(c)	Failure of a tire, tree stump, tree part or wood waste recycling center to have an approved fire	$5,000	NM	

Rule	Rule Summary	Base Penalty	Type of Violation	Grace Period (days)
	control plan.			
7:26A-3.9(a)	Failure of recycling center to ensure the temporary storage of Class B recyclable material does not exceed the amount indicated in the general or limited approval to operate.	$4,500	NM	
7:26A-3.9(b)	Failure of recycling center to ensure that unprocessed Class B recyclable material is not stored in excess of one year from the date of receipt.	$4,500	NM	
7:26A-3.10	Failure of holder of a general or limited approval to comply with modification requirements.	$3,000	M	30
7:26A-3.15(a)	Failure to ensure a general or limited approval to operate a recycling center is not transferred without prior approval of the Department.	$5,000	NM	
7:26A-3.15(c)	Failure to provide one copy of written request to transfer approval to the recycling coordinator and one copy to the the municipal clerk of the applicable municipality.	$3,000	M	30
7:26A-3.17(a)	Failure of holder of a general approval to comply with recordkeeping and annual reporting requirements.	$3,000	M	30

2. The violations of N.J.A.C. 7:26A-4, Operational Standards and General Rules for Recycling Centers which Receive, Store, Process or Transfer Class A, Class B, Class C and Class D Recyclable Materials, Right of Entry and Inspection, the type of violation as minor (M) or non-minor (NM), the applicable grace period if the violation is minor, and the civil administrative base penalty for each violation are as set forth in the following table.

Rule	Rule Summary	Base Penalty	Type of Violation	Grace Period (days)
N.J.A.C.				
7:26A-4.1(a)1i	Failure of recycling center to ensure that recyclable	$3,000	M	30

Rule	Rule Summary	Base Penalty	Type of Violation	Grace Period (days)
	material is separated at the point of generation from other waste material.			
7:26A-4.1(a)1ii	Failure of recycling center to ensure only Class A, Class B or Class C or Class D materials are received, stored, processed or transferred at the center.	$4,500	NM	
7:26A-4.1(a)1iii	Failure of recycling center to comply with commingling requirements.	$3,000	M	30
7:26A-4.1(a)2	Failure of recycling center to ensure residue is not stored on-site in excess of six months.	$4,500	NM	
7:26A-4.1(a)4	Failure of recycling center to store residue separately from recyclable material and in a manner which prevents run-off, leakage or seepage from the residue storage area into, on or around the soil of the residue storage area.	$4,500	NM	
7:26A-4.1(a)5	Failure of recycling center to ensure hazardous wastes are not stored, processed or transferred at any recycling center.	$5,000	NM	
7:26A-4.1(a)6	Failure of recycling center to ensure electronic components which contain polychlorinated biphenyls (PVBs) and which are attached to or detached from appliances or other scrap metal,are not shredded, sheared or baled.	$5,000	NM	
7:26A-4.1(a)8	Failure to operate a recycling center in such a manner that the recycling center property is maintained free of litter and debris and such that tracking of mud into nearby	$3,000	M	30

Rule	Rule Summary	Base Penalty	Type of Violation	Grace Period (days)
	streets is prevented.			
7:26A-4.1(a)10	Failure of recycling center operator to ensure that traffic is associated with the operation of the center does not result in a degradation of a level of service of any major intersection or public roadway within a half-mile radius.	$4,500	NM	
7:26A-4.1(a)11	Failure of recycling center operator to ensure recycling center operations are separated from sensitive land uses by an effective visual screen buffer.	$3,000	M	30
7:26A-4.1(a)12	Failure of recycling center operator to ensure unauthorized access to center is controlled.	$4,500	NM	
7:26A-4.1(a)13	Failure of recycling center operator to ensure areas of vehicular usage are suitably compacted and, where necessary, paved.	$3,000	M	30
7:26A-4.1(a)14	Failure of recycling center operator to have adequate water supply, firefighting equipment, and local fire department phone numbers phone numbers posted.	$5,000	NM	
7:26A-4.4(a)	Failure of the operator of a recycling center to provide a recycling tonnage report by March 1 of each year	$3,000	M	30
7:26A-4.4(b)	Failure of exempt person to submit required tonnage reports by March 1 of each year	$3,000	M	30
7:26A-4.5(a)2	Failure of Class C operator to ensure center has sufficient capacity to handle	$3,000	M	30

Rule	Rule Summary	Base Penalty	Type of Violation	Grace Period (days)
	incoming volumes.			
7:26A-4.5(a)3	Failure of Class C operator to have properly trained individual supervising operation, access to facility prohibited when center is closed.	$3,000	M	30
7:26A-4.5(a)4	Failure of Class C operator to ensure all Class C recyclable materials received are removed from bags, boxes.	$3,000	M	30
7:26A-4.5(a)5, 6	Failure of Class C operator to accept incoming materials containing grass, only in areas of the site that are at least 1,000 feet from any areas of human occupancy and to process such material within the working day.	$4,500	NM	
7:26A-4.5(a)13i	Failure of Class C yard trimming operators to attend, within one year of start up, approved composting courses.	$3,000	M	90
7:26A-4.5(a)13ii	Failure of Class C yard trimming operator to maintain improved active composting surface to prevent ponding or runoff.	$4,500	NM	
7:26A-4.5(a)13iii	Failure of Class C yard trimmimg operator to moisten, without excess runoff, dry yard trimmings prior to windrow formation.	$3,000	M	30
7:26A-4.5(a)13iv	Failure of Class C yard trimming operator to position windrows perpendicular to ground surface contours to prevent ponding.	$4,500	NM	
7:26A-4.5(a)13v	Failure of Class C yard trimming operator to install windsock.	$3,000	M	30

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Rule	Rule Summary	Base Penalty	Type of Violation	Grace Period (days)
7:26A-4.5(a)13vi	Failure of Class C yard trimming operator to comply with windrow composting requirements.	$4,500	NM	
7:26A-4.5(a)13vii	Failure of Class C yard trimming operator to comply with material staging and processing buffer distance requirements.	$3,000	M	30
7:26A-4.5(a)13viii	Failure of Class C yard trimming operator to comply with finished compost testing requirements.	$3,000	M	30
7:26A-4.5(a)13xii	Failure of Class C yard trimming operator to comply with additional recordkeeping requirements.	$3,000	M	30
7:26A-4.5(a)14i	Failure of Class C material operator to comply with composting structure requirements, no ponding, leachate control.	$4,500	NM	
7:26A-4.5(a)14ii	Failure of Class C material operator to maintain fully enclosed operation and setback requirements.	$4,500	NM	
7:26A-4.5(a)14iii	Failure of Class C material operator to comply with O & M manual requirements.	$4,500	NM	
7:26A-4.5(a)14v	Failure of Class C material operator to comply with employee training requirements.	$3,000	M	30
7:26A-4.5(a)14vi	Failure of Class C material operator to develop a recycling center-specific training manual and make available to each employee.	$3,000	M	30
7:26A-4.5(a)14vii, viii	Failure of Class C material operator to meet Process to Further Reduce Pathogens criteria and requirements.	$4,500	NM	

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Rule	Rule Summary	Base Penalty	Type of Violation	Grace Period (days)
7:26A-4.5(a)14xi	Failure of Class C material operator to conduct required QA/QC sampling and record results of such sampling.	$4,500	NM	
7:26A-4.5(a)14xii	Failure of Class C material operator to have analysis of finished compost product conducted by laboratory certified in accordance with N.J.A.C. 7:18.	$4,500	NM	
7:26A-4.5(a)14xiii	Failure of Class C material operator to maintain required records.	$3,000	M	30
7:26A-4.5(a)14xiv	Failure of Class C material operator to submit quarterly report to the Department within 30 days after the end of each quarter.	$3,000	M	30
7:26A-4.5(b)1	Failure of Class C operator to comply with labeling requirements.	$3,000	M	30
7:26A-4.5(b)2	Failure of Class C operator to comply with compost utilization requirements.	$4,500	NM	

3. The violations of N.J.A.C. 7:26A-5, Requirements for Processing Discarded Appliances that Contain Refrigerant Fluid, the type of violation as minor (M) or non-minor (NM), the applicable grace period if the violation is minor, and the civil administrative base penalty f or each violation are as set forth in the following table.

Rule	Rule Summary	Base Penalty	Type of Violation	Grace Period (days)
N.J.A.C.				
7:26A-5.1(a)	Failure to ensure no shearing, shredding, baling or other actions which could cause release of refrigerant fluid to take place, occurs prior to recovery of such fluid.	$ 5,000	NM	
7:26A-5.1(b)	Failure to recover refrigerant fluid in a manner such that no	$ 5,000	NM	

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Rule	Rule Summary	Base Penalty	Type of Violation	Grace Period (days)
	venting of refrigerant fluid occurs.			
7:26A-5.1(c)	Failure to deliver recovered refrigerant fluid to a facility which has agreed to reprocess the fluid or, if such arrangements cannot be made, failure to store or dispose of the recovered fluid in accordance with applicable rules and regulations.	$ 5,000	NM	

4. The violations of N.J.A.C. 7:26A-6, Standards for the Management of Used Oil, the type of violation as minor (M) or non-minor (NM), the applicable grace period if the violation is minor, and the civil administrative base penalty for each violation are as set forth in the following table.

Rule	Rule Summary	Base Penalty	Type of Violation	Grace Period (days)
N.J.A.C.				
7:26A-6.1(a)2i(1)	Failure to manage used oil mixed with a listed hazardous waste as a hazardous waste in accordance with N.J.A. C. 7:26G.	$5,000	NM	
7:26A-6.1(a)2ii(1)	Failure to manage used oil mixed with a characteristic hazardous waste or a listed hazardous waste that is listed solely because it exhibits one or more hazardous waste characteristics as a hazardous waste in accordance with N.J.A. C. 7:26G.	$5,000	NM	
7:26A-6.1(a)4ii	Failure by used oil generator to comply with management requirements for diesel fuel mixed with used diesel crankcase oil.	$3,000	M	30
7:26A-6.1(a)9	Failure by a marketer or burner to comply with requirements of	$5,000	NM	

Rule	Rule Summary	Base Penalty	Type of Violation	Grace Period (days)
	40 CFR 761.20(e) for used oil containing quantifiable levels of PCBs.			
7:26A-6.2(a)	Failure to meet one or more of the specifications for a used oil fuel identified in Table 1 of N.J.A.C. 7:26A-6. 2(a) prior to burning for energy recovery.	$5,000	NM	
7:26A-6.2(b)	Failure to obtain a Permit to Construct, Install or Alter Control Apparatus or Equipment and Certificate to Operate Control Apparatus prior to burning on-specification used oil fuel.	$3,000	M	30
7:26A-6.3(a)	Failure to comply with requirements for managing used oil in a surface impoundment or waste pile.	$5,000	NM	
7:26A-6.3(b)	Failure to comply with prohibition against using used oil as a dust suppressant.	$5,000	NM	
7:26A-6.3(c)	Burning off-specification used oil in a device other than an industrial furnace, industrial or utility boiler or hazardous waste incinerator, or failing to obtain a Permit to Construct, Install or Alter Control Apparatus or Equipment and Certificate to Operate Control Apparatus prior to	$5,000	NM	

Rule	Rule Summary	Base Penalty	Type of Violation	Grace Period (days)
	burning off-specification used oil in one of these devices.			
7:26A-6.3(d)	Failure to comply with the prohibition against burning on-specification used oil fuel in either a residential or Category I institutional device, furnace or boiler.	$3,000	M	30
7:26A-6.3(e)	Failure to comply with the prohibition against burning on-specification used oil in an oil-fired space heater that fails to meet the requirements of N.J.A.C. 7:26A-6.4(e).	$4,500	NM	
7:26A-6.3(f)	Failure to comply with the prohibition against burning off-specification used oil in a space heater.	$4,500	NM	
7:26A-6.4(d)1	Failure of used oil generator storing used oil to comply with applicable Spill Prevention, Control and Countermeasures regulations, Clean Air Act regulations or Underground Storage Tank regulations.	$4,500	NM	
7:26A-6.4(d)2	Failure of used oil generator to ensure used oil is stored only in tanks, containers, or units subject to regulation at N.J.A.C. 7:26G-8 or 9.	$3,000	M	30
7:26A-6.4(d)3	Failure of used oil	$4,500	NM	

Rule	Rule Summary	Base Penalty	Type of Violation	Grace Period (days)
	generator to ensure containers or aboveground tanks used to store used oil storage units are in good condition and not leaking.			
7:26A-6.4(d)4	Failure of used oil generator to comply with used oil labeling/marking requirements.	$3,000	M	30
7:26A-6.4(d)5	Failure of used oil generator to comply with or initiate response to releases.	$4,500	NM	
7:26A-6.4(e)1	Failure of used oil generator to burn only self-generated or household do-it-yourselfer used oil in a space heater.	$4,500	NM	
7:26A-6.4(e)2	Used oil generator burned used oil in a oil space heater that exceeded the maximum capacity of 0.5 million BTU per hour.	$3,000	M	30
7:26A-6.4(e)3	Failure of used oil generator to vent combustion gases from a space heater to ambient air.	$4,500	NM	
7:26A-6.4(e)4	Failure of used oil generator, burning used oil in a space heater, to obtain a Permit to Construct, Install or Alter Control Apparatus or Equipment and Certificate to Operate Control Apparatus.	$4,500	NM	
7:26A-6.4(f)	Failure of used oil	$4,500	NM	

Rule	Rule Summary	Base Penalty	Type of Violation	Grace Period (days)
	generator to comply with used oil off-site shipment requirements.			
7:26A-6.4(g)	Failure to comply with do-it-yourselfer and motor oils retailer requirements.	$3,000	M	30
7:26A-6.5(a)	Failure of an owner or operator of a State of New Jersey permitted reinspection center, or a retail service station that has used oil collection tanks on the premises, to accept do-it-yourselfer used oil in accordance with N.J.A.C. 7:26A-6.5(a).	$3,000	M	30
7:26A-6.5(b)2	Failure of do-it-yourselfer used oil collection center to comply with the generator standards at N.J.A.C. 7:26A-6.4.	$3,000	M	30
7:26A-6.5(c)2i	Failure of used oil collection center to comply with the generator standards at N.J.A.C. 7:26A-6.4.	$3,000	M	30
7:26A-6.5(c)2ii	Failure of used oil collection center to register or be recognized by county or municipality as a used oil collection center.	$3,000	M	30
7:26A-6.5(c)2iii	Failure of used oil collection center to comply with sign posting requirements.	$3,000	M	30
7:26A-6.5(d)2	Failure of used oil aggregation point to comply with generator standards at N.J.A.C. 7:26A-6.4.	$3,000	M	30

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Rule	Rule Summary	Base Penalty	Type of Violation	Grace Period (days)
7:26A-6.6(a)4	Failure of used oil transporter to comply with the Federal Motor Carrier Safety and Federal Hazardous Materials Transportation regulations, or to comply with the provisions of this subchapter as indicated in N.J.A.C.7:26A-6.6(a) 4i through v when performing the listed activities.	$4,500	NM	
7:26A-6.6(b)	Used oil transporter conducted non-incidental processing of used oil.	$5,000	NM	
7:26A-6.6(c)	Failure of used oil transporter and/or transfer facility to comply with the notification and/or EPA identification requirements.	$5,000	NM	
7:26A-6.6(d)1	Failure of used oil transporter to comply with delivery requirements.	$4,500	NM	
7:26A-6.6(d)2	Failure of used oil transporter to comply with the United States Department of Transportation Regulations.	$4,500	NM	
7:26A-6.6(d)3	Failure of used oil transporter to comply with used oil transportation discharge requirements.	$4,500	NM	
7:26A-6.6(e)1	Failure of used oil	$4,500	NM	

Rule	Rule Summary	Base Penalty	Type of Violation	Grace Period (days)
	transporter to determine if total halogen content is equal to, less than or greater than 1000 ppm for used oil being transported or stored.			
7:26A-6.6(e)5	Failure of used oil transporter to retain records of analyses or other information, used to ensure used oil is not a hazardous waste, for three years.	$4,500	NM	
7:26A-6.6(f)1	Failure of used oil transporter and/or transfer facility, storing used oil, to comply with applicable Spill Prevention, Control and Countermeasures regulations, Clean Air Act regulations or Underground Storage Tank regulations.	$4,500	NM	
7:26A-6.6(f)3	Failure of used oil transfer facility to ensure used oil is stored only in tanks, containers, or units subject to regulation at N.J.A.C. 7:26G-8 or 9.	$3,000	M	30
7:26A-6.6(f)4	Failure of used oil transfer facility to ensure used oil containers or aboveground tanks are in good condition and not leaking.	$4,500	NM	
7:26A-6.6(f)5	Failure of used oil transfer facility to comply with secondary containment requirements for	$4,500	NM	

Rule	Rule Summary	Base Penalty	Type of Violation	Grace Period (days)
	containers.			
7:26A-6.6(f)6	Failure of used oil transfer facility to comply with secondary containment requirements for existing aboveground tanks.	$4,500	NM	
7:26A-6.6(f)7	Failure of used oil transfer facility to comply with secondary containment requirements for new aboveground tanks.	$4,500	NM	
7:26A-6.6(f)8	Failure of used oil transfer facility to comply with used oil labeling requirements.	$3,000	M	30
7:26A-6.6(f)9	Failure by used oil transfer facility to comply with used oil facility discharge requirements.	$4,500	NM	
7:26A-6.6(g)	Failure of used oil transporter to comply with tracking requirements.	$4,500	NM	
7:26A-6.7(b)	Failure of used oil processor or re-refining facility to comply with notification and/or EPA identification requirements.	$5,000	NM	
7:26A-6.7(c)1i	Failure of used oil processor or re-refining facility to maintain or operate facility to minimize possibilities of fire, explosion or any unplanned sudden or non-sudden releases of used oil.	$5,000	NM	

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Rule	Rule Summary	Base Penalty	Type of Violation	Grace Period (days)
7:26A-6.7(c)1ii	Failure of used oil processor or re-refining facility to equip facility with emergency equipment.	$4,500	NM	
7:26A-6.7(c)1iii	Failure of used oil processor or re-refining facility to test and maintain emergency equipment.	$3,000	M	30
7:26A-6.7(c)1iv	Failure of used oil processor or re-refining facility to maintain access to communications or alarm system.	$3,000	M	30
7:26A-6.7(c)1v	Failure of used oil processor or re-refining facility to maintain sufficient aisle space for the unobstructed movement of personnel or equipment in an emergency.	$3,000	M	30
7:26A-6.7(c)1vi	Failure of used oil processor or re-refining facility to make required arrangements with police or fire departments, emergency response contractors, equipment suppliers, or local hospitals, or to document any such authority's refusal of such arrangements.	$3,000	M	30
7:26A-6.7(c)2i(1)	Failure of used oil processor or re-refining facility to have a contingency plan designed to minimize hazards to human health and the	$4,500	NM	

Rule	Rule Summary	Base Penalty	Type of Violation	Grace Period (days)
	environment.			
7:26A-6.7(c)2i(2)	Failure of used oil processor or re-refining facility to carry out provisions of the contingency plan immediately if there is a fire, explosion or release of used oil.	$5,000	NM	
7:26A-6.7(c)2ii(1)	Failure of used oil processor or re-refining facility contingency plan to describe actions to be taken in response to fires, explosions, or any unplanned sudden or non-sudden release.	$3,000	M	30
7:26A-6.7(c)2ii(2)	Failure of used oil processor or re-refining facility to amend its SPCC (40 CFR 112 or Part 1510 of chapter V) or DPCC (N.J. A.C. 7:1E) plan, to incorporate used oil management provisions.	$3,000	M	30
7:26A-6.7(c)2ii(3)	Failure of used oil processor or re-refining facility contingency plan to describe arrangements agreed to by local police or fire departments, hospitals, contractors, or State or local emergency response teams.	$3,000	M	30
7:26A-6.7(c)2ii(4)	Failure of used oil processor or re-refining facility contingency plan to list names, addresses or phone numbers of persons qualified to act as emergency	$3,000	M	30

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Rule	Rule Summary	Base Penalty	Type of Violation	Grace Period (days)
	coordinator.			
7:26A-6.7(c)2ii(5)	Failure of used oil processor or re-refining facility contingency plan to list emergency equipment, updated as required, with its location, description, or capabilities specified.	$3,000	M	30
7:26A-6.7(c)2ii(6)	Failure of used oil processor or re-refining facility contingency plan to include evacuation procedure for personnel including signals, evacuation routes or alternate evacuation routes.	$3,000	M	30
7:26A-6.7(c)2iii	Failure of used oil processor or re-refining facility contingency plan to be maintained at facility with a copy sent to local police or fire departments, hospitals or State or local emergency response teams.	$3,000	M	30
7:26A-6.7(c)2iv	Failure of used oil processor or re-refining facility to review or amend contingency plan as necessary.	$3,000	M	30
7:26A-6.7(c)2v	Failure of used oil processor or re-refining facility to make emergency coordinator thoroughly familiar with plan or available at all times.	$4,500	NM	

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Rule	Rule Summary	Base Penalty	Type of Violation	Grace Period (days)
7:26A-6.7(c)2vi(1)	Failure of used oil processor or re-refining facility emergency coordinator to activate alarms or communications systems, or to notify appropriate State or local agencies.	$4,500	NM	
7:26A-6.7(c)2vi(9)	Failure of used oil processor or re-refining facility to submit incident report to Department within 15 days after an incident.	$3,000	M	30
7:26A-6.7(d)1	Failure of used oil processor or re-refining facility to determine if total halogen content is equal to, less than or greater than 1000 ppm for used oil being transported or stored.	$4,500	NM	
7:26A-6.7(d)4	Failure of used oil processor or re-refining facility to ship used oil that fails the rebuttable presumption, for mixing as a hazardous waste, using a New Jersey licensed hazardous waste transporter.	$4,500	NM	
7:26A-6.7(e)1	Failure of used oil processor or re-refining facility, storing used oil, to comply with applicable Spill Prevention, Control and Countermeasures regulations, Clean Air Act regulations or Underground Storage	$4,500	NM	

Rule	Rule Summary	Base Penalty	Type of Violation	Grace Period (days)
	Tank regulations.			
7:26A-6.7(e)2	Failure of used oil processor or re-refining facility to ensure used oil is stored only in tanks, containers, or units subject to regulation at N.J.A.C. 7:26G-8 or 9.	$3,000	M	30
7:26A-6.7(e)3	Failure of used oil processor or re-refining facility to ensure containers or aboveground tanks, used to store or process used oil, are in good condition and not leaking.	$4,500	NM	
7:26A-6.7(e)4	Failure of used oil processor or re-refining facility to comply with secondary containment requirements for containers used to store or process used oil.	$4,500	NM	
7:26A-6.7(e)5	Failure of used oil processor or re-refining facility to comply with the secondary containment requirements for existing aboveground tanks used to store or process used oil.	$4,500	NM	
7:26A-6.7(e)6	Failure of used oil processor or re-refining facility to comply with the secondary containment requirements for new aboveground tanks used to store or process used oil.	$4,500	NM	

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Rule	Rule Summary	Base Penalty	Type of Violation	Grace Period (days)
7:26A-6.7(e)7	Failure of used oil processor or re-refining facility to comply with used oil labeling requirements.	$3,000	M	30
7:26A-6.7(e)8	Failure of used oil processor or re-refining facility to comply with or initiate response to releases.	$4,500	NM	
7:26A-6.7(e)9i(1)	Failure of used oil processor or re-refining facility at closure, who stored or processed used oil tanks, to remove or decontaminate all used oil residues in tanks, contaminated containment system components, contaminated soils, and structures and equipment contaminated with used oil, and manage them appropriately.	$10,000	NM	
7:26A-6.7(e)9i(2)	Failure of used oil processor or re-refining facility that cannot remove all contamination from tank systems at closure to follow closure requirements for landfills.	$10,000	NM	
7:26A-6.7(e)9ii(1)	Failure of used oil processor or re-refining facility at closure, who stored used oil in containers, to remove from the site all containers holding used oil or residues of used oil.	$4,500	NM	

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Rule	Rule Summary	Base Penalty	Type of Violation	Grace Period (days)
7:26A-6.7(e)9ii(2)	Failure of used oil processor or re-refining facility at closure, who stored used oil in containers, to remove or decontaminate all used oil residues, contaminated containment system components, contaminated soils, and structures and equipment contaminated with used oil, and manage them appropriately.	$10,000	NM	
7:26A-6.7(f)	Failure of used oil processor or re-refining facility to develop or follow a written waste analysis plan in accordance with requirements at N.J.A. C. 7:26A-6.7(f).	$5,000	NM	
7:26A-6.7(g)	Failure of used oil processor or re-refining facility to comply with used oil tracking standards and records.	$4,500	NM	
7:26A-6.7(h)	Failure of used oil processor or re-refining facility to comply with operating record and reporting standards.	$4,500	NM	
7:26A-6.7(i)	Failure by used oil processor or re-refining facility to ensure used oil transporter has an EPA identification number.	$3,000	M	30
7:26A-6.7(j)	Failure by used oil processor or	$4,500	NM	

Rule	Rule Summary	Base Penalty	Type of Violation	Grace Period (days)
	re-refining facility to manage process residues in accordance with N.J.A.C. 7:26A-6. 1(a)5.			
7:26A-6.8(b)1	Used oil burner burned off-specification used oil in a device other than an industrial furnace, industrial or utility boiler or hazardous waste incinerator or burned off-specification used oil in these devices without a Permit to Construct, Install or Alter Control Apparatus or Equipment and Certificate to Operate Control Apparatus.	$5,000	NM	
7:26A-6.8(b)2i	Failure by used oil burner to comply with prohibition against aggregating off specification used oil with other fuels to produce an on-specification used oil fuel.	$5,000	NM	
7:26A-6.8(c)	Failure of used oil burner to comply with notification and/or EPA identification requirements.	$4,500	NM	
7:26A-6.8(d)1	Failure of used oil burner to determine if total halogen content is equal to, less than or greater than 1000 ppm for used oil being transported or stored.	$5,000	NM	
7:26A-6.8(d)4	Failure by used oil burner to retain records of analyses,	$4,500	NM	

Rule	Rule Summary	Base Penalty	Type of Violation	Grace Period (days)
	or other information used to ensure used oil is not a hazardous waste, for 3 years.			
7:26A-6.8(e)1	Failure of used oil burner storing used oil to comply with applicable Spill Prevention, Control and Countermeasures regulations, Clean Air Act regulations or Underground Storage Tank regulations.	$3,000	M	30
7:26A-6.8(e)2	Failure of used oil burner to ensure used oil is stored only in tanks, containers, or units subject to regulation at N.J.A.C. 7:26G-8 or 9.	$3,000	M	30
7:26A-6.8(e)3	Failure of used oil burner to ensure used oil containers or aboveground tanks are in good condition and not leaking.	$4,500	NM	
7:26A-6.8(e)4	Failure of used oil burner, storing used oil in containers, to comply with the secondary containment requirements.	$4,500	NM	
7:26A-6.8(e)5	Failure of used oil burner, storing used oil in existing aboveground tank(s), to comply with the secondary containment requirements.	$4,500	NM	
7:26A-6.8(e)6	Failure of used oil burner, storing used oil in new aboveground tank(s), to comply with	$4,500	NM	

Rule	Rule Summary	Base Penalty	Type of Violation	Grace Period (days)
	secondary containment requirements.			
7:26A-6.8(e)7	Failure of used oil burner to comply with used oil-labeling requirements.	$3,000	M	30
7:26A-6.8(e)8	Failure of used oil burner to comply with or initiate response to releases.	$4,500	NM	
7:26A-6.8(f)	Failure of used oil burner to comply with operating record and recordkeeping standards.	$4,500	NM	
7:26A-6.8(g)	Failure of a used oil burner to comply with first-time notice and recordkeeping standards.	$4,500	NM	
7:26A-6.8(h)	Failure of used oil burner to manage residues from storage or burning in accordance with N.J.A.C. 7:26A-6.1(a)5.	$4,500	NM	
7:26A-6.9(a)3	Failure of used oil fuel marketer to comply with the standards for used oil generators, transporters/transfer facilities, processors/re-refiners or burners.	$4,500	NM	
7:26A-6.9(b)	Failure of a used oil fuel marketer to ship off-specification used only to an authorized burner facility.	$5,000	NM	
7:26A-6.9(c)1	Failure of a used oil generator, transporter, processor/re-refiner	$5,000	NM	

Rule	Rule Summary	Base Penalty	Type of Violation	Grace Period (days)
	or burner to determine if used oil meets the fuel specification at N.J.A.C. 7:26A-6.2 or failure to provide a copy of analyses or other information to facility receiving shipment of used oil.			
7:26A-6.9(c)2	Failure of first person claiming used oil fuel meets fuel specification at N.J.A. C. 7:26A-6.2 to retain copies of analyses or other information used to make determination for three years.	$4,500	NM	
7:26A-6.9(d)1	Failure of used oil fuel marketer to comply with notification and/or EPA identification requirements.	$4,500	NM	
7:26A-6.9(e)1	Failure of used oil fuel marketer to comply with invoicing requirements for off-specification used oil fuel.	$4,500	NM	
7:26A-6.9(e)2	Failure of used oil fuel marketer to comply with tracking requirements for shipments of off-specification used oil fuel.	$4,500	NM	
7:26A-6.9(e)3	Failure of first person claiming used oil fuel meets fuel specification at N.J.A. C. 7:26A-6.2 to comply with tracking requirements for shipments of on-specification used	$4,500	NM	

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Rule	Rule Summary	Base Penalty	Type of Violation	Grace Period (days)
	oil fuel.			
7:26A-6.9(f)	Failure of used oil marketer to comply with notice standards.	$4,500	NM	
7:26A-6.10(b)1	Failure to manage used oil that has been identified as a hazardous waste and cannot be recycled, as a hazardous waste.	$5,000	NM	
7:26A-6.10(b)2	Failure to manage used oil that is not hazardous waste and cannot be recycled, as a solid waste.	$4,500	NM	
7:26A-6.10(c)	Failure to comply with prohibition against using used oil as a dust suppressant.	$5,000	NM	

5. The violations of 40 CFR 273, Standards for the management of Universal Waste, the type of violation as minor (M) or non-minor (NM), the applicable grace period if the violation is minor, and the civil base administrative penalty for each violation, are as set forth in the following table.

Rule	Rule Summary	Base Penalty	Type of Violation	Grace Period (days)
40 CFR				
§273.11	Failure of small quantity handler of universal waste to comply with universal waste prohibitions.	$4,500	NM	
§273.13(a)1	Failure of small quantity handler of universal waste to place universal waste batteries which show evidence of leakage, spillage or damage in a container that is closed, structurally sound, compatible with the contents of the	$4,500	NM	

Rule	Rule Summary	Base Penalty	Type of Violation	Grace Period (days)
	batteries, and non-leaking.			
§273.13(a)2	Failure of small quantity handler of universal waste conducting activities not to manage as hazardous waste casings of individual battery cells that have been breached	$4,500	NM	
§273.13(a)3	Failure of small quantity handler of universal waste to determine if removed electrolyte or other solid waste is hazardous and to manage it in compliance with all appropriate regulations.	$5,000	NM	
§273.13(b)1	Failure of small quantity handler of universal waste to place universal waste pesticides in a container that is closed, structurally sound, compatible with the pesticide, and non-leaking.	$4,500	NM	
§273.13(b)2	Failure of small quantity handler of universal waste to overpack containers of universal waste pesticides which did not meet 40 CFR §273. 13(b)1.	$4,500	NM	
§273.13(b)3	Failure of small quantity handler of universal waste to contain universal waste pesticides in a tank which meets the	$3,000	M	30

Rule	Rule Summary	Base Penalty	Type of Violation	Grace Period (days)
	requirements of 40 CFR §265 Subpart J.			
§273.13(b)4	Failure of small quantity handler of universal waste to place universal waste pesticides in a transport vehicle or vessel that is closed, structurally sound, compatible with the pesticide, and non-leaking.	$4,500	NM	
§273.13(c)1	Failure of small quantity handler of universal waste to place universal waste mercury containing equipment which contains non-elemental mercury or shows evidence of leakage, spillage or damage in a container that is closed, structurally sound, compatible with the contents of the device, and non-leaking, and designed to prevent the escape of mercury into the environment.	$4,500	NM	
§273.13(c)2i	Failure of small quantity handler of universal waste to remove mercury-containing ampules in a manner designed to prevent breakage of the ampules.	$4,500	NM	
§273.13(c)2ii	Failure of small quantity handler of universal waste to remove mercury-containing ampules only over or in	$4,500	NM	

Rule	Rule Summary	Base Penalty	Type of Violation	Grace Period (days)
	a containment device.			
§273.13(c)2iii	Failure of small quantity handler of universal waste to ensure that a mercury clean-up system is readily available to immediately transfer any mercury, resulting from spills or leaks from broken ampules, from the containment device to a container that meets the requirements of 40 CFR §262.34.	$4,500	NM	
§273.13(c)2iv	Failure of small quantity handler of universal waste to immediately transfer any mercury resulting from spills or leaks from broken ampules from the containment device to a container that meets the requirements of 40 CFR §262.34.	$4,500	NM	
§273.13(c)2v	Failure of small quantity handler of universal waste to ensure that the area in which mercury-containing ampules are removed is well ventilated and monitored to ensure compliance with applicable OSHA permissible exposure levels for mercury.	$4,500	NM	
§273.13(c)2vi	Failure of small quantity handler of universal waste to ensure that employees removing mercury-containing	$4,500	NM	

Rule	Rule Summary	Base Penalty	Type of Violation	Grace Period (days)
	ampules are thoroughly familiar with proper waste mercury handling and emergency procedures.			
§273.13(c)2vii	Failure of small quantity handler of universal waste to store mercury-containing ampules in closed, non-leaking containers that are in good condition.	$4,500	NM	
§273.13(c)2viii	Failure of small quantity handler of universal waste to pack mercury-containing ampules in containers with packing materials adequate to prevent breakage during storage, handling, and transportation.	$4,500	NM	
§273.13(c)3	Failure of small quantity handler of universal waste, who removed the opened original housing holding mercury not contained in an ampule, to immediately seal the housing with an air-tight seal, and to follow the requirements under 40 CFR 273.13(c)2 for removing and managing ampules.	$3,000	M	30
§273.13(c)4	Failure of small quantity handler of universal waste, who removes mercury containing ampules or seals mercury in its original housing, to determine if any waste generated exhibits a	$5,000	NM	

Rule	Rule Summary	Base Penalty	Type of Violation	Grace Period (days)
	characteristic of hazardous waste, and to manage the waste in compliance with all appropriate regulations.			
§273.13(d)1	Failure of small quantity handler of universal waste to place universal waste lamps which show evidence of leakage, spillage or damage in a container that is closed, structurally sound, compatible with the contents of the lamp, and non-leaking.	$4,500	NM	
§273.13(d)2	Failure of small quantity handler of universal waste to clean up and place any lamp that is broken or that shows evidence of breakage, leakage, or damage that could cause the release of hazardous constituents, into a container that is closed, structurally sound, compatible with the consumer electronic, and non-leaking.	$4,500	NM	
§273.14(a)	Failure of small quantity handler of universal waste to properly label or mark universal waste batteries or containers of universal waste batteries.	$3,000	M	30
§273.14(b)	Failure of small quantity handler of universal waste to properly label or mark containers, tanks, transport vehicles or	$3,000	M	30

Rule	Rule Summary	Base Penalty	Type of Violation	Grace Period (days)
	vessels of recalled universal waste pesticides.			
§273.14(c)	Failure of small quantity handler of universal waste to properly label or mark containers, tanks, transport vehicles or vessels of unused universal waste pesticides.	$3,000	M	30
§273.14(d)	Failure of small quantity handler of universal waste to properly label or mark universal waste mercury containing equipment or containers of universal waste mercury containing equipment.	$3,000	M	30
§273.14(e)	Failure of small quantity Handler of universal waste to properly label or mark universal waste lamps or containers of universal waste lamps.	$3,000	M	30
§273.15(a)-(b)	Small quantity handler of universal waste accumulated universal waste for greater than one year, without proving the accumulation was solely for the purpose of facilitating proper recovery, treatment or disposal.	$5,000	NM	
§273.15(c)	Failure of small quantity handler of Universal Waste to demonstrate the length of time that the	$4,500	NM	

Rule	Rule Summary	Base Penalty	Type of Violation	Grace Period (days)
	universal waste was accumulated.			
§273.16	Failure of small quantity handler of universal waste to ensure that all employees are thoroughly familiar with proper waste handling and emergency procedures.	$4,500	NM	
§273.17(a)	Failure of small quantity handler of universal waste to immediately contain any releases or residues of universal waste.	$5,000	NM	
§273.17(b)	Failure of small quantity handler of universal waste to determine if any material resulting from the release of universal waste is hazardous, and to properly manage the waste.	$5,000	NM	
§273.18(a)	small quantity handler of universal waste sent or took universal waste to a place other than another universal waste handler, a destination facility, or a foreign destination.	$4,500	NM	
§273.18(b)	Failure of small quantity handler of universal waste who self-transports to comply with the requirements at 40 CFR §273 Subpart D and N.J.A.C. 7:26A-7.4.	$3,000	M	30
§273.18(c)	Failure of small	$3,000	M	30

Rule	Rule Summary	Base Penalty	Type of Violation	Grace Period (days)
	quantity handler of universal waste to properly package, label, mark, placard or complete the proper shipping papers for shipments of universal waste which are hazardous materials.			
§273.18(d)	Failure of the originating handler to ensure that the receiving handler agrees to accept the universal waste.	$4,500	NM	
§273.18(e)	Failure of small quantity handler of universal waste to receive back or agree on an alternate facility for rejected shipments of universal waste.	$5,000	NM	
§273.18(f)	Failure of small quantity handler of universal waste to properly reject shipments of universal waste.	$5,000	NM	
§273.18(g)	Failure of small quantity handler of universal waste to immediately notify the Department if an illegal shipment of hazardous waste, that was shipped as universal waste, is received.	$5,000	NM	
§273.18(h)	Failure of small quantity handler of universal waste receiving non-hazardous, non-universal waste to manage such waste in accordance with N.J.A.C.	$3,000	M	30

Rule	Rule Summary	Base Penalty	Type of Violation	Grace Period (days)
	7:26.			
§273.20(a)	Failure of small quantity handler of Universal Waste to comply with the requirements of a primary exporter when shipping universal waste to a foreign destination.	$3,000	M	30
§273.20(b)	Small quantity handler of universal waste exported universal waste without consent of the receiving country and/or not in conformance with EPA Acknowledgement of Consent.	$5,000	NM	
§273.20(c)	Failure of small quantity handler of universal waste that exported universal waste to provide a copy of the EPA Acknowledgement of Consent to the transporter.	$3,000	M	30
§273.31(a)	Failure of large quantity handler of Universal Waste to comply with universal waste prohibitions.	$4,500	NM	
§273.32(a)	Failure of large quantity handler of universal waste to send a written notification to the Department and/or receive an EPA Identification Number prior to meeting or exceeding the 5,000 kg storage limit.	$5,000	NM	
§273.32(b)	Failure of large	$3,000	M	30

Rule	Rule Summary	Base Penalty	Type of Violation	Grace Period (days)
	quantity handler of universal waste to include all information on the written notification to the Department.			
§273.33(a)1	Failure of large quantity handler of universal waste to place universal waste batteries which show evidence of leakage, spillage or damage in a container that is closed, structurally sound, compatible with the contents of the batteries, and non-leaking.	$4,500	NM	
§273.33(a)2	Failure of large quantity handler of universal waste conducting activities not to manage as hazardous waste casings of individual battery cells that have been breached	$4,500	NM	
§273.33(a)3	Failure of Large quantity Handler of universal waste to determine if removed electrolyte or other solid waste is hazardous and to manage it in compliance with all appropriate regulations.	$5,000	NM	
§273.33(b)1	Failure of Large quantity Handler of universal waste to place universal waste pesticides in a container that is closed, structurally sound, compatible with	$4,500	NM	

Rule	Rule Summary	Base Penalty	Type of Violation	Grace Period (days)
	the pesticide, and non-leaking.			
§273.33(b)2	Failure of Large quantity Handler of universal waste to overpack containers of universal waste pesticides which did not meet requirements of 40 CFR §273.33(b)1.	$4,500	NM	
§273.33(b)3	Failure of Large quantity Handler of universal waste to contain universal waste pesticides in a tank which meets the requirements of 40 CFR §265 Subpart J.	$3,000	M	30
§273.33(b)4	Failure of Large quantity Handler of universal waste to place universal waste pesticides in a transport vehicle or vessel that is closed, structurally sound, compatible with the pesticide, and non-leaking.	$4,500	NM	
§273.33(c)1	Failure of large quantity handler of universal waste to place universal waste mercury containing equipment which contains non-elemental mercury or shows evidence of leakage, spillage or damage in a container that is closed, structurally sound, compatible with the contents of the device, non-leaking.	$4,500	NM	
§273.33(c)2i	Failure of large	$4,500	NM	

Rule	Rule Summary	Base Penalty	Type of Violation	Grace Period (days)
	quantity handler of universal waste to remove mercury-containing ampules in a manner designed to prevent breakage of the ampules.			
§273.33(c)2ii	Failure of large quantity handler of universal waste to remove mercury-containing ampules only over or in a containment device.	$4,500	NM	
§273.33(c)2iii	Failure of large quantity handler of universal waste to ensure that a mercury clean-up system is readily available to immediately transfer any mercury, resulting from spills or leaks from broken ampules, from the containment device to a container that meets the requirements of 40 CFR §262.34.	$4,500	NM	
§273.33(c)2iv	Failure of Large quantity Handler of universal waste to immediately transfer any mercury resulting from spills or leaks from broken ampules from the containment device to a container that meets the requirements of 40 CFR §262.34.	$4,500	NM	
§273.33(c)2v	Failure of large quantity Handler of universal waste to ensure that the area in which	$4,500	NM	

Rule	Rule Summary	Base Penalty	Type of Violation	Grace Period (days)
	mercury-containing ampules are removed is well ventilated and monitored to ensure compliance with applicable OSHA permissible exposure levels for mercury.			
§273.33(c)2vi	Failure of large quantity Handler of universal waste to ensure that employees removing mercury-containing ampules are thoroughly familiar with proper waste mercury handling and emergency procedures.	$4,500	NM	
§273.33(c)2vii	Failure of large quantity Handler of universal waste to store mercury-containing ampules in closed, non-leaking containers that are in good condition.	$4,500	NM	
§273.33(c)2viii	Failure of large quantity Handler of universal waste to pack mercury-containing ampules in containers with packing materials adequate to prevent breakage during storage, handling, and transportation.	$4,500	NM	
§273.33(c)3	Failure of large quantity Handler of universal waste, who removed the opened original housing holding mercury not contained in an ampule, to immediately see the housing with an	$3,000	M	30

Rule	Rule Summary	Base Penalty	Type of Violation	Grace Period (days)
	air-tight seal, and to follow the requirement under 40 CFR 273.33(c)2 for removing and managing ampules.			
§273.33(c)4	Failure of large quantity handler of universal waste, who removes mercury containing ampules or seals mercury in its original housing, to determine if any waste generated exhibits a characteristic of hazardous waste, and to manage the waste in compliance with all appropriate regulations.	$5,000	NM	
§273.33(d)1	Failure of large quantity handler of universal waste to place universal waste lamps in a container that is closed, structurally sound, compatible with the contents of the lamp, and non-leaking.	$4,500	NM	
§273.33(d)2	Failure of large quantity handler of universal waste to clean up and place any lamp that is broken or that shows evidence of breakage, leakage, or damage that could cause the release of hazardous constituents, in a container that is closed, structurally sound, compatible with the lamp, and non-leaking	$4,500	NM	
§273.34(a)	Failure of large quantity handler of universal waste to	$3,000	M	30

Rule	Rule Summary	Base Penalty	Type of Violation	Grace Period (days)
	properly label or mark universal waste batteries or containers of universal waste batteries.			
§273.34(b)	Failure of large quantity handler of universal waste to properly label or mark containers, tanks, transport vehicles or vessels of recalled universal waste pesticides.	$3,000	M	30
§273.34(c)	Failure of large quantity Handler of universal waste to properly label or mark containers, tanks, transport vehicles or vessels of unused universal waste pesticides.	$3,000	M	30
§273.34(d)	Failure of large quantity Handler of universal waste mercury containing equipments or containers of universal waste mercury containing equipment.	$3,000	M	30
§273.34(e)	Failure of large quantity handler of universal waste to properly label or mark universal waste lamp or or containers of universal waste lamps.	$3,000	M	30
§273.35(a)-(b)	large quantity Handler of universal waste accumulated universal waste for greater than one year, without proving the accumulation was solely for the purpose	$5,000	NM	

Rule	Rule Summary	Base Penalty	Type of Violation	Grace Period (days)
	of facilitating proper recovery, treatment or disposal.			
§273.35(c)	Failure of large quantity Handler of universal waste to demonstrate the length of time that the universal waste was accumulated.	$4,500	NM	
§273.36	Failure of large quantity Handler of universal waste to ensure that all employees are thoroughly familiar with proper waste handling and emergency procedures.	$4,500	NM	
§273.37(a)	Failure of large quantity Handler of universal waste to immediately contain any releases or residues of universal waste.	$5,000	NM	
§273.37(b)	Failure of large quantity Handler of universal waste to determine if any material resulting from the release of universal waste is hazardous, and to properly manage the waste.	$5,000	NM	
§273.38(a)	large quantity Handler of universal waste sent or took universal waste to a place other than another universal waste handler, a destination facility, or a foreign destination.	$4,500	NM	
§273.38(b)	Failure of large	$3,000	M	30

Rule	Rule Summary	Base Penalty	Type of Violation	Grace Period (days)
	quantity Handler of universal waste who self-transports to comply with the requirements at 40 CFR §273 Subpart D and N. J.A.C. 7:26A-7.4.			
§273.38(c)	Failure of large quantity Handler of universal waste to properly package, label, mark, placard or complete the proper shipping papers for shipments of universal waste which are hazardous materials.	$3,000	M	30
§273.38(d)	Failure of the originating handler to ensure that the receiving handler agrees to accept the universal waste.	$4,500	NM	
§273.38(e)	Failure of large quantity Handler of universal waste to receive back or agree on an alternate facility for rejected shipments of universal waste.	$5,000	NM	
§273.38(f)	Failure of large quantity Handler of universal waste to properly reject shipments of universal waste.	$5,000	NM	
§273.38(g)	Failure of large quantity Handler of universal waste to immediately notify the Department if an illegal shipment of hazardous waste, that was shipped as universal waste, is	$5,000	NM	

Rule	Rule Summary	Base Penalty	Type of Violation	Grace Period (days)
	received.			
§273.38(h)	Failure of large quantity Handler of universal waste receiving non-hazardous, non-universal waste to manage such waste in accordance with N.J.A.C. 7:26.	$3,000	M	30
§273.39(a)1	Failure of large quantity Handler of universal waste to record the name and address of the originating universal waste handler or foreign shipper from whom the universal waste was sent.	$3,000	M	30
§273.39(a)2	Failure of large quantity Handler of universal waste to record the quantity of each type of universal waste received.	$3,000	M	30
§273.39(a)3	Failure of large quantity Handler of universal waste to record the date of receipt of the shipment of universal waste.	$3,000	M	30
§273.39(b)1	Failure of large quantity Handler of universal waste to record the name and address of the universal waste handler, destination facility, or foreign destination to whom universal waste was sent.	$3,000	M	30
§273.39(b)2	Failure of large quantity Handler of universal waste to record the quantity of	$3,000	M	30

Rule	Rule Summary	Base Penalty	Type of Violation	Grace Period (days)
	each type of universal waste sent.			
§273.39(b)3	Failure of large quantity Handler of universal waste to record the date the shipment of universal waste left the facility.	$3,000	M	30
§273.39(c)	Failure of large quantity Handler of universal waste to retain the records for at least three years.	$3,000	M	30
§273.40(a)	Failure of large quantity Handler of universal waste to comply with the requirements of a primary exporter when shipping universal waste to a foreign destination.	$3,000	M	30
§273.40(b)	large quantity Handler of universal waste exported universal waste without consent of the receiving country and/or not in conformance with EPA Acknowledgement of Consent.	$5,000	NM	
§273.40(c)	Failure of large quantity Handler of universal waste that exported universal waste to provide a copy of the EPA Acknowledgement of Consent to the transporter.	$3,000	M	30
§273.51	Failure of universal waste Transporter to comply with universal waste prohibitions.	$4,500	NM	

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Rule	Rule Summary	Base Penalty	Type of Violation	Grace Period (days)
§273.52(a)	Failure of universal waste Transporter to comply with USDOT requirements for universal waste which meets the definition of a hazardous material.	$4,500	NM	
§273.52(b)	universal waste Transporter described a universal waste with the words hazardous waste or N.O.S. or included the word waste in the shipping description.	$3,000	M	30
§273.53	universal waste Transporter stored universal waste at a transfer facility for greater than 10 days without being in compliance subpart B or C of 40 CFR §273.	$4,500	NM	
§273.54(a)	Failure of universal waste Transporter to immediately contain any releases or residues of universal waste.	$5,000	NM	
§273.54(b)	Failure of universal waste Transporter to determine if any material resulting from the release of universal waste is hazardous, and to properly manage the waste.	$5,000	NM	
§273.55(a)	universal waste Transporter sent or took universal waste to a place other than another universal waste handler, a destination facility, or a foreign	$5,000	NM	

Rule	Rule Summary	Base Penalty	Type of Violation	Grace Period (days)
	destination.			
§273.55(b)	Failure of universal waste Transporter to properly describe, on the shipping paper, any universal waste that meets the definition of a hazardous material.	$3,000	M	30
§273.56	universal waste Transporter accepted a shipment of universal waste, to be shipped to a foreign destination, knowing the shipment did not conform to the EPA Acknowledgement of Consent.	$5,000	NM	
§273.56(a)	Failure of universal waste Transporter exporting universal waste to ensure that a copy of the EPA Acknowledgement of Consent accompanied the shipment.	$3,000	M	30
§273.56(b)	Failure of universal waste Transporter exporting universal waste to ensure that the waste was delivered to the facility designated by the person initiating the shipment.	$5,000	NM	
§273.60(a)	Failure of owner or operator of a universal waste Destination Facility to comply with the requirements of 40 CFR Parts §§124, 264 through 266 and 270, as incorporated by reference at N.J.A.C. 7:26G, and the notification	$3,000	M	30

Rule	Rule Summary	Base Penalty	Type of Violation	Grace Period (days)
	requirement under Section 3010 of RCRA.			
§273.60(b)	Failure of owner or operator of a universal waste Destination Facility, that recycles a particular universal waste without storing that universal waste before it is recycled, to comply with 40 CFR §261.6(c)(2) as incorporated by reference at N.J.A.C. 7:26G-5.	$3,000	M	30
§273.61(a)	Owner or operator of a universal waste Destination Facility sent or took universal waste to a place other than a universal waste handler, another destination facility or foreign destination.	$5,000	NM	
§273.61(b)	Failure of owner or operator of a universal waste Destination Facility to properly reject shipments of universal waste.	$5,000	NM	
§273.61(c)	Failure of owner or operator of a universal waste Destination Facility to immediately notify the Department if an illegal shipment of hazardous waste, that was shipped as universal waste, is received.	$5,000	NM	
§273.62(a)1	Failure of owner of operator of a universal waste Destination Facility to record the name and address of the originating universal	$3,000	M	30

Rule	Rule Summary	Base Penalty	Type of Violation	Grace Period (days)
	waste handler or foreign shipper from whom the universal waste was sent.			
§273.62(a)2	Failure of owner of operator of a universal waste Destination Facility to record the quantity of each type of universal waste received.	$3,000	M	30
§273.62(a)3	Failure of owner or operator of a universal waste Destination Facility to record the date of receipt of the shipment of universal waste.	$3,000	M	30
§273.62(b)	Failure of owner or operator of a universal waste Destination Facility to keep records for three years.	$3,000	M	30
§273.70	Failure of universal waste Transporter, managing universal waste that was imported from a foreign country, to comply with the requirements of 40 CFR §273 Subpart D immediately after waste was received in the United States.	$3,000	M	30
§273.70(b)	Failure of Small or large quantity Handlers of universal waste, managing universal waste that was imported from a foreign country, to comply with the requirements of 40 CFR §273 Subpart B or C after waste was received in the United	$3,000	M	30

Rule	Rule Summary	Base Penalty	Type of Violation	Grace Period (days)
	States.			
§273.70(c)	Failure of owner or operator of a universal waste Destination Facility, managing universal waste that was imported from a foreign country, to comply with the requirements of 40 CFR §273 Subpart E after waste is received in the United States.	$3,000	M	30

6. The violations of N.J.A.C. 7:26A-7, Standards for the management of Universal Waste, the type of violation as minor (M) or non-minor (NM), the applicable grace period if the violation is minor, and the civil base administrative penalty for each violation, are as set forth in the following table.

Rule	Rule Summary	Base Penalty	Type of Violation	Grace Period (days)
N.J.A.C.				
7:26A-7.4(b)1	Failure of small quantity handler of universal waste to place a consumer electronic that shows evidence of leakage, spillage, or damage that could cause leakage, in a container that is closed, structurally sound, compatible with the consumer electronic, and non-leaking.	$4,500	NM	
7:26A-7.4(b)2	Small quantity handler of universal waste disassembled a consumer electronic in a manner that constituted processing or treatment.	$4,500	NM	
7:26A-7.4(b)3	Failure of small quantity handler of universal waste who generates a solid	$5,000	NM	

Rule	Rule Summary	Base Penalty	Type of Violation	Grace Period (days)
	waste, as the result of performing activities, to determine if the waste is hazardous.			
7:26A-7.4(c)	Failure of small quantity handler of universal waste to manage oil-based finishes, in its original or otherwise appropriate and labeled packaging.	$3,000	M	30
7:26A-7.4(c)1	Failure of small quantity handler of universal waste to place any universal waste oil-based finish that shows evidence of leakage, spillage, or damage that could cause leakage, into a container that is closed, structurally sound, compatible with the contents of the oil-based finish, and non-leaking.	$4,500	NM	
7:26A-7.4(c)2	Small quantity handler of universal waste to handled universal waste oil-based finishes in a manner that constituted processing.	$4,500	NM	
7:26A-7.5(b)1	Failure of large quantity handler of universal waste to place any consumer electronic that shows evidence of leakage, spillage, or damage that could cause leakage, in a container that is closed, structurally sound, compatible with the contents of the consumer electronics, and non-leaking.	$4,500	NM	
7:26A-7.5(b)2	Large quantity handler of universal waste conducted	$4,500	NM	

Rule	Rule Summary	Base Penalty	Type of Violation	Grace Period (days)
	disassembling or processing on consumer electronics without applying for a Class D approval.			
7:26A-7.5(c)	Failure of large quantity handler of universal waste to manage universal waste finishes in its original packaging.	$3,000	M	30
7:26A-7.5(c)2	Failure of large quantity handler of universal waste to place any universal waste finish that shows evidence of leakage, spillage, or damage that could cause leakage in a container that is closed, structurally sound, compatible with the contents of the universal waste finish, and non-leaking.	$4,500	NM	
7:26A-7.5(c)3	Large quantity handler of universal waste conducted disassembling or processing activities on universal waste finishes without applying for a Class D approval.	$4,500	NM	
7:26A-7.5(d)	Failure of large quantity handler of universal waste to submit a report to the Department documenting the types and amounts of universal waste which were received, stored and shipped in the preceding calendar year.	$3,000	M	30
7:26A-7.7(a)	Failure to accumulate universal waste consumer eluniversal waste ectronics devices in a	$3,000	M	30

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Rule	Rule Summary	Base Penalty	Type of Violation	Grace Period (days)
	closed container that is clearly marked with the words Universal Waste-Consumer Electronics.			
7:26A-7.7(b)	Failure to mark a container, tank, transport vehicle or other vessel in which oil-based waste finishes are contained, with the words Universal Waste-Oil-Based Finish.	$3,000	M	30

7. The violations of N.J.A.C. 7:26A-8, Requirements for Transporters of Source Separated Materials, the type of violation as minor (M) or non-minor (NM), the applicable grace period if the violation is minor, and the civil administrative base penalty for each violation are as set forth in the following table.

Rule	Rule Summary	Base Penalty	Type of Violation	Grace Period (days)
N.J.A.C.				
7:26A-8.1	Failure by a transporter of recyclable materials to provide a recycling tonnage report by February 1 of each year.	$3,000	M	30
7:26A-8.3	Failure of transporter to not mix source-separated recyclables with other wastes.	$4,500	NM	

8. The violations of N.J.A.C. 7:26A-10, Standards for Generators of Source Separated Recyclable Materials, the type of violation as minor (M) or non-minor (NM), the applicable grace period if the violation is minor, and the civil administrative base penalty for each violation are as set forth in the following table.

Rule	Rule Summary	Base Penalty	Type of Violation	Grace Period (days)
N.J.A.C.				
7:26A-10.2	Failure of generator to separate,store, and set out waste in accordance with the municipal recycling ordinance.	$3,000	M	30

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Rule	Rule Summary	Base Penalty	Type of Violation	Grace Period (days)
7:26A-10.4(a)1	Failure of generator to approval from governing municipality for alternate recycling of non-source-separated waste.	$3,000	M	30
7:26A-10.4(a)2	Failure of generator to provide annual written documentation to the municipality of the total number of tons recycled.	$3,000	M	30
7:26A-10.4(b)	Failure of generator to show letter of exemption to enforcement officers or municipal recycling coordinator.	$3,000	M	30

9. The violations of N.J.A.C. 7:26A-11, Standards for Municipalities, the type of violation as minor (M) or non-minor (NM), the applicable grace period if the violation is minor, and the civil administrative base penalty for each violation are as set forth in the following table.

Rule	Rule Summary	Base Penalty	Type of Violation	Grace Period (days)
N.J.A.C.				
7:26A-11.1(a)	Failure of municipality to designate a recycling coordinator.	$3,000	M	90
7:26A-11.1(b)	Failure of municipality to adopt a recycling ordinance containing required components	$3,000	M	90
7:26A-11.2(a)	Failure of municipality to comply with recordkeeping and annual reporting requirements.	$3,000	M	30
7:26A-11.3	Failure of municipality to notify persons occupying residential, commercial, and institutional premises within its municipal boundaries of local recycling opportunities, and the source separation requirements of the ordinance.	$3,000	M	30

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Rule	Rule Summary	Base Penalty	Type of Violation	Grace Period (days)
7:26A-11.4(a)	Failure of municipality to oversee collection of designated materials or to provide for collection in instances where collection is not otherwise provided.	$3,000	M	30
7:26A-11.4(c)	Failure of municipality governing bodyto review master and revise master plan.	$3,000	M	30
7:26A-11.4(c)	Failure of municipality to include in master plan provisions for recycling at developments with 50 or more units of single-family residential housing or 25 or more units of multi-family residential housing and any commercial or industrial development proposal for the utilization of 1,000 square feet.	$3,000	M	30
7:26A-11.5(a)1 through 5	Failure of municipal coordinator to review the applicant's documentation of alternative provisions for recycling of designated materials prior to issuing an exemption	$3,000	M	30
7:26A-11.5(a)7	Failure of municipality to revoke exemption to generator upon failure to meet requirements.	$4,500	NM	

10. The violations of N.J.A.C. 7:26A-12, Standards for Counties, the type of violation as minor (M) or non-minor (NM), the applicable grace period if the violation is minor, and the civil administrative base penalty for each violation are as set forth in the following table.

Rule	Rule Summary	Base Penalty	Type of Violation	Grace Period (days)
N.J.A.C.				
7:26A-12.2(a)	Failure of designated	$3,000	M	90

Rule	Rule Summary	Base Penalty	Type of Violation	Grace Period (days)
	implementation agency to prepare a district solid waste management plan and county recycling plan or to update this plan as required.			
7:26A-12.2(b)	Failure of county recycling plan to include a strategy for the collection, marketing and disposition of designated source separated recyclable materials.	$3,000	M	30
7:26A-12.3(a)1	Failure of county recycling coordinator to maintain contact information for all recycling coordinators.	$3,000	M	30
7:26A-12.3(a)2	Failure of county recycling coordinator to maintain records regarding the issuance, by each municipal governing body, of the exemption from the source separation issued pursuant to N.J.A.C. 7:26A-11.5.	$3,000	M	30
7:26A-12.3(a)3	Failure of county recycling coordinator to maintain copies of all municipal recycling ordinances and ensure that these ordinances are consistent with the county recycling plan.	$3,000	M	30
7:26A-12.3(a)4	Failure of county recycling coordinator to meet with all municipal recycling coordinators, at least annually, to determine progress toward meeting the recycling goals of the county recycling plan.	$3,000	M	30

7:26A-9.5 Civil administrative penalty determination

(a) The Department shall assess penalties under this section, and not under *N.J.A.C. 7:26A-9.4*, when:

1. Because of the specific circumstances of the violation, the Department determines that the penalty amount under *N.J.A.C. 7:26A-9.4* would be too low to provide a sufficient deterrent effect as required by the Act; or

2. The violation is not listed under *N.J.A.C. 7:26A-9.4*.

(b) Each violation of the Act, or any rule promulgated, any administrative order, permit, license or other operating authority issued, any district solid waste management plan approved, and any parameter contained therein, pursuant to the Act, shall constitute an additional, separate and distinct violation.

(c) Each day during which a violation continues shall constitute an additional, separate and distinct violation.

(d) For each parameter that is required to be monitored, sampled or reported, the failure to so monitor, sample or report shall constitute an additional, separate and distinct violation.

(e) Where any requirement of the Act, or any rule promulgated, any administrative order, permit, license or other operating authority issued, any district solid waste management plan approved, pursuant to the Act, may pertain to more than one act, condition, occurrence, item, unit, waste or parameter, the failure to comply with such requirement as it pertains to each such act, condition, occurrence, item, unit, waste or parameter shall constitute an additional, separate and distinct violation.

(f) The Department shall assess a civil administrative penalty for violations described in this section on the basis of the seriousness of the violation and the conduct of the violator at the midpoint of the following ranges as follows:

1. A violation that meets the criteria at (f)1i through iii below and the criteria at N.J.A.C. 7:26A-9.10(c)1 through 5 is minor. Such a minor violation shall be subject to a grace period of 30 days if the violation meets the criteria at (f)1i through iii below and N.J.A.C. 7:26A-9.10. If compliance is not achieved in the required time period, the violator shall be subject to a $ 3,000 penalty, to be assessed in accordance with the procedures set forth at N.J.A.C. 7:26A-9.10.

i. The violation poses minimal risk to the public health, safety and natural resources;

ii. The violation does not materially and substantially undermine or impair the goals of the regulatory program; and

iii. The activity or condition constituting the violation is capable of being corrected and compliance achieved within the time prescribed by the Department.

2. A violation that does not meet the criteria set forth in (f)1 above is non-minor and the penalty shall be assessed at the mid-point of the following ranges, unless adjusted pursuant to (i) below.

SERIOUSNESS

		Major	Moderate	Minor
	Major	$ 40,000- $ 50,000	$ 30,000- $ 40,000	$ 15,000- $ 25,000
CONDUCT	Moderate	$ 30,000- $ 40,000	$ 10,000- $ 20,000	$ 3,000- $ 6,000
	Minor	$ 15,000- $ 25,000	$ 3,000- $ 6,000	N/A*

*N/A means not applicable.

(g) The seriousness of the violation shall be determined as major, moderate or minor as follows:

1. Major seriousness shall apply to any violation which:

i. Has caused or has the potential to cause serious harm to human health or the environment; or

ii. Seriously deviates from the requirements of the Act, or any rule promulgated, any administrative order, permit, license or other operating authority issued, any district solid waste management plan approved pursuant to the Act; serious deviation shall include, but not be limited to, those violations which are in complete contravention of the requirement, or if some of the requirement is met, which severely impair or undermine the operation or intent of the requirement;

2. Moderate seriousness shall apply to any violation which:

i. Has caused or has the potential to cause substantial harm to human health or the environment; or

ii. Substantially deviates from the requirements of the Act, or any rule promulgated, any administrative order, permit, license or other operating authority issued, any district solid waste management plan approved pursuant to the Act; substantial deviation shall include, but not be limited to, violations which are in substantial contravention of the requirements or which substantially impair or undermine the operation or intent of the requirement; and

3. Minor seriousness shall apply to any violation not included in (g)1 or 2 above.

(h) The conduct of the violator shall be determined as major, moderate or minor as follows:

1. Major conduct shall include any intentional, deliberate, purposeful, knowing or willful act or omission by the violator;

2. Moderate conduct shall include any unintentional but foreseeable act or omission by the violator; and

3. Minor conduct shall include any other conduct not included in (h)1 or 2 above.

(i) The Department may adjust the amount determined pursuant to (f), (g) and (h) above to assess a civil administrative penalty in an amount no greater than the maximum amount nor less than the minimum amount in the range described in (f) above, on the basis of the following factors:

1. The compliance history of the violator;

2. The nature, timing and effectiveness of any measures taken by the violator to mitigate the effects of the violation for which the penalty is being assessed;

i. Immediate implementation of measures to effectively mitigate the effects of the violation will result in a reduction to the bottom of the range;

3. The nature, timing and effectiveness of any measures taken by the violator to prevent future similar violations;

i. Implementation of measures that can reasonably be expected to prevent a recurrence of the same type of violation will result in a reduction equal to the bottom of the range;

4. Any unusual or extraordinary costs or impacts directly or indirectly imposed on the public or the environment as a result of the violation; and/or

5. Other specific circumstances of the violator or the violation.

7:26A-9.6 Civil administrative penalty for submitting inaccurate or false information

(a) The Department may assess a civil administrative penalty pursuant to this section against each violator who submits inaccurate information or who makes a false statement, representation or certification in any application, record or other document required to be submitted or maintained pursuant to the Act or any rule promulgated, any administrative order, permit, license or other operating authority issued, any district solid waste management plan approved pursuant to the Act.

(b) Each day, from the day that the violator knew or had reason to know that if submitted inaccurate or false information to the Department until the day of receipt by the Department of a written correction by the violator, shall be an additional, separate and distinct violation.

(c) The Department shall assess a civil administrative penalty for violations described in this section based on the conduct of the violator at the mid-point of the following ranges except as adjusted pursuant to (d) below:

1. For each intentional, deliberate, purposeful, knowing or willful act or omission by the violator, the civil administrative penalty per act or omission shall be in an amount of not more than $ 50,000 nor less than $ 40,000 per act or omission; and

2. For all other conduct, the civil administrative penalty, per act or omission, shall be in the amount of $ 3,000 per violation.

(d) The Department may adjust the amount determined pursuant to (c) above to assess a civil administrative penalty in an amount no greater than the maximum amount nor less than the minimum amount in the range described in (c) above, on the basis of the following factors:

1. The compliance history of the violator;

2. The nature, timing and effectiveness of any measures taken by the violator to mitigate the effects of the violation for which the penalty is being assessed;

i. Immediate implementation of measures to effectively mitigate the effects of the violation will result in a reduction to the bottom of the range;

3. The nature, timing and effectiveness of any measures taken by the violator to prevent future similar violations;

i. Implementation of measures that can reasonably be expected to prevent a recurrence of the same type of violation will result in a reduction equal to the bottom of the range;

4. Any unusual or extraordinary costs or impacts directly or indirectly imposed on the public or the environment as a result of the violation; and/or

5. Other specific circumstances of the violator or the violation.

(e) A violation under this section is non-minor and therefore not subject to a grace period.

7:26A-9.7 Civil administrative penalty for failure to allow lawful entry and inspection

(a) The Department may assess a civil administrative penalty pursuant to this section against any violator who refuses, inhibits or prohibits immediate lawful entry and inspection by any authorized Department representative of any premises, building or facility which the Department may enter and inspect pursuant to the provisions of the Act.

(b) Each day that a violator refuses, inhibits or prohibits immediate lawful entry and inspection by an authorized Department representative of any premises, building or facility which the Department may enter and inspect pursuant to the provisions of the Act, shall be an additional, separate and distinct violation.

(c) The Department shall assess a civil administrative penalty for violations described in this section at the midpoint of the following ranges except as adjusted pursuant to (d) below as follows:

1. For refusing, inhibiting or prohibiting immediate lawful entry and inspection of any premises, building or facility for which an administrative order, permit, license or other operating authority requirement exists under the Act, the civil administrative penalty shall be in an amount of nor more than $ 30,000 nor less than $ 20,000 per violation; and

2. For any other refusal, inhibition, or prohibition of immediate lawful entry and inspection the civil administrative penalty shall be in an amount of not more than $ 6,000 or less than $ 3,000 per violation.

(d) The Department may adjust the amount determined pursuant to (c) above to assess a civil administrative penalty in an amount no greater than the maximum amount nor less than the minimum amount in the range described in (c) above, on the basis of the following factors:

1. The compliance history of the violator;

2. The nature, timing and effectiveness of any measures taken by the violator to mitigate the effects of the violation for which the penalty is being assessed;

i. Immediate implementation of measures to effectively mitigate the effects of the violation will result in a reduction to the bottom of the range;

3. The nature, timing and effectiveness of any measures taken by the violator to prevent future similar violations;

i. Implementation of measures that can reasonably be expected to prevent a recurrence of the same type of violation will result in a reduction equal to the bottom of the range;

4. Any unusual or extraordinary costs or impacts directly or indirectly imposed on the public or the environment as a result of the violation; and/or

5. Other specific circumstances of the violator or the violation.

(e) A violation under this section is non-minor and therefore not subject to a grace period.

7:26A-9.8 Civil administrative penalty for failure to pay a fee

(a) The Department may assess a civil administrative penalty pursuant to this section against each violator who fails to pay a fee when due pursuant to the act, or any rule promulgated, any administrative order, permit, license or other operating authority issued, any district solid waste management plan approved pursuant to the Act.

(b) To assess a civil administrative penalty pursuant to this section:

1. The Department shall identify the civil administrative base penalty pursuant to (c) below; and

2. The civil administrative penalty shall be the base penalty unless adjusted pursuant to (d) below.

(c) The base penalty shall be as follows:

1. An amount equal to one-half of the unpaid fee or $ 100.00, whichever is greater, for nonpayment of a fee due in any calendar year;

2. An amount equal to the unpaid fee or $ 250.00 whichever is greater, for the nonpayment of a second fee due in the same calendar year as that in (c)1 above; or

3. An amount equal to twice the unpaid fee or $ 500.00, whichever is greater for the nonpayment of a third fee due in the same calendar year as that in (c)1 or 2 above.

(d) Failure to pay a fee within 30 days of receipt by the violator of notice of the nonpayment from the Department shall be considered a continuing violation. For a continuing violation, the Department may increase the amount of the base penalty calculated pursuant to (c) above by the amount obtained by multiplying the base penalty dollar amount by one percent for each day that the fee is past due.

(e) A violation under this section is non-minor and therefore not subject to a grace period.

7:26A-9.9 Civil administrative penalty for economic benefit

The Department may, in addition to any other civil administrative penalty assessed pursuant to this subchapter, include as a civil administrative penalty the economic benefit (in dollars) that the violator has realized as a result of not complying with, or by delaying compliance with, the requirements of the Act, or any rule promulgated, any administrative order, permit, license or other operating authority issued, any district solid waste management plan approved pursuant to the Act. If the total economic benefit was derived from more than one violation, the total economic benefit may be apportioned among the violations from which it was derived so as to increase each civil administrative penalty assessment to an amount no greater than $ 50,000 per violation.

7:26A-9.10 Grace period applicability; procedures

(a) Each violation identified in the penalty tables at N.J.A.C. 7:26A-9.4(g) by an "M" in the Type of Violation column and each violation that is determined to be minor under N.J.A.C. 7:26A-9.5(f)1, for which the conditions at (c) below are satisfied, is a minor violation, and is subject to a grace period, the length of which (in days) is indicated in the column with the heading "Grace Period."

(b) Each violation identified in the penalty tables at N.J.A.C. 7:26A-9.4(g) by an "NM" in the Type of Violation column is a non-minor violation and is not subject to a grace period.

(c) The Department or local government agency shall provide a grace period for any violation identified as minor under this section, provided the following conditions are met:

1. The violation is not the result of the purposeful, knowing, reckless or criminally negligent conduct of the person responsible for the violation;

2. The activity or condition constituting the violation has existed for less than 12 months prior to the date of discovery by the Department or local government agency;

3. In the case of a violation that involves a permit, the person responsible for the violation has not been identified in a previous enforcement action by the Department or local government agency as responsible for a violation of the same requirement of the same permit within the preceding 12-month period;

4. In the case of a violation that does not involve a permit, the person responsible for the violation has not been notified in a previous enforcement action by the department or a local government agency as responsible for the same or a substantially similar violation at the same facility within the preceding 12-month period; and

5. In the case of any violation, the person responsible for the violation has not been identified by the Department or a local government agency as responsible for the same or substantially similar violations at any time that reasonably indicates a pattern of illegal conduct and not isolated incidents on the part of the person responsible.

(d) For a violation determined to be minor under (c) above, the following provisions apply:

1. The Department or local government agency shall issue a notice of violation to the person responsible for the minor violation that:

i. Identifies the condition or activity that constitutes the violation and the specific statutory and regulatory provision or other requirement violated; and

ii. Specifies that a penalty may be imposed unless the minor violation is corrected and compliance is achieved within the specified grace period.

2. If the person responsible for the minor violation corrects that violation and demonstrates, in accordance with (d)3 below, that compliance has been achieved within the specified grace period, the Department or local government agency shall not impose a penalty for the violation, and in addition, shall not consider the minor violation for purposes of calculating the "severity penalty component" under N.J.A.C. 7:26A-9.4(f).

3. The person responsible for a violation shall submit to the Department or local government agency, before the end of the specified grace period, written information, certified in accordance with N.J.A.C. 7:26A-3.2(b), and signed by the person responsible for the minor violation, detailing the corrective action taken or compliance achieved.

4. If the person responsible for the minor violation seeks additional time beyond the specified grace period to achieve compliance, the person shall request an extension of the specified grace period. The request shall be made in writing no later than one week before the end of the specified grace period and include the anticipated time needed to achieve compliance, the specific cause or causes of the delay, and any measures taken or to be taken to minimize the time needed to achieve compliance, and shall be certified in accordance with N.J.A.C. 7:26A-3.2(b). The Department may, at its discretion, approve in writing an extension, which shall not exceed 90 days, to accommodate the anticipated delay in achieving compliance. In exercising its discretion to approve a request for an extension, the Department may consider the following:

i. Whether the violator has taken reasonable measures to achieve compliance in a timely manner;

ii. Whether the delay has been caused by circumstances beyond the control of the violator;

iii. Whether the delay will pose a risk to the public health, safety and natural resources; and

iv. Whether the delay will materially or substantially undermine or impair the goals of the regulatory program.

5. If the person responsible for the minor violation fails to demonstrate to the Department or local government agency that the violation has been corrected and compliance achieved within the specified grace period or within the approved extension, if any, the Department or local government agency may, in accordance with the provisions of this chapter, impose a penalty that is retroactive to the date the notice of violation under (d)1 above was issued.

6. The person responsible for a minor violation shall not request more than one extension of a grace period specified in a notice of violation.

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TITLE 7. ENVIRONMENTAL PROTECTION
CHAPTER 26A. RECYCLING RULES
SUBCHAPTER 10. STANDARDS FOR GENERATORS OF SOURCE SEPARATED RECYCLABLE MATERIALS

N.J.A.C. 7:26A-10.1 (2009)

7:26A-10.1 Scope

(a) This subchapter applies to generators of materials designated for source separation and recycling in the applicable county recycling plan or municipal source separation ordinance. Generators include all persons occupying residential, commercial, or institutional premises.

(b) Generators of designated recyclable materials, who also generate used oil or universal waste are also subject to the rules at N.J.A.C. 7:26A-6 and 7.

7:26A-10.2 Separation and set-out

Generators of solid waste and recyclable materials shall keep all materials designated for source separation in the municipal recycling ordinance stored separately from solid waste, and shall place these specified recyclable materials for collection in the manner provided by the ordinance.

7:26A-10.3 Recordkeeping and reporting

Commercial and institutional generators including multifamily housing owners or their agents shall report the tonnage of designated recyclable materials collected for recycling from their premises, as directed in the municipal recycling ordinance.

7:26A-10.4 Source separation exemption

(a) Persons occupying commercial and institutional premises may apply to the governing body of the municipality for exemption from the municipal source separation requirements of the applicable municipal recycling ordinance.

1. Such persons must obtain the services of a materials recovery facility to separate from the waste generated at the premises, all recyclable materials designated in the district recycling plan found in solid waste generated at the generator's premises. Provision of these services shall be documented in writing, through contract or correspondence with the materials recovery facility providing the service and the documentation shall be submitted by August 1, 2009 to the municipal recycling coordinator or other municipal official as may be identified in the municipal recycling ordinance.

2. The generator shall annually provide written documentation to the municipality of the total number of tons recycled. Alternately, the generator may arrange, in writing, for the provision of this documentation directly from the materials recovery facility to the municipality, if so directed by the applicable municipal ordinance.

(b) The generator shall maintain the original letter of exemption or a copy on the premises for referral by authorized enforcement officers or the municipal recycling coordinator.

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TITLE 7. ENVIRONMENTAL PROTECTION
CHAPTER 26A. RECYCLING RULES
SUBCHAPTER 11. STANDARDS FOR MUNICIPALITIES

N.J.A.C. 7:26A-11.1 (2015)

7:26A-11.1 Appointments and ordinances

(a) Each municipality in this State shall designate one or more persons as the municipal recycling coordinator, and shall set forth in writing the duties of the municipal recycling coordinator.

1. The coordinator(s) shall maintain and report recycling tonnage, as required by N.J.S.A. 13:1E-99.16e. The report shall contain the same information as is required for an application for a Recycling Tonnage Grant, codified at N.J.A.C. 7:26-15.5.

2. The municipality shall provide for the coordinator's communication by electronic mail with the Department and with the designated county recycling coordinator.

3. The municipality shall, by January 28, 2010, appoint a municipal recycling coordinator who has achieved professional certification in compliance with the requirements of N.J.S.A. 13:1E-99 et seq., the provisions of the county recycling plan, and the municipal recycling ordinance passed pursuant to N.J.S.A. 13:1E-99.11 et seq.

i. The municipality shall provide both classroom and on-the-job instruction to augment the coordinator's skills. Such training may address:

(1) The use of computers and software to maintain tonnage records;

(2) Techniques of communication to the public;

(3) Enforcement practices;

(4) Identification of recyclable and waste materials, including hazardous waste, refrigerants, and other environmentally dangerous materials; and/or

(5) Foreign languages.

ii. The municipality shall maintain detailed records of this training, specifying names of personnel trained, the dates when training occurred and the type and extent of training provided. The training documentation shall be maintained at the facility for three years from the date the training occurred.

(b) The governing body of the municipality shall adopt an ordinance establishing a recycling program sufficient to achieve the designated recovery targets set forth in the district recycling plan.

1. The ordinance shall require persons generating municipal solid waste within the municipal boundaries to source separate from the municipal solid waste stream, in addition to leaves, the recyclable materials designated in the district solid waste plan, and may designate additional recyclable materials for which markets have been secured.

2. The ordinance shall provide for a collection system for leaves generated from residential premises and shall require that residents source separate leaves from solid waste, and, unless the leaves are stored or recycled for composting or mulching by the generator, place the leaves for collection in the manner provided by the ordinance. Alternately, the ordinance may prohibit the placement of leaves for collection or disposal as solid waste, and specify that all residents shall mulch or compost the leaves generated at those premises.

3. The ordinance shall set forth standards governing the inclusion, in all new multi-family housing developments that require subdivision or site plan approval, of collection or storage facilities which allow for the placement and temporary storage of all recyclable materials required of other residences by the ordinance. For the purposes of this provision, "multifamily housing" shall mean three or more housing units.

4. The municipal source separation ordinance shall specify the municipal official(s) by title that shall enforce the ordinance, and issue fines as needed.

7:26A-11.2 Recordkeeping and reporting

(a) The governing body of each municipality shall, between January 1 and April 30 of each year, submit a recycling tonnage report on forms provided by the Department, or by electronic means as approved by the Department to:

New Jersey Department of Environmental Protection
Division of Solid & Hazardous Waste
Bureau of Recycling and Hazardous Waste Management
401 East State Street, 2nd floor, West Wing
P.O. Box 420, Mail Code 401-02C
Trenton, New Jersey 08625-0420

7:26A-11.3 Notification to all generators of the source separation requirements of the municipal ordinance

The governing body of each municipality shall, at least once every six months, notify all persons occupying residential, commercial, and institutional premises within its municipal boundaries of local recycling opportunities, and the source separation requirements of the ordinance. The governing body of a municipality may place an advertisement in a newspaper circulating in the municipality, post a notice in public places where public notices are customarily posted, include a notice with other official notifications periodically mailed to taxpayers, or any combination thereof, as the municipality deems necessary and appropriate.

7:26A-11.4 Collection of source separated recyclables

(a) Each municipality shall provide for a collection system for the materials designated in the municipal ordinance. Each municipality shall provide for this collection in those instances where collection is not otherwise provided for by the generator, the county, inter-local service agreement or joint service program, or other private or public recycling program operator.

(b) A municipality may require that every solid waste transporter holding a certificate of public convenience and necessity and serving clients within the municipality bid on a contract for the collection or disposition of recyclable materials, if required to do so by the district recycling plan of the county in which the transporter engages in solid waste collection.

(c) The governing body of each municipality shall, at least once every 36 months, review and revise the master plan and development regulations it has adopted pursuant to P.L. 1975, c. 291 (N.J.S.A. 40:55D-1 et seq.). The revisions shall reflect changes in Federal, State, county and municipal laws, policies and objectives concerning the collection, disposition and recycling of designated recyclable materials. The revised master plan shall include provisions for the collection, disposition and recycling of recyclable materials designated in the municipal recycling ordinance, within any development proposal for the construction of 50 or more units of single-family residential housing or 25 or more units of multi-family residential housing and any commercial or industrial development proposal for the use of 1,000 square feet or more of land.

(d) The governing body of a municipality may limit the collection of designated recyclable materials to specified operating hours in order to preserve peace and quiet in neighborhoods during the hours when most residents are asleep.

7:26A-11.5 Source separation exemption

(a) The governing body of a municipality may exempt persons occupying commercial and institutional premises within its municipal boundaries from the source separation requirements of its recycling ordinance.

1. The municipal coordinator shall develop and make available a form or model letter for persons who wish to apply for this exemption by June 2, 2009.

2. The municipal coordinator shall review the applicant's documentation of alternate provision for the recycling of those materials designated in the district recycling plan that may be found in the solid waste generated at that location.

3. The municipal coordinator shall review the written reports submitted by the providers of this alternate service, and, where required, the generators' annual written reports, of the total number of tons recycled.

4. The municipal coordinator shall ascertain that the recycling facilities receiving the exempted waste are permitted to perform that recycling.

5. If found to be sufficient to meet the requirements for issuance of an exemption, as detailed in an applicable municipal ordinance, the municipal recycling coordinator (or other municipal official as may be identified in the applicable municipal ordinance) shall issue the exemption approval in writing.

6. The municipal coordinator shall keep a record of all generators who have received the exemption, and the destination of the waste or identity of the waste transporters handling the waste, and shall report this list annually to the applicable county recycling coordinator.

7. The municipal coordinator (or other designated municipal official) shall revoke the exemption of a generator upon failure to meet the conditions of the exemption.

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TITLE 7. ENVIRONMENTAL PROTECTION
CHAPTER 26A. RECYCLING RULES
SUBCHAPTER 12. STANDARDS FOR COUNTIES

N.J.A.C. 7:26A-12.1 (2009)

7:26A-12.1 Applicability

Each county's board of chosen freeholders, and the New Jersey Meadowlands Commission, shall designate a department, unit or committee of the county government, or district, in the case of the New Jersey Meadowlands Commission, to supervise the implementation of the district solid waste management plan, including the county recycling plan (except in the case of the New Jersey Meadowlands Commission). This subchapter sets forth the regulatory obligations of the designated implementation agency.

7:26A-12.2 Planning by the designated agency

(a) The designated implementation agency shall prepare, or cause to be prepared, a district solid waste management plan and county recycling plan (except in the case of the New Jersey Meadowlands Commission) to implement the requirements of the Solid Waste Management Act (SWMA) at *N.J.S.A. 13:1E-21* et seq., the New Jersey Statewide Mandatory Source Separation and Recycling Act (Recycling Act) at *N.J.S.A. 13:1E-99.11* et seq., and the Statewide Solid Waste Management Plan, as may be adopted by the Department. The designated agency shall update this plan and submit such updates to the Department, as required by the SWMA, the Recycling Act or the Statewide Solid Waste Management Plan. Updated district plans shall include, but not be limited to, the following components:

1. Identification of the agency (or agencies) designated to implement the district plan. In those instances where more than one agency is identified, the plan shall identify the responsibility(ies) of each agency;

2. An inventory of the quantity of solid waste generated within the district for the 10-year period commencing with the adoption of the updated district solid waste management plan;

3. An inventory of all solid waste and recycling facilities (lot and block and street address) including approved waste types and amounts, hours of operation and approved truck routes (in the case of solid waste facilities);

4. An outline of the solid waste disposal strategy to be utilized by the district for a 10-year planning period;

5. A procedure for the processing of applications for inclusion of solid waste and recycling facilities within the district solid waste management plans. The procedure shall state the applicant requirements for inclusion into the district plan and the specific county review process/procedures, including time frames for county approvals or rejections and subsequent submittals to the Department. The criteria for inclusion shall not include a requirement that local zoning or planning board approval(s) be obtained as a condition for inclusion within the district solid waste management plan, nor shall such a requirement be made a condition for subsequent construction or operation of any facility;

6. Utilizing the data supplied in the State Solid Waste Management Plan that identifies the additional tonnage of recycled materials in the municipal solid waste stream (by material commodity type) required by each county to meet the mandated municipal solid waste recycling goals, a strategy for the attainment of these identified recycling goals. The strategy shall include, as necessary:

i. The designation of the currently mandated recyclable materials and additional materials, if any, to be source separated in the residential, commercial and institutional sectors;

ii. A listing of those entities providing recycling collection, processing and marketing services for each of the designated recyclable materials;

iii. The communication program to be utilized to inform generators of their source separation and recycling responsibilities;

iv. A comprehensive enforcement program that identifies the county and/or municipal entity(ies) responsible for enforcement of the recycling mandates, specifies the minimum number of recycling inspections that will be undertaken

by these entities on an annual basis and details the penalties to be imposed for non-compliance with the municipal source-separation ordinance and county solid waste management plan. Additionally, the updated district plan shall include copies of each municipal source separation ordinance. (Six months after approval, by the Department, of the updated District or county plan, as the case may be, the designated plan implementation agency shall forward a copy of each municipal recycling ordinance, which shall be updated as necessary pursuant to *N.J.S.A. 13:1E-99.11* et seq.); and

v. Anticipated gains in recycling in the small business sector, multi-family housing developments and schools and other institutions, in tonnage of recycled material, by material and by generating sector.

(b) Each county recycling plan shall include a strategy for the collection, marketing and disposition of designated source separated recyclable materials in each municipality.

1. As needed, each designated agency shall solicit proposals from, review the qualifications of, and enter into contracts or agreements on behalf of municipalities with persons providing recycling services or operating recycling centers for the collection, storage, processing, and disposition of recyclable materials designated in the district recycling plan in those instances where these services are not otherwise provided by the municipality, interlocal service agreement or joint service program, or other private or public recycling program operator.

2. The strategy shall include the designation of recovery targets in each municipality to achieve the maximum feasible recovery of recyclable materials from the municipal solid waste stream which shall include, at a minimum, leaves, and the leaf composting facility(ies) identified for the receipt of leaves from each municipality.

7:26A-12.3 Appointment of a county or a New Jersey Meadowlands District recycling coordinator

(a) Each board of chosen freeholders and the New Jersey Meadowlands Commission shall designate a county recycling coordinator. County recycling coordinators shall, at a minimum:

1. Maintain contact information for all municipal recycling coordinators;

2. Maintain records regarding the issuance, by each municipal governing body, of the exemption from source separation issued pursuant to N.J.A.C. 7:26A-11.5;

3. Maintain copies of all municipal recycling ordinances and ensure that the ordinances are consistent with the county recycling plan; and

4. Meet with all municipal recycling coordinators at least annually to determine progress towards meeting the recycling goals of the county recycling plan.

(b) County recycling coordinators designated pursuant to N.J.S.A. 13:1E-99.13.b.1 shall maintain a current list of used oil handling locations within the county, including:

1. Retail service stations that have used oil collection tanks on the premises;

2. Reinspection stations permitted by the Motor Vehicles Commission;

3. Used oil collection centers, do-it-yourselfer used oil collection centers; and

4. Used oil aggregation points.

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TITLE 7. ENVIRONMENTAL PROTECTION
CHAPTER 26A. RECYCLING RULES
SUBCHAPTER 13. ELECTRONIC WASTE MANAGEMENT

N.J.A.C. 7:26A-13.1 (2015)

7:26A-13.1 Scope and authority

(a) This subchapter implements the Electronic Waste Management Act, N.J.S.A. 13:1E-99.94 et seq., to establish a recycling system for the safe and environmentally sound management of covered electronic devices and components, including televisions, and establishes requirements for manufacturers and retailers of these covered electronic devices. This subchapter applies to manufacturers, retailers and consumers of covered electronic devices, as well as to collectors, transporters and authorized recyclers whose services are engaged under the manufacturers' collection plans.

(b) A waiver from the strict compliance with any portion of these rules may be sought on or after the effective date of rules governing waivers promulgated by the Department pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. The Department will publish a notice of administrative change that amends this section to cross-reference those rules.

7:26A-13.2 Definitions

The following words and terms, when used in this subchapter, shall have the meanings set forth below. Any term used in this subchapter that is not defined in this section but that is defined in N.J.A.C. 7:26 or 7:26A-1.3 shall have the same meaning as in that chapter or section. If any of the words or terms defined below are defined differently at N.J.A.C. 7:26 or at N.J.A.C. 7:26A-1.3, the definitions at N.J.A.C. 7:26A-13.2 will apply to the use of those words or terms in N.J.A.C. 7:26A-13.

"Authorized recycler" means a person who is not committed to a jail, prison, or other institution for the detention of persons charged with or convicted of an offense, who:

1. Engages in the manual or mechanical separation of covered electronic devices to recover components and commodities contained therein for the purpose of re-use or recycling; or

2. Changes the physical or chemical composition of a covered electronic device by deconstructing, reducing the size, crushing, cutting, sawing, compacting, shredding, or refining, for the purpose of segregating components and for the purpose of recovering or recycling those components, and who arranges for the transport of those components to an end user.

"Brand" means a symbol, word or mark that identifies a covered electronic device. A symbol, word or mark that identifies only a component of a covered electronic device, and not the covered electronic device as a whole, is not the brand of the covered electronic device unless the device as a whole is so identified.

"Brand list" means, for a manufacturer of covered electronic devices, including televisions, a list of every brand under which the covered electronic devices manufactured by the manufacturer are sold, regardless of whether the manufacturer owns or licenses the brand.

"Business concern" means any corporation, association, firm, partnership, sole proprietorship, trust or other form of commercial organization. "Business concern" does not include a small business enterprise.

"Cathode ray tube" means a vacuum tube or picture tube used to convert an electronic signal into a visual image.

"Collection obligation" means the return share in weight or the television collection share in weight identified for an individual manufacturer.

"Collection plan" or "plan" means a plan for collecting, transporting, and recycling covered electronic devices prepared pursuant to N.J.S.A. 13:1E-99.96e and 99.103a, and this subchapter.

"Collector" means a facility specified in a manufacturer's approved collection plan that receives and accumulates

covered electronic devices prior to their transportation to an authorized recycler. Collector includes, but is not limited to, a solid waste transfer station or materials recovery facility, a solid waste sanitary landfill, a universal waste handler, a Class D recycling center, a retailer, or any other entity specified in a manufacturer's approved collection plan.

"Computer" means an electronic, magnetic, optical, electrochemical, or other high-speed data processing device that is designed to perform a logical, arithmetic, or storage function, and may include both a computer central processing unit and a monitor. Computer does not include an automated typewriter or typesetter, a portable handheld calculator, a portable digital assistant or other similar device.

"Consumer" means a person who purchases a covered electronic device in a transaction that is a retail sale. Consumer does not include any business concern purchasing covered electronic devices.

"Covered electronic device" means a desktop or personal computer, computer monitor, portable computer, or television sold to a consumer. A covered electronic device does not include any of the following:

1. An electronic device that is a part of a motor vehicle or any component part of a motor vehicle assembled by, or for, a vehicle manufacturer or franchised dealer, including a replacement part for use in a motor vehicle;

2. An electronic device that is functionally or physically a part of a larger piece of equipment designed and intended for use in an industrial, commercial, or medical setting, including diagnostic, monitoring, or control equipment;

3. An electronic device that is contained within a clothes washer, clothes dryer, refrigerator, refrigerator and freezer, microwave oven, conventional oven or range, dishwasher, room air conditioner, dehumidifier, or air purifier; or

4. A telephone of any type, unless it contains a video display area greater than four inches measured diagonally.

"Gross television recycling goal" means the overall goal established by the Department for the collection, transport and recycling of televisions for each program year, expressed in pounds and determined in accordance with N.J.A.C. 7:26A-13.9(d).

"Local government unit" means any county or municipality, or any agency, instrumentality, authority, or corporation of any county or municipality, including, but not limited to, sewerage, utilities, and improvement authorities, or any other political subdivision of the State.

"Manufacturer" means any person:

1. Who manufactures or manufactured covered electronic devices under a brand that it owns or owned or is or was licensed to use, other than a license to manufacture covered electronic devices for delivery exclusively to or at the order of the licensor;

2. Who sells or sold covered electronic devices manufactured by others under a brand that the seller owns or owned or is or was licensed to use, other than a license to manufacture covered electronic devices for delivery exclusively to or at the order of the licensor;

3. Who manufactures or manufactured covered electronic devices without affixing a brand;

4. Who manufactures or manufactured covered electronic devices to which the person affixes or affixed a brand that the person neither owns or owned nor is or was licensed to use;

5. For whose account covered electronic devices manufactured outside the United States are or were imported into the United States, provided however, if, at the time of importation, another person has registered as the manufacturer of the brand of the covered electronic devices pursuant to N.J.S.A. 13:1E-99.102, then part 5 of this definition shall not apply; or

6. Who assumes the obligations and responsibilities for a manufacturer pursuant to paragraphs 1 through 5 of this definition.

"Market share" means a television manufacturer's national sales of televisions, expressed as a percentage of the

total of all television manufacturers' national sales, based on the best available public data.

"Monitor" means a separate video display component of a computer containing a cathode ray tube or any other type of display, including, but not limited to, a liquid crystal display, gas plasma, digital light processing, or other image projection technology, that:

1. Is sold separately or sold together with a computer central processing unit and computer box; and

2. Includes its case, the interior wires and circuitry, the cable to the central processing unit and the power cord.

"Orphan device" means a covered electronic device for which no manufacturer can be identified, or for which the original manufacturer no longer exists.

"Person" means an individual, trust firm, joint stock company, business concern, and corporation, including, but not limited to, a government department, partnership, limited liability company, or association.

"Portable computer" means a computer and a video display greater than four inches in size, including a laptop computer, that can be carried as one unit by an individual.

"Premium service" means a collection service provided under an approved collection plan that exceeds the requirements in the Electronic Waste Management Act, N.J.S.A. 13:1E-99.94 et seq., for a convenient collection system, including, but not limited to, the collection of a covered electronic device from a consumer's residence.

"Program year" means a full calendar year, running from January 1 through December 31.

"Purchase" means the taking, by sale, of title in exchange for consideration.

"Recycling" means any process by which materials that would otherwise become solid waste are collected, separated or processed, and returned to the economic mainstream in the form of raw materials or products. Recycling does not include energy recovery or energy generation by means of incinerating electronic waste, whether apart from or in combination with other wastes.

"Retail sale" means the sale of a covered electronic device through sales outlets, via the Internet, mail order, or other means, whether or not the retailer has a physical presence in this State.

"Retailer" means a person who owns or operates a business that sells new covered electronic devices in this State by any means to a consumer.

"Return share" means the proportion of covered electronic devices, other than televisions, that an individual manufacturer of covered electronic devices other than televisions is responsible to collect, transport, and recycle, as determined by the Department pursuant to N.J.A.C. 7:26A-13.9.

"Return share in weight" means the total weight of an individual manufacturer's return share.

"Sale" or "sell" means any transfer for consideration of title, including, but not limited to, transactions conducted through sales outlets, catalogs, or the Internet, or any other similar electronic means, and excluding leases.

"Small business enterprise" means any business that has its principal place of business in this State, is independently owned and operated, and employs the equivalent of fewer than 50 full-time employees.

"Television" means a stand-alone display system containing a cathode ray tube or any other type of display that:

1. Is primarily intended to receive video programming via broadcast;

2. Has a viewable area greater than four inches measured diagonally; and

3. Can display standard consumer video formats, receive and display different broadcast channels and support sound capability.

"Television collection share" means the proportion of televisions that an individual manufacturer is responsible to collect, transport, and recycle, as determined by the Department pursuant to N.J.A.C. 7:26A-13.9.

"Television collection share in weight" means the total weight of an individual television manufacturer's television collection share.

"Television manufacturer" means a manufacturer of televisions offered for sale for delivery in New Jersey.

"Transporter" means a person engaged in the transportation of covered electronic devices off the collection site, by any means, including by air, rail, highway, or water.

"Vendor-to-business purchaser recycling arrangement" means an arrangement between a business concern that purchases or leases a covered electronic device and the manufacturer of the device, whereby the manufacturer, for an additional fee or otherwise, commits to accept for recycling the purchased or leased covered electronic device when the business concern determines that it no longer has use for the device.

"Video display" means an output surface having a viewable area greater than four inches when measured diagonally that displays moving graphical images or a visual representation of image sequences or pictures, showing a number of quickly changing images on a screen in fast succession to create the illusion of motion, including, if applicable, a device that is an integral part of the display and cannot be easily removed from the display by the consumer and that produces the moving image on the screen. A video display typically uses a cathode ray tube, liquid crystal display, gas plasma, digital light processing, or other image projection technology.

7:26A-13.3 Registration requirements for manufacturers of covered electronic devices

(a) This section applies to television manufacturers and manufacturers of all other covered electronic devices who sell covered electronic devices for delivery in New Jersey.

(b) On or before January 1 of each calendar year, each manufacturer of covered electronic devices sold for delivery in New Jersey on and after December 1 of the previous year shall register with the Department by submitting a registration package in accordance with (e) below and pay a registration fee of $5,000.

(c) Any manufacturer of covered electronic devices other than televisions to whom the registration requirements of (b) above did not apply on January 1 of any year shall register with the Department by submitting a registration package in accordance with (e) below within 30 days of receiving from the Department a notification of a return share and a return share in weight pursuant to N.J.A.C. 7:26A-13.9.

(d) Each registered manufacturer shall renew its registration by January 1 of the calendar year immediately subsequent to the calendar year of its initial registration, and by January 1 of each calendar year thereafter, by submitting a registration package in accordance with (e) below.

(e) To register or renew its registration, a manufacturer shall submit, in accordance with the procedures at N.J.A.C. 7:26A-13.5, a registration package that includes:

1. A completed registration form, available on the Department's website at http://www.nj.gov/dep/dshw/ewaste/manufacturers.html;

2. A registration or registration renewal fee of $5,000, as provided by the Act at N.J.S.A. 13:1E-99.9696a and 99.96b for television manufacturers and at N.J.S.A. 13:1E-99.102b for manufacturers of covered electronic devices other than televisions, and as has been implemented since January 1, 2010, and February 1, 2010, respectively, in accordance with these provisions of the Act;

3. A current brand list; and

4. The following written certification:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment. I certify further that no covered electronic device manufactured under the above-listed brands that are offered for sale in New Jersey are prohibited from being sold or offered for sale in the European Union on or after its date of manufacture due to the concentration of one or more heavy metals in the covered electronic device exceeding its maximum concentration value, as specified in the Commission of European Communities' Decision of August 18, 2005, amending Directive 2002/95/EC (European Union document 2005-618-EC), or

as specified in a subsequent amendment to the Directive, except as otherwise provided at N.J.A.C. 7:26A-13.7(d)."

i. The certification shall be signed as follows:

(1) For a corporation, by a principal executive officer of at least the level of vice president; or

(2) For a partnership or sole proprietorship, by a general partner or the proprietor, respectively.

(f) A registered television manufacturer who determines to cease selling televisions in New Jersey shall, at least 30 days before it does so, inform the Department, in writing, of the date on which it will cease selling televisions in New Jersey.

7:26A-13.4 Collection plan and annual report submission requirements

(a) Each manufacturer for whom the Department has identified a collection obligation shall submit a collection plan to the Department, either individually or as part of a group of manufacturers, by June 1 in the calendar year of the notification of the collection obligation.

(b) In addition to meeting the content requirements at N.J.A.C. 7:26A-13.6, a collection plan must provide for recycling resources and capacity sufficient to address the collection obligation of the submitting manufacturer or group of manufacturers as follows:

1. An individual manufacturer's collection plan must provide for the collection, transportation, and recycling of the individual manufacturer's collection obligation; and

2. A collection plan submitted by a group of manufacturers must provide for the collection, transportation, and recycling of the sum of the collection obligations of all participating manufacturers.

(c) Each manufacturer or group of manufacturers shall submit an annual report to the Department by February 1 of the year following a calendar year in which it had a collection obligation that includes the following:

1. The total weight of televisions and covered electronic devices other than televisions collected for recycling in the previous program year pursuant to the collection plan; and

2. For a television manufacturer or a group of manufacturers that includes one or more television manufacturers, the total number of all new televisions manufactured by the television manufacturer or, for a group of manufacturers, by each television manufacturer in the group, that were sold in New Jersey in the previous program year.

(d) A manufacturer who chooses to submit a collection plan and an annual report as part of a group, shall, at least 30 days prior to the submittal of each group collection plan, participate in the preparation and submission to the Department of a Group Designation Form, which is available on the Department's website at http://www.nj.gov/dep/dshw/ewaste/manufacturers.html.

(e) Each Group Designation Form submitted pursuant to (d) above shall provide the following information:

1. A name identifying the group;

2. The name, title, telephone number, email address and mailing address of the group's contact person, to whom the Department should address all communication regarding the submission of the collection plan and the annual report and whom the group has authorized to act on its behalf;

3. For each manufacturer participating in the group, its name, the program interest number assigned to it when it initially registered with the Department under N.J.A.C. 7:26A-13.3 and the name of the manufacturer's contact person;

4. Signature and certification by each manufacturer as to the veracity of the information contained in the Group Designation Form and all attachments thereto and to the authorization of the named contact person to act on its behalf in all matters pertaining to the submittal of collection plans and annual reports; and

5. Signature and certification by each manufacturer's contact person and the group's contact person as to the veracity of the information contained in the Group Designation Form and all attachments thereto.

(f) Each manufacturer or group of manufacturers shall implement, at its own expense, its plan for the collection, trans-

portation, and recycling of covered electronic devices by January 1 of each calendar year for which it has a collection obligation.

(g) A manufacturer shall continue to carry out the collection program as set forth in the approved plan for the entire program year, even if that manufacturer meets or exceeds its collection obligation before the end of the program year.

(h) A manufacturer or group of manufacturers may amend any element of an approved plan, but shall not implement any such amendment unless and until the Department has approved it.

7:26A-13.5 Submission and certification of required documents and payments

(a) Each manufacturer shall submit the following completed forms and payment as set forth in (b) through (e) below:

1. The registration form, as required at N.J.A.C. 7:26A-13.3(e)1;

2. The Group Designation Form, as required at N.J.A.C. 7:26A-13.4(d);

3. The collection plan, as required at N.J.A.C. 7:26A-13.4(a);

4. The annual report, as required at N.J.A.C. 7:26A-13.4(c); and

5. The registration or registration renewal fee payment, as required at N.J.A.C. 7:26A-13.3(e)2.

(b) Except as provided at (f) below, each manufacturer shall submit the required documents in (a) above by sending a copy on electronic media, such as a compact disk (CD), digital video/versatile disk (DVD) or flash drive, in portable document format (PDF) or any equivalent format as approved by the Department, via the postal service, a delivery service, or other commonly accepted method of delivery, to the address listed on the registration form until such time that the Department requires the electronic submission of these documents through a web-based submission program. Within 180 days after receipt of written notification from the Department that its web-based submission program is operational, all required documents under (a)1 through 4 above shall be submitted to the Department through the web-based submission program in a manner compatible with the Department's computer system.

(c) The manufacturer shall pay the registration or registration renewal fee required under (a)5 above, by check or money order payable to "Treasurer, State of New Jersey" and shall submit the payment with the registration form, until such time that the Department requires the electronic payment of this fee. Within 180 days after receipt of written notification from the Department that its electronic payment system is operational, the fee shall be submitted to the Department through the electronic payment system in a manner compatible with the Department's computer system.

(d) The date of the submission of the completed registration form, collection plan, annual report, and registration or registration renewal fee payment that are not submitted through a web-based submission program can be documented by submitting the documents in a way that will provide documentation of the submittal date, such as by certified mail. The date of the web-based submission can be documented by printing the appropriate website confirmation screen.

(e) Each registration form shall be certified in accordance with N.J.A.C. 7:26A-13.3(e)4.

(f) A manufacturer or group of manufacturers who has filed a claim of confidentiality regarding its collection plan shall submit that collection plan as required at N.J.A.C. 7:26A-13.6(c).

7:26A-13.6 Required contents of a collection plan; confidentiality

(a) A collection plan submitted in accordance with N.J.A.C. 7:26A-13.4 shall include the following:

1. The methods and services that will be used to collect used covered electronic devices, including, but not limited to:

i. The locations, including street addresses, of the collection sites to be utilized. The collection plan must provide for at least one collection site in every county in the State, unless the plan provides documentation that the county for which the plan does not provide collection coverage is already adequately covered by the collection plan of another manufacturer, group of manufacturers or other entity;

ii. Each collection site's hours of operation;

iii. A description of how each collection site will be staffed and secured;

iv. A listing of any limitations to be imposed on the quantity and type of material to be accepted, and whether any additional electronic equipment not required to be collected under the Electronic Waste Management Act will be accepted (for example, DVD players, VCRs, scanners, printers, or other computer and television peripherals and equipment);

v. A description of the collection methods to be utilized for consumers who are not physically able to travel to a collection site without assistance;

vi. A description of the collection methods to be employed for heavy (50 pounds in weight or heavier) or unwieldy covered electronic devices, including, but not limited to, flat screen televisions with screens greater than 40 inches measured diagonally and projection televisions;

vii. A description of how the collected covered electronic devices will be stored prior to transport to an authorized recycler;

viii. Certification that there will be no fee or cost charged a consumer for the collection, transportation or recycling of any covered electronic device other than a fee for a premium service provided for in an approved collection plan;

ix. An explanation of the extent to which, if any, there is coordination with county and municipal government recycling programs;

x. A description of the methods to be used to ensure that personal information contained on hard drives or similar data storage devices is secured from access by the general public and any untrained persons or employees; and

xi. Certification that each collector, transporter, or authorized recycler of covered electronic devices who is participating in a manufacturer's or group of manufacturers' approved collection plan is compliant with all applicable requirements of N.J.A.C. 7:26A-13.11;

2. The processes and methods that will be used to recycle collected covered electronic devices, including, but not limited to:

i. The name and location of each authorized recycler to which collected covered electronic devices will be transported. The collection plan must also include, for an authorized recycler located in a state other than New Jersey:

(1) A copy of the operating permit or approval issued by the state where the authorized recycler is located;

(2) Documentation that the facility is operating in accordance with all applicable rules and regulations; and

(3) A certification executed by the recycler stating that the recycler is aware of and has agreed to comply with the requirements of this subchapter;

ii. A description of the recycling processes that will be used by each authorized recycler identified in (a)2i above;

iii. The processes and methods that will be used, if any, to recycle collected covered electronic devices, other than televisions, that are the subject of any vendor-to-business purchaser recycling arrangements into which the manufacturer has entered; and

iv. Certification that no collected covered electronic device has been handled in a manner that would violate N.J.A.C. 7:26A-13.7(f);

3. A description of the means that will be utilized to publicize the collection services, including a website or toll-free telephone number that provides information about the manufacturer's recycling program in sufficient detail to inform a consumer how to return covered electronic devices for recycling, including any limitations placed by collectors on the number of covered electronic devices permitted for drop-off by consumers;

4. A detailed explanation of how the manufacturer intends to fulfill its obligation, through its own operations, either individually or with other registered covered electronic device manufacturers, or by contract with for-profit or not-for-profit corporations, or local government units, including a commitment to provide for the collection of all types and all brands of covered electronic devices, including orphan devices. This explanation shall include, at a minimum, the anticipated collection amounts for each collection site;

5. The following certification:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document and all attachments thereto, and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment."

The certification shall be signed as follows:

i. For a corporation, by a principal executive officer of at least the level of vice president; or

ii. For a partnership or sole proprietorship, by a general partner or the proprietor, respectively; and

6. Certification that each manufacturer that is party to the collection plan is in compliance with N.J.S.A. 13:1E-99.101, which prohibits the sale or offer for sale in New Jersey of a new covered electronic device that is prohibited from sale in the European Union based on the excessive presence of heavy metals in the product, unless the covered electronic device is exempted from this prohibition under N.J.S.A. 13:1E-99.111(2)(a). For any covered electronic device exempted under N.J.S.A. 13:1E-99.111(2)(a), the manufacturer will include certification that the covered electronic device would have been in compliance with European Union standards for heavy metals, but for the inclusion of a substance in order to comply with the consumer, health or safety requirements of the Underwriters Laboratories or Federal or State law.

(b) The Department will hold confidential any information obtained in connection with a collection plan submitted pursuant to (a) above, if the Department determines, based upon a showing by the manufacturer, that the information, if made public, would divulge competitive business information, methods or processes entitled to protection as trade secrets of the registered manufacturer. A manufacturer asserting confidentiality shall submit its claim by following the procedures at N.J.A.C. 7:26-17.3.

1. This provision is in addition to and shall not be deemed to limit any claims of confidentiality under the Open Public Records Act, N.J.S.A. 47:1A-1.1 et seq., or common law.

(c) If a manufacturer asserts a claim of confidentiality pursuant to N.J.A.C. 7:26-17.3 for any part of a collection plan, it must submit two copies of its collection plan – one that omits the confidential information, and includes only the information for which no claim of confidentiality is being made, and a second that includes all the required collection plan information, including the information for which a claim of confidentiality is being made. The manufacturer shall certify both of these submittals.

7:26A-13.7 Prohibitions on the sale and disposition of all covered electronic devices

(a) No manufacturer shall sell or offer for sale a covered electronic device in New Jersey, unless the manufacturer complies with all financial and other requirements of this subchapter, including all conditions and terms of an approved plan or a plan for which approval is pending pursuant to N.J.A.C. 7:26A-13.10(f), and N.J.S.A. 13:1E-99.94 et seq.

(b) No manufacturer or retailer of a covered electronic device shall sell or offer for sale a covered electronic device in New Jersey unless:

1. The covered electronic device is labeled with the manufacturer's brand; and

2. The label is permanently affixed to the device in such a way as to ensure that the brand is readily visible without removing or disassembling any portion of the device.

(c) No person shall sell or offer for sale in New Jersey a new covered electronic device from a manufacturer that is not in full compliance with the requirements of the Act. The prohibition of the sale or offer for sale of its covered electronic devices does not apply to the covered electronic devices of a manufacturer who has not yet obtained the Department's approval of its collection plan so long as the manufacturer is otherwise in compliance with the requirements of this subchapter and the collection plan is pending approval by the Department as provided at N.J.A.C. 7:26A-13.10(f).

(d) No person shall sell or offer for sale in New Jersey a new covered electronic device that is prohibited from being sold or offered for sale in the European Union on or after its date of manufacture because it contains one or more heavy

metals in a concentration that exceeds the maximum concentration value specified in the Annex to the European Union Directive 2002/95/EC, as supplemented or amended and incorporated by reference herein, and available at http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CONSLEG:2002L0095:20080524:EN:PDF, unless the exceedance of the heavy metal maximum concentration value results from the inclusion of a substance in order to comply with the consumer, health, or safety requirements of the Underwriters Laboratories, or with Federal or State law.

(e) A seller of new covered electronic devices shall ensure compliance with (c) and (d) above by consulting the compliance list established by the Department and posted on its website. A seller has complied with (c) and (d) above if, on the date that the covered electronic device was ordered from the manufacturer or its agent, the manufacturer was listed as being in compliance on the Department's website or the website indicates that approval is pending for that manufacturer.

(f) No person shall, pursuant to any collection plan, send a collected covered electronic device to a jail, prison, or other institution for the detention of persons charged with or convicted of an offense, for the purpose of recycling, including manual or mechanical separation to recover components and commodities contained therein for re-use or recycling, either directly or through intermediaries, and nothing in this subchapter shall be construed to allow for the recycling of covered electronic devices by prisoners.

(g) No person shall knowingly dispose of a used covered electronic device, or any of its components or subassemblies, as solid waste.

7:26A-13.8 Educational requirements for retailers of covered electronic devices

(a) Every retailer shall obtain from the Department information that describes where and how a consumer can recycle the covered electronic device sold by the retailer, and where and how a consumer can drop off the covered electronic device for collection or return, and shall provide that information to the public, using one or more of the following methods:

1. A toll-free telephone number and website;

2. A written document that is included in the packaging for the covered electronic device; or

3. A written document that is provided to the purchaser of the covered electronic device at point of sale.

7:26A-13.9 Collection obligation determination

(a) Each year the Department will determine the collection obligation for each manufacturer of covered electronic devices to be used for the following program year.

(b) The Department will determine the collection obligation for each manufacturer of covered electronics other than televisions, that is, its return share by weight, using the following data and steps:

1. The return share of each manufacturer of covered electronic devices other than televisions, will be calculated as described at (b)4 below, using a sampling of covered electronic devices, other than televisions, collected from consumers in New Jersey during the previous program year, in accordance with the protocol set forth in (b)2 below. The sampling data will be used to extrapolate the number and weight of covered electronic devices other than televisions, including brand identification, if provided, collected from consumers in collections held throughout New Jersey. The Department will supplement the sampling data with the data from the most recent submission of the annual report and may also supplement it with the best available return share data in the United States, including data from other states, including, but not limited to, data from the Brand Data Management System (BDMS) developed by the National Center for Electronics Recycling (NCER). This BDMS data includes the number and weight of covered electronic devices other than televisions, including brand identification, if provided, collected from consumers in collections held throughout the United States. The BDMS data is available at http://www.electronicsrecycling.org/BDMS/default.aspx;

2. Sampling will be conducted at a minimum of six randomly selected collection sites, at least three of which will be located in Northern New Jersey and at least three of which will be located in Southern New Jersey. At each site, a minimum of 200 units of covered electronic devices other than televisions will be sampled to determine the brand and weight of each sampled device;

3. The Department will use the data collected pursuant to (b)1 above to:

i. Generate a list of brands and the weight of covered electronic devices other than televisions that are identified for each brand;

ii. Assign each identified brand to the appropriate manufacturer; and

iii. Determine the total weight of orphan devices;

4. Using the data in (b)3 above, the return share is calculated as follows:

$$R = \frac{a}{b-c} \times 100$$

Where:
R = return share expressed as a percentage;
a = the total weight of all of an individual manufacturer's brands;
b = the total weight of all collected covered electronic devices, other than televisions; and
c = the total weight of collected orphan devices;

5. The collection obligation of each manufacturer of covered electronic devices other than televisions for which a return share is determined, that is, its return share in weight, is determined as follows:

RW = R x TW

Where:

RW = return share in weight expressed in pounds;

R = return share expressed as a percentage, calculated at (b)4 above; and

TW = total weight in pounds of covered electronic devices other than televisions projected to be collected in New Jersey from consumers during the program year to which the return share in weight will apply, or the total weight in pounds of covered electronic devices other than televisions collected in New Jersey from consumers during the most recent program year for which the Department has data, as determined at (b)6 below; and

6. The Department will project the total weight in pounds of covered electronic devices other than televisions that will be collected in New Jersey from consumers during the following program year by calculating the sum of the weight in pounds of covered electronic devices other than televisions reflected in the most recently submitted manufacturers' annual reports.

(c) The Department will determine the collection obligation for each manufacturer of televisions, that is, its television collection share, using the following data and steps:

1. The Department will acquire national market share data from an entity that has expertise in gathering market share sales data in the electronics sector, in particular, the television market. The Department will acquire sales data for the most recent 12-month period available for purchase at the time concerning televisions, including brand identification, sold to consumers throughout the United States;

2. The Department will use the market share data acquired in accordance with (c)1 above to:

i. Generate a list of brands of televisions and the number of televisions that are identified for each brand; and

ii. Assign each identified brand to the appropriate television manufacturer;

3. Using the data in (c)2 above, the television collection share of each manufacturer is calculated as follows:

$$S = \frac{a}{b} \times 100$$

Where:

S = television collection share, expressed as a percentage;

a = the total units sold of all of an individual manufacturer's brands; and

b = the total units sold of all brands;

4. The collection obligation of each television manufacturer, that is, its television collection share by weight is determined as follows:

CW = S x GW

Where:

CW = television collection share in weight, expressed in pounds;

S = television collection share expressed as a percentage, calculated at (d)3 above; and

GW = the gross television recycling goal in pounds to be collected in New Jersey from consumers during the program year to which the return share in weight will apply, determined at (d)5 below; and

5. The Department will determine the gross television recycling goal for the following program year by calculating the sum of the weight in pounds of televisions reflected in the most recently submitted manufacturers' annual reports.

(d) By March 1 of each year, the Department will publish on its website and provide to each identified manufacturer a Preliminary Collection Obligation Report for the following program year. The Preliminary Collection Obligation Report will set forth the collection obligation of each identified manufacturer, including, as appropriate, the return share or television collection share for each of its brands, and the total return share or television collection share thereof. The Preliminary Collection Obligation Report will also include supporting data, such as the results of the sampling conducted by the Department pursuant to (b)1 above.

(e) A manufacturer may comment on the collection obligation or any supporting data provided in the Preliminary Collection Obligation Report by submitting comments by April 1 of the year the Department provided the Preliminary Collection Obligation Report to the Department at the following address:

Department of Environmental Protection

Division of Solid and Hazardous Waste

Bureau of Recycling and Hazardous Waste Management

401 East State Street, 2nd Floor, West Wing

Mail Code 401-02C

P.O. Box 420

Trenton, New Jersey 08625-0420.

(f) A manufacturer commenting under (e) above who proposes that it receive an alternative collection obligation shall include in the proposal:

1. A detailed explanation of the grounds for the alternative collection obligation;

2. An alternative calculation;

3. The basis for the alternative calculation. If the alternative collection obligation is not based on the results of the Department's sampling, the basis for the alternative calculation of the return share shall include a report documenting the sampling conducted by the manufacturer in accordance with (c)2 above;

4. Documentary evidence supporting an alternative collection obligation; and

5. Complete contact information for requests for additional information and clarification.

(g) By May 1 of each year, the Department will review any collection obligation comments received pursuant to (e) and (f) above and will publish on its website and provide to each identified manufacturer a Final Collection Obligation Re-

port that will include the final collection obligations, a summary of any comments received and the Department's response to the comments.

(h) When determining compliance with a collection obligation, a manufacturer or group of manufacturers may apply the total weight of all covered electronic devices collected from consumers during a program year towards that program year's collection obligation.

7:26A-13.10 Review of collection plans

(a) The Department will review each submitted plan for the collection of covered electronic devices to ensure the plan includes all the information required pursuant to N.J.A.C. 7:26A-13.6, and that implementation of the plan could reasonably be expected to result in the attainment of the manufacturer's or group of manufacturers' collection obligation.

(b) In reviewing the collection plans, the Department will ensure that at least one electronics collection opportunity is available in each county throughout the State and in such a manner as to be convenient, to the maximum extent practicable and feasible, to all consumers in a given county. In the event there is not at least one such collection opportunity provided for in each county, the Department will work with the manufacturers to assign responsibility for additional collection opportunities based on the collection obligations of each manufacturer and the relative burden such an additional collection opportunity would place on the manufacturer.

(c) Except as provided at (d) and (e) below, no fees or costs may be charged to consumers for the collection, transportation, or recycling of covered electronic devices under these rules.

(d) A school or local government unit may be charged a fee for the reasonable costs incurred by an authorized recycler in the collection, transportation or recycling of covered electronic devices generated by that school or local government unit.

(e) The plan may provide for a fee to be charged to a consumer for a premium service if the Department has approved both the premium service and the fee for the service.

(f) After the Department reviews a manufacturer's collection plan, it will issue a written determination, either requesting additional information or determining the plan to be administratively complete. A collection plan is administratively complete if it contains all of the information required in N.J.A.C. 7:26A-13.6(a). If the Department requests additional information, the manufacturer shall submit the additional information within 30 days of receipt of the request.

(g) Upon the Department's determination that a collection plan is administratively complete, the Department will perform a technical review to determine if the plan fulfills the intent of the Electronic Waste Management Act and the requirements of this section and this subchapter. Upon completion of the technical review, the Department will issue a written determination either requesting additional information or approving or rejecting the plan. If the Department requests additional information, the manufacturer shall submit the additional information within 30 days of receipt of the request.

(h) Failure to timely and fully respond to a request for additional information under (g) above for administrative completeness or under (h) for the technical review constitutes a failure to provide a plan in violation of this subchapter and the Electronic Waste Management Act.

(i) The Department may reject the collection plan, in whole or in part, and may impose additional requirements as a condition of approval. A collection plan that the Department deems to be administratively complete will be considered as "pending approval" for the purposes of compliance with N.J.A.C. 7:26A-13.7.

7:26A-13.11 Performance requirements for collectors, transporters, and authorized recyclers

(a) A collector, transporter, or authorized recycler of covered electronic devices who is participating in a manufacturer's or group of manufacturers' approved collection plan shall comply with the United States Environmental Protection Agency's "Plug-In to eCycling Guidelines for Materials Management," incorporated herein by reference and available at http://www.epa.gov/waste/partnerships/plugin/pdf/guide.pdf.

(b) In addition to the requirements at (a) above, a collector of covered electronic devices participating in a manufacturer's or group of manufacturers' approved collection plan shall comply with the Department's requirements applicable to universal waste handlers at N.J.A.C. 7:26A-7.4 and 7.5.

(c) In addition to the requirements at (a) above, a transporter of covered electronic devices participating in a manufacturer's or group of manufacturers' approved collection plan shall comply with the Department's requirements applicable to universal waste transporters at N.J.A.C. 7:26A-7.6.

(d) In addition to the requirements at (a) above, an authorized recycler shall comply with "Responsible Recycling (R2) Practices for Use in Accredited Certification Programs for Electronics Recyclers," as supplemented or amended, and incorporated herein by reference, available at http://www.epa.gov/waste/conserve/materials/ecycling/r2practices.htm. An authorized recycler of covered electronic devices shall also comply with the requirements for Class D recycling facilities at N.J.A.C. 7:26A-3. An authorized recycler of covered electronic devices located in a state other than New Jersey shall also comply with the receiving state's rules and regulations, including any requirements for the maintenance of any permit or approval.

7:26A-13.12 Requests for administrative hearings

(a) Subject to the limits on third-party hearings at N.J.S.A. 52:14B-3.1 through 3.3, a party who believes it is aggrieved with respect to the Department's decision to approve or disapprove the collection plan of a manufacturer or group of manufacturers may, within 20 calendar days after the date of the decision, request an administrative hearing by submitting the request, in writing to:

Office of Legal Affairs
ATTENTION: Adjudicatory Hearing Requests
Department of Environmental Protection
401 East State Street, 7th Floor, West Wing
Mail Code 401-04L
P.O. Box 402
Trenton, NJ 08625-0402
and to:

Department of Environmental Protection
Division of Solid and Hazardous Waste
Bureau of Recycling and Hazardous Waste Management
401 East State Street, 2nd Floor, West Wing
Mail Code 401-02C
P.O. Box 420
Trenton, NJ 08625-0420.

(b) A request for an administrative hearing shall contain:

1. The name, address, telephone number and e-mail address of the person making the request;

2. A statement of the legal authority and jurisdiction under which the request for a hearing is made;

3. A brief and clear statement of the Department decision being appealed, indicating the specific grounds for the appeal;

4. A statement of all facts alleged to be at issue and their relevance to the Department decision for which a hearing is requested. Any legal issues associated with the alleged facts at issue must also be included; and

5. All information supporting the request or other written documents relied upon to support the request, unless this information is already in the administrative record (in which case, such information shall be specifically referenced in the request).

(c) A hearing request not received by the Department within 20 calendar days after the date of receipt of the Department decision being appealed will be denied by the Department.

(d) If the requester does not include all the information required by (b) above, the Department may deny the hearing request.

(e) Following receipt of a complete request for a hearing pursuant to (b) above, the Department may attempt to infor-

mally settle the dispute by conducting such proceedings, meetings and conferences as deemed appropriate.

(f) If the Department determines that the matter is a contested case, the Department will transmit the matter to the Office of Administrative Law. Any proceedings will be conducted in accordance with the provisions of the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. and 52:14F-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1. In making such determination, the Department will evaluate the request to determine whether a contested case exists and whether there are issues of fact which, if assumed to be true, might change the Department's decision. Where only issues of law are raised by a request for a hearing, the request will be denied. Denial by the Department of a request for an administrative hearing shall constitute the final decision of the Department for the purposes of judicial appeal.