

RECYCLING REGULATIONS
N.J.A.C. 7:26A-1 et seq.

Subchapter 1. General Provisions

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 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.

(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).

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 the subchapter.

"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.

"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.

"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 vegetative food waste; and
3. Source separated yard trimmings.

"Class D recyclable material" means, but is not limited to, the following:

1. Used oil, as defined in this section, which is subject to Department approval prior to the receipt, storage or processing at a Class D recycling center in accordance with N.J.S.A. 13:1E-99.34b, 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. Batteries as defined in this section;
3. Pesticides as defined in this section;

4. Thermostats as defined in this section;
5. Latex paint;
6. Oil base paints from household or small quantity generators; and
7. Antifreeze.

"Clean fill" means an uncontaminated nonwater-soluble, nondecomposable, inert solid such as concrete, glass and/or clay or ceramic products. Clean fill does not mean processed or unprocessed mixed construction and demolition debris including, but not limited to, wallboard, plastic, wood or metal. The non-water soluble, non-decomposable inert products generated from an approved Class B recycling facility are considered clean fill.

"Commingled" means a combining of non-putrescible 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.

"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.

"Destination facility" means a facility that treats, disposes of, or recycles a particular category of universal waste, except those management activities described in N.J.A.C. 7:26A-7.2(d)1 and 3 and 7.3(d)1 and 3. A facility at which a particular category of universal waste is only accumulated, is not a destination facility for purposes of managing that category of universal waste.

"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.

"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 hazardous waste identified or listed in 7:26G-5 or whose act first causes a hazardous waste to become subject to regulation.

"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.

"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 (batteries, pesticides, or thermostats, 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.

"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 connected 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 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 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 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 center for Class D recyclable materials" means a universal waste handler or transfer facility or a facility which processes used oil by chemical or physical means to produce from used oil, or to make used oil more amenable for the production of, fuel oils, lubricants, or other used oil-derived products. None of the following facilities is considered a Class D recycling center for the purposes of this chapter, unless it also engages in used oil processing as defined in this section:

1. Used oil aggregation point;
2. Used oil accumulation center;
3. Do-it-yourselfer used oil collection center;
4. Used oil collection center;
5. Used oil transfer facility;
6. Small quantity handler of universal waste;
7. Large quantity handler of universal waste; or
8. Universal waste transporter.

"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
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(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.

"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 (batteries, pesticides, or thermostats, 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 separation" or "source separated" means the process by which materials are separated at the point of generation by the generator thereof from solid waste for the purposes of recycling.

"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 used oil which is constructed primarily of non-earthen materials (for example, wood, concrete, steel, plastic) which provides structural support.

"Thermostat" means a temperature control device that contains metallic mercury in an ampule attached to a bimetal sensing element, and mercury-containing ampules that have been removed from these temperature control devices in compliance with the requirements of N.J.A.C. 7:26A-7.2(d)3ii or 7.3(d)3ii.

"Universal waste" means a hazardous waste that is generated by household, institutional, commercial or industrial generators in similar quantities and manner and is exempted from full hazardous waste management. Universal waste includes hazardous waste batteries, thermostats and spent or recalled pesticides and other potential waste that meet the universal waste criteria listed by the Department at N.J.A.C. 7:26A-7. Universal waste is any of the following hazardous wastes that are subject to the universal waste requirements of this chapter:

1. Batteries as described at N.J.A.C. 7:26A-7.1(b);
2. Pesticides as described at N.J.A.C. 7:26A-7.1(c); and
3. Thermostats as described at N.J.A.C. 7:26A-7.1(d).

"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, accumulates 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.

"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 and brush.

7:26A-1.4 Exemptions

(a) The activities listed below in this subsection 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 general or limited approval pursuant to N.J.A.C. 7:26A-3 for the receipt or storage of source separated recyclable materials. This exemption shall also apply to asphalt manufacturing plants which receive solely source separated recyclable asphalt, and pre-consumer asphalt shingles or other asphalt-based roofing scrap, or a combination thereof prior to its introduction into the asphalt manufacturing process;

2. The recycling of source separated recyclable materials which 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 with a diameter not to exceed four inches and brush are the sole materials to be received, stored, processed or transferred provided that:

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

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

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:

i. Leaves shall be delivered unbagged;

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. Composting facilities for Class C recyclable material which meet the following criteria:

i. The facility receives only yard trimmings, on a maximum of three acres, and receives no more than 10,000 cubic yards 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 facility is not 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. 13:1E-1, 13:8A-20 and 13:8A-35, and N.J.A.C. 7:36;

iv. The facility is not located 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. Composting windrows shall terminate no closer than 50 feet from the facility property line and 150 feet from any area of human use or occupancy, or if the facility receives grass, the composting windrows shall terminate a minimum of 500 feet from any area of human use or occupancy;

vii. Prior to the operation of 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 which 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 facility. 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 activity area shall be separated from any and all adjacent residential and/or commercial land uses by an effective vegetative visual screen buffer;

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

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

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

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 to the facility;

xiii. The operation of the facility shall follow the approved method of windrow composting set forth at (a)14xiii(1) through (6) below, or other composting method approved by the Department which results in the aerobic biodegradation of the yard trimmings received:

(1) All yard trimmings delivered to the facility for processing shall be removed from bags, boxes or similar containers prior to windrow formation. All discarded bags, boxes and similar containers shall be placed in a suitable refuse receptacle in the staging area of the facility for removal to an off-site disposal facility in accordance with N.J.A.C. 7:26-6;

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

(3) 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;

(4) 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;

(5) 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

(6) 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 facility, yard trimming composting facility 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, 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 set forth at N.J.A.C. 7:26A-7.2;

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, 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 set forth at N.J.A.C. 7:26A-7.3; and

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 set forth at N.J.A.C. 7:26A-7.4.

(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, drainage and soils characteristics, surface and ground

water quality, wetlands, applicable Federal, State or local land uses including the Pinelands 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, and 8 above, tonnage reports shall be submitted in accordance with N.J.A.C. 7:26A-4.4(c);

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, Permitting Element, CN 414, Trenton, New Jersey 08626-0414, 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 or regulations.

7. Operators of recycling centers, who have been issued a general or limited approval and subsequently wish to engage in activities listed at N.J.A.C. 7:26A-1.4(a), are subject to the district solid waste management plan requirements identified at N.J.A.C. 7:26-6.11 and the approval modification requirements at N.J.A.C. 7:26A-3.10 for those additional activities.

(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.

Subchapter 2. Annual Fees for A General or Limited Approval to Operate a Recycling Center for Class B Recyclable Material

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 \$5,892 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 \$2,000 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 \$5,976 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 \$13,367 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 \$6,067 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 reviewing modification submittals and issuing letters of approval or denial for modifications, advising recycling center owners or operators on technical compliance matters, facility compliance inspections, conducting market research, analysis and development activities, review and analysis of annual report data and other technical analyses required to implement the recycling program.

2. All persons who possess a limited approval to operate a recycling center for Class B recyclable material shall submit a fee of \$250.00 per month for each month of operation authorized by the limited approval. The fee for the total number of months of authorized operation is due 15 days from the date of issuance of the limited approval.

i. The monthly fee for limited approval will cover the Department's costs of reviewing modification submittals and issuing letters of approval or denial for modifications, advising recycling center owners or operators on technical compliance matters, facility compliance inspections, conducting market analysis and development activities, review and analysis of final report data and other technical analyses required to implement the recycling program.

3. All persons who possess a general approval to operate a recycling center for Class C recyclable material shall be billed an annual fee of \$3,763 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 reviewing modification submittals and issuing letters of approval or denial for modifications, advising recycling center owners or operators on technical compliance matters, facility compliance inspections, conducting market research, analysis and development activities, review and analysis of annual report data and other technical analyses required to implement the recycling program.

4. All persons who possess a general approval to operate a recycling center for Class D recyclable material shall be billed an annual fee of \$8,005 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 reviewing modification submittals and issuing letters of approval or denial for modifications, advising recycling center owners or operators on technical compliance matters, facility compliance inspections, conducting market research, analysis and development activities, review and analysis of annual report data and other technical analyses required to implement the recycling programs.

(c) All fees in (a) and (b) above may be adjusted annually in accordance with N.J.A.C. 7:26A-2.2.

7:26A-2.2 Adjustment of fees

(a) The Department may adjust the fees for each activity provided in N.J.A.C. 7:26A-2.1 annually, based upon the following formula:

$$\text{Fee} = (\text{hours required}) \times (\text{hourly rate})$$

where "hours required" and "hourly rate" are as set forth in the Recycling Center Fee Report provided in (b) below.

(b) When the Department adjusts any fees for recycling centers, the Department will prepare a Recycling Center Fee Report. The report will include the following:

1. A statement of the hours required to perform each type of activity for which fees are assessed under N.J.A.C. 7:26A-2.1. The statement will be based upon the Department's timekeeping records for a period of at least nine months, ending no more than six months before the completion of the report, subject to the adjustments provided in (b)1i and ii below.

i. If the Department determines that it has not performed an activity a sufficient number of times within the one-year period to provide data sufficient to reliably determine the hours required to perform the activity, the Department may supplement data from that period with data collected in previous years.

ii. With respect to activities to be performed more than once in the period covered by the fee (such as several compliance monitoring inspections to be performed in a one-year period), the data upon which the report is based may show a decrease in the amount of time required to perform an activity, all or part of which decrease results from a lack of Department staff sufficient to perform the activity the expected number of times within the period. In such event, the Department may maintain the fee at the level required to defray the cost of staff sufficient to perform the activity the expected number of times within the period; and

2. A statement of the hourly rate for calculating fees. The hourly rate is the average cost of one hour of Department staff time, calculated according to the following formula:

$$\frac{(AS + FB + IC + OE + LS)}{BH}$$

BH

where:

- i. AS equals the average salary of a full-time employee working in the Department's recycling center approval program;
- ii. FB equals the fringe benefits of a full-time employee working in the Department's recycling center approval program, calculated as a Department of Treasury set percentage times the average salary, and is based upon costs associated with pensions, health benefits, workers' compensation, disability benefits, unused sick leave, and the employer's share of FICA;
- iii. IC equals indirect costs attributable to a full-time employee working in the Department's recycling center approval program, calculated at the rate negotiated annually between the Department and the United States Environmental Protection Agency times the total of the average salary plus fringe benefits;
- iv. OE equals normal operating expenses (including without limitation postage, telephone, travel, supplies and data system management) attributable to a full-time employee working in the Department's recycling center approval program;
- v. LS equals the budgeted annual cost of legal services rendered by the Department of Law and Public Safety, Division of Law, in connection with the Department's recycling center activities, divided by the total number of Department employee positions which the Department projects will be funded by the revised fee schedule; and
- vi. BH equals the average number of hours which each Department employee working in the Department's recycling program spends annually performing activities for which fees are to be assessed under N.J.A.C. 7:26A-2.1(a)4 and (a)5.

(c) Promptly after completing the report described in (b) above, the Department will provide a copy of the report to each person required to have paid a fee under N.J.A.C. 7:26A-2.1 within the one-year period covered by the report.

(d) Promptly after completing the report described in (b) above, the Department will publish a notice in the New Jersey Register stating that the report is available, and directing interested persons to contact the Department for a copy of the report. The Department will provide a copy of the report to each person requesting a copy.

7:26A-2.3 Payment of fees

Payment of all fees shall be made by check or money order, payable to "Treasurer, State of New Jersey" and shall be submitted to:
New Jersey Department of Environmental Protection
Bureau of Revenue
CN 420
Trenton, New Jersey 08625-0420

Subchapter 3. Approval of Recycling Centers for Class B, Class C or Class D Recyclable Materials

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) Any facility which received written Departmental approval to receive, store, process or transfer any source separated Class B recyclable materials prior to November 18, 1991 may continue to do so if all other requirements of the Solid Waste Management Act, N.J.S.A. 13:1E-1 et seq. and this chapter have been met.

(d) 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 county 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;
3. An indication that a copy of the application for county plan inclusion may be examined at the office of the solid waste or recycling coordinator of the county 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 county plan inclusion can be made at the public hearing which shall be held by the board of chosen freeholders, submitted to the county clerk's office or submitted to the office of the solid waste or recycling coordinator of the county in which the recycling center is located.

(e) 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 the 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 the 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 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 in accordance with N.J.S.A. 45:8-35.1 et seq. by a licensed professional engineer or surveyor, 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, New Jersey Pinelands, 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; and
- viii. Indicate the site access controls to be employed at the recycling center;

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; and

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.

(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
CN 414
Trenton, New Jersey 08625-0414

(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 county 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 municipality 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 Class C recyclable materials pursuant to this subchapter shall also comply with the requirements of N.J.A.C. 7:26A-4.5.

(h) All persons who submit application for a general approval to operate a recycling center for Class D recyclable materials pursuant to this subchapter shall also comply with the requirements of N.J.A.C. 7:26A-4.6 and 4.7.

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 a performance bond or letter of credit 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. The criteria to be evaluated by the Department to determine if a performance bond or letter of credit is needed, and to be used in establishing the performance bond or letter of credit 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;

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.

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-3.11 and 3.12.

(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-3.11 and 3.12.

(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 16ii.

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 county 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 operations of the recycling center or where changes are planned, the application for renewal of a general approval shall be accompanied by a written request to modify the general approval in accordance with N.J.A.C. 7:26A-3.10.

(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. 13:13E-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-3.11 and 3.12.

(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-3.11 and 3.12.

(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 approval to operate a recycling center for the receipt, storage, processing or transfer of Class B recyclable material

(a) A person may operate a recycling center for the receipt, storage, processing or transferring of Class B recyclable materials 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. The following information shall be submitted to the Department in order to obtain limited approval:

1. The information required pursuant to N.J.A.C. 7:26A-3.2(a)1, 2, 3, 4, 5, 6, 7, 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 receipt, 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 9viii;

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

3. Written evidence that the municipal planning board or board of adjustment has been notified of the submission of the application for the proposed recycling operation and directed to provide any comments on the application to the Department at the address specified in (1) below; and

4. 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) Persons applying to the Department for a limited approval to operate a recycling center for Class B recyclable materials shall notify the applicable county solid waste and recycling coordinator of this application.

(c) 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).

(d) 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.

(e) 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 where it satisfies the information submission requirements of (a) through (d) 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 (e) 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 (e) 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.

(f) 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; and

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-3.11 and 3.12.

(g) 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; or

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-3.11 and 3.12.

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

(i) 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.

(j) 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 county 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 (j)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 received, 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;

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; and

7. A listing of each Class B recyclable material received at the recycling center by municipality of origin and by the amount per municipality.

(k) 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.

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

The New Jersey Department of Environmental Protection
Division of Solid and Hazardous Waste
CN 414
Trenton, New Jersey 08625-0414

(m) 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 (1) above. Concurrent with the submission of the petition to the Department, the petitioner shall also notify the applicable municipal planning board and county 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.

(n) 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 and Class D materials

(a) The temporary storage of unprocessed and processed Class B or Class D recyclable material 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 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 owners and operators of recycling centers which have received 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 owner or operator 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 owner or operator shall also provide written notice to the solid waste or recycling coordinator of the applicable county of any request to modify a general approval, and shall provide written notice to the applicable municipality of any request to modify a limited approval.

(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 owner or operator 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 owner or operator in writing. The owner or operator 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 owner or operator 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
CN 414
Trenton, New Jersey 08625-0414

(g) The Department will notify the solid waste or recycling coordinator of the county 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.

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

(a) An owner or operator seeking approval of an increase in design capacity at an approved recycling center for Class B 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 owner or operator 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 owner or operator in writing within 30 days of receipt of the request for approval. The owner or operator 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 owner or operator 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 owner or operator 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 general or 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 a recycling center operating pursuant to a general approval to maintain inclusion 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 3.13(a)1 through 8.

(c) If the Department denies an application for a general or 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 owner or operator of the facility, 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-3.11.

(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 county 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 who believes himself or herself to be 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. Denial of a general or limited approval, or any part thereof; or
2. 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, CN 402

Trenton, New Jersey 08625-0402

(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 approval 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 holding 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 written request to transfer a general approval shall be submitted by the owner or operator of the recycling center to the applicable solid waste or

recycling coordinator of the county in which the recycling center is located. One copy of the written request to transfer a limited approval shall be submitted by the owner or operator of the recycling center to the applicable municipal planning board. The Department shall notify county or municipal officials of determinations concerning the transfer of general or limited approvals.

7:26A-3.16 Filling requirements for existing recycling centers which receive, store, process or transfer Class C recyclable material

(a) Any facility receiving, storing, processing or transferring vegetative food waste and/or yard trimmings under the terms and conditions of a solid waste facility permit or an exemption pursuant to N.J.A.C. 7:26 prior to 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 an exemption or general approval. By June 14, 1997,, the Department will 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 in order to qualify for an exemption pursuant to N.J.A.C. 7:26A-1.4(a)14 or obtain a recycling center approval pursuant to N.J.A.C. 7:26A-3.2(a), 3.4 and 3.18.

(b) Within 180 days of receipt of the Department's assessment pursuant to (a) above, all owners or operators of such facilities shall comply with all applicable criteria and operational standards as set forth in this chapter.

(c) By April 15, 1997, any owner or operator of a leaf mulching activity under an exemption from solid waste facility permitting authorized pursuant to N.J.A.C. 7:26 shall comply with the criteria set forth at N.J.A.C. 7:26A-1.4(a)13, as well as all other applicable rules of this chapter.

(d) Any facility operating under a solid waste facility permit or an authorized exemption from solid waste facility permitting issued prior to December 16, 1996 may continue to operate until such time as the Department has made a determination regarding its application for a general approval to operate a recycling center for the receipt, storage, processing or transfer of Class C recyclable materials pursuant to the procedures of this subchapter.

(e) A facility operating for the receipt, storage, processing or transfer of Class C recyclable materials, and for which written Department approval 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.

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

(a) All recycling centers holding 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 recycling centers holding a general approval shall retain the information required pursuant to N.J.A.C. 7:26A-.2(a) 16iii for three calendar years following the calendar year for which reporting is required pursuant to (c) and (d) below.

(c) All recycling centers operating pursuant to 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, Division of Solid and Hazardous Waste, 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 recycling centers operating pursuant to 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 and 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. 7:26A-3.2, the following information:

1. A facility design plan prepared in accordance with N.J.A.C. 7:26A-3.2(a)9, including the following:

i. Type of facility (that is, sole source or regional) and including a list of intended users of the site, if regional;

ii. Compost windrow and curing pile dimensions, with cross sectional views;

iii. Dimensions and details of the proposed receiving, pre-processing, composting curing and storage areas. If grass will be accepted, the dimensions and details of the proposed grass clippings co-mixing area and the composting and curing areas delineating the location of windrows and curing piles;

iv. The location of all utilities including, but not limited to, water, sanitary sewer, and storm water systems;

v. A design plan addressing the following safety issues:

(1) A description of fire protection and control procedures to be employed at the site; and

(2) A description of vector, dust and litter controls;

vi. The nearest sensitive neighboring receptor(s) (residential, commercial, institutional), providing approximate distances to property lines from the recycling center;

vii. The impact that the proposed recycling center will have on existing transportation patterns; and

viii. The soil characteristics for the site according to the soil surveys published by the appropriate Natural Resource Conservation Service District;

2. An operations plan prepared in accordance with N.J.A.C. 7:26A-3.2(a)16 including the following:

i. A description of the anticipated quantities (in cubic yards) and variation of each material to be handled by the facility on an annual basis, indicating "on-site" capacity and maximum annual capacity, if different;

ii. Designation of persons responsible for operation, control and maintenance of facility;

iii. The hours and days of operation during the active composting season and during the final curing/distribution season, if different;

iv. Methods for measuring incoming materials;

v. Methods for removing and recovering for recycling or disposal non-compostable wastes from the incoming recyclable materials stream, methods for removal, storage and disposal of any hazardous wastes, including designation of disposal sites for non-compostable waste;

vi. Methods to control traffic and to expedite unloading;

vii. A description of windrow methods, including:

(1) How windrows will be aerated, frequency of aeration and equipment used on site for this purpose;

(2) A list of additives, where applicable, to be employed such as water or nitrogen sources to maintain the proper moisture content or carbon to nitrogen ratios;

(3) How the compost windrows will be constructed and situated on the site, giving dimensions of windrows including width, height and length, and providing spacing distance between windrows; and

(4) The term of the composting process from the time of windrow formation to such time as the curing pile is broken down for final product processing and distribution;

viii. The staging steps relating to anticipated delivery rates, defining the number of trucks daily, hourly and peak hourly in volume and weight of materials brought on site, the staging procedures prior to formation of windrows, and storage procedures for finished compost prior to its removal off-site;

ix. If grass is to be accepted for composting:

(1) The maximum quantity to be composted;

(2) The length of storage time upon acceptance;

(3) The ratio of mixture (for example, three parts leaves to one part grass);

(4) Methods of mixing with partially decomposed leaves and/or wood chips including equipment and machinery to be used;

(5) The frequency of aeration; and

(6) The composting duration;

x. The proposed facility operating safety procedures and environmental monitoring procedures (that is, testing for moisture, temperature, and oxygen in windrows);

xi. Methods to control soil erosion and meet the New Jersey Soil Erosion and Sediment Control Regulations, N.J.A.C. 4:24-43,

xii. Leachate and storm water run-off and drainage control measures;

xiii. Methods to minimize, manage and monitor odors to prevent detection of odors off site and meet the New Jersey Air Pollution Control Regulations, N.J.A.C. 7:27;

xiv. Methods 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;

xv. Contingency operations plan in the event of wind, heavy rain, snow, freezing or other inclement weather conditions;

xvi. Any refinement steps prior to finished product distribution, such as screening.

xvii. 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; and

xviii. Plans for marketing the finished compost.

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

4. 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 the receipt, storage, processing or transfer of any Class D recyclable materials 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).

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 to 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).

(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.

Subchapter 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 Material; Right of Entry and Inspection

7:26A-4.1 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 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 the Department has approved pursuant to N.J.A.C. 7:26A-3 for receipt, storage, processing or transfer at the recycling center; and

iii. Class A recyclable materials maybe 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 the 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 the 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, State, county, municipal, and other local laws and regulations including, but not limited to, nuisance codes, the noise control rules at N.J.A.C. 7:29, the air pollution control rules at N.J.A.C. 7:27, the stream encroachment rules at N.J.A.C. 7:13, the New Jersey Pollutant Discharge Elimination System (NJPDES) rules at N.J.A.C. 7:14A, the Soil Erosion and Sediment Control Act, N.J.S.A. 4:24-1 et seq., and with all applicable fire and safety codes;

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; and

9. All recycling centers located within the Pinelands Protection 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.

(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 Right of entry

(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.

7:26A-4.4 Tonnage reporting requirements

(a) All operators of recycling centers shall provide a recycling tonnage report by February 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 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.

(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 February 1 of each year to the applicable municipalities, to the county and to the Department 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.

7:26A-4.5 Additional design and operational requirements for recycling centers which receive, store, and process 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 consisting only of yard trimmings:

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. 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.

3. The recycling center shall have sufficient capacity to handle projected incoming volumes of yard trimmings.

4. The perimeter of the composting activity area shall be separated from any and all adjacent residential, commercial and/or other sensitive land uses through the establishment of an effective vegetative visual screen buffer.

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

6. 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.

7. 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.

8. A sign shall be posted at the entrance of the recycling center which identifies the hours of operation.

9. 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.

10. 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.

11. 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.

12. Yard trimmings shall be received only during times when the recycling center operator or owner is present.

13. All yard trimmings delivered to the recycling center for processing shall be removed from bags, boxes or similar containers prior to any processing steps except that yard trimmings in biodegradable 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.

14. If the incoming material contains grass, processing of such material shall begin on the day of receipt.

15. Recycling centers which provide composting of the Class C material shall operate in accordance with the following:

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

ii. 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;

iii. 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;

iv. The recycling center shall employ one of the following methods of windrow composting as defined below, or any other composting method approved by the Department:

(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 6 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 tenth 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; or

(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;

v. Materials staging and processing shall be done 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 operations to sensitive land uses.

² From operations to property line/to sensitive land uses.

³ From operating to property line/to sensitive land uses/to inhabited structure.

⁴ From grass clipping staging and handling areas to sensitive land uses.

⁵Building setback for enclosed operations.

vi. The design capacity of the finished compost storage area shall not exceed 15 months of production. Finished compost shall not be stored at the recycling center for more than 15 months;

vii. 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;

viii. 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)15 vii above;

ix. 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;

x. 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;

xi. The following information shall be made available for inspection by the Department pursuant to N.J.A.C. 7:26A-4.3:

(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.

16. 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.

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

18. 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 15 days prior to closure.

19. Within 30 days of ceasing operation, all residuals, unprocessed yard trimmings and recyclables shall be removed from the site and recycled or disposed as appropriate.

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

(b) 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 other than or in addition to yard trimmings:

1. Traffic associated with the operation of the recycling center shall not result in an unacceptable decrease in the existing level of service as 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.

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

3. The perimeter of the composting activity area shall be separated from any and all adjacent residential, commercial and/or other sensitive land uses through the establishment of an effective vegetative visual screen buffer.

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

5. 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.

6. The composting structure shall withstand wear and tear of normal operations. The floor shall be impermeable (10-5 cm/sec or greater) 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.

7. The recycling center operations shall be fully enclosed except in those cases where vegetative food material is the only food material received.

8. Any recycling center not fully enclosed shall meet the buffer requirements for recycling centers handling grass clippings described in (a)15 above.

9. 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.

10. 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 pursuant to N.J.A.C. 7:26A-4.3. 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.

11. 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.

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

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

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

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

16. Processing of incoming material shall begin within three days of receipt. If the incoming material contains grass and/or other highly putrescible materials, processing of such material shall begin on the working day of receipt of such material.

17. Incoming, unprocessed material shall not be mixed with finished compost.

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

i. Windrow method, which meets PFRP as follows:

(1) Maintenance of aerobic conditions; and

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

ii. Aerated static pile method, which meets PFRP as follows:

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

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

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

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

19. 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.

20. The design capacity of the finished compost storage area shall not exceed 15 months of production, in accordance with the marketing plan prepared and submitted in accordance with N.J.A.C. 7:26A-3.

21. Finished compost shall not be stored at the recycling center for more than 15 months.

22. Stored finished compost that is not used or sold within 15 months shall be removed or reprocessed for use or sale.

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

24. 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.

25. 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 (b)28 below.

26. 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 (b)25 above.

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

- i. Daily temperature and moisture monitoring of the composting process;
- ii. The quantity of material received daily expressed as cubic yards;
- iii. The source of material received daily;
- iv. The results of laboratory analyses of finished compost;
- v. The retention time of the finished compost; and
- vi. The sale and distribution of recovered materials.

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

- i. Results of compost analyses and name(s) of certified laboratory(ies);
- ii. The quantity, type and source of incoming materials;
- iii. The quantity and types of recovered recyclables;
- iv. The quantity of compost produced;
- v. The quantity of compost sold and/or distributed, and the end markets to which the compost is sold or distributed;
- vi. The quantity of disposed residue, and sites receiving residue;
- vii. Daily temperature readings and retention times during PFRP;
- viii. A summary of leachate management (collected and reused or treated and disposed);
- ix. A summary of major maintenance on leachate, temperature or other monitoring and control systems in operation; and
- x. The standard procedures employed to ensure data reliability.

29. The recycling center shall, after one year of approval, submit to the Department 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 the plans to finance.

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

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

32. 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 Class C recycling material to the recycling center. Such notice shall be published at least 30 days prior to closure.

33. Within 10 days of ceasing operation, all residuals and unprocessed Class C recyclable material 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.

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

(c) 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 trimming 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 Operational standards for recycling centers for Class D recyclable materials [Reserved]

7:26A-4.7 Additional 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.

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.

Subchapter 5. Requirements For Processing Discarded Appliances That Contain Refrigerant Fluid.

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.

Subchapter 6. Standards for the Management of Used Oil

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 paragraph, "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 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 no longer subject to this subchapter.

TABLE 1 Used Oil not exceeding any specification level is not subject to this subchapter when burned for Energy Recovery (except as noted below).¹

Constituent/property	Allowable level
Arsenic	5 ppm maximum
Cadmium	2 ppm maximum
Chromium	10 ppm maximum
Lead	100 ppm maximum
Flash point	100°F minimum
Total halogens	1,000 ppm maximum ²

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 references 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 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 minimum 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-yourself 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) 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.

(b) 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. Use 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.

(c) 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 aggregation 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 provide 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 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; and

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.

(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. Used oil transporters shall comply with all applicable requirements under the U.S. Department of Transportation regulations in 49 C.F.R. Parts 171 through 180. Persons transporting used oil that meets the definition of a hazardous material in 49 C.F.R. 171.8, shall comply with all applicable regulations in 49 C.F.R. Parts 171 through 180.

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 on-site 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 are subject to regulation under N.J.A.C. 7:26A-6.7;

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. 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. 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 v 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 subchapter 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 of 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-6.8(d) owner or operator shall keep the plan at the facility as follows:

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 as 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-refining 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

(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.

Subchapter 7. Standards for the Management of Class D Universal Waste

7:26A-7.1 General

(a) The following is the scope of the universal waste rules in this subchapter:

1. This subchapter establishes requirements for managing the following:

- i. Batteries as described in (b) below;
- ii. Pesticides as described in (c) below; and
- iii. Thermostats as described in (d) below.

2. This subchapter provides an alternative set of management standards in lieu of regulation as hazardous waste under N.J.A.C. 7:26G.

(b) The following is the applicability standards for batteries.

1. Batteries covered under this subchapter apply to the following:
 - i. The requirements of this subchapter apply to persons managing batteries as defined in N.J.A.C. 7:26A-1.3 except those listed in (b)2 below;
 - ii. Spent lead-acid batteries which are not managed under 40 C.F.R. Part 266, subpart G, as incorporated by reference at N.J.A.C. 7:26G-10, are subject to management under this subchapter;
2. The requirements of this subchapter do not apply to persons managing the following batteries:
 - i. Spent lead-acid batteries that are managed under 40 C.F.R. Part 266, subpart G as incorporated by reference at N.J.A.C. 7:26G-10;
 - ii. Batteries, as defined in N.J.A.C. 7:26A-1.3, that are not yet wastes under N.J.A.C. 7:26G, including those that do not meet the criteria for waste generation in (b)3 below;
 - iii. Batteries, as defined in N.J.A.C. 7:26A-1.3, that are not hazardous waste. A battery 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; and
3. The following are the standards for generation of waste batteries:
 - i. A used battery becomes a waste on the date it is discarded (for example, when sent for reclamation); and
 - ii. An unused battery becomes a waste on the date the handler decides to discard it.

(c) The following are the applicability standards for pesticides.:

1. The requirements of this subchapter apply to persons managing pesticides, as defined in N.J.A.C. 7:26A-1.3, meeting the following conditions, except those listed in (c)2 below:
 - i. Recalled pesticides that are:
 - (1) Stocks of a suspended and canceled pesticide that are part of a voluntary or mandatory recall under the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) Section 19(b), including, but not limited to, those owned by the registrant responsible for conducting the recall; or
 - (2) Stocks of a suspended or canceled pesticide, or a pesticide that is not in compliance with FIFRA, 7 U.S.C. §§136 et seq. that are part of a voluntary recall by the registrant.
 - ii. Stocks of other unused pesticide products that are collected and managed as part of a waste pesticide collection program;
2. The requirements of this subchapter do not apply to persons managing the following pesticides:
 - i. Recalled pesticides described in (c)1i above, and unused pesticide products described in (c)1ii above, that are managed by farmers in compliance with 40 C.F.R. 262.70 as incorporated by reference at N.J.A.C. 7:26G-6. (40 C.F.R. 262.70 addresses pesticides disposed of on the farmer's own farm in a manner consistent with the disposal instructions on the pesticide label, providing the container is triple rinsed in accordance with 40 C.F.R. 261.7(b)(3) as incorporated by reference at N.J.A.C. 7:26G-5);
 - ii. Pesticides not meeting the conditions set forth in (c)1 above. These pesticides shall be managed in compliance with the hazardous waste regulations in 40 C.F.R. Parts 261 and 262, as incorporated by reference at N.J.A.C. 7:26G-5 and 6;

iii. Pesticides that are not wastes under N.J.A.C. 7:26G, including those that do not meet the criteria for waste generation in (c)3 below or those that are not wastes as described in (c)4 below; and

iv. Pesticides that are not hazardous waste. A pesticide is a hazardous waste if it is listed in 40 C.F.R. Part 261, subpart D or 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.

3. A pesticide becomes a waste when it meets the following standards.

i. A recalled pesticide described in (c)1i above becomes a waste on the first date on which both of the following conditions apply:

(1) The generator of the recalled pesticide agrees to participate in the recall; and
(2) The person conducting the recall decides to discard (for example, burn the pesticide for energy recovery).

ii. An unused pesticide product described in (c)1ii above becomes a waste on the date the generator decides to discard it.

4. The following pesticides are not wastes:

i. Recalled pesticides described in (c)1i above, provided that the person conducting the recall:

(1) Has not made a decision to discard (for example, burn for energy recovery) the pesticide. Until such a decision is made, the pesticide does not meet the definition of "solid waste" under 40 C.F.R. 261.2 as incorporated by reference at N.J.A.C. 7:26G-5; thus the pesticide is not a hazardous waste and is not subject to hazardous waste requirements, including this subchapter. This pesticide remains subject to the requirements of FIFRA; or

(2) Has made a decision to use a management option that, under 40 C.F.R. 261.2 as incorporated by reference at N.J.A.C. 7:26G-5, does not cause the pesticide to be a solid waste (that is, the selected option is use (other than use constituting disposal) or reuse (other than burning for energy recovery), or reclamation). Such a pesticide is not a solid waste and therefore is not a hazardous waste, and is not subject to the hazardous waste requirements at N.J.A.C. 7:26G or the requirements of this subchapter. This pesticide, including a recalled pesticide that is exported to a foreign destination for use or reuse, remains subject to the requirements of FIFRA; or

ii. Unused pesticide products described in (c)1ii above, if the generator of the unused pesticide product has not decided to discard (for example, burn for energy recovery) them. These pesticides remain subject to the requirements of FIFRA.

(d) The following are the applicability standards for mercury thermostats:

1. The requirements of this subchapter apply to persons managing thermostats, as defined in N.J.A.C. 7:26A-1.3, except those listed in (d)2 below.

2. The requirements of this subchapter do not apply to persons managing the following thermostats:

i. Thermostats that are not yet wastes under N.J.A.C. 7:26G. Paragraph (d)3 below describes when thermostats become wastes.

ii. Thermostats that are hazardous wastes. A thermostat 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.

3. The following are the standards for the generation of waste thermostats:

i. A used thermostat becomes a waste on the date it is discarded (for example, sent for reclamation).

ii. An unused thermostat becomes a waste on the date the handler decides to discard it.

(e) The following are the applicability standards for household and conditionally exempt small quantity generator waste:

1. Persons managing the wastes listed below may, at their option, manage them under the requirements of this subchapter:

i. Household wastes that are exempt under 40 C.F.R. 261.4(b)(1) as incorporated by reference at N.J.A.C. 7:26G-5 and are also of the same type as the universal wastes defined at N.J.A.C. 7:26A-1.3.

ii. Conditionally exempt small quantity generator wastes that are exempt under 40 C.F.R. 261.5 as incorporated by reference at N.J.A.C. 7:26G-5 and are also of the same type as the universal wastes defined at N.J.A.C. 7:26A-1.3;

2. Persons who commingle the wastes described in 1i and 1ii above together with universal waste regulated under this subchapter shall manage the commingled waste under the requirements of this subchapter.

7:26A-7.2 Standards for small quantity handlers of universal waste

(a) This section applies to small quantity handlers of universal waste (as defined in N.J.A.C. 7:26A-1.3).

(b) A small quantity handler of universal waste is prohibited from the following:

1. Disposing of universal waste; and

2. Diluting or treating universal waste, except by responding to releases as provided in (h) below; or by managing specific wastes as provided in (d) below.

(c) A small quantity handler of universal waste is not required to notify EPA of universal waste handling activities.

(d) The following are the waste management standards for small quantity handlers of universal waste:

1. A small quantity handler of universal waste shall manage universal waste batteries in a way that prevents releases of any universal waste or component of a universal waste to the environment, as follows:

i. A small quantity handler of universal waste shall contain any universal waste battery 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 battery, and shall lack evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions;

ii. A small quantity handler of universal waste may conduct the following activities as long as the casing of each individual battery cell is not breached and remains intact and closed (except that cells may be opened to remove electrolyte but shall be immediately closed after removal):

(1) Sorting batteries by type;

(2) Mixing battery types in one container;

(3) Discharging batteries so as to remove the electric charge;

(4) Regenerating used batteries;

- (5) Disassembling batteries or battery packs into individual batteries or cells;
- (6) Removing batteries from consumer products; or
- (7) Removing electrolyte from batteries; and

iii. A small quantity handler of universal waste who removes electrolyte from batteries, or who generates other solid waste (for example, battery pack materials, discarded consumer products) as a result of the activities listed above, shall determine whether the electrolyte and/or other solid waste exhibit 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 as follows:

(1) If the electrolyte and/or other solid waste exhibit a characteristic of hazardous waste, it is subject to all applicable requirements of N.J.A.C. 7:26G. The handler is considered the generator of the hazardous electrolyte and/or other waste and is subject to the hazardous waste requirements of N.J.A.C. 7:26G-6; or

(2) If the electrolyte or other solid waste is not hazardous, the handler may manage the waste in any way that is in compliance with N.J.A.C. 7:26;

2. A small quantity handler of universal waste shall manage universal waste pesticides in a way that prevents releases of any universal waste or component of a universal waste to the environment. The universal waste pesticides shall be contained in one or more of the following:

i. A container that remains closed, structurally sound, compatible with the pesticide, and that lacks evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions; or

ii. A container that does not meet the requirements of (d)2i above, provided that the unacceptable container is overpacked in a container that does meet the requirements of (d)2i above;

iii. A tank that meets the requirements of 40 C.F.R. Part 265 subpart J, as incorporated by reference at N.J.A.C. 7:26G-9, except for 40 C.F.R. 265.197(c), 265.200, and 265.201, subpart J; or

iv. A transport vehicle or vessel that is closed, structurally sound, compatible with the pesticide, and that lacks evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions; and

3. A small quantity handler of universal waste shall manage universal waste thermostats in a way that prevents releases of any universal waste or component of a universal waste to the environment, as follows:

i. A small quantity handler of universal waste shall contain any universal waste thermostat 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 thermostat, and shall lack evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions;

ii. A small quantity handler of universal waste may remove mercury-containing ampules from universal waste thermostats provided the handler:

(1) Removes the ampules in a manner designed to prevent breakage of the ampules;

(2) Removes ampules only over or in a containment device (for example, tray or pan sufficient to collect and contain any mercury released from an ampule in case of breakage);

(3) Ensures 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 C.F.R. 262.34 as incorporated by reference at N.J.A.C. 7:26G-6;

(4) Immediately transfers any mercury resulting from spills or leaks from broken ampules from the containment device to a container that meets the requirements of 40 C.F.R. 262.34 as incorporated by reference at N.J.A.C. 7:26G-6;

(5) Ensures that the area in which ampules are removed is well ventilated and monitored to ensure compliance with applicable Occupational Safety and Health Administration (OSHA) permissible exposure levels for mercury;

(6) Ensures that employees removing ampules are thoroughly familiar with proper waste mercury handling and emergency procedures, including transfer of mercury from containment devices to appropriate containers;

(7) Stores removed ampules in closed, non-leaking containers that are in good condition; and

(8) Packs removed ampules in the container with packing materials adequate to prevent breakage during storage, handling, and transportation; and

iii. The following are the classification standards of residues and other solid waste from the thermostats:

(1) A small quantity handler of universal waste who removes mercury-containing ampules from thermostats shall determine whether the following exhibit 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:

(A) Mercury or clean-up residues resulting from spills or leaks;

(B) Other solid waste generated as a result of the removal of mercury-containing ampules (for example, remaining thermostat units);

(2) If the mercury, residues, and/or other solid waste exhibit a characteristic of hazardous waste, it shall be managed in compliance with all applicable hazardous waste management requirements of N.J.A.C. 7:26G. The handler is considered the generator of the mercury, residues, and/or other waste and shall manage it is subject to N.J.A.C. 7:26G-6; and

(3) If the mercury, residues, and/or other solid waste is not hazardous, the handler may manage the waste in any way that is in compliance with N.J.A.C. 7:26.

(e) A small quantity handler of universal waste shall label or mark the universal waste to identify the type of universal waste as specified below:

1. Universal waste batteries (that is, each battery), or a container in which the batteries are contained, shall be labeled or marked clearly with any one of the following phrases: "Universal Waste—Battery(ies)," or "Waste Battery(ies)," or "Used Battery(ies)";

2. A container (or multiple container package unit), tank, transport vehicle or vessel in which recalled universal waste pesticides as described in N.J.A.C. 7:26A-7.1(c)1i are contained shall be labeled or marked clearly with:

i. The label that was on or accompanied the product as sold or distributed; and

- ii. The words "Universal Waste—Pesticide(s)" or "Waste—Pesticide(s)";
- 3. A container, tank, or transport vehicle or vessel in which unused pesticide products as described in N.J.A.C. 7:26A-7.1(c)1ii are contained shall be labeled or marked clearly with:
 - i. The label that was on the product when purchased, if still legible;
 - (1) If using the labels described in (e)3i above is not feasible, the appropriate label as required under the U.S. Department of Transportation regulation 49 C.F.R. Part 172;
 - (2) If using the labels described in (e)3i and 3i(1) above is not feasible, another label prescribed the Department's Bureau of Pesticide Control pursuant to N.J.A.C. 7:30;
 - and
 - ii. The words "Universal Waste—Pesticide(s)" or "Waste—Pesticide(s)"; and
- 4. Universal waste thermostats (that is, each thermostat), or a container in which the thermostats are contained, shall be labeled or marked clearly with any one of the following phrases: "Universal Waste—Mercury Thermostat(s)," or "Waste Mercury Thermostat(s)," or "Used Mercury Thermostat(s)."
- (f) The following are the accumulation time limits for small quantity handlers of universal wastes:
 - 1. A small quantity handler of universal waste may accumulate universal waste for no longer than one year from the date the universal waste is generated, or received from another handler, unless the requirements of (f)2 below are met;
 - 2. A small quantity handler of universal waste may accumulate universal waste for longer than one year from the date the universal waste is generated, or received from another handler, if such activity is solely for the purpose of accumulation of such quantities of universal waste as necessary to facilitate proper recovery, treatment, or disposal. However, the handler bears the burden of proving that such activity is solely for the purpose of accumulation of such quantities of universal waste as necessary to facilitate proper recovery, treatment, or disposal; and
 - 3. A small quantity handler of universal waste who accumulates universal waste shall be able to demonstrate the length of time that the universal waste has been accumulated from the date it becomes a waste or is received. The handler may make this demonstration by:
 - i. Placing the universal waste in a container and marking or labeling the container with the earliest date that any universal waste in the container became a waste or was received;
 - ii. Marking or labeling each individual item of universal waste (for example, each battery or thermostat) with the date it became a waste or was received;
 - iii. Maintaining an inventory system on-site that identifies the date each universal waste became a waste or was received;
 - iv. Maintaining an inventory system on-site that identifies the earliest date that any universal waste in a group of universal waste items or a group of containers of universal waste became a waste or was received;
 - v. Placing the universal waste in a specific accumulation area and identifying the earliest date that any universal waste in the area became a waste or was received; or
 - vi. Any other method which clearly demonstrates the length of time that the universal waste has been accumulated from the date it becomes a waste or is received.

(g) A small quantity handler of universal waste shall inform all employees who handle or have responsibility for managing universal waste. The information shall describe proper handling and emergency procedures appropriate to the type(s) of universal waste handled at the facility.

(h) The following are the response to releases standards for small quantity handlers of universal waste:

1. A small quantity handler of universal waste shall immediately contain all releases of universal wastes and other residues from universal wastes; and

2. A small quantity handler of universal waste shall determine whether any material resulting from the release is hazardous waste, and if so, shall manage the hazardous waste in compliance with all applicable requirements of N.J.A.C. 7:26G. The handler is considered the generator of the material resulting from the release, and shall manage it in compliance with N.J.A.C. 7:26G-6.

(i) The following are the off-site shipments standards for small quantity handlers of universal waste:

1. A small quantity handler of universal waste is prohibited from sending or taking universal waste to a place other than another universal waste handler, a destination facility, or a foreign destination;

2. If a small quantity handler of universal waste self-transport universal waste off-site, the handler becomes a universal waste transporter for those self-transportation activities and shall comply with the transporter requirements of N.J.A.C. 7:26A-7.4 while transporting the universal waste;

3. If a universal waste being offered for off-site transportation meets the definition of hazardous materials under 49 C.F.R. Parts 171 through 180, a small quantity handler of universal waste shall package, label, mark and placard the shipment, and prepare the proper shipping papers in accordance with the applicable U.S. Department of Transportation regulations under 49 C.F.R. Parts 172 through 180;

4. Prior to sending a shipment of universal waste to another universal waste handler, the originating handler shall ensure that the receiving handler agrees to receive the shipment;

5. If a small quantity handler of universal waste sends a shipment of universal waste to another handler or to a destination facility and the shipment is rejected by the receiving handler or destination facility, the originating handler shall either:

i. Receive the waste back when notified that the shipment has been rejected, or
ii. Agree with the receiving handler on a destination facility to which the shipment will be sent;

6. A small quantity handler of universal waste may reject a shipment containing universal waste, or a portion of a shipment containing universal waste that they have received from another handler. If a handler rejects a shipment or a portion of a shipment, they shall contact the originating handler to notify them of the rejection and to discuss reshipment of the load. The handler shall:

i. Send the shipment back to the originating handler; or
ii. If agreed to by both the originating and receiving handler, send the shipment to a destination facility;

7. If a small quantity handler of universal waste receives a shipment containing hazardous waste that is not a universal waste, the handler shall immediately notify the

Division of Solid and Hazardous Waste of the illegal shipment, and provide the name, address, and phone number of the originating shipper. The Division of Solid and Hazardous Waste will provide instructions for managing the hazardous waste; and

8. If a small quantity handler of universal waste receives a shipment of non-hazardous, non-universal waste, the handler may manage the waste in any way that is in compliance with N.J.A.C. 7:26.

(j) A small quantity handler of universal waste is not required to keep records of shipments of universal waste.

(k) A small quantity handler of universal waste who sends universal waste to a foreign destination shall:

1. Comply with the requirements applicable to a primary exporter in 40 C.F.R. 262.53, 262.56(a)(1) through (4), (6), and (b) and 262.57 as incorporated by reference at N.J.A.C. 7:26G-6;

2. Export such universal waste only upon consent of the receiving country and in conformance with the EPA Acknowledgement of Consent as defined in 40 C.F.R. Part 262 subpart E as incorporated by reference at N.J.A.C. 7:26G-6; and

3. Provide a copy of the EPA Acknowledgment of Consent for the shipment to the transporter transporting the shipment for export.

7:26A-7.3 Standards for large quantity handlers of universal waste

(a) This section applies to large quantity handlers of universal waste (as defined in N.J.A.C. 7:26A-1.3).

(b) A large quantity handler of universal waste is prohibited from the following:

1. Disposing of universal waste; and

2. Diluting or treating universal waste, except by responding to releases as provided in (h) below, or by managing specific wastes as provided in (d) below.

(c) The following are the notification standards of large quantity handlers of universal waste:

1. Except as provided in (c)2 and 3 below, a large quantity handler of universal waste shall have sent written notification of universal waste management to the Department, and received a USEPA Identification Number, before meeting or exceeding the 5,000 kilogram storage limit.

2. A large quantity handler of universal waste who has already notified the Department of his or her hazardous waste management activities and has received a USEPA Identification Number is not required to renotify under this section.

3. A large quantity handler of universal waste who manages recalled universal waste pesticides as described in N.J.A.C. 7:26A-7.1(c)1i and who has sent notification to a USEPA as required by 40 C.F.R. Part 165 is not required to notify for those recalled universal waste pesticides under this section.

4. This notification shall include the following:

i. The universal waste handler's name and mailing address;

ii. The name and business telephone number of the person at the universal waste handler's site who should be contacted regarding universal waste management activities;

iii. The address or physical location of the universal waste management activities;

iv. A list of all of the types of universal waste managed by the handler (for example, batteries, pesticides, thermostats); and

v. A statement indicating that the handler is accumulating more than 5,000 kilograms of universal waste at one time and the types of universal waste (for example, batteries, pesticides, thermostats) the handler is accumulating above this quantity.

(d) The following are the waste management standards for large quantity handlers of universal waste:

1. A large quantity handler of universal waste shall manage universal waste batteries in a way that prevents releases of any universal waste or component of a universal waste to the environment, as follows:

i. A large quantity handler of universal waste shall contain any universal waste battery 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 battery, and shall lack evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions;

ii. A large quantity handler of universal waste may conduct the following activities as long as the casing of each individual battery cell is not breached and remains intact and closed (except that cells may be opened to remove electrolyte but shall be immediately closed after removal):

- (1) Sorting batteries by type;
- (2) Mixing battery types in one container;
- (3) Discharging batteries so as to remove the electric charge;
- (4) Regenerating used batteries;
- (5) Disassembling batteries or battery packs into individual batteries or cells;
- (6) Removing batteries from consumer products; or
- (7) Removing electrolyte from batteries;

iii. A large quantity handler of universal waste who removes electrolyte from batteries, or who generates other solid waste (for example, battery pack materials, discarded consumer products) as a result of the activities listed above, shall determine whether the electrolyte and/or other solid waste exhibit 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, as follows:

(1) If the electrolyte and/or other solid waste exhibit a characteristics of hazardous waste, it shall be managed in compliance with all applicable requirements of 40 C.F.R. Parts 260 through 272, as incorporated by reference at N.J.A.C. 7:26G. The handler is considered the generator of the hazardous electrolyte and/or other waste and is subject to the hazardous waste management requirements of 40 C.F.R. Part 262, as incorporated by reference at N.J.A.C. 7:26G-6;

(2) If the electrolyte or other solid waste is not hazardous, the handler may manage the waste in any way that is in compliance with N.J.A.C. 7:26;

2. A large quantity handler of universal waste shall manage universal waste pesticides in a way that prevents releases of any universal waste or component of a universal waste to the environment. The universal waste pesticides shall be contained in one or more of the following:

i. A container that remains closed, structurally sound, compatible with the pesticide, and that lacks evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions;

ii. A container that does not meet the requirements of (d)2i above, provided that the unacceptable container is overpacked in a container that does meet the requirements of (d)2i above;

iii. A tank that meets the requirements of 40 C.F.R. Part 265 subpart J, as incorporated by reference at N.J.A.C. 7:26G-9, except for 40 C.F.R. 265.197(c), 265.200, and 265.201, 40 C.F.R. 265 subpart J; or

iv. A transport vehicle or vessel that is closed, structurally sound, compatible with the pesticide, and that lacks evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions; and

3. A large quantity handler of universal waste shall manage universal waste thermostats in a way that prevents releases of any universal waste or component of a universal waste to the environment, as follows:

i. A large quantity handler of universal waste shall contain any universal waste thermostat 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 thermostat, and shall lack evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions;

ii. A large quantity handler of universal waste may remove mercury-containing ampules from universal waste thermostats provided the handler:

(1) Removes the ampules in a manner designed to prevent breakage of the ampules;

(2) Removes ampules only over or in a containment device (for example, tray or pan sufficient to contain any mercury released from an ampule in case of breakage);

(3) Ensures 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 C.F.R. 262.34 as incorporated by reference at N.J.A.C. 7:26G-6;

(4) Immediately transfers any mercury resulting from spills or leaks from broken ampules from the containment device to a container that meets the requirements of 40 C.F.R. 262.34 as incorporated by reference at N.J.A.C. 7:26G-6;

(5) Ensures that the area in which ampules are removed is well ventilated and monitored to ensure compliance with applicable OSHA permissible exposure levels for mercury;

(6) Ensures that employees removing ampules are thoroughly familiar with proper mercury waste handling and emergency procedures, including transfer of mercury from containment devices to appropriate containers;

(7) Stores removed ampules in closed, non-leaking containers that are in good condition; and

(8) Packs removed ampules in the container with packing materials adequate to prevent breakage during storage, handling, and transportation; and

iii. The following are the classification standards of residues and other solid waste from thermostats:

(1) A large quantity handler of universal waste who removes mercury-containing ampules from thermostats shall determine whether the following exhibit 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:

(A) Mercury or clean-up residues resulting from spills or leaks;

(B) Other solid waste generated as a result of the removal of mercury-containing ampules (for example, remaining thermostat units).

(2) If the mercury, residues, and/or other solid waste exhibit a characteristic of hazardous waste, it shall be managed in compliance with all applicable requirements of N.J.A.C. 7:26G. The handler is considered the generator of the mercury, residues, and/or other waste and is subject to the hazardous waste management requirements N.J.A.C. 7:26G-6; and

(3) If the mercury, residues, and/or other solid waste is not hazardous, the handler may manage the waste in any way that is in compliance with N.J.A.C. 7:26.

(e) A large quantity handler of universal waste shall label or mark the universal waste to identify the type of universal waste as specified below:

1. Universal waste batteries (that is, each battery), or a container or tank in which the batteries are contained, shall be labeled or marked clearly with the any one of the following phrases: "Universal Waste—Battery(ies)," or "Waste Battery(ies)," or "Used Battery(ies)";

2. A container (or multiple container package unit), tank, transport vehicle or vessel in which recalled universal waste pesticides as described in N.J.A.C. 7:26A-7.1(c)1i are contained shall be labeled or marked clearly with:

i. The label that was on or accompanied the product as sold or distributed; and

ii. The words "Universal Waste—Pesticide(s)" or "Waste—Pesticide(s)";

3. A container, tank, or transport vehicle or vessel in which unused pesticide products as described in N.J.A.C. 7:26A-7.1(c)1ii are contained shall be labeled or marked clearly with:

i. The label that was on the product when purchased, if still legible;

(1) If using the labels described in (e)3i above is not feasible, the appropriate label as required under the U.S. Department of Transportation regulation 49 C.F.R. Part 172;

(2) If using the labels described in (e)3i and 3i(1) above is not feasible, another label prescribed by the Department's Bureau of Pesticide Control pursuant to N.J.A.C. 7:30; and

ii. The words "Universal Waste—Pesticide(s)" or "Waste—Pesticide(s)."

4. Universal waste thermostats (that is, each thermostat), or a container or tank in which the thermostats are contained, shall be labeled or marked clearly with any one of the following phrases: "Universal Waste—Mercury Thermostat(s)," or "Waste Mercury Thermostat(s)," or "Used Mercury Thermostat(s)".

(f) The following are the accumulation time limits for large quantity handlers of universal waste:

1. A large quantity handler of universal waste may accumulate universal waste for no longer than one year from the date the universal waste is generated, or received from another handler, unless the requirements of (f)2 below are met;

2. A large quantity handler of universal waste may accumulate universal waste for longer than one year from the date the universal waste is generated, or received from another handler, if such activity is solely for the purpose of accumulation of such quantities of universal waste as necessary to facilitate proper recovery, treatment, or

disposal. However, the handler bears the burden of proving that such activity was solely for the purpose of accumulation of such quantities of universal waste as necessary to facilitate proper recovery, treatment, or disposal;

3. A large quantity handler of universal waste shall be able to demonstrate the length of time that the universal waste has been accumulated from the date it becomes a waste or is received. The handler shall make this demonstration by:

i. Placing the universal waste in a container and marking or labeling the container with the earliest date that any universal waste in the container became a waste or was received;

ii. Marking or labeling the individual item of universal waste (that is, each battery or thermostat) with the date it became a waste or was received;

iii. Maintaining an inventory system on-site that identifies the date the universal waste being accumulated became a waste or was received;

iv. Maintaining an inventory system on-site that identifies the earliest date that any universal waste in a group of universal waste items or a group of containers of universal waste became a waste or was received;

v. Placing the universal waste in a specific accumulation area and identifying the earliest date that any universal waste in the area became a waste or was received; or

vi. Any other method which clearly demonstrates the length of time that the universal waste has been accumulated from the date it becomes a waste or is received.

(g) A large quantity handler of universal waste shall ensure that all employees are thoroughly familiar with proper waste handling and emergency procedures, relative to their responsibilities during normal facility operations and emergencies.

(h) The following are the response to releases standards for large quantity handlers of universal waste:

1. A large quantity handler of universal waste shall immediately contain all releases of universal wastes and other residues from universal wastes; and

2. A large quantity handler of universal waste shall determine whether any material resulting from the release is hazardous waste, and if so, shall manage the hazardous waste in compliance with all applicable requirements of 40 C.F.R. Parts 260 through 272, as incorporated by reference at N.J.A.C. 7:26G. The handler is considered the generator of the material resulting from the release, and is subject to 40 C.F.R. Part 262, as incorporated by reference at N.J.A.C. 7:26G-6.

(i) The following are the off-site shipments standards for large quantity handlers of universal waste:

1. A large quantity handler of universal waste is prohibited from sending or taking universal waste to a place other than another universal waste handler, a destination facility, or a foreign destination;

2. If a large quantity handler of universal waste self-transportes universal waste off-site, the handler becomes a universal waste transporter for those self-transportation activities and shall comply with the transporter requirements of N.J.A.C. 7:26A-7.4 while transporting the universal waste.

3. If a universal waste being offered for off-site transportation meets the definition of hazardous materials under 49 C.F.R. Parts 171 through 180, a large quantity handler of universal waste shall package, label, mark and placard the shipment, and prepare the

proper shipping papers in accordance with the applicable U.S. Department of Transportation regulations under 49 C.F.R. Parts 172 through 180;

4. Prior to sending a shipment of universal waste to another universal waste handler, the originating handler shall ensure that the receiving handler agrees to receive the shipment;

5. If a large quantity handler of universal waste sends a shipment of universal waste to another handler or to a destination facility and the shipment is rejected by the receiving handler or destination facility, the originating handler shall either:

i. Receive the waste back when notified that the shipment has been rejected; or
ii. Agree with the receiving handler on a destination facility to which the shipment will be sent;

6. A large quantity handler of universal waste may reject a shipment containing universal waste, or a portion of a shipment containing universal waste, that he has received from another handler. If a handler rejects a shipment or a portion of a shipment, he shall contact the originating handler to notify him of the rejection and to discuss reshipment of the load. The handler shall:

i. Send the shipment back to the originating handler; or
ii. If agreed to by both the originating and receiving handler, send the shipment to a destination facility.;

7. If a large quantity handler of universal waste receives a shipment containing hazardous waste that is not a universal waste, the handler shall immediately notify the Division of Solid and Hazardous Waste of the illegal shipment, and provide the name, address, and phone number of the originating shipper. The Division of Solid and Hazardous Waste will provide instructions for managing the hazardous waste; and

8. If a large quantity handler of universal waste receives a shipment of non-hazardous, non-universal waste, the handler may manage the waste in any way that is in compliance with N.J.A.C. 7:26.

(j) The following are the tracking universal waste shipments standards for large quantity handlers of universal waste:

1. A large quantity handler of universal waste shall keep a record of each shipment of universal waste received at the facility. The record may take the form of a log, invoice, manifest, bill of lading, or other shipping document. The record for each shipment of universal waste received shall include the following information:

i. The name and address of the originating universal waste handler or foreign shipper from whom the universal waste was sent;
ii. The quantity of each type of universal waste received (for example, batteries, pesticides, thermostats); and
iii. The date of receipt of the shipment of universal waste.

2. A large quantity handler of universal waste shall keep a record of each shipment of universal waste sent from the handler to other facilities. The record may take the form of a log, invoice, manifest, bill of lading or other shipping document. The record for each shipment of universal waste sent shall include the following information:

i. The name and address of the universal waste handler, destination facility, or foreign destination to whom the universal waste was sent;
ii. The quantity of each type of universal waste sent (for example, batteries, pesticides, thermostats); and

- iii. The date the shipment of universal waste left the facility;
- 3. A large quantity handler of universal waste shall retain the records described in (j)1 above for at least three years from the date of receipt of a shipment of universal waste; and
- 4. A large quantity handler of universal waste shall retain the records described in (j)2 above for at least three years from the date a shipment of universal waste left the facility.
- (k) A large quantity handler of universal waste who sends universal waste to a foreign destination shall meet the following:
 - 1. Comply with the requirements applicable to a primary exporter in 40 C.F.R. 262.53, 262.56(a)(1) through (4), (6), and (b) and 262.57 as incorporated by reference at N.J.A.C. 7:26G-6;
 - 2. Export such universal waste only upon consent of the receiving country and in conformance with the EPA Acknowledgment of Consent as defined in 40 C.F.R. Part subpart E as incorporated by reference at N.J.A.C. 7:26G-6; and
 - 3. Provide a copy of the EPA Acknowledgment of Consent for the shipment to the transporter transporting the shipment for export.

7:26A-7.4 Standards for universal waste transporters

(a) This section applies to universal waste transporters as defined in N.J.A.C. 7:26A-1.3.

(b) A universal waste transporter is prohibited from the following:

- 1. Disposing of universal waste; and
- 2. Diluting or treating universal waste, except by responding to releases as provided in (e) below.

(c) The following are the waste management standards for universal waste transporters:

1. A universal waste transporter shall comply with all applicable U.S. Department of Transportation regulations in 49 C.F.R. Parts 171 through 180 for the transport of any universal waste that meets the definition of hazardous material in 49 C.F.R. 171.8. For purposes of the U.S. Department of Transportation regulations, a material is considered a hazardous waste if it is subject to the Hazardous Waste Manifest Requirements specified in N.J.A.C. 7:26G-6;

2. Because universal waste does not require a hazardous waste manifest, it is not considered hazardous waste under the U.S. Department of Transportation regulations;

3. Some universal waste materials are regulated by the U.S. Department of Transportation as hazardous materials because they meet the criteria for one or more hazard classes specified in 49 C.F.R. 173.2. As universal waste shipments do not require a manifest under N.J.A.C. 7:26G-6, they shall not be described by the U.S. DOT proper shipping name "hazardous waste, (l) or (s), n.o.s.," nor shall the hazardous material's proper shipping name be modified by adding the word "waste."

(d) The following are storage time limits for universal waste transporters:

1. A universal waste transporter shall only store the universal waste at a universal waste transfer facility for 10 days or less; or

2. If a universal waste transporter stores universal waste for more than 10 days, the transporter becomes a universal waste handler and shall comply with the applicable requirements of N.J.A.C. 7:26A-7.2 or 7.3 while storing the universal waste.

(e) The following are the response to releases standards for universal waste transporters:

1. A universal waste transporter shall immediately contain all releases of universal wastes and other residues from universal wastes; and

2. A universal waste transporter shall determine whether any material resulting from the release is hazardous waste, and if so, it is subject to all applicable requirements of N.J.A.C. 7:26G. If the waste is determined to be a hazardous waste, the transporter is subject to N.J.A.C. 7:26G-6.

(f) The following are the off-site shipments standards for universal waste transporters:

1. A universal waste transporter is prohibited from transporting the universal waste to a place other than a universal waste handler, a destination facility, or a foreign destination; and

2. If the universal waste being shipped off-site meets the U.S. Department of Transportation's definition of hazardous materials under 49 C.F.R. 171.8, the shipment shall be properly described on a shipping paper in accordance with the applicable U.S. Department of Transportation regulations under 49 C.F.R. Part 172.

(g) A universal waste transporter transporting a shipment of universal waste to a foreign destination may not accept a shipment if the transporter knows the shipment does not conform to the EPA Acknowledgment of Consent. In addition the transporter shall ensure that:

1. A copy of the EPA Acknowledgment of Consent accompanies the shipment; and

2. The shipment is delivered to the facility designated by the person initiating the shipment.

7:26A-7.5 Standards for destination facilities

(a) The following are the applicability standards for destination facilities:

1. The owner or operator of a destination facility as defined in N.J.A.C. 7:26A-1.3 is subject to all applicable requirements of 40 C.F.R. Parts 124, 264 through 266 and 270, as incorporated by reference at N.J.A.C. 7:26G, and the notification requirement under Section 3010 of RCRA;

2. The owner or operator of a destination facility that recycles a particular universal waste without storing that universal waste before it is recycled shall comply with 40 C.F.R. 261.6(c)(2) as incorporated by reference at N.J.A.C. 7:26G-5.

(b) The following are the off-site shipments standards for destination facilities:

1. The owner or operator of a destination facility is prohibited from sending or taking universal waste to a place other than a universal waste handler, another destination facility or foreign destination;

2. The owner or operator of a destination facility may reject a shipment containing universal waste, or a portion of a shipment containing universal waste. If the owner or operator of the destination facility rejects a shipment or a portion of a shipment, he shall

contact the shipper to notify him of the rejection and to discuss reshipment of the load. The owner or operator of the destination facility shall:

- i. Send the shipment back to the original shipper; or
- ii. If agreed to by both the shipper and the owner or operator of the destination facility, send the shipment to another destination facility;

3. If the owner or operator of a destination facility receives a shipment containing hazardous waste that is not a universal waste, the owner or operator of the destination facility shall immediately notify the Division of Solid and Hazardous Waste of the illegal shipment, and provide the name, address, and phone number of the shipper. Division of Solid and Hazardous Waste will provide instructions for managing the hazardous waste; and

4. If the owner or operator of a destination facility receives a shipment of non-hazardous, non-universal waste, the owner or operator may manage the waste in any way that is in compliance with N.J.A.C. 7:26.

(c) The following are the tracking standards for universal waste shipments:

1. The owner or operator of a destination facility shall keep a record of each shipment of universal waste received at the facility. The record may take the form of a log, invoice, manifest, bill of lading, or other shipping document. The record for each shipment of universal waste received shall include the following information:

- i. The name and address of the universal waste handler, destination facility, or foreign shipper from whom the universal waste was sent;
- ii. The quantity of each type of universal waste received (for example, batteries, pesticides, thermostats); and
- iii. The date of receipt of the shipment of universal waste; and

2. The owner or operator of a destination facility shall retain the records described in (c)1 above for at least three years from the date of receipt of a shipment of universal waste.

7:26A-7.6 Import requirements

(a) Persons managing universal waste that is imported from a foreign country into the United States are subject to the applicable requirements of this subchapter, immediately after the waste enters the United States, as indicated below:

1. A universal waste transporter is subject to the universal waste transporter requirements of N.J.A.C. 7:26A-7.4;
2. A universal waste handler is subject to the small or large quantity handler of universal waste requirements of N.J.A.C. 7:26A-7.2 or 7.3, as applicable; and
3. An owner or operator of a destination facility is subject to the destination facility requirements of N.J.A.C. 7:26A-7.5.

7:26A-7.7 Petitions to include other wastes under this subchapter

(a) The following are the general criteria for any person petitioning to include other wastes under universal waste:

1. Any person seeking to add a hazardous waste or a category of hazardous waste to this subchapter may petition for a regulatory amendment under this section, N.J.A.C. 7:1 and 40 C.F.R. 260.20 and 260.23 as incorporated by reference at N.J.A.C. 7:26G-4;

2. To be successful, the petitioner shall demonstrate to the satisfaction of the Department addressing as many of the factors listed in (b) below as are appropriate for the waste or waste category addressed in the petition, the following:

- i. That regulation as universal waste is appropriate for the waste or category of waste will improve management practices for the waste or category of waste; and
- ii. That regulation as universal waste will improve implementation of the solid and hazardous waste programs.

3. The petition shall include the information required by N.J.A.C. 7:1 and 40 C.F.R. 260.20(b) as incorporated by reference at N.J.A.C. 7:26G-4; and

4. The Department shall evaluate petitions using the factors listed in (b) below. The Department shall grant or deny a petition using the factors listed in (b) below. Failure to submit appropriate factors or applicable information may be cause to regret the petition. The decision to grant, deny or reject the petition shall be based on the weight of evidence showing that regulation under this subchapter is appropriate for the waste or category of waste, will improve management practices for the waste or category of waste, and will improve implementation of the solid and hazardous wastes program.

(b) The following are the factors for petitions to include other wastes under this subchapter:

1. The waste or category of waste, as generated by a wide variety of generators, is listed in 40 C.F.R. Part 261 subpart D as incorporated by reference at N.J.A.C. 7:26G-5, or (if not listed) a proportion of the waste stream exhibits one or more 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. (When a characteristic waste is added to the universal waste regulations of this subchapter by using a generic name to identify the waste category (for example, batteries), the definition of universal waste in N.J.A.C. 7:26G-4 and N.J.A.C. 7:26A-1.3 shall be amended to include only the hazardous waste portion of the waste category (for example, hazardous waste batteries).) Thus, only the portion of the waste stream that does exhibit one or more characteristics (that is, is hazardous waste) is subject to the universal waste regulations of this subchapter;

2. The waste or category of waste is not exclusive to a specific industry or group of industries, is commonly generated by a wide variety of types of establishments (including, for example, households, retail and commercial businesses, office complexes, conditionally exempt small quantity generators, small businesses, government organizations, as well as large industrial facilities);

3. The waste or category of waste is generated by a large number of generators (for example, more than 1,000 nationally) and is frequently generated in relatively small quantities by each generator;

4. Systems to be used for collecting the waste or category of waste (including packaging, marking, and labeling practices) would ensure close stewardship of the waste;

5. The risk posed by the waste or category of waste during accumulation and transport is relatively low compared to other hazardous wastes, and specific management standards proposed or referenced by the petitioner (for example, waste management requirements appropriate to be added to N.J.A.C. 7:26A-7.2(d), 7.3(d), and 7.4(c), and/or applicable U.S. Department of Transportation requirements) would be protective of human health and the environment during accumulation and transport;

6. Regulation of the waste or category of waste under this subchapter will increase the likelihood that the waste will be diverted from non-hazardous solid waste management systems (for example, the municipal waste stream, non-hazardous industrial or commercial waste stream, municipal sewer or stormwater systems) to recycling, treatment, or disposal in compliance with the Solid Waste Management Act, N.J.S.A. 13:1E-1 et seq.;

7. Regulation of the waste or category of waste under this subchapter will improve implementation of and compliance with the solid and hazardous waste regulatory program; and

8. Such other factors as may be appropriate.

Subchapter 8. Requirements for Transporters of Source Separated Materials

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 B, Class C, or noncombustible Class D recyclable materials is not subject to the regulations at N.J.A.C. 7:26A-3 provided the recyclable material is being shipped 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; or
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.

(b) [Reserved]