

CHAPTER 26G

HAZARDOUS WASTE

Authority

N.J.S.A. 13:1E-1 et seq., 13:1B-3, 13:1D-1 et seq., 13:1E-9, 13:1D-125 et seq., 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.

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 × 1000	= 500
Subparagraph (f)3iv applies: 0.25 × 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 C.F.R. Parts 124, 260-266, 268 and 270. Citations beginning with “7:26G” signify a State requirement not found in 40 C.F.R. 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 N.J.A.C. 7:26G-2.5, which shall be applied in lieu of a “base penalty.”

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, and the civil administrative penalty amounts for each violation, are as set forth in the following table.

<u>Rule</u>	<u>Rule summary</u>	<u>Base penalty or Matrix</u>
(40 C.F.R. Part 261 Subpart A—General)		
§ 261.5(f)	Failure of generator of acute hazardous waste to comply with the requirements of 40 C.F.R. § 261.5(f).	Matrix
§ 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

3. The violations of N.J.A.C. 7:26G-6, Standards Applicable to Generators of Hazardous Waste, and the civil administrative penalty amounts for each violation, are as set forth in the following table.

<u>Rule</u>	<u>Rule summary</u>	<u>Base penalty or Matrix</u>
(40 C.F.R. Part 262 Subpart A—General)		
§ 262.11	Failure of generator of solid waste to determine if waste is hazardous.	\$5,000
§ 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
§ 262.12(c)	Failure of generator to offer hazardous waste to a hazardous waste transporter or TSD facility that has received an EPA identification number.	\$3,000
(40 C.F.R. Part 262 Subpart B—The Manifest)		
§ 262.20(a)	Failure of generator to prepare a manifest before transporting or offering for transport hazardous waste off-site.	\$5,000
§ 262.20(b)	Failure of generator to designate an authorized facility on the manifest.	\$10,000

Rule	Rule summary	Base penalty or Matrix	Rule	Rule summary	Base penalty or Matrix
§ 262.20(d)	Failure of generator to designate alternate facility or accept waste back in the event the transporter cannot deliver the waste.	Matrix		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.	
§ 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.	\$300	§ 262.34(c)(1)(ii)	Failure of generator to mark containers with the words "HAZARDOUS WASTE" or other words which identify the contents of the container.	\$1,000
§ 262.21(b)	Failure to use approved manifest forms for hazardous waste originating in New Jersey and destined for another state.	\$300	§ 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.	\$1,000
§ 262.23(a)(1)	Failure of generator to sign manifest.	\$2,000		Failure of generator of greater than 100 kilograms (kg) but less than 1,000 kg to ship waste off site within 180 days.	\$2,000
§ 262.23(a)(2)	Failure of generator to obtain signature of initial transporter and date of acceptance on the manifest.	\$500	§ 262.34(d)	Failure of generator of greater than 100 kg but less than 1,000 kg of hazardous waste to ensure quantity of waste never exceeds 6,000 kg.	Matrix
§ 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.	\$500	§ 262.34(d)(1)	Failure of generator of greater than 100 kg but less than 1,000 kg of hazardous waste to comply with emergency response requirements.	Matrix
§ 262.23(b)	Failure of generator to supply transporter with remaining copies of manifest.	Matrix		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.	\$2,000
§ 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.	\$1,000	§ 262.34(d)(5)	Failure of generator of greater than 100 kg but less than 1,000 kg of hazardous waste, who exceeds the accumulation quantity or period, to comply with the disposal facility requirements.	\$2,000
§ 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.	\$1,000	§ 262.34(e)		
			§ 262.34(f)		
(40 C.F.R. Part 262 Subpart C—Pre Transport Requirements)					
§ 262.30	Failure of generator to package hazardous waste in accordance with 49 C.F.R. Parts 173, 178, and 179.	\$1,000	(40 C.F.R. Part 262 Subpart D—Recordkeeping and Reporting)		
§ 262.31	Failure of generator to label each package of hazardous waste in accordance with 49 C.F.R. Part 172.	\$1,000	§ 262.40(a)	Failure of generator to keep copy of manifest for three years.	\$500
§ 262.32(a)	Failure of generator to mark packages of hazardous waste in accordance with 49 C.F.R. Part 172.	Matrix	§ 262.40(b)	Failure of generator to keep copy of hazardous waste report or exception report for three years.	\$300
§ 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.	\$1,000	§ 262.40(c)	Failure of generator to keep records of any test results, waste analyses, or other determinations for three years.	\$2,000
§ 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.	\$500	§ 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.	\$1,000
§ 262.34(a)	Failure of generator to ship waste off site within 90 days.	\$2,000	§ 262.41(a)	Failure of generator to submit hazardous waste report of manifest activities by March 1.	\$300
§ 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).	\$1,000	§ 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
§ 262.34(a)(2)	Failure of generator to clearly mark container with date when accumulation period begins or to make mark visible for inspection.	\$1,000	§ 262.42(a)	Failure of generator of greater than 1,000 kg of hazardous waste to comply with exception reporting requirements.	\$1,000
§ 262.34(a)(3)	Failure of generator to clearly mark each container or tank with the words "Hazardous Waste."	\$1,000	§ 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.	\$1,000
§ 262.34(b)	Failure of generator who accumulates waste for greater than 90 days to comply with all disposal facility requirements.	Matrix	(40 C.F.R. Part 262 Subpart E—Exports of Hazardous Waste)		
§ 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		§ 262.50	Failure of generator to comply with requirements of 40 C.F.R. Part 262 et seq. for exports of hazardous wastes.	\$5,000
			§ 262.52	Failure of generator to comply with the receiving country's consent requirements	

Rule	Rule summary	Base penalty or Matrix	Rule	Rule summary	Base penalty or Matrix
	or to obtain the EPA Acknowledgment of Consent prior to exporting hazardous waste.		(40 C.F.R. Part 263 Subpart A—General)		
§ 262.53(a)	Failure of generator to comply with the EPA notification requirements prior to offering hazardous waste for export.	Matrix	§ 263.11	Failure of transporter transporting hazardous wastes to have EPA identification number.	\$5,000
§ 262.54	Failure of generator exporting hazardous waste to comply with the special manifest requirements.	Matrix	(40 C.F.R. Part 263 Subpart B—Compliance with the Manifest System and Recordkeeping)		
§ 262.55	Failure of generator exporting hazardous waste to file an exception report.	\$2,000	§ 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.	\$300
§ 262.56	Failure of generator exporting hazardous waste to comply with the annual reporting requirements.	Matrix	§ 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.	\$1,000
§ 262.57	Failure of generator exporting hazardous waste to comply with the record keeping requirements.	Matrix	§ 263.20(c)	Failure of transporter to ensure that manifest accompanies hazardous waste.	\$5,000
(40 C.F.R. Part 262 Subpart F—Imports of Hazardous Waste)			§ 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.	\$500
§ 262.60	Failure of generator importing hazardous waste to comply with the special manifest requirements and 40 C.F.R. § 262.	Matrix	§ 263.20(d)(3)	Failure of transporter to give remaining copies of manifest to the accepting transporter or designated facility.	\$500
(N.J.A.C. 7:26G-6)			§ 263.20(f)(1)(i)	Failure of rail transporter accepting hazardous waste from non-rail transporter to sign or date manifest.	\$2,000
7:26G-6.1(c)	Failure of generator to properly complete the manifest.	\$300	§ 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.	\$500
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.	\$500	§ 263.20(f)(1)(iii)	Failure of rail transporter accepting hazardous waste from non-rail transporter to forward at least three copies of the manifest to next non-rail transporter, designated facility, or last rail transporter in United States.	\$500
7:26G-6.3(a)	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.	\$1,000	§ 263.20(f)(2)	Failure of rail transporter to ensure appropriate shipping paper accompanies hazardous waste at all times.	\$2,500
7:26G-6.3(a)ii	Failure of generator, transporter, or facility to comply with manifest requirements for shipments of hazardous waste returned to the generator.	Matrix	§ 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.	\$500
7:26G-6.3(a)iii	Failure of generator, transporter, or facility to comply with manifest requirements for shipments of hazardous waste delivered to an alternate hazardous waste facility.	Matrix	§ 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.	\$500
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.	Matrix	§ 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.	\$1,000
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.	Matrix	§ 263.20(g)	Failure of transporter transporting waste out of U.S. to comply with requirements at 40 C.F.R. § 262.20(g)(1)-(4).	\$1,000
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.	Matrix	§ 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
			§ 263.21(b)	Failure of transporter to contact generator for instructions or to revise manifest in case of undeliverable shipment.	\$1,000
			§ 263.22(a)	Failure of transporter to maintain signed copy of manifest for three years.	\$500
			§ 263.22(b)	Failure of water bulk shipment transporter to maintain copy of shipping paper for three years.	\$500

4. The violations of N.J.A.C. 7:26G-7, Standards Applicable to Transporters of Hazardous Waste, and the civil administrative penalty amounts for each violation, are as set forth in the following table.

Rule	Rule summary	Base penalty or Matrix	Rule	Rule summary	Base penalty or Matrix
§ 263.22(c)	Failure of rail transporter to maintain copy of manifest and shipping paper for three years.	\$500	7:26G-7.3 (b)	Failure to allow the Department to enter and inspect any vehicle transporting hazardous waste.	\$5,000
§ 263.22(d)	Failure of transporter to maintain copy of manifest indicating shipment left U.S. for three years.	\$500	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.	Matrix
§ 263.22(e)	Failure of transporter to maintain copy of manifest during the course of unresolved enforcement action or as requested by the Department.	\$1,000	7:26G-7.4 (b)	Failure to conduct storage, consolidation, or commingling only at a hazardous waste transfer facility or authorized hazardous waste facility.	Matrix
(40 C.F.R. Part 262 Subpart C—Hazardous Waste Discharges)			7:26G-7.4 (c)	Failure of owner or operator of a hazardous waste transfer facility to comply with notification requirements prior to operating.	Matrix
§ 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.	\$10,000	7:26G-7.4 (d)	Failure of owner or operator of a hazardous waste transfer facility to maintain written log(s).	Matrix
§ 263.30(c)	Failure of transporter who has discharged hazardous waste to comply with State and Federal notice and report requirements.	\$3,000	7:26G-7.4 (e)	Failure of transporter utilizing a hazardous waste transfer facility to enter the necessary information on the log(s).	Matrix
§ 263.31	Failure of transporter to clean up the discharge and take action as may be required or approved.	\$10,000	7:26G-7.4(f) 1	Failure of transporter who stores or consolidates closed containers at a hazardous waste transfer facility to be a licensed hazardous waste transporter.	Matrix
(N.J.A.C. 7:26G-7)			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.	Matrix
7:26G-7.2(a) 1	Failure of transporter to obtain hazardous waste transporter registration prior to operation.	\$10,000	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.	Matrix
7:26G-7.2(a) 5	Failure of transporter to renew registration prior to May 1 of each registration period.	\$300	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.	Matrix
7:26G-7.2(a) 7	Failure of transporter to notify Department of change of information on registration.	\$3,000	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
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.	Matrix	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.	Matrix
7:26G-7.2(b) 2	Failure of transporter to prevent registered vehicle from being used by another transporter.	\$5,000	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.	Matrix
7:26G-7.2(b) 4	Transporter engaged in transportation of hazardous waste during period when decals and registration are withheld pursuant to N.J.A.C. 7:26G-7.2(b).	Matrix	7:26G-7.4(g) 1	Failure of transporter who commingles hazardous waste at a hazardous waste transfer facility to be a licensed hazardous waste transporter.	Matrix
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.	\$2,000	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.	Matrix
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. 7:26 G-2.4 Appendix, incorporated herein by reference	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.	Matrix
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. 7:26 G-2.4 Appendix	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.	Matrix
			7:26G-7.4(g) 5	Failure of transporter who commingles hazardous waste at a hazardous waste	

Rule	Rule summary	Base penalty or Matrix	Rule	Rule summary	Base penalty or Matrix
7:26G-7.4(g) 6	transfer facility to amend the generators' manifests to reflect the commingling of hazardous waste.	Matrix	§ 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
7:26G-7.4(h)	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.	Matrix	§ 264.15(c)	Failure of facility owner or operator to remedy any deterioration or malfunction immediately or on an appropriate schedule.	\$2,000
	Transporter commingled hazardous wastes of different USDOT shipping descriptions.	Matrix	§ 264.15(d)	Failure of facility owner or operator to record inspections in log or to retain required information for three years.	\$300
			§ 264.16(a) (1)	Failure of facility owner or operator to provide required classroom or on-the-job training for facility personnel.	\$2,000
			§ 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.	\$1,000
			§ 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.	\$1,000

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, and the civil administrative penalty amounts for each violation, are as set forth in the following table.

Rule	Rule summary	Base penalty or Matrix	Rule	Rule summary	Base penalty or Matrix
§ 264.11	(40 C.F.R. Part 264 Subpart B—General Facility Standards) Failure of facility owner or operator to obtain EPA identification number.	\$5,000	§ 264.16(b)	Failure of facility personnel to successfully complete the training program required in 264.16(a) within six months.	\$1,000
§ 264.12(a)	Failure of facility owner or operator importing hazardous waste from a foreign country to notify EPA at least four weeks in advance of expected delivery.	\$5,000	§ 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).	\$500
§ 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.	Matrix	§ 264.16(d)	Failure of facility owner or operator to maintain training records at the facility.	\$500
§ 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.	Matrix	§ 264.16(e)	Failure of facility owner or operator to keep training records until closure.	\$500
§ 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	§ 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.	\$1,000
§ 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.	\$1,000	§ 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.	\$2,000
§ 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 waste specified on the manifest or shipping paper.	\$1,000	(40 C.F.R. Part 264 Subpart C—Preparedness and Prevention) § 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
§ 264.13(b)	Failure of facility owner or operator to develop or follow a written waste analysis plan.	\$5,000	§ 264.32	Failure of facility owner or operator to equip facility with emergency equipment.	\$5,000
§ 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.	Matrix	§ 264.33	Failure of facility owner or operator to test and maintain emergency equipment.	\$1,000
§ 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.	\$5,000	§ 264.34	Failure of facility owner or operator to maintain access to communications or alarm system.	\$1,000
§ 264.14(c)	Failure of facility owner or operator to post signs meeting each requirement of 40 C.F.R. § 264.14(c).	\$500	§ 264.35	Failure of facility owner or operator to maintain sufficient aisle space for the unobstructed movement of personnel or equipment in an emergency.	\$1,000
§ 264.15(a)	Failure of facility owner or operator to inspect for malfunctions and deterioration, operator errors, or discharges.	\$3,000	§ 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.	\$5,000

Rule	Rule summary	Base penalty or Matrix	Rule § 264.56(h)	Rule summary	Base penalty or Matrix
(40 C.F.R. Part 264 Subpart D—Contingency Plan and Emergency Procedures)					
§ 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		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.	\$1,000
§ 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.	\$10,000	§ 264.56(i)	Failure of facility owner or operator to notify Department and local authorities that facility is in compliance before operations are resumed.	\$1,000
§ 264.52(a)	Failure of contingency plan to describe actions to be taken in response to fires, explosions, or releases.	\$1,000	§ 264.56(j)	Failure of facility owner or operator to submit written report to Department within 15 days after an incident.	\$500
§ 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.	\$1,000	(40 C.F.R. Part 264 Subpart E—Manifest System, Recordkeeping, and Reporting)		
§ 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.	\$300	§ 264.71(a) (1)	Failure of facility owner or operator to sign or date manifest.	\$2,000
§ 264.52(d)	Failure of contingency plan to list name, addresses, or phone numbers of persons qualified to act as emergency coordinator.	\$300	§ 264.71(a) (2)	Failure of facility owner or operator to note any significant discrepancies in the manifest on each copy of the manifest.	\$500
§ 264.52(e)	Failure of contingency plan to list emergency equipment, updated as required, with its location, description, or capabilities specified.	\$300	§ 264.71(a) (3)	Failure of facility owner or operator to give transporter a copy of manifest or forward one copy to the Department.	\$500
§ 264.52(f)	Failure of contingency plan to include evacuation procedure for personnel including signals, evacuation routes or alternate evacuation routes.	\$300	§ 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.	\$500
§ 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.	\$300	§ 264.71(a) (5)	Failure of facility owner or operator to retain copy of manifest for three years.	\$500
§ 264.54	Failure of facility owner or operator to review or amend contingency plan as necessary.	\$300	§ 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.	\$500
§ 264.55	Failure of emergency coordinator to be thoroughly familiar with plan or available at all times.	\$1,000	§ 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.	\$500
§ 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.	\$2,000	§ 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.	\$500
§ 264.56(c)	Failure of emergency coordinator to assess possible hazards to human health and the environment.	\$1,000	§ 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.	\$500
§ 264.56(d)	Failure of emergency coordinator to immediately notify appropriate emergency response agency of situation threatening health and the environment.	\$5,000	§ 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 three years.	\$500
§ 264.56(e)	Failure of emergency coordinator to take reasonable measures to ensure hazards are minimized.	\$5,000	§ 264.72(b)	Failure of facility owner or 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.	\$1,000
§ 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.	\$5,000	§ 264.73	Failure of facility owner or operator to keep written operating records meeting each requirement of 40 C.F.R. § 264.73.	\$3,000
§ 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.	\$1,000	§ 264.74(a)	Failure of facility owner or operator to furnish upon request, or make available for inspection, any record.	\$5,000
			§ 264.74(b)	Failure of facility owner or operator to keep any record during course of any	

<u>Rule</u>	<u>Rule summary</u>	<u>Base penalty or Matrix</u>	<u>Rule</u>	<u>Rule summary</u>	<u>Base penalty or Matrix</u>
	unresolved enforcement action or as requested by the Department.	\$2,000	§ 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.	\$2,000
§ 264.74(c)	Failure of facility owner or operator to submit copy of waste disposal locations and/or quantities to Department and/or local land authority upon closure of facility.	\$5,000	§ 264.114	Failure of facility owner or operator to properly dispose of or decontaminate all contaminated equipment, structures, or soils.	\$5,000
§ 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	§ 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.	\$2,000
§ 264.76	Failure of facility owner or operator receiving unmanifested waste to submit an 'Unmanifested Waste Report' within 15 days.	Matrix	§ 264.116	Failure of facility owner or operator, within 60 days after closure, to submit to local authorities and Department detailed information on site.	\$2,000
(40 C.F.R. Part 264 Subpart F—Releases From Solid Waste Management Units)			§ 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).	\$5,000
§ 264.92	Failure of facility owner or operator to comply with permit conditions designed to protect ground water.	Matrix	§ 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.	\$2,000
§ 264.95	Failure of facility owner or operator to conduct ground water monitoring at the point of compliance as specified in the facility permit.	Matrix	§ 264.117(d)	Failure of facility owner or operator to perform post-closure care activities in accordance with post-closure plan.	\$5,000
§ 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	§ 264.118(a)	Failure of facility owner or operator to have written post-closure plan.	\$5,000
§ 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	§ 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.	Matrix
§ 264.98	Failure of facility owner or operator to establish a detection monitoring program in conformance with 40 C.F.R. § 264.98.	Matrix	§ 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.	\$1,000
§ 264.99	Failure of facility owner or operator to maintain a compliance monitoring program in conformance with 40 C.F.R. § 264.99.	Matrix	§ 264.118(d)	Failure of facility owner or operator to amend or request modification of post-closure plan when necessary.	\$1,000
§ 264.100	Failure of facility owner or operator to establish a corrective action program in conformance with 40 C.F.R. § 264.100.	Matrix	§ 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.	Matrix
(40 C.F.R. Part 264 Subpart G—Closure and Post Closure)			§ 264.119(b)	Failure of facility owner or operator to comply with requirements for notice in deed to property.	\$1,000
§ 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.	\$10,000	§ 264.120	Failure of facility owner or operator to certify that post-closure activities have been conducted according to the post-closure plan within 60 days of completion of the established post-closure care period.	Matrix
§ 264.112(a)	Failure of facility owner or operator to have written closure plan.	\$5,000	(40 C.F.R. Part 264 Subpart H—Financial Requirements)		
§ 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.	Matrix	§ 264.142(a)	Failure of facility owner or operator to have a written estimate of the cost of closing facility.	\$2,000
§ 264.112(c)	Failure of facility owner or operator to amend or request modification of closure plan before change.	\$1,000	§ 264.142(b)	Failure of facility owner or operator to adjust closure cost estimate for inflation according to regulatory time frames.	\$1,000
§ 264.112(d)	Failure of facility owner or operator to notify Department prior to commencement of closure.	\$2,000			
§ 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.	\$2,000			

Rule	Rule summary	Base penalty or Matrix	Rule	Rule summary	Base penalty or Matrix
§ 264.142(c)	Failure of facility owner or operator to revise the closure cost estimate whenever a change in the closure plan increases the cost of closure.	\$1,000	§ 264.175(b)(3)	Failure of container storage area to have capacity to contain 10 percent of volume of all containers or volume of largest container, whichever is greater.	\$2,000
§ 264.142(d)	Failure of facility owner or operator to keep the latest closure cost estimate and adjusted closure cost estimate at the facility.	\$1,000	§ 264.175(b)(4)	Failure of container storage area to be protected from run-on, unless in compliance with exceptions at 40 C.F.R. § 264.175(b)(4).	\$1,000
§ 264.143	Failure of facility owner or operator to establish financial assurance for closure of facility.	\$5,000	§ 264.175(b)(5)	Failure of facility owner or operator to remove spilled or leaked waste or accumulated precipitation from sump or collection area in a timely manner to prevent overflow.	\$1,000
§ 264.144(a)	Failure of facility owner or operator to have a written estimate of the cost of post-closure care.	\$2,000	§ 264.176	Failure of facility owner or operator to store containers holding ignitable or reactive wastes at least 50 feet from property line.	\$1,000
§ 264.144(b)	Failure of facility owner or operator to adjust cost estimate of post-closure care for inflation according to regulatory time frames.	\$1,000	§ 264.177	Failure of facility owner or operator to comply with each of the special requirements for incompatible wastes.	\$2,000
§ 264.144(c)	Failure of facility owner or operator to revise the post-closure care cost estimate whenever a change in the post-closure plan increases the cost of post-closure care.	\$1,000	§ 264.178	Failure of facility owner or operator to remove all hazardous wastes and residues from containment system at closure or to remove or decontaminate remaining containers, liners, bases, and soil containing or contaminated with hazardous waste.	\$5,000
§ 264.144(d)	Failure of facility owner or operator to keep the latest post-closure care cost estimate at the facility.	\$1,000	§ 264.179	Failure of facility owner or operator to comply with 40 C.F.R. § 264, Subparts AA, BB, and CC.	Matrix
§ 264.145	Failure of facility owner or operator to establish financial assurance for post-closure care of facility.	\$5,000	(40 C.F.R. Part 264 Subpart J—Tank Systems)		
§ 264.147(a)	Failure of facility owner or operator to meet liability requirements for sudden accidental occurrences.	\$5,000	§ 264.191(a)	Failure of facility owner or operator to obtain and keep a written assessment by a professional engineer attesting to existing tank system's integrity.	Matrix
§ 264.147(b)	Failure of facility owner or operator to meet the liability requirements for non-sudden occurrences.	\$5,000	§ 264.191(b)	Failure of written assessment to comply with the requirements at 40 C.F.R. § 264.191(b).	\$5,000
§ 264.148(a)	Failure of facility owner or operator or guarantor to notify Department of commencement of proceeding under Title 11 of the Bankruptcy Code.	\$10,000	§ 264.191(c)	Failure of facility owner or operator to assess the integrity of a tank within 12 months of a material becoming a hazardous waste.	Matrix
§ 264.148(b)	Failure of facility owner or operator to establish other financial assurance or liability coverage within 60 days after bankruptcy, suspension, or revocation of the issuer.	\$5,000	§ 264.192(b)	Failure of facility owner or operator to have a new tank inspected by a qualified installation inspector or engineer prior to covering, enclosing, or placing in use.	Matrix
(40 C.F.R. Part 264 Subpart I—Use and Management of Containers)			§ 264.192(c)	Failure of facility owner or operator of a new tank system or components to use appropriate backfill material.	Matrix
§ 264.171	Failure of facility owner or operator to handle hazardous waste in containers of good condition.	\$2,000	§ 264.192(d)	Failure of facility owner or operator to have a new tank and ancillary equipment tested for tightness prior to covering, enclosing, or placing in use.	Matrix
§ 264.172	Failure of facility owner or operator to use container compatible with hazardous waste stored.	\$2,000	§ 264.192(e)	Failure of facility owner or operator to have ancillary equipment supported and protected from settlement, vibration, expansion, or contraction.	Matrix
§ 264.173	Failure of facility owner or operator to comply with the requirements for the management of containers.	\$1,000	§ 264.192(f)	Failure of facility owner or operator to provide proper corrosion protection for new tank systems.	Matrix
§ 264.174	Failure of facility owner or operator to perform inspection of each area where containers are stored.	\$3,000	§ 264.192(g)	Failure of facility owner or operator to obtain and keep on record certifications from those professionals responsible for tank system design and installation.	Matrix
§ 264.175(b)(1)	Failure of container storage area to have an underlying base free of cracks or gaps and sufficiently impervious to contain leak, spills and accumulated precipitation until collected material is detected and removed.	\$1,000	§ 264.193(a)	Failure of facility owner or operator to install secondary containment for hazardous waste tanks within the time frames outlined in 40 C.F.R. § 264.193(a).	Matrix
§ 264.175(b)(2)	Failure of container storage area to be sloped or designed and operated to drain and remove liquids, unless containers are protected from contact with accumulated liquids.	\$1,000	§ 264.193(b)(1)	Failure of secondary containment system to be designed, installed, and operated to	

<u>Rule</u>	<u>Rule summary</u>	<u>Base penalty or Matrix</u>	<u>Rule</u>	<u>Rule summary</u>	<u>Base penalty or Matrix</u>
	prevent migration of wastes or accumulated liquid out of the system.	\$3,000	§ 264.196(a)	Failure of facility owner or operator to cease using a tank from which a release occurred or which is unfit for use.	Matrix
§ 264.193(b)(2)	Failure of secondary containment system to detect and collect releases and accumulated liquids.	Matrix	§ 264.196(b)	Failure of facility owner or operator to remove waste from a tank in which a release occurred within 24 hours in order to affect repairs on the unit.	Matrix
§ 264.193(c)(1)	Failure of containment system to consist of material compatible with wastes stored or to have sufficient strength and thickness.	\$2,000	§ 264.196(c)	Failure of facility owner or operator to prevent further migration of a release to soils or water or to remove and dispose of any visible contamination of soil or water.	Matrix
§ 264.193(c)(2)	Failure of facility owner or operator to construct secondary containment unit on a base or foundation capable of providing support and resistance to pressure gradients.	Matrix	§ 264.196(d)	Failure of facility owner or operator to report a release within 24 hours or to submit a spill report within 30 days.	Matrix
§ 264.193(c)(3)	Failure of facility owner or operator to construct secondary containment with a leak detection system that is designed and operated to detect the failure of containment structure(s) or the presence of a release.	Matrix	§ 264.196(e)	Failure of facility owner or operator to comply with 40 C.F.R. § 264.196(e)(2)-(4) prior to placing a tank back in service following a release.	Matrix
§ 264.193(c)(4)	Failure of facility owner or operator to remove accumulated precipitation or spilled or leaked waste from secondary containment within 24 hours.	\$1,000	§ 264.196(f)	Failure of facility owner or operator to obtain a professional engineer's certification prior to placing a tank back in service following a major repair.	Matrix
§ 264.193(d)	Failure of facility owner or operator to provide secondary containment featuring an approved device.	Matrix	§ 264.197(a)	Failure of facility owner or operator at closure to remove or decontaminate all waste residues, contaminated containment system components, contaminated soils, structures, etc.	\$5,000
§ 264.193(e)(1)	Failure of external liner system to meet requirements at 40 C.F.R. § 264.193(e)(1).	\$1,000	§ 264.197(c)	Failure of facility owner or operator that has a tank system without secondary containment to comply with requirements at 40 C.F.R. § 264.197(c).	Matrix
§ 264.193(e)(2)	Failure of vault system to meet requirements at 40 C.F.R. § 264.193(e)(2).	\$1,000	§ 264.198(a)	Failure of facility owner or operator to meet specific requirements before placing ignitable or reactive waste in a tank.	\$5,000
§ 264.193(e)(3)	Failure of double-walled tank to meet requirements at 40 C.F.R. § 264.193(e)(3).	\$1,000	§ 264.198(b)	Failure of facility owner or operator storing or treating ignitable or reactive wastes in tanks to comply with NFPA's buffer zone requirements for tanks.	\$2,000
§ 264.193(f)	Failure of facility owner or operator to provide secondary containment for ancillary equipment.	Matrix	§ 264.199(a)	Failure of facility owner or operator to prevent the placing of incompatible wastes, or wastes and materials, in the same tank, except in compliance with 40 C.F.R. § 264.17(b).	\$10,000
§ 264.194(a)	Failure of facility owner or operator to prevent hazardous wastes or treatment reagents from being placed in tank if they can cause the tank, its ancillary equipment, or containment system to rupture, leak, corrode, or otherwise fail.	\$5,000	§ 264.199(b)	Failure of facility owner or operator to prevent the placing of hazardous waste in a tank which was not decontaminated and previously held incompatible waste, except in compliance with 40 C.F.R. § 264.17(b).	\$5,000
§ 264.194(b)	Failure of facility owner or operator to use appropriate controls and practices to prevent spills and overflows from tanks or containment systems.	\$500	§ 264.200	Failure of facility owner or operator to comply with 40 C.F.R. § 264, Subparts AA, BB, and CC.	Matrix
§ 264.195(a)	Failure of facility owner or operator to develop and follow a schedule and procedure for inspecting overflow controls.	\$500	(40 C.F.R. Part 264 Subpart K—Surface Impoundments)		
§ 264.195(b)(1)	Failure of facility owner or operator to inspect aboveground portions of a tank system for corrosion or releases of waste each operating day.	\$1,000	§ 264.221(a)	Failure of surface impoundment to have liner designed, constructed, and installed to prevent migration of waste during active life of impoundment.	\$10,000
§ 264.195(b)(2)	Failure of facility owner or operator to inspect data gathered from monitoring and leak detection equipment each operating day.	\$500	§ 264.221(a)(1)	Failure of liner to have properties that prevent failure due to pressure gradients, contact with waste, climatic conditions, and stress of installation and operation.	\$10,000
§ 264.195(b)(3)	Failure of facility owner or operator to inspect construction materials and area immediately surrounding tank system or secondary system for erosion or signs of releases.	\$500	§ 264.221(a)(2)	Failure of facility owner or operator to place lower liner on foundation capable of providing support.	\$10,000
§ 264.195(c)	Failure of facility owner or operator to inspect cathodic protection systems.	Matrix	§ 264.221(a)(3)	Failure of surface impoundment to have the liner installed to cover all surrounding earth likely to be in contact with the waste or leachate.	\$10,000
§ 264.195(d)	Failure of facility owner or operator to document inspections in facility operating record.	Matrix			

Rule	Rule summary	Base penalty or Matrix	Rule	Rule summary	Base penalty or Matrix
§ 264.221(c)(1)(i)(A)	Failure of top liner to be designed and constructed to prevent migration of hazardous constituents into liner during active life and post closure care period.	\$5,000	§ 264.232	F023, F026 or F027 wastes in the surface impoundment.	Matrix
§ 264.221(c)(1)(i)(B)	Failure of bottom liner to consist of at least three feet of soil of specified hydraulic conductivity.	\$5,000		Failure of facility owner or operator to comply with 40 C.F.R. § 264, Subparts BB and CC.	Matrix
§ 264.221(c)(2)	Failure of surface impoundment to have leachate collection system between liners.	\$10,000	(40 C.F.R. Part 264 Subpart L—Waste Piles)		
§ 264.221(c)(4)	Failure of facility owner or operator to demonstrate that the seasonal high water table will not adversely affect the leak detection system.	\$10,000	§ 264.251(a)	Failure of facility owner or operator to ensure waste piles have a proper liner and leachate collection system.	Matrix
§ 264.223	Failure of facility owner or operator that stores hazardous waste in a surface impoundment to have an approved response action plan.	Matrix	§ 264.251(c)	Failure of facility owner or operator to ensure waste piles have double liners and a leachate collection system both above and between the liners.	Matrix
§ 264.226(a)	Failure to comply with inspection requirements for surface impoundment during and immediately after construction.	\$3,000	§ 264.251(g)	Failure of facility owner or operator to have a run-on control system to prevent flow onto a waste pile from at least a 25-year storm.	Matrix
§ 264.226(b)	Failure to comply with inspection requirements during operation of surface impoundment.	\$3,000	§ 264.251(h)	Failure of facility owner or operator to have a run-off management system to collect run-off from a waste pile from a 25-year storm.	Matrix
§ 264.226(c)	Failure of facility owner or operator who stores hazardous waste in a surface impoundment to obtain a professional engineer's certification that the dike has structural integrity.	Matrix	§ 264.251(i)	Failure of facility owner or operator to empty run-on and run-off holding facilities expeditiously following a storm.	Matrix
§ 264.226(d)	Failure of facility owner or operator who stores hazardous waste in a surface impoundment to record the amount of liquids removed from each leak detection sump.	Matrix	§ 264.251(j)	Failure of facility owner or operator to manage a waste pile in order to prevent wind dispersal.	Matrix
§ 264.227(a)	Failure of facility owner or operator to remove surface impoundment from service if liquid level suddenly drops or if dike leaks.	\$10,000	§ 264.253	Failure of facility owner or operator to have an approved response action plan prior to utilizing a waste pile for hazardous waste storage.	Matrix
§ 264.227(b)	Failure of facility owner or operator to comply with requirements necessary when surface impoundment is removed from service.	\$10,000	§ 264.254(a)	Failure of facility owner or operator to inspect liners to be used with waste piles during construction or installation.	Matrix
§ 264.227(c)	Failure of facility owner or operator to have requirements for surface impoundment in contingency plan.	\$1,000	§ 264.254(b)	Failure of facility owner or operator to inspect waste piles on a weekly basis and after storms.	Matrix
264.227(d)	Failure of facility owner or operator to comply with requirements for placing surface impoundment back into service.	\$5,000	§ 264.254(c)	Failure of facility owner or operator to record the amount of liquids removed from each leak detection system sump at least once a week through the active life and closure period of a waste pile.	Matrix
§ 264.227(e)	Failure of facility owner or operator to close surface impoundment that has been removed from service and is not being repaired.	\$5,000	§ 264.256	Failure of facility owner or operator to ensure that ignitable or reactive wastes are not placed in waste piles.	Matrix
§ 264.228(a)	Failure of facility owner or operator who stores hazardous waste in a surface impoundment to properly close and provide post-closure care following closure.	Matrix	§ 264.257	Failure of facility owner or operator to comply with special handling instructions for the placement of incompatible wastes in waste piles.	Matrix
§ 264.228(b)	Failure of facility owner or operator to comply with maintenance and monitoring requirements during post-closure of surface impoundment.	\$2,000	§ 264.258	Failure of facility owner or operator to ensure that all waste and contaminated containment system components have been removed and managed as hazardous waste when closing a waste pile.	Matrix
§ 264.229	Failure of facility owner or operator to meet requirements for placing ignitable or reactive waste in surface impoundment.	\$5,000	§ 264.259(a)	Failure of facility owner or operator to have an approved management plan prior to placing F020, F021, F022, F023, F026, or F027 waste in a waste pile.	Matrix
§ 264.230	Failure of facility owner or operator to prevent incompatible wastes and/or materials from being placed in same surface impoundment.	\$10,000	(40 C.F.R. Part 264 Subpart M—Land Treatment)		
§ 264.231(a)	Failure of facility owner or operator that stores hazardous waste in a surface impoundment to obtain an approved management plan prior to placing F020, F021,		§ 264.271(a)	Failure of facility owner or operator conducting land treatment to have an established land treatment program meeting the requirements of 40 C.F.R. § 264.21.	Matrix
			§ 264.272(a)	Failure of facility owner or operator conducting land treatment to have demonstrated prior to application of the waste that hazardous constituents in the waste	

<u>Rule</u>	<u>Rule summary</u>	<u>Base penalty or Matrix</u>	<u>Rule</u>	<u>Rule summary</u>	<u>Base penalty or Matrix</u>
	will be completely degraded in the treatment zone.	Matrix	(40 C.F.R. Part 264 Subpart N—Landfills)		
§ 264.272(c)	Failure of facility owner or operator conducting land treatment to ensure that all field tests and laboratory analysis conducted meet the standards of 40 C.F.R. § 264.272(c).	Matrix	§ 264.301(a)	Failure of facility owner or operator of hazardous waste landfill to have a liner system as required by 40 C.F.R. § 264.301(a).	\$2,000
§ 264.273(a)	Failure of facility owner or operator to operate a land treatment unit in accordance with all design and operating conditions.	Matrix	§ 264.301(c)	Failure of facility owner or operator of new hazardous waste landfill to have a liner system as required by 40 C.F.R. § 264.301(c).	\$2,000
§ 264.273(b)	Failure of facility owner or operator to minimize the run-off of hazardous constituents from the treatment zone.	Matrix	§ 264.301(g)	Failure of owner or operator of hazardous waste landfill to manage run-on system.	\$2,000
§ 264.273(c)	Failure of facility owner or operator utilizing land treatment to have a run-on control system capable of preventing flow into the treatment zone during a 25-year storm.	Matrix	§ 264.301(h)	Failure of owner or operator of hazardous waste landfill to manage run-off system.	\$2,000
§ 264.273(d)	Failure of facility owner or operator utilizing land treatment to have a run-off management system capable of collecting and controlling flow during a 25-year storm.	Matrix	§ 264.301(i)	Failure of facility owner or operator of hazardous waste landfill to empty or manage system after storm.	\$2,000
§ 264.273(e)	Failure of facility owner or operator utilizing land treatment to empty run-on and run-off holding facilities expeditiously following a storm.	Matrix	§ 264.301(j)	Failure of facility owner or operator of a hazardous waste landfill to control wind dispersion of particulate matter.	\$2,000
§ 264.273(f)	Failure of facility owner or operator utilizing land treatment to manage the treatment zone in a manner to control wind dispersal of hazardous waste.	Matrix	§ 264.303	Failure of facility owner or operator to meet inspection requirements for hazardous waste landfill.	\$3,000
§ 264.273(g)	Failure of facility owner or operator to conduct weekly inspections of the land treatment unit.	Matrix	§ 264.303(c)(1)	Failure of facility owner or operator to record the amount of liquids removed from each leak detection system sump at least once a week through the active life and closure period of a hazardous waste landfill.	Matrix
§ 264.276	Failure of facility owner or operator to comply with 40 C.F.R. § 264.276 when growing food-chain crops on or in the treatment zone.	Matrix	§ 264.303(c)(2)	Failure of facility owner or operator to record the amount of liquids removed from each leak detection system sump in accordance with 40 C.F.R. § 264.303(c)(2) following the closure period of a hazardous waste landfill.	Matrix
§ 264.278	Failure of facility owner or operator to implement an unsaturated zone monitoring program in conformance with 40 C.F.R. § 264.178 and make appropriate notifications if there is an increase in hazardous constituents below the treatment zone.	Matrix	§ 264.304	Failure of facility owner or operator that stores hazardous waste in a landfill unit to have an approved response action plan.	Matrix
§ 264.279	Failure of facility owner or operator to include application dates and rates to the operating record.	Matrix	§ 264.309(a)	Failure of facility owner or operator to maintain in operating record details of location and dimensions of each hazardous waste landfill cell.	\$2,000
§ 264.280(a)	Failure of facility owner or operator to continue operation of all control equipment and treatment operations during the closure period.	Matrix	§ 264.309(b)	Failure of facility owner or operator to maintain in operating record the contents of each hazardous waste landfill cell and location of each hazardous waste type.	\$2,000
§ 264.280(b)	Failure of facility owner or operator to submit a soil scientist's certification upon closure of the facility.	Matrix	§ 264.310(a)	Failure of facility owner or operator of a hazardous waste landfill to place final cover over landfill.	\$5,000
§ 264.280(c)	Failure of facility owner or operator to continue operation of all control equipment and treatment operations during the post-closure period.	Matrix	§ 264.310(b)(1)	Failure of owner or operator of a hazardous waste landfill to maintain the function and integrity of the final cover including making repairs to the cover necessary to correct the effects of settling, subsidence, erosion, or other events.	\$2,000
§ 264.281	Failure of facility owner or operator to ensure that ignitable or reactive waste are not placed in the land treatment zone.	Matrix	§ 264.310(b)(2)	Failure of facility owner or operator to continue to operate the leachate collection system until leachate is no longer detected.	Matrix
§ 264.282	Failure of facility owner or operator to ensure that incompatible wastes are not placed in the same land treatment zone.	Matrix	§ 264.310(b)(3)	Failure of facility owner or operator to maintain and monitor the leak detection system	\$2,000
§ 264.283(a)	Failure of facility owner or operator to obtain an approved management plan prior to placing F020, F021, F023, F026 or F027 wastes in a land treatment unit.	Matrix	§ 264.310(b)(4)	Failure of facility owner or operator to continue to maintain and monitor the ground water monitoring system after final closure.	Matrix
		Matrix	§ 264.310(b)(5)	Failure of facility owner or operator to prevent run-on and run-off from eroding or otherwise damaging the final cover.	\$2,000

Rule	Rule summary	Base penalty or Matrix	Rule	Rule summary	Base penalty or Matrix
§ 264.310(b)(6)	Failure of facility owner or operator to protect and maintain surveyed benchmarks used in complying with 40 C.F.R. § 264.309.	\$1,000	§ 264.345(d)(2)	Failure of facility owner or operator to maintain combustion zone of incinerator at lower than atmospheric pressure.	\$1,000
§ 264.312	Facility owner or operator of hazardous waste landfill placed ignitable or reactive waste in hazardous waste landfill.	\$10,000	§ 264.345(d)(3)	Failure of facility owner or operator of incinerator to provide approved alternate means of control of fugitive emissions.	\$1,000
§ 264.313	Facility owner or operator of hazardous waste landfill placed incompatible wastes and materials in same landfill cell.	\$10,000	§ 264.345(e)	Failure of facility owner or operator to operate incinerator with automatic feed cut off.	\$3,000
§ 264.314(b)	Facility owner or operator placed bulk or non-containerized liquid hazardous waste in landfill.	\$10,000	§ 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
§ 264.314(c)	Failure of facility owner or operator to ensure that liquid hazardous waste or hazardous wastes containing free liquids are not placed in landfill.	Matrix	§ 264.347(a)(1)	Failure of facility owner or operator to monitor combustion temperature, waste feed rate, gas velocity continuously.	\$500
§ 264.314(d)	Facility owner or operator placed containers holding free liquids in hazardous waste landfill.	\$5,000	§ 264.347(a)(2)	Failure of facility owner or operator to monitor carbon monoxide continuously.	\$500
§ 264.314(f)	Facility owner or operator placed liquid which is not a hazardous waste in hazardous waste landfill.	\$5,000	§ 264.347(a)(3)	Failure of facility owner or operator to conduct, upon request, sampling or analyses of waste or exhaust emissions.	\$1,000
§ 264.315	Failure of facility owner or operator to comply with special requirements for containers being placed in a landfill.	\$2,000	§ 264.347(b)	Failure of facility owner or operator to thoroughly inspect incinerator or associated equipment at least daily.	\$3,000
§ 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.	\$2,000	§ 264.347(c)	Failure of facility owner or operator to test emergency waste feed cutoff controls or alarm systems weekly.	\$500
§ 264.316(b)	Failure of metal outer container to be full after packing with inside containers and absorbent material.	\$2,000	§ 264.347(d)	Failure of facility owner or operator to record all monitoring and inspection data in the facility's operating log.	Matrix
§ 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	§ 264.351	Failure of facility owner or operator to remove all hazardous waste and hazardous waste residues from incinerator site at closure.	\$5,000
§ 264.316(d)	Failure of facility owner or operator to prevent incompatible wastes from being placed in same outside container.	\$5,000	(40 C.F.R. Part 264 Subpart W—Drip Pads) § 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.	Matrix
§ 264.316(e)	Failure of facility owner or operator to meet requirements for packaging reactive wastes before placing in hazardous waste landfill.	\$5,000	§ 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.	Matrix
§ 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	§ 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
(40 C.F.R. Part 264 Subpart O—Incinerators)			§ 264.573(b)(2)	Failure of facility owner or operator to ensure drip pads have a proper functioning leakage detection system.	Matrix
§ 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	§ 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 or to record in the facility's operating log the date and amount of leakage collected.	Matrix
§ 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	§ 264.573(c)	Failure of facility owner or operator to ensure drip pads are maintained free of cracks, gaps, or deterioration.	Matrix
§ 264.345(a)	Failure of facility owner or operator to operate incinerator in accordance with operating requirements of permit.	\$5,000	§ 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.	Matrix
§ 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.	\$10,000	§ 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
§ 264.345(d)(1)	Failure of facility owner or operator to keep combustion zone of incinerator totally sealed against fugitive emissions.	\$1,000			

Rule	Rule summary	Base penalty or Matrix	Rule	Rule summary	Base penalty or Matrix
§ 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	§ 264.1201(a)(5)	Failure of hazardous waste munitions and explosives storage unit to be designed and operated to provide monitoring and inspection procedures that assure the controls and containment systems are working as designed.	Matrix
§ 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).	Matrix	§ 264.1201(b)(1)	Failure of hazardous waste munitions and explosives stored in earth-covered magazines to comply with the requirements at 40 C.F.R. § 264.1201(b)(1).	Matrix
§ 264.573(h)	Failure of facility owner or operator utilizing a drip pad to remove drippage and precipitation from collection system.	Matrix	§ 264.1201(b)(2)	Failure of hazardous waste munitions and explosives in above-ground magazines to be located and designed so as to minimize the propagation of an explosion to adjacent units.	Matrix
§ 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 or to record in the facility's operating log the date and procedures for each cleaning.	Matrix	§ 264.1201(b)(3)	Failure of hazardous waste munitions and explosives in outdoor or open storage areas to be located and designed so as to minimize the propagation of an explosion to adjacent units.	Matrix
§ 264.573(j)	Failure of facility owner or operator to minimize the tracking of hazardous waste off of the drip pad.	Matrix	§ 264.1201(c)	Failure of hazardous waste munitions and explosives to be stored in accordance with an SOP specifying procedures to ensure safety, security, and environmental protection.	Matrix
§ 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.	Matrix	§ 264.1201(d)	Failure of hazardous waste munitions and explosives to be packaged to ensure safety in handling and storage.	Matrix
§ 264.573(l)	Failure of facility owner or operator to empty run-on and run-off collection units promptly following a storm.	Matrix	§ 264.1201(e)	Failure of hazardous waste munitions and explosives to be inventoried at least annually.	Matrix
§ 264.573(m)	Failure of facility owner or operator to make repairs to a drip pad which has had, or may of had, a release of hazardous waste, in accordance with 40 C.F.R. § 264.573(m).	Matrix	§ 264.1201(f)	Failure of hazardous waste munitions and explosives and their storage units to be inspected and monitored to ensure explosive safety and to ensure that there is no migration of contaminants outside the unit.	Matrix
§ 264.573(o)	Failure of facility owner or operator utilizing drip pads to maintain records of past waste handling practices.	Matrix			
§ 264.574(a)	Failure of facility owner or operator using a drip pad to obtain a professional engineer's certification immediately after installation of a liner.	Matrix			
§ 264.574(b)	Failure of facility owner or operator to inspect drip pads on a weekly basis and after storms.	Matrix			
§ 264.575	Failure of facility owner or operator to ensure that all waste and contamination have been removed when closing a drip pad.	Matrix			

6. The violations of N.J.A.C. 7:26G-9, Interim Status Standards Applicable to Owners and Operators of Hazardous Waste Treatment, Storage and Disposal Facilities, and the civil administrative penalty amounts for each violation, are as set forth in the following table.

(40 C.F.R. Part 264 Subpart EE—Hazardous Waste Munitions and Explosives Storage)		Rule	Rule summary	Base penalty or Matrix
§ 264.1201(a)(1)	Failure of hazardous waste munitions and explosives storage unit to be designed and operated to minimize the potential for detonation or other means of release of hazardous waste.	(40 C.F.R. Part 265 Subpart B—General Facility Standards) § 265.11	Failure of facility owner or operator to obtain EPA identification number.	\$5,000
§ 264.1201(a)(2)	Failure of hazardous waste munitions and explosives storage unit to be designed and operated to provide a primary barrier designed to contain hazardous waste.	§ 265.12(a)	Failure of facility owner or operator importing hazardous waste from a foreign country to notify EPA at least four weeks in advance of expected delivery.	\$5,000
§ 264.1201(a)(3)	Failure of hazardous waste munitions and explosives storage unit, for wastes stored outside, to be designed and operated so that the waste and containers will not be in standing precipitation.	§ 265.12(b)	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. §§ 265 and 270.	Matrix
§ 264.1201(a)(4)	Failure of hazardous waste munitions and explosives storage unit, for liquid wastes, to be designed and operated to provide a secondary containment system that assures that any released liquids are contained, promptly detected, and removed.	§ 265.13(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
		§ 265.13(a)(3)	Failure of facility owner or operator to repeat analysis as necessary to ensure that it is accurate and up to date.	\$1,000

Rule	Rule summary	Base penalty or Matrix	Rule	Rule summary	Base penalty or Matrix
§ 265.13(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.	\$1,000	(40 C.F.R. Part 265 Subpart C—Preparedness and Prevention) § 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
§ 265.13(b)	Failure of facility owner or operator to develop or follow a written waste analysis plan.	\$5,000	§ 265.32	Failure of facility owner or operator to equip facility with emergency equipment.	\$5,000
§ 265.14(a)	Failure of facility owner or operator to prevent the unknowing entry and minimize the possibility for the unauthorized entry onto the facility.	Matrix	§ 265.33	Failure of facility owner or operator to test and maintain emergency equipment.	\$1,000
§ 265.14(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.	\$5,000	§ 265.34	Failure of facility owner or operator to maintain access to communications or alarm system.	\$1,000
§ 265.14(c)	Failure of facility owner or operator to post signs meeting each requirement of 40 C.F.R. § 265.14(c).	\$500	§ 265.35	Failure of facility owner or operator to maintain sufficient aisle space for the unobstructed movement of personnel or equipment in an emergency.	\$1,000
§ 265.15(a)	Failure of facility owner or operator to inspect for malfunctions, deterioration, errors, or discharges.	\$3,000	§ 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.	\$5,000
§ 265.15(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	(40 C.F.R. Part 265 Subpart D—Contingency Plan and Emergency Procedures) § 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
§ 265.15(c)	Failure of facility owner or operator to remedy any deterioration or malfunction immediately or on an appropriate schedule.	\$2,000	§ 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.	\$10,000
§ 265.15(d)	Failure of facility owner or operator to record inspections in log or to retain required information for three years.	\$300	§ 265.52(a)	Failure of contingency plan to describe actions to be taken in response to fires, explosions, or releases.	\$1,000
§ 265.16(a)(1)	Failure of facility owner or operator to provide required classroom or on-the-job training for facility personnel.	\$2,000	§ 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.	\$1,000
§ 265.16(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.	\$1,000	§ 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.	\$300
§ 265.16(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.	\$1,000	§ 265.52(d)	Failure of contingency plan to list name, addresses, or phone numbers of persons qualified to act as emergency coordinator.	\$300
§ 265.16(b)	Failure of facility personnel to successfully complete the training program required in 40 C.F.R. § 265.16(a) within six months.	\$1,000	§ 265.52(e)	Failure of contingency plan to list emergency equipment, updated as required, with its location, description, or capabilities specified.	\$300
§ 265.16(c)	Failure of facility personnel to take part in an annual review of the initial training required in 40 C.F.R. § 265.16(a).	\$500	§ 265.52(f)	Failure of contingency plan to include evacuation procedure for personnel including signals, evacuation routes or alternate evacuation routes.	\$300
§ 265.16(d)	Failure of facility owner or operator to maintain training records at the facility	\$500	§ 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.	\$300
§ 265.16(e)	Failure of facility owner or operator to keep training records until closure.	\$500	§ 265.54	Failure of facility owner or operator to review or amend contingency plan as necessary.	\$300
§ 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.	\$1,000	§ 265.55	Failure of emergency coordinator to be thoroughly familiar with plan or available at all times.	\$1,000
§ 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.	\$2,000	§ 265.56 (a)-(b)	Failure of emergency coordinator to identify character, source, amount or areal	

<u>Rule</u>	<u>Rule summary</u>	<u>Base penalty or Matrix</u>	<u>Rule</u>	<u>Rule summary</u>	<u>Base penalty or Matrix</u>
	extent of discharged materials, to activate alarms or communications systems, or to notify appropriate State or local agencies if necessary.	\$2,000	§ 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.	\$500
§ 265.56(c)	Failure of emergency coordinator to assess possible hazards to human health and the environment.	\$1,000	§ 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 three years.	\$500
§ 265.56(d)	Failure of emergency coordinator to immediately notify appropriate emergency response agency of situation threatening health and the environment.	\$5,000	§ 265.72(b)	Failure of facility owner or 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.	\$1,000
§ 265.56(e)	Failure of emergency coordinator to take reasonable measures to ensure hazards are minimized.	\$5,000	§ 265.73	Failure of facility owner or operator to keep written operating records meeting each requirement of 40 C.F.R. § 265.73.	\$3,000
§ 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.	\$5,000	§ 265.74(a)	Failure of facility owner or operator to furnish upon request, or make available for inspection, any record.	\$5,000
§ 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.	\$1,000	§ 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.	\$2,000
§ 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.	\$1,000	§ 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.	\$5,000
§ 265.56(i)	Failure of facility owner or operator to notify Department and local authorities that facility is in compliance before operations are resumed.	\$1,000	§ 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
§ 265.56(j)	Failure of facility owner or operator to submit written report to Department within 15 days after an incident.	\$500	§ 265.76	Failure of facility owner or operator receiving unmanifested waste to submit an 'Unmanifested Waste Report' within 15 days.	Matrix
(40 C.F.R. Part 265 Subpart E—Manifest System, Recordkeeping, and Reporting)			(40 C.F.R. Part 265 Subpart F—Ground Water Monitoring)		
§ 265.71(a)(1)	Failure of facility owner or operator to sign or date manifest.	\$2,000	§ 265.91	Failure of ground water monitoring system to meet the requirements of 40 C.F.R. § 265.91.	Matrix
§ 265.71(a)(2)	Failure of facility owner or operator to note any significant discrepancies in the manifest on each copy of the manifest.	\$500	§ 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
§ 265.71(a)(3)	Failure of facility owner or operator to give transporter a copy of manifest.	\$500	§ 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
§ 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.	\$500	§ 265.94	Failure of facility owner or operator to maintain records of ground water monitoring information or to report the information to the Department.	Matrix
§ 265.71(a)(5)	Failure of facility owner or operator to retain copy of manifest for three years.	\$500	(40 C.F.R. Part 265 Subpart G—Closure and Post Closure)		
§ 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.	\$500	§ 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.	\$10,000
§ 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.	\$500	§ 265.112(a)	Failure of facility owner or operator to have written closure plan.	\$5,000
§ 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.	\$500	§ 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.	Matrix
			§ 265.112(c)	Failure of facility owner or operator to amend or request modification of closure plan before change.	\$1,000

Rule	Rule summary	Base penalty or Matrix	Rule	Rule summary	Base penalty or Matrix
§ 265.112(d)	Failure of facility owner or operator to notify Department prior to commencement of closure.	\$2,000	§ 265.142(a)	Failure of facility owner or operator to have a written estimate of the cost of closing facility.	\$2,000
§ 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.	\$2,000	§ 265.142(b)	Failure of facility owner or operator to adjust closure cost estimate for inflation according to regulatory time frames.	\$1,000
§ 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.	\$2,000	§ 265.142(c)	Failure of facility owner or operator to revise the closure cost estimate whenever a change in the closure plan increases the cost of closure.	\$1,000
§ 265.114	Failure of facility owner or operator to properly dispose of or decontaminate all contaminated equipment, structures, or soils.	\$5,000	§ 265.142(d)	Failure of facility owner or operator to keep the latest closure cost estimate and adjusted closure cost estimate at the facility.	\$1,000
§ 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.	\$2,000	§ 265.143	Failure of facility owner or operator to establish financial assurance for closure of facility.	\$5,000
§ 265.116	Failure of facility owner or operator, within 60 days after closure, to submit to local authorities and Department detailed information on site.	\$2,000	§ 265.144(a)	Failure of facility owner or operator to have a written estimate of the cost of post-closure care.	\$2,000
§ 265.117(a)	Failure of facility owner or operator to continue proper post-closure care for 30 years and to comply with 30 C.F.R. § 265.117(a)(1)-(2).	\$5,000	§ 265.144(b)	Failure of facility owner or operator to adjust cost estimate of post-closure care for inflation according to regulatory time frames.	\$1,000
§ 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.	\$2,000	§ 265.144(c)	Failure of facility owner or operator to revise the post-closure care cost estimate whenever a change in the post-closure plan increases the cost of post-closure care.	\$1,000
§ 265.117(d)	Failure of facility owner or operator to perform post-closure care activities in accordance with post-closure plan.	\$5,000	§ 265.144(d)	Failure of facility owner or operator to keep the latest post-closure care cost estimate at the facility.	\$1,000
§ 265.118(a)	Failure of facility owner or operator to have written post-closure plan.	\$5,000	§ 265.145	Failure of facility owner or operator to establish financial assurance for post-closure care of facility.	\$5,000
§ 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.	\$1,000	§ 265.147(a)	Failure of facility owner or operator to meet liability requirements for sudden accidental occurrences.	\$5,000
§ 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.	Matrix	§ 265.147(b)	Failure of facility owner or operator to meet the liability requirements for non-sudden occurrences.	\$5,000
§ 265.118(d)	Failure of facility owner or operator to amend or request modification of post-closure plan when necessary.	\$1,000	§ 265.148(a)	Failure of facility owner or operator or guarantor to notify Department of commencement of proceeding under Title II of the Bankruptcy Code.	\$10,000
§ 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.	Matrix	§ 265.148(b)	Failure of facility owner or operator to establish other financial assurance or liability coverage within 60 days after bankruptcy, suspension, or revocation.	\$5,000
§ 265.119(b)	Failure of facility owner or operator to comply with requirements for notice in deed to property.	\$1,000	(40 C.F.R. Part 265 Subpart I—Use and Management of Containers)		
§ 265.120	Failure of facility owner or operator to certify that post-closure activities have been conducted according to the post-closure plan within 60 days of completion of the established post-closure care period.	Matrix	§ 265.171	Failure of facility owner or operator to handle hazardous waste in containers of good condition.	\$2,000
			§ 265.172	Failure of facility owner or operator to use container compatible with hazardous waste stored.	\$2,000
			§ 265.173	Failure of facility owner or operator to comply with requirements for the management of containers.	\$1,000
			§ 265.174	Failure of facility owner or operator to perform inspection of each area where containers are stored.	\$3,000
			§ 265.176	Failure of facility owner or operator to store containers holding ignitable or reactive wastes at least 50 feet from property line.	\$1,000
			§ 265.177	Failure of facility owner or operator to comply with each of the special requirements for incompatible wastes.	\$2,000

(40 C.F.R. Part 265 Subpart H—Financial Requirements)

Rule	Rule summary	Base penalty or Matrix	Rule	Rule summary	Base penalty or Matrix
§ 265.178	Failure of facility owner or operator to comply with 40 C.F.R. § 265, Subparts AA, BB, and CC.	Matrix	§ 265.193(c)(4)	Failure of facility owner or operator to remove accumulated precipitation or spilled or leaked waste from secondary containment within 24 hours.	\$1,000
(40 C.F.R. Part 265 Subpart J—Tank Systems)			§ 265.193(d)	Failure of facility owner or operator to provide secondary containment featuring an approved device.	Matrix
§ 265.191(a)	Failure of facility owner or operator to obtain and keep a written assessment by a professional engineer attesting to existing tank system's integrity.	Matrix	§ 265.193(e)(1)	Failure of external liner system to meet requirements at 40 C.F.R. § 265.193(e)(1).	\$1,000
§ 265.191(b)	Failure of written assessment to comply with the requirements at 40 C.F.R. § 265.191(b).	\$5,000	§ 265.193(e)(2)	Failure of vault system to meet requirements at 265.193(e)(2).	\$1,000
§ 265.191(c)	Failure of facility owner or operator to assess the integrity of a tank within 12 months of a material becoming a hazardous waste.	Matrix	§ 265.193(e)(3)	Failure of double-walled tank to meet requirements at 265.193(e)(3).	\$1,000
§ 265.192(a)	Failure of facility owner or operator to have written assessment by a professional engineer attesting that the system has sufficient structural strength.	\$5,000	§ 265.193(f)	Failure of facility owner or operator to provide secondary containment for ancillary equipment.	Matrix
§ 265.192(b)	Failure of facility owner or operator to have a new tank inspected by a qualified installation inspector or engineer for damage prior to covering, enclosing or placing in use.	Matrix	§ 265.194(a)	Failure of facility owner or operator to prevent hazardous wastes or treatment reagents from being placed in tank system if they can cause the tank, its ancillary equipment, or containment system to rupture, leak, corrode, or otherwise fail.	\$5,000
§ 265.192(c)	Failure of facility owner or operator of new tank system or components to use appropriate backfill material.	Matrix	§ 265.194(b)	Failure of facility owner or operator to use appropriate controls and practices to prevent spills and overflows from tanks or containment systems.	\$500
§ 265.192(d)	Failure of facility owner or operator to have a new tank and ancillary equipment tested for tightness prior to covering, enclosing or placing in use.	Matrix	§ 265.195(a)(1)	Failure of facility owner or operator to inspect overflow/spill control equipment each operating day.	\$500
§ 265.192(e)	Failure of facility owner or operator to have ancillary equipment supported and protected from settlement, vibration, expansion, or contraction.	Matrix	§ 265.195(a)(2)	Failure of facility owner or operator to inspect aboveground portions of tank system for corrosion or releases of waste each operating day.	\$1,000
§ 265.192(f)	Failure of facility owner or operator to provide proper corrosion protection for new tank systems.	Matrix	§ 265.195(a)(3)	Failure of facility owner or operator to inspect data gathered from monitoring and leak detection equipment each operating day.	\$500
§ 265.192(g)	Failure of facility owner or operator to obtain and keep on record certifications from those professionals responsible for tank system design and installation.	Matrix	§ 265.195(a)(4)	Failure of facility owner or operator to inspect construction materials and area immediately surrounding tank system for erosion or signs of releases each operating day.	\$500
§ 265.193(a)	Failure of facility owner or operator to install secondary containment for hazardous waste tanks within the time frames outlined in 40 C.F.R. § 265.193(a).	Matrix	§ 265.195(b)	Failure of facility owner or operator to inspect cathodic protection systems.	Matrix
§ 265.193(b)(1)	Failure of secondary containment system to be designed, installed, and operated to prevent migration of wastes or accumulated liquid out of the system.	\$3,000	§ 265.195(c)	Failure of facility owner or operator to document inspections in facility operating record.	Matrix
§ 265.193(b)(2)	Failure of secondary containment system to detect and collect releases and accumulated liquids.	Matrix	§ 265.196(a)	Failure of facility owner or operator to cease using a tank from which a release occurred or which is unfit for use.	Matrix
§ 265.193(c)(1)	Failure of containment system to consist of material compatible with wastes stored or to have sufficient strength and thickness.	\$2,000	§ 265.196(b)	Failure of facility owner or operator to remove waste from a tank in which a release occurred within 24 hours in order to affect repairs on the unit.	Matrix
§ 265.193(c)(2)	Failure of facility owner or operator to construct secondary containment unit on a base or foundation capable of providing support and resistance to pressure gradients.	Matrix	§ 265.196(c)	Failure of facility owner or operator to prevent further migration of the release to soils or water or to remove and dispose of any visible contamination of soil or water.	Matrix
§ 265.193(c)(3)	Failure of facility owner or operator to construct secondary containment with a leak detection system that is designed and operated to detect the failure of containment structure(s) or the presence of a release.	Matrix	§ 265.196(d)	Failure of facility owner or operator to report a release within 24 hours or to submit a spill report within 30 days.	Matrix
			§ 265.196(e)	Failure of facility owner or operator to comply with 40 C.F.R. § 265.196(e)(2)-(4) prior to placing a tank back in service following a release.	Matrix
			§ 265.196(f)	Failure of facility owner or operator to obtain a professional engineer's certification prior to placing a tank back in service following a major repair.	Matrix

Rule	Rule summary	Base penalty or Matrix	Rule	Rule summary	Base penalty or Matrix
§ 265.197(a)	Failure of facility owner or operator at closure to remove or decontaminate all waste residues, contaminated containment system components, contaminated soils, structures, etc.	\$5,000	§ 265.201(f)(1)	Failure of small quantity generator to prevent the placing of incompatible wastes, or wastes and materials, in same tank, except in compliance with 40 C.F.R. § 265.17(b).	\$10,000
§ 265.197(c)	Failure of facility owner or operator that has a tank system without secondary containment to comply with requirements at 40 C.F.R. § 265.197(c).	Matrix	§ 265.201(f)(2)	Failure of small quantity generator to prevent the placing of hazardous waste in a tank which was not decontaminated and previously held incompatible waste, except in compliance with 40 C.F.R. § 265.17(b).	\$5,000
§ 265.198(a)	Failure of facility owner or operator to meet specific requirements before placing ignitable or reactive waste in a tank.	\$5,000	§ 265.202	Failure of facility owner or operator to comply with § 265, Subparts AA, BB, and CC.	Matrix
§ 265.198(b)	Failure of facility owner or operator storing or treating ignitable or reactive wastes in tanks to comply with NFPA's buffer zone requirements for tanks.	\$2,000	(40 C.F.R. Part 265 Subpart K—Surface Impoundments)		
§ 265.199(a)	Failure of facility owner or operator to prevent the placing of incompatible wastes, or wastes and materials, in same tank, except in compliance with 40 C.F.R. § 265.17(b).	\$10,000	§ 265.221(a)	Failure of facility owner or operator utilizing surface impoundments to install two or more liners and a leachate collection system.	Matrix
§ 265.199(b)	Failure of facility owner or operator to prevent the placing of hazardous waste in a tank which is not decontaminated and previously held incompatible waste, except in compliance with 40 C.F.R. § 265.17(b).	\$5,000	§ 265.221(f)	Failure of facility owner or operator utilizing surface impoundments to maintain sufficient freeboard to prevent overtopping of the dike by overfilling, wave action, or a storm.	Matrix
§ 265.200	Failure of facility owner or operator utilizing a tank system to conduct waste analysis and trial treatment or storage tests before treating/storing different waste or using a different process.	Matrix	§ 265.223	Failure of facility owner or operator who stores hazardous waste in a surface impoundment to have an approved response action plan.	Matrix
§ 265.201(b)(2)	Failure of small quantity generator to prevent hazardous waste or treatment reagents from being placed in tank system if they can cause the tank, its ancillary equipment, or containment system to rupture, leak, corrode, or otherwise fail.	\$5,000	§ 265.225	Failure of facility owner or operator utilizing a surface impoundment to conduct waste analysis and trial treatment tests before treating different waste or using a different process.	Matrix
§ 265.201(b)(3)	Failure of small quantity generator to maintain at least two feet of freeboard for uncovered tanks.	\$500	§ 265.226	Failure of facility owner or operator to comply with monitoring and inspection requirements of surface impoundments.	\$3,000
§ 265.201(b)(4)	Failure of small quantity generator utilizing tank storage featuring a continuous feed to install a means to stop this inflow.	Matrix	§ 265.228(a)	Failure of facility owner or operator to ensure that all waste residues have been removed, all containment systems and subsoils have been decontaminated and managed as hazardous waste, and provide post-closure care for a landfill when closing a surface impoundment.	Matrix
§ 265.201(c)(1)	Failure of small quantity generator to inspect discharge control equipment each operating day.	Matrix	§ 265.228(b)	Failure of facility owner or operator to comply with maintenance and monitoring requirements during post-closure of surface impoundments.	\$2,000
§ 265.201(c)(2)	Failure of small quantity generator to inspect data gathered from monitoring equipment each operating day.	\$500	§ 265.229	Failure of facility owner or operator to meet requirements for placing ignitable or reactive waste in surface impoundment.	\$5,000
§ 265.201(c)(3)	Failure of small quantity generator to inspect level of waste in tank each operating day.	\$500	§ 265.230	Failure of facility owner or operator to prevent incompatible wastes and/or materials from being placed in same surface impoundment.	\$10,000
§ 265.201(c)(4)	Failure of small quantity generator to inspect construction materials weekly.	\$500	§ 265.231	Failure of facility owner or operator to comply with 40 C.F.R. § 265, Subparts BB and CC.	Matrix
§ 265.201(c)(5)	Failure of small quantity generator to inspect the construction materials of, and the area immediately surrounding, discharge confinement structures weekly.	\$500	(40 C.F.R. Part 265 Subpart L—Waste Piles)		
§ 265.201(d)	Failure of small quantity generator at closure to remove all waste from tanks, discharge control equipment, and discharge confinement structures.	\$5,000	§ 265.251	Failure of facility owner or operator to manage a waste pile in order to prevent wind dispersal.	Matrix
§ 265.201(e)(1)	Failure of small quantity generator to meet specific requirements before placing ignitable or reactive waste in a tank.	\$5,000	§ 265.252	Failure of facility owner or operator to conduct a waste analysis of each incoming waste movement prior to adding the waste to a waste pile.	Matrix
§ 265.201(e)(2)	Failure of small quantity generator storing or treating ignitable or reactive waste in a tank to comply with NFPA's buffer zone requirements for tanks.	\$2,000	§ 265.253	Failure of facility owner or operator storing waste in piles to provide proper leachate, run-off, and run-on controls.	Matrix

Rule	Rule summary	Base penalty or Matrix	Rule	Rule summary	Base penalty or Matrix
§ 265.254	Failure of facility owner or operator utilizing waste piles to install two or more liners and a leachate collection system both above and between the liners.	Matrix	§ 265.301(g)	Failure of facility owner or operator of hazardous waste landfill to manage run-off system.	\$2,000
§ 265.256	Failure of facility owner or operator to ensure that ignitable or reactive wastes are not placed in waste piles or are managed in such a way as to protect it from any conditions that may make it ignite or react.	Matrix	§ 265.301(h)	Failure of facility owner or operator of hazardous waste landfill to empty or manage run-on/run-off systems after storm.	\$2,000
§ 265.257	Failure of facility owner or operator to comply with special handling instructions for the placement of incompatible wastes in waste piles.	Matrix	§ 265.301(i)	Failure of facility owner or operator who landfills hazardous waste to manage the landfill in a manner to control wind dispersal of hazardous waste.	Matrix
§ 265.258	Failure of facility owner or operator to ensure that all waste and contaminated containment system components have been removed and managed as hazardous waste when closing a waste pile.	Matrix	§ 265.304(a)	Failure of facility owner or operator to record the amount of liquids removed from each leak detection system sump at least once a week through the active life and closure period of a hazardous waste landfill.	Matrix
§ 265.259	Failure of facility owner or operator who stores hazardous waste in a waste pile to have an approved response action plan.	Matrix	§ 265.304(b)	Failure of facility owner or operator to record the amount of liquids removed from each leak detection system sump in accordance with 40 C.F.R. § 265.304(b) following the closure period of a hazardous waste landfill.	Matrix
§ 265.260	Failure of facility owner or operator to record the amount of liquids removed from each leak detection system sump at least once a week through the active life and closure period of a waste pile.	Matrix	§ 265.309(a)	Failure of facility owner or operator to maintain in operating record details of location and dimensions of each hazardous waste landfill cell.	\$2,000
			§ 265.309(b)	Failure of facility owner or operator to maintain in operating record the contents of each hazardous waste landfill cell and location of each hazardous waste type.	\$2,000
(40 C.F.R. Part 265 Subpart M—Land Treatment)					
§ 265.272(a)	Failure of facility owner or operator conducting land treatment to ensure that the hazardous constituents in the waste will be made less hazardous or nonhazardous by the processes occurring in the treatment zone.	Matrix	§ 265.310(a)	Failure of facility owner or operator of a hazardous waste landfill to place final cover over landfill.	\$5,000
§ 265.272(b)	Failure of facility owner or operator utilizing land treatment to have a run-on control system capable of preventing flow into the treatment zone during a 25-year storm.	Matrix	§ 265.310(b) (1)	Failure of facility owner or operator of a hazardous waste landfill to maintain the function and integrity of the final cover including making repairs to the cover as necessary to correct the effects of settling, subsidence, erosion, or other events.	\$2,000
§ 265.272(c)	Failure of facility owner or operator utilizing land treatment to have a run-off management system capable of collecting and controlling flow during a 25-year storm.	Matrix	§ 265.310(b) (2)	Failure of facility owner or operator to maintain and monitor the leak detection system.	\$2,000
§ 265.272(d)	Failure of facility owner or operator utilizing land treatment to empty run-on and run-off holding facilities expeditiously following a storm.	Matrix	§ 265.310(b) (3)	Failure of facility owner or operator who landfills hazardous waste to comply with all ground water monitoring, sampling, and reporting requirements.	Matrix
§ 265.272(e)	Failure of facility owner or operator utilizing land treatment to manage the treatment zone in a manner to control wind dispersal of hazardous waste.	Matrix	§ 265.310(b) (4)	Failure of facility owner or operator to prevent run-on and run-off from eroding or otherwise damaging the final cover.	\$2,000
§ 265.273	Failure of facility owner or operator conducting land treatment to ensure that all wastes to be placed in the treatment zone are analyzed to determine if they meet the standards of 40 C.F.R. § 265.273.	Matrix	§ 265.310(b) (5)	Failure of facility owner or operator to protect and maintain surveyed benchmarks used in complying with § 265.309.	\$1,000
§ 265.276	Failure of facility owner or operator to comply with 40 C.F.R. § 265.276 when growing food-chain crops on or in the treatment zone.	Matrix	§ 265.312(a)	Facility owner or operator of hazardous waste landfill placed ignitable or reactive wastes in a hazardous waste landfill.	\$10,000
			§ 265.312(b)	Failure of facility owner or operator to comply with special handling instructions for the placement of ignitable wastes in landfill units.	Matrix
			§ 265.313	Facility owner or operator of hazardous waste landfill placed incompatible wastes and materials in same landfill cell.	\$10,000
			§ 265.314(b)	Facility owner or operator placed bulk or non-containerized liquids in landfill.	\$10,000
			§ 265.314(c)	Facility owner or operator placed containerized liquids in hazardous waste landfill.	\$5,000
§ 265.301(f)	Failure of facility owner or operator of hazardous waste landfill to manage run-on system.	\$2,000	§ 265.314(d)	Failure of facility owner or operator to utilize an approved testing method to determine if a waste to be placed in a hazardous waste landfill contains free liquids.	Matrix

Rule	Rule summary	Base penalty or Matrix	Rule	Rule summary	Base penalty or Matrix
§ 265.315	Failure of facility owner or operator to comply with special requirements for containers.	\$2,000		nation of waste explosives too close to property line.	\$10,000
§ 265.316(a)	Failure of facility owner or operator to comply with inside package requirements of overpack containers before placing in a hazardous waste landfill.	\$2,000	(40 C.F.R. Part 265 Subpart Q—Chemical, Physical, and Treatment)		Biological
§ 265.316(b)	Failure of metal outer container to be full after packing with inside containers and absorbent material.	\$2,000	§ 265.401(b)	Failure of facility owner or operator to prevent placing of hazardous wastes in treatment process if they could cause process to leak, corrode, or fail.	\$5,000
§ 265.316(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.	\$5,000	§ 265.401(c)	Failure of facility owner or operator to provide continuously fed treatment process with a mechanism to stop inflow.	\$3,000
§ 265.316(d)	Failure of facility owner or operator to prevent incompatible wastes from being placed in same outside container.	\$5,000	§ 265.402(a)	Failure of facility owner or operator to conduct waste analysis and trial treatment tests before treating different waste or using a different process.	\$5,000
§ 265.316(e)	Failure of facility owner or operator to meet requirements for packaging reactive wastes before placing in hazardous waste landfill.	\$5,000	§ 265.403(a) (1)	Failure of facility owner or operator to inspect discharge control and safety equipment at least once each operating day.	\$750
			§ 265.403(a) (2)	Failure of facility owner or operator to inspect data from monitoring equipment at least once each operating day.	\$750
(40 C.F.R. Part 265 Subpart O—Incinerators)			§ 265.403(a) (3)	Failure of facility owner or operator to inspect construction materials at least weekly.	\$750
§ 265.341	Failure of facility owner or operator to sufficiently analyze waste not previously burned.	\$5,000	§ 265.403(a) (4)	Failure of facility owner or operator to monitor and inspect discharge confinement structures for erosion or leakage at least weekly.	\$750
§ 265.345	Facility owner or operator fed hazardous waste into the incinerator during start up and shut down when not operating at steady state conditions.	\$10,000	§ 265.404	Failure of facility owner or operator to remove all hazardous waste and residues at closure.	\$5,000
§ 265.347(a)	Failure of facility owner or operator of incinerator to conduct monitoring of combustion and emission control instruments at least every 15 minutes or to make appropriate corrections immediately	\$500	§ 265.405	Failure of facility owner or operator to prevent placing ignitable or reactive waste in treatment process unless it is treated accordingly.	\$10,000
§ 265.347(b)	Failure of facility owner or operator to completely inspect incinerator or associated equipment at least daily.	\$3,000	§ 265.406(a)	Failure of facility owner or operator to prevent the placing of incompatible wastes in the treatment process.	\$10,000
§ 265.351	Failure of facility owner or operator to remove all hazardous wastes and hazardous waste residues from the incinerator at closure.	\$5,000	§ 265.406(b)	Failure of facility owner or operator to prevent the placing of hazardous waste in unwashed treatment equipment which previously held incompatible waste or material.	\$5,000
(40 C.F.R. Part 265 Subpart P—Thermal Treatment)					
§ 265.373	Failure of facility owner or operator to bring thermal treatment process to normal operating conditions before adding hazardous waste.	\$10,000	(40 C.F.R. Part 265 Subpart W—Drip Pads)		
§ 265.375	Failure of facility owner or operator to sufficiently analyze waste not previously treated.	\$5,000	§ 265.443(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.	Matrix
§ 265.377(a) (1)	Failure of facility owner or operator when thermally treating hazardous waste to monitor instruments relating to temperature and emission control at least every 15 minutes.	\$500	§ 265.443(b) (1)	Failure of facility owner or operator to ensure drip pads have a proper liner of appropriate materials on a sound foundation.	Matrix
§ 265.377(a) (2)	Failure of facility owner or operator when thermally treating hazardous waste to observe stack plume at least hourly.	\$500	§ 265.443(b) (2)	Failure of facility owner or operator to ensure drip pads have a proper functioning leakage detection system.	Matrix
§ 265.377(a) (3)	Failure of facility owner or operator when thermally treating hazardous waste to inspect process and associated equipment for leaks, spills, etc. at least daily.	\$3,000	§ 265.443(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 or to record in the facility's operating log the date and amount of leakage collected.	Matrix
§ 265.381	Failure of facility owner or operator at closure to remove all hazardous waste and residues from thermal treatment process.	\$5,000	§ 265.443(c)	Failure of facility owner or operator to ensure drip pads are maintained free of cracks, gaps, or deterioration.	Matrix
§ 265.382	Failure of facility owner or operator to prevent the open burning of any hazardous waste or the open burning and deto-		§ 265.443(d)	Failure of facility owner or operator to ensure drip pads are designed and operat-	

<u>Rule</u>	<u>Rule summary</u>	<u>Base penalty or Matrix</u>	<u>Rule</u>	<u>Rule summary</u>	<u>Base penalty or Matrix</u>
§ 265.443(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	§ 265.1201(a)(4)	Failure of hazardous waste munitions and explosives storage unit to be designed and operated so that any released liquids are contained, promptly detected, and removed (for liquid wastes).	Matrix
§ 265.443(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	§ 265.1201(a)(5)	Failure of hazardous waste munitions and explosives storage unit to be designed and operated to provide monitoring and inspection procedures that assure the controls and containment systems are working as designed.	Matrix
§ 265.443(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. § 265.443.	Matrix	§ 265.1201(b)(1)	Failure of hazardous waste munitions and explosives stored in earth-covered magazines to comply with the requirements of 40 C.F.R. § 265.1201(b)(1).	Matrix
§ 265.443(h)	Failure of facility owner or operator utilizing a drip pad to remove drippage and precipitation from collection system.	Matrix	§ 265.1201(b)(2)	Failure of hazardous waste munitions and explosives in above-ground magazines to be located and designed so as to minimize the propagation of an explosion to adjacent units.	Matrix
§ 265.443(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 or to record in the facility's operating log the date and procedures for each cleaning.	Matrix	§ 265.1201(b)(3)	Failure of hazardous waste munitions and explosives in outdoor or open storage areas to be located and designed so as to minimize the propagation of an explosion to adjacent units.	Matrix
§ 265.443(j)	Failure of facility owner or operator to minimize the tracking of hazardous waste off of the drip pad.	Matrix	§ 265.1201(c)	Failure of hazardous waste munitions and explosives to be stored in accordance with an SOP specifying procedures to ensure safety, security, and environmental protection.	Matrix
§ 265.443(k)	Failure of facility owner or operator to hold all treated lumber on the drip pad until drippage has ceased or to document actions.	Matrix	§ 265.1201(d)	Failure of hazardous waste munitions and explosives to be packaged to ensure safety in handling and storage.	Matrix
§ 265.443(l)	Failure of facility owner or operator to empty run-on and run-off collection units promptly following a storm.	Matrix	§ 265.1201(e)	Failure of hazardous waste munitions and explosives to be inventoried at least annually.	Matrix
§ 265.443(m)	Failure of facility owner or operator to make repairs to a drip pad which has had, or may of had, a release of hazardous waste, in accordance with 40 C.F.R. § 265.443(m).	Matrix	§ 265.1201(f)	Failure of hazardous waste munitions and explosives and their storage units to be inspected and monitored to ensure explosive safety and to ensure that there is no migration of contaminants outside the unit.	Matrix
§ 265.443(n)	Failure of facility owner or operator utilizing drip pads to maintain records of past waste handling practices.	Matrix			
§ 265.444(a)	Failure of facility owner or operator using a drip pad to obtain a professional engineer's certification immediately after installation of a liner.	Matrix			
§ 265.444(b)	Failure of facility owner or operator to inspect drip pads on a weekly basis and after storms.	Matrix			
§ 265.445	Failure of facility owner or operator to ensure that all waste and contamination have been removed when closing a drip pad.	Matrix			
(40 C.F.R. Part 265 Subpart EE—Hazardous Waste Munitions and Explosives Storage)			7. The violations of N.J.A.C. 7:26G-10, Standards for the Management of Specific Hazardous Wastes and Specific Types of Hazardous Waste Management Facilities, and the civil administrative penalty amounts for each violation, are as set forth in the following table.		
§ 265.1201(a)(1)	Failure of hazardous waste munitions and explosives storage unit to be designed and operated to minimize the potential for detonation or other means of release of hazardous waste.	Matrix	<u>Rule</u>	<u>Rule summary</u>	<u>Base penalty or Matrix</u>
§ 265.1201(a)(2)	Failure of hazardous waste munitions and explosives storage unit to be designed and operated to provide a primary barrier designed to contain hazardous waste.	Matrix	(40 C.F.R. Part 266 Subpart C—Recyclable Materials Used in a Manner Constituting Disposal)		
§ 265.1201(a)(3)	Failure of hazardous waste munitions and explosives storage unit to be designed and operated so that the waste and containers will not be in standing precipitation, for wastes stored outdoors.	Matrix	§ 266.23(b)	Failure of facility owner or operator to ensure hazardous waste or dioxin contaminated waste is not used for dust suppression or road treatment.	Matrix
			(40 C.F.R. Part 266 Subpart F—Recyclable Materials Utilized for Precious Metal Recovery)		
			§ 266.70(c)	Failure to maintain required records of hazardous wastes to be reclaimed for precious metals content.	Matrix
			(40 C.F.R. Part 266 Subpart H—Hazardous Waste Burned in Boilers and Industrial Furnaces)		

Rule	Rule summary	Base penalty or Matrix	Rule	Rule summary	Base penalty or Matrix
§ 266.102	Failure of facility owner or operator who is burning hazardous wastes in boilers or industrial furnaces to meet the requirements of 40 C.F.R. § 266.102 and the facility permit.	Matrix	§ 268.7(a)(3)	when the waste does not meet the treatment standard or to place a copy in the file.	Matrix
§ 266.103	Failure of facility owner or operator with an existing boiler or industrial furnace who is burning hazardous waste on an interim basis to meet the requirements of 40 C.F.R. § 266.103.	Matrix	§ 268.7(a)(4)	Failure of generator to send a one-time written notice and certification with the initial waste shipment to the treatment, storage, or disposal facility when the waste meets the treatment standard or to place a copy in the file.	Matrix
§ 266.104	Failure of facility owner or operator who is burning hazardous wastes in a boiler or industrial furnace to meet the required destruction and removal efficiency standard.	Matrix	§ 268.7(a)(5)	Failure of generator of waste exempt from meeting treatment standards before being land disposed to send a one-time written notice with the initial waste shipment to the land disposal facility or to place a copy in the file.	Matrix
§ 266.105	Failure of facility owner or operator who is burning hazardous wastes in a boiler or industrial furnace to meet the required standards for emitted particulate matter.	Matrix	§ 268.7(a)(6)	Failure of generator who is managing and treating prohibited waste to develop and follow a written waste analysis plan or to keep plan on site.	Matrix
§ 266.106	Failure of facility owner or operator who is burning hazardous wastes in a boiler or industrial furnace to meet the required standards for metal emissions.	Matrix	§ 268.7(a)(7)	Failure of generator to retain on site all data used to determine if a waste is restricted.	Matrix
§ 266.107	Failure of facility owner or operator who is burning hazardous wastes in a boiler or industrial furnace to meet the required standards for HCl and chlorine gas emissions.	Matrix	§ 268.7(a)(8)	Failure of generator to keep a one-time notice on site stating that he is managing a restricted waste that is excluded from the definition of hazardous or solid waste subsequent to the point of generation and noting the disposition of the waste.	Matrix
§ 266.111	Failure of facility owner or operator when transferring hazardous wastes directly from a vehicle to a boiler or industrial furnace to meet the requirements of 40 C.F.R. § 266.111.	Matrix	§ 268.7(a)(9)	Failure of generator to retain documentation required by 40 C.F.R. § 268.7 for three years or longer during the course of any unresolved enforcement action or as requested by the Department.	Matrix
(40 C.F.R. Part 266 Subpart M—Military Munitions)					
§ 266.203(a)(2)	Failure of facility owner or operator to notify the Department if the military munitions waste is not received within 45 days of being shipped.	Matrix	§ 268.7(a)(10)	Failure of generator using the alternative treatment standards for lab packs to send a one-time written notice and certification with the initial waste shipment to the treatment facility or to place a copy in the file.	Matrix
§ 266.205(b)	Failure of facility owner or operator to notify the Department when a storage unit identified in 40 C.F.R. § 266.205(a)(1)(iv) will no longer be used to store military munitions.	Matrix	§ 268.7(b)(1)	Failure of small quantity generator with tolling agreements to comply with applicable notification and certification requirements for the initial shipment of waste subject to the tolling agreement or to retain copy(s) on site.	Matrix
8. The violations of N.J.A.C. 7:26G-11, Land Disposal Restrictions, and the civil administrative penalty amounts for each violation, are as set forth in the following table.					
Rule	Rule summary	Base penalty or Matrix	Rule	Rule summary	Base penalty or Matrix
(40 C.F.R. Part 268 Subpart A—General)					
§ 268.3(a)	Failure of generator, transporter, or facility to ensure that a restricted waste is not in any way diluted as a substitute for treatment.	Matrix	§ 268.7(b)(2)	Failure of treatment facility to test an extract of the treatment residues for wastes with treatment standards expressed in the waste extract (TCLP) to assure that it meets the applicable treatment standards.	Matrix
§ 268.4	Failure of facility owner or operator utilizing a surface impoundment for the treatment of hazardous waste to comply with the requirements of 40 C.F.R. § 268.4.	Matrix	§ 268.7(b)(3)	Failure of treatment facility to test the treatment residues for waste with treatment standards expressed as concentrations in the waste to assure that they meet the applicable treatment standards.	Matrix
§ 268.7(a)(1)	Failure of generator to determine if the hazardous waste is restricted from land disposal.	Matrix	§ 268.7(b)(4)	Failure of treatment facility to send a one-time notice with the initial waste shipment to the land disposal facility or to place a copy in the file.	Matrix
§ 268.7(a)(2)	Failure of generator to send a one-time written notice with the initial waste shipment to the treatment or storage facility	Matrix	§ 268.7(b)(6)	Failure of treatment facility to send a one-time certification with the initial waste shipment to the land disposal facility or to place a copy in the file.	Matrix
				Failure of treatment facility to submit a notice and certification to the Department with each shipment of recyclable materials used in a manner constituting disposal or to keep records of each entity receiving the waste-derived product.	Matrix

Rule	Rule summary	Base penalty or Matrix	Rule	Rule summary	Base penalty or Matrix
§ 268.7(c)(1)	Failure of land disposal facility disposing restricted waste to have copies of the applicable notices and certifications.	Matrix	§ 268.50(a)(2)	Failure of facility owner or operator to store restricted waste solely for the purpose of the accumulation of such quantities of waste as necessary to facilitate proper recovery, treatment, or disposal or to clearly mark each container or tank.	Matrix
§ 268.7(c)(2)	Failure of land disposal facility disposing of restricted waste to test the waste to assure it is in compliance with the applicable treatment standards.	Matrix	§ 268.50(a)(3)	Transporter stored restricted waste at a transfer facility for greater than 10 days.	Matrix
§ 268.7(d)	Failure of generators or treaters who first claim that hazardous debris is excluded from the definition of hazardous waste to meet the proper notification and certification requirements.	Matrix	§ 268.50(b)	Owner or operator of a treatment facility stored restricted waste for greater than one year.	Matrix
§ 268.9(a)	Failure of generator of a waste that displays a hazardous characteristic to determine the underlying hazardous constituents in the waste.	Matrix	§ 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.	Matrix
§ 268.9(c)	Failure of generator to ensure a prohibited waste exhibiting a characteristic complies with the treatment standards under 40 C.F.R. § 268, Subpart D before being land disposed.	Matrix			
§ 268.9(d)	Failure of generator or treater of a waste that once exhibited a characteristic but is no longer hazardous to place a one-time notification and certification in its files or to send to the Department.	Matrix			
9. The violations of N.J.A.C. 7:26G-12, Hazardous Waste Permit Program, and the civil administrative penalty amounts for each violation, are as set forth in the following table.					
(40 C.F.R. Part 268 Subpart C—Prohibitions on Land Disposal)			<u>Rule</u>	<u>Rule summary</u>	<u>Base penalty or Matrix</u>
§ 268.30	Failure to comply with land disposal prohibitions of wood preserving wastes.	Matrix	(40 C.F.R. Part 270 Subpart B—Permit Application)		
§ 268.31	Failure to comply with land disposal prohibitions of dioxin-containing wastes.	Matrix	§ 270.10(e) and (f)	Constructed, installed, modified, or operated hazardous waste facility without submitting Part A or Part B of permit application.	\$10,000
§ 268.33	Failure to comply with land disposal prohibitions of organobromine wastes.	Matrix	(40 C.F.R. Part 270 Subpart C—Permit Conditions)		
§ 268.34	Failure to comply with land disposal prohibitions of toxicity characteristic metal wastes.	Matrix	§ 270.30(a)	Failure of permittee to comply with all conditions of permit.	Matrix
§ 268.35	Failure to comply with land disposal prohibitions of petroleum refining wastes.	Matrix	§ 270.30(b)	Failure of permittee to apply for a new hazardous waste permit following expiration of initial permit.	Matrix
§ 268.37	Failure to comply with land disposal prohibitions of ignitable and corrosive characteristic wastes whose treatment standards were vacated.	Matrix	§ 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.	\$10,000
§ 268.38	Failure to comply with land disposal prohibitions of newly identified organic toxicity characteristic wastes and newly listed coke by-product and chlorotoluene production wastes.	Matrix	§ 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
§ 268.39	Failure to comply with land disposal prohibitions of spent aluminum potliners; reactive; and carbamate wastes.	Matrix	§ 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.	\$5,000
(40 C.F.R. Part 268 Subpart D—Treatment Standards)			§ 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.	\$5,000
§ 268.40	Failure to meet treatment standard requirements found in the table in 40 C.F.R. § 268.40 before land disposing of prohibited waste.	Matrix	§ 270.30(j)(1)	Failure of permittee to take samples and measurements that are representative of the monitored activity.	Matrix
§ 268.45	Failure to meet treatment standards before land disposing of hazardous debris.	Matrix	§ 270.30(j)(2)	Failure of permittee to retain records of required information regarding monitoring sampling and measurements.	\$2,000
§ 268.48	Failure to meet treatment standards for underlying hazardous constituents.	Matrix	§ 270.30(j)(3)	Failure of permittee to record specific monitoring data.	Matrix
(40 C.F.R. Part 268 Subpart E—Prohibitions on Storage)					
§ 268.50(a)(1)	Failure of generator to store restricted waste solely for the purpose of the accumulation of such quantities of waste as necessary to facilitate proper recovery, treatment, or disposal.	Matrix			

Rule	Rule summary	Base penalty or Matrix	Rule	Rule Summary	Base Penalty
§ 270.30(k)	Failure of permittee to sign and certify all applications, reports, or information submitted to Department.		(49 C.F.R. Part 130) § 130.11(a)	Person offered oil for transportation without a document that indicated the shipment contained oil.	Matrix
§ 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.	\$300	§ 130.11(b)	Person transported oil without a readily available document indicating that the shipment contained oil.	Matrix
§ 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.	\$2,000	§ 130.21	Person used a package that allowed a release of oil.	Matrix
§ 270.30(l)(4)	Failure of permittee to report monitoring results at intervals specified in permit.	\$5,000	§ 130.31(a)	Carrier transported oil without a current basic discharge plan.	Matrix
§ 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.	\$2,000	§ 130.33	Failure of carrier to implement a response plan.	Matrix
§ 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.	\$300	(49 C.F.R. Part 171) § 171.2(a)	Failure of a person offering or accepting a hazardous material to be registered with the Federal DOT or offering or accepting an improperly prepared package.	Matrix
§ 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.	\$25,000	§ 171.2(b)	Failure of person transporting a hazardous material to be registered with the Federal DOT or to properly handle or transport hazardous materials.	Matrix
§ 270.30(l)(6)(iii)	Failure of permittee to report any non-compliance which may endanger health or the environment in writing within five days.	\$25,000	§ 171.2(f)(1)	Person represented that a container or package for transportation meets requirements of 49 C.F.R. when it did not.	Matrix
§ 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.	\$10,000	§ 171.2(f)(2)	Person represented that a hazardous material was present in a package, container, or motor vehicle when it was not.	Matrix
§ 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.	\$1,000	§ 171.2(g)(1)	Person tampered with a marking, label, placard, or description on a document.	Matrix
			§ 171.2(g)(2)	Person tampered with a package, container, or motor vehicle used for hazardous materials transportation.	Matrix
			§ 171.3(b)(1)	Failure of carrier to mark motor vehicle used to transport hazardous waste (for which a manifest is required) in accordance with 49 C.F.R. §§ 390.21 or 1058.2.	Matrix
			§ 171.15	Failure of carrier to give immediate notice of an incident by telephone to Federal DOT.	Matrix
			§ 171.16(a)	Failure of carrier to submit a written report to Federal DOT within 30 days of discovery of an incident.	Matrix
			§ 171.16(b)	Failure of carrier to retain a copy of an incident report at its principal place of business for two years.	Matrix
(40 C.F.R. Part 270 Subpart D—Changes to Permits)					
§ 270.40(b)	Failure of permittee to obtain written approval in advance of any proposed change of ownership or operational control.	\$5,000	(49 C.F.R. Part 172 Subpart C—Shipping Papers) § 172.200(a)	Failure of shipper to describe the hazardous material on a shipping paper.	Matrix
(40 C.F.R. Part 270 Subpart G—Interim Status)					
§ 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.	\$5,000	§ 172.201(a)(1)-(4)	Failure of shipper to use a proper description on a shipping paper.	Matrix
§ 270.71(a)(2)	Owner or operator of an interim status facility employed processes not specified in Part A application.	\$5,000	§ 172.201(c)	Failure of shipper using continuation page(s) to be consecutively numbered or the first page to contain a notation specifying the total number of pages.	Matrix
§ 270.71(a)(3)	Owner or operator of an interim status facility exceeded design capacities or operational limits specified in Part A application.	\$5,000	§ 172.202(a)(1)-(5)	Failure of shipper to include as part of the shipping description the proper shipping name, hazard class or division, ID number, packing group, and total quantity.	Matrix
§ 270.72(b)	Interim status facility owner or operator made changes to facility, which amounted to reconstruction of facility.	\$5,000	§ 172.202(b)	Failure of shipper to show shipping description in the proper sequence with no additional information interspersed.	Matrix
			§ 172.202(c)	Failure of shipper to list the total quantity before or after, or both before and after, the basic description.	Matrix
	Appendix A		§ 172.202(e)	Shipper offered or carrier transported a material that is not a hazardous material with a hazard class or ID number in the shipping description.	Matrix

Hazardous Materials Regulations Penalty Table

Rule	Rule Summary	Penalty	Rule	Rule Summary	Penalty
§ 172.203(a)	Failure of shipper to enter "DOT-E" followed by exemption number on the shipping paper.	Matrix	§ 172.312(b)	Shipper displayed arrows for purposes other than to indicate proper package orientation on a non-bulk package containing liquid hazardous material.	Matrix
§ 172.203(c)(1)	Failure of shipper to enter the name of the hazardous substance or hazardous waste code in the shipping description when the proper shipping name does not identify the hazardous substance by name.	Matrix	§ 172.313(a)	Failure of shipper or carrier to mark packaging containing a material poisonous by inhalation with "Inhalation Hazard" (marking must be on two opposing sides of a bulk packaging).	Matrix
§ 172.203(c)(2)	Failure of shipper to enter the letters "RQ" on the shipping paper.	Matrix	§ 172.313(b)	Failure of shipper or carrier to permanently mark non-bulk plastic outer packaging used as a single or composite packaging for Division 6.1 materials with "POISON" in letters at least 6.3 millimeters high.	Matrix
§ 172.203(k)	Failure of shipper to enter the technical names of the hazardous material in the shipping description for n.o.s. or other generic descriptions.	Matrix	§ 172.313(c)	Failure of shipper or carrier of a material poisonous by inhalation in non-bulk packages in a transport vehicle or freight container to mark each side and end with the ID number and each individual package with the same proper shipping name and ID number.	Matrix
§ 172.203(j)	Failure of shipper to enter the name of the component which makes a material a marine pollutant in the shipping description when not identified or to enter the words "Marine Pollutant."	Matrix	§ 172.316(a)	Failure of shipper or carrier to mark non-bulk packaging with the ORM-D designation on at least one side or end within a rectangle that is approximately 6.3 millimeters larger on each side than the designation.	Matrix
§ 172.203(m)	Failure of shipper to enter the proper information in the shipping description for poisonous materials.	Matrix	§ 172.322(b)(1)-(2)	Failure of shipper or carrier to properly mark bulk packaging with the MARINE POLLUTANT mark.	Matrix
§ 172.205(a)	Failure of carrier to properly prepare a hazardous waste manifest.	Matrix	§ 172.322(c)	Failure of shipper or carrier to properly mark a transport vehicle or freight container used to transport a package containing a marine pollutant with the MARINE POLLUTANT mark.	Matrix
(49 C.F.R. Part 172 Subpart D—Marking)					
§ 172.300(a)	Failure of shipper to properly mark each package, freight container, or transport vehicle.	Matrix	§ 172.322(e)	Failure of shipper or carrier to use the proper MARINE POLLUTANT mark.	Matrix
§ 172.300(b)	Failure of carrier to properly mark each package, freight container, or transport vehicle.	Matrix	§ 172.324(a)	Failure of shipper to mark non-bulk packaging with the name of the hazardous substance or hazardous waste code when not identified by name.	Matrix
§ 172.301(a)(1)	Failure of shipper to mark non-bulk packaging with the proper shipping name and ID number.	Matrix	§ 172.324(b)	Failure of shipper to mark the letters "RQ" on a non-bulk package containing a hazardous substance.	Matrix
§ 172.301(a)(3)	Failure of shipper of a single hazardous material in non-bulk packages in a transport vehicle or freight container to mark each side and end with the ID number and each individual package with the same proper shipping name and ID number.	Matrix	§ 172.326(a)	Failure of shipper or carrier to mark a portable tank on two opposing sides with the proper shipping name.	Matrix
§ 172.301(b)	Failure of shipper to mark non-bulk packaging subject to 49 C.F.R. § 172.203(k) with the technical name of the hazardous material.	Matrix	§ 172.326(b)	Failure of shipper or carrier to display the name of the owner or lessee on a portable tank.	Matrix
§ 172.301(c)	Failure of shipper to mark the outside of a non-bulk package, authorized by an exemption, with "DOT-E" followed by exemption number.	Matrix	§ 172.326(c)(1)	Failure of shipper or carrier to mark a transport vehicle or freight container used to transport a portable tank with ID number if not visible on portable tank.	Matrix
§ 172.302(a)	Failure of shipper or carrier to properly mark bulk packaging with the ID number.	Matrix	§ 172.326(c)(2)	Failure of shipper of a portable tank in a transport vehicle or freight container to provide ID number markings to motor carrier if not visible on portable tank.	Matrix
§ 172.302(b)	Failure of shipper or carrier to display markings of proper size on bulk packagings.	Matrix	§ 172.328(a)(1)-(3)	Failure of shipper or carrier to provide, affix, or mark the ID number on a cargo tank or on the transport vehicle or freight container if not visible on cargo tank.	Matrix
§ 172.302(c)	Failure of shipper or carrier to mark the outside of a bulk package, authorized by an exemption, with "DOT-E" followed by exemption number.	Matrix	§ 172.331(a)-(c)	Failure of shipper or carrier to provide, affix, or mark the ID number on bulk packaging other than portable tanks or cargo tanks or on the transport vehicle or freight container if not visible on bulk packaging.	Matrix
§ 172.302(d)	Failure of shipper or carrier to maintain marking on bulk packaging when emptied.	Matrix	§ 172.332(c)-(d)	Failure of shipper or carrier to properly display ID number on placard.	Matrix
§ 172.303(a)	Shipper offered or carrier transported a package that did not contain the hazardous material marked on the package.	Matrix	§ 172.334(a)-(g)	Person displayed an ID number in a prohibited manner.	Matrix
§ 172.304(a)(1)-(4)	Failure of shipper or carrier to meet the marking requirements.	Matrix			
§ 172.308(a)	Failure of shipper or carrier to use only authorized abbreviations.	Matrix			
§ 172.312(a)	Failure of shipper of non-bulk combination package with inner packagings containing liquid hazardous material to pack with closures upward and with package orientation markings.	Matrix			

Rule	Rule Summary	Penalty	Rule	Rule Summary	Penalty
§ 172.336(a)	Failure of shipper or carrier, displaying ID numbers on transport vehicle or freight container that are not required or prohibited, to display proper ID numbers.	Matrix	§ 172.505(a)	Failure of shipper or carrier to display POISON INHALATION HAZARD or POISON GAS placard, in addition to other placards required.	Matrix
§ 172.336(b)	Failure of shipper or carrier to properly display ID numbers on plain white square-on-point configuration.	Matrix	§ 172.505(c)	Failure of shipper or carrier to display DANGEROUS WHEN WET placard, in addition to other placards required.	Matrix
§ 172.338	Failure of carrier to replace missing or damaged ID number as soon as practical or to properly enter ID number when done by hand.	Matrix	§ 172.506(a)	Failure of shipper to provide motor carrier with the required placards prior to or at the same time the material is offered for transportation.	Matrix
(49 C.F.R. Part 172 Subpart E—Labeling)			§ 172.506(a)	Carrier transported hazardous material without proper placarding.	Matrix
§ 172.400	Failure of shipper or carrier to properly label packages or containment devices.	Matrix	(1)		
(a)-(b)			§ 172.512(a)	Failure of shipper or carrier to affix the required placards to a freight container having a capacity of 640 cubic feet.	Matrix
§ 172.401(a)	Shipper or carrier labeled a package that did not contain a hazardous material or without representing the hazard of the material.	Matrix	§ 172.514(a)	Failure of shipper to affix the required placards to a bulk packaging.	Matrix
§ 172.401(b)	Shipper or carrier marked or labeled a package that could be confused with or conflicts with a label prescribed by 49 C.F.R. § 172.	Matrix	§ 172.514(b)	Failure of shipper or carrier to maintain placarding on bulk packaging when emptied.	Matrix
§ 172.402(a)	Failure of shipper or carrier to label packages with primary and subsidiary hazard labels.	Matrix	§ 172.516(a)	Failure of placard to be readily visible from the direction it faces.	Matrix
(1)-(2)			§ 172.516(c)	Failure of shipper or carrier to meet the placard visibility and display requirements.	Matrix
§ 172.402(b)	Failure of shipper or carrier to display the hazard class or division number in lower corner of primary label.	Matrix	(1)-(6)		
§ 172.404(a)	Failure of shipper or carrier to use label for each hazard class when hazardous materials having different classes are packed within the same packaging.	Matrix	§ 172.516(d)	Failure of shipper or carrier to ensure that placard holder does not obscure placard surface other than the borders.	Matrix
§ 172.404(b)	Failure of shipper or carrier to use label for each hazard class when two or more packages containing compatible hazardous material are placed within the same outside container or overpack.	Matrix	§ 172.519(a)	Failure of shipper or carrier to meet the placard strength and durability requirements.	Matrix
§ 172.406(a)	Failure of shipper or carrier to place label in the proper location on the package or containment device.	Matrix	(1)-(3)		
(1)-(2)			§ 172.519(b)	Failure of shipper or carrier to use a placard design as shown in 49 C.F.R. §§ 172.521 through 172.560.	Matrix
§ 172.406(c)	Failure of shipper or carrier to place primary and subsidiary hazard labels within six inches of one another.	Matrix	§ 172.519(c)	Failure of shipper or carrier to use a placard, or numerals or text on a placard, of proper size.	Matrix
§ 172.406(d)	Failure of shipper or carrier to place label on a background of contrasting color or have a dotted or solid line outer border.	Matrix	(1)-(3)		
§ 172.406(e)	Failure of shipper or carrier to place duplicate labels on at least two sides.	Matrix	§ 172.519(d)	Failure of shipper or carrier to use the proper colors on a placard.	Matrix
§ 172.406(f)	Failure of label to be clearly visible and not obscured by markings or attachments.	Matrix	(1)-(4)		
§ 172.407(a)	Failure of shipper or carrier to use a durable and weather resistant label.	Matrix	(49 C.F.R. Part 172 Subpart G—Emergency Response Information)		
§ 172.407(b)	Failure of shipper or carrier to use a label design as shown in 49 C.F.R. §§ 172.411 through 172.448.	Matrix	§ 172.600(c)	Failure of shipper or carrier to have emergency response information immediately available.	Matrix
§ 172.407(c)	Failure of shipper or carrier to use a label, or numerals or text on a label, of proper size.	Matrix	§ 172.602(a)	Failure of emergency response information to contain all required information.	Matrix
(1)-(5)			(1)-(7)		
§ 172.407(d)	Failure of shipper or carrier to use the proper colors on a label.	Matrix	§ 172.602(b)	Failure of emergency response information to be printed legibly in English, available for use away from the package, or presented on a shipping paper.	Matrix
(1)-(5)			(1)		
(49 C.F.R. Part 172 Subpart F—Placarding)			§ 172.602(c)	Failure of carrier to properly maintain emergency response information.	Matrix
§ 172.502(a)	Shipper or carrier displayed prohibited placarding.	Matrix	(1)		
(1)-(2)			§ 172.602(c)	Failure of facility operator to properly maintain emergency response information.	Matrix
§ 172.502(c)	Failure of shipper or carrier, displaying placards that are not required, to display proper placards.	Matrix	(2)		
§ 172.504(a)	Failure of shipper or carrier to display proper placards.	Matrix	§ 172.604(a)	Failure of shipper to provide a 24-hour emergency response telephone number.	Matrix
§ 172.504(b)	Failure of shipper or carrier to use the DANGEROUS placard properly.	Matrix	§ 172.604(a)	Failure of shipper to ensure emergency response telephone number is monitored at all times the hazardous material is in transportation.	Matrix
			(1)		
			§ 172.604(a)	Failure of shipper to ensure emergency response telephone number is the number of a person who is either knowledgeable of the hazardous material or has immediate access to a person who possesses such knowledge.	Matrix
			(2)		
			§ 172.604(a)	Failure of shipper to enter the emergency response telephone number on the shipping paper as required.	Matrix
			(3)		
			§ 172.604(b)	Failure of emergency response telephone number to be that of the person offering the hazardous material for transportation	

<u>Rule</u>	<u>Rule Summary</u>	<u>Penalty</u>	<u>Rule</u>	<u>Rule Summary</u>	<u>Penalty</u>
	or of an agency accepting responsibility that has received current information on the material.	Matrix	(49 C.F.R. Part 173 Subpart B—Preparation of Hazardous Material for Transportation)		
§ 172.606(a)	Failure of carrier to instruct the driver to contact the carrier in the event of an incident.	Matrix	§ 173.21	Person offered for transportation or transported forbidden materials or packages.	Matrix
§ 172.606(b)(1)	Failure of carrier transporting by highway to mark transport vehicle with its telephone number when parked at a separate location from its motive power.	Matrix	§ 173.22(a)(1)-(4)	Failure of shipper to use a proper packaging or container.	Matrix
§ 172.606(b)(2)	Failure of carrier transporting by highway to have the shipping paper and emergency response information available on the transport vehicle when parked at a separate location from its motive power.	Matrix	§ 173.22a(a)	Failure of shipper using a packaging authorized under an exemption to be the holder of or a party to the exemption.	Matrix
			§ 173.22a(b)	Failure of shipper to maintain a copy of the exemption at each facility where the packaging is being used in connection with the shipment or transportation of the hazardous material.	Matrix
			§ 173.22a(c)	Failure of shipper to furnish a copy of the exemption to the carrier when it contains requirements that apply to the carrier.	Matrix
(49 C.F.R. Part 172 Subpart H—Training)			§ 173.24(b)(1)-(3)	Failure of shipper or carrier to meet the general requirements for packages.	Matrix
§ 172.702(a)	Failure of hazmat employer to train each of its hazmat employees.	Matrix	§ 173.24(e)(1)-(5)	Failure of shipper to ensure that the packaging is compatible with its contents.	Matrix
§ 172.702(b)	Failure of hazmat employer to provide training that applies to a particular function before being performed by a hazmat employee.	Matrix	§ 173.24(f)(1)-(2)	Failure of shipper or carrier to use properly designed closures on packagings.	Matrix
§ 172.702(d)	Failure of hazmat employer to test each of its hazmat employees by appropriate means on the training subjects.	Matrix	§ 173.24(h)(1)	Failure of shipper or carrier to leave sufficient outage when filling packages with liquids.	Matrix
§ 172.704(a)(1)	Failure of hazmat employee training to include general awareness/ familiarization training.	Matrix	§ 173.24a(a)(1)-(5)	Failure of shipper of non-bulk packagings and packages to meet design requirements.	Matrix
§ 172.704(a)(2)	Failure of hazmat employee training to include function-specific training.	Matrix	§ 173.24a(b)(5)	Failure of shipper or carrier to ensure that no hazardous material remains on the outside of a non-bulk package after filling.	Matrix
§ 172.704(a)(3)	Failure of hazmat employee training to include safety training.	Matrix	§ 173.24a(d)	Failure of shipper to limit the amount of material placed into a receptacle.	Matrix
§ 172.704(c)(1)	Failure of new hazmat employee, or a hazmat employee who changes job functions, to receive initial training.	Matrix	§ 173.24b(a)	Failure of shipper or carrier to load liquids in bulk packagings so that the outage is at least five percent for materials poisonous by inhalation, or at least one percent for all other materials, of the total capacity.	Matrix
§ 172.704(c)(2)	Failure of hazmat employee to receive the required training at least once every three years.	Matrix	§ 173.24b(d)(2)	Failure of shipper or carrier to limit the weight of lading loaded into a bulk package.	Matrix
§ 172.704(d)(1)-(4)	Failure of hazmat employer to create and retain a record of current training, inclusive of the preceding three years, for 90 days after an employee is no longer employed by that employer as a hazmat employee.	Matrix	§ 173.25(a)(1)-(5)	Failure of shipper to use a properly prepared overpack.	Matrix
			§ 173.28(a)	Failure of shipper to inspect packaging or receptacle before reusing to ensure it conforms to the requirements of 49 C.F.R. §§ 71 through 180.	Matrix
(49 C.F.R. Part 173 Subpart A—General)			§ 173.28(b)(1)-(7)	Failure of shipper to properly reuse a non-bulk packaging.	Matrix
§ 173.2a(a)	Failure of shipper to class material according to the highest applicable hazard class.	Matrix	§ 173.28(e)	Shipper reused a package marked as NRC for material required to be shipped in a DOT specification or UN standard packaging.	Matrix
§ 173.3(c)(1)-(7)	Failure of shipper to properly use a salvage drum for packages of hazardous materials that are damaged, defective, or found leaking.	Matrix	§ 173.29(a)	Failure to offer for transportation or transport empty packaging containing residue of a hazardous material in the same manner as when it previously contained a greater quantity.	Matrix
§ 173.12(b)(1)-(3)	Failure of shipper to comply with packaging requirements for lab packs.	Matrix	§ 173.32(a)	Failure of shipper or carrier to use a portable tank that conforms to the requirements for the particular hazardous material being transported or to retain a manufacturer's data report while it is used for such service.	Matrix
§ 173.12(c)(1)-(5)	Failure of shipper to properly reuse a packaging for the shipment of hazardous waste.	Matrix	§ 173.32(e)(1)-(5)	Failure of shipper or carrier to successfully retest a portable tank in accordance with the required schedule and test procedures, to properly mark portable tank with most recent retest date, or to retain proper written records.	Matrix
§ 173.13(c)(1)	Failure of shipper of liquid hazardous material excepted from labeling and placarding requirements to comply with packaging requirements.	Matrix			
§ 173.13(c)(2)	Failure of shipper of solid hazardous material excepted from labeling and placarding requirements to comply with packaging requirements.	Matrix			
§ 173.13(d)	Failure of shipper to mark package of hazardous material excepted from labeling and placarding requirements with the statement: "This package conforms to 49 C.F.R. 173.13."	Matrix			

Rule	Rule Summary	Penalty	Rule	Rule Summary	Penalty
§ 173.32(f)	Failure of shipper or carrier to test a special portable tank.	Matrix	§ 173.35(d)	Failure of shipper or carrier filling intermediate bulk container with liquids to ensure that it is not filled to more than 98 percent of its water capacity.	Matrix
§ 173.32(g)	Failure of shipper or carrier to retest a deteriorated portable tank (significant dents, corroded areas, leakage, or other conditions that indicate weakness).	Matrix	§ 173.35(f)(1)	Failure of carrier to ensure that no hazardous material remains on the outside of the intermediate bulk container during transportation.	Matrix
§ 173.32(h)	Failure of shipper or carrier to retest a portable tank that has been in an accident and has been damaged to an extent that may adversely affect its product retention capability.	Matrix	§ 173.35(f)(2)	Failure of carrier to ensure that each intermediate bulk container is securely fastened or contained within the transport unit during transportation.	Matrix
§ 173.32(i)	Failure of shipper or carrier to successfully test a portable tank that has not been used to transport hazardous material for one year or more prior to returning to service.	Matrix	§ 173.35(g)	Failure of shipper or carrier to ensure that each intermediate bulk container of solids is capable of containing the substance in the liquid state.	Matrix
§ 173.32(m)	Failure of shipper or carrier to ensure that all materials of construction used in a portable tank container and its appurtenances are not subject to destructive attack by its contents.	Matrix	§ 173.35(h)(1)-(2)	Failure of shipper to use only metal, rigid plastic, or composite intermediate bulk containers for liquid hazardous material.	Matrix
§ 173.32b(a)(1)-(2)	Failure of shipper or carrier to conduct periodic hydrostatic test of IM portable tank or periodic test of pressure-relief valves.	Matrix	§ 173.35(j)	Shipper or carrier filled an intermediate bulk container with a Packing Group I liquid or exceeded the capacity for a Packing Group I solid.	Matrix
§ 173.32b(b)(1)-(7)	Failure of shipper or carrier to conduct periodic visual inspection of IM portable tank.	Matrix	§ 173.35(k)	Failure of shipper or carrier to take measures to prevent an electrostatic discharge during loading and unloading of liquids with a flashpoint of 141 degrees Fahrenheit or lower, or powders with the potential for dust explosion, in intermediate bulk containers.	Matrix
§ 173.32b(d)	Failure of shipper or carrier to properly mark the IM portable tank with the required test information.	Matrix	§ 173.35(l)(1)-(4)	Failure of shipper or carrier to comply with the intermediate bulk container filling limits.	Matrix
§ 173.32b(e)	Failure of shipper or carrier to inspect or retest a damaged or deteriorated IM portable tank (corroded areas, leakage, or other conditions that indicate weakness).	Matrix	(49 C.F.R. Part 173 Subpart E—Non Bulk Packaging for Hazardous Materials Other Than Class 1 and Class 7)		
§ 173.32b(f)	Failure of shipper or carrier to retain proper written records of test information, including visual inspections.	Matrix	§ 173.197(a)(1)-(7)	Failure of shipper to meet the packaging requirements for regulated medical waste.	Matrix
§ 173.32c(a)	Person offered a hazardous material for transportation in an unauthorized IM portable tank.	Matrix	§ 173.216(c)(1)-(4)	Failure of shipper or carrier to meet the general packaging requirements for asbestos.	Matrix
§ 173.32c(b)	Failure of shipper or carrier to use a proper IM portable tank.	Matrix	(49 C.F.R. Part 177 Subpart A—General Information and Regulations)		
§ 173.32c(c)	Failure of shipper or carrier to conduct the required retests or reinspections when they become due prior to filling or offering for shipment an IM portable tank.	Matrix	§ 177.800(b)	Failure of carrier or connecting carrier to perform duties, comply with requirements of 49 C.F.R. § 177, or ensure its hazmat employees receive training in relation thereto.	Matrix
§ 173.32c(e)	Failure of shipper or carrier to ensure that any part of IM portable tank or its appurtenances are not subject to destructive attack by its contents.	Matrix	§ 177.800(c)	Failure of carrier to train its hazmat employees involved in transportation of hazardous material as required by 49 C.F.R. § 177 and subpart H of 49 C.F.R. § 172.	Matrix
§ 173.32c(i)	Shipper or carrier loaded an IM portable tank to a gross vehicle weight greater than the maximum allowable gross vehicle weight specified on its identification plate.	Matrix	§ 177.800(d)	Carrier caused an unnecessary delay in the shipment of hazardous materials.	Matrix
§ 173.32c(m)	Failure of shipper or carrier to load an IM portable tank entirely within the horizontal outline thereof.	Matrix	§ 177.801	Carrier transported a forbidden material or hazardous material that was not prepared in accordance with 49 C.F.R. §§ 171 through 180.	Matrix
§ 173.33(a)(1)-(3)	Failure of shipper or carrier to use an authorized cargo tank motor vehicle.	Matrix	§ 177.804	Failure of carrier to comply with the Federal Motor Carrier Safety regulations.	Matrix
§ 173.33(b)(1)-(4)	Failure of shipper or carrier to meet cargo tank loading requirements.	Matrix	§ 177.816(a)	Failure of carrier to train driver in the requirements of 49 C.F.R. §§ 390 through 397.	Matrix
§ 173.33(e)	Failure of carrier to drain piping on DOT specification cargo tanks of any material that is a Division 6.1 material, oxidizer liquid, liquid organic peroxide, or corrosive liquid (skin only) prior to transporting.	Matrix	§ 177.816(b)	Person operated a cargo tank or vehicle with portable tank without receiving training or without having the appropriate State-issued commercial driver's license.	Matrix
§ 173.35(a)	Failure of shipper or carrier to use an authorized intermediate bulk container.	Matrix	§ 177.816(d)	Failure of required training to conform to the frequency and recordkeeping requirements of 49 C.F.R. § 172.704.	Matrix
§ 173.35(b)	Failure of shipper to visually inspect each intermediate bulk container and its service equipment before filling.	Matrix	§ 177.817(a)	Failure of carrier to transport a hazardous material accompanied by a properly prepared shipping paper.	Matrix

<u>Rule</u>	<u>Rule Summary</u>	<u>Penalty</u>	<u>Rule</u>	<u>Rule Summary</u>	<u>Penalty</u>
§ 177.817(b)	Carrier accepted hazardous material for transportation with shipping papers that did not include the required shipper's certification.	Matrix	§ 177.838(b)	Failure of carrier to keep Class 4 and 5 materials dry which are likely to become hazardous when wet when loading a motor vehicle and during transportation.	Matrix
§ 177.817(e)	Failure of carrier to ensure that the shipping papers required by 49 C.F.R. § 177.817 are available and recognizable by authorities.	Matrix	§ 177.838(c)	Failure of carrier to load articles, possible of spontaneous combustion or heating, with sufficient ventilation to provide assurance against fire.	Matrix
§ 177.823(a)	Failure of carrier to mark or placard a vehicle transporting hazardous material.	Matrix	§ 177.838(h)	Failure of carrier to load Division 4.2 materials in cylinders with valves and safety relief device in the vapor space and in a manner that no shifting occurs in transit.	Matrix
§ 177.823(b)	Failure of carrier to remove a leaking vehicle from the traveled portion of the highway or employ every available means for safe disposal of the leaking material.	Matrix	§ 177.839(a)	Carrier loaded nitric acid above any other packaging.	Matrix
§ 177.823(c)	Carrier transported a leaking cargo tank more than a minimum distance necessary to reach a site for safe disposal of the contents.	Matrix	§ 177.839(b)	Failure of carrier to protect batteries containing electrolyte from being impacted by other cargo or protecting their terminals from short circuits.	Matrix
(49 C.F.R. Part 177 Subpart B—Loading and Unloading)			§ 177.841(a)	Failure of carrier to load bulk arsenical compounds into sift-proof, steel hopper-type, or dump-type motor-vehicle bodies equipped with water-proof, dust-proof covers well secured in place on all openings.	Matrix
§ 177.834(a)	Failure of carrier to secure packages containing Class 3, 2, 8, 6.1 or 7 material against movement in a motor vehicle, under conditions normally incident to transportation.	Matrix	(49 C.F.R. Part 177 Subpart C—Segregation and Separation Chart of Hazardous Materials)		
§ 177.834(c)	Person smoking on or about motor vehicle while loading or unloading Class 1, 3, 4, 5 or Division 2.1.	Matrix	§ 177.848(b)	Failure of carrier to stow or segregate a transport vehicle containing hazardous material in accordance with 49 C.F.R. § 176.83(b).	Matrix
§ 177.834(d)	Failure to keep fire away or persons from smoking when loading or unloading a Class 1, 3, 4, 5 or Division 2.1 material from a motor vehicle.	Matrix	§ 177.848(c)	Carrier loaded or stored cyanide or cyanide mixtures with acids.	Matrix
§ 177.834(e)	Failure to securely set the handbrake and prevent motion of the motor vehicle during loading or unloading of hazardous material.	Matrix	§ 177.848(d)	Failure of carrier to load, transport, or store hazardous materials in accordance with the "Segregation Table for Hazardous Materials."	Matrix
§ 177.834(f)	Person used tools that are likely to damage the effectiveness of the closure and adversely affect packages or containers during the loading or unloading of Class 1 material or other dangerous articles.	Matrix	(49 C.F.R. Part 177 Subpart D—Vehicles and Shipments in Transit; Accidents)		
§ 177.834(g)	Failure of carrier to prevent motion of Class 1, 3, 4, 5, 8, 2 and Division 6.1 containers by bracing to prevent motion thereof relative to the vehicle while in transit.	Matrix	§ 177.854(a)	Failure of carrier to guard motor vehicle transporting hazardous material and provide against hazards during unnecessary stops on the traveled portion of the highway or shoulder.	Matrix
§ 177.834(h)	Person tampered with hazardous material containers or discharged the contents of such containers.	Matrix	§ 177.854(b)	Failure of carrier to use safest practical means afforded when leaks occur in packages or containers during the course of transportation, subsequent to initial loading.	Matrix
§ 177.834(i)	Cargo tank was not attended by a qualified person while it was being loaded.	Matrix	§ 177.854(e)	Failure of carrier to safely and expeditiously store leaking containers of hazardous materials.	Matrix
§ 177.834(j)	Carrier permitted or person drove cargo tank containing hazardous material without securely closing the manholes, valves and other closures.	Matrix	§ 177.854(f)	Failure of carrier to set out warning devices when stopped on the highway or shoulder.	Matrix
§ 177.837(a)	Person loaded or unloaded a Class 3 material into or from a cargo tank motor vehicle while the engine was running.	Matrix	§ 177.854(g)	Carrier used heat or flame to repair fuel or cargo containment system.	Matrix
§ 177.837(b)	Failure of carrier to provide metallic bonds or ground conductors for containers which are not in metallic contact with each other for the neutralization of static charges prior to and during transfers of Class 3 materials.	Matrix	§ 177.854(h)	Carrier repaired a cargo tank using a flame or arc before first making it gas free.	Matrix
§ 177.837(c)	Failure of carrier to bond and ground cargo tanks before and during transfer of lading when a cargo tank is loaded through an open filling hole.	Matrix	(49 C.F.R. Part 180 Subpart D—Qualification and Maintenance of Intermediate Bulk Containers)		
§ 177.838(a)	Failure of carrier to entirely contain Class 4 and 5 materials within the body of the motor vehicle or to cover by tarpaulins or other suitable means.	Matrix	§ 180.351(a)	Carrier used an unauthorized intermediate bulk container for the transportation of a hazardous material.	Matrix
			§ 180.352(a)	Carrier filled, offered, or transported an intermediate bulk container before the test or inspection was completed.	Matrix

Rule	Rule Summary	Penalty	Rule	Rule Summary	Penalty
§ 180.352(c)	Failure of carrier to initially inspect an intermediate bulk container prior to placing hazardous materials into the container.	Matrix	(49 C.F.R. Part 391 Subpart D—Tests) § 391.31(a)	Failure of carrier to require a commercial vehicle road test.	Matrix
§ 180.352(d)	Failure of carrier to mark the most recent test date on the intermediate bulk container.	Matrix	§ 391.31(d)	Failure of carrier to provide road test form.	Matrix
§ 180.352(e)	Failure of carrier to maintain periodic test and inspection records.	Matrix	§ 391.31(e)	Failure of carrier to complete a certificate of driver's road test.	Matrix
			§ 391.31(g)	Failure of carrier to retain original signed road test form or certificate.	Matrix
(49 C.F.R. Part 180 Subpart E—Qualification and Maintenance of Cargo Tanks)			(49 C.F.R. Part 391 Subpart E—Physical Qualifications and Examinations)		
§ 180.405(a)	Carrier used an unauthorized cargo tank.	Matrix	§ 391.41(a)	Failure of person to carry a current medical examiner's certificate.	Matrix
§ 180.407(a)	Carrier filled, offered, or transported a cargo tank before tests or inspections were completed.	Matrix			
§ 180.407(b)	Failure of carrier to test or inspect an unsafe, damaged, or out-of-service cargo tank.	Matrix	(49 C.F.R. Part 391 Subpart F—Files and Records) § 391.51(a)	Failure of carrier to maintain a driver qualification file.	Matrix
§ 180.415(a)	Failure of carrier to mark test and inspection dates on a cargo tank.	Matrix	§ 391.51(b)	Failure of carrier to maintain a complete qualification file.	Matrix
§ 180.415(b)	Failure of cargo tank markings to be durable and legible.	Matrix	§ 391.51(c)	Failure of carrier to maintain driver qualification file for three years beyond employment.	Matrix
§ 180.417(a)	Failure of carrier to retain the manufacturer certificate for a cargo tank.	Matrix			
§ 180.417(b)	Failure of carrier to have a written test or inspection report or to retain the written reports for cargo tanks.	Matrix	(49 C.F.R. Part 392 Subpart A—General) § 392.7(a)	Person drove a commercial motor vehicle prior to ensuring parts and accessories were in good working order.	Matrix
(49 C.F.R. Part 387 Subpart A—Motor Carriers of Property)			§ 392.8(a)	Person drove a commercial motor vehicle before being satisfied that the emergency equipment was in place and ready for use.	Matrix
§ 387.7(a)	Failure of carrier to obtain minimum levels of financial responsibility.	Matrix	§ 392.9(a)-(b)	Person operated a commercial motor vehicle prior to ensuring the cargo was properly distributed and adequately secured.	Matrix
§ 387.7(d)	Failure of carrier to maintain proof of financial responsibility at principal place of business.	Matrix			
(49 C.F.R. Part 390 Subpart B—General Requirements and Information)			(49 C.F.R. Part 393 Subpart H—Emergency Equipment)		
§ 390.21(a)	Failure of carrier to mark a commercial motor vehicle.	Matrix	§ 393.95(a)	Failure of carrier to equip a power unit with a properly filled and located fire extinguisher.	Matrix
§ 390.21(b)	Carrier displayed incomplete or incorrect vehicle markings.	Matrix	§ 393.95(c)	Failure of carrier to equip vehicle with spare fuses.	Matrix
§ 390.21(c)	Failure of carrier to use proper size, shape, color, or location of markings.	Matrix	§ 393.95(f)	Failure of carrier to equip motor vehicle with warning devices for stopped vehicles.	Matrix
§ 390.31(a)	Failure of carrier to preserve records and documents in their original form.	Matrix			
(49 C.F.R. Part 391 Subpart B—Qualification and Disqualification of Drivers)			(49 C.F.R. Part 395) § 395.3(a)	Carrier permitted or required a driver to drive more than 10 hours or after being on duty for 15 hours.	Matrix
§ 391.11(a)	Carrier permitted or required an unqualified person to drive a commercial motor vehicle.	Matrix	§ 395.3(b)	Carrier permitted or required a driver to drive for any period after having been on duty 60 hours in seven consecutive days or after having been on duty 70 hours in eight consecutive days.	Matrix
§ 391.15(a)	Carrier required a disqualified driver to drive a commercial vehicle.	Matrix	§ 395.8(a)	Failure of person to record duty status.	Matrix
(49 C.F.R. Part 391 Subpart C—Background and Character)			§ 395.8(c)	Failure of person to record change of duty status.	Matrix
§ 391.21(b)	Failure of carrier to furnish an employment application.	Matrix	§ 395.8(f)	Failure of person to record driver's activities.	Matrix
§ 391.23(a)	Failure of carrier to make required background investigations of a commercial vehicle driver.	Matrix	§ 395.8(i)	Failure of person to file driver's record of duty status.	Matrix
§ 391.25(a)	Failure of carrier to make an annual inquiry into all driving records.	Matrix	§ 395.8(k)	Failure of carrier to retain records of duty status.	Matrix
§ 391.25(b)	Failure of carrier to make an annual determination that drivers meet minimal requirements.	Matrix			
§ 391.25(c)	Failure of carrier to maintain state agency response to a driving record inquiry.	Matrix	(49 C.F.R. Part 396) § 396.11(a)	Failure of person to prepare a written report.	Matrix
§ 391.27(a)	Failure of carrier to annually require each driver to furnish a list of all violations.	Matrix	§ 396.11(b)	Failure of person to indicate deficiencies or lack of deficiencies on report or to sign report.	Matrix
§ 391.27(d)	Failure of carrier to maintain violation list or certificate in driver's qualification file.	Matrix	§ 396.11(c)	Failure of carrier to repair deficiencies or to certify or retain inspection reports.	Matrix

<u>Rule</u>	<u>Rule Summary</u>	<u>Penalty</u>
§ 396.13(a)-(c)	Failure of person to be satisfied that the vehicle is in safe operating condition or to review or sign previous inspection reports.	Matrix
(49 C.F.R. Part 397 Subpart A—General)		
§ 397.3	Failure of carrier to comply with jurisdictional laws concerning driving and parking of hazardous materials vehicles.	Matrix
§ 397.5	Failure of carrier to attend a vehicle that contains hazardous materials.	Matrix
§ 397.7(b)	Carrier parked a hazardous material vehicle within five feet of the traveled portion of a street or highway.	Matrix
§ 397.11	Carrier operated or parked a hazardous material vehicle near an open fire.	Matrix
§ 397.13	Person smoked within 25 feet of a hazardous material vehicle.	Matrix
(49 C.F.R. Part 397 Subpart C—Routing of Non Radioactive Hazardous Materials)		
§ 397.67(b)	Carrier operated a hazardous material vehicle over inappropriate routes.	Matrix

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-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 at the mid-point of the following ranges, unless adjusted pursuant to (i) below.

SERIOUSNESS

		Major	Moderate	Minor
CONDUCT	Major	\$40,000-	\$30,000-	\$15,000-
		\$50,000	\$40,000	\$25,000
	Moderate	\$30,000-	\$10,000-	\$3,000-
		\$40,000	\$20,000	\$6,000
	Minor	\$15,000-	\$3,000-	\$1,000-
		\$25,000	\$6,000	\$2,500

(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.

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

than the minimum amount in the range described in (c) above, on the basis of the following factors:

1. The compliance history of the violator;
2. The nature, timing and effectiveness of any measures taken by the violator to mitigate the effects of the violation for which the penalty is being assessed;
 - i. Immediate implementation of measures to effectively mitigate the effects of the violation will result in a reduction to the bottom of the range.
3. The nature, timing and effectiveness of any measures taken by the violator to prevent future similar violations;
 - i. Implementation of measures that can reasonably be expected to prevent a recurrence of the same type of violation will result in a reduction equal to the bottom of the range;
4. Any unusual or extraordinary costs or impacts directly or indirectly imposed on the public or the environment as a result of the violation; and/or
5. Other specific circumstances of the violator or violation.

7:26G-2.7 Civil administrative penalty for failure to allow lawful entry and inspection

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

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

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

1. For refusing, inhibiting or prohibiting immediate lawful entry and inspection of any premises, building, facility, or vehicle for which an administrative order, permit, license or other operating authority requirement exists under the Act, the civil administrative penalty shall be in an amount of not more than \$30,000 nor less than \$20,000 per violation; and
2. For any other refusal, inhibition, or prohibition of immediate lawful entry and inspection the civil administrative penalty shall be in an amount of not more than \$5,000 nor less than \$3,000 per violation.

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

1. The compliance history of the violator;
2. The nature, timing and effectiveness of any measures taken by the violator to mitigate the effects of the violation for which the penalty is being assessed;
 - i. Immediate implementation of measures to effectively mitigate the effects of the violation will result in a reduction to the bottom of the range;
3. The nature, timing and effectiveness of any measures taken by the violator to prevent future similar violations;
 - i. Implementation of measures that can reasonably be expected to prevent a recurrence of the same type of violation will result in a reduction equal to the bottom of the range;
4. Any unusual or extraordinary costs or impacts directly or indirectly imposed on the public or the environment as a result of the violation; and/or
5. Other specific circumstances of the violator or violation.

7:26G-2.8 Civil administrative penalty for failure to pay a fee

(a) The Department may assess a civil administrative penalty pursuant to this section against each violator who fails to pay a fee when due pursuant to the Act, or any rule promulgated, any administrative order, permit, license or other operating authority issued, or any Part A permit application filed, pursuant to the Act.

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

1. The Department shall identify the civil administrative base penalty pursuant to (c) below; and
2. The civil administrative penalty shall be the base penalty unless adjusted pursuant to (d) below.

(c) The base penalty shall be as follows:

1. An amount equal to one-half of the unpaid fee or \$100.00, whichever is greater, for nonpayment of a fee due in any calendar year;
2. An amount equal to the unpaid fee or \$250.00 whichever is greater, for the nonpayment of a second fee due in the same calendar year as that in (d)1 above; or
3. An amount equal to twice the unpaid fee or \$500.00, whichever is greater, for the nonpayment of a third fee due in the same calendar year as that in (d)1 or 2 above.

(d) Failure to pay a fee within 30 days of receipt by the violator of notice of the nonpayment from the Department shall be considered a continuing violation. For a continuing violation, the Department may increase the amount of the base penalty calculated pursuant to (c) above by the amount obtained by multiplying the base penalty dollar amount by 1.0 percent for each day that the fee is past due.

7:26G-2.9 Civil administrative penalty for economic benefit

The Department may, in addition to any other civil administrative penalty assessed pursuant to this subchapter include as an additional civil administrative penalty the economic benefit (in dollars) which the violator has realized as a result of not complying with, or by delaying compliance with, 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. If the total economic benefit was derived from more than one violation, the total economic benefit may be apportioned among the violations from which it was derived so as to increase each civil administrative penalty assessment to an amount no greater than \$50,000 per violation.

SUBCHAPTER 3. HAZARDOUS WASTE FEES

7:26G-3.1 General provisions

In accordance with N.J.S.A. 13:1E-1 et seq., specifically N.J.S.A. 13:1E-6, 13:1E-18, 13:1E-42.2 and 13:1E-60d, there is hereby established a fee schedule for hazardous waste generators, transporters, and treatment, storage, or disposal facilities. Notwithstanding provisions in N.J.A.C. 7:26-4, this subchapter constitutes the rules of the Department for hazardous waste fees. Any fee under this subchapter that is subject to N.J.A.C. 7:1L shall be payable in installments in accordance with N.J.A.C. 7:1L.

7:26G-3.2 Payment of fees

(a) Fees for activities related to hazardous waste generators, transporters, and treatment, storage, or disposal facilities shall be paid by certified check or money order payable to: Treasurer, State of New Jersey. Payment shall be submitted to:

New Jersey Department of Environmental Protection
Bureau of Revenue
PO Box 417
Trenton, New Jersey 08625-0417

(b) All fees shall be paid within 30 days of the date on the bill issued by the Department unless otherwise specified

herein. A person who fails to pay a fee within the time due shall be subject to penalties pursuant to N.J.A.C. 7:26G-2.8.

7:26G-3.3 Fee schedule for hazardous waste facilities, generators, and transporters

(a) Fees for generators filing a biennial report in accordance with 40 C.F.R. §§ 261.5(e), 261.5(f), 262.41 and 262.44 (as incorporated by reference at N.J.A.C. 7:26G-5 and 6) shall be based on quantities of hazardous waste generated during the odd numbered calendar year preceding the even numbered reporting year and on whether or not the report is submitted electronically, and, for electronic submissions, whether it is accurate and complete. Hazardous waste generator biennial reporting fees are as follows:

1. Less than 1.1 tons of hazardous waste: \$34.00 for complete, accurate electronic reports; \$135.00 for incomplete, inaccurate, or paper reports.

2. Equal to or greater than 1.1 tons but less than 10 tons of hazardous waste generated: \$68.00 for complete, accurate electronic reports; \$270.00 for incomplete, inaccurate, or paper reports.

3. Equal to or greater than 10 tons but less than 100 tons of hazardous waste generated: \$127.00 for complete, accurate electronic reports; \$507.00 for incomplete, inaccurate, or paper reports.

4. Equal to or greater than 100 tons but less than 150 tons of hazardous waste generated: \$253.00 for complete, accurate electronic reports; \$1,013 for incomplete, inaccurate, or paper reports.

5. Equal to or greater than 150 tons of hazardous waste generated: \$405.00 for complete, accurate electronic reports; \$1,621 for incomplete, inaccurate, or paper reports.

(b) The manifest processing fee for generators and hazardous waste facilities is as follows:

1. Generators located in the State of New Jersey: \$10.00 per manifest.

2. Hazardous waste facilities: \$10.00 per manifest for waste received from generators located outside of the State of New Jersey unless exempt under N.J.A.C. 7:26G-3.4(c). A hazardous waste facility will not be assessed a manifest processing fee for waste received from New Jersey generators.

(c) Fees for conducting inspections and compliance reviews for generators and facilities are as follows:

1. Inspection fee for a major commercial hazardous waste facility, as defined at N.J.S.A. 13:1E-42.1, shall be determined by the following formula:

$F = \text{Fee}$

T = Inspection time (expressed as a percentage of the Department's total annual time for all major facilities)

W = Total quantity of hazardous waste generated and manifested off-site and hazardous waste manifested into the facility (expressed as a percentage of total hazardous waste generated and received annually from off-site for all major facilities)

I = Total annual cost for inspecting major commercial hazardous waste facilities.

$$F = (T + W)/2 \times I$$

2. Inspection fee for a commercial hazardous waste facility, other than a major hazardous waste facility as defined at N.J.S.A. 13:1E-42.1, per inspection: \$1,442;

3. Inspection fee for a non-commercial hazardous waste facility; \$3,154; and

4. Annual fee for a generator:

i. Large quantity generator: \$980.00;

ii. Small quantity generator: \$600.00; and

iii. Conditionally exempt small quantity generator: \$40.00.

(d) Fees for waste classification and delisting are as follows. Fees for waste classification shall be paid upon submission of each request for classification. A fee shall be assessed for each separate waste classification requested. Fees for each step in the delisting process shall be submitted prior to the commencement of review/action by the Department:

1. Fee for the classification of wastes where the total volume of waste to be classified is greater than or equal to 200 cubic yards of solids or 500 gallons of liquids, per classification: \$477.00;

2. Fee for the classification of wastes where the total volume of waste to be classified is less than 200 cubic yards of solids or less than 500 gallons of liquids, per classification: \$239.00;

3. Fee for the review of sampling plans submitted in support of waste classification requests, for each plan submitted: \$275.00;

4. Fees for evaluating site specific waste streams for delisting pursuant to N.J.A.C. 7:26G-4 (40 C.F.R. § 260.22) shall be paid upon submission of the document, or in the case of the New Jersey Register notices, prior to the preparation of the notice, and are as follows:

i. Review of delisting petition: \$42,227;

ii. Development, monitoring, and review of sampling plan: \$1,377;

iii. Development and publication of public notice in the New Jersey Register: \$13,770.

(e) Fees for permitting/review activities are as follows:

1. Fees for review of a permit application for a new hazardous waste facility, expansion of 50 percent or more at a major hazardous waste facility, as defined at N.J.S.A. 13:1E-51, and expansion of any facility that includes a new type of hazardous waste management unit among those listed below shall be paid at time of application submission and are as follows:

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;

2. Fees for review of permit renewal application shall be paid at time of renewal application submission and are as follows:

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): \$32,764;

ii. Non-commercial storage and/or treatment, including containers, tanks, drip pads, miscellaneous units, and containment buildings: \$24,142;

iii. Commercial storage and/or treatment, including containers, tanks, drip pads, miscellaneous units, and containment buildings: \$44,835;

iv. Incineration (including boilers and industrial furnaces) with trial burn: \$94,844;

v. Incineration (including boilers and industrial furnaces) without trial burn: \$77,600;

3. Fees for permit issuance/denial for a facility with "existing facility status" prior to February 3, 1992 shall be paid by June 2, 1992 or at the time of public notice of the draft permit/denial, whichever is earliest. Fees for permit issuance/denial for a facility with "existing facility status" after February 3, 1992 shall be paid at the time of public notice of the draft permit/denial. These fees are as follows:

"Commercial hazardous waste facility" means any hazardous waste facility which accepts hazardous waste from more than one inter-company generator for treatment, storage or disposal at a site other than where the hazardous waste was generated.

"Commingling" means the transferring, bulking, or mixing of hazardous waste from one or more hazardous waste packages, containers, transport units or transport vehicles into another.

"Commissioner" means the Commissioner of the New Jersey Department of Environmental Protection.

"Compliance inspection" is a site inspection performed by a representative of the Department's hazardous waste enforcement program of a generator, transporter, or facility to verify compliance with previously cited violations.

"Compliance review" is an analysis conducted by a representative of the hazardous waste enforcement program at one of the Department's enforcement field offices to verify compliance with cited violations where the generator, transporter or facility has submitted written material for review. An example is where a contingency plan or personnel training plan has been submitted in response to violations discovered during a previously conducted initial inspection.

"Consignment state" means the state in which the designated facility is located.

"Consolidation" means the movement of closed containers of hazardous waste from one hazardous waste transport unit or transport vehicle to another or the act of transferring liquid 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).

"Department" or "DEP" means the New Jersey Department of Environmental Protection.

"Department of Transportation" or "DOT" means the "U.S. Department of Transportation".

"Destination facility" means a facility that treats, disposes of, or recycles a particular category of universal waste. A facility at which a particular category of universal waste is only accumulated is not a destination facility for purposes of managing that category of universal waste.

"Director" as used in the provisions of the Code of Federal Regulations which are incorporated by reference, means the Director of the Division of Solid and Hazardous Waste of the New Jersey Department of Environmental Protection or his designee, except when specifically noted.

"Environmental and Health Impact Statement" means a statement as to the realistically identifiable, probable impact of the proposed hazardous waste facility upon the geology, soils, hydrology, air quality, ecology, land use, socioeconom-

ics, aesthetics, history and archeology; a listing of adverse environmental impacts which cannot be avoided; a description of the steps to be taken to minimize adverse environmental impacts during construction and operation both at the project site and in the surrounding region; and a reference list of pertinent published information relating to the project, the project site and the surrounding region.

"EPA" 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. However, "EPA" shall always mean the United States Environmental Protection Agency in the following terms: EPA Identification Numbers, EPA Form, EPA Hazardous Waste Number, EPA Hazardous Waste Codes, USEPA ID Number, EPA Acknowledgement of Consent, EPA Publication SW-846, and EPA Test Method.

"Exempt transporter" shall, for purposes of N.J.A.C. 7:26G-7.2, mean a transporter which is exempt from the requirement to file a disclosure statement, pursuant to N.J.A.C. 7:26-16.3(d).

"Hazardous waste cab" means any powered device to which a hazardous waste transport unit can be attached for transporting hazardous waste off-site or to a hazardous waste facility.

"Hazardous waste transport unit" means any portable non-powered device that is used to contain and transport hazardous waste off-site or to a hazardous waste facility by road, rail, water, or air and that is not normally disposed of with the waste. Hazardous waste transport unit includes, but is not limited to, roll-off containers, hoppers/dumpsters, rail cars, barges, trailer boxes/vans, trailer dumps, trailer tanks, and trailer vacs.

"Hazardous waste vehicle" means any self-propelled device that is used to move hazardous waste off-site or to a hazardous waste facility. Hazardous waste vehicle is any combination of hazardous waste cab and transport unit, whether detachable or permanently attached, and includes, but is not limited to, straight boxes/vans, straight dumps, straight tanks, straight vacs, straight roll-offs, and pick-up trucks.

"HSWA" means the 1984 Hazardous and Solid Waste Amendments to the Resource Conservation and Recovery Act.

"Large quantity generator inspection" is an inspection of a generator who generates 1,000 kilograms or more of non-acutely toxic hazardous waste per month, or one kilogram of acutely hazardous waste per month; and those who generate less than these amounts but accumulate greater than 6,000 kilograms of non-acutely toxic hazardous waste at any one period of 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.

"Licensee" shall, for purposes of N.J.A.C. 7:26G-7.2, be defined as set forth in N.J.S.A. 13:1E-127i.

"Major commercial hazardous waste facility" is defined at N.J.S.A. 13:1E-42.1 and 51 as "any commercial hazardous waste facility which has a total capacity to treat, store or dispose of more than 250,000 gallons of hazardous waste, or the equivalent thereof, as determined by the Department, except that any facility which would otherwise be considered a major hazardous waste facility pursuant to this section solely as the result of the recycling or re-refining of any hazardous wastes which are or contain gold, silver, osmium, platinum, palladium, iridium, rhodium, ruthenium or copper shall not be considered a major hazardous waste facility for the purposes of this Act."

"Non-major commercial hazardous waste facility" is a commercial hazardous waste facility which does not have a total capacity to treat, store or dispose of less than or equal to 250,000 gallons of hazardous waste, or the equivalent thereof, as determined by the Department.

"Non-commercial hazardous waste facility" means any area, plan or other facility for the treatment, storage or disposal of hazardous waste which is not a commercial hazardous waste facility.

"Permit" means the approval issued by the Department to construct and/or operate a hazardous waste facility and shall mean the approved registration statement and engineering design approval described in the Solid Waste Management Act.

"Permittee" shall, for purposes of N.J.A.C. 7:26G-7.2, be defined as set forth in N.J.S.A. 13:1E-127i.

"Pesticide" means any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest, or intended for use as a plant regulator, defoliant, or desiccant, other than any article that:

1. Is a new animal drug under FFDC A section 201(w); or
2. Is an animal drug that has been determined by regulation of the Secretary of Health and Human Services not to be a new animal drug; or
3. Is an animal feed under FFDC A section 201(x) that bears or contains any substances described by paragraph 1 or 2 of this definition.

"Prime contractor" means any person who enters into an oral or written agreement to store, collect, process, transfer, treat, or dispose of hazardous waste in this State through the use, control or possession of any cab, vehicle, trailer, container, transport unit or single-unit vehicle.

"Resource Conservation and Recovery Act," "RCRA," "Subtitle C of RCRA," "RCRA Subtitle C," "Subtitle C" or "the Act" as used in the provisions of the Code of Federal Regulations which are incorporated by reference, when referring to either an operating permit or to the Federal hazardous waste program as a whole (that is, not a specific provision of RCRA), mean the New Jersey Solid Waste Management Act, N.J.S.A. 13:1E-1 et seq. or any other comparable provision of New Jersey's statutes and implementing regulations, except when specifically noted, then it means the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended, 42 U.S.C. §§ 6901 et seq. When the Federal language incorporated by reference refers to a specific provision of RCRA (except after references to RCRA section 3008 and 3008(h)) add the phrase "or any comparable provisions of New Jersey's statutes and implementing regulations". After references to RCRA sections 3008 and 3008(h) add the phrase "or N.J.S.A. 13:1E-9 or any other comparable provisions of New Jersey's statutes and implementing regulations."

"Registrant" means an applicant who has obtained an approved registration statement and who has registered hazardous waste vehicles (the hazardous waste cab and transport unit individually if detachable).

"Registration certificate" means the hazardous waste transporter vehicle registration card which certifies the name and address of the registered company, decal number, expiration date, vehicle identification number, and the license number assigned to the registered company.

"Recycling or reclamation facility" means any place, equipment or plant designed and/or operated for the purpose of recycling or reclamation, to collect, store, process or to redistribute separated waste so as to return the material to market.

"Regional Administrator" as used in the provisions of the Code of Federal Regulations which are incorporated by reference, means the Director of the Division of Solid and Hazardous Waste of the New Jersey Department of Environmental Protection or his or her designee, except when specifically noted, then it means the Regional Administrator for the EPA Region in which the facility is located or his or her designee.

"Registration statement" means an application for approved registration executed on forms provided by the Department and containing such information as may be required.

"Small quantity generator inspection" is an inspection of a generator as defined at 40 C.F.R. 260.10, 261.5(e), 261.5(f), 261.5(g), 262.34(d) and 262.34(f), who meets the conditions in paragraphs 1 and 2 or 1 and 3 below:

1. Generates (in a calendar month) and accumulates (at any time) one kilogram or less of acute hazardous waste or 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".

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.

(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 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).

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: