

[Second Reprint]
SENATE, No. 1683

STATE OF NEW JERSEY
218th LEGISLATURE

INTRODUCED FEBRUARY 5, 2018

Sponsored by:

Senator BOB SMITH

District 17 (Middlesex and Somerset)

Senator LINDA R. GREENSTEIN

District 14 (Mercer and Middlesex)

Co-Sponsored by:

Senators Bateman and Oroho

SYNOPSIS

Concerns regulation of solid waste, hazardous waste, and soil and fill recycling industries.

CURRENT VERSION OF TEXT

As amended by the Senate on June 20, 2019.



(Sponsorship Updated As Of: 3/26/2019)

1 AN ACT concerning regulation of the solid waste, hazardous waste,
 2 and soil and ¹debris fill¹ recycling industries, amending and
 3 supplementing P.L.1983, c.392, and amending P.L.1991, c.269
 4 ¹[, P.L.1970, c.40]¹ and P.L.1971, c.461.

5
 6 **BE IT ENACTED** by the Senate and General Assembly of the State
 7 of New Jersey:

8
 9 1. (New section) a. No later than 90 days after the ¹[date of
 10 enactment] effective date¹ of P.L. , c. (C.) (pending before the
 11 Legislature as this bill), any business concern that ¹is not already a
 12 licensee pursuant to P.L.1991, c.269 (C.13:1E-126 et seq.), and that
 13 actively¹ engages in, or otherwise provides, soil and ¹debris fill¹
 14 recycling services shall register with the ¹[Attorney General]
 15 department¹. The registration shall include ¹, but need not be
 16 limited to¹:

17 (1) the name of the business concern ¹[; and] and its New
 18 Jersey corporate filing number;¹

19 (2) the address of the business concern and the addresses of any
 20 other locations where trucks or equipment used by the business
 21 concern are kept ¹;

22 (3) contact information for the business concern, including, but
 23 not limited to, a valid phone number and email address; and

24 (4) a statement by the business concern that it is actively
 25 engaged in soil and fill recycling services at the time of
 26 registration¹.

27 b. ¹A business concern shall submit the information required
 28 pursuant to subsection a. of this section on a registration form
 29 prescribed by the department. The business concern shall certify to
 30 the truth and accuracy of the information provided in the
 31 registration form.

32 c.¹ No more than 90 days after submission of ¹[all information
 33 required to be submitted] a registration form¹ pursuant to
 34 ¹[subsection a. of]¹ this section, the ¹[Attorney General]
 35 department¹ shall issue a soil and ¹debris fill¹ recycling
 36 registration to the business concern ¹[that registers pursuant to
 37 subsection a. of this section] . Issuance of a soil and fill recycling
 38 registration pursuant to this section shall not preclude the
 39 department from subsequently denying a soil and fill recycling
 40 license to the registrant.

41 d. No more than 270 days after the effective date of P.L. ,
 42 c. (C.) (pending before the Legislature as this bill), a
 43 registrant shall submit a valid and administratively complete
 44 application for a soil and fill recycling license with the Attorney

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Senate SEN committee amendments adopted February 14, 2019.

²Senate floor amendments adopted June 20, 2019.

1 General. Registrants may request a 90-day extension to file a soil
 2 and fill recycling license application pursuant to this section, and
 3 the Attorney General may grant the request upon a showing of good
 4 cause.

5 e. A soil and fill recycling registration issued pursuant to this
 6 section shall automatically expire and become invalid upon: (1)
 7 failure by the registrant to submit a valid and administratively
 8 complete application for a soil and fill recycling license within the
 9 required timeframe; or (2) a final determination by the department
 10 regarding the registrant's application for a soil and fill recycling
 11 license.

12 f. A soil and fill recycling registration issued pursuant to this
 13 section is non-transferable and shall ²temporarily² authorize the
 14 registrant to provide soil and fill recycling services pending the
 15 approval or denial of the registrant's application for a soil and fill
 16 recycling license.

17 g. Any business concern that seeks to engage in soil and fill
 18 recycling services later than 90 days after the effective date of this
 19 act that has not submitted a registration form pursuant to subsection
 20 a. of this section shall file an application for a soil and fill recycling
 21 license with the Attorney General.

22 h. As used in this section, "registrant" means any person who
 23 applies for and is issued a soil and fill recycling registration
 24 pursuant to this section¹.

25
 26 2. (New section) ¹**[No]** Beginning 180 days after the effective
 27 date of P.L. , c. (C.) (pending before the Legislature as this bill),
 28 no¹ business concern shall engage in soil and ¹**[debris]** fill¹ recycling
 29 services unless it holds a soil and ¹**[debris]** fill¹ recycling ¹**[license]**
 30 registration¹ issued pursuant to ¹section 1 of P.L. , c. (C.)
 31 (pending before the Legislature as this bill), a soil and fill recycling
 32 license issued pursuant to¹ section 8 of P.L.1983, c.392 (C.13:1E-
 33 133) ¹, or is a licensee pursuant to section 8 of P.L.1983, c.392 (C.13:1
 34 E-133)¹.

35
 36 3. Section 2 of P.L.1983, c.392 (C.13:1E-127) is amended to
 37 read as follows:

38 2. As used in the provisions of P.L.1983, c.392 (C.13:1E-126 et
 39 seq.) and P.L.1991, c.269 (C.13:1E-128.1 et al.):

40 a. "Applicant" means any business concern **[which]** that (1)
 41 has filed a disclosure statement with the **[department and the]**
 42 Attorney General and is seeking **[an initial]** a license, provided that
 43 the business concern has furnished the department and the Attorney
 44 General with any information required pursuant to ¹**[P.L.1991,**
 45 c.269 (C.13:1E-128.1 et al.)] P.L.1983, c.392 (C.13:1E-126 et
 46 seq.)¹ , or (2) has been issued a soil and ¹**[debris]** fill¹ recycling
 47 registration ²pursuant to section 1 of P.L. , c. (C.) (pending
 48 before the Legislature as this bill)² , has filed a disclosure statement

1 with the ¹【department and the】¹ Attorney General, and is seeking a
2 soil and ¹【debris】 fill¹ recycling license.

3 b. "Application" means the forms and accompanying
4 documents filed in connection with an applicant's or permittee's
5 request for a license or a soil and ¹【debris】 fill¹ recycling license.

6 c. "Business concern" means any corporation, association,
7 firm, partnership, sole proprietorship, trust ¹, limited liability
8 company,¹ or other form of commercial organization.

9 d. "Department" means the Department of Environmental
10 Protection.

11 e. "Disclosure statement" means a statement submitted to the
12 **【department and the】** Attorney General by an applicant or a
13 permittee, which statement shall include:

14 (1) The full name, business address ¹, telephone number, email
15 address,¹ and social security number of the applicant or the
16 permittee, as the case may be, and of any officers, directors,
17 partners, or key employees thereof and all persons holding any
18 equity in or debt liability of the applicant or permittee, or, if the
19 applicant or permittee is a publicly traded corporation, all persons
20 holding more than ¹【5%】 five percent¹ of the equity in or the debt
21 liability of the applicant or permittee, except that (a) where the
22 equity in or debt liability of the applicant or permittee is held by an
23 institutional investor, the applicant or permittee need only supply
24 the name, business address and the basis upon which the
25 institutional investor qualifies as an institutional investor, and (b)
26 where the debt liability is held by a chartered lending institution,
27 the applicant or permittee need only supply the name and business
28 address of the lending institution;

29 (2) The full name, business address ¹, telephone number, email
30 address,¹ and social security number of all officers, directors, or
31 partners of any business concern disclosed in the disclosure
32 statement and the names and addresses of all persons holding any
33 equity in or the debt liability of any business concern so disclosed,
34 except that (a) where the business concern is a publicly traded
35 corporation, the applicant or permittee need only supply the name
36 and business address of the publicly traded corporation and copies
37 of its annual filings with the Securities and Exchange Commission,
38 or its foreign equivalent, (b) where the equity in or debt liability of
39 that business concern is held by an institutional investor, the
40 applicant or permittee need only supply the name, business address
41 and the basis upon which the institutional investor qualifies as an
42 institutional investor, and (c) where the debt liability is held by a
43 chartered lending institution, the applicant or permittee need only
44 supply the name and business address of the lending institution;

45 (3) The full name and business address of any business concern
46 which collects, transports, treats, stores, ¹brokers,¹ transfers or
47 disposes of solid waste or hazardous waste , or that engages in soil

1 and ¹['debris'] fill¹ recycling services, in which the applicant or the
2 permittee holds an equity interest;

3 (4) A description of the experience and credentials in, including
4 any past or present licenses for, the collection, transportation,
5 treatment, storage, ¹brokering,¹ transfer or disposal of solid waste
6 or hazardous waste , or the provision of soil and ¹['debris'] fill¹
7 recycling services, possessed by the applicant or the permittee, as
8 the case may be, and by the key employees, officers, directors, or
9 partners thereof;

10 (5) A listing and explanation of any notices of violation or
11 prosecution, administrative orders or license revocations issued by
12 this State or any other state or federal authority, in the 10 years
13 immediately preceding the filing of the application or disclosure
14 statement, whichever is later, which are pending or have resulted in
15 a finding or a settlement of a violation of any law or rule and
16 regulation relating to the collection, transportation, treatment,
17 storage, ¹brokering,¹ transfer or disposal of solid waste or
18 hazardous waste, or the provision of soil and ¹['debris'] fill¹
19 recycling services, by the applicant or the permittee, as the case
20 may be, or by any key employee, officer, director, or partner
21 thereof;

22 (6) A listing and explanation of any judgment of liability or
23 conviction which was rendered, pursuant to the laws of this State,
24 or any other state or federal statute or local ordinance, against the
25 applicant or the permittee, as the case may be, or against any key
26 employee, officer, director, or partner thereof, except for any
27 violation of Title 39 of the Revised Statutes other than a violation
28 of the provisions of P.L.1983, c.102 (C.39:5B-18 et seq.), P.L.1983,
29 c.401 (C.39:5B-25 et seq.) or P.L.1985, c.415 (C.39:5B-30 et seq.);

30 (7) A listing of all labor unions and trade and business
31 associations in which the applicant or the permittee was a member
32 or with which the applicant or the permittee had a collective
33 bargaining agreement during the 10 years preceding the date of the
34 filing of the application or disclosure statement, whichever is later;

35 (8) A listing of any agencies outside of New Jersey which had
36 regulatory responsibility over the applicant or the permittee, as the
37 case may be, in connection with the collection, transportation,
38 treatment, storage, ¹brokering,¹ transfer or disposal of solid waste
39 or hazardous waste or in connection with the provision of soil and
40 ¹['debris'] fill¹ recycling services; [and]

41 (9) The full name and business address of any individual or
42 business concern that leases real property or equipment used for the
43 collection, transportation, treatment, processing, storage,
44 ¹brokering,¹ transfer, or disposal of solid waste or hazardous
45 waste, or the provision of soil and ¹['debris'] fill¹ recycling services,
46 to the applicant, permittee, or licensee;

47 (10) A listing and explanation of any civil litigation pending
48 between the applicant, permittee, licensee, key employee, officer,

1 director, or partner thereof and any other person engaged in the
2 collection, transportation, treatment, processing, storage,
3 ¹brokering, ¹ transfer, or disposal of solid waste or hazardous waste
4 or in the provision of soil and ¹【debris】 fill¹ recycling services,
5 related to the provision of solid waste, hazardous waste or soil and
6 ¹【debris】 fill¹ recycling services; and

7 (11) Any other information the Attorney General 【or the
8 department】 may require that relates to the competency, reliability
9 or integrity of the applicant or the permittee.

10 The provisions of paragraphs (1) through 【(9)】 (11) of this
11 subsection to the contrary notwithstanding, if an applicant or a
12 permittee is a secondary business activity corporation, "disclosure
13 statement" means a statement submitted to the 【department and
14 the】 Attorney General by an applicant or a permittee, which
15 statement shall include:

16 (a) The full name, primary business activity, office or position
17 held, business address, home address, ¹telephone number, email
18 address,¹ date of birth and federal employer identification number
19 of the applicant or the permittee, as the case may be, and of all
20 officers, directors, partners, or key employees of the business
21 concern; and of all persons holding more than ¹【5%】 five percent¹
22 of the equity in or debt liability of that business concern, except that
23 where the debt liability is held by a chartered lending institution,
24 the applicant or permittee need only supply the name and business
25 address of the lending institution. The Attorney General or the
26 department may request the social security number of any
27 individual identified pursuant to this paragraph;

28 (b) The full name, business address and federal employer
29 identification number of any business concern in any state, territory
30 or district of the United States, which (i) engages in soil and
31 ¹【debris】 fill¹ recycling services, or (ii) collects, transports, treats,
32 stores, ¹processes,¹ recycles, brokers, transfers or disposes of solid
33 waste or hazardous waste on a commercial basis, in which the
34 applicant or the permittee holds an equity interest ¹【of 25% or
35 more】¹, and the type, amount and dates of the equity held in such
36 business concern;

37 (c) A listing of every license, registration, permit, certificate of
38 public convenience and necessity, uniform tariff approval or
39 equivalent operating authorization held by the applicant or
40 permittee within the last five years under any name for the
41 collection, transportation, treatment, storage, ¹brokering,¹ recycling,
42 processing, transfer or disposal of solid waste or hazardous waste ,
43 or the provision of soil and ¹【debris】 fill¹ recycling services, on a
44 commercial basis in any state, territory or district of the United
45 States, and the name of every agency issuing such operating
46 authorization;

47 (d) If the applicant or the permittee is a subsidiary of a parent
48 corporation, or is the parent corporation of one or more subsidiaries,

1 or is part of a group of companies in common ownership, as the
2 case may be, a chart, or, if impractical or burdensome, a list
3 showing the names, federal employer identification numbers and
4 relationships of all parent, sister, subsidiary and affiliate
5 corporations, or members of the group ¹, and the equity interest by
6 percentage for each subsidiary company¹;

7 (e) A listing and explanation of any notices of violation or
8 prosecution, administrative orders or license revocations issued by
9 this State or any other state or federal authority to the applicant or
10 permittee in the 10 years immediately preceding the filing of the
11 application or disclosure statement, whichever is later, which are
12 pending or have resulted in a finding or a settlement of a violation
13 of any law or rule or regulation relating to the collection,
14 transportation, treatment, storage, ¹brokering,¹ recycling,
15 processing, transfer or disposal of solid waste or hazardous waste,
16 or the provision of soil and ¹【debris】 fill¹ recycling services, by the
17 applicant or permittee;

18 (f) A listing and explanation of any judgment, decree or order,
19 whether by consent or not, issued against the applicant or permittee
20 in the 10 years immediately preceding the filing of the application,
21 and of any pending civil complaints against the applicant or
22 permittee pertaining to a violation or alleged violation of federal or
23 state antitrust laws, trade regulations or securities regulations;

24 (g) A listing and explanation of any conviction issued against
25 the applicant or permittee for a felony resulting in a plea of nolo
26 contendere, or any conviction in the 10 years immediately
27 preceding the filing of the application, and of any pending
28 indictment, accusation, complaint or information for any felony
29 issued to the applicant or the permittee pursuant to any state or
30 federal statute; and

31 (h) A completed personal history disclosure form shall be
32 submitted to the **【department and the】** Attorney General by every
33 person required to be listed in this disclosure statement, except for
34 those individuals who are exempt from the personal history
35 disclosure requirements pursuant to paragraph (5) of subsection a.
36 of section 3 of P.L.1983, c.392 (C.13:1E-128).

37 f. "Key employee" means any individual employed ¹or
38 otherwise engaged¹ by the applicant, the permittee or the licensee in
39 a supervisory capacity or empowered to make discretionary
40 decisions with respect to the solid waste **【or】**, hazardous waste, or
41 soil and ¹【debris】 fill¹ recycling operations of the business concern;
42 any family member of an officer, director, partner, or key
43 employee, employed ¹or otherwise engaged¹ by the applicant or
44 permittee; or any broker, consultant or sales person employed ¹or
45 otherwise engaged¹ by, or who do business with, the applicant,
46 permittee, or licensee, with respect to the solid waste, hazardous
47 waste, or soil and ¹【debris】 fill¹ recycling operations of the
48 business concern; but shall not include employees, who are not

1 family members, exclusively engaged in the physical or mechanical
2 collection, transportation, treatment, storage, transfer or disposal of
3 solid waste or hazardous waste, or the provision of soil and
4 ¹["debris"] fill¹ recycling services.

5 g. "License" means the ¹["initial"]¹ approval ¹["and first renewal

6 by the department"]¹ of any registration statement or engineering

7 design pursuant to P.L.1970, c.39 (C.13:1E-1 et seq.) or P.L.1981,

8 c.279 (C.13:1E-49 et seq.), for the collection, transportation,

9 treatment, storage, ¹processing, brokering,¹ transfer or disposal of

10 solid waste or hazardous waste in this State.

11 A "license" shall not include any registration statement or

12 engineering design approved for:

13 (1) Any State department, division, agency, commission or

14 authority, or county, municipality or agency thereof;

15 (2) Any person solely for the collection, transportation,

16 treatment, storage ¹, processing, brokering, transfer,¹ or disposal of

17 solid waste or hazardous waste generated by that person ¹, provided

18 that the department may adopt regulations to limit the scope of this

19 exemption based on volume or other standards¹;

20 (3) Any person for the operation of a hazardous waste facility, if

21 at least 75 ¹["%"] percent¹ of the total design capacity of that facility

22 is utilized to treat, store or dispose of hazardous waste generated by

23 that person;

24 (4) Any person for the operation of a hazardous waste facility

25 which is considered as such solely as the result of the reclamation,

26 recycling or refining of hazardous wastes which are or contain any

27 of the following precious metals: gold, silver, osmium, platinum,

28 palladium, iridium, rhodium, ruthenium, or copper;

29 (5) Any person solely for the transportation of hazardous wastes

30 which are or contain precious metals to a hazardous waste facility

31 described in paragraph (4) of this subsection for the purposes of

32 reclamation.

33 A "license" shall include any registration statement approved for

34 any person who transports any other hazardous waste in addition to

35 hazardous wastes which are or contain precious metals;

36 (6) Any person solely for the collection, transportation,

37 treatment, storage or disposal of granular activated carbon used in

38 the adsorption of hazardous waste; or

39 (7) Any regulated medical waste generator for the treatment or

40 disposal of regulated medical waste at any noncommercial

41 incinerator or noncommercial facility in this State that accepts

42 regulated medical waste for disposal.

43 h. "Licensee" means any business concern which has

44 completed the requirements of section 3 of P.L.1983,

45 c.392 (C.13:1E-128) and whose application for the issuance or

46 renewal of a license has been approved by the **["department"]**

47 ¹**["Attorney General"]** department¹ pursuant to section 8 of P.L.1983,

48 c.392 (C.13:1E-133).

1 i. "Permittee" means and shall include:

2 (1) Any business concern which has filed a disclosure statement
3 with the department and the Attorney General and to which a valid
4 registration statement or engineering design approval for the
5 collection, transportation, treatment, storage, transfer or disposal of
6 solid waste or hazardous waste pursuant to P.L.1970,
7 c.39 (C.13:1E-1 et seq.) or P.L.1981, c.279 (C.13:1E-49 et seq.) has
8 been given by the department prior to June 14, 1984;

9 (2) Any business concern which has filed a disclosure statement
10 with the department and the Attorney General and to which a
11 temporary license has been approved, issued or renewed by the
12 department pursuant to section 10 of P.L.1983, c.392 (C.13:1E-
13 135), but which has not otherwise completed the requirements of
14 section 3 of P.L.1983, c.392 (C.13:1E-128) and whose application
15 for a license has not been approved by the department pursuant to
16 section 8 of P.L.1983, c.392 (C.13:1E-133), provided that the
17 temporary license remains valid, and provided further that the
18 business concern has furnished the department and the Attorney
19 General with any information required pursuant to P.L.1991,
20 c.269 (C.13:1E-128.1 et al.);

21 (3) Any business concern which has filed a disclosure statement
22 with the department and the Attorney General and to which a valid
23 registration statement or engineering design approval for the
24 collection, transportation, treatment, storage, transfer or disposal of
25 solid waste or hazardous waste pursuant to P.L.1970,
26 c.39 (C.13:1E-1 et seq.) or P.L.1981, c.279 (C.13:1E-49 et seq.) has
27 been given by the department between February 20, 1985 and
28 January 23, 1986, inclusive, provided that the registration statement
29 or engineering design approval remains valid, and provided further
30 that the business concern has furnished the department and the
31 Attorney General with any information required pursuant to
32 P.L.1991, c.269 (C.13:1E-128.1 et al.); **[or] ¹or¹**

33 (4) Any business concern to which a temporary approval of
34 registration has been given by the department at any time after
35 January 23, 1986 pursuant to statute or rule and regulation,
36 provided that such temporary approval of registration, statute, or
37 rule and regulation remains valid, and provided further that the
38 business concern has furnished the department and the Attorney
39 General with any information required pursuant to P.L.1991,
40 c.269 (C.13:1E-128.1 et al.) and filed a disclosure statement with
41 the department and the Attorney General **¹[; or**

42 (5) Any business concern that has been issued a prior approval
43 to operate as a soil and debris recycling center from the Department
44 of Environmental Protection pursuant to section 41 of P.L.1987,
45 c.102 (C.13:1E-99.34) but whose application for a soil and debris
46 recycling license has not been approved]¹ .

47 j. "Person" means any individual or business concern.

48 k. "Secondary business activity corporation" means any
49 business concern which has derived less than **¹[5%] five percent¹**

1 of its annual gross revenues in each of the three years immediately
2 preceding the one in which the application for a license or a soil and
3 '[debris] fill' recycling license is being made from the collection,
4 transportation, treatment, storage, '[recycling,]' processing,
5 'brokering,' transfer or disposal of solid waste or hazardous waste,
6 or the provision of soil and '[debris] fill' recycling services,
7 whether directly or through other business concerns partially or
8 wholly owned or controlled by the applicant or the permittee, as the
9 case may be, and which (1) has one or more classes of security
10 registered pursuant to section 12 of the "Securities Exchange Act of
11 1934," as amended (15 U.S.C. s.78l), or (2) is an issuer subject to
12 subsection (d) of section 15 of the "Securities Exchange Act of
13 1934," as amended (15 U.S.C. s.78o).

14 1. "Institutional investor" means a retirement fund administered
15 by a public agency for the exclusive benefit of federal, state, or
16 local public employees; government or government-owned entity;
17 investment company registered under the "Investment Company Act
18 of 1940" (15 U.S.C. s.80a-1 et seq.); collective investment trust
19 organized by banks under Part Nine of the Rules of the Comptroller
20 of the Currency; closed end investment trust; chartered or licensed
21 life insurance company or property and casualty insurance
22 company; banking or other chartered or licensed lending institution;
23 partnerships, funds or trusts managed by or directed in conjunction
24 with an investment adviser registered under the "Investment
25 Advisers Act of 1940" (15 U.S.C. s.80b-1 et seq.) or an institutional
26 investment manager required to make filings under subsection (f) of
27 section 13 of the "Securities Exchange Act of 1934," as amended
28 (15 U.S.C. s.78m); institutional buyer, as defined pursuant to
29 section 2 of the "Uniform Securities Law (1997)," P.L.1967,
30 c.93 (C.49:3-49); small business investment company licensed by
31 the United States Small Business Administration under subsection
32 (c) of section 301 of the "Small Business Investment Act of 1958,"
33 as amended (15 U.S.C. s.681); private equity or venture capital
34 entity having or managing aggregate capital commitments in excess
35 of \$25,000,000; and other persons as the **[department]** Attorney
36 General may determine for reasons consistent with the policies of
37 P.L.1983, c.392 (C.13:1E-126 et seq.).

38 m. "Publicly traded corporation" means a corporation or other
39 legal entity, except a natural person, which:

40 (1) has one or more classes of security registered pursuant to
41 section 12 of the "Securities Exchange Act of 1934," as amended
42 (15 U.S.C. s.78l);

43 (2) is an issuer subject to subsection (d) of section 15 of the
44 "Securities Exchange Act of 1934," as amended (15 U.S.C. s.78o);
45 or

46 (3) has one or more classes of securities traded in an open
47 market in any foreign jurisdiction, provided that the **[department]**
48 Attorney General determines that the foreign exchange provides
49 openness, integrity and oversight in its operations sufficient to meet

1 the intent of P.L.1983, c.392 (C.13:1E-126 et seq.), or that the
2 securities traded on the foreign exchange are regulated pursuant to a
3 statute of a foreign jurisdiction that is substantially similar, both in
4 form and effect, to section 12 or subsection (d) of section 15 of the
5 "Securities Exchange Act of 1934," as amended.

6 n. "Broker" means a person who ¹for direct or indirect
7 compensation¹ arranges agreements between a business concern and
8 its customers for the collection, transportation, treatment, storage,
9 ¹["recycling"]¹, processing, transfer or disposal of solid waste or
10 hazardous waste, or the provision of soil and ¹["debris"] fill¹
11 recycling services.

12 o. "Consultant" means a person who performs functions for a
13 business concern engaged in the collection, transportation,
14 treatment, storage, ¹["recycling,"]¹ processing, ¹brokering,¹ transfer
15 or disposal of solid waste or hazardous waste, or the provision of
16 soil and ¹["debris"] fill¹ recycling services, provided that
17 "consultant" shall not include a person who performs functions for a
18 business concern and holds a professional license from the State in
19 order to perform those functions.

20 p. "Family member" means spouse, domestic partner, partner in
21 a civil union, child, parent, sibling, aunt, uncle, niece, nephew, first
22 cousin, grandparent, grandchild, father-in-law, mother-in-law, son-
23 in-law, daughter-in-law, stepparent, stepchild, stepbrother,
24 stepsister, half brother, or half sister, whether the individual is
25 related by blood, marriage, or adoption.

26 q. ¹["Recyclable"] "Soil and fill recyclable¹ materials" means
27 ¹["(1) source-separated, non-putrescible, waste material resulting
28 from construction, remodeling, repair, and demolition operations on
29 houses, commercial buildings, pavements and other structures, (2)
30 source-separated, non-putrescible waste concrete, asphalt, brick,
31 block, asphalt-based roofing, scrap wood, and wood waste, and (3)
32 soil, which would otherwise become solid waste, and which may be
33 collected, separated or processed and returned to the economic
34 mainstream in the form of raw materials or products. For the
35 purposes of P.L.1983, c.392 (C.13:1E-126 et seq.), "recyclable
36 materials" shall not include metal, glass, or plastic containers,
37 paper, or corrugated cardboard"] non-putrescible aggregate
38 substitute, including, but not limited to, broken or crushed brick,
39 block, concrete, or other similar manufactured materials; soil or soil
40 that may contain aggregate substitute or other debris or material,
41 generated from land clearing, excavation, demolition, or
42 redevelopment activities that would otherwise be managed as solid
43 waste, and that may be returned to the economic mainstream in the
44 form of raw materials for further processing or for use as fill
45 material. "Soil and fill recyclable materials" shall not include: (1)
46 Class A recyclable material, as defined by regulation adopted
47 pursuant to section 4 of P.L.1989, c.268 (C.13:1E-99.43); (2) Class
48 B recyclable material, as defined by regulation adopted pursuant to

1 section 4 of P.L.1989, c.268 (C.13:1E-99.43), that is shipped to a
 2 Class B recycling center approved by the department for receipt,
 3 storage, processing, or transfer in accordance with subsection b. of
 4 section 41 of P.L.1987, c.102 (C.13:1E-99.34); (3) beneficial use
 5 material for which the generator has obtained prior approval from
 6 the department to transport to an approved and designated
 7 destination pursuant to regulations adopted pursuant to subsection
 8 a. of section 6 of P.L.1970, c.39 (C.13:1E-6); and (4) virgin quarry
 9 products including, but not limited to, rock, stone, gravel, sand, clay
 10 and other mined products¹.

11 r. "Sales person" means a person or persons that makes or
 12 arranges for sales for a business concern, for the collection,
 13 transportation, treatment, storage, ¹["recycling,"]¹ processing,
 14 transfer or disposal of solid waste or hazardous waste or the
 15 provision of soil and ¹["debris"] fill¹ recycling services.

16 s. "Soil and ¹["debris"] fill¹ recycling license" means an
 17 approval to operate a business concern engaged in soil and
 18 ¹["debris"] fill¹ recycling services issued pursuant to section 8 of
 19 P.L.1983, c.392 (C.13:1E-133).

20 t. "Soil and ¹["debris"] fill¹ recycling services" means the
 21 services provided by persons engaging in the business of the
 22 collection, transportation, processing, ¹brokering,¹ storage,
 23 purchase, sale or disposition, or any combination thereof, of ¹soil
 24 and fill¹ recyclable materials. ²"Soil and fill recycling services"
 25 shall not include the operation of a solar electric power generation
 26 facility at a properly closed sanitary landfill where soil and fill
 27 materials have been previously deposited for permanent disposal.²
 28 (cf: P.L.2011, c.68, s.1)

29
 30 4. Section 3 of P.L.1983, c.392 (C.13:1E-128) is amended to read
 31 as follows:

32 3. In addition to any other procedure, condition or information
 33 required pursuant to P.L.1970, c.39 (C.13:1E-1 et seq.),
 34 P.L.1981, c.279 (C.13:1E-49 et seq.) or any other law:

35 a. (1) Every applicant and permittee shall file a disclosure
 36 statement with the **["department and the"]** Attorney General;

37 (2) Except as otherwise provided in this subsection, any person
 38 required to be listed in the disclosure statement shall be fingerprinted
 39 for identification and investigation purposes in accordance with
 40 procedures therefor established by the Attorney General;

41 (3) The Attorney General shall, upon the receipt of the disclosure
 42 statement from an applicant for an initial license **["or"]** , from a
 43 permittee, or from an applicant for a soil and ¹["debris"] fill¹ recycling
 44 license, prepare **["and transmit to the department"]** ¹and transmit to the
 45 department¹ an investigative report on the applicant or the permittee,
 46 as the case may be, based in part upon the disclosure statement. In
 47 preparing this report, the Attorney General may request and receive

1 criminal history information from the State Commission of
2 Investigation or the Federal Bureau of Investigation;

3 (4) In conducting a review of the application, the **department**
4 Attorney General shall include a review of the disclosure statement
5 and investigative report;

6 (5) An applicant or permittee may file a limited disclosure
7 statement pursuant to the provisions of paragraphs (a) through (h) of
8 subsection e. of section 2 of P.L.1983, c.392 (C.13:1E-127); and a
9 person required to be listed in the disclosure statement is exempt from
10 the fingerprint and personal history disclosure requirements; if:

11 (a) The applicant or permittee is a secondary business activity
12 corporation; and

13 (b) The person required to be listed in the disclosure statement is
14 (i) a director or chief executive officer; or (ii) an individual who does
15 not have any responsibility for, or control of, the commercial solid
16 waste or hazardous waste operations, or the provision of soil and
17 '[debris] fill' recycling services, of the applicant, permittee or
18 licensee conducted in New Jersey, and who will not exercise any such
19 responsibility or control upon the issuance of a license or soil and
20 '[debris] fill' recycling license by the **department** '[Attorney
21 General] department';

22 (6) (a) A person who is a director or chief executive officer of a
23 business concern that is a secondary business activity corporation, a
24 publicly traded corporation or an institutional investor, including
25 limited partnership interests, that is not the applicant or permittee but
26 which is listed in a disclosure statement pursuant to subsection e. of
27 section 2 of P.L.1983, c.392 (C.13:1E-127), shall be exempt from the
28 fingerprint and personal history disclosure requirements;

29 (b) An individual who is an officer or partner of, or who holds any
30 equity in or debt liability of, a business concern that is a secondary
31 business activity corporation, a publicly traded corporation or an
32 institutional investor, including limited partnership interests, that is not
33 the applicant or permittee but which is listed in a disclosure statement
34 pursuant to subsection e. of section 2 of P.L.1983, c.392 (C.13:1E-
35 127), shall be exempt from the fingerprint and personal history
36 disclosure requirements, provided that the person or secondary
37 business activity corporation or publicly traded corporation or
38 institutional investor is not and will not be engaged in active
39 management of the commercial solid waste or hazardous waste
40 operations or the soil and '[debris] fill' recycling operations of the
41 applicant or permittee conducted in New Jersey;

42 (c) A business concern that is a secondary business activity
43 corporation or an institutional investor, including limited partnership
44 interests, that is not the applicant, licensee, '[or]' permittee', or
45 business concern that has been issued a soil and fill recycling license,'
46 but which is listed in a disclosure statement pursuant to subsection e.
47 of section 2 of P.L.1983, c.392 (C.13:1E-127), shall be exempt from
48 disclosure requirements established in subsection e. of section 2 of
49 P.L.1983, c.392 (C.13:1E-127) provided that the secondary business

1 activity corporation or institutional investor is not and will not be
 2 engaged in active management of the commercial solid waste or
 3 hazardous waste operations or the soil and '【debris】 fill' recycling
 4 'service' operations of the applicant, licensee, '【or】' permittee ' , or
 5 business concern that has been issued a soil and fill recycling license'
 6 conducted in New Jersey;

7 (d) A business concern that is a publicly traded corporation that is
 8 not the applicant, licensee, '【or】' permittee ' , or business concern that
 9 has been issued a soil and fill recycling license' but which is listed in
 10 a disclosure statement pursuant to subsection e. of section 2 of
 11 P.L.1983, c.392 (C.13:1E-127), shall be exempt from disclosure
 12 requirements established in subsection e. of section 2 of
 13 P.L.1983, c.392 (C.13:1E-127) provided that the name and business
 14 address of the publicly traded corporation and copies of its annual
 15 filings with the Securities and Exchange Commission, or its foreign
 16 equivalent, are filed with the disclosure forms of the applicant,
 17 licensee, '【or】' permittee ' , or business concern that has been issued a
 18 soil and fill recycling license' . Subsidiaries intervening in the chain
 19 of equity between the publicly traded corporation and the applicant,
 20 licensee, '【or】' permittee ' , or business concern that has been issued a
 21 soil and fill recycling license' , and the officers and directors of those
 22 intervening subsidiaries, shall also be exempt from the disclosure
 23 requirements established in subsection e. of section 2 of
 24 P.L.1983, c.392 (C.13:1E-127) provided that the intervening
 25 subsidiary is not and will not be engaged in active management of the
 26 commercial solid waste or hazardous waste operations or the soil and
 27 '【debris】 fill' recycling 'service' operations of the applicant, licensee,
 28 '【or】' permittee ' , or business concern that has been issued a soil and
 29 fill recycling license' conducted in New Jersey;

30 (e) An individual exempt from disclosure requirements under
 31 subparagraph (b) of this paragraph, a secondary business activity
 32 corporation or institutional investor exempt from disclosure
 33 requirements under subparagraph (c) of this paragraph, and a publicly
 34 traded corporation exempt from disclosure requirements under
 35 subparagraph (d) of this paragraph, may be required by the Attorney
 36 General to file disclosure forms and be fingerprinted in the
 37 circumstances described in subsection d. of this section; and

38 (f) A person that holds equity in, or debt liability of, a business
 39 concern that is exempt from the disclosure requirements established in
 40 subsection e. of section 2 of P.L.1983, c.392 (C.13:1E-127) shall also
 41 be exempt from the disclosure requirements established in subsection
 42 e. of section 2 of P.L.1983, c.392 (C.13:1E-127).

43 b. All applicants, permittees and licensees, and all business
 44 concerns that have been issued a soil and '【debris】 fill' recycling
 45 license, shall have the continuing duty to provide any assistance or
 46 information requested by the department or the Attorney General, and
 47 to cooperate in any inquiry or investigation conducted by the Attorney
 48 General or the State Commission of Investigation and any inquiry,

1 investigation, or hearing conducted by the department. Except as
2 otherwise determined by the Superior Court pursuant to subsection d.
3 of this section, if, upon issuance of a formal request to answer any
4 inquiry or produce information, evidence or testimony, any applicant,
5 permittee ¹~~or~~ ¹licensee, or any business concern that has been
6 issued a soil and ¹~~debris~~ fill¹ recycling license, ¹fails or¹ refuses to
7 comply, the application of the business concern for a license, or a soil
8 and ¹~~debris~~ fill¹ recycling license, as the case may be, may be
9 denied, or the license or soil and ¹~~debris~~ fill¹ recycling license of
10 that business concern may be revoked by the ~~department~~ ¹~~Attorney~~
11 General¹ department¹.

12 c. If any of the information required to be included in the
13 disclosure statement changes, or if any information provided
14 concerning the applicability of an exemption under subsection d. of
15 this section changes, or if any additional information should be added
16 to the disclosure statement after it has been filed, the applicant,
17 permittee or licensee, or the business concern that has been issued a
18 soil and ¹~~debris~~ fill¹ recycling license, shall provide that
19 information to the department and the Attorney General, in writing,
20 within 30 days of the change or addition ¹and on any subsequent
21 annual updated required to be filed. If the applicant, permittee,
22 licensee, or business concern that has been issued a soil and fill
23 recycling license adds a new person who is required to be listed in the
24 disclosure statement, that person is subject to the same disclosure
25 requirements as set forth in this section, and the applicant, permittee,
26 licensee, or business concern that has been issued a soil and fill
27 recycling license shall be required to pay an additional fee in
28 accordance with a fee schedule adopted pursuant to rules and
29 regulations promulgated by the department¹.

30 d. The provisions of paragraphs (5) and (6) of subsection a. of this
31 section to the contrary notwithstanding, the Attorney General may at
32 any time require any person required to be listed in the disclosure
33 statement to file a completed personal history disclosure form and a
34 full disclosure statement with the ~~department and the~~ Attorney
35 General pursuant to paragraphs (1) through (9) of subsection e. of
36 section 2 of P.L.1983, c.392 (C.13:1E-127), or to be fingerprinted for
37 identification and investigation purposes pursuant to paragraph (2) of
38 subsection a. of this section, if the Attorney General determines that
39 there exists a reasonable suspicion that the additional information is
40 likely to lead to information relevant to a determination regarding the
41 approval of a license or a soil and ¹~~debris~~ fill¹ recycling license
42 pursuant to section 8 of P.L.1983, c.392 (C.13:1E-133), the revocation
43 of a license or soil and ¹~~debris~~ fill¹ recycling license pursuant to
44 section 9 of P.L.1983, c.392 (C.13:1E-134), or the severance of a
45 disqualifying person pursuant to section 10 of P.L.1983, c.392
46 (C.13:1E-135).

47 If the Attorney General requires any or all of this information, a
48 written request for the additional information shall be served upon the

1 applicant, permittee or licensee, or the business concern that has been
2 issued a soil and '【debris】 fill' recycling license. Within 60 days of
3 receipt of a written request for additional information, the applicant,
4 permittee or licensee, or the business concern that has been issued a
5 soil and '【debris】 fill' recycling license may seek review of the
6 Attorney General's determination in the Superior Court. If the
7 applicant, permittee or licensee, or the business concern that has been
8 issued a soil and '【debris】 fill' recycling license fails to provide the
9 additional information to the Attorney General within 60 days of
10 receipt of the written request, the Attorney General may file with the
11 Superior Court a petition for an order requiring the applicant,
12 permittee or licensee, or the business concern that has been issued a
13 soil and '【debris】 fill' recycling license to provide the additional
14 information. In a proceeding brought by either party, the applicant,
15 permittee or licensee, or the business concern that has been issued a
16 soil and '【debris】 fill' recycling license shall demonstrate that the
17 additional information requested is not likely to lead to information
18 relevant to a determination regarding the approval of a license or soil
19 and '【debris】 fill' recycling license pursuant to section 8 of P.L.1983,
20 c.392 (C.13:1E-133), the revocation of a license or soil and '【debris】
21 fill' recycling license pursuant to section 9 of P.L.1983, c.392
22 (C.13:1E-134), or the severance of a disqualifying person pursuant to
23 section 10 of P.L.1983, c.392 (C.13:1E-135). For good cause shown,
24 the court may review in camera the submission of the Attorney
25 General or the applicant, permittee or licensee, or the business concern
26 that has been issued a soil and '【debris】 fill' recycling license, or any
27 part thereof.

28 (cf: P.L.2011, c.68, s.2)

29
30 5. Section 4 of P.L.1983, c.392 (C.13:1E-129) is amended to read
31 as follows:

32 4. a. Whenever the Attorney General determines that there exists
33 a reasonable suspicion that any person may have information or be in
34 possession, custody, or control of any documentary materials relevant
35 to an investigation of an applicant, permittee or licensee ' , or business
36 concern that has been issued a soil and fill recycling license'
37 conducted pursuant to this act, he may issue in writing, and cause to be
38 served upon that person an investigative interrogatory requiring that
39 person to answer questions under oath and produce material for
40 examination.

41 b. Each interrogatory shall:

42 (1) Identify the licensee, permittee or applicant ' , or business
43 concern that has been issued a soil and fill recycling license' who is
44 the subject of the investigation;

45 (2) Advise the person that he has the right to discuss the
46 interrogatory with legal counsel prior to returning it to the Attorney
47 General or prior to making material available, as provided in
48 subsection f. of this section, and that he has the right to file in Superior

1 Court a petition to modify or set aside the interrogatory, as provided in
2 subsection j. of this section;

3 (3) Describe the class or classes of documentary material to be
4 produced thereunder with sufficient particularity as to permit the
5 material to be reasonably identified;

6 (4) Prescribe a return date, which date shall provide a reasonable
7 period of time within which answers may be made and material so
8 demanded may be assembled and made available for inspection and
9 copying or reproduction, as provided in subsection f. of this section.

10 c. No interrogatory shall:

11 (1) Contain any requirement which would be held to be
12 unreasonable if contained in a **【subpena】** subpoena duces tecum
13 issued in aid of a grand jury investigation; or

14 (2) Require the production of any documentary evidence which
15 would be otherwise privileged from disclosure if demanded by a
16 **【subpena】** subpoena duces tecum issued in aid of a grand jury
17 investigation.

18 d. Service of any interrogatory filed under this section may be
19 made upon any person by:

20 (1) Delivering a duly executed copy thereof to the person or any
21 partner, executive officer, managing agent, employee or general agent
22 thereof, or to any agent thereof authorized by appointment or by law to
23 receive service of process on behalf of the person; or

24 (2) Delivering a duly executed copy thereof to the principal office
25 or place of business of the person to be served; or

26 (3) Depositing a copy in the United States mail, by registered or
27 certified mail duly addressed to the person at his principal office or
28 place of business.

29 e. A verified return by the individual serving any interrogatory,
30 setting forth the manner of service, shall be prima facie proof of
31 service. In the case of service by registered or certified mail, the return
32 shall be accompanied by the return post office receipt of delivery of
33 the interrogatory.

34 f. Any person upon whom any interrogatory issued under this
35 section has been duly served which requires the production of
36 materials shall make the material available for inspection and copying
37 or reproduction to the Attorney General at the principal place of
38 business of that person in the State of New Jersey or at any other place
39 as the Attorney General and the person thereafter may agree and
40 prescribe in writing, on the return date specified in the interrogatory or
41 on a later date as the Attorney General may prescribe in writing. Upon
42 written agreement between the person and the Attorney General,
43 copies may be substituted for all or any part of the original materials.
44 The Attorney General may cause the preparation of any copies of
45 documentary material as may be required for official use by the
46 Attorney General.

47 No material produced pursuant to this section shall be available for
48 examination, without the consent of the person who produced the
49 material, by an individual other than the Attorney General or any

1 person retained by the Attorney General in connection with the
2 enforcement of this act. Under reasonable terms and conditions as the
3 Attorney General shall prescribe, documentary material while in his
4 possession shall be available for examination by the person who
5 produced the material or any of his duly authorized representatives.

6 In any investigation conducted pursuant to this act, the Attorney
7 General may present before the ~~the department,~~ ^{the department, or} court
8 or grand jury any documentary material in his possession pursuant to
9 this section, subject to any protective order deemed proper by the
10 Superior Court.

11 g. Upon completion of:

12 (1) The review and investigation for which any documentary
13 material was produced under this section, and

14 (2) Any case or proceeding arising from the investigation, the
15 Attorney General shall return to the person who produced the material
16 all the material, other than copies thereof made by the Attorney
17 General pursuant to this section, which has not passed into the control
18 of ~~the department or~~ ^{the department or} any court or grand jury
19 through the introduction thereof into the record of the case or
20 proceeding.

21 h. When any documentary material has been produced by any
22 person under this section for use in an investigation, and no case or
23 proceeding arising therefrom has been instituted within two years after
24 completion of the examination and analysis of all evidence assembled
25 in the course of the investigation, the person shall be entitled, upon
26 written demand made upon the Attorney General, to the return of all
27 documentary material, other than copies thereof made pursuant to this
28 section so produced by him.

29 i. Whenever any person fails to comply with any investigative
30 interrogatory duly served upon him under this section, or whenever
31 satisfactory copying or reproduction of any material cannot be done
32 and he refuses to surrender the material, the Attorney General may file
33 in the Superior Court a petition for an order of the court for the
34 enforcement of this section.

35 j. At any time before the return date specified in the
36 interrogatory, the person served with the interrogatory may file in the
37 Superior Court a petition for an order modifying or setting aside the
38 interrogatory. The time allowed for compliance with the interrogatory
39 shall not run during the pendency of this petition. The petition shall
40 specify each ground upon which the petition relies in seeking relief,
41 and may be based upon any failure of the interrogatory to comply with
42 the provisions of this section or upon any constitutional or other legal
43 right or privilege of the petitioner. In this proceeding, the Attorney
44 General shall establish the existence of an investigation pursuant to
45 this act and the nature and subject matter of the investigation.

46 (cf: P.L.1991, c.269, s.4)

47
48 6. Section 5 of P.L.1983, c.392 (C.13:1E-130) is amended to read
49 as follows:

1 5. a. Whenever the Attorney General determines that there exists
2 a reasonable suspicion that any person may have information or
3 knowledge relevant to an investigation conducted pursuant to this act,
4 he may issue in writing and cause to be served upon that person a
5 **【subpena】 subpoena** to appear and be examined under oath before the
6 Attorney General.

7 b. The **【subpena】 subpoena** shall:

8 (1) Identify the licensee, permittee or applicant ¹, or business
9 concern that has been issued a soil and fill recycling license¹ who is
10 the subject of the investigation;

11 (2) Advise that person that he may have an attorney present when
12 he appears and testifies or otherwise responds to the **【subpena】**
13 subpoena, that he has a right, at any time before the return date of the
14 **【subpena】 subpoena**, to file in Superior Court a petition to modify or
15 set aside the **【subpena】 subpoena**, as provided in subsection f. of this
16 section;

17 (3) Prescribe a date and time at which that person must appear to
18 testify, under oath, provided that this date shall not be less than seven
19 days from the date of service of the **【subpena】 subpoena**.

20 c. Except as otherwise provided in this section, no information
21 derived pursuant to the **【subpena】 subpoena** shall be disclosed by the
22 Attorney General **【or the department】** ¹or the department¹ without the
23 consent of the person testifying.

24 In any investigation conducted pursuant to this act, the Attorney
25 General may present before the **【department,】** ¹department,¹ court or
26 grand jury any information disclosed pursuant to the **【subpena】**
27 subpoena, subject to any protective order deemed proper by the
28 Superior Court.

29 d. Service of a **【subpena】 subpoena** pursuant to this section shall
30 be by any of those methods specified in the New Jersey Court Rules
31 for service of summons and complaint in a civil action.

32 e. Whenever any person fails to comply with any **【subpena】**
33 subpoena duly served upon him under this section, or whenever
34 satisfactory copying or reproduction of any material cannot be done
35 and he refuses to surrender the material, the Attorney General may file
36 in the Superior Court a petition for an order of the court for the
37 enforcement of the **【subpena】 subpoena**.

38 f. At any time before the return date specified in the **【subpena】**
39 subpoena, the person who has been served with the **【subpena】**
40 subpoena may file in the Superior Court a petition for an order
41 modifying or setting aside the **【subpena】 subpoena**. The time allowed
42 for compliance with the **【subpena】 subpoena** shall not run during the
43 pendency of this petition. The petition shall specify each ground upon
44 which the petitioner relies in seeking relief, and may be based upon
45 any failure of the **【subpena】 subpoena** to comply with the provisions
46 of this section or upon any constitutional or other legal right or
47 privilege of the petitioner. In this proceeding, the Attorney General

1 shall establish the existence of an investigation pursuant to this act and
2 the nature and subject matter of the investigation.

3 (cf: P.L.1991, c.269, s.5)

4
5 7. Section 8 of P.L.1983, c.392 (¹C. 13:1E-133) is amended to
6 read as follows:

7 8. The provisions of any law to the contrary notwithstanding, no
8 license or soil and ¹**["debris"] fill**¹ recycling license shall be approved
9 by the **["department"]** ¹**["Attorney General"]** department¹:

10 a. Unless the **["department"]** ¹**["Attorney General"]** department¹
11 finds that the applicant, or the permittee, as the case may be, in any
12 prior performance record in the collection, transportation, treatment,
13 storage, transfer or disposal of solid waste or hazardous waste, or the
14 provision of soil and ¹**["debris"] fill**¹ recycling services, has exhibited
15 sufficient integrity, reliability, expertise, and competency to engage in
16 the collection or transportation of solid waste or hazardous waste, or to
17 operate the solid waste facility or hazardous waste facility, or engage
18 in soil and ¹**["debris"] fill**¹ recycling services, given the potential
19 economic consequences for affected counties, municipalities and
20 ratepayers or significant adverse impacts upon human health and the
21 environment which could result from the irresponsible participation
22 therein or operation thereof, or if no prior record exists, that the
23 applicant or the permittee is likely to exhibit that integrity, reliability,
24 expertise and competence.

25 b. If any person required to be listed in the disclosure statement,
26 or otherwise shown to have a beneficial interest in the business of the
27 applicant, the permittee or the licensee, ¹or the business concern that
28 has been issued a soil and fill recycling license,¹ or to have rented or
29 leased at any or no cost real property, vehicles or other equipment used
30 for the collection, transportation, treatment, processing, storage,
31 ¹brokering,¹ transfer, or disposal of solid waste or hazardous waste, or
32 the provision of soil and ¹**["debris"] fill**¹ recycling services, to the
33 applicant, the permittee, ¹**["or"]**¹ the licensee, ¹or the business concern
34 that has been issued a soil and fill recycling license¹ has been barred
35 from the provision of solid waste, hazardous waste or soil and
36 ¹**["debris"] fill**¹ recycling services in ¹the State or¹ any other
37 jurisdiction outside of the State, or has been convicted of any of the
38 following crimes under the laws of New Jersey or the equivalent
39 thereof under the laws of any other jurisdiction:

- 40 (1) Murder;
41 (2) Kidnapping;
42 (3) Gambling;
43 (4) Robbery;
44 (5) Bribery;
45 (6) Extortion;
46 (7) Criminal usury;
47 (8) Arson;
48 (9) Burglary;

- 1 (10) Theft and related crimes;
2 (11) Forgery and fraudulent practices;
3 (12) Fraud in the offering, sale or purchase of securities;
4 (13) Alteration of motor vehicle identification numbers;
5 (14) Unlawful manufacture, purchase, use or transfer of firearms;
6 (15) Unlawful possession or use of destructive devices or
7 explosives;
8 (16) Violation of N.J.S.2C:35-5, except possession of 84 grams or
9 less of marijuana, or of N.J.S.2C:35-10;
10 (17) Racketeering, ¹["P.L.1981, c.167 (C.2C:41-1 et seq.)"]
11 N.J.S.2C:41-1 et seq.¹;
12 (18) Violation of criminal provisions of the "New Jersey Antitrust
13 Act," P.L.1970, c.73 (C.56:9-1 et seq.);
14 (19) Any purposeful or reckless violation of the criminal
15 provisions of any federal or state environmental protection laws, rules,
16 or regulations, including, but not limited to, solid waste or hazardous
17 waste management laws, rules, or regulations;
18 (20) Violation of N.J.S.2C:17-2;
19 (21) Any offense specified in chapter 28 of Title 2C; ¹["or"]
20 (22) Violation of the "Solid Waste Utility Control Act of 1970,"
21 P.L.1970, c.40 (C.48:13A-1 et seq.) or P.L.1981, c.221 (C.48:13A-
22 6.1) ¹; or
23 (23) Aggravated assault¹.
24 c. If the Attorney General determines that there is a reasonable
25 suspicion to believe that a person required to be listed in the disclosure
26 statement, or otherwise shown to have a beneficial interest in the
27 business of the applicant, the permittee or the licensee, ¹or the business
28 concern that has been issued a soil and fill recycling license,¹ or to
29 have rented or leased at any cost or at no cost real property, vehicles or
30 other equipment used for the collection, transportation, treatment,
31 processing, storage, ¹brokering,¹ transfer, or disposal of solid waste or
32 hazardous waste, or the provision of soil and ¹["debris"] fill¹ recycling
33 services, to the applicant, the permittee, ¹["or"]¹ the licensee, ¹or the
34 business concern that has been issued a soil and fill recycling license,¹
35 does not possess a reputation for good character, honesty and integrity,
36 and that person or the applicant, the permittee or the licensee ¹, or the
37 business concern that has been issued a soil and fill recycling license¹
38 fails, by clear and convincing evidence, to establish his reputation for
39 good character, honesty and integrity.
40 d. With respect to the approval of an initial license or a soil and
41 ¹["debris"] fill¹ recycling license, if there are current prosecutions or
42 pending charges in any jurisdiction against any person required to be
43 listed in the disclosure statement, or otherwise shown to have a
44 beneficial interest in the business of the applicant or the permittee, or
45 to have rented or leased at any or no cost real property, vehicles or
46 other equipment used for the collection, transportation, treatment,
47 processing, storage, ¹brokering,¹ transfer, or disposal of solid waste or
48 hazardous waste, or the provision of soil and ¹["debris"] fill¹ recycling

1 services, to the applicant or the permittee, for any of the crimes
2 enumerated in subsection b. of this section, provided, however, that at
3 the request of the applicant, permittee, or the person charged, the
4 department ¹Attorney General department¹ shall defer decision
5 upon such application during the pendency of such charge.

6 e. If any person required to be listed in the disclosure statement,
7 or otherwise shown to have a beneficial interest in the business of the
8 applicant, permittee or the licensee, ¹or the business concern that has
9 been issued a soil and fill recycling license,¹ or to have rented or
10 leased at any or no cost real property, vehicles or other equipment used
11 for the collection, transportation, treatment, processing, storage,
12 brokering,¹ transfer, or disposal of solid waste or hazardous waste, or
13 the provision of soil and ¹debris fill¹ recycling services, to the
14 applicant, the permittee, ¹or¹ the licensee, ¹or the business concern
15 that has been issued a soil and fill recycling license,¹ has pursued
16 economic gain in an occupational manner or context which is in
17 violation of the criminal or civil public policies of this State, where
18 such pursuit creates a reasonable belief that the participation of that
19 person in any activity required to be licensed under this act would be
20 inimical to the policies of this act. For the purposes of this section,
21 "occupational manner or context" means the systematic planning,
22 administration, management, or execution of an activity for financial
23 gain.

24 f. If the Attorney General determines that any person required to
25 be listed in the disclosure statement, or otherwise shown to have a
26 beneficial interest in the business of the applicant, permittee or the
27 licensee, ¹or the business concern that has been issued a soil and fill
28 recycling license,¹ or to have rented or leased at any or no cost real
29 property, vehicles or other equipment used for the collection,
30 transportation, treatment, processing, storage, ¹brokering,¹ transfer, or
31 disposal of solid waste or hazardous waste, or the provision of soil
32 and ¹debris fill¹ recycling services, to the applicant, the permittee,
33 ¹or¹ the licensee, ¹or the business concern that has been issued a soil
34 and fill recycling license,¹ has been identified by the State
35 Commission of Investigation or the Federal Bureau of Investigation as
36 a career offender or a member of a career offender cartel or an
37 associate of a career offender or career offender cartel, where such
38 identification, membership or association creates a reasonable belief
39 that the participation of that person in any activity required to be
40 licensed under this act would be inimical to the policies of this act.
41 For the purposes of this section, "career offender" means any person
42 whose behavior is pursued in an occupational manner or context for
43 the purpose of economic gain, utilizing such methods as are deemed
44 criminal violations of the public policy of this State; and a "career
45 offender cartel" means any group of persons who operate together as
46 career offenders.

47 A license or a soil and ¹debris fill¹ recycling license may be
48 approved by the department ¹Attorney General department¹ for

1 any applicant or permittee if the information contained within the
 2 disclosure statement and investigative report, including any
 3 determination made by the Attorney General concerning the character,
 4 honesty and integrity of any person required to be listed in the
 5 disclosure statement, or otherwise shown to have a beneficial interest
 6 in the business of the applicant or permittee, or to have rented or
 7 leased at any or no cost real property, vehicles or other equipment used
 8 for the collection, transportation, treatment, processing, storage,
 9 ¹brokering,¹ transfer, or disposal of solid waste or hazardous waste, or
 10 the provision of soil and ¹【debris】 fill¹ recycling services, to the
 11 applicant, the permittee, ¹【or】¹ the licensee, ¹or the business concern
 12 that has been issued a soil and fill recycling license,¹ would not require
 13 disqualification pursuant to subsection a., b. c., e. or f. of this section.

14 ¹The department may issue a license or a soil and fill recycling
 15 license subject to such conditions, restrictions, limitations, or
 16 covenants as the department determines necessary to accomplish the
 17 objectives of P.L.1983, c.392 (C.13:1E-126 et seq.).¹

18 A license or a soil and ¹【debris】 fill¹ recycling license approved
 19 by the **【department】** ¹【Attorney General】 department¹ for any
 20 applicant or permittee pursuant to this section is non-transferable and
 21 shall be valid only for the length of time for which it is given.

22 Any applicant or permittee who is denied **【an initial】** a license or a
 23 soil and ¹【debris】 fill¹ recycling license pursuant to this section shall,
 24 upon a written request transmitted to the **【department】** ¹【Attorney
 25 General】 department¹ within 30 days of that denial, be afforded the
 26 opportunity for a hearing thereon in the manner provided for contested
 27 cases pursuant to the "Administrative Procedure Act," P.L.1968, c.410
 28 (C.52:14B-1 et seq.).
 29 (cf: P.L.1991, c.269, s.6)

30
 31 8. Section 7 of P.L.1991, c.269 (C.13:1E-133.1) is amended to
 32 read as follows:

33 7. a. Notwithstanding the ¹debarment pursuant to section 8 of
 34 P.L.1983, c.392 (C.13:1E-133) or the¹ conviction of any person
 35 required to be listed in a disclosure statement, or otherwise shown to
 36 have a beneficial interest in the business of an applicant, permittee or
 37 licensee ¹, or business concern that has been issued a soil and fill
 38 recycling license¹ or to have rented or leased at any or no cost real
 39 property, vehicles or other equipment used for the collection,
 40 transportation, treatment, processing, storage, ¹brokering,¹ transfer, or
 41 disposal of solid waste or hazardous waste, or the provision of soil
 42 and ¹【debris】 fill¹ recycling services, to the applicant, the permittee,
 43 or the licensee, ¹or the business concern that has been issued a soil and
 44 fill recycling license,¹ for any of the crimes enumerated in subsection
 45 b. of section 8 of P.L.1983, c.392 (C.13:1E-133), the **【department】**
 46 ¹【Attorney General】 department¹ may issue or renew a license or a
 47 soil and ¹【debris】 fill¹ recycling license to an applicant, permittee or

1 licensee ¹, or business concern that has been issued a soil and fill
 2 recycling license¹ if the **【department】** ¹**【Attorney General】**
 3 department¹ determines in a writing setting forth findings of fact that
 4 the ¹debarred or¹ convicted person has affirmatively demonstrated
 5 rehabilitation by clear and convincing evidence pursuant to the
 6 provisions of this section. If the **【department】** ¹**【Attorney General】**
 7 department¹ determines that the nature and seriousness of the
 8 ¹debarment or¹ crime creates a reasonable doubt that an applicant,
 9 permittee, or licensee ¹, or business concern that has been issued a soil
 10 and fill recycling license¹ will engage in the activity for which a
 11 license or soil and ¹**【debris】** fill¹ recycling license is sought in a
 12 lawful and responsible manner, the **【department】** ¹**【Attorney General】**
 13 department¹ shall make a determination in a writing setting forth
 14 findings of fact that the ¹debarred or¹ convicted person cannot
 15 affirmatively demonstrate rehabilitation.

16 b. In determining whether a ¹debarred or¹ convicted individual
 17 has affirmatively demonstrated rehabilitation, the **【department shall request**
 18 a recommendation thereon from the¹ **【Attorney General** **】, which**
 19 recommendation shall be¹ **【shall make a finding.】** **, which**
 20 recommendation shall be¹ in writing **【and】**, ¹and¹ based upon a
 21 consideration of at least the following factors:

22 (1) The nature and responsibilities of the position which a
 23 ¹debarred or¹ convicted individual would hold;

24 (2) The nature and seriousness of the ¹debarment or¹ crime;

25 (3) The circumstances under which the ¹debarment was imposed
 26 or the¹ crime was committed;

27 (4) The date of the ¹debarment or¹ crime;

28 (5) The age of the ¹debarred or¹ convicted individual when the
 29 ¹cause of debarment or¹ crime ¹**【was committed】** took place¹;

30 (6) Whether the ¹cause of the debarment or¹ crime was an isolated
 31 or repeated ¹event or¹ act;

32 (7) Any evidence of good conduct in the community, counseling or
 33 psychiatric treatment received, acquisition of additional academic or
 34 vocational schooling, or the recommendation of persons who have
 35 supervised the ¹debarred or¹ convicted individual since the ¹debarment
 36 or¹ conviction; and

37 (8) The full criminal record of the ¹debarred or¹ convicted
 38 individual, any record of civil or regulatory violations or notices or any
 39 complaints alleging any such civil or regulatory violations, or any
 40 other allegations of wrongdoing.

41 Notwithstanding any other provision of this subsection, a
 42 convicted individual shall have affirmatively demonstrated
 43 rehabilitation pursuant to the provisions of this section if the convicted
 44 individual produces evidence of a pardon issued by the Governor of
 45 this or any other state, or evidence of the expungement of every
 46

1 conviction for any of the crimes enumerated in subsection b. of section
2 8 of P.L.1983, c.392 (C.13:1E-133).

3 c. In determining whether a 'debarred or' convicted business
4 concern has affirmatively demonstrated rehabilitation, the [department
5 shall request a recommendation thereon from the] 'department shall
6 request a recommendation thereon from the' Attorney General [,
7 which recommendation shall be] '[shall make a finding.] , which
8 recommendation shall be' in writing [and], 'and' based upon a
9 consideration of at least the following factors:

10 (1) The nature and seriousness of the 'debarment or' crime;

11 (2) The circumstances under which the 'debarment was imposed
12 or the' crime was committed;

13 (3) The date of the 'debarment or' crime;

14 (4) Whether the 'cause of debarment or' crime was an isolated or
15 repeated 'event or' act; and

16 (5) The full criminal record of the 'debarred or' convicted
17 business concern, any record of civil or regulatory violations or notices
18 or any complaints alleging any such civil or regulatory violations, or
19 any other allegations of wrongdoing.

20 d. The Attorney General may require, as a predicate to a
21 determination that a 'debarred or' convicted business concern has
22 affirmatively demonstrated rehabilitation, that the 'debarred or'
23 convicted business concern agree, in writing, to an investigation of the
24 'debarment.' crime or crimes committed by the 'debarred or'
25 convicted business concern which caused disqualification pursuant to
26 subsection b. of section 8 of P.L.1983, c.392 (C.13:1E-133), the
27 persons involved in the 'debarment or' crime, and any corporate
28 policies, procedures, and organizational structure that may have led to
29 the 'debarment or' crime. At the conclusion of this investigation a
30 report shall be prepared identifying the underlying conduct giving rise
31 to 'the debarment or' any criminal convictions and any steps that have
32 subsequently been taken by the 'debarred or' convicted business
33 concern to prevent a recurrence of the 'acts leading to debarment or'
34 criminal activity, and recommending any steps that may be deemed
35 necessary to prevent a recurrence of the 'acts leading to debarment or'
36 criminal activity. The investigation shall be conducted by, or on behalf
37 of, the Attorney General, and the cost thereof shall be borne by the
38 'debarred or' convicted business concern.

39 The Attorney General may require, on the basis of this
40 investigation and as a condition of [recommending] '[determining]
41 recommending' that a 'debarred or' convicted business concern has
42 affirmatively demonstrated rehabilitation, that a 'debarred or'
43 convicted business concern comply, or agree in writing to comply,
44 with any of the following:

45 (1) changes in the 'debarred or' convicted business concern's
46 organizational structure to reduce the opportunity and motivation of
47 individual employees to engage in criminal activity, including

1 procedures for informing employees of the requirements of relevant
2 state and federal law;

3 (2) changes in the 'debarred or' convicted business concern's long
4 and short term planning to ensure that the 'debarred or' convicted
5 business concern implements procedures and policies to prevent future
6 violations of the law;

7 (3) changes in the 'debarred or' convicted business concern's
8 legal, accounting, or other internal or external control and monitoring
9 procedures to discourage or prevent future violations of state or federal
10 law;

11 (4) changes in the 'debarred or' convicted business concern's
12 ownership, control, personnel, and personnel selection practices,
13 including the removal of any person shown to have a beneficial
14 interest in the 'debarred or' convicted business concern, and the
15 imposition of a reward or disincentive system in order to encourage
16 employees to comply with relevant state and federal law;

17 (5) post-licensing monitoring of the 'debarred or' convicted
18 business concern's activities relating to any changes in policy,
19 procedure, or structure required by the Attorney General pursuant to
20 this subsection, the cost of such monitoring to be borne by the
21 'debarred or' convicted business concern; and

22 (6) any other requirements deemed necessary by the Attorney
23 General.

24 e. The **【department】** '【Attorney General】 department' shall not
25 determine that a 'debarred or' convicted business concern has
26 affirmatively demonstrated rehabilitation if the 'debarred or'
27 convicted business concern has not complied, or agreed in writing to
28 comply, with every requirement imposed by the Attorney General
29 pursuant to subsection d. of this section.

30 (cf: P.L.1991, c.269, s.7)

31

32 9. Section 8 of P.L.1991, c.269 (C.13:1E-133.2) is amended to
33 read as follows:

34 8. a. Notwithstanding any current prosecutions or pending
35 charges in any jurisdiction against any person required to be listed in a
36 disclosure statement, or otherwise shown to have a beneficial interest
37 in the business of an applicant, permittee or licensee ' , or business
38 concern that has been issued a soil and fill recycling license' , or to
39 have rented or leased at any or no cost real property, vehicles or other
40 equipment used for the collection, transportation, treatment,
41 processing, storage, 'brokering,' transfer, or disposal of solid waste or
42 hazardous waste, or the provision of soil and '【debris】 fill' recycling
43 services, to the applicant, the permittee, or the licensee, 'or business
44 concern that has been issued a soil and fill recycling license,' for any
45 of the crimes enumerated in subsection b. of section 8 of P.L.1983,
46 c.392 (C.13:1E-133), the 【department】 '【Attorney General】
47 department' may issue or renew a license or a soil and '【debris】 fill'

1 recycling license to an applicant, permittee or licensee ¹, or business
2 concern that has been issued a soil and fill recycling license¹ if the
3 **【department】** ¹**【Attorney General】** department¹ determines in a
4 writing setting forth findings of fact that the person against whom
5 there are current prosecutions or pending charges has affirmatively
6 reestablished a reputation for good character, honesty and integrity by
7 clear and convincing evidence pursuant to the provisions of this
8 section. If the **【department】** ¹**【Attorney General】** department¹
9 determines that the nature and seriousness of the crime alleged in a
10 current prosecution or pending charge creates a reasonable doubt that
11 an applicant, permittee, or licensee ¹, or business concern that has been
12 issued a soil and fill recycling license¹ will engage in the activity for
13 which a license is sought in a lawful and responsible manner, the
14 **【department】** ¹**【Attorney General】** department¹ shall make a
15 determination in a writing setting forth findings of fact that the person
16 against whom there are current prosecutions or pending charges cannot
17 reestablish a reputation for good character, honesty and integrity.

18 A person may affirmatively reestablish a reputation for good
19 character, honesty and integrity pursuant to this section in advance of
20 the disposition of the current prosecutions or pending charges provided
21 that this reestablishment consists of evidence of good character,
22 honesty and integrity rather than any defenses to the current
23 prosecutions or pending charges. A reestablishment of a reputation for
24 good character, honesty and integrity pursuant to this section shall not
25 be deemed insufficient due to a lack of admission of guilt to the
26 current prosecutions or pending charges.

27 b. In determining whether an individual against whom there are
28 current prosecutions or pending charges has affirmatively
29 reestablished a reputation for good character, honesty and integrity, the
30 **【department shall request a recommendation thereon from the】**
31 ¹department shall request a recommendation thereon from the¹
32 **Attorney General 【, which recommendation shall be】** ¹【shall make a
33 finding.】 , which recommendation shall be¹ in writing, and based upon
34 a consideration of at least the following factors:

35 (1) The nature and responsibilities of the position which the
36 individual against whom there are current prosecutions or pending
37 charges would hold;

38 (2) The nature and seriousness of the alleged crime;

39 (3) The circumstances under which the alleged crime was
40 committed;

41 (4) The date of the alleged crime;

42 (5) The age of the individual against whom there are current
43 prosecutions or pending charges when the alleged crime was
44 committed;

45 (6) Whether the alleged crime was an isolated or repeated act;

46 (7) Any evidence of good conduct in the community, counseling or
47 psychiatric treatment received, acquisition of additional academic or

1 vocational schooling, or the recommendation of persons who have
2 supervised the individual since the date of the alleged crime; and

3 (8) The full criminal record of the individual against whom there
4 are current prosecutions or pending charges, any record of civil or
5 regulatory violations or notices or any complaints alleging any such
6 civil or regulatory violations, or any other allegations of wrongdoing.

7 c. In determining whether a business concern against whom there
8 are current prosecutions or pending charges has affirmatively
9 reestablished a reputation for good character, honesty and integrity, the
10 ~~department shall request a recommendation thereon from the~~
11 ~~'department shall request a recommendation thereon from the'~~
12 Attorney General ~~], which recommendation shall be~~ ~~'[shall make a~~
13 ~~finding.] , which recommendation shall be'~~ in writing, and based upon
14 a consideration of at least the following factors:

15 (1) The nature and seriousness of the alleged crime;

16 (2) The circumstances under which the alleged crime was
17 committed;

18 (3) The date of the alleged crime;

19 (4) Whether the alleged crime was an isolated or repeated act; and

20 (5) The full criminal record of the business concern against whom
21 there are current prosecutions or pending charges, any record of civil
22 or regulatory violations or notices or any complaints alleging any such
23 civil or regulatory violations, or any other allegations of wrongdoing.

24 d. The Attorney General may require, as a predicate to a
25 determination that a business concern against which there are current
26 prosecutions or pending charges has affirmatively reestablished a
27 reputation for good character, honesty and integrity, that the business
28 concern agree, in writing, to an investigation of the alleged crime or
29 crimes committed by the business concern, the persons involved in the
30 alleged crime, and any corporate policies, procedures, and
31 organizational structure that may have led to the alleged crime. At the
32 conclusion of this investigation a report shall be prepared identifying
33 the underlying conduct giving rise to any alleged criminal activity and
34 any steps that have subsequently been taken by the business concern to
35 prevent a recurrence of the alleged criminal activity, and
36 recommending any steps that may be deemed necessary to prevent a
37 recurrence of the alleged criminal activity. The investigation shall be
38 conducted by, or on behalf of, the Attorney General, and the cost
39 thereof shall be borne by the business concern.

40 The Attorney General may require, on the basis of this
41 investigation and as a condition of ~~[recommending]~~ ~~'[finding]~~
42 ~~recommending'~~ that a business concern against which there are current
43 prosecutions or pending charges has affirmatively reestablished a
44 reputation for good character, honesty and integrity, that a business
45 concern comply, or agree in writing to comply, with any of the
46 following:

47 (1) changes in the business concern's organizational structure to
48 reduce the opportunity and motivation of individual employees to

1 engage in criminal activity, including procedures for informing
2 employees of the requirements of relevant state and federal law;

3 (2) changes in the business concern's long and short term planning
4 to ensure that the business concern implements procedures and
5 policies to prevent future violations of state or federal law;

6 (3) changes in the business concern's legal, accounting, or other
7 internal or external control and monitoring procedures to discourage or
8 prevent future violations of state or federal law;

9 (4) changes in the business concern's ownership, control,
10 personnel, and personnel selection practices, including the removal of
11 any person shown to have a beneficial interest in the business concern,
12 and the imposition of a reward or disincentive system in order to
13 encourage employees to comply with relevant state and federal law;

14 (5) post-licensing monitoring of the business concern's activities
15 relating to any changes in policy, procedure, or structure required by
16 the Attorney General pursuant to this subsection, the cost of such
17 monitoring to be borne by the business concern; and

18 (6) any other requirements deemed necessary by the Attorney
19 General.

20 e. The **【department】** ¹**【Attorney General】 department**¹ shall not
21 determine that a business concern against which there are current
22 prosecutions or pending charges has affirmatively reestablished a
23 reputation for good character, honesty and integrity if the business
24 concern has not complied, or agreed in writing to comply, with every
25 requirement imposed by the Attorney General pursuant to subsection
26 d. of this section.

27 (cf: P.L.1991, c.269, s.8)

28
29 ¹**【10. Section 17 of P.L.1991, c.269 (C.13:1E-133.3) is amended**
30 **to read as follows:**

31 17. The Department of Environmental Protection shall not issue
32 any permits required pursuant to P.L.1954, c.212 (C.26:2C-1 et
33 seq.), P.L.1962, c.19 (C.58:16A-50 et seq.), P.L.1975,
34 c.232 (C.13:1D-29 et seq.), P.L.1977, c.74 (C.58:10A-1 et seq.),
35 P.L.1981, c.262 (C.58:1A-1 et seq.), or any other law, or any rules
36 and regulations adopted thereto, to any person proposing to own or
37 operate a resource recovery facility prior to the completion by the
38 Attorney General **【and the department】** of the requirements of
39 sections 3 and 8 of P.L.1983, c.392 (C.13:1E-128 and 13:1E-133),
40 and unless the person proposing to own or operate the resource
41 recovery facility has received a license approved by the
42 **【department】 Attorney General** pursuant to section 8 of
43 P.L.1983, c.392 (C.13:1E-133); except that the department may
44 issue such permits if the **【department】 Attorney General** has
45 approved, issued or renewed a temporary license for such person
46 pursuant to section 10 of P.L.1983, c.392 (C.13:1E-135).

47 (cf: P.L.1991, c.269, s.17) ¹**】**

1 ¹**11.1** 10.¹ Section 9 of P.L.1983, c.392 (C.13:1E-134) is
2 amended to read as follows:

3 9. Any license or soil and ¹**1**debris fill¹ recycling license may be
4 revoked by the **1**department ¹**1**Attorney General department¹
5 pursuant to the "Administrative Procedure Act," P.L.1968, c.410
6 (C.52:14B-1 et seq.) for any of the following causes:

7 a. Any cause which would require disqualification, pursuant to
8 subsection a., b., c., e. or f. of section 8 of P.L.1983, c.392 (C.13:1E-
9 133), from receiving a license or a soil and ¹**1**debris fill¹ recycling
10 license upon original application;

11 b. Fraud, deceit or misrepresentation in securing ¹or maintaining¹
12 the license or soil and ¹**1**debris fill¹ recycling license, or in the
13 conduct of the licensed activity;

14 c. Offering, conferring or agreeing to confer any benefit to induce
15 any other person to violate the provisions of P.L.1983, c.392 (C.13:1E-
16 126 et seq.), or of any other law relating to the collection,
17 transportation, treatment, storage, ¹brokering,¹ transfer or disposal of
18 solid waste or hazardous waste, or the provision of soil and ¹**1**debris
19 fill¹ recycling services, or of any rule or regulation adopted pursuant
20 thereto;

21 d. Coercion of a customer by violence or economic reprisal or the
22 threat thereof to utilize the services of any permittee or licensee, or a
23 business concern that holds a soil and ¹**1**debris fill¹ recycling license;
24 ¹**1**or¹

25 e. Preventing, without authorization of the department, any
26 permittee or licensee ¹, or business concern that has been issued a soil
27 and fill recycling license¹ from disposing of solid waste or hazardous
28 waste at a licensed, authorized or approved treatment, storage, transfer
29 or disposal facility ¹, or

30 f. Failing to file timely annual updates as directed by the
31 Attorney General¹.

32 (cf: P.L.1991, c.269, s.9)

33
34 ¹**12.1** 11.¹ Section 10 of ¹**1**P.L.1991, c.269 P.L.1983, c.392¹
35 (C.13:1E-135) is amended to read as follows:

36 10. a. (1) Notwithstanding the disqualification of the applicant or
37 permittee pursuant to subsection a., b., c., e. or f. of section 8 of
38 P.L.1983, c.392 (C.13:1E-133), the department may issue or renew a
39 license or a soil and ¹**1**debris fill¹ recycling license if the applicant or
40 permittee severs the interest of or affiliation with the person who
41 would otherwise cause that disqualification. ¹The department may bar
42 the person that would otherwise cause the disqualification from
43 participation in the collection, transportation, treatment, storage,
44 processing, brokering, transfer, or disposal of solid or hazardous
45 waste, or the provision of soil and fill recycling services.¹

46 (2) The department may issue or renew a temporary license to any
47 applicant or permittee for periods not to exceed six months if the

1 department determines that the issuance or renewal of a temporary
2 license is necessitated by the public interest.

3 b. After July 1, 1992, the provisions of any other law to the
4 contrary notwithstanding, no temporary license shall be approved,
5 issued or renewed by the department for any applicant or permittee, as
6 the case may be, to own or operate a resource recovery facility or other
7 solid waste facility approved by the department for the long-term solid
8 waste disposal requirements of a district or districts pursuant to the
9 "Solid Waste Management Act," P.L.1970, c.39 (C.13:1E-1 et seq.)
10 prior to the completion by the Attorney General **and the department**
11 'and the department' of the requirements of sections 3 and 8 of
12 P.L.1983, c.392 (C.13:1E-128 and 13:1E-133); except that the
13 department may issue a temporary license to an applicant or renew the
14 temporary license of a permittee if the Commissioner of the
15 Department of Environmental Protection determines, in writing, that
16 the issuance of a temporary license for that applicant or renewal of the
17 temporary license for that permittee is necessitated by the public
18 interest.

19 (cf: P.L.1991, c.269, s.10)

20
21 ¹**13.** Section 7 of P.L.1970, c.40 (C.48:13A-6) is amended to
22 read as follows:

23 7. a. No person shall engage, or be permitted to engage, in the
24 business of solid waste collection or solid waste disposal until
25 found by the Department of Environmental Protection to be
26 qualified by experience, training or education to engage in such
27 business, is able to furnish proof of financial responsibility, and
28 unless that person holds a certificate of public convenience and
29 necessity issued by the Department of Environmental Protection.

30 (1) No certificate shall be issued for solid waste collection or
31 solid waste disposal until the person proposing to engage in solid
32 waste collection or solid waste disposal, as the case may be, has
33 been registered with and approved by the Department of
34 Environmental Protection as provided by section 5 of P.L.1970,
35 c.39 (C.13:1E-5).

36 (2) No certificate of public convenience and necessity shall be
37 issued by the Department of Environmental Protection to any
38 person who has been denied approval of a license under the
39 provisions of P.L.1983, c.392 (C.13:1E-126 et seq.), or whose
40 license has been revoked by the **Department of Environmental**
41 **Protection** Attorney General, as the case may be.

42 b. No person shall transport regulated medical waste until
43 found by the Department of Environmental Protection to be
44 qualified by experience, training or education to engage in such
45 business, and is able to furnish proof of financial responsibility, and
46 holds a certificate of public convenience and necessity issued by the
47 Department of Environmental Protection. No certificate shall be
48 issued for the transportation of regulated medical waste until the
49 proposed transporter has obtained a registration statement required

1 by section 5 of P.L.1970, c.39 (C.13:1E-5) and paid the fee imposed
2 under section 9 of P.L.1989, c.34 (C.13:1E-48.9).

3 c. Notwithstanding the provisions of subsection b. of this
4 section, the department shall not have jurisdiction over rates or
5 charges for the transportation of regulated medical waste.

6 (cf: P.L.2003, c.169, s.13)】¹

7

8 ¹【14. Section 10 of P.L.1970, c.40 (C.48:13A-9) is amended to
9 read as follows:

10 10. The Department of Environmental Protection shall revoke or
11 suspend the certificate of public convenience and necessity issued
12 to any person engaged in the solid waste collection business or the
13 solid waste disposal business upon the finding that such person:

14 a. Has violated any provision of P.L.1970, c.40 (C.48:13A-1 et
15 seq.) or P.L.1991, c.381 (C.48:13A-7.1 et al.), or any rule,
16 regulation or administrative order adopted or issued pursuant
17 thereto; or

18 b. Has violated any provision of any laws related to pollution
19 of the air, water or lands of this State; or

20 c. Has refused or failed to comply with any lawful order of the
21 department; or

22 d. Has had its registration revoked by the Department of
23 Environmental Protection; or

24 e. Has been denied approval of a license under the provisions
25 of P.L.1983, c.392 (C.13:1E-126 et seq.), or has had its license
26 revoked by the 【Department of Environmental Protection】 Attorney
27 General, as the case may be.

28 (cf: P.L.2003, c.169, s.19)】¹

29

30 ¹【15.】 12.¹ Section 3 of P.L.1971, c.461 (C.13:1E-18) is
31 amended to read as follows:

32 3. a. The department may in accordance with a fee schedule
33 adopted as a rule or regulation establish and charge annual or
34 periodic fees for any of the services to be performed in connection
35 with the "Solid Waste Management Act," P.L.1970, c.39 (C.13:1E-1
36 et seq.) 【, except that the annual or periodic fees charged by the
37 department to cover the costs incurred by any State agency relevant
38 to pre-licensing investigations, post-licensing compliance
39 monitoring or related activities under the provisions of P.L.1983,
40 c.392 (C.13:1E-126 et seq.) shall be based upon the size of the
41 business concern. For the purposes of this subsection, "business
42 concern" means any corporation, association, firm, partnership, sole
43 proprietorship, trust or other form of commercial organization;
44 "size" means the number of key employees or persons required to
45 be listed in the disclosure statement, or otherwise shown to have a
46 beneficial interest in the business of the applicant, permittee or
47 licensee as defined in section 2 of P.L.1983, c.392 (C.13:1E-127);
48 and "State agency" means any State department, division, agency,
49 commission or authority.

1 The department, upon receipt of standard billing, shall provide
2 reimbursement in full to the Attorney General or any other State
3 agency for all expenses incurred by that State agency in the
4 performance of pre-licensing investigations, post-licensing
5 compliance monitoring or any other related activities consistent
6 with the provisions of P.L.1983, c.392 (C.13:1E-126 et seq.)].

7 b. The fee schedule shall reasonably reflect the duration or
8 complexity of the specific service rendered, permit application
9 reviewed, or registration statement or engineering design
10 application approval sought.

11 (cf: P.L.1991, c.269, s.15)

12
13 ¹16.13.¹ (New section) a. The ¹Attorney General
14 department¹ shall establish application and license fees ¹, annual fees,
15 and any other fees the department determines necessary to defray the
16 costs of administration,¹ for any license or soil and ¹debris fill¹
17 recycling license issued pursuant to P.L.1983, c.392 (C.13:1E-126 et
18 seq.) ¹, or the soil and fill recycling registration issued pursuant to
19 section 1 of P.L. , c. (C.) (pending before the Legislature as this
20 bill)¹. The fees shall be ¹based upon the cost of investigation and
21 consideration of the license application, and the actual and prospective
22 costs of the investigative and enforcement functions of the office. The
23 annual or periodic fees shall cover the costs incurred by any State
24 agency relevant to pre-licensing investigations, post-licensing
25 compliance monitoring or related activities under the provisions of
26 P.L.1983, c.392 (C.13:1E-126 et seq.) and shall be based upon the size
27 of the business concern. For the purposes of this section, "business
28 concern" means any corporation, association, firm, partnership, sole
29 proprietorship, trust or other form of commercial organization; "size"
30 means the number of key employees or persons required to be listed in
31 the disclosure statement, or otherwise shown to have a beneficial
32 interest in the business of the applicant, permittee or licensee as
33 defined in section 2 of P.L.1983, c.392 (C.13:1E-127); and "State
34 agency" means any State department, division, agency, commission or
35 authority.

36 The Attorney General shall provide reimbursement in full to any
37 State agency for all expenses incurred by that State agency in the
38 performance of pre-licensing investigations, post-licensing compliance
39 monitoring or any other related activities consistent with the
40 provisions of P.L.1983, c.392 (C.13:1E-126 et seq.)] used to pay costs
41 related to consideration of license and soil and fill recycling license
42 applications, investigations, monitoring, enforcement, and related
43 activities, and to reimburse any State agency for expenses incurred by
44 the agency in the performance of pre-licensing investigations, post-
45 licensing compliance monitoring, or any other related activities
46 consistent with the provisions of P.L.1983, c.392 (C.13:1E-126 et
47 seq.). Annual fees shall be assessed on licensees and the holders of
48 soil and fill recycling licenses based on a percentage their gross
49 operating revenue from intrastate operations during the preceding

1 calendar year. Fees collected under this section shall be deposited into
 2 a special account, to be administered by the department, and shall be
 3 used only for the costs associated with administering the provisions of
 4 P.L.1983, c.392 (C.13:1E-126 et seq.).¹

5 b. 'The department may, pursuant to the "Administrative
 6 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), adopt rules and
 7 regulations to effectuate monitoring and enforcement of P.L.1983,
 8 c.392 (C.13:1E-126 et seq.) and P.L. , c. (C.) (pending before the
 9 Legislature as this bill).

10 c.¹ The '[Attorney General] department'¹ shall prepare and
 11 submit, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), to the
 12 Legislature an annual report on the establishment and implementation
 13 of the fee schedule adopted pursuant to this section.

14
 15 '[17.] 14.'¹ (New section) No later than 90 days after the
 16 'effective' date of '[enactment of]'¹ P.L. , c. (C.) (pending before
 17 the Legislature as this bill), the Department of Environmental
 18 Protection, the Department of the Treasury, and the Attorney General
 19 shall enter into a memorandum of agreement that provides for '[the
 20 establishment of a records and information management system] a
 21 reciprocal information exchange method'¹ to provide '[State regulators
 22 at each department and other relevant government agencies in New
 23 Jersey and elsewhere] the Department of Environmental Protection,
 24 the Department of Treasury, and the Attorney General'¹ with effective
 25 and efficient access to information concerning individuals and
 26 business concerns that are applicants, license holders, and permittees
 27 in the solid waste, hazardous waste and recycling industries '[. The
 28 information in the system shall include license and permit information,
 29 records of violations, criminal charges and convictions, debarment
 30 determinations and any other information deemed to be relevant] as
 31 determined to be appropriate by the Attorney General'¹.

32
 33 '[18.] 15.'¹ (New section) The State Treasurer shall establish a
 34 list to be maintained in the Department of the Treasury of
 35 individuals and business concerns that have:

36 a. been debarred from contracting with or receiving funds from
 37 any unit in the Executive branch of State government, including any
 38 entity exercising executive branch authority or independent State
 39 authority, or any unit of local government or board of education;

40 b. had a permit, license, ²[or]² soil and ¹[debris] fill'¹
 41 recycling ¹registration ²issued pursuant to section 1 of P.L. , c.
 42 (C.) (pending before the Legislature as this bill),² or soil and fill
 43 recycling'¹ license denied or revoked pursuant to P.L.1983, c.392
 44 (C.13:1E-126 et seq.); or

45 c. had any license denied or revoked pursuant to
 46 P.L.1977, c.110 (C.5:12-1 et seq.).

1 ¹**[19.] 16.**¹ (New section) The Attorney General shall seek to
2 establish with the State of New York and other states in the region a
3 reciprocal information exchange ¹**[system] method**¹ to facilitate the
4 sharing of information among the states on the solid waste, hazardous
5 waste, and recycling industries in the respective states. Each year for
6 the first three years after the ¹**effective**¹ date of ¹**[enactment of]**¹
7 P.L. , c. (C.) (pending before the Legislature as this bill), the
8 Attorney General shall prepare and submit, pursuant to section 2 of
9 P.L.1991, c.164 (C.52:14-19.1), to the Legislature a report on the
10 progress made toward establishing and implementing this interstate
11 cooperative effort.

12
13 ²**17.** (New section) a. The department shall adopt, pursuant to
14 the “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1
15 et seq.), rules and regulations establishing a schedule of penalties
16 for violations of P.L.1983, c.392 (C.13:1E-126 et seq.), to be
17 applied pursuant to this section.

18 b. Whenever, on the basis of available information, the
19 department finds that a person has violated any provision of
20 P.L.1983, c.392 (C.13:1E-126 et seq.), or any rule or regulation
21 adopted, or license issued, pursuant thereto, the department may:

22 (1) Issue an order requiring the person found to be in violation
23 to comply in accordance with subsection c. of this section;

24 (2) Bring a civil action in accordance with subsection d. of this
25 section;

26 (3) Levy a civil administrative penalty in accordance with
27 subsection e. of this section;

28 (4) Bring an action for a civil penalty in accordance with
29 subsection f. of this section; or

30 (5) Petition the Attorney General to bring a criminal action in
31 accordance with subsection g. of this section.

32 c. Whenever the department finds that a person has violated
33 any provision of P.L.1983, c.392 (C.13:1E-126 et seq.), or any rule
34 or regulation adopted, or license issued, pursuant thereto, the
35 department may issue an order specifying the provision or
36 provisions of P.L.1983, c.392 (C.13:1E-126 et seq.), or the rule,
37 regulation, or license of which the person is in violation, citing the
38 action which constituted the violation, ordering abatement of the
39 violation, and giving notice to the person of his right to a hearing on
40 the matters contained in the order. The ordered party shall have 20
41 calendar days from receipt of the order within which to deliver to
42 the department a written request for a hearing. Such order shall be
43 effective upon receipt, and any person to whom such order is
44 directed shall comply with the order immediately. A request for
45 hearing shall not automatically stay the effect of the order.

46 d. The department, a local board of health, or a county health
47 department may institute an action or proceeding in the Superior
48 Court for injunctive and other relief, including the appointment of a
49 receiver for any violation of P.L.1983, c.392 (C.13:1E-126 et seq.),

1 or of any rule or regulation adopted, or license issued, pursuant to
2 P.L.1983, c.392 (C.13:1E-126 et seq.), and the court may proceed in
3 the action in a summary manner. In any such proceeding the court
4 may grant temporary or interlocutory relief. Such relief may
5 include, singly or in combination:

6 (1) A temporary or permanent injunction;

7 (2) Assessment of the violator for the costs of any investigation,
8 inspection, or monitoring survey which led to the establishment of
9 the violation, and for the reasonable costs of preparing and
10 litigating the case under this subsection;

11 (3) Assessment of the violator for any cost incurred by the State
12 in removing, correcting, or terminating the adverse effects upon air
13 quality or water quality resulting from any violation of any
14 provision of P.L.1983, c.392 (C.13:1E-126 et seq.), or any rule or
15 regulation adopted, or licensed issued, pursuant thereto for which
16 the action under this subsection may have been brought;

17 (4) Assessment against the violator of compensatory damages
18 for any loss or destruction of wildlife, fish or aquatic life, and for
19 any other actual damages caused by any violation of P.L.1983,
20 c.392 (C.13:1E-126 et seq.) or any rule or regulation adopted, or
21 license issued, pursuant thereto for which the action under this
22 subsection may have been brought. Assessments under this
23 subsection shall be paid to the State Treasurer, or to the local board
24 of health, or to the county health department, as the case may be,
25 except that compensatory damages may be paid by specific order of
26 the court to any persons who have been aggrieved by the violation.

27 If a proceeding is instituted by a local board of health or county
28 health department, notice thereof shall be served upon the
29 department in the same manner as if the department were a named
30 party to the action or proceeding. The department may intervene as
31 a matter of right in any proceeding brought by a local board of
32 health or county health department.

33 e. The department is authorized to assess a civil administrative
34 penalty of not more than \$50,000.00 for each violation provided
35 that each day during which the violation continues shall constitute
36 an additional, separate, and distinct offense. The department shall
37 not assess a civil administrative penalty in excess of \$25,000.00 for
38 a single violation, or in excess of \$2,500.00 for each day during
39 which a violation continues, until the department has adopted,
40 pursuant to the "Administrative Procedure Act," P.L.1968, c.410
41 (C.52:14B-1 et seq.), rules and regulations requiring the
42 department, in assessing a civil administrative penalty, to consider
43 the operational history of the violator, the severity of the violation,
44 the measures taken to mitigate or prevent further violations, and
45 whether the penalty will maintain an appropriate deterrent. No
46 assessment shall be levied pursuant to this section until after the
47 violator has been notified by certified mail or personal service. The
48 notice shall include a reference to the section of the statute, rule,
49 regulation, or license violated, a concise statement of the facts

1 alleged to constitute a violation, a statement of the amount of the
2 civil administrative penalties to be imposed, and a statement of the
3 party's right to a hearing. The ordered party shall have 20 calendar
4 days from receipt of the notice within which to deliver to the
5 department a written request for a hearing. After the hearing and
6 upon finding that a violation has occurred, the department may
7 issue a final order after assessing the amount of the fine specified in
8 the notice. If no hearing is requested, the notice shall become a
9 final order after the expiration of the 20-day period. Payment of the
10 assessment is due when a final order is issued or the notice becomes
11 a final order. The authority to levy a civil administrative penalty is
12 in addition to all other enforcement provisions in P.L.1983, c.392
13 (C.13:1E-126 et seq.) and P.L.1970, c. 39 (C. 13:1E-1 et seq.), and
14 the payment of any assessment shall not be deemed to affect the
15 availability of any other enforcement provisions in connection with
16 the violation for which the assessment is levied. The department
17 may settle any civil administrative penalty assessed under this
18 section in an amount the department determines appropriate.

19 f. Any person who violates the provisions of P.L.1983, c.392
20 (C.13:1E-126 et seq.), or any rule or regulation adopted, or licensed
21 issued, pursuant thereto shall be liable to a penalty of not more than
22 \$50,000.00 per day, to be collected in a civil action commenced by
23 a local board of health, a county health department, or the
24 department.

25 Any person who violates an administrative order issued pursuant
26 to subsection c. of this section, or a court order issued pursuant to
27 subsection d. of this section, or who fails to pay an administrative
28 assessment in full pursuant to subsection e. of this section is subject
29 upon order of a court to a civil penalty not to exceed \$100,000.00
30 per day of such violations.

31 Any penalty imposed pursuant to this subsection may be
32 collected with costs in a summary proceeding pursuant to "the
33 penalty enforcement law" (N.J.S.2A:58-1 et seq.). The Superior
34 Court and the municipal court shall have jurisdiction to enforce the
35 provisions of "the penalty enforcement law" in connection with this
36 act.

37 g. Any person who engages in soil and fill recycling services
38 without a registration issued pursuant to section 1 of P.L. ,
39 c. (C.) (pending before the Legislature as this bill), or a soil and
40 fill recycling license issued pursuant to
41 section 8 of P.L.1983, c.392 (C.13:1E-133), as appropriate, or who
42 knowingly makes any false or misleading statement to the
43 department or the Attorney General in connection with a
44 registration or license, shall, upon conviction, be guilty of a crime
45 of the third degree and, notwithstanding the provisions of
46 N.J.S.2C:43-3, shall be subject to a fine of not more than
47 \$50,000.00 for the first offense and not more than \$100,000.00 for
48 the second and each subsequent offense and restitution, in addition

1 to any other appropriate disposition authorized by subsection b. of
2 N.J.S.2C:43-2.

3 h. Any person who collects, transports, treats, stores, brokers,
4 transfers, or disposes of solid waste or hazardous waste, or that
5 engages in soil and fill recycling services, shall furnish the
6 appropriate license or registration upon the request of any law
7 enforcement officer or any agent of the department, a local board of
8 health, or a county health department.

9 i. Pursuit of any remedy specified in this section shall not
10 preclude the pursuit of any other remedy provided by any other law.
11 Administrative and judicial remedies provided in this section may
12 be pursued simultaneously.²

13
14 ²18. (New section) The department, a local board of health, and
15 a county health department shall have the right to enter, inspect, and
16 take samples at or from, any facility or premises used in connection
17 with the provision of soil and fill recycling services in order to
18 determine compliance with a registration issued pursuant to section
19 1 of P.L. , c. (C.) (pending before the Legislature as this bill),
20 a soil and fill recycling license issued pursuant to section 8 of
21 P.L.1983, c.392 (C.13:1E-133), and any other applicable law, and
22 rules and regulations adopted pursuant thereto.²

23
24 ¹20. Section 2 of this act shall take effect on the 180th day after
25 the date of enactment, and the remainder of this act] ²17.] 19.² This
26 act¹ shall take effect immediately.