

| <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(a)14i | Failure of Class C material operator to comply with composting structure requirements, no ponding, leachate control. | \$4,500 | NM | |
| 7:26A-4.5(a)14ii | Failure of Class C material operator to maintain fully enclosed operation and setback requirements. | \$4,500 | NM | |
| 7:26A-4.5(a)14iii | Failure of Class C material operator to comply with O & M manual requirements. | \$4,500 | NM | |
| 7:26A-4.5(a)14v | Failure of Class C material operator to comply with employee training requirements. | \$3,000 | M | 30 |
| 7:26A-4.5(a)14vi | 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(a)14vii, viii | Failure of Class C material operator to meet Process to Further Reduce Pathogens criteria and requirements. | \$4,500 | NM | |
| 7:26A-4.5(a)14xi | 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(a)14xii | 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(a)14xiii | Failure of Class C material operator to maintain required records. | \$3,000 | M | 30 |
| 7:26A-4.5(a)14xiv | 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(b)1 | Failure of Class C operator to comply with labeling requirements. | \$3,000 | M | 30 |
| 7:26A-4.5(b)2 | Failure of Class C operator to comply with compost utilization requirements. | \$4,500 | NM | |

3. The violations of N.J.A.C. 7:26A-5, Requirements for Processing Discarded Appliances that Contain Refrigerant Fluid, the type of violation as minor (M) or non-minor (NM), the applicable grace period if the violation is minor, and the civil administrative base penalty for each violation are as set forth in the following table.

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| 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 | |

4. The violations of N.J.A.C. 7:26A-6, Standards for the Management of Used Oil, the type of violation as minor (M) or non-minor (NM), the applicable grace period if the violation is minor, and the civil administrative base penalty 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 | |

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| 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 N.J.A.C. 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 an 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 | |

(g) The seriousness of the violation shall be determined as major, moderate or minor as follows:

1. Major seriousness shall apply to any violation which:

- i. Has caused or has the potential to cause serious harm to human health or the environment; or
- ii. Seriously deviates from the requirements 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; serious deviation shall include, but not be limited to, those violations which are in complete contravention of the requirement, or if some of the requirement is met, which severely impair or undermine the operation or intent of the requirement;

2. Moderate seriousness shall apply to any violation which:

- i. Has caused or has the potential to cause substantial harm to human health or the environment; or
- ii. Substantially deviates from the requirements 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; substantial deviation shall include, but not be limited to, violations which are in substantial contravention of the requirements or which substantially impair or undermine the operation or intent of the requirement; and

3. Minor seriousness shall apply to any violation not included in (g)1 or 2 above.

(h) The conduct of the violator shall be determined as major, moderate or minor as follows:

- 1. Major conduct shall include any intentional, deliberate, purposeful, knowing or willful act or omission by the violator;
- 2. Moderate conduct shall include any unintentional but foreseeable act or omission by the violator; and
- 3. Minor conduct shall include any other conduct not included in (h)1 or 2 above.

(i) The Department may adjust the amount determined pursuant to (f), (g) and (h) above to assess a civil administrative penalty in an amount no greater than the maximum amount nor less than the minimum amount in the range described in (f) above, on the basis of the following factors:

- 1. The compliance history of the violator;
- 2. The nature, timing and effectiveness of any measures taken by the violator to mitigate the effects of the violation for which the penalty is being assessed;

i. Immediate implementation of measures to effectively mitigate the effects of the violation will result in a reduction to the bottom of the range;

3. The nature, timing and effectiveness of any measures taken by the violator to prevent future similar violations;

i. Implementation of measures that can reasonably be expected to prevent a recurrence of the same type of violation will result in a reduction equal to the bottom of the range;

4. Any unusual or extraordinary costs or impacts directly or indirectly imposed on the public or the environment as a result of the violation; and/or

5. Other specific circumstances of the violator or the violation.

7:26A-9.6 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 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.

(b) Each day, from the day that the violator knew or had reason to know that if 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 based on the conduct of the violator at the mid-point of the following ranges except as adjusted pursuant to (d) below:

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 in an amount of not more than \$50,000 nor less than \$40,000 per act or omission; and

2. For all other conduct, the civil administrative penalty, per act or omission, shall be in the amount of \$3,000 per violation.

(d) The Department may adjust the amount determined pursuant to (c) above to assess a civil administrative penalty in an amount no greater than the maximum amount nor less than the minimum amount in the range described in (c) above, on the basis of the following factors:

- 1. The compliance history of the violator;

2. The nature, timing and effectiveness of any measures taken by the violator to mitigate the effects of the violation for which the penalty is being assessed;

i. Immediate implementation of measures to effectively mitigate the effects of the violation will result in a reduction to the bottom of the range;

3. The nature, timing and effectiveness of any measures taken by the violator to prevent future similar violations;

i. Implementation of measures that can reasonably be expected to prevent a recurrence of the same type of violation will result in a reduction equal to the bottom of the range;

4. Any unusual or extraordinary costs or impacts directly or indirectly imposed on the public or the environment as a result of the violation; and/or

5. Other specific circumstances of the violator or the violation.

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

7:26A-9.7 Civil administrative penalty for failure to allow lawful entry and inspection

(a) The Department may assess a civil administrative penalty pursuant to this section against any violator who refuses, inhibits or prohibits immediate lawful entry and inspection by any authorized Department representative of any premises, building or facility which the Department may enter and inspect pursuant to the provisions of the Act.

(b) Each day that a violator refuses, inhibits or prohibits immediate lawful entry and inspection by an authorized Department representative of any premises, building or facility which the Department may enter and inspect pursuant to the provisions of the Act, shall be an additional, separate and distinct violation.

(c) The Department shall assess a civil administrative penalty for violations described in this section at the midpoint of the following ranges except as adjusted pursuant to (d) below as follows:

1. For refusing, inhibiting or prohibiting immediate lawful entry and inspection of any premises, building or facility for which an administrative order, permit, license or other operating authority requirement exists under the Act, the civil administrative penalty shall be in an amount of not more than \$30,000 nor less than \$20,000 per violation; and

2. For any other refusal, inhibition, or prohibition of immediate lawful entry and inspection the civil administrative penalty shall be in an amount of not more than \$6,000 or less than \$3,000 per violation.

(d) The Department may adjust the amount determined pursuant to (c) above to assess a civil administrative penalty in an amount no greater than the maximum amount nor less than the minimum amount in the range described in (c) above, on the basis of the following factors:

1. The compliance history of the violator;

2. The nature, timing and effectiveness of any measures taken by the violator to mitigate the effects of the violation for which the penalty is being assessed;

i. Immediate implementation of measures to effectively mitigate the effects of the violation will result in a reduction to the bottom of the range;

3. The nature, timing and effectiveness of any measures taken by the violator to prevent future similar violations;

i. Implementation of measures that can reasonably be expected to prevent a recurrence of the same type of violation will result in a reduction equal to the bottom of the range;

4. Any unusual or extraordinary costs or impacts directly or indirectly imposed on the public or the environment as a result of the violation; and/or

5. Other specific circumstances of the violator or the violation.

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

7:26A-9.8 Civil administrative penalty for failure to pay a fee

(a) The Department may assess a civil administrative penalty pursuant to this section against each violator who fails to pay a fee when due pursuant to 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.

(b) To assess a civil administrative penalty pursuant to this section:

1. The Department shall identify the civil administrative base penalty pursuant to (c) below; and

2. The civil administrative penalty shall be the base penalty unless adjusted pursuant to (d) below.

(c) The base penalty shall be as follows:

1. An amount equal to one-half of the unpaid fee or \$100.00, whichever is greater, for nonpayment of a fee due in any calendar year;

2. An amount equal to the unpaid fee or \$250.00 whichever is greater, for the nonpayment of a second fee due in the same calendar year as that in (c)1 above; or