

(c) If the violator fails to include all the information required by (a) above, the Department may deny the hearing request.

(d) All adjudicatory hearings shall be conducted in accordance with the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1.

Administrative Change in (a).
See: 23 N.J.R. 3325(b).
Amended by R.1996 d.578, effective December 16, 1996.
See: 28 N.J.R. 2114(a), 28 N.J.R. 5248(a).
In (a)1, deleted reference to EPA identification number.

7:26-5.4 Civil administrative penalties for violation of rules adopted pursuant to the Act

(a) The Department may assess a civil administrative penalty pursuant to this section of not more than \$50,000 for each violation of each requirement of any rule listed in N.J.A.C. 7:26-5.4(g).

(b) Each violation of a rule listed in N.J.A.C. 7:26-5.4(g) shall constitute an additional, separate and distinct violation.

(c) Each day during which a violation continues shall constitute an additional, separate and distinct violation.

(d) For each parameter that is required to be monitored, sampled or reported, the failure to so monitor, sample or report shall constitute an additional, separate and distinct violation.

(e) Where any requirement of any rule listed in N.J.A.C. 7:26-5.4(g) may pertain to more than one act, condition, occurrence, item, unit, waste or parameter, the failure to comply with such requirement as it pertains to each such act, condition, occurrence, item, unit, waste or parameter shall constitute an additional, separate and distinct violation.

(f) The Department shall determine the amount of a civil administrative penalty for each violation of any rule listed in (g) below on the basis of the provision violated, according to the following procedure. For a violation of a requirement or condition of an administrative order, permit, license or other operating authority, the Department may in its sole discretion identify the corresponding requirement of any rule summary listed in (g) below and determine the amount of the civil administrative penalty on the basis of the rule provision violated.

- 1. Identify the rule violated as listed in N.J.A.C. 7:26-5.4(g)1 through 8A;

- 2. Identify the corresponding base penalty dollar amount for the rule violated as listed in N.J.A.C. 7:26-5.4(g)1 through 8A;

- 3. Multiply the base penalty dollar amount times the following multipliers for each factor to obtain the severity penalty component, as applicable:

Severity Factor	Multiplier
i. Violator had violated the same rule less than 12 months prior to the violation	1.00
ii. Violator had violated a different rule less than 12 months prior to the violation	0.50
iii. Violator had violated the same rule during the period which began 24 months prior to the violation and ended 12 months prior to the violation	0.50
iv. Violator had violated a different rule during the period which began 24 months prior to the violation and ended 12 months prior to the violation	0.25

4. To obtain the civil administrative penalty, add all of the severity penalty components pursuant to (f)3 above, to the base penalty. If the sum total exceeds \$50,000, then the civil administrative penalty shall be \$50,000.

EXAMPLE:

Base penalty (for violation of N.J.A.C. 7:26-2.12(f))	=	\$1,000
Subparagraph (f)3iii applies: 0.50x1000	=	500
Subparagraph (f)3iv applies: 0.25x1000	=	+ 250
Civil administrative penalty		<u>\$1,750</u>

5. For the purpose of this section, violation of the "same rule" means violation of the same specific requirement of a rule. Where a rule has a list of specific requirements, the same item on the list must be violated to be considered violation of the "same rule."

(g) The Rule Summary in this subsection, which summarizes certain provisions in N.J.A.C. 7:26 and 7:26A, is provided for informational purposes only. In the event that there is a conflict between the rule summary in this subsection and a provision in N.J.A.C. 7:26 and 7:26A, then the provision in N.J.A.C. 7:26 and 7:26A shall prevail.

- 1. The violations of N.J.A.C. 7:26-1, General Provisions, whether the violation is minor or non-minor, the length of the grace period, and the civil administrative penalty amounts for each violation, are as set forth in the following table.

<u>Rule</u>	<u>Rule Summary</u>	<u>Base Penalty</u>	<u>Type of Violation</u>	<u>Grace Period (days)</u>
N.J.A.C. 7:26-1.7(b)	Failure of owner or operator of any facility exempted under N.J.A.C. 7:26-1.7 to comply with all conditions set forth in its certificate of authority to operate.	\$3,000	M	30

2. The violations of N.J.A.C. 7:26-2, Disposal, whether the violation is minor or non-minor, the length of the grace period, and the civil administrative penalty amounts for each violation, are as set forth in the following table.

<u>Rule</u> N.J.A.C.	<u>Rule Summary</u>	<u>Base Penalty</u>	<u>Type of Violation</u>	<u>Grace Period</u> <u>(days)</u>
7:26-2.7(b)1	Failure of permittee to apply for a permit renewal at least 90 days prior to the expiration date of the existing SWF permit.	\$3,000	M	30
7:26-2.8(b)	Failure of permittee to submit a statement updating the information contained in the initial registration statement.	\$3,000	M	30
7:26-2.8(c)	Failure of permittee to notify the Department within 30 days of any change of information in the registration statement.	\$3,000	M	30
7:26-2.8(e)	Failure to apply and receive approval of a SWF permit prior to engaging in the disposal of solid waste in this State	\$4,500	NM	
7:26-2.8(f)	Failing to obtain a SWF permit prior to constructing or operating a solid waste facility.	\$4,500	NM	
7:26-2.8(j)	Failure to meet all conditions, restrictions, requirements or any other provision set forth in SWF permit.	\$3,000	M	30
7:26-2.8(k)	Failure to receive Department approval prior to modifying, revising or otherwise changing a permit condition.	\$3,000	M	30
7:26-2.8(l)	Failure to receive Department approval prior to transferring ownership of a SWF permit.	\$5,000	NM	
7:26-2.11(b)1	Failure of operator to clean areas where waste has been deposited or stored within each 24 hour period, for sanitary landfills all areas where waste has been deposited shall be covered.	\$3,000	M	1
7:26-2.11(b)2	Failure to ensure any waste stored overnight at any facility is effectively treated to prevent odors associated with putrefaction.	\$3,000	M	30
7:26-2.11(b)3	Failure to maintain facility property surrounding the disposal area free of litter, debris, unprocessed waste, processed residues and effluents.	\$3,000	M	30
7:26-2.11(b)4	Failure to implement dust control methods.	\$3,000	M	30
7:26-2.11(b)5	Failure to ensure no odors of sufficient strength and duration to be injurious to human health or unreasonably interfere with the enjoyment of life or property are detected off-site.	\$4,500	NM	
7:26-2.11(b)6	Failure to maintain all facility systems in a manner that facilitates proper operation and minimizes system downtime.	\$4,500	NM	
7:26-2.11(b)7	Failure to maintain an adequate water supply and adequate fire-fighting equipment.	\$5,000	NM	
7:26-2.11(b)8	Failure to control insects, other arthropods and rodents.	\$4,500	NM	
7:26-2.11(b)9	Failure to comply at all times with the conditions of SWF permit.	\$3,000	M	30
7:26-2.11(b)10	Failing to ensure waste is not received in excess to the system's designed capacity.	\$4,500	NM	
7:26-2.11(b)11	Failure to operate the facility in a manner that employs the use of equipment and other techniques as identified in the facility's SWF permit.	\$3,000	M	30
7:26-2.11(b)12	Failure to maintain an approved O and M manual at the facility, changes to be submitted, at a minimum, on an annual basis	\$3,000	M	30
7:26-2.11(c)1	Failure to admit only properly registered solid waste vehicles for loading or unloading of any solid waste.	\$4,500	NM	
7:26-2.11(c)2	Failure to designate a secure area where solid waste may be unloaded from vehicles exempt from registration under N.J.A.C. 7:26-3.3.	\$4,500	NM	
7:26-2.11(c)3	Failure to designate a secure area where unpermitted waste can be deposited.	\$4,500	NM	

<u>Rule</u> N.J.A.C.	<u>Rule Summary</u>	<u>Base Penalty</u>	<u>Type of Violation</u>	<u>Grace Period</u> <u>(days)</u>
7:26-3A.41(d)	Failure of destination facility or intermediate handler to maintain shipping or tracking form for three years.	\$3,000	M	30
7:26-3A.41(f)	Failure of transporter to provide signed copies of the tracking form to the generator when the destination facility or intermediate facility is an out-of-State facility and will not comply with the tracking form requirements of N.J.A.C. 7:26-3a.41.	\$4,500	NM	
7:26-3A.42	Failure to comply with tracking form discrepancy requirements.	\$3,000	M	30
7:26-3A.43	Failure to comply with recordkeeping requirements.	\$3,000	M	30
7:26-3A.44	Failure of collection facilities, intermediate handlers and/or destination facilities to comply with additional reporting requirements.	\$4,500	NM	
7:26-3A.46	Failure of rail transporter to comply with tracking form requirements.	\$4,500	NM	
7:26-3A.47(a)	Failure to ensure alternative of innovative technology processes and any modifications are approved by the NJDEP and DOH prior to any marketing, sale or use in New Jersey.	\$5,000	NM	
7:26-3A.48(a,b)	Failure of an out-of-State organization using the U.S. Postal Service or other parcel service and disposing of regulated medical waste from New Jersey to comply with certification requirements.	\$4,500	NM	
7:26-3A.48(c)	Failure of a RMW generator to ensure that RMW waste is not sent to any out-of-State facility that does not have a certificate on file with the Department.	\$5,000	NM	

8. The violations of N.J.A.C. 7:26-6, Solid Waste Planning Regulations, whether the violation is minor or non-minor, the length of the grace period, and the civil administrative penalty amounts for each violation, are as set forth in the following table.

<u>Rule</u> N.J.A.C.	<u>Rule Summary</u>	<u>Base Penalty</u>	<u>Type of Violation</u>	<u>Grace Period</u> <u>(days)</u>
7:26-6.12(b)	Failure to comply with the applicable district solid waste management plan.	\$4,500	NM	

9. The violations of N.J.A.C. 7:26A-3, Approval of Recycling Centers for Class B, Class C and Class D Recyclable Materials, whether the violation is minor or non-minor, the length of the grace period, and the civil administrative penalty amounts for each violation, are as set forth in the following table.

<u>Rule</u> N.J.A.C.	<u>Rule Summary</u>	<u>Base Penalty</u>	<u>Type of Violation</u>	<u>Grace Period</u> <u>(days)</u>
7:26A-3.1(a)	Failure of approved recycling center to comply with all approval conditions.	\$3,000	M	30
7:26A-3.5(f)	Failure of recycling center to post a legible sign at the recycling center entrance indicating its approval and listing items detailed in N.J.A.C. 7:26A-3.2(a)13i and ii.	\$3,000	M	30
7:26A-3.6	Failure to submit renewal application for a general approval to the Department at least three months prior to the current approval expiration and to comply with all submittal requirements.	\$3,000	M	30
7:26A-3.7(j)	Failure, within 45 days after expiration of the time period authorized by the limited approval to operate a recycling facility, to file a final report with the Department.	\$3,000	M	30
7:26A-3.7(k)	Failure of persons operating a limited approved recycling center to ensure that no illegal dumping occurs.	\$4,500	NM	
7:26A-3.8(a)	Failure to limit processing methods for tires to slicing, shredding, chipping, crumbing or other methods approved by the Department, prohibition to incinerating, landfilling, abandoning or otherwise illegally disposing of tires.	\$4,500	NM	

<u>Rule</u> N.J.A.C.	<u>Rule Summary</u>	<u>Base Penalty</u>	<u>Type of Violation</u>	<u>Grace Period</u> <u>(days)</u>
7:26A-3.8(b)	Failure by the owner or operator of a tire recycling center to ensure that no mosquito colony formation develops.	\$4,500	NM	
7:26A-3.8(c)	Failure of a tire, tree stump, tree part or wood waste recycling center to have an approved fire control plan.	\$5,000	NM	
7:26A-3.9(a)	Failure of recycling center to ensure the temporary storage of Class B and Class D recyclable material does not exceed the amount indicated in the general or limited approval to operate.	\$4,500	NM	
7:26A-3.9(b)	Failure of recycling center to ensure that unprocessed Class B and Class D recyclable material is not stored in excess of one year from the date of receipt.	\$4,500	NM	
7:26A-3.10	Failure of recycling center to comply with modification requirements.	\$3,000	M	30
7:26A-3.15(a)	Failure to ensure a general or limited approval to operate a recycling center is not transferred without prior approval of the Department.	\$5,000	NM	
7:26A-3.15(c)	Failure to provide one copy of written request to transfer approval to the recycling coordinator and one copy to the applicable municipal planning board.	\$3,000	M	30
7:26A-3.17(a)	Failure of recycling center to comply with recordkeeping and annual reporting requirements.	\$3,000	M	30

10. The violations of N.J.A.C. 7:26A-4, Design and Operational Standards and General Rules for Recycling Centers which Receive, Store, Process or Transfer Class A, Class B, Class C and Class D Recyclable Materials. Right of Entry and Inspection, whether the violation is minor or non-minor, the length of the grace period, and the civil administrative penalty amounts for each violation, are as set forth in the following table.

<u>Rule</u> N.J.A.C.	<u>Rule Summary</u>	<u>Base Penalty</u>	<u>Type of Violation</u>	<u>Grace Period</u> <u>(days)</u>
7:26A-4.1(a)1i	Failure of recycling center to ensure that recyclable material is separated at the point of generation from other waste material.	\$3,000	M	30
7:26A-4.1(a)1ii	Failure of recycling center to ensure only Class A, Class B or Class C materials are received, stored, processed or transferred at the center.	\$4,500	NM	
7:26A-4.1(a)1iii	Failure of recycling center to comply with commingling requirements.	\$3,000	M	30
7:26A-4.1(a)2	Failure of recycling center to ensure residue is not stored on-site in excess of six months.	\$4,500	NM	
7:26A-4.1(a)4	Failure of recycling center to store residue separately from recyclable material and in a manner which prevents run-off, leakage or seepage from the residue storage area into, on or around the soil of the residue storage area.	\$4,500	NM	
7:26A-4.1(a)5	Failure of recycling center to ensure hazardous wastes are not stored, processed or transferred at any recycling center.	\$5,000	NM	
7:26A-4.1(a)6	Failure of recycling center to ensure electronic components which contain polychlorinated biphenyls (PCBs) and which are attached to or detached from appliances or other scrap metal, are not shredded, sheared or baled.	\$5,000	NM	
7:26A-4.1(a)8	Failure to operate a recycling center in such a manner that the recycling center property is maintained free of litter and debris and such that tracking of mud into nearby streets is prevented.	\$3,000	M	30
7:26A-4.1(a)10	Failure of recycling center operator to ensure that traffic associated with the operation of the center does not result in a degradation of a level of service of any major intersection or public roadway within a half-mile radius.	\$4,500	NM	

<u>Rule</u>	<u>Rule Summary</u>	<u>Base Penalty</u>	<u>Type of Violation</u>	<u>Grace Period (days)</u>
N.J.A.C. 7:26A-4.1(a)11	Failure of recycling center operator to ensure recycling center operations are separated from sensitive land uses by an effective visual screen buffer.	\$3,000	M	30
7:26A-4.1(a)12	Failure of recycling center operator to ensure unauthorized access to center is controlled.	\$4,500	NM	
7:26A-4.1(a)13	Failure of recycling center operator to ensure areas of vehicular usage are suitably compacted and, where necessary, paved.	\$3,000	M	30
7:26A-4.1(a)14	Failure of recycling center operator to have adequate water supply, firefighting equipment, and local fire department phone numbers posted.	\$5,000	NM	
7:26A-4.4(a)	Failure by the owner or operator of a recycling center to provide a recycling tonnage report by February 1 of each year.	\$3,000	M	30
7:26A-4.4(b)	Failure by a transporter of recyclable materials to provide a recycling tonnage report by February 1 of each year.	\$3,000	M	30
7:26A-4.4(c)	Failure of exempt person to submit required tonnage reports by February 1 of each year.	\$3,000	M	30
7:26A-4.5(a)2	Failure of Class C yard trimming operator to ensure center has sufficient capacity to handle incoming volumes.	\$3,000	M	30
7:26A-4.5(a)3	Failure of Class C yard trimming operator to have properly trained individual supervising operation, access to facility prohibited when center is closed.	\$3,000	M	30
7:26A-4.5(a)4	Failure of Class C yard trimming operator to ensure yard trimmings are only received during times when operator is present.	\$3,000	M	30
7:26A-4.5(a)5	Failure of Class C yard trimming operator to ensure all trimmings received are removed from bags, boxes.	\$3,000	M	30
7:26A-4.5(a)6	Failure of Class C yard trimming operator to accept incoming materials containing grass, only in areas of the site that are at least 1,000 feet from any areas of human occupancy and to begin processing such material on the day of receipt.	\$3,000	M	30
7:26A-4.5(a)7i	Failure of Class C compost operators to attend, within one year of start up, approved composting courses.	\$3,000	M	90
7:26A-4.5(a)7ii	Failure of Class C compost operator to maintain improved active composting surface to prevent ponding or runoff.	\$4,500	NM	
7:26A-4.5(a)7iii	Failure of Class C yard trimming operator to moisten, without excess runoff, dry yard trimmings prior to windrow formation.	\$3,000	M	30
7:26A-4.5(a)7iv	Failure of Class C yard trimming operator to position windrows perpendicular to ground surface contours to prevent ponding.	\$4,500	NM	
7:26A-4.5(a)7v	Failure of Class C yard trimming operator to install windsock.	\$3,000	M	30
7:26A-4.5(a)7vi	Failure of Class C yard trimming operator to comply with windrow composting requirements.	\$4,500	NM	
7:26A-4.5(a)7vii	Failure of Class C yard trimming operator to comply with material staging and processing buffer distance requirements.	\$3,000	M	30
7:26A-4.5(a)7viii	Failure of Class C yard trimming operator to comply with finished compost testing requirements.	\$3,000	M	30
7:26A-4.5(a)7xii	Failure of Class C yard trimming operator to comply with additional recordkeeping requirements.	\$3,000	M	30
7:26A-4.5(b)1	Failure of Class C material operator to ensure center has sufficient capacity to handle incoming volumes.	\$4,500	NM	
7:26A-4.5(b)2	Failure of Class C material operator to comply with composting structure requirements, no ponding, leachate control.	\$4,500	NM	
7:26A-4.5(b)3	Failure of Class C material operator to maintain fully enclosed operation.	\$4,500	NM	

<u>Rule</u>	<u>Rule Summary</u>	<u>Base Penalty</u>	<u>Type of Violation</u>	<u>Grace Period (days)</u>
N.J.A.C. 7:26A-4.5(b)5	Failure of Class C material operator to comply with O & M manual requirements.	\$4,500	NM	
7:26A-4.5(b)7	Failure of Class C material operator to comply with employee training requirements.	\$3,000	M	30
7:26A-4.5(b)8	Failure of Class C material operator to develop a recycling center-specific training manual and make available to each employee.	\$3,000	M	30
7:26A-4.5(b)9	Failure of Class C material operator to have properly trained individual supervising operation.	\$4,500	NM	
7:26A-4.5(b)11	Failure of Class C material operator to comply with incoming organics processing timeframes and requirements.	\$4,500	NM	
7:26A-4.5(b)12	Failure of Class C material operator to ensure incoming, unprocessed material is not mixed with finished compost.	\$4,500	NM	
7:26A-4.5(b)13, 14	Failure of Class C material operator to meet Process to Further Reduce Pathogens criteria and requirements.	\$4,500	NM	
7:26A-4.5(b)16	Failure of Class C material operator to comply with 15 month finished compost storage requirement.	\$3,000	M	30
7:26A-4.5(b)20	Failure of Class C material operator to conduct required QA/QC sampling and record results of such sampling.	\$4,500	NM	
7:26A-4.5(b)21	Failure of Class C material operator to have analysis of finished compost product conducted by laboratory certified in accordance with N.J.A.C. 7:18.	\$4,500	NM	
7:26A-4.5(b)22	Failure of Class C material operator to maintain required records.	\$3,000	M	30
7:26A-4.5(b)23	Failure of Class C material operator to submit quarterly report to the Department within 30 days after the end of each quarter.	\$3,000	M	30
7:26A-4.5(c)1	Failure of Class C operator to comply with labeling requirements.	\$3,000	M	30
7:26A-4.5(c)2	Failure of Class C operator to comply with compost utilization requirements.	\$4,500	NM	

11. The violations of N.J.A.C. 7:26A-5, Requirements for Processing Discarded Appliances that Contain Refrigerant Fluid, whether the violation is minor or non-minor, the length of the grace period, and the civil administrative penalty amounts for each violation, are as set forth in the following table.

<u>Rule</u>	<u>Rule Summary</u>	<u>Base Penalty</u>	<u>Type of Violation</u>	<u>Grace Period (days)</u>
N.J.A.C. 7:26A-5.1(a)	Failure to ensure no shearing, shredding, baling or other actions which could cause release of refrigerant fluid to take place, occurs prior to recovery of such fluid.	\$5,000	NM	
7:26A-5.1(b)	Failure to recover refrigerant fluid in a manner such that no venting of refrigerant fluid occurs.	\$5,000	NM	
7:26A-5.1(c)	Failure to deliver recovered refrigerant fluid to a facility which has agreed to reprocess the fluid or, if such arrangements cannot be made, failure to store or dispose of the recovered fluid in accordance with applicable rules and regulations.	\$5,000	NM	

12. The violations of N.J.A.C. 7:26A-6, Standards for the Management of Used Oil, whether the violation is minor or non-minor, the length of the grace period, and the civil administrative penalty amounts for each violation, are as set forth in the following table.

<u>Rule</u>	<u>Rule Summary</u>	<u>Base Penalty</u>	<u>Type of Violation</u>	<u>Grace Period (days)</u>
N.J.A.C. 7:26A-6.1(a)2i(1)	Failure to manage used oil mixed with a listed hazardous waste as a hazardous waste in accordance with N.J.A.C. 7:26G.	\$5,000	NM	

<u>Rule</u>	<u>Rule Summary</u>	<u>Base Penalty</u>	<u>Type of Violation</u>	<u>Grace Period (days)</u>
N.J.A.C. 7:26A-6.1(a)2ii(1)	Failure to manage used oil mixed with a characteristic hazardous waste or a listed hazardous waste that is listed solely because it exhibits one or more hazardous waste characteristics as a hazardous waste in accordance with N.J.A.C. 7:26G.	\$5,000	NM	
7:26A-6.1(a)4ii	Failure by used oil generator to comply with management requirements for diesel fuel mixed with used diesel crankcase oil.	\$3,000	M	30
7:26A-6.1(a)9	Failure by a marketer or burner to comply with requirements of 40 CFR 761.20(e) for used oil containing quantifiable levels of PCBs.	\$5,000	NM	
7:26A-6.2(a)	Failure to meet one or more of the specifications for a used oil fuel identified in Table 1 of N.J.A.C. 7:26A-6.2(a) prior to burning for energy recovery.	\$5,000	NM	
7:26A-6.2(b)	Failure to obtain a Permit to Construct, Install or Alter Control Apparatus or Equipment and Certificate to Operate Control Apparatus prior to burning on-specification used oil fuel.	\$3,000	M	30
7:26A-6.3(a)	Failure to comply with requirements for managing used oil in a surface impoundment or waste pile.	\$5,000	NM	
7:26A-6.3(b)	Failure to comply with prohibition against using used oil as a dust suppressant.	\$5,000	NM	
7:26A-6.3(c)	Burning off-specification used oil in a device other than an industrial furnace, industrial or utility boiler or hazardous waste incinerator, or failing to obtain a "Permit to Construct, Install or Alter Control Apparatus or Equipment and Certificate to Operate Control Apparatus" prior to burning off-specification used oil in one of these devices.	\$5,000	NM	
7:26A-6.3(d)	Failure to comply with the prohibition against burning on-specification used oil fuel in either a residential or Category I institutional device, furnace or boiler.	\$3,000	M	30
7:26A-6.3(e)	Failure to comply with the prohibition against burning on-specification used oil in an oil-fired space heater that fails to meet the requirements of N.J.A.C. 7:26A-6.4(e).	\$4,500	NM	
7:26A-6.3(f)	Failure to comply with the prohibition against burning off-specification used oil in a space heater.	\$4,500	NM	
7:26A-6.4(d)1	Failure of used oil generator storing used oil to comply with applicable Spill Prevention, Control and Countermeasures regulations, Clean Air Act regulations or Underground Storage Tank regulations.	\$4,500	NM	
7:26A-6.4(d)2	Failure of used oil generator to ensure used oil is stored only in tanks, containers, or units subject to regulation at 7:26G-8 or 9.	\$3,000	M	30
7:26A-6.4(d)3	Failure of used oil generator to ensure containers or aboveground tanks used to store used oil storage units are in good condition and not leaking.	\$4,500	NM	
7:26A-6.4(d)4	Failure of used oil generator to comply with used oil labeling/marketing requirements.	\$3,000	M	30
7:26A-6.4(d)5	Failure of used oil generator to comply with or initiate response to releases.	\$4,500	NM	
7:26A-6.4(e)1	Failure of used oil generator to burn only self-generated or household do-it-yourselfer used oil in a space heater.	\$4,500	NM	
7:26A-6.4(e)2	Used oil generator burned used oil in a oil space heater that exceeded the maximum capacity of 0.5 million BTU per hour.	\$3,000	M	30
7:26A-6.4(e)3	Failure of used oil generator to vent combustion gases from a space heater to ambient air.	\$4,500	NM	
7:26A-6.4(e)4	Failure of used oil generator, burning used oil in a space heater, to obtain a "Permit to Construct, Install or Alter Control Apparatus or Equipment and Certificate to Operate Control Apparatus."	\$4,500	NM	

<u>Rule</u>	<u>Rule Summary</u>	<u>Base Penalty</u>	<u>Type of Violation</u>	<u>Grace Period (days)</u>
N.J.A.C. 7:26A-6.4(f)	Failure of used oil generator to comply with used oil off-site shipment requirements.	\$4,500	NM	
7:26A-6.4(g)	Failure to comply with do-it-yourselfer and motor oils retailer requirements.	\$3,000	M	30
7:26A-6.5(a)	Failure of an owner or operator of a State of New Jersey permitted reinspection center, or a retail service station that has used oil collection tanks on the premises, to accept do-it-yourselfer used oil in accordance with N.J.A.C. 7:26A-6.5(a).	\$3,000	M	30
7:26A-6.5(b)2	Failure of do-it-yourselfer used oil collection center to comply with the generator standards at N.J.A.C. 7:26A-6.4.	\$3,000	M	30
7:26A-6.5(c)2i	Failure of used oil collection center to comply with the generator standards at N.J.A.C. 7:26A-6.4.	\$3,000	M	30
7:26A-6.5(c)2ii	Failure of used oil collection center to register or be recognized by county or municipality as a used oil collection center.	\$3,000	M	30
7:26A-6.5(c)2iii	Failure of used oil collection center to comply with sign posting requirements.	\$3,000	M	30
7:26A-6.5(d)2	Failure of used oil aggregation point to comply with generator standards at N.J.A.C. 7:26A-6.4.	\$3,000	M	30
7:26A-6.6(a)4	Failure of used oil transporter to comply with the Federal Motor Carrier Safety and Federal Hazardous Materials Transportation regulations, or to comply with the provisions of this subchapter as indicated in (a)4i through v when performing the listed activities.	\$4,500	NM	
7:26A-6.6(b)	Used oil transporter conducted non-incident processing of used oil.	\$5,000	NM	
7:26A-6.6(c)	Failure of used oil transporter and/or transfer facility to comply with the notification and/or EPA identification requirements.	\$5,000	NM	
7:26A-6.6(d)1	Failure of used oil transporter to comply with delivery requirements.	\$4,500	NM	
7:26A-6.6(d)2	Failure of used oil transporter to comply with 49 CFR 171 through 180 requirements.	\$4,500	NM	
7:26A-6.6(d)3	Failure of used oil transporter to comply with used oil transportation discharge requirements.	\$4,500	NM	
7:26A-6.6(e)1	Failure of used oil transporter to determine if total halogen content is equal to, less than or greater than 1000 ppm for used oil being transported or stored.	\$4,500	NM	
7:26A-6.6(e)5	Failure of used oil transporter to retain records of analyses or other information, used to ensure used oil is not a hazardous waste, for three years.	\$4,500	NM	
7:26A-6.6(f)1	Failure of used oil transporter and/or transfer facility, storing used oil, to comply with applicable Spill Prevention, Control and Countermeasures regulations, Clean Air Act regulations or Underground Storage Tank regulations.	\$4,500	NM	
7:26A-6.6(f)3	Failure of used oil transfer facility to ensure used oil is stored only in tanks, containers, or units subject to regulation at 7:26G-8 or 9.	\$3,000	M	30
7:26A-6.6(f)4	Failure of used oil transfer facility to ensure used oil containers or aboveground tanks are in good condition and not leaking.	\$4,500	NM	
7:26A-6.6(f)5	Failure of used oil transfer facility to comply with secondary containment requirements for containers.	\$4,500	NM	
7:26A-6.6(f)6	Failure of used oil transfer facility to comply with secondary containment requirements for existing aboveground tanks.	\$4,500	NM	
7:26A-6.6(f)7	Failure of used oil transfer facility to comply with secondary containment requirements for new aboveground tanks.	\$4,500	NM	
7:26A-6.6(f)8	Failure of used oil transfer facility to comply with used oil labeling requirements.	\$3,000	M	30

<u>Rule</u> N.J.A.C.	<u>Rule Summary</u>	<u>Base Penalty</u>	<u>Type of Violation</u>	<u>Grace Period</u> <u>(days)</u>
7:26A-6.6(f)9	Failure by used oil transfer facility to comply with used oil facility discharge requirements.	\$4,500	NM	
7:26A-6.6(g)	Failure of used oil transporter to comply with tracking requirements.	\$4,500	NM	
7:26A-6.7(b)	Failure of used oil processor or re-refining facility to comply with notification and/or EPA identification requirements.	\$5,000	NM	
7:26A-6.7(c)1i	Failure of used oil processor or re-refining facility to maintain or operate facility to minimize possibilities of fire, explosion or any unplanned sudden or non-sudden releases of used oil.	\$5,000	NM	
7:26A-6.7(c)1ii	Failure of used oil processor or re-refining facility to equip facility with emergency equipment.	\$4,500	NM	
7:26A-6.7(c)1iii	Failure of used oil processor or re-refining facility to test and maintain emergency equipment.	\$3,000	M	30
7:26A-6.7(c)1iv	Failure of used oil processor or re-refining facility to maintain access to communications or alarm system.	\$3,000	M	30
7:26A-6.7(c)1v	Failure of used oil processor or re-refining facility to maintain sufficient aisle space for the unobstructed movement of personnel or equipment in an emergency.	\$3,000	M	30
7:26A-6.7(c)1vi	Failure of used oil processor or re-refining facility to make required arrangements with police or fire departments, emergency response contractors, equipment suppliers, or local hospitals, or to document any such authority's refusal of such arrangements.	\$3,000	M	30
7:26A-6.7(c)2i(1)	Failure of used oil processor or re-refining facility to have a contingency plan designed to minimize hazards to human health and the environment.	\$4,500	NM	
7:26A-6.7(c)2i(2)	Failure of used oil processor or re-refining facility to carry out provisions of the contingency plan immediately if there is a fire, explosion or release of used oil.	\$5,000	NM	
7:26A-6.7(c)2ii(1)	Failure of used oil processor or re-refining facility contingency plan to describe actions to be taken in response to fires, explosions, or any unplanned sudden or non-sudden release.	\$3,000	M	30
7:26A-6.7(c)2ii(2)	Failure of used oil processor or re-refining facility to amend its SPCC (40 CFR 112 or Part 1510 of chapter V) or DPCC (N.J.A.C. 7.1E) plan, to incorporate used oil management provisions.	\$3,000	M	30
7:26A-6.7(c)2ii(3)	Failure of used oil processor or re-refining facility contingency plan to describe arrangements agreed to by local police or fire departments, hospitals, contractors, or State or local emergency response teams.	\$3,000	M	30
7:26A-6.7(c)2ii(4)	Failure of used oil processor or re-refining facility contingency plan to list names, addresses or phone numbers of persons qualified to act as emergency coordinator.	\$3,000	M	30
7:26A-6.7(c)2ii(5)	Failure of used oil processor or re-refining facility contingency plan to list emergency equipment, updated as required, with its location, description, or capabilities specified.	\$3,000	M	30
7:26A-6.7(c)2ii(6)	Failure of used oil processor or re-refining facility contingency plan to include evacuation procedure for personnel including signals, evacuation routes or alternate evacuation routes.	\$3,000	M	30
7:26A-6.7(c)2iii	Failure of used oil processor or re-refining facility contingency plan to be maintained at facility with a copy sent to local police or fire departments, hospitals or State or local emergency response teams.	\$3,000	M	30
7:26A-6.7(c)2iv	Failure of used oil processor or re-refining facility to review or amend contingency plan as necessary.	\$3,000	M	30

<u>Rule</u>	<u>Rule Summary</u>	<u>Base Penalty</u>	<u>Type of Violation</u>	<u>Grace Period (days)</u>
N.J.A.C. 7:26A-6.7(c)2v	Failure of used oil processor or re-refining facility to make emergency coordinator thoroughly familiar with plan or available at all times.	\$4,500	NM	
7:26A-6.7(c)2vi(1)	Failure of used oil processor or re-refining facility emergency coordinator to activate alarms or communications systems, or to notify appropriate State or local agencies.	\$4,500	NM	
7:26A-6.7(c)2vi(9)	Failure of used oil processor or re-refining facility to submit incident report to Department within 15 days after an incident.	\$3,000	M	30
7:26A-6.7(d)1	Failure of used oil processor or re-refining facility to determine if total halogen content is equal to, less than or greater than 1000 p.p.m. for used oil being transported or stored.	\$4,500	NM	
7:26A-6.7(d)4	Failure of used oil processor or re-refining facility to ship used oil that fails the rebuttable presumption, for mixing as a hazardous waste, using a New Jersey licensed hazardous waste transporter.	\$4,500	NM	
7:26A-6.7(e)1	Failure of used oil processor or re-refining facility, storing used oil, to comply with applicable Spill Prevention, Control and Countermeasures regulations, Clean Air Act regulations or Underground Storage Tank regulations.	\$4,500	NM	
7:26A-6.7(e)2	Failure of used oil processor or re-refining facility to ensure used oil is stored only in tanks, containers, or units subject to regulation at 7:26G-8 or 9.	\$3,000	M	30
7:26A-6.7(e)3	Failure of used oil processor or re-refining facility to ensure containers or aboveground tanks, used to store or process used oil, are in good condition and not leaking.	\$4,500	NM	
7:26A-6.7(e)4	Failure of used oil processor or re-refining facility to comply with secondary containment requirements for containers used to store or process used oil.	\$4,500	NM	
7:26A-6.7(e)5	Failure of used oil processor or re-refining facility to comply with the secondary containment requirements for existing aboveground tanks used to store or process used oil.	\$4,500	NM	
7:26A-6.7(e)6	Failure of used oil processor or re-refining facility to comply with the secondary containment requirements for new aboveground tanks used to store or process used oil.	\$4,500	NM	
7:26A-6.7(e)7	Failure of used oil processor or re-refining facility to comply with used oil labeling requirements.	\$3,000	M	30
7:26A-6.7(e)8	Failure of used oil processor or re-refining facility to comply with or initiate response to releases.	\$4,500	NM	
7:26A-6.7(e)9i(1)	Failure of used oil processor or re-refining facility at closure, who stored or processed used oil tanks, to remove or decontaminate all used oil residues in tanks, contaminated containment system components, contaminated soils, and structures and equipment contaminated with used oil, and manage them appropriately.	\$10,000	NM	
7:26A-6.7(e)9i(2)	Failure of used oil processor or re-refining facility that cannot remove all contamination from tank systems at closure to follow closure requirements for landfills.	\$10,000	NM	
7:26A-6.7(e)9ii(1)	Failure of used oil processor or re-refining facility at closure, who stored used oil in containers, to remove from the site all containers holding used oil or residues of used oil.	\$4,500	NM	

<u>Rule</u>	<u>Rule Summary</u>	<u>Base Penalty</u>	<u>Type of Violation</u>	<u>Grace Period (days)</u>
N.J.A.C. 7:26A-6.7(e)9ii(2)	Failure of used oil processor or re-refining facility at closure, who stored used oil in containers, to remove or decontaminate all used oil residues, contaminated containment system components, contaminated soils, and structures and equipment contaminated with used oil, and manage them appropriately.	\$10,000	NM	
7:26A-6.7(f)	Failure of used oil processor or re-refining facility to develop or follow a written waste analysis plan in accordance with requirements at N.J.A.C. 7:26A-6.7(f).	\$5,000	NM	
7:26A-6.7(g)	Failure of used oil processor or re-refining facility to comply with used oil tracking standards and records.	\$4,500	NM	
7:26A-6.7(h)	Failure of used oil processor or re-refining facility to comply with operating record and reporting standards.	\$4,500	NM	
7:26A-6.7(i)	Failure by used oil processor or re-refining facility to ensure used oil transporter has an EPA identification number.	\$3,000	M	30
7:26A-6.7(j)	Failure by used oil processor or re-refining facility to manage process residues in accordance with N.J.A.C. 7:26A-6.1(a)5.	\$4,500	NM	
7:26A-6.8(b)1	Used oil burner burned off-specification used oil in a device other than an industrial furnace, industrial or utility boiler or hazardous waste incinerator or burned off-specification used oil in these devices without a "Permit to Construct, Install or Alter Control Apparatus or Equipment and Certificate to Operate Control Apparatus."	\$5,000	NM	
7:26A-6.8(b)2i	Failure by used oil burner to comply with prohibition against aggregating off specification used oil with other fuels to produce an on-specification used oil fuel.	\$5,000	NM	
7:26A-6.8(c)	Failure of used oil burner to comply with notification and/or EPA identification requirements.	\$4,500	NM	
7:26A-6.8(d)1	Failure of used oil burner to determine if total halogen content is equal to, less than or greater than 1000 p.p.m. for used oil being transported or stored.	\$5,000	NM	
7:26A-6.8(d)4	Failure by used oil burner to retain records of analyses, or other information used to ensure used oil is not a hazardous waste, for 3 years.	\$4,500	NM	
7:26A-6.8(e)1	Failure of used oil burner storing used oil to comply with applicable Spill Prevention, Control and Countermeasures regulations, Clean Air Act regulations or Underground Storage Tank regulations.	\$3,000	M	30
7:26A-6.8(e)2	Failure of used oil burner to ensure used oil is stored only in tanks, containers, or units subject to regulation at 7:26G-8 or 9.	\$3,000	M	30
7:26A-6.8(e)3	Failure of used oil burner to ensure used oil containers or aboveground tanks are in good condition and not leaking.	\$4,500	NM	
7:26A-6.8(e)4	Failure of used oil burner, storing used oil in containers, to comply with the secondary containment requirements.	\$4,500	NM	
7:26A-6.8(e)5	Failure of used oil burner, storing used oil in existing aboveground tank(s), to comply with the secondary containment requirements.	\$4,500	NM	
7:26A-6.8(e)6	Failure of used oil burner, storing used oil in new aboveground tank(s), to comply with secondary containment requirements.	\$4,500	NM	
7:26A-6.8(e)7	Failure of used oil burner to comply with used oil-labeling requirements.	\$3,000	M	30
7:26A-6.8(e)8	Failure of used oil burner to comply with or initiate response to releases.	\$4,500	NM	
7:26A-6.8(f)	Failure of used oil burner to comply with operating record and recordkeeping standards.	\$4,500	NM	

<u>Rule</u>	<u>Rule Summary</u>	<u>Base Penalty</u>	<u>Type of Violation</u>	<u>Grace Period (days)</u>
N.J.A.C. 7:26A-6.8(g)	Failure of a used oil burner to comply with first-time notice and recordkeeping standards.	\$4,500	NM	
7:26A-6.8(h)	Failure of used oil burner to manage residues from storage or burning in accordance with N.J.A.C. 7:26A-6.1(a)5.	\$4,500	NM	
7:26A-6.9(a)3	Failure of used oil fuel marketer to comply with the standards for used oil generators, transporters/transfer facilities, processors/re-refiners or burners.	\$4,500	NM	
7:26A-6.9(b)	Failure of a used oil fuel marketer to ship off-specification used oil only to an authorized burner facility.	\$5,000	NM	
7:26A-6.9(c)1	Failure of a used oil generator, transporter, processor/re-refiner or burner to determine if used oil meets the fuel specification at N.J.A.C. 7:26A-6.2 or failure to provide a copy of analyses or other information to facility receiving shipment of used oil.	\$5,000	NM	
7:26A-6.9(c)2	Failure of first person claiming used oil fuel meets fuel specification at N.J.A.C. 7:26A-6.2 to retain copies of analyses or other information used to make determination for three years.	\$4,500	NM	
7:26A-6.9(d)1	Failure of used oil fuel marketer to comply with notification and/or EPA identification requirements.	\$4,500	NM	
7:26A-6.9(e)1	Failure of used oil fuel marketer to comply with invoicing requirements for off-specification used oil fuel.	\$4,500	NM	
7:26A-6.9(e)2	Failure of used oil fuel marketer to comply with tracking requirements for shipments of off-specification used oil fuel.	\$4,500	NM	
7:26A-6.9(e)3	Failure of first person claiming used oil fuel meets fuel specification at N.J.A.C. 7:26A-6.2 to comply with tracking requirements for shipments of on-specification used oil fuel.	\$4,500	NM	
7:26A-6.9(f)	Failure of used oil marketer to comply with notice standards.	\$4,500	NM	
7:26A-6.10(b)1	Failure to manage used oil that has been identified as a hazardous waste and cannot be recycled, as a hazardous waste.	\$5,000	NM	
7:26A-6.10(b)2	Failure to manage used oil that is not hazardous waste and cannot be recycled, as a solid waste.	\$4,500	NM	
7:26A-6.10(c)	Failure to comply with prohibition against using used oil as a dust suppressant.	\$5,000	NM	

13. The violations of 40 CFR 273, Standards for the management of Universal Waste, whether the violation is minor or non-minor, the length of the grace period, and the civil administrative penalty amounts for each violation, are as set forth in the following table.

<u>Rule</u>	<u>Rule Summary</u>	<u>Base Penalty</u>	<u>Type of Violation</u>	<u>Grace Period (days)</u>
40 CFR §273.11	Failure of Small Quantity Handler of Universal Waste to comply with universal waste prohibitions.	\$4,500	NM	
§273.13(a)1	Failure of Small Quantity Handler of Universal Waste to place universal waste batteries which show evidence of leakage, spillage or damage in a container that is closed, structurally sound, compatible with the contents of the batteries, and non-leaking.	\$4,500	NM	
§273.13(a)2	Failure of Small Quantity Handler of Universal Waste conducting activities not to manage as hazardous waste casings of individual battery cells that have been breached.	\$4,500	NM	
§273.13(a)3	Failure of Small Quantity Handler of Universal Waste to determine if removed electrolyte or other solid waste is hazardous and to manage it in compliance with all appropriate regulations.	\$5,000	NM	

<u>Rule</u>	<u>Rule Summary</u>	<u>Base Penalty</u>	<u>Type of Violation</u>	<u>Grace Period (days)</u>
40 CFR				
§273.13(b)1	Failure of Small Quantity Handler of Universal Waste to place universal waste pesticides in a container that is closed, structurally sound, compatible with the pesticide, and non-leaking.	\$4,500	NM	
§273.13(b)2	Failure of Small Quantity Handler of Universal Waste to overpack containers of universal waste pesticides which did not meet 40 CFR §273.13(b)1.	\$4,500	NM	
§273.13(b)3	Failure of Small Quantity Handler of Universal Waste to contain universal waste pesticides in a tank which meets the requirements of 40 CFR §265 Subpart J.	\$3,000	M	30
§273.13(b)4	Failure of Small Quantity Handler of Universal Waste to place universal waste pesticides in a transport vehicle or vessel that is closed, structurally sound, compatible with the pesticide, and non-leaking.	\$4,500	NM	
§273.13(c)1	Failure of Small Quantity Handler of Universal Waste to place universal waste thermostats which show evidence of leakage, spillage or damage in a container that is closed, structurally sound, compatible with the contents of the thermostat, and non-leaking.	\$4,500	NM	
§273.13(c)2i	Failure of Small Quantity Handler of Universal Waste to remove mercury-containing ampules in a manner designed to prevent breakage of the ampules.	\$4,500	NM	
§273.13(c)2ii	Failure of Small Quantity Handler of Universal Waste to remove mercury-containing ampules only over or in a containment device.	\$4,500	NM	
§273.13(c)2iii	Failure of Small Quantity Handler of Universal Waste to ensure that a mercury clean-up system is readily available to immediately transfer any mercury, resulting from spills or leaks from broken ampules, from the containment device to a container that meets the requirements of 40 CFR §262.34.	\$4,500	NM	
§273.13(c)2iv	Failure of Small Quantity Handler of Universal Waste to immediately transfer any mercury resulting from spills or leaks from broken ampules from the containment device to a container that meets the requirements of 40 CFR §262.34.	\$4,500	NM	
§273.13(c)2v	Failure of Small Quantity Handler of Universal Waste to ensure that the area in which mercury-containing ampules are removed is well ventilated and monitored to ensure compliance with applicable OSHA permissible exposure levels for mercury.	\$4,500	NM	
§273.13(c)2vi	Failure of Small Quantity Handler of Universal Waste to ensure that employees removing mercury-containing ampules are thoroughly familiar with proper waste mercury handling and emergency procedures.	\$4,500	NM	
§273.13(c)2vii	Failure of Small Quantity Handler of Universal Waste to store mercury-containing ampules in closed, non-leaking containers that are in good condition.	\$4,500	NM	
§273.13(c)2viii	Failure of Small Quantity Handler of Universal Waste to pack mercury-containing ampules in containers with packing materials adequate to prevent breakage during storage, handling, and transportation.	\$4,500	NM	
§273.13(c)3	Failure of Small Quantity Handler of Universal Waste, who removes mercury-containing ampules from thermostats, to determine if any waste generated exhibits a characteristic of hazardous waste, and to manage the waste in compliance with all appropriate regulations.	\$5,000	NM	
§273.13(d)1	Failure of Small Quantity Handler of Universal Waste to place universal waste lamps which show evidence of leakage, spillage or damage in a container that is closed, structurally sound, compatible with the contents of the lamp, and non-leaking.	\$4,500	NM	

<u>Rule</u>	<u>Rule Summary</u>	<u>Base Penalty</u>	<u>Type of Violation</u>	<u>Grace Period (days)</u>
40 CFR §273.13(d)2	Failure of Small Quantity Handler of Universal Waste to clean up and place any lamp that is broken or that shows evidence of breakage, leakage, or damage that could cause the release of hazardous constituents, into a container that is closed, structurally sound, compatible with the consumer electronic, and non-leaking.	\$4,500	NM	
§273.14(a)	Failure of Small Quantity Handler of Universal Waste to properly label or mark universal waste batteries or containers of universal waste batteries.	\$3,000	M	30
§273.14(b)	Failure of Small Quantity Handler of Universal Waste to properly label or mark containers, tanks, transport vehicles or vessels of recalled universal waste pesticides.	\$3,000	M	30
§273.14(c)	Failure of Small Quantity Handler of Universal Waste to properly label or mark containers, tanks, transport vehicles or vessels of unused universal waste pesticides.	\$3,000	M	30
§273.14(d)	Failure of Small Quantity Handler of Universal Waste to properly label or mark universal waste thermostats or containers of universal waste thermostats.	\$3,000	M	30
§273.14(e)	Failure of Small Quantity Handler of Universal Waste to properly label or mark universal waste lamps or containers of universal waste lamps.	\$3,000	M	30
§273.15(a)-(b)	Small Quantity Handler of Universal Waste accumulated universal waste for greater than one year, without proving the accumulation was solely for the purpose of facilitating proper recovery, treatment or disposal.	\$5,000	NM	
§273.15(c)	Failure of Small Quantity Handler of Universal Waste to demonstrate the length of time that the universal waste was accumulated.	\$4,500	NM	
§273.16	Failure of Small Quantity Handler of Universal Waste to ensure that all employees are thoroughly familiar with proper waste handling and emergency procedures.	\$4,500	NM	
§273.17(a)	Failure of Small Quantity Handler of Universal Waste to immediately contain any releases or residues of universal waste.	\$5,000	NM	
§273.17(b)	Failure of Small Quantity Handler of Universal Waste to determine if any material resulting from the release of universal waste is hazardous, and to properly manage the waste.	\$5,000	NM	
§273.18(a)	Small Quantity Handler of Universal Waste sent or took universal waste to a place other than another universal waste handler, a destination facility, or a foreign destination.	\$4,500	NM	
§273.18(b)	Failure of Small Quantity Handler of Universal Waste who self-transport to comply with the requirements at 40 CFR §273 Subpart D and N.J.A.C. 7:26A-7.4.	\$3,000	M	30
§273.18(c)	Failure of Small Quantity Handler of Universal Waste to properly package, label, mark, placard or complete the proper shipping papers for shipments of universal waste which are hazardous materials.	\$3,000	M	30
§273.18(d)	Failure of the originating handler to ensure that the receiving handler agrees to accept the universal waste.	\$4,500	NM	
§273.18(e)	Failure of Small Quantity Handler of Universal Waste to receive back or agree on an alternate facility for rejected shipments of universal waste.	\$5,000	NM	
§273.18(f)	Failure of Small Quantity Handler of Universal Waste to properly reject shipments of universal waste.	\$5,000	NM	
§273.18(g)	Failure of Small Quantity Handler of Universal Waste to immediately notify the Department if an illegal shipment of hazardous waste, that was shipped as universal waste, is received.	\$5,000	NM	

<u>Rule</u>	<u>Rule Summary</u>	<u>Base Penalty</u>	<u>Type of Violation</u>	<u>Grace Period (days)</u>
40 CFR §273.18(h)	Failure of Small Quantity Handler of universal waste receiving non-hazardous, non-universal waste to manage such waste in accordance with N.J.A.C. 7:26.	\$3,000	M	30
§273.20(a)	Failure of Small Quantity Handler of Universal Waste to comply with the requirements of a primary exporter when shipping universal waste to a foreign destination.	\$3,000	M	30
§273.20(b)	Small Quantity Handler of Universal Waste exported universal waste without consent of the receiving country and/or not in conformance with EPA Acknowledgement of Consent.	\$5,000	NM	
§273.20(c)	Failure of Small Quantity Handler of Universal Waste that exported universal waste to provide a copy of the EPA Acknowledgement of Consent to the transporter.	\$3,000	M	30
§273.31	Failure of Large Quantity Handler of Universal Waste to comply with universal waste prohibitions.	\$4,500	NM	
§273.32(a)	Failure of Large Quantity Handler of Universal Waste to send a written notification to the Department and/or receive an EPA Identification Number prior to meeting or exceeding the 5,000 kg storage limit.	\$5,000	NM	
§273.32(b)	Failure of Large Quantity Handler of Universal Waste to include all information on the written notification to the Department.	\$3,000	M	30
§273.33(a)1	Failure of Large Quantity Handler of Universal Waste to place universal waste batteries which show evidence of leakage, spillage or damage in a container that is closed, structurally sound, compatible with the contents of the batteries, and non-leaking.	\$4,500	NM	
§273.33(a)2	Failure of Large Quantity Handler of Universal Waste conducting activities not to manage as hazardous waste casings of individual battery cells that have been breached.	\$4,500	NM	
§273.33(a)3	Failure of Large Quantity Handler of Universal Waste to determine if removed electrolyte or other solid waste is hazardous and to manage it in compliance with all appropriate regulations.	\$5,000	NM	
§273.33(b)1	Failure of Large Quantity Handler of Universal Waste to place universal waste pesticides in a container that is closed, structurally sound, compatible with the pesticide, and non-leaking.	\$4,500	NM	
§273.33(b)2	Failure of Large Quantity Handler of Universal Waste to overpack containers of universal waste pesticides which did not meet requirements of 40 CFR §273.33(b)1.	\$4,500	NM	
§273.33(b)3	Failure of Large Quantity Handler of Universal Waste to contain universal waste pesticides in a tank which meets the requirements of 40 CFR §265 Subpart J.	\$3,000	M	30
§273.33(b)4	Failure of Large Quantity Handler of Universal Waste to place universal waste pesticides in a transport vehicle or vessel that is closed, structurally sound, compatible with the pesticide, and non-leaking.	\$4,500	NM	
§273.33(c)1	Failure of Large Quantity Handler of Universal Waste to place universal waste thermostats which show evidence of leakage, spillage or damage in a container that is closed, structurally sound, compatible with the contents of the thermostat, and non-leaking.	\$4,500	NM	
§273.33(c)2i	Failure of Large Quantity Handler of Universal Waste to remove mercury-containing ampules in a manner designed to prevent breakage of the ampules.	\$4,500	NM	
§273.33(c)2ii	Failure of Large Quantity Handler of Universal Waste to remove mercury-containing ampules only over or in a containment device.	\$4,500	NM	

<u>Rule</u>	<u>Rule Summary</u>	<u>Base Penalty</u>	<u>Type of Violation</u>	<u>Grace Period (days)</u>
40 CFR §273.33(c)2iii	Failure of Large Quantity Handler of Universal Waste to ensure that a mercury clean-up system is readily available to immediately transfer any mercury, resulting from spills or leaks from broken ampules, from the containment device to a container that meets the requirements of 40 CFR §262.34.	\$4,500	NM	
§273.33(c)2iv	Failure of Large Quantity Handler of Universal Waste to immediately transfer any mercury resulting from spills or leaks from broken ampules from the containment device to a container that meets the requirements of 40 CFR §262.34.	\$4,500	NM	
§273.33(c)2v	Failure of Large Quantity Handler of Universal Waste to ensure that the area in which mercury-containing ampules are removed is well ventilated and monitored to ensure compliance with applicable OSHA permissible exposure levels for mercury.	\$4,500	NM	
§273.33(c)2vi	Failure of Large Quantity Handler of Universal Waste to ensure that employees removing mercury-containing ampules are thoroughly familiar with proper waste mercury handling and emergency procedures.	\$4,500	NM	
§273.33(c)2vii	Failure of Large Quantity Handler of Universal Waste to store mercury-containing ampules in closed, non-leaking containers that are in good condition.	\$4,500	NM	
§273.33(c)2viii	Failure of Large Quantity Handler of Universal Waste to pack mercury-containing ampules in containers with packing materials adequate to prevent breakage during storage, handling, and transportation.	\$4,500	NM	
§273.33(c)3	Failure of Large Quantity Handler of Universal Waste, who removes mercury-containing ampules from thermostats, to determine if any waste generated exhibits a characteristic of hazardous waste, and to manage the waste in compliance with all appropriate regulations.	\$5,000	NM	
§273.33(d)1	Failure of Large Quantity Handler of Universal Waste to place universal waste lamps in a container that is closed, structurally sound, compatible with the contents of the lamp, and non-leaking.	\$4,500	NM	
§273.33(d)2	Failure of Large Quantity Handler of Universal Waste to clean up and place any lamp that is broken or that shows evidence of breakage, leakage, or damage that could cause the release of hazardous constituents, in a container that is closed, structurally sound, compatible with the consumer electronic, and non-leaking.	\$4,500	NM	
§273.34(a)	Failure of Large Quantity Handler of Universal Waste to properly label or mark universal waste batteries or containers of universal waste batteries.	\$3,000	M	30
§273.34(b)	Failure of Large Quantity Handler of Universal Waste to properly label or mark containers, tanks, transport vehicles or vessels of recalled universal waste pesticides.	\$3,000	M	30
§273.34(c)	Failure of Large Quantity Handler of Universal Waste to properly label or mark containers, tanks, transport vehicles or vessels of unused universal waste pesticides.	\$3,000	M	30
§273.34(d)	Failure of Large Quantity Handler of Universal Waste to properly label or mark universal waste thermostats or containers of universal waste thermostats.	\$3,000	M	30
§273.34(e)	Failure of Large Quantity Handler of Universal Waste to properly label or mark universal waste lamps or containers of universal waste lamps.	\$3,000	M	30

<u>Rule</u>	<u>Rule Summary</u>	<u>Base Penalty</u>	<u>Type of Violation</u>	<u>Grace Period (days)</u>
40 CFR §273.35(a)-(b)	Large Quantity Handler of Universal Waste accumulated universal waste for greater than one year, without proving the accumulation was solely for the purpose of facilitating proper recovery, treatment or disposal.	\$5,000	NM	
§273.35(c)	Failure of Large Quantity Handler of Universal Waste to demonstrate the length of time that the universal waste was accumulated.	\$4,500	NM	
§273.36	Failure of Large Quantity Handler of Universal Waste to ensure that all employees are thoroughly familiar with proper waste handling and emergency procedures.	\$4,500	NM	
§273.37(a)	Failure of Large Quantity Handler of Universal Waste to immediately contain any releases or residues of universal waste.	\$5,000	NM	
§273.37(b)	Failure of Large Quantity Handler of Universal Waste to determine if any material resulting from the release of universal waste is hazardous, and to properly manage the waste.	\$5,000	NM	
§273.38(a)	Large Quantity Handler of Universal Waste sent or took universal waste to a place other than another universal waste handler, a destination facility, or a foreign destination.	\$4,500	NM	
§273.38(b)	Failure of Large Quantity Handler of Universal Waste who self-transport to comply with the requirements at 40 CFR §273 Subpart D and N.J.A.C. 7:26A-7.4.	\$3,000	M	30
§273.38(c)	Failure of Large Quantity Handler of Universal Waste to properly package, label, mark, placard or complete the proper shipping papers for shipments of universal waste which are hazardous materials.	\$3,000	M	30
§273.38(d)	Failure of the originating handler to ensure that the receiving handler agrees to accept the universal waste.	\$4,500	NM	
§273.38(e)	Failure of Large Quantity Handler of Universal Waste to receive back or agree on an alternate facility for rejected shipments of universal waste.	\$5,000	NM	
§273.38(f)	Failure of Large Quantity Handler of Universal Waste to properly reject shipments of universal waste.	\$5,000	NM	
§273.38(g)	Failure of Large Quantity Handler of Universal Waste to immediately notify the Department if an illegal shipment of hazardous waste, that was shipped as universal waste, is received.	\$5,000	NM	
§273.38(h)	Failure of Large Quantity Handler of universal waste receiving non-hazardous, non-universal waste to manage such waste in accordance with N.J.A.C. 7:26.	\$3,000	M	30
§273.39(a)1	Failure of Large Quantity Handler of Universal Waste to record the name and address of the originating universal waste handler or foreign shipper from whom the universal waste was sent.	\$3,000	M	30
§273.39(a)2	Failure of Large Quantity Handler of Universal Waste to record the quantity of each type of universal waste received.	\$3,000	M	30
§273.39(a)3	Failure of Large Quantity Handler of Universal Waste to record the date of receipt of the shipment of universal waste.	\$3,000	M	30
§273.39(b)1	Failure of Large Quantity Handler of Universal Waste to record the name and address of the universal waste handler, destination facility, or foreign destination to whom universal waste was sent.	\$3,000	M	30
§273.39(b)2	Failure of Large Quantity Handler of Universal Waste to record the quantity of each type of universal waste sent.	\$3,000	M	30
§273.39(b)3	Failure of Large Quantity Handler of Universal Waste to record the date the shipment of universal waste left the facility.	\$3,000	M	30

<u>Rule</u>	<u>Rule Summary</u>	<u>Base Penalty</u>	<u>Type of Violation</u>	<u>Grace Period (days)</u>
40 CFR				
§273.39(c)	Failure of Large Quantity Handler of Universal waste to retain the records for at least three years.	\$3,000	M	30
§273.40(a)	Failure of Large Quantity Handler of Universal Waste to comply with the requirements of a primary exporter when shipping universal waste to a foreign destination.	\$3,000	M	30
§273.40(b)	Large Quantity Handler of Universal Waste exported universal waste without consent of the receiving country and/or not in conformance with EPA Acknowledgement of Consent.	\$5,000	NM	
§273.40(c)	Failure of Large Quantity Handler of Universal Waste that exported universal waste to provide a copy of the EPA Acknowledgement of Consent to the transporter.	\$3,000	M	30
§273.51	Failure of Universal Waste Transporter to comply with universal waste prohibitions.	\$4,500	NM	
§273.52(a)	Failure of Universal Waste Transporter to comply with USDOT requirements for universal waste which meets the definition of a hazardous material.	\$4,500	NM	
§273.52(b)	Universal Waste Transporter described a universal waste with the words hazardous waste or N.O.S. or included the word waste in the shipping description.	\$3,000	M	30
§273.53	Universal Waste Transporter stored universal waste at a transfer facility for greater than 10 days without being in compliance subpart B or C of 40 CFR §273.	\$4,500	NM	
§273.54(a)	Failure of Universal Waste Transporter to immediately contain any releases or residues of universal waste.	\$5,000	NM	
§273.54(b)	Failure of Universal Waste Transporter to determine if any material resulting from the release of universal waste is hazardous, and to properly manage the waste.	\$5,000	NM	
§273.55(a)	Universal Waste Transporter sent or took universal waste to a place other than another universal waste handler, a destination facility, or a foreign destination.	\$5,000	NM	
§273.55(b)	Failure of Universal Waste Transporter to properly describe, on the shipping paper, any universal waste that meets the definition of a hazardous material.	\$3,000	M	30
§273.56	Universal Waste Transporter accepted a shipment of universal waste, to be shipped to a foreign destination, knowing the shipment did not conform to the EPA Acknowledgement of Consent.	\$5,000	NM	
§273.56(a)	Failure of Universal Waste Transporter exporting universal waste to ensure that a copy of the EPA Acknowledgement of Consent accompanied the shipment.	\$3,000	M	30
§273.56(b)	Failure of Universal Waste Transporter exporting universal waste to ensure that the waste was delivered to the facility designated by the person initiating the shipment.	\$5,000	NM	
§273.60(a)	Failure of owner or operator of a Universal Waste Destination Facility to comply with the requirements of 40 CFR Parts §§124, 264 through 266 and 270, as incorporated by reference at N.J.A.C. 7:26G, and the notification requirement under Section 3010 of RCRA.	\$3,000	M	30
§273.60(b)	Failure of owner or operator of a Universal Waste Destination Facility, that recycles a particular universal waste without storing that universal waste before it is recycled, to comply with 40 CFR §261.6(c)(2) as incorporated by reference at N.J.A.C. 7:26G-5.	\$3,000	M	30
§273.61(a)	Owner or operator of a Universal Waste Destination Facility sent or took universal waste to a place other than a universal waste handler, another destination facility or foreign destination.	\$5,000	NM	
§273.61(b)	Failure of owner or operator of a Universal Waste Destination Facility to properly reject shipments of universal waste.	\$5,000	NM	

<u>Rule</u>	<u>Rule Summary</u>	<u>Base Penalty</u>	<u>Type of Violation</u>	<u>Grace Period (days)</u>
40 CFR §273.61(c)	Failure of owner or operator of a Universal Waste Destination Facility to immediately notify the Department if an illegal shipment of hazardous waste, that was shipped as universal waste, is received.	\$5,000	NM	
§273.62(a)1	Failure of owner or operator of a Universal Waste Destination Facility to record the name and address of the originating universal waste handler or foreign shipper from whom the universal waste was sent.	\$3,000	M	30
§273.62(a)2	Failure of owner or operator of a Universal Waste Destination Facility to record the quantity of each type of universal waste received.	\$3,000	M	30
§273.62(a)3	Failure of owner or operator of a Universal Waste Destination Facility to record the date of receipt of the shipment of universal waste.	\$3,000	M	30
§273.62(b)	Failure of owner or operator of a Universal Waste Destination Facility to keep records for three years.	\$3,000	M	30
§273.70	Failure of Universal Waste Transporter, managing universal waste that was imported from a foreign country, to comply with the requirements of 40 CFR §273 Subpart D immediately after waste was received in the United States.	\$3,000	M	30
§273.70(b)	Failure of Small or Large Quantity Handlers of Universal Waste, managing universal waste that was imported from a foreign country, to comply with the requirements of 40 CFR §273 Subpart B or C after waste was received in the United States.	\$3,000	M	30
§273.70(c)	Failure of owner or operator of a Universal Waste Destination Facility, managing universal waste that was imported from a foreign country, to comply with the requirements of 40 CFR §273 Subpart E after waste is received in the United States.	\$3,000	M	30

14. The violations of N.J.A.C. 7:26A-7, Standards for the Management of Class D Universal Waste, whether the violation is minor or non-minor, the length of the grace period, and the civil administrative penalty amounts for each violation, are as set forth in the following table.

<u>Rule</u>	<u>Rule Summary</u>	<u>Base Penalty</u>	<u>Type of Violation</u>	<u>Grace Period (days)</u>
N.J.A.C. 7:26A-7.4(b)1	Failure of Small Quantity Handler of Universal Waste to place a consumer electronic that shows evidence of leakage, spillage, or damage that could cause leakage, in a container that is closed, structurally sound, compatible with the consumer electronic, and non-leaking.	\$4,500	NM	
7:26A-7.4(b)2	Small Quantity Handler of Universal Waste disassembled a consumer electronic in a manner that constituted processing or treatment.	\$4,500	NM	
7:26A-7.4(b)3	Failure of Small Quantity Handler of Universal Waste who generates a solid waste, as the result of performing activities, to determine if the waste is hazardous.	\$5,000	NM	
7:26A-7.4(c)1	Failure of Small Quantity Handler of Universal Waste to place any universal waste mercury-containing device that shows evidence of leakage, spillage, or damage that could cause leakage, in a container that is closed, structurally sound, compatible with the contents of the mercury-containing device, and non-leaking.	\$4,500	NM	
7:26A-7.4(c)2i	Failure of Small Quantity Handler of Universal Waste to remove mercury containing ampules in a manner designed to prevent breakage of the ampules.	\$4,500	NM	
7:26A-7.4(c)2ii	Failure of Small Quantity Handler of Universal Waste to remove mercury-containing ampules only over or in a containment device.	\$4,500	NM	

<u>Rule</u> N.J.A.C.	<u>Rule Summary</u>	<u>Base Penalty</u>	<u>Type of Violation</u>	<u>Grace Period (days)</u>
7:26A-7.4(c)2iii	Failure of Small Quantity Handler of Universal Waste to ensure that a mercury clean-up system is readily available to immediately transfer any mercury, resulting from spills or leaks from broken ampules, to a container that meets the requirements of 40 CFR §262.34.	\$4,500	NM	
7:26A-7.4(c)2iv	Failure of Small Quantity Handler of Universal Waste to immediately transfer any mercury, resulting from spills or leaks from broken ampules, from the containment device to a container that meets the requirements of 40 CFR §262.34.	\$4,500	NM	
7:26A-7.4(c)2v	Failure of Small Quantity Handler of Universal Waste to ensure that any area where mercury-containing ampules are removed is well ventilated and monitored to ensure compliance with applicable OSHA permissible exposure levels for mercury.	\$4,500	NM	
7:26A-7.4(c)2vi	Failure of Small Quantity Handler of Universal Waste to ensure that employees removing mercury-containing ampules are thoroughly familiar with proper waste mercury handling and emergency procedures.	\$4,500	NM	
7:26A-7.4(c)2vii	Failure of Small Quantity Handler of Universal Waste to store mercury-containing ampules in closed, non-leaking containers that are in good condition.	\$4,500	NM	
7:26A-7.4(c)2viii	Failure of Small Quantity Handler of Universal Waste to pack mercury-containing ampules in a container with packing materials adequate to prevent breakage during storage, handling, and transportation.	\$4,500	NM	
7:26A-7.4(c)3	Failure of Small Quantity Handler of Universal Waste, who removes mercury-containing ampules, to determine if any waste generated exhibits a characteristic of hazardous waste, and to manage the waste in compliance with all appropriate regulations.	\$5,000	NM	
7:26A-7.4(d)	Failure of Small Quantity Handler of Universal Waste to manage oil-based finishes, in its original or otherwise appropriate and labeled packaging.	\$3,000	M	30
7:26A-7.4(d)1	Failure of Small Quantity Handler of Universal Waste to place any universal waste oil-based finish that shows evidence of leakage, spillage, or damage that could cause leakage, into a container that is closed, structurally sound, compatible with the contents of the oil-based finish, and non-leaking.	\$4,500	NM	
7:26A-7.4(d)2	Small Quantity Handler of Universal Waste to handled universal waste oil-based finishes in a manner that constituted processing.	\$4,500	NM	
7:26A-7.5(b)1	Failure of Large Quantity Handler of Universal Waste to place any consumer electronic that shows evidence of leakage, spillage, or damage that could cause leakage, in a container that is closed, structurally sound, compatible with the contents of the consumer electronics, and non-leaking.	\$4,500	NM	
7:26A-7.5(b)2	Large Quantity Handler of Universal Waste conducted disassembling or processing on consumer electronics without applying for a Class D Approval.	\$4,500	NM	
7:26A-7.5(c)1	Failure of Large Quantity Handler of Universal Waste to place a universal waste mercury-containing device that shows evidence of leakage, spillage, or damage that could cause leakage into a container that is closed, structurally sound, compatible with the contents of the mercury-containing devices, and non-leaking.	\$4,500	NM	
7:26A-7.5(c)2i	Failure of Large Quantity Handler of Universal Waste to remove mercury-containing ampules in a manner designed to prevent breakage of the ampules.	\$4,500	NM	

<u>Rule</u> N.J.A.C.	<u>Rule Summary</u>	<u>Base Penalty</u>	<u>Type of Violation</u>	<u>Grace Period (days)</u>
7:26A-7.5(c)2ii	Failure of Large Quantity Handler of Universal Waste to remove mercury-containing ampules only over or in a containment device.	\$4,500	NM	
7:26A-7.5(c)2iii	Failure of Large Quantity Handler of Universal Waste to ensure that a mercury clean-up system is readily available to immediately transfer any mercury, resulting from spills or leaks from broken ampules, from the containment device to a container that meets the requirements of 40 CFR §262.34.	\$4,500	NM	
7:26A-7.5(c)2iv	Failure of Large Quantity Handler of Universal Waste to immediately transfer any mercury resulting from spills or leaks from broken ampules from the containment device to a container that meets the requirements of 40 CFR §262.34.	\$4,500	NM	
7:26A-7.5(c)2v	Failure of Large Quantity Handler of Universal Waste to ensure that the area in which mercury-containing ampules are removed is well ventilated and monitored to ensure compliance with applicable OSHA permissible exposure levels for mercury.	\$4,500	NM	
7:26A-7.5(c)2vi	Failure of Large Quantity Handler of Universal Waste to ensure that employees removing mercury-containing ampules are thoroughly familiar with proper waste mercury handling and emergency procedures.	\$4,500	NM	
7:26A-7.5(c)2vii	Failure of Large Quantity Handler of Universal Waste to store mercury-containing ampules in closed, non-leaking containers that are in good condition.	\$4,500	NM	
7:26A-7.5(c)2viii	Failure of Large Quantity Handler of Universal Waste to pack mercury-containing ampules in containers with packing materials adequate to prevent breakage during storage, handling, and transportation.	\$4,500	NM	
7:26A-7.5(c)3	Failure of Large Quantity Handler of Universal Waste, who removes mercury-containing ampules, to determine if the waste generated exhibits a characteristic of hazardous waste, and to manage the waste in compliance with all appropriate regulations.	\$5,000	NM	
7:26A-7.5(d)	Failure of Large Quantity Handler of Universal Waste to manage universal waste finishes in its original packaging.	\$3,000	M	30
7:26A-7.5(d)1	Failure of Large Quantity Handler of Universal Waste to place any universal waste finish that shows evidence of leakage, spillage, or damage that could cause leakage in a container that is closed, structurally sound, compatible with the contents of the universal waste finish, and non-leaking.	\$4,500	NM	
7:26A-7.5(d)2	Large Quantity Handler of Universal Waste conducted disassembling or processing activities on universal waste finishes without applying for a Class D Approval.	\$4,500	NM	
7:26A-7.5(e)	Failure of Large Quantity Handler of Universal Waste to submit a report to the Department documenting the types and amounts of universal waste which were received, stored and shipped in the preceding calendar year.	\$3,000	M	30
7:26A-7.7(a)	Failure to accumulate universal waste consumer electronics devices in a closed container that is clearly marked with the words Universal Waste-Consumer Electronics.	\$3,000	M	30
7:26A-7.7(b)	Failure to accumulate universal waste mercury-containing devices in a closed container that is clearly marked with the words Universal Waste-Mercury-Containing Devices.	\$3,000	M	30

<u>Rule</u>	<u>Rule Summary</u>	<u>Base Penalty</u>	<u>Type of Violation</u>	<u>Grace Period (days)</u>
N.J.A.C. 7:26A-7.7(c)	Failure to mark a container, tank, transport vehicle or other vessel in which oil-based waste finishes are contained, with the words Universal Waste-Oil-Based Finish.	\$3,000	M	30

Administrative Correction in (g)7.

See: 23 N.J.R. 3138(a).

Amended by R.1993 d.5, effective January 4, 1993.

See: 23 N.J.R. 3607(a) (see also 24 N.J.R. 2002(a)), 25 N.J.R. 98(a).

Reflects amendments to N.J.A.C. 7:26-7.6 and 9.4.

Amended by R.1996 d.500, effective October 21, 1996.

See: 28 N.J.R. 1693(a), 28 N.J.R. 4606(a).

Amended by R.1996 d.578, effective December 16, 1996.

See: 28 N.J.R. 2114(a), 28 N.J.R. 5248(a).

In (f)1 and (f)2, amended N.J.A.C. references; in (f)4, amended EXAMPLE; in (g), amended N.J.A.C. references; and added (g)1 through (g) 8.

Amended by R.2001 d.86, effective March 5, 2001.

See: 32 N.J.R. 2536(a), 33 N.J.R. 880(a).

In (g)2 table, deleted 7:26-2.13(c)2 and recodified 7:26-2.13(c)3 as 7:26-2.13(c)1; in (g)5 table, added 7:26-3.5(g)2.

Amended by R.2002 d.181, effective June 17, 2002.

See: 33 N.J.R. 4218(a), 34 N.J.R. 2049(a).

In (g)2, amended the penalty table.

Amended by R.2002 d.182, effective June 17, 2002 (operative December 17, 2002).

See: 33 N.J.R. 4273(a), 34 N.J.R. 2088(a).

In (g)8, rewrote the Rule Summary table.

Amended by R.2006 d.343, effective September 18, 2006.

See: 37 N.J.R. 3130(a), 38 N.J.R. 3782(b).

Rewrote (g).

Case Notes

Summary proceedings to enforce agency orders, action brought for alleged violations of Pesticide Control Act. State, Dept. of Environmental Protection v. Larchmont Farms, Inc., 266 N.J.Super. 16, 628 A.2d 761 (A.D.1993), certification denied 135 N.J. 302, 639 A.2d 301.

Administrative hearings concerning collection of penalties were not provided for in Solid Waste Management Act; violator is entitled to collection hearing in Superior Court on due process basis, though not to a preliminary Departmental administrative hearing. Bordentown Twp. Bd. of Health v. Interstate Waste Removal Co., Inc., 191 N.J.Super. 128, 465 A.2d 587 (Law Div.1983).

Hazardous waste generator's failure to respond to discovery request supported dismissal of generator's appeal from penalty assessment. New Jersey Department of Environmental Protection v. Oil Transfer Company, 96 N.J.A.R.2d (EPE) 360.

Failure to remove hazardous waste from manufacturing site within time allowed by Solid Waste Management Law mandates penalty even if violation was unintentional. DEPE v. Plasti-Glas Molded Products, Inc., 96 N.J.A.R.2d (EPE) 135.

Corporate successor to hazardous waste facility was strictly liable for failing to test holding tanks. Department of Environmental Protection v. Warner, 95 N.J.A.R.2d (EPE) 245.

Each shipment of hazardous waste constituted separate violation of regulations governing manifesting and disposing of hazardous waste. Department of Environmental Protection v. Rollins Environmental Services, Inc., 92 N.J.A.R.2d (EPE) 13.

7:26-5.5 Civil administrative penalty determination

(a) The Department shall assess penalties under this section, and not under N.J.A.C. 7:26-5.4 when:

1. Because of the specific circumstances of the violation, the Department determines that the penalty amount under N.J.A.C. 7:26-5.4 would be too low to provide a sufficient deterrent effect as required by the Act; or

2. The violation is not listed under N.J.A.C. 7:26-5.4.

(b) Each violation of the Act, or any rule promulgated, any administrative order, permit, license or other operating authority issued, any district solid waste management plan approved, and any parameter contained therein, pursuant to the Act, shall constitute an additional, separate and distinct violation.

(c) Each day during which a violation continues shall constitute an additional, separate and distinct violation.

(d) For each parameter that is required to be monitored, sampled or reported, the failure to so monitor, sample or report shall constitute an additional, separate and distinct violation.

(e) Where any requirement of the Act, or any rule promulgated, any administrative order, permit, license or other operating authority issued, any district solid waste management plan approved, pursuant to the Act, may pertain to more than one act, condition, occurrence, item, unit, waste or parameter, the failure to comply with such requirement as it pertains to each such act, condition, occurrence, item, unit, waste or parameter shall constitute an additional, separate and distinct violation.

(f) The Department shall assess a civil administrative penalty for violations described in this section on the basis of the seriousness of the violation and the conduct of the violator at the midpoint of the following ranges as follows:

1. A violation that meets the criteria at (f)1i through iii below and the criteria at N.J.A.C. 7:26-5.10(c)1 through 5 is minor. Such a minor violation shall be subject to a grace period of 30 days if the violation meets the criteria at (f)1i through iii below and N.J.A.C. 7:26-5.10. If compliance is not achieved in the required time period, the violator shall be subject to a \$3,000 penalty, to be assessed in accordance with the procedures set forth at N.J.A.C. 7:26-5.10.

i. The violation poses minimal risk to the public health, safety and natural resources;

ii. The violation does not materially and substantially undermine or impair the goals of the regulatory program; and