

(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 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. 7:26-5.4(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: 0.50 x 1000	=	500
Subparagraph (f)3iv applies: 0.25 x 1000	=	+ 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	Rule N.J.A.C.	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			
7:26-2.8(c)	Failure to apply and receive approval of a SWF permit prior to engaging in the disposal of solid waste in this State.	\$2,000			
7:26-2.8(f)	Failing to obtain a SWF permit prior to constructing or operating a solid waste facility.	\$5,000			
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)1	Failure to confine working face to the smallest practical area.	\$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)2	Failure to compact waste to yield smallest volume.	\$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)3	Failure to compact waste in shallow layers; or compacting waste over leachate collection pipes per N.J.A.C. 7:26-2A.7(d)3xiv.	\$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)4	Failure to ensure lift height of daily cell does not exceed 12 feet.	\$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)5	Failure to ensure slope is no steeper than 3:1.	\$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)6	Failure of balfill operations to comply with working face requirements.	\$2,000
7:26-2.11(b)4	Failure to implement dust control methods.	\$2,000	7:26-2A.8(b)7	Failure to obtain department approval of separate areas for storage of demolition waste or recyclable materials.	\$2,000
7:26-2.11(b)5	Failure to ensure no odors are detected off-site.	\$4,000	7:26-2A.8(b)8	Failure to cover exposed surfaces of solid waste at close of each operating day with daily cover.	\$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)9	Failure to progressively apply daily cover.	\$2,000
7:26-2.11(b)7	Failure to maintain an adequate water supply and adequate fire-fighting equipment.	\$5,000	7:26-2A.8(b)10	Failure to apply intermediate cover (a minimum of 12 inches of earth) to surfaces exposed more than 24 hours.	\$2,000
7:26-2.11(b)8	Failure to control insects, other arthropods and rodents.	\$3,000	7:26-2A.8(b)11	Failure to maintain grade, thickness and integrity of intermediate and final cover.	\$2,000
7:26-2.11(b)9	Failure to admit only properly registered solid waste vehicles for loading or unloading of any solid waste.	\$3,000	7:26-2A.8(b)12	Failure to grade areas with intermediate cover to facilitate drainage.	\$2,000
7:26-2.11(b)10	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)13	Failure to use appropriate daily and intermediate cover materials; not maintaining sufficient quantity of cover at site; not maintaining standby supply of cover within boundaries.	\$2,000
7:26-2.11(b)11	Failure to comply at all times with the conditions of SWF permit.	\$2,000	7:26-2A.8(b)20	Failure to construct final cover in accordance with N.J.A.C. 7:26-2A.7(i) and to apply it to all surfaces.	\$2,000
7:26-2.11(b)12	Failure to designate a secure area where unpermitted waste can be deposited.	\$2,000	7:26-2A.8(b)21	Failure to maintain sufficient types and quantities of equipment to adequately meet the requirements of (b) 7 through (10) above.	\$2,000
7:26-2.11(b)13	Failure to maintain a record of the quantity of each waste type accepted for disposal.	\$5,000	7:26-2A.8(b)22	Failure to maintain steel wheel type compactors of at least 45,000 pounds.	\$2,000
7:26-2.11(b)15	Failing to ensure waste is not received in excess of the system's designed capacity.	\$2,000	7:26-2A.8(b)23	Failure to equip landfill equipment with safety devices.	\$5,000
7:26-2.11(b)16	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)24	Failure, in the case of breakdown of equipment, to repair or obtain replacement within 24 hours; or to include a maintenance contract in O&M plan.	\$2,000
7:26-2.11(b)17	Failure to provide a means of cleaning vehicle tires of debris.	\$2,000	7:26-2A.8(b)25	Failure to limit access for disposal to operating hours only.	\$2,000
7:26-2.11(b)18	Failure to maintain an approved O&M manual at the facility, changes to be submitted, at a minimum, on an annual basis.	\$3,000	7:26-2A.8(b)26	Failure to secure landfill with a six-foot high chain link fence.	\$2,000
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)27	Failure to maintain all weather road to working face.	\$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)28	Failure to control litter.	\$3,000
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)29	Failure to control dust by spraying water or equivalent.	\$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)30	Failure to eliminate emissions which result in odors detectable in areas of human use or occupancy beyond boundary line; or to control the odors by use of daily cover; or to immediately cover odorous waste with minimum six inches of cover.	\$4,000
7:26-2.13(c)2	Failure of transporter to complete and sign O and D form prior to disposal.	\$2,000	7:26-2A.8(b)31	Failure to control the off-site tracking of mud and soil.	\$2,000
7:26-2.13(c)3	Failure of facility operator to verify the O and D form.	\$2,000	7:26-2A.8(b)32	Failure to minimize the propagation and harborage of insects, rodents, and birds.	\$2,000
7:26-2.13(c)	Failure to submit monthly summaries of waste to the Department.	\$3,000	7:26-2A.8(b)33	Failure to protect all monitoring devices and environmental systems from damage.	\$5,000
7:26:2.14(j)	Failure of SWFPPA permittee to prepare and submit a complete annual progress report.	\$2,000	7:26-2A.8(b)37	Failure to have supervisor on site in order to insure proper operation, evaluate monitoring data and inspection reports, determine performance of landfill, implement all operational decisions and ensure compliance with N.J.S.A. 13:1E-1 et seq., this chapter and the SWF Permit.	\$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			

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(b)38-41	Failure to ensure that landfill personnel complete a program of on-the-job training, all personnel complete training program within six months after date of employment, all personnel take part in annual update of initial training program, keep records of training received by personnel until closure.	\$2,000	7:26-2B.8(f)	Failure to identify and remedy any problems and comply with recordkeeping requirements.	\$3,000
7:26-2A.8(c)	Failure to maintain environmental control systems in functioning manner, or to inspect them.	\$5,000	7:26-2B.8(g)	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
7:26-2A.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	7:26-2B.8(i)	Failure, should the facility experience equipment or system malfunction to the extent that the waste 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(j)	Failure to store unprocessed incoming waste, facility process waste residuics 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	7:26-2B.8(k)	Failure to keep waste delivery tipping hall doors closed during non-processing or non-receiving hours.	\$2,000
7:26-2A.8(h)	Failure to monitor in accordance with parameters and schedules.	\$5,000	7:26-2B.8(l)	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(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(m-r)	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)1	Failure to obtain written approval of the Department prior to disruption/excavation.	\$2,000	7:26-2B.8(s)	Failure of the operator to comply with waste determination, waste analysis and required recordkeeping.	\$5,000
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(t)	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
7:26-2A.8(j)4	Failure to control dust, odors, fires, rodents, insects, blowing litter.	\$3,000	7:26-2B.8(u)	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
7:26-2A.8(k)6	Failure to repair any disruption of finished grade or covered surface upon completion of firefighting activities.	\$2,000		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
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	Rule Summary	Base Penalty	Rule	Rule Summary	Base Penalty
N.J.A.C. 7:26-2B.7(b)	Failure of solid waste composting and co-composting facility to comply with quarterly report requirements.	\$2,000	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
7:26-2B.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	7:26-3.2(a)2	Failure to ensure that any device used for the transportation of solid waste is registered with the Department.	\$2,000
7:26-2B.7(c)	Failure of solid waste composting and co-composting facility to monitor temperature of composting materials to ensure pathogen reduction criteria are met.	\$2,000	7:26-3.2(a)4	Failure of registrant to ensure registered vehicles, cabs, containers, etc. are not used, controlled or possessed by any other person.	\$5,000
7:26-2B.7(f)	Failure of solid waste composting and co-composting facility to comply with incoming waste processing timeframes and requirements.	\$2,000	7:26-3.2(c)	Failure to comply with any conditions or limitations which may be specified on the approved registration.	\$5,000
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	7:26-3.2(d)	Failure of a registrant to submit a transporter registration renewal updating information contained in the previous registration statement.	\$2,000
7:26-2B.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				

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	Rule Summary	Base Penalty	Rule	Rule Summary	Base Penalty
7:26-3.2(e)	Failure of registrant to notify the Department within 30 days of any change in the registration statement.	\$2,000	7:26-3A.8(c)3	Failure of a non-commercial collection facility or an intermediate handler treating their own waste to register with the Department.	\$2,000
7:26-3.4(b)	Failure to deposit all collected solid waste at an approved facility.	\$5,000	7:26-3A.8(d)1	Failure of commercial collection facility to register with the Department.	\$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	7:26-3A.8(d)5,6	Failure of a non-commercial collection facility to register with the Department.	\$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	7:26-3A.9	Failure of transporters', intermediate handlers' and destination facilities' supervisory personnel to attend an education and training session and disseminate information to employees.	\$2,000
7:26-3.4(e)	Failure to ensure solid waste vehicle is not loaded beyond its design capacities or in such a manner that will cause spillage onto roadways.	\$2,000	7:26-3A.10(a)	Failure of generators of RMW to segregate for off-site transport prior to placement in containers.	\$1,000
7:26-3.4(f)	Failure to keep all solid waste vehicles in good working condition and to provide a means of continuous service in the event an emergency arises.	\$2,000	7:26-3A.10(d)	Failure to handle a package of RMW mixed with other waste as RMW.	\$3,000
7:26-3.4(g)	Failure to protect property of customer.	\$2,000	7:26-3A.11	Failure of a generator to ensure that RMW is properly packaged before transporting or offering for transport off site.	\$1,000
7:26-3.4(h)	Failure to properly mark each solid waste vehicle or to carry current DEP registration certificate.	\$2,000	7:26-3A.12(a)	Failure to comply with RMW storage requirements.	\$3,000
7:26-3.4(i)	Failure to use tarpaulins as needed.	\$2,000	7:26-3A.12(b)	Failure to comply with RMW storage periods.	\$500
7:26-3.4(j)	Failure to access or exit a solid waste facility pursuant to the district management plan or SWF permit.	\$2,000	7:26-3A.12(c)	Failure to secure sharps containers.	\$1,000
7:26-3.5(a)1	Failure to design all solid waste vehicles used for the transportation of sewage sludge to preclude any spillage or leakage onto roadways.	\$2,000	7:26-3A.13(a)	Failure to secure sharps containers.	\$1,000
7:26-3.5(a)2	Failure to ensure sewage sludge and other fecal material is not intermixed with other wastes of a chemical or industrial nature.	\$5,000	7:26-3A.14(a)	Failure to comply with container decontamination and reuse requirements.	\$3,000
7:26-3.5(b)	Failure to design all solid waste vehicles used for the transportation of bulky waste to preclude any spillage.	\$2,000	7:26-3A.15(a)	Failure to comply with labeling requirements.	\$500
7:26-3.5(c)	Failure to ensure radioactive material and lethal chemicals are not transported in or through this State without prior approval from authorities having jurisdiction, and from the Department.	\$5,000	7:26-3A.16(a)	Failure to comply with marking requirements.	\$1,000
7:26-3.5(d)1	Failure to design all solid waste vehicles used for the transportation of asbestos waste so as to preclude any spillage leakage or emissions therefrom.	\$3,000	7:26-3A.16(a)	Failure to determine if waste is RMW.	\$1,000
7:26-3.5(d)2	Failure to package asbestos for transportation in accordance with 40 CFR 61.152 and N.J.A.C. 7:26-2.12.	\$5,000	7:26-3A.16(d)	Failure to use properly registered transporters.	\$1,000
7:26-3.5(d)3	Failure to transport asbestos in a manner that prevents the rupture of containers in loading, transporting and unloading operations.	\$5,000	7:26-3A.16(e)	Failure to use properly registered transporters.	\$3,000
7:26-3.5(d)4	Failure to transport collected asbestos directly from the point of generation to the solid waste landfill permitted to receive such wastes.	\$5,000	7:26-3A.16(e)	Failure to dispose of RMW at an authorized facility.	\$10,000
7:26-3.5(d)6	Failure to ensure no visible air emissions are generated during loading, transporting, or unloading operations.	\$5,000	7:26-3A.16(h)	Failure to comply with home self-care RMW requirements.	\$500
7:26-3.7(a)	Failure to ensure waste materials to be collected and transported show no evidence of smoking, smoldering or burning.	\$5,000	7:26-3A.16(i)	Failure to get approval from the department prior to using an alternative or innovative technology for the treatment or destruction of RMW.	\$5,000
			7:26-3A.19	Failure of a generator to comply with tracking form requirements.	\$500
			7:26-3A.21	Failure to comply with generator recordkeeping requirements.	\$500
			7:26-3A.22	Failure of generator to comply with exception reporting requirements.	\$1,000
			7:26-3A.25	Failure of generator with on-site incinerator to comply with recordkeeping requirements.	\$3,000
			7:26-3A.26	Failure of owner/operator of on-site incinerator to comply with reporting requirements.	\$1,000
			7:26-3A.27(i)	Failure of a transporter/collection facility to dispose of RMW stored in the vehicle within fourteen calendar days, or before it becomes putrescent.	\$2,000
			7:26-3A.28	Failure of a transporter to comply with RMW acceptance requirements.	\$3,000
			7:26-3A.30(a)1	Failure of vehicle to have fully enclosed, leak resistant cargo carrying body.	\$2,000
			7:26-3A.30(a)2	Failure to ensure RMW does not become putrescent and is not subjected to mechanical stress or compaction during loading and unloading or during transit.	\$2,000
			7:26-3A.30(a)3	Failure to maintain cargo carrying body in good sanitary condition.	\$2,000
			7:26-3A.30(a)4	Failure to securely lock unattended cargo carrying body.	\$5,000
			7:26-3A.30(b)	Failure to comply with vehicle identification requirements.	\$1,000
			7:26-3A.30(c)	Failure to manage RMW/solid waste mixture as RMW.	\$5,000
			7:26-3A.31	Failure of transporter to comply with tracking form requirements.	\$2,000
			7:26-3A.32(a)	Failure to deliver entire quantity of RMW to intermediate hauler, destination facility or next transporter.	\$1,000
			7:26-3A.32(b)	Failure to contact generator for directions and make changes accordingly, if RMW cannot be delivered as intended.	\$1,000
			7:26-3A.33(a)	Failure to comply with requirements for consolidating waste to a new tracking form.	\$2,000

6. The violations of N.J.A.C. 7:26-3A, Regulated Medical Waste, and the civil administrative penalty amounts for each violation, are as set forth in the following table. The lesser penalty amount applies to persons registered in generator categories 1 through 3 (<300 lbs/year). The larger penalty amount applies to persons registered in generator categories 4 and 5 (>300 lbs/year).

Rule N.J.A.C.	Rule Summary	Base Penalty
7:26-3A.8(a)	Failure of a generator of RMW to register with the Department.	\$1,500
7:26-3A.8(a)1	Failure of a generator of RMW to register in the proper category.	\$5,000
7:26-3A.8(b)1	Failure of a commercial transporter of RMW to register with the Department.	\$1,000
7:26-3A.8(b)2	Failure of a non-commercial transporter of RMW to register with the Department.	\$5,000
7:26-3A.8(c)	Failure of commercial intermediate handlers and owner/operators of destination facilities to register with the Department.	\$2,500
		\$5,000

Rule	Rule Summary	Base Penalty
7:26-3A.34	Failure of transporter to comply with recordkeeping requirements.	\$3,000
7:26-3A.35	Failure of transporter to comply with reporting requirements.	\$3,000
7:26-3A.37(a)	Failure of transporter to have an approved RMW spill management plan.	\$2,000
7:26-3A.37(b)	Failure of transporter to have a RMW spill containment and cleanup kit at all sites and in all vehicles used for the storage, handling, collection, treatment and collection of RMW.	\$2,000
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	

Rule	Rule Summary	Base Penalty
	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	Rule Summary	Base Penalty
N.J.A.C. 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	Rule Summary	Base Penalty
N.J.A.C. 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)1i	Failure of recycling center to ensure that recyclable material is separated at the point of generation from other waste material.	\$3,000

Rule	Rule Summary	Base Penalty	Rule	Rule Summary	Base Penalty
7:26A-4.1(a)1ii	Failure of recycling center to ensure only Class A, Class B or Class C materials are received, stored, processed or transferred at the center.	\$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-4.1(a)1iii	Failure of recycling center to comply with commingling requirements.	\$2,000	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-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-4.5(a)15vii	Failure of Class C yard trimming operator to comply with finished compost testing requirements.	\$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	7:26A-4.5(a)15x	Failure of Class C yard trimming operator to comply with additional recordkeeping requirements.	\$3,000
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-6.4(d)3	Failure of generator to ensure used oil storage units are in good condition and not leaking.	\$3,000
			7:26A-6.4(d)4	Failure of generator to comply with used oil labeling requirements.	\$2,000
			7:26A-6.4(f)	Failure of generator to comply with used oil off-site shipment requirements.	\$2,000

<u>Rule</u>	<u>Rule Summary</u>	<u>Base Penalty</u>	<u>Rule</u>	<u>Rule Summary</u>	<u>Base Penalty</u>
7:26A-6.6(c)	Failure of a used oil transporter to have EPA identification number.	\$2,000		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
7:26A-6.6(d)1	Failure of a used oil transporter to comply with deliveries requirements.	\$2,000	7:26A-6.9(c)	Failure of used oil fuel marketer to comply with on-specification used oil fuel 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-6.9(d)	Failure of a used oil fuel marketer to comply with notification requirements.	\$2,000
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-6.9(e)	Failure of used oil marketer to comply with tracking requirements.	\$2,000
7:26A-6.6(f)5	Failure of used oil transfer facility to comply with "secondary containment for containers" requirements.	\$3,000	7:26A-6.9(f)	Failure of used oil marketer to comply with Notice requirements.	\$2,000
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(c)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(c)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(c)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(c)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(c)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(c)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(c)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(c)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(c)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. See: 23 N.J.R. 3607(a) (see also 24 N.J.R. 2002(a)), 25 N.J.R. 98(a). Reflects amendments to N.J.A.C. 7:26-7.6 and 9.4. Amended by R.1996 d.500, effective October 21, 1996. See: 28 N.J.R. 1693(a), 28 N.J.R. 4606(a). Amended by R.1996 d.578, effective December 16, 1996. See: 28 N.J.R. 2114(a), 28 N.J.R. 5248(a). In (f)1 and (f)2, amended N.J.A.C. references; in (f)4, amended EXAMPLE; in (g), amended N.J.A.C. references; and added (g)1 through (g) 8.	
7:26A-6.8(c)5	Failure of used oil burner facility to comply with "secondary containment for existing aboveground tanks" requirements.	\$3,000			
7:26A-6.8(c)6	Failure of used oil burner facility to comply with "secondary containment for new aboveground tanks" requirements.	\$3,000			
7:26A-6.8(c)7	Failure of used oil burner facility to comply with used oil labeling requirements.	\$3,000			
7:26A-6.8(f)	Failure of used oil burner facility to comply with tracking requirements.	\$2,000			
7:26A-6.8(g)	Failure of used oil burner facility to comply with notice requirements.	\$2,000			
7:26A-6.9(b)	Failure of used oil fuel marketer to ensure shipments of off-specification used oil is sent only to	\$2,000			

**Case Notes**

Summary proceedings to enforce agency orders, action brought for alleged violations of Pesticide Control Act. State, Dept. of Environ-

mental 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).

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-	\$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, any administrative order, permit, license or other operating authority issued, any district solid waste management plan approved pursuant to the Act; serious deviation shall include, but not be limited to, those violations which are in complete contravention of the requirement, or if some of the requirement is met, which severely impair or undermine the operation or intent of the requirement;

2. Moderate seriousness shall apply to any violation which:
  - i. Has caused or has the potential to cause substantial harm to human health or the environment; or
  - ii. Substantially deviates from the requirements of the Act, or any rule promulgated, any administrative order, permit, license or other operating authority issued, any district solid waste management plan approved pursuant to the Act; substantial deviation shall include, but not be limited to, violations which are in substantial contravention of the requirements or which substantially impair or undermine the operation or intent of the requirement; and

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

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

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

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

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

Amended by R.1996 d.578, effective December 16, 1996.  
See: 28 N.J.R. 2114(a), 28 N.J.R. 5248(a).

Rewrote (a); in (b), (e), and (g), deleted reference to Part A permit application; in (f), deleted N.J.A.C. references; and rewrote (i)2 through (i)4.

#### Case Notes

Department of Environmental Protection entitled to assess penalties; while penalties should be collected by negotiation, the Department may resort to the courts for assistance at any time; neither local governing bodies nor boards of education have standing to bring action for penalties for violations of the Solid Waste Management Act; local board of health has standing to bring penalty action; Department has control over course of litigation over violation claims brought by it as cross-claims. *Bordentown Twp. Bd. of Health v. Interstate Waste Removal Co., Inc.*, 191 N.J.Super. 128, 465 A.2d 587 (Law Div.1983).

#### 7:26-5.6 Civil administrative penalty for submitting inaccurate or false information

(a) The Department may assess a civil administrative penalty pursuant to this section against each violator who submits inaccurate information or who makes a false statement, representation or certification in any application, record or other document required to be submitted or maintained pursuant to the Act or any rule promulgated, any administrative order, permit, license or other operating authority issued, any district solid waste management plan approved pursuant to the Act.

(b) Each day, from the day that the violator knew or had reason to know that 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 the violation.

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), deleted reference to Part A permit application and rewrote (d)2 through (d)4.

#### Case Notes

Department of Environmental Protection entitled to assess penalties; while penalties should be collected by negotiation, the Department may resort to the courts for assistance at any time; neither local governing bodies nor boards of education have standing to bring action for penalties for violations of the Solid Waste Management Act; local board of health has standing to bring penalty action; Department has control over course of litigation over violation claims brought by it as cross-claims. *Bordentown Twp. Bd. of Health v. Interstate Waste Removal Co., Inc.*, 191 N.J.Super. 128, 465 A.2d 587 (Law Div.1983).

#### 7:26-5.7 Civil Administrative penalty for failure to allow lawful entry and inspection

(a) The Department may assess a civil administrative penalty pursuant to this section against any violator who refuses, inhibits or prohibits immediate lawful entry and inspection by any authorized Department representative of

any premises, building or facility which the Department may enter and inspect pursuant to the provisions of the Act.

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

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

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

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

Amended by R.1996 d.578, effective December 16, 1996.  
See: 28 N.J.R. 2114(a), 28 N.J.R. 5248(a).  
Rewrote (d)2 through (d)4.

#### 7:26-5.8 Civil administrative penalty for failure to pay a fee

(a) The Department may assess a civil administrative penalty pursuant to this section against each violator who fails to pay a fee when due pursuant to the act, or any rule promulgated, any administrative order, permit, license or other operating authority issued, any district solid waste management plan approved pursuant to the Act.

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

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

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

(c) The base penalty shall be as follows:

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

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

3. An amount equal to the 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 (c)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 one percent for each day that the fee is past due.

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), deleted reference to Part A permit application; rewrote (b) and (c); and added (d).

#### 7:26-5.9 Civil administrative penalty for economic benefit

The Department may, in addition to any other civil administrative penalty assessed pursuant to this subchapter, include as a 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, any district solid waste management plan approved 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.

See: 21 N.J.R. 2275(a), 21 N.J.R. 3658(b).

Changed length of time for which a temporary approval is issued from 1 year to 6 months and established discretion of department to renew.

#### Case Notes

County municipal utilities authority's communications with Department of Environmental Protection regarding sanitation company's application for registration did not breach implied covenant of good faith and fair dealing in its waste disposal contract with sanitation company. *East Penn Sanitation, Inc. v. Grinnell Haulers, Inc.*, 294 N.J.Super. 158, 682 A.2d 1207 (A.D. 1996).

Issuance of permit prior to approval of disclosure statement not prohibited by Solid Waste Management Act. *Matter of Stream Encroachment Permit No. 12400*, 231 N.J.Super. 443, 555 A.2d 1123 (A.D.1989).

Public hearing prior to issuance of Master Performance Permit. *Mount Olive Twp. v. DEP*, 225 N.J.Super. 94, 541 A.2d 1089 (App.Div. 1988).

#### 7:26-16.6 Change of information on disclosure statement

(a) Where an applicant has an application pending before the Department and any of the information required to be included in a disclosure statement changes, or any additional information should be added after the filing of the statement, the applicant or licensee shall provide that information to the Department and the Attorney General in writing within 30 days of the change or addition.

(b) Licensees shall report to the Department and the Attorney General within 30 days any changes or additions in the following information required to be included in the disclosure statement:

1. The name of the licensee;
2. The names or identities of any officers, directors, partners or key employees of the licensee;
3. The names or identities of any holders of equity in or debt liability of the licensee, if they would have been required on the original disclosure statement; except that holders of less than five per cent of the debt liability of the licensee need only be reported on the annual update described in (c) below;
4. The name and business address of any company which collects, transports, treats, stores or disposes of solid waste or hazardous waste in which the licensee acquires an equity interest;
5. A listing and explanation of any notices of violation, administrative orders or license revocations issued by any State or Federal authority, except that notices issued by the Department and notices demanding a penalty of less than \$5,000 and not involving an intent to revoke a license need only be reported annually;
6. Any judgement of liability or conviction rendered against the licensee or against any key employee, officer, director or partner thereof, other than for a motor vehicle offense;

7. Any collective bargaining agreement entered into with a labor union not previously listed on a disclosure statement, and any new membership in a trade or business association.

(c) Any other changes in the information contained in a licensee's disclosure statement currently on file with the Department and the Attorney General shall be reported on an annual update to be filed with the Department at the time of the licensee's annual renewal of its registration with the Department; provided, however, that amending or updating of Personal History Disclosure Forms, other than to report a judgement of liability of conviction or a criminal charge, is not required unless specifically requested by the Department of the Attorney General.

(d) Changes of information required to be filed within 30 days pursuant to (b) above may be filed by letter, on amendment forms supplied by the Department, or on copies of applicable portions of disclosure statement forms. The person filing the report of change shall swear to or affirm the truth of the information contained therein.

(e) Annual updates shall be filed on amendment forms supplied by the Department, or on copies of applicable portions of the disclosure statement or Personal History Disclosure Form. Annual updates shall include a recapitulation of any changes previously reported on a 30-day notice.

(f) Changes of information shall be filed by submitting an original and one conformed copy to the Department, which shall transmit copies to the Attorney General.

(g) Annual updates shall be sworn to or affirmed and subscribed in the manner prescribed for original disclosure statements at N.J.A.C. 7:26-16.4(b).

(h) Where an applicant or licensee has submitted multiple amendments to its disclosure statement; or the information concerning an applicant or licensee has undergone substantial change; or if the disclosure statement currently on file with the Department is more than five years old, the Department, in its discretion, may require the applicant or licensee to file a new disclosure statement.

As amended, R.1984 d.541, effective December 3, 1984.

See: 16 N.J.R. 2480(a), 16 N.J.R. 3310(a).

"Department" substituted for "Division of State Police"; "Attorney General" substituted for "Department".

#### 7:26-16.7 Additional information; Duty to cooperate

(a) All applicants and licensees have the continuing duty to provide any assistance or information requested by the Department or the Attorney General, and to cooperate in an inquiry or investigation conducted by the Attorney General and any inquiry, investigation, or hearing conducted by the Department. If, upon issuance of a formal request to answer any inquiry or produce information, evidence or testimony, any applicant or licensee refuses to comply, the

license of that person may be denied or revoked by the Department.

(b) Upon request, the applicant shall supply physical evidence, including but not limited to photographs or handwriting exemplars of any individual listed on the disclosure statement or any amendment thereof.

#### 7:26-16.8 Disqualification criteria

(a) No license shall be approved by the Department unless the Department finds that the applicant, in any prior performance record in the collection, transportation, treatment, storage or disposal of solid waste or hazardous waste, has exhibited sufficient reliability, expertise, and competency to operate the solid waste or hazardous waste facility, given the potential for harm to human health and the environment which could result from the irresponsible operation thereof, or if no prior record exists, that the applicant is likely to exhibit that reliability, expertise and competence.

(b) No license shall be approved by the Department if any person required to be listed in the disclosure statement, or shown to have a beneficial interest in the business of the applicant or the licensee other than an equity interest or debt liability by the investigation thereof, has been convicted of any of the following crimes under the laws of New Jersey or the equivalent thereof under the laws of any other jurisdiction:

1. Murder;
2. Kidnapping;
3. Gambling;
4. Robbery;
5. Bribery;
6. Extortion;
7. Criminal usury;
8. Arson;
9. Burglary;
10. Theft and related crimes;
11. Forgery and fraudulent practices;
12. Fraud in the offering, sale or purchase of securities;
13. Alteration of motor vehicle identification numbers;
14. Unlawful manufacture, purchase, use or transfer of firearms;
15. Unlawful possession or use of destructive devices or explosives;
16. Violation of section 19 of the "New Jersey Controlled Dangerous Substances Act," N.J.S.A. 24:21-19, except possession of 84 grams or less of marijuana;

17. Racketeering, N.J.S.A. 2C:41-1 et seq.;

18. Violation of criminal provisions of the "New Jersey Antitrust Act," N.J.S.A. 56:9-1 et seq.

19. Any purposeful, knowing, willful or reckless violation of the criminal provision of any federal or state environmental protection laws, rules, or regulations;

20. Violation of N.J.S.A. 2C:17-2;

21. Perjury, false swearing or any other offense set forth in Chapter 28 of the New Jersey Code of Criminal Justice, N.J.S.A. 2C:28-1 et seq.

22. Any violation of the criminal provisions of the Solid Waste Utility Control Act, N.J.S.A. 48:13A-1 et seq.

(c) Notwithstanding the provisions of (b) above, no applicant shall be denied a license on the basis of a conviction of any individual required to be listed in the disclosure statement, or shown to have a beneficial interest in the business of the applicant or the licensee other than an equity interest or debt liability by the investigation thereof, for any of the offenses enumerated in (b) above as disqualification criteria, if the person has affirmatively demonstrated by clear and convincing evidence his rehabilitation. In determining whether an applicant has affirmatively demonstrated rehabilitation, the Department shall request a recommendation thereon from the Attorney General, and shall consider the following factors and weigh them in light of the policies set forth in N.J.A.C. 7:26-16.20 et seq.:

1. The nature and responsibilities of the position which a convicted individual would hold;
2. The nature and seriousness of the offense;
3. The circumstances under which the offense occurred;
4. The date of the offense;
5. The age of the individual when the offense was committed;
6. Whether the offense was an isolated or repeated incident;
7. Any social conditions which may have contributed to the offense;
8. Any evidence of rehabilitation, including good conduct in prison or in the community, counseling or psychiatric treatment received, acquisition of additional academic or vocational schooling, successful participation in correctional work-release programs, or the recommendation of persons who have or have had the applicant under their supervision.

(d) No license shall be approved by the Department if the Attorney General determines that there is a reasonable suspicion to believe that a person required to be listed in the disclosure statement, or shown to have a beneficial interest in the business of the applicant or the licensee other than an equity interest or debt liability by the investigation thereof, does not possess a reputation for good character, honesty and integrity, and that person or the applicant fails, by clear and convincing evidence, to establish his reputation for good character, honesty and integrity.

(e) No license shall be approved by the Department with respect to the approval of an initial license, if there are current prosecutions or pending charges in any jurisdiction against any person required to be listed in the disclosure statement, or shown to have a beneficial interest in the business of the applicant or the licensee other than equity interest or debt liability by the investigation, for any of the offenses enumerated in (b) above, provided, however, that at the request of the applicant or the person charged, the department shall defer decision upon such application during the pendency of such charge.



(f) No license shall be approved by the Department if any person required to be listed in the disclosure statement, or shown to have a beneficial interest in the business of the applicant or the licensee other than an equity interest or debt liability by the investigation thereof, has pursued economic gain in an occupational manner or context which is in violation of the criminal or civil public policies of this State, where such pursuit creates a reasonable belief that the participation of that person in any activity required to be licensed under this chapter would be inimical to the policies of N.J.S.A. 13:1E-126 et seq. For purposes of this section, "occupational manner or context" means the systematic planning, administration, management, or execution of an activity for financial gain.

(g) No license shall be approved by the Department if the applicant refuses to comply with inquiries as required under N.J.A.C. 7:26-16.7.

(h) No license shall be approved by the Department if the applicant in its application, disclosure statement or any other materials supplied to the Department or the Attorney General shall supply information which is untrue or misleading as to a material fact pertaining to the disqualification criteria.

#### Case Notes

Failure to disclose criminal indictment for involvement in solid waste disposal conspiracy warranted denial of application for solid waste licensure. *PJV Transport v. Division of Solid Waste Management*, 95 N.J.A.R.2d (EPE) 50.

Application for license to collect solid and hazardous waste; insufficient showing of integrity, reliability, expertise and competence. *Sasso's Sea-Gull Disposal, Inc. v. DEPE*, 94 N.J.A.R.2d (EPE) 67.

#### 7:26-16.9 Cause for License Revocation

(a) In addition to any other cause set forth in this Chapter, any license may be revoked by the Department for any of the following causes:

1. Any cause which would require disqualification, pursuant to N.J.S.A. 7:26-16.8, from receiving a license upon original application;
2. Fraud, deceit, or misrepresentation in securing the license, or in the conduct of the licensed activity;
3. Offering, conferring or agreeing to confer any benefit to induce any other person to violate the provisions of N.J.S.A. 13:1E-1 et seq., N.J.S.A. 13:1E-126 et seq., or of any other law relating to the collection, transportation, treatment, storage, or disposal of solid waste or hazardous waste, or of any rule or regulation adopted pursuant thereto;
4. Coercion of a customer by violence or economic reprisal or the threat thereof to utilize the services of any licensee;

5. Preventing, without authorization of the Department any licensee from disposing of solid waste or hazardous waste at a licensed treatment, storage or disposal facility.

#### Case Notes

Commissioner of Department of Environmental Protection was obliged to impose civil administrative penalties against generator and transporter. *Rollins Environmental Services (NJ), Inc. v. Weiner*, 269 N.J.Super. 161, 634 A.2d 1356 (A.D.1993).

Each truckload of hazardous waste, which was not accompanied by written manifest was separate offense; penalty against generator was warranted despite generator's claim that it was victim of transporter's fraud and the department's negligence in enforcing its regulations. *Rollins Environmental Services (NJ), Inc. v. Weiner*, 269 N.J.Super. 161, 634 A.2d 1356 (A.D.1993).

Hazardous waste generator or transporter is strictly liable for violation of regulations governing transportation and disposal of hazardous waste. *Rollins Environmental Services (NJ), Inc. v. Weiner*, 269 N.J.Super. 161, 634 A.2d 1356 (A.D.1993).

Penalty for each truckload of hazardous waste that transporter accepted from generator was warranted. *Rollins Environmental Services (NJ), Inc. v. Weiner*, 269 N.J.Super. 161, 634 A.2d 1356 (A.D. 1993).

Oil trading company not corporation in good standing; no basis to oppose proposed revocation and denial of application for hazardous waste license. *Department of Environmental Protection v. N.O.C. Enterprises, Inc.* 93 N.J.A.R.2d (EPE) 227.

Dumping of hazardous wastes; mislabeled manifests; penalties. *Department of Environmental Protection v. Rollins Environmental Services, Inc.* 92 N.J.A.R.2d (EPE) 67.

#### 7:26-16.10 Administrative hearing; requests

(a) Any applicant who is denied an initial license pursuant to this subchapter shall, upon a written request transmitted to the Department within 30 days of that denial, be afforded the opportunity for a hearing thereon in the manner provided for contested cases pursuant to the "Administrative Procedure Act", N.J.S.A. 52:14B-1 et seq.

(b) Any licensee who receives a notice of intent to revoke or refuse to renew a license shall have 15 days from receipt of the notice to transmit to the Department a request for a hearing.

(c) Requests for hearings shall be sent to the Office of Legal Affairs, ATTENTION: Adjudicatory Hearing Requests, Department of Environmental Protection, CN 402, Trenton, New Jersey 08625-0402.

Administrative correction heading and change in (c).  
See: 23 N.J.R. 3325(b).

#### 7:26-16.11 Severance of disqualifying individuals

(a) Notwithstanding the disqualification of any applicant or licensee pursuant to N.J.A.C. 7:26-16.8 or 16.9, the department may issue or renew a license if the applicant or licensee severs the interest of or affiliation with the person who would otherwise cause that disqualification.

(b) Where the disqualifying individual is the owner of an equity interest or interest in the debt liability of the licensee or applicant, he must completely divest himself of that interest. Where immediate sale of the interest would work an economic hardship on the individual, the licensee or applicant, the Department may, in its discretion, allow for divestiture over a period of time not to exceed one year.

(c) Arrangements such as blind trusts will be acceptable only as part of a divestiture arrangement under which the trustee is obliged to sell the disqualifying individual's interest within a period not to exceed two years.

(d) Before the Department will issue or renew a license to an applicant or licensee which has severed a disqualifying individual, the applicant or licensee must submit to the Department an affidavit, sworn to by the chief executive officer, attesting to the severance of the disqualifying individual and describing the terms, circumstances and conditions of that severance. Any instruments pertaining to that severance (such as a trust agreement) shall be submitted with the affidavit.

#### **7:26-16.12 License revocation; Ineligibility for reapplication**

(a) The Department will not issue a license to any person who has had an application denied, or a license revoked, for any of the reasons set forth in N.J.A.C. 7:26-16.8 or 16.9, for a period of 5 years following such denial or revocation.

(b) A person that is a business concern shall be considered as the same person if the management structure of the concern includes the person or persons that were the cause of the original disqualification.

#### **7:26-16.13 Fees charged by the Attorney General and the Department**

Note: The fee for the Attorney General is adopted pursuant to Section 3.d of P.L. 1983, c.392, N.J.S.A. 13:1E-128d. The fee for the Department is adopted pursuant to N.J.S.A. 13:1E-18.

(a) Every business concern of any type subject to the disclosure requirements of P.L. 1983, c.392 (N.J.S.A. 13:1E-126 et seq.) shall submit, upon initial filing and annually thereafter, a fee to the Attorney General to cover the cost of enforcing P.L. 1983, c.392 (N.J.S.A. 13:1E-126 et seq.) and a fee to the Department to cover the cost of reviewing disclosure statements, contracting with the Attorney General for post-licensing compliance checks, including special investigations, conducting investigations to verify claims of exemption from A-901, securing confidential documents, and other functions in the administration and performance of duties by the Department pursuant to P.L. 1983, c.392 (N.J.S.A. 13:1E-126 et seq.). The fee for the Attorney General shall be \$100.00 per each individual and the fee for the Department shall be \$500.00 per each individual required to be listed in the disclosure statement (other than a non-supervisory employee required to be listed pursuant to N.J.A.C. 7:26-16.4(a)9 or shown to have a beneficial interest in the business of the applicant or licensee other than an equity interest or debt liability interest), in addition to a per-company fee to be calculated as follows:

1. Business concerns with one individual required to be listed pursuant to N.J.A.C. 7:26-16.3 and 16.4 shall pay an annual per-company fee of \$635.00;

2. Business concerns with two or three individuals required to be listed pursuant to N.J.A.C. 7:26-16.3 and 16.4 shall pay an annual per-company fee of \$1,775;

3. Business concerns with four to seven individuals required to be listed pursuant to N.J.A.C. 7:26-16.3 and 16.4 shall pay an annual per-company fee of \$5,150; and

4. Business concerns with more than seven individuals required to be listed pursuant to N.J.A.C. 7:26-16.3 and 16.4 shall pay an annual per-company fee of \$15,650.

(b) The applicant shall calculate the amount of each fee due and submit to the Department a check for the total fee amount, made payable to "New Jersey Department of Environmental Protection". The Department shall forward the Attorney General's fee to the Attorney General. An application or disclosure statement will not be accepted as complete for filing unless accompanied by the appropriate fee payment.

(c) If on the basis of investigation the Department or the Attorney General determines that a person not listed on the disclosure statement should have been listed thereon, the Department and Attorney General may require the payment of additional separate fees along with the submission of additional information pertaining to that person. The applicant shall pay such additional separate fees promptly upon demand. Nothing in this subsection shall be construed as limiting the power of the Department to deny or revoke a license if the Department finds the omission of a person from the disclosure statement was intended to mislead or conceal information from the Department.

(d) If a business concern subject to P.L. 1983 c.392 (N.J.S.A. 13:1E-126 et seq.) files a change of information pursuant to N.J.A.C. 7:26-16.6, and discloses thereon an individual not listed in the disclosure statement information (including any amendments) currently on file with the Department, the business concern shall pay additional separate fees of \$100.00 to the Attorney General and \$500.00 to the Department per each individual so disclosed (other than a non-supervisory employee required to be listed pursuant to N.J.A.C. 7:26-16.4(a)9). Individuals disclosed pursuant to N.J.A.C. 7:26-16.6 shall be considered to be additions to previously disclosed individuals for the purpose of calculating the per-company portion of the fee. Business concerns shall be required to pay the difference between a lower and higher per-company fee where newly disclosed individuals bring the total number of disclosed individuals to a level requiring a higher fee pursuant to (a) above.