

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

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

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

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

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

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

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

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

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

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

1. Identify the rule violated as listed in N.J.A.C. 7:26-5.4(g)1 through 8A;
2. Identify the corresponding base penalty dollar amount for the rule violated as listed in N.J.A.C. 7:26-5.4(g)1 through 8A;
3. Multiply the base penalty dollar amount times the following multipliers for each factor to obtain the severity penalty component, as applicable:

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

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

**EXAMPLE:**

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

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

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

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

Rule N.J.A.C.	Rule Summary	Base Penalty
7:26-1.7(b)	Failure of owner or operator of any facility exempted under N.J.A.C. 7:26-1.7 to comply with all conditions set forth in its certificate of authority to operate	\$2,000

2. The violations of N.J.A.C. 7:26-2, Disposal, and the civil administrative penalty amounts for each violation, are as set forth in the following table.

Rule N.J.A.C.	Rule Summary	Base Penalty
7:26-2.7(b)1	Failure of permittee to apply for a permit renewal at least 90 days prior to the expiration date of the existing SWF permit.	\$2,000
7:26-2.8(b)	Failure of permittee to submit a statement updating the information contained in the initial registration statement.	\$2,000

		Rule	Rule Summary	Base Penalty
7:26-2.8(c)	Failure of permittee to notify the Department within 30 days of any change of information in the registration statement.	\$2,000	N.J.A.C. 7:26-2A.8(b)1	
7:26-2.8(e)	Failure to apply and receive approval of a SWF permit prior to engaging in the disposal of solid waste in this State.	\$2,000	7:26-2A.8(b)2	\$2,000
7:26-2.8(f)	Failing to obtain a SWF permit prior to constructing or operating a solid waste facility.	\$5,000	7:26-2A.8(b)3	\$2,000
7:26-2.8(j)	Failure to meet all conditions, restrictions, requirements or any other provision set forth in SWF permit	\$2,000	7:26-2A.8(b)4	\$2,000
7:26-2.8(k)	Failure to receive Department approval prior to modifying, revising or otherwise changing a permit condition.	\$2,000	7:26-2A.8(b)5	\$2,000
7:26-2.8(l)	Failure to receive Department approval prior to transferring ownership of a SWF permit.	\$5,000	7:26-2A.8(b)6	\$2,000
7:26-2.11(b)1	Failure of operator to clean areas where waste has been deposited or stored within each 24 hour period, for sanitary landfills all areas where waste has been deposited shall be covered.	\$2,000	7:26-2A.8(b)7	\$2,000
7:26-2.11(b)2	Failure to ensure any waste stored overnight at any facility is effectively treated.	\$2,000	7:26-2A.8(b)8	\$2,000
7:26-2.11(b)3	Failure to maintain facility property surrounding the disposal area free of litter, debris, unprocessed waste, processed residues and effluents.	\$3,000	7:26-2A.8(b)10	\$2,000
7:26-2.11(b)4	Failure to implement dust control methods.	\$2,000	7:26-2A.8(b)11	\$2,000
7:26-2.11(b)5	Failure to ensure no odors are detected off-site.	\$4,000	7:26-2A.8(b)11	\$2,000
7:26-2.11(b)6	Failure to maintain all facility systems in a manner that facilitates proper operation and minimizes system downtime.	\$2,000	7:26-2A.8(b)12	\$2,000
7:26-2.11(b)7	Failure to maintain an adequate water supply and adequate fire-fighting equipment.	\$5,000		\$2,000
7:26-2.11(b)8	Failure to control insects, other arthropods and rodents.	\$3,000	7:26-2A.8(b)13	\$2,000
7:26-2.11(b)9	Failure to comply at all times with the conditions of SWF permit.	\$2,000		\$2,000
7:26-2.11(b)10	Failing to ensure waste is not received in excess to the system's designed capacity.	\$2,000	7:26-2A.8(b)20	\$2,000
7:26-2.11(b)11	Failure to operate the facility in a manner that employs the use of equipment and other techniques as identified in the facility's SWF permit.	\$2,000	7:26-2A.8(b)21	\$2,000
7:26-2.11(b)12	Failure to maintain an approved O and M manual at the facility, changes to be submitted, at a minimum, on an annual basis.	\$3,000	7:26-2A.8(b)22	\$5,000
7:26-2.11(c)1	Failure to admit only properly registered solid waste vehicles for loading or unloading of any solid waste.	\$3,000		\$2,000
7:26-2.11(c)2	Failure to designate a secure area where solid waste may be unloaded from vehicles exempt from registration under N.J.A.C. 7:26-3.3.	\$2,000	7:26-2A.8(b)24	\$2,000
7:26-2.11(c)3	Failure to designate a secure area where unpermitted waste can be deposited.	\$2,000	7:26-2A.8(b)25	\$2,000
7:26-2.11(c)4	Failure to maintain a record of the quantity of each waste type accepted for disposal.	\$5,000	7:26-2A.8(b)27	\$2,000
7:26-2.11(c)5	Failure to provide a means of cleaning vehicle tires of debris	\$2,000	7:26-2A.8(b)28 7:26-2A.8(b)29	\$3,000
7:26-2.12(b)	Failure of generators of asbestos containing waste materials to submit a complete written notification of intent to demolish, 10 days prior to beginning the demolition activity.	\$1,000	7:26-2A.8(b)30	\$2,000
7:26-2.12(c)	Failure of generators of asbestos containing waste material to submit a complete written notification of intent to renovate, 10 days prior to beginning the renovation activity.	\$1,000	7:26-2A.8(b)31	\$4,000
7:26-2.13(a)7	Failure to maintain a daily record of asbestos waste and make appropriate submittals.	\$3,000	7:26-2A.8(b)32	\$2,000
7:26-2.13(a)8	Failure to maintain additional required reports in the daily record.	\$2,000	7:26-2A.8(b)33	\$2,000
7:26-2.13(c)1	Failure of facility operator to verify the O and D form	\$2,000	7:26-2A.8(b)37	\$5,000
7:26-2.13(e)	Failure to submit monthly summaries of waste to the Department.	\$3,000		\$5,000
7:26-2.14(j)	Failure of SWFPPA permittee to prepare and submit a complete annual progress report.	\$2,000		\$5,000
7:26-2.14(k)	Failure of SWFPPA permittee to conduct a complete facility wide benchmark audit not less than once every five years.	\$2,000	7:26-2A.8(b)38-41	\$5,000
			7:26-2A.8(c)	\$2,000
				\$5,000

3. The violations of N.J.A.C. 7:26-2A, Additional Specific Disposal Regulations for Sanitary Landfills, and the civil administrative penalty amounts for each violation, are as set forth in the following table.

Rule	Rule Summary	Base Penalty	Rule	Rule Summary	Base Penalty
7:26-2A.8(d-e)	Failure to perform inspections required by (c) above on a weekly basis and after storm events, and comply with recordkeeping requirements.	\$3,000		received cannot be handled or processed in the normal manner, of the operator to notify the Department of the existence of such a situation and circumstances contributing to the situation within the same working day of its occurrence.	\$2,000
7:26-2A.8(f)	Failure of operator to make repairs in accordance with N.J.A.C. 7:26-2A.8(b)28 and O&M manual, if deterioration or malfunction occurs.	\$2,000	7:26-2B.8(i)	Failure to store unprocessed incoming waste, facility process waste residues and effluents, and recovered materials in bunkers, pits, bins, or similar containment vessels and to keep at all times at levels that prevent spillage or overflow.	\$2,000
7:26-2A.8(g)	Failure to maintain and inspect sanitary landfill according to requirements.	\$2,000			
7:26-2A.8(h)	Failure to monitor in accordance with parameters and schedules.	\$5,000	7:26-2B.8(j)	Failure to keep waste delivery tipping hall doors closed during non-processing or non-receiving hours.	\$2,000
7:26-2A.8(i)	Failure to submit an annual topographic survey prepared according to N.J.A.C. 7:26-2A.8(i)1 through 4 by May 1 of each year.	\$2,000	7:26-2B.8(k)	Failure to schedule the delivery of waste to the facility and the removal of residues and recovered products from the site so as to eliminate traffic backups and allow for fluid vehicular movement on site.	\$2,000
7:26-2A.8(j)1	Failure to obtain written approval of the Department prior to disruption/excavation.	\$2,000			
7:26-2A.8(j)3	Failure to keep area of excavation consistent with amount of equipment, and to keep excavation to smallest practical area.	\$2,000	7:26-2B.8(l)	Failure to ensure that samples and measurements taken for the purpose of monitoring facility process and treatment operations are representative of the process or operation and are performed with the conditions of the facility's SWF permit.	\$5,000
7:26-2A.8(j)4	Failure to control dust, odors, fires, rodents, insects, blowing litter.	\$3,000			
7:26-2A.8(k)6	Failure to repair any disruption of finished grade or covered surface upon completion of firefighting activities.	\$2,000	7:26-2B.8(m-r)	Failure of the operator to comply with waste determination, waste analysis and required recordkeeping.	\$5,000
7:26-2A.8(l)	Failure to comply with asbestos waste disposal requirements.	\$3,000			

4. The violations of N.J.A.C. 7:26-2B, Additional Specific Disposal Regulations for Thermal Destruction Facilities, Transfer Stations, Materials Recovery Facilities, Co-Composting and Mixed Solid Waste Composting Facilities, and the civil administrative penalty amounts for each violation, are as set forth in the following table.

Rule N.J.A.C.	Rule Summary	Base Penalty
7:26-2B.7(b)	Failure of solid waste composting and co-composting facility to comply with quarterly report requirements.	\$2,000
7:26-2B.7(d)	Failure of solid waste composting and co-composting facility to comply with training requirements; Access to facility prohibited when facility is closed.	\$2,000
7:26-2B.7(e)	Failure of solid waste composting and co-composting facility to monitor temperature of composting materials to ensure pathogen reduction criteria are met.	\$2,000
7:26-2B.7(f)	Failure of solid waste composting and co-composting facility to comply with incoming waste processing timeframes and requirements.	\$2,000
7:26-2B.7(g)	Failure of solid waste composting and co-composting facility to ensure incoming, unprocessed waste is not mixed with finished compost.	\$2,000
7:26-2B.7(h)	Failure of solid waste composting and co-composting facility to comply with 15 month finished compost storage requirement.	\$1,000
7:26-2B.7(i)	Failure of solid waste composting and co-composting facility to comply with recordkeeping requirements.	\$2,000
7:26-2B.7(j-n)	Failure of solid waste composting and co-composting facility to comply with monitoring and sampling requirements.	\$3,000
7:26-2B.7(o)	Failure of solid waste composting and co-composting facility to comply with labeling requirements.	\$2,000
7:26-2B.7(p)	Failure of solid waste composting and co-composting facility to comply with USEPA 40 CFR 503 general requirements.	\$2,000
7:26-2B.8(d)	Failure of the owner or operator to conduct inspections as indicated in the approved final O&M manual in order to identify and remedy any problems and comply with recordkeeping requirements.	\$3,000
7:26-2B.8(f)	Failure of the owner or operator to implement waste receiving area control procedures that provide for the inspection of the incoming waste stream for the purpose of removing nonprocessable or potentially explosive materials prior to the initiation of processing.	\$3,000
7:26-2B.8(g)	Failure, should the facility experience equipment or system malfunction to the extent that the waste	

7:26-2B.8(s)	Failure of the owner or operator to have a 24-hour surveillance system which continuously monitors and controls entry to the facility or an artificial or natural barrier which completely surrounds the facility.	\$5,000
7:26-2B.8(t)	Failure of a facility to maintain required personnel, supervisor, boiler operator, licensed engineer to assure the proper and orderly operation of all system components, along with the ability to handle all routine facility maintenance requirements.	\$5,000
7:26-2B.8(u)	Failure to ensure that all personnel complete an initial program of classroom instruction and on-the-job training, training program directed by a person thoroughly familiar with the technology, ensure that facility personnel respond to any malfunction or emergency situation, complete the initial training program within six months, planned annual review of the initial training, records document the type and amount of training received, kept until closure, former employees records kept for at least one year.	\$2,000

5. The violations of N.J.A.C. 7:26-3, Transportation, and the civil administrative penalty amounts for each violation, are as set forth in the following table.

Rule N.J.A.C.	Rule Summary	Base Penalty
7:26-3.2(a)	Failure to obtain an approved registration statement from the Department prior to engaging in the transportation of solid waste.	\$8,000
7:26-3.2(a)2	Failure to ensure that any device used for the transportation of solid waste is registered with the Department.	\$2,000
7:26-3.2(a)4	Failure of registrant to ensure registered vehicles, cabs, containers, etc. are not used, controlled or possessed by any other person.	\$5,000
7:26-3.2(c)	Failure to comply with any conditions or limitations which may be specified on the approved registration.	\$5,000
7:26-3.2(d)	Failure of a registrant to submit a transporter registration renewal updating information contained in the previous registration statement.	\$2,000
7:26-3.2(e)	Failure of registrant to notify the Department within 30 days of any change in the registration statement.	\$2,000
7:26-3.4(b)	Failure to deposit all collected solid waste at an approved facility.	\$5,000
7:26-3.4(c)	Failure to ensure solid does not remain or is stored in any solid waste vehicle in excess of 24 hours, unless an emergency.	\$2,000
7:26-3.4(d)	Failure to ensure design of solid waste vehicle is such that it will not cause spillage onto roadways.	\$2,000



Rule	Rule Summary	Base Penalty
7:26-3A.38(b)6	Failure of RMW incinerator to ensure waste stored overnight is effectively treated.	\$2,000
7:26-3A.38(b)7	Failure to maintain facility property surrounding the disposal area free of litter, debris, unprocessed waste, processed residues and effluents.	\$2,000
7:26-3A.38(b)8	Failure to ensure no odors are detected off-site.	\$4,000
7:26-3A.38(b)9	Failure to maintain all facility systems in a manner that facilitates proper operation and minimizes system downtime.	\$2,000
7:26-3A.38(b)10	Failure to maintain adequate water supply and fire fighting equipment, failure to post emergency numbers (fire, police, ambulance, hospital).	\$5,000
7:26-3A.38(b)11	Failure to effectively control insects, arthropods, rodents.	\$2,000
7:26-3A.38(b)12	Failure to maintain orderly operation and sanitary conditions.	\$2,000
7:26-3A.38(b)14	Failure to maintain O&M manual at the facility.	\$3,000
7:26-3A.38(b)17	Failure of facility to accept RMW only from properly registered transporters.	\$2,000
7:26-3A.39(i)1	Failure to ensure stored waste does not exceed 300,000 pounds or amount as specified in authorization.	\$2,000
7:26-3A.39(i)2	Failure to ensure collection facility receives no more than 150,000 pounds of waste per day, or as otherwise indicated in authorization.	\$2,000
7:26-3A.39(i)4	Failure to accept only RMW waste managed in accordance with N.J.A.C. 7:26-3A.	\$2,000
7:26-3A.39(i)5	Failure to ensure only registered vehicles transport to and from facility.	\$2,000
7:26-3A.39(i)6	Failure to ensure all waste at all times remains fully contained, and does not leak.	\$3,000
7:26-3A.39(i)9	Failure to ensure no odors are detected off-site. Odor causing waste to be disposed of immediately.	\$4,000
7:26-3A.39(i)10	Failure to implement and maintain effective security procedures.	\$2,000
7:26-3A.39 (i)13	Failure to implement routine housekeeping and maintenance procedures.	\$2,000
7:26-3A.39(i)16	Failure to ensure truck queuing is minimized, on-site traffic controls implemented.	\$2,000
7:26-3A.39(i)17	Failure to ensure RMW is not staged, placed or stored beyond confines of facility or vehicle.	\$2,000
7:26-3A.39(j)2	Failure to maintain O&M manual at the facility.	\$3,000
7:26-3A.39(j)3	Failure to comply with training program requirements.	\$2,000
7:26-3A.39(j)6	Failure to maintain fire protection systems in operable condition, fire procedures posted.	\$5,000
7:26-3A.39(j)7	Failure to ensure that noise levels do not exceed standards set forth in N.J.A.C. 7:29.	\$4,000
7:26-3A.39(j)8	Failure to maintain on site operating records, O&M manual.	\$3,000
7:26-3A.39(j)9	Failure to maintain safety appliances in proper operating order, comply with O&M inspection schedules, maintain inspection records.	\$5,000
7:26-3A.39(k)	Failure to comply with recordkeeping and reporting requirements.	\$3,000
7:26-3A.40(c)3	Failure of intermediate handlers and destination facilities to ensure only approved treatment and destruction processes authorized by NJDEP and DOH are utilized.	\$2,000
7:26-3A.41	Failure to comply with tracking form requirements.	\$2,000
7:26-3A.42	Failure to comply with tracking form discrepancy requirements.	\$500
7:26-3A.43	Failure to comply with recordkeeping requirements.	\$3,000
7:26-3A.44	Failure of collection facilities, intermediate handlers and/or destination facilities to comply with additional reporting requirements.	\$2,000
7:26-3A.46	Failure of rail transporter to comply with tracking form requirements.	\$2,000
7:26-3A.47(a)	Failure to ensure alternative or innovative technology processes and any modifications are approved by the NJDEP and DOH prior to any marketing, sale or use in New Jersey.	\$5,000
7:26-3A.48(a,b)	Failure of an out-of-State organization using the U.S. Postal Service or other parcel service and disposing of regulated medical waste from New Jersey to comply with certification requirements.	\$2,000
7:26-3A.48(c)	Failure of a RMW generator to ensure that RMW waste is not sent to any out-of-State facility which does not have a certificate on file with the Department.	\$5,000

7. The violations of N.J.A.C. 7:26-6, Interdistrict and Intradistrict Solid Waste Flow, and the civil administrative penalty amounts for each violation, are as set forth in the following table.

Rule N.J.A.C.	Rule Summary	Base Penalty
7:26-6.5	Failure to comply with the district waste flow plan.	\$10,000

8. The violations of N.J.A.C. 7:26A, Recycling Rules, and the civil administrative penalty amounts for each violation, are as set forth in the following table.

Rule N.J.A.C.	Rule Summary	Base Penalty
7:26A-3.1(a)	Failure of approved recycling center to comply with all approval conditions.	\$2,000
7:26A-3.5(f)	Failure of recycling center to post a legible sign at the recycling center entrance indicating its approval and listing items detailed in 3.2(a)13i and ii.	\$500
7:26A-3.6	Failure to submit renewal application for a general approval to the Department at least three months prior to the current approval expiration and to comply with all submittal requirements.	\$1,000
7:26A-3.7(j)	Failure, within 45 days after expiration of the time period authorized by the limited approval to operate a recycling facility, to file a final report with the Department.	\$2,000
7:26A-3.7(k)	Failure of persons operating a limited approved recycling center to ensure that no illegal dumping occurs.	\$2,000
7:26A-3.8(a)	Failure to limit processing methods for tires to slicing, shredding, chipping, crumbing or other methods approved by the Department, prohibition to incinerating, landfilling, abandoning or otherwise illegally disposing of tires.	\$3,000
7:26A-3.8(b)	Failure by the owner or operator of the tire recycling center to ensure that no mosquito colony formation develops.	\$2,000
7:26A-3.8(c)	Failure of a tire, tree stump, tree part or wood waste recycling center to have an approved fire control plan.	\$5,000
7:26A-3.9(a)	Failure of recycling center to ensure the temporary storage of Class B recyclable material does not exceed the amount indicated in the general or limited approval to operate.	\$2,000
7:26A-3.9(b)	Failure of recycling center to ensure that unprocessed Class B recyclable material is not stored in excess of one year from the date of receipt.	\$2,000
7:26A-3.10	Failure of recycling center to comply with modification requirements.	\$2,000
7:26A-3.15(a)	Failure to ensure a general or limited approval to operate a recycling center is not transferred without prior approval of the Department.	\$5,000
7:26A-3.15(c)	Failure to provide one copy of written request to transfer approval to the recycling coordinator and one copy to the applicable municipal planning board.	\$2,000
7:26A-3.17(a)	Failure of recycling center to comply with recordkeeping and annual reporting requirements.	\$3,000
7:26A-4.1(a)i	Failure of recycling center to ensure that recyclable material is separated at the point of generation from other waste material.	\$3,000
7:26A-4.1(a)ii	Failure of recycling center to ensure only Class A, Class B or Class C materials are received, stored, processed or transferred at the center.	\$3,000
7:26A-4.1(a)liii	Failure of recycling center to comply with commingling requirements.	\$2,000
7:26A-4.1(a)2	Failure of recycling center to ensure residue is not stored on-site in excess of six months.	\$2,000
7:26A-4.1(a)4	Failure of recycling center to store residue separately from recyclable material and in a manner which prevents run-off, leakage or seepage from the residue storage area into, on or around the soil of the residue storage area.	\$2,000

Rule	Rule Summary	Base Penalty	Rule	Rule Summary	Base Penalty
7:26A-4.1(a)5	Failure of recycling center to ensure hazardous wastes are not stored, processed or transferred at any recycling center.	\$5,000	7:26A-4.5(b)1	Failure of Class C material operator to ensure traffic associated with the center does not result in a degradation of a level of service of any major intersection or public roadway within a half-mile radius.	\$2,000
7:26A-4.1(a)6	Failure of recycling center to ensure electronic components which contain polychlorinated biphenyls (PCBs) and which are attached to or detached from appliances or other scrap metal, are not shredded, sheared or baled.	\$5,000	7:26A-4.5(b)2	Failure of Class C material operator to ensure center has sufficient capacity to handle incoming volumes.	\$2,000
7:26A-4.1(a)8	Failure to operate a recycling center in such a manner that the recycling center property is maintained free of litter and debris and such that tracking of mud into nearby streets is prevented.	\$2,000	7:26A-4.5(b)3	Failure of Class C material operator to ensure center has effective visual screen buffer.	\$2,000
7:26A-4.4(a)	Failure by the owner or operator of a recycling center to provide a recycling tonnage report by February 1 of each year.	\$1,000	7:26A-4.5(b)4	Failure of Class C material operator to ensure unauthorized access to center is controlled.	\$2,000
7:26A-4.4(b)	Failure by a transporter of recyclable materials to provide a recycling tonnage report by February 1 of each year.	\$1,000	7:26A-4.5(b)5	Failure of Class C material operator to prevent vehicular tracking of soil, generation of dust, by compaction or paving.	\$2,000
7:26A-4.4(c)	Failure of exempt person to submit required tonnage reports by February 1 of each year.	\$1,000	7:26A-4.5(b)6	Failure of Class C material operator to comply with composting structure requirements, no ponding, leachate control.	\$2,000
7:26A-4.5(a)2	Failure of Class C yard trimming operator to ensure traffic associated with the center does not result in a degradation of a level of service of any major intersection or public roadway within a half-mile radius.	\$2,000	7:26A-4.5(b)7	Failure of Class C material operator to maintain fully enclosed operation.	\$2,000
7:26A-4.5(a)3	Failure of Class C yard trimming operator to ensure center has sufficient capacity to handle incoming volumes.	\$2,000	7:26A-4.5(b)9	Failure of Class C material operator to have adequate water supply, fire-fighting equipment, local fire department phone numbers posted.	\$5,000
7:26A-4.5(a)4	Failure of Class C yard trimming operator to ensure center has effective visual screen buffer.	\$2,000	7:26A-4.5(b)10	Failure of Class C material operator to comply with O&M manual requirements.	\$3,000
7:26A-4.5(a)5	Failure of Class C yard trimming operator to ensure unauthorized access to center is controlled.	\$2,000	7:26A-4.5(b)12, 13	Failure of Class C material operator to comply with employee training requirements.	\$2,000
7:26A-4.5(a)6	Failure of Class C yard trimming operator to prevent vehicular tracking of soil, generation of dust, by compaction or paving.	\$2,000	7:26A-4.5(b)14	Failure of Class C material operator to have properly trained individual supervising operation.	\$2,000
7:26A-4.5(a)7	Failure of Class C yard trimming operator to maintain improved active composting surface, no ponding or runoff.	\$2,000	7:26A-4.5(b)16	Failure of Class C material operator to comply with incoming organics processing timeframes and requirements.	\$2,000
7:26A-4.5(a)8	Failure of Class C yard trimming operator to post entrance sign identifying operating hours.	\$100	7:26A-4.5(b)17	Failure of Class C material operator to ensure incoming, unprocessed material is not mixed with finished compost.	\$2,000
7:26A-4.5(a)9	Failure of Class C yard trimming operator to have adequate water supply, fire-fighting equipment, local fire department phone numbers posted.	\$5,000	7:26A-4.5(b)18, 19	Failure of Class C material operator to meet PFRB criteria and requirements.	\$2,000
7:26A-4.5(a)10	Failure of Class C yard trimming operator to have properly trained individual supervising operation, access to facility prohibited when center is closed.	\$2,000	7:26A-4.5(b)21	Failure of Class C material operator to comply with 15 month finished compost storage requirement.	\$1,000
7:26A-4.5(a)11	Failure of Class C yard trimming compost operators to attend, within one year of start up, approved composting courses.	\$2,000	7:26A-4.5(b)23-26	Failure of Class C material operator to comply with monitoring and sampling requirements.	\$3,000
7:26A-4.5(a)12	Failure of Class C yard trimming operator to ensure yard trimmings are only received during times when operator is present.	\$2,000	7:26A-4.5(b)27, 28	Failure of Class C material operator to comply with additional recordkeeping requirements.	\$2,000
7:26A-4.5(a)13	Failure of Class C yard trimming operator to ensure all trimmings received are removed from bags, boxes.	\$2,000	7:26A-4.5(c)1	Failure of Class C operator to comply with labeling requirements.	\$2,000
7:26A-4.5(a)14	Failure of Class C yard trimming operator to initiate processing of incoming materials containing grass, within the working day.	\$2,000	7:26A-4.5(c)2	Failure of Class C operator to comply with compost utilization requirements.	\$2,000
7:26A-4.5(a)15i	Failure of Class C yard trimming operator to moisten, without excess runoff, dry yard trimmings prior to windrow formation.	\$2,000	7:26A-5.1(a)	Failure to ensure no shearing, shredding, baling or other actions which could cause release of refrigerant fluid to take place, occurs prior to recovery of such fluid.	\$5,000
7:26A-4.5(a)15ii	Failure of Class C yard trimming operator to position windrows perpendicular to ground surface contours.	\$2,000	7:26A-5.1(b)	Failure to recover refrigerant fluid in a manner such that no venting of refrigerant fluid occurs.	\$5,000
7:26A-4.5(a)15iii	Failure of Class C yard trimming operator to install windsock.	\$1,000	7:26A-5.1(c)	Failure to deliver recovered refrigerant fluid to a facility which has agreed to reprocess the fluid or, if such arrangements cannot be made, failure to store or dispose of the recovered fluid in accordance with applicable rules and regulations.	\$5,000
7:26A-4.5(a)15iv	Failure of Class C yard trimming operator to comply with windrow composting requirements.	\$2,000	7:26A-6.4(d)2	Failure of generator to ensure used oil is stored only in tanks, containers, or unit subject to N.J.A.C. 7:26G.	\$3,000
7:26A-4.5(a)15v	Failure of Class C yard trimming operator to comply with material staging and processing buffer distance requirements.	\$2,000	7:26A-6.4(d)3	Failure of generator to ensure used oil storage units are in good condition and not leaking.	\$3,000
7:26A-4.5(a)15vi	Failure of Class C yard trimming operator to comply with 15 month finished compost storage requirement.	\$1,000	7:26A-6.4(d)4	Failure of generator to comply with used oil labeling requirements.	\$2,000
7:26A-4.5(a)15vii	Failure of Class C yard trimming operator to comply with finished compost testing requirements.	\$2,000	7:26A-6.4(f)	Failure of generator to comply with used oil off-site shipment requirements.	\$2,000
7:26A-4.5(a)15x	Failure of Class C yard trimming operator to comply with additional recordkeeping requirements.	\$3,000	7:26A-6.6(c)	Failure of a used oil transporter to have EPA identification number.	\$2,000
			7:26A-6.6(d)1	Failure of a used oil transporter to comply with deliveries requirements.	\$2,000
			7:26A-6.6(f)3	Failure of used oil transfer facility to ensure used oil is stored only in tanks, containers, or unit subject to N.J.A.C. 7:26G.	\$3,000
			7:26A-6.6(f)4	Failure of used oil transfer facility to ensure used oil storage units are in good condition and not leaking.	\$3,000
			7:26A-6.6(f)5	Failure of used oil transfer facility to comply with "secondary containment for containers" requirements.	\$3,000

Rule	Rule Summary	Base Penalty	Rule	Rule Summary	Base Penalty
7:26A-6.6(f)6	Failure of used oil transfer facility to comply with "secondary containment for existing aboveground tanks" requirements.	\$3,000	7:26A-7.2(d)	Failure of small quantity handler of universal waste to comply with waste management requirements.	\$2,000
7:26A-6.6(f)7	Failure of used oil transfer facility to comply with "secondary containment for new aboveground tanks" requirements.	\$3,000	7:26A-7.2(e)	Failure of small quantity handler of universal waste to comply with labeling/marketing requirements.	\$2,000
7:26A-6.6(f)8	Failure of used oil transfer facility to comply with used oil labeling requirements.	\$3,000	7:26A-7.2(f)	Failure of small quantity handler of universal waste to comply with accumulation time limits.	\$2,000
7:26A-6.6(g)	Failure of used oil transfer facility/transporter to comply with tracking requirements.	\$2,000	7:26A-7.2(g)	Failure of small quantity handler of universal waste to comply with employee training requirements.	\$3,000
7:26A-6.7(b)	Failure of used oil processor/re-refiner to comply with notification requirements.	\$2,000	7:26A-7.2(i)	Failure of small quantity handler of universal waste to comply with off-site shipment requirements.	\$2,000
7:26A-6.7(c)1	Failure of used oil processor/re-refiner to comply with preparedness and prevention requirements.	\$5,000	7:26A-7.2(k)	Failure of small quantity handler of universal waste to comply with exporting requirements.	\$2,000
7:26A-6.7(c)2i-v	Failure of used oil processor/re-refiner to comply with contingency plan requirements.	\$5,000	7:26A-7.3(c)	Failure of large quantity handler of universal waste to comply with notification requirements.	\$4,000
7:26A-6.7(e)2	Failure of used oil processor/re-refiner to ensure used oil is stored only in tanks, containers, or units subject to N.J.A.C. 7:26G.	\$3,000	7:26A-7.3(d)	Failure of large quantity handler of universal waste to comply with waste management requirements.	\$4,000
7:26A-6.7(e)3	Failure of used oil processor/re-refiner to ensure used oil storage units are in good condition and not leaking.	\$3,000	7:26A-7.3(e)	Failure of large quantity handler of universal waste to comply with labeling/marketing requirements.	\$4,000
7:26A-6.7(e)4	Failure of used oil processor/re-refiner to comply with "secondary containment for containers" requirements.	\$3,000	7:26A-7.3(f)	Failure of large quantity handler of universal waste to comply with accumulation time limits.	\$4,000
7:26A-6.7(e)5	Failure of used oil processor/re-refiner to comply with "secondary containment for existing aboveground tanks" requirements.	\$3,000	7:26A-7.3(g)	Failure of large quantity handler of universal waste to comply with employee training requirements.	\$4,000
7:26A-6.7(e)6	Failure of used oil processor/re-refiner to comply with "secondary containment for new aboveground tanks" requirements.	\$3,000	7:26A-7.3(i)	Failure of large quantity handler of universal waste to comply with off-site shipment requirements.	\$4,000
7:26A-6.7(e)7	Failure of used oil processor/re-refiner to comply with used oil labeling requirements.	\$3,000	7:26A-7.3(j)	Failure of large quantity handler of universal waste to comply with waste tracking requirements.	\$4,000
7:26A-6.7(f)	Failure of used oil processor/re-refiner to comply with analysis plan requirements.	\$5,000	7:26A-7.3(k)	Failure of large quantity handler of universal waste to comply with exporting requirements.	\$4,000
7:26A-6.7(g)	Failure of used oil processor/re-refiner to comply with tracking requirements.	\$2,000	7:26A-7.4(c)	Failure of universal waste transporter to comply with waste management requirements.	\$3,000
7:26A-6.7(h)	Failure of used oil processor/re-refiner to comply with operating record and reporting requirements.	\$3,000	7:26A-7.4(d)	Failure of universal waste transporter to comply with storage time limits.	\$3,000
7:26A-6.7(i)	Failure of used oil processor/re-refiner to use oil transporter with EPA identification number.	\$3,000	7:26A-7.4(f)	Failure of universal waste transporter to comply with off-site shipment requirements.	\$3,000
7:26A-6.8(b)	Failure of used oil burner facility to comply with burning restrictions.	\$3,000	7:26A-7.4(g)	Failure of universal waste transporter to comply with exporting requirements.	\$3,000
7:26A-6.8(c)	Failure of a used oil burner facility to comply with notification requirements.	\$2,000	7:26A-7.5(b)	Failure of universal waste destination facility to comply with off-site shipment requirements.	\$4,000
7:26A-6.8(e)2	Failure of used oil burner facility to ensure used oil is stored only in tanks, containers, or unit subject to N.J.A.C. 7:26G.	\$3,000	7:26A-7.5(c)	Failure of universal waste destination facility to comply with universal waste tracking requirements.	\$4,000
7:26A-6.8(e)3	Failure of used oil burner facility to ensure used oil storage units are in good condition and not leaking.	\$3,000			
7:26A-6.8(e)4	Failure of used oil burner facility to comply with "secondary containment for containers" requirements.	\$3,000		Administrative Correction in (g)7. See: 23 N.J.R. 3138(a). Amended by R.1993 d.5, effective January 4, 1993.	
7:26A-6.8(e)5	Failure of used oil burner facility to comply with "secondary containment for existing aboveground tanks" requirements.	\$3,000		See: 23 N.J.R. 3607(a) (see also 24 N.J.R. 2002(a)), 25 N.J.R. 98(a). Reflects amendments to N.J.A.C. 7:26-7.6 and 9.4. Amended by R.1996 d.500, effective October 21, 1996.	
7:26A-6.8(e)6	Failure of used oil burner facility to comply with "secondary containment for new aboveground tanks" requirements.	\$3,000		See: 28 N.J.R. 1693(a), 28 N.J.R. 4606(a). Amended by R.1996 d.578, effective December 16, 1996.	
7:26A-6.8(e)7	Failure of used oil burner facility to comply with used oil labeling requirements.	\$3,000		See: 28 N.J.R. 2114(a), 28 N.J.R. 5248(a). In (f)1 and (f)2, amended N.J.A.C. references; in (f)4, amended EXAMPLE; in (g), amended N.J.A.C. references; and added (g)1 through (g) 8.	
7:26A-6.8(f)	Failure of used oil burner facility to comply with tracking requirements.	\$2,000		Amended by R.2001 d.86, effective March 5, 2001.	
7:26A-6.8(g)	Failure of used oil burner facility to comply with notice requirements.	\$2,000		See: 32 N.J.R. 2536(a), 33 N.J.R. 880(a). In (g)2 table, deleted 7:26-2.13(c)2 and recodified 7:26-2.13(c)3 as 7:26-2.13(c)1; in (g)5 table, added 7:26-3.5(g)2.	
7:26A-6.9(b)	Failure of used oil fuel marketer to ensure shipments of off-specification used oil is sent only to used oil burner facilities that have EPA identification numbers and burns the used oil in a device as identified in N.J.A.C. 7:26A-6.8(b)1.	\$4,000		Amended by R.2002 d.181, effective June 17, 2002.	
7:26A-6.9(c)	Failure of used oil fuel marketer to comply with on-specification used oil fuel requirements.	\$2,000		See: 33 N.J.R. 4218(a), 34 N.J.R. 2049(a). In (g)2, amended the penalty table.	
7:26A-6.9(d)	Failure of a used oil fuel marketer to comply with notification requirements.	\$2,000			
7:26A-6.9(e)	Failure of used oil marketer to comply with tracking requirements.	\$2,000			
7:26A-6.9(f)	Failure of used oil marketer to comply with Notice requirements.	\$2,000			

Case Notes

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

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

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

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

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

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

**7:26-5.5 Civil administrative penalty determination**

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

1. Because of the specific circumstances of the violation, the Department determines that the penalty amount under N.J.A.C. 7:26-5.4 would be too low to provide a sufficient deterrent effect as required by the Act; or
2. The violation is not listed under N.J.A.C. 7:26-5.4.

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

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

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

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

(f) The Department shall assess a civil administrative penalty for violations described in this section on the basis of the seriousness of the violation and the conduct of the violator at the mid-point of the following ranges, unless adjusted pursuant to (i) below.

		SERIOUSNESS		
		Major	Moderate	Minor
CONDUCT	Major	\$40,000- \$50,000	\$30,000- \$40,000	\$15,000- \$25,000
	Moderate	\$30,000- \$40,000	\$10,000- \$20,000	\$3,000- \$6,000
	Minor	\$15,000- \$25,000	\$3,000- \$6,000	\$1,000- \$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, any administrative order, permit, license or other operating authority issued, any district solid waste management plan approved pursuant to the Act; serious deviation shall include, but not be limited to, those violations which are in complete contravention of the requirement, or if some of the requirement is met, which severely impair or undermine the operation or intent of the requirement;
2. Moderate seriousness shall apply to any violation which:
  - i. Has caused or has the potential to cause substantial harm to human health or the environment; or
  - ii. Substantially deviates from the requirements of the Act, or any rule promulgated, any administrative order, permit, license or other operating authority issued, any district solid waste management plan approved pursuant to the Act; substantial deviation shall include, but not be limited to, violations which are in substantial contravention of the requirements or which substantially impair or undermine the operation or intent of the requirement; and
3. Minor seriousness shall apply to any violation not included in (g)1 or 2 above.

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

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

(i) The Department may adjust the amount determined pursuant to (f), (g) and (h) above to assess a civil administrative penalty in an amount no greater than the maximum

amount nor less than the minimum amount in the range described in (f) above, on the basis of the following factors: