§ 27-1517. Permits for storage, transportation, treatment or disposal of regulated medical waste.

1. In order to assure that permits authorizing the storage, transportation, treatment or disposal of regulated medical waste are not issued to or held by unqualified or unsuitable persons, the commissioner may, consistent with articles twenty-three and twenty-three-a of the correction law, and the provisions of section 70-0115 of this chapter, deny, suspend, revoke or modify any permit, renewal or modification thereto for the storage, transportation, treatment or disposal of regulated medical waste, upon a written determination that such action is required to protect the public health and safety and that:

a. The permit holder or applicant has been finally determined in an administrative, civil or criminal proceeding to have violated any provision of this article, any related order or determination of the commissioner, any regulation promulgated pursuant to this article, a material condition of any permit issued thereunder, or of any substantially similar statute, regulation, order or permit condition of the federal or other state government relating to the handling, storing, treating, disposing or transporting of solid, hazardous, infectious, medical or regulated medical waste; or

b. Such permit holder or applicant has been previously denied a permit for the same or substantially similar activity based upon one or more of the provisions of this subdivision; or

c. Such permit holder or applicant has been found in a civil proceeding to have committed a negligent or intentionally tortious act in relation to the handling, storing, treating, disposing or transporting of solid, hazardous, infectious, medical or regulated medical waste, or has been convicted in a criminal proceeding of a crime involving the handling, storing, treating, disposing or transporting of solid, hazardous, infectious, medical or regulated medical waste, provided, however, that where such conviction is of a criminal offense under the laws of any other state or of the United States, such offense would constitute a crime under the laws of this state; or

d. Such permit holder has been convicted of a felony under the laws of this state involving fraud, bribery, perjury, or theft, or has been convicted under the laws of any other state or of the United States of a criminal offense which, if committed and prosecuted in this state, would constitute a similar felony under such laws of this state.

e. Such permit holder or applicant, in any matter within the jurisdiction of the department, has been determined to have knowingly falsified a material fact, or knowingly submitted a false statement, or knowingly made use of a false statement in connection with any document or application submitted to the department; or

f. Such permit holder or applicant is either:

(i) an individual who had a substantial interest in or acted as a high managerial agent or director for any corporation, partnership, association or organization which committed an act or failed to act, and such act or failure to act could be the basis for the denial of a permit pursuant to this section or regulations promulgated thereunder if such corporation, partnership, association or organization applied for a permit under this title; or

(ii) a corporation, partnership, association, or organization, or any principal thereof, or any person holding a substantial interest therein, which committed an act or failed to act, and such act or failure to act could be the basis for the denial of a permit pursuant to this section or regulations promulgated thereunder if such corporation, partnership, association or organization applied for a permit under this title; or

(iii) a corporation, partnership, association or organization or any high managerial agent or director thereof, or any person holding a substantial interest therein, acting as high managerial agent or director for or holding a substantial interest in another corporation, partnership, association or organization which committed an act or failed to act, and such act or failure to act could be the basis for the denial of a permit pursuant to this section or regulations promulgated thereunder had such other corporation, partnership, association or organization applied for a permit under this title.

For the purposes of this subdivision, "high managerial agent" has the same meaning as is given that term in section 20.20 of the penal law.

2. Any act or failure to act which serves as a basis for denial or revocation of a permit pursuant to this subdivision shall have occurred within five years from the date on which the application for a permit, renewal or modification is submitted to the department or from the date on which the department serves notice of intent to revoke or modify a permit issued by the department in relation to an existing permit.

3. Any person denied a permit, renewal or modification on the grounds specified in this section shall be entitled to a hearing within sixty days of such denial in the case of a new permit, or within fifteen days in the case of a renewal or modification of any existing permit. The conduct of such hearing shall be governed by article 70 of this chapter and regulations promulgated thereunder.