

CHAPTER 397

AN ACT concerning regulation of the solid waste, hazardous waste, and soil and fill recycling industries, amending and supplementing P.L.1983, c.392, and amending P.L.1991, c.269 and P.L.1971, c.461.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

C.13:1E-127.1 Soil and fill recycling registration.

1. a. No later than 90 days after the effective date of P.L.2019, c.397 (C.13:1E-127.1 et al.), any business concern that is not already a licensee pursuant to P.L.1991, c.269 (C.13:1E-126 et seq.), and that actively engages in, or otherwise provides, soil and fill recycling services shall register with the department. The registration shall include, but need not be limited to:

- (1) the name of the business concern and its New Jersey corporate filing number;
- (2) the address of the business concern and the addresses of any other locations where trucks or equipment used by the business concern are kept;
- (3) contact information for the business concern, including, but not limited to, a valid phone number and email address; and
- (4) a statement by the business concern that it is actively engaged in soil and fill recycling services at the time of registration.

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

c. No more than 90 days after submission of a registration form pursuant to this section, the department shall issue a soil and fill recycling registration to the business concern. Issuance of a soil and fill recycling registration pursuant to this section shall not preclude the department from subsequently denying a soil and fill recycling license to the registrant.

d. No more than 270 days after the effective date of P.L.2019, c.397 (C.13:1E-127.1 et al.), a registrant shall submit a valid and administratively complete application for a soil and fill recycling license with the Attorney General. Registrants may request a 90-day extension to file a soil and fill recycling license application pursuant to this section, and the Attorney General may grant the request upon a showing of good cause.

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

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

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

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

C.13:1E-127.2 Registration required to engage in soil and fill recycling services.

2. Beginning 180 days after the effective date of P.L.2019, c.397 (C.13:1E-127.1 et al.), no business concern shall engage in soil and fill recycling services unless it holds a soil and fill recycling registration issued pursuant to section 1 of P.L.2019, c.397 (C.13:1E-127.1), a soil and fill recycling license issued pursuant to section 8 of P.L.1983, c.392 (C.13:1E-133), or is a licensee pursuant to section 8 of P.L.1983, c.392 (C.13:1E-133).

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

C.13:1E-127 Definitions.

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

a. "Applicant" means any business concern that (1) has filed a disclosure statement with the Attorney General and is seeking a license, provided that the business concern has furnished the department and the Attorney General with any information required pursuant to P.L.1983, c.392 (C.13:1E-126 et seq.), or (2) has been issued a soil and fill recycling registration pursuant to section 1 of P.L.2019, c.397 (C.13:1E-127.1), has filed a disclosure statement with the Attorney General, and is seeking a soil and fill recycling license.

b. "Application" means the forms and accompanying documents filed in connection with an applicant's or permittee's request for a license or a soil and fill recycling license.

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

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

e. "Disclosure statement" means a statement submitted to the Attorney General by an applicant or a permittee, which statement shall include:

(1) The full name, business address, telephone number, email address, and social security number of the applicant or the permittee, as the case may be, and of any officers, directors, partners, or key employees thereof and all persons holding any equity in or debt liability of the applicant or permittee, or, if the applicant or permittee is a publicly traded corporation, all persons holding more than five percent of the equity in or the debt liability of the applicant or permittee, except that (a) where the equity in or debt liability of the applicant or permittee is held by an institutional investor, the applicant or permittee need only supply the name, business address and the basis upon which the institutional investor qualifies as an institutional investor, and (b) where the debt liability is held by a chartered lending institution, the applicant or permittee need only supply the name and business address of the lending institution;

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

(3) The full name and business address of any business concern which collects, transports, treats, stores, brokers, transfers or disposes of solid waste or hazardous waste, or that engages in soil and fill recycling services, in which the applicant or the permittee holds an equity interest;

(4) A description of the experience and credentials in, including any past or present licenses for, the collection, transportation, treatment, storage, brokering, transfer or disposal of solid waste or hazardous waste, or the provision of soil and fill recycling services, possessed by the applicant or the permittee, as the case may be, and by the key employees, officers, directors, or partners thereof;

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

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

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

(8) A listing of any agencies outside of New Jersey which had regulatory responsibility over the applicant or the permittee, as the case may be, in connection with the collection, transportation, treatment, storage, brokering, transfer or disposal of solid waste or hazardous waste or in connection with the provision of soil and fill recycling services;

(9) The full name and business address of any individual or business concern that leases real property or equipment used for the collection, transportation, treatment, processing, storage, brokering, transfer, or disposal of solid waste or hazardous waste, or the provision of soil and fill recycling services, to the applicant, permittee, or licensee;

(10) A listing and explanation of any civil litigation pending between the applicant, permittee, licensee, key employee, officer, director, or partner thereof and any other person engaged in the collection, transportation, treatment, processing, storage, brokering, transfer, or disposal of solid waste or hazardous waste or in the provision of soil and fill recycling services, related to the provision of solid waste, hazardous waste or soil and fill recycling services; and

(11) Any other information the Attorney General may require that relates to the competency, reliability or integrity of the applicant or the permittee.

The provisions of paragraphs (1) through (11) of this subsection to the contrary notwithstanding, if an applicant or a permittee is a secondary business activity corporation, "disclosure statement" means a statement submitted to the Attorney General by an applicant or a permittee, which statement shall include:

(a) The full name, primary business activity, office or position held, business address, home address, telephone number, email address, date of birth and federal employer identification number of the applicant or the permittee, as the case may be, and of all officers, directors, partners, or key employees of the business concern; and of all persons holding more than five percent of the equity in or debt liability of that business concern, except that where the debt liability is held by a chartered lending institution, the applicant or permittee need only supply the

name and business address of the lending institution. The Attorney General or the department may request the social security number of any individual identified pursuant to this paragraph;

(b) The full name, business address and federal employer identification number of any business concern in any state, territory or district of the United States, which (i) engages in soil and fill recycling services, or (ii) collects, transports, treats, stores, processes, recycles, brokers, transfers or disposes of solid waste or hazardous waste on a commercial basis, in which the applicant or the permittee holds an equity interest, and the type, amount and dates of the equity held in such business concern;

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

(d) If the applicant or the permittee is a subsidiary of a parent corporation, or is the parent corporation of one or more subsidiaries, or is part of a group of companies in common ownership, as the case may be, a chart, or, if impractical or burdensome, a list showing the names, federal employer identification numbers and relationships of all parent, sister, subsidiary and affiliate corporations, or members of the group, and the equity interest by percentage for each subsidiary company;

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

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

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

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

f. "Key employee" means any individual employed or otherwise engaged by the applicant, the permittee or the licensee in a supervisory capacity or empowered to make discretionary decisions with respect to the solid waste, hazardous waste, or soil and fill recycling operations of the business concern; any family member of an officer, director, partner, or key employee, employed or otherwise engaged by the applicant or permittee; or any broker, consultant or sales person employed or otherwise engaged by, or who do business with, the applicant, permittee, or licensee, with respect to the solid waste, hazardous waste, or soil and fill recycling operations of the business concern; but shall not include (1) employees, who are not family members,

exclusively engaged in the physical or mechanical collection, transportation, treatment, storage, transfer or disposal of solid waste or hazardous waste, or the provision of soil and fill recycling services; or (2) a sales person employed by a publicly traded corporation or a direct or indirect subsidiary of a publicly traded corporation.

g. "License" means the approval of any registration statement or engineering design pursuant to P.L.1970, c.39 (C.13:1E-1 et seq.) or P.L.1981, c.279 (C.13:1E-49 et seq.), for the collection, transportation, treatment, storage, processing, brokering, transfer or disposal of solid waste or hazardous waste in this State.

A "license" shall not include any registration statement or engineering design approved for:

(1) Any State department, division, agency, commission or authority, or county, municipality or agency thereof;

(2) Any person solely for the collection, transportation, treatment, storage, processing, brokering, transfer, or disposal of solid waste or hazardous waste generated by that person, provided that the department may adopt regulations to limit the scope of this exemption based on volume or other standards;

(3) Any person for the operation of a hazardous waste facility, if at least 75 percent of the total design capacity of that facility is utilized to treat, store or dispose of hazardous waste generated by that person;

(4) Any person for the operation of a hazardous waste facility which is considered as such solely as the result of the reclamation, recycling or refining of hazardous wastes which are or contain any of the following precious metals: gold, silver, osmium, platinum, palladium, iridium, rhodium, ruthenium, or copper;

(5) Any person solely for the transportation of hazardous wastes which are or contain precious metals to a hazardous waste facility described in paragraph (4) of this subsection for the purposes of reclamation.

A "license" shall include any registration statement approved for any person who transports any other hazardous waste in addition to hazardous wastes which are or contain precious metals;

(6) Any person solely for the collection, transportation, treatment, storage or disposal of granular activated carbon used in the adsorption of hazardous waste; or

(7) Any regulated medical waste generator for the treatment or disposal of regulated medical waste at any noncommercial incinerator or noncommercial facility in this State that accepts regulated medical waste for disposal.

h. "Licensee" means any business concern which has completed the requirements of section 3 of P.L.1983, c.392 (C.13:1E-128) and whose application for the issuance or renewal of a license has been approved by the department pursuant to section 8 of P.L.1983, c.392 (C.13:1E-133).

i. "Permittee" means and shall include:

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

(2) Any business concern which has filed a disclosure statement with the department and the Attorney General and to which a temporary license has been approved, issued or renewed by the department pursuant to section 10 of P.L.1983, c.392 (C.13:1E-135), but which has not otherwise completed the requirements of section 3 of P.L.1983, c.392 (C.13:1E-128) and whose application for a license has not been approved by the department pursuant to section 8 of P.L.1983, c.392 (C.13:1E-133), provided that the temporary license remains valid, and provided

further that the business concern has furnished the department and the Attorney General with any information required pursuant to P.L.1991, c.269 (C.13:1E-128.1 et al.);

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

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

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

k. "Secondary business activity corporation" means any business concern which has derived less than five percent of its annual gross revenues in each of the three years immediately preceding the one in which the application for a license or a soil and fill recycling license is being made from the collection, transportation, treatment, storage, processing, brokering, transfer or disposal of solid waste or hazardous waste, or the provision of soil and fill recycling services, whether directly or through other business concerns partially or wholly owned or controlled by the applicant or the permittee, as the case may be, and which (1) has one or more classes of security registered pursuant to section 12 of the "Securities Exchange Act of 1934," as amended (15 U.S.C. s.781), or (2) is an issuer subject to subsection (d) of section 15 of the "Securities Exchange Act of 1934," as amended (15 U.S.C. s.78o).

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

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

(1) has one or more classes of security registered pursuant to section 12 of the "Securities Exchange Act of 1934," as amended (15 U.S.C. s.781);

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

(3) has one or more classes of securities traded in an open market in any foreign jurisdiction, provided that the Attorney General determines that the foreign exchange provides openness, integrity and oversight in its operations sufficient to meet the intent of P.L.1983, c.392 (C.13:1E-126 et seq.), or that the securities traded on the foreign exchange are regulated pursuant to a statute of a foreign jurisdiction that is substantially similar, both in form and effect, to section 12 or subsection (d) of section 15 of the "Securities Exchange Act of 1934," as amended.

n. "Broker" means a person who for direct or indirect compensation arranges agreements between a business concern and its customers for the collection, transportation, treatment, storage, processing, transfer or disposal of solid waste or hazardous waste, or the provision of soil and fill recycling services.

o. "Consultant" means a person who performs functions for a business concern engaged in the collection, transportation, treatment, storage, processing, brokering, transfer or disposal of solid waste or hazardous waste, or the provision of soil and fill recycling services, provided that "consultant" shall not include a person who performs functions for a business concern and holds a professional license from the State in order to perform those functions.

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

q. "Soil and fill recyclable materials" means non-putrescible aggregate substitute, including, but not limited to, broken or crushed brick, block, concrete, or other similar manufactured materials; soil or soil that may contain aggregate substitute or other debris or material, generated from land clearing, excavation, demolition, or redevelopment activities that would otherwise be managed as solid waste, and that may be returned to the economic mainstream in the form of raw materials for further processing or for use as fill material. "Soil and fill recyclable materials" shall not include: (1) Class A recyclable material, as defined by regulation adopted pursuant to section 4 of P.L.1989, c.268 (C.13:1E-99.43); (2) Class B recyclable material, as defined by regulation adopted pursuant to section 4 of P.L.1989, c.268 (C.13:1E-99.43), that is shipped to a Class B recycling center approved by the department for receipt, storage, processing, or transfer in accordance with subsection b. of section 41 of P.L.1987, c.102 (C.13:1E-99.34); (3) beneficial use material for which the generator has obtained prior approval from the department to transport to an approved and designated destination pursuant to regulations adopted pursuant to subsection a. of section 6 of P.L.1970, c.39 (C.13:1E-6); and (4) virgin quarry products including, but not limited to, rock, stone, gravel, sand, clay and other mined products.

r. "Sales person" means a person or persons that makes or arranges for sales for a business concern, for the collection, transportation, treatment, storage, processing, transfer or disposal of solid waste or hazardous waste or the provision of soil and fill recycling services.

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

t. "Soil and fill recycling services" means the services provided by persons engaging in the business of the collection, transportation, processing, brokering, storage, purchase, sale or disposition, or any combination thereof, of soil and fill recyclable materials. "Soil and fill recycling services" shall not include the operation of a solar electric power generation facility at a properly closed sanitary landfill where soil and fill materials have been previously deposited for permanent disposal.

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

C.13:1E-128 Disclosure.

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

a. (1) Every applicant and permittee shall file a disclosure statement with the Attorney General;

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

(3) The Attorney General shall, upon the receipt of the disclosure statement from an applicant for an initial license, from a permittee, or from an applicant for a soil and fill recycling license, prepare and transmit to the department an investigative report on the applicant or the permittee, as the case may be, based in part upon the disclosure statement. In preparing this report, the Attorney General may request and receive criminal history information from the State Commission of Investigation or the Federal Bureau of Investigation;

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

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

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

(b) The person required to be listed in the disclosure statement is (i) a director or chief executive officer; or (ii) an individual who does not have any responsibility for, or control of, the commercial solid waste or hazardous waste operations, or the provision of soil and fill recycling services, of the applicant, permittee or licensee conducted in New Jersey, and who will not exercise any such responsibility or control upon the issuance of a license or soil and fill recycling license by the department;

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

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

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

solid waste or hazardous waste operations or the soil and fill recycling service operations of the applicant, licensee, permittee, or business concern that has been issued a soil and fill recycling license conducted in New Jersey;

(d) A business concern that is a publicly traded corporation that is not the applicant, licensee, permittee, or business concern that has been issued a soil and fill recycling license but which is listed in a disclosure statement pursuant to subsection e. of section 2 of P.L.1983, c.392 (C.13:1E-127), shall be exempt from disclosure requirements established in subsection e. of section 2 of P.L.1983, c.392 (C.13:1E-127) provided that the name and business address of the publicly traded corporation and copies of its annual filings with the Securities and Exchange Commission, or its foreign equivalent, are filed with the disclosure forms of the applicant, licensee, permittee, or business concern that has been issued a soil and fill recycling license. Subsidiaries intervening in the chain of equity between the publicly traded corporation and the applicant, licensee, permittee, or business concern that has been issued a soil and fill recycling license, and the officers and directors of those intervening subsidiaries, shall also be exempt from the disclosure requirements established in subsection e. of section 2 of P.L.1983, c.392 (C.13:1E-127) provided that the intervening subsidiary is not and will not be engaged in active management of the commercial solid waste or hazardous waste operations or the soil and fill recycling service operations of the applicant, licensee, permittee, or business concern that has been issued a soil and fill recycling license conducted in New Jersey;

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

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

b. All applicants, permittees and licensees, and all business concerns that have been issued a soil and fill recycling license, shall have the continuing duty to provide any assistance or information requested by the department or the Attorney General, and to cooperate in any inquiry or investigation conducted by the Attorney General or the State Commission of Investigation and any inquiry, investigation, or hearing conducted by the department. Except as otherwise determined by the Superior Court pursuant to subsection d. of this section, if, upon issuance of a formal request to answer any inquiry or produce information, evidence or testimony, any applicant, permittee, licensee, or any business concern that has been issued a soil and fill recycling license, fails or refuses to comply, the application of the business concern for a license, or a soil and fill recycling license, as the case may be, may be denied, or the license or soil and fill recycling license of that business concern may be revoked by the department.

c. If any of the information required to be included in the disclosure statement changes, or if any information provided concerning the applicability of an exemption under subsection d. of this section changes, or if any additional information should be added to the disclosure statement after it has been filed, the applicant, permittee or licensee, or the business concern that has been issued a soil and fill recycling license, shall provide that information to the department and the Attorney General, in writing, within 30 days of the change or addition and on any subsequent annual update required to be filed. If the applicant, permittee, licensee, or business concern that has been issued a soil and fill recycling license adds a new person who is required to be listed in the disclosure statement, that person is subject to the same disclosure requirements as set forth in

this section, and the applicant, permittee, licensee, or business concern that has been issued a soil and fill recycling license shall be required to pay an additional fee in accordance with a fee schedule adopted pursuant to rules and regulations promulgated by the department.

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

If the Attorney General requires any or all of this information, a written request for the additional information shall be served upon the applicant, permittee or licensee, or the business concern that has been issued a soil and fill recycling license. Within 60 days of receipt of a written request for additional information, the applicant, permittee or licensee, or the business concern that has been issued a soil and fill recycling license may seek review of the Attorney General's determination in the Superior Court. If the applicant, permittee or licensee, or the business concern that has been issued a soil and fill recycling license fails to provide the additional information to the Attorney General within 60 days of receipt of the written request, the Attorney General may file with the Superior Court a petition for an order requiring the applicant, permittee or licensee, or the business concern that has been issued a soil and fill recycling license to provide the additional information. In a proceeding brought by either party, the applicant, permittee or licensee, or the business concern that has been issued a soil and fill recycling license shall demonstrate that the additional information requested is not likely to lead to information relevant to a determination regarding the approval of a license or soil and fill recycling license pursuant to section 8 of P.L.1983, c.392 (C.13:1E-133), the revocation of a license or soil and fill recycling license pursuant to section 9 of P.L.1983, c.392 (C.13:1E-134), or the severance of a disqualifying person pursuant to section 10 of P.L.1983, c.392 (C.13:1E-135). For good cause shown, the court may review in camera the submission of the Attorney General or the applicant, permittee or licensee, or the business concern that has been issued a soil and fill recycling license, or any part thereof.

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

C.13:1E-129 Investigative interrogatory.

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

b. Each interrogatory shall:

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

(2) Advise the person that he has the right to discuss the interrogatory with legal counsel prior to returning it to the Attorney General or prior to making material available, as provided in subsection f. of this section, and that he has the right to file in Superior Court a petition to modify or set aside the interrogatory, as provided in subsection j. of this section;

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

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

c. No interrogatory shall:

(1) Contain any requirement which would be held to be unreasonable if contained in a subpoena duces tecum issued in aid of a grand jury investigation; or

(2) Require the production of any documentary evidence which would be otherwise privileged from disclosure if demanded by a subpoena duces tecum issued in aid of a grand jury investigation.

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

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

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

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

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

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

No material produced pursuant to this section shall be available for examination, without the consent of the person who produced the material, by an individual other than the Attorney General or any person retained by the Attorney General in connection with the enforcement of this act. Under reasonable terms and conditions as the Attorney General shall prescribe, documentary material while in his possession shall be available for examination by the person who produced the material or any of his duly authorized representatives.

In any investigation conducted pursuant to this act, the Attorney General may present before the department, or court or grand jury any documentary material in his possession pursuant to this section, subject to any protective order deemed proper by the Superior Court.

g. Upon completion of:

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

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

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

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

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

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

C.13:1E-130 Subpoena power.

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

b. The subpoena shall:

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

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

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

c. Except as otherwise provided in this section, no information derived pursuant to the subpoena shall be disclosed by the Attorney General or the department without the consent of the person testifying.

In any investigation conducted pursuant to this act, the Attorney General may present before the department, court or grand jury any information disclosed pursuant to the subpoena, subject to any protective order deemed proper by the Superior Court.

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

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

f. At any time before the return date specified in the subpoena, the person who has been served with the subpoena may file in the Superior Court a petition for an order modifying or setting aside the subpoena. The time allowed for compliance with the subpoena shall not run during the pendency of this petition. The petition shall specify each ground upon which the petitioner relies in seeking relief, and may be based upon any failure of the subpoena to comply with the provisions of this section or upon any constitutional or other legal right or privilege of the petitioner. In this proceeding, the Attorney General shall establish the existence of an investigation pursuant to this act and the nature and subject matter of the investigation.

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

C.13:1E-133 Disqualification criteria.

8. The provisions of any law to the contrary notwithstanding, no license or soil and fill recycling license shall be approved by the department:

a. Unless the department finds that the applicant, or the permittee, as the case may be, in any prior performance record in the collection, transportation, treatment, storage, transfer or disposal of solid waste or hazardous waste, or the provision of soil and fill recycling services, has exhibited sufficient integrity, reliability, expertise, and competency to engage in the collection or transportation of solid waste or hazardous waste, or to operate the solid waste facility or hazardous waste facility, or engage in soil and fill recycling services, given the potential economic consequences for affected counties, municipalities and ratepayers or significant adverse impacts upon human health and the environment which could result from the irresponsible participation therein or operation thereof, or if no prior record exists, that the applicant or the permittee is likely to exhibit that integrity, reliability, expertise and competence.

b. If any person required to be listed in the disclosure statement, or otherwise shown to have a beneficial interest in the business of the applicant, the permittee or the licensee, or the business concern that has been issued a soil and fill recycling license, or to have rented or leased at any or no cost real property, vehicles or other equipment used for the collection, transportation, treatment, processing, storage, brokering, transfer, or disposal of solid waste or hazardous waste, or the provision of soil and fill recycling services, to the applicant, the permittee, the licensee, or the business concern that has been issued a soil and fill recycling license has been barred from the provision of solid waste, hazardous waste or soil and fill recycling services in the State or any other jurisdiction outside of the State, or has been convicted of any of the following crimes under the laws of New Jersey or the equivalent thereof under the laws of any other jurisdiction:

- (1) Murder;
- (2) Kidnapping;
- (3) Gambling;
- (4) Robbery;
- (5) Bribery;
- (6) Extortion;
- (7) Criminal usury;
- (8) Arson;
- (9) Burglary;
- (10) Theft and related crimes;
- (11) Forgery and fraudulent practices;

- (12) Fraud in the offering, sale or purchase of securities;
- (13) Alteration of motor vehicle identification numbers;
- (14) Unlawful manufacture, purchase, use or transfer of firearms;
- (15) Unlawful possession or use of destructive devices or explosives;
- (16) Violation of N.J.S.2C:35-5, except possession of 84 grams or less of marijuana, or of N.J.S.2C:35-10;
- (17) Racketeering, N.J.S.2C:41-1 et seq.;
- (18) Violation of criminal provisions of the "New Jersey Antitrust Act," P.L.1970, c.73 (C.56:9-1 et seq.);
- (19) Any purposeful or reckless violation of the criminal provisions of any federal or state environmental protection laws, rules, or regulations, including, but not limited to, solid waste or hazardous waste management laws, rules, or regulations;
- (20) Violation of N.J.S.2C:17-2;
- (21) Any offense specified in chapter 28 of Title 2C;
- (22) Violation of the "Solid Waste Utility Control Act of 1970," P.L.1970, c.40 (C.48:13A-1 et seq.) or P.L.1981, c.221 (C.48:13A-6.1); or
- (23) Aggravated assault.

c. If the Attorney General determines that there is a reasonable suspicion to believe that a person required to be listed in the disclosure statement, or otherwise shown to have a beneficial interest in the business of the applicant, the permittee or the licensee, or the business concern that has been issued a soil and fill recycling license, or to have rented or leased at any cost or at no cost real property, vehicles or other equipment used for the collection, transportation, treatment, processing, storage, brokering, transfer, or disposal of solid waste or hazardous waste, or the provision of soil and fill recycling services, to the applicant, the permittee, the licensee, or the business concern that has been issued a soil and fill recycling license, does not possess a reputation for good character, honesty and integrity, and that person or the applicant, the permittee or the licensee, or the business concern that has been issued a soil and fill recycling license fails, by clear and convincing evidence, to establish his reputation for good character, honesty and integrity.

d. With respect to the approval of an initial license or a soil and fill recycling license, if there are current prosecutions or pending charges in any jurisdiction against any person required to be listed in the disclosure statement, or otherwise shown to have a beneficial interest in the business of the applicant or the permittee, or to have rented or leased at any or no cost real property, vehicles or other equipment used for the collection, transportation, treatment, processing, storage, brokering, transfer, or disposal of solid waste or hazardous waste, or the provision of soil and fill recycling services, to the applicant or the permittee, for any of the crimes enumerated in subsection b. of this section, provided, however, that at the request of the applicant, permittee, or the person charged, the department shall defer decision upon such application during the pendency of such charge.

e. If any person required to be listed in the disclosure statement, or otherwise shown to have a beneficial interest in the business of the applicant, permittee or the licensee, or the business concern that has been issued a soil and fill recycling license, or to have rented or leased at any or no cost real property, vehicles or other equipment used for the collection, transportation, treatment, processing, storage, brokering, transfer, or disposal of solid waste or hazardous waste, or the provision of soil and fill recycling services, to the applicant, the permittee, the licensee, or the business concern that has been issued a soil and fill recycling license, has pursued economic gain in an occupational manner or context which is in violation of the criminal or civil public policies of this State, where such pursuit creates a reasonable belief that the participation of that person in any activity required to be licensed under this act would be inimical to the policies of

this act. For the purposes of this section, "occupational manner or context" means the systematic planning, administration, management, or execution of an activity for financial gain.

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

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

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

A license or a soil and fill recycling license approved by the department for any applicant or permittee pursuant to this section is non-transferable and shall be valid only for the length of time for which it is given.

Any applicant or permittee who is denied a license or a soil and fill recycling license pursuant to this section shall, upon a written request transmitted to the department within 30 days of that denial, be afforded the opportunity for a hearing thereon in the manner provided for contested cases pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

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

C.13:1E-133.1 Rehabilitated ex-offenders, licensing.

7. a. Notwithstanding the debarment pursuant to section 8 of P.L.1983, c.392 (C.13:1E-133) or the conviction of any person required to be listed in a disclosure statement, or otherwise shown to have a beneficial interest in the business of an applicant, permittee or licensee, or business concern that has been issued a soil and fill recycling license or to have rented or leased at any or no cost real property, vehicles or other equipment used for the collection, transportation, treatment, processing, storage, brokering, transfer, or disposal of solid waste or

hazardous waste, or the provision of soil and fill recycling services, to the applicant, the permittee, or the licensee, or the business concern that has been issued a soil and fill recycling license, for any of the crimes enumerated in subsection b. of section 8 of P.L.1983, c.392 (C.13:1E-133), the department may issue or renew a license or a soil and fill recycling license to an applicant, permittee or licensee, or business concern that has been issued a soil and fill recycling license if the department determines in a writing setting forth findings of fact that the debarred or convicted person has affirmatively demonstrated rehabilitation by clear and convincing evidence pursuant to the provisions of this section. If the department determines that the nature and seriousness of the debarment or crime creates a reasonable doubt that an applicant, permittee, or licensee, or business concern that has been issued a soil and fill recycling license will engage in the activity for which a license or soil and fill recycling license is sought in a lawful and responsible manner, the department shall make a determination in a writing setting forth findings of fact that the debarred or convicted person cannot affirmatively demonstrate rehabilitation.

b. In determining whether a debarred or convicted individual has affirmatively demonstrated rehabilitation, the department shall request a recommendation thereon from the Attorney General, which recommendation shall be in writing, and based upon a consideration of at least the following factors:

- (1) The nature and responsibilities of the position which a debarred or convicted individual would hold;
- (2) The nature and seriousness of the debarment or crime;
- (3) The circumstances under which the debarment was imposed or the crime was committed;
- (4) The date of the debarment or crime;
- (5) The age of the debarred or convicted individual when the cause of debarment or crime took place;
- (6) Whether the cause of the debarment or crime was an isolated or repeated event or act;
- (7) Any evidence of good conduct in the community, counseling or psychiatric treatment received, acquisition of additional academic or vocational schooling, or the recommendation of persons who have supervised the debarred or convicted individual since the debarment or conviction; and
- (8) The full criminal record of the debarred or convicted individual, any record of civil or regulatory violations or notices or any complaints alleging any such civil or regulatory violations, or any other allegations of wrongdoing.

Notwithstanding any other provision of this subsection, a convicted individual shall have affirmatively demonstrated rehabilitation pursuant to the provisions of this section if the convicted individual produces evidence of a pardon issued by the Governor of this or any other state, or evidence of the expungement of every conviction for any of the crimes enumerated in subsection b. of section 8 of P.L.1983, c.392 (C.13:1E-133).

c. In determining whether a debarred or convicted business concern has affirmatively demonstrated rehabilitation, the department shall request a recommendation thereon from the Attorney General, which recommendation shall be in writing, and based upon a consideration of at least the following factors:

- (1) The nature and seriousness of the debarment or crime;
- (2) The circumstances under which the debarment was imposed or the crime was committed;
- (3) The date of the debarment or crime;
- (4) Whether the cause of debarment or crime was an isolated or repeated event or act; and
- (5) The full criminal record of the debarred or convicted business concern, any record of civil or regulatory violations or notices or any complaints alleging any such civil or regulatory violations, or any other allegations of wrongdoing.

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

The Attorney General may require, on the basis of this investigation and as a condition of recommending that a debarred or convicted business concern has affirmatively demonstrated rehabilitation, that a debarred or convicted business concern comply, or agree in writing to comply, with any of the following:

(1) changes in the debarred or convicted business concern's organizational structure to reduce the opportunity and motivation of individual employees to engage in criminal activity, including procedures for informing employees of the requirements of relevant state and federal law;

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

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

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

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

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

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

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

C.13:1E-133.2 Reestablished good character, honesty, integrity; licensing.

8. a. Notwithstanding any current prosecutions or pending charges in any jurisdiction against any person required to be listed in a disclosure statement, or otherwise shown to have a beneficial interest in the business of an applicant, permittee or licensee, or business concern that has been issued a soil and fill recycling license, or to have rented or leased at any or no cost real

property, vehicles or other equipment used for the collection, transportation, treatment, processing, storage, brokering, transfer, or disposal of solid waste or hazardous waste, or the provision of soil and fill recycling services, to the applicant, the permittee, or the licensee, or business concern that has been issued a soil and fill recycling license, for any of the crimes enumerated in subsection b. of section 8 of P.L.1983, c.392 (C.13:1E-133), the department may issue or renew a license or a soil and fill recycling license to an applicant, permittee or licensee, or business concern that has been issued a soil and fill recycling license if the department determines in a writing setting forth findings of fact that the person against whom there are current prosecutions or pending charges has affirmatively reestablished a reputation for good character, honesty and integrity by clear and convincing evidence pursuant to the provisions of this section. If the department determines that the nature and seriousness of the crime alleged in a current prosecution or pending charge creates a reasonable doubt that an applicant, permittee, or licensee, or business concern that has been issued a soil and fill recycling license will engage in the activity for which a license is sought in a lawful and responsible manner, the department shall make a determination in a writing setting forth findings of fact that the person against whom there are current prosecutions or pending charges cannot reestablish a reputation for good character, honesty and integrity.

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

b. In determining whether an individual against whom there are current prosecutions or pending charges has affirmatively reestablished a reputation for good character, honesty and integrity, the department shall request a recommendation thereon from the Attorney General, which recommendation shall be in writing, and based upon a consideration of at least the following factors:

- (1) The nature and responsibilities of the position which the individual against whom there are current prosecutions or pending charges would hold;
- (2) The nature and seriousness of the alleged crime;
- (3) The circumstances under which the alleged crime was committed;
- (4) The date of the alleged crime;
- (5) The age of the individual against whom there are current prosecutions or pending charges when the alleged crime was committed;
- (6) Whether the alleged crime was an isolated or repeated act;
- (7) Any evidence of good conduct in the community, counseling or psychiatric treatment received, acquisition of additional academic or vocational schooling, or the recommendation of persons who have supervised the individual since the date of the alleged crime; and
- (8) The full criminal record of the individual against whom there are current prosecutions or pending charges, any record of civil or regulatory violations or notices or any complaints alleging any such civil or regulatory violations, or any other allegations of wrongdoing.

c. In determining whether a business concern against whom there are current prosecutions or pending charges has affirmatively reestablished a reputation for good character, honesty and integrity, the department shall request a recommendation thereon from the Attorney General, which recommendation shall be in writing, and based upon a consideration of at least the following factors:

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

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

(3) The date of the alleged crime;

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

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

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

The Attorney General may require, on the basis of this investigation and as a condition of recommending that a business concern against which there are current prosecutions or pending charges has affirmatively reestablished a reputation for good character, honesty and integrity, that a business concern comply, or agree in writing to comply, with any of the following:

(1) changes in the business concern's organizational structure to reduce the opportunity and motivation of individual employees to engage in criminal activity, including procedures for informing employees of the requirements of relevant state and federal law;

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

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

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

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

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

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

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

C.13:1E-134 Causes for revocation.

9. Any license or soil and fill recycling license may be revoked by the department pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) for any of the following causes:

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

b. Fraud, deceit or misrepresentation in securing or maintaining the license or soil and fill recycling license, or in the conduct of the licensed activity;

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

d. Coercion of a customer by violence or economic reprisal or the threat thereof to utilize the services of any permittee or licensee, or a business concern that holds a soil and fill recycling license;

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

f. Failing to file timely annual updates as directed by the Attorney General.

11. Section 10 of P.L.1983, c.392 (C.13:1E-135) is amended to read as follows:

C.13:1E-135 Licensing after removal of disqualification; temporary licenses.

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

(2) The department may issue or renew a temporary license to any applicant or permittee for periods not to exceed six months if the department determines that the issuance or renewal of a temporary license is necessitated by the public interest.

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

12. Section 3 of P.L.1971, c.461 (C.13:1E-18) is amended to read as follows:

C.13:1E-18 Fees.

3. a. The department may in accordance with a fee schedule adopted as a rule or regulation establish and charge annual or periodic fees for any of the services to be performed in connection with the "Solid Waste Management Act," P.L.1970, c.39 (C.13:1E-1 et seq.)

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

C.13:1E-135.1 Application, license fees.

13. a. The department shall establish application and license fees, annual fees, and any other fees the department determines necessary to defray the costs of administration, for any license or soil and fill recycling license issued pursuant to P.L.1983, c.392 (C.13:1E-126 et seq.), or the soil and fill recycling registration issued pursuant to section 1 of P.L.2019, c.397 (C.13:1E-127.1). The fees shall be used to pay costs related to consideration of license and soil and fill recycling license applications, investigations, monitoring, enforcement, and related activities, and to reimburse any State agency for expenses incurred by the agency in the performance of pre-licensing investigations, post-licensing compliance monitoring, or any other related activities consistent with the provisions of P.L.1983, c.392 (C.13:1E-126 et seq.). Annual fees shall be assessed on licensees and the holders of soil and fill recycling licenses based on a percentage their gross operating revenue from intrastate operations during the preceding calendar year. Fees collected under this section shall be deposited into a special account, to be administered by the department, and shall be used only for the costs associated with administering the provisions of P.L.1983, c.392 (C.13:1E-126 et seq.).

b. The department may, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), adopt rules and regulations to effectuate monitoring and enforcement of P.L.1983, c.392 (C.13:1E-126 et seq.) and P.L.2019, c.397 (C.13:1E-127.1 et al.).

c. The department shall prepare and submit, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), to the Legislature an annual report on the establishment and implementation of the fee schedule adopted pursuant to this section.

C.13:1E-135.2 Memorandum of agreement.

14. No later than 90 days after the effective date of P.L.2019, c.397 (C.13:1E-127.1 et al.), the Department of Environmental Protection, the Department of the Treasury, and the Attorney General shall enter into a memorandum of agreement that provides for a reciprocal information exchange method to provide the Department of Environmental Protection, the Department of the Treasury, and the Attorney General with effective and efficient access to information concerning individuals and business concerns that are applicants, license holders, and permittees in the solid waste, hazardous waste and recycling industries as determined to be appropriate by the Attorney General.

C.13:1E-135.3 List of individuals, businesses that have been debarred, had license revoked or denied.

15. The State Treasurer shall establish a list to be maintained in the Department of the Treasury of individuals and business concerns that have:

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

- b. had a permit, license, soil and fill recycling registration issued pursuant to section 1 of P.L.2019, c.397 (C.13:1E-127.1), or soil and fill recycling license denied or revoked pursuant to P.L.1983, c.392 (C.13:1E-126 et seq.); or
- c. had any license denied or revoked pursuant to P.L.1977, c.110 (C.5:12-1 et seq.).

C.13:1E-135.4 Reciprocal information exchange.

16. The Attorney General shall seek to establish with the State of New York and other states in the region a reciprocal information exchange method to facilitate the sharing of information among the states on the solid waste, hazardous waste, and recycling industries in the respective states. Each year for the first three years after the effective date of P.L.2019, c.397 (C.13:1E-127.1 et al.), the Attorney General shall prepare and submit, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), to the Legislature a report on the progress made toward establishing and implementing this interstate cooperative effort.

C.13:1E-135.5 Rules, regulations; violations, penalties.

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

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

- (1) Issue an order requiring the person found to be in violation to comply in accordance with subsection c. of this section;
- (2) Bring a civil action in accordance with subsection d. of this section;
- (3) Levy a civil administrative penalty in accordance with subsection e. of this section;
- (4) Bring an action for a civil penalty in accordance with subsection f. of this section; or
- (5) Petition the Attorney General to bring a criminal action in accordance with subsection g. of this section.

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

d. The department, a local board of health, or a county health department may institute an action or proceeding in the Superior Court for injunctive and other relief, including the appointment of a receiver for any violation of P.L.1983, c.392 (C.13:1E-126 et seq.), or of any rule or regulation adopted, or license issued, pursuant to P.L.1983, c.392 (C.13:1E-126 et seq.), and the court may proceed in the action in a summary manner. In any such proceeding the court may grant temporary or interlocutory relief. Such relief may include, singly or in combination:

- (1) A temporary or permanent injunction;

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

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

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

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

e. The department is authorized to assess a civil administrative penalty of not more than \$50,000.00 for each violation provided that each day during which the violation continues shall constitute an additional, separate, and distinct offense. The department shall not assess a civil administrative penalty in excess of \$25,000.00 for a single violation, or in excess of \$2,500.00 for each day during which a violation continues, until the department has adopted, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations requiring the department, in assessing a civil administrative penalty, to consider the operational history of the violator, the severity of the violation, the measures taken to mitigate or prevent further violations, and whether the penalty will maintain an appropriate deterrent. No assessment shall be levied pursuant to this section until after the violator has been notified by certified mail or personal service. The notice shall include a reference to the section of the statute, rule, regulation, or license violated, a concise statement of the facts alleged to constitute a violation, a statement of the amount of the civil administrative penalties to be imposed, and a statement of the party's right to a hearing. The ordered party shall have 20 calendar days from receipt of the notice within which to deliver to the department a written request for a hearing. After the hearing and upon finding that a violation has occurred, the department may issue a final order after assessing the amount of the fine specified in the notice. If no hearing is requested, the notice shall become a final order after the expiration of the 20-day period. Payment of the assessment is due when a final order is issued or the notice becomes a final order. The authority to levy a civil administrative penalty is in addition to all other enforcement provisions in P.L.1983, c.392 (C.13:1E-126 et seq.) and P.L.1970, c.39 (C.13:1E-1 et seq.), and the payment of any assessment shall not be deemed to affect the availability of any other enforcement provisions in connection with the violation for which the assessment is levied. The department may settle any civil administrative penalty assessed under this section in an amount the department determines appropriate.

f. Any person who violates the provisions of P.L.1983, c.392 (C.13:1E-126 et seq.), or any rule or regulation adopted, or license issued, pursuant thereto shall be liable to a penalty

of not more than \$50,000.00 per day, to be collected in a civil action commenced by a local board of health, a county health department, or the department.

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

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

g. Any person who engages in soil and fill recycling services without a registration issued pursuant to section 1 of P.L.2019, c.397 (C.13:1E-127.1), or a soil and fill recycling license issued pursuant to section 8 of P.L.1983, c.392 (C.13:1E-133), as appropriate, or who knowingly makes any false or misleading statement to the department or the Attorney General in connection with a registration or license, shall, upon conviction, be guilty of a crime of the third degree and, notwithstanding the provisions of N.J.S.2C:43-3, shall be subject to a fine of not more than \$50,000.00 for the first offense and not more than \$100,000.00 for the second and each subsequent offense and restitution, in addition to any other appropriate disposition authorized by subsection b. of N.J.S.2C:43-2.

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

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

C.13:1E-135.6 Right to enter, take samples.

18. The department, a local board of health, and a county health department shall have the right to enter, inspect, and take samples at or from, any facility or premises used in connection with the provision of soil and fill recycling services in order to determine compliance with a registration issued pursuant to section 1 of P.L.2019, c.397 (C.13:1E-127.1), a soil and fill recycling license issued pursuant to section 8 of P.L.1983, c.392 (C.13:1E-133), and any other applicable law, and rules and regulations adopted pursuant thereto.

19. This act shall take effect immediately.

Approved January 21, 2020.