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ENVIRONMENTAL PROTECTION

ENVIRONMENTAL REGULATION

SOLID AND HAZARDOUS WASTE MANAGEMENT PROGRAM

COMPLIANCE AND ENFORCEMENT

DIVISION OF COUNTY ENVIRONMENTAL AND WASTE ENFORCEMENT

Recycling Rules; Solid Waste Management Rules

Proposed Readoption with Amendments: N.J.A.C. 7:26A

Proposed Amendments: N.J.A.C. 7:26-1.4 and 5.4(g)1

Proposed Recodification: N.J.A.C. 7:26A-4.3 as N.J.A.C. 7:26A-1.7

Proposed New Rules: N.J.A.C. 7:26A-1.7, 8.3, 8.4, 9, 10, 11, and 12

Authorized By: Lisa P. Jackson, Commissioner, Department of Environmental Protection

Authority: N.J.S.A. 13:1E-1 et seq., 13:1B-3, 13:1D-1 et seq., 13:1E-9, 13:1D-125 et seq., 26:2C-1 et seq., 47:1A-1 et seq., 58:10-23.11 and 58:10A-1 et seq.

Calendar Reference: See summary below for explanation of exception to calendar requirement.

DEP Docket Number: 28-07-11/588

Proposal Number: PRN 2008-5

A public hearing concerning this proposal will be held on

Date: Monday, February 4, 2008

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Time: 9:00 AM until noon or until close of comments

New Jersey Department of Environmental Protection
Public Hearing Room
401 East State Street
Trenton, NJ 08625

Submit written comments by March 7, 2008 to:

Leslie W. Ledogar, Esq.
Attention: DEP Docket Number: 28-07-11/588
Office of Legal Affairs
New Jersey Department of Environmental Protection
401 East State Street, Fourth Floor
P.O. Box 402
Trenton, New Jersey 08625-0402

Written comments may also be submitted at the public hearing. It is requested (but not required) that anyone presenting oral testimony at the public hearing provide a copy of any prepared text to the stenographer at the hearing.

The Department of Environmental Protection (Department) requests that commenters submit comments on disk or CD as well as on paper. The Department prefers Microsoft Word 6.0™ or above. Macintosh™ formats should not be used. Each comment should be identified by the applicable N.J.A.C. citation with the commenter's name and affiliation following the comment.

Copies of this rule proposal document can be viewed or downloaded electronically from the Department's web page at www.state.nj.us/dep/rules.

The agency proposal follows.

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Summary

As the Department has provided a 60-day comment period on this notice of proposal, this notice is excepted from the rulemaking calendar requirement pursuant to N.J.A.C. 1:30-3.3(a)5.

The Recycling Rules, N.J.A.C. 7:26A, were scheduled to expire on November 18, 2007 pursuant to N.J.S.A. 52:14B-5.1. The expiration date was extended by 180 days to May 16, 2008, pursuant to N.J.S.A. 52:14B-5.1c, as a result of the timely filing of this proposal to readopt the rules. The Department has reviewed the Recycling Rules to determine whether the rules remain necessary, reasonable and proper for the purpose for which they were originally promulgated. The Department determined that amendments are necessary, reflect current recycling technologies, increase administrative flexibility, and to ensure consistency. The amendments proposed herein are the result of this review.

Additionally, the Department is proposing to revise references to “mercury containing devices” and “thermostats” to make the Recycling Rules consistent with the Federal Universal Waste Rules, incorporated in the Recycling Rules by reference. The Department is also proposing amendments that would exclude from the Recycling Rules or otherwise exempt from the requirement to obtain a Class C recycling center general approval certain composting activities (including those activities that occur on farms) and the receipt and storage of architectural salvage items at a commercial enterprise. The Department is also proposing several amendments that are designed to clarify that solid waste may not be permanently deposited on or under ground unless that material meets the definition of clean fill and is approved for beneficial reuse under the Solid Waste rules. The Department is also proposing to include a fee schedule for recycling centers that process multiple classes of materials. The Department is also proposing to combine the requirements for recycling of yard trimmings with the requirements for recycling Class C recyclable materials, since yard trimmings are a subset of Class C recyclable material. The Department is also proposing clarifications to the standards for the management of used oil, and is proposing to allow the repackaging of Class D oil-based finishes by large quantity handlers of universal wastes as long as this repackaging is conducted as provided in the rule. The Department is also proposing to exempt certain shipments from

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the transporter registration requirements; however, the Department proposes to strengthen the requirements governing vehicle maintenance for these transporters.

The Department is also proposing four new subchapters. First, the Department is proposing to recodify those portions of the penalty provisions of the Solid Waste rules that pertain to the Recycling Rules to a new penalties subchapter of the Recycling Rules. This proposed new subchapter identifies violations of the Recycling Rules as either minor or non-minor for the purpose of providing grace periods in accordance with P.L. 1995, c. 296, N.J.S.A. 13:1D-125 et seq., commonly known as the Grace Period Law. The proposed amended rules set forth how the Department will respond to any violation identified as a minor.

Second, the Department is proposing a new subchapter codifying standards for generators of source separated recyclable materials, which would be similar to the requirements for generators of hazardous waste set forth in the Hazardous Waste rules.

Third, the Department proposes codifying in one subchapter all of the requirements placed upon municipal governing bodies and other entities that are involved in municipal recycling for easy reference by town councils, citizens, and recycling coordinators.

Finally, the Department proposes a new subchapter codifying recycling standards that must be followed by the State's 22 solid waste management districts (21 counties and the Hackensack Meadowlands Commission, which manages the Hackensack Meadowlands District), as are mandated by the Solid Waste Management Act.

Subchapter Summaries

N.J.A.C. 7:26A was adopted to establish rules for the management of recycling facilities. The rules distinguish the operational requirements applicable to recycling centers from the requirements that are applicable to solid waste facilities. The rules provide the mechanism for the expansion of recycling facilities in an environmentally sound manner, and they provide uniform standards of operation for these facilities. The following is a summary of the substantive provisions of each subchapter proposed for readoption.

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N.J.A.C. 7:26A-1 sets forth the general requirements of the rules, including the scope, authority, construction and definitions applicable to the entire chapter. In addition, this subchapter describes the recycling activities that are exempted from these rules, and lists the criteria that must be satisfied in order to qualify for an exemption.

N.J.A.C. 7:26A-2 sets forth the fee schedule for recycling center general approvals and limited approvals, and compliance monitoring activities. Compliance monitoring activities include facility compliance inspections, case management, and other activities related to assessing compliance.

N.J.A.C. 7:26A-3 sets forth the procedures for obtaining, maintaining, modifying and transferring a recycling center approval. This subchapter also contains the criteria for denial or revocation of an approval and the means by which denials and revocations may be appealed. In addition, this subchapter contains the storage requirements for Class B recyclable materials. Class B recyclable materials include source separated, non-putrescible, waste concrete, asphalt, brick, block, asphalt-based roofing scrap and wood waste; source separated, non-putrescible, waste materials other than metal, glass, paper, plastic containers, corrugated and other cardboard resulting from construction, remodeling, repair and demolition operations on houses, commercial buildings, pavements and other structures; source separated whole trees, tree trunks, tree parts, tree stumps, brush and leaves provided that they are not composted; source separated scrap tires; and source separated petroleum contaminated soil. Finally, this subchapter establishes the recordkeeping and annual reporting requirements for recycling centers.

N.J.A.C. 7:26A-4 sets forth the operational standards applicable to all recycling centers. The standards pertain to the receipt, storage, processing or transfer of source separated recyclable materials and any residue that may result from the operation. In addition, the standards require all recycling facilities to be in compliance with Federal, State and local laws and regulations. Subchapter 4 also sets forth the tonnage reporting requirements for all recycling facilities. Appendix A to subchapter 4 also contains the Compost Quality Monitoring Parameters.

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N.J.A.C. 7:26A-5 sets forth the requirements for processing discarded appliances that contain refrigerants. Recycling facilities are required to capture refrigerant fluid prior to shearing, shredding or baling of discarded refrigerators and freezers. In addition, the captured refrigerant fluid is required to be transported to a facility that reprocesses the fluid to specifications suitable for reentry into commerce.

N.J.A.C. 7:26A-6 sets forth the Department's requirements for used oil recycling. This subchapter establishes the standards for used oil generators, collection centers or aggregation points, transporters and transfer stations, processors and re-refiners, and fuel marketers.

N.J.A.C. 7:26A-7 sets forth the Department's requirements for the management of universal waste. The universal waste rules streamline hazardous waste management standards for certain post-consumer-use hazardous wastes, including batteries, lamps, mercury-containing equipment, oil-based finishes and consumer electronics. The rules govern the collection and management of these widely generated wastes, thus facilitating environmentally sound collection and proper recycling or treatment. This subchapter establishes the general requirements for universal waste and the standards for small quantity handlers of universal waste; large quantity handlers of universal waste; universal waste transporters and destination facilities; and the export of universal waste. This subchapter also establishes the criteria and petition process for evaluating and listing additional hazardous wastes as universal wastes.

N.J.A.C. 7:26A-8 sets forth the reporting requirements for transporters of source separated recyclable materials that transport these materials to manufacturers or to recycling centers located out of State. This subchapter also provides an exemption from the solid waste transporter requirements for transporters of source separated Class B, Class C, or noncombustible Class D recyclable materials for shipment to certain listed facilities.

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Proposed amendments

In addition to the specific changes to the rule described below, the Department proposes to reformat the rule text where appropriate to make the rule easier to understand and to correct typographic, grammatical and citation errors throughout the rule.

Proposed amendments concerning mercury-containing devices

On August 5, 2005, the United States Environmental Protection Agency (USEPA) adopted amendments to the Federal Universal Waste Rules at 40 CFR 273 that classify mercury-containing equipment as a new category of universal waste and delete thermostats as a separate category (because thermostats are included in the category of mercury-containing equipment). Since the Department prospectively incorporated by reference any new Federal standards, and since the Department's current rules list thermostats and mercury-containing devices as universal wastes, the result is a duplicative set of regulatory requirements for these materials. The proposed amendments will correct this situation and will result in four categories of universal wastes that are Federally-listed (batteries, pesticides, lamps, and mercury-containing equipment) and two categories of universal wastes that are State-listed (oil-based finishes and consumer electronics).

Specifically, at N.J.A.C. 7:26A-1.3, the Department proposes deleting the definition of "mercury-containing device" and "thermostat." Additionally, at N.J.A.C. 7:26A-7.2(a), the Department proposes to delete paragraph (a)1, which lists mercury-containing devices as a universal waste additional to the Federal universal waste program. The Department also proposes deleting N.J.A.C. 7:26A-7.4(c) and 7.5(c), concerning how a small quantity handler and a large quantity handler, respectively, of universal waste must manage universal waste mercury-containing devices. The Department also proposes deleting N.J.A.C. 7:26A-7.7(b), concerning labeling requirements for containers containing mercury-containing devices. At N.J.A.C. 7:26A-1.3 (in the definition of "Class D recyclable material" and in the definition of "universal waste"), 3.19(b), 4.4(a), 4.4(b), 4.6, 4.6(a), and 7.1(e)4, the Department proposes to change the phrase "mercury-containing devices" to "mercury-containing equipment." At N.J.A.C. 7:26A-7.1(c)1, the Department proposes to delete the term "mercury-containing

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devices” from the list of State universal wastes to be added to the Federally-listed universal wastes at 40 CFR 273.1(a), because USEPA has recently added “mercury-containing equipment” to the Federal list. Finally, at N.J.A.C. 7:26A-1.3 (in the definition of “Class D recyclable material” and in the definition of “universal waste”), 3.19(b), 4.6, 4.6(a) and 7.1(e)1, the Department proposes to delete all references to thermostats.

Proposed farm feedstocks amendments

Proposed new N.J.A.C. 7:26A-1.1(e) excludes from the Recycling Rules composting certain site-generated farm feedstocks using low-level technology windrow composting if the composting is performed at a farm (as defined in the rules). To qualify for this exclusion, the composting area must be limited to three acres or less, no more than 5,000 cubic yards of feedstocks may be composted per year, and the finished compost must be used on site. In addition, the composting activity must comply with any applicable New Jersey Department of Agriculture, Natural Resources Conservation Service or other local, State or Federal requirement. On-site farm composting activities meeting these conditions pose little or no potential threat to human health and the environment and should be excluded from the Department’s recycling regulations.

As a companion amendment, at N.J.A.C. 7:26A-1.4(a)23, the Department proposes a new exemption from the requirement to obtain a Class C recycling center general approval for the receipt and composting of certain farm feedstocks using low-level technology windrow composting under specific conditions, if these activities are not otherwise excluded from the requirements of the Recycling Rules pursuant to proposed new N.J.A.C. 7:26A-1.1(e), discussed above. The finished compost may be used on site or sold off site. The Department will allow this activity to be exempted provided that the composting area is limited to five acres or less, no more than 10,000 cubic yards of feedstocks are received per year and applicable permits or approvals have been obtained from the New Jersey Department of Agriculture and the Department (such as the Air Permitting Bureau). In addition, the composting activity may be located no closer than 200 feet from the farm’s property line. The composting operator must attend a composting training course within one year of start-up of the operation; proof of timely attendance must be retained by the operator and made available to the Department upon

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request. The Department believes that farm composting activities meeting these conditions pose little or no potential threat to human health and the environment and should be exempted from the requirement to obtain a Class C Recycling Center approval. Unlike farm composting activities that are exempt from the Recycling Rules under proposed new N.J.A.C. 7:26A-1.1(e), the farm composting activities regulated under proposed new N.J.A.C. 7:26A-1.4(a)23 would still be subject to the operating and reporting requirements of N.J.A.C. 7:26A-1.4(b).

Finally, at N.J.A.C. 7:26A-1.3 the Department proposes to define the term “farm” in order to accurately define the facilities on which composting activities that will be eligible for the proposed new farm composting exclusion at N.J.A.C. 7:26A-1.1 and the proposed new farm composting exemption at N.J.A.C. 7:26A-1.4(a) may occur.

Proposed clean fill amendments

At N.J.A.C. 7:26A-1.1(c), the Department proposes modifying the word “fill” with the adjective “clean” to ensure that only clean fill may be used as fill, and then, only if that fill has been approved under the Solid Waste rules at N.J.A.C. 7:26-1.7(g). This provision of the Solid Waste rules includes a mechanism by which the Department may approve for beneficial use materials that would otherwise fall under the definition of solid waste and whose disposal would be regulated under the Solid Waste rules.

In the definitions section of the Solid Waste rules, N.J.A.C. 7:26-1.4 and the Recycling Rules at N.J.A.C. 7:26A-1.3, the Department proposes to amend the definition of “clean fill” to specify that for materials to qualify as “clean,” the materials must not only be “uncontaminated” as defined elsewhere in these sections, but also must not have been affected by a discharge within the meaning of the Spill Compensation and Control Act, N.J.S.A. 58:10-23.11 et seq. and its implementing rules, have no visible staining (not including staining resulting from normal vehicular use and dripping of small amounts of vehicular lubricant), odor or other sensory nuisance resulting from contaminants associated with the material. This will help to ensure that only clean materials suitable for widespread use are used as clean fill. The Department is also specifying that the fill material not contain decomposable putrescible material that could cause nuisance odors or water pollution when the material is stored or used.

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The Department is also proposing to qualify that clean fill may include materials generated from Class B recycling centers, but only if the material is uncontaminated to prevent any spread of contamination to sites using recycled products from Class B facilities. The intentional dilution (such as by blending) of contaminants below the Department's specified acceptable contaminant levels in order to meet health-based or other environmental criteria or standards is strictly prohibited unless approved by the Department. Prohibiting blending to meet environmental criteria and standards will protect the environment by preventing generators of contaminated materials and solid wastes from spreading the contamination in the environment.

The Department is proposing to add a definition of "uncontaminated" to both the Solid Waste rules and the Recycling Rules that means that a material contains levels of Department-recognized contaminants below the levels recognized by the Department's codified criteria and standards, including but not limited to the applicable remediation standard as defined under the Technical Requirements for Site Remediation rules, N.J.A.C. 7:26E, the Radiation Cleanup Standards at N.J.A.C. 7:28, Ground Water Criteria at N.J.A.C. 7:9C and the Surface Water Quality Standards at N.J.A.C. 7:9B.

Finally, at proposed new N.J.A.C. 7:26A-1.1(d), the Department is proposing to specify that unprocessed recyclable materials, post-consumer materials, and used or abandoned materials that are stored, stockpiled or staged for a period longer than six months are solid waste that must be managed in accordance with the Solid Waste rules, N.J.A.C. 7:26. The following proposed exceptions apply to this proposed amendment: (1) the storage activity is exempt from the requirement to obtain a general or limited approval pursuant to N.J.A.C. 7:26A-1.4(a) and the materials are managed pursuant to N.J.A.C. 7:26A-1.4(b); (2) a general or limited approval to operate specifies a period that is longer than six months, pursuant to N.J.A.C. 7:26A-3.9; (3) a specific storage time limit is set forth in a limited or general approval issued pursuant to N.J.A.C. 7:26A; (4) the Department has authorized, in writing, a time period longer than six months; (5) the material is a product that has been produced by an approved or exempt recycling facility; or the material is approved for use as clean fill under N.J.A.C. 7:26-1.7(g). The Department believes that six months is normally sufficient time to store unprocessed recyclable materials, but recognizes that in many cases, storage of unprocessed recyclable materials longer than six months may be necessary for economic

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reasons. Six months is also the standard period that the Department uses to determine when a material that is abandoned or unprocessed becomes solid waste. See, for example, the definition of a sanitary landfill at N.J.A.C. 7:26-1.4 and the exemption for intraplant transfers at N.J.A.C. 7:26-1.1(a)6.

Other proposed amendments to Subchapter 1

At N.J.A.C. 7:26A-1.1(a), the Department is proposing to clarify that the chapter constitutes not only the rules governing the operation of recycling centers pursuant to the Solid Waste Management Act, N.J.S.A. 13:1E-1 et seq., particularly the New Jersey Statewide Mandatory Source Separation and Recycling Act, N.J.S.A. 13:1E-99.11 et seq., but also the conduct of generators and transporters of solid waste and the conduct of municipalities and counties that have jurisdiction over recyclable materials.

N.J.A.C. 7:26A-1.3 contains the definitions that are applicable to this chapter. The Department proposes to amend this section to add a definition for “architectural salvage item” to mean any component removed from a building that is scheduled for or undergoing demolition or renovation for the purpose of reinstallation in another building. The Department wishes to promote the salvage, storage, and reinstallation of architectural components. Accordingly, the Department also proposes exempting architectural salvage items from the requirement to obtain a general or limited approval pursuant to N.J.A.C. 7:26A-3 and the solid waste planning requirements at N.J.A.C. 7:26-6.10 and 6.11 (see proposed new N.J.A.C. 7:26A-1.4(a)24, discussed below).

The Department also proposes to define “area of human use or occupancy” as any commercial, residential, or active or passive recreational property and will refer to the area frequented by persons and not outer boundary areas of sites owned by persons that are not frequented for use by people. Use of this phrase in the rules will effectively slightly decrease buffer distances to adjoining property boundaries if the area of human use of the adjoining property is within the site area and not located near the property boundary.

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The Department also proposes to define “biomass” to have the same meaning as that assigned to this term in Executive Order No. 13134, published in the Federal Register on August 16, 1999, and as adopted by the New Jersey Board of Public Utilities at N.J.A.C. 14:8-2.2. Executive Order No. 13134 defines biomass as “. . . any organic matter that is available on a renewable or recurring basis (excluding old-growth timber), including dedicated energy crops and trees, agricultural food and feed crop residues, aquatic plants, wood and wood residues, animal wastes, and other waste materials.”

As a companion amendment, the Department proposes defining “old-growth timber” as wood or plant matter taken from a forest in the late successional stage of forest development, including plant matter taken from the forest floor. Late successional forests contain live and dead trees of various sizes, species, composition, and age class structure. The age and structure of old-growth timber varies significantly by forest type and from one biogeoclimatic zone to another. The Department is adopting the same definition of old-growth timber as is codified in Chapter 8 of the New Jersey Board Of Public Utilities’ Renewable Energy and Energy Efficiency rules (see N.J.A.C. 14:8-2.2) for consistency across State programs. The focus of N.J.A.C. 14:8 is to encourage the development of renewable sources of electricity and new, cleaner generation technology; minimize the environmental impact of air pollutant emissions from electric generation; reduce possible transport of emissions and minimize any adverse environmental impact from deregulation of energy generation.

The Department also proposes to amend the definition of “Class B recyclable material” to clarify that the condition that Class B recyclable materials must be uncontaminated applies to concrete, brick, block, and wood waste. Asphalt and asphalt-based roofing scrap contain bitumen, which contains contaminants of various compounds such as polycyclic aromatic hydrocarbons; accordingly, the rule as written implies an impossible requirement that these materials must also be uncontaminated to qualify as Class B recyclable material.

The Department also proposes to amend the definition of “Class C recyclable material” to include the biodegradable paper bags in which source separated yard trimmings, source separated biomass and lakeweed generated from the cleaning of freshwater lakes are stored.

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In the definition of “Class D recyclable material,” the Department proposes to delete the phrase “which is subject to Department approval prior to receipt, storage, processing or transfer at a recycling center in accordance with N.J.S.A. 13:1E-99.34b” from that part of the definition pertaining to used oil and add it to the introductory paragraph of the definition to clarify that all Class D recyclable materials (not just used oils) are subject to Department approval prior to management at a Class D recycling center. In addition, the Department proposes to add the phrase “a source separated recyclable material” to make definition consistent with the definitions of Class B and Class C recyclable materials.

The Department also proposes to amend the current definition of "generator" in order to conform the definition to the new rules added to these recycling rules for the standards for generators of source separated recyclable materials. The term “generator” is currently defined as a person that produces hazardous waste, which is inadequate given the new requirements for generators of source separated recyclable materials that the Department is proposing as new Subchapter 10. Heretofore, the chapter had referred to generators of used oil when destined for recycling, universal waste, which is hazardous waste but exempted from full regulation, source separated materials destined for recycling, solid waste and soils, as well as hazardous waste as defined at N.J.A.C. 7:26G. This clarification is needed to ensure that persons reading the Recycling Rules understand that the term “generator” applies to generators producing the many types of recyclable and other materials that are regulated pursuant to the recycling regulations.

The Department also proposes to define the term “grace period” as the period of time afforded under N.J.S.A. 13:1D-125 et seq., commonly known as the Grace Period Law, for a person to correct a minor violation in order to avoid imposition of a penalty that would be otherwise applicable for such violation. This term is used in proposed new Subchapter 9, described more fully below.

The Department also proposes amending the definition of “processing” to add the phrase “or transformation” after “treatment” for clarity.

The Department proposes to define the phrase “research, development and demonstration (RD&D) approval” as a certificate of authority to operate issued pursuant to the

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Solid Waste rules at N.J.A.C. 7:26-1.7(f) for a new or innovative technology or innovative operational process modification made to an existing recycling center or operation. N.J.A.C. 7:26-1.7(f) sets forth the criteria for specifically exempting RD&D projects from solid waste facility permitting requirements; these projects are instead authorized to operate under a permanent or temporary certificate of authority to operate, with or without conditions (see N.J.A.C. 7:26-1.7(a)). The Department is proposing to allow certain recycling center operators to use a certificate of authority to operate an RD&D project obtained pursuant to N.J.A.C. 7:26-1.7(f) in lieu of demonstrating compliance with various Recycling Rule requirements (see, for example, proposed new N.J.A.C. 7:26A-4.5(a)6, discussed below).

The Department proposes to delete the definition of “source separation” or “source separated” in favor of codifying the statutory definition of “source separated recyclable materials” found at N.J.S.A. 13:1E-99.12.

The Department proposes to define the term “source separated supermarket waste” or “SSSW” as waste that includes only vegetative waste, such as, but not limited to, flower waste, culled or spoiled produce and produce preparation trimmings. For the purposes of the recycling rules the Department is limiting the definition to solely vegetative materials that are able to be composted at the State’s approved Class C Recycling Centers along with the yard trimmings that are traditionally composted at these facilities.

The Department is proposing to amend the definition of “tank” to expand the types of materials that may be accumulated from only used oils to any recyclable materials, including, but not limited to, used oils.

The Department also proposes adding a definition for “thermal treatment” in order to be consistent with the new subsection N.J.A.C. 7:26A-4.8(c), which will require petroleum contaminated soils to be processed in a thermal treatment unit.

The Department is also proposing to codify the statutory definitions of the terms “total municipal solid waste stream” and “total solid waste stream” from N.J.S.A. 13:1E-99.12.

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The Department proposes to amend the definition of “used oil transfer facility” to clarify that, while used oil transfer facilities that store used oils for more than 35 days are subject to the used oil processor operational standards at N.J.A.C. 7:26A-6.7, those facilities that do not process used oils are not required to comply with the requirement at N.J.A.C. 7:26A-6.7(a)2vi to obtain a Class D recycling center approval. It has been the Department’s intent since the inception of this rule that only facilities that perform processing of used oils should be subject to the requirement to obtain a recycling center approval.

N.J.A.C. 7:26A-1.4 exempts certain activities from the requirements codified at Subchapter 3 concerning obtaining general or limited approval to operate a recycling center. The Department proposes to change the heading of N.J.A.C. 7:26A-1.4 to “Activities exempt from general or limited approval” to better identify the subject matter of this section.

N.J.A.C. 7:26A-1.4(a)1i exempts manufacturers from obtaining a general or limited approval, including asphalt manufacturing plants that receive certain types of recycled asphalt. The Department proposes amending N.J.A.C. 7:26A-1.4(a)1i to clarify that both asphalt millings and larger pieces of asphalt are suitable for recycling in asphalt manufacturing plants. These materials are readily recycled into new asphalt. The Department is also proposing to require that asphalt and asphalt shingles and roofing scrap must be delivered directly to the manufacturing plant from the site where generated unless intermediate storage is approved by the Department.

At proposed new N.J.A.C. 7:26A-1.4(a)1iii, the Department proposes to add an exemption from the requirement to obtain a recycling center approval for ready mixed concrete plants that receive recyclable concrete and/or block for introduction into the manufacturing process. The Department is proposing to allow ready mixed concrete plants that utilize uncontaminated source separated recyclable off-specification or surplus concrete and/or block manufactured on site as raw material in their concrete or aggregate manufacturing process. This exemption applies to recyclable concrete that is either aggregate in a fresh concrete mix generated by the original concrete manufacturer or is used as a sub-base product, but only if the recyclable concrete qualifies as exempt from solid waste regulation pursuant to N.J.A.C. 7:26-

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1.1(a)1 (concerning secondary non-hazardous materials that may be introduced into the economic mainstream as raw materials or as products).

N.J.A.C. 7:26A-1.4(a)2 provides that recyclable materials may only be used on site where all relevant approvals have been obtained. This provision emphasizes that an exemption from obtaining general or limited approvals for the receipt, storage or processing of source separated recyclable materials, where those materials are used at the point of generation, does not preempt local authority concerning issues under local jurisdiction, such as traffic or site construction. At N.J.A.C. 7:26A-1.4(a)2, the Department is proposing to specify that recyclable materials must be “uncontaminated” to qualify for on-site recycling. The proposed new definition of “uncontaminated” was discussed above.

At N.J.A.C. 7:26A-1.4(a)12, the Department is proposing to qualify that the leaf mulching activities on land deemed actively devoted to agricultural or horticultural use must also comply with the State Agricultural Development Committee rules at N.J.A.C. 2:76-2A.7, Natural resource conservation agricultural management practice. This amendment will help ensure that leaf mulching activity conducted for agricultural or horticultural use will be consistent with the most recent rules for farm activity developed by the New Jersey Department of Agriculture. N.J.A.C. 2:76-2A.7 establishes a generally accepted agricultural management practice for the implementation of a farm conservation plan for the conservation and development of soil, water and related natural resources on farmland. The Department wants to ensure that the application of leaves to farmland is in compliance with the farm conservation plan for the conservation and development of soil, water and related natural resources.

At N.J.A.C. 7:26A-1.4(a)13xi, the Department is proposing to rephrase the provision for clarity and to specify that the sign that identifies the hours of facility operation must be posted at the entrance to the facility.

The Department is proposing to amend N.J.A.C. 7:26A-1.4(a)17 to allow the repackaging of certain Class D recyclable materials. Under this proposed amendment, repackaging would include opening containers and transferring the contents of the opened container to other containers or tanks. Some examples of Class D recyclable materials that

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could be repackaged under this proposed amendment would be latex paints, antifreeze, and other non-hazardous recyclable materials. Repackaging is an important method of cost control for transportation and collection programs. Facilities will be allowed to open containers containing these materials and transfer the contents into other containers or tanks, and still remain eligible for the exemption from the requirement to obtain a Class D recycling center approval, as long as the materials are not used oil or universal waste, and as long as the operation complies with N.J.A.C. 7:26A-4.6 (concerning additional design and operational standards for Class D recycling facilities).

The Department proposes to amend N.J.A.C. 7:26A-1.4(a)18 to require that the receipt of yard trimmings for composting where the finished compost product is applied on site on land deemed actively devoted to agricultural or horticultural use also complies with the Agricultural Management Practices adopted by the State Agricultural Development Committee at N.J.A.C. 2:76-2A.8, Agricultural management practice for on-farm compost operations operating on commercial farms. N.J.A.C. 2:76-2A.8(a) provides that the New Jersey State Agriculture Development Committee (SADC) adopts and incorporates by reference the Natural Resource, Agriculture, and Engineering Service's Field Guide to On-Farm Composting, NRAES-114 (the Field Guide), as the agricultural management practice for on-farm compost operations operating on commercial farms. The Field Guide may be obtained as indicated at N.J.A.C. 2:76-2A.8(c). The Department wants to ensure that the composting of leaves on farmland is in compliance with the practices recommended by the SADC for the conservation and development of soil, water and related natural resources on farms managing leaves.

The Department is proposing to amend N.J.A.C. 7:26A-1.4(a)20 to require that recyclable materials must be "uncontaminated" to qualify for the construction company and contractor rule exemption at N.J.A.C. 7:26A-1.4(a)20

The Department proposes new N.J.A.C. 7:26A-1.4(a)20iii to require that the processing of construction and demolition debris shall be conducted at the contractor's or construction company's yard in accordance with applicable provisions of the Recycling Rules.

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N.J.A.C. 7:26A-1.4(b)4 exempts certain activities from the requirement to submit tonnage reports to the Department. The Department is proposing to amend this provision to add universal waste handlers and transporters and other facilities that transport, receive, consolidate or transfer Class D recyclable materials but do not process them, that are exempted activities pursuant to N.J.A.C. 7:26A-1.4(a)14, 15, 16 and 17, to the list of activities that are excepted from the requirement to submit annual tonnage reports to the Department. This information is received from other sources, such as recycling centers and out of State transporters.

The Department is proposing to amend N.J.A.C. 7:26A-1.4(b)6 to clarify that an exemption from the Department's rules under N.J.A.C. 7:26A-1.4(a) does not constitute an exemption from local zoning and site plan ordinances.

The Department proposes to amend N.J.A.C. 7:26A-1.4(b)7 to clarify that the holder of a general or limited approval or any person that conducts an activity described at N.J.A.C. 7:26A-1.4(a) at an approved recycling center, must comply with the approval modification requirements at N.J.A.C. 7:26A-3.10 and must be included in the district solid waste management plan. The proposed amendments clarify that any regulated activity listed at N.J.A.C. 7:26A-1.4(a) that is conducted at an approved recycling center is subject to all approval modification and solid waste management plan requirements and cannot operate as an unapproved exempt operation pursuant to N.J.A.C. 7:26A-1.4(a) at the site.

At proposed new N.J.A.C. 7:26-1.4(b)8, the Department is adding a new regulation stipulating that any person that holds a permit, certificate of authority to operate or other approval for a solid waste facility pursuant to N.J.A.C. 7:26 or a general or limited approval pursuant to N.J.A.C. 7:26A, that allows persons engaging in activities listed at N.J.A.C. 7:26A-1.4 the use of an access road through or on its site to a public thoroughfare, is subject to the district solid waste management plan requirements identified at N.J.A.C. 7:26-6.11 and the general approval modification requirements at N.J.A.C. 7:26A-3.10 for those additional activities associated with additional vehicular traffic conducted at the site of the solid waste facility or recycling center. The Department is proposing the new regulation because some operators of solid waste or recycling facilities have allowed vehicular traffic from facilities

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operating pursuant to N.J.A.C. 7:26A-1.4(a) to utilize their roads for access to public thoroughfares. This activity is not an activity that was approved by the district solid waste management district when the solid waste management plan was modified for the facility or the Department in reviewing traffic flow from the facility. The new regulation will ensure that facilities hold permits or approvals that reflect all of the activities at those sites.

At N.J.A.C. 7:26A-1.7, the Department proposes to recodify N.J.A.C. 7:26A-4.3, Right of entry and inspection, without change. The Department believes that Subchapter 1, General Provisions, is a more appropriate place for this rule because it applies to all facilities, including the facilities exempt from obtaining general approvals.

Other proposed amendments to Subchapter 2

The rules concerning annual fees for a general or limited approval to operate a recycling center for Class B, Class C and Class D recyclable material are codified in Subchapter 2 of the Recycling Rules. The provisions of N.J.A.C. 7:26A-2.1(b) apply to the annual fee for general approval and the monthly fee for limited approval. The Department proposes to delete “annual” from the subchapter heading, since the subchapter pertains to both annual and monthly fees.

At N.J.A.C. 7:26A-2.1(b)5, the Department is also proposing to include a fee schedule for recycling centers that process multiple classes of materials. After reviewing the various types of recycling centers (Class B, C, and D), which process source separated Class B, C and D materials respectively, the Department determined that at many of these facilities, activities had been approved by the Department for multiple classes of materials. Previously, to review and approve these multiple activities at a single site location for more than one class of material required the Department to assess a fee for each of the identified activities for a class of material in order to cover all program costs. The Department has determined that establishing a single fee for multi-class facilities would streamline the fee assessment process. Further, the Department proposes to establish a fee for multi-class facilities so as to encourage the existing facilities to incorporate additional activities, thereby eliminating the need for a newly expanded facility to be completely reevaluated. The establishment of a single fee for a multi-class facility

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would consolidate all components of the program cost assessments for the site activities for the other classes of recyclable materials into one charge, thereby creating a simplified fee structure for those facilities proposing to conduct multiple uses or activities at their site. In determining the combined fees for multi-class recycling centers, the Department has determined that there are economies realized for the administrative review and various approval support process costs that will be passed on to the applicants in the form of combined facility fees that are less than the sum of each of the classes of facility operating at the same site. While the Department is unable to quantify the costs savings for multi-class facilities due to the varying scope of combined facility operations and applications, the Department has generally reduced the multi-class facility fees by 50 percent of the lower of the fees of the individual facility classes incorporated into the combined approval. Modifications of multi-class facilities would be billed separately for each activity type being added to the existing facility. If more than one class activity type is added to the existing facility then the Department will assess the respective fee for each separate class type being added to the approval as is shown in the fee table at proposed new N.J.A.C. 7:26A-2.1(b)5.

Additional proposed amendments to Subchapter 3

Subchapter 3 contains the rules for obtaining approval of recycling centers for Class B, Class C or Class D recyclable materials. N.J.A.C. 7:26A-3.1 contains the general requirements applicable to all recycling centers which receive, store, process or transfer Class B, Class C or Class D recyclable material. The Department is proposing to delete N.J.A.C. 7:26A-3.1(c) in its entirety. The paragraph contains requirements applicable to facilities that received written Departmental approval to receive, store, process or transfer any source separated Class B recyclable materials prior to November 18, 1991. Since facilities that fall into this category no longer exist or have had their permits renewed, the requirements are no longer applicable to any facilities.

The Department is proposing to recodify N.J.A.C. 7:26A-3.1(d) as (c).

Additionally, at N.J.A.C. 7:26A-3.1(c), 3.6(a), 3.7(b), 3.7(j), 3.7(m), 3.10(c), 3.10(g), 3.13(b) and 3.15(c), the Department also proposes to replace the words "county" with "solid

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waste management district,” and “county plan” with “district solid waste management plan” to use current terminology. The Department also proposes to add “Hackensack Meadowlands Development Commission” along with “the board of chosen freeholders.” Pursuant to N.J.S.A. 13:1E-2.b(2), every county in the State and the Hackensack Meadowlands District is designated a solid waste management district; the proposed amendment comports the rule text with N.J.S.A. 13:1E-2.b(2).

The Department proposes recodifying N.J.A.C 7:26A-3.1(e) as (d) with an amendment that corrects the name of the Solid and Hazardous Waste Management Program.

N.J.A.C. 7:26A-3.2 contains the application procedures for general approval to operate a recycling center for the receipt, storage, processing or transfer of Class B, Class C or Class D recyclable material. The Department proposes to amend paragraph (a)9 regarding who must prepare, sign and seal a site plan map, by deleting the reference to N.J.S.A. 45:8-35.1 et seq. and the word “surveyor,” and adding the phrase “other professional qualified in accordance with the State Board of Professional Engineers and Land Surveyors rules, N.J.A.C. 13:40.” These proposed amendments will make the requirement consistent with the requirements set forth by the New Jersey Department of Law and Public Safety, and by the New Jersey State Board of Professional Engineers and Land Surveyors.

The Department also proposes amending N.J.A.C. 7:26A-3.2(a)18 to require the owner or operator of a recycling facility to provide a description of the leachate and storm water run-off and drainage control measures that will be used to meet the applicable provisions governing stormwater runoff codified in the Stormwater Management Rules at N.J.A.C. 7:8-5 and 6 and the Pollutant Discharge Elimination System rules at N.J.A.C. 7:14A-24 and 25. The Department intends to use this information to determine if the recycling activity would also warrant a separate stormwater permit.

At N.J.A.C. 7:26A-3.2(c) and 3.7(l), the Department proposes amending the name of the Solid and Hazardous Waste Management Program, due to the recent reorganization within the Department, and to include the program’s street address.

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N.J.A.C. 7:26A-3.7 contains the regulations governing the application procedure for limited approval to operate a recycling center for the receipt, storage, processing or transfer of Class B recyclable material. The Department is proposing to delete the word "receipt" from the heading of this section and from subsection (a) of this section and to insert the phrase "Limited Class B Recycling Center" in both places. These proposed amendments will clarify that Limited Class B Recycling Centers may only process Class B recyclable material generated on site and may not bring off-site generated Class B recyclable materials onto the site for processing for shipment off site. If a person who operates a recycling center wishes to bring off-site generated materials on site for processing for shipment off site, that person must obtain a recycling center general approval pursuant to N.J.A.C. 7:26A-3.

Also at N.J.A.C. 7:26A-3.7(a), the Department is proposing to further specify the unique circumstances under which a limited Class B recycling center may receive Class B recyclable materials for processing at the site. The proposed amendments will clarify that those processed materials and any end products must remain for use at the site of the Limited Class B Recycling Center and may not be shipped off site for any purpose. The limited approval is only appropriate for short-term on site projects and facilities will not be allowed to apply for a Limited Class B Approval as a precursor to or in lieu of obtaining a General Approval for a Class B Recycling Center.

At proposed new N.J.A.C. 7:26A-3.7(b), the Department is proposing to further restrict the circumstances under which approval to operate a limited Class B recycling center will be issued. Under the proposed new rule, approval may only be issued if the specific site has received no more than one other approval. Additionally, only one approval for one 180-day time period may be issued to any sites located contiguous to a site that has received a limited approval pursuant to N.J.A.C. 7:26A-3.7. The Department also proposes new N.J.A.C. 7:26A-3.7(g)3, which would make compliance with proposed new N.J.A.C. 7:26A-3.7(b) a precondition for issuing a limited approval to operate, and N.J.A.C. 7:26A-3.7(h)3, which would make the failure to comply with proposed new N.J.A.C. 7:26A-3.7(b) a condition for denying a limited approval to operate.

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The Department also proposes to recodify N.J.A.C. 7:26A-3.7(b) as (c) with amendments discussed above; subsections (d) through (e) as (e) through (f), (h) through (i) as (i) through (j), (k) as (l), and (n) as (o) with no change in text; and subsections (f) as (g), (g) as (h), (l) as (m) and (m) as (n) with the above-described amendments.

At N.J.A.C. 7:26A-3.9, the Department proposes to amend the section heading concerning the storage of Class B and Class D recyclable materials in order to clarify that this section of the rules applies only to those Class D recyclable materials that are not universal wastes. Universal wastes may be managed as Class D recyclable materials when shipped to an authorized Class D Recycling Center in New Jersey pursuant to N.J.A.C. 7:26A-7. However, since universal wastes are also State and Federally-regulated hazardous wastes, any storage of the unprocessed materials prior to recycling would require a Federal Resource Conservation and Recovery Act (RCRA) treatment, storage or disposal facility (TSDF) permit in addition to the Class D Recycling Center approval. The Department has sufficient flexibility to allow the short term staging of universal wastes prior to recycling, and may allow (on a case-by-case basis) up to a few days for the facility to introduce the unprocessed materials into the recycling process. However, a RCRA TSDF permit is required for any storage of unprocessed universal wastes for longer periods of time. To allow such storage without a RCRA permit would make New Jersey's program less stringent than the Federal RCRA program. Any storage of other unprocessed non-hazardous Class D recyclable materials (for example, used oils, antifreeze, latex paints, non-hazardous batteries, non-hazardous lamps, etc.) is allowable for up to one year pursuant to N.J.A.C. 7:26A-3.9, subject to the terms and conditions of the facility's Class D Recycling Center approval.

At N.J.A.C. 7:26A-3.10(a), (c), (d), (e) and (f), and at N.J.A.C. 7:26A-3.11, the Department is proposing to replace "owner or operator" with "holder of the general or limited approval" or "holder." This change is needed so that the rules apply to the person to whom the general or limited approval has been issued, rather than the owner or operator of the facility. The Department believes that this change will clarify different terminology used in the regulations where owner, operator, and holder of the general or limited approval are not the same person.

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The Department is proposing several amendments to N.J.A.C. 7:26A-3.12 that will effectively make this section apply to denials of a both new and existing general or limited approvals, and to the renewal of an existing general approval or an extension of a limited approval to operate a recycling center. Accordingly, the Department proposes to amend that title of this section to accurately reflect its contents upon amendment by adding the word “new” before the word general to clarify that the section applies to new general approvals , and the words “a renewal of an existing general approval or an extension of a limited approval” to operate a recycling center to clarify that position. Specifically at N.J.A.C. 7:26A-3.12(a)2 the Department deleting the words, “recycling center operating pursuant to a general approval” and is adding the words, an applicant for a general approval” to clarify that the responsibility for plan inclusion is on the applicant for the approval not the facility itself. Also in this paragraph the Department is also adding the words, “of a proposed recycling center” to make clear that the recycling center is the entity that must be included in the plan. At N.J.A.C. 7:26A-3.12(c) the Department is adding language clarifying that it denies the issuance of a new or renewed general approval or an extension of a limited approval and not the application for those approvals. Further at N.J.A.C. 7:26A-3.12(c) the Department is adding language clarifying the applicant for an approval, not the owner or operator, has the right to appeal the Department’s decision concerning the issuance of a new or renewed general approval or an extension of a limited approval.

At N.J.A.C. 7:26A-3.14(a)1, the Department proposes to add “ the terms of a general or limited approval” to clarify that an applicant may also appeal the individual terms of an issued general or limited approval, in addition to denial or revocation or modification decisions, and to recodify N.J.A.C. 7:26A-3.14(a)1 and 2 to (a)2 and 3, respectively.

At N.J.A.C. 7:26A-3.14(b), the Department proposes to replace the outdated CN number with PO Box number in the Department’s mailing address and to require that a copy of the hearing request be sent to the Solid and Hazardous Waste Management Program, Bureau of Recycling and Planning, at the indicated address.

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At N.J.A.C. 7:26A-3.15(b), the Department proposes to replace the word “holding” with “operating pursuant to” to clarify that a recycling center does not hold a general or limited approval, but rather, operates pursuant to a general or limited approval

At N.J.A.C. 7:26A-3.17(a), (b), (c) and (e), the Department proposes to replace the phrase “recycling centers holding” and “recycling centers operating pursuant to” with “holders of” a general approval to remain consistent with similar terminology used elsewhere in the rules and to avoid confusion.

Additional proposed amendments to subchapter 4

Subchapter 4 contains the design and operational standards and general rules for recycling centers that receive, store, process or transfer all four classes of recyclable materials, and also governs the Department’s right of entry and inspection. Since the Department is proposing to recodify the rule regarding the Department’s right of entry and inspection from N.J.A.C. 7:26A-4.3 to N.J.A.C. 7:26A-1.7, the Department proposes to delete “Right of Entry and Inspection” from the heading of Subchapter 4.

The Department also proposes adding “Design and” to the beginning of the heading of this subchapter to more accurately reflect the contents of this subchapter. At N.J.A.C. 7:26A-4.1(a)1ii, the Department is proposing to add an alternative to the requirement that Class B, C, or D recyclable materials must have been approved for recycling pursuant to N.J.A.C. 7:26A-3 for receipt, storage, processing or transfer under a general or limited approval. Under the proposed amendment, the materials may also be recycled as a part of an activity that is exempt from general or limited approval pursuant to N.J.A.C. 7:26-1.4.

At proposed new N.J.A.C. 7:26A-4.1(a)11, the Department is proposing to require that all recycling centers operate in conformance with municipal ordinances, including, but not limited to, ordinances concerning ingress and egress, traffic patterns, parking, signage, operational hours, noise, dust and structure height. The non-exclusive list of municipal ordinances is included to provide municipal and county planning officials with examples of

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those areas where the Department does not preempt their authority when dealing with Class A recycling centers.

At N.J.A.C. 7:26A-4.1(a)12, the Department is proposing to delete the phrase “adjacent residential, commercial and/or other sensitive land uses” in favor of the newly-defined phrase “areas of human use or occupancy.” The Department also proposes to require that buffers not only be established, but that they also be maintained.

At N.J.A.C. 7:26A-4.4(b), the Department proposes amending the Division name from the Division of Solid and Hazardous Waste to Solid and Hazardous Waste Management Program due to a recent reorganization within the Department, and adding the Department’s street address.

At N.J.A.C. 7:26A-4.5(a), the Department is proposing to delete “consisting only of yard trimmings” from the first sentence, and also throughout the paragraphs in N.J.A.C. 7:26A-4.5(a), and substituting “Class C recyclable materials” for “yard trimmings.” The Department compared N.J.A.C. 7:26A-4.5(a), applicable only to yard trimmings, to N.J.A.C. 7:26A-4.5(b), applicable to all other Class C recyclable material, and decided to simplify the regulations by combining requirements from subsections (a) and (b) into subsection (a) to make it applicable to all Class C recyclable material. The Department believes that, with this proposed change, the rule will have a broader application to all Class C recyclable material, and will be consistent with the rest of the rules.

At N.J.A.C. 7:26A-4.5(a)6, the Department is proposing to add “or other highly putrescible materials that are known to cause odors” after the word “grass” to broaden the applicability of the rule to any putrescible material, not just grass. Also, the Department proposes to delete the phrase “and processing of such material shall begin on the day of receipt.” Because of the consolidation of all processing-related conditions under subsection (a), this requirement will be relocated to proposed new N.J.A.C. 7:26A-4.5(a)7, discussed below. In addition, the Department proposes to allow processing of putrescible material in areas that are within 1000 feet of an area of human use or occupancy if the recycling center operation or receiving and preprocessing area is fully enclosed, or other measures approved by the

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Department are taken to prevent odors associated with the receipt of such materials from migrating off site and to prevent nuisance complaints. The Department may allow the holder of or applicant for a Class C Recycling Center General Approval to use a certificate of authority to operate an RD&D project obtained pursuant to N.J.A.C. 7:26-1.7(f) to demonstrate that the measures taken are suitable to prevent off-site impacts. These amendments are intended to allow more flexibility by allowing the use of alternative methods of odor control where a 1,000 foot buffer may not be feasible.

The Department proposes to recodify N.J.A.C. 7:26A-4.5(a)7 as (a)14 with amendments discussed further below. The Department proposes to recodify N.J.A.C. 7:26A-4.5(b)11 at proposed new N.J.A.C. 7:26A-4.5(a)7. This provision requires the processing of incoming material to begin within three calendar days of receipt, and will further require that, if the incoming material contains grass and/or other highly putrescible materials, processing of such material shall begin on the same day of receipt of such material. This amendment is necessary in view of the proposed merger of subsection (b) with subsection (a).

At N.J.A.C. 7:26A-4.5(a)10, the Department is proposing to change the requirement to publish the closure notice from at least 15 days to at least 30 days prior to closure, to make the requirement consistent with the current closure notice requirement for recycling centers that receive Class C recyclable materials other than or in addition to yard trimmings, found at N.J.A.C. 7:26A-4.5(b)27.

At N.J.A.C. 7:26A-4.5(a)11, the Department is proposing to require that the recycling center arrange for a final cleaning of any containers, equipment, machines, floors and recycling center surfaces in which Class C recyclable materials or residue were processed or stored. This requirement is currently codified at N.J.A.C. 7:26A-4.5(b)28.

At N.J.A.C. 7:26A-4.5(a)13, the Department is proposing to relocate N.J.A.C. 7:26A-4.5(b)25 with no change in text.

At N.J.A.C. 7:26A-4.5(a)14, the Department is proposing relocate N.J.A.C. 7:26A-4.5(a)7 with some amendments. The Department is proposing to change “yard trimmings” to

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“Class C recyclable material” for the reasons discussed above. At notes 1, 2, and 3 to the table under N.J.A.C. 7:26A-4.5(a)14vii, the Department is proposing to replace the word “operations” with “materials staging and processing” to clarify the area to which the setback requirements apply. Additionally, the Department is proposing to replace the words “sensitive land uses” with “area of human use or occupancy.” The phrase “sensitive land uses” was not defined. In this proposal, the Department is proposing to define “area of human use or occupancy” under N.J.A.C. 7:26A-1.3, discussed above, and to use this phrase in the notes to N.J.A.C. 7:26A-4.5(a)14vii.

At proposed new N.J.A.C. 7:26A-4.5(a)15, the Department proposes recodifying requirements from N.J.A.C. 7:26A-4.5(b) that are applicable to process Class C recyclable material other than yard trimmings. Specifically, at N.J.A.C. 7:26A-4.5(a)15i, the Department proposes recodifying the requirement from N.J.A.C. 7:26A-4.5(b)2 that the composting structure withstand wear and tare of normal operations, that the operating pad be impermeable and sloped to prevent liquids ponding, that leachate be directed to a leachate collection system, and that leachate control be provided wherever leachate is generated.

At proposed new N.J.A.C. 7:26A-4.5(a)15ii, the Department is proposing to recodify the requirements of N.J.A.C. 7:26A-4.5(b)3 and to further require that all recycling centers that receive materials other than yard trimmings be fully enclosed in a structure, or structures, with complete walls and roof and an air management system permitted by the Department pursuant to the Air Pollution Control Act rules at N.J.A.C. 7:27 and that is capable of removing odors and noxious compounds. A setback of 50 feet from the property line is required to allow observation of the entire facility and to provide a minimal noise buffer to the neighboring property. The Department has determined based on experience with several sites that have accepted food wastes that the impacts of odors and leachate runoff are too significant to continue to allow food wastes to be processed outdoors. While the Department is fully supportive of recycling efforts such as composting for food wastes, the recycling operations must be conducted in a manner that will be protective of human health and the environment and will not result in unwarranted leachate runoff and nuisance impacts such as severe odors. The Department may allow the holder of or applicant for a Class C Recycling Center General Approval to conduct a Research Development and Demonstration (RD&D) Project to

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determine if a complete and full enclosure is warranted based on the specific types of materials the facility would accept. Based on the outcome of the RD&D, the Department may in its discretion, grant the holder a conditional modification of its general approval allowing a modified structure and leachate control that will be protective of the environment and neighboring property owners.

At proposed new N.J.A.C. 7:26A-4.5(a)15iii through viii, the Department proposes relocating N.J.A.C. 7:26A-4.5(b)5 through 10 with amendments in the text that update cross references.

At proposed new N.J.A.C. 7:26A-4.5(a)15ix through xi, the Department proposes relocating N.J.A.C. 7:26A-4.5(b)12 through 14 with no change in the text.

At proposed new N.J.A.C. 7:26A-4.5(a)15xii through xvi, the Department proposes relocating N.J.A.C. 7:26A-4.5(b)18 through 23 with amendments that update cross references.

The Department proposes deleting N.J.A.C. 7:26A-4.5(b) in its entirety and recodifying subsection (c) as (b) with no change in text. See the summary discussion for N.J.A.C.7:26A-4.5 above.

At N.J.A.C. 7:26A-4.8(b)14, the Department is proposing to add an amendment requiring that all source separated petroleum contaminated soil be processed through a thermal treatment unit or other Department approved alternative technology. The Department is adding this requirement to ensure that suitable methods are used to process contaminated soils to remove contaminants and to ensure that the blending of petroleum contaminated soils with cleaner soils or other materials in order to dilute the contamination is not performed.

Additional proposed amendments to subchapter 6

Subchapter 6 contains the standards for the management of used oil. N.J.A.C. 7:26A-6.5 contains the standards for used oil collection and aggregation points. The Department is proposing to delete N.J.A.C. 7:26A-6.5(a)5 because the initial deadline for filing a notification

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to the Department is more than three years past, and the benefits to the public and the environment from the requirement to notify the Department upon the cessation of used oil collection is outweighed by the notification burden. The Department believes that the requirements at N.J.A.C. 7:26A-6.5(a)1 through 4 ensure that the needs of the public, such as adequate access to used oil collection centers, are met.

At N.J.A.C. 7:26A-6.5(e), the Department is proposing new requirements for County Recycling Coordinators designated pursuant to N.J.S.A. 13:1E-99.13.b.1. This new subsection will require them to maintain a current list of the county's used oil collection locations, both those that are required by law to accept used oil and those that are not. Without accurate and current lists, coordinators cannot ensure that sufficient locations exist for citizens who change the lubrication oil in their automobiles and other engines. Lack of updated lists impedes citing of new locations, enforcement of collection requirements, and publication of the locations to assist the public.

N.J.A.C. 7:26A-6.6 sets forth the standards for used oil transporter and transfer facilities. The Department is proposing to delete existing paragraph (d)2, in favor of a new paragraph (d)2 that clarifies that used oil that meets the Federal definition of a hazardous material in 49 CFR 171.8 must comply with the Federal DOT regulations as modified by the Transportation of Hazardous materials rules at N.J.A.C. 16:49-2.1 and the Motor Carrier Safety Regulations at N.J.A.C. 13:60.

N.J.A.C. 7:26A-6.6(f) concerns the standards for used oil storage at transfer facilities. At N.J.A.C. 7:26A-6.6(f)2, the Department is proposing to add an exemption from N.J.A.C. 7:26A-6.7(a)2vi for used oil transfer facilities where processing is not performed.

N.J.A.C. 7:26A-6.7 contains the standards for used oil processors and refiners. The Department proposes to amend "refiners" in the heading of this section to "re-refiners" to make the heading consistent with the rule text of this section that refers to "re-refiners."

The Department is proposing to amend N.J.A.C. 7:26A-6.7(a)2vi to clarify that processors and re-refiners of used oils are required to obtain a Class D recycling center

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approval pursuant to N.J.A.C. 7:26A-3. It has been the Department's intent that facilities that perform actual processing of used oils be subject not only to the operational standards for used oil processors and re-refiners at N.J.A.C. 7:26A-6.7, but also the requirement to obtain a recycling center general approval and be included in the district solid waste management plan pursuant to N.J.A.C. 7:26A-3 (see 28 N.J.R. 5360(a), 5379; December 16, 1996).

At N.J.A.C. 7:26A-6.7(f)1 the Department proposes to correct the cross reference from N.J.A.C. 7:26A-6.8(d) to N.J.A.C. 7:26A-6.9(c).

Additional proposed amendments to Subchapter 7

Subchapter 7 contains the standards for the management of Class D universal waste. At N.J.A.C. 7:26A-7.1(c)5, the Department is proposing to add a cross reference to 40 CFR 273.38(g), which requires that, if a large quantity handler of universal waste receives a shipment containing hazardous waste that is not a universal waste, the handler must immediately notify the appropriate regional EPA office of the illegal shipment, and provide the name, address, and phone number of the originating shipper, and indicates that the EPA regional office will provide instructions for managing the hazardous waste. This cross-reference was overlooked in the last rule readoption.

The Department is proposing to recodify N.J.A.C. 7:26A-7.4(d) and N.J.A.C. 7:26A-7.5(d) as 7.4(c) and 7.5(c) respectively, and to amend these provisions to add secondary containment requirements for small and large quantity handlers of universal waste oil-based finishes at N.J.A.C. 7:26A-7.4(c)3 and 7.5(c)4 respectively. These amendments will make the rules for handlers of oil-based finishes equivalent to the existing requirements for collectors and consolidators of latex paints and antifreeze operating under the terms and conditions of the exemption from the requirement to obtain a recycling center approval found at N.J.A.C. 7:26A-1.4(a)17, which require secondary containment.

Throughout N.J.A.C. 7:26A-7.5(d) (to be recodified at N.J.A.C. 7:26A-7.5(c)), the Department is proposing to substitute "oil-based finishes" for "universal waste finishes" to correct this typographical error.

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At proposed new N.J.A.C. 7:26A-7.5(c)1, the Department proposes to allow the repackaging of Class D oil-based finishes by large quantity handlers of universal wastes as long as this repackaging is accomplished in accordance with proposed new N.J.A.C. 7:26A-7.5(c)5. N.J.A.C. 7:26A-7.5(c)5 provides that the containers or tanks being used for repackaging are in good condition, are kept closed during storage, and are equipped with a secondary containment system. This flexibility will not be extended to small quantity handlers of universal wastes because they are not required to notify the Department of their activities. The proposed amendments will clarify that repackaging means the opening of containers and the transfer of the contents into other containers or tanks, and that the repackaging must be accomplished only in areas equipped with secondary containment. Repackaging is an important method of cost control for collection facilities; this activity should therefore not be prohibited.

The Department proposes recodifying N.J.A.C. 7:26A-7.5(e) as (d) and to amend the universal waste large quantity handler annual reporting regulations by adding a requirement that the large quantity handler identify the municipality of origin for all universal wastes that are shipped out-of-state for recycling. This requirement will not apply to any universal wastes that are destined for disposal and not for recycling. This information, along with the annual report and tonnage report information received from permitted in-State recycling centers, will allow the Department to evaluate the effectiveness of the statewide collection of universal wastes, and to correctly credit municipalities for tonnage recycled within their borders.

At N.J.A.C. 7:26A-7.7(b), the Department is proposing to remove the labeling requirement for mercury containing devices to be consistent with N.J.A.C. 7:26A-7.2.

Additional proposed amendments to Subchapter 8

Subchapter 8 contains the requirements for transporters of source separated materials. The Department is proposing to amend N.J.A.C. 7:26A-8.2 to add Class A recyclable materials to the list of classes of recyclable materials which qualify for the exemption from solid waste transporter requirements and to add manufacturers and scrap processing facilities to the list of locations which qualify as shipping destinations for these recyclables (see proposed new

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N.J.A.C. 7:26A-8.2(a)4 and 5). The amendments will also clarify that these exempt shipments must be for the purpose of recycling and not disposal.

At proposed new N.J.A.C. 7:26A-8.3, Prohibitions, the Department proposes to codify text that dovetails with the new text proposed at N.J.A.C. 7:26A-8.4, Transporters of recyclable materials (discussed below). Under proposed new N.J.A.C. 7:26A-8.3, transporters of recyclables are prohibited from mixing source separated recyclable material with waste unless granted an exception from the Department in the case of an emergency.

At proposed new N.J.A.C. 7:26A-8.4, the Department is proposing a new rule governing the transport of recyclable materials. It has come to the Department's attention that many transport units and vehicles that are used to transport recyclable materials are in poor condition, allowing release of their materials to the environment during transit. Such releases can endanger the health and safety of those transporting or working with these materials and the general public and could cause environmental harm should they contain contaminants that then enter the ground or surface waters of the State. Accordingly, the Department proposes to require at N.J.A.C. 7:26A-8.4(b) that transport units or vehicles must be maintained in good working condition, and when used for the transportation of recyclable materials, no littering, spillage, or emissions of recyclable materials is allowed (see proposed new N.J.A.C. 7:26A-8.4(a)). Proposed new N.J.A.C. 7:26A-8.4(c) requires that tarpaulins or covers shall also be provided and used as needed while transporting these recyclable materials.

Proposed new Subchapter 9

Proposed new N.J.A.C. 7:26A-9 establishes civil administrative penalty assessment procedures and civil administrative penalties for recycling violations of the Solid Waste Management Act, N.J.S.A. 13:1E1 et seq., and the Solid Waste Collection Regulatory Reform Act, N.J.S.A. 48:13A-1 et seq., respectively, or any rule promulgated, or any administrative order, permit, license or other operating authority issued pursuant to these Acts. This proposed new subchapter also establishes procedures for requesting adjudicatory hearings, subsequent to the assessment of civil administrative penalties or the issuance of administrative orders.

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Violations of the Recycling Rules have historically been handled under the Solid Waste rules at N.J.A.C. 7:26-5. This is partly because the regulatory structure for assessing penalties already existed in Chapter 26. Additionally, the Mandatory Source Separation and Recycling Act, N.J.S.A. 13:1E-99.11 et seq., is an amendatory and supplementary act to the Solid Waste Management Act (SWMA), N.J.S.A. 13:1E-1 et seq. Therefore, initially, it made sense to codify all violation summaries of the SWMA and its amending statutes in the same rules. However, the Recycling Rules at N.J.A.C. 7:26A have been significantly amended and supplemented since their initial promulgation. Therefore, the Department believes creating a separate penalty subchapter in N.J.A.C. 7:26A would be less confusing for the regulated community, and would act as a better deterrent to those who would violate these rules. While proposed N.J.A.C. 7:26A-9 is technically considered “new rules,” the penalty language and procedures proposed mirror the current penalty provisions for recycling-related violations in the Department’s Solid Waste rules at N.J.A.C. 7:26-5.

Proposed new N.J.A.C. 7:26A-9.1 sets forth the scope and purpose of the penalty rules. In accordance with the Department’s statutory authority, the Department may assess a civil administrative penalty of not more than \$50,000 for each violation of each provision of the authorizing statute, rule, administrative order, permit, license or other operating authority issued, or approved district solid waste management plan, with each day the violation continues a separate and distinct violation.

Proposed new N.J.A.C. 7:26A-9.2 sets forth the procedures for assessment and payment of civil administrative penalties. To assess a penalty under the authorizing statute(s) or implementing rules, the Department must, by means of a penalty assessment, notify the violator by certified mail or by personal service. Such notification must identify what provision (statute, rule, order, etc.) has been violated, concisely state the facts constituting the violation, specify the penalty amount imposed, and advise the violator of applicable rights to a hearing. Payment of the penalty is due upon receipt by the violator of the Department’s final order of a contested case or when a notice of penalty assessment becomes a final order. If no hearing is requested, the notice of penalty assessment becomes a final order on the 21st day following receipt by the violator of the notice. If a hearing is requested but denied by the Department, the notice becomes a final order upon receipt by the violator of the hearing denial. If a hearing is

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requested and held, the notice becomes a final order upon receipt by the violator of a final order of a contested case.

Proposed new N.J.A.C. 7:26A-9.3 sets forth the procedures to request an adjudicatory hearing to contest an administrative order or notice of civil administrative penalty assessment, and for conducting adjudicatory hearings. The proposed new rule requires the Department to conduct all adjudicatory hearings 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. To request a hearing, violators must submit the required information in writing to the address indicated. Such information includes the violator's defenses to the Department's findings, an admission or denial of each of the Department's findings, information supporting the violator's request, an estimate of the time required for the hearing, and, if necessary, a request for a barrier-free hearing location. A copy of the hearing request must also be submitted to the Solid Waste Compliance and Enforcement Program. This will enable the Program to begin the settlement process, if the appellant indicates a willingness to negotiate. If the hearing request is not received within 20 days after the violator receives the administrative order or penalty assessment, the Department must deny the request. The Department may also deny the hearing request if the violator fails to include all of the required information.

Proposed new N.J.A.C. 7:26A-9.4 sets forth the procedures by which the Department will determine and assess a civil administrative penalty for violation of the promulgated rules and creates the minimum or "base penalty" for certain violations. When establishing the base penalty, the Department assumes that the violation occurred in the least aggravating of circumstances and that the violator has been fully cooperative, has promptly implemented all appropriate mitigation or prevention measures, and has an otherwise satisfactory compliance or operating history. Base penalties are established at a level determined to be minimally necessary to deter future violations, and they assume that the violation was neither intentional nor even negligent, except as may otherwise be implicit in the particular infraction. The base penalties must have a deterrent effect sufficient to ensure that regulated entities do not avoid incurring the necessary costs to comply with the rules because it appears more cost-effective to instead pay penalties for violations. Therefore the creation of base penalties for violations ensures that all violators of the same regulatory provision are treated equally, eliminating any

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competitive advantage or disadvantage. To the extent that same violations are known to have occurred previously, however, the base penalty will be increased by severity factors identified in proposed N.J.A.C. 7:26A-9.4(f).

At proposed new N.J.A.C. 7:26A-9.4(g), the Department proposes to relocate the penalty tables currently codified in the Solid Waste rules at N.J.A.C. 7:26-5.4(g)9 through 14 at N.J.A.C. 7:26A-9.4(g)1 through 6 with amendments to the violation descriptions that match the proposed amendments to the respective rule text. The Department is also proposing new tables to be codified at N.J.A.C. 7:26A-9.4(g)7 through 10 for violations of proposed new Subchapters 8, 10, 11 and 12, respectively, the substantive requirements of which are discussed elsewhere in this summary.

The tables at proposed new N.J.A.C. 7:26-9.4(g) set forth the citation, a summary describing the violation and the corresponding base penalty, and the "Type of Violation," including one of two different designations, depending on whether the violation is minor (M) or non-minor (NM). A violation of the specific provision identified in the penalty table as minor would be subject to a grace period, provided that the violation meets the criteria of N.J.S.A. 13:1D-129b(1), (4) or (5), which are set forth in proposed new N.J.A.C. 7:26-9.10, discussed below. The length of the grace period, if any, is indicated in the column with the heading "Grace Period." The number in this column indicates the period of time, if any, the Department will allow a regulated entity to correct the violation.

The Department proposes that penalties under the Recycling Rules are to be assessed under proposed new N.J.A.C. 7:26A-9.5, Civil administrative penalty determination, rather than under N.J.A.C 7:26A-9.4 (discussed above) when a violation results in substantial actual or potential harm or is determined to be a substantial deviation from the requirements of a permit or regulation and/or there are aggravating conduct factors such as poor compliance or operating history or the violation was clearly foreseeable and could have been avoided. A penalty is also assessed under this section when a violation is not listed in the penalty tables at N.J.A.C 7:26A-9.4.

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Proposed new N.J.A.C. 7:26A-9.5(f) contains a penalty matrix according to which the Department assigns a penalty on the basis of both the seriousness of the violation and the conduct of the violator. Major violations are those that tend to cause a serious risk to the health, safety and welfare of the people of the State and the economic viability and competitiveness of the solid waste collection industry. Moderate violations would or could potentially result in a substantial risk to health, safety and welfare or to economic viability and competitiveness. Minor violations are those that are not included in either of the above categories or which are procedural in nature. Major conduct includes any deliberate or willful act. Moderate conduct includes those cases in which there is no evidence that the violation was intentional, but such may be inferred from the circumstances that the violator knew or should have known that the act or omission is a violation of the regulations. Minor conduct includes any violation which may not properly be included in the above two categories.

Proposed new N.J.A.C. 7:26A-9.6 establishes the civil administrative penalties for submitting inaccurate or false information in any application, registration, record or other document that is required to be maintained or submitted pursuant to the SWMA.

Proposed new N.J.A.C. 7:26A-9.7 establishes civil administrative penalties for failure to allow lawful entry and inspection. The Department will assess penalties under N.J.A.C. 7:26A-9.6 and 9.7 at the mid-point of their respective ranges and adjust based on the proposed enumerated factors.

Proposed new N.J.A.C. 7:26A-9.8 establishes civil administrative penalties for failure to pay a fee when due. This penalty will be set at the base penalty which varies depending on how many fees were not paid in a given calendar year. It may be adjusted upward, however, for failure to pay a fee within 30 days of receipt by the violator of a notice from the Department for nonpayment.

Proposed new N.J.A.C. 7:2A-9.9 enables the Department to include as a civil administrative penalty the economic benefit (in dollars), that the violator has realized as a result of not complying with, or delaying compliance with, the SWMA or its implementing rules.

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The overall civil administrative penalty assessment per violation, however, may be no greater than \$50,000.

The Department proposes that a violation of N.J.A.C. 7:26A-9.6 through 9.9 is non-minor; accordingly, the violations of these sections will not be subject to a grace period. A violation of any of the provisions of these sections prevents the Department from determining compliance with the SWMA and would materially or substantially undermine or impair the goals of the solid waste program, making the violations ineligible for a grace period under N.J.S.A. 13:1D-129(b)3.

Proposed new N.J.A.C. 7:26A-9.10(a) and (b) identify whether a violation could be considered a minor or non-minor violation. Proposed new N.J.A.C. 7:26A-9.10(c) identifies the general criteria for a violation to be considered a minor violation. These criteria codify the statutory criteria of N.J.S.A. 13:1D-129, the Grace Period Law. When the Department proposed “grace period” provisions to the Solid Waste rules, it explained the Grace Period Law and the rationale it generally used to apply the statutory criteria to violations of the Solid Waste and the Recycling Rules. See 37 N.J.R. 3130(a) (September 6, 2005).

More particularly, in applying the criteria, the Department has designated most of the violations listed in the tables at proposed new N.J.A.C. 7:26A-9.4(g) as minor. However, several broad categories of violations do not qualify as minor and are therefore designated as non-minor. For example, violations that may involve discharges, releases, or odors, and therefore are potentially detrimental to the environment are proposed to be classified as non-minor violations.

The Department also proposes designating as non-minor most violations regarding the burning of used oil, because of the potential for serious risk to the public’s health and safety.

The Department also proposes classifying those categories of violations that materially and substantially undermine or impair the goals of the regulatory program as non-minor. Specifically, violation of N.J.A.C. 7:26A-6.1(a)2i(1), which involves failure to manage used

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oil mixed with a listed hazardous waste in accordance with N.J.A.C. 7:26G, is an example of a violation that is proposed to be classified as non-minor.

The additional statutory criteria, (1), (4), (5), (6) and (7), regarding respectively, the intent of the violator, the duration of the violation, and whether it is a repeat offense, are fact-specific for each violation and must be considered on a case-by-case basis. Thus, each violation listed at N.J.A.C. 7:26A-9.4(g) that is identified as minor will be eligible for a grace period only if it meets the additional criteria in N.J.A.C. 7:26A-10.3 as discussed below.

Proposed new N.J.A.C. 7:26A-9.10(d)1 requires the Department or local government agency to issue a notice of violation to the person responsible for the violation. The notice must identify the violation, the statutory or other provision violated, and the length of the grace period. The notice is necessary in order that the person responsible may take advantage of the grace period.

If the person responsible demonstrates that he or she has corrected the violation within the applicable grace period, then proposed new N.J.A.C. 7:26A-9.10(d)2 provides that no penalty will be assessed for the violation. Moreover, the violation will not be considered in the calculation of the "severity penalty component" pursuant to proposed new N.J.A.C. 7:26A-9.4(f), which increase the applicable penalty based upon the number of previous offenses the responsible person has committed.

The Department proposes new N.J.A.C. 7:26A-9.10(d)3 in order that it can verify that the person responsible for a minor violation has taken appropriate measures to achieve compliance within the grace period. The responsible person must submit, in writing and certified in accordance with N.J.A.C. 7:26A-3.2(b)1, information detailing the corrective action taken or compliance achieved. The Department may perform an investigation to determine that the information submitted is accurate and that compliance has been achieved. Under proposed new N.J.A.C. 7:26A-9.10(d)4, if a person responsible for a minor violation seeks additional time beyond the specified grace period to achieve compliance, the Department or local government agency issuing the notice of violation may extend the grace period for up to an additional 90 days. In order to obtain an extension, the person responsible for the violation

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must submit a written request for an extension to the Department or local government agency one week prior to the expiration of the initial grace period, and explain why additional time is needed. The request must be certified in accordance with N.J.A.C. 7:26A-3.2(b)1. The Department or local government agency may, at its discretion, issue a written extension to the grace period specified in the notice of violation. No more than 90 additional days may be granted, in accordance with N.J.S.A. 13:1d-127(b).

As set forth at proposed N.J.A.C. 7:26A-9.10(d)4i through iv, in exercising its discretion to approve a request for an extension, the Department or local government agency will consider whether the violator has taken reasonable measures to achieve compliance in a timely manner, whether the delay has been caused by circumstances beyond the control of the violator, whether the delay will pose a risk to the public health, safety and natural resources, and whether the delay will materially or substantially undermine or impair the goals of the regulatory program. A person responsible for a violation may submit no more than one extension request for a violation specified in a notice of violation. (See proposed new N.J.A.C. 7:26A-9.10(d)6.)

If the person responsible for the violation fails to demonstrate to the Department or local government agency that compliance has been achieved within the period of time specified in the notice of violation or any approved extension of the grace period, then under proposed new N.J.A.C. 7:26A-9.10(d)5, the Department or a local government agency can impose a penalty retroactive to the date the notice of violation was first issued. Proposed new N.J.A.C. 7:26A-9.10(d)6 provides that no more than one request for an extension of a grace period may be requested.

Proposed New Subchapter 10

At N.J.A.C. 7:26A-10, the Department proposes to add new rules codifying standards for generators of source separated recyclable materials, which would be similar to the rules found in the hazardous waste regulations at N.J.A.C. 7:26G. Addition of such a subchapter would allow the Department to implement the Mandatory Source Separation and Recycling Act as it applies to generators of source separated recyclable materials. Municipalities are

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mandated by N.J.S.A. 13:1E-99.16 to establish recycling ordinances to require source separation in homes, businesses, and institutions; however, the Recycling Rules do not give concrete instructions as to the generators' obligations. While many generators are individuals who occupy homes, many other generators are managers of residences, or of businesses or institutions, who generate recyclable materials in the course of their business, and who in many cases fail to recycle this material. Accordingly, the Department proposes to codify rules to require generators to participate in their local recycling programs and comply with the requirements of those programs. Further, municipalities may issue exemptions from this requirement, but the rules require no follow-up to assure that the exemption is used correctly. Performance of municipalities has been spotty at best; accordingly, the Department is proposing new rules that specify how generators must perform in order to qualify for the exemption. These proposed new rules will allow Department to cite, and, ultimately, penalize a generator for non-compliance with municipal and county plans.

Proposed new N.J.A.C. 7:26A-10.1 states that anyone, whether in residential, commercial or institutional premises, who generates a material designated for separation in the relevant county, must comply with the recycling ordinance of the town in which they generate the material. It also provides that generators of designated recyclable materials who also generate used oil are subject to the rules codified at N.J.A.C. 7:26A-6 and 7, discussed above.

Proposed new N.J.A.C. 7:26A-10.2 requires generators to store source separated materials separately from solid waste and to place materials for collection as specified by the municipality in its ordinance.

Proposed new N.J.A.C. 7:26A-10.3 clarifies that commercial and institutional generators are responsible to know how much they recycle and to report tonnage of designated recyclable materials recycled each year, if the municipal ordinance requires them to do so.

Proposed new N.J.A.C. 7:26A-10.4 codifies a provision of N.J.S.A. 13:1E-99.16 discussed above. Generators may apply to the municipal coordinator or other representative of the governing body for an exemption from source separation. This proposed section states that they shall show that they can provide an alternate means of separation and diversion of a good

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portion of the county's and municipality's designated recyclable materials. They shall document this in writing through a contract or correspondence with the materials recovery facility that would provide the service. They shall also alert the coordinator if they change service providers. They shall also follow up with written documentation that the materials were diverted, reporting tons diverted. The generator, if granted the exemption, shall keep either the original letter of approval or a copy at the premises exempted, so that enforcement officers may review it. These provisions are designed to clarify that the generator is responsible to account for diversion of the designated recyclables that he or she produces.

Proposed New Subchapter 11

The purpose of proposed new N.J.A.C. 7:26A-11 is to codify the requirements placed upon the municipal governing bodies by the Act, and others needed to support recycling, in one subchapter for easy reference by town councils, citizens, and recycling coordinators. The Mandatory Recycling and Source Separation Act is explicit in several requirements for municipalities at N.J.S.A.13:1E-99.13b and 16, but these requirements are not codified in the Recycling Rules.

Proposed new N.J.A.C. 7:26A-11.1 provides that each municipality must designate a municipal coordinator and empower that person to implement a recycling program. This designation is critical to recycling success, since the coordinator, in coordination with other municipal officers, enacts the required components of the recycling program. Coordinators must see that collection takes place as intended. This means oversight of collection agents, and of residential, commercial and institutional generators of waste. Coordinators may be granted the authority to confer exemptions from source separation to commercial and institutional entities, upon confirming that the entity has obtained alternate provision of separation, generally in a materials recovery facility. If so, the coordinator must determine eligibility and review exempted generators' recycling reports annually, as specified below at N.J.A.C. 7:26A-11.5.

Coordinators must compile and submit recycling records to the Department annually, as set forth at proposed new N.J.A.C. 7:26A-11.2, and must educate residents of their obligations

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at least twice yearly, pursuant to proposed new N.J.A.C. 7:26A-11.3. Thus, it is important that municipalities appoint a capable coordinator. Accordingly, proposed new N.J.A.C. 7:26A-11.1(a)3 requires municipalities to offer training to their appointed coordinators, in order to expand their skills and better support the aims of the Mandatory Source Separation and Recycling Act. The Department finds that coordinators who obtain certification as recycling professionals are better prepared to fulfill the position and often bring about increased recycling participation. Training of other kinds, outside this structured program, can also build the coordinators' capacity to increase recycling. The municipality must pass a recycling ordinance to require residents to separate and collect, as directed, designated materials, and the ordinance must specify the identity of agents authorized to enforce its provisions and to issue fines as needed. The municipality must revise its master plan to assure that the design of new residential and commercial properties supports separation and collection of designated materials. The municipality shall arrange for composting of leaves.

Proposed new N.J.A.C. 7:26A-11.2 codifies the requirement found at N.J.S.A. 13:1E-99.16, that the municipality must submit a tonnage report. Specifically, the municipality must submit, between January 1 and April 30 of each year, a recycling tonnage report on forms provided by the Department or by electronic means as approved by the Department. Haphazard submission of reports each year has caused the Department to expend resources gathering and reformatting reports, and has delayed the Department's ability to analyze the outcome of each year's efforts. The Department hopes to alleviate this problem by requiring pre-approval of electronic submittals.

At proposed new N.J.A.C. 7:26A-11.3, the Department proposes to elaborate upon the statutory requirement that municipalities must educate their residents of their recycling obligations no less than twice a year. It sets forth a number of acceptable methods among which municipalities may choose. Municipalities may also use any other methods that satisfies the requirements.

At proposed new N.J.A.C. 7:26A-11.4, the Department proposes to require the municipal body to arrange for collection of designated materials either through municipal workers, contracted workers, cooperative agreements with other municipalities or the county,

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or through service contracted by residents. Such collection methods shall be sufficient to meet the recovery targets in the district recycling plans. They must find outlets for the materials collected. They may require that every solid waste transporter holding a certificate of public convenience and necessity and serving clients within the municipality bid on a contract for the collection or disposition of recyclable materials, if required to do so by the district recycling plan of the pertinent county. They shall review the municipal master plan, mentioned at N.J.A.C. 7:26A-11.1 above, so that it conforms to any changes to Federal, State, county and municipal laws or recycling policies, and they shall revise it to assure collection of designated recyclable materials within proposed new developments of housing (single and multiple family) and commercial and industrial properties. The Department notes that adequate planning at the time of development design supports strong recycling rates, and that such planning has been absent in many towns since the passage of the act. This section also specifies that each municipality may bar nighttime collection of recyclables, to avoid creation of a public nuisance. In short, the proposed regulations call upon municipalities to play a lead role in recycling.

At proposed new N.J.A.C. 7:26A-11.5, the Department proposes to address an exemption found at N.J.S.A. 13:1E-99.16. This statutory provision states that a municipal coordinator may find that source separation by a generator of designated recyclable materials is impractical, especially if the materials may be separated later by another entity. The Department notes that this has led to a laxity in source separation. Generators have assumed the exemption without confirmation by coordinators. Coordinators have failed to record which entities are exempted. Waste transporters have assumed the existence of exemption where none exists. Waste mixed with designated recyclable materials has been delivered to facilities not legally permitted to accept it. Municipal coordinators have been unwilling or unable to ascertain later separation of mixed materials. The Department supports the contention that, under certain circumstances, remote separation of designated materials is possible and desirable. In order to allow the exemption but prevent misuse, this section is proposed to do the following: It holds the municipal coordinator responsible for reviewing applications for exemption, to verify that the receiving facility has both capability and authority to divert designated materials. This is necessary because state records and investigations indicate that waste is presently traveling to materials recovery facilities that should not accept the waste, and

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to disposal facilities. It holds him or her responsible to then review the report provided by the generator showing that materials were indeed diverted. It requires the municipal coordinator to issue exemptions in writing, and to record the identities of exempted generators. The municipal coordinator must also revoke the exemption of entities unable to provide remote separation of designated materials. This amendment will clarify the requirements, and assist enforcement against violators. It may also cause municipal coordinators to grant the exemption from source separation with more discretion. The amendment also requires municipalities to offer a form or model letter to persons who seek this exemption, to standardize and clarify the process.

Proposed New Subchapter 12

The Solid Waste Management Act, N.J.S.A. 13:1E-21 et seq. and 13:1E-99.11 et seq., places many mandates upon the 22 waste management districts (of which 21 are counties and one is the Hackensack Meadowlands District). It is appropriate to codify these requirements in the Recycling Rules, and, where necessary, elaborate upon them to ensure that the Department receives the information necessary to assure that the counties meet those mandates. The statute requires counties to adopt recycling plans, designate county recycling coordinators who will, like municipal coordinators, undertake enforcement, assistance and education, designate recyclable materials to be diverted, according to feasibility and environmental benefit, plan collection and marketing, and track the success of diversion. The counties have not uniformly performed these statutorily mandated activities, and the following proposed amendments seek to clarify activities which must be completed to satisfy the statutory requirements and also provide the information needed by the Department to develop effective strategies to increase recycling.

At proposed new N.J.A.C. 7:26A-12.1, the Department defines the entities to which this new subchapter applies. While the Department generally refers to “the counties” as agents of recycling regulation, this section specifies that the counties’ boards of chosen freeholders are the entities legally bound to comply with these requirements. It also explains that the Hackensack Meadowlands Development Commission is to act in place of a freeholder board concerning the area within its jurisdiction. The section directs these bodies to designate a government body to implement a district solid waste management plan, which shall include a

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recycling plan. The Department understands that various boards will select and appoint different government bodies for this oversight.

At proposed new N.J.A.C. 7:26A-12.2, the Department proposes to require that the designated implementing agency prepare a district solid waste management plan and recycling plan to carry out the statutory requirements of the Act and of the Statewide Solid Waste Management Plan adopted by the Department. The text specifies that the agency shall update this plan as required by the Solid Waste Management Act, the Recycling Act or the Statewide Solid Waste Management Plan, to apprise the Department of changes to important aspects of implementation. These include: the identity of the designated agency itself, the responsibilities of multiple agencies, the 10 year inventory of waste generated in the district, the inventory of facilities operating within the district, the general strategy to dispose of waste over a 10 year period, and the procedure for including new facilities into the district plan in a timely fashion. The agency must likewise update its strategy for meeting statewide recycling goals, if it should make changes, specifying designated materials, service providers, marketers and processors available in the district, methods to educate regulated entities of their obligations to recycle, strategies for enforcement, and an analysis of how and how much the strategy will increase recycling in specific sectors. Given the many different strategies used by the counties, the Department needs these updates in order to understand the theory and practice of recycling in each county. The proposed rule further specifies that each county recycling plan shall include a strategy for collecting and marketing the designated materials in each municipality, through whichever means the county finds best, to assure collection and return to market of designated recyclable materials. These measures include agreements with service providers on behalf of the municipalities, agreements with municipalities themselves, interlocal service agreements, and joint service programs. The strategy shall address recovery targets for each town, in accordance with statutory requirements. This is to say that the implementing agency may, in its plan, set higher or lower targets for different municipalities in view of their past performance, and mix of residential and other properties, and any other unique traits of each municipality. These targets will in all cases provide for composting of leaves (which are banned from landfills).

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Proposed new N.J.A.C. 7:26A-12.3 requires the implementing body to appoint a recycling coordinator, whose duties include keeping track of the county's municipal recycling coordinators and of any exemptions to source separation that these coordinators may have issued. The coordinator would also be charged with overseeing the municipal recycling ordinances to assure that they are consistent with the county plans, and he or she would be required to meet with the municipal coordinators at least annually to monitor the towns' progress toward the recycling goals set forth in N.J.A.C. 7:26A-12.2.

Social Impact

The readoption of N.J.A.C. 7:26A will continue to provide reasonable and necessary standards for the regulation and management of solid waste, hazardous waste and recyclable materials. This chapter ensures that recyclable materials are collected, transported, stored, handled transferred, treated, processed, utilized, recovered, and disposed of/recycled in a manner which protects the environment and the public health, welfare, and safety of the general public. The rules proposed for readoption benefit the recycling industries as a whole by providing a consistent regulatory structure that treats the industry in a fair and equitable manner.

In renewing its mission to safeguard and promote a healthy environment, the Department is attempting to make substantive regulatory requirements as fair as possible for all segments of the regulated community, to facilitate voluntary exchange of information between regulator and permittee, to focus regulatory effort on areas of the industry most in need of improvement and to adjust fees to more closely reflect the Department's regulatory cost. The proposed amendments are intended to reform the regulatory process thereby encouraging compliance. This will enable the Department to continue to effectively and efficiently protect human health and the environment.

Relocating the recycling penalty summaries in N.J.A.C. 7:26A is expected to have a positive social impact. Relocation may result in better compliance with the recycling regulations since regulated entities will be more likely to be aware of the penalties for non-compliance.

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The proposed amendments regarding “clean fill” will have a positive social impact in helping to prevent the misuse of materials in the construction industry.

Proposed new at N.J.A.C. 7:26-1.4(b)8 will have no social impact.

At N.J.A.C. 7:26A-2.1(b)4, the Department is proposing to include a fee schedule for combined classes of recycling centers. The Department believes that establishing a simplified fee structure would result in a positive social impact. The establishment of a simplified fee structure would encourage a more efficient use of recycling centers by allowing them to implement additional activities at their current site locations.

The proposed amendments to the heading of N.J.A.C. 7:26A-3.9 concerning the storage of Class B and Class D recyclable materials at recycling centers will have a positive social impact because the amendments will help to eliminate confusion and will allow owners and operators of recycling centers to more fully understand the regulatory requirements for storage of universal wastes prior to recycling.

The proposed amendment to N.J.A.C. 7:26A-4.5(a)14ii, specifying that recycling centers that receive materials other than yard trimmings be fully enclosed in a structure, or structures, with complete walls and roof that and an air management system permitted by the Department pursuant to N.J.A.C. 7:27 capable of removing odors and noxious compounds will have a positive social impact by ensuring that such facilities will not cause nuisance impacts such as odors that would adversely affect property owners in the community.

At N.J.A.C. 7:26A-4.8(c)1 the Department’s proposal to add the requirement of having all soil facilities process petroleum contaminated soil by using Thermal Treatment or another Department approved alternative technology will have a positive social impact by codifying what is already in the Department’s Class B Recycling Center Approvals.

Proposed new N.J.A.C. 7:26A-4.8(c)4 through 11 will have a positive social impact. By providing sampling frequency guidelines, the Department will provide more clear and consistent rules and the regulated community will be better able to understand their obligations.

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The proposed deletion of NJAC 7:26A-6.5(a)5 will have no social impact on the general public, as it does not impact their ability to access used oil collection centers. The deletion will have a positive impact on used oil collection centers, as it will delete a regulatory requirement for which compliance would entail some cost.

The proposed amendments to the universal waste large quantity handler annual reporting regulations at N.J.A.C. 7:26A-7.5(e) (recodified as 7.5(d) in this proposal) adding a requirement that the annual report include an identification of the municipality of origin for universal wastes that are shipped out-of-state for recycling will have a minimal social impact.

The proposed new penalty rules at N.J.A.C. 7:26A-9 will have a positive social impact. They will provide the regulated community with a clear understanding of the consequences of violating the rules, administrative orders, general approval, or other operating authorities issued by the Department, thereby acting as a deterrent to non compliance. The public benefits from penalty provisions which provide an effective deterrent, since such provisions are designed to reduce the overall number and severity of violations.

The new N.J.A.C. 7:26A-10 would allow the average citizen, the business owner, and the municipal coordinator, as well as others, to understand the many requirements placed upon them by the Act. More thorough application of these requirements will result in greater equity in business, and better understanding of the role of government and the individual in pursuing shared goals. The Department finds that the general public supports recycling, but is unsure how it should be achieved. More specific regulations should have a positive social impact. More specifically, N.J.A.C. 7:26A-10.2 specifies that the generators must cooperate with municipal efforts to recycle, by separating and setting out materials as specified by the municipality in its ordinance. Likewise, N.J.A.C. 7:26A-10.3 clarifies that commercial and institutional generators are responsible to know how much they recycle each year, and N.J.A.C. 7:26A-10.4 clarifies that each generator is responsible to divert recyclable materials by proxy if not in person, and holds the final responsibility for recycling of his own materials. These provisions are designed to clarify that the generator is responsible to account for diversion of

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the designated recyclables that he produces. This promotes social responsibility for a clean environment.

The new N.J.A.C. 7:26A-11 will have a positive social impact by clarifying the requirements placed upon the municipal governing bodies by statute, and by gathering them in one place, for easy reference by town councils, citizens, and recycling coordinators. Specifically, N.J.A.C. 7:26A-11.1 will have a positive social impact in highlighting the importance of the appointment and training of a capable municipal recycling coordinator, and in reiterating the requirements of the Mandatory Separation and Recycling Act concerning the maintenance and timely reporting of accurate tonnage data and the passage of a supporting ordinance. Only through clear ordinances may the public understand its obligations, and only through training can the coordinators keep abreast of their profession.

New text at N.J.A.C. 7:26A-11.2 will have a positive social impact if it results in submission of clear, correct, timely, and properly formatted tonnage reports. These are necessary to the Department for adequate planning and leadership of the state's recycling program. In the absence of this, the general public sees less benefit from state government than should be possible, so adoption should have positive social impacts in making government more efficient and responsive. N.J.A.C. 7:26A-11.3 elaborates upon the statutory requirement that municipalities must educate their residents of their recycling obligations no less than twice a year. This reinforces the social value of personal responsibility for a clean environment. N.J.A.C. 7:26A-11.4 will have limited effect in most towns, since the municipal bodies have adequately arranged for collection of designated materials. However, those towns which have not performed well may through compliance with these proposed requirements build stronger community programs, thus strengthening social investment in environmental protection. The clarification of the source separation exemption at NJAC 7:26A-11.5 is intended to reinforce the dedication of the individual business operator to recycling and may have a positive social impact as it re-engages the public in personal responsibility for the environment.

The proposed subchapter at N.J.A.C. 7:26A-12 will have a positive social impact. The regulated community will have a clear understanding of who is responsible for the development of the district solid waste management and recycling plans and their requirements. The

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regulated community will be provided with a process for facilities to be included within the district solid waste and recycling plans. Also, the regulated community will be provided with the identity of the municipal recycling coordinators. This new chapter will also require a more active role by the county, and potentially increasing engagement of municipal coordinators in the county plan, but many counties will find themselves in compliance with new requirements and will not perceive any social change.

Economic Impact

The readoption of N.J.A.C. 7:26A will continue to provide regulatory standards and criteria regarding general and limited approvals and registration for recycling facilities. Accordingly, the economic impacts arising from compliance with the existing standards and criteria will continue.

All applicants for a general or limited approval to operate a recycling facility must comply with the appropriate information submittal requirements. The costs associated with complying with these requirements will vary according to the size and nature of the facility but will generally create a substantial economic impact on the applicant. Although these costs can be significant, the Department has determined that the information is required to properly evaluate the environmental impacts and safety of such proposed facilities.

The readoption of N.J.A.C. 7:26A will also continue the economic impact of operational standards, including recordkeeping and reporting. These standards provide the minimum design and operational criteria that the facilities must meet, and the recordkeeping and other information reporting requirements that approved recycling facilities must comply with on a regular basis. Facility operators will also experience costs related to compliance with the design and other technical criteria when constructing such facilities.

At N.J.A.C. 7:26-1.3, the Department is adding “if the products are uncontaminated” to the definition of “clean fill” at N.J.A.C. 7:26-1.4 in order to clarify that products from Class B recycling facilities may be used as clean fill only if they are uncontaminated. This amendment will have a positive economic impact in helping to prevent the misuse of materials in the

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construction industry which would have an adverse economic cost in terms of expense to remediate sites contaminated with materials that were contaminated.

Recycling facility owners and operators experience a direct economic impact from the requirement to pay the fees established in N.J.A.C. 7:26A-2. Class B, C, and D (recyclable material – other) recycling facilities can expect to spend \$8,286 annually to cover the cost of compliance monitoring. Class D (used oil) recycling facilities pay \$8,923, while recycling facilities with a limited Class B approval pay \$690.00 per month for each month of operation authorized by their approval.

The Department will also experience a direct economic impact from the readoption of N.J.A.C. 7:26A. The Department will need to cover the costs of the services it provides to the regulated community. These services include, but are not limited to, reviewing application and modification submittals, issuing letters of approval or denial for modifications, advising recycling center owners or operators on technical compliance matters, performing facility compliance inspections, conducting recycling market analysis and development activities, review and analysis of final report data and other technical analyses required to implement the recycling program. The Department expects to cover its costs of performing these services through the fees it collects from the regulated community.

The following is a description of the new or differing economic impacts of the proposed amendments and new rules:

Proposed new N.J.A.C. 7:26A-1.4(b)8 will have no economic impact.

At N.J.A.C. 7:26A-2.1(b)4, the Department is proposing to include a fee schedule for combined classes of recycling centers. The Department believes that with the establishment of a simplified fee structure for multi-use facilities, the potential for overfilling of assessments and program costs would be eliminated. The simplified fee structure would still include all program costs incurred by other programs for their individual reviews of applications but the recycling centers would be assessed only one fee as opposed to the assessment of multiple fees by each involved program. The proposed simplified fee structure would provide the recycling

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centers with an identified fee based on their proposed use. It is the Department's belief that the establishment of a simplified fee structure would serve to address one of the major concerns identified by recycling centers and the recycling industry and therefore would have a positive economic impact.

The proposed amendments to the heading of N.J.A.C. 7:26A-3.9 concerning the storage of Class B and Class D recyclable materials at recycling centers will have minimal economic impact because the amendments serve only to clarify an existing requirement and do not impose any new requirements.

The proposed amendment to N.J.A.C. 7:26A-4.5(a)14ii, specifying that recycling centers that receive materials other than yard trimmings be fully enclosed in a structure, or structures, with complete walls and roof that and an air management system permitted by the Department pursuant to N.J.A.C. 7:27 capable of removing odors and noxious compounds may result in somewhat, though modest, increased costs for food waste recycling. The regulation will require recyclers of food wastes to construct additional structures that are not required by the current rule. The costs of these structures and leachate control will be minimal on a unit-cost basis and the costs will be amortized over the entire timeframe of the years of operation of the facility.

The proposed amendments to the universal waste large quantity handler annual reporting regulations at N.J.A.C. 7:26A-7.5(e) (recodified as 7.5(d) in this proposal) adding a requirement that the annual report include an identification of the municipality of origin for universal wastes that are shipped out-of-State for recycling will have a minimal economic impact.

The proposed penalty provisions at N.J.A.C. 7:26A-9 will have a negative economic impact, but only on those who are assessed penalties, because they have violated the Department's recycling rules, order, approval, license or other operating authority. The extent of this economic impact will depend primarily upon the nature of the violation, but in some cases may depend in part upon the violator's conduct, compliance history, and remedial or

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preventive measures which the violator has taken. Regulated entities which do not violate the rules will suffer no negative economic impact from these penalty provisions.

Proposed new N.J.A.C. 7:26A-10 should not have any impact, positive or negative, to those generators in compliance with current municipal ordinances. Economic impact would affect those out of compliance. Specifically, those generators who are not source separating and will need to obtain an exemption pursuant to N.J.A.C. 7:26A-10.4 may see an impact. However, the impact will not be alike for all. Generators may find that they cannot send their non-separated recyclables to their present facilities if in fact those facilities are not proper recipients. They will need to expend more time separating these materials, and that will have a negative economic impact. On the other hand, their disposal fees may drop, and cause a positive economic impact. Materials recovery facility operators will see little if any impact. Some may lose incoming waste, if they cannot in fact recover sufficient materials. This volume is expected to be a small portion of total volume. Some materials recovery facilities may lose waste volume that they were not approved to accept in any case. Some facilities may gain contracts by accommodating generators with adequate diversion. Enforcement against generators or facilities is intended to have a sufficient negative effect to cause both parties to comply with municipal ordinance, state law and regulations. Therefore, these amendments should cause a distinctly negative economic impact for chronically non-compliant persons.

In general, proposed new N.J.A.C. 7:26A-11 would likewise have an economic impact upon municipalities not currently compliant with statutory requirements. Specifically, each municipality currently designates a coordinator, as specified at N.J.A.C. 7:26A-11.1, but may in the future need to allot monies to educational efforts to comply with proposed new N.J.A.C. 7:26A-11.1(a)3 and 11.3. They may also need to dedicate the time of a municipal employee to enforce the recycling ordinance, and any fines collected through this means may not recompense the municipality for their expenses. They may need to obtain hardware and software to maintain adequate records to comply with N.J.A.C. 7:26A-11.2, and may need to train coordinators to use these.

Arrangement for collection of designated materials pursuant to proposed new N.J.A.C. 7:26A-11.4 will not have an economic impact since most municipalities have performed this

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task, and all must occasionally revisit it. The review of the municipal master plan may have an economic impact upon towns to the extent that it review will take time. Developers will be economically impacted, albeit minimally, by the expense of revising plans to allow for recycling collection.

The proposed new duties at N.J.A.C. 7:26A-11.5 concerning the exemption from source separation will require more work by the coordinators but should not cause a town to incur additional costs. The receiving facilities will incur the expense of a yearly report to the generator or town, if they do not render one now.

The proposed subchapter at N.J.A.C. 7:26A-12 will have a neutral economic impact upon the regulated community. There are no new requirements imposed upon the regulated community that have not previously been required through the provisions of the Solid Waste Management Act or the Mandatory Source Separation and Recycling Act legislations. The proposed subchapter at N.J.A.C. 7:26A-12 only codifies previously required provisions of State law. This subchapter will provide the information necessary to develop and monitor programs for reducing and recycling the solid waste stream which in turn will reduce the amount of solid waste requiring disposal which will reduce the amount of money required to pay for the disposal of the waste.

Environmental Impact

The readoption of N.J.A.C. 7:26A will continue to provide for the environmentally sound management of recycling centers. The readoption of these rules will continue to have a positive environmental effect. This positive impact is realized through regulation of the collection, transportation, storage, handling, transfer, processing, utilization, reuse, recovery and disposal of recyclable materials in a manner that ensure protection of the environment and the health, safety and welfare of the general public. The readoption of these rules will ensure that properly designed, constructed, operated and maintained facilities are in place for the environmentally sound management of recyclable materials and that facilities which handle same, once terminated are properly closed and maintained during any post closure period.

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The proposed new penalty subchapter does not establish a significant change in the penalty policies or the regulations of the Department governing the recycling industry in the state. It is merely a relocation of the penalty provisions which existed in the solid waste regulations at N.J.A.C. 7:26 regarding recycling facilities. Nevertheless, creating a separate penalty subchapter in N.J.A.C. 7:26A should make the regulated community more aware of the consequences of violating rules and act as a better deterrent. Since violations of the regulatory requirements can result in serious harm to human health and the environment, these penalty regulations which are expected to reduce the overall number of violations, will result in a positive environmental benefit.

Proposed new N.J.A.C. 7:26A-1.1(d), clarifying that the Department will apply a six-month time limit to wastes that are stored or abandoned, will have a positive environmental impact. This time limit has been the Department's position in the past based on other rules but this regulation will make this policy clear to the regulated community which will have a positive environmental impact by ensuring that the rules are sufficiently clear.

At N.J.A.C. 7:26A-1.3, the Department is adding "if the products are uncontaminated" to the definition of "clean fill" at N.J.A.C. 7:26-1.4 in order to clarify that products from Class B recycling facilities may be used as clean fill only if they are uncontaminated. This amendment will have a positive environmental impact in helping to prevent the misuse of materials in the construction industry.

Proposed new N.J.A.C. 7:26A-1.4(b)8 will have minimal environmental impact such as the costs associated with modifying the permit or approval of the facility to accept traffic from the facility operating pursuant to N.J.A.C. 7:26A-1.4(a).

At N.J.A.C. 7:26A-2.1(b)4, the Department is proposing to include a fee schedule for combined classes of recycling centers. The Department believes that the establishment of a simplified fee structure for those facilities who propose to add additional activities beyond their currently approved operations would result in a positive environmental impact. By allowing operators of recycling centers to add additional uses beyond their approved operations would

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serve to allow for greater control of the operations by the Department since they would be constituted and occur at a single location. The establishment of a simplified fee structure would also serve as an inducement to operators of recycling centers to add additional uses that would play a leading role in reinvigorating recycling and has the potential to increase the overall recycling rates within the state.

The Department expects an overall positive environmental impact from the proposed changes to the heading of N.J.A.C. 7:26A-3.9 concerning the storage of Class B and Class D recyclable materials. The amendments clarify the Department's rules, thereby enabling the regulated community to more fully understand and comply with them.

The proposed amendment to N.J.A.C. 7:26A-4.5(a)14ii, specifying that recycling centers that receive materials other than yard trimmings be fully enclosed in a structure, or structures, with complete walls and roof that and an air management system permitted by the Department pursuant to N.J.A.C. 7:27-1 et seq. capable of removing odors and noxious compounds will have a positive environmental affect. The amendment will require recyclers of food wastes to construct additional structures that will protect the environment from the adverse affects of leachate runoff.

The proposed deletion of N.J.A.C. 7:26A-6.5(a)5 will have no environmental impact, as the ability of the public to properly manage used oil will not be affected.

The requirements of new N.J.A.C. 7:26A-10 are expected to have a strong positive environmental impact. Recycling, in general, creates a positive environmental impact in three ways: it prevents unneeded use of natural resources, profoundly decreases energy use and therefore air effluent and global warming, and it diminishes the need for disposal in landfills and incinerators. Waste sent without source separation to facilities incapable of recovering materials places a burden on human health and the environment. Stronger municipal responsibility for the recycling program will enhance citizen involvement in recycling and related programs, and will support good environmental stewardship.

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Proposed new N.J.A.C. 7:26A-10.1 clarifies that all persons are regulated. Proposed new N.J.A.C. 7:26A-10.2 specifies that they must comply with their municipal ordinances. Proposed new N.J.A.C. 7:26A-10.3 clarifies that commercial and institutional generators are responsible to know how much they recycle and to report tonnage of designated recyclable materials recycled each year, if the municipal ordinance requires them to do so. All these provisions allow the Department to assist the municipalities and counties in enforcing recycling provisions against recalcitrant generators. This is intended to boost diversion rate, to achieve the environmental benefits stated above.

Proposed new N.J.A.C. 7:26A-10.4 is also intended to curb generator misbehavior. The greater formality required in obtaining an exemption from source separation is expected to prevent the disposal of a significant portion of recoverable recyclable materials, resulting in greatly increased commercial diversion, and the subsequent environmental benefits of the diminished disposal.

Proposed new N.J.A.C. 7:26A-11 will have a positive environmental effect in towns where the recycling program is not effectively compelling diversion. Most municipalities already comply with most of proposed new N.J.A.C. 7:26A-11.1, but may need to increase enforcement activities, which will therefore have a positive effect through increased diversion and decreased disposal. Many will need to offer training to their appointed municipal recycling coordinators. This has been shown to increase diversion and participation, which results in environmental benefits. The provisions at proposed new N.J.A.C. 7:26A-11.1(b)3 are expected to have a very positive effect, because wise planning of new development greatly simplifies recycling collection. Better and prompter submittal of tonnage reports pursuant to proposed new N.J.A.C. 7:26A-11.2 may result in better statewide planning, which may have a positive environmental impact. Education, pursuant to proposed new N.J.A.C. 7:26A-11.3, is critical in fostering compliance among generators, and should have a strong positive impact, through increased diversion. The requirements of proposed new N.J.A.C. 7:26A-11.4 are not new to municipalities, and may not cause a discernable environmental impact in most towns. However, those that have not been diligent in assuring provision of recycling services should, through compliance with these provisions, see an increase in diversion, which creates a positive impact. The provisions of proposed new N.J.A.C. 7:26A-11.5 are expected to cause a strong

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positive environmental impact as described above. Specifically, the requirement at N.J.A.C. 7:26A-11.4(a) that coordinators shall review applications for exemption is expected to lead to the denial of invalid exemptions, and an increase in diversion. The requirement that the exemption be issued in writing will clarify the present confusion among generators, transporters, and MRFs, as to what is allowable, and allow for enforcement against improper disposal. This should lead to greater diversion.

Proposed new N.J.A.C. 7:26A-12 should have a generally favorable environmental impact because it will make the policies of the counties more transparent and consistent and thorough. The counties support and often organize the municipalities in their management of their recycling program, and therefore a clear mandate to an agency, pursuant to N.J.A.C. 7:26A-12.1, and a stronger county programs designed pursuant to N.J.A.C. 7:26A-12.2, and a coordinator with a strong mandate and clear authority pursuant to N.J.A.C. 7:26A-12.3 should bring greater diversion. Greater communication with the Department specified at N.J.A.C. 7:26A-12.2 and 12.4 will in turn help with statewide planning.

The proposed rules at N.J.A.C. 7:26A-12 will have positive environmental impact. This subchapter will provide the information necessary to develop and monitor programs for reducing and recycling the solid waste stream requiring disposal at the very limited and costly disposal options available to the counties.

Federal Standards Analysis

Executive Order No. 27(1994) and N.J.S.A. 52:14B-1 et seq. (P.L. 1995, c.#65) require State agencies which adopt, readopt or amend State regulations that exceed any Federal standards or requirements to include in the rulemaking document a Federal Standards Analysis. Recycling Rules are proposed under the authority of N.J.S.A. 13:1E-1 et seq., 13:1B-3, and 13:1D-9. New Jersey has been regulating solid and hazardous waste, including recyclable materials, since 1970. The United States Environmental Protection Agency (USEPA) has regulated solid and hazardous waste management since 1978. The two programs operate, for the most part, in conjunction and coordination.

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Except for the provisions noted below, the rules proposed for readoption and the proposed amendments and new rules are not proposed under the authority of or in order to implement, comply with or participate in any program established under Federal law. Accordingly, no comparison with Federal law is required under P.L. 1995, c.#65, and Executive Order No. 27(1994) for these provisions.

The readopted and amended used oil rules, and the readopted, amended and new universal waste rules, are developed under the USEPA used oil rules at 40 CFR Part 279 and the USEPA universal waste rules at 40 CFR Part 273, respectively, as authorized under the Resource Conservation and Recovery Act (RCRA). To be authorized by the USEPA to implement the used oil and universal waste program in the State, New Jersey's regulations governing used oil and universal waste must be at least as stringent as the corresponding Federal requirements. The Department is proposing all of the substantive requirements of the USEPA universal waste rule, and proposing to retain the substantive requirements of the Federal used oil management standards. The proposed new rules for universal waste are essentially an incorporation by reference of the Federal program and do not include any standards or requirements which exceed the standards or requirements imposed by the Federal universal waste program. No further analysis of them, therefore, is required.

The rules proposed in readoption, and the proposed amendments and new rules regarding used oil, however, do contain some standards that exceed those of the Federal used oil program. Those areas where the proposed rules are more stringent than the comparable Federal rules are specifically identified and discussed below.

The Department believes that the penalties are necessary and reasonable in order to implement 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 and to implement its recycling program generally. Creating new Subchapter 9 will continue to encourage compliance and discourage noncompliance with the State's recycling law and rules. Additionally, the Department has conducted an analysis of the proposed new penalty provisions and has determined that they do not exceed any standard or requirement imposed by Federal

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law; they are consistent with Federal law. Accordingly, no federal standard analysis is required with regard to the new penalty subchapter at N.J.A.C. 7:26A-9.

Jobs Impact

The rules proposed for readoption are not significantly different from those currently in effect. While these rules have been instrumental in creating jobs, overall they have not resulted in a significant generation or loss of jobs in the State. The Economic Impact statement above discusses the savings or costs that the Department expects the regulated community to realize from implementation of the rules. Because each member of the regulated community may respond differently to increases in permitting, inspection, and associated costs (that is, different strategies to address cost increases, and differing abilities to absorb them), it is not possible to estimate accurately the extent, if any, to which the rules proposed for readoption with amendments and new rules will affect employment. Furthermore, savings afforded by the proposed amendments may offset some of the costs incurred.

The adoption of the amendments and new rules regarding universal waste, however, is expected to create a modest number of jobs. Handling companies that only collect, store, and ship universal waste to recycling centers for treatment will generate a small number of jobs. The Department expects 15 to 20 facilities to begin recycling universal waste. Each of these facilities should employ about five or six employees. Thus, the new facilities could generate from 75 to 120 jobs. Facilities that are currently recycling universal waste under pilot projects may choose to expand their operations to handle newly listed universal wastes. Such expansion may also generate a modest number of jobs. The Economic Impact statement above discusses the savings or costs that the Department expects the regulated community to derive and/or expend respectively from adoption of the proposed provisions and new rules.

The proposed new penalty provisions merely relocate existing regulations and, therefore, are not a new burden to the regulated community. No facility will incur any penalty costs unless it commits a violation that results in a penalty assessment. Nevertheless, some businesses may experience savings or increased profits as a result of this rulemaking, while

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others may experience increased costs to comply. Each member of the regulated community will choose its own approach or combination of approaches to use those savings or address additional expenditures.

The majority of the costs associated with the proposed amendments are minor and, therefore, should have little or no impact on jobs in the State. As noted in the Economic Impact statement above, however, a number of the amendments proposed herein are expected to result in savings to the regulated community. Each member of the regulated community will choose its own approach or combination of approaches to use those savings. Examples of such approaches include increasing (or increasing the rate of growth of) any of the following: other business expenditures; dividends and other distributions; and compensation to management and other employees. In addition, reduced compliance costs could be passed on in the form of lower prices for goods and services sold by regulated companies. Conceivably, the savings could enable a regulated entity to increase the number of its employees.

Proposed new N.J.A.C. 7:26A-10 through 12 will have combined effects. In general, they should neither create nor eliminate jobs. It is possible that, due to the proposed requirements at N.J.A.C. 7:26A-10.4 and 11.5 for eligibility for exemption from source separation that materials recovery facility (MRF) will institute new programs to separate waste, and this would create jobs. This is by no means certain. It is also expected that the total effect of the new chapters will be an increase in diversion, and this should create new jobs, because recycling requires more people per ton managed than disposal. It is not possible at this time to know how many jobs would be created. The recycling industry in New Jersey employs approximately 27,000 people.

The adoption of the proposed rules at N.J.A.C. 7:26A-12 will have positive effect on jobs in New Jersey. The proposed rules will encourage the development of new facilities for the recycling of solid waste to meet the established goals, which could result in new employment opportunities.

Agriculture Industry Impact

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In accordance with N.J.S.A. 4:1C-10.3, the Right to Farm Act, the Department has reviewed the rules proposed for re-adoption with amendments and new rules and has determined that they will have a positive impact upon the agriculture industry because they contain many exemptions specifically designed to lessen the economic and other associated impacts on the agriculture industry. For example, farmers who generate an average of 25 gallons per month or less of used oil from vehicles or machinery used on the farm in a calendar year are not subject to the standards for used oil generators. Should an agricultural operation generate or manage regulated recyclables that are not specifically exempted, such agricultural operations are subject to the same requirements as other generators, transporters, or facilities for recyclable materials.

The proposed new rule exempting leaf mulching to allow farms to accept leaves in bags will increase the willingness of municipalities to contract with farms for leaf recycling. Farm operators may see increased revenue from this increase and from the increased tip fee that can be charged to handle the bagged material. Additionally, the new exemption for composting of yard trimmings with on-site use of product eliminates any artificial limits that may have prevented a farm from accepting the optimum amount of organic material needed to enrich the soil at the farm site. Here again, additional revenues can be realized by increasing the amount of yard trimmings accepted.

Regulatory Flexibility Analysis

In accordance with the New Jersey Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq., small businesses are defined as those that are independently owned and operated, not dominant in their field and which employ fewer than 100 fulltime employees. The Department believes that some of the businesses affected by the rules proposed for re-adoption with amendments and new rules are small business in accordance with the definition, for example, dry cleaners, auto body shops and related vehicle maintenance operations, schools, including high schools and college laboratories, warehouse operations, hospitals, printers, retail establishments, facilities which treat or otherwise process solid waste, composting facilities, recycling centers, independent recyclable materials haulers, and recreational facilities.

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In developing this proposal, the Department has reviewed the impact of the rules proposed for readoption on small businesses. The Department has determined that no blanket exemption to the rules can be granted to small businesses due to the necessity to protect public health, safety and the environment. The rules proposed for readoption, therefore, will continue the following impacts on small businesses. Small businesses will need to expend funds to ensure continued compliance with the rules proposed for readoption.

The Department is proposing, however, some amendments that minimize the impacts of the Recycling Rules on small businesses. While these amendments relieve some regulatory burden on small businesses, the Department believes they are still protective of public health and the environment. Specific impacts to small businesses from the proposed amendments and new rule are as follows:

Small businesses will need to expend funds to ensure continued compliance with the rules proposed for readoption. Compliance with the rule includes, but is not limited to, meeting the conditions of operation as specified in the facility's general or limited approval, complying with recordkeeping and reporting requirements, operating during approved hours, monitoring contaminant levels in recyclables received, maintaining required signage, and proper storage of materials. Small business will also need to expend funds to pay the costs of application and annual fees. For recycling facilities, these costs consist primarily of fees for application processing, conducting county and State wide recycling plan consistency reviews, consultant costs for advising applicants on technical deficiencies, as well as preparing approval or denial letters. These costs may vary among small business depending on the type and amount of recyclable handled.

Small businesses will incur the penalties established under the penalty rules proposed for readoption only if they are determined to be in violation of N.J.A.C. 7:26A. The regulations proposed for readoption continue to allow a small business responsible for a violation to avoid penalties if the violation is corrected within the time provided. This should encourage violators to achieve compliance in a timely fashion, avoid repetition of the violation without the use of penalty actions, and quickly and efficiently address minor compliance matters without the need for professional services.

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Specific impacts to small businesses from the proposed amendments and new rules are as follows:

Expanded exemptions

The Department expects an overall positive impact to small businesses with the amendments to the exemptions from obtaining a general approval for recycling activities. Many of the amendments broaden the types of activities which are exempt, thereby making it easier for small businesses to enter the market. (For a description of the compliance requirements associated with these proposed exemptions, see the Summary above.)

As stated above, the proposed deletion of N.J.A.C. 7:26A-6.5(a)5 will have a positive impact on the small businesses that operate as used oil collection centers, as this deletion will remove a regulatory requirement that results in increased costs on those small businesses.

Proposed new N.J.A.C. 7:26A-11 will place burdens on municipalities, many of which qualify as small businesses. Nevertheless, the Mandatory Source Separation and Recycling Act does not allow for lower standards for small municipalities. In order to meet the requirements concerning the appointment, training, and equipage of recycling coordinators, municipalities may seek to offset costs by sharing the services of these appointees. Over time, the financial benefits of increased diversion may offset the burden of administering the recycling program.

Smart Growth Impact

Executive Order No. 4 (2002) requires State agencies that adopt, amend or repeal any rule adopted pursuant to Section 4(a) of the Administrative Procedure Act, to describe the impact of the proposed rule on the achievement of smart growth and implementation of the New Jersey State Development and Redevelopment Plan (State Plan). The Department has evaluated this rulemaking to determine the nature and extent of the proposed rules' impact on smart growth and the implementation of the State Plan. The rules proposed for readoption with amendments to the do not involve land use policies or infrastructure development and,

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therefore,77777777 do not impact the achievement of smart growth. In addition, the proposed amendments are consistent with the goals and objectives of the State Development and Redevelopment Plan.

Since the proposed readoption and amendments will encourage protection of the environment, they support the conservation and environmental protection goals and policies underlying the State Plan.

Full text of the rules proposed for readoption may be found in the New Jersey Administrative Code at N.J.A.C. 7:26A.

Full text of the proposal follows (additions indicated in boldface **thus**; deletions indicated in brackets [**thus**):

CHAPTER 26 SOLID WASTE

7:26-1.4 Definitions

The following words and terms, when used in this chapter, shall have the following meanings unless the context clearly indicates otherwise.

...

"Clean fill" means an uncontaminated nonwater-soluble, nondecomposable, inert solid such as concrete, glass and/or clay or ceramic products **that has not been affected by release within the meaning of the Spill Compensation and Control Act, N.J.S.A. 58:10-23.11 et seq. and its implementing rules, and has no visible staining (not including staining resulting from normal vehicular use and dripping of small amounts of vehicular lubricant), odor, or other sensory nuisance resulting from chemical contaminants associated with the material. Nondecomposable means that the material does not contain putrescible material that could cause nuisance odors or water pollution.** Clean fill does not

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mean processed or unprocessed mixed construction and demolition debris including, but not limited to, wallboard, plastic, wood or metal. The non[-]water soluble, non[-]decomposable inert products generated from an approved Class B recycling facility, **Limited Class B recycling center or a facility acting in accordance with the requirements at N.J.A.C. 7:26A-1.4(a) for activities exempt from obtaining a general or limited approval**, are considered clean fill **if the products are uncontaminated and have not been blended or otherwise diluted to qualify as uncontaminated, unless approved by the Department.**

...

“Uncontaminated” means that a material contains levels of Department-recognized contaminants below the levels recognized by the Department’s codified criteria and standards, including but not limited to, the applicable remediation standard as defined under the Technical Requirements for Site Remediation rules, N.J.A.C. 7:26E, the Radiation Cleanup Standards at N.J.A.C. 7:28, Ground Water Criteria at N.J.A.C. 7:9C and the Surface Water Quality Standards at N.J.A.C. 7:9B.

...

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

(a) - (f) (No change.)

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

1. - 8. (No change.)

[9. 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 violation is minor or non-minor, the length of

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the grace period, and the civil administrative penalty amounts 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 recycling 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	\$4,500	NM	

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	center to ensure that no illegal dumping occurs.		
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.	\$4,500	NM
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 and Class D 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 and Class D recyclable material is not stored	\$4,500	NM

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	in excess of one year from the date of receipt.			
7:26A-3.10	Failure of recycling center to comply with modification requirements.	\$3,000	M	30
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	NM	
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.	\$3,000	M	30
7:26A-3.17(a)	Failure of recycling center to comply with recordkeeping and annual reporting requirements.	\$3,000	M	30

10. The violations of N.J.A.C. 7:26A-4, Design and Operational Standards and General Rules for Recycling Centers which Receive, Store, Process or Transfer Class A, Class B, Class C and Class D Recyclable Materials. Right of Entry and Inspection, whether the violation is minor or non-minor, the length of the grace period, and the civil administrative penalty amounts for each violation, are as set forth in the following table.

Rule	Rule Summary	Base Penalty	Type of Violation	Grace Period (days)
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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 materials are received, stored, processed or transferred at the center.	\$4,500	NM	
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	\$5,000	NM	

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	recycling center.			
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

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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 necessary, paved.	\$3,000	M	30
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 by the owner or operator of a recycling center to provide a recycling tonnage report by February 1 of each year.	\$3,000	M	30
7:26A-4.4(b)	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-4.4(c)	Failure of exempt person to submit required tonnage reports by February 1 of each year.	\$3,000	M	30
7:26A-4.5(a)2	Failure of Class C yard	\$3,000	M	30

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	trimming operator to ensure center has sufficient capacity to handle incoming volumes.			
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.	\$3,000	M	30
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.	\$3,000	M	30
7:26A-4.5(a)5	Failure of Class C yard trimming operator to ensure all trimmings received are removed from bags, boxes.	\$3,000	M	30
7:26A-4.5(a)6	Failure of Class C yard trimming 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 begin processing such material on the day of receipt.	\$3,000	M	30
7:26A-4.5(a)7i	Failure of Class C compost operators to attend, within one year of start up, approved composting courses.	\$3,000	M	90

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7:26A-4.5(a)7ii	Failure of Class C compost operator to maintain improved active composting surface to prevent ponding or runoff.	\$4,500	NM	
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.	\$3,000	M	30
7:26A-4.5(a)7iv	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)7v	Failure of Class C yard trimming operator to install windsock.	\$3,000	M	30
7:26A-4.5(a)7vi	Failure of Class C yard trimming operator to comply with windrow composting requirements.	\$4,500	NM	
7:26A-4.5(a)7vii	Failure of Class C yard trimming operator to comply with material staging and processing buffer distance requirements.	\$3,000	M	30
7:26A-4.5(a)7viii	Failure of Class C yard trimming operator to comply with finished compost testing requirements.	\$3,000	M	30
7:26A-4.5(a)7xii	Failure of Class C yard	\$3,000	M	30

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	trimming operator to comply with additional recordkeeping requirements.			
7:26A-4.5(b)1	Failure of Class C material operator to ensure center has sufficient capacity to handle incoming volumes.	\$4,500	NM	
7:26A-4.5(b)2	Failure of Class C material operator to comply with composting structure requirements, no ponding, leachate control.	\$4,500	NM	
7:26A-4.5(b)3	Failure of Class C material operator to maintain fully enclosed operation.	\$4,500	NM	
7:26A-4.5(b)5	Failure of Class C material operator to comply with O & M manual requirements.	\$4,500	NM	
7:26A-4.5(b)7	Failure of Class C material operator to comply with employee training requirements.	\$3,000	M	30
7:26A-4.5(b)8	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(b)9	Failure of Class C material operator to have properly trained individual supervising	\$4,500	NM	

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	operation.			
7:26A-4.5(b)11	Failure of Class C material operator to comply with incoming organics processing timeframes and requirements.	\$4,500	NM	
7:26A-4.5(b)12	Failure of Class C material operator to ensure incoming, unprocessed material is not mixed with finished compost.	\$4,500	NM	
7:26A-4.5(b)13, 14	Failure of Class C material operator to meet Process to Further Reduce Pathogens criteria and requirements.	\$4,500	NM	
7:26A-4.5(b)16	Failure of Class C material operator to comply with 15 month finished compost storage requirement.	\$3,000	M	30
7:26A-4.5(b)20	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(b)21	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(b)22	Failure of Class C	\$3,000	M	30

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	material operator to maintain required records.			
7:26A-4.5(b)23	Failure of Class C material operator to submit quarterly report to the Department within 30 days after the end of each quarter.	\$3,000	M	30
7:26A-4.5(c)1	Failure of Class C operator to comply with labeling requirements.	\$3,000	M	30
7:26A-4.5(c)2	Failure of Class C operator to comply with compost utilization requirements.	\$4,500	NM	

11. The violations of N.J.A.C. 7:26A-5, Requirements for Processing Discarded Appliances that Contain Refrigerant Fluid, whether the violation is minor or non-minor, the length of the grace period, and the civil administrative penalty amounts 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	\$5,000	NM	

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manner such that no venting of refrigerant fluid occurs.

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	NM
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12. The violations of N.J.A.C. 7:26A-6, Standards for the Management of Used Oil, whether the violation is minor or non-minor, the length of the grace period, and the civil administrative penalty amounts 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	\$5,000	NM	

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	accordance with N.J.A. C. 7:26G.			
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 quantifiable levels of PCBs.	\$5,000	NM	
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	\$5,000	NM	

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	using used oil as a dust suppressant.			
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 Equipment and Certificate to Operate Control Apparatus' prior to burning off-specification used oil in one of these devices.	\$5,000	NM	
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	\$4,500	NM	

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	oil in a space heater.			
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 7:26G-8 or 9.	\$3,000	M	30
7:26A-6.4(d)3	Failure of used oil generator to ensure containers or aboveground 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	\$4,500	NM	

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	oil in a space heater.			
7:26A-6.4(e)2	Used oil generator burned used oil in a 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 combustion gases from a space heater to ambient air.	\$4,500	NM	
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	\$3,000	M	30

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N.J.A.C. 7:26A-6.5(a).				
7:26A-6.5(b)2	Failure of do-it-yourselfer 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)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 (a)4i through v when performing the	\$4,500	NM	

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	listed activities.		
7:26A-6.6(b)	Used oil transporter conducted non-incident processing of used oil.	\$5,000	NM
7:26A-6.6(c)	Failure of used oil transporter and/or transfer facility to comply with the notification and/or EPA identification requirements.	\$5,000	NM
7:26A-6.6(d)1	Failure of used oil transporter to comply with delivery requirements.	\$4,500	NM
7:26A-6.6(d)2	Failure of used oil transporter to comply with 49 CFR 171 through 180 requirements.	\$4,500	NM
7:26A-6.6(d)3	Failure of used oil transporter to comply with used oil transportation discharge requirements.	\$4,500	NM
7:26A-6.6(e)1	Failure of used oil transporter 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-6.6(e)5	Failure of used oil transporter to retain records of analyses or	\$4,500	NM

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	other information, 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 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	\$4,500	NM	

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	existing aboveground tanks.			
7:26A-6.6(f)7	Failure of used oil transfer facility to comply with secondary containment requirements for new aboveground 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	\$4,500	NM	

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	processor 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	\$4,500	NM	

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	plan designed 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

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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	\$3,000	M	30

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	re-refining facility to review or 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 p.p. m. 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	\$4,500	NM	

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	fails the rebuttable presumption, for mixing as a hazardous waste, using a New 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 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	\$4,500	NM	

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	store or process used oil.			
7:26A-6.7(e)5	Failure of used oil processor or re-refining facility to comply with the secondary containment requirements for existing aboveground tanks used to store or process used oil.	\$4,500	NM	
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	\$10,000	NM	

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	<p>components, contaminated soils, and structures and equipment contaminated with used oil, and manage them appropriately.</p>		
7:26A-6.7(e)9i(2)	<p>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.</p>	\$10,000	NM
7:26A-6.7(e)9ii(1)	<p>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.</p>	\$4,500	NM
7:26A-6.7(e)9ii(2)	<p>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.</p>	\$10,000	NM

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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 requirements at N.J.A.C. 7:26A-6.7(f).	\$5,000	NM	
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	\$5,000	NM	

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	off-specification used oil in these devices without a 'Permit to Construct, Install or Alter Control Apparatus 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 p.p.m. 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 3 years.	\$4,500	NM	
7:26A-6.8(e)1	Failure of used oil burner storing used oil to comply with applicable Spill	\$3,000	M	30

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	Prevention, Control and Countermeasures regulations, Clean Air Act regulations or Underground 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 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

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	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 oil only to an authorized burner facility.	\$5,000	NM
7:26A-6.9(c)1	Failure of a used oil generator, transporter, processor/re-refiner	\$5,000	NM

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	<p>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.</p>		
7:26A-6.9(c)2	<p>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.</p>	\$4,500	NM
7:26A-6.9(d)1	<p>Failure of used oil fuel marketer to comply with notification and/or EPA identification requirements.</p>	\$4,500	NM
7:26A-6.9(e)1	<p>Failure of used oil fuel marketer to comply with invoicing requirements for off-specification used oil fuel.</p>	\$4,500	NM
7:26A-6.9(e)2	<p>Failure of used oil fuel marketer to comply with tracking requirements for shipments of off-specification used oil fuel.</p>	\$4,500	NM
7:26A-6.9(e)3	<p>Failure of first person claiming used oil fuel meets fuel specification at N.J.A.</p>	\$4,500	NM

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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

13. The violations of 40 CFR 273, Standards for the management of Universal Waste, whether the violation is minor or non-minor, the length of the grace period, and the civil administrative penalty amounts 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	

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§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

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§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 thermostats which show evidence of leakage, spillage or damage in a container that is closed, structurally sound, compatible with the contents of the thermostat, and non-leaking.	\$4,500	NM	
§273.13(c)2i	Failure of Small	\$4,500	NM	

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	Quantity Handler of Universal Waste to remove mercury-containing ampules in a manner designed to prevent breakage of the ampules.		
§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 CFR §262.34.	\$4,500	NM

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§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 transportation.	\$4,500	NM

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§273.13(c)13	Failure of Small Quantity Handler of Universal Waste, who removes mercury-containing ampules from thermostats, 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
§273.13(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

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§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 thermostats or containers of universal waste thermostats.	\$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

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§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 and emergency procedures.	\$4,500	NM
§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	\$5,000	NM

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	hazardous, and to properly manage the waste.			
§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-transport 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 papers for shipments of universal waste which are hazardous materials.	\$3,000	M	30
§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	\$5,000	NM	

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	facility for rejected shipments of universal waste.				
§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 N.J.A.C. 7:26.	\$3,000	M		30
§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	\$5,000	NM		

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	country and/or not in conformance with EPA Acknowledgement of Consent.			
§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 exceeding the 5,000 kg storage limit.	\$5,000	NM	
§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	\$4,500	NM	

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	evidence of leakage, spillage or damage in a container that is closed, structurally sound, compatible with the contents of the batteries, and non-leaking.		
§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 place universal waste pesticides in a container that is closed, structurally sound, compatible with the pesticide, and non-leaking.	\$4,500	NM
§273.33(b)2	Failure of Large Quantity Handler of Universal Waste to overpack containers of universal waste	\$4,500	NM

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	pesticides which did not meet requirements of 40 CFR §273.33(b)1.			
§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 thermostats which show evidence of leakage, spillage or damage in a container that is closed, structurally sound, compatible with the contents of the thermostat, and non-leaking.	\$4,500	NM	
§273.33(c)2i	Failure of Large Quantity Handler of Universal Waste to remove mercury-containing ampules in a manner	\$4,500	NM	

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	designed to prevent breakage of the ampules.		
§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	\$4,500	NM

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	mercury-containing ampules are removed is well ventilated and monitored to ensure compliance with applicable OSHA permissible exposure levels for mercury.		
§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 are in good condition.	\$4,500	NM
§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 removes	\$5,000	NM

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mercury-containing ampules from thermostats, to determine if any waste generated exhibits a characteristic of hazardous waste, and to manage the waste in compliance with all appropriate regulations.

§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 consumer electronic, 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	\$3,000	M	30

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	batteries.			
§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 thermostats or containers of universal waste thermostats.	\$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	\$5,000	NM	

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	proving the accumulation was solely for the purpose of facilitating proper recovery, treatment or disposal.		
§273.35(c)	Failure of Large Quantity Handler of Universal Waste to demonstrate the length of time that the universal waste was accumulated.	\$4,500	NM
§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	\$4,500	NM

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	waste to a place other than another universal waste handler, a destination facility, or a foreign destination.			
§273.38(b)	Failure of Large Quantity Handler of Universal Waste who self-transport to comply with the requirements at 40 CFR §273 Subpart D and N. J.A.C. 7:26A-7.4.	\$3,000	M	30
§273.38(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	\$5,000	NM	

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	properly reject shipments of universal waste.			
§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	\$3,000	M	30

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	receipt of the shipment of universal waste.			
§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	\$5,000	NM	

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	of Universal Waste exported universal waste without consent of the receiving country and/or not in conformance with EPA Acknowledgement of Consent.			
§273.40(c)	Failure of Large 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
§273.51	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	\$4,500	NM	

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	without being in compliance subpart B or C of 40 CFR §273.			
§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	\$5,000	NM	

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	EPA Acknowledgement of Consent.			
§273.56(a)	Failure of Universal Waste Transporter exporting universal waste to ensure that a copy of the EPA Acknowledgement of Consent accompanied the shipment.	\$3,000	M	30
§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	\$3,000	M	30

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incorporated by
reference at N.J.A.C.
7:26G-5.

§273.61(a)	Owner or operator of a Universal Waste Destination Facility sent or took universal waste to a place other than a universal waste handler, another destination facility or foreign destination.	\$5,000	NM	
§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	\$3,000	M	30

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	Facility to record the quantity of each type of universal waste received.			
§273.62(a)3	Failure of owner or operator of a Universal Waste Destination Facility to record the date of receipt of the shipment of universal waste.	\$3,000	M	30
§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	\$3,000	M	30

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operator of a Universal Waste Destination Facility, managing universal waste that was imported from a foreign country, to comply with the requirements of 40 CFR §273 Subpart E after waste is received in the United States.

14. The violations of N.J.A.C. 7:26A-7, Standards for the Management of Class D Universal Waste, whether the violation is minor or non-minor, the length of the grace period, and the civil administrative penalty amounts 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	

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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 hazardous.	\$5,000	NM
7:26A-7.4(c)1	Failure of Small Quantity Handler of Universal Waste to place any universal waste mercury-containing device 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 mercury-containing device, and non-leaking.	\$4,500	NM
7:26A-7.4(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
7:26A-7.4(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

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7:26A-7.4(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, to a container that meets the requirements of 40 CFR §262.34.	\$4,500	NM
7:26A-7.4(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 CFR §262.34.	\$4,500	NM
7:26A-7.4(c)2v	Failure of Small Quantity Handler of Universal Waste to ensure that any area where mercury-containing ampules are removed is well ventilated and monitored to ensure compliance with applicable OSHA permissible exposure levels for mercury.	\$4,500	NM
7:26A-7.4(c)2vi	Failure of Small Quantity Handler of Universal Waste to ensure that employees removing	\$4,500	NM

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	mercury-containing ampules are thoroughly familiar with proper waste mercury handling and emergency procedures.			
7:26A-7.4(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	
7:26A-7.4(c)2viii	Failure of Small Quantity Handler of Universal Waste to pack mercury-containing ampules in a container with packing materials adequate to prevent breakage during storage, handling, and transportation.	\$4,500	NM	
7:26A-7.4(c)3	Failure of Small Quantity Handler of Universal Waste, who removes mercury-containing ampules, 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	
7:26A-7.4(d)	Failure of Small Quantity Handler of Universal Waste to	\$3,000	M	30

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	manage oil-based finishes, in its original or otherwise appropriate and labeled packaging.		
7:26A-7.4(d)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(d)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 with the contents of the consumer electronics, and non-leaking.	\$4,500	NM

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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)1	Failure of Large Quantity Handler of Universal Waste to place a universal waste mercury-containing device 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 mercury-containing devices, and non-leaking.	\$4,500	NM
7:26A-7.5(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
7:26A-7.5(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
7:26A-7.5(c)2iii	Failure of Large	\$4,500	NM

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	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.		
7:26A-7.5(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
7:26A-7.5(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
7:26A-7.5(c)2vi	Failure of Large Quantity Handler of Universal Waste to ensure that employees	\$4,500	NM

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	removing mercury-containing ampules are thoroughly familiar with proper waste mercury handling and emergency procedures.			
7:26A-7.5(c)2vii	Failure of Large Quantity Handler of Universal Waste to store mercury-containing ampules in closed, non-leaking containers that are in good condition.	\$4,500	NM	
7:26A-7.5(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	
7:26A-7.5(c)3	Failure of Large Quantity Handler of Universal Waste, who removes mercury-containing ampules, to determine if the waste generated exhibits a characteristic of hazardous waste, and to manage the waste in compliance with all appropriate regulations.	\$5,000	NM	
7:26A-7.5(d)	Failure of Large Quantity Handler of	\$3,000	M	30

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	Universal Waste to manage universal waste finishes in its original packaging.			
7:26A-7.5(d)1	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(d)2	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(e)	Failure of Large Quantity Handler of Universal 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.	\$3,000	M	30
7:26A-7.7(a)	Failure to accumulate universal waste consumer electronics	\$3,000	M	30

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	devices in a closed container that is clearly marked with the words Universal Waste-Consumer Electronics.			
7:26A-7.7(b)	Failure to accumulate universal waste mercury-containing devices in a closed container that is clearly marked with the words Universal Waste-Mercury-Containing Devices.	\$3,000	M	30
7:26A-7.7(c)	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

**CHAPTER 26A
RECYCLING RULES**

7:26A-1.1 Scope and authority

(a) Unless otherwise provided by rule or statute, this chapter shall constitute the rules of the Department governing the operation of recycling centers **and the conduct of recyclable materials generators and transporters, and of governing municipalities and counties that have jurisdiction over recyclable materials** pursuant to the Solid Waste Management Act, N.J.S.A. 13:1E-1 et seq., particularly the New Jersey Statewide Mandatory Source Separation and Recycling Act, N.J.S.A 13:1E-99.11 et seq.

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(b) (No change.)

(c) The use or reuse of material that would otherwise become solid waste pursuant to N.J.A.C. 7:26 as clean fill material, aggregate substitute, fuel substitute, or landfill cover which in some cases may be recycling, are reviewed and approved in accordance with N.J.A.C. 7:26-1.7(g).

(d) Unprocessed recyclable materials, post-consumer materials, and used or abandoned materials that are or will be deposited on or in the lands of the State for any period exceeding six months, including by stockpiling, staging or storing, are solid waste that shall be managed in accordance with the Solid Waste rules, N.J.A.C. 7:26, unless:

1. The storage activity is exempt from the requirement to obtain a general or limited approval pursuant to N.J.A.C. 7:26A-1.4(a) and the materials are managed pursuant to N.J.A.C. 7:26A-1.4(b);

2. A general or limited approval to operate specifies a period that is longer than six months, pursuant to N.J.A.C. 7:26A-3.9;

3. A specific storage time period is set forth in a limited or general approval issued pursuant to this chapter;

4. The Department authorizes, in writing, a time period longer than six months;

5. The material is a product that has been produced by an approved or exempt recycling facility; or

6. The material is approved for use as clean fill under N.J.A.C. 7:26-1.7(g).

(e) This chapter shall not apply to the composting and on-site use of farm feedstocks where the feedstocks are composted as follow:

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1. The feedstocks are composted on a farm;

2. Only the following site-generated feedstocks are composted:

i. Dry livestock manures;

ii. Animal feed;

iii. Leaves;

iv. Corn stalks;

v. Hay; and

vi. Silage;

3. No more than 5,000 cubic yards of feedstocks are composted per year;

4. The composting method used shall be low level technology windrow composting pursuant to N.J.A.C. 7:26A-4.5(a)14vi(2);

5. The windrow composting area shall not exceed three acres; and

6. The composting complies with all applicable requirements of the New Jersey Department of Agriculture, Natural Resources Conservation Service and other local, State or Federal agencies.

7:26A-1.3 Definitions

The following words and terms, when used in this chapter, shall have the meanings set forth below. All terms which are used in this chapter and which are not defined herein but

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which are defined in N.J.A.C. 7:26 shall have the same meanings as in that

[subchapter]**chapter**.

...

“Architectural salvage item” means any component removed from a building that is scheduled for or is undergoing demolition or renovation for the purpose of reinstallation in any building. Architectural salvage items are not solid waste.

“Area of human use or occupancy” means any commercial, residential, or active or passive recreational property and shall refer to the area frequented by persons and not outer boundary areas of sites owned by persons that are not frequented for use.

...

“Biomass” means any organic matter that is available on a renewable or recurring basis (excluding old-growth timber), including dedicated energy crops and trees, agricultural food and feed crop residues, aquatic plants, wood and wood residues, animal wastes, and other waste materials.

...

"Class B recyclable material" means a source separated recyclable material which is subject to Department approval prior to receipt, storage, processing or transfer at a recycling center in accordance with N.J.S.A. 13:1E-99.34b, and which includes, but is not limited to, the following:

1. Source separated, non-putrescible, uncontaminated waste concrete, [asphalt,] brick, block, **wood waste; and source separated asphalt and** asphalt-based roofing scrap[and wood waste];

2. - 5. (No change.)

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"Class C recyclable material" means a source separated compostable material which is subject to Department approval prior to the receipt, storage, processing or transfer at a recycling center in accordance with N.J.S.A. 13:1E-99.34b, and which includes, but is not limited to, organic materials such as:

1. (No change.)

2. Source separated biodegradable plastic;[and]

3. Source separated yard trimmings[.],**including any biodegradable paper bags in which the yard trimmings are collected;**

4. Source separated biomass; and

5. Lakeweed generated from the cleaning of aquatic flora from freshwater lakes.

"Class D recyclable material" means **a source separated recyclable material which is subject to Department approval prior to receipt, storage, processing or transfer at a recycling center in accordance with N.J.S.A. 13:1E-99.34b, and which includes,** but is not limited to, the following:

1. Used oil, as defined in this section[, which is subject to Department approval prior to receipt, storage, processing or transfer at a recycling center in accordance with N.J.S.A. 13:1E-99.34b,] and which includes, but is not limited to, the following:

i. - iv. (No change.)

2. - 3. (No change.)

[4. Thermostats;]

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Recodify existing 5. – 7. as 4. – 6. (No Change in text.)

[8] 7. Mercury-containing [devices] **equipment**; and

[9] 8. Consumer electronics.

...

"Clean fill" means an uncontaminated nonwater-soluble, nondecomposable, inert solid such as concrete, glass and/or clay or ceramic products **that has not been affected by release within the meaning of the Spill Compensation and Control Act, N.J.S.A. 58:10-23.11 et seq., and its implementing rules, and has no visible staining (not including staining resulting from normal vehicular use and dripping of small amounts of vehicular lubricant), odor, or other sensory nuisance resulting from chemical contaminants associated with the material. Nondecomposable means that the material does not contain putrescible material that could cause nuisance odors or water pollution.** Clean fill does not mean processed or unprocessed mixed construction and demolition debris including, but not limited to, wallboard, plastic, wood or metal. The non[-]water soluble, non[-]decomposable inert products generated from an approved Class B recycling [facility], **limited Class B recycling center or a facility acting in accordance with the requirements at N.J.A.C. 7:26A-1.4(a) for activities exempt from obtaining a general or limited approval,** are considered clean fill **if the products are uncontaminated and have not been blended or otherwise diluted to qualify as uncontaminated, unless approved by the Department.**

...

"Farm" means any establishment that produced and sold, or normally would have sold, \$1,000 or more of agricultural products during the previous calendar year.

...

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"Generator" means any person, by site, whose act or process produces [hazardous] waste **or recyclable materials, including but not limited to used oil, universal waste, or hazardous waste, or whose act first causes a waste or recyclable material to become subject to regulation or separated for collection. For universal wastes, "generator" means any person, by site, whose act or process produces hazardous waste** identified or listed in N.J.A.C. 7:26G-5 or whose act first causes a hazardous waste to become subject to regulation.

"Grace period" means the period of time afforded under N.J.S.A. 13:1D-125 et seq., commonly known as the Grace Period Law, for a person to correct a minor violation in order to avoid imposition of a penalty that would be otherwise applicable for such violation.

...

["Mercury-containing device" means any product component which uses elemental mercury, sealed in an ampule or other container, as a functional component. Examples of mercury containing devices include, but are not limited to, mercury switches and thermometers.]

...

"Old-growth timber" means wood or plant matter taken from a forest in the late successional stage of forest development, including plant matter taken from the forest floor. Late successional forests contain live and dead trees of various sizes, species, composition, and age class structure. The age and structure of old-growth timber varies significantly by forest type and from one biogeoclimatic zone to another.

...

"Processing" means the treatment **or transformation** of source separated recyclable materials so as to conform to end-market specifications, including, but not limited to,

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separating material by type, grade or color, crushing, grinding, shredding or bailing or removing contaminants. (See also "used oil processing" below.)

...

“Research, development and demonstration (RD&D) approval” means a certificate of authority to operate issued pursuant to N.J.A.C. 7:26-1.7(f) for a new or innovative technology or innovative operational process modification made to an existing recycling center or operation.

...

[“Source separation” or “source separated” means the process by which materials are separated at the point of generation by the generator thereof from solid waste for the purposes of recycling.]

“Source separated recyclable materials” means recyclable materials which are separated at the point of generation by the generator thereof from solid waste for the purposes of recycling.

“Source separated supermarket waste” or “SSSW” means waste that includes only vegetative waste such as but not limited to flower waste, culled or spoiled produce and produce preparation trimmings.

...

“Tank” means any stationary device designed to contain an accumulation of [used oil] **recyclable materials** which is constructed primarily of non-earthen materials (for example, wood, concrete, steel, plastic) which provides structural support.

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“Thermal treatment” means the treatment of recyclable material in a device that uses elevated temperatures as the primary means to change the physical, chemical, or biological character or composition of the recyclable material.

["Thermostat" means a temperature control device that contains metallic mercury in an ampule attached to a bimetal sensing element, and mercury-containing ampules that have been removed from these temperature control devices in compliance with the requirements of N.J.A.C. 7:26A-7.]

“Total municipal solid waste stream” means the sum of the municipal solid waste stream disposed of as solid waste, as measured in tons, plus the total number of tons recycled.

"Total solid waste stream" means the aggregate amount of solid waste generated from all sources of generation, including the municipal solid waste stream. This includes all non-hazardous materials disposed and recycled.

“Uncontaminated” means that a material contains levels of Department-recognized contaminants below the levels recognized by the Department’s codified criteria and standards, including but not limited to, the applicable remediation standard as defined under the Technical Requirements for Site Remediation rules, N.J.A.C. 7:26E, the Radiation Cleanup Standards at N.J.A.C. 7:28, Ground Water Criteria at N.J.A.C. 7:9C and the Surface Water Quality Standards at N.J.A.C. 7:9B.

"Universal waste" means any of the following hazardous wastes that are subject to the universal waste requirements of N.J.A.C. 7:26A-7, whether incorporated by reference from 40 CFR Part 273 or listed additionally by the Department:

1. - 2. (No change.)

[3. Thermostats;]

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[4.] **3. (No change in text.)**

[5] **4. Mercury-containing [devices] equipment;**

Recodify existing 6. - 7. as 5. - 6. (No change in text.)

...

"Used oil transfer facility" means any transportation related facility including loading docks, parking areas, storage areas, and other areas where shipments of used oil are held for more than 24 hours during the normal course of transportation and not longer than 35 days. Transfer facilities that store used oil for more than 35 days are subject to regulation under N.J.A.C. 7:26A-6.7 as used oil processors, **except that these facilities are not subject to the requirements of N.J.A.C. 7:26A-6.7(a)2vi, unless used oil processing is also performed.**

...

7:26A-1.4 [Exemptions] **Activities exempt from general or limited approval**

(a) The activities listed below are exempted from the requirement to obtain a general or limited approval pursuant to N.J.A.C. 7:26A-3 and, unless otherwise specified, the solid waste planning requirements at N.J.A.C. 7:26-6.10 or 6.11. The specific criteria applicable to these activities are as follows:

1. Manufacturers shall not be required to obtain **a** general or limited approval pursuant to N.J.A.C. 7:26A-3 for the receipt, storage or processing of source separated recyclable materials. This exemption shall also apply to:

i. Asphalt manufacturing plants[, which] **that** receive solely source separated recyclable asphalt **millings or larger pieces**, and [pre-consumer] **preconsumer**

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asphalt shingles or other asphalt-based roofing scrap, or a combination thereof prior to [its]

their introduction into the asphalt manufacturing process. **The materials shall be delivered to the manufacturing plant directly from the site of generation unless intermediate storage is authorized by the Department;** [or]

ii. Pallet manufacturers and/or refurbishers [who] **that** process non-salvageable wood pallet materials generated from their manufacturing and refurbishing activities. Storage of processed wood materials shall not exceed one year; **and**

iii. Concrete manufacturing plants that utilize uncontaminated source separated recyclable off-specification or surplus concrete and/or block manufactured on site as raw material in their concrete or aggregate manufacturing process. For purposes of this exemption, recyclable concrete may be used either as aggregate in a fresh concrete mix by the original concrete manufacturer or as sub-base products, but only if the recyclable concrete qualifies as exempt from solid waste regulation pursuant to N.J.A.C. 7:26-1.1(a)1;

2. The recycling of **uncontaminated** source separated recyclable materials [which] **that** are generated, processed and reused as a product exclusively at the point of generation where all applicable county and municipal approvals have been obtained for that activity. Specifically excluded from this exemption are source separated petroleum contaminated soils, and the receipt, storage, processing or transfer of materials generated off-site;

3. - 11. (No change.)

12. Leaf mulching activities on land deemed actively devoted to agricultural or horticultural use, as defined in the Farmland [assessment] **Assessment** Act of 1964, N.J.S.A. 54:4-23.5, provided that **the activity is consistent with the State Agriculture Development Committee rule at N.J.A.C. 2:76-2A.7, Natural resource conservation agricultural management practice, and provided that :**

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i. - iii. (No change.)

13. The receipt of yard trimmings for composting where the activity meets the following criteria:

i. - vi (No change.)

vii. Prior to operation, the composting area, related yard trimming staging and finished compost storage areas and access roads shall be graded in a manner that prevents the accumulation of surface water on site without resulting in a discharge of leachate off site or an adverse impact to natural drainage conditions of surrounding properties. Once original grading is completed in the manner [which] **that** fulfills the requirements of the local soil conservation office, the four areas of the site referenced above shall be maintained throughout the life of the operation. Any disturbance of the natural environmental setting caused by any necessary land clearing and grading shall be held to a minimum;

viii. - x. (No change.)

xi. A sign **that identifies the hours of operation** shall be posted at the entrance **to the facility**[which identifies the hours of operation];

xii. - xiv. (No change.)

14. -16. (No change.)

17. The collection, consolidation, **repackaging (including opening containers and transferring the contents into other containers or tanks)**, and transfer for recycling of source separated Class D recyclable materials, except for used oil and those Class D recyclable materials that are also universal waste, provided that the operation is in compliance with N.J.A.C. 7:26A-4.6(d), (e) and (f);

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18. The receipt of yard trimmings for composting where the finished compost product is applied on site on land deemed actively devoted to agricultural or horticultural use, as defined in the Farmland Assessment Act of 1964, N.J.S.A. 54:4-23.5 **and consistent with the State Agriculture Development Committee rule at N.J.A.C. 2:76-2A.8, Agricultural management practice for on-farm compost operations operating on commercial farms,** or on mined lands being restored under an approved restoration plan and where the activity meets the criteria below:

i. - vii. (No change.)

19. (No change.)

20. Any construction company or contractor which through the course of construction and demolition activities generates **uncontaminated** source separated concrete, asphalt, **uncontaminated** brick, and **uncontaminated** block, may receive, store, process, and transfer the material provided that:

i. - ii. (No change.)

iii. The processing of the material shall be conducted at the contractor's or construction company's yard and in accordance with either N.J.A.C. 7:26A-1.4(a)7i or ii.

Recodify existing iii. – v. as **iv. - vi.** (No change in text)

21. The recycling of source separated Class C recyclable materials that are generated on site, and processed exclusively at the point of generation into a product for sale and/or use off site; [and]

22. The receipt of less than 3,000 cubic yards of leaves per year, and/or 1,000 cubic yards of grass clippings per year, at a site for transfer to a recycling center holding a general approval pursuant to *N.J.A.C. 7:26A-3* for the receipt and processing of leaves and/or

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grass, or to other sites exempted from the requirement to obtain a general or limited approval to operate pursuant to *N.J.A.C. 7:26-1.4*, or other specific use approved in writing by the Department where the receipt and transfer activity meets the criteria below:

i. - iv. (No change.)

v. Records of the daily volume of leaves and grass clippings received and transferred, including the name and address of the site to which the leaves are transferred, shall be kept and maintained at the facility for three years from the date that the records were generated. The required records shall be made available to the Department during an inspection and shall be submitted to the Department upon request[.];

23. The receipt and composting of farm feedstocks where the activity meets the following criteria:

i. The activity is conducted on a farm;

ii. Only the following feedstocks are received or composted:

(1) Dry livestock manures;

(2) Animal feed;

(3) Leaves;

(4) Corn stalks;

(5) Hay; and

(6) Silage;

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iii. No more than 10,000 cubic yards of feedstocks are received or composted per year;

iv. Any applicable permits or approvals for on-site composting have been obtained from the Department and the New Jersey Department of Agriculture;

v. Only low level technology windrow composting as described at N.J.A.C. 7:26A-4.5(a)14vi(2) shall be used as the composting method;

vi. The windrow composting area shall not exceed five acres;

vii. A buffer distance of 200 feet shall be maintained between composting activities and the facility property line; and

viii. Within one year of the start-up of the compost operation, the composting operator shall attend a composting course sponsored by the Rutgers Cooperative Extension, the appropriate county agricultural or resource management agents, or any other similar course approved by the Department. Proof of timely attendance at such a course shall be retained by the composting operator and made available to the Department upon request; and

24. The receipt and storage of architectural salvage items at a commercial enterprise.

(b) The general requirements applicable to all exemptions set out in (a) above are as follows:

1. - 3. (No change.)

4. With the exception of the exempted activities set forth at (a)5, 7, 8, **14, 15, 16, 17,** 19 and 22 above, tonnage reports shall be submitted in accordance with N.J.A.C. 7:26A 4.4(b);

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5. (No change.)

6. Exemption from the requirement of a general or limited approval pursuant to (a) above shall not constitute an exemption from applicable county or municipal laws, **including local zoning and site plan ordinances**, or regulations.

7. [Operators of recycling centers, who have been issued] **The holder of a** general or limited approval [and subsequently wish to] **or any person that** engages in activities listed at N.J.A.C. 7:26A-1.4(a) **at the site of an approved recycling center**, [are]is subject to the district solid waste management plan requirements identified at N.J.A.C. 7:26-6.11 and the **general** approval modification requirements at N.J.A.C. 7:26A-3.10 for those additional **activities conducted at the site of the approved recycling center**.

8. Any person holding a permit, certificate of authority to operate or other approval for a solid waste facility pursuant to N.J.A.C. 7:26 or a general or limited approval pursuant to this chapter that allows persons engaging in activities listed at this section the use of an access road through or on its site to a public thoroughfare is subject to the district solid waste management plan requirements identified at N.J.A.C. 7:26-6.11 and the general approval modification requirements at N.J.A.C. 7:26A-3.10 for those additional activities associated with additional vehicular traffic conducted at the site of the solid waste facility or recycling center.

(c) (No change.)

7:26A-[4.3]**1.7** Right of entry **and inspection**

(a) The New Jersey Department of Environmental Protection or an authorized representative acting pursuant to the County Environmental Health Act, N.J.S.A. 26:3A2-1 et seq.; shall have the right to enter and inspect any building or other portion of a recycling center, recycling depot or any site at which an exempted activity is conducted pursuant to N.J.A.C.

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7:26A-1.4(a), at any time in order to determine compliance with the provisions of all applicable laws or rules and regulations adopted pursuant thereto. This right to inspect includes, but is not limited to:

1. – 4. (No change.)

(b) (No change.)

SUBCHAPTER 2. [ANNUAL] FEES FOR A GENERAL OR LIMITED APPROVAL TO OPERATE A RECYCLING CENTER FOR CLASS B, C, AND D RECYCLABLE MATERIAL

7:26A-2.1 Fees for general or limited approval

(a) (No change.)

(b) The following apply to the annual fee for general approval and the monthly fee for limited approval:

1. - 3. (No change.)

4. All persons who possess a general approval to operate a recycling center for Class B, Class C or Class D recyclable material shall be billed the following amounts for Research [Demonstration and], Development **and Demonstration** (RD&D) approvals, renewal of general approval, transfers of ownership, and modifications.

i. - iv. (No change.)

5. All persons who possess a general approval to operate a multi-class recycling center, shall be billed the applicable annual fee and the applicable fee for an initial application and renewal of general approval set forth at (b)5i through viii below. A modification of a multi-class facility is billed according to (b)5viii through x below for the

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type of activity being added to the existing facility. If more than one type of activity is added, then the respective fee shall be billed for each type of activity.

<u>Type of Multi-Class Facility</u>	<u>Annual Fee</u>	<u>Application Fee</u>	<u>Renewal Fee</u>	<u>Modification Fee</u>
<u>i. Class B and C</u>	<u>\$8,792</u>	<u>\$14,223</u>	<u>\$5,306</u>	-----
<u>ii. Class B and D</u>	<u>\$7,970</u>	<u>\$18,341</u>	<u>\$3,620</u>	-----
<u>iii. Class B and D – Oil only</u>	<u>\$7,970</u>	<u>\$18,341</u>	<u>\$3,620</u>	-----
<u>iv. Class B and D – Universal Waste only</u>	<u>\$7,970</u>	<u>\$ 7,898</u>	<u>\$3,620</u>	-----
<u>v. Class C and D</u>	<u>\$10,808</u>	<u>\$21,491</u>	<u>\$6,396</u>	-----
<u>v. Class C and D – Oil only</u>	<u>\$10,808</u>	<u>\$21,491</u>	<u>\$6,396</u>	-----
<u>vi. Class C and D – Universal Waste only</u>	<u>\$10,808</u>	<u>\$14,199</u>	<u>\$6,396</u>	-----
<u>vii. Class B, C and D</u>	<u>\$11,672</u>	<u>\$24,132</u>	<u>\$6,876</u>	-----
<u>viii. Class B, C and D – Oil only</u>	<u>\$11,672</u>	<u>\$24,132</u>	<u>\$6,876</u>	-----
<u>ix. Class B, C and D – Universal Waste only</u>	<u>\$11,672</u>	<u>\$16,839</u>	<u>\$6,876</u>	-----
<u>x. Any Class/add or</u>	-----	-----	-----	<u>\$2,400</u>

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modify Class B

xi. Any ----- ----- ----- **\$4,826**

Class/add or

modify Class C

xii. Any ----- ----- ----- **\$3,140**

Class/add or

modify Class B

(c) - (f) (No change.)

SUBCHAPTER 3. APPROVAL OF RECYCLING CENTERS FOR CLASS B, CLASS C OR CLASS D RECYCLABLE MATERIALS

7:26A-3.1 General requirements applicable to all recycling centers which receive, store, process or transfer Class B, Class C or Class D recyclable material

(a) - (b) (No change.)

[(c) Any facility which received written Departmental approval to receive, store, process or transfer any source separated Class B recyclable materials prior to November 18, 1991 may continue to do so if all other requirements of the Solid Waste Management Act, N.J.S.A. 13:1E-1 et seq. and this chapter have been met.]

[(d)] **(c)** Prior to filing an application with the Department for recycling center general approval, and concurrent with or subsequent to filing for inclusion in the applicable district Solid Waste Management Plan, the applicant shall publish a notice in a newspaper of general circulation within the host municipality which indicates that the applicant will apply to the [county] **solid waste management district** for inclusion of a recycling center in the solid waste management plan of the district in which the recycling center is located and will apply to the Department for recycling center approval. The notice shall include the following:

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1. – 2. (No change.)

3. An indication that a copy of the application for [county] **district solid waste management** plan inclusion may be examined at the office of the solid waste or recycling coordinator of the [county] **solid waste management district** in which the recycling center is located or at the applicable municipal clerk's office; and

4. An indication that comments regarding the application for [county] **district solid waste management** plan inclusion can be made at the public hearing which shall be held by the board of chosen freeholders **or the Hackensack Meadowlands Development Commission**, submitted to the county clerk's office or submitted to the office of the solid waste or recycling coordinator of the [county] **solid waste management district** in which the recycling center is located.

[(e)] **(d)** The notice shall be published two times by the applicant with the second publication being no less than 15 days prior to the public hearing held by the applicable board of chosen freeholders. The applicant shall forward a copy of the notice to the New Jersey Department of Environmental Protection, [Division of]Solid and Hazardous Waste **Management Program**, and to the municipality in which the recycling center will be operating, upon its publication.

7:26A-3.2 Application procedure for general approval to operate a recycling center for the receipt, storage, processing or transfer of Class [b]**B**, Class C or Class D recyclable material

(a) Prior to commencing receipt, storage, processing or transfer of any Class [b] **B**, Class C or Class D recyclable materials at a recycling center, the owner or operator of the recycling center shall submit to the Department the information set forth in this subsection. All maps of the proposed recycling center shall be prepared in the manner and format consistent with N.J.A.C. 7:1D, Appendix A. The applicant shall submit a minimum of three complete sets of the application. Additional complete sets may be required based upon the type, scale, location, and potential environmental impacts of the proposed recycling center. The owner or

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operator of a recycling center for Class C recyclable materials shall submit the additional information required **pursuant** to N.J.A.C. 7:26A-3.18. The owner or operator of a recycling center for Class D recyclable materials shall submit the additional information required pursuant to N.J.A.C. 7:26A-3.19 and 3.20.

1.- 8. (No change.)

9. A site plan map, prepared, signed and sealed [in accordance with N.J.S.A. 45:8-35.1 et seq.] by a licensed professional engineer or [surveyor] **other professional qualified in accordance with the State Board of Professional Engineers and Land Surveyors rules, N.J.A.C. 13:40**, which identifies (plots) the placement of all equipment, buildings, activities and areas related to the receipt, storage, processing and transferring of all unprocessed and processed recyclable materials. This site plan shall also:

i. - ix. (No change.)

10. - 17. (No change.)

18. A description of the leachate and storm water run-off and drainage control measures **that will be used to meet the applicable provisions of the Stormwater Management rules at N.J.A.C. 7:8-5 and 6 and the Pollutant Discharge Elimination System rules at N.J.A.C. 7:14A-24 and 25;**

19. - 21. (No change.)

(b) (No change.)

(c) One original and two copies of the information required pursuant to (a) above shall be submitted to:

The New Jersey Department of Environmental Protection
[Division of]Solid and Hazardous Waste **Management Program**

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(d) One copy of the information required pursuant to (a) above shall be submitted by the applicant to the solid waste or recycling coordinator of the [county] **solid waste management district** in which the recycling center is located. The applicant shall also forward one copy of the information required pursuant to (a) above to the municipal clerk of the municipality in which the recycling center is located. The applicant may delete confidential end-market information, required pursuant to (a)7 above, from these submittals.

(e) - (j) (No change.)

7:26A-3.6 Application for renewal of a general approval to operate a recycling center

(a) Applications for renewal of general approvals issued pursuant to this subchapter shall be submitted at least three months prior to expiration of the current approval and shall comply with all requirements for renewal set forth in this subchapter. One copy of the application for renewal of a general approval shall be submitted by the applicant to the municipal clerk of the municipality in which the recycling center is located, and to the solid waste or recycling coordinator of the [county] **solid waste management district** in which the recycling center is located.

(b) - (h) (No change.)

7:26A-3.7 Application procedure for limited **Class B recycling center** approval to operate a recycling center for the [receipt,]storage, processing or transfer of Class B recyclable material

(a) A person may operate a **limited Class B** recycling center for the [receipt,] storage, processing or transferring of Class B recyclable materials **generated on site** for a period of time not to exceed 180 days, provided that prior approval of the Department has been obtained and a fee has been submitted in accordance with N.J.A.C. 7:26A-2 to the Department. **A**

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person who has obtained prior approval to operate a limited Class B recycling center pursuant to this subsection may also receive Class B recyclable materials, but only for use at the specific site for which the Department granted approval to operate the Limited Class B Recycling Center. The following information shall be submitted to the Department in order to obtain a limited Class B recycling center approval:

1. The information required pursuant to N.J.A.C. 7:26A-3.2(a)1B[2, 3, 4, 5, 6, 7,] **through** 8, 11, 12, 13, 14, and 16(i). The application shall include a site map that identifies the placement of all equipment, buildings, activities and areas related to the [receipt,]storage, processing and transferring of all unprocessed and processed recyclable materials and meets the requirements of N.J.A.C. 7:26A-3.2(a)9ii, v, vii and viii;

(2) - 3. (No change.)

(b) The Department shall issue an approval to operate a limited Class B recycling center only under the following circumstances:

1. An approval to operate a limited Class B recycling center has been issued for the specific site no more than once before; and

2. Only one approval for one 180-day time period is issued for any site located contiguous to a site for which a limited approval has been issued pursuant to this subsection.

[(b)] **(c)** Persons applying to the Department for a limited approval to operate a recycling center for Class B recyclable materials shall submit one copy of the application for limited approval to the municipal clerk of the municipality in which the recycling center is located and one copy to the solid waste or recycling coordinator of the [county] **solid waste management district** in which the recycling center is located.

Recodify existing (c) and (d) as **(d) and (e)** (No change in text.)

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[(e)] **(f)** Within 30 days of receipt of an application for a limited approval submitted pursuant to (a) above, the Department will determine whether the application is administratively complete. An application is administratively complete when it satisfies the information submission requirements of (a) through [(d)] **(e)** above and where a fee has been submitted in accordance with N.J.A.C. 7:26A-2.

1. If an application is deemed administratively complete in accordance with paragraph [(e)] **(f)** above, the Department will issue a letter to the applicant indicating the administrative completeness of the application.

2. If an application fails to meet the criteria for administrative completeness in accordance with paragraph [(e)] **(f)** above, the Department will advise the applicant that the application is incomplete and will specify in writing what additional information is required for administrative completeness.

[(f)] **(g)** Within 30 days of the issuance of the letter of administrative completeness, the Department will issue to the applicant a limited approval to operate a recycling center, valid for a specified period of time, not to exceed 180 days, where the Department determines the following:

1. That the application meets the criteria of *N.J.A.C. 7:26A-3*; [and]
2. That the applicant fails to meet any of the criteria for denial or revocation of a limited approval set forth at *N.J.A.C. 7:26A-3.12* and *3.13*[.]; **and**

3. The conditions in (b) above have been satisfied.

[(g)] **(h)** Within 30 days of the issuance of the letter of administrative completeness, the Department will issue a letter of denial of the application where the Department determines the following:

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1. That the application fails to meet the criteria of *N.J.A.C. 7:26A-3*; [or]
2. That the applicant meets any of the criteria for denial or revocation of a limited approval set forth at *N.J.A.C. 7:26A-3.12* and *3.13*[.]; **or**

3. The conditions in (b) above have not been satisfied.

Recodify existing (h) and (i) as **(i) and (j)** (No change in text.)

[(j)] **(k)** Within 45 days after the expiration of the time period covered by the limited approval to operate a recycling center, a final report shall be prepared by the person issued the limited approval and submitted to the Department, the solid waste or recycling coordinator of the [county] **solid waste management district** in which the recycling center is located, and to the applicable municipal planning board. The final report shall contain the following information:

1. (No change.)
2. The location of the approved recycling center, if different than in [(j)1] **(k)1** above, including the street address, lot and block, municipality and county;

3.-6. (No change.)

[(k)] **(l)** (No change in text.)

[(l)] **(m)** One original and two copies of the information required pursuant to (a) and [(j)] **(k)** above shall be submitted to:

The New Jersey Department of Environmental Protection
[Division of]Solid and Hazardous Waste **Management Program**
[CN] **P.O. Box** 414
401 East State Street, 2nd Floor, West Wing

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[(m)] **(n)** The Department may extend the duration of the approval where the holder of the limited approval petitions the Department in writing explaining the need for an extension and where the Department determines that an extension is necessary to protect the public or environmental health, safety or welfare. Petitions shall be submitted to the address set out in [(1)] **(m)** above. Concurrent with the submission of the petition to the Department, the petitioner shall also notify the applicable municipal planning board and [county] **solid waste management district** solid waste or recycling coordinator of its request for an extension of the limited approval. In no event will the Department:

1. - 2. (No change.)

[(n)] **(o)** (No change in text.)

7:26A-3.9 Storage of Class B **materials** and Class D materials **that are not universal waste**

(a) The temporary storage of unprocessed and processed Class B or Class D recyclable material **that is not universal waste** at recycling centers shall be limited to the amount indicated in the general or limited approval to operate.

(b) Notwithstanding (a) above, in no event shall unprocessed Class B or Class D recyclable material **that is not universal waste** be stored at recycling centers approved pursuant to this subchapter for a period in excess of one year from the date of its receipt.

(c) (No change.)

7:26A-3.10 Modifications of general or limited approvals

(a) All [owners and operators of recycling centers which have received] **holders of** a general or limited approval to operate a recycling center pursuant to this subchapter shall obtain prior approval from the Department for any modification of the general or limited approval.

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(b) (No change.)

(c) The [owner or operator] **holder of the general or limited approval** shall notify the Department in writing of the intended modification and shall update the information submitted pursuant to N.J.A.C. 7:26A-3.2(a), 3.4, 3.7, 3.8, 3.18, 3.19 or 3.20. The [owner or operator] **holder** shall also submit one copy of the written request for modification to the municipal clerk of the municipality in which the recycling center is located and one copy to the solid waste or recycling coordinator of the [county] **solid waste management district** in which the recycling center is located.

(d) The Department will review the information submitted in accordance with (c) above and will determine whether additional information is necessary to adequately address public or environmental health, safety or welfare. If such additional information is required, the Department will notify the [owner or operator] **holder** in writing within 30 days of receipt of the request. Thereafter, the owner or operator shall submit to the Department in writing the additional information.

(e) Upon determining that the information submitted for modification review is complete, the Department will approve or deny the modification according to the criteria of (a) through (d) above and will notify the [owner or operator] **holder** in writing. The [owner or operator] **holder** shall not institute the modification until it receives written approval from the Department.

(f) Within one week of any change to the end-market information submitted to the Department pursuant to N.J.A.C. 7:26A-3.2(a)7, the [owner or operator] **holder** shall submit to the Department a written notification which details any change in the use of the recyclable material transferred from the recycling center to an end-market or in the end-market location to which the recyclable material is transferred. The written notification shall be sent to:

New Jersey Department of Environmental Protection

[Division of]Solid and Hazardous Waste **Management Program**

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(g) The Department will notify the solid waste or recycling coordinator of the [county] **solid waste management district** in which the recycling center is located, and the applicable municipal planning board, of any approval or denial of modification to a general or limited approval.

(h) (No change.)

7:26A-3.11 Increase in design capacity at recycling centers for Class B, Class C, and Class D recyclable materials

(a) [An owner or operator] **A holder of a general approval** seeking approval of an increase in design capacity at an approved recycling center for Class B, Class C, or Class D recyclable materials shall submit a request to the Department, in writing, for the proposed increase and shall submit updated information pursuant to the requirements of N.J.A.C. 7:26-3.2(a), 3.4, or 3.8, as applicable. The [owner or operator] **holder** shall also provide written notice of the request to the solid waste or recycling coordinator of the applicable district.

(b) The Department shall review the request and determine whether additional information is necessary to adequately address issues of public or environmental health, safety or welfare. If such additional information is required, the Department shall so notify the [owner or operator] **holder** in writing within 30 days of receipt of the request for approval. The [owner or operator] **holder** shall submit, in writing, the additional information requested by the Department within 15 days of receipt of the request for additional information.

(c) No later than 60 days following receipt of the request for approval and any additional information submitted pursuant to (b) above, the Department shall deny the request for approval or declare its intent to approve the request and shall so notify the [owner or operator] **holder** in writing.

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(d) Within five days of receipt of the Department's notice of intent to approve a request for an increase in design capacity, the [owner or operator] **holder** shall notify the district solid waste or recycling coordinator of its receipt of such notice and shall also publish notice thereof in a newspaper of general circulation in the county where the facility is located.

1. (No change.)

(e) - (h) (No change.)

7:26A-3.12 Criteria for denial of a **new** general or limited approval, **a renewal of an existing general approval or an extension of a limited approval** to operate a recycling center

(a) The following constitutes the criteria for denial of a general or limited approval and will result in the issuance of a letter of denial of general or limited approval to operate a recycling center:

1. (No change.)

2. Failure of [a recycling center operating pursuant to] **an applicant for** a general approval to maintain inclusion **of a proposed recycling center** in the applicable district solid waste management plan;

3. - 5. (No change.)

(b) (No change.)

(c) If the Department denies [an application for a] **the issuance of a new or renewed general approval, or an extension of a** limited approval, to operate a recycling center and bases the denial on a written determination that the facility for which the application was made is a solid waste facility for which a registration statement and engineering design is required pursuant to N.J.S.A. 13:1E-5, the [owner or operator of the facility] **applicant**, in any appeal of

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the Department's denial, shall have the burden to show by a preponderance of the evidence that the facility for which the application was made is not a solid waste facility for which a registration statement and engineering design is required pursuant to N.J.S.A. 13:1E-5.

7:26A-3.13 Procedures and criteria for revoking a general or limited approval

(a) (No change.)

(b) The Department will revoke a general or limited approval by providing the holder of an approval with written notice of the action which details the reasons for the action. The Department will also notify the solid waste or recycling coordinator of the [county] **solid waste management district** in which the recycling center is located of any revocation of a general approval or the applicable municipal planning board of any revocation of a limited approval.

7:26A-3.14 Appeal procedure

(a) An applicant [who] **that** believes [himself or herself] **it is** aggrieved with respect to the following decisions made by the Department may appeal the decision within 20 calendar days after the date of the decision and request an administrative hearing:

1. Any term of a general or limited approval;

Recodify existing 1. - 2. as **2. - 3.** (No change in text.)

(b) Requests for an administrative hearing shall be submitted to:

Office of Legal Affairs

ATTENTION: Adjudicatory Hearing Requests

Department of Environmental Protection

401 East State Street, [CN] **PO Box** 402

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and to:

New Jersey Department of Environmental Protection

Solid and Hazardous Waste Management Program

Bureau of Recycling and Planning

401 East State Street, 2nd floor, East Wing

PO Box 414

Trenton, New Jersey 08625-0414

(c) - (g) (No change.)

7:26A-3.15 Transfer of a general or limited approval to operate a recycling center

(a) (No change.)

(b) For the purposes of this section, the transfer of a controlling interest in the stock or assets of a recycling center [holding] **operating pursuant to** a general or limited approval from the Department shall constitute the transfer of a general or limited approval pursuant to (a) above.

(c) One copy of the application to transfer a general or limited approval shall be submitted to the municipal clerk of the municipality in which the recycling center is located and one copy to the solid waste or recycling coordinator of the [county] **solid waste management district** in which the recycling center is located. The Department shall notify county and municipal officials of determinations concerning the transfer of general or limited approvals.

7:26A-3.17 [Record keeping] **Recordkeeping** and annual report; confidentiality of records

(a) All [recycling centers holding] **holders of** a general approval shall maintain daily records of all materials received, stored, processed or transferred. Said records shall indicate, at a minimum:

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1. - 3. (No change.)

(b) All [recycling centers holding] **holders of** a general approval shall retain the information required pursuant to N.J.A.C. 7:26A-3.2(a) 16iii for three calendar years following the calendar year for which reporting is required pursuant to (c) and (d) below.

(c) All [recycling centers operating pursuant to] **holders of** a general approval shall submit an annual report containing monthly summary statements of the information required pursuant to (a) above to the New Jersey Department of Environmental Protection, [Division of Solid And Hazardous Waste Management Program], on or before March 1 of each year, for the previous calendar year. The summaries shall include the following:

1. - 3. (No change.)

(d) (No change.)

(e) All [recycling centers operating pursuant to] **holders of** a general approval shall certify in writing to the Department that all residue generated at the recycling center has been disposed of in accordance with the solid waste management rules at N.J.A.C. 7:26. The certification shall be submitted annually as part of the annual report required pursuant to (c) and (d) above.

(f) (No change.)

7:26A-3.19 Additional application requirements for general approval to operate a recycling center for the receipt, storage, processing or transfer of Class D recyclable materials

(a) (No change.)

(b) Prior to commencing the receipt, storage, processing or transfer of any latex paints, antifreeze, [thermostats,] lamps (light bulbs), oil-based paints, batteries, mercury-containing

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[devices] **equipment** and consumer electronics at a recycling center, the owner or operator of the recycling center shall submit to the Department, in addition to the information required pursuant to N.J.A.C. 7:26A-3.2, the following information:

1. - 7. (No change.)

SUBCHAPTER 4. **DESIGN AND** OPERATIONAL STANDARDS AND GENERAL RULES FOR RECYCLING CENTERS WHICH RECEIVE, STORE, PROCESS OR TRANSFER CLASS A, CLASS B, CLASS C AND CLASS D RECYCLABLE MATERIAL[; RIGHT OF ENTRY AND INSPECTION]

7:26A-4.1 Design and operational standards for recycling centers which receive Class A, Class B, Class C and Class D recyclable materials

(a) All owners or operators of recycling centers which receive, store, process or transfer Class A, Class [b] **B**, Class C, or Class D recyclable material shall comply with the following design and operational standards:

1. All recyclable materials received, stored, processed or transferred at all recycling centers shall conform to the following criteria:

i. (No change.)

ii. The recyclable materials shall consist only of Class A recyclable materials, or of Class B, or Class C or Class D recyclable materials which **either** the Department has approved pursuant to N.J.A.C. 7:26A-3 for receipt, storage, processing or transfer at the recycling center **under a general or limited approval or are being recycled as a part of an activity that is exempt from general or limited approval pursuant to N.J.A.C. 7:26A-1.4;** and

iii. Class A recyclable materials [maybe] **may be** commingled only with other Class A recyclable materials. Class B recyclable materials may be commingled only with

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other Class B recyclable materials and only to the extent authorized in [the] a general or limited approval issued pursuant to N.J.A.C. 7:26A-3.5 or 3.7. Class C recyclable materials may be commingled only with other Class C recyclable materials and only to the extent authorized in [the] a general approval issued pursuant to N.J.A.C. 7:26A-3.5.

2. - 10. (No change.)

11. The operation and related activities of all classes of recycling centers shall be in conformance with municipal ordinances, including, but not limited to ordinances concerning ingress and egress, traffic patterns, parking, signage, operational hours, noise, dust, and structure height;

[11.]**12.** Recycling center operations shall be separated from any and all [adjacent residential, commercial and/or other sensitive land uses] **areas of human use or occupancy** through the establishment **and maintenance** of an effective visual screen buffer;

Recodify existing 12. - 14. as **13. - 15.** (No Change in text.)

(b) (No change.)

(Agency Note: N.J.A.C. 7:26A-4.3 is proposed for recodification with amendments as N.J.A.C. 7:26A-1.7.)

7:26A-4.3 **(Reserved)**

7:26A-4.4 Tonnage reporting requirements

(a) All operators of recycling centers shall provide a recycling tonnage report by February 1 of each year to the county of origin (if requested) and all municipalities from which recyclable material is received in the previous calendar year. For operators of Class A recycling centers, this report shall also be submitted to the Department. The report shall detail

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the amount of each source of separated recyclable material, expressed in gallons, tons or cubic yards, accepted from each municipality. Those persons specifying this information in cubic yards shall also indicate the conversion ratio of the materials from cubic yards to tons. Those persons reporting the recycling of lamps shall also report the volume of the received materials in linear feet. Non-tubular lamps may be reported as individual units. Those persons reporting on mercury-containing [devices] **equipment** shall also report the number of devices received. Lamps or mercury containing [devices] **equipment** which are shipped using a hazardous waste manifest may be reported in pounds or gallons.

(b) Except as otherwise provided in N.J.A.C. 7:26A-1.4(b)4, all persons operating pursuant to an exemption set forth at N.J.A.C. 7:26A-1.4 shall provide recycling tonnage reports by February 1 of each year to the applicable municipalities, to the county and to the New Jersey Department of Environmental Protection, [Division of]Solid and Hazardous Waste **Management Program**, Bureau of Recycling and Planning, P.O. Box 414, **401 East State Street**, Trenton, New Jersey 08625-0414 for the previous calendar year. The report shall detail the amount of each source separated recyclable material, expressed in tons, cubic yards, cubic feet, or gallons received, stored, processed or transferred. Those persons specifying this information in cubic yards shall also indicate the conversion ratio of the materials from cubic yards to tons. Those persons reporting the recycling of lamps shall also report the volume of the received materials in linear feet. Non-tubular lamps may be reported as individual units. Those persons reporting on mercury-containing [devices] **equipment** shall also report the number of devices received. Lamps or mercury containing [devices] **equipment** which are shipped using a hazardous waste manifest may be reported in pounds or gallons.

7:26A-4.5 Additional design and operational requirements for recycling centers [which] **that** receive, store, process or transfer Class C recyclable materials

(a) In addition to the requirements of N.J.A.C. 7:26A-4.1, the following operational and design criteria apply to recycling centers receiving Class C recyclable material [consisting only of yard trimmings]:

1. (No change.)

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2. The recycling center shall have sufficient capacity to handle projected incoming volumes of [yard trimmings] **Class C recyclable material**.

3. (No change.)

4. [Yard trimmings] **Class C recyclable materials** shall be received only during times when the recycling center operator or owner is present.

5. All [yard trimmings] **Class C recyclable materials** delivered to the recycling center for processing shall be removed from bags, boxes or similar containers prior to any processing steps except that [yard trimmings] **Class C recyclable materials** in paper or biodegradable plastic bags need not be removed from such bags if the processing equipment provides for a shredding or cutting action. All discarded bags, boxes and similar containers shall be placed in a suitable refuse receptacle in the staging area of the recycling center for removal to an off-site disposal facility in accordance with N.J.A.C. 7:26-6.

6. If the incoming material contains grass[, it] **or other highly putrescible material that are known to cause odors, the material** shall be accepted only in areas of the site that are at least 1,000 feet from any areas of human use or occupancy[, and processing of such material shall begin on the day of receipt .] **unless the recycling center operation or receiving and preprocessing area is fully enclosed, or other measures approved by the Department are taken to prevent odors associated with the receipt of such materials from migrating off site. The Department may allow the recycling center to use a certificate of authority to operate an RD&D project obtained pursuant to N.J.A.C. 7:26-1.7(f) to demonstrate that the measures taken are suitable to prevent off-site impacts.**

[7. Recycling centers which provide composting of the Class C material shall operate in accordance with the following:

i. Within one year of the start up of the recycling center, the recycling center operator shall attend a composting course sponsored by the Rutgers Cooperative

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Extension, the appropriate county agricultural or resource management agents or any other similar course recognized by the Department;

ii. The active composting surface shall be an improved surface, such as compacted clay, gap-graded crushed aggregate, asphalt or other such surface that can withstand heavy equipment use. The surface shall be sloped to prevent ponding of liquids and to prevent surface runoff from directly entering any surface waters;

iii. Prior to windrow formation, dry yard trimmings shall be moistened to saturation without producing excessive runoff;

iv. To facilitate drainage and to reduce surface water ponding, each windrow shall be constructed and positioned in such a manner that it is perpendicular to the contours of the ground surface;

v. A windsock shall be installed at the recycling center in order to indicate wind direction so that the recycling center operator may determine appropriate times for windrow turning operations;

vi. The recycling center shall employ one of the following methods of windrow composting as defined below, or any other composting method approved by the Department:

(1) A minimal technology method, in which windrows are constructed and reconstructed after each turning to a maximum height of 12 feet with a corresponding base not to exceed a maximum of 24 feet. A minimum separation of 16 feet measured from the pile base of the windrow to the next adjacent pile base shall be maintained to provide ample working space. Windrows shall be turned and reconstructed, at a minimum, one time per year during the three year composting cycle;

(2) A low level technology method, in which windrows are constructed and reconstructed after each turning to a maximum height of 6 feet with a

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corresponding base not to exceed a maximum of 14 feet in width. A minimum separation of 16 feet measured from the pile base of the windrow to the next adjacent pile base shall be provided along at least one side of the longest dimension of each windrow pile to provide ample working space. Windrows shall be turned and reconstructed, at a minimum, three times during the 12 to 18 month compost cycle, once during the first two months of the composting cycle, at four to six months into the composting cycle and final again at the tenth month;

(3) An intermediate technology method, in which windrows are constructed and reconstructed after each turning to a maximum height and base width which corresponds to the specific windrow turning equipment used. The minimum separation distance between windrows shall also correspond to the recommended operation of the specific windrow turning equipment used. After initial windrow formation and aeration, windrows shall be turned and reconstructed, at a minimum, once per week for the first month. During the remainder of the 12 month composting cycle, temperature and oxygen concentration within the windrows shall be monitored, and further turnings shall be scheduled to prevent temperatures from exceeding 140 degrees Fahrenheit and to prevent oxygen levels from dropping below five percent for prolonged periods; or

(4) A high level technology method, in which windrows are constructed and reconstructed within an enclosed facility with air flow controlled venting. Forced aeration or mechanical agitation shall be controlled to complete the compost cycle in three to six months;

vii. Materials staging and processing shall be done in areas on the site which meet the following buffer distance requirements:

	Level of technology	Buffer with leaves only (FT)	Use for grass	Buffer with grass (FT)
(1)	Minimal	2500<1>	No	N/A
(2)	Low	50/500<2>	No	N/A

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(3)	Intermediate	50/150/250<3>	Yes	1000<4>; or
(4)	High	50<5>	Yes	50<5>

Notes:

1. From operations to sensitive land uses.
2. From operations to property line/to sensitive land uses.
3. From operating to property line/to sensitive land uses/to inhabited structure.
4. From grass clipping staging and handling areas to sensitive land uses.
5. Building setback for enclosed operations.

viii. Finished compost shall be tested once each year, at a minimum, in accordance with an appropriate monitoring and sampling plan established by the Department as part of the recycling center approval. Samples of the compost produced at the recycling center shall be analyzed for the parameters listed in Appendix A to this subchapter, incorporated herein by reference, according to the indicated method. Results of all laboratory analysis for each parameter specified in Appendix A shall be recorded and maintained at the recycling center;

ix. The laboratory used to perform the analysis of the finished compost product shall be certified in accordance with N.J.A.C. 7:18 for the equipment and testing procedures required in (a)7viii above;

x. The Department shall approve an alternate sampling schedule if the recycling center can demonstrate that less frequent testing will adequately monitor the quality of the finished compost in an equivalent manner. Such demonstration provision may be based on the recycling center's operational history, the quality of the finished compost and the quality of the incoming material;

xi. In addition to the recordkeeping requirements of N.J.A.C. 7:26A-3.17, the recycling center shall maintain the following records:

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(1) The quantity of yard trimmings received daily, expressed as cubic yards of leaves, grass and/or brush;

(2) The source of yard trimmings received daily; and

(3) The results of laboratory analyses of finished compost;

xii. The following information shall be made available for inspection by the Department pursuant to N.J.A.C. 7:26A-4.3:

(1) The results of compost analyses and name(s) of certified laboratory(ies);

(2) The quantity, type and source of incoming material;

(3) The quantity and types of recovered recyclables;

(4) The quantity of disposed residue, and sites receiving residue;
and

(5) The standard procedures employed to ensure data reliability.]

7. Processing of incoming material shall begin within three working days of receipt, except that if the incoming material contains grass or other highly putrescible materials, processing of such material shall begin on the same day of receipt of such material.

8. - 9. (No change.)

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10. The recycling center shall publish a notice of closure in a newspaper of general circulation in the district where the recycling center is located and in districts or communities sending at least 25 percent of their yard trimmings to the recycling center. Such notice shall be published at least [15] **30** days prior to closure.

11. Within 30 days of ceasing operation, all residuals, unprocessed [yard trimmings] **Class C recyclable material** and recyclables shall be removed from the site and recycled or disposed as appropriate **and the recycling center shall arrange for a final cleaning of any containers, equipment, machines, floors and recycling center surfaces in which Class C recyclable materials or residue was processed or stored.**

12. (No change.)

13. An update to the final closure plan as needed shall be submitted to the Department in writing at least 180 days prior to the proposed closure date for the recycling center.

14. Recycling centers that provide composting of yard trimmings shall operate in accordance with the following:

i. Within one year of the start up of the recycling center, the recycling center operator shall attend a composting course sponsored by the Rutgers Cooperative Extension, the appropriate county agricultural or resource management agents or any other similar course recognized by the Department;

ii. The active composting surface shall be an improved surface, such as compacted clay, gap-graded crushed aggregate, asphalt or other such surface that can withstand heavy equipment use. The surface shall be sloped to prevent ponding of liquids and to prevent surface runoff from directly entering any surface waters;

iii. Prior to windrow formation, dry yard trimmings shall be moistened to saturation without producing excessive runoff;

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iv. To facilitate drainage and to reduce surface water ponding, each windrow shall be constructed and positioned in such a manner that it is perpendicular to the contours of the ground surface;

v. A windsock shall be installed at the recycling center in order to indicate wind direction so that the recycling center operator may determine appropriate times for windrow turning operations;

vi. Windrow composting shall be conducted as follows:

(1) A minimal technology method, in which windrows are constructed and reconstructed after each turning to a maximum height of 12 feet with a corresponding base not to exceed a maximum of 24 feet. A minimum separation of 16 feet measured from the pile base of the windrow to the next adjacent pile base shall be maintained to provide ample working space. Windrows shall be turned and reconstructed, at a minimum, one time per year during the three year composting cycle;

(2) A low level technology method, in which windrows are constructed and reconstructed after each turning to a maximum height of six feet with a corresponding base not to exceed a maximum of 14 feet in width. A minimum separation of 16 feet measured from the pile base of the windrow to the next adjacent pile base shall be provided along at least one side of the longest dimension of each windrow pile to provide ample working space. Windrows shall be turned and reconstructed, at a minimum, three times during the 12 to 18 month compost cycle, once during the first two months of the composting cycle, at four to six months into the composting cycle and final again at the tenth month;

(3) An intermediate technology method, in which windrows are constructed and reconstructed after each turning to a maximum height and base width which corresponds to the specific windrow turning equipment used. The minimum separation distance between windrows shall also correspond to the recommended

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operation of the specific windrow turning equipment used. After initial windrow formation and aeration, windrows shall be turned and reconstructed, at a minimum, once per week for the first month. During the remainder of the 12-month composting cycle, temperature and oxygen concentration within the windrows shall be monitored, and further turnings shall be scheduled to prevent temperatures from exceeding 140 degrees Fahrenheit and to prevent oxygen levels from dropping below five percent for prolonged periods;

(4) A high level technology method, in which windrows are constructed and reconstructed within an enclosed facility with air flow controlled venting. Forced aeration or mechanical agitation shall be controlled to complete the compost cycle in three to six months; or

(5) Any other method approved in writing by the Department.

vii. Operations shall be performed in areas on the site which meet the following buffer distance requirements:

	<u>Level of technology</u>	<u>Buffer with leaves only (FT)</u>	<u>Use for grass</u>	<u>Buffer with grass (FT)</u>
<u>(1)</u>	<u>Minimal</u>	<u>2500¹</u>	<u>No</u>	<u>N/A</u>
<u>(2)</u>	<u>Low</u>	<u>50/500²</u>	<u>No</u>	<u>N/A</u>
<u>(3)</u>	<u>Intermediate</u>	<u>50/150/250³</u>	<u>Yes</u>	<u>1000⁴; or</u>
<u>(4)</u>	<u>High</u>	<u>50⁵</u>	<u>Yes</u>	<u>50⁵</u>

Notes:

- 1. From materials staging and processing to area of human use or occupancy.**
- 2. From materials staging and processing to property line/to area of human use or occupancy.**
- 3. From materials staging and processing to property line/to area of human**

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use or occupancy/to

inhabited structure.

- 4. From grass clipping staging and handling areas to area of human use or occupancy.**
- 5. Building setback for enclosed operations.**

viii. Finished compost shall be tested once each year, at a minimum, in accordance with an appropriate monitoring and sampling plan established by the Department as part of the recycling center approval. Samples of the compost produced at the recycling center shall be analyzed for the parameters listed in Appendix A to this subchapter, incorporated herein by reference, according to the indicated method. Results of all laboratory analysis for each parameter specified in Appendix A shall be recorded and maintained at the recycling center;

ix. The laboratory used to perform the analysis of the finished compost product shall be certified in accordance with N.J.A.C. 7:18 for the equipment and testing procedures required in (a)14viii above;

x. The Department shall approve an alternate sampling schedule if the recycling center can demonstrate that less frequent testing will adequately monitor the quality of the finished compost in an equivalent manner. Such demonstration provision may be based on the recycling center's operational history, the quality of the finished compost and the quality of the incoming material;

xi. In addition to the recordkeeping requirements of N.J.A.C. 7:26A-3.17, the recycling center shall maintain the following records:

(1) The quantity of yard trimmings received daily, expressed as cubic yards of leaves, grass and/or brush;

(2) The source of yard trimmings received daily; and

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(3) The results of laboratory analyses of finished compost;

xii. The following information shall be made available for inspection by the Department pursuant to N.J.A.C. 7:26A-1.7:

(1) The results of compost analyses and name(s) of certified laboratory(ies);

(2) The quantity, type and source of incoming material;

(3) The quantity and types of recovered recyclables;

(4) The quantity of disposed residue, and sites receiving residue; and

(5) The standard procedures employed to ensure data reliability.

15. Recycling centers that process Class C recyclable material other than or in addition to yard trimmings shall operate in accordance with the following minimum requirements in addition to site specific requirements set forth in the general approval:

i. The composting structure shall withstand wear and tear of normal operations. The operating pad shall be impermeable (hydraulic conductivity less than 10 <-5> cm/sec) and be sloped to prevent ponding of liquids and to direct leachate to a leachate collection system. Leachate control shall be provided wherever leachate is generated.

ii. The recycling center operations shall be fully enclosed in a structure, or structures, with complete walls and roof and shall include an air management system permitted by the Department pursuant to N.J.A.C. 7:27-1 that is capable of removing odors and noxious compounds. The building shall have a minimum

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setback of 50 feet from the property line of the recycling center. The Department may allow the recycling center to use a certificate of authority to operate an RD&D project obtained pursuant to N.J.A.C. 7:26-1.7(f) to demonstrate that the specific materials received do not require full enclosure that would prevent leachate problems and off-site impacts such as odors from typical food wastes. Based on the results of the RD&D project the Department may issue a general approval to allow other forms of structures or other measures that would be adequate to prevent on and off-site impacts.

iii. An operations and maintenance (O&M) manual specific to the recycling center shall be prepared, updated as needed, and available at the recycling center for inspection by Departmental personnel pursuant to N.J.A.C. 7:26A-1.7. The O&M manual shall include any and all information to enable supervisory and operating personnel to determine the sequence of operations, routine maintenance schedules, plans, policies, procedures, and legal requirements that must be adhered to. The O&M manual shall include a quality assurance/quality control (QA/QC) plan which outlines the monitoring, sampling and analysis plans for testing the compost process and product.

iv. The recycling center equipment shall be operated in conformance with the manufacturer and/or vendor specifications or appropriately documented modifications. Such equipment specifications, including modifications, shall be included in the operations and maintenance manual.

v. Employees shall be properly trained in the recycling center operations, maintenance procedures, and safety and emergency procedures.

vi. A recycling center-specific training manual shall be developed and made available to each employee.

vii. Operation of the recycling center shall be under supervision and control of a properly trained individual during all hours of operation.

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viii. Access to the recycling center shall be prohibited when the recycling center is closed.

ix. Incoming, unprocessed material or admixtures shall not be mixed with finished compost or other products of the process except in strict accordance with the conditions specified in the general approval.

x. The composting process shall meet the criteria for a process to further reduce pathogens (PFRP) in accordance with 40 CFR Part 503. One of the three following methods shall be used:

(1) Windrow method, which meets PFRP as follows:

(A) Maintenance of aerobic conditions; and

(B) A minimum of five turnings over 15 consecutive days, maintaining a temperature of not less than 55 degrees Celsius (131 degrees Fahrenheit).

(2) Aerated static pile method, which meets PFRP as follows:

(A) Pile insulated with six to 12 inches of insulating material (for example, sawdust, cured compost, or wood chips); and

(B) Temperature of at least 55 degrees Celsius (131 degrees Fahrenheit) maintained throughout the mixture for three consecutive days; or

(3) Enclosed (within) vessel composting method, which meets PFRP as follows:

(A) Temperature maintained at 55 degrees Celsius (131 degrees Fahrenheit) throughout the mixture for at least three consecutive days.

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xi. The recycling center shall monitor the temperature of the material in the composting process to ensure that pathogen reduction criteria are met. Temperature readings shall be recorded daily during PFRP.

xii. The Department shall establish an appropriate monitoring and sampling schedule for a one-year start-up period as part of the recycling center approval.

xiii. Using information gained during the one-year start-up period, a monitoring and sampling schedule for ongoing operations shall be developed, as part of the recycling center approval, in consultation with the Department based on statistical methods for quality assurance.

xiv. Compost samples shall be obtained in accordance with the approved QA/QC plan. Samples of the compost produced at the facility shall be analyzed for the compost quality monitoring parameters listed in Appendix A in accordance with the appropriate methods as approved in the sampling plan. Results of all laboratory analysis for each parameter specified in Appendix A shall be recorded and maintained at the facility. Quality assurance results shall be reported to the Department pursuant to (a)15xvii below.

xv. The laboratory used to perform the analysis of the finished compost product shall be certified in accordance with N.J.A.C. 7:18 for the equipment and testing procedures required pursuant to (a)15xiv above.

xvi. In addition to the recordkeeping requirements of N.J.A.C. 7:26A-3.17, the recycling center shall maintain the following records:

(1) Daily temperature and moisture monitoring of the composting process;

(2) The quantity of material received daily expressed as cubic yards;

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(3) The source of material received daily;

(4) The results of laboratory analyses of finished compost;

(5) The retention time of the finished compost; and

(6) The sale and distribution of recovered materials.

xvii. Quarterly reports shall be submitted to the Department within 30 days after the end of each calendar quarter. Such reports shall include the following:

(1) The results of compost analyses and the name(s) of certified laboratory(ies);

(2) The quantity, type and source of incoming materials;

(3) The quantity and types of recovered recyclables;

(4) The quantity of compost produced;

(5) The quantity of compost sold and/or distributed, and the end markets to which the compost is sold or distributed;

(6) The quantity of disposed residue, and sites receiving residue;

(7) Daily temperature readings and retention times during PFRP;

(8) A summary of leachate management (collected and reused or treated and disposed);

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(9) A summary of major maintenance on leachate, temperature or other monitoring and control systems in operation; and

(10) The standard procedures employed to ensure data reliability.

[(b) In addition to the requirements of *N.J.A.C. 7:26A-4.1*, the following operational and design criteria apply to recycling centers receiving Class C recyclable material other than or in addition to yard trimmings:

1. The recycling center shall have sufficient capacity to handle projected incoming volumes of Class C recyclable material.
2. The composting structure shall withstand wear and tear of normal operations. The floor shall be impermeable (10<-5> cm/sec or greater) and be sloped to prevent ponding of liquids and to direct leachate to a leachate collection system. Leachate control shall be provided wherever leachate is generated.
3. The recycling center operations shall be fully enclosed except in those cases where vegetative food material is the only food material received.
4. Any recycling center not fully enclosed shall meet the buffer requirements for recycling centers handling grass clippings described in (a)6 above.
5. An operations and maintenance (O&M) manual specific to the recycling center shall be prepared, updated as needed, and available at the recycling center for inspection by Departmental pursuant to *N.J.A.C. 7:26A-4.3*. The O&M manual shall include any and all information to enable supervisory and operating personnel to determine the sequence of operations, routine maintenance schedules, plans, policies, procedures, and legal requirements that must be adhered to. The O&M manual shall include a quality assurance/quality control (QA/QC) plan which outlines the monitoring, sampling and analysis plans for testing the compost process and product.

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6. The recycling center equipment shall be operated in conformance with the manufacturer and/or vendor specifications or appropriately documented modifications. Such equipment specifications, including modifications, shall be included in the operations and maintenance manual.

7. Employees shall be properly trained in the recycling center operations, maintenance procedures, and safety and emergency procedures.

8. A recycling center-specific training manual shall be developed and made available to each employee.

9. Operation of the recycling center shall be under supervision and control of a properly trained individual during all hours of operation.

10. Access to the recycling center shall be prohibited when the recycling center is closed.

11. Processing of incoming material shall begin within three days of receipt. If the incoming material contains grass and/or other highly putrescible materials, processing of such material shall begin on the working day of receipt of such material.

12. Incoming, unprocessed material shall not be mixed with finished compost.

13. The composting process shall meet the criteria for a process to further reduce pathogens (PFRP) in accordance with 40 C.F.R, Part 503. One of the three following methods shall be used:

i. Windrow method, which meets PFRP as follows:

(1) Maintenance of aerobic conditions; and

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(2) A minimum of five turnings over 15 consecutive days, maintaining a temperature of not less than 55 degrees Celsius (131 degrees Fahrenheit).

ii. Aerated static pile method, which meets PFRP as follows:

(1) Pile insulated with six to 12 inches of insulating material (for example, sawdust, cured compost, or wood chips); and

(2) Temperature of at least 55 degrees Celsius (131 degrees Fahrenheit) maintained throughout the mixture for three consecutive days; or

iii. Enclosed (within) vessel composting method, which meets PFRP as follows:

(1) Temperature maintained at 55 degrees Celsius (131 degrees Fahrenheit) throughout the mixture for at least three consecutive days.

14. The recycling center shall monitor the temperature of the material in the composting process to ensure that pathogen reduction criteria are met. Temperature readings shall be recorded daily during PFRP.

15. The design capacity of the finished compost storage area shall not exceed 15 months of production, in accordance with the marketing plan prepared and submitted in accordance with N.J.A.C. 7:26A-3.

16. Finished compost shall not be stored at the recycling center for more than 15 months.

17. Stored finished compost that is not used or sold within 15 months shall be removed or reprocessed for use or sale.

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18. The Department shall establish an appropriate monitoring and sampling schedule for a one-year start-up period as part of the recycling center approval.

19. Using information gained during the one-year start-up period, a monitoring and sampling schedule for ongoing operations shall be developed, as part of the recycling center approval, in consultation with the Department based on statistical methods for quality assurance.

20. Compost samples shall be obtained in accordance with the approved QA/QC plan. Samples of the compost produced at the facility shall be analyzed for the compost quality monitoring parameters listed in Appendix A in accordance with the appropriate methods as approved in the sampling plan. Results of all laboratory analysis for each parameter specified in Appendix A shall be recorded and maintained at the facility. Quality assurance results shall be reported to the Department pursuant to (b)23 below.

21. The laboratory used to perform the analysis of the finished compost product shall be certified in accordance with N.J.A.C. 7:18 for the equipment and testing procedures required pursuant to (b)20 above.

22. In addition to the recordkeeping requirements of N.J.A.C. 7:26A-3.17, the recycling center shall maintain the following records:

- i. Daily temperature and moisture monitoring of the composting process;
- ii. The quantity of material received daily expressed as cubic yards;
- iii. The source of material received daily;
- iv. The results of laboratory analyses of finished compost;
- v. The retention time of the finished compost; and

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vi. The sale and distribution of recovered materials.

23. Quarterly reports shall be submitted to the Department within 30 days after the end of each calendar quarter. Such reports shall include the following:

i. Results of compost analysis and name(s) of certified laboratory(ies);

ii. The quantity, type and source of incoming materials;

iii. The quantity and types of recovered recyclables;

iv. The quantity of compost produced;

v. The quantity of compost sold and/or distributed, and the end markets to which the compost is sold or distributed;

vi. The quantity of disposed residue, and sites receiving residue;

vii. Daily temperature readings and retention times during PFRP;

viii. A summary of leachate management (collected and reused or treated and disposed);

ix. A summary of major maintenance on leachate, temperature or other monitoring and control systems in operation; and

x. The standard procedures employed to ensure data reliability.

24. The recycling center shall, after one year of approval, submit to the Department a final closure plan containing a schedule and description of the steps necessary to close the recycling center including the estimated cost of closure and the plans to finance.

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25. An update to the final closure plan as needed shall be submitted in writing at least 180 days prior to the proposed closure date for the recycling center.

26. The recycling center shall notify the Department in writing at least 60 days prior to the proposed closure date for the recycling center.

27. The recycling center shall publish a notice of closure in a newspaper of general circulation in the district where the recycling center is located and in districts or communities sending at least 25 percent of their Class C recycling material to the recycling center. Such notice shall be published at least 30 days prior to closure.

28. Within 10 days of ceasing operation, all residuals and unprocessed Class C recyclable material shall be removed from the site and recycled or disposed, as appropriate, and the recycling center shall arrange for a final cleaning of any containers, equipment, machines, floors and recycling center surfaces in which Class C recyclable materials or residue was processed or stored.

29. The Department shall determine that a recycling center is closed when all of the requirements of the closure plan have been met.]

[(c)] **(b)** (No Change in text.)

7:26A-4.6 Additional design and operational standards for recycling centers which receive, store, process, or transfer Class D recyclable materials-latex paints, antifreeze, [thermostats,] lamps (light bulbs), oil-based finishes, batteries, mercury-containing [devices] **equipment** and consumer electronics, including universal waste

(a) Provisions of this section apply to recycling centers which receive, store, process, or transfer latex paints, antifreeze, [thermostats,] lamps, oil-based finishes, batteries, mercury-containing [devices] **equipment** and consumer electronics. Some [thermostats,] lamps, oil-based finishes, batteries, mercury-containing [devices] **equipment** and consumer electronics may also be universal wastes. Provisions of this subsection apply equally to those materials

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which are being handled as universal wastes and those which are not. Universal wastes, when not recycled or destined for recycling under the provisions of this chapter, shall not be handled by a Class D recycling center.

(b) - (h) (No change.)

7:26A-4.8 Additional design and operational standards for recycling centers which receive, store, process or transfer Class B recyclable materials

(a) (No change.)

(b) In addition to the requirements of N.J.A.C. 7:26A-4.1 and (a) above, the following operational and design criteria apply to recycling centers receiving Class B petroleum contaminated soil:

1. - 13. (No change.)

14. The facility shall process all source separated petroleum contaminated soil received at the recycling center by thermal treatment or other Department approved physical, chemical, or biological treatment technology, as specified in the general approval issued pursuant to N.J.A.C. 7:26A-3.5.

SUBCHAPTER 6. STANDARDS FOR THE MANAGEMENT OF USED OIL

7:26A-6.5 Standards for used oil collection and aggregation points

(a) Pursuant to N.J.S.A 13:1E-99.36, owners or operators of all reinspection stations permitted by the [Division of Motor Vehicles in the Department of Law and Public Safety **Motor Vehicle Commission** and all retail service stations that have used oil collection tanks on the premises shall accept do-it-yourselfer used oil for recycling in accordance with the following:

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1. – 4. (No change.)

[5. Owners and operators of such reinspection and service stations shall notify the Department of their regulated status as follows:

i. They shall notify once, upon commencing reinspection or retail auto service, or, if already operating, by March 17, 2003;

ii. They shall notify upon ceasing such business;

iii. They shall send such notifications to:

Bureau of Recycling and Planning
Division of Solid and Hazardous Waste
PO Box 414
Trenton, NJ 08625-0414

iv. Notification shall include the name and location of the business.]

(b) - (d) (No change.)

7:26A-6.6 Standards for used oil transporter and transfer facilities

(a) - (c) (No change.)

(d) The standards for used oil transportation are as follows:

1. (No change.)

[2. Used oil transporters shall comply with all applicable requirements under the U.S. Department of Transportation regulations in 49 CFR Parts 171 through 180. Persons

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transporting used oil that meets the definition of a hazardous material in 49 CFR 171.8, shall comply with all applicable regulation in 49 CFR 171 through 180.]

2. Transporters of used oil that meets the definition of a hazardous material in 49 CFR 171.8 shall comply with the following United States Department of Transportation (USDOT) regulations, as modified by the Transportation of Hazardous Materials rules at N.J.A.C. 16:49-2.1, and the Motor Carrier Safety Regulations at N.J.A.C. 13:60:

i. The Hazardous Materials Regulations at 49 CFR Parts 171 through 180, as amended and supplemented; and

ii. The Motor Carrier Safety Regulations at 49 CFR Parts 390 through 397, as amended and supplemented.

3. (No change.)

(e) (No change.)

(f) The standards for used oil storage at transfer facilities are as follows:

1. (No change.)

2. Used oil transfer facilities are transportation related facilities including loading docks, parking areas, and other areas where shipments of used oil are held for more than 24 hours during the normal course of transportation and not longer than 35 days. Transfer facilities that store used oil for more than 35 days **and also process used oil** are subject to regulation under N.J.A.C. 7:26A-6.7. **Transfer facilities that store used oil for more than 35 days but do not process used oil are subject to all of the requirements of N.J.A.C. 7:26A-6.7 except N.J.A.C. 7:26A-6.7(a)2vi;**

3. - 9. (No change.)

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(g) - (h) (No change.)

7:26A-6.7 Standards for used oil processors and re-refiners

(a) Standards for used oil processors and re-refiners and used oil processing and re-refining facilities are as follows:

1. (No change.)

2. Used oil processors/re-refiners who conduct the following activities are also subject to the requirements of other applicable provisions of this subchapter as indicated in (a)2i through [v] vi below;

i. - v. (No change.)

vi. Processors/re-refiners shall comply with the requirements for a Class D recycling facility of this [subchapter] **chapter (including the requirement to obtain a Class D recycling center approval pursuant to N.J.A.C. 7:26A-3)** and all applicable requirements of N.J.A.C. 7:27 and the regulations promulgated pursuant to the Federal Clean Air Act.

(b) - (e) (No change.)

(f) The following are the analysis plan standards for used oil processors and re-refiners:

1. Owners or operators of used oil processing and re-refining facilities shall develop and follow a written analysis plan describing the procedures that will be used to comply with the analysis requirements of N.J.A.C. 7:26A-6.7(d) and, if applicable, *N.J.A.C. 7:26A-[6.8(d)]6.9(c)*. The owner or operator shall keep the plan at the facility as [follows:] **provided in (f)2 and 3 below.**

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2. - 3. (No change.)

(g) - (j) (No change.)

SUBCHAPTER 7. STANDARDS FOR THE MANAGEMENT OF CLASS D UNIVERSAL WASTE

7:26A-7.1 Incorporation by reference: standards for the management of universal waste

(a) – (b) (No change.)

(c) The following provisions of 40 CFR Part 273 are incorporated by reference with the specified changes:

1. 40 C.F.R. 273.1(a), add as (5)[,] **and** (6) [and (7)]:

[" (5) Mercury-containing devices]

[(6)] **(5)** Oil-based finishes

[(7)] **(6)** Consumer electronics";

2. – 4. (No change.)

5. 40 C.F.R 273.18(g) **and 273.38(g)**, replace “appropriate regional EPA office” with “the Department of Environmental Protection’s [Division of]Solid and Hazardous Waste **Management Program**” and replace “EPA regional office” with “[Division of]Solid and Hazardous Waste **Management Program**”;

6. – 7. (No change.)

(d) (No change.)

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(e) The following Class D recyclable materials, which are hazardous waste, may either be handled as hazardous waste in accordance with the provisions of N.J.A.C. 7:26G, or as universal waste in accordance with the provisions contained in this chapter:

[1. Thermostats;]

Recodify existing 2. - 4. as 1. - 3. (No change in text.)

[5] 4. Mercury-containing [devices] equipment; and

[6] 5 (No change in text.)

(f) (No change.)

7:26A-7.2 State-listed universal wastes; applicability

(a) The Department, pursuant to 40 CFR 273.80 and associated USEPA guidance, herein lists universal wastes additional to the Federal universal waste program at 40 CFR Part 273. The following sections of this chapter set forth standards for the handling of the following additional wastes that may be managed as universal waste in New Jersey, and apply to all persons handling the additional wastes in (a)1 through 3 below.

[1. Mercury-containing devices, as defined in N.J.A.C. 7:26A-1.3, except the following:

i. Mercury-containing devices that are not yet discarded, or designated for disposal; and

ii. Mercury-containing devices that are not hazardous wastes. A mercury-containing device is a hazardous waste if it exhibits one or more of the characteristics identified in 40 CFR Part 261, subpart C as incorporated by reference at N.J.A.C. 7:26G-5.]

2. - 3. Recodify as 1. - 2. (No change in text.)

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7:26A-7.4 Management standards for small quantity handlers

(a) - (b) (No change.)

[(c) A small quantity handler of universal waste shall manage universal waste mercury-containing devices in a way that prevents releases of any universal waste or component of a universal waste to the environment, as follows:

1. A small quantity handler of universal waste shall contain any universal waste mercury-containing device that shows evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions in a container. The container shall be closed, structurally sound, compatible with the contents of the mercury-containing device, and shall lack evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions;

2. A small quantity handler of universal waste may remove mercury-containing ampules from universal waste mercury-containing devices provided the handler:

i. Removes the ampules in a manner designed to prevent breakage of the ampules;

ii. Removes ampules only over or in a containment device (for example, tray or pan sufficient to collect and contain any mercury released from an ampule in case of breakage);

iii. Ensures 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 as incorporated by reference at N.J.A.C. 7:26G-6;

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iv. Immediately transfers 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 as incorporated by reference at N.J.A.C. 7:26G-6;

v. Ensures that the area in which ampules are removed is well ventilated and monitored to ensure compliance with applicable Occupational Safety and Health Administration (OSHA) permissible exposure levels for mercury;

vi. Ensures that employees removing ampules are thoroughly familiar with proper waste mercury handling and emergency procedures, including transfer of mercury from containment devices to appropriate containers;

vii. Stores removed ampules in closed, non-leaking containers that are in good condition; and

viii. Packs removed ampules in the container with packing materials adequate to prevent breakage during storage, handling, and transportation; and

3. A small quantity handler of universal waste who generates solid waste as a result of the activities listed at N.J.A.C. 7:26A-7.4(c), shall classify that waste and handle it appropriately. The following are the classification standards of residues and other solid waste from the mercury-containing devices:

i. A small quantity handler of universal waste who removes mercury-containing ampules from mercury-containing devices shall determine whether the following exhibit a characteristic of hazardous waste identified in 40 CFR Part 261, subpart C as incorporated by reference at N.J.A.C. 7:26G-5:

(1) Mercury or clean-up residues resulting from spills or leaks;
and

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(2) Other solid waste generated as a result of the removal of mercury-containing ampules (for example, remaining mercury switches units);

ii. If the mercury, residues, or other solid waste exhibit a characteristic of hazardous waste, it shall be managed in compliance with all applicable hazardous waste management requirements of N.J.A.C. 7:26G. The handler is considered the generator of the mercury, residues, or other waste and shall manage it subject to N.J.A.C. 7:26G-6; and

iii. If the mercury, residues, or other solid waste is not hazardous, the handler may manage the waste in any way that is in compliance with N.J.A.C. 7:26.]

[(d)] **(c)** A small quantity handler of universal waste shall manage oil-based finishes, in its original or otherwise appropriate and labeled packaging, in a way that prevents releases of any universal waste or component of a universal waste to the environment, as follows:

1. A small quantity handler of universal waste shall contain **any** oil-based finishes that show[s] evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions in a container. The container shall be closed, structurally sound, compatible with the contents of the oil-based finishes, and shall lack evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions.

2. A small quantity handler of universal waste shall not in any way process any oil-based finishes (examples: including, but not limited to, opening, **repackaging**, blending, filtering). **A small quantity handler who wants to process oil-based finishes shall apply for a Class D recycling center approval in accordance with N.J.A.C. 7:26A-3.**

3. A small quantity handler of universal waste shall manage containers or packages containing oil-based finishes in an area equipped with a secondary containment system meeting the following requirements:

i. The secondary containment system shall consist of, at a minimum:

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(1) Dikes, berms, or retaining walls, and a floor which shall cover the entire area within the dike, berm, or retaining walls; or

(2) A secondary containment system equivalent to (c)3i(1) above; and

ii. The entire secondary containment system, including walls and floor, shall be sufficiently impervious to prevent any universal wastes released into the containment system from migrating out of the system to the soil, groundwater or surface water.

7:26A-7.5 Management standards for large quantity handlers

(a) - (b) (No change.)

[(c) A large quantity handler of universal waste shall manage universal waste mercury-containing devices in a way that prevents releases of any universal waste or component of a universal waste to the environment, as follows:

1. A large quantity handler of universal waste shall contain any universal waste mercury-containing device that shows evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions in a container. The container shall be closed, structurally sound, compatible with the contents of the mercury-containing devices, and shall lack evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions;

2. A large quantity handler of universal waste may remove mercury-containing ampules from universal waste mercury-containing devices provided the handler:

i. Removes the ampules in a manner designed to prevent breakage of the ampules;

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ii. Removes ampules only over or in a containment device (for example, tray or pan sufficient to collect and contain any mercury released from an ampule in case of breakage);

iii. Ensures 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 as incorporated by reference at N.J.A.C. 7:26G-6;

iv. Immediately transfers 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 as incorporated by reference at N.J.A.C. 7:26G-6;

v. Ensures that the area in which ampules are removed is well ventilated and monitored to ensure compliance with applicable Occupational Safety and Health Administration (OSHA) permissible exposure levels for mercury;

vi. Ensures that employees removing ampules are thoroughly familiar with proper waste mercury handling and emergency procedures, including transfer of mercury from containment devices to appropriate containers;

vii. Stores removed ampules in closed, non-leaking containers that are in good condition; and

viii. Packs removed ampules in the container with packing materials adequate to prevent breakage during storage, handling, and transportation; and

viii. Packs removed ampules in the container with packing materials adequate to prevent breakage during storage handling, and transportation; and

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3. The following are the classification standards of residues and other solid waste from the mercury-containing devices:

i. A large quantity handler of universal waste who removes mercury-containing ampules from mercury-containing devices shall determine whether the following exhibit a characteristic of hazardous waste identified in 40 CFR Part 261, subpart C as incorporated by reference at N.J.A.C. 7:26G-5:

(1) Mercury or clean-up residues resulting from spills or leaks;
and

(2) Other solid waste generated as a result of the removal of mercury-containing ampules (for example, remaining mercury switches units);

ii. If the mercury, residues, and/or other solid waste exhibit a characteristic of hazardous waste, it shall be managed in compliance with all applicable hazardous waste management requirements of N.J.A.C. 7:26G. The handler is considered the generator of the mercury, residues, and/or other waste and shall manage it subject to N.J.A.C. 7:26G-6; and

iii. If the mercury, residues, and/or other solid waste is not hazardous, the handler may manage the waste in any way that is in compliance with N.J.A.C. 7:26.]

[(d)] **(c)** A large quantity handler of universal waste shall manage [universal waste] **oil-based** finishes [in its original packaging,] in a way that prevents releases of any universal waste or component of a universal waste to the environment, as follows:

1. A large quantity handler of universal waste shall manage oil-based finishes in its original packaging, unless the large quantity handler is repackaging oil-based finishes in accordance with (c)5 below.

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[1.] **2.** A large quantity handler of universal waste shall contain any [universal waste] **oil-based** finishes that show[s] evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions in a container. The container shall be closed, structurally sound, compatible with the contents of the [universal waste] **oil-based** finishes, and shall lack evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions; and

[2.] **3.** A large quantity handler of universal waste may not conduct [disassembling (“demanufacturing”) or] processing (examples: including, but not limited to, filtering, blending, or tinting) activities on [universal waste] **oil-based** finishes. A large quantity handler who wants to [demanufacture or] process [universal waste paint] **oil-based finishes** shall apply for a Class D [Approval] **recycling center approval** in accordance with N.J.A.C. 7:26A-3.

4. A large quantity handler of universal waste shall manage containers or packages containing oil-based finishes in an area equipped with a secondary containment system meeting the following requirements:

i. The secondary containment system shall consist of, at a minimum:

(1) Dikes, berms, or retaining walls, and a floor which shall cover the entire area within the dike, berm, or retaining walls; or

(2) A secondary containment system equivalent to (c)4i(1) above; and

ii. The entire secondary containment system, including walls and floor, shall be sufficiently impervious to prevent any universal wastes released into the containment system from migrating out of the system to the soil, groundwater or surface water.

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5. A large quantity handler of universal waste may repackage oil-based finishes (that is, open containers of oil-based finishes and transfer the contents into other containers or tanks) provided that:

i. Containers and tanks used to hold oil-based finishes, shall be in good condition (no severe rusting, apparent structural defects or deterioration) and not leaking (no visible leaks).

ii. Containers and tanks holding oil-based finishes shall be kept closed during storage, except when it is necessary to add or remove oil-based finishes, and

iii. Containers or tanks holding oil-based finishes shall be equipped with a secondary containment system meeting (c)4i and ii above.

[(e)] **(d)** A large quantity handler of universal waste shall submit a report to the Department in the form of a letter, by March 1st, of the types and amounts of universal waste which were received, stored and shipped in the preceding calendar year. **The report shall also indicate the municipality of origin of any universal waste that was shipped out-of-State for recycling.** This report shall be submitted to the following address:

Universal Waste Project Manager
New Jersey Department of Environmental Protection
[Division of]Solid and Hazardous Waste **Management Program**
401 East State Street
PO Box 414
Trenton, NJ 08625-0414

7:26A-7.7 Labeling of containers of additional universal wastes

(a) (No change.)

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[(b) Universal waste mercury-containing devices shall be clearly labeled or marked individually or by closed container with the following phrase: "Universal Waste--Mercury-containing Devices."]

[(c)] **(b)** (No change in text.)

SUBCHAPTER 8. REQUIREMENTS FOR TRANSPORTERS OF SOURCE SEPARATED MATERIALS

7:26A-8.2 Exemptions

(a) A transporter of source separated **Class A**, Class B, Class C, or noncombustible Class D recyclable materials is not subject to the regulations at N.J.A.C. [7:26A-3] **7:26-3** provided the recyclable material is being shipped **for recycling** to any of the following locations:

1. (No change.)
2. A site operating pursuant to an exemption from the requirement to obtain a general or limited approval in accordance with N.J.A.C. 7:26A-1.4; [or]
3. A recycling depot. The transport of Class B materials to a recycling depot shall be limited to the transport of non-container plastic materials[.];

4. A manufacturer; or

5. A scrap processing facility.

(b) (No change.)

7.26A-8.3 Prohibitions

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(a) Transporters shall not mix source separated recyclable materials, whether designated by the county in which it is generated or not, with solid waste, for any purpose.

(b) The Department may grant a written exemption from this provision in cases of emergency.

7:26A-8.4 Transporters of recyclable materials

(a) No vehicle or transport unit used for the transportation of recyclable materials shall be used in a manner where littering, spillage, or emissions of recyclable materials will occur.

(b) All vehicles or transport units used to transport recyclable materials shall be maintained in good working condition to protect the health and safety of the workers and citizens of this State.

(c) Tarpaulins or covers shall be provided and used as needed while transporting recyclable materials.

SUBCHAPTER 9. CIVIL ADMINISTRATIVE PENALTIES AND REQUESTS FOR ADJUDICATORY HEARINGS

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. 13E-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

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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.

7:26A-9.2 Procedures for assessment and payment of civil administrative penalties

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(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

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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.

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;

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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.

7:26A-9.4 Civil administrative penalties for violation of rules adopted pursuant to the Act

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(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;

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3. Multiply the base penalty dollar amount times the following multipliers for each factor to obtain the severity penalty component, as applicable:

<u>SEVERITY FACTOR</u>	<u>MULTIPLIER</u>
<u>i. Violator had violated the same rule less than 12 months prior to the violation</u>	<u>1.00</u>
<u>ii. Violator had violated a different rule less than 12 months prior to the violation</u>	<u>0.50</u>
<u>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</u>	<u>0.50</u>
<u>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</u>	<u>0.25</u>

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."

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(g) The Rule Summary in this subsection, which summarizes certain provisions in 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. 7:26A, 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.

<u>Rule N.J.A.C.</u>	<u>Rule Summary</u>	<u>Base Penalty</u>	<u>Type of Violation</u>	<u>Grace Period (days)</u>
<u>7:26A-3.1(a)</u>	<u>Failure of approved recycling center to comply with all approval conditions.</u>	<u>\$3,000</u>	<u>M</u>	<u>30</u>
<u>7:26A-3.5(f)</u>	<u>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.</u>	<u>\$3,000</u>	<u>M</u>	<u>30</u>
<u>7:26A-3.6</u>	<u>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.</u>	<u>\$3,000</u>	<u>M</u>	<u>30</u>

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<u>Rule</u> <u>N.J.A.C.</u>	<u>Rule Summary</u>	<u>Base</u> <u>Penalty</u>	<u>Type of</u> <u>Violation</u>	<u>Grace</u> <u>Period</u> <u>(days)</u>
<u>7:26A-3.7(j)</u>	<u>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.</u>	<u>\$3,000</u>	<u>M</u>	<u>30</u>
<u>7:26A-3.7(k)</u>	<u>Failure of persons operating a limited approved recycling center to ensure that no illegal dumping occurs.</u>	<u>\$4,500</u>	<u>NM</u>	
<u>7:26A-3.8(a)</u>	<u>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.</u>	<u>\$4,500</u>	<u>NM</u>	
<u>7:26A-3.8(b)</u>	<u>Failure by the owner or operator of a tire recycling center to ensure that no mosquito colony formation develops.</u>	<u>\$4,500</u>	<u>NM</u>	
<u>7:26A-3.8(c)</u>	<u>Failure of a tire, tree stump, tree part or wood waste recycling center to have an approved fire control plan.</u>	<u>\$5,000</u>	<u>NM</u>	

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<u>7:26A-3.9(a)</u>	<u>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.</u>	<u>\$4,500</u>	<u>NM</u>	
<u>7:26A-3.9(b)</u>	<u>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.</u>	<u>\$4,500</u>	<u>NM</u>	
<u>7:26A-3.10</u>	<u>Failure of holder of a general or limited approval to comply with modification requirements.</u>	<u>\$3,000</u>	<u>M</u>	<u>30</u>
<u>7:26A-3.15(a)</u>	<u>Failure to ensure a general or limited approval to operate a recycling center is not transferred without prior approval of the Department.</u>	<u>\$5,000</u>	<u>NM</u>	
<u>7:26A-3.15(c)</u>	<u>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.</u>	<u>\$3,000</u>	<u>M</u>	<u>30</u>

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<u>7:26A-3.17(a)</u>	<u>Failure of holder of a general approval to comply with recordkeeping and annual reporting requirements.</u>	<u>\$3,000</u>	<u>M</u>	<u>30</u>

2. The violations of N.J.A.C. 7:26A-4, Operational Standards and General Rules for Recycling Centers which Receive, Store, Process or 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 as set forth in the following table.

<u>Rule</u> <u>N.J.A.C.</u>	<u>Rule Summary</u>	<u>Base</u> <u>Penalty</u>	<u>Type of</u> <u>Violation</u>	<u>Grace</u> <u>Period</u> <u>(days)</u>
<u>7:26A-4.1(a)1i</u>	<u>Failure of recycling center to ensure that recyclable material is separated at the point of generation from other waste material.</u>	<u>\$3,000</u>	<u>M</u>	<u>30</u>
<u>7:26A-4.1(a)1ii</u>	<u>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 center.</u>	<u>\$4,500</u>	<u>NM</u>	
<u>7:26A-4.1(a)1iii</u>	<u>Failure of recycling center to comply with commingling requirements.</u>	<u>\$3,000</u>	<u>M</u>	<u>30</u>

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<u>7:26A-4.1(a)2</u>	<u>Failure of recycling center to ensure residue is not stored on-site in excess of six months.</u>	<u>\$4,500</u>	<u>NM</u>	
<u>7:26A-4.1(a)4</u>	<u>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.</u>	<u>\$4,500</u>	<u>NM</u>	
<u>7:26A-4.1(a)5</u>	<u>Failure of recycling center to ensure hazardous wastes are not stored, processed or transferred at any recycling center.</u>	<u>\$5,000</u>	<u>NM</u>	
<u>7:26A-4.1(a)6</u>	<u>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.</u>	<u>\$5,000</u>	<u>NM</u>	

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<u>7:26A-4.1(a)8</u>	<u>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.</u>	<u>\$3,000</u>	<u>M</u>	<u>30</u>
<u>7:26A-4.1(a)10</u>	<u>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.</u>	<u>\$4,500</u>	<u>NM</u>	
<u>7:26A-4.1(a)11</u>	<u>Failure of recycling center operator to ensure recycling center operations are separated from sensitive land uses by an effective visual screen buffer.</u>	<u>\$3,000</u>	<u>M</u>	<u>30</u>
<u>7:26A-4.1(a)12</u>	<u>Failure of recycling center operator to ensure unauthorized access to center is controlled.</u>	<u>\$4,500</u>	<u>NM</u>	
<u>7:26A-4.1(a)13</u>	<u>Failure of recycling center operator to ensure areas of vehicular usage are suitably compacted and, where necessary, paved.</u>	<u>\$3,000</u>	<u>M</u>	<u>30</u>

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

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<u>7:26A-4.5(a)5,</u> <u>6</u>	<u>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.</u>	<u>\$4,500</u>	<u>NM</u>	
<u>7:26A-4.5(a)13i</u>	<u>Failure of Class C yard trimming operators to attend, within one year of start up, approved composting courses.</u>	<u>\$3,000</u>	<u>M</u>	<u>90</u>
<u>7:26A-4.5(a)13ii</u>	<u>Failure of Class C yard trimming operator to maintain improved active composting surface to prevent ponding or runoff.</u>	<u>\$4,500</u>	<u>NM</u>	
<u>7:26A-4.5(a)13iii</u>	<u>Failure of Class C yard trimming operator to moisten, without excess runoff, dry yard trimmings prior to windrow formation.</u>	<u>\$3,000</u>	<u>M</u>	<u>30</u>
<u>7:26A-4.5(a)13iv</u>	<u>Failure of Class C yard trimming operator to position windrows perpendicular to ground surface contours to prevent ponding.</u>	<u>\$4,500</u>	<u>NM</u>	
<u>7:26A-4.5(a)13v</u>	<u>Failure of Class C yard trimming operator to install windsock.</u>	<u>\$3,000</u>	<u>M</u>	<u>30</u>

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<u>7:26A-4.5(a)13vi</u>	<u>Failure of Class C yard trimming operator to comply with windrow composting requirements.</u>	<u>\$4,500</u>	<u>NM</u>	
<u>7:26A-4.5(a)13vii</u>	<u>Failure of Class C yard trimming operator to comply with material staging and processing buffer distance requirements.</u>	<u>\$3,000</u>	<u>M</u>	<u>30</u>
<u>7:26A-4.5(a)13viii</u>	<u>Failure of Class C yard trimming operator to comply with finished compost testing requirements.</u>	<u>\$3,000</u>	<u>M</u>	<u>30</u>
<u>7:26A-4.5(a)13xii</u>	<u>Failure of Class C yard trimming operator to comply with additional recordkeeping requirements.</u>	<u>\$3,000</u>	<u>M</u>	<u>30</u>
<u>7:26A-4.5(a)14i</u>	<u>Failure of Class C material operator to comply with composting structure requirements, no ponding, leachate control.</u>	<u>\$4,500</u>	<u>NM</u>	
<u>7:26A-4.5(a)14ii</u>	<u>Failure of Class C material operator to maintain fully enclosed operation and setback requirements.</u>	<u>\$4,500</u>	<u>NM</u>	
<u>7:26A-4.5(a)14iii</u>	<u>Failure of Class C material operator to comply with O & M manual requirements.</u>	<u>\$4,500</u>	<u>NM</u>	

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<u>Rule</u> <u>N.J.A.C.</u>	<u>Rule Summary</u>	<u>Base</u> <u>Penalty</u>	<u>Type of</u> <u>Violation</u>	<u>Grace</u> <u>Period</u> <u>(days)</u>
<u>7:26A-4.5(a)14v</u>	<u>Failure of Class C material operator to comply with employee training requirements.</u>	<u>\$3,000</u>	<u>M</u>	<u>30</u>
<u>7:26A-4.5(a)14vi</u>	<u>Failure of Class C material operator to develop a recycling center-specific training manual and make available to each employee.</u>	<u>\$3,000</u>	<u>M</u>	<u>30</u>
<u>7:26A-4.5(a)14vii, viii</u>	<u>Failure of Class C material operator to meet Process to Further Reduce Pathogens criteria and requirements.</u>	<u>\$4,500</u>	<u>NM</u>	
<u>7:26A-4.5(a)14xi</u>	<u>Failure of Class C material operator to conduct required QA/QC sampling and record results of such sampling.</u>	<u>\$4,500</u>	<u>NM</u>	
<u>7:26A-4.5(a)14xii</u>	<u>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.</u>	<u>\$4,500</u>	<u>NM</u>	
<u>7:26A-4.5(a)14xiii</u>	<u>Failure of Class C material operator to maintain required records.</u>	<u>\$3,000</u>	<u>M</u>	<u>30</u>

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<u>Rule N.J.A.C.</u>	<u>Rule Summary</u>	<u>Base Penalty</u>	<u>Type of Violation</u>	<u>Grace Period (days)</u>
<u>7:26A-4.5(a)14xiv</u>	<u>Failure of Class C material operator to submit quarterly report to the Department within 30 days after the end of each quarter.</u>	<u>\$3,000</u>	<u>M</u>	<u>30</u>
<u>7:26A-4.5(b)1</u>	<u>Failure of Class C operator to comply with labeling requirements.</u>	<u>\$3,000</u>	<u>M</u>	<u>30</u>
<u>7:26A-4.5(b)2</u>	<u>Failure of Class C operator to comply with compost utilization requirements.</u>	<u>\$4,500</u>	<u>NM</u>	

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.

<u>Rule N.J.A.C.</u>	<u>Rule Summary</u>	<u>Base Penalty</u>	<u>Type of Violation</u>	<u>Grace Period (days)</u>
<u>7:26A-5.1(a)</u>	<u>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.</u>	<u>\$5000</u>	<u>NM</u>	

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<u>Rule N.J.A.C.</u>	<u>Rule Summary</u>	<u>Base Penalty</u>	<u>Type of Violation</u>	<u>Grace Period (days)</u>
<u>7:26A-5.1(b)</u>	<u>Failure to recover refrigerant fluid in a manner such that no venting of refrigerant fluid occurs.</u>	<u>\$5,000</u>	<u>NM</u>	
<u>7:26A-5.1(c)</u>	<u>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.</u>	<u>\$5,000</u>	<u>NM</u>	

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.

<u>Rule N.J.A.C.</u>	<u>Rule Summary</u>	<u>Base Penalty</u>	<u>Type of Violation</u>	<u>Grace Period (days)</u>
<u>7:26A-6.1(a)2i(1)</u>	<u>Failure to manage used oil mixed with a listed hazardous waste as a hazardous waste in accordance with N.J.A.C. 7:26G.</u>	<u>\$5,000</u>	<u>NM</u>	
<u>7:26A-6.1(a)2ii(1)</u>	<u>Failure to manage used oil mixed with a characteristic hazardous waste or a listed hazardous waste</u>	<u>\$5,000</u>	<u>NM</u>	

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<u>Rule</u> <u>N.J.A.C.</u>	<u>Rule Summary</u>	<u>Base</u> <u>Penalty</u>	<u>Type of Violation</u>	<u>Grace</u> <u>Period</u> <u>(days)</u>
	<u>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.</u>			
<u>7:26A-6.1(a)4ii</u>	<u>Failure by used oil generator to comply with management requirements for diesel fuel mixed with used diesel crankcase oil.</u>	<u>\$3,000</u>	<u>M</u>	<u>30</u>
<u>7:26A-6.1(a)9</u>	<u>Failure by a marketer or burner to comply with requirements of 40 CFR 761.20(e) for used oil containing quantifiable levels of PCBs.</u>	<u>\$5,000</u>	<u>NM</u>	
<u>7:26A-6.2(a)</u>	<u>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.</u>	<u>\$5,000</u>	<u>NM</u>	
<u>7:26A-6.2(b)</u>	<u>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.</u>	<u>\$3,000</u>	<u>M</u>	<u>30</u>
<u>7:26A-6.3(a)</u>	<u>Failure to comply with requirements for managing used oil in a surface impoundment or</u>	<u>\$5,000</u>	<u>NM</u>	

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<u>Rule</u> <u>N.J.A.C.</u>	<u>Rule Summary</u>	<u>Base</u> <u>Penalty</u>	<u>Type of Violation</u>	<u>Grace</u> <u>Period</u> <u>(days)</u>
	<u>waste pile.</u>			
<u>7:26A-6.3(b)</u>	<u>Failure to comply with prohibition against using used oil as a dust suppressant.</u>	<u>\$5,000</u>	<u>NM</u>	
<u>7:26A-6.3(c)</u>	<u>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 Equipment and Certificate to Operate Control Apparatus" prior to burning off-specification used oil in one of these devices.</u>	<u>\$5,000</u>	<u>NM</u>	
<u>7:26A-6.3(d)</u>	<u>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.</u>	<u>\$3,000</u>	<u>M</u>	<u>30</u>
<u>7:26A-6.3(e)</u>	<u>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).</u>	<u>\$4,500</u>	<u>NM</u>	
<u>7:26A-6.3(f)</u>	<u>Failure to comply with the</u>	<u>\$4,500</u>	<u>NM</u>	

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<u>Rule</u> <u>N.J.A.C.</u>	<u>Rule Summary</u>	<u>Base</u> <u>Penalty</u>	<u>Type of Violation</u>	<u>Grace</u> <u>Period</u> <u>(days)</u>
	<u>prohibition against burning off-specification used oil in a space heater.</u>			
<u>7:26A-6.4(d)1</u>	<u>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.</u>	<u>\$4,500</u>	<u>NM</u>	
<u>7:26A-6.4(d)2</u>	<u>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.</u>	<u>\$3,000</u>	<u>M</u>	<u>30</u>
<u>7:26A-6.4(d)3</u>	<u>Failure of used oil generator to ensure containers or aboveground tanks used to store used oil storage units are in good condition and not leaking.</u>	<u>\$4,500</u>	<u>NM</u>	
<u>7:26A-6.4(d)4</u>	<u>Failure of used oil generator to comply with used oil labeling/marketing requirements.</u>	<u>\$3,000</u>	<u>M</u>	<u>30</u>
<u>7:26A-6.4(d)5</u>	<u>Failure of used oil generator to comply with or initiate response to releases.</u>	<u>\$4,500</u>	<u>NM</u>	
<u>7:26A-6.4(e)1</u>	<u>Failure of used oil generator to burn only self-generated or</u>	<u>\$4,500</u>	<u>NM</u>	

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<u>Rule N.J.A.C.</u>	<u>Rule Summary</u>	<u>Base Penalty</u>	<u>Type of Violation</u>	<u>Grace Period (days)</u>
	<u>household do-it-yourselfer used oil in a space heater.</u>			
<u>7:26A-6.4(e)2</u>	<u>Used oil generator burned used oil in an oil space heater that exceeded the maximum capacity of 0.5 million BTU per hour.</u>	<u>\$3,000</u>	<u>M</u>	<u>30</u>
<u>7:26A-6.4(e)3</u>	<u>Failure of used oil generator to vent combustion gases from a space heater to ambient air.</u>	<u>\$4,500</u>	<u>NM</u>	
<u>7:26A-6.4(e)4</u>	<u>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.</u>	<u>\$4,500</u>	<u>NM</u>	
<u>7:26A-6.4(f)</u>	<u>Failure of used oil generator to comply with used oil off-site shipment requirements.</u>	<u>\$4,500</u>	<u>NM</u>	
<u>7:26A-6.4(g)</u>	<u>Failure to comply with do-it-yourselfer and motor oils retailer requirements.</u>	<u>\$3,000</u>	<u>M</u>	<u>30</u>
<u>7:26A-6.5(a)</u>	<u>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-</u>	<u>\$3,000</u>	<u>M</u>	<u>30</u>

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<u>Rule N.J.A.C.</u>	<u>Rule Summary</u>	<u>Base Penalty</u>	<u>Type of Violation</u>	<u>Grace Period (days)</u>
	<u>6.5(a).</u>			
<u>7:26A-6.5(b)2</u>	<u>Failure of do-it-yourselfer used oil collection center to comply with the generator standards at N.J.A.C. 7:26A-6.4.</u>	<u>\$3,000</u>	<u>M</u>	<u>30</u>
<u>7:26A-6.5(c)2i</u>	<u>Failure of used oil collection center to comply with the generator standards at N.J.A.C. 7:26A-6.4.</u>	<u>\$3,000</u>	<u>M</u>	<u>30</u>
<u>7:26A-6.5(c)2ii</u>	<u>Failure of used oil collection center to register or be recognized by county or municipality as a used oil collection center.</u>	<u>\$3,000</u>	<u>M</u>	<u>30</u>
<u>7:26A-6.5(c)2iii</u>	<u>Failure of used oil collection center to comply with sign posting requirements.</u>	<u>\$3,000</u>	<u>M</u>	<u>30</u>
<u>7:26A-6.5(d)2</u>	<u>Failure of used oil aggregation point to comply with generator standards at N.J.A.C. 7:26A-6.4.</u>	<u>\$3,000</u>	<u>M</u>	<u>30</u>
<u>7:26A-6.6(a)4</u>	<u>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.</u>	<u>\$4,500</u>	<u>NM</u>	

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<u>Rule</u> <u>N.J.A.C.</u>	<u>Rule Summary</u>	<u>Base</u> <u>Penalty</u>	<u>Type of Violation</u>	<u>Grace</u> <u>Period</u> <u>(days)</u>
<u>7:26A-6.6(b)</u>	<u>Used oil transporter conducted non-incident processing of used oil.</u>	<u>\$5,000</u>	NM	
<u>7:26A-6.6(c)</u>	<u>Failure of used oil transporter and/or transfer facility to comply with the notification and/or EPA identification requirements.</u>	<u>\$5,000</u>	<u>NM</u>	
<u>7:26A-6.6(d)1</u>	<u>Failure of used oil transporter to comply with delivery requirements.</u>	<u>\$4,500</u>	<u>NM</u>	
<u>7:26A-6.6(d)2</u>	<u>Failure of used oil transporter to comply with the United States Department of Transportation Regulations.</u>	<u>\$4,500</u>	<u>NM</u>	
<u>7:26A-6.6(d)3</u>	<u>Failure of used oil transporter to comply with used oil transportation discharge requirements.</u>	<u>\$4,500</u>	<u>NM</u>	
<u>7:26A-6.6(e)1</u>	<u>Failure of used oil transporter to determine if total halogen content is equal to, less than or greater than 1000 ppm for used oil being transported or stored.</u>	<u>\$4,500</u>	<u>NM</u>	
<u>7:26A-6.6(e)5</u>	<u>Failure of used oil transporter to retain records of analyses or other information, used to ensure used oil is not a hazardous waste, for three years.</u>	<u>\$4,500</u>	<u>NM</u>	

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<u>7:26A-6.6(f)1</u>	<u>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.</u>	<u>\$4,500</u>	<u>NM</u>	
<u>7:26A-6.6(f)3</u>	<u>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.</u>	<u>\$3,000</u>	<u>M</u>	<u>30</u>
<u>7:26A-6.6(f)4</u>	<u>Failure of used oil transfer facility to ensure used oil containers or aboveground tanks are in good condition and not leaking.</u>	<u>\$4,500</u>	<u>NM</u>	
<u>7:26A-6.6(f)5</u>	<u>Failure of used oil transfer facility to comply with secondary containment requirements for containers.</u>	<u>\$4,500</u>	<u>NM</u>	
<u>7:26A-6.6(f)6</u>	<u>Failure of used oil transfer facility to comply with secondary containment requirements for existing aboveground tanks.</u>	<u>\$4,500</u>	<u>NM</u>	
<u>7:26A-6.6(f)7</u>	<u>Failure of used oil transfer facility to comply with secondary containment requirements for new</u>	<u>\$4,500</u>	<u>NM</u>	

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	<u>aboveground tanks.</u>			
<u>7:26A-6.6(f)8</u>	<u>Failure of used oil transfer facility to comply with used oil labeling requirements.</u>	<u>\$3,000</u>	<u>M</u>	<u>30</u>
<u>7:26A-6.6(f)9</u>	<u>Failure by used oil transfer facility to comply with used oil facility discharge requirements.</u>	<u>\$4,500</u>	<u>NM</u>	
<u>7:26A-6.6(g)</u>	<u>Failure of used oil transporter to comply with tracking requirements.</u>	<u>\$4,500</u>	<u>NM</u>	
<u>7:26A-6.7(b)</u>	<u>Failure of used oil processor or re-refining facility to comply with notification and/or EPA identification requirements.</u>	<u>\$5,000</u>	<u>NM</u>	
<u>7:26A-6.7(c)1i</u>	<u>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.</u>	<u>\$5,000</u>	<u>NM</u>	
<u>7:26A-6.7(c)1ii</u>	<u>Failure of used oil processor or re-refining facility to equip facility with emergency equipment.</u>	<u>\$4,500</u>	<u>NM</u>	
<u>7:26A-6.7(c)1iii</u>	<u>Failure of used oil processor or re-refining facility to test and maintain emergency equipment.</u>	<u>\$3,000</u>	<u>M</u>	<u>30</u>
<u>7:26A-6.7(c)1iv</u>	<u>Failure of used oil processor or re-refining facility to maintain access</u>	<u>\$3,000</u>	<u>M</u>	<u>30</u>

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<u>Rule</u> <u>N.J.A.C.</u>	<u>Rule Summary</u>	<u>Base</u> <u>Penalty</u>	<u>Type of Violation</u>	<u>Grace</u> <u>Period</u> <u>(days)</u>
	<u>to communications or alarm system.</u>			
<u>7:26A-6.7(c)1v</u>	<u>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.</u>	<u>\$3,000</u>	<u>M</u>	<u>30</u>
<u>7:26A-6.7(c)1vi</u>	<u>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.</u>	<u>\$3,000</u>	<u>M</u>	<u>30</u>
<u>7:26A-6.7(c)2i(1)</u>	<u>Failure of used oil processor or re-refining facility to have a contingency plan designed to minimize hazards to human health and the environment.</u>	<u>\$4,500</u>	<u>NM</u>	
<u>7:26A-6.7(c)2i(2)</u>	<u>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.</u>	<u>\$5,000</u>	<u>NM</u>	
<u>7:26A-6.7(c)2ii(1)</u>	<u>Failure of used oil processor or re-refining facility contingency plan</u>	<u>\$3,000</u>	<u>M</u>	<u>30</u>

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<u>Rule N.J.A.C.</u>	<u>Rule Summary</u>	<u>Base Penalty</u>	<u>Type of Violation</u>	<u>Grace Period (days)</u>
	<u>to describe actions to be taken in response to fires, explosions, or any unplanned sudden or non-sudden release.</u>			
<u>7:26A- 6.7(c)2ii(2)</u>	<u>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.IE) plan, to incorporate used oil management provisions.</u>	<u>\$3,000</u>	<u>M</u>	<u>30</u>
<u>7:26A- 6.7(c)2ii(3)</u>	<u>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.</u>	<u>\$3,000</u>	<u>M</u>	<u>30</u>
<u>7:26A- 6.7(c)2ii(4)</u>	<u>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.</u>	<u>\$3,000</u>	<u>M</u>	<u>30</u>
<u>7:26A- 6.7(c)2ii(5)</u>	<u>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.</u>	<u>\$3,000</u>	<u>M</u>	<u>30</u>
<u>7:26A-</u>	<u>Failure of used oil processor or re-</u>	<u>\$3,000</u>	<u>M</u>	<u>30</u>

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<u>Rule</u> <u>N.J.A.C.</u>	<u>Rule Summary</u>	<u>Base</u> <u>Penalty</u>	<u>Type of Violation</u>	<u>Grace</u> <u>Period</u> <u>(days)</u>
<u>6.7(c)2ii(6)</u>	<u>refining facility contingency plan to include evacuation procedure for personnel including signals, evacuation routes or alternate evacuation routes.</u>			
<u>7:26A-6.7(c)2iii</u>	<u>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.</u>	<u>\$3,000</u>	<u>M</u>	<u>30</u>
<u>7:26A-6.7(c)2iv</u>	<u>Failure of used oil processor or re-refining facility to review or amend contingency plan as necessary.</u>	<u>\$3,000</u>	<u>M</u>	<u>30</u>
<u>7:26A-6.7(c)2v</u>	<u>Failure of used oil processor or re-refining facility to make emergency coordinator thoroughly familiar with plan or available at all times.</u>	<u>\$4,500</u>	<u>NM</u>	
<u>7:26A-6.7(c)2vi(1)</u>	<u>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.</u>	<u>\$4,500</u>	<u>NM</u>	
<u>7:26A-6.7(c)2vi(9)</u>	<u>Failure of used oil processor or re-refining facility to submit incident report to Department within 15 days after an incident.</u>	<u>\$3,000</u>	<u>M</u>	<u>30</u>

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<u>Rule N.J.A.C.</u>	<u>Rule Summary</u>	<u>Base Penalty</u>	<u>Type of Violation</u>	<u>Grace Period (days)</u>
<u>7:26A-6.7(d)1</u>	<u>Failure of used oil processor or re-refining facility to determine if total halogen content is equal to, less than or greater than 1000 p.p.m. for used oil being transported or stored.</u>	<u>\$4,500</u>	<u>NM</u>	
<u>7:26A-6.7(d)4</u>	<u>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 Jersey licensed hazardous waste transporter.</u>	<u>\$4,500</u>	<u>NM</u>	
<u>7:26A-6.7(e)1</u>	<u>Failure of used oil processor or re-refining facility, storing used oil, to comply with applicable <u>Spill Prevention, Control and Countermeasures regulations, Clean Air Act regulations or Underground Storage Tank regulations.</u></u>	<u>\$4,500</u>	<u>NM</u>	
<u>7:26A-6.7(e)2</u>	<u>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 <u>7:26G-8 or 9.</u></u>	<u>\$3,000</u>	<u>M</u>	<u>30</u>
<u>7:26A-6.7(e)3</u>	<u>Failure of used oil processor or re-refining facility to ensure</u>	<u>\$4,500</u>	<u>NM</u>	

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<u>Rule N.J.A.C.</u>	<u>Rule Summary</u>	<u>Base Penalty</u>	<u>Type of Violation</u>	<u>Grace Period (days)</u>
	<u>containers or aboveground tanks, used to store or process used oil, are in good condition and not leaking.</u>			
<u>7:26A-6.7(e)4</u>	<u>Failure of used oil processor or re-refining facility to comply with secondary containment requirements for containers used to store or process used oil.</u>	<u>\$4,500</u>	<u>NM</u>	
<u>7:26A-6.7(e)5</u>	<u>Failure of used oil processor or re-refining facility to comply with the secondary containment requirements for existing aboveground tanks used to store or process used oil.</u>	<u>\$4,500</u>	<u>NM</u>	
<u>7:26A-6.7(e)6</u>	<u>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.</u>	<u>\$4,500</u>	<u>NM</u>	
<u>7:26A-6.7(e)7</u>	<u>Failure of used oil processor or re-refining facility to comply with used oil labeling requirements.</u>	<u>\$3,000</u>	<u>M</u>	<u>30</u>
<u>7:26A-6.7(e)8</u>	<u>Failure of used oil processor or re-refining facility to comply with or initiate response to releases.</u>	<u>\$4,500</u>	<u>NM</u>	

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<u>Rule</u> <u>N.J.A.C.</u>	<u>Rule Summary</u>	<u>Base</u> <u>Penalty</u>	<u>Type of Violation</u>	<u>Grace</u> <u>Period</u> <u>(days)</u>
<u>7:26A-6.7(e)9i(1)</u>	<u>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 appropriately.</u>	<u>\$10,000</u>	<u>NM</u>	
<u>7:26A-6.7(e)9i(2)</u>	<u>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.</u>	<u>\$10,000</u>	<u>NM</u>	
<u>7:26A-6.7(e)9ii(1)</u>	<u>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.</u>	<u>\$4,500</u>	<u>NM</u>	
<u>7:26A-6.7(e)9ii(2)</u>	<u>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</u>	<u>\$10,000</u>	<u>NM</u>	

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<u>Rule</u> <u>N.J.A.C.</u>	<u>Rule Summary</u>	<u>Base</u> <u>Penalty</u>	<u>Type of Violation</u>	<u>Grace</u> <u>Period</u> <u>(days)</u>
	<u>and equipment contaminated with used oil, and manage them appropriately.</u>			
<u>7:26A-6.7(f)</u>	<u>Failure of used oil processor or re-refining facility to develop or follow a written waste analysis plan in accordance with requirements at N.J.A.C. 7:26A-6.7(f).</u>	<u>\$5,000</u>	<u>NM</u>	
<u>7:26A-6.7(g)</u>	<u>Failure of used oil processor or re-refining facility to comply with used oil tracking standards and records.</u>	<u>\$4,500</u>	<u>NM</u>	
<u>7:26A-6.7(h)</u>	<u>Failure of used oil processor or re-refining facility to comply with operating record and reporting standards.</u>	<u>\$4,500</u>	<u>NM</u>	
<u>7:26A-6.7(i)</u>	<u>Failure by used oil processor or re-refining facility to ensure used oil transporter has an EPA identification number.</u>	<u>\$3,000</u>	<u>M</u>	<u>30</u>
<u>7:26A-6.7(j)</u>	<u>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.</u>	<u>\$4,500</u>	<u>NM</u>	
<u>7:26A-6.8(b)1</u>	<u>Used oil burner burned off-specification used oil in a device other than an industrial furnace.</u>	<u>\$5,000</u>	<u>NM</u>	

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<u>Rule N.J.A.C.</u>	<u>Rule Summary</u>	<u>Base Penalty</u>	<u>Type of Violation</u>	<u>Grace Period (days)</u>
	<u>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 or Equipment and Certificate to Operate Control Apparatus.</u>			
<u>7:26A-6.8(b)2i</u>	<u>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.</u>	<u>\$5,000</u>	<u>NM</u>	
<u>7:26A-6.8(c)</u>	<u>Failure of used oil burner to comply with notification and/or EPA identification requirements.</u>	<u>\$4,500</u>	<u>NM</u>	
<u>7:26A-6.8(d)1</u>	<u>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.</u>	<u>\$5,000</u>	<u>NM</u>	
<u>7:26A-6.8(d)4</u>	<u>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.</u>	<u>\$4,500</u>	<u>NM</u>	
<u>7:26A-6.8(e)1</u>	<u>Failure of used oil burner storing used oil to comply with applicable</u>	<u>\$3,000</u>	<u>M</u>	<u>30</u>

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<u>Rule</u> <u>N.J.A.C.</u>	<u>Rule Summary</u>	<u>Base</u> <u>Penalty</u>	<u>Type of Violation</u>	<u>Grace</u> <u>Period</u> <u>(days)</u>
	<u>Spill Prevention, Control and Countermeasures regulations, Clean Air Act regulations or Underground Storage Tank regulations.</u>			
<u>7:26A-6.8(e)2</u>	<u>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.</u>	<u>\$3,000</u>	<u>M</u>	<u>30</u>
<u>7:26A-6.8(e)3</u>	<u>Failure of used oil burner to ensure used oil containers or aboveground tanks are in good condition and not leaking.</u>	<u>\$4,500</u>	<u>NM</u>	
<u>7:26A-6.8(e)4</u>	<u>Failure of used oil burner, storing used oil in containers, to comply with the secondary containment requirements.</u>	<u>\$4,500</u>	<u>NM</u>	
<u>7:26A-6.8(e)5</u>	<u>Failure of used oil burner, storing used oil in existing aboveground tank(s), to comply with the secondary containment requirements.</u>	<u>\$4,500</u>	<u>NM</u>	
<u>7:26A-6.8(e)6</u>	<u>Failure of used oil burner, storing used oil in new aboveground tank(s), to comply with secondary containment requirements.</u>	<u>\$4,500</u>	<u>NM</u>	
<u>7:26A-6.8(e)7</u>	<u>Failure of used oil burner to</u>	<u>\$3,000</u>	<u>M</u>	<u>30</u>

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<u>Rule</u> <u>N.J.A.C.</u>	<u>Rule Summary</u>	<u>Base</u> <u>Penalty</u>	<u>Type of Violation</u>	<u>Grace</u> <u>Period</u> <u>(days)</u>
	<u>comply with used oil-labeling requirements.</u>			
<u>7:26A-6.8(e)8</u>	<u>Failure of used oil burner to comply with or initiate response to releases.</u>	<u>\$4,500</u>	<u>NM</u>	
<u>7:26A-6.8(f)</u>	<u>Failure of used oil burner to comply with operating record and recordkeeping standards.</u>	<u>\$4,500</u>	<u>NM</u>	
<u>7:26A-6.8(g)</u>	<u>Failure of a used oil burner to comply with first-time notice and recordkeeping standards.</u>	<u>\$4,500</u>	<u>NM</u>	
<u>7:26A-6.8(h)</u>	<u>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.</u>	<u>\$4,500</u>	<u>NM</u>	
<u>7:26A-6.9(a)3</u>	<u>Failure of used oil fuel marketer to comply with the standards for used oil generators, transporters/transfer facilities, processors/re-refiners or burners.</u>	<u>\$4,500</u>	<u>NM</u>	
<u>7:26A-6.9(b)</u>	<u>Failure of a used oil fuel marketer to ship off-specification used oil to an authorized burner facility.</u>	<u>\$5,000</u>	<u>NM</u>	
<u>7:26A-6.9(c)1</u>	<u>Failure of a used oil 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</u>	<u>\$5,000</u>	<u>NM</u>	

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<u>Rule</u> <u>N.J.A.C.</u>	<u>Rule Summary</u>	<u>Base</u> <u>Penalty</u>	<u>Type of Violation</u>	<u>Grace</u> <u>Period</u> <u>(days)</u>
	<u>provide a copy of analyses or other information to facility receiving shipment of used oil.</u>			
<u>7:26A-6.9(c)2</u>	<u>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.</u>	<u>\$4,500</u>	<u>NM</u>	
<u>7:26A-6.9(d)1</u>	<u>Failure of used oil fuel marketer to comply with notification and/or EPA identification requirements.</u>	<u>\$4,500</u>	<u>NM</u>	
<u>7:26A-6.9(e)1</u>	<u>Failure of used oil fuel marketer to comply with invoicing requirements for off-specification used oil fuel.</u>	<u>\$4,500</u>	<u>NM</u>	
<u>7:26A-6.9(e)2</u>	<u>Failure of used oil fuel marketer to comply with tracking requirements for shipments of off-specification used oil fuel.</u>	<u>\$4,500</u>	<u>NM</u>	
<u>7:26A-6.9(e)3</u>	<u>Failure of first person 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.</u>	<u>\$4,500</u>	<u>NM</u>	
<u>7:26A-6.9(f)</u>	<u>Failure of used oil marketer to comply with notice standards.</u>	<u>\$4,500</u>	<u>NM</u>	

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<u>Rule</u> <u>N.J.A.C.</u>	<u>Rule Summary</u>	<u>Base</u> <u>Penalty</u>	<u>Type of Violation</u>	<u>Grace</u> <u>Period</u> <u>(days)</u>
<u>7:26A-6.10(b)1</u>	<u>Failure to manage used oil that has been identified as a hazardous waste and cannot be recycled, as a hazardous waste.</u>	<u>\$5,000</u>	<u>NM</u>	
<u>7:26A-6.10(b)2</u>	<u>Failure to manage used oil that is not hazardous waste and cannot be recycled, as a solid waste.</u>	<u>\$4,500</u>	<u>NM</u>	
<u>7:26A-6.10(c)</u>	<u>Failure to comply with prohibition against using used oil as a dust suppressant.</u>	<u>\$5,000</u>	<u>NM</u>	

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.

<u>Rule</u> <u>40 CFR</u>	<u>Rule Summary</u>	<u>Base</u> <u>Penalty</u>	<u>Type of</u> <u>Violation</u>	<u>Grace</u> <u>Period</u> <u>(days)</u>
<u>§273.11</u>	<u>Failure of small quantity handler of universal waste to comply with universal waste prohibitions.</u>	<u>\$4,500</u>	<u>NM</u>	
<u>§273.13(a)1</u>	<u>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,</u>	<u>\$4,500</u>	<u>NM</u>	

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<u>Rule</u> <u>40 CFR</u>	<u>Rule Summary</u>	<u>Base</u> <u>Penalty</u>	<u>Type of</u> <u>Violation</u>	<u>Grace</u> <u>Period</u> <u>(days)</u>
	<u>compatible with the contents of the batteries, and non-leaking.</u>			
<u>§273.13(a)2</u>	<u>Failure of small quantity handler of universal waste to ensure that the casing of individual cells was not breached when activities were conducted on batteries.</u>	<u>\$4,500</u>	<u>NM</u>	
<u>§273.13(a)3</u>	<u>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.</u>	<u>\$5,000</u>	<u>NM</u>	
<u>§273.13(b)1</u>	<u>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.</u>	<u>\$4,500</u>	<u>NM</u>	
<u>§273.13(b)2</u>	<u>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.</u>	<u>\$4,500</u>	<u>NM</u>	
<u>§273.13(b)3</u>	<u>Failure of small quantity handler of universal waste to contain universal waste pesticides in a</u>	<u>\$3,000</u>	<u>M</u>	<u>30</u>

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<u>Rule</u> <u>40 CFR</u>	<u>Rule Summary</u>	<u>Base</u> <u>Penalty</u>	<u>Type of</u> <u>Violation</u>	<u>Grace</u> <u>Period</u> <u>(days)</u>
	<u>tank which meets the requirements of 40 CFR §265 Subpart J.</u>			
<u>§273.13(b)4</u>	<u>Failure 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.</u>	<u>\$4,500</u>	<u>NM</u>	
<u>§273.13(c)1</u>	<u>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 environment.</u>	<u>\$4,500</u>	<u>NM</u>	
<u>§273.13(c)2i</u>	<u>Failure of small quantity handler of universal waste to remove mercury-containing ampules in a manner designed to prevent breakage of the ampules.</u>	<u>\$4,500</u>	<u>NM</u>	
<u>§273.13(c)2ii</u>	<u>Failure of small quantity handler</u>	<u>\$4,500</u>	<u>NM</u>	

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<u>Rule</u> <u>40 CFR</u>	<u>Rule Summary</u>	<u>Base</u> <u>Penalty</u>	<u>Type of</u> <u>Violation</u>	<u>Grace</u> <u>Period</u> <u>(days)</u>
	<u>of universal waste to remove mercury-containing ampules only over or in a containment device.</u>			
<u>§273.13(c)2iii</u>	<u>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.</u>	<u>\$4,500</u>	<u>NM</u>	
<u>§273.13(c)2iv</u>	<u>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 CFR §262.34.</u>	<u>\$4,500</u>	<u>NM</u>	
<u>§273.13(c)2v</u>	<u>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</u>	<u>\$4,500</u>	<u>NM</u>	

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<u>Rule</u> <u>40 CFR</u>	<u>Rule Summary</u>	<u>Base</u> <u>Penalty</u>	<u>Type of</u> <u>Violation</u>	<u>Grace</u> <u>Period</u> <u>(days)</u>
	<u>exposure levels for mercury.</u>			
<u>§273.13(c)2vi</u>	<u>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.</u>	<u>\$4,500</u>	<u>NM</u>	
<u>§273.13(c)2vii</u>	<u>Failure of small quantity handler of universal waste to store mercury-containing ampules in closed, non-leaking containers that are in good condition.</u>	<u>\$4,500</u>	<u>NM</u>	
<u>§273.13(c)2viii</u>	<u>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 transportation.</u>	<u>\$4,500</u>	<u>NM</u>	
<u>§273.13(c)3</u>	<u>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</u>	<u>\$3,000</u>	<u>M</u>	<u>30</u>

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	<u>removing and managing ampules.</u>			
<u>§273.13(c)4</u>	<u>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.</u>	<u>\$5000</u>	<u>NM</u>	
<u>§273.13(d)1</u>	<u>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.</u>	<u>\$4,500</u>	<u>NM</u>	
<u>§273.13(d)2</u>	<u>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</u>	<u>\$4,500</u>	<u>NM</u>	

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	<u>electronic, and non-leaking.</u>			
<u>§273.14(a)</u>	<u>Failure of small quantity handler of universal waste to properly label or mark universal waste batteries or containers of universal waste batteries.</u>	<u>\$3,000</u>	<u>M</u>	<u>30</u>
<u>§273.14(b)</u>	<u>Failure of small quantity handler of universal waste to properly label or mark containers, tanks, transport vehicles or vessels of recalled universal waste pesticides.</u>	<u>\$3,000</u>	<u>M</u>	<u>30</u>
<u>§273.14(c)</u>	<u>Failure of small quantity handler of universal waste to properly label or mark containers, tanks, transport vehicles or vessels of unused universal waste pesticides.</u>	<u>\$3,000</u>	<u>M</u>	<u>30</u>
<u>§273.14(d)</u>	<u>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.</u>	<u>\$3,000</u>	<u>M</u>	<u>30</u>
<u>§273.14(e)</u>	<u>Failure of small quantity handler of universal waste to properly label or mark universal waste lamps or containers of universal</u>	<u>\$3,000</u>	<u>M</u>	<u>30</u>

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	<u>waste lamps.</u>			
<u>§273.15(a)-(b)</u>	<u>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.</u>	<u>\$5,000</u>	<u>NM</u>	
<u>§273.15(c)</u>	<u>Failure of small quantity handler of universal waste to demonstrate the length of time that the universal waste was accumulated.</u>	<u>\$4,500</u>	<u>NM</u>	
<u>§273.16</u>	<u>Failure of small quantity handler of universal waste to ensure that all employees are thoroughly familiar with proper waste handling and emergency procedures.</u>	<u>\$4,500</u>	<u>NM</u>	
<u>§273.17(a)</u>	<u>Failure of small quantity handler of universal waste to immediately contain any releases or residues of universal waste.</u>	<u>\$5,000</u>	<u>NM</u>	
<u>§273.17(b)</u>	<u>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.</u>	<u>\$5,000</u>	<u>NM</u>	

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<u>§273.18(a)</u>	<u>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.</u>	<u>\$4,500</u>	<u>NM</u>	
<u>§273.18(b)</u>	<u>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.</u>	<u>\$3,000</u>	<u>M</u>	<u>30</u>
<u>§273.18(c)</u>	<u>Failure of small 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.</u>	<u>\$3,000</u>	<u>M</u>	<u>30</u>
<u>§273.18(d)</u>	<u>Failure of the originating handler to ensure that the receiving handler agrees to accept the universal waste.</u>	<u>\$4,500</u>	<u>NM</u>	
<u>§273.18(e)</u>	<u>Failure of small quantity handler of universal waste to receive back or agree on an alternate facility for rejected shipments of universal waste.</u>	<u>\$5,000</u>	<u>NM</u>	

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<u>§273.18(f)</u>	<u>Failure of small quantity handler of universal waste to properly reject shipments of universal waste.</u>	<u>\$5,000</u>	<u>NM</u>	
<u>§273.18(g)</u>	<u>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.</u>	<u>\$5,000</u>	<u>NM</u>	
<u>§273.18(h)</u>	<u>Failure of small quantity handler of universal waste receiving non-hazardous, non-universal waste to manage such waste in accordance with N.J.A.C. 7:26.</u>	<u>\$3,000</u>	<u>M</u>	<u>30</u>
<u>§273.20(a)</u>	<u>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.</u>	<u>\$3,000</u>	<u>M</u>	<u>30</u>
<u>§273.20(b)</u>	<u>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.</u>	<u>\$5,000</u>	<u>NM</u>	
<u>§273.20(c)</u>	<u>Failure of small quantity handler of universal waste that exported</u>	<u>\$3,000</u>	<u>M</u>	<u>30</u>

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	<u>universal waste to provide a copy of the EPA Acknowledgement of Consent to the transporter.</u>			
<u>§273.31</u>	<u>Failure of large quantity handler of universal waste to comply with universal waste prohibitions.</u>	<u>\$4,500</u>	<u>NM</u>	
<u>§273.32(a)</u>	<u>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 exceeding the 5,000 kg storage limit.</u>	<u>\$5,000</u>	<u>NM</u>	
<u>§273.32(b)</u>	<u>Failure of large quantity handler of universal waste to include all information on the written notification to the Department.</u>	<u>\$3,000</u>	<u>M</u>	<u>30</u>
<u>§273.33(a)1</u>	<u>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.</u>	<u>\$4,500</u>	<u>NM</u>	
<u>§273.33(a)2</u>	<u>Failure of large quantity handler of universal waste to ensure that the casing of individual cells was</u>	<u>\$4,500</u>	<u>NM</u>	

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	<u>not breached when activities where conducted on batteries.</u>			
<u>§273.33(a)3</u>	<u>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.</u>	<u>\$5,000</u>	<u>NM</u>	
<u>§273.33(b)1</u>	<u>Failure of large 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.</u>	<u>\$4,500</u>	<u>NM</u>	
<u>§273.33(b)2</u>	<u>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.</u>	<u>\$4,500</u>	<u>NM</u>	
<u>§273.33(b)3</u>	<u>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.</u>	<u>\$3,000</u>	<u>M</u>	<u>30</u>
<u>§273.33(b)4</u>	<u>Failure of large quantity handler</u>	<u>\$4,500</u>	<u>NM</u>	

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	<u>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.</u>			
<u>§273.33(c)1</u>	<u>Failure of large 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 environment.</u>	<u>\$4,500</u>	<u>NM</u>	
<u>§273.33(c)2i</u>	<u>Failure of large quantity handler of universal waste to remove mercury-containing ampules in a manner designed to prevent breakage of the ampules.</u>	<u>\$4,500</u>	<u>NM</u>	
<u>§273.33(c)2ii</u>	<u>Failure of large quantity handler of universal waste to remove mercury-containing ampules only over or in a containment device.</u>	<u>\$4,500</u>	<u>NM</u>	
<u>§273.33(c)2iii</u>	<u>Failure of large quantity handler</u>	<u>\$4,500</u>	<u>NM</u>	

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	<u>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.</u>			
<u>§273.33(c)2iv</u>	<u>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.</u>	<u>\$4,500</u>	<u>NM</u>	
<u>§273.33(c)2v</u>	<u>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.</u>	<u>\$4,500</u>	<u>NM</u>	
<u>§273.33(c)2vi</u>	<u>Failure of large quantity handler of universal waste to ensure that employees removing mercury-</u>	<u>\$4,500</u>	<u>NM</u>	

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	<u>containing ampules are thoroughly familiar with proper waste mercury handling and emergency procedures.</u>			
<u>§273.33(c)2vii</u>	<u>Failure of large quantity handler of universal waste to store mercury-containing ampules in closed, non-leaking containers that are in good condition.</u>	<u>\$4,500</u>	<u>NM</u>	
<u>§273.33(c)2viii</u>	<u>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.</u>	<u>\$4,500</u>	<u>NM</u>	
<u>§273.33(c)3</u>	<u>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.</u>	<u>\$3,000</u>	<u>M</u>	<u>30</u>
<u>§273.33(c)4</u>	<u>Failure of large quantity handler of universal waste, who removes mercury-containing ampules or</u>	<u>\$5,000</u>	<u>NM</u>	

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	<u>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.</u>			
<u>§273.33(d)1</u>	<u>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.</u>	<u>\$4,500</u>	<u>NM</u>	
<u>§273.33(d)2</u>	<u>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.</u>	<u>\$4,500</u>	<u>NM</u>	
<u>§273.34(a)</u>	<u>Failure of large quantity handler of universal waste to properly label or mark universal waste batteries or containers of</u>	<u>\$3,000</u>	<u>M</u>	<u>30</u>

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	<u>universal waste batteries.</u>			
<u>§273.34(b)</u>	<u>Failure of large quantity handler of universal waste to properly label or mark containers, tanks, transport vehicles or vessels of recalled universal waste pesticides.</u>	<u>\$3,000</u>	<u>M</u>	<u>30</u>
<u>§273.34(c)</u>	<u>Failure of large quantity handler of universal waste to properly label or mark containers, tanks, transport vehicles or vessels of unused universal waste pesticides.</u>	<u>\$3,000</u>	<u>M</u>	<u>30</u>
<u>§273.34(d)</u>	<u>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.</u>	<u>\$3,000</u>	<u>M</u>	<u>30</u>
<u>§273.34(e)</u>	<u>Failure of large quantity handler of universal waste to properly label or mark universal waste lamps or containers of universal waste lamps.</u>	<u>\$3,000</u>	<u>M</u>	<u>30</u>
<u>§273.35(a)-(b)</u>	<u>Large quantity handler of universal waste accumulated universal waste for greater than one year, without proving the</u>	<u>\$5,000</u>	<u>NM</u>	

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	<u>accumulation was solely for the purpose of facilitating proper recovery, treatment or disposal.</u>			
<u>§273.35(c)</u>	<u>Failure of large quantity handler of universal waste to demonstrate the length of time that the universal waste was accumulated.</u>	<u>\$4,500</u>	<u>NM</u>	
<u>§273.36</u>	<u>Failure of large quantity handler of universal waste to ensure that all employees are thoroughly familiar with proper waste handling and emergency procedures.</u>	<u>\$4,500</u>	<u>NM</u>	
<u>§273.37(a)</u>	<u>Failure of large quantity handler of universal waste to immediately contain any releases or residues of universal waste.</u>	<u>\$5,000</u>	<u>NM</u>	
<u>§273.37(b)</u>	<u>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.</u>	<u>\$5,000</u>	<u>NM</u>	
<u>§273.38(a)</u>	<u>Large quantity handler of universal waste sent or took universal waste to a place other than another universal waste handler, a destination facility, or</u>	<u>\$4,500</u>	<u>NM</u>	

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	<u>a foreign destination.</u>			
<u>§273.38(b)</u>	<u>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. 7:26A-7.4.</u>	<u>\$3,000</u>	<u>M</u>	<u>30</u>
<u>§273.38(c)</u>	<u>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.</u>	<u>\$3,000</u>	<u>M</u>	<u>30</u>
<u>§273.38(d)</u>	<u>Failure of the originating handler to ensure that the receiving handler agrees to accept the universal waste.</u>	<u>\$4,500</u>	<u>NM</u>	
<u>§273.38(e)</u>	<u>Failure of large quantity handler of universal waste to receive back or agree on an alternate facility for rejected shipments of universal waste.</u>	<u>\$5,000</u>	<u>NM</u>	
<u>§273.38(f)</u>	<u>Failure of large quantity handler of universal waste to properly reject shipments of universal waste.</u>	<u>\$5,000</u>	<u>NM</u>	
<u>§273.38(g)</u>	<u>Failure of large quantity handler</u>	<u>\$5,000</u>	<u>NM</u>	

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<u>Rule</u> <u>40 CFR</u>	<u>Rule Summary</u>	<u>Base</u> <u>Penalty</u>	<u>Type of</u> <u>Violation</u>	<u>Grace</u> <u>Period</u> <u>(days)</u>
	<u>of universal waste to immediately notify the Department if an illegal shipment of hazardous waste, that was shipped as universal waste, is received.</u>			
<u>§273.38(h)</u>	<u>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.</u>	<u>\$3,000</u>	<u>M</u>	<u>30</u>
<u>§273.39(a)1</u>	<u>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.</u>	<u>\$3,000</u>	<u>M</u>	<u>30</u>
<u>§273.39(a)2</u>	<u>Failure of large quantity handler of universal waste to record the quantity of each type of universal waste received.</u>	<u>\$3,000</u>	<u>M</u>	<u>30</u>
<u>§273.39(a)3</u>	<u>Failure of large quantity handler of universal waste to record the date of receipt of the shipment of universal waste.</u>	<u>\$3,000</u>	<u>M</u>	<u>30</u>
<u>§273.39(b)1</u>	<u>Failure of large quantity handler of universal waste to record the name and address of the</u>	<u>\$3,000</u>	<u>M</u>	<u>30</u>

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	<u>universal waste handler, destination facility, or foreign destination to whom universal waste was sent.</u>			
<u>§273.39(b)2</u>	<u>Failure of large quantity handler of universal waste to record the quantity of each type of universal waste sent.</u>	<u>\$3,000</u>	<u>M</u>	<u>30</u>
<u>§273.39(b)3</u>	<u>Failure of large quantity handler of universal waste to record the date the shipment of universal waste left the facility.</u>	<u>\$3,000</u>	<u>M</u>	<u>30</u>
<u>§273.39(c)</u>	<u>Failure of large quantity handler of universal waste to retain the records for at least three years.</u>	<u>\$3,000</u>	<u>M</u>	<u>30</u>
<u>§273.40(a)</u>	<u>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.</u>	<u>\$3,000</u>	<u>M</u>	<u>30</u>
<u>§273.40(b)</u>	<u>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.</u>	<u>\$5,000</u>	<u>NM</u>	
<u>§273.40(c)</u>	<u>Failure of large quantity handler of universal waste that exported</u>	<u>\$3,000</u>	<u>M</u>	<u>30</u>

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<u>Rule</u> <u>40 CFR</u>	<u>Rule Summary</u>	<u>Base</u> <u>Penalty</u>	<u>Type of</u> <u>Violation</u>	<u>Grace</u> <u>Period</u> <u>(days)</u>
	<u>universal waste to provide a copy of the EPA Acknowledgement of Consent to the transporter.</u>			
<u>§273.51</u>	<u>Failure of universal waste transporter to comply with universal waste prohibitions.</u>	<u>\$4,500</u>	<u>NM</u>	
<u>§273.52(a)</u>	<u>Failure of universal waste transporter to comply with USDOT requirements for universal waste which meets the definition of a hazardous material.</u>	<u>\$4,500</u>	<u>NM</u>	
<u>§273.52(b)</u>	<u>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.</u>	<u>\$3,000</u>	<u>M</u>	<u>30</u>
<u>§273.53</u>	<u>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.</u>	<u>\$4,500</u>	<u>NM</u>	
<u>§273.54(a)</u>	<u>Failure of universal waste transporter to immediately contain any releases or residues of universal waste.</u>	<u>\$5,000</u>	<u>NM</u>	
<u>§273.54(b)</u>	<u>Failure of universal waste</u>	<u>\$5,000</u>	<u>NM</u>	

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	<u>transporter to determine if any material resulting from the release of universal waste is hazardous, and to properly manage the waste.</u>			
<u>§273.55(a)</u>	<u>Universal waste transporter sent or took universal waste to a place other than another universal waste handler, a destination facility, or a foreign destination.</u>	<u>\$5,000</u>	<u>NM</u>	
<u>§273.55(b)</u>	<u>Failure of universal waste transporter to properly describe, on the shipping paper, any universal waste that meets the definition of a hazardous material.</u>	<u>\$3,000</u>	<u>M</u>	<u>30</u>
<u>§273.56</u>	<u>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.</u>	<u>\$5,000</u>	<u>NM</u>	
<u>§273.56(a)</u>	<u>Failure of universal waste transporter exporting universal waste to ensure that a copy of the EPA Acknowledgement of Consent accompanied the</u>	<u>\$3,000</u>	<u>M</u>	<u>30</u>

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<u>Rule</u> <u>40 CFR</u>	<u>Rule Summary</u>	<u>Base</u> <u>Penalty</u>	<u>Type of</u> <u>Violation</u>	<u>Grace</u> <u>Period</u> <u>(days)</u>
	<u>shipment.</u>			
<u>§273.56(b)</u>	<u>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.</u>	<u>\$5,000</u>	<u>NM</u>	
<u>§273.60(a)</u>	<u>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.</u>	<u>\$3,000</u>	<u>M</u>	<u>30</u>
<u>§273.60(b)</u>	<u>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.</u>	<u>\$3,000</u>	<u>M</u>	<u>30</u>
<u>§273.61(a)</u>	<u>Owner or operator of a universal waste destination facility sent or took universal waste to a place other than a universal waste</u>	<u>\$5,000</u>	<u>NM</u>	

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	<u>handler, another destination facility or foreign destination.</u>			
<u>§273.61(b)</u>	<u>Failure of owner or operator of a universal waste destination facility to properly reject shipments of universal waste.</u>	<u>\$5,000</u>	<u>NM</u>	
<u>§273.61(c)</u>	<u>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.</u>	<u>\$5,000</u>	<u>NM</u>	
<u>§273.62(a)1</u>	<u>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.</u>	<u>\$3,000</u>	<u>M</u>	<u>30</u>
<u>§273.62(a)2</u>	<u>Failure of owner of operator of a universal waste destination facility to record the quantity of each type of universal waste received.</u>	<u>\$3,000</u>	<u>M</u>	<u>30</u>
<u>§273.62(a)3</u>	<u>Failure of owner or operator of a universal waste destination facility to record the date of</u>	<u>\$3,000</u>	<u>M</u>	<u>30</u>

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<u>Rule</u> <u>40 CFR</u>	<u>Rule Summary</u>	<u>Base</u> <u>Penalty</u>	<u>Type of</u> <u>Violation</u>	<u>Grace</u> <u>Period</u> <u>(days)</u>
	<u>receipt of the shipment of universal waste.</u>			
<u>§273.62(b)</u>	<u>Failure of owner or operator of a universal waste destination facility to keep records for three years.</u>	<u>\$3,000</u>	<u>M</u>	<u>30</u>
<u>§273.70</u>	<u>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.</u>	<u>\$3,000</u>	<u>M</u>	<u>30</u>
<u>§273.70(b)</u>	<u>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.</u>	<u>\$3,000</u>	<u>M</u>	<u>30</u>
<u>§273.70(c)</u>	<u>Failure of owner or operator of a universal waste destination facility, managing universal waste that was imported from a foreign country, to comply with the requirements of 40 CFR §273</u>	<u>\$3,000</u>	<u>M</u>	<u>30</u>

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<u>Rule</u> <u>40 CFR</u>	<u>Rule Summary</u>	<u>Base</u> <u>Penalty</u>	<u>Type of</u> <u>Violation</u>	<u>Grace</u> <u>Period</u> <u>(days)</u>
	<u>Subpart E after waste is received in the United States.</u>			

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.

<u>Rule</u> <u>N.J.A.C.</u>	<u>Rule Summary</u>	<u>Base</u> <u>Penalty</u>	<u>Type of</u> <u>Violation</u>	<u>Grace</u> <u>Period</u> <u>(days)</u>
<u>7:26A-7.4(b)1</u>	<u>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.</u>	<u>\$4,500</u>	<u>NM</u>	
<u>7:26A-7.4(b)2</u>	<u>Small quantity handler of universal waste disassembled a consumer electronic in a manner that constituted processing or treatment.</u>	<u>\$4,500</u>	<u>NM</u>	
<u>7:26A-7.4(b)3</u>	<u>Failure of small quantity handler of universal waste who generates a solid waste, as the result of</u>	<u>\$5,000</u>	<u>NM</u>	

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	<u>performing activities, to determine if the waste is hazardous.</u>			
<u>7:26A-7.4(c)</u>	<u>Failure of small quantity handler of universal waste to manage oil-based finishes, in its original or otherwise appropriate and labeled packaging.</u>	<u>\$3,000</u>	<u>M</u>	<u>30</u>
<u>7:26A-7.4(c)1</u>	<u>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.</u>	<u>\$4,500</u>	<u>NM</u>	
<u>7:26A-7.4(c)2</u>	<u>Small quantity handler of universal waste to handled universal waste oil-based finishes in a manner that constituted processing.</u>	<u>\$4,500</u>	<u>NM</u>	
<u>7:26A-7.5(b)1</u>	<u>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,</u>	<u>\$4,500</u>	<u>NM</u>	

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<u>Rule</u> <u>N.J.A.C.</u>	<u>Rule Summary</u>	<u>Base</u> <u>Penalty</u>	<u>Type of</u> <u>Violation</u>	<u>Grace</u> <u>Period</u> <u>(days)</u>
	<u>in a container that is closed, structurally sound, compatible with the contents of the consumer electronics, and non-leaking.</u>			
<u>7:26A-7.5(b)2</u>	<u>Large quantity handler of universal waste conducted disassembling or processing on consumer electronics without applying for a Class D Approval.</u>	<u>\$4,500</u>	<u>NM</u>	
<u>7:26A-7.5(c)</u>	<u>Failure of large quantity handler of universal waste to manage universal waste finishes in its original packaging.</u>	<u>\$3,000</u>	<u>M</u>	<u>30</u>
<u>7:26A-7.5(c)2</u>	<u>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.</u>	<u>\$4,500</u>	<u>NM</u>	
<u>7:26A-7.5(c)3</u>	<u>Large quantity handler of universal waste conducted disassembling or processing activities on universal waste finishes without applying for a Class D Approval.</u>	<u>\$4,500</u>	<u>NM</u>	

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<u>7:26A-7.5(d)</u>	<u>Failure of large quantity handler of universal 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.</u>	<u>\$3,000</u>	<u>M</u>	<u>30</u>
<u>7:26A-7.7(a)</u>	<u>Failure to accumulate universal waste consumer electronics devices in a closed container that is clearly marked with the words Universal Waste-Consumer Electronics.</u>	<u>\$3,000</u>	<u>M</u>	<u>30</u>
<u>7:26A-7.7(b)</u>	<u>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.</u>	<u>\$3,000</u>	<u>M</u>	<u>30</u>

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.

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<u>Rule N.J.A.C.</u>	<u>Rule Summary</u>	<u>Base Penalty</u>	<u>Type of Violation</u>	<u>Grace Period (days)</u>
<u>7:26A-8.1</u>	<u>Failure by a transporter of recyclable materials to provide a recycling tonnage report by February 1 of each year.</u>	<u>\$3,000</u>	<u>M</u>	<u>30</u>
<u>7.26A-8.3</u>	<u>Failure of transporter to not mix source-separated recyclables with other wastes.</u>	<u>\$4,500</u>	<u>NM</u>	

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.

<u>Rule N.J.A.C.</u>	<u>Rule Summary</u>	<u>Base Penalty</u>	<u>Type of Violation</u>	<u>Grace Period (days)</u>
<u>7:26A-10.1(a)</u>	<u>Failure of generator to separate, store, and set out waste in accordance with the municipal recycling ordinance.</u>	<u>\$3,000</u>	<u>M</u>	<u>30</u>
<u>7:26A-10.3(a)1</u>	<u>Failure of generator to obtain approval from governing municipality for alternate recycling of non-source-separated waste.</u>	<u>\$3,000</u>	<u>M</u>	<u>30</u>

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<u>7:26A-10.3(a)2</u>	<u>Failure of generator to provide annual written documentation to the municipality of the total number of tons recycled.</u>	<u>\$3,000</u>	<u>M</u>	<u>30</u>
<u>7:26A-10.3(a)3</u>	<u>Failure of generator to show letter of exemption to enforcement officers or municipal recycling coordinator.</u>	<u>\$3,000</u>	<u>M</u>	<u>30</u>

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.

<u>Rule N.J.A.C.</u>	<u>Rule Summary</u>	<u>Base Penalty</u>	<u>Type of Violation</u>	<u>Grace Period (days)</u>
<u>7:26A-11.1(a)</u>	<u>Failure of municipality to designate a recycling coordinator.</u>	<u>\$3,000</u>	<u>M</u>	<u>90</u>
<u>7:26A-11.1(b)</u>	<u>Failure of municipality to adopt a recycling ordinance containing required components</u>	<u>\$3,000</u>	<u>M</u>	<u>90</u>
<u>7:26A-11.2(a)</u>	<u>Failure of municipality to comply with recordkeeping and annual reporting requirements.</u>	<u>\$3,000</u>	<u>M</u>	<u>30</u>

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<u>7:26A-11.3(a)</u>	<u>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.</u>	<u>\$3,000</u>	<u>M</u>	<u>30</u>
<u>7:26A-11.4(a)</u>	<u>Failure of municipality to oversee collection of designated materials or to provide for collection in instances where collection is not otherwise provided.</u>	<u>\$3,000</u>	<u>M</u>	<u>30</u>
<u>7:26A-11.4(c)</u>	<u>Failure of municipality governing body to review master and revise master plan</u>	<u>\$3,000</u>	<u>M</u>	<u>30</u>
<u>7:26A-11.4(c)</u>	<u>Failure of municipality to include in master plan provisions for recycling at developments with 50 or more units of single-family residential housing or 25 or more units of multi-family residential housing and any commercial or industrial development proposal for the utilization of 1,000 square feet.</u>	<u>\$3,000</u>	<u>M</u>	<u>30</u>

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<u>7:26A-11.5(a)1-5</u>	<u>Failure of municipality to issue recycling exemption to generator without ensuring adequate alternating recycling will be achieved.</u>	<u>\$3,000</u>	<u>M</u>	<u>30</u>
<u>7:26A-11.5(a)6</u>	<u>Failure of municipality to revoke exemption to generator upon failure to meet requirements.</u>	<u>\$4,500</u>	<u>NM</u>	

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.

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

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<u>Rule</u> <u>N.J.A.C.</u>	<u>Rule Summary</u>	<u>Base</u> <u>Penalty</u>	<u>Type of</u> <u>Violation</u>	<u>Grace</u> <u>Period</u> <u>(days)</u>
<u>7:26A-12.2(b)</u>	<u>Failure of county recycling plan to include a strategy for the collection, marketing and disposition of designated source separated recyclable materials.</u>	<u>\$3,000</u>	<u>M</u>	<u>30</u>
<u>7:26A-12.3(a)1</u>	<u>Failure of county recycling coordinator to maintain contact information for all recycling coordinators.</u>	<u>\$3,000</u>	<u>M</u>	<u>30</u>
<u>7:26A-12.3(a)2</u>	<u>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.</u>	<u>\$3,000</u>	<u>M</u>	<u>30</u>
<u>7:26A-12.3(a)3</u>	<u>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.</u>	<u>\$3,000</u>	<u>M</u>	<u>30</u>

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<u>Rule N.J.A.C.</u>	<u>Rule Summary</u>	<u>Base Penalty</u>	<u>Type of Violation</u>	<u>Grace Period (days)</u>
<u>7:26A-12.3(a)4</u>	<u>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.</u>	<u>\$3,000</u>	<u>M</u>	<u>30</u>

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.

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(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.

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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.

		<u>SERIOUSNESS</u>		
		<u>Major</u>	<u>Moderate</u>	<u>Minor</u>
<u>CONDUCT</u>	<u>Major</u>	<u>\$40,000-</u> <u>\$50,000</u>	<u>\$30,000-</u> <u>\$40,000</u>	<u>\$15,000-</u> <u>\$25,000</u>
	<u>Moderate</u>	<u>\$30,000-</u> <u>\$40,000</u>	<u>\$10,000-</u> <u>\$20,000</u>	<u>\$3,000-</u> <u>\$6,000</u>
	<u>Minor</u>	<u>\$15,000-</u> <u>\$25,000</u>	<u>\$3,000-</u> <u>\$6,000</u>	<u>N/A*</u>

***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:

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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;

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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.

7:26A-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.

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(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.

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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.

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 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 \$6,000 or less than \$3,000 per violation.

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(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.

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

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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.

7:26A-9.9 Civil administrative penalty for economic benefit

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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.

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;

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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.

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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

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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.

SUBCHAPTER 10. STANDARDS FOR GENERATORS OF SOURCE SEPARATED RECYCLABLE MATERIALS

7:26A-10.1 Scope

(a) This subchapter applies to generators of materials designated for source separation and recycling in the applicable county recycling plan or municipal source separation ordinance. Generators include all persons occupying residential, commercial, or institutional premises.

(b) Generators of designated recyclable materials, who also generate used oil or universal waste are also subject to the rules at N.J.A.C. 7:26A-6 and 7.

7:26A-10.2 Separation and set-out

Generators of solid waste and recyclable materials shall keep all materials designated for source separation in the municipal recycling ordinance stored separately

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from solid waste, and shall place these specified recyclable materials for collection in the manner provided by the ordinance.

7:26A-10.3 Recordkeeping and reporting

Commercial and institutional generators shall report the tonnage of designated recyclable materials collected for recycling from their premises, as directed in the municipal recycling ordinance.

7:26A-10.4 Source separation exemption

(a) Persons occupying commercial and institutional premises may apply to the governing body of the municipality for exemption from the municipal source separation requirements of the applicable municipal recycling ordinance.

1. Such persons must obtain the services of a materials recovery facility to separate from the waste generated at the premises, all recyclable materials designated in the district recycling plan found in solid waste generated at the generator's premises. This provision shall be documented in writing, through contract or correspondence with the materials recovery facility providing the service and the documentation shall be submitted to the municipal recycling coordinator or other municipal official as may be identified in the municipal recycling ordinance.

2. The generator shall annually provide written documentation to the municipality of the total number of tons recycled. Alternately, the generator may arrange, in writing, for the provision of this documentation directly from the materials recovery facility to the municipality, if so directed by the applicable municipal ordinance.

(b) The generator shall maintain the original letter of exemption or a copy on the premises for referral by authorized enforcement officers or the municipal recycling coordinator.

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SUBCHAPTER 11. STANDARDS FOR MUNICIPALITIES

7:26A-11.1 Appointments and ordinances

(a) Each municipality in this State shall designate one or more persons as the municipal recycling coordinator, and shall set forth in writing the duties of the municipal recycling coordinator.

1. The coordinator(s) shall maintain and report recycling tonnage, as required by N.J.S.A. 13:1E-99.16e. The report shall contain the same information as is required for an application for a Recycling Tonnage Grant, codified at N.J.A.C. 7:26-15.5.

2. The municipality shall provide for the coordinator's communication by electronic mail with the Department and with the designated county recycling coordinator.

3. The municipality shall ensure that the appointed municipal recycling coordinator has sufficient educational background, employment experience and training to enable him/her to perform his/her duties in such a manner as to ensure the municipality's compliance with the requirements of N.J.S.A. 13:1E-99 et seq., the provisions of the county recycling plan, and the municipal recycling ordinance passed pursuant to N.J.S.A. 13:E1-99.11 et seq.

i. The municipality shall provide both classroom and on-the-job instruction to augment the coordinator's skills. Such training may address:

(1) The use of computers and software to maintain tonnage records;

(2) Techniques of communication to the public;

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(3) Enforcement practices;

(4) Identification of recyclable and waste materials, including hazardous waste, refrigerants, and other environmentally dangerous materials; and/or

(5) Foreign languages.

ii. Within three years of appointment, the coordinator shall be enrolled in the New Jersey Recycling Certification Series offered by the Cook College Office of Continuing Professional Education, or other such program approved by the Department. Within 10 years of appointment, the coordinator shall have achieved certification.

iii. The municipality shall maintain detailed records of this training, specifying names of personnel trained, the dates when training occurred and the type and extent of training provided. The training documentation shall be maintained at the facility for three years from the date the training occurred.

(b) The governing body of the municipality shall adopt an ordinance establishing a recycling program sufficient to achieve the designated recovery targets set forth in the district recycling plan.

1. The ordinance shall require persons generating municipal solid waste within the municipal boundaries to source separate from the municipal solid waste stream, in addition to leaves, the recyclable materials designated in the district solid waste plan, and may designate additional recyclable materials for which markets have been secured.

2. The ordinance shall provide for a collection system for leaves generated from residential premises and shall require residents that source separate leaves from solid waste, and, unless the leaves are stored or recycled for composting or mulching by

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the generator, place the leaves for collection in the manner provided by the ordinance.

Alternately, the ordinance may prohibit the placement of leaves for collection or disposal as solid waste, and specify that all residents shall mulch or compost the leaves generated at those premises.

3. The ordinance shall set forth standards governing the inclusion, in all new multi-family housing developments that require subdivision or site plan approval, of collection or storage facilities which allow for the placement and temporary storage of all recyclable materials required of other residences by the ordinance. For the purposes of this provision, "multifamily housing" shall mean three or more housing units.

4. The municipal source separation ordinance shall specify the municipal official(s) that may enforce the ordinance, and to issue fines as needed.

7:26A-11.2 Recordkeeping and reporting

(a) The governing body of each municipality shall, between January 1 and April 30 of each year, submit a recycling tonnage report on forms provided by the Department, or by electronic means as approved by the Department to:

New Jersey Department of Environmental Protection

Solid and Hazardous Waste Management Program

Bureau of Recycling and Planning

401 East State Street, 2nd floor, East Wing

PO Box 414

Trenton, New Jersey 08625-0414

7:26A-11.3 Notification to all generators of the source separation requirements of the municipal ordinance

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The governing body of each municipality shall, at least once every six months, notify all persons occupying residential, commercial, and institutional premises within its municipal boundaries of local recycling opportunities, and the source separation requirements of the ordinance. The governing body of a municipality may place an advertisement in a newspaper circulating in the municipality, post a notice in public places where public notices are customarily posted, include a notice with other official notifications periodically mailed to taxpayers, or any combination thereof, as the municipality deems necessary and appropriate.

7:26A-11.4 Collection of source separated recyclables

(a) Each municipality shall provide for a collection system for the materials designated in the municipal ordinance. Each municipality shall provide for this collection in those instances where collection is not otherwise provided for by the generator, the county, inter-local service agreement or joint service program, or other private or public recycling program operator.

(b) A municipality may require that every solid waste transporter holding a certificate of public convenience and necessity and serving clients within the municipality bid on a contract for the collection or disposition of recyclable materials, if required to do so by the district recycling plan of the county in which the transporter engages in solid waste collection.

(c) The governing body of each municipality shall, at least once every 36 months, review and revise the master plan and development regulations it has adopted pursuant to P.L. 1975, c. 291 (N.J.S.A. 40:55D-1 et seq.). The revisions shall reflect changes in Federal, State, county and municipal laws, policies and objectives concerning the collection, disposition and recycling of designated recyclable materials. The revised master plan shall include provisions for the collection, disposition and recycling of recyclable materials designated in the municipal recycling ordinance, within any development proposal for the construction of 50 or more units of single-family residential

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housing or 25 or more units of multi-family residential housing and any commercial or industrial development proposal for the use of 1,000 square feet or more of land.

(d) The governing body of a municipality may limit the collection of designated recyclable materials to specified operating hours in order to preserve peace and quiet in neighborhoods during the hours when most residents are asleep.

7:26A-11.5 Source separation exemption

(a) The governing body of a municipality may exempt persons occupying commercial and institutional premises within its municipal boundaries from the source separation requirements of its recycling ordinance.

1. The municipal coordinator shall develop and make available a form or model letter for persons who wish to apply for this exemption.

2. The municipal coordinator shall review the applicant's documentation of alternate provision for the recycling of those materials designated in the district recycling plan that may be found in the solid waste generated at that location.

3. The municipal coordinator shall review the written reports submitted by the providers of this alternate service, and, where required, the generators' annual written reports, of the total number of tons recycled.

4. The municipal coordinator shall ascertain that the recycling facilities receiving the exempted waste are permitted to perform that recycling.

5. If found to be sufficient to meet the requirements for issuance of an exemption, as detailed in an applicable municipal ordinance, the municipal recycling coordinator (or other municipal official as may be identified in the applicable municipal ordinance) shall issue the exemption approval in writing.

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6. The municipal coordinator keep a record of all generators who have received the exemption, and the destination of the waste or identity of the waste transporters handling the waste, and shall report this list annually to the applicable county recycling coordinator.

7. The municipal coordinator (or other designated municipal official) shall revoke the exemption of a generator upon failure to meet the conditions of the exemption.

SUBCHAPTER 12. STANDARDS FOR COUNTIES

7:26A-12.1 Applicability

Each county's board of chosen freeholders, and the Hackensack Meadowlands Development Commission, shall designate a department, unit or committee of the county government, or district, in the case of the Hackensack Meadowlands Development Commission, to supervise the implementation of the district solid waste management plan, including the county recycling plan (except in the case of the Hackensack Meadowlands Development Commission). This subchapter sets forth the regulatory obligations of the designated implementation agency.

7:26A-12.2 Planning by the designated agency

(a) The designated implementation agency shall prepare, or cause to be prepared, a district solid waste management plan and county recycling plan (except in the case of the New Jersey Meadowlands Commission) to implement the requirements of the Solid Waste Management Act (SWMA) at N.J.S.A. 13:1E-21 et seq., the New Jersey Statewide Mandatory Source Separation and Recycling Act (Recycling Act) at N.J.S.A. 13:1E-99.11 et seq., and the Statewide Solid Waste Management Plan, as may be adopted by the Department. The designated agency shall update this plan and submit such updates to the Department, as required by the SWMA, the Recycling Act or the Statewide Solid Waste

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Management Plan. Updated district plans shall include, but not be limited to, the following components:

1. Identification of the agency (or agencies) designated to implement the district plan. In those instances where more than one agency is identified, the plan shall identify the responsibility (ies) of each agency;

2. An inventory of the quantity of solid waste generated within the district for the 10-year period commencing with the adoption of the updated district solid waste management plan;

3. An inventory of all solid waste and recycling facilities (lot and block and street address) including approved waste types and amounts, hours of operation and approved truck routes (in the case of solid waste facilities);

4. An outline of the solid waste disposal strategy to be utilized by the district for a 10-year planning period;

5. A procedure for the processing of applications for inclusion of solid waste and recycling facilities within the district solid waste management plans. The procedure shall state the applicant requirements for inclusion into the district plan and the specific county review process/procedures, including time frames for county approvals or rejections and subsequent submittals to the Department. The criteria for inclusion shall not include a requirement that local zoning or planning board approval(s) be obtained as a condition for inclusion within the district solid waste management plan, nor shall such a requirement be made a condition for subsequent construction or operation of any facility;

6. Utilizing the data supplied in the State Solid Waste Management Plan that identifies the additional tonnage of recycled materials in the municipal solid waste stream (by material commodity type) required by each county to meet the mandated

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municipal solid waste recycling goals, a strategy for the attainment of these identified recycling goals. The strategy shall include, as necessary:

i. The designation of the currently mandated recyclable materials and additional materials, if any, to be source separated in the residential, commercial and institutional sectors;

ii. A listing of those entities providing recycling collection, processing and marketing services for each of the designated recyclable materials;

iii. The communication program to be utilized to inform generators of their source separation and recycling responsibilities;

iv. A comprehensive enforcement program that identifies the county and/or municipal entity(ies) responsible for enforcement of the recycling mandates, specifies the minimum number of recycling inspections that will be undertaken by these entities on an annual basis and details the penalties to be imposed for non-compliance with the municipal source-separation ordinance and county solid waste management plan. Additionally, the updated district plan shall include copies of each municipal source separation ordinance. (Six months after approval, by the Department, of the updated District or county plan, as the case may be, the designated plan implementation agency shall forward a copy of each municipal recycling ordinance, which shall be updated as necessary pursuant to N.J.S.A. 13:1E-99.11 et seq.); and

v. Anticipated gains in recycling in the small business sector, multi-family housing developments and schools and other institutions, in tonnage of recycled material, by material and by generating sector.

(b) Each county recycling plan shall include a strategy for the collection, marketing and disposition of designated source separated recyclable materials in each municipality.

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1. As needed, each designated agency shall solicit proposals from, review the qualifications of, and enter into contracts or agreements on behalf of municipalities with persons providing recycling services or operating recycling centers for the collection, storage, processing, and disposition of recyclable materials designated in the district recycling plan in those instances where these services are not otherwise provided by the municipality, interlocal service agreement or joint service program, or other private or public recycling program operator.

2. The strategy shall include the designation of recovery targets in each municipality to achieve the maximum feasible recovery of recyclable materials from the municipal solid waste stream which shall include, at a minimum, leaves, and the leaf composting facility (ies) identified for the receipt of leaves from each municipality.

7:26A-12.3 Appointment of a county or a Hackensack Meadowlands District recycling coordinator

(a) Each board of chosen freeholders and the Hackensack Meadowlands Development Commission shall designate a county recycling coordinator. County recycling coordinators shall, at a minimum:

- 1. Maintain contact information for all municipal recycling coordinators;**
- 2. Maintain records regarding the issuance, by each municipal governing body, of the exemption from source separation issued pursuant to N.J.C.C. 7:26A-11.5;**
- 3. Maintain copies of all municipal recycling ordinances and ensure that the ordinances are consistent with the county recycling plan; and**
- 4. Meet with all municipal recycling coordinators at least annually to determine progress towards meeting the recycling goals of the county recycling plan.**

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(b) County recycling coordinators designated pursuant to *N.J.S.A. 13:1E-99.13.b.1*

shall maintain a current list of:

1. Retail service stations that have used oil collection tanks on the premises;

2. Reinspection stations permitted by the Motor Vehicles Commission;

3. Used oil collection centers, do-it-yourselfer used oil collection centers;

and

4. Used oil aggregation points.