

CHAPTER 26G
HAZARDOUS WASTE

Authority

N.J.S.A. 13:1B-3, 13:1D-1 et seq., 13:1D-125 et seq., 13:1E-1 et seq., 13:1E-9, 26:2C-1 et seq., 47:1A-1 et seq., 58:10-23.11 and 58:10A-1 et seq.

Source and Effective Date

R.2002 d.140, effective April 15, 2002.
See: 33 N.J.R. 3794(a), 34 N.J.R. 1669(b).

Chapter Expiration Date

Chapter 26G, Hazardous Waste, expires on April 15, 2007.

Chapter Historical Note

Chapter 26G, Hazardous Waste, was adopted by R.1996 d.500, effective October 21, 1996. See: 28 N.J.R. 1693(a), 28 N.J.R. 4606.

Chapter 26G, Hazardous Waste, was readopted as R.2002 d.140, effective April 15, 2002. See: Source and Effective Date. See, also, section annotations.

Petition for Rulemaking: Hazardous Waste Rules. See: 36 N.J.R. 221(b), 1128(b), 2561(b).

Law Review and Journal Commentaries

Proving Bad Faith in Environmental Coverage Actions. Patrick Nucciarone, Jeffrey A. Cohen, Alexa Richman-La Londe, 149 N.J.L.J. 468 (1997).

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SUBCHAPTER 1. GENERAL PROVISIONS

7:26G-1.1 Scope of rules

(a) Unless otherwise provided by rule or statute, this chapter shall constitute the rules of the Department of Environmental Protection which govern the registration, operation, closure and post-closure maintenance of hazardous waste facilities in the State of New Jersey as may be approved by the Department; registration, operation, and maintenance of hazardous waste transporting operations and facilities in the State of New Jersey; and a fee schedule for services provided by the Department to hazardous waste facilities, generators and transporters.

(b) The definitions, exemptions, exclusions and discussions of solid and hazardous waste found in this chapter are for the purposes of classifying and regulating hazardous waste and do not provide any exemptions from the definition or regulation of solid waste found at N.J.A.C. 7:26.

(c) Hazardous waste facilities are exempt from district solid waste planning of N.J.A.C. 7:26-6, Solid Waste Planning Regulations; the Solid Waste Utility Control Act, N.J.S.A. 48:13A-1 et seq.; the Solid Waste Collection Regulatory Reform Act, N.J.S.A. 48:13A-7.1 et seq.; and those provisions of the Solid Waste Management Act, N.J.S.A. 13:1E-1 et seq., which relate to district solid waste planning.

(d) In addition to the rules in this chapter, all hazardous waste facilities are required to obtain other necessary approvals.

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

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

Rewrote (c).

7:26G-1.2 Construction and severability

(a) These rules shall be liberally construed to permit the Department to discharge its statutory functions.

(b) If this chapter or any subchapter, section, subsection, paragraph, subparagraph, sub-subparagraph or any portion thereof, or the application thereof to any person, is adjudged unconstitutional or invalid by a court of competent jurisdiction, in any judicial proceeding, such judgment shall be confined in its operation to this chapter or any subchapter, section, subsection, paragraph, subparagraph, sub-subparagraph or any portion or application thereof, directly involved in the controversy in which such judgment shall have been rendered, and it shall not affect or impair the remainder of this chapter.

7:26G-1.3 Practice where rules do not govern

The Department may rescind, amend or expand these rules from time to time, and such rules shall be filed with the Office of Administrative Law as provided by law. In any matter concerning hazardous waste management that arises not governed by these rules, the Department shall exercise its discretion within the authority of N.J.S.A. 13:1E-1 et seq., 58:10-23.11, 58:10A-1 et seq., 47:1A-2, 13:1D-9 and 18 and all other legislatively conferred powers.

7:26G-1.4 Incorporation by reference of the Code of Federal Regulations

(a) Unless specifically excluded by these rules, when a provision of the Code of Federal Regulations (C.F.R.) is incorporated by reference, all notes, comments, appendices, diagrams, tables, forms, figures, and publications are also incorporated by reference.

(b) Prospective incorporation by reference means the ongoing process, beginning May 6, 2002, whereby all provisions of regulations incorporated into this Chapter from the Federal regulations at 40 C.F.R. Subparts 124, 260-266, 268, and 270 are continually automatically updated in order to maintain consistency with the most current Federal rules. Thus, any supplements, amendments, and any other changes including, without limitation, repeals or stays that affect the

meaning or operational status of a Federal rule, brought about by either judicial or administrative action and adopted or otherwise noticed by USEPA in the Federal Register, shall be paralleled by a similar change to the New Jersey rule so that the New Jersey rule will have the same meaning and status as its Federal counterpart. Similarly, to maintain consistency, all new Federal regulations are also adopted into this Chapter by this automatic process.

(c) Provisions of 40 C.F.R. Parts 124, 260-266, 268 and 270 incorporated by reference are prospective and all internal references contained therein are also incorporated prospectively for the purposes of that provision, unless otherwise noted. Each internal reference to the C.F.R. shall be interpreted to include in addition to the Federal citation, any changes or additions or deletions made to that citation by the corresponding state subchapter. For example, all references within the C.F.R. to 40 C.F.R. Part 261 shall include the changes, additions and deletions which N.J.A.C. 7:26G-5 makes to 40 C.F.R. Part 261.

(d) Provisions of 49 C.F.R. incorporated by reference are prospective and all internal references contained therein are also incorporated by reference for the purposes of that provision, unless otherwise noted. Provisions of 49 C.F.R. shall be interpreted to include, in addition to the Federal citation, any changes or additions or deletions made to that citation by the following State agencies and corresponding State rules:

1. New Jersey Department of Transportation, N.J.A.C. 16:49-2.1; and
2. New Jersey Department of Law and Public Safety, Division of State Police, N.J.A.C. 13:60-1.1.

(e) Provisions of the C.F.R. which are excluded from incorporation by reference in these rules are excluded in their entirety, unless otherwise specified. If there is a cross reference to a Federal citation which was specifically entirely excluded from incorporation, the cross referenced citation is not incorporated by virtue of the cross reference. Provisions that have been excluded from incorporation by reference are also excluded from the process of prospective incorporation by reference.

(f) Federal statutes and regulations that are cited in 40 C.F.R. Parts 124, 260 through 266, 268, and 270 that are not specifically adopted by reference shall be used to assist in interpreting the Federal regulations in 40 C.F.R. Parts 124, 260 through 266, 268, and 270.

(g) Federal statutes and regulations that are cited in 49 C.F.R. Parts 171 through 180, and 390 through 397 that are not specifically adopted by reference shall be used to assist in interpreting the Federal regulations in 49 C.F.R. Parts 171 through 180, and 390 through 397.

(h) In the event that there are inconsistencies or duplications in the requirements of the provisions incorporated by reference from the C.F.R. and the rules set forth in this chapter, the provisions incorporated by reference from the C.F.R. shall prevail, except where the rules set forth in this chapter are more stringent.

(i) Nothing in these provisions incorporated by reference from the C.F.R. shall affect the Department's authority to enforce statutes, rules, permits or orders administered or issued by the Commissioner.

(j) New Federal rules, amendments, supplements and other changes at 40 C.F.R. Parts 124, 260-266, 268, and 270, brought about through administrative or judicial action, shall be automatically incorporated through the prospective incorporation process in N.J.A.C. 7:26G.

(k) New Federal rules, amendments, supplements, and other changes at 40 C.F.R. Parts 124, 260-266, 268, and 270, brought about through administrative or judicial action, adopted or otherwise noticed in the Federal Register by USEPA after July 31, 1998 but prior to January 19, 1999 shall be prospectively incorporated by reference and effective January 19, 1999 and operative either April 19, 1999 or on the operative date cited by USEPA in the relevant Federal Register Notice, whichever is later, unless the Department publishes a notice of proposal repealing the adoption in New Jersey of the Federal regulation in whole or in part, and/or proposing to otherwise amend the affected State rules.

(l) On or after May 6, 2002, new Federal rules, amendments, supplements, and other changes, brought about through administrative or judicial action, automatically incorporated through the prospective incorporation by reference process shall be effective upon publication in the Federal Register and operative 90 days from the publication date or on the operative date cited by USEPA in the relevant Federal Register Notice, whichever is later, unless the Department publishes a notice of proposal repealing the adoption in New Jersey of the Federal regulation in whole or in part, and/or proposing to otherwise amend the affected State rules.

Amended by R.1999 d.19, effective January 19, 1999.
See: 30 N.J.R. 3128(a), 31 N.J.R. 166(a).

Rewrote the section.

Amended by R.2002 d.140, effective May 6, 2002.
See: 33 N.J.R. 3794(a), 34 N.J.R. 1669(b).

In (b) and (l), substituted "May 6, 2002" for "January 19, 1999".

7:26G-1.5 Document availability

(a) Copies of the C.F.R. (40 C.F.R. Parts 124, 260 through 266, 268, 270 and 49 C.F.R. Parts 171 through 180 and 390 through 397) as adopted and incorporated by reference herein are available for review. Publications incorporated by reference within the Code of Federal Regulations as listed at 40 C.F.R. 260.11, or the most currently available version, are also available for review. These may be reviewed by contacting the Department at:

New Jersey Department of Environmental Protection
Division of Solid and Hazardous Waste
PO Box 414
Trenton, NJ 08625-0414
Telephone: (609) 984-3438

(b) Copies of the C.F.R. (40 C.F.R. Parts 124, 260 through 266, 268, 270 and 49 C.F.R. Parts 171 through 180,

and 390 through 397) as adopted and incorporated by reference herein, may be purchased from the following sources:

U.S. Government Printing Office
 Superintendent of Documents
 Mail Stop: SCOP
 Washington, DC 20402-9328
 U.S. Government Printing Office Bookstore
 Room 110, 26 Federal Plaza
 New York, NY 10278-0081
 U.S. Government Printing Office Bookstore
 Robert Morris Building
 100 North 17th Street
 Philadelphia, PA 19103

(c) Copies of the C.F.R. (40 C.F.R. Parts 124, 260 through 266, 268, 270 and 49 C.F.R. Parts 171 through 180, and 390 through 397) as adopted and incorporated by reference herein, are available for review at the following public libraries:

New Jersey State Library
 PO Box 520, 185 West State Street
 Trenton, NJ 08625-0520
 Newark Public Library
 5 Washington Street
 Newark, NJ 07101

(d) The Office of the Federal Register, a component of the National Archives and Record Administration, has a website at www.nata.gov/fedreg/ which shows a current listing of files available for public inspection, Federal Registers as well as the Code of Federal Regulations.

Amended by R.1999 d.19, effective January 19, 1999.
 See: 30 N.J.R. 3128(a), 31 N.J.R. 166(a).
 In (a), updated the address; and added (d).

SUBCHAPTER 2. CIVIL ADMINISTRATIVE PENALTIES AND REQUESTS FOR ADMINISTRATIVE HEARINGS

7:26G-2.1 Scope and purpose

(a) This subchapter shall govern the Department's assessment of civil administrative penalties for hazardous waste violations of the Solid Waste Management Act, N.J.S.A. 13:1E-1 et seq., (for the purpose of this subchapter, hereinafter "the Act"), including violation of any rule promulgated, administrative order, permit, license or other operating authority issued, or Part A permit application filed, pursuant to the Act. This subchapter shall also govern the procedures for requesting administrative hearings on a notice of civil administrative penalty assessment or an administrative order.

(b) The Department may assess a civil administrative penalty of not more than \$50,000 for each violation of each provision of the Act, or any rule promulgated, administrative order, permit, license or other operating authority issued, or Part A permit application filed, pursuant to the Act.

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

(d) Neither the assessment of a civil administrative penalty nor the payment of any such civil administrative penalty shall be deemed to affect the availability of any other enforcement provision provided for by N.J.S.A. 13:1E-1 et seq. or any other statute, in connection with the violation for which the assessment is levied.

(e) Nothing in this subchapter is intended to affect the Department's authority to revoke or suspend any permit, license or other operating authority issued under the Act. Specifically, the Department may revoke or suspend a permit, license or other operating authority, without regard to whether or not a civil administrative penalty has been or will be assessed pursuant to this subchapter.

(f) For purposes of this subchapter, any person who undertakes or performs an obligation imposed upon another person pursuant to the Act, or any rule promulgated, administrative order, permit, license or other operating authority issued, or Part A permit application filed, pursuant to the Act, may at the discretion of the Department be subject to a civil administrative penalty pursuant to this subchapter in the same manner and in the same amount as such other person.

7:26G-2.2 Procedures for assessment and payment of civil administrative penalties

(a) In order to assess a civil administrative penalty under the Act, for violation of the Act, or any rule promulgated, administrative order, permit, license or other operating authority issued, or Part A permit application filed, pursuant to the Act, the Department shall, by means of notice of civil administrative penalty assessment, notify the violator by certified mail (return receipt requested) or by personal service. The Department may, in its discretion, assess a civil administrative penalty for more than one violation in a single notice of civil administrative penalty assessment or in multiple notices of civil administrative penalty assessment. This notice of civil administrative penalty assessment shall:

1. Identify the section of the Act, rule, administrative order, permit, license, or Part A permit application violated;
2. Concisely state the facts which constitute the violation;
3. Specify the amount of the civil administrative penalty to be imposed; and

4. Advise the violator of the right to request an administrative hearing, pursuant to the procedures in N.J.A.C. 7:26G-2.3.

(b) Payment of the civil administrative penalty is due upon receipt by the violator of the Department's final order of a contested case or when a notice of civil administrative penalty assessment becomes a final order, as follows:

1. If no hearing is timely requested pursuant to N.J.A.C. 7:26G-2.3, the notice of civil administrative penalty assessment becomes a final order on the 21st day following receipt by the violator of the notice of civil administrative penalty assessment;

2. If a hearing is timely requested pursuant to N.J.A.C. 7:26G-2.3 and the Department denies the hearing request, a notice of civil administrative penalty assessment becomes a final order upon receipt by the violator of notice of such denial; or

3. If a hearing is requested pursuant to N.J.A.C. 7:26G-2.3 and an administrative hearing is conducted, a notice of civil administrative penalty assessment becomes a final order upon receipt by the violator of a final order of a contested case.

7:26G-2.3 Procedures to request an administrative hearing to contest an administrative order or a notice of civil administrative penalty assessment, and procedures for conducting administrative hearings

(a) To request an administrative hearing to contest an administrative order and/or a notice of civil administrative penalty assessment issued pursuant to the Act, the violator shall submit the following information in writing to the Department, at:

Office of Legal Affairs
ATTENTION: Administrative Hearing Requests
Department of Environmental Protection
PO BOX 402
Trenton, NJ 08625-0402

1. The name, address, telephone number and EPA Identification Number (if applicable) of the violator and its authorized representative;

2. The violator's defenses, to each of the Department's findings of fact in the findings section of the administrative order or notice of civil administrative penalty assessment, stated in short and plain terms;

3. An admission or denial of each of the Department's findings of fact in the findings section of the administrative order or notice of civil administrative penalty assessment. If the violator is without knowledge or information sufficient to form a belief as to the truth of a finding, the violator shall so state and this shall have the effect of a denial. A denial shall fairly meet the substance of the

findings denied. When the violator intends in good faith to deny only a part or a qualification of a finding, the violator shall specify so much of it as is true and material and deny only the remainder. The violator may not generally deny all of the findings but shall make all denials as specific denials of designated findings. For each finding which the violator denies, the violator shall allege the fact or facts as the violator believes such fact or facts to be;

4. Information supporting the request and specific reference to or copies of all written documents relied upon to support the request;

5. An estimate of the time required for the hearing (in days or hours); and

6. A request, if necessary, for a barrier-free hearing location for physically disabled persons.

(b) If the Department does not receive the written request for a hearing within 20 days after receipt by the violator of the notice of a civil administrative penalty assessment and/or an administrative order being challenged, the Department shall deny the hearing request.

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

(d) All administrative 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.

7:26G-2.4 Civil administrative penalties for violations 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. 7:26G-2.4(g).

(b) Each violation of a rule listed in (g) below 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 (g) below 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 procedures which follow in (f)1 through 4 below. 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 (g)1 through 9 below;
2. Identify the corresponding base penalty dollar amount for the rule violated as listed in (g)1 through 9 below;
3. Multiply the base penalty dollar amount times the following multipliers for each factor to obtain the severity penalty component, as applicable:

	<u>Severity factor</u>	<u>Multiplier</u>
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 for a particular violation, 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 for that violation shall be \$50,000.

EXAMPLE:

Base penalty (for violation of N.J.A.C. 7:26-7.4(a)6)	=	\$1,000
Subparagraph (f)3iii applies: 0.50 x 1000	=	500
Subparagraph (f)3iv applies: 0.25 x 1000	=	+250
Civil administrative penalty		\$1,750

(g) The following summary of rules contained in N.J.A.C. 7:26G-2 through 7:26G-12 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. 7:26G-2 through 7:26G-12, then the provision in N.J.A.C. 7:26G-2 through 7:26G-12 shall prevail. The citations beginning with the symbol “§” identify the rule section found in 40 CFR Parts 124, 260-266, 268 and 270. Citations beginning with “7:26G” signify a State requirement not found in 40 CFR Parts 124, 260-266, 268 and 270. The word “matrix” appearing in the “Base Penalty or Matrix” column refers to the penalty calculation matrix in 7:26G-2.5, which shall be applied in lieu of a “base penalty.” In the “Type of Violation” column, “M” identifies a violation as minor and “NM” identifies a violation as non-minor. The length of the applicable grace period for a minor violation is indicated in the “Grace Period” column.

1. The violations of N.J.A.C. 7:26G-4, Hazardous Waste Management System: General, and the civil administrative penalty amounts for each violation, are as set forth in the following table. (Reserved)
2. The violations of N.J.A.C. 7:26G-5, Identification and Listing of Hazardous 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.

(40 C.F.R. Part 261 Subpart A—General)

<u>Rule</u>	<u>Rule Summary</u>	<u>Base Penalty or Matrix</u>	<u>Type of Violation</u>	<u>Grace Period</u>
§261.5(f)	Failure of generator of acute hazardous waste to comply with the requirements of 40 C.F.R. §261.5(f).	Matrix	NM	
§261.5(g)	Failure of conditionally exempt small quantity generator of hazardous waste to comply with the requirements of 40 C.F.R. §261.5(g).	Matrix	NM	

3. The violations of N.J.A.C. 7:26G-6, Standards Applicable to Generators of Hazardous 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.

(40 C.F.R. Part 262 Subpart A—General)

<u>Rule</u>	<u>Rule Summary</u>	<u>Base Penalty or Matrix</u>	<u>Type of Violation</u>	<u>Grace Period</u>
§262.11	Failure of generator of solid waste to determine if waste is hazardous.	\$5,000	NM	
§262.12(a)	Failure of generator to have EPA identification number before it treats, stores, transports, offers for transportation, or disposes of hazardous waste.	\$5,000	NM	
§262.12(c)	Failure of generator to offer hazardous waste to a hazardous waste transporter or TSD facility that has received an EPA ID number.	\$5,000	NM	

(40 C.F.R. Part 262 Subpart B—The Manifest)

<u>Rule</u>	<u>Rule Summary</u>	<u>Base Penalty or Matrix</u>	<u>Type of Violation</u>	<u>Grace Period</u>
§262.20(a)	Failure of generator to prepare a manifest before transporting or offering for transport hazardous waste off-site.	\$5,000	NM	
§262.20(b)	Failure of generator to designate an authorized facility on the manifest.	\$5,000	NM	
§262.20(d)	Failure of generator to designate alternate facility or accept waste back in the event the transporter cannot deliver the waste.	\$3,000	M	30 days
§262.21(a)	Failure to use approved manifest forms from the Department for intrastate shipments of hazardous waste in New Jersey or for hazardous waste originating in another state destined for New Jersey.	\$3,000	M	30 days
§262.21(b)	Failure to use approved manifest forms for hazardous waste originating in New Jersey and destined for another state.	\$3,000	M	30 days
§262.23(a)(1)	Failure of generator to sign manifest.	\$3,000	M	30 days
§262.23(a)(2)	Failure of generator to obtain signature of initial transporter and date of acceptance on the manifest.	\$3,000	M	30 days
§262.23(a)(3)	Failure of generator to retain one copy of manifest or to forward one copy to state of origin or one to state of destination.	\$3,000	M	30 days
§262.23(b)	Failure of generator to supply transporter with remaining copies of manifest.	\$3,000	M	30 days
§262.23(c)	Failure of generator shipping hazardous waste within the U.S. solely by water to send three copies of manifest form signed and dated to owner or operator of designated facility or last water transporter in the United States.	\$3,000	M	30 days
§262.23(d)	Failure of generator to send at least three copies of signed and dated manifest for rail shipments of hazardous waste within the United States to next non-rail transporter, designated facility, or last rail transporter in the United States.	\$3,000	M	30 days

(40 C.F.R. Part 262 Subpart C—Pre-Transport Requirements)

<u>Rule</u>	<u>Rule Summary</u>	<u>Base Penalty or Matrix</u>	<u>Type of Violation</u>	<u>Grace Period</u>
§262.30	Failure of generator to package hazardous waste in accordance with 49 C.F.R. Parts 173, 178, and 179.	\$4,500	NM	
§262.31	Failure of generator to label each package of hazardous waste in accordance with 49 C.F.R. Part 172.	\$4,500	NM	
§262.32(a)	Failure of generator to mark packages of hazardous waste in accordance with 49 C.F.R. Part 172.	\$4,500	NM	

<u>Rule</u>	<u>Rule Summary</u>	<u>Base Penalty or Matrix</u>	<u>Type of Violation</u>	<u>Grace Period</u>
§262.32(b)	Failure of generator to mark each container of hazardous waste with the proper wording or to display the wording in accordance with 49 C.F.R. 172.304.	\$4,500	NM	
§262.33	Failure of generator to placard or offer appropriate placard for a vehicle containing hazardous waste in accordance with 49 C.F.R. Part 172, Subpart F.	\$4,500	NM	
§262.34(a)	Failure of generator to ship waste off site within 90 days.	\$3,000	M	30 days
§262.34(a)(1)	Failure of generator to place waste in containers, in tanks, on drip pads, or in containment buildings in accordance with 40 C.F.R. §262.34(a)(1).	\$4,500	NM	
§262.34(a)(2)	Failure of generator to clearly mark container with date when accumulation period begins or to make mark visible for inspection.	\$3,000	M	30 days
§262.34(a)(3)	Failure of generator to clearly mark each container or tank with the words "Hazardous Waste".	\$4,500	NM	
§262.34(c)(1)	Failure of generator to ensure that the quantity of waste in each area is no more than 55 gallons of hazardous waste or no more than one quart of acutely hazardous waste or to have area at or near any point of generation where wastes initially accumulate in a process.	\$3,000	M	3 days
§262.34(c)(1)(ii)	Failure of generator to mark satellite containers with the words "Hazardous Waste" or other words which identify the contents of the container.	\$4,500	NM	
§262.34(c)(2)	Failure of generator accumulating waste in excess of the amounts listed in 40 C.F.R. §262.34(c)(1) to mark container holding the excess accumulation of hazardous waste with the date the excess amount began accumulating.	\$3,000	M	3 days
§262.34(d)	Failure of generator of greater than 100 kg but less than 1,000 kg of hazardous waste to ship waste off site within 180 days.	\$3,000	M	30 days
§262.34(d)(5)	Failure of generator of greater than 100 kg but less than 1,000 kg of hazardous waste to comply with emergency response requirements.	\$4,500	NM	
§262.34(e)	Failure of generator of greater than 100 kg but less than 1,000 kg of hazardous waste, who transports his waste over 200 miles, to ship waste off site within 270 days.	\$3,000	M	30 days
§262.34(g)	Failure of generator of 1,000 kg or greater of hazardous waste to ship F006 hazardous waste off site within 180 days.	\$3,000	M	39 days
§262.34(h)	Failure of generator of 1,000 kg or greater of hazardous waste, who transports F006 hazardous waste over 200 miles, to ship the F006 hazardous waste off site within 270 days.	\$3,000	M	30 days

(40 C.F.R. Part 262 Subpart D—Recordkeeping and Reporting)

<u>Rule</u>	<u>Rule Summary</u>	<u>Base Penalty or Matrix</u>	<u>Type of Violation</u>	<u>Grace Period</u>
§262.40(a)	Failure of generator to keep copy of manifest for three years.	\$3,000	M	30 days
§262.40(b)	Failure of generator to keep copy of hazardous waste report or exception report for three years.	\$3,000	M	30 days
§262.40(c)	Failure of generator to keep records of any test results, waste analyses, or other determinations for three years.	\$3,000	M	30 days
§262.40(d)	Failure of generator to keep copy of required records during the course of unresolved enforcement action or as requested by the Department.	\$4,500	NM	
§262.41(a)	Failure of generator to submit hazardous waste report of manifest activities by March 1.	\$3,000	M	30 days

<u>Rule</u>	<u>Rule Summary</u>	<u>Base Penalty or Matrix</u>	<u>Type of Violation</u>	<u>Grace Period</u>
§262.41(b)	Failure of generator who treats, stores or disposes of hazardous waste on-site to submit hazardous waste report covering those wastes.	\$3,000	M	30 days
§262.42(a)	Failure of generator of greater than 1,000 kg of hazardous waste to comply with exception reporting requirements.	\$3,000	M	30 days
§262.42(b)	Failure of generator of greater than 100 kg but less than 1,000 kg of hazardous waste to comply with exception reporting requirements.	\$3,000	M	30 days

(40 C.F.R. Part 262 Subpart E—Exports of Hazardous Waste)

<u>Rule</u>	<u>Rule Summary</u>	<u>Base Penalty or Matrix</u>	<u>Type of Violation</u>	<u>Grace Period</u>
§262.52	Failure of generator to comply with the receiving country's consent requirements or to obtain the EPA Acknowledgment of Consent prior to exporting hazardous waste.	\$5,000	NM	
§262.53(a)	Failure of generator to comply with the EPA notification requirements prior to offering hazardous waste for export.	\$3,000	M	30 days
§262.54	Failure of generator exporting hazardous waste to comply with the special manifest requirements.	\$3,000	M	30 days
§262.55	Failure of generator exporting hazardous waste to file an exception report.	\$3,000	M	30 days
§262.56	Failure of generator exporting hazardous waste to comply with the annual reporting requirements.	\$3,000	M	30 days
§262.57	Failure of generator exporting hazardous waste to comply with the record keeping requirements.	\$3,000	M	30 days

(40 C.F.R. Part 262 Subpart F—Imports of Hazardous Waste)

<u>Rule</u>	<u>Rule Summary</u>	<u>Base Penalty or Matrix</u>	<u>Type of Violation</u>	<u>Grace Period</u>
§262.60	Failure of generator importing hazardous waste to comply with the special manifest requirements and 40 C.F.R. §262.	\$3,000	M	30 days

(N.J.A.C. 7:26G-6)

<u>Rule</u>	<u>Rule Summary</u>	<u>Base Penalty or Matrix</u>	<u>Type of Violation</u>	<u>Grace Period</u>
7:26G-6.1(c)4	Failure of generator to use a transporter who is properly registered.	Matrix	NM	
7:26G-6.1(c)4	Failure of generator to use a transporter who is displaying a current registration number.	\$3,000	M	30 days
7:26G-6.1(c)5	Failure of generator to properly complete the manifest.	\$3,000	M	30 days
7:26G-6.1(c)9	Failure of generator to assure that the Department and the Consignment State receive copies of manifests signed by the designated facility.	\$3,000	M	30 days
7:26G-6.1(c)10	Failure of generator to properly mark each container of hazardous waste prior to transportation.	\$4,500	NM	
7:26G-6.2	Failure of generator to use proper waste code(s) that accurately describe the shipment of hazardous waste, determined according to the waste hierarchy.	\$3,000	M	30 days
7:26G-6.3(a)1	Failure of transporter to contact generator for instructions or of generator to give transporter instructions when a facility immediately rejects all or part of a shipment of hazardous waste or the transporter is unable to deliver the hazardous waste to the designated facility.	\$5,000	NM	

<u>Rule</u>	<u>Rule Summary</u>	<u>Base Penalty or Matrix</u>	<u>Type of Violation</u>	<u>Grace Period</u>
7:26G-6.3(a)1i	Failure of generator, transporter, or facility to comply with manifest requirements for shipments of hazardous waste returned to the generator.	\$3,000	M	30 days
7:26G-6.3(a)1ii	Failure of generator, transporter, or facility to comply with manifest requirements for shipments of hazardous waste delivered to an alternate hazardous waste facility.	\$3,000	M	30 days
7:26G-6.3(a)2	Failure of generator, transporter, or facility to comply with manifest requirements when a facility rejects all or part of a shipment of hazardous waste and the manifest has been distributed by the facility.	\$3,000	M	30 days
7:26G-6.3(b)	Failure of transporter to accept a hazardous waste shipment when it is rejected by the designated facility and the waste was mixed or commingled by the transporter.	\$5,000	NM	
7:26G-6.3(c)	Failure of transporter who accepts a return shipment of rejected waste under N.J.A.C. 7:26G-6.3(b) to comply with the requirements of N.J.A.C. 7:26G-6.3(c)1 and 2.	\$5,000	NM	

4. The violations of N.J.A.C. 7:26G-7, Standards Applicable to Transporters of Hazardous 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.

(40 C.F.R. Part 263 Subpart A—General)

<u>Rule</u>	<u>Rule Summary</u>	<u>Base Penalty or Matrix</u>	<u>Type of Violation</u>	<u>Grace Period</u>
§263.11	Failure of transporter transporting hazardous wastes to have EPA identification number.	\$5,000	NM	

(40 C.F.R. Part 263 Subpart B—Compliance with the Manifest System and Recordkeeping)

<u>Rule</u>	<u>Rule Summary</u>	<u>Base Penalty or Matrix</u>	<u>Type of Violation</u>	<u>Grace Period</u>
§263.20(a)	Failure of transporter accepting hazardous waste from a generator to ensure it is accompanied by a manifest signed in accordance with the provisions of 40 C.F.R. 262.20.	\$3,000	M	30 days
§263.20(b)	Failure of transporter to sign or date manifest or return a signed copy of manifest to generator before leaving generator's property.	\$3,000	M	30 days
§263.20(c)	Failure of transporter to ensure that manifest accompanies hazardous waste.	\$5,000	NM	
§263.20(d)(1)	Failure of transporter to obtain date of delivery and handwritten signature of other transporter or of owner or operator of designated facility.	\$3,000	M	30 days
§263.20(d)(3)	Failure of transporter to give remaining copies of manifest to the accepting transporter or designated facility.	\$3,000	M	30 days
§263.20(f)(1)(i)	Failure of rail transporter accepting hazardous waste from non-rail transporter to sign or date manifest.	\$3,000	M	30 days
§263.20(f)(1)(ii)	Failure of rail transporter accepting hazardous waste from non-rail transporter to return a signed copy of manifest to non-rail transporter.	\$3,000	M	30 days
§263.20(f)(1)(iii)	Failure of rail transporter accepting hazardous waste from non-rail transporter to forward at least 3 copies of the manifest to next non-rail transporter, designated facility, or last rail transporter in United States.	\$3,000	M	30 days
§263.20(f)(2)	Failure of rail transporter to ensure appropriate shipping paper accompanies hazardous waste at all times.	\$5,000	NM	

<u>Rule</u>	<u>Rule Summary</u>	<u>Base Penalty or Matrix</u>	<u>Type of Violation</u>	<u>Grace Period</u>
§263.20(f)(3)(i)	Failure of rail transporter delivering hazardous waste to designated facility to obtain date of delivery or handwritten signature of owner or operator of designated facility.	\$3,000	M	30 days
§263.20(f)(4)(i)	Failure of rail transporter delivering hazardous waste to non-rail transporter to obtain date of delivery or handwritten signature of non-rail transporter.	\$3,000	M	30 days
§263.20(f)(5)	Failure of non-rail transporter accepting hazardous waste from rail transporter to sign or date manifest or to provide signed copy of manifest to rail transporter.	\$3,000	M	30 days
§263.20(g)	Failure of transporter transporting waste out of U.S. to comply with requirements at 40 C.F.R. 263.20(g)(1)-(4).	\$4,500	NM	
§263.21(a)	Failure of transporter to deliver entire quantity to designated facility, alternate designated facility, next designated transporter, or place outside U.S.	\$10,000	NM	
§263.21(b)	Failure of transporter to contact generator for instructions or to revising manifest in case of undeliverable shipment.	\$5,000	NM	
§263.22(a)	Failure of transporter to maintain signed copy of manifest for three years.	\$3,000	M	30 days
§263.22(b)	Failure of water bulk shipment transporter to maintain copy of shipping paper for three years.	\$3,000	M	30 days
§263.22(c)	Failure of rail transporter to maintain copy of manifest and shipping paper for three years.	\$3,000	M	30 days
§263.22(d)	Failure of transporter to maintain copy of manifest indicating shipment left U.S. for three years.	\$3,000	M	30 days
§263.22(e)	Failure of transporter to maintain copy of manifest during the course of unresolved enforcement action or as requested by the Department.	\$4,500	NM	

(40 C.F.R. Part 263 Subpart C—Hazardous Waste Discharges)

<u>Rule</u>	<u>Rule Summary</u>	<u>Base Penalty or Matrix</u>	<u>Type of Violation</u>	<u>Grace Period</u>
§263.30(a)	Failure of transporter to take appropriate immediate action to protect human health and the environment from a discharge of hazardous waste during transportation.	Matrix	NM	
§263.30(c)	Failure of transporter who has discharged hazardous waste to comply with State and Federal notice and report requirements.	\$5,000	NM	
§263.31	Failure of transporter to clean up the discharge and take action as may be required or approved.	Matrix	NM	

(N.J.A.C. 7:26G-7)

<u>Rule</u>	<u>Rule Summary</u>	<u>Base Penalty or Matrix</u>	<u>Type of Violation</u>	<u>Grace Period</u>
7:26G-7.2(a)1	Failure of transporter to obtain hazardous waste transporter registration prior to operation.	\$10,000	NM	
7:26G-7.2(a)5	Failure of transporter to renew registration prior to May 1 of each registration period.	\$4,500	NM	
7:26G-7.2(a)7	Failure of transporter to notify Department of change of information on registration.	\$4,500	NM	
7:26G-7.2(a)14	Failure of transporter, acting as a prime contractor or subcontractor, to obtain a registration prior to transporting hazardous waste.	\$10,000	NM	

<u>Rule</u>	<u>Rule Summary</u>	<u>Base Penalty or Matrix</u>	<u>Type of Violation</u>	<u>Grace Period</u>
7:26G-7.2(a)15	Failure of transporter to obtain a registration prior to transporting, storing, collecting, processing, transferring, treating or disposing of hazardous waste in a vehicle registered to another person.	\$10,000	NM	
7:26G-7.2(b)1	Failure of transporter to ensure each and every device used for the transportation of hazardous waste is registered with the Department.	\$4,500	NM	
7:26G-7.2(b)2	Failure of transporter to prevent registered vehicle from being used by another transporter.	\$5,000	NM	
7:26G-7.2(b)4	Transporter engaged in transportation of hazardous waste during period when decals and registration are withheld pursuant to 7:26G-7.2(b).	\$10,000	NM	
7:26G-7.2(b)6	Failure of transporter to properly display registration decal or to have copy of lease and lease certification available for inspection.	\$3,000	M	30 days
7:26G-7.3(a)1	Failure of transporter to comply with the Hazardous Materials Transportation Regulations at 49 C.F.R. Parts 171-180.	See N.J.A.C. 7:26G-2.4(g)10		
7:26G-7.3(a)2	Failure of transporter to comply with the Motor Carrier Safety Regulations at 49 C.F.R. Parts 390-397.	See N.J.A.C. 7:26G-2.4(g)10		
7:26G-7.3(b)	Failure to allow the Department to enter and inspect any vehicle transporting hazardous waste.	\$4,500	NM	
7:26G-7.4(a)	Failure of hazardous waste transfer facility to be operated by a licensed hazardous waste transporter who owns or leases the property.	\$10,000	NM	
7:26G-7.4(b)	Failure to conduct storage, consolidation, or commingling only at a hazardous waste transfer facility or authorized hazardous waste facility.	\$5,000	NM	
7:26G-7.4(c)	Failure of owner or operator of a hazardous waste transfer facility to comply with notification requirements prior to operating.	\$3,000	M	30 days
7:26G-7.4(d)	Failure of owner or operator of a hazardous waste transfer facility to maintain written log(s).	\$4,500	NM	
7:26G-7.4(e)	Failure of transporter utilizing a hazardous waste transfer facility to enter the necessary information on the log(s).	\$3,000	M	30 days
7:26G-7.4(f)2	Transporter stored or consolidated closed containers at a hazardous waste transfer facility that was located at the facility indicated as the designated facility on the manifest.	\$4,500	NM	
7:26G-7.4(f)3	Failure of transporter who stores or consolidates closed containers at a hazardous waste transfer facility to use containers meeting applicable USDOT packaging regulations in 49 C.F.R. Parts 171-180.	\$5,000	NM	
7:26G-7.4(f)4	Failure of transporter who stores or consolidates closed containers at a hazardous waste transfer facility to maintain the containers in good condition.	\$4,500	NM	
7:26G-7.4(f)5	Failure of transporter who stores or consolidates closed containers at a hazardous waste transfer facility to comply with the hazardous materials segregation criteria.	Matrix	NM	
7:26G-7.4(f)6	Failure of transporter who stores or consolidates containers at a hazardous waste transfer facility to keep containers of hazardous waste closed.	\$3,000	M	1 hour
7:26G-7.4(f)7	Failure of transporter who stores or consolidates closed containers at a hazardous waste transfer facility to remove the newly consolidated waste loads at or prior to the 10-day limit.	\$4,500	NM	
7:26G-7.4(g)2	Transporter commingled hazardous waste at a hazardous waste transfer facility that was located at the facility indicated as the designated facility on the manifest.	\$4,500	NM	

<u>Rule</u>	<u>Rule Summary</u>	<u>Base Penalty or Matrix</u>	<u>Type of Violation</u>	<u>Grace Period</u>
7:26G-7.4(g)3	Failure of transporter to commingle hazardous waste between containers meeting applicable USDOT packaging regulations in 49 C.F.R. Parts 107, 171-180.	\$5,000	NM	
7:26G-7.4(g)4	Failure of transporter to only commingle hazardous waste that is designated on the generators' manifests for receipt by the same designated facility.	\$5,000	NM	
7:26G-7.4(g)5	Failure of transporter who commingles hazardous waste at a hazardous waste transfer facility to amend the generators' manifests to reflect the commingling of hazardous waste.	\$5,000	NM	
7:26G-7.4(g)6	Failure of transporter who commingles hazardous waste at a hazardous waste transfer facility to remove the newly commingled waste load at or prior to the 10-day limit.	\$4,500	NM	
7:26G-7.4(h)2	Transporter consolidated hazardous waste at a hazardous waste transfer facility that was located at the facility indicated as the designated facility on the manifest.	\$4,500	NM	
7:26G-7.4(h)3	Failure of transporter who consolidates hazardous waste at a hazardous waste transfer facility to only consolidate liquids.	\$4,500	NM	
7:26G-7.4(h)4	Failure of transporter who consolidates hazardous waste at a hazardous waste transfer facility to transfer only one container at a time.	\$4,500	NM	
7:26G-7.4(h)5	Failure of transporter who consolidates hazardous waste at a hazardous waste transfer facility to store the hazardous waste in closed containers that meet the USDOT packaging regulations in 49 C.F.R. Parts 171 through 180.	\$5,000	NM	
7:26G-7.4(h)6	Failure of transporter who consolidates hazardous waste at a hazardous waste transfer facility to store the hazardous waste in compliance with the hazardous materials segregation criteria at 49 C.F.R. Parts 177.848 or 174.81.	Matrix	NM	
7:26G-7.4(h)7	Failure of transporter who consolidates hazardous waste at a hazardous waste transfer facility to ensure that the cumulative capacity of the containers receiving the waste are sufficient to containerize all the waste involved in the transfer.	Matrix	NM	
7:26G-7.4(h)8	Failure of transporter who consolidates hazardous waste at a hazardous waste transfer facility to remove the waste prior to reaching the 10-day limit.	\$4,500	NM	
7:26G-7.4(i)	Transporter commingled hazardous wastes of different USDOT shipping descriptions.	Matrix	NM	

5. The violations of N.J.A.C. 7:26G-8, Standards Applicable to Owners and Operators of Hazardous Waste Treatment, Storage and Disposal Facilities, 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.

(40 C.F.R. Part 264 Subpart B—General Facility Standards)

<u>Rule</u>	<u>Rule Summary</u>	<u>Base Penalty or Matrix</u>	<u>Type of Violation</u>	<u>Grace Period</u>
§264.11	Failure of facility owner or operator to obtain EPA identification number.	\$5,000	NM	
§264.12(a)	Failure of facility owner or operator importing hazardous waste from a foreign country to notify EPA at least 4 weeks in advance of expected delivery.	\$3,000	M	30 days
§264.12(b)	Failure of facility owner or operator to inform generator in writing that he has the appropriate permit(s) for the waste the generator is shipping or to keep copy of notice in operating record.	\$3,000	M	30 days

<u>Rule</u>	<u>Rule Summary</u>	<u>Base Penalty or Matrix</u>	<u>Type of Violation</u>	<u>Grace Period</u>
§264.12(c)	Failure of facility owner or operator when transferring operation of the facility to inform the new owner or operator of the requirements of §§40 C.F.R. 264 and 270.	\$3,000	M	30 days
§264.13(a)(1)	Failure of facility owner or operator to obtain detailed chemical analysis of representative sample before treating, storing, or disposing of any hazardous waste.	\$5,000	NM	
§264.13(a)(3)	Failure of facility owner or operator to repeat analysis as necessary to ensure that it is accurate and up to date.	Matrix	NM	
§264.13(a)(4)	Failure of owner or operator of an off-site facility to inspect or analyze each hazardous waste shipment received to determine if it matches the identity specified on the manifest or shipping paper.	\$4,500	NM	
§264.13(b)	Failure of facility owner or operator to develop or follow a written waste analysis plan.	\$5,000	NM	
§264.14(a)	Failure of facility owner or operator to prevent the unknowing entry and minimize the possibility for the unauthorized entry onto the facility.	\$4,500	NM	
§264.14(b)	Failure of facility owner or operator to have adequate surveillance system or adequate artificial or natural barrier and a means to control entry at all times.	\$4,500	NM	
§264.14(c)	Failure of facility owner or operator to post signs meeting each requirement of 40 C.F.R. §264.14(c).	\$3,000	M	30 days
§264.15(a)	Failure of facility owner or operator to inspect for malfunctions and deterioration, operator errors, or discharges.	\$3,000	M	30 days
§264.15(b)	Failure of facility owner or operator to develop or follow written schedule for inspecting monitoring, safety, emergency, security equipment, etc., to keep schedule on site, or to identify problems.	\$3,000	M	30 days
§264.15(c)	Failure of facility owner or operator to remedy any deterioration or malfunction immediately or on an appropriate schedule.	\$5,000	NM	
§264.15(d)	Failure of facility owner or operator to record inspections in log or to retain required information for three years.	\$3,000	M	30 days
§264.16(a)(1)	Failure of facility owner or operator to provide required classroom or on-the-job training for facility personnel.	\$4,500	NM	
§264.16(a)(2)	Failure of facility owner or operator to provide a training program that is directed by a person trained in hazardous waste management procedures.	\$3,000	M	30 days
§264.16(a)(3)	Failure of facility owner or operator to provide, at a minimum, a training program which is designed to ensure that facility personnel are able to respond effectively to emergencies.	\$3,000	M	30 days
§264.16(b)	Failure of facility personnel to successfully complete the training program required in 40 C.F.R. 264.16(a) within 6 months.	\$3,000	M	30 days
§264.16(c)	Failure of facility personnel to take part in an annual review of the initial training required in 40 C.F.R. 264.16(a).	\$3,000	M	30 days
§264.16(d)	Failure of facility owner or operator to maintain training records at the facility.	\$3,000	M	30 days
§264.16(e)	Failure of facility owner or operator to keep training records until closure.	\$3,000	M	30 days
§264.17(a)	Failure of facility owner or operator to keep ignitable or reactive waste separated and protected from sources of ignition or reaction, to confine smoking or open flame to specially designated locations while handling ignitable or reactive waste, or to conspicuously place "No Smoking" signs wherever there is a hazard from ignitable or reactive waste.	\$4,500	NM	

<u>Rule</u>	<u>Rule Summary</u>	<u>Base Penalty or Matrix</u>	<u>Type of Violation</u>	<u>Grace Period</u>
§264.17(b)	Failure of facility owner or operator that treats, stores, or disposes of ignitable, reactive, or mixtures of incompatible wastes to take precautions to prevent reactions.	\$4,500	NM	

(40 C.F.R. Part 264 Subpart C—Preparedness and Prevention)

<u>Rule</u>	<u>Rule Summary</u>	<u>Base Penalty or Matrix</u>	<u>Type of Violation</u>	<u>Grace Period</u>
§264.31	Failure of facility owner or operator to maintain or operate facility to minimize possibilities of fire, explosion or releases of hazardous waste or hazardous waste constituents.	\$5,000	NM	
§264.32	Failure of facility owner or operator to equip facility with emergency equipment.	\$4,500	NM	
§264.33	Failure of facility owner or operator to test and maintain emergency equipment.	\$3,000	M	30 days
§264.34	Failure of facility owner or operator to maintain access to communications or alarm system.	\$3,000	M	30 days
§264.35	Failure of facility owner or operator to maintain sufficient aisle space for the unobstructed movement of personnel or equipment in an emergency.	\$3,000	M	30 days
§264.37	Failure of facility owner or operator 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.	\$4,500	NM	

(40 C.F.R. Part 264 Subpart D—Contingency Plan and Emergency Procedures)

<u>Rule</u>	<u>Rule Summary</u>	<u>Base Penalty or Matrix</u>	<u>Type of Violation</u>	<u>Grace Period</u>
§264.51(a)	Failure of facility owner or operator to have contingency plan designed to minimize hazards to human health and the environment.	\$5,000	NM	
§264.51(b)	Failure of facility owner or operator to carry out provisions of the plan immediately if there is a fire, explosion, or release.	Matrix	NM	
§264.52(a)	Failure of contingency plan to describe actions to be taken in response to fires, explosions, or releases.	\$3,000	M	30 days
§264.52(b)	Failure of facility owner or operator to amend its SPCC (40 C.F.R. Part 112 or Part 1510 of chapter V) or DPCC (N.J.A.C. 7:1E) plan to incorporate hazardous waste management provisions.	\$3,000	M	30 days
§264.52(c)	Failure of 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 days
§264.52(d)	Failure of contingency plan to list name, addresses, or phone numbers of persons qualified to act as emergency coordinator.	\$3,000	M	30 days
§264.52(e)	Failure of contingency plan to list emergency equipment, updated as required, with its location, description, or capabilities specified.	\$3,000	M	30 days
§264.52(f)	Failure of contingency plan to include evacuation procedure for personnel including signals, evacuation routes or alternate evacuation routes.	\$3,000	M	30 days
§264.53	Failure of 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 days
§264.54	Failure of facility owner or operator to review or amend contingency plan as necessary.	\$3,000	M	30 days

<u>Rule</u>	<u>Rule Summary</u>	<u>Base Penalty or Matrix</u>	<u>Type of Violation</u>	<u>Grace Period</u>
§264.55	Failure of emergency coordinator to be thoroughly familiar with plan or available at all times.	\$4,500	NM	
§264.56(a)-(b)	Failure of emergency coordinator to identify character, source, amount or areal extent of discharged materials, or to activate alarms or communications systems, or to notify appropriate State or local agencies if necessary.	Matrix	NM	
§264.56(c)	Failure of emergency coordinator to assess possible hazards to human health and the environment.	Matrix	NM	
§264.56(d)	Failure of emergency coordinator to immediately notify appropriate emergency response agency of situation threatening health and the environment.	Matrix	NM	
§264.56(e)	Failure of emergency coordinator to take reasonable measures to ensure hazards are minimized.	Matrix	NM	
§264.56(f)	Failure of emergency coordinator to monitor leaks, pressure buildup, gas generation, or ruptures, if the facility stopped operating due to fire, explosion, or discharge.	Matrix	NM	
§264.56(g)	Failure of emergency coordinator to provide for treating, storing, or disposing of recovered waste, contaminated soil or surface water, or other material.	Matrix	NM	
§264.56(h)	Failure of emergency coordinator to ensure that in affected area of facility no incompatible waste is treated, stored, or disposed of until cleanup procedures are complete or to ensure that emergency equipment is cleaned and fit for intended use before operations are resumed.	Matrix	NM	
§264.56(i)	Failure of facility owner or operator to notify Department and local authorities that facility is in compliance before operations are resumed.	\$3,000	M	30 days
§264.56(j)	Failure of facility owner or operator to submit written report to Department within 15 days after an incident.	\$3,000	M	30 days

(40 C.F.R. Part 264 Subpart E—Manifest System, Recordkeeping, and Reporting)

<u>Rule</u>	<u>Rule Summary</u>	<u>Base Penalty or Matrix</u>	<u>Type of Violation</u>	<u>Grace Period</u>
§264.71(a)(1)	Failure of facility owner or operator to sign or date manifest.	\$3,000	M	30 days
§264.71(a)(2)	Failure of facility owner or operator to note any significant discrepancies in the manifest on each copy of the manifest.	\$3,000	M	30 days
§264.71(a)(3)	Failure of facility owner or operator to give transporter a copy of manifest or forward one copy to the Department.	\$3,000	M	30 days
§264.71(a)(4)	Failure of facility owner or operator to send copy of manifest to generator within 30 days after delivery of hazardous waste.	\$3,000	M	30 days
§264.71(a)(5)	Failure of facility owner or operator to retain copy of manifest for 3 years.	\$3,000	M	30 days
§264.71(b)(1)	Failure of facility owner or operator receiving hazardous waste from rail or water (bulk shipment) transporter to sign or date manifest or shipping paper.	\$3,000	M	30 days
§264.71(b)(2)	Failure of facility owner or operator receiving hazardous waste from rail or water (bulk shipment) transporter to note any significant discrepancies in manifest or shipping paper on each copy of manifest or shipping paper.	\$3,000	M	30 days
§264.71(b)(3)	Failure of facility owner or operator receiving hazardous waste from rail or water (bulk shipment) transporter to give transporter a copy of manifest or shipping paper or to forward one copy to the Department.	\$3,000	M	30 days

<u>Rule</u>	<u>Rule Summary</u>	<u>Base Penalty or Matrix</u>	<u>Type of Violation</u>	<u>Grace Period</u>
§264.71(b)(4)	Failure of facility owner or operator receiving hazardous waste from rail or water (bulk shipment) transporter to send copy of manifest or shipping paper to generator within 30 days after delivery.	\$3,000	M	30 days
§264.71(b)(5)	Failure of facility owner or operator receiving hazardous waste from rail or water (bulk shipment) transporter to retain copy of manifest for 3 years.	\$3,000	M	30 days
§264.72(c)	Failure of facility operator to reconcile a significant manifest discrepancy with the generator or transporter within 15 days of receipt or to report the unresolved discrepancy to the Department immediately thereafter.	\$3,000	M	30 days
264.73	Failure of facility owner or operator to keep written operating records meeting each requirement of 40 C.F.R. §264.73.	\$4,500	NM	
§264.74(a)	Failure of facility owner or operator to furnish upon request, or make available for inspection, any record.	\$4,500	NM	
§264.74(b)	Failure of facility owner or operator to keep any record during course of any unresolved enforcement action or as requested by the Department.	\$4,500	NM	
§264.74(c)	Failure of facility owner or operator to submit copy of waste disposal locations or quantities to Department or local land authority upon closure of facility.	\$3,000	M	30 days
§264.75	Failure of facility owner or operator to prepare or submit a copy of the hazardous waste report to Department by March 1 of each even numbered year.	\$3,000	M	30 days
§264.76	Failure of a facility owner or operator receiving unmanifested waste to submit an 'Unmanifested Waste Report'.	\$4,500	NM	
§264.76	Failure of a facility owner or operator receiving unmanifested waste to submit an 'Unmanifested Waste Report' within 15 days.	\$3,000	M	30 days

(40 C.F.R. Part 264 Subpart F—Releases From Solid Waste Management Units)

<u>Rule</u>	<u>Rule Summary</u>	<u>Base Penalty or Matrix</u>	<u>Type of Violation</u>	<u>Grace Period</u>
§264.92	Failure of facility owner or operator to comply with permit conditions designed to protect ground water.	Matrix	NM	
§264.95	Failure of facility owner or operator to conduct monitoring at the point of compliance as specified in the facility permit.	Matrix	NM	
§264.96	Failure of facility owner or operator to maintain a compliance-monitoring program for the life of the compliance period as specified in the facility permit.	Matrix	NM	
§264.97	Failure of facility owner or operator to provide facility with ground water monitoring system in accordance with 40 C.F.R. §264.97.	\$10,000	NM	
§264.98	Failure of facility owner or operator to establish a detection monitoring program in conformance with 40 C.F.R. §264.98.	Matrix	NM	
§264.99	Failure of facility owner or operator to maintain a compliance monitoring program in conformance with 40 C.F.R. §264.99.	Matrix	NM	
§264.100	Failure of facility owner or operator to establish a corrective action program in conformance with 40 C.F.R. §264.100.	Matrix	NM	

(40 C.F.R. Part 264 Subpart G—Closure and Post-Closure)

<u>Rule</u>	<u>Rule Summary</u>	<u>Base Penalty or Matrix</u>	<u>Type of Violation</u>	<u>Grace Period</u>
§264.111	Failure of facility owner or operator to close in a manner that minimizes further maintenance and controls, minimizes, or eliminates post-closure escape of hazardous waste.	Matrix	NM	
§264.112(a)	Failure of facility owner or operator to have written closure plan.	\$5,000	NM	
§264.112(b)	Failure of facility owner or operator to include in the closure plan all steps necessary to perform a partial and/or final closure of the facility.	\$3,000	M	30 days
§264.112(c)	Failure of facility owner or operator to amend or request modification of closure plan before change.	\$3,000	M	30 days
§264.112(d)	Failure of facility owner or operator to notify Department prior to commencement of closure.	\$4,500	NM	
§264.113(a)	Failure of facility owner or operator to treat, remove, or dispose of waste within 90 days after final volume of wastes received in accordance with approved closure plan.	\$4,500	NM	
§264.113(b)	Failure of facility owner or operator to complete closure within 180 days after final volume of wastes received in accordance with approved closure plan.	\$4,500	NM	
§264.114	Failure of facility owner or operator to properly dispose of or decontaminate all contaminated equipment, structures, or soils.	\$5,000	NM	
§264.115	Failure of facility owner or operator, when closure completed, to submit its own certification and that of an independent registered professional engineer to the Department.	\$4,500	NM	
§264.116	Failure of facility owner or operator, within 60 days after closure, to submit to local authorities and Department detailed information on site.	\$3,000	M	30 days
§264.117(a)	Failure of facility owner or operator to continue proper post-closure care for 30 years and to comply with 40 C.F.R. §264.117(a)(1)-(2).	Matrix	NM	
§264.117(c)	Failure of facility owner or operator to ensure that post-closure activity does not disturb final cover, liner(s), or containment or monitoring system.	\$4,500	NM	
§264.117(d)	Failure of facility owner or operator to perform post-closure care activities in accordance with post-closure plan.	\$5,000	NM	
§264.118(a)	Failure of facility owner or operator to have written post-closure plan.	\$5,000	NM	
§264.118(b)	Failure of facility owner or operator to include in post-closure plan all activities that will be carried on after closure of each disposal unit and the frequency of these activities.	\$3,000	M	30 days
§264.118(c)	Failure of facility owner or operator to furnish the most current copy of post-closure plan to the Department upon request or to keep a copy of the post-closure plan with the person or office specified in 40 C.F.R. §264.118(b)(3) during the post-closure period.	\$3,000	M	30 days
§264.118(d)	Failure of facility owner or operator to amend or request modification of post-closure plan when necessary.	\$3,000	M	30 days
§264.119(a)	Failure of facility owner or operator to inform the local zoning officer and the Department of the type, location and amount of waste in each disposal unit within 60 days of receiving a certification of closure for that unit.	\$3,000	M	30 days
§264.119(b)	Failure of facility owner or operator to comply with requirements for notice in deed to property.	\$3,000	M	30 days

<u>Rule</u>	<u>Rule Summary</u>	<u>Base Penalty or Matrix</u>	<u>Type of Violation</u>	<u>Grace Period</u>
§264.316(a)	Failure of facility owner or operator to comply with inside package requirements of overpack containers before placing in a hazardous waste landfill.	\$4,500	NM	
§264.316(b)	Failure of metal outer container to be full after packing with inside containers and absorbent material.	\$4,500	NM	
§264.316(c)	Failure of facility owner or operator to use absorbent material that is not capable of reacting dangerously with, being decomposed by, or being ignited by the contents inside the containers in accordance with 40 C.F.R. §264.17(b).	\$5,000	NM	
§264.316(d)	Failure of facility owner or operator to prevent incompatible wastes from being placed in same outside container.	\$5,000	NM	
§264.316(e)	Failure of facility owner or operator to meet requirements for packaging reactive wastes before placing in hazardous waste landfill.	\$5,000	NM	
§264.317	Failure of facility owner or operator of hazardous waste landfill to comply with special requirements for F020, F021, F022, F023, F026, and F027 wastes.	\$5,000	NM	

(40 C.F.R. Part 264 Subpart O—Incinerators)

<u>Rule</u>	<u>Rule Summary</u>	<u>Base Penalty or Matrix</u>	<u>Type of Violation</u>	<u>Grace Period</u>
§264.341(b)	Failure of facility owner or operator throughout normal operation of incinerator to conduct sufficient waste analyses to verify compliance with permit.	\$5,000	NM	
§264.344	Failure of facility owner or operator to operate a hazardous waste incinerator in compliance with the conditions at 40 C.F.R. §264.345 and the permit.	Matrix	NM	
§264.345(a)	Failure of facility owner or operator to operate incinerator in accordance with operating requirements of permit.	Matrix	NM	
§264.345(c)	Facility owner or operator fed hazardous waste into the incinerator during start up and shut down when not operating at steady state conditions.	Matrix	NM	
§264.345(d)(1)	Failure of facility owner or operator to keep combustion zone of incinerator totally sealed against fugitive emissions.	\$4,500	NM	
§264.345(d)(2)	Failure of facility owner or operator to maintain combustion zone of incinerator at lower than atmospheric pressure.	\$4,500	NM	
§264.345(d)(3)	Failure of facility owner or operator of incinerator to provide approved alternate means of control of fugitive emissions.	\$4,500	NM	
§264.345(e)	Failure of facility owner or operator to operate incinerator with automatic feed cut off.	\$5,000	NM	
§264.345(f)	Failure of facility owner or operator to cease operation of incinerator if change in waste feed or operating conditions exceed permit limits.	\$5,000	NM	
§264.347(a)(1)	Failure of facility owner or operator to monitor combustion temperature, waste feed rate, gas velocity continuously.	\$5,000	NM	
§264.347(a)(2)	Failure of facility owner or operator to monitor carbon monoxide continuously.	\$5,000	NM	
§264.347(a)(3)	Failure of facility owner or operator to conduct, upon request, sampling or analyses of waste or exhaust emissions.	\$4,500	NM	
§264.347(b)	Failure of facility owner or operator to thoroughly inspect incinerator or associated equipment at least daily.	\$3,000	M	30 days
§264.347(c)	Failure of facility owner or operator to test emergency waste feed cutoff controls or alarm systems weekly.	\$4,500	NM	

<u>Rule</u>	<u>Rule Summary</u>	<u>Base Penalty or Matrix</u>	<u>Type of Violation</u>	<u>Grace Period</u>
§264.347(d)	Failure of facility owner or operator to record all monitoring and inspection data in the facility's operating log.	\$3000	NM	
§264.351	Failure of facility owner or operator to remove all hazardous waste and hazardous waste residues from incinerator site at closure.	\$5,000	NM	
(40 C.F.R. Part 264 Subpart W—Drip Pads)				
<u>Rule</u>	<u>Rule Summary</u>	<u>Base Penalty or Matrix</u>	<u>Type of Violation</u>	<u>Grace Period</u>
§264.571	Failure of facility owner or operator operating an existing drip pad to evaluate the pad to determine if it meets the requirements of 40 C.F.R. §264, Subpart W.	\$5,000	NM	
§264.573(a)	Failure of facility owner or operator to design and construct a drip pad that is impermeable, sloped, bermed, and of sufficient structural strength or to obtain an engineer's evaluation, recertified annually.	\$5,000	NM	
§264.573(b)(1)	Failure of facility owner or operator to ensure drip pads have a proper liner of appropriate materials on a sound foundation.	Matrix	NM	
§264.573(b)(2)	Failure of facility owner or operator to ensure drip pads have a proper functioning leakage detection system.	\$4,500	NM	
§264.573(b)(3)	Failure of facility owner or operator to ensure drip pads have a leakage collection system to collect any leakage from below the drip pad.	\$4,500	NM	
§264.573(b)(3)	Failure of facility owner or operator to record, in the facility's operating log, the date and amount of leakage collected from a drip pad leakage collection system.	Matrix	NM	
§264.573(c)	Failure of facility owner or operator to ensure drip pads are maintained free of cracks, gaps, or deterioration.	\$4,500	NM	
§264.573(d)	Failure of facility owner or operator to ensure drip pads are designed and operated to control and collect all hazardous waste drippage.	\$4,500	NM	
§264.573(e)	Failure of facility owner or operator to have a run-on control system to prevent or control flow onto a drip pad from at least a 25-year storm.	Matrix	NM	
§264.573(f)	Failure of facility owner or operator utilizing a drip pad to have a run-off management system capable of collecting and controlling flow during a 25-year storm.	Matrix	NM	
§264.573(g)	Failure of facility owner or operator to obtain a statement from a professional engineer certifying that the drip pad design meets the requirements of 40 C.F.R. §264.573(a)-(f).	\$5,000	NM	
§264.573(h)	Failure of facility owner or operator utilizing a drip pad to remove drippage and precipitation from collection system.	\$4,500	NM	
§264.573(i)	Failure of facility owner or operator to clean drip pads of accumulated hazardous waste in order to allow for weekly inspections of the entire pad.	\$4,500	NM	
§264.573(i)	Failure of facility owner or operator to log the date and procedures for each drip pad cleaning.	\$3,000	M	30 days
§264.573(j)	Failure of facility owner or operator to minimize the tracking of hazardous waste off of the drip pad.	\$4,500	NM	
§264.573(k)	Failure of facility owner or operator to hold all treated lumber on the drip pad until drippage has ceased or to document actions.	\$4,500	NM	
§264.573(l)	Failure of facility owner or operator to empty run-on and run-off collection units promptly following a storm.	Matrix	NM	

<u>Rule</u>	<u>Rule Summary</u>	<u>Base Penalty or Matrix</u>	<u>Type of Violation</u>	<u>Grace Period</u>
§265.16(d)	Failure of facility owner or operator to maintain training records at the facility	\$3,000	M	30 days
§265.16(e)	Failure of facility owner or operator to keep training records until closure.	\$3,000	M	30 days
§265.17(a)	Failure of facility owner or operator to keep ignitable or reactive waste separated and protected from sources of ignition or reaction, to confine smoking or open flame to specially designated locations while handling ignitable or reactive waste, or to conspicuously place "No Smoking" signs wherever there is a hazard from ignitable or reactive waste.	\$4,500	NM	
§265.17(b)	Failure of facility owner or operator that treats, stores, or disposes of ignitable, reactive, or mixtures of incompatible wastes to take precautions to prevent reactions.	\$4,500	NM	

(40 C.F.R. Part 265 Subpart C—Preparedness and Prevention)

<u>Rule</u>	<u>Rule Summary</u>	<u>Base Penalty or Matrix</u>	<u>Type of Violation</u>	<u>Grace Period</u>
§265.31	Failure of facility owner or operator to maintain or operate facility to minimize possibilities of fire, explosion or releases of hazardous waste or hazardous waste constituents.	\$5,000	NM	
§265.32	Failure of facility owner or operator to equip facility with emergency equipment.	\$4,500	NM	
§265.33	Failure of facility owner or operator to test and maintain emergency equipment.	\$3,000	M	30 days
§265.34	Failure of facility owner or operator to maintain access to communications or alarm system.	\$3,000	M	30 days
§265.35	Failure of facility owner or operator to maintain sufficient aisle space for the unobstructed movement of personnel or equipment in an emergency.	\$3,000	M	30 days
§265.37	Failure of facility owner or operator 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 days

(40 C.F.R. Part 265 Subpart D—Contingency Plan and Emergency Procedures)

<u>Rule</u>	<u>Rule Summary</u>	<u>Base Penalty or Matrix</u>	<u>Type of Violation</u>	<u>Grace Period</u>
§265.51(a)	Failure of facility owner or operator to have a contingency plan designed to minimize hazards to human health and the environment.	\$5,000	NM	
§265.51(b)	Failure of facility owner or operator to carry out provisions of the plan immediately if there is a fire, explosion, or release.	Matrix	NM	
§265.52(a)	Failure of contingency plan to describe actions to be taken in response to fires, explosions, or releases.	\$3,000	M	30 days
§265.52(b)	Failure of facility owner or operator to amend its SPCC (40 C.F.R. Part 112 or Part 1510 of chapter V) or DPCC (N.J.A.C. 7:1E) plan to incorporate hazardous waste management provisions.	\$3,000	M	30 days
§265.52(c)	Failure of 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 days
§265.52(d)	Failure of contingency plan to list name, addresses, or phone numbers of persons qualified to act as emergency coordinator.	\$3,000	M	30 days

<u>Rule</u>	<u>Rule Summary</u>	<u>Base Penalty or Matrix</u>	<u>Type of Violation</u>	<u>Grace Period</u>
§265.52(e)	Failure of contingency plan to list emergency equipment, updated as required, with its location, description, or capabilities specified.	\$3,000	M	30 days
§265.52(f)	Failure of contingency plan to include evacuation procedure for personnel including signals, evacuation routes or alternate evacuation routes.	\$3,000	M	30 days
§265.53	Failure of 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 days
§265.54	Failure of facility owner or operator to review or amend contingency plan as necessary.	\$3,000	M	30 days
§265.55	Failure of emergency coordinator to be thoroughly familiar with plan or available at all times.	\$4,500	NM	
§265.56(a)-(b)	Failure of emergency coordinator to identify character, source, amount or areal extent of discharged materials, to activate alarms or communications systems, or to notify appropriate State or local agencies if necessary.	Matrix	NM	
§265.56(c)	Failure of emergency coordinator to assess possible hazards to human health and the environment.	Matrix	NM	
§265.56(d)	Failure of emergency coordinator to immediately notify appropriate emergency response agency of situation threatening health and the environment.	Matrix	NM	
§265.56(e)	Failure of emergency coordinator to take reasonable measures to ensure hazards are minimized.	Matrix	NM	
§265.56(f)	Failure of emergency coordinator to monitor leaks, pressure buildup, gas generation, or ruptures, if the facility stopped operating due to fire, explosion, or discharge.	Matrix	NM	
§265.56(g)	Failure of emergency coordinator to provide for treating, storing, or disposing of recovered waste, contaminated soil or surface water, or other material.	Matrix	NM	
§265.56(h)	Failure of emergency coordinator to ensure that in affected area of facility no incompatible waste is treated, stored or disposed of until cleanup procedures are complete or to ensure that emergency equipment is cleaned and fit for intended use before operations are resumed.	Matrix	NM	
§265.56(i)	Failure of facility owner or operator to notify Department and local authorities that facility is in compliance before operations are resumed.	\$3,000	M	30 days
§265.56(j)	Failure of facility owner or operator to submit written report to Department within 15 days after an incident.	\$3,000	M	30 days

(40 C.F.R. Part 265 Subpart E—Manifest System, Recordkeeping, and Reporting)

<u>Rule</u>	<u>Rule Summary</u>	<u>Base Penalty or Matrix</u>	<u>Type of Violation</u>	<u>Grace Period</u>
§265.71(a)(1)	Failure of facility owner or operator to sign or date manifest.	\$3,000	M	30 days
§265.71(a)(2)	Failure of facility owner or operator to note any significant discrepancies in the manifest on each copy of the manifest.	\$3,000	M	30 days
§265.71(a)(3)	Failure of facility owner or operator to give transporter a copy of manifest.	\$3,000	M	30 days
§265.71(a)(4)	Failure of facility owner or operator to send copy of manifest to generator within 30 days after delivery of hazardous waste.	\$3,000	M	30 days
§265.71(a)(5)	Failure of facility owner or operator to retain copy of manifest for 3 years.	\$3,000	M	30 days

<u>Rule</u>	<u>Rule Summary</u>	<u>Base Penalty or Matrix</u>	<u>Type of Violation</u>	<u>Grace Period</u>
§265.71(b)(1)	Failure of facility owner or operator receiving hazardous waste from rail or water (bulk shipment) transporter to sign or date manifest or shipping paper.	\$3,000	M	30 days
§265.71(b)(2)	Failure of facility owner or operator receiving hazardous waste from rail or water (bulk shipment) transporter to note any significant discrepancies in manifest or shipping paper on each copy of manifest or shipping paper.	\$3,000	M	30 days
§265.71(b)(3)	Failure of facility owner or operator receiving hazardous waste from rail or water (bulk shipment) transporter to give transporter a copy of manifest or shipping paper.	\$3,000	M	30 days
§265.71(b)(4)	Failure of facility owner or operator receiving hazardous waste from rail or water (bulk shipment) transporter to send copy of manifest or shipping paper to generator within 30 days after delivery.	\$3,000	M	30 days
§265.71(b)(5)	Failure of facility owner or operator receiving hazardous waste from rail or water (bulk shipment) transporter to retain copy of manifest for 3 years.	\$3,000	M	30 days
§265.72(b)	Failure of facility operator to reconcile a significant discrepancy with the generator or transporter within 15 days of receipt or to report the unresolved discrepancy to the Department immediately thereafter.	\$3,000	M	30 days
§265.73	Failure of facility owner or operator to keep written operating records meeting each requirement of 40 C.F.R. §265.73.	\$4,500	NM	
§265.74(a)	Failure of facility owner or operator to furnish upon request, or make available for inspection, any record.	\$4,500	NM	
§265.74(b)	Failure of facility owner or operator to keep any record during the course of any unresolved enforcement action or as requested by the Department.	\$4,500	NM	
§265.74(c)	Failure of facility owner or operator to submit copy of waste disposal locations or quantities to Department or local land authority upon closure of facility.	\$3,000	M	30 days
§265.75	Failure of facility owner or operator to prepare or submit a copy of the hazardous waste report to Department by March 1 of each even numbered year.	\$3,000	M	30 days
§265.76	Failure of facility owner or operator receiving unmanifested waste to submit an 'Unmanifested Waste Report'.	\$4,500	NM	
§265.76	Failure of facility owner or operator receiving unmanifested waste to submit an 'Unmanifested Waste Report' within 15 days.	\$3,000	M	30 days

(40 C.F.R. Part 265 Subpart F—Ground-Water Monitoring)

<u>Rule</u>	<u>Rule Summary</u>	<u>Base Penalty or Matrix</u>	<u>Type of Violation</u>	<u>Grace Period</u>
§265.91	Failure of ground water monitoring system to meet the requirements of 40 C.F.R. §265.91.	Matrix	NM	
§265.92	Failure of facility owner or operator to develop and follow a ground water sampling and analysis plan in accordance with 40 C.F.R. §265.92.	Matrix	NM	
§265.93	Failure of facility owner or operator to prepare an outline of a more comprehensive ground water monitoring program in accordance with 40 C.F.R. §265.93.	Matrix	NM	
§265.94	Failure of facility owner or operator to maintain records of ground water monitoring information or to report the information to the Department.	\$3,000	M	30 days

(40 C.F.R. Part 265 Subpart G—Closure and Post-Closure)

<u>Rule</u>	<u>Rule Summary</u>	<u>Base Penalty or Matrix</u>	<u>Type of Violation</u>	<u>Grace Period</u>
§265.111	Failure of facility owner or operator to close in a manner that minimizes further maintenance and controls, minimizes, or eliminates post-closure escape of hazardous waste.	Matrix	NM	
§265.112(a)	Failure of facility owner or operator to have written closure plan.	\$5,000	NM	
§265.112(b)	Failure of facility owner or operator to include in the closure plan all steps necessary to perform a partial and/or final closure of the facility.	\$3,000	M	30 days
§265.112(c)	Failure of facility owner or operator to amend or request modification of closure plan before change.	\$3,000	M	30 days
§265.112(d)	Failure of facility owner or operator to notify Department prior to commencement of closure.	\$4,500	NM	
§265.113(a)	Failure of facility owner or operator to treat, remove, or dispose of waste within 90 days after final volume of wastes received in accordance with approved closure plan.	\$4,500	NM	
§265.113(b)	Failure of facility owner or operator to complete closure within 180 days after final volume of wastes received in accordance with approved closure plan.	\$4,500	NM	
§265.114	Failure of facility owner or operator to properly dispose of or decontaminate all contaminated equipment, structures, or soils.	\$5,000	NM	
§265.115	Failure of facility owner or operator, when closure completed, to submit its own certification or that of an independent registered professional engineer to the Department.	\$3,000	M	30 days
§265.116	Failure of facility owner or operator, within 60 days after closure, to submit to local authorities and Department detailed information on site.	\$3,000	M	30 days
§265.117(a)	Failure of facility owner or operator to continue proper post-closure care for 30 years and to comply with 40 C.F.R. §265.117(a)(1)-(2).	Matrix	NM	
§265.117(c)	Failure of facility owner or operator to ensure that post-closure activity does not disturb final cover, liner(s), or containment or monitoring system.	\$4,500	NM	
§265.117(d)	Failure of facility owner or operator to perform post-closure care activities in accordance with post-closure plan.	\$5,000	NM	
§265.118(a)	Failure of facility owner or operator to have written post-closure plan.	\$5,000	NM	
§265.118(b)	Failure of facility owner or operator to furnish the most current copy of post-closure plan to the Department upon request or to keep a copy of the post-closure plan with the person or office specified in 40 C.F.R. §265.118(c)(3) during the post-closure period.	\$3,000	M	30 days
§265.118(c)	Failure of facility owner or operator to include in post-closure plan all activities that will be carried on after closure of each disposal unit and the frequency of these activities.	\$3,000	M	30 days
§265.118(d)	Failure of facility owner or operator to amend or request modification of post-closure plan when necessary.	\$3,000	M	30 days
§265.119(a)	Failure of facility owner or operator to inform the local zoning officer and the Department of the type, location, and amount of waste in each disposal unit within 60 days of receiving a certification of closure for that unit.	\$3,000	M	30 days
§265.119(b)	Failure of facility owner or operator to comply with requirements for notice in deed to property.	\$3,000	M	30 days

<u>Rule</u>	<u>Rule Summary</u>	<u>Base Penalty or Matrix</u>	<u>Type of Violation</u>	<u>Grace Period</u>
§268.50(a)(2)i-ii	Failure of facility owner or operator storing restricted waste solely for the purpose of the accumulation of such quantities of waste as necessary to facilitate proper recovery, treatment, or disposal to include the accumulation start date on each container or tank.	\$3,000	M	30 days
§268.50(a)(3)	Transporter stored restricted waste at a transfer facility for greater than 10 days.	\$4,500	NM	
§268.50(f)	Failure of owner or operator of a treatment facility to treat or dispose of liquid hazardous waste containing PCBs at concentrations equal to or greater than 50 ppm within one year of the date the wastes were placed in storage.	\$4,500	NM	

9. The violations of N.J.A.C. 7:26G-12, Hazardous Waste Permit Program, 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.

(40 C.F.R. Part 270 Subpart B—Permit Application)

<u>Rule</u>	<u>Rule Summary</u>	<u>Base Penalty or Matrix</u>	<u>Type of Violation</u>	<u>Grace Period</u>
§270.10(e)-(f)	Constructed, installed, modified, or operated hazardous waste facility without submitting Part A or Part B of permit application.	Matrix	NM	

(40 C.F.R. Part 270 Subpart C—Permit Conditions)

<u>Rule</u>	<u>Rule Summary</u>	<u>Base Penalty or Matrix</u>	<u>Type of Violation</u>	<u>Grace Period</u>
§270.30(a)	Failure of permittee to comply with all conditions of permit.	Matrix	NM	
§270.30(b)	Failure of permittee to apply for a new hazardous waste permit following expiration of initial permit.	Matrix	NM	
§270.30(d)	Failure of permittee to take all reasonable steps to minimize or correct any adverse impact on the environment resulting from noncompliance with permit.	Matrix	NM	
§270.30(e)	Failure of permittee to properly operate and maintain systems of treatment and control used to achieve compliance with conditions of permit.	Matrix	NM	
§270.30(h)	Failure of permittee to furnish to the Department within a reasonable time any information that the Department may request or copies of records required to be kept by permit.	\$4,500	NM	
§270.30(i)	Failure of permittee to allow an authorized representative of the Department to enter facility, have access to and copy any records, inspect facilities, equipment etc., and sample or monitor any substances or parameters that are required by permit.	\$25,000	NM	
§270.30(j)(1)	Failure of permittee to take samples and measurements that are representative of the monitored activity.	\$5,000	NM	
§270.30(j)(2)	Failure of permittee to retain records of required information regarding monitoring sampling and measurements.	\$4,500	NM	
§270.30(j)(3)	Failure of permittee to record specific monitoring data.	\$4,500	NM	
§270.30(k)	Failure of permittee to sign and certify all applications, reports, or information submitted to Department.	\$3,000	M	30 days
§270.30(l)(1)	Failure of permittee to give notice to Department as soon as possible of any planned physical alterations or additions to permitted facility.	\$3,000	M	30 days
§270.30(l)(2)	Failure of permittee to give advance notice to the Department of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements.	\$5,000	NM	

<u>Rule</u>	<u>Rule Summary</u>	<u>Base Penalty or Matrix</u>	<u>Type of Violation</u>	<u>Grace Period</u>
§270.30(l)(4)	Failure of permittee to report monitoring results at intervals specified in permit.	\$3,000	M	30 days
§270.30(l)(5)	Failure of permittee to submit compliance reports on interim or final requirements in any compliance schedule within 14 days after schedule date.	\$3,000	M	30 days
§270.30(l)(6)(i)(A)	Failure of permittee to report, orally within 24 hours, information concerning release of any hazardous waste that may cause an endangerment to public drinking water supplies.	Matrix	NM	
§270.30(l)(6)(i)(B)	Failure of permittee to report, orally within 24 hours, information concerning a release or discharge of hazardous waste, or of a fire or explosion from a hazardous waste facility which could threaten the environment or human health outside the facility.	Matrix	NM	
§270.30(l)(6)(iii)	Failure of permittee to report any noncompliance which may endanger health or the environment in writing within five days.	Matrix	NM	
§270.30(l)(10)	Failure of permittee to report all instances of noncompliance not reported under 40 C.F.R. §270.30(l)(4), (5), and (6) at time monitoring reports submitted	\$4,500	NM	
§270.30(l)(11)	Failure of permittee to submit relevant facts and correct information when the permittee becomes aware that it failed to submit such facts or information in permit application.	\$5,000	NM	

(40 C.F.R. Part 270 Subpart D—Changes to Permits)

<u>Rule</u>	<u>Rule Summary</u>	<u>Base Penalty or Matrix</u>	<u>Type of Violation</u>	<u>Grace Period</u>
§270.40(b)	Failure of permittee to obtain written approval in advance of any proposed change of ownership or operational control.	Matrix	NM	

(40 C.F.R. Part 270 Subpart G—Interim Status)

<u>Rule</u>	<u>Rule Summary</u>	<u>Base Penalty or Matrix</u>	<u>Type of Violation</u>	<u>Grace Period</u>
§270.71(a)(1)	Owner or operator of an interim status facility treated, stored, or disposed of hazardous waste types not specified in Part A application.	\$10,000	NM	
§270.71(a)(2)	Owner or operator of an interim status facility employed processes not specified in Part A application.	\$10,000	NM	
§270.71(a)(3)	Owner or operator of an interim status facility exceeded design capacities or operational limits specified in Part A application.	\$10,000	NM	
§270.72(b)	Interim status facility owner or operator made changes to facility, which amounted to reconstruction of facility.	\$5,000	NM	

10. The violations of N.J.A.C. 7:26G-7.3(a)1, incorporating the Hazardous Materials Transportation Regulations (49 C.F.R. Parts 130, 171 through 180) by reference, and of N.J.A.C. 7:26G-7.3(a)2, incorporating the Motor Carrier Safety Regulations (49 C.F.R. Parts 390 through 397) by

reference, 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.

(49 C.F.R. Part 130)

<u>Rule</u>	<u>Rule Summary</u>	<u>Base Penalty or Matrix</u>	<u>Type of Violation</u>	<u>Grace Period</u>
§130.11(a)	Person offered oil for transportation without a document that indicated the shipment contained oil.	\$4,500	NM	

<u>Rule</u>	<u>Rule Summary</u>	<u>Base Penalty or Matrix</u>	<u>Type of Violation</u>	<u>Grace Period</u>
§397.5	Failure of carrier to attend a vehicle that contains hazardous materials.	\$4,500	NM	
§397.7(b)	Carrier parked a hazardous material vehicle within five feet of the traveled portion of a street or highway.	\$3,000	M	30 days
§397.11	Carrier operated or parked a hazardous material vehicle near an open fire.	\$4,500	NM	
§397.13	Person smoked within 25 feet of a hazardous material vehicle.	\$4,500	NM	

(49 C.F.R. Part 397 Subpart C—Routing of Non-Radioactive Hazardous Materials)

<u>Rule</u>	<u>Rule Summary</u>	<u>Base Penalty or Matrix</u>	<u>Type of Violation</u>	<u>Grace Period</u>
§397.67(b)	Carrier operated a hazardous material vehicle over inappropriate routes.	\$4,500	NM	

Amended by R.2002 d.140, effective May 6, 2002.
See: 33 N.J.R. 3794(a), 34 N.J.R. 1669(b).

Rewrote section.

Amended by R.2006 d.202, effective June 5, 2006.
See: 37 N.J.R. 1285(a), 38 N.J.R. 2426(a).

In (g), added "In the 'Type of Violation' column, 'M' identifies a violation as minor and 'NM' identifies a violation as non-minor. The length of the applicable grace period for a minor violation is indicated in the 'Grace Period' column." at the end of the first paragraph. Rewrote (g)2 through (g)9 and inserted (g)10.

7:26G-2.5 Civil administrative penalty determination

(a) The Department shall assess penalties under this section, and not under N.J.A.C. 7:26G-2.4, when:

1. Because of the specific circumstances of the violation, the Department determines that the penalty amount under N.J.A.C. 7:26G-2.4 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. 7:26G-2.4.

(b) Each violation of the Act, or any rule promulgated, administrative order, permit, license or other operating authority issued, or Part A permit application filed, 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, administrative order, permit, license or other operating authority issued, or Part A permit application filed, 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 as follows:

1. A violation that meets the criteria at (f)1i through iii below and the criteria at N.J.A.C. 7:26G-2.10(c)1 through 5 is minor. Such a minor violation is subject to a grace period of 30 days if the violation meets the criteria at (f)1i through iii below and at N.J.A.C. 7:26G-2.10. If compliance is not achieved within the grace period, the Department may assess a \$3,000 penalty in accordance with the procedures set forth at N.J.A.C. 7:26G-2.10.
 - 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
 - iii. The activity or condition constituting the violation is capable of being corrected and compliance achieved within the time prescribed by the Department.

2. A violation that does not meet the criteria set forth in (f)1 above is non-minor and the penalty shall be assessed at the mid-point of the following ranges, unless adjusted pursuant to (i) below.

		SERIOUSNESS		
		<u>Major</u>	<u>Moderate</u>	<u>Minor</u>
CONDUCT	Major	\$40,000- \$50,000	\$30,000- \$40,000	\$15,000- \$25,000
	Moderate	\$30,000- \$40,000	\$10,000- \$20,000	\$3,000- \$6,000
	Minor	\$15,000- \$25,000	\$3,000- \$6,000	N/A*

*N/A means not applicable.

(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, administrative order, permit, license or other operating authority issued, or Part A permit application filed, 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, or any Part A permit application filed, 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 shall 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 violation.

Amended by R.2006 d.202, effective June 5, 2006.

See: 37 N.J.R. 1285(a), 38 N.J.R. 2426(a).

Rewrote (f).

Administrative correction.

See: 38 N.J.R. 2798(a).

7:26G-2.6 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, or any Part A permit application filed, pursuant to the Act.

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

(c) The Department shall assess a civil administrative penalty for violations described in this section 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 \$1,000 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

- i. Land disposal (without storage) as defined in 40 C.F.R. § 268.2(c) (that is, landfills, surface impoundments, waste piles, injection wells, land treatment facilities, salt dome formations, salt bed formations, underground mines or caves, and concrete vaults or bunkers intended for disposal purposes): \$60,355;
 - ii. Storage and/or treatment, including containers, tanks, drip pads, miscellaneous units, and containment buildings: \$32,764, subject to any rebate available under (e)13 below;
 - iii. Incineration (including boilers and industrial furnaces) with trial burn: \$137,955;
 - iv. Incineration (including boilers and industrial furnaces) without trial burn: \$120,711;
4. Fees for the issuance of a closure plan approval shall be paid at time of submission of the application for closure and are as follows:
- i. Closure with soil sampling plan: \$10,778;
 - ii. Closure without soil sampling plan: \$6,467;
5. The fee for the approval/denial of existing facility changes pursuant to N.J.A.C. 7:26G-12 (40 C.F.R. § 270.72) shall be paid at time of submission of request for change and is: \$862.00;
6. (Reserved)
7. The fee for permit modifications shall be paid at time of modification request and are as follows:
- i. Class 1 modifications: \$1,207;
 - ii. Class 2 modifications: \$5,001;
 - iii. Class 3 modifications: \$20,262;
8. The fee for a RD & D permit (as described at 40 C.F.R. § 270.65) shall be paid at time of application for permit and is: \$32,764, subject to any rebate under (e)13 below;
9. The fee for issuance of an emergency permit is: \$5,518;
10. The fee for treatability study annual report shall be paid at time of submission of report and is: \$174.00;
11. The fee for permit exemption qualification determinations shall be paid at time of submission of request and is: \$1,035;
12. The fee for review of Environmental Health and Impact Statements shall be paid at time of submission and is: \$17,244;
13. A non-commercial hazardous waste facility which has paid a fee under (e)1ii, (e)3ii, or (e)8 above may request a rebate of part of the fee. The request shall be in writing and delivered to the Department after the final permit for the facility is issued, but no later than 20 days after the final permit is issued. If the Department's

timekeeping records show that the actual cost to the Department to issue the final permit is more than 10 percent less than the fee provided in (e)1ii, (e)3ii, or (e)8 above, the Department shall rebate the difference between the fee provided in (e)1ii, (e)3ii, or (e)8 above and the actual cost. Facilities requesting a rebate of part of the fee under (e)15 below shall make the request in writing and deliver it to the Department after the Department action on the activity, but no later than 20 days after the action is completed. If the Department's timekeeping records show that the actual cost to the Department is more than 10 percent less than the estimated fee, the Department shall rebate the difference between the estimated fee and the actual cost.

14. All costs associated with public participation in the permit process (including, but not limited to, public hearing costs such as stenographer fees and public hearing notice, and costs for public notices of draft permits and closure plans where no public hearing is scheduled, etc.) shall be paid by the permit applicant. The applicant will be billed by the Department prior to permit issuance.

15. If the Department determines that the activity is of a type listed in (e)1 through 12 above, the amount of the fee shall be equal to the amount listed in (e)1 through 12 above. If the Department determines that such activity is not of a type listed in (e)1 through 12 above, the fee shall be equal to the Department's estimate of the number of person-hours required to perform such activity, multiplied by the hourly rate of \$86.22, subject to any rebate available under (e)13 above.

(f) The fee for Hazardous Waste Manifest forms is \$10.00 for a package of 10 forms and shall accompany the request for forms.

(g) The fee schedule for hazardous waste transporters is as follows:

1. All hazardous waste transporters shall pay a biennial fee. A State of New Jersey hazardous waste transporter registration decal will be issued for each hazardous waste cab and transport unit (as defined at N.J.A.C. 7:26G-4.2) for which a fee is paid. The fee registration period shall be biennial, unless otherwise established by the Department, and shall extend from July 1 through June 30 of each odd numbered year. Annual registration fees shall continue through the registration period of calendar year 2002. In accordance with N.J.A.C. 7:26G-3.3(g), the odd numbered year for biennial registration shall begin calendar year 2003. The fee shall accompany the submission of the biennial registration application. Fees shall be payable prior to May 1 of each registration period. All vehicles registered with the Department must be owned or leased by the applicant. If the vehicle is leased, a copy of the lease must be submitted with the registration application. The registration of a hazardous waste transporter is non-transferable and fees are not refundable. The biennial registration fees are as follows:

- i. Each hazardous waste cab: (\$20.00 for calendar year 2002) \$40.00;

ii. Each hazardous waste transport unit, either detachable or with a permanently attached hazardous waste cab, having a capacity less than or equal to one ton (one ton = one cubic yard = 200 gallons): (\$85.00 for calendar year 2002) \$170.00;

iii. Each hazardous waste transport unit without a hazardous waste trailer having a capacity greater than one ton (one ton = one cubic yard = 200 gallons): (\$117.00 for calendar year 2002) \$234.00; and

iv. Each hazardous waste transport cab with permanently attached hazardous waste transport unit with a capacity greater than one ton (one ton = one cubic yard = 200 gallons): (\$137.00 for calendar year 2002) \$274.00.

Amended by R.2001 d.86, effective March 5, 2001.
See: 32 N.J.R. 2536(a), 33 N.J.R. 880(a).

Rewrote (a).

Amended by R.2002 d.140, effective May 6, 2002.

See: 33 N.J.R. 3794(a), 34 N.J.R. 1669(b).

Rewrote section.

Amended by R.2003 d.454, effective November 17, 2003.

See: 35 N.J.R. 321(a), 35 N.J.R. 5268(b).

Rewrote (c).

Case Notes

Hazardous waste transporter fees authorized under Solid Waste Management Act were not a form of hidden tax revenue production. *American Trucking Associations, Inc. v. State*, 324 N.J.Super. 1, 734 A.2d 314 (N.J.Super.A.D. 1999).

7:26G-3.4 Exemption from fee payment

(a) Conditionally exempt small quantity generators meeting the requirements of N.J.A.C. 7:26G-5 are exempt from the manifest processing fee.

(b) Transporters acting as the generator on the manifest when picking up waste from a conditionally exempt small quantity generator are exempt from the manifest processing fee.

(c) Hazardous waste facilities which accept waste from out-of-State conditionally exempt small quantity generators are exempt from the manifest processing fee for those manifested shipments only.

7:26G-3.5 (Reserved)

Repealed by R.2003 d.454, effective November 17, 2003.

See: 35 N.J.R. 321(a), 35 N.J.R. 5268(b).

Section was "Adjustment of fees".

SUBCHAPTER 4. HAZARDOUS WASTE MANAGEMENT SYSTEM: GENERAL

7:26G-4.1 Incorporation by reference

(a) This subchapter incorporates by reference up to May 6, 2002 and prospectively incorporates by reference 40 C.F.R. Part 260, as amended and supplemented, except as provided in (b) and (c) below.

(b) The following provisions of 40 C.F.R. Part 260 are not incorporated by reference: 260.1(b)(1), 260.2, the following definitions at 260.10: "Act or RCRA," "Administrator," and "Regional Administrator"; and 260.20(b) through (e).

(c) The following provisions of 40 C.F.R. Part 260 are incorporated by reference with the specified changes:

1. 260.1(a), after "chapter" add "and N.J.A.C. 7:26G";

2. 260.1(b)(3), after "chapter" add "and N.J.A.C. 7:26G";

3. 260.1(b)(4), after "chapter" add "and/or N.J.A.C. 7:26G"; and

4. 260.10 Definitions:

i. "Existing tank system or existing component," after "for which installation has commenced on or prior to July 14, 1986." add "For non-HSWA tanks (that is, inground tank systems, onground tank systems, aboveground tank systems and underground tank systems that can be entered for inspection), Existing tank system or existing component means a tank system or component that is used for the storage or treatment of hazardous waste and that is in operation, or for which installation has commenced on or prior to October 21, 1996.

ii. "Manifest," after "Manifest" add "or State Manifest"; after "EPA form 8700-22" add "as modified by the State"; after "EPA form 8700-22A," add "or a form approved by the Department"; replace "part 262" with "N.J.A.C. 7:26G-6";

iii. "New tank system or new tank component," at the end of the paragraph add "For non-HSWA tanks (that is, inground tank systems, onground tank systems, aboveground tank systems and underground tank systems that can be entered for inspection), Existing tank system or existing component means a tank system or component that is used for the storage or treatment of hazardous waste and that is in operation, or for which installation has commenced on or prior to October 21, 1996.

5. 260.20(a), after "parts 260 through 266" delete "and 268" and replace with ", 268 and N.J.A.C. 7:26A-7."; after "of this chapter" add "or N.J.A.C. 7:26G."; after "testing or analytical method to part 261, 264, or 265" add "of this chapter."; after "Section 260.22 sets forth additional requirements for petitions to exclude a waste" add "or waste-derived material."; after "the lists of hazardous wastes in subpart D of part 261" add "of this chapter. N.J.A.C. 7:26G-4.2 sets forth additional requirements for petitions to amend N.J.A.C. 7:26A-7 to include additional hazardous wastes for categories of hazardous waste as universal waste. All petitions for rulemaking will be subject to N.J.A.C. 1:30, Rules for Rulemaking. All petitions for rulemaking are governed by N.J.A.C. 1:30-3.6 and 7:1D-1.1.";

6. 260.21(b), delete “§ 260.20(b)” and replace with “N.J.A.C. 7:1D-1.1 and 1:30-3.6”;

7. 260.21(d), after “will be incorporated in” add “and will be in addition to”;

8. 260.33(a), delete “in the region where the recycler is located”;

9. 260.33(b), delete “this decision may not be appealed to the Administrator.” and replace with “a hearing may be requested in accordance with the provisions of the Administrative Procedure Act.”;

10. 260.40(a), replace “261.6(a)(2)(iv)” with “261.6(a)(2)(iii)”;

11. 260.41, replace “261.6(a)(2)(iv)” with “261.6(a)(2)(iii)”;

12. Appendix I to Part 260 first paragraph, after “of the regulations they should comply.” add “Appendix I contains guidance, not regulations. If any part of the appendix is inconsistent with the regulations, the regulations are controlling.”;

13. Appendix I to Part 260 last paragraph, after “encouraged to write to EPA” add “and the Department”; after “(513) 684-5362” add “and New Jersey Department of Environmental Protection, Division of Solid and Hazardous Waste, Bureau of Hazardous Waste Regulation, PO Box 414, 120 South Stockton Street, Trenton, NJ 08625-0414, (609)292-7081.”

(d) When used in the term “EPA form,” the definition of “Manifest,” “Federal Agency” and “Person” at 40 C.F.R. 260.10, in the Appendix I to 40 C.F.R. Part 260, and 40 C.F.R. 260.11(a), the term “Agency” or “EPA” means the United States Environmental Protection Agency.

(e) When used in the definition for “hazardous waste constituent” at 40 C.F.R. 260.10, the term “Administrator” means the Administrator of the United States Environmental Protection Agency or his or her designee.

(f) When used in the following Federal citation, the terms “EPA” and “Environmental Protection Agency” shall not be replaced with a State term, but shall retain its meaning: 40 C.F.R. 260.11(a).

Amended by R.1996 d.577, effective December 16, 1996.
See: 28 N.J.R. 2240(a), 28 N.J.R. 5360(a).
Amended (c)5.

Amended by R.1999 d.19, effective January 19, 1999.
See: 30 N.J.R. 3128(a), 31 N.J.R. 166(a).

Rewrote (a); in (d), added C.F.R. reference; and added (f).
Administrative change.

See: 32 N.J.R. 1796(a).

Amended by R.2002 d.140, effective May 6, 2002.

See: 33 N.J.R. 3794(a), 34 N.J.R. 1669(b).

In (a), substituted “May 6, 2002” for “July 31, 1998”.

7:26G-4.2 State definitions

The following words and terms, when used in this chapter, shall have the following meanings unless the context clearly indicates otherwise:

“Administrator” as used in the provisions of the Code of Federal Regulations which are incorporated by reference, means the Commissioner of the New Jersey Department of Environmental Protection or his or her designee, except where specifically noted, then it means the Administrator of the United States Environmental Protection Agency or his or her designee.

“Agency” as used in the provisions of the Code of Federal Regulations which are incorporated by reference, means the New Jersey Department of Environmental Protection, except when specifically noted, then it means the United States Environmental Protection Agency.

“Applicant” means the person who submits an application for a permit under this chapter and in whose name the permit is to be issued, and for the purposes of N.J.A.C. 7:26G-7, the person who files an application for an approved registration statement and in whose name the approved registration statement is to be issued.

“Approved registration” means the registration of a hazardous waste treatment, storage, or disposal facility or transporter issued by the Department after review and approval of the registration statement.

“Battery” means a device consisting of one or more electrically connected electrochemical cells which is designed to receive, store, and deliver electric energy. An electrochemical cell is a system consisting of an anode, cathode, and an electrolyte, plus such connections (electrical and mechanical) as may be needed to allow the cell to deliver or receive electrical energy. The term battery also includes an intact, unbroken battery from which the electrolyte has been removed.

100 kilograms or less of spill clean-up of acute hazardous waste; and

2. Generates 100 kilograms or less of non-acute hazardous waste in a calendar month and accumulates greater than 1,000 kilograms but never exceeds 6,000 kilograms of accumulated non-acute hazardous waste at any time; or

3. Generates more than 100 kilograms but less than 1,000 kilograms of non-acute hazardous waste in a calendar month and never exceeds 6,000 kilograms of accumulated non-acute hazardous waste at any time.

A generator's category will be based upon hazardous waste manifest history and the quantity of hazardous waste present at the facility at the time of inspection by enforcement personnel.

"State CAA Director" as used in the Code of Federal Regulations which are incorporated by reference, means the Commissioner of the New Jersey Department of Environmental Protection or his or her designee.

"State Director" or "State RCRA Director" as used in the Code of Federal Regulations which are incorporated by reference, means the Commissioner of the New Jersey Department of Environmental Protection or his or her designee.

"Subcontractor" means any person who engages in the storage, collection, processing, transfer, treatment, or disposal of hazardous waste in this State through the use, control or possession of any cab, vehicle, trailer, container, transport unit or single-unit vehicle pursuant to an oral or written agreement entered into with a prime contractor for the performance of all or part of the prime contract. A lease, pursuant to N.J.A.C. 7:26G-7.2, of hazardous waste vehicle operators and/or equipment to a permittee, licensee, or exempt transporter shall not, for purposes of N.J.A.C. 7:26G-7.2, be considered a subcontract.

"Thermostat" means a temperature control device that contains metallic mercury in an ampule attached to a bimetal sensing element, and mercury-containing ampules that have been removed from these temperature control devices in compliance with the requirements of 40 C.F.R. Part 273.

"Universal waste" means any of the following hazardous wastes that are managed under the universal waste requirements of N.J.A.C. 7:26A-7, whether incorporated prospectively by reference from 40 C.F.R. Part 273 or listed additionally by the Department:

1. Batteries;
2. Pesticides;
3. Thermostats;
4. Lamps;
5. Mercury-containing devices;
6. Oil-based finishes; and

7. Consumer electronics.

"Universal waste handler" means a generator (as defined in 40 C.F.R. § 260.10) of universal waste or the owner or operator of a facility, including all contiguous property, that receives universal waste from other universal waste handlers, accumulates universal waste, and sends universal waste to another universal waste handler, to a destination facility, or to a foreign destination. Universal waste handler does not mean a person who treats (except under the provisions of 40 C.F.R. Part 273), disposes of, or recycles universal waste or a person engaged in the off-site transportation of universal waste by air, rail, highway, or water, including a universal waste transfer facility.

"Universal waste transporter" means a person engaged in the off-site transportation of universal waste by air, rail, highway or water.

Amended by R.1996 d.577, effective December 16, 1996.

See: 28 N.J.R. 2240(a), 28 N.J.R. 5360(a).

Added definitions "battery", "destination facility", "pesticide", "thermostat", "universal waste", "universal waste handler", and "universal waste transporter".

Amended by R.1999 d.19, effective January 19, 1999.

See: 30 N.J.R. 3128(a), 31 N.J.R. 166(a).

Inserted "State CAA Director"; and changed "State Director" definition to "State Director" or "State RCRA Director".

Amended by R.2000 d.75, effective February 22, 2000.

See: 31 N.J.R. 1429(a), 32 N.J.R. 693(a).

Inserted "Exempt transporter", "Licensee" and "Permittee"; and rewrote "Subcontractor".

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

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

Rewrote "Consideration"; deleted "Generator inspection"; added "Small quantity generator inspection".

Amended by R.2002 d.140, effective May 6, 2002.

See: 33 N.J.R. 3794(a), 34 N.J.R. 1669(b).

Inserted "EPA" and "Registration certificate"; deleted phrase "or EPA" from "Agency"; deleted phrase "by road" from "Hazardous waste cab"; deleted phrase "by road" from "Hazardous waste vehicle".

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 "Destination facility", deleted ", except those management activities described in N.J.A.C. 7:26A-7.2(d)1 and 3 and 7.3(d)1 and 3"; in "Thermostat" and "Universal waste handler", substituted the C.F.R. reference for the N.J.A.C. reference; rewrote "Universal waste".

Amended by R.2006 d.202, effective June 5, 2006.

See: 37 N.J.R. 1285(a), 38 N.J.R. 2426(a).

Inserted definition "Grace period".

7:26G-4.3 Petitions to amend N.J.A.C. 7:26A-7 to include additional hazardous wastes

(a) Any person seeking to add a hazardous waste or a category of hazardous waste to the universal waste regulations of N.J.A.C. 7:26A-7 may petition for a regulatory amendment under this section, 40 C.F.R. 260.20 as incorporated by reference herein, and N.J.A.C. 7:26A-7.

(b) To be successful, the petitioner must demonstrate to the satisfaction of the Department that regulation under the universal waste regulations of N.J.A.C. 7:26A-7 is appropriate (in accord with the reasons for establishing the

universal waste system as set forth in 60 F.R. 25492, May 11, 1995) for the waste or category of waste; will improve management practices for the waste or category of waste; and will improve implementation of the hazardous waste program. The petition shall include the information required by 40 C.F.R. 260.20(b) as incorporated by reference herein. The petition should also address as many of the factors listed in N.J.A.C. 7:26A-7.7(b) as apply to the waste or category of waste addressed in the petition.

(c) The Department shall grant or deny a petition using the factors listed in N.J.A.C. 7:26A-7.7(b). The decision will be based on the weight of evidence showing that regulation under N.J.A.C. 7:26A-7 is appropriate for the waste or category of waste, will improve management practices for the waste or category of waste, and will improve implementation of the hazardous waste program.

(d) The Department may request additional information needed to evaluate the merits of the petition.

New Rule, R.1996 d.577, effective December 16, 1996.
See: 28 N.J.R. 2240(a), 28 N.J.R. 5360(a).

SUBCHAPTER 5. IDENTIFICATION AND LISTING OF HAZARDOUS WASTE

7:26G-5.1 Incorporation by reference

(a) This subchapter incorporates by reference up to May 6, 2002 and prospectively incorporates by reference 40 C.F.R. Part 261, Federal Regulations on Identification and Listing of Hazardous Waste, and its appendices, as amended and supplemented, except as provided in (b) and (c) below.

(b) The following provisions of 40 C.F.R. Part 261 are not incorporated by reference: 40 C.F.R. Part 261 Appendix IX.

(c) The following provisions of 40 C.F.R. Part 261 are incorporated by reference with the specified changes:

1. Operative dates of regulations first promulgated by EPA are determined as follows:

i. Operative dates of rules originally promulgated by USEPA under the authority of the Hazardous and Solid Waste Amendments (HSWA) and incorporated by reference on October 21, 1996, shall not be altered, because these rules are operative in all states at the time of adoption.

ii. Operative dates of rules incorporated by reference on October 21, 1996, originally promulgated by USEPA under the authority of the Resource Conservation and Recovery Act (RCRA), shall be removed and replaced with October 21, 1996, because these rules are not operative in authorized states until state adoption of the rules.

iii. Operative dates of rules incorporated by reference after October 21, 1996, but prior to August 1, 1998, originally promulgated by USEPA under the

authority of the Resource Conservation and Recovery Act (RCRA), shall be removed and replaced with January 19, 1999, because these rules are not operative in authorized states until state adoption of the rules.

iv. Operative dates of rules incorporated through prospective incorporation by reference shall become operative in accordance with N.J.A.C. 7:26G-1.4(k) and (l).

v. See 40 C.F.R. 271.1 Table 1, which lists all HSWA regulations. Other regulations are promulgated under RCRA.

2. The phrase "in the Region where the sample is collected" shall be omitted from 40 C.F.R. 261.4(e)(3)(iii).

3. 40 C.F.R. 261.5(c)(4), replace "40 C.F.R. Part 279" with "N.J.A.C. 7:26A-6";

4. 40 C.F.R. 261.5(c)(6), replace "40 C.F.R. Part 273" with "N.J.A.C. 7:26A-7";

5. 40 C.F.R. 261.5(f)(3)(vii), replace "part 273 of this chapter" with "N.J.A.C. 7:26A-7";

6. 40 C.F.R. 261.5(g)(3)(vii), replace "part 273 of this chapter" with "N.J.A.C. 7:26A-7";

7. 40 C.F.R. 261.5(j), replace "part 279 of this chapter" with "N.J.A.C. 7:26A-6";

8. 40 C.F.R. 261.6(a)(5), replace "State requirements analogous to 40 C.F.R. Part 273." with "N.J.A.C. 7:26A-7.";

9. 40 C.F.R. 261.9, replace "part 273 of this chapter" with "N.J.A.C. 7:26A-7" and replace "under 40 C.F.R. part 273:" with "at N.J.A.C. 7:26A-7:";

10. 40 C.F.R. 261.9(a), replace "40 C.F.R. 273.2" with "N.J.A.C. 7:26A-7.1(b)";

11. 40 C.F.R. 261.9(b), replace "40 C.F.R. 273.3;" with "N.J.A.C. 7:26A-7.1(c);";

12. 40 C.F.R. 261.9(c), replace "40 C.F.R. 273.4." with "N.J.A.C. 7:26A-7.1(d).";

13. 40 C.F.R. 261.38(c)(1)(i), after "State RCRA and CAA Directors," remove "in Authorized States or Regional RCRA and CAA Directors in Unauthorized States";

14. 40 C.F.R. 261.38(c)(1)(i)(A), after "The generator must submit a one-time notice to the," remove "Regional or";

15. 40 C.F.R. 261.38(c)(1)(ii)(E), after "Name and mailing address of the," remove "Regional or State Directors" and insert "State Director."

(d) When used in the following Federal citations, the term "Administrator" shall mean the Administrator of the United States Environmental Protection Agency or his or her designee: 40 C.F.R. 261.10 and 11.

(e) When used in the following Federal citation(s), the term "EPA" means the United States Environmental Protection Agency: 40 C.F.R. § 261.38 footnotes to Table 1.

(f) When used in the following Federal citation, the term "Regional Administrator" shall not be substituted by a state term, but shall retain its meaning: 40 C.F.R. 261.4(f)(1).

Amended by R.1996 d.577, effective December 16, 1996.
See: 28 N.J.R. 2240(a), 28 N.J.R. 5360(a).

Inserted (b).

Amended by R.1999 d.19, effective January 19, 1999.
See: 30 N.J.R. 3128(a), 31 N.J.R. 166(a).

Rewrote the section.

Amended by R.2002 d.140, effective May 6, 2002.
See: 33 N.J.R. 3794(a), 34 N.J.R. 1669(b).

In (a), substituted "May 6, 2002" for "July 31, 1998"; rewrote (e).

7:26G-5.2 (Reserved)

New Rule, R.1996 d.577, effective December 16, 1996.

See: 28 N.J.R. 2240(a), 28 N.J.R. 5360(a).

Repealed by R.1999 d.19, effective January 19, 1999.

See: 30 N.J.R. 3128(a), 31 N.J.R. 166(a).

Section was "Additional special requirements for hazardous waste generated by conditionally exempt small quantity generators".

7:26G-5.3 (Reserved)

New Rule, R.1996 d.577, effective December 16, 1996.

See: 28 N.J.R. 2240(a), 28 N.J.R. 5360(a).

Repealed by R.1999 d.19, effective January 19, 1999.

See: 30 N.J.R. 3128(a), 31 N.J.R. 166(a).

Section was "Requirements for universal waste".

7:26G-5.4 Swine food

Pursuant to the Solid Waste Management Act, the definition of solid waste shall not include solid animal or vegetable wastes collected by swine producers, licensed by the State Department of Agriculture, who collect, prepare and feed such wastes to swine on their own farms.

SUBCHAPTER 6. STANDARDS APPLICABLE TO GENERATORS OF HAZARDOUS WASTE

7:26G-6.1 Incorporation by reference

(a) This subchapter incorporates by reference up to May 6, 2002 and prospectively incorporates by reference 40 C.F.R. Part 262, Federal regulations on the standards applicable to generators of hazardous waste, as amended and supplemented, except as provided in (b) and (c) below.

(b) The following provisions of 40 C.F.R. Part 262 are not incorporated by reference: Appendix to Part 262—Uniform hazardous waste manifest and instructions for EPA Form 8700-22 only.

(c) The following provisions of 40 C.F.R. Part 262 are incorporated by reference with the specified changes:

1. 40 C.F.R. 262.10(d), replace "State requirements analogous to 40 C.F.R. 273." with "N.J.A.C. 7:26A-7";

2. 40 C.F.R. 262.10(g), after "penalties prescribed in section 3008 of the Act" add ", and N.J.S.A. 13:1E-9 and N.J.A.C. 7:26G-2";

3. 40 C.F.R. 262.11, delete the language at paragraph "(d)" and replace it with the following: "If the waste is determined to be hazardous, the generator shall refer to N.J.A.C. 7:26G-5, 8 through 11, and N.J.A.C. 7:26A-7 for possible exclusions or restrictions pertaining to management of the specific waste.";

4. 40 C.F.R. 262.12(c), at the end of the paragraph add "It is considered a violation for a generator to utilize a transporter who is not properly licensed and registered with the Department in accordance with N.J.A.C. 7:26G-7.2 and/or who fails to display a current Department registration number in accordance with N.J.A.C. 7:26-7.2(b)6";

5. 40 C.F.R. 262.20(a), after "according to the instructions included in the appendix to part 262" add "for EPA form 8700-22A, and for EPA form 8700-22, according to the instructions in the appendix to N.J.A.C. 7:26G-6. If an out-of-state manifest is used, the generator shall complete Items A-K of the manifest even if the instructions on the back of the out-of-state manifest do not address these shaded portions.";

6. 40 C.F.R. 262.21(a), at the end of the paragraph add "If the consignment State for the shipment is New Jersey, the generator shall use the manifest supplied by the Department.";

7. 40 C.F.R. 262.21(b), at the end of the paragraph add "In these situations, the generator shall use the manifest supplied by the Department.";

8. 40 C.F.R. 262.23(a)(3), after "in accordance with 262.40(a)" add "and forward one copy to the generator State and one copy to the consignment State";

9. 40 C.F.R. 262.23, after "subsection (e)", add new subsection "(f) The generator is responsible for assuring that the Department and the consignment state receive copies of the completed manifest containing the handwritten signature of the owner or operator of the designated facility. If the designated facility is located in a state that does not mandate its facilities to return copies of the completed manifests to the generator state and the consignment state, the generator must so distribute these copies. The generator may provide photocopies to satisfy this requirement, if the manifest form provided by the consignment State does not contain a sufficient number of copies. In the case of an interstate shipment for which the manifest has not been returned, the Department will provide notification to the consignment state and to the State in which the shipment may have been delivered (or to EPA, in the case of unauthorized states)";

10. 40 C.F.R. 262.32(b), remove 110 and replace with 119; after "HAZARDOUS WASTE—Federal" add "and/or State"; after "If found, contact the nearest police

or public safety authority or the U.S. Environmental Protection Agency" add "or the New Jersey Department of Environmental Protection"; before "Manifest Document Number" add "State";

11. 40 C.F.R. 262.40(a), after "signed in accordance with § 262.23(a) for three years" delete "or until he receives a signed copy from" and replace with "and a signed copy from the owner or operator of the";

12. 40 C.F.R. 262.41(a), delete "EPA Form 8700-13A" and replace with "forms approved by the Department";

13. 40 C.F.R. 262.42(a)(1), after "to determine the status of the hazardous waste" add "and contact the Department at 609-292-7081 to inform the Department of the situation";

14. 40 C.F.R. 262.42(a)(2), after "must submit an exception report to the EPA Regional Administrator" delete "for the Region in which the generator is located";

15. 40 C.F.R. 262.43, delete "sections 2002(a) and 3002(6) of the Act" and replace with "N.J.S.A. 13:1E-1 et seq., N.J.S.A. 13:1D-1 et seq., or any comparable provisions of New Jersey's statutes and implementing regulations";

16. 40 C.F.R. 262.54(e), delete the last sentence of the paragraph and replace with "For all export shipments, the primary exporter shall obtain the manifest from the Department.";

17. 40 C.F.R. 262.60(c), delete the last sentence of the paragraph and replace with "For all import shipments, the person who imports the waste shall obtain the manifest from the Department.";

18. 40 C.F.R. 262.80(a), replace "State requirements analogous to 40 C.F.R. 273." with "N.J.A.C. 7:26A-7.";

19. 40 C.F.R. 262.89(a)2, replace "State requirements analogous to 40 C.F.R. 273." with "N.J.A.C. 7:26A-7."

(d) When used in the following Federal citations, the term "Environmental Protection Agency" shall not be replaced with a State term, but shall retain its meaning: 40 C.F.R. 262.53(b), 262.56(b), 262.81(k), 262.83(b)(1)(i), 262.83(b)(2)(i), 262.84(e), 262.85(g), 262.87(a) and 262.89(e).

(e) When used in the following Federal citations, the term "Administrator" means the Administrator of the United States Environmental Protection Agency or his or her designee: 40 C.F.R. 262.11(c)(1), 262.12(a), 262.12(b), 262.55, 262.56, 262.57, and 262.80 through 262.89.

(f) When used in the following Federal citations, the term "EPA" means the United States Environmental Protection Agency: 40 C.F.R. §§ 262.53(a), (c), (d), (e), and (f), 262.54(g)(1), 262.83(b)(2)(i), 262.85(g), and Note to Paragraph (g).

Amended by R.1996 d.577, effective December 16, 1996.

See: 28 N.J.R. 2240(a), 28 N.J.R. 5360(a).

Inserted (c)2 and (d).

Amended by R.1999 d.19, effective January 19, 1999.

See: 30 N.J.R. 3128(a), 31 N.J.R. 166(a).

Rewrote (a); in (c), changed C.F.R. reference in 1, and added 16 through 18; rewrote (d); in (e) and (f), changed C.F.R. references; and in (f), inserted a reference to "EPA Acknowledgement of Consent".

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

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

Rewrote (c).

Amended by R.2002 d.140, effective May 6, 2002.

See: 33 N.J.R. 3794(a), 34 N.J.R. 1669(b).

In (a), substituted "May 6, 2002" for "July 31, 1998"; rewrote (f).

7:26G-6.2 Waste code(s)

(a) The proper waste code(s) that accurately describe the shipment of hazardous waste shall be entered on the Hazardous Waste Manifest and determined according to the following hierarchy:

Table A. Wastes which can be described only by one or more Federal F, K, P, or U codes (40 C.F.R. 261.31 through 261.33 as incorporated by reference at N.J.A.C. 7:26G-5)

Waste composition	Manifest completion	
	Item I	Item J
1. One F, K, P, or U waste	Use the applicable F, K, P or U code	
2. Mixture of two or more F, K, P, and/or U wastes	Use the listed code for the component forming the highest percentage by weight or volume of the total waste depending on units reported in Item 14	All other acutely hazardous listed codes

Table B. Wastes which can be described by Federal F, K, P, or U codes and Federal characteristic (D) code(s) (40 C.F.R. 261.31 through 261.33 and 40 C.F.R. 261.21 through 261.24 respectively, as incorporated by reference at N.J.A.C. 7:26G-5)

Waste composition	Manifest completion	
	Item I	Item J
1. One F, K, P, or U waste that exhibits RCRA characteristic(s) (D wastes)	F, K, P or U code	
2. Mixture of two or more F, K, P, or U wastes which exhibits RCRA characteristic(s) (D wastes)	F, K, P or U code for the listed waste forming the highest percentage by weight or volume of the total waste depending on the units reported in Item 14	all other acutely hazardous listed code(s)

Table C. Waste is not Federal F, K, P, or U code but displays one or more Federal characteristics (D waste) (40 C.F.R. 261.31 through 261.33 and 40 C.F.R. 261.21 through 261.24 respectively, as incorporated by reference at N.J.A.C. 7:26G-5)

Waste composition	Manifest completion	
	Item I	Item J
1. Waste displays only one characteristic	D code for the characteristic	

Waste composition	Manifest completion	
	Item I	Item J
2. Waste displays multiple characteristics	D code for the first characteristic displayed according to the following order: 1. Ignitability 2. Reactivity 3. Corrosivity 4. TC toxicity	

7:26G-6.3 Rejected loads

(a) If all or part of a shipment of hazardous waste is rejected by a hazardous waste facility or if a transporter is unable to deliver a shipment of hazardous waste to the designated hazardous waste facility, the hazardous waste facility owner or operator, the transporter, and the generator shall comply with the following requirements:

1. If all or part of the shipment of hazardous waste is immediately rejected by the hazardous waste facility or if the transporter is unable to deliver the shipment of hazardous waste to the designated hazardous waste facility, the transporter shall contact the generator, who shall instruct the transporter to return the shipment to the generator or to deliver the shipment to an alternate hazardous waste facility.

i. If the shipment of hazardous waste is returned to the generator, the Manifest shall be completed as follows:

(1) In the Discrepancy Indication space of the Manifest, the facility operator shall indicate the reasons(s) for the rejection and that the waste is to be returned to the generator. The facility operator shall complete, sign and date the Certification of Receipt (Section 20) on the Manifest;

(2) The transporter shall receive manifest copies 1, 2, 3, and 5 from the facility operator and shall return the shipment to the generator. The facility operator shall retain manifest copy 4;

(3) The generator, upon receiving the rejected shipment, shall certify the return receipt (signature and date) in the Special Handling Instructions and Additional Information section of the Manifest;

(4) The generator shall then distribute manifest copies 1, 2, 3, and 5 as indicated on the form, except that if the shipment was rejected by an out-of-state facility which did not return the manifest copies 1, 2, 3, and 5, the generator shall notify the consignment state and the generator state of receipt of the waste and shall provide those states with a photocopy of the generator's manifest copy; and

(5) The generator shall arrange to dispose of the waste at an authorized facility using another manifest in accordance with this subchapter.

ii. If the shipment of hazardous waste is delivered to an alternate hazardous waste facility, the Manifest shall be completed as follows:

(1) The designated facility operator shall indicate the reason(s) for the rejection and that the waste is to be shipped to an alternate facility in the Discrepancy Indication space of the Manifest. The designated facility operator shall complete, sign, and date the Certification of Receipt (Section 20) on the Manifest;

(2) The transporter shall indicate the alternate facility's name, address, EPA Identification Number, and telephone number in the Special Handling Instruction and Additional Information section;

(3) The designated facility operator shall photocopy the manifest and retain the copy;

(4) After receipt of the original manifest copies 1, 2, 3, 4, and 5 from the designated facility operator, the transporter shall transport the hazardous waste to the indicated alternate authorized facility;

(5) Upon receipt of the originally rejected shipment, the alternate facility operator shall certify receipt (signature and date) in Section 15 of the Manifest; and

(6) The alternate facility operator shall then distribute manifest copies 1, 2, 3, and 5 and retain copy 4.

2. If a hazardous waste facility rejects all or part of a shipment of hazardous waste after the Manifest has been distributed by the facility, the hazardous waste facility owner or operator, the transporter, and the generator shall comply with the following requirements:

i. The owner or operator of the hazardous waste facility shall describe the nature of the rejection in Section 19 of the facility's manifest copy;

ii. The owner or operator of the hazardous waste facility shall ship the waste to the generator with three photocopies of the revised manifest, each copy to be signed by the owner or operator, the transporter returning the hazardous waste to the generator, and the generator;

iii. The generator shall retain one copy of the revised signed manifest, return one copy to the transporter returning the hazardous waste to the generator, and return one copy to the owner or operator of the hazardous waste facility;

iv. The owner or operator shall notify the generator state and the consignment state of the rejection by sending to each state a photocopy of the revised signed manifest copy, returned to the owner or operator by the generator in accordance with (a)2iii above, showing that the generator received the waste; and

v. The owner or operator, the generator, and the transporter returning the hazardous waste to the generator shall each retain a copy of the revised, signed manifest.

(b) If a shipment of hazardous waste is rejected by a designated facility after a transporter has mixed or commingled hazardous waste, the transporter shall accept the return shipment of the rejected wastes.

(c) If a transporter accepts a return shipment of rejected wastes under (b) above, the transporter shall:

1. Promptly place and secure the rejected waste in a transfer facility; and
2. Make arrangements with an authorized facility to receive and manage the commingled waste.

Appendix to Subchapter 6



State of New Jersey
Department of Environmental Protection
Hazardous Waste Regulation Program
Manifest Section
P.O. Box 421, Trenton, NJ 08625-0421



Please type or print in block letters. (Form designed for use on elite (12-pitch) typewriter.)

Form Approved OMB No. 2050-0039

UNIFORM HAZARDOUS WASTE MANIFEST form with sections for generator information, transporter information, facility information, and certification.

In case of an emergency or spill immediately call the state emergency protection and the N.J. Dept. of Environmental Protection. (609) 292-7172

NJA 0000000

EPA Form 8700-22 (Rev. 9/88) Previous editions are obsolete.

SIGNATURE AND INFORMATION MUST BE LEGIBLE ON ALL COPIES

GENERAL INFORMATION

The Hazardous Waste manifest is designed to track waste from the point of generation to final disposal (cradle to grave). In order to accomplish this goal, it is essential that all items on the manifest be completed correctly. Incomplete, incorrect or illegible manifests are violations of the law, and could make you subject to civil or criminal liabilities as specified in the New Jersey Hazardous Waste Regulations.

INSTRUCTIONS-IMPORTANT:

READ ALL INSTRUCTIONS BEFORE COMPLETING

State & Federal regulations require Generators, Transporters, and Treatment, Storage & Disposal Facilities (TSDFs) to use this form and if necessary the continuation sheet for both inter- and intrastate shipments. Continuation sheets may be purchased commercially and photocopied to provide copies as described below.

The New Jersey manifest contains 8 copies. **ALL COPIES MUST BE LEGIBLE.** This form is designed for use on a 12 pitch (elite) typewriter; a firm ball point pen may also be used only if you press down HARD. The 8 copies must be filed with the appropriate party as they are completed. **COPY DISTRIBUTION** is as follows:

- ORIGINAL: DESTINATION STATE-TSDF must mail original to the state regulatory agency where the facility is located.
- COPY 2: GENERATOR STATE-The TSDF mails this copy back to the state regulatory agency where the waste was generated
- COPY 3: GENERATOR COPY-The TSDF mails this copy back to the generator of the waste.
- COPY 4: TSDF COPY-TSDF keeps this copy for his records.
- COPY 5: TRANSPORTER COPY-The transporter keeps this copy for his records.
NOTE: If a continuing transporter is used the generator is responsible for supplying him with a legible photocopy, which must contain required signatures.
- COPY 6: DESTINATION STATE-The generator mails this copy to the state regulatory agency where the designated facility (TSDF) is located.
- COPY 7: GENERATOR STATE-The generator mails this copy to the state regulatory agency where the waste was generated.
- COPY 8: GENERATOR COPY-The generator keeps this copy for his records.

ALL 8 COPIES MUST BE LEGIBLE

MANIFEST FORM ACQUISITION

1. If the destination (consignment) state supplies a manifest & requires its use, then the generator is obligated to obtain the manifest from that state.
2. If the destination state does not supply the manifest, but the generator state does, then the generator is obligated to obtain the manifest form from the generator state.
3. If neither the generator state or the consignment state supplies the manifest, then the generator may obtain the manifest from any source.

GENERATOR SECTION

- Item 1: GENERATOR'S EPA ID NO.-MANIFEST DOCUMENT NO.-Enter the generator's EPA identification number. The manifest document number is a unique 5-digit number the generator assigns to each manifest, for his recordkeeping purposes. Use of serially increasing numbers (e.g. 00001, 00002, etc.) is recommended.
- Item 2: PAGE 1 Of Enter the total number of pages used to complete this manifest; i.e. the first page plus the number of continuation sheets, if any.
- Item 3: GENERATOR'S NAME & MAILING ADDRESS-Enter the name (as notified to EPA) & mailing address of the generator. The address should be the location that will manage the returned manifest forms.
- Item 4: GENERATOR'S PHONE NUMBER-Enter a telephone number with area code where an authorized agent of the generator can be reached in an emergency.
- Item 5: TRANSPORTER 1 COMPANY NAME-Enter the company name (as notified to EPA) of the first transporter who will transport the waste.
- Item 6: US EPA ID NUMBER-Enter the EPA identification number of the first transporter identified in item 5.
- Item 7: TRANSPORTER 2 COMPANY NAME-If applicable, enter the company name (as notified to EPA) of the second transporter who will transport the waste. If more than two (2) transporters will be used, use a continuation sheet and list the transporters in the order they will be transporting the waste.
- Item 8: US EPA ID NUMBER-If a second transporter is used, enter the EPA identification number of the second transporter identified in item 7.
- Item 9: DESIGNATED FACILITY NAME & SITE ADDRESS-Enter the company name and site address (as notified to the EPA) of the treatment, storage, or disposal facility (TSDF) designated to receive the waste listed on this manifest. The address must be the site address, which may differ from the mailing address.
- Item 10: EPA ID NUMBER-Enter the EPA identification number of the designated TSDF (or waste reuse facility) listed in item 9.
- Item 11: USDOT DESCRIPTION-Enter the correct USDOT shipping name, hazard class or division, the identification number and the packing group (49 CFR 172.202). The word waste must appear as part of the USDOT shipping name if the waste is a federal RCRA hazardous waste (49 CFR 172.101). For a waste with a n.o.s. designation enter the information as required by 49 CFR 172.203. Enter additional shipping description information as required by 49 CFR 172 Subpart C. If more than 4 wastes are being shipped, a second manifest or continuation sheets should be used. For information on USDOT waste descriptions call your USDOT regional office.
- Item 12: CONTAINERS (NO. & TYPE)-Enter the number of containers for each waste and the appropriate abbreviations from Table 1 (below) for the type of container used:

**TABLE 1
CONTAINER TYPES**

- DM-Metal drums, barrels, kegs
- DW-Wooden drums, barrels, kegs
- DF-Fiberboard or plastic drums, barrels, kegs
- TP-Tanks portable
- TT-Cargo tanks (Tank trucks)
- TC-Tank cars
- DT-Dump truck
- CY-Cylinders
- CM-Metal boxes, cartons, cases (including roll-offs)
- CW-Wooden boxes, cartons, cases
- CF-Fiber or plastic boxes, cartons, cases
- BA-Burlap, cloth, paper/plastic bags

- Item 13: TOTAL QUANTITY-Enter the total quantity of waste described on each line. **DO NOT USE FRACTIONS**
- Item 14: UNIT (WL/Vol.)-Enter the appropriate abbreviation from Table II (below) for the unit of measure used in determining the total quantity of waste described on each line.

**TABLE II
UNITS OF MEASURE**

- G-Gallons (liquids only)
- P-Pounds
- T-Tons (2000 lbs.)
- Y-Cubic yards
- L-Liters (liquids only)
- K-Kilograms
- M-Metric Tons (1000 kg)
- N-Cubic Meters

- Item 15: SPECIAL HANDLING INSTRUCTIONS AND ADDITIONAL INFORMATION-Use this space to indicate special transportation, treatment, storage, disposal, or fill or Landfill information; if any; if an alternate facility is designated, note it here. For INTERNATIONAL SHIPMENTS, generators must enter the point of departure (city & state) in this space. This space may also be used for emergency response telephone numbers, and any other information the generator is required to include about the shipment in accordance with 49 CFR Part 172, Subpart G as applicable for RCRA hazardous waste and USDOT hazardous materials.
- Item 16: GENERATOR'S CERTIFICATION - The Generator must read, sign (by hand) and date the certification. This must be done the day the transporter picks up the waste shipment (date of receipt by transporter). If a mode other than highway is used, the word "highway" should be lined out and the appropriate mode (rail, water, air) inserted in the space. If another mode in addition to the highway mode is used, enter the appropriate additional mode (e.g. "and rail") in this space.
- Item A: STATE MANIFEST DOCUMENT NUMBER - Number preprinted by New Jersey except on the continuation sheets. Enter this number on each continuation sheet attached to a manifest.
- Item B: STATE GEN ID -The State Generator ID is the street address of the waste generation site. If the mailing address and the site address are the same, enter "same".
- Item C: STATE TRAN #1 ID-Enter the New Jersey state permit number. This must include both the transporter's permit number and the decal number of the hazardous waste transport unit or hazardous waste vehicle which contains the waste. For rail shipment(s) enter the alpha numeric I.D. number assigned to the railcar in lieu of the decal number.
- Item D: TRANSPORTER PHONE-Enter a telephone number with area code where an authorized agent of the transporter can be reached.
- Item E: STATE TRAN #2 ID-If applicable, enter the New Jersey State permit number of the waste carrying portion of the second vehicle.
- Item F: TRANSPORTER PHONE-II applicable, enter a telephone number with area code where an authorized agent of the second transporter may be reached.
- Item G: STATE FACILITY'S ID-No entry is required by New Jersey.
- Item H: FACILITY PHONE-Enter a telephone number with area code of the TSDF designated to receive the waste listed on the manifest.
- Item I: WASTE NO.-Enter the 4-digit hazardous waste number as it appears in N.J.A.C. 7:26G-5.1 et. seq. (For example "0047" is the waste number designated for pink/red water from TNT operations.) The proper waste number that accurately describes the shipment, shall be determined according to the hierarchy at N.J.A.C. 7:26G-6.2.
- Item J: ADDITIONAL DESCRIPTIONS FOR MATERIALS LISTED ABOVE-Enter description of analysis for any waste which does not have a complete USDOT shipping description or has an n.o.s. designation. Enter a general description of the waste stream, (i.e. groundwater contaminated with cresolates and copper sulfate). Additionally, for any n.o.s. entry in item 11 which does not conform to the requirements at 49 CFR 172.203(j) enter the two components, and their percentages, which most predominantly contribute to the hazards of the mixture or solution. Enter the physical state (S = Solid, L = Liquid, G = Gas, SL = Sludge) EPA hazard codes (I = Ignitable, C = Corrosive, R = Reactive, E= TCLP, H = Acute Hazardous, T = Toxic). Enter additional information as required by the waste code hierarchy at N.J.A.C. 7:26-G-6.2.

TRANSPORTER SECTION

- It is a violation by the transporter if he accepts hazardous waste from a generator who fails to properly complete the manifest, transports waste to an unauthorized facility, and/or fails to obtain the date and handwritten signature of the next hauler owner/operator of the TSDF facility on the manifest.
- Item 17: TRANSPORTER 1 ACKNOWLEDGEMENT-Print or type the name of the person accepting the waste on behalf of the first transporter. That person must acknowledge acceptance of the waste described on the manifest by signing and entering the date of receipt.
- Item 18: TRANSPORTER 2 ACKNOWLEDGEMENT-If applicable, follow instructions for item 17 for the second transporter.
- NOTE: ALL HAZARDOUS WASTE TRANSPORTERS OPERATING IN NEW JERSEY MUST HAVE A VALID NEW JERSEY HAZARDOUS WASTE TRANSPORTER'S PERMIT.

DESIGNATED FACILITY (TSDF) SECTION

- Item 19: DISCREPANCY INDICATION SPACE-The authorized representative of the designated facility must note in this space any significant discrepancy between the waste described on the manifest and the waste actually received at the facility. Any rejected materials should be listed here, along with an explanation of the disposition of the rejected wastes. Owners and operators of facilities located in authorized States (i.e., those States that received authorization from the U.S. EPA to administer the hazardous waste program) should contact their State agency for information on State Discrepancy Report requirements.
- Item 20: FACILITY OWNER/OPERATOR CERTIFICATION-Print or type the name of the person receiving the waste on behalf of the owner/operator of the designated TSDF. That person must acknowledge receiving the waste described on the manifest by signing and entering the date of receipt.
- Item K: HANDLING CODES-TSDF SHOULD COMPLETE-Enter the ultimate handling method utilized at the designated facility for each waste. Only the following process codes may be used: Storage-S01 (container); S02 (Tank); S04 (Surface Impoundment); S05 (Other-specify); Treatment-T01 (Tank); T02 (Surface Impoundment); T03 (Incinerator); T04 (Other-specify); Disposal-D79 (Injection Well); D80 (Landfill); D81 (Land Application); D82 (Ocean Disposal); D83 (Surface Impoundment); D84 (Other-specify).
- *NOTE For interstate shipments you may be required to comply with the manifesting requirements of both the consignment and generator states regarding the completion of specific information included in lettered items A-K. Please check with both generator and consignment states for specific requirements. New Jersey requires that all information be filled in except for item "G".

Public reporting burden for this collection of information is estimated to average: 37 minutes for generators, 15 minutes for transporters, and 10 minutes for treatment, storage and disposal facilities. This includes time for reviewing instructions, gathering data, and completing and reviewing the form. Send comments regarding the burden estimates including suggestions for reducing this burden, to: Chief, Information Policy Branch, PM-223, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503.

Administrative change.
See: 30 N.J.R. 3948(a).

SUBCHAPTER 7. STANDARDS APPLICABLE TO TRANSPORTERS OF HAZARDOUS WASTE

7:26G-7.1 Incorporation by reference

(a) This subchapter incorporates by reference up to May 6, 2002 and prospectively incorporates by reference 40 C.F.R. Part 263 Federal regulations on the standards applicable to transporters of hazardous waste, as amended and supplement, except as provided in (b) and (c) below.

(b) The following provisions of 40 C.F.R. Part 263 will not be incorporated: 40 C.F.R. 263.12.

(c) The following provisions of 40 C.F.R. 263 are incorporated by reference with the specific changes:

1. 40 C.F.R. 263.10(c)2, replace "of different DOT shipping descriptions by placing them into a single container" with "and has the shipment of hazardous waste rejected by the designated facility. The transporter shall comply with the requirements at N.J.A.C. 7:26G-6.3(b)-(c) and will not be subject to the provisions at § 262.34."

2. 40 C.F.R. 263.10(d), replace "State requirements analogous to 40 C.F.R. Part 273" with "N.J.A.C. 7:26A-7."

3. 40 C.F.R. 263.30(a), after "local authorities" add "(including the Department at 1-877-WARNDEP (if this number is inoperable, notify the New Jersey State Police at 609-882-2000)."

(d) When used in the following citations, the term "Administrator" means the Administrator of the Environmental Protection Agency or his designee: 40 C.F.R. 263.11.

Amended by R.1999 d.19, effective January 19, 1999.

See: 30 N.J.R. 3128(a), 31 N.J.R. 166(a).

Rewrote (a); in (c), added 3; and added (f).

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

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

Inserted a new (c)2; recodified former (c)2 as (c)3 and substituted "1-877-WARNDEP" for "609-292-7172"; deleted former (c)3.

Amended by R.2002 d.140, effective May 6, 2002.

See: 33 N.J.R. 3794(a), 34 N.J.R. 1669(b).

In (a), substituted "May 6, 2002" for "July 31, 1998"; deleted (e) and (f).

7:26G-7.2 Registration statement and registration requirements

(a) Registration statement approval, renewal, and revocation requirements are as follows:

1. Prior to operation, a hazardous waste transporter shall obtain an approved registration statement from the Department.

2. The application for an approved registration statement shall be executed on forms provided by the Department, and shall state such information as required below, as well as any additional information that the Department may require from a specific applicant. This information includes the following:

i. Proof of compliance with the minimum financial responsibility requirements covering public liabilities, property damage and environmental restoration set out at 49 C.F.R. Part 387;

ii. Disclosure of any conviction for any criminal offense during the 10 year period prior to application for a license under state or Federal law for acts involving the illegal storage, transportation or disposal of hazardous waste against any owner, officer, or employee of the firm seeking a license;

iii. Vehicle identification numbers and license plate numbers;

iv. For any leased hazardous waste vehicles (hazardous waste cab and transport unit individually if detachable), a copy of the Motor Vehicle Registration card, a copy of the lease which meets the requirements of (a)11 through 13 below; and

v. For those transporters intending to operate a hazardous waste transfer facility pursuant to N.J.A.C. 7:26G-7.4, the address of each such facilities and an indication whether each property, where the transfer facility is to be located, is owned or leased by the transporter. For any leased property, a copy of the written lease.

3. Any person who files an application for an approved registration statement shall also submit the disclosure statement described in N.J.A.C. 7:26-16.4. The requirement of a disclosure statement shall not apply to any person specifically exempted under N.J.A.C. 7:26-16.3(d) and/or 16.6(k), but shall apply in the case of a licensee or permittee which must file a disclosure statement for any lessor which holds a beneficial interest in the licensee or permittee pursuant to N.J.A.C. 7:26-16.6(i) or (j).

4. Any applicant who claims to be exempted under N.J.A.C. 7:26-16.3(d) from the requirement of a disclosure statement shall submit an affidavit stating the basis for the claim. The applicant claiming the exemption shall also file an alternative information statement on forms supplied by the Department, containing the following information:

i. The names and addresses of all officers, director or partners of any business concern seeking a license and all persons or business concerns holding more than 10 percent of the equity in or more than 10 percent of the liability of the business concern seeking a license;

ii. The names and addresses of all officers, directors, or partners of any business concern disclosed pursuant to (a)4i above and all persons holding more

than 10 percent equity share in or more than 10 percent of the debt liability of any business concern disclosed pursuant to (a)4i above;

iii. The name and address of any company in the field of hazardous waste management in which the business concern seeking a license or officers, directors, or partners of the business concern hold an equity interest;

iv. A description of the experience, credentials, and licenses in the field of hazardous waste management possessed by the key employees, officers, directors, or partners of the business concern seeking a license;

v. A listing and explanation of any notices, administrative orders or license revocations issued by any state or Federal authority citing a violation of any administrative rule relating to hazardous waste management against the business concern seeking a license or against any key employee, officer, director, or partner of the business concern;

vi. A listing and explanation of any judgement of liability or conviction under State or Federal statute or local ordinance concerning hazardous waste management against the business concern seeking a license or against any key employee, officer, director, or partner of the business concern; and

vii. Any other information the Department may require that relates to the competency or reliability of the applicant.

5. Every hazardous waste approved registration statement issued by the Department shall indicate on its face a renewal/expiration date, which, unless otherwise established by the Department, shall be May 1. The registration period, unless otherwise established by the Department, shall be biennial and run from July 1 to June 30 of each odd numbered year beginning in the year 2003. Registrations shall be renewed annually for the years 2001 and 2002 which registration period shall run from July 1 through June 30. The approved registration statement shall expire on the renewal date unless renewed pursuant to this paragraph. Prior to May 1 in each registration year or such other date as the Department may establish, each registrant shall submit to the Department a registration statement updating the information contained in the previous registration statement. Such information shall be submitted on forms supplied by the Department. Transporters who are also the owner or operator of one or more hazardous waste transfer facilities shall include on the registration statement renewal the addresses of all such facilities and an indication whether each property, where the transfer facility is to be located, is owned or leased by the transporter. For any leased property, a copy of the written lease. In no case shall the submission of an updated registration statement alter the conditions under which the approved registration statement was granted.

6. The failure to submit updated registration statement and all applicable fees (see N.J.A.C. 7:26G-3) on or before May 1 in each registration period or the failure to submit an updated disclosure statement pursuant to N.J.A.C. 7:26-16 and all applicable fees on or before March 1 of each calendar year or the failure to comply with a final order of the Department shall be sufficient cause for the Department to revoke the approved registration or to declare it expired. Any registrant who receives a notice of intent to revoke or to declare an approved registration expired, shall have 15 days from receipt of the notice to submit to the Department a request for a hearing pursuant to N.J.A.C. 7:26G-2.3. The Department shall withhold the registration certificate and decal(s) of any registrant who fails to submit the updated registration statement, on or before May 1 of the registration period or the updated disclosure statement and applicable fees (see N.J.A.C. 7:26-4 and 16) on or before March 1 of the calendar year.

7. Except for information regarding the operation of hazardous waste transfer facilities, a registrant shall notify the Department in writing within 30 days of change of information supplied on the current registration statement, or on any leases submitted for registered hazardous waste vehicles, or on any documentation of leased operators of equipment submitted pursuant to (a)13 below. Written notifications regarding transfer facilities shall occur prior to operations and include the following information: the address of each such facilities and an indication whether each property, where the transfer facility is to be located, is owned or leased by the transporter. For any leased property, a copy of the written lease shall be submitted.

8. No person shall be issued a hazardous waste approved registration statement nor shall any hazardous waste approved registration statement be renewed, if the applicant has failed to provide the accurate and complete information required on the application for issuance or the updating hazardous waste transporter registration statement for renewal.

9. No person shall be issued a hazardous waste approved registration statement if that person is disqualified for any of the reasons set forth in N.J.A.C. 7:26-16.8.

10. The Department, after notice and opportunity for hearing pursuant to 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, may revoke the approved registration statement of a hazardous waste transporter for the causes listed in this paragraph which are in addition to, and not a limitation of, any disqualifying reasons set forth in N.J.A.C. 7:26-16.8 and 16.9:

i. Failure to maintain the financial responsibility requirements as required above;

(2) All expired decals and registration numbers shall be confiscated by the Department upon discovery.

(3) Use of decaled vehicles by a lessor receiving decals for its vehicles pursuant to a lease, for the transportation of hazardous waste within, or into or out of New Jersey other than pursuant to a lease with a permittee, licensee, or exempt transporter, and in conformity with (a)12 and 13 above, shall constitute unlicensed hauling, and shall subject the lessor to penalties and debarment from involvement in the solid and hazardous waste and recycling industry in the State of New Jersey, including a prohibition on leasing solid and hazardous waste vehicles or solid and hazardous waste operators to permittees, licensees, and exempt transporters.

iii. The current vehicle registration card for a cab issued by the Department shall be carried in the cab of the vehicle at all times. If the cab and the transport unit are detachable, the registration card for the transport unit shall be immediately accessible for inspection upon request.

7. Permittees, licensees and exempt transporters shall, for purposes of hazardous waste activities and to the extent provided for under New Jersey law, be responsible for the actions and omissions of their lessors and their vehicle operators, and for selecting lessors and vehicle operators with appropriate qualifications; and the fact that the underlying relationship between a permittee, licensee or exempt transporter, and a lessor and/or vehicle operator was other than that of employer-employee shall be no defense in a licensing or enforcement action taken against the permittee, licensee, or exempt transporter because of the actions, omissions, or lack of qualifications of the lessor or vehicle operator.

Amended by R.2000 d.75, effective February 22, 2000.

See: 31 N.J.R. 1429(a), 32 N.J.R. 693(a).

Rewrote the section.

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

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

In (b), added 6iii.

Amended by R.2002 d.140, effective May 6, 2002.

See: 33 N.J.R. 3794(a), 34 N.J.R. 1669(b).

Rewrote section.

7:26G-7.3 Other requirements

(a) All hazardous waste transporters shall comply with the following United States Department of Transportation (USDOT) regulations, with all the modifications that the New Jersey Department of Transportation has made in incorporating them into N.J.A.C. 16:49-2.1, and that the New Jersey State Police has made in incorporating them into N.J.A.C. 13:60-1.1:

1. The Hazardous Materials Regulations at 49 C.F.R. Parts 130 and 171 through 180, as amended and supplemented; and

2. The Motor Carrier Safety Regulations at 49 C.F.R. Parts 390 through 397, as amended and supplemented.

(b) The Department shall exercise fully its authority to enter and inspect vehicles transporting or registered to transport hazardous waste, while in operation on the highways of this State or areas incidental thereto, or at the premise or places of business of the owner or lessor of such vehicles.

(c) If the hazardous waste is rejected by the designated facility or if the transporter is unable to deliver the shipment of hazardous waste to the designated facility and no alternate facility is noted on the manifest, the transporter shall comply with all applicable transporter requirements at N.J.A.C. 7:26G-6.3(a).

Amended by R.2006 d.202, effective June 5, 2006.

See: 37 N.J.R. 1285(a), 38 N.J.R. 2426(a).

In (a)1, inserted "130 and".

7:26G-7.4 Requirements for hazardous waste transfer facilities

(a) A hazardous waste transfer facility shall be operated by a licensed hazardous waste transporter, who owns or leases the property upon which the transfer facility is located. If the property is leased, the lease shall be a written agreement between the property owner and the licensed hazardous waste transporter which discloses the hazardous nature of the operation.

(b) Except during emergencies in transportation, hazardous waste storage, consolidation, or commingling may be conducted only at a hazardous waste transfer facility as described in (a) above or an authorized hazardous waste facility, which is designated on the manifest. Storage, consolidation, or commingling of hazardous waste in transit shall not occur except as authorized under this section, and within the time limits established in this section.

(c) The owner or operator of the hazardous waste transfer facility shall notify the Department in writing prior to conducting activities at the transfer facility. The owner or operator of hazardous waste transfer facility shall submit, as part of the initial transporter license application, the hazardous waste transporter license renewal at N.J.A.C. 7:26G-7.2(a)5, or written notification to update transporter license information at N.J.A.C. 7:26G-7.2(a)7, the address of the hazardous waste transfer facility and an indication whether the property where the transfer facility is located is owned or leased by the transporter. If the hazardous waste transfer facility is to be operated pursuant to a lease in accordance with (a) above, a copy of the lease shall be submitted as part of the hazardous waste transporter license application, license renewal, or written notification to update license information.

(d) The owner or operator of the hazardous waste transfer facility shall maintain at the transfer facility a written

operating log (or logs, as necessary) documenting the movement of hazardous waste into and out of the hazardous waste facility and any hazardous waste transfers occurring at the facility and documenting compliance with the conditions set forth at (g) and (h) below. Written or otherwise transcribed operating log(s) shall be kept available at the facility site for at least three years. At a minimum, the log(s) shall include the following information:

1. The date each hazardous waste arrives at the transfer facility;
2. The decal number of the waste bearing portion of the vehicle;
3. A description (including the USDOT shipping description) and the quantity of each hazardous waste received on a vehicle when it arrives at the transfer facility;
4. The state manifest document number or manifest document number or associated with each hazardous waste load;
5. Location of each hazardous waste within the facility;
6. A notation of any consolidation or commingling performed;
7. The date each hazardous waste departs from the transfer facility;
8. A description (including the USDOT description) and quantity of hazardous waste on the vehicle when it departs from the transfer facility; and
9. Cross references to specific manifest document numbers involved in the consolidation or commingling of hazardous waste loads.

(e) Each transporter utilizing the hazardous waste transfer facility shall enter the necessary information on the log(s) regarding his hazardous waste shipment.

(f) A hazardous waste transporter, who stores or consolidates closed containers of manifested shipments of hazardous waste at a hazardous waste transfer facility for a period of 10 days or less, is not subject to regulations at N.J.A.C. 7:26G-8 through 12 except as noted in this subchapter, provided that the following requirements are met:

1. The transporter consolidating the containers of hazardous waste is a licensed hazardous waste transporter in the State of New Jersey;
2. The hazardous waste transfer facility is not located at the interim status or permitted hazardous waste facility indicated as the designated facility on the hazardous waste manifests;
3. The hazardous waste is held in closed containers which meet the applicable U.S. Department of Transportation packaging regulations specified in 49 C.F.R. Parts 171 through 180, as amended;

4. The hazardous waste containers are in good condition (that is, no severe rusting, apparent defects or deterioration) and are not leaking;

5. The storage or consolidation of the containers of hazardous waste complies with the hazardous materials segregation criteria at 49 C.F.R. 177.848 or 174.81, and with the guidance on incompatible hazardous waste mixtures in Appendix V of 40 C.F.R. Part 265;

6. The containers of hazardous waste remain closed, and no waste or other materials shall be removed from or added to the containers except to commingle hazardous wastes with identical USDOT shipping descriptions in accordance with (g) below or as necessary to respond to an emergency situation; and

7. The newly consolidated waste load shall be removed from the transfer facility at or prior to reaching the 10 day limit by the component of the waste load which has been at the transfer facility the longest.

(g) A hazardous waste transporter who commingles hazardous waste with identical USDOT shipping descriptions (provided the commingling does not constitute treatment) at a transfer facility for a period of 10 days or less is not subject to regulations at N.J.A.C. 7:26G-8 through 12 except as noted in this subchapter, provided the following requirements are met:

1. The transporter commingling the waste is a licensed hazardous waste transporter in the State of New Jersey;
2. The hazardous waste transfer facility is not located at the interim status or permitted hazardous waste facility indicated as the designated facility on the manifests;
3. The hazardous waste is commingled between containers which meet the applicable US Department of Transportation packaging regulations specified in 49 C.F.R. 107, 171 through 180, as amended;
4. The hazardous wastes that are commingled are designated on the generators' hazardous waste manifests for receipt by the same designated hazardous waste facility;
5. The hazardous waste transporter amends the generators' manifests to reflect the commingling of hazardous wastes by the transporter, and to describe accurately the containers and quantities of hazardous wastes shipped after the commingling; and
6. The newly commingled waste load shall be removed from the transfer facility at or prior to reaching the 10 day limit by the component waste which has been at the transfer facility the longest.

(h) A hazardous waste transporter, who consolidates by transferring hazardous waste from one container to one or more empty containers (meeting the conditions at 40 C.F.R. 261.7 as incorporated by reference at N.J.A.C. 7:26G-5) at a hazardous waste transfer facility for a period of 10 days or less, is not subject to N.J.A.C. 7:26G-8 through 12 except as noted in this subchapter, provided the following requirements are met:

1. The transporter consolidating the hazardous waste is a licensed hazardous waste transporter in the State of New Jersey;

2. The hazardous waste transfer facility is not located at the interim status or permitted hazardous waste facility indicated as the designated facility on the hazardous waste manifests;

3. The transfer involves liquid hazardous waste only;

4. The contents of only one container shall be transferred at a time;

5. Prior to and after consolidation, the hazardous waste is stored in closed containers, which meet the applicable U.S. Department of Transportation packaging regulations specified in 49 C.F.R. Parts 171 through 180, as amended;

6. The storage of the consolidated hazardous waste complies with the hazardous materials segregation criteria at 49 C.F.R. 177.848 or 174.81, and with the guidance on incompatible hazardous waste mixtures in Appendix V of 40 C.F.R. Part 265;

7. The cumulative capacity of the empty containers (meeting the conditions at 40 C.F.R. 261.7 as incorporated by reference at N.J.A.C. 7:26G-5) intended to receive the waste shall be sufficient to containerize the total amount of hazardous waste involved in the transfer; and

8. The newly consolidated waste load shall be removed from the transfer facility at or prior to reaching the 10 day limit as determined by the component of the waste load which has been at the transfer facility the longest.

(i) The commingling of hazardous wastes of different USDOT shipping descriptions is prohibited.

(j) If a shipment of hazardous waste is rejected by a designated facility after a transporter has commingled hazardous wastes, the transporter must comply with requirements set forth at N.J.A.C. 7:26G-6.3(b) and (c) and any additional requirements set forth at N.J.A.C. 7:26G-7.1(c)1.

(k) Repeated and/or multiple violations at a transfer facility may result in termination of eligibility for these transfer activities and require the cessation of such activities. Notwithstanding a hazardous waste transporter's compliance with all requirements of the hazardous waste transfer facility regulations at (c), (d), (e), (f), (g), (h), (i) and (j) above, the Department may terminate eligibility for these transfer activities and require the cessation of such activities any time the Department determines that a particular hazardous waste transporter or hazardous waste transfer facility poses a threat to the environment or that a transporter cannot be relied upon to operate the transfer facility safely and in conformance with all applicable rules and regulations. Owners or operators of such hazardous waste facilities for which the Department has terminated eligibility for one or more

activities or who have had to cease all operations, shall have the right to a hearing pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq.

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

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

Rewrote the section.

Amended by R.2002 d.140, effective May 6, 2002.

See: 33 N.J.R. 3794(a), 34 N.J.R. 1669(b).

In (c), deleted "annual" in second sentence, preceding "hazardous waste transporter license renewal"; in (d), inserted "Written or otherwise transcribed operating log(s) shall be kept available at the facility site for at least three years.

SUBCHAPTER 8. STANDARDS FOR OWNERS AND OPERATORS OF HAZARDOUS WASTE TREATMENT, STORAGE AND DISPOSAL FACILITIES

7:26G-8.1 Incorporation by reference

(a) This subchapter incorporates by reference up to May 6, 2002 and prospectively incorporates by reference 40 C.F.R. Part 264, Federal regulations on the standards applicable to owners and operators of hazardous waste treatment, storage and disposal facilities, and its appendices, as amended and supplemented, except as provided in (b), (c) and (d) below.

(b) The following provisions of 40 C.F.R. Part 264 are not incorporated by reference:

1. 40 C.F.R. 264.149 Use of State-required mechanisms;
2. 40 C.F.R. 264.150 State assumption of responsibility;
3. 40 C.F.R. 264.301(l) Design and operating requirements, Alabama landfills;
4. 40 C.F.R. 264 Appendix VI Political Jurisdictions in which compliance with § 264.18(a) must be demonstrated;
5. 40 C.F.R. 264.1030(d);
6. 40 C.F.R. 264.1050(g); and
7. 40 C.F.R. 264.1080(e).

(c) The following provisions of 40 C.F.R. Part 264 are incorporated by reference with the specified changes:

1. The term "New Jersey" shall be substituted for "State(s)," "authorized state," "approved state", and the term "New Jersey's hazardous waste program" for "approved program" in those provisions of 40 C.F.R. Part 264 which are incorporated by reference, except at 40 C.F.R. 264.147(a)(1)(ii), 264.147(b)(1)(ii), 264.147(g)(2) and 264.147(i)(4);

2. 40 C.F.R. 264.1(g)(9), replace "transfer facility" with "hazardous waste transfer facility in accordance with N.J.A.C. 7:26G-7.4";

3. 40 C.F.R. 264.52(b), after "or part 1510 of chapter V," add "or a Discharge Prevention, Containment and Countermeasure (DPCC) Plan in accordance with N.J.A.C. 7:1E";

4. 40 C.F.R. 264.56(d)(2), after "He must immediately notify" add "the NJDEP Hotline at 1-877 WARNDP and";

5. 40 C.F.R. 264.71(a)(3), after "one copy of the signed manifest" add ", and forward the pertinent copy of the manifest form to the Department and to the generator's State agency by the next business day";

6. 40 C.F.R. 264.71(b)(3), after "one copy of the manifest or shipping paper (if the manifest has not been received)" add ", and forward the pertinent copy of the manifest form to the Department and to the generator's State agency by the next business day";

7. (Reserved)

8. 40 C.F.R. 264.113(e)(7)(v), delete "not subject to administrative appeal" and replace with "subject to appeal in accordance with the provisions of Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq.";

9. 40 C.F.R. 264.119(a), substitute "October 9, 1981" for "January 12, 1981";

10. Changes to 40 C.F.R. 264.151:

i. 40 C.F.R. 264.151(l), after "Section 3004 of the Resource Conservation and Recovery Act of 1976, as amended" add "or any comparable provisions of N.J.S.A. 13:1E-1 et seq. and implementing regulations", in the form agreements contained in these subparagraphs;

ii. 40 C.F.R. 264.151(a), 264.151(m)(1) and 264.151(n)(1), substitute "a Department of the State of New Jersey" for "an Agency of the United States Government";

iii. 40 C.F.R. § 264.151(l), in paragraph (3) of the form agreement, under the heading "Governing Provisions" delete "governing State agency (if applicable) [insert citation]" and insert instead, "State of New Jersey, particularly N.J.A.C. 7:26G-8";

iv. Whenever 40 C.F.R. 264.151 requires that owners and operators notify several Regional Administrators of their financial obligations, the owner or operator shall notify both the Department and all Regional Administrators of the United States Environmental Protection Agency of Regions which are affected by the owner or operator's financial assurance mechanisms;

v. 40 C.F.R. 264.151(a) through (n), all changes and substitutions specified in (c)10i through iv above and in N.J.A.C. 7:26G-4.2 shall also be made to the wording of each financial instrument prepared in accordance with 40 C.F.R. 264.151.

11. 40 C.F.R. 264.191(a), substitute "by April 19, 1997" for "by January 12, 1988" unless the regulated tank or tanks are underground tanks that cannot be entered for inspection;

12. 40 C.F.R. 264.191(c), substitute "October 21, 1996" for "July 14, 1986" unless the regulated tank or tanks are underground tanks that cannot be entered for inspection;

13. 40 C.F.R. 264.193, substitute "April 19, 1997" for "January 12, 1987" unless the regulated tank or tanks are underground tanks that cannot be entered for inspection;

14. 40 C.F.R. 264.276(b)(1)(ii), in the second line of the table, substitute "0.5" for "1.25";

15. 40 C.F.R. 264.570(a), substitute "October 21, 1996" for "December 6, 1990" unless the regulated drip pads accept F032 waste; and

(d) (Reserved)

(e) The requirements of this subchapter do not apply to universal waste handlers and universal waste transporters (as defined in N.J.A.C. 7:26G-4.2) handling universal waste, as listed in N.J.A.C. 7:26G-4.2. These handlers are subject to regulation under N.J.A.C. 7:26A-7.

(f) When used in the following Federal citations, the term "Administrator" or "Regional Administrator" means the Administrator or Regional Administrator of the United States Environmental Protection Agency or his or her designee: 40 C.F.R. 264.1(j)(1) and 264.12(a).

(g) When used in the following Federal citations, the term "EPA" means the United States Environmental Protection Agency: 40 C.F.R. 264.11, 264.554, and 264.1080, Comment at the end of 40 C.F.R. 264.18(b)(1)(ii)(D), Comment and forms at the end of 40 C.F.R. 264.18(b)(2)(iii), 264.151(f) and 264.151(g) and note to 40 C.F.R. 264.573(a)(5).

(h) When used in the following Federal citations, the term "RCRA" or Resource Conservation and Recovery Act" shall retain its meaning and not be replaced by a state analog: 40 C.F.R. 264.251(f), and 264.301(f)(1).

(i) When used in the following Federal citations, the term "Environmental Protection Agency" shall not be substituted by a State term, but shall retain its meaning: 40 C.F.R. 264.12(a)(2) and 264.71(d).

Amended by R.1996 d.577, effective December 16, 1996.
See: 28 N.J.R. 2240(a), 28 N.J.R. 5360(a).
Inserted (e).

Amended by R.1999 d.19, effective January 19, 1999.

See: 30 N.J.R. 3128(a), 31 N.J.R. 166(a).

Rewrote (a); in (b), added 5 through 7; and added (i).

Amended by R.2002 d.140, effective May 6, 2002.

See: 33 N.J.R. 3794(a), 34 N.J.R. 1669(b).

Rewrote section.

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).

Rewrote (e).

SUBCHAPTER 9. INTERIM STATUS STANDARDS FOR OWNERS AND OPERATORS OF HAZARDOUS WASTE TREATMENT, STORAGE AND DISPOSAL FACILITIES

7:26G-9.1 Incorporation by reference

(a) This subchapter incorporates by reference up to May 6, 2002 and prospectively incorporates by reference 40 C.F.R. Part 265. Federal regulations on the interim status standards applicable to owners and operators of hazardous waste treatment, storage and disposal facilities, and its appendices, as amended and supplemented, except as provided in (b) and (c) below.

(b) The following provisions of 40 C.F.R. Part 265 are not incorporated by reference: 40 C.F.R. 265.149, 265.150, 265.1030(c), 265.1050(f) and 265.1080(e).

(c) The following provisions of 40 C.F.R. Part 265 are incorporated by reference with the specified changes:

1. 40 C.F.R. 265.1(c)(12), replace "transfer facility" with "hazardous waste transfer facility in accordance with N.J.A.C. 7:26G-7.4";

2. 40 C.F.R. 265.52(b), after "or part 1510 of chapter V," add "or a Discharge Prevention, Containment and Countermeasure (DPCC) Plan in accordance with N.J.A.C. 7:1E";

3. 40 C.F.R. 265.56(d)(2), after "He must immediately notify" add "the NJDEP Hotline at 1-877-WARNDEP and";

4. 40 C.F.R. 265.90(a), 265.90(d)(1) and 265.93(a), substitute "By December 6, 1982" for "Within one year after the effective date of these regulations";

5. 40 C.F.R. 265.90(d)(2), substitute "December 6, 1982" for "one year after the effective date of these regulations";

6. 40 C.F.R. 265.119(a), substitute "January 3, 1984" for "January 12, 1981";

7. 40 C.F.R. 265.191(a), substitute "by April 19, 1997" for "by January 12, 1988" unless the regulated tank or tanks are underground tanks that cannot be entered for inspection;

8. 40 C.F.R. 265.191(c) substitute "[the effective date of these regulations] October 21, 1996" for "July 14, 1986" unless the regulated tank or tanks are underground tanks that cannot be entered for inspection;

9. 40 C.F.R. 265.193, substitute "[180 days after the effective date of these regulations] April 19, 1997" for "January 12, 1987" unless the regulated tank or tanks are underground tanks that cannot be entered for inspection;

10. 40 C.F.R. 265.276(a), substitute "May 21, 1984" for "the effective date of this part";

11. 40 C.F.R. 265.440(a), substitute "October 21, 1996" for "December 6, 1990" and "December 24, 1992" unless the regulated drip pads accept F032 waste; and

12. The term "New Jersey" shall be substituted for "State(s)", "authorized state", "approved state", and the term "New Jersey's hazardous waste program" for "approved program" in those provisions of 40 C.F.R. Part 265 which are incorporated by reference, except at 40 C.F.R. 265.147(a)(1)(ii), 265.147(g)(2) and 265.147(i)(4).

(d) The requirements of this subchapter do not apply to universal waste handlers and universal waste transporters (as defined in N.J.A.C. 7:26G-4.2) handling universal waste, as listed in N.J.A.C. 7:26G-4.2. These handlers are subject to regulation under N.J.A.C. 7:26A-7.

(e) When used in the following Federal citations, the term "Administrator" or "Regional Administrator" means the Administrator or Regional Administrator of the United States Environmental Protection Agency or his or her designee: 40 C.F.R. 265.12(a), 265.149(a) and 265.150(a).

(f) When used in the following Federal citations, the term "EPA" means the United States Environmental Protection Agency: 40 C.F.R. 265.11.

(g) When used in the following Federal citations, the term "RCRA" or "Resource Conservation and Recovery Act" shall retain its meaning and not be replaced by a state analog: 40 C.F.R. 265.301(c)(1).

(h) When used in the following Federal citations, the term "Environmental Protection Agency" shall not be substituted by a State term, but shall retain its meaning: 40 C.F.R. 265.12(a)2 and 265.71(d).

Amended by R.1996 d.577, effective December 16, 1996.

See: 28 N.J.R. 2240(a), 28 N.J.R. 5360(a).

Inserted (d).

Amended by R.1999 d.19, effective January 19, 1999.

See: 30 N.J.R. 3128(a), 31 N.J.R. 166(a).

Rewrote (a); in (b), changed C.F.R. references; and added (h).

Amended by R.2002 d.140, effective May 6, 2002.

See: 33 N.J.R. 3794(a), 34 N.J.R.1669(b).

In (a), substituted "May 6, 2002" for "July 31, 1998"; in (c)3, substituted "1-877-WARNDEP" for "609-292-7172".

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).

Rewrote (d).

**SUBCHAPTER 10. STANDARDS FOR THE
MANAGEMENT OF SPECIFIC HAZARDOUS
WASTES AND SPECIFIC TYPES OF
HAZARDOUS WASTE MANAGEMENT
FACILITIES**

7:26G-10.1 Incorporation by reference

(a) This subchapter incorporates by reference up to May 6, 2002 and prospectively incorporates by reference 40 C.F.R. Part 266 (including all appendices), Federal regulations on the management of specific hazardous waste, as amended and supplemented, except as provided in (b) and (c) below.

(b) (Reserved)

(c) The following provisions of 40 C.F.R. Part 266 are incorporated by reference with the specified changes:

1. 40 C.F.R. 266.103(a)(1)(ii), delete the first sentence and replace with "*Existing or in existence* means a boiler or industrial furnace, excluding sludge dryers, carbon regeneration units, infrared incinerators, and plasma arc incinerators, that on or before August 21, 1991 is either in operation burning or processing hazardous waste or for which construction (including the ancillary facilities to burn or to process the hazardous waste) has commenced. For sludge dryers, carbon regeneration units, infrared incinerators, and plasma arc incinerators, *existing or in existence* means that on or before October 21, 1996 such units are either in operation burning or processing hazardous waste, or for which construction (including the ancillary facilities to burn or to process the hazardous waste) has commenced.";

2. 40 C.F.R. 266.103(a)(6)(iii), after "August 21, 1991" add "for all boiler or industrial furnaces except sludge dryers, carbon regeneration units, infrared incinerators, and plasma arc incinerators and prior to October 21, 1996 for sludge dryers, carbon regeneration units, infrared incinerators, and plasma arc incinerators";

3. 40 C.F.R. 266.103(b)(1), after "August 21, 1991" add "for all boiler or industrial furnaces, except sludge dryers, carbon regeneration units, infrared incinerators, and plasma arc incinerators and on or before October 21, 1996 for sludge dryers, carbon regeneration units, infrared incinerators, and plasma arc incinerators";

4. 40 C.F.R. 266.103(b)(6), after "August 21, 1991" add "for all boiler or industrial furnaces, except sludge dryers, carbon regeneration units, infrared incinerators, and plasma arc incinerators and on or before October 21, 1996 for sludge dryers, carbon regeneration units, infrared incinerators, and plasma arc incinerators";

5. 40 C.F.R. 266.103(c), after "August 21, 1992" add "for all boilers or industrial furnaces, except sludge dryers, carbon regeneration units, infrared incinerators, and plasma arc incinerators and on or before October 21, 1997 for sludge dryers, carbon regeneration units, infrared incinerators, and plasma arc incinerators";

6. 40 C.F.R. 266.103(c)(7)(i), after "August 21, 1992" add "for all boilers or industrial furnaces, except sludge dryers, carbon regeneration units, infrared incinerators, and plasma arc incinerators and on or before October 21, 1997 for sludge dryers, carbon regeneration units, infrared incinerators, and plasma arc incinerators";

7. 40 C.F.R. 266.103(c)(7)(i)(B), after "August 21, 1992" add "for all boilers or industrial furnaces, except sludge dryers, carbon regeneration units, infrared incinerators, and plasma arc incinerators and on or before October 21, 1998 for sludge dryers, carbon regeneration units, infrared incinerators, and plasma arc incinerators"; after "August 23, 1993" add "for all boilers or industrial furnaces, except sludge dryers, carbon regeneration units, infrared incinerators, and plasma arc incinerators and on or before October 21, 1998 for sludge dryers, carbon regeneration units, infrared incinerators, and plasma arc incinerators";

8. 40 C.F.R. 266.111(e)(1)(ii), after "August 21, 1991" add "for all boilers or industrial furnaces, except sludge dryers, carbon regeneration units, infrared incinerators, and plasma arc incinerators and on or before October 21, 1998 for sludge dryers, carbon regeneration units, infrared incinerators, and plasma arc incinerators"; and

9. 40 C.F.R. 266.111(e)(2), after "August 21, 1992" add "for all boilers or industrial furnaces, except sludge dryers, carbon regeneration units, infrared incinerators, and plasma arc incinerators and on or before October 21, 1997 for sludge dryers, carbon regeneration units, infrared incinerators, and plasma arc incinerators".

(d) As of October 21, 1996, any boiler or industrial furnace, excluding sludge dryers, carbon regeneration units, infrared incinerators, and plasma arc incinerators, which failed to comply with EPA's certification of compliance schedule as provided by 40 C.F.R. 266.103(b), (c) and (d), is also deemed not to be in compliance under State law and shall comply with the requirements of 40 C.F.R. 266.103(e), as adopted by reference at (a) above.

Amended by R.1999 d.19, effective January 19, 1999.

See: 30 N.J.R. 3128(a), 31 N.J.R. 166(a).

Rewrote (a).

Amended by R.2002 d.140, effective May 6, 2002.

See: 33 N.J.R. 3794(a), 34 N.J.R. 1669(b).

In (a), substituted "May 6, 2002" for "July 31, 1998".

**SUBCHAPTER 11. LAND DISPOSAL
RESTRICTIONS**

7:26G-11.1 Incorporation by reference

(a) This subchapter incorporates by reference up to May 6, 2002 and prospectively incorporates by reference 40 C.F.R. Part 268, Federal regulations on Land Disposal Restrictions, and the Appendices to 40 C.F.R. Part 268, as amended and supplemented, except as provided in (b) and (c) below.

(b) The following provisions of the Land Disposal Restrictions are not incorporated by reference:

1. The following sections of 40 C.F.R. Part 268 because these sections contain the schedule by which EPA must evaluate wastes for disposal restrictions:

- i. 40 C.F.R. 268.10, Identification of Wastes to be Evaluated by August 8, 1988;
- ii. 40 C.F.R. 268.11, Identification of Wastes to be Evaluated by June 8, 1989;
- iii. 40 C.F.R. 268.12, Identification of Wastes to be Evaluated by May 8, 1990; and
- iv. 40 C.F.R. 268.13, Schedule for Wastes Identified or Listed After November 8, 1990; and

2. The following sections of 40 C.F.R. Part 268 because they have not been delegated by USEPA to the State:

- i. 40 C.F.R. 268.5, Procedures for case-by-case extension of an effective date;
- ii. 40 C.F.R. 268.6, Petitions to allow land disposal of a waste prohibited under Subpart C of Part 268;
- iii. 40 C.F.R. 268.42 (b), Treatment standards expressed as specified technologies (alternative treatment method; and
- iv. 40 C.F.R. 268.44, Variance from a treatment standard, paragraphs (a) through (g), national variances, and (n) through (p), constituent concentrations.

(c) (Reserved)

(d) Universal waste handlers and universal waste transporters (as defined in N.J.A.C. 7:26G-4.2) are exempt from 40 C.F.R. 268.7 and 268.50 as incorporated herein by reference. These handlers are subject to regulation under N.J.A.C. 7:26A-7 when handling universal wastes as defined in N.J.A.C. 7:26G-4.2.

(e) The regulated community in New Jersey may apply to EPA Region II for all Land Disposal Restriction extensions, exemptions and variances offered by EPA but not delegated to the States. (Examples are case-by-case extensions to an effective date, at 40 C.F.R. 268.5(a), petitions to allow land disposal of a prohibited waste, at 40 C.F.R. 268.6(a), and alternate treatment at 40 C.F.R. 268.42(b).)

(f) When used in the following Federal citations, the term "Administrator" shall mean the Administrator of the United States Environmental Protection Agency: 40 C.F.R. 268.40(b).

(g) When used at 40 C.F.R. 268.1(e)(3), the term "EPA" shall mean the United States Environmental Protection Agency.

Amended by R.1996 d.577, effective December 16, 1996.

See: 28 N.J.R. 2240(a), 28 N.J.R. 5360(a).

Inserted (d).

Amended by R.1999 d.19, effective January 19, 1999.

See: 30 N.J.R. 3128(a), 31 N.J.R. 166(a).

Rewrote (a); in (b)2, substituted "USEPA" for "EPA" in the introductory paragraph, and added ", paragraphs (a) through (g), national variances, and (n) through (p), constituent concentration" at the end of iv.

Amended by R.2002 d.140, effective May 6, 2002.

See: 33 N.J.R. 3794(a), 34 N.J.R. 1669(b).

In (a), substituted "May 6, 2002" for "July 31, 1998".

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).

Rewrote (d).

Case Note

The Grace Period Law was violated by monetary penalties that were imposed on operator of hazardous waste treatment and storage site due to the lack of visible labels on drums and the lack of labels on roll-off containers for consolidating wastes; the operator immediately remediated the violations and was not involved in any enforcement action within prior twelve months concerning similar violations, and the Department of Environmental Protection (DEP) failed to show that the violations were not minor. *New Jersey Department of Environmental Protection/Hazardous Waste Compliance and Enforcement v. Marisol, Incorporated*, 367 N.J.Super. 614, 845 A.2d 147.

SUBCHAPTER 12. HAZARDOUS WASTE PERMIT PROGRAM

7:26G-12.1 Incorporation by reference

(a) This subchapter incorporates by reference up to May 6, 2002 and prospectively incorporates by reference 40 C.F.R. Part 270, Federal regulations on USEPA administered permit programs: the hazardous waste permit program, as amended and supplemented, except as provided in (b) and (c) below.

(b) The following provisions of 40 C.F.R. Part 270 are not incorporated by reference: 40 C.F.R. 270.1(a) and (b), 270.3, 270.14(b)(18), 270.51 and 270.73(c) through (g).

(c) The following provisions of 40 C.F.R. Part 270 are incorporated by reference with specified changes:

1. 40 C.F.R. 270.2, in the definition of "Corrective Action Management Unit," after "RCRA Section 3008(h);" add "and all applicable provisions of N.J.S.A. 13:1E-9";

2. 40 C.F.R. 270.2, in the definition of "Final Authorization," after section 3006(b) of RCRA," add "and all applicable provisions of N.J.S.A. 13:1E-1 et seq., including 13:1E-9,";

3. 40 C.F.R. 270.2, in the definition of "Interim Authorization," after section 3006(c) of RCRA," add "and all applicable provisions of N.J.S.A. 13:1E-1 et seq., including 13:1E-9, and implementing regulations";

4. Two changes are needed at 40 C.F.R. 270.10:

- i. Applicants must comply not only with the requirements of this section, but also with the disclosure requirements at N.J.S.A. 13:1E-126 et seq., and implementing regulations, as well as the requirement for Environmental and Health Impact Statements at N.J.A.C. 7:26G-12.2,
- ii. 40 C.F.R. 270.10(e)(3), after "Section 3008 of RCRA," add "and all applicable provisions of N.J.S.A. 13:1E-9";
5. 40 C.F.R. 270.12, replace "40 C.F.R. Part 2" with "N.J.A.C. 7:26G-16"; in the sentence beginning "Any such claim", delete the phrase "on the application form or instructions or, in the case of other submissions, by stamping the words "confidential business information" on each page containing such information."
6. 40 C.F.R. 270.149(b)(1), after "A topographic map" add ", prepared in a manner and format consistent with N.J.A.C. 7:1D, Appendix A,";
7. 40 C.F.R. 270.14(b)(20), replace the phrase "his duties under other Federal laws as required in § 270.3 of this part" with "any duties he may have under federal laws cited in 40 C.F.R. 270.3 as well as his duties under New Jersey Statutes, including but not limited to The Wild and Scenic Rivers Act, N.J.S.A. 13:8-45 et seq., The New Jersey Conservation and Historic Preservation Restriction Act, N.J.S.A. 23:2A-1 et seq., The Endangered Plant Species List, N.J.S.A. 13:1B-151 et seq., The Coastal Area Facility Review Act (CAFRA), N.J.S.A. 13:19-1 et seq., The Wetlands Act of 1970, N.J.S.A. 13:19A-et seq., The Freshwater Wetlands Protection Act, N.J.S.A. 13:9B-1 et seq., The Waterfront Development Law, N.J.S.A. 12:5-3 et seq., The Trails System Act N.J.S.A. 13:8-30 et seq., The Pineland Protection Act, N.J.S.A. 58:11-49 et seq., The Water Pollution Control Act and Clean Water Enforcement Act, N.J.S.A. 58:10A-1 et seq., The Flood Hazard Area Control Act, 58:16A-50 et seq., The Safe Drinking Water Act, N.J.S.A. 58:12A-1 et seq., and The Air Pollution Control Act, N.J.S.A. 26-2C et seq."
8. 40 C.F.R. 270.32(b)(2), after "section 3005 of this act," add "and all applicable provisions of N.J.S.A. 13:1E-1 et seq. and implementing regulations";
9. 40 C.F.R. 270.40, after the last sentence of subsection (b), add "(c) The change of ownership or operational control shall not occur until the Department issues approval to the new owner or operator in accordance with the requirements of N.J.S.A. 13:1E-133.";
10. 40 C.F.R. 270.70(a)(1), after "section 3010(a) of RCRA," add "or any comparable provisions of N.J.S.A. 13:1E-1 et seq., including 13:1E-9, and implementing regulations";
11. 40 C.F.R. 270.70(a)(1), in the Comment at the end of this paragraph, after "section 3010(a) of RCRA," add "and all provisions of N.J.S.A. 13:1E-1 et seq., and implementing regulations";
12. 40 C.F.R. 270.72(a)(5), after "Section 3008(h)," add "and all applicable provisions of N.J.S.A. 13:1E-9 and implementing regulations";
13. 40 C.F.R. 270.72(a)(4), after the last sentence of paragraph (4), add "The change of ownership or operational control shall not occur until the Department issues approval to the new owner or operator in accordance with the requirements of N.J.S.A. 13:1E-133.";
14. 40 C.F.R. 270.72(b)(2), after "section 3004(o)," add "and all applicable provisions of N.J.S.A. 13:1E-1 et seq., including 13:1E-9,";
15. 40 C.F.R. 270.72(b)(5), after "RCRA section 3008" add "and all applicable provisions of N.J.S.A. 13:1E-1 et seq., and implementing regulations";
16. 40 C.F.R. 270.72(b)(6), after "RCRA section 3004," add "and all applicable provisions of N.J.S.A. 13:1E-1 et seq., including 13:1E-9, and implementing regulations";
17. 40 C.F.R. 270.73, replace subsection (c) through (g) with the following: "Interim status can be terminated by the Department for failure to comply with interim status facility standards or violation of applicable statutes, regulations or orders, or if the activity of the facility endangers human health and the environment and cannot be regulated to acceptable levels."; and
18. The term "New Jersey" shall be substituted for "State(s)," "authorized state," "approved state," and the term "New Jersey's hazardous waste program" for "approved program" in those provisions of 40 C.F.R. Part 270 which are incorporated by reference, except at 40 C.F.R. 270.2.
- (d) Universal waste handlers and universal waste transporters (as defined in N.J.A.C. 7:26G-4.2) managing universal wastes as defined in N.J.A.C. 7:26G-4.2 are not required to obtain a RCRA permit. These handlers are subject to regulation under N.J.A.C. 7:26A-7.
- (e) Notwithstanding N.J.A.C. 7:26G-4.2, in the following definitions found at 40 C.F.R. 270.2 there shall not be a blanket substitution for terms such as Administrator, EPA, RCRA, Interim Authorization, or any other generally substituted term. These definitions are incorporated without change: Administrator, Approved program or approved state, Director, Environmental Protection Agency, EPA, Final Authorization, Permit, Major facility, Person, Regional Administrator, and State/EPA agreement.

(f) When used in the following Federal citations, the term "Administrator" or "Regional Administrator" means the Administrator or Regional Administrator of the United States Environmental Protection Agency or his designee: 40 C.F.R. 270.5, 270.10(e)(2), 270.10(f)(2) and (3) and (g)1i and iii, 270.32(a) and (b)(2) and 270.11(a)(3).

(g) When used in the following Federal citations, the term "EPA" means the United States Environmental Protection Agency: 40 C.F.R. 270.5, 270.10(e)(2), 270.32(c), 270.51, 270.72(a)(5), 270.72(b)(5), 270.79, and 270.225 and note to 40 C.F.R. 270.10.

Amended by R.1996 d.577, effective December 16, 1996.
See: 28 N.J.R. 2240(a), 28 N.J.R. 5360(a).

Inserted (d).

Amended by R.1999 d.19, effective January 19, 1999.
See: 30 N.J.R. 3128(a), 31 N.J.R. 166(a).

Rewrote (a).

Amended by R.2002 d.140, effective May 6, 2002.
See: 33 N.J.R. 3794(a), 34 N.J.R. 1669(b).

In (a), substituted "May 6, 2002" for "July 31, 1998"; In (c), added a new 6 and recodified former 6 through 17 as 7 through 18; in (g), inserted "270.79, and 270.225 and note to 40 C.F.R. 270.10".

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).

Rewrote (d).

Case Note

The Grace Period Law was violated by monetary penalties that were imposed on operator of hazardous waste treatment and storage site due to the lack of visible labels on drums and the lack of labels on roll-off containers for consolidating wastes; the operator immediately remediated the violations and was not involved in any enforcement action within prior twelve months concerning similar violations, and the Department of Environmental Protection (DEP) failed to show that the violations were not minor. *New Jersey Department of Environmental Protection/Hazardous Waste Compliance and Enforcement v. Marisol, Incorporated*, 367 N.J.Super. 614, 845 A.2d 147.

7:26G-12.2 Environmental and Health Impact Statement

(a) Certain applicants shall be required to submit an Environmental and Health Impact Statement (EHIS) in addition to Parts A and B of the permit application in accordance with the provisions set out in this section.

(b) Applicants for the following shall submit an EHIS in all cases:

1. An initial permit issued pursuant to this subchapter for a new commercial hazardous waste facility; and
2. Authorization to construct and operate a hazardous waste incinerator or hazardous waste land disposal unit at a hazardous waste facility where no such hazardous waste management unit is presently authorized.

(c) Applicants for the following may be required in accordance with (d) and (e) below to submit an EHIS:

1. An initial permit issued pursuant to this subchapter for a new non-commercial hazardous waste facility;

2. An initial permit issued pursuant to this subchapter to an existing hazardous waste facility; or

3. A modification or revocation and reissuance or renewal of a permit pursuant to this subchapter.

(d) Whether or not an EHIS is required with the submission of an application for the permit or changes listed in (c) above shall be determined by the Department on a case by case basis, whenever a change to authorized hazardous waste management practices may change or increase the danger to human health and the environment. Such cases are as follows:

1. Addition of waste types;
2. Increase in capacity of a hazardous waste management unit;
3. Alteration of operating conditions of a hazardous waste management unit; or
4. Addition of hazardous waste management units, including replacement of existing hazardous waste management units.

(e) The Department shall apply the following criteria to the proposed changes (to facility operation to) determine whether the changes will increase or change the nature of the risk to human health and the environment. If the Department finds that this is so, an Environmental and Health Impact Statement shall be required.

1. Dissimilarity between proposed waste types and present waste types;
2. Magnitude of facility-wide volume and capacity increases;
3. Magnitude of facility-wide waste throughput increases;
4. Relative risks posed by the proposed changes;
5. Location of the existing facility and nearby land use;
6. Nature of the existing facility;
7. Scale of new construction proposed;
8. Potential for increased transportation impacts;
9. Nature and scale of additional construction and structure usages at other than hazardous waste management units;
10. Environmental sensitivity of the land involved;
11. Existing site conditions;
12. Magnitude of facility-wide emissions increases;
13. Any circumstances peculiar to the facility.

(f) Applicants shall not be required to submit an EHIS in the following cases:

1. The applicant is seeking an initial permit issued pursuant to this subchapter for an existing hazardous waste facility, if no changes in authorized hazardous waste management practices are proposed;

2. The applicant is seeking permit revocation and reissuance or permit renewal for a permitted hazardous waste facility, if no changes in authorized hazardous waste management practices are proposed; or

3. The facility is an on-site pre-treatment facility which is directly connected to an industrial process and which is constructed pursuant to 40 C.F.R. 403 or N.J.S.A. 58:11-49 et seq.

(g) The Environmental and Health Impact Statement shall include:

1. An Executive Summary which shall briefly describe the proposed facility, any significant associated positive and negative impacts and any mitigative measures which will be utilized to minimize or eliminate such negative impacts, issues of major concern, matters to be decided and major conclusions;

2. A Description of the Proposed Facility, including:

i. The proposed facility owner and operator;

ii. An explanation of the purpose of the proposed facility, which shall include a description of the products or services being provided and a list of benefits to be realized by the owner, the community in which the facility is to be located, and the surrounding communities;

iii. An identification of the waste streams which the proposed facility will accept;

iv. A time schedule for the development and start-up of the proposed facility including anticipated completion dates for major phases of construction; and

v. A narrative statement of the types of the existing and proposed hazardous waste management systems at the site. A discussion of the following shall also be included:

(1) The types, capacities and number of units of the processing equipment to be utilized and their relationship to the overall operation; and

(2) The daily handling capacity of the overall facility and the anticipated operating time in hours per day and days per week;

vi. A narrative description of the proposed site location including history of site use;

vii. A site plan including a scale drawing showing location of all past, present, and future hazardous waste management areas;

v. For each of the contaminants listed in iv above, a toxicity profile shall be developed. This profile shall include data on the physical and chemical nature of the contaminant, as well as a description and discussion of data available regarding the environmental fate, acute effects (LD₅₀, irritation), chronic effects (mutagenicity, teratogenicity, carcinogenicity) and epidemiology of the material. This profile shall include a listing of available toxicological, epidemiological or other acute or chronic health effects studies used or otherwise available on the material in question;

vi. A quantification of the potential health impacts, where possible. If such quantification is not included, and explanation of the reason for such omission shall be provided; and

vii. A detailed description of the mitigation techniques proposed to address any potential health impacts associated with the proposed facility.

7. A summary discussion of any potential adverse impacts identified in the environmental and health assessment in (g)5 and 6 above that cannot be avoided should the proposed facility be implemented. For those impacts which cannot be avoided, their implications and the reasons why the proposed facility should be permitted shall be described. Where mitigation measures are proposed to reduce these potentially adverse impacts, the projected effectiveness and costs of the mitigative measures shall be discussed;

8. A discussion of the relationship between local, short term uses of the environment and the effect of the proposed facility on available options for subsequent future uses. Short term refers to the construction phase of the proposed facility. A description of the following shall be included:

i. Those cumulative and long-term effects of the proposed facility which either negatively impact or enhance the environment for the future;

ii. The extent to which the proposed facility prohibits future options;

iii. Plans which provide for the protection and maintenance of the environment during construction of the proposed facility, which shall include, but not be limited to, the following:

(1) Procedures to be used during construction if archeological resources are uncovered;

(2) Erosion and sediment control plans; and

(3) Controls for dust, odors, noise, traffic, and soil tracking; and

iv. Plans which provide for the protection and maintenance of the environment after termination of the facility operation;

9. A discussion of unusual conditions, including:

i. Foreseeable abnormal occurrences at the facility such as fires, spills, explosions, malfunction of control devices, natural disasters and their associated impacts on human health and the environment; and

ii. Maximum credible accidents including spills and their associated impacts on human health and the environment. For each maximum credible accident provide the probability calculations;

10. A list of all sources, references and basis documents supporting all factual information and conclusions; and

11. A list of all co-authors of the environmental and health impact statement including their name, title, affiliation and qualifications.

(h) The Department may waive the requirement for the applicant to submit data on any aspect of the proposed project's environmental setting and the analysis of the proposed project's impact on the aspect of the environmental setting when, in the opinion of the Department, such aspect of the environmental setting is not relevant to the proposed project.

SUBCHAPTER 13. PROCEDURES FOR DECISIONMAKING

7:26G-13.1 Incorporation by reference

(a) This subchapter incorporates by reference up to May 6, 2002 and prospectively incorporates by reference 40 C.F.R. Part 124, as amended and supplemented, except as provided in (b) and (c) below. 40 C.F.R. Part 124, Subparts A and B are adopted by reference solely for the purpose of establishing procedures regarding hazardous waste management permits.

(b) The following provisions of 40 C.F.R. Part 124 are not incorporated by reference:

1. Any reference relating to "404," "sludge," "UIC," "PSD" or "NPDES" permits;

2. 40 C.F.R. Part 124 Subparts C, D, E, and F;

3. 40 C.F.R. 124.1;

4. 40 C.F.R. 124.2;

5. 40 C.F.R. 124.3(b) through (g);

6. 40 C.F.R. 124.4;

7. 40 C.F.R. 124.5(b) and (e) through (g);

8. 40 C.F.R. 124.6(b), (c), and (d)(4)(ii) through (v);

9. 40 C.F.R. 124.7;

10. 40 C.F.R. 124.8(b)(3) and (8);

11. 40 C.F.R. 124.9;
12. 40 C.F.R. 124.10(a)(1)(i), (iv) and (vi);
13. 40 C.F.R. 124.10(a)(2) and (3);
14. 40 C.F.R. 124.10(d)(1)(vii) and (viii);
15. 40 C.F.R. 124.12(b) through (e);
16. 40 C.F.R. 124.13 through 124.16;
17. 40 C.F.R. 124.17(b); and
18. 40 C.F.R. 124.18 through 124.21.

(c) The following text of 40 C.F.R. Part 124 is incorporated by reference with the specified changes:

1. All references to "EPA" shall mean "EPA";
2. All references to "Director" shall mean the "Commissioner of NJDEP".
3. 40 C.F.R. 124.6(a), after "Once an application is complete, the Director shall" insert ", within six months of that date for non-major hazardous waste facilities and eight months of that date for major hazardous waste facilities,"
4. 40 C.F.R. 124.6(e), delete "All draft permits prepared by EPA under this section shall be accompanied by a statement of basis (§ 124.7) or fact sheet (§ 124.8), and shall be based on the administrative record (§ 124.9), publicly noticed (§ 124.10) and made available for public comment (§ 124.11). The Regional Administrator shall give notice of opportunity for a public hearing (§ 124.12), issue a final decision (§ 124.15) and respond to comments (§ 124.17). For RCRA, UIC or PSD permits, an appeal may be taken under § 124.19 and, for NPDES permits, an appeal may be taken under § 124.74.";
5. 40 C.F.R. 124.8(a), after "A fact sheet shall be prepared for every draft permit for a" delete "major";
6. 40 C.F.R. 124.10(b)(1), delete "Public notice of the preparation of a draft permit (including a notice of intent to deny a permit application) required under paragraph (a) of this section shall allow at least 30 days for public comment.";
7. 40 C.F.R. 124.10(b)(1), delete "For EPA-issued permits, if the Regional Administrator determines under 40 C.F.R. part 6, subpart F that an Environmental Impact Statement (EIS) shall be prepared for an NPDES new source, public notice of the draft permit shall not be given until after a draft EIS is issued.";
8. 40 C.F.R. 124.12(a)(1), after "The Director shall hold a public hearing" insert ", on every draft permit for a new hazardous waste facility, or on any draft permit modification or revocation and reissuance which would result in an increase of greater than 50 percent in the capacity of an existing facility to treat, store, or dispose of hazardous waste, or";

9. 40 C.F.R. 124.31(a), after "The requirements of this section shall apply to all RCRA part B applications seeking initial permits for hazardous waste management units" delete "over which EPA has permit issuance authority";

10. 40 C.F.R. 124.31(a), delete "For the purposes of this section only, 'hazardous waste management units over which EPA has permit issuance authority' refers to hazardous waste management units for which the State where the units are located has not been authorized to issue RCRA permits pursuant to 40 C.F.R. part 271.";

11. 40 C.F.R. 124.32(a), after "The requirements of this section shall apply to all RCRA part B applications seeking initial permits for hazardous waste management units" delete "over which EPA has permit issuance authority";

12. 40 C.F.R. 124.32(a), delete, "For the purposes of this section only, 'hazardous waste management units over which EPA has permit issuance authority' refers to hazardous waste management units for which the State where the units are located has not been authorized to issue RCRA permits pursuant to 40 C.F.R. part 271."; and

13. 40 C.F.R. 124.33(a), after "The requirements of this section apply to all applications seeking RCRA permits for hazardous waste management units" delete "over which USEPA has permit issuance authority. For the purposes of this section only, 'hazardous waste management units over which USEPA has permit issuance authority' refers to hazardous waste management units for which the State where the units are located has not been authorized to issue RCRA permits pursuant to 40 C.F.R. Part 271."

Amended by R.1999 d.19, effective January 19, 1999.

See: 30 N.J.R. 3128(a), 31 N.J.R. 166(a).

Rewrote (a); and in (c), added 9 through 13.

Amended by R.2002 d.140, effective May 6, 2002.

See: 33 N.J.R. 3794(a), 34 N.J.R. 1669(b).

In (a), substituted "May 6, 2002" for "July 31, 1998".

7:26G-13.2 Other requirements

(a) All applications for permits and expansions which are subject to the criteria set forth in the Major Hazardous Waste Facilities Siting Act shall additionally be subject to the supplemental permitting procedures set out therein.

(b) The applicant for a permit shall appear at the public hearing and be available to answer questions regarding the proposed facility or facility expansion. Failure to appear at the public hearing and answer questions may result in denial of the application. In the event that a response cannot be given at the hearing, a written response shall be prepared by the Department or the applicant after the hearing.