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MOST RECENT UPDATE TO NEW JERSEY ADMINISTRATIVE CODE: MARCH 16, 1987.
See the Register Index for Subsequent Rulemaking Activity.
NEXT UPDATE WILL BE DATED APRIL 20, 1987.

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INTERESTED PERSONS

Interested persons may submit, in writing, information or arguments concerning any of the rule proposals in this issue until **July 1, 1987.** Submissions and any inquiries about submissions should be addressed to the agency officer specified for a particular proposal or group of proposals.

On occasion, a proposing agency may extend the 30-day comment period to accommodate public hearings or to elicit greater public response to a proposed new rule or amendment. An extended comment deadline will be noted in the heading of a proposal or appear in a subsequent notice in the Register.

At the close of the period for comments, the proposing agency may thereafter adopt a proposal, without change, or with changes not in violation of the rulemaking procedures at N.J.A.C. 1:30-4.3. The adoption becomes effective upon publication in the Register of a notice of adoption, unless otherwise indicated in the adoption notice. Promulgation in the New Jersey Register establishes a new or amended rule as an official part of the New Jersey Administrative Code.

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NEW JERSEY REGISTER

The official publication containing notices of proposed rules and rules adopted by State agencies pursuant to the New Jersey Constitution, Art. V, Sec. IV, Para. 6 and the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. Issued monthly since September 1969, and twice-monthly since November 1981.

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RULE PROPOSALS

AGRICULTURE

(a)

DIVISION OF REGULATORY SERVICES
Fruit and Vegetable Fees and Charges
Proposed Amendment: N.J.A.C. 2:71-2.28

Authorized By: Arthur R. Brown, Jr., Secretary, Department of Agriculture.
Authority: N.J.S.A. 4:10-6 and 4:10-13.
Proposal Number: PRN 1987-191.

Submit comments by July 1, 1987 to:
Robert C. Fringer, Director
Division of Regulatory Services
N.J. Department of Agriculture
CN 330
Trenton, New Jersey 08625
Telephone: (609) 292-5572

The agency proposal follows:

Summary

The proposed amendment increases some of the fees charged for the inspection and grading of farm products in accordance with standards established and promulgated by the Department of Agriculture. The fees are increased as follows: the five-day week inspections from $340.00 to $360.00, and the per hour overtime from $12.75 to $13.50 for the same.

Excess charges are altered as follows: the excess fruit and vegetable per package charge, other than potatoes, is increased from 3,778 to 4,000 packages. The excess potato per package charge is increased from 3,400 to 3,600. Inspection and grading services are provided to applicants pursuant to their request. Recipients of the services voluntarily agree to pay the fees for such charges prior to requesting the Department of Agriculture's inspection and classification.

Social Impact

The only people affected by the proposed amendment will be the users of the voluntary inspection and grading services. These services help to maintain and promote agricultural commodities of the highest quality for the consumer. As a result of the grading service, perishable fresh fruits and vegetables, of uniform grade and standards, are more readily available for the consumer.

Economic Impact

Increases in salaries and overhead costs in the past year necessitate the increased fees. The Department of Agriculture must maintain the inspection program on a "break-even basis" if it is to continue to offer this program to the users.

There will be a slight adverse economic impact on the users of these increased voluntary inspection and grading services. The increases are minimal in relation to the economic value of the product at present. The package charge and the delayed inspection charge have not been increased in at least two years.

Regulatory Flexibility Statement

While the people who are affected by the proposed amendment are small businesses, the program is voluntary and imposes no reporting, recordkeeping, or other compliance requirements on the farmers of this State. As the program is voluntary and self-supporting through its collections, it is not a burden to anyone who does not wish to avail themselves of its benefits.

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

2:71-2.28 Charges for inspection or grading and certification services; written agreements

(a) Charges for inspection or grading and certification services of five or more consecutive days duration, performed pursuant to a written agreement between the New Jersey Department of Agriculture and the requestor of the services, shall be made according to the following schedule:

1. Basic schedule for all products:

i. A charge of [$340.00] **$360.00** per five day week (Monday through Friday) or 40 hours or less for each inspector;

ii. A charge of [$12.75] **$13.50** per hour, or portion thereof, for all hours worked over 40 in the five day week (Monday through Friday), or for all hours over eight hours per day;

iii. An additional charge of [$12.75] **$13.50** per hour, or portion thereof, for the actual hours worked by each inspector on legal State holidays occurring Monday through Friday;

iv. A charge of [$12.75] **$13.50** per hour, or portion thereof, for each inspector working on Saturday and/or Sunday. There will be a four hour minimum charge for each inspector working on Saturday and/or Sunday;

v. (No change.)

2. Charges for inspection or grading and certification of fruit and vegetables other than potatoes for fresh market:

i. A charge of $0.02 will be made for all packages inspected or graded and certified in excess of [3,778] **4,000** packages during the seven day week (Saturday through Friday).

3. Charges for inspection or grading and certification of potatoes for the fresh market:

i. A charge of $0.03 per hundredweight for all hundredweights inspected or graded and certified in excess of [3,400] **3,600** hundredweights during the seven day week (Saturday through Friday).

BANKING

(b)

DIVISION OF BANKING
Consumer Credit Bureau
Debt Adjustment and Credit Counseling Fees
Proposed New Rule: N.J.A.C. 3:25

Authorized By: Mary Little Parell, Commissioner, Department of Banking.
Authority: N.J.S.A. 17:16G-6.
Proposal Number: PRN 1987-197.

Submit comments in writing by July 1, 1987 to:
Roger F. Wagner
Deputy Commissioner
Department of Banking
CN 040
Trenton, New Jersey 08625

The agency proposal follows:

Summary

In November, 1978 the Legislature passed and the Governor approved P.L. 1979, Chapter 16 (N.J.S.A. 17:16G-1 et seq.) which regulates non-profit social service agencies or nonprofit consumer credit counseling agencies who engage in the business of consumer credit counseling and debt adjustment.

N.J.S.A. 17:16G-6 provides that in order to cover the cost of a licensee of providing debt adjustment to clients, a licensee could charge a fee of one percent of the gross monthly income of a debt adjustment client but no more than $15.00 in any one month.

There are currently two licensees providing debt adjustment and consumer credit counseling services to New Jersey residents. They are Consumer Credit Counseling Service of New Jersey, Inc., which has been licensed since 1979, and the United Labor Agency, which was initially licensed in 1986.

The major source of funding for these non-profit corporations has been private support from various financial groups, labor organizations and public support through Fair Share participation in United Way programs. Client fee income is nominal and does not reflect the true costs associated with these social service functions.

As a result of decreases in the public support aspects to these agencies, it has become necessary to consider the implementation of other fees to be paid by clients using the services of the agencies. In response to that need, Senate Bill Number 195 was enacted into law as P.L. 1986 Chapter 184, on December 10, 1986, amending N.J.S.A. 17:16G-1 et seq. and 2C:21-19.

Pursuant to the amended provisions of N.J.S.A. 17:16G-6, the Commissioner of Banking may establish, by regulation, fees for debt adjustment in excess of the one percent of the gross monthly income of the debt adjustment client or the $15.00 per month maximum charge provided by law. The Commissioner is further authorized to establish the maximum fee which may be charged for credit counseling.

The purpose of the proposed new rules is to set forth maximum fees of $25.00 and $60.00 for debt adjustment and credit counseling services, respectively. Furthermore, the new rules provide for prior notice to the client of the fees to be charged.

Social Impact

It is not anticipated there will be any major social impact due to the adoption of these proposed rules. However, the individual debt adjustment and consumer credit counseling clients of these licensees will continue to be able to avail themselves of this essential service to the re-establishment and rehabilitation of the financial aspects of their daily activities.

Economic Impact

It is not anticipated that these proposed rules will have any major economic impact upon the clients of the licensees since the fees established by these rules are nominal in relation to the services provided. Even though the proposed fees are meant only to recover part of the costs associated with these services, licensees will benefit from the additional funds generated.

Regulatory Flexibility Statement

The social service and consumer credit agencies regulated by the proposed new rules are nonpecuniary in nature pursuant to the provisions of N.J.S.A. 15. As such, the Department does not perceive them as being "small businesses" as contemplated by the Regulatory Flexibility Act, P.L. 1986, c.169. Notwithstanding this consideration, the proposed new rules require compliance by these agencies only by the establishment of maximum fees for services, and in prescribing the minor administrative act of providing prior notice of fees to clients.

Full text of the proposed new rules follows.

CHAPTER 25
DEBT ADJUSTMENT AND CREDIT COUNSELING

SUBCHAPTER 1. DEBT ADJUSTMENT AND CREDIT COUNSELING FEES

3:25-1.1 Definitions

The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise.

"Client" means an individual or a group of individuals comprising a single family unit.

"Credit counseling" means any guidance or educational program or advice offered by a nonprofit social service agency or nonprofit consumer credit counseling agency for the purpose of fostering the responsible use of credit and debt management.

"Debt adjustment" means either acting or offering to act for a consideration as an intermediary between a debtor and his creditors for the purpose of settling, compounding, or otherwise altering the terms of payment of any debts of the debtor, or, to that end, receiving money or other property from a debtor, or on behalf of the debtor, for payment to, or distribution among, the creditors of the debtor.

"Licensee" means an agency licensed to provide debt adjustment and/or credit counseling services pursuant to N.J.S.A. 17:16G-2.

"Month" means a calendar month.

3:25-1.2 Debt adjustment fees

The maximum fee that may be charged by a licensee to a client for debt adjustment services is $25.00 per month.

3:25-1.3 Credit counseling fees

The maximum fee that may be charged by a licensee to a client for credit counseling services is $60.00 per month.

3:25-1.4 Prior notice

With respect to the fees that may be charged pursuant to this subchapter, it is the responsibility of the licensee to provide to the client in writing, prior to any debt adjustment or consumer credit counseling, a statement of the fees to be charged.

COMMUNITY AFFAIRS

(a)

DIVISION OF HOUSING AND DEVELOPMENT

Uniform Construction Code
Asbestos Hazard Abatement Subcode

Proposed Amendments: N.J.A.C. 5:23-8.1 through 8.8, 8.10 through 8.13, 8.15 through 8.18, 8.21

Authorized By: Leonard S. Coleman, Jr., Commissioner, Department of Community Affairs.

Authority: N.J.S.A. 52:27D-124.

Proposal Number: PRN 1987-193.

Submit comments by July 1, 1987 to:

Michael L. Ticktin, Esq.
Administrative Practice Officer
Division of Housing and Development
CN 804
Trenton, NJ 08625

The agency proposal follows:

Summary

The Department of Community Affairs in cooperation with the Departments of Health and Labor seeks to modify the existing Asbestos Hazard Abatement Program rules at N.J.A.C. 5:23-8. Asbestos, a material used in buildings to provide fire protection, has been found to create a health hazard in certain situations in which its fibers can get into the air.

Since the work of asbestos removal or containment necessarily involves alteration or repair of buildings, it must be done in accordance with the State Uniform Construction Code (N.J.A.C. 5:23). The proposed amendments expand the scope of the rules to include county and municipal facilities and thereby bring them under the jurisdiction of this subcode. Additionally N.J.A.C. 5:23-8.12, concerning encapsulation, has been expanded.

Other amendments to N.J.A.C. 5:23-8 are proposed to improve the rules based upon the experience of the past year since the last amendments on May 5, 1986.

N.J.A.C. 5:23-8, concerning asbestos abatement, contains rules which deal with approval of asbestos safety control monitor firms, certification of asbestos safety technicians, permits, fees, licenses, certifications, required reports and documentations, inspection requirements, air monitoring, enforcement responsibilities and procedures and inspector certification. These rules will apply to buildings and structures in Use Group E as defined in the building subcode, State owned and State leased buildings and county and municipal facilities, and educational buildings as defined in N.J.A.C. 5:23-8.2.

Social Impact

With the amendments to N.J.A.C. 5:23-8, the Department will continue to implement an asbestos removal and containment program that will protect the health and welfare of people using those educational buildings, State owned and State managed buildings, and county and municipal facilities subject to these rules in which asbestos is now present.

Economic Impact

The proposed procedure for asbestos removal will clearly impose costs upon property owners that would not otherwise exist. However, asbestos removal poses serious hazards not posed by other repair or alteration activitites and the proposed special procedures and requirements are necessary to protect the health, safety and welfare of all who use those buildings affected by the proposal.

Regulatory Flexibility Statement

There will be a slight increase in the reporting requirements for all businesses covered by the proposed amendments. However, all the businesses affected by the proposed amendments would be considered small businesses and the proposal will have the same effect on everyone in the industry.

The increased reporting requirements will enable the department to make a significant improvement in the Quality Assurance of the Asbestos Hazard Abatement Program, which benefits more than offset the slight increase in the work load for these businesses.

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

5:23-8.1 Title; scope; intent

(a) This part of the regulations, adopted pursuant to c.217, P.L. 1975, the Uniform Construction Code Act (N.J.S.A. 52:27D-119 et seq.) and entitled Asbestos Hazard Abatement Subcode shall be known and may be cited throughout the regulations as N.J.A.C. 5:23-8 and when referred to in this subchapter, may be cited as "this subchapter."

1. In addition, the New Jersey Departments of Health and Labor have jointly adopted regulations pursuant to c.217, P.L. 1984, the Asbestos Control and Licensing Act (N.J.S.A. 34:5A-32 et seq.) and are cited as N.J.A.C. 8:60, and N.J.A.C. 12:120, respectively. These regulations provide for: a standardized training course for all asbestos workers; licensing of asbestos removal contractors; and issuing work-permits for asbestos removal workers.

i. Copies of N.J.A.C. 8:60 may be obtained from the New Jersey Department of Health, [Occupational Disease Prevention and Information Program,] **Asbestos Control Program, Division of Occupational and Environmental Health,** CN 360, Trenton, New Jersey 08625-0360.

ii. (No change).

2. The New Jersey Department of Environmental Protection has authority to enforce regulations regarding the transport and disposal of asbestos-containing materials pursuant to N.J.S.A. 13:1D9, 13:1E-1 et seq. and are cited as N.J.A.C. 7:26-1 et seq.

i. Copies of N.J.A.C. 7:26 may be obtained from the New Jersey Department of Environmental Protection, Division of **Hazardous** Waste Management, [Bureau of Field Operations, 120 Route 156, Yardville, New Jersey 08620] **Twin Rivers Professional Bldg., East Windsor, New Jersey 08520.**

(b) (No change.)

(c) This subchapter, which pertains to Educational Facilities as defined in N.J.A.C. 5:23-8.2, [and] all State-owned and State-[managed] **leased** buildings, **and all county and municipal facilities as defined in N.J.A.C. 5:23-8.2** shall control matters relating to: construction permits for asbestos abatement; fees; licenses; certification; work permits; reports required; documentation; inspections by the asbestos safety technician; air monitoring; enforcement responsibilities; and remedies and enforcement. [Until further action is taken, this Subcode remains advisory for all other buildings and structures in the State.]

1. Any private or public building which houses a day care center, nursery or educational facility shall be under the jurisdiction of this subchapter when an asbestos hazard abatement job takes place within the building or any part of the building. A small or large asbestos hazard abatement job shall have a construction permit from the administrative authority having jurisdiction.

(d) Until further action is taken, this Subcode remains advisory for all other buildings and structures in the State.

[(d)](e) This subchapter seeks to provide and ensure public safety, health, and welfare insofar as they are affected by asbestos and asbestos-containing materials. It is not intended to, nor shall it be construed to, conflict with or impede the operation of the asbestos work standards issued by the Occupational Safety and Health Administration, 29 CFR Section 1910.1001 et seq. **The purpose of this subchapter is to assure that work is performed in a safe manner as a pre-condition to the issuance of a certificate of occupancy.**

1.-3. (No change.)

5:23-8.2 Definitions

The following words, terms and abbreviations when used in this subchapter shall have the following meanings unless the context clearly indicates otherwise.

"Airlock" means a serial arrangement of rooms spaced a minimum of four feet apart so as to permit ingress or egress through one room without interfering with the next and constructed in such a manner as to prevent or restrict the free flow of air in either direction.

"Air pressure differential" means air pressure lower than surrounding areas, generally caused by exhausting air from a sealed space (work area).

"Asbestos" means a general term used to describe a group of naturally occurring hydrated mineral silicates. The asbestiform varieties include chrysotile (serpentine); crocidolite (riebeckite); amosite (cummingtonite-grunerite).

"Asbestos-containing material" means any material which contains more than one percent asbestos by weight.

"Asbestos Safety Control Monitor" means a business entity authorized pursuant to N.J.A.C. 5:23-8 to ensure compliance with the Asbestos Hazard Abatement Subcode.

"Asbestos Safety Technician" means a person certified by the New Jersey Department of Community Affairs, hired by the asbestos safety control monitor who continuously monitors and inspects the asbestos abatement work pursuant to this subchapter. This person shall be required to be on the job site during the time the asbestos abatement work is taking place and perform all duties and responsibilities established by these regulations.

"Construction permit for asbestos abatement" means required official approval to commence any asbestos hazard abatement job. This permit is issued by the administrative authority having jurisdiction.

"Contractor" means the Asbestos Removal Contractor licensed by the New Jersey Department of Labor.

"County facility" means all buildings and structures, or parts thereof, which are under the ownership or control of a county. This includes, but is not limited to, administration offices, court houses, sheriff offices, welfare offices, maintenance facilities and garages.

"Decontamination unit" means serial arrangement of rooms or spaces for the purpose of separating the work site from the building environment upon entering the work site and for the cleaning of persons, equipment, and contained waste prior to returning to the clean environment.

"Demolition" means the actual destruction and removal of a building, or part of a building, without intent to renovate, repair, or replace. If it is later decided to retain the building, or part of the building for further use, the project shall not be considered demolition and the criteria for re-entry shall be .010 fibers/cc.

"Educational facility" means all buildings and structures, or parts thereof, **(both public and private)** which are under the ownership or control of an educational institution and which are used for student residences, educational purposes or learning experiences [or as], dining facilities [or as], libraries**, or support facilities.** Educational institutions include schools, [(public and private)] colleges, universities, academies, child day care centers and nurseries.

"Employee" means an asbestos abatement worker having a valid work permit, issued by the New Jersey Department of Labor and employed by the contractor.

"Encapsulation" means treatment of asbestos-containing materials, generally ceilings, using a liquid to bond or seal the surface to minimize the potential for fiber release.

"Enclosure" means an impermeable barrier (made of wood, metal, etc.) placed around asbestos-containing material.

"Engineering controls" means all methods used to maintain low work site fiber counts, including air management and barriers to assure public safety.

"Friable" means any material applied to ceilings, wall, piping, duct work, etc., which when dry may be crumbled, pulverized, or reduced to a powder by moderate hand pressure.

"Glove bag" means a plastic bag especially designed to contain sections of pipe for the purpose of removing short lengths of damaged asbestos materials without releasing fibers into the air.

"HEPA" means High Efficiency Particulate Absolute filter, capable of filter efficiency of 99.97 percent down to 0.3 um (microns).

"Large asbestos hazard abatement job" means asbestos-containing materials which involves the removal, enclosure, or encapsulation within one year of 160 square feet or more of asbestos-containing material used on an equipment, wall, or ceiling area; or involves the removal or encapsulation, using a liquid material applied by a pressurized spray, within one year of 260 linear feet or more of asbestos-containing material on covered piping.

"Minor asbestos hazard abatement job" means corrective action using recommended work practices to minimize the likelihood of fiber release from small damaged areas of asbestos ceilings, pipe and boiler insulation which involves the removal, repair, encapsulation or enclosure of 25 square feet or less of asbestos-containing material used on an equipment, wall or ceiling area; or involves the removal or encapsulation, using a liquid material applied by a pressurized spray, of 10 linear feet or less of asbestos-containing material on covered piping [as delineated in N.J.A.C. 5:23-8.4] **within one year.** The repair, enclosure and encapsulation by methods other than pressurized spray of any amount of asbestos-containing material, used to cover piping, shall also be a minor asbestos hazard abatement job.

"Municipal facility" means all buildings and structures, or parts thereof, which are under the ownership or control of a municipality. This includes, but is not limited to, city halls, police stations, fire houses, welfare offices, maintenance facilities, and garages.

["Negative pressure" means air pressure lower than surrounding areas, generally caused by exhausting air from a sealed space (work area).]

"Primary seal/critical barrier" means two layers of 6 mil polyethylene sheeting that completely seals off the work area to prevent the distribution of fibers to the surrounding area, such as the opening between the top of a wall and the underside of ceiling construction, electrical outlets, nonremovable lights, HVAC systems, windows, doorways, entranceways, ducts, grilles, grates, diffusers, wall clocks, speaker grilles, floor drains, sink drains, etc.

"Privately owned buildings containing educational facilities" means all buildings and structures, or parts thereof, which are under the ownership or control of private parties, and which are used for educational purposes or learning experiences. Educational facilities include child day care centers, nurseries, laboratories, and schools.

"Sealant" means a liquid or solution to be used as a binding agent such as a diluted encapsulant or a water based paint, on dried exposed surfaces from which asbestos containing material has been removed. The color of the coat shall be separate and distinct from the underlying substrate.

"Separation barrier" means a constructed wall with no door that separates the clean area from the work area having a fire rating, if applicable, and [does] **shall** not interfere with means of egress. Polyethylene sheeting (minimum of 2 layers of 6 mil) shall be placed on the work side of the barrier so that it completely seals off the work area to prevent the distribution of fibers to the surrounding area.

"Small asbestos hazard abatement job" means asbestos-containing materials which involves the removal, enclosure, or encapsulation within one year of more than 25 and less than 160 square feet of asbestos-containing material used on an equipment, wall or ceiling area; or involves the removal or encapsulation, using a liquid material applied by a pressurized spray, within one year of more than 10 and less than 260 linear feet of asbestos-containing material on covered piping.

"State facility" means all buildings and structures, or parts thereof, which are owned or leased by the State of New Jersey.

"um" means microns, or micrometers.

"Wet cleaning" means the process of eliminating asbestos contamination from building surfaces and objects by using cloths, mops, or other cleaning utensils which have been dampened with amended water **or a removal encapsulant** and afterward thoroughly decontaminated or disposed of as asbestos contaminated waste.

"Work area" means the area where asbestos related work or removal operations are performed which is defined and/or isolated to prevent the spread of asbestos dust, fibers or debris, and entry by unauthorized personnel.

5:23-8.3 Enforcement: licensing; special technical services

(a) Except as is otherwise provided in 1 below, the provision of this subchapter shall be enforced by municipal enforcing agencies utilizing Asbestos Safety Control Monitors (the New Jersey Department of Community Affairs, hereafter cited as the Department, if applicable) and shall be administered and enforced uniformly throughout the State. This subchapter shall be in addition to existing regulations already adopted pursuant to the Uniform Construction Code Act (P.L. 1975, c.217 as amended) and known as the Regulations for the Uniform Construction Code (N.J.A.C. 5:23). This subchapter contains administrative procedure for the inspection of asbestos abatement work involving: removal; encapsulation; enclosure; repair; renovation or demolition work which disturbs asbestos in Educational Facilities.

1. Rules concerning exceptions are as follows:

i. State-owned or State-[managed] **leased** buildings: The Department utilizing asbestos safety control monitors shall be the sole enforcing agency to administer and enforce the Asbestos Hazard Abatement Subcode with respect to State-owned or State-[managed] **leased** buildings.

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

5:23-8.4 Minor asbestos hazard abatement job

(a) Minor asbestos hazard abatement job, as defined in N.J.A.C. 5:23-8.2 involves asbestos abatement work which may be made without application or notice to the administrative authority having jurisdiction. [This work requires general isolation of the work area from the surrounding environment, proper clean-up procedures, and shall be conducted by trained personnel who have successfully completed a training program for maintenance and custodial personnel and other construction trade groups which meets the applicable requirements of the New Jersey Public Employees OSHA or applicable Federal standards. Specific records of each minor asbestos hazard abatement job shall be kept on file at a central location by the owner of the facility and shall be open for review and audit by the administrative authority having jurisdiction and for public inspections during normal business hours. The information required shall be: exact locations of the worksite within the building, type of abatement work conducted, scope of work, type of replacement material used (if applicable), date, name(s) and address(es) of personnel, and the location of the disposal site. A copy of this information shall be sent to the administrative authority having jurisdiction each time a minor asbestos hazard abatement job takes place.] Mechanical, electrical, plumbing or general construction work which involves the incidental disturbance of less than 25 square feet of asbestos-containing material used on an equipment, wall or ceiling area, or less than 10 linear feet of asbestos-containing material on covered piping shall be considered a minor asbestos hazard abatement job.

1. Exception: Although the enclosure of any amount of asbestos-containing material used to cover pipe does not require a permit for asbestos abatement pursuant to this subchapter it shall be considered construction work. A construction permit, therefore, may be required by the administrative authority having jurisdiction pursuant to N.J.A.C. 5:23-2.

(b) Minor asbestos hazard abatement work requires general isolation of the work area from the surrounding environment, proper clean-up procedures, and shall be conducted by those who have successfully completed a two day maintenance/custodial/worker training course approved by the New Jersey Department of Health. Anyone who performs minor work must have access to shower facilities after performing asbestos related work.

(c) Specific records of each minor asbestos hazard abatement job shall be kept on file at a central location by the owner of the facility and shall be open for review and audit by the administrative authority having jurisdiction and for public inspections during normal business hours.

1. The information required shall be:

i. Exact locations of the worksite within the building;

ii. Type of abatement work conducted;

iii. Scope of work;

iv. Type of replacement material used (if applicable);

v. Date;

vi. Name(s) and address(es) of personnel; and

vii. Location of the disposal site.

2. A copy of this information shall be sent to the administrative authority having jurisdiction each time a minor asbestos hazard abatement job takes place.

5:23-8.5 Variations

(a) No variations from the requirements of this subchapter shall be made except upon written approval from the administrative authority having jurisdiction, **after receiving approval in writing from the asbestos safety control monitor firm,** and shall be consistent with N.J.A.C. 5:23-2.

1. Exception: When a building or part of a building is to be occupied during an asbestos hazard abatement project, a written release shall be obtained by the authorized asbestos safety control monitor firm from the New Jersey Departments of Community Affairs and Health (and New Jersey Department of Education for public school projects). A copy of the plans and specifications must accompany the variation request from the authorized asbestos safety control monitor firm to the department.

(b) An application for a variation pursuant to this section shall be filed in writing with the administrative authority having jurisdiction and shall include specifically:

1.-3. (No change.)

4. A statement of feasible alternatives to the requirements of the subcode which would adequately protect the health, safety and welfare of the occupants or intended occupants and the public generally and which would adequately prevent contamination of the environment. **Plans describing any relevant aspects of the variation requested, as pertaining to the layout of the work area, work procedures, exit requirements, or safety, shall be submitted with the statement of feasibility.**

5:23-8.6 Construction permit for asbestos abatement

(a) (No change.)

(b) The application for a construction permit for asbestos abatement shall be subject to the following:

1. (No change.)

2. The application for a construction permit for asbestos abatement shall be required to include the following:

i. (No change.)

ii. The asbestos hazard assessment prepared by the New Jersey Department of Health, **county or local department of health or a private business entity authorized by the New Jersey Department of Health,** unless the requirement for an assessment has been waived;

iii-vii. (No change.)

(c) The issuance of a construction permit for asbestos abatement shall be subject to the following:

1.-4. (No change.)

5. The Department of Community Affairs, Asbestos Hazard Abatement Section, shall receive notification from the owner or his agent by telephone within 24 hours of issuance of a construction permit for asbestos abatement. Such notification shall include an approximate starting date for the asbestos abatement project.

(d)-(e) (No change.)

(f) The [applicant] **owner** or [contractor] **his agent** shall notify the [following agencies] **department** in writing [prior to the start of the], **within three business days of the issuance of the construction permit for** asbestos abatement [project.] **if the administrative authority is a municipal enforcing agency and not the department.** Such notice shall be supplied in the form of a copy of the completed application for a construction permit for asbestos abatement and a copy of the permit. [if the administrative authority is a municipal enforcing agency and not the department:]

[1. New Jersey Department of Health
Asbestos Control Project
Environmental Health Program
CN 360
Trenton, New Jersey 08625-0360]

[2. New Jersey Department of Education
(For Public School Projects Only)
Bureau of Facility Planning Services
225 W. State Street
Trenton, New Jersey 08625]

[3.]**1. Notification shall be sent to:**
New Jersey Department of Community Affairs
Bureau of Construction Code Enforcement
Asbestos Hazard Abatement Section
CN 805
Trenton, New Jersey 08625-0805

[4 New Jersey Department of Labor
Office of Asbestos Control and Licensing
CN 054
Trenton, New Jersey 08625-0054]

[5 U.S. Environmental Protection Agency
Asbestos NESHAPs Contact
Air & Waste Management Division
USEPA
26 Federal Plaza
New York, New York 10007]

(g) The owner or his agent shall notify the U.S. Environmental Protection Agency in writing ten days prior to the start of the asbestos abatement project.

1. Notification shall be sent to:
U.S. Environmental Protection Agency
Asbestos NESHAPs Contact
Air & Waste Management Division
USEPA
26 Federal Plaza
New York, New York 10007

5:23-8.7 Inspections, violations

(a) Pre-commencement inspections shall be conducted as follows:

1. (No change.)

2. The Asbestos Safety Technician or another certified asbestos safety technician designated by the asbestos safety control monitor shall ensure that:

i.-iii. (No change.)

iv. The contractor has a list of emergency telephone numbers at the job site which shall include the Asebestos Safety Control Monitor firm employed by the building owner and telephone numbers for fire, police, emergency squad, local hospital and health officer, New Jersey Department of Labor, [and] New Jersey Department of Health **and New Jersey Department of Community Affairs.**

3. (No change.)

(b)-(f) (No change.)

5:23-8.8 Certificate of occupancy; certificate of completion

(a) Certificate of occupancy requirements are as follows:

1. (No change.)

2. The application for a certificate of occupancy shall be in writing and submitted in such form as the department may prescribe and shall be accompanied by the required fee as provided for in this subchapter.

i. The application shall include the following:

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

(4) Final air monitoring level of [.01] **.010** fibers/cc or lower submitted by the Asbestos Safety Control Monitor.

3. (No change.)

(b) Certificate of completion requirements are as follows:

1.-3. (No change.)

4. A certificate of completion shall be issued only if:

i.-iii. (No change.)

iv. Final air monitoring level of [.01] **.010** fibers per cc or lower has been attained.

5:23-8.10 Precautions and procedures during a large asbestos abatement job

(a) Protective clothing and equipment for asbestos abatement shall be subject to the following requirements:

1.-6. (No change.)

7. The contractor shall have available shower stalls and sufficient plumbing for these showers including **hot and cold running water and** sufficient hose length and drain systems or an acceptable alternate such as a portable decontamination trailer with showers. Waste shower water shall be [filtered through 5-um filters and] recycled to be used as a wetting agent [or], added to asbestos contaminated waste before disposal in an approved landfill[;] **or solidified using an approved polymer to prevent leaks or accidental spills within a facility or during transport for disposal to an approved landfill;**

8. (No change.)

9. The contractor shall have available air filtering equipment capable of filtering asbestos fibers to 0.3 um at 99.97 percent efficiency and of sufficient quantity and capacity to cause a complete air change **or total air filtration** within the work area once every 15 minutes **to effectively reduce the work site fiber count;** [such equipment shall exhaust the filtered air so as to maintain a negative air pressure inside the work area.]

10. Air shall flow **into the work site through all openings, including** [in through] the decontamination chamber and waste exit ports, **and any areas in the work site where air leakage may occur.** [and] **Air should** exhaust through the [negative] air **pressure differential** filtration unit by means of flexible **or solid** duct leading outside the [work area, preferably outside of the] building. **If air exhaust outside the building is not feasible, the Asbestos Safety Technician shall determine where the exhaust shall be emitted outside the work area.** The air-filtering equipment should be positioned at a maximum distance from the decontamination chamber[. Air flow shall be sufficient] to [prevent escape] **maximize filtration** of airbourne fibers. **Sufficient air shall be exhausted by HEPA filtered vacuum cleaner or approved HEPA equipped vacuum truck or HEPA equipped air filtration units when necessary to provide air pressure differential.** [Negative air-] **Air pressure differential** filtration **units** shall be in operation at all times.

[10.]**11.** No asbestos hazard abatement work including preparation can be performed without having a certified asbestos safety technician on the job site.

(b) Decontamination procedures are as follows:

1. The contractor shall provide an adequate decontamination unit consisting of a serial arrangement of rooms or spaces adjoining the work area or a decontamination trailer. Each [space] **airlock** shall be clearly identified and separated from the other[s] by plastic **crossover** sheet doors[, acceptable air locks, or other arrangements] designed to minimize fiber and air transfer as people pass between areas. A minimum of two layers of 6 mil plastic sheeting shall be required for floors, walls, and the ceiling for on-site constructed decontamination units. [Air locks] **Plastic crossover sheet doors** shall have at least three layers of 6 mil plastic sheetings[.] **and be weighted so as to fall into place when people pass through the area. Decontamination chamber doors shall be of sufficient height and width to enable replacement of equipment that may fail and to safely stretcher or carry an injured worker from the site without destruction of the chamber or unnecessary risk to the integrity of the work area.**

2.-6. (No change.)

(c) Preliminary preparations in the work area shall be conducted as follows:

1. (No change.)

2. The contractor or persons employed by the building owner**, who have successfully completed a two day maintenance/custodial/worker training course approved by the New Jersey Department of Health,** shall clean with wet cloths and/or with HEPA vacuums as appropriate all [moveable] items that can be removed from the work area without disrupting the asbestos material. This shall include furniture, equipment, drapes, **and** curtains. The cloths used for cleaning shall be disposed of as asbestos contaminated waste;

3. (No change.)

4. The contractor shall **arrange for the** shut down and seal off **of** all **lighting,** heating, cooling, ventilating or other air handling systems;

5. (No change.)

(d) Isolation and barrier construction in the work area shall be conducted as follows:

1. (No change.)

2. All vertical and horizontal surfaces except those of asbestos containing materials shall be sealed with watertight polyethylene plastic sheeting except as provided in (d) 3 below[;]. **Staircases may be covered with at least one layer of polyethylene. Double sided carpet tape should be attached under the polyethylene on the top of steps and non-slip treads attached to prevent slips and falls;**

3. The only permissible exception to total enclosure shall be:

i.-ii. (No change.)

[iii. Staircases.]

4. (No change.)

(e) Initial activity in the work area shall be conducted in the following order:

1.-6. (No change.)

7. As all existing ventilating systems in the work area are to be sealed throughout the removal operation, an alternative system shall be utilized. Install approved [negative air] **HEPA** filtration units [utilizing appropriate HEPA filters to exhaust air from the work area.] **with filters in place.** [Negative air] **HEPA** filtration units shall be of sufficient number and capacity to ensure that total air volume is exchanged once every 15 minutes **and shall be U.L. listed as to their air capacity.**

8. [Replacement air shall enter the work area through the decontamination facility,] **When air pressure differential is required** in order to reduce the possible escape of contaminated air[.], [The entire alternate] **this** ventilating system shall be installed and operating prior to commencement of asbestos abatement.

(f) Sequence of asbestos removal activities shall be conducted as follows:

1. The asbestos-containing material shall be sprayed with water containing an additive to enhance penetration (amended water) **or removal encapsulant.** All wetting agents shall be tested on a small area before use to ensure effectiveness. A fine low-pressure spray of this solution shall be applied to prevent fiber disturbance preceding removal. The [wetted] **removal encapsulant,** or amended water shall be sprayed on as many times and as often as necessary to ensure that the asbestos material is adequately wetted throughout (especially that asbestos nearest the substrate) to prevent dust emission. No dry removal of asbestos is allowable.

2. As a method of organizing the asbestos removal work, workers shall begin working on the areas nearest to the decontamination unit and work towards the [negative air] **HEPA** filtration units.

3.-6. (No change.)

7. After completion of this removal phase (stripping), all surfaces from which asbestos has been removed shall be scrubbed using nylon or bristle brushes and wet sponged or cleaned by an equivalent method to remove visible asbestos containing material. During this work the surfaces being cleaned shall be kept wet using amended water **or a removal encapsulant.** All disposable equipment shall be packaged for disposal. Containers shall be washed with amended water **or a removal encapsulant** and shall have all exterior particulate matter removed prior to removal from the contaminated area.

8. (No change.)

9. All free water (in contaminated areas) shall be retrieved and added to asbestos-contaminated waste and/or placed in plastic lined leak-tight drums[.] **and/or solidified with an acceptable polymer.**

10. (No change.)

(g) final clean-up of the work area shall be conducted as follows in the order listed:

1. The contractor shall first clean all surfaces in the work area using a fine spray or mist of amended water or removal encapsulant applied to all surfaces followed by the wet-wiping procedure using disposable cloths. These cloths shall be disposed of or rinsed thoroughly on a frequency sufficient to eliminate visible accumulation of debris. Allow all surfaces to dry before re-entering the work area and proceeding to step No. 2 below of this procedure.

i. (No change.)

2.-3. (No change.)

4. Wet clean with amended water **or a removal encapsulant** all walls, floors, woodwork, ceilings, electric light fixtures and other surfaces. Allow all surfaces to dry and repeat procedure. Cloths or sponges used in the cleaning operation shall be disposed of as contaminated waste.

5.-6. (No change.)

7. Air monitoring results must indicate asbestos concentrations of no more than .010 f/cc for every 10,000 square feet of floor space contained by the critical barrier. These results must be achieved before critical barrier removal and reconstruction activities may begin. If the test results show asbestos fiber concentrations above the acceptance criteia, then clean-up shall be repeated until compliance is achieved by re-cleaning all surfaces using wet methods and operating **all** HPEA [equipped Negative] [A]**air** [F]**filtration** units to [exhaust] **filter the** air [outside the work area to filter the air].

8.-10. (No change.)

5:23-8.11 Precautions and procedures during a small hazard abatement job

(a) Small asbestos hazard abatement jobs shall be carried out according to the following procedures which require that all asbestos abatement work be performed by a licensed contractor and that the employees have valid work permits issued by the New Jersey Department of Labor. A construction permit shall be required. An asbestos safety control monitor authorized by the New Jersey Department of Community Affairs shall ensure compliance with the regulations except air monitoring will not be required. However a final air sample shall be taken to ensure that the asbestos fiber content of the air is .010 fibers/cc or lower **for every 10,000 square feet of floor space contained by the critical barrier.**

1. Exception: The Asbestos safety control monitor may require air monitoring and the installation of a decontamination unit consisting of a serial arrangement of rooms or spaces adjoining the work area or a decontamination trailer when the type of asbestos abatement work to be performed may involve a highly friable asbestos-containing material, or [that] **when** the asbestos containing material contains a high percentage of asbestos by weight, or [because of the asbestos abatement procedure,] **when** the asbestos containing material becomes highly friable **due to the asbestos abatement procedure.** If the owner or [contractor] **his agent** believes that such measures are not necessary, the owner or [contractor] **his agent** may appeal the requirement to the **New Jersey Department of Community Affairs,** New Jersey Department of Health, county or local department of health or a private business entity authorized by the New Jersey Department of Health which performed the hazard assessment.

(b) The following minimum level of precautions and procedures shall be employed:

1.-7. (No change.)

8. All gross contamination of people of their disposable clothing shall be removed using a HEPA vacuum before leaving the work area. The suits shall be discarded after cleaning up the work area with the HEPA vacuum. [Maintenance employees must have access to shower facilities after performing asbestos-related work activities;]

9.-14. (No change.)

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

5:23-8.12 Asbestos encapsulation and enclosure

(a) Encapsulation [usually] constitutes spraying friable asbestos-containing material with a liquid sealant (not including paint) that helps bind the asbestos together with other material components [and] to adhere it firmly to the building structure.

1. The requirements of this section are set forth in order to prevent the contamination of the building environment which may be caused by improperly performed asbestos encapsulation work.

i. Encapsulation shall not be performed where:

(1)-(2) (No change.)

(3) The source of asbestos is highly accessible to building occupants and damage to material is [probable] **possible**;

(4)-(7) (No change.)

ii.-iii. (No change.)

iv. Sealants considered for use in encapsulation shall first be tested to ensure that the sealant is adequate for its intended use. A section of the asbestos-containing material shall be evaluated following this initial test application of the sealant to quantitatively determine the sealant's effectiveness in terms of penetrating and hardening the asbestos-containing material [.], **its toxicity, its flammability, its tolerance to disturbance or abuse, its solubility (dissolvability) in water, its effects on the acoustical properties of the asbestos containing material, and its tolerance to top-covering paints.** The United States Environmental Protection Agency, Office of Toxic Substances, has developed guidelines for the use of encapsulants on asbestos-containing materials which discuss advantages and disadvantages of encapsulation. The American Society of Testing and Materials (ASTM) Committee E06.21.06E on Encapsulation of Building Materials has developed a guidance document to assist in the selection of an encapsulant once a decision to encapsulate has been made. **When**

a choice of an encapsulant has been made, written justification of this choice (based on the characteristics of the encapsulant, the asbestos-containing material to be encapsulated, and the substrate surface underneath the asbestos-containing material) shall be included in the job specifications, and a copy of this justification shall be available for review at the job site.

v.-vii. (No change.)

viii. Where encapsulants are sprayed on asbestos-containing materials:

(1) Low pressure airless spray shall be used. **The airless spray gun shall have an appropriately sized tip which shall be tested by briefly spraying the encapsulant onto a surface from approximately 12 inches away. An appropriately sized tip will spray the encapsulant in a fan approximately eight inches wide; it will also distribute the encapsulant uniformly within the fan, giving even coverage.**

(2) [Negative air] **A suitable quantity of HEPA** filtration units [(with HEPA filters)] shall be used during the encapsulation process which shall have sufficient capacity to cause one complete air exchange every 30 minutes.

(3) At least three coats of the encapsulant shall be applied to the surface of the asbestos-containing material. Each coat shall be applied in a two-step procedure. The first step is to apply a light mist coat to moisten and seal any loose fibers and keep them from breaking away from the surface. This mist coat should applied in three or four quick passes with the gun held 18 to 24 inches from the surface. After an area of 16 to 20 square feet has been given the mist coat, a heavier coating is applied, using 8 or 10 passes with the gun held 10 and 12 inches from the material. The gun should be kept in constant motion to create a smooth and even coat. This two-step application shall be considered one coat of encapsulant. Each subsequent coat shall be applied at a 90 degree angle to the direction of the preceding coat application, to ensure complete coverage of the asbestos-containing material. When questions rise regarding drying time, curing time, dilution, or use under different weather conditions, the manufacturer's recommendations and instructions shall be consulted.

(4) All other preparation, decontamination, and work requirements and procedures used in encapsulation projects shall be the same as those used in removal projects.

ix. Sealants used in encapsulation shall be flame resistant **and meet the flame spread and smoke generation requirements of N.J.A.C. 5:23-3 of the Uniform Construction Code.**

(b) Enclosure constitutes construction of an air-tight barrier to isolate a surface coated with asbestos-containing material. The barrier for an enclosure job should be impact-resistant **and all materials shall comply with N.J.A.C. 5:23-3 of the Uniform Construction Code.** It is not necessary to have an air-tight barrier for piping if the insulation has first been covered with an appropriate sealant or tape. [When removal is not feasible or practical and the integrity of the barrier can be maintained, enclosure may be the most appropriate remedial measure. Enclosure is particularly suitable (when applied after the repair of damaged material) as part of the remediation procedure for piping because the shape and structure of piping is relatively complex to be treated and the usual difficulty of accessability prevents an adequate removal job. For example, an enclosure is recommended for vertical piping in classrooms, or for piping in basement areas to prevent the asbestos insulation from being damaged or distributed by an opening door.]

1. The requirements of this section are set forth in order to prevent the contamination of the building environment which may be caused by imporperly performed asbestos enclosure work. The following procedures shall be adhered to:

i. The surface of the asbestos-containing material which will be disturbed during the installation of hangers, brackets or other enclosure supports shall first be sprayed with amended water **or a removal encapsulant** using a low pressure airless spray:

ii.-vi. (No change.)

5:23-8.13 Glove bag technique

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

(c) The following is a list of [recommended] equipment and tools for the removal of asbestos by the glove bag technique:

1.-2. (No change.)

3. **Wetting agent:** Amended water (water with a surfactant) **or a removal encapsulant;**

4.-8. (No change.)

(d) Removal procedures shall be conducted as follows:

1.-5. (No change.)

6. Using the smoke tube and aspirator bulb, place the tube into the [water] **wetting agent** sleeve (two-inch opening to glovebag). By squeezing the bulb, fill the bag with visible smoke. Remove the smoke tube and twist the [water] **wetting agent** sleeve closed. While holding the [water] **wetting agent** sleeve tightly, gently squeeze the golvebag and look for smoke leaking out, especially at the top and ends of the glovebag. If leaks are found, they shall be taped closed using duct tape and the bag shall be re-tested.

7. Insert the wand from the [water] **wetting agent** sprayer through the [water] **wetting agent** sleeve. Using duct tape, tape the [water] **wetting agent** sleeve tightly around the wand to prevent leakage.

8. One person places [their] **his** hands into the long-sleeved gloves while the second directs the [water] **wetting agent** spray at the work.

9. (No change.)

10. With the insulation exposed, using the bone saw, cut the insulation at each end of the section to be removed. A bone saw is a serrated heavy-guage wire with ring-type handles at each end. Throughout this process, [water] **wetting agent** is sprayed on the cutting area to keep dust to a minimum.

11. Once the ends are cut, the section of insulation should be split from end to end using the utility knife. The cut should be made along the botton of the pipe and [water] **the wetting agent** continuously supplied. Again, care should be taken when using the kinfe not to puncture the bag. Some insulation may have wire to be clipped as well. Again, a box may be used as in step nine above to protect the bag from puncture.

12. Rinse all tools with [water] **wetting agent** inside the bag and place back into pouch.

13.-15. (No change.)

16. Remove the [water] **wetting agent** wand from the [water] **wetting agent** sleeve and attach the small nozzle from the HEPA-filtered vacuum. Turn on the vacuum only briefly to collapse the bag.

17. Remove the vacuum nozzle and twist the [water] **wetting agent** sleeve closed and seal with duct tape.

18.-20. (No change.)

21. All surfaces in the work area should be cleaned using disposable cloths wetted with [amended water] **wetting agent.** These cloths shall be disposed of or rinsed thoroughly to eliminate visible accumulation of debris. Then, when these surfaces have been allowed to dry, all surfaces shall be cleaned again using a HEPA filtered vacuum.

22.-25. (No change.)

5:23-8.15 Duties of the Asbestos Safety Technician

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

(c) The asbestos safety technician upon receipt of testing results indicating that concentrations above 0.010 fibers per cc have occured outside the containment barriers or above 0.020 fibers/cc within the clean room of the decontamination chamber during the abatement action shall report these results within one working day verbally or by telephone communication if necessary to the contractor, the owner and the architect/engineer so that prompt corrective action may be taken. This telephone or verbal communication shall be followed by a written report to the contractor, the owner and the architect/engineer a copy of which shall be sent to the administrative authority having jurisdiction.

(e) The asbestos safety technician shall prepare a comprehensive final report, including daily logs, required inspection reports, observations and air monitoring results. [The asbestos safety control monitor shall maintain the report as a permanent record, and present a copy to the owner and file a copy with the Department of Community Affairs within 20 working days.] **This report shall be made part of the official record filed by the asbestos safety control monitor firm.**

[i. For public school projects only, the results of tests shall be reported also to the Department of Education, Bureau of Facility Planning Services.]

(f) During the removal phase the duties of the asbestos safety technician shall be as follows:

1. (No change.)

2. Filter cassettes and sampling train shall be assembled as specified in NIOSH #7400. The flow rate shall be between 0.5 and 16 liters per minute. The total volume shall be a volume sufficient to achieve a detection limit of 0.010 f/cc. Pumps shall be calibrated before and after sampling and a record kept of this calibration;[.]

3.-6. (No change.)

7. The evaluation criteria shall be 0.010 fibers per cubic centimeter;

8. (No change.)

9. The asbestos safety technician shall calculate the required number of [negative] air **pressure differential** filtration units for each work area. This calculation shall be made whenever the volume of the work area changes. The asbestos safety technician **or his employer,** shall inform the owner, contractor and the architect/engineer of any discrepancies between the number of units required and those in operation within the

work area. If problems are identified and not corrected, the asbestos safety technician shall inform the administrative authority having jurisdiction.

10.-11. (No change.)

(g) Post-removal test shall be conducted as follows:

1. Within 48 hours after final clean-up and before the removal of critical barriers, a visual inspection and a final air test shall be performed. This test is required to establish safe conditions for removal of critical barriers and to permit reconstruction activity to begin. Sufficient time following clean-up activities shall be allowed so that all surfaces are dry during monitoring. [Negative] Air **pressure differential** filtration units shall not be in use during monitoring. At least 24 hours shall be allowed to pass after any wet cleaning has been done and [negative] air **pressure differential** filtration units have been used before the post-removal tests are begun;

2. Normal occupancy use conditions shall be simulated using propeller-type fans. The fans shall be placed in each room to be sampled so as to cause settled fibers to rise and enter the air. The fans shall [be fans] **have** blades with a radius of at least one foot and shall be capable of creating a minimum air velocity of 500 feet per minute. These fans may be of the oscillating type. The sampling pump and sampling media shall be placed 20-40 feet at a right angle from the line(s) of air flow created in front of the fan;

3. Filter cassettes and sampling train shall be assembled as specified in NIOSH #7400. The flow rate shall be between 0.5 and 16 liters per minute. The total volume shall be a volume sufficient to achieve a detection limit of 0.010 f/cc. Pumps shall be calibrated before and after sampling and record kept of this calibration.

4.-6 (No change.)

7. Evaluation criteria: If test results exceeds 0.010 fiber/cc, the asbestos safety technician, **or his employer,** shall so inform the contractor, the owner and the architect/engineer. If these criteria have not been met, the contractor shall be required to re-clean all surfaces using wet cleaning methods and provide [negative] HEPA [filtered] **filtration units to** exhaust air during the re-cleaning process. This process of re-cleaning, allowing surfaces to dry and re-testing shall be repeated until compliance is achieved.

(h) (No change.)

5:23-8.16 Coordination with other permits

(a) (No change.)

(b) When it is certified that asbestos may become disturbed, an assessment performed by the New Jersey Department of Health, **county or local health department, or by a private business entity authorized by the New Jersey Department of Health** shall be required.

1. Boiler and water storage tank removal projects which require the removal of asbestos insulation from the boiler, water storage tank and piping shall not require an assessment before a permit is issued by the administrative authority having jurisdiction.

[1.] **2.** If the assessment indicates that the work and the disturbance which will result from it has made asbestos hazard abatement work necessary, then the construction official shall inform the building owner, **or his agent,** that all asbestos abatement work shall conform to this subchapter.

i.-ii. (No change.)

5:23-8.17 Asbestos Safety Control Monitor

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

(c) Records shall be maintained by the asbestos safety control monitor of all inspections, applications, plans reviewed, air tests, and any other information that may be required by the municipal construction official or the department. These records shall be open to department audit and shall not be destroyed or removed from the offices of the asbestos safety control monitor without the permission of the department.

1. The asbestos safety control monitor shall provide the department with the following:

i. A copy of each permit[,] **and application,** within [two] **three business** days of **the** issuance, that they are contracted for;

ii. A list of names, certification numbers, addresses and telephone numbers of all technical personnel employed. **Notification of any change in personnel shall be submitted in writing to the department within 10 days.**

iii. A copy of the certificate of completion within three business days of its issuance.

2. (No change.)

3. Each asbestos safety control monitor shall have the following responsibilities:

i.-xii. (No change.)

xiii. To issue **and maintain** documentation and certification, **of all requirements of this subchapter** such **as but not limited to** [a written Pre-Commencement Inspections, as required by this subcode;] **plan release, permit application, permit issued by the administrative authority having jurisdiction, variations issued, written notice to proceed, written notice to remove barriers, certificate of completion and violation notices, daily logs, inspections, observations, calculations, backup records, air monitoring results and a separate listing of any contractor deficiencies observed during the course of the work.**

xiv. (No change.)

xv. Upon completion of an asbestos hazard abatement project the asbestos safety control monitor shall submit a final report consisting of but not limited to **plan release, permit application, permit issued by the administrative authority having jurisdiction, variations issued, written notice to proceed, written notice to remove barriers, certificate of completion and violation notices,** daily logs, inspections, observations, calculations, backup records, air monitoring results and a separate listing of any contractor deficiencies observed during the course of the work. The report shall be submitted within 20 days of issuance of the Certificate of Completion. Copies of the final report shall be submitted to the building owner and the department. [For public school projects this report shall be also submitted to the New Jersey Department of Education, Bureau of Facility Planning Services.]

(d) Whenever an asbestos safety control monitor enters into a contract to provide asbestos safety control monitor services, in connection with an asbestos hazard abatement project, then the asbestos safety control monitor shall not have any economic relationship with another party involved with the project, except for a sub-contract for laboratory services need[s]**ed** by the asbestos safety control monitor to perform its duties under this subc[ode]**hapter.**

(e) Suspension and revocation procedures are as follows:

1. In addition to any other remedies provided by the Uniform Construction Code regulations, N.J.A.C. 5:23, the department may suspend or revoke its authorization of any asbestos safety control monitor **or assess a civil penalty of not more than $500.00 per violation,** if the department determines that the authorization or reauthorization was based on the submission of fraudulent or materially inaccurate information, or that the authorization or reauthorization was issued in violation of this subc[ode]**hapter,** or that a change of facts or circumstances make it unlikely that the asbestos safety control monitor can continue to discharge its responsibilities under this subc[ode]**hapter** in satisfactory manner, or that the asbestos safety control monitor has violated this subc[ode]**hapter.**

i. (No change.)

2.-4. (No change.)

(f) The department, in addition or as an alternative to revoking or suspending an authorization, or assessing a penalty, may issue a letter of warning, reprimand, or censure with regard to any conduct which, in the judgment of the department, warrants such a response. Such letter, in addition to any other filing requirements, shall be made part of the authorization file of the firm.

(g) Conviction of a crime or an offense in connection with the practice as an Asbestos Safety Control Monitor shall constitute grounds for revocation or suspension of an authorization.

[(f)] **(h)** (No change in text.)

5:23-8.18 Asbestos Safety Technician: Certification requirements

(a) (No change.)

(b) No person shall act to enforce this subchapter without first holding a certification from the department.

1. Any individual who holds a certification as an Asbestos Safety Monitor from the New Jersey Department of Health and who applies within one year from the date of the issuance of that certification shall be entitled to certification as an Asbestos Safety Technician upon submittal of a proper application, the successful completion of a mandatory training course for asbestos safety technicians [conducted] **required** by the Department of Community Affairs, and the required fee.

(c)-(h) (No charge.)

5:23-8.21 Demolition

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

(e) Air monitoring samples during removal and final air samples after removal will be required for large asbestos abatement jobs only unless this is changed during the plan review.

1. Results of .020 fibers/cc or less shall be attained prior to demolition;

2. (No change.)

3. If air levels above .020 fibers/cc are obtained in either of the above cases the areas where the asbestos removal took place must be recleaned and resampled until they do meet the required level.

ENVIRONMENTAL PROTECTION

(a)

DIVISION OF WATER RESOURCES

Grants for Restoring Publicly-Owned Freshwater Lakes

Proposed Amendment: N.J.A.C. 7:9-15.6

Authorized By: Richard T. Dewling, Commissioner, Department of Environmental Protection.
Authority: N.J.S.A. 58:10A-5(d) and N.J.S.A. 58:11A-1 et seq.
DEP Docket Number: 020-87-05.
Proposal Number: PRN 1987-198.

Submit comments by July 1, 1987 to:
Rachel Lehr, Esq.
Office of Regulatory Services
Department of Environmental Protection
CN 402
401 E. State Street
Trenton, N.J. 08625

The agency proposal follows:

Summary

Section 314 of the Federal Clean Water Act, 33 U.S.C. 1324, provides financial assistance to the State for the restoration of publicly-owned lakes, making Federal grants available for a wide range of activities which include dredging, shoreline stabilization and stormwater management. The New Jersey Legislature has provided funds to local government agencies in recent years to supplement Federal funding and the proposed amendment applies to the disbursement of the State funds.

The proposed amendment will increase the maximum State share of Phase II (Implementation) Lake Restoration activities from 50 percent to 75 percent. This is being done to more closely follow the cost-share formula which was developed when the Clean Lakes Program of the United States Environmental Protection Agency ("EPA") was fully funded and Phase II projects received 50 percent funding from the EPA, 40 percent funding from the State, and 10 percent funding from the local government unit. For the last two years, the Federal program has only funded existing Phase II projects, thereby preventing the initiation of any new Federally funded projects. While there appears to be significant interest in less costly Phase I (Diagnostic-Feasibility) activities at a 50 percent local, 50 percent State funding level, it appears that this formula prohibits local participation for the more costly Phase II activities. Increasing State funding from 50 percent to 75 percent should encourage the initiation of more Phase II lake restoration projects.

Social Impact

A major factor in the success of previous lake restoration activities under the program has been the degree of local involvement that was required. The local agency is responsible for securing required matching funds and for deciding upon the type of activity which will be undertaken. This allows for maximum local initiative and participation, and ultimately, all issues with local impact are decided at the local level.

The social impact will be further enhanced by the improved water quality which will result from the initiation of more Phase II lake restoration projects now that State funding will be increased. This in turn will lead to enhanced recreational opportunities and aesthetic values.

Economic Impact

This rule is intended to fund restoration activities which will restore degraded water bodies to a more acceptable condition. The resulting benefits will be improved recreational opportunities, aesthetic values, property values, wildlife habitat, and public health. The completed project may affect one or more of these parameters, either by re-establishing or enhancing a current use or establishing a new use. The United States Environmental Protection Agency has established a cost/benefit ratio of 4:1 for dollars spent on lake restoration activities. The economic impact of these projects is expected to be favorable to the communities which surround the project areas. Also, the increased State share of project costs from 50 percent to 75 percent will lessen the financial burden on local governments.

Environmental Impact

The projects which will be funded under these rules are intended to improve the environmental quality of the State's lakes. While some aspects of the project may cause temporary environmental impairment, the final result will be a lake with improved physical, biological and chemical quality. Also, since the project is initiated and monitored at the local level, it is expected that all feasible methods to lessen negative environmental impacts at the local level will be taken.

Regulatory Flexibility Statement

In accordance with the New Jersey Regulatory Flexibility Act, P.L. 1986, c.169, the Department has determined that these rules will not impose reporting, recordkeeping, or other compliance requirements on small businesses because the rules only apply to local government units seeking grants from the State of New Jersey for the restoration of publicly owned lakes.

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

7:9-15.6 Types of grant assistance

(a) The Department will administer the following types of grants pursuant to this subchapter.

1. (No change.)

2. Subject to the availability of funds, approved Phase II Implementation activities will be funded through the Department pursuant to the following formulas:

i. (No change.)

ii. If no EPA grant is awarded for the project, a maximum of [50] **75** percent of allowable costs shall be funded by the Department and the remainder of the costs shall be funded by the applicant.

3. (No change.)

HEALTH

(b)

PARENTAL AND CHILD HEALTH SERVICES

Birth Defects Registry
Live Births

Proposed Amendment: N.J.A.C. 8:20-1.2

Authorized By: Molly J. Coye, M.D., Commissioner, Department of Health.
Authority: N.J.S.A. 26:8-40.20 et seq. specifically 26:8-40.26.
Proposal Number: PRN 1987-200.

Submit comments by July 1, 1987 to:
Barbara Kern, Director
Special Child Health Services
State Department of Health
CN 364
Trenton, NJ 08625

The agency proposal follows:

Summary

Pursuant to N.J.S.A. 26:8-40.20, the Department of Health is required to establish and maintain a Birth Defects Registry which shall contain a confidential record of all birth defects that occur in New Jersey and any other information that the department deems necessary and appropriate in order to conduct thorough and complete epidemiologic surveys of birth defects that occur in this State, and to plan for services needed by the children and their families.

The reporting requirements apply to all infants from birth through one year of age. Physicians, dentists and certified nurse midwives are responsible for reporting a child diagnosed as having a birth defect to the Department of Health. The information to be reported shall be provided upon forms supplied by the Department.

Birth defects occur in approximately three percent of all births and are related to over 25 percent of all infant deaths. Though the cause of most birth defects is unknown, there is concern that some may be related to preventable environmental factors. In order to effectively address this

public health problem it is necessary to collect and compile complete and accurate information concerning the occurrence of birth defects in this State. A birth defects registry would provide a needed base of information to analyze this problem and plan for and provide services to children with birth defects and their families.

To carry out the purposes of N.J.S.A. 26:8-40.20 et seq., the Department proposes to amend N.J.A.C. 8:20-1.2 by adding a list of congenital anomalies and other conditions which also constitute reportable birth defects. Separate rules will be proposed for the reporting of fetuses with birth defects.

Social Impact

It is estimated that three percent of infants born each year in this State have a birth defect. Approximately 2,000 or two percent are expected to have a defect which affects the survival or physical well-being of the affected children. Birth defects are the second most common cause of infant deaths in the State and the leading cause of death next to accidents in children age 1 to 4 years.

With the growing public concern about birth defects and questions about possible environmental causes, a complete and accurate birth defects registry will enable the Department to monitor rates of birth defects that occur in this State and when indicated, to conduct epidemiologic surveys in order to effectively address this public health problem.

Effects of birth defects are not limited only to deaths in early childhood. There are life long health effects among those children who survive. The birth defects registry will enable the Department to provide for timely identification of affected children, and to promptly plan for and provide services to these children and their families. Children who have a birth defect are frequently in need of special health and educational services which can assist them to develop to their fullest potential as productive members of society.

Economic Impact

The economic value of the birth defects registry should be measured according to its impact on the lives and health of the residents of this State. The registry will serve as a tool for the search of etiology of birth defects, and study of mechanisms to prevent and treat those malformations. Early identifications of affected children through the birth defects registry will ensure the provision of appropriate health care and other support services for these children. Appropriate and prompt medical treatment can prevent the development of complications, long term illness, disability or death which economically are unfavorable outcomes.

The proposed amendment will not cause any significant financial burden to the State or health care system. To the contrary, early identification and intervention strategies can lead to significant saving in public health and family dollars.

Regulatory Flexibility Statement

The proposed amendment will affect, among others, numerous small businesses (specifically, physicians, dentists, certified nurse midwives and health care facilities employing less than 100 employees). However, the rule imposes no new reporting or recordkeeping requirements on these small businesses, as they are already required to report birth defects to the Department. Rather, this proposal merely specifies which congenital defects must be reported.

If these "small businesses" as defined by the Regulatory Flexibility Act were to be exempted from the reporting requirements of this rule, the birth defects registry would be incomplete and inaccurate thereby frustrating the intent and purpose of the law and the rule.

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

8:20-1.2 Reporting requirements

(a) Any infant who is born to a resident of the State of New Jersey, or who becomes a resident of the State before one year of age, and who shows evidence of a birth defect either at birth or any time during the first year of life shall be reported to the State Department of Health, Special Child Health Services Program.

1. For reporting purposes, the conditions listed as Congenital Anomalies (Diagnostic Codes 740.00 through 759.90) in the most recent revision of the International Classification of Diseases, Clinical Modification, [and other congenital defects specified by the Commissioner of Health] shall constitute reportable defects. [The Commissioner of Health shall promulgate a list of required reporting defects.] **In addition, there are several other conditions considered to be defects that are not listed under Diagnostic Codes 740.00 through 759.90 which describe Congenital Anomalies. The following birth defects are also required to be reported to the Special Child Health Services Program.**

i. Congenital Anomalies, including:

(1) Anencephalus and similar anomalies, such as craniorachischis and inencephaly.

(2) Spina Bifida with and without mention of hydrocephalus.

(3) Other congenital anomalies of the nervous system, such as: encephalocele; microcephalus; reduction deformities of the brain; congenital hydrocephalus; congenital cerebral palsies, congenital muscular dystrophies; and other anomalies, congenital diseases, lesions and any other deformities of the brain, nervous system or spinal cord.

(4) Congenital anomalies of the eye, such as: anophthalmos; microphthalmos; buphthalmos; congenital cataract and lens anomalies; coloboma and other anomalies of the anterior or posterior segment; congenital anomalies of eyelids, lacrimal system and orbit; and any other anomalies of the eye.

(5) Congenital anomalies of the ear, face and neck, such as: anomalies of the ear causing impairment of hearing; accessory auricle and any other anomalies of the ear; branchial cleft cyst or fistula; preauricular sinus; webbing of the neck; and any other anomalies of face and neck.

(6) Bulbus cordis anomalies and anomalies of cardiac septal closure such as: common truncus; transposition of great vessels; Tetralogy of Fallot; Common ventricle; ventricular septal defect; ostium secundum type atrial septal defect; endocardial cushion defects; cor biloculare; and any other defects of septal closure.

(7) Other congenital anomalies of the heart, such as: anomalies of pulmonary valve; congenital tricuspid atresia and stenosis; Ebstein's anomaly; congenital stenosis of aortic valve; congenital mitral stenosis of aortic valve; congenital mitral stenosis or insufficiency; hypoplastic left heart syndrome; and any other structural anomalies of the heart.

(8) Other congenital anomalies of circulatory system, such as: patent ductus arteriosus; coarctation of aorta and other anomalies of the aorta, aortic arch or atresia and stenosis of the aorta; anomalies of pulmonary artery; anomalies of great veins, absence or hypoplasia of umbilical artery; other anomalies of peripheral vascular system; or other unspecified anomalies of circulatory system.

(9) Congenital anomalies of respiratory system, such as: choanal atresia; other anomalies of nose; webbing of larynx; other anomalies of larynx, trachea and bronchus; congenital cystic lung; agenesis, hypoplasia and dysplasia of lung; other anomalies of the lung; and other unspecified anomalies of respiratory system.

(10) Cleft palate and cleft lip.

(11) Other congenital anomalies of upper alimentary tract, such as: tongue tie and other anomalies of the tongue; anomalies of mouth and pharynx; tracheoesophageal fistula, esophageal atresia, and stenosis and other anomalies of esophagus; congenital hypertrophic pyloric stenosis, congenital hiatus hernia; other anomalies of stomach; and other unspecified anomalies of upper alimentary tract.

(12) Other congenital anomalies of digestive system, such as: Meckel's diverticulum; atresia and stenosis of small intestine, large intestine, rectum and anal canal; Hirschsprung's disease and other congenital functional disorders of colon; anomalies of intestinal fixation; other anomalies of intestine, gall bladder, bile ducts, liver and pancreas; disorders of tooth formation, development and eruption, dentofacial anomalies, and other unspecified anomalies of the digestive system.

(13) Congenital anomalies of genital organs, such as: anomalies of ovaries, fallopian tubes and broad ligaments; doubling of uterus and other anomalies of uterus; anomalies of cervix, vagina and external female genitalia; undescended testicle; hypospadias and congenital chordee; indeterminate sex and pseudohermaphroditism; and other unspecified anomalies of the genital system.

(14) Congenital anomalies of urinary system, such as: renal agenesis and dysgenesis; cystic kidney disease; obstructive defects of renal pelvis and ureter; other anomalies of kidney and ureter; exstrophy of urinary bladder; atresia and stenosis of urethra and bladder neck; anomalies of urachus; other anomalies of bladder and urethra; and other unspecified anomalies of the urinary system.

(15) Certain congenital musculoskeletal deformities, such as: of skull, face and jaw; of sternocleidomastoid muscle; of spine; congenital dislocation of hip; congenital genu recurvatum and bowing of long bones of leg; varus and valgus deformities of feet; other congenital deformities of feet such as talipes cavus, calcaneus or equinus; and other specified nonteratogenic anomalies such as pectus excavatum, pectus carinatum; club hand; congenital deformity of chest wall; dislocation of elbow; generalized flexion contractures of lower limbs; spade-like hand.

(16) Other congenital anomalies of limbs, such as: polydactyly; syndactyly; reduction deformities of upper limb; reduction deformities of lower

limb; other anomalies of upper limb, including shoulder girdle; and other anomalies of lower limb, including pelvic girdle.

(17) Other congenital musculoskeletal anomalies, such as: anomalies of skull and facial bones; anomalies of spine; cervical rib; other anomalies of ribs and sternum; chondrodystrophy; osteodystrophies; anomalies of diaphragm; anomalies of abdominal wall such as prune belly syndrome; other specified anomalies of muscle, tendon, fascia and connective tissue; and other unspecified anomalies of musculoskeletal system.

(18) Congenital anomalies of the integument, significant anomalies of skin, subcutaneous tissue, hair, nails and breast, such as birthmarks or nevi measuring 4 inches or greater in size, multiple skin tags (more than 5 in number).

(19) Chromosomal anomalies, such as: Down's sydrome; Patau's syndrome; Edwards' syndrome; autosomal deletion syndromes and other conditions due to autosomal anomalies; gonadal dysgenesis; Klinefelter's syndrome; and other conditions due to sex chromosome anomalies or anomalies of unspecified chromosome.

(20) Other and unspecified congenital anomalies, such as: anomalies of spleen, situs inversus; conjoined twins; tuberous sclerosis; other hamartoes; multiple congenital anomalies; and other congenital anomalies including congenital malformation syndromes affecting multiple organ systems including Laurence-Moon-Biedl syndrome, Marfan's syndrome and Prader-Willi syndrome.

ii. Other conditions, including:

(1) Certain endocrine, nutritional and metabolic diseases and immunity disorders, includes congenital hypothyroidism; idiopatphic hypoglycemia; congenital hypoparathyroidism; hypopituitarism; diencephalic syndrome; adrenogenital syndrome; testicular feminization syndrome; phenylketonuria; albinism; maple syrup urine disease; argininosuccinic aciduria; hyperglybcinemia; glycogen storage diseases; cystic fibrosis; alpha-1 antitrypsin deficiency; and DiGeorge's syndrome; congenital deficiencies of humoral immunity; cell-mandated immunity; combined immunity deficiencies; and other specified and unspecified disorders of the immune mechanisms.

(2) Certain diseases of the blood and blood forming organs, includes hemolytic diseases of the newborn; G-6PD deficiency; hemophilia (all types); and Von Willebrand's disease.

(3) Certain diseases of the nervous system and sense organs, includes hereditary and degenerative diseases of the central nervous system such as Tay Sachs disease and familial degenerative CNS diseases; Werdnig-Hoffmann disease; cerebral palsy; Moebius syndrome; hereditary retinal dystrophies, and chorioretinitis.

(4) Certain diseases of the circulatory system, includes endocardial fibroelastosis; congenital Wolfe-Parkinson-White syndrome; cardiac arrhythmias, NEC; and Budd-Chiari syndrome.

(5) Certain diseases of the digestive system, includes abnormalities of jaw size, micrognathia and macrognathia; inguinal hernia with gangrene, inguinal hernia with obstruction with no mention of gangrene, inguinal hernia without obstruction with no mention of gangrene, umbilical hernia, epigastric hernia.

(6) Certain complications of pregnancy childbirth, and the puerperium, includes amniotic bands, amniotic cyst.

(7) Certain diseases of the skin and subcutaneous tissue, includes pilonidal sinus or dimple (sacrodermal).

(8) Certain conditions originating in the perinatal period, includes fetal alcohol syndrome, probable fetal alcohol syndrome (includes facies), fetal hydantoin (dilantin) syndrome, hyaline membrane disease, bronchopulmonary dysplasia, neonatal hepatitis, meconium ileus, meconium peritonitis, congenital ascites, congenital hydrocele, and certain congenital infections including congenital syphilis, congenital rubella, unspecified TORCH infection, cytomegalovirus, toxoplasmosis, herpes simplex including encephalitis, meningoencephalitis.

(9) Neoplasms, includes lipomas of skin and subcutaneous tissue of face and other skin and subcutaneous tissue, intrathoracic and intra-abdominal organs, spermatic cord, other specified sites, lumbar, sacral, paraspinal, and other unspecified sites; benign neoplasms of skin includes blue nevus, pigmented nevus, papilloma, dermatofibroma, syringoadenoma, dermoid cyst, hydrocystoma, syringma; other benign neoplasms of lip, eyelid, ear and external auditory canal, skin and other and unspecified parts of face, scalp and skin of neck, skin of trunk, skin of upper limb, lower limb, other specified and unspecified sites including hairy naevus; hemangioma (include if greater than 4 inches diameter, if multiple hemangiomas or if cavernous hemangioma) of skin and subcutaneous tissue, intracrantial intra-abdominal cystic hygroma and lymphangioma of any site, hemangioma of other and unspecified site; certain malignant neoplasms including Wilm's tumor, retinoblastoma, other congenital neoplasms including neuroblastoma, medulloblastoma, teratoma, fibrosarcoma, histiocytosis (malignant), neurofibromatosis.

(b)-(j) (No change.)

(a)

NARCOTIC AND DRUG ABUSE CONTROL

Controlled Dangerous Substances Reassignment of CDS Codes

Proposed Amendments: N.J.A.C. 8:65-10.3 and 10.4

Proposed By: Molly Joel Coye, M.D., M.P.H., Commissioner, Department of Health.

Authority: N.J.S.A. 24:21-3.

Proposal Number: PRN 1987-201.

Submit comments by July 1, 1987 to:

Lucius A. Bowser, R.P., M.P.H.
Chief, Office of Drug Control
CN 362
Trenton, NJ 08625-0362
(609) 984-1308

Summary

The Department of Health proposes to amend the Schedules of the Controlled Dangerous Substances Act by the changing of Controlled Dangerous Substance (CDS). Codes of various products found in Schedules III and IV to bring the State schedules into conformity with the Federal Act which was changed in the Federal Register, cited as 52 FR 5951, dated February 27, 1987, and which became effective March 30, 1987.

The changes in CDS Codes are necessary so that importers, exporters, and manufacturers can properly handle certain drugs in Schedule III and IV. These CDS Codes were originally assigned to all controlled drugs in the Act by product name and not by placement in the Act. It became necessary to assign separate CDS Codes for the same named substance appearing in Schedule III and again in Schedule IV, to differentiate which controlled substance is to be handled, manufactured, imported or exported.

Social Impact

The proposed amendment to the controlled dangerous substances schedules will not have any impact upon the majority of registrants handling controlled drugs since it will only affect manufacturers, importers and exporters. The impact upon those affected will be significant in that it will differentiate exactly which controlled substance they will be authorized to handle without fear of being penalized or hampered from using the wrong coded substance.

Economic Impact

The proposed amendment to change various CDS Codes on substances appearing in both Schedule III and IV of the Controlled Dangerous Substances Act will not have any impact upon most registrants handling these substances such as practitioners, pharmacies or hospitals, as it will only affect manufacturers, importers and exporters. It will not have any impact upon any patient or consumer of the substances in Schedule III or IV.

Regulatory Flexibility Statement

Although the controlled dangerous substances schedules are used by thousands of registrants, the proposed amendment to the CDS Codes in Schedule III and IV will not impose reporting, recordkeeping or compliance requirements beyond those already established for controlled dangerous substances.

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

8:65-10.3 Controlled dangerous substances; Schedule III

(a) (No change.)

(b) The following is Schedule III listing the controlled dangerous substances by generic, established or chemical name and the controlled dangerous substance code numbers:

(1) (No change.)

(2) Depressants: Unless specifically expected or unless listed in another Schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system.

i. Any compound, mixture or preparations containing (listed by generic/established or chemical name with CDS code):

Amobarbital	[2125]	**2126**
Secobarbital	[2315]	**2316**
Pentobarbital	[2270]	**2271**

or any salt thereof and one or more other active medicinal ingredients which are not listed in any schedule.

ii. Any suppository dosage form containing (listed by generic/established or chemical name with CDS code):

Amobarbital	[2125]	**2126**
Secobarbital	[2315]	**2316**
Pentobarbital	[2270]	**2271**

iii.-iv. (No change.)

(3) (No change.)

8:65-10.4 Controlled dangerous substances; [s]Schedule IV

(a) (No change.)

(b) The following is Schedule IV listing the controlled dangerous substances by generic, established or chemical name and the controlled dangerous substances code numbers.

1.-3. (No change.)

4. Narcotic Drugs: Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation containing limited quantities of any of the following narcotic drugs, or any salts thereof:

[i. Not more than 1 milligram of difenoxin (CDS code 9186) and not less than 25 micrograms of atropine sulfate per dosage unit.]

i. Not more than 1 milligram of difenoxin and not less than 25 micrograms of atropine sulfate per dosage unit, CDS Code 9167.

ii. Dextropropoxyphene (alpha-(+)-4-dimethylamino-1,2-diphenyl-3-methyl-2-propionoxybutane), CDS Code [9273] **9278**.

HIGHER EDUCATION

(a)

BOARD OF HIGHER EDUCATION

Early Retirement Program Participant Rehiring as Adjunct Faculty

Proposed New Rules: N.J.A.C. 9:2-3

Authorized By: The Board of Higher Education, T. Edward Hollander, Chancellor and Secretary.

Authority: P.L. 1987, c. 88.

Proposal Number: PRN 1987-202.

Submit comments by July 1, 1987 to:

Grey J. Dimenna, Esq.
Administrative Practice Officer
Department of Higher Education
225 West State Street
CN 542
Trenton, New Jersey 08625

The agency proposal follows:

Summary

P.L. 1987, c.88 establishes an early retirement program for tenured faculty at institutions of higher education within New Jersey. The Board of Higher Education is authorized to promulgate rules regarding the program. The establishing statute sets forth the program in depth, and the Board does not intent to promulgate rules concerning the program itself.

The proposed new rules concern the circumstances under which program participants may be rehired by public institutions of higher education as adjunct faculty.

Social Impact

The proposed new rules limit the circumstances under which a program participant from a public institution of higher education may be rehired by a public institution of higher education as an adjunct faculty member. Absent conditions as set forth in the rules, such a program participant shall not be permitted to teach as an adjunct faculty member at a New Jersey public institution of higher education. The proposal does not preclude such persons from teaching as an adjunct faculty member at a private institution of higher education in New Jersey or a program participant from a New Jersey private institution of higher education from teaching as an adjunct faculty member at a public institution of higher education in New Jersey.

Economic Impact

As the proposed new rules serve to limit the circumstances under which a program participant from a public institution of higher education may be rehired as an adjunct faculty member by a public institution of higher education, it could limit such employment opportunities for those program participants. Such participants are not restricted, however, from being employed as adjunct faculty at private institutions of higher education or public institutions of higher education if the conditions set forth in the proposal are satisfied.

Regulatory Flexibility Statement

This proposal does not require a regulatory flexibility analysis as it does not impose any requirements on small businesses.

Full text of the proposed new rules follows.

SUBCHAPTER 3. EARLY RETIREMENT PROGRAM FOR TENURED FACULTY; PARTICIPANT REHIRING AS ADJUNCT FACULTY

9:2-3.1 Definitions

The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise.

"Adjunct faculty" means a temporary, non-tenured, non-tenure track teaching staff member whose teaching responsibilities do not exceed half of the normal teaching load for full-time, regularly appointed faculty members at the particular institution of higher education.

"Early retirement program" means an early retirement incentive program established by an institution of higher education and approved by the Board of Higher Education pursuant to P.L. 1987, c. 88.

"Independent institution of higher education" means a college or university incorporated and located in New Jersey, which by virtue of law or character or license, is a nonprofit educational institution authorized to grant academic degrees and which provides a level of education which is equivalent to the education provided by the State's public institutions of higher education as attested by the receipt of and continuation of regional accreditation by the Middle States Association of Colleges and Schools, and which is eligible to receive State aid under the provisions of the Constitution of the United States and the Constitution of the State of New Jersey, but does not include any educational institution dedicated primarily to the education or training of ministers, priests, rabbis or other professional persons in the field of religion.

"Program participant" means a tenured faculty member at an institution of higher education who retires under an early retirement program.

"Public institution of higher education" means Rutgers, The State University, the New Jersey Institute of Technology, the University of Medicine and Dentistry of New Jersey, the State colleges and the county colleges.

9:2-3.2 Employment of program participants as adjunct faculty

(a) An independent institution of higher education may employ any program participant from an independent or public institution of higher education as an adjunct faculty member.

(b) A public institution of higher education may employ any program participant from an independent institution of higher education as an adjunct faculty member.

(c) A public institution of higher education may employ a program participant from any public institution of higher education as an adjunct faculty member if the institution is not able to offer sufficient courses to meet programmatic need or student demand in a particular field of study, and the following conditions are met:

1. It is not in the best interest of the institution, as determined by the president, to hire a full-time faculty member to teach those courses; or

2. After a diligent search, the institution is not able to hire sufficient numbers of full-time faculty who possess the required academic specialization within a field of study; and

3. After a diligent search, the institution is unable to hire a qualified adjunct faculty member from outside the group of program participants from any public institution of higher education.

(a)

BOARD OF HIGHER EDUCATION

Procedures Regarding Petitions for Rulemaking
Proposed New Rules: N.J.A.C. 9:2-8

Authorized By: The Board of Higher Education,
T. Edward Hollander, Chancellor and Secretary.
Authority: N.J.S.A. 18A:3-15 and N.J.S.A. 52:14B-4(f).
Proposal Number: PRN 1987-203.

Submit comments by July 1, 1987 to:
Grey J. Dimenna, Esq.
Administrative Practice Officer
Department of Higher Education
225 West State Street
CN 542
Trenton, New Jersey 08625

The agency proposal follows:

Summary

The proposed new rules set forth the procedures under which a party may petition the Board of Higher Education to promulgate, amend or repeal a rule. Under the proposal, the Board is required to act upon such petitions within a particular time frame and in a certain number of possible responses. The proposal also specifies the required content of such petitions.

Social Impact

The proposed new rules will foster public participation in the rulemaking process by setting forth the requirements for the public to follow to amend a current rule, propose a new rule or repeal an existing rule. The rules will enable interested parties from outside the Department to actively seek changes to any of the Board of Higher Education's rules. Increasing public participation in the responsibilities of the Board of Higher Education will encourage Departmental communication with the public and improve its accountability to the public.

Economic Impact

This proposal will not result in any additional costs to the public or the State. This proposal only sets forth procedural requirements which must be followed for any interested person to petition the Department, on behalf of the Board of Higher Education, to promulgate, amend or repeal a rule.

Regulatory Flexibility Statement

This proposal does not require a regulatory flexibility analysis as it does not impose any requirements on small businesses.

Full text of the proposed new rules follows.

SUBCHAPTER 8. PROCEDURE TO PETITION FOR A RULE

9:2-8.1 Public petitions regarding Board of Higher Education rulemaking

(a) Any interested person may petition for the promulgation, amendment or repeal of any rule of the Board of Higher Education.

(b) The petition shall be in writing and shall contain the following information:

1. The full name and address of the petitioner;
2. The substance or nature of the rulemaking which is requested;
3. The reasons for the request;
4. The petitioner's interest in the request, including any relevant organization affiliation or economic interest;
5. The statutory authority, if known, under which the Board of Higher Education may take the requested action;
6. The existing Federal or State laws and regulations which the petitioner believes may be pertinent to the request; and
7. The petitioner's signature.

(c) Petitions for the promulgation, amendment or repeal of a rule of the Board of Higher Education shall be addressed to:

Office of Governmental Affairs
Department of Higher Education
225 West State Street
CN 542
Trenton, New Jersey 08625

(d) Any materials submitted to the Department, on behalf of the Board of Higher Education, not in substantial compliance with these rules shall not be deemed to be a valid petition for rulemaking requiring further agency action pursuant to this subchapter and N.J.S.A. 52:14B-4(f).

9:2-8.2 Departmental action upon receipt of petition

(a) The Office of Governmental Affairs upon receipt of a petition for rulemaking shall:

1. Date and log the petition as received;
2. File a notice of the petition with the Office of Administrative Law within 15 days of receipt of the petition. The notice of the petition shall include:
   i. The name of the petitioner;
   ii. The substance of or nature of the requested rulemaking action;
   iii. The problem or purpose which is the subject of the request;
   iv. The date the petition was received; and
   v. A request that the Office of Administrative Law publish the notice in the next available New Jersey Register.
3. Within 30 days following the receipt of the petition for rulemaking, mail to the petitioner and file with the Office of Administrative Law for publication in the New Jersey Register, a notice of action on the petition. The notice of action shall include:
   i. The name of the petitioner;
   ii. The New Jersey Register citation for the notice of petition, if a notice appeared in a previous Register;
   iii. Certification of the Department's action upon the petition;
   iv. The nature or substance of the Department's action upon the petition; and
   v. A brief statement of reasons for the Department's action.

(b) The Department, on behalf of the Board of Higher Education, may act on a petition in the following manner:

1. The petition may be denied;
2. The Chancellor may recommend to the Board of Higher Education for their consideration that a notice of a proposed rule or a notice of pre-proposal for a rule may be filed with the Office of Administrative Law for publication in the New Jersey Register; or
3. The matter may be referred for further deliberations, the nature of which shall be specified and which shall conclude upon a specified date. The results of the deliberations shall be mailed to the petitioner and submitted to the Office of Administrative Law for publication in the New Jersey Register.

CORRECTIONS

THE COMMISSIONER

The following proposals are authorized by William H. Fauver, Commissioner, Department of Corrections.

Submit comments by July 1, 1987 to:
Elaine W. Ballai, Esq.
Special Assistant for Legal Affairs
Department of Corrections
CN 863
Trenton, New Jersey 08625

(b)

Inmate Discipline
Aid in Presentation of Inmate's Case
Proposed Amendment: N.J.A.C. 10A:4-9.12

Authority: N.J.S.A. 30:1B-6 and 30:1B-10.
Proposal Number: PRN 1987-199.

The agency proposal follows:

Summary

The proposed amendment modifies N.J.A.C. 10A:4-9.12(c) relating to the appointment, by the Superintendent, of a staff member to provide representation for an inmate in the presentation of the inmate's disciplinary case. The proposed amendment provides the Superintendent with the discretion to appoint alternate representation when an inmate requests the appointment of a staff member.

Social Impact

The proposed amendment will permit the Superintendent the discretion to provide alternate representation when an inmate requests to be represented by a staff member but the member is unavailable to represent the inmate.

Economic Impact

The proposed amendment will not have an economic impact because no additional costs are necessary to implement or maintain this rule.

Regulatory Flexibility Statement

As the proposed amendment concerns inmate discipline, it does not affect small businesses as defined under the Regulatory Flexibility Act, P.L. 1986, c.169. Therefore, no regulatory flexibility analysis is necessary.

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

10A:4-9.12 Aid in presentation of inmate's case

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

(c) Where an inmate requests the services of a staff member, the Superintendent or his[/] **or** her designee [shall] **may** appoint a staff member to provide representation.

(d)-(e) (No change.)

(a)

Inmate Access to Courts
Proposed New Rules: N.J.A.C. 10A:6

Authority: N.J.S.A. 30:1B-6 and 30:1B-10.

Proposal Number: PRN 1987-195.

The agency proposal follows:

Summary

The proposed new rules are intended to establish policies for the provision of legal services which facilitate the access of inmates to State and Federal courts. The proposed new rules also provide procedures whereby correctional facility records can be altered to reflect an inmate's new legal name.

Social Impact

The proposed new rules will have no new or additional social impact on the public since these new rules simply reflect a codification of existing Department of Corrections Standards into rules.

Economic Impact

The proposed new rules will have no new or additional economic impact because correctional facilities are already adhering to Department Standards and no additional costs are necessary to implement or maintain these new rules.

Regulatory Flexibility Statement

The proposed new rules impact upon inmates and the Department of Corrections. Since small businesses are not affected by this proposal, a regulatory flexibility analysis is not required.

Full text of the proposed new rule follows.

CHAPTER 6
INMATE ACCESS TO COURTS

SUBCHAPTER 1. INTRODUCTION

10A:6-1.1 Purpose

(a) The purpose of this chapter is to:

1. Establish policies under which inmates shall be provided with access to both State and Federal courts through the use of inmate law libraries and trained inmate paralegals; and

2. Establish procedures whereby the records of correctional facilities can be altered to reflect an inmate's new legal name.

10A:6-1.2 Scope

(a) Subchapter 2 shall be applicable to the Division of Adult Institutions.

(b) Subchapter 3 shall be applicable to the Division of Adult Institutions and the Division of Juvenile Services.

10A:6-1.3 Definitions

The following words and terms, when used in the chapter, shall have the following meanings unless the context clearly indicates otherwise.

"Inmate law library" means a room within a correctional facility where legal reference materials are kept.

"Inmate paralegal" means an inmate who has been approved by the Institutional Classification Committee (I.C.C.) to render legal assistance to other inmates.

"Legal material" means papers or documents that are required to be filed with the court and served upon opposing parties. These materials include:

1. Every order required by its term to be served;
2. Every pleading subsequent to the original complaint;
3. Every paper relating to discovery which is required to be served;
4. Every written notice;
5. Every written motion;
6. A demand;
7. An offer of judgment;
8. Designation of record on appeal;
9. Briefs;
10. Petitions;
11. Summons; and
12. Complaints.

"Legal Service Coordinator" means a Department of Corrections Central Office staff person who coordinates the provision of inmate legal services by maintaining adequate legal materials in inmate law libraries and training inmate paralegals.

"Notary service" means service provided by a notary public authorized by law to certify or attest documents, take affidavits, administer oaths, etc.

SUBCHAPTER 2. INMATE LEGAL SERVICES

10A:6-2.1 Inmate access to courts

Inmates have a constitutional right of access to the courts. Prison authorities shall assist inmates in the preparation and filing of meaningful legal papers by providing inmates with adequate law libraries or adequate assistance from persons trained in the law.

10A:6-2.2 Inmate legal services

(a) Inmate legal services which permit inmates access to the courts shall include the following:

1. Establishment of an inmate law library and use of legal reference materials;
2. Use of a copying machine;
3. Opportunity to make legal telephone calls;
4. Provision of supplies, such as pens, paper and typewriters, when needed;
5. Notary service;
6. Assistance of inmate paralegals; and
7. Payment of postage for indigent inmates.

10A:6-2.3 Availability of legal services

(a) Inmate legal services are available to all inmates in the Division of Adult Institutions.

(b) Based on the availability of space and supervisory staff and the security needs of the correctional facility, the Superintendent shall determine which inmate may have direct personal access to legal reference materials and related services.

(c) Inmates who, in the Superintendent's discretion, may not have direct personal access to legal reference materials and related services shall receive legal reference materials and related services from assigned inmate paralegals.

10A:6-2.4 Inmate law library

(a) Each correctional facility shall be responsible for establishing and maintaining an inmate law library, and for developing regulations concerning the library's use and supervision. The regulations shall specify:

1. Law library hours;
2. Number of inmates who may use the library at one time;
3. Persons responsible for the supervision of inmates;
4. Limitation(s) on removal of legal reference materials;
5. Typewriter use; and
6. Any additional rules deemed necessary by the Superintendent, Assistant Superintendent or Supervisor of Education.

(b) Consideration shall be given to the following factors in use of the inmate law library:

1. Space and staff limitations;
2. Availability of supplies;
3. Security and orderly operation of the correctional facility; and
4. The need of certain inmates to meet time requirements for filing legal documents.

(c) The Legal Services Coordinator: Office of the Deputy Commissioner, Department of Corrections is responsible for initial purchases of legal reference materials.

(d) The initial purchase of legal reference material shall be consistent with law and correctional facility needs.

(e) The maintenance and updating of the inmate law library is not optional and is the responsibility of the correctional facility.

(f) Maintenance of the inmate law library includes:

1. Annual update costs; and
2. Replacement of lost or damaged volumes.

(g) As part of the annual budget request, the Superintendent shall include a specific request (line item) for budgeted funds to maintain the inmate law library. In the event the specific budget request is reduced or eliminated, the correctional facility shall assume the cost.

(h) Information concerning costs and sources of legal materials may be obtained from the Legal Services Coordinator. All purchases of reference materials shall be cleared through the Legal Services Coordinator's office.

10A:6-2.5 Legal copying services

(a) There shall be no charge to the inmate for the legal copying services provided by the correctional facility.

(b) Each correctional facility shall establish written procedures by which inmates are permitted to have legal materials copied.

(c) At a minimum, inmates may submit material to be copied to a staff member designated by the Supervisor of Education, or an inmate paralegal under the supervision of a designated staff member, during prescribed hours. The original and copies of the material shall be returned to the inmate within four days of submission unless return of the material is prevented by exceptional circumstances. When the fourth day falls on a Saturday, Sunday or holiday, the material shall be returned on the weekday following the weekend or holiday.

(d) Only material related to legal actions or research may be copied. The material may be reviewed by the Supervisor of Education or his or her designee but only to ensure that it is legal in nature. Copies will be limited to the number required by the court plus one copy for the inmate. Extensive copying not related to litigation, such as transcripts, shall be done at the inmate's expense.

(e) Cases from court reporters found in the inmate law library should only be copied in the following instances:

1. If the inmate is confined to a Close Custody Unit, a hospital, a farm or camp unit and does not have access to the inmate law library; or
2. If the inmate's work schedule precludes him or her from engaging in adequate legal research in the law library.

(f) In the instances cited in (e)1 and (e)2 above, the copied case will be signed out on a temporary basis and returned to the inmate law library for future use.

(g) All legal material which can be duplicated by typing will be done in that manner by the inmate.

(h) Exceptional circumstances may dictate that materials other than those defined as "legal material" (see N.J.A.C. 10A:18-1.3) would need to be copied. The copying of such materials is left to the discretion of the Supervisor of Education or the staff person designated by him or her to supervise copying procedures.

10A:6-2.6 Legal telephone calls

(a) The Superintendent shall establish written rules and regulations by which inmate paralegals and/or professional staff members may place telephone calls to the following individuals or agencies requesting assistance in legal research or preparation of legal documents.

1. Office of the Public Advocate;
2. Office of the Public Defender;
3. Regional Legal Services;
4. Court Clerks;
5. Attorneys of Record;
6. Ombudsman; and
7. The Legal Services Coordinator, Office of the Deputy Commissioner, Department of Corrections.

(b) Legal telephone calls shall not be monitored, except to determine the identity of the party called.

10A:6-2.7 Legal services

(a) Legal supplies such as paper, carbon paper, envelopes and pens shall be provided as needed to all inmates who request them for legal purposes. An inmate may be required to justify the need for unusually large amounts of legal supplies.

(b) Frequently used legal forms and applications shall be made available through the inmate law library.

(c) Typewriters to the extent that they are available and operable shall be provided for inmate use in the inmate law library area and in Close Custody Units.

10A:6-2.8 Notary public service

(a) Each Superintendent is responsible for ensuring that inmates have reasonable access to notary public services.

(b) Inmates shall not be permitted to be made notary publics.

10A:6-2.9 Inmate legal material

(a) Each inmate shall be permitted to retain personal legal material in his or her cell. This legal material shall be subject to contraband search only.

(b) The Superintendent may establish regulations which limit the accumulation of personal legal materials in an inmate's cell. Any limitation on the accumulation of personal legal materials should be based on the amount in relation to:

1. Security;
2. Sanitation;
3. Fire hazard considerations; and
4. Cell space available.

10A:6-2.10 Inmate paralegals

(a) The Superintendent or his or her designee shall be responsible for establishing:

1. Criteria for considering inmates to be assigned as paralegals;
2. Duties and responsibilities of inmate paralegals; and
3. Hours which inmate paralegals will be on duty in the inmate law library and available in Close Custody Units.

(b) Inmates with the following job titles are considered paralegals:

1. Law library clerk;
2. Legal assistant; and
3. Legal paraprofessional.

(c) The Supervisor of Education shall interview and evaluate each candidate for a paralegal position. The Supervisor of Education shall submit his or her written assessment and recommendation to the Institutional Classification Committee (I.C.C.) for approval.

(d) Upon approval by the I.C.C., inmates with any of the titles in (b) above may render legal assistance to other inmates.

(e) No inmate paralegal shall solicit or accept any form of remuneration or gift from any inmate for rendering legal assistance. Acceptance of remuneration in any form will result in disciplinary action and/or referral to the I.C.C. for reconsideration of program assignment.

10A:6-2.11 Inmate paralegal training

(a) The Legal Services Coordinator, Office of the Deputy Commissioner, shall be responsible for training inmate paralegals.

(b) Inmate paralegals shall successfully complete an Introduction to Paralegal Functions course which includes training in:

1. Basic Legal Research including Locator Skills and Shepardizing;
2. How to Complete Legal Forms;
3. Basic Familiarity with Habeas Corpus Petitions;
4. Motions for New Trials;
5. Direct Appeals;
6. Civil Rights Actions;
7. Motions for Post-Conviction Relief;
8. Descriptions of the State and Federal Court Systems; and
9. Other actions pertaining to inmates' welfare.

(c) The course selections may be modified at the discretion of the Legal Service Coordinator.

(d) The Supervisor of Education and the Legal Services Coordinator may, at their discretion, determine that an inmate's experience, training and/or education in paralegal functions will serve as a substitute to the Introduction to Paralegal Functions course.

(e) An inmate may participate in the Legal Services Program on an internship basis with the provision that he or she completes the Introduction to Paralegal Functions course at its next offering date.

(f) Inmate paralegals, shall at all times, be subject to all search and security regulations. All material which the paralegal carries into Close Custody Units shall be subject to search for contraband. Legal material shall not be read nor seized unless contraband is found.

10A:6-2.12 General provisions

(a) Nothing contained in this subchapter shall preclude an inmate from obtaining legal assistance from any other inmate, except that only inmates designated as paralegals will be granted access to Close Custody Units.

(b) Nothing contained in this subchapter precludes any inmate from obtaining legal assistance from an outside attorney.

10A:6-2.13 Written policy and procedures

(a) Written institutional policies and procedures pursuant to this subchapter shall be established. These written policies and procedures shall be known as the Institutional Legal Access Plan and shall be in-

corporated in the Inmate Handbook. A copy of the written policies and procedures shall also be posted in the inmate law library.

(b) New and revised policies and procedures to the Institutional Legal Access Plan shall be posted in each housing area and in the Inmate Law Library. These revisions shall be incorporated into the next publication of the Inmate Handbook.

10A:6-2.14 Departmental Review

Written institutional policies and procedures regarding Inmate Legal Services and any new policies and procedures related to this subject shall be submitted to the Office of the Deputy Commissioner for legal review prior to implementation.

SUBCHAPTER 3. RECORDING LEGAL CHANGE OF INMATE'S NAME

10A:6-3.1 Inmate responsibilities

(a) In order to have Department of Corrections' records altered to reflect a new legal name, the inmate must:

1. Legally change his or her name in accordance with N.J.S.A. 2A:52-1 et seq. and Rules of Court 4:72-1 et seq.;

2. Submit an authentic copy of the court order to the Superintendent's office of the correctional facility to which he or she is assigned;

3. Submit verification, to the Superintendent's office of the correctional facility, which documents that a copy of the judgment was published in a newspaper of general circulation in the inmate's county of residence within 20 days of the court judgment. The inmate's county of residence shall be considered the county of his or her last known residence as is reflected in the Department of Corrections' records, unless otherwise specified by a judge's order; and

4. Submit verification to the Superintendent's office of the correctional facility, which documents that a certified copy of the judgment was filed with the Secretary of State within 45 days of the court judgment.

10A:6-3.2 Amendment of institutional records

(a) The Superintendent shall order that the correctional facility records be amended to reflect the inmate's new legal name after the requirements of N.J.A.C. 10A:6-3.1(a) have been satisfactorily fulfilled.

(b) Each department, within the correctional facility, which maintains a record of the inmate shall be notified in writing of the inmate's new legal name. The departments shall be instructed to show the original legal name as an alias.

(c) The Superintendent shall also notify the following of the inmate's name change:

1. The Commissioner;

2. The Central Office Senior Classification Officer;

3. The Bureau of Correctional Information and Classification Services; and

4. In the case of male inmates, the Reception Unit at the Youth Reception and Correction Center, Yardville.

10A:6-3.3 "Common law" change of name

No correctional facility records shall be altered if an inmate decides to change his or her name through the "common law" practice, that is, on the inmate's own authority and without any legal court proceedings.

10A:6-3.4 Inmate handbook

The procedure whereby an inmate can legally change his or her name shall be incorporated into the Inmate Handbook.

(a)

International Transfer of Inmates

Proposed New Rules: N.J.A.C. 10A:10-6

Authority: N.J.S.A. 30:1B-6, N.J.S.A. 30:1B-10, P.L. 1986 c.141.

Proposal Number: PRN 1987-194.

The agency proposal follows:

Summary

The proposed new rules provide the procedures whereby the Department of Corrections may transfer convicted offenders who are citizens of foreign countries to their country of citizenship.

Social Impact

The proposed new rules will enable the Department of Corrections to transfer inmates of foreign descent to their native countries and thereby reduce the language and cultural difficulties that are experienced by these inmates. These proposed new rules will also reduce the number of administrative difficulties experienced by the Department of Corrections as a result of the incarceration of foreign nationals.

Economic Impact

The proposed new rules will have no new or additional economic impact because sufficient staff and financial resources for interjurisdictional transfers are available at Department of Corrections to implement and maintain these provisions.

Regulatory Flexibility Statement

The proposed new rules impact upon inmates and the Department of Corrections. Since small businesses are not affected by this proposal, a regulatory flexibility analysis is not required.

Full text of the proposed new rules follows.

CHAPTER 10
INTERJURISDICTIONAL AGREEMENTS AND STATUTES

SUBCHAPTER 1 THROUGH SUBCHAPTER 5. (RESERVED)

SUBCHAPTER 6. INTERNATIONAL TRANSFER

10A:10-6.1 Definitions

The following words and terms, when used in this subchapter, shall have the following meanings unless the context clearly indicates otherwise:

"Assurance" means a special condition concerning the confinement and/or release of an offender which must be met prior to the release of the offender.

"Offender" means juveniles adjudicated delinquent or adults convicted of criminal offenses pursuant to the laws of New Jersey.

"Receiving state" means the jurisdiction to which the offender is to be transferred.

"Sending state" means the jurisdiction from which the offender is to be transferred.

10A:10-6.2 Commissioner's authority

N.J.S.A. 30:7D-1 authorizes the Commissioner, Department of Corrections, to transfer offenders having foreign citizenship status to countries of citizenship, provided that a treaty exists between the United States and the foreign country.

10A:10-6.3 Eligibility criteria for international transfer

(a) Offenders must meet all of the following criteria before they shall be considered for an international transfer.

1. The offender must be a citizen of the receiving state;

2. The offender must consent to transfer to his or her country of citizenship;

3. The offense of the offender must constitute a criminal offense under the laws of the receiving state;

4. The offender shall not have, at the time of the application, less than 18 months remaining on the sentence;

5. The offender shall not be under a sentence of death;

6. The offender shall not have collateral attacks or appeals on the sentence and/or conviction pending;

7. All other provisions of the imposed sentence such as fines, restitution and penalties shall be paid in full;

8. The offender shall not have detainers, wanted notices based on criminal convictions, indictments, informations, complaints and/or parole or probation violation allegations pending; and

9. The offender must meet all of the eligibility requirements of the treaty with his or her country.

10A:10-6.4 Role of the Classification Officer

(a) The Classificiation Officer of each institution shall be provided with the eligibility requirements of each Prisoner Transfer Treaty.

(b) The Classification Officer shall forward Form I—TRANSFER INQUIRY, to all offenders identified as having national or citizenship status in a party nation.

(c) When the offender receives Form I—TRANSFER INQUIRY, he or she may:

1. Indicate that he or she is interested in pursuing a transfer by signing Form I and returning it to the Classification Officer along with proof of citizenship; or

2. Indicate that he or she is not interested in pursuing a transfer by returning Form I to the Classification Officer without proof of citizenship.

(d) If the offender indicates on Form I—TRANSFER INQUIRY, that he or she is interested in pursuing a transfer, the Institution Classification

Officer shall complete Form II—INMATE INFORMATION PROVIDED TO TREATY NATION and Form III—NOTICE REGARDING INTERNATIONAL PRISONER TRANSFER.

(e) The following material shall be forwarded, in triplicate, by the Classification Officer to the Superintendent of the institution:

1. Form I—TRANSFER INQUIRY;
2. Form II—INMATE INFORMATION PROVIDED TO TREATY NATION;
3. Form III—NOTICE REGARDING INTERNATIONAL PRISONER TRANSFER;
4. Proof of citizenship;
5. Statement of offender's eligibility;
6. Presentence report;
7. Classification materials;
8. Current psychological and medical reports;
9. Signed release of confidential information forms;
10. Criminal history sheet; and
11. Judgments of conviction or adjudication of delinquency.

10A:10-6.5 Role of institution Superintendent

The Superintendent shall sign Form III—NOTICE REGARDING INTERNATIONAL PRISONER TRANSFER, and forward the application and the material required in N.J.A.C. 10A:10-6.4(e), in triplicate, to the Department of Corrections' Office of Interstate Services.

10A:10-6.6 Role of Office of Interstate Services

(a) The Office of Interstate Services shall:

1. Investigate the request to ensure that all eligibility requirements are met;
2. Request a records check to verify records listed in N.J.A.C. 10A:10-6.3(a)8;
3. Review application and materials for completeness and compliance with treaty terms;
4. Develop and recommend assurances, where indicated; and
5. Provide written notification of the transfer request to the:

i. Attorney General's Office;
ii. State Police;
iii. Prosecutor; and
iv. Sentencing court.

(b) If the Office of Interstate Services' investigation determines that the application and materials are incomplete, or do not comply with the terms of the treaty, the application shall be rejected and returned to the institution in which the inmate is housed.

(c) If the investigation of the Office of Interstate Services determines that the application and materials are complete and are in compliance with the terms of the treaty, a recommendation to accept the application and materials shall be forwarded to the Commissioner, New Jersey Department of Corrections, through the appropriate Assistant Commissioner.

10A:10-6.6 Role of Commissioner, New Jersey Department of Corrections

(a) The Commissioner, Department of Corrections, shall review the application and materials and if he or she approves, the application and materials shall be forwarded to the Office of the Governor for authorization to transfer.

(b) Applications which are not approved by the Commissioner will be returned to the sending institution and the inmate shall be notified.

10A:10-6.7 Referral to the United States Department of Justice, Office of International Affairs

(a) Upon receipt of the Governor's authorization for international transfer, the application and materials shall be forwarded to the United States Department of Justice, Office of International Affairs, by the Office of Interstate Services.

(b) The Office of Interstate Services shall notify the inmate and the sending Superintendent of the decision on the application for international transfer.

(c) All arrangements relative to the treaty process and proposed assurances shall be negotiated between the Office of Interstate Services and the United States Department of Justice, Office of International Affairs.

10A:10-6.8 Transfer of offender

(a) If the inmate is accepted for international transfer by the United States Department of Justice, Office of International Affairs, the offender shall be transported by the Department of Corrections to the Federal District Court for purposes of a verification hearing to ensure that the offender consents to the international transfer.

(b) Jurisdiction over the offender shall thereafter be relinquished to the United States Department of Justice.

LAW AND PUBLIC SAFETY

(a)

STATE BOARD OF EXAMINERS OF OPHTHALMIC DISPENSERS AND OPHTHALMIC TECHNICIANS

Apprenticeship Requirements

Proposed Amendments: N.J.A.C. 13:33-1.11 and 1.13

Authorized By: State Board of Examiners of Ophthalmic Dispensers and Ophthalmic Technicians.
Authority: N.J.S.A. 52:17B-41.13.
Proposal Number: PRN 1987-204.

Submit comments by July 1, 1987 to:
Jan C. Gavzy, Executive Secretary
State Board of Examiners of Ophthalmic Dispensers and Ophthalmic Technicians
1100 Raymond Boulevard, Room 501
Newark, New Jersey 07102

The agency proposal follows:

Summary

The New Jersey State Board of Ophthalmic Dispensers and Ophthalmic Technicians has the power and duty, pursuant to N.J.S.A. 52:17B-41.9, to establish the number of credit hours in Board-approved courses that must be completed by applicants for licensure as ophthalmic dispensers during their period of apprenticeship when these applicants do not possess an associate degree in ophthalmic science from an accredited institution. Similarly, the Board must establish the necessary educational qualifications for applicants who have received training in ophthalmic dispensing outside of New Jersey and for those who wish to obtain a temporary permit to work in New Jersey while awaiting examination. The proposed amendments to N.J.A.C. 13:33-1.11 and 1.13 increase the required number of credit hours in ophthalmic science for each of these categories of applicants. The increased requirements for apprentices will become effective for those commencing their requirements in the 1987 fall semester.

The Board has determined that the statutorily required apprenticeship program does not always provide the level of technical knowledge necessary to pass the Board examination as efficiently as formal courses do, and that applicants with more formal training are more likely to pass the Board examinations. The Board is, therefore, proposing to amend N.J.A.C. 13:33-1.13 to require that apprentice dispensers have acquired 12 credit hours during the first year of apprenticeship before taking the qualifying technical examination instead of the six hours required in the current rules, and that another 18 hours of credit be acquired during the remaining two years of apprenticeship, instead of the 12 hours presently required. Thus the proposed amendment increases the total credit hours required over the three-year period from 18 to 30. The proposal sets out the subject matter of the required courses and further requires that a grade of "C" or better be obtained in these courses.

For consistency, the proposed amendment to N.J.A.C. 13:33-1.11 mandates that applicants from out-of-state also have at least 30 hours of credit in approved courses to be eligible for temporary permits and examination by the Board.

Social Impact

The proposed amendment requires that apprentice dispensers complete six extra credit hours of course work, or one extra course per semester, in the first year of apprenticeship, and six extra credit hours over the next two-year period. The required courses are available in Essex, Camden and Somerset counties and the Board believes that acquiring 12 extra credits over a three-year period will not unduly burden those in the apprentice program. The required coursework will greatly enhance license applicants' grasp of the theoretical and technical aspects of the background knowledge and practical skills required for licensure, and will thus benefit both the prospective licensee and the public he or she will serve as a licensee.

Economic Impact

The proposal will impose on apprentices and out-of-state applicants the extra cost of obtaining 12 credit hours at an approved college. This increased cost will, however, be spread over three years. The proposal is expected to have no economic impact on the Board or consumers.

Regulatory Flexibility Statement

The proposal affects only individuals who are candidates for licensure as ophthalmic dispensers. Although these applicants may be employed as apprentices in ophthalmic dispensing businesses, the proposal will have no direct impact in the form of reporting, recordkeeping or other compliance requirements for these businesses.

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

13:33-1.11 Out-of-state applicants: Ophthalmic Dispensers

(a) Temporary Ophthalmic Dispenser Permit **requirements are as follows:**

1. A temporary Ophthalmic Dispenser Permit shall be issued only to an individual from out of the State of New Jersey who is licensed as an ophthalmic dispenser in another state [,] ; **and** has **either** an associate degree in ophthalmic science from a Board-approved school or [18] **30** credits of Board-approved course work in ophthalmic science [,] ; and has worked in the optical field for a minimum of three years following the award of his/her license, the last year of ophthalmic dispensing having been acquired within five years of the date of application for such permit.

2. (No change.)

(b) Qualifications for examinations and licensure are as follows:

1. Any individual with out-of-state optical qualifications may apply for examination and licensure as an Ophthalmic Dispenser, without having worked in the State of New Jersey, subject to the provisions that:

i.-ii. (No change.)

iii. The applicant has worked in the optical field for at least three calendar years and has satisfactorily completed [18] **30** credit hours of Board-approved courses in ophthalmic science.

13:33-1.13 Examination[s]**: apprenticeship requirements**

(a) [Qualifying Technical:] **The requirements for the first 12 months of apprenticeship and the Qualifying Technical examination are as follows:**

1. An Apprentice Dispenser **who commences his or her required course work in ophthalmic science in the 1987 fall semester or thereafter** must complete not less than [six] **12** credit hours of Board-approved course work in ophthalmic science within the first 12 months of the registered apprenticeship. **Materials I and II Lecture, and Materials I and II Lab, representing a minimum of 12 credits, must be taken in order to fulfill this requirement.** [The Apprentice Dispenser is required to apply for the first Qualifying Technical examination subsequent to the completion of the first 12 months. In the event of illness, extreme emergency, or other good cause, an extension of application to the next succeeding examination may be granted by the Board.]

2. An Apprentice Dispenser who registered with the Board and commenced his or her required course work in ophthalmic science prior to the 1987 fall semester must complete not less than six credit hours of Board-approved course work in ophthalmic science within the first 12 months of the registered apprenticeship. Materials I and II Lecture, representing a minimum of six credits, must be taken in order to fulfill this requirement.

3. The Apprentice Dispenser shall apply for the first Qualifying Technical examination subsequent to the completion of the first 12 months. In the event of illness, extreme emergency, or other good cause, an extension of application to the next succeeding examination may be granted by the Board.

[2.]**4.** (No change in text.)

[3.]**5.** (No change in text.)

(b) [Dispenser:] **The requirements for the Dispenser examination are as follows:**

1. An Apprentice Dispenser **who commenced his or her required course work in ophthalmic science in the 1987 fall semester or thereafter** must complete not less than [18] **30** hours of Board-approved course work in ophthalmic science within the required 36 months of registered apprenticeship. **The 30 credits must include Materials I and II Lecture and Materials I and II Lab, taken within the first 12 months of apprenticeship; Dispensing I and II Lecture and Dispensing I and II Lab; Principles of Optics (Theory of Optics); Anatomy and Physiology of the Eye; and Contact Lens Theory.** [The Apprentice Dispenser is required to apply for the first examination subsequent to the completion of said 36 months.]

2. An Apprentice Dispenser who registered with the Board and commenced his or her required course work in ophthalmic science prior to the 1987 fall semester must complete not less than 18 hours of Board-approved course work in ophthalmic science within the required 36 months of registered apprenticeship. The 18 credits must include Materials I and II Lecture, taken within the first 12 months of apprenticeship; Dispensing I and II Lecture; Principles of Optics (Theory of Optics); and Anatomy and Physiology of the Eye.

[2.]**3. The Apprentice Dispenser is required to apply for the first examination subsequent to the completion of said 36 months.** In the event of illness, extreme emergency, or other good cause, an extension of application to the next succeeding examination may be granted by the Board.

[3.]**4.** (No change in text.)

(c) (No change.)

(d) (No change.)

(e) To qualify for Board eligibility, apprentices must obtain a passing grade of "C" or better in all optical science courses required under (a) and (b) above.

NEW JERSEY RACING COMMISSION

The following proposals are authorized by the New Jersey Racing Commission, Charles K. Bradley, Deputy Director.

Submit comments by July 1, 1987 to:
Charles K. Bradley, Deputy Director
New Jersey Racing Commission
CN 088, Justice Complex
Trenton, New Jersey 08625

(a)

Thoroughbred Rules
Limitations on Entering or Starting Nerved Horses
Proposed Amendment: N.J.A.C. 13:70-20.11

Authority: N.J.S.A. 5:5-30.

Proposal Number: PRN 1987-187.

The agency proposal follows:

Summary

The proposed amendment clarifies the anatomical location where a horse can be nerved. The amendment also broadens the responsibility of reporting the nerved horses to include the owner of the horse. Owners sometimes employ different trainers and have the horses shipped to different racetracks under the management of other trainers, therefore, having the owner responsible for reporting a nerved horse will assure such designation for the race.

Social Impact

The proposed amendment will benefit both the wagering public and the participants in the race. The proposal clarifies where horses can be nerved to insure that the horse has feelings in his feet and will not be a hazard on the racetrack. Should this proposal be adopted by the Commission, the Commission will mandate that all horses that have been nerved in conformance with the amended rule be designated in the program, so that the public will be aware that a horse has been nerved.

Economic Impact

The economic impact of the proposal will be minimal to the industry and the public.

Regulatory Flexibility Statement

There are no compliance requirements on this proposal as it deals with horses that are competing at the racetrack, and not a business as defined in the Regulatory Flexibility Act.

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

13:70-20.11 Limitations on entering or starting

(a) A trainer shall not enter or start a horse that:

1.-6. (No change.)

7. Has been nerved **at or** above the fetlock[.] **by surgical, physical, including but not limited to, freezing (cryosurgery or cryotherapy) or chemical or by any other means.** A horse which has been nerved below the fetlock [(digital nerves)] **posterior to the first phalynx at a level below the base of the sesamoid bone (posterior digital nerve)** may be permitted to start. **Incisions over nerves at or above the fetlock are evidence that the horse has been high nerved, even if partial or complete feeling is present at the front of the coronary band of the foot.** [, but] It shall be the responsibility of the **owner and/or** trainer to report all nerved horses to the State and/or [track veterinarian] **Associate State Veterinarian. A list of all nerved horses racing at a meeting shall be posted on the bulletin board in the entry room by the State Veterinarian.**

(a)

Harness Rules
Registration of Nerved Horses
Proposed Repeal and New Rule: N.J.A.C. 13:71-20.23

Authority: N.J.S.A. 5:5-30.
Proposal Number: PRN 1987-188.
The agency proposal follows:

Summary

The proposed new rule clarifies the anatomical location where a horse can be nerved. The new rule also outlines the responsibility of reporting the nerved horses to include the trainer of the horse, since in many instances, the owner is not present when the horse is determined by the trainer and the veterinarian that this would be beneficial to the horse.

Social Impact

The proposed new rule will benefit both the wagering public and the participants in the race. The proposal clarifies where horses can be nerved to insure that the horse has feelings in his feet and will not be a hazard on the racetrack. Should this new rule be adopted by the Commission, the Commission will mandate that all horses that have been nerved in conformance with the rule be designated in the program so that the public is aware that a horse has been nerved.

Economic Impact

The economic impact of the proposal will be minimal to the industry and the public since it merely requires the trainer, as well as the owner, to report all nerved horses to the State Veterinarian.

Regulatory Flexibility Statement

The proposed new rule deals with horses competing at the racetrack, and imposes no compliance requirements upon small business as defined in the Regulatory Flexibility Act.

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

13:71-20.23 Registration of nerved horses

[(a) All nerved horses entered in any race must be registered with the State Veterinarian. No unregistered nerved horse shall be entered in a race, nor shall a horse be registered as nerved when, in fact, it has not been. No high nerved horse shall be entered in any race above the fetlock. A list of all nerved horses racing at a meeting shall be posted on the bulletin board in the entry room by the State Veterinarian.

1. It is the responsibility of the owner of the horse at the time the horse is nerved to see that this information is placed on the registration certificate and the eligibility certificate and be certified by a practicing veterinarian.

2. No high nerving (above the fetlock) or injection of any chemicals into nerves above the fetlock to cause the loss of sensation is permitted.

3. The judges may impose such penalty as is provided for in this chapter for failure to comply with this section.]

(a) No horse may be entered in a race that has been nerved at or above the fetlock by surgical, physical, including but not limited to, freezing (cryosurgery or cryotherapy) or chemical or by any other means.

(b) A horse which has been nerved below the fetlock posterior to the first phalynx at a level below the base of the sesamoid bone (posterior digital nerve) may be permitted to start.

(c) Incisions over nerves at or above the fetlock are evidence that the horse has been high nerved, even if partial or complete feeling is present at the front of the coronary band of the foot.

(d) It shall be the responsibility of the owner and/or trainer to report all nerved horses to the State and/or Associate State Veterinarian.

(e) A list of all nerved horses racing at a meeting shall be posted on the bulletin board in the entry room by the State Veterinarian.

PUBLIC UTILITIES

(b)

BOARD OF PUBLIC UTILITIES
Conferences
Proposed Repeal and New Rules: N.J.A.C. 14:1-11.1 through 14:1-11.4

Authorized By: Board of Public Utilities, Barbara A. Curran, President.
Authority: N.J.S.A. 48:2-12.
Docket No. AX8502-214.
Proposal Number: PRN 1987-190.

Submit comments by July 1, 1987 to:
Eugene J. Byrne, Esquire
Administrative Practice Officer
Board of Public Utilities
1100 Raymond Boulevard
Newark, New Jersey 07102

The agency proposal follows:

Summary

At its public meeting held on February 15, 1985 the Board of Public Utilities (BPU) approved for publication proposed new Rules of Practice to replace existing rules N.J.A.C. 14:1-11.1 through 14:1-11.4, concerning conferences of parties in formal proceedings. The new rules are proposed pursuant to N.J.S.A. 48:2-12 which provides that "the Board may make all needful rules for its government and other proceedings."

The proposed new rules governing conferences are designed to establish a procedural framework to encourage early settlements and to assist in the timely processing of contested cases. The conferences would pertain to various aspects of the case, including possible settlement which would be subject to the Board's approval.

Social Impact

The proposed rules will encourage the settlement of controversies involving public utilities, their customers and other persons and entities such as the Public Advocate and municipal, county and state agencies that participate in contested cases. The rules will help reduce and expedite the number of litigated matters and hearing days before the OAL and the Board, thereby fostering efficiency.

Regulatory Flexibility Statement

The proposed rules will have a direct impact on all small businesses within the state since the state's regulated public utilities provide service to small business enterprises. By advocating settlement of cases through negotiation rather than by protracted litigation, utility rate case and legal costs may be reduced which could inure to the benefit of business and residential customers. In addition, it will benefit small business to have timely rates in place as quickly as possible as this will more accurately reflect the true cost of utility service.

Economic Impact

The proposed rules will have a favorable economic impact upon the Board and parties to cases which are shortened or settled through the conference procedures. Significant savings will result from a reduction in time spent in hearings. This will cause a direct reduction in the expenses inherent in the hearing process, such as legal fees and the costs of consultants and expert witnesses. In short, the new rules will foster both economy and efficiency in government and at the same time promote the public interest.

Full text of the proposed repeal may be found in the New Jersey Administrative Code at N.J.A.C. 14:1-11.

Full text of the proposed new rules follows:

SUBCHAPTER 11. CONFERENCES

14:1-11.1 Purposes

(a) The purpose of this subchapter is to foster early settlement of cases pending before the Board prior to the case being transmitted to the Office of Administrative Law and to provide a vehicle for the parties to file pre-transmittal motions with the Board for retention and disposition of certain issues. Pre-transmittal settlement conferences of parties or their attorneys may be held to provide opportunity for a settlement, subject to approval of the Board, of a proceeding or any of the issues therein,

and for the submission and consideration of facts, argument, offers of settlement or proposals of adjustments, as time, the nature of the proceeding and the public interest may permit.

(b) Pre-transmittal conferences of parties or their attorneys may be held to expedite the disposition of any hearing. At such conference there may be considered, in addition to the matters set forth in (a) above, the following:

1. Identification and simplification of the issues;
2. Admissions or stipulations of facts;
3. Identification of those matters or issues which should either be retained for disposition by the Board or be transmitted to the Office of Administrative Law;
4. Such other matters as may be properly dealt with to aid in expediting the proceeding.

14:1-11.2 Initiation of conferences

(a) The Board or a Board-designated officer, with or without motion, may direct that a conference be held at any stage prior to transmittal to the Office of Administrative Law or at any time when the Board certifies a case unto itself pursuant to N.J.S.A. 52:14F-8(b).

(b) On motion of a party, the Board-designated officer may direct the parties or their attorneys to appear for a conference to consider the matters set forth in N.J.A.C. 14:1-11.1(b).

14:1-11.3 Stipulation of conference results

(a) Upon conclusion of the pre-transmittal conference the parties or their attorneys shall reduce the results thereof to the form of a written stipulation reciting the matters agreed upon, and three copies thereof shall be filed with the Board within 10 days of the date of the conference. If no stipulations are reached, the matter shall be immediately transmitted to the Office of Administrative Law.

(b) Such stipulations shall be signed by the parties or their attorneys, may be received in evidence as part of the record and when so received shall be binding on the parties with respect to the matters therein stipulated.

(c) Such stipulations are subject to review by the Board at a regularly scheduled agenda meeting.

14:1-11.4 Authority of Board designated officers

(a) Any Board designated officer shall have the authority to conduct and preside over pre-transmittal conferences in the interest of fostering resolution of issues.

(b) When appropriate, a Board designated officer may submit a pre-transmittal order which shall be reviewed by the Board at an agenda meeting and, if acceptable, shall be adopted as its own order.

TRANSPORTATION

(a)

TRANSPORTATION OPERATIONS

Restricted Parking and Stopping Route 45 in Gloucester County

Proposed Amendment: N.J.A.C. 16:28A-1.31

Authorized By: Hazel Frank Gluck, Commissioner, Department of Transportation.

Authority: N.J.S.A. 27:1A-5, 27:1A-6, 39:4-138.1, 39:4-199.

Proposal Number: PRN 1987-185.

Submit comments by July 1, 1987 to:

Charles L. Meyers
Administrative Practice Officer
Department of Transportation
1035 Parkway Avenue
CN 600
Trenton, New Jersey 08625

The agency proposal follows:

Summary

The proposed amendment will establish "no parking bus stop" zones along Route 45 in the City of Woodbury, Gloucester County for the safe and efficient flow of traffic, the enhancement of safety, the well-being of the populace and the safe on/off loading of passengers at established bus stops.

Based upon a request from the local officials, the Department's Bureau of Traffic Engineering and Safety Programs conducted a traffic investigation. The investigation proved that the establishment of "no parking bus stop" zones along Route 45 in the City of Woodbury, Gloucester County were warranted.

The Department therefore proposes to amend N.J.A.C. 16:28A-1.31 based upon the request from local officials and the traffic investigation.

Social Impact

The proposed amendment will establish "no parking bus stop" zones along Route 45 in the City of Woodbury, Gloucester County for the safe and efficient flow of traffic, the enhancement of safety, the well-being of the populace and the safe on/off loading of passengers at established bus stops. Appropriate signs will be erected to advise the motoring public.

Economic Impact

The Department and local officials will incur direct and indirect costs for mileage, personnel and equipment requirements. The local officials will bear the costs for "no parking bus stop" zones signs. Motorists who violate the rule will be assessed the appropriate fine.

Regulatory Flexibility Statement

This proposal does not affect small businesses because it does not impose reporting, recordkeeping or other compliance requirements on small businesses. The proposed amendment will primarily affect the motoring public in precluding parking at established bus stops.

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

16:28A-1.31 Route 45

(a) (No change.)

(b) The certain parts of State Highway Route 45 described in this section shall be designated and established as "no parking" zones where parking is prohibited at all times. In accordance with the provisions of N.J.S.A. 39:4-199 permission is [hereby] granted to erect appropriate signs at the following established bus stops:

1.-2. (No change.)

3. Along the northbound (easterly) side in the City of Woodbury, Gloucester County:

i. Near side bus stops:

(1) (No change.)

(2) Newton Avenue—Beginning at the southerly curb line of Newton Avenue and extending [105] **125** feet southerly therefrom.

(3) Watkins Avenue—Beginning at the southerly curb line of the prolongation of Watkins Avenue and extending 120 feet southerly therefrom.

(4) Walnut Street—Beginning at the prolongation of the southerly curb line of Walnut Street and extending 105 feet southerly therefrom.

(5) Aberdeen Place—Beginning at the southerly curb line of Aberdeen Place and extending 105 feet southerly therefrom.

(6) Stuart Street—Beginning at the southerly curb line of Stuart Street and extending 100 feet southerly therefrom.

ii. Mid-Block bus stop:

(1) Barber Avenue—Beginning 50 feet south of the southerly curb line of Barber Avenue and extending 135 southerly therefrom.

iii. Far side bus stops:

(1) Dare Street—Beginning at the northerly curb line of Dare Street and extending 100 feet northerly therefrom.

(2) Red Bank Avenue—Beginning at the northerly curb line of Red Bank Avenue and extending 200 feet northerly therefrom.

(3) Hunter Street—Beginning at the northerly curb line of Hunter Street and extending 100 feet northerly therefrom.

(4) Courtland Street—Beginning at the northerly curb line of Courtland Street and extending 100 feet northerly therefrom.

(5) Railroad Avenue—Beginning at the northerly curb line of Railroad Avenue and extending 100 feet northerly therefrom.

4. Along [(Broad Street)] **the** southbound on the westerly side in the City of Woodbury, Gloucester County:

i. Far side bus stops:

(1) (No change.)

(2) Hunter Street—Beginning at the prolongation of the southerly curb line of Hunter Street and extending 105 feet southerly therefrom.

(3) W. Centre Street—Beginning at the southerly curb line of W. Centre Street and extending 100 feet southerly therefrom.

(4) Barber Avenue—Beginning at the southerly curb line of Barber Avenue and extending 100 feet southerly therefrom.

(5) Stuart Street—Beginning at the prolongation of the southerly curb line of Stuart Street and extending 100 feet southerly therefrom.

ii. Near side bus stops:

(1) Delaware Street—Beginning at the northerly curb line of Delaware Street and extending [115] **200** feet northerly therefrom.

(2) Edith Avenue—Beginning at the prolongation of the northerly curb line of Edith Avenue and extending 105 feet northerly therefrom.

(3) Chestnut Street—Beginning at the northerly curb line of Chestnut Street and extending 105 feet northerly therefrom.

(4) Walnut Avenue—Beginning at the northerly curb line of Walnut Avenue and extending 105 feet northerly therefrom.

(5) West Street—Beginning at the northerly curb line of West Street and extending 125 feet northerly therefrom.

(6) Railroad Avenue—Beginning at the prolongation of the northerly curb line of Railroad Avenue and extending 105 feet northerly therefrom.

iii. Mid-Block bus stop:

(1) Red Bank Avenue—Beginning 100 feet south of the southerly curb line of Red Bank Avenue and extending 135 feet southerly therefrom.

5.-8. (No change.)

(a)

AERONAUTICS

Airport Safety Improvement Aid
Audit and Recordkeeping Requirements
Proposed Amendment: N.J.A.C. 16:56-14.1

Authorized By: Hazel Frank Gluck, Commissioner, Department of Transportation.

Authority: N.J.S.A. 27:1A-5, 27:1A-6, 6:1-29, 6:1-44 and "Airport Safety Act of 1983" P.L. 1983, c.264, July 11, 1983.

Proposal Number: PRN 1987-186.

Submit comments by July 1, 1987 to:

Charles L. Meyers
Administrative Practice Officer
Department of Transportation
1035 Parkway Avenue
CN 600
Trenton, New Jersey 08625

The agency proposal follows:

Summary

The proposed amendment will establish new procedural guidelines concerning audits to be undertaken by counties, municipalities, and privately-owned public use airports which are the recipients of State grants and aid programs and Federal pass-through funds. These guidelines were established by the State of New Jersey Single Audit Policy defined by the Department of Treasury, Office of Management and Budget (OMB), and the Single Audit Act of 1984 (Federal OMB Circular A-128).

The State Audit Policy requires that a Single Audit be performed annually by an independent auditor or public accountant who meets the independence standards specified in generally accepted government auditing standards, beginning with the fiscal year ended December 31, 1986. The Audits for 1986 will pertain to any local government and privately-owned public use airports which received $25,000 of total State aid or grants.

Any agreements governed by this Chapter shall be subjected to audit compliance tests in accordance with the requirements delineated in the OMB publication "New Jersey Grants Management Information Systems Manual."

Expenditures made prior to January 1, 1986 under the terms of any agreements with the Department and not previously audited by an independent auditor or public accountant, who meets the independence standards specified in generally accepted government auditing standards, may be audited in context of the Single Audit performed for the fiscal year ended December 31, 1986. Audit costs incurred by the local government and privately-owned public use airports to comply with these requirements shall not be reimbursable.

The Department is therefore proposing changes to N.J.A.C. 16:56-14.1 concerning State aid to local government and privately-owned public use airports to comply with the requirements of the Single Audit Policy.

Social Impact

The proposed amendment will establish new guidelines to be followed by local governments and privately-owned public use airports which have received State grants and aid programs from the Department. The Department is mandated under the Single Audit Policy to require annual audit reports, which will include auditor's comments on the recipients compliance with the materials, terms and conditions of State grant agreements. Said audits must be performed by an independent auditor or public accountant, who meets the independence standards specified in generally accepted government auditing standards, and applicable to local governments and privately-owned public use airports receiving $25,000 or more in Federal and/or State financial assistance. The Single Audit Policy provides the necessary checks and balances in seeing the funds received are being used for the purpose they were given.

Economic Impact

The local government will incur direct and indirect costs in getting complete audits conducted by an independent auditor or public accountant who meets the independence standards specified in generally accepted government auditing standards to meet the requirements of the State Single Audit Policy.

Additionally, costs incurred to comply with this requirement will not be reimbursed by the State. However, should the Department request additional Audit requirements above minimum Federal and State requirements, the Department would be responsible for the additional audit work performed.

Regulatory Flexibility Statement

This proposed amendment will affect small businesses, that is, those privately-owned public use airports with less than 100 employees, because the rule imposes reporting, recordkeeping and compliance on such small businesses. Compliance by these small businesses cannot be waived since the Department is mandated under the Single Audit Policy to require annual audit reports of all grant recipients.

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

16:56-14.1 Audit and recordkeeping requirements for State funded projects

(a) Provisions for audit of grants to privately-owned public use airports, counties or municipalities are as follows:

1. The county/municipality or privately owned public use airport entity shall comply with the State of New Jersey Single Audit Policy defined by the Department of Treasury, Office of Management and Budget and the Single Audit Act of 1984 (Federal OMB Circular A-128).

2. A Single Audit of the county/municipality or privately-owned public use airport entity shall be performed annually beginning with the fiscal year ended December 31, 1986 by an independent auditor or public accountant who meets the independence standards specified in generally accepted government auditing standards in conformity with State audit policy.

3. Department of Transportation agreements governed by this chapter shall be subjected to audit compliance tests in accordance with requirements delineated in the Department of Treasury, OMB publication entitled "New Jersey Grants Management Information System Manual".

4. Expenditures prior to January 1, 1986 made under the terms of the county/municipality or privately-owned public use airport grant agreement(s) with the Department of Transportation and not previously audited by an independent auditor or public accountant who meets the independence standards specified in generally accepted government auditing standards may be audited in context of the Single Audit performed for the fiscal year ended December 31, 1986.

5. Audit costs incurred by the county/municipality or privately-owned public use airport to comply with this subchapter are not reimbursable.

[(a)](**b**) General provisions for audit and recordkeeping requirements **are as follows:**

1.-6. (No change.)

[(b)](**c**) Retention of records **shall be as follows:**

1.-3. (No change.)

OTHER AGENCIES

(a)

NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY

Fees

Proposed Amendment: N.J.A.C. 19:30-2.1, 2.3 and 2.4

Proposed New Rule: N.J.A.C. 19:30-2.6

Authorized By: New Jersey Economic Development Authority, Borden R. Putnam, Chairman; James J. Hughes, Jr., Executive Director.

Authority: N.J.S.A. 34:1B et seq., specifically 34:1B-5(k) and (l).

Proposal Number: PRN 1987-189.

Submit comments by July 1, 1987 to:

Gary Nadler, Mgr. of Administration
New Jersey Economic Development Authority
200 S. Warren St.
CN 990
Trenton, NJ 08625

The agency proposal follows:

Summary

The New Jersey Economic Development Authority (NJEDA) is an independent agency of the State of New Jersey created to retain and expand job opportunities and to enlarge the tax base of the State and local governmental units. The NJEDA does not receive funding for administrative costs through State appropriations, therefore, it is required to support its operations through fees.

NJEDA is proposing to revise certain fees charged to potential borrowers who apply to NJEDA for financial assistance and/or receive financial assistance from NJEDA and to change the applicability of certain fees to conform with the Internal Revenue Code.

NJEDA provides financing to New Jersey firms which would not be able to go forward with their projects "but for" the assistance of NJEDA. Due to the nature of the firms assisted by NJEDA, the fees have been set below market rates.

NJEDA has a schedule of fees at the present time. In most cases, fees are unchanged; however, certain fees have been increased to reflect the increased cost to NJEDA.

The following changes are being proposed:

1. Application Fee: This fee has been set at $250.00 since 1974 and is being increased to $500.00.

2. Closing Fees: The fee for the portion of an industrial development bond in excess of $10 million is being increased from one tenth of one percent to one-quarter of one percent.

3. The definition of "Refunding Bond" is being changed to conform to reporting requirements under Federal tax laws.

Social Impact

NJEDA was established by Chapter 80, P.L. 1974 primarily to provide long-term, low-interest financing to private firms and companies for the purpose of maintaining and expanding employment opportunities in the State of New Jersey ("State"). To accomplish its objectives, NJEDA is empowered to issue tax-exempt private activity and taxable bonds, to guarantee loans, to make direct loans, to buy and sell buildings and other property, and to conduct studies related to its legislative mandate to stimulate employment and investment in the State. From 1975 to the present, NJEDA has provided almost $7 billion in financing, in the form of private activity bonds, loan guarantees and direct loans, stimulating over $8.8 billion in total investment and creating over 120,000 permanent jobs and 110,000 construction jobs. NJEDA estimates that approximately $4.2 billion in ratables for the State's municipalities have also resulted. The social impact of the NJEDA's activities are apparent from the infusion of capital, creation of jobs and expansion of the New Jersey economy. Without the fees assessed by NJEDA, the social impact of NJEDA's programs would be reduced due to the lower level of financing services and other assistance which NJEDA would be able to provide to firms desiring to expand or locate in New Jersey.

Economic Impact

There are two aspects of economic impact.

First, applicants for financial assistance from NJEDA will incur higher fees in certain areas, as stated in the summary. The fee for processing an application is raised from $250.00 to $500.00, the first time this fee has been increased since NJEDA's inception in 1974. Applicants who are approved for industrial development bond financing in excess of $10 million will pay a higher closing fee on that excess portion. And applicants who have previously received bond financing and return to NJEDA for refunding the outstanding obligation will incur a post-closing fee, which will be applied to a greater number of post-closing transactions under a broader definition of refunding bond. The increase in fee amounts or scope of application are necessary for NJEDA to offset its administrative costs in processing these transactions, and it is not anticipated that the proposed fees will impair the ability of applicants to avail themselves of NJEDA financing or post-closing transaction services.

Second, as described under the Social Impact, is the continued expansion of the economy of the State as evidenced by increased employment and ratables provided through NJEDA's programs. This expansion affects the State economically in a positive manner due to increases in income taxes, property taxes and reduction of unemployment. NJEDA believes that without the increased fees to be assessed under the proposal it would not operate at the same level which enables it to effectively help to expand the economy in New Jersey.

Regulatory Flexibility Statement

The proposed rule amendments will result in increased fees to applicants for financial assistance from NJEDA, including those which are small businesses. NJEDA cannot estimate the number or type of small business applicants that will be affected, because future applicants for financial assistance are not identifiable. However, the rule amendments will not impose any reporting, recordkeeping or other on-going compliance requirements on small businesses. Small businesses are not exempted from these fee revisions because NJEDA feels that all who avail themselves of NJEDA's below-market interest rates on financial assistance should share equally in offsetting its costs. The fees NJEDA proposes to charge remain below the fees which borrowers would incur with conventional financing, and these fees must be assessed to all applicants so that revenues will more reasonably parallel NJEDA's costs for processing these transactions.

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

19:30-2.1 Application fee

A non-refundable fee of [$250.00] **$500.00** shall accompany every application for Authority assistance**, except for an application under the Urban Centers Small Loan Program for which the fee is $250.00. The non-refundable application fee of $500.00 for a guarantee of a bond issued by the Authority is in addition to the bond application fee.**

19:30-2.3 Closing fees

(a) For Authority-issued bonds, the fee, to be paid at closing, is one-half of one percent of the amount of the bond issue up to and including $10,000,000 and [one-tenth] **one-quarter** of one percent of the amount in excess of $10,000,000.

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

19:30-2.4 Post-closing fees

(a) For purposes of this section, the following definitions apply:

1. "Refunding bond" means:

i. A bond, the proceeds of which are used to satisfy the outstanding obligation of a prior Authority-issued bond; [and the term of which exceeds the term of the Authority-issued bond being satisfied;] or

ii. A modification agreement [which extends the maturity date of an outstanding Authority-issued bond] **or any modification to existing bond documents making any change to or waiver of the existing payment terms of the bond.**

2.-3. (No change.)

(b) The fees in this section are due and payable upon closing of the bond amendment, approval of change of ownership, or signing of modification consent, waiver, etc.

1.-4. (No change.)

5. For amending or modifying [but not extending the maturity date of an Authority-issued bond,] **existing bond documents for which a new bond is not issued,** a $750.00 fee shall be charged.

6. For executing any [agreement, consent, waiver, etc., amending loan documents executed in connection with an Authority-issued bond] **document related to a closed Authority-assisted project,** a fee of $100.00 shall be charged.

7. (No change.)

19:30-2.6 Determination of fee

When a transaction does not by its terms fall into one of the categories outlined in this subchapter, the Executive Director shall determine the appropriate category based on the substance of the transaction. The categorization of the transaction on U.S. Department of the Treasury, Internal Revenue Service Form 8083 will be a significant factor in the determination of the fee.

(a)

CASINO CONTROL COMMISSION

Accounting and Internal Controls
Currency Count Machine; Test Procedures
Proposed Amendment: N.J.A.C. 19:45-1.33

Authorized By: Casino Control Commission,
Theron G. Schmidt, Executive Secretary.
Authority: N.J.S.A. 5:12-63(c) and 5:12-100(f).
Proposal Number: PRN 1987-196.

Submit comments by July 1, 1987 to:
Deno R. Marino
Deputy Director-Operations
Casino Control Commission
Princeton Pike Office Park
Building No. 5, CN 208
Trenton, New Jersey 08625

The agency proposal follows:

Summary

The proposed amendment to N.J.A.C. 19:45-1.33 is intended to provide uniform procedures for all casino licensees to follow in order to test the accuracy of currency counting machines in the count rooms.

More specifically, the proposal would require that currency from a drop box be passed through both currency counting machines and then be manually counted. The count will begin only after the count room supervisor assures that the three independent counts agree and assure the accuracy of the equipment.

Social Impact

From the social perspective, the proposed amendment to N.J.A.C. 19:45-1.33 has a positive effect. The proposal will establish concise procedures which will assure Commission representatives that the two currency counting machines utilized are accurate prior to every count. This proposal will further the public confidence and trust in the credibility and integrity of New Jersey's gaming industry and the regulatory process, thereby creating a positive social impact.

Economic Impact

From the economic standpoint, the proposed amendment would establish exacting procedures, thereby providing a uniform method that all casino licensees must follow. As a result, the integrity of the currency count will be increased, thereby reducing the possibility of count discrepancies. The additional time and expense required by each casino licensee in verifying the accuracy of the counting equipment is minimal. Although the Commission remains confident in the accuracy of the manual procedures applied in the past, the net effect of this revision will only increase the confidence in the accuracy of the currency counting machines as they relate to the gross revenue and associated tax.

Regulatory Flexibility Statement

This proposal will only affect the operations of casino licensees and, therefore, will not impact on any small business as defined under the Regulatory Flexibility Act.

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

19:45-1.33 Procedure for counting and recording contents of drop boxes

(a)-(g) (No change.)

(h) Procedures and requirements for conducting the count shall be the following:

1.-4. (No change.)

5. Each denomination of coin and currency shall be counted separately by one count team member who shall place individual bills and coins of the same denomination on the count table in full view of a closed circuit television camera after which the coin and currency shall be counted by a second count team member who is unaware of the result of the original count and who, after completing this count, shall confirm the accuracy of his total, either orally or in writing, with that reached by the first count team member, except that the Commission may permit a casino licensee to perform an aggregate count by denomination of all currency collected in substitution of the second count by drop box if the Commission is satisfied that the original count is being performed automatically by a machine that counts and automatically records the amount of currency and that the accuracy of the machine has been suitably tested and proven. **The Commission will permit the utilization of currency counting machines if prior to the start of the count, in the presence of a Commission Inspector, the count room supervisor shall:**

i. Verify that all currency counting machines have a zero balance on each terminal unit display panel and have a receipt printed which denotes "-0- cash on hand" and "-0- notes in machine" or some other means to indicate that the machine has been cleared.

ii. Visually check the currency counting machines to be sure there are no bills remaining in the various compartments of the machines.

iii. Supervise a count team member who shall place the entire currency contents of the first drop box into the first currency counting machine, which shall sort the currency by denomination and produce a print out of the total amount of currency by denomination. Any soiled or off-sorted bills shall be re-fed into the machine and manual adjustments made to the total. Coins or tokens shall also cause manual adjustments to be made to the total. The total as recorded on the currency counting machine and any adjustments thereto shall not be shown to anyone until completion of the final verification process.

iv. Supervise a second count team member, independent of the team member performing the initial count by machine, who shall manually count and summarize the currency of the drop box counted in (h)5iii above. The total shall be posted and maintained separately from the total posted in (h)5iii above. This total shall not be shown to anyone until completion of the final verification process.

v. Supervise the second count team member passing the currency to a third count team member, who is unaware of the results of the first two counts. The third count team member shall count the contents of the drop box counted in (h)5iii above using the second currency counting machine. Such machine shall produce a print out of the total amount of currency as contained in the drop box. Any soiled or off-sorted bills shall be re-fed into the machine and manual adjustments made to the total. Coins or tokens shall also cause manual adjustments to be made to the total. The total as recorded on the currency counting machine and any adjustments thereto shall not be shown to anyone until completion of the final verification process.

vi. Following the completion of the test procedures, compare the totals from the test receipts of both currency counting machines, as computed in (h)5iii and (h)5v, to the manual total computed in (h)5iv. If the three totals compared above are in agreement, the count room supervisor will sign and date the test receipts and forward them to the Accounting Department at the end of the count process.

vii. If the three totals do not agree, appropriate repairs shall be made to the currency count machine(s) and the procedures in (h)5i through (h)5vi shall be repeated until all totals are in agreement. Not until these totals are in agreement, shall the Commission permit the utilization of the currency counting machines.

6.-10. (No change.)

(i) (No change.)

(j) The originals and copies of the Master Game Report, Counter Checks, Requests for Fills, Fills, Requests for Credits, Credits, [and] Table Inventory Slips **and the test receipts from the currency counting equipment** shall, on a daily basis, in the accounting department be:

1.-6. (No change.)

RULE ADOPTIONS

AGRICULTURE

(a)

DIVISION OF MARKETS

New Jersey Sire Stakes Program

Adopted Repeal and New Rule: N.J.A.C. 2:32

Proposed: April 6, 1987 at 19 N.J.R. 480(a).
Adopted: April 28, 1987 by Arthur R. Brown, Jr., Secretary, Department of Agriculture; and Sire Stakes Board of Trustees.
Filed: May 7, 1987 as R.1987 d.236, **with technical and substantive changes** not requiring additional public notice and comment (See: N.J.A.C. 1:30-4.3).

Authority: N.J.S.A. 5:5-91.

Effective Date: June 1, 1987.
Expiration Date: June 1, 1992.

Summary of Public Comments and Agency Reponses:

The Sire Stakes Board of Trustees received one comment. The commentor noted there was no rainout rule in the Sire Stakes Program. The Sire Stakes Board of Trustees is not aware of any Sire Stakes race being cancelled in the past because of rain and certainly does not expect any cancellation in the future. However, the Sire Stakes Board of Trustees has decided to amend the rules in order to accommodate the possible rainout of a race and has included, as suggested, a rule similar to the current Pennsylvania Rule. The amendment is included at N.J.A.C. 2:32-2.7(d).

In order to clarify the meaning of N.J.A.C. 2:32-2.1(9), the Sire Stakes Board of Trustees has deleted the word **all** and replaced it with **only** to prevent any possible confusion between licensed tracks and licensed facilities.

Full text of the adoption follows (additions to proposal indicated in boldface with asterisks ***thus;*** deletions from proposal indicated in brackets with asterisks *[thus]*).

SUBCHAPTER 1. SIRE STAKES PROGRAM

2:32-1.1 General provisions

All rules utilized by the New Jersey Department of Agriculture in the Administration of the Sire Stakes Program shall conform to the latest edition of the United States Trotting Association published in the Racing Guide for Stakes and Futurities. (Copies of the most current regulations are available for inspection by contacting the Division of Markets, New Jersey Department of Agriculture, Health-Agriculture Building, John Fitch Plaza, Trenton, New Jersey.)

SUBCHAPTER 2. NEW JERSEY SIRE STAKES CONDITIONS

2:32-2.1 Adoption of by-laws

(a) The by-laws of the New Jersey Sire Stakes Board of Trustees are hereby adopted as follows:

1. There is hereby established in the State of New Jersey a Sire Stakes Program for Standardbred horses, bred in the State of New Jersey and to be the product of a registered New Jersey stallion, registered with the Standardbred Breeders and Owners Association of New Jersey as such and listed in their registry books.

2. Those horses eligible to race under the Sire Stakes Program shall be any foal of any registered New Jersey stallion standing at a New Jersey breeding farm and either owned by a resident of the State of New Jersey or leased by a resident thereof for a period of not less than ten years to stand the full season on a New Jersey breeding farm. A copy of any such lease shall be filed with the United States Trotting Association, the Standardbred Breeders and Owners Association of New Jersey, and the New Jersey Racing Commission.

3. The Sire Stakes Program shall be administered by a Board of Trustees consisting of five members, four appointed by the Governor, two of whom shall be members of the Standardbred Breeders and Owners Association of New Jersey, two representatives of racing interests generally, and the Secretary of Agriculture ex-officio. Of the members first appointed, the term of office of one appointee from the Breeders and Owners Association shall be for two years, and the other appointed member of such association shall be for a term of one year; the term of office for one appointee representing racing interests generally shall be for two years, and the other appointee representing racing interests generally shall be for a term of one year. Thereafter, appointments shall be for terms of two years.

4. No member of the Board of Trustees shall be compensated for his services; however, reasonable travel and other expenses incurred in connection with duties as members of the Board may be reimbursed.

5. The Board of Trustees is authorized to do all that is necessary for the proper administration of the Sire Stakes Program and shall prepare, issue, and promulgate rules providing for:

i. Classes and divisions of races, eligibility of horses and owners therefor, and prizes and awards to be awarded;

ii. Nominating, sustaining, and entry fees for horses and races;

iii. Such temporary programs including eligibility of horses, breeding, and other matters as may be necessary to make the Sire Stakes Program operable as soon as possible;

iv. Registration and certification of New Jersey stallions, mares bred to such stallions, and foals produced thereby; and

v. Such other matters as the Board determines to be necessary and appropriate for the proper administration and implementation of the Sire Stakes Program.

6. The funds for the Sire Stakes Program pursuant to N.J.S.A. 5:5-91 and the nominating, sustaining, and entry fees provided for herein, shall be administered by the New Jersey Department of Agriculture by deposit in a trust account entitled Sire Stakes Fund.

7. All disbursements from the Sire Stakes fund for the payment of purses and awards, cost of administration, reimbursement of expenses of members of the Board of Trustees, and any other appropriate expenses, shall be made by the Secretary of Agriculture or his designee.

8. A report shall be prepared and filed annually by the Secretary with the Racing Commission setting forth an itemization of all deposits to and expenditures from the Sire Stakes fund.

9. Sire Stakes Races shall be run ***only*** at *[all]* licensed harness tracks in the State of New Jersey. The races, purses and awards awarded therefor shall be pursuant to the rules of the Board of Trustees hereunder and the New Jersey Racing Commission.

10. The five-member Board of Trustees shall elect a chairman and vice-chairman at the annual meeting in June of each year.

11. The secretary of the Sire Stakes Board of Trustees need not be a member of the Board and shall be appointed each year by the New Jersey Secretary of Agriculture.

12. The Sire Stakes Board of Trustees shall meet each month of the year. The date, time, and place will be selected by the chairman, and the secretary shall notify all Board members by letter 10 days prior to each meeting.

13. In order for the Board of Trustees to conduct any official business at special monthly meetings, a quorum must be present. A quorum is defined as consisting of at least three of the five members.

14. The chairman is authorized to call special meetings when necessary by instructing the secretary to give each member 10 days' notice in writing.

15. The Board of Trustees by-laws can be amended by a four-out-of-five vote of the membership of the Board of Trustees.

2:32-2.2 Qualifications for New Jersey Sire Stakes

(a) In order to qualify for the New Jersey Sire Stakes, a foal must be the product of the mating of a mare with a New Jersey registered and resident stallion. The mare to be bred must either be a resident at the farm on which the stallion stands or be shipped to the farm on which the stallion stands when impregnated.

(b) A foal conceived by semen which is frozen, desiccated, transported off the premises where it is produced, or not implanted on the same day it is collected is not eligible for nomination to the New Jersey Sire Stakes Program.

2:32-2.3 Registration of stallions

(a) All Standardbred horses, to be eligible to compete in the New Jersey Sire Stakes Program, must be bred in the State of New Jersey and be the product of a registered New Jersey stallion.

(b) The stallion must be registered with the Standardbred Breeders and Owners Association of New Jersey, P.O. Box 839, Freehold, NJ 07728.

(c) The registration must be returned by December 1st for stallions that have previously registered and/or stood in New Jersey, and December 1st for any new stallions, with a certificate of good health enclosed. The certificate of good health must be completed by a licensed New Jersey veterinarian during the months of October or November which preceding the approaching breeding season for which the registration is issued.

(d) The fee for annual registration of a stallion shall be due on or before December 1 of the approaching breeding season and December 1 for new registration. The fee must accompany this registration.

1. The following fees shall be applicable:

i. $500 if the stud fee is under $1,000, private treaty, or free.

ii. $750 if the stud fee is $1,000 but under $10,000.

iii. $1,000 if the stud fee is $10,000 or higher.

2. The following late fee may be assessed:

i. Any stallion not registered by December 1 may pay an additional fee (registration fee plus late fee) of $1,500 if registered and standing by January 1.

(e) Once the registration fee has been paid, there will be no refunds.

(f) The stallion must be on the farm by January 1.

(g) The registration makes the foals of the stallion eligible to be nominated to the following:

1. Charles I. Smith Trotting Classic;
2. Harold R. Dancer Memorial Trot (foals of participating stallions only);
3. Lou Babic Two-Year-Old Pace;
4. Miss New Jersey Pacing Classic;
5. New Jersey Sired Races;
6. New Jersey Breeders Awards;
7. New Jersey Futurity;
8. New Jersey Pacing Classic;
9. New Jersey Sire Stakes;
10. New Jersey Yearling Show;
11. Lou Babic Filly Division.

(h) Sires of horses eligible for the events listed above must have been registered with the SBOA/NJ at the time of mating.

2:32-2.4 Stallion standing full season

A stallion, in order for his foals to be eligible for the New Jersey Sire Stakes Program, must stand for breeding purposes the full season, extending from January 1 through December 31, on a farm in New Jersey, and shall not be moved from the farm on which he was registered without the prior permission (excluding medical emergency) of the Sire Stakes Board of Trustees. A stallion shall not be permitted to race during a registered breeding period, that is, January 1 through December 31. The foals of a stallion that does not race or is moved without prior permission of the Sire Stakes Board of Trustees during a registered breeding year will not be eligible to the Sire Stakes.

2:32-2.5 Certificate of mating

When a mare is bred to a New Jersey registered stallion, the stallion owner must supply the New Jersey Standardbred Breeders and Owners Association, the New Jersey Sire Stakes, and the United States Trotting Association a list of mares bred, on a form prescribed by the Sire Stakes Board of Trustees, stating that the mare has been bred to said stallion. The certificate is to be supplied by September 15 of the breeding season.

2:32-2.6 Fund policy

(a) After consideration of the Fair Division portion of the Sire Stakes purse money and special event money is made, the Parimutuel Division of the Sire Stakes purse money will be allocated as determined by the Board of Trustees.

(b) All Sire Stakes purse monies, excluding fees, are to be divided as closely as possible to 40 percent to trotters and 60 percent to pacers.

(c) Advertised purse monies for all New Jersey Sire Stakes, including contributions to special event races, are predicated upon the Pari-mutuel handle of New Jersey harness tracks and therefore are subject to change without notice.

(d) All horsemen's fees are to follow a horse by sex and gait and the fees are to remain in the respective pools.

2:32-2.7 Transfer of race

(a) If for any reason it becomes impractical or undesirable, in the opinion of the New Jersey Sire Stakes Board of Trustees, to hold the race(s) at the advertised track, the New Jersey Sire Stakes Board, while making every effort to adhere as closely as possible to the advertised location, fees, date, and purse, reserves the right to change any of the foregoing or to cancel the event.

(b) It shall not be the responsibility of the New Jersey Sire Stakes Board of Trustees to individually inform Sire Stakes nominators, agents, or trainers of any of the changes mentioned in (a) above.

(c) The Board shall advertise or publicize changes in racing interest trade magazines such as the various Standardbred related magazines and/or newsletters, and suggests all program participants communicate with the New Jersey Sire Stakes offices.

(d) In the event that a Fair Race is postponed for any reason and cannot be carried over and raced at that fair, the purse money for that race shall be divided evenly among the horses declared in and on the grounds ready to race. The 100 points toward the Fair Finals will also be divided evenly among those horses declared in and on the grounds readly to race and the event will count as a start toward the Fair Finals.

2:32-2.8 Number of Sire Stakes races

A minimum of seven Sire Stakes Races per division will be conducted each year. The minimum total of seven includes both Fair and Pari-mutuel Division races.

2:32-2.9 Registration of foals

(a) All foals must be registered with the United States Trotting Association with a certificate of registration dated on or before the time of nomination.

1. The date for the closing of nominations of yearlings to the Pari-mutuel and Fair Divisions shall be May 15 or the next business day following May 15 in the event that the date falls on a Saturday, Sunday, or a holiday, of each year, with no exceptions.

2. The yearling registration fee shall be $40.00 if a copy of the United States Trotting Association certificate of registration accompanies the yearling nomination form and an additional $10.00 processing fee shall be due if the copy of the United States Trotting Association certificate is not submitted. The nomination payment covers the nomination fee to both the Fair and Pari-mutuel divisions. Thereafter, each division will have separate sustaining payments with separate due dates.

3. The yearling nomination payment form will also include the nomination to the Lou Babic Pace at $25.00. If one chooses nomination to both of these events, the yearling nomination payment will be a total of $65.00 (or $75.00) and shall be due on or before May 15 of each year. Yearling fillies may be nominated to the Babic Filly division at a cost of $15.00 in addition to the $40.00 registration fee.

4. Supplemental nominations may be made to the New Jersey Sire Stakes commencing with foals of 1984. Parties delinquent in paying the required May 15 yearling nomination fee date are given until January 15 of the two-year-old year to fulfill the aforementioned conditions of nominations for a fee of $400.00. An additional $400.00 is required to supplement to the Lou Babic Pace or $300.00 for the Lou Babic Filly division.

2:32-2.10 Sustaining fees

In 1987, the sustaining fee schedule will be as follows:

PARI-MUTUEL DIVISION

Age	First Sustaining Fee	Second Sustaining Fee
2	$300.00 (Feb. 15)	$500.00 (Apr. 15)
3	$350.00 (Feb. 15)	$600.00 (Apr. 15)
4	$250.00 (Jan. 15)	$400.00 (Mar. 15)

FAIR DIVISION

Age	First Sustaining Fee	Second Sustaining Fee
2	$100.00 (Jan. 15)	$150.00 (Mar. 15)
3	$100.00 (Jan. 15)	$150.00 (Mar. 15)
4	$100.00 (Jan. 15)	$150.00 (Mar. 15)

2:32-2.11 Payment dates

(a) In the Pari-mutuel Division, the first sustaining payment on a two- or three-year-old must be made on or before February 15 of a year and the second sustaining payment on a two- or three-year-old must be made on or before April 15 of a year in order to remain eligible in that year. In the case of four-year-olds, the first sustaining payment must be made on or before January 15 of a year, and the second sustaining payment on or before March 15 of a year in order to remain eligible in that year.

(b) In the Fair Division, the first sustaining payment on a two-, three-, or four-year-old must be made on or before January 15 of a year and the second sustaining payment on a two- or three-year-old must be made on or before March 15 of a year in order to remain eligible in that year. In the event that the 15th day of the aforementioned month falls on a Saturday, Sunday, or holiday, the payment must be postmarked on or before the next business day following the 15th of that month.

2:32-2.12 Eligibility

In order for Sire Stakes eligible two-year-old horses to remain eligible as three-year-olds, their owners must have made the yearling nomination and the first two-year-old sustaining payment. In order for eligible three-

year-old horses to remain eligible as four-year-olds, their owners must also have made the first three-year-old sustaining payment as well as the nomination and the first two-year-old sustaining payment. This condition applies to both the Fair and Pari-mutuel Divisions.

2:32-2.13 Dishonored checks

An individual whose check for a sustaining payment, nominating payment, or starting fee is dishonored by the bank will be turned over to the New Jersey Racing Commission for appropriate action and the horse or horses will be immediately declared ineligible for all future Sire Stakes events until the check is made good. A $25.00 administrative fee must be paid for each dishonored check.

2:32-2.14 No cash or partial payments

The New Jersey Sire Stakes Program will accept no cash payment on nominating and sustaining payments. All fees will be paid in good United States funds. No post-dated checks or partial payments on a nominating, sustaining, or entry fee will be accepted on individual horses.

2:32-2.15 Refunds

All requests for refunds on sustaining or nominating payments must be made by letter to the Board Secretary postmarked on or before the 15th of the month in which the payment is due. In the event that the 15th falls on a Saturday, Sunday, or holiday, the due date will be the next business day following the 15th.

2:32-2.16 Time of declaration

Starters declare in at the same time as in practice for overnight events at the raceway where Sire Stakes Races will be contested. Entries for the New Jersey Sire Stakes Fair Program will close at 9:00 A.M., three days prior to the race, with Sundays excepted.

2:32-2.17 Entry blanks

All entry blanks must specify as to gait to be contested for, age, sex, trainer, owner, preference date, and location of eligibility papers, if they are not in the race office at time of declaration. In the event that incomplete information is provided and cannot be located, the horse may be drawn in, but may be scratched with the starting fee still payable if it is later determined that the horse is not eligible or qualified. Under no circumstances will late entries be taken.

2:32-2.18 Name change notification

Owners, trainers, drivers, or their agents, or Stake Services, shall notify the New Jersey Sire Stakes Program of a name or gait change of a horse by the time of declaration to a race, or the entry may not be accepted for that race.

2:32-2.19 Entry fee deadlines

(a) All Sire Stakes Race entry fees must be paid at the time of the race or the horse will not be allowed to start.

(b) All New Jersey Sire Stakes horses entered and drawn to post positions are required to pay starting fees at the track. This starting fee is required even though a horse is scratched.

(c) The starting fee must be paid or the horse will not be permitted to race in any Sire Stakes event until the fee is paid and collected.

(d) The starting fee will not be refunded unless the horse dies between the time of declaration to start and the start of the race.

(e) When an owner has outstanding debts owed to the New Jersey Sire Stakes, every horse owned in whole or part by that owner shall be subject to be declared ineligible by the Board of Trustees or its representative to be entered or to start in any New Jersey Sire Stakes Race until such time that debt is collected.

2:32-2.20 Starting fees

Starting fees will be added to the basic purse only in Fair and Pari-mutuel series races. Starting fees for the 1987 season will be:

Pari-mutuel Division		Fair Division	
2 year olds	$500.00	2 year olds	$75.00
3 year olds	$500.00	3 year olds	$75.00
4 year olds	$200.00	4 year olds	$75.00

2:32-2.21 Purse distribution

(a) The purse will be distributed as follows:

1.	50-25-12-8-5	if 5 starters or more
2.	50-25-15-10	if only 4 starters
3.	60-30-10	if only 3 starters
4.	65-35	if only 2 starters
5.	100	in case of walk over

2:32-2.22 Qualifying standards

(a) All starters in the New Jersey Sire Stakes Pari-mutuel Division must meet the following qualifying conditions for the 1987 racing season.

1. All other qualifying standards in effect at the track where the race is being conducted must be adhered to.

2. The 1987 New Jersey Sire Stakes qualifying times at the Pari-mutuel tracks will be as follows:

	One Mile Track	5/8 Mile Track	1/2 Mile Track
Two-Year-Old Trot	2:07	2:08	2:09
Three-Year-Old Trot	2:03	2:04	2:05
Four-Year-Old Trot	2:02	2:03	2:04
Two-Year-Old Pace	2:03	2:04	2:05
Three-Year-Old Pace	2:01	2:02	2:03
Four-Year-Old Pace	2:01	2:02	2:03

NOTE: When racing at the mile track, two seconds are allowed off the half mile, but when racing on a 1/2 mile track, two seconds are subtracted.

3. If a horse initially makes the qualifying standards but then fails to meet qualifying standards in a subsequent event, it must then re-qualify to meet the standards by the raceway at which the race is to be contested.

4. Official workouts or time trials are not acceptable as a substitute for a qualifying racing line.

(b) All starters in the New Jersey Sire Stakes Fair Division must meet the following conditions for the 1987 racing season.

1. All starters in the New Jersey Sire Stakes Fair Division shall have raced within 30 days of the race in which they have been entered. A three-year-old shall show a satisfactory racing line in one of their last two starts. A two-year-old shall show a satisfactory racing line in one of their last three starts. A satisfactory racing line is defined as a qualifying or racing line in the following times or better with allowances for track conditions:

	Trotters	Pacers
Two-Year-Olds	2:12	2:10
Three-Year-Olds	2:10	2:08
Four-Year-Olds	2:09	2:07

Horses may be placed on the stewards list for subsequent poor performance.

2:32-2.23 Splitting races

Each race is to be a one mile dash. If it becomes necessary to split an event, the Board reserves the right to adopt one of the methods of division racing then current, including elimination dashes.

2:32-2.24 Number of starters

In all Pari-mutuel and Fair Sire Stakes races, the number of starters permitted in the first tier shall be at the discretion of the judges. No more than two trailers will be permitted in the second tier. However, no trailers shall be permitted in the races designated as finals.

2:32-2.25 Eligibility papers

In any case where a horse is entered to race and his eligibility papers are not available at post time, said horse will be ordered scratched by the presiding judge. If, however, the New Jersey Sire Stakes Race Secretary or a New Jersey Sire Stakes Official has signed for or accepted the trainer's eligibility papers, and the papers are subsequently lost, the horse may be allowed to start.

2:32-2.26 Splitting and carrying over divisions

In the event a Sire Stakes event is split into divisions, the Sire Stakes event shall be divided and each division shall race for an equal share of the total purse. All Sire Stakes events shall be advertised, "added, divided." In the event that a Pari-mutuel event splits into more than three divisions, one or more of the divisions in excess of three may be carried over to the following racing day.

2:32-2.27 Final races

(a) There will be a two- and three-year-old "Final" race in each Pari-mutuel Division at the Pari-mutuel raceways as scheduled by the New Jersey Sire Stakes Board of Trustees. There will be a minimum $10,000 Fair "Final" race in each Division for two- and three-year-olds.

(b) Each Pari-mutuel Final will have a $500.00 starting fee and is open to the highest New Jersey Sire Stakes point winners declared in at the Meadowlands, Garden State, and Freehold, and the highest New Jersey Sire Stakes point winners at the Fairs in each Division that are declared in and can be drawn to post in first tier. Trailers are not permitted to start in any New Jersey Sire Stakes Finals. There will be no entry fee for the Fair Finals.

(c) All horses competing in both the Pari-mutuel and Fair Finals at all tracks will be determined on a point basis. The point value will be awarded as follows:

1. 50 points for winning a heat;
2. 25 points for placing second in a heat;
3. 12 points for placing third in a heat;
4. Eight points for placing fourth in a heat;
5. Five points for placing fifth in a heat;

(d) In the event of less than five starters, the points shall be awarded in the same fashion as the purse breakdown with less than five starters, as in N.J.A.C. 2:32-2.21.

(e) In the event of a dead heat for any position in a New Jersey Sire Stakes race, the points shall be split evenly between the two horses as is currently done with the monies.

(f) In the event of a tie in point standings for Final events, money won in Sire Stakes races in which points were accumulated shall be used to break the tie.

(g) In the event of a tie for the last spot in the top 10 or top eight money winners for a Final event, the last spot in the Final will be drawn by lot from among the horses tied in both points and money winnings in the Sire Stakes and having the highest point totals and not already included in the Final.

(h) Judges' "official order of finish" will be used in determining eligibility to Finals exclusive of all appeals yet to be decided at the time of closing of the entry box for Finals.

(i) In order to qualify for the Fair Finals, a horse must race in at least half of the Fair races offered in his class.

2:32-2.28 Point standings

Total points accumulated towards Final Race eligibility in the Pari-mutuel Division shall include only Pari-mutuel Division points. Only Fair Division race points count toward the Fair Final eligibility.

2:32-2.29 Four-year-old split

If the four-year-old division(s) split in a Pari-mutuel race or in a Fair Division race, the split races will be segregated by sex when possible and applicable.

2:32-2.30 Four-year-old division

The four-year-old New Jersey Sire Stakes Program will expire at the end of the 1988 season with the completion of the four-year-old season of those yearlings registered on May 15, 1985 (foals of 1984).

2:32-2.31 Separate Fair Division

A separate New Jersey Sire Stakes Fair Division, with a separate payment schedule as set forth in N.J.A.C. 2:32-2.10 and 2.20, will be in force.

2:32-2.32 Supervising Race Secretary

(a) A member of the New Jersey Sire Stakes staff will be appointed Supervising Race Secretary at all Fair meets. Furthermore, the New Jersey Sire Stakes Board Secretary is responsible for the complete supervision of the New Jersey Sire Stakes Program as it pertains to the Fairs.

(b) Nothing in this chapter shall be construed to rescind or replace any of the powers or rules of the New Jersey Racing Commission at any race.

2:32-2.33 Dress requirements

Racing colors, helmet, and white pants, in accordance with the New Jersey Racing Commission rules, will be required to be worn by any person warming up a horse on a New Jersey fair track one hour before post time. Violators will be subject to a fine or suspension.

2:32-2.34 Broadcasting revenues

(a) In the event the Sire Stakes Board receives revenues derived from the broadcast of Sire Stakes events, any incremental revenues derived from these broadcasts shall be exclusively used by the New Jersey Sire Stakes Program to supplement the purse of Sire Stakes races.

(b) The nominator and/or owner of horses racing in Sire Stakes events expressly and irrevocably assigns to the New Jersey Sire Stakes the ownership rights of any broadcast revenues derived therefrom.

SUBCHAPTER 3. APPEALS

2:32-3.1 Appeal from decision of Supervising Race Secretary

When any decision is made by any person representing the Board of Trustees pursuant to the law of New Jersey or rules of the Board of Trustees, said decision may be appealed to the Board of Trustees and a hearing requested.

2:32-3.2 Right of appeal

(a) Any person aggrieved by any action or inaction by the Board of Trustees, or its representatives, may request an informal meeting with the Board to settle any dispute, or seek clarification of the Board's rules. The Board shall respond, in writing, to any such request stating the reasons for its determination.

(b) If any dispute is required by law or regulation to be handled formally, or if a party is dissatisfied with an informal determination, or if the Board determines the matter contested, the matter shall be treated in accordance with the Administrative Procedures 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. 1:1-1 et seq.

2:32-3.3 Nature of proceedings

All hearings before the Board of Trustees will be de novo proceedings and shall be accompanied by notice and an opportunity to be heard.

2:32-3.4 Appeal procedure

In the event that an appeal is taken to the Board of Trustees, said appeal and one copy must be filed, in writing, at the office of the Board of Trustees within 20 days of the date of the receipt of the decision by the person representing the Board of Trustees.

2:32-3.5 Hearing; costs

The applicant shall be responsible for any costs incurred in connection with any hearing held pursuant to the right of appeal contained in this subchapter and the laws of the State of New Jersey.

2:32-3.6 Acting on appeals

The Board of Trustees shall act on all appeals in accordance with the laws of the State of New Jersey and the rules promulgated by the Board of Trustees.

(a)

DIVISION OF DAIRY INDUSTRY

Producers of Milk

Readoption: N.J.A.C. 2:50
Adopted Amendment: N.J.A.C. 2:50-3.2

Proposed: March 16, 1987 at 19 N.J.R. 433(a).
Adopted: April 28, 1987 by Woodson W. Moffett, Jr., Director, Department of Agriculture.
Filed: May 1, 1987 as R.1987 d.232, **without change.**

Authority: N.J.S.A. 4:12A-1 et seq., specifically 4:12A-20 and 4:12-41.15.

Effective Date: May 1, 1987 for Readoption; June 1, 1987 for amendment.
Expiration Date: May 1, 1992.

Summary of Public Comments and Agency Responses:

The only comment received was from the economist for Eastern Milk Producers Cooperation Association, who asked a question for clarification and endorsed the readoption of the rule. He offered to send a letter of endorsement if such was necessary, but was advised that the telephone conversation was adequate.

Full text of the readoption appears in the New Jersey Administrative Code at N.J.A.C. 2:50.

Full text of the adopted amendment to the readoption follows.

2:50-3.2 Milk weighing, measuring and sampling procedures

(a) Weighing, measuring and sampling milk should be performed pursuant to the procedures as set forth in the current "Standard Methods for Examination of Dairy Products," published by the American Public Health Association, Inc., and as a minimum shall include the following:

1.-2. (No change.)

3. After milk has been agitated for at least five minutes with agitator running and before the outlet is open, take a universal sample. The sample shall be taken with a properly cleaned and sanitized stainless steel dipper which is first dipped two or three times into the milk. This sample shall be at least one ounce (30 cubic centimeters). If composite samples are taken, on every day pickup, a ten cubic centimeter dipper of milk shall be added to the composite daily. On every other day pickup, a 20 cubic centimeter sample shall be added to the composite at each pickup.

(b) (No change.)

EDUCATION

(a)

STATE BOARD OF EDUCATION

Business Services

Bookkeeping and Accounting in Local School Districts

Appropriation of Free Balance

Adopted New Rule: N.J.A.C. 6:20-2.14

Proposed: March 16, 1987 at 19 N.J.R. 437(a).
Adopted: May 8, 1987 by State Board of Education, Saul Cooperman, Secretary.
Filed: May 8, 1987 as R.1987 d.239, **without change.**

Authority: N.J.S.A. 18A:4-15 and 18A:7A-25.

Effective Date: June 1, 1987.
Expiration Date: August 9, 1990.

Summary of Public Comments and Agency Responses:

The Department received one letter. The commenter suggested that allowable surplus be six percent but offered no rationale for the six percent figure. The Department disagreed and felt that six percent was excessive. The Department felt that the three percent proposed allowable surplus was sufficient and would not have a negative impact on school business operations.

Full text of the adoption follows.

6:20-2.14 Appropriation of free balance

(a) A district board of education requesting to exceed the permissible rate of increase pursuant to N.J.S.A. 18A:7A-25 shall appropriate all available current expense free balance in excess of three percent of the current expense budget for the budget year such request is made.

(b) A district board of education, upon the advice of the chief school administrator, may request an exception, from the commissioner, to the provision of (a) above.

(c) Any balance allowed pursuant to (a) or (b) above shall be exempt from the commissioner's determination that a reallocation of resources is insufficient to meet the district board of education goals, objectives and standards.

ENVIRONMENTAL PROTECTION

(b)

DIVISION OF SOLID WASTE MANAGEMENT

Division of Water Resources

Disposal of Solid Waste

Adopted Amendments: N.J.A.C. 7:26-1.4, 7:26-12.11 and 12.12

Adopted Repeal: N.J.A.C. 7:1-6, 7:26-2.1 through 2.6(a)-(d), 2.7, 2.8, 2.11, 2.12, 2.14 and 7:26-5

Adopted New Rule: N.J.A.C. 7:26-2.1 through 2.11, 2A, 2B, and 7:14A-6.16

Adopted Recodification: N.J.A.C. 7:26-2.6(e) to 7:26-2A.8(l), 7:26-2.9 to 7:26-2A.9 and 7:26-2.10 to 7:26-2.12

Proposed: May 5, 1986 at 18 N.J.R. 883(a).
Adopted: May 4, 1987 by Richard T. Dewling, Commissioner, Department of Environmental Protection.
Filed: May 4, 1987 as R.1987 d.235, **with substantive and technical changes** not requiring additional public notice and comment and with portions not adopted (see N.J.A.C. 1:30-4.3).

Authority: N.J.S.A. 13:1D-9, 13:1E-1 et seq. and 58:10A-1 et seq.

DEP Docket No. 017-86-04.
Effective Date: June 1, 1987.
Expiration Date: November 4, 1990.

Summary of Public Comments and Agency Responses:

The New Jersey Department of Environmental Protection (the Department) is adopting amendments to N.J.A.C. 7:26-1.4, 12.11 and 12.12 and new rules at N.J.A.C. 7:26-2.1 through 2.10, 2A and 2B and N.J.A.C. 7:14A-6.16. These amendments and new rules establish the Department's procedures for obtaining and maintaining a solid waste facility permit for a nonhazardous solid waste facility, including the preparation of an Environmental and Health Impact Statement and the design, engineering and operational requirements for the major types of solid waste facilities, such as sanitary landfills and resource recovery facilities.

Public hearings were held on June 24, 25, and 26, 1986 to provide interested parties the opportunity to present testimony on the proposed amendments and new rules. The comment period closed on August 8, 1986. The Department received written testimony from 14 people and seven people presented comments at the public hearings.

The Department is not adopting the engineering design standards and construction requirements for sanitary landfill capping systems proposed at N.J.A.C. 7:26-2A.7(i) at this time and, in accordance with N.J.A.C. 1:30-4.2(c), this subsection of the proposal has expired.

N.J.A.C. 7:26-1.4

COMMENT: A comment was received which requested that the definition of "setback" be revised to include the buffer zone.

RESPONSE: The provisions as set forth at N.J.A.C. 7:26-2A.6(i) establish the minimum requirements for both set back areas and buffer zones and defines the buffer zone as part of the set back area. The Department has included the buffer zone as part of the set back area in the definition of "set back" for clarification.

COMMENT: A comment was received which requested that the definition of "Thermal Destruction Facilities" be revised to include waste to energy facilities.

RESPONSE: The definition of thermal destruction facilities (TDF) clearly includes waste to energy facilities. It states that a TDF is a nonhazardous solid waste facility which utilizes a thermal device to either burn waste or chemically decompose waste by heating it in an oxygen deficient atmosphere, as in a modular or secondary combustion chamber.

COMMENT: A comment was received which requested that the definition of "clay" be expanded to establish a specific cation exchange test as part of the definition.

RESPONSE: While the Department maintains that it is reasonable to recommend testing procedures, in this case, to define a specific procedure within the definition would not be appropriate. The Department has modified the required testing procedures as set forth at N.J.A.C. 7:26-2A.7(c) to be performed in accordance with appropriate American Society of Testing Materials (ASTM) methods and/or approved equivalent method. The ASTM currently includes procedures for analysis of the cation exchange capacity test.

COMMENT: A comment was received which requested that the following terms: "clay," "soil Catenia," "Munsell Color System," "soil classification," "soil horizon," "soil map," "soil profile," "soil series" and "soil type," in regard to soil classification be added as definitions.

RESPONSE: The Department has determined that in areas where a technical term is defined in technical journals or text books or by the industry that such a definition would be sufficient. In this particular case, the Department maintains that the terms requested to be added to N.J.A.C. 7:26-1.4 are technical terms and are defined in soil text books and accepted industry-wide such that they do not warrant inclusion in this section.

N.J.A.C. 7:26-2.4(b)2

COMMENT: A commenter stated the requirement to provide documentation to establish that the solid waste facility has been included within the applicable district solid waste management plan should be deleted because of the delay caused by opponents of solid waste facilities. Instead, final approval of the Department should be conditioned upon a showing that the facility has been included in the applicable district solid waste management plans.

RESPONSE: The Solid Waste Management Act, N.J.S.A. 13:1E-1 et seq. requires that proof that the opposed facility is included in the adopted solid waste management plan be submitted with the applicant's engineering design, registration statement, disclosure statement and environmental impact statement. The requirements of the paragraph have been included to meet the Department's statutory mandate; therefore, the recommended revision has not been made.

N.J.A.C. 7:26-2.4(b)4

COMMENT: A comment was received which recommended that the submission of a closure and a post closure plan should be within six

months of final Departmental approval and issuance of a permit and not part of the application submission.

RESPONSE: This requirement that the closure and post-closure plan be part of the application reflects a sound policy determination well within the Department's statutory authority and duly implemented by appropriate existing rules at N.J.A.C. 7:26-2.9. The requirement of N.J.A.C. 7:26-2.4(b)4 merely reflects the existing requirement.

N.J.A.C. 7:26-2.4(b)

COMMENT: A comment was received which requested that this subsection be expanded to include evidence of a Soil Erosion and Sediment Control Plan certified by the local Soil Conservation District in accordance with N.J.S.A. 4:24-39 et seq. (Department of Agriculture).

RESPONSE: The requirements of this subsection set forth the documents that must be submitted to the Department as part of an application for a solid waste facility permit. This subsection is not intended to list all necessary permits required by other governmental agencies. The Department's opinion is that process is best performed through the Office of Business Advocacy of the Department of Commerce and has not inserted the recommended revisions.

COMMENT: A comment was received which requested that N.J.A.C. 7:26-2.4(b) be expanded to include a requirement that all applications for new or expanded facilities in the Pinelands Area shall be accompanied by either a certificate of filing, a certificate of compliance or a public development approval issued by the Pinelands Commission.

RESPONSE: The requirements of this subsection set forth the documents that must be submitted to the Department as part of an application for a solid waste facility permit. This subsection is not intended to list all necessary permits required by other governmental agencies. The Department's opinion is that process is best performed through the Office of Business Advocacy of the Department of Commerce and has not inserted the recommended revisions.

N.J.A.C. 7:26-2.4(c)3

COMMENT: A commenter stated that the capacity limit definition of small-scale materials recovery facilities or transfer stations is too low and that the Department should regulate at a 400 ton per day or greater level.

RESPONSE: The Department regulates all material recovery facilities and transfer stations regardless of the size. It has simply scaled down the permit submission requirements at the 100 ton per day or less capacity. This capacity was selected based on the Department's experience in permitting these type of facilities and its evaluation of the associated environmental impacts based on the facility's capacity, as explained in the Basis and Background Document of the proposed amendments, and is consistent with N.J.S.A. 13:1E-117.

N.J.A.C. 7:26-2.4(e)

COMMENT: Comments were received which stated that while corporate officials are required to sign the documents required in N.J.A.C. 7:26-2.4(e)1 and 2 and should be held responsible as set forth in N.J.A.C. 7:26-2.4(e)3, they may not be able to fully grasp the technical accuracy of the information and penalties should only be imposed where a person has "knowingly submitted false information" as referenced at N.J.S.A. 2C:28-2.

RESPONSE: The Department is not inserting the suggesting amendment to this paragraph because it is not limiting itself to the remedies of N.J.S.A. 2C:28-2.

COMMENT: A commenter stated that N.J.A.C. 7:26-2.4(f) goes far beyond the regulation with regards to the information which may be requested of an applicant.

RESPONSE: This requirement does not broaden the scope of the rule but merely broadens the detail of the data, reports, specification, plans or other information submitted where such information is needed to make the application technically complete. The level of detail needed is facility and site-specific and will depend on the impacts of the facility, the review process and the public participation and public hearing process. An example would be where the environmental and health impact statement (EHIS) requirements specify that the traffic impact should be evaluated. While the applicant may perform a traffic analysis, the evaluation may inadvertently omit a critical intersection, which the Department, through the process of reviewing the traffic analysis, will require the applicant to reevaluate to make the application technically complete.

N.J.A.C. 7:26-2.4(g)

COMMENT: Two commenters stated that the rules fail to establish an outer time limit within which a final decision is made on the permit, specifically after the end of the public comment period.

RESPONSE: The time frame established in the rule is in conformance with the Solid Waste Management Act as set forth at N.J.S.A. 13:1E-5.1. Due to the different time frame demands posed by the different solid waste facilities, such a deadline would be inconsistent with the Department's statutory responsibility to ensure protection of the public health and safety and the natural environment.

N.J.A.C. 7:26-2.4(g)1 and 2 (now 2.4(a))

COMMENT: A comment was received which suggested that these paragraphs should be in a separate section preceding the application requirements because the structure is confused.

RESPONSE: The Department has reviewed the format and agrees with the comment. The Department has moved the language proposed at N.J.A.C. 7:26-2.4(g)1 and 2 to N.J.A.C. 7:26-2.4(a).

N.J.A.C. 7:26-2.4(g)4 (now 2.4(g)2)

COMMENT: Two comments were received which stated that the time frame to determine administrative completeness is too long and should be decreased from 60 days to 15 days.

RESPONSE: While the Department has established a 60 day time frame for the determination of administrative completeness, it does not preclude the Department from acting sooner, which would be the case if an application were administratively complete. However, due to the length and complexity of applications and staff resources, the Department believes that a maximum of 60 days may be necessary to complete its administrative review.

N.J.A.C. 7:26-2.4(g)14 (now 2.4(g)11)

COMMENT: Two comments were received which requested that this paragraph be modified such that if the Department does not respond within six months of the date of an administratively complete application, the failure to respond should constitute approval of the application.

RESPONSE: The commenters' suggestion is rejected because to deem an application "approved" where the Department fails to act may result in the construction and operation of a solid waste facility that could have an adverse impact on the public health, welfare and the environment.

N.J.A.C. 7:26-2.4(g)17 (now 2.4(g)14)

COMMENT: A comment was received which requested an additional notification to the Pinelands Commission be included in N.J.A.C. 7:26-2.4(g)14i(3).

RESPONSE: The Department has and will continue in its review procedures, to transmit a copy of the application and any and all addenda to the Pinelands Commission, where applicable, and will transmit a notice of the hearing with a tentative approval to the Pinelands Commission as set forth at N.J.A.C. 7:26-2.4(g)14i(3). The Department maintains that this requirement is best resolved on a case-by-case basis and has not inserted the recommended revisions.

N.J.A.C. 7:26-2.4(g)23 (now 2.4(g)20)

COMMENT: A comment was received which recommended that the public hearing under the various Departmental programs be consolidated so an applicant and the public need only attend one public hearing.

RESPONSE: While the Department, as a matter of policy, does consolidate its public hearings to include all Department permits required to hold a public hearing, the statutory notice and public comment provisions for the various Divisions within the Department are substantially different. The Division of Solid Waste Act as set forth at N.J.A.C. 13:1E-5.1 and does not supersede other Departmental notices and public comment procedures, which have been developed in accordance with applicable statutes and rules.

N.J.A.C. 7:26-2.4(g)25 (now 2.4(g)23)

COMMENT: A comment was received which requested clarification of the time frame for notification of the Department decision in the DEP Bulletin in initiating the request for an administrative hearing. The commenter requested that the Department notify the applicant when notification will be published in the DEP Bulletin. In addition, this commenter objected to the limitation of requests for an administrative hearing based on issues raised by the applicant during the public comment period.

RESPONSE: The Department has reviewed this requirement and has decided to modify the notification procedure. The 20 calendar day clock will start upon notification by the Department of its decision to the applicant by registered mail.

In regard to limiting those issued open to administrative hearings, it is the applicant's responsibility as stated in N.J.A.C. 7:26-2.4(g)17, to raise all reasonable ascertainable issues and submit all reasonable available arguments and factual grounds supporting this position by the close of the comment period if the applicant believes that any aspect of the tentative approval is inappropriate. If the tentative approval is changed based on the public comment period, the applicant is afforded the opportunity to request a reopening of the public comment period.

N.J.A.C. 7:26-2.4(g)27 (now 2.4(g)24)

COMMENT: Comments were received which requested that the 30 day period, following receipt of a hearing request, to resolve disputes before transferring the matter to the Office of Administrative Law (OAL) be reduced and that such contested cases be immediately processed by OAL and the 30 day waiting period be deleted.

RESPONSE: The procedures followed in regards to the administrative hearing are in accordance with the Administrative Procedure Act in N.J.S.A. 52:14B-1 et seq. and the rules promulgated thereunder at N.J.A.C. 1:1.

N.J.A.C. 7:26-2.5(e)

COMMENT: A comment was received which requested that this subsection be clarified to allow the applicant the option of making a presentation at the public hearing.

RESPONSE: The provision as set forth at N.J.S.A. 13:1E-5.1(d) requires that the applicant be present at a hearing to answer questions relating to the facility. The Department has reviewed this request and N.J.A.C. 7:26-2.4(g)12iv and has decided to revise the wording in this subsection to clarify the intent to require all interested parties, including the applicant, to raise all issues pro or con in regards to the tentative decision during the public comment period on such applications.

N.J.A.C. 7:26-2.5(k)

COMMENT: Two comments were received which recommended limiting the costs which the applicant is required to pay.

RESPONSE: The Department has reviewed this requirement and has decided not to make the suggested revisions. The cost of the public hearing includes the cost of advertisement and transcript preparation costs.

N.J.A.C. 7:26-2.6

COMMENT: A comment was received which stated that no administrative hearing requirements are referenced in this section and should be included.

RESPONSE: The right to an administrative hearing is set forth in the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., for any final decision of the Department in regard to the application review process.

N.J.A.C. 7:26-2.6(a)3

COMMENT: A comment was received which questioned the intent to utilize this paragraph to implement wholesale changes to existing Certificates prior to the expiration date of the Certificate.

RESPONSE: In order to modify or revoke and reissue a permit, the Department must follow the procedures for modification or revocation set forth in this subchapter, and prove that the conditions which exist necessitate the modification or revocation and reissuance for the facility to be operated in an environmentally sound manner.

N.J.A.C. 7:26-2.6(d)1

COMMENT: A comment was received which requested a revision to this paragraph's requirement that an opportunity for a public hearing be provided in cases of replacement of materials in kind. The commenter suggested that replacement of materials in kind be allowed without providing an opportunity for a public hearing.

RESPONSE: The Department has reviewed the comment made in regard to this paragraph, agrees with the comment and has modified this paragraph to incorporate the requested change. Replacement of materials or equipment in kind would not result in a modification of any permit condition and the paragraph in N.J.A.C. 7:26-2.6(d) falls under the heading of minor modifications which do not require further public notice. It should be noted that the Certificate of Approved Registration and Engineering Design Approval (CAREDA), a permit issued by the Department, references the approved engineering design including equipment and material as set forth in the design of record. Any change in the specific equipment as approved by the Department would require notification to the Department for the permit to remain valid.

N.J.A.C. 7:26-2.7(a)

COMMENT: A number of comments were received which questioned the basis for the Department's decision to limit permits to five years. A commenter stated that the five year term will make financing of resource recovery facilities and transfer stations impossible and that the public or private sector will not be inclined to provide needed landfills and transfer stations.

RESPONSE: As stated in the Basis and Background Document, the Department recognizes that many facilities must remain open for periods of time longer than five years to be economically viable. The Department has decided to issue five year permits and allow for their renewal in order to be consistent with other programs administrated by the Department. Since many facilities will receive permits from these other agencies as well, this would allow for a more administratively manageable process. The procedures developed in this subsection allow for the renewal of the permit provided the facilities remain in the applicable district solid waste management plan. The Department has, to date, permitted resource recovery, sanitary landfills and transfer stations with five year permit durations.

N.J.A.C. 7:26-2.7(a)2

COMMENT: Two comments were received which stated that an expansion, extension and enlargement beyond the permitting capacity should not require new permits but a permit modification.

RESPONSE: The Department's review of the facility's environmental and health impact statement is based largely on the capacity of the facility. This capacity translates into environmental impacts generated by the facility which must in turn be evaluated by the Department. To suggest that the facility be permitted at one capacity, and that capacity being the limits on which the environmental impacts were evaluated and determined to be acceptable, and then allow an expansion without a subsequent reevaluation by the Department and its associated public review, would be in direct contravention of the intent and purposes of the rules and legislative mandate of the Solid Waste Management Act. Further, in regard to the comment on the development of the section to allow interim extensions, as necessary, to alleviate crisis situations, this provision is already set forth at N.J.A.C. 7:26-2.6(e)3 and 4.

N.J.A.C. 7:26-2.7(b)1

COMMENT: A comment was received which stated that the submission of an application for a new permit at least 90 days prior to expiration date is not sufficient.

RESPONSE: A permit renewal, if all conditions are to remain the same, and neither the registrant nor the Department requires the modification of the permit, should be issued within 90 days. However, if during this review process for the renewal application, it is determined that a permit modification is necessary, then the Department may allow the existing permit conditions to continue in accordance with N.J.A.C. 7:26-2.7(c), or impose interim conditions depending on the degree of impacts on human health or the environment in accordance with N.J.A.C. 7:26-2.6(e), while it reviews and makes a final decision on the permit renewal.

N.J.A.C. 7:26-2.7(c)

COMMENT: A comment was received from the Pinelands Commission which requested that this subsection be revised to allow for renewal of those landfills in the Pinelands Area being approved by the Pinelands Commission.

RESPONSE: The Department agrees with the comments offered by the Pinelands Commission; however, no changes to the language in this provision are required since the procedures referenced in N.J.A.C. 7:26-2.7(b)4 will include review by all permitting agencies.

N.J.A.C. 7:26-2.7(b)2iv

COMMENT: A commenter stated that this subparagraph is too general and further requested that the Department define and delineate the restrictions to be implemented in terms of environmental analysis.

RESPONSE: While the Department can understand the concern expressed by the commenter and has done as requested where information is required to be submitted, in this instance, there appears to be some confusion as to the definition of a disclosure statement. The Department incorrectly referenced N.J.A.C. 7:26-2.16 which has been corrected to the current reference of N.J.A.C. 7:26-16.6. A definition for disclosure statement is contained in N.J.A.C. 7:26-16.6 which was promulgated in accordance with N.J.A.C. 13:1E-126 et seq. commonly referred to as "A-901."

N.J.A.C. 7:26-2.7(d)

COMMENT: A commenter stated that there is no statutory basis for requiring pre-approval of the transfer of a permit to a new owner/operator.

RESPONSE: The Solid Waste Management Act as set forth at N.J.S.A. 13:1E-5 states that "no person shall engage or continue to engage in the collection or disposal of solid waste in this state without receiving approval from the Department." In addition, the Act states that no person may proceed to construct, acquire or operate any solid waste facility without first having obtained approval from the Department in which it has been determined that the facility is in compliance with the adopted and approved solid waste management plan of the appropriate district in which the facility is located and that the facility will be constructed, acquired or operated in accordance with all standards adopted and promulgated by the Department. Further, the Act clearly makes the owner/operator identify an integral part of any such decision.

N.J.A.C. 7:26-2.7(d) (now 2.7(e))

COMMENT: Two comments were received which suggested that the six month notice required prior to transfer of a solid waste facility permit is unreasonable for business purposes; since such changes occur rapidly and are very difficult to anticipate six months in advance.

RESPONSE: The Department has reviewed this provision in light of the statements made and agrees that the non-compliance with time frame constraints should not in and of itself be grounds for denial of the transfer of the permit. However, it should be noted that any transfer must be pre-approved by the Department and that the time frame for such approval, with the need for compliance with N.J.A.C. 7:26-16, should be recognized and appropriately planned for.

N.J.A.C. 7:26-2.8(b)

COMMENT: A commenter stated that the contents of the annual registration statement as required by this subsection should not be expanded beyond the one currently in use.

RESPONSE: The registration statement that is currently in use reflects the rules in effect prior to the adoption of these rules. Since the rules have been revised, the registration statement may need to be revised to reflect the changes.

N.J.A.C. 7:26-2.8(e) and (f)

COMMENT: A comment was received which requested that the provisions of these subsections be revised to allow for the issuance of a conditional permit in the absence of an approved disclosure statement.

RESPONSE: The amendment to the Solid Waste Management Act at N.J.S.A. 13:1E-133 is specific in that it states that no license, which is defined as the initial approval of the registration statement or engineering design, shall be approved by the Department without an approved disclosure statement except as exempted pursuant to N.J.A.C. 7:26-16.5(c). This subsection allows the Department to issue a temporary license for not more than one year in certain limited circumstances.

N.J.A.C. 7:26-2.8(g)

COMMENT: A comment was received which questioned the Department's use of this subsection to deprive a registrant of the vested rights under an existing permit.

RESPONSE: The provisions of this subsection prohibit the continued operation of solid waste facilities without an approved solid waste facility permit. There is no deprivation of vested rights.

N.J.A.C. 7:26-2.9

COMMENT: A number of comments were received which questioned the extensiveness of the EHIS requirements and suggested that the scope of the EHIS be facility-specific and that the requirements for an EHIS be developed on a case-by-case basis. One commenter stated that the rules should contain a provision allowing the Department to waive any portion of the EHIS requirement if the applicant can demonstrate that it can be shown that consideration of a certain factor is unnecessary or inappropriate.

RESPONSE: The Solid Waste Management Act requires the Department to evaluate the environmental and health impacts of a proposed solid waste facility and require the mitigation measures necessary to ensure that the facility will be constructed and operated in an environmentally sound manner. The Department has determined that the extensive requirements are necessary to meet the statutory requirements and the public's demand for the construction and operation of environmentally sound facilities. However, the Department agrees that the EHIS for a facility should be as site specific as possible. The language of N.J.A.C. 7:26-2.9(b) clearly states that the magnitude of the EHIS should be relative to the nature, scale and location of the proposed facility. This is one of the reasons the Department requires a pre-application meeting, so that the Department's EHIS requirements can be tailored to the proposed facility.

N.J.A.C. 7:26-2.9(c)8ii

COMMENT: A comment was received which stated that modeling techniques required as part of the environmental assessment are only as valid as the data assumptions that are used as input into the model. Therefore, the modeling effort should be considered as providing only an approximation of the site specific impacts.

RESPONSE: The Department recognizes the limitations of modeling for the assessment of impacts and risk and as part of its review of the EHIS and engineering design will be evaluating the data base used to input into the model. If an acceptable modeling technique is not available, the submission of an assessment based on best professional judgment is allowed, provided a detailed description of the logical reasoning and assumptions is provided.

N.J.A.C. 7:26-2.9(c)9

COMMENT: A comment was received which questioned the statutory authority to require the submission of a health impact assessment expanding the EIS to an EHIS.

RESPONSE: The Solid Waste Management Act at N.J.S.A. 13:1E-6 authorizes the Department to develop codes, rules and regulations regarding the submission of an environmental impact statement and to develop standards to protect the public health and safety and the natural environment. The Department has determined that the questioned requirements are necessary to adequately meet the statutory mandate to evaluate the impacts of a proposed solid waste facility to protect the public health and safety.

COMMENT: Comments were received which, while concerned with the issues of community health and supportive of performance standards to preclude any adverse health impact, stated that the EIS should provide enough information to evaluate the potential health impacts associated with the proposed facility.

RESPONSE: The Department disagrees with this comment. In order to meet its statutory mandate and to properly evaluate the impacts of solid waste facilities on the public health and safety, the Department has included the health impact assessment requirements. The Department recognizes that the requirements overlap in other sections of the EHIS and has modified this section to clarify what areas of concern are to be evaluated. The modification has limited the evaluation to the discharges from sanitary landfills and the emissions from thermal destruction facilities.

COMMENT: Comments were received which questioned the requirement to perform health risk assessment modeling because of the limit in the state-of-the-art in risk assessment and the availability of data to allow for a meaningful analysis.

RESPONSE: The Department agrees that the state-of-the-art in health risk assessment modeling is limited at this time. Because of this, the Department has revised the requirement to allow for a qualitative analysis of the potential impacts which at this point in time is the limit of the state-of-the-art advances. However, the Department's position is that the health risk assessment is a tool to be utilized to evaluate a solid waste facility's performance and to compare its overall relative risk. At this time, it is not a measure to be utilized to design a solid waste facility. The Department has revised the requirement to allow for a qualitative analysis of the potential impacts which at this point in time is the limit of the state-of-the-art. The Department will revise this paragraph as the state-of-the-art advances.

N.J.A.C. 7:26-2.9(c)11

COMMENT: The environmental health impact statement requisites should include a comparison of alternative locations for the proposed facility.

RESPONSE: The comparison analysis is appropriate during the planning process. The EHIS is part of the design permitting process.

N.J.A.C. 7:26-2.9(d)

COMMENT: A comment was received which requested that the EHIS for a small-scale facility include a discussion of the impacts on Pinelands Areas. In particular, facilities in Pinelands Areas should indicate how the facility will conform or conflict with the Pinelands Comprehensive Management Plan.

RESPONSE: The Department agrees with the comment and has modified this subsection to include these requirements.

N.J.A.C. 7:26-2.9(d)1 and 2

COMMENT: A comment was received which suggested that the requirements for small-scale facilities be modified to include the submission of a soils map.

RESPONSE: In regards to the leaf composting facility, small-scale materials recovery facilities and transfer stations, the Department agrees with this suggested change and has modified the rule. However, in regards to the small-scale thermal destruction facilities, a soil survey will supply no additional information relative to the environmental impact of the facility since these types of facility are typically constructed in an existing structure such as a hospital or an apartment complex and seldom require the need for new construction.

N.J.A.C. 7:26-2.9(f)

COMMENT: A commenter questioned the extensive requirements for a preliminary environmental and health impact statement (PEHIS). He stated that the requirements of the PEHIS almost parallel the requirements for a final EHIS. In addition, he also stated that the rules do not specify a time-table for the completion of the review of the PEHIS.

RESPONSE: The requirements for a PEHIS have been developed to allow the Department to make an evaluation of the facility at a particular site and to deny or approve, on a preliminary basis, that site, prior to the submission of the complete application package.

Information required from the applicant at this stage is assessed in terms general impacts. The Department does not require an environmental assessment based on vendor-specific design requirements, which may not be available at this early point. No statutory time frame has been set forth in the Solid Waste Management Act for the review of a PEHIS. Proper planning by the applicant should be allowed for in regard to the submission of a PEHIS realizing the depth of the Department's review. The Department reviews all submissions in as expeditious a manner as possible given the site and facility specific constraints.

COMMENT: The proposed rules regarding submission of a preliminary environmental impact statement (PEIS) for approval are without a legal basis in the Solid Waste Management Act.

RESPONSE: The Appellate Division of the New Jersey Superior Court decided, in *IMO Approval of Sussex County Preliminary Environmental Impact Statement,* S.O. A-4696-85T8, January 16, 1987, that N.J.S.A. 13:1E-26 afforded the Commissioner ample discretion to break environmental impact statement approval into a two-stage process (the first stage being PEIS approval).

N.J.A.C. 7:26-2.10

COMMENT: A commenter requested clarification of the applicability of the requirements in this section to existing facilities.

RESPONSE: The requirements of N.J.A.C. 7:26-2 apply to all new solid waste facilities and all existing facilities proposing an expansion. The provisions of this section apply to the submission of any engineering design required by N.J.A.C. 7:26-2.10(a).

N.J.A.C. 7:26-2.10(b)4 and 5

COMMENT: A comment was received which suggested that the applicant be allowed to submit multiple maps to enumerate and clarify the submission information requested or to submit maps with different scales to show more clarity. In addition, it was recommended that the scale of the zoning information be changed to a smaller scale.

RESPONSE: The Department agrees with the suggestion and has always accepted such submissions as a matter of practice. The wording of these paragraphs has been modified to allow for this practice. In addition, the zoning designation has been modified to allow a general description of the zoning on the key map and a specific zoning designation on the vicinity map. Further, the one-half mile radius has been increased to one mile to be in compliance with the EHIS requirements specified at N.J.A.C. 7:26-2.9(e)3.

N.J.A.C. 7:26-2.10(b)7

COMMENT: A comment was received which requested that the Department require that a soils report be submitted as part of the geotechnical report.

RESPONSE: The Department agrees with the comment because a soils report is necessary to evaluate the adequacy of the soils on-site and has modified this paragraph appropriately.

N.J.A.C. 7:26-2.11(b)

COMMENT: A comment was received requesting that N.J.A.C. 7:26-2.11, 2A.8 and 2B.8 be reviewed to ensure consistency.

RESPONSE: The Department's intent in regard to the proposed rules was to develop the requirements to ensure consistency between the operational requirements of the various sections developed. The requirements set forth at N.J.A.C. 7:26-2.11 are general operational requirements which apply to all solid waste facilities. Additional and more specific operational requirements were developed for sanitary landfills and thermal destruction facilities at N.J.A.C. 7:26-2A.8 and 2B.8 respectively. The Department has reviewed all three sections for consistency and found them to be consistent.

N.J.A.C. 7:26-2.11(b)2

COMMENT: A comment was received which stated that the Air Pollution Control Act, N.J.S.A. 26:2C-1 et seq. and the rules promulgated thereunder are the appropriate vehicle for regulating odors and that separate odor rules under the Solid Waste Management Act are unauthorized.

RESPONSE: The Solid Waste Management Act at N.J.S.A. 13:1E-6 clearly authorizes the Department to develop codes, rules and regulations regarding the construction, acquisition and operation of solid waste facilities specifically in the area of odor control problems.

N.J.A.C. 7:26-2.11(b)3

COMMENT: A comment was received which suggested that N.J.A.C. 7:26-2.11(b)3 should be revised to allow for methods, such as fencing, of effectively preventing wind-blown papers and other light weight materials from leaving the property, and that, with this revision in place, N.J.A.C. 7:26-2A.8(b)22 should be deleted.

RESPONSE: The requirements of N.J.A.C. 7:26-2.11(b)3 are generally applicable to all solid waste facilities, while the provisions of N.J.A.C. 7:26-2A.8(b)22 add specific requirements for the control of litter at the working face of sanitary landfills.

N.J.A.C. 7:26-2.11(b)9

COMMENT: A commenter stated that the sentence of this paragraph on vehicle registration should be rewritten in that it could be misinterpreted.

RESPONSE: The Department agrees and has modified this paragraph to include a reference to N.J.A.C. 7:26-3. This modification makes the sentence clear.

N.J.A.C. 7:26-2.11(b)11

COMMENT: A comment was received which stated that failure to comply with other permits issued to a facility should not result in additional sanctions under the solid waste management rules and should be deleted.

RESPONSE: A Solid Waste Facility Permit is issued to a solid waste facility only after its environmental impacts have been reviewed and found to be acceptable. That determination is made, in certain cases, with conditions that require compliance with other permits issued by the various environmental management and control agencies and natural resources agencies of other State agencies. Failure to comply with those permit limits and conditions could result in a situation in which the Department determines that the solid waste facility is not being operated in an acceptable manner. For this reason, the Department must be able to impose those sanctions available to it in order to force the permittee to resume the proper operations of the facility.

N.J.A.C. 7:26-2.11(b)12

COMMENT: Two comments were received which state that this paragraph should apply only to new facilities since it would not be practical for many existing facilities.

RESPONSE: The Department has determined that this requirement is necessary to ensure an environmentally sound operation. Therefore, in order to be in compliance with the requirement, existing facilities will have to segregate and secure waste types which are received by the facility but which the facility is prohibited from accepting. The Department is requiring that the procedures used to segregate and secure these waste types and the area for secure storage be delineated. The requirement does not preclude the use of the delineated secure area when no authorized waste is present. However, a secured area must be available if such unauthorized waste is received.

N.J.A.C. 7:26-2.11(b)14

COMMENT: A commenter stated that there is no statutory authorization for such broad right of entry and inspection and that any such authorization would be unconstitutional.

RESPONSE: N.J.S.A. 13:1D-9 authorizes the Department to enter and inspect any building or place to insure compliance or noncompliance with any codes, rules and regulations of the Department. Also, N.J.S.A. 13:1E-9 authorizes the Department to enter a solid waste facility at any time in order to determine compliance with the provisions of all applicable laws or rules and regulations. To date, no court has found these statutes to be unconstitutional.

COMMENT: A commenter recommended that the Department give the applicant the opportunity of split sampling whenever the Department samples on-site.

RESPONSE: The opportunity to split sample is always available to the permittee and is not precluded by this paragraph.

N.J.A.C. 7:26-2.11(b)16

COMMENT: Two comments were received which stated that the placing of restrictions on the type of equipment to be utilized at the facility is unpractical and that such a restriction goes beyond the regulation of a facility.

RESPONSE: The Department's evaluation of the impacts on the environment by a solid waste facility are dependent on the analyses of the equipment specified for construction and operation at the proposed facility. The issuance of a permit to construct and operate is dependent on the Department's determination that the facility as constructed, including the equipment on-site, will not result in a significant adverse impact on the environment. If the facility's construction and operation, including the equipment, is modified without notification and approval by the Department, the modification could result in the Department's determination that the facility is being operated in an environmentally

unsound manner. The replacement of equipment in kind and upgrading are defined as minor modifications and require only that the permittee notify the Department of such replacement.

N.J.A.C. 7:26-2A.1(c)1

COMMENT: A comment was received which questioned the application of subchapter 2A requirements to existing sanitary landfills which are expanding their existing permitted operations onto previously unfilled permitted areas.

RESPONSE: Since each "section" of an existing sanitary landfill receives Departmental approval of the engineering design for that section at the time the landfill is expanded, it is reasonable to apply the current requirements of subchapter 2A in regard to that review.

N.J.A.C. 7:26-2A.1(c)2

COMMENT: A commenter stated that the requirements of subchapter 2A should not apply to existing sanitary landfills operating as an open dump or in an environmentally unsound manner until the permit expires.

RESPONSE: The Solid Waste Management Act, N.J.S.A. 13:1E-1 et seq., requires the Department to ensure that solid waste facilities are operated in an environmentally sound manner. When it determines that such a facility is not operating in such a manner, the Department must, through a modification, revocation and reissuance or an enforcement action, require permit changes to the permit of the facility so that it will be operated in an environmentally sound manner. Both the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and the Solid Waste Management Act, N.J.S.A. 13:1E-1 et seq., adequately afford the permittee due process protection.

COMMENT: A commenter stated that the criteria for determination of an environmentally unsound facility should be included in the rules.

RESPONSE: The term "environmentally unsound" has been defined in N.J.A.C. 7:26-1.4.

N.J.A.C. 7:26-2A.4(k)

COMMENT: A comment was received which stated that the Department has been unilaterally issuing NJPDES permits to solid waste facilities, many of which have been challenged and are subject to hearing before the Office of Administrative Law. The commenter did not read subsection (k) as indicating that those facilities are out of compliance with the rule because of a pending challenge in the Office of Administrative Law to the NJPDES permit.

RESPONSE: A permittee must comply with all operative conditions of its NJPDES permit.

N.J.A.C. 7:26-2.4(l)

COMMENT: A comment was received requesting the Department to allow an applicant to construct a sanitary landfill within the area of airports provided an effective bird control system is submitted.

RESPONSE: The Department agrees with the comment and has revised this subsection to clarify the intent to allow the construction and operation within the area of airports provided an "effective" bird deterrent plan is submitted and approved by the Department and the Bureau of Aviation of the Department of Transportation.

N.J.A.C. 7:26-2A.5(a)1i

COMMENT: A commenter recommended that the regional map submitted as part of the engineering design include all private, public and institutional wells.

RESPONSE: N.J.A.C. 7:26-2A.5(a)1ii requires the delineation of all water wells.

N.J.A.C. 7:26-2A.5(a)5iv.

COMMENT: A commenter questioned the feasibility of submitting material testing results prior to the approval of the permit, since the actual sources of these materials may depend on which contractor is awarded the bid for construction. An alternative suggestion would be to specify design criteria for the various materials and have them included in the plans and specifications in the bid package.

RESPONSE: This approach would be acceptable if the applicant was constructing a "structure," since "structures" are inspected and approved after approval of the Department's environmental permits. However, in the construction of a sanitary landfill the Department must know the nature of material in order to issue the permit. Therefore, these results must be submitted to the Department prior to the issuance of the permit and where applicable on an on-going basis during construction as required by N.J.A.C. 7:26-2A.7.

N.J.A.C. 7:26-2A.5(a)6ii

COMMENT: A comment was received which recommended that the soil reports requirements be expanded to include:

1. Describe thickness and Munsell color of each soil horizon;
2. Texture of each soil horizon;
3. Soil horizon boundary;
4. Estimate of coarse fragments in each horizon;
5. Depth to fragipan and other restrictive soil features;
6. Depth and description of soil mottles, observed in a soil horizon (seasonal high water table);
7. Depth to apparent water table;
8. Slope expressed in percent;
9. Soil toxonomic mane based on the Soil Toxonomy published by the Department of Agriculture; and
10. Other pertinent soil features of importance.

RESPONSE: The recommended additions are presently required by N.J.A.C. 7:26-2A.5(a)6ii and vi.

N.J.A.C. 7:26-2A.5(a)6iii

COMMENT: A comment was received which recommended that the Department delete the requirement for a detailed rock study at all proposed sanitary landfills and require such a study depending on the site-specific geological conditions.

RESPONSE: This subparagraph does not require the submission of a detailed rock study. It requires the submission of a general geologic map based on information which has already been published. A detailed rock study would be required by N.J.A.C. 7:26A-2A.5(a)6i(2) and 6vii based on site-specific conditions.

N.J.A.C. 7:26-2A.5(a)6iv(3)

COMMENT: A commenter pointed out the Department had developed a conflict in the rule by requiring that a soil boring grid pattern be developed across the landfill, which enables the accurate definition of the geology, and the recommendation that the number of borings in the proposed landfilling area be minimized. He suggested that this conflict may be adequately overcome and the concerns resolved by requiring that proper sealing techniques be used when drilling in the proposed active landfilling area.

RESPONSE: The Department agrees that the potential for conflict exists. The Department recognizes the need to balance the requirements to obtain sufficient detailed information and to minimize the potential pathway of exposure within the proposed active landfilling area. However, it also recognizes that the degree of concern is greater in obtaining upfront, sufficient detailed information and has required that the grid pattern enable the development of detailed cross sections. The Department has only recommended that the number of borings in the proposed active landfilling area be minimized, recognizing that proper sealing techniques could overcome potential pathways of exposure. The Department is requiring at N.J.A.C. 7:26-2A.5(a)6vi(13) that all borings not utilized as permanent monitoring wells be sealed in accordance with N.J.A.C. 7:9-9.

N.J.A.C. 7:26-2A.5(a)6vi

COMMENT: A commenter suggested that test pits be allowed in place of borings in this subparagraph setting forth requirements for preparing the site specific report and that Table I, "Borings," be modified to read "Borings/Test Pits."

RESPONSE: The Department cannot agree to accept test pits in place of borings because of the limited extent of test pits. However, the rules allow for the use of test pits to supplement the information required by Table I, "Borings," and not in place of the number of borings.

COMMENT: A commenter suggested that the number of borings be conditioned on the total landfilled area and not the total of the sanitary landfill property.

RESPONSE: The number of borings are required based on the total acreage of the sanitary landfill property because the performance standard is set at the property line. Therefore, the hydrogeology of this area must be quantified and the number of borings required is a function of the total area.

N.J.A.C. 7:26-2A.5(a)6vi(3)

COMMENT: A comment was received which stated that the arrangement of exploratory holes should not be in a grid pattern. The commenter recommended that the boring locations be based on the site configuration.

RESPONSE: The Department agrees with the comment and has already incorporated this recommendation at N.J.A.C. 7:26-2A.5(a)6vi(3), which recommends a grid pattern where possible.

N.J.A.C. 7:26-2A.5(a)6vii

COMMENT: A comment was received which recommended amending this subparagraph which requires the submission of a site specific geologic map to include a site specific soil map.

RESPONSE: The Department is not amending this subparagraph to include a site specific soil map because the Department's concern in this area is to accurately define the site's geology and hydrogeology and to describe the site's geotechnical properties. A site specific soil map is not required for this purpose.

N.J.A.C. 7:26-2A.5(a)7

COMMENT: A comment was received which questioned who is responsible for preparing the QA/QC report.

RESPONSE: The QA/QC report is part of the engineering design submission requirements and should be completed by the applicant and submitted to the Department.

N.J.A.C. 7:26-2A.6(c)2

COMMENT: Two comments were received which questioned the use of the Student's t-test for the evaluation of decreases in water quality and recommended an amendment to include equivalent statistical methods.

RESPONSE: The Department is not using the Student's t-test to monitor the significance of the difference between individual analysis on the same well but the difference in the increase in an existing water quality. In this case, the Student's t-test is an acceptable statistical analysis. However, the Department recognizes the concerns raised by commenter in that the Student's t-test may not be the only statistical test method available. Therefore, the Department has revised this paragraph to allow the use of equivalent statistical methodologies as approved by the Department.

COMMENT: A commenter objected to the use of potable water wells adjacent to the proposed landfill facility in regard to establishing a performance standard because these wells are outside the control of the landfill and many variables may contribute to an observed significant degradation in water quality which may not be attributed to the landfill.

RESPONSE: The Department is not establishing the use of adjacent potable water wells as a monitoring point but a compliance point for design purposes. The theoretical discharge from a sanitary landfill is to be modelled through the existing hydrogeology and the impact of this discharge, evaluated against existing conditions, demonstrating no significant decrease in the quality of existing potable water. A significant impact, as determined by a Student's t-test or equivalent statistical method, will require the upgrading of the design to meet the performance standards.

N.J.A.C. 7:26-2A.6(e)2 and 3

COMMENT: A commenter stated that the requirements for the construction of double composite liners for sanitary landfills is not justified. These requirements may, in some cases, be more appropriately applied to certain types of hazardous waste facilities.

RESPONSE: The Department does not site solid waste facilities; therefore, the Department has developed performance, design, construction, operations and maintenance standards. The requirements of the double composite liner system are to ensure that the performance and design standards established by the Department are met. The Department has developed these rules to ensure that the design, construction and operation of a sanitary landfill will not adversely impact the environment regardless of the location. The requirements for the double composite liner system have been developed for that area which the Department has determined requires the most protection and has modified this subsection to clarify this intent.

N.J.A.C. 7:26-2A.6(f)

COMMENT: A comment was received which stated that the provision to require three-dimensional mass transport modelling of the landfill performance may be, in some cases, too extensive and recommended that consideration of a one or two-dimensional mass transport model depending on the geometrics and uniformity of the geology and the use and location of the potable water.

RESPONSE: The Department has reviewed this subsection in regard to the comments submitted and current guidelines for modelling of proposed sanitary landfills and agrees with the above comment. The provision has been modified to allow for the use of a two-dimensional mass transport model, as approved by the Department.

N.J.A.C. 7:26-2A.6(g)

COMMENT: A comment was received which recommended adding public water supply watersheds as an environmentally sensitive area.

RESPONSE: The Department has delineated the area within one mile of a public water supply well or surface water reservoir as an environmentally sensitive area needing additional protection. The public water supply watershed is protected by the design and performance standards required to be implemented for the construction of a proposed sanitary landfill.

N.J.A.C. 7:26-2A.6(h)

COMMENT: A comment was received requesting that the performance standards for liner systems and leachate collection systems should be delineated and the specific criteria for upgrading a landfill should be defined for each of the environmentally sensitive areas defined by N.J.A.C. 7:26-2A.6(g).

RESPONSE: While the defined environmentally sensitive areas are broad and encompass, collectively, a large portion of the State, the required upgrading of the performance and efficiency of the environmental control system allows for site-specific mitigation in conjunction with the design, construction and operation of the sanitary landfill. The degree of the performance upgrading of the environmental control systems will be handled on a case-by-case basis as determined by the proposed location of the sanitary landfill and its potential impacts on the environmentally sensitive areas.

N.J.A.C. 7:26-2A.6(i)

COMMENT: A comment was received which stated that relating buffer zones as a function of ground water flow velocity is erroneous.

RESPONSE: The buffer zones are not established based on ground water flow. The buffer zone is set at 50 feet for all sanitary landfills. The Department has determined that the minimum set back distance required by this subsection is needed to protect the public health, safety and the natural environment. The minimum set back distance was developed, as referenced in the Basis and Background Document, to shield and buffer the surrounding environment from the landfill's operation, to allow for sufficient area for the implementation of remedial action should the need arise, to allow for sufficient distance to contain any possible migration, in addition to ensuring that the groundwater flow beyond the landfill property boundaries does not result in a degradation of the aquifer beyond the background quality or water quality standards.

COMMENT: A commenter stated that this subsection presupposes the locating of a landfill in an active water supply aquifer. The commenter states that a remotely located landfill can be constructed and operated in an environmentally safe manner with minimal buffer, less than 150 feet.

RESPONSE: The Department strongly disagrees with this comment. This subsection was not developed solely to protect the public health and was not developed based on the proposition that the landfill will be located in active water supply aquifer. While protection of the public health is a concern of the Department, it is also charged with the protection of the natural environment. To presuppose that because the consumption of a water supply is not presently active that environmental impacts will not be of any concern is short-sighted. The Department's concern in this regard is to protect fresh water and saline wetlands, and their associated aquatic wildlife and vegetation. The commenter fails to recognize that the impacts associated with the poor performance and efficiency of a proposed sanitary landfill could be devastating to these portions of the natural environment.

N.J.A.C. 7:26-2A.6(i)4

COMMENT: A commenter stated that the normal definition of a buffer zone is to provide landscaping which may not always be practical. The commenter suggested that this subparagraph should be revised to clarify that landscaping is not always required where not practical.

RESPONSE: The definition of a buffer zone as set forth at N.J.A.C. 7:26-1.4 requires that the buffer zone be landscaped and left undeveloped which the Department has determined would add to an environmentally and aesthetically pleasing environment. If existing vegetation is present in an area without visual impact, the Department will consider the remaining vegetation as part of the landscaping plan as required by N.J.A.C. 7:26-2.10(b)11. Therefore, the Department has not made the suggested change.

N.J.A.C. 7:26-2A.7(a)5

COMMENT: A commenter stated that the requirements to construct and operate the sanitary landfill beginning in the section which is most downgradient as required by this subparagraph is not necessary given the requirements at N.J.A.C. 7:26-2A.7(a)3 which specify that each modular unit be hydraulically isolated.

RESPONSE: While the provisions at N.J.A.C. 7:26-2A.7(a)3 require hydraulic isolation of each section, the degree of hydraulic isolation is dependent on the location, design, construction and operation of the sanitary landfill. Since hydraulic isolation cannot ensure 100 percent containment, it is in the best interest of the environment to begin construction in the area closest to the downgradient monitoring system to ensure adequate monitoring of the sanitary landfill from the initial construction and operation phases. Therefore, this paragraph has not been revised.

N.J.A.C. 7:26-2A.7(a)7

COMMENT: Two commenters recommended deletion of this paragraph requiring a quality assurance inspector in addition to the quality control inspector because it requires an additional layer of oversight which is unnecessary. The rule requires that an engineer must sign a certification statement that the sanitary landfill has been properly constructed in compliance with the permit and rules.

RESPONSE: The construction of the containment and leachate collection systems is the most critical aspect to ensuring that the sanitary landfill will operate in an environmentally sound manner. The quality assurance inspector's function is to perform the system's audits of the quality control inspections during the initial construction phase and his presence may be discontinued, provided his activities are carried out by the quality control inspector, after successful completion of the initial construction quality control testing phase. This initial construction phase is monitored by two inspectors based on the Department's experiences in the field of monitoring construction of solid waste facilities because this is the period of time when most construction problems develop and need to be resolved. The requirements for a quality control inspector and quality assurance inspector are in addition to the requirements for the engineering's certification of the proper construction of the landfill. The quality assurance and quality control reports are the necessary basis for the engineer's certification.

N.J.A.C. 7:26-2A.7(b)3i

COMMENT: A commenter stated that the selection of an appropriate factor of safety for foundation and slope stability depends on many factors and the specified factor of safety in this subparagraph may or may not be appropriate depending on actual conditions.

RESPONSE: As stated in the Basis and Background Document, the development of the factor of safety was based on the following: that repair to the liner or leachate collection system, should failure occur, would not be likely; that the consequences of failure would result in serious danger; and that the cost of repair would be much greater than the cost of construction. The Department established its factors of safety based on the guidelines recommended in the U.S. Environmental Protection Agency's (USEPA) "Permit Writer's Training Program," Terzaghi and Peck, "Soil Mechanics in Engineering Practice" and Lambe and Whitman, "Soil Mechanics."

N.J.A.C. 7:26-2A.7(b)3iii

COMMENT: A commenter stated that the factor of safety of 3 for the bearing capacity required by this subparagraph could be excessive.

RESPONSE: The factor of safety was developed based on the following: that repair to the liner or leachate collection system, should failure occur, would not be likely; that the consequences of failure would result in serious danger; and that the cost of repair would be much greater than the cost of construction. The Department established its factors of safety based on the guidelines developed by Vesic as reported in Winterkorn and Fang's, "Foundation Engineering Handbook" for hydraulic structures, and George B. Sower, "Introductory Soil Mechanics and Foundations: Geotechnical Engineering."

N.J.A.C. 7:26-2A.7(b)4xii(1) and (2)

COMMENT: A commenter stated that, while the provisions of this subparagraph allow for the construction within the potentiometric surface, performance or design standards should be established for this type of construction.

RESPONSE: The location for construction within the potentiometric surface, as allowed by this subparagraph, is limited to stable low permeable geological formations having a hydraulic conductivity of less than 1×10^{-6} cm/sec. The standard design and the related performance and efficiency is set forth at N.J.A.C. 7:26-2A.6(d). In addition, the performance standards set forth at N.J.A.C. 7:26-2A.6(c) will apply to all sanitary landfills regardless of design standards or construction requirements.

N.J.A.C. 7:26-2A.7(b)4xi

COMMENT: A comment was received which suggested that the requirement of this subparagraph in regard to the 1:3 slope is not necessary since side slope stability is a function of soil types and loading conditions. The commenter stated that slopes of 1:1.5 or even steeper could have an ample factor of safety.

RESPONSE: As stated in the Basis and Background Document, the design standards and construction requirements have been established at a level to avoid questionable performance or instability. The Department's experience in this area justifies the need for the slope restriction to avoid failures.

N.J.A.C. 7:26-2A.7(b)4xii

COMMENT: A comment was received which suggested that the depth to groundwater requirement of this subparagraph should be waived for ingradient conditions or for a design that would maintain intragradient conditions. The commenter stated that an ingradient design should be accepted by the Department.

RESPONSE: The provisions of this subparagraph do allow for the construction of the landfill within the saturated zone, an intragradient sanitary landfill, provided the geohydrological regime can support such a design. However, the Department agrees with the USEPA's position in this regard as cited in their guidance document "Landfill Design: Liner Systems and Final Cover" that construction in the saturated zone is "fraught with additional risks and design difficulties" but "given certain hydrogeological circumstances and accommodating designs, locations in saturated soil can be environmentally acceptable."

N.J.A.C. 7:26-2A.7(c)2ix(2)

COMMENT: A commenter stated that the liner industry as a whole has questioned the value of EPA Test Method 9090 in regard to synthetic membrane liners and that EPA Test Method 9090 should be deleted and substituted with the phrase "appropriate chemical compatibility tests".

RESPONSE: At present the only appropriate chemical compatibility test is EPA Test Method 9090 and therefore the Department will not insert the recommended change. At such time as an alternative to EPA Test Method 9090 is adopted by EPA, the Department will evaluate the appropriateness of its inclusion in these rules.

N.J.A.C. 7:26-2A.7(c)2x

COMMENT: A commenter stated that the quality control tests required by this subparagraph to be performed on the as built compacted liner systems must be provided in an efficient manner through the construction period. Therefore, if the Department chooses to observe these tests, an inspection should be developed with the applicant in order that construction delays are eliminated.

RESPONSE: The Department requires, as part of the engineering design, the submission of a quality assurance/quality control plan to establish the inspection and testing procedures and schedules. In addition, the Department requires that all daily quality control reports be maintained in a bound log book which is available at the job site at all times for inspection by the Department. The Department will establish the reporting procedures and frequency on a case-by-case basis with the quality assurance inspectors in accordance with the specific construction schedule.

N.J.A.C. 7:26-2A.7(c)2x(7)

COMMENT: A number of comments were received which questioned the use of the field infiltration test as required by this subparagraph to measure construction quality acceptance or rejection. A commenter suggested that actual field permeabilities (hydraulic conductivity) of the soils may range from one to three orders of magnitude higher than permeabilities (hydraulic conductivity) obtained in the laboratory.

RESPONSE: The Department does not intend to use the field infiltration test as a measure of construction acceptance or rejection. The measure of construction acceptance or rejection will be determined by the results of the laboratory analyses of the as-built liner's hydraulic conductivity in accordance with N.J.A.C. 7:26-2A.7(c)x(3) and (4). The Department will use the field infiltration data to verify the accuracy and precision of the design performance. The large variation in the field versus laboratory data stated by the commenter warrants the additional testing required by this sub-subparagraph which the Department maintains will encourage better construction.

N.J.A.C. 7:26-2A.7(c)2xi(2)

COMMENT: A comment was received which suggested changing the three times per day minimum testing requirement of this sub-subparagraph to a minimum of once per every 500 feet of the liner installed.

RESPONSE: The Department has not made the requested change because the provision requires that a minimum of three tests be performed. Additional testing should be performed by the applicant to ensure that the construction of sanitary landfills is in compliance with these rules and the permit. The Department has determined that the three times per day minimum establishes a good reference point to gauge construction performance throughout the construction day and liner installation phase.

N.J.A.C. 7:26-2A.7(c)3i

COMMENT: A comment was received which recommended that an additional test be added to this subparagraph to test for the Total Organic

Carbon (TOC) content of the clay material proposed for liner construction in order to analyze the cation exchange capacity of the soil clay fraction minus the humus fraction.

RESPONSE: The Department has revised this subparagraph to include the testing procedures to define the total and inorganic cation exchange capacity of the clay material proposed for use as a liner as suggested by the commenter. However, it should be noted that the primary review aspects of the design of a clay liner is not in terms of its ability to attenuate contaminant migration but for containment of the leachate generated.

N.J.A.C. 7:26-2A.7(c)4iv(4)

COMMENT: A comment was received which questioned the use of an underdrain system within the single composite liner system and suggested that the integrity of the system can best be maintained without this system in place.

RESPONSE: The Department has reviewed this provision and is in agreement with the comment made. The intent of this provision was to handle the potential flow from a failure in the geomembrane system and to intercept this flow at the interface of the geomembrane and the clay or admixture liner. The underdrain system was to be designed and constructed at the low point (that is, sump locations). However, this design requirement, after further analysis, presented more problems in regard to possible hydraulic backup into the underdrain system than would have been potentially mitigated by this system. Therefore, the Department has deleted this provision.

N.J.A.C. 7:26-2A.7(c)4iv(6)

COMMENT: A commenter suggested that the requirement of this subparagraph indicated a bias on the part of the Department in favor of Hypolon liners and against high density polyethylene liners.

RESPONSE: The provisions of this sub-subparagraph and the entire paragraph do not specify a specific geomembrane material. The geomembrane material must meet the minimum requirements of the National Sanitation Foundation's publication, "Standard Number 54 Flexible Membrane Liners". This sub-subparagraph requires a scrim reinforced geomembrane or a geomembrane of equivalent demonstrated strength so that it can withstand the stresses of the construction phase and ensure proper installation. The Department has no bias for or against any geomembrane material provided it can meet the requirements of this paragraph.

COMMENT: A commenter stated that scrim materials of polypropylene and fiberglass are not being used in today's industry and that the polyester scrim used today is hydrophobic and will prevent wicking. In addition, the scrim density standard in the industry is 10 by 10 and not the six by six minimum recommended in this sub-subparagraph. The comment recommended changes to make this sub-subparagraph technically accurate.

RESPONSE: The Department has reviewed the provisions of this sub-subparagraph in light of the comments submitted and has decided to revise the provision. The intent of the requirement of this sub-subparagraph was to prevent wicking in the scrim material by specifying hydrophobic materials and to require a scrim density that would ensure proper bonding of the laminated geomembrane sheets between the scrim material.

N.J.A.C. 7:26-2A.7(c)8

COMMENT: A comment was received which recommended that the cut-off walls required by this paragraph be used only for remedial action and mitigation of groundwater contamination migration or installed as a reserve system to a liner/leachate collection system because of the potential for creating a potentially large hydraulic gradient between the confined area and the surrounding ground.

RESPONSE: The Department requires that, in addition to a containment system, a leachate collection system be designed and constructed to control the leachate pressure on the containment system. With the leachate collection system in place, the design and construction of a cut-off wall would be acceptable. Since the Department cannot predict all the proposed geologic locations of sanitary landfills, it has developed rules which cover all potential design options. The provisions of this section do not require the construction of a cut-off wall but do require the construction of a containment system which may include a liner system and cut-off wall.

N.J.A.C. 7:26-2A.7(c)8ii

COMMENT: A commenter stated that the testing requirement of this subparagraph is time consuming and expensive, if done correctly. The commenter stated that it may only be necessary to characterize the permeability of the material by permeability tests, index testing or consolidation in which some room should be left for creative work.

RESPONSE: The Department is aware of the time constraints and expense of the procedure; however, it is also acutely aware of the costs and time constraints involved with designing a sanitary landfill in which an insufficient data base has been developed with which to make sound engineering decisions. The Department has not revised the requirements of this subparagraph because, considering the cost of repairing an improperly designed sanitary landfill, the testing cost and time required are a good investment for the environment.

N.J.A.C. 7:26-2A.7(c)8v

COMMENT: A commenter stated that, utilizing the testing requirement of this subparagraph, it will be very difficult to prove that the cut-off wall materials will be constructed of such materials to ensure that its conductivity will not be affected by waste emplacement or the leachate generated and that such testing has not, to date, been performed.

RESPONSE: Discussions with the geotechnical testing industry indicate that the EPA Test Method 9100 can be performed on the clay or admixture material proposed for use in cut-off walls and will adequately demonstrate the cut-off wall material's suitability to withstand the effects of waste emplacement or leachate generation. In addition, discussions with the bentonite industry indicate that a sufficient testing data base is available to require this provision.

N.J.A.C. 7:26-2A.7(c)9viii

COMMENT: A commenter stated that the reconstruction of the failed cut-off wall required by this subparagraph may create more problems, depending on quality control during construction, and suggested that a construction testing result greater than construction testing result of 1×10^{-7} cm/sec be allowed as an acceptance level for construction.

RESPONSE: The Department has established 1×10^{-7} cm/sec as the design factor for construction of the clay cut-off wall and will not accept a greater hydraulic conductivity in areas where quality control has indicated noncompliance with the design range. The Department has allowed for localization of the failure area and reconstruction, should a quality control test show noncompliance.

N.J.A.C. 7:26-2A.7(c)10xviii

COMMENT: A commenter stated that the provision of this subparagraph requiring that 100 feet of slurry wall be excavated and reconstructed in each direction from the point of failure after hydraulic conductivity testing, is too arbitrary and the point of failure should be allowed through additional testing to be isolated and reconstructed after its point of failure is localized.

RESPONSE: The provisions of N.J.A.C. 7:26-2A.7(c)10xvii established the requirements for testing the construction of the cut-off wall. In the event of failure of the construction quality control test, the Department will allow further testing to localize the test failure and minimize, if needed, subsequent reconstruction. This subparagraph addresses the issue of failure of the slurry trench, and not failure of the cut-off wall, in which slurry is lost from the trench. The required reconstruction of 100 feet in each direction is to ensure that failure does not reoccur and that the slurry within the trenching is brought back up to grade. In addition, the requirement is an accepted industry standard. Therefore, the Department has not revised this subparagraph.

N.J.A.C. 7:26-2A.7(d)2ii

COMMENT: A commenter stated that all the tests, except gradation (classification), required by this subparagraph on the soil proposed for use in the drainage layer are unnecessary for quality control testing.

RESPONSE: The tests required in this subparagraph are to be performed on the material proposed for use and are not quality control testing requirements. The proper operation of the drainage layer is not solely dependent on the gradation (classification). While the other information, required by the remaining tests, is a function of the gradation and can be estimated from the classification, it is necessary, in order to develop proper quality control limitations for the construction of the drainage layer, that the tests listed in this subparagraph be evaluated and properly designed for.

N.J.A.C. 7:26-2A.7(d)2iv

COMMENT: A commenter requested clarification of this subparagraph and requested that the term "effective" moisture input variable be defined.

RESPONSE: The moisture input into the model used to design the leachate collection system can be accomplished in two different manners, one as a real time variable and the other as an estimated "bulk" function. The Department recommends that infiltration be inputted as a real time variable and has revised this subparagraph to indicate this intent.

The provisions of this subparagraph were developed to allow for the use of models which input the moisture variable as an estimated "bulk" function. However, simply inputting this variable at a frequency averaged

over the entire year is unacceptable. At a minimum, the five years of meteorological data must be evaluated to develop an "effective" frequency which is established as that time between 0.1 inch precipitation events.

N.J.A.C. 7:26-2A.7(d)2v

COMMENT: A comment was received which questioned the need to require in this subparagraph a minimum hydraulic conductivity for the drainage layer since the liner slope, minimum thickness of the drainage layer and the spacing between leachate collection pipes are limiting factors on the design thereby negating the need for a limit on the hydraulic conductivity. If necessary to limit the hydraulic conductivity the commenter suggested that the standard be set at 1 x 10^{-3} cm/sec and not 1 x 10^{-2} cm/sec.

RESPONSE: The Department has established a standard design at N.J.A.C. 7:26-2A.6(d). This standard design establishes a specific performance and efficiency for both the containment and leachate collection systems. The Department will allow variances in this standard design provided the performance and efficiency of the standard design are met. In addition, the performance standard required by N.J.A.C. 7:26-2A.6(c) must be met for any design. Therefore, if the pipe spacing, liner slope or liner hydraulic conductivity or thickness are increased over the minimums specified in this section the hydraulic conductivity of the drainage layer may be decreased until the minimum specified in this section, 1 x 10^{-3} cm/sec. The Department has revised this subparagraph to clarify that a hydraulic conductivity of 1 x 10^{-3} cm/sec is the minimum requirement.

N.J.A.C. 7:26-2A.7(d)3iv

COMMENT: A comment was received which questioned the two feet per second cleansing velocity for leachate mains required by this subparagraph. This requirement coupled with the minimum size requirement of an eight inch leachate collection main will not be achievable in designing sanitary landfills.

RESPONSE: The requirement of N.J.A.C . 7:26-2A.7(d)3iv establishes a minimum flow velocity of two feet per second based on a full flow or half flow capacity of the leachate collection main and should be achievable with the limitations placed on the liner slope. The Department has not established a minimum self-cleaning velocity within the leachate collection pipes.

N.J.A.C. 7:26-2A.7(d)3viii

COMMENT: A commenter stated that the maximum allowable departure from grade of 10 percent of the inside diameters of the leachate collection pipe required by this subparagraph is an unrealistic standard and should be made less stringent to allow for realistic field conditions.

RESPONSE: The maximum allowable departure from grade, required by N.J.A.C. 7:26-2A.7(d)3viii, is not 10 percent of the inside diameter of the leachate pipe but that the piping system departure and alignment shall not result in a reduced efficiency of the leachate collection system.

N.J.A.C. 7:26-2A.7(d)3ix

COMMENT: A comment was received which suggested that the provision to construct the collection pipe within a gravel envelope inside geotextile fabric as required by this subparagraph be revised to allow for one side of the geotextile fabric envelope be left open to allow for proper drainage.

RESPONSE: The Department acknowledges the concerns expressed by the commenter but also recognizes the need to bridge the material of the gravel envelope and the drainage layer soils. The provisions of this subparagraph require that the coarse gravel envelope meet specifications or equivalents set forth at N.J.A.C. 7:26-2A.7(d)ix(1) through (5). The reference to the geotextile in this subparagraph has been deleted because the Department will allow any design option provided it can meet the requirements of N.J.A.C. 7:26-2A.7(d) ix(1) through (5). If the requirements of N.J.A.C. 7:26-2A7(d)ix(1) through (5) can be met, the leachate collection system should operate without clogging.

N.J.A.C. 7:26-2A.7(d)3xi

COMMENT: A comment was received which stated that the requirement of this subparagraph to install the leachate collection pipe within a shallow trench in a geomembrane liner utilizing high density would be difficult and expensive to accomplish and that this requirement should be deleted.

RESPONSE: The Department established this requirement to ensure proper drainage of the leachate on the liner and to provide for assistance in the supporting strength to the leachate collection piping system. Originally, the requirement was developed to include a depth and width requirement for the trench. The requirement, as proposed, based on the Department's evaluation of the provisions, was to only specify a depth and allow the applicant the discretion in constructing the width of the trench provided the piping system was designed with an increased strength to compensate for this change. This subparagraph was not modified because the rule allows for the construction of a shallow trench or depression, and does not specify a trench design.

N.J.A.C. 7:26-2A.7(d)3xxiii(3)

COMMENT: Two comments were received which questioned the needs for two separate sources of power for the leachate pump station and recommended that alternates include provisions for a portable generator.

RESPONSE: This sub-subparagraph allows for the use of a portable on-site generator (work based generator). The wording of this subparagraph has been revised to make this clear.

N.J.A.C. 7:26-2A.7(d)3xxiii(6)

COMMENT: A commenter questioned the provisions of this sub-subparagraph which set the number of pumps to be provided in the pump station and stated that the choice of pumps should be examined on a site specific basis.

RESPONSE: The Department has established, in this sub-subparagraph, the provisions for only the minimum number of pumps to be installed in the pump station. This requirement for a minimum of two pumps at the pump station is based on reasonable design standards. The Department expects that the selection of the pumps and the actual number of pumps will be determined on a site-specific basis.

N.J.A.C. 7:26-2A.7(e)2

COMMENT: A comment was received which requested N.J.A.C. 7:26-2A.7(e)2 permit as an option direct discharge of leachate to a publicly owned treatment works (POTW).

RESPONSE: N.J.A.C. 7:26-2A.7(e)2 permits direct discharge of the leachate to a POTW if pretreatment is not required. The evaluation of the suitability of the leachate to be discharged into the POTW will be determined by N.J.A.C. 7:26-2A.7(c)9.

N.J.A.C. 7:26-2A.7(e)7

COMMENT: A comment was received which suggested that it may be more efficient and cost-effective to permit an anaerobic treatment system to be utilized.

RESPONSE: The Department does not consider an anaerobic leachate treatment system to be an efficient design nor would it be cost-effective. The design would require additional cost to cover the tank or surface impoundment and to design and operate an odor control system to eliminate the odors produced by an anaerobic system. Additionally, anaerobic treatment is an incomplete treatment which severely limits its efficiency in terms of treatment.

N.J.A.C. 7:26-2A.7(e)10iii

COMMENT: A comment was received which suggested that the time frames in this subparagraph be extended to 24 months, given the required studies and necessary time frame for reviews of the studies and approved by the Department.

RESPONSE: The Department has developed the 12 month period in consideration of the studies to be performed and the necessary time frames for this review and approval. The Department has determined that the one year time frame is a reasonable period of time to allow for the processing of this option.

N.J.A.C. 7:26-2A.7(e)12iii

COMMENT: A comment was received which stated that the terms high and low in Table II of N.J.A.C. 7:26-2A.7(c)12iii should be defined in order to be understood.

RESPONSE: The Department has defined the meaning of the "degree of uncertainty of strength measurement—high/low" in N.J.A.C. 7:26-1.4.

N.J.A.C. 7:26-2A.7(e)13

COMMENT: A comment was received which requested the term storage tank in this paragraph be clarified so as to refer to a leachate tank storage.

RESPONSE: The Department agrees with this comment and has modified this paragraph to clarify the intent. However, it should be noted that all underground storage tanks at a solid waste facility must be registered with the Department.

N.J.A.C. 7:26-2A.7(e)13ii

COMMENT: A commenter requested that N.J.A.C. 7:26-2A.7(e)13 be modified to allow for design in which the tank will be located over the landfill's leachate collection system, thereby avoiding the need for a separate leachate collection system for the tank.

RESPONSE: If the leachate storage tank was within the area of the landfill's liner and leachate collection system, it would meet the minimum requirements and be in compliance with N.J.A.C. 7:26-2A.7(e)13.

N.J.A.C. 7:26-2A.7(f)1

COMMENT: A comment was received which stated that the "and" in this paragraph should be changed to "or" since it is not necessary to have both a perimeter gas venting and collection system and an interior gas venting and collection system. If both systems were required they would work against each other.

RESPONSE: The Department agrees that in some cases both systems are not required; however, in other cases both systems will be required and the language of this paragraph has been revised appropriately.

The Department strongly disagrees that both systems, if required, would work against each other. Both systems may be required to be installed in such cases where migration and odors are required to be controlled. The Department refers the commenter to the Cinnaminson Sanitary Landfill in Burlington County in which both systems have been installed, complement each other and function without conflict.

N.J.A.C. 7:26-2A.7(f)3

COMMENT: Two comments were received which stated that setting the trigger for initiation of action to install an induced draft or active gas venting and collection system at the 25 percent level of the lower explosive limit is too low and the trigger should be set at the 100 percent of the lower explosive limit as delineated at 40 CFR 257.3-8.

RESPONSE: The purpose of 40 CFR 257.3-8 is to establish criteria to define when a facility is operating as an open dump. Therefore, the criteria established at 40 CFR 257.3-8 does not establish an appropriate trigger for the installation of construction of an active gas collection and venting system. The Department, based on its long experience in this area, has determined that initiation of action to mitigate the migration of gases at the property line should be triggered at the 25 percent level of the lower explosive limit rather than waiting for the lower explosive limit to be reached at the property line when there is a greater potential for the development of an emergency condition. Clarifying language has been added to this paragraph.

N.J.A.C. 7:26-2A.7(f)3ii

COMMENT: A number of comments were received which questioned the provisions of this subparagraph in restricting the use of a passive gas venting system to prevent off-site migration.

RESPONSE: The Department allows for the design and construction of passive venting systems in situations where there is no off-site migration. Based on the Department's experience in this area, passive venting systems cannot control or prevent migration because gas flows in response to both a concentration as well as a pressure gradient. Therefore, to ensure that off-site migration is controlled, the Department is requiring the installation of an active or induced draft gas venting and collection system. It should be noted that the design and construction of a venting system is not required until such time as monitoring of the landfill, required by N.J.A.C. 7:26-2A.8, indicates that landfill gases are migrating.

N.J.A.C. 7:26-2A.7(f)3iii

COMMENT: A comment was received which stated that the compliance point for initiation of construction of an active gas venting and collection system should be the property line rather than the setback area as required by this subparagraph. Therefore, there should be no requirements to monitor gases in the set back area.

RESPONSE: The discovery of gas at the 25 percent level of the lower explosive level at the compliance point will trigger action. The compliance point for the initiation of construction of an induced draft gas venting and collection system is set at the property line. However, it would not be indicative of proper operational practices to ignore a potential migration problem until such time as it triggers action at the compliance point. Therefore, monitoring within the set back area will be evaluated by the Department with the permittee to determine the best course of action to eliminate any potential problem.

N.J.A.C. 7:26-2A.7(f)3iv

COMMENT: A commenter stated that the provision of this subparagraph requiring a 50 foot spacing of gas vents is arbitrary and that the gas vent spacing should be determined on a case-by-case basis.

RESPONSE: The provisions in this subparagraph allow for a case-by-case evaluation of the spacing of the gas vents to ensure control of off-site migration. The recommendation of this subparagraph was developed based on the Department's experience in reviewing and approving gas venting system and is a guideline to be used to evaluate alternative designs. The wording of this subparagraph has been modified to clarify this intent.

N.J.A.C. 7:26-2A.7(f)3iv and v

COMMENT: A comment was received which suggested that these subparagraphs limit the installation of gas vents to an area within the refuse to eliminate the pressure within the sanitary landfill, thereby eliminating the gas migration problem.

RESPONSE: The Department recognizes the concerns expressed by the commenter; however, it should be noted that the pressure gradient is not the only driving force. The concentration gradient or diffusion flow may be equal to if not greater than the pressure gradient within the sanitary landfill causing migration of landfill gases.

It is the Department's experience that unless the gas venting system is constructed at the points of needed control or influence, at the perimeter of the landfill, it will not perform properly or meet its design goals to control off-site migration.

N.J.A.C. 7:26-2A.7(f)5

COMMENT: Two commenters stated that the provisions of this paragraph requiring the conversion of an active or induced draft gas venting and collection system to a gas recovery system is not always feasible and the decision to convert the gas venting system to a gas recovery system should be based on the availability of markets for the gas and electricity.

RESPONSE: The provisions of this paragraph do not require the conversion of a gas venting system to a gas recovery system. The Department will allow this decision to convert a gas venting system to a gas recovery system to be made on a case-by-case basis and will consider the availability of markets for the gas or electricity when making that decision. Clarifying language has been added to this paragraph.

N.J.A.C. 7:26-2A.7(f)6

COMMENT: A commenter stated that the requirement of N.J.A.C. 7:26-2A.7(f)6 to sample the gas flare prior to gas combustion is not appropriate.

RESPONSE: The requirements of this paragraph are for the sampling and analysis of landfill gases prior to the design and construction of a gas venting and collection system and are to be used as a data base to design and construct the gas venting and collection system. The requirements for monitoring the gas venting and collection system, which may include a gas flare, are set forth at N.J.A.C. 7:26-2A.7(h) and 2A.8.

N.J.A.C. 7:26-2A.7(f)9

COMMENT: A comment was received which stated that the provisions of this paragraph requiring flexible joints on all gas collection valves, condensate traps and manifold connections are not feasible because these joints may be crushed or will not otherwise withstand the stresses of being installed below ground.

RESPONSE: The Department has modified this paragraph to clarify the intended requirement to design and construct the gas venting system for the landfill area in a manner which compensates for potential settlement. If a system is not designed to allow for some flexibility and settlement, and cannot withstand the stresses of settlement, the Department would question the viability of construction of a gas venting system within the landfill area. However, the Department's experience in this area indicates that with the proper design both in terms of flexibility, in response to settlement, and strength of materials to ensure durability of the system, a viable system can be constructed and operated.

N.J.A.C. 7:26-2A.7(f)11

COMMENT: A comment was received which stated that enclosure of the pump station within a permanent structure may create an enclosed space which could possibly trap gas if a leak occurred in the gas venting system and recommended that a provision be made for the exemption of the pump station from this requirement.

RESPONSE: This paragraph requires a structure sufficient to protect the pumps, motors and electrical equipment and does not require a totally enclosed structure. Further, the provisions of N.J.A.C. 7:26-2A.7(f)11ii requires the pump station to be designed to ensure for proper ventilation.

N.J.A.C. 7:26-2A.7(f)12

COMMENT: A comment was received which stated that the American Society for Testing and Materials (ASTM) is not a society that approves or disapproves materials; it develops standard testing procedures for materials of construction and recommended modification of this paragraph to require meeting ASTM chemically resistant standards.

RESPONSE: In this paragraph, the Department intended to require that the material met ASTM standards, but not receive approval from the ASTM. The paragraph has been modified to clarify this requirement.

N.J.A.C. 7:26-2A.7(f)14vi

COMMENT: A commenter stated that the requirement to install an audible alarm within a permeable blanket designed to transport gas is questionable at best.

RESPONSE: The provisions of this paragraph do not require the installation of an audible alarm within the permeable blanket.

N.J.A.C. 7:26-2A.7(g)6

COMMENT: A commenter questioned the need to perform quality control testing on the soils used in the run-on/run-off control structure because it was not appropriate to perform the required test when no criteria or specifications are delineated.

RESPONSE: The criteria for quality control testing will be developed by the testing and design of material proposed for construction of the run-on/run-off control structures. An acceptable range for each of the quality control tests will be developed as part of the design specifications. The range will be used to measure the performance of the construction, in order to determine if the run-on/run-off control structures are properly constructed.

N.J.A.C. 7:26-2A.7(h)5ii

COMMENT: A comment was received which questioned the need for piezometers to be installed within the sanitary landfill to measure the hydrostatic head on the liner.

RESPONSE: This subparagraph requires that a system capable of defining and measuring the hydrostatic head on the liner be designed and constructed. This subparagraph does not require the installation of a piezometer but allows the use of the piezometer in those areas conducive to such a design as one of the options to be installed. The wording of the subparagraph has been modified to make this clear.

N.J.A.C. 7:26-2A.7(h)8

COMMENT: Two comments were received which questioned the need for monitoring of precipitation at sanitary landfills as required by this paragraph.

RESPONSE: To accurately monitor the performance and efficiency of a system, the inputs to the system must be adequately defined. Since meteorological stations are not always near landfills, a continuance rain gauge monitoring device, which is a simple and relatively inexpensive method, is needed to monitor the majority of the inputs to the leachate collection system.

N.J.A.C. 7:26-2A.7(h)9

COMMENT: Two commenters recommended that the extensometer required by this paragraph be changed to a bore hole settlement device in order to be technically accurate.

RESPONSE: The Department agrees with this comment and has revised the rule accordingly.

COMMENT: Two commenters questioned the need to monitor the slope and settlement of all landfills when no criteria for acceptable measurement for these devices exist.

RESPONSE: This provision does not require the monitoring of the slope and settlement of all landfills but does require settlement monitoring in areas which exhibit a high degree of uncertainity of the strength data and slope monitoring in areas where slope stability is questionable. As part of the foundation analysis required by N.J.A.C. 7:26-2A.7(b), the Department will evaluate the settlement and slope stability and establish an appropriate settlement and slope monitoring criteria which will be site-specific.

N.J.A.C. 7:26-2A.7(i)

COMMENT: The following comments were received on the engineering design standards and construction requirements for capping systems:

1. The clay cap used on top of the landfill will not survive the differential settlement of the sanitary landfill, which is inevitable and therefore the effectiveness as an impervious cap is questionable.

2. The requirement that a geomembrane cap not be utilized on a slope greater than four horizontal to one vertical (4:1) as required by N.J.A.C. 7:26-2A.7(i)9v is too restrictive. Provisions should be made to allow application of a geomembrane cap on steeper slopes if the owner or operator demonstrates slope stability.

3. Provisions should be made in N.J.A.C. 7:26-2A.7(i)4iv to allow the side slopes of the final grades to be steeper than three horizontal to one vertical (3:1), if the owner or operator can demonstrate or document that the side slopes will be stable.

4. Elevations greater than 50 feet above existing grade should be allowed in N.J.A.C. 7:26-2A.7(i)4iv if the applicant can demonstrate that such elevation will not result in failure of the side slopes.

5. On existing sanitary landfills with slopes greater than 3:1 it would be impossible to place clay on the landfill because the equipment used to compact the clay would not be effective and the compaction effort would not be able to achieve the required hydraulic conductivity.

6. The Department should not require impermeable caps if the landfill owner or operator is willing to pump and treat the extra leachate.

7. The choice between installing an impermeable cap and not installing a cap should be related to the owner or operator's ability to handle the leachate generated. This decision should not be a regulatory function but a decision that is made with regard to economic and engineering considerations on a case-by-case basis.

RESPONSE: At this time, the Department is not adopting the engineering design standards and construction requirements for capping systems and is, instead, preparing a proposal which will establish a performance standard which will determine when a capping system will be required.

N.J.A.C. 7:26-2A.8(b)12

COMMENT: Two comments were received questioning why the use of heavy clay and very fine grain material, such as fly ash, are prohibited for use as cover material. The commenter stated that fly ash can be blended with other materials to produce workable cover material.

RESPONSE: The rule restricts the use of heavy clay and fine grain materials because of the problems of dust and poor workability resulting from their use. The rule limits only the use of heavy clays or fine grain materials solely and does not restrict the use of mixtures of these materials if acceptable physical and chemical properties are demonstrated.

COMMENT: A commenter stated that the daily cover materials at the landfill should be based on soil types available at the site because all-weather materials are not always readily obtained.

RESPONSE: Since the sanitary landfill is exposed to all weather conditions and as a utility does not shut down because of the weather, it should be able to function under all weather condition. The provisions of this paragraph do not require the use of all-weather materials at all times but that the quality of the material used be such that it is manageable under all weather conditions.

N.J.A.C. 7:26-2A.8(b)17

COMMENT: A commenter stated that the alternative to have on-site replacement equipment available or maintenance contracts for the equipment on the site should be left as an option of the landfill operator.

RESPONSE: The intent of the provision was to require on-site replacement equipment or a maintenance contract to ensure proper operation of the facility. The wording of the provision has been modified to clarify the intent.

N.J.A.C. 7:26-2A.8(b)20

COMMENT: A commenter stated that a scale house and scale is an unnecessary expense since weights are already easily determined by conversion factors.

RESPONSE: Scales are required in accordance with the Solid Waste Management Act, N.J.S.A. 13:1E-117 et seq.

N.J.A.C. 7:26-2A.8(b)27

COMMENT: A comment was received which stated that the reporting of damage to monitoring devices is already being performed and reported to the Division of Water Resources.

RESPONSE: While the reporting of damage to monitoring wells is reported to the Division of Water Resources, this paragraph requires the reporting of damage to any monitoring devices required by N.J.A.C. 7:26-2A.7(h).

N.J.A.C. 7:26-2A.8(b)36

COMMENT: A comment was received which stated that the provisions of this paragraph fail to identify emergencies which are subject to action under the rules.

RESPONSE: The provisions of this section are operation and maintenance requirements for sanitary landfills. The requirements at N.J.A.C. 7:26-2A.5(a)8v establish the submission requirements for an emergency contigency plan and accurately define emergency situations.

N.J.A.C. 7:26-2A.8(d)

COMMENT: A comment was received which stated that some systems, such as the groundwater monitoring system, may have a different monitoring requirement under other applicable permit. The phrase "on a weekly basis" should be changed to "as necessary or required under other applicable permit."

RESPONSE: The commenter confused monitor with inspection and has interpreted the requirements of this subsection incorrectly. The requirements for this subsection are for inspection, while the monitoring requirements as set forth at N.J.A.C. 7:26-2A.8(h) already implement the suggested comment within the requirements of that subsection.

N.J.A.C. 7:26-2A.8(h)4

COMMENT: Comments were received which questioned the need for daily monitoring of the landfill leachate. One commenter suggested that the sampling be performed on a daily basis, composited and analyzed on a weekly basis thereby, averaging out the daily variation and economizing upon the laboratory fees.

RESPONSE: The Department developed the testing requirement in order to establish parameters that would enable monitoring of the daily variation to ensure proper operation of the leachate collection and treatment system. The tests selected are simply performed and relatively inexpensive and can be performed on-site by the landfill personnel.

N.J.A.C. 7:26-2A.8(i)

COMMENT: A commenter suggested that the submission date for the initial topographic survey be revised to 180 days from the effective date of these rules.

RESPONSE: The Department is of the opinion that 90 days after the effective date of these rules provides for a reasonable period of time to prepare and submit the topographic survey.

N.J.A.C. 7:26-2B.5(b)2

COMMENT: A comment was received which stated that it is unreasonable and unnecessary to require that the facility processing, tipping and sorting area be located within a totally enclosed building since these facilities are typically operated with front doors open. In addition, the rules should allow for the construction of a building that is not completely enclosed.

RESPONSE: The requirements established within N.J.A.C. 7:26-2B.5 are engineering design submission requirements and design requirements. The operational requirements allow for the opening of doors for the receipt of waste; however, at all other time the doors must remain closed. The design requirement was developed to ensure an environmentally sound design which would control dust, odor, litter and wash down water at the facility. The Department sees no reason to change this requirement in the absence of alternatives which would ensure the same protection.

N.J.A.C. 7:26-2B.5(b)6

COMMENT: A commenter requested that facilities and all appurtenances be more clearly delineated and that motor vehicles utilizing the facility should not be considered an appurtenance and not required to meet the New Jersey Noise Control Regulations set forth at N.J.A.C. 7:29 since they are not under the direct control of the facility.

RESPONSE: The Department intended that the facility should be designed in such a manner as to ensure compliance with the New Jersey Noise Control Regulation N.J.A.C. 7:29. In order for a facility to meet these requirements, it is necessary for vehicles using the facility to be considered an appurtenance. Therefore, the Department has modified this paragraph to include vehicles.

N.J.A.C. 7:26-2B.5(b)8

COMMENT: A comment was received which stated that the attempt to regulate off-site traffic impacts is beyond the legal authority of the Department.

RESPONSE: A transfer station is a solid waste facility in which solid waste is brought into the facility in collection vehicles and transferred to haulage vehicles for transportation to another solid waste facility. Since one of the major impacts on the public health and the environment of this type of facility is traffic, the facility must be properly designed and constructed to avoid negative impacts including the reduction of existing levels of service. Therefore, the Department has ample authority to require design modifications to minimize the impacts of off-site traffic.

N.J.A.C. 7:14A-16.6

COMMENT: A comment was received which stated that the proposed rule for requiring special groundwater monitoring is actually an amendment to the New Jersey Pollutant Discharge Elimination Systems (NJPDES) rules, N.J.A.C. 7:14A, and the rules should be reproposed correctly in the New Jersey Register as an amendment to the NJPDES rules.

RESPONSE: The provisions in this section were proposed at N.J.A.C. 7:14A-16.6 of the New Jersey Pollutant Discharge Elimination System rules.

COMMENT: A commenter stated that lysimeters function with difficulty and yield no valid quantitative data. Further, given the limited depth to groundwater in New Jersey, and thus limited extent of the zone throughout much of the State, their use in most cases would be inappropriate.

RESPONSE: The Department does not agree with the commenter in that the use of unsaturated zone monitoring devices are well documented. However, the Department does agree that the use of these devices in all areas may not be warranted. The provisions in this section have been modified to allow for a case-by-case evaluation in regard to the need to monitor the unsaturated zone.

Miscellaneous Comments

COMMENT: The Department, in not promulgating landfill siting criteria, is acting inconsistently with the Statewide Solid Waste Management Plan.

RESPONSE: To the extent that the Statewide Solid Waste Management Plan indicates the need to consider specific siting criteria in selecting a solid waste facility site, the determination of which criteria to apply has been left to the respective solid waste management districts. This approach is entirely consistent with the Solid Waste Management Act's stated policy to have the districts "develop and implement a comprehensive solid waste management plan which meets the needs of every municipality." N.J.S.A. 13:1E-2(b)2.

The Department has made the following changes based on minor comments and the Department's own review; citation changes, typographic corrections or a need for clarification.

1. A definition of "small-scale" has been added to clarify the requirements of N.J.A.C. 7:26-2.9(d).

2. The term "and post-closure" has been added at N.J.A.C. 7:26-2.4(b)4 to clarify the intent of the rule.

3. The term of "operating" has been added and "design" deleted at N.J.A.C. 7:26-2.4(c)1i(2) to better describe the requirement of the subsubparagraph.

4. The terms "prior to the tentative decision" and "tentative or" were added to clarify the meaning of N.J.A.C. 7:26-2.4(f).

5. The term "sufficient" was deleted and replaced with "all" and the term "the Department" was deleted and replaced with "N.J.A.C. 7:26-2.8, 2.9, and 2.10, in order" at N.J.A.C. 7:26-2.4(g)2, to clarify the intent of the requirement.

6. The term "County Planning Board of any county" was deleted and replaced by the "implementing agency for the solid waste management plan of any solid waste management district" at N.J.A.C. 7:26-2.4(g)6iii because this is the agency at the County level required to regulate solid waste disposal.

7. The term "Board of Chosen Freeholders" was deleted and replaced in N.J.A.C. 7:26-2.4(g)7ii, by the "County Clerk" because this is the agency which will maintain the record for the review of applications.

8. Proposed N.J.A.C. 7:26-2.4(g)11 was deleted because there is no practical manner in which this could be enforced.

9. The term "determines" was replaced with "decides" in N.J.A.C. 7:26-2.4(g)11i.

10. The term "or more than 30 days" was added at N.J.A.C. 7:26-2.4(g)14 and deleted from N.J.A.C. 7:26-2.4(g)14ii, to more clearly delineate the procedure.

11. The term "or" was replaced by "and" at N.J.A.C. 7:26-2.4(g)14i(4) to clarify the intent of the provision.

12. The term "by law, statute, regulation or court order" was added at N.J.A.C. 7:26-2.4(g)14i(5) to more accurately describe the purpose.

13. The term "or weekly" was deleted from, and the term "of general circulation" was added to N.J.A.C. 7:26-2.4(g)14ii to better describe the requirement.

14. The term "NJPDES" was deleted and replaced by "any other permit issued by the Department" and the term "N.J.A.C. 7:14A-8" was deleted and replaced by "the applicable regulations or statutes" at N.J.A.C. 7:26-2.4(g)20 to make it clear that the requirement was applicable to all of the Department's programs.

15. The term "when a new tentative approval is prepared" was deleted at N.J.A.C. 7:26-2.6(e) and replaced by "for public comment in accordance with the procedures set forth at N.J.A.C. 7:26-2.4" to more accurately define the requirement.

16. The term "if needed to update the facility's operations" at N.J.A.C. 7:26-2.7(b)2 was added to clarify the intent of the provision.

17. The term "An update" was added at N.J.A.C. 7:26-2.7(b)2i to clarify the intent of the provision.

18. The term "An amendment to the" was added at N.J.A.C. 7:26-2.7(b)2iv to clarify the intent of the provision.

19. The term "When" was replaced by "If" and the term "any one of" was added in N.J.A.C. 7:26-2.7(d)1 to better define the requirement.

20. The term "owner or operator" was deleted from N.J.A.C. 7:26-2.7(e) to correct the text.

21. The term "approval of" was replaced by "the Department approves" at N.J.A.C. 7:26-2.8(m) for clarity.

22. The term "permittee receives approval from the" and "of" were replaced by "approves" at N.J.A.C. 7:26-2.8(n)1 to clarify the intent.

23. The term "in detail", "specific conditions" and "a general description for" have been added at N.J.A.C. 7:26-9(c)3 to more accurately define the requirement.

24. The terms "on-site or immediately available to the site" and "if applicable" have been added and the term "to available markets, if applicable" was deleted at N.J.A.C. 7:26-2.9(c)3iv(5) to clarify the intent.

25. The term "the immediate neighborhood of the proposed facility (if available), the municipality within which the proposed facility will be located, all municipalities within one mile of the proposed facility, the county" was replaced by "the districts" at N.J.A.C. 7:26-2.9(c)3iv(6) because it more accurately defines the area of potential impact.

26. Proposed N.J.A.C. 7:26-2.9(c)3iv(7) was deleted because it was not relevant to this section.

27. The language in N.J.A.C. 7:26-2.9(c)3iv(7) was modified to more accurately define the areas of potential impacts.

28. The term "The economic analysis shall be prepared on a itemized basis" at N.J.A.C. 7:26-2.9(c)4iv was deleted because it was redundant.

29. The areas which may impact the acoustical quality of residential and commercial properties pursuant to N.J.A.C. 7:29, and areas subject to cleanup pursuant to the Environmental Cleanup Responsibilities Act, N.J.S.A. 13:1K-6 et seq., were added at N.J.A.C. 7:26-2.9(c)5ii(8) and (17) to more thorougly delineate the areas of regulatory concern.

30. The citation at N.J.A.C. 7:26-2.9(c)5ii10 was corrected.

31. The wording of N.J.A.C. 7:26-2.9(d)1 was revised to make the provision clearer.

32. N.J.A.C. 7:26-2.9(d)1i was deleted because engineering designs are not required for leaf composting facilities.

33. The term "vegetative" was added at N.J.A.C. 7:26-2.9(d)1ii(1) to more accurately define the acceptable waste types.

34. The terms "utility" and "which will be connected to the facility" have been added at N.J.A.C. 7:26-2.10(b)5vi to more accurately define the requirement.

35. The term "major" was added at N.J.A.C. 7:26-2.10(b)9ii to more accurately define the requirement.

36. The language in N.J.A.C. 7:26-2.10(b)9iii was modified to make provisions clearer.

37. The term "safety plan which shall include a" was added at N.J.A.C. 7:26-2.10(b)9iv for clarification.

38. N.J.A.C. 7:26-2.10(b)9v and viii were deleted because they are redundant and the same requirements are found at N.J.A.C. 7:26-2.10(b)9i.

39. The citation N.J.A.C. 7:26-3 was added to N.J.A.C. 7:26-2.11(b)9 to clarify the requirement.

40. The term "owner and operator" was replaced by "permittee" at N.J.A.C. 7:26-2A.4(n).

41. The term "beyond the perimeter of the designed fill area" was replaced by the citation "N.J.A.C. 7:26-2A.7(f)3 or 4" at N.J.A.C. 7:26-2A.4(o) because the paragraph cited more accurately described the area of concern.

42. The term "to the nearest 0.01 foot and accurate to the nearest 0.1 foot" was replaced by the citation "N.J.A.C. 7:26-2.10(b)6i" at N.J.A.C. 7:26-2A.5(a)1iii and iv because the subparagraph cited more accurately describes the requirement.

43. The term "and the site specific geological maps and detail cross section required by vii and viii below" was added at N.J.A.C. 7:26-2A.5(a)6vi to more accurately define the requirement.

44. The term "at a minimum" was added at N.J.A.C. 7:26-2A.5(a)6vi(9) to clarify the intent of the provision.

45. The term "NJPDES" was added at N.J.A.C. 7:26-2A.5(a)6vi(12) to clarify the reference.

46. The terms "sanitary", "area", "specific" and "required by vi above" have been added to N.J.A.C. 7:26-2A.5(a)6vii to more accurately define the requirement.

47. The term "crosssection" was replaced by "site specific cross section" at N.J.A.C. 7:26-2A.5(a)6viii to more accurately define the requirement.

48. The citation in N.J.A.C. 7:26-2A.5(a)8 were corrected.

49. A requirement to submit a community relations plan was added at N.J.A.C. 7:26-2A.5(a)8iii to conform the requirement with N.J.A.C. 7:26-2.11 and 2A.8. Subparagraph (a)8vi was recodified to (a)8iii to effect this change.

50. A requirement to submit a final O & M manual was added at N.J.A.C. 7:26-2A.5(a)9 to conform the requirement with N.J.A.C. 7:26-2.11 and 2A.8.

51. The referenced publications in N.J.A.C. 7:26-2A.6(f) were deleted because Appendix A covered the same material and the publications were not readily available.

52. The citations at N.J.A.C. 7:26-2A.6(g) and (h) were corrected.

53. The term "most current version of the" was added at N.J.A.C. 7:26-2A.6(j)1ii(1) and (2) to require that the most current version be used.

54. The citations at N.J.A.C. 7:26-2A.7(b)3v(1) and (2) were corrected.

55. The terms "and the performance standards required in N.J.A.C. 7:26-2A.6(c)1 and 2 are" were added, the citations were corrected and the terms "other classes of" were replaced by "Class II" at N.J.A.C. 7:26-2A.7(c)3iv, 5ii, 6ii and 7iii because the terms more accurately define the requirements and N.J.A.C. 7:26-2A.6(j)2 exempts Class III sanitary landfills, as approved by the Department from N.J.A.C. 7:26-2A.7.

56. A new N.J.A.C. 7:26-2A.7(c)4iv(4) was added which states that the thickness of the clay liner or admixture liner within the composite liner shall be approved on a site-specific case-by-case basis provided the standards in N.J.A.C. 7:26-2A.6 are met.

57. N.J.A.C. 7:26-2A.7(c)5xvi and xvii were deleted because the same requirement is in N.J.A.C. 7:26-2A.7(c)5xv. This change will allow applicants greater flexibility in the design of sealant coatings.

58. The recommended models set forth in N.J.A.C. 7:26-2A.7(d)2iii were deleted because they were only guidance documents and caused more confusion than they resolved.

59. The term "Unless real time meteorological data is utilized, the" at N.J.A.C. 7:26-2A.7(d)2iv was added to more accurately define the requirement.

60. The citation at N.J.A.C. 7:26-2B.4(a) was corrected.

61. The term "at a minimum, three days of storage at" has been added to N.J.A.C. 7:26-2B.4(b)15 to more accurately define the requirement.

62. The term "and to withstand heavy vehicle usage", has been added to N.J.A.C. 7:26-2B.5(b)3 to more accurately define the requirement.

63. The phrase "to insure an environmentally sound operation and afford sufficient space to allow for proper processing of maximum anticipated daily incoming waste loading" has been added to N.J.A.C. 7:26-2B.5(b)5 to further explain the requirement.

64. N.J.A.C. 7:26-2B.5(b)7 has been added to further explain the requirement of N.J.A.C. 7:26-2.11(b) to design and construct the facility in a manner which controls dust and odors.

65. N.J.A.C. 7:26-2.4(g)13 was changed to delete "or minor permit modification to require environmental upgrading" to maintain consistency with N.J.A.C. 7:26-2.6(d) as changed upon adoption. (See Comment and Response for N.J.A.C. 7:26-2.6(d)).

Full text of adoption follows (additions indicated in boldface with asterisks ***thus***; deletions indicated in brackets with asterisks ***[thus]***).

CHAPTER 1
RULES OF PRACTICE AND PROCEDURE

SUBCHAPTER 6. (RESERVED)

7:26-1.4 Definitions

The following words and terms, when used in this chapter, shall have the following meanings unless the context clearly indicates otherwise:

. . .

"Act" means the Solid Waste Management Act, N.J.S.A. 13:1E-1 et seq., as amended and supplemented.

. . .

"Admixture" means two or more materials mixed together to be used as a liner. Admixtures include asphalt concrete, portland cement concrete and mixtures of soil and portland cement or bentonite.

. . .

"Buffer zone" means those on-site areas adjacent to the sanitary landfill property line which shall be landscaped and left undeveloped.

. . .

"Clay" means a fine grain soil containing sufficient plastic fines (N. 200 sieve), on the order of 20 percent or greater such that the soil acts as a clay and will achieve the required degree of impermeability. The soil should be classified as a CL, or CH (Unified Soil Classification System), with a liquid limit between 30-60, placed above the A-line on the plasticity chart and a minimum plastic index of 15. The soil should have a cation exchange capacity (CEC) greater than 15 meq/100 grams and be in the neutral pH range.

"Clean fill" means an uncontaminated nonwater-soluble, nondecomposable, inert solid such as rock, soil, gravel, concrete, glass and/or clay or ceramic products.

"Co-composting facility" means a solid waste facility which utilizes a controlled biological process of degrading mixtures of nonhazardous solid waste and sewage sludge.

. . .

"Commingled recyclable material" means nonputrescible, source separated, recyclable metal, glass, paper and plastic materials which would otherwise become nonhazardous solid waste which are commingled or, mixed at the source of waste generation in order to improve the convenience of storage, handling, and transport to a recycling center.

"Composite liner" means a combination of clay or admixture liner and a geomembrane.

"Composting facility" means a solid waste facility which utilizes a controlled biological process of degrading nonhazardous solid waste.

. . .

"Continuous monitoring instrumentation" means a direct reading instrument which measures a given parameter on a continuous basis.

"Controlling slopes" means slopes on those areas of the liner that have a direct influence on the maximum leachate head, or slopes that are perpendicular to the collection laterals.

. . .

"Degree of uncertainty of strength measurement-high" means the soil conditions are complex and available strength data does not provide a consistent, complete or logical picture of the strength characteristics.

"Degree of uncertainty of strength measurement-low" means the soil conditions are uniform and high quality strength test data provides a consistent, complete and logical picture of the strength characteristics.

. . .

"Double liner" means a two liner system separated by a leak detection/leachate removal system.

. . .

"Environmental assessment" means an evaluation of the positive and negative changes to the environmental conditions at and around a particular site which may result from the implementation of a proposed action. Included is a determination of the magnitude of the potential changes and, where applicable, the identification of recommended mitigative measures to be incorporated.

"Environmental inventory" means a detailed and comprehensive description of the condition of all environmental parameters as they exist at and around the site of a proposed action prior to implementation of the proposed action. This description is used as a baseline for assessing the environmental impacts of a proposed action.

"Environmentally unsound" means any persistent or continuous condition resulting from the methods of operation or design of the solid waste facility which impairs the quality of the environment when compared to the surrounding background environment or any appropriate promulgated Federal, State, county or municipal standard.

"Environmental upgrading" means the addition or modification of the construction, operation or maintenance of a solid waste facility to abate or prevent the occurrence of an environmentally unsound condition.

. . .

"Expansion" means the process of increasing the areal dimensions, vertical elevations or the slopes beyond the approved limits of the solid waste facility.

. . .

"Foundation" means the supporting soil layers beneath a liner or cutoff wall.

. . .

"Geomembrane" means a prefabricated continuous sheet of flexible polymeric material including synthetic membranes, polymetric membranes, flexible membrane liners and plastic liners.

. . .

"Hydraulic asphalt concrete" means a controlled mixture of asphalt cement and high quality mineral aggregate compacted into a uniform dense mass.

. . .

"Leaf composting facility" means a solid waste facility which is designed and operated for the purpose of composting leaves, either exclusively or in combination with other type ID 23 wastes, as identified in N.J.A.C. 7:26-2.13.

. . .

"Materials recovery facility" means a solid waste facility such as a transfer station which is designed, operated and permitted to process a nonhazardous solid waste stream by utilizing manual and/or mechanical methods to separate from the incoming waste stream categories of useful materials which are then returned to the economic mainstream in the form of raw materials or products for reuse.

"Modular design" means a design which provides for the sequential construction and filling of discrete units of a sanitary landfill in a phased manner.

. . .

"NJPDES" means the New Jersey Pollutant Discharge Elimination System.

. . .

"Recyclable materials" means materials which would otherwise become nonhazardous solid waste which can be separated, collected and 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 and transferring source separated, nonputrescible or source separated commingled nonputrescible metal, glass, paper, plastic containers, and corrugated and other cardboard, or other recyclable materials approved by the Department.

. . .

"Regional" means the area encompassing three miles from the perimeter of the solid waste facility.

. . .

"Sanitary landfill" means a solid waste facility, at which solid waste is deposited on or into the land as fill for the purpose of permanent disposal or storage for a period of time exceeding six months, except that it shall not include any waste facility approved for disposal of hazardous waste pursuant to this chapter. Sanitary landfills shall be further classified into one of the following classes:

1. "Class I sanitary landfill" means a solid waste facility which may accept all types of nonhazardous solid waste including ID 10, 13, 23, 25, 27, 72;

2. "Class II sanitary landfill" means a solid waste facility which may accept only ID type 27 or a specific category of ID type 27 of nonhazardous solid waste; and

3. "Class III sanitary landfill" means a solid waste facility which may accept only inert nonputrescible nonhazardous solid waste, ID 13 or 23.

. . .

"Set back" means those areas between the actual disposal area and the property line *[which]* ***including the buffer zone. The area between the actual disposal area and the buffer zone*** can be utilized for construction of environmental control systems such as run-off diversion ditches, monitoring wells or scales.

. . .

Small scale solid waste facility" means a facility which is limited by its SWF permit in capacity to less than 100 tons per day in a six day per week operation.

. . .

"Soil cement" means a mixture of soil portland cement and water. As the cement hydrates the mixture forms a hard, durable, low strength concrete.

. . .

"Solid waste facility" means any system, site, equipment or building which is utilized for the storage, collection, processing, transfer, transportation, separation, recycling, recovering or disposal of solid waste but shall not include a recycling center.

"Solid waste facility permit" or "SWF permit" means a certificate of approved registration and engineering design approval for a nonhazardous solid waste facility. For the purposes of N.J.A.C. 7:26-16 and 16A, a solid waste facility permit shall mean a license as that term is defined at N.J.A.C. 7:26-16.2.

. . .

"Source separated" means the process of separating recyclable materials from the solid waste stream at the point of waste generation.

. . .

"Subgrade" means the foundation of supporting soil layer beneath a constructed liner other than a recompacted in situ clay liner.

. . .

"Thermal destruction facility" means a nonhazardous solid chemical waste facility which utilizes a thermal device to either burn waste or chemically decompose waste by heating it in an oxygen deficient atmosphere. Energy recovery systems may be utilized in conjunction with the thermal device.

"Vicinity" means the area encompassing one half mile from the perimeter of a nonhazardous solid waste facility.

7:26-2.1 Scope and applicability

(a) This subchapter and N.J.A.C. 7:26-2A and 2B shall constitute the rules and regulations of the Department governing the disposal of nonhazardous solid waste unless specifically exempted by N.J.A.C. 7:26-1.1, 1.7 or 1.8.

(b) This subchapter does not apply to hazardous waste. See N.J.A.C. 7:26-1, 7, 8, 9, 10, 11, 12 and 13.

(c) This subchapter does not apply to the disposal of family wastes on the premises of one or two family dwellings where the family resides. This subsection shall not be interpreted as permitting the disposal of domestic sewage in any manner other than that prescribed by law.

7:26-2.2 Construction

(a) These rules shall be liberally construed to permit the Department to discharge its statutory functions.

7:26-2.3 Purpose

(a) This subchapter is promulgated for the following purposes:

1. To establish the procedure for obtaining and maintaining a solid waste facility permit;

2. To establish the submission requirements for an environmental and health impact statement (EHIS) for solid waste facilities;

3. To establish the general engineering design requirements for solid waste facilities; and

4. To establish the general operational requirements for solid waste facilities.

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

*[(a) All applications for a solid waste facility (SWF) permit shall be submitted to:

Assistant Director for Engineering
Division of Waste Management
CN-042
Trenton, N.J. 08625]*

***(a) Prior to preparing and submitting the application for a solid waste facility (SWF) permit, other than for facilities specified in (d) below, the applicant shall schedule one or more pre-application conferences with the Department to discuss the registration, environmental and health impact statement and engineering submission requirements and the review procedures. At least two weeks prior to the scheduled pre-application conference, the applicant shall submit information in the form of reports, maps, studies and other relevant project documentation providing a sufficient basis for review by the Department. The material submitted prior to the pre-application conference shall include the following:**

1. A site location map plotted on a USGS topographic map;

2. A written description of the type of facility;

3. A written estimate of the proposed design capacity of the facility;

4. A written description of the type of waste to be handled;

5. A written plan establishing the tentative construction schedules;

6. A written scope-of-work outlining the proposed EHIS, geotechnical investigation or engineering design;*

(b) All applications for a SWF permit shall be accompanied by the following:

1. All fees, required by N.J.A.C. 7:26-4, paid in full;

2. Documentation establishing that the facility has been included in the applicable district solid waste management plan;

3. The disclosure statement described in N.J.A.C. 7:26-16*[.4]*. The requirement of a disclosure statement shall not apply to any person specifically exempted under N.J.A.C. 7:26-16.3(d); *[and]*

4. For sanitary landfills, a closure plan submitted in accordance with N.J.A.C. 7:26-2A.9*[.]* ***; and***

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

Assistant Director for Environmental and
Engineering Design Review
Division of Solid Waste Management
CN-414
Trenton, N.J. 08625*

(c) All applications for a SWF permit shall include a completed registration statement meeting the requirements of N.J.A.C. 7:26-2.8, an EHIS meeting the requirements of N.J.A.C. 7:26-2.9 and an engineering design meeting the requirements of N.J.A.C. 7:26-2.10, except for applications for the types of facilities identified in (c)1, 2, 3 or 4 below, which shall include only the material required to be submitted for that particular type of facility.

1. An application for a leaf composting facility shall include the following:

i. Documentation and information sufficient to demonstrate, to the satisfaction of the Department, that the facility meets the following criteria:

(1) The waste intended for composting consists of leaves, either exclusive or in combination with other type ID 23 wastes as classified in N.J.A.C. 7:26-2.13; and

(2) The *[design and]* ***operating and*** maintenance program proposed will ensure achieving the conditions necessary to permit efficient and effective composting activity;

ii. A registration statement on forms provided by the Department; and

iii. An EHIS sufficient to meet only the requirements set forth at N.J.A.C. 7:26-2.9(d)1.

2. An application for a small-scale incinerator or thermal destruction facility shall include the following:

i. Documentation and information sufficient to demonstrate, to the satisfaction of the Department, that the facility meets the following criteria:

(1) The waste intended for incineration or thermal destruction is nonhazardous;

(2) The waste is generated at the site of the incinerator or thermal destruction operation or at other associated intracompany plants located within the State of New Jersey;

(3) The small-scale incinerator or thermal destruction unit has a design capacity of less than 800 lbs. per hour (9.6 tons per day);

(4) The thermal destruction unit will be permitted, constructed and operated in accordance with the requirements of N.J.A.C. 7:27-8; and

(5) The incinerator or thermal destruction unit will be operated in compliance with N.J.A.C. 7:26-2.11 and all other applicable Departmental regulations.

ii. A registration statement on forms provided by the Department; and

iii. An EHIS sufficient to meet only the requirements set forth at N.J.A.C. 7:26-2.9(d)2.

iv. This exemption from full application requirements is limited to one incinerator or small-scale thermal destruction unit for each company site.

3. An application for a small-scale materials recovery facility or transfer station shall include the following:

i. Documentation sufficient to demonstrate, to the satisfaction of the Department, that the capacity of the facility is less than 100 tons per day;

ii. A registration statement on forms provided by the Department;

iii. An EHIS sufficient to meet only the requirements set forth at N.J.A.C. 7:26-2.9(d)3; and

iv. An engineering design sufficient to meet the ***general engineering design*** requirements set forth at N.J.A.C. 7:26-2.10.

4. An application for a small-scale Class III sanitary landfill shall include the following:

i. Documentation sufficient to demonstrate to the satisfaction of the Department, that the total capacity of the facility is less than 300,000 cubic yards or the annual capacity is less than 50,000 cubic yards;

ii. A registration statement on forms provided by the Department;

iii. An EHIS sufficient to meet only the requirements of N.J.A.C. 7:26-2.9(d)4; and

iv. An engineering design sufficient to meet the requirements set forth at N.J.A.C. 7:26-2.10.

[(d) An application for a SWF permit shall be deemed to be adequate for review by the Department in accordance with (g)4 below.]

[1.]**(d)** Upon receipt of ***the initial application materials, the Department shall assign an application number to the application. All correspondence on written comments relating to the application shall thereafter refer to the assigned application number.

(e) All applications shall be signed by the applicant as follows:

1. The completed registration statement shall be signed 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, State, Federal or other public agency, by either a principal executive officer or ranking elected official.

2. All engineering designs and reports and the environmental and health impact statement required by this subchapter and other information requested as "Addendums" by the Department pursuant to (f) and (g)4 below, in addition to the documents required to be submitted pursuant to N.J.A.C. 7:26-2.9 and 2.10, shall be signed by a person described in (e)1 above or by a duly authorized representative of that person. A person is a duly authorized representative only if:

i. The authorization is made in writing by a person described in (e)1 above;

ii. The authorization specified either an individual or a position having responsibility for the overall operation of the regulated facility or activity, such as the position of plant manager, or positions of equivalent responsibility (a duly authorized representative may be either a named individual or any individual occupying the named position); and

iii. The written authorization is submitted to the Department.

3. Any person signing the registration statement, engineering design and reports, environmental and health impact statement or addendum mentioned in (e)1 and 2 above, 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 am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment."

(f) The Department may require an applicant to provide additional data, reports, specifications, plans or other information where such information is necessary, as determined by the Department, to make the application technically complete ***prior to the tentative decision*** or to make a final permit determination after the public hearing. The Department shall not make a ***tentative or*** final determination on any application until such time as the applicant has supplied the requested information. Any failure to submit such information shall constitute cause for denial of the permit.

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

*[1. Prior to preparing and submitting the application for a SWF permit, other than for facilities specified in (c) above, the applicant shall schedule one or more pre-application conferences with the Department to discuss the registration submission requirements and procedures and the engineering design requirements. (See N.J.A.C. 7:26-2.10(b));

2. At least two weeks prior to the scheduled pre-application conference, the application shall submit information in the form of reports, maps, studies and other relevant project documentation providing a sufficient basis for review by the Department. The material submitted prior to the pre-application conference shall include the following:

i. A site location map plotted on a USGS topographic map;

ii. A written description of the type of facility;

iii. A written estimate of the proposed design capacity of the facility;

iv. A written description of the type of waste to be handled;

v. A written plan establishing the tentative construction schedules; and

vi. A written scope of work outlining the proposed EHIS, geotechnical investigation or engineering design;]*

*[3.]**1.* The Department shall not begin the processing of an application until the applicant has fully complied with the submission requirements of this subchapter and the signature and certification requirements of (e) above. However, the Department may begin reviewing material in preparation for the pre-application conference described in *[(g)2]* ***(a)*** above or in preparation for the application submission.

*[4.]**2.* Upon receipt of a SWF permit application, the Department shall review the application for a determination of completeness. After reviewing the SWF permit application, the Department shall, within 60 days of receipt of the application, notify the applicant, in writing, whether the application is administratively complete *[for review]* or incomplete.

i. For the purposes of this section, "administratively complete" means that *[sufficient]* ***all*** information required by *[the Department]* ***N.J.A.C. 7:26-2.8, 2.9 and 2.10,*** to begin technical review of the application has been submitted by the applicant.

*[5.]**3.* If the application is deemed administratively or technically incomplete, the Department shall provide the applicant with a written list of the deficiencies and additional information required to make the application complete. Failure to correct the deficiencies shall constitute cause for denial of the permit without prejudice. A determination of incompleteness shall stop any review and shall *[negate]* ***stay*** the time limitations set forth in (g)*[4]**2* above and *[14]**11* below.

*[6.]**4.* Within 14 days after receiving a notification of deficiency, the applicant shall inform the Department, in writing, of its intent to either withdraw the incomplete permit application or supply the information requested to make the application complete and proceed with the application process. The Department shall establish a reasonable schedule for the submission of additional information. The requested additional information shall be submitted to the Department as an "Addendum to the Application for a Solid Waste Facility Permit" ("Addendum").

*[7.]**5.* Upon receiving the Addendum, the Department shall review the Addendum and other information supplied by the applicant for a determination of *[application]* ***administrative*** completeness in accordance with the procedure set forth in (g)*[4]**2* above.

*[8.]**6.* Upon determining that the application is administratively complete, the Department shall send notice that an application has been filed, identifying the applicant, describing the type of facility, location of the facility and locations where and when application materials are available for review to the following:

i. The mayor, planning board, any environmental commission and the health officer of any municipality in which any portion of the facility is proposed to be located;

ii. The mayor, planning board, any environmental commission and the health officer of any municipality the borders of which lie within one mile of the perimeter of the proposed facility; and

iii. The *[County Planning Board of any county]* ***implementing agency for the solid waste management plan of any solid waste management district*** in which any portion of the facility is proposed to be located;

*[9.]**7.* Upon determining that an application is administratively complete, the Department shall submit a copy of the SWF permit application materials to the following for review:

i. The municipal clerk of any municipality in which any portion of the facility is proposed to be located;

ii. The *[Board of Chosen Freeholders]* ***County Clerk*** of any county in which any portion of the facility is proposed to be located; and

iii. Any other governmental agencies that the Department deems appropriate, such as Federal and State agencies with jurisdiction over fish, shellfish and wildlife resources, surface and groundwater resources, air quality, and coastal zone management; the Pinelands Commission; Office of New Jersey Heritage; Department of Agriculture; Department of Transportation; Department of Community Affairs, Board of Public Utilities; and other affected states.

*[10.]**8.* Once the Department certifies that an application is administratively complete, the application may be reviewed by an interested person at the Department's offices during normal working hours by making an appointment, at the address specified at N.J.A.C. 7:26-2.4*[(a)]**(b)*, with the ***records custodian of the*** Division of ***Solid*** Waste Management's*[,]* Bureau of Registration, Permits and *[Licensing]* ***Administration***. Copies may be obtained from the Department upon payment of the duplication fee prescribed by law.

[11. All governmental agencies shall complete their review and submit comments to the Division within 90 days after receipt of the application materials to facilitate Division review of the application. The Division, in its discretion, may consider comments submitted by any governmental agency after the expiration of the 90 day period for review.]

*[12.]**9.* The Department shall determine whether a site visit and inspection are necessary in order to evaluate the proposed site of the facility. If the Department decides that a site visit is necessary for any reason in conjunction with the processing of an application, the applicant shall be notified and a date for the visit shall be scheduled.

*[13.]**10.* The Department shall publish notice in the DEP Bulletin of the receipt of each new application and each significant agency action on an application currently before it. Notice shall be given for significant actions including, but not limited to, the determination of completeness, tentative approval, rejection of an application, public hearings on a tentative approval, final decision on a permit, transfer of a permit and permit renewal. Publication of notice in the DEP Bulletin constitutes constructive notice to all interested persons of the Department actions on SWF permits. The notice shall include, but not be limited to:

i. The applicant's name;

ii. The agency application number;

iii. The type of facility proposed by the applicant;

iv. The location of the proposed facility; and

v. The date and description of significant agency action on the application.

*[14.]**11.* Not later than six months after the date upon the Department's letter notifying the applicant that the application is administratively complete, ***except in the case set forth in 3 above,*** the Department shall reject the SWF permit application, without prejudice, as technically incomplete, deny or grant tentative approval of the application.

i. If the Department *[determines]* ***decides*** to deny the applicant a SWF permit, the basis for the denial shall be set forth in a letter to the applicant which shall also provide the applicant with notice of opportunity to request an adjudicatory hearing pursuant to (g)*[25]**22* below.

*[15.]**12.* A tentative approval shall establish draft design, construction, operational, and maintenance conditions for the proposed solid waste disposal facility, requirements for the monitoring thereof and any other conditions required under Federal or State laws or rules and regulations and as deemed appropriate by the Department.

*[16.]**13.* Not later than 45 days after the granting of a tentative approval of an application for a SWF permit, the Department shall conduct a public hearing on the proposed facility and operator in accordance with the procedures set forth in N.J.A.C. 7:26-2.5. In the case of an application for a nonhazardous solid waste facility described in

N.J.A.C. 7:26-2.4(c), an application for a permit renewal pursuant to N.J.A.C. 7:26-2.7(b)*[,]* ***or*** an application to transfer a permit pursuant to N.J.A.C. 7:26-2.7(d) *[or minor permit modification to require environmental upgrading]*, the Department shall provide public notice, in accordance with (g)*[17]***14*** below, of the opportunity for a public hearing on the proposed agency action. Upon the written request of any interested party which, in the opinion of the Department, raises issues of fact relevant to the proposed agency action within 30 days of the newspaper publication of a notice of opportunity for a hearing, a public hearing on the proposed agency action shall be held in accordance with N.J.A.C. 7:26-2.5.

*[17.]***14.*** Not less than 15 ***or more than 30*** days before a public hearing the Department shall provide notice, as described in (g)*[18]* ***15*** below, of the tentative approval and scheduled hearing, by the following methods:

i. By mailing a copy of a notice to the following persons (any person entitled to receive notice under this paragraph may waive the right to receive notice for any classes and categories of permits):

(1) The applicant;

(2) The municipality in which the proposed facility will be located;

(3) Any Federal, State, county or municipal agency known to the Department to have issued or have jurisdiction to issue a permit for the same facility or activity;

(4) Any Federal, State, county or municipal agency which commented on the application *[or]* ***and*** requested notice; and

(5) Any other persons required ***by law, statute, regulation or court order*** to receive such notice;

ii. By publication of a notice in two daily *[or weekly]* newspapers ***of general circulation*** *[circulated]* within the area affected by or served by the facility or activity*[. Publication shall occur not more than 30 days prior to the date of the public hearing]*; and

iii. In cases where the Department is providing notice of the opportunity for a public hearing, such notice shall be provided in accordance with (g)17i ***and ii*** above *[and published in two daily or weekly newspapers circulated within the area affected by or served by the facility]*. Where the notice of opportunity for a public hearing results in the scheduling of a hearing, a subsequent notice of the hearing date shall be provided in accordance with (g)17i and ii above.

*[18.]***15.*** All public notices issued pursuant to this section shall include the following information;

i. Name and address of the office processing the tentative approval for which notice is being given;

ii. Name and address of the applicant, and if different, the address of the facility or activity described by the SWF permit application materials;

iii. A brief description of the business to be conducted at the facility, including the activities described in the SWF permit application materials;

iv. Name, address and telephone number of a person from whom interested persons may obtain further information, including copies of the fact sheet required by (g)*[19]***16*** below;

v. A brief description of the comment procedures by which the public may participate in the final permit decision and the time and place of the public hearing, if necessary; and

vi. The location of the administrative record, the times at which the record will be open for public inspection and a statement that all data submitted by the applicant is available as part of the administrative record.

*[19.]***16.*** A fact sheet concerning the proposed facility shall be prepared by the Department and shall be provided with the hearing notice required in (g)*[18]***15*** above. The fact sheet shall include the following:

i. The principal facts and the significant factual, legal, methodological or policy questions considered in granting the tentative approval;

ii. A description of the proposed facility;

iii. The types and quantities of solid waste which may be disposed of at the proposed facility; and

iv. A brief summary of the ***impacts and*** bases for the conditions of the tentative approval.

*[20.]***17.*** The public comment period shall be determined by the Department in accordance with the following:

i. The public comment period shall be the opportunity for any interested person to submit comments to the Department concerning a proposed facility and operator;

ii. For purposes of this subchapter the public comment period shall begin upon notice by the Department that a tentative approval has been issued or other agency action taken;

iii. The public comment period shall close 15 days after the date of the last public hearing, if any, on any tentative approval, unless the Department decides to extend the comment period in accordance with (g)*[19]***17***v below or reopen the comment period in accordance with (g)*[21]***18*** below. For agency actions on which no public hearing is held, the public comment period shall close 30 days after publication of the notice of the agency action;

iv. All interested persons, including the applicant, who believe any aspect of the tentative approval or other agency action is inappropriate shall raise all reasonably ascertainable issues and submit all reasonably available arguments and factual grounds supporting their positive, including all supporting material, by the close of the public comment period. All supporting materials shall be included in full and may not be incorporated by reference, unless they are already part of the administrative record in the same proceeding, or consist of State or Federal statutes and regulations or other generally available reference materials;

v. A public comment period longer than 15 days following the public hearing may be necessary, in certain cases, to give interested persons an opportunity to comply with the requirements of (g)*[20]***17***iv above. Any interested person who reasonably requires additional time within which to supplement the administrative record should request, in writing, an extension of the public comment period, and the Department shall exercise reasonable discretion in setting the closing date for public comment;

vi. The Department shall publish notice, in accordance with (g)*[18]* ***14*** above of any decision to extend the period for public comment beyond the 15 days following the public hearing. Any notice of an extension of the public comment period shall clearly set forth the closing date of such extension.

*[21.]***18.*** Reopening of the public comment period shall be at the Department's discretion based upon the following:

i. If any data, information or arguments submitted during the public comment period appear to raise substantial new questions concerning a tentative approval or other agency action, the Department may take one or more of the following actions:

(1) Issue a permit, appropriately modifying the tentative approval to reflect the Department's response to the questions raised;

(2) Prepare a revised fact sheet and revised tentative approval and reopen the comment period under this section; or

(3) Reopen the comment period to give interested persons an opportunity to comment on the information or arguments submitted.

ii. Comments filed during the reopened comment period shall be limited to the substantial new questions that caused its reopening.

iii. Public notice of any of the above actions shall be published in accordance with (g)*[18]***14*** above. Any notice issued pursuant to this section shall clearly define the scope of the reopening for purposes of limiting the scope of comments submitted during the reopened period pursuant to (g)*[21]***18***ii above.

*[22.]***19.*** The Department shall base the final permit decision on the administrative record, which shall be complete on the date the SWF permit is issued and which shall include, but not be limited to:

i. The application, including the registration statement, engineering design, EHIS, Addendums, if any, and all other ***additional*** materials submitted by the applicant in support of the application;

ii. All written comments received during the public comment period, including any comments submitted during an extension or reopening of the comment period.

iii. The transcript of any public hearing held on the permit application;

iv. The hearing officer's report which shall contain the Department's response to comments made during the comment period;

v. The fact sheet prepared by the Department for any public hearing and other documents contained in the supporting file; and

vi. The tentative approval and final permit documents.

vii. Material readily available to the Department, or published material which is generally available, need not be physically in the same file as the rest of the administrative record as long as it is specifically referred to in the fact sheet, the written comments, the transcript, or in the response to comments.

*[23.]***20.*** The provisions of this subchapter shall not supersede the public hearing procedures required for facilities obtaining *[a NJPDES]* ***any other*** permit ***issued by the Department***. The public notice and public comment provisions contained in *[N.J.A.C. 7:14A-8]* ***the applicable regulations or statutes*** shall govern *[NJPDES]* ***those*** permit procedures.

*[24.]**21.* The Department shall notify the applicant of the permit application decision by issuance of a SWF permit or by letter of denial on the application. In addition, the SWF permit or letter of denial shall be made available to all parties receiving copies of the application or notice of the application pursuant to (g)*[8 and 9]**6 and 7* above and to any other interested person who has commented, orally or in writing, on the application, tentative approval or other agency action. Notice of the decision shall be published in the DEP Bulletin.

*[25.]**22.* Within 20 calendar days *[from publication of notice]* ***of receipt*** of the Department's decision *[in the DEP Bulletin]*, the applicant may submit a written request to the Department for an adjudicatory hearing to contest any aspect of the Department's decision.

i. Any request for an adjudicatory hearing must be based on specific relevant issues raised by the applicant during the public comment period;

ii. Any request raising new issues shall be considered by the Department as a request to reopen the public comment period pursuant to (g)*[21]**18* above;

iii. The Department may base a denial of a request for an adjudicatory hearing on the failure of the applicant to have raised the issue during the public comment period; and

iv. The request for an adjudicatory hearing shall state the applicant's factual position on each question alleged to be at issue, its relevance to the permit decision, specific reference to contested permit conditions as well as suggested revised or alternative permit conditions and an estimate of the amount of hearing time necessary to adjudicate each factual issue. Supporting documentation shall be identified in the administrative record and shall be properly referenced.

*[26.]**23.* The Department may extend the time allowed for submitting a hearing request under this section for good cause shown.

*[27.]**24.* For 30 days following receipt of a request for an adjudicatory hearing, the Department may attempt to settle the dispute by conducting such proceedings, meetings and conferences as it deems appropriate.

*[28.]**25.* If Department efforts at settlement fail, the Department shall file the request for a hearing with the Office of Administrative Law. The hearing shall be held before an administrative law judge and in accordance with the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1.

7:26-2.5 Public hearing procedures

(a) The department shall be responsible for scheduling and conducting a public hearing in reasonable proximity to the location of the proposed facility.

(b) The Department shall designate a hearing officer who shall exercise reasonable discretion in the conduct of the hearing and shall encourage general discussion of the proposed facility, including public comment on the proposed operator, tentative approval or other action to be taken by the Department.

(c) The public hearing shall be a non-adversarial hearing at which any interested person may submit oral or written statements and data concerning the proposed operator, tentative approval or other agency action.

(d) The Department may make a presentation at the public hearing, describing the proposed facility and explaining the basis for the issuance of the tentative approval or other proposed action.

(e) The applicant shall appear at the public hearing on a tentative approval and be available to answer questions regarding the proposed facility. Failure of an applicant to appear and answer relevant questions at the public hearing may result in revocation of the tentative approval and denial of the application. ***The applicant may make a presentation at the public hearing, describing the proposed facility.****

(f) The public hearing proceedings shall be transcribed or recorded and the transcript shall be part of the administrative record.

(g) The hearing officer, to the extent feasible, shall conduct the hearing in the following manner:

i. All interested persons shall be afforded the opportunity to appear and comment at the hearing;

ii. Time shall be allotted for individuals to present comments where necessary to accommodate those present and to limit repetition;

iii. Testimony on irrelevant matters shall be excluded; and

iv. The hearing officer shall ensure that the hearing proceeds in an orderly fashion.

(h) To help ensure that relevant questions are answered at the public hearing, such questions may be submitted to the Department no later than five days prior to the public hearing. At the time of the hearing, the Department or the applicant, in the Department's discretion, will make every reasonable effort to answer these questions and other relevant questions received at the hearing.

(j) In the event that a response to a question cannot be given at the hearing, a written response shall be prepared after the hearing by either the Department or the applicant, at the Department's discretion. A copy of that written response shall be included in the hearing officer's report and shall be provided to the individual asking the question and others requesting copies of the hearing officer's report.

(k) The cost of advertisement and other expenses of the public hearing, including provision and preparation of the transcript, will be certified to the applicant who shall pay the bill within 30 days thereafter. Payment of the bill, in full, shall be a condition of final permit issuance.

7:26-2.6 Procedures and grounds for modification, revocation and reissuance and termination of SWF permits

(a) When the Department receives any information concerning a solid waste facility, it may determine whether or not one or more of the causes listed below for modification, or revocation and reissuance, or both exist.

1. If cause exists, the Department may modify, or revoke and reissue the SWF permit accordingly, subject to the limitations of this section, and may require an updated application, if appropriate. When a permit is modified, only the conditions subject to modification may be reopened for public comment. If a permit is revoked and reissued, the entire permit shall be reopened for public comment and the permit shall be reissued for a new term.

2. If a cause does not exist under this subsection or subsection (c) below, the Department shall not modify or revoke and reissue the permit. If a permit modification satisfies the criteria in (d) below for minor modifications, the permit may be modified without issuance of a tentative approval or public comment thereon. Otherwise, a tentative approval shall be prepared and the procedures in N.J.A.C. 7:26-2.4 *[(a)]* ***(b)5*** followed.

3. The following may be causes for modification at the discretion of the Department. The following may also be causes for revocation and reissuance, in place of modification, when the permittee requests and the Department agrees.

i. There are material and significant alterations or additions to the permitted facility or operation which occurred after permit issuance which justify the application of permit conditions that are different from or absent in the existing permit;

ii. The Department has received information that was not available at the time of permit issuance that would have justified the application of different permit conditions at the time of issuance. This shall include any information indicating that the effects on the environment are unacceptable or that the facility is being operated in an environmentally unsound manner;

iii. The standards or regulations on which the permit was based have been changed by promulgation of amended standards or regulations or by a judicial decision after the permit was issued. Permits may be modified during their terms for this cause only as follows:

(1) For promulgation of amended standards or regulations, when the permit condition to be modified was based on a requirement of N.J.A.C. 7:26, and the Department has revised, repealed or modified that portion of the regulation on which the permit condition was based; and

(2) For judicial decisions, a court of competent jurisdiction has remanded and stayed a Department regulation or guideline, if the remand and stay concerned that portion of the regulation or guideline on which the permit condition was based and a request is filed by the permittee *[in accordance with N.J.A.C. 7:26-2.3(k)]* within 90 days of judicial remand.

iv. The Department determines good cause exists for modification of a compliance schedule, such as an act of god, strike, flood or material shortage or other events over which the permittee has little or no control and for which there is no reasonably available remedy.

4. The Department shall follow the applicable procedures in (e) below while pursuing a modification or revocation and reissuance of any permit under this section.

(b) The Department may modify or, alternatively, revoke and reissue a permit if cause exists for termination under (c) below and the Department determines that modification or revocation and reissuance is appropriate.

(c) When the Department receives any information concerning a facility, it may determine whether or not one or more of the causes listed below for termination of the permit exist and shall proceed as set forth below.

1. The following are causes for terminating a permit during its term or for denying a permit renewal application.

i. Noncompliance with any condition of the permit;

ii. The permittee's failure in the application, during the permit issuance process or at any subsequent time to disclose fully all relevant facts, or the permittee's misrepresentation of any relevant facts at any time;

iii. A determination by the Department that the facility is being operated in an environmentally unsound manner;

iv. A determination that the permitted activity endangers human health or the environment, or has the potential to do so, and can only be regulated to acceptable levels by permit modification or termination; or

v. A change in ownership or operational control of a permitted facility not in compliance with N.J.A.C. 7:26-2.7*[(d)]**(e)*;

2. The Department shall follow the applicable procedures in (e) below in terminating any permit under this section.

(d) Upon the request of the permittee, or for good cause, the Department may make certain minor modifications to a permit without issuing a tentative approval, providing public notice thereof or holding a public hearing thereon.

1. Minor modifications to the permit shall be made to accomplish only the following:

i. Correct typographical errors;

ii. Require more frequent monitoring or reporting by the permittee;

iii. Change an interim compliance date in a schedule of compliance, provided the new data does not interfere with attainment of the final compliance date requirement;

iv. Change the lists of facility emergency coordinators or equipment in the permit's contingency plan;

v. Delete type of solid waste being accepted for handling, processing or storage at the facility or include types which are similar in nature to those included in the permit at the time of issuance without increasing the design capacity of the facility;

vi. Change the testing methods or procedures in the permit as a result of changes to standardized methods or procedures;

[vii. Replacement of materials or equipment in kind;]

*[viii.]**vii.* Revisions as necessary to conform to a decision by the Department rendered after an adjudicatory hearing or any settlement of the issues for which an adjudicatory hearing has been requested, pursuant to N.J.A.C. 7:26-2.4(g);

(1) After settlement of the issues for which an adjudicatory hearing had been requested, those persons who commented on the tentative approval shall receive notice of any revised permit conditions; or

*[ix.]**viii.* Changes in the design of the facility which, in the best engineering judgment of the Department, will upgrade the environmental performance or reduce adverse environmental or human health impacts without increasing the design capacity of the facility.

[(1) Prior to making this modification, the Department shall provide public notice and offer the opportunity for a public hearing pursuant to N.J.A.C. 7:26-2.4.]

(e) Permits may be modified, revoked and reissued, or terminated either upon written request containing the relevant factors and rationale supporting the request, submitted by the permittee or upon the Department's initiative. *[Permits may only be modified, revoked and reissued, or terminated for the reasons specified in (a)3 and (d) above.]*

1. If the Department decides to modify or revoke and reissue a permit under (b) above it shall:

*[1.]**i.* Prepare a tentative approval incorporating the proposed change pursuant to N.J.A.C. 7:26-2.4. The Department may request additional information and, in the case of a modified permit, may require the submission of an updated permit application. In the case of revoked and reissued permits, the Department shall require the submission of a new application.

*[2.]**ii.* In a permit modification only those conditions to be modified shall be reopened *[when a new tentative approval is prepared]* ***for public comment in accordance with the procedures set forth at N.J.A.C. 7:26-2.4***. All other aspects of the existing permit shall remain in effect for the duration of the unmodified permit.

*[3.]**iii.* During any modification proceeding, the permittee shall, at a minimum, comply with all conditions of the existing permit and such interim conditions as the Department may impose to protect human health and the environment until the modification proceedings are completed.

*[4.]**iv.* When a permit is revoked and reissued, the entire permit shall be reopened for public comment in accordance with the procedures set forth at N.J.A.C. 7:26-2.4. During any revocation and reissuance proceeding, the permittee shall, at a minimum, comply with all conditions of the existing permit and such interim conditions as the Department may impose to protect human health and the environment until a new final permit is issued; or

*[5.]**v.* Minor modifications as defined in (d) above are not subject to the requirements of this subsection.

*[6.]**vi.* If the Department tentatively decides to terminate a permit under (c) above, it shall issue a notice of intent to terminate. The notice of intent to terminate shall be processed in accordance with the same procedures as a tentative approval pursuant to N.J.A.C. 7:26-2.4.

7:26-2.7 Duration of the permit; permit renewal requirements; continuation of an expiring permit and transfer of an existing permit

(a) A permit issued pursuant to this subchapter shall be effective for a fixed term not to exceed five years, except as provided in (c) ***and (d)*** below. A permit may be renewed in accordance with (b) below only for the duration of the facility's inclusion in the District Solid Waste Management Plan and provided the permitted capacity, as specified in the approved engineering design, is not exceeded.

1. The term of a permit shall not be extended by modification beyond the maximum duration specified in this section.

2. Nothing herein shall be construed to allow the permittee to exceed the maximum permitted capacity of the facility as set forth in the SWF permit for the facility at any time during the term of the permit. Any expansion, extension, enlargement or other increase beyond permitted capacity conditions shall be considered a new facility and shall require the application for the Departmental approval of a new permit.

3. The Department may issue any permit for a duration that is less than the full allowable term under this section.

(b) SWF permit renewal submission requirements and procedures shall be as follows:

1. The permittee of a permitted solid waste facility shall apply for permit renewal at least 90 days prior to the expiration date of the existing SWF permit if the facility has remaining permitted capacity in accordance with its SWF permit and if the facility is included in the District Solid Waste Management Plan.

2. The permittee, owner or operator shall submit the following materials to the Department***, if needed to update the facility's operations,*** as an application to renew the SWF permit for that facility:

i. *[A]* ***An updated*** registration statement on forms provided by the Department;

ii. An updated engineering design for the facility;

iii. An updated Operations and Maintenance Manual for the facility; and

iv. *[A]* ***An amendment to the*** disclosure statement as required pursuant to N.J.A.C. *[7:26-2.16]* ***7:26-16.6***; and

v. A complete and detailed description of *[actual]* ***changes in*** environmental impacts resulting from the operation of the facility and additional mitigation measures being proposed to address such impacts.

3. The Department shall publish notice in the DEP Bulletin and shall notify all parties as specified in N.J.A.C. *[7:26-2.4(a)8 and 9]* ***7:26-2.4(a)6 and 7*** of the SWF permit renewal application.

4. The Department shall review the application for completeness in accordance with procedures set forth at N.J.A.C. *[7:26-2.4(a)3,4,5,6 and 7.]* ***7.26-2.4(a)1,2,3,4 and 5.***

5. The Department shall provide notice of its tentative decision on the permit renewal application and of the opportunity for a public hearing in accordance with N.J.A.C. *[7:26-2.4(g)17iii.]* ***7:26-2.4(g)14iii.***

6. A request for a public hearing must be filed within 30 days of publication of a notice of opportunity for such hearing in accordance with N.J.A.C. *[7:26-2.4(g)17iii.]* ***7:26-2.4(g)14iii.***

7. The public comment period shall close 15 days after the date of last public hearing or 30 days after the notice of opportunity for a public hearing on the renewal application.

8. The final agency decision on the SWF permit renewal application shall be based on the administrative record as defined in N.J.A.C. *[7:26-2.4(a)22.]* ***7:26-2.4(a)19.***

(c) The conditions of an expired permit are continued in force pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-11, until the effective date of a new permit if:

1. The permittee has submitted a timely and complete application for a renewal pursuant to (b) above;

2. The Department, through no fault of the permittee, does not issue a new permit with an effective date on or before the expiration date of the previous permit, due to time or resource constraints;

*[3.]**(d)* Permits continued under this section remain fully effective and enforceable; *[and*]

*[4. When]**1. If* the permittee is not in compliance with ***anyone of*** the conditions of the expiring or expired permit the Department may choose to do any or all of the following:

i. Initiate enforcement action based upon the permit which has been continued;

ii. Issued a notice of intent to deny the new permit under N.J.A.C. 7:26-2.4. If the permit is denied, the owner or operator would then be required to cease activities and operations authorized by the continued permit or be subject to an enforcement action for operating without a permit;

iii. Issue a new permit under N.J.A.C. 7:26-2.4 with appropriate conditions; or

iv. Take such other actions as are authorized by these regulations or the Solid Waste Management Act, N.J.S.A. 13:1E-1 et seq.

*[(d)]**(e)* A permittee*[, owner or operator]* shall not transfer the SWF permit directly to a new owner or operator without the Department's approval.

1. Any transfer of a permit must be preapproved by the Department, and a written request for permission to allow such transfer must be received by the Department at least 180 days in advance of the proposed transfer of ownership or operational control of a facility. The request for approval shall include the following:

i. A registration statement, completed by the prospective new permittee on forms provided by the Department;

ii. A disclosure statement as required by N.J.A.C. 7:26-16.4 completed by the proposed transferee;

iii. A demonstration that the final responsibililty requirements of N.J.A.C. 7:26-2A.9 will be met by the proposed new permittee; and

iv. A written agreement between the existing permittee and the proposed new permittee containing a specific future date for transfer of ownership or operations.

2. A new owner or operator may commence operations at the facility only after the existing permit has been revoked and a permit is issued pursuant to N.J.A.C. 7:26-2.4.

3. The permittee of record remains liable for ensuring compliance with all conditions of the permit unless and until the existing permit is revoked and a new permit is issued in the name of the new owner or operator.

4. Compliance with the transfer requirements set forth in this subsection shall not relieve the permittee*[, owner or operator]* from the separate responsibility of providing notice of such transfer pursuant to the requirements of any other statutory or regulatory provision.

7:26-2.8 Registration and general prohibitions

(a) The registration statement shall be executed, in accordance with the requirements of N.J.A.C. 7:26-2.4(e), on forms furnished by the Department, and shall state such information necessary and proper for the enforcement of this subchapter as the Department may require.

(b) Prior to May 1 of each calendar year, each permittee shall submit to the Department, a statement updating the information contained in the initial registration statement. This update shall be on forms furnished by the Department. In no case shall submission of an updated statement alter the conditions of the permit.

(c) The permittee shall notify the Department in writing within 30 days of any change in the information set forth in this current registration statement.

(d) The failure to submit an updated registration statement and to submit all applicable fees, required by N.J.A.C. 7:27-4, on or before July 1 of each calendar year shall be sufficient cause for the Department to revoke the permit or take such other enforcement action as is appropriate.

(e) No person shall engage or continue to engage, unless exempt by N.J.A.C. 7:26-1.1 or 1.7 or 1.8, in the disposal of solid waste in this State without first having filed a completed application for and received approval of a SWF Permit.

1. No person shall be issued an approved registration or a SWF permit if that person is disqualified for any of the reasons set forth in N.J.A.C. 7:26-16.8.

(f) No person shall begin construction or operation of a solid waste facility without obtaining a SWF Permit.

(g) No person shall continue to operate a solid waste facility without obtaining a*[n approved]* SWF Permit. All existing Certificates of Approved Registration and Engineering Design Approval shall constitute an approved Solid Waste Facility Permit until the duration of the Certificate of Approved Registration and Engineering Design Approval expires or a modification is requested by the permittee or required by the Department.

(h) The fulfillment of the application and approval requirements set forth in this subchapter shall not exempt the applicant from obtaining all other permits or approvals required by law or regulations.

(i) No person shall engage or continue to engage in disposal of solid waste in this State if such an operation does not comply with the operational requirements of N.J.A.C. 7:26-2.11***, unless specifically exempted by N.J.A.C. 7:26-1.1, 1.7 or 1.8***.

(j) No person shall engage or continue to engage in disposal of solid waste in this State in a manner which does not meet all the conditions, restrictions, requirements or any other provisions set forth in its SWF permit.

(k) No permit condition shall be modified, revised or otherwise changed without prior written approval of the Department.

(l) No owner shall transfer ownership of the permit without receiving prior written approval of the Department, in accordance with N.J.A.C. 7:26-2.7*[(d)]**(e)*.

(m) No permittee shall begin construction of a sanitary landfill until *[approval of]* ***the Department approves*** the final Quality Assurance/Quality Control Plan submitted in accordance with N.J.A.C. 7:26-2A.8.

(n) No permittee shall begin operating a sanitary landfill, composting or co-composting facility, transfer station, materials recover facility, or thermal destruction facility until:

1. The *[permittee receives approval from the]* Department *[of]* ***approves*** the final Operations and Maintenance plan in accordance with N.J.A.C. 7:26-2.***10***; and

2. The Department receives and approves the certification of construction prepared by a N.J. licensed professional engineer in accordance with N.J.A.C. 7:26-2A.9(a).

(o) No thermal destruction facility shall begin operations until:

1. The Department receives and approves the certification of the construction prepared by a N.J. licensed professional engineer in accordance with N.J.A.C. 7:26-2B.; and

2. The Department *[issues an approval of]* ***approves*** the testing period results in accordance with standards and procedures set forth in N.J.A.C. *[7:26-2B]* ***7:26-2B.8(c)***.

7:26-2.9 Environmental and Health Impact Statement requirements

(a) The Environmental and Health Impact Statement, (hereinafter EHIS), shall be prepared utilizing a systematic, interdisciplinary approach in order to insure the integrated assessment of technical, economic, environmental and social parameters potentially affected by the proposed facility.

(b) The magnitude ***and detail*** of the ***environmental inventory, the*** environmental assessment***, the health impact assessment*** and the overall EHIS shall be relative to the nature, scale and location of the proposed facility. ***In areas where the information is supplied in the engineering designs or reports, reference to such designs or reports may be considered a suitable response provided the appropriate section and page number of the design or report is cross referenced and indexed;***

(c) The EHIS for all solid waste facilities other than solid waste facilities for which specific requirements are set forth in (d) below, shall contain the following:

1. An executive summary which shall briefly describe the proposed facility, any significant associated positive and negative impacts and any mitigative measures which will be utilized to minimize or eliminate such negative impacts;

2. A detailed written description of the municipal and neighborhood setting of the proposed facility, including a certification that the facility is identified in the district solid waste management plan. The site location shall also be identified by the following:

i. An 8½ inch x 11 inch copy of the key map prepared in accordance with N.J.A.C. 7:26-2.10(b)4 and submitted as part of the engineering design; and

ii. An 8½ inch x 11 inch copy of the vicinity map prepared in accordance with N.J.A.C. 7:26-2.10(b)5 and submitted as part of the engineering design.

3. An environmental inventory, prepared ***in detail*** for the site ***specific conditions*** and, unless otherwise specified herein, ***a general description for*** a minimum area of one mile from the perimeter of the proposed facility's property lines, described existing conditions for each of the following categories:

i. Category I, the physical/chemical category, requires the following parameter descriptions:

(1) Describe the physical geology by identifying major characteristics of the formations present, including, but not limited to, thickness, lithology, structural features, degree of weathering and amount of overburden. ***The description of the site specific geology shall include, but not***

be limited to, the general engineering properties and indexes and, where applicable, the quality of the subsurface soils.* Provide a copy of the geologic map prepared in accordance with N.J.A.C. 7:26-2.10(b)7ii;

(2) Describe the soils by identifying major soil types and their characteristics including, but not limited to, drainage, erosion potential and sedimentation potential. Information shall be based on U.S. Soil Conservation Service Surveys. ***The description of the site specific soils shall include, but not be limited to, the texture and thickness of each horizon, observed mottling, taxonomic classification and, where applicable, the quality of the surface soils.*** Provide a copy of the soils map prepared in accordance with N.J.A.C. 7:26-2.10(b)7i;

(3) Describe the subsurface hydrology by presenting groundwater quantity and quality data for the aquifers located beneath the site, including, but not limited to, depth to groundwater during seasonal high and low flow, flow direction, existing uses and future supply capabilities;

(4) For water bodies which directly abut the site, exist on the site, or drain directly onto or off the site, provide detailed water quantity and quality data. Such data shall include, but not be limited to, flow rates, current uses and supply capabilities, dissolved oxygen (D.O.), biochemical oxygen demand (B.O.D.), total organic carbon, (T.O.C.) total suspended solids (T.S.S.) and general temperature regime. Identify also all existing water classifications, designated uses and limitations of the surface water bodies in accordance with N.J.A.C. 7:9-4;

(5) For upstream tributaries of bodies of water which flow onto the site, and downstream tributaries of bodies which flow from the site, identify all existing water classifications, designated uses and limitations of the surface water bodies, in accordance with N.J.A.C. 7:9-4. Provide also a narrative description of the factors influencing the water quality in such bodies, including but not limited to major permitted discharges, tributaries or confluences with other bodies, etc. Information required by this subsection shall be provided for a distance of one mile from the site boundary;

(6) For all water bodies not named in (4) and (5) above, identify all existing water classifications, designated uses and limitations of the surface water, in accordance with N.J.A.C. 7:9-4;

(7) Provide documentation that the proposed facility will not be inconsistent with any facility or area wide water quality management plan developed pursuant to the Water Quality Planning Act, N.J.S.A. 58:11A-1 et seq.;

(8) Describe the topography by presenting contour data, drainage patterns and 100 year floodway and flood hazard areas delineations pursuant to the Flood Hazard Area Control Act, N.J.S.A. 58:16A-50 et seq., or areas identified pursuant to and based upon the most current Federal Flood Emergency Management Act (F.E.M.A.) maps and data;

(9) Describe the climate by presenting site specific data for wind direction, velocity and frequency, average annual and monthly precipitation and temperature. Unless specifically required to be otherwise obtained by the Department, meterological data may be obtained from the nearest National Oceanographic and Atmospheric Administration (N.O.A.A.) sanctioned station;

(10) Describe the ambient air quality by presenting data for existing concentrations of the National Ambient Air Quality Standard pollutants as identified in 42 USC 7401 et seq., and provide a demonstration that the proposed facility will be consistent with the New Jersey State Implementation Plan and related air quality requirements established by the Division of Environmental Quality. Unless specifically required to be otherwise obtained by the Department, ambient air quality data may be obtained from the nearest State operated monitoring station.

(11) Describe the ambient acoustical conditions by providing day and night noise levels measured at the boundaries of the proposed site. Identify sources of impulsive and continuous noise.

ii. Category II, the biological/ecological category, requires the following parameter descriptions:

(1) Characterize the site and an area within one mile radius from the site boundary, with respect to major plant association (for example, mixed hardwood forest, old field successional, etc.). Delineate different associations present in a mapped format. Identify major dominant and minor species present in each plant association present. Provide estimates of the proportions of each;

(2) For game and non-game mammals, and for an area which includes the site and area within one mile radius from the site boundary, describe utilization by identifying species and estimating populations utilizing these areas for year-round, breeding, wintering and migratory purposes. Relate utilization of areas for these purposes to the plant associations described in (1) above;

(3) For game and non-game birds, and for an area which includes the site and an area within one mile radius from the site boundary, describe utilization by identifying species and estimating populations utilizing these areas for year-round, breeding, wintering and migratory purposes. Relate utilization of areas for these purposes to the plant associations described in (1) above;

(4) For reptiles and amphibians, for those water bodies listed in i(4) and (5) above, and for an area within one-quarter mile radius from the site boundary, describe utilization by identifying species and estimating populations utilizing these areas for year-round, breeding, wintering and migratory purposes. Relate utilization of areas for these purposes to the plant associations described in (1) above;

(5) For fish, for all water bodies listed in i(4) and (5) above, and all water bodies within one-quarter mile of the site boundary, describe utilization by identifying species and estimating populations utilizing the site for year-round, breeding, wintering and migratory purposes;

(6) Describe the plant or animal species on the Federal and State endangered, threatened or rare plant or animal species lists and identify, in a mapped format, the extent of utilization by such species, if present. Quantify the amount of habitat at the site for each such species and the corresponding carrying capacity for each species. Evaluate applicable breeding, wintering and migratory patters when identifying species utilization;

(7) Identify by mapping any unique, critical or unusual habitat including, but not limited to, wetlands, prime agricultural lands, steep slopes of greater than 15 percent, riparian lands, coastal zones or other areas as may be specified by the Department;

(8) Present a description of site visits actually undertaken to evaluate the site ecosystem. This description should include the date, duration of the visit, weather conditions, individuals present to conduct the study, parameters being studied and a copy of studies prepared in connection with preparation of the environmental inventory; and

(9) Describe the methodologies utilized to evaluate the biotic community and present a bibliography of all research materials utilized in the preparation of the environmental inventory. The description of the methodologies utilized shall be sufficient to permit an independent expert to form an opinion as to the scientific justification and integrity of the selected methodolgy.

iii. Category III, the cultural category, requires the following parameter descriptions:

(1) Describe recreational activities by identifying areas known to be used for such activities as hunting, fishing, trapping, boating, swimming, tourism, camping, nature photography and bird watching. Identify designated parks, forests and wildlife management areas, natural areas and other publicly or privately owned lands designated for open space or recreational activities;

(2) Describe the aesthetics by identifying surrounding architecture, open space areas and scenic areas; and

(3) Describe the areas of historical or archeological importance.

iv. Category IV, the socioeconomic category, requires the following parameter descriptions:

(1) Describe the transportation facilities by identifying the network which will service the proposed facility, site access capability, and existing traffic flow patterns expressed in terms of daily peak hour volumes, off peak hour volumes, levels of service and average daily number of trips. Identify any proposed local, county, or State Department of Transportation traffic engineering plans for the network identified;

(2) Describe the sewage facilities by identifying the type of treatment system available, its existing treatment capacity, collection system capacity, average and peak flow data, and current committed capacity for treatment and collection system;

(3) Describe the stormwater management system by identifying the type of collection and treatment system available, and current collection and treatment capacity and utilization;

(4) Describe the water supply by identifying the water supply system, water sources, level and type of existing pre-treatment, capacity of the distribution system, current commitment of capacity, availability of additional supply, and peak and average demands;

(5) Describe the energy supply system ***on-site or immediately available to the site*** by identifying existing power lines or pipelines, current commitment of capacity, their capability of supplying energy to the proposed facility and conveying***, if applicable,*** any energy products generated by the proposed facility *[to available markets, if applicable;]* ***from the site;***

(6) Describe the demography of the area by providing existing population totals and describing present and projected future population and trends for *[the immediate neighborhood of the proposed facility (if

available), the municipality within which the proposed facility will be located, all municipalities within one mile of the proposed facility, the county]* ***the district*** within which the facility will be located and all districts which will utilize the proposed facility. State, county or local government sources may be used for all demographic data;

[(7) Describe employment opportunities in the area by identifying existing levels of employment and present and projected future trends for the immediate neighborhood of the proposed facility (if available), the municipality within which the proposed facility will be located, all municipalities within one mile of the proposed facility, the county within which the facility will be located and all districts which will utilize the proposed facility. State, county or local government sources may be used;]

*[(8)]***(7)* Describe property values *[by generally describing]* ***within*** the immediate neighborhood*[, the municipality within which the proposed facility will be located and all municipalities within one mile of the site]* with respect to median sales prices and recent (1-2 year) trends ***and provide a general description of the property values of the municipality within which the proposed facility will be located and all municipalities within one half mile of the proposed facility.*** *[Describe factors such]* ***The descriptions shall include such factors*** as zoning changes, development patterns, development approvals, etc. which can affect *[such]* ***property*** values. The description of property values in the immediate area of the facility shall be sufficiently detailed to allow assessment of the effect construction and operation of the facility may have on such values;

*[(9)]***(8)* Describe public services available by identifying current local law enforcement, fire protection and health protection capabilities of the municipality in which the proposed facility will be located; and

*[(10)]***(9)* Describe the type and map the location of community and residential dwellings such as hospitals, nursing homes, food processing centers, playgrounds, parks, schools and residences.

4. A description of the proposed facility operations, which shall include, but not be limited to the following:

i. An identification of the project sponsor including name, address, and telephone number where the project sponsor can be contacted during normal working hours. Indicate if the project sponsor is presently, or was previously, associated with any other waste disposal or collection project or operation and, if applicable, identify the project or operation. Describe the responsibilities assumed during this association;

ii. An explanation of the purpose of the proposed facility, which shall include a description of the products or services being provided and a list of benefits to be realized by the owner, the community in which the facility is to be *[sited]* ***located***, and the surrounding communities;

iii. An identification of existing or potential markets for each of the products to be recovered from the solid waste disposal operation, if applicable. Identify the types, qualities and daily quantities of products to be recovered. Set forth the elements of a quality control plan for the recovered products. Provide a copy of any long-term contracts for the sale of the recovered products, if available. In the case where long term contracts have not been finalized upon submittal of the EHIS, a detailed letter of intent, describing areas of agreement and disagreement, shall be submitted. The end use of the recovered products, by the purchaser, shall be defined.

iv. An economic analysis for the proposed facility which projects and approximates capital, operating and maintenance expenditures, as well as any revenues to be realized from the anticipated sale of recovered products, if applicable. *[The economic analysis shall be prepared on an itemized basis.]* The analysis shall project the maximum and minimum charges to be assessed for the various waste ID types to be handled, including an estimate of the initial tipping charges to be levied;

v. An identification of the waste streams which the proposed facility will accept, and copies of any agreements which guarantee a steady flow of this waste to the facility;

vi. A time schedule for the development and start-up of the proposed facility including anticipated completion dates for major phases of construction; and

vii. A narrative statement of the type of disposal processes to be used, including control measures and monitoring instrumentation. A discussion of the following shall also be included:

(1) The types, capacities and number of units of the processing equipment to be utilized and their relationship to the overall operation; and

(2) The daily and hourly handling capacity of the overall facility in tons of refuse received per day and the anticipated operating time in hours per day and days per week; and

viii. A description of the quantity and physical/chemical characteristics of process residues and side-stream wastes resulting from the operation, if applicable. A detailed discussion of appropriate methods of disposal for all such materials such as, through contracts or inclusion in the appropriate district solid waste management plan, including, if available, the identification of primary and alternate disposal sites and methods of storage and handling and methods of reuse or recycling, if applicable.

5. A discussion of the relationship of the proposed action to Federal, State, county, and local land-use plans, policies and controls and environmental regulations. The discussion shall include the following:

i. A description of present land use for the site of the proposed facility and the area within two miles of the perimeter of the facility property line. Include a map or maps illustrating zoning designations and a chart setting forth use restrictions. If the site, any portion of the site or any areas adjacent to the site was previously used for waste landfilling, information relating to depth and area of deposition, type of material landfilled, gas concentration and migration, settling and other factors which may potentially affect construction and operation shall be provided;

ii. A description of how the project will conform or conflict with the objectives of any applicable Federal, State or local land use and environmental requirements including, but not limited to, those affecting the following:

(1) The floodway and flood fringe areas of the flood hazard areas as identified by the Department pursuant to the State Flood Hazard Area Control Act, N.J.S.A 58:16A-50 et seq., or areas identified under the flood insurance studies prepared by the Federal Emergency Management Agency (FEMA);

(2) Areas designated as wild, scenic, recreational or developed recreational rivers pursuant to the Natural Wild and Scenic Rivers Act, 16 USCA 1271 or the New Jersey Wild and Scenic River Act, N.J.S.A. 13:8-45;

(3) Critical habitat of endangered or threatened species of plants, fish or wildlife as defined by the Federal Endangered Species Act of 1973, P.L. 93-205, or the New Jersey Endangered and Non-Game Species Conservation Act, N.J.S.A. 23:2A-1 et seq.

(4) Wetlands, tidelands and coastal zone areas as identified by the Department pursuant to the Wetlands and Coastal Resource and Development Policies, N.J.A.C. 7:7E and as identified on the U.S. Fish and Wildlife Services National Wetlands Inventory Maps;

(5) The Preservation and Protection Areas as established by N.J.S.A. 13:18A-11 of the Pinelands Protection Act, N.J.S.A. 13:18A-1 et seq.;

(6) Nonattainment areas as defined in N.J.A.C. 7:27-18;

(7) Areas subject to the prevention of significant deterioration criteria as defined in 40 CFR 52.21;

(8) Areas which may impact the acoustical quality of residential and commercial properties pursuant to N.J.A.C. 7:29;

*[(8)]***(9)* Areas which may significantly impact water quality pursuant to N.J.A.C. 7:15;

*[(9)]***(10)* Lands that have been duly certified by the State Agriculture Development Committee as agricultural development areas pursuant to the Agricultural *[Resource]* ***Retention and*** Development Act, N.J.S.A. 4:1C-11 ***et seq.***;

*[(10)]***(11)* Watershed areas for water classified by the Department as FW-1 waters or FW-2 Trout Production Waters pursuant to the Surface Water Quality Standards, N.J.S.A. 7:9-4;

*[(11)]***(12)* Areas over a sole source aquifer designated pursuant to Section 1424(e) of the Safe Drinking Water Act of 1974, P.L. 93-523;

*[(12)]***(13)* Areas within the critical supply areas as defined by the Water Supply Management Act, N.J.S.A. 58:1A-1 et seq.;

*[(13)]***(14)* Areas which will encroach upon, damage or destroy any area, site, structure or object included in the National or State Register of Historic Places established by N.J.S.A. 13:1B-15.128;

*[(14)]***(15)* Areas within 10,000 feet of any airport runway which is equal to or greater than 3000 feet in length, within 5000 feet of any airport runway which is less than 3000 feet in length; and

*[(15)]***(16)* Areas dedicated to recreational or open space use including, but not limited to, national parks, national recreation areas, national forests, national wildlife refuges, state wildlife management areas, state parks, state forests, state designated natural areas and county or local parks, wildlife sanctuaries and recreational facilities.

(17) Areas subject to cleanup pursuant to the Environmental Cleanup Responsibility Act, N.J.S.A. 13:1K-6 et seq.;

iii. Where the potential for a land use or environmental conflict exists, the applicant shall describe the mitigation efforts to be undertaken to meet the intent of the applicable land use or environmental requirement.

6. A comprehensive description of the district solid waste and, if applicable, sludge management plans for the districts wherein the proposed

facility is to be located, from which solid waste is to be received, or to which process residues are to be sent for disposal. The description shall include the following:

i. An identification of all affected municipalities and districts and a description of the strategy of each plan as it pertains to the proposed facility; including inter-district waste flow agreements and intra-district waste flow patterns, plan duration, recycling and waste reduction goals, implementation schedules and plan implementing agencies. A description of how the proposed facility will conform with the content and strategy of each plan shall also be included; and

ii. A discussion of the elements of the plan which indicate a need for the facility, its relation to current solid waste disposal capacities and the mechanisms established that will guarantee the necessary waste flows to the proposed facility.

7. A list and status report on all Federal, State, county and local licenses, permits and certifications necessary for the proposed facility;

8. An environmental assessment, which shall provide a detailed evaluation of the potential impacts of the proposed facility on the environment including, but not limited to, all parameters identified in the environmental inventory in (c)3 above. The assessment shall include, but not be limited to, the following:

i. An evaluation of both positive and negative, as well as, primary (direct or immediate) and secondary (indirect or long range) impacts on each parameter under conditions of maximum usage or output and a correlation of such impacts with various stages of the site preparation, facility construction, operation, closure and post closure phases;

ii. An identification and description of the modeling techniques used to predict impacts on the various parameters identified in (c)3 above. Where applicable, a calibrated and verified model shall be used and a copy of the model in the appropriate format shall be transmitted to the Department. Where an accepted modeling technique*[s]* is not available best professional judgment may be used. A detailed description of the logical reasoning and assumptions made in the exercise of best professional judgment shall be incorporated to permit independent review;

iii. Isopleths, grid maps or other maps to depict potential zones of contaminant migration surrounding any and all sources of emission or discharge. Identify the type and location of each source;

iv. A quantification of impacts whenever possible (for example, lost habitat in acres) for all potential environmental impacts identified, where such quantification is not included, an explanation of the reason for such omission shall be provided;

v. A qualitative discussion of all potential environmental impacts identified; and

vi. A detailed description of the mitigative techniques proposed to address any potential environmental impact associated with the proposed facility.

9. A health impact assessment ***for Class II and III sanitary landfills and thermal destruction facilities***, which shall provide a detailed evaluation of the potential impacts of the proposed facility on human health ***resulting from ground or surface water discharges and air emissions***, including, but not limited to the following:

i. A description and discussion of the health risk assessment methodology to be employed, including detailed descriptions of the logical reasoning and assumptions employed in the method. A bibliography of reference material utilized in the preparation of the assessment shall be provided. Applicants shall contact the Department prior to the initiation of the assessment to obtain the current guidelines for such activities;

[ii. Quantification, where possible, of increased health risks and associated impacts (such as increased health care costs). Where such quantification is not included, an explanation for such omission shall be provided:]

*[iii.]***ii.*** A discussion of the level of uncertainty involved in the overall assessment. This discussion shall address the uncertainty involved in the estimation of individual parameters such as emissions ***or discharge and decay*** rates, levels of exposure and health effects, as well as the implications of complex uncertainties;

*[iv.]***iii.*** A listing of all potential contaminants which may reasonably be expected to be released from the facility, and the amounts, concentrations and pathways of each;

*[v.]***iv.*** A listing of contaminants which will be utilized to assess health risks. All known carcinogens listed in *[iv]* ***(c)9iii*** above shall be included; additional contaminants shall be included, based on professional judgment. This list, together with a description of the rationale employed in choosing those materials included on the list, shall be submitted *[for]* ***to the*** Department ***for*** review ***and approval*** prior to the initiation of the *[detailed studies outlined below;]* ***toxicity profile and health impact assessment;***

*[vi.]***v.*** For each of the contaminants listed in *[v]* ***(c)9iv*** above, a toxicity profile ***shall be developed***. This profile shall include data on the physical and chemical nature of the contaminant, as well as a description and discussion of data available regarding the environmental fate, acute effects (LD_{50}, irritation), chronic effects (mutagenicity, teratogenicity, carcinogenicity) and epidimiology of the material. This profile shall include a listing of available toxicological, epidimiological or other acute or chronic health effects studies used or otherwise available on the material in question. Applicants should contact the *[Division]* ***Department*** prior to the initiation of development of these profiles, to obtain the current guidelines for such activities;

*[vii. A discussion and quantification of the relationship between the potential health impacts associated with the proposed facility and the demographics of the affected population, with particular attention to sensitive receptors potentially impacted by the facility;

viii. A discussion and quantification of the potential for additional risk to human health as a result of accidents occurring from human error, equipment malfunction, fires, explosions, natural catastrophes and other accidental occurrences at the facility. The discussion and quantification shall include an assessment of the probability of occurrence and associated risks, as well as an evaluation of the impact of the probable worst case conditions for each class of occurrence; and]*

vii. A quantification of the potential health impacts, where possible. If such quantification is not included, an explanation of the reason for such omission shall be provided; and

*[ix.]***viii.*** A detailed description of the mitigation techniques proposed to address any potential health impacts associated with the proposed facility.

10. A summary discussion of any potential adverse impacts identified in the environmental and health assessment in (c)8 and 9 above that cannot be avoided should the proposed facility be implemented. For those impacts which cannot be avoided, their implications and the reasons why the proposed facility should be permitted shall be described. Where mitigation measures are proposed to reduce these potentially adverse impacts, the projected effectiveness and costs of the mitigative measures shall be discussed.

11. A comparison of reasonable design alternatives to the proposed facility. The comparison shall be sufficiently detailed to permit independent and comparative evaluation of the benefits, costs and environmental impacts of the design of the proposed facility and each reasonable design alternative. The comparison shall include the following:

i. Discussion of the alternative of no action or no project, and addressing the major foreseeable consequences of such a choice;

ii. Discussion of the feasibility of various alternative design or process changes, including those which could reduce or avoid some or all of the adverse impacts identified above;

iii. Preparation of economic analyses for both the chosen design and the identified design alternatives. Techniques such as cost-effectiveness analysis, cost-revenue analysis or other techniques approved by the Department may be employed;

iv. Identification of *[the]* ***any*** significant differences in environmental impact which would result from use of the design/process changes identified in ii above, as compared to those resulting from the chosen alternative;

v. Comparison, in matrix or other appropriate format, of the degree of feasibility and economic and environmental impacts of both the chosen alternative and the set of feasible alternatives identified in (c)11ii above; and

vi. A discussion of the reasons why the proposed action was selected over the alternatives.

12. A discussion of the relationship between local, short term uses of the environment and the effect of the proposed facility on available options for subsequent future uses. Short term refers to the construction phase of the proposed facility. A description of the following shall be included:

i. Those cumulative and long-term effects of the proposed facility which either negatively impact or enhance the environment for the future;

ii. The extent to which the proposed facility prohibits future options;

iii. Plans which provide for the protection and maintenance of the environment during construction of the proposed facility, which shall include, but not be limited to, the following:

(1) Procedures to be used during construction if archeological resources are uncovered;

(2) Erosion and sediment control plans; and

(3) Controls for dust, odors, noise, traffic, and soil tracking.

iv. Plans which provide for the protection and maintenance of the environment after termination of the facility operation.

13. A discussion of irreversible and irretrievable commitments of resources resulting from the construction and operation of the proposed facility. The discussion shall include an analysis of the use of renewable and nonrenewable resources during construction and throughout continued operation, including an assessment of energy consumption. Where applicable, alternative energy sources shall be discussed and compared to the type selected and the rationale for the selection shall be stated.

(d) The minimum EHIS requirements for other types of solid waste disposal operations are as follows:

1. The EHIS for leaf composting facilities *[shall:]* ***, described in N.J.A.C. 7:26-2.4(c)i, shall be based on the operational plan and shall contain a description of the following:***

[i. Be based on conceptual or preliminary engineering designs;]

*[ii.]***i.*** Describe the consistency of the proposed facility with the solid waste management plan of the district within which the proposed facility is to be located; and

*[iii.]***ii.*** Include a detailed narrative description of the following prepared in accordance with the Department's guidelines:

(1) Facility design and operations including volumes and types of ***vegetative*** waste***s*** to be handled, processing equipment, methods of processing and handling, facility layout, and use of end product;

(2) The site location of the proposed facility, including a copy of a tax map showing the lot and block number of the site upon which the facility is located; and

(3) The impact that the proposed facility will have on 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 area and agricultural development areas, dedicated recreational or open space areas, floodways*** and endangered *[and/or]* ***or*** threatened wildlife and vegetation.

2. The EHIS for ***small scale*** thermal destruction facilities ***or incinerators***, described in N.J.A.C. 7:26-2.4(c)2, shall be based on the engineering designs submitted to the Division of Environmental Quality and shall contain a description of the following:

i. Facility operations, including volumes of waste to be handled, methods of handling, facility layout, and residue disposal;

ii. The site location of the proposed facility*[. Include]* ***including*** a copy of the vicinity map and the site plan map *[submitted as part of the engineering design and identified in N.J.A.C. 7:26-2.10(a)5 and 6]*;

iii. The impact that the proposed facility will have on local transportation patterns, drainage characteristics, surface and ground water quality, endangered and/or threatened wildlife and vegetation, storm water and wastewater collection/treatment capability, water supply capability, air quality and ambient acoustal conditions; and

iv. A discussion of whether the proposed facility is consistent with the existing solid waste management district policies and solid waste management plans of those districts which will be affected by the proposed facility.

3. The EHIS for small-scale materials recovery facilities, whose prime mode of operation relies upon the utilization of non-mechanical processing features, and solid waste transfer stations shall be based on engineering designs prepared in accordance with the requirements of N.J.A.C. 7:26-2.10, and shall contain a description of the following:

i. Facility operations, including volumes of waste to be handled, methods of handling, facility layout, and use of end product;

ii. The site location of the proposed facility. A copy of the vicinity map and the site plan map submitted as part of the engineering design and identified in N.J.A.C. 7:26-2.10(b)5 and 6 shall be included;

iii. The impact that the proposed facility will have on local transportation patterns, drainage ***and soil*** characteristics, surface and ground water quality, endangered *[and/]*or threatened wildlife and vegetation, storm water and wastewater collection/treatment capability, water supply capability, ***ambient acoustical conditions*** and air quality; *[and]*

iv. A discussion of whether the proposed facility is consistent with the existing solid waste management district policies and solid waste management plans of those districts which will be affected by the proposed facility*[.]* ***; and***

v. A description of how the facility will conform or conflict with the objectives of any applicable Federal, State, or local land use and environmental requirement set forth at N.J.A.C. 7:26-2.9(c)5ii.

4. The EHIS for other types of ***small scale*** solid waste disposal operations not identified in this section shall be prepared in accordance with requirements established by Department for the operation, based upon the potential for adverse environmental and health impacts caused by such operations;

5. In addition to the EHIS requirements enumerated in this section, the Department retains the right to request additional EHIS information from the applicant.

(e) Compliance with the EHIS requirements set forth in this section shall not preclude the necessity for the applicant to conform with any environmental analysis requirements of other agencies which may have jurisdiction by law.

(f) A preliminary EHIS may be submitted to the Department prior to the submission of a complete permit application package for review and approval in accordance with the procedures set forth in (g) below and shall include but not be limited to the following:

1. An executive summary prepared in accordance with (c)1 above;

2. A site description prepared in accordance with (c)2 above;

3. An environmental inventory of the proposed facility prepared in accordance with (c)3 above;

4. An environmental assessment of the proposed facility, based on conceptual or preliminary engineering designs shall be performed and analysed at maximum possible discharge or emission levels and on the parameter listed in the environmental inventory performed as required by 3 above;

5. A discussion of the relationship of the proposed facility to any Federal, State, county and local land-use or environmental plans, policies, controls or regulations. The discussion shall include the following:

i. A description of how the proposed facility will conform or conflict with the objectives of any of the Federal, State, county or local land-use or environmental requirements set forth in (c)5ii above.

ii. A description of the Federal, State, county or local land-use or environmental requirements which may restrict the construction and operation of the proposed facility; and

iii. A detailed description of the mitigative techniques proposed to address any potential land use or environmental impact associated with the proposed facility.

6. A discussion of any potential adverse impact identified in the environmental assessment in (f)4 and 5 above that cannot be avoided;

7. A comparison of alternatives to the proposed facility design, which shall be sufficiently detailed to permit evaluation of the benefits, costs and environmental impacts of the proposed facility design and reasonable design alternatives;

8. A discussion of the relationship between local, short-term uses of the environment and long-term future uses; and

9. An identification of irreversible and irretrievable commitments of resources that would be affected by the proposed facility.

(g) The following are the procedures for preliminary EHIS review and approval and the effect of the preliminary EHIS approval:

1. An applicant may, at its own option, submit a preliminary EHIS to the Department prior to the submission of a complete application for a SWF permit;

2. The preliminary EHIS shall contain all information required pursuant to (f) above and such other information as the Department deems necessary during a pre-application conference for preliminary EHIS review;

i. The applicant shall provide the Department with documentation demonstrating that the proposed facility is consistent with the adopted and approved objectives and strategies set forth in the applicable district solid waste management plan, and that the proposed facility can be acquired, constructed or operated pursuant to the standards set forth in this chapter.

3. The preparation of a preliminary EHIS is not a precondition to the preparation and submittal of a complete application for a solid waste facility permit;

4. After submission of a preliminary EHIS, the Department shall review the preliminary EHIS and take one of the following actions:

i. Request, in writing, additional information required by the Department to conclude a review of the preliminary EHIS. Such request shall specify any additional information such as modeling, environmental or health assessments or project alternatives necessary to sufficiently evaluate the preliminary EHIS. The applicant shall respond within 14 days of the receipt of the written request and specify its intent to proceed with the submission of the information requested or terminate the preliminary EHIS review;

ii. Recommend a reconsideration of project alternatives based upon a review of the facts and proposed impacts of the proposed facility;

iii. Approve the preliminary EHIS; or

iv. Disapprove the preliminary EHIS.

5. Preliminary EHIS review and approval shall not preclude the necessity for an applicant to prepare and submit a final EHIS to the Department as part of a complete permit application pursuant to N.J.A.C. 7:26-2.4(d);

6. Pursuant to N.J.S.A. 13:1E-26 and N.J.S.A. 13:1E-29, an applicant receiving preliminary EHIS approval may:

i. Acquire real property intended for use in connection with the proposed facility; or

ii. Issue bonds or other obligations necessary to ensure available financing for the proposed facility's planning, development and implementation.

7. An applicant's decision to acquire property, issue bonds or take any other actions after receiving a preliminary EHIS approval will be solely at the applicant's risk. Any acquisition action taken or expenditures made in reliance on the preliminary EHIS approval are entirely at the applicant's own risk and the Department shall not be liable therefor; and

8. The issuance of any preliminary EHIS approval pursuant to this section shall not be binding on the Department in its review of any subsequent submissions by an applicant for a SWF permit.

7:26-2.10 General engineering design submission requirements

(a) The engineering design submittal requirements set forth in this section are general requirements for all solid waste facilities unless exempted in N.J.A.C. 7:26-2.4(c). Additional engineering design submittal requirements for sanitary landfills shall be prepared in accordance with the requirements of N.J.A.C. 7:26-2A.6 except for those facilities exempted as specified in N.J.A.C. 7:26-2.4(c). Additional engineering design submittal requirements for thermal destruction facilities, solid waste transfer stations, materials recover facilities, and composting or co-composting facilities shall be prepared in accordance with the requirements of N.J.A.C. 7:26-2B.2, 3 and 4 except for those facilities as specified in N.J.A.C. 7:26-2.4(c).

(b) The general requirements for the preparation and submittal of engineering designs for all proposed solid waste facilities, except those types of facilities specified in N.J.A.C. 7:26-2.4(c), are as follows:

1. Prior to developing the required engineering designs, all applicants shall have a pre-application conference with the Department for the purpose of discussing the scope of work for the proposed facility. During this conference the Department will specify the minimum number of complete sets of drawings the applicant shall be required to submit for each design. The exact number of sets necessary for each submission shall be based upon the type, scale, location and potential impact of the propsed facility.

2. Individual ***engineering*** drawing sheets shall not be larger than 30 inches by 42 inches or smaller than 24 inches by 36 inches in size.

3. Each drawing sheet shall bear the date of preparation and the raised seal of the New Jersey licensed professional engineer responsible for the preparation of the design.

4. A key map ***of the engineering drawings***, delineating the general location of the proposed facility, shall be prepared and submitted as part of the engineering design. The key map shall be plotted on a seven and one-half minute United States Geological Survey topographical quadrangle. The quadrangle shall be the most recent revision available, shall include the name of the quadrangle and shall delineate a minimum of three miles from the perimeter of the proposed facility boundaries. ***One or more maps may be utilized where necessary to insure clarity of the information submitted.*** The key map shall depict the following:

i. All surface waters, coastal zone areas as defined in N.J.S.A. 13:19-1 et seq.; wetlands as defined in N.J.S.A. 13:9A-1 et seq.; water supply wells and reservoirs; FW-1 and FW-2 Trout Production waters as defined in N.J.A.C. 7:9-4; wild, scenic, recreational or developed recreational rivers designated pursuant to the Natural Wild and Scenic River Act 16 USCA 1271 et seq., or the New Jersey Wild and Scenic River Act, N.J.S.A. 13:8-45 et seq., and all 100 year floodway and flood hazard areas as delineated in N.J.A.C. 7:13;

ii. *[All local]* ***General*** zoning designations ***within one mile of the perimeter of the proposed facility's boundary***;

iii. All main service corridors, transportation routes and main access roads that will be used as routes of traffic flow; and

iv. All airports and runways.

5. A vicinity map ***prepared in accordance with (b)2 above*** shall be prepared and submitted as part of the engineering design. The vicinity map shall have a minimum scale of one inch equals *[four hundred]* ***400*** feet (1" = 400') with contour intervals shown at 20 foot intervals. The vicinity map shall delineate an area of *[½]* ***one*** mile from the perimeter of the property line of the proposed facility. Contour elevations and vertical and horizontal locations shall be based on the National Geodetic Vertical Datum 1929 (Mean Sea Level Datum 1929) and keyed into the New Jersey Plane Coordinate Datum 1927. ***One or more vicinity maps may be utilized to ensure clarity of the information submitted. The vicinity maps may be an enlargement of a United States Geological Survey topographical quadrangle or a recent aerial photograph.*** The vicinity map shall depict the following:

i. All buildings and structures *[that may be located within the one mile delineation,]* including the layout of the buildings which will comprise the proposed facility;

ii. The boundaries of the proposed facility;

iii. The limits of the actual disposal operations within the boundaries of the proposed facility;

iv. Lots and blocks taken from the tax map for the site of the proposed facility and all contiguous properties; *[and]*

v. The specific local zoning designation within 1000 feet of the perimeter of the proposed facility's boundary, and

*[v.]*** vi.*** The location of all existing and proposed utility lines, pipelines or other ***utility*** structures ***which will be connected to the facility***.

6. A site plan map, delineating the existing and final as-built contours of the site of the proposed facility, shall be prepared ***in accordance with (b)2 above*** and ***be*** submitted as part of the engineering design. The site plan map shall be prepared in accordance with the "Classification, Standards of Accuracy and General Specifications of Geodetic Control Survey" published by the U.S. Department of Commerce, 1980 and the New Jersey Map Filing Law, N.J.S.A. 46:23-9, at a minimum scale of one inch equals 200 feet (1" = 200') with contour intervals shown at two foot intervals. Contour elevations and vertical and horizontal locations shall be based on the National Geodetic Vertical Datum 1929 (Mean Sea Level Datum 1929) and keyed into the New Jersey Plane Coordinate Datum 1927. The site plan map shall depict the following:

i. The legal boundaries of the facility as determined by a survey performed by a licensed New Jersey Land Surveyor. All vertical and horizontal points shall be located utilizing Third Order, Class I for property survey and Third Order, Class II for remaining points, in accordance with the "Classification Standards of Accuracy and General Specification of Geodetic Control Survey" published by the U.S. Department od Commerce, 1980. A copy of the deed of record or other document proving ownership shall accompany the site map. If the property is leased by the applicant, a copy of the lease shall accompany the site map. In those cases where the applicant is scheduled to take title to the property or sign a lease for the property at a later date, submit a timetable for same;

ii. The total acreage of the facility property and the total acreage of the actual disposal operations;

iii. The boundaries of the area to be used for disposal operations; and

iv. The layout of all buildings, access roads, internal routes of traffic flow and environmental controls, as they will appear at the site.

7. A geotechnical ***and soils*** report shall be prepared and submitted as part of the engineering design. The report shall include the following:

i. A soils map, published by the United States Department of Agriculture, Soil Conservation Service, depicting the site of the proposed facility and the area within one half mile from the perimeter of the facility;

ii. A geologic map, based on published or unpublished material and mapping available from the United States Geological Survey and New Jersey State Geologic Survey or unpublished mapping acceptable to the New Jersey Geologic Survey depicting the area within one mile from the perimeter of the facility; and

iii. A soil borings report, prepared by a qualified geologist, or geotechnical engineer which describes that portion of the property designated for actual disposal operations. This requirement is dependent on the type of proposed facility. The Department will specify the need for and scope of the soil boring requirements during the pre-application conference. The Department reserves the right to require further soil borings or testing, if necessary. Excavations, test pits and geophysical methods may be employed to supplement the soil boring investigation.

8. An engineering report shall be prepared and submitted as part of the engineering design. The engineering report shall include the following:

i. A descriptive statement and detailed specifications of all proposed waste disposal system processes;

ii. A description of the installation methods and procedures and the scheduling of events for construction of the facility;

iii. A description of the rated and proposed design capacity of the facility in terms of tons and cubic yards per day and tons per hour to be disposed of at the facility;

iv. A description of the daily number and types of vehicles which will transport solid waste to the facility and, if applicable, the reclaimed material and waste from the facility;

v. A presentation of the results and calculations, clearly noted, of all required design testing; and

vi. A projection of the life expectancy of the facility.

9. A preliminary operations and maintenance (O and M) manual shall be prepared and submitted as part of the engineering design. The preliminary O and M manual shall include the following:

i. A description of the proposed methods of facility operation, including, but not limited to, the following:

(1) Hours of operation;

(2) Types of equipment (indicate capacity and number of units);

(3) Implementation schedule for the solid waste facility;

(4) Monitoring;

(5) Security; and

(6) Methods to be employed to meet the operational requirements of N.J.A.C. 7:26-2.11.

ii. An inspection plan, which shall include a schedule for inspecting all applicable ***major*** aspects of facility operations necessary to ensure compliance with the requirements of this subchapter and N.J.A.C. 7:26-2A or 2B, as applicable. The frequency of inspection shall be based on the rate of potential equipment deterioration or malfunction and the probability of an adverse incident occurring if the deterioration or malfunction goes undetected between inspections. Areas of the facility subject to spills such as loading and unloading areas and areas in which significant adverse environmental or health consequenes may result if breakdown occurs, shall be inspected daily, when in use. The plan shall include a schedule for inspecting monitoring, safety, and emergency equipment; security devices and process operating and structural equipment. The plan shall identify the types of problems which are to be looked for during the inspection and the frequency of inspection;

iii. A maintenance plan, which shall include *[a failure]* ***an*** analysis *[for]* ***of all applicable major aspects of*** the facility operation ***based on applicable industry established rates of potential equipment deterioration or malfunction if available****, an analysis of spare parts inventory needs, schedules for anticipated repairs and maintenance contracts with local equipment dealers to supply standby or emergency equipment;

iv. A ***safety plan which shall include a*** description of the proposed measures to protect facility and other personnel from injury during operation;

[v. A description of the proposed measures to control noise, litter, odors, rodents and insects at the facility;]

*[vi.]*****v.*** A description of the proposed measures to handle unusual peak loadings which may exceed designed facility capacity;

*[vii.]*****vi.*** A description of the proposed measures to handle incoming waste flow during periods of short term facility shutdown for normal equipment repairs and also for periods of longer term facility shutdown for more extensive repairs; and

[viii. A description of the proposed equipment and procedures to be utilized in preventing and fighting fires.]

10. The Department will review the preliminary O and M manual and notify the applicant of any deficiencies which need to be addressed. The necessary changes shall be incorporated into a final O and M manual. The final O and M manual shall be submitted to the Department subsequent to completion of the construction phase, but within 60 days of initiating full scale operations. Full scale facility operations shall not be initiated before formal Departmental approval of the final O and M manual.

11. A landscaping plan delineating the existing site vegetation to be retained, and discussing the methods to be employed in order to ensure protection during the clearing, grading and construction phases of the project and the supplemental vegetation to be planted, shall be submitted as part of the engineering design. Information relating to vegetation type, location and purpose, such as for buffer, screening or aesthetics, and schedules for planting, shall accompany the plan. Facility exterior grounds shall be landscaped in a manner which enhances the visual appearance of the property.

12. Foundation sources and basis documents supporting all factual information submitted and all conclusions drawn, shall be identified.

7:26-2.11 General operational requirements

(a) The operational requirements identified in this section are general requirements for all solid waste facilities. Additional operational requirements for sanitary landfills are set forth in N.J.A.C. 7:26-2A.8. Additional operational requirements for thermal destruction facilities are set forth in N.J.A.C. 7:26-2B.8.

(b) The general operational requirements for all solid waste disposal facilities, are as follows:

1. Within each 24 hour period the operator shall clean each area where waste has been deposited or stored, except for those storage areas at thermal destruction facilities which are designed for multiple day storage capability and as exempted by 10 below; for sanitary landfill all areas where waste has been deposited shall be covered with the appropriate cover material except as permitted by (b)10 below;

2. No waste shall be stored overnight at any facility without effective treatment to prevent odors associated with putrefaction;

3. Facility property surrounding the actual disposal area shall be maintained free of litter, debris, and accumulations of unprocessed waste, process residues and effluents. Methods of effectively controlling windblown papers and other lightweight materials such as fencing shall be implemented at all facilities;

4. Methods of effectively controlling dust shall be implemented at all facilities in order to prevent offsite migration;

5. The operation of the facility shall not result in odors associated with solid waste being detected off site in any area of human occupancy;

6. The operator shall maintain all facility systems and related appurtenances in a manner that facilitates proper operation and minimizes system downtime. When requested, the operator of the facility shall furnish proof that provisions have been made for the repair and replacement of equipment which becomes inoperative;

7. An adequate water supply and adequate fire-fighting equipment shall be maintained at the facility or be readily available to extinguish any and all types of fires. Fire-fighting procedures as delineated in the approved O and M manual, including the telephone numbers of local fire, police, ambulance and hospital facilities, shall be posted in and around the facility at all times;

8. The operator shall effectively control insects, other arthropods and rodents at the facility by means of a program in compliance with the requirements of the New Jersey Pesticide Control Code, N.J.A.C. 7:30, and implemented by an applicator of pesticides, certified in accordance with the New Jersey Pesticide Control Code, N.J.A.C. 7:30;

9. Only vehicles properly registered***, pursuant to N.J.A.C. 7:26-3,*** with the Division of ***Solid*** Waste Management, unless exempt from the registration requirement pursuant to N.J.A.C. 7:26-3.3, and displaying the appropriate registration number shall be admitted for unloading of any solid waste at the facility. Vehicles exempt from registration shall not be admitted to the tipping area when registered, commercial type collection or haulage vehicles including, but not limited to, compactor trucks, trailers or any vehicle that tilts or uses other mechanical means to discharge its solid waste are being unloaded, or when other heavy equipment is being operated in the tipping area. The facility shall be sufficiently staffed to ensure that this requirement is not violated;

10. The operator may designate a secure area under the facility's control, located a safe distance from the tipping area, where solid waste may be unloaded from those vehicles which are exempt from the registration requirement of N.J.A.C. 7:26-3.3. Bulky items and recycable materials may be provided for in this manner. The facility operator shall be responsible for the sanitary condition and orderly operation of the designated area. It shall be the operator's responsibility to remove the bulky items, recycable materials or other waste from the designated area at a frequency so as not to exceed the storage capacity of the area. Scavenging is prohibited;

11. The operator shall at all times comply with the conditions of the SWF permit, as well as all other permits or certificates required and issued by the Department or any other governmental agency. The operator shall not receive, store, handle, process or dispose of waste types not specifically identified in that facility's SWF permit or other permit or certificate issued by the Department;

12. The operator shall designate a secure area under the facility's control, located a safe distance from the active disposal area, where solid waste, including suspected hazardous waste, which the facility is not permitted to receive shall be deposited until the operator receives instruction from the Department as to the proper disposal of the unpermitted waste;

13. The operator shall maintain a record of the quantity of each authorized waste type accepted for disposal, in accordance with N.J.A.C. 7:26-2.13 and 3.2. In the event that the facility is exempt from the use of scales to physically weigh the waste, volume to weight conversion shall be made by means of formulae furnished by the Department;

14. Departmental 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:

i. Sampling any materials on site;

ii. Photographing any portion of the facility;

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

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

15. The quantity of waste received by the facility operator shall not exceed the system's designed handling, storage, processing or disposal capacity as identified in that facility's SWF permit or other permit or certificate;

16. The facility shall be operated in a manner that employs the use of *[only that]* ***the*** equipment and those techniques for the receipt, storage, handling, processing or disposal of incoming waste and process residues that are specifically authorized by the facility's SWF permit;

17. The operator shall provide a means of removing mud, solid waste or other debris from the tires of all vehicles. Vehicle tires shall be cleaned prior to the vehicle's departure from the facility's boundaries; and

18. The approved final O and M manual shall be maintained at the facility. A written description of any proposed changes to the approved, final O and M manual shall be submitted to the Department for review. These proposed changes shall not be implemented at the facility until the Department approves the changes.

7:26-2.12 Generator requirements for disposal of asbestos and asbestos-containing waste

(a) A generator of asbestos or asbestos-containing waste shall submit a written notification of intent, in accordance with (b), and (c) below, to dispose of such wastes at least 10 days prior to disposal.

(b) The written notification required by (a) above shall include:

1. Name, address and telephone number of the generator.

2. Quantity and nature of waste to be disposed;

3. Name, address, New Jersey Department of Environmental Protection registration number of the collector-hauler;

4. Name and address of the landfill at which disposal will occur;

5. Date and time of disposal; and

6. A copy of any written notification required by 40 CFR 61.22 to 61.25.

(c) The written notification required by (a) above shall be submitted to:

New Jersey Department of Environmental Protection
Division of Waste Management
Bureau of Field Operations
120 Route 156
Yardville, New Jersey 08620

(d) The Department may allow less than 10 days prior notification, where emergency circumstances require.

7:26-2.13 Sanitary landfills, resource recovery facilities and transfer stations: records

(No change.)

7:26-2.14 (Reserved)

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

7:26-2A.1 Scope and applicability

(a) This subchapter shall constitute the rules and regulations of the Department governing the design, construction, operation, maintenance *[and]* *,* closure ***and post-closure*** of sanitary landfills.

(b) The requirements of this subchapter are in addition to the general engineering design submission requirements in N.J.A.C. 7:26-2.10 and the general operational requirements in N.J.A.C. 7:26-2.11.

(c) This subchapter shall apply to the following facilities:

1. All newly proposed sanitary landfills and all existing sanitary landfills proposing to expand their existing operations onto previously unfilled permitted areas; and

2. Any existing sanitary landfills operating as an open dump or in an environmentally unsound manner ***which the Department determines needs to be environmentally upgraded***.

(d) This subchapter does not apply to hazardous waste landfills. See N.J.A.C. 7:26-9, 7:26-10.8, 7:26-11.4 and 7:26-12.

(e) The provision of this subchapter and N.J.A.C. 7:26-2 shall not be interpreted as permitting the disposal of domestic sewage, sewage sludge, or septage in any manner other than that prescribed by law.

7:26-2A.2 Construction

These rules shall be liberally construed to permit the Department to discharge its statutory functions.

7:26-2A.3 Purpose

(a) This subchapter is promulgated for the following purpose:

1. To establish additional engineering design submission requirements for sanitary landfills;

2. To establish requirements and standards for the design and construction of sanitary landfills to insure that adverse impacts are minimized and controlled and that pollution of the environment is prevented; and

3. To establish additional requirements for the operation, maintenance, inspection and monitoring of sanitary landfills to ensure the proper operation of the sanitary landfill so as to minimize and control adverse impacts and prevent pollution of the environment.

7:26-2A.4 General prohibitions and requirements

(a) Open dumps are declared to be a nuisance, hazardous to human health and are prohibited.

(b) The owner or operator of any landfill which is determined to be an open dump, in accordance with the U.S.E.P.A. Criteria for Classification of Solid Waste Disposal Facilities and Practices, 40 CFR 257 or demonstrated to be environmentally unsound shall:

1. Within 90 days of notification by the Department, submit designs to close or environmentally upgrade the facility in conformance with the ***applicable*** standards ***as determined by the Department*** set forth in this subchapter;

2. Within 90 days of approval by the Department of the submitted design, begin construction of the environmental upgrading; and

3. Within one year of design approval by the Department, complete construction of the environmental upgrading.

(c) A one time extension of the compliance schedule established by (b) above may be granted by the Department provided a good faith effort has been made by the facility owner or operator to meet the schedule.

(d) Should the environmental upgrading required pursuant to (b) above not be completed, or should the continued operations result in classification of the landfill as an open dump or as environmentally unsound, the landfill shall temporarily or permanently cease operations and close, in conformance with the closure requirements set forth in N.J.A.C. 7:26-2A.9, or enter into receivership, as provided for in N.J.S.A. 13:1E-9, for that period of time necessary to rectify the unsatisfactory or environmentally unsound conditions as determined by the Department's enforcement action.

(e) No new sanitary landfill shall be constructed or any existing landfill continue to operate where solid waste is or would be in contact with the surface or ground waters. This provision shall not apply to cleanfill.

(f) Leachate from any sanitary landfill shall not be allowed to drain or discharge into the surface water or groundwater except as permitted pursuant to the NJPDES regulations, N.J.A.C. 7:14A.

(g) No sanitary landfill shall be operated in a manner that would result in the impairment of the quality of the surface or groundwaters to a degree that would degrade the quality of either the surface or groundwaters beyond the classification established by the Department in the Surface Water Quality Standards, N.J.A.C. 7:9-4, or the Ground Water Quality Standards, N.J.A.C. 7:9-6.

(h) No sanitary landfill shall be operated in a manner that would result in the degradation of the ambient air quality beyond the standards established by the Department pursuant to N.J.A.C. 7:27.

(i) No sanitary landfill shall be operated in a manner that would result in soil erosion and sedimentation beyond the standards established by the Department of Agriculture pursuant to N.J.A.C. 2:90.

(j) No new sanitary landfill shall begin construction or operation without first obtaining a NJPDES permit pursuant to N.J.A.C. 7:14A and approval of its Soil Erosion and Sediment Control Plan pursuant to N.J.A.C. 2:90.

(k) No existing sanitary landfill shall continue to operate without obtaining a NJPDES permit, and approval of its Soil Erosion and Sediment Control plan in accordance with N.J.A.C. 2:90.

(l) No new sanitary landfill shall begin construction or operation if located within the following distances of an airport, as measured from the nearest runway to the nearest property line ***without the design and implementation of an effective bird deterrent plan approved by this Department and the New Jersey Department of Transportation.***

1. Within 10,000 of any airport runway which is equal to or greater than 3,000 feet in length and that services turbo-engine planes; or

2. Within 5,000 feet of any airport runway which is less than 3,000 feet in length and that services prop-engine planes.

(m) No existing sanitary landfill shall continue to operate, within the restricted zone of an airport as set forth in N.J.A.C. 7:26-2A.6(g)11, when it is determined by the Department and the Bureau of Aviation of the Department of Transportation to present a real or potential attraction for birds, until an effective deterrent plan is implemented.

(n) No person shall engage in the disposal of solid waste at a facility that does not meet the operational and maintenance requirements of this subchapter and *[subchapter]* ***N.J.A.C. 7:26-***2. In addition, each *[owner and operator of a landfill]* ***permittee*** shall comply with any condition, limitation, or discharge requirement which may be specified in the SWF permit for that facility;

(o) The owner or operator of an existing sanitary landfill shall be required to design in accordance with N.J.A.C. 7:26-2A.7(f)3 or 4, and after Departmental approval of the design, construct, operate and maintain, a gas collection, venting and monitoring system when gas is detected *[beyond the perimeter of the designated fill area]* ***at the points set forth at N.J.A.C. 7:26-2A.7(f)3 or 4***;

(p) The owner or operator of an existing sanitary landfill shall install a groundwater monitoring system in accordance with the requirements of N.J.A.C. 7:14A-6.

(q) The owner or operator of an existing sanitary landfill shall be required to design and after Departmental approval of the design, construct, operate and maintain a leachate control collection and treatment system when leachate is determined to be impacting the quality of the surface and groundwaters of the area.

(r) The owner or operator of any existing sanitary landfill shall be required to design and after Department approval of the design, construct, operate and maintain a surface drainage system when it is determined that soil erosion and sedimentation will result in substantial soil losses and negative impacts upon the quality of the surface and groundwater of the area.

(s) The following waste types as defined in N.J.A.C. 7:26-2.13(d) shall not be disposed of in sanitary landfills:

1. Hazardous waste as defined by N.J.A.C. 7:26-8;
2. Septic tank clean-out wastes, waste ID number 73;
3. Liquid sewage sludge, waste ID number 74; and
4. Radioactive materials regulated by the Atomic Energy Act of 1954, 42 U.S.C. 2011 et seq.

7:26-2A.5. Additional engineering design submittal requirements for sanitary landfills

(a) In addition to the requirements of N.J.A.C. 7:26-2.10, the engineering design submission requirements for sanitary landfills shall include the following:

1. A regional map prepared and submitted in accordance with N.J.A.C. 7:26-2.10(b)4 which shall include, but not be limited to, the following additional information:

i. Location of all public community water supply wells and all wells permitted to pump over 100,000 gallons per day or 70 gallons per minute within one and one-half miles of the property line of the landfill. The service areas, if any, of the public community water systems, as defined in N.J.A.C. 7:10-1.3, within one and one-half miles of the property line of the sanitary landfill; and

ii. Location of all water wells within one-half mile of the property line of the sanitary landfill;

2. A site plan map delineating the existing contours of the proposed sanitary landfill area prepared and submitted in accordance with N.J.A.C. 7:26-2.10(b)6 which shall include, but not be limited to, the following additional information:

i. Delineation of the area-wide modular development of the sanitary landfill's construction and operations and, where applicable, the lateral limits of previously filled areas;

ii. Delineation of the vertical and horizontal control monuments and property corner markers. The elevations, in relation to the National Geodetic Vertical Datum of 1929 (Mean Sea Level 1929) of the control monuments, shall be indicated and keyed into the New Jersey Plane Coordinate Datum 1927;

iii. Location of all monitoring devices including, but not limited to, all groundwater monitoring wells, lysimeters, gas monitoring wells, gas vents, piezometers, inclinometers and bore hole extensometers. Elevations of the monitoring wells and piezometers shall be determined to the top of the outercasing and for the adjacent ground surface. The horizontal and vertical location shall be represented *[to the nearest 0.01 foot and accurate to the nearest 0.1 foot.]* ***as required by N.J.A.C. 7:26-2.10(b)6i.*** In areas, as dictated by the site geology, the vertical location accuracy may be required to be accurate to the nearest 0.01 foot; and

iv. Location of all borings, excavations and test pits. The horizontal and vertical location of all borings shall be represented *[to the nearest 0.01 foot and accurate to the nearest 0.1 foot.]* ***as required by N.J.A.C. 7:26-2.10(b)6i.*** In areas, as dictated by the site geology, the vertical location accuracy may be required to be accurate to the nearest 0.01 foot;

3. Additional site plan maps which delineate in plan view and in detailed cross-sectional view the following:

i. The initial elevations of the proposed sanitary landfill showing all grades of the liner and, where applicable, the subgrade;

ii. The final elevations of any excavation showing all grades of the excavation and, where applicable, all grades of the subgrade;

iii. The leachate collection system showing all grades of the collection pipe, pipe envelope drainage layer, filter manhole/clean-out risers and sumps;

iv. All berms, dikes, ditches, swales or other protection devices as needed to divert or collect surface water run-on or run-off;

v. The system utilized for venting and monitoring the gases generated within the sanitary landfill and, if applicable, from beneath the liner;

vi. The final elevations and grades of the capping system including the subgrade for the impervious cap, the drainage and vegetative layers, the drainage pipes and drainage envelope;

vii. All grades of leachate treatment and disposal systems including the leachate removal pipes, the equalization pond, treatment or pre-treatment ponds or storage facilities; and

viii. All proposed landscaping and screening techniques to be utilized to minimize the visual impact of the sanitary landfill.

4. Additional ***engineering*** drawings, designs or maps which describe, in sufficient detail, the construction specifications of the systems utilized in the sanitary landfill. These maps or drawings may be combined with those required by N.J.A.C. 7:26-2A.5(a)3 so long as the required details are clearly distinguishable and identifiable. They shall include, but not be limited to, the following:

i. Subgrade;
ii. Liner/cut-off wall;
iii. Drainage layer and filter;
iv. Collection pipe and drain envelope;
v. Inlet/outlet structures;
vi. Manholes, sumps, pumps, and pump station;
vii. Leachate storage tanks;
viii. Leachate treatment impoundments or tanks;
ix. Leachate disposal systems;
x. Gas vents, manifolds and pump station;
xi. Monitoring wells/devices;
xii. Surface drainage and erosion controls; and
xiii. Cap.

5. An engineering report which includes but is not limited to the following additional information:

i. A description of the general installation methods and procedures for construction of the facility including materials required, equipment utilized, and scheduling of construction events and phases. To insure that the construction requirements of this subchapter are properly implemented the description, but not be limited to, the following:

(1) Site preparation;
(2) Subgrade;
(3) Liner/cut-off wall;
(4) Drainage layer and filter;
(5) Collection pipes and drain envelope;
(6) Inlet/outlet structures;
(7) Manholes, sumps, pumps, and pump station;
(8) Leachate storage tanks;
(9) Leachate treatment impoundments or tanks;
(10) Leachate disposal;
(11) Gas vents, manifolds and pump stations;
(12) Monitoring wells;
(13) Surface drainage and erosion controls; and
(14) Caps.

ii. A description of the construction contingency plan for the construction phase which shall describe procedures for responding to construction deficiencies resulting from circumstances including, but not limited to, inclement weather, defective materials or construction inconsistent with specifications as demonstrated by quality control testing. The plan shall provide a description of the criteria to be utilized in evaluating deficiencies, selecting corrective action methodology and implementing *[the]* corrective action;

iii. A description of the estimated solid waste capacity of the site in tons and cubic yards. Projection shall be made to determine the life expectancy of the site based on current and anticipated loading;

iv. The results with sufficient, clearly noted, calculations to verify the results, of the material testing required by this subchapter including, but not limited to, where applicable, the following:

(1) N.J.A.C. 7:26-2A.5(a)6vi(9) and (10);
(2) N.J.A.C. 7:26-2A.7(b)3;
(3) N.J.A.C. 7:26-2A.7(c)2i, vii, and ix;
(4) N.J.A.C. 7:26-2A.7(c)3i, ii, and x;
(5) N.J.A.C. 7:26-2A.7(c)4i, iv(1) and (2), and ix;
(6) N.J.A.C. 7:26-2A.7(c)5i, iv, vii and viii;
(7) N.J.A.C. 7:26-2A.7(c)6i and iv;
(8) N.J.A.C. 7:26-2A.7(c)7i, ii and v;
(9) N.J.A.C. 7:26-2A.7(c)8ii and v;
(10) N.J.A.C. 7:26-2A.7(c)9i and iv;
(11) N.J.A.C. 7:26-2A.7(c)10i, ii, iii and iv;
(12) N.J.A.C. 7:26-2A.7(d)2ii;
(13) N.J.A.C. 7:26-2A.7(d)3i, iii, ix and xvii;
(14) N.J.A.C. 7:26-2A.7(f)6, 12 and 14ii;
(15) N.J.A.C. 7:26-2A.7(g)4 and 8;
(16) N.J.A.C. 7:26-2A.7(i)3;
(17) N.J.A.C. 7:26-2A.7(i)9iv; and
(18) N.J.A.C. 7:26-2A.7(i)10i.

v. A description of how the sanitary landfill will meet the environmental performance standards required by N.J.A.C. 7:26-2A.6 and the design standards and construction requirements in N.J.A.C. 7:26-2A.7. The description shall provide sufficient, clearly notated design calculations to verify the results, including, but not limited to, the following:

(1) Foundation and slope stability analysis;
(2) Liner/cut-off wall efficiency and performance;
(3) Leachate collection system's capacity, performance, and structural stability;
(4) Three-dimensional mass transport modeling for the sanitary landfill performance;
(5) Pumping system's performance;
(6) Leachate treatment and disposal system's capacity and performance;
(7) Run-on/run-off system's capacity and performance;
(8) Gas venting and/or collection system's performance;
(9) Monitoring system's efficiency;
(10) Capping system's efficiency and performance; and
(11) Cover material quantity analysis.

vi. A delineation of the environmentally sensitive areas listed in N.J.A.C. 7:26-2A.6(g) that are impacted by the sanitary landfill and a description of the additional design and construction measures that will be implemented at the sanitary landfill to increase performance of the environmental control systems of the sanitary landfill that will be utilized to minimize and control the potential adverse impacts and prevent pollution in accordance with N.J.A.C. 7:26-2A.6(h).

6. A geotechnical report prepared by a qualified geologist, or geotechnical engineer which includes but is not limited to, the following requirements or items:

i. A narrative section which contains:

(1) A general description of the major characteristics of the geological formations of the region where the proposed sanitary landfill will be located including thickness, lithology, structural features, degree of weathering and amount of overburden; and

(2) A site specific description, based on the data collected pursuant to vi velow, of the soils, rocks, water levels and flows. Soils test data and evaluations of the soils or rocks underlying the sanitary landfill shall be submitted, including any recommendations for site design which may be appropriate, to minimize any adverse impacts from the construction of the sanitary landfill;

ii. A soils map shall be provided for the area including the sanitary landfill and vicinity. The soils map provided shall be a copy of the map published by the United States Department of Agriculture, Soil Conservation Service or by the State soils or geologic agencies;

iii. A generalized geologic map and geologic cross sections, based on published or unpublished material and mapping available from the United States Geological Survey and New Jersey Geological Survey or unpublished mapping acceptable to the New Jersey Geological Survey, shall be provided for the area including the sanitary landfill and region, and should include, but not be limited to, the following information:

(1) Bedrock outcrop;
(2) Dip and strike of sedimentary formations and foliation trend and dip angles of igneous and metamorphic rocks;
(3) Faults and prominent shear zone trends;
(4) Joint or fracture trends in bedrock including dip angles;
(5) Trend direction of solution channels in carbonate rocks and sink holes; and
(6) Location of any active or abandoned mine workings.

iv. A generalized potentiometric map shall be provided for the area, including the sanitary landfill and the region, based upon available data including, but not limited to, existing topography, surface drainage and existing well data;

v. A well report describing the use, depth, and yield of all wells located on the regional map required by 1i and ii above and the diversion allocation for all public community water supply wells and wells yielding 100,000 gallons per day or greater;

vi. In preparing the site specific report, required by ***(a)6***i(2) above ***and the site specific geological maps and detail cross sections required by (a)6vii and viii below***, sufficient borings shall be made of the proposed landfill site to characterize and verify the geology and groundwater conditions beneath the site with respect to the types of material, uniformity, hydraulic conductivity, porosity and depth to groundwater. Borings of the proposed sanitary landfill site shall be provided at a minimum, in accordance with Table 1 below:

TABLE I
BORINGS

Acreage	Total Number of Borings	Number of Deep Borings Required
Less than 10	4	1
10-49	8	2
50-99	14	4
100-200	20	5
More than 200	24+1 boring/each additional 10 acres	6+1 boring/ each additional 40 acres

(1) The Department reserves the right to require additional borings in areas in which the number of borings required by Table I above is not sufficient to describe the geologic formations and groundwater flow patterns below the proposed sanitary landfill in regard to potential contaminant migration paths;

(2) In highly uniform geologic formations, the number of borings may be reduced, as approved by the Department, if other techniques are employed, as recommended in (a)6vi(6) below, to correlate data collected from these methods to the boring data;

(3) The borings should employ a grid pattern, wherever possible, such that there is, at a minimum, one boring in each major geomorphic feature. The borings pattern shall enable the development of detailed cross sections through the sanitary landfill in order to sufficiently define the geology. It is recommended that the soil borings be performed in a phased approach and that the number of borings in the proposed active landfilling area be minimized;

(4) Subsurface data obtained by borings shall be collected by standard undisturbed soil sampling techniques for engineering properties, and split spoon sampling or standard penetration tests for engineering indexes and classification. Diamond bit coring shall be used for rock boring. Samples shall not be composited. The sampling interval for the boring required by Table I above shall be determined by the geologist or geotechnical engineer and be approved by the Department. It is recommended that sampling be performed on a continuous basis for the first 20 feet below the lowest elevation of the sanitary landfill and collected at five foot intervals thereafter;

(5) All borings shall be a minimum depth of 20 feet below the lowest elevation of the sanitary landfill. The Department reserves the right to require a deeper minimum depth in areas in which 20 feet is not sufficient to describe the geological formation and groundwater flow patterns below the proposed sanitary landfill in regard to potential contaminant migration paths;

(6) The depth of deep borings shall be determined on a case by case basis. The depth should be, at a minimum, equal to or greater than the design height of the sanitary landfill;

(7) Excavations, test pits and geophysical methods may be employed to supplement the soil boring investigation;

(8) Field and final boring logs shall be submitted for each boring, recording soils or rock conditions encountered. Each log shall include

a soil or rock description in accordance with the Unified Soil Classification System or the Rock Qualification Description System, the method of sampling, the depth of soil or rock, the water levels encountered, the blow counts, the soil tests and date. All depths of soil and rock as described within the boring log shall be corrected to National Geodetic Vertical Datum;

(9) In addition to the sampling and testing requirements for foundation analysis set forth in N.J.A.C. 7:26-2A.7(b), ***at a minimum*** three separate soil samples for each significant soil/rock class encountered shall be analyzed for unit weight, porosity, laboratory classification, cation exchange capacity, and hydraulic conductivity. The soil samples shall be taken from three separate borings;

(10) It is recommended that a sufficient number of samples, as determined by the geologist or geotechnical engineer, be analyzed for the index properties to verify the uniformity or nonuniformity of the geological formation encountered and to correlate the soils engineering properties. A soil profile for the index properties should be developed at intervals determined on-site;

(11) At a minimum, four of the borings shall be converted to water level observations wells or well nests. The total number of wells or well nests shall be determined on a case-by-case basis ***as approved*** by the Department based on the complexity of the geology of the site;

(12) The groundwater shall be sampled and analyzed for each distinct aquifer encountered below the site in accordance with the ***NJPDES*** requirements *[of]* *,* N.J.A.C. 7:14A-10.12(e)2ix. It is recommended that the groundwater be sampled and analyzed in accordance with N.J.A.C. 7:14A-10.12(e)2ix, for one year prior to operation of the sanitary landfill; and

(13) All borings, not to be utilized as permanent monitoring wells, and wells within the active disposal area shall be sealed in accordance with N.J.A.C. 7:9-9, Sealing of Abandoned Wells, and excavations and test pits shall be backfilled and properly compacted to prevent possible paths of leachate migration.

vii. Geologic maps of the proposed ***sanitary*** landfill ***area***, based on the site ***specific*** geologic investigation ***required by (a)6vi above*** or literature review, prepared at a scale of one inch equals 200 feet (1″=200′) and with contour intervals which sufficiently define the ground surface contours, and various geologic formations and aquifers beneath the proposed landfill;

viii. Detailed *[cross-sections]* ***site specifc cross sections*** which shall sufficiently describe the geologic formations identified by the geologic maps prepared in accordance with ***(a)6***vii above prepared at a scale which clearly defines the geologic formations; and

ix. Potentiometric maps prepared at a scale of one inch equals 200 feet (1″=200′) with contour intervals which sufficiently define the groundwater conditions in all aquifers encountered below the ***proposed*** sanitary landfill ***area*** based upon stabilized groundwater elevations ***developed as part of the site specific geologic investigation required by (a)6vi above***. It is recommended that two seasonal contour maps based on stabilized water levels in the wells be developed, one representing the yearly low flow condition and the other representing yearly high flow condition.

7. A quality assurance (QA) and quality control (QC) plan for the construction phase *[shall]* meet***ing*** the requirements set forth at N.J.A.C. 7:26-2A.7(a)7 through 24, shall be submitted. It shall include, but not be limited to, the following information:

i. A delineation of the QA and QC management structures, including the chain of command of the QA and QC inspectors and describing the quality control and corrective action implementation responsibilities of the QA and QC inspectors and the contractors;

ii. A description of the required level of experience for the contractor and his crew for every major phase of construction which shall be sufficient to insure that the installation methods and procedures as required in (a)5i above are properly implemented;

iii. A description of the required level of experience of the QA and QC inspectors for every major phase of construction to insure that the QA and QC testing as required by (a)7vi below is properly implemented;

iv. A description of the required level of training, if necessary, to be provided for the contractor's personnel and the inspectors, to insure that the installation methods and procedures and the contingency methods, as required by (a)5i and ii above, are properly implemented and that corrective action will be properly employed, when necessary;

v. A description of the QA and QC testing and inspections for every major phase of construction, which shall include but not be limited to the following:

(1) The frequency of inspections;

(2) The frequency of field testing;

(3) The frequency of sampling for laboratory testing;

(4) The sampling and field testing procedures to be utilized;

(5) The sampling and field testing equipment to be utilized;

(6) The calibration of field testing equipment;

(7) The frequency of system or performance audits;

(8) The sampling size;

(9) The soils or geotechnical laboratory to be used;

(10) The laboratory procedures to be utilized; and

(11) The calibration of laboratory equipment and QA/QC of laboratory procedures.

vi. The QC testing and inspections shall include, but not limited to, the following:

(1) N.J.A.C. 7:26-2A.7(b)4viii and x;

(2) N.J.A.C. 7:26-2A.7(c)2v, vii, x and xi;

(3) N.J.A.C. 7:26-2A.7(c)5vi;

(4) N.J.A.C. 7:26-2A.7(c)6v;

(5) N.J.A.C. 7:26-2A.7(c)7vi;

(6) N.J.A.C. 7:26-2A.7(c)9vii and viii;

(7) N.J.A.C. 7:26-2A.7(c)10 x, xi, xii, and xvii;

(8) N.J.A.C. 7:26-2A.7(d)2vii and viii;

(9) N.J.A.C. 7:26-2A.7(d)3viii and xxi;

(10) N.J.A.C. 7:26-2A.7(g)6 and 7; and

(11) N.J.A.C. 7:26-2A.7(i)9iv and 10i.

8. The preliminary O and M manual for the sanitary landfill shall include the following, in addition to the preliminary O and M requirements set forth in the general engineering requirements, N.J.A.C. 7:26-2.10(a)*[8]***9***:

i. A description of how the operations and maintenance of the sanitary landfill will meet the requirements set forth in *[N.J.A.C. 7:26-2.11 and]* N.J.A.C. 7:26-2A.8;

ii. An occupational health and safety plan established in conformance with the safety and health standards of the Federal Department of Labor, Occupational Safety and Health Administration pursuant to 29 CFR 1926 and 1910 Safety and Health Standards and Industrial Standards;

iii. A community relations plan for facilities with a design capacity of 500 tons per day or greater, identifying the steps that the owner will take to transfer information and solicit input from the community in which the facility is located. The community relations plan shall contain the following:

(1) A minimum of two open meetings with the community or its representatives prior to and during facility construction. The purpose of such meetings will be to inform the community of the operations of such a facility, including the progress of construction and projected initial tipping fees;

(2) Annual open meetings with the community or its representatives subsequent to the initial startup of operations. The purpose of these meetings is to allow community input and to provide a forum for exchanging ideas; and

(3) A notification procedure, whereby the community is provided a report of findings in the case of an emergency incident at the facility.

9. The final O and M manual for the sanitary landfill shall include the following, in addition to the final O and M requirements set forth in the general engineering requirements, N.J.A.C. 7:26-2.10(a)10.

*[iii.]***i.*** A facility staffing plan containing the following:

(1) The job title for each position at the facility;

(2) A written job description for each position, including duties and performance standards. The description shall include the requisite skills, education, and other qualifications deemed necessary for employees assigned to each position;

(3) An explanation of the criteria and reasons used in selecting the required number and types of positions, as well as the qualifications for each position; and

(4) A statement of the staffing provided for each operating shift, including the job titles and number of employees for each title, and for each shift.

*[iv.]***ii.*** A written training plan which shall include the type and amount of both the initial and annual followup training to be provided to facility personnel;

*[v.]***iii.*** A emergency contingency plan which delineates procedures for responding to fire, explosions or any unplanned sudden or non-sudden releases of harmful constitutents to the air, soil, or surface water. The emergency contingency plan shall be submitted to the local police and fire departments, and to the local and county health departments or other offices of emergency management. The emergency contingency plan shall contain:

(1) A description of the actions facility personnel shall take in the event of various emergency situations;

(2) A description of arrangements made with the Department and local police and fire departments which allow for immediate entry into the facility by their authorized representatives should the need arise, such as in the case of personnel responding to an emergency situation; and

(3) A list of names, addresses and phone numbers (office and home) of all persons qualified to act as emergency coordinator for the facility. This list shall be kept up to date. Where more than one person is listed, one shall be named as primary emergency coordinator and the others shall be listed in the order in which they will assume responsibility as alternates.

*[vi. A community relations plan for facilities with a design capacity of 500 tons per day or greater, identifying the steps that the owner will take to transfer information and solicit input from the community in which the facility is located. The community relations plan shall contain the following:

(1) A minimum of two open meetings with the community or its representatives prior to and during facility construction. The purpose of such meetings will be to inform the community of the, operations of such a facility, including the progress of construction and projected initial tipping fees;

(2) Annual open meetings with the community or its representatives subsequent to the initial startup of operations. The purpose of these meetings is to allow community input and to provide a forum for exchanging ideas; and

(3) A notification procedure, whereby the community is provided a report of findings in the case of an emergency incident at the facility.]*

7:26-2A.6 Sanitary landfill environmental performance standards

(a) Any sanitary landfill subject to regulation pursuant to N.J.A.C. 7:26-2A.1(c) shall contain a leachate containment system, leachate collection system, leachate treatment/disposal system, gas venting system, surface drainage control system, monitoring system, a final capping system and any other system or environmental control measure required by the Department, and shall be designed and constructed in accordance with the performance standards set forth in this section.

(b) In the design and construction of a sanitary landfill subject to regulation pursuant to N.J.A.C. 7:26-2A.1(c), consideration shall be given to ground and surface water conditions, geology, soils, topographic features, solid waste types and quantities, social, geographic and economic factors, and esthetic and environmental impacts in order to protect the environment and to minimize and control adverse impacts.

(c) The ***following are the** * performance *[of the sanitary landfill shall be in accordance with the following:]* ***standards for sanitary landfills:**

1. The sanitary landfill shall not cause or result in any decrease in the quality of the ground or surface water at the property line of the sanitary landfill, within the aquifers located below or surface water adjacent to the sanitary landfill, beyond that allowed by N.J.A.C. 7:9-6, Ground Water Quality Standards or N.J.A.C. 7:9-4, Surface Water Quality Standards, as applicable; and

2. The sanitary landfill shall not cause or result in any significant decrease in the quality of water taken from any potable water well existing at the time of design and construction of the proposed sanitary landfill. In order to compare the quality, the applicant shall use the Student's t-test at the 0.01 level of significance ***or an equivalent statistical method, as approved by the Department*** to determine statistically a significant decrease in water quality.

(d) For a sanitary landfill located in a stable low permeable defined geologic formation having a hydraulic conductivity of less than $1x10^{-6}$ cm/sec., the standard for the design for the containment and leachate collection systems shall consist, at a minimum, of the following:

1. An impervious liner consisting of three feet of clay having a hydraulic conductivity equal to or less than $1x10^{-7}$ cm/sec. designed and constructed in accordance with N.J.A.C. 7:26-2A.7(c); and

2. A leachate collection system consisting of a one foot sand drainage layer having a hydraulic conductivity equal to or greater than $1x10^{-2}$ cm/sec. The collection pipe spacing and liner slope shall be designed to ensure that the leachate head on the liner does not exceed one foot at any time based on actual flows from the area of drainage at real time events. The leachate collection system shall be constructed as specified in N.J.A.C. 7:26-2A.7(d);

3. An applicant may submit an alternate design for the containment and leachate collection system. The Department will only approve such alternate design if the applicant is able to demonstrate, to the satisfaction of the Department, that the alternate system design is an equivalent system *[which meets or exceeds the]* ***in terms of*** structural integrity ***as (d)1 and 2 above***, ***meets or exceeds the*** performance and efficiency requirements of *(**d**)*1 and 2 above and meets the performance standard established in (c) above.

(e) A sanitary landfill that is not located in stable low permeable geologic formations of sufficient thickness, having a hydraulic conductivity of less than $1x10^{-6}$ cm/sec., shall increase the performance and efficiency of the containment and leachate collection systems over that of the ***standard*** design required by (d)1 and 2 above. The design and performance of the sanitary landfill shall *[ensure]* ***insure*** an environmentally sound operation with consideration given to the geology, groundwater quality and groundwater usage of the area. Such design shall, at a minimum, also conform to the following:

1. A sanitary landfill located in stable low permeable defined geologic formation having a hydraulic conductivity equal to or less than $1x10^{-5}$ cm/sec. may, if approved by the Department, decrease the liner hydraulic conductivity or increase the liner thickness required by (d)1 above, so as to meet the performance standard established in (c) above;

2. Except where the applicant makes the demonstration permitted by (e)3 below, a sanitary landfill located in any geologic area other than that defined in (e)1 above, shall, at a minimum, have a containment system consisting of a double composite liner system. The primary and secondary geomembrane liners in the double composite liner system shall be in compressive contact with a clay or admixture liner below the geomembrane liner. A leak detection/collection system shall be located between the primary composite liner and the secondary composite liner;

3. Except for sanitary landfills located in geologic areas in which the bedrock is at or near the surface *[or]* which serve***s*** as a direct source of public community *[potable]* water *[supply]* ***system***, an applicant may submit an alternative design for the containment and leachate collection system which shall, at a minimum, consist of a double geomembrane liner system with an additional leak detection/collection system between the primary (top) liner and secondary (bottom) liner or a single composite liner system, provided the applicant demonstrates to the satisfaction of the Department that the alternate system design meets or exceeds the performance and efficiency requirements of 2 above and meets the performance standards required by (c) above.

(f) The evaluation of the performance of the sanitary landfill in the geologic formation within which it is located shall be analyzed with a three-dimensional mass transport model. ***A two-dimensional mass transport model may be utilized, if approved by the Department, after the applicant demonstrates that the configuration of the site specific geology of vertical versus horizontal extent allows for an evaluation equal to an evaluation resulting from a three-dimensional mass transport model.*** The mass transport model shall have the capacity to represent the real world situation in accordance with the *[minimum]* requirements *[as]* set forth at Appendix A*;* *[and in accordance with the following publications:

1. "Evaluation of Long-term Remedial Action Alternation," by George F. Pinder, June 1983; and

2. "Landfill and Groundwater Modeling Volume I: Final Report," by A.C. Dometracopoulos, L. Sehayek, E.L. Bourodimos and E.G. Navy prepared for NJDEP contract number 27-5026, June 1984.]*

(g) All sanitary landfills regulated pursuant to N.J.A.C. 7:26-2A.1(c) shall be designed and constructed, in accordance with (h) below, to protect environmentally sensitive areas including, but not limited to, the following:

1. The flood fringe areas of the flood hazard area as identified by the Department pursuant to the State Flood Hazard Area Control Act, N.J.S.A. 58:16A-50 et seq.;

2. Wetland buffer areas as identified by the Department pursuant to the Wetlands Coastal Resource and Development Policies, N.J.A.C. 7:7E;

3. Lands in municipally approved farmland preservation programs***, farmland preservation programs*** or lands which have been dedicated to agricultural use by the purchase of their development *[rights]* ***easements*** pursuant to the provisions of the *[Farmland Preservation Bond Act, P.L. 1981, c.276,]* ***Agriculture Retention and Development Act, N.J.S.A. 4:1C-11 et seq.,*** or equivalent independent county/municipal programs;

4. The watershed area for waters classified by the Department as FW-1 waters or FW-2 Trout Protection Water pursuant to the Surface Water Quality Standards, N.J.A.C. 7:9-4;

5. Areas within 1000 feet of any lake or pond and 500 feet of any river or stream;

6. Areas within a critical water supply area as determined by the Water Supply Management Act Rules, N.J.A.C. 7:19-6, or a sole source aquifer pursuant to Section 1424(e) of the Safe Drinking Water Act of 1974, P.L. 93-523;

7. The *[Protection]* ***Pinelands*** Area as established by N.J.S.A. 13:18A-11a of the Pinelands Protection Act, N.J.S.A. 13:18A-1 et seq.;

8. Areas within one mile of a water supply well or well field producing over 100,000 gallons per day, or surface water reservoir used as a potable water source and areas within 600 feet of any potable water well;

9. Areas directly underlain by cavernous limestone, dolomite, or marble;

10. Areas directly overlying past or present subsurface mining activities;

11. Areas within three miles from either end of the nearest runway of any public-use airport owned by a public agency or designated by the Federal Aviation Administration as a reliever airport as determined by the Division of Aeronautics of the New Jersey Department of Transportation;

12. Areas which will encroach upon, damage or destroy any area, site, structure, or object included in the Register of Historic Places established by N.J.S.A. 13:1B-15.128 et seq.;

13. Within the buffer zone area of specimen trees as determined and defined by the Division of Parks and Forestry;

14. Areas with slopes exceeding 15 percent;

15. Areas where fractured bedrock is or will be within 200 feet from the bottom of the liner; and

16. Areas where groundwater is or will be within 10 feet from the bottom of the liner.

(h) In order to protect the environmentally sensitive areas identified in (g) above, the Department shall require the design, construction and operation of additional control systems or increased performance of the required systems to minimize and control adverse impacts and prevent pollution. The Department will consider documentation, submitted by the applicant, demonstrating that the topographical and geological conditions, in conjunction with the design, construction*,* *[and]* operation ***and maintenance*** of the sanitary landfill ***in accordance with this subchapter***, will adequately prevent pollution of the environmentally sensitive area.

1. The additional environmental control systems or increased performance of the systems required to protect the environmentally sensitive areas identified in (g) above shall at a minimum include the following for the particular identified area:

Environmentally Sensitive Area Impacted	Type of System Upgrading Required
i. Flood fringe areas of flood hazard area, N.J.A.C. 7:26-2A.5(g)1;	Upgrading of the surface drainage system. Increase in the design storm size;
ii. Wetlands buffer areas, N.J.A.C. 7:26-2A.5(g)2;	Upgrading of the surface drainage system. Increase in the design storm size;
	Upgrading the liner/leachate collection systems to increase their performance and efficiency;
iii. Lands in ***farmland preservation programs or*** municipally approved farmland preservation programs, N.J.A.C. 7:26-2A.5 (g)3;	Site configuration restrictions;
	Upgrading the liner/leachate collection systems to increase their performance and efficiency;
	Operational restrictions;
iv. Watershed areas of FW-1 water or FW-2 Trout Production Waters, N.J.A.C. 7:26-2A.5(g)4;	Upgrading of the surface drainage system. Increase in the design storm size;
	Upgrading the liner/leachate collection systems to increase their performance and efficiency;
v. 1000 feet of lakes or ponds and 500 feet of rivers or streams, N.J.A.C. 7:26-2A.5(g)5;	Upgrading of the surface drainage system. Increase in the design storm size;
	Upgrading the liner/leachate collection systems to increase their performance and efficiency;
vi. Critical water supply areas or sole source aquifer N.J.A.C. 7:26-2A.5(g)6;	Upgrading the liner/leachate collection systems to increase their performance and efficiency;
vii. Pinelands Protection Area, N.J.A.C. 7:26-2A.5(g)7;	Upgrading of the surface drainage system. Increase in the design storm size;
	Upgrading the liner/leachate collection systems to increase their performance and efficiency;
viii. One mile to a water supply well or surface water reservoir or 600 feet to a potable water well, N.J.A.C. 7:26-2A.5(g)8;	Upgrading the liner/leachate collection systems to increase their performance and efficiency;
ix. Cavernous limestone, dolomite and marble, N.J.A.C. 7:26-2A.5(g)9;	Site configuration restrictions;
	Upgrading of the subgrade support;
	Upgrading of the surface drainage system;
x. Subsurface mining, N.J.A.C. 7:26-2A.5(g)10;	Site configuration restrictions;
	Upgrading of the subgrade support;
xi. Three miles to public use airport, N.J.A.C. 7:26-2A.5(g)11;	Operational restrictions;
xii. Historic site preservation, N.J.A.C. 7:26-2A.5(g)12;	Site configuration restrictions;
xiii. Buffer zones of specimen trees, N.J.A.C. 7:26-2A.5(g)13;	Site configuration restrictions;
xiv. Slopes exceeding 15 percent, N.J.A.C. 7:26-2A(g)14;	Site configuration restrictions;
	Upgrading of the surface drainage system. Increase in the designed storm size;
xv. 20 feet to fractured bedrock, N.J.A.C. 7:26-2A.5(g)15;	Upgrading the liner/leachate collection systems to increase their performance and efficiency;
xvi. 10 feet to groundwater, N.J.A.C. 7:26-2A.5(g)16.	Upgrading the liner/leachate collection systems to increase their performance and efficiency.

(i) Sanitary landfill setback areas and buffer zones shall be designed and constructed in accordance with the following:

1. In areas in which the groundwater flow velocity, in the geologic formation in which the proposed sanitary landfill will be located, is equal to or greater than one foot per day, the minimum setback area shall be 300 feet from the toe of the slope of the landfill to the property boundary line.

2. In areas in which the groundwater flow velocity, in the geologic formation in which the proposed sanitary landfill will be located, is less than one foot per day, the setback may be reduced based on the geology and topography of the area, the groundwater quality and usage, and the performance *[of the sanitary landfill as]* ***standards*** set forth in (c) above and as determined in accordance with (f) *[below]* ***above***, but in no case shall the setback area be less than 150 feet.

3. A greater separation than that required by (i)1 or 2 above may be required based on the geology and topography of the area, the groundwater quality, usage, and proximity of potable water wells and the performance *[of the sanitary landfill as]* ***standards*** set forth at (c) above and as determined in accordance with (f) above to prevent pollution within the aquifers.

4. A minimum of 50 feet of buffer zone within the setback area shall be maintained at all landfills.

(j) Reductions in the performance *[standards]* ***of the sanitary landfill*** set forth in (d) and (e) above and the design standards and construction requirements set forth in N.J.A.C. 7:26-2A.7 for Class II and III sanitary landfills shall be *[determined]* ***permitted*** by the Department based upon the following:

1. The performance required of Class II sanitary landfills shall be based upon the waste type to be disposed of at the sanitary landfill and shall be in accordance with the following analyses:

i. Historical data of the waste type proposed to be disposed of at the sanitary landfill demonstrating the degradation and immobilization of the waste within the soil matrix under similar conditions; or

ii. An analysis, by a New Jersey certified laboratory, of a composite sample of the waste, which shall include, but not be limited to, the following:

(1) A total analysis of metals listed in N.J.A.C. 7:26-8.12, performed in accordance with the ***most current version of the*** American Water Works Association, AWWA Standard Method, Part 300;

(2) Extraction procedures for the metals listed in N.J.A.C. 7:26-8.12 using an extractant at a pH of 5 and with site water shall be performed in accordance with ***the most current version of the*** USEPA "Test Methods for Evaluating Solid Waste," SW 846 USEPA, Section 2 and USEPA "Solid Waste Leaching Procedure SW 924;"

(3) Steam distillation of any suspected organic shall be performed in accordance with ***the most current version of the*** USEPA "Test Methods for Evaluating Solid Waste SW 846;" Section 4.

iii. Background analysis shall be performed on soils taken from the proposed site in accordance with ii(1) and (2) above.

iv. Split sampling shall be performed concurrently with the Department at a time and place to be agreed upon by the applicant and the Department; and

v. A *[two-dimensional]* mass transport model ***meeting the requirements of (f) above*** shall be used to analyze the extent of any possible potential contaminant migration based on the site geology and groundwater flow at a maximum discharge rate.

vi. A certified copy of the bill for the Department's analysis of the waste and soils performed in accordance with ii and iii above, shall be forwarded to the applicant, who shall pay the bill within 30 days thereafter. Payment of the bill in full shall be a condition of the final permit approval; and

2. The design standards and construction requirements set forth at N.J.A.C. 7:26-2A.7 may be reduced as approved by the Department for Class II sanitary landfills, as determined based on the waste analysis performed in accordance with (j)1 above and the following:

i. Site access control and security;

ii. Length and scale of the operation; and

iii. Location of the proposed sanitary landfill in regards to the following:

(1) Geologic location in accordance with (d) and (e) above;

(2) Impacts on environmentally sensitive areas in accordance with (g) and (h) above;

(3) Groundwater flow velocity in accordance with (i)1 and 2 above; and

(4) The geologic and groundwater impacts and the geotechnical analysis needed for the two-dimensional model shall be determined based on a preliminary investigation performed in accordance with N.J.A.C. 7:26-2A.4(b)6.

3. The performance *[standards]* ***required*** for Class III sanitary landfills may be reduced and Class III sanitary landfills may be exempted from one or more of the design standards or construction requirements of N.J.A.C. 7:26-2A.7 based on the following:

i. Site access control and security;

ii. Length and scale of the disposal operation; and

iii. Location of the landfill in regards to the following:

(1) Geologic location in accordance with (d) and (e) above;

(2) Impacts on environmentally sensitive areas in accordance with (g) and (h) above; and

(3) Groundwater flow velocity in accordance with (i)1 and 2 above.

7:26-2A.7 Sanitary landfill engineering design standards and construction requirements

(a) The following are the general sanitary landfill engineering design standards and construction requirements:

1. All sanitary landfills regulated by N.J.A.C. 7:26-2A.1(c) shall be designed and constructed with a leachate containment system, leachate collection system, leachate treatment/disposal system, monitoring system, a surface drainage control system, gas venting system, a final capping system and any other systems or control measures required pursuant to the design standards and construction requirements set forth in this subchapter, unless exempted by N.J.A.C. 7:26-2A.6(j)3;

2. An on-site baseline consisting of two vertical and horizontal control monuments shall be constructed and installed in accordance with the New Jersey Map Filing Law, N.J.S.A. 46:23-9, and Department specifications, as listed in "Guidelines for Establishing Vertical and Horizontal Control Monuments on a Sanitary Landfill".

i. The control monuments shall be installed with, at a minimum, Second Order accuracy in accordance with the "Classification, Standards of Accuracy, and General Specifications of Geodetic Control Survey" published by the U.S. Department of Commerce 1980. The control monuments shall be tied into the national or state geodetic survey network and keyed into the New Jersey Plane Coordinate Datum 1927.

ii. Sanitary landfills equal to or greater than 50 acres may be required to construct and install secondary control points in accordance with the Department's specifications listed in "Guidelines for Establishing Vertical and Horizontal Control Monuments on a Sanitary Landfill".

3. The sanitary landfill shall be constructed with a modular design. Each section of the modular design shall be hydraulically isolated from the adjoining section.

4. The degree of hydraulic isolation shall be determined based on the location of the landfill, and shall at a minimum include the following:

i. Sanitary landfills located in areas described in N.J.A.C. 7:26-2A.6(d) and (e), shall, at a minimum, include a temporary berm capable of isolating run-on from adjoining areas and run-off from the active landfill area and contain leachate generated within the sanitary landfill section.

ii. Sanitary landfills located in areas described in N.J.A.C. 7:26-2A.6(e)2 and 3 which require, at a minimum, a double liner or composite liner system and a leak detection system shall be designed so that each section drains, at a minimum, to separate sumps capable of isolating any potential leaks from that section.

5. The construction and operation of the modular sanitary landfill design should be initiated in the section which is most down gradient in relation to groundwater flow. Alternative designs to meet this requirement are acceptable in areas where the topography, such as steep surrounding slopes, make this requirement environmentally unsound.

6. The size of each section shall be designated to minimize the exposed active areas. It is recommended that no section be designated to be operated for longer than two years.

7. A quality assurance inspector, independent of the quality control inspector, approved by the Department and reporting directly to the Department, shall be at the site at all times during the initial construction phase of the containment and leachate collection systems to observe and perform all required systems audits of the quality control inspections, as set forth at (a)8, 9 and 10 below, to insure proper implementation of the design and permit requirements.

8. A meeting shall be held between the quality assurance inspectors and the Department to establish reporting procedures and frequency, in accordance with the construction scheduling.

9. Quality control inspectors shall be at the site during all phases of construction to ensure and verify that the design and permit requirements are properly implemented. The quality control inspectors shall, at a minimum, be at the site at all times during the construction of the containment and leachate collection systems.

10. The quality control measures and tests required by this subchapter and described in the QA and QC plan submitted in accordance with N.J.A.C. 7:26-2A.5(a)7 shall be employed to insure that the construction requirements are properly implemented and that the design and performance standards are achieved.

11. The quality control inspector shall inspect those aspects of the subgrade preparation including, but not limited to, the following:

i. Site preparation, clearing, and grubbing;

ii. Excavation of subgrade to required elevations;

iii. Subgrade preparation to eliminate incompatibilities with the liner system;

iv. Proper application of vegetation suppressant;

v. Compaction of subgrade to design density at proper moisture content to achieve required strength and stability to support the liner;

vi. Moisture content density and field strength tests performed as required;

vii. Compacted lift thickness;

viii. Compaction equipment, weight, speed, and number of passes;

ix. Method of moisture addition;

x. Proof-rolling of subgrade;

xi. Fine finishing of the subgrade to required grades; and

xii. Final inspection of the subgrade for acceptability of area to be lined.

12. The quality control inspector shall inspect those aspects of the containment systems including but not limited to the following:

i. Liner material to ensure that the material being used meets specifications;

ii. Liner material stockpiling, storage, and handling to prevent damage;
iii. Inlet/outlet structure or penetration through the liner to ensure compatibility with the liner system;
iv. Final grades of liner to ensure that they are within acceptable tolerances;
v. Final inspection of liner for acceptability prior to backfill placement;
vi. Backfill placement;
vii. Geotextile placement;
viii. Compacted liners with respect to the following:
(1) Compaction of liner to design density at the proper moisture content to achieve the required hydraulic conductivity and maintain strength and stability;
(2) Uniformity of compactive effort;
(3) Compacted lift thickness;
(4) Compacted liner thickness;
(5) Compaction equipment weight, speed, and number of passes;
(6) Moisture content, density, hydraulic conductivity and field infiltration tests to ensure that they are performed as required;
(7) Mixing and blending of liner material to ensure that the activity is being performed as required; and
(8) Repairs and corrective or remedial action performed as required.
ix. Geomembranes with respect to the following:
(1) Liner panel placement is in accordance with required configuration;
(2) Permanent and temporary anchoring procedures are followed;
(3) The overlap and seam width are in accordance with the design;
(4) The area of seaming is clean and supported;
(5) The uniformity and continuity of seams or welds;
(6) Cap strips are installed on all seams;
(7) Qualitative and quantitative field seaming tests are performed as required;
(8) Imperfections in seams, wrinkles at seams and fishmouth are repaired as required;
(9) Corrective or remedial action taken.
13. The quality control inspector shall inspect those aspects of the leachate collection system including, but not limited to, the following:
i. Material stockpiling, storage, and handling to prevent damage;
ii. Drainage layer placement;
iii. Thickness of the drainage layer;
iv. Grain size analysis and relative density or compaction tests are performed as required;
v. Uniformity of the soil;
vi. Filter placement;
vii. Grades and alignments within acceptable tolerances;
viii. Envelope placement;
ix. Proper implementation of action taken to protect the collection pipe and liner from the loads and stresses due to the traffic of backfilling equipment;
x. Sump construction;
xi. Sump water tightness tests; and
xii. Pump placements.
14. Daily QC reports shall be prepared by the quality control inspector or quality assurance inspectors and maintained in a bound log book which shall be available at the job site at all times for inspection by the Department. All lab reports and field testing results shall be signed and dated by the inspector, and shall be attached to the log book reports. The log book reports shall include, but not be limited to, the following:
i. Identification of project name, location and date;
ii. Weather conditions including:
(1) Temperature (daily high and low);
(2) Barometric pressure;
(3) Wind direction and speed;
(4) Last precipitation event; and
(5) Amount of precipitation;
iii. Description and location of construction currently underway;
iv. Equipment and personnel at work at each unit;
v. Description and location of areas being tested or observed;
vi. Off-site material received and quality verification documentation;
vii. Calibration of test equipment;
viii. Description and location of remedial action taken; and
ix. Decisions and comments including conversations, directives and directions for the following:
(1) Acceptance or failure of inspection or tests;
(2) Acceptance or failure of daily work unit performance;
(3) Problems encountered and corrective action taken;
(4) On-going corrective action;
(5) In-field modifications; and
(6) Assessment of overall project quality.
15. The scheduled frequency of inspections by the independent quality assurance inspectors may be reduced or discontinued if approved by the Department. The reductions or discontinuance shall be based on the results of the initial construction tests and the precision and consistency of the quality control test results.
16. At such time as the independent quality assurance inspector is discontinued, as approved by the Department, the activities performed by the quality insurance inspector shall be carried out by the permittee's quality control inspectors in accordance with the approved Quality Assurance and Quality Control plan.
17. The Department may reinstate the independent quality assurance inspection at the site if the results of the construction tests and the precision and consistency of the quality control testing warrant such reinstatement.
18. Best available engineering construction practices shall be employed for all phases of the facility construction.
19. The Department shall be notified within 24 hours at the Department hotline at (609) 292-7172, should failure of a major phase of construction occur or should an unforeseen event occur that could potentially result in failure of a major phase of construction.
20. A New Jersey licensed professional civil or geotechnical engineer shall certify, in writing, to the Department that he has inspected the construction of each major phase of the sanitary landfill's construction. He shall further certify that each phase has been prepared and constructed in accordance with the engineering design approved by the Department, prior to operations. The certification shall include a final documentation report which shall summarize the daily quality control of construction activities as required by ***[12]*** ***(a)14*** above, and should include as-built drawings.
21. A New Jersey licensed professional civil or geotechnical engineer shall certify that the materials utilized in the containment system and leachate collection system are in conformance with and meet the specifications of the approved engineering design.
22. There shall be no deviation made from the approved engineering design specification without the prior written approval of the design engineer and, at a minimum, prior verbal approval by the Department.
23. All certifications shall bear the raised seal of the New Jersey licensed professional engineer, his signature, and the date of certification.
24. The certification required in (a)20 and 21 above shall include the following: "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 the submitted 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."
(b) The sanitary landfill shall be designed and constructed on an appropriate foundation meeting the following minimum requirements:
1. The foundation of the proposed sanitary landfill area shall provide firm, relatively unyielding, planar surfaces to support the liner.
2. The foundation shall be capable of providing support to the liner and resistance to the pressure gradient above and below the liner resulting from settlement, compression or uplift.
3. A foundation analysis shall be performed prior to construction, to determine the structural integrity of the foundation to support the loads and stresses imposed by the height and weight of the sanitary landfill and the design loading rate of the facility. These loads and loading rates shall not result or give cause to failure of the containment or leachate collection systems. The foundation analysis shall include the following:
i. The strength of the foundation shall be determined for all appropriate conditions, utilizing appropriate American Society of Testing and Materials (hereinafter ASTM), American Association of State Highway and Transportation Officials (hereinafter AASHTO) or equivalent methods, for both field testing and laboratory testing. The stability of the foundation shall be determined for long-term, short-term or end-of-construction conditions, as appropriate, within the minimum factors of safety set forth in Table II below:

TABLE II
Degree of Uncertainty of Strength Measurement
Factor of Safety

	Low	High
Static conditions	1.5	2.0
Seismic conditions	1.3	1.7

ii. The total settlement or swell of the foundation resulting from the initial, consolidation and compression settlement shall be determined utilizing appropriate ASTM, AASHTO or equivalent methods. The total settlement or percent consolidation shall not result or give cause to failure of the containment or leachate collection systems;

iii. The ultimate bearing capacity of the foundation shall be determined and the actual loads and stresses imposed by the surface impoundment dikes, storage tanks, manholes, clean-out risers, and sumps shall not result or give cause to failure with a factor of safety of 3 or greater;

iv. The compaction curves or relative density of the foundation shall be determined by the appropriate method in accordance with ASTM, AASHTO, or equivalent methods; and

v. Sampling shall be performed in accordance with the following schedule:

(1) In uniform geological formations, the sampling shall, at a minimum, be performed to give three replicate results per site. Sampling locations shall be in the areas of expected maximum loads and at the toe of the proposed slope. The sampling locations should be delineated in the scope of work submitted in accordance with N.J.A.C. 7:26-2.*[2(g)1 and 2]* ***4(a)***; and

(2) In non-uniform complex geological formations the number and depth of samples shall be determined on a case-by-case basis. The sampling locations should be delineated in the scope of work submitted in accordance with N.J.A.C. 7:26-2.*[2(g)1 and 2]* ***4(a)***.

4. The foundation shall be prepared in the following manner prior to placement of the liner:

i. All trees, brush, stumps, logs, tree roots, boulders, and debris shall be removed;

ii. All surface dissimilarities (for example, fractured rock, cobble, angular gravel, organic soils, top soils, etc.) that would result in a potential degradation or failure of the liner systems shall either be stabilized, removed, or covered with a minimum of six inches of sand classified as a SP in the Unified Soils Classification System or equivalent;

iii. If a soil sterilant is to be utilized to inhibit any potential vegetative growth, it shall be an approved United States Environmental Protection Agency product and shall be applied in accordance with label specifications and the requirements of the New Jersey Pesticide Control Code, N.J.A.C. 7:30;

iv. The subgrade shall be compacted by modification of the compactive effort utilizing stage compaction to the design density, at the proper moisture content if applicable, based on laboratory analysis to achieve the required strength;

v. All depressions within the subgrade shall be filled with a suitable soil approved by the quailty control inspector, and shall be compacted to the design density, at the proper moisture content if applicable, to achieve the required strength;

vi. Any soil fill utilized shall be spread in horizontal layers not exceeding the effective depth of the compaction equipment utilized, and shall be compacted to the design density, at the proper moisture content if applicable, to achieve the required strength;

vii. Placement of soil fill into frozen ground or placement of soil fill which is in a frozen state is prohibited;

viii. The subgrade shall be proof-rolled with a rubber-tired roller. Any weaving of the subgrade shall be an indication of failure which shall be over-excavated and filled with a suitable soils approved by the quality contol inspector, compacted to the design density, at the proper moisture content if applicable, to achieve the required strength;

ix. Construction of the liner on a saturated subgrade is prohibited. After a rainfall event, the subgrade shall be given sufficient time to dry or drain to the design moisture content;

x. Prior to the construction of the liner system, the subgrade shall be tested for density and moisture content, where applicable, at 50 foot intervals on a grid pattern across the subgrade;

xi. In any area where the foundation is excavated, the side slope to the excavation prior to placement or construction of the liner shall not exceed a vertical rise of one foot for each horizontal distance of three feet; and

xii. Depth to groundwater from the top elevation of the foundation or bottom elevation of the liner shall be as follows:

(1) For sanitary landfills located in a stable low permeable formation having a hydraulic conductivity of less than $1x10^{-6}$ cm/sec., the depth, within the potentiometric surface, may be determined on a case-by-case basis as approved by the Department. This determination shall be based on the flow characteristics and attenuation capabilities of the geologic formation. There shall be, at a minimum, five feet of soil with a hydraulic of $1x10^{-6}$ cm/sec. or less between the bottom of the liner system and the aquifer. The depth to or within a perched water table may be less than five feet if this level can be cut-off by passive means, such as a cut-off wall or trench; and

(2) For all other sanitary landfills, depth to the seasonally high groundwater from the top elevation of the foundation shall be, at a minimum, five feet.

(c) The following are the design standards and construction requirements for containment systems:

1. The sanitary landfill containment system shall be designed and constructed in such a manner as to provide a closed system for the leachate generated therein during the operational, closure and post closure periods. The design and contruction shall include the use of a liner consisting of recompacted or in-situ clay, an admixture material, geomembrance or composite material, or a cut-off wall consisting of clay or an admixture material.

2. A liner shall be provided to restrict the migration of leachate and to prevent pollution of the underlying aquifers. The minimum requirements for liner construction shall include the following:

i. The liner shall be constructed of materials that have appropriate chemical properties and sufficient strength and thickness to prevent failure due to pressure gradients (including static head and external hydrogeological forces), physical contact with the waste and leachate, climatic conditions, the stresses of installation, and the stresses of daily operations;

ii. The final grades of the liner shall result in a relatively smooth surface through either fine finishing of the subgrade with use of a scraper/roller or smooth drum rolling of the compacted liner;

iii. The minimum slopes of the liner shall be two percent on controlling slopes and 0.5 percent on remaining slopes;

iv. The final grades of the liner shall be true to line and deviation of the controlling slopes of the liner shall not result in excessive ponding on the liner or decreased efficiency of the leachate drainage system. It is recommended that the deviation be less than 0.2 feet measured across any 10 foot section and less than 10 percent on the overall slope based on design elevations;

v. Survey stakes shall be placed in such a manner as to insure that the final grades meet the design specifications within the allowed tolerance;

vi. For penetrations through the liner (i.e. collection pipe to pump station), indicating devices, such as survey laths or stakes, shall be utilized at the area of penetration. The landfill should be designed to minimize the construction of penetrations through the liner;

vii. A soil backfill meeting the leachate drainage system requirements set forth in N.J.A.C. 7:26-2A.7(d) shall be placed on top of the liner to provide protection for the liner and leachate collection piping system in accordance with the following:

(1) Backfill soils should be placed on top of the liner immediately following compeltion of construction and testing procedures set forth in x. below. If backfilling operations are to be delayed, procedures as delineated in the approved construction contingency plan required by N.J.A.C. 7:26-2A.5(a)5ii shall be implemented to minimize degradation to the liner system;

(2) The depth of the soil backfill shall be of sufficient thickness to insure that no damaging load is transmitted to the leachate collection pipe;

(3) The depth of the soil backfill shall be of sufficient thickness to insure that no damaging load causes the leachate collection pipes to penetrate through the liner;

(4) When placed above a compacted liner the thickness of the soil backfill shall be, at a minimum, 12 inches;

(5) When placed above a geomembrane the thickness of the soil backfill shall be, at a minimum 18 inches;

(6) The soil backfill shall be stable, compatible with the liner system and relatively free of organic matter;

(7) Equipment utilized to place the soil backfill over the liner shall consist of tracked or bulbous tired vehicles or equivalent equipment with relatively low weight transfer ratios; and

(8) Use of the backfill placement equipment shall not result in any damage to the liner system or the final grades. In cases utilizing geomembranes, the use of backfill placement equipment directly on the liner is prohibited and shall be permitted only over a minimum of 18 inches of soil backfill.

viii. All inlet/outlet structures installed through the liner shall be compatible with the liner system and shall be installed in such a manner as to minimize leaking through the penetration in accordance with the following:

(1) The subgrade around the penetration shall be properly compacted to the design density and at the proper moisture content, where applicable, to achieve the required strength;

(2) For compacted liners, the liner material around the penetration shall be hand compacted to the design density, at the proper moisture content to achieve the required hydraulic conductivity and maintain the strength and stability of the liner; and

(3) For geomembranes, a pipe shroud shall be utilized around the penetration. The leg of the pipe shroud shall be of a size equal to the diameter of the pipe. A flange shall be fastened to the leg by factory seaming, and shall overlap the opening in the liner material on all sides by a minimum distance equal to the diameter of the pipe. The pipe shroud leg shall be attached to the inlet-outlet structure by a three-quarter inch stainless steel band.

ix. The liner material shall have a demonstrated hydraulic conductivity or chemical and physical resistance not adversely affected by waste emplacement or leachate generated by the sanitary landfill. Absent historical test results acceptable to the Department, this shall be demonstrated by testing which shall include, but not be limited to, the following:

(1) For compacted liners, E.P.A. Test Method 9100 shall be performed utilizing a solid waste leachate (a synthetic leachate mix approved by the Department may be substituted if existing leachate is unavailable). Initially a baseline hydraulic conductivity of the material shall be established. It is recommended that a modified triaxial device equipped to apply back pressure throughout the entire test be used and that the hydraulic gradient be within the laminar flow range. If changes in the leachate conductivity occur, a minimum of two pore volumes of the leachate shall be exchanged and the changes in conductivity, versus the pore volumes passed, shall be analysed. Any significant increase in leachate conductivity shall be considered to be an indication of incompatibility and will require a redesign of the containment system; and

(2) For geomembranes, E.P.A. Test Method 9090 shall be performed utilizing a solid waste leachate (a synthetic leachate mix approved by the Department may be substituted if existing leachate is unavailable). The specified physical parameter shall be tested before and after liner exposure. Any significant change in test properties shall be considered to be indicative of incompatibility and will require a redesign of the containment system.

x. The following quality control testing shall be performed on the as-built compacted liner system on an ongoing basis during the construction phase:

(1) Each lift or course of the liner shall be tested for moisture content and density at 50 foot intervals on a grid pattern across the surface. Two tests shall be performed in the immediate area around all inlet/outlet structures;

(2) Measurements shall be made periodically throughout the day during construction of the liner to insure that the lift or course thickness is within the allowable limits and in accordance with the design;

(3) Hydraulic conductivity testing shall be performed on undisturbed core samples of the final graded liner. Initially, such samples shall be taken at 200 foot (61 meter) intervals on a grid pattern across the surface. As the construction progresses, the number of samples may be reduced, as approved by the Department, based on the precision and ***consistency of the*** results of the initial sampling program, but at a minimum, one sample per every three acres shall be taken provided the material sources remain constant;

(4) Whenever a sample fails to meet the minimum hydraulic conductivity, the area of failure shall be localized, reconstructed and retested in accordance with the requirements set forth in this subsection;

(5) All core sample holes shall be backfilled and recompacted by hand tamping at the proper moisture content to achieve the minimum liner hydraulic conductivity;

(6) It is recommended that a modified triaxial device, equipped to apply backpressure throughout the entire test, be used to measure the hydraulic conductivity after primary consolidation ends. Backpressure should be sufficient to dissolve all air in the specimen and the confining or chamber pressure should not exceed anticipated landfill design pressure. Deaired tap water or 0.010 $CaSO_4$ should be used as the permeant and the hydraulic gradient should be within the laminar flow range. The material should be prepared in accordance with the procedures outlined by A.W. Bishop and D.J. Henkel in the most current edition of The Triaxial Test." 1964; or the most recent version of the engineering manual "Laboratory Soils Testing," EM 1110-2-1906, published by the U.S. Army Corps of Engineers; and

(7) Field infiltration tests, utilizing a double ring infiltrometer or permeameter, shall be performed on the final graded liner. Such tests shall be performed initially at a minimum of one per every 10 acres and each time the source material changes. It is recomended that a modified air-entry permeameter be used to measure the field hydraulic conductivity of the soils and that the test be run on pre-construction sections. As the construction progresses the number of samples may be reduced, as approved by the Department, based on the precision and accuracy of the results of the initial sampling program, but, at a minimum, one sample per section shall be taken provided the material source remains constant.

xi. The following quality control testing shall be performed on the as-built geomembrane liner system on an ongoing basis during the construction phase:

(1) All field seams shall be quality tested after they have been allowed to develop to full strength. Such testing shall be carried out through the use of an air lance with 50 pounds per square inch of air directed through a 3/16-inch nozzle or equivalent device. The lance shall be held no more than six inches from the seam edge and shall be utilized to detect any imperfections, tunnels or fishmouths. Any such imperfections in a seam shall be repaired and quality tested until a proper seam is achieved;

(2) Seams shall be tested for peel and shear strength, a minimum of three times per day at the beginning, middle and end of each work day, on either specially prepared sample seams constructed under the same conditions as the actual seaming process used that day or on a sample cut from the inplace liner; and

(3) During the constructrion phase, the geomembrane shall be continuously inspected for uniformity, damage, and imperfections (for example, holes, cracks, thin spots, or foreign materials). Immediately after installation, the liner shall be inspected to ensure tight seams and joints. Additionally, the liner shall be inspected to ensure the absence of tears, punctures, or blisters. Any imperfections shall be immediately repaired and reinspected.

3. The minimum requirements and testing for clay material utilized as a sanitary landfill liner shall include the following:

i. The following tests shall be performed on the clay material proposed for use, and all data shall be submitted to the Department. These tests shall be performed in accordance with current ASTM, AASHTO or equivalent methods.The number of samples taken and tests performed shall be adequate to define the material. At a minimum, three analyses shall be performed on three separate samples for each source of clay material:

(1) Classification;
(2) Compaction;
(3) Specific gravity;
(4) Hydraulic conductivity (coefficient of permeability);
(5) Porosity;
(6) pH;
(7) Cation exchange capacity ***(total and inorganic)***;
(8) Pinhole test (required only for clay liner construction over a coarse grain subgrade); and
(9) Mineralogy (recommended, not required).

ii. The following tests shall be performed on the in-situ clay material or the clay mined from the borrow site for construction of a recompacted liner. A minimum of one analysis shall be performed on each 16,000 inplace cubic yards of clay:

(1) Grain size analysis;
(2) Compaction; and
(3) Hydraulic conductivity (Index properties and grain size analysis may be used to determine the hydraulic conductivity provided the clay has been calibrated to these tests).

iii. The clay liner shall have a hydraulic conductivity equal to or less than $1x10^{-7}$ cm/sec. It is recommended that a modified triaxial device, equipped to apply back pressure throughout the entire test, be used to measure the hydraulic conductivity after primary consolidation ends. Deaired tap water or 0.01N $CaSO_4$ should be used as the permanent and the hydraulic gradient should be within the laminar flow range. A range of confining pressures, water content, densities and degree of saturation shall be analysed to determine the optimal design parameters of the clay. The material should be prepared in accordance with the procedures outlined by A.W. Bishop and D.J. Henkel in the most current edition of "The Triaxial Test," 1964, or the most recent version of the engineering manual "Laboratory Soils Testing", EM 1110-2-1906 published by the U.S. Army Corp of Engineers;

iv. The thickness of the clay liner for a Class I sanitary landfill required in N.J.A.C. 7:26-2A.6(d)1 and 2, may be modified to be less than three feet but not less than two feet so long as the performance required in

N.J.A.C. *[7:26-2A.6(c)1]* ***7:26-2A.6(d)1*** and 2 ***and the performance standards required in N.J.A.C. 7:26-2A.6(c)1 and 2 are*** *[is]* met. For *[other classes of]* ***Class II*** sanitary landfills, the thickness of the liner may be reduced, as approved by the Department, depending on the waste material to be disposed of, and the geologic siting of the landfill, but in no case shall the thickness of the liner be less than one foot;

v. The clay liner shall be applied and compacted in separate lifts, not to exceed the effective depth of the equipment utilized. The first lift should be no greater than six compacted inches. Subsequent lifts should be less than 2/3 of the length of the tamping feet or its equivalent;

vi. Prior to compaction the clay shall be mixed by disc-harrowing or an equivalent method to a homogenous consistency and each lift of the liner shall be compacted, by modification of the compactive effort, to the design density, and at the proper moisture content, based on the laboratory analysis, to achieve the required hydraulic conductivity and maintain the strength and stability of the clay;

vii. The liner shall be constructed in such a manner as to ensure that bonding between lifts is promoted;

viii. Placement of the clay liner on frozen ground or placement of clay material in a frozen state shall be prohibited;

ix. In-situ clay utilized in the design and construction of a liner system, unless exempted by x. below, shall be excavated, mixed by disc-harrowing or an equivalent method to a homogeneous consistency, and recompacted to the density at the proper moisture content, based on laboratory analysis, to achieve the required hydraulic conductivity and maintain the strength and stability of the liner; and

x. In-situ clay liner designs shall be left in the undisturbed state only if it can be fully demonstrated through the use of excavations, test pits, borings, undisturbed permeability testing, *[and]* ***or*** field infiltration/permeability testing that the undisturbed clay will possess a hydraylic conductivity no greater than $1x10^{-7}$ cm/sec and will meet all the requirements and standards of this subchapter.

4. The minimum construction and testing requirements for geomembranes utilized as a sanitary landfill liner shall include the following:

i. The material properties of the geomembrane proposed for use shall meet the minimum requirements as outlined in the most recent version of the National Sanitation Foundation's publication, "Standard Number 54 Flexible Membrane Liners";

ii. The geomembrane shall be compounded from first quality virgin materials. No regrinded or reprocessed materials containing encapsulated scrim shall be used in the manufacturing of the geomembrane;

iii. The minimum thickness for geomembranes shall be 30 mils;

iv. Single geomembrane liner systems are prohibited. Liner systems utilizing geomembranes shall be either a composite or double liner system constructed in accordance with the following:

(1) A composite liner system may be used only if the clay or admixture material is demonstrated to achieve sufficient strength and stability to insure the integrity of the geomembrane;

(2) If excessive settlement of the foundation is evident, as determined in accordance with N.J.A.C. 7:26-2A.8(b)4, the compressive and tensile strength of the clay or admixture material in the composite system shall be determined. An analysis of the clay or admixture liner strength, in conjunction with the subgrade settlement analysis, shall demonstrate that the design will not result or give cause to failure of the geomembrane. The analysis shall include a factor of safety equal to or greater than 1.5;

(3) The clay or admixture liner within the composite liner system shall be constructed in accordance with the requirements and standards of this subsection;

[(4) In single composite systems an underdrain system shall be constructed at the low point within the secondary (bottom) clay or admixture liner of the composite system. The underdrain shall be constructed in accordance with the requirements set forth in N.J.A.C. 7:26-2A.7(d)3;]

(4) The thickness of the clay or admixture liner within the composite liner system shall be approved by the Department when the applicant demonstrates that it meets the standards set forth at N.J.A.C. 7:26-2A.6;

(5) In double geomembrane systems or double composite systems a leachate collection system to detect and collect leachate, shall be designed and constructed between the primary (top) and secondary (bottom) liner in accordance with N.J.A.C. 7:26-2A.5(d);

(6) The *[primary (top)]* geomembrane liner shall be scrim reinforced or possess an equivalent demonstrated strength ***to insure proper installation***. The scrim reinforcement ***material*** shall be *[polypropylene, fiberglass or equivalent to prevent wicking. Nylon, dacron or equivalent scrims are prohibited. The scrim density should be no greater than six by six.]* ***a hydrophobic material to prevent wicking. The scrim shall be of a density that insures bonding of the laminated sheets.***

v. The liner shall be installed by a company having a documented minimum qualification of two million square feet of previous landfill or comparative geomembrane systems installation experience. This experience shall be available, at a minimum, at the field crew foreman level;

vi. The liner shall be installed in a smooth but relaxed manner. The practice of inserting folds into the liner to compensate for future settlement is not an acceptable practice to prevent failure;

vii. All field seams within the area of an excavated slope shall be made perpendicular to the toe of slope;

viii. Parallel field seams made at the bottom of an excavated slope shall be made no closer than 24 inches in from the toe of slope;

ix. The adhesive system of the field seaming to be employed shall be defined;

x. The peel and shear strength data of the field seams shall be submitted; and

xi. The following field seaming requirement***s*** shall be employed, unless manufacturer's recommended procedures demonstrate equivalent or better systems:

(1) Field seams made by employing solvent or bodied solvent adhesive shall have a minimum of six inches of overlap and a seam width of four inches from the edge of the top geomembrane; and

(2) field seams made by employing heat extrusion or welding shall have a minimum of three inches of overlap and a seam width of one inch from the edge of the top geomembrane;

*[xii.]***(3)*** All field seams, after quality control testing and repairs, shall incorporate a cap-strip of unreinforced material a minimum of four inches in width centered over the seam. The cap-strip shall be field seamed in accordance with ***(c)4***ix***(1) and (2)*** above, and quality control tested as required by N.J.A.C. 7:26-2A.7(c)2xi;

*[xiii.]*****xii.*** Field seaming procedures are prohibited when the ambient air temperature is less than 40°F (4.5°C), during storm events, or when winds are in the excess of 20 miles per hour (32 km/hr); and

*[xiv.]*****xiii.*** The geomembrane shall be anchored a minimum of 24 inches horizontally back from the edge of the top of the slope. The liner shall be anchored by cutting a trench 12 to 16 inches in depth, laying the liner across three sides of the trench, backfilling the trench, and compacting the backfill material.

5. The minimum requirements and testing for hydraulic asphalt concrete utilized as a sanitary landfill liner material shall include the following:

i. The following tests shall be performed on the hydraulic asphalt cement proposed for use, and all data shall be submitted to the Department. All test shall be performed in accordance with ASTM, AASHTO or equivalent methods.

(1) Grain size analysis of the mineral aggregate;
(2) Density of the mineral aggregate and the asphalt mix;
(3) Percent void in the compacted mix;
(4) Swell test;
(5) Penetration test;
(6) Stability-triaxial compression test; and
(7) Hydraulic conductivity of the mix.

ii. The hydraulic asphalt concrete liner for Class I sanitary landfills shall be designed and constructed to meet the performance requirements of N.J.A.C. 7:26-2A.6(c)1 and 2. In no case shall the hydraulic asphalt concrete liner for Class I sanitary landfills be less than six inches thick. For *[other classes of]* ***Class II*** sanitary landfills, the thickness of the liner may be reduced, as approved by the Department, depending on the waste material to be disposed of and the geologic siting of the sanitary landfill, but in no case shall the liner thickness be less than four inches;

iii. To insure that complete mixing of the hydraulic asphalt concrete is accomplished, a central mixing plant shall be used. The plant shall include a means for accurately proportioning the material, as determined by laboratory analysis, either by weighing or by volumetric measurement, to ensure that the mixture shall meet the designed hydraulic conductivity;

iv. The plant shall be capable of producing a uniform mixture within permissible variation from the mix formula and should include a continuous mixer of a twin pub mill type;

v. Tanks for storage of the asphalt within the central mixing plant shall be equipped to heat the entire contents uniformly to the temperature required for the mixture;

vi. The following quality control testing shall be performed at the central mixing plant to ensure uniformity of the mix. The testing shall be performed at a minimum of once per every 300 cubic yards, except for temperature which shall be monitored continuously:

(1) Temperature of the mix;
(2) Grain size analysis; and

(3) Percent asphalt.

vii. The design mix of the hydraulic asphalt concrete shall result in a final product of dense-graded asphalt concrete with a maximum penetration grade of 60-70;

viii. The asphalt content of the mix shall be of sufficient quantity to insure that the mixture meets the required design hydraulic conductivity based on laboratory analysis. It is recommended that at a minimum, the asphalt content be 9.5 percent by volume;

ix. Placement of the asphalt concrete liner is prohibited when the ambient air temperature is below 40°F (4.5°C) or during storm events;

x. The mix shall have a high degree of workability while hot, be stable enough to support its own weight on side slopes, and shall have a smooth finished surface;

xi. The liner shall be applied in courses with a maximum depth of two inches per course.

xii. The liner shall be applied utilizing a staggered joint construction technique and placement of the course shall, to all practical extent, be a continous operation;

xiii. The hydraulic asphalt should be compacted to at least 98 percent of laboratory density and should have a maximum void ratio not to exceed two percent. The compacted percentage shall be measured by utilizing the Marshall Test Method;

xiv. When applying the finished product on side slopes, the material shall initially be deposited at the toe of the slope, and then pushed up the grade of the slope;

xv. After the hydraulic asphalt concrete has been compacted and allowed to cure for sufficient time to obtain its maximum strength, a sealant coating shall be applied to the surface;

*[xvi. The sealant coating applied to the compacted and cured hydraulic aspahlt concrete, shall consist of an MC-20, or an equivalent, and shall be applied at a rate equal to or greater than 0.6 gallons per square yard; and

xvii. The sealant coating shall be applied in two courses of at least 0.3 gallons per square yard and shall be applied with a minimum of two feet of overlap.]*

6. The minimum requirements and testing for soil cement utilized as a sanitary landfill liner material include the following:

i. The following tests, performed in accordance with appropriate ASTM, AASHTO or equivalent methods shall be performed on the soil cement mixture proposed for use, and all data shall be submitted to the Department.

(1) Grain size analysis of aggregate;
(2) Soil cement content;
(3) Wetting and drying;
(4) Freezing and thawing;
(5) Compressive strength;
(6) Compaction; and
(7) Hydraulic conductivity.

ii. The soil cement liner for Class I sanitary landfills shall be designed and constructed to meet the performance requirements of N.J.A.C. 7:26-2A.6(c)1 and 2. In no case shall the soil cement liner for Class I sanitary landfills be less than two feet thick. For *[other classes of]* ***Class II*** sanitary landfills, the thickness of the liner may be reduced, as approved by the Department, depending on the waste material disposed of and the geologic siting of the sanitary landfill, but in no case shall the liner thickness be less than one foot;

iii. To ensure that complete mixing is accomplished, a central mixing plant shall be used. The plant shall include the means for accurately proportioning the material as determined by laboratory analysis, either by weighing or by volumetric measurement, in order that the mixture shall meet the designed hydraulic conductivity requirement;

iv. The plant shall be capable of producing a uniform mixture, within permissible variation, from the mix formula and shall include a continuous mixer of a twin pub mill type;

v. The following quality control testing shall be performed at the control mixing plant at a minimum of once per every 300 cubic yards of mixture to ensure uniformity of the mix:

(1) Grain size analysis of the aggregate; and
(2) Percent cement.

vi. Placement of soil cement liner is prohibited when the ambient air temperature is below 40°F (4.5°C) or during storm events;

vii. The transportation time from the central mixing plant to the construction site shall not exceed 30 minutes;

viii. No more than 60 minutes shall elapse between the start of mixing and the start of compaction. The compaction process shall be started within 30 minutes after the material is applied. The compaction process shall be completed within 1 1/2 hours after the mixing process is completed;

ix. It is recommended that the mixture be applied by a mechanical spreader in nine-inch loose lifts, and then compacted to six-inch layers. The soil cement should be compacted initially with a sheep foot roller, and then followed by a smooth wheeled vibrating roller;

x. The soil cement should be compacted to the design density, at the proper moisture content, based on the laboratory analysis, to achieve the required hydraulic conductivity and maintain the strength and stability of the liner;

xi. No later than 24 hours after compaction is completed, a bituminous or asphaltic emulsion seal (MC-20 or equivalent) shall be applied to the completed surface; and

xii. The addition of additives to the mix are prohibited except with the approval of the Department.

7. Minimum requirements and testing for bentonite utilized as a sanitary landfill liner material include the following:

i. The following tests, shall be performed on the bentonite proposed for use, and all data shall be submitted to the Department. All tests shall be performed in accordance with appropriate ASTM, AASHTO or equivalent methods:

(1) Swelling index;
(2) Layer permeability;
(3) Colloidal yield; and
(4) Cation exchange capacity.

ii. The following tests shall be performed on the bentonite/soil mixture proposed for use, mixed under field conditions with site water proposed for use, in accordance with ASTM, AASHTO or equivalent methods;

(1) Grain size analysis of aggregate;
(2) Bentonite content;
(3) Compaction; and
(4) Hydraulic conductivity.

iii. The bentonite liner or Class I sanitary landfills shall be designed and constructed to meet the performance requirements of N.J.A.C. 7:26-2A.6(c)1 and 2. In no case shall the bentonite liner for Class I sanitary landfills be less than two feet thick. For *[other classes of]* ***Class II*** sanitary landfills, the thickness of the liner may be reduced, as approved by the Department, depending on the waste material to be disposed of and the geologic siting of the sanitary landfill, but in no case shall the liner thickness be less than one foot;

iv. To ensure that complete mixing is accomplished, a central mixing plant shall be used. The plant shall include the means for accurately proportioning the material, as determined by laboratory analysis, either by weighing or by volumetric measurement, in order that the mixture shall meet the required design hydraulic conductivity;

v. The plant shall be capable of producing a uniform mixture within permissible variation from the mix formula and should include a continuous mixer of a twin pub mill type;

vi. The following quality control testing shall be performed at the central mixing plant at a minimum of one test per every 300 cubic yards of mixture to ensure uniformity of the mix:

(1) Grain size analysis of the soil; and
(2) Percent bentonite.

vii. Placement of the bentonite liner in a frozen state or on frozen ground is prohibited;

viii. The bentonite/soil mixture should be applied by a mechanical spreader in a maximum of nine-inch loose lifts and compacted with a smooth drum vibratory compactor or rubber-tired compactor;

ix. The bentonite/soil mixture should be compacted to the design density at the proper moisture content range, based on the laboratory analysis, to achieve the required hydraulic conductivity and maintain the strength and stability of the liner.

8. A cut-off wall shall be constructed in those areas, where needed, to restrict the lateral migration of leachate, provide for a *[complete]* ***closed*** containment system, and prevent pollution of the underlying aquifer. The minimum requirements for cut-off wall construction include the following:

i. Borings shall be taken at 200 foot intervals along the proposed route of the cut-off wall. These borings shall extend to a depth at least three feet into the cofining layer. In clay cut-off wall constructions, the boring interval may be increased, but shall be no greater than 500 feet, provided the excavation is continuously logged and inspected for conformance with the boring data by a qualified geologist or geotechnical engineer;

ii. Hydraulic conductivity tests of the confining layer shall be performed on undisturbed core samples at every other boring location;

iii. The cut-off wall shall extend a minimum of three feet into the confining layer. A lesser distance may be acceptable, if approved by the Department, provided the wall extends to competent rock;

iv. The cut-off wall shall be stable under all conditions, including long term and end of construction conditions, and shall not be susceptible to displacement or erosion under stress or hydraulic gradient;

v. Prior to construction the cut-off wall material shall be tested in accordance with (c)2ix above, to ensure that the material has a conductivity or chemical and physical resistance which will not be adversely affected by waste emplacement or the leachate generated by the sanitary landfill.

9. In addition to the requirements of (c)8 above, the minimum requirements and testing for clay utilized for cut-off wall construction include the following:

i. The tests performed, as specified in (c)3i and ii above, shall be performed on the clay material proposed for use in the cut-off wall.

ii. The cut face of the excavation shall be stable for all conditions that will be encountered during the excavation, including appropriate factors of safety for the material encountered;

iii. The clay cut-off wall shall be constructed to a minimum thickness of three feet;

iv. The clay cut-off wall shall have a hydraulic conductivity equal to or less than $1x10^{-7}$ cm./sec.;

v. The clay cut-off wall shall be constructed in separate lifts not exceeding the effective depth of the equipment utilized and in a manner which will ensure that bonding between lifts is promoted;

vi. Each lift of the clay cut-off wall shall be compacted to the design density, at the proper moisture content, to achieve the required hydraulic conductivity and maintain the strength and stability of the cut-off wall;

vii. Each lift shall be tested for moisture content and density at 50-foot intervals along the length of the construction; and

viii. Hydraulic conductivity testing shall be performed on undisturbed core samples of the constructed, compacted clay cut-off wall at 200-foot intervals along the route of the wall in order to verify in-field permeability of the constructed wall. Whenever a sample fails to meet the minimum permeability standard of $1x10^{-7}$ cm./sec. or less, the section of the wall which fails to meet the standard shall be localized and reconstructed in accordance with the procedures outlined in v and vi above. All core sample holes shall be backfilled and recompacted by hand tamping at the proper moisture content, to achieve the minimum requirement hydraulic conductivity. It is recommended that the modified triaxial device procedures, as set forth in (c)2x(3) above, be utilized to measure the hydraulic conductivity;

10. In addition to the requirements of (c)8 above, the minimum requirements and testing for soil and bentonite or cement utilized for slurry cut-off wall construction include the following:

i. The tests specified in (c)7i above, shall be performed on the bentonite proposed for use;

ii. The following tests shall be performed on the bentonite slurry proposed for use, mixed under field conditions with site water proposed for use in construction of the slurry wall, and all data shall be submitted to the Department:

(1) Bentonite content and cement content, where applicable;
(2) Marsh Cone viscosity;
(3) Marsh Cone gelation;
(4) Gel strength, initial and 10 minute strength;
(5) pH;
(6) Filtration loss;
(7) Filter cake—thickness and strength; and
(8) Sand content.

iii. The following tests shall be performed on the backfill proposed for use, mixed under field conditions, and all data shall be submitted to the Department:

(1) Grain size analysis;
(2) Slump;
(3) Blowout tests, if the design or existing gradient is greater than 30; and
(4) Cement content, where applicable.

iv. The water utilized in the slurry mix and the backfill shall be analyzed for the following parameters:

(1) pH;
(2) Chloride;
(3) Total dissolved solids;
(4) Hardness; and
(5) Total volatile organics.

v. The water utilized in the slurry mix and the backfill shall be free of oil and organic matter, be relatively free of impurities and be in the neutral pH range;

vi. When the depth to the confining layer is less than 100 feet, the thickness of the wall shall be 0.6 feet per 10 feet of hydrostatic head on the wall and shall, at a minimum, be three feet;

vii. When the depth to the confining layer is greater than 100 feet, slurry wall thickness shall be determined on a case by case basis. This determination shall be based on a comprehensive engineering analysis of the ability of a given wall thickness to resist failure;

viii. There shall be a sufficient percent of fines in the backfill material to achieve a hydraulic conductivity equal to or less than $1x10^{-7}$ cm/sec.;

ix. The backfill material shall be completely mixed in such a manner as to insure a consistent quality of the material;

x. A slump test and gradation analysis shall be performed at a minimum of one sample for every 300 cubic yards of backfill mixture;

xi. A viscosity and density analysis of the slurry shall be performed at a minimum of twice daily;

xii. The backfill mixture shall not be put in place until the trench has been inspected, measured, approved, and certified by a New Jersey licensed professional engineer, or his agent who shall be a qualified geologist or geotechnical inspector, to ensure that the trench has penetrated a sufficient depth into the aquiclude;

xiii. A minimum of three feet of slurry head shall be maintained in the excavation above the maximum anticipated groundwater level and the slurry head should not fall below one foot of the ground surface elevation;

xiv. The backfilling of the slurry cut-off wall shall be performed by one of the two following methods. In either case, free dropping of the backfill into the trench through the slurry is prohibited;

(1) Backfill shall be placed by use of a tremie process; or

(2) Backfill shall be placed into a pre-cut trench in which a minimum backfill slope of six horizontal to one vertical (6:1) has been established.

xv. The backfill process shall continue until sufficient material has been placed in the slurry trench to permit the backfill material to become exposed at the top of the trench;

xvi. A three-foot thick layer of clay core soil backfill shall be placed on top of the complete portion of the cut-off wall after it has reached its intended level and before it is allowed to dry out;

xvii. Upon the completion and stabilization of the backfilling process of the cut-off wall, hydraulic conductivity testing of undisturbed core samples of the backfilled trench shall be performed at 200 foot intervals to verify the hydraulic conductivity of the wall. Whenever a sample fails to meet the minimum hydraulic conductivity of $1x10^{-7}$ cm/sec. or less, the section of the wall which fails to meet the standard shall be localized and reconstructed in accordance with the procedures set forth in xii through xv above. All core sampling holes shall be refilled and recompacted to meet the minimum hydraulic conductivity; and

xviii. In the event that a failure of the slurry trench or construction platform should occur, the trench and backfill material shall be excavated and reconstructed, at a minimum, for a length of 100 feet from the outside point of failure in each direction. The hydraulic conductivity of the reconstructed portion of the wall shall be verified through hydraulic conductivity testing of undisturbed core samples in accordance with xvii above.

(d) The following are the design standards and construction requirements for leachate collection systems:

1. The leachate collection system shall consist of a leachate drainage system and a leachate removal system;

2. A leachate drainage system shall be designed and constructed to provide for effective drainage of the leachate generated within the proposed sanitary landfill in accordance with the following:

i. The slope, hydraulic conductivity and porosity of the drainage layer and the spacing of the collection pipes of the leachate drainage system shall be designed in such a manner as to ensure that the performance ***and efficiency*** requirements of N.J.A.C. 7:26-2A.6(d)1 and 2 are met during the operational life of the facility;

ii. The following tests shall be performed on the soil proposed for use in the drainage layer and all data shall be submitted to the Department. These tests shall be performed in accordance with current ASTM, AASHTO or equivalent methods. The number of samples taken and tests performed shall be adequate to define the material. At a minimum, three analyses shall be performed on three separate samples for each source of drainage material.

(1) Classification;
(2) Porosity;
(3) Relative density or compaction;
(4) Specific Gravity; and
(5) Hydraulic conductivity.

iii. The leachate drainage system shall be designed utilizing two different modeling techniques approved by the Department, and the more conservative of the results from two methods shall be employed for the design of the leachate collection system. *[The methods used should be those specified in the US E.P.A. Technical Resource Document SW-869 "Landfill and Surface Impoundment Performance Evaluation Manual," revised edition, and the "Analysis of Design Parameters Affecting the Collection Efficiency of Clay Lined Landfills," by Kmit, Quinn, and Slavik, published in the proceedings of the Fourth Annual Madison Conference of Applied Research and Practice on Municipal and Industrial Waste, September 28-30, 1981, or equivalent methods approved by the Department;]*

iv. Data from the nearest meteorological station to the site with a minimum data base of five years, shall be utilized to design the leachate drainage system. *[The]* ***Unless real time meteorological data is utilized, the*** moisture input variable of the design model required by iii above shall be based on 100 percent of the infiltration rate to the area at an effective frequency to represent the average time between precipitation events greater than 0.1 inches resulting from precipitation;

v. The ***hydraulic conductivity required by N.J.A.C. 7:26-2A.6(d)2 for the*** drainage layer *[shall, to the maximum extent possible, consist of a uniform soil having a coefficient of uniformity equal to or less than 2.5 and shall have a hydraulic conductivity]* ***may be less than $1x10^{-2}$ cm/sec provided the performance and efficiency required by N.J.A.C. 7:26-2A.6(d)1 and 2 and the performance standard in N.J.A.C. 7:26-2A.6(c) are met. The hydraulic conductivity of the drainage layer shall be*** equal to or greater than $1x10^{-3}$ cm/sec after compaction. It is recommended that a granular filter or geotextile be designed and constructed above the drainage layer to minimize the intrusion of fines into the drainage layer;

vi. The drainage layer shall be designed and constructed in such a manner as to maintain laminar flow throughout the system to prevent scouring of the liner;

vii. The following quality control tests shall be performed on the soil utilized within the drainage layer of the leachate collection system:

(1) Hydraulic conductivity;

(2) Relative density or compaction;

(3) Grain size analysis; and

(4) Drainage layer thicknes.

viii. The tests required in vii above shall be performed in accordance with ASTM, AASHTO or equivalent methods and in accordance with the following schedule:

(1) Hydraulic conductivity and grain size analysis shall be performed once per every 3,000 cubic yards of in-place fill material. The hydraulic conductivity may be determined from the grain size analysis, provided the hydraulic conductivity is calibrated to the particular grain size distribution of the soil used;

(2) Relative density or compaction tests shall be performed on the complete drainage layer at 50 foot intervals on a grid pattern across the surface; and

(3) Drainage layer thickness shall be measured periodically throughout the day during construction to ensure that the thickness is within allowable limits and in accordance with the design.

ix. The drainage layer shall have the appropriate minimum thickness specified in (c)2vii above. Furthermore, based on the design permitted by i above, the drainage layer shall be constructed with a minimum depth equal to, or greater than, the maximum anticipated leachate head generated within the landfill during the operational life of the landfill.

3. A leachate removal system shall be designed and constructed to provide for removal of the leachate within the drainage system to a central collection point for treatment and disposal in accordance with the following:

i. The following tests shall be performed in accordance with ASTM methods, or an equivalent determination shall be performed on the material proposed to be uitlized in the leachate collection piping system:

(1) For rigid pipes, a three-edge bearing test shall be performed under 0.1 inch crack loading and ultimate loading conditions;

(2) For flexible pipe, a parallel plate deflection test shall be performed under five percent deflection and buckling capacity loading conditions;

ii. The piping material utilized within the leachate removal system shall possess an adequate structural strength to support the maximum anticipated static and dynamic loads and stresses that will be imposed on the pipe by the drainage layer, gravel pack, overlying wastes, and any equipment used at the sanitary landfill. The supporting strength of the pipe shall be equal to, or greater than, the loads and stresses imposed on the pipe with, at a minimum, a factor of safety of 1.5;

iii. The material utilized for the piping system shall have demonstrated chemical resistance to the wastes to be disposed of in the landfill and the leachate expected to be produced within the proposed sanitary landfill. The requirement for demonstrated chemical resistance shall be satisfied either by the use of ASTM approved chemically resistant piping material or by testing the piping material in accordance with the requirements of *[(c)2ix(1)]* ***(c)2ix(2)*** above;

iv. The piping system shall have a slope that will provide a self-cleaning velocity within the pipe based on actual maximum flows from the area of drainage. The minimum flow velocity should not be below two feet per second as designed based on full flow or half flow capacity;

v. Laterals within the piping network shall have, at a minimum, an inside diameter of four inches and shall be capable of handling peak flows;

vi. Mains within the piping network shall have, at a minimum, an inside diameter of eight inches and shall be capable of handling peak flows;

vii. The piping system shall employ flexible joints to allow for at least 0.5 degree movement between the pipe sections;

viii. The final grades of the piping system should be true to line and the departure from grade and alignment of the piping system shall not result in excess ponding on the liner or reduced efficiency of the leachate collection system. The maximum allowable departure from grade should not exceed 10 percent of the inside diameter of the collection pipe;

ix. The collection pipes shall be designed to function without clogging throughout the operational phase of the proposed sanitary landfill. The collection pipes shall be constructed within a coarse gravel envelope inside a geotextile fabric. The material utilized in the coarse gravel envelope shall meet the specifications, or equivalent, of the cumulative grain size distribution curves calculated in accordance with (d)3ix(1) through (5) below, where "D" equals the effective size or diameter of the soil *[articles]* ***particles***:

(1) The envelope aggregate shall be compatible with the material with which it is placed in contact;

(2) $\frac{D_{15}\text{ (envelope)}}{5} < D_{85}$ (backfill);

(3) $\frac{D_{15}\text{ (envelope)}}{5} \leq D_{15}$ (backfill);

(4) for slotted pipes:
$\frac{D_{85}\text{ (envelope)}}{\text{Slot width}} \geq 1.2$;

(5) for circular holes:
$\frac{D_{85}\text{ (envelope)}}{\text{hole diameter}} \geq 1.0$; and

(6) The envelope thickness should be a minimum of 10 cm. around the pipe and should be related to the D_{50} of the envelope/drainage layer ratio in accordance with Table III below:

TABLE III

Envelope/drainage layer D_{50} ratio	Envelope thickness (cm)
≤24	10
24-28	15
28-40	23
40-50	30

x. When the requirements of ***(d)****[a]*****3ix*** above cannot be satisfied by a one-layer envelope, a zoned envelope ***or equivalent*** shall be constructed that satisfies the specifications in ix. above;

xi. The collection pipe shall be installed within a depression constructed within the liner or liner and subgrade, and shall meet the following minimum specifications:

(1) A minimum of three inches of bedding material shall be placed at the bottom of the trench; and

(2) The depth of the depression should, at a minimum, be equal to the outside diameter of the pipe plus the bedding material.

xii. The collection piping system shall, at a minimum, extend completely around the perimeter of the proposed sanitary landfill. An interior grid herring bone or offset herring bone system shall be employed, when needed, to ensure that the maximum leachate head exerted on the liner does not exceed the design head and that it controls the leachate head at the perimeter of the proposed sanitary landfill;

xiii. *[Except in an underdrain system of a single composite liner system, as described at (c)4iv(4) above, the]* ***The*** drainage distance between the collection pipes shall not exceed 300 feet;

xiv. Construction and earth-moving equipment shall be prohibited from operating over the piping system, and sanitary landfill equipment shall be prohibited from operating over the piping system until a minimum of five feet of refuse has been mounded over and around the pipe;

xv. Manholes or cleanout risers shall be located along the perimeter of the leachate removal system. The number and spacing of the manholes or cleanout risers shall be sufficient to insure proper maintenance of the leachate removal system by water jet flushing or an equivalent method;

xvi. A rubber gasket or an equivalent seal to ensure a tight joint shall be installed between the sump or manhole inlet and the collection pipe. A flexible pipe joint shall be connected to the manhole and a second flexible pipe joint shall be installed within the piping system within three feet of the first flexible pipe joint;

xvii. Material used for the construction of the manhole or cleanout riser shall have a demonstrated chemical resistance to the leachate expected to be produced within the sanitary landfill;

xviii. The leachate collection system shall be designed to drain by gravity to a sump system. In double lined systems, the leachate collection piping systems shall be designed to drain to separate independent sumps;

xix. The sumps, pumps, and pumping station capacity shall be designed based on an evaluation of percolation, resulting from precipitation and infiltration into the system through the side or bottom of the liner or cut-off wall;

xx. The sump shall be a prefabricated structure coated inside and outside with a minimum of two coats of waterproofing sealant. The joints between the sump section shall be sealed with a rubber gasket or equivalent seal and grouted to ensure a watertight seal;

xxi. All sumps shall be tested for watertightness prior to the startup of landfilling operations in accordance with the following:

(1) The sumps shall be filled with water and covered;

(2) The depth of water elevation shall be measured daily for a period of five days;

(3) Any significant decrease in the depth of water within the sump shall be an indication of failure. The sump which fails the test shall be recoated with waterproofing sealant and the joints regrouted. The sump shall be retested for watertightness in accordance with this subparagraph. If failure of the retest should occur the sump shall be reconstructed;

xxii. Should the sumps be located outside of the lined area, an unsaturated zone monitoring lysimeter shall be installed beneath the sump;

xxiii. The pump station shall be housed in a suitable structure capable of protecting the pumps, motors and electrical equipment in accordance with, but not be limited to, the following:

(1) Explosion-proof equipment for the pump motors and electrical equipment shall be utilized and shall be constructed in accordance with the most current version of the National Electrical Code, "Special Occupancy, Hazardous Location", Volume 6 of the National Fire Code published by the National Fire Prevention Association;

(2) Adequate lighting and ventilation*, **where necessary,*** shall be provided. The ventilation system of the pump station shall be constructed in accordance with the most current version of the National Fire Code, "Explosion Venting" Volume 14, published by the National Fire Prevention Association;

(3) Two separate and independent sources of electric power shall be provided from either two separate utility substations or from a single substation and *[a work-based]* ***an on site*** generator;

(4) Automatic sound alarms, operating independently of the pump station power, shall be installed to give warning of high water, power failure, or breakdown. The alarm system shall be wired to the location where assistance will be available to respond to the emergency;

(5) The total number of operating pumps as determined in accordance with (6) below, shall be designed to handle the maximum expected leachate production for the area of drainage based on the average peak monthly flow;

(6) A minimum of two pumps shall be provided in the leachate pump station. The number of pumps should be designed based on the requirements of Table IV below:

TABLE IV

Total Flow to Pump Station	Number of Pumps in the Pump Station
500 gpm	2 pumps (1 standby);
500-1500 gpm	3 pumps (2 operating, 1 standby); and
1500-3000 gpm	4 pumps (3 operating, 1 standby);

(7) If more than two pumps are provided, their capacity shall be such that upon failure of the largest pump the remaining pumps shall be capable of handling the maximum expected leachate production for the area of drainage based on the average peak monthly flow.

(e) A leachate treatment and disposal system shall be designed and constructed in accordance with the following:

1. All leachate treatment and disposal systems shall be required to obtain a NJPDES permit in accordance with the NJPDES regulations, N.J.A.C. 7:14A;

2. The leachate treatment and disposal system shall be designed in accordance with one of the following options:

i. Complete treatment on-site with direct discharge to surface or groundwater;

ii. Pretreatment on-site*, **if required,*** with discharge to an off-site treatment works for final treatment; or

iii. Storage on-site with discharge to an off-site treatment works for complete treatment.

3. Leachate recirculation within the sanitary landfill shall not be permitted as a disposal option;

4. Leachate storage prior to treatment shall be within tanks constructed and installed in accordance with (e)13 below;

5. Storage of leachate for a period exceeding one month shall be prohibited except as set forth at (e)10iii below during start-up operations:

6. The following requirements shall be met prior to start-up of sanitary landfilling operations:

i. The leachate treatment and disposal system shall be on line and fully operational;

ii. An agreement with a treatment works facility to accept the leachate shall be in place if either option (e)2ii or iii above was elected for use with the sanitary landfill; and

iii. All necessary Federal, State and local permits for the treatment and disposal system shall have been obtained.

7. All leachate treatment and disposal systems shall be designed and constructed to prevent anaerobic conditions from developing;

8. All leachate treatment and disposal systems shall be designed and constructed to control odors pursuant to N.J.A.C. 7:27;

9. For all leachate discharges planned for publicly owned treatment works (P.O.T.W.), the owner or operator shall determine the acceptability of such discharges on the operations of the P.O.T.W. in accordance with the guidelines entitled, "Requirements for Treatability Study of Landfill Leachate Discharged to P.O.T.W.," available at the Office of Industrial Waste Management, Division of Water Resources, CN 029, Trenton, NJ 08625;

10. In addition to complying with the requirements of the NJPDES regulations, N.J.A.C. 7:14A, the Rules and Regulations for the Preparation of Plans for Sewer Systems and Wastewater Treatment Plants, N.J.A.C. 7:9-1, and the Pretreatment Standards for Sewerage, N.J.S.A. 58:11-49.1 et seq., on-site complete treatment or pretreatment facilities shall be designed and constructed in accordance with the following:

i. The on-site treatment unit shall be designed based on the results of a treatability study, the results of the operations of a pilot scale plant or written information documenting the performance of an equivalent leachate treatment system;

ii. On-site treatment units shall be designed and constructed by staging of the units to allow for on-line modification of the treatment facility to account for variability of the leachate quality and quantity; and

iii. The use of mobile or temporary treatment units may be permitted prior to the construction of a permanent facility satisfying the requirements of 6 above, provided that in all cases a permanent leachate treatment and disposal system shall be on-line within 12 months.

11. The residuals from any treatment facility shall be analyzed in accordance with the requirements of the Sludge Quality Assurance Regulation, N.J.A.C. 7:14-4, and disposal of in accordance with the following:

i. The analysis shall be submitted to the Bureau of Hazardous Waste Planning *[and Waste Classification]* of the Division ***of Hazardous Waste Management*** for classification;

ii. Should the sludge be classified as a non-hazardous waste, the sludge shall be disposed of at a solid waste facility permitted to accept the waste type ID classification; and

iii. Should the sludge be classified as a hazardous waste, the material shall be disposed of in accordance with N.J.A.C. 7:26-7 through 12.

12. In addition to complying with the requirements of N.J.A.C. 7:14A-10.7, the Dam Safety Standards, N.J.A.C. 7:20, and the Standards for Soil Erosion and Sedimentation Control, N.J.A.C. 2:90, surface impoundments utilized as on-site treatment units shall be designed and constructed in accordance with the following:

i. Surface impoundments shall include a liner system that is designed to meet or exceed the performance standards set forth in N.J.A.C. 7:26-2A.6(d)1 and 2 under the maximum anticipated hydrostatic head and the liner shall be constructed in accordance with (b) and (c) above;

ii. Surface impoundments shall be designed and constructed to contain the expected flow with sufficient reserve capacity to contain accumulated precipitation from previous rainfall events and sediment and sludge accumulation;

iii. The stability of the surface impoundment dikes shall be determined, as appropriate, for long term, short term or rapid drawdown conditions by modeling techniques and the factor of safety shall be within the minimum values set forth in Table II in (e)3i above;

iv. The inner and outer slopes of all dikes of the surface impoundment shall not exceed a 3:1 slope;

v. The inflow to the surface impoundment shall be designed and constructed so that any flow of waste into the impoundment can be immediately shut-off; and

vi. Upon closure of the surface impoundment, unless the surface impoundment is within the containment and leachate collection systems of the landfill area, the surface impoundment shall be removed and disposed of in accordance with *[10]* ***(e)11*** above and NJPDES regulations, N.J.A.C. 7:14A.

13. The minimum standards for the design and construction of ***leachate*** storage tanks include the following:

i. The tank shall be constructed of or lined with material which has a demonstrated chemical resistance to the leachate expected to be produced within the landfill and contained within the tank;

ii. The storage tank area shall have a liner system consisting of a minimum of 18 inches of clay or a single 30 mil geomembrane and a leachate collection system. The liner system and leachate collection system shall be capable of containing and collecting any spills or leaks, and shall be designed and constructed in accordance with (b), (c) and (d) above;

iii. The storage tank shall be designed in accordance with American Petroleum Institute (API), Underwriters Laboratory (UL), or American Concrete Institute (ACI) standards or an equivalent standard depending on the material used, such as metal, fiberglass reinforced plastic, or concrete, and the minimum shell thickness shall be equivalent to a 3/16th of an inch metal tank;

iv. All storage tanks shall be equipped with a venting and odor control system. The venting system shall be *[designed in accordance with API Standard 2000 Venting Atmosphere and]* Low-Pressure Storage Tank or an equivalent design and permitted in accordance with N.J.A.C. 7:27-8;

v. Control of emissions and odors from the storage tank shall be in compliance with the rules and regulations of the Bureau of Air Pollution Control, N.J.A.C. 7:27;

vi. All storage tanks shall be equipped with a high liquid level alarm or warning device. The alarm system shall be wired to the location where assistance will be available to respond to the emergency; and

vii. All storage tanks shall be constructed and maintained in accordance with applicable provisions of the NJPDES regulations including, but not limited to, N.J.A.C. 7:14A-10.7.

14. Spray irrigation of treated effluent systems shall be designed and constructed in accordance with the NJPDES regulations, specifically N.J.A.C. 7:14A-10.9.

i. The spray irrigation system shall not result in increased hydraulic head on the liner system in excess of the design head.

(f) The following are the design standards and construction requirements for sanitary landfill gas collection and venting systems:

1. Sanitary landfill gas collection and venting systems shall be designed and constructed to prevent and control the migration of sanitary landfill gases off-site and shall consist of a perimeter collection system *[and]* ***or*** an interior collection system ***or both*** which shall:

i. Prevent and control the accumulation of any methane concentrations in any structure;

ii. Prevent and control damage to vegetation beyond the perimeter of the property on which the sanitary landfill is located; and

iii. Contain malodorous gaseous emissions on-site.

2. All gas venting and collection systems shall be permitted in accordance with the rules and regulations of the Bureau of Air Pollution Control, N.J.A.C. 7:27;

3. The detection of 25 percent of the lower explosive limit of combustible ***landfill*** gases, *[beyond]* ***at*** the perimeter of the sanitary landfill property, or any concentration of *[gas]* ***any landfill gases*** within any structures shall trigger the construction of an induced draft or active venting system which shall be designed and constructed in accordance with the following:

i. The perimeter gas collection and venting system shall be designed and constructed to prevent and control landfill gas migration;

ii. Passive gas venting systems may be designed and constructed initially as a preventive measure against sanitary landfill gas migration. In situations where gas migration is detected in amounts greater than or equal to the limits set forth in *[ii and iii below]* ***3 above***, passive gas venting systems are prohibited;

iii. The Department may require the construction of an active gas collection system if a significant concentration of gas is detected within the setback area which in the opinion of the Department poses a threat to the health and welfare of the surrounding community;

iv. The number of collection well pipes shall be ***determined by (f)10 below and be*** sufficient to prevent any off-site gas migration. It is recommended that vents be installed, at a minimum, at 50 foot intervals along the perimeter of the sanitary landfill area; and

v. The depth of the gas collection wells shall be sufficient to prevent migration of sanitary landfill gases off-site in accordance with the following:

(1) When located within the lined area of the sanitary landfill, the gas collection wells shall not result in or give cause to failure of the liner or leachate collection systems; and

(2) When located outside of the lined area of the sanitary landfill, the gas collection wells shall be constructed, at a minimum, to the bottom of the liner system or to the top of the groundwater table whichever is higher.

4. Malodorous ***gaseous*** emissions emanating from the sanitary landfill which result in odors being detected in any area of human use or occupancy shall be cause for requiring the construction of the interior gas collection and venting system which shall be designed and constructed in accordance with the following:

i. The interior gas collection and venting system shall be designed and constructed to control malodorous emissions resulting from gaseous emissions;

ii. The interior collection system shall be an induced draft or active venting system;

iii. The number of collection wells shall be ***determined by (f)10 below and be*** sufficient to *[maximize the efficiency of the gas recovery system]* ***control malodorous emissions***. It is recommended that, at a minimum, three gas vents per acre be installed; *[and]*

iv. The depth of the collection wells shall not result in or give cause to failure of the liner or leachate collection systems*[.]* ***; and***

v. A perimeter collection and venting system, designed and constructed in accordance with (f)3 above may be constructed in place of the interior collection system to control malodorous gaseous emissions. The continued detection of odors in areas of human use or occupancy shall be cause for requiring the construction of an interior gas collection and venting system to operate in conjunction with the perimeter collection and venting system.*

5. Sanitary landfills in which active gas collection systems are constructed shall develop a gas recovery system ***in which the gas or converted energy is recovered and utilized***;

6. The sanitary landfill gases, prior to the design and construction of the gas collection and venting system in accordance with (f)3 and 4 above, shall be sampled and analyzed to define the quality and quantity of the sanitary landfill gases. The sampling and analysis of sanitary landfill gases shall include, but not be limited to, the following:

i. Prior to combustion, sanitary landfill gases shall be sampled and analyzed for the following:

(1) Volatile organic compounds (VOC);
(2) Total chlorine;
(3) Total sulfur;
(4) Carbon dioxide;
(5) Oxygen;
(6) Moisture content;
(7) Heat valve; and
(8) Flow rate.

ii. After combustion, sanitary landfill gases shall be sampled and analyzed for the following:

(1) Particulates;
(2) Sulfur oxides;
(3) Hydrochloric acid;
(4) Carbon monoxide;
(5) Nitrogen oxides; and
(6) Volatile organic compounds (VOC).

7. The gas collection system shall be designed to control condensate and to drain the condensate into the leachate collection system;

8. Each collection well shall be constructed with a valve to enable control and tuning of the system;

9. The gas collection system ***within the landfill area*** shall be designed to compensate for settlement. Collection wells shall be designed with slip joints, telescoping joints or equivalent joints. The valves, condensation traps and manifold connections shall be designed with flexible joints;

10. *[Gas]* ***Subsurface gas flow or*** transport modeling, approved by the Department, shall be performed to properly size the number of collection wells*[,]* ***required by (f)3iv and 4iii above. The*** collection well diameters, header lengths, pump capacities and recovery systems ***shall be properly sized, and designed and constructed in accordance with (f)6 above***;

11. The pump station shall be a suitable, permanent structure, which affords protection to the pumps, motors, and electrical equipment, and shall include the following:

i. Explosion-proof equipment for the pumps, motors, and electrical equipment in accordance with the most current version of the National Electrical Code "Special Occupancy, Hazardous Location" Volume 6 of the National Fire Code published by the National Fire Prevention Association; and

ii. Adequate lighting and ventilation which shall be in accordance with the most current version of the National Fire Code's "Explosion Venting" Volume 14 published by the National Fire Prevention Association.

12. Materials used in the gas collection and venting systems shall be compatible with the sanitary landfill environment, sanitary landfill gases and condensate, and ***the material*** shall *[be]* ***meet*** ASTM *[approved]* ***standards for*** chemically resistant materials;

13. Construction of any buildings on top of landfilled areas shall be prohibited during the operational and closure phases. Construction during the post-closure phase, as approved by the Department, shall be in accordance with the following:

i. The building shall be an above-grade structure. Construction of a basement is prohibited;

ii. The building shall be constructed to prevent gas accumulation within the structure in accordance with the requirements of *[15]* ***(f)14*** below or an equivalent method, which may include an active gas collection and venting system; and

iii. All utility connections shall be designed and constructed with flexible connections.

14. On-site buildings within the sanitary landfill properties should be designed and constructed in accordance with the following, or in accordance with an equivalent design which will prevent gas migration into the building:

i. A geomembrane or equivalent system with high gas impermeability should be installed between the slab and the subgrade or equivalent design;

ii. A permeable layer of open-graded material of clean aggregate, with a minimum thickness of 12 inches, should be installed between the membrane and the subgrade or slab. The material should be in accordance with the following requirements of the grain size distribution curves:

(1) $D_{85} < 4D_{15}$; and

(2) $D_2 > 0.1$ inch;

iii. A geotextile filter should be utilized to prevent the intrusion of fines into the permeable layer;

iv. Perforated venting pipes shall be installed within the permeable blanket and shall be designed to operate without clogging;

v. The venting pipe shall be designed and constructed with the ability to be connected to an induced draft exhaust system;

vi. Automatic methane gas sensors shall be installed within the venting pipe/permeable blanket and inside the building to trigger an audible alarm when methane gas concentrations are detected; and

vii. All buildings shall be constructed in accordance with the National Fire Code's, Life Safety Code Volume 9 as published by the National Fire Prevention Association.

(g) The following are the design standards and construction requirements for surface drainage systems:

1. Sanitary landfills shall be designed and constructed in such a manner as to hydraulically isolate the sanitary landfill from surface water drainage in a controlled manner. The surface drainage system shall be designed and constructed to protect the sanitary landfill from run-on and control run-off, from, at a minimum, the peak discharge of a 24-hour, 25-year storm;

2. Run-on/run-off structures shall be designed utilizing the United States Department of Agriculture, Soil Conservation Service, methods and in accordance with the Standards for Soil Erosion and Sedimentation Control, N.J.A.C. 2:90;

3. Diversion structures shall be designed to minimize ponding behind the structure;

4. Laboratory classification, and compaction or relative density tests shall be performed on the soils to be utilized in the construction of the run-on/run-off structures in accordance with current ASTM, AASHTO or equivalent methods. The number of tests and samples shall be sufficient to define the material;

5. The run-on/run-off structures shall be constructed by modification of the compactive effort utilizing stage compaction, not exceeding the effective depth of the compaction equipment. The compaction shall be performed to the design density and at the proper moisture content where applicable, based on the laboratory analysis performed pursuant to (g)4 above, to achieve the required strength or hydraulic conductivity;

6. The following quality control tests shall be performed on the soils utilized within the run-on/run-off structure construction:

i. Grain size analysis; and

ii. Relative density/compaction.

7. The tests required by (g)6 above shall be performed in accordance with ASTM, AASHTO or equivalent methods in accordance with the following:

i. Grain size analysis shall be performed once per every 3000 cubic yards of in-place fill material; and

ii. Relative density or compaction testing shall be performed on the completed structures at 50 foot intervals on a grid pattern across the surface;

8. The strength of the run-on/run-off structures shall be determined utilizing appropriate ASTM, AASHTO or equivalent methods for both in-situ and laboratory testing for the appropriate conditions. The stability of the structure shall be determined for long term, short term, *[and]* ***or*** rapid drawdown conditions by modeling techniques and the factor of safety shall be within the minimum values set forth in Table II in N.J.A.C. 7:26-2A.7(b)3i;

9. Run-on controls shall meet the following requirements:

i. Diversion structures shall be designed to minimize run-on onto the landfilled areas in accordance with (g)1 above and N.J.A.C. 7:26-2A.6(g) and (h);

ii. Detention basins where required in accordance with the Water Quality Management Planning and Implementation Process regulations, N.J.A.C. 7:15, shall be designed to provide temporary storage of the expected run-off from the design storm with sufficient reserve capacity to contain accumulated precipitation and sediment in accordance with the Standards for Soil Erosion and Sediment Control, N.J.A.C. 2:90;

10. Run-off controls shall meet the following requirements:

i. Diversion structures shall be designed to prevent run-off generated within the active landfilled areas during the operational phase from moving off site of the lined areas; and

ii. All diversion structures of the active landfilled areas shall be designed to channel run-off to the leachate treatment and disposal system. Run-off from the final capped areas may be directed to the detention ponds.

(h) The following are the design and construction requirements and standards for monitoring systems:

1. The monitoring system shall be designed and constructed in such a manner as to ensure its ability to observe and record the performance of the sanitary landfill and its various environmental control systems and to detect any potential malfunctions and possible pollutant migration;

2. The monitoring system shall consist of a groundwater monitoring system, hydrostatic pressure gradient monitoring system, gas monitoring system, leachate monitoring system, meteorological monitoring system and slope and settlement monitoring system;

3. All monitoring systems, where appropriate, shall be constructed and operated in accordance with the NJPDES regulations, N.J.A.C. 7:14A;

4. A ground water monitoring system shall be designed and constructed in accordance with the NJPDES regulations, N.J.A.C. 7:14A-6;

5. A hydrostatic pressure gradient monitoring system shall be designed and constructed in accordance with the following:

i. In facilities with cut-off wall designs, a system to measure the hydrostatic pressure across the wall shall be constructed in accordance with the following:

(1) The location of the piezometers shall be directly opposite the groundwater saturated zone wells; and

(2) The depth and location of the piezometers within the sanitary landfill shall not result in damage to the containment system.

ii. A system to define and measure the hydrostatic head on the ***primary*** liner shall be constructed consisting of, but not limited to:

(1) Piezometers installed through the sanitary landfill;

(2) Clean out risers with depth gauges; *[and]* ***or***

(3) Manholes with depth gauges;

iii. The depth and location of piezometers within the sanitary landfill shall not result in damage to the containment system.

6. A gas monitoring system shall be designed and constructed in accordance with the following:

i. The system shall be capable of detecting any possible methane gas migration from the sanitary landfill and shall be located as close to the toe of the slope of the sanitary landfill, depending on the gas flow characteristics of the soils, as is reasonably possible, in order to rapidly detect any possible gas migration;

ii. The methane gas monitoring wells shall be screened in the unsaturated zone to at least five feet below the lowest elevation of the landfill or to the top of the water table;

iii. A periodic gas survey performed in accordance with N.J.A.C. 7:26-2A.10(a)5ix may be substituted for the design and construction of methane gas monitoring wells; and

iv. Where required in accordance with the Permits and Certificates Rules of the Bureau of Air Pollution Control, N.J.A.C. 7:27-8, a gas monitoring system for the gas collection systems, capable of defining the quality and quantity of the landfill gas, shall be designed and constructed.

7. A leachate monitoring system shall be designed and constructed which shall be capable of measuring the flow, and capable of sampling leaching influent and the treatment system effluent;

8. A meteorological monitoring system shall be installed within the landfill properties to measure and continuously record the daily precipitation onto the sanitary landfill; and

9. A slope and settlement monitoring system shall be designed and constructed in accordance with the following:

i. In areas which exhibit a high degree of uncertainty of the strength data, such as meadow mat, peat, or expansive clay soils, a system to measure the settlement of the sanitary landfill and liner systems shall be installed which should include, but not be limited to, borehole *[extensometers]* ***settlement devices***; and

ii. Sanitary landfills, when required by the Department, based on the final elevation and grades of the capping system and the foundation analysis, shall install slope inclinometers to adequately measure the slope stability and integrity.

*[(i) A capping system consisting of a vegetative layer, a drainage layer and an impermeable cap shall be designed and constructed in accordance with the following:

1. The capping system shall minimize long term infiltration and percolation of liquids into the sanitary landfill throughout the closure and post-closure periods;

2. The capping system, in conjunction with the containment system, shall completely isolate the landfilled solid waste from the surrounding environment;

3. The long term stability of the final slopes shall be determined by modeling techniques in conjunction with the information gathered pursuant to N.J.A.C. 7:26-2A.5(a)6 and 7(b)3, and the factor of safety shall be within the minimum values set forth in Table II in N.J.A.C. 7:26-2A.7(b)3i;

4. The grades of the final slope shall be constructed in accordance with the following minimum standards:

i. The top slope final grades, after allowing for settlement and subsidence, shall be, at a minimum, three percent;

ii. Top slope final grades should be, at a maximum, five percent. Steeper top slopes which will promote drainage and not subject the closed sanitary landfill to excessive erosion will be permitted provided the maximum erosion rate does not exceed two tons per acre as determined by the United States Department of Agriculture, Universal Soil Loss Equation;

iii. The side slopes of the final grades shall be, at a maximum, no steeper than three horizontal to one vertical (3:1) up to an elevation of 50 feet above existing grades;

iv. The side slopes of the final grades, in areas on which the foundation is built upon material which exhibits a high degree of uncertainty of the strength data, such as meadow mat, organic peat and expansive clay soils, shall be, at a maximum, no steeper than four horizontal to one vertical (4:1) up to an elevation of 50 feet above existing grades; and

v. For each additional 20 foot increase in vertical rise above the elevation as defined in iv above, the horizontal run of the slope ratio shall be increased by one for that portion of the slope;

5. The final grades of the capping system shall have a surface drainage system, designed and constructed in accordance with the requirements of N.J.A.C. 7:26-2A.7(g), capable of conducting run-off across the final grades without the development of erosion rills or gullies;

6. The construction of the capping system should accommodate initial settlement so that the integrity of the impermeable layer is maintained throughout the closure and post-closure period. A temporary cover may be allowed, provided the leachate collection system is operating properly, in accordance with the following:

i. The temporary cover should be capable of minimizing infiltration into the sanitary landfill;

ii. The thickness shall be a minimum of 12 compacted inches and shall be maintained to prevent erosion and exposure of solid waste; and

iii. The temporary cover shall be exposed for no greater than six months;

7. The grading and stabilizing of the final lifts of solid waste shall result in a relatively planar surface and provide a sufficiently firm base for the placement and construction of the impermeable cap.

8. The final lifts of solid waste shall be physically or chemically stabilized in accordance with the following:

i. The density of the final lift shall be increased to the largest extent practicable by:

(1) Reducing the thickness of the layers as compacted;

(2) Increasing the ballast or load of the compaction equipment; and

(3) Increasing the number of passes of the compaction equipment.

ii. Blending of gravel, stone, cobble, or selected demolition material (for example brick, concrete, asphalt) into the upper 12 to 24 inches of the final life of the solid waste; or

iii. Chemically stabilizing the upper 12 inches of the final lift of solid waste with the addition of soil cement, lime treated soil or soil asphalt. Ash-lime treated soil or ash-cement treated soil may be used, provided the ash has been demonstrated to be non-hazardous in accordance with N.J.A.C. 7:26-8.5.

9. The impermeable cap shall be designed and constructed in accordance with the following:

i. The cap shall, at a minimum, be as impermeable as the most impermeable component of the containment system;

ii. The minimum thickness for a clay impermeable cap shall be 12 inches;

iii. The minimum thickness for a geomembrane impermeable cap shall be 20 mils;

iv. The impermeable cap shall be constructed and tested in accordance with N.J.A.C. 7:26-2A.7(c), except that N.J.A.C. 7:26-2A.7(c)2vii, viii, and ix will not apply;

v. Geomembranes utilized as an impermeable cap shall be restricted to areas with slopes equal to or less than seven percent unless the applicant can demonstrate the long-term stability and erosion control of the geomembrane capping system on slopes greater than seven percent. In no case shall a geomembrane cap be utilized on a slope greater than four horizontal to one vertical (4:1).

vi. The geomembrane shall be protected from below and above by a minimum thickness of six inches of bedding and cover which is no coarser than a poorly graded sand (SP), as determined in the Unified Soil Classification System (USCS), and which is free of rocks, fractured stones, debris, cobbles and solid waste. An equivalent geotextile may be utilized as approved by the Department; and

vii. The impermeable cap shall be located wholly below the average depth of frost penetration in the area as determined by United States Department of Agriculture and mapping.

10. A drainage layer shall be designed and constructed in accordance with the following:

i. The design testing of materials and the quality control testing of the drainage layer of the capping system shall be performed in accordance with N.J.A.C. 7:26-2A.9(d)2ii, vii and viii;

ii. The material utilized in the drainage layer shall be an open graded material of clean aggregate. The material should be in accordance with the following criteria of the cumulative grain size distribution curves:

(1) $D_{85} < 4D_{15}$; and

(2) $D_2 < 0.1$ inch;

iii. The drainage layer shall be designed and constructed so that the discharge flows freely in the lateral direction to minimize the hydrostatic head on the impermeable cap, flows through the drainage layer, and provides a path for infiltrated liquids to exit the capping system;

iv. The drainage layer shall have a thickness and hydraulic conductivity capable of transmitting the estimated percolation, based on modeling of the system, and shall be constructed, at a minimum, in accordance with the following:

(1) When located above a clay impermeable cap, the drainage layer shall be, at a minimum, six inches thick; and

(2) When located above a geomembrane impermeable cap, the drainage layer shall be, at a minimum, 12 inches thick.

v. Drainage pipes where necessary to control the hydrostatic head on the impermeable cap, should be located within the drainage layers in accordance with the following:

(1) The drainage pipe should be installed at a distance sufficient to insure that the hydrostatic head on the impermeable layer does not exceed the thickness of the drainage layer during a 25 year, 24 hour storm;

(2) A coarse gravel envelope, within a geotextile fabric, shall be installed in accordance with N.J.A.C. 7:26-2A.5(e)3ix around the drainage pipe to minimize the movement of soil particles in the drainage pipe.

vi. A soil filter or geotextile should be designed and constructed above the open graded aggregate in order to minimize the intrusion of fines into the drainage layer.

11. The vegetative layer shall be designed and constructed in accordance with the following:

i. The vegetative layer shall be thick enough to contain the effective root depth or irrigation depth for the type of vegetation planted;

ii. Fertilizer, mulch, and seeding applications shall be performed in accordance with Standards for Soil Erosion and Sedimentation Control, N.J.A.C. 2:90, for permanent vegetative cover for soil stabilization;

iii. The minimum thickness of uncompacted topsoil in the upper layer of the vegetative layer shall be five inches; and

iv. The application of sludge to the final grades of the vegetative layer shall be performed in accordance with the NJPDES regulations, N.J.A.C. 7:14A.]*

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

(a) All sanitary landfills shall be opened in accordance with the requirements set forth in N.J.A.C. 7:26-2.8, and the following additional operational, maintenance, inspection and monitoring requirements.

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

1. The working face shall be confined to the smallest practical area, as is consistent with the proper operation of trucks and equipment, in order that the area of waste material exposed during the operating day is minimized. The width of the working face shall be in accordance with the following:

i. Sanitary landfills receiving 400 or less truck loads of waste per day, shall have a working face no greater than 150 feet;

ii. Sanitary landfills receiving more than 400 truck loads of waste per day may submit a request for a working face greater than 150 feet ***or another 150 foot working face in a separate location***. The size ***and number*** of the working *[face]* ***faces*** approved by the Department will be based on the sanitary landfill equipment and cover material available on-site and the on-site traffic flow patterns.

2. All waste shall be thoroughly compacted throughout the operational day to yield the smallest practical volume;

3. Solid waste shall be compacted in shallow layers. The layers should be less than two feet in thickness and should be compacted with a minimum of four passes of the compaction equipment, except over leachate collection pipes where compacting shall be performed in accordance with N.J.A.C. 7:26-2A.7(d)3xiv;

4. The lift height of the daily cell, as measured vertically from the previous day's cover surface, shall not exceed 12 feet;

5. The slope of the working face shall be maintained so as to maximize compaction of the solid waste and minimize infiltration into the solid waste. The slope shall be no steeper than three horizontal to one vertical (3:1). The slopes of the final grades shall be constructed in accordance with the requirements set forth in N.J.A.C. 7:26-2A.7(i).

6. Separate areas designated on the site plan, as approved by the Department, may be used for the storage of demolition waste or recyclable materials in accordance with the following:

i. The stockpiled solid waste or recyclable materials shall not contain putrescible material;

ii. The stockpiled solid waste or recycable materials shall not cause or result in a public health or environmental nuisance or impose a safety hazard as determined by the Department; and

iii. A schedule or time frame for reuse of the material in a timely fashion, shall be submitted to and approved by the Department.

7. All exposed surfaces of solid waste shall be covered at the close of each operating day with a minimum of six inches of earth cover, unless it meets the following:

i. The uncovered solid waste will not create an environmental or public health nuisance as determined by the Department;

ii. The uncovered solid waste will not create a safety hazard as determined by the Department;

iii. The solid waste is a clean fill; and

iv. The solid waste is an inert material.

8. The daily covering of solid waste shall be a progressive operation so that no greater than 15,000 square feet of solid waste is exposed at any time throughout the operating day for each 150 feet of working face;

9. Intermediate cover, a minimum of 12 inches of earth cover, shall be applied to all surfaces to be exposed for any period exceeding 24 hours;

10. The grade and thickness of the intermediate and final cover material on all surfaces shall be maintained until stabilized. All cracks, erosion swales, rills and uneven areas shall be maintained to prevent extrusion of solid waste and to minimize infiltration and ponded water;

11. All areas with intermediate cover shall be graded so as to facilitate drainage of run-off to the surface drainage system and minimize infiltration and ponded water;

12. Heavy clays and very fine grain materials, such as fly ash, shall not be used as daily and intermediate cover. The daily and intermediate earth cover should be of a quality that is manageable under all weather conditions. A sufficient quantity of earth cover shall be at the site to adequately meet the requirements of (b)7 through 10 above. For landfills without on-site supplies of cover material, a standby supply for cover material equal to 25 percent of the volume of waste received and compacted at the landfill in 10 normal disposal days shall be stored within the boundaries of the landfill property;

13. Final cover constructed in accordance with N.J.A.C. 7:26-2A.7(i) shall be applied to all surfaces where the final approved elevation has been reached and to all surfaces when the landfill operation is terminated;

14. There shall be sufficient types of quantities of equipment for digging, spreading, compacting or covering waste or applying cover material to adequately meet the requirements of (b)7 through 10 above, to ensure a smooth flow of traffic at the working face and to achieve the maximum compaction efficiencies;

15. At sanitary landfills that accept an annual waste flow of greater than 1,000,000 in-truck cubic yards (300,000 tons), the compaction equipment should include the use of steel wheel type compactors with a minimum operational weight of 45,000 pounds;

16. Sanitary landfill equipment shall be equipped with hand-portable fire extinguishers of a multipurpose dry chemical type, an automatic fire suppression system, and rollover protection structures and any other safety equipment required by the Occupational Health and Safety Administration standards;

17. In case of breakdown of the equipment required by ***(b)***14 above, the permittee shall repair the equipment or obtain replacement equipment within 24 hours after breakdown. *[Written]* ***Unless sufficient types and quantities of replacement equipment meeting the requirements of 14 above are available on-site, written*** maintenance contracts with a local equipment dealer shall be in force at all times. A copy of the contract shall be submitted with the O&M plan to verify compliance with this requirement;

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

19. The sanitary landfill shall be adequately secured with a six-foot high chain link fence with an entrance gate, posted with the operating hours, that can be locked to prevent unauthorized entry into the facility. Fencing may be exempted, as approved by the Department, in areas where topographic features restrict ***vehicular*** access to the sanitary landfill;

20. A scale house and scales meeting the requirements of N.J.S.A. 13:1E-117 and the guidelines promulgated pursuant thereto, shall be constructed at the sanitary landfill. The location of the scale house and scales shall be situated so as to minimize the queuing-up of trucks onto the public roadway and so as to maintain a smooth and safe flow of traffic to and from the working face and while entering and exiting the landfill;

21. An all weather road shall be provided to the working face;

22. Litter shall be controlled through the use of moveable fences of sufficient height or by an equivalent means. The litter fence shall be policed daily and the litter collected shall be properly disposed of at the working face;

23. Dust control shall be effected by the spraying of water or the spreading of calcium chloride or an equivalent approved by the Department, as needed. Spraying of waste oil is prohibited;

24. Malodorous emissions emanating from the sanitary landfill shall not result in odors being detectable in any area of human use or occupancy beyond the property boundary line. Malodorous emissions shall be controlled by the use of daily cover. In the event that this is not satisfac-

tory, a suitable deodorant shall be used. Odorous solid waste shall be covered immediately after unloading with a minimum of six inches of earthern cover;

25. Mud, soil, and other materials shall not be tracked onto any public road by an exiting vehicles. A rumble rack or wheel washing station shall be used to control the off site tracking of mud, soil, and other material;

26. The sanitary landfill shall be operated in a manner which minimizes the propagation and harborage of insects, rodents, and birds;

27. 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 Division of ***Solid*** Waste Management, *[Office of Solid Waste]* Enforcement ***Element*** at (609) 292-5560;

28. Any monitoring device or environmental control system which is damaged so as to impair the proper operation of the monitoring device or environmental control system shall be reconstructed in accordance with the following:

i. The operator shall repair the monitoring device or environmental system in accordance with the plans and schedule approved by the Department; and

ii. The Department may require immediate remedial action for repair of the damaged monitoring device or environmental control system should such damage endanger human health or the environment.

29. The sanitary landfill shall be operated in a manner which will facilitate the filling of each section to final grade and which will minimize the operational phase of each section;

30. An adequate number of qualified personnel shall be at the sanitary landfill to maintain the smooth flow of traffic at the sanitary landfill and to operate the sanitary landfill in a manner that is in compliance with the requirements of the Solid Waste Management Act, N.J.S.A. 13:1E-1 et seq., this chapter, and the conditions of the SWF permit;

31. A supervisor shall be at the sanitary landfill during all operating hours to insure proper operation of the sanitary landfill, to evaluate the monitoring data and inspection reports, to determine the performance of the sanitary landfill and to direct and implement all operational decisions to ensure the facility's compliance with the requirements of the Solid Waste Management Act, N.J.S.A. 13:1E-1 et aseq., this chapter, and the conditions of the SWF permit;

32. All sanitary landfill personnel who are involved in waste management activities or who operate, service or monitor any facility equipment, machinery or system, shall complete a program of on-the-job training which shall include, at a minimum, the following:

i. The training program shall be directed by a person thoroughly familiar with the technology being utilized at the facility and the conditions of the SWF permit;

ii. The training shall include instruction in the operation and maintenance of the equipment, machinery and systems which facility personnel must operate, service or monitor in the course of their daily job duties. The training shall instruct facility personnel in the performance of their duties in a manner that ensures the facility's compliance with the requirements of the Solid Waste Management Act, N.J.S.A. 13:1E-1 et seq., this chapter, and the conditions of the SWF permit;

iii. The training program shall ensure that the facility personnel are able to effectively respond to any equipment malfunction or emergency situation that may arise;

iv. The training program shall provide instruction in the use of safety and emergency equipment and the use of communication or alarm systems; and

v. The training program shall provide instruction in the procedures for emergency response for sanitary landfill fires or explosions, gas leaks, leachate treatment system failure or leaks, detention basin breaches or other emergencies and shall include procedures to shut down operations.

33. The sanitary landfill facility personnel shall complete the initial training program required by (b)32 above within six months after the effective date of this subchapter or six months after the date of their employment, whichever is later;

34. The sanitary landfill facility personnel shall take part in an annual update of the initial training program;

35. Training records that document the type and amount of training received by current facility personnel shall be kept until closure of the sanitary landfill;

36. The following actions shall be implemented in the case of an emergency:

i. The supervisor or emergency coordinator shall immediately identify the character, exact source, amount and extent of any discharged materials and notify appropriate State or local agencies with designated response roles if their help is needed;

ii. Concurrently, the supervisor or emergency coordinator shall assess possible hazards to public health or the environment that may result from the discharge, fire or explosion. This assessment shall consider both direct and indirect effects;

iii. If the supervisor or emergency coordinator determines that the facility has had an uncontrolled discharge, a discharge above standard levels permitted by the Department, or a fire or explosion, he or she shall:

(1) Immediately notify appropriate local authorities if the assessment indicates that evacuation of local areas may be advisable;

(2) Immediately notify the Department at (609) 292-7172; and

(3) When notifying the Department, report the type of substance and the estimated quantity discharged, if known, the location of the discharge, actions the person reporting the discharge is currently taking or proposing to take in order to mitigate the discharge and any other information concerning the incident which the Department may request at the time of notification.

iv. The supervisor shall take all reasonable measures to ensure that fires, explosions and discharges do not recur or spread to other areas of the facility. These measures shall include, where applicable, the cessation of operations and the collection and containment of released waste;

v. Immediately after an emergency, the supervisor or emergency coordinator shall provide for treating, storing or disposing of waste, contaminated soil or water or any other material contaminated as a result of the discharge, fire or explosion;

vi. The supervisor or emergency coordinator shall insure that no waste is processed until cleanup procedures are completed and all emergency equipment listed in the contingency plan is again fit for its intended use;

vii. The supervisor or emergency coordinator shall notify the Department and appropriate local authorities when operations in the affected area of the facility have returned to normal; and

viii. Within 15 days after the incident, the supervisor or emergency coordinator shall submit a written report on the incident to the Department. The report shall include, but not be limited to:

(1) The name, address and telephone number of the facility;

(2) The date, time and description of the incident;

(3) The extent of injuries, if applicable, with names and responsibilities indicated;

(4) An assessment of actual damage to the environment, if applicable;

(5) An assessment of the scope and magnitude of the incident;

(6) A description of the immediate actions that have been initiated to clean up the affected area and prevent a recurrence of a similar incident; and

(7) An implementation schedule for undertaking longer term measures to effect cleanup and avoid recurrence of the incident, if applicable.

37. 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 Waste Management, Office of Engineering.

38. The control monuments shall be installed with, at a minimum, Second Order accuracy in accordance with the "Classification, Standards of Accuracy, and General Specifications of Geodetic Control Survey", published by the U.S. Department of Commerce, 1980;

39. The control monuments shall be tied into the national or state geodetic survey network and keyed into the New Jersey Plane Coordinate Datum, 1927; and

40. Sanitary landfills equal to or greater than 50 acres in size may be required to construct and install secondary control points. The control points shall be installed in accordance with the Department's "Guidelines for Establishing Vertical and Horizontal Control Monuments on Sanitary Landfills."

(c) While the sanitary landfill is in operation all environmental control systems shall be maintained in a proper functioning manner and shall be inspected to insure compliance with the operational and construction requirements and the design and performance standards.

(d) The inspections, required by (c) above, shall be performed, unless otherwise stated, on a weekly basis and after storm events to detect evidence of deterioration, malfunction or improper operation.

(e) The owner or operator shall record the results of the inspections in a bound log book which shall be maintained at the sanitary landfill office and be available, at all times, for inspection by the Department. These records shall include the date and time of the inspection, the name of the inspector, a notation of observations and recommendations and the date and nature of any repairs or other remedial action.

(f) If deterioration which would result in failure, malfunction or improper operation is evident during inspection, the operator shall make repairs in accordance with N.J.A.C. 7:26-2A.8(b)28 and as listed in the approved final O and M manual.

(g) The sanitary landfill shall be maintained and inspected by the owner or operator in accordance with the following additional minimum requirements:

1. The buffer zone shall be maintained free from litter. The entire area shall be policed on a daily basis, weather permitting, and the collected litter shall be properly disposed of at the working face;

2. The all weather road shall be maintained as necessary to provide access to the working face;

3. The public roads providing access to the sanitary landfill shall be maintained free of mud, dirt, and litter. The entrance shall be properly policed on a daily basis, weather permitting;

4. The vertical and horizontal control monuments shall be maintained and resurveyed by a licensed New Jersey Land Surveyor and certified for accuracy biennially. The survey shall be, at a minimum, second order accuracy in accordance with the "Classification, Standards of Accuracy, and General Specifications of Geodetic Control Survey" published by the U.S. Department of Commerce 1980. The control monuments shall be tied into the national or state geodetic survey network;

5. All emergency equipment shall be maintained in a proper functioning manner. The equipment shall be tested on an annual basis;

6. The cap on the cut-off wall, required by N.J.A.C. 7:26-2A.7(c) 10xvi., shall be maintained at a three foot thickness to prevent the erosion of the cut-off wall;

7. The leachate collection pipes shall be maintained to ensure a free flow of leachate. The leachate collection pipes shall be inspected and if blockage and clogging of the system is evident the collection pipes shall be cleared by water jet flushing or an equivalent method. The mains shall be tested annually to insure a free flow of leachate;

8. The structural integrity of the manholes or clean-out risers shall be maintained to insure a free flow of leachate;

9. The structural integrity of the sumps shall be maintained to ensure water tightness of the sump;

10. The structural integrity of the leachate pump station and gas pump station, and the electrical, venting and alarm systems of the leachate pump station and the gas pump station shall be maintained to ensure a free flow of leachate and gas;

11. The leachate pumping system and gas pumping system shall be maintained as necessary. They shall be completely overhauled, at a minimum, on a biennial basis and shall be inspected on a daily basis to ensure a free flow of leachate or gas;

12. The leachate treatment and disposal systems shall be inspected on a daily basis and maintained in a manner which will prevent anaerobic and malodorous conditions from developing;

13. The structural integrity of the storage tanks shall be maintained to ensure containment of leachate. The tanks shall be inspected annually for leaks;

14. The structural integrity and erosion protection shall be maintained on all areas of the surface impoundments to ensure stability of the dike and emergency spillways and containment of the leachate and run-off. The surface impoundment shall be inspected on a daily basis to ensure that the minimum depth of freeboard is maintained;

15. The leachate treatment and disposal system units, storage tanks, surface impoundments, and detention/retention ponds shall be dredged, as necessary, to maintain the design capacity. Dredging shall not result in or cause damage to the containment system;

16. The structural integrity of the vents, manifolds and piping of the gas venting system shall be maintained to insure a free flow of gas;

17. The structural integrity of the gas flaring or recovery/combustion systems shall be inspected on a daily basis and shall be maintained to ensure proper disposal or use of the collected gas;

18. The structural integrity of all monitoring devices shall be maintained to ensure their workability and reliability; and

19. The structural integrity and erosion protection of the surface run-on/run-off structures shall be maintained on all areas of the capping system to ensure the stability of the slope and prevent excess erosion. The top grades shall be maintained at their proper slopes to minimize ponding.

(h) Monitoring shall be performed in accordance with the following parameters and schedules:

1. Sampling and analysis of water from the groundwater monitoring wells and lysimeters shall be performed in accordance with the NJPDES regulations, N.J.A.C. 7:14A-6 and 10.12;

2. Sampling and analysis of surface water taken from the surface water monitoring locations shall be performed in accordance with N.J.A.C. 7:14A-6 and 10.12;

3. Leachate monitoring of the influent and effluent of the treatment and disposal system shall be performed in accordance with the appropriate section of the NJPDES regulations N.J.A.C. 7:14A-3, N.J.A.C. 7:14A-10.4, 10.5, 10.6, 10.9 and 10.10, N.J.A.C. 7:14A-12, and 13;

4. In addition to the requirement of (h)3 above, samples of leachate effluent and influent shall be analyzed on a daily basis for the following parameters:

i. Flow;

ii. pH;

iii. Temperature;

iv. Chemical oxygen demand (COD);

v. Specific conductance; and

vi. Chlorides;

5. The daily leachate monitoring results shall be compiled on a quarterly basis and submitted along with the quarterly groundwater monitoring results to the Division;

6. Residuals from the treatment and disposal systems shall be sampled and analyzed in accordance with the requirements of the Sludge Quality Assurance Regulations, N.J.A.C. 7:14-4;

7. Residuals from the treatment and disposal systems shall be sampled *[60 days]* prior to ***the*** planned disposal and the results of the analysis shall be submitted to the Bureau of *[Waste Classification and Manifest]* ***Hazardous Waste Planning*** of the Division ***of Hazardous Waste Management*** for classification 30 days prior to disposal;

8. The hydrostatic pressure of the cut-off wall and the liner system shall be monitored on a quarterly basis and the results shall be submitted with the groundwater monitoring results to the Division;

9. Sanitary landfill gases shall be sampled and analysed in accordance with the following:

i. A gas quality analysis shall be performed on the gas venting and collection systems as constructed in accordance with N.J.A.C. 7:26-2A.7(g)3 and 4 on an as-needed basis as determined by the Division and the Division of Environmental Quality, Bureau of Air Pollution pursuant to N.J.A.C. 7:27;

ii. A methane gas survey shall be performed on a quarterly basis and the results shall be submitted with the groundwater monitoring results to the Division. If gas is detected within the buffer zone the Department may require more detailed and frequent surveys to be performed;

iii. The methane gas survey shall be performed with a hand-held portable explosimeter or equivalent and the minimum sampling depth shall be three feet below the ground surface or above the water table, whichever is higher; and

iv. The sampling for the methane gas survey shall be performed on a quarterly basis around the perimeters of the buffer zone of active landfill areas and annually around the entire perimeter of the buffer zone of the sanitary landfill. The maximum interval between sampling points shall be 300 feet. Sampling shall be performed around the perimeter of all on-site structures. The maximum interval between sampling points for structures shall be 50 feet; however, there shall be at least one sampling point along each side of the structure;

10. The daily precipitation data from the meteorologic monitoring system shall be compiled and submitted on a quarterly basis with the groundwater monitoring results to the Division; and

11. The settlement and slope data shall be compiled and submitted on a quarterly basis with the groundwater monitoring results to the Division.

(i) All sanitary landfills shall submit an annual topographic survey of all areas of the sanitary landfill. The topographic survey shall be made and submitted, initially, within 90 days of the effective date of this subchapter, and, thereafter, made between January 20 and March 31 of each year and submitted on or before May 1 of each year in accordance with the following:

1. The topographic survey shall be prepared in accordance with the Map Filing Law, N.J.S.A. 46:23-9.9 et seq., and shall be depicted at the same scale and contour intervals as the approved engineering site plan design;

2. All vertical and horizontal points shall be located utilizing Third Order, Class I for property survey and Third Order, Class II for remaining points in accordance with the "Classification, Standards of Accuracy and General Specifications of Geodetic Control Survey" published by the U.S. Department of Commerce, 1980. Contour elevations and vertical and horizontal locations shall be based on the National Geodetic Vertical Coordinate Datum 1929 (Mean Sea Level Datum 1929) and keyed into the New Jersey Plane Coordinate Datum 1927;

3. The topographic survey shall delineate, at a minimum, the following:

i. The vertical and horizotal control monuments and secondary control points installed in accordance with N.J.A.C. 7:26-2A.7(a)2 or N.J.A.C. 7:26-2A.8(a)1xxxiii, delineating X (east) and Y (north) coordinates and elevations;

ii. All groundwater monitoring wells and piezometers installed in accordance with N.J.A.C. 7:26-2A.5(i)4 and 5 and NJPDES regulations N.J.A.C. 7:14A-6.7 and 10.12, delineating X (east) and Y (north) coordinates and elevations;

iii. The property lines of the sanitary landfill properties;

iv. The boundary lines of the approved landfill areas;

v. The boundary of areas currently being landfilled and which have been landfilled since the last topographic survey was submitted;

vi. The boundary of the areas which have not been landfilled within the approved landfill area;

vii. The boundary of the areas where final cover has been placed; and

viii. The topographic survey shall be prepared by a licensed New Jersey Land Surveyor and the topographic survey report shall be certified by a licensed New Jersey Professional Engineer.

4. A report shall be submitted with the topographic survey which shall describe, with sufficient calculations clearly notated, the following:

i. The solid waste disposed of at the landfill since the last topographic survey. This quantity shall be reported in tons for landfills with scales and in cubic yards for landfills exempted from installing scales.

ii. The number of trucks which disposed of waste since the last topographic survey;

iii. The solid waste disposed of at the landfill since commencement of landfilling operations, This quantity shall be reported in cubic yards;

iv. The volume of daily and intermediate cover applied since the last topographic survey. This quantity shall be reported in cubic yards;

v. The volume of final cover applied since the last topographic survey. This quantity shall be reported in cubic yards;

vi. The in-place compaction achieved since the last topographic survey. This quantity shall be reported in pounds per cubic yard; and

vii. The remaining capacity of the landfill excluding final cover volume. This quantity shall be reported in cubic yards.

(j) Approval of and standards for disruption of landfills shall be in accordance with the following:

1. Written approval shall be obtained from the Department prior to any excavation, disruption, or removal of any deposited material from either an active, terminated, or closed sanitary landfill;

2. All requests for approval shall include an operational plan stating the area involved, the depth of the excavation with final grades, estimated cubic yards of material to be excavated, the site where excavated material is to be redeposited, and the estimated time required for completion of excavation procedures;

3. All excavation shall be confined to an area consistent with the number of pieces of digging equipment or trucks used for haulage. The area of excavation shall be kept to the smallest practical area;

4. Adequate measures shall be taken during excavation to control dust, odors, fires, rodents, insects, blowing litter, surface water run-on and erosion; and

5. The disposal of all solid waste resulting from the excavation shall be in conformance with the requirements of N.J.A.C. 7:26-2.11.

(k) Control of smoking, smoldering or burning landfills shall be in accordance with the following:

1. In case of a fire on an active sanitary landfill, the responsibility for fire control shall lie with the SWF permit holder. In case of a fire on a terminated, closed or unpermitted landfill, the responsibility for fire control shall lie with the person having the title to the premise upon which the fire is located;

2. The owner or operator of any landfill wherein smoldering, smoking or burning is occuring shall immediately notify the local police and fire department having jurisdiction and the Department hot-line (609) 292-7172;

3. The owner or operator of any active landfill shall be responsible for initiating and continuing fire-fighting actions until all smoldering, smoking and burning ceases;

4. The owner or operator of any landfill shall seek and obtain fire-fighting assistant if smoldering, smoking or burning persists for longer than 24 hours;

5. The owner or operator of any landfill shall not conducted disposal acitivies within the burning area. Precautions shall be taken to prevent disposal activities from interfering with fire-fighting activities; and

6. Any disruption of the finished grade or covered surface shall be repaired and recovered upon completion of fire-fighting activities.

*[7:26-2.6(e)]**(l)* Rules concerning the disposal of asbestos and asbestos-containing waste in sanitary landfills follow:

1. The owner or operator of a sanitary landfill may only accept and dispose of asbestos and asbestos-containing waste which has been managed in the following manner:

i. Asbestos and asbestos-containing waste, including waste originating from sources subject to 40 CFR 61.22(c), (d), (e) and (h), except, as provided otherwise below shall have been sufficiently mixed or coated with water or an aqueous solution and sealed into leak-tight containers (such as 6 mil. plastic bags) while wet. The container shall have been permanently sealed and labeled with a warning label that states:

CAUTION
Contains Asbestos
Avoid Opening or
Breaking Container
Breathing Asbestos is Hazardous
to Your Health

Alternatively, warning labels specified by Occupational Safety and Health Standards of the United States Department of Labor, Occupational Safety and Health Administration under 29 CFR 1910 may be used;

ii. Air pollution control device asbestos waste originating from sources subject to 40 CFR 61.22(c), (d), (e) and (h) shall have been thoroughly mixed with water into a slurry and sealed into leak-tight containers (such as 6 mil. plastic bags) while wet. The containers shall have been permanently sealed and labeled in accordance with (l)1i, above;

iii. In lieu of the requirements of (l)1i, and (l)1ii above, the asbestos and asbestos-containing waste shall have been formed into nonfriable pellets or other shapes;

iv. All asbestos and asbestos-containing waste from asbestos mills subject to 40 CFR 61.22(a), shall have been adequately mixed with a wetting agent recommended by the manufacturer of the wetting agent to effectively wet asbestos mill dust and asbestos mill tailings and sealed into leak-tight containers (such as 6 mil. plastic bags) while wet. The containers shall be permanently sealed and labeled in accordance with (l)1i, above;

2. All asbestos and asbestos-containing waste accepted for disposal at a sanitary landfill shall be disposed of in the following manner:

i. Owners or operators of new landfills accepting asbestos or asbestos-containing waste shall meet the following requirements:

(1) The owner or operator of the landfill shall develop a separate area of the landfill, apart from other waste disposal areas, for disposal of asbestos and asbestos-containing waste. It is recommended that the asbestos disposal area be operated by a trench method, with sufficient width and ramping to allow the transport vehicle to back up to or into the trench to allow for proper unloading of the asbestos and asbestos-containing waste in a manner that prevents the rupture of the containers during the unloading operation.

(2) Upon acceptance of the waste, the asbestos disposal area shall immediately be prepared. After unloading, the asbestos and asbestos-containing waste shall be immediately covered with a minimum of three feet of soil.

(3) In areas in which asbestos and asbestos-containing waste has been previously deposited, as required by (l)2i(2) above, the current working face may be prepared by removal of cover material; however, no previously deposited asbestos and asbestos-containing waste shall be exposed and a minimum of six inches of cover material shall be maintained between the cells. After unloading, the asbestos and asbestos-containing waste shall be immediately covered with a minimum of three feet of soil.

(4) The final cover of the asbestos disposal area shall be a minimum of three feet of soil and shall be sufficient to minimize infiltration into the asbestos and asbestos-containing waste. The final slopes shall be graded to facilitate run-off away from the asbestos disposal area.

(5) The final cover shall be seeded and maintained to prevent erosion and exposure of the asbestos and asbestos-containing waste.

ii. Owners or operators of existing landfills must comply with one of the following two options for disposal of asbestos and asbestos-containing waste:

(1) The owner or operator of the landfill may develop a separate area of the landfill for asbestos and asbestos-containing waste disposal, prepared and operated as required by (l)2i above; or

(2) A separate excavation may be prepared in the working face of the landfill. The excavation shall be of sufficient width and depth so as to allow the asbestos and asbestos-containing waste to be deposited such that a minimum of three feet of earth or other cover material may be placed between the top of the waste deposited and the top surface of the working face. A written notice must be recorded along with the deed for

the landfill property, for all landfilled areas, with the appropriate county recording office, notifying future owners of the property that asbestos has been disposed in the landfill and that disruption or excavation is expressly prohibited under (l)2v below.

iii. The asbestos and asbestos-containing waste deposited in the disposal areas described in (l)2i and (l)2ii above, shall immediately be covered with three feet of earth or other approved cover material in a manner that prevents the rupture of the containers during the burying operation.

iv. For disposal areas identified in (l)2i and (l)2ii(1) above, a detailed metes-and-bounds description of the asbestos disposal area shall be recorded, along with the deed for the landfill property, with the appropriate county recording office, notifying future owners of the property that disruption or excavation is expressly prohibited pursuant to N.J.A.C. (l)2v below. This description shall also include the depths of asbestos and asbestos-containing waste and cover material and shall remain in the record in perpetuity.

v. For disposal areas identified in (l)2i and (l)2ii above, the intermediate and/or final landfill cover may not be disrupted, except as required for pollution control or remedial action, in which case such disruption must be managed in compliance with State and Federal regulations governing the removal, disposal or other handling of asbestos or asbestos-containing waste.

vi. No person may enter an asbestos disposal area at a landfill during the unloading and covering of asbestos and asbestos-containing waste without wearing a respirator approved for asbestos by the National Institute for Occupational Safety and Health and the Mine Safety and Health Administration. This equipment shall be provided and maintained in good working order by the landfill owner or operator.

3. Acceptance of asbestos or asbestos-containing waste at a sanitary landfill for disposal shall be in accordance with the waste flow requirements of N.J.A.C. 7:26-6.

4. There shall be no visible air emissions during or after acceptance and disposal.

5. The requirements in this subsection do not apply to renovation or demolition projects wherein the total project involves less than 260 feet of asbestos-coated pipe or less than 160 square feet of asbestos-coated surface, such as ducts, boilers, tanks, structural members and the like.

*[7:26-2.9]*7:26-2A.9 Closure and post-closure care of sanitary landfills

(a) This section shall govern the closure and post-closure care of all sanitary landfills. This section includes requirements for the preparation of a Closure and Post-Closure Plan, as defined in (d)1 below, for all new sanitary landfills and every sanitary landfill operating on or after January 1, 1982. It also establishes requirements concerning establishment and use of the escrow account required pursuant to the Sanitary Landfill Facility Closure and Contingency Fund Act, N.J.S.A. 13:1E-100 et seq., and the Solid Waste Management Act, N.J.S.A. 13:1E-1 et seq., for every sanitary landfill operating on or after January 1, 1982.

(b) The following words and terms, when used in this section shall have the following meanings. Where words and terms are used which are not defined herein, the definitions of those words and terms will be the same as the definitions found in the department rules, N.J.A.C. 7:26-1.4:

"Accredited financial institution" means any commercial bank, savings bank or savings and loan association with its principal office located in the State of New Jersey, and insured by the Federal Savings and Loan Insurance Corporation or the Federal Deposit Insurance Corporation.

"Closure" shall mean the construction and implementation of all environmental safeguards required by law or by the sanitary landfill's approved Closure and Post-Closure Plan and the facility's approved engineering design subsequent to the termination of operations at any portion of that facility. Closure may include but is not limited to all activities and costs associated with the design, purchase, construction and maintenance of all items in order to prevent, minimize or monitor pollution or health hazards resulting form sanitary landfills subsequent to the termination of operations at any portion thereof, including but not necessarily limited to, the costs of placement of acceptable cover, the installation of methane gas monitoring, venting, or evacuation systems, the installation and monitoring of wells or leachate collection and control systems at the site or in the vicinity of any sanitary landfill.

"Closure period" means, unless otherwise specified, the period beginning after the landfill or a portion thereof has ceased to accept waste or the period as determined by the department.

"Escrow account" means an interest-bearing account with an accredited financial institution as escrow agent, wherein funds shall be deposited by the owner or operator of every sanitary landfill pursuant to N.J.S.A. 13:1E-100 et seq., and this section. This account shall be based upon the standard escrow agreement provided by the department for execution by and between the escrow agent and the owner or operator of the sanitary landfill. There shall be only one escrow account for each sanitary landfill, unless otherwise authorized by the department.

"Liquidity" shall mean that availability of funds for drawdowns consistent with a landfill's approved closure plan, or, if there is no approved closure plan, consistent with the department's closure strategy for the landfill facility.

"Owner or operator" means and includes, in addition to the usual meanings thereof, every owner of record of any interest in land where on a sanitary landfill facility is or has been located, and any person, partnership or corporation which owns a majority interest in any other corporation which is the owner or operator of any sanitary landfill.

"Post-closure care" means those activities necessary to maintain and monitor a sanitary landfill in accordance with an approved engineering design and applicable laws and regulations after the landfill has been properly closed.

(c) General closure and post-closure care requirements are as follows:

1. Every owner or operator of a sanitary landfill shall be jointly and severally liable for the proper operation and closure of the sanitary landfill, as required by law, and for any damages, no matter by whom sustained, proximately resulting from the operations and closure.

2. The owner or operator of a sanitary landfill shall notify the department in writing of his intention to suspend or terminate operations at that landfill. The department shall receive notice at least 10 days prior to the date of suspension of operations, which notice shall include the duration of the suspension, and shall receive notice at least 180 days prior to the date of termination of operations.

3. No person shall contract to sell any land which has been utilized as a sanitary landfill facility at any time unless the contract of sale for the land describes such use and the period of time that the land was so utilized, as required in (c)4 below. Upon written request, any prospective purchaser of such land may obtain from the department a history of the compliance by the landfill with all applicable statutes, rules and regulations administered by the department.

4. Upon closure of the sanitary landfill, a detailed description of the landfill shall be recorded, along with the deed, with the appropriate county recording office. The description shall include the general types, locations, and depths of wastes on the site, the depth and type of cover material, the dates the landfills was in use and all such other information as may be of interest to potential landowners, and shall remain in the record in perpetuity.

5. The post-closure care period shall continue for 30 years after the date of completing closure of the sanitary landfill or as the following conditions apply:

i. The department may reduce the post-closure care period to less than 30 years when it has been adequately demonstrated that the reduced price is sufficient to protect human health and the environment;

ii. Prior to the time that the post-closure care period is due to expire, the department may extend the post-closure care period upon a finding that such extended period is necessary to protect human health and/or the environment; and

iii. Any aggrieved person may petition the department for an extension or reduction of the post-closure care period, based on good cause.

6. If the department intends to reduce or extend the post-closure care period to less than or more than 30 years, public notice of that intention shall be provided.

(d) General requirements for a Closure and Post-Closure Plan are as follows:

1. No person shall construct or operate a sanitary landfill without an approval from the department of a Closure and Post-Closure Plan. Such Plan shall consist of both a Closure and Post-Closure Care Plan and a Closure and Post-Closure Financial Plan in accordance with the provisions of (e) and (f) below, except as otherwise authorized by the department.

2. The submission for approval by the department of the Closure and Post-Closure Plan shall be made upon application for new sanitary landfill registration.

3. Existing sanitary landfills in operation after January 1, 1982 shall submit the Closure and Post-Closure Plan for approval by the department in accordance with the following schedule:

i. Those sanitary landfills which ceased accepting waste during calendar year 1982 or which shall cease accepting waste during calendar year 1983 shall submit a Plan no later than three months from the effective date of this section;

ii. Those sanitary landfills not included in (d)3i above and which accept in excess of 100,000 cubic yards of waste per year, as delivered, shall submit a Plan no later than six months from the effective date of this section; and

iii. All remaining sanitary landfills not provided for in (d)3i and ii above shall submit a Plan no later than 12 months from the effective date of this section.

4. No owner or operator shall submit a Closure and Post-Closure Care Plan for approval which includes any unauthorized expansion of the proposed or actual sanitary landfill operation.

5. Any owner or operator who fails to submit the Closure and Post-Closure Plan, as required by this subsection, shall be subject to denial, revocation or suspension of the registration of the sanitary landfill and other regulatory or legal actions which the department is allowed to institute by law.

6. The owner or operator may apply for departmental approval to amend the Closure and Post-Closure Plan at any time during the sanitary landfill's operation, closure or post-closure care period.

7. The department may require the amendment of an engineering design and a Closure and Post-Closure Plan at any time it is deemed necessary during the sanitary landfill's operation, closure or post-closure care period.

8. Any sanitary landfill that is closed under the provisions of this section shall be maintained in accordance with the approved Closure and Post-Closure Plan and must remain in compliance with all regulations of this subchapter.

9. A copy of the approved Closure and Post-Closure Plan shall be kept on file at the sanitary landfill during the course of the sanitary landfill's operation and, after closure, shall be filed with the municipal clerk.

10. When closure is complete the owner or operator must submit certification to the department, within six months of closure, both by the owner or operator and by a New Jersey licensed professional engineer that the sanitary landfill has been closed in accordance with the specifications of the approved Closure and Post-Closure Plan.

(e) The Closure and Post-Closure Care Plan shall meet the following specific requirements:

1. The owner or operator of every sanitary landfill shall submit to the department a Closure and Post-Closure Care Plan prepared, signed and sealed by a New Jersey licensed professional engineer to provide for closure and post-closure care of the sanitary landfill;

2. The Closure and Post-Closure Care Plan shall provide for the design and implementation of the following:

i. A Soil Erosion and Sediment Control Plan certified by the local soil conservation district in accordance with the Soil Erosion and Sediment Control Act of 1975, as amended (N.J.S.A. 4:24-39 et seq.);

ii. Final cover;

iii. Final cover vegetation;

iv. A program for the maintenance of final cover and final cover vegetation;

v. A program for the maintenance of side slopes;

vi. Institution of run-on and run-off control programs;

vii. A program for the maintenance of run-on and run-off control programs;

viii. Groundwater monitoring wells;

ix. A program for the maintenance of groundwater monitoring wells;

x. A program for the monitoring of groundwater in accordance with NJPDES rule, N.J.A.C. 7:14A-1, and any permit for that sanitary landfill issued pursuant thereto;

xi. A methane gas venting or evacuation system;

xii. A program for the maintenance of methane gas venting or evacuation system;

xiii. A leachate collection and/or control system;

xiv. A program for the operation and maintenance of a leachate collection and/or control system;

xv. A program fro the installation of a facility access control system;

xvi. A program for the maintenance of the facility access control system;

xvii. Measures to conform the site to the surrounding area;

xviii. A program for the maintenance of measures to conform the site to the surrounding areas;

3. The department may require additional closure and post-closure care measures to waive any of the above requirements, should specific health and/or environmental circumstances justify such action;

4. The Closure and Post-Closure Care Plan shall iunclude a schedule for the implementation of all the provisions of this section; and

5. Within 90 days of the closure of the sanitary landfill, the owner or operator of the sanitary landfill shall obtain and submit to the department an "as built" certification by a New Jersey licensed professional engineer that each provision of the Closure and Post-Closure Plan has been implemented as designed and approved.

(f) The Closure and Post-Closure Financial Plan shall meet the following specific requirements:

1. The owner or operator of every sanitary landfill shall submit a Closure and Post-Closure Financial Plan to the department which shall set forth the costs and expenses, and establish the means for meeting those costs and expenses, associated with full implementation of the approved Closure and Post-Closure Plan.

2. The Closure and Post-Closure Financial Plan shall include an estimate which details the cost of each provision of the Closure and Post-Closure Care Plan and a projection of funds that will be available from the escrow account. Where the total expenses projected for the Closure and Post-Closure Care Plan exceed the amount of funds projected in the escrow account, the owner or operator must identify specific alternative funds which are to be dedicated to ensure payment of all costs identified in the Closure and Post-Closure Plan. The Plan shall provide:

i. That no withdrawals may be made from the escrow account until such time as the funds projected in the escrow account are sufficient to pay for all closure costs identified in the Closure and Post-Closure Financial Plan; or

ii. That withdrawals may be made from the escrow account concurrent with the use of the alternative funds described above, provided that such alternative funds are established in a manner similar to the escrow account and the expenditures from such alternative funds are made subject to the approval of the department.

3. The Closure and Post-Closure Financial Plan shall include the intervals at which each closure provision is to be implemented as well as a projection of when each escrow account withdrawal is anticipated.

4. The Financial Plan shall take into consideration the effect of inflation on closure and post-closure expenses. Unless otherwise approved, the owner or operator shall calculate the latest closure cost estimate using a calculated adjusted inflation factor derived from the annual Implicit Price Deflator for the Gross National Product as published by the U.S. Department of Commerce in its "Survey of Current Business." The adjusted inflation factor shall be the 10-year moving average inflation rate (average annual percentage) for the most current 10-year period of Gross National Product Implicit Price Deflators, for example, 1974 compared with 1984 or 116.50 compared with 223.43 which yields a 6.73 percent average annual percentage change. The adjusted annual closure cost estimate shall equal the latest closure cost estimate times the adjusted average inflation factor.

5. The owner or operator shall review the cost estimate every two years and, if necessary, revise the Closure and Post-Closure Financial Plan. The updated Financial Plan shall be submitted on the second anniversary of the date of the Financial Plan was last approved.

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

1. The owner or operator of every sanitary landfill shall deposit in an escrow account as defined in (a) above, on or before the 20th of each month, an amount equal to $0.30 per cubic yard of solids and $0.004 per gallon of liquids of all solid waste accepted for disposal during the preceding month. It is noted that disposal of liquid waste in sanitary landfills is limited to only those few facilities permitted to accept such waste;

2. In the event that a measure other than the "cubic yard" or "gallon" is used by the owner or operator of a sanitary landfill, the amount to be deposited shall be calculated by using equivalents established by the Division of Taxation;

3. Upon approval of the department, those sanitary landfills which by the nature of their operation do not have the ability to measure the waste received in the manner provided for in this section may compute quantities of waste received by using an alternative, acceptable method;

4. The escrow account shall be for the closure and post-closure care of a particular sanitary landfill and all funds therein shall be used exclusively for the closure and post-closure care of that landfill in accordance with the approved Closure and Post-Closure Plan.

5. The owner or operator of a sanitary landfill who shall fail to deposit funds into an escrow account, as provided herein, or uses those funds for any purpose other than closure and post-closure care costs, as approved by the department, shall be guilty of a crime of the third degree.

6. Where an owner or operator has ownership or control over more than one sanitary landfill, a separate escrow account must be established for each facility;

7. The escrow account shall be kept separate and apart from all other accounts maintained by the owner or operator. The fact that the owner or operator has previously established an escrow account pursuant to another law, rule or regulation, does not relieve them of their responsibility to establish an escrow account under these rules;

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 Office of Special Funds Administration, Department of Environmental Protection, CN 402, 428 East State Street, Trenton, N.J. 08625.

9. The escrow agreement and any other document(s) evidencing the existence of the escrow account must contain a reference to the purpose of the account that will put the personal creditors of the owner or operator on notice as to the nature of the account.

10. The escrow account shall be established and maintained so as to maximize yield, minimize risk and maintain liquidity, and shall be subject to the approval of the department.

11. All funds deposited in the escrow account must be readily available in the event that circumstances necessitate the closure or post-closure care of the sanitary landfill prior to the date originally contemplated.

12. All interest or other income that results from investment of funds in the escrow account shall be deposited into the escrow account and subjected to the same restrictions as the principal;

13. Withdrawals from the escrow account shall be authorized by the department upon submission and approval of a written request therefor which identifies the specific provision(s) of the Closure and Post-Closure Plan for which funding is sought. Authorization for such withdrawal will be granted only in accordance with the approved Closure and Post-Closure Care Plan, and after compliance with the following conditions:

i. The owner or operator has complied with all requests to amend the Closure and Post-Closure Plan;

ii. Except as otherwise authorized by the department, the owner or operator submits the the department, pursuant to (e)5 above, "as built" certifications by a New Jersey licensed professional engineer that the applicable provision(s) of the Closure and Post-Closure Plan for which the preceding withdrawal was obtained has been, or is being, implemented as set forth in the Closure and Post-Closure Plan;

iii. Except as otherwise authorized by the department, the owner or operator submits to the department "as built" certifications by a New Jersey certified public accountant that the preceding withdrawal has been, or is being, expended as set forth in the Closure and Post-Closure Plan; and

iv. Where the department has approved a Closure and Post-Closure Financial Plan providing for the use of alternative funds pursuant to (f)2ii above, withdrawals from the escrow account will only be authorized to the extent that the cost exceeds the balance of the alternative fund. Where the alternative fund is an account, the department shall allow the maintenance of the minimum balance necessary to keep such account open.

14. No withdrawals from an escrow account may be made without written approval of the department, except as otherwise authorized by the department;

15. The department, although acknowledging the need for fund expenditure totalling a specific sum may, at its discretion, grant approval for the withdrawal of only a portion thereof, conditioning subsequent approvals upon the owner or operator's verification that the sum(s) authorized have been used solely for closure or post-closure care costs;

16. The department may, at its discretion, determine that there is a need for closure or post-closure care expenditures and may require the owner or operator to withdraw such funds from the escrow account at any time to meet such expenses;

17. Funds remaining in the escrow account after complete and proper closure and post-closure care operations shall be paid into the Sanitary Landfill Facility Contingency Fund. A sanitary landfill will be deemed to be properly and completely closed where the department determines that no further post-closure care maintenance or monitoring is necessary at the facility. When the department makes such a determination, it shall notify the escrow agent and the owner or operator of the determination and shall supply the owner or operator with written approval for the transfer of the excess funds. Upon receipt of this written approval, all funds in said amount shall be transferred to the Sanitary Landfill Facility Contingency Fund established pursuant to N.J.S.A. 13:1E-100 et seq. and the account will be closed;

18. The escrow account shall not constitute an asset of the owner or operator and shall be established in such a manner as to ensure that the funds in the account will not be available to any creditor other than the department in the event of bankruptcy or reorganization of the owner or operator.

19. The owner 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 Landfill Closure Escrow Account, Office of Special Funds Administration, Department of Environmental Protection, CN 402, 428 East State Street, Trenton, New Jersey 08625; 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 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;

APPENDIX A
GUIDELINES FOR A GROUND WATER MODELING EFFORT

1. The model of use must have a history that documents its ability to represent real world situations. In addition it should also be demonstrated that the model of choice has the ability for proposed management of ground water resources.

2. The set of equations, that govern ground water flow and pollutant, and the derivations of these equations must be presented.

3. The numerical methods used to solve the set of ground water flow and pollutant transport equations must be presented.

4. The Boundary Conditions and Initial Conditions used in solving the ground water flow and pollutant transport equation sets should be presented both mathematically and in narrative form.

5. A technical narrative describing the model to be used and a justification for the application of this to the specific problem should be presented. This should include whether the model is finite element, finite difference or some other scheme. The objective of the model should be stated up front.

6. The unknown quantities that the model is solving for should be described and explained. In addition those parameters derived from the initial unknown quantities should also be described and explained.

7. Appropriate analytical methods should be used to verify the validity of the numerical technique used to solve the flow equations in the model.

8. A sensitivity study of the error tolerance used and modal spacing needs to be conducted. The results should be presented and explained.

9. Perform mass balance calculations on selected elements in the model to verify physical validity.

10. The model must be calibrated against field data. It is important to note that if there is insufficient field data available for calibration then the model will extrapolate values of unknown accuracies. This is particularly important since there is no one unique solution to a model and the most accurate solution (that closest to the real world situation) is a result of sufficient field data collection and model calibration with that data. It often takes more than 25 runs with the same data to properly calibrate a model to the real world situation. The level of field data considered to be sufficient should be agreed to before the modeling effort is initiated.

11. Limits and confidence on model predictions should be established and stated in the beginning of the modeling report.

12. All inputs and outputs to the computer program should be listed and explained in technical narrative.

SUBCHAPTER 2B. ADDITIONAL, SPECIFIC DISPOSAL REGULATIONS FOR THERMAL DESTRUCTION FACILITIES, TRANSFER STATIONS, MATERIALS RECOVERY FACILITIES, CO-COMPOSTING AND COMPOSTING FACILITIES.

7:26-2B.1 Scope and applicability

(a) This subchapter shall constitute the rules of the Department governing the design, construction, operation and maintenance of the following types of disposal facilities:

1. Thermal destruction facilities which dispose of non-hazardous solid waste;

2. Thermal destruction facilities which dispose of non-hazardous solid waste and which incorporate energy recovery;

3. Solid waste transfer station facilities; and

4. Solid waste materials recovery facilities; and

5. Solid waste co-composting and composting facilities.

(b) The requirements of this subchapter are in addition to the general requirements found at N.J.A.C. 7:26-2.10 and 2.11.

(c) This subchapter shall apply to the following facilities:

1. All proposed solid waste facilities of the types identified in (a) above shall be designed, constructed, operated and maintained in accordance with the requirements of this subchapter; and

2. Any existing solid waste facilities of the types identified in (a) above determined to be operating in an environmentally unsound manner.

(d) This subchapter does not apply to hazardous waste facilities. See N.J.A.C. 7:26-7, 8, 9, 10, 11, and 12.

7:26-2B.2 Construction

These rules shall be liberally construed to permit the Department to discharge its statutory functions.

7:26-2B.3 Purpose

(a) This subchapter is promulgated for the following purpose:

1. To establish additional engineering design submission requirements for thermal destruction facilities, transfer stations, materials recovery facilities, and composting and co-composting facilities to ensure that adverse impacts are minimized and pollution of the environment is prevented; and

2. To establish operational requirements to ensure the proper operation of thermal destruction facilities to minimize adverse impacts and prevent pollution of the environment.

7:26-2B.4 Additional engineering design submission requirements for thermal destruction facilities

(a) The following engineering design submittal requirements are in addition to the submittal requirements of N.J.A.C. *[7:26-2.5(a)]* ***7:26-2.10***:

1. The rated capacity of the facility, in both tons per day and tons per hour, and the maximum gross heat release rating for each incinerator/boiler;

2. The expected short term and projected future long term daily loadings;

3. The designation of normal loading, unloading and storage areas, including capacities in cubic yards and tons. Describe the time such areas can be practically used, based on expected short term daily loadings;

4. The designation of emergency loading, unloading, storage or other disposal capabilities to be used when facility system down time exceeds 24 hours;

5. The designation of alternate disposal areas or plans for transfer of stored waste in the event facility system down time exceeds 72 hours;

6. The expected daily quantity of waste residue generation;

7. The proposed ultimate disposal location for all facility generated waste residues including, but not limited to, ash residues and by-pass materials, by-products resulting from air pollution control devices, and the proposed alternate disposal locations for any unauthorized waste types, which may have been unknowingly accepted. The schedule for securing contracts for the disposal of these waste types at the designated locations shall be provided;

8. A descriptive statement of any materials recycling or reclamation activities to be operated in conjunction with the facility, either on the incoming solid waste or the outgoing residue;

9. A descriptive statement and detailed specification of all process equipment, pollution control systems, instrumentation and monitoring mechanisms. Schematic diagrams shall be provided, where applicable. Equipment specifications, including information pertaining to the make, model and manufacturer, if available, and to the related processing equipment capacity, reliability and efficiency shall be submitted. Information on individual unit sychronization with upstream and downstream equipment shall also be submitted;

10. Profile views of all structures and enclosures showing dimensions. Plan views showing building setbacks, side and rear distances between the proposed structure and other existing or proposed structures, roadways, parking areas and site boundaries;

11. A descriptive statement and detailed specification of the proposed onsite and offsite transportation system intended to service employee vehicles, vehicles hauling waste to the facility for processing, and vehicles removing reclaimed materials and/or process residues from the facility. The number, type, capacity and frequency of these vehicles shall be specified. Onsite parking, access and exit points, and the mechanisms or features which will be employed to provide for an even flow of traffic into, out of, and within the site, shall be identified;

12. Interior floor plans showing the layout, profile view and dimensions of the processing lines, interior unloading, sorting, storage and loading areas as well as other functional areas such as office space and employee's facilities shall be submitted;

13. A plan identifying, locating and describing utilities which will service the facility including, but not limited to, the storm water drainage system, sanitary sewer system, water supply system and energy system. Profiles on utility lines including horizontal and vertical dimensions, as well as grades, shall be provided. Existing pipeline carrying capacity and percent of that capacity being currently used shall be identified. Interface of the proposed facility with the existing utility systems and the specifications on materials to be used for constructing new systems or extending existing systems shall be detailed;

14. A waste supply analysis program characterizing the quantity and composition of the solid waste in the service area shall be submitted. The waste characterization shall be performed by utilizing a statistically relevant plan which justifies the population sample. The sampling program shall provide for seasonal and locational fluctuations in the quantity and composition of the waste types to be handled at the facility. Anticipated changes in solid waste quantity and composition for each of the waste types to be serviced by the proposed facility shall be projected for that term reflecting anticipated facility life. Within this framework, the effect of existing or future source separation programs on the supply of solid waste within the service area shall be described and quantified. Quantity and composition analyses shall be carried out simultaneously where possible and shall provide information relating to anticipated maximum, minimum and average daily loading in accordance with the following:

i. The composition data for the non-combustible solid waste, indicating percent by weight and percent by volume, generated within the service area shall be defined within the following framework:

(1) Aluminum;
(2) Ferrous metals;
(3) Other non-ferrous metals;
(4) Glass;
(5) Ceramics and fines, and
(6) Oversize bulky items.

ii. The composition data for combustible solid waste, indicating percent by weight and percent by volume, generated within the service area shall be defined for the following:

(1) Newspaper;
(2) Corrugated paper;
(3) Other paper products;
(4) Plastics;
(5) Wood;
(6) Yard wastes;
(7) Food wastes; and
(8) Textiles, rubber, leather and other combustibles.

iii. The composition data for the proximate analysis of the solid waste, indicating percent by weight, generated within the service area shall be defined for the following:

(1) Total Moisture;
(2) Ash (include percent by volume);
(3) Volatiles;
(4) Fixed Carbon; and
(5) Heating Value (Btu/lb. on an as received and moisture free basis).

iv. The composition data for the ultimate analysis of the solid waste, indicating percent by weight, generated within the service area shall be defined for the following:

(1) Ash;
(2) Carbon;
(3) Chlorine;
(4) Hydrogen;
(5) Nitrogen;
(6) Oxygen; and
(7) Sulfur;

v. The quantity data for the solid waste generated within the service area shall be defined within the following framework:

(1) Quantity of waste types by geographic points (that is, municipality of origin); and

(2) Weight, volume and corresponding load density characteristics expressed in terms of daily, average, peak and minimum flow to the facility.

15. A comprehensive analysis of the materials and energy balance for the proposed facility shall be performed. The analysis shall account for every handling and processing step starting with waste delivery scheduling and ending with product and residue removal from the site. Quantification and qualification of sidestream pollutants shall be accounted for in the analysis. Indicate how the facility design will provide redundant features or contingencies in the process line that will allow for an uninterrupted flow of waste through the system in the case of overload or equipment malfunction. Indicate adjustments available within the system

that allow for modifying recovery and processing rates based on the anticipated variability in the solid waste stream;

i. The materials balance for the proposed facility shall include, but not be limited to, the following:

(1) A description of the maximum designed processing capacity for each piece of equipment on the processing line, including auxiliary equipment in tons per hour;

(2) A description of the anticipated materials recovery rates, if applicable, in tons per hour for each individual equipment unit as well as the anticipated loadings to be made to that particular unit under anticipated peak and average loading conditions; and

(3) A solid waste composition component, accounting for combustible and non combustible materials in tons per hour at each processing point along the system line, including materials intentionally recovered as well as entrained contaminants, balanced against values for those materials passing through the unit unaffected by the actions of that unit. Provide a unit recovery efficiency value based on incoming solid waste component concentrations.

ii. The energy balance for the proposed facility shall account for conversion efficiencies and losses that occur throughout the process, including losses incurred by transmission to markets, if applicable. Variations in energy production shall be enumerated in reference to fluctuations in the quality and quantity of incoming solid waste. The energy produced by the facility shall be balanced against the energy consumed by the facility in recovering products from the solid waste stream. Describe how the proposed energy production will meet market demands. Identify instances where energy production rates will exceed secured market demands and contingencies for energy use, if any, under these conditions.

16. An artist's rendition, showing the facility as it will appear when construction is completed;

17. An occupational health and safety plan prepared in conformance with the Safety and Health Standards, 29 CFR 1910 and 1926, of the Federal Department of Labor, Occupational Safety and Health Administration, shall be submitted as part of the preliminary O*[&]* ***and*** M manual;

18. A facility staffing plan submitted as part of the final O*[&]* ***and*** M manual containing the following:

i. The job title for each position at the facility;

ii. A written job description for each position, including duties and performance standards. The description shall include the requisite skills, education, and other qualifications deemed necessary for employees assigned to each position;

iii. An explanation of the criteria and reasons used in selecting the required number and types of positions, as well as the qualifications for each position; and

iv. A statement of the staffing provided for each operating shift, including the job titles and number of employees for each title, and for each shift.

19. A written training plan which includes the type and amount of both the initial and annual followup training to be provided to facility personnel shall be submitted as part of the final O*[&]* ***and*** M manual;

20. An emergency contingency plan which delineates procedures for responding to fire, explosions or any unplanned sudden or non-sudden releases of harmful constituents to the air, soil, or surface or ground water shall be submitted to the Department as part of the preliminary *[O&M]* ***O and M*** manual, to the local police and fire departments, and to the local and county health departments or other offices of emergency management. The contingency plan shall contain:

i. A description of the actions facility personnel shall take in the event of various emergency situations;

ii. A description of arrangements made with the Department and local police and fire departments which allow for immediate entry into the facility by their authorized representatives should the need arise, such as in the case of response personnel responding to an emergency situation; and

iii. A list of names, addresses and phone numbers (office and home) of all persons qualified to act as an emergency coordinator for the facility ***shall be submitted as part of the final O and M manual***. This list shall be kept up to date. Where more than one person is listed, one shall be named as primary emergency coordinator and the others shall be listed in the order in which they will assume responsibility as alternates.

21. A community relations plan for facilities with a design capacity of 500 tons per day or greater identifying the steps that the owner or operator will take to transfer information and solicit input from the community in which the facility is located shall be submitted to the Department as a part of the preliminary *[O&M]* ***O and M*** manual. The community relations plan shall contain the following:

i. A minimum of two open meetings with local officials, or their representatives, and the general public of the district affected by the proposed facility prior to and during facility construction. The purpose of such meetings will be to inform the community of the operations of such of facility, including the progress of construction and projected initial tipping fees;

ii. Annual open meetings with the local officials, or their representatives, and the general public of the district where the facility is located subsequent to the initial startup of operations. The purpose of these meetings is to allow public input and to provide a forum for exchanging ideas; and

iii. A notification procedure, whereby the public is provided a report of findings in the case of an emergency incident at the facility.

(b) Thermal destruction facility engineering design requirements are as follows:

1. Facilities shall be designed in such a way as to allow for the control of both the rate of air feed and temperature of burn in the combustion chambers;

2. The combustion chambers and ancillary support equipment shall be designed with the capability of handling and effectively disposing of those wastes authorized for receipt at the proposed facility, notwithstanding the expected normal fluctuations in quantity, moisture content, heat release value, and chemical makeup of those wastes;

3. The waste loading system servicing the combustion chambers shall be designed and equipped in such a manner as to prevent the occurrence of backfire into the feed hopper. To this end, automated waste loading systems shall be gas tight when operating the forward ram stroke portion of the charging cycle;

4. Combustion chamber design shall provide for the minimum operating temperature, combustion gas residence time and excess air requirements specified in the "Air Pollution Control Guidelines for Resource Recovery Facilities" (implemented under the authority of N.J.S.A. 26:2C-9.2) and specified in the air pollution permit obtained pursuant to N.J.A.C. 7:27-8;

5. All combustion systems shall be equipped with state-of-the-art air emission technology designed to control the emission of hydrocarbons, particulates, dioxins, sulfur oxides, nitrogen oxides, carbon monoxide, heavy metals, hydrochloric acid, acid gases, trace metals and other pollutants as may be specified in the air pollution permits and certificates obtained pursuant to N.J.A.C. 7:27-8;

6. Combustion chamber interior walls shall be designed to withstand excess corrosion and wear generated by high temperatures and the oxidative-reductive atmosphere;

7. To the maximum extent practicable, except where batch feed or fluidized bed systems are utilized, the primary combustion chamber shall be designed to provide for a positive means of transporting waste into the chamber, through the chamber and to an eventual ash discharge point down line. A conventional ram loading device is not considered an internal transfer mechanism in itself;

8. A vessel shall be designed to quench or cool all siftings and bottom ash that remain after the completion of the primary chamber combustion process. The vessel shall be designed to handle the maximum potential ash volumes that could be generated when the combustion unit is operating at a maximum design throughput capacity. The quench vessel shall be designed to maintain a water level of sufficient height to effectively prevent the infiltration of exterior air into the combustion chamber, while maintaining suitable freeboard to prevent spillage. Quenched ash shall be dewatered prior to storage for ultimate disposal;

9. The stacks servicing the combustion units shall be designed and constructed in conformance with the requirements of the Department's Bureau of Air Pollution Control, the New Jersey Uniform Construction Code, N.J.A.C. 5:23, and the Federal Aviation Administration's limitations relating to infringement on navigable airspace;

10. The boilers employed for the purpose of recovering heat energy shall be equipped with a boiler tube-boiler wall cleaning system designed to periodically remove excess accumulations of surface deposits;

11. The boilers servicing the facility shall be designed, manufactured and installed in such a manner as to be capable of operating in conformance with the requirements of N.J.A.C. 12:90, "Boilers, Pressure Vessels and Refrigeration;"

12. The steam condenser system servicing a boiler shall be designed with the capability to condense the maximum design output of the boiler without any energy extraction from the process, for the most critical weather conditions of the summer season affecting the ability of the system to reject heat energy to the atmosphere (facilities utilizing the indirect air cooled condensing technology); or in the case where an adjacent water body is to be used the highest annual water temperature

and lowest flow conditions anticipated. The Department will consider reasonable alternatives to this 100 percent steam condensing capability requirement, uninterrupted facility availability;

13. The feedwater system servicing a boiler shall be designed with the capability of delivering 100 percent of the feed water requirement of the boiler. The Department will consider reasonable alternatives to this requirement, provided such alternatives are environmentally sound and will maximize uninterrupted facility availability;

14. Facilities shall be designed and constructed in such a manner as to promote an aesthetically pleasing facade in keeping with the architectural character of the area surrounding the site. Facility equipment, including, but not limited to, fans, emission control devices, tanks, storage containers, conveyors' piping and similar equipment shall be housed within the confines of a building structure or shall be buffered in such a manner as to reduce potential negative visual impacts offsite;

15. Facilities shall be designed with sufficient internal storage areas for unprocessed incoming solid waste, facility process waste residues and effluents, and recovered materials, if applicable. The design shall *[account]* ***allow*** for***, at a minimum, three days of storage at*** maximum anticipated loading rates;

16. Facilities shall be designed and equipped with appropriate control mechanisms to minimize and contain the accidental spillage of reagents, lubricants or other liquids used in the operation or maintenance of the facility as well as any waste generated by such operation;

17. Facility waste storage areas shall be designed with the capability of maintaining interior pressure below that of the exterior atmosphere, and shall employ the use of electronically activated self opening and closing delivery doors or other similarly effective method approved by the Department, to prevent the migration of odors and dust outside the confines of the waste receiving and storage building. Air drawn off as a result of maintaining negative pressure shall be directed to the combustion chamber. Such control mechanisms shall be designed to effectively operate during all periods when wastes are being received or are in storage at the facility;

18. All facilities, their related subsystems and appurtenances***, including all vehicles while on-site,*** shall be designed, positioned and buffered in such a manner that the sound levels generated by their operation shall not exceed those limits established pursuant to the Noise Control regulations, N.J.A.C. 7:29;

19. All waste size reduction equipment, which due to the nature of its operation may have the potential for explosion, shall be designed and equipped with an effective explosion detection and suppression system which shall be situated within the facility in such a manner so as to directionalize the force of any explosion in order to effectively minimize damage to the building and the chances of injury to employees and the public;

20. All facilities shall be designed in a manner that affords fluid vehicular movement onsite and prevents traffic backups and related traffic hazards on access roads servicing the facility site. The onsite roadway design configuration and layout shall provide sufficient roadway for unobstructed vehicular passage, with parking areas, maneuvering space in the loading and unloading areas, and traffic control measures (i.e. lane delineations, signals, signs and barriers), in order to achieve this goal. All onsite roadways used by refuse vehicles shall be constructed and surfaced in accordance with standards for heavy truck usage;

21. Offsite truck routes for the conveyance of solid waste to, and residues from the facility shall be defined and delineated in a manner which will minimize impacts on surrounding residential development or similar sensitive receptors. The truck traffic to and from the proposed facility shall not result in a decrease in the existing level of service, as defined by the New Jersey Department of Transportation, of a major intersection;

22. Facilities shall be designed with perimeter security fencing and gate controls to prevent unauthorized access to the site and to control the offsite escape of litter. Metallic chain link fencing, or its equivalent, extending to a height of seven feet shall be the minimum design standard;

23. Facility layout design shall conform to the configuration of the site. A buffer and setback area shall be provided to allow for adequate planning for and installation of pollution control equipment that may be required due to future advances in the state-of-the-art. All main building enclosures shall be designed with a minimum setback of 100 feet from the facility's property line. The Department may allow a reduction in the setback limit if the applicant satisfactorily demonstrates that such a reduction will not pose an adverse impact on the adjacent land use activities;

24. Facilities shall be designed with alarm and fire protection systems capable of detecting, controlling and extinguishing any and all fires that may occur as a result of facility operation;

25. The interior layout design for all facilities shall provide for system installations that maximize accessibility for repairs, maintenance and ease of cleaning, while affording employee safety;

26. All facilities shall be designed and constructed in full conformance with the specifications and requirements of the Uniform Construction Code, N.J.A.C. 5:23;

27. All tipping floors, sorting pads, waste storage areas, bunkers and pits shall be constructed of concrete or other similar quality material that will withstand heavy vehicle usage. Floor drains shall be provided in all such areas and surfaces shall be appropriately graded to facilitate washdown operations. Floor drains shall be designed to discharge wastewater into a collection and treatment system approved by the Department. In those cases where waste or residue storage pits are to be utilized the base and sidewalks shall be sufficiently waterproofed to prevent ground water intrusion. Tipping floors shall be designed with suitable wheel stops to prevent delivery vehicles overdriving the pit edge;

28. Redundant features or other aspects of system layout shall be incorporated into the facility design to maximize online availability for the receipt and processing of that quantity of waste directed to the facility. Mechanical components shall be constructed of materials that will withstand the rigors of facility operation and shall have a rated handling capacity that prevents backups and blockages within the related system. Replacement equipment and parts for equipment which is subject to excess wear or frequent breakdown due to the nature of operation, shall be stored onsite in order to provide expedient repair. In addition, a properly sized storage area shall be incorporated into the design;

29. Where feasible, the facility subsystems shall be equipped with automatic process controls which contain the necessary instrumentation and related feedback mechanisms to ensure that process operational parameters are being met. Automated systems shall be equipped with manual override capabilities. Instrumentation displays and related control mechanisms shall be positioned within the facility in such a manner as to be readily accessible and highly visible for monitoring purposes;

30. A remote telemetry system shall be installed within the facility's central control station as a component of the remote computer monitoring system of the automated systems. The remote telemetry system shall be capable of transferring monitoring data required by the Department, by telephone lines directly to the Department's computer;

31. The design of the facility shall not place a demand exceeding the remaining use capability of existing physical utilities including, but not limited to, potable and non-potable water supplies, waste water and stormwater collection and treatment, energy supply and transmission, transportation systems, or any other site related infrastructure subsystems, except in those cases where plans have been developed or are being implemented to provide for the expansion of existing utility systems or establishment of new utility systems which will meet the additional demand generated by the construction and operation of the facility. Copies of existing utility expansion plans and implementation time frames shall be submitted in those cases where such expansions are needed to meet the additional demand described above; and

32. All thermal destruction facilities shall be equipped with an independent, auxiliary power system capable of supplying energy at normal levels in the case of a power supply failure.

7:26-2B.5 Additional engineering design submission requirements and design requirements for transfer stations and materials recovery facilities

(a) The requirements of this section are in addition to the requirements of N.J.A.C. 7:26-2.10;

(b) All solid waste transfer stations and materials recovery facilities, except for those regulated pursuant to N.J.A.C. 7:26-2.4(c)4, shall be designed in accordance with the following:

1. Facilities shall be designed with a system capable of collecting, storing, treating and disposing of wastewater generated during normal operations, including the wash-out and cleaning of equipment, trucks and floors;

2. Facility processing, tipping, sorting, storage and compaction areas shall be located within the confines of a totally enclosed building;

3. Facilities shall be designed with concrete ***or equivalent*** tipping floors or ramps to ensure the proper containment and channeling of wastewater to sanitary sewer connections or corrosion resistant holding tanks ***and to withstand heavy vehicle usage***;

4. *[Facilities]* ***Facilities on site roadways and storage areas*** shall be designed with concrete or asphalt paving in those areas subject to vehicle loading and unloading activities;

5. Facilities shall be designed with sufficient internal storage areas for unprocessed incoming solid waste ***to insure an environmentally sound operation and afford sufficient space to allow for proper processing of maximum anticipated daily incoming waste loading****;

6. Facilities and all appurtenances***, including all vehicles while on-site,*** shall be designed, positioned and buffered in such a manner that the sound levels generated by the operation shall not exceed limits established pursuant to the Noise Control Regulations, N.J.A.C. 7:29;

7. Facilities shall be designed in a manner which will prevent the migration of odors and dust outside the confines of the totally enclosed building;*

*[7.]****8.*** Facilities shall be designed in such a manner so as to afford fluid vehicular movement onsite and prevent traffic backups and related traffic hazards on access roads servicing the facility;

*[8.]****9.*** Offsite truck routes for the coveyance of solid waste shall be defined and delineated in such a manner as to minimize impacts on surrounding residential development or similar sensitive receptor and shall not exceed the existing level of service, as defined by the New Jersey Department of Transportation of any major intersection;

*[9.]****10.*** Facility layout design shall conform to the configuration of the site. A setback area shall be provided to allow for adequate buffering of the site. All main building enclosures shall be designed with a minimum setback of 50 feet from the facility property line;

*[10.]****11.*** Facilities shall be designed with alarm and fire protection systems capable of detecting, controlling and extinguishing any and all fires that may occur;

*[11.]****12.*** The interior layout shall provide for system installations that maximize accessibility for repairs, maintenance, and cleaning, while affording employee safety;

*[12.]****13.*** Facilities shall be designed and constructed in full conformance with the specifications and requirements of the Uniform Construction Code, N.J.A.C. 5:23;

*[13.]****14.*** The facility shall be designed so as not to place a demand exceeding the remaining use capability of existing physical utilities including, but not limited to, water supply, wastewater and stormwater collection and treatment systems, energy supply and transportation systems; and

*[14.]****15.*** The proposed ultimate disposal facility and location for all waste processed by the facility shall be identified.

(c) The site plan map shall include the following:

1. A layout of all facility buildings and structures which shall indicate the type of construction materials;

2. Profile views of all structures and enclosures showing dimensions. Plan views showing building setback, side and rear distances between the proposed structure and other existing or proposed structures, roadways, parking areas, and site boundaries;

3. Interior floor plan showing the layout, profile view and dimensions of the processing lines, interior unloading, sorting, storage and loading areas;

4. A description with detailed specifications of the proposed onsite and offsite transportation system which shall indicate the type of construction materials; and

5. A utilities plan identifying, locating and describing all utilities which will service the facility including, but not limited to, the storm water drainage system, sanitary sewer system and water supply system. A descriptive statement of the carrying capacities of the existing systems and the remaining availability within the system for the facility's utility needs.

(d) The engineering report shall include:

1. Descriptive and detailed specifications of all process equipment to be used, including the equipment's rated and designed capacity. Schematic diagrams shall be provided;

2. Equipment specifications including information pertaining to the make, model and manufacturer, if available, and the related processing equipment, reliability and efficiency shall be submitted;

3. A discussion of the maximum length of time that waste and, where applicable, recyclable materials will be stored at the facility; and

4. A description of any materials recycling or reclamation activities to be operated in conjunction with the facility.

(e) If the facility is to handle liquid or liquid-solid waste mixtures, the proposed methods to protect and monitor the quality of groundwater and nearby surface waters shall be indicated.

(f) If the materials recovery facility is designed with mechanical size reduction equipment, an explosion suppression system shall be included in the engineering design.

7:26-2B.6 Additional engineering requirements for composting and co-composting facilities

(a) The requirements of this section are in addition to the requirements of N.J.A.C. 7:26-2.10;

(b) Co-composting facilities require, in addition to a SWF permit, a NJPDES permit obtained from the Division of Water Resources.

(c) The engineering report for these facilities shall include the following:

1. A discussion of the quantity and composition of the waste streams entering the proposed facility in terms of:

i. Municipality of origin; and

ii. Weight, volume and corresponding load density characteristics.

2. If sewage sludge is to be co-composted with solid waste, identify the quantity and physical/chemical characteristics of each source of sewage sludge. Sludge characteristics will be reviewed by the Division of Water Resources for a determination of their suitability for acceptance and processing at the proposed solid waste composting facility. The following information shall be submitted for each individual source of sludge:

i. Identify the type of processing carried out at the sewage treatment plant source prior to dewatering (e.g. lime stabilization, digestion, long term storage, other);

ii. Identify the dewatering processes instituted, including a description of the equipment or technique used, the chemical reagents employed and a determination of the percent solids achieved;

iii. Express quantities on a dry weight basis and volume of the percent solids delivered to the facility. Identify the maximum, minimum and average delivery rates anticipated; and

iv. Provide a physical/chemical analysis for the sludge from each source, in accordance with the Sludge Quality Assurance regulations, N.J.A.C. 7:14-4. The Department may require additional testing where conditions dictate.

3. A decription of the number, type, capacity and delivery or removal frequency (indicate both average and peak periods) of all transport vehicles. Describe on-site parking capabilities, loading and unloading facilities, access and exit points and mechanisms and features employed to provide for an even flow of traffic onto, on and away from the site. Describe the related material construction specifications and details;

4. Identify, locate and describe the utilities intended to service the proposed facility including, but not limited to, the storm water drainage system, sanitary sewer system, water supply system, electrical or other energy system;

5. Process management should be based on specific and objective processing goals. Processing goals should be identified including, but not limited to, rapid processing, drying method, materials handling, nitrogen retention, etc. Describe the underlying conceptual basis or strategy upon which the process management will be based. A rationale should be given for the management strategy chosen in reference to others;

6. Describe all process steps including, but not limited to, waste delivery, storage, mixing, composting methods, curing, screening, finishing, packaging and related process equipment and pollution control systems, instrumentation and monitoring mechanisms, if applicable. Within the context of the process description, identify the mix ratio of solid waste to sludge as well as the bulk weight and porosity of the mix. Provide an indication of the period of time during which active composting is to take place and the temperatures to be reached and maintained within that period. Identify the rate of aeration afforded and the time frame established for compost curing. Submit equipment specifications relating to make, model, manufacturer, processing capacity, reliability, efficiency and the relevant design and operating criteria that directly relates to the equipment's intended performance, plus the number of equipment units which will be available at the facility. Information on individual unit synchronization with upstream and downstream equipment, if applicable, shall also be provided;

7. A comprehensive materials balance for the proposed facility shall be submitted. The materials balance shall account for every handling and processing step starting with waste delivery scheduling to the facility and ending with final product and waste/residue removal from the site. Final compost product distribution requirements will be governed by the guidelines or regulations established by the Division of Water Resources. Quantification and qualification of sidestream process pollutants, if any, shall also be provided for in the materials balance. If any materials recovery is anticipated, document the anticipated materials recovery rates in tons per hour for each recovered component; and

8. A discussion of the contingency disposal options to be utilized if the composted end product cannot be marketed. These disposal options shall be in accordance with the approved district solid waste management

plan and any other Departmental requirements established for the distribution of sewage sludge compost.

(d) If a natural ground surface is to be used for storage, composting or curing, or any surface impoundments, lagoons, or other structures for storage or conveyance of leachate, runoff or condensate are proposed, soil borings of the property shall be provided in accordance with the following:

Acreage	Minimum Number of Borings
1-10	4
10-50	8
50-100	14
100-200	20
over 200	24

(e) The site plan map shall depict the facility layout on the property and include profile views of all structures, utilities and enclosures showing height, breadth and bulk dimensions. Dimensions for loading, unloading, storage (for example, incoming waste, outgoing product), processing, composting and curing areas shall be provided. Identify the type of drainage system, run-off and leachate control systems. Building setbacks and the distances of any onsite proposed or existing structure, processing area or treatment area, and streets from the site boundaries shall be indicated. The site plan map shall include interior floor plans showing the layout, profile view and dimensions of the interior unloading, sorting, storage, processing, and loading areas as well as auxiliary functional areas such as offices and employee's facilities.

7:26-2B.7 (Reserved)

7:26-2B.8 Additional operational requirements for thermal destruction facilities

(a) The requirements of this section are in addition to the general requirements of N.J.A.C. 7:26-2.11;

(b) Subsequent to completion of the facility construction phase and prior to the initiation of the testing phase, the New Jersey licensed professional engineer retained by the applicant to supervise the construction of the facility shall certify in writing to the Department that he or she has personally examined the facility during each major stage of construction and that the facility has been constructed in accordance with the documents, statements, designs and plans submitted to and approved by the Department.

(c) The facility shall not initiate full scale operations until a suitable testing period has demonstrated, to the satisfaction of the Department, that the facility, as constructed, will operate safely and in conformance with the SWF permit. In order to facilitate the testing:

1. The owner or operator shall notify the Department one month prior to the initiation of the facility start-up and shake-down testing period;

2. The Department reserves the right to have a representative present at the facility during the testing to observe the testing; and

3. The Department reserves the right to collect its own samples to verify the test results.

(d) Immediately following the initiation of full scale operations, facility personnel shall begin routine inspections for equipment malfunction or deterioration and operating effectiveness, in accordance with the following:

1. The owner or operator shall conduct inspections as indicated in the approved final O and M manual in order to identify and remedy any problems; and

2. The owner or operator shall record the results of the inspections in a bound log book which shall be available at the facility at all times for inspection by the Department. These records shall include the date and time of the inspection, the name of the inspector, a notation of observations and recommendations and the date and nature of any repairs or other remedial actions taken.

(e) A Departmental inspector may, at the option of the Department, be stationed at facilities operating at a capacity of 500 tons per day or greater, on a daily basis and during all facility operating hours. The owner or operator of such a facility shall allow entry to the inspector at any time during operating hours. The owner shall make available office space for departmental personnel to prepare inspection reports.

(f) The owner or operator shall implement waste receiving area control procedures that provide for the inspection of the incoming waste stream for the purpose of removing unprocessible or potentially explosive materials prior to the initiation of processing. In addition, the inspection shall effectively prevent the acceptance of unauthorized waste types. These procedures and necessary contingency plans shall be incorporated into the approved final O and M manual.

(g) Should situations arise where the facility experiences equipment or system malfunction to the extent that the waste received cannot be handled or processed in the normal manner, as specified in the facility's SWF permit, then the operator shall notify the Department of the existence of such a situation and the circumstances contributing to the situation within the working day of its occurrence. The operator shall immediately pursue corrective measures. The continued receipt of wastes at the facility shall be limited to that quantity and type that can be handled, stored and processed in conformance with that facility's remaining approved operational capacity.

(h) Arrangements for facility generated waste disposal shall be established and maintained throughout the life of the facility. These waste disposal arrangements shall be in conformance with the Solid Waste Management Plan of the District in which the facility is located and with the rules of the Department.

(i) Unprocessed incoming waste, facility process waste residues and effluents, and recovered materials shall be stored in bunkers, pits, bins, or similar containment vessels and shall be kept at all times at levels that prevent spillage or overflow.

(j) All facilities and their related sub-systems and appurtenances shall be operated, at all times, in full compliance with the sound level limitations established in the Department's Noise Control regulations, N.J.A.C. 7:29.

(k) The delivery of waste to the facility and the removal of residues and recovered products from the site shall be scheduled so as to eliminate traffic backups and allow for fluid vehicular movement on site. Delivery routes shall be clearly delineated and adhered to. Arteries that pass through non-residential areas shall be utilized wherever possible.

(l) Samples and measurements taken for the purpose of monitoring facility process and treatment operations shall be representative of the process or operation and shall be performed in accordance with the conditions of the facility's SWF permit, as well as the requirements of other regulatory agencies where applicable. Monitoring shall be conducted through the use of continuous monitoring instrumentation, where feasible.

(m) Prior to disposal, the operator shall perform a waste determination on all residual ash, in accordance with N.J.A.C. 7:26-8.5. Such determination shall be based on analyses of representative composite samples collected in the manner specified in the facility's SWF permit. At a minimum the sampling shall include analyses for E.P. toxicity and total 2, 3, 7, 8 TCDD, and shall be performed at the frequency specified in the facility's SWF permit.

(n) The Department may require the operator to perform additional analyses on ash removed from exhaust gases and collected by emission control equipment, at a frequency established by the Department, based on the storage capability and ash disposal scheduling of the proposed facility.

(o) The analyses required by (m) and (n) above shall be performed in accordance with procedures outlined in the most recent edition of "Test Methods for Evaluating Solid Waste—Physical/Chemical Methods," U.S.E.P.A. publication SW-846.

(p) The analysis of the ash shall be submitted to the Division's Bureau of Hazardous Waste Planning and Waste Classification for classification. The operator shall dispose of the onsite generated residual ash at a facility authorized and permitted to receive the waste type I.D. number assigned to the residual ash by the Bureau.

(q) The operator shall retain original records of all waste analyses and operations' monitoring reports at the facility for a period of three years from the date of measurement.

(r) Records of operations' monitoring and waste analyses required by (q) above shall include:

1. The date, time and place of sampling, measurement or analysis;

2. The name of the individual who performed the sampling, measurement or analysis;

3. The sampling and analytical methods utilized;

4. The results of such sampling, measurement or analyses; and

5. The signature and certification of the report by an appropriate authorized agent for the facility.

(s) The owner or operator shall prevent accidental or unintentional entry and minimize the possibility for unauthorized entry into the facility. The facility shall have a 24-hour surveillance system which continuously monitors and controls entry to the facility or an artificial or natural barrier which completely surrounds the facility. In addition, the facility shall have a means to control entry at all times through the gates or other entrances to the facility.

(t) The owner or operator shall comply with the following requirements pertaining to facility staffing:

1. Facilities shall maintain sufficient personnel during each scheduled shift to assure the proper and orderly operation of all system components, along with the ability to handle all routine facility maintenance requirements. Such personnel shall have sufficient educational background, employment experience and/or training to enable them to perform their duties in such a manner as to ensure the facility's compliance with the requirements of the Act, this chapter, and the conditions of its SWF permit;

2. Each shift shall have a designated shift supervisor authorized by the owner or operator to direct and implement all operational decisions during that shift;

3. A facility utilizing a boiler to generate steam, power or heat shall employ individuals licensed in accordance with the Rules and Regulations of the New Jersey Department of Labor, "Boilers, Pressure Vessels and Refrigeration," N.J.A.C. 12:90; and

4. Any facility designed with a capacity to process 500 tons of solid waste or greater per 24 hour operating period, shall have under contract a New Jersey licensed professional engineer as a consultant to oversee the general plant operations. This engineer shall possess experience in the design and operation of the major system components or equipment that constitute the facility.

(u) The owner or operator shall comply with the following requirements pertaining to facility personnel training:

1. All personnel who are directly involved in facility waste management activities or who operate, service, or monitor any facility equipment, machinery or systems shall successfully complete an initial program of classroom instruction and on-the-job training that includes instruction in the operation and maintenance of the equipment, machinery and systems which they must operate, service or monitor in the course of their daily job duties, and which teaches them to perform their duties in a manner that ensures the facility's compliance with the requirements of the Act, this chapter and the conditions of its SWF permit;

2. The training program shall be directed by a person thoroughly familiar with the technology being utilized at the facility and the conditions of the facility's permits;

3. The training program shall ensure that facility personnel are able to effectively respond to any equipment malfunction or emergency situation that may arise. The training program shall provide instruction in the use of personal safety equipment, procedures for inspecting and repairing facility equipment, the use of commications or alarm systems, the procedures to be followed in response to fires, explosions or other emergencies, and the procedures to be followed during planned or unplanned shutdown of operations;

4. Facility personnel shall successfully complete the initial training program required herein within six months after the effective date of this subchapter or six months after the date of their employment or assignment to the facility, whichever is later. Employees hired after the effective date of this subchapter shall not work in unsupervised positions until they have completed the training program required herein;

5. Facility personnel shall take part in a planned annual review of the initial training program; and

6. Training records that document the type and amount of training received by current facility personnel shall be kept until closure of the facility. Training records on former employees shall be kept for at least one year from the date the employee last worked at the facility.

(v) The following actions shall be implemented in the case of an emergency:

1. The plant operator or emergency coordinator shall immediately identify the character, exact source, amount and extent of any discharged materials and notify appropriate State or local agencies with designated response roles if their help is needed;

2. Concurrently, the plant operator or emergency coordinator shall assess possible hazards to public health or the environment that may result from the discharge, fire or explosion. This assessment shall consider both direct and indirect effects;

3. If the plant operator or emergency coordinator determines that the facility has had an uncontrolled discharge, a discharge above standard levels permitted by the Department, or a fire or explosion, he or she shall:

i. Immediately notify appropriate local authorities if an assessment indicates that evacuation of local areas may be advisable;

ii. Immediately notify the Department at (609) 292-7172; and

iii. When notifying the Department, report the type of substance and the estimated quantity discharged, if known, the location of the discharge, actions the person reporting the discharge is currently taking or proposing to take in order to mitigate and discharge and any other information concerning the incident which the Department may request at the time of notification.

4. The plant operator shall take all reasonable measures to ensure that fires, explosions and discharges do not recur or spread to other areas of the facility. These measures shall include, where applicable, the cessation of process operations and the collection and containment of released waste;

5. Immediately after an emergency, the plant operator or emergency coordinator shall provide for treating, storing or disposing of waste, contaminated soil or water or any other material contaminated as a result of the discharge, fire or explosion;

6. The plant operator or emergency coordinator shall insure that no waste is processed until cleanup procedures are completed and all emergency equipment listed in the contingency plan is again fit for its intended use;

7. The plant operator or emergency coordinator shall notify the Department and appropriate local authorities when operations in the affected areas of the facility have returned to normal; and

8. Within 15 days after the incident, the plant operator or emergency coordinator shall submit a written report on the incident to the Department. The report shall include, but not be limited to:

i. The name, address and telephone number of the facility;

ii. The date, time and description of the incident;

iii. The extent of injuries, if applicable, with names and responsibilities indicated;

iv. An assessment of actual damage to the environment, if applicable;

v. An assessment of the scope and magnitude of the incident;

vi. A description of the immediate actions that have been initiated to clean up the affected area and prevent a recurrence of a similar incident; and

vii. An implementation schedule for undertaking measures to effect cleanup and avoid recurrence of the incident, if applicable.

SUBCHAPTER 5. (RESERVED)

This subchapter expired on October 7, 1985 pursuant to Executive Order No. 66(1978) and the Department does not intend to readopt its provisions.

7:26-12.11 Decision-making process for completed applications

(a) Once an application is complete, the Department shall, within six months of that date, tentatively decide whether to prepare a draft permit or to deny the application.

1.-3. (No change.)

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

7:26-12.12 Public participation in the permit process

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

(d) Public notice of a public hearing shall be given at least 30 days before the hearing and may be combined with public notice of a draft permit. The public hearing shall be held within 45 days of the date of issuance of the draft permit.

(e)-(j) (No change.)

(k) The applicant for a permit shall appear at the public hearing and be available to answer questions regarding the proposed facility or facility expansion. Failure of the applicant to appear at the public hearing and answer questions may result in denial of the application. In the event that a response cannot be given at the hearing, a written response shall be prepared by the Department or the applicant after the hearing.

(l) (No change in text.)

(m) (No change in text.)

(n) (No change in text.)

(o) Hazardous waste facility applications which are within the jurisdiction of the Major Hazardous Waste Facilities Siting Act, N.J.S.A. 13:1E-49 et seq. shall be subject to the public participation requirements of that law, in lieu of the requirements in this subchapter.

7:14A-6.16 Special ground water monitoring requirements for new non-hazardous waste sanitary landfills

(a) The ground water monitoring system shall be designed and constructed in accordance with the following:

1. A ground water flow model to predict the surface of the ground water level shall be utilized to locate and size the ground water monitoring well system. The ground water flow model shall be submitted for evaluation;

2. The location and number of detection wells or downgradient wells shall be sufficient to define and detect any potential migration;

3. The downgradient wells shall be capable of adequately monitoring the *[unsaturated zone and]* saturated zone ***and, where applicable, the unsaturated zone*** below the landfill and should be located in accordance with the following guidelines:

i. The location of the unsaturated zone lysimeters shall be directly beneath the landfilled area; and

ii. The location of the saturated zone wells should be in a staggered, phased or expanding ring design with at least half the wells at a maximum distance no greater than 150 feet from the toe of the slope of the landfill.

4. The location and number of background wells or upgradient wells, not biased by possible contamination, shall be sufficient to adequately define the background ground water quality.

HIGHER EDUCATION

(a)

BOARD OF HIGHER EDUCATION

Organization of the Board and Department of Higher Education

Adopted New Rule: N.J.A.C. 9:2-9

Authorized By: T. Edward Hollander, Chancellor, Department of Higher Education.

Filed: May 8, 1987 as R.1987 d.240 as an exempt organizational rule.

Authority: N.J.S.A. 18A:3-1, 18A:3-3, 18A:3-14 and 52:14B-4(b).

Effective Date: May 8, 1987.

Expiration Date: June 17, 1990.

Summary of Public Comments and Agency Responses:

These organizational rules are exempt from the notice and hearing requirements of the Administrative Procedure Act, N.J.S.A. 52:14B-1 *et seq.* Therefore, there was no public comment regarding this new organizational rule.

Full text of the rule follows.

SUBCHAPTER 9. BOARD OF HIGHER EDUCATION AND DEPARTMENT OF HIGHER EDUCATION STRUCTURE AND FUNCTIONS

9:2-9.1 Board of Higher Education structure

(a) The Board of Higher Education consists of 18 members, of which nine are citizen members. Seven are representatives of higher education institutions: the chairman of the Board of Governors at Rutgers, The State University, the chairman of the Board of Trustees of the University of Medicine and Dentistry of New Jersey, the chairman of the Board of Trustees of New Jersey Institute of Technology, the chairman of the New Jersey State College Governing Boards Association, the chairman of the Council of County Colleges, the president of the State Board of Education, and the representative of the Association of Independent Colleges and Universities in New Jersey. The Chancellor and the State Commissioner of Education are non-voting, ex-officio members.

9:2-9.2 Functions of the Board of Higher Education

The Board has broad powers and responsibilities for the general supervision and policy of higher education in the State. Its specific powers are set forth in N.J.S.A. 18A:3-14.

9:2-9.3 Department of Higher Education structure

(a) The Department of Higher Education consists of a Board of Higher Education, a Chancellor, and such divisions, bureaus, branches, committees, officers and employees as allowed by law and as necessary to oversee the institutions of higher education in the State of New Jersey.

(b) The Chancellor is the chief executive officer and administrator of the Department. He is appointed by the Board of Higher Education for a term of five years with the approval of the Governor. The Chancellor and his staff are responsible for administering Board policy.

(c) The Vice Chancellor is appointed by the Chancellor with the approval of the Board. The Vice Chancellor serves as Acting Chancellor during the Chancellor's absence or a vacancy in the office.

(d) The Department of Higher Education has Assistant Chancellors collectively in charge of specific areas including:

1. Institutional sectors;
2. Licensure of institutions;
3. Specialized areas of post-secondary education;
4. Policy and planning;
5. Research;
6. Grants;
7. Financial aid;
8. Facilities;
9. Budget and fiscal planning;
10. Employee relations.

(e) The Department also has several boards, authorities and funds which are involved in assisting institutions of higher education in the State of New Jersey or in administering various programs.

1. The Higher Education Assistance Authority administers Federal Guaranteed Student Loan Programs, a series of loans providing financial aid for students attending collegiate programs and other post-secondary institutions.

2. The Student Assistance Board is responsible for the coordination and administration of scholarship and grant programs which provide financial aid for collegiate programs and other post-secondary institutions.

3. The Board of Directors of the Educational Opportunity Fund administers the EOF Program which identifies, recruits and provides financial and academic assistance to needy students of this State to enable them to attend institutions of higher education.

9:2-9.4 Department of Higher Education function

The Department of Higher Education, created by statute in 1966, is an executive department of the State of New Jersey. The Department's responsibilities are set forth in N.J.S.A. 18A:3-3.

9:2-9.5 Public information

A member of the public may obtain information in accordance with all applicable Federal or State laws and rules by contacting the Office of the Chancellor, Department of Higher Education, 225 West State Street, CN 542, Trenton, New Jersey 08625.

LAW AND PUBLIC SAFETY

(b)

DIVISION OF CONSUMER AFFAIRS

State Board of Physical Therapy
Fees and Charges

Adopted New Rule: N.J.A.C. 13:39A-1.4

Reproposed: June 2, 1986 at 18 N.J.R. 1177(a).

Adopted: October 14, 1986, by Royce Buczek, P.T., Chairman, New Jersey State Board of Physical Therapy.

Filed: May 8, 1987 as R.1987 d.238, **without change.**

Authority: N.J.S.A. 45:9-37.18(f), N.J.S.A. 45:9-37.24 and N.J.S.A. 45:1-3.2.

Effective Date: June, 1, 1987.

Expiration Date: July 7, 1991.

Summary of Public Comments and Agency Responses:

No comments received.

Full text of the adoption follows.

13:39A-1.4 Fees and charges

(a) The following fees shall be charged by the New Jersey State Board of Physical Therapy:

1. Examination fee for Physical Therapist (includes temporary license)	$125.00
2. Examination fee for Physical Therapist Assistant (includes temporary license)	$110.00
3. Initial licensure fee for Physical Therapist and Physical Therapist Assistant	$100.00
4. Fee for issuance of a temporary license pursuant to N.J.S.A. 45:9-37.29(b) to practice on a temporary basis to assist in a medical emergency or to engage in a special project or teaching assignment	$ 60.00
5. Biennial renewal licensure fee for Physical Therapist and Physical Therapist Assistant	$ 60.00
6. Restoration charge for lapsed license	$ 60.00
7. Provision of duplicate license or wall certificate	$ 10.00
8. Provision of certification of eligibility for examination (for persons not yet seeking the issuance of a temporary license) or certification of licensure status	$ 25.00

9. Recordation of name change and issuance of replacement license and wall certificate ..... $ 25.00

(a)

LEGALIZED GAMES OF CHANCE CONTROL COMMISSION

Regulations Concerning Rentals

Adopted Amendment: N.J.A.C. 13:47-14.3

Proposed: June 2, 1986 at 18 N.J.R. 1180(b).
Adopted: February 5, 1987 by Legalized Games of Chance Control Commission, William J. Reed, Executive Officer.
Filed: April 29, 1987 as R.1987 d.230, **with substantive changes** not requiring additional public notice and comment (See: N.J.A.C. 1:30-4.3).

Authority: N.J.S.A. 5:8-6.

Effective Date: June 1, 1987.
Expiration Date: February 2, 1992.

Summary of Public Comments and Agency Responses:

The amendment as originally proposed limited the rental or use of specific premises licensed as commercial bingo halls to nine times per week with no more than two games being conducted on one day and only one game being conducted on Sunday. The Commission voted to remove the Sunday limitation after a public comment noted that Sunday is not a day of rest for all religions. In making this minor change, which permits the rental of specific premises twice on Sunday instead of once, the thrust and scope of the amendment is not significantly enlarged nor is there a significant impact on those who will be affected by the change.

In addition to the above comment, the Commission received letters supporting the amendment and suggesting that two games be permitted on Sunday since the amendement, as changed, would provide additional opportunities for the generating of funds which will be applied toward salutary purposes. Allowing two games on Sunday was urged in light of the increased availability of leisure time and parking on that day. In opposition to the amendment were two letters which opined that the amendment benefitted only the owners of the commercial halls. As the Commission believes that the proposal will result in more monies becoming available for authorized, public-spirited purposes, it rejected these comments in opposition to the amendment.

Full text of the adoption follows (additions to proposal shown in boldface with asterisks ***thus;*** deletions from proposal shown in brackets with asterisks *[thus]*).

13:47-14.3 Regulations concerning rentals

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

(c) No rentor shall rent, or allow the use of, any premises for bingo to be conducted by a licensed organization unless such rentor is either itself a qualified organization holding a valid license issued by a municipality in this State for the conduct of bingo for a period including the date of such rental or use or a licensed rentor holding a valid license issued by the Commission for the specific premises. In the case of a licensed rentor holding a valid license issued by the Commission for the specific premises, the premises may be rented or used nine times per week, ***but*** not more than twice on one day *[and only once on Sunday in municipalities where the conduct of bingo is permitted on Sunday]*.

(d)-(r) (No change.)

TREASURY-TAXATION

(b)

DIVISION OF TAXATION

Local Property Tax
Farmland Assessment Act
Municipal Tax Assessor

Adopted New Rule: N.J.A.C. 18:15-14.6

Proposed: March 16, 1987 at 19 N.J.R. 447(b).
Adopted: May 7, 1987 by John R. Baldwin, Director of the Division of Taxation.
Filed: May 8, 1987 as R.1987 d.237, **without change.**

Authority: N.J.S.A. 54:4-23.21.

Effective Date: June 1, 1987.
Expiration Date: August 12, 1988.

Summary of Public Comments and Agency Responses
No comments received.

Full text of the adoption follows.

18:15-14.6 Development of agricultural or horticultural use values by assessors

(a) The Director recommends that an assessor utilize the valuation standards established by the State Farmland Evaluation Advisory Committee in valuing farmland qualified property in accordance with N.J.S.A. 54:4-23.7.

(b) In the event an assessor plans not to utilize the valuation standards established by the State Farmland Evaluation Advisory Committee in valuing qualified farmland, the assessor shall submit such alternate standards to the Director by November 1 of the pretax year, indicating his reasons for not following the Advisory Committee's recommendations. The assessor shall further submit a detailed explanation as to the procedure and valuation standards to be applied in valuing qualified farmland.

(c) After review of such information, the Director shall inform the assessor and the respective county board of taxation by December 10 of the pretax year as to the propriety of utilizing the alternate standard. If the Director advises against utilization of the alternate standard and the assessor, nevertheless, chooses to rely on such standard for establishing qualified farmland assessments, he shall give written notice to the Director and the county board of taxation no later than December 31 of the pretax year.

(d) The county board of taxation, after its review as provided under N.J.S.A. 54:4-46, shall direct the assessor to make such changes it deems necessary to accomplish qualified farmland assessments in accordance with the Farmland Assessment Act of 1964.

OTHER AGENCIES

(c)

DELAWARE RIVER BASIN COMMISSION

Comprehensive Plan and Water Code
Leak Detection and Repair
Service Metering

Adopted: April 22, 1987 by Delaware River Basin Commission, Susan M. Weisman, Secretary.
Filed: May 1, 1987 as R.1987 d.233.

Effective Date: April 22, 1987.

Full text of the adoption follows.

No. 87-6

A RESOLUTION to amend the Comprehensive Plan and Water Code of the Delaware River Basin in relation to leak detection and repair.

WHEREAS, leak detection and repair of public water supply systems is an effective water conservation technique; it can significantly improve water supply system efficiency and can lead to substantial decreases in unaccounted-for water and the costs associated with lost water; and

WHEREAS, there is a significant cost to owners of water supply systems serving the public (purveyors) for treating and delivering unaccounted-for water in the Basin; and

WHEREAS, the Commission recommends that the signatory states should provide incentives to promote leak detection, and to facilitate water system renewal and rehabilitation; and

WHEREAS, the Water Conservation Advisory Committee recommended on September 26, 1986 that the Commission adopt regulations requiring purveyors in the Basin to undertake leak detection and repair programs; and

WHEREAS, the Commission held a public hearing on February 25, 1987 regarding this proposed regulation and has received and considered testimony from purveyors and other interested parties; and

WHEREAS, the Water Conservation Advisory Committee met on April 10, 1987 and revised the proposed amendment in response to the comments and testimony received; and the committee recommends that the revised proposal be adopted by the Commission; now therefore

BE IT RESOLVED by the Delaware River Basin Commission:

1. The Comprehensive Plan and Article 2 of the Water Code are hereby amended by the addition of a new subsection 2.1.6, to read as follows:

2.1.6 Leak detection and repair

(1) Owners of water supply systems serving the public (purveyors) in the Delaware River Basin that distribute water supplies in excess of an average of 100,000 gallons per day (gpd) during any 30-day period shall develop and undertake a systematic program to monitor and control leakage within their water supply system. Such a program shall at a minimum include: periodic surveys to monitor leakage, enumerate unaccounted-for water, and determine the current status of system infrastructure; recommendations to monitor and control leakage; and a schedule for the implementation of such recommendations. Each purveyor's program shall be subject to review and approval by the designated agency in the state where the system is located.

"Unaccounted-for water" is defined as the difference between the "metered ratio" and 100 percent. The metered ratio is the amount of water delivered through service meters divided by the amount of water entering the distribution system. The designated state agencies are: Delaware Department of Natural Resources and Environmental Control; New Jersey Department of Environmental Protection; New York Department of Environmental Conservation, and Pennsylvania Department of Environmental Resources.

(2) Each purveyor that distributes in excess of one million gallons per day (mgd) shall submit its initial program to monitor and control leakage to the appropriate designated agency within two years and each purveyor that distributes between 100,000 gpd and 1 mgd shall submit its initial program to monitor and control leakage to the appropriate designated agency within five years of the effective date of this regulation or at such earlier date as shall be fixed by the designated state agency. Each purveyor shall prepare and submit a revised and updated program to monitor and control leakage every three years thereafter or at such earlier date as shall be required by the designated state agency. The designated state agency may require more frequent program submission from purveyors with unaccounted-for water that is in excess of 15 percent.

(3) Any project approvals hereafter granted pursuant to Section 3.8 of the DRBC Compact or any renewal of a project approval shall be subject to the provisions of this regulation.

(4) To avoid duplication of effort and to insure proper enforcement of this regulation, the Executive Director shall enter into administrative agreements with each of the designated agencies authorizing such agencies to administer and enforce the provisions of this regulation to the extent practicable and to adopt such rules and regulations of procedure as may be necessary to insure the proper administration and enforcement of this regulation.

(5) This regulation shall be effective immediately.

No. 87-7

A RESOLUTION to amend the Comprehensive Plan and Water Code of the Delaware River Basin in relation to service metering.

WHEREAS, the Delaware River Basin Commission adopted on June 25, 1986, a resolution that requires source metering and recording of large surface and ground water withdrawals; and

WHEREAS, both source and service metering are needed to determine unaccounted-for water in a public water supply system, which is necessary for leak detection and repair; and

WHEREAS, current Commission policy on service metering applies only to new public water supply systems and extensions of existing public water supply systems; and

WHEREAS, the Water Conservation Advisory Committee, recognizing that complete and accurate metering of water withdrawn and delivered by a public water system is integral to prudent water supply management, recommended on September 26, 1986 that the Commission expand its policy on service metering to ultimately require universal service metering; and

WHEREAS, the Commission held a public hearing on February 25, 1987 regarding this proposed amendment and has received and considered testimony from water purveyors and other interested parties; and

WHEREAS, the Water Conservation Advisory Committee met on April 10, 1987 and revised the proposed amendment in response to the comments and testimony received; and the committee recommends that the revised proposal be adopted by the Commission; now therefore

BE IT RESOLVED by the Delaware River Basin Commission:

1. The Comprehensive Plan and Article 2 of the Water Code of the Delaware River Basin are hereby amended by the revision of subsection 2.50.1, to read as follows:

2.50.1 Service metering

(1) Owners of water supply systems serving the public (purveyors) in the Basin that distribute water supplies in excess of an average of 100,000 gallons per day during any 30-day period shall install, or require to be installed, water meters incident to the provision or maintenance of service at the retail level.

(2) (a) Meters shall be installed so as to record water use at all service connections. (b) Water furnished for fire suppression purposes shall be exempt from metering provided that fire suppression (sprinkler) systems are equipped with detector check or flow detection devices. (c) Water removed from fire hydrants shall be exempt from metering unless otherwise required by a purveyor, or state or local government.

(3) Water use shall be recorded or measured by means of a metering device that conforms to the performance specificiations of the American Water Works Association. Purveyors shall adopt and implement a program for periodic maintenance, calibration, and replacement of meters to ensure meter accuracy.

(4) Water charges collected by purveyors shall be based in part on metered usage.

(5) It is recommended that, at least once a year, each purveyor: (a) provide each metered residential customer with information on savings available through water conservation; and (b) explain different methods of residential water conservation and their cost-effectiveness, and the availability of water conservation devices.

(6) Installation of meters at existing unmetered connections shall be completed within ten years of the effective date of this regulation.

(7) To avoid duplication of effort and to insure proper enforcement of this regulation, the Executive Director shall enter into administrative agreements with the Delaware Department of Natural Resources and Environmental Control, New Jersey Department of Environmental Protection, New York Department of Environmental Conservation, Pennsylvania Department of Environmental Resources, and other state agencies where appropriate, authorizing such agencies to administer and enforce the provisions of this regulation to the extent practicable and to adopt such rules and regulations of procedure as may be necessary to insure the proper administration and enforcement of this regulation.

(8) This regulation shall be effective immediately.

OFFICE OF ADMINISTRATIVE LAW NOTE: These rules are not subject to codification and will not appear in the New Jersey Administrative Code.

MISCELLANEOUS NOTICES

ENVIRONMENTAL PROTECTION

(a)

RADIUM/RADON ADVISORY BOARD
Draft Temporary Storage Siting Criteria
Public Notice

Take notice that the Radium/Radon Advisory Board (RRAB) has developed draft siting criteria for the temporary storage of soil containing trace amounts of radium. The RRAB is a ten member board consisting of representatives of the New Jersey Departments of Health and Environmental Protection (NJDEP), the New Jersey Institute of Technology, representatives of the towns of Kearny, Vernon and Montclair, recognized environmental groups and health physicists. The material to which these temporary siting criteria will apply was excavated as part of the NJDEP Phase I Pilot Project to address the hazards of this material which was formerly located under and around occupied dwellings in Montclair, Glen Ridge and West Orange. The Superfund Amendments and Reauthorization Act of 1986 (SARA) has provided a grant of 7.5 million dollars for the temporary storage of this material. The NJDEP is therefore formulating options for the use of the SARA grant money.

This notice is being given to inform the public that draft siting criteria for temporary storage have been developed and are available for public inspection between June 8, 1987 and July 7, 1987 at the following locations:

Montclair Public Library
50 South Fulton Avenue
Montclair, New Jersey

Kearny Public Library
318 Kearny Avenue
Kearny, New Jersey

Morris County Public Library
30 East Hanover Avenue
Whippany, New Jersey

New Jersey Department of Environmental Protection
Headquarters Building—6th Floor
Bureau of Community Relations
401 East State Street
Trenton, New Jersey

Atlantic County Public Library—Hammonton Branch
South Egg Harbor Road (Route 30)
Hammonton, New Jersey

Interested persons may submit written comments concerning the draft criteria on or before July 7, 1987 to:

The Radium/Radon Advisory Board
c/o William Librizzi
New Jersey Department of Environmental Protection
401 East State Street, 7th Floor
CN 402
Trenton, New Jersey 08625

Three public hearings will be held Statewide by the Radium/Radon Advisory Board to receive comments on their draft temporary storage siting criteria. After the close of the comment period on July 7, 1987, final criteria will be recommended to the NJDEP to locate a temporary storage location within the State of New Jersey. The hearings will be held on:

Monday, June 22, 1987 at 7:00 P.M.
Hackensack Meadowlands Development Commission
Environmental Center
1 Dekorte Park Plaza
Lyndhurst, New Jersey

Wednesday, June 24, 1987 at 2:00 P.M.
Rutgers University
Cook College Campus, Labor Education Center
Ryders Lane at Clifton Avenue
New Brunswick, New Jersey

Thursday, June 25, 1987 at 7:00 P.M.
Stockton State College, CC-103 Lecture Hall
Pomona Road (Route 575)
Pomona, New Jersey

For further information, please contact Kevin Kratina, Senior Area Coordinator, NJDEP, Bureau of Community Relations at (609) 984-3081.

(b)

DIVISON OF WATER RESOURCES
Amendment to the Upper Raritan Water Quality Management Plan
Public Notice

Take notice that on February 25, 1987 pursuant to the provisions of the Water Quality Planning Act, N.J.S.A. 58:11A-1 et seq., and the Water Quality Management Planning and Implementation Process Regulations, N.J.A.C. 7:15-3.4, an amendment to the Upper Raritan Water Quality Management Plan was adopted by the Department. This amendment will permit abandonment of the Bedens Brook, Bedens Brook Country Club, Sleepy Hollow, and Burnt Hill sewage treatment plants. It will also allow for the construction of the proposed Polo Club and Great Road Land Company sewage treatment plants with the Township as the co-permittee. In addition, as part of this amendment, a Wastewater Management Plan was adopted to provide a plan for addressing the wastewater management needs of Montgomery Township. The Township is designated as the Wastewater Management Agency for all of the facilities in Montgomery.

The following is a summary of the comments submitted to the Department during the 30-day public comment period ending on November 5, 1986. The Department's response follows each of the comments. Where more than one comment concerned the same issue, the Department's response is to that general issue.

Summary of Public Comments and Agency Responses:

COMMENT: The sewer service area in the Wastewater Management Plan excludes certain properties, which should be served.

RESPONSE: The inclusion of the properties in question is inappropriate in that it has not been satisfactorily demonstrated that the lands should be provided either sewer or septic service. Further information is required before it can be determined whether provision of service is appropriate. In addition, local zoning issues must also be addressed.

It should be noted that these and other properties may be designated as sewer service areas through future amendments to the Water Quality Management Plan, if appropriate.

COMMENT: The Wastewater Management Plan establishes a flow limit of 4,500 gallons per day for the Ingersoll-Rand Company's existing treatment plant. The New Jersey Pollutant Discharge Elimination System permit, however, does not include a flow limit.

RESPONSE: The stated flow limit is derived from the "Permission to Construct Facilities for Treatment of Sanitary Sewage and Laboratory Chemical Wastes." That document indicates that the designed flow for sanitary waste is 3,000 gallons per day and 1,500 gallons per day for industrial waste.

(c)

Amendment to the Upper Raritan Water Quality Management Plan
Public Notice

Take notice that an amendment to the Upper Raritan Water Quality Management (WQM) Plan has been submitted for approval. This amendment consists of a Wastewater Management Plan (WMP) for Union Township, Hunterdon County. The WMP would allow for several new or expanded treatment facilities in the Township, which the Township will serve as co-permittee. The Township will also be designated as a Wastewater Management Agency.

This notice is being given to inform the public that a plan amendment has been developed for the Upper Raritan WQM Plan. All information dealing with the aforesaid WQM Plan, and the proposed amendment is

located at the Office of NJDEP, Division of Water Resources, Bureau of Water Resources Management Planning, 3rd Floor, 401 East State Street, CN-029, Trenton, N.J. 08625. It is available for inspection between 8:30 A.M. and 4:00 P.M., Monday through Friday.

Interested persons may submit written comments on the amendment to George Horzepa, Bureau of Water Resources Management Planning, at the NJDEP address cited above. All comments must be submitted within 30 days of the date of this public notice. All comments submitted by interested persons in response to this notice, within the time limit, shall be considered by NJDEP with respect to the amendment request.

Any interested persons may request in writing that NJDEP hold a nonadversarial public hearing on the amendment. This request must state the nature of the issues to be raised at the proposed hearing and must be submitted within 30 days of the date of this public notice to Mr. Horzepa at the NJDEP address cited above. If a public hearing is held, the public comment period in this notice shall automatically be extended to the close of the public hearing.

(a)

Amendment to the Tri-County Water Quality Management Plan

Public Notice

Take notice that an amendment to the Tri-County Water Quality Management (WQM) Plan has been submitted for approval. This amendment would allow the expansion of the Gloucester County Utilities Authority's sewer service area to include the proposed Forest Park development located in Deptford Township, Gloucester County. Also, this amendment would permit the filling of less than one acre of wetlands for two minor road crossings.

This notice is being given to inform the public that a plan amendment has been developed for the Tri-County WQM Plan. All information dealing with the aforesaid WQM Plan, and the proposed amendment is located at the office of NJDEP, Division of Water Resources, Bureau of Water Resources Management Planning, 3rd Floor, 401 East State Street, CN-029, Trenton, N.J. 08625. It is available for inspection between 8:30 A.M. and 4:00 P.M., Monday through Friday.

Interested persons may submit written comments on the amendment to George Horzepa, Bureau of Water Resources Management Planning, at the NJDEP address cited above. All comments must be submitted within 30 days of the date of this public notice. All comments submitted by interested persons in response to this notice, within the time limit, shall be considered by NJDEP with respect to the amendment request.

Any interested person may request in writing that NJDEP hold a nonadversarial public hearing on the amendment. This request must state the nature of the issues to be raised at the proposed hearing and must be submitted within 30 days of the date of this public notice to Mr. Horzepa at the NJDEP address cited above. If a public hearing is held, the public comment period in this notice shall automatically be extended to the close of the public hearing.

(b)

Amendment to the Tri-County Water Quality Management Plan

Public Notice

Take notice that an amendment to the Tri-County Water Quality Management (WQM) Plan has been submitted for approval. This amendment would allow the expansion of the Gloucester County Utilities Authority's sewer service area to include the proposed Holiday City development located in Monroe Township, Gloucester County. Approval of this amendment would be conditioned on the placement of a wetlands conservation easement on the entire site. The final plan for the project containing the wetlands conservation easement would be filed upon receipt of final subdivision approval. A survey of the wetlands would be submitted prior to the issuance of a sewer extension permit for each section.

This notice is being given to inform the public that a plan amendment has been developed for the Tri-County WQM Plan. All information dealing with the aforesaid WQM Plan, and the proposed amendment is located at the office of NJDEP, Division of Water Resources, Bureau of Water Resources Management Planning, 3rd Floor, 401 East State Street, CN-029, Trenton, N.J. 08625. It is available for inspection between 8:30 A.M. and 4:00 P.M., Monday through Friday.

Interested persons may submit written comments on the amendment to George Horzepa, Bureau of Water Resources Management Planning, at the NJDEP address cited above. All comments must be submitted within 30 days of the date of this public notice. All comments submitted by interested persons in response to this notice, within the time limit, shall be considered by NJDEP with respect to the amendment request.

Any interested person may request in writing that NJDEP hold a nonadversarial public hearing on the amendment. This request must state the nature of the issues to be raised at the proposed hearing and must be submitted within 30 days of the date of this public notice to Mr. Horzepa at the NJDEP address cited above. If a public hearing is held, the public comment period in this notice shall automatically be extended to the close of the public hearing.

LAW AND PUBLIC SAFETY

(c)

DIVISION OF MOTOR VEHICLES

Application for Certificate of Public Convenience

Public Notice

Take notice that Glenn R. Paulsen, Director, Division of Motor Vehicles, pursuant to the authority of N.J.S.A. 38:5E.11 hereby lists the name and address of an applicant who has filed an application for common carrier's Certificate of Public Convenience permit to engage in the business of transporting bulk commodities in intrastate commerce.

COMMON CARRIER (NON-GRANDFATHER)

Makowski Hauling
643 Conchester Highway
Route 322
Concordville, PA 19331

Protests in writing and verified under oath may be presented by interested parties to the Director of Motor Vehicles within 20 days following the publication date of this application.

TREASURY-GENERAL

(d)

DIVISION OF BUILDING AND CONSTRUCTION

Architect-Engineer Selection

Notice of Assignments: Month of April

Solicitations of design services for major projects are made by notices published in construction trade publications and newspapers and by direct notification of professional associations/societies and listed, prequalified New Jersey consulting firms. For information on DBC's prequalification and assignment procedures, call (609) 984-6979.

Last list dated April 8, 1987.

The following assignments have been made:

DBC No.	PROJECT	A/E	CCE
H855	Paving of Roads & Lots Glassboro State College Glassboro, NJ	Thomas Tyler Moore Associates	$100,000
T191	Prototype-Control Building Truck Weigh Station	Matthew L. Rue, AIA	$2,000 Services
P538	Water Supply System—Phase II Whitesbog Village Lebanon State Forest	Stone & Webster	$400,000
A630	Parking Lot Improvements Area #6 State House Complex Trenton, NJ	PRC Engineering	$1,400,000
I004	Asbestos Removal Speech Building Montclair State College Upper Montclair, NJ	O'Brien & Gere Engineering, Inc.	$60,000

C202	Door Control System Review Youth Correctional Facility Annandale, NJ	Colorado On-Line Systems, Inc.	$5,000 Services
M600-01	Testing/Inspection Services Phase II Amended Veterans Nursing Facility Paramus, NJ	Testwell Craig Testing Labs, Inc.	$9,970 Services
M561-01	Asbestos Removal—Main Building Ancora Psychiatric Hospital Hammonton, NJ	Kaselaan & D'Angelo Assoc., Inc.	$417,000

COMPETITIVE PROPOSALS

Kaselaan & D'Angelo Assoc., Inc.	$ 56,350 Lump Sum
Gaudet Associates, Inc.	$ 59,250 Lump Sum
BCM Eastern, Inc.	$ 60,020 Lump Sum
O'Brien & Gere Engineers, Inc.	$114,500 Lump Sum

E166	Steam & Condensate Return Line Replacement Marie H. Katzenbach School for the Deaf West Trenton, NJ	Technical Associates, Inc.	$587,000

COMPETITIVE PROPOSALS

Technical Associates, Inc.	6.64%
Stone & Webster Eng. Corp.	7.80%
Jeffrey & Kallaur	8.49%
Brownworth, Mosher & Doran	8.99%

H871-01	Asbestos Removal Music Building Montclair State College Upper Montclair, NJ	O'Brien & Gere Engineers, Inc.	$114,000

COMPETITIVE PROPOSALS

O'Brien & Gere Engineers, Inc.	$13,875 Lump Sum
Gaudet Associates, Inc.	$21,720 Lump Sum
BCM Eastern, Inc.	$29,642 Lump Sum

M505-02	Asbestos Removal at 6 Residential Cottages No. Jersey Developmental Center Totowa, NJ	Testwell Craig Lab, Inc.	$170,000

COMPETITIVE PROPOSALS

Testwell Craig Laboratories, Inc.	$14,750 Lump Sum
Gaudet Associates, Inc.	$28,880 Lump Sum
O'Brien & Gere Engineers, Inc.	$31,200 Lump Sum
BMC Eastern, Inc.	$36,075 Lump Sum

M715	Electrical Distribution Vineland Developmental Center Vineland, NJ	Stone & Webster Engineering Corp.	$1,260,000

COMPETITIVE PROPOSALS

Stone & Webster Engineering Corp.	7.49%
Chu & Gassman, Inc.	7.50%
Ebasco Services, Inc.	8.57%
Henkels & McCoy, Inc.	9.30%

C324-01	Willow Hall Renovations Ancora Psychiatric Hospital Hammonton, NJ	The Tarquini Organization, PA	$950,000

COMPETITIVE PROPOSALS

The Tarquini Organization, PA	10.0%
Lammey & Giorgio, PA	16.84%
*Capriotti & Vining	9.30%

*Proposal qualified-nonresponsive

A801, M801	Roadway/Parking Consultant Various Projects—South District Div. of Property & Facilities Mgnt.) (A801) Dept. of Human Services (M801)	Gannett Fleming	$1,400,000 Total Projects

COMPETITIVE PROPOSALS

	Principal Rate	Multiplier	Multiplier-Inspector
Gannett Fleming	$75	2.80	2.50
EMJ/McFarland Johnson	$93	3.42	3.15
Pennoni Associates	$70	2.75	2.75/235* *Full Time

*Note: Multipliers to be used with direct salaries.

M802	Roadway/Parking Consultant Various Projects—North District Dept. of Human Services	URS Company, Inc.	$1,600,000 Total Projects

COMPETITIVE PROPOSALS

	Principal Rate	Multiplier	Multiplier-Inspector
URS Company, Inc.	$75	2.55	2.10
Louis Berger & Assoc.	$75	2.35	1.85
RBA Group	$70	2.59	2.19

*Note: Multipliers to be used with direct salaries.

EXECUTIVE ORDER NO. 66(1978) EXPIRATION DATES

Pursuant to N.J.A.C. 1:30-4.4, all expiration dates are now affixed at the chapter level. The following table is a complete listing of all current New Jersey Administrative Code expiration dates by **Title** and **Chapter.** If a chapter is not cited, then it does not have an expiration date. In some instances, however, exceptions occur to the chapter-level assignment. These variations do appear in the listing along with the appropriate chapter citation, and are noted either as an exemption from Executive Order No. 66(1978) or as a subchapter-level date differing from the chapter date.

Current expiration dates may also be found in the loose-leaf volumes of the Administrative Code under the **Title** Table of Contents for each executive department or agency and on the **Subtitle** page for each group of chapters in a Title. Please disregard all expiration dates appearing elsewhere in a Title volume.

This listing is revised monthly and appears in the first issue of each month.

OFFICE OF ADMINISTRATIVE LAW—TITLE 1

N.J.A.C.	Expiration Date
1:1	5/4/92
1:5	10/20/91
1:6	5/4/92
1:6A	5/4/92
1:7	5/4/92
1:10	5/4/92
1:10A	5/4/92
1:10B	10/6/91
1:11	5/4/92
1:13	5/4/92
1:20	5/4/92
1:21	5/4/92
1:30	2/14/91
1:31	8/12/87

AGRICULTURE—TITLE 2

N.J.A.C.	Expiration Date
2:1	9/3/90
2:2 (Except for 2:2-9 which expired 6/11/84)	10/3/88
2:3 (Except for 2:3-4 which expired 1/8/86)	6/18/89
2:5	6/18/89
2:6	9/3/90
2:7	9/29/88
2:9	7/7/91
2:16	5/7/90
2:22	1/18/87
2:23	6/6/88
2:24	2/11/90
2:32	6/1/92
2:48	11/27/90
2:50	5/1/92
2:52	6/7/90
2:53	3/3/91
2:54	Exempt (7 U.S.C. 601 et seq. 7 C.F.R. 1004)
2:68	8/1/88
2:69	10/3/88
2:70	5/7/90
2:71	9/1/88
2:72	9/1/88
2:73	7/18/88
2:74	9/1/88
2:76	8/29/89
2:90	6/24/90

BANKING—TITLE 3

N.J.A.C.	Expiration Date
3:1	1/6/91
3:2	4/15/90
3:6 (Except for 3:6-8 which expired 4/9/85)	3/3/91
3:7	9/16/90
3:11 (Except for 3:11-2 which expired 6/3/85)	3/19/89
3:13	11/17/91
3:17	6/18/91
3:19	3/17/91
3:21	2/2/92
3:22	5/21/89
3:23	5/3/87
3:24	8/20/89
3:26	12/31/90
3:27	9/16/90
3:28	12/17/89
3:30	10/17/88
3:38	9/7/87
3:41	10/16/90

CIVIL SERVICE—TITLE 4

N.J.A.C.	Expiration Date
4:1	1/28/90
4:2	1/28/90
4:3	6/4/89
4:4	12/5/91
4:6	5/5/91

COMMUNITY AFFAIRS—TITLE 5

N.J.A.C.	Expiration Date
5:3	9/1/88
5:10	12/1/88
5:11	3/1/89
5:12	1/1/90
5:13	1/1/88
5:14	12/1/90
5:17	6/1/89
5:18	2/1/90
5:18A	2/1/90
5:18B	2/1/90
5:22	12/1/90
5:23	4/1/88
5:24	9/1/90
5:25	3/1/91
5:26	3/1/91
5:27	6/1/90
5:28	12/20/90
5:29	6/18/91
5:30	6/1/88
5:31	12/1/89
5:37	11/18/90
5:38	11/7/88
5:51	9/1/88
5:70	8/16/87
5:71	3/1/90
5:80	5/20/90
5:91	6/16/91
5:92	6/16/91
5:100	5/7/89

DEPARTMENT OF DEFENSE—TITLE 5A

N.J.A.C.	Expiration Date
5A:2	5/20/90

EDUCATION—TITLE 6

N.J.A.C.	Expiration Date
6:2	3/1/89
6:3	8/18/88
6:8	1/5/92
6:11	12/12/90
6:12	4/2/91
6:20	8/9/90
6:21	8/9/90
6:22	9/3/90
6:24	4/2/91
6:26	1/24/90
6:27	1/24/90
6:28	6/1/89
6:29	3/25/90
6:30	8/31/88
6:31	1/24/90
6:39	10/18/89
6:43	4/7/91
6:46	12/1/87
6:53	9/1/87
6:64	5/1/88
6:68	4/12/90
6:70	1/25/90
6:79	2/1/88

ENVIRONMENTAL PROTECTION—TITLE 7

N.J.A.C.	Expiration Date
7:1	9/16/90
7:1A	6/7/87
7:1C	6/17/90
7:1D	12/1/88
7:1E	7/15/90
7:1F	4/20/92
7:1G	10/1/89
7:1H	7/24/90
7:1I	11/18/88
7:2	7/19/88
7:4	Expired 8/16/84
7:6	12/19/88
7:7	5/7/89
7:7E	7/24/90
7:7F	12/6/87
7:8	2/7/88
7:9	1/21/91
(Except for 7:9-1 which expired 4/25/85)	
7:10	9/4/89
7:11	6/6/88
7:12	6/6/88
7:13	5/4/89
7:14	4/27/89
(Except for 7:14-5 which expired 6/23/85)	
7:14A	6/4/89
7:15	4/2/89
7:17	4/7/91
7:18	8/6/91
7:19	4/15/90
7:19A	2/19/90
7:19B	2/19/90
7:20	5/6/90
7:20A	12/19/88
7:22	1/5/92
7:23	6/18/89
7:24	5/19/91
7:25	2/18/91
7:25A	5/6/90
7:26	11/4/90
(Except for 7:26-5 which expired 10/7/85)	
7:27	Exempt
7:27A	Expired 10/7/85
7:27B-3	Exempt
7:28	10/7/90
7:29	3/18/90
7:29B	4/5/87
7:30	12/6/87
7:36-1	8/5/90
7:36-2	Expired 1/9/86
7:36-3	Expired 1/9/86
7:36-4	8/5/90
7:36-5	Expired 1/9/86
7:36-6	Expired 1/9/86
7:36-7	8/5/90
7:37	Exempt
7:38	9/18/90
7:45	Expired 1/11/85

HEALTH—TITLE 8

N.J.A.C.	Expiration Date
8:7	9/16/90
8:8	5/21/89
8:9	2/18/91
8:13	8/2/87
8:19	6/28/90
8:20	3/4/90
8:21	11/18/90
(Except for 8:21-1 which expired 5/15/85; 8:21-4 which expired 7/21/83; 8:21-6 which expired 9/18/85)	
8:21A	4/1/90
8:22	8/4/91
8:23	12/17/89
8:24	4/4/88
8:25	5/20/88
8:26	8/4/91
8:31	11/5/89
8:31A	3/18/90
8:31B	10/15/90
(Except for 8:31B-1 which expired 7/19/84)	
8:32	Expired 3/12/85
8:33	10/7/90
8:33A	4/15/90
8:33B	10/7/90
8:33C	8/20/89
8:33D	2/1/87
8:33E	2/4/90
8:33F	1/14/90
8:33G	7/20/89
8:33H	7/19/90
8:33I	9/15/91
8:33J	5/17/89
8:33K	4/16/89
8:34	11/18/88
8:39	6/20/88
8:40	4/15/90
8:41	2/17/92
8:42	3/18/90
8:42A	6/12/91
8:42B	8/1/88
8:43	1/21/91
8:43A	9/3/90
8:43B	1/21/91
8:43E	1/17/88
8:43F	3/18/90

N.J.A.C.	Expiration Date
8:43G	9/8/91
8:44	11/7/88
8:45	5/20/90
8:48	8/20/89
8:51	9/16/90
8:52	12/15/91
8:53	8/4/91
8:57	6/18/90
8:58	Expired 5/1/84
8:59	10/1/89
8:60	5/3/90
8:61	10/6/91
8:65	12/2/90
8:70	9/17/88
8:71	4/2/89

HIGHER EDUCATION—TITLE 9

N.J.A.C.	Expiration Date
9:1	1/17/89
9:2	6/17/90
9:3	10/17/88
9:4	10/30/91
9:5	1/21/91
9:6	5/20/90
9:7	4/13/88
9:8	11/4/90
9:9	10/3/88
9:11	1/17/89
9:12	1/17/89
9:14	5/20/90
9:15	10/25/88

HUMAN SERVICES—TITLE 10

N.J.A.C.	Expiration Date
10:1	5/6/88
10:2	1/5/92
10:3	9/19/88
10:4	1/3/88
10:5	12/19/88
10:6	2/21/89
10:12	1/5/92
10:36	8/18/91
10:37	11/4/90
10:38	5/28/91
10:40	3/15/89
10:42	8/18/91
10:43	9/1/88
10:44	10/3/88
10:44A	2/7/88
10:44B	4/15/90
10:45	9/19/88
10:47	11/4/90
10:48	1/21/91
10:49	8/12/90
10:50	3/3/91
10:51	10/28/90
10:52	2/19/90
10:53	4/29/90
10:54	3/3/91
10:55	3/11/90
10:56	8/26/91
10:57	3/3/91
10:58	3/3/91
10:59	3/3/91
10:60	8/27/90
10:61	3/3/91
10:62	3/3/91
10:63	11/29/89
10:64	3/3/91
10:65	11/5/89
10:66	12/15/88
10:67	3/3/91
10:68	7/7/91
10:69A	4/26/88
10:69B	11/21/88
10:70	6/16/91
10:80	8/23/89
10:81	10/15/89
10:82	10/29/89
10:85	1/30/90
10:87	3/1/89
10:89	9/11/90
10:90	11/15/87
10:94	1/6/91
10:95	8/23/89
10:97	4/16/89
10:98	7/12/87
10:99	2/19/90
10:100	2/6/89
10:109	3/17/91
10:112	2/17/89
10:120	9/26/88
10:121	3/13/89
10:121A	8/6/87
10:122	8/6/89
10:122A	Exempt
10:122B	9/10/89
10:123	7/20/90
10:124	7/19/87
10:125	7/16/89
10:127	9/19/88
10:129	10/11/89
10:130	9/19/88
10:131	9/20/87
10:132	1/5/92
10:140	12/31/86
10:141	2/21/89

CORRECTIONS—TITLE 10A

N.J.A.C.	Expiration Date
10A:3	10/6/91
10A:4	7/21/91
10A:5	10/6/91
10A:9	1/20/92
10A:16	4/6/92
10A:17	12/15/91
10A:31	2/4/90
10A:32	3/4/90
10A:33	7/16/89
10A:34	4/6/92
10A:70	Exempt
10A:71	4/15/90

INSURANCE—TITLE 11

N.J.A.C.	Expiration Date
11:1	2/3/91
11:1-20	7/7/88
11:1-22	7/7/88
11:2	12/2/90
11:3	1/6/91
11:4	12/2/90
11:5	11/7/88
11:10	7/15/90
11:12	10/27/91
11:13	12/6/87
11:14	7/2/89
11:15	12/3/89
11:16	2/3/91

LABOR—TITLE 12

N.J.A.C.	Expiration Date
12:15	8/19/90
12:16	4/1/90
12:17	1/6/91
12:20	11/5/89
12:35	8/5/90
12:45	5/2/88
12:46	5/2/88
12:47	5/2/88
12:48	5/2/88
12:49	5/2/88
12:51	6/30/91
12:56	9/26/90
12:57	9/26/90
12:58	9/26/90
12:90	12/17/89
12:100	11/5/89
12:105	1/21/91
12:120	5/3/90
12:175	12/9/88
12:190	9/5/87
12:195	9/6/88
12:200	8/5/90
12:235	5/5/91

COMMERCE AND ECONOMIC DEVELOPMENT—TITLE 12A

N.J.A.C.	Expiration Date
12:10-1	8/15/89
12A:100-1	9/8/91

LAW AND PUBLIC SAFETY—TITLE 13

N.J.A.C.	Expiration Date
13:1	7/19/88
13:1C	Expired 12/1/83
13:2	8/5/90
13:3	8/1/88
13:4	1/21/91
13:10	5/27/89
13:13	6/17/90
13:18	4/1/90
13:19	8/23/89
13:20	12/18/90
13:21	12/16/90
13:22	1/7/90
13:23	6/4/89
13:24	11/5/89
13:25	3/18/90
13:26	10/17/88
13:27	4/1/90
13:27A	11/1/87
13:28	9/3/90
13:29	6/3/90
13:30	4/15/90
13:31	12/12/91
13:32	11/1/87
13:33	3/18/90
13:34	11/21/88
13:35	11/19/89
13:36	11/19/89
13:37	2/11/90
13:38	10/7/90
13:39	1/6/91
13:39A	7/7/91
13:40	9/3/90
13:41	9/3/90
13:42	11/3/88
13:43	9/8/88
13:44	8/20/89
13:44A	Expired 5/17/84
13:44B	5/3/87
13:44C	6/2/91
13:45A	12/16/90
13:46	6/3/90
13:47	2/2/92
13:47A (Except for 13:47A-25 which expired 8/14/83)	9/7/87
13:47B	1/4/89
13:47C	8/20/89
13:48	1/21/91
13:49	12/19/88
13:51	4/27/92
13:54	10/5/91
13:58	9/7/89
13:59	9/16/90
13:60	1/20/92
13:70	2/25/90
13:71	2/25/90
13:75	8/20/89
13:76	9/6/88

PUBLIC UTILITIES—TITLE 14

N.J.A.C.	Expiration Date
14:1	12/16/90
14:3	5/6/90
14:5	12/16/90
14:6	3/3/91
14:9	4/15/90
14:11	1/27/92
14:10	9/8/91
14:17	5/7/89
14:18	7/29/90

ENERGY—TITLE 14A

N.J.A.C.	Expiration Date
14A:2	4/17/89
14A:3 (Except for 14A:3-10 which expired 9/1/85)	10/7/90
14A:4	10/19/88
14A:5	10/19/88
14A:6	8/6/89
14A:7	9/16/90
14A:8	9/20/89
14A:9	Expired 4/27/84
14A:11	9/20/89
14A:12	2/7/88
14A:13	2/2/92
14A:14	2/6/89
14A:20	2/3/91
14A:21	11/21/90
14A:22	6/4/89

STATE—TITLE 15

N.J.A.C.	Expiration Date
15:2	3/7/88
15:3	7/7/91
15:5	2/17/92
15:10	2/18/91

TRANSPORTATION—TITLE 16

N.J.A.C.	Expiration Date
16:1	8/5/90
16:2	10/3/88
16:6	9/3/90
16:13	5/7/89
16:16	11/7/88

N.J.A.C.	Expiration Date
16:17	11/7/88
16:20A	12/17/89
16:20B	12/17/89
16:21	9/3/90
16:21A	8/20/89
16:22	2/3/91
16:25-12	Expired 2/5/84
16:25-13	Expired 2/5/84
16:26	8/6/89
16:27	9/8/91
16:28	11/7/88
16:28A	11/7/88
16:29	11/7/88
16:30	11/7/88
16:31	11/7/88
16:31A	10/20/88
16:32	4/15/90
16:33	9/3/90
16:41	11/15/87
16:41A	2/19/90
16:41B	3/4/90
16:43	9/3/90
16:44	10/3/88
16:49	3/18/90
16:51	4/6/92
16:53	3/19/89
16:53A	4/15/90
16:53C	9/19/88
16:53D	5/7/89
16:54	4/7/91
16:55	11/7/88
16:56	6/4/89
16:60	11/7/88
16:61	11/7/88
16:62	4/15/90
16:72	3/31/91
16:73	1/30/92
16:75	6/6/88
16:76	12/19/88
16:77	1/21/90
16:78	10/7/90
16:79	10/20/91

TREASURY-GENERAL—TITLE 17

N.J.A.C.	Expiration Date
17:1	6/6/88
17:2	12/17/89
17:3	6/6/88
17:4	7/1/90
17:5	12/2/90
17:6	2/19/89
17:7	6/6/88
17:8	6/27/90
17:9	6/6/88
17:10	6/6/88
17:12	8/15/89
17:16	12/2/90
17:19 (Except for 17:19-10 which expired 3/3/85)	3/18/90
17:19A	Expired 2/1/84
17:20	11/7/88
17:25	6/18/89
17:27	11/7/88
17:28	9/13/90
17:29	10/18/90
17:30	5/4/92

TREASURY-TAXATION—TITLE 18

N.J.A.C.	Expiration Date
18:3	4/23/89
18:5	4/16/89
18:6	4/2/89
18:7	4/2/89
18:8	4/2/89
18:9	8/12/88
18:12	8/12/88
18:12A	8/12/88
18:14	8/12/88
18:15	8/12/88
18:16	8/12/88
18:17	8/12/88
18:18	4/2/89
18:19	4/6/89
18:22	4/2/89
18:23	4/2/89
18:23A	8/5/90
18:24	8/12/88
18:25	1/6/91
18:26	8/12/88
18:30	4/2/89
18:35	8/12/88
18:36	2/4/90
18:37	8/5/90

OTHER AGENCIES—TITLE 19

N.J.A.C.	Expiration Date
19:3	6/19/88
19:3B	Exempt (N.J.S.A. 13:17-1)
19:4	11/7/88
19:4A	5/2/88
19:8	6/1/88
19:9	7/13/88
19:12	8/7/91
19:16	8/7/91
19:17	7/15/88
19:25	1/9/91
19:30	10/7/90
19:40	9/26/89
19:41	5/17/88
19:42	5/17/88
19:43	4/27/89
19:44	10/13/88
19:45	4/7/88
19:46	5/4/88
19:47	5/4/88
19:48	10/13/88
19:49	3/29/88
19:50	5/23/88
19:51	8/14/91
19:52	9/25/91
19:53	5/4/88
19:54	4/15/88
19:61	7/7/91
19:65	7/7/91
19:75	1/17/89

REGISTER INDEX OF RULE PROPOSALS AND ADOPTIONS

The research supplement to the New Jersey Administrative Code

A CUMULATIVE LISTING OF CURRENT PROPOSALS AND ADOPTIONS

The **Register Index of Rule Proposals and Adoptions** is a complete listing of all active rule proposals (with the exception of rule changes proposed in this Register) and all new rules and amendments promulgated since the most recent update to the Administrative Code. Rule proposals in this issue will be entered in the Index of the next issue of the Register. **Adoptions promulgated in this Register have already been noted in the Index by the addition of the Document Number and Adoption Notice N.J.R. Citation next to the appropriate proposal listing.**

Generally, the key to locating a particular rule change is to find, under the appropriate Administrative Code Title, the N.J.A.C. citation of the rule you are researching. If you do not know the exact citation, scan the column of rule descriptions for the subject of your research. To be sure that you have found all of the changes, either proposed or adopted, to a given rule, scan the citations above and below that rule to find any related entries.

At the bottom of the index listing for each Administrative Code Title is the Transmittal number and date of the latest looseleaf update to that Title. Updates are issued monthly and include the previous month's adoptions, which are subsequently deleted from the Index. To be certain that you have a copy of all recent promulgations not yet issued in a Code update, retain each Register beginning with the April 6, 1987 issue.

If you need to retain a copy of all currently proposed rules, you must save the last 12 months of Registers. A proposal may be adopted up to one year after its initial publication in the Register. Failure to adopt a proposed rule on a timely basis requires the proposing agency to resubmit the proposal and to comply with the notice and opportunity-to-be-heard requirements of the Administrative Procedure Act (N.J.S.A. 52:14B-1 et seq.), as implemented by the Rules for Agency Rulemaking (N.J.A.C. 1:30) of the Office of Administrative Law. If an agency allows a proposed rule to lapse, "Expired" will be inserted to the right of the Proposal Notice N.J.R. Citation in the next Register following expiration. Subsequently, the entire proposal entry will be deleted from the Index. See: N.J.A.C. 1:30-4.2(d).

Terms and abbreviations used in this Index:

N.J.A.C. Citation. The New Jersey Administrative Code numerical designation for each proposed or adopted rule entry.

Proposal Notice (N.J.R. Citation). The New Jersey Register page number and item identification for the publication notice and text of a proposed amendment or new rule.

Document Number. The Registry number for each adopted amendment or new rule on file at the Office of Administrative Law, designating the year of adoption of the rule and its chronological ranking in the Registry. As an example, R.1987 d.1 means the first rule adopted in 1987.

Adoption Notice (N.J.R. Citation). The New Jersey Register page number and item identification for the publication notice and text of an adopted amendment or new rule.

Transmittal. A number and date certifying the currency of rules found in each Title of the New Jersey Administrative Code: Rule adoptions published in the Register after the Transmittal date indicated do not yet appear in the loose-leaf volumes of the Code.

N.J.R. Citation Locator. An issue-by-issue listing of first and last pages of the previous 12 months of Registers. Use the locator to find the issue of publication of a rule proposal or adoption.

MOST RECENT UPDATE TO THE ADMINISTRATIVE CODE: MARCH 16, 1987.

NEXT UPDATE WILL BE DATED APRIL 20, 1987.

Note: If no changes have occurred in a Title during the previous month, no update will be issued for that Title.

N.J.R. CITATION LOCATOR

If the N.J.R. citation is between:	Then the rule proposal or adoption appears in this issue of the Register	If the N.J.R. citation is between:	Then the rule proposal or adoption appears in this issue of the Register
18 N.J.R. 1019 and 1122	May 19, 1986	18 N.J.R. 2345 and 2408	December 1, 1986
18 N.J.R. 1123 and 1222	June 2, 1986	18 N.J.R. 2409 and 2472	December 15, 1986
18 N.J.R. 1223 and 1326	June 16, 1986	19 N.J.R. 1 and 164	January 5, 1987
18 N.J.R. 1327 and 1432	July 7, 1986	19 N.J.R. 165 and 260	January 20, 1987
18 N.J.R. 1433 and 1504	July 21, 1986	19 N.J.R. 261 and 324	February 2, 1987
18 N.J.R. 1505 and 1640	August 4, 1986	19 N.J.R. 325 and 392	February 17, 1987
18 N.J.R. 1641 and 1726	August 18, 1986	19 N.J.R. 393 and 430	March 2, 1987
18 N.J.R. 1727 and 1862	September 8, 1986	19 N.J.R. 431 and 476	March 16, 1987
18 N.J.R. 1863 and 1978	September 22, 1986	19 N.J.R. 477 and 586	April 6, 1987
18 N.J.R. 1979 and 2078	October 6, 1986	19 N.J.R. 587 and 672	April 20, 1987
18 N.J.R. 2069 and 2148	October 20, 1986	19 N.J.R. 673 and 794	May 4, 1987
18 N.J.R. 2149 and 2234	November 3, 1986	19 N.J.R. 795 and 898	May 18, 1987
18 N.J.R. 2235 and 2344	November 17, 1986	19 N.J.R. 899 and 1006	June 1, 1987

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ADMINISTRATIVE LAW—TITLE 1				
1:1, 1:2—1:21	Administrative hearings	18 N.J.R. 1728(a)	R.1987 d.200	19 N.J.R. 715(a)
1:30-1.2, 2.8	Use of appendices	19 N.J.R. 675(a)		
1:30-1.12, 3.6, 4.1	Agency rulemaking: correction to Administrative Code	———	———	19 N.J.R. 777(a)
1:30-3.1	Additional notice of proposed rulemaking	19 N.J.R. 675(b)		
1:30-4.1, 4.5	Filing of adopted rules; emergency rule adoptions	19 N.J.R. 676(a)		
1:31-1.2—2.1	Petition for a rule	19 N.J.R. 677(a)		
	(TRANSMITTAL 25, dated December 15, 1986)			
AGRICULTURE—TITLE 2				
2:22	Control of dangerously injurious insects	19 N.J.R. 479(a)		
2:32	Sire Stakes Program	19 N.J.R. 480(a)	R.1987 d.236	19 N.J.R. 924(a)
2:50	Milk production and supply	19 N.J.R. 433(a)	R.1987 d.232	19 N.J.R. 927(a)
2:69-1.11	Commercial values of fertilizers	19 N.J.R. 484(a)		
2:90-1.3	Soil erosion and sedimentation control	18 N.J.R. 2081(a)	R.1987 d.171	19 N.J.R. 513(a)
2:90-1.5, 1.13, 1.14	Soil erosion and sediment control	19 N.J.R. 395(a)	R.1987 d.222	19 N.J.R. 861(a)
	(TRANSMITTAL 1987-1, dated February 17, 1987)			
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3:6-16	Qualified bank acquisitions of underwritten securities	19 N.J.R. 677(b)		
3:7-5.1	Statement of interest and bank holding companies	19 N.J.R. 327(a)	R.1987 d.192	19 N.J.R. 632(a)
3:11-11.13	Leeway investments: confidentiality of approval process	18 N.J.R. 1224(a)		
3:23	License fees	19 N.J.R. 485(a)		
3:41	Cemeteries: disinterment and reinterment of human remains	18 N.J.R. 1642(a)		
	(TRANSMITTAL 1987-1, dated February 17, 1987)			
PERSONNEL (CIVIL SERVICE)—TITLE 4				
4:1-27.1	Overtime rules	19 N.J.R. 327(b)		
4:2-27	Overtime rules	19 N.J.R. 327(b)		
4:6	Overtime Committee Rules	19 N.J.R. 327(b)		
	(TRANSMITTAL 1987-1, dated January 20, 1987)			
COMMUNITY AFFAIRS—TITLE 5				
5:14-1.1—1.4, 2.1—2.3, 3.1—3.23, 4.1—4.6	Neighborhood Preservation Balanced Housing Programs	19 N.J.R. 589(a)		
5:18-2.5, 2.7, 2.11, 2.14, 3.2, 4.1, 4.7, 4.9-4.13, 4.17, 4.18	Uniform Fire Code: Fire Safety Code	18 N.J.R. 1225(a)		
5:18A-2.3, 4.3, 4.4	Fire Code Enforcement	18 N.J.R. 1225(a)		

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5:19	Continuing care retirement communities: disclosure requirements	19 N.J.R. 597(a)		
5:23-3.18. 6.1-6.3	Energy subcode; solar energy property tax exemptions	19 N.J.R. 433(b)		
5:23-4.5	Uniform Construction Code enforcement: conflict of interest	19 N.J.R. 332(a)		
5:24-1.12	Condominium and cooperative conversion	19 N.J.R. 797(a)		
5:26-8.2	Duties of community associations in planned real estate developments	19 N.J.R. 797(b)		
5:70	Congregate Housing Services Program	19 N.J.R. 678(a)		
5:80-21	Housing and Mortgage Finance: single family loans	18 N.J.R. 2238(a)		
5:80-22	Affirmative Fair Housing Marketing Plan	19 N.J.R. 798(a)		
5:80-26	Housing resale and rental affordability control	19 N.J.R. 802(a)		
5:92-7.1	Council on Affordable Housing: drastic alteration of development	19 N.J.R. 806(a)		
	(TRANSMITTAL 1987-3, dated March 16, 1987)			
DEFENSE—TITLE 5A				
	(TRANSMITTAL 1, dated May 20, 1985)			
EDUCATION—TITLE 6				
6:3-2	Pupil records	19 N.J.R. 333(a)	R.1987 d.209	19 N.J.R. 749(a)
6:8-7.1	High school graduation requirements	19 N.J.R. 4(a)	R.1987 d.185	19 N.J.R. 632(b)
6:8-7.1	High school graduation requirements	19 N.J.R. 4(b)	R.1987 d.186	19 N.J.R. 633(a)
6:20-2.14	Appropriation of free balance by local district	19 N.J.R. 437(a)	R.1987 d.239	19 N.J.R. 928(a)
6:20-4	Tuition for private schools for the handicapped	19 N.J.R. 336(a)	R.1987 d.210	19 N.J.R. 751(a)
6:21-18	Inspection of vehicles used for pupil transportation	19 N.J.R. 5(a)	R.1987 d.184	19 N.J.R. 633(b)
6:46	Area Vocational Technical and Private Schools: waiver of Executive Order No. 66 (1978) sunset provision	18 N.J.R. 1996(b)		
6:46-1	Area vocational technical schools	18 N.J.R. 1511(a)		
6:53	Vocational education safety standards	19 N.J.R. 485(b)		
6:68-7	Municipal branch library services	19 N.J.R. 6(a)	R.1987 d.183	19 N.J.R. 634(a)
6:68-8	Evaluation and development of library collections	19 N.J.R. 7(a)	R.1987 d.182	19 N.J.R. 635(a)
6:68-9	Maintenance of library collections	19 N.J.R. 8(a)	R.1987 d.181	19 N.J.R. 635(b)
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ENVIRONMENTAL PROTECTION—TITLE 7				
7:1-3	Interim Environmental Cleanup Responsibility Act rules	19 N.J.R. 10(a)	R.1987 d.147	19 N.J.R. 514(a)
7:1-3, 4	Environmental Cleanup Responsibility Act rules	19 N.J.R. 681(a)		
7:1-6	Disposal of solid waste	18 N.J.R. 883(a)	R.1987 d.235	19 N.J.R. 928(b)
7:1A	Water Supply Bond Loan Program	19 N.J.R. 437(b)		
7:1A	Water Supply Bond Loan Program: extension of comment period	19 N.J.R. 806(b)		
7:1F-1, 2	Industrial Survey Project rules	19 N.J.R. 11(a)	R.1987 d.193	19 N.J.R. 637(a)
7:1G-2.1, 2.2, 4.1, 4.2, 5.4	Worker and Community Right to Know: hazardous substances and materials	19 N.J.R. 438(a)		
7:1G-3.2, 5.2, 7	Worker and Community Right to Know: assessment of civil administrative penalties for nondisclosure of information	19 N.J.R. 703(a)		
7:2-11	Natural Areas System	18 N.J.R. 2349(b)		
7:6-1.26, 1.37, 3.2, 3.5, 3.10, 3.11, 3.12, 4.5, 4.7	Boating and water-skiing	19 N.J.R. 396(a)	R.1987 d.194	19 N.J.R. 637(b)
7:7-1, 2, 3, 4, 6	Coastal Permit Program	18 N.J.R. 2156(a)	R.1987 d.217	19 N.J.R. 861(b)
7:7-2.1, 2.3	Coastal Permit Program: CAFRA exemptions; waterfront development	19 N.J.R. 807(a)		
7:7-2.2	Monmouth County wetlands maps	18 N.J.R. 2162(a)		
7:8-1.3, 1.7, 2.1, 2.2, 2.6, 3.4, 3.6	Stormwater management	19 N.J.R. 488(a)		
7:9-4.14	Water quality criteria for Mainstem Delaware River Zones	18 N.J.R. 1435(a)		
7:9-13	Sewer connection bans	18 N.J.R. 2163(a)		
7:9-13	Sewer connection ban: extension of comment period	19 N.J.R. 263(b)		
7:11-3	Use of water from Delaware and Raritan Canal and Spruce Run/Round Valley Reservoir Complex	18 N.J.R. 1330(a)	R.1987 d.228	19 N.J.R. 868(a)
7:12-1.7	Closure of shellfish harvesting areas: expired rule	_____	_____	19 N.J.R. 888(a)
7:13-7.1(d)	Redelineation of Raritan River and Peters Brook: reproposed	19 N.J.R. 167(b)		
7:13-7.1(d)	Redelineation of Wolf Creek in Hackensack Basin	18 N.J.R. 2355(a)		
7:13-7.1(d)	Redelineation of Holland Brook in Somerset County	18 N.J.R. 1866(a)	R.1987 d.197	19 N.J.R. 639(a)
7:13-7.1(d)	Redelineation of North Branch Raritan River in Somerset County	18 N.J.R. 1866(b)	R.1987 d.196	19 N.J.R. 639(c)

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7:13-7.1(d)	Flood plain delineations in Passaic-Hackensack and Raritan basins	19 N.J.R. 489(a)		
7:13-7.1(e)	Redelineation of Henderson Brook in Fair Lawn	18 N.J.R. 2169(a)	R.1987 d.195	19 N.J.R. 639(b)
7:13-7.1(g)	Flood hazard areas along the Saddle, Ramapo and Mahwah rivers, and Masonicus Brook	19 N.J.R. 169(a)		
7:14A-1, 2, 3, 5, 10, 12	New Jersey Pollutant Discharge Elimination System	18 N.J.R. 2085(a)		
7:14A-1, 2, 3, 5, 10, 12	New Jersey Pollutant Discharge Elimination System: comment period extended	18 N.J.R. 2411(a)		
7:14A-1.8	NJPDES fee schedule	19 N.J.R. 706(a)		
7:14A-1.9, 12	Sewer connection bans	18 N.J.R. 2163(a)		
7:14A-1.9, 12	Sewer connection bans: extension of comment period	19 N.J.R. 263(b)		
7:14A-6.16	Disposal of solid waste	18 N.J.R. 883(a)	R.1987 d.235	19 N.J.R. 928(b)
7:22-6	Pinelands Infrastructure Trust Fund procedures	18 N.J.R. 1896(a)	R.1987 d.207	19 N.J.R. 755(a)
7:22-7	Determination of allowable costs: Pinelands	18 N.J.R. 1904(a)	R.1987 d.208	19 N.J.R. 766(a)
7:25-2.18, 2.22	Use of land and water areas	19 N.J.R. 398(a)		
7:25-4.13, 4.17	Endangered and nongame species lists	19 N.J.R. 491(a)		
7:25-5	1987-1988 Game Code	19 N.J.R. 808(a)		
7:26-1.4, 2, 2A, 2B, 5, 12.11, 12.12	Disposal of solid waste	18 N.J.R. 883(a)	R.1987 d.235	19 N.J.R. 928(b)
7:26-1.4, 7.5, 7.7, 8.13	Waste oil	18 N.J.R. 878(a)		
7:26-1.7	Temporary certification of solid waste transfer stations	Emergency (expires 6-29-87)	R.1987 d.231	19 N.J.R. 886(a)
7:26-2.13	Solid waste facilities: recordkeeping	19 N.J.R. 171(a)		
7:26-7.2, 9.1, 9.3, 10.8, 11.4	Hazardous waste management: containers, landfills, existing facilities	19 N.J.R. 441(a)		
7:26-8.14	Hazardous waste listing: ethylene dibromide wastes	19 N.J.R. 443(a)		
7:26-9.1, 9.3, 10.4, 10.8, 11.4, 12.1, 12.2	Hazardous waste management	18 N.J.R. 2356(a)		
7:26-9.1, 9.3, 10.4, 10.8, 11.4, 12.1, 12.2	Hazardous waste management: extension of comment period	19 N.J.R. 263(c)		
7:26-12.2	Hazardous waste facilities: application signatories	19 N.J.R. 11(b)		
7:26-14.1, 14A	Resource Recovery and Solid Waste Disposal Facility Loans	19 N.J.R. 828(a)		
7:26-15	Recycling Grants and Loans Program	18 N.J.R. 2358(a)		
7:26-17	Scales at solid waste facilities	18 N.J.R. 1154(a)		
7:26B	Environmental Cleanup Responsibility Act rules	19 N.J.R. 681(a)		
7:27-16.1, 16.3	Air pollution control: Stage II vapor recovery	18 N.J.R. 1867(a)		
7:28-3	Registration of ionizing radiation-producing machines and radioactive materials	19 N.J.R. 836(a)		
7:28-5	Designation of controlled areas for use of radiation and radioactive materials	19 N.J.R. 839(a)		
7:28-14	Therapeutic radiation installations	18 N.J.R. 1157(a)		
7:28-42.1	Workplace exposure to radio frequency radiation	18 N.J.R. 1166(a)	R.1987 d.206	19 N.J.R. 770(a)
7:30-2.3	Restricted-use pesticides	19 N.J.R. 492(a)		
7:50	Pinelands Comprehensive Management Plan	18 N.J.R. 2239(a)		
7:50	Pinelands Comprehensive Management Plan: public hearings	18 N.J.R. 2411(b)		
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8:2-1	Birth certificates	18 N.J.R. 2278(a)		
8:2-1	Birth certificates: extension of comment period	19 N.J.R. 264(a)		
8:21-4	Control of new drugs and Laetrile use	18 N.J.R. 2363(a)	R.1987 d.227	19 N.J.R. 873(a)
8:21-5	Foods, drugs, cosmetics, devices: order to remove from sale and recall	18 N.J.R. 1361(b)		
8:21-5	Order to remove from sale and recall of foods, drugs, cosmetics, and devices: extension of proposal comment period	18 N.J.R. 1715(b)		
8:26-5.7	Lifeguard training at ocean and tidal bathing beaches	19 N.J.R. 494(a)		
8:31-26	Standards for All Health Care Facilities: administrative recodification	———	———	19 N.J.R. 662(c)
8:31-26.3, 26.4	Home health agencies: employee physicals; child abuse and neglect	18 N.J.R. 2283(a)		
8:31B-2.2, 3.51, 3.57, 3.73, 4.40	Hospital reimbursement: Same Day Surgery services	18 N.J.R. 1908(a)		
8:31B-3.22, 3.31, 3.51	Hospital reimbursement: graduate medical education	19 N.J.R. 605(a)		
8:31B-3.27, 4.42	Hospital reimbursement: capital facilities allowance	18 N.J.R. 1912(a)		
8:31B-3.38, 4.62	Hospital reimbursement: outpatient dialysis	19 N.J.R. 840(a)		

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8:31B-3.41, 4.15, 4.38, 4.39	Hospital reimbursement: uncompensated care	18 N.J.R. 2283(b)		
8:31B-3.72	Hospital reimbursement: periodic adjustments	18 N.J.R. 1917(a)		
8:31B-3.73, App. IX	Hospital reimbursement: cost/volume methodology	18 N.J.R. 2284(a)		
8:31B-3.73, App. IX	Hospital reimbursement: correction to cost/volume methodology	19 N.J.R. 264(b)		
8:31B-7	Uncompensated Care Trust Fund	19 N.J.R. 495(a)		
8:31B-7.4, 7.5	Uncompensated Care Trust Fund	Emergency (expires 5-11-87)	R.1987 d.164	19 N.J.R. 568(a)
8:33E-1	Cardiac diagnostic facilities and services	19 N.J.R. 606(a)		
8:33E-2	Cardiac surgical centers	19 N.J.R. 610(a)		
8:33G-3.11	Long-term care beds for former psychiatric hospital patients	19 N.J.R. 614(a)		
8:42	Licensure of home health agencies	18 N.J.R. 2287(a)		
8:43E-5	Intermediate Adult and Special Psychiatric Beds: certification of need	19 N.J.R. 171(b)	R.1987 d.226	19 N.J.R. 873(b)
8:52-1.8	Local health educators	19 N.J.R. 398(b)	R.1987 d.216	19 N.J.R. 879(a)
8:65-10.1, 10.2	Controlled substances: reschedule Alfentanil from Schedule I to Schedule II	19 N.J.R. 841(a)		
8:65-10.3	Controlled substances: Tiletamine-Zolazepam preparations	19 N.J.R. 497(a)		
8:71	Generic drug list additions: public hearing (see 18 N.J.R. 1381(a), 1463(b), 1957(a), 2015(a), 19 N.J.R. 118(a), 216(b))	18 N.J.R. 537(a)	R.1987 d.133	19 N.J.R. 450(a)
8:71	Generic drug list additions (see 18 N.J.R. 1955(b), 2208(b), 19 N.J.R. 116(b), 216(c), 640(a))	18 N.J.R. 1167(a)	R.1987 d.220	19 N.J.R. 880(b)
8:71	Generic drug additions (see 19 N.J.R. 116(c), 217(a), 640(b))	18 N.J.R. 1775(a)	R.1987 d.221	19 N.J.R. 881(a)
8:71	Interchangeable drug products (see 19 N.J.R. 215(a))	18 N.J.R. 2100(a)		
8:71	Interchangeable drug products (see 19 N.J.R. 216(a))	18 N.J.R. 2101(a)		
8:71	Interchangeable drug products (see 19 N.J.R. 641(a))	19 N.J.R. 13(a)	R.1987 d.219	19 N.J.R. 880(a)
8:71	Interchangeable drug products	19 N.J.R. 615(a)		
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9:1-1.4	Submission of financial statements by independent special purpose and theological institutions	18 N.J.R. 2364(a)	R.1987 d.150	19 N.J.R. 514(b)
9:1-6.1	Approval of courses-for-credit offered by out-of-state institutions	18 N.J.R. 2365(a)	R.1987 d.151	19 N.J.R. 514(c)
9:2-9	Organization of Board and Department of Higher Education	Exempt	R.1987 d.240	19 N.J.R. 986(a)
9:4-1.5	Community college chargeback system	19 N.J.R. 14(a)	R.1987 d.152	19 N.J.R. 515(a)
9:5-1.1	Student dependency status defined	19 N.J.R. 264(c)	R.1987 d.204	19 N.J.R. 771(a)
9:6-6	Student membership on State college board of trustees	19 N.J.R. 265(a)	R.1987 d.205	19 N.J.R. 771(b)
9:7-2.6	Student assistance programs: student dependency status defined	19 N.J.R. 176(a)	R.1987 d.169	19 N.J.R. 515(b)
9:7-3.1	Tuition Aid Grant Program: 1987-88 Award Table	19 N.J.R. 177(a)	R.1987 d.170	19 N.J.R. 516(a)
9:7-4.11	Distinguished Scholars Program: academic criteria	19 N.J.R. 498(a)		
9:7-9	Congressional Teacher Scholarship Program	18 N.J.R. 2174(b)	R.1987 d.168	19 N.J.R. 516(b)
9:9-3.5	Capitalization of PLUS loan interest	19 N.J.R. 498(b)		
9:11-1.4	Educational Opportunity Fund: student dependency status defined	19 N.J.R. 266(a)		
9:11-1.5	Educational Opportunity Fund: undergraduate grants	19 N.J.R. 15(a)		
9:11-1.5	EOF: financial eligibility for undergraduate grants	19 N.J.R. 499(a)		
9:11-1.7	Educational Opportunity Fund: undergraduate grants	19 N.J.R. 399(a)		
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10:8	Personal needs allowance for indigent persons in State and county institutions	19 N.J.R. 617(a)		
10:49-1.5	Records retention by long-term care facilities	18 N.J.R. 2411(c)	R.1987 d.180	19 N.J.R. 643(a)
10:56-3	HCPCS codes for dental services	19 N.J.R. 15(b)	R.1987 d.166	19 N.J.R. 519(a)
10:60-2.2, 2.3, 3.1	Personal care assistant services	18 N.J.R. 2365(b)	R.1987 d.179	19 N.J.R. 643(b)
10:62-1, 2, 3	Vision Care Manual	18 N.J.R. 1246(a)		
10:63-1.14	Records retention by long-term care facilities	18 N.J.R. 2411(c)	R.1987 d.180	19 N.J.R. 643(a)
10:65-1.5, 1.8	Medical day care centers: recordkeeping	19 N.J.R. 30(a)		
10:66-3	Independent clinic transportation services: HCPCS codes	18 N.J.R. 1252(a)		
10:81-2.6, 3.13	AFDC eligibility and full-time students	19 N.J.R. 618(a)		
10:81-3.12	PAM: parent-minor and AFDC	19 N.J.R. 31(a)		
10:81-3.34	PAM: temporary absence of child from home	18 N.J.R. 1675(a)	R.1987 d.175	19 N.J.R. 644(a)
10:81-3.38	AFDC qualification and child support orders	19 N.J.R. 618(b)		
10:81-4.9, 5.2, 7.1	PAM: administration of AFDC program	19 N.J.R. 341(a)		

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10:81-11.3	AFDC: newborn child and application for Social Security number	19 N.J.R. 619(a)		
10:81-11.7, 11.9	PAM: annual notice of child support collections	19 N.J.R. 343(a)		
10:81-11.18	PAM: child support guidelines	18 N.J.R. 2178(a)		
10:82-1.2, 2.13, 5.11	AFDC payment levels	19 N.J.R. 500(a)		
10:82-1.3, 4.16	ASH: household defined; court-ordered support	19 N.J.R. 31(b)		
10:82-1.7, 1.8, 3.2	AFDC benefits and educational financial aid	19 N.J.R. 709(a)		
10:82-3.2, 4.13, 4.14, 4.15	ASH: resources and income in AFDC	19 N.J.R. 344(a)		
10:82-4.15	ASH: lump sum income	19 N.J.R. 32(a)	R.1987 d.178	19 N.J.R. 645(a)
10:82-5.10	Correction to Administrative Code	———	———	19 N.J.R. 663(a)
10:82-5.12	ASH: disregarded child support payments	19 N.J.R. 501(a)		
10:85-3.2	GAM: exemption from work requirement and unemployability	18 N.J.R. 2183(a)		
10:85-3.3	GAM: Medically Needy eligibility	18 N.J.R. 1781(a)		
10:85-3.3	General Assistance rate in residential health care facilities	———	———	19 N.J.R. 570(c)
10:85-3.3, 3.4	GAM: treatment of agent orange payments	19 N.J.R. 32(b)	R.1987 d.177	19 N.J.R. 645(b)
10:85-4.1, 9.4	General Assistance payment levels	19 N.J.R. 502(a)		
10:85-4.6, 9.4	Correction to Administrative Code	———	———	19 N.J.R. 663(a)
10:85-5.3	GAM: payment of medical insurance premiums	19 N.J.R. 33(a)	R.1987 d.176	19 N.J.R. 646(a)
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10:100-3.6	Submission of cemetery petition by funeral directors	19 N.J.R. 345(a)		
10:100-App. A	Supplemental Security Income payment levels	19 N.J.R. 246(a)	R.1987 d.172	19 N.J.R. 533(a)

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10A:9-4.6	Reduced custody consideration for inmates with mandatory minimum sentences of 24 months or less	19 N.J.R. 178(c)	R.1987 d.156	19 N.J.R. 534(c)
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13:47B-1.22	Approaches for vehicle scales	18 N.J.R. 2116(a)	R.1987 d.173	19 N.J.R. 552(b)
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16:22-3.2, 5.1	Urban revitalization, special demonstration and emergency projects aid: audits by local government	19 N.J.R. 625(a)		
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17:4-4.4	Police and Firemen's Retirement System: loan interest	18 N.J.R. 2437(b)	R.1987 d.153	19 N.J.R. 566(b)
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17:30	Urban Enterprise Zone Authority: comment period reopened	19 N.J.R. 354(a)		
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19:50-1.6	Security of alcoholic beverages	18 N.J.R. 2323(a)		
19:50-1.6	Operating conditions of alcoholic beverage licensees	18 N.J.R. 2439(b)	R.1987 d.165	19 N.J.R. 567(b)
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