

SOLID WASTE REGULATIONS
N.J.A.C. 7:26
Subchapter 5. Civil Administrative Penalties and
Requests for Adjudicatory Hearings

7:26-5.1 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., including the Comprehensive Regulated Medical Waste Management Act, P.L. 1989, c.34, amending and supplementing the Solid Waste Management Act (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. 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.

7:26-5.2 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. 7:26-5.3.

(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. 7:26-5.3, 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. 7:26-5.3 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. 7:26-5.3 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.

7:26-5.3 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, CN 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 findings which the violator denies, the violator shall allege the fact or facts as the violator believes such fact or facts to be;
4. Information supporting the request and specific reference to or copies of all written documents relied upon to support the request;

- 5. An estimate of the time required for the hearing (in days and/or hours); and
- 6. A request, if necessary, for a barrier-free hearing location for physically disabled persons.

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

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

(d) All 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.

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

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

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

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

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

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

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

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

SEVERITY FACTOR	MULTIPLIER
i. Violator had violated the same rule less than 12 months prior to the violation	1.00
ii. Violator had violated a different rule less than	0.50

12 months prior to the violation	
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. = \$1,000 7:26-2.12(f)

Subparagraph (f)3iii applies: $0.50 \times 1000 = 500$

Subparagraph (f)3iv applies: $0.25 \times 1000 = + 250$

Civil administrative penalty \$1,750

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

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

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

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

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

Rule	Rule Summary	Base Penalty
N.J.A.C. 7:26-2.7(b)1	Failure of permittee to apply for a permit renewal at least 90 days prior to the expiration date of the existing SWF	

	permit.	\$2,000
7:26-2.8(b)	Failure of permittee to submit a statement updating the information contained in the initial registration statement.	\$2,000
7:26-2.8(c)	Failure of permittee to notify the Department within 30 days of any change of information in the registration statement.	\$2,000
7:26-2.8(e)	Failure to apply and receive approval of a SWF permit prior to engaging in the disposal of solid waste in this State.	\$2,000
7:26-2.8(f)	Failing to obtain a SWF permit prior to constructing or operating a solid waste facility.	\$5,000
7:26-2.8(j)	Failure to meet all conditions, restrictions, requirements of any other provision set forth in SWF permit.	\$2,000
7:26-2.8(k)	Failure to receive Department approval prior to modifying, revising or otherwise changing a permit condition.	\$2,000
7:26-2.8(l)	Failure to receive Department approval prior to transferring ownership of a SWF permit.	\$5,000
7:26-2.11(b)1	Failure of operator to clean areas where waste has been deposited or stored within each 24 hour period, for sanitary landfills all areas where waste has been deposited shall be covered.	\$2,000
7:26-2.11(b)2	Failure to ensure any waste stored overnight at any facility is effectively treated.	\$2,000
7:26-2.11(b)3	Failure to maintain facility property surrounding the disposal area free of litter, debris, unprocessed waste, processed residues and effluents.	\$3,000
7:26-2.11(b)4	Failure to implement dust control methods.	\$2,000
7:26-2.11(b)5	Failure to ensure no odors are detected off-site.	\$4,000
7:26-2.11(b)6	Failure to maintain all facility system in a manner that facilities proper operation and minimizes system downtime.	\$2,000
7:26-2.11(b)7	Failure to maintain an adequate water supply and adequate fire-fighting equipment.	\$5,000

7:26-2.11(b)8	Failure to control insects, other arthropods and rodents.	\$3,000
7:26-2.11(b)9	Failure to comply at all times with the conditions of SWF permit.	\$2,000
7:26.2.11(b)10	Failing to ensure waste is not received in excess to the system's designed capacity.	\$2,000
7:26-2.11(b)11	Failure to operate the facility in a manner that employs the use of equipment and other techniques as identified in the facility's SWF permit.	\$2,000
7:26-2.11(b)12	Failure to maintain an approved O&M manual at the facility, changes to be submitted, at a minimum, on an annual basis.	\$3,000
7:26-2.11(c)1	Failure to admit only properly registered solid waste vehicles for loading or unloading of any solid waste.	\$3,000
7:26-2.11(c)2	Failure to designate a secure area where solid waste may be unloaded from vehicles exempt from registration under N.J.A.C. 7:26-3.3	\$2,000
7:26-2.11(c)3	Failure to designate a secure area where unpermitted waste can be deposited.	\$2,000
7:26-2.11(c)4	Failure to maintain a record of the quantity of each waste type accepted for disposal.	\$5,000
7:26-2.11(c)5	Failure to provide a means of cleaning vehicle tires of debris.	\$2,000
7:26-2.12(b)	Failure of generators of asbestos containing waste materials to submit a complete written notification of intent to demolish, 10 days prior to beginning the demolition activity.	\$1,000
7:26-2.12(c)	Failure of generators of asbestos containing waste material to submit a complete written notification of intent to renovate, 10 days prior to beginning the renovation activity.	\$1,000
7:26-2.13(a)7	Failure to maintain a daily record of asbestos waste and make appropriate submittals.	\$3,000
7:26-2.13(a)8	Failure to maintain additional required reports in the daily record.	\$2,000
7:26-2.13(c)1	Failure of facility operator to verify the	

	O and D form.	\$2,000
7:26-2.13(e)	Failure to submit monthly summaries of waste to the Department.	\$3,000
7:26:2.14(j)	Failure of SWFPPA permittee to prepare and submit a complete annual progress report.	\$2,000
7:26:2.14(k)	Failure of SWFPPA permittee to conduct a complete facility wide benchmark audit not less than once every five years.	\$2,000

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

Rule	Rule Summary	Base Penalty
N.J.A.C.		
7:26-2A.8(b)1	Failure to confine working face to the smallest practical area.	\$2,000
7:26-2A.8(b)2	Failure to compact waste to yield smallest volume.	\$2,000
7:26-2A.8(b)3	Failure to compact waste in shallow layers; or compacting waste over leachate collection pipes per N.J.A.C. 7:26-2A.7(d)3xiv.	\$2,000
7:26-2A.8(b)4	Failure to ensure lift height of daily cell does not exceed 12 feet.	\$2,000
7:26-2A.8(b)5	Failure to ensure slope is no steeper than 3:1. Failure of balefill operations to comply with working face requirements.	\$2,000
7:26-2A.8(b)6	Failure to obtain department approval of separate areas for storage of demolition waste or recyclable materials.	\$2,000
7:26-2A.8(b)7	Failure to cover exposed surfaces of solid waste at close of each operating day with daily cover.	\$2,000
7:26-2A.8(b)8	Failure to progressively apply daily cover.	\$2,000
7:26-2A.8(b)9	Failure to apply intermediate cover (a minimum of 12 inches of earth) to surfaces exposed more than 24 hours.	\$2,000
7:26-2A.8(b)10	Failure to maintain grade, thickness and integrity of intermediate and final cover.	\$2,000
7:26-2A.8(b)11	Failure to grade areas with intermediate	

	cover to facilitate drainage.	\$2,000
7:26-2A.8(b)12	Failure to use appropriate daily and intermediate cover materials; not maintaining sufficient quantity of cover at site; not maintaining standby supply of cover within boundaries.	\$2,000
7:26-2A.8(b)13	Failure to construct final cover in accordance with N.J.A.C. 7:26-2A.7(i) and to apply it to all surfaces.	\$2,000
7:26-2A.8(b)20	Failure to maintain sufficient types and quantities of equipment to adequately meet the requirements of (b) 7 through (10) above.	\$2,000
7:26-2A.8(b)21	Failure to maintain steel wheel type compactors of at least 45,000 pounds.	\$2,000
7:26-2A.8(b)22	Failure to equip landfill equipment with safety devices.	\$5,000
7:26-2A.8(b)23	Failure, in the case of breakdown of equipment, to repair or obtain replacement within 24 hours; or to include a maintenance contract in O & M plan.	\$2,000
7:26-2A.8(b)24	Failure to limit access for disposal to operating hours only.	\$2,000
7:26-2A.8(b)25	Failure to secure landfill with a six-foot high chain link fence.	\$2,000
7:26-2A.8(b)27	Failure to maintain all weather road to working face.	\$2,000
7:26-2A.8(b)28	Failure to control litter.	\$3,000
7:26-2A.8(b)29	Failure to control dust by spraying water or equivalent.	\$2,000
7:26-2A.8(b)30	Failure to eliminate emissions which result in odors detectable in areas of human use or occupancy beyond boundary line; or to control the odors by use of daily cover; or to immediately cover odorous waste with minimum six inches of cover.	\$4,000
7:26-2A.8(b)31	Failure to control the off-site tracking of mud and soil.	\$2,000
7:26-2A.8(b)32	Failure to minimize the propagation and harborage of insects, rodents, and birds.	\$2,000
7:26-2A.8(b)33	Failure to protect all monitoring devices and environmental systems from dam-	

	age.	\$5,000
7:26-2A.8(b) 37	Failure to have supervisor on site in order to insure proper operation, evaluate monitoring data and inspection reports, determine performance of landfill, implement all operational decisions and ensure compliance with N.J.S.A. 13:1E-1 et seq., this chapter and the SWF Permit.	\$5,000
7:26-2A.8(b) 38-41	Failure to ensure that landfill personnel complete a program of on-the-job training, all personnel complete training program within six months after date of employment, all personnel take part in annual update of initial training program, keep records of training received by personnel until closure.	\$2,000
7:26-2A.8(c)	Failure to maintain environmental control systems in functioning manner, or to inspect them.	\$5,000
7:26-2A.8(d-e)	Failure to perform inspections required by (c) above on a weekly basis and after storm events, and comply with record-keeping requirements.	\$3,000
7:26-2A.8(f)	Failure to operator to make repairs in accordance with N.J.A.C. 7:26-2A.8(b)28 and O&M manual, if deterioration or malfunction occurs.	\$2,000
7:26-2A.8(g)	Failure to maintain and inspect sanitary landfill according to requirements.	\$2,000
7:26-2A.8(h)	Failure to monitor in accordance with parameters and schedules.	\$5,000
7:26-2A.8(i)	Failure to submit an annual topographic survey prepared according to N.J.A.C. 7:26-2A.8(i)1 through 4 by May 1 of each year.	\$2,000
7:26-2A.8(j)1	Failure to obtain written approval of the Department prior to disruption/excavation.	\$2,000
7:26-2A.8(j)3 (g)	Failure to keep area of excavation consistent with amount of equipment, and to keep excavation to smallest practical Failure of solid waste composting and co-composting facility to ensure incoming, unprocessed waste is not mixed with finished compost.	\$2,000

7:26-2B.7 (h)	Failure of solid waste composting and co-composting facility to comply with 15 month finished compost storage requirement.	\$1,000
7:26-2B.7 (i)	Failure of solid waste composting and co-composting facility to comply with recordkeeping requirements.	\$2,000
7:26-2B.7 (j-n)	Failure of solid waste composting and co-composting facility to comply with monitoring and sampling requirements.	\$3,000
7:26-2B.7 (o)	Failure of solid waste composting and co-composting facility to comply with labeling requirements.	\$2,000
7:26-2B.7 (p)	Failure of solid waste composting and co-composting facility to comply with USEPA 40 CFR 503 general requirements.	\$2,000
7:26-2B.8(d)	Failure of the owner or operator to conduct inspections as indicated in the approved final O&M manual in order to identify and remedy any problems and comply with recordkeeping requirements.	\$3,000
7:26-2B.8(f)	Failure of the owner or operator to implement waste receiving area control procedures that provide for the inspection of the incoming waste stream for the purpose of removing nonprocessable or potentially explosive materials prior to the initiation of processing.	\$3,000
7:26-2B.8(g)	Failure, should the facility experience equipment or system malfunction to the extent that the waste received cannot be handled or processed in the normal manner, of the operator to notify the Department of the existence of such a situation and circumstances contributing to the situation within the same working day of its occurrence.	\$2,000
7:26-2B.8(i)	Failure to store unprocessed incoming waste, facility process waste residues and effluents, and recovered materials in bunkers, pits, bins, or similar containment vessels and to keep at all times at	

	levels that prevent spillage or overflow.	\$2,000
7:26-2B.8(j)	Failure to keep waste delivery tipping hall doors closed during non-processing or non-receiving hours.	\$2,000
7:26-2B.8(k)	Failure to schedule the delivery of waste to the facility and the removal of residues and recovered products from the site so as to eliminate traffic backups and allow for fluid vehicular movement on site.	\$2,000
7:26-2B.8(l)	Failure to ensure that samples and measurements taken for the purpose of monitoring facility process and treatment operations are representative of the process or operation and are performed with the conditions of the facility's SWF permit.	\$5,000
7:26-2B.8(m-r)	Failure of the operator to comply with waste determination, waste analysis and required recordkeeping.	\$5,000
7:26-2B.8(s)	Failure of the owner or operator to have a 24-hour surveillance system which continuously monitors and controls entry to the facility or an artificial or natural barrier which completely surrounds the facility.	\$5,000
7:26-2B.8(t)	Failure of a facility to maintain required personnel, supervisor, boiler operator, licensed engineer to assure the proper and orderly operation of all system components, along with the ability to handle all routine facility maintenance requirements.	\$5,000
7:26-2B.8(u)	Failure to ensure that all personnel complete an initial program of classroom instruction and on-the-job training, training program directed by a person thoroughly familiar with the technology, ensure that facility personnel respond to any malfunction or emergency situation, complete the initial training program within six months, planned annual review of the initial training, records document the type and amount of training received, kept until closure, former	

employees records kept for at least one year. \$2,000

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

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

	the event an emergency arises.	\$2,000
7:26-3.4(g)	Failure to protect property of customer.	\$2,000
7:26-3.4(h)	Failure to properly mark each solid waste vehicle or to carry current DEP registration certificate.	\$2,000
7:26-3.4(i)	Failure to use tarpaulins as needed.	\$2,000
7:26-3.4(j)	Failure to access or exit a solid waste facility pursuant to the district management plant or SWF permit.	\$2,000
7:26-3.5(a)1	Failure to design all solid waste vehicles used for the transportation of sewage sludge to preclude any spillage or leakage onto roadways.	\$2,000
7:26-3.5(a)2	Failure to ensure sewage sludge and other fecal material is not intermixed with other wastes of a chemical or industrial nature.	\$5,000
7:26-3.5(b)	Failure to design all solid waste vehicles used for the transportation of bulky waste to preclude any spillage.	\$2,000
7:26-3.5(c)	Failure to ensure radioactive material and lethal chemicals are not transported in or through this State without prior approval from authorities having jurisdiction, and from the Department.	\$5,000
7:26-3.5(d)1	Failure to design all solid waste vehicles used for the transportation of asbestos waste so as to preclude any spillage leakage or emissions therefrom.	\$3,000
7:26-3.5(d)2	Failure to package asbestos for transportation in accordance with 40 CFR 61.152 and N.J.A.C. 7:26-2.12.	\$5,000
7:26-3.5(d)3	Failure to transport asbestos in a manner that prevents the rupture of containers in loading, transporting and unloading operations.	\$5,000
7:26-3.5(d)4	Failure to transport collected asbestos directly from the point of generation to the solid waste landfill permitted to receive such wastes.	\$5,000
7:26-3.5(d)6	Failure to ensure no visible air emissions are generated during loading, transporting, or unloading operations.	\$5,000
7:26-3.5(g)2	Failure of transporter to complete and sign O and D form prior to disposal	\$2000
7:26-3.7(a)	Failure to ensure waste materials to be	

collected and transported show no evidence of smoking, smoldering or burning.

\$5,000

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

Rule	Rule Summary	Base Penalty
N.J.A.C.		
7:26-3A.8(a)	Failure of a generator of RMW to register with the Department.	\$1,500 \$5,000
7:26-3A.8(a)1	Failure of a generator of RMW to register in the proper category.	\$1,000
7:26-3A.8(b)1	Failure of a commercial transporter of RMW to register with the Department.	\$5,000
7:26-3A.8(b)2	Failure of a non-commercial transporter of RMW to register with the Department.	\$2,500
7:26-3A.8(c)	Failure of commercial intermediate handlers and owner/operators of destination facilities to register with the Department.	\$5,000
7:26-3A.8(c)3	Failure of a non-commercial collection facility or an intermediate handler treating their own waste to register with the Department.	\$2,000
7:26-3A.8(d)1	Failure of commercial collection facility to register with the Department.	\$5,000
7:26-3A.8(d)5,6	Failure of a non-commercial collection facility to register with the Department.	\$2,000
7:26-3A.9	Failure of transporters', intermediate handlers' and destination facilities' supervisory personnel to attend an education and training session and disseminate information to employees.	\$2,000
7:26-3A.10(a)	Failure of generators of RMW to segregate for off-site transport prior to placement in containers.	\$1,000 \$3,000
7:26-3A.10(d)	Failure to handle a package of RMW mixed with other waste as RMW.	\$1,000 \$3,000
7:26-3A.11	Failure of a generator to ensure that	

	RMW is properly packaged before transporting or offering for transport off site.	\$1,000
		\$3,000
7:26-3A.12(a)	Failure to comply with RMW storage requirements.	\$1,000
		\$3,000
7:26-3A.12(b)	Failure to comply with RMW storage periods.	\$500
		\$1,000
7:26-3A.12(c)	Failure to secure sharps containers.	\$1,000
		\$3,000
7:26-3A.13(a)	Failure to comply with container decontamination and reuse requirements.	\$1,000
		\$3,000
7:26-3A.14(a)	Failure to comply with labeling requirements.	\$500
		\$1,000
7:26-3A.15(a)	Failure to comply with marking requirements.	\$500
		\$1,000
7:26-3A.16(a)	Failure to determine if waste is RMW.	\$1,000
		\$3,000
7:26-3A.16(d)	Failure to use properly registered transporters.	\$1,000
		\$3,000
7:26-3A.16(e)	Failure to dispose of RMW at an authorized facility	\$5,000
		\$10,000
7:26-3A.16(h)	Failure to comply with home self-care RMW requirements.	\$500
		\$1,000
7:26-3A.16(i)	Failure to get approval from the department prior to using an alternative or innovative technology for the treatment or destruction of RMW.	\$1,000
		\$5,000
7:26-3A.19	Failure of a generator to comply with tracking form requirements.	\$500
		\$2,000
7:26-3A.21	Failure to comply with generator record-keeping requirements.	\$500
		\$1,000
7:26-3A.22	Failure of generator to comply with exception reporting requirements.	\$500
		\$1,000
7:26-3A.25	Failure of generator with on-site incinerator to comply with recordkeeping requirements.	\$1,000
		\$3,000
7:26-3A.26	Failure of owner/operator of on-site incinerator to comply with reporting requirements.	\$1,000
		\$3,000
7:26-3A.27(i)	Failure of a transporter/collection facility to dispose of RMW stored in the vehicle within fourteen calendar days, or before it becomes putrescent.	\$2,000
		\$2,000
7:26-3A.28	Failure of a transporter to comply with RMW acceptance requirements.	\$3,000
		\$3,000
7:26-3A.30(a)1	Failure of vehicle to have fully enclosed,	

	leak resistant cargo carrying body.	\$2,000
7:26-3A.30(a)2	Failure to ensure RMW does not become putrescent and is not subjected to mechanical stress or compaction during loading and unloading or during transit.	\$2,000
7:26-3A.30(a)3	Failure to maintain cargo carrying body in good sanitary condition.	\$2,000
7:26-3A.30(a)4	Failure to securely lock unattended cargo carrying body.	\$5,000
7:26-3A.30(b)	Failure to comply with vehicle identification requirements.	\$1,000
7:26-3A.30(c)	Failure to manage RMW/solid waste mixture as RMW.	\$5,000
7:26-3A.31	Failure of transporter to comply with tracking form requirements.	\$2,000
7:26-3A.32(a)	Failure to deliver entire quantity of RMW to intermediate hauler, destination facility or next transporter.	\$1,000
7:26-3A.32(b)	Failure to contact generator for directions and make changes accordingly, if RMW cannot be delivered as intended.	\$1,000
7:26-3A.33(a)	Failure to comply with requirements for consolidating waste to a new tracking form.	\$2,000
7:26-3A.34	Failure of transporter to comply with recordkeeping requirements.	\$3,000
7:26-3A.35	Failure of transporter to comply with reporting requirements.	\$3,000
7:26-3A.37(a)	Failure of transporter to have an approved RMW spill management plan.	\$2,000
7:26-3A.37(b)	Failure of transporter to have a RMW spill containment and cleanup kit at all sites and in all vehicles used for the storage, handling, collection, treatment and collection of RMW.	\$2,000
7:26-3A.38(b)6	Failure of RMW incinerator to ensure waste stored overnight is effectively treated.	\$2,000
7:26-3A.38(b)7	Failure to maintain facility property surrounding the disposal area free of litter, debris, unprocessed waste, processed residues and effluents.	\$2,000
7:26-3A.38(b)8	Failure to ensure no odors are detected off-site.	\$4,000
7:26-3A.38(b)9	Failure to maintain all facility systems in manner that facilitates proper operation	

	and minimizes system downtime.	\$2,000
7:26-3A.38(b)10	Failure to maintain adequate water supply and fire fighting equipment, failure to post emergency numbers (fire, police, ambulance, hospital).	\$5,000
7:26-3A.38(b)11	Failure to effectively control insects, arthropods, rodents.	\$2,000
7:26-3A.38(b)12	Failure to maintain orderly operation and sanitary conditions.	\$2,000
7:26-3A.38(b)14	Failure to maintain O&M Manual at the facility.	\$3,000
7:26-3A.38(b)17	Failure of facility to accept RMW only from properly registered transporters.	\$2,000
7:26-3A.39 (i)1	Failure to ensure stored waste does not exceed 300,000 pounds or amount as specified in authorization.	\$2,000
7:26-3A.39 (i)2	Failure to ensure collection facility receives no more than 150,000 pounds of waste per day, or as otherwise indicated in authorization.	\$2,000
7:26-3A.39 (i)4	Failure to accept only RMW waste managed in accordance with N.J.A.C. 7:26-3A.	\$2,000
7:26-3A.39 (i)5	Failure to ensure only registered vehicles transport to and from facility.	\$2,000
7:26-3A.39 (i)6	Failure to ensure all waste at all times remains fully contained, and does not leak.	\$3,000
7:26-3A.39 (i)9	Failure to ensure no odors are detected off-site. Odor causing waste to be disposed of immediately.	\$4,000
7:26-3A.39 (i)10	Failure to implement and maintain effective security procedures.	\$2,000
7:26-3A.39 (i)13	Failure to implement routine housekeeping and maintenance procedures.	\$2,000
7:26-3A.39 (i)16	Failure to ensure truck queuing is minimized, on-site traffic controls implemented.	\$2,000
7:26-3A.39 (i)17	Failure to ensure RMW is not staged, placed or stored beyond confines of facility or vehicle.	\$2,000
7:26-3A.39 (j)2	Failure to maintain O&M Manual at the facility.	\$3,000
7:26-3A.39 (j)3	Failure to comply with training program requirements.	\$2,000
7:26-3A.39	Failure to maintain fire protection sys-	

(j)6	tems in operable condition, fire procedures posted.	\$5,000
7:26-3A.39	Failure to ensure that noise levels do not exceed standards set forth in N.J.A.C. 7:29.	\$4,000
(j)7		
7:26-3A.39	Failure to maintain on site operating records, O&M manual.	\$3,000
(j)8		
7:26-3A.39	Failure to maintain safety appliances in proper operating order, comply with O&M inspection schedules, maintain inspection records.	\$5,000
(j)9		
7:26-3A.39	Failure to comply with recordkeeping and reporting requirements.	\$3,000
(k)		
7:26-3A.40(c)3	Failure of intermediate handlers and destination facilities to ensure only approved treatment and destruction processes authorized by NJDEP and DOH are utilized.	\$2,000
7:26-3A.41	Failure to comply with tracking form requirements.	\$2,000
7:26-3A.42	Failure to comply with tracking form discrepancy requirements.	\$500
7:26-3A.43	Failure to comply with recordkeeping requirements.	\$3,000
7:26-3A.44	Failure to collection facilities, intermediate handlers and/or destination facilities to comply with additional reporting requirements.	\$2,000
7:26-3A.46	Failure of rail transporter to comply with tracking form requirements.	\$2,000
7:26-3A.47(a)	Failure of ensure alternative of innovative technology processes and any modifications are approved by the NJDEP and DOH prior to any marketing, sale or use in New Jersey.	\$5,000
7:26-3A.48(a,b)	Failure of an out-of-State organization using the U.S. Postal Service or other parcel service and disposing of regulated medical waste from New Jersey to comply with certification requirements.	\$2,000
7:26-3A.48(c)	Failure of a RMW generator to ensure that RMW waste is not sent to any out-of-State facility which does not have a certificate on file with the Department.	\$5,000

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

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

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

Rule	Rule Summary	Base Penalty
N.J.A.C. 7:26A-3.1(a)	Failure of approved recycling center to comply with all approval conditions.	\$2,000
7:26A-3.5(f)	Failure of recycling center to post a legible sign at the recycling center entrance indicating its approval and listing items detailed in 3.2(a)13i and ii.	\$500
7:26A.3.6	Failure to submit renewal application for a general approval to the Department at least three months prior to the current approval expiration and to comply with all submittal requirements.	\$1,000
7:26A-3.7(j)	Failure, within 45 days after expiration of the time period authorized by the limited approval to operate a recycling facility, to file a final report with the Department.	\$2,000
7:26A-3.7(k)	Failure of persons operating a limited approved recycling center to ensure that no illegal dumping occurs.	\$2,000
7:26A-3.8(a)	Failure to limit processing methods for tires to slicing, shredding, chipping, crumbing or other methods approved by the Department, prohibition to incinerating, landfilling, abandoning or otherwise illegally disposing of tires.	\$3,000
7:26A-3.8(b)	Failure by the owner or operator of the tire recycling center to ensure that no mosquito colony formation develops.	\$2,000

7:26A-3.8(c)	Failure of a tire, tree stump, tree part or wood waste recycling center to have an approved fire control plan.	\$5,000
7:26A-3.9(a)	Failure of recycling center to ensure the temporary storage of Class B recyclable material does not exceed the amount indicated in the general or limited approval to operate.	\$2,000
7:26A-3.9(b)	Failure of recycling center to ensure that unprocessed Class B recyclable material is not stored in excess of one year from the date of receipt,	\$2,000
7:26A-3.10	Failure of recycling center to comply with modification requirements.	\$2,000
7:26A-3.15(a)	Failure to ensure a general or limited approval to operate a recycling center is not transferred without prior approval of the Department.	\$5,000
7:26A-3.15(c)	Failure to provide one copy of written request to transfer approval to the recycling coordinator and one copy to the applicable municipal planning board.	\$2,000
7:26A-3.17(a)	Failure of recycling center to comply with recordkeeping and annual reporting requirements.	\$3,000
7:26A-4.1(a)1i	Failure of recycling center to ensure that recyclable material is separated at the point of generation from other waste material.	\$3,000
7:26A-4.1(a)1ii	Failure of recycling center to ensure only Class A, Class B or Class C materials are received, stored, processed or transferred at the center.	\$3,000
7:26A-4.1(a)1iii	Failure of recycling center to comply with commingling requirements.	\$2,000
7:26A-4.1(a)2	Failure of recycling center to ensure residue is not stored on-site in excess of six months.	\$2,000
7:26A-4.1(a)4	Failure of recycling center to store residue separately from recyclable material and in a manner which prevents run-off, leakage or seepage from the residue storage area into, on or around the soil of the residue storage area.	\$2,000
7:26A-4.1(a)5	Failure of recycling center to ensure hazardous wastes are not stored, proc-	

	essed or transferred at any recycling center.	\$5,000
7:26A-4.1(a)6	Failure of recycling center to ensure electronic components which contain polychlorinated biphenyls (PCBs) and which are attached to or detached from appliances or other scrap metal, are not shredded, sheared or baled.	\$5,000
7:26A-4.1(a)8	Failure to operate a recycling center in such a manner that the recycling center property is maintained free of litter and debris and such that tracking of mud into nearby streets is prevented.	\$2,000
7:26A-4.1(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	\$2,000
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.	\$2,000
7:26A-4.1(a)12	Failure of recycling center operator to ensure unauthorized access to center is controlled.	\$2,000
7:26A-4.1(a)13	Failure of recycling center operator to ensure areas of vehicular usage are suitably compacted and, where necessary, paved.	\$2,000
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
7:26A-4.4(a)	Failure by the owner or operator of a recycling center to provide a recycling tonnage report by February 1 of each year.	\$1,000
7:26A-4.4(b)	Failure by a transporter of recyclable materials to provide a recycling tonnage report by February 1 of each year.	\$1,000
7:26A-4.4(c)	Failure of exempt person to submit required tonnage reports by February 1 of each year.	\$1,000
7:26A-4.5(a)2	Failure of Class C yard trimming operator to ensure center has sufficient capacity to handle incoming volumes.	\$2,000
7:26A-4.5(a)3	Failure of Class C yard trimming operator	

	to have properly trained individual supervising operation, access to facility prohibited when center is closed.	\$2,000
7:26A-4.5(a)4	Failure of Class C yard trimming operator to ensure yard trimmings are only received during times when operator is present.	\$2,000
7:26A-4.5(a)5	Failure of Class C yard trimming operator to ensure all trimmings received are removed from bags, boxes.	\$2,000
7:26A-4.5(a)6	Failure of Class C yard trimming operator to initiate processing of incoming materials containing grass, within the working day.	\$2,000
7:26A-4.5(a)7i	Failure of Class C compost operators to attend, within one year of start up, approved composting courses.	\$2,000
7:26A-4.5(a)7ii	Failure of Class C compost operator to maintain improved active composting surface to prevent ponding or runoff.	\$2,000
7:26A-4.5(a)7iii	Failure of Class C yard trimming operator to moisten, without excess runoff, dry yard trimmings prior to windrow formation.	\$2,000
7:26A-4.5(a)7iv	Failure of Class C yard trimming operator to position windrows perpendicular to ground surface contours.	\$2,000
7:26A-4.5(a)7v	Failure of Class C yard trimming operator to install windsock.	\$1,000
7:26A-4.5(a)7vi	Failure of Class C yard trimming operator to comply with windrow composting requirements.	\$2,000
7:26A-4.5(a)7vii	Failure of Class C yard trimming operator to comply with material staging and processing buffer distance requirements.	\$2,000
7:26A-4.5(a)7viii	Failure of Class C yard trimming operator to comply with finished compost testing requirements.	\$2,000
7:26A-4.5(a)7xii	Failure of Class C yard trimming operator to comply with additional record-keeping requirements.	\$3,000
7:26A-4.5(b)1	Failure of Class C material operator to ensure center has sufficient capacity to handle incoming volumes.	\$2,000
7:26A-4.5(b)2	Failure of Class C material	

	operator to comply with composting structure requirements, no ponding, leachate control.	\$2,000
7:26A-4.5(b)3	Failure of Class C material operator to main fully enclosed operation.	\$2,000
7:26A-4.5(b)5	Failure of Class C material operator to comply with O&M manual requirements.	\$3,000
7:26A-4.5(b)7,8	Failure of Class C material operator to comply with employee training requirements.	\$2,000
7:26A-4.5(b)9	Failure of Class C material operator to have properly trained individual supervising operation.	\$2,000
7:26A-4.5(b)11	Failure of Class C material operator to comply with incoming organics processing timeframes and requirements.	\$2,000
7:26A-4.5(b)12	Failure of Class C material operator to ensure incoming, unprocessed material is not mixed with finished compost.	\$2,000
7:26A-4.5(b)13, 14	Failure of Class C material operator to meet PFRB criteria and requirements.	\$2,000
7:26A-4.5(b)16	Failure of Class C material operator to comply with 15 month finished compost storage requirement.	\$1,000
7:26A-4.5(b)18-21	Failure of Class C material operator to comply with monitoring and sampling requirements.	\$3,000
7:26A-4.5(b)22,23	Failure of Class C material operator to comply with additional recordkeeping requirements.	\$2,000
7:26A-4.5(c)1	Failure of Class C operator to comply with labeling requirements.	\$2,000
7:26A-4.5(c)2	Failure of Class C operator to comply with compost utilization requirements.	\$2,000
7:26A-5.1(a)	Failure to ensure no shearing, shredding, baling or other actions which could cause release of refrigerant fluid to take place, occurs prior to recovery of such fluid.	\$5,000
7:26A-5.1(b)	Failure to recover refrigerant fluid in	

	a manner such that no venting of refrigerant fluid occurs.	\$5,000
7:26A-5.1(c)	Failure to deliver recovered refrigerant fluid to a facility which has agreed to reprocess the fluid or, if such arrangements cannot be made, failure to store or dispose of the recovered fluid in accordance	
	with applicable rules and regulations.	\$5,000
7:26A-6.4(d)2	Failure of generator to ensure used oil is stored only in tanks, containers, or unit subject to N.J.A.C. 7:26G.	\$3,000
7:26A-6.4(d)3	Failure of generator to ensure used oil storage units are in good condition and not leaking.	\$3,000
7:26A-6.4(d)4	Failure of generator to comply with used	
	oil labeling requirements.	\$2,000
7:26A-6.4(f)	Failure of generator to comply with used	
	oil off-site shipment requirements.	\$2,000
7:26A-6.6(c)	Failure of a used oil transporter to have	
	EPA identification number.	\$2,000
7:26A-6.6(d)1	Failure of a used oil transport to comply with deliveries requirements.	\$2,000
7:26A-6.6(f)3	Failure of used oil transfer facility to	
	ensure used oil is stored only in tanks, containers, or unit subject to N.J.A.C. 7:26G	\$3,000
7:26A-6.6(f)4	Failure of used oil transfer facility to ensure used oil	
	storage units are in	
	good condition and not leaking.	\$3,000
7:26A-6.6(f)5	Failure of used oil transfer facility to comply with "secondary	
	containment for"	
	"containers" requirements.	\$3,000
7:26A-6.6(f)6	Failure of used oil transfer facility to	
	comply with "secondary containment for"	
	"existing aboveground tanks"	\$3,000
	requirements.	
7:26A-6.6(f)7	Failure of used oil transfer facility	

7:26A-6.6(f)8	to comply with "secondary containment for" "new aboveground tanks" requirements. Failure of used oil transfer facility	\$3,000
7:26A-6.6(g)	to comply with used oil labeling require- ments. Failure of used oil transfer facil- ity/transporter to comply with tracking requirements.	\$3,000
7:26A-6.7(b)	Failure of used oil processor/re- refiner to comply with notification requirements.	\$2,000
7:26A-6.7(c)1	Failure of used oil processor/re- refiner to comply with preparedness and preven- tion requirements.	\$2,000
7:26A-6.7(c)2i-v	Failure of used oil processor/re- refiner to comply with contingency plan requirements.	\$5,000
7:26A-6.7(e)2	Failure of used oil processor/re- refiner to ensure used oil is stored only in tanks, containers, or units subject to N.J.A.C. 7:26G.	\$5,000
7:26A-6.7(e)3	Failure of used oil processor/re- refiner to ensure used oil storage units are in good condition and not leaking.	\$3,000
7:26A-6.7(e)4	Failure of used oil processor/re- refiner to comply with "secondary containment for" "containers" requirements.	\$3,000
7:26A-6.7(e)5	Failure of used oil processor/re- refiner to comply with "secondary containment for" "existing aboveground tanks" require- ments.	\$3,000
7:26A-6.7(e)6	Failure of used oil processor/re- refiner to comply with "secondary containment for" "new aboveground tanks" requirements.	\$3,000
7:26A-6.7(e)7	Failure of used oil processor/re- refiner to to comply with used oil labeling	\$3,000

	requirements.	\$3,000
7:26A-6.7(f)	Failure of used oil processor/re-refiner to comply with analysis plan requirements.	\$5,000
7:26A-6.7(g)	Failure of used oil processor/re-refiner to comply with tracking requirements.	\$2,000
7:26A-6.7(h)	Failure of used oil processor/re-refiner to comply with operating record and reporting requirements.	\$3,000
7:26a-6.7(i)	Failure of used oil processor/re-refiner to use oil transporter with EPA identification number.	\$3,000
7:26A-6.8(b)	Failure of used oil burner facility to comply with burning restrictions.	\$3,000
7:26A-6.8(c)	Failure of a used oil burner facility to comply with notification requirements.	\$2,000
7:26A-6.8(e)2	Failure of used oil burner facility to ensure used oil is stored only in tanks, containers, or unit subject to N.J.A.C. 7:26G.	\$3,000
7:26A-6.8(e)3	Failure of used oil burner facility to ensure used oil storage units are in good condition and not leaking.	\$3,000
7:26A-6.8(e)4	Failure of used oil burner facility to comply with "secondary containment for" "containers" requirements.	\$3,000
7:26A-6.8(e)5	Failure of used oil burner facility to comply with "secondary containment for" "existing aboveground tanks" requirements.	\$3,000
7:26A-6.8(e)6	Failure of used oil burner facility to comply with "secondary containment for" "new aboveground tanks" requirements.	\$3,000
7:26A-6.8(e)7	Failure of used oil burner facility to comply with used oil labeling requirements.	\$3,000
7:26A-6.8(f)	Failure of used oil burner facility to comply with tracking requirements.	\$2,000
7:26A-6.8(g)	Failure of used oil burner facility to comply with notice requirements.	\$2,000
7:26A-6.9(b)	Failure of used oil fuel marketer to ensure shipments of off-specification	

	used	
	oil is sent only to used oil burner facilities that have EPA identification numbers and burns the used oil in a device as identified in N.J.A.C. 7:26A-6.8(b)1.	\$4,000
7:26A-6.9(c)	Failure of used oil fuel marketer to comply with on-specification used oil fuel requirements.	\$2,000
7:26A-6.9(d)	Failure of a used oil fuel marketer to comply with notification requirements.	\$2,000
7:26A-6.9(e)	Failure of used oil marketer to comply with tracking requirements.	\$2,000
7:26A-6.9(f)	Failure of used oil marketer to comply with Notice requirements.	\$2,000
§273.13	Failure of small quantity handler of universal waste to comply with waste management requirements.	\$2,000
§273.14	Failure of small quantity handler of universal waste to comply with labeling/marketing requirements.	\$2,000
§273.15	Failure of small quantity handler of universal waste to comply with accumulation time limits.	\$2,000
§273.16	Failure of small quantity handler of universal waste to comply with employee training requirements.	\$3,000
§273.18	Failure of small quantity handler of universal waste to comply with off-site shipment requirements.	\$2,000
§273.20	Failure of small quantity handler of universal waste to comply with exporting requirements.	\$2,000
§273.32	Failure of large quantity handler of universal waste to comply with notification requirements.	\$4,000
§273.33	Failure of large quantity handler of universal waste to comply with waste management requirements.	\$4,000
§273.34	Failure of large quantity handler of universal waste to comply with labeling/marketing requirements.	\$4,000
§273.35	Failure of large quantity handler of universal waste to comply with accumulation time limits.	\$4,000
§273.36	Failure of large quantity handler of	

	universal waste to comply with employee training requirements.	\$4,000
§273.38	Failure of large quantity handler of universal waste to comply with off-site shipment requirements.	\$4,000
§273.39	Failure of large quantity handler of universal waste to comply with waste tracking requirements.	\$4,000
§273.40	Failure of large quantity handler of universal waste to comply with exporting requirements.	\$4,000
§273.52	Failure of universal waste transporter to comply with waste management requirements.	\$3,000
§273.53	Failure of universal waste transporter to comply with storage time limits.	\$3,000
§273.55	Failure of universal waste transporter to comply with off-site shipment requirements.	\$3,000
§273.56	Failure of universal waste transporter to comply with exporting requirements.	\$3,000
§273.61	Failure of universal waste destination facility to comply with off-site shipment requirements.	\$4,000
§273.62	Failure of universal waste destination facility to comply with universal waste tracking requirements.	\$4,000

(Agency Note: N.J.A.C. 7:26-5.4(g)7 through 12 are proposed for deletion at 28 N.J.R. 1693(a), and are thus not proposed for recodification herein. If their deletion is not adopted at or prior to adoption of the instant proposal, those paragraphs will be recodified upon adoption.)

7:26-5.5 Civil administrative penalty determination

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

1. Because of the specific circumstances of the violation, the Department determines that the penalty amount under N.J.A.C. 7:26-5.4 would be too low to provide a sufficient deterrent effect as required by the Act; or

2. The violation is not listed under N.J.A.C. 7:26-5.4.

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

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

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

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

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

SERIOUSNESS

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

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

1. Major seriousness shall apply to any violation which:

i. Has caused or has the potential to cause serious harm to human health or the environment; or

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

2. Moderate seriousness shall apply to any violation which:

i. Has caused or has the potential to cause substantial harm to human health or the environment; or

ii. Substantially deviates from the requirements of the Act, or any rule promulgated, any administrative order, permit, license or other operating authority issued, any district solid waste management plan approved pursuant to the Act; substantial deviation shall include, but not be limited to, violations which are in substantial contravention of the requirements or which substantially impair or undermine the operation or intent of the requirement; and

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

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

1. Major conduct shall include any intentional, deliberate, purposeful, knowing or willful act or omission by the violator;

2. Moderate conduct shall include any unintentional but foreseeable act or omission by the violator; and

3. Minor conduct shall include any other conduct not included in (h)1 or 2 above.

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

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.

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

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

(b) Each day, from the day that the violator knew or had reason to know that 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 \$1,000 per violation.

(d) The Department may adjust the amount determined pursuant to (c) above to assess a civil administrative penalty in an amount no greater than the maximum amount

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

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

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

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

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

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

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

2. For any other refusal, inhibition, or prohibition of immediate lawful entry and inspection the civil administrative penalty shall be in an amount of not more than \$5,000 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.

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

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

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

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

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

(c) The base penalty shall be as follows:

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

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

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

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

7:26-5.9 Civil administrative penalty for economic benefit

The Department may, in addition to any other civil administrative penalty assessed pursuant to this subchapter, include as a civil administrative penalty the economic benefit (in dollars) which the violator has realized as a result of not complying with, or by delaying compliance with, the requirements of the Act, or any rule promulgated, any administrative order, permit, license or other operating authority issued, any district solid waste management plan approved pursuant to the Act. If the total economic benefit was derived from more than one violation, the total economic benefit may be apportioned among the violations from which it was derived so as to increase each civil administrative penalty assessment to an amount no greater than \$50,000 per violation.

7:26-5.10 Severability

If any provision of this subchapter or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications, and to this end, the provisions of this subchapter are declared to be severable.