

1. Discharges of Petroleum and Other Hazardous Substances N.J.A.C. 7:1E

<u>Subchapter and Violation</u>	<u>Citation</u> <u>7:1E-</u>	<u>Type of Violation</u>	<u>Grace Period (Days)</u>	<u>Base Penalty</u>
5 Discharge Notification, Response and Reporting				
Failure to conduct remediation in accordance with N.J.A.C. 7:26E.	7:1E-5.7(a)2i and 3	NM		\$20,000

2. The Technical Requirements for Site Remediation N.J.A.C. 7:26E

<u>Subchapter and Violation</u>	<u>Citation</u> <u>7:26E-</u>	<u>Type of Violation</u>	<u>Grace Period (Days)</u>	<u>Base Penalty</u>
1 General Information				
Failure to notify Department of any sampling activities prior to initiation.	7:26E-1.4(a)1	NM		\$8,000
Failure to notify municipal clerk prior to specific activities.	7:26E-1.4(a)2	NM		\$8,000
Failure to notify Department and municipal clerk prior to specific field activities.	7:26E-1.4(a)3	NM		\$8,000
Failure to immediately notify Department of IEC conditions.	7:26E-1.4(b)	NM		\$8,000
Failure to immediately initiate stabilization of IEC conditions.	7:26E-1.4(b)	NM		\$20,000
Failure to notify Department and municipal clerk prior to interim response actions to be conducted in response to IEC conditions.	7:26E-1.4(b)	NM		\$8,000
Failure to include all the required information in the written notification.	7:26E-1.4(d)	M	30	\$3,000
Failure to make submissions to, and/or get approvals from, Pinelands Commission.	7:26E-1.4(f)	M	30	\$4,000
Failure to notify the Department of contaminant migration from an off site source.	7:26E-1.4(h)	M	30	\$3,000
Failure to submit work plans or reports in a timely manner per schedule applicable pursuant to N.J.A.C. 7:26C, oversight document or ISRA or UST rules.	7:26E-1.6(b)	M	30	\$8,000
Failure to comply with format and content requirements of N.J.A.C. 7:26E-2 through 8 for work plans and reports submitted.	7:26E-1.6(b)	M	30	\$4,000
Failure to prepare or implement health and safety plan.	7:26E-1.9	NM		\$8,000
Failure to contain and/or stabilize contaminants in all media to prevent receptor exposure and/or contaminant migration as a first priority.	7:26E-1.11	NM		\$20,000
Failure to conduct remediation with Department oversight in situations where such oversight is required.	7:26E-1.12	NM		\$5,000

<u>Subchapter and Violation</u>	<u>Citation</u> <u>7:26E-</u>	<u>Type of</u> <u>Violation</u>	<u>Grace</u> <u>Period</u> <u>(Days)</u>	<u>Base Penalty</u>
2 Quality Assurance for Sampling and Laboratory Analysis				
Failure to use laboratory that has appropriate certification.	7:26E-2.1(a)1	NM		\$5,000
Failure to use appropriate analytical method.	7:26E-2.1(a)3	M	60	\$4,000
Failure to use required sampling procedures and analytical methods for volatile organics.	7:26E-2.1(a)4	M	60	\$4,000
Failure to select and document appropriate alternate analytical method, where method does not exist for specific parameter/matrix.	7:26E-2.1(a)5	M	30	\$4,000
Failure to follow QA/QC procedures specified in analytical method.	7:26E-2.1(a)7	M	60	\$4,000
Failure to report solid analyses in a dry weight basis.	7:26E-2.1(a)8	M	30	\$4,000
Failure to perform sample matrix cleanup when required.	7:26E-2.1(a)9	M	60	\$4,000
Failure to perform required sample matrix cleanup using acceptable matrix cleanup methods.	7:26E-2.1(a)10	M	60	\$4,000
Failure to ensure use of acceptable method to detect free and/or residual product.	7:26E-2.1(a)11	M	30	\$4,000
Failure to use GC/MS for volatile/semi-volatile contaminants as required.	7:26E-2.1(a)12	M	60	\$4,000
Failure to provide Appendix A laboratory deliverables, as specified.	7:26E-2.1(a)13	M	30	\$4,000
Failure to use applicable industry methods for sample collection and handling.	7:26E-2.1(a)14	M	60	\$4,000
Failure to comply with time constraints for sample preservation and delivery to laboratory.	7:26E-2.1(a)15	M	60	\$4,000
Inappropriate use of field screening methods.	7:26E-2.1(b)	M	30	\$4,000
Failure to collect samples from each AOC for contaminants which may be present, or to analyze for Target Compound List plus TICs/Target Analyte List, hexavalent chromium, petroleum hydrocarbons, and pH in areas where contaminants are unknown or not well documented.	7:26E-2.1(c)	M	60	\$4,000
Failure to analyze samples from petroleum storage and discharge areas for required parameters.	7:26E-2.1(d)	M	60	\$4,000
Failure to further address tentatively identified compounds as required.	7:26E-2.1(e)	M	60	\$4,000
Failure to submit quality assurance project plan, as required.	7:26E-2.2(a)	M	30	\$8,000
3 Preliminary Assessment and Site Investigation				
Failure to conduct a preliminary assessment	7:26E-3.1(c)	NM		\$8,000
Failure to investigate historical information	7:26E-3.1(c)1	M	30	\$4,000

<u>Subchapter and Violation</u>	<u>Citation</u> 7:14B-	<u>Type of Violation</u>	<u>Grace Period (Days)</u>	<u>Base Penalty</u>
Failure of an individual or business firm performing services on unregulated heating oil tanks to submit documentation of the cost to provide the services for which the Petroleum Underground Storage Tank Remediation and Upgrade Closure Fund is providing financial assistance.	7:14B-16.2(g)3	M	30	\$3,000
Failure of an individual or business firm to notify the Department in writing within three business days of any amendments to the certification other than those created by passing an examination.	7:14B-16.2(i)	M	30	\$3,000
Failure of a business firm to notify the Department in writing, within three business days, of a certifying officer leaving the business firm or losing his or her certification.	7:14B-16.2(j)	M	30	\$3,000
Failure of a business firm performing services on unregulated heating oil tanks to notify the Department in writing of the loss of the certifying individual's certification due to expiration, revocation or suspension and the name of the replacement individual.	7:14B-16.2(k)	M	30	\$3,000
Failure to make available to the local construction office a copy of the certification for the business or an individual's certification card when requested by the local construction official.	7:14B-16.2(l)	M	30	\$3,000
Failure to attend annual eight-hour health and safety refresher courses as required by 26 CFR 1910.120(e)(8).	7:14B-16.7(a)	M	30	\$4,000
Failure to complete a Department-approved training course on the Department's rules and regulations concerning underground storage tanks within one year prior to certification renewal.	7:14B-16.7(b)	M	30	\$4,000
Performance of services for which certification is required after the expiration of a certification issued pursuant to N.J.A.C. 7:14B-16.	7:14B-16.8(d)	NM		\$12,000
Failure to provide proof of the individual's attendance at continuing education courses, required training courses, and supporting documentation of all requisites or prerequisites as required in N.J.A.C. 7:14B-16.7.	7:14B-16.8(f)	M	30	\$3,000
Failure to maintain evidence of financial responsibility assurance pursuant to N.J.A.C. 7:14B-16.9, for the mitigation or remediation of a hazardous substance discharge resulting from the performance of such services.	7:14B-16.9(a)	NM		\$12,000
Failure to provide written notification to the Department 120 calendar days prior to any cancellation or change in status of a mechanism used to provide financial responsibility assurance.	7:14B-16.9(b)	M	30	\$3,000

New Rule, R.2003 d.198, effective May 19, 2003.

See: 34 N.J.R. 3703(a), 35 N.J.R. 2319(a).

Former N.J.A.C. 7:26C-10.4, Procedures for requesting and conducting adjudicatory hearings, recodified to N.J.A.C. 7:26C-10.6.

Repeal and New Rule, R.2006 d.328, effective September 18, 2006.

See: 37 N.J.R. 2923(a), 38 N.J.R. 3821(a).

Section was "Amount of a civil administrative penalty".

Special amendment, R.2006 d.383, effective October 3, 2006 (to expire April 3, 2008).

See: 38 N.J.R. 4748(a).

In (c)5 table, added subchapter 16 references.

In accordance with N.J.S.A. 52:14B-5.1c, the expiration date of the special amendments was extended from April 3, 2008 to September 30, 2008.

See: 40 N.J.R. 2166(a).

7:26C-10.5 Penalty adjustment factors

(a) For violations that meet the criteria set forth at N.J.A.C. 7:26C-10.4(a)4, the Department may adjust the base penalty listed in the table at N.J.A.C. 7:26C-10.4(c) based on the following factors:

1. The Department may increase the amount of the penalty based on the compliance history of the violator as follows:

i. The second time that the same violation occurs, the Department may increase the amount of the penalty by a factor of two; and

ii. The third time the violation occurs and for each subsequent occurrence, the Department may increase the penalty by a factor of five.

2. The Department may increase the penalty by up to 100 percent if the violation is the result of any intentional, deliberate, purposeful, knowing or willful act or omission by the violator.

New Rule, R.2006 d.328, effective September 18, 2006.

See: 37 N.J.R. 2923(a), 38 N.J.R. 3821(a).

Former N.J.A.C. 7:26C-10.5, Civil administrative penalty for economic benefit, recodified to N.J.A.C. 7:26C-10.7.

7:26C-10.6 Civil administrative penalty for submitting inaccurate or false information

(a) The Department may assess a civil administrative penalty pursuant to this section against each violator who submits inaccurate information or who makes a false statement, representation or certification in any application, record or other document required to be submitted or maintained pursuant to this chapter.

(b) Each day, from the day that the violator knew or had reason to know that it submitted inaccurate or false information to the Department until the day of receipt by the Department of a written correction by the violator, shall be an additional, separate and distinct violation.

(c) The Department shall assess a civil administrative penalty for violations described in this section as follows:

1. For each intentional, deliberate, purposeful, knowing or willful act or omission by the violator, the civil administrative penalty per act or omission shall be up to \$20,000 for the first offense, up to \$40,000 for the second offense and up to \$50,000 for the third and each subsequent offense; and

2. For all other conduct, the civil administrative penalty, per act or omission, shall be in the amount of up to \$1,000 for the first offense, up to \$2,000 for the second offense and up to \$5,000 for the third and each subsequent offense.

(d) A violation under this section is non-minor and therefore is not subject to a grace period.

New Rule, R.2006 d.328, effective September 18, 2006.

See: 37 N.J.R. 2923(a), 38 N.J.R. 3821(a).

Former N.J.A.C. 7:26C-10.6, Procedures for requesting and conducting adjudicatory hearings, recodified to N.J.A.C. 7:26C-10.9.

7:26C-10.7 Civil administrative penalty for economic benefit

(a) When the Department determines that the violator has gained an economic benefit from a violation, the Department shall, in addition to any other civil administrative penalty assessed pursuant to this subchapter, include as part of a civil administrative penalty the economic benefit (in dollars) which the violator has realized as a result of not complying, or by delaying compliance, with any applicable requirements.

(b) The Department shall include the following dollar amounts in its calculation of economic benefit:

1. The amount of savings realized from avoided capital or noncapital costs resulting from the violation;

2. The return earned or that may be earned on the amount of the avoided costs;

3. All benefits accruing to the violator as a result of a competitive market advantage enjoyed by reason of the violation; and