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Date/Time of Request:	Wednesday, February 3, 2010 11:28 Eastern
Client Identifier:	5429335JCTG
Database:	NJ-ADC
Citation Text:	NJ ADC 7:26A-9.1
Lines:	57
Documents:	1
Images:	0
Recipient(s):	jmcdonald@sussex.nj.us

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N.J.A.C. 7:26A-9.1

N.J. Admin. Code tit. 7, § 26A-9.1

NEW JERSEY ADMINISTRATIVE CODE  
TITLE 7. DEPARTMENT OF ENVIRONMENTAL PROTECTION  
CHAPTER 26A. RECYCLING RULES  
SUBCHAPTER 9. CIVIL ADMINISTRATIVE PENALTIES AND REQUESTS FOR ADJUDICATORY  
HEARINGS

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Current through January 19, 2010; 42 N.J.Reg. No.2

7:26A-9.1 Scope and purpose

(a) This subchapter shall govern the Department's assessment of civil administrative penalties for violations of the Solid Waste Management Act, [N.J.S.A. 13:1E-1 et seq.](#), as amended by the Mandatory Source Separation and Recycling Act, [N.J.S.A. 13:1E-99.11 et seq.](#), (hereinafter "the Act"), including violation of any rule promulgated, any administrative order, permit, license or other operating authority issued, any district solid waste management plan approved, pursuant to the Act, unless said violation is governed by the Solid Waste rules, N.J.A.C. 7:26. This subchapter shall also govern the procedures for requesting adjudicatory hearings on a notice of civil administrative penalty assessment or an administrative order.

(b) The Department may assess a civil administrative penalty of not more than \$50,000 for each violation of each provision of the Act, or any rule promulgated, any administration order, permit, license or other operating authority issued, any district solid waste management plan approved, pursuant to the Act.

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

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

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

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

Adopted by R.2009 d.52, effective February 2, 2009.

<General Materials (GM) - References, Annotations, or Tables>

HISTORICAL NOTES

**Source:**

**2009.** See: 40 N.J.R. 7(a), 41 N.J.R. 742(a).

<<CHAPTER 26A. RECYCLING RULES>>

<<CHAPTER EXPIRATION DATE>>

<Chapter 26A, Recycling Rules, expires on January 7, 2014.>

N.J.A.C. 7:26A-9.1, NJ ADC 7:26A-9.1  
NJ ADC 7:26A-9.1

END OF DOCUMENT



N.J.A.C. 7:26A-9.2

N.J. Admin. Code tit. 7, § 26A-9.2

NEW JERSEY ADMINISTRATIVE CODE  
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## 7:26A-9.2 Procedures for assessment and payment of civil administrative penalties

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

1. Identify the section of the Act, rule, administrative order, permit, license, district solid waste management plan violated;
2. Concisely state the facts which constitute the violation;
3. Specify the amount of the civil administrative penalty to be imposed; and
4. Advise the violator of the right to request an adjudicatory hearing, pursuant to the procedures in [N.J.A.C. 7:26A-9.3](#).

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

1. If no hearing is requested pursuant to [N.J.A.C. 7:26A-9.3](#), the notice of civil administrative penalty assessment becomes a final order on the 21st day following receipt by the violator of the notice of civil administrative penalty assessment;
2. If a hearing is requested pursuant to [N.J.A.C. 7:26A-9.3](#) and the Department denies the hearing request, a notice of civil administrative penalty assessment becomes a final order upon receipt by the violator of notice of such denial; or

3. If a hearing is requested pursuant to [N.J.A.C. 7:26A-9.3](#) and an adjudicatory hearing is conducted, a notice of civil administrative penalty assessment becomes a final order upon receipt by the violator of a final order of a contested case.

Adopted by R.2009 d.52, effective February 2, 2009.

<General Materials (GM) - References, Annotations, or Tables>

#### HISTORICAL NOTES

**Source:**

**2009.** See: 40 N.J.R. 7(a), 41 N.J.R. 742(a).

<<CHAPTER 26A. RECYCLING RULES>>

<<CHAPTER EXPIRATION DATE>>

<Chapter 26A, Recycling Rules, expires on January 7, 2014.>

N.J.A.C. 7:26A-9.2, NJ ADC 7:26A-9.2

NJ ADC 7:26A-9.2

END OF DOCUMENT



N.J.A.C. 7:26A-9.3

N.J. Admin. Code tit. 7, § 26A-9.3

NEW JERSEY ADMINISTRATIVE CODE  
TITLE 7. DEPARTMENT OF ENVIRONMENTAL PROTECTION  
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Current through January 19, 2010; 42 N.J.Reg. No.2

7:26A-9.3 Procedures to request an adjudicatory hearing to contest an administrative order and/or a notice of civil administrative penalty assessment, and procedures for conducting adjudicatory hearings

(a) To request an adjudicatory hearing to contest an administrative order and/or a notice of civil administrative penalty assessment issued pursuant to the Act, the violator shall submit the following information in writing to the Department, at Office of Legal Affairs, ATTENTION: Adjudicatory Hearing Requests, Department of Environmental Protection, P.O. Box 402, Trenton, New Jersey 08625-0402:

1. The name, address, telephone number of the violator and its authorized representative;
2. The violator's defenses, to each of the Department's findings of fact in the findings section of the administrative order or notice of civil administrative penalty assessment, stated in short and plain terms;
3. An admission or denial of each of the Department's findings of fact in the findings section of the administrative order or notice of civil administrative penalty assessment. If the violator is without knowledge or information sufficient to form a belief as to the truth of a finding, the violator shall so state and this shall have the effect of a denial. A denial shall fairly meet the substance of the findings denied. When the violator intends in good faith to deny only a part or a qualification of a finding, the violator shall specify so much of it as it true and material and deny only the remainder. The violator may not generally deny all of the findings but shall make all denials as specific denials of designated findings. For each finding that the violator denies, the violator shall allege the fact or facts as the violator believes such fact or facts to be;
4. Information supporting the request and specific reference to or copies of all written documents relied upon to support the request;
5. An estimate of the time required for the hearing (in days and/or hours);
6. A request, if necessary, for a barrier-free hearing location for physically disabled persons; and
7. A clear indication of any willingness to negotiate a settlement with the Department prior to the Department's processing of the hearing request to the Office of Administrative Law.

(b) A copy of the hearing request shall be sent to the Department's Solid Waste Compliance and Enforcement Program at P.O. Box 407, Trenton, New Jersey 08625-0407.

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

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

(e) 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.

Adopted by R.2009 d.52, effective February 2, 2009.

<General Materials (GM) - References, Annotations, or Tables>

#### HISTORICAL NOTES

**Source:**

**2009.** See: 40 N.J.R. 7(a), 41 N.J.R. 742(a).

<<CHAPTER 26A. RECYCLING RULES>>

<<CHAPTER EXPIRATION DATE>>

<Chapter 26A, Recycling Rules, expires on January 7, 2014.>

N.J.A.C. 7:26A-9.3, NJ ADC 7:26A-9.3

NJ ADC 7:26A-9.3

END OF DOCUMENT



N.J.A.C. 7:26A-9.4

N.J. Admin. Code tit. 7, § 26A-9.4

NEW JERSEY ADMINISTRATIVE CODE  
TITLE 7. DEPARTMENT OF ENVIRONMENTAL PROTECTION  
CHAPTER 26A. RECYCLING RULES

SUBCHAPTER 9. CIVIL ADMINISTRATIVE PENALTIES AND REQUESTS FOR ADJUDICATORY HEARINGS

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Current through January 19, 2010; 42 N.J.Reg. No.2

7:26A-9.4 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. 7:26A-9.4(g).

(b) Each violation of a rule listed in N.J.A.C. 7:26A-9.4(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. 7:26A-9.4(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 procedure in (f)1 through 5 below. For a violation of a requirement or condition of an administrative order, permit, license or other operating authority, the Department may in its sole discretion identify the corresponding requirement of any rule summary listed in (g) below and determine the amount of the civil administrative penalty on the basis of the rule provision violated.

1. Identify the rule violated as listed in (g)1 through 8 below;
2. Identify the corresponding base penalty dollar amount for the rule violated as listed in (g)1 through 8 below;
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	1.00



prior to the violation

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. 7:26A-3.1\(a\)](#)) = \$3,000

Subparagraph (f)3iii applies:  $0.50 \times 3000 = 1500$

Subparagraph (f)3iv applies:  $0.25 \times 3000 = + 750$

Civil administrative penalty \$5,250

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. 7:26A, is provided for informational purposes. In the event there is a conflict between the Rule Summary in this subsection and a provision in N.J.A.C. 7:26A, then the provisions in N.J.A.C. 7:26A shall prevail.

1. The violations of N.J.A.C. 7:26A-3, Approval of Recycling Centers for Class B, Class C and Class D Recyclable Materials, whether the type of violation is minor (M) or non-minor (NM), the applicable grace period if the violation is minor, and the civil administrative base penalty for each violation, are as set forth in the following table.

Rule	Rule Summary	Base Penalty	Type of Violation	Grace Period (days)
N.J.A.C. 7:26A-3.1(a)	Failure of approved re-cycling center to comply with all approval conditions.	\$3,000	M	30

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 N.J.A.C. 7:26A-3.2(a)13i and ii.	\$3,000	M	30
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.	\$3,000	M	30
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.	\$3,000	M	30
7:26A-3.7(k)	Failure of persons operating a limited approved recycling center to ensure that no illegal dumping occurs.	\$4,500	NM	
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, land-filling, abandoning or	\$4,500	NM	

	otherwise illegally disposing of tires.			
7:26A-3.8(b)	Failure by the owner or operator of a tire recycling center to ensure that no mosquito colony formation develops.	\$4,500	NM	
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	NM	
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.	\$4,500	NM	
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.	\$4,500	NM	
7:26A-3.10	Failure of holder of a general or limited approval to comply with modification requirements.	\$3,000	M	30
7:26A-3.15(a)	Failure to ensure a	\$5,000	NM	

general or limited approval to operate a recycling center is not transferred without prior approval of the Department.

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 municipal clerk of the applicable municipality.	\$3,000	M	30
7:26A-3.17(a)	Failure of holder of a general approval to comply with record-keeping and annual reporting requirements.	\$3,000	M	30

2. The violations of N.J.A.C. 7:26A-4, Operational Standards and General Rules for Recycling Centers which Receive, Store, Process to Transfer Class A, Class B, Class C and Class D Recyclable Materials, Right of Entry and Inspection, the type of violation as minor (M) or non-minor (NM), the applicable grace period if the violation is minor, and the civil administrative base penalty for each violation are set forth in the following table.

Rule	Rule Summary	Base Penalty	Type of Violation	Grace Period (days)
N.J.A.C.				
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	M	30
7:26A-4.1(a)1ii	Failure of recycling center to ensure only Class A, Class B or Class C or Class D materials are received, stored, processed or transferred at the cen-	\$4,500	NM	

ter.

7:26A-4.1(a)1iii	Failure of recycling center to comply with commingling requirements.	\$3,000	M	30
7:26A-4.1(a)2	Failure of recycling center to ensure residue is not stored on-site in excess of six months.	\$4,500	NM	
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.	\$4,500	NM	
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	NM	
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	NM	

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.	\$3,000	M	30
7:26A-4.1(a)10	Failure of recycling center operator to ensure that traffic associated with the operation of 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.	\$4,500	NM	
7:26A-4.1(a)11	Failure of recycling center operator to ensure recycling center operations are separated from sensitive land uses by an effective visual screen buffer.	\$3,000	M	30
7:26A-4.1(a)12	Failure of recycling center operator to ensure unauthorized access to center is controlled.	\$4,500	NM	
7:26A-4.1(a)13	Failure of recycling center operator to ensure areas of vehicular usage are suitably compacted and, where	\$3,000	M	30

necessary, paved.

7:26A-4.1(a)14	Failure of recycling center operator to have adequate water supply, firefighting equipment, and local fire department phone numbers posted.	\$5,000	NM	
7:26A-4.4(a)	Failure of the operator of a recycling center to provide a recycling tonnage report by March 1 of each year.	\$3,000	M	30
7:26A-4.4(b)	Failure of exempt person to submit required tonnage reports by March 1 of each year.	\$3,000	M	30
7:26A-4.5(a)2	Failure of Class C operator to ensure center has sufficient capacity to handle incoming volumes.	\$3,000	M	30
7:26A-4.5(a)3	Failure of Class C operator to have properly trained individual supervising operation, access to facility prohibited when center is closed.	\$3,000	M	30
7:26A-4.5(a)4	Failure of Class C operator to ensure all Class C recyclable materials received are removed from bags, boxes.	\$3,000	M	30

7:26A-4.5(a)5, 6	Failure of Class C operator to accept incoming materials containing grass, only in areas of the site that are at least 1,000 feet from any areas of human occupancy and to process such material within the working day.	\$4,500	NM	
7:26A-4.5(a)13i	Failure of Class C yard trimming operators to attend, within one year of start up, approved composting courses.	\$3,000	M	90
7:26A-4.5(a)13ii	Failure of Class C yard trimming operator to maintain improved active composting surface to prevent ponding or runoff.	\$4,500	NM	
7:26A-4.5(a)13iii	Failure of Class C yard trimming operator to moisten, without excess runoff, dry yard trimmings prior to windrow formation.	\$3,000	M	30
7:26A-4.5(a)13iv	Failure of Class C yard trimming operator to position windrows perpendicular to ground surface contours to prevent ponding.	\$4,500	NM	
7:26A-4.5(a)13v	Failure of Class C yard trimming operator to install windsock.	\$3,000	M	30



7:26A-4.5(a)13vi	Failure of Class C yard \$4,500 trimming operator to comply with windrow composting require- ments.	NM	
7:26A-4.5(a)13vii	Failure of Class C yard \$3,000 trimming operator to comply with material staging and processing buffer distance re- quirements.	M	30
7:26A-4.5(a)13viii	Failure of Class C yard \$3,000 trimming operator to comply with finished compost testing re- quirements.	M	30
7:26A-4.5(a)13xii	Failure of Class C yard \$3,000 trimming operator to comply with additional recordkeeping require- ments.	M	30
7:26A-4.5(a)14i	Failure of Class C ma- \$4,500 terial operator to com- ply with composting structure requirements, no ponding, leachate control.	NM	
7:26A-4.5(a)14ii	Failure of Class C ma- \$4,500 terial operator to main- tain fully enclosed op- eration and setback re- quirements.	NM	
7:26A-4.5(a)14iii	Failure of Class C ma- \$4,500 terial operator to com- ply with O & M manu- al requirements.	NM	

7:26A-4.5(a)14v	Failure of Class C material operator to comply with employee training requirements.	\$3,000	M	30
7:26A-4.5(a)14vi	Failure of Class C material operator to develop a recycling center-specific training manual and make available to each employee.	\$3,000	M	30
7:26A-4.5(a)14vii, viii	Failure of Class C material operator to meet Process to Further Reduce Pathogens criteria and requirements.	\$4,500	NM	
7:26A-4.5(a)14xi	Failure of Class C material operator to conduct required QA/QC sampling and record results of such sampling.	\$4,500	NM	
7:26A-4.5(a)14xii	Failure of Class C material operator to have analysis of finished compost product conducted by laboratory certified in accordance with N.J.A.C. 7:18.	\$4,500	NM	
7:26A-4.5(a)14xiii	Failure of Class C material operator to maintain required records.	\$3,000	M	30
7:26A-4.5(a)14xiv	Failure of Class C material operator to submit quarterly report to	\$3,000	M	30

the Department within 30 days after the end of each quarter.

7:26A-4.5(b)1	Failure of Class C operator to comply with labeling requirements.	\$3,000	M	30
7:26A-4.5(b)2	Failure of Class C operator to comply with compost utilization requirements.	\$4,500	NM	

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

Rule	Rule Summary	Base Penalty	Type of Violation	Grace Period (days)
N.J.A.C. 7:26A-5.1(a)	Failure to ensure no shearing, shredding, baling or other actions which could cause release of refrigerant fluid to take place, occurs prior to recovery of such fluid.	\$5,000	NM	
7:26A-5.1(b)	Failure to recover refrigerant fluid in a manner such that no venting of refrigerant fluid occurs.	\$5,000	NM	
7:26A-5.1(c)	Failure to deliver recovered refrigerant fluid to a facility which has agreed to reprocess the fluid or, if such arrangements cannot be made, failure to store or dispose	\$5,000	NM	

of the recovered fluid in accordance with applicable rules and regulations.

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

Rule	Rule Summary	Base Penalty	Type of Violation	Grace Period (days)
N.J.A.C. 7:26A-6.1(a)2i(1)	Failure to manage used oil mixed with a listed hazardous waste as a hazardous waste in accordance with N.J.A.C. 7:26G.	\$5,000	NM	
7:26A-6.1(a)2ii(1)	Failure to manage used oil mixed with a characteristic hazardous waste or a listed hazardous waste that is listed solely because it exhibits one or more hazardous waste characteristics as a hazardous waste in accordance with N.J.A.C. 7:26G.	\$5,000	NM	
7:26A-6.1(a)4ii	Failure by used oil generator to comply with management requirements for diesel fuel mixed with used diesel crankcase oil.	\$3,000	M	30
7:26A-6.1(a)9	Failure by a marketer or burner to comply with requirements of 40 CFR 761.20(e) for used oil containing	\$5,000	NM	

quantifiable levels of PCBs.

7:26A-6.2(a)	Failure to meet one or more of the specifications for a used oil fuel identified in Table 1 of N.J.A.C. 7:26A-6.2(a) prior to burning for energy recovery.	\$5,000	NM	
7:26A-6.2(b)	Failure to obtain a Permit to Construct, Install or Alter Control Apparatus or Equipment and Certificate to Operate Control Apparatus prior to burning on-specification used oil fuel.	\$3,000	M	30
7:26A-6.3(a)	Failure to comply with requirements for managing used oil in a surface impoundment or waste pile.	\$5,000	NM	
7:26A-6.3(b)	Failure to comply with prohibition against using used oil as a dust suppressant.	\$5,000	NM	
7:26A-6.3(c)	Burning off-specification used oil in a device other than an industrial furnace, industrial or utility boiler or hazardous waste incinerator, or failing to obtain a Permit to Construct, Install or Alter Control Apparatus or Equip-	\$5,000	NM	

ment and Certificate to Operate Control Apparatus prior to burning off-specification used oil in one of these devices.

7:26A-6.3(d)	Failure to comply with the prohibition against burning on-specification used oil fuel in either a residential or Category I institutional device, furnace or boiler.	\$3,000	M	30
7:26A-6.3(e)	Failure to comply with the prohibition against burning on-specification used oil in an oil-fired space heater that fails to meet the requirements of N.J.A.C. 7:26A-6.4(e).	\$4,500	NM	
7:26A-6.3(f)	Failure to comply with the prohibition against burning off-specification used oil in a space heater.	\$4,500	NM	
7:26A-6.4(d)1	Failure of used oil generator storing used oil to comply with applicable Spill Prevention, Control and Countermeasures regulations, Clean Air Act regulations or Underground Storage Tank regulations.	\$4,500	NM	

7:26A-6.4(d)2	Failure of used oil generator to ensure used oil is stored only in tanks, containers, or units subject to regulation at N.J.A.C. 7:26G-8 or 9.	\$3,000	M	30
7:26A-6.4(d)3	Failure of used oil generator to ensure containers or above-ground tanks used to store used oil storage units are in good condition and not leaking.	\$4,500	NM	
7:26A-6.4(d)4	Failure of used oil generator to comply with used oil labeling/marketing requirements.	\$3,000	M	30
7:26A-6.4(d)5	Failure of used oil generator to comply with or initiate response to releases.	\$4,500	NM	
7:26A-6.4(e)1	Failure of used oil generator to burn only self-generated or household do-it-yourselfer used oil in a space heater.	\$4,500	NM	
7:26A-6.4(e)2	Used oil generator burned used oil in an oil space heater that exceeded the maximum capacity of 0.5 million BTU per hour.	\$3,000	M	30
7:26A-6.4(e)3	Failure of used oil generator to vent com-	\$4,500	NM	

	bustion gases from a space heater to ambient air.				
7:26A-6.4(e)4	Failure of used oil generator, burning used oil in a space heater, to obtain a Permit to Construct, Install or Alter Control Apparatus or Equipment and Certificate to Operate Control Apparatus.	\$4,500		NM	
7:26A-6.4(f)	Failure of used oil generator to comply with used oil off-site shipment requirements.	\$4,500		NM	
7:26A-6.4(g)	Failure to comply with do-it-yourselfer and motor oils retailer requirements.	\$3,000		M	30
7:26A-6.5(a)	Failure of an owner or operator of a State of New Jersey permitted reinspection center, or a retail service station that has used oil collection tanks on the premises, to accept do-it-yourselfer used oil in accordance with N.J.A.C. 7:26A-6.5(a).	\$3,000		M	30
7:26A-6.5(b)2	Failure of do-it-yourselfer used oil collection center to comply with the generator standards at	\$3,000		M	30



N.J.A.C. 7:26A-6.4.

7:26A-6.5(c)2i	Failure of used oil collection center to comply with the generator standards at N.J.A.C. 7:26A-6.4.	\$3,000	M	30
7:26A-6.5(c)2ii	Failure of used oil collection center to register or be recognized by county or municipality as a used oil collection center.	\$3,000	M	30
7:26A-6.5(c)2iii	Failure of used oil collection center to comply with sign posting requirements.	\$3,000	M	30
7:26A-6.5(d)2	Failure of used oil aggregation point to comply with generator standards at N.J.A.C. 7:26A-6.4.	\$3,000	M	30
7:26A-6.6(a)4	Failure of used oil transporter to comply with the Federal Motor Carrier Safety and Federal Hazardous Materials Transportation regulations, or to comply with the provisions of this subchapter as indicated in N.J.A.C. 7:26A-6.6(a)4i through v when performing the listed activities.	\$4,500	NM	
7:26A-6.6(b)	Used oil transporter	\$5,000	NM	

	conducted non- incidental processing of used oil.			
7:26A-6.6(c)	Failure of used oil transporter and/or transfer facility to comply with the noti- fication and/or EPA identification require- ments.	\$5,000		NM
7:26A-6.6(d)1	Failure of used oil transporter to comply with delivery require- ments.	\$4,500		NM
7:26A-6.6(d)2	Failure of used oil transporter to comply with the United States Department of Trans- portation Regulations.	\$4,500		NM
7:26A-6.6(d)3	Failure of used oil transporter to comply with used oil transport- ation discharge re- quirements.	\$4,500		NM
7:26A-6.6(e)1	Failure of used oil transporter to determ- ine if total halogen content is equal to, less than or greater than 1000 ppm for used oil being trans- ported or stored.	\$4,500		NM
7:26A-6.6(e)5	Failure of used oil transporter to retain re- cords of analyses or other information,	\$4,500		NM

used to ensure used oil is not a hazardous waste, for three years.

7:26A-6.6(f)1	Failure of used oil transporter and/or transfer facility, storing used oil, to comply with applicable Spill Prevention, Control and Countermeasures regulations, Clean Air Act regulations or Underground Storage Tank regulations.	\$4,500	NM	
7:26A-6.6(f)3	Failure of used oil transfer facility to ensure used oil is stored only in tanks, containers, or units subject to regulation at N.J.A.C. 7:26G-8 or 9.	\$3,000	M	30
7:26A-6.6(f)4	Failure of used oil transfer facility to ensure used oil containers or aboveground tanks are in good condition and not leaking.	\$4,500	NM	
7:26A-6.6(f)5	Failure of used oil transfer facility to comply with secondary containment requirements for containers.	\$4,500	NM	
7:26A-6.6(f)6	Failure of used oil transfer facility to comply with secondary containment requirements for existing aboveground tanks.	\$4,500	NM	

7:26A-6.6(f)7	Failure of used oil transfer facility to comply with secondary containment requirements for new above-ground tanks.	\$4,500	NM	
7:26A-6.6(f)8	Failure of used oil transfer facility to comply with used oil labeling requirements.	\$3,000	M	30
7:26A-6.6(f)9	Failure by used oil transfer facility to comply with used oil facility discharge requirements.	\$4,500	NM	
7:26A-6.6(g)	Failure of used oil transporter to comply with tracking requirements.	\$4,500	NM	
7:26A-6.7(b)	Failure of used oil processor or re-refining facility to comply with notification and/or EPA identification requirements.	\$5,000	NM	
7:26A-6.7(c)1i	Failure of used oil processor or re-refining facility to maintain or operate facility to minimize possibilities of fire, explosion or any unplanned sudden or non-sudden releases of used oil.	\$5,000	NM	
7:26A-6.7(c)1ii	Failure of used oil pro-	\$4,500	NM	

	cessor or re-refining facility to equip facility with emergency equipment.			
7:26A-6.7(c)1iii	Failure of used oil processor or re-refining facility to test and maintain emergency equipment.	\$3,000	M	30
7:26A-6.7(c)1iv	Failure of used oil processor or re-refining facility to maintain access to communications or alarm system.	\$3,000	M	30
7:26A-6.7(c)1v	Failure of used oil processor or re-refining facility to maintain sufficient aisle space for the unobstructed movement of personnel or equipment in an emergency.	\$3,000	M	30
7:26A-6.7(c)1vi	Failure of used oil processor or re-refining facility to make required arrangements with police or fire departments, emergency response contractors, equipment suppliers, or local hospitals, or to document any such authority's refusal of such arrangements.	\$3,000	M	30
7:26A-6.7(c)2i(1)	Failure of used oil processor or re-refining facility to have a contingency plan designed	\$4,500	NM	

to minimize hazards to human health and the environment.

7:26A-6.7(c)2i(2)	Failure of used oil processor or re-refining facility to carry out provisions of the contingency plan immediately if there is a fire, explosion or release of used oil.	\$5,000	NM	
7:26A-6.7(c)2ii(1)	Failure of used oil processor or re-refining facility contingency plan to describe actions to be taken in response to fires, explosions, or any unplanned sudden or non-sudden release.	\$3,000	M	30
7:26A-6.7(c)2ii(2)	Failure of used oil processor or re-refining facility to amend its SPCC (40 CFR 112 or Part 1510 of chapter V) or DPCC (N.J.A.C. 7:1E) plan, to incorporate used oil management provisions.	\$3,000	M	30
7:26A-6.7(c)2ii(3)	Failure of used oil processor or re-refining facility contingency plan to describe arrangements agreed to by local police or fire departments, hospitals, contractors, or State or local emergency response teams.	\$3,000	M	30

7:26A-6.7(c)2ii(4)	Failure of used oil processor or re-refining facility contingency plan to list names, addresses or phone numbers of persons qualified to act as emergency coordinator.	\$3,000	M	30
7:26A-6.7(c)2ii(5)	Failure of used oil processor or re-refining facility contingency plan to list emergency equipment, updated as required, with its location, description, or capabilities specified.	\$3,000	M	30
7:26A-6.7(c)2ii(6)	Failure of used oil processor or re-refining facility contingency plan to include evacuation procedure for personnel including signals, evacuation routes or alternate evacuation routes.	\$3,000	M	30
7:26A-6.7(c)2iii	Failure of used oil processor or re-refining facility contingency plan to be maintained at facility with a copy sent to local police or fire departments, hospitals or State or local emergency response teams.	\$3,000	M	30
7:26A-6.7(c)2iv	Failure of used oil processor or re-refining facility to review or	\$3,000	M	30

	amend contingency plan as necessary.			
7:26A-6.7(c)2v	Failure of used oil processor or re-refining facility to make emergency coordinator thoroughly familiar with plan or available at all times.	\$4,500	NM	
7:26A-6.7(c)2vi(1)	Failure of used oil processor or re-refining facility emergency coordinator to activate alarms or communications systems, or to notify appropriate State or local agencies.	\$4,500	NM	
7:26A-6.7(c)2vi(9)	Failure of used oil processor or re-refining facility to submit incident report to Department within 15 days after an incident.	\$3,000	M	30
7:26A-6.7(d)1	Failure of used oil processor or re-refining facility to determine if total halogen content is equal to, less than or greater than 1000 ppm for used oil being transported or stored.	\$4,500	NM	
7:26A-6.7(d)4	Failure of used oil processor or re-refining facility to ship used oil that fails the rebuttable presumption, for mixing as a hazardous waste, using a New	\$4,500	NM	



Jersey licensed hazardous waste transporter.

7:26A-6.7(e)1	Failure of used oil processor or re-refining facility, storing used oil, to comply with applicable Spill Prevention, Control and Countermeasures regulations, Clean Air Act regulations or Underground Storage Tank regulations.	\$4,500	NM	
7:26A-6.7(e)2	Failure of used oil processor or re-refining facility to ensure used oil is stored only in tanks, containers, or units subject to regulation at N.J.A.C. 7:26G-8 or 9.	\$3,000	M	30
7:26A-6.7(e)3	Failure of used oil processor or re-refining facility to ensure containers or aboveground tanks, used to store or process used oil, are in good condition and not leaking.	\$4,500	NM	
7:26A-6.7(e)4	Failure of used oil processor or re-refining facility to comply with secondary containment requirements for containers used to store or process used oil.	\$4,500	NM	
7:26A-6.7(e)5	Failure of used oil processor or re-refining	\$4,500	NM	

	facility to comply with the secondary containment requirements for existing aboveground tanks used to store or process used oil.			
7:26A-6.7(e)6	Failure of used oil processor or re-refining facility to comply with the secondary containment requirements for new aboveground tanks used to store or process used oil.	\$4,500	NM	
7:26A-6.7(e)7	Failure of used oil processor or re-refining facility to comply with used oil labeling requirements.	\$3,000	M	30
7:26A-6.7(e)8	Failure of used oil processor or re-refining facility to comply with or initiate response to releases.	\$4,500	NM	
7:26A-6.7(e)9i(1)	Failure of used oil processor or re-refining facility at closure, who stored or processed used oil tanks, to remove or decontaminate all used oil residues in tanks, contaminated containment system components, contaminated soils, and structures and equipment contaminated with used oil, and manage them appropri-	\$10,000	NM	

ately.

7:26A-6.7(e)9i(2)	Failure of used oil processor or re-refining facility that cannot remove all contamination from tank systems at closure to follow closure requirements for landfills.	\$10,000	NM
7:26A-6.7(e)9ii(1)	Failure of used oil processor or re-refining facility at closure, who stored used oil in containers, to remove from the site all containers holding used oil or residues of used oil.	\$4,500	NM
7:26A-6.7(e)9ii(2)	Failure of used oil processor or re-refining facility at closure, who stored used oil in containers, to remove or decontaminate all used oil residues, contaminated containment system components, contaminated soils, and structures and equipment contaminated with used oil, and manage them appropriately.	\$10,000	NM
7:26A-6.7(f)	Failure of used oil processor or re-refining facility to develop or follow a written waste analysis plan in accordance with require-	\$5,000	NM

	ments at N.J.A.C. 7:26A-6.7(f).			
7:26A-6.7(g)	Failure of used oil processor or re-refining facility to comply with used oil tracking standards and records.	\$4,500	NM	
7:26A-6.7(h)	Failure of used oil processor or re-refining facility to comply with operating record and reporting standards.	\$4,500	NM	
7:26A-6.7(i)	Failure by used oil processor or re-refining facility to ensure used oil transporter has an EPA identification number.	\$3,000	M	30
7:26A-6.7(j)	Failure by used oil processor or re-refining facility to manage process residues in accordance with N.J.A.C. 7:26A-6.1(a)5.	\$4,500	NM	
7:26A-6.8(b)1	Used oil burner burned off-specification used oil in a device other than an industrial furnace, industrial or utility boiler or hazardous waste incinerator or burned off-specification used oil in these devices without a Permit to Construct, Install or Alter Control Apparatus.	\$5,000	NM	

us or Equipment and  
 Certificate to Operate  
 Control Apparatus.

7:26A-6.8(b)2i	Failure by used oil burner to comply with prohibition against aggregating off specification used oil with other fuels to produce an on-specification used oil fuel.	\$5,000	NM	
7:26A-6.8(c)	Failure of used oil burner to comply with notification and/or EPA identification requirements.	\$4,500	NM	
7:26A-6.8(d)1	Failure of used oil burner to determine if total halogen content is equal to, less than or greater than 1000 ppm for used oil being transported or stored.	\$5,000	NM	
7:26A-6.8(d)4	Failure by used oil burner to retain records of analyses, or other information used to ensure used oil is not a hazardous waste, for three years.	\$4,500	NM	
7:26A-6.8(e)1	Failure of used oil burner storing used oil to comply with applicable Spill Prevention, Control and Countermeasures regulations, Clean Air Act regulations or Underground	\$3,000	M	30

Storage Tank regulations.

7:26A-6.8(e)2	Failure of used oil burner to ensure used oil is stored only in tanks, containers, or units subject to regulation at N.J.A.C. 7:26G-8 or 9.	\$3,000	M	30
7:26A-6.8(e)3	Failure of used oil burner to ensure used oil containers or aboveground tanks are in good condition and not leaking.	\$4,500	NM	
7:26A-6.8(e)4	Failure of used oil burner, storing used oil in containers, to comply with the secondary containment requirements.	\$4,500	NM	
7:26A-6.8(e)5	Failure of used oil burner, storing used oil in existing aboveground tank(s), to comply with the secondary containment requirements.	\$4,500	NM	
7:26A-6.8(e)6	Failure of used oil burner, storing used oil in new aboveground tank(s), to comply with secondary containment requirements.	\$4,500	NM	
7:26A-6.8(e)7	Failure of used oil burner to comply with	\$3,000	M	30

	used oil-labeling requirements.		
7:26A-6.8(e)8	Failure of used oil burner to comply with or initiate response to releases.	\$4,500	NM
7:26A-6.8(f)	Failure of used oil burner to comply with operating record and recordkeeping standards.	\$4,500	NM
7:26A-6.8(g)	Failure of a used oil burner to comply with first-time notice and recordkeeping standards.	\$4,500	NM
7:26A-6.8(h)	Failure of used oil burner to manage residues from storage or burning in accordance with N.J.A.C. 7:26A-6.1(a)5.	\$4,500	NM
7:26A-6.9(a)3	Failure of used oil fuel marketer to comply with the standards for used oil generators, transporters/transfer facilities, processors/re-refiners or burners.	\$4,500	NM
7:26A-6.9(b)	Failure of a used oil fuel marketer to ship off-specification used only to an authorized burner facility.	\$5,000	NM
7:26A-6.9(c)1	Failure of a used oil	\$5,000	NM

generator, transporter, processor/re-refiner or burner to determine if used oil meets the fuel specification at N.J.A.C. 7:26A-6.2 or failure to provide a copy of analyses or other information to facility receiving shipment of used oil.

7:26A-6.9(c)2	Failure of first person claiming used oil fuel meets fuel specification at N.J.A.C. 7:26A-6.2 to retain copies of analyses or other information used to make determination for three years.	\$4,500	NM
7:26A-6.9(d)1	Failure of used oil fuel marketer to comply with notification and/or EPA identification requirements.	\$4,500	NM
7:26A-6.9(e)1	Failure of used oil fuel marketer to comply with invoicing requirements for off-specification used oil fuel.	\$4,500	NM
7:26A-6.9(e)2	Failure of used oil fuel marketer to comply with tracking requirements for shipments of off-specification used oil fuel.	\$4,500	NM
7:26A-6.9(e)3	Failure of first person	\$4,500	NM



claiming used oil fuel meets fuel specification at N.J.A.C. 7:26A-6.2 to comply with tracking requirements for shipments of on-specification used oil fuel.

7:26A-6.9(f)	Failure of used oil marketer to comply with notice standards.	\$4,500	NM
7:26A-6.10(b)1	Failure to manage used oil that has been identified as a hazardous waste and cannot be recycled, as a hazardous waste.	\$5,000	NM
7:26A-6.10(b)2	Failure to manage used oil that is not hazardous waste and cannot be recycled, as a solid waste.	\$4,500	NM
7:26A-6.10(c)	Failure to comply with prohibition against using used oil as a dust suppressant.	\$5,000	NM

5. The violations of 40 CFR 273, Standards for the management of Universal Waste, the type of violation as minor (M) or non-minor (NM), the applicable grace period if the violation is minor, and the civil base administrative penalty for each violation, are as set forth in the following table.

Rule	Rule Summary	Base Penalty	Type of Violation	Grace Period (days)
40 CFR §273.11	Failure of small quantity handler of universal waste to comply with universal waste prohibitions.	\$4,500	NM	

§273.13(a)1	Failure of small quantity handler of universal waste to place universal waste batteries which show evidence of leakage, spillage or damage in a container that is closed, structurally sound, compatible with the contents of the batteries, and non-leaking.	\$4,500	NM
§273.13(a)2	Failure of small quantity handler of universal waste conducting activities not to manage as hazardous waste casings of individual battery cells that have been breached.	\$4,500	NM
§273.13(a)3	Failure of small quantity handler of universal waste to determine if removed electrolyte or other solid waste is hazardous and to manage it in compliance with all appropriate regulations.	\$5,000	NM
§273.13(b)1	Failure of small quantity handler of universal waste to place universal waste pesticides in a container that is closed, structurally sound, compatible with the pesticide, and non-leaking.	\$4,500	NM

§273.13(b)2	Failure of small quantity handler of universal waste to overpack containers of universal waste pesticides which did not meet 40 CFR §273.13(b)1.	\$4,500	NM	
§273.13(b)3	Failure of small quantity handler of universal waste to contain universal waste pesticides in a tank which meets the requirements of 40 CFR §265 Subpart J.	\$3,000	M	30
§273.13(b)4	Failure of small quantity handler of universal waste to place universal waste pesticides in a transport vehicle or vessel that is closed, structurally sound, compatible with the pesticide, and non-leaking.	\$4,500	NM	
§273.13(c)1	Failure of small quantity handler of universal waste to place universal waste mercury containing equipment which contains non-elemental mercury or shows evidence of leakage, spillage or damage in a container that is closed, structurally sound, compatible with the contents of the device, non-leaking, and designed to prevent the escape of mercury into the en-	\$4,500	NM	

vironment.

§273.13(c)2i	Failure of small quantity handler of universal waste to remove mercury-containing ampules in a manner designed to prevent breakage of the ampules.	\$4,500	NM
§273.13(c)2ii	Failure of small quantity handler of universal waste to remove mercury-containing ampules only over or in a containment device.	\$4,500	NM
§273.13(c)2iii	Failure of small quantity handler of universal waste to ensure that a mercury clean-up system is readily available to immediately transfer any mercury, resulting from spills or leaks from broken ampules, from the containment device to a container that meets the requirements of 40 CFR §262.34.	\$4,500	NM
§273.13(c)2iv	Failure of small quantity handler of universal waste to immediately transfer any mercury resulting from spills or leaks from broken ampules from the containment device to a container that meets the requirements of 40	\$4,500	NM

CFR §262.34.

§273.13(c)2v	Failure of small quantity handler of universal waste to ensure that the area in which mercury-containing ampules are removed is well ventilated and monitored to ensure compliance with applicable OSHA permissible exposure levels for mercury.	\$4,500	NM
§273.13(c)2vi	Failure of small quantity handler of universal waste to ensure that employees removing mercury-containing ampules are thoroughly familiar with proper waste mercury handling and emergency procedures.	\$4,500	NM
§273.13(c)2vii	Failure of small quantity handler of universal waste to store mercury-containing ampules in closed, non-leaking containers that are in good condition.	\$4,500	NM
§273.13(c)2viii	Failure of small quantity handler of universal waste to pack mercury-containing ampules in containers with packing materials adequate to prevent breakage during storage, handling, and	\$4,500	NM

transportation.

§273.13(c)3	Failure of small quantity handler of universal waste who removed the opened original housing holding mercury not contained in an ampule, to immediately seal the housing with an air-tight seal, and to follow the requirements under 40 CFR 273.13(c)2 for removing and managing ampules.	\$3,000	M	30
§273.13(c)4	Failure of small quantity handler of universal waste, who removes mercury-containing ampules or seals mercury in its original housing, to determine if any waste generated exhibits a characteristic of hazardous waste, and to manage the waste in compliance with all appropriate regulations.	\$5000	NM	
§273.13(d)1	Failure of small quantity handler of universal waste to place universal waste lamps which show evidence of leakage, spillage or damage in a container that is closed, structurally sound, compatible with the contents of the lamp, and non-leaking.	\$4,500	NM	

§273.13(d)2	Failure of small quantity handler of universal waste to clean up and place any lamp that is broken or that shows evidence of breakage, leakage, or damage that could cause the release of hazardous constituents, into a container that is closed, structurally sound, compatible with the consumer electronic, and non-leaking.	\$4,500	NM	
§273.14(a)	Failure of small quantity handler of universal waste to properly label or mark universal waste batteries or containers of universal waste batteries.	\$3,000	M	30
§273.14(b)	Failure of small quantity handler of universal waste to properly label or mark containers, tanks, transport vehicles or vessels of recalled universal waste pesticides.	\$3,000	M	30
§273.14(c)	Failure of small quantity handler of universal waste to properly label or mark containers, tanks, transport vehicles or vessels of unused universal waste pesticides.	\$3,000	M	30

§273.14(d)	Failure of small quantity handler of universal waste to properly label or mark universal waste mercury containing equipment or containers of universal waste mercury containing equipment.	\$3,000	M	30
§273.14(e)	Failure of small quantity handler of universal waste to properly label or mark universal waste lamps or containers of universal waste lamps.	\$3,000	M	30
§273.15(a)-(b)	Small quantity handler of universal waste accumulated universal waste for greater than one year, without proving the accumulation was solely for the purpose of facilitating proper recovery, treatment or disposal.	\$5,000	NM	
§273.15(c)	Failure of small quantity handler of universal waste to demonstrate the length of time that the universal waste was accumulated.	\$4,500	NM	
§273.16	Failure of small quantity handler of universal waste to ensure that all employees are thoroughly familiar with proper waste handling	\$4,500	NM	



and emergency pro-  
 cedures.

§273.17(a)	Failure of small quantity handler of universal waste to immediately contain any releases or residues of universal waste.	\$5,000	NM	
§273.17(b)	Failure of small quantity handler of universal waste to determine if any material resulting from the release of universal waste is hazardous, and to properly manage the waste.	\$5,000	NM	
§273.18(a)	Small quantity handler of universal waste sent or took universal waste to a place other than another universal waste handler, a destination facility, or a foreign destination.	\$4,500	NM	
§273.18(b)	Failure of small quantity handler of universal waste who self- transports to comply with the requirements at 40 CFR §273 Subpart D and N.J.A.C. 7:26A-7.4.	\$3,000	M	30
§273.18(c)	Failure of small quantity handler of universal waste to properly package, label, mark, placard or complete the proper shipping pa-	\$3,000	M	30

	pers for shipments of universal waste which are hazardous materials.			
§273.18(d)	Failure of the originating handler to ensure that the receiving handler agrees to accept the universal waste.	\$4,500	NM	
§273.18(e)	Failure of small quantity handler of universal waste to receive back or agree on an alternate facility for rejected shipments of universal waste.	\$5,000	NM	
§273.18(f)	Failure of small quantity handler of universal waste to properly reject shipments of universal waste.	\$5,000	NM	
§273.18(g)	Failure of small quantity handler of universal waste to immediately notify the Department if an illegal shipment of hazardous waste, that was shipped as universal waste, is received.	\$5,000	NM	
§273.18(h)	Failure of small quantity handler of universal waste receiving non-hazardous, non-universal waste to manage such waste in accordance with	\$3,000	M	30

N.J.A.C. 7:26.

§273.20(a)	Failure of small quantity handler of universal waste to comply with the requirements of a primary exporter when shipping universal waste to a foreign destination.	\$3,000	M	30
§273.20(b)	Small quantity handler of universal waste exported universal waste without consent of the receiving country and/or not in conformance with EPA Acknowledgement of Consent.	\$5,000	NM	
§273.20(c)	Failure of small quantity handler of universal waste that exported universal waste to provide a copy of the EPA Acknowledgement of Consent to the transporter.	\$3,000	M	30
§273.31	Failure of large quantity handler of universal waste to comply with universal waste prohibitions.	\$4,500	NM	
§273.32(a)	Failure of large quantity handler of universal waste to send a written notification to the Department and/or receive an EPA Identification Number prior to meeting or exceed-	\$5,000	NM	

ing the 5,000 kg storage limit.

§273.32(b)	Failure of large quantity handler of universal waste to include all information on the written notification to the Department.	\$3,000	M	30
§273.33(a)1	Failure of large quantity handler of universal waste to place universal waste batteries which show evidence of leakage, spillage or damage in a container that is closed, structurally sound, compatible with the contents of the batteries, and non-leaking.	\$4,500	NM	
§273.33(a)2	Failure of large quantity handler of universal waste conducting activities not to manage as hazardous waste casings of individual battery cells that have been breached.	\$4,500	NM	
§273.33(a)3	Failure of large quantity handler of universal waste to determine if removed electrolyte or other solid waste is hazardous and to manage it in compliance with all appropriate regulations.	\$5,000	NM	
§273.33(b)1	Failure of large quantity handler of universal waste to determine if removed electrolyte or other solid waste is hazardous and to manage it in compliance with all appropriate regulations.	\$4,500	NM	

	ity handler of universal waste to place universal waste pesticides in a container that is closed, structurally sound, compatible with the pesticide, and non-leaking.			
§273.33(b)2	Failure of large quantity handler of universal waste to overpack containers of universal waste pesticides which did not meet requirements of 40 CFR §273.33(b)1.	\$4,500	NM	
§273.33(b)3	Failure of large quantity handler of universal waste to contain universal waste pesticides in a tank which meets the requirements of 40 CFR §265 Subpart J.	\$3,000	M	30
§273.33(b)4	Failure of large quantity handler of universal waste to place universal waste pesticides in a transport vehicle or vessel that is closed, structurally sound, compatible with the pesticide, and non-leaking.	\$4,500	NM	
§273.33(c)1	Failure of large quantity handler of universal waste to place universal waste mercury containing equipment which contains non-	\$4,500	NM	

elemental mercury or shows evidence of leakage, spillage or damage in a container that is closed, structurally sound, compatible with the contents of the device, non-leaking, and designed to prevent the escape of mercury into the environment.

§273.33(c)2i	Failure of large quantity handler of universal waste to remove mercury-containing ampules in a manner designed to prevent breakage of the ampules.	\$4,500	NM
§273.33(c)2ii	Failure of large quantity handler of universal waste to remove mercury-containing ampules only over or in a containment device.	\$4,500	NM
§273.33(c)2iii	Failure of large quantity handler of universal waste to ensure that a mercury clean-up system is readily available to immediately transfer any mercury, resulting from spills or leaks from broken ampules, from the containment device to a container that meets the requirements of 40 CFR §262.34.	\$4,500	NM

§273.33(c)2iv	Failure of large quantity handler of universal waste to immediately transfer any mercury resulting from spills or leaks from broken ampules from the containment device to a container that meets the requirements of 40 CFR §262.34.	\$4,500	NM
§273.33(c)2v	Failure of large quantity handler of universal waste to ensure that the area in which mercury-containing ampules are removed is well ventilated and monitored to ensure compliance with applicable OSHA permissible exposure levels for mercury.	\$4,500	NM
§273.33(c)2vi	Failure of large quantity handler of universal waste to ensure that employees removing mercury-containing ampules are thoroughly familiar with proper waste mercury handling and emergency procedures.	\$4,500	NM
§273.33(c)2vii	Failure of large quantity handler of universal waste to store mercury-containing ampules in closed, non-leaking containers that	\$4,500	NM

are in good condition.

§273.33(c)2viii	Failure of large quantity handler of universal waste to pack mercury-containing ampules in containers with packing materials adequate to prevent breakage during storage, handling, and transportation.	\$4,500	NM	
§273.33(c)3	Failure of large quantity handler of universal waste who removed the opened original housing holding mercury not contained in an ampule, to immediately seal the housing with an air-tight seal, and to follow the requirements under 40 CFR 273.33(c)2 for removing and managing ampules.	\$3,000	M	30
§273.33(c)4	Failure of large quantity handler of universal waste, who removes mercury-containing ampules or seals mercury in its original housing, to determine if any waste generated exhibits a characteristic of hazardous waste, and to manage the waste in compliance with all appropriate regulations.	\$5,000	NM	



§273.33(d)1	Failure of large quantity handler of universal waste to place universal waste lamps in a container that is closed, structurally sound, compatible with the contents of the lamp, and non-leaking.	\$4,500	NM	
§273.33(d)2	Failure of large quantity handler of universal waste to clean up and place any lamp that is broken or that shows evidence of breakage, leakage, or damage that could cause the release of hazardous constituents, in a container that is closed, structurally sound, compatible with the lamp, and non-leaking.	\$4,500	NM	
§273.34(a)	Failure of large quantity handler of universal waste to properly label or mark universal waste batteries or containers of universal waste batteries.	\$3,000	M	30
§273.34(b)	Failure of large quantity handler of universal waste to properly label or mark containers, tanks, transport vehicles or vessels of recalled universal waste pesticides.	\$3,000	M	30

§273.34(c)	Failure of large quantity handler of universal waste to properly label or mark containers, tanks, transport vehicles or vessels of unused universal waste pesticides.	\$3,000	M	30
§273.34(d)	Failure of large quantity handler of universal waste to properly label or mark universal waste mercury containing equipment or containers of universal waste mercury containing equipment.	\$3,000	M	30
§273.34(e)	Failure of large quantity handler of universal waste to properly label or mark universal waste lamps or containers of universal waste lamps.	\$3,000	M	30
§273.35(a)-(b)	Large quantity handler of universal waste accumulated universal waste for greater than one year, without proving the accumulation was solely for the purpose of facilitating proper recovery, treatment or disposal.	\$5,000	NM	
§273.35(c)	Failure of large quantity handler of universal waste to demonstrate the length of time that the universal waste	\$4,500	NM	

was accumulated.

§273.36	Failure of large quantity handler of universal waste to ensure that all employees are thoroughly familiar with proper waste handling and emergency procedures.	\$4,500	NM	
§273.37(a)	Failure of large quantity handler of universal waste to immediately contain any releases or residues of universal waste.	\$5,000	NM	
§273.37(b)	Failure of large quantity handler of universal waste to determine if any material resulting from the release of universal waste is hazardous, and to properly manage the waste.	\$5,000	NM	
§273.38(a)	Large quantity handler of universal waste sent or took universal waste to a place other than another universal waste handler, a destination facility, or a foreign destination.	\$4,500	NM	
§273.38(b)	Failure of large quantity handler of universal waste who self- transports to comply with the requirements at 40 CFR §273 Subpart D and N.J.A.C.	\$3,000	M	30

7:26A-7.4.

§273.38(c)	Failure of large quantity handler of universal waste to properly package, label, mark, placard or complete the proper shipping papers for shipments of universal waste which are hazardous materials.	\$3,000	M	30
§273.38(d)	Failure of the originating handler to ensure that the receiving handler agrees to accept the universal waste.	\$4,500	NM	
§273.38(e)	Failure of large quantity handler of universal waste to receive back or agree on an alternate facility for rejected shipments of universal waste.	\$5,000	NM	
§273.38(f)	Failure of large quantity handler of universal waste to properly reject shipments of universal waste.	\$5,000	NM	
§273.38(g)	Failure of large quantity handler of universal waste to immediately notify the department if an illegal shipment of hazardous waste, that was shipped as universal waste, is received.	\$5,000	NM	

§273.38(h)	Failure of large quantity handler of universal waste receiving non-hazardous, non-universal waste to manage such waste in accordance with N.J.A.C. 7:26.	\$3,000	M	30
§273.39(a)1	Failure of large quantity handler of universal waste to record the name and address of the originating universal waste handler or foreign shipper from whom the universal waste was sent.	\$3,000	M	30
§273.39(a)2	Failure of large quantity handler of universal waste to record the quantity of each type of universal waste received.	\$3,000	M	30
§273.39(a)3	Failure of large quantity handler of universal waste to record the date of receipt of the shipment of universal waste.	\$3,000	M	30
§273.39(b)1	Failure of large quantity handler of universal waste to record the name and address of the universal waste handler, destination facility, or foreign destination to whom universal waste was sent.	\$3,000	M	30

§273.39(b)2	Failure of large quantity handler of universal waste to record the quantity of each type of universal waste sent.	\$3,000	M	30
§273.39(b)3	Failure of large quantity handler of universal waste to record the date the shipment of universal waste left the facility.	\$3,000	M	30
§273.39(c)	Failure of large quantity handler of universal waste to retain the records for at least three years.	\$3,000	M	30
§273.40(a)	Failure of large quantity handler of universal waste to comply with the requirements of a primary exporter when shipping universal waste to a foreign destination.	\$3,000	M	30
§273.40(b)	Large quantity handler of universal waste exported universal waste without consent of the receiving country and/or not in conformance with EPA Acknowledgement of Consent.	\$5,000	NM	
§273.40(c)	Failure of large quantity handler of universal waste that exported universal waste to	\$3,000	M	30

provide a copy of the EPA Acknowledgement of Consent to the transporter.

§273.51	Failure of universal waste transporter to comply with universal waste prohibitions.	\$4,500	NM	
§273.52(a)	Failure of universal waste transporter to comply with USDOT requirements for universal waste which meets the definition of a hazardous material.	\$4,500	NM	
§273.52(b)	Universal waste transporter described a universal waste with the words hazardous waste or N.O.S. or included the word waste in the shipping description.	\$3,000	M	30
§273.53	Universal waste transporter stored universal waste at a transfer facility for greater than 10 days without being in compliance subpart B or C of 40 CFR §273.	\$4,500	NM	
§273.54(a)	Failure of universal waste transporter to immediately contain any releases or residues of universal waste.	\$5,000	NM	

§273.54(b)	Failure of universal waste transporter to determine if any material resulting from the release of universal waste is hazardous, and to properly manage the waste.	\$5,000	NM	
§273.55(a)	Universal waste transporter sent or took universal waste to a place other than another universal waste handler, a destination facility, or a foreign destination.	\$5,000	NM	
§273.55(b)	Failure of universal waste transporter to properly describe, on the shipping paper, any universal waste that meets the definition of a hazardous material.	\$3,000	M	30
§273.56	Universal waste transporter accepted a shipment of universal waste, to be shipped to a foreign destination, knowing the shipment did not conform to the EPA Acknowledgement of Consent.	\$5,000	NM	
§273.56(a)	Failure of universal waste transporter exporting universal waste to ensure that a copy of the EPA Acknowledgement of Consent accompanied	\$3,000	M	30



the shipment.

§273.56(b)	Failure of universal waste transporter exporting universal waste to ensure that the waste was delivered to the facility designated by the person initiating the shipment.	\$5,000	NM	
§273.60(a)	Failure of owner or operator of a universal waste destination facility to comply with the requirements of 40 CFR Parts §§124, 264 through 266 and 270, as incorporated by reference at N.J.A.C. 7:26G, and the notification requirement under Section 3010 of RCRA.	\$3,000	M	30
§273.60(b)	Failure of owner or operator of a universal waste destination facility, that recycles a particular universal waste without storing that universal waste before it is recycled, to comply with 40 CFR §261.6(c)(2) as incorporated by reference at N.J.A.C. 7:26G-5.	\$3,000	M	30
§273.61(a)	Owner or operator of a universal waste destination facility sent or took universal waste to	\$5,000	NM	

a place other than a universal waste handler, another destination facility or foreign destination.

§273.61(b)	Failure of owner or operator of a universal waste destination facility to properly reject shipments of universal waste.	\$5,000	NM	
§273.61(c)	Failure of owner or operator of a universal waste destination facility to immediately notify the Department if an illegal shipment of hazardous waste, that was shipped as universal waste, is received.	\$5,000	NM	
§273.62(a)1	Failure of owner of operator of a universal waste destination facility to record the name and address of the originating universal waste handler or foreign shipper from whom the universal waste was sent.	\$3,000	M	30
§273.62(a)2	Failure of owner of operator of a universal waste destination facility to record the quantity of each type of universal waste received.	\$3,000	M	30
§273.62(a)3	Failure of owner or operator of a universal	\$3,000	M	30

	waste destination facility to record the date of receipt of the shipment of universal waste.				
§273.62(b)	Failure of owner or operator of a universal waste destination facility to keep records for three years.	\$3,000	M		30
§273.70	Failure of universal waste transporter, managing universal waste that was imported from a foreign country, to comply with the requirements of 40 CFR §273 Subpart D immediately after waste was received in the United States.	\$3,000	M		30
§273.70(b)	Failure of small or large quantity handlers of universal waste, managing universal waste that was imported from a foreign country, to comply with the requirements of 40 CFR §273 Subpart B or C after waste was received in the United States.	\$3,000	M		30
§273.70(c)	Failure of owner or operator of a universal waste destination facility, managing universal waste that was im-	\$3,000	M		30

ported from a foreign country, to comply with the requirements of 40 CFR §273 Subpart E after waste is received in the United States.

6. The violations of N.J.A.C. 7:26A-7, Standards for the management of Universal Waste, the type of violation as minor (M) or non-minor (NM), the applicable grace period if the violation is minor, and the civil base administrative penalty for each violation, are as set forth in the following table.

Rule	Rule Summary	Base Penalty	Type of Violation	Grace Period (days)
N.J.A.C. 7:26A-7.4(b)1	Failure of small quantity handler of universal waste to place a consumer electronic that shows evidence of leakage, spillage, or damage that could cause leakage, in a container that is closed, structurally sound, compatible with the consumer electronic, and non-leaking.	\$4,500	NM	
7:26A-7.4(b)2	Small quantity handler of universal waste disassembled a consumer electronic in a manner that constituted processing or treatment.	\$4,500	NM	
7:26A-7.4(b)3	Failure of small quantity handler of universal waste who generates a solid waste, as the result of performing activities, to determine if the waste is hazard-	\$5,000	NM	

ous.

7:26A-7.4(c)	Failure of small quantity handler of universal waste to manage oil-based finishes, in its original or otherwise appropriate and labeled packaging.	\$3,000	M	30
7:26A-7.4(c)1	Failure of small quantity handler of universal waste to place any universal waste oil-based finish that shows evidence of leakage, spillage, or damage that could cause leakage, into a container that is closed, structurally sound, compatible with the contents of the oil-based finish, and non-leaking.	\$4,500	NM	
7:26A-7.4(c)2	Small quantity handler of universal waste to handled universal waste oil-based finishes in a manner that constituted processing.	\$4,500	NM	
7:26A-7.5(b)1	Failure of large quantity handler of universal waste to place any consumer electronic that shows evidence of leakage, spillage, or damage that could cause leakage, in a container that is closed, structurally sound, compatible	\$4,500	NM	

	with the contents of the consumer electronics, and non-leaking.			
7:26A-7.5(b)2	Large quantity handler of universal waste conducted disassembling or processing on consumer electronics without applying for a Class D approval.	\$4,500	NM	
7:26A-7.5(c)	Failure of large quantity handler of universal waste to manage universal waste finishes in its original packaging.	\$3,000	M	30
7:26A-7.5(c)2	Failure of large quantity handler of universal waste to place any universal waste finish that shows evidence of leakage, spillage, or damage that could cause leakage in a container that is closed, structurally sound, compatible with the contents of the universal waste finish, and non-leaking.	\$4,500	NM	
7:26A-7.5(c)3	Large quantity handler of universal waste conducted disassembling or processing activities on universal waste finishes without applying for a Class D approval.	\$4,500	NM	
7:26A-7.5(d)	Failure of large quantity handler of universal	\$3,000	M	30

waste to submit a report to the Department documenting the types and amounts of universal waste which were received, stored and shipped in the preceding calendar year.

7:26A-7.7(a)	Failure to accumulate universal waste consumer electronics devices in a closed container that is clearly marked with the words Universal Waste-Consumer Electronics.	\$3,000	M	30
7:26A-7.7(b)	Failure to mark a container, tank, transport vehicle or other vessel in which oil-based waste finishes are contained, with the words Universal Waste-Oil-Based Finish.	\$3,000	M	30

7. The violations of N.J.A.C. 7:26A-8, Requirements for Transporters of Source Separated Materials, the type of violation as minor (M) or non-minor (NM), the applicable grace period if the violation is minor, and the civil administrative base penalty for each violation are as set forth in the following table.

Rule	Rule Summary	Base Penalty	Type of Violation	Grace Period (days)
N.J.A.C. 7:26A-8.1	Failure by a transporter of recyclable materials to provide a recycling tonnage report by February 1 of each year.	\$3,000	M	30
7:26A-8.3	Failure of transporter to not mix source-	\$4,500	NM	

separated recyclables  
 with other wastes.

8. The violations of N.J.A.C. 7:26A-10, Standards for Generators of Source Separated Recyclable Materials, the type of violation as minor (M) or non-minor (NM), the applicable grace period if the violation is minor, and the civil administrative base penalty for each violation are as set forth in the following table.

Rule	Rule Summary	Base Penalty	Type of Violation	Grace Period (days)
N.J.A.C. 7:26A-10.2	Failure of generator to separate, store, and set out waste in accordance with the municipal recycling ordinance.	\$3,000	M	30
7:26A-10.4(a)1	Failure of generator to obtain approval from governing municipality for alternate recycling of non-source-separated waste.	\$3,000	M	30
7:26A-10.4(a)2	Failure of generator to provide annual written documentation to the municipality of the total number of tons recycled.	\$3,000	M	30
7:26A-10.4(b)	Failure of generator to show letter of exemption to enforcement officers or municipal recycling coordinator.	\$3,000	M	30

9. The violations of N.J.A.C. 7:26A-11, Standards for Municipalities, the type of violation as minor (M) or non-minor (NM), the applicable grace period if the violation is minor, and the civil administrative base penalty for each violation are as set forth in the following table.

Rule	Rule Summary	Base Penalty	Type of Violation	Grace Period (days)
N.J.A.C.				



7:26A-11.1(a)	Failure of municipality to designate a recycling coordinator.	\$3,000	M	90
7:26A-11.1(b)	Failure of municipality to adopt a recycling ordinance containing required components	\$3,000	M	90
7:26A-11.2(a)	Failure of municipality to comply with record-keeping and annual reporting requirements.	\$3,000	M	30
7:26A-11.3	Failure of municipality to notify persons occupying residential, commercial, and institutional premises within its municipal boundaries of local recycling opportunities, and the source separation requirements of the ordinance.	\$3,000	M	30
7:26A-11.4(a)	Failure of municipality to oversee collection of designated materials or to provide for collection in instances where collection is not otherwise provided.	\$3,000	M	30
7:26A-11.4(c)	Failure of municipality governing body to review master and revise master plan	\$3,000	M	30
7:26A-11.4(c)	Failure of municipality to include in master plan provisions for re-	\$3,000	M	30

cycling at develop-  
 ments with 50 or more  
 units of single-family  
 residential housing or  
 25 or more units of  
 multi-family residen-  
 tial housing and any  
 commercial or indus-  
 trial development pro-  
 posal for the utiliza-  
 tion of 1,000 square  
 feet.

7:26A-11.5(a)1 through 5	Failure of municipal coordinator to review the applicant's documentation of alternate provisions for recycling of designated materials prior to issuing an exemption.	\$3,000	M	30
7:26A-11.5(a)7	Failure of municipality to revoke exemption to generator upon failure to meet requirements.	\$4,500	NM	

10. The violations of N.J.A.C. 7:26A-12, Standards for Counties, the type of violation as minor (M) or non-minor (NM), the applicable grace period if the violation is minor, and the civil administrative base penalty for each violation are as set forth in the following table.

Rule	Rule Summary	Base Penalty	Type of Violation	Grace Period (days)
N.J.A.C.				
7:26A-12.2(a)	Failure of designated implementation agency to prepare a district solid waste management plan and county recycling plan or to update this plan as required.	\$3,000	M	90
7:26A-12.2(b)	Failure of county re-	\$3,000	M	30

	cycling plan to include a strategy for the collection, marketing and disposition of designated source separated recyclable materials.				
7:26A-12.3(a)1	Failure of county recycling coordinator to maintain contact information for all recycling coordinators.	\$3,000	M	30	
7:26A-12.3(a)2	Failure of county recycling coordinator to maintain records regarding the issuance, by each municipal governing body, of the exemption from the source separation issued pursuant to N.J.A.C. 7:26A-11.5.	\$3,000	M	30	
7:26A-12.3(a)3	Failure of county recycling coordinator to maintain copies of all municipal recycling ordinances and ensure that these ordinances are consistent with the county recycling plan.	\$3,000	M	30	
7:26A-12.3(a)4	Failure of county recycling coordinator to meet with all municipal recycling coordinators, at least annually, to determine progress toward meeting the recycling goals of the county recycling plan.	\$3,000	M	30	

Adopted by R.2009 d.52, effective February 2, 2009.

<General Materials (GM) - References, Annotations, or Tables>

HISTORICAL NOTES

**Source:**

**2009.** See: 40 N.J.R. 7(a), 41 N.J.R. 742(a).

<<CHAPTER 26A. RECYCLING RULES>>

<<CHAPTER EXPIRATION DATE>>

<Chapter 26A, Recycling Rules, expires on January 7, 2014.>

N.J.A.C. 7:26A-9.4, NJ ADC 7:26A-9.4

NJ ADC 7:26A-9.4

END OF DOCUMENT



N.J.A.C. 7:26A-9.5

N.J. Admin. Code tit. 7, § 26A-9.5

NEW JERSEY ADMINISTRATIVE CODE  
TITLE 7. DEPARTMENT OF ENVIRONMENTAL PROTECTION  
CHAPTER 26A. RECYCLING RULES

SUBCHAPTER 9. CIVIL ADMINISTRATIVE PENALTIES AND REQUESTS FOR ADJUDICATORY HEARINGS

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Current through January 19, 2010; 42 N.J.Reg. No.2

7:26A-9.5 Civil administrative penalty determination

(a) The Department shall assess penalties under this section, and not under [N.J.A.C. 7:26A-9.4](#), when:

1. Because of the specific circumstances of the violation, the Department determines that the penalty amount under [N.J.A.C. 7:26A-9.4](#) 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. 7:26A-9.4](#).

(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 midpoint of the following ranges as follows:

1. A violation that meets the criteria at (f)1i through iii below and the criteria at [N.J.A.C. 7:26A-9.10\(c\)1](#) through 5 is minor. Such a minor violation shall be subject to a grace period of 30 days if the violation meets the criteria at (f)1i through iii below and [N.J.A.C. 7:26A-9.10](#). If compliance is not achieved in the required time period, the violator shall be subject to a \$3,000 penalty, to be assessed in accordance with the procedures set forth at [N.J.A.C. 7:26A-9.10](#).
  - i. The violation poses minimal risk to the public health, safety and natural resources;

- ii. The violation does not materially and substantially undermine or impair the goals of the regulatory program; and
- iii. The activity or condition constituting the violation is capable of being corrected and compliance achieved within the time prescribed by the Department.

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

		SERIOUSNESS		
		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-	
		\$25,000	\$6,000	N/A*

\*N/A means not applicable.

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

1. Major seriousness shall apply to any violation which:
  - i. Has caused or has the potential to cause serious harm to human health or the environment; or
  - ii. Seriously deviates from the requirements of the Act, or any rule promulgated, 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, per-

mit, 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.

Adopted by R.2009 d.52, effective February 2, 2009.

<General Materials (GM) - References, Annotations, or Tables>

#### HISTORICAL NOTES

**Source:**

**2009.** See: 40 N.J.R. 7(a), 41 N.J.R. 742(a).

<<CHAPTER 26A. RECYCLING RULES>>

<<CHAPTER EXPIRATION DATE>>

<Chapter 26A, Recycling Rules, expires on January 7, 2014.>

N.J.A.C. 7:26A-9.5, NJ ADC 7:26A-9.5  
NJ ADC 7:26A-9.5

END OF DOCUMENT





N.J.A.C. 7:26A-9.6

N.J. Admin. Code tit. 7, § 26A-9.6

NEW JERSEY ADMINISTRATIVE CODE  
TITLE 7. DEPARTMENT OF ENVIRONMENTAL PROTECTION  
CHAPTER 26A. RECYCLING RULES  
SUBCHAPTER 9. CIVIL ADMINISTRATIVE PENALTIES AND REQUESTS FOR ADJUDICATORY  
HEARINGS

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Current through January 19, 2010; 42 N.J.Reg. No.2

7:26A-9.6 Civil administrative penalty for submitting inaccurate or false information

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

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

(c) The Department shall assess a civil administrative penalty for violations described in this section based on the conduct of the violator at the mid-point of the following ranges except as adjusted pursuant to (d) below:

1. For each intentional, deliberate, purposeful, knowing or willful act or omission by the violator, the civil administrative penalty per act or omission shall be in an amount of not more than \$50,000 nor less than \$40,000 per act or omission; and
2. For all other conduct, the civil administrative penalty, per act or omission, shall be in the amount of \$3,000 per violation.

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

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

- i. Immediate implementation of measures to effectively mitigate the effects of the violation will result in a reduction to the bottom of the range;
3. The nature, timing and effectiveness of any measures taken by the violator to prevent future similar violations;
    - i. Implementation of measures that can reasonably be expected to prevent a recurrence of the same type of violation will result in a reduction equal to the bottom of the range;
  4. Any unusual or extraordinary costs or impacts directly or indirectly imposed on the public or the environment as a result of the violation; and/or
  5. Other specific circumstances of the violator or the violation.
- (e) A violation under this section is non-minor and therefore not subject to a grace period.

Adopted by R.2009 d.52, effective February 2, 2009.

<General Materials (GM) - References, Annotations, or Tables>

#### HISTORICAL NOTES

**Source:**

**2009.** See: 40 N.J.R. 7(a), 41 N.J.R. 742(a).

<<CHAPTER 26A. RECYCLING RULES>>

<<CHAPTER EXPIRATION DATE>>

<Chapter 26A, Recycling Rules, expires on January 7, 2014.>

N.J.A.C. 7:26A-9.6, NJ ADC 7:26A-9.6

NJ ADC 7:26A-9.6

END OF DOCUMENT



N.J.A.C. 7:26A-9.7

N.J. Admin. Code tit. 7, § 26A-9.7

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Current through January 19, 2010; 42 N.J.Reg. No.2

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

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

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

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

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

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

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

1. The compliance history of the violator;

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

- i. Immediate implementation of measures to effectively mitigate the effects of the violation will result in a reduction to the bottom of the range;
  3. The nature, timing and effectiveness of any measures taken by the violator to prevent future similar violations;
    - i. Implementation of measures that can reasonably be expected to prevent a recurrence of the same type of violation will result in a reduction equal to the bottom of the range;
  4. Any unusual or extraordinary costs or impacts directly or indirectly imposed on the public or the environment as a result of the violation; and/or
  5. Other specific circumstances of the violator or the violation.
- (e) A violation under this section is non-minor and therefore not subject to a grace period.

Adopted by R.2009 d.52, effective February 2, 2009.

<General Materials (GM) - References, Annotations, or Tables>

#### HISTORICAL NOTES

**Source:**

**2009.** See: 40 N.J.R. 7(a), 41 N.J.R. 742(a).

<<CHAPTER 26A. RECYCLING RULES>>

<<CHAPTER EXPIRATION DATE>>

<Chapter 26A, Recycling Rules, expires on January 7, 2014.>

N.J.A.C. 7:26A-9.7, NJ ADC 7:26A-9.7  
NJ ADC 7:26A-9.7

END OF DOCUMENT



N.J.A.C. 7:26A-9.8

N.J. Admin. Code tit. 7, § 26A-9.8

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Current through January 19, 2010; 42 N.J.Reg. No.2

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

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

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

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

(c) The base penalty shall be as follows:

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

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

Adopted by R.2009 d.52, effective February 2, 2009.

<General Materials (GM) - References, Annotations, or Tables>

HISTORICAL NOTES

**Source:**

**2009.** See: 40 N.J.R. 7(a), 41 N.J.R. 742(a).

<<CHAPTER 26A. RECYCLING RULES>>

<<CHAPTER EXPIRATION DATE>>

<Chapter 26A, Recycling Rules, expires on January 7, 2014.>

N.J.A.C. 7:26A-9.8, NJ ADC 7:26A-9.8

NJ ADC 7:26A-9.8

END OF DOCUMENT



N.J.A.C. 7:26A-9.9

N.J. Admin. Code tit. 7, § 26A-9.9

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Current through January 19, 2010; 42 N.J.Reg. No.2

## 7:26A-9.9 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) that 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.

Adopted by R.2009 d.52, effective February 2, 2009.

&lt;General Materials (GM) - References, Annotations, or Tables&gt;

## HISTORICAL NOTES

**Source:****2009.** See: 40 N.J.R. 7(a), 41 N.J.R. 742(a).

&lt;&lt;CHAPTER 26A. RECYCLING RULES&gt;&gt;

&lt;&lt;CHAPTER EXPIRATION DATE&gt;&gt;

&lt;Chapter 26A, Recycling Rules, expires on January 7, 2014.&gt;

N.J.A.C. 7:26A-9.9, NJ ADC 7:26A-9.9

NJ ADC 7:26A-9.9

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N.J.A.C. 7:26A-9.10

N.J. Admin. Code tit. 7, § 26A-9.10

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7:26A-9.10 Grace period applicability; procedures

(a) Each violation identified in the penalty tables at [N.J.A.C. 7:26A-9.4\(g\)](#) by an “M” in the Type of Violation column and each violation that is determined to be minor under [N.J.A.C. 7:26A-9.5\(f\)1](#), for which the conditions at (c) below are satisfied, is a minor violation, and is subject to a grace period, the length of which (in days) is indicated in the column with the heading “Grace Period.”

(b) Each violation identified in the penalty tables at [N.J.A.C. 7:26A-9.4\(g\)](#) by an “NM” in the Type of Violation column is a non-minor violation and is not subject to a grace period.

(c) The Department or local government agency shall provide a grace period for any violation identified as minor under this section, provided the following conditions are met:

1. The violation is not the result of the purposeful, knowing, reckless or criminally negligent conduct of the person responsible for the violation;
2. The activity or condition constituting the violation has existed for less than 12 months prior to the date of discovery by the Department or local government agency;
3. In the case of a violation that involves a permit, the person responsible for the violation has not been identified in a previous enforcement action by the Department or local government agency as responsible for a violation of the same requirement of the same permit within the preceding 12-month period;
4. In the case of a violation that does not involve a permit, the person responsible for the violation has not been notified in a previous enforcement action by the department or a local government agency as responsible for the same or a substantially similar violation at the same facility within the preceding 12-month period; and
5. In the case of any violation, the person responsible for the violation has not been identified by the Department or a local government agency as responsible for the same or substantially similar violations at any time that reasonably indicates a pattern of illegal conduct and not isolated incidents on the part of the person responsible.



(d) For a violation determined to be minor under (c) above, the following provisions apply:

1. The Department or local government agency shall issue a notice of violation to the person responsible for the minor violation that:

i. Identifies the condition or activity that constitutes the violation and the specific statutory and regulatory provision or other requirement violated; and

ii. Specifies that a penalty may be imposed unless the minor violation is corrected and compliance is achieved within the specified grace period.

2. If the person responsible for the minor violation corrects that violation and demonstrates, in accordance with (d)3 below, that compliance has been achieved within the specified grace period, the Department or local government agency shall not impose a penalty for the violation, and in addition, shall not consider the minor violation for purposes of calculating the “severity penalty component” under [N.J.A.C. 7:26A-9.4\(f\)](#).

3. The person responsible for a violation shall submit to the Department or local government agency, before the end of the specified grace period, written information, certified in accordance with [N.J.A.C. 7:26A-3.2\(b\)](#), and signed by the person responsible for the minor violation, detailing the corrective action taken or compliance achieved.

4. If the person responsible for the minor violation seeks additional time beyond the specified grace period to achieve compliance, the person shall request an extension of the specified grace period. The request shall be made in writing no later than one week before the end of the specified grace period and include the anticipated time needed to achieve compliance, the specific cause or causes of the delay, and any measures taken or to be taken to minimize the time needed to achieve compliance, and shall be certified in accordance with [N.J.A.C. 7:26A-3.2\(b\)](#). The Department may, at its discretion, approve in writing an extension, which shall not exceed 90 days, to accommodate the anticipated delay in achieving compliance. In exercising its discretion to approve a request for an extension, the Department may consider the following:

i. Whether the violator has taken reasonable measures to achieve compliance in a timely manner;

ii. Whether the delay has been caused by circumstances beyond the control of the violator;

iii. Whether the delay will pose a risk to the public health, safety and natural resources; and

iv. Whether the delay will materially or substantially undermine or impair the goals of the regulatory program.

5. If the person responsible for the minor violation fails to demonstrate to the Department or local government agency that the violation has been corrected and compliance achieved within the specified grace period or within the approved extension, if any, the Department or local government agency may, in accordance with the provisions of this chapter, impose a penalty that is retroactive to the date the notice of violation under (d)1 above was issued.

6. The person responsible for a minor violation shall not request more than one extension of a grace period specified in a notice of violation.

Adopted by R.2009 d.52, effective February 2, 2009.

<General Materials (GM) - References, Annotations, or Tables>

HISTORICAL NOTES

**Source:**

**2009.** See: 40 N.J.R. 7(a), 41 N.J.R. 742(a).

<<CHAPTER 26A. RECYCLING RULES>>

<<CHAPTER EXPIRATION DATE>>

<Chapter 26A, Recycling Rules, expires on January 7, 2014.>

N.J.A.C. 7:26A-9.10, NJ ADC 7:26A-9.10  
NJ ADC 7:26A-9.10

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