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TITLE 7. ENVIRONMENTAL PROTECTION
CHAPTER 26. SOLID WASTE
SUBCHAPTER 5. CIVIL ADMINISTRATIVE PENALTIES AND REQUESTS FOR ADJUDICATORY
HEARINGS

N.J.A.C. 7:26-5.1 (2016)

7:26-5.1 Scope and purpose

- (a) This subchapter shall govern the Department's assessment of civil administrative penalties for violations of the Solid Waste Management Act, N.J.S.A. 13:1E-1 et seq., including the Comprehensive Regulated Medical Waste Management Act, P.L. 1989, c.34, amending and supplementing the Solid Waste Management Act (hereinafter "the Act"), including violation of any rule promulgated, any administrative order, permit, license or other operating authority issued, any district solid waste management plan approved, pursuant to the Act. This subchapter shall also govern the procedures for requesting adjudicatory hearings on a notice of civil administrative penalty assessment or an administrative order.
- (b) The Department may assess a civil administrative penalty of not more than \$ 50,000 for each violation of each provision of the Act, or any rule promulgated, any administration order, permit, license or other operating authority issued, any district solid waste management plan approved, pursuant to the Act.
- (c) Each day during which a violation continues shall constitute an additional, separate and distinct violation.
- (d) Neither the assessment of a civil administrative penalty nor the payment of any such civil administrative penalty shall be deemed to affect the availability of any other enforcement provision provided for by N.J.S.A. 13:1E-1 et seq. or any other statute, in connection with the violation for which the assessment is levied.
- (e) Nothing in this subchapter is intended to affect the Department's authority to revoke or suspend any permit, license or other operating authority issued under the Act. Specifically, the Department may revoke or suspend a permit, license or other operating authority, without regard to whether or not a civil administrative penalty has been or will be assessed pursuant to this subchapter.
- (f) For purposes of this subchapter, any person who undertakes or performs an obligation imposed upon another person pursuant to the Act, or any rules promulgated, any administrative, order, permit, license or other operating authority issued, any district solid waste management plan approved, pursuant to the Act, may at the discretion of the Department be subject to a civil administrative penalty pursuant to this subchapter in the same manner and in the same amount as such other person.

7:26-5.2 Procedures for assessment and payment of civil administrative penalties

- (a) In order to assess a civil administrative penalty under the Act, for violation of the Act, or any rule promulgated, any administrative order, permit, license or other operating authority issued, any district solid waste management plan approved pursuant to the Act, the Department shall, by means of notice of civil administrative penalty assessment, notify the violator by certified mail (return receipt requested) or by personal service. The Department may, in its discretion, assess a civil administrative penalty for more than one violation in a single notice of civil administrative penalty assessment or in multiple notices of civil administrative penalty assessment. This notice of civil administrative penalty assessment shall:
 - 1. Identify the section of the Act, rule, administrative order, permit, license, district solid waste management plan violated;
 - 2. Concisely state the facts which constitute the violation;
 - 3. Specify the amount of the civil administrative penalty to be imposed; and
 - 4. Advise the violator of the right to request an adjudicatory hearing, pursuant to the procedures in N.J.A.C. 7:26-5.3.

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- (b) Payment of the civil administrative penalty is due upon receipt by the violator of the Department's final order of a contested case or when a notice of civil administrative penalty assessment becomes a final order, as follows:
 - 1. If no hearing is requested pursuant to N.J.A.C. 7:26-5.3, the notice of civil administrative penalty assessment becomes a final order on the 21st day following receipt by the violator of the notice of civil administrative penalty assessment;
 - 2. If a hearing is requested pursuant to N.J.A.C. 7:26-5.3 and the Department denies the hearing request, a notice of civil administrative penalty assessment becomes a final order upon receipt by the violator of notice of such denial; or
 - 3. If a hearing is requested pursuant to N.J.A.C. 7:26-5.3 and an adjudicatory hearing is conducted, a notice of civil administrative penalty assessment becomes a final order upon receipt by the violator of a final order of a contested case.

7:26-5.3 Procedures to request an adjudicatory hearing to contest an administrative order and/or a notice of civil administrative penalty assessment, and procedures for conducting adjudicatory hearings

- (a) To request an adjudicatory hearing to contest an administrative order and/or a notice of civil administrative penalty assessment issued pursuant to the Act, the violator shall submit the following information in writing to the Department, at Office of Legal Affairs, ATTENTION: Adjudicatory Hearing Requests, Department of Environmental Protection, CN 402, Trenton, New Jersey 08625-0402:
 - 1. The name, address, telephone number of the violator and its authorized representative;
 - 2. The violator's defenses, to each of the Department's findings of fact in the findings section of the administrative order or notice of civil administrative penalty assessment, stated in short and plain terms;
 - 3. An admission or denial of each of the Department's findings of fact in the findings section of the administrative order or notice of civil administrative penalty assessment. If the violator is without knowledge or information sufficient to form a belief as to the truth of a finding, the violator shall so state and this shall have the effect of a denial. A denial shall fairly meet the substance of the findings denied. When the violator intends in good faith to deny only a part or a qualification of a finding, the violator shall specify so much of it as is true and material and deny only the remainder. The violator may not generally deny all of the findings but shall make all denials as specific denials of designated findings. For each finding which the violator denies, the violator shall allege the fact or facts as the violator believes such fact or facts to be;
 - 4. Information supporting the request and specific reference to or copies of all written documents relied upon to support the request;
 - 5. An estimate of the time required for the hearing (in days and/or hours); and
 - 6. A request, if necessary, for a barrier-free hearing location for physically disabled persons.
- (b) If the Department does not receive the written request for a hearing within 20 days after receipt by the violator of the notice of a civil administrative penalty assessment and/or an administrative order being challenged, the Department shall deny the hearing request.
- (c) If the violator fails to include all the information required by (a) above, the Department may deny the hearing request.
- (d) All adjudicatory hearings shall be conducted in accordance with the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1.

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

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- (a) The Department may assess a civil administrative penalty pursuant to this section of not more than \$ 50,000 for each violation of each requirement of any rule listed in N.J.A.C. 7:26-5.4(g).
- (b) Each violation of a rule listed in N.J.A.C. 7:26-5.4(g) shall constitute an additional, separate and distinct violation.
- (c) Each day during which a violation continues shall constitute an additional, separate and distinct violation.
- (d) For each parameter that is required to be monitored, sampled or reported, the failure to so monitor, sample or report shall constitute an additional, separate and distinct violation.
- (e) Where any requirement of any rule listed in N.J.A.C. 7:26-5.4(g) may pertain to more than one act, condition, occurrence, item, unit, waste or parameter, the failure to comply with such requirement as it pertains to each such act, condition, occurrence, item, unit, waste or parameter shall constitute an additional, separate and distinct violation.
- (f) The Department shall determine the amount of a civil administrative penalty for each violation of any rule listed in (g) below on the basis of the provision violated, according to the following procedure. For a violation of a requirement or condition of an administrative order, permit, license or other operating authority, the Department may in its sole discretion identify the corresponding requirement of any rule summary listed in (g) below and determine the amount of the civil administrative penalty on the basis of the rule provision violated.
 1. Identify the rule violated as listed in N.J.A.C. 7:26-5.4(g)1 through 8A;
 2. Identify the corresponding base penalty dollar amount for the rule violated as listed in N.J.A.C. 7:26-5.4(g)1 through 8A;
 3. Multiply the base penalty dollar amount times the following multipliers for each factor to obtain the severity penalty component, as applicable:

SEVERITY FACTOR	MULTIPLIER
i. Violator had violated the same rule less than 12 months prior to the violation	1.00
ii. Violator had violated a different rule less than 12 months prior to the violation	0.50
iii. Violator had violated the same rule during the period which began 24 months prior to the violation and ended 12 months prior to the violation	0.50
iv. Violator had violated a different rule during the period which began 24 months prior to the violation and ended 12 months prior to the violation	0.25

4. To obtain the civil administrative penalty, add all of the severity penalty components pursuant to (f)3 above, to the base penalty. If the sum total exceeds \$ 50,000, then the civil administrative penalty shall be \$ 50,000.

EXAMPLE :

Base penalty (for violation of N.J.A.C. 7:26-2.12(f))	=	\$ 1,000
Subparagraph (f)3iii applies: 0.50x1000	=	500
Subparagraph (f)3iv applies: 0.25x1000	=	<u>+ 250</u>
Civil administrative penalty		\$ 1,750

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

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(g) The Rule Summary in this subsection, which summarizes certain provisions in N.J.A.C. 7:26, 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, then the provision in N.J.A.C. 7:26 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</u>	<u>Rule Summary</u>	<u>Base Penalty</u>	<u>Type of Violation</u>	<u>Grace Period (days)</u>
N.J.A.C. 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.	\$ 3,000	M	30

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</u>	<u>Rule Summary</u>	<u>Base Penalty</u>	<u>Type of Violation</u>	<u>Grace Period (days)</u>
N.J.A.C. 7:26-2.7(b)1	Failure of permittee to apply for a permit renewal at least 90 days prior to the expiration date of the existing SWF permit.	\$ 3,000	M	30
7:26-2.8(b)	Failure of permittee to submit a statement updating the information contained in the initial registration statement.	\$ 3,000	M	30
7:26-2.8(c)	Failure of permittee to notify the Department within 30 days of any change of information in the registration statement.	\$ 3,000	M	30
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	\$ 4,500	NM	
7:26-2.8(f)	Failing to obtain a SWF permit prior to constructing or operating a solid waste facility.	\$ 4,500	NM	
7:26-2.8(j)	Failure to meet all conditions, restrictions, requirements or any other provision set forth in SWF permit.	\$ 3,000	M	30
7:26-2.8(k)	Failure to receive Department approval prior to modifying, revising or otherwise changing a permit condition.	\$ 3,000	M	30
7:26-2.8(l)	Failure to receive Department approval prior to transferring ownership of a SWF permit.	\$ 5,000	NM	

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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.	\$ 3,000	M	1
7:26-2.11(b)2	Failure to ensure any waste stored overnight at any facility is effectively treated to prevent odors associated with putrefaction.	\$ 3,000	M	30
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	M	30
7:26-2.11(b)4	Failure to implement dust control methods.	\$ 3,000	M	30
7:26-2.11(b)5	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 off-site.	\$ 4,500	NM	
7:26-2.11(b)6	Failure to maintain all facility systems in a manner that facilitates proper operation and minimizes system downtime.	\$ 4,500	NM	
7:26-2.11(b)7	Failure to maintain an adequate water supply and adequate fire-fighting equipment.	\$ 5,000	NM	
7:26-2.11(b)8	Failure to control insects, other arthropods and rodents.	\$ 4,500	NM	
7:26-2.11(b)9	Failure to comply at all times with the conditions of SWF permit.	\$ 3,000	M	30
7:26-2.11(b)10	Failing to ensure waste is not received in excess to the system's designed capacity.	\$ 4,500	NM	
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.	\$ 3,000	M	30
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	M	30
7:26-2.11(c)1	Failure to admit only properly registered solid waste vehicles for loading or unloading of any solid waste.	\$ 4,500	NM	
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.	\$ 4,500	NM	
7:26-2.11(c)3	Failure to designate a secure area where unpermitted waste can be deposited.	\$ 4,500	NM	
7:26-2.11(c)4	Failure to maintain a record of the quantity of each waste type accepted for disposal.	\$ 5,000	NM	

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7:26-2.11(c)5	Failure to provide a means of cleaning vehicle tires of debris.	\$ 3,000	M	30
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.	\$ 4,500	NM	
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.	\$ 4,500	NM	
7:26-2.13(a)1-6	Failure to maintain a daily record of waste received.	\$ 3,000	M	30
7:26-2.13(a)7	Failure to maintain a daily record of asbestos waste and make appropriate submittals.	\$ 3,000	M	30
7:26-2.13(a)8	Failure to install or operate scales or keep records.	\$ 3,000	M	3
7:26-2.13(c)1	Failure of facility operator to verify that the O and D form has been completed by a registered transporter and that the waste identified by the transporter may be disposed at the facility in compliance with district solid waste management plan and facility's registration.	\$ 4,500	NM	
7:26-2.13(e)	Failure to timely submit complete monthly summaries of waste to the Department and the District Solid Waste Coordinator.	\$ 3,000	M	30
7:26:2.14(j)	Failure of SWFPPA permittee to prepare and submit a complete annual progress report.	\$ 3,000	M	30
7:26:2.14(k)	Failure of SWFPPA permittee to conduct a complete facility wide benchmark audit not less than once every five years.	\$ 3,000	M	90

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</u>	<u>Rule Summary</u>	<u>Base Penalty</u>	<u>Type of Violation</u>	<u>Grace Period (days)</u>
N.J.A.C. 7:26-2A.8(b)1	Failure to confine working face to the smallest practical area.	\$ 4,500	NM	
7:26-2A.8(b)2	Failure to compact waste to yield smallest volume.	\$ 3,000	M	30
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.	\$ 4,500	NM	

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7:26-2A.8(b)4	Failure to ensure lift height of daily cell does not exceed 12 feet.	\$ 4,500	NM	
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.	\$ 4,500	NM	
7:26-2A.8(b)6	Failure to obtain department approval of separate areas for storage of demolition waste or recyclable materials.	\$ 3,000	M	30
7:26-2A.8(b)7	Failure to cover exposed surfaces of solid waste at close of each operating day with daily cover.	\$ 4,500	NM	
7:26-2A.8(b)8	Failure to progressively apply daily cover.	\$ 4,500	NM	
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.	\$ 4,500	NM	
7:26-2A.8(b)10	Failure to maintain grade, thickness and integrity of intermediate and final cover.	\$ 4,500	NM	
7:26-2A.8(b)11	Failure to grade areas with intermediate cover to facilitate drainage.	\$ 4,500	NM	
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.	\$ 4,500	NM	
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.	\$ 4,500	NM	
7:26-2A.8(b)20	Failure to maintain sufficient types and quantities of equipment to adequately meet the requirements of N.J.A.C. 7:26-2A.8(b)7 through 10.	\$ 4,500	NM	
7:26-2A.8(b)21	Failure to maintain steel wheel type compactors of at least 45,000 pounds.	\$ 3,000	M	30
7:26-2A.8(b)22	Failure to equip landfill equipment with safety devices.	\$ 5,000	NM	
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.	\$ 4,500	NM	
7:26-2A.8(b)24	Failure to limit access for disposal to operating hours only.	\$ 4,500	NM	
7:26-2A.8(b)25	Failure to secure landfill with a six-foot high chain link fence.	\$ 4,500	NM	
7:26-2A.8(b)27	Failure to maintain all weather road to working face.	\$ 4,500	NM	
7:26-2A.8(b)28	Failure to control litter.	\$ 3,000	M	30

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7:26-2A.8(b)29	Failure to control dust by spraying water or equivalent.	\$ 3,000	M	1
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.	\$ 4,500	NM	
7:26-2A.8(b)31	Failure to control the off-site tracking of mud and soil.	\$ 3,000	M	30
7:26-2A.8(b)32	Failure to minimize the propagation and harborage of insects, rodents, and birds.	\$ 4,500	NM	
7:26-2A.8(b)33	Failure to protect all monitoring devices and environmental systems from damage.	\$ 5,000	NM	
7:26-2A.8(b)37	Failure to have supervisor on site in order to ensure 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	NM	
7:26-2A.8(b)38	Failure to ensure that landfill personnel complete a program of on-the-job training.	\$ 3,000	M	30
7:26-2A.8(b)39	Failure to ensure that landfill personnel complete initial training program within six months after the date of their employment.	\$ 3,000	M	30
7:26-2A.8(b)40	Failure to ensure that landfill personnel take part in annual update of initial training program.	\$ 3,000	M	30
7:26-2A.8(b)41	Failure to keep records of training received by personnel until closure.	\$ 3,000	M	30
7:26-2A.8(c)	Failure to maintain environmental control systems in functioning manner, or to inspect them.	\$ 5,000	NM	
7:26-2A.8(d)-(e)	Failure to perform inspections required by N.J.A.C. 7:26-2A.8(c) on a weekly basis and after storm events, and comply with recordkeeping requirements.	\$ 4,500	NM	
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.	\$ 4,500	NM	
7:26-2A.8(g)	Failure to maintain and inspect sanitary landfill according to requirements.	\$ 4,500	NM	
7:26-2A.8(h)	Failure to monitor in accordance with parameters and schedules.	\$ 5,000	NM	

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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.	\$ 3,000	M	30
7:26-2A.8(j)1	Failure to obtain written approval of the Department prior to disruption/excavation.	\$ 4,500	NM	
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.	\$ 4,500	NM	
7:26-2A.8(j)4	Failure to control dust, odors, fires, rodents, insects, blowing litter.	\$ 4,500	NM	
7:26-2A.8(k)6	Failure to repair any disruption of finished grade or covered surface upon completion of firefighting activities.	\$ 4,500	NM	
7:26-2A.8(l)	Failure to comply with asbestos waste disposal requirements.	\$ 4,500	NM	

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</u>	<u>Rule Summary</u>	<u>Base Penalty</u>	<u>Type of Violation</u>	<u>Grace Period (days)</u>
N.J.A.C. 7:26-2B.7(b)	Failure of solid waste composting and co-composting facility to comply with quarterly report requirements.	\$ 3,000	M	30
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.	\$ 4,500	NM	
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.	\$ 4,500	NM	
7:26-2B.7(f)	Failure of solid waste composting and co-composting facility to comply with incoming waste processing timeframes and requirements.	\$ 4,500	NM	
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.	\$ 4,500	NM	
7:26-2B.7(h)	Failure of solid waste composting and co-composting facility to comply with 15 month finished compost storage requirement.	\$ 3,000	M	30
7:26-2B.7(i)	Failure of solid waste composting and co-composting facility to comply with recordkeeping requirements.	\$ 4,500	NM	

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7:26-2B.7(j)-(n)	Failure of solid waste composting and co-composting facility to comply with monitoring and sampling requirements.	\$ 4,500	NM	
7:26-2B.7(o)	Failure of solid waste composting and co-composting facility to comply with labeling requirements.	\$ 4,500	NM	
7:26-2B.7(p)	Failure of solid waste composting and co-composting facility to comply with USEPA 40 CFR 503 general requirements.	\$ 4,500	NM	
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.	\$ 4,500	NM	
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.	\$ 4,500	NM	
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.	\$ 4,500	NM	
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.	\$ 4,500	NM	
7:26-2B.8(j)	Failure to keep waste delivery tipping hall doors closed during non-processing or non-receiving hours.	\$ 4,500	NM	
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.	\$ 4,500	NM	
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	NM	

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7:26-2B.8(m)-(r)	Failure of the operator to comply with waste determination, waste analysis and required recordkeeping.	\$ 5,000	NM	
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	NM	
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	NM	
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.	\$ 3,000	M	30

- 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</u>	<u>Rule Summary</u>	<u>Base Penalty</u>	<u>Type of Violation</u>	<u>Grace Period (days)</u>
N.J.A.C. 7:26-2D.1(c)2i	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.	\$ 4,500	NM	
7:26-2D.1(c)2ii	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.	\$ 4,500	NM	

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<u>Rule</u>	<u>Rule Summary</u>	<u>Base Penalty</u>	<u>Type of Violation</u>	<u>Grace Period (days)</u>
7:26-2D.1(c)2iv	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.	\$ 4,500	NM	
7:26-2D.1(c)2v	Failure to maintain an adequate water supply and adequate fire-fighting equipment.	\$ 4,500	NM	
7:26-2D.1(c)2vi	Failure to ensure no queuing or staging of solid waste vehicles occurs on public roadway.	\$ 4,500	NM	
7:26-2D.1(c)2vii	Failure to ensure queuing and staging of solid waste vehicles is conducted to prevent traffic backups and related hazards on access roads servicing facility.	\$ 4,500	NM	
7:26-2D.1(c)2ix	Failure to admit only properly registered solid waste vehicles.	\$ 4,500	NM	
7:26-2D.1(c)2xii	Failure to designate emergency coordinator who is available at all times to handle emergency situations.	\$ 4,500	NM	
7:26-2D.1(c)2xiii	Failure to maintain a daily record of waste received and submit quarterly reports.	\$ 4,500	NM	
7:26-2D.1(d)2	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.	\$ 4,500	NM	
7:26-2D.1(d)4	Failure of operator to clean areas where waste has been deposited or stored within each 24-hour period.	\$ 3,000	M	1
7:26-2D.1(d)5	Failure to ensure any waste stored overnight at any facility is effectively treated to prevent odors associated with putrefaction.	\$ 4,500	NM	
7:26-2D.1(d)6	Failure to maintain facility property surrounding the disposal area free of litter, debris, unprocessed waste, processed residues and effluents.	\$ 3,000	M	30
7:26-2D.1(d)7	Failure to implement dust control methods in order to prevent migration outside the enclosed building and off-site.	\$ 3,000	M	30
7:26-2D.1(d)9	Failure to maintain an adequate water supply and adequate fire-fighting equipment.	\$ 4,500	NM	
7:26-2D.1(d)10	Failure to control insects, other arthropods and rodents.	\$ 4,500	NM	
7:26-2D.1(d)11	Failure to operate certified scales for the reporting requirements of N.J.A.C. 7:26-2.13 for waste transported by trucks.	\$ 3,000	M	30

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<u>Rule</u>	<u>Rule Summary</u>	<u>Base Penalty</u>	<u>Type of Violation</u>	<u>Grace Period (days)</u>
7:26-2D.1(d)13	Failure to ensure no queuing or staging of solid waste vehicles occurs on public roadway.	\$ 4,500	NM	
7:26-2D.1(d)14	Failure to ensure queuing and staging of solid waste vehicles is conducted to prevent traffic backups and related hazards on access roads servicing facility.	\$ 4,500	NM	
7:26-2D.1(d)16	Failure to admit only properly registered solid waste vehicles.	\$ 4,500	NM	
7:26-2D.1(d)17	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.	\$ 4,500	NM	
7:26-2D.1(d)18	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.	\$ 4,500	NM	
7:26-2D.1(d)21	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.	\$ 4,500	NM	
7:26-2D.1(d)22	Failure to implement effective security procedures to control entry and exit at all times.	\$ 4,500	NM	
7:26-2D.1(d)25	Failure to designate emergency coordinator who is available at all times to handle emergency situations.	\$ 4,500	NM	

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</u>	<u>Rule Summary</u>	<u>Base Penalty</u>	<u>Type of Violation</u>	<u>Grace Period (days)</u>
N.J.A.C. 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	NM	
7:26-3.2(a)2	Failure to ensure that any device used for the transportation of solid waste is registered with the Department.	\$ 4,500	NM	
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	NM	

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<u>Rule</u>	<u>Rule Summary</u>	<u>Base Penalty</u>	<u>Type of Violation</u>	<u>Grace Period (days)</u>
7:26-3.2(c)	Failure to comply with any conditions or limitations which may be specified on the approved registration.	\$ 5,000	NM	
7:26-3.2(d)	Failure of a registrant to submit a transporter registration renewal updating information contained in the previous registration statement.	\$ 3,000	M	30
7:26-3.2(e)	Failure of registrant to notify the Department within 30 days of any change in the registration statement.	\$ 3,000	M	30
7:26-3.4(b)	Failure to deposit all collected solid waste at an approved facility.	\$ 5,000	NM	
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.	\$ 3,000	M	30
7:26-3.4(d)	Failure to ensure design of solid waste vehicle is such that it will not cause spillage onto roadways.	\$ 3,000	M	30
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.	\$ 4,500	NM	
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.	\$ 3,000	M	1
7:26-3.4(g)	Failure to protect property of customer.	\$ 4,500	NM	
7:26-3.4(h)	Failure to properly mark each solid waste vehicle or to carry current DEP registration certificate.	\$ 3,000	M	30
7:26-3.4(i)	Failure to use tarpaulins as needed.	\$ 4,500	NM	
7:26-3.4(j)	Failure to access or exit a solid waste facility pursuant to the district management plan or SWF permit.	\$ 3,000	M	1
7:26-3.4(m)	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.	\$ 4,500	NM	
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.	\$ 4,500	NM	
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	NM	

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<u>Rule</u>	<u>Rule Summary</u>	<u>Base Penalty</u>	<u>Type of Violation</u>	<u>Grace Period (days)</u>
7:26-3.5(b)	Failure to design all solid waste vehicles used for the transportation of bulky waste to preclude any spillage.	\$ 4,500	NM	
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	NM	
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.	\$ 4,500	NM	
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	NM	
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	NM	
7:26-3.5(d)4	Failure to transport collected asbestos and/or asbestos containing material directly from the point of generation to the solid waste landfill permitted to receive such wastes.	\$ 5,000	NM	
7:26-3.5(d)6	Failure to ensure no visible air emissions are generated during loading, transporting, or unloading operations.	\$ 5,000	NM	
7:26-3.5(h)2	Failure of transporter to complete and sign O and D form prior to transporting the solid waste.	\$ 3,000	M	1
7:26-3.6(g)1	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.	\$ 4,500	NM	
7:26-3.6(g)2	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.	\$ 4,500	NM	

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7:26-3.6(g)3	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.	\$ 4,500	NM	
7:26-3.6(g)4	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.	\$ 4,500	NM	
7:26-3.6(g)7	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.	\$ 3,000	M	30
7:26-3.6(g)9	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.	\$ 4,500	NM	
7:26-3.6(g)10	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.	\$ 4,500	NM	
7:26-3.6(g)11	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.	\$ 4,500	NM	

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<u>Rule</u>	<u>Rule Summary</u>	<u>Base Penalty</u>	<u>Type of Violation</u>	<u>Grace Period (days)</u>
7:26-3.6(h)1	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.	\$ 4,500	NM	
7:26-3.6(h)2	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.	\$ 3,000	M	30
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	NM	

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.

<u>Rule</u>	<u>Rule Summary</u>	<u>Base Penalty</u>	<u>Type of Violation</u>	<u>Grace Period (days)</u>
N.J.A.C. 7:26-3A.8(a)	Failure of a generator of RMW to register with the Department.	\$ 5,000	NM	
7:26-3A.8(a)1	Failure of a generator of RMW to register in the proper category.	\$ 3,000	M	30
7:26-3A.8(b)1	Failure of a commercial transporter of RMW to register with the Department.	\$ 5,000	NM	
7:26-3A.8(b)2	Failure of a non-commercial transporter of RMW to register with the Department.	\$ 4,500	NM	
7:26-3A.8(c)	Failure of commercial intermediate handlers and owner/operators of destination facilities to register with the Department.	\$ 5,000	NM	

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<u>Rule</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.	\$ 4,500	NM	
7:26-3A.8(d)1	Failure of commercial collection facility to register with the Department.	\$ 5,000	NM	
7:26-3A.8(d)5,6	Failure of a non-commercial collection facility to register with the Department.	\$ 4,500	NM	
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.	\$ 3,000	M	30
7:26-3A.10(a)	Failure of generators of RMW to segregate for off-site transport prior to placement in containers.	\$ 4,500	NM	
7:26-3A.10(d)	Failure to handle a package of RMW mixed with other waste as RMW.	\$ 4,500	NM	
7:26-3A.11	Failure of a generator to ensure that RMW is properly packaged before transporting or offering for transport off site.	\$ 4,500	NM	
7:26-3A.12(a)	Failure to comply with RMW storage requirements.	\$ 4,500	NM	
7:26-3A.12(b)	Failure to comply with RMW storage periods.	\$ 3,000	M	30
7:26-3A.12(c)	Failure to secure sharps containers.	\$ 4,500	NM	
7:26-3A.13(a)	Failure to comply with container decontamination and reuse requirements.	\$ 4,500	NM	
7:26-3A.14(a)	Failure to comply with labeling requirements.	\$ 3,000	M	30
7:26-3A.15(a)	Failure to comply with marking requirements.	\$ 3,000	M	30
7:26-3A.16(a)	Failure to determine if waste is RMW.	\$ 4,500	NM	
7:26-3A.16(d)	Failure to use properly registered transporters.	\$ 4,500	NM	
7:26-3A.16(e)	Failure to dispose of RMW at an authorized facility.	\$ 5,000	NM	
7:26-3A.16(h)	Failure to comply with home self-care RMW requirements.	\$ 3,000	M	30
7:26-3A.16(i)	Failure to get approval from the department prior to using an alternative or innovative technology for the treatment or destruction of RMW.	\$ 5,000	NM	
7:26-3A.19	Failure of a generator to comply with tracking form requirements.	\$ 3,000	M	30

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<u>Rule</u>	<u>Rule Summary</u>	<u>Base Penalty</u>	<u>Type of Violation</u>	<u>Grace Period (days)</u>
7:26-3A.21	Failure to comply with generator recordkeeping requirements.	\$ 3,000	M	30
7:26-3A.22	Failure of generator to comply with exception reporting requirements.	\$ 3,000	M	30
7:26-3A.25	Failure of generator with on-site incinerator to comply with recordkeeping requirements.	\$ 3,000	M	30
7:26-3A.26	Failure of owner/operator of on-site incinerator to comply with reporting requirements.	\$ 3,000	M	30
7:26-3A.27(i)	Failure of a transporter/collection facility to dispose of RMW stored in the vehicle within 14 calendar days, or before it becomes putrescent.	\$ 4,500	NM	
7:26-3A.28	Failure of a transporter to comply with RMW acceptance requirements.	\$ 4,500	NM	
7:26-3A.30(a)1	Failure of vehicle to have fully enclosed, leak resistant cargo carrying body.	\$ 4,500	NM	
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.	\$ 4,500	NM	
7:26-3A.30(a)3	Failure to maintain cargo carrying body in good sanitary condition.	\$ 4,500	NM	
7:26-3A.30(a)4	Failure to securely lock unattended cargo carrying body.	\$ 5,000	NM	
7:26-3A.30(b)	Failure to comply with vehicle identification requirements.	\$ 3,000	M	30
7:26-3A.30(c)	Failure to manage RMW/solid waste mixture as RMW.	\$ 5,000	NM	
7:26-3A.31(a)	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.	\$ 4,500	NM	
7:26-3A.31(b)	Failure of transporter to sign and date tracking form and provide copy to generator.	\$ 4,500	NM	
7:26-3A.31(c)	Failure of transporter to ensure tracking form accompanies RMW while in transit.	\$ 4,500	NM	
7:26-3A.31(d)	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.	\$ 3,000	M	1

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<u>Rule</u>	<u>Rule Summary</u>	<u>Base Penalty</u>	<u>Type of Violation</u>	<u>Grace Period (days)</u>
7:26-3A.31(e)	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.	\$ 4,500	NM	
7:26-3A.32(a)	Failure to deliver entire quantity of RMW to intermediate hauler, destination facility or next transporter.	\$ 4,500	NM	
7:26-3A.32(b)	Failure to contact generator for directions and make changes accordingly, if RMW cannot be delivered as intended.	\$ 3,000	M	30
7:26-3A.33(a)	Failure to comply with requirements for consolidating waste to a new tracking form.	\$ 3,000	M	30
7:26-3A.34(a)	Failure of transporter to maintain signed copy of tracking form for three years.	\$ 3,000	M	30
7:26-3A.34(b)	Failure of transporter to comply with recordkeeping requirements when consolidating RMW.	\$ 3,000	M	30
7:26-3A.34(c)	Failure of transporter to maintain copy of RMW transporter report for three years.	\$ 3,000	M	30
7:26-3A.35	Failure of transporter to comply with reporting requirements.	\$ 3,000	M	30
7:26-3A.37(a)	Failure of transporter to have an approved RMW spill management plan.	\$ 4,500	NM	
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.	\$ 4,500	NM	
7:26-3A.38(b)6	Failure of RMW incinerator to ensure waste stored overnight is effectively treated.	\$ 4,500	NM	
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.	\$ 4,500	NM	
7:26-3A.38(b)8	Failure to ensure no odors are detected off-site.	\$ 4,500	NM	
7:26-3A.38(b)9	Failure to maintain all facility systems in a manner that facilitates proper operation and minimizes system downtime.	\$ 4,500	NM	
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	NM	
7:26-3A.38(b)11	Failure to effectively control insects, arthropods, rodents.	\$ 4,500	NM	

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7:26-3A.38(b)12	Failure to maintain orderly operation and sanitary conditions.	\$ 4,500	NM	
7:26-3A.38(b)14	Failure to maintain O & M Manual at the facility.	\$ 4,500	NM	
7:26-3A.38(b)17	Failure of facility to accept RMW only from properly registered transporters.	\$ 4,500	NM	
7:26-3A.39(i)1	Failure to ensure stored waste does not exceed 300,000 pounds or amount as specified in authorization.	\$ 4,500	NM	
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.	\$ 4,500	NM	
7:26-3A.39(i)4	Failure to accept only RMW waste managed in accordance with N.J.A.C. 7:26-3A.	\$ 4,500	NM	
7:26-3A.39(i)5	Failure to ensure only registered vehicles transport to and from facility.	\$ 4,500	NM	
7:26-3A.39(i)6	Failure to ensure all waste at all times remains fully contained, and does not leak.	\$ 4,500	NM	
7:26-3A.39(i)9	Failure to ensure no odors are detected off-site. Odor causing waste to be disposed of immediately.	\$ 4,500	NM	
7:26-3A.39(i)10	Failure to implement and maintain effective security procedures.	\$ 4,500	NM	
7:26-3A.39(i)13	Failure to implement routine housekeeping and maintenance procedures.	\$ 3,000	M	30
7:26-3A.39(i)16	Failure to ensure truck queuing is minimized, on-site traffic controls implemented.	\$ 4,500	NM	
7:26-3A.39(i)17	Failure to ensure RMW is not staged, placed or stored beyond confines of facility or vehicle.	\$ 4,500	NM	
7:26-3A.39(j)2	Failure to maintain O & M Manual at the facility.	\$ 4,500	NM	
7:26-3A.39(j)3	Failure to comply with training program requirements.	\$ 3,000	M	30
7:26-3A.39(j)6	Failure to maintain fire protection systems in operable condition, fire procedures posted.	\$ 5,000	NM	
7:26-3A.39(j)8	Failure to maintain on site operating records, O & M manual.	\$ 4,500	NM	
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	NM	
7:26-3A.39(k)	Failure to comply with recordkeeping and reporting requirements.	\$ 3,000	M	30

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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.	\$ 4,500	NM	
7:26-3A.41(a)	Failure of destination facility receiving RMW to sign and date tracking form, note discrepancies, provide copies to generator and transporter, and retain copy.	\$ 4,500	NM	
7:26-3A.41(b)	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.	\$ 4,500	NM	
7:26-3A.41(c)	Failure of destination facility or intermediate handler receiving RMW from a rail transporter to comply with shipping form requirements.	\$ 4,500	NM	
7:26-3A.41(d)	Failure of destination facility or intermediate handler to maintain shipping or tracking form for three years.	\$ 3,000	M	30
7:26-3A.41(f)	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 form requirements of N.J.A.C. 7:26-3A.41.	\$ 4,500	NM	
7:26-3A.42	Failure to comply with tracking form discrepancy requirements.	\$ 3,000	M	30
7:26-3A.43	Failure to comply with recordkeeping requirements.	\$ 3,000	M	30
7:26-3A.44	Failure of collection facilities, intermediate handlers and/or destination facilities to comply with additional reporting requirements.	\$ 4,500	NM	
7:26-3A.46	Failure of rail transporter to comply with tracking form requirements.	\$ 4,500	NM	
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	NM	
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.	\$ 4,500	NM	

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<u>Rule</u>	<u>Rule Summary</u>	<u>Base Penalty</u>	<u>Type of Violation</u>	<u>Grace Period (days)</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 that does not have a certificate on file with the Department.	\$ 5,000	NM	

8. The violations of N.J.A.C. 7:26-6, 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</u>	<u>Rule Summary</u>	<u>Base Penalty</u>	<u>Type of Violation</u>	<u>Grace Period (days)</u>
N.J.A.C. 7:26-6.12(b)	Failure to comply with the applicable district solid waste management plan.	\$ 4,500	NM	

7:26-5.5 Civil administrative penalty determination

- (a) The Department shall assess penalties under this section, and not under N.J.A.C. 7:26-5.4 when:
1. Because of the specific circumstances of the violation, the Department determines that the penalty amount under N.J.A.C. 7:26-5.4 would be too low to provide a sufficient deterrent effect as required by the Act; or
 2. The violation is not listed under N.J.A.C. 7:26-5.4.
- (b) Each violation of the Act, or any rule promulgated, any administrative order, permit, license or other operating authority issued, any district solid waste management plan approved, and any parameter contained therein, pursuant to the Act, shall constitute an additional, separate and distinct violation.
- (c) Each day during which a violation continues shall constitute an additional, separate and distinct violation.
- (d) For each parameter that is required to be monitored, sampled or reported, the failure to so monitor, sample or report shall constitute an additional, separate and distinct violation.
- (e) Where any requirement of the Act, or any rule promulgated, any administrative order, permit, license or other operating authority issued, any district solid waste management plan approved, pursuant to the Act, may pertain to more than one act, condition, occurrence, item, unit, waste or parameter, the failure to comply with such requirement as it pertains to each such act, condition, occurrence, item, unit, waste or parameter shall constitute an additional, separate and distinct violation.
- (f) The Department shall assess a civil administrative penalty for violations described in this section on the basis of the seriousness of the violation and the conduct of the violator at the 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.

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

SERIOUSNESS

		Major	Moderate	Minor
	Major	\$40,000- \$50,000	\$30,000- \$40,000	\$15,000- \$25,000
CONDUCT	Moderate	\$30,000- \$40,000	\$10,000- \$20,000	\$3,000- \$6,000
	Minor	\$15,000- \$25,000	\$3,000- \$6,000	N/A *

*N/A means not applicable.

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

1. Major seriousness shall apply to any violation which:
 - i. Has caused or has the potential to cause serious harm to human health or the environment; or
 - ii. Seriously deviates from the requirements of the Act, or any rule promulgated, any administrative order, permit, license or other operating authority issued, any district solid waste management plan approved pursuant to the Act; serious deviation shall include, but not be limited to, those violations which are in complete contravention of the requirement, or if some of the requirement is met, which severely impair or undermine the operation or intent of the requirement;
2. Moderate seriousness shall apply to any violation which:
 - i. Has caused or has the potential to cause substantial harm to human health or the environment; or
 - ii. Substantially deviates from the requirements of the Act, or any rule promulgated, any administrative order, permit, license or other operating authority issued, any district solid waste management plan approved pursuant to the Act; substantial deviation shall include, but not be limited to, violations which are in substantial contravention of the requirements or which substantially impair or undermine the operation or intent of the requirement; and
3. Minor seriousness shall apply to any violation not included in (g)1 or 2 above.

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

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

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

1. The compliance history of the violator;
2. The nature, timing and effectiveness of any measures taken by the violator to mitigate the effects of the violation for which the penalty is being assessed;
 - i. Immediate implementation of measures to effectively mitigate the effects of the violation will result in a reduction to the bottom of the range.
3. The nature, timing and effectiveness of any measures taken by the violator to prevent future similar violations;
 - i. Implementation of measures that can reasonably be expected to prevent a recurrence of the same type of violation will result in a reduction equal to the bottom of the range.

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4. Any unusual or extraordinary costs or impacts directly or indirectly imposed on the public or the environment as a result of the violation; and/or
5. Other specific circumstances of the violator or the violation.

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

- (a) The Department may assess a civil administrative penalty pursuant to this section against each violator who submits inaccurate information or who makes a false statement, representation or certification in any application, record or other document required to be submitted or maintained pursuant to the Act or any rule promulgated, any administrative order, permit, license or other operating authority issued, any district solid waste management plan approved pursuant to the Act.
- (b) Each day, from the day that the violator knew or had reason to know that it submitted inaccurate or false information to the Department until the day of receipt by the Department of a written correction by the violator, shall be an additional, separate and distinct violation.
- (c) The Department shall assess a civil administrative penalty for violations described in this section based on the conduct of the violator at the mid-point of the following ranges except as adjusted pursuant to (d) below:
 1. For each intentional, deliberate, purposeful, knowing or willful act or omission by the violator, the civil administrative penalty per act or omission shall be in an amount of not more than \$ 50,000 nor less than \$ 40,000 per act or omission; and
 2. For all other conduct, the civil administrative penalty, per act or omission, shall be in the amount of \$ 1,000 per violation.
- (d) The Department may adjust the amount determined pursuant to (c) above to assess a civil administrative penalty in an amount no greater than the maximum amount nor less than the minimum amount in the range described in (c) above, on the basis of the following factors:
 1. The compliance history of the violator;
 2. The nature, timing and effectiveness of any measures taken by the violator to mitigate the effects of the violation for which the penalty is being assessed;
 - i. Immediate implementation of measures to effectively mitigate the effects of the violation will result in a reduction to the bottom of the range.
 3. The nature, timing and effectiveness of any measures taken by the violator to prevent future similar violations;
 - i. Implementation of measures that can reasonably be expected to prevent a recurrence of the same type of violation will result in a reduction equal to the bottom of the range.
 4. Any unusual or extraordinary costs or impacts directly or indirectly imposed on the public or the environment as a result of the violation; and/or
 5. Other specific circumstances of the violator or the violation.
- (e) A violation under this section is non-minor and, therefore, not subject to a grace period.

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

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

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- (b) Each day that a violator refuses, inhibits or prohibits immediate lawful entry and inspection by an authorized Department representative of any premises, building or facility which the Department may enter and inspect pursuant to the provisions of the Act, shall be an additional, separate and distinct violation.
- (c) The Department shall assess a civil administrative penalty for violations described in this section at the mid-point of the following ranges except as adjusted pursuant to (d) below as follows:
 - 1. For refusing, inhibiting or prohibiting immediate lawful entry and inspection of any premises, building or facility for which an administrative order, permit, license or other operating authority requirement exists under the Act, the civil administrative penalty shall be in an amount of not more than \$ 30,000 nor less than \$ 20,000 per violation; and
 - 2. For any other refusal, inhibition, or prohibition of immediate lawful entry and inspection the civil administrative penalty shall be in an amount of not more than \$ 5,000 nor less than \$ 3,000 per violation.
- (d) The Department may adjust the amount determined pursuant to (c) above to assess a civil administrative penalty in an amount no greater than the maximum amount nor less than the minimum amount in the range described in (c) above, on the basis of the following factors:
 - 1. The compliance history of the violator;
 - 2. The nature, timing and effectiveness of any measures taken by the violator to mitigate the effects of the violation for which the penalty is being assessed;
 - i. Immediate implementation of measures to effectively mitigate the effects of the violation will result in a reduction to the bottom of the range.
 - 3. The nature, timing and effectiveness of any measures taken by the violator to prevent future similar violations;
 - i. Implementation of measures that can reasonably be expected to prevent a recurrence of the same type of violation will result in a reduction equal to the bottom of the range.
 - 4. Any unusual or extraordinary costs or impacts directly or indirectly imposed on the public or the environment as a result of the violation; and/or
 - 5. Other specific circumstances of the violator or the violation.
- (e) A violation under this section is non-minor and, therefore, not subject to a grace period.

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

- (a) The Department may assess a civil administrative penalty pursuant to this section against each violator who fails to pay a fee when due pursuant to the act, or any rule promulgated, any administrative order, permit, license or other operating authority issued, any district solid waste management plan approved pursuant to the Act.
- (b) To assess a civil administrative penalty pursuant to this section:
 - 1. The Department shall identify the civil administrative base penalty pursuant to (c) below; and
 - 2. The civil administrative penalty shall be the base penalty unless adjusted pursuant to (d) below.
- (c) The base penalty shall be as follows:
 - 1. An amount equal to one-half of the unpaid fee or \$ 100.00, whichever is greater, for nonpayment of a fee due in any calendar year; or
 - 2. An amount equal to the unpaid fee or \$ 250.00 whichever is greater, for the nonpayment of a second fee due in the same calendar year as that in (c)1 above; or
 - 3. An amount equal to the twice the unpaid fee or \$ 500.00, whichever is greater for the nonpayment of a third fee due in the same calendar year as that in (c)1 or 2 above.

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- (d) Failure to pay a fee within 30 days of receipt by the violator of notice of the nonpayment from the Department shall be considered a continuing violation. For a continuing violation, the Department may increase the amount of the base penalty calculated pursuant to (c) above by the amount obtained by multiplying the base penalty dollar amount by one percent for each day that the fee is past due.
- (e) A violation under this section is non-minor and, therefore, not subject to a grace period.

7:26-5.9 Civil administrative penalty for economic benefit

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

7:26-5.10 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

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- 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 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 7:26A-3.2(b). The Department may, at its discretion, approve in writing an extension, which shall not exceed 90 days, to accommodate the anticipated delay in achieving compliance. In exercising its discretion to approve a request for an extension, the Department may consider the following:
 - i. Whether the violator has taken reasonable measures to achieve compliance in a timely manner;
 - ii. Whether the delay has been caused by circumstances beyond the control of the violator;
 - iii. Whether the delay will pose a risk to the public health, safety and natural resources; and
 - iv. Whether the delay will materially or substantially undermine or impair the goals of the regulatory program.
5. If the person responsible for the minor violation fails to demonstrate to the Department or local government agency that the violation has been corrected and compliance achieved within the specified grace period or within the approved extension, if any, the Department or local government agency may, in accordance with the provisions of this chapter, impose a penalty that is retroactive to the date the notice of violation under (d)1 above was issued.
6. The person responsible for a minor violation shall not request more than one extension of a grace period specified in a notice of violation.

7:26-5.11 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.