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ENVIRONMENTAL PROTECTION

ENVIRONMENTAL MANAGEMENT

DIVISION OF SOLID AND HAZARDOUS WASTE

Solid Waste Rules

Proposed Amendments: N.J.A.C. 7:26-1.1, 1.7, 2.4, 2.11, 2.13, 2A.8, 2A.9, 2C.3, 2C.13, 2D.1, 3.6, 3A.5, 3A.6, 3A.8, 3A.21, 3A.39, 3A.40, 3A.47, 3A.48, 4.2, 6.2, 6.3, 6.10, 6.11, 14A.6, 14A.21, 15.5, 15.6, 15.7, 16.3, 16.10, 17.1, 17.5 and 17.22

Authorized By: Bob Martin, Commissioner, Department of Environmental Protection

Authority: N.J.S.A. 13:1B-3, 13:1D-125 et seq. and 13:1E-1 et seq.

Calendar Reference: See summary below for explanation of exception to calendar requirement.

DEP Docket No: 09-14-10

Proposal Number: PRN 2014-_____

Submit comments by January 30, 2015, electronically at

<http://www.nj.gov/dep/rules/comments>. Each comment should be identified by the applicable

N.J.A.C. citation, with the commenter's name and affiliation following the comment. The

Department of Environmental Protection (Department) encourages electronic submittal of

comments. In the alternative, comments may be submitted on paper to:

Alice A. Previte, Esq.

Attention: DEP Docket Number: 09-14-10

Office of Legal Affairs

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New Jersey Department of Environmental Protection

401 East State Street, 7th Floor

Mail Code 401-04L

P.O. Box 402

Trenton, New Jersey 08625-0402

This rule proposal may be viewed or downloaded from the Department's website at

www.nj.gov/dep/rules.

The agency proposal follows.

Summary

As the Department has provided a 60-day comment period on this notice of proposal, this notice is excepted from the rulemaking calendar requirements under N.J.A.C. 1:30-3.1 and 3.2, pursuant to N.J.A.C. 1:30-3.3(a)5. The Solid Waste rules at N.J.A.C. 7:26 govern the registration, operation, maintenance, and closure of sanitary landfills and other solid waste facilities, and the registration, operation, and maintenance of solid waste transporting operations and facilities. The subchapter at N.J.A.C. 7:26-3A establishes a program for regulated medical waste (RMW) in accordance with the New Jersey Comprehensive Regulated Medical Waste Management Act, N.J.S.A. 13:1E-48.1 et seq. The Department is proposing amendments to the RMW annual generator reporting provisions in response to a petition for rulemaking by the New Jersey State Funeral Directors Association, Inc. (NJSFDA). In

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addition, the Department is proposing various amendments to other aspects of the Solid Waste rules to correct cross-references, and update names and addresses.

RMW annual generator reporting provisions

The NJSFDA submitted a petition for rulemaking to the Department in February 2014. The Department published a notice of receipt of the petition on April 7, 2014 (see 46 N.J.R. 643(b)). The petition requested that the Department amend the RMW provisions of the Solid Waste rules to exclude embalming effluent from the RMW annual reporting threshold calculation at N.J.A.C. 7:26-3A.21(d), if the embalming effluent is from a funeral home that is registered with the Department as a generator of RMW and the effluent is disposed of into a publicly owned treatment works (POTW). The petition asserted that the effluent is not being transported and/or disposed of off-site, and the inclusion of this effluent in the calculation of RMW annual reporting threshold has resulted in more than 500 small generators being included in the RMW reporting system. Additionally, if the generator does not generate any other RMW, the waste is already largely excluded for fee calculation purposes under N.J.A.C. 7:26-3A.8(a)1i. According to the petition, the requested amendments would be consistent with the Department's goal of eliminating unnecessary paperwork for small generators.

On May 19, 2014, the Department published a notice of action on the petition, which granted the request to amend the rules and stated that the Department had reached an agreement with NJSFDA to extend to October 20, 2014, the otherwise applicable 90-day deadline to initiate rulemaking. See 46 N.J.R. 885(a).

The RMW provisions of the Solid Waste rules require generators of more than 200 pounds of RMW to file an annual generator report that describes the types and amounts of

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RMW the generator generates each year. This report assists the Department in monitoring generators of RMW. Funeral homes generate RMW that includes quantities of liquid wastes consisting of embalming effluent (body fluids, blood, and blood product from the embalming process) that weigh more than 200 pounds per year. Without the additional weight of the liquid RMW, many funeral homes would produce much less than 200 pounds per year and would not be required to file the RMW annual generator report pursuant to N.J.A.C. 7:26-3A.21(d).

Most funeral homes discharge liquid wastes directly into the collection system of POTWs that treat the waste water pursuant to a New Jersey Pollutant Discharge Elimination System (NJPDES) permit. The Department recognizes that the POTWs properly treat these funeral home liquid wastes and consequently that there is no need to track that waste using the information filed in the RMW annual generator report.

The Department concluded that amending the rule at N.J.A.C. 7:26-3A.21(h) to exclude embalming effluent from a registered funeral home facility from the annual RMW generator reporting requirements under N.J.A.C. 7:26-3A.21(d), provided the effluent is disposed of at the funeral home directly into the collection system of a POTW, will not limit the Department's ability to monitor the RMW management practices of these funeral homes as required by the Solid Waste Management Act, N.J.S.A. 13:1E-48. The amendment does not exempt funeral homes from the registration requirements at N.J.A.C. 7:26-3A.8(f), applicable to each generator, transporter, intermediate handler, collection facility, transfer station, and destination facility for RMW. Therefore, the Department continues to be able to identify all registered RMW generators, including funeral homes, and monitor their waste management practices to ensure the protection of human health and the environment, pursuant to N.J.S.A. 13:1E-48.20(a).

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Additional amendments to the Solid Waste rules

Existing N.J.A.C. 7:26-2.4 contains the application procedures for a solid waste facility permit. The Department is proposing to amend N.J.A.C. 7:26-2.4(b)8 to provide that the disclosure statement required pursuant to N.J.A.C. 7:26-2.4(b)3 shall be submitted to the A-901 Unit in the Division of Law at the New Jersey Department of Law and Public Safety. The disclosure statement is required under N.J.A.C. 7:26-16, Solid and Hazardous Waste Licensing and Revocation – Disclosure Statements and Integrity Review, and relates to “the public policy to preclude from the solid and hazardous waste industries persons with known criminal records, habits and associations, and to exclude or remove from positions of authority or responsibility in those industries any person known to be so deficient in reliability, expertise or competence that his or her participation would create or enhance the danger of unsound, unfair or illegal practices, methods or activities in the business of those industries.” (N.J.A.C. 7:26-16.1) The Division of Law is responsible for reviewing the statements, making it appropriate that they be sent directly to that agency. The applicant will continue to send the Department the remaining documents related to a solid waste facility permit.

At N.J.A.C. 7:26-2.4(c)1iv the Department is correcting a cross reference. The rule requires an engineering design for small-scale thermal destruction facility applications to be prepared in accordance with N.J.A.C. 7:26-2.10, which contains the general engineering design submission requirements for solid waste facility permits, and N.J.A.C. 7:26-2B.5. N.J.A.C. 7:26:2B.5 contains the additional engineering design submission requirements and design requirements for transfer stations and materials recovery facilities, but not for thermal destruction facilities. The additional engineering design submission requirements for thermal

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destruction facilities are at N.J.A.C. 7:26-2B.4. At N.J.A.C. 7:26-2.4(c) the Department is also changing “small scale” to “small-scale.”

At N.J.A.C. 7:26-17.1(b) the Department is correcting a cross reference. The rule requires that owners or operators asserting confidentiality claims pay the fee set forth at N.J.A.C. 7:26-4.8. The fee requirement for asserting a confidentiality claim in accordance with the procedures set forth at N.J.A.C. 7:26-17 is at N.J.A.C. 7:26-4.10.

Throughout N.J.A.C. 7:26 the Department is updating the names of State agencies, correcting punctuation and grammar, correcting codification (N.J.A.C. 7:26-2.11(d)), and updating contact information and addresses. The change in the name of the State’s Department of Health and Senior Services to Department of Health necessitates an amendment at N.J.A.C. 7:26-3A.6 to update the name of the agency. The Department is making a corresponding change in the definitions at N.J.A.C. 7:26-3A.5, deleting the acronym DHSS and adding NJDOH.

Social Impact

The proposed amendments relating to RMW will have a positive impact on the funeral home industry by eliminating the requirement to file the RMW annual generator report for many funeral homes. The amendments will not otherwise affect the Department’s regulation of the management of RMW generated at funeral homes. The amendments unrelated to RMW will have no social impact.

Economic Impact

The proposed amendments related to RMW are anticipated to have a positive economic impact. The proposed amendments will save funeral homes the cost of preparing the annual

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generator report if they discharge liquid RMW at the funeral home directly into the collection system of a POTW and do not generate other RMW in an amount greater than 200 pounds.

The Department has analyzed the cost savings to the funeral home industry of not filing the RMW annual generator report. The proposed amendment will affect approximately 498 funeral homes, relieving them of the obligation to submit the report. This is approximately three-quarters of the 791 funeral homes in the State. The funeral homes will save the time and expense of preparing the report. The Department and the NJSFDA estimate that the time necessary for preparing and filing the annual generator report requires approximately 15 minutes per funeral home. The NJSFDA estimates that the proposed amendments will result in a labor savings of approximately \$10,000.

The Department will also realize a cost savings because of the amendments. Each year the Department spends approximately \$7,456.00 to print 4,000 Annual Generator Report forms (\$1.864 per form). Therefore, 498 forms cost \$928.27 to print. Once forms are received, the Department scans them, at a cost of \$1.132 per form. Therefore, 498 forms cost the Division of Solid and Hazardous Waste \$563.74 to scan. The Department estimates each form takes staff one-half hour to review and process, or 249 hours for 498 forms. At an average salary (and fringe) cost of \$115.00 per hour, the Department would save \$28,635. Therefore, the total estimated annual cost savings for the Department would be \$30,127.

The amendments unrelated to RMW will have no economic impact.

Environmental Impact

The proposed amendments related to RMW will have no environmental impact, since the generators of the embalming fluid are still required to register as RMW generators with the

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Department, and the exempted waste remains subject to treatment requirements under the NJPDES program. Therefore, the Department continues to be able to identify all registered RMW generators, including all funeral homes generating RMW, and can monitor their waste management practices to ensure the protection of human health and the environment. The amendments unrelated to RMW will have no environmental impact.

Federal Standards Statement

Executive Order No. 27 (1994) and N.J.S.A. 52:14B-1 et seq. require that administrative agencies that adopt, readopt, or amend State regulations that exceed any Federal standards or requirements include in the rulemaking document a comparison with Federal law. The proposed amendments are not promulgated under the authority of, or in order to implement, comply with or participate in, any program established under Federal law, or under a State statute that incorporates or refers to a Federal law, Federal standards or Federal requirements. Accordingly, the proposed amendments do not exceed Federal standards or requirements, and no further analysis is required.

Jobs Impact

The proposed amendments are anticipated to have no impact on the creation or retention of jobs in the State. The proposed amendments related to RMW are not anticipated to result in a substantial savings to funeral homes such that jobs will be created or retained. The amendments unrelated to RMW will have no impact on job creation or retention.

Agriculture Industry Impact

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The proposed amendments are unrelated to and will have no impact on the agriculture industry.

Regulatory Flexibility Analysis

In accordance with the New Jersey Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq., the Department has determined that the proposed amendments related to RMW will impact approximately 500 small businesses, as that term is defined in the Act, that are engaged in operating a funeral home. The proposed amendments eliminate the requirement that qualifying funeral homes submit annual generator reports, resulting in the economic benefit discussed in the Economic Impact above. The amendments unrelated to RMW will have no impact on small businesses.

Housing Affordability Impact

In accordance with N.J.S.A. 52:14B-4.1b, the Department has evaluated the proposed amendments to determine the impact, if any, on the affordability of housing. The Department has determined that the proposed amendments will have no impact because it is extremely unlikely that the rules will evoke a change in the average costs associated with housing. The proposed amendments relate to the regulated medical waste annual generator reporting provisions of the Solid Waste rules, and to contact information for the Department, neither of which is anticipated to have an impact on housing or its affordability.

Smart Growth Impact

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In accordance with N.J.S.A. 52:14B-4.1b, the Department has evaluated the proposed amendments to determine the impacts, if any, on housing production in Planning Areas 1 or 2, or within designated centers, under the State Development and Redevelopment Plan. The proposed amendments relate to the regulated medical waste annual generator reporting provisions of the Solid Waste rules, and to contact information for the Department, neither of which relates directly to housing production in the State; accordingly, the Department anticipates that the proposed amendments will not evoke a change in housing production in Planning Areas 1 or 2, or within designated centers.

Full text of the proposal follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

SUBCHAPTER 1. GENERAL PROVISIONS

7:26-1.1 Scope of rules

(a) Unless otherwise provided by rule or statute, this chapter shall constitute the rules of the Department of Environmental Protection that govern the registration, operation, maintenance, and closure of sanitary landfills and other solid waste facilities in the State of New Jersey as may be approved by the Department; registration, operation, and maintenance of solid waste transporting operations and facilities in the State of New Jersey; a fee schedule for services provided by the Department to solid waste facilities, generators and transporters; and the assessment of civil administrative penalties. These rules shall not apply to the following:

1. The purchase, sale, collection, storage, transport or controlled processing of source separated or commingled source separated recyclable, recycled or secondary nonhazardous materials,

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which would otherwise be handled as solid waste pursuant to this chapter for introduction or reintroduction into the economic mainstream as raw materials for further processing or as products for use, provided that such materials are free from putrescible matter and are not mixed with solid or liquid waste as defined herein. Specifically not exempted are solid waste materials (including fuel and reusable energy), or thermal destruction facilities. These rules shall not apply only if the conditions in (a)1i or ii below are met.

i. (No change.)

ii. The use or reuse of materials that would otherwise become solid waste pursuant to this chapter as fill material, aggregate substitute, fuel substitute or landfill cover shall be approved as beneficial use pursuant to N.J.A.C. 7:26-1.7.

iii. (No change.)

2.-9. (No change.)

7:26-1.7 Exemption from SWF permitting

(a)-(f) (No change.)

(g) This subsection sets forth the specific criteria for exempting beneficial use projects.

1. (No change.)

2. This subsection is not applicable to materials produced by a recycling center as approved pursuant to N.J.A.C. 7:26A. The materials produced at a permitted recycling center as regulated pursuant to N.J.A.C. 7:26A are deemed to be approved for beneficial use provided the recycled product is used or reused directly as a product or as a substitute for raw material that is incorporated into a product **that** meets the generally accepted products specifications and standards for a similar manufactured product or raw material, and provided the recycled

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product poses no greater risk to human health or the environment than the use of the product or raw material it is replacing.

3.-11. (No change.)

SUBCHAPTER 2. DISPOSAL

7:26-2.4 Application procedures for a solid waste facility permit

(a) (No change.)

(b) A complete application for a SWF permit, except for applications for small-scale facilities identified in (c)1 and 2 below, shall include the following:

1.-7. (No change.)

8. [All applications for a SWF permit shall be submitted to:

Assistant Director for Permitting and Technical Programs

Division of Solid and Hazardous Waste

Department of Environmental Protection

PO Box 414

Trenton, N.J. 08625-0414]Documents identified in (b)1 through 7 above shall be submitted

as follows:

i. All documents other than (b)3 above shall be submitted to the:

New Jersey Department of Environmental Protection

Division of Solid and Hazardous Waste

Bureau of Solid Waste Permitting

Mail Code 401-02C

P.O. Box 420

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ii. The document identified in (b)3 above shall be submitted to the:

New Jersey Department of Law and Public Safety

Hughes Justice Complex

New Jersey Division of Law

Environmental Enforcement Section

A-901 Unit

P. O. Box 093

25 Market Street

Trenton, New Jersey 08625-0093

(c) A complete application for a SWF permit for a [small scale]**small-scale** solid waste facility identified in (c)1 or 2 below shall include the following:

1. For a small-scale thermal destruction facility:

i.-iii. (No change.)

iv. An engineering design prepared in accordance with N.J.A.C. 7:26-2.10 and [2B.5]**2B.4**;

v.-vii. (No change.)

2. (No change.)

(d)-(f) (No change.)

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(g) The procedures for Department review and tentative approval or denial of a SWF permit application shall be in accordance with the following:

1.-21. (No change.)

22. Within 20 calendar days of receipt of the Department's decision, the applicant may submit a written request to the Department for an adjudicatory hearing to contest any aspect of the Department's decision.

i.-iv. (No change.)

v. The request for a hearing shall be sent to the:

Office of Legal Affairs,

ATTENTION: Adjudicatory Hearing Requests,

New Jersey Department of Environmental Protection,

[PO Box 402,]

401 East State Street, 7th Floor

Mail Code 401-04L

P.O. Box 402

Trenton, New Jersey 08625-0402.

23.-25. (No change.)

7:26-2.11 General operational requirements

(a)-(c) (No change.)

(d) Department inspectors shall have the right to enter and inspect any building or other portion of the facility, at any time. This right to inspect includes, but is not limited to:

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[i.]1. Sampling any materials on site;

[ii.]2. Photographing any portion of the facility;

[iii.]3. Investigating an actual or suspected source of pollution of the environment;

[iv.]4. Ascertaining compliance or non-compliance with the statutes, rules or regulations of the Department, including conditions of the facility's SWF permit or other permit or certificate issued by the Department; or

[v.]5. Reviewing and copying all applicable records, which shall be furnished upon request and made available at all reasonable times for inspection.

(e) (No change.)

7:26-2.13 Solid waste facility; records

(a)-(d) (No change.)

(e) Monthly summaries of wastes received shall be submitted by the owner/operator of each facility to the **New Jersey Department of Environmental Protection**, Division of Solid and Hazardous Waste, Bureau of [Recycling and Planning]**Solid Waste Planning and Licensing, Mail Code 401-02C, P.O. Box 420, 401 East State Street, Trenton, New Jersey 08625-0420** and the Solid Waste Coordinator for the district where the facility is located on forms provided by the Department (or duplication of same), no later than 20 days after the last day of each month.

1. (No change.)

(f)-(j) (No change.)

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SUBCHAPTER 2A. ADDITIONAL, SPECIFIC DISPOSAL REGULATIONS FOR SANITARY LANDFILLS

7:26-2A.8 Sanitary landfill operational and maintenance requirements

(a) (No change.)

(b) The sanitary landfill shall be operated in accordance with the following additional minimum requirements:

1.-23. (No change.)

24. Access to the sanitary landfill for solid waste disposal shall be permitted only during the operating hours set by the Division of Solid and Hazardous Waste [Management] and shall be restricted to 7:00 A.M. to 7 P.M. in areas within 1000 feet of a residential zone;

25.-32. (No change.)

33. The sanitary landfill shall be operated in a manner which will protect all monitoring devices and environmental systems from damage. Any damage shall be immediately reported to the Bureau of Solid Waste [Compliance and Enforcement]**Permitting** at (609) [584-4180]**292-9880;**

34.-42. (No change.)

43. An on-site baseline consisting of two vertical and horizontal control monuments shall be constructed and installed in accordance with the Map Filing Law, N.J.S.A. 46:23-9.9 et seq., and the Department's specifications in the "Guidelines for Establishing Vertical and Horizontal Control Monuments on Sanitary Landfills" available from the Division of **Solid and Hazardous** Waste, [Management, Office of Engineering]**Bureau of Solid Waste Permitting at 609-292-9880.**

44.-46. (No change.)

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(c)-(l) (No change.)

7:26-2A.9 Closure and post-closure care of sanitary landfills

(a)-(f) (No change.)

(g) Pursuant to N.J.S.A. 13:1E-100 et seq., the requirements for the escrow account are as follows:

1.-7. (No change.)

8. Every escrow account established pursuant to this section shall be based upon and governed by the standard escrow agreement provided for such purpose by the Department. Any revision to an escrow agreement shall first be approved by the Department and filed by the Department with the accredited financial institution as escrow agent. A copy of the standard escrow agreement provided by the Department may be obtained from the **New Jersey** Department of Environmental Protection, Division of Solid and Hazardous Waste, Bureau of [Solid Waste Regulation]**Solid Waste Planning and Licensing, Mail Code 401-02C, [PO Box 414]P.O. Box 420, Trenton, NJ 08625-[0414]0420, Attention: [Landfill Closure] Escrow [Account]Section.**

9.-19. (No change.)

20. The owner and/or operator of every sanitary landfill must arrange, with the financial institution wherein the funds are to be deposited, for a monthly statement of the escrow account to be sent to **Mail Code 401-02C, Landfill Closure Escrow Account, Bureau of [Solid Waste Regulation]Solid Waste Planning and Licensing, New Jersey** Department of Environmental Protection, [PO Box 414]**P.O. Box 420, Trenton, New Jersey 08625-[0414]0420, Attention: [Landfill Closure] Escrow [Account]Section;** provided, however, the Department may at its

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discretion upon written petition from the owner and/or operator relieve the owner and/or operator from the requirement for the monthly statement of the escrow account and substitute a quarterly (that is, once every three months) statement requirement therefor if it determines that monthly reporting on an account of less than \$ 25,000 would impose an unnecessary burden on the financial institution;

21. (No change.)

22. The owner or operator of every sanitary landfill facility shall file, on or before the 20th of every month, with the **New Jersey** Department of Environmental Protection , Division of Solid and Hazardous Waste, Bureau of [Solid Waste Regulation]**Solid Waste Planning and Licensing, Mail Code 401-02C**, [PO Box 414]**P.O. Box 420, 401 East State Street**, Trenton, New Jersey 08625-[0414]**0420**, Attention: [Landfill Closure] Escrow [Account]**Section**, a statement showing the exact amounts of all solid waste accepted for disposal during the preceding month, the total amounts of solid waste received calendar year-to-date, the funds deposited in and withdrawn from the escrow account for the particular sanitary landfill during the current month, interest accrued, escrow account balance, and the total calendar year-to-date funds deposited in and withdrawn from the escrow account. These statements shall be filed on forms provided by the Department; provided, however, the Department may at its discretion upon written petition from the owner or operator relieve the owner or operator from the requirement for monthly reports and substitute a quarterly (that is, once every three months) reporting requirement therefor, if it determines that the monthly reporting on an account of less than \$ 25,000 would impose an unnecessary burden on the owner or operator.

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SUBCHAPTER 2C. PARTICIPATION BY LANDFILLS IN SILVER TRACK II TIER
OF SILVER AND GOLD TRACK PROGRAM FOR ENVIRONMENTAL
PERFORMANCE

7:26-2C.3 Silver Track II application process for sanitary landfills

(a)-(b) (No change.)

(c) The completed Silver Track II application shall be submitted to **the**:

New Jersey Department of Environmental Protection

Office of Pollution Prevention and [Permit Coordination]**Right to Know**

[401 East State Street 3rd Floor East Wing]**Mail Code 22-03C**

[PO Box 423]**P.O. Box 420**

401 East State Street

Trenton, New Jersey 08625-[0423]0420

Attention: Silver Track II Program Manager

(d)-(l) (No change.)

7:26-2C.13 Requests for an Adjudicatory Hearing

(a) (No change.)

(b) Requests for a contested case hearing shall be submitted to:

Office of Legal Affairs

ATTENTION: Adjudicatory Hearing Requests

New Jersey Department of Environmental Protection

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401 East State Street, **Floor 7**

Mail Code 401-04L

[PO]P.O. Box 402

Trenton, New Jersey 08625-[402]**0402**

(c) - (f) (No change.)

SUBCHAPTER 2D. REQUIREMENTS ON RAIL CARRIERS THAT TRANSFER
CONTAINERIZED OR NONCONTAINERIZED SOLID WASTE TO OR FROM RAIL
CARS

7:26-2D.1 Requirements on rail carriers that transfer containerized solid waste to or from rail cars

(a) (No change.)

(b) A rail carrier that transfers containerized solid waste to or from rail cars shall provide the Division of Solid and Hazardous Waste with the following information prior to commencing solid waste transportation operations within the State of New Jersey: a description of the geographical location of the rail carrier's facility, identifying the name of the municipality in which the facility is located and the address of the facility. This information shall be sent to **the:**

New Jersey Department of Environmental Protection

Division of Solid and Hazardous Waste

Bureau of Solid Waste Permitting

Mail Code: 401-02C

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[PO Box 414]**P.O. Box 420**

401 East State Street,

Trenton, New Jersey 08625-[0414]**0420**

(c) (No change.)

SUBCHAPTER 3. TRANSPORTATION

7:26-3.6 Intermodal container facility

(a) – (b) (No change.)

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

[Bureau of Resource Recovery and Transfer Facilities

Division of Solid and Hazardous Waste]

New Jersey Department of Environmental Protection

Division of Solid and Hazardous Waste

Bureau of Solid Waste Permitting

Mail Code: 401-02C

[PO Box 414]**P.O. Box 420**

401 East State Street

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(d) – (g) (No change.)

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

1. (No change.)
2. The daily records shall be compiled into standard quarterly reports, which shall be submitted to the following address within 20 days of the end of each calendar quarter:

[Bureau of Recycling and Planning

Division of Solid and Hazardous Waste]

New Jersey Department of Environmental Protection

Division of Solid and Hazardous Waste

Solid Waste Planning and Licensing

Mail Code: 401-02C

[PO Box 414]**P.O. Box 420**

401 East State Street

Trenton, NJ 08625-0414-**0420**

(i)-(o) (No change.)

SUBCHAPTER 3A. REGULATED MEDICAL WASTE

7:26-3A.5 Definitions

For the purposes of this subchapter, all of the terms defined in N.J.A.C. 7:26-1.4 are hereby incorporated by reference. In addition, the following terms, when used in this subchapter, shall have the following meanings:

...

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[“DHSS” means the New Jersey Department of Health and Senior Services.]

...

“NJDOH” means the New Jersey Department of Health.

...

7:26-3A.6 Definition of regulated medical waste

(a) (No change.)

(b) The following are excluded from the definition of regulated medical waste:

1.-5. (No change.)

6. Biological materials, including, but not limited to, those blood or blood products and pathological waste listed at (a)2 and 3 above, intended for use, reuse or recycling as raw materials or products, except materials classified as Class-6 Isolation Wastes, pursuant to (a)6 above if the following conditions are met:

i.-ii. (No change.)

iii. The generator of the materials reports the type, destination, and method of use, reuse or recycling of the materials to the Bureau of [Resource Recovery and Technical

Programs]**Recycling and Hazardous Waste Permitting** in the [Department]**Division of Solid**

and Hazardous Waste at the address given at N.J.A.C. 7:26-3A.8(f)4 and the district solid waste coordinator of the district where the material originated at least once per year, or on request of the Department or any other agency;

7. Nonbiological materials intended for use, reuse or recycling, except materials classified as Class-6, Isolation Waste pursuant to (a)6 above, if the following conditions are met:

i.-ii. (No change.)

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iii. The generator of the materials reports the type, quantity, destination, and method of use, reuse or recycling of the materials to the Bureau of [Resource Recovery and Technical Programs]**Recycling and Hazardous Waste Management** in the [Department]**Division of Solid and Hazardous Waste** at the address given at N.J.A.C. 7:26-3A.8(f) 4 and the district solid waste coordinator of the district where the material originated at least once per year, or on request of the Department or any other agency; and

8. (No change.)

(c) (No change.)

(d) In accordance with [DHSS]**NJDOH** rules (N.J.A.C. 8:27), body art establishments shall comply with the provisions of N.J.S.A. 13:1E-48.1et seq., the Comprehensive Regulated Medical Waste Management Act, and all rules promulgated pursuant to the aforementioned Act.

(e) (No change.)

7:26-3A.8 Registration and fees for regulated medical waste generators, and owners and operators of transporters, collection facilities, transfer stations, intermediate handlers and destination facilities

(a)-(e) (No change.)

(f) Each generator, transporter, intermediate handler, collection facility, transfer station and destination facility shall register with the Department on regulated medical waste registration forms prescribed by and available from the Department at the address listed below and shall state such information as necessary and proper to the enforcement of this subchapter, as the

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Department may require. No pro rata adjustment or refund for prior registration year payment of fees shall be made by the Department. Fees shall be payable to the Department 30 days after the beginning of each respective registration year in accordance with the following schedule:

1.-3. (No change.)

4. The Department's address for regulated medical waste is **the**:

[Bureau of Resource Recovery and Technical Programs

Solid and Hazardous Waste Management Program]

New Jersey Department of Environmental Protection

Division of Solid and Hazardous Waste

[P.O. Box 414]

Recycling and Hazardous Waste Management

Mail Code 401-02C

P.O. Box 420

401 East State Street

Trenton, New Jersey 08625-[0414]**0420**

(g)-(o) (No change.)

7:26-3A.21 Generator recordkeeping

(a)-(c) (No change).

(d) **Except as set forth in (h) below**, [G]generators of more than 200 pounds of regulated medical waste during the reporting period of June 22 through June 21 of each calendar year shall submit annual generator reports to the Department on forms available from the

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Department at the address listed at N.J.A.C. 7:26-3A.8(f)4. The generator annual report shall cover all regulated medical waste generated, treated or destroyed, and disposed of during the reporting period. The generator annual report shall be submitted to the Department by July 21 of each calendar year and shall include, but not be limited to, the following information:

1.-6. (No change.)

(e)-(g) (No change)

(h) Regulated medical waste consisting of body fluids, blood, and blood products removed from a dead human body as part of the embalming process in a funeral home facility that is registered with the Department as a regulated medical waste generator pursuant to N.J.A.C. 7:26-3A.8(a), which waste is disposed of at the funeral home directly into the collection system of a POTW, shall not be included in the calculation of the quantity of regulated medical waste generated, for purposes of (d) above.

7:26-3A.39 Collection facilities for medical wastes

(a)-(d) (No change.)

(e) The application described in (d) above shall be submitted in triplicate, along with the application fee set forth in N.J.A.C. 7:26-3A.8, to **the**:

New Jersey Department of Environmental Protection

Division of Solid and Hazardous Waste

Bureau of [Resource Recovery and Technical Programs]**Recycling and Hazardous Waste Management**

Mail Code 401-02C

[PO Box 414]**P.O. Box 420**

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(f)-(j) (No change.)

(k) A collection facility operator shall maintain the following records at the facility at all times and shall file reports as follows. The operator shall retain records and reports for three years.

1. A commercial collection facility shall maintain daily records that shall note the source, destination and quantity, by vehicle, of all regulated medical waste received, transferred and shipped to and from the facility. The records shall specify the source for every shipment of regulated medical waste received and the destination of every shipment of regulated medical waste out of the facility. Quantities of regulated medical waste shall be listed in tons or gallons as appropriate.

i. The daily records shall be compiled into quarterly reports in accordance with N.J.A.C. 7:26-2.13 and shall be submitted to the following address within 20 days of the end of each calendar quarter:

New Jersey Department of Environmental Protection

Division of Solid and Hazardous Waste

Bureau of [Resource Recovery and Technical Programs]**Recycling and Hazardous Waste**

Management

Mail Code 401-02C

[PO Box 414]**P.O. Box 420**

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2.-4. (No change.)

(l)-(r) (No change.)

7:26-3A.40 Intermediate handlers and destination facilities

(a)-(b) (No change.)

(c) No person shall engage in the treatment and/or destruction of regulated medical waste in New Jersey unless such person:

1.-2. (No change.)

3. Uses treatment and/or destruction process(es) authorized by the Department and [DHSS]NJDOH pursuant to N.J.A.C. 7:26-3A.47;

4. Obtains the specific approval of the Department and [DHSS]NJDOH to operate an alternative or innovative technology approved pursuant to N.J.A.C. 7:26-3A.47 for the treatment and/or destruction of regulated medical waste at the registered facility; and

5. (No change.)

(d) (No change.)

7:26-3A.47 Alternative or innovative technology authorization

(a) Any alternative or innovative technology for the treatment and/or destruction of regulated medical waste, and any modification thereof, shall be authorized by the Department and [DHSS]NJDOH prior to any marketing, sale or use in New Jersey, in accordance with the following:

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1. Persons seeking to market, sell or use an alternative or innovative technology shall submit an application to the Bureau of [Resource Recovery and Technical Programs]**Recycling and Hazardous Waste Management** in the Department at the address given at N.J.A.C. 7:26-3A.8(f)4 for authorization and pay the alternative technology review fee in accordance with N.J.A.C. 7:26-3A.8. The application shall be on forms provided by the Department and shall include the following:

i.-x. (No change.)

2. The [DHSS]**NJDOH** may require additional information concerning the ability of the technology to effectively treat regulated medical waste.

3. The information provided in the application and all other information of any nature provided to or obtained by the Department and [DHSS]**NJDOH** in their administration of this section, shall be available to the public for review, unless a specific claim of confidentiality is submitted pursuant to in N.J.A.C. 7:26-17.1.

4. The Department and [DHSS]**NJDOH** may use the information and recommendations of the State and Territorial Association on Alternative Treatment Technologies, and other sources as needed, in evaluating regulated medical waste alternative or innovative technologies.

5. An alternative or innovative technology authorization to operate shall specify general operating conditions and other applicable requirements, such as, but not limited to, requirements for general operation; maintenance and housekeeping; injury reporting; emergency management and reporting; media; fugitive emissions and equipment performance monitoring and control; equipment operation; design; pollution control; data reporting; a [DHSS]**NJDOH** protocol to monitor treatment efficacy or other conditions of operation or performance; periodic technology evaluation progress reports as required by the Department

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and [DHSS]NJDOH and other reports as needed; financial assurance; and operation termination and remedial action; and other applicable requirements as shall be determined by the Department and [DHSS]NJDOH on a case-by-case basis. At a minimum, authorization shall include a [DHSS]NJDOH protocol to monitor treatment efficacy.

6. An alternative or innovative technology authorization shall be issued only for the specific technology applied for. Any modifications to the technology shall be submitted to the Department and [DHSS]NJDOH for review and approval pursuant to (a)1 through 5 above before introduction and use in New Jersey. (b) (No change.)

(c) For the purposes of expediting development, demonstration, evaluation or implementation of alternative or innovative technologies and for the purpose of obtaining operational data and information on which the application for authorization to operate can be reviewed pursuant to (a) above, the Department may, in consultation with the [DHSS]NJDOH, exempt any regulated medical waste alternative or innovative technology research, development or demonstration project from applicable waste management regulations in accordance with the procedures at N.J.A.C. 7:26-1.7(f).

7:26-3A.48 Requirements for generators using out-of-State facilities disposing of regulated medical waste from New Jersey

(a) A generator using an out-of-State intermediate handler, destination facility, transfer facility, or other medical waste disposal facility operating for any purpose that uses the U.S. Postal Service or other parcel delivery service in New Jersey and uses the U.S. Postal Service or other authorized mail or parcel delivery service to transport regulated medical waste from New Jersey to the out-of-State facility, shall request a certification from the out-of-State facility,

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which shall include copies of any state and local authorizations and/or permits. Copies of this certification shall be sent by the generator to the Bureau of [Resource Recovery and Technical Programs]**Recycling and Hazardous Waste Management** at the address given at N.J.A.C.

7:26-3A.8(f)4. This information shall be provided by the generator prior to sending any RMW [out-of-state]**out of State** for disposal.

(b)-(c) (No change.)

SUBCHAPTER 4. FEES FOR SOLID WASTE

7:26-4.2 Payment of fees

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

New Jersey Department of Environmental Protection

Division of Solid and Hazardous Waste [Management Program]

Bureau of Solid Waste Planning and Licensing

Mail Code: 401-02C

[PO Box 414]**P.O. Box 420**

401 East State Street Trenton, New Jersey 08625-[0414]**0420**

Trenton, New Jersey 08625-0420

(b)-(c) (No change.)

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SUBCHAPTER 6. SOLID WASTE PLANNING REGULATIONS

7:26-6.2 Purpose

Pursuant to the Solid Waste Management Act, the Department is charged with developing procedures to assure the orderly preparation of a solid waste management plan for every solid waste management district and the approval, modification, or rejection of such a solid waste management plan, and the certification of the determinations to the board of chosen freeholders or the [Hackensack]New Jersey Meadowlands [Development] Commission, as the case may be, which submitted such plan. This subchapter sets forth the rules to conduct these tasks.

7:26-6.3 Types of wastes covered

(a) This subchapter applies to all solid waste, as defined in N.J.A.C. 7:26-2.13, with the exception of the following:

1.-4. (No change.)

5. Dry industrial waste, ID type 27, but only if such waste is residue from the operations of a scrap metal shredding facility, provided that the operator of the scrap metal shredding facility satisfies the requirements of (a)5i through iv below:

i.-ii. (No change.)

iii. On February 15 and August 1 of every year the owner/operator of the scrap metal shredding facility shall submit to the department and to the solid waste district in which the facility is located, a report on forms provided by the Department consistent with the Department's Annual Recycling Tonnage Reporting Manual including the following information:

(1)-(3) (No change.)

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(4) The report shall be submitted to the following **address**:

New Jersey Department of Environmental Protection

Division of Solid and Hazardous Waste

Bureau of Solid Waste Planning and Licensing

Mail Code 401-02C

[PO Box 414]**P.O. Box 420**

Trenton, New Jersey 08625-[0414]**0420**

[Office of Recycling and Planning]; and

iv. (No change.)

6. – 7. (No change.)

8. Non-residentially generated chemically treated wood, such as wood treated with creosote, pentachlorophenol (PCP) or chromated copper arsenate (CCA), or scrap tires that are destined for incineration and/or energy recovery provided that the following conditions are met:

i.-iv. (No change.)

v. Applications for approval and annual tonnage reports shall be submitted to **the**:

New Jersey Department of Environmental Protection

Division of Solid and Hazardous Waste

Bureau of Solid Waste Planning and Licensing

Mail Code 401-02C

[PO Box 414]**P.O. Box 420**

401 East State Street

Trenton, New Jersey 08625-[0414]**0420**

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7:26-6.10 Modifications to district solid waste management plans; plan amendments

(a)-(b) (No change.)

(c) Upon the development of a solid waste plan amendment, a board of chosen freeholders or the [Hackensack]New Jersey Meadowlands [Development] Commission shall hold a public hearing for the purpose of receiving comments from persons interested in or affected by the adoption of the plan amendment.

1.-2. (No change.)

(d) (No change.)

(e) The plan amendment in (d) above shall be submitted to **the:**

New Jersey Department of Environmental Protection

Division of Solid and Hazardous Waste

[Bureau of Recycling and Planning]

Bureau of Solid Waste Planning and Licensing

[PO Box 414]

Mail Code 401-02C

P.O. Box 420

401 East State Street

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(f)-(g) (No change.)

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(h) Upon review of the plan amendment and upon receipt of recommendations provided pursuant to (g) above, the Department shall approve, modify, or reject a plan amendment within 150 calendar days of receipt of a complete plan amendment and shall certify such determination to the board of chosen freeholders or to the [Hackensack]**New Jersey** Meadowlands Commission. If the Department takes no action on a complete plan amendment within 150 calendar days, the plan amendment shall be deemed approved.

7:26-6.11 Administrative actions concerning a district solid waste management plan

(a)-(b) (No change.)

(c) Nothing contained in this section shall be construed to subrogate the district solid waste management planning process. The board of chosen freeholders or the [Hackensack]**New Jersey** Meadowlands [Development] Commission, in its discretion, may hold a public hearing prior to the adoption of any administrative district solid waste plan action.

(d)-(f) (No change.)

SUBCHAPTER 14A. RESOURCE RECOVERY AND SOLID WASTE DISPOSAL

FACILITY LOANS

7:26-14A.6 Application procedures

(a)-(d) (No change.)

(e) All questionnaires shall be submitted to **the**:

New Jersey Department of Environmental Protection

Division of Solid and Hazardous Waste

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[CN 414]

Bureau of Solid Waste Planning and Licensing

Mail Code 401-02C

P.O. Box 420

401 East State Street

Trenton, New Jersey 08625-[0414]**0420**

7:26-14A.21 Administrative Hearings

(a) (No change.)

(b) A borrower may request an administrative hearing within 15 days of a written decision by the Department. Such hearing requests shall be addressed to **the**: Office of Legal Affairs, ATTENTION: Adjudicatory Hearing Requests, **New Jersey** Department of Environmental Protection, [CN 402]**401 East State Street, 7th Floor, Mail Code 401-04L, P.O. Box 402,** Trenton, New Jersey 08625-0402. The borrower shall be required to specify in writing and in detail the basis for its appeal.

(c)-(d) (No change.)

SUBCHAPTER 15. RECYCLING GRANTS AND LOANS PROGRAM

7:26-15.5 Application and award procedure for Recycling Tonnage Grants

(a) (No change.)

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(b) Application for Recycling Tonnage Grants shall be accepted by the Department between January 1 and April 30 of each grant year. Applications shall be made on forms provided by the Department, or electronic means as approved by the Department and shall be submitted to **the**:

New Jersey Department of Environmental Protection

Division of Solid and Hazardous Waste

Bureau of [Recycling and]**Solid Waste Planning and Licensing**

Mail Code 401-02C

[PO Box 414]**P.O. Box 420**

401 East State Street

Trenton, New Jersey 08625-[0414]**420**

(c)-(g) (No change.)

7:26-15.6 Application and award procedures for Recycling Business Loans

(a)-(b) (No change.)

(c) Applications may be made at such times as announced and on such forms as provided by the Department and shall be submitted in triplicate to **the**:

New Jersey Department of Environmental Protection

Division of Solid and Hazardous Waste

Bureau of [Recycling and Planning]**Solid Waste Planning and Licensing**

Mail Code 401-02C

[PO Box 414]**P.O. Box 420**

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(d)-(k) (No change.)

7:26-15.7 Application and award procedures for Planning and Programs Grants and Education Grants

(a) (No change.)

(b) Applications for Planning and Program Grants and Education Grants shall be made at such time as announced on such forms provided and in accordance with any guidelines issued by the Department. Applications shall be submitted to **the**:

New Jersey Department of Environmental Protection

Bureau of [Recycling and Planning]**Solid Waste Planning and Licensing**

Mail Code 401-02C

[PO Box 414]**P.O. Box 420**

401 East State Street

Trenton, New Jersey 08625-[0414]**0420**

(c)-(g) (No change.)

SUBCHAPTER 16. SOLID AND HAZARDOUS WASTE LICENSING AND REVOCATION—DISCLOSURE STATEMENTS AND INTEGRITY REVIEW

7:26-16.3 Licensure; filing of disclosure statement

(a) (No change.)

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(b) Disclosure statements shall be filed by submitting an original and one conformed copy of all papers, including Personal History Disclosure Forms, to the Attorney General at the following address:

New Jersey Department of Law and Public Safety

Hughes Justice Complex

New Jersey Division of Law

Environmental Enforcement Section

A-901 Unit

[PO]P.O. Box 093

25 Market Street

Trenton, New Jersey 08625-[093]0093

Payment of fees is to be made by check, payable to “Treasurer—State of New Jersey,” and sent to the following address:

New Jersey Department of Treasury

Bureau of Revenue

P.O. Box 417

160 South Broad Street

[PO Box 417]

Trenton, New Jersey 08625-0417

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1.-2. (No change.)

(c)-(e) (No change.)

7:26-16.10 Administrative hearing; requests

(a)-(b) (No change.)

(c) Requests for hearings shall be sent to the: Office of Legal Affairs, ATTENTION:

Adjudicatory Hearing Requests, **New Jersey** Department of Environmental Protection, **401 East State Street, 7th Floor, [PO]P.O. Box 402, Mail Code 401-04L**, Trenton, New Jersey 08625-0402.

SUBCHAPTER 17. CONFIDENTIALITY DETERMINATIONS

7:26-17.1 Scope

(a) (No change.)

(b) All information collected by or originated by the Department in connection with solid waste regulatory activities under N.J.A.C. 7:26 shall be generally available to the public except as provided otherwise in this subchapter. Any owner or operator of a solid waste facility or any solid waste collector or transporter required to submit any information pursuant to the Act or this chapter, which in the owner's or operator's opinion, constitutes trade secrets or proprietary information may assert a confidentiality claim by following the procedures set forth in this subchapter and by paying the fee set forth in N.J.A.C. 7:26-[4.8]**4.10**.

7:26-17.5 Correspondence, inquiries and notices

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(a) (No change.)

(b) A claimant shall direct all correspondence, inquiries, notices and submissions concerning confidentiality claims under this chapter to the Department at the following **address**:

New Jersey Department of Environmental Protection

Division of Solid and Hazardous Waste

[CN 414]Mail Code **401-02C**

P.O. Box 420

401 East State Street

Trenton, New Jersey 08625-[0414]**0420**

7:26-17.22 Hearing before disclosure of information for which a confidentiality claim has been made

(a) A claimant may request an adjudicatory hearing to contest disclosure of any information for which a confidentiality claim has been made, at any time before disclosure. The request shall be in accordance with the requirements of N.J.A.C. 7:26-17.22, and shall be delivered to the Department at the following address:

New Jersey Department of Environmental Protection

Office of Legal Affairs

ATTENTION: Adjudicatory Hearing Requests

401 East State Street, **7th Floor**

[CN 402]

Mail Code 401-04L

P.O. Box 402

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(b)-(e) (No change.)