



Enforcement **Alert**

Making You Aware of Anticipated Enforcement Activities

Compliance and Enforcement

Issued: August 5, 2014

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Licensing Verification for Waste Brokers

Who is affected by this advisory?

Persons and companies commonly referred to as “brokers” that make arrangements for the collection and/or disposal of solid or hazardous waste in New Jersey and the companies who utilize these services.

Why is DEP issuing this advisory?

The Department of Environmental Protection (DEP) is aware that a number of people and companies are brokering the collection and disposal of solid or hazardous waste in New Jersey without the required licenses and certifications. DEP is also aware that a number of companies are using these unlicensed brokers.

If a solid or hazardous waste entity is invoicing and receiving payments for the collection or disposal of solid or hazardous waste in New Jersey from their customer(s), the DEP requires that entity to hold an A-901 license for solid and hazardous waste and a also a Certificate of Public Convenience and Necessity (CPCN) for solid waste, pursuant to N.J.S.A. 13:1E-126 et. seq. and N.J.S.A. 48:13A-1 et. seq. In addition, all solid or hazardous waste brokers must hire only A-901 licensed transporters to haul solid or hazardous waste and use solid waste transporters in New Jersey having a CPCN.

A “broker” is defined as a person or entity other than a transporter that arranges for the transportation of solid or hazardous waste by a transporter and gets paid for it. This definition applies even if the arrangement of the waste transportation is bundled with others services or arrangements. A broker does not transport solid or hazardous waste and does not assume responsibility for its transport. Examples of brokers include shipping agents and management companies that coordinate cleaning and maintenance services for ships, apartments, condo associations and retail establishments.

These unlicensed waste brokers have an unfair competitive advantage over licensed waste brokers since they do not file annual reports or pay annual fee assessments. More importantly, they have not submitted disclosure statements to the Office of the Attorney General to demonstrate sufficient reliability, integrity and competency to be engaged in New Jersey’s solid waste industry, and they have not undergone criminal background checks by the New Jersey State Police to determine if they meet any of the disqualifying criteria set forth in the licensing regulations.

COMPLIANCE ADVISORY

What is DEP doing?

The DEP's Solid Waste Compliance & Enforcement Program, in collaboration with the Division of Solid and Hazardous Waste, has begun an initiative to identify unlicensed brokers through field investigations, reporting from licensed transporters, and with help from its county partners through the County Environmental Health Act (CEHA) program. This is part of the DEP's overall efforts to strengthen compliance with A-901 licensing requirements.

If the DEP through this initiative finds a solid or hazardous waste broker operating without the necessary DEP approvals, a notice of violation will be issued, and the broker will be required to cease operating in New Jersey. A penalty may also be assessed. If a broker self-discloses to the DEP that it is currently operating without approvals, prior to discovery by the DEP, the DEP will meet with the broker on a case-by-case basis to determine the extent of disruption that may occur if the broker ceases operations and what, if any, alternative actions can be taken to avoid disruption in service to its solid or hazardous waste customers while the broker obtains compliance.

DEP has posted a list of all A901 licensed brokers on the Licensing and Registration website at: <http://www.nj.gov/dep/dshw/hwr/regislic/lru.htm>

What should I do?

If you or your company is brokering solid or hazardous waste in New Jersey without any DEP approvals, it is recommended that you contact the DEP's A-901 Unit immediately to self-disclose your operations and to schedule a meeting to discuss how to obtain compliance. If you or your company is unsure if DEP approvals are required please contact the Office of the Attorney General's A-901 Unit to discuss at (609) 292-6018.

Businesses without an A-901 license or CPCN who are engaged in arranging solid waste transportation and disposal bundled together with other services may achieve immediate compliance by unbundling those waste services and limiting their role.

Who should I contact with questions?

Please contact DEP's Bureau of Planning & Licensing at (609) 984-4250 or send a letter to NJDEP-Division of Solid and Hazardous Waste
A-901 Unit
P.O. Box 420, Mail Code 401-02C
Trenton, New Jersey 08625-0420

Where can I get more information?

Visit the following Web sites for additional information regarding this advisory:
Solid Waste Utility Regulations: http://www.nj.gov/dep/rules/rules/njac7_26h.pdf
Solid Waste Regulation Unit: <http://www.nj.gov/dep/dshw/swr>

Please note this advisory is intended to be a summary explanation of a department initiative. It does not include all potentially applicable requirements. If you have any questions related to compliance with this initiative, please contact the Enforcement number listed above.