

ENVIRONMENTAL PROTECTION
COMPLIANCE AND ENFORCEMENT

Solid Waste Rules

Solid Waste Utility Regulations

Proposed amendments: N.J.A.C. 7:26-1.4, 5.4 5.5, 5.6, 5.7, 5.8 and N.J.A.C. 7:26H-1.4, 5.18, 5.20, 5.21, 5.22

Proposed new rules: N.J.A.C. 7:26-5.10
N.J.A.C. 7:26H-5.24

Authorized by: Bradley M. Campbell, Commissioner,
Department of Environmental Protection.

Authority: N.J.S.A. 13:1D-1 et seq.; 13:1B-3 13:1E-1 et seq.; 13:1E-9,
13:1D-125 et seq.; 26:2C-1 et seq.; 47:1A-1 et seq.;
48:13A-1 et seq.; 48:13A-7.1 et seq.; 10-23.11; 58:10A-1
et seq.

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

DEP Docket No: _____

Proposal Number: _____

A Public Hearing will be held October 3, 2005, from 1:00 - 3:00, at the New Jersey Department of Environmental Protection, Public Hearing Room, 401 East State Street, Trenton, NJ 08625.

Submit written comments by (no later than 60 days after publication) to:

Leslie W. Ledogar, Esq.

Attention: DEP Docket Number _____

Office of Legal Affairs
New Jersey Department of Environmental Protection
401 East State Street
P.O. Box 402
Trenton, New Jersey 08625-0402

The Department of Environmental Protection (Department) requests that commenters submit comments on disk or CD as well as on paper. Submittal of a disk or CD is not a requirement. 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.

This rule proposal document can be viewed or downloaded from the Department's web page at www.state.nj.us/dep.

The agency proposal follows:

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 Department is proposing to amend the Solid Waste Rules, N.J.A.C. 7:26, and the Solid Waste Utility Regulations, N.J.A.C. 7:26H, to identify violations of the Solid Waste Rules and the Solid Waste Utility Regulations 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 minor. The Department is also proposing to add penalties for violations not previously included in these rules and to revise the base

penalties for all violations.

Grace Period Amendments

On December 22, 1995, the Legislature enacted the Grace Period Law, N.J.S.A. 13:1D-125 et seq., which requires the establishment of procedures to ensure the consistent application of grace (compliance) periods for minor violations of certain environmental statutes. Pursuant to that law, the Department is required to designate, through rulemaking, certain types of violations of rules contained in sixteen environmental statutes as minor or non-minor violations. Under the Grace Period Law, any person responsible for a minor violation is afforded a period of time by the Department to correct the violation. This period of time is known as a grace period. If the minor violation is corrected as required, then the Department will not assess a penalty. In those cases where a violation is not corrected within the grace period, the Department may pursue enforcement action in accordance with its statutory authority including, but not limited to, the assessment of penalties as may be appropriate within the exercise of the Department's traditional, judicially recognized enforcement discretion.

The Grace Period Law does not affect the Department's enforcement authority, including the exercise of enforcement discretion, to treat a violation as minor. In those situations where a violation is labeled as minor in these amendments and new rules, but in fact the specific violation as it occurred does not fulfill all the statutory requirements for a minor violation (N.J.S.A. 13:1D-129(b)), the Department reserves its discretion to treat the violation as non-minor.

The Department interprets the Grace Period Law to give it the flexibility to re-classify a minor violation as non-minor if one or more of the Grace Period Law requirements have not been met. For instance, the Department believes that the Legislature did not intend for a violation which actually results in serious harm to the public, the environment or to natural resources to be considered minor for grace period purposes. This is because one of the criteria for a minor violation is that it impose minimal risk to public health, safety and natural resources.

Since the statute intends that the Department consider the circumstances of a particular violation to determine, for example, whether there has been a similar or the same violation in the preceding twelve months or a pattern of illegal conduct, it is not inconsistent with the legislative intent to allow the Department the flexibility to re-classify a violation as non-minor under the particular circumstances of a violation.

In designating, through rulemaking, types or categories of violations as minor, the Department must apply the criteria set forth in the law at N.J.S.A. 13:1D-129(b). These criteria are as follows:

- (1) The violation is not the result of the purposeful, knowing, reckless or criminally negligent conduct of the person responsible for the violation;
- (2) The violation poses minimal risk to the public health, safety and natural resources;
- (3) The violation does not materially and substantially undermine or impair the goals of the regulatory program;
- (4) The activity or condition constituting the violation has existed for less than 12 months prior to the date of discovery by the Department;
- (5) In the case of a permit violation, the person responsible for the violation has not been identified in a previous enforcement action by the Department or a local government agency responsible for a violation of the same requirement of the same permit within the preceding 12 month period;
- (6) In the case of a violation that does not involve a permit, the person responsible for the violation has not been identified 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;

(7) 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 violation at any time that reasonably indicates a pattern of illegal conduct and not isolated incidents on the part of the person responsible; and

(8) The activity or condition constituting the violation is capable of being corrected and compliance achieved within the period of time prescribed by the Department.

The Grace Period Law also requires the Department to establish the length of the grace period, which may be no fewer than 30 days or more than 90 days (unless extended), based upon the nature and extent of the minor violation, and a reasonable estimate of the time necessary to achieve compliance. The Department may establish a special class of minor violations that, for public health and safety reasons, must be corrected within a period of fewer than 30 days.

Of the criteria provided by the Grace Period Law, only criteria (2), (3) and (8), as listed above, may pertain to all violations of a particular regulatory requirement. Therefore, the Department determined that violations that pose minimal risk to public health, safety, and the environment, do not undermine or impair the goals of the program, and can be corrected within a time period of up to 30 days, would be designated as 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. 7:26-5.4 and N.J.A.C. 7:26H-5.18 that is identified as minor will be eligible for a grace period only if it meets the additional criteria as discussed below.

In order to obtain assistance in the development of these regulations, the Department initiated an informal process to discuss and receive input from interested parties. As part of this

process, it developed a discussion document setting forth a proposed list of minor and non-minor violations for the Solid Waste Program and conducted a series of workshops to provide an opportunity for interested parties to discuss the proposed list, provide comments and raise issues. The Department conducted workshops on December 3, 1996 and on April 24, 1997 to discuss the application of the Grace Period Law to the Solid Waste Program. The Department thereafter prepared a draft discussion document that included a draft of the proposed changes to N.J.A.C. 7:26-5, Civil administrative penalties, and to N.J.A.C. 7:26H-5.18, Penalties for violation of rules adopted pursuant to the Act, and held another workshop on September 13, 2004 concerning the draft discussion document. Thereafter, the Department reevaluated the applicability of the Grace Period Law to each violation listed in the penalty tables at N.J.A.C. 7:26-5.4(g) and 7:26H-5.18(f), the applicability of the Grace Period Law to the penalties assessed according to N.J.A.C. 7:26-5.5 and 7:26H-5.19 and the setting of a minimum base penalty for all minor violations. These proposed amendments and new rules, which identify minor and non-minor violations of the Solid Waste Rules and the Solid Waste Utility Regulations and provide the terms and conditions by which a grace period shall be afforded, reflect the Department's consideration of the input obtained at the workshops and the Department's subsequent evaluation of the proposed amendments. The Department notes that during the intervening period, the Department applied the statutory criteria on a case by case basis and provided grace periods as appropriate.

The Solid Waste Rules establish standards and requirements for the management of solid waste within the State of New Jersey. Activities addressed by these rules include registration, operation, maintenance and closure of solid waste facilities, registration, operation and maintenance of solid waste transport vehicles; permit and others fees charged by the Department, civil administrative penalty assessments and other enforcement actions.

The Solid Waste Utility Regulations establish standards and requirements for utilities that collect and/or dispose of solid waste. Activities addressed by these rules include transactional findings, solid waste tariffs, solid waste collection effective competition monitoring, uniform bid specifications for municipal waste collection, host community benefits, civil administrative

penalty assessments and other enforcement actions.

The Department is proposing similar amendments to both the Solid Waste rules and the Solid Waste Utility Regulations to implement the Grace Period Law.

The Department is proposing a 30-day grace period for minor violations of the Solid Waste rules, except for, as provided for under the Grace Period Law, a special class of minor violations that, for public health and safety reasons, the Department has determined must be corrected within a period of less than 30 days. This class of violations consists of violations for which the regulation that is incorporated into the Department's rules by reference mandates a correction timeframe, and violations that can easily be corrected within a very short timeframe and for which failure to correct within that timeframe would pose a hazard to public health and safety.

An example of a violation that can easily be corrected in a very short timeframe is a violation of the Solid Waste landfill regulations at N.J.A.C. 7:26-2A.8(b)29, regarding the suppression of dust at landfills. N.J.A.C. 7:26-2A.8(b)29 requires that dust control shall be effected by the spraying of water or spreading of calcium chloride or an equivalent approved by the Department, as needed. Dust from landfills poses a threat to human health, particularly for those with chronic respiratory illnesses such as asthma, chronic obstructed pulmonary disease, chronic bronchitis. The suppression of dust can be easily controlled by spreading water or an effective equivalent and can be easily accomplished within a 24 hour period, thereby quickly ameliorating the threat to public health and safety. Accordingly, in enforcing this regulation, the Department believes that compliance within one day of the Department's issuing a notice of violation to a violator strikes an appropriate balance between protecting public health and safety and implementing the Grace Period Law.

N.J.A.C. 7:26-1.4 sets forth the definitions for terms used in the Solid Waste Rules and N.J.A.C. 7:26H-1.4 sets forth the definitions for terms used in the Solid Waste Utility Rules. The Department proposes adding a definition of "grace period" to each of these sections. A grace period is the period of time afforded under the Grace Period Law for a person to correct a

minor violation in order to avoid imposition of a penalty that would otherwise be applicable for such violation.

N.J.A.C. 7:26-5 and N.J.A.C. 7:26H-5 establish civil administrative penalty assessment procedures and civil administrative penalties for solid waste and recycling violations of the Solid Waste Management Act, N.J.S.A. 13:1E-1 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. These subchapters also establish procedures for requesting adjudicatory hearings, subsequent to the assessment of civil administrative penalties or the issuance of administrative orders.

Penalties for violations of the Solid Waste Rules and the Recycling Rules are set forth in tables at N.J.A.C. 7:26-5.4(g). Penalties for violations of the Solid Waste Utility Rules are set forth in tables at N.J.A.C. 7:26H-5.18(f). The tables in each of these respective rules set forth the citation, a summary describing the violation and the corresponding base penalty. The proposed amendments add two additional columns to the penalty tables, entitled “Type of Violation” and “Grace Period.” The “Type of Violation” column includes 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. 7:26-5.10 of the Solid Waste Rules and new N.J.A.C. 7:26H-5.24 of the Solid Waste Utility Rules, discussed below. The length of the grace period, if any, is indicated in the second proposed column, identified as “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.

In applying the statutory criteria, the Department determined that violations that are purely administrative, including the maintenance of records (provided the records can be produced within the grace period), and other violations that do not pose a threat to human health and the environment (such as failure to accumulate universal waste consumer electronics devices in a closed container that is clearly marked with the words “Universal Waste-Consumer

Electronics”) are minor. Violations that may result in discharges, releases, or odors and, therefore, be potentially detrimental to the environment, are considered non-minor. A grace period is not appropriate for any violation that is non-minor.

The Department also proposes amending N.J.A.C. 7:26-5.5(f) of the Solid Waste Rules and N.J.A.C. 7:26H-5.19 of the Solid Waste Utility Regulations to incorporate the grace period concept into the assessment of penalties pursuant to the penalty matrices codified in these rule sections, respectively. Pursuant to proposed N.J.A.C. 7:26-5.5(f) and N.J.A.C. 7:26H-5.19, violations that qualify as minor shall be subject to a 30-day grace period.

Consistent with the \$3,000 base penalty proposed for all minor violations of the Solid Waste Rules (discussed more fully in the next section of this Summary), the penalty for these violations would be \$3,000, which would be assessed pursuant to the procedures set forth in the proposed grace period provisions of the Solid Waste Rules at N.J.A.C. 7:26-5.5(f) (discussed more fully below). Similarly, consistent with the \$2,000 base penalty proposed for all minor violations of the Solid Waste Utility Regulations (also discussed more fully in the next section of this Summary), the penalty for these violations would be \$2,000, which would be assessed pursuant to the procedures set forth in the proposed grace period provisions of the Solid Waste Utility Regulations at N.J.A.C. 7:26H-5.10 (discussed more fully below).

Proposed N.J.A.C. 7:26-5.5(f)2 of the Solid Waste Rules and N.J.A.C. 7:26H-5.19(e)2 of the Solid Waste Utility Regulations provide that violations that do not qualify for grace period treatment under proposed N.J.A.C. 7:26-5.5(f)1 and N.J.A.C. 7:26H-5.19(e)1, respectively, would be non-minor and penalties would be assessed utilizing the penalty matrices of these rules, respectively, which would be recodified at the end of these subsections.

Proposed new N.J.A.C. 7:26-5.10(a) and (b) of the Solid Waste Rules and proposed new N.J.A.C. 7:26H-5.24(a) and (b) of the Solid Waste Utility Rules identify whether a violation could be considered a minor or non-minor violation. Proposed new N.J.A.C. 7:26-5.10(c) and proposed new N.J.A.C. 7:26H-5.24(c) identify the general criteria for a violation to be

considered a minor violation. The statutory criteria of N.J.S.A. 13:1D-129, the Grace Period Law, were discussed earlier in the Summary. Proposed new N.J.A.C. 7:26-5.10(d)1 and proposed new N.J.A.C. 7:26H-5.24(d)1 require 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. 7:26-5.10(d)2 and proposed new N.J.A.C. 7:26H-5.24(d)2 provide 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 N.J.A.C. 7:26-5.4(f) and N.J.A.C. 7:26H-5.18(e), 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. 7:26-5.10(d)3 and new N.J.A.C. 7:26H-5.24(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. 7:26-2.4(e)3 and N.J.A.C. 7:26A-3.2(b)1 for the Solid Waste rules, information detailing the corrective action taken or compliance achieved. For the Solid Waste Utility Regulations, the request must be signed by the person responsible for the violation. 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. 7:26-5.10(d)4 and proposed new N.J.A.C. 7:26H-5.24(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 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. 7:26-2.4(e)3 and N.J.A.C. 7:26A-3.2(b)1 for the Solid Waste Rules. For the Solid Waste Utility

Regulations, the request must be signed by the person responsible for the violation. 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. 7:26-5.10(d)4i through iv and at proposed new N.J.A.C. 7:26H-5.24(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 N.J.A.C. 7:26-5.10(d)6 and proposed N.J.A.C. 7:26-5.24(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. 7:26-5.10(d)5 and N.J.A.C. 7:26-5.24(d)5, the Department or a local government agency can impose a penalty retroactive to the date the notice of violation was first issued.

Updates to Penalty Tables

Additional amendments to the Solid Waste rules include updates of the penalty tables at N.J.A.C. 7:26-5.4(g). Specifically, the Department proposes adding a new section at N.J.A.C. 7:26-5.4(g)5 that will list penalties for violations of N.J.A.C. 7:26-2D, Requirements on Rail Carriers that Transfer Containerized or Noncontainerized Solid Waste to or from Rail Cars, and to recodify existing paragraphs 5 through 8 as paragraphs 6 through 9. The Department adopted the rail carrier requirements rule effective November 15, 2004 (see 36 NJR 5098(a)).

Additionally, the Department proposes subdividing the penalty table currently codified at N.J.A.C. 7:26-5.4(g)8 into six new tables to be recodified at N.J.A.C. 7:26-5.4(g)9 through 14. The new tables incorporate penalties for violations of the Used Oil Regulations, N.J.A.C. 7:26A-6, the Universal Waste Regulations, N.J.A.C. 7:26A-7, and the Federal Code of Regulations, 40 CFR 273 as incorporated by reference, since the penalty tables were last amended.

The Department is also proposing to amend the table at N.J.A.C. 7:26-5.4(g)2 to clarify several of the descriptions of the violations contained in these tables, and amend an incorrect cross reference in the table at proposed amended N.J.A.C. 7:26-5.4(g)5.

The Department is also proposing to amend the table at N.J.A.C. 7:26-5.4(g)2 to clarify several of the descriptions of the violations contained in these tables.

Base Penalties

Penalties under the Solid Waste rules are assessed under N.J.A.C. 7:26-5.5, Civil administrative penalty determination, rather than under N.J.A.C. 7:26-5.4 (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. 7:26-5.4.

Similarly, penalties under the Solid Waste Utility Regulations are assessed under N.J.A.C. 7:26H-5.19, Matrix penalty determination, rather than under N.J.A.C. 7:26H-5.18 when either, because of the specific circumstances of the violation, the Department determines that the penalty amount under N.J.A.C. 7:26H-5.18 would be too low to provide a sufficient deterrent effect, or when the violation is not listed under N.J.A.C. 7:26H-5.18.

N.J.A.C. 7:26-5.5(f) of the Solid Waste rules contains a penalty matrix according to which

the Department assesses a penalty on the basis of the seriousness of the violation and the conduct of the violator. In the matrix, the penalty range for violations of minor conduct and minor seriousness is \$1,000 to \$2,500. The Department proposes replacing this range with “N/A,” meaning not applicable, because, as discussed below, the Department is proposing a base penalty of \$3,000 for all violations classified as minor under the Grace Period Law, whether the penalty is assessed pursuant to the table at N.J.A.C. 7:26-5.4(g) or under this paragraph.

N.J.A.C. 7:26H-5.19(e) of the Solid Waste Utility Regulations contains a similar penalty matrix. In this matrix, the penalty range for violations of minor conduct/minor seriousness is \$250 to \$1500. The Department proposes replacing the range for minor conduct/minor seriousness with “N/A” meaning not applicable because, as discussed below, the Department is proposing a base penalty of \$2,000 for all violations classified as minor under the Grace Period Law, whether the penalty is assessed pursuant to the table at N.J.A.C. 7:26H-5.18 or under this paragraph.

The Department is proposing to re-establish all of the base penalties for the violations listed in the penalty tables at N.J.A.C. 7:26-5.4(g) of the Solid Waste Rules and N.J.A.C. 7:26H-5.18 of the Solid waste Utility Regulations. When establishing a 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.

In the decade since the base penalties were last adjusted, costs to ameliorate Solid Waste and Solid Waste Utility violations have increased. 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. Accordingly, the Department proposes increasing the base penalty for minor

violations of the Solid Waste rules to \$3,000 and the Solid Waste Utility Regulations to \$2,000 in order to increase the deterrent effect, and to encourage correction of violations during the allowed grace period, as well as compliance generally.

The Department is also proposing to revise the base penalties for non-minor violations in the Solid Waste rules to correlate them with the penalty matrix at N.J.A.C. 7:26-5.5. As discussed above, the Department proposes to eliminate the penalty range for minor conduct/minor seriousness, in view of the proposed \$3,000 base penalty for all minor violations. The next higher penalty range in the matrix is for penalties of minor conduct/moderate seriousness and moderate conduct/minor seriousness. The range for penalties at this level is \$3,000 to \$6,000. Using the penalty matrix, the penalty for a violation determined to fall in either of these categories would be assessed at the midpoint of the range, or \$4,500. Accordingly, if the existing base penalty for a non-minor violation in the table at N.J.A.C. 7:26-5.4(g) is greater than or equal to \$4,500, no change to that base penalty is proposed. However, if the existing base penalty for a non-minor violation is less than the penalty that would be calculated using the penalty matrix, the base penalty is proposed to be increased to the value calculated using the matrix. These proposed amendments will enhance consistency in penalty assessments under the Solid Waste Management Act and will help ensure that the penalties have an appropriate deterrent effect.

Similarly, the Department is proposing to revise the base penalties for non-minor violations in the Solid Waste Utility Regulations to correlate them with the penalty matrix at N.J.A.C. 7:26H-5.19(e). As discussed above, the Department proposes to eliminate the penalty range for minor conduct/minor seriousness, in view of the proposed \$2,000 base penalty for all minor violations. The next higher penalty range in the matrix is for penalties of minor conduct/moderate seriousness and moderate conduct/minor seriousness. The range for penalties at this level is \$2,000 to \$3,000. Using the penalty matrix, the penalty for a violation determined to fall in either of these categories would be assessed at the midpoint of the range, or \$2,500. Accordingly, if the existing base penalty for a non-minor violation in the table at N.J.A.C. 7:26H-5.18(f) is greater than or equal to \$2,500, no change to that base penalty is proposed.

However, if the existing base penalty for a non-minor violation is less than the penalty that would be calculated using the penalty matrix, the base penalty is proposed to be increased to the value calculated using the matrix. These proposed amendments will enhance consistency in penalty assessments under the Solid Waste Utility Control Act and will help ensure that the penalties have an appropriate deterrent effect.

In the Solid Waste Rules, N.J.A.C. 7:26-5.6 establishes 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. N.J.A.C. 7:26-5.7 establishes civil administrative penalties for failure to allow lawful entry and inspection. N.J.A.C. 7:26-5.8 establishes civil administrative penalties for failure to pay a fee when due. N.J.A.C. 7:26-5.9 enables the Department to include as a civil administrative penalty the economic benefit (in dollars), which the violator has realized as a result of not complying with the SWMA or its implementing rules.

The Department is proposing to amend N.J.A.C. 7:26-5.6 through 5.9 to specify that violations under these sections are non-minor; accordingly, the violations 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.

In the Solid Waste Utility Rules, N.J.A.C. 7:26H-5.20 establishes 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. N.J.A.C. 7:26H-5.21 establishes civil administrative penalties for failure to allow lawful entry and inspection. N.J.A.C. 7:26H-5.22 establishes civil administrative penalties for improper use of solid waste transport vehicles.

The Department is proposing to amend N.J.A.C. 7:26H-5.20 through 5.22 to specify that

violations under the sections are non-minor; accordingly, the violations 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.

Social Impact

The proposed amendments to N.J.A.C. 7:26H-5 will have a positive social impact by providing for the regulation of the management and disposal of solid waste, and assuring that solid waste facilities are properly closed and maintained post closure, thereby protecting the public from possible residual contamination.

The proposed amendments to N.J.A.C. 7:26-5 and N.J.A.C. 7:26H-5, and the proposed new rules at N.J.A.C. 7:26-5.10 and N.J.A.C. 7:26H-5.24, will provide a positive social impact by helping encourage a greater sense of cooperation between the Department and the regulated community. By removing the threat of penalties for certain types of violations where compliance is achieved within the time specified, the proposed rules will encourage the regulated community to take positive action toward achieving compliance.

Economic Impact.

The proposed amendments to N.J.A.C. 7:26 and 7:26H will have little economic impact on the regulated community, inasmuch as the rules formalize the Department's existing policy with regard to allowing an opportunity for correction of minor violations. To the extent that the proposed amended rules formally classify violations as minor for which the Department has not previously provided a grace period, the regulated community will realize an economic benefit. No longer will the facility be subject to immediate penalty, but instead the facility will have a period of time to achieve compliance, without being assessed a penalty.

The proposed amendments that increase base penalties to correlate them with the penalty matrix at N.J.A.C. 7:26-5.5 may result in some additional economic burden to facilities; however, this impact is limited to those facilities that commit non-minor violations, or that do not achieve compliance within the established grace period.

Environmental Impact

The rules have had and will continue to have a positive environmental impact by providing for the regulation of the management and disposal of solid waste and assuring that solid waste facilities are properly closed and maintained in post closure. The penalty provisions of the rule will continue to provide a deterrent to those who would violate the regulatory requirements.

The proposed grace period provisions would allow a violator an opportunity to correct certain violations within the time provided and thereby avoid a penalty. The Department therefore anticipates that the proposed amendments and new rule will encourage the regulated community to correct certain types of violations in a timely manner. Prompt correction will reduce the potential risk these minor violations may have created and will, therefore, result in an additional positive environmental impact.

Federal Standards Statement

Executive Order No. 27 (1994) and N.J.S.A. 52:14B-1 et seq. (P.L. 1995, c. 65) require State agencies that adopt, readopt or amend State regulations that exceed any Federal standards or requirements to include in the rulemaking document a Federal Standards Analysis. The proposed amendments and new rules to the Solid Waste Utility Rules fall within the purview of N.J.S.A. 13:1D-1, et seq., 13:1E-1, et seq., 13:1B-3, 13:1D-125, et seq., 48:13A-1, et seq., and 48:13A-7.1, et seq. There are no analogous Federal standards for regulation for solid waste utilities. Executive Order No. 27 (1994), therefore, does not require a comparison with Federal law.

The proposed amendments to the Solid Waste rules include amendments that set penalties for violations of the Federal Standards for Universal Waste Management, codified at 40 C.F.R. Part 273. Under Subtitle C of the Resource Conservation and Recovery Act (RCRA), 42 U.S.C.A. §§ 6901, et seq., the Environmental Protection Agency (EPA) has promulgated regulations governing the Federal hazardous waste management program. See 40 C.F.R. Parts 260 through 279. The Universal Waste Rule, 40 CFR Part 273, contains requirements for collecting certain widely dispersed hazardous wastes. The Federal Standards for Universal Waste Management are incorporated prospectively by reference in the Department's rules at N.J.A.C. 7:26A-1.6. That is, all provisions of 40 C.F.R. Part 273 are continually and automatically updated into the New Jersey rule by operation of N.J.A.C. 7:26A-1.6.

Pursuant to RCRA section 3008 (42 U.S.C. § 6928), the USEPA is authorized to issue orders assessing civil penalties for past or current RCRA violations and may either require compliance immediately or within a specified time period, or both, or may commence a civil action in the United States district court in the district in which the violation occurred for appropriate relief, including a temporary or permanent injunction. These penalties may be assessed in an amount up to \$25,000 per day per violation.

Pursuant to RCRA section 3006 (42 U.S.C. § 6926), states may administer and enforce a hazardous waste program developed pursuant to RCRA, upon authorization of EPA. The enforcement provisions contained in N.J.A.C. 7:26 were promulgated and are proposed for amendment in order to comply with RCRA, and to provide an enforcement mechanism for the implementation of the State Solid Waste Management Act.

Penalties established and assessed by the Department pursuant to the Solid Waste rules are in accordance with the Solid Waste Management Act, specifically N.J.S.A. 13:1E-9. Pursuant to State law, penalties may be assessed in an amount not more than \$50,000 for each violation. Furthermore, each day that the violation continues constitutes an additional, separate and distinct offense. See N.J.S.A. 13:1E-9.e. Consequently, where a violation has occurred, a violator may be liable for a penalty as set forth by State law and it is possible that such a penalty may potentially exceed that which would be assessed by USEPA.

The Department believes that the penalties are necessary and reasonable in order to implement RCRA and to implement its hazardous waste management program generally. Amending the current penalty structure will continue to encourage compliance and discourage noncompliance with the state's hazardous waste law and rules and the Federal RCRA requirements.

The Department has conducted an analysis of the new penalties and grace period provisions in the proposed rules and has determined that they do not exceed any standard or requirement imposed by Federal law. The penalties and grace period provisions in the proposed rules are consistent with Federal law. Accordingly, no Federal Standard Analysis is required with regard to the amendment of the rules to include penalties for new universal waste standards or to include new penalties or grace period.

Jobs Impact

The proposed amendments and new rules will not result in either the generation or loss of jobs within the State. No facility will incur any costs unless it commits a violation that results in

a penalty assessment.

Agriculture Industry Impact

In accordance with N.J.S.A. 4:1C-10.3, the Right to Farm Act, the Department has reviewed this proposal and has determined that it will have little or no impact upon the Agriculture Industry. If there is any effect at all upon members of the agricultural industry, it is anticipated that such effect will be to afford those members the same opportunity as others to correct certain types of violations in a manner as provided by the rule and thereby avoid a possible penalty assessment.

Regulatory Flexibility Statement

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 full time employees. Some businesses that generate or transport solid waste may come within the definition of small business. These include, for example, composting facilities, recycling centers, independent solid waste haulers, medical doctors, dentists, tattoo parlors and body piercing facilities.

Small businesses will incur the penalties established under these rules only if they are determined to be in violation of N.J.A.C. 7:26 or N.J.A.C. 7:26H. The establishment of grace periods will allow a small business responsible for a violation to avoid penalties if the violation is corrected within the time provided. It is, therefore, anticipated that the rule will 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. The proposed amendments and new rules impose no reporting or recordkeeping requirements. Grace periods are not provided based on business size, thereby ensuring a fair, efficient and effective penalty scheme.

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 proposed amendments and new rules do not involve land use policies or infrastructure development and therefore do not impact the achievement of smart growth or implementation of the State Plan.

Since the proposed 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 proposed amendments and new rules follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

CHAPTER 26 SOLID WASTE

Subchapter 1. General Requirements

7:26-1.4 Definitions

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

* * *

“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.

* * *

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

1. The violations of N.J.A.C. 7:26-1, General Provisions, 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.

| <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> |
|--------------------------|---|------------------------------------|------------------------------|------------------------------------|
| 7:26-1.7(b) | Failure of owner or operator of any facility exempted under N.J.A.C. 7:26-1.7 to comply with all conditions set forth in its certificate of authority to operate. | [\$2,000] <u>\$3,000</u> | <u>M</u> | <u>30</u> |

2. The violations of N.J.A.C. 7:26-2, Disposal, 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.

| <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> |
|--------------------------|--|------------------------------------|------------------------------|------------------------------------|
| 7:26-2.7(b)1 | Failure of permittee to apply for a permit renewal at least 90 days prior to the expiration date of the existing SWF permit. | [\$2,000] <u>\$3,000</u> | <u>M</u> | <u>30</u> |

| <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> |
|--------------------------|---|------------------------------------|------------------------------|------------------------------------|
| 7:26-2.8(b) | Failure of permittee to submit a statement updating the information contained in the initial registration statement. | [\$2,000] <u>\$3,000</u> | <u>M</u> | <u>30</u> |
| 7:26-2.8(c) | Failure of permittee to notify the Department within 30 days of any change of information in the registration statement. | [\$2,000] <u>\$3,000</u> | <u>M</u> | <u>30</u> |
| 7:26-2.8(e) | Failure to apply and receive approval of a SWF permit prior to engaging in the disposal of solid waste in this State | [\$2,000] <u>\$4,500</u> | <u>NM</u> | |
| 7:26-2.8(f) | Failing to obtain a SWF permit prior to constructing or operating a solid waste facility. | \$5,000 | <u>NM</u> | |
| 7:26-2.8(j) | Failure to meet all conditions, restrictions, requirements or any other provision set forth in SWF permit. | [\$2,000] <u>\$3,000</u> | <u>M</u> | <u>30</u> |
| 7:26-2.8(k) | Failure to receive Department approval prior to modifying, revising or otherwise changing a permit condition. | [\$2,000] <u>\$3,000</u> | <u>M</u> | <u>30</u> |
| 7:26-2.8(l) | Failure to receive Department approval prior to transferring ownership of a SWF permit. | \$5,000 | <u>NM</u> | |
| 7:26-2.11(b)1 | Failure of operator to clean areas where waste has been deposited or stored within each 24 hour period, for sanitary landfills all areas where waste has been deposited shall be covered. | [\$2,000] <u>\$3,000</u> | <u>M</u> | <u>1</u> |
| 7:26-2.11(b)2 | Failure to ensure any waste stored overnight at any facility is effectively treated <u>to prevent odors associated with putrefaction.</u> | [\$2,000] <u>\$3,000</u> | <u>M</u> | <u>30</u> |
| 7:26-2.11(b)3 | Failure to maintain facility property surrounding the disposal area free of litter, debris, unprocessed waste, processed residues and effluents. | \$3,000 | <u>M</u> | <u>30</u> |

| <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> |
|--------------------------|--|------------------------------------|------------------------------|------------------------------------|
| 7:26-2.11(b)4 | Failure to implement dust control methods. | [\$2,000] <u>\$3,000</u> | <u>M</u> | <u>30</u> |
| 7:26-2.11(b)5 | Failure to ensure no odors <u>of sufficient strength and duration to be injurious to human health or unreasonably interfere with the enjoyment of life or property</u> are detected off-site. | [\$4,000] <u>\$4,500</u> | <u>NM</u> | |
| 7:26-2.11(b)6 | Failure to maintain all facility systems in a manner that facilitates proper operation and minimizes system downtime. | [\$2,000] <u>\$4,500</u> | <u>NM</u> | |
| 7:26-2.11(b)7 | Failure to maintain an adequate water supply and adequate fire-fighting equipment. | \$5,000 | <u>NM</u> | |
| 7:26-2.11(b)8 | Failure to control insects, other arthropods and rodents. | [\$3,000] <u>\$4,500</u> | <u>NM</u> | |
| 7:26-2.11(b)9 | Failure to comply at all times with the conditions of SWF permit. | [\$2,000] <u>\$3,000</u> | <u>M</u> | <u>30</u> |
| 7:26.2.11(b)10 | Failing to ensure waste is not received in excess to the system's designed capacity. | [\$2,000] <u>\$4,500</u> | <u>NM</u> | |
| 7:26-2.11(b)11 | Failure to operate the facility in a manner that employs the use of equipment and other techniques as identified in the facility's SWF permit. | [\$2,000] <u>\$3,000</u> | <u>M</u> | <u>30</u> |
| 7:26-2.11(b)12 | Failure to maintain an approved O and M manual at the facility, changes to be submitted, at a minimum, on an annual basis | \$3,000 | <u>M</u> | <u>30</u> |
| 7:26-2.11(c)1 | Failure to admit only properly registered solid waste vehicles for loading or unloading of any solid waste. | [\$3,000] <u>\$4,500</u> | <u>NM</u> | |
| 7:26-2.11(c)2 | Failure to designate a secure area where solid waste may be unloaded from vehicles exempt from registration under N.J.A.C. 7:26-3.3. | [\$2,000] <u>\$4,500</u> | <u>NM</u> | |

| <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> |
|-------------------------------|---|------------------------------------|------------------------------|------------------------------------|
| 7:26-2.11(c)3 | Failure to designate a secure area where unpermitted waste can be deposited. | [\$2,000] <u>\$4,500</u> | <u>NM</u> | |
| 7:26-2.11(c)4 | Failure to maintain a record of the quantity of each waste type accepted for disposal. | \$5,000 | <u>NM</u> | |
| 7:26-2.11(c)5 | Failure to provide a means of cleaning vehicle tires of debris. | [\$2,000] <u>\$3,000</u> | <u>M</u> | <u>30</u> |
| 7:26-2.12(b) | Failure of generators of asbestos containing waste materials to submit a complete written notification of intent to demolish, 10 days prior to beginning the demolition activity. | [\$1,000] <u>\$4,500</u> | <u>NM</u> | |
| 7:26-2.12(c) | Failure of generators of asbestos containing waste material to submit a complete written notification of intent to renovate, 10 days prior to beginning the renovation activity. | [\$1,000] <u>\$4,500</u> | <u>NM</u> | |
| <u>7:26 2.13(a)1-6</u> | <u>Failure to maintain a daily record of waste received.</u> | <u>\$4,500</u> | <u>NM</u> | |
| 7:26-2.13(a)7 | Failure to maintain a daily record of asbestos waste and make appropriate submittals. | [\$3,000] <u>\$4,500</u> | <u>NM</u> | |
| 7:26-2.13(a)8 | Failure to [maintain additional required reports in the daily record] <u>install or operate scales or keep records.</u> | [\$2,000] <u>\$3,000</u> | <u>M</u> | <u>30</u> |
| 7:26-2.13(c)1 | Failure of facility operator to verify the O and D form. | [\$2,000] <u>\$4,500</u> | <u>NM</u> | |
| 7:26-2.13(e) | Failure to <u>timely</u> submit <u>complete</u> monthly summaries of waste to the Department <u>and the District Solid Waste Coordinator.</u> | \$3,000 | <u>M</u> | <u>30</u> |
| 7:26:2.14(j) | Failure of SWFPPA permittee to prepare and submit a complete annual progress report. | [\$2,000] <u>\$3,000</u> | <u>M</u> | <u>30</u> |
| 7:26:2.14(k) | Failure of SWFPPA permittee to conduct a complete facility wide benchmark audit not less than once every five years. | [\$2,000] <u>\$3,000</u> | <u>M</u> | <u>90</u> |

3. The violations of N.J.A.C. 7:26-2A, Additional Specific Disposal

Regulations for Sanitary Landfills 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.

| <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> |
|--------------------------|---|------------------------------------|------------------------------|------------------------------------|
| 7:26-2A.8(b)1 | Failure to confine working face to the smallest practical area. | [\$2,000] <u>\$4,500</u> | <u>NM</u> | |
| 7:26-2A.8(b)2 | Failure to compact waste to yield smallest volume. | [\$2,000] <u>\$3,000</u> | <u>M</u> | <u>30</u> |
| 7:26-2A.8(b)3 | Failure to compact waste in shallow layers; or compacting waste over leachate collection pipes per N.J.A.C. 7:26-2A.7(d)3xiv. | [\$2,000] <u>\$4,500</u> | <u>NM</u> | |
| 7:26-2A.8(b)4 | Failure to ensure lift height of daily cell does not exceed 12 feet. | [\$2,000] <u>\$4,500</u> | <u>NM</u> | |
| 7:26-2A.8(b)5 | Failure to ensure slope is no steeper than 3:1. Failure of balefill operations to comply with working face requirements. | [\$2,000] <u>\$4,500</u> | <u>NM</u> | |
| 7:26-2A.8(b)6 | Failure to obtain department approval of separate areas for storage of demolition waste or recyclable materials. | [\$2,000] <u>\$3,000</u> | <u>M</u> | <u>30</u> |
| 7:26-2A.8(b)7 | Failure to cover exposed surfaces of solid waste at close of each operating day with daily cover. | [\$2,000] <u>\$4,500</u> | <u>NM</u> | |
| 7:26-2A.8(b)8 | Failure to progressively apply daily cover. | [\$2,000] <u>\$4,500</u> | <u>NM</u> | |
| 7:26-2A.8(b)9 | Failure to apply intermediate cover (a minimum of 12 inches of earth) to surfaces exposed more than 24 hours. | [\$2,000] <u>\$4,500</u> | <u>NM</u> | |
| 7:26-2A.8(b)10 | Failure to maintain grade, thickness and integrity of intermediate and final cover. | [\$2,000] <u>\$4,500</u> | <u>NM</u> | |

| <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> |
|--------------------------|---|------------------------------------|------------------------------|------------------------------------|
| 7:26-2A.8(b)11 | Failure to grade areas with intermediate cover to facilitate drainage. | [\$2,000] <u>\$4,500</u> | <u>NM</u> | |
| 7:26-2A.8(b)12 | Failure to use appropriate daily and intermediate cover materials; not maintaining sufficient quantity of cover at site; not maintaining standby supply of cover within boundaries. | [\$2,000] <u>\$4,500</u> | <u>NM</u> | |
| 7:26-2A.8(b)13 | Failure to construct final cover in accordance with N.J.A.C. 7:26-2A.7(i) and to apply it to all surfaces. | [\$2,000] <u>\$4,500</u> | <u>NM</u> | |
| 7:26-2A.8(b)20 | Failure to maintain sufficient types and quantities of equipment to adequately meet the requirements of <u>N.J.A.C. 7:26-2A.8(b)7</u> through (10). | [\$2,000] <u>\$4,500</u> | <u>NM</u> | |
| 7:26-2A.8(b)21 | Failure to maintain steel wheel type compactors of at least 45,000 pounds. | [\$2,000] <u>\$3,000</u> | <u>M</u> | <u>30</u> |
| 7:26-2A.8(b)22 | Failure to equip landfill equipment with safety devices. | \$5,000 | <u>NM</u> | |
| 7:26-2A.8(b)23 | Failure, in the case of breakdown of equipment, to repair or obtain replacement within 24 hours; or to include a maintenance contract in O & M plan. | [\$2,000] <u>\$4,500</u> | <u>NM</u> | |
| 7:26-2A.8(b)24 | Failure to limit access for disposal to operating hours only. | [\$2,000] <u>\$4,500</u> | <u>NM</u> | |
| 7:26-2A.8(b)25 | Failure to secure landfill with a six-foot high chain link fence. | [\$2,000] <u>\$4,500</u> | <u>NM</u> | |
| 7:26-2A.8(b)27 | Failure to maintain all weather road to working face. | [\$2,000] <u>\$4,500</u> | <u>NM</u> | |
| 7:26-2A.8(b)28 | Failure to control litter. | \$3,000 | <u>M</u> | <u>30</u> |
| 7:26-2A.8(b)29 | Failure to control dust by spraying water or equivalent. | [\$2,000] <u>\$3,000</u> | <u>M</u> | <u>1</u> |

| <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> |
|------------------------------|--|------------------------------------|------------------------------|------------------------------------|
| 7:26-2A.8(b)30 | Failure to eliminate emissions which result in odors detectable in areas of human use or occupancy beyond boundary line; or to control the odors by use of daily cover; or to immediately cover odorous waste with minimum six inches of cover. | [\$4,000] <u>\$4,500</u> | <u>NM</u> | |
| 7:26-2A.8(b)31 | Failure to control the off-site tracking of mud and soil. | [\$2,000] <u>\$3,000</u> | <u>M</u> | <u>30</u> |
| 7:26-2A.8(b)32 | Failure to minimize the propagation and harborage of insects, rodents, and birds. | [\$2,000] <u>\$4,500</u> | <u>NM</u> | |
| 7:26-2A.8(b)33 | Failure to protect all monitoring devices and environmental systems from damage. | \$5,000 | <u>NM</u> | |
| 7:26-2A.8(b)37 | Failure to have supervisor on site in order to <u>ensure</u> proper operation, evaluate monitoring data and inspection reports, determine performance of landfill, implement all operational decisions and ensure compliance with N.J.S.A. 13:1E-1 et seq., this chapter and the SWF Permit. | \$5,000 | <u>NM</u> | |
| [7:26-2A.8(b)38-41] | [Failure to ensure that landfill personnel complete a program of on-the-job training, all personnel complete training program within six months after date of employment, all personnel take part in annual update of initial training program, keep records of training received by personnel until closure.] | [\$2,000] | | |
| <u>7:26-2A.8(b)38</u> | <u>Failure to ensure that landfill personnel complete a program of on-the-job training.</u> | <u>\$3,000</u> | <u>M</u> | <u>30</u> |

| <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>7:26-2A.8(b)39</u> | <u>Failure to ensure that landfill personnel complete initial training program within six months after the date of their employment.</u> | <u>\$3,000</u> | <u>M</u> | <u>30</u> |
| <u>7:26-2A.8(b)40</u> | <u>Failure to ensure that landfill personnel take part in annual update of initial training program.</u> | <u>\$3,000</u> | <u>M</u> | <u>30</u> |
| <u>7:26-2A.8(b)41</u> | <u>Failure to keep records of training received by personnel until closure.</u> | <u>\$3,000</u> | <u>M</u> | <u>30</u> |
| 7:26-2A.8(c) | Failure to maintain environmental control systems in functioning manner, or to inspect them. | \$5,000 | <u>NM</u> | |
| 7:26-2A.8(d-e) | Failure to perform inspections required by <u>N.J.A.C. 7:26-2A.8(c)</u> on a weekly basis and after storm events, and comply with recordkeeping requirements. | [\$3,000] <u>\$4,500</u> | <u>NM</u> | |
| 7:26-2A.8(f) | Failure of operator to make repairs in accordance with N.J.A.C. 7:26-2A.8(b)28 and O & M manual, if deterioration or malfunction occurs. | [\$2,000] <u>\$4,500</u> | <u>NM</u> | |
| 7:26-2A.8(g) | Failure to maintain and inspect sanitary landfill according to requirements. | [\$2,000] <u>\$4,500</u> | <u>NM</u> | |
| 7:26-2A.8(h) | Failure to monitor in accordance with parameters and schedules. | \$5,000 | <u>NM</u> | |
| 7:26-2A.8(i) | Failure to submit an annual topographic survey prepared according to N.J.A.C. 7:26-2A.8(i)1 through 4 by May 1 of each year. | [\$2,000] <u>\$3,000</u> | <u>M</u> | <u>30</u> |
| 7:26-2A.8(j)1 | Failure to obtain written approval of the Department prior to disruption/excavation. | [\$2,000] <u>\$4,500</u> | <u>NM</u> | |
| 7:26-2A.8(j)3 | Failure to keep area of excavation consistent with amount of equipment, and to keep excavation to smallest practical area. | [\$2,000] <u>\$4,500</u> | <u>NM</u> | |

| <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> |
|--------------------------|---|------------------------------------|------------------------------|------------------------------------|
| 7:26-2A.8(j)4 | Failure to control dust, odors, fires, rodents, insects, blowing litter. | [\$3,000] <u>\$4,500</u> | <u>NM</u> | |
| 7:26-2A.8(k)6 | Failure to repair any disruption of finished grade or covered surface upon completion of firefighting activities. | [\$2,000] <u>\$4,500</u> | <u>NM</u> | |
| 7:26-2A.8(l) | Failure to comply with asbestos waste disposal requirements. | [\$3,000] <u>\$4,500</u> | <u>NM</u> | |

4. The violations of N.J.A.C. 7:26-2B, Additional Specific Disposal Regulations For Thermal Destruction Facilities, Transfer Stations, Materials Recovery Facilities, Co-Composting and Mixed Solid Waste Composting Facilities, 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.

| <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> |
|--------------------------|--|------------------------------------|------------------------------|------------------------------------|
| 7:26-2B.7(b) | Failure of solid waste composting and co-composting facility to comply with quarterly report requirements. | [\$2,000] <u>\$3,000</u> | <u>M</u> | <u>30</u> |
| 7:26-2B.7(d) | Failure of solid waste composting and co-composting facility to comply with training requirements; Access to facility prohibited when facility is closed. | [\$2,000] <u>\$4,500</u> | <u>NM</u> | |
| 7:26-2B.7(e) | Failure of solid waste composting and co-composting facility to monitor temperature of composting materials to ensure pathogen reduction criteria are met. | [\$2,000] <u>\$4,500</u> | <u>NM</u> | |

| <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> |
|--------------------------|--|------------------------------------|------------------------------|------------------------------------|
| 7:26-2B.7(f) | Failure of solid waste composting and co-composting facility to comply with incoming waste processing timeframes and requirements. | [\$2,000] <u>\$4,500</u> | <u>NM</u> | |
| 7:26-2B.7(g) | Failure of solid waste composting and co-composting facility to ensure incoming, unprocessed waste is not mixed with finished compost. | [\$2,000] <u>\$4,500</u> | <u>NM</u> | |
| 7:26-2B.7(h) | Failure of solid waste composting and co-composting facility to comply with 15 month finished compost storage requirement. | [\$1,000] <u>\$3,000</u> | <u>M</u> | <u>30</u> |
| 7:26-2B.7(i) | Failure of solid waste composting and co-composting facility to comply with recordkeeping requirements. | [\$2,000] <u>\$4,500</u> | <u>NM</u> | |
| 7:26-2B.7(j-n) | Failure of solid waste composting and co-composting facility to comply with monitoring and sampling requirements. | [\$3,000] <u>\$4,500</u> | <u>NM</u> | |
| 7:26-2B.7(o) | Failure of solid waste composting and co-composting facility to comply with labeling requirements. | [\$2,000] <u>\$4,500</u> | <u>NM</u> | |
| 7:26-2B.7(p) | Failure of solid waste composting and co-composting facility to comply with USEPA 40 CFR 503 general requirements. | [\$2,000] <u>\$4,500</u> | <u>NM</u> | |
| 7:26-2B.8(d) | Failure of the owner or operator to conduct inspections as indicated in the approved final O & M manual in order to identify and remedy any problems and comply with recordkeeping requirements. | [\$3,000] <u>\$4,500</u> | <u>NM</u> | |

| <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> |
|--------------------------|---|------------------------------------|------------------------------|------------------------------------|
| 7:26-2B.8(f) | Failure of the owner or operator to implement waste receiving area control procedures that provide for the inspection of the incoming waste stream for the purpose of removing nonprocessable or potentially explosive materials prior to the initiation of processing. | [\$3,000] <u>\$4,500</u> | <u>NM</u> | |
| 7:26-2B.8(g) | Failure, should the facility experience equipment or system malfunction to the extent that the waste received cannot be handled or processed in the normal manner, of the operator to notify the Department of the existence of such a situation and circumstances contributing to the situation within the same working day of its occurrence. | [\$2,000] <u>\$4,500</u> | <u>NM</u> | |
| 7:26-2B.8(i) | Failure to store unprocessed incoming waste, facility process waste residues and effluents, and recovered materials in bunkers, pits, bins, or similar containment vessels and to keep at all times at levels that prevent spillage or overflow. | [\$2,000] <u>\$4,500</u> | <u>NM</u> | |
| 7:26-2B.8(j) | Failure to keep waste delivery tipping hall doors closed during non-processing or non-receiving hours. | [\$2,000] <u>\$4,500</u> | <u>NM</u> | |
| 7:26-2B.8(k) | Failure to schedule the delivery of waste to the facility and the removal of residues and recovered products from the site so as to eliminate traffic backups and allow for fluid vehicular movement on site. | [\$2,000] <u>\$4,500</u> | <u>NM</u> | |

| <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> |
|--------------------------|---|------------------------------------|------------------------------|------------------------------------|
| 7:26-2B.8(l) | Failure to ensure that samples and measurements taken for the purpose of monitoring facility process and treatment operations are representative of the process or operation and are performed with the conditions of the facility's SWF permit. | \$5,000 | <u>NM</u> | |
| 7:26-2B.8(m-r) | Failure of the operator to comply with waste determination, waste analysis and required recordkeeping. | \$5,000 | <u>NM</u> | |
| 7:26-2B.8(s) | Failure of the owner or operator to have a 24-hour surveillance system which continuously monitors and controls entry to the facility or an artificial or natural barrier which completely surrounds the facility. | \$5,000 | <u>NM</u> | |
| 7:26-2B.8(t) | Failure of a facility to maintain required personnel, supervisor, boiler operator, licensed engineer to assure the proper and orderly operation of all system components, along with the ability to handle all routine facility maintenance requirements. | \$5,000 | <u>NM</u> | |
| 7:26-2B.8(u) | Failure to ensure that all personnel complete an initial program of classroom instruction and on-the-job training, training program directed by a person thoroughly familiar with the technology, ensure that facility personnel respond to any malfunction or emergency situation, complete the initial training program within six months, planned annual review of the initial training, records document the type and amount of training received, kept until closure, former employees records kept for at least one year. | [\$2,000] <u>\$3,000</u> | <u>M</u> | <u>30</u> |

5. The violations of N.J.A.C. 7:26-2D, Requirements On Rail Carriers That

Transfer Containerized Or Noncontainerized Solid Waste To Or From Rail, 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.

| <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>7:26-2D.1(c)2i</u> | <u>Failure to ensure putrescible waste does not remain for more than 72 hours, nonputrescible waste does not remain for more than 10 days, and nonputrescible ID 72 waste in sealed containers waste does not remain for more than 180 days.</u> | <u>\$4,500</u> | <u>NM</u> | |
| <u>7:26-2D.1(c)2ii</u> | <u>Failure to contain solid waste received, stored or transferred at any facility in sealed containers that do not leak any liquids or solid materials and are not opened for any purpose at the facility, except that an ID 72 liquid solid waste container may be opened briefly for the purpose of sampling the liquid provided the container is immediately resealed.</u> | <u>\$4,500</u> | <u>NM</u> | |
| <u>7:26-2D.1(c)2iv</u> | <u>Failure to ensure that all solid waste containers staged or stored at the facility are secured at all times in a manner that prevents unauthorized access to the containers and their contents.</u> | <u>\$4,500</u> | <u>NM</u> | |
| <u>7:26-2D.1(c)2v</u> | <u>Failure to maintain an adequate water supply and adequate fire-fighting equipment.</u> | <u>\$4,500</u> | <u>NM</u> | |

| <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>7:26-2D.1(c)2vi</u> | <u>Failure to ensure no queuing or staging of solid waste vehicles occurs on public roadway.</u> | <u>\$4,500</u> | <u>NM</u> | |
| <u>7:26- 2D.1(c)2vii</u> | <u>Failure to ensure queuing and staging of solid waste vehicles is conducted to prevent traffic backups and related hazards on access roads servicing facility.</u> | <u>\$4,500</u> | <u>NM</u> | |
| <u>7:26-2D.1(c)2ix</u> | <u>Failure to admit only properly registered solid waste vehicles.</u> | <u>\$4,500</u> | <u>NM</u> | |
| <u>7:26- 2D.1(c)2xii</u> | <u>Failure to designate emergency coordinator who is available at all times to handle emergency situations.</u> | <u>\$4,500</u> | <u>NM</u> | |
| <u>7:26- 2D.1(c)2xiii</u> | <u>Failure to maintain a daily record of waste received and submit quarterly reports.</u> | <u>\$4,500</u> | <u>NM</u> | |
| <u>7:26-2D.1(d)2</u> | <u>Failure of facility to have tipping floors or ramps provide proper containment and channeling of wastewater to sanitary sewer connections or holding tanks and be constructed of sufficient strength to withstand heavy vehicle usage.</u> | <u>\$4,500</u> | <u>NM</u> | |
| <u>7:26-2D.1(d)4</u> | <u>Failure of operator to clean areas where waste has been deposited or stored within each 24 hour period.</u> | <u>\$3,000</u> | <u>M</u> | <u>1</u> |
| <u>7:26-2D.1(d)5</u> | <u>Failure to ensure any waste stored overnight at any facility is effectively treated to prevent odors associated with putrefaction.</u> | <u>\$4,500</u> | <u>NM</u> | |
| <u>7:26-2D.1(d)6</u> | <u>Failure to maintain facility property surrounding the disposal area free of litter, debris, unprocessed waste, processed residues and effluents.</u> | <u>\$3,000</u> | <u>M</u> | <u>30</u> |

| <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>7:26-2D.1(d)7</u> | <u>Failure to implement dust control methods in order to prevent migration outside the enclosed building and off-site.</u> | <u>\$3,000</u> | <u>M</u> | <u>30</u> |
| <u>7:26-2D.1(d)9</u> | <u>Failure to maintain an adequate water supply and adequate fire-fighting equipment.</u> | <u>\$4,500</u> | <u>NM</u> | |
| <u>7:26-2D.1(d)10</u> | <u>Failure to control insects, other arthropods and rodents.</u> | <u>\$4,500</u> | <u>NM</u> | |
| <u>7:26-2D.1(d)11</u> | <u>Failure to operate certified scales for the reporting requirements of N.J.A.C. 7:26-2.13 for waste transported by trucks.</u> | <u>\$3,000</u> | <u>M</u> | <u>30</u> |
| <u>7:26-2D.1(d)13</u> | <u>Failure to ensure no queuing or staging of solid waste vehicles occurs on public roadway.</u> | <u>\$4,500</u> | <u>NM</u> | |
| <u>7:26-2D.1(d)14</u> | <u>Failure to ensure queuing and staging of solid waste vehicles is conducted to prevent traffic backups and related hazards on access roads servicing facility.</u> | <u>\$4,500</u> | <u>NM</u> | |
| <u>7:26-2D.1(d)16</u> | <u>Failure to admit only properly registered solid waste vehicles.</u> | <u>\$4,500</u> | <u>NM</u> | |
| <u>7:26-2D.1(d)17</u> | <u>Failure to designate a secure area where solid waste may be unloaded from vehicles exempt from registration under N.J.A.C. 7:26-3.3.</u> | <u>\$4,500</u> | <u>NM</u> | |
| <u>7:26-2D.1(d)18</u> | <u>Failure to establish a separate secure area for the drop-off and/or transfer of asbestos and asbestos-containing waste material (ACWM) or to comply with additional requirements for the handling of asbestos and ACWM.</u> | <u>\$4,500</u> | <u>NM</u> | |

| <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>7:26-2D.1(d)21</u> | <u>Failure to ensure that nonputrescible solid waste does not remain at the rail facility for more than 10 days, except that ID72 liquid solid waste may be stored for up to 180 days in sealed containers. Putrescible solid waste shall not remain at any rail facility for greater than 72 hours.</u> | <u>\$4,500</u> | <u>NM</u> | |
| <u>7:26-2D.1(d)22</u> | <u>Failure to implement effective security procedures to control entry and exit at all times.</u> | <u>\$4,500</u> | <u>NM</u> | |
| <u>7:26-2D.1(d)25</u> | <u>Failure to designate emergency coordinator who is available at all times to handle emergency situations.</u> | <u>\$4,500</u> | <u>NM</u> | |

[5.] 6. The violations of N.J.A.C. 7:26-3, Transportation, 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.

| <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> |
|--------------------------|---|-----------------------------|------------------------------|------------------------------------|
| 7:26-3.2(a) | Failure to obtain an approved registration statement from the Department prior or to engaging in the transportation of solid waste. | \$8,000 | <u>NM</u> | |
| 7:26-3.2(a)2 | Failure to ensure that any device used for the transportation of solid waste is registered with the Department. | [\$2,000] <u>\$4,500</u> | <u>NM</u> | |

| <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> |
|--------------------------|---|------------------------------------|------------------------------|------------------------------------|
| 7:26-3.2(a)4 | Failure of registrant to ensure registered vehicles, cabs, containers, etc. are not used, controlled or possessed by any other person. | \$5,000 | <u>NM</u> | |
| 7:26-3.2(c) | Failure to comply with any conditions or limitations which may be specified on the approved registration. | \$5,000 | <u>NM</u> | |
| 7:26-3.2(d) | Failure of a registrant to submit a transporter registration renewal updating information contained in the previous registration statement. | [\$2,000] <u>\$3,000</u> | <u>M</u> | <u>30</u> |
| 7:26-3.2(e) | Failure of registrant to notify the Department within 30 days of any change in the registration statement. | [\$2,000] <u>\$3,000</u> | <u>M</u> | <u>30</u> |
| 7:26-3.4(b) | Failure to deposit all collected solid waste at an approved facility. | \$5,000 | <u>NM</u> | |
| 7:26-3.4(c) | Failure to ensure solid waste does not remain or is stored in any solid waste vehicle in excess of 24 hours, unless an emergency. | [\$2,000] <u>\$3,000</u> | <u>M</u> | <u>30</u> |
| 7:26-3.4(d) | Failure to ensure design of solid waste vehicle is such that it will not cause spillage onto roadways. | [\$2,000] <u>\$3,000</u> | <u>M</u> | <u>30</u> |
| 7:26-3.4(e) | Failure to ensure solid waste vehicle is not loaded beyond its design capacities or in such a manner that will cause spillage onto roadways. | [\$2,000] <u>\$4,500</u> | <u>NM</u> | |
| 7:26-3.4(f) | Failure to keep all solid waste vehicles in good working condition and to provide a means of continuous service in the event an emergency arises. | [\$2,000] <u>\$3,000</u> | <u>M</u> | <u>1</u> |
| 7:26-3.4(g) | Failure to protect property of customer. | [\$2,000] <u>\$4,500</u> | <u>NM</u> | |
| 7:26-3.4(h) | Failure to properly mark each solid waste vehicle or to carry current DEP registration certificate. | [\$2,000] <u>\$3,000</u> | <u>M</u> | <u>30</u> |

| <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> |
|---------------------------|--|------------------------------------|------------------------------|------------------------------------|
| 7:26-3.4(i) | Failure to use tarpaulins as needed. | [\$2,000] <u>\$4,500</u> | <u>NM</u> | |
| 7:26-3.4(j) | Failure to access or exit a solid waste facility pursuant to the district management plan or SWF permit. | [\$2,000] <u>\$3,000</u> | <u>M</u> | <u>1</u> |
| <u>7:26-3.4(m)</u> | <u>Failure of transporter to haul solid waste in accordance with the Solid Waste Management Plan developed by the county or district of waste origin pursuant to N.J.A.C. 7:26-6.</u> | <u>\$4,500</u> | <u>NM</u> | |
| 7:26-3.5(a)1 | Failure to design all solid waste vehicles used for the transportation of sewage sludge to preclude any spillage or leakage onto roadways. | [\$2,000] <u>\$4,500</u> | <u>NM</u> | |
| 7:26-3.5(a)2 | Failure to ensure sewage sludge and other fecal material is not intermixed with other wastes of a chemical or industrial nature. | \$5,000 | <u>NM</u> | |
| 7:26-3.5(b) | Failure to design all solid waste vehicles used for the transportation of bulky waste to preclude any spillage. | [\$2,000] <u>\$4,500</u> | <u>NM</u> | |
| 7:26-3.5(c) | Failure to ensure radioactive material and lethal chemicals are not transported in or through this State without prior approval from authorities having jurisdiction, and from the Department. | \$5,000 | <u>NM</u> | |
| 7:26-3.5(d)1 | Failure to design all solid waste vehicles used for the transportation of asbestos waste so as to preclude any spillage leakage or emissions therefrom. | [\$3,000] <u>\$4,500</u> | <u>NM</u> | |
| 7:26-3.5(d)2 | Failure to package asbestos for transportation in accordance with 40 CFR 61.152 and N.J.A.C. 7:26-2.12. | \$5,000 | <u>NM</u> | |

| <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> |
|-------------------------------------|---|-----------------------------------|------------------------------|------------------------------------|
| 7:26-3.5(d)3 | Failure to transport asbestos in a manner that prevents the rupture of containers in loading, transporting and unloading operations. | \$5,000 | <u>NM</u> | |
| 7:26-3.5(d)4 | Failure to transport collected asbestos <u>and/or asbestos containing material</u> directly from the point of generation to the solid waste landfill permitted to receive such wastes. | \$5,000 | <u>NM</u> | |
| 7:26-3.5(d)6 | Failure to ensure no visible air emissions are generated during loading, transporting, or unloading operations. | \$5,000 | <u>NM</u> | |
| 7:26-3.5[(g)] <u>(h)2</u> | Failure of transporter to complete and sign O and D form prior to [disposal.] <u>prior to transporting the solid waste.</u> | [\$2000] <u>\$3,000</u> | <u>M</u> | <u>1</u> |
| <u>7:26-3.6(g)1</u> | <u>Failure to ensure that nonputrescible solid waste does not remain at the intermodal facility for up to 10 days, except that ID72 liquid solid waste may be stored for up to 180 days in sealed containers. Putrescible solid waste shall not remain at any intermodal facility for greater than 72 hours.</u> | <u>\$4,500</u> | <u>NM</u> | |

| Rule N.J.A.C. | Rule Summary | Base Penalty | <u>Type of Violation</u> | <u>Grace Period (days)</u> |
|----------------------------|--|-----------------------|------------------------------|------------------------------------|
| <u>7:26-3.6(g)2</u> | <u>Failure to contain solid waste received, stored or transferred at any facility in sealed containers, registered as solid waste containers with the Department in accordance with N.J.A.C. 7:26-3, that do not leak any liquids or solid materials and are not opened for any purpose at the facility, except that an ID 72 liquid solid waste container may be opened briefly for the purpose of sampling the liquid provided the container is immediately resealed.</u> | <u>\$4,500</u> | <u>NM</u> | |
| <u>7:26-3.6(g)3</u> | <u>Failure to ensure no odors of sufficient strength and duration to be injurious to human health or unreasonably interfere with the enjoyment of life or property are detected at the facility or off-site, in the vicinity of the facility.</u> | <u>\$4,500</u> | <u>NM</u> | |
| <u>7:26-3.6(g)4</u> | <u>Failure to ensure access to any intermodal container facility is restricted to facility operators, solid waste vehicle operators and authorized visitors only. Effective security procedures shall be implemented to control entry and exit at all times. All solid waste containers staged or stored at the facility shall be secured at all times in a manner that prevents unauthorized access to the containers and their contents.</u> | <u>\$4,500</u> | <u>NM</u> | |

| Rule N.J.A.C. | Rule Summary | Base Penalty | <u>Type of Violation</u> | <u>Grace Period (days)</u> |
|----------------------|--|-----------------|------------------------------|------------------------------------|
| <u>7:26-3.6(g)7</u> | <u>Failure to ensure routine housekeeping and maintenance procedures are implemented at the facility to prevent the accumulation of dust, debris and to maintain general cleanliness throughout the facility and in the working environment.</u> | <u>\$3,000</u> | <u>M</u> | <u>30</u> |
| <u>7:26-3.6(g)9</u> | <u>Failure to designate an on-site emergency coordinator who will be available during all hours of operation for the purpose of handling emergency situations, such as, but not limited to, spills, discharges or releases of solid wastes at the facility.</u> | <u>\$4,500</u> | <u>NM</u> | |
| <u>7:26-3.6(g)10</u> | <u>Failure to ensure all containerized solid waste accepted at the intermodal container facility, unless exempted under N.J.A.C. 7:26-6.3, from New Jersey sources are disposed of in accordance with applicable District Solid Waste Management Plans. Any out-of-State solid waste accepted at an intermodal container facility shall be disposed of consistent with the provisions set forth in the approved District Solid Waste Management Plan for the district in which the facility is located, or, where applicable, at permitted out-of-State disposal facilities authorized by the receiving state.</u> | <u>\$4,500</u> | <u>NM</u> | |

| Rule N.J.A.C. | Rule Summary | Base Penalty | <u>Type of Violation</u> | <u>Grace Period (days)</u> |
|-----------------------------|--|-----------------------|------------------------------|------------------------------------|
| <u>7:26-3.6(g)11</u> | <u>Failure to develop and maintain at the site an operations and maintenance (O & M) manual that shall describe all operating conditions and procedures of the facility. The O & M manual shall be made available to all facility personnel. The O & M manual shall be prepared in accordance with N.J.A.C. 7:26-2.10(b)9.</u> | <u>\$4,500</u> | <u>NM</u> | |
| <u>7:26-3.6(h)1</u> | <u>Failure to maintain daily records on forms supplied by the Department, in accordance with N.J.A.C. 7:26-2.13. These reports shall note the name of the registered transporter, transporter's DEP registration number, vehicle plate number, waste type, waste quantity, solid waste container DEP registration number, source, destination facility name and State registration number and quantity, by vehicle, of all solid waste received, transferred and shipped at the facility. The records shall specify the source and date of every shipment of waste received and the destination and date of every shipment of waste out of the facility. Quantities of solid waste shall be listed in tons and cubic yards. Quantities of liquid solid wastes shall be listed in gallons.</u> | <u>\$4,500</u> | <u>NM</u> | |
| <u>7:26-3.6(h)2</u> | <u>Failure to compile the daily records into standard quarterly reports, which shall be submitted to the Department within 20 days of the end of each calendar quarter.</u> | <u>\$3,000</u> | <u>M</u> | <u>30</u> |

| <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> |
|--------------------------|---|-------------------------|------------------------------|------------------------------------|
| 7:26-3.7(a) | Failure to ensure waste materials to be collected and transported show no evidence of smoking, smoldering or burning. | \$5,000 | <u>NM</u> | |

[6.] **7.** The violations of N.J.A.C. 7:26-3A, Regulated Medical 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. [The lesser penalty amount applies to persons registered in generator categories 1 through 3 (<300 lbs./year). The larger penalty amount applies to persons registered in generator categories 4 and 5 (>300 lbs/year).]

| <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> |
|--------------------------|--|------------------------------------|------------------------------|------------------------------------|
| 7:26-3A.8(a) | Failure of a generator of RMW to register with the Department. | [\$1,500/]\$5,000 | <u>NM</u> | |
| 7:26-3A.8(a)1 | Failure of a generator of RMW to register in the proper category. | [\$1,000] <u>\$3,000</u> | <u>M</u> | <u>30</u> |
| 7:26-3A.8(b)1 | Failure of a commercial transporter of RMW to register with the Department. | \$5,000 | <u>NM</u> | |
| 7:26-3A.8(b)2 | Failure of a non-commercial transporter of RMW to register with the Department. | [\$2,500] <u>\$4,500</u> | <u>NM</u> | |
| 7:26-3A.8(c) | Failure of commercial intermediate handlers and owner/operators of destination facilities to register with the Department. | \$5,000 | <u>NM</u> | |

| <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> |
|--------------------------|--|--|------------------------------|------------------------------------|
| 7:26-3A.8(c)3 | Failure of a non-commercial collection facility or an intermediate handler treating their own waste to register with the Department. | [\$2,000] <u>\$4,500</u> | <u>NM</u> | |
| 7:26-3A.8(d)1 | Failure of commercial collection facility to register with the Department. | \$5,000 | <u>NM</u> | |
| 7:26-3A.8(d)5,6 | Failure of a non-commercial collection facility to register with the Department. | [\$2,000] <u>\$4,500</u> | <u>NM</u> | |
| 7:26-3A.9 | Failure of transporters', intermediate handlers' and destination facilities' supervisory personnel to attend an education and training session and disseminate information to employees. | [\$2,000] <u>\$3,000</u> | <u>M</u> | <u>30</u> |
| 7:26-3A.10(a) | Failure of generators of RMW to segregate for off-site transport prior to placement in containers. | [\$1,000/ \$3,000] <u>\$4,500</u> | <u>NM</u> | |
| 7:26-3A.10(d) | Failure to handle a package of RMW mixed with other waste as RMW. | [\$1,000/ \$3,000] <u>\$4,500</u> | <u>NM</u> | |
| 7:26-3A.11 | Failure of a generator to ensure that RMW is properly packaged before transporting or offering for transport off site. | [\$1,000/ \$3,000] <u>\$4,500</u> | <u>NM</u> | |
| 7:26-3A.12(a) | Failure to comply with RMW storage requirements. | [\$1,000/ \$3,000] <u>\$4,500</u> | <u>NM</u> | |
| 7:26-3A.12(b) | Failure to comply with RMW storage periods. | [\$500/ \$1,000] <u>\$3,000</u> | <u>M</u> | <u>30</u> |
| 7:26-3A.12(c) | Failure to secure sharps containers. | [\$1,000/ \$3,000] <u>\$4,500</u> | <u>NM</u> | |
| 7:26-3A.13(a) | Failure to comply with container decontamination and reuse requirements. | [\$1,000/ \$3,000] <u>\$4,500</u> | <u>NM</u> | |

| <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> |
|--------------------------|---|---|------------------------------|------------------------------------|
| 7:26-3A.14(a) | Failure to comply with labeling requirements. | [\$500/ \$1,000] \$3,000 | <u>M</u> | <u>30</u> |
| 7:26-3A.15(a) | Failure to comply with marking requirements. | [\$500/ \$1,000] \$3,000 | <u>M</u> | <u>30</u> |
| 7:26-3A.16(a) | Failure to determine if waste is RMW. | [\$1,000/ \$3,000] \$4,500 | <u>NM</u> | |
| 7:26-3A.16(d) | Failure to use properly registered transporters. | [\$1,000/ \$3,000] \$4,500 | <u>NM</u> | |
| 7:26-3A.16(e) | Failure to dispose of RMW at an authorized facility. | \$5,000[/ \$10,000] | <u>NM</u> | |
| 7:26-3A.16(h) | Failure to comply with home self-care RMW requirements. | [\$500/ \$1,000] \$3,000 | <u>M</u> | <u>30</u> |
| 7:26-3A.16(i) | Failure to get approval from the department prior to using an alternative or innovative technology for the treatment or destruction of RMW. | [\$1,000/]\$5,000 | <u>NM</u> | |
| 7:26-3A.19 | Failure of a generator to comply with tracking form requirements. | [\$500/ \$2,000] \$3,000 | <u>M</u> | <u>30</u> |
| 7:26-3A.21 | Failure to comply with generator recordkeeping requirements. | [\$500/ \$1,000] \$3,000 | <u>M</u> | <u>30</u> |
| 7:26-3A.22 | Failure of generator to comply with exception reporting requirements. | [\$500/ \$1,000] \$3,000 | <u>M</u> | <u>30</u> |
| 7:26-3A.25 | Failure of generator with on-site incinerator to comply with recordkeeping requirements. | [\$1,000/]\$3,000 | <u>M</u> | <u>30</u> |
| 7:26-3A.26 | Failure of owner/operator of on-site incinerator to comply with reporting requirements. | [\$1,000/]\$3,000 | <u>M</u> | <u>30</u> |

| <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> |
|-----------------------------|---|------------------------------------|------------------------------|------------------------------------|
| 7:26-3A.27(i) | Failure of a transporter/collection facility to dispose of RMW stored in the vehicle within fourteen calendar days, or before it becomes putrescent. | [\$2,000] <u>\$4,500</u> | <u>NM</u> | |
| 7:26-3A.28 | Failure of a transporter to comply with RMW acceptance requirements. | [\$3,000] <u>\$4,500</u> | <u>NM</u> | |
| 7:26-3A.30(a)1 | Failure of vehicle to have fully enclosed, leak resistant cargo carrying body. | [\$2,000] <u>\$4,500</u> | <u>NM</u> | |
| 7:26-3A.30(a)2 | Failure to ensure RMW does not become putrescent and is not subjected to mechanical stress or compaction during loading and unloading or during transit. | [\$2,000] <u>\$4,500</u> | <u>NM</u> | |
| 7:26-3A.30(a)3 | Failure to maintain cargo carrying body in good sanitary condition. | [\$2,000] <u>\$4,500</u> | <u>NM</u> | |
| 7:26-3A.30(a)4 | Failure to securely lock unattended cargo carrying body. | \$5,000 | <u>NM</u> | |
| 7:26-3A.30(b) | Failure to comply with vehicle identification requirements. | [\$1,000] <u>\$3,000</u> | <u>M</u> | <u>30</u> |
| 7:26-3A.30(c) | Failure to manage RMW/solid waste mixture as RMW. | \$5,000 | <u>NM</u> | |
| [7:26-3A.31] | [Failure of transporter to comply with tracking form requirements.] | [\$2,000] | | |
| <u>7:26-3A.31(a)</u> | <u>Failure of transporter to accepting RMW from a generator to ensure it is accompanied by a tracking form signed by the generator in accordance with the provisions of N.J.A.C. 7:26-3A.19.</u> | <u>\$4,500</u> | <u>NM</u> | |
| <u>7:26-3A.31(b)</u> | <u>Failure of transporter to sign and date tracking form and provide copy to generator.</u> | <u>\$4,500</u> | <u>NM</u> | |
| <u>7:26-3A.31(c)</u> | <u>Failure of transporter to ensure tracking form accompanies RMW while in transit.</u> | <u>\$4,500</u> | <u>NM</u> | |

| Rule N.J.A.C. | Rule Summary | Base Penalty | <u>Type of Violation</u> | <u>Grace Period (days)</u> |
|-----------------------------|--|------------------------------------|------------------------------|------------------------------------|
| <u>7:26-3A.31(d)</u> | <u>Failure of transporter to comply with tracking form requirements when delivering RMW to another transporter (including a transfer facility) or to an intermediate handling facility or destination facility.</u> | <u>\$3,000</u> | <u>M</u> | <u>1</u> |
| <u>7:26-3A.31(e)</u> | <u>Failure of transporter to comply with tracking form requirements when transporting RMW across an international border or when delivering RMW to a transporter or treatment, destruction, or destination facility located in a foreign country.</u> | <u>\$4,500</u> | <u>NM</u> | |
| 7:26-3A.32(a) | Failure to deliver entire quantity of RMW to intermediate hauler, destination facility or next transporter. | [\$1,000] <u>\$4,500</u> | <u>NM</u> | |
| 7:26-3A.32(b) | Failure to contact generator for directions and make changes accordingly, if RMW cannot be delivered as intended. | [\$1,000] <u>\$3,000</u> | <u>M</u> | <u>30</u> |
| 7:26-3A.33(a) | Failure to comply with requirements for consolidating waste to a new tracking form. | [\$2,000] <u>\$3,000</u> | <u>M</u> | <u>30</u> |
| [7:26-3A.34] | [Failure of transporter to comply with recordkeeping requirements.] | [\$3,000] | | |
| <u>7:26-3A.34(a)</u> | <u>Failure of transporter to maintain signed copy of tracking form for three years.</u> | <u>\$3,000</u> | <u>M</u> | <u>30</u> |
| <u>7:26-3A.34(b)</u> | <u>Failure of transporter to comply with recordkeeping requirements when consolidating RMW.</u> | <u>\$3,000</u> | <u>M</u> | <u>30</u> |
| <u>7:26-3A.34(c)</u> | <u>Failure of transporter to maintain copy of RMW transporter report for three years.</u> | <u>\$3,000</u> | <u>M</u> | <u>30</u> |
| 7:26-3A.35 | Failure of transporter to comply with reporting requirements. | \$3,000 | <u>M</u> | <u>30</u> |

| <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> |
|--------------------------|--|------------------------------------|------------------------------|------------------------------------|
| 7:26-3A.37(a) | Failure of transporter to have an approved RMW spill management plan. | [\$2,000] <u>\$4,500</u> | <u>NM</u> | |
| 7:26-3A.37(b) | Failure of transporter to have a RMW spill containment and cleanup kit at all sites and in all vehicles used for the storage, handling, collection, treatment and collection of RMW. | [\$2,000] <u>\$4,500</u> | <u>NM</u> | |
| 7:26-3A.38(b)6 | Failure of RMW incinerator to ensure waste stored overnight is effectively treated. | [\$2,000] <u>\$4,500</u> | <u>NM</u> | |
| 7:26-3A.38(b)7 | Failure to maintain facility property surrounding the disposal area free of litter, debris, unprocessed waste, processed residues and effluents. | [\$2,000] <u>\$4,500</u> | <u>NM</u> | |
| 7:26-3A.38(b)8 | Failure to ensure no odors are detected off-site. | [\$4,000] <u>\$4,500</u> | <u>NM</u> | |
| 7:26-3A.38(b)9 | Failure to maintain all facility systems in a manner that facilitates proper operation and minimizes system downtime. | [\$2,000] <u>\$4,500</u> | <u>NM</u> | |
| 7:26-3A.38(b)10 | Failure to maintain adequate water supply and fire fighting equipment, failure to post emergency numbers (fire, police, ambulance, hospital). | \$5,000 | <u>NM</u> | |
| 7:26-3A.38(b)11 | Failure to effectively control insects, arthropods, rodents. | [\$2,000] <u>\$4,500</u> | <u>NM</u> | |
| 7:26-3A.38(b)12 | Failure to maintain orderly operation and sanitary conditions. | [\$2,000] <u>\$4,500</u> | <u>NM</u> | |
| 7:26-3A.38(b)14 | Failure to maintain O & M Manual at the facility. | [\$3,000] <u>\$4,500</u> | <u>NM</u> | |
| 7:26-3A.38(b)17 | Failure of facility to accept RMW only from properly registered transporters. | [\$2,000] <u>\$4,500</u> | <u>NM</u> | |
| 7:26-3A.39(i)1 | Failure to ensure stored waste does not exceed 300,000 pounds or amount as specified in authorization. | [\$2,000] <u>\$4,500</u> | <u>NM</u> | |

| <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> |
|--------------------------|--|------------------------------------|------------------------------|------------------------------------|
| 7:26-3A.39(i)2 | Failure to ensure collection facility receives no more than 150,000 pounds of waste per day, or as otherwise indicated in authorization. | [\$2,000] <u>\$4,500</u> | <u>NM</u> | |
| 7:26-3A.39(i)4 | Failure to accept only RMW waste managed in accordance with N.J.A.C. 7:26-3A. | [\$2,000] <u>\$4,500</u> | <u>NM</u> | |
| 7:26-3A.39(i)5 | Failure to ensure only registered vehicles transport to and from facility. | [\$2,000] <u>\$4,500</u> | <u>NM</u> | |
| 7:26-3A.39(i)6 | Failure to ensure all waste at all times remains fully contained, and does not leak. | [\$3,000] <u>\$4,500</u> | <u>NM</u> | |
| 7:26-3A.39(i)9 | Failure to ensure no odors are detected off-site. Odor causing waste to be disposed of immediately. | [\$4,000] <u>\$4,500</u> | <u>NM</u> | |
| 7:26-3A.39(i)10 | Failure to implement and maintain effective security procedures. | [\$2,000] <u>\$4,500</u> | <u>NM</u> | |
| 7:26-3A.39(i)13 | Failure to implement routine housekeeping and maintenance procedures. | [\$2,000] <u>\$3,000</u> | <u>M</u> | <u>30</u> |
| 7:26-3A.39(i)16 | Failure to ensure truck queuing is minimized, on-site traffic controls implemented. | [\$2,000] <u>\$4,500</u> | <u>NM</u> | |
| 7:26-3A.39(i)17 | Failure to ensure RMW is not staged, placed or stored beyond confines of facility or vehicle. | [\$2,000] <u>\$4,500</u> | <u>NM</u> | |
| 7:26-3A.39(j)2 | Failure to maintain O & M Manual at the facility. | [\$3,000] <u>\$4,500</u> | <u>NM</u> | |
| 7:26-3A.39(j)3 | Failure to comply with training program requirements. | [\$2,000] <u>\$3,000</u> | <u>M</u> | <u>30</u> |
| 7:26-3A.39(j)6 | Failure to maintain fire protection systems in operable condition, fire procedures posted. | \$5,000 | <u>NM</u> | |
| [7:26-3A.39(j)7] | [Failure to ensure that noise levels do not exceed standards set forth in N.J.A.C. 7:29.] | [\$4,000] | | |
| 7:26-3A.39(j)8 | Failure to maintain on site operating records, O & M manual. | [\$3,000] <u>\$4,500</u> | <u>NM</u> | |

| <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> |
|--------------------------|---|-----------------------------|------------------------------|------------------------------------|
| 7:26-3A.39(j)9 | Failure to maintain safety appliances in proper operating order, comply with O & M inspection schedules, maintain inspection records. | \$5,000 | <u>NM</u> | |
| 7:26-3A.39(k) | Failure to comply with recordkeeping and reporting requirements. | \$3,000 | <u>M</u> | <u>30</u> |
| 7:26-3A.40(c)3 | Failure of intermediate handlers and destination facilities to ensure only approved treatment and destruction processes authorized by NJDEP and DOH are utilized. | [\$2,000] <u>\$4,500</u> | <u>NM</u> | |
| [7:26-3A.41] | [Failure to comply with tracking form requirements.] | [\$2,000] | | |
| <u>7:26-3A.41(a)</u> | <u>Failure of destination facility receiving RMW to sign and date tracking form, note discrepancies, provide copies to generator and transporter, and retain copy.</u> | <u>\$4,500</u> | <u>NM</u> | |
| <u>7:26-3A.41(b)</u> | <u>Failure of intermediate handler receiving RMW to sign and date tracking form, note discrepancies, entering required information on new tracking form, keeping log, provide copies to generator and transporter, and retain copy.</u> | <u>\$4,500</u> | <u>NM</u> | |
| <u>7:26-3A.41(c)</u> | <u>Failure of destination facility or intermediate handler receiving RMW from a rail transporter to comply with shipping form requirements.</u> | <u>\$4,500</u> | <u>NM</u> | |
| <u>7:26-3A.41(d)</u> | <u>Failure of destination facility or intermediate handler to maintain shipping or tracking form for three years.</u> | <u>\$3,000</u> | <u>M</u> | <u>30</u> |

| <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>7:26-3A.41(f)</u> | <u>Failure of transporter to provide signed copies of the tracking form to the generator when the destination facility or intermediate facility is an out-of-State facility and will not comply with the tracking from requirements of N.J.A.C. 7:26-3a.41.</u> | <u>\$4,500</u> | <u>NM</u> | |
| 7:26-3A.42 | Failure to comply with tracking form discrepancy requirements. | [\$500] <u>\$3,000</u> | <u>M</u> | <u>30</u> |
| 7:26-3A.43 | Failure to comply with recordkeeping requirements. | \$3,000 | <u>M</u> | <u>30</u> |
| 7:26-3A.44 | Failure of collection facilities, intermediate handlers and/or destination facilities to comply with additional reporting requirements. | [\$2,000] <u>\$4,500</u> | <u>NM</u> | |
| 7:26-3A.46 | Failure of rail transporter to comply with tracking form requirements. | [\$2,000] <u>\$4,500</u> | <u>NM</u> | |
| 7:26-3A.47(a) | Failure to ensure alternative of innovative technology processes and any modifications are approved by the NJDEP and DOH prior to any marketing, sale or use in New Jersey. | \$5,000 | <u>NM</u> | |
| 7:26-3A.48(a,b) | Failure of an out-of-State organization using the U.S. Postal Service or other parcel service and disposing of regulated medical waste from New Jersey to comply with certification requirements. | [\$2,000] <u>\$4,500</u> | <u>NM</u> | |
| 7:26-3A.48(c) | Failure of a RMW generator to ensure that RMW waste is not sent to any out-of-State facility [which] <u>that</u> does not have a certificate on file with the Department. | \$5,000 | <u>NM</u> | |

[7.] **8.** The violations of N.J.A.C. 7:26-6, [Interdistrict and Intradistrict Solid

Waste Flow] **Solid Waste Planning Regulations**, 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.

| <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> |
|----------------------|--|---------------------|--------------------------|----------------------------|
| [7:26-6.5] | [Failure to comply with the district waste flow plan.] | [\$10,000] | | |
| 7:26-6.12(b) | Failure to comply with the applicable district solid waste management plan. | \$4,500 | <u>NM</u> | |

[8.] **9.** The violations of N.J.A.C. 7:26A-**3, Approval of Recycling** [Rules] **Centers for Class B, Class C and Class D Recyclable Materials**, 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.

| <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> |
|----------------------|--|------------------------------------|--------------------------|----------------------------|
| 7:26A-3.1(a) | Failure of approved recycling center to comply with all approval conditions. | [\$2,000] <u>\$3,000</u> | <u>M</u> | <u>30</u> |
| 7:26A-3.5(f) | Failure of recycling center to post a legible sign at the recycling center entrance indicating its approval and listing items detailed in 3.2(a)13i and ii. | [\$500] <u>\$3,000</u> | <u>M</u> | <u>30</u> |
| 7:26A-3.6 | Failure to submit renewal application for a general approval to the Department at least three months prior to the current approval expiration and to comply with all submittal requirements. | [\$1,000] <u>\$3,000</u> | <u>M</u> | <u>30</u> |

| <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> |
|--------------------------|--|------------------------------------|------------------------------|------------------------------------|
| 7:26A-3.7(j) | Failure, within 45 days after expiration of the time period authorized by the limited approval to operate a recycling facility, to file a final report with the Department. | [\$2,000] <u>\$3,000</u> | <u>M</u> | <u>30</u> |
| 7:26A-3.7(k) | Failure of persons operating a limited approved recycling center to ensure that no illegal dumping occurs. | [\$2,000] <u>\$4,500</u> | <u>NM</u> | |
| 7:26A-3.8(a) | Failure to limit processing methods for tires to slicing, shredding, chipping, crumbing or other methods approved by the Department, prohibition to incinerating, landfilling, abandoning or otherwise illegally disposing of tires. | [\$3,000] <u>\$4,500</u> | <u>NM</u> | |
| 7:26A-3.8(b) | Failure by the owner or operator of a [the] tire recycling center to ensure that no mosquito colony formation develops. | [\$2,000] <u>\$4,500</u> | <u>NM</u> | |
| 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 | <u>NM</u> | |
| 7:26A-3.9(a) | Failure of recycling center to ensure the temporary storage of Class B recyclable material does not exceed the amount indicated in the general or limited approval to operate. | [\$2,000] <u>\$4,500</u> | <u>NM</u> | |
| 7:26A-3.9(b) | Failure of recycling center to ensure that unprocessed Class B recyclable material is not stored in excess of one year from the date of receipt. | [\$2,000] <u>\$4,500</u> | <u>NM</u> | |
| 7:26A-3.10 | Failure of recycling center to comply with modification requirements. | [\$2,000] <u>\$3,000</u> | <u>M</u> | <u>30</u> |

| <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> |
|--------------------------|---|------------------------------------|------------------------------|------------------------------------|
| 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 | <u>NM</u> | |
| 7:26A-3.15(c) | Failure to provide one copy of written request to transfer approval to the recycling coordinator and one copy to the applicable municipal planning board. | [\$2,000] <u>\$3,000</u> | <u>M</u> | <u>30</u> |
| 7:26A-3.17(a) | Failure of recycling center to comply with recordkeeping and annual reporting requirements. | \$3,000 | <u>M</u> | <u>30</u> |

10. 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, 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.

| <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> |
|--------------------------|--|------------------------------------|------------------------------|------------------------------------|
| 7:26A-4.1(a)li | Failure of recycling center to ensure that recyclable material is separated at the point of generation from other waste material. | \$3,000 | <u>M</u> | <u>30</u> |
| 7:26A-4.1(a)lii | Failure of recycling center to ensure only Class A, Class B or Class C materials are received, stored, processed or transferred at the center. | [\$3,000] <u>\$4,500</u> | <u>NM</u> | |
| 7:26A-4.1(a)liii | Failure of recycling center to comply with commingling requirements. | [\$2,000] <u>\$3,000</u> | <u>M</u> | <u>30</u> |

| <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> |
|--------------------------|---|------------------------------------|------------------------------|------------------------------------|
| 7:26A-4.1(a)2 | Failure of recycling center to ensure residue is not stored on-site in excess of six months. | [\$2,000] <u>\$4,500</u> | <u>NM</u> | |
| 7:26A-4.1(a)4 | Failure of recycling center to store residue separately from recyclable material and in a manner which prevents run-off, leakage or seepage from the residue storage area into, on or around the soil of the residue storage area. | [\$2,000] <u>\$4,500</u> | <u>NM</u> | |
| 7:26A-4.1(a)5 | Failure of recycling center to ensure hazardous wastes are not stored, processed or transferred at any recycling center. | \$5,000 | <u>NM</u> | |
| 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 | <u>NM</u> | |
| 7:26A-4.1(a)8 | Failure to operate a recycling center in such a manner that the recycling center property is maintained free of litter and debris and such that tracking of mud into nearby streets is prevented. | [\$2,000] <u>\$3,000</u> | <u>M</u> | <u>30</u> |
| 7:26A-4.1(a)10 | Failure of recycling center operator to ensure that traffic associated with the operation of the center does not result in a degradation of a level of service of any major intersection or public roadway within a half-mile radius. | [\$2,000] <u>\$4,500</u> | <u>NM</u> | |
| 7:26A-4.1(a)11 | Failure of recycling center operator to ensure recycling center operations are separated from sensitive land uses by an effective visual screen buffer. | [\$2,000] <u>\$3,000</u> | <u>M</u> | <u>30</u> |
| 7:26A-4.1(a)12 | Failure of recycling center operator to ensure unauthorized access to center is controlled. | [\$2,000] <u>\$4,500</u> | <u>NM</u> | |

| <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> |
|--------------------------|---|------------------------------------|------------------------------|------------------------------------|
| 7:26A-4.1(a)13 | Failure of recycling center operator to ensure areas of vehicular usage are suitably compacted and, where necessary, paved. | [\$2,000] <u>\$3,000</u> | <u>M</u> | <u>30</u> |
| 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 | <u>NM</u> | |
| 7:26A-4.4(a) | Failure by the owner or operator of a recycling center to provide a recycling tonnage report by February 1 of each year. | [\$1,000] <u>\$3,000</u> | <u>M</u> | <u>30</u> |
| 7:26A-4.4(b) | Failure by a transporter of recyclable materials to provide a recycling tonnage report by February 1 of each year. | [\$1,000] <u>\$3,000</u> | <u>M</u> | <u>30</u> |
| 7:26A-4.4(c) | Failure of exempt person to submit required tonnage reports by February 1 of each year. | [\$1,000] <u>\$3,000</u> | <u>M</u> | <u>30</u> |
| 7:26A-4.5(a)2 | Failure of Class C yard trimming operator to ensure center has sufficient capacity to handle incoming volumes. | [\$2,000] <u>\$3,000</u> | <u>M</u> | <u>30</u> |
| 7:26A-4.5(a)3 | Failure of Class C yard trimming operator to have properly trained individual supervising operation, access to facility prohibited when center is closed. | [\$2,000] <u>\$3,000</u> | <u>M</u> | <u>30</u> |
| 7:26A-4.5(a)4 | Failure of Class C yard trimming operator to ensure yard trimmings are only received during times when operator is present. | [\$2,000] <u>\$3,000</u> | <u>M</u> | <u>30</u> |
| 7:26A-4.5(a)5 | Failure of Class C yard trimming operator to ensure all trimmings received are removed from bags, boxes. | [\$2,000] <u>\$3,000</u> | <u>M</u> | <u>30</u> |

| <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> |
|--------------------------|---|------------------------------------|------------------------------|------------------------------------|
| 7:26A-4.5(a)6 | Failure of Class C yard trimming operator to [initiate processing of] <u>accept incoming materials</u> containing grass, <u>only in areas of the site that are at least 1,000 feet from any areas of human occupancy and to process such material</u> within the working day. | [\$2,000] <u>\$4,500</u> | <u>NM</u> | |
| 7:26A-4.5(a)7i | Failure of Class C compost operators to attend, within one year of start up, approved composting courses. | [\$2,000] <u>\$3,000</u> | <u>M</u> | <u>90</u> |
| 7:26A-4.5(a)7ii | Failure of Class C compost operator to maintain improved active composting surface to prevent ponding or runoff. | [\$2,000] <u>\$4,500</u> | <u>NM</u> | |
| 7:26A-4.5(a)7iii | Failure of Class C yard trimming operator to moisten, without excess runoff, dry yard trimmings prior to windrow formation. | [\$2,000] <u>\$3,000</u> | <u>M</u> | <u>30</u> |
| 7:26A-4.5(a)7iv | Failure of Class C yard trimming operator to position windrows perpendicular to ground surface contours <u>to prevent ponding.</u> | [\$2,000] <u>\$4,500</u> | <u>NM</u> | |
| 7:26A-4.5(a)7v | Failure of Class C yard trimming operator to install windsock. | [\$1,000] <u>\$3,000</u> | <u>M</u> | <u>30</u> |
| 7:26A-4.5(a)7vi | Failure of Class C yard trimming operator to comply with windrow composting requirements. | [\$2,000] <u>\$4,500</u> | <u>NM</u> | |
| 7:26A-4.5(a)7vii | Failure of Class C yard trimming operator to comply with material staging and processing buffer distance requirements. | [\$2,000] <u>\$3,000</u> | <u>M</u> | <u>30</u> |
| 7:26A-4.5(a)7viii | Failure of Class C yard trimming operator to comply with finished compost testing requirements. | [\$2,000] <u>\$3,000</u> | <u>M</u> | <u>30</u> |
| 7:26A-4.5(a)7xii | Failure of Class C yard trimming operator to comply with additional recordkeeping requirements. | \$3,000 | <u>M</u> | <u>30</u> |

| <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> |
|-----------------------------|--|------------------------------------|------------------------------|------------------------------------|
| 7:26A-4.5(b)1 | Failure of Class C material operator to ensure center has sufficient capacity to handle incoming volumes. | [\$2,000] <u>\$4,500</u> | <u>NM</u> | |
| 7:26A-4.5(b)2 | Failure of Class C material operator to comply with composting structure requirements, no ponding, leachate control. | [\$2,000] <u>\$4,500</u> | <u>NM</u> | |
| 7:26A-4.5(b)3 | Failure of Class C material operator to [main] <u>maintain</u> fully enclosed operation. | [\$2,000] <u>\$4,500</u> | <u>NM</u> | |
| 7:26A-4.5(b)5 | Failure of Class C material operator to comply with O & M manual requirements. | [\$3,000] <u>\$4,500</u> | <u>NM</u> | |
| [7:26A-4.5(b)7, 8] | [Failure of Class C material operator to comply with employee training requirements.] | [\$2,000] | | |
| <u>7:26A-4.5(b)7</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(b)8</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> |
| 7:26A-4.5(b)9 | Failure of Class C material operator to have properly trained individual supervising operation. | [\$2,000] <u>\$4,500</u> | <u>NM</u> | |
| 7:26A-4.5(b)11 | Failure of Class C material operator to comply with incoming organics processing timeframes and requirements. | [\$2,000] <u>\$4,500</u> | <u>NM</u> | |
| 7:26A-4.5(b)12 | Failure of Class C material operator to ensure incoming, unprocessed material is not mixed with finished compost. | [\$2,000] <u>\$4,500</u> | <u>NM</u> | |
| 7:26A-4.5(b)13, 14 | Failure of Class C material operator to meet [PFRB] <u>Process to Further Reduce Pathogens</u> criteria and requirements. | [\$2,000] <u>\$4,500</u> | <u>NM</u> | |

| <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> |
|------------------------------|---|------------------------------------|------------------------------|------------------------------------|
| 7:26A-4.5(b)16 | Failure of Class C material operator to comply with 15 month finished compost storage requirement. | [\$1,000] <u>\$3,000</u> | <u>M</u> | <u>30</u> |
| [7:26A-4.5(b)18-21] | [Failure of Class C material operator to comply with monitoring and sampling requirements.] | [\$3,000] | | |
| <u>7:26A-4.5(b)20</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(b)21</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> | |
| [7:26A-4.5(b)22,23] | [Failure of Class C material operator to comply with additional recordkeeping requirements.] | [\$2,000] | | |
| <u>7:26A-4.5(b)22</u> | <u>Failure of Class C material operator to maintain required records.</u> | <u>\$3,000</u> | <u>M</u> | <u>30</u> |
| <u>7:26A-4.5(b)23</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> |
| 7:26A-4.5(c)1 | Failure of Class C operator to comply with labeling requirements. | [\$2,000] <u>\$3,000</u> | <u>M</u> | <u>30</u> |
| 7:26A-4.5(c)2 | Failure of Class C operator to comply with compost utilization requirements. | [\$2,000] <u>\$4,500</u> | <u>NM</u> | |

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.

| <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> |
|--------------------------|---|-------------------------|------------------------------|------------------------------------|
| 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. | \$5000 | <u>NM</u> | |
| 7:26A-5.1(b) | Failure to recover refrigerant fluid in a manner such that no venting of refrigerant fluid occurs. | \$5,000 | <u>NM</u> | |
| 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 | <u>NM</u> | |

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.

| <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>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)2ii(1)</u> | <u>Failure to manage used oil mixed with a characteristic hazardous waste or a listed hazardous waste that is listed solely because it exhibits one or more hazardous waste characteristics as a hazardous waste in accordance with N.J.A.C. 7:26G.</u> | <u>\$5,000</u> | <u>NM</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 C.F.R. 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 waste pile.</u> | <u>\$5,000</u> | <u>NM</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>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-6.3(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 prohibition against burning off-specification used oil in a space heater.</u> | <u>\$4,500</u> | <u>NM</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> | Failure of <u>used oil</u> generator to ensure used oil is stored only in tanks, containers, or [unit] <u>units</u> subject to regulation at 7:26G-8 or 9. | \$3,000 | <u>M</u> | <u>30</u> |

| <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> |
|-----------------------------|---|------------------------------------|--------------------------|------------------------------------|
| 7:26A-6.4(d)3 | Failure of <u>used oil</u> generator to ensure <u>containers or aboveground tanks used to store used oil</u> storage units are in good condition and not leaking. | [\$3,000] <u>\$4,500</u> | <u>NM</u> | |
| 7:26A-6.4(d)4 | Failure of <u>used oil</u> generator to comply with used oil labeling/ <u>marking</u> requirements. | [\$1,000] <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 household do-it-yourselfer used oil in a space heater.</u> | <u>\$4,500</u> | <u>NM</u> | |
| <u>7:26A-6.4(e)2</u> | <u>Used oil generator burned used oil in a 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> | |
| 7:26A-6.4(f) | Failure of <u>used oil</u> generator to comply with used oil off-site shipment requirements. | [\$2,000] <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-6.5(a).</u> | <u>\$3,000</u> | <u>M</u> | <u>30</u> |

| <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-6.5(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 (a)4i through v when performing the listed activities.</u> | <u>\$4,500</u> | <u>NM</u> | |
| <u>7:26A-6.6(b)</u> | <u>Used oil transporter conducted non-incidental processing of used oil.</u> | <u>\$5,000</u> | <u>NM</u> | |
| <u>7:26A-6.6(c)</u> | <u>Failure of used oil transporter and/or transfer facility to [have] comply with the notification and/or EPA identification [number] requirements.</u> | <u>[\$2,000] \$5,000</u> | <u>NM</u> | |
| <u>7:26A-6.6(d)1</u> | <u>Failure of used oil transporter to comply with [deliveries] delivery requirements.</u> | <u>[\$2,000] \$4,500</u> | <u>NM</u> | |
| <u>7:26A-6.6(d)2</u> | <u>Failure of used oil transporter to comply with 49 CFR 171 through 180 requirements.</u> | <u>\$4,500</u> | <u>NM</u> | |

| <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-6.6(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 p.p.m. 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 3 years.</u> | <u>\$4,500</u> | <u>NM</u> | |
| <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> | |
| 7:26A-6.6(f)3 | Failure of used oil transfer facility to ensure used oil is stored only in tanks, containers, or [unit] <u>units</u> subject to regulation at 7:26G-8 or 9. | \$3,000 | <u>M</u> | <u>30</u> |
| 7:26A-6.6(f)4 | Failure of used oil transfer facility to ensure used oil [storage units] <u>containers or aboveground tanks</u> are in good condition and not leaking. | [\$3,000] <u>\$4,500</u> | <u>NM</u> | |
| 7:26A-6.6(f)5 | Failure of used oil transfer facility to comply with [“]secondary containment [for containers”] requirements <u>for containers.</u> | [\$3,000] <u>\$4,500</u> | <u>NM</u> | |
| 7:26A-6.6(f)6 | Failure of used oil transfer facility to comply with [“]secondary containment <u>requirements</u> for existing aboveground tanks[” requirements]. | [\$3,000] <u>\$4,500</u> | <u>NM</u> | |

| <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> |
|--------------------------------|--|------------------------------------|--------------------------|------------------------------------|
| 7:26A-6.6(f)7 | Failure of used oil transfer facility to comply with [“]secondary containment requirements for new aboveground tanks[”] requirements]. | [\$3,000] <u>\$4,500</u> | <u>NM</u> | |
| 7:26A-6.6(f)8 | Failure of used oil transfer facility to comply with used oil labeling requirements. | \$3,000 | <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> | |
| 7:26A-6.6(g) | Failure of used oil [transfer facility/]transporter to comply with tracking requirements. | [\$2,000] <u>\$4,500</u> | <u>NM</u> | |
| 7:26A-6.7(b) | Failure of used oil processor[/re-refiner] <u>or re-refining facility</u> to comply with notification <u>and/or EPA identification requirements.</u> | [\$2,000] <u>\$5,000</u> | <u>NM</u> | |
| [7:26A-6.7(c)1] | [Failure of used oil processor/refiner to comply with preparedness and prevention requirements.] | [\$5,000] | | |
| <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 to communications or alarm system.</u> | <u>\$3,000</u> | <u>M</u> | <u>30</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>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(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> |
| [7:26A-6.7(c)2i-v] | [Failure of used oil processor/re-refiner to comply with contingency plan requirements.] | [\$5,000] | | |
| <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 to describe actions to be taken in response to fires, explosions, or any unplanned sudden or non-sudden release.</u> | <u>\$3,000</u> | <u>M</u> | <u>30</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 C.F.R. 112 or Part 1510 of chapter V) or DPCC (N.J.A.C. 7.1E) 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>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(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- 6.7(c)2ii(6)</u> | <u>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.</u> | <u>\$3,000</u> | <u>M</u> | <u>30</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> |

| <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(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 Spill Prevention, Control and Countermeasures regulations, Clean Air Act regulations or Underground Storage Tank regulations.</u> | <u>\$4,500</u> | <u>NM</u> | |
| 7:26A-6.7(e)2 | Failure of used oil processor [/re-refiner] <u>or re-refining facility</u> to ensure used oil is stored only in tanks, containers, or units subject <u>to regulation</u> at 7:26G-8 or 9. | \$3,000 | <u>M</u> | <u>30</u> |
| 7:26A-6.7(e)3 | Failure of used oil processor [/re-refiner] <u>or re-refining facility</u> to ensure [used oil storage units] <u>containers or aboveground tanks, used to store or process used oil,</u> are in good condition and not leaking. | [\$3,000] <u>\$4,500</u> | <u>NM</u> | |
| 7:26A-6.7(e)4 | Failure of used oil processor [/re-refiner] <u>or re-refining facility</u> to comply with [“]secondary containment requirements for containers[” requirements] <u>used to store or process used oil.</u> | [\$3,000] <u>\$4,500</u> | <u>NM</u> | |

| <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> |
|----------------------------------|--|------------------------------------|--------------------------|------------------------------------|
| 7:26A-6.7(e)5 | Failure of used oil processor [/re-refiner] <u>or re-refining facility</u> to comply with <u>the</u> [“]secondary containment <u>requirements</u> for existing aboveground tanks[”] <u>used to store or process used oil.</u> | [\$3,000] <u>\$4,500</u> | <u>NM</u> | |
| 7:26A-6.7(e)6 | Failure of used oil processor [/re-refiner] <u>or re-refining facility</u> to comply with <u>the</u> [“]secondary containment <u>requirements</u> for new aboveground tanks [” requirements] <u>used to store or process used oil.</u> | [\$3,000] <u>\$4,500</u> | <u>NM</u> | |
| 7:26A-6.7(e)7 | Failure of used oil processor [/re-refiner] <u>or re-refining facility</u> to comply with used oil labeling requirements. | \$3,000 | <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> | |
| <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>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(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 and equipment contaminated with used oil, and manage them appropriately.</u> | <u>\$10,000</u> | <u>NM</u> | |
| 7:26A-6.7(f) | Failure of used oil processor <u>or re-refining facility</u> to [comply with] <u>develop or follow a written waste analysis plan in accordance with requirements at N.J.A.C. 7:26A-6.7(f).</u> | \$5,000 | <u>NM</u> | |
| 7:26A-6.7(g) | Failure of used oil processor[/re-refiner] <u>or re-refining facility</u> to comply with <u>used oil</u> tracking [requirements] <u>standards and records.</u> | [\$2,000] <u>\$4,500</u> | <u>NM</u> | |
| 7:26A-6.7(h) | Failure of used oil processor[/re-refiner] <u>or re-refining facility</u> to comply with operating record and reporting [requirements] <u>standards.</u> | [\$3,000] <u>\$4,500</u> | <u>NM</u> | |
| 7:26A-6.7(i) | Failure by used oil processor[/re-refiner] <u>or re-refining facility</u> to [use] <u>ensure used</u> oil transporter [with] <u>has an</u> EPA identification number. | \$3,000 | <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> | |
| [7:26A-6.8(b)] | [Failure of used oil burner facility to comply with burning restrictions.] | [\$3,000] | | |

| <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-6.8(b)1</u> | <u>Used oil burner burned off-specification used oil in a device other than an industrial furnace, industrial or utility boiler or hazardous waste incinerator or burned off-specification used oil in these devices without a "Permit to Construct, Install or Alter Control Apparatus or Equipment and Certificate to Operate Control Apparatus."</u> | <u>\$5,000</u> | <u>NM</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> | |
| 7:26A-6.8(c) | Failure of used oil burner [facility] to comply with notification <u>and/or EPA identification</u> requirements. | [\$2,000] <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 p.p.m. 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 3 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 Spill Prevention, Control and Countermeasures regulations, Clean Air Act regulations or Underground Storage Tank regulations.</u> | <u>\$3,000</u> | <u>M</u> | <u>30</u> |
| 7:26A-6.8(e)2 | Failure of used oil burner to ensure used oil is stored only in tanks, containers, or [unit] <u>units</u> subject to <u>regulation at 7:26G-8 or 9.</u> | \$3,000 | <u>M</u> | <u>30</u> |

| <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> |
|-----------------------------|--|-------------------------------------|--------------------------|------------------------------------|
| 7:26A-6.8(e)3 | Failure of used oil burner [facility] to ensure used oil [storage units] <u>containers or aboveground tanks</u> are in good condition and not leaking. | [\$3,000] <u>\$4,500</u> | <u>NM</u> | |
| 7:26A-6.8(e)4 | Failure of used oil burner [facility], <u>storing used oil in containers,</u> to comply with <u>the</u> [“]secondary containment [for containers”] requirements. | [\$3,000] <u>\$4,500</u> | <u>NM</u> | |
| 7:26A-6.8(e)5 | Failure of used oil burner [facility], <u>storing used oil in existing aboveground tank(s),</u> to comply with <u>the</u> [“]secondary containment [for existing aboveground tanks”] requirements. | [\$3,000] <u>\$4,500</u> | <u>NM</u> | |
| 7:26A-6.8(e)6 | Failure of used oil burner [facility], <u>storing used oil in new aboveground tank(s),</u> to comply with [“]secondary containment [for new aboveground tanks”] requirements. | [\$3,000] <u>\$4,500</u> | <u>NM</u> | |
| 7:26A-6.8(e)7 | Failure of used oil burner [facility] to comply with used oil-labeling requirements. | \$3,000 | <u>M</u> | <u>30</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> | |
| 7:26A-6.8(f) | Failure of used oil burner [facility] to comply with <u>[tracking requirements] operating record and recordkeeping standards.</u> | [\$2,000] <u>\$4,500</u> | <u>NM</u> | |
| 7:26A-6.8(g) | Failure of a used oil burner [facility] to comply with <u>first-time</u> notice [requirements] <u>and recordkeeping standards.</u> | [\$2,000] <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>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-6.9(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> | |
| 7:26A-6.9(b) | Failure of <u>a</u> used oil fuel marketer to [ensure shipments of] <u>ship</u> off-specification used oil [is sent] only to [used oil burner facilities that have EPA identification numbers and burns the used oil in a device as identified in N.J.A.C. 7:26A-6.8(b)1] <u>an authorized burner facility.</u> | [\$4,000] <u>\$5,000</u> | <u>NM</u> | |
| [7:26A-6.9(c)] | [Failure of used oil fuel marketer to comply with on-specification used oil fuel requirements.] | [\$2,000] | | |
| <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 provide a copy of analyses or other information to facility receiving shipment of used oil.</u> | <u>\$5,000</u> | <u>NM</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 3 years.</u> | <u>\$4,500</u> | <u>NM</u> | |
| 7:26A-6.9(d) <u>1</u> | Failure of used oil fuel marketer to comply with notification <u>and/or EPA identification</u> requirements. | [\$2,000] <u>\$4,500</u> | <u>NM</u> | |
| 7:26A-6.9(e) <u>1</u> | Failure of used oil <u>fuel</u> marketer to comply with [tracking] <u>invoicing requirements for off-specification used oil fuel.</u> | [\$2,000] <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>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-6.9(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> | |
| 7:26A-6.9(f) | Failure of used oil marketer to comply with [Notice requirements] <u>notice standards.</u> | [\$2,000] <u>\$4,500</u> | <u>NM</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> | |

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.

| <u>Rule</u> <u>40 C.F.R.</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> | |
| [§273.13(a)] | [Failure of small quantity handler of universal waste to comply with waste management requirements.] | [\$2,000] | | |

| <u>Rule</u> 40 C.F.R. | <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>§273.13(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, compatible with the contents of the batteries, and non-leaking.</u> | <u>\$4,500</u> | <u>NM</u> | |
| <u>§273.13(a)2</u> | <u>Failure of Small Quantity Handler of Universal Waste conducting activities not to breach the casing of individual battery cells.</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 C.F.R. §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 tank which meets the requirements of 40 C.F.R. §265 Subpart J.</u> | <u>\$3,000</u> | <u>M</u> | <u>30</u> |

| Rule 40 C.F.R. | Rule Summary | Base Penalty | <u>Type of Violation</u> | <u>Grace Period (days)</u> |
|-----------------------|---|-----------------|------------------------------|------------------------------------|
| <u>§273.13(b)4</u> | <u>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.</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 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.</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 of Universal Waste to remove mercury-containing ampules only over or in a containment device.</u> | <u>\$4,500</u> | <u>NM</u> | |
| <u>§273.13(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 C.F.R. §262.34.</u> | <u>\$4,500</u> | <u>NM</u> | |

| Rule 40 C.F.R. | Rule Summary | Base Penalty | <u>Type of Violation</u> | <u>Grace Period (days)</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 C.F.R. §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 exposure levels for mercury.</u> | <u>\$4,500</u> | <u>NM</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>Rule</u> 40 C.F.R. | <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>§273.13(c)3</u> | <u>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.</u> | <u>\$5,000</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 electronic, and non-leaking.</u> | <u>\$4,500</u> | <u>NM</u> | |
| [§273.14] | [Failure of small quantity handler of universal waste to comply with labeling/marketing requirements.] | [\$2,000] | | |
| <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>Rule</u> 40 C.F.R. | <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>§273.14(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 thermostats or containers of universal waste thermostats.</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 waste lamps.</u> | <u>\$3,000</u> | <u>M</u> | <u>30</u> |
| [§273.15] | [Failure of small quantity handler of universal waste to comply with accumulation time limits.] | [\$2,000] | | |
| <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> | Failure of [small quantity handler of universal waste] <u>Small Quantity Handler of Universal Waste</u> to [comply with] <u>ensure that</u> all [employee training requirements] <u>employees are thoroughly familiar with proper waste handling and emergency procedures.</u> | [<u>\$3,000</u>] <u>\$4,500</u> | <u>NM</u> | |

| <u>Rule</u> 40 C.F.R. | <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>§273.17(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> | |
| [§273.18 | Failure of small quantity handler of universal waste to comply with off-site shipment requirements. | \$2,000 | | |
| §273.20 | Failure of small quantity handler of universal waste to comply with exporting requirements. | \$2,000 | | |
| §273.32 | Failure of large quantity handler of universal waste to comply with notification requirements. | \$4,000 | | |
| §273.33 | Failure of large quantity handler of universal waste to comply with waste management requirements. | \$4,000 | | |
| §273.34 | Failure of large quantity handler of universal waste to comply with labeling marking requirements. | \$4,000 | | |
| §273.35 | Failure of large quantity handler of universal waste too comply with accumulation time limits. | \$4,000 | | |
| §273.36 | Failure of large quantity handler of universal waste to comply with employee training requirements. | \$4,000 | | |
| §273.38 | Failure of large quantity handler of universal waste. | \$4,000 | | |
| §273.39 | Failure of large quantity handler of universal waste to comply with waste tracking requirements. | \$4,000 | | |
| §273.40 | Failure of large quantity handler of universal waste to comply with exporting requirements. | \$4,000 | | |
| §273.52 | Failure of universal waste transporter to comply with waste management requirements. | \$3,000 | | |

| <u>Rule</u> 40 C.F.R. | <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> |
|--------------------------|---|-------------------------------|------------------------------------|--|
| §273.53 | Failure of universal waste transporter to comply with storage requirements. | \$3,000 | | |
| §273.55 | Failure of universal waste transporter to comply with off-site shipment requirements. | \$3,000 | | |
| §273.56 | Failure of universal waste transporter to comply with exporting requirements. | \$3,000 | | |
| §273.61 | Failure of universal waste destination facility with off-site shipment requirements. | \$4,000 | | |
| §273.62 | Failure of universal waste destination facility to comply with universal waste tracking requirements. | \$4,000] | | |
| <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-transport to comply with the requirements at 40 C.F.R. §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>Rule</u> 40 C.F.R. | <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>§273.18(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> | |
| <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 universal waste to provide a copy of the EPA Acknowledgement of Consent to the transporter.</u> | <u>\$3,000</u> | <u>M</u> | <u>30</u> |

| <u>Rule</u> 40 C.F.R. | <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>§273.31</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 conducting activities not to breach the casing of individual battery cells.</u> | <u>\$4,500</u> | <u>NM</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>Rule</u> 40 C.F.R. | <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>§273.33(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 C.F.R. §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 C.F.R. §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 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>§273.33(c)1</u> | <u>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.</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> | |

| Rule 40 C.F.R. | Rule Summary | Base Penalty | <u>Type of Violation</u> | <u>Grace Period (days)</u> |
|-----------------------|---|-----------------|------------------------------|------------------------------------|
| <u>§273.33(c)2iii</u> | <u>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 C.F.R. §262.34.</u> | <u>\$4,500</u> | <u>NM</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 C.F.R. §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-containing ampules are thoroughly familiar with proper waste mercury handling and emergency procedures.</u> | <u>\$4,500</u> | <u>NM</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>Rule</u> 40 C.F.R. | <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>§273.33(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 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.</u> | <u>\$5,000</u> | <u>NM</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 consumer electronic, 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 universal waste batteries.</u> | <u>\$3,000</u> | <u>M</u> | <u>30</u> |

| <u>Rule</u> 40 C.F.R. | <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>§273.34(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 thermostats or containers of universal waste thermostats.</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 accumulation was solely for the purpose of facilitating proper recovery, treatment or disposal.</u> | <u>\$5,000</u> | <u>NM</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>Rule</u> 40 C.F.R. | <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>§273.37(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 a foreign destination.</u> | <u>\$4,500</u> | <u>NM</u> | |
| <u>§273.38(b)</u> | <u>Failure of Large Quantity Handler of Universal Waste who self-transport to comply with the requirements at 40 C.F.R. §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>Rule</u> 40 C.F.R. | <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>§273.38(g)</u> | <u>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.</u> | <u>\$5,000</u> | <u>NM</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 universal waste handler, destination facility, or foreign destination to whom universal waste was sent.</u> | <u>\$3,000</u> | <u>M</u> | <u>30</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>Rule</u> 40 C.F.R. | <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>§273.39(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 universal waste to provide a copy of the EPA Acknowledgement of Consent to the transporter.</u> | <u>\$3,000</u> | <u>M</u> | <u>30</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>Rule</u> 40 C.F.R. | <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>§273.53</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 C.F.R. §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 Transporter 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>§273.55(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 shipment.</u> | <u>\$3,000</u> | <u>M</u> | <u>30</u> |

| <u>Rule</u> 40 C.F.R. | <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>§273.56(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 C.F.R. 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 C.F.R. §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 handler, another destination facility or foreign destination.</u> | <u>\$5,000</u> | <u>NM</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> | |

| Rule 40 C.F.R. | Rule Summary | Base Penalty | <u>Type of Violation</u> | <u>Grace Period (days)</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 receipt of the shipment of universal waste.</u> | <u>\$3,000</u> | <u>M</u> | <u>30</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 C.F.R. §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 C.F.R. §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>Rule</u> 40 C.F.R. | <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>§273.70(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 C.F.R. §273 Subpart E after waste is received in the United States.</u> | <u>\$3,000</u> | <u>M</u> | <u>30</u> |

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.

| <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>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-7.4(b)3</u> | <u>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.</u> | <u>\$5,000</u> | <u>NM</u> | |
| <u>7:26A-7.4(c)1</u> | <u>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.</u> | <u>\$4,500</u> | <u>NM</u> | |
| <u>7:26A-7.4(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>7:26A-7.4(c)2ii</u> | <u>Failure of Small 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>7:26A-7.4(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, to a container that meets the requirements of 40 C.F.R. §262.34.</u> | <u>\$4,500</u> | <u>NM</u> | |

| <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-7.4(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 C.F.R. §262.34.</u> | <u>\$4,500</u> | <u>NM</u> | |
| <u>7:26A-7.4(c)2v</u> | <u>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.</u> | <u>\$4,500</u> | <u>NM</u> | |
| <u>7:26A-7.4(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>7:26A-7.4(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>7:26A-7.4(c)2viii</u> | <u>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.</u> | <u>\$4,500</u> | <u>NM</u> | |

| <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-7.4(c)3</u> | <u>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.</u> | <u>\$5,000</u> | <u>NM</u> | |
| <u>7:26A-7.4(d)</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(d)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(d)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, in a container that is closed, structurally sound, compatible with the contents of the consumer electronics, and non-leaking.</u> | <u>\$4,500</u> | <u>NM</u> | |

| <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-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)1</u> | <u>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.</u> | <u>\$4,500</u> | <u>NM</u> | |
| <u>7:26A-7.5(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>7:26A-7.5(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>7:26A-7.5(c)2iii</u> | <u>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 C.F.R. §262.34.</u> | <u>\$4,500</u> | <u>NM</u> | |

| <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-7.5(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 C.F.R. §262.34.</u> | <u>\$4,500</u> | <u>NM</u> | |
| <u>7:26A-7.5(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>7:26A-7.5(c)2vi</u> | <u>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.</u> | <u>\$4,500</u> | <u>NM</u> | |
| <u>7:26A-7.5(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>7:26A-7.5(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>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-7.5(c)3</u> | <u>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.</u> | <u>\$5,000</u> | <u>NM</u> | |
| <u>7:26A-7.5(d)</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(d)1</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(d)2</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> | |
| <u>7:26A-7.5(e)</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>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-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 accumulate universal waste mercury-containing devices in a closed container that is clearly marked with the words Universal Waste-Mercury-Containing Devices.</u> | <u>\$3,000</u> | <u>M</u> | <u>30</u> |
| <u>7:26A-7.7(c)</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> |

N.J.A.C. 7:26-5.5 Civil administrative penalty determination

(a) – (e) (No change.)

(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. 7:26-5.10(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. 7:26-5.10. 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. 7:26-5.10.

i. The violation poses minimal risk to the public health, safety and natural resources;

ii. The violation does not materially and substantially undermine or

impair the goals of the regulatory program; and

iii. The activity or condition constituting the violation is capable of being corrected and compliance achieved within the time prescribed by the Department.

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

| | | SERIOUSNESS | | |
|---------|----------|-----------------------|-----------------------|--|
| | | <u>Major</u> | <u>Moderate</u> | <u>Minor</u> |
| CONDUCT | Major | \$40,000- \$50,000 | \$30,000- \$40,000 | \$15,000- \$25,000 |
| | Moderate | \$30,000- \$40,000 | \$10,000- \$20,000 | \$3,000- \$6,000 |
| | Minor | \$15,000- \$25,000 | \$3,000- \$6,000 | [\$1,000- \$2,500] <u>N/A*</u> |

***N/A means not applicable.**

(g) through (i) (No change.)

N.J.A.C. 7:26-5.6 Civil administrative penalty for submitting inaccurate or false information

(a) – (d) (No change.)

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

N.J.A.C. 7:26-5.7 Civil Administrative penalty for failure to allow lawful entry and inspection

(a) – (d) (No change.)

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

N.J.A.C. 7:26-5.8 Civil Administrative Penalty for failure to pay a fee

(a) – (d) (No change.)

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

N.J.A.C. 7:26-5.9 (No change.)

N.J.A.C. 7:26-5.10 (Re-codify as N.J.A.C. 7:26-5.11, no change in text.)

N.J.A.C. 7:26-5.10 Grace period applicability; procedures

(a) Each violation identified in the penalty tables at N.J.A.C. 7:26-5.4(g) by an “M” in the Type of Violation column and each violation that is determined to be minor under N.J.A.C. 7:26-5.5(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. 7:26-5.4(g) by an

“NM” in the Type of Violation column is a non-minor violation and is not subject to a grace period.

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

1. The violation is not the result of the purposeful, knowing, reckless or criminally negligent conduct of the person responsible for the violation;

2. The activity or condition constituting the violation has existed for less than 12 months prior to the date of discovery by the Department or local government agency;

3. In the case of a violation that involves a permit, the person responsible for the violation has not been identified in a previous enforcement action by the Department or local government agency as responsible for a violation of the same requirement of the same permit within the preceding 12-month period;

4. In the case of a violation that does not involve a permit, the person responsible for the violation has not been notified in a previous enforcement action by the department or a local government agency as responsible for the same or a substantially similar violation at the same facility within the preceding 12-month period; and

5. In the case of any violation, the person responsible for the violation has not been identified by the Department or a local government agency as responsible for the same or substantially similar violations at any time that reasonably indicates a pattern of illegal conduct and not isolated incidents on the part of the person responsible.

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

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

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

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

2. If the person responsible for the minor violation corrects that violation and demonstrates, in accordance with (d)3 below, that compliance has been achieved within the specified grace period, the Department or local government agency shall not impose a penalty for the violation, and in addition, shall not consider the minor violation for purposes of calculating the “severity penalty component” under N.J.A.C. 7:26-5.4(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. 7:26-2.4(e) or 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. 7:26-2.4(e) or N.J.A.C. 7:26A-3.2(b). The Department may, at its discretion, approve in writing an extension, which shall not exceed 90 days, to accommodate the anticipated delay in achieving compliance. In exercising its discretion to approve a request for an extension, the Department may consider the following:

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

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

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

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

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

CHAPTER 26H. SOLID WASTE UTILITY REGULATIONS

Subchapter 1. General Requirements

7:26H-1.4 Definitions

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

* * *

“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.

* * *

Subchapter 5. Solid Waste Collection Effective Competition Monitoring

7:26H-5.18. Penalties for violation of rules adopted pursuant to the Act

(a) - (e) (No change.)

(f) The rule summary in this subsection, which summarizes certain provisions in this chapter, 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 this chapter, then the provision in this chapter shall prevail.

1. The violations of N.J.A.C. 7:26H-1, General Requirements, 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.

| <u>Citation</u> <u>(N.J.A.C.)</u> | <u>Summary</u> | <u>Base</u> <u>Penalty</u> | <u>Type of</u> <u>Violation</u> | <u>Grace Period</u> <u>(days)</u> |
|--------------------------------------|---|-------------------------------|------------------------------------|--------------------------------------|
| 7:26H-1.6(a) | Failure to obtain a Certificate of Public Convenience and Necessity prior to engaging in the business of solid waste collection or solid waste disposal. | \$5,000 | <u>NM</u> | |
| 7:26H-1.6(c) | Failure of solid waste utility to have a Certificate of Public Convenience and Necessity when bidding for a solid waste contract. | \$5,000 | <u>NM</u> | |
| 7:26H-1.12(c) | Failure of the disposal utility to file rate revisions, in accordance with N.J.A.C. 7:26H-3.10, for services <u>that</u> [which] do not increase charges above the peak rate. | [\$1,000] <u>\$2,000</u> | <u>M</u> | <u>30</u> |
| 7:26H-1.12(d) | Failure of the disposal utility to file rate revisions, in accordance with N.J.A.C. 7:26H-3.11, for services <u>that</u> [which] increase charges above the peak rate. | [\$2,500] <u>\$2,000</u> | <u>M</u> | <u>30</u> |

| <u>Citation (N.J.A.C.)</u> | <u>Summary</u> | <u>Base Penalty</u> | <u>Type of Violation</u> | <u>Grace Period (days)</u> |
|--------------------------------|---|------------------------------------|------------------------------|--------------------------------|
| 7:26H-1.14(a) | Failure of solid waste utility to furnish safe, adequate, and proper service. | [\$2,000] <u>\$2,500</u> | <u>NM</u> | |
| 7:26H-1.14(d) | Failure of collection utility to file a petition with the Department prior to discontinuing service to a customer, which petition shall give the reasons for such discontinuance. | [\$1,000] <u>\$2,500</u> | <u>NM</u> | |
| 7:26H- 1.14(e) | Failure of solid waste utility to file a report with the Department when service to a customer is interrupted and it appears that the interruption will continue for more than one day or one pick up. | [\$250] <u>\$2,000</u> | <u>M</u> | <u>1</u> |
| 7:26H-1.20(b)1 | Failure of solid waste utility to ensure all records are maintained at an office in the State of New Jersey unless otherwise approved by the Department. | [\$1,000] <u>\$2,000</u> | <u>M</u> | <u>30</u> |
| 7:26H-1.20(b)3 | Failure of solid waste utility to notify the Department of the location of the office or offices where records pertaining to the provision of solid waste services are maintained. | [\$500] <u>\$2,000</u> | <u>M</u> | <u>30</u> |
| 7:26H-1.20(c) | Failure of solid waste utility to retain all documents for at least five years from the date that the documents were due or created, and at the office of the solid waste utility. | [\$1,000] <u>\$2,000</u> | <u>M</u> | <u>30</u> |
| 7:26H-1.21 | Failure of solid waste utility to file evidence of insurance. | \$5,000 | <u>NM</u> | |
| 7:26H-1.24(b) | Failure of solid waste utility to have a lease on file with the Department for the use of all property, equipment and facilities <u>that</u> [which] are used to provide service and are not owned by the utility. | [\$2,000] <u>\$2,500</u> | <u>NM</u> | |

2. The violations of N.J.A.C. 7:26H-3, Transactional Filings, **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.

| <u>Citation</u> (N.J.A.C.) | <u>Summary</u> | <u>Base</u> <u>Penalty</u> | <u>Type of</u> <u>Violation</u> | <u>Grace Period</u> (days) |
|-------------------------------|---|------------------------------------|------------------------------------|-------------------------------|
| 7:26H-3.2(a) | Failure of solid waste utility to receive authorization of the Department prior to consummating the sale, transfer, or encumbrance of the assets of the solid waste utility or any change in majority control of such utility. | \$3,000 | <u>NM</u> | |
| 7:26H-3.2(c) | Failure of the solid waste utility to ensure notice of sale appears in newspapers at least 30 days before sale occurs. | [\$1,000] <u>\$2,000</u> | <u>M</u> | <u>30</u> |
| 7:26H-3.3(a) | Failure of solid waste utility to petition for authority to transfer capital stock; Transfer without authorization. | \$3,000 | <u>NM</u> | |
| 7:26H-3.4(a) | Failure of solid waste utility to obtain Department approval prior to consolidating or merging with another solid waste utility, merging or consolidating with any other person or business concern, or dissolution of the solid waste utility. | \$3,000 | <u>NM</u> | |
| 7:26H-3.5(a) | Failure of solid waste utility to petition the Department for authority to issue stocks, bonds, notes, other evidence of indebtedness or to execute mortgages and comply with requirements thereof. | \$3,000 | <u>NM</u> | |
| 7:26H-3.6(a) | Failure of solid waste utility to file a Notice of Intent and obtain Department approval prior to entering into a management agreement with any person. | \$3,000 | <u>NM</u> | |

| <u>Citation</u> (N.J.A.C.) | <u>Summary</u> | <u>Base</u> <u>Penalty</u> | <u>Type of</u> <u>Violation</u> | <u>Grace Period</u> (days) |
|-------------------------------|---|------------------------------------|------------------------------------|-------------------------------|
| 7:26H-3.6(c) | Failure of solid waste utility to ensure a Notice of Intent to enter into a management agreement appears in newspapers at least 30 days prior to the completion of the transaction. | [\$1,000] <u>\$2,000</u> | <u>M</u> | <u>30</u> |
| 7:26H-3.7(a) | Failure of solid waste utility to receive approval of the Department prior to taking any action which would cause a change in the utility's depreciation rates. | \$2,500 | <u>NM</u> | |

3. The violations of N.J.A.C. 7:26H-4, Solid Waste Tariffs, **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.

| <u>Citation</u> N.J.A.C. | <u>Summary</u> | <u>Base</u> <u>Penalty</u> | <u>Type of</u> <u>Violation</u> | <u>Grace Period</u> (days) |
|-----------------------------|---|------------------------------------|------------------------------------|-------------------------------|
| 7:26H-4.2(a) | Failure of solid waste utility to file a tariff and maintain a copy for public inspection. | \$3,000 | <u>NM</u> | |
| 7:26H-4.4(a)1 | Failure of utility's customer to allow unencumbered access to containers. All containers and areas from which solid waste is to be collected shall be kept free from all hazards and potential hazards. | [\$250] <u>\$2,000</u> | <u>M</u> | <u>30</u> |
| 7:26H-4.4(a)2 | Failure of solid waste utility to comply with collection service provisions of the approved tariff. | [\$2,000] <u>\$2,500</u> | <u>NM</u> | |
| 7:26H-4.4(a)3 | Failure of solid waste utility to assist customers in the selection of the rate schedule most favorable for their individual requirements. | [\$1,000] <u>\$2,000</u> | <u>M</u> | <u>30</u> |

| <u>Citation N.J.A.C.</u> | <u>Summary</u> | <u>Base Penalty</u> | <u>Type of Violation</u> | <u>Grace Period (days)</u> |
|------------------------------|--|------------------------------------|------------------------------|--------------------------------|
| 7:26H-4.4(a)4 | Failure of solid waste utility to identify in the tariff, miscellaneous collection services, prior to providing any of these same services. | [\$750] <u>\$2,000</u> | <u>M</u> | <u>30</u> |
| 7:26H-4.4(a)6 | Failure of solid waste utility to ensure that loads of solid waste and designated source separated recyclable materials are not commingled; Disposing of leaves in any manner that differs from that outlined in N.J.S.A. 13:1E-99.21. | \$2,500 | <u>NM</u> | |
| 7:26H-4.4(a)7 | Failure of solid waste utility to make a pick up, not later than the next regularly scheduled collection day should the collector fail to pick up solid waste on a regularly scheduled day. | [\$1,000] <u>\$2,000</u> | <u>M</u> | <u>30</u> |
| 7:26H-4.4(a)9 | Failure of the collector to provide the customer at least 10 days written notice of its intention to discontinue service. | [\$1,000] <u>\$2,500</u> | <u>NM</u> | |
| 7:26H-4.4(b)3 | Failure of solid waste utility to include all required items, listed separately, on all bills for collection. | [\$1,000] <u>\$2,000</u> | <u>M</u> | <u>30</u> |
| 7:26H-4.7(a)1 | Failure of the disposal utility to operate according to the schedule contained in its permits and approved tariff; Failure to ensure all hours and rates are publicly posted. | [\$1,000] <u>\$2,000</u> | <u>M</u> | <u>30</u> |
| 7:26H-4.7(b)2 | Failure of the disposal utility to comply with billing and invoicing requirements. | [\$1,000] <u>\$2,000</u> | <u>M</u> | <u>30</u> |
| 7:26H-4.7(b)4 | Failure to comply with the facility's applicable rate schedule by assessing a late payment charge on an unpaid bill when such a charge is not provided for in the disposal facility's applicable rate schedule approved by the Department. | [\$1,000] <u>\$2,000</u> | <u>M</u> | <u>30</u> |

| <u>Citation</u> <u>N.J.A.C.</u> | <u>Summary</u> | <u>Base</u> <u>Penalty</u> | <u>Type of</u> <u>Violation</u> | <u>Grace Period</u> <u>(days)</u> |
|------------------------------------|--|------------------------------------|------------------------------------|--------------------------------------|
| 7:26H-4.7(c)1 | Failure of the solid waste utility to comply with advanced payment account requirements. | [\$2,500] <u>\$2,000</u> | <u>M</u> | <u>30</u> |

4. The violations of N.J.A.C. 7:26H-5, Solid Waste Collection Regulatory

Reform, **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.

| <u>Citation</u> <u>(N.J.A.C.)</u> | <u>Summary</u> | <u>Base</u> <u>Penalty</u> | <u>Type of</u> <u>Violation</u> | <u>Grace Period</u> <u>(days)</u> |
|--------------------------------------|---|------------------------------------|------------------------------------|--------------------------------------|
| 7:26H-5.4(a) | Failure of the solid waste collector to charge or receive only those rates or charges for solid waste collection service which would result from effective competition. No solid waste collector shall charge or receive rates or charges for solid waste collection service which are greater than or less than rates or charges what would result from effective competition. | \$2,500 | <u>NM</u> | |
| 7:26H-5.6(a) | Failure of solid waste utility to pay annual utility fee. | [\$1,000] <u>\$2,000</u> | <u>M</u> | <u>30</u> |
| 7:26H-5.9(c)1 | Failure of solid waste utility to submit annual Customer List. | [\$1,000] <u>\$2,000</u> | <u>M</u> | <u>30</u> |
| 7:26H-5.9(c)7 | Failure of solid waste utility to maintain customer lists in proper format and available for inspection. | [\$2,500] <u>\$2,000</u> | <u>M</u> | <u>30</u> |
| 7:26H-5.12(a) <u>(b)</u> | Failure of the collector to notify customers at least once each year that solid waste collection services in this State are available on a competitive basis and include with that notice a complete copy of a customer bill of rights. | [\$2,000] <u>\$2,000</u> | <u>M</u> | <u>30</u> |

| <u>Citation</u> (N.J.A.C.) | <u>Summary</u> | <u>Base</u> <u>Penalty</u> | <u>Type of</u> <u>Violation</u> | <u>Grace Period</u> (days) |
|--|--|------------------------------------|------------------------------------|-------------------------------|
| 7:26H- [5.12(b)5] <u>5.12(c)5</u> | Failure of the solid waste collector to handle customer complaints in a prompt, courteous, and efficient manner. | [\$1,000] <u>\$2,000</u> | <u>M</u> | <u>30</u> |
| 7:26H- [5.12(b)6] <u>5.12(c)6</u> | Failure of the solid waste collector to remove and transport solid waste in an environmentally sound manner that safeguards the public health and preserves the quality of the environment. | [\$1,000] <u>\$2,000</u> | <u>M</u> | <u>30</u> |
| 7:26H- [5.12(b)7] <u>5.12(c)7</u> | Failure of the solid waste collector to notify its customers in writing at least 10 days prior to any increase or decrease in rates. | [\$1,500] <u>\$2,000</u> | <u>M</u> | <u>30</u> |
| 7:26H- [5.12(b)9] <u>5.12(c)9</u> | Failure of the solid waste collector to remove its container or other equipment from the customers premises within three days of the effective date of discontinuance regardless of the status of the account. | [\$1,000] <u>\$2,000</u> | <u>M</u> | <u>1</u> |
| 7:26H- [5.12(b)15] <u>5.12(c)15</u> | Failure of the solid waste collector to transmit copies of any notice of discontinuance of service to the Department at the same time it is transmitted to the customer. | [\$500] <u>\$2,000</u> | <u>M</u> | <u>30</u> |
| 7:26H- [5.12(b)16] <u>5.12(c)16</u> | Failure of solid waste utility to ensure solid waste services contracts or agreements do not include any clause that [which] calls for automatic renewal of the contract or agreement. | [\$1,000] <u>\$2,000</u> | <u>M</u> | <u>30</u> |
| 7:26H- [5.12(b)17] <u>5.12(c)17</u> | Failure of collection utility to display their name, as it appears on their Certificate of Public Convenience and Necessity, and any “trading as” name on all vehicles and containers. | [\$1,000] <u>\$2,000</u> | <u>M</u> | <u>30</u> |
| [7:26H-5.12(c)] | [Failure of collector to include in the customer bill of rights all the information set forth at N.J.A.C. 7:26h-5.12(c)1 through 17.] | [\$1,000] | | |

| <u>Citation</u> (N.J.A.C.) | <u>Summary</u> | <u>Base</u> <u>Penalty</u> | <u>Type of</u> <u>Violation</u> | <u>Grace Period</u> (days) |
|-------------------------------|---|-------------------------------|------------------------------------|-------------------------------|
| <u>7:26H-5.12(d)</u> | <u>Failure of the collector to submit a certification to the Department certifying that each customer was provided with a customer bill of rights.</u> | <u>\$2,000</u> | <u>M</u> | <u>30</u> |

5. The violations of N.J.A.C. 7:26H-6, Uniform Bid Specifications for Municipal Solid Waste Collection Contracts, **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.

| <u>Citation</u> (N.J.A.C.) | <u>Summary</u> | <u>Base</u> <u>Penalty</u> | <u>Type of</u> <u>Violation</u> | <u>Grace Period</u> (days) |
|-------------------------------|--|------------------------------------|------------------------------------|-------------------------------|
| 7:26H-6.15(b) | Failure of the contractor to promptly and properly attend to all complaints of residents and all notices, directives and orders of the contract administrator within 24 hours of the receipt of same; to keep a record of complaints and the date and time of the responses to such complaints, as well any action taken; to provide a written summary of all complaints and responses to the contract administrator each month. | [\$1,000] <u>\$2,000</u> | <u>M</u> | <u>1</u> |

N.J.A.C. 7:26H-5.19 Matrix penalty determination

(a) through (d) (no change.)

(e) 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 (e)1i through iii below and the criteria at N.J.A.C. 7:26H-5.24(c)1 through 5 is minor. Such a minor violation shall be

subject to a grace period of 30 days if it meets the criteria of subsections i through iii below and N.J.A.C. 7:26H-5.24. If compliance is not achieved in the required time period, the violator shall be subject to a \$2,000 penalty, to be assessed in accordance with the procedures set forth at N.J.A.C. 7:26H-5.24.

i. The violation poses minimal risk to the public health, safety and natural resources;

ii. The violation does not materially and substantially undermine or impair the goals of the regulatory program; and

iii. The activity or condition constituting the violation is capable of being corrected and compliance achieved within the time prescribed by the Department.

2. A violation that does not meet the criteria set forth in (e)1 above is non-minor and the penalty shall be assessed at the mid-point of the following ranges, unless adjusted pursuant to (h) below and in accordance with the applicable severity frequency multipliers identified in (i) below.

| | | SERIOUSNESS | | |
|---------|----------|--------------------|--------------------|-------------------------------|
| | | <u>Major</u> | <u>Moderate</u> | <u>Minor</u> |
| CONDUCT | Major | \$9,000- | \$7,000- | \$5,000- |
| | | \$10,000 | \$8,000 | \$6,000 |
| | | (\$9,500 midpoint) | (\$7,500 midpoint) | (\$5,500 midpoint) |
| | Moderate | \$7,000- | \$4,000- | \$2,000- |
| | | \$8,000 | \$5,000 | \$3,000 |
| | | (\$7,500 midpoint) | (\$4,500 midpoint) | (\$2,500 midpoint) |
| | Minor | \$5,000- | \$2,000- | [\$250- |
| | | \$6,000 | \$3,000 | \$1,500 |
| | | (\$5,500 midpoint) | (\$2,500 midpoint) | (\$875 midpoint)] <u>N/A*</u> |

***N/A means not applicable.**

(f) through (i) (No change.)

N.J.A.C. 7:26H-5.20 Penalty for submitting inaccurate or false information

(a) – (d) (No change.)

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

N.J.A.C. 7:26H-5.21 Penalty for failure to allow lawful entry and inspection

(a) – (d) (No change.)

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

N.J.A.C. 7:26H-5.22 Vehicles used to transport food not to be used to transport solid waste; exceptions and penalties

(a) – (h) (No change.)

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

[7:26H-5.23 Severability

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

N.J.A.C. 7:26H-5.23 Grace period applicability; procedures

(a) Each violation identified in the penalty tables at N.J.A.C. 7:26H-5.18(f) by an “M” in the Type of Violation column and for each violation that is determined to be minor under N.J.A.C. 7:26H-5.19(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 is indicated in the column with the heading “Grace Period.”

(b) Each violation identified in the penalty tables at N.J.A.C. 7:26H-5.18(f) by an “NM” in the Type of Violation column is a non-minor violation and will not be subject to a grace period.

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

1. The violation is not the result of the purposeful, knowing, reckless or criminally negligent conduct of the person responsible for the violation;

2. The activity or condition constituting the violation has existed for less than 12 months prior to the date of discovery by the Department or local government agency;

3. In the case of a violation that involves a permit, the person responsible for the violation has not been identified in a previous enforcement action by the Department or local government agency as responsible for a violation of the same requirement of the same

permit within the preceding 12 month period;

4. In the case of a violation that does not involve a permit, the person responsible for the violation has not been notified in a previous enforcement action by the department or a local government agency as responsible for the same or a substantially similar violation at the same facility within the preceding 12-month period; and

5. In the case of any violation, the person responsible for the violation has not been identified by the Department or a local government agency as responsible for the same or substantially similar violations at any time that reasonably indicate a pattern of illegal conduct and not isolated incidents on the part of the person responsible.

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

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

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

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

2. If the person responsible for the minor violation corrects that violation

and demonstrates, in accordance with (d)3 below, that compliance has been achieved within the specified grace period, the Department or local government agency shall not impose a penalty for the violation, and in addition, shall not consider the minor violation for purposes of calculating the “severity penalty component” under N.J.A.C. 7:26H-5.18(e).

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, 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. The Department may, at its discretion, approve in writing an extension, which shall not exceed 90 days, to accommodate the anticipated delay in achieving compliance. In exercising its discretion to approve a request for an extension, the Department may consider the following:

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

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

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

natural resources; and

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

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

7:26H-5.24 Severability

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

Based on consultation with staff, I hereby certify that the above statements, including the Federal Standards Statement addressing the requirements of Executive Order No. 27 (1994) and the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., permit the public to understand accurately and plainly the purposes and expected consequences of this proposal. I hereby authorize this proposal.

Date

Bradley M. Campbell, Commissioner
Department of Environmental Protection