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ADOPTIONS SECTION

ENVIRONMENTAL PROTECTION

SITE REMEDIATION AND WASTE MANAGEMENT PROGRAM

Notice of Readoption

Recycling Rules

Readoption with Technical Changes: N.J.A.C. 7:26A

Authority: N.J.S.A. 13:1B-3, 13:1D-1 et seq., 13:1D-125 et seq., 13:1E-1 et seq., 13:1E-9, 13:1E-99.94 et seq., 26:2C-1 et seq., 47:1A-1 et seq., 58:10-23.11, and 58:10A-1 et seq.

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

Effective Date: December 3, 2015.

New Expiration Date: December 3, 2022.

Take notice that pursuant to N.J.S.A. 52:14B-5.1, the Recycling Rules at N.J.A.C. 7:26A are readopted and shall continue in effect for a seven-year period. The rules had been scheduled to expire on January 7, 2016. The Department of Environmental Protection (Department) has reviewed these rules and has determined that the rules should be readopted because they are necessary, reasonable and proper for the purpose for which they were originally promulgated. In accordance with N.J.S.A. 52:14B-5.1.c(1), timely filing of this notice extended the expiration date of the chapter seven years from the date of filing.

The Recycling Rules govern the operation and management of recycling facilities, and apply to the use or reuse of material that would otherwise become solid waste, including the recycling of materials for use as fill material, aggregate substitute, fuel substitute, or landfill cover.

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The rules apply to the following four classes of recyclable materials: Class A (non-putrescible recyclable materials such as metal, glass, paper, plastic containers and corrugated and other cardboard); Class B (non-putrescible recyclable materials such as asphalt, construction/demolition debris, scrap tires, whole trees, and petroleum contaminated soil); Class C (compostable recyclable materials such as food waste, biodegradable plastic, and yard trimmings); and Class D (recyclable materials such as used oil, antifreeze, latex paints, and lights bulbs). They apply to universal waste, including batteries, pesticides, thermostats, lamps, mercury-containing devices, oil-based finishes, and consumer electronics, which otherwise must be disposed of as hazardous waste.

The Recycling Rules also govern the electronic waste recycling program. These rules establish a recycling system for the safe and environmentally sound management of certain electronic devices and components, including desktop or personal computers, computer monitors, portable computers, or televisions sold to consumers. The rules apply to manufacturers, retailers, and consumers of these devices, in addition to collectors, transporters, and authorized recyclers whose services are engaged under the manufacturers' electronic waste collection plans.

The rules are readopted with technical changes to update Department addresses and contact information and to correct cross-references and grammar.

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

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

- (a) (No change.)

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

1. – 4. (No change.)

5. All persons operating pursuant to an exemption in (a) above except for small quantity handlers of universal waste operating pursuant to N.J.A.C. 7:26A-7.2 shall provide a written notice of such operation to the New Jersey Department of Environmental Protection, Division of Solid and Hazardous Waste, Bureau of Recycling and [Planning] **Hazardous Waste Management, 401 East State Street, [PO Box 414] P.O. Box 420, Mail Code 401-02C**, Trenton, New Jersey 08625-[0414]**0420**, the host municipality, and host county prior to the commencement of operations.

i. - iii. (No change.)

6. – 8. (No change.)

(c) (No change.)

7:26A-2.3 Payment of fees

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

New Jersey Department of Environmental Protection

Division of Solid and Hazardous Waste [Management Program]

[P.O. Box 414]

401 East State Street, **2nd Floor, West Wing**

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(b) – (c) (No change.)

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) – (c) (No change.)

(d) The notice shall be published two times by the applicant with the second publication being no less than 15 days prior to the public hearing held by the applicable board of chosen freeholders. The applicant shall forward a copy of the notice to the New Jersey Department of Environmental Protection, **Division of Solid and Hazardous Waste** [Management Program], 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) – (b) (No change.)

(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 [Management Program]

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(d) – (j) (No change.)

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

(a) – (d) (No change.)

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

Irrevocable Standby Letter of Credit

Commissioner, New Jersey Department of

Environmental Protection

c/o Division of Solid and Hazardous Waste

401 E. State Street, [PO box 414] **P.O. Box 0420**

Mail Code 401-02C

Trenton NJ 08625-[0414]**0420**

Dear Sir or Madam:

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7:26A-3.5 General approval

(a) – (b) (No change.)

(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. (No change.)
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 **and 3.13**.

(d) – (f) (No change.)

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

(a) – (l) (No change.)

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

The New Jersey Department of Environmental Protection

Division of Solid and Hazardous Waste [Management Program]

[PO Box 414]

401 East State Street, 2nd Floor, West Wing

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(n) – (o) (No change.)

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

(a) – (e) (No change.)

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

New Jersey Department of Environmental Protection

Division of Solid and Hazardous Waste [Management Program]

[PO Box 414]

401 East State Street, 2nd Floor, West Wing

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

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(g) – (h) (No change.)

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:

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1. – 6. (No change.)

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

8. [Has committed] **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]**3.12**.

(b) (No change.)

7:26A-3.14 Appeal procedure

(a) (No change.)

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

Office of Legal Affairs

ATTENTION: Adjudicatory Hearing Requests

Department of Environmental Protection

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

[PO] **P.O.** Box 402, **Mail Code 401-04L**

Trenton, New Jersey 08625-0402

and to:

New Jersey Department of Environmental Protection

Division of Solid and Hazardous Waste [Management Program]

Bureau of Recycling and [Planning] **Hazardous Waste Management**

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401 East State Street, 2nd floor, [East] **West** Wing

[PO Box 414]

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

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(c) – (g) (No change.)

7:26A-4.4 Tonnage reporting requirements

(a) (No change.)

(b) Except as otherwise provided in N.J.A.C. 7:26A-1.4(b)4, all persons operating pursuant to an exemption set forth at N.J.A.C. 7:26A-1.4 shall provide recycling tonnage reports by March 1 of each year to the applicable municipalities, to the county and to the New Jersey Department of Environmental Protection, **Division of** Solid and Hazardous Waste [Management Program], Bureau of Recycling and [Planning] **Hazardous Waste Management**, [P.O. Box 414,] 401 East State Street, **P.O. Box 420, Mail Code 401-02C**, Trenton, New Jersey 08625-[0414]**0420** for the previous calendar year. The report shall detail the amount of each source separated recyclable material, expressed in tons, cubic yards, cubic feet, or gallons received, stored, processed or transferred. Those persons specifying this information in cubic yards shall also indicate the conversion ratio of the materials from cubic yards to tons. Those persons reporting the recycling of lamps shall also report the volume of the received materials in linear feet. Non-tubular lamps may be reported as individual units. Those persons reporting on mercury-containing equipment shall also

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report the number of devices received. Lamps or mercury containing equipment which are shipped using a hazardous waste manifest may be reported in pounds or gallons.

7:26A-6.6 Standards for used oil transporter and transfer facilities

(a) – (b) (No change.)

(c) Notification standards for used oil transporters and transfer facilities are as follows:

1. – 2. (No change.)

3. Owners or operators of used oil transfer facilities shall notify the Department in writing of the location of the transfer facility prior to conducting any used oil activities at the transfer facility. The notification shall be mailed to the New Jersey Department of Environmental Protection, [Waste Compliance and Enforcement and Release Prevention, bureau] **Bureau** of Hazardous Waste **and UST** Compliance and Enforcement, [300 Horizon Center, PO box 407] **Mail Code 09-03, P.O. Box 420**, Trenton, New Jersey 08625-[0407]**0420**.

(d) – (h) (No change.)

7:26A-7.1 Incorporation by reference: standards for the management of universal waste

(a) – (b) (No change.)

(c) The following provisions of 40 C.F.R. Part 273 are incorporated by reference with the specified changes:

1. – 4. (No change.)

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5. 40 C.F.R. 273.18(g) and 273.38(g), replace "appropriate regional EPA office" with "the Department of Environmental Protection's **Division of Solid and Hazardous Waste** [Management Program]" and replace "EPA regional office" with "**Division of Solid and Hazardous Waste** [Management Program]";

6. – 7. (No change.)

(d) – (f) (No change.)

7:26A-7.5 Management standards for large quantity handlers

(a) – (c) (No change.)

(d) A large quantity handler of universal waste shall submit a report to the Department in the form of a letter, by March 1st, of the types and amounts of universal waste which were received, stored and shipped in the preceding calendar year. The report shall also indicate the municipality of origin of any universal waste that was shipped out-of-State for recycling.

This report shall be submitted to the following address:

[Universal Waste Project Manager]

New Jersey Department of Environmental Protection

Division of Solid and Hazardous Waste [Management Program]

Bureau of Recycling and Hazardous Waste Management

401 East State Street, **2nd Floor, West Wing**

[PO Box 414]

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7:26A-7.9 Petitions to designate other wastes as universal wastes

(a) (No change.)

(b) Pursuant to N.J.S.A. 52:14b-4(f) and N.J.A.C. 7:1D-1.1, any person may petition the Department of Environmental Protection for the inclusion of new materials in the State's universal waste program. Petitioners shall send all petitions to:

Office of Legal Affairs

Department of Environmental Protection

Attn: Rulemaking Petitions

401 East State Street, 7th Floor, West Wing

[PO] P.O. Box 402, Mail Code 401-04L

[401 East State Street]

Trenton, NJ 08625-0402

7:26A-9.3 Procedures to request an adjudicatory hearing to contest an administrative order and/or a notice of civil administrative penalty assessment, and procedures for conducting adjudicatory hearings

(a) To request an adjudicatory hearing to contest an administrative order and/or a notice of civil administrative penalty assessment issued pursuant to the Act, the violator shall submit the following information in writing to the Department, at Office of Legal Affairs,

ATTENTION: Adjudicatory Hearing Requests, Department of Environmental Protection,

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401 East State Street, P.O. Box 402, **Mail Code 401-04L**, Trenton, New Jersey 08625-

0402:

1. – 7. (No change.)

(b) A copy of the hearing request shall be sent to [the Department's] Solid Waste Compliance and Enforcement, [Program at] P.O. Box [407] **420, Mail Code 09-01**, Trenton, New Jersey 08625-[0407]**0420** .

(c) – (e) (No change.)

7:26A-11.2 Recordkeeping and reporting

(a) The governing body of each municipality shall, between January 1 and April 30 of each year, submit a recycling tonnage report on forms provided by the Department, or by electronic means as approved by the Department to:

New Jersey Department of Environmental Protection

Division of Solid and Hazardous Waste [Management Program]

Bureau of Recycling and [Planning] **Hazardous Waste Management**

401 East State Street, 2nd floor, [East] **West** Wing

[PO Box 414]

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

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7:26A-13.4 Collection plan and annual report submission requirements

(a) – (c) (No change.)

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(d) A manufacturer who chooses to submit a collection plan and an annual report as part of a group, shall, at least 30 days prior to the submittal of each group collection plan, participate in the preparation and submission to the Department of a Group Designation Form, which is available on the Department's website at [<http://www.nj.gov/dep/dshw/recycling/EWaste/manufacturers.html>]
<http://www.nj.gov/dep/dshw/ewaste/manufacturers.html>.

(e) – (h) (No change)

7:26A-13.9 Collection obligation determination

(a) – (d) (No change.)

(e) A manufacturer may comment on the collection obligation or any supporting data provided in the Preliminary Collection Obligation Report by submitting comments by April 1 of the year the Department provided the Preliminary Collection Obligation Report to the Department at the following address:

[DEP Climate and Env. Mgt. Solid and Hazardous Waste]

Department of Environmental Protection

Division of Solid and Hazardous Waste

Bureau of Recycling and Hazardous Waste Management

401 East State Street, 2nd Floor, West Wing

Mail Code 401-02C

P.O. Box 420

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(f) – (h) (No change.)

7:26A-13.12 Requests for administrative hearings

(a) Subject to the limits on third-party hearings at N.J.S.A. 52:14B-3.1 through 3.3, a party who believes it is aggrieved with respect to the Department's decision to approve or disapprove the collection plan of a manufacturer or group of manufacturers may, within 20 calendar days after the date of the decision, request an administrative hearing by submitting the request, in writing to:

Office of Legal Affairs

ATTENTION: Adjudicatory Hearing Requests

Department of Environmental Protection

401 East State Street, [4th Floor] **7th Floor, West Wing**

Mail Code 401-04L

[PO] **P.O.** Box [420] **402**

Trenton, NJ 08625-[0420]**0402**

and to:

[Climate and Env. Mgt. Solid and Hazardous Waste]

Department of Environmental Protection

Division of Solid and Hazardous Waste

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(b) – (f) (No change.)