

HAZARDOUS WASTE REGULATIONS  
N.J.A.C. 7:26G-1 et seq.

Subchapter 1. General Provisions

7:26G-1.1 Scope of rules

(a) Unless otherwise provided by rule or statute, this chapter shall constitute the rules of the Department of Environmental Protection which govern the registration, operation, closure and post-closure maintenance of hazardous waste facilities in the State of New Jersey as may be approved by the Department; registration, operation, and maintenance of hazardous waste transporting operations and facilities in the State of New Jersey; and a fee schedule for services provided by the Department to hazardous waste facilities, generators and transporters.

(b) The definitions, exemptions, exclusions and discussions of solid and hazardous waste found in this chapter are for the purposes of classifying and regulating hazardous waste and do not provide any exemptions from the definition or regulation of solid waste found at N.J.A.C. 7:26.

(c) Hazardous waste facilities are exempt from district solid waste planning of N.J.A.C. 7:26G-6, Solid Waste Planning Regulations; the Solid Waste Utility Control Act, N.J.S.A. 48:13A-1 et seq.; the Solid Waste Collection Regulatory Reform Act, N.J.S.A. 48:13A-7.1 et seq.; and those provisions of the Solid Waste Management Act, N.J.S.A. 13:1E-1 et seq., which relate to district solid waste planning.

(d) In addition to the rules in this chapter, all hazardous waste facilities are required to obtain other necessary approvals.

7:26G-1.2 Construction and severability

(a) These rules shall be liberally construed to permit the Department to discharge its statutory functions.

(b) If this chapter or any subchapter, section, subsection, paragraph, subparagraph, sub-subparagraph or any portion thereof, or the application thereof to any person, is adjudged unconstitutional or invalid by a court of competent jurisdiction, in any judicial proceeding, such judgment shall be confined in its operation to this chapter or any subchapter, section, subsection, paragraph, subparagraph, sub-subparagraph or any portion or application thereof, directly involved in the controversy in which such judgment shall have been rendered, and it shall not affect or impair the remainder of this chapter.

7:26G-1.3 Practice where rules do not govern

The Department may rescind, amend or expand these rules from time to time, and such rules shall be filed with the Office of Administrative Law as provided by law. In any matter concerning hazardous waste management that arises not governed by these rules, the Department shall exercise its discretion within the authority of N.J.S.A. 13:1E-1 et seq., 58:10-23.11, 58:10A-1 et seq., 47:1A-2, 13:1D-9 and 18 and all other legislatively conferred powers.

7:26G-1.4 Incorporation by reference of the Code of Federal Regulations

(a) Unless specifically excluded by these rules, when a provision of the Code of Federal Regulations (C.F.R.) is incorporated by reference, all notes, comments, appendices, diagrams, tables, forms, figures, and publications are also incorporated by reference.

(b) Prospective incorporation by reference means the ongoing process, beginning May 6, 2002, whereby all provisions of regulations incorporated into this Chapter from the Federal regulations at 40 C.F.R. Subparts 124, 260-266, 268, and 270 are continually automatically updated in order to maintain consistency with the most current Federal rules. Thus, any supplements, amendments, and any other changes including, without limitation, repeals or stays that affect the meaning or operational status of a Federal rule, brought about by either judicial or administrative action and adopted or otherwise noticed by USEPA in the Federal Register, shall be paralleled by a similar change to the New Jersey rule so that the New Jersey rule will have the same meaning and status as its Federal counterpart. Similarly, to maintain consistency, all new Federal regulations are also adopted into this Chapter by this automatic process.

(c) Provisions of 40 C.F.R. Parts 124, 260-266, 268 and 270 incorporated by reference are prospective and all internal references contained therein are also incorporated prospectively for the purposes of that provision, unless otherwise noted. Each internal reference to the C.F.R. shall be interpreted to include in addition to the Federal citation, any changes or additions or deletions made to that citation by the corresponding state subchapter. For example, all references within the C.F.R. to 40 C.F.R. Part 261 shall include the changes, additions and deletions which N.J.A.C. 7:26G-5 makes to 40 C.F.R. Part 261.

(d) Provisions of 49 C.F.R. incorporated by reference are prospective and all internal references contained therein are also incorporated by reference for the purposes of that provision, unless otherwise noted. Provisions of 49 C.F.R. shall be interpreted to include, in addition to the Federal citation, any changes or additions or deletions made to that citation by the following State agencies and corresponding State rules:

1. New Jersey Department of Transportation, N.J.A.C. 16:49-2.1; and
2. New Jersey Department of Law and Public Safety, Division of State Police, N.J.A.C. 13:60-1.1.

(e) Provisions of the C.F.R. which are excluded from incorporation by reference in these rules are excluded in their entirety, unless otherwise specified. If there is a cross reference to a Federal citation which was specifically entirely excluded from incorporation, the cross referenced citation is not incorporated by virtue of the cross reference. Provisions that have been excluded from incorporation by reference are also excluded from the process of prospective incorporation by reference.

(f) Federal statutes and regulations that are cited in 40 C.F.R. Parts 124, 260 through 266, 268, and 270 that are not specifically adopted by reference shall be used to assist in interpreting the Federal regulations in 40 C.F.R. Parts 124, 260 through 266, 268, and 270.

(g) Federal statutes and regulations that are cited in 49 C.F.R. Parts 171 through 180, and 390 through 397 that are not specifically adopted by reference shall be used to assist in interpreting the Federal regulations in 49 C.F.R. Parts 171 through 180, and 390 through 397.

(h) In the event that there are inconsistencies or duplications in the requirements of the provisions incorporated by reference from the C.F.R. and the rules set forth in this chapter, the provisions incorporated by reference from the C.F.R. shall prevail, except where the rules set forth in this chapter are more stringent.

(i) Nothing in these provisions incorporated by reference from the C.F.R. shall affect the Department's authority to enforce statutes, rules, permits or orders administered or issued by the Commissioner.

(j) New Federal rules, amendments, supplements, and other changes at 40 C.F.R. Parts 124, 260-266, 268, and 270, brought about through administrative or judicial action, shall be automatically incorporated through the prospective incorporation process in N.J.A.C. 7:26G.

(k) New Federal rules, amendments, supplements, and other changes at 40 C.F.R. Parts 124, 260-266, 268, and 270, brought about through administrative or judicial action, adopted or otherwise noticed in the Federal Register by USEPA after July 31, 1998 but prior to January 19, 1999 shall be prospectively incorporated by reference and effective January 19, 1999 and operative either April 19, 1999 or on the operative date cited by USEPA in the relevant Federal Register Notice, whichever is later, unless the Department publishes a notice or proposal repealing the adoption in New Jersey of the Federal regulation in whole or in part, and/or proposing to otherwise amend the affected State rules.

(l) On or after May 6, 2002, new Federal rules, amendments, supplements, and other changes, brought about through administrative or judicial action, automatically incorporated through the prospective incorporation by reference process shall be effective upon publication in the Federal Register and operative 90 days from the publication date or on the operative date cited by USEPA in the relevant Federal Register Notice, whichever is later, unless the Department publishes a notice of proposal repealing the adoption in New Jersey of the Federal regulation in whole or in part, and/or proposing to otherwise amend the affected State rules.

#### 7:26G-1.5 Document availability

(a) Copies of the C.F.R. (40 C.F.R. Parts 124, 260 through 266, 268, 270 and 49 C.F.R. Parts 171 through 180 and 390 through 397) as adopted and incorporated by reference herein are available for review. Publications incorporated by reference within the Code of Federal Regulations as listed at 40 C.F.R. 260.11, or the most currently available version, are also available for review. These may be reviewed by contacting the Department at:

New Jersey Department of Environmental Protection  
Division of Solid and Hazardous Waste  
PO Box 414  
Trenton, NJ 08625-0414  
Telephone:(609) 984-3438

(b) Copies of the C.F.R. (40 C.F.R. Parts 124, 260 through 266, 268, 270, and 49 C.F.R. Parts 171 through 180, and 390 through 397) as adopted and incorporated by reference herein, may be purchased from the following sources:

U.S. Government Printing Office  
Superintendent of Documents

Mail Stop: SCOP  
Washington, DC 20402-9328  
U.S. Government Printing Office Bookstore  
Room 110, 26 Federal Plaza  
New York, NY 10278-0081  
U.S. Government Printing Office Bookstore  
Robert Morris Building  
100 North 17th Street  
Philadelphia, PA 19103

(c) Copies of the C.F.R. (40 C.F.R. Parts 124, 260 through 266, 268, 270 and 49 C.F.R. Parts 171 through 180, and 390 through 397) as adopted and incorporated by reference herein, are available for review at the following public libraries:

New Jersey State Library  
CN 520, 185 West State Street  
Trenton, NJ 08625-0520  
Newark Public Library  
5 Washington Street  
Newark, NJ 07101

(d) The Office of the Federal Register, a component of the National Archives and Record Administration, has a website at [www.nata.gov/fedreg/](http://www.nata.gov/fedreg/) which shows a current listing of files available for public inspection, Federal Registers as well as the Code of Federal Regulations.

## Subchapter 2. Civil Administrative Penalties and Requests for Administrative Hearings 7:26G-2.1 Scope and purpose

(a) This subchapter shall govern the Department's assessment of civil administrative penalties for hazardous waste violations of the Solid Waste Management Act, N.J.S.A. 13:1E-1 et seq., (for the purpose of this subchapter, hereinafter "the Act"), including violation of any rule promulgated, administrative order, permit, license or other operating authority issued, or Part A permit application filed, pursuant to the Act. This subchapter shall also govern the procedures for requesting administrative 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, administrative order, permit, license or other operating authority issued, or Part A permit application filed, 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 rule promulgated, administrative order, permit, license or other operating authority issued, or Part A permit application filed, 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.

#### 7:26G-2.2 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, administrative order, permit, license or other operating authority issued, or Part A permit application filed, 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, or Part A permit application 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 administrative hearing, pursuant to the procedures in N.J.A.C. 7:26G-2.3.

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

1. If no hearing is timely requested pursuant to N.J.A.C. 7:26G-2.3, 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 timely requested pursuant to N.J.A.C. 7:26G-2.3 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. 7:26G-2.3 and an administrative 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.

#### 7:26G-2.3 Procedures to request an administrative hearing to contest an administrative order or a notice of civil administrative penalty assessment, and procedures for conducting administrative hearings

(a) To request an administrative 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: Administrative Hearing Requests

Department of Environmental Protection  
CN 402  
Trenton, NJ 08625-0402

1. The name, address, telephone number and EPA Identification Number (if applicable) 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 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 administrative 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.

#### 7:26G-2.4 Civil administrative penalties for violations of rules adopted pursuant to the Act

(a) The Department may assess a civil administrative penalty pursuant to this section of not more than \$50,000 for each violation of each requirement of any rule listed in N.J.A.C. 7:26G-2.4(g).

(b) Each violation of a rule listed in (g) below 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 (g) below 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 procedures which follow in (f)1 through 4 below. For a violation of a requirement or condition of an administrative order, permit, license or other operating authority, the Department may in its sole discretion identify the corresponding requirement of any rule summary listed in (g) below and determine the amount of the civil administrative penalty on the basis of the rule provision violated.

1. Identify the rule violated as listed in (g)1 through 9 below;
2. Identify the corresponding base penalty dollar amount for the rule violated as listed in (g)1 through 9 below;
3. Multiply the base penalty dollar amount times the following multipliers for each factor to obtain the severity penalty component, as applicable:

Severity factor	Multiplier
i. Violator had violated the same rule less than 12 months 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 for a particular violation, 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 for that violation shall be \$50,000.

EXAMPLE:

Base penalty (for violation of N.J.A.C. 7:26-7.4(a)6)	= \$1,000
Subparagraph (f)3iii applies: 0.50 x 1000	= 500
Subparagraph (f)3iv applies: 0.25 x 1000	= +250

Civil administrative penalty

\$1,750

(g) The following summary of rules contained in N.J.A.C. 7:26G-2 through 7:26G-12 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. 7:26G-2 through 7:26G-12, then the provision in N.J.A.C. 7:26G-2 through 7:26G-12 shall prevail. The citations beginning with the symbol "\$" identify the rule section found in 40 C.F.R. Parts 124, 260-266, 268 and 270. Citations beginning with "7:26G" signify a State requirement not found in 40 C.F.R. Parts 124, 260-266, 268 and 270. The word "matrix" appearing in the "Base Penalty or Matrix" column refers to the penalty calculation matrix in N.J.A.C. 7:26G-2.5, which shall be applied in lieu of a "base penalty."

1. The violations of N.J.A.C. 7:26G-4 Hazardous Waste Management System: General, and the civil administrative penalty amounts for each violation, are as set forth in the following table. (Reserved)

2. The violations of N.J.A.C. 7:26G-5, Identification and Listing of Hazardous Waste, and the civil administrative penalty amounts for each violation, are as set forth in the following table.

Rule	Rule summary	Base penalty or Matrix
(40 C.F.R. Part 261 Subpart A-General)		
§261.5(f)	Failure of generator of acute hazardous waste to comply with the requirements of 40 C.F.R. §261.5(f).	Matrix
§261.5(g)	Failure of conditionally exempt small quantity generator of hazardous waste to comply with the requirements of 40 C.F.R. §261.5(g).	Matrix

3. The violations of N.J.A.C. 7:26G-6, Standards Applicable to Generators of Hazardous Waste, and the civil administrative penalty amounts for each violation, are as set forth in the following table.

Rule	Rule summary	Base penalty or Matrix
(40 C.F.R. Part 262 Subpart A-General)		
§262.11	Failure of generator of solid waste to determine if waste is hazardous.	\$5,000
§262.12(a)	Failure of generator to have EPA identification number before it treats,	\$5,000



	stores, transports, offers for transportation, or disposes of hazardous waste.	
§262.12(c)	Failure of generator to offer hazardous waste to a hazardous waste transporter or TSD facility that has received an EPA identification number.	\$3,000
(40 C.F.R. Part 262 Subpart B-The Manifest)		
§262.20(a)	Failure of generator to prepare a manifest before transporting or offering for transport hazardous waste off-site.	\$5,000
§262.20(b)	Failure of generator to designate an authorized facility on the manifest.	\$10,000
§262.20(d)	Failure of generator to designate alternate facility or accept waste back in the event the transporter cannot deliver the waste.	Matrix
§262.21(a)	Failure to use approved manifest forms from the Department for intrastate shipments of hazardous waste in New Jersey or for hazardous waste originating in another state destined for New Jersey.	\$300
§262.21(b)	Failure to use approved manifest forms for hazardous waste originating in New Jersey and destined for another state.	\$300
§262.23(a)(1)	Failure of generator to sign manifest.	\$2,000
§262.23(a)(2)	Failure of generator to obtain signature of initial transporter and date of acceptance on the manifest.	\$500
§262.23(a)(3)	Failure of generator to retain one copy of manifest or to forward one copy to state of origin or one to state of destination.	\$500
§262.23(b)	Failure of generator to supply transporter with remaining copies of manifest.	Matrix
§262.23(c)	Failure of generator shipping hazardous waste within the U.S. solely by water to send three copies of manifest form signed and dated to	\$1,000

	owner or operator of designated facility or last water transporter in the United States.	
§262.23(d)	Failure of generator to send at least three copies of signed and dated manifest for rail shipments of hazardous waste within the United States to next non-rail transporter, designated facility, or lastrail transporter in the United States.	\$1,000

(40 C.F.R. Part 262 Subpart C-Pre-Transport Requirements)

§262.30	Failure of generator to package hazardous waste in accordance with 49 C.F.R. Parts 173, 178, and 179.	\$1,000
§262.31	Failure of generator to label each package of hazardous waste in accordance with 49 C.F.R. Part 172.	\$1,000
§262.32(a)	Failure of generator to mark packages of hazardous waste in accordance with 49 C.F.R. Part 172.	Matrix
§262.32(b)	Failure of generator to mark each container of hazardous waste with the proper wording or to display the wording in accordance with 49 C.F.R. 172.304.	\$1,000
§262.33	Failure of generator to placard or offer appropriate placard for a vehicle containing hazardous waste in accordance with 49 C.F.R. Part 172, Subpart F.	\$500
§262.34(a)	Failure of generator to ship waste off site within 90 days.	\$2,000
§262.34(a)(1)	Failure of generator to place waste in containers, in tanks, on drip pads, or in containment buildings in accordance with 40 C.F.R. §262.34(a)(1).	\$1,000
§262.34(a)(2)	Failure of generator to clearly mark container with date when accumulation period begins or to make mark visible for inspection.	\$1,000
§262.34(a)(3)	Failure of generator to clearly mark each container or tank with the words "Hazardous Waste."	\$1,000

§262.34(b)	Failure of generator who accumulates waste for greater than 90 days to comply with all disposal facility requirements.	Matrix
§262.34(c)(1)	Failure of generator to ensure that the quantity of waste in each area is no more than 55 gallons of hazardous waste or no more than one quart of acutely hazardous waste or to have area at or near any point of generation where wastes initially accumulate in a process.	\$1,000
§262.34(c)(1)(ii)	Failure of generator to mark containers with the words "HAZARDOUS WASTE" or other words which identify the contents of the container.	\$1,000
§262.34(c)(2)	Failure of generator accumulating waste in excess of the amounts listed in 40 C.F.R §262.34(c)(1) to mark container holding the excess accumulation of hazardous waste with the date the excess amount began accumulating.	\$1,000
§262.34(d)	Failure of generator of greater than 100 kilograms (kg) but less than 1,000 kg to ship waste off site within 180 days.	\$2,000
§262.34(d)(1)	Failure of generator of greater than 100 kg but less than 1,000 kg of hazardous waste to ensure quantity of waste never exceeds 6,000 kg.	Matrix
§262.34(d)(5)	Failure of generator of greater than 100 kg but less than 1,000 kg of hazardous waste to comply with emergency response requirements.	Matrix
§262.34(e)	Failure of generator of greater than 100 kg but less than 1,000 kg of hazardous waste, who transports his waste over 200 miles, to ship waste off site within 270 days.	\$2,000
§262.34(f)	Failure of generator of greater than 100 kg but less than 1,000 kg of hazardous waste, who exceeds the accumulation quantity or period, to comply with the disposal facility	\$2,000

requirements.

(40 C.F.R Part 262 Subpart D-Recordkeeping and Reporting)

§262.40(a)	Failure of generator to keep copy of manifest for three years.	\$500
§262.40(b)	Failure of generator to keep copy of hazardous waste report or exception report for three years.	\$300
§262.40(c)	Failure of generator to keep records of any test results, waste analyses, or other determinations for three years.	\$2,000
§262.40(d)	Failure of generator to keep copy of required records during the course of unresolved enforcement action or as requested by the Department.	\$1,000
§262.41(a)	Failure of generator to submit hazardous waste report of manifest activities by March 1.	\$300
§262.41(b)	Failure of generator who treats, stores or disposes of hazardous waste on-site to submit hazardous waste report covering those wastes.	\$3,000
§262.42(a)	Failure of generator of greater than 1,000 kg of hazardous waste to comply with exception reporting requirements.	\$1,000
§262.42(b)	Failure of generator of greater than 100 kg but less than 1,000 kg of hazardous waste to comply with exception reporting requirements.	\$1,000

(40 C.F.R. Part 262 Subpart E-Exports of Hazardous Waste)

§262.50	Failure of generator to comply with requirements of 40 C.F.R. Part 262 et seq. for exports of hazardous wastes.	\$5,000
§262.52	Failure of generator to comply with the receiving country's consent requirements or to obtain the EPA Acknowledgment of Consent prior to exporting hazardous waste.	Matrix
§262.53(a)	Failure of generator to comply with the EPA notification requirements prior to offering hazardous waste for export.	Matrix

§262.54	Failure of generator exporting hazardous waste to comply with the special manifest requirements.	Matrix
§262.55	Failure of generator exporting hazardous waste to file an exception report.	\$2,000
§262.56	Failure of generator exporting hazardous waste to comply with the annual reporting requirements.	Matrix
§262.57	Failure of generator exporting hazardous waste to comply with the record keeping requirements.	Matrix

(40 C.F.R. Part 262 Subpart F-Imports of Hazardous Waste)

§262.60	Failure of generator importing hazardous waste to comply with the special manifest requirements and 40 C.F.R. §262.	Matrix
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(N.J.A.C. 7:26G-6)

7:26G-6.1(c)3	Failure of generator to properly complete the ' manifest.	\$300
7:26G-6.2	Failure of generator to use proper waste code(s) that accurately describe the shipment of hazardous waste, determined according to the waste hierarchy.	\$500
7:26G-6.3(a)1	Failure of transporter to contact generator for instructions or of generator to give transporter instructions when a facility immediately rejects all or part of a shipment of hazardous waste or the transporter is unable to deliver the hazardous waste to the designated facility.	\$1,000
7:26G-6.3(a)li	Failure of generator, transporter, or facility to comply with manifest requirements for shipments of hazardous waste returned to the generator.	Matrix
7:26G-6.3(a)lii	Failure of generator, transporter, or facility to comply with manifest requirements for shipments of	Matrix

7:2G6-6.3(a)2	hazardous waste delivered to an alternate hazardous waste facility. Failure of generator, transporter, or facility to comply with manifest requirements when a facility rejects all or part of a shipment of hazardous waste and the manifest has been distributed by the facility.	Matrix
7:2G6-6.3(b)	Failure of transporter to accept a hazardous waste shipment when it is rejected by the designated facility and the waste was mixed or commingled by the transporter.	Matrix
7:26G-6.3(c)	Failure of transporter who accepts a return shipment of rejected waste under N.J.A.C. 7:26G-6.3(b) to comply with the requirements of N.J.A.C. 7:26G-6.3(c)1 and 2.	Matrix

4. The violations of N.J.A.C. 7:26G-7, Standards Applicable to Transporters of Hazardous Waste, and the civil administrative penalty amounts for each violation, are as set forth in the following table.

Rule	Rule summary	Base penalty or Matrix
(40 C.F.R. Part 263 Subpart A-General)		
§263.11	Failure of transporter transporting hazardous wastes to have EPA identification number.	\$5,000
(40 C.F.R. Part 263 Subpart B-Compliance with the Manifest System and Recordkeeping)		
§263.20(a)	Failure of transporter accepting hazardous waste from a generator to ensure it is accompanied by a manifest signed in accordance with the provisions of 40 C.F.R §262.20.	\$300
§263.20(b)	Failure of transporter to sign or date manifest or return a signed copy of manifest to generator before leaving	\$1,000

	generator's property.	
§263.20(c)	Failure of transporter to ensure that manifest accompanies hazardous waste.	\$5,000
263.20(d)(1)	Failure of transporter to obtain date of delivery and handwritten signature of other transporter or of owner or operator of designated facility.	\$500
§263.20(d)(3)	Failure of transporter to give remaining copies of manifest to the accepting transporter or designated facility.	\$500
§263.20(f)(1)(i)	Failure of rail transporter accepting hazardous waste from non-rail transporter to sign or date manifest.	\$2,000
§263.20(f)(1)(ii)	Failure of rail transporter accepting hazardous waste from non-rail transporter to return a signed copy of manifest to non-rail transporter.	\$500
§263.20(f)(1)(iii)	Failure of rail transporter accepting hazardous waste from non-rail transporter to forward at least three copies of the manifest to next non-rail transporter, designated facility, or last rail transporter in United States.	\$500
§263.20(f)(2)	Failure of rail transporter to ensure appropriate shipping paper accompanies hazardous waste at all times.	\$2,500
§263.20(f)(3)(i)	Failure of rail transporter delivering hazardous waste to designated facility to obtain date of delivery or handwritten signature of owner or operator of designated facility.	\$500
§263.20(f)(4)(i)	Failure of rail transporter delivering hazardous waste to non-rail transporter to obtain date of delivery or handwritten signature of non-rail transporter.	\$500 I
§263.20(f)(5)	Failure of non-rail transporter accepting hazardous waste from rail transporter to sign or date manifest or to provide signed copy of manifest to rail transporter.	\$1,000
§263.20(g)	Failure of transporter transporting waste out of U.S. to comply with	\$1,000

	requirements at 40C.F.R. §262.20(g)(1)-(4).	
§263.21(a)	Failure of transporter to deliver entire quantity to designated facility, alternate designated facility, next designated transporter, or place outside U.S.	\$10,000
§263.21(b)	Failure of transporter to contact generator for instructions or to revise manifest in case of undeliverable shipment.	\$1,000
§263.22(a)	Failure of transporter to maintain signed copy of manifest for three years.	\$500
§263.22(b)	Failure of water bulk shipment transporter to maintain copy of shipping paper for three years.	\$500
§263.22(c)	Failure of rail transporter to maintain copy of manifest and shipping paper for three years.	\$500
§263.22(d)	Failure of transporter to maintain copy of manifest indicating shipment left U.S. for three years.	\$500
§263.22(e)	Failure of transporter to maintain copy of manifest during the course of unresolved enforcement action or as requested by the Department.	\$1,000

(40 C.F.R. Part 262 Subpart C-Hazardous Waste Discharges)

§263.30(a)	Failure of transporter to take appropriate immediate action to protect human health and the environment from a discharge of hazardous waste during transportation.	\$10,000
§263.30(c)	Failure of transporter who has discharged hazardous waste to comply with State and Federal notice and report requirements.	\$3,000
§263.31	Failure of transporter to clean up the discharge and take action as may be required or approved.	\$10,000

(N.J.A.C. 7:26G-7)



7:26G-7.2(a)1	Failure of transporter to obtain hazardous waste transporter registration prior to operation.	\$10,000
7:26G-7.2(a)5	Failure of transporter to renew registration prior to May 1 of each registration period.	\$300
7:26G-7.2(a) 7	Failure of transporter to notify Department of change of information on registration.	\$3,000
7:26G-7.2(b)1	Failure of transporter to ensure each and every device used for the transportation of hazardous waste is registered with the Department.	Matrix
7:26G-7.2(b)2	Failure of transporter to prevent registered vehicle from being used by another transporter.	\$5,000
7:26G-7.2(b)4	Transporter engaged in transportation of hazardous waste during period when decals and registration are withheld pursuant to N.J.A.C. 7:26G 7.2(b).	Matrix
7:26G-7.2(b)6	Failure of transporter to properly display registration decal or to have copy of lease and lease certification available for inspection.	\$2,000
7:26G-7.3(a)1	Failure of transporter to comply with the Hazardous Materials Transportation Regulations at 49 C.F.R. Parts 171-180.	See N.J.A.C. 7:26G-2.4 Appendix, incorporated herein by reference
7:26G-7.3(a)2	Failure of transporter to comply with the Motor Carrier Safety Regulations at 49 C.F.R. Parts 390-397.	See N.J.A.C. 7:26G-2.4 Appendix
7:26G-7.3(b)	Failure to allow the Department to enter and inspect any vehicle transporting hazardous waste.	\$5,000
7:26G-7.4(a)	Failure of hazardous waste transfer facility to be operated by a licensed hazardous waste transporter who owns or leases the property.	Matrix
7:26G-7.4(b)	Failure to conduct storage, consolidation, or commingling only at a hazardous waste transfer facility or	Matrix

7:26G-7.4(c)	authorized hazardous waste facility. Failure of owner or operator of a hazardous waste transfer facility to comply with notification requirements prior to operating.	Matrix
7:26G-7.4(d)	Failure of owner or operator of a hazardous waste transfer facility to maintain written log(s).	Matrix
7:26G-7.4(e)	Failure of transporter utilizing a hazardous waste transfer facility to enter the necessary information on the log(s).	Matrix
7:26G-7.4(f)1	Failure of transporter, who stores or consolidates closed containers at a hazardous waste transfer facility to be a licensed hazardous waste transporter.	Matrix
7:26G-7.4(f)2	Transporter stored or consolidated closed containers at a hazardous waste transfer facility that was located at the facility indicated as the designated facility on the manifest.	Matrix
7:26G-7.4(f)3	Failure of transporter who stores or consolidates closed containers at a hazardous waste transfer facility to use containers meeting applicable USDOT packaging regulations in 49 C.F.R. Parts 171-180.	Matrix
7:26G-7.4(f)4	Failure of transporter who stores or consolidates closed containers at a hazardous waste transfer facility to maintain the containers in good condition.	Matrix
7:26G-7.4(f)5	Failure of transporter, who stores or consolidates closed containers at a hazardous waste transfer facility to comply with the hazardous materials segregation criteria.	Matrix
7:26G-7.4(f)6	Failure of transporter who stores or consolidates containers at a hazardous waste transfer facility to keep containers of hazardous waste closed.	Matrix
7:26G-7.4(f)7	Failure of transporter who stores or consolidates closed containers at a hazardous waste transfer facility to remove the newly consolidated waste	Matrix

7:26G-7.4(g)1	loads at or prior to the 10-day limit. Failure of transporter who commingles hazardous waste at a hazardous waste transfer facility to be a licensed hazardous waste transporter.	Matrix
7:26G-7.4(g)2	Transporter commingled hazardous waste at a hazardous waste transfer facility that was located at the facility indicated as the designated facility on the manifest.	Matrix
7:26G-7.4(g)3	Failure of transporter to commingle hazardous waste between containers meeting applicable USDOT packaging regulations in 49 C.F.R. Parts 107, 171-180.	Matrix
7:26G-7.4(g)4	Failure of transporter to only commingle hazardous waste that is designated on the generators' manifests for receipt by the same designated facility.	Matrix
7:26G-7.4(g)5	Failure of transporter who commingles hazardous waste at a hazardous waste transfer facility to amend the generators' manifests to reflect the commingling of hazardous waste.	Matrix
7:26G-7.4(g)6	Failure of transporter who commingles hazardous waste at a hazardous waste transfer facility to remove the newly commingled waste load at or prior to the 10-day limit.	Matrix
7:26G-7.4(h)	Transporter commingled hazardous wastes of different USDOT shipping descriptions.	Matrix

5. The violations of N.J.A.C. 7:26G-8, Standards Applicable to Owners and Operators of Hazardous Waste Treatment, Storage and Disposal Facilities, and the civil administrative penalty amounts for each violation, are as set forth in the following table.

Rule	Rule summary	Base penalty or Matrix
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(40 C.F.R Part 264 Subpart B - General Facility Standards)

§264.11	Failure of facility owner or operator to obtain EPA identification number.	\$5,000
§264.12(a)	Failure of facility owner or operator importing hazardous waste from a foreign country to notify EPA at least four weeks in advance of expected delivery.	\$5,000
§264.12(b)	Failure of facility owner or operator to inform generator in writing that he has the appropriate permits) for the waste the generator is shipping or to keep copy of notice in operating record.	Matrix
§264.12(c)	Failure of facility owner or operator when transferring operation of the facility to inform the new owner or operator of the requirements of 40 C.F.R. §264 and 270.	Matrix
§264.13(a)(1)	Failure of facility owner or operator to obtain detailed chemical analysis of representative sample before treating, storing, or disposing of any hazardous waste.	\$5,000
§264.13(a)(3)	Failure of facility owner or operator to repeat analysis as necessary to ensure that it is accurate and up to date.	\$1,000
§264.13(a)(4)	Failure of owner or operator of an off-site facility to inspect or analyze each hazardous waste shipment received to determine if it matches the waste specified on the manifest or shipping paper.	\$1,000
§264.13(b)	Failure of facility owner or operator to develop or follow a written waste analysis plan.	\$5,000
§264.14(a)	Failure of facility owner or operator to prevent the unknowing entry and minimize the possibility for the unauthorized entry onto the facility.	Matrix
§264.14(b)	Failure of facility owner or operator to have adequate surveillance system or adequate artificial or natural barrier and a means to control entry at all times.	\$5,000

§264.14(c)	Failure of facility owner or operator to post signs meeting each requirement of 40 C.F.R. §264.14(c).	\$500
§264.15(a)	Failure of facility owner or operator to inspect for malfunctions and deterioration, operator errors, or discharges.	\$3,000
§264.15(b)	Failure of facility owner or operator to develop or follow written schedule for inspecting monitoring, safety, emergency, security equipment, etc., to keep schedule on site, or to identify problems.	\$3,000
§264.15(c)	Failure of facility owner or operator to remedy any deterioration or malfunction immediately or on an appropriate schedule.	\$2,000
§264.15(d)	Failure of facility owner or operator to record inspections in log or to retain required information for three years.	\$300
§264.16(a)(1)	Failure of facility owner or operator to provide required classroom or on-the-job training for facility personnel.	\$2,000
§264.16(a)(2)	Failure of facility owner or operator to provide a training program that is directed by a person trained in hazardous waste management procedures.	\$1,000
§264.16(a)(3)	Failure of facility owner or operator to provide, at a minimum, a training program which is designed to ensure that facility personnel are able to respond effectively to emergencies.	\$1,000
§264.16(b)	Failure of facility personnel to successfully complete the training program required in 264.16(a) within six months.	\$1,000
§264.16(c)	Failure of facility personnel to take part in an annual review of the initial training required in 40 C.F.R. §264.16(a).	\$500
§264.16(d)	Failure of facility owner or operator to maintain training records at the facility.	\$500
§264.16(e)	Failure of facility owner or operator	\$500

§264.17(a)	to keep training records until closure. Failure of facility owner or operator to keep ignitable or reactive waste separated and protected from sources of ignition or reaction, to confine smoking or open flame to specially designated locations while handling ignitable or reactive waste, or to conspicuously place "No Smoking" signs wherever there is a hazard from ignitable or reactive waste.	\$1,000
§264.17 (b)	Failure of facility owner or operator that treats, stores, or disposes of ignitable, reactive, or mixtures of incompatible wastes to take precautions to prevent reactions.	\$2,000

(40 C.F.R. Part 264 Subpart C-Preparedness and Prevention)

§264.31	Failure of facility owner or operator to maintain or operate facility to minimize possibilities of fire, explosion or releases of hazardous waste or hazardous waste constituents.	\$5,000
§264.32	Failure of facility owner or operator to equip facility with emergency equipment.	\$5,000
§264.33	Failure of facility owner or operator to test and maintain emergency equipment.	\$1,000
§264.34	Failure of facility owner or operator to maintain access to communications or alarm system.	\$1,000
§264.35	Failure of facility owner or operator to maintain sufficient aisle space for the unobstructed movement of personnel or equipment in an emergency.	\$1,000
§264.37	Failure of facility owner or operator 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.	\$5,000

(40 C.F.R Part 264 Subpart D-Contingency Plan and Emergency Procedures)

§264.51(a)	Failure of facility owner or operator to have contingency plan designed to minimize hazards to human health and the environment.	\$5,000
§264.51(b)	Failure of facility owner or operator to carry out provisions of the plan immediately if there is a fire, explosion, or release.	\$10,000
§264.52(a)	Failure of contingency plan to describe actions to be taken in response to fires, explosions, or releases.	\$1,000
§264.52(b)	Failure of facility owner or operator to amend its SPCC (40 CFR Part 112 or Part 1510 of chapter V) or DPCC (N.J.A.C. 7aE) plan to incorporate hazardous waste management provisions.	\$1,000
§264.52(c)	Failure of contingency plan to describe arrangements agreed to by local police or fire departments, hospitals, contractors, or State or local emergency response teams.	\$300
§264.52(d)	Failure of contingency plan to list name, addresses, or phone numbers of persons qualified to act as emergency coordinator.	\$300
§264.52(e)	Failure of contingency plan to list emergency equipment, updated as required, with its location, description, or capabilities specified.	\$300
§264.52(f)	Failure of contingency plan to include evacuation procedure for personnel including signals, evacuation routes or alternate evacuation routes.	\$300
§264.53	Failure of 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.	\$300
§264.54	Failure of facility owner or operator to review or amend contingency plan	\$300

	as necessary.	
§264.55	Failure of emergency coordinator to be thoroughly familiar with plan or available at all times.	\$1,000
§264.56(a)-(b)	Failure of emergency coordinator to identify character, source, amount or a real extent of discharged materials; or to activate alarms or communications systems, or to notify appropriate State or local agencies if necessary.	\$2,000
§264.56(c)	Failure of emergency coordinator to assess possible hazards to human health and the environment.	\$1,000
§264.56(d)	Failure of emergency coordinator to immediately notify appropriate emergency response agency of situation threatening health and the environment.	\$5,000
§264.56(e)	Failure of emergency coordinator to take reasonable measures to ensure hazards are minimized.	\$5,000
§264.56(f)	Failure of emergency coordinator to monitor leaks, pressure buildup, gas generation, or ruptures, if the facility stopped operating due to fire, explosion, or discharge.	\$5,000
§264.56(g)	Failure of emergency coordinator to provide for treating, storing, or disposing of recovered waste, contaminated soil or surface water, or other material.	\$1,000
§264.56(h)	Failure of emergency coordinator to ensure that in affected area of facility no incompatible waste is treated, stored, or disposed of until cleanup procedures are complete or to ensure that emergency equipment is cleaned and fit for intended use before operations are resumed.	\$1,000
§264.56(i)	Failure of facility owner or operator to notify Department and local authorities that facility is in compliance before operations are resumed.	\$1,000
§264.56(j)	Failure of facility owner or operator	\$500



to submit written report to  
Department within 15 days after an  
incident.

(40 C.F.R. Part 264 Subpart E-Manifest System, Recordkeeping, and  
Reporting)

§264.71(a)(1)	Failure of facility owner or operator to sign or date manifest.	\$2,000
§264.71(a)(2)	Failure of facility owner or operator to note any significant discrepancies in the manifest on each copy of the manifest.	\$500
§264.71(a)(3)	Failure of facility owner or operator to give transporter a copy of manifest or forward one copy to the Department.	\$500
§264.71(a)(4)	Failure of facility owner or operator to send copy of manifest to generator within 30 days after delivery of hazardous waste.	\$500
§264.71(a)(5)	Failure of facility owner or operator to retain copy of manifest for three years.	\$500
§264.71(b)(1)	Failure of facility owner or operator receiving hazardous waste from rail or water (bulk shipment) transporter to sign or date manifest or shipping paper.	\$500
§264.71(b)(2)	Failure of facility owner or operator receiving hazardous waste from rail or water (bulk shipment) transporter to note any significant discrepancies in manifest or shipping paper on each copy of manifest or shipping paper.	\$500
§264.71(b)(3)	Failure of facility owner or operator receiving hazardous waste from rail or water (bulk shipment) transporter to give transporter a copy of manifest or shipping paper or to forward one copy to the Department.	\$500
§264.71(b)(4)	Failure of facility owner or operator receiving hazardous waste from rail or water (bulk shipment) transporter to send copy of manifest or shipping paper to generator within 30 days	\$500

	after delivery.	
§264.71(b)(5)	Failure of facility owner or operator receiving hazardous waste from rail or water (bulk shipment) transporter to retain copy of manifest for three years.	\$500
§264.72(b)	Failure of facility owner or operator to reconcile a significant manifest discrepancy with the generator or transporter within 15 days of receipt or to report the unresolved discrepancy to the Department immediately thereafter.	\$1,000
§264.73	Failure of facility owner or operator to keep written operating records meeting each requirement of 40 C.F.R. §264.73.	\$3,000
§264.74(a)	Failure of facility owner or operator to furnish upon request, or make available for inspection, any record.	\$5,000
§264.74(b)	Failure of facility owner or operator to keep any record during course of any unresolved enforcement action or as requested by the Department.	\$2,000
§264.74(c)	Failure of facility owner or operator to submit copy of waste disposal locations and/or quantities to Department and/or local land authority upon closure of facility.	\$5,000
§264.75	Failure of facility owner or operator to prepare or submit a copy of the hazardous waste report to Department by March 1 of each even numbered year.	\$3,000
§264.76	Failure of facility owner or operator receiving unmanifested waste to submit an “Unmanifested Waste Report” within 15 days.	Matrix
(40 C.F.R. Part 264. Subpart F-Releases From Solid Waste Management Units)		
§264.92	Failure of facility owner or operator to comply with permit conditions designed to protect ground water.	Matrix
§264.95	Failure of facility owner or operator ,	Matrix

	to conduct ground water monitoring at the point of compliance as specified in the facility permit.	
§264.96	Failure of facility owner or operator to maintain a compliance monitoring program for the life of the compliance period as specified in the facility permit.	Matrix
§264.97	Failure of facility owner or operator to provide facility with ground water monitoring system in accordance with 40 C.F.R. §264.97.	\$10,000
§264.98	Failure of facility owner or operator to establish a detection monitoring program in conformance with 40 C.F.R. §264.98.	Matrix
§264.145	Failure of facility owner or operator to establish financial assurance for post-closure care of facility.	\$5,000
§264.147(a)	Failure of facility owner or operator to meet liability requirements for sudden accidental occurrences.	\$5,000
§264.147(b)	Failure of facility owner or operator to meet the liability requirements for nonsudden occurrences.	\$5,000
§264.148(a)	Failure of facility owner or operator or guarantor to notify Department of commencement of proceeding under Title 11 of the Bankruptcy Code.	\$10,000
§264.148(6)	Failure of facility owner or operator to establish other financial assurance or liability coverage within 60 days after bankruptcy, suspension, or revocation of the issuer.	\$5,000

(40 C.F.R. Part 264 Subpart I-Use and Management of Containers)

§264.171	Failure of facility owner or operator to handle hazardous waste in containers of good condition.	\$2,000
§264.172	Failure of facility owner or operator to use container compatible with hazardous waste stored.	\$2,000
§264.173	Failure of facility owner or operator to comply with the requirements for the management of containers.	\$1,000

§264.174	Failure of facility owner or operator to perform inspection of each area where containers are stored.	\$3,000
§264.175(b)(1)	Failure of container storage area to have an underlying base free of cracks or gaps and sufficiently impervious to contain leak, spills and accumulated precipitation until collected material is detected and removed.	\$1,000
§264.175(b)(2)	Failure of container storage area to be sloped or designed and operated to drain and remove liquids, unless containers are protected from contact with accumulated liquids.	\$1,000
§264.175(b)(3)	Failure of container storage area to have capacity to contain 10 percent of volume of all containers or volume of largest container, whichever is greater.	\$2,000
§264.175(b)(4)	Failure of container storage area to be protected from run-on, unless in compliance with exceptions at 40 C.F.R. §264.175(b)(4).	\$1,000
§264.175(b)(5)	Failure of facility owner or operator to remove spilled or leaked waste or accumulated precipitation from sump or collection area in a timely manner to prevent overflow.	\$1,000
§264.176	Failure of facility owner or operator to store containers holding ignitable or reactive wastes at least 50 feet from property line.	\$1,000
§264.177	Failure of facility owner or operator to comply with each of the special requirements for incompatible wastes.	\$2,000
§264.178	Failure of facility owner or operator to remove all hazardous wastes and residues from containment system at closure or to remove or decontaminate remaining containers, liners, bases, and soil containing or contaminated with hazardous waste.	\$5,000
§264.179	Failure of facility owner or operator to comply with 40 C.F.R. §264, Subparts AA, BB, and CC.	Matrix

(40 C.F.R. Part 264 Subpart J-Tank Systems)

§264.191(a)	Failure of facility owner or operator to obtain and keep a written assessment by a professional engineer attesting to existing tank system's integrity.	Matrix
§264.191(b)	Failure of written assessment to comply with the requirements at 40 C.F.R. §264.191(b).	\$5,000
§264.191(c)	Failure of facility owner or operator to assess the integrity of a tank within 12 months of a material becoming a hazardous waste.	Matrix
§264.192(b)	Failure of facility owner or operator to have a new tank inspected by a qualified installation inspector or engineer prior to covering, enclosing, or placing in use.	Matrix
§264.192(c)	Failure of facility owner or operator of a new tank system or components to use appropriate backfill material.	Matrix
§264.192(d)	Failure of facility owner or operator to have a new tank and ancillary equipment tested for tightness prior to covering, enclosing, or placing in use.	Matrix
§264.192(e)	Failure of facility owner or operator to have ancillary equipment supported and protected from settlement, vibration, expansion, or contraction.	Matrix
§264.192(f)	Failure of facility owner or operator to provide proper corrosion protection for new tank systems.	Matrix
§264.192(g)	Failure of facility owner or operator to obtain and keep on record . certifications from those professionals responsible for tank system design and installation.	Matrix
§264.193(a)	Failure of facility owner or operator to install secondary containment for hazardous waste tanks within the time frames outlined in 40 C.F.R. §264.193(a).	Matrix
§264.193(b)(1)	Failure of secondary containment system to be designed, installed, and operated to prevent migration of	\$3,000

	wastes or accumulated liquid out of the system.	
§264.193(b)(2)	Failure of secondary containment system to detect and collect releases and accumulated liquids.	Matrix
§264.193(c)(1)	Failure of containment system to consist of material compatible with wastes stored or to have sufficient strength and thickness.	\$2,000
§264.193(c)(2)	Failure of facility owner or operator to construct secondary containment unit on a base or foundation capable of providing support and resistance to pressure gradients.	Matrix
§264.193(c)(3)	Failure of facility owner or operator to construct secondary containment with a leak detection system that is designed and operated to detect the failure of containment structures) or the presence of a release.	Matrix
§264.193(c)(4)	Failure of facility owner or operator to remove accumulated precipitation or spilled or leaked waste from secondary containment within 24 hours.	\$1,000
§264.193(d)	Failure of facility owner or operator to provide secondary containment featuring an approved device.	Matrix
§264.193(e)(1)	Failure of external liner system to meet requirements at 40 C.F.R. §264.193(e)(1).	\$1,000
§264.193(e)(2)	Failure of vault system to meet requirements at 40 C.F.R. §264.193(e)(2).	\$1,000
§264.193(e)(3)	Failure of double-walled tank to meet requirements at 40 C.F.R. §264.193(e)(3).	\$1,000
§264.193(f)	Failure of facility owner or operator to provide secondary containment for ancillary equipment.	Matrix
§264.194(a)	Failure of facility owner or operator to prevent hazardous wastes or treatment reagents from being placed in tank if they can cause the tank, its ancillary equipment, or containment	\$5,000

	system to rupture, leak, corrode, or otherwise fail.	
§264.194(b)	Failure of facility owner or operator to use appropriate controls and practices to prevent spills and overflows from tanks or containment systems.	\$500
§264.195(a)	Failure of facility owner or operator to develop and follow a schedule and procedure for inspecting overfill controls.	\$500
§264.195(b)(1)	Failure of facility owner or operator to inspect aboveground portions of a tank system for corrosion or releases of waste each operating day.	\$1,000
§264.195(b)(2)	Failure of facility owner or operator to inspect data gathered from monitoring and leak detection equipment each operating day.	\$500
§264.195(b)(3)	Failure of facility owner or operator to inspect construction materials and area immediately surrounding tank system or secondary system for erosion or signs of releases.	\$500
§264.195(c)	Failure of facility owner or operator to inspect cathodic protection systems.	Matrix
§264.195(d)	Failure of facility owner or operator to document inspections in facility operating record.	Matrix
§264.196(a)	Failure of facility owner or operator to cease using a tank from which a release occurred or which is unfit for use.	Matrix
§264.196(b)	Failure of facility owner or operator to remove waste from a tank in which a release occurred within 24 hours in order to affect repairs on the unit.	Matrix
§264.196(c)	Failure of facility owner or operator to prevent further migration of a release to soils or water or to remove and dispose of any visible contamination of soil or water.	Matrix
§264.196(d)	Failure of facility owner or operator to report a release within 24 hours or to submit a spill report within 30	Matrix

	days.	
§264.196(e)	Failure of facility owner or operator to comply with 40 C.F.R §264.196(e)(2)-(4) prior to placing a tank back in service following a release.	Matrix
§264.196(f)	Failure of facility owner or operator to obtain a professional engineer's certification prior to placing a tank back in service following a major repair.	Matrix
§264.197(a)	Failure of facility owner or operator at closure to remove or decontaminate all waste residues, contaminated containment system components, contaminated soils, structures, etc.	\$5,000
§264.197(c)	Failure of facility owner or operator that has a tank system without secondary containment to comply with requirements at 40 C.F.R. §264.197(c).	Matrix
§264.198(a)	Failure of facility owner or operator to meet specific requirements before placing ignitable or reactive waste in a tank.	\$5,000
§264.198(b)	Failure of facility owner or operator storing or treating ignitable or reactive wastes in tanks to comply with NFPA's buffer zone requirements for tanks.	\$2,000
§264.199(a)	Failure of facility owner or operator to prevent the placing of incompatible wastes, or wastes and materials, in the same tank, except in compliance with 40 C.F.R §264.17(b).	\$10,000
§264.199(b)	Failure of facility owner or operator to prevent the placing of hazardous waste in a tank which was not decontaminated and previously held incompatible waste, except in compliance with 40 C.F.R. §264.17(b).	\$5,000
§264.200	Failure of facility owner or operator to comply with 40 C.F.R. §264, Subparts AA, BB, and CC.	Matrix



(40 C.F.R. Part 264 Subpart K-Surface Impoundments)

§264.221(a)	Failure of surface impoundment to have lines designed, constructed, and installed to prevent migration of waste during active life of impoundment.	\$10,000
§264.221(a)(1)	Failure of liner to have properties that prevent failure due to pressure gradients, contact with waste, climatic conditions, and stress of installation and operation.	\$10,000
§264.221(a)(2)	Failure of facility owner or operator to place lower liner on foundation capable of providing support.	\$10,000
§264.221(a)(3)	Failure of surface impoundment to have the liner installed to cover all surrounding earth likely to be in contact with the waste or leachate.	\$10,000
§264.221(c) (1)(i)(A)	Failure of top liner to be designed and constructed to prevent migration of hazardous constituents into liner during active life and post closure care period.	\$5,000
§264.221(c) (1)(i)(B)	Failure of bottom liner to consist of at least three feet of soil of specified hydraulic conductivity.	\$5,000
§264.221(c)(2)	Failure of surface impoundment to have leachate collection system between liners.	\$10,000
§264.221(c)(4)	Failure of facility owner or operator to demonstrate that the seasonal high water table will not adversely affect the leak detection system.	\$10,000
§264.223	Failure of facility owner or operator that stores hazardous waste in a surface impoundment to have an approved response action plan.	Matrix
§264.226(a)	Failure to comply with inspection requirements for surface impoundment during and immediately after construction.	\$3,000
§264.226(b)	Failure to comply with inspection requirements during operation of surface impoundment.	\$3,000
§264.226(c)	Failure of facility owner or operator who stores hazardous waste in a	Matrix

	surface impoundment to obtain a professional engineer's certification that the dike has structural integrity.	
§264.226(d)	Failure of facility owner or operator who stores hazardous waste in a surface impoundment to record the amount of liquids removed from each leak detection sump.	Matrix
§264.227(a)	Failure of facility owner or operator to remove surface impoundment from service if liquid level suddenly drops or if dike leaks.	\$10,000
§264.227(b)	Failure of facility owner or operator to comply with requirements necessary when surface impoundment is removed from service.	\$10,000
§264.227(c)	Failure of facility owner or operator to have requirements for surface impoundment in contingency plan.	\$1,000
264.227(d)	Failure of facility owner or operator to comply with requirements for placing surface impoundment back into service.	\$5,000
§264.227(e)	Failure of facility owner or operator to close surface impoundment that has been removed from service and is not being repaired.	\$5,000
§264.228(a)	Failure of facility owner or operator who stores hazardous waste in a surface impoundment to properly close and provide post-closure care following closure.	Matrix
§264.228(b)	Failure of facility owner or operator to comply with maintenance and monitoring requirements during post closure of surface impoundment.	\$2,000
§264.229	Failure of facility owner or operator to meet requirements for placing ignitable or reactive waste in surface impoundment.	\$5,000
§264.230	Failure of facility owner or operator to prevent incompatible wastes and/or materials from being placed in same surface impoundment.	\$10,000
§264.231(a)	Failure of facility owner or operator that stores hazardous waste in a	Matrix

	surface impoundment to obtain an approved management plan prior to placing F020, F021, F023, F026 or F027 wastes in the surface impoundment.	
§264.232	Failure of facility owner or operator to comply with 40 C.F.R. §264, Subparts BB and CC.	Matrix
(40 C.F.R. Part 264 Subpart L-Waste Piles)		
§264.251(a)	Failure of facility owner or operator to ensure waste piles have a proper liner and leachate collection system.	Matrix
§264.251(c)	Failure of facility owner or operator to ensure waste piles have double liners and a leachate collection system both above and between the liners.	Matrix
§264.251(g)	Failure of facility owner or operator to have a run-on control system to prevent flow onto a waste pile from at least a 25-year storm.	Matrix
§264.251(h)	Failure of facility owner or operator to have a run-off management system to collect run-off from a waste pile from a 25-year storm.	Matrix
§264.251(i)	Failure of facility owner or operator to empty run-on and run-off holding facilities expeditiously following a storm.	Matrix
§264.251(j)	Failure of facility owner or operator to manage a waste pile in order to prevent wind dispersal.	Matrix
§264.253	Failure of facility owner or operator to have an approved response action plan prior to utilizing a waste pile for hazardous waste storage.	Matrix
§264.254(a)	Failure of facility owner or operator to inspect liners to be used with waste piles during construction or installation.	Matrix
§264.254(b)	Failure of facility owner or operator to inspect waste piles on a weekly basis and after storms.	Matrix
§264.254(c)	Failure of facility owner or operator to record the amount of liquids	Matrix

	removed from each leak detection system sump at least once a week through the active life and closure period of a waste pile.	
§264.256	Failure of facility owner or operator to ensure that ignitable or reactive wastes are not placed in waste piles.	Matrix
§264.257	Failure of facility owner or operator to comply with special handling instructions for the placement of incompatible wastes in waste piles.	Matrix
§264.258	Failure of facility owner or operator to ensure that all waste and contaminated containment system components have been removed and managed as hazardous waste when closing a waste pile.	Matrix
§264.259(a)	Failure of facility owner or operator to have an approved management plan prior to placing F020, F021, F022, F023, F026, or F027 waste in a waste pile.	Matrix

(40 C.F.R. Part 264 Subpart M-Land Treatment)

§264.271(a)	Failure of facility owner or operator conducting land treatment to have an established land treatment program meeting the requirements of 40 C.F.R. §264.21.	Matrix
§264.272(a)	Failure of facility owner or operator conducting land treatment to have demonstrated prior to application of the waste that hazardous constituents in the waste will be completely degraded in the treatment zone.	Matrix
§264.272(c)	Failure of facility owner or operator conducting land treatment to ensure that all field tests and laboratory analysis conducted meet the standards of 40 C.F.R. §264.272(c).	Matrix
§264.273(a)	Failure of facility owner or operator to operate a land treatment unit in accordance with all design and operating conditions.	Matrix
§264.273(b)	Failure of facility owner or operator	Matrix

§264.273(c)	to minimize the run-off of hazardous constituents from the treatment zone. Failure of facility owner or operator utilizing land treatment to have a run on control system capable of preventing flow into the treatment zone during a 25-year storm.	Matrix
§264.273(d)	Failure of facility owner or operator utilizing land treatment to have a run off management system capable of collecting and controlling flow during a 25-year storm.	Matrix
§264.273(e)	Failure of facility owner or operator utilizing land treatment to empty run on and run-off holding facilities expeditiously following a storm.	Matrix
§264.273(f)	Failure of facility owner or operator utilizing land treatment to manage the treatment zone in a manner to control wind dispersal of hazardous waste.	Matrix
§264.273(g)	Failure of facility owner or operator to conduct weekly inspections of the land treatment unit.	Matrix
§264.276	Failure of facility owner or operator to comply with 40 C.F.R. §264.276 when growing food-chain crops on or in the treatment zone.	Matrix
§264.278	Failure of facility owner or operator to implement an unsaturated zone monitoring program in conformance with 40 C.F.R. §264.178 and make appropriate notifications if there is an increase in hazardous constituents below the treatment zone.	Matrix
§264.279	Failure of facility owner or operator to include application dates and rates to the operating record.	Matrix
§264.280(a)	Failure of facility owner or operator to continue operation of all control equipment and treatment operations during the closure period.	Matrix
§264.280(b)	Failure of facility owner or operator to submit a soil scientist's certification upon closure of the facility.	Matrix
§264.280(c)	Failure of facility owner or operator	Matrix

	to continue operation of all control equipment and treatment operations during the post-closure period.	
§264.281	Failure of facility owner or operator to ensure that ignitable or reactive waste are not placed in the land treatment zone.	Matrix
§264.282	Failure of facility owner or operator to ensure that incompatible wastes are not placed in the same land treatment zone.	Matrix
§264.283(a)	Failure of facility owner or operator to obtain an approved management plan prior to placing F020, F021, F023, F026 or F027 wastes in a land treatment unit.	Matrix

(40 C.F.R Part 264 Subpart N-Landfills)

§264.301(a)	Failure of facility owner or operator hazardous waste landfill to have a liner system as required by 40 C.F.R. 64.301(a).	\$2,000
§264.301(c)	Failure of facility owner or operator of new hazardous waste landfill to have a liner system as required by 40 C.F.R. §264.301(c).	\$2,000
§264.301(g)	Failure of owner or operator of hazardous waste landfill to manage run-on system.	\$2,000
§264.301(h)	Failure of owner or operator of hazardous waste landfill to manage run-off system.	\$2,000
§264.301(i)	Failure of facility owner or operator of hazardous waste landfill to empty or manage system after storm.	\$2,000
§264.301(j)	Failure of facility owner or operator of a hazardous waste landfill to control wind dispersion of particulate matter.	\$2,000
§264.303	Failure of facility owner or operator to meet inspection requirements for hazardous waste landfill.	\$3,000
§264.303(c)(1)	Failure of facility owner or operator to record the amount of liquids removed from each leak detection	Matrix

§264.303(c)(2)	system sump at least once a week through the active life and closure period of a hazardous waste landfill. Failure of facility owner or operator to record the amount of liquids removed from each leak detection system sump in accordance with 40 C.F.R. §264.303(c)(2) following the closure period of a hazardous waste landfill.	Matrix
§264.304	Failure of facility owner or operator that stores hazardous waste in a landfill unit to have an approved response action plan.	Matrix
§264.309(a)	Failure of facility owner or operator to maintain in operating record details of location and dimensions of each hazardous waste landfill cell.	\$2,000
§264.309(b)	Failure of facility owner or operator to maintain in operating record the contents of each hazardous waste landfill cell and location of each hazardous waste type.	\$2,000
§264.310(a)	Failure of facility owner or operator of a hazardous waste landfill to place final cover over landfill.	\$5,000
§264.310(b)(1)	Failure of owner or operator of a hazardous waste landfill to maintain the function and integrity of the final cover including making repairs to the cover necessary to correct the effects of settling, subsidence, erosion, or other events.	\$2,000
§264.310(b)(2)	Failure of facility owner or operator to continue to operate the leachate collection system until leachate is no longer detected.	Matrix
§264.310(b)(3)	Failure of facility owner or operator to maintain and monitor the leak detection system	\$2,000
§264.310(b)(4)	Failure of facility owner or operator to continue to maintain and monitor the ground water monitoring system after final closure.	Matrix
§264.310(b)(5)	Failure of facility owner or operator to prevent run-on and run-off from	\$2,000

	eroding or otherwise damaging the final cover.	
§264.310(b)(6)	Failure of facility owner or operator to protect and maintain surveyed benchmarks used in complying with 40 C.F.R. §264.309.	\$1,000
§264.312	Facility owner or operator of hazardous waste landfill placed ignitable or reactive waste in hazardous waste landfill.	\$10,000
§264.313	Facility owner or, operator of hazardous waste landfill placed incompatible wastes and materials in same landfill cell.	\$10,000
§264.314(b)	Facility owner or operator placed bulk or non-containerized liquid hazardous waste in landfill.	\$10,000
§264.314(c)	Failure of facility owner or operator to ensure that liquid hazardous waste or hazardous wastes containing free liquids are not placed in landfill.	Matrix
§264.314(d)	Facility owner or operator placed containers holding free liquids in hazardous waste landfill.	\$5,000
§264.314(f)	Facility owner or operator placed liquid which is not a hazardous waste in hazardous waste landfill.	\$5,000
§264.315	Failure of facility owner or operator to comply with special requirements for containers being placed in a landfill.	\$2,000
§264.316(a)	Failure of facility owner or operator to comply with inside package requirements of overpack containers before placing in a hazardous waste landfill.	\$2,000
§264.316(b)	Failure of metal outer container to be full after packing with inside containers and absorbent material.	\$2,000
§264.316(c)	Failure of facility owner or operator to use absorbent material that is not capable of reacting dangerously with, being decomposed by, or being ignited by the contents inside the containers in accordance with 40 C.F.R. §264.17(b).	\$5,000



§264.316(d)	Failure of facility owner or operator to prevent incompatible wastes from being placed in same outside container.	\$5,000
§264.316(e)	Failure of facility owner or operator to meet requirements for packaging reactive wastes before placing in hazardous waste landfill.	\$5,000
§264.317	Failure of facility owner or operator of hazardous waste landfill to comply with special requirements for F020, F021, F022, F023, F026, and F027 wastes.	\$5,000

(40 C.P.R. Part 264 Subpart O-Incinerators)

§264.341(b)	Failure of facility owner or operator throughout normal operation of incinerator to conduct sufficient waste analyses to verify compliance with permit.	\$5,000
§264.344	Failure of facility owner or operator to operate a hazardous waste incinerator in compliance with the conditions at 40 C.F.R. §264.345 and the permit.	Matrix
§264.345(a)	Failure of facility owner or operator to operate incinerator in accordance with operating requirements of permit.	\$5,000
§264.345(c)	Facility owner or operator fed hazardous waste into the incinerator during start up and shut down when not operating at steady state conditions.	\$10,000
§264.345(d)(1)	Failure of facility owner or operator to keep combustion zone of incinerator totally sealed against fugitive emissions.	\$1,000
§264.345(d)(2)	Failure of facility owner or operator to maintain combustion zone of incinerator at lower than atmospheric pressure.	\$1,000
§264.345(d)(3)	Failure of facility owner or operator of incinerator to provide approved alternate means of control of fugitive	\$1,000

	emissions.	
§264.345(e)	Failure of facility owner or operator to operate incinerator with automatic feed cut off.	\$3,000
§264.345(f)	Failure of facility owner or operator to cease operation of incinerator if change in waste feed or operating conditions exceed permit limits.	\$5,000
§264.347(a)(1)	Failure of facility owner or operator to monitor combustion temperature, waste feed rate, gas velocity continuously.	\$500
§264.347(a)(2)	Failure of facility owner or operator to monitor carbon monoxide continuously.	\$500
§264.347(a)(3)	Failure of facility owner or operator to conduct, upon request, sampling or analyses of waste or exhaust emissions.	\$1,000
§264.347(b)	Failure of facility owner or operator to thoroughly inspect incinerator or associated equipment at least daily.	\$3,000
§264.347(c)	Failure of facility owner or operator to test emergency waste feed cutoff controls or alarm systems weekly.	\$500
§264.347(d)	Failure of facility owner or operator to record all monitoring and inspection data in the facility's operating log.	Matrix
§264.351	Failure of facility owner or operator to remove all hazardous waste and hazardous waste residues from incinerator site at closure.	\$5,000

(40 C.F.R. Part 264 Subpart W-Drip Pads)

§264.571	Failure of facility owner or operator operating an existing drip pad to evaluate the pad to determine if it meets the requirements of 40 C.F.R. §264, Subpart W.	Matrix
§264.573(a)	Failure of facility owner or operator to design and construct a drip pad that is impermeable, sloped, termed, and of sufficient structural strength or to obtain an engineer's evaluation,	Matrix

	recertified annually.	
§264.573(b)(1)	Failure of facility owner or operator to ensure drip pads have a proper liner of appropriate materials on a sound foundation.	Matrix
§264.573(b)(2)	Failure of facility owner or operator to ensure drip pads have a proper functioning leakage detection system.	Matrix
§264.573(b)(3)	Failure of facility owner or operator to ensure drip pads have a leakage collection system to collect any leakage from below the drip pad or to record in the facility's operating log the date and amount of leakage collected.	Matrix
§264.573(c)	Failure of facility owner or operator to ensure drip pads are maintained free of cracks, gaps, or deterioration.	Matrix
§264.573(d)	Failure of facility owner or operator to ensure drip pads are designed and operated to control and collect all hazardous waste drippage.	Matrix
§264.573(e)	Failure of facility owner or operator to have a run-on control system to prevent or control flow onto a drip pad from at least a 25-year storm.	Matrix
§264.573(f)	Failure of facility owner or operator utilizing a drip pad to have a run-off management system capable of collecting and controlling flow during a 25-year storm.	Matrix
§264.573(g)	Failure of facility owner or operator to obtain a statement from a professional engineer certifying that the drip pad design meets the requirements of 40 C.F.R. §264.573(a)-(f).	Matrix
§264.573(h)	Failure of facility owner or operator utilizing a drip pad to remove drippage and precipitation from collection system.	Matrix
§264.573(i)	Failure of facility owner or operator to clean drip pads of accumulated hazardous waste in order to allow for weekly inspections of the entire pad or to record in the facility's operating	Matrix

	log the date and procedures for each cleaning.	
§264.573(j)	Failure of facility owner or operator to minimize the tracking of hazardous waste off of the drip pad.	Matrix
§264.573(k)	Failure of facility owner or operator to hold all treated lumber on the drip pad until drippage has ceased or to document actions.	Matrix
§264.573(l)	Failure of facility owner or operator to empty run-on and run-off collection units promptly following a storm.	Matrix
§264.573(m)	Failure of facility owner or operator to make repairs to a drip pad which has had, or may of had, a release of hazardous waste, in accordance with 40 C.F.R §264.573(m).	Matrix
§264.573(o)	Failure of facility owner or operator utilizing drip pads to maintain records of past waste handling practices.	Matrix
§264.574(a)	Failure of facility owner or operator using a drip pad to obtain a professional engineer's certification immediately after installation of a liner.	Matrix
§264.574(b)	Failure of facility owner or operator to inspect drip pads on a weekly basis and after storms.	Matrix
§264.575	Failure of facility owner or operator to ensure that all waste and contamination have been removed when closing a drip pad.	Matrix

(40 C.F.R. Part 264 Subpart EE-Hazardous Waste Munitions and Explosives Storage)

§264.1201(a)(1)	Failure of hazardous waste munitions and explosives storage unit to be designed and operated to minimize the potential for detonation or other means of release of hazardous waste.	Matrix
§264.1201(a)(2)	Failure of hazardous waste munitions and explosives storage unit to be designed and operated to provide a primary barrier designed to contain hazardous waste.	Matrix

§264.1201(a)(3)	Failure of hazardous waste munitions and explosives storage unit, for wastes stored outside, to be designed and operated so that the waste and containers will not be in standing precipitation.	Matrix
§264.1201(a)(4)	Failure-of hazardous waste munitions and explosives storage unit, for liquid wastes, to be designed and operated to provide a secondary containment system that assures that any released liquids are contained, promptly detected, and removed.	Matrix
§264.1201(a)(5)	Failure of hazardous waste munitions and explosives storage' unit to be designed and operated to provide monitoring and inspection procedures that assure the controls and containment systems are working as designed.	Matrix
§264.1201(b)(1)	Failure of hazardous waste munitions and explosives stored in earth-covered magazines to comply with the requirements at 40 C.F.R. §264.1201(b)(1).	Matrix
§264.1201(b)(2)	Failure of hazardous waste munitions and explosives in above-ground magazines to be located and designed so as to minimize the propagation of an explosion to adjacent units.	Matrix
§264.1201(b)(3)	Failure of hazardous waste munitions and explosives in outdoor or open storage areas to be located and designed so as to minimize the propagation of an explosion to adjacent units.	Matrix
§264.1201(c)	Failure of hazardous waste munitions and explosives to be stored in accordance with an SOP specifying procedures to ensure safety, security, and environmental protection.	Matrix
§264.1201(d)	Failure of hazardous waste munitions and explosives to be packaged to ensure safety in handling and storage.	Matrix
§264.1201(e)	Failure of hazardous waste munitions and explosives to be inventoried at	Matrix

§264.1201(f)	least annually. Failure of hazardous waste munitions and explosives and their storage units to be inspected and monitored to ensure explosive safety and to ensure that there is no migration of contaminants outside the unit.	Matrix
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6. The violations of N.J.A.C. 7:26G-9, Interim Status Standards Applicable to Owners and Operators of Hazardous Waste Treatment, Storage and Disposal Facilities, 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 or Matrix</u>
(40 C.F.R. Part 265 Subpart B-General Facility Standards)		
§265.11	Failure of facility owner or operator to obtain EPA identification number.	\$5,000
§265.12(a)	Failure of facility owner or operator importing hazardous waste from a foreign country to notify EPA at least four weeks in advance of expected delivery.	\$5,000
§265.12(b)	Failure of facility owner or operator when transferring operation of the facility to inform the new owner or operator of the requirements of 40 C.F.R. §§265 and 270.	Matrix
§265.13(a)(1)	Failure of facility owner or operator to obtain detailed chemical analysis of representative sample before treating, storing, or disposing of any hazardous waste.	\$5,000
§265.13(a)(3)	Failure of facility owner or operator to repeat analysis as necessary to ensure that it is accurate and up to date.	\$1,000
§265.13(a)(4)	Failure of owner or operator of an off-site facility to inspect or analyze each hazardous waste shipment received to determine if it matches the identity specified on the manifest or shipping	\$1,000

	paper.	
§265.13(b)	Failure of facility owner or operator to develop or follow a written waste analysis plan.	\$5,000
§265.14(a)	Failure of facility owner or operator to prevent the unknowing entry and minimize the possibility for the unauthorized entry onto the facility.	Matrix
§265.14(b)	Failure of facility owner or operator to have adequate surveillance system or adequate artificial or natural barrier and a means to control entry at all times.	\$5,000
§265.14(c)	Failure of facility owner or operator to post signs meeting each requirement of 40 C.F.R. §265.14(c).	\$500
§265.15(a)	Failure of facility owner or operator to inspect for malfunctions, deterioration, errors, or discharges.	\$3,000
§265.15 (b)	Failure of facility owner or operator to develop or follow written schedule for inspecting monitoring, safety, emergency, security equipment, etc., to keep schedule on site, or to identify problems.	\$3,000
§265.15 (c)	Failure of facility owner or operator to remedy any deterioration or malfunction immediately or on an appropriate schedule.	\$2,000
§265.15(d)	Failure of facility owner or operator to record inspections in log or to retain required information for three years.	\$300
§265.16(a)(1)	Failure of facility owner or operator to provide required classroom or on the-job training for facility personnel.	\$2,000
§265.16(a)(2)	Failure of facility owner or operator to provide a training program that is directed by a person trained in hazardous waste management procedures.	\$1,000
§265.16(a)(3)	Failure of facility owner or operator to provide, at a minimum, a training program which is designed to ensure that facility personnel are able to respond effectively to emergencies.	\$1,000

§265.16(b)	Failure of facility personnel to successfully complete the training program required in 40 C.F.R. §265.16(a) within six months.	\$1,000
§265.16(c)	Failure of facility personnel to take part in an annual review of the initial training required in 40C.F.R §265.16(a).	\$500
§265.16(d)	Failure of facility owner or operator to maintain training records at the facility	\$500
§265.16(e)	Failure of facility owner or operator to keep training records until closure.	\$500
§265.17(a)	Failure of facility owner or operator to keep ignitable or reactive waste separated and protected from sources of ignition or reaction, to confine smoking or open flame to specially designated locations while handling ignitable or reactive waste, or to conspicuously place "No Smoking" signs wherever there is a hazard from ignitable or reactive waste.	\$1,000
§265.17(b)	Failure of facility owner or operator that treats, stores, or disposes of ignitable, reactive, or mixtures of incompatible wastes to take precautions to prevent reactions.	\$2,000

(40 C.F.R. Part 265 Subpart C-Preparedness and Prevention)

§265.31	Failure of facility owner or operator to maintain or operate facility to minimize possibilities of fire, explosion or releases of hazardous waste or hazardous waste constituents.	\$5,000
§265.32	Failure of facility owner or operator to equip facility with emergency	\$5,000
§265.33	Failure of facility owner or operator to test and maintain emergency equipment.	\$1,000
§265.34	Failure of facility owner or operator to maintain access to communications or alarm system.	\$1,000
§265.35	Failure of facility owner or operator	\$1,000



	to maintain sufficient aisle space for the unobstructed movement of personnel or equipment in an emergency.	
§265.37	Failure of facility owner or operator 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.	\$5,000
 (40 C.F.R Part 265 Subpart D-Contingency Plan and Emergency Procedures)		
§265.51(a)	Failure of facility owner or operator to have a contingency plan designed to minimize hazards to human health and the environment.	\$5,000
§265.51(b)	Failure of facility owner or operator to carry out provisions of the plan immediately if there is a fire, explosion, or release.	\$10,000
§265.52(a)	Failure of contingency plan to describe actions to be taken in response to fires, explosions, or releases.	\$1,000
§265.52(b)	Failure of facility owner or operator to amend its SPCC (40 C.F.R. Part 112 or Part 1510 of chapter V) or DPCC (N.J.A.C. 7:1E) plan to Incorporate hazardous waste management provisions.	\$1,000
§265.52(c)	Failure of contingency plan to describe arrangements agreed to by local police or fire departments, hospitals, contractors, or State or local emergency response teams.	\$300
§265.52(d)	Failure of contingency plan to list name, addresses, or phone numbers of persons qualified to act as emergency coordinator.	\$300
§265.52(e)	Failure of contingency plan to list emergency equipment, updated as required, with its location, description, or capabilities specified.	\$300

§265.52(f)	Failure of contingency plan to include evacuation procedure for personnel including signals, evacuation routes or alternate evacuation routes.	\$300
§265.53	Failure of 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.	\$300
§265.54	Failure of facility owner or operator to review or amend contingency plan as necessary.	\$300
§265.55	Failure of emergency coordinator to be thoroughly familiar with plan or available at all times.	\$1,000
§265.56(a)-(b)	Failure of emergency coordinator to identify character, source, amount or areal extent of discharged materials, to activate alarms or communications systems, or to notify appropriate State or local agencies if necessary.	\$2,000
§265.56(c)	Failure of emergency coordinator to assess possible hazards to human health and the environment.	\$1,000
§265.56(d)	Failure of emergency coordinator to immediately notify appropriate emergency response agency of situation threatening health and the environment.	\$5,000
§265.56(e)	Failure of emergency coordinator to take reasonable measures to ensure hazards are minimized.	\$5,000
§265.56(f)	Failure of emergency coordinator to monitor leaks, pressure buildup, gas generation, or ruptures, if the facility stopped operating due to fire, explosion, or discharge.	\$5,000
§265.56(g)	Failure of emergency coordinator to provide for treating, storing, or disposing of recovered waste, contaminated soil or surface water, or other material.	\$1,000
§265.56(h)	Failure of emergency coordinator to ensure that in affected area of facility no incompatible waste is treated, stored or disposed of until cleanup	\$1,000

	procedures are complete or to ensure that emergency equipment is cleaned and fit for intended use before operations are resumed.	
§265.56(i)	Failure of facility owner or operator to notify Department and local authorities that facility is in compliance before operations are resumed.	\$1,000
§265.56(j)	Failure of facility owner or operator to submit written report to Department within 15 days after an incident.	\$500
 (40 C.F.R. Part 265 Subpart E-Manifest System, Recordkeeping, and Reporting)		
§265.71(a)(1)	Failure of facility owner or operator to sign or date manifest.	\$2,000
§265.71(a)(2)	Failure of facility owner or operator to note any significant discrepancies in the manifest on each copy of the manifest.	\$500
§265.71(a)(3)	Failure of facility owner or operator to give transporter a copy of manifest.	\$500
§265.71(a)(4)	Failure of facility owner or operator to send copy of manifest to generator within 30 days after delivery of hazardous waste.	\$500
§265.71(a)(5)	Failure of facility owner or operator to retain copy of manifest for three years.	\$500
§265.71(b)(1)	Failure of facility owner or operator receiving hazardous waste from rail or water (bulk shipment) transporter to sign or date manifest or shipping paper.	\$500
§265.71(b)(2)	Failure of facility owner or operator receiving hazardous waste from rail or water (bulk shipment) transporter to note any significant discrepancies in manifest or shipping paper on each copy of manifest or shipping paper.	\$500
§265.71(b)(3)	Failure of facility owner or operator receiving hazardous waste from rail or water (bulk shipment) transporter to	\$500

	give transporter a copy of manifest or shipping paper.	
§265.71(b)(4)	Failure of facility owner or operator receiving hazardous waste from rail or water (bulk shipment) transporter to send copy of manifest or shipping paper to generator within 30 days after delivery.	\$500
§265.71(b)(5)	Failure of facility owner or operator receiving hazardous waste from rail or water (bulk shipment) transporter to retain copy of manifest for three years.	\$500
§265.72(b)	Failure of facility owner or operator to reconcile a significant discrepancy with the generator or transporter within 15 days of receipt or to report the unresolved discrepancy to the Department immediately thereafter.	\$1,000
§265.73	Failure of facility owner or operator to keep written operating records meeting each requirement of 40 C.F.R. §265.73.	\$3,000
§265.74(a)	Failure of facility owner or operator to furnish upon request, or make available for inspection, any record.	\$5,000
§265.74(b)	Failure of facility owner or operator to keep any record during the course of any unresolved enforcement action or as requested by the Department.	\$2,000
§265.74(c)	Failure of facility owner or operator to submit copy of waste disposal locations or quantities to Department or local land authority upon closure of facility.	\$5,000
§265.75	Failure of facility owner or operator to prepare or submit a copy of the hazardous waste report to Department by March 1 of each even numbered year.	\$3,000
§265.76	Failure of facility owner or operator receiving unmanifested waste to submit an “Unmanifested Waste Report” within 15 days.	Matrix

(40 C.F.R. Part 265 Subpart F-Ground-Water Monitoring)

§265.91	Failure of ground water monitoring system to meet the requirements of 40 C.F.R. §265.91.	Matrix
§265.92	Failure of facility owner or operator to develop and follow a ground water sampling and analysis plan in accordance with 40 C.F.R. §265.92.	Matrix
§265.93	Failure of facility owner or operator to prepare an outline of a more comprehensive ground water monitoring program in accordance with 40 C.F.R. §265.93.	Matrix
§265.94	Failure of facility owner or operator to maintain records of ground water monitoring information or to report the information to the Department.	Matrix

(40 C.F.R. Part 265 Subpart G-Closure and Post-Closure)

§265.111	Failure of facility owner or operator to close in a manner that minimizes further maintenance and controls, minimizes, or eliminates post-closure escape of hazardous waste.	\$10,000
§265.112(a)	Failure of facility owner or operator to have written closure plan.	\$5,000
§265.112(b)	Failure of facility owner or operator to include in the closure plan all steps necessary to perform a partial and/or final closure of the facility.	Matrix
§265.112(c)	Failure of facility owner or operator to amend or request modification of closure plan before change.	\$1,000
§265.112(d)	Failure of facility owner or operator to notify Department prior to commencement of closure.	\$2,000
§265.113(a)	Failure of facility owner or operator to treat, remove, or dispose of waste within 90 days after final volume of wastes received in accordance with approved closure plan.	\$2,000
§265.113(b)	Failure of facility owner or operator to complete closure within 180 days after final volume of wastes received in accordance with approved closure	\$2,000

	plan.	
§265.114	Failure of facility owner or operator to properly dispose of or decontaminate all contaminated equipment, structures, or soils.	\$5,000
§265.115	Failure of facility owner or operator, when closure completed, to submit its own certification or that of an independent registered professional engineer to the Department.	\$2,000
§265.116	Failure of facility owner or operator, within 60 days after closure, to submit to local authorities and Department detailed information on site.	\$2,000
§265.117(a)	Failure of facility owner or operator to continue proper post-closure care for 30 years and to comply with 30 C.F.R. §265.117(a)(1)-(2).	\$5,000
§265.117(c)	Failure of facility owner or operator to ensure that post-closure activity does not disturb final cover, liner(s), or containment or monitoring system.	\$2,000
§265.117(d)	Failure of facility owner or operator to perform post-closure care activities in accordance with post-closure plan.	\$5,000
§265.118(a)	Failure of facility owner or operator to have written post-closure plan.	\$5,000
§265.118(b)	Failure of facility owner or operator to furnish the most current copy of post-closure plan to the Department upon request or to keep a copy of the post-closure plan with the person or office specified in 40 C.F.R. §265.118(c)(3) during the post closure period.	\$1,000
§265.118(c)	Failure of facility owner or operator to include in post-closure plan all activities that will be carried on after closure of each disposal unit and the frequency of these activities.	Matrix
§265.118(d)	Failure of facility owner or operator to amend or request modification of post-closure plan when necessary.	\$1,000
§265.119(a)	Failure of facility owner or operator to inform the local zoning officer and the Department of the type, location,	Matrix

	and amount of waste in each disposal unit within 60 days of receiving a certification of closure for that unit.	
§265.119(b)	Failure of facility owner or operator to comply with requirements for notice in deed to property.	\$1,000
§265.120	Failure of facility owner or operator to certify that post-closure activities have been conducted according to the post-closure plan within 60 days of completion of the established post closure care period.	Matrix

(40 C.F.R. Part 265 Subpart H-Financial Requirements)

§265.142(a)	Failure of facility owner or operator to have a written estimate of the cost of closing facility.	\$2,000
§265.142(b)	Failure of facility owner or operator to adjust closure cost estimate for inflation according to regulatory time frames.	\$1,000
§265.142(c)	Failure of facility owner or operator to revise the closure cost estimate whenever a change in the closure plan increases the cost of closure.	\$1,000
§265.142(d)	Failure of facility owner or operator to keep the latest closure cost estimate and adjusted closure cost estimate at the facility.	\$1,000
§265.143	Failure of facility owner or operator to establish financial assurance for closure of facility.	\$5,000
§265.144(a)	Failure of facility owner or operator to have a written estimate of the cost of post-closure care.	\$2,000
§265.144(b)	Failure of facility owner or operator to adjust cost estimate of post-closure care for inflation according to regulatory time frames.	\$1,000
§265.144(c)	Failure of facility owner or operator to revise the post-closure care cost estimate whenever a change in the post-closure plan increases the cost of post-closure care.	\$1,000
§265.144(d)	Failure of facility owner or operator	\$1,000

	to keep the latest post-closure care cost estimate at the facility.	
§265.145	Failure of facility owner or operator to establish financial assurance for post-closure care of facility.	\$5,000
§265.147(a)	Failure of facility owner or operator to meet liability requirements for sudden accidental occurrences.	\$5,000
§265.147(b)	Failure of facility owner or operator to meet the liability requirements for nonsudden occurrences.	\$5,000
§265.148(a)	Failure of facility owner or operator or guarantor to notify Department of commencement of proceeding under Title 11 of the Bankruptcy Code.	\$10,000
§265.148(b)	Failure of facility owner or operator to establish other financial assurance or liability coverage within 60 days after bankruptcy, suspension, or revocation.	\$5,000

(40 C.F.R. Part 265 Subpart I-Use and Management of Containers)

§265.171	Failure of facility owner or operator to handle hazardous waste in containers of good condition.	\$2,000
§265.172	Failure of facility owner or operator to use container compatible with hazardous waste stored.	\$2,000
§265.173	Failure of facility owner or operator to comply with requirements for the management of containers.	\$1,000
§265.174	Failure of facility owner or operator to perform inspection of each area where containers are stored.	\$3,000
§265.176	Failure of facility owner or operator to store containers holding ignitable or reactive wastes at least 50 feet from property line.	\$1,000
§265.177	Failure of facility owner or operator to comply with each of the special requirements for incompatible wastes.	\$2,000
§265.178	Failure of facility owner or operator to comply with 40 C.F.R §265, Subparts AA, BB, and CC.	Matrix



(40 C.F.R. Part 265 Subpart J-Tank Systems)

§265.191(a)	Failure of facility owner or operator to obtain and keep a written assessment by a professional engineer attesting to existing tank system's integrity.	Matrix
§265.191(b)	Failure of written assessment to comply with the requirements at 40 C.F.R. §265.191(b).	\$5,000
§265.191(c)	Failure of facility owner or operator to assess the integrity of a tank within 12 months of a material becoming a hazardous waste.	Matrix
§265.192(a)	Failure of facility owner or operator to have written assessment by a professional engineer attesting that the system has sufficient structural strength.	\$5,000
§265.192(b)	Failure of facility owner or operator to have a new tank inspected by a qualified installation inspector or engineer for damage prior to covering, enclosing or placing in use.	Matrix
§265.192(c)	Failure of facility owner or operator of new tank system or components to use appropriate backfill material.	Matrix
§265.192(d)	Failure of facility owner or operator to have a new tank and ancillary equipment tested for tightness prior to covering, enclosing or placing in use.	Matrix
§265.192(e)	Failure of facility owner or operator to have ancillary equipment supported and protected from settlement, vibration, expansion, or contraction.	Matrix
§265.192(f)	Failure of facility owner or operator to provide proper corrosion protection for new tank systems.	Matrix
§265.192(g)	Failure of facility owner or operator to obtain and keep on record certifications from those professionals responsible for tank system design and installation.	Matrix
§265.193(a)	Failure of facility owner or operator to install secondary containment for hazardous waste tanks within the time	Matrix

	frames outlined in 40 C.F.R. §265.193(a).	
§265.193(b)(1)	Failure of secondary containment system to be designed, installed, and operated to prevent migration of wastes or accumulated liquid out of the system.	\$3,000
§265.193(b)(2)	Failure of secondary containment system to detect and collect releases and accumulated liquids.	Matrix
§265.193(c)(1)	Failure of containment system to consist of material compatible with wastes stored or to have sufficient strength and thickness.	\$2,000
§265.193(c)(2)	Failure of facility owner or operator to construct secondary containment unit on a base or foundation capable of providing support and resistance to pressure gradients.	Matrix
§265.193(c)(3)	Failure of facility owner or operator to construct secondary containment with a leak detection system that is designed and operated to detect the failure of containment structure(s) or the presence of a release.	Matrix
§265.193(c)(4)	Failure of facility owner or operator to remove accumulated precipitation or spilled or leaked waste from secondary containment within 24 hours.	\$1,000
§265.193(d)	Failure of facility owner or operator to provide secondary containment featuring an approved device.	Matrix
§265.193(e)(1)	Failure of external liner system to meet requirements at 40 C.F.R. §265.193(e)(1).	\$1,000
§265.193(e)(2)	Failure of vault system to meet requirements at 265.193(e)(2).	\$1,000
§265.193(e)(3)	Failure of double-walled tank to meet requirements at 265.193(e)(3).	\$1,000
§265.193(f)	Failure of facility owner or operator to provide secondary containment for ancillary equipment.	Matrix
§265.194(a)	Failure of facility owner or operator to prevent hazardous wastes or treatment reagents from being placed	\$5,000

	in tank system if they can cause the tank, its ancillary equipment, or containment system to rupture, leak, corrode, or otherwise fail.	
§265.194(b)	Failure of facility owner or operator to use appropriate controls and practices to prevent spills and overflows from tanks or containment systems.	\$500
§265.195(a)(1)	Failure of facility owner or operator to inspect overfill/spill control equipment each operating day.	\$500
§265.195(a)(2)	Failure of facility owner or operator to inspect aboveground portions of tank system for corrosion or releases of waste each operating day.	\$1,000
§265.195(a)(3)	Failure of facility owner or operator to inspect data gathered from monitoring and leak detection equipment each operating day.	\$500
§265.195(a)(4)	Failure of facility owner or operator to inspect construction materials and area immediately surrounding tank system for erosion or signs of releases each operating day.	\$500
§265.195(b)	Failure of facility owner or operator to inspect cathodic protection systems.	Matrix
§265.195(c)	Failure of facility owner or operator to document inspections in facility operating record.	Matrix
§265.196(a)	Failure of facility owner or operator to cease using a tank from which a release occurred or which is unfit for use.	Matrix
§265.196(b)	Failure of facility owner or operator to remove waste from a tank in which a release occurred within 24 hours in order to affect repairs on the unit.	Matrix
§265.196 (c)	Failure of facility owner or operator to prevent further migration of the release to soils or water or to remove and dispose of any visible contamination of soil or water.	Matrix
§265.196(d)	Failure of facility owner or operator to report a release within 24 hours or	Matrix

	to submit a spill report within 30 days.	
§265.196(e)	Failure of facility owner or operator to comply with 40 C.F.R. §265.196(e)(2)-(4) prior to placing a tank back in service following a release.	Matrix
§265.196(f)	Failure of facility owner or operator to obtain a professional engineer's certification prior to placing a tank back in service following a major repair.	Matrix
§265.197(a)	Failure of facility owner or operator at closure to remove or decontaminate all waste residues, contaminated containment system components, contaminated soils, structures, etc.	\$5,000
§265.197(c)	Failure of facility owner or operator that has a tank system without secondary containment to comply with requirements at 40 C.F.R. §265.197(c).	Matrix
§265.198(a)	Failure of facility owner or operator to meet specific requirements before placing ignitable or reactive waste in a tank.	\$5,000
§265.198(b)	Failure of facility owner or operator storing or treating ignitable or reactive wastes in tanks to comply with NFPA's buffer zone requirements for tanks.	\$2,000
§265.199(a)	Failure of facility owner or operator to prevent the placing of incompatible wastes, or wastes and materials, in same tank, except in compliance with 40 C.F.R. §265.17(b).	\$10,000
§265.199(b)	Failure of facility owner or operator to prevent the placing of hazardous waste in a tank which is not decontaminated and previously held incompatible waste, except in compliance with 40 C.F.R. §265.17(b).	\$5,000
§265.200	Failure of facility owner or operator utilizing a tank system to conduct waste analysis and trial treatment or	Matrix

	storage tests before treating/storing different waste or using a different process.	
§265.201(b)(2)	Failure of small quantity generator to prevent hazardous waste or treatment reagents from being placed in tank system if they can cause the tank, its ancillary equipment, or containment system to rupture, leak, corrode, or otherwise fail.	\$5,000
§265.201(b)(3)	Failure of small quantity generator to maintain at least two feet of freeboard for uncovered tanks.	\$500
§265.201(b)(4)	Failure of small quantity generator utilizing tank storage featuring a continuous feed to install a means to stop this inflow.	Matrix
§265.201(c)(1)	Failure of small quantity generator to inspect discharge control equipment each operating day.	Matrix
§265.201(c)(2)	Failure of small quantity generator to inspect data gathered from monitoring equipment each operating day.	\$500
§265.201(c)(3)	Failure of small quantity generator to inspect level of waste in tank each operating day.	\$500
§265.201(c)(4)	Failure of small quantity generator to inspect construction materials weekly.	\$500
§265.201(c)(5)	Failure of small quantity generator to inspect the construction materials of, and the area immediately surrounding, discharge confinement structures weekly.	\$500
§265.201(d)	Failure of small quantity generator at closure to remove all waste from tanks, discharge control equipment, and discharge confinement structures.	\$5,000
§265.201(e)(1)	Failure of small quantity generator to meet specific requirements before placing ignitable or reactive waste in a tank.	\$5,000
§265.201(e)(2)	Failure of small quantity generator storing or treating ignitable or reactive waste in a tank to comply with NFPA's buffer zone requirements for tanks.	\$2,000

§265.201(f)(1)	Failure of small quantity generator to prevent the placing of incompatible wastes, or wastes and materials, in same tank, except in compliance with 40 C.F.R. §265.17(b).	\$10,000
§265.201(f)(2)	Failure of small quantity generator to prevent the placing of hazardous waste in a tank which was not decontaminated and previously held incompatible waste, except in compliance with 40 C.F.R. §265.17(b).	\$5,000
§265.202	Failure of facility owner or operator to comply with §265, Subparts AA, BB, and CC.	Matrix
(40 C.F.R. Part 265 Subpart K-Surface Impoundments)		
§265.221(a)	Failure of facility owner or operator utilizing surface impoundments to install two or more liners and a leachate collection system.	Matrix
§265.221(f)	Failure of facility owner or operator utilizing surface impoundments to maintain sufficient freeboard to prevent overtopping of the dike by overfilling, wave action, or a storm.	Matrix
§265.223	Failure of facility owner or operator who stores hazardous waste in a surface impoundment to have an approved response action plan.	Matrix
§265.225	Failure of facility owner or operator utilizing a surface impoundment to conduct waste analysis and trial treatment tests before treating different waste or using a different process.	Matrix
§265.226	Failure of facility owner or operator to comply with monitoring and inspection requirements of surface impoundments.	\$3,000
§265.228(a)	Failure of facility owner or operator to ensure that all waste residues have been removed, all containment systems and subs oils have been decontaminated and managed as	Matrix

	hazardous waste, and provide post closure care for a landfill when closing a surface impoundment.	
§265.228(b)	Failure of facility owner or operator to comply with maintenance and monitoring requirements during post closure of surface impoundments.	\$2,000
§265.229	Failure of facility owner or operator to meet requirements for placing ignitable or reactive waste in surface impoundment.	\$5,000
§265.230	Failure of facility owner or operator to prevent incompatible wastes and/or materials from being placed in same surface impoundment.	\$10,000
§265.231	Failure of facility owner or operator to comply with 40 C.F.R. §265, Subparts BB and CC.	Matrix

(40 C.F.R. Part 265 Subpart L-Waste Piles)

§265.251	Failure of facility owner or operator to manage a waste pile in order to prevent wind dispersal.	Matrix
§265.252	Failure of facility owner or operator to conduct a waste analysis of each incoming waste movement prior to adding the waste to a waste pile.	Matrix
§265.253	Failure of facility owner or operator storing waste in piles to provide proper leachate, run-off, and run-on controls.	Matrix
§265.254	Failure of facility owner or operator utilizing waste piles to install two or more liners and a leachate collection system both above and between the liners.	Matrix
§265.256	Failure of facility owner or operator to ensure that ignitable or reactive wastes are not placed in waste piles or are managed in such a way as to protect it from any conditions that may make it ignite or react.	Matrix
§265.257	Failure of facility owner or operator to comply with special handling instructions for the placement of	Matrix

§265.258	incompatible wastes in waste piles. Failure of facility owner or operator to ensure that all waste and contaminated containment system components have been removed and managed as hazardous waste when closing a waste pile.	Matrix
§265.259	Failure of facility owner or operator who stores hazardous waste in a waste pile to have an approved response action plan.	Matrix
§265.260	Failure of facility owner or operator to record the amount of liquids removed from each leak detection system sump at least once a week through the active life and closure period of a waste pile.	Matrix

(40 C.F.R. Part 265 Subpart M-Land Treatment)

§265.272(a)	Failure of facility owner or operator conducting land treatment to ensure that the hazardous constituents in the waste will be made less hazardous or nonhazardous by the processes occurring in the treatment zone.	Matrix
§265.272(b)	Failure of facility owner or operator utilizing land treatment to have a run on control system capable of preventing flow into the treatment zone during a 25-year storm.	Matrix
§265.272(c)	Failure of facility owner or operator utilizing land treatment to have a run off management system capable of collecting and controlling flow during a 25-year storm.	Matrix
§265.272(d)	Failure of facility owner or operator utilizing land treatment to empty run on and run-off holding facilities expeditiously following a storm	Matrix
§265.272(e)	Failure of facility owner or operator utilizing land treatment to manage the treatment zone in a manner to control wind dispersal of hazardous waste.	Matrix
§265.273	Failure of facility owner or operator conducting land treatment to ensure	Matrix



that all wastes to be placed in the treatment zone are analyzed to determine if they meet the standards of 40 CFR §265.273.

§265.276	Failure of facility owner or operator to comply with 40 C.F.R §265.276 when growing food-chain crops on or in the treatment zone.	Matrix
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(40 C.F.R. Part 265 Subpart N-Landfills)

§265.301(b)	Failure of facility owner or operator to make appropriate notifications prior to accepting hazardous waste for storage in a landfill unit.	Matrix
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§265.301(f)	Failure of facility owner or operator of hazardous waste landfill to manage run-on system.	\$2,000
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§265.301(g)	Failure of facility owner or operator of hazardous waste landfill to manage run-off system.	\$2,000
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§265.301(h)	Failure of facility owner or operator of hazardous waste landfill to empty or manage run-on/run-off systems after storm.	\$2,000
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§265.301(i)	Failure of facility owner or operator who landfills hazardous waste to manage the landfill in a manner to control wind dispersal of hazardous waste.	Matrix
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§265.304(a)	Failure of facility owner or operator to record the amount of liquids removed from each leak detection system sump at least once a week through the active life and closure period of a hazardous waste landfill.	Matrix
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§265.304(b)	Failure of facility owner or operator to record the amount of liquids removed from each leak detection C.F.R. §265.304(b) following the closure period of a hazardous waste landfill.	Matrix
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§265.309(a)	Failure of facility owner or operator to maintain in operating record details of location and dimensions of each hazardous waste landfill cell.	\$2,000
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§265.309(b)	Failure of facility owner or operator to maintain in operating record the contents of each hazardous waste landfill cell and location of each hazardous waste type.	\$2,000
§265.310(a)	Failure of facility owner or operator of a hazardous waste landfill to place final cover over landfill.	\$5,000
§265.310(b)(1)	Failure of facility owner or operator of a hazardous waste landfill to maintain the function and integrity of the final cover including making repairs to the cover as necessary to correct the effects of settling, subsidence, erosion, or other events.	\$2,000
§265.310(b)(2)	Failure of facility owner or operator to maintain and monitor the leak detection system.	\$2,000
§265.310(b)(3)	Failure of facility owner or operator who landfills hazardous waste to comply with all ground water monitoring, sampling, and reporting requirements.	Matrix
§265.310(b)(4)	Failure of facility owner or operator to prevent run-on and run-off from eroding or otherwise damaging the final cover.	\$2,000
§265.310(b)(5)	Failure of facility owner or operator to protect and maintain surveyed benchmarks used in complying with §265.309.	\$1,000
§265.312(a)	Facility owner or operator of hazardous waste landfill placed ignitable or reactive wastes in a hazardous waste landfill.	\$10,000
§265.312(b)	Failure of facility owner or operator to comply with special handling instructions for the placement of ignitable wastes in landfill units.	Matrix
§265.313	Facility owner or operator of hazardous waste landfill placed incompatible wastes and materials in same landfill cell.	\$10,000
§265.314(b)	Facility owner or operator placed bulk or non-containerized liquids in landfill.	\$10,000

§265.314(c)	Facility owner or operator placed containerized liquids in hazardous waste landfill.	\$5,000
§265.314(d)	Failure of facility owner or operator to utilize an approved testing method to determine if a waste to be placed in a hazardous waste landfill contains free liquids.	Matrix
§265.315	Failure of facility owner or operator to comply with special requirements for containers.	\$2,000
§265.316(a)	Failure of facility owner or operator to comply with inside package requirements of overpack containers before placing in a hazardous waste landfill.	\$2,000
§265.316(b)	Failure of metal outer container to be full after packing with inside containers and absorbent material.	\$2,000
§265.316(c)	Failure of facility owner or operator to use absorbent material that is not capable of reacting dangerously with, being decomposed by, or being ignited by the contents inside the containers.	\$5,000
§265.316(d)	Failure of facility owner or operator to prevent incompatible wastes from being placed in same outside container.	\$5,000
§265.316(e)	Failure of facility owner or operator to meet requirements for packaging reactive wastes before placing in hazardous waste landfill.	\$5,000

(40 C.F.R. Part 265 Subpart O-Incinerators)

§265.341	Failure of facility owner or operator to sufficiently analyze waste not previously burned.	\$5,000
§265.345	Facility owner or operator fed hazardous waste into the incinerator during start up and shut down when not operating at steady state conditions.	\$10,000
§265.347(a)	Failure-of facility owner or operator of incinerator to conduct monitoring	\$500

	of combustion and emission control instruments at least every 15 minutes or to make appropriate corrections immediately	
§265.347(b)	Failure of facility owner or operator to completely inspect incinerator or associated equipment at least daily.	\$3,000
§265.351	Failure of facility owner or operator to remove all hazardous wastes and hazardous waste residues from the incinerator at closure.	\$5,000

(40 C.F.R. Part 265 Subpart P-Thermal Treatment)

§265.373	Failure of facility owner or operator to bring thermal treatment process to normal operating conditions before adding hazardous waste.	\$10,000
§265.375	Failure of facility owner or operator to sufficiently analyze waste not previously treated.	\$5,000
§265.377(a)(1)	Failure of facility owner or operator when thermally treating hazardous waste to monitor instruments relating to temperature and emission control at least every 15 minutes.	\$500
§265.377(a)(2)	Failure of facility owner or operator when thermally treating hazardous waste to observe stack plume at least hourly.	\$500
§265.377(a)(3)	Failure of facility owner or operator when thermally treating hazardous waste to inspect process and associated equipment for leaks, spills, etc. at least daily.	\$3,000
§265.381	Failure of facility owner or operator at closure to remove all hazardous waste and residues from thermal treatment process.	\$5,000
§265.382	Failure of facility owner or operator to prevent the open burning of any hazardous waste or the open burning and detonation of waste explosives too close to property line.	\$10,000

(40 C.F.R. Part 265 Subpart Q-Chemical, Physical, and Biological

Treatment)

§265.401(b)	Failure of facility owner or operator to prevent placing of hazardous wastes in treatment process if they could cause process to leak, corrode, or fail.	\$5,000
§265.401(c)	Failure of facility owner or operator to provide continuously fed treatment process with a mechanism to stop inflow.	\$3,000
§265.402(a)	Failure of facility owner or operator to conduct waste analysis and trial treatment tests before treating different waste or using a different process.	\$5,000
§265.403(a)(1)	Failure of facility owner or operator to inspect discharge control and safety equipment at least once each operating day.	\$750
§265.403(a)(2)	Failure of facility owner or operator to inspect data from monitoring equipment at least once each operating day.	\$750
§265.403(a)(3)	Failure of facility owner or operator to inspect construction materials at least weekly.	\$750
§265.403(a)(4)	Failure of facility owner or operator to monitor and inspect discharge confinement structures for erosion or leakage at least weekly.	\$750
§265.404	Failure of facility owner or operator to remove all hazardous waste and residues at closure.	\$5,000
§265.405	Failure of facility owner or operator to prevent placing ignitable or reactive waste in treatment process unless it is treated accordingly.	\$10,000
§265.406(a)	Failure of facility owner or operator to prevent the placing of incompatible wastes in the treatment process.	\$10,000
§265.406(b)	Failure of facility owner or operator to prevent the placing of hazardous waste in unwashed treatment equipment which previously held incompatible waste or material.	\$5,000

(40 C.F.R. Part 265 Subpart W-Drip Pads)

§265.443(a)	Failure of facility owner or operator to design and construct a drip pad that is impermeable, sloped, bermed, and of sufficient structural strength or to obtain an engineer's evaluation, recertified annually.	Matrix
§265.443(b)(1)	Failure of facility owner or operator to ensure drip pads have a proper liner of appropriate materials on a sound foundation.	Matrix
§265.443(b)(2)	Failure of facility owner or operator to ensure drip pads have a proper functioning leakage detection system.	Matrix
§265.443(b)(3)	Failure of facility owner or operator to ensure drip pads have a leakage collection system to collect any leakage from below the drip pad or to record in the facility's operating log the date and amount of leakage collected.	Matrix
§265.443(c)	Failure of facility owner or operator to ensure drip pads are maintained free of cracks, gaps, or deterioration.	Matrix
§265.443(d)	Failure of facility owner or operator to ensure drip pads are designed and operated to control and collect all hazardous waste drippage.	Matrix
§265.443(e)	Failure of facility owner or operator to have a run-on control system to prevent or control flow onto a drip pad from at least a 25-year storm.	Matrix
	utilizing a drip pad to have a run-off management system capable of collecting and controlling flow during a 25-year storm.	Matrix
§265.443(g)	Failure of facility owner or operator to obtain a statement from a professional engineer certifying that the drip pad design meets the requirements of 40 C.F.R. §265.443.	Matrix
§265.443(h)	Failure of facility owner or operator utilizing a drip pad to remove drippage and precipitation from	Matrix

	collection system.	
§265.443(i)	Failure of facility owner or operator to clean drip pads of accumulated hazardous waste in order to allow for weekly inspections of the entire pad or to record in the facility's operating log the date and procedures for each cleaning.	Matrix
§265.443(j)	Failure of facility owner or operator to minimize the tracking of hazardous waste off of the drip pad.	Matrix
§265.443(k)	Failure of facility owner or operator to hold all treated lumber on the drip pad until drippage has ceased or to document actions.	Matrix
§265.443(l)	Failure of facility owner or operator to empty run-on and run-off collection units promptly following a storm.	Matrix
§265.443(m)	Failure of facility owner or operator to make repairs to a drip pad which has had, or may of had, a release of hazardous waste, in accordance with 40 C.F.R. §265.443(m).	Matrix
§265.443(n)	Failure of facility owner or operator utilizing drip pads to maintain records of past waste handling practices.	Matrix
§265.444(a)	Failure of facility owner or operator using a drip pad to obtain a professional engineer's certification immediately after installation of a liner.	Matrix
§265.444(b)	Failure of facility owner or operator to inspect drip pads on a weekly basis and after storms.	Matrix
§265.445	Failure of facility owner or operator to ensure that all waste and contamination have been removed when closing a drip pad.	Matrix

(40 C.F.R. Part 265 Subpart EE-Hazardous Waste Munitions and Explosives Storage)

§265.1201(a)(1)	Failure of hazardous waste munitions and explosives storage unit to be designed and operated to minimize the potential for detonation or other	Matrix
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§265.1201(a)(2)	means of release of hazardous waste. Failure of hazardous waste munitions and explosives storage unit to be designed and operated to provide a primary barrier designed to contain hazardous waste.	Matrix
§265.1201(a)(3)	Failure of hazardous waste munitions and explosives storage unit to be designed and operated so that the waste and containers will not be in standing precipitation, for wastes stored outdoors.	Matrix
§265.1201(a)(4)	Failure of hazardous waste munitions and explosives storage unit to be designed and operated so that any released liquids are contained, promptly detected, and removed (for liquid wastes).	Matrix
§265.1201(a)(5)	Failure of hazardous waste munitions and explosives storage unit to be designed and operated to provide monitoring and inspection procedures that assure the controls and containment systems are working as designed.	Matrix
§265.1201(b)(1)	Failure of hazardous waste munitions and explosives stored in earth-covered magazines to comply with the requirements of 40 C.F.R. §265.1201(b)(1).	Matrix
§265.1201(b)(2)	Failure of hazardous waste munitions and explosives in above-ground magazines to be located and designed so as to minimize the propagation of an explosion to adjacent units.	Matrix
§265.1201(b)(3)	Failure of hazardous waste munitions and explosives in outdoor or open storage areas to be located and designed so as to minimize the propagation of an explosion to adjacent units.	Matrix
§265.1201(c)	Failure of hazardous waste munitions and explosives to be stored in accordance with an SOP specifying procedures to ensure safety, security, and environmental protection.	Matrix



§265.1201(d)	Failure of hazardous waste munitions and explosives to be packaged to ensure safety in handling and storage.	Matrix
§265.1201(e)	Failure of hazardous waste munitions and explosives to be inventoried at least annually.	Matrix
§265.1201(f)	Failure of hazardous waste munitions and explosives and their storage units, to be inspected and monitored to ensure explosive safety and to ensure that there is no migration of contaminants outside the unit.	Matrix

7. The violations of N.J.A.C. 7:26G-10, Standards for the Management of Specific Hazardous Wastes and Specific Types of Hazardous Waste Management Facilities, and the civil administrative penalty amounts for each violation, are as set forth in the following table.

Rule	Rule summary	Base Penalty or Matrix
(40 C.F.R. Part 266 Subpart C-Recyclable Materials Used in a Manner Constituting Disposal)		
§266.23(b)	Failure of facility owner or operator to ensure hazardous waste or dioxin contaminated waste is not used for dust suppression or road treatment.	Matrix
(40 C.F.R. Part 266 Subpart F-Recyclable Materials Utilized for Precious Metal Recovery)		
§266.70(c)	Failure to maintain required records of hazardous wastes to be reclaimed for precious metals content.	Matrix
(40 C.F.R. Part 266 Subpart H-Hazardous Waste Burned in Boilers and Industrial Furnaces)		
§266.102	Failure of facility owner or operator who is burning hazardous wastes in boilers or industrial furnaces to meet the requirements of 40 C.F.R. §266.102 and the facility permit.	Matrix

§266.103	Failure of facility owner or operator with an existing boiler or industrial furnace who is burning hazardous waste on an interim basis to meet the requirements of 40 C.F.R. §266.103.	Matrix
§266.104	Failure of facility owner or operator who is burning hazardous wastes in a boiler or industrial furnace to meet the required destruction and removal efficiency standard.	Matrix
§266.105	Failure of facility owner or operator who is burning hazardous wastes in a boiler or industrial furnace to meet the required standards for emitted particulate matter.	Matrix
§266.106	Failure of facility owner or operator who is burning hazardous wastes in a boiler or industrial furnace to meet the required standards for metal emissions.	Matrix
§266.107	Failure of facility owner or operator who is burning hazardous wastes in a boiler or industrial furnace to meet the required standards for HCl and chlorine gas emissions.	Matrix
§266.111	Failure of facility owner or operator when transferring hazardous wastes directly from a vehicle to a boiler or industrial furnace to meet the requirements of 40 C.F.R. §266.111.	Matrix

(40 C.F.R. Part 266 Subpart M-Military Munitions)

§266.203(a)(2)	Failure of facility owner or operator to notify the Department if the military munitions waste is not received within 45 days of being shipped.	Matrix
§266.205(b)	Failure of facility owner or operator to notify the Department when a storage unit identified in 40 C.F.R. §266.205(a)(1)(iv) will no longer be used to store military munitions.	Matrix

8. The violations of N.J.A.C. 7:26G-11, Land Disposal Restrictions, and the civil administrative penalty amounts for each violation, are as set

forth in the following table.

Rule	Rule Summary	Base penalty or Matrix
(40 C.F.R. Part 268 Subpart A-General)		
§268.3(a)	Failure of generator, transporter, or facility to ensure that a restricted waste is not in any way diluted as a substitute for treatment.	Matrix
§268.4	Failure of facility owner or operator utilizing a surface impoundment for the treatment of hazardous waste to comply with the requirements of 40 C.F.R. §268.4.	Matrix
§268.7(a)(1)	Failure of generator to determine if the hazardous waste is restricted from land disposal.	Matrix
§268.7(a)(2)	Failure of generator to send a one-time written notice with the initial waste shipment to the treatment or storage facility when the waste does not meet the treatment standard or to place a copy in the file.	Matrix
§268.7(a)(3)	Failure of generator to send a one-time written notice and certification with the initial waste shipment to the treatment, storage, or disposal facility when the waste meets the treatment standard or to place a copy in the file.	Matrix
§268.7(a)(4)	Failure of generator of waste exempt from meeting treatment standards before being land disposed to send a one-time written notice with the initial waste shipment to the land disposal facility or to place a copy in the file.	Matrix
§268.7(a)(5)	Failure of generator who is managing and treating prohibited waste to develop and follow a written waste analysis plan or to keep plan on site.	Matrix
§268.7(a)(6)	Failure of generator to retain on site all data used to determine if a waste is restricted.	Matrix
§268.7(a)(7)	Failure of generator to keep a one-	Matrix

	time notice on site stating that he is managing a restricted waste that is excluded from the definition of hazardous or solid waste subsequent to the point of generation and noting the disposition of the waste.	
§268.7(a)(8)	Failure of generator to retain documentation required by 40 C.F.R. §268.7 for three years or longer during the course of any unresolved enforcement action or as requested by the Department.	Matrix
§268.7(a)(9)	Failure of generator using the alternative treatment standards for lab packs to send a one-time written notice and certification with the initial waste shipment to the treatment facility or to place a copy in the file.	Matrix
§268.7(a)(10)	Failure of small quantity generator with tolling agreements to comply with applicable notification and certification requirements for the initial shipment of waste subject to the tolling agreement or to retain copy(s) on site.	Matrix
§268.7(b)(1)	Failure of treatment facility to test an extract of the treatment residues for wastes with treatment standards expressed in the waste extract (TCLP) to assure that it meets the applicable treatment standards.	Matrix
§268.7(b)(2)	Failure of treatment facility to test the treatment residues for waste with treatment standards expressed as concentrations in the waste to assure that they meet the applicable treatment standards.	Matrix
§268.7(b)(3)	Failure of treatment facility to send a one-time notice with the initial waste shipment to the land disposal facility or to place a copy in the file.	Matrix
§268.7(b)(4)	Failure of treatment facility to send a one-time certification with the initial waste shipment to the land disposal facility or to place a copy in the file.	Matrix
§268.7(b)(6)	Failure of treatment facility to submit	Matrix

	a notice and certification to the Department with each shipment of recyclable materials used in a manner constituting disposal or to keep records of each entity receiving the waste-derived product.	
§268.7(c)(1)	Failure of land disposal facility disposing restricted waste to have copies of the applicable notices and certifications.	Matrix
§268.7(c)(2)	Failure of land disposal facility disposing of restricted waste to test the waste to assure it is in compliance with the applicable treatment standards.	Matrix
§268.7(d)	Failure of generators or treaters who first claim that hazardous debris is excluded from the definition of hazardous waste to meet the proper notification and certification requirements.	Matrix
§268.9(a)	Failure of generator of a waste that displays a hazardous characteristic to determine the underlying hazardous constituents in the waste.	Matrix
§268.9(c)	Failure of generator to ensure a prohibited waste exhibiting a characteristic complies with the treatment standards under 40 C.F.R. §268, Subpart D before being land disposed.	Matrix
§268.9(d)	Failure of generator or treater of a waste that once exhibited a characteristic but is no longer hazardous to place a one-time notification and certification in its files or to send to the Department.	Matrix

(40 C.F.R. Part 268 Subpart C-Prohibitions on Land Disposal)

§268.30	Failure to comply with land disposal prohibitions of wood preserving wastes.	Matrix
§268.31	Failure to comply with land disposal prohibitions of dioxin-containing wastes.	Matrix

§268.33	Failure to comply with land disposal prohibitions of organobromine wastes.	Matrix
§268.34	Failure to comply with land disposal prohibitions of toxicity characteristic metal wastes.	Matrix
§268.35	Failure to comply with land disposal prohibitions of petroleum refining wastes.	Matrix
§268.37	Failure to comply with land disposal prohibitions of ignitable and corrosive characteristic wastes whose treatment standards were vacated.	Matrix
§268.38	Failure to comply with land disposal prohibitions of newly identified organic toxicity characteristic wastes ' and newly listed coke by-product and chlorotoluene production wastes.	Matrix
§268.39	Failure to comply with land disposal prohibitions of spent aluminum potliners; reactive; and carbamate wastes.	Matrix

(40 C.F.R Part 268 Subpart D-Treatment Standards)

§268.40	Failure to meet treatment standard requirements found in the table in 40 C.F.R. §268.40 before land disposing of prohibited waste.	Matrix
§268.45	Failure to meet treatment standards before land disposing of hazardous debris.	Matrix
§268.48	Failure to meet treatment standards for underlying hazardous constituents.	Matrix

(40 C.F.R Part 268 Subpart E-Prohibitions on Storage)

§268.50(a)(1)	Failure of generator to store restricted waste solely for the purpose of the accumulation of such quantities of waste as necessary to facilitate proper recovery, treatment, or disposal.	Matrix
§268.50(a)(2)	Failure of facility owner or operator to store restricted waste solely for the purpose of the accumulation of such quantities of waste as necessary to	Matrix

	facilitate proper recovery, treatment, or disposal or to clearly mark each container or tank.	
§268.50(a)(3)	Transporter stored restricted waste at a transfer facility for greater than 10 days.	Matrix
§268.50(b)	Owner or operator of a treatment facility stored restricted waste for greater than one year.	Matrix
§268.50(f)	Failure of owner or operator of a treatment facility to treat or dispose of liquid hazardous waste containing PCBs at concentrations equal to or greater than 50 ppm within one year of the date the wastes were placed in storage.	Matrix

9. The violations of N.J.A.C. 7:26G-12, Hazardous Waste Permit Program, and the civil administrative penalty amounts for each violation, are as set forth in the following table.

Rule	Rule summary	Base penalty or Matrix
(40 C.F.R. Part 270 Subpart B-Permit Application)		
§270.10(e) and (f)	Constructed, installed, modified, or operated. hazardous waste facility without submitting Part A or Part B of permit application.	\$10,000
(40 C.F.R. Part 270 Subpart C-Permit Conditions)		
§270.30(a)	Failure of permittee to comply with all conditions of permit.	Matrix
§270.30(b)	Failure of permittee to apply for a new hazardous waste permit following expiration of initial permit.	Matrix
§270.30(d)	Failure of permittee to take all reasonable steps to minimize or correct any adverse impact on the environment resulting from noncompliance with permit.	\$10,000
§270.30(e)	Failure of permittee to properly operate and maintain systems of	Matrix

§270.30(h)	treatment and control used to achieve compliance with conditions of permit. Failure of permittee to furnish to the Department within a reasonable time any information that the Department may request or copies of records required to be kept by permit.	\$5,000
§270.30(i)	Failure of permittee to allow an authorized representative of the Department to enter facility, have access to and copy any records, inspect facilities, equipment etc., and sample or monitor any substances or parameters that are required by permit.	\$5,000
§270.30(j)(1)	Failure of permittee to take samples and measurements that are representative of the monitored activity.	Matrix
§270.30(j)(2)	Failure of permittee to retain records of required information regarding monitoring sampling and measurements.	\$2,000
§270.30(j)(3)	Failure of permittee to record specific monitoring data.	Matrix
§270.30(k)	Failure of permittee to sign and certify all applications, reports, or information submitted to Department.	\$300
§270.30(l)(1)	Failure of permittee to give notice to Department as soon as possible of any planned physical alterations or additions to permitted facility.	\$2,000
§270.30(l)(2)	Failure of permittee to give advance notice to the Department of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements.	\$5,000
§270.30(l)(4)	Failure of permittee to report monitoring results at intervals specified in permit.	\$2,000
§270.30(l)(5)	Failure of permittee to submit compliance reports on interim or final requirements in any compliance schedule within 14 days after	\$300



	schedule date.	
§270.30(1)(6)(i)(A)	Failure of permittee to report, orally within 24 hours, information concerning release of any hazardous waste that may cause an endangerment to public drinking water supplies.	\$25,000
§270.30(1)(6)(i)(B)	Failure of permittee to report, orally within 24 hours, information concerning a release or discharge of hazardous waste, or of a fire or explosion from a hazardous waste facility which could threaten the environment or human health outside the facility.	\$25,000
§270.30(1)(6)(iii)	Failure of permittee to report any noncompliance which may endanger health or the environment in writing within five days.	\$10,000
§270.30(1)(10)	Failure of permittee to report all instances of noncompliance not reported under 40 C.F.R. §270.30(1)(4), (5), and (6) at time monitoring reports submitted.	\$1,000
§270.30(1)(11)	Failure of permittee to submit relevant facts and correct information when the permittee becomes aware that it failed to submit such facts or information in permit application.	Matrix
 (40 C.F.R. Part 270 Subpart D-Changes to Permits)		
§270.40(b)	Failure of permittee to obtain written approval in advance of any proposed change of ownership or operational control.	\$5,000
 (40 C.F.R. Part 270 Subpart G-Interim Status)		
§270.71(a)(1)	Owner or operator of an interim status facility treated, stored, or disposed of hazardous waste types not specified in Part A application.	\$5,000
§270.71(a)(2)	Owner or operator of an interim status facility employed processes not specified in Part A application.	\$5,000

§270.71(a)(3)	Owner or operator of an interim status facility exceeded design capacities or operational limits specified in Part A application.	\$5,000
§270.72(b)	Interim status facility owner or operator made changes to facility, which amounted to reconstruction of facility.	\$5,000

Appendix A  
Hazardous Materials Regulations Penalty Table

<u>Rule</u>	<u>Rule Summary</u>	<u>Base Penalty</u>
(49 C.F.R. Part 130)		
§ 130.11(a)	Person offered oil for transportation without a document that indicated the shipment contained oil.	Matrix
§ 130.11(b)	Person transported oil without a readily available document indicating that the shipment contained oil.	Matrix
§ 130.21	Person used a package that allowed a release of oil.	Matrix
§ 130.31(a)	Carrier transported oil without a current basic discharge plan.	Matrix
§130.33	Failure of carrier to implement a response plan.	Matrix
(49 C.F.R. Part 171)		
§ 171.2(a)	Failure of a person offering or accepting a hazardous material to be registered with the Federal DOT or offering or accepting an improperly prepared package.	Matrix
§171.2(b)	Failure of person transporting a hazardous material to be registered with the Federal DOT or to properly handle or transport hazardous materials.	Matrix
§ 171.2(f)(1)	Person represented that a container or package for transportation meets requirements of 49 C.F.R when it did not.	Matrix
§ 171.2(f)(2)	Person represented that a hazardous	Matrix

	material was present in a package, container, or motor vehicle when it was not.	
§171.2(g)(1)	Person tampered with a marking, label, placard, or description on a document.	Matrix
§ 171.2(g)(2)	Person tampered with a package, container, or motor vehicle used for hazardous materials transportation.	Matrix
§171.3(b)(1)	Failure of carrier to mark motor vehicle used to transport hazardous waste (for which a manifest is required) in accordance with 49 C.F.R. §§390.21 or 1058.2.	Matrix
§ 171.15	Failure of carrier to give immediate notice of an incident by telephone to Federal DOT.	Matrix
§ 171.16(a)	Failure of carrier to submit a written report to Federal DOT within 30 days of discovery of an incident.	Matrix
§ 171.16(b)	Failure of carrier to retain a copy of an incident report at its principal place of business for two years.	Matrix

(49 C.F.R. Part 172 Subpart C-Shipping Papers)

§172.200(a)	Failure of shipper to describe the hazardous, material on a shipping paper.	Matrix
§172.201(a)(1)-(4)	Failure of shipper to use a proper description on a shipping paper.	Matrix
§ 172.201(c)	Failure of shipper using continuation page(s) to be consecutively numbered or the first page to contain a notation specifying the total number of pages.	Matrix
§ 172.202(a)(1)-(5)	Failure of shipper to include as part of the shipping description the proper shipping name, hazard class or division, ID number, packing group, and total quantity.	Matrix
§ 172.202(b)	Failure of shipper to show shipping description in the proper sequence with no additional information interspersed.	Matrix
§ 172.202(c)	Failure of shipper to list the total quantity before or after, or both	Matrix

§ 172.202(e)	before and after, the basic description. Shipper offered or carrier transported a material that is not a hazardous material with a hazard class or ID number in the shipping description.	Matrix
§172.203(a)	Failure of shipper to enter "DOT-E" followed by exemption number on the shipping paper.	Matrix
§ 172.203(c)(1)	Failure of shipper to enter the name of the hazardous substance or hazardous waste code in the shipping description when the proper shipping name does not identify the hazardous substance by name.	Matrix
§ 172.203(c)(2)	Failure of shipper to enter the letters "RQ" on the shipping paper.	Matrix
§ 172.203(k)	Failure of shipper to enter the technical names of the hazardous material in the shipping description for n.o.s. or other generic descriptions.	Matrix
§ 172.203(1)	Failure of shipper to enter the name of the component which makes a material a marine pollutant in the shipping description when not identified or to enter the words "Marine Pollutant."	Matrix
§ 172.203(m)	Failure of shipper to enter the proper information in the shipping description for poisonous materials.	Matrix
§172.205(a)	Failure of carrier to properly prepare a hazardous waste manifest.	Matrix

(49 C.F.R. Part 172 Subpart D-Marking)

§ 172.300(a)	Failure of shipper to properly mark each package, freight container, or transport vehicle.	Matrix
§ 172.300(b)	Failure of carrier to properly mark each package, freight container, or transport vehicle.	Matrix
§172.301(a)(1)	Failure of shipper to mark non-bulk packaging with the proper shipping name and ID number.	Matrix
§172.301(a)(3)	Failure of shipper of a single hazardous material in non-bulk	Matrix

	packages in a transport vehicle or freight container to mark each side and end with the ID number and each individual package with the same proper shipping name and ID number.	
§172.301(b)	Failure of shipper to mark non-bulk packaging subject to 49 C.F.R. § 172.203(k) with the technical name of the hazardous material.	Matrix
§172.301(c)	Failure of shipper to mark the outside of a non-bulk package, authorized by an exemption, with "DOT-E" followed by exemption number.	Matrix
§ 172.302(a)	Failure of shipper or carrier to properly mark bulk packaging with the ID number.	Matrix
§ 172.302(b)	Failure of shipper or carrier to display markings of proper size on bulk packagings.	Matrix
§ 172.302(c)	Failure of shipper or carrier to mark the outside of a bulk package, authorized by an exemption, with "DOT-E" followed by exemption number.	Matrix
§ 172.302(d)	Failure of shipper or carrier to maintain marking on bulk packaging when emptied.	Matrix
§172.303(a)	Shipper offered or carrier transported a package that did not contain the hazardous material marked on the package.	Matrix
§ 172.304(a)(1)-(4)	Failure of shipper or carrier to meet the marking requirements.	Matrix
§ 172.308(a)	Failure of shipper or carrier to use only authorized abbreviations.	Matrix
§ 172.312(a)	Failure of shipper of non-bulk combination package with inner packagings containing liquid hazardous material to pack with closures upward and with package orientation markings.	Matrix
§ 172.312(b)	Shipper displayed arrows for purposes other than to indicate proper package orientation on a non-bulk package containing liquid hazardous material.	Matrix
§ 172.313(a)	Failure of shipper or carrier to mark	Matrix

§ 172.313(b)	<p>packaging containing a material poisonous by inhalation with "Inhalation Hazard" (marking must be on two opposing sides of a bulk packaging).</p> <p>Failure of shipper or carrier to permanently mark non-bulk plastic outer packaging used as a single or composite packaging for Division 6.1 materials with "POISON" in letters at least 6.3 millimeters high.</p>	Matrix
§172.313(c)	<p>Failure of shipper or carrier of a material poisonous by inhalation in non-bulk packages in a transport vehicle or freight container to mark each side and end with the ID number and each individual package with the same proper shipping name and ID number.</p>	Matrix
§ 172.316(a)	<p>Failure of shipper or carrier to mark non-bulk packaging with the ORM-D designation on at least one side or end within a rectangle that is approximately 6.3 millimeters larger on each side than the designation.</p>	Matrix
§172.322(b)(1)-(2)	<p>Failure of shipper or carrier to properly mark bulk packaging with package containing a marine pollutant with the MARINE POLLUTANT mark.</p>	Matrix
§ 172.322(e)	<p>Failure of shipper or carrier to use the proper MARINE POLLUTANT mark.</p>	Matrix
§ 172.324(a)	<p>Failure of shipper to mark non-bulk packaging with the name of the hazardous substance or hazardous waste code when not identified by name.</p>	Matrix
§ 172.324(b)	<p>Failure of shipper to mark the letters "RQ" on a non-bulk package containing a hazardous substance.</p>	Matrix
§ 172.326(a)	<p>Failure of shipper or carrier to mark a portable tank on two opposing sides with the proper shipping name.</p>	Matrix
§ 172.326(b)	<p>Failure of shipper or carrier to display the name of the owner or lessee on a</p>	Matrix

	portable tank.	
§172.326(c)(1)	Failure of shipper or carrier to mark a transport vehicle or freight container used to transport a portable tank with ID number if not visible on portable tank.	Matrix
§172.326(c)(2)	Failure of shipper of a portable tank in a transport vehicle or freight container to provide ID number markings to motor carrier if not visible on portable tank.	Matrix
§172.328(a)(1)-(3)	Failure of shipper or carrier to provide, affix, or mark the ID number on a cargo tank or on the transport vehicle or freight container if not visible on cargo tank.	Matrix
§172.331(a)-(c)	Failure of shipper or carrier to provide, affix, or mark the ID number on bulk packaging other than portable tanks or cargo tanks or on the transport vehicle or freight container if not visible on bulk packaging.	Matrix
§ 172.332(c)-(d)	Failure of shipper or carrier to properly display ID number on placard.	Matrix
§172.334(a)-(g)	Person displayed an ID number in a prohibited manner.	Matrix
§172.336(a)	Failure of shipper or carrier, displaying ID numbers on transport vehicle or freight container that are not required or prohibited, to display proper ID numbers.	Matrix
§172.336(b)	Failure of shipper or carrier to properly display ID numbers on plain white square-on-point configuration.	Matrix
§ 172.338	Failure of carrier to replace missing or damaged ID number as soon as practical or to properly enter ID number when done by hand.	Matrix
(49 C.F.R. Part 172 Subpart E-Labeling)		
§172.400(a)-(b)	Failure of shipper or carrier to properly label packages or containment devices.	Matrix
§ 172.401(a)	Shipper or carrier labeled a package	Matrix

	that did not contain a hazardous material or without representing the hazard of the material.	
§ 172.401(b)	Shipper or carrier marked or labeled a package that could be confused with or conflicts with a label prescribed by 49 C.F.R. § 172.	Matrix
§ 172.402(a)(1)-(2)	Failure of shipper or carrier to label packages with primary and subsidiary hazard labels.	Matrix
§ 172.402(b)	Failure of shipper or carrier to display the hazard class or division number in lower corner of primary label.	Matrix
§172.404(a)	Failure of shipper or carrier to use label for each hazard class when hazardous materials having different classes are packed within the same packaging.	Matrix
§ 172.404(b)	Failure of shipper or carrier to use label for each hazard class when two or more packages containing compatible hazardous material are placed within the same outside container or overpack.	Matrix
§172.406(a)(1)-(2)	Failure of shipper or carrier to place label in the proper location on the package or containment device.	Matrix
§ 172.406(c)	Failure of shipper or carrier to place primary and subsidiary hazard labels within six inches of one another.	Matrix
§ 172.406(d)	Failure of shipper or carrier to place label on a background of contrasting color or have a dotted or solid line outer border.	Matrix
§172.406(e)	Failure of shipper or carrier to place duplicate labels on at least two sides.	Matrix
§ 172.406(f)	Failure of label to be clearly visible and not obscured by markings or attachments.	Matrix
§172.407(a)	Failure of shipper or carrier to use a durable and weather resistant label.	Matrix
§ 172.407(b)	Failure of shipper or carrier to use a label design as shown in 49 C.F.R §§172.411 through 172.448.	Matrix
§ 172.407(c)(1)-(5)	Failure of shipper or carrier to use a label, or numerals or text on a label,	Matrix



of proper size.

§172.407(d)(1)-(5) Failure of shipper or carrier to use the proper colors on a label. Matrix

(49 C.F.R Part 172 Subpart F-Placarding)

§172.502(a)(1)-(2) Shipper or carrier displayed prohibited placarding. Matrix

§ 172.502(c) Failure of shipper or carrier, displaying placards that are not required, to display proper placards. Matrix

§ 172.504(a) Failure of shipper or carrier to display proper placards. Matrix

§ 172.504(b) Failure of shipper or carrier to use the DANGEROUS placard properly. Matrix

§ 172.505(a) Failure of shipper or carrier to display POISON INHALATION HAZARD or POISON GAS placard, in addition to other placards required. Matrix

§ 172.505(c) Failure of shipper or carrier to display DANGEROUS WHEN WET placard, in addition to other placards required. Matrix

§172.506(a) Failure of shipper to provide motor carrier with the required placards prior to or at the same time the material is offered for transportation. Matrix

§172.506(a)(1) Carrier transported hazardous material without proper placarding. Matrix

§172.512(a) Failure of shipper or carrier to affix the required placards to a freight container having a capacity of 640 cubic feet. Matrix

§ 172.514(a) Failure of shipper to affix the required placards to a bulk packaging. Matrix

§172.514(b) Failure of shipper or carrier to maintain placarding on bulk packaging when emptied. Matrix

§ 172.516(a) Failure of placard to be readily visible from the direction it faces. Matrix

§ 172.516(c)(1)-(6) Failure of shipper or carrier to meet the placard visibility and display requirements. Matrix

§ 172.516(d) Failure of shipper or carrier to ensure that placard holder does not obscure placard surface other than the borders. Matrix

§172.519(a)(1)-(3)	Failure of shipper or carrier to meet the placard strength and durability requirements.	Matrix
§172.519(b)	Failure of shipper or carrier to use a placard design as shown in 49 C.F.R. §§172.521 through 172.560.	Matrix
§172.519(c)(1)-(3)	Failure of shipper or carrier to use a placard, or numerals or text on a placard, of proper size.	Matrix
§172.519(d)(1)-(4)	Failure of shipper or carrier to use the proper colors on a placard.	Matrix

(49 C.F.R. Part 172 Subpart G -Emergency Response Information)

§ 172.600(c)	Failure of shipper or carrier to have emergency response information immediately available.	Matrix
§172.602(a)(1)-(7)	Failure of emergency response information to contain all required information.	Matrix
§ 172.602(b)	Failure of emergency response information to be printed legibly in English, available for use away from the package, or presented on a shipping paper.	Matrix
§172.602(c)(1)	Failure of carrier to properly maintain emergency response information.	Matrix
§ 172.602(c)(2)	Failure of facility operator to properly maintain emergency response information.	Matrix
§ 172.604(a)	Failure of shipper to provide a 24-hour emergency response telephone number.	Matrix
§ 172.604( a) (1)	Failure of shipper to ensure emergency response telephone number is monitored at all times the hazardous material is in transportation.	Matrix
§ 172.604(a)(2)	Failure of shipper to ensure emergency response telephone number is the number of a person who is either knowledgeable of the hazardous material or has immediate access to a person who possesses such knowledge.	Matrix
§172.604(a)(3)	Failure of shipper to enter the	Matrix

	emergency response telephone number on the shipping paper as required.	
§ 172.604(b)	Failure of emergency response telephone number to be that of the person offering the hazardous material for transportation or of an agency accepting responsibility that has received current information on the material.	Matrix
§ 172.606(a)	Failure of carrier to instruct the driver to contact the carrier in the event of an incident.	Matrix
§ 172.606(b)(1)	Failure of carrier transporting by highway to mark transport vehicle with its telephone number when parked at a separate location from its motive power.	Matrix
§ 172.606(b)(2)	Failure of carrier transporting by highway to have the shipping paper and emergency response information available on the transport vehicle when parked at a separate location from its motive power.	Matrix

(49 C.F.R. Part 172 Subpart H-Training)

§ 172.702(a)	Failure of hazmat employer to train each of its hazmat employees.	Matrix
§ 172.702(b)	Failure of hazmat employer to provide training that applies to a particular function before being performed by a hazmat employee.	Matrix
§ 172.702(d)	Failure of hazmat employer to test each of its hazmat employees by appropriate means on the training subjects.	Matrix
§172.704(a)(1)	Failure of hazmat employee training to include general awareness/familiarization training.	Matrix
§172.704(a)(2)	Failure of hazmat employee training to include function-specific training.	Matrix
§ 172.704(a)(3)	Failure of hazmat employee training to include safety training.	Matrix
§ 172.704(c)(1)	Failure of new hazmat employee, or a hazmat employee who changes job	Matrix

§ 172.704(c)(2)	functions, to receive initial training. Failure of hazmat employee to receive the required training at least once every three years.	Matrix
§172.704(d)(1)-(4)	Failure of hazmat employer to create and retain a record of current training, inclusive of the preceding three years, for 90 days after an employee is no longer employed by that employer as a hazmat employee.	Matrix

(49 C.F.R. Part 173 Subpart A-General)

§ 173.2a(a)	Failure of shipper to class material according to the highest applicable hazard class.	Matrix
§173.3(c)(1)-(7)	Failure of shipper to properly use a salvage drum for packages of hazardous materials that are damaged, defective, or found leaking.	Matrix
§173.12(b)(1)-(3)	Failure of shipper to comply with packaging requirements for lab packs.	Matrix
§173.12(c)(1)-(5)	Failure of shipper to properly reuse a packaging for the shipment of hazardous waste.	Matrix
§ 173.13(c)(1)	Failure of shipper of liquid hazardous material excepted from labeling and placarding requirements to comply with packaging requirements.	Matrix
§173.13(c)(2)	Failure of shipper of solid hazardous material excepted from labeling and placarding requirements to comply with packaging requirements.	Matrix
§173.13(d)	Failure of shipper to mark package of hazardous material excepted from labeling and placarding requirements with the statement: "This package conforms to 49 C.F.R. 173.13."	Matrix

(49 C.F.R. Part 173 Subpart B-Preparation of Hazardous Material for Transportation)

§ 173.21(a)-(k)	Person offered for transportation or transported forbidden materials or packages.	Matrix
§173.22(a)(1)-(4)	Failure of shipper to use a proper	Matrix

§ 173.22a(a)	packaging or container. Failure of shipper using a packaging authorized under an exemption to be the holder of or a party to the exemption.	Matrix
§ 173.22a(b)	Failure of shipper to maintain a copy of the exemption at each facility where the packaging is being used in connection with the shipment or transportation of the hazardous material.	Matrix
§ 173.22a(c)	Failure of shipper to furnish a copy of the exemption to the carrier when it contains requirements that apply to the carrier.	Matrix
§ 173.24(b)(1)-(3)	Failure of shipper or carrier to meet the general requirements for packages.	Matrix
§173.24(e)(1)-(5)	Failure of shipper to ensure that the packaging is compatible with its contents.	Matrix
§ 173.24(f)(1)-(2)	Failure of shipper or carrier to use properly designed closures on packagings.	Matrix
§173.24(h)(1)	Failure of shipper or carrier to leave sufficient outage when filling packages with liquids.	Matrix
§173.24a(a)(1)-(5)	Failure of shipper of non-bulls packagings and packages to meet design requirements.	Matrix
§ 173.24a(b)(5)	Failure of shipper or carrier to ensure that no hazardous material remains on the outside of a non-bulk package after filling.	Matrix
§ 173.24a(d)	Failure of shipper to limit the amount of material placed into a receptacle.	Matrix
§ 173.24b(a)	Failure of shipper or carrier to load liquids in bulk packagings so that the outage is at least five percent for materials poisonous by inhalation, or at least one percent for all other materials, of the total capacity.	Matrix
§ 173.24b(d)(2)	Failure of shipper or carrier to limit the weight of lading loaded into a bulk package.	Matrix
§173.25(a)(1)-(5)	Failure of shipper to use a properly	Matrix

§ 173.28(a)	prepared overpack. Failure of shipper to inspect packaging or receptacle before reusing to ensure it conforms to the requirements of 49 C.F.R. §§71 through 180.	Matrix
§ 173.28(b)(1)-(7)	Failure of shipper to properly reuse a non-bulk packaging.	Matrix
§ 173.28(e)	Shipper reused a package marked as NRC for material required to be shipped in a DOT specification or UN standard packaging.	Matrix
§ 173.29(a)	Failure to offer for transportation or transport empty packaging containing residue of a hazardous material in the same manner as when it previously contained a greater quantity.	Matrix
§ 173.32(a)	Failure of shipper or carrier to use a portable tank that conforms to the requirements for the particular hazardous material being transported or to retain a manufacturer's data report while it is used for such service.	Matrix
§173.32(e)(1)-(5)	Failure of shipper or carrier to successfully retest a portable tank in accordance with the required schedule and test procedures, to properly mark portable tank with most recent retest date, or to retain proper written records.	Matrix
§ 173.32(f)	Failure of shipper or carrier to test a special portable tank.	Matrix
§ 173.32(g)	Failure of shipper or carrier to retest a deteriorated portable tank (significant dents, corroded areas, leakage, or other conditions that indicate weakness).	Matrix
§173.32(h)	Failure of shipper or carrier to retest a portable tank that has been in an accident and has been damaged to an extent that may adversely affect its product retention capability.	Matrix
§173.32(i)	Failure of shipper or carrier to successfully test a portable tank that has not been used to transport	Matrix

§173.32(m)	hazardous material for one year or more prior to returning to service. Failure of shipper or carrier to ensure that alt materials of construction used in a portable tank container and its appurtenances are not subject to destructive attack by its contents.	Matrix
§173.32b(a)(1)-(2)	Failure of shipper or carrier to conduct periodic hydrostatic test of IM portable tank or periodic test of pressure-relief valves.	Matrix
§173.32b(b)(1)-(7)	Failure of shipper or carrier to conduct periodic visual inspection of IM portable tank.	Matrix
§173.32b(d)	Failure of shipper or carrier to properly mark the IM portable tank with the required test information.	Matrix
§ 173.32b(e)	Failure of shipper or carrier to inspect or retest a damaged or deteriorated IM portable tank (corroded areas, leakage, or other conditions that indicate weakness).	Matrix
§ 173.32b(f)	Failure of shipper or carrier to retain proper written records of test information, including visual inspections.	Matrix
§173.32c(a)	Person offered a hazardous material for transportation in an unauthorized IM portable tank.	Matrix
§ 173.32c(b)	Failure of shipper or carrier to use a proper IM portable tank.	Matrix
§ 173.32c(c)	Failure of shipper or carrier to conduct the required retests or reinspections when they become due prior to filling or offering for shipment an IM portable tank.	Matrix
§ 173.32c(e)	Failure of shipper or carrier to ensure that any part of IM portable tank or its appurtenances are not subject to destructive attack by its contents.	Matrix
§ 173.32c(i)	Shipper or carrier loaded an IM portable tank to a gross vehicle weight greater than the maximum allowable gross vehicle weight specified on its identification plate.	Matrix
§ 173.32c(m)	Failure of shipper or carrier to load an	Matrix

	IM portable tank entirely within the horizontal outline thereof.	
§173.33(a)(1)-(3)	Failure of shipper or carrier to use an authorized cargo tank motor vehicle.	Matrix
§173.33(b)(1)-(4)	Failure of shipper or carrier to meet cargo tank loading requirements.	Matrix
§173.33(e)	Failure of carrier to drain piping on DOT specification cargo tanks of any material that is a Division 6.1 material, oxidizer liquid, liquid organic peroxide, or corrosive liquid (skin only) prior to transporting.	Matrix
§ 173.35(a)	Failure of shipper or carrier to use an authorized intermediate bulk container.	Matrix
§173.35(6)	Failure of shipper to visually inspect each intermediate bulk container and its service equipment before filling.	Matrix
§173.35(d)	Failure of shipper or carrier filling intermediate bulk container with liquids to ensure that it is not filled to more than 98 percent of its water capacity.	Matrix
§173.35(f)(1)	Failure of carrier to ensure that no hazardous material remains on the outside of the intermediate bulk container during transportation.	Matrix
§ 173.35(f)(2)	Failure of carrier to ensure that each intermediate bulk container is securely fastened or contained within the transport unit during transportation.	Matrix
§ 173.35(g)	Failure of shipper or carrier to ensure that each intermediate bulk container of solids is capable of containing the substance in the liquid state.	Matrix
§173.35(h)(1)-(2)	Failure of shipper to use only metal, rigid plastic, or composite intermediate bulk containers for liquid hazardous material.	Matrix
§ 173.35(j)	Shipper or carrier filled an intermediate bulk container with a Packing Group I liquid or exceeded the capacity for a Packing Group I solid.	Matrix
§173.35(k)	Failure of shipper or carrier to take	Matrix



	measures to prevent an electrostatic discharge during loading and unloading of liquids with a flashpoint of 141 degrees Fahrenheit or lower, or powders with the potential for dust explosion, in intermediate bulk containers.	
§ 173.35(l)(1)-(4)	Failure of shipper or carrier to comply with the intermediate bulk container filling limits.	Matrix

(49 C.F.R. Part 173 Subpart E-Non-Bulk Packaging for Hazardous Materials Other Than Class 1 and Class 7)

§173.197(a)(1)-(7)	Failure of shipper to meet the packaging requirements for regulated medical waste.	Matrix
§173.216(c)(1-4)	Failure of shipper or carrier to meet the general packaging requirements for asbestos.	Matrix

(49 CT.R. Part 177 Subpart A-General Information and Regulations)

§ 177.800(b)	Failure of carrier or connecting carrier to perform duties, comply with requirements of 49 C.F.R. § 177, or ensure its hazmat employees receive training in relation thereto.	Matrix
§ 177.800(c)	Failure of carrier to train its hazmat employees involved in transportation of hazardous material as required by 49 C.F.R. § 177 and subpart H of 49 C.F.R. §172.	Matrix
§ 177.800(d)	Carrier caused an unnecessary delay in the shipment of hazardous materials.	Matrix
§ 177.801	Carrier transported a forbidden material or hazardous material that was not prepared in accordance with 49 C.F.R. §§171 through 180.	Matrix
§ 177.804	Failure of carrier to comply with the Federal Motor Carrier Safety regulations.	Matrix
§ 177.816(a)	Failure of carrier to train driver in the requirements of 49 C.F.R. §§390 through 397.	Matrix

§ 177.816(b)	Person operated a cargo tank or vehicle with portable tank without receiving training or without having the appropriate State-issued commercial driver's license.	Matrix
§ 177.816(d)	Failure of required training to conform to the frequency and record keeping requirements of 49 C.F.R. § 172.704.	Matrix
§177.817(a)	Failure of carrier to transport a hazardous material accompanied by a properly prepared shipping paper.	Matrix
§ 177.817(b)	Carrier accepted hazardous material for transportation with shipping papers that did not include the required shipper's certification.	Matrix
§ 177.817(e)	Failure of carrier to ensure that the shipping papers required by 49 C.F.R. §177.817 are available and recognizable by authorities.	Matrix
§ 177.823(a)	Failure of carrier to mark or placard a vehicle transporting hazardous material.	Matrix
§177.823(b)	Failure of carrier to remove a leaking vehicle from the traveled portion of the highway or employ every available means for safe disposal of the leaking material.	Matrix
§177.823(c)	Carrier transported a leaking cargo tank more than a minimum distance necessary to reach a site for safe disposal of the contents.	Matrix

(49 C.F.R. Part 177 Subpart B-Loading and Unloading)

§ 177.834(a)	Failure of carrier to secure packages containing Class 3, 2, 8, 6.1 or 7 material against movement in a motor vehicle, under conditions normally incident to transportation.	Matrix
§177.834(c)	Person smoking on or about motor vehicle while loading or unloading Class 1, 3, 4, 5 or Division 2.1.	Matrix
§ 177.834(d)	Failure to keep fire away or persons from smoking when loading or unloading a Class 1, 3, 4, 5 or	Matrix

	Division 2.1 material from a motor vehicle.	
§ 177.834(e)	Failure to securely set the handbrake and prevent motion of the motor vehicle during loading or unloading of hazardous material.	Matrix
§ 177.834(f)	Person used tools that are likely to damage the effectiveness of the closure and adversely affect packages or containers during the loading or unloading of Class 1 material or other dangerous articles.	Matrix
§ 177.834(g)	Failure of carrier to prevent motion of Class 1, 3, 4, 5, 8, 2 and Division 6.1 containers by bracing to prevent motion thereof relative to the vehicle while in transit.	Matrix
§ 177.834(h)	Person tampered with hazardous material containers or discharged the contents of such containers.	Matrix
§ 177.834(i)	Cargo tank was not attended by a qualified person while it was being loaded.	Matrix
§ 177.834(j)	Carrier permitted or person drove cargo tank containing hazardous material without securely closing the manholes, valves and other closures.	Matrix
§177.837(a)	Person loaded or unloaded a Class 3 material into or from a cargo tank motor vehicle while the engine was running.	Matrix
§177.837(b)	Failure of carrier to provide metallic bonds or ground conductors for containers which are not in metallic contact with each other for the neutralization of static charges prior to and during transfers of Class 3 materials.	Matrix
§177.837(c)	Failure of carrier to bond and ground cargo tanks before and during transfer of lading when a cargo tank is loaded through an open filling hole.	Matrix
§177.838(a)	Failure of carrier to entirely contain Class 4 and 5 materials within the body of the motor vehicle or to cover by tarpaulins or other suitable means.	Matrix

§ 177.838(b)	Failure of carrier to keep Class 4 and 5 materials dry which are likely to become hazardous when wet when loading a motor vehicle and during transportation.	Matrix
§177.838(c)	Failure of carrier to load articles, possible of spontaneous combustion or heating, with sufficient ventilation to provide assurance against fire.	Matrix
§177.838(h)	Failure of carrier to load Division 4.2 materials in cylinders with valves and safety relief device in the vapor space and in a manner that no shifting occurs in transit.	Matrix
§ 177.839(a)	Carrier loaded nitric acid above any other packaging.	Matrix
§ 177.839(b)	Failure of carrier to protect batteries containing electrolyte from being impacted by other cargo or protecting their terminals from short circuits.	Matrix
§ 177.841(a)	Failure of carrier to load bulk arsenical compounds into sift-proof, steel hopper-type, or dump-type motor-vehicle bodies equipped with water-proof, dust-proof covers well secured in place on all openings.	Matrix

(49 C.F.R. Part 177 Subpart C-Segregation and Separation Chart of Hazardous Materials)

§ 177.848(b)	Failure of carrier to stow or segregate a transport vehicle containing hazardous material in accordance with 49 C.F.R. §176.83(b).	Matrix
§ 177.848(c)	Carrier loaded or stored cyanide or cyanide mixtures with acids.	Matrix
§ 177.848(d)	Failure of carrier to load, transport, or store hazardous materials in accordance with the "Segregation Table for Hazardous Materials."	Matrix

(49 C.F.R. Part 177 Subpart D-Vehicles and Shipments in Transit; Accidents)

§ 177.854(a)	Failure of carrier to guard motor vehicle transporting hazardous	Matrix
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	material and provide against hazards during unnecessary stops on the traveled portion of the highway or shoulder.	
§ 177.854(b)	Failure of carrier to use safest practical means afforded when leaks occur in packages or containers during the course of transportation, subsequent to initial loading.	Matrix
§ 177.854(e)	Failure of carrier to safely and expeditiously store leaking containers of hazardous materials.	Matrix
§ 177.854(f)	Failure of carrier to set out warning devices when stopped on the highway, or shoulder.	Matrix
§ 177.854(g)	Carrier used heat or flame to repair fuel or cargo containment system.	Matrix
§ 177.854(h)	Carrier repaired a cargo tank using a flame or arc before first making it gas free.	Matrix

(49 C.F.R. Part 180 Subpart D-Qualification and Maintenance of Intermediate Bulk Containers)

§ 180.351(a)	Carrier used an unauthorized intermediate bulk container for the transportation of a hazardous material.	Matrix
§ 180.352(a)	Carrier filled, offered, or transported an intermediate bulk container before the test or inspection was completed.	Matrix
§180.352(c)	Failure of carrier to initially inspect an intermediate bulk container prior to placing hazardous materials into the container.	Matrix
§ 180.352(d)	Failure of carrier to mark the most recent test date on the intermediate bulk container.	Matrix
§ 180.352(e)	Failure of carrier to maintain periodic test and inspection records.	Matrix

(49 C.F.R. Part 180 Subpart E-Qualification and Maintenance of Cargo Tanks)

§180.405(a)	Carrier used an unauthorized cargo tank.	Matrix
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§ 180.407(a)	Carrier filled, offered, or transported a cargo tank before tests or inspections were completed.	Matrix
§ 180.407(b)	Failure of carrier to test or inspect an unsafe, damaged, or out-of-service cargo tank.	Matrix
§ 180.415(a)	Failure of carrier to mark test and inspection dates on a cargo tank.	Matrix
§ 180.415(b)	Failure of cargo tank markings to be durable and legible.	Matrix
§ 180.417(a)	Failure of carrier to retain the manufacturer certificate for a cargo tank.	Matrix
§ 180.417(b)	Failure of carrier to have a written test or inspection report or to retain the written reports for cargo tanks.	Matrix

(49 C.F.R. Part 387 Subpart A-Motor Carriers of Property)

§387.7(a)	Failure of carrier to obtain minimum levels of financial responsibility.	Matrix
§387.7(d)	Failure of carrier to maintain proof of financial responsibility at principal place of business.	Matrix

(49 C.F.R. Part 390 Subpart B-General Requirements and Information)

§390.21(a)	Failure of carrier to mark a commercial motor vehicle.	Matrix
§390.21(b)	Carrier displayed incomplete or incorrect vehicle markings.	Matrix
§390.21(c)	Failure of carrier to use proper size, shape, color, or location of markings.	Matrix
§390.31(a)	Failure of carrier to preserve records and documents in their original form.	Matrix

(49 C.F.R. Part 391 Subpart B-Qualification and Disqualification of Drivers)

§391.11 (a)	Carrier permitted or required an unqualified person to drive a commercial motor vehicle.	Matrix
§391.15(a)	Carrier required a disqualified driver to drive a commercial vehicle.	Matrix

(49 C.F.R. Part 391 Subpart C-Background and Character)

§391.21(b)	Failure of carrier to furnish an employment application.	Matrix
§391.23(a)	Failure of carrier to make required background investigations of a commercial vehicle driver.	Matrix
§391.25(a)	Failure of carrier to make an annual inquiry into all driving records.	Matrix
§391.25(b)	Failure of carrier to make an annual determination that drivers meet minimal requirements.	Matrix
§391.25(c)	Failure of carrier to maintain state agency response to a driving record inquiry.	Matrix
§391.27(a)	Failure of carrier to annually require each driver to furnish a list of all violations.	Matrix
§391.27(d)	Failure of carrier to maintain violation list or certificate in driver's qualification file.	Matrix

(49 C.F.R. Part 391 Subpart D-Tests)

§391.31(a)	Failure of carrier to require a commercial vehicle road test.	Matrix
§391.31(d)	Failure of carrier to provide road test form.	Matrix
§391.31(e)	Failure of carrier to complete a certificate of driver's road test.	Matrix
§391.31(g)	Failure of carrier to retain original signed road test form or certificate.	Matrix

(49 C.F.R. Part 391 Subpart E-Physical Qualifications and Examinations)

§391.41(a)	Failure of person to carry a current medical examiner's certificate.	Matrix
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(49 C.F.R. Part 391 Subpart F-Files and Records)

§391.51(a)	Failure of carrier to maintain a driver qualification file.	Matrix
§391.51(b)	Failure of carrier to maintain a complete qualification file.	Matrix
§391.51(c)	Failure of carrier to maintain driver qualification file for three years beyond employment.	Matrix

(49 C.F.R. Part 392 Subpart A-General)

§392.7(a)	Person drove a commercial motor vehicle prior to ensuring parts and accessories were in good working order.	Matrix
§392.8(a)	Person drove a commercial motor vehicle before being satisfied that the emergency equipment was in place and ready for use.	Matrix
§392.9(a)-(b)	Person operated a commercial motor vehicle prior to ensuring the cargo was properly distributed and adequately secured.	Matrix

(49 C.F.R. Part 393 Subpart H-Emergency Equipment)

§393.95(a)	Failure of carrier to equip a power unit with a properly filled and located fire extinguisher.	Matrix
§393.95(c)	Failure of carrier to equip vehicle with spare fuses.	Matrix
§393.95(f)	Failure of carrier to equip motor vehicle with warning devices for stopped vehicles.	Matrix

(49 C.F.R. Part 395)

§395.3(a)	Carrier permitted or required a driver to drive more than 10 hours or after being on duty for 15 hours.	Matrix
§395.3(b)	Carrier permitted or required a driver to drive for any period after having been on duty 60 hours in seven consecutive days or after having been on duty 70 hours in eight consecutive days.	Matrix
§395.8(a)	Failure of person to record duty status.	Matrix
§395.8(c)	Failure of person to record change of duty status.	Matrix
§395.8(f)	Failure of person to record driver's activities.	Matrix
§395.8(i)	Failure of person to file driver's record of duty status.	Matrix
§395.8(k)	Failure of carrier to retain records of	Matrix



duty status.

(49 C.F.R. Part 396)

§396.11(a)	Failure of person to prepare a written report.	Matrix
§396.11(b)	Failure of person to indicate deficiencies or lack of deficiencies on report or to sign report.	Matrix
§396.11(c)	Failure of carrier to repair deficiencies or to certify or retain inspection reports.	Matrix
§396.13(a)-(c)	Failure of person to be satisfied that the vehicle is in safe operating condition or to review or sign previous inspection reports.	Matrix

(49 C.F.R. Part 397 Subpart A-General)

§397.3	Failure of carrier to comply with jurisdictional laws concerning driving and parking of hazardous materials vehicles.	Matrix
§397.5	Failure of carrier to attend a vehicle that contains hazardous materials.	Matrix
§397.7(b)	Carrier parked a hazardous material vehicle within five feet of the traveled portion of a street or highway.	Matrix
§397.11	Carrier operated or parked a hazardous material vehicle near an open fire.	Matrix
§397.13	Person smoked within 25 feet of a hazardous material vehicle.	Matrix

(49 C.F.R. Part 397 Subpart C-Routing of Non-Radioactive Hazardous Materials)

§397.67(b)	Carrier operated a hazardous material vehicle over inappropriate routes.	Matrix
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7:26G-2.5 Civil administrative penalty determination

(a) The Department shall assess penalties under this section, and not under N.J.A.C. 7:26G-2.4, when:

1. Because of the specific circumstances of the violation, the Department determines that the penalty amount under N.J.A.C. 7:26G-2.4 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. 7:26G-2.4.

(b) Each violation of the Act, or any rule promulgated, administrative order, permit, license or other operating authority issued, or Part A permit application filed, 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, administrative order, permit, license or other operating authority issued, or Part A permit application filed, pursuant to the Act, may pertain to more than one act, condition, occurrence, item, unit, waste or parameter, the failure to comply with such requirement as it pertains to each such act, condition, occurrence, item, unit, waste or parameter shall constitute an additional, separate and distinct violation.

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

SERIOUSNESS

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

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

1. Major seriousness shall apply to any violation which:

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

ii. Seriously deviates from the requirements of the Act or any rule promulgated, administrative order, permit, license or other operating authority issued, or Part A permit application filed, 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,

or any Part A permit application filed, 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 shall 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 violation.

#### 7:26G-2.6 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, or any Part A permit application filed, 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 violation.

#### 7:26G-2.7 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, facility, or vehicle which the Department may enter and inspect pursuant to the provisions of the Act or other statutory authority.

(b) Each day that a violator refuses, inhibits or prohibits immediate lawful entry and inspection by an authorized Department representative of any premises, building, facility, or vehicle 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, facility, or vehicle 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 violation.

#### 7:26G-2.8 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, or any Part A permit application filed, pursuant to the Act.

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

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

(c) The base penalty shall be as follows:

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

(d) Failure to pay a fee within 30 days of receipt by the violator of notice of the nonpayment from the Department shall be considered a continuing violation. For a continuing violation, the Department may increase the amount of the base penalty calculated pursuant to (c) above by the amount obtained by multiplying the base penalty dollar amount by 1.0 percent for each day that the fee is past due.

#### 7:26G-2.9 Civil administrative penalty for economic benefit

The Department may, in addition to any other civil administrative penalty assessed pursuant to this subchapter include as an additional 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, or any Part A permit application filed, 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.

### Subchapter 3. Hazardous Waste Fees

#### 7:26G-3.1 General provisions

In accordance with N.J.S.A. 13:1E-1 et seq., specifically N.J.S.A. 13:1E-6, 13:1E-18, 13:1E-42.2 and 13:1E-60d, there is hereby established a fee schedule for hazardous waste generators, transporters, and treatment, storage, or disposal facilities. Notwithstanding provisions in N.J.A.C. 7:26-4, this subchapter constitutes the rules of the Department for hazardous waste fees. Any fee under this subchapter that is subject to N.J.A.C. 7:1L shall be payable in installments in accordance with N.J.A.C. 7:1L.

#### 7:26G-3.2 Payment of fees

(a) Fees for activities related to hazardous waste generators, transporters, and treatment, storage, or disposal facilities shall be paid by certified check or money order payable to: Treasurer, State of New Jersey. Payment shall be submitted to:

New Jersey Department of Environmental Protection  
Bureau of Revenue  
CN 417  
Trenton, New Jersey 08625-0417

(b) All fees shall be paid within 30 days of the date on the bill issued by the Department unless otherwise specified herein. A person who fails to pay a fee within the time due shall be subject to penalties pursuant to N.J.A.C. 7:26G-2.8.

#### 7:26G-3.3 Fee schedule for hazardous waste facilities, generators, and transporters

(a) Fees for generators filing a biennial report in accordance with 40 C.F.R. 261.5(e), 261.5(f), 262.41, and 262.44 (as incorporated by reference at N.J.A.C. 7:26G-5 and (6) shall be based on quantities of hazardous waste generated during the odd number calendar year preceding the even numbered reporting year and on whether or not the report is submitted electronically, and, for electronic submissions, whether it is accurate and complete. Hazardous waste generator biennial reporting fees are as follows:

1. Less than 1.1 tons of hazardous waste generated: \$34.00 for complete, accurate electronic reports; \$135.00 for incomplete, inaccurate, or paper reports.

2. Equal to or greater than 1.1 tons but less than 10 tons of hazardous waste generated: \$68.00 for complete, accurate electronic reports; \$270.00 for incomplete, inaccurate, or paper reports.

3. Equal to or greater than 10 tons but less than 100 tons of hazardous waste generated: \$127.00 for complete, accurate electronic reports; \$507.00 for incomplete, inaccurate, or paper reports.

4. Equal to or greater than 100 tons but less than 150 tons of hazardous waste generated: \$253.00 for complete, accurate electronic reports; \$1,013 for incomplete, inaccurate, or paper reports.

5. Equal to or greater than 150 tons of hazardous waste generated: \$405.00 for complete, accurate electronic reports; \$1,621 for incomplete, inaccurate, or paper reports.

(b) The manifest processing fee for generators and hazardous waste facilities is as follows:

1. Generators located in the State of New Jersey: \$10.00 per manifest.
2. Hazardous waste facilities: \$10.00 per manifest for waste received from generators located outside of the State of New Jersey unless exempt under N.J.A.C. 7:26G-3.4(c). A hazardous waste facility will not be assessed a manifest processing fee for waste received from New Jersey generators.

(c) Fees for conducting inspections and compliance reviews for generators and facilities are as follows:

1. Inspection fee for a major commercial hazardous waste facility, as defined at N.J.S.A. 13:1E-42.1, shall be determined by the following formula:

$F = \text{Fee}$

$T = \text{Inspection time (expressed as a percentage of the Department's total annual time for all major facilities)}$

$W = \text{Total quantity of hazardous waste generated and manifested off-site and hazardous waste manifested into the facility (expressed as a percentage of total hazardous waste generated and received annually from off-site for all major facilities)}$

$I = \text{Total annual cost for inspecting major commercial hazardous waste facilities.}$

2. Inspection fee for a commercial hazardous waste facility, other than a major hazardous waste facility as defined at N.J.S.A. 13:1E-42.1, per inspection: \$1,442;
3. Inspection fee for a non-commercial hazardous waste facility: \$3,154; and
4. Annual fee for a generator:
  - i. Large quantity generator: \$980.00;
  - ii. Small quantity generator: \$600.00; and
  - iii. Conditionally exempt small quantity generator: \$40.00.

(d) Fees for waste classification and delisting are as follows. Fees for waste classification shall be paid upon submission of each request for classification. A fee shall be assessed for each separate waste classification requested. Fees for each step in the delisting process shall be submitted prior to the commencement of review/action by the Department:

1. Fee for the classification of wastes where the total volume of waste to be classified is greater than or equal to 200 cubic yards of solids or 500 gallons of liquids, per classification: \$477.00;

2. Fee for the classification of wastes where the total volume of waste to be classified is less than 200 cubic yards of solids or less than 500 gallons of liquids, per classification: \$239.00;

3. Fee for the review of sampling plans submitted in support of waste classification requests, for each plan submitted: \$275.00;

4. Fees for evaluating site specific waste streams for delisting pursuant to N.J.A.C. 7:26G-4 (40 C.F.R. 260.22) shall be paid upon submission of the document, or in the case of the New Jersey Register notices, prior to the preparation of the notice, and are as follows:

- i. Review of delisting petition: \$42,227;
- ii. Development, monitoring, and review of sampling plan: \$1,377;
- iii. Development and publication of public notice in the New Jersey Register: \$13,770;

(e) Fees for permitting/review activities are as follows:

1. Fees for review of a permit application for a new hazardous waste facility, expansion of 50 percent or more at a major hazardous waste facility, as defined at N.J.S.A. 13:1E-51, and expansion of any facility that includes a new type of hazardous waste management unit among those listed below shall be paid at time of application submission and are as follows:

i. Land disposal (without storage) as defined in 40 C.F.R. 268.2(c) (that is, landfills, surface impoundments, waste piles, injection wells, land treatment facilities, salt dome formations, salt bed formations, underground mines or caves, and concrete vaults or bunkers intended for disposal purposes): \$60,355.

ii. Storage and/or treatment including containers, tanks, drip pads, miscellaneous units, and containment buildings: \$32,764, subject to any rebate available under (e)13 below

iii. Incineration (including boilers and industrial furnaces) with trial burn: \$137,955

iv. Incineration (including boilers and industrial furnaces) without trial burn: \$120,711

2. Fees for review of permit renewal application shall be paid at time of renewal application submission and are as follows:

i. Land disposal (without storage) as defined in 40 C.F.R. 268.2(c) (that is, landfills, surface impoundments, waste piles, injection wells, land treatment facilities, salt dome formations, salt bed formations, underground mines or caves, and concrete vaults or bunkers intended for disposal purposes): \$32,764

ii. Non-commercial storage and/or treatment, including containers, tanks, drip pads, miscellaneous units, and containment buildings: \$24,142

iii. Commercial storage and/or treatment, including containers, tanks, drip pads, miscellaneous units, and containment buildings: \$44,835

iv. Incineration (including boilers and industrial furnaces) with trial burn: \$94,844

v. Incineration (including boilers and industrial furnaces) without trial burn: \$77,600

3. Fees for permit issuance/denial for a facility with "existing facility status" prior to February 3, 1992 shall be paid by June 2, 1992 or at the time of public notice of the draft permit/denial, whichever is earliest. Fees for permit issuance/denial for a facility with "existing facility status" after February 3, 1992 shall be paid at the time of public notice of the draft permit/denial. These fees are as follows:

i. Land disposal (without storage) as defined in 40 C.F.R. 268.2(c) (that is, landfills, surface impoundments, waste piles, injection wells, land treatment facilities, salt dome formations, salt bed formations, underground mines or caves, and concrete vaults or bunkers intended for disposal purposes): \$60,355

ii. Storage and/or treatment, including containers, tanks, drip pads, miscellaneous units, and containment buildings: \$32,764, subject to any rebate available under (e)13 below

iii. Incineration (including boilers and industrial furnaces) with trial burn: \$142,576

iv. Incineration (including boilers and industrial furnaces) without trial burn: \$120,711



4. Fees for the issuance of a closure plan approval shall be paid at time of submission of the application for closure and are as follows:
  - i. Closure with soil sampling plan: \$10,778
  - ii. Closure without soil sampling plan: \$6,467
5. The fee for the approval/denial of existing facility changes pursuant to N.J.A.C. 7:26G-12 (40 C.F.R. 270.72) shall be paid at time of submission of request for change and is: \$862.00.
6. (Reserved)
7. The fee for permit modifications shall be paid at time of modification request and are as follows:
  - i. Class 1 modifications: \$1,207.
  - ii. Class 2 modifications: \$5,001.
  - iii. Class 3 modifications: \$20,262.
8. The fee for a RD&D permit (as described at 40 C.F.R. 270.65) shall be paid at time of application for permit and is: \$32,764, subject to any rebate under (e)13 below;
9. The fee for issuance of an emergency permit is: \$5,518.
10. The fee for treatability study annual report shall be paid at time of submission of report and is: \$174.00.
11. The fee for permit exemption qualification determinations shall be paid at time of submission of request and is: \$1,035.
12. The fee for review of Environmental Health and Impact Statements shall be paid at time of submission and is: \$17,244.
13. A non-commercial hazardous waste facility which has paid a fee under (e)1ii, (e)3ii, or (e)8 above may request a rebate of part of the fee. The request shall be in writing and delivered to the Department after the final permit for the facility is issued, but no later than 20 days after the final permit is issued. If the Department's timekeeping records show that the actual cost to the Department to issue the final permit is more than 10 percent less than the fee provided in (e)1ii, (e)3ii, or (e)8 above, the Department shall rebate the difference between the fee provided in (e)1ii, (e)3ii, or (e)8 above and the actual cost. Facilities requesting a rebate of part of the fee under (e)15 below shall make the request in writing and deliver it to the Department after the Department action on the activity, but no later than 20 days after the action is completed. If the Department's timekeeping records show that the actual cost to the Department is more than 10 percent less than the estimated fee, the Department shall rebate the difference between the estimated fee and the actual cost.
14. All costs associated with public participation in the permit process (including, but not limited to, public hearing costs such as stenographer fees and public hearing notice, and costs for public notices of draft permits and closure plans where no public hearing is scheduled, etc.) shall be paid by the permit applicant. The applicant will be billed by the Department prior to permit issuance.
15. If the Department determines that the activity is of a type listed in (e)1 through 12 above, the amount of the fee shall be equal to the amount listed in (e)1 through 12 above. If the Department determines that such activity is not of a type listed in (e)1 through 12 above, the fee shall be equal to the Department's estimate of the number of person-hours required to perform such activity, multiplied by the hourly rate of \$86.22, subject to any rebate available under (e)13 above.

(f) The fee for Hazardous Waste Manifest forms is \$10.00 for a package of 10 forms and shall accompany the request for forms.

(g) The fee schedule for hazardous waste transporters is as follows:

1. All hazardous waste transporters shall pay a biennial fee. A State of New Jersey hazardous waste transporter registration decal will be issued for each hazardous waste cab and transport unit (as defined at N.J.A.C. 7:26G-4.2) for which a fee is paid. The fee registration period shall be biennial, unless otherwise established by the Department and shall extend from July 1 through June 30 of each odd numbered year. Annual registration fees shall continue through the registration period of calendar year 2002. In accordance with N.J.A.C. 7:26G-3.3(g), the odd numbered year for biennial registration shall begin calendar year 2003. The fee shall accompany the submission of the biennial registration application. Fees shall be payable prior to May 1 of each registration period. All vehicles registered with the Department must be owned or leased by the applicant. If the vehicle is leased, a copy of the lease must be submitted with the registration application. The registration of a hazardous waste transporter is non-transferable and fees are not refundable. The biennial registration fees are as follows:

- i. Each hazardous waste cab: (\$20.00 for calendar year 2002) \$40.00;
- ii. Each hazardous waste transport unit, either detachable or with a permanently attached hazardous waste cab, having a capacity less than or equal to one ton (one ton = one cubic yard = 200 gallons): (\$85.00 for calendar year 2002) \$170.00;
- iii. Each hazardous waste transport unit without a hazardous waste trailer having a capacity greater than one ton (one ton = one cubic yard = 200 gallons): (\$117.00 for calendar year 2002) \$234.00; and
- iv. Each hazardous waste transport cab with permanently attached hazardous waste transport unit with a capacity greater than one ton (one ton = one cubic yard = 200 gallons): (\$137.00 for calendar year 2002) \$274.00.

#### 7:26G-3.4 Exemption from fee payment

(a) Conditionally exempt small quantity generators meeting the requirements of N.J.A.C. 7:26G-5 are exempt from the manifest processing fee.

(b) Transporters acting as the generator on the manifest when picking up waste from a conditionally exempt small quantity generator are exempt from the manifest processing fee.

(c) Hazardous waste facilities which accept waste from out-of-State conditionally exempt small quantity generators are exempt from the manifest processing fee for those manifested shipments only.

#### 7:26G-3.5 (Repealed)

### Subchapter 4. Hazardous Waste Management System; General

#### 7:26G-4.1 Incorporation by reference

(a) This subchapter incorporates by reference up to May 6, 2002 and prospectively incorporates by reference 40 C.F.R. Part 260, as amended and supplemented, except as provided in (b) and (c) below.

(b) The following provisions of 40 C.F.R. Part 260 are not incorporated by reference: 260.1(b)(1), 260.2, the following definitions at 260.10: "Act or RCRA," "Administrator," and "Regional Administrator"; and 260.20(b) through (e).

(c) The following provisions of 40 C.F.R. Part 260 are incorporated by reference with the specified changes:

1. 260.1(a), after "chapter" add "and N.J.A.C. 7:26G";
2. 260.1(b)(3), after "chapter" add "and N.J.A.C. 7:26G";
3. 260.1(b)(4), after "chapter" add "and/or N.J.A.C. 7:26G"; and
4. 260.10 Definitions:
  - i. "Existing tank system or existing component," after "for which installation has commenced on or prior to July 14, 1986." add "For non-HSWA tanks (that is, inground tank systems, onground tank systems, aboveground tank systems and underground tank systems that can be entered for inspection), Existing tank system or existing component means a tank system or component that is used for the storage or treatment of hazardous waste and that is in operation, or for which installation has commenced on or prior to October 21, 1996."
  - ii. "Manifest," after "Manifest" add "or State Manifest"; after "EPA form 8700-22" add "as modified by the State"; after "EPA form 8700-22A," add "or a form approved by the Department"; replace "part 262" with ""N.J.A.C. 7:26G-6";
  - iii. "New tank system or new tank component," at the end of the paragraph add "For non-HSWA tanks (that is, inground tank systems, onground tank systems, aboveground tank systems and underground tank systems that can be entered for inspection), Existing tank system or existing component means a tank system or component that is used for the storage or treatment of hazardous waste and that is in operation, or for which installation has commenced on or prior to October 21, 1996."
5. 260.20(a), after "parts 260 through 266" delete "and 268" and replace with ", 268 and N.J.A.C. 7:26A-7."; after "of this chapter" and "or N.J.A.C. 7:26G"; after "testing or analytical method to part 261, 264, or 265" add "of this chapter."; after "Section 260.22 sets forth additional requirements for petitions to exclude a waste" add "or waste-derived material."; after "the lists of hazardous wastes in subpart D of part 261" add "of this chapter. N.J.A.C. 7:26G-4.2 sets forth additional requirements for petitions to amend N.J.A.C. 7:26A-7 to include additional hazardous wastes for categories of hazardous waste as universal waste. All petitions for rulemaking will be subject to N.J.A.C. 1:30, Rules for Rulemaking. All petitions for rulemaking are governed by N.J.A.C. 1:30-3.6 and 7:1D-1.1";
6. 260.21(b) delete "§260.20(b)" and replace with "N.J.A.C. 7:1D-1.1 and 1:30-3.6";
7. 260.21(d), after "will be incorporated in" add "and will be in addition to";
8. 260.33(a), delete "in the region where the recycler is located";
9. 260.33(b), delete "this decision may not be appealed to the Administrator." and replace with "a hearing may be requested in accordance with the provisions of the Administrative Procedure Act.";
10. 260.40(a), replace "261.6(a)(2)(iv)" with "261.6(a)(2)(iii)";
11. 260.41, replace "261.6(a)(2)(iv)" with "261.6(a)(2)(iii)";

12. Appendix I to Part 260 first paragraph, after "of the regulations they should comply." add "Appendix I contains guidance, not regulations. If any part of the appendix is inconsistent with the regulations, the regulations are controlling.";

13. Appendix I to Part 260 last paragraph, after "encouraged to write to EPA" add "and the Department"; after "(513) 684-5362" add "and New Jersey Department of Environmental Protection, Division of Solid and Hazardous Waste, Bureau of Hazardous Waste Regulation, CN 414, 120 South Stockton Street, Trenton, NJ 08625-0414, (609)292-7081."

(d) When used in the term "EPA form," the definition of "Manifest," "Federal Agency" and "Person" at 40 C.F.R. 260.10, in the Appendix I to 40 C.F.R. Part 260, and 40 C.F.R. 260.11(a), the term "Agency" or "EPA" means the United States Environmental Protection Agency.

(e) When used in the definition for "hazardous waste constituent" at 40 C.F.R. 260.10, the term "Administrator" means the Administrator of the United States Environmental Protection Agency or his or her designee.

(f) When used in the following Federal citation, the terms "EPA" and "Environmental Protection Agency" shall not be replaced with a State term, but shall retain its meaning: 40 C.F.R. 260.11(a).

#### 7:26G- 4.2 State definitions

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

"Administrator" as used in the provisions of the Code of Federal Regulations which are incorporated by reference, means the Commissioner of the New Jersey Department of Environmental Protection or his or her designee, except where specifically noted, then it means the Administrator of the United States Environmental Protection Agency or his or her designee.

"Agency" as used in the provisions of the Code of Federal Regulations which are incorporated by reference, means the New Jersey Department of Environmental Protection, except when specifically noted, then it means the United States Environmental Protection Agency.

"Applicant" means the person who submits an application for a permit under this chapter and in whose name the permit is to be issued, and for the purposes of N.J.A.C. 7:26G-7, the person who files an application for an approved registration statement and in whose name the approved registration statement is to be issued.

"Approved registration" means the registration of a hazardous waste treatment, storage, or disposal facility or transporter issued by the Department after review and approval of the registration statement.

"Battery" means a device consisting of one or more electrically connected electrochemical cells which is designed to receive, store, and deliver electric energy. An electrochemical cell is a system consisting of an anode, cathode, and an electrolyte, plus such connections (electrical and mechanical) as may be needed to allow the cell to deliver or receive electrical energy. The term battery also includes an intact, unbroken battery from which the electrolyte has been removed.

"Commercial hazardous waste facility" means any hazardous waste facility which accepts hazardous waste from more than one intercompany generator for treatment, storage or disposal at a site other than where the hazardous waste was generated.

"Commingling" means the transferring, bulking, or mixing of hazardous waste from one or more hazardous waste packages, containers, transport units or transport vehicles into another.

"Commissioner" means the Commissioner of the New Jersey Department of Environmental Protection.

"Compliance inspection" is a site inspection performed by a representative of the Department's hazardous waste enforcement program of a generator, transporter, or facility to verify compliance with previously cited violations.

"Compliance review" is an analysis conducted by a representative of the hazardous waste enforcement program at one of the Department's enforcement field offices to verify compliance with cited violations where the generator, transporter or facility has submitted written material for review. An example is where a contingency plan or personnel training plan has been submitted in response to violations discovered during a previously conducted initial inspection.

"Consignment state" means the state in which the designated facility is located.

"Consolidation" means the movement of closed containers of hazardous waste from one hazardous waste transport unit or transport vehicle to another or the act of transferring liquid hazardous waste from one container to one or more empty containers meeting the conditions at 40 C.F.R. 261.7 (as incorporated by reference at N.J.A.C. 7:26G-5).

"Department" or "DEP" means the New Jersey Department of Environmental Protection.

"Department of Transportation" or "DOT" means the "U.S. Department of Transportation".

"Destination facility" means a facility that treats, disposes of, or recycles a particular category of universal waste. A facility at which a particular category of universal waste is only accumulated is not a destination facility for purposes of managing that category of universal waste.

"Director" as used in the provisions of the Code of Federal Regulations which are incorporated by reference, means the Director of the Division of Solid and Hazardous Waste of the New Jersey Department of Environmental Protection or his designee, except when specifically noted.

"Environmental and Health Impact Statement" means a statement as to the realistically identifiable, probable impact of the proposed hazardous waste facility upon the geology, soils, hydrology, air quality, ecology, land use, socioeconomics, aesthetics, history and archeology; a listing of adverse environmental impacts which cannot be avoided; a description of the steps to be taken to minimize adverse environmental impacts during construction and operation both at the project site and in the surrounding region; and a reference list of pertinent published information relating to the project, the project site and the surrounding region.

"EPA" as used in the provisions of the Code of Federal Regulations which are incorporated by reference, means the New Jersey Department of Environmental Protection, except when specifically noted, then it means the United States

Environmental Protection Agency. However, "EPA" shall always mean the United States Environmental Protection Agency in the following terms: EPA Identification Numbers, EPA Form, EPA Hazardous Waste Number, EPA Hazardous Waste Codes, USEPA ID Number, EPA Acknowledgement of Consent, EPA Publication SW-846, and EPA Test Method.

"Exempt transporter" shall, for purposes of N.J.A.C. 7:26G-7.2, mean a transporter which is exempt from the requirement to file a disclosure statement, pursuant to N.J.A.C. 7:26-16.3(d).

"Hazardous waste cab" means any powered device to which a hazardous waste transport unit can be attached for transporting hazardous waste off-site or to a hazardous waste facility.

"Hazardous waste transport unit" means any portable non-powered device that is used to contain and transport hazardous waste off-site or to a hazardous waste facility by road, rail, water, or air and that is not normally disposed of with the waste. Hazardous waste transport unit includes, but is not limited to, roll-off containers, hoppers/dumpsters, rail cars, barges, trailer boxes/vans, trailer dumps, trailer tanks, and trailer vacs.

"Hazardous waste vehicle" means any self-propelled device that is used to move hazardous waste off-site or to a hazardous waste facility. Hazardous waste vehicle is any combination of hazardous waste cab and transport unit, whether detachable or permanently attached, and includes, but is not limited to, straight boxes/vans, straight dumps, straight tanks, straight vacs, straight roll-offs, and pick-up trucks.

"HSWA" means the 1984 Hazardous and Solid Waste Amendments to the Resource Conservation and Recovery Act.

"Large quantity generator inspection" is an inspection of a generator who generates 1,000 kilograms or more of non-acutely toxic hazardous waste per month, or one kilogram of acutely hazardous waste per month; and those who generate less than these amounts but accumulate greater than 6,000 kilograms of non-acutely toxic hazardous waste at any one period of time. A generator's category will be based upon hazardous waste manifest history and the quantity of hazardous waste present at the facility at the time of inspection by enforcement personnel.

"Licensee" shall, for purposes of N.J.A.C. 7:26G-7.2, be defined as set forth in N.J.S.A. 13:1E-127i.

"Major commercial hazardous waste facility" is defined at N.J.S.A. 13:1E-42.1 and 51 as "any commercial hazardous waste facility which has a total capacity to treat, store or dispose of more than 250,000 gallons of hazardous waste, or the equivalent thereof, as determined by the Department, except that any facility which would otherwise be considered a major hazardous waste facility pursuant to this section solely as the result of the recycling or re-refining of any hazardous wastes which are or contain gold, silver, osmium, platinum, palladium, iridium, rhodium, ruthenium or copper shall not be considered a major hazardous waste facility for the purposes of this Act."

"Non-major commercial hazardous waste facility" is a commercial hazardous waste facility which does not have a total capacity to treat, store or dispose of less than or equal to 250,000 gallons of hazardous waste, or the equivalent thereof, as determined by the Department.

"Non-commercial hazardous waste facility" means any area, plan or other facility for the treatment, storage or disposal of hazardous waste which is not a commercial hazardous waste facility.

"Permit" means the approval issued by the Department to construct and/or operate a hazardous waste facility and shall mean the approved registration statement and engineering design approval described in the Solid Waste Management Act.

"Permittee" shall, for purposes of N.J.A.C. 7:26G-7.2, be defined as set forth in N.J.S.A. 13:1E-127i.

"Pesticide" means any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest, or intended for use as a plant regulator, defoliant, or desiccant, other than any article that:

1. Is a new animal drug under FFDCA section 201(w); or
2. Is an animal drug that has been determined by regulation of the Secretary of Health and Human Services not to be a new animal drug; or
3. Is an animal feed under FFDCA section 201(x) that bears or contains any substances described by paragraph 1 or 2 of this definition.

"Prime contractor" means any person who enters into an oral or written agreement to store, collect, process, transfer, treat, or dispose of hazardous waste in this State through the use, control or possession of any cab, vehicle, trailer, container, transport unit or single-unit vehicle.

"Registration certificate" means the hazardous waste transporter vehicle registration card which certifies the name and address of the registered company, decal number, expiration date, vehicle identification number, and the license number assigned to the registered company.

"Resource Conservation and Recovery Act," "RCRA," "Subtitle C of RCRA," "RCRA Subtitle C," "Subtitle C" or "the Act" as used in the provisions of the Code of Federal Regulations which are incorporated by reference, when referring to either an operating permit or to the Federal hazardous waste program as a whole (that is, not a specific provision of RCRA), mean the New Jersey Solid Waste Management Act, N.J.S.A. 13:1E-1 et seq. or any other comparable provision of New Jersey's statutes and implementing regulations, except when specifically noted, then it means the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended, 42 U.S.C. §§6901 et seq. When the Federal language incorporated by reference refers to a specific provision of RCRA (except after references to RCRA sections 3008 and 3008(h)) add the phrase "or N.J.S.A. 13:1E-9 or any other comparable provisions of New Jersey's statutes and implementing regulations."

"Registrant" means an applicant who has obtained an approved registration statement and who has registered hazardous waste vehicles (the hazardous waste cab and transport unit individually if detachable).

"Recycling or reclamation facility" means any place, equipment or plant designed and/or operated for the purpose of recycling or reclamation, to collect, store, process or to redistribute separated waste so as to return the material to market.

"Regional Administrator" as used in the provisions of the Code of Federal Regulations which are incorporated by reference, means the Director of the Division of Solid and Hazardous Waste of the New Jersey Department of Environmental Protection

or his or her designee, except when specifically noted, then it means the Regional Administrator for the EPA Region in which the facility is located or his or her designee.

"Registration statement" means an application for approved registration executed on forms provided by the Department and containing such information as may be required.

"Small quantity generator inspection" is an inspection of a generator as defined at 40 C.F.R. 260.10, 261.5(e), 261.5(f), 261.5(g), 262.34(d) and 262.34(f), who meets the conditions in paragraphs 1 and 2 or 1 and 3 below:

1. Generates (in a calendar month) and accumulates (at any time) one kilogram or less of acute hazardous waste or 100 kilograms or less of spill clean-up of acute hazardous waste; and

2. Generates 100 kilograms or less of non-acute hazardous waste in a calendar month and accumulates greater than 1,000 kilograms but never exceeds 6,000 kilograms of accumulated non-acute hazardous waste at any time; or

3. Generates more than 100 kilograms but less than 1,000 kilograms of non-acute hazardous waste in a calendar month and never exceeds 6,000 kilograms of accumulated non-acute hazardous waste at any time.

A generator's category will be based upon hazardous waste manifest history and the quantity of hazardous waste present at the facility at the time of inspection by enforcement personnel.

"State CAA Director" as used in the Code of Federal Regulations which are incorporated by reference, means the Commissioner of the New Jersey Department of Environmental Protection or his or her designee.

"State Director" or "State RCRA Director" as used in the Code of Federal Regulations which are incorporated by reference, means the Commissioner of the New Jersey Department of Environmental Protection or his or her designee.

"Subcontractor" means any person who engages in the storage, collection, processing, transfer, treatment, or disposal of hazardous waste in this State through the use, control or possession of any cab, vehicle, trailer, container, transport unit or single-unit vehicle pursuant to an oral or written agreement entered into with a prime contractor for the performance of all or part of the prime contract. A lease, pursuant to N.J.A.C. 7:26G-7.2, of hazardous waste vehicle operators and/or equipment to a permittee, licensee, or exempt transporter shall not, for purposes of N.J.A.C. 7:26G-7.2, be considered a subcontract.

"Thermostat" means a temperature control device that contains metallic mercury in an ampule attached to a bimetal sensing element, and mercury-containing ampules that have been removed from these temperature control devices in compliance with the requirements of 40 C.F.R. Part 273.

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

1. Batteries;
2. Pesticides;
3. Thermostats;
4. Lamps;



5. Mercury-containing devices;
6. Oil-based finishes; and
7. Consumer electronics.

"Universal waste handler" means a generator (as defined in 40 C.F.R. §260.10) of universal waste or the owner or operator of a facility, including all contiguous property, that receives universal waste from other universal waste handlers, accumulates universal waste, and sends universal waste to another universal waste handler, to a destination facility, or to a foreign destination. Universal waste handler does not mean a person who treats (except under the provisions of 40 C.F.R. Part 273), disposes of, or recycles universal waste or a person engaged in the off-site transportation of universal waste by air, rail, highway, or water, including a universal waste transfer facility.

"Universal waste transporter" means a person engaged in the off-site transportation of universal waste by air, rail, highway or water.

7:26G-4.3 Petitions to amend N.J.A.C. 7:26A-7 to include additional hazardous wastes.

(a) Any person seeking to add a hazardous waste or a category of hazardous waste to the universal waste regulations of N.J.A.C. 7:26A-7 may petition for a regulatory amendment under this section, 40 C.F.R. 260.20 as incorporated by reference herein, and N.J.A.C. 7:26A-7.

(b) To be successful, the petition must demonstrate to the satisfaction of the Department that regulation under the universal waste regulations of N.J.A.C. 7:26A-7 is appropriate (in accord with the reasons for establishing the universal waste system as set forth in 60 F.R. 25492, May 11, 1995) for the waste or category of waste; will improve management practices for the waste or category of waste; and will improve implementation of the hazardous waste program. The petition shall include the information required by 40 C.F.R. 260.20(b) as incorporated by reference herein. The petition should also address as many of the factors listed in N.J.A.C. 7:26A-7.7(b) as apply to the waste or category of waste addressed in the petition.

(c) The Department shall grant or deny a petition using the factors listed in N.J.A.C. 7:26A-7.7(b). The decision will be based on the weight of evidence showing that regulation under N.J.A.C. 7:26A-7 is appropriate for the waste or category of waste, will improve management practices for the waste or category of waste, and will improve implementation of the hazardous waste program.

(d) The Department may request additional information needed to evaluate the merits of the petition.

## Subchapter 5. Identification and Listing of Hazardous Waste

### 7:26G-5.1 Incorporation by reference

(a) This subchapter incorporates by reference up to May 6, 2002 and prospectively incorporates by reference 40 C.F.R. Part 261, Federal Regulations on Identification and Listing of Hazardous Waste, and its appendices, as amended and supplemented, except as provided in (b) and (c) below.

(b) The following provisions of 40 C.F.R. Part 261 are not incorporated by reference: 40 C.F.R. Part 261 Appendix IX.

(c) The following provisions of 40 C.F.R. Part 261 are incorporated by reference with the specified changes:

1. Operative dates of regulations first promulgated by EPA are determined as follows:

i. Operative dates of rules originally promulgated by USEPA under the authority of the Hazardous and Solid Waste Amendments (HSWA) and incorporated by reference on October 21, 1996, shall not be altered, because these rules are operative in all states at the time of adoption.

ii. Operative dates of rules incorporated by reference on October 21, 1996, originally promulgated by USEPA under the authority of the Resource Conservation and Recovery Act (RCRA), shall be removed and replaced with October 21, 1996, because these rules are not operative in authorized states until state adoption of the rules.

iii. Operative dates of rules incorporated by reference after October 21, 1996, but prior to August 1, 1998, originally promulgated by USEPA under the authority of the Resource Conservation and Recovery Act (RCRA) shall be removed and replaced with January 19, 1999, because these rules are not operative in authorized states until state adoption of the rules.

iv. Operative dates of rules incorporated through prospective incorporation by reference shall become operative in accordance with N.J.A.C. 7:26G-1.4(k) and (l).

v. See 40 C.F.R. 271.1 Table 1, which lists all HSWA regulations. Other regulations are promulgated under RCRA.

2. The phrase "in the Region where the sample is collected" shall be omitted from 40 C.F.R. 261.4(e)(3)(iii).

3. 40 C.F.R. 261.5(c)(4) replace "40 C.F.R. Part 279" with "N.J.A.C. 7:26A-6";

4. 40 C.F.R. 261.5(c)(6), replace "40 C.F.R. Part 273" with "N.J.A.C. 7:26A-7";

5. 40 C.F.R. 261.5(f)(3)(vii), replace "part 273 of this chapter" with "N.J.A.C. 7:26A-7";

6. 40 C.F.R. 261.5(g)(3)(vii), replace "part 273 of this chapter" with "N.J.A.C. 7:26A-7";

7. 40 C.F.R. 261.5(j), replace "part 279 of this chapter" with "N.J.A.C. 7:26A-6";

8. 40 C.F.R. 261.5(j), replace "part 279 of this chapter" with "N.J.A.C. 7:26A-6";

9. 40 C.F.R. 261.9, replace "part 273 of this chapter" with "N.J.A.C. 7:26A-7" and replace "under 40 C.F.R. part 273" with "at N.J.A.C. 7:26A-7";

10. 40 C.F.R. 261.9(a), replace "40 C.F.R. 273.2" with "N.J.A.C. 7:26A-7.1(b)";

11. 40 C.F.R. 261.9(b), replace "40 C.F.R. 273.3," with "N.J.A.C. 7:26A-7.1(c)";

12. 40 C.F.R. 261.9(c), replace "40 C.F.R. 273.4" with "N.J.A.C. 7:26A-7.1(d)";

13. 40 C.F.R. 261.38(c)(1)(i), after "state RCRA and CAA Directors," remove "in Authorized States or Regional RCRA and CAA Directors in Unauthorized States";

14. 40 C.F.R. 261.38(c)(1)(A), after "The generator must submit a one-time notice to the," remove "Removal or";

15. 40 C.F.R. 261.38(c)(1)(ii)(E), after "Name and mailing address of the," remove "Regional or State Directors" and insert "State director."

(d) When used in the following Federal citations, the term "Administrator" shall mean the Administrator of the United States Environmental Protection Agency or his or her designee: 40 C.F.R. 261.10 and 11.

(e) When used in the following Federal citations, the term "EPA" means the United States Environmental Protection Agency: 40 C.F.R. 261.3(a)(2)(v),

261.6(a)(3)(i)(A), 261.6(a)(3)(i)(B), 261.22(a)(1) and (2), 261.22(b), 261.24(a), 261.24(b), 261.38 footnotes to Table 1.

(f) When used in the following Federal citation, the term "Regional Administrator" shall not be substituted by a state term, but shall, retain its meaning: 40 C.F.R. 261.4(f)(1)

7:26G-5.2 through 7:26G-5.3 [Repealed]

7:26G-5.4 Swine food

Pursuant to the Solid Waste Management Act, the definition of solid waste shall not include solid animal or vegetable wastes collected by swine producers, licensed by the State Department of Agriculture, who collect, prepare and feed such wastes to swine on their own farms.

Subchapter 6. Standards Applicable to Generators of Hazardous Waste

7:26G-6.1 Incorporation by reference

(a) This subchapter incorporates by reference up to May 6, 2002 and prospectively incorporates by reference 40 C.F.R. Part 262, Federal regulations on the standards applicable to generators of hazardous waste, as amended and supplemented, except as provided in (b) and (c) below.

(b) The following provisions of 40 C.F.R. Part 262 are not incorporated by reference: Appendix to Part 262—Uniform hazardous waste manifest and instructions for EPA Form 8700-22 only.

(c) The following provisions of 40 C.F.R. Part 262 are incorporated by reference with the specified changes:

1. 40 C.F.R. 262.10(d), replace "State requirements analogous to 40 C.F.R. 273." with "N.J.A.C. 7:26A-7";

2. 40 C.F.R. 262.10(g), after "penalties prescribed in section 3008 of the Act" add ", and N.J.S.A. 13:1E-9 and N.J.A.C. 7:26G-2";

3. 40 C.F.R. 262.11, delete the language at paragraph "(d)" and replace it with the following: "If the waste is determined to be hazardous, the generator shall refer to N.J.A.C. 7:26G-5, 8 through 11, and N.J.A.C. 7:26A-7 for possible exclusions or restrictions pertaining to management of the specific waste.";

4. 40 C.F.R. 262.12(c), at the end of the paragraph add "It is considered a violation for a generator to utilize a transporter who is not properly licensed and registered with the Department in accordance with N.J.A.C. 7:26G-7.2 and/or who fails to display a current Department registration number in accordance with N.J.A.C. 7:26-7.2(b)6";

5. 40 C.F.R. 262.20(a), After "according to the instructions included in the appendix to part 262" add "for EPA form 8700-22, according to the instructions in the appendix to N.J.A.C. 7:26G-6. If an out-of-state manifest is used, the generator shall complete Items A-K of the manifest even if the instructions on the back of the out-of-state manifest do not address these shaded portions.";

6. 40 C.F.R. 262.21(a), at the end of the paragraph add "If the consignment State for the shipment is New Jersey, the generator shall use the manifest supplied by the Department.";

7. 40 C.F.R. 262.21(b), at the end of the paragraph add "In these situations, the generator shall use the manifest supplied by the Department.";

8. 40 C.F.R. 262.23(a)(3), after "in accordance with 262.40(a)" add "and forward one copy to the generator State and one copy to the consignment State";

9. 40 C.F.R. 262.23, after "subsection (e)", add new subsection "(f) The generator is responsible for assuring that the Department and the consignment state receive copies of the completed manifest containing the handwritten signature of the owner or operator of the designated facility. If the designated facility is located in a state that does not mandate its facilities to return copies of the completed manifests to the generator state and the consignment state, the generator must so distribute these copies. The generator may provide photocopies to satisfy this requirement, if the manifest form provided by the consignment State does not contain a sufficient number of copies. In the case of an interstate shipment for which the manifest has not been returned, the Department will provide notification to the consignment state and to the State in which the shipment may have been delivered (or to EPA, in the case of unauthorized states)";

10. 40 C.F.R. 262.32(b), remove 110 and replace with 119; after "HAZARDOUS WASTE—Federal" add "and/or State"; after "If found, contact the nearest police or public safety authority or the U.S. Environmental Protection Agency" add "or the New Jersey Department of Environmental Protection"; before "Manifest Document Number" add "State";

11. 40 C.F.R. 262.40(a), after "signed in accordance with §262.23(a) for three years" delete "or until he receives a signed copy from" and replace with "and a signed copy from the owner or operator of the";

12. 40 C.F.R. 262.41(a), delete "EPA Form 8700-13A" and replace with "forms approved by the Department";

13. 40 C.F.R. 262.42(a)(1), after "to determine the status of the hazardous waste" add "and contact the Department at 609-292-7081 to inform the Department of the situation";

14. 40 C.F.R. 262.42(a)(2), after "must submit an exception report to the EPA Regional Administrator" delete "for the Region in which the generator is located";

15. 40 C.F.R. 262.43, delete "sections 2002(a) and 3002(6) of the Act" and replace with "N.J.S.A. 13:1E-1 et seq., N.J.S.A. 13:1D-1 et seq., or any comparable provisions of New Jersey's statutes and implementing regulations";

16. 40 C.F.R. 262.54(e), delete the last sentence of the paragraph and replace with "For all export shipments, the primary exporter shall obtain the manifest from the Department.";

17. 40 C.F.R. 262.60(c), delete the last sentence of the paragraph and replace with "For all import shipments, the person who imports the waste shall obtain the manifest from the Department.";

18. 40 C.F.R. 262.80(a), replace "State requirements analogous to 40 C.F.R. 273." with "N.J.A.C. 7:26A-7";

19. 40 C.F.R. 262.89(a)2 replace "State requirements analogous to 40 C.F.R. 273" with "N.J.A.C. 7:26A-7."

(d) When used in the following Federal citations, the term "Environmental Protection Agency" shall not be replaced with a State term, but shall retain its, meaning:

40 C.F.R. 262.53(b), 262.56(b), 262.81(k), 262.83(b)(1)(i), 262.83(b)(2)(i), 262.85(g), 262.87(a) and 262.89(e).

(e) When used in the following Federal citations, the term "Administrator" means the Administrator of the United States Environmental Protection Agency or his or her designee: 40 C.F.R. 262.11(c)(1), 262.12(a), 262.12(b), 262.55, 262.56, 262.57, and 262.80 through 262.89.

(f) When used in the following Federal citations, the term "EPA" means the United States Environmental Protection Agency: 40 C.F.R. 262.53(a), (c), (d), (e), and (f), 262.54(g)(1), 262.83(b)(2)(i), 262.85(g), and Note to Paragraph (g).

7:26G-6.2 Waste code(s)

(a) The proper waste code(s) that accurately describe the shipment of hazardous waste shall be entered on the Hazardous Waste Manifest and determined according to the following hierarchy:

Table A. Wastes which can be described only by one or more Federal F, K, P, or U codes (40 C.F.R. 261.31 through 261.33 as incorporated by reference at N.J.A.C. 7:26G-5)

Waste composition	Manifest completion	
	Item I	Item J
1. One F, K, P, or U waste	Use the applicable U waste	F, K, P or U code
2. Mixture of two or more F, K, P, and/or U wastes	Use the listed code for the component forming the highest percentage by weight or volume of the total waste depending on units reported in Item 14	All other acutely hazardous listed codes

Table B. Wastes which can be described by Federal F, K, P, or U codes and Federal characteristic (D) code(s) (40 C.F.R. 261.31 through 261.33 and 40 C.F.R. 261.21 through 261.24 respectively, as incorporated by reference at N.J.A.C. 7:26G-5)

Waste composition	Manifest completion	
	Item I	Item J
1. One F, K, P, or U waste that exhibits RCRA characteristic(s) (D wastes)	F, K, P or U code	
2. Mixture of two or more F, K, P, or U	F, K, P or U code for the listed waste forming	all other acutely

wastes which exhibit RCRA characteristic(s) (D wastes)	the highest percentage by weight or volume of the total waste depending on the units reported in Item 14	hazardous listed code(s)
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Table C. Waste is not Federal F, K, P, or U code but displays one or more Federal characteristics (D waste) (40 C.F.R. 261.31 through 261.33 and 40 C.F.R. 261.21 through 261.24 respectively, as incorporated by reference at N.J.A.C. 7:26G-5)

Waste composition	Manifest completion	
	Item I	Item J
1. Waste displays only one characteristic	D code for the characteristic	
2. Waste displays multiple characteristics	D code for the first characteristic displayed according to the following order: 1. Ignitability 2. Reactivity 3. Corrosivity 4. TC toxicity	

7:26G-6.3 Rejected loads

(a) If all or part of a shipment of hazardous waste is rejected by a hazardous waste facility or if a transporter is unable to deliver a shipment of hazardous waste to the designated hazardous waste facility, the hazardous waste facility owner or operator, the transporter, and the generator shall comply with the following requirements:

1. If all or part of the shipment of hazardous waste is immediately rejected by the hazardous waste facility or if the transporter is unable to deliver the shipment of hazardous waste to the designated hazardous waste facility, the transporter shall contact the generator, who shall instruct the transporter to return the shipment to the generator or to deliver the shipment to an alternate hazardous waste facility.

i. If the shipment of hazardous waste is returned to the generator, the Manifest shall be completed as follows:

(1) In the Discrepancy Indication space of the Manifest, the facility operator shall indicate the reasons(s) for the rejection and that the waste is to be returned to the generator. The facility operator shall complete, sign and date the Certification of Receipt (Section 20) on the Manifest;

(2) The transporter shall receive manifest copies 1, 2, 3, and 5 from the facility operator and shall return the shipment to the generator. The facility operator shall retain manifest copy 4;

(3) The generator, upon receiving the rejected shipment, shall certify the return receipt (signature and date) in the Special Handling Instructions and Additional Information section of the Manifest;

(4) The generator shall then distribute manifest copies 1, 2, 3, and 5 as indicated on the form, except that if the shipment was rejected by an out-of-state facility which did not return the manifest copies 1, 2, 3, and 5, the generator shall notify the consignment state and the generator state of receipt of the waste and shall provide those states with a photocopy of the generator's manifest copy; and

(5) The generator shall arrange to dispose of the waste at an authorized facility using another manifest in accordance with this subchapter.

ii. If the shipment of hazardous waste is delivered to an alternate hazardous waste facility, the Manifest shall be completed as follows:

(1) The designated facility operator shall indicate the reason(s) for the rejection and that the waste is to be shipped to an alternate facility in the Discrepancy Indication space of the Manifest. The designated facility operator shall complete, sign, and date the Certification of Receipt (Section 20) on the Manifest;

(2) The transporter shall indicate the alternate facility's name, address, EPA Identification Number, and telephone number in the Special Handling Instruction and Additional Information section;

(3) The designated facility operator shall photocopy the manifest and retain the copy;

(4) After receipt of the original manifest copies 1, 2, 3, 4, and 5 from the designated facility operator, the transporter shall transport the hazardous waste to the indicated alternate authorized facility;

(5) Upon receipt of the originally rejected shipment, the alternate facility operator shall certify receipt (signature and date) in Section 15 of the Manifest; and

(6) The alternate facility operator shall then distribute manifest copies 1, 2, 3, and 5 and retain copy 4.

2. If a hazardous waste facility rejects all or part of a shipment of hazardous waste after the Manifest has been distributed by the facility, the hazardous waste facility owner or operator, the transporter, and the generator shall comply with the following requirements:

i. The owner or operator of the hazardous waste facility shall describe the nature of the rejection in Section 19 of the facility's manifest copy;

ii. The owner or operator of the hazardous waste facility shall ship the waste to the generator with three photocopies of the revised manifest, each copy to be signed by the owner or operator, the transporter returning the hazardous waste to the generator, and the generator;

iii. The generator shall retain one copy of the revised signed manifest, return one copy to the transporter returning the hazardous waste to the generator, and return one copy to the owner or operator of the hazardous waste facility;

iv. The owner or operator shall notify the generator state and the consignment state of the rejection by sending to each state a photocopy of the revised signed manifest copy, returned to the owner or operator by the generator in accordance with (a)2iii above, showing that the generator received the waste; and

v. The owner or operator, the generator, and the transporter returning the hazardous waste to the generator shall each retain a copy of the revised, signed manifest.

(b) If a shipment of hazardous waste is rejected by a designated facility after a transporter has mixed or commingled hazardous waste, the transporter shall accept the return shipment of the rejected wastes.

(c) If a transporter accepts a return shipment of rejected wastes under (b) above, the transporter shall:

1. Promptly place and secure the rejected waste in a transfer facility; and
2. Make arrangements with an authorized facility to receive and manage the commingled waste.

## Uniform Hazardous Waste Manifest GENERAL INFORMATION

The Hazardous Waste manifest is designed to track waste from the point of generation to final disposal (cradle to grave). In order to accomplish this goal, it is essential that all items on the manifest be completed correctly. Incomplete, incorrect or illegible manifests are violations of the law, and could make you subject to civil or criminal liabilities as specified in the New Jersey Hazardous Waste Regulations.

### INSTRUCTIONS—IMPORTANT: READ ALL INSTRUCTIONS BEFORE COMPLETING

State & Federal regulations require Generators, Transporters, and Treatment, Storage & Disposal Facilities (TSDFs) to use this form and if necessary the continuation sheet for both inter- and intrastate shipments. Continuation sheets may be purchased commercially and photocopied to provide copies as described below.

The New Jersey manifest contains 8 copies. ALL COPIES MUST BE LEGIBLE. This form is designed for use on a 12 pitch (elite) typewriter; a firm ball point pen may also be used only if you press down HARD. The 8 copies must be filed with the appropriate party as they are completed. COPY DISTRIBUTION is as follows:

ORIGINAL: DESTINATION STATE-The TSDF must mail original to the state regulatory agency where the facility is located.

COPY 2: GENERATOR STATE-The TSDF mails this copy back to the state regulatory agency where the waste was generated.

COPY 3: GENERATOR COPY-The TSDF mails this copy back to the generator of the waste.

COPY 4: TSDF COPY-TSDF keeps this copy for his records.

COPY 5: TRANSPORTER COPY-The transporter keeps this copy for his records.

NOTE: If a continuing transporter is used the generator is responsible for supplying him with a legible photocopy, which must contain required signatures.

COPY 6: DESTINATION STATE-The generator mails this copy to the state regulatory agency where the designated facility (TSDF) is located.

COPY 7: GENERATOR STATE-The generator mails this copy to the state regulatory agency where the waste was generated.

COPY 8. GENERATOR COPY-the generator keeps this copy for his records.

ALL 8 COPIES MUST BE LEGIBLE

### MANIFEST FORM ACQUISITION

1. If the destination (consignment) state supplies a manifest & requires its use, then the generator is obligated to obtain the manifest from that state.



2. If the destination state does not supply the manifest, but the generator state does, then the generator is obligated to obtain the manifest form from the generator state.

3. If neither the generator state or the consignment state supplies the manifest, then the generator may obtain the manifest from any source.

#### GENERATOR SECTION

Item 1: GENERATOR'S EPA ID NO.-MANIFEST DOCUMENT NO.-Enter the generator's EPA identification number. The manifest document number is a unique 5-digit number the generator assigns to each manifest, for his recordkeeping purpose's. Use of serially increasing numbers (e.g. 00001, 00002, etc.) is recommended.

Item 2: PAGE 1 Of Enter the total number of pages used to complete this manifest; i.e. the first page plus the number of continuation sheets, if any.

Item 3: GENERATOR'S NAME & MAILING ADDRESS-Enter the name (as notified to EPA) & mailing address of the generator. The address should be the location that will manage the returned manifest forms.

Item 4: GENERATOR'S PHONE NUMBER-Enter a telephone number with area code where an authorized agent of the generator can be reached in an emergency.

Item 5: TRANSPORTER 1 COMPANY NAME-Enter the company name (as notified to EPA) of the first transporter who will transport the waste.

Item 6: US EPA ID NUMBER-Enter the EPA identification number of the first transporter identified in item 5.

Item 7: TRANSPORTER 2 COMPANY NAME-If applicable, enter the company name (as notified to EPA) of the second transporter who will transport the waste, if more than two (2) transporters will be used, use a continuation sheet and list the transporters in the order they will be transporting the waste.

Item 8: US EPA ID NUMBER-If a second transporter is used, enter the EPA identification number of the second transporter identified in item 7.

Item 9: DESIGNATED FACILITY NAME & SITE ADDRESS-Enter the company name and site address (as notified to the EPA) of the treatment, storage, or disposal facility (TSDF) designated to receive the waste listed on this manifest. The address must be the site address, with may differ from the mailing address.

Item 10: EPA ID NUMBER-Enter EPA identification number of the designated TSDF(or waste reuse facility) listed in item 9.

Item 11: USDOT DESCRIPTION-Enter the correct USDOT shipping name, hazard class or division, the identification number and the packing group 49 CFR 172.202. The word waste must appear as part of the USDOT shipping name if the waste is a federal RCRA hazardous waste (49 CFR 172.101). For a waste with a n.o.s. designation enter the information as required by 49 CFR 172.203. Enter additional shipping description information as required by 49 CFR 172 Subpart C. Enter If more than 4 wastes are being shipped, a second manifest or continuation sheets should be used. For information on USDOT waste descriptions call your USDOT regional office.

Item 12: CONTAINERS (NO. & TYPE)-Enter the number of containers for each waste and the appropriate abbreviations from Table 1 (below) for the type of container used:

#### TABLE 1 CONTAINER TYPES

DM-Metal drums, barrels, kegs

DW-Wooden drums, barrels, kegs

DF-Fiberboard or plastic drums, barrels, kegs  
TP-Tanks portable  
TT-Cargo tanks (Tank trucks)  
TC-Tank cars  
DT-Dump truck  
CY-Cylinders  
CM-Metal boxes, cartons, cases (including roll-offs)  
CW-Wooden boxes, cartons, cases  
CF-Fiber or plastic boxes, cartons, cases  
BA-Burlap, cloth, paper/plastic bags  
Item 13: TOTAL QUALITY-Enter the total quantity of waste described on each

line.

**DO NOT USE FRACTIONS**

Item 14: UNIT (Wt./Vol.)-Enter the appropriate abbreviation from Table II (below) for the unit of measure used in determining the total quantity of waste described on each line.

**TABLE II UNITS OF MEASURE**

G-Gallons (liquids only)  
P-Pounds  
T-Tons (2000 lbs.)  
Y-Cubic yards  
L-Liters (liquids only)  
K-Kilograms  
M-Metric Tons (1000 kg)  
N-Cubic Meters

Item 15: SPECIAL HANDLING INSTRUCTIONS AND ADDITIONAL INFORMATION-Use this space to indicate special transportation, treatment, storage, disposal, or Bill of Lading information, if any. If an alternate facility is designated, note it here. For INTERNATIONAL SHIPMENTS, generators must enter the point of departure (city & state) in this space. This space may also be used for emergency response telephone numbers, and any other information the generator is required to include about the shipment in accordance with 49 CFR 172 Subpart G as applicable for RCRA hazardous waste and USDOT hazardous materials.

Item 16: GENERATOR'S CERTIFICATION - The Generator must read, sign (by hand) and date the certification. This must be done the day the transporter picks up the waste shipment (date of receipt by transporter). If a mode other than highway is used, the word "highway" should be lined out and the appropriate mode (rail, water, air) inserted in the space. If another mode in addition to the highway mode is used, either the appropriate additional mode (e.g. "and rail" in this space).

Item A: STATE MANIFEST DOCUMENT NUMBER - Number preprinted by New Jersey except on the continuation sheets. Enter this number on each continuation sheet attached to a manifest.

Item B: STATE GEN ID - The State Generator ID is the street address of the waste generation site. If the mailing address and the site address are the same, enter "same".

Item C: STATE TRAN #1 ID-Enter the New Jersey state permit number. This must include both the transporter's permit number and the decal number of the hazardous waste transport unit or hazardous waste vehicle which contains the waste. For rail shipment(s) enter the alpha numeric I.D. number assigned to the railcar in lieu of the decal number.

Item D: TRANSPORTER PHONE-Enter a telephone number with area code where an authorized agent of the transporter can be reached.

Item E: STATE TRAN #2 ID-If applicable, enter the New Jersey State permit number of the waste carrying portion of the second vehicle.

Item F: TRANSPORTER PHONE-If applicable, enter a telephone number with area code where an authorized agent of the second transporter may be reached.

Item G: STATE FACILITY'S ID-No entry is required by New Jersey.

Item H: FACILITY PHONE-Enter a telephone number with area code of the TSD facility designated to receive the waste listed on the manifest.

Item I: WASTE NO.-Enter the 4-digit hazardous waste number as it appears in N.J.A.C. 7:26G-5.1 et seq. (For example "K047" is the waste number designated for pink/red water from TNT operations.) The proper waste number that accurately describes the shipment, shall be determined according to the hierarchy at N.J.A.C. 7:26G-6.2.

Item J: ADDITIONAL DESCRIPTIONS FOR MATERIALS LISTED ABOVE-Enter description of analysis for any waste which does not have a complete USDOT shipping description or has an n.o.s designation. Enter a general description of the waste stream. (i.e. groundwater contaminated with creosote and copper sulfate). Additionally, for any n.o.s entry in item 11 which does not conform to the requirements at 49 CFR 172.203(k) enter the two components, and their percentages, which most predominantly contribute to the hazards of the mixture or solution. Enter the physical state (S = Solid, L = Liquid, G = Gas, SL = Sludge) EPA hazard codes (I = Ignitable, C = Corrosive, R = Reactive, E = TCLP, H = Acute Hazardous, T = Toxic). Enter additional information as required by the waste code hierarchy at N.J.A.C. 7:26G-6.2.

#### TRANSPORTER SECTION

It is a violation by the transporter if he accepts hazardous waste from a generator who fails to properly complete the manifest, transports waste to an unauthorized facility, and/or fails to obtain the date and handwritten signature of the next hauler owner/operator of the TSD facility on the manifest.

Item 17: TRANSPORTER 1 ACKNOWLEDGEMENT-Print or type the name of the person accepting the waste on behalf of the first transporter. The person must acknowledge acceptance of the waste described on the manifest by signing and entering the date of receipt.

Item 18: TRANSPORTER 2 ACKNOWLEDGEMENT-If applicable, follow instructions for item 17 for the second transporter.

NOTE: ALL HAZARDOUS WASTE TRANSPORTERS OPERATING IN NEW JERSEY MUST HAVE A VALID NEW JERSEY HAZARDOUS WASTE TRANSPORTER'S PERMIT.

#### DESIGNATED FACILITY (TSD) SECTION

Item 19. DISCREPANCY INDICATION SPACE-The authorized representative of the designated facility must note in this space any significant discrepancy between the waste described on the manifest and the waste actually received at the facility. Any rejected materials should be listed here, along with an explanation of the disposition of the rejected wastes. Owners and operators of facilities located in authorized States (i.e., those States that received authorization from the U.S. EPA to administer the hazardous waste program) should contact their State agency for information on State Discrepancy Report requirements.

Item 20: FACILITY OWNER/OPERATOR CERTIFICATION-Print or type the name of the person receiving the waste on behalf of the owner/operator of the designated TSDF. That person must acknowledge receiving the waste described on the manifest by signing and entering the date of receipt.

Item K: HANDLING CODES-TSDF SHOULD COMPLETE-Enter the ultimate handling method utilized at the designated facility for each waste. Only the following process codes may be used: Storage=S01 (container); S02 (Tank); S04 (Surface impoundment); S05 (Other-specify); Treatment=T01 (Tank); T02 (Surface Impoundment); T03 (Incinerator); T04 (Other-specify); Disposal=D79 (Injection Well); D80 (Landfill); D81 (Land Application); D82 (Ocean Disposal); D83 (Surface Impoundment); D84 (Other- specify).

•NOTE: For interstate shipments you may required to comply with the manifesting requirements of both the consignment and generator states regarding the completion of specific information included in lettered items A-K. Please check with both generator and consignment states for specific requirements. New Jersey requires that all information be filled in except for item "G".

Public reporting burden for this collection of information is estimated to average: 37 minutes for generators, 15 minutes for transporters, and 10 minutes for treatment, storage and disposal facilities. This includes time for reviewing instructions, gathering data, and completing and reviewing the form. Send comments regarding the burden estimates including suggestions for reducing this burden, to: Chief, Information Policy Branch, PM-223. U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460: and to the Office Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503.

## Subchapter 7. Standards Applicable to Transporters of Hazardous Waste

### 7:26G-7.1 Incorporation by reference

(a) This subchapter incorporates by reference up to May 6, 2002 and prospectively incorporates by reference 40 C.F.R. Part 263 Federal regulations on the standards applicable to transporters of hazardous waste, as amended and supplement, except as provided in (b) and (c) below:

(b) The following provisions of 40 C.F.R. Part 263 will not be incorporated: 40 C.F.R. 263.12.

(c) The following provisions of 40 C.F.R. 263 are incorporated by reference with the specific changes:

1. 40 C.F.R. 263.10(c)2, replace "of different DOT shipping descriptions by placing them into a single container" with "and has the shipment of hazardous waste

rejected by the designated facility. The transporter shall comply with the requirements at N.J.A.C. 7:26G-6.3(b)-(c) and will not be subject to the provisions at §262.34."

2. 40 C.F.R. 263.10(d), replace "State requirements analogous to 40 C.F.R. Part 273" with "N.J.A.C. 7:26A-7."

3. 40 C.F.R. 263.30(a), after "local authorities" add "(including the Department at 1-877-WARNDEP (if this number is inoperable, notify the New Jersey State Police at 609-882-2000)."

(d) When used in the following citations, the term "Administrator" means the Administrator of the Environmental Protection Agency or his designee: 40 C.F.R. 263.11.

#### 7:26G-7.2 Registration statement and registration requirements

(a) Registration statement approval, renewal, and revocation requirements are as follows:

1. Prior to operation, a hazardous waste transporter shall obtain an approved registration statement from the Department.

2. The application for an approved registration statement shall be executed on forms provided by the Department, and shall state such information as required below, as well as any additional information that the Department may require from a specific applicant. This information includes the following:

i. Proof of compliance with the minimum financial responsibility requirements covering public liabilities, property damage and environmental restoration set out at 49 C.F.R. Part 387;

ii. Disclosure of any conviction for any criminal offense during the 10 year period prior to application for a license under state or Federal law for acts involving the illegal storage, transportation or disposal of hazardous waste against any owner, officer, or employee of the firm seeking a license;

iii. Vehicle identification numbers and license plate numbers;

iv. For any leased hazardous waste vehicles (hazardous waste cab and transport unit individually if detachable), a copy of the Motor Vehicle Registration card, a copy of the lease which meets the requirements of (a)11 through 13 below; and

v. For those transporters intending to operate a hazardous waste transfer facility pursuant to N.J.A.C. 7:26G-7.4, the address of each such facilities and an indication whether each property, where the transfer facility is to be located, is owned or leased by the transporter. For any leased property, a copy of the written lease.

3. Any person who files an application for an approved registration statement shall also submit the disclosure statement described in N.J.A.C. 7:26-16.4. The requirement of a disclosure statement shall not apply to any person specifically exempted under N.J.A.C. 7:26-16.3(d) and/or 16.6(k), but shall apply in the case of a licensee or permittee which must file a disclosure statement for any lessor which holds a beneficial interest in the licensee or permittee pursuant to N.J.A.C. 7:26-16.6(i) or (j).

4. Any applicant who claims to be exempted under N.J.A.C. 7:26-16.3(d) from the requirement of a disclosure statement shall submit an affidavit stating the basis for the claim. The applicant claiming the exemption shall also file an alternative information statement on forms supplied by the Department, containing the following information:

i. The names and addresses of all officers, director or partners of any business concern seeking a license and all persons or business concerns holding more than 10 percent of the equity in or more than 10 percent of the liability of the business concern seeking a license;

ii. The names and addresses of all officers, directors, or partners of any business concern disclosed pursuant to (a)4i above and all persons holding more than 10 percent equity share in or more than 10 percent of the debt liability of any business concern disclosed pursuant to (a)4i above;

iii. The name and address of any company in the field of hazardous waste management in which the business concern seeking a license or officers, directors, or partners of the business concern hold an equity interest;

iv. A description of the experience, credentials, and licenses in the field of hazardous waste management possessed by the key employees, officers, directors, or partners of the business concern seeking a license;

v. A listing and explanation of any notices, administrative orders or license revocations issued by any state or Federal authority citing a violation of any administrative rule relating to hazardous waste management against the business concern seeking a license or against any key employee, officer, director, or partner of the business concern;

vi. A listing and explanation of any judgement of liability or conviction under State or Federal statute or local ordinance concerning hazardous waste management against the business concern seeking a license or against any key employee, officer, director, or partner of the business concern; and

vii. Any other information the Department may require that relates to the competency or reliability of the applicant.

5. Every hazardous waste approved registration statement issued by the Department shall indicate on its face a renewal/expiration date, which, unless otherwise established by the Department, shall be May 1. The registration period, unless otherwise established by the Department, shall be biennial and run from July 1 to June 30 of each odd numbered year beginning in the year 2003. Registrations shall be renewed annually for the years 2001 and 2002 which registration period shall run from July 1 through June 30. The approved registration statement shall expire on the renewal date unless renewed pursuant to this paragraph. Prior to May 1 in each registration year or such other date as the Department may establish, each registrant shall submit to the Department a registration statement updating the information contained in the previous registration statement. Such information shall be submitted on forms supplied by the Department. Transporters who are also the owner or operator of one or more hazardous waste transfer facilities shall include on the registration statement renewal the addresses of all such facilities and an indication whether each property, where the transfer facility is to be located, is owned or leased by the transporter. For any leased property, a copy of the written lease. In no case shall the submission of an updated registration statement alter the conditions under which the approved registration statement was granted.

6. The failure to submit updated registration statement and all applicable fees (see N.J.A.C. 7:26G-3) on or before May 1 in each registration period or the failure to submit an updated disclosure statement pursuant to N.J.A.C. 7:26-16 and all applicable fees on or before March 1 of each calendar year or the failure to comply with a final order of the

Department shall be sufficient cause for the Department to revoke the approved registration or to declare it expired. Any registrant who receives a notice of intent to revoke or to declare an approved registration expired, shall have 15 days from receipt of the notice to submit to the Department a request for a hearing pursuant to N.J.A.C. 7:26G-2.3. The Department shall withhold the registration certificate and decal(s) of any registrant who fails to submit the updated registration statement, on or before May 1 of the registration period or the updated disclosure statement and applicable fees (see N.J.A.C. 7:26-4 and 16) on or before March 1 of the calendar year.

7. Except for information regarding the operation of hazardous waste transfer facilities, a registrant shall notify the Department in writing within 30 days of change of information supplied on the current registration statement, or on any leases submitted for registered hazardous waste vehicles, or on any documentation of leased operators of equipment submitted pursuant to (a) 13 below. Written notifications regarding transfer facilities shall occur prior to operations and include the following information: the address of each such facilities and an indication whether each property, where the transfer facility is to be located, is owned or leased by the transporter. For any leased property, a copy of the written lease shall be submitted.

8. No person shall be issued a hazardous waste approved registration statement nor shall any hazardous waste approved registration statement be renewed, if the applicant has failed to provide the accurate and complete information required on the application for issuance or the updating hazardous waste transporter registration statement for renewal.

9. No person shall be issued a hazardous waste approved registration statement if that person is disqualified for any of the reasons set forth in N.J.A.C. 7:26-16.8.

10. The Department, after notice and opportunity for hearing pursuant to 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, may revoke the approved registration statement of a hazardous waste transporter for the causes listed in this paragraph which are in addition to, and not a limitation of, any disqualifying reasons set forth in N.J.A.C. 7:26-16.8 and 16.9:

- i. Failure to maintain the financial responsibility requirements as required above;
- ii. Violation of any applicable provision of the Solid Waste Management Act (N.J.S.A. 13:1E-1 et seq.), this chapter, any administrative order issued by the Department or any environmental protection statute or implementing regulations of this State;
- iii. A pattern of violations of the environmental protection statutes or regulations of this or any other State, or the Federal government; or
- iv. Failure to submit updated information for the registration statement renewal or to submit the appropriate fee.

11. A permittee, licensee or exempt transporter who files a lease in connection with the registration statement for a hazardous waste vehicle which the permittee, licensee or exempt transporter will operate shall ensure that such lease is signed and dated by the parties thereto, provides for the exclusive use, control and possession of such equipment by the permittee, licensee or exempt transporter during the lease, and also includes:

- i. The dates on which the lease begins and ends, during which the permittee, licensee, or exempt transporter will have exclusive use, possession and control over the equipment;
- ii. The amount and method of payment for the lease;
- iii. The company or person responsible for payment of gas, oil, maintenance and insurance for the equipment;
- iv. Identification of the equipment by vehicle identification number (VIN) as it appears on the Motor Vehicles Registration card, license plate number, state which issued license plate and vehicle type; and
- v. A provision that the lease shall not be assigned to any person.

12. The lease shall be submitted along with an affidavit or certification by the president, chief executive officer, managing partner or sole proprietor or other appropriate officer or key employee of the permittee or licensee for whom a disclosure statement has been filed in accordance with N.J.A.C. 7:26-16.4(a)10, or if an exempt transporter, by the president, chief executive officer, managing partner or sole proprietor or other appropriate officer or official or key employee of the exempt transporter. The following statement shall immediately precede the signature of the affiant or certifier: "1. I swear (or certify) that I am the \_ (title) of \_ (name of licensee, permittee, or exempt transporter) and am authorized to make this certification/affidavit on behalf of \_ (name of licensee, permittee, or exempt transporter), and that I have personal knowledge of the facts set forth below.

2. The lease filed by me as part of this registration statement for the equipment, vehicle type: \_, with the VIN number: \_, license number: \_, issued by the State of: \_, contains the true terms of the lease and has a bonafide business purpose and is not filed with the purpose of preventing the discovery of information which would disqualify, for any reason set forth in N.J.S.A. 13:1E-133, the lessor or any other person from receiving a license.

3. I further swear (or certify) that my company and I understand that it shall exercise exclusive use, possession and control over each piece of hazardous waste equipment which is included in this application for a registration statement while such equipment is used to transport hazardous waste.

4. I further swear (or certify) that my company and I understand that it shall take reasonable measures to ensure that the above-described equipment will not, during the period of the lease, be used by any other person for the purpose of transporting hazardous waste."

In the case of a certification, the certification shall end with the following statement immediately preceding the signature and date: "I am aware that if any of the foregoing information or statement is willfully false, I am subject to punishment."

13. In addition to the requirements of (a)12 above, when a permittee, licensee, or exempt transporter files a lease in connection with an application for a registration statement for a hazardous waste vehicle, the lease shall provide that the leased equipment is or will be under the exclusive management, direction, and control of the permittee, licensee, or exempt transporter while being used to conduct hazardous waste activities for the permittee, licensee, or exempt transporter. This paragraph is in no way intended to affect whether the operator or operators of hazardous waste vehicles leased to a



permittee, licensee, or exempt transporter are or should be deemed to be employees of the permittee, licensee, or exempt transporter.

14. No person shall act as a prime contractor or subcontractor for the transportation of hazardous waste in this State without first obtaining an approved registration statement from the Department. A lease, pursuant to this subchapter, of hazardous waste vehicle operators and equipment to a permittee, licensee, or exempt transporter, shall not, for purposes of this subchapter, be considered a subcontract.

15. A person who has not obtained an approved registration statement shall not, through a subcontractor or any other means engage or contract to engage in the transportation, storage, collection, processing, transfer, treatment, or disposal of hazardous waste in this State through the use, control of possession of any hazardous waste vehicle registered to any other person, or through any other means. The leasing of hazardous waste vehicle operators and/or equipment to a permittee, licensee, or exempt transporter, pursuant to this subchapter, shall not be deemed engaging or contracting to engage in said hazardous waste activities.

16. A person is not required to obtain an approved registration from the Department solely because that person is transporting hazardous waste through New Jersey, if roadways or highways in New Jersey constitute a segment of such person's route, the hazardous waste being transported through New Jersey is not discharged from the hazardous waste vehicle, and hazardous waste from the person's hazardous waste vehicle is not collected, treated, processed, transferred, consolidated, commingled, or disposed of in New Jersey. Provided that these requirements are satisfied, the exemption from registration is not affected if the person's hazardous waste vehicle stops in New Jersey for any of the following reasons:

- i. The vehicle suffers a mechanical breakdown which makes repair necessary;
- ii. The operator of the hazardous waste vehicle must stop for a mandatory rest or break; or
- iii. The operator of the hazardous waste vehicle temporarily stores hazardous waste at a hazardous waste transfer facility for 10 days or less in compliance with N.J.A.C. 7:26G-7.4.

(b) Hazardous waste vehicle registration requirements are as follows:

1. Any device used for the transportation of hazardous waste shall be registered with the Department as a hazardous waste vehicle.

2. A permittee, licensee, or exempt transporter shall not allow, through a subcontract or any other means, any such registered equipment to be used by another person, unless such person is an employee of the permittee, licensee, or exempt transporter, or unless such use is in accordance with a lease of vehicle operators pursuant to this subchapter.

3. The Department shall not issue a registration certificate and hazardous waste decal to any registrant who fails to submit the updated registration statement, the updated disclosure statement and the applicable fees (see N.J.A.C. 7:26G-3) in accordance with (a)6 above.

4. No person shall engage in or continue to engage in the transportation of hazardous waste during the period when a hazardous waste decal and registration certificate are withheld pursuant to this subsection.

5. New Jersey Department of Environmental Protection (NJDEP) hazardous waste transporter registration certificates and decals shall be void if altered. Department representatives shall confiscate altered or stolen hazardous waste transporter registration certificate and decals upon discovery.

6. All hazardous waste vehicles used in the transporting of hazardous waste shall properly and conspicuously display, on the driver's side of the vehicle, a current New Jersey hazardous waste decal and the New Jersey Department of Environmental Protection (NJDEP) registration number. The NJDEP registration number and the name of the company shall be in letters and numbers at least three inches in height. Current hazardous waste decals must be permanently affixed to each hazardous waste vehicle prior to use on a public roadway or highway and prior to the hazardous waste vehicle being placed into service or before receiving waste. Expired decals shall be removed from the hazardous waste vehicle prior to affixing current registration period decals.

i. A copy of any lease filed in connection with the registration of the hazardous waste shall be carried within the vehicle at all times and available to the Department upon inspection or request.

ii. Only the current period decals shall be displayed. For hazardous waste vehicles which are owned by the registrant, the registrant shall, upon the interruption or termination of the exclusive use, possession or control of any such equipment by the registrant, notify the Department, return the NJDEP registration certificate to the Department, and remove and destroy the NJDEP registration number and decals on such hazardous waste vehicles. In all situations in which the Department issues decals to a permittee, licensee, or exempt transporter for affixation to the hazardous waste vehicle(s) of a lessor from which the permittee, licensee, or exempt transporter is leasing hazardous waste vehicles, the permittee, licensee, or exempt transporter to which the lessor has leased hazardous waste vehicles, and the lessor itself, are under independent obligations to notify the Department, return the NJDEP registration certificate to the Department, and remove and destroy the NJDEP registration number and decals from the hazardous waste vehicles of the lessor at the expiration and non-renewal of the lease pursuant to which the decals were issued. Such decals, after the expiration and non-renewal of the lease pursuant to which the decals were issued or at the expiration of the decals (whichever comes first), shall be deemed expired. When used for hazardous waste transportation purposes, such vehicles may only be used pursuant to the lease, and may be operated only by operators pursuant to the requirements of (a)12 and 13 above.

iii. The current vehicle registration card for a cab issued by the Department shall be carried in the cab of the vehicle at all times. If the cab and the transport unit are detachable, the registration card for the transport unit shall be immediately accessible for inspection upon request.

(1) Failure to remove and destroy such decals and registration numbers after the expiration and non-renewal of the lease shall constitute a violation of this subchapter, and shall subject both the lessor and the permittee, licensee, or exempt transporter to penalties and licensing action. It shall be an affirmative defense to a penalty proceeding or licensing action for a permittee, licensee or exempt transporter if it can show that it made reasonable efforts to remove and destroy the decal and gave the Department timely written notice of its inability to remove and destroy the decal.

(2) All expired decals and registration numbers shall be confiscated by the Department upon discovery.

(3) Use of decaled vehicles by a lessor receiving decals for its vehicles pursuant to a lease, for the transportation of hazardous waste within, or into or out of New Jersey other than pursuant to a lease with a permittee, licensee, or exempt transporter, and in conformity with (a)12 and 13 above, all constitute unlicensed hauling, and shall subject the lessor to penalties and debarment from involvement in the solid and hazardous waste and recycling industry in the State of New Jersey, including a prohibition on leasing solid and hazardous waste vehicles or solid and hazardous waste operators to permittees, licensees, and exempt transporters.

7. Permittees, licensees and exempt transporters shall, for purposes of hazardous waste activities and to the extent provided for under New Jersey law, be responsible for the actions and omissions of their lessors and their vehicle operators, and for selecting lessors and vehicle operators with appropriate qualifications; and the fact that the underlying relationship between a permittee, licensee or exempt transporter, and a lessor and/or vehicle operator was other than that of employer-employee shall no defense in a licensing or enforcement action taken against the permittee, licensee, or exempt transporter because of the actions, omissions, or lack of qualifications of the lessor or vehicle operator.

#### 7:26G-7.3 Other requirements

(a) All hazardous waste transporters shall comply with the following United States Department of Transportation (USDOT) regulations, with all the modifications that the New Jersey Department of Transportation has made in incorporating them into N.J.A.C. 16:49-2.1, and that the New Jersey State Police has made in incorporating them into N.J.A.C. 13:60-1.1:

1. The Hazardous Materials Regulations at 49 C.F.R. Parts 171 through 180, as amended and supplemented; and

2. The Motor Carrier Safety Regulations at 49 C.F.R. Parts 390 through 397, as amended and supplemented.

(b) The Department shall exercise fully its authority to enter and inspect vehicles transporting or registered to transport hazardous waste, while in operation on the highways of this State or areas incidental thereto, or at the premise or places of business of the owner or leaser of such vehicles.

(c) If the hazardous waste is rejected by the designated facility or if the transporter is unable to deliver the shipment of hazardous waste to the designated facility and no alternate facility is noted on the manifest, the transporter shall comply with all applicable transporter requirements at N.J.A.C. 7:26G-6.3(a).

#### 7:26G-7.4 Requirements for hazardous waste transfer facilities

(a) A hazardous waste transfer facility shall be operated by a licensed hazardous waste transporter, who owns or leases the property upon which the transfer facility is located. If the property is leased, the lease shall be a written agreement between the property owner and the licensed hazardous waste transporter which discloses the hazardous nature of the operation.

(b) Except during emergencies in transportation, hazardous waste storage, consolidation, or commingling may be conducted only at a hazardous waste transfer facility as described in (a) above or an authorized hazardous waste facility, which is designated on the manifest. Storage, consolidation, or commingling of hazardous waste in transit shall not occur except as authorized under this section, and within the time limits established in this section.

(c) The owner or operator of the hazardous waste transfer facility shall notify the Department in writing prior to conducting activities at the transfer facility. The owner or operator of hazardous waste transfer facility shall submit, as part of the initial transporter license application, the hazardous waste transporter license renewal at N.J.A.C. 7:26G-7.2(a)5, or written notification to update transporter license information at N.J.A.C. 7:26G-7.2(a)7, the address of the hazardous waste transfer facility and an indication whether the property where the transfer facility is located is owned or leased by the transporter. If the hazardous waste transfer facility is to be operated pursuant to a lease in accordance with (a) above, a copy of the lease shall be submitted as part of the hazardous waste transporter license application, license renewal, or written notification to update license information.

(d) The owner or operator of the hazardous waste transfer facility shall maintain at the transfer facility a written operating log (or logs, as necessary) documenting the movement of hazardous waste into and out of the hazardous waste facility and any hazardous waste transfers occurring at the facility and documenting compliance with the conditions set forth at (g) and (h) below. Written or otherwise transcribed operating log(s) shall be kept available at the facility site for at least three years. At a minimum, the log(s) shall include the following information:

1. The date each hazardous waste arrives at the transfer facility;
2. The decal number of the waste bearing portion of the vehicle;
3. A description (including the USDOT shipping description) and the quantity of each hazardous waste received on a vehicle when it arrives at the transfer facility;
4. The state manifest document number or manifest document number or associated with each hazardous waste load;
5. Location of each hazardous waste within the facility;
6. A notation of any consolidation or commingling performed;
7. The date each hazardous waste departs from the transfer facility;
8. A description (including the USDOT description) and quantity of hazardous waste on the vehicle when it departs from the transfer facility; and
9. Cross references to specific manifest document numbers involved in the consolidation or commingling of hazardous waste loads.

(e) Each transporter utilizing the hazardous waste transfer facility shall enter the necessary information on the log(s) regarding his hazardous waste shipment.

(f) A hazardous waste transporter, who stores or consolidates closed containers of manifested shipments of hazardous waste at a hazardous waste transfer facility for a period of 10 days or less, is not subject to regulations at N.J.A.C. 7:26G-8 through 12 except as noted in this subchapter, provided that the following requirements are met:

1. The transporter consolidating the containers of hazardous waste is a licensed hazardous waste transporter in the State of New Jersey;

2. The hazardous waste transfer facility is not located at the interim status or permitted hazardous waste facility indicated as the designated facility on the hazardous waste manifests;

3. The hazardous waste is held in closed containers which meet the applicable U.S. Department of Transportation packaging regulations specified in 49 C.F.R. Parts 171 through 180, as amended;

4. The hazardous waste containers are in good condition (that is, no severe rusting, apparent defects or deterioration) and are not leaking;

5. The storage or consolidation of the containers of hazardous waste complies with the hazardous materials segregation criteria at 49 C.F.R. 177.848 or 174.81, and with the guidance on incompatible hazardous waste mixtures in Appendix V of 40 C.F.R. Part 265;

6. The containers of hazardous waste remain closed, and no waste or other materials shall be removed from or added to the containers except to commingle hazardous wastes with identical USDOT shipping descriptions in accordance with (g) below or as necessary to respond to an emergency situation; and

7. The newly consolidated waste load shall be removed from the transfer facility at or prior to reaching the 10 day limit by the component of the waste load which has been at the transfer facility the longest.

(g) A hazardous waste transporter who commingles hazardous waste with identical USDOT shipping descriptions (provided the commingling does not constitute treatment) at a transfer facility for a period of 10 days or less is not subject to regulations at N.J.A.C. 7:26G-8 through 12 except as noted in this subchapter, provided the following requirements are met:

1. The transporter commingling the waste is a licensed hazardous waste transporter in the State of New Jersey;

2. The hazardous waste transfer facility is not located at the interim status or permitted hazardous waste facility indicated as the designated facility on the manifests;

3. The hazardous waste is commingled between containers which meet the applicable US Department of Transportation packaging regulations specified in 49 C.F.R. 107, 171 through 180, as amended;

4. The hazardous wastes that are commingled are designated on the generators' hazardous waste manifests for receipt by the same designated hazardous waste facility;

5. The hazardous waste transporter amends the generators' manifests to reflect the commingling of hazardous wastes by the transporter, and to describe accurately the containers and quantities of hazardous wastes shipped after the commingling; and

6. The newly commingled waste load shall be removed from the transfer facility at or prior to reaching the 10 day limit by the component waste which has been at the transfer facility the longest.

(h) A hazardous waste transporter, who consolidates by transferring hazardous waste from one container to one or more empty containers (meeting the conditions at 40 C.F.R. 261.7 as incorporated by reference at N.J.A.C. 7:26G-5) at a hazardous waste transfer facility for a period of 10 days or less, is not subject to N.J.A.C. 7:26G-8 through 12 except as noted in this subchapter, provided the following requirements are met:

1. The transporter consolidating the hazardous waste is a licensed hazardous waste transporter in the State of New Jersey;

2. The hazardous waste transfer facility is not located at the interim status or permitted hazardous waste facility indicated as the designated facility on the hazardous waste manifests;

3. The transfer involves liquid hazardous waste only;

4. The contents of only one container shall be transferred at a time;

5. Prior to and after consolidation, the hazardous waste is stored in closed containers, which meet the applicable U.S. Department of Transportation packaging regulations specified in 49 C.F.R. Parts 171 through 180, as amended;

6. The storage of the consolidated hazardous waste complies with the hazardous materials segregation criteria at 40 C.F.R. 177.848 or 174.81, and with the guidance on incompatible hazardous waste mixtures in Appendix V of 40 C.F.R. Part 265;

7. The cumulative capacity of the empty containers (meeting the conditions at 40 C.F.R. 261.7 as incorporated by reference at N.J.A.C. 7:26G-5 intended to receive the waste shall be sufficient to containerize the total amount of hazardous waste involved in the transfer; and

8. The newly consolidated waste load shall be removed from the transfer facility at or prior to reaching the 10 day limit as determined by the component of the waste load which has been at the transfer facility the longest.

(i) The commingling of hazardous wastes of different USDOT shipping descriptions is prohibited.

(j) If a shipment of hazardous waste is rejected by a designated facility after a transporter has commingled hazardous wastes, the transporter must comply with requirements set forth at N.J.A.C. 7:26G-6.3(b) and (c) and any additional requirements set forth at N.J.A.C. 7:26G-7.1(c)1.

(k) Repeated and/or multiple violations at a transfer facility may result in termination of eligibility for these transfer activities and require the cessation of such activities. Notwithstanding a hazardous waste transporter's compliance with all requirements of the hazardous waste transfer facility regulations at (c), (d), (e), (f), (g), (h), (i) and (j) above, the Department may terminate eligibility for these transfer activities and require the cessation of such activities any time the Department determines that a particular hazardous waste transporter or hazardous waste transfer facility poses a threat to the environment or that a transporter cannot be relied upon to operate the transfer facility safely and in conformance with all applicable rules and regulations. Owners or operators of such hazardous waste facilities for which the Department has terminated eligibility for one or more activities or who have had to cease all operations, shall have the right to a hearing pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq.

## Subchapter 8. Standards for Owners and Operators of Hazardous Waste Treatment, Storage and Disposal Facilities

### 7:26G-8.1 Incorporation by reference

(a) This subchapter incorporates by reference up to May 6, 2002 and prospectively incorporates by reference 40 C.F.R. Part 264, Federal regulations on the standards applicable to owners and operators of hazardous waste treatment, storage and

disposal facilities, and its appendices, as amended and supplemented, except as provided in (b), (c) and (d) below.

(b) The following provisions of 40 C.F.R. Part 264 are not incorporated by reference:

1. 40 C.F.R. 264.149 Use of State-required mechanisms;
2. 40 C.F.R. 264.150 State assumption of responsibility;
3. 40 C.F.R. 264.301(l) Design and operating requirements, Alabama landfills;
4. 40 C.F.R. 264, Appendix VI Political Jurisdiction in which compliance with §264.18(a) must be demonstrated;
5. 40 C.F.R. 264.1030(d);
6. 40 C.F.R. 264.1050(g); and
7. 40 C.F.R. 264.1080(e).

(c) The following provisions of 40 C.F.R. Part 264 are incorporated by reference with the specified changes:

1. The term "New Jersey" shall be substituted for "State(s)," "authorized state," "approved state", and the term "New Jersey's hazardous waste program" for "approved program" in those provisions of 40 C.F.R. Part 264 which are incorporated by reference, except at 40 C.F.R. 264.147(a)(1)(ii), 264.147(b)(1)(ii), 264.147(g)(2) and 264.147(i)(4);
2. 264.1(g)(9), replace "transfer facility" with "hazardous waste transfer facility in accordance with N.J.A.C. 7:26G-7.4";
3. 40 C.F.R. 264.52(b), after "or part 1510 of chapter V," add "or a Discharge Prevention, Containment and Countermeasure (DPCC) Plan in accordance with N.J.A.C. 7:1E";
4. 40 C.F.R. 264.56(d)(2), after "He must immediately notify" add "the NJDEP Hotline at 1-877-WARNDEP and";
5. 40 C.F.R. 264.71(a)(3), after "one copy of the signed manifest" add ", and forward the pertinent copy of the manifest form to the Department and to the generator's State agency by the next business day";
6. 40 C.F.R. 264.71(b)(3), after "one copy of the manifest or shipping paper (if the manifest has not been received)" add ", and forward the pertinent copy of the manifest form to the Department and to the generator's State agency by the next business day";
7. (Reserved)
8. 40 C.F.R. 264.113(e)(7)(v), delete "not subject to administrative appeal" and replace with "subject to appeal in accordance with the provisions of Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq.";
9. 40 C.F.R. 264.119(a), substitute "October 9, 1981" for "January 12, 1981";
10. Changes to 40 C.F.R. 264.151:
  - i. 264.151(l), after "Section 3004 of the Resource Conservation and Recovery Act of 1976, as amended" and "or any comparable provisions of N.J.S.A. 13:1E-1 et seq. and implementing regulations", in the form agreements contained in these subparagraphs;
  - ii. 40 C.F.R. 264.151(a), 264.151(m)(1) and 264.151(n)(1), substitute "a Department of the State of New Jersey" for "an Agency of the United States Government";
  - iii. 40 C.F.R. §264.151(l), in paragraph (3) of the form agreement, under the heading "Governing Provisions" delete "governing State agency (if applicable) [insert citation]" and insert instead, "State of New Jersey, particularly N.J.A.C. 7:26G-8";

iv. Whenever 40 C.F.R. 264.151 requires that owners and operators notify several Regional Administrators of their financial obligations, the owner or operator shall notify both the Department and all Regional Administrators of the United States Environmental Protection Agency of Regions which are affected by the owner or operator's financial assurance mechanisms;

v. 40 C.F.R. 264.151(a) through (n), all changes and substitutions specified in (c)10i through iv above and In N.J.A.C. 7:26G-4.2 shall also be made to the wording of each financial instrument prepared in accordance with 40 C.F.R. 264.151.

11. 40 C.F.R. 264.191(a) substitute "by April 19, 1997" for "by January 12, 1988" unless the regulated tank or tanks are underground tanks that cannot be entered for inspection;

12. 40 C.F.R. 264.191(c). substitute "October 21, 1996" for "July 14, 1986" unless the regulated tank or tanks are underground tanks that cannot be entered for inspection;

13. 40 C.F.R. 264.193. substitute "April 19, 1997" for "January 12, 1987" unless the regulated tank or tanks are underground tanks that cannot be entered for inspection;

14. 40 C.F.R. 264.276(b)(1)(ii), in the second line of the table, substitute "0.5" for "1.25";

15. 40 C.F.R. 264.570(a), substitute "October 21, 1996" for "December 6, 1990" unless the regulated drip pads accept F032 waste; and

(d) [Reserved]

(e) The requirements of this subchapter do not apply to universal waste handlers and universal waste transporters (as defined in N.J.A.C. 7:26G-4.2) handling universal waste, as listed in N.J.A.C. 7:26G-4.2. These handlers are subject to regulation under N.J.A.C. 7:26A-7

(f) When used in the following Federal citations, the term "Administrator" or "Regional Administrator" means the Administrator or Regional Administrator of the United States Environmental Protection Agency or his or her designee: 40 C.F.R. 264.1(j)(1) and 264.12(a).

(g) When used in the following Federal citations, the term "EPA" means the United States Environmental Protection Agency: 40 C.F.R. 264.11, 264.554, and 264.1080, Comment at the end of 40 C.F.R. 264.18(b)(1)(ii)(D), Comment and forms at the end of 40 C.F.R. 264.18(b)(2)(iii), 264.151(f) and 264.151(g) and note to 40 C.F.R. 264.573(a)(5).

(h) When used in the following Federal citations, the term "RCRA" or "Resource Conservation and Recovery Act" shall retain its meaning and not be replaced by a state analog: 40 C.F.R. 264.251(f), and 264.301(f)(1).

(i) When used in the following Federal citations, the term "Environmental Protection Agency" shall not be substituted by a State term, but shall retain its meaning: 40 C.F.R. 264.12(a)(2) and 264.71(d).

## Subchapter 9. Interim Status Standards for Owners and Operators of Hazardous Waste Treatment, Storage and Disposal Facilities

### 7:26G-9.1 Incorporation by reference



(a) This subchapter incorporates by reference up to May 6, 2002 and prospectively incorporates by reference 40 C.F.R. Part 265. Federal regulations on the interim status standards applicable to owners and operators of hazardous waste treatment, storage and disposal facilities, and its appendices, as amended and supplemented, except as provided in (b) and (c) below.

(b) The following provisions of 40 C.F.R. Part 265 are not incorporated by reference: 40 C.F.R. 265.149, 265.150, 265.1030(c), 265.1050(f) and 265.1080(e).

(c) The following provisions of 40 C.F.R. Part 265 are incorporated by reference with the specified changes:

1. 40 C.F.R. 265.1(c)(12), replace "transfer facility" with "hazardous waste transfer facility in accordance with N.J.A.C. 7:26G-7.4";
2. 40 C.F.R. 265.52(b), after "or part 1510 of chapter V," add "or a Discharge Prevention, Containment and Countermeasure (DPCC) Plan in accordance with N.J.A.C. 7:1E";
3. 40 C.F.R. 265.56(d)(2), after "He must immediately notify" add "the NJDEP Hotline at 1-877-WARNDEP and";
4. 40 C.F.R. 265.90(a), 265.90(d)(1) and 265.93(a), substitute "By December 6, 1982" for "Within one year after the effective date of these regulations";
5. 40 C.F.R. 265.90(d)(2), substitute "December 6, 1982" for "one year after the effective date of these regulations";
6. 40 C.F.R. 265.119(a), substitute "January 3, 1984" for "January 12, 1981";
7. 40 C.F.R. 265.191(a), substitute "by April 19, 1997" for "by January 12, 1988" unless the regulated tank or tanks are underground tanks that cannot be entered for inspection;
8. 40 C.F.R. 265.191(c) substitute "[the effective date of these regulations] October 21, 1996" for "July 14, 1986" unless the regulated tank or tanks are underground tanks that cannot be entered for inspection;
9. 40 C.F.R. 265.193 substitute "[180 days after the effective date of these regulations] April 19, 1997" for "January 12, 1987" unless the regulated tank or tanks are underground tanks that cannot be entered for inspection;
10. 40 C.F.R. 265.276(a), substitute "May 21, 1984" for "the effective date of this part";
11. 40 C.F.R. 265.440(a), substitute "October 21, 1996" for "December 6, 1990" and "December 24, 1992" unless the regulated drip pads accept F032 waste; and
12. The term "New Jersey" shall be substituted for "State(s)", "authorized state", "approved state", and the term "New Jersey's hazardous waste program" for "approved program" in those provisions of 40 C.F.R. Part 265 which are incorporated by reference, except at 40 C.F.R. 265.147(a)(1)(ii), 265.147(g)(2) and 265.147(i)(4).

(d) The requirements of this subchapter do not apply to universal waste handlers and universal waste transporters (as defined in N.J.A.C. 7:26G-4.2) handling universal waste, as listed in N.J.A.C. 7:26G-4.2. These handlers are subject to regulation under N.J.A.C. 7:26A-7.

(e) When used in the following Federal citations, the term "Administrator" or "Regional Administrator" means the Administrator or Regional Administrator of the United States Environmental Protection Agency or his or her designee: 40 C.F.R. 265.12(a), 265.149(a) and 265.150(a).

(f) When used in the following Federal citations, the term "EPA" means the United States Environmental Protection Agency: 40 C.F.R. 265.11.

(g) When used in the following Federal citations, the term "RCRA" or "Resource Conservation and Recovery act" shall retain its meaning and not be replaced by a state analog: 40 C.F.R. 265.301(c)(1).

(h) When used in the following Federal citations, the term "Environmental Protection Agency" shall not be substituted by a State term, but shall retain its meaning: 40 C.F.R. 265.12(a)2 and 265.71(d).

## Subchapter 10. Standards for the Management of Specific Hazardous Wastes and Specific Types of Hazardous Waste Management Facilities

### 7:26G-10.1 Incorporation by reference

(a) This subchapter incorporates by reference up to May 6, 2002 and prospectively incorporates by reference 40 C.F.R. Part 266 (including all appendices), Federal regulations on the management of specific hazardous waste, as amended and supplemented, except as provided in (b) and (c) below.

(b) [Reserved]

(c) The following provisions of 40 C.F.R. Part 266 are incorporated by reference with the specified changes:

1. 40 C.F.R. 266.103(a)(1)(ii), delete the first sentence and replace with "Existing or in existence means a boiler or industrial furnace, excluding sludge dryers, carbon regeneration units, infrared incinerators, and plasma arc incinerators, that on or before August 21, 1991 is either in operation burning or processing hazardous waste or for which construction (including the ancillary facilities to burn or to process the hazardous waste) has commenced. For sludge dryers, carbon regeneration units, infrared incinerators, and plasma arc incinerators, existing or in existence means that on or before October 21, 1996 such units are either in operation burning or processing hazardous waste, or for which construction (including the ancillary facilities to burn or to process the hazardous waste) has commenced.";

2. 40 C.F.R. 266.103(a)(6)(iii), after "August 21, 1991" add "for all boiler or industrial furnaces except sludge dryers, carbon regeneration units, infrared incinerators, and plasma arc incinerators and prior to October 21, 1996 for sludge dryers, carbon regeneration units, infrared incinerators, and plasma arc incinerators";

3. 40 C.F.R. 266.103(b)(1), after "August 21, 1991" add "for all boiler or industrial furnaces, except sludge dryers, carbon regeneration units, infrared incinerators, and plasma arc incinerators and on or before October 21, 1996 for sludge dryers, carbon regeneration units, infrared incinerators, and plasma are incinerators";

4. 40 C.F.R. 266.103(b)(6), after "August 21, 1991" add "for all boiler or industrial furnaces, except sludge dryers, carbon regeneration units, infrared incinerators, and plasma arc incinerators and on or before October 21, 1996 for sludge dryers, carbon regeneration units, infrared incinerators, and plasma arc incinerators";

5. 40 C.F.R. 266.103(c), after "August 21, 1992" add "for all boilers or industrial furnaces, except sludge dryers, carbon regeneration units, infrared incinerators, and plasma arc incinerators and on or before October 21, 1997 for sludge dryers, carbon regeneration units, infrared incinerators, and plasma arc incinerators";

6. 40 C.F.R. 266.103(c)(7)(i), after "August 21, 1992" add "for all boilers or industrial furnaces, except sludge dryers, carbon regeneration units, infrared incinerators, and plasma arc incinerators and on or before October 21, 1997 for sludge dryers, carbon regeneration units, infrared incinerators, and plasma arc incinerators";

7. 40 C.F.R. 266.103(c)(7)(i)(B), after "August 21, 1992" add "for all boilers or industrial furnaces, except sludge dryers, carbon regeneration units, infrared incinerators, and plasma arc incinerators and on or before October 21, 1998 for sludge dryers, carbon regeneration units, infrared incinerators, and plasma arc incinerators"; after "August 23, 1993" add "for all boilers or industrial furnaces, except sludge dryers, carbon regeneration units, infrared incinerators, and plasma arc incinerators and on or before October 21, 1998 for sludge dryers, carbon regeneration units, infrared incinerators, and plasma arc incinerators";

8. 40 C.F.R. 266.111(e)(1)(ii), after "August 21, 1991" add "for all boilers or industrial furnaces, except sludge dryers, carbon regeneration units, infrared incinerators, and plasma arc incinerators and on or before October 21, 1998 for sludge dryers, carbon regeneration units, infrared incinerators, and plasma arc incinerators"; and

9. 40 C.F.R. 266.111(e)(2), after "August 21, 1992" add "for all boilers or industrial furnaces, except sludge dryers, carbon regeneration units, infrared incinerators, and plasma arc incinerators and on or before October 21, 1997 for sludge dryers, carbon regeneration units, infrared incinerators, and plasma arc incinerators".

(d) As of October 21, 1996, any boiler or industrial furnace, excluding sludge dryers, carbon regeneration units, infrared incinerators, and plasma arc incinerators, which failed to comply with EPA's certification of compliance schedule as provided by 40 C.F.R. 266.103(b), (c) and (d), is also deemed not to be in compliance under State law and shall comply with the requirements of 40 C.F.R. 266.103(e), as adopted by reference at (a) above.

## Subchapter 11. Land Disposal Restrictions

### 7:26G-11.1 Incorporation by reference

(a) This subchapter incorporates by reference up to May 6, 2002 and prospectively incorporates by reference 40 C.F.R. Part 268, Federal regulations on Land Disposal Restrictions, and the Appendices to 40 C.F.R. Part 268, as amended and supplemented, except as provided in (b) and (c) below.

(b) The following provisions of the Land Disposal Restrictions are not incorporated by reference:

1. The following sections of 40 C.F.R. Part 268 because these sections contain the schedule by which EPA must evaluate wastes for disposal restrictions:

- i. 40 C.F.R. 268.10, Identification of Wastes to be Evaluated by August 8, 1988;
- ii. 40 C.F.R. 268.11, Identification of Wastes to be Evaluated by June 8, 1989;
- iii. 40 C.F.R. 268.12, Identification of Wastes to be Evaluated by May 8, 1990;

and

iv. 40 C.F.R. 268.13, Schedule for Wastes Identified or Listed After November 8, 1990; and

2. The following sections of 40 C.F.R. Part 268 because they have not been delegated by USEPA to the State:

- i. 40 C.F.R. 268.5, Procedures for case-by-case extension of an effective date;
- ii. 40 C.F.R. 268.6, Petitions to allow land disposal of a waste prohibited under Subpart C of Part 268;
- iii. 40 C.F.R. 268.42(b), Treatment standards expressed as specified technologies (alternative treatment method; and
- iv. 40 C.F.R. 268.44, Variance from a treatment standard, paragraphs (a) through (g), national variances, and (n) through (p), constituent concentrations.

(c) [Reserved]

(d) Universal waste handlers and universal waste transporters (as defined in N.J.A.C. 7:26G-4.2) are exempt from 40 C.F.R. 268.7 and 268.50 as incorporated herein by reference. These handlers are subject to regulation under N.J.A.C. 7:26A-7 when handling universal wastes as defined in N.J.A.C. 7:26G-4.2.

(e) The regulated community in New Jersey may apply to EPA Region II for all Land Disposal Restriction extensions, exemptions and variances offered by EPA but not delegated to the States. (Examples are case-by-case extensions to an effective date, at 40 C.F.R. 268.5(a), petitions to allow land disposal of a prohibited waste, at 40 C.F.R. 268.6(a), and alternate treatment at 40 C.F.R. 268.42(b).)

(f) When used in the following Federal citations, the term "Administrator" shall mean the Administrator of the United States Environmental Protection Agency: 40 C.F.R. 268.40(b).

(g) When used at 40 C.F.R. 268.1(e)(3), the term "EPA" shall mean the United States Environmental Protection Agency.

## Subchapter 12. Hazardous Waste Permit Program

### 7:26G-12.1 Incorporation by reference

(a) This subchapter incorporates by reference up to May 6, 2002 and prospectively incorporates by reference 40 C.F.R. Part 270, Federal regulations on USEPA administered permit programs: the hazardous waste permit program, as amended and supplemented, except as provided in (b) and (c) below.

(b) The following provisions of 40 C.F.R. Part 270 are not incorporated by reference: 40 C.F.R. 270.1(a) and (b), 270.3, 270.14(b)(18), 270.51 and 270.73(c) through (g).

(c) The following provisions of 40 C.F.R. Part 270 are incorporated by reference with specified changes:

1. 40 C.F.R. 270.2, in the definition of "Corrective Action Management Unit," after "RCRA Section 3008(h);" add "and all applicable provisions of N.J.S.A. 13:1E-9,";

2. 40 C.F.R. 270.2, in the definition of "Final Authorization," after "section 3006(b) of RCRA," add "and all applicable provisions of N.J.S.A. 13:1E-1 et seq., including 13:1E-9,";

3. 40 C.F.R. 270.2, in the definition of "Interim Authorization," after "section 3006(c) of RCRA" and "and all applicable provisions of N.J.S.A. 13:1E-1 et seq., including 13:1E-9, and implementing regulations";

4. Two changes are needed at 40 C.F.R. 270.10:

i. Applicants must comply not only with the requirements of this section, but also with the disclosure requirements at N.J.S.A. 13:1E-126 et seq., and implementing

regulations, as well as the requirement for Environmental and Health Impact Statements at N.J.A.C. 7:26G-12.2,

ii. 40 C.F.R. 270.10(e)(3), after "Section 3008 of RCRA" add "and all applicable provisions of N.J.S.A. 13:1E-9";

5. 40 C.F.R. 270.12, replace "40 C.F.R. Part 2" with "N.J.A.C. 7:26G-16"; in the sentence beginning "Any such claim", delete the phrase "on the application form or instructions or, in the case of other submissions, by stamping the words "confidential business information" on each page containing such information."

6. 40 C.F.R. 270.149(b)(1), after "A topographic map" add ", prepared in a manner and format consistent with N.J.A.C. 7:1D, Appendix A,";

7. 40 C.F.R. 270.14(b) (20), replace the phrase "his duties under other Federal laws as required in §270.3 of this part" with "any duties he may have under federal laws cited in 40 C.F.R. 270.3 as well as his duties under New Jersey Statutes, including but not limited to The Wild and Scenic Rivers Act, N.J.S.A. 13:8-45 et seq., The New Jersey Conservation and Historic Preservation Restriction Act, N.J.S.A. 23:2A-1 et seq., The Endangered Plant Species List, N.J.S.A. 13:1B-151 et seq., The Coastal Area Facility Review Act (CAFRA), N.J.S.A. 13:19-1 et seq., The Wetlands Act of 1970, N.J.S.A. 13:19A-et seq., The Freshwater Wetlands Protection Act, N.J.S.A. 13:9B-1 et seq., The Waterfront Development Law, N.J.S.A. 12:5-3 et seq., The Trails System Act N.J.S.A. 13:8-30 et seq., The Pineland Protection Act, N.J.S.A. 58:11-49 et seq., The Water Pollution Control Act and Clean Water Enforcement Act, N.J.S.A. 58:10A-1 et seq., The Flood Hazard Area Control Act, 58:16A-50 et seq., The Safe Drinking Water Act, N.J.S.A. 58:12A-1 et seq., and The Air Pollution Control Act, N.J.S.A. 26-2C et seq."

8. 40 C.F.R. 270.32(b)(2), after "section 3005 of this act," add "and all applicable provisions of N.J.S.A. 13:1E-1 et seq. and implementing regulations";

9. 40 C.F.R. 270.40, after the last sentence of subsection (b), add "(c) The change of ownership or operational control shall not occur until the Department issues approval to the new owner or operator in accordance with the requirements of N.J.S.A. 13:1E-133.";

10. 40 C.F.R. 270.70(a)(1), after "section 3010(a) of RCRA," add "or any comparable provisions of N.J.S.A. 13:1E-1 et seq., including 13:1E-9, and implementing regulations";

11. 40 C.F.R. 270.70(a)(1), in the Comment at the end of this paragraph, after "section 3010(a) of RCRA," add "and all provisions of N.J.S.A. 13:1E-1 et seq., and implementing regulations";

12. 40 C.F.R. 270.72(a)(5) after "Section 3008(h)," add "and all applicable provisions of N.J.S.A. 13:1E-9 and implementing regulations";

13. 40 C.F.R. 270.72(a)(4), after the last sentence of paragraph (4), add "The change of ownership or operational control shall not occur until the Department issues approval to the new owner or operator in accordance with the requirements of N.J.S.A. 13:1E-133.";

14. 40 C.F.R. 270.72(b)(2), after "section 3004(o)," add "and all applicable provisions of N.J.S.A. 13:1E-1 et seq., including 13:1E-9,";

15. 40 C.F.R. 270.72(b)(5), after "RCRA section 3008" and "and all applicable provisions of N.J.S.A. 13:1E-1 et seq., and implementing regulations";

16. 40 C.F.R. 270.72(b)(6), after "RCRA section 3004," add "and all applicable provisions of N.J.S.A. 13:1E-1 et seq., including 13:1E-9, and implementing regulations";

17. 40 C.F.R. 270.73, replace subsection (c) through (g) with the following: "Interim status can be terminated by the Department for failure to comply with interim status facility standards or violation of applicable statutes, regulations or orders, or if the activity of the facility endangers human health and the environment and cannot be regulated to acceptable levels."; and

18. The term "New Jersey" shall be substituted for "State(s)," "authorized state," "approved state," and the term "New Jersey's hazardous waste program" for "approved program" in those provisions of 40 C.F.R. Part 270 which are incorporated by reference, except at 40 C.F.R. 270.2.

(d) Universal waste handlers and universal waste transporters (as defined in N.J.A.C. 7:26G-4.2) managing universal wastes as defined in N.J.A.C. 7:26G-4.2 are not required to obtain a RCRA permit. These handlers are subject to regulation under N.J.A.C. 7:26A-7.

(e) Notwithstanding N.J.A.C. 7:26G-4.2, in the following definitions found at 40 C.F.R. 270.2 there shall not be a blanket substitution for terms such as Administrator, EPA, RCRA, Interim Authorization, or any other generally substituted term. These definitions are incorporated without change: Administrator, Approved program or approved state, Director, Environmental Protection Agency, EPA, Final Authorization, Permit, Major facility, Person, Regional Administrator, and State/EPA agreement.

(f) When used in the following Federal citations, the term "Administrator" or "Regional Administrator" means the Administrator or Regional Administrator of the United States Environmental Protection Agency or his designee: 40 C.F.R. 270.5, 270.10(e)(2), 270.10(f)(2) and (3) and (g)1i and iii, 270.32(a) and (b)(2) and 270.11(a)(3).

(g) When used in the following Federal citations, the term "EPA" means the United States Environmental Protection Agency: 40 C.F.R. 270.5, 270.10(e)(2), 270.32(c), 270.51, 270.72(a)(5), 270.72(b)(5), 270.79, and 270.225 and note to 40 C.F.R. 270.10.

#### 7:26G-12.2 Environmental and Health Impact Statement

(a) Certain applicants shall be required to submit an Environmental and Health Impact Statement (EHIS) in addition to Parts A and B of the permit application in accordance with the provisions set out in this section.

(b) Applicants for the following shall submit an EHIS in all cases:

1. An initial permit issued pursuant to this subchapter for a new commercial hazardous waste facility; and
2. Authorization to construct and operate a hazardous waste incinerator or hazardous waste land disposal unit at a hazardous waste facility where no such hazardous waste management unit is presently authorized.

(c) Applicants for the following may be required in accordance with (d) and (e) below to submit an EHIS:

1. An initial permit issued pursuant to this subchapter for a new non-commercial hazardous waste facility;

2. An initial permit issued pursuant to this subchapter to an existing hazardous waste facility; or

3. A modification or revocation and reissuance or renewal of a permit pursuant to this subchapter.

(d) Whether or not an EHIS is required with the submission of an application for the permit or changes listed in (c) above shall be determined by the Department on a case by case basis, whenever a change to authorized hazardous waste management practices may change or increase the danger to human health and the environment. Such cases are as follows:

1. Addition of waste types;
2. Increase in capacity of a hazardous waste management unit;
3. Alteration of operating conditions of a hazardous waste management unit; or
4. Addition of hazardous waste management units, including replacement of existing hazardous waste management units.

(e) The Department shall apply the following criteria to the proposed changes (to facility operation to) determine whether the changes will increase or change the nature of the risk to human health and the environment. If the Department finds that this is so, an Environmental and Health Impact Statement shall be required.

1. Dissimilarity between proposed waste types and present waste types;
2. Magnitude of facility-wide volume and capacity increases;
3. Magnitude of facility-wide waste throughput increases;
4. Relative risks posed by the proposed changes;
5. Location of the existing facility and nearby land use;
6. Nature of the existing facility;
7. Scale of new construction proposed;
8. Potential for increased transportation impacts;
9. Nature and scale of additional construction and structure usages at other than hazardous waste management units;
10. Environmental sensitivity of the land involved;
11. Existing site conditions;
12. Magnitude of facility-wide emissions increases;
13. Any circumstances peculiar to the facility.

(f) Applicants shall not be required to submit an EHIS in the following cases:

1. The applicant is seeking an initial permit issued pursuant to this subchapter for an existing hazardous waste facility, if no changes in authorized hazardous waste management practices are proposed;

2. The applicant is seeking permit revocation and reissuance or permit renewal for a permitted hazardous waste facility, if no changes in authorized hazardous waste management practices are proposed; or

3. The facility is an on-site pre-treatment facility which is directly connected to an industrial process and which is constructed pursuant to 40 C.F.R. 403 or N.J.S.A. 58:11-49 et seq.

(g) The Environmental and Health Impact Statement shall include:

1. An Executive Summary which shall briefly describe the proposed facility, any significant associated positive and negative impacts and any mitigative measures which

will be utilized to minimize or eliminate such negative impacts, issues of major concern, matters to be decided and major conclusions;

2. A Description of the Proposed Facility, including:
  - i. The proposed facility owner and operator;
  - ii. An explanation of the purpose of the proposed facility, which shall include a description of the products or services being provided and a list of benefits to be realized by the owner, the community in which the facility is to be located, and the surrounding communities;
  - iii. An identification of the waste streams which the proposed facility will accept;
  - iv. A time schedule for the development and start-up of the proposed facility including anticipated completion dates for major phases of construction; and
  - v. A narrative statement of the types of the existing and proposed hazardous waste management systems at the site. A discussion of the following shall also be included:
    - (1) The types, capacities and number of units of the processing equipment to be utilized and their relationship to the overall operation; and
    - (2) The daily handling capacity of the overall facility and the anticipated operating time in hours per day and days per week;
  - vi. A narrative description of the proposed site location including history of site use;
  - vii. A site plan including a scale drawing showing location of all past, present, and future hazardous waste management areas;
  - viii. A description of post-closure care of the site after termination of operations, as applicable;
  - ix. A discussion of the proposed project's compatibility with state hazardous waste management planning; and
  - x. A list and status report on all Federal, State, county and local licenses, permits and certifications necessary for the proposed facility;
3. A Description of the Environmental Setting, including:
  - i. A detailed written description of the municipal and neighborhood setting of the proposed facility. The site location shall also be identified by the following:
    - (1) An 8½ inch x 11 inch copy of the key map plotted on a seven and one-half minute United States Geological Survey topographical quadrangle. The quadrangle shall be the most recent revision available, shall include the name of the quadrangle and shall delineate a minimum of three miles from the perimeter of the proposed facility boundaries. One or more maps may be utilized where necessary to ensure clarity of the information submitted. The key map shall depict the following:
      - (A) All surface waters, coastal zone areas as defined in N.J.S.A. 13:19-1 et seq.; wetlands as defined in N.J.S.A. 13:9A-1 et seq.; water supply wells and reservoirs; FW-1 and FW-2 Trout Production waters as defined in N.J.A.C. 7:9-4; wild, scenic, recreational or developed recreational rivers designated pursuant to the Natural Wild and Scenic River Act 16 U.S.C. §§1271 et seq., or the New Jersey Wild and Scenic River Act, N.J.S.A. 13:8-45 et seq., and all 100 year floodway and flood hazard areas as delineated in N.J.A.C. 7:13;
      - (B) General zoning designations within one mile of the perimeter of the proposed facility's boundary;



(C) All main service corridors, transportation routes and main access roads that will be used as routes of traffic flow; and

(D) All airports and runways;

(2) An 8½ inch x 11 inch copy of the vicinity map having a minimum scale of one inch equals 400 feet (one inch equals 400 feet) with contour intervals shown at 20 foot intervals. The vicinity map shall delineate an area of one mile from the perimeter of the property line of the proposed facility. Contour elevations and vertical and horizontal locations shall be based on the National Geodetic Vertical Datum 1929 (Mean Sea Level Datum 1929) and keyed into the New Jersey Plan Coordinate Datum 1927. One or more vicinity maps may be utilized to ensure clarity of the information submitted. The vicinity maps may be an enlargement of a United States Geological Survey topographical quadrangle or a recent aerial photograph. The vicinity map shall depict the following:

(A) All buildings and structures including the layout of the buildings which will comprise the proposed facility;

(B) The boundaries of the proposed facility;

(C) The limits of the actual waste operations within the boundaries of the proposed facility;

(D) Lots and blocks taken from the tax map for the site of the proposed facility and all contiguous properties;

(E) The specific local zoning designation within 1,000 feet of the perimeter of the proposed facility's boundary, and

(F) The location of all existing and proposed utility lines, pipelines or other utility structures which will be connected to the facility;

ii. An environmental inventory, prepared in detail for the site specific conditions and, unless otherwise specified herein, a general description for a minimum area of one mile from the perimeter of the proposed facility's property lines, described existing conditions for each of the following categories:

(1) Category I, the physical/chemical category, requires the following parameter descriptions:

(A) Describe the physical geology by identifying major characteristics of the formations present, including, but not limited to, thickness, lithology, structural features, degree of weathering and amount of over burden. The description of the site specific geology shall include, but not be limited to, the general engineering properties and indexes and, where applicable, the quality of the subsurface soils. Provide a copy of the geologic map based on published or unpublished material and mapping available from the United States Geological Survey and New Jersey Geologic Survey or unpublished mapping acceptable to the New Jersey Geologic Survey depicting the area within one mile from the perimeter of the facility;

(B) Describe the soils by identifying major soil types and their characteristics including, but not limited to, drainage, erosion potential and sedimentation potential. Information shall be based on U.S. Soil Conservation Service Surveys. The description of the site specific soils shall include, but not be limited to, the texture and thickness of each horizon, observed mottling, taxonomic classification and, where applicable, the quality of the surface soils. Provide a copy of the soils map published by the United States Department of Agriculture, Soil Conservation Service, depicting the site of the proposed facility and the area within one half mile from the perimeter of the facility;

(C) Describe the subsurface hydrology by presenting groundwater quantity and quality data for the aquifers located beneath the site, including, but not limited to, depth to groundwater during seasonal high and low flow, flow direction, existing uses and future supply capabilities;

(D) For water bodies which directly abut the site, exist on the site, or drain directly onto or off the site, provide detailed water quantity and quality data. Such data shall include, but not be limited to, flow rates, current uses and supply capabilities, dissolved oxygen (D.O.), biochemical oxygen demand (B.O.D.), total organic carbon, (T.O.C.) total suspended solids (T.S.S.) and general temperature regime. Identify also all existing water classifications, designated uses and limitations of the surface water bodies in accordance with N.J.A.C. 7:9-4;

(E) For upstream tributaries of bodies of water which flow onto the site, and downstream tributaries of bodies which flow from the site, identify all existing water classifications, designated uses and limitations of the surface water bodies, in accordance with N.J.A.C. 7:9-4. Provide also a narrative description of the factors influencing the water quality in such bodies, including but not limited to major permitted discharges, tributaries or confluences with other bodies, etc. Information required by this subsection shall be provided for a distance of one mile from the site boundary;

(F) For all water bodies not named in 3ii(1)(D) and (E) above, identify all existing water classifications, designated uses and limitations of the surface water, in accordance with N.J.A.C. 7:9-4;

(G) Provide documentation that the proposed facility will not be inconsistent with any facility or area wide water quality management plan developed pursuant to the Water Quality Planning Act, N.J.S.A. 58:11A-1 et seq.;

(H) Describe the topography by presenting contour data, drainage patterns and 100 year floodway and flood hazard areas delineations pursuant to the Flood Hazard Area Control Act, N.J.S.A. 58:16A-50 et seq., or areas identified pursuant to and based upon the most current Federal Flood Emergency Management Act (F.E.M.A.) maps and data;

(I) Describe the climate by presenting site specific data for wind direction, velocity and frequency, average annual and monthly precipitation and temperature. Unless specifically required to be otherwise obtained from the nearest National Oceanographic and Atmospheric Administration (N.O.A.A.) sanctioned station:

(J) Describe the ambient air quality by presenting data for existing concentrations of the National Ambient Air Quality Standard pollutants and provide a demonstration that the proposed facility will be consistent with air quality requirements established by the Department. Unless specifically required to be otherwise obtained by the Department, ambient air quality data may be obtained from the nearest State operated monitoring station; and

(K) Describe the ambient acoustical conditions by providing day and night noise levels measured at the boundaries of the proposed site. Identify sources of impulsive and continuous noise.

(2) Category II, the biological/ecological category, requires the following parameter descriptions:

(A) Characterize the site and an area within one mile radius from the site boundary, with respect to major plant association (for example, mixed hardwood forest, old field successional, etc.). Delineate different associations present in a mapped format.

Identify major dominant and minor species present in each plant association present. Provide estimates of the proportions of each;

(B) For game and non-game mammals, and for an area which includes the site and area within one mile radius from the site boundary, describe utilization by identifying species and estimating populations utilizing these areas for year-round, breeding, wintering and migratory purposes. Relate utilization of areas for these purposes to the plant associations described in (g)3ii(2)(A) above;

(C) For game and non-game birds, and for an area which includes the site and an area within one mile radius from the site boundary, describe utilization by identifying species and estimating populations utilizing these areas for year-round, breeding, wintering and migratory purposes. Relate utilization of areas for these purposes to the plant associations described in (g)3ii(2)(A) above;

(D) For reptiles and amphibians, for those water bodies listed in (g)3ii(1)(D) and (E) above, and for an area within one-quarter mile radius from the site boundary, describe utilization by identifying species and estimating populations utilizing these areas for year-round, breeding, wintering and migratory purposes. Relate utilization of areas for these purposes to the plant associations described in (g)3ii(a)(A) above;

(E) For fish, for all water bodies listed in (g)3ii(1)(D) and (E) above, and all water bodies within one-quarter mile of the site boundary, describe utilization by identifying species and estimating populations utilizing the site for year-round, breeding, wintering and migratory purposes;

(F) Describe the plant or animal species on the Federal and State endangered, threatened or rare plant or animal species lists and identify, in a mapped format, the extent of utilization by such species, if present. Quantify the amount of habitat at the site for each such species and the corresponding carrying capacity for each species. Evaluate applicable breeding, wintering and migratory patterns when identifying species utilization;

(G) Identify by mapping any unique, critical or unusual habitat including, but not limited to, wetlands, prime agricultural lands, steep slopes of greater than 15 percent, riparian lands, coastal zones or other areas as may be specified by the Department;

(H) Present a description of site visits actually undertaken to evaluate the site ecosystem. This description should include the date, duration of the visit, weather conditions, individuals present to conduct the study, parameters being studied and a copy of studies prepared in connection with preparation of the environmental inventory; and

(I) Describe the methodologies utilized to evaluate the biotic community and present a bibliography of all research materials utilized in the preparation of the environmental inventory. The description of the methodologies utilized shall be sufficient to permit an independent expert to form an opinion as to the scientific justification and integrity of the selected methodology.

(3) Category III, the cultural category, requires the following parameter descriptions:

(A) Describe recreational activities by identifying areas known to be used for such activities as hunting, fishing, trapping, boating, swimming, tourism, camping, nature photography and bird watching. Identify designated parks, forests and wildlife management areas, natural areas and other publicly or privately owned lands designated for open space or recreational activities;

(B) Describe the aesthetics by identifying surrounding architecture, open space areas and scenic areas; and

(C) Describe the areas of historical or archeological importance.

(4) Category IV, the socioeconomic category, requires the following parameter descriptions:

(A) Describe the transportation facilities by identifying the network which will service the proposed facility, site access capability, and existing traffic flow patterns expressed in terms of daily peak hour volumes, off peak hour volumes, levels of service and average daily number of trips. Identify and proposed local, county, or State Department of Transportation traffic engineering plans for the network identified;

(B) Describe the sewage facilities by identifying the type of treatment system available, its existing treatment capacity, collection system capacity, average and peak flow data, and current committed capacity for treatment and collection system;

(C) Describe the stormwater management system by identifying the type of collection and treatment system available, and current collection and treatment capacity and utilization;

(D) Describe the water supply by identifying the water supply system, water sources, level and type of existing pre-treatment, capacity of the distribution system, current commitment of capacity, availability of additional supply, and peak and average demands;

(E) Describe the energy supply system on-site or immediately available to the site by identifying existing power lines or pipelines, current commitment of capacity, their capability of supplying energy to the proposed facility;

(F) Describe the demography of the area by providing existing population totals and describing present and projected future population and trends for the area within which the facility will be located. State, county or local government sources may be used for all demographic data;

(G) Describe property values within the immediate neighborhood with respect to median sales prices and recent (1-2 year) trends and provide a general description of the property values of the municipality within which the proposed facility will be located and all municipalities within one half mile of the proposed facility. The descriptions shall include such factors as zoning changes, development patterns, development approvals, etc. which can affect property values. The description of property values in the immediate area of the facility shall be sufficiently detailed to allow assessment of the effect construction and operation of the facility may have on such values;

(H) Describe public services available by identifying current local law enforcement, fire protection and health protection capabilities of the municipality in which the proposed facility will be located; and

(I) Describe the type and map the location of community and residential dwellings such as hospitals, nursing homes, food processing centers, playgrounds, parks, schools and residences.

4. A discussion of the relationship of the proposed action to Federal, State, county, and local land-use plans, policies and controls and environmental regulations. The discussion shall include the following:

i. A description of present land use for the site of the proposed facility and the area within two miles of the perimeter of the facility property line. Include a map or maps illustrating zoning designations and a chart setting forth use restrictions.

ii. A description of how the project will conform or conflict with the objectives of any applicable Federal, State or local land use and environmental requirements including, but not limited to, flood hazard areas; areas designated as wild, scenic, recreational or developed recreational rivers; critical habitat of endangered or threatened species of plants, fish or wildlife; wetlands, tidelands and coastal zone areas; Pinelands; nonattainment areas; areas subject to the prevention of significant deterioration; areas which may impact the acoustical quality of residential and commercial properties; areas which may significantly impact water quality; agricultural lands; watershed areas; aquifers; critical water supply areas; areas which will encroach upon, damage or destroy any area, site, structure or object included in the National or State Register of Historic Places; areas within 10,000 feet of any airport runway which is equal to or greater than 3,000 feet in length, within 5,000 feet of any airport runway which is less than 3,000 feet in length; and areas dedicated to recreational or open space use including, but not limited to, national parks, national recreation areas, national forests, national wildlife refuges, state wildlife management areas, state parks, state forests, state designated natural areas and county or local parks, wildlife sanctuaries and recreational facilities; and

iii. Where the potential for a land use or environmental conflict exists, the applicant shall describe the mitigation efforts to be undertaken to meet the intent of the applicable land use or environmental requirement.

5. An environmental assessment, which shall provide a detailed evaluation of the potential impacts of the proposed facility on the environment including, but not limited to, all parameters identified in the environmental inventory in (g)3ii above. The assessment shall include, but not be limited to, the following:

i. An evaluation of both positive and negative, as well as, primary (direct or immediate) and secondary (indirect or long range) impacts on each parameter under conditions of maximum usage or output and a correlation of such impacts with various stages of the site preparation, facility construction, operation, closure and post-closure phases;

ii. An identification and description of the modeling techniques used to predict impacts on the various parameters identified in 3ii above. Where applicable, a calibrated and verified model shall be used and a copy of the model in the appropriate format shall be transmitted to the Department. Where an accepted modeling technique is not available best professional judgment may be used. A detailed description of the logical reasoning and assumptions made in the exercise of best professional judgment shall be incorporated to permit independent review;

iii. Isopleths, grid maps or other maps to depict potential zones of contaminant migration surrounding any and all sources of emission or discharge. Identify the type and location of each source;

iv. A quantification of impacts whenever possible (for example, lost habitat in acres) for all potential environmental impacts identified, where such quantification is not included, an explanation of the reason for such omission shall be provided;

v. A qualitative discussion of all potential environmental impacts identified; and

vi. A detailed description of the mitigative techniques proposed to address any potential environmental impact associated with the proposed facility.

6. A health impact assessment shall provide a detailed evaluation of the potential impacts of the proposed facility on human health including, but not limited to the following:

i. A description and discussion of the health risk assessment methodology to be employed, including detailed descriptions of the logical reasoning and assumptions employed in the method. A bibliography of reference material utilized in the preparation of the assessment shall be provided;

ii. A discussion of the level of uncertainty involved in the overall assessment. This discussion shall address the uncertainty involved in the estimation of individual parameters such as emissions or discharge and decay rates, levels of exposure and health effects, as well as the implications of complex uncertainties;

iii. A listing of all potential contaminants which may reasonably be expected to be released from the facility, and the amounts, concentrations and pathways of each;

iv. A listing of contaminants which will be utilized to assess health risks. All known carcinogens listed in iii above shall be included; additional contaminants shall be included, based on professional judgment;

v. For each of the contaminants listed in iv above, a toxicity profile shall be developed. This profile shall include data on the physical and chemical nature of the contaminant, as well as a description and discussion of data available regarding the environmental fate, acute effects (LD50, irritation), chronic effects (mutagenicity, teratogenicity, carcinogenicity) and epidemiology of the material. This profile shall include a listing of available toxicological, epidemiological or other acute or chronic health effects studies used or otherwise available on the material in question;

vi. A quantification of the potential health impacts, where possible. If such quantification is not included, an explanation of the reason for such omission shall be provided; and

vii. A detailed description of the mitigation techniques proposed to address any potential health impacts associated with the proposed facility.

7. A summary discussion of any potential adverse impacts identified in the environmental and health assessment in (g)5 and 6 above that cannot be avoided should the proposed facility be implemented. For those impacts which cannot be avoided, their implications and the reasons why the proposed facility should be permitted shall be described. Where mitigation measures are proposed to reduce these potentially adverse impacts, the projected effectiveness and costs of the mitigative measures shall be discussed;

8. A discussion of the relationship between local, short term uses of the environment and the effect of the proposed facility on available options for subsequent future uses. Short term refers to the construction phase of the proposed facility. A description of the following shall be included:

i. Those cumulative and long-term effects of the proposed facility which either negatively impact or enhance the environment for the future;

ii. The extent to which the proposed facility prohibits future options;

iii. Plans which provide for the protection and maintenance of the environment during construction of the proposed facility, which shall include, but not be limited to, the following:

(1) Procedures to be used during construction if archeological resources are uncovered;

(2) Erosion and sediment control plans; and

(3) Controls for dust, odors, noise, traffic, and soil tracking; and

iv. Plans which provide for the protection and maintenance of the environment after termination of the facility operation;

9. A discussion of unusual conditions, including:

i. Foreseeable abnormal occurrences at the facility such as fires, spills, explosions, malfunction of control devices, natural disasters and their associated impacts on human health and the environment; and

ii. Maximum credible accidents including spills and their associated impacts on human health and the environment. For each maximum credible accident provide the probability calculations;

10. A list of all sources, references and basis documents supporting all factual information and conclusions; and

11. A list of all co-authors of the environmental and health impact statement including their name, title, affiliation and qualifications.

(h) The Department may waive the requirement for the applicant to submit data on any aspect of the proposed project's environmental setting and the analysis of the proposed project's impact on the aspect of the environmental setting when, in the opinion of the Department, such aspect of the environmental setting is not relevant to the proposed project.

### Subchapter 13. Procedures for Decisionmaking

#### 7:26G-13.1 Incorporation by reference

(a) This subchapter incorporates by reference up to May 6, 2002 and prospectively incorporates by reference 40 C.F.R. Part 124, as amended and supplemented, except as provided in (b) and (c) below. 40 C.F.R. Part 124, Subparts A and B are adopted by reference solely for the purpose of establishing procedures regarding hazardous waste management permits.

(b) The following provisions of 40 C.F.R. Part 124 are not incorporated by reference:

1. Any reference relating to "404," "sludge," "UIC," "PSD" or "NPDES" permits;

2. 40 C.F.R. Part 124 Subparts C, D, E, and F;

3. 40 C.F.R. 124.1;

4. 40 C.F.R. 124.2;

5. 40 C.F.R. 124.3(b) through (g);

6. 40 C.F.R. 124.4;

7. 40 C.F.R. 124.5(b) and (e) through (g);

8. 40 C.F.R. 124.6(b), (c), and (d)(4)(ii) through (v);

9. 40 C.F.R. 124.7;

10. 40 C.F.R. 124.8(b)(3) and (8);

11. 40 C.F.R. 124.9;
12. 40 C.F.R. 124.10(a)(1)(i), (iv) and (vi);
13. 40 C.F.R. 124.10(a)(2) and (3);
14. 40 C.F.R. 124.10(d)(1)(vii) and (viii);
15. 40 C.F.R. 124.12(b) through (e);
16. 40 C.F.R. 124.13 through 124.16;
17. 40 C.F.R. 124.17(b); and
18. 40 C.F.R. 124.18 through 124.21.

(c) The following text of 40 C.F.R. Part 124 is incorporated by reference with the specified changes:

1. All references to "EPA" shall mean "EPA";
2. All references to "Director" shall mean the "Commissioner of NJDEP".
3. 40 C.F.R. 124.6(a), after "Once an application is complete, the Director shall" insert ", within six months of that date for non-major hazardous waste facilities and eight months of that date for major hazardous waste facilities,"
4. 40 C.F.R. 124.6(e) delete "All draft permits prepared by EPA under this section shall be accompanied by a statement of basis (§124.7) or fact sheet (§124.8), and shall be based on the administrative record (§124.9), publicly noticed (§124.10) and made available for public comment (§124.11). The Regional Administrator shall give notice of opportunity for a public hearing (§124.12), issue a final decision (§124.15) and respond to comments (§124.17). For RCRA, UIC or PSD permits, an appeal may be taken under §124.19 and, for NPDES permits, an appeal may be taken under §124.74.";
5. 40 C.F.R. 124.8(a), after "A fact sheet shall be prepared for every draft permit for a" delete "major";
6. 40 C.F.R. 124.10(b)(1), delete "Public notice of the preparation of a draft permit (including a notice of intent to deny a permit application) required under paragraph (a) of this section shall allow at least 30 days for public comment.";
7. 40 C.F.R. 124.10(b)(1), delete "For EPA-issued permits, if the Regional Administrator determines under 40 C.F.R. part 6, subpart F that an Environmental Impact Statement (EIS) shall be prepared for an NPDES new source, public notice of the draft permit shall not be given until after a draft EIS is issued.";
8. 40 C.F.R. 124.12(a)(1), after "The Director shall hold a public hearing" insert ", on every draft permit for a new hazardous waste facility, or on any draft permit modification or revocation and reissuance which would result in an increase of greater than 50 percent in the capacity of an existing facility to treat, store, or dispose of hazardous waste, or";
9. 40 C.F.R. 124.31(a), after "The requirements of this section shall apply to all RCRA applications seeking initial permits for hazardous waste management units" delete "over which EPA has permit issuance authority";
10. 40 C.F.R. 124.31(a), delete "For the purposes of this section only, hazardous waste management units over which EPA has permit issuance authority' refers to hazardous waste management units for which the State where the units are located has not been authorized to issue RCRA permits pursuant to 40 C.F.R. part 271.";
11. 40 C.F.R. 124.32(a), after "The requirements of this section shall apply to all RCRA applications seeking initial permits for hazardous waste management units" delete "over which EPA has permit issuance authority";



12. 40 C.F.R. 124.32(a), delete, "For the purposes of this section only, 'hazardous waste management units over which EPA has permit issuance authority' refers to hazardous waste management units for which the State where the units are located has not been authorized to issue RCRA permits pursuant to 40 C.F.R. part 271."; and

13. 40 C.F.R. 124.33(a), after "The requirements of this section apply to all applications seeking RCRA permits for hazardous waste management units" delete "over which USEPA has permit issuance authority. For the purposes of this section only, 'hazardous waste management units over which USEPA has permit issuance authority' refers to hazardous waste management units for which the State where the units are located has not been authorized to issue RCRA permits pursuant to 40 C.F.R. Part 271."

#### 7:26G-13.2 Other requirements

(a) All applications for permits and expansions which are subject to the criteria set forth in the Major Hazardous Waste Facilities Siting Act shall additionally be subject to the supplemental permitting procedures set out therein.

(b) The applicant for a permit shall appear at the public hearing and be available to answer questions regarding the proposed facility or facility expansion. Failure to appear at the public hearing and answer questions may result in denial of the application. In the event that a response cannot be given at the hearing, a written response shall be prepared by the Department or the applicant after the hearing.

### Subchapter 14. Siting Criteria for New Major Commercial Hazardous Waste Facilities

#### 7:26G-14.1 Scope and authority

This subchapter, adopted pursuant to the Major Hazardous Waste Facilities Siting Act, N.J.S.A. 13:1E-49 et seq., and the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., establishes the Department of Environmental Protection's criteria for the siting of new major commercial hazardous waste facilities. These criteria, adopted after consultation with the Hazardous Waste Advisory Council, shall be the minimum standards for siting of new major commercial hazardous waste facilities by the Hazardous Waste Facilities Siting Commission and the Department.

#### 7:26G-14.2 Construction

(a) N.J.A.C. 7:26-14 shall be liberally construed to permit the Department to discharge its statutory functions pursuant to N.J.S.A. 13:1E-49 et seq.

(b) The Commissioner may amend, repeal or rescind this subchapter from time to time in conformance with the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq.

#### 7:26G-14.3 Purpose of the regulations

(a) The purpose of this subchapter is to establish criteria for the siting of any new major commercial hazardous waste facility which shall prevent any significant threat to human health or the environment. When used in siting new major commercial hazardous waste facilities, the criteria shall:

1. Protect the residents of the State;
2. Ensure structural stability for the new major commercial hazardous waste facility;

3. Protect surface water;
4. Protect groundwater;
5. Provide for the safe transportation of hazardous waste to new major commercial hazardous waste facilities;
6. Protect environmentally sensitive areas; and
7. Protect air quality.

#### 7:26G-14.4 Applicability

(a) This subchapter shall apply to:

1. The Commission in the development of the major hazardous waste facilities plan and the siting of new major commercial hazardous waste facilities; and
2. The Department and the Council in the review of environmental and health impact statements, registration statement, and engineering designs for new major commercial hazardous waste facilities submitted by applicants.

#### 7:26G-14.5 Severability

If any section, subsection, provision, clause, or portion of this subchapter is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this subchapter shall not be affected thereby.

#### 7:26G-14.6 Definitions

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

"Act" means the Major Hazardous Waste Facilities Siting Act, N.J.S.A. 13:1E-49 et seq.

"Aquifer" means a geological formation, group of formations, or part of a formation that is capable of yielding a significant amount of water to a well or a spring.

"Coastal flood plain" means the area subject to high velocity waters, including, but not limited to, hurricane wave wash.

"Commercial hazardous waste facility" means any hazardous waste facility which accepts hazardous waste from more than one generator for storage, treatment or disposal at a site other than the site where the hazardous waste was generated.

"Commission" means the Hazardous Waste Facilities Siting Commission established by the Act.

"Containment structure" means a land emplacement or impoundment facility.

"Council" means the Hazardous Waste Advisory Council established by the Act.

"Criteria" means the standards adopted by the Department in this subchapter for the siting of new major commercial hazardous waste facilities.

"Department" means the New Jersey Department of Environmental Protection.

"Existing major hazardous waste facility" means any major hazardous waste facility which was legally in operation, or upon which construction had legally commenced prior to September 10, 1981.

"Facility" means a new major commercial hazardous waste facility.

"Formation" means a grouping of rock units or sediments of the earth's crust that are more or less distinct from other rock units or sediments because of composition or structure.

"Generator" means any person, by site, whose act or process produces hazardous waste as defined by this subchapter.

"Groundwater" means that water below the ground, the static pressure of which is equal to or greater than the prevailing atmospheric pressure; that water present in the saturated zone of an aquifer.

"Hazardous waste" means, for the purposes of this subchapter, any waste or combination of wastes which pose a present or potential threat to human health, living organisms or the environment including, but not limited to, waste material that is toxic, carcinogenic, corrosive, irritating, sensitizing, biologically infectious, explosive or flammable, and any waste so designated by the United States Environmental Protection Agency or as more specifically defined in N.J.A.C. 7:26G-5. Hazardous waste does not include radioactive waste.

"Hazardous waste facility" means any area, plant or other facility for the treatment, storage or disposal of hazardous waste, including loading and transportation facilities or equipment used in connection with the processing of hazardous wastes.

"100-year flood event" means a flood of such severity that it would statistically occur only once every 100 years, although it may occur in any year.

"Hydrologic barrier" means a feature which restricts the movement of groundwater across it, such as a fault, groundwater divide, confining bed, discharge area, drainage divide, etc. It is characterized by different directions of groundwater flow or by a difference in the level of groundwater on opposite sides.

"Impoundment facility" means a facility or part of a facility which is a natural topographic depression, man-made excavation, or diked area formed primarily of earthen materials (although it may be lined with manmade materials), which is designed to hold an accumulation of liquid wastes or wastes containing free liquids, and which is not an injection well. Examples of surface impoundments are holding, storage, settling, and aeration pits, ponds, and lagoons.

"Land emplacement facility" means a controlled facility for the permanent disposal of hazardous waste into or onto the land and which is designed and operated to contain waste so that any migration of pollutants shall not create a health hazard. Such facilities include but are not limited to secure landfills, landfarms, and aboveground perpetual storage facilities.

"Major hazardous waste facility" means any commercial hazardous waste facility which has a total capacity to treat, store or dispose of more than 250,000 gallons of hazardous waste, or the equivalent thereof, as determined by the Department, except that any hazardous waste facility which would otherwise be considered a major hazardous waste facility pursuant to these regulations solely as the result of recycling or rerefining of any hazardous wastes which are or contain gold, silver, osmium, platinum, palladium, iridium, rhodium, ruthenium or copper shall not be considered a major hazardous waste facility for the purposes of this subchapter.

"Mean sea level" means the plane about which the tide oscillates; the average height of the sea for all stages of the tide. At any particular place (for example, Sandy Hook), it is derived by averaging the hourly tide heights over a 19-year period. The current level used in surveying is based on the National Geodetic vertical datum of 1929.

"New major hazardous waste facility" means any major hazardous waste facility other than an existing major hazardous waste facility.

"Nonattainment area" means any area determined by the Department as one in which the ambient air concentrations of a criteria pollutant exceeds a national ambient air quality standard (NAAQS).

"Plan" means the Major Hazardous Waste Facilities Plan adopted by the Commission pursuant to the Act.

"Potable water" means any water used, or intended to be used, for drinking and culinary purposes.

"Public water supply" means a water supply providing piped water to the public for human consumption if such system has at least 15 service connections or regularly services at least 25 individuals.

"Reservoir" means any impoundment, whether naturally created or created in whole or in part by the building of structures for the retention of surface water.

"Riverine" means relating to, formed by, or resembling a river (including tributaries), stream, or brook.

"Saturated zone" means that part of the water-bearing material in which all voids are ideally filled with water under pressure greater than atmosphere. The top of the saturated zone is the water table.

"Seasonally high water table" means the highest elevation of the water table during the wettest season in a year of above average precipitation. Whenever soil mottling occurs the seasonally high water table shall be considered as the highest level at which mottling occurs if there is no other approved means of determination.

"Site" means the area of plot of land being considered for use as a new major commercial hazardous waste facility plus any contiguous lands reserved to meet the requirements of N.J.A.C. 7:26G-14.12.

"Subsidence" means the lowering of the natural land surface in response to: earth movements; lowering of fluid pressure; removal of underlying supporting material by mining or solution of solids, either artificially or from natural causes; compaction due to wetting (hydrocompaction); oxidation of organic matter in soils; or added load on the land surface.

"Surface waters" means any waters of the State which are not groundwaters.

"Uppermost saturated unit" means the saturated hydrogeologic unit (unconsolidated or bedrock) nearest the ground surface that is separated from deeper aquifers by confining beds.

"Watershed" means the region or area drained by a river, or stream.

"Water supply well" means a well or well field completely or partially supplying potable water for human consumption or for irrigation of crops intended for direct human consumption.

"Water table" means the upper surface of the saturated zone. For the purpose of N.J.A.C. 7:26G-14.12 a perched water table may be considered the water table.

"Waters of the State" means the ocean and its estuaries, all springs, streams and bodies of surface or groundwater, whether natural or artificial, within the boundaries of this State or subject to its jurisdiction.

"Well field" means a group of water supply wells for which the Department has issued one water supply allocation permit.

7:26G-14.7 Protection of the population of the State

(a) For the purpose of protecting the population of the State:

1. No land emplacement or impoundment type of new major commercial hazardous waste facility shall be sited within 2,000 feet of any structure which is routinely occupied by the same person or persons more than 12 hours per day, or by the same person or persons under the age of 18 for more than two hours per day;

2. No new major commercial hazardous waste facility other than land emplacement or impoundment type facilities shall be sited within one-half mile of any structure which is routinely occupied by the same person or persons more than 12 hours per day, or by the same person or persons under the age of 18 for more than two hours per day; and

3. No new major commercial hazardous waste facility shall be cited in any area within a 20-mile radius of a nuclear fission plant at which spent nuclear fuel rods are stored on site.

(b) The measurement of distances required in (a)1 and 2 above shall be taken from structures which are legally occupied, in accordance with the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq. and any ordinance adopted by the municipality pursuant thereto, six months prior to the Commission's formally proposing to designate the site.

(c) No new major commercial hazardous waste facility shall be sited in any area so as to cause an unreasonable risk of harm to the health, safety, and welfare of the population. In determining whether such risk would be presented, the Department and the Commission shall take into consideration, at every step of the siting process, the following factors:

1. The density of population in proximity to the facility;

2. The size and type of the facility;

3. The type of waste expected to be present at the facility;

4. The transportation means and routes available to evacuate the population at risk in a maximum credible accident, including both spills and fires;

5. The size and types of other hazardous waste facilities and facilities that handle hazardous materials in the adjacent area; and

6. The availability of fire, police, and other emergency management personnel and medical facilities in the area.

#### 7:26G-14.8 Structural stability

(a) For the purpose of ensuring structural stability of new major commercial hazardous waste facilities:

1. No new major commercial hazardous waste facility shall be sited in a riverine flood hazard area delineated by the Department pursuant to the State Flood Hazard Area Control Act, N.J.S.A. 58:16A-50 et seq., or the 100-year flood hazard area identified under the flood insurance studies prepared for the Federal Emergency Management Agency, or in other areas shown to be within the area subject to inundation by the 100-year design flood of a nondelineated stream as determined pursuant to N.J.S.A. 58:16A-55.2.

2. No type of new major commercial hazardous waste facility other than a land emplacement or impoundment type of facility shall be sited in:

i. A coastal flood hazard area identified by the Federal Emergency Management Agency or delineated by the Department or, if not delineated, at elevations less than 12

feet above mean sea level in the coastal flood plain, unless it can be demonstrated to the satisfaction of the Department that the facility design will prevent the physical transport of any hazardous waste by the 100-year coastal flood event;

ii. Areas underlain by cavernous limestone, cavernous dolomite, or cavernous marble; or

iii. Areas overlying subsurface mining activities, past or present, unless the applicant can demonstrate to the satisfaction of the Department that the facility design fully compensates for the risk of surface subsidence; and

3. No land emplacement or impoundment type of new major commercial hazardous waste facility shall be sited in:

i. A coastal flood hazard area identified by the Federal Emergency Management Agency or delineated by the Department or, if not delineated, at elevations less than 12 feet above mean sea level in the coastal flood plain;

ii. Areas underlain by limestone, dolomite or marble; or

iii. Areas overlying past or present subsurface mining activities.

#### 7:26G-14.9 Protection of surface water

(a) For the purpose of protecting surface water, no new major commercial hazardous waste facility shall be sited within:

1. The upstream portion of the watershed draining to an on-stream reservoir;

2. Those watershed areas that drain directly into an off-stream reservoir; or

3. The water sheds for waters classified by the Department as FW-1, or FW-2 Trout Production Waters in the Surface Water Quality Standards, N.J.A.C. 7:9-4.

#### 7:26G-14.10 Protection of environmentally sensitive areas

(a) For the purpose of protecting environmentally sensitive areas, no new major commercial hazardous waste facility shall be sited in or on:

1. Wetland areas inundated by surface or groundwater with a frequency to support, under normal circumstances, a prevalence of vegetative or aquatic life that requires saturated or seasonally saturated soil conditions for growth and reproduction;

2. Areas where the placement of the facility would adversely affect a habitat of an endangered or threatened wildlife or vegetative species as defined by the New Jersey Endangered and Non-Game Species Conservation Act, N.J.S.A. 23:2A-1 et seq., or the Federal Endangered Species Act of 1973, P.L. 93-205, unless a habitat adequate to assure the survival of the species within the region surrounding or on the site is preserved.

i. These areas preserved as habitats shall be appropriately managed in accordance with a plan approved by the Endangered and Non-Game Species Project within the Division of Fish, Game and Wildlife.

3. Areas designated as wild, scenic, recreational, or developed recreational rivers, pursuant to the National Wild and Scenic Rivers Act, 16 U.S.C.A. §§1271 et seq., or the New Jersey Wild and Scenic River Act, N.J.S.A. 13:8-45 et seq.;

4. Lands in municipally approved farmland preservation programs or on lands which have been dedicated to agricultural use by the purchase of their development rights pursuant to the provisions of the "Agriculture Retention and Development Act," P.L. 1983, c.33 or equivalent independent county/municipal programs, provided that such designation and dedication was officially adopted by municipal ordinance and the

development rights have been purchased at least six months prior to the Commission's proposing the site or an applicant submitting to the Department and the municipality a letter stating the intention to apply for registration and engineering design approval;

5. The Pinelands Area as established by N.J.S.A. 13:18A-11a of the Pinelands Protection Act, N.J.S.A. 13:18A-1 et seq.; or

6. Within 6.25 miles (10 kilometers) of any mandatory Federal Class 1 Prevention of Significant Deterioration of Air Quality area.

#### 7:26G-14.11 Ensuring safe transportation

(a) For the purpose of ensuring the safe transportation of hazardous waste from generators to new major commercial hazardous waste facilities:

1. Hazardous waste should be transported on Interstate, State or county highways or other roads which are well-maintained, well-constructed, free of obstructions and with a high degree of visibility;

2. The Department and Commission may consider requiring private, direct access roads from those specified in (a)1 above to the facility; and

3. No hazardous waste shall be transported on roads where weight restrictions for the road or any bridge on the road will be exceeded in the selected route or travel, unless engineering upgrades, undertaken and financed by the facility operators, are provided which conform to all appropriate Federal, State, county and local laws and regulations.

#### 7:26G-14.12 Protection of groundwater

(a) For the purpose of protecting groundwater:

1. New major commercial hazardous waste facilities may only be sited in areas where, prior to facility construction, the flow of groundwater in the uppermost saturated unit is predominantly parallel to or upwards toward the water table and the predominant groundwater flow direction is toward a nearby surface water body without any intermediate withdrawals from the uppermost saturated zone for public or private water supply and there is no significant recharge to deep aquifers;

2. All new major commercial hazardous waste facilities shall be prohibited in areas where the depth to the seasonally high water table in the uppermost saturated unit will rise to within one foot of the ground surface; and a

3. Land emplacement and impoundment type of new major commercial hazardous waste facilities shall be prohibited in the following areas:

i. In areas where the groundwater travel time within the uppermost saturated unit from the outermost edge of the containment structure to the site boundary, or to a surface water body or wetland within the site boundary, is less than 10 years;

ii. In areas within one mile of a water supply well or well field producing over 100,000 gallons per day, unless it can be demonstrated to the satisfaction of the Department or Commission, as appropriate, that natural hydrologic barriers isolate the site from the aquifer being pumped;

iii. In the case of partially in-ground facilities, in areas where, prior to facility construction, the depth to the seasonally high water table in the uppermost saturated unit will rise to within five feet of the bottom of the containment structure; and

iv. In the case of wholly aboveground facilities, in areas where, prior to facility

construction, the depth to the seasonally high water table in the uppermost saturated unit will rise to within one foot of the ground surface.

#### 7:26G-14.13 Protection of air quality

(a) For the purpose of protecting the air quality of the State:

1. No new major commercial hazardous waste facility shall be sited in a nonattainment area unless the facility demonstrates that emission offsets will be obtained prior to operation, pursuant to the requirements of the Department's air pollution Control regulation entitled, "Control and Prohibition of Air Pollution from New or Altered Sources Affecting Ambient Air Quality in Nonattainment Areas," N.J.A.C. 7:27-18 et seq., subject to the following more stringent requirements:

i. The annual significant emission increase for volatile organic substances shall be 10 tons per year;

ii. The annual significant emission increase for total suspended particulate matter shall be 25 tons per year;

iii. The minimum offset ratio as required by Table 2 in N.J.A.C. 7:27-18.4(b) for volatile organic substances (VOS) shall be at least 2:1 and the offsets shall be obtained at a distance not to exceed 50 miles from the proposed new facility; and

iv. The minimum offset ratio as required by Table 2 in N.J.A.C. 7:27-18.4(b) for total suspended particulate matter (TSP) shall be as follows:

Distance of TSP offsets from facility (miles)	Minimum offset ratio
0-0.5	1.0:1
0.5-1.0	1.5:1
1.0-2.0	2.01:1

### Subchapter 15. Hazardous Waste Facilities Siting Commission: Policies and Procedures

#### 7:26G-15.1 Scope and authority

Unless otherwise provided by statute, this subchapter, adopted pursuant to the Major Hazardous Waste Facilities Siting Act, N.J.S.A. 13:1E-49 et seq., and the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., establishes the Hazardous Waste Facilities Siting Commission's policies and procedures applicable to the siting of new major commercial hazardous waste facilities and to the conduct of other business which comes before the Commission.

#### 7:26G-15.2 Construction

(a) This subchapter shall be liberally construed to permit the Hazardous Waste Facilities Siting Commission to discharge its statutory functions pursuant to N.J.S.A. 13:1E-49 et seq.

(b) The Hazardous Waste Facilities Siting Commission may amend, repeal or rescind this subchapter from time to time in conformance with the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq.

#### 7:26G-15.3 Purpose



The purpose of this subchapter is to provide the public with information as to the policies and procedures adopted by the Hazardous Waste Facilities Siting Commission in regard to the siting of new major commercial hazardous waste facilities and in regard to the discharge of other duties of the Commission.

#### 7:26G-15.4 Severability

If any section, subsection, provision, clause, or portion of this subchapter is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of the subchapter shall not be affected thereby.

#### 7:26G-15.5 Definitions

The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise. Where words and terms are used which are not defined herein, the definitions of those words and terms will be the same as the definitions found in N.J.A.C. 7:26G-14.

"Alternate or additional site" means a site for a facility which is proposed and adopted by the commission at the request of a hazardous waste industry, pursuant to N.J.S.A. 13:1E-59b.

"Applicant" means the applicant for a registration statement and engineering design for a major hazardous waste facility.

"Application" means the application for a registration statement and engineering design for a major hazardous waste facility.

"Disclosure statement" means a statement submitted to the Department by an applicant, which statement shall include:

1. The full name, business address and social security number of the applicant, or, if the applicant is a business concern, of any officers, directors, partners, or key employees thereof and all persons or business concerns holding any equity in or debt liability of that business concern, or, if the business concern is a publicly traded corporation, all persons or business concerns holding more than five percent of the equity in or debt liability of that business concern, except that where the debt liability is held by a chartered lending institution, the applicant need only supply the name and business address of the lending institution;

2. The full name, business address and social security number of all officers, directors, or partners of any business concern disclosed in the statement and the names and addresses of all persons holding any equity in or the debt liability of any business concern so disclosed, or, if the business concern is a publicly traded corporation, all persons or business concerns holding more than five percent of the equity in or debt liability of that business concern, except that where the debt liability is held by a chartered lending institution, the applicant need only supply the name and business address of the lending institution;

3. The full name and business address of any company which collects, transports, treats, stores or disposes of solid waste or hazardous waste in which the applicant holds an equity interest;

4. A description of the experience and credentials in, including any past or present licenses for, the collection, transportation, treatment, storage or disposal of solid waste or

hazardous waste possessed by the applicant, or, if the applicant is a business concern, by the key employees, officers, directors, or partners thereof;

5. A listing and explanation of any notices of violation or prosecution, administrative orders or license revocations issued by any State or Federal authority, in the 10 years immediately preceding the filing of the application, which are pending or have resulted in a finding or a settlement of a violation of any law or rule and regulation relating to the collection, transportation, treatment, storage or disposal of solid waste or hazardous waste by the applicant, or if the applicant is a business concern, by any key employee, officer, director, or partner thereof;

6. A listing and explanation of any judgment of liability or conviction which was rendered, pursuant to any State or Federal statute or local ordinance, against the applicant, or, if the applicant is a business concern, against any key employee, officer, director, or partner thereof, except for any violation of Title 39 of the Revised Statutes;

7. A listing of all labor unions and trade and business associations in which the applicant was a member or with which the applicant had a collective bargaining agreement during the 10 years preceding the date of the filing of the application;

8. A listing of any agencies outside of New Jersey which had regulatory responsibility over the applicant in connection with his collection, transportation, treatment, storage or disposal of solid waste or hazardous waste;

9. Any other information the Attorney General or the Department may require that relates to the competency, reliability or good character of a specific applicant.

"Engineering design" means the specifications and parameters approved by the Department for the construction and operation of a major hazardous waste facility.

"Environmental and health impact statement" means a statement of likely environmental and public health impacts resulting from the construction and operation of a major hazardous waste facility, and includes an inventory of existing environmental conditions at the site, a project description, an assessment of the impact of the project on the environment and on public health, a listing of unavoidable environmental and public health impacts, and steps to be taken to minimize environmental and public health impacts during construction and operation.

"Key employee" means any person employed by the applicant or the licensee in a supervisory capacity or empowered to make discretionary decisions with respect to the solid waste or hazardous waste operations of the business concern but shall not include employees exclusively engaged in the physical or mechanical collection, transportation, treatment, storage or disposal of solid or hazardous waste.

"Plan" means the Major Hazardous Waste Facilities Plan adopted by the Commission pursuant to N.J.S.A. 13:1E-58.

"Registration statement" or "registration" means the operating license approved by the Department, for a major hazardous waste facility; "registrant" means the person to whom such approval was granted.

"Respondent" means, for the purposes of this subchapter, the party, or parties, to a dispute regarding payment of the gross receipts tax which is not the petitioning party.

"Site suitability study" means a study conducted to determine whether a proposed site is suitable for a particular type and size major hazardous waste facility when the siting criteria, N.J.A.C. 7:26G-13, are applied to that site.

7:26G-15.6 Procedure for designating a facility site at the request of any hazardous waste industry pursuant to N.J.S.A. 13:1E-59

(a) The Commission may, after adoption of this subchapter and the adoption of a Major Hazardous Waste Facilities Plan by the Commission, accept for consideration proposals for alternate or additional site designations at the request of any hazardous waste industry.

1. The requester shall have the burden of proof concerning suitability of the site in the proceedings provided for in this section.

(b) The requester shall submit a written request for the site designation, a letter of intent to apply for registration and engineering design approval and description of the nature of the proposed facility, and a disclosure statement on a form to be supplied by the Commission.

1. The form may be obtained from and shall be mailed, by certified mail, to the Commission at CN 406, Trenton, New Jersey 08625-0406 and to the governing body of the affected municipality or municipalities and county.

2. The Commission shall acknowledge receipt of the request and disclosure statement and, at its discretion, require the requester to supplement the form with additional information which the Commission reasonably deems necessary.

(c) Within 90 days of the receipt of a completed request for site designation, letter of intent and disclosure statement, the Commission shall either:

1. Deny the request in writing, without prejudice, upon a determination by the Commission that the proposed site does not comply with the siting criteria and/or the proposed facility is not of the number and type determined to be necessary in the plan; or

2. Transmit notice of the accepted request, by certified mail, to the requester, the governing body, board of health, planning board and environmental commission of the affected municipality or municipalities and to the governing body and any county health department of the affected county;

3. Forward the letter of intent to the Department;

4. Forward the disclosure statement to the Office of the Attorney General; and

5. Publish, in a newspaper of general circulation in the affected jurisdiction, notice of the accepted request.

(d) As soon as is practicable, but no later than 45 days after providing notice as required in (c)2 above, the governing body of the affected municipality or municipalities shall be offered a grant for conducting suitability studies for the proposed facility site from the Commission, in an amount to be determined by the Commission.

(e) Upon receiving notice of transmittal of the request as required in (c)2 above, the requester may, at its discretion, submit a Part A and Part B hazardous waste facility permit application in accordance with N.J.A.C. 7:26G-12 and a fee in accordance with N.J.A.C. 7:26G-3 to the Department. The requester may also, at its discretion, authorize the Commission to prepare at the requester's expense, an environmental and health impact statement, which meets the requirements of N.J.A.C. 7:26G-12, concerning the proposed site. Should the Commission arrange for preparation of the environmental and health impact statement by contract with a consultant, the requester shall be afforded the opportunity to:

1. Consult with the Commission and the department in the preparation of a request for proposals; and

2. Recommend consultants to be provided with a request for proposals.

(f) In no way shall the Commission's preparation of an environmental and health impact statement be construed as an endorsement of the proposed site and/or facility by the Commission or the Department.

(g) Within six months of the receipt of a grant, as provided for in (d) above, the governing body of the affected municipality or municipalities shall complete and transmit to the Commission the site suitability studies on the proposed site.

1. Upon receipt of the site suitability studies, or upon the completion of the time period for such studies, whichever is sooner, the Commission shall publish, in a newspaper of general circulation in the affected jurisdiction, a notice of the scheduling of an adjudicatory hearing to consider the proposed site.

(h) Within 45 days of the receipt by the Commission of the site suitability studies, or upon completion of the time period for such studies, whichever is sooner, an adjudicatory hearing concerning the proposed site shall be conducted by an administrative law judge.

1. The affected municipality or municipalities and the requester shall be parties of interest to the adjudicatory hearing, and shall have the right to present testimony and cross-examine witnesses.

2. Intervention in the adjudicatory hearing by any other person shall be as provided in N.J.A.C. 1:1-12.

3. Within 30 days of the close of the adjudicatory hearing, the administrative law judge shall transmit his or her initial decision including recommendations for action on the proposed site to the Commission.

(i) Within 30 days of the receipt of the administrative law judge's recommendations, the Commission, whose membership shall be expanded for this purpose as provided for in N.J.S.A. 13:1E-52c, shall affirm, conditionally affirm or reject the recommendations. Such action by the Commission shall:

1. Be based upon the potential for significant impairment of the environment or the public health; and

2. Be considered to be final agency action thereon for the purposes of the Administrative Procedure Act and shall be subject only to judicial review in the Appellate Division of the Superior Court pursuant to R.2-1.

(j) If the Commission fails to act upon the recommendations of the administrative law judge within 30 days, as required in this subsection, the failure shall constitute Commission affirmance of those recommendations in accordance with the Uniform Administrative Procedure Rules of Practice, N.J.A.C. 1:1-1.

(k) If the requester's proposed site is adopted by the Commission, the requester, if it has not previously exercised its discretion to do so, shall:

1. Authorize the Commission to prepare an environmental and health impact statement as provided for in (e) above;

2. Thereafter be considered an applicant and be bound by the procedures for the review of all applications for registration and engineering design approval for new major hazardous waste facilities as set forth in N.J.S.A. 13:1E-60 and the applicable rules of the Department; and

3. Submit a Part A and Part B hazardous waste facility permit application in accordance with N.J.A.C. 7:26G-12 and a fee in accordance with N.J.A.C. 7:26G-3 to the Department.

(l) Any amendment to a major commercial hazardous waste facility's permit or engineering design which would result in an increase of 50 percent or more of the capacity of that facility shall be reviewed and approved by the Department according to the procedure in N.J.S.A. 13:1E-60 and any applicable rules pursuant thereto.

(m) The Commission may, upon its own motion or at the request of the governing body of any affected municipality, repeal or withdraw any adopted site for a facility if, in the discretion of the Commission, such action is consistent with the purposes and provisions of the Act.

7:26G-15.7 [Reserved]

7:26G-15.8 Procedure for resolving disputes regarding payment of the gross receipts tax

(a) To resolve a controversy or dispute regarding the payment of the five percent gross receipts tax pursuant to N.J.S.A. 13:1E-80, an interested person shall initiate a proceeding before the Commission by:

1. Obtaining a form petition at the address given in (a)3 below from the Commission. The petitioner shall include the following information in the petition:
  - i. The petitioner's name and address;
  - ii. The host or affected municipality;
  - iii. A statement of relevant facts or issues;
  - iv. The reason for the petition; and
  - v. The action sought in the petition.
2. Completing the petition, including a sworn statement as to its truth;
3. Filing the original petition with the Commission in person at 28 West State Street, Room 514, Trenton, New Jersey 08625-0406, or by mail to CN 406, Trenton, New Jersey 08625-0406; and
4. At the time of filing, providing to the Commission proof of service of a copy of the petition on the respondent or respondents.

(b) Within 30 days after service of the petition upon them, the respondent or respondents shall file an answer with the Commission together with proof of service of a copy thereof upon the petitioner.

1. The answer shall state in short and plain terms the respondent's defenses to each claim asserted and shall admit or deny the allegation of the petition.
2. A respondent may not generally deny all the allegations, but shall make denials as specific denials which meet the substance of designated allegations or paragraphs of the petition.
3. Allegations in any answer setting forth an affirmative defense shall be taken as denied.
4. The time for filing an answer with the Commission may be extended beyond 30 days upon written request to the Commission.

(c) After an answer has been filed or the time for doing so has expired, the Commission may summon counsel for the parties to appear at a conference for the following purposes:

1. Eliminate or simplify issues;
2. Obtain admissions of fact or of documents that will avoid unnecessary proof;
3. Arrive at an agreement of facts; and
4. Come to an amicable resolution of the controversy without requiring a hearing.

(d) In order to resolve the controversy at a settlement conference, the Commission may require the parties to:

1. Submit written statements, verified by oath, as to the facts involved in the controversy; and
2. Submit certified copies of all documents necessary to a full understanding of the issues.

(e) For failure to appear at a settlement conference or to participate therein or to take action required by the Commission, the Commission in its discretion may make such order with respect to the continued prosecution of the matter or an objection thereto, as it deems just and proper.

(f) In the event that the parties and the Commission are unable to resolve the controversy at a settlement conference, as referred to in (c) above, the Commission shall refer the matter to the Office of Administrative Law as a contested case for a hearing pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and 52:14F-1 et seq., and N.J.A.C. 1:1.

1. Upon receipt of the initial decision from the Office of Administrative Law, the Commission shall affirm, reject or modify the decision within 45 days.

2. The Commission's decision shall be considered to be the final agency action from which any party may take an appeal to the Appellate Division of the Superior Court.

## Subchapter 16. Availability of Information; Confidential Business Information

### 7:26G-16.1 Scope and exchange of information

(a) This subchapter sets forth the procedures for making information received by the Department in administering the hazardous waste program under this chapter available to the public and maintaining confidentiality of certain parts of that information.

(b) All information collected by or originated by the Department in connection with hazardous waste regulatory activities under this chapter shall be generally available to the public except as provided otherwise in this subchapter. This requirement shall also include information regarding hazardous waste facilities regulated by N.J.A.C. 7:14A.

(c) Claims for confidentiality will be decided by the Department in accordance with the provisions of this subchapter.

(d) If a request for information is made for inter-agency or intra-agency memoranda or letters, the Department may deny the request if such request is exempted from disclosure pursuant to 5 U.S.C. §552(b)(5).

(e) If a request for information is made for investigatory records, the Department may deny the request if such request is exempted from disclosure pursuant to 5 U.S.C. §552(b)(7) or N.J.S.A. 47:1A-3.

(f) Any information obtained or used in the administration of the hazardous waste program under this chapter shall be available to EPA upon request without restriction. If the information has been submitted to the Department under a claim of confidentiality,

the Department shall submit that claim to EPA when providing information to EPA under this subchapter.

(g) When EPA supplies information to the Department which was submitted to EPA under a claim of confidentiality, the information shall be subject to the conditions set forth in 40 C.F.R. Part 2 and this subchapter. If the Department obtains information from EPA that is not claimed to be confidential, the Department may make that information available to the public without further notice to any interested party.

(h) Any confidential information obtained or used in the administration of the State hazardous waste program, as provided in Section 3006 of "The Resource Conservation and Recovery Act of 1976", 42 U.S.C. §§3251 et seq., and amendments thereto, shall be treated in accordance with this subchapter.

#### 7:26G-16.2 Definitions

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

"Act" means the Solid Waste Management Act, N.J.S.A. 13:1E-1 et seq.

"Business" means any person engaged in a business, trade, employment, calling or profession, whether or not all or any part of the net earnings derived from such engagement by such person inure, or may lawfully inure, to the benefit of any private shareholder or individual.

"EPA" or "USEPA" means the United States Environmental Protection Agency.

"Hazardous waste" means those solid wastes identified as hazardous wastes in accordance with N.J.A.C. 7:26G-5.

"Person" means an individual, partnership, corporation, association, or other public or private organization or legal entity, including Federal, State or local governing bodies and agencies and their employees.

#### 7:26G-16.3 Classes of information

(a) The classes of information to be made available to the public and to EPA shall include, but not be limited to, the following:

1. Permits, permit applications and modifications;
2. Annual and biennial reports;
3. Closure plans;
4. Notification of a facility closure;
5. Contingency plan incident reports;
6. Delisting petitions and other petitions for variances or waivers;
7. Financial responsibility instruments;
8. Environmental monitoring data;
9. International shipment records;
10. Manifests and manifest exception, discrepancy and unmanifested waste reports;
11. Facility EPA identification numbers;
12. General correspondence with the facility;
13. Orders, consent orders, notices of violations, penalty settlement offers, civil and administrative penalty assessments, and other enforcement documents;
14. Inspection reports;

15. Results of corrective action investigations, undertaken pursuant to §3004(u) and (v) of the Resource Conservation and Recovery Act, 42 U.S.C. §6901 et seq.; and
16. Analytical data submitted to the Department.

#### 7:26G-16.4 Administrative procedures and appeals for requests for information

(a) The scope of records maintained by the Department that are subject to requests for information shall be as broad as the scope of records as provided by the United States Environmental Protection Agency at 40 C.F.R. 2.100(b).

(b) Materials which are routinely available to the general public are not confidential information and shall be supplied within a reasonable time upon written request by interested parties. Such materials include, but are not limited to, final orders in case adjudications, press releases, copies of speeches, pamphlets and educational materials.

(c) A requester of non-confidential and confidential records including, but not limited to, records defined in (b) above shall not be required to supply any justification for the information request.

(d) All requests for information shall identify with specificity the information requested. The Department, in responding to requests containing incomplete identification of records, shall make reasonable efforts to assist a requester in identifying the records being sought. The Department's designated information officer shall contact the requester by telephone if possible or in writing to assist the requester to formulate his or her request. The Department's designated information officer shall also aid the requester in locating the office maintaining the records he or she seeks.

(e) If a request is formulated in general terms covering a large quantity of records, the Department's designated information officer shall assist the requester in narrowing the scope of the request to minimize the fees payable by the requester. This type of assistance shall not be used as a means to discourage requests, but to help narrow the scope of investigation when possible.

(f) Information concerning the fees in regard to both information requests and confidentiality claims is set forth in N.J.A.C. 7:26G-16.11 and 16.12.

(g) Requests for information shall be answered in writing within 20 working days of receipt by the designated information officer. The written response shall designate which records will be released, which will not be released, and the reasons for denial.

1. If the request for information is incomplete or insufficient, the time span covering the State's request for clarification to the requester's reply shall not be counted in the 20 working days in (g) above.

2. Failure of the Department to issue a determination within the 20-day period shall be considered a denial. This shall authorize the requester to pursue further legal recourse and apply for an order to release the requested information pursuant to (h) below.

(h) If the Department denies a request for information, it shall inform the requester of the reasons for denial and shall advise the requester that he may appeal the denial to the Superior Court of New Jersey as provided in N.J.S.A. 47:1A-1 et seq.

(i) The Department may require prepayment of the fees set forth at N.J.A.C. 7:26G-16.11 and 16.12. When prepayment of a fee is required, the Department will release the information to the requester upon payment of the fee.



(j) The Department may allow the public to inspect and to make copies of any non-confidential information at the per copy fee set forth at N.J.S.A. 47:1A-2, which is as of the effective date of this rule, as follows:

First to tenth page	\$0.75 per page
Eleventh page to 20th page	\$0.50 per page
All pages over 20	\$0.25 per page

(k) Requests for information should be addressed to:  
Information Officer  
Division of Solid and Hazardous Waste  
120 South Stockton Street  
CN 414  
Trenton, New Jersey 08625-0414

#### 7:26G-16.5 Claims of confidentiality

(a) Information for which a confidentiality claim has been asserted will be treated by the Department as entitled to confidential treatment unless the Department determines that the information is not entitled to confidential treatment as provided in this section and N.J.A.C. 7:26G-16.6.

(b) When the Department requires the submission of information which may be confidential, it shall advise the submitter of the information concerning departmental procedures which govern application for a confidentiality claim. If confidentiality is not requested upon submission to the Department, the Department will place the information in the files which are available to the public.

(c) The following procedures apply to confidentiality claims:

1. Claims of confidentiality for permit application information and any other information shall be substantiated in accordance with the criteria set forth in N.J.A.C. 7:26G-16.6 at the time the information is submitted. Any applicable fees shall be enclosed with the submittal. Failure to request confidentiality or failure to pay the confidentiality fee shall be grounds for denial of the confidentiality claim.

2. If a submitter does not provide substantiation which satisfies the criteria of N.J.A.C. 7:26G-16.6, the Department shall notify the submitter by certified mail, return receipt requested of the requirement to do so. If the Department does not receive the substantiation within 10 days after the submitter receives the notice, the confidentiality claim is waived and the Department may make the information available to the public.

3. Within the Department, Division Directors or their appropriate designees shall determine, based on the criteria listed in N.J.A.C. 7:26G-16.6, whether or not information is entitled to confidential treatment.

4. If, in accordance with the criteria listed in N.J.A.C. 7:26G-16.6, the Department determines that the information is entitled to confidential treatment, it shall maintain the information in confidence (subject to court order, any applicable court rules or other provisions of this subchapter which authorizes disclosure in specific circumstances), and the Department shall so inform the business. If any other person's request for the release

of the information is then pending under N.J.S.A. 47:1A-1 et seq., the Department shall state the basis for the denial and that it constitutes final agency action.

5. If, in accordance with the criteria listed in N.J.A.C. 7:26G-16.6, the Department determines that the information is not entitled to confidential treatment, the Department shall so notify the business. Such notice of denial of a confidentiality claim shall be in writing and shall be furnished by certified mail, return receipt requested.

i. The notice shall state the basis for the determination, that it constitutes final agency action concerning the confidential claim, and that the Department shall make the information available to the public 10 days after the date of the business's receipt of the notice.

6. Documents, in whole or in part, may be determined by the Department to be confidential.

(d) When a request is made for access to confidential information, the request shall be denied and the Department shall notify the submitter of the information of the request by certified mail, return receipt requested.

#### 7:26G-16.6 Criteria for confidentiality determinations

(a) Where the following criteria are satisfied by the business in regard to a claim of confidentiality under N.J.A.C. 7:26G-16.5, information shall be kept confidential:

1. The business has asserted a confidentiality claim, when it submits the information to the Department;

2. The business has satisfactorily shown that it has taken reasonable measures to protect the confidentiality of the information, and that it intends to continue to take such measures;

3. The information is not, and has not been, reasonably obtainable, without the business's consent, by other persons (other than governmental bodies) using legitimate means (other than discovery based on showing of social need in a judicial or quasi-judicial proceeding);

4. No statute requires disclosure of the information;

5. The business has satisfactorily shown that disclosure of the information would be likely to cause substantial harm to the business's competitive position; and

6. The business has paid all fees required by this subchapter when it submits the information to the Department.

#### 7:26G-16.7 Confidential files

(a) If the Department approves a claim of confidentiality, the submitter shall submit two copies of the documents.

1. One copy shall be stamped "confidential" on each page and shall contain all the information requested by the Department. This copy shall be maintained in a separate locked file and shall be accessible to State employees only as necessary for regulatory purposes, or as otherwise provided in the subchapter.

2. A second copy with the confidential information deleted shall be placed in the files available to the public. The second copy shall carry a notation that confidential material has been deleted.

#### 7:26G-16.8 Exception to granted confidentiality claims

(a) If the Department finds that disclosure of information covered by a confidentiality claim would serve to alleviate an emergency situation posing an imminent and substantial danger to public health or safety, it may disclose confidential information to any person whose role in alleviating the danger to public health or safety or the environment necessitates that person's knowing the information. Any such disclosure shall be limited to the minimum information necessary to enable the person to whom it is disclosed to carry out that person's role in alleviating the dangerous situation.

1. Any disclosure made pursuant to this section shall not be deemed a waiver of a confidentiality claim nor shall it, by itself, be grounds for any determination that the information is no longer entitled to confidential treatment.

(b) Information required for legal proceedings that is protected by confidentiality claims will be released only when properly subpoenaed for a court proceeding or an investigate committee impaneled by the Federal or State Legislature.

#### 7:26G-16.9 Access to and safeguarding of confidential information

(a) Unless specifically provided for by Federal law, State law, court order, or applicable court rule, no person shall have access to information which has been determined to be entitled to confidential treatment, other than:

1. The designated Department personnel;
2. Federal or other State agencies; or
3. Authorized representatives of the Department, subject to the provisions of this subchapter.

(b) Each departmental officer or employee who has custody or possession of confidential information shall take appropriate measures to properly safeguard such information and to protect against its improper disclosure.

(c) No departmental officer or employee may disclose, or use for his or her private gain or advantage, any confidential information which comes into his or her possession, or to which he or she gains access, by virtue of his or her official position of employment, except as authorized by this subchapter.

(d) If the Department finds that any person has violated the provisions of this subchapter, it may:

1. Commence a civil action in Superior Court for a restraining order and an injunction barring that person from further disclosing confidential information; and
2. Pursue any other remedy available by law.

(e) In addition to any other penalty that may be sought by the Department, violation of this subchapter by a departmental employee shall constitute grounds for dismissal, suspension, fine, or other adverse personnel actions.

#### 7:26G-16.10 Class determinations

(a) The Department may, through the promulgation of amendments in accordance with the provisions of the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., make a determination that a certain class of information is or is not entitled to confidential treatment if it finds that:

1. The Department possesses, or is obtaining, related items of information; and

2. One or more characteristics common to all such items of information will necessarily result in identical treatment for each such item, and that it is therefore proper to treat all such items as a class.

(b) A class determination shall clearly identify the class of information to which it pertains.

(c) A class determination shall state that all of the information in the class:

1. Fails to satisfy one or more of the applicable criteria in N.J.A.C. 7:26G-16.6 and is therefore ineligible for confidential treatment; or

2. Satisfies the applicable criteria in N.J.A.C. 7:26G-16.6 and is therefore eligible for confidential treatment.

#### 7:26G-16.11 Procedure regarding fees for information requests

(a) Except as provided in (b) below, a person requesting copies of public records shall pay the fee specified in N.J.S.A. 47:1A-2.

(b) No payment is required for the following services:

1. The cost of reviewing requests for information and preparing and reviewing written responses thereto;

2. For furnishing documents requested by EPA;

3. For furnishing documents requested by and for the official use of other State agencies; or

4. For furnishing documents needed by a State contractor or grantee to perform the work required by a State contract or grant.

(c) All fee payments shall be in the form of a check or money order payable to the "Treasurer, State of New Jersey" and shall be submitted to the designated information officer.

(d) If the Department estimates that the fee for information requests will exceed \$25.00 and the requester has not submitted payment in advance to cover the estimated fees, the Department shall notify the requester of the amount of the estimated fees or such portion thereof as can readily be estimated. In such cases, the Department shall not release the information to the requester until it receives the total amount of fees due or estimated to become due. Such notice shall be transmitted to the requester within 10 working days after the Department has made the initial determination that the records are available.

(e) If a fee paid in advance under (d) above exceeds the actual fees due under N.J.S.A. 47:1A-2, the Department shall refund the excess. If the actual fees due exceed the advance payment, the requester shall remit the excess before the Department releases the copies.

(f) The Department may reduce or waive the fee specified in N.J.S.A. 47:1A-2 if it determines that the reduction or waiver is likely to contribute significantly to public understanding of the operations or activities of the government. In determining whether the reduction or waiver is likely to make such a contribution, the Department shall consider whether the request comes from a representative of the press or other communications medium, or from a public interest group.

1. A request for reduction or waiver of fees shall be addressed to the appropriate Division or Bureau which is responding to the request for records.

2. The Division or Bureau shall initially determine whether the fee shall be reduced or waived, and shall so inform the requester.

3. The requester may appeal the determination of the Division or Bureau by letter addressed to the appropriate Assistant Commissioner. The Assistant Commissioner shall decide such appeals.

(g) In the event that a requester who is in arrears for previous requests makes a request for documents, whether requested under this subchapter or any other Department rule, the Department may deny the request until the arrears have been paid in full.

1. Any request made by an individual who specifies an affiliation with, or representation of, a corporation, association, law firm, or other organization shall be deemed to be a request by the corporation, association, law firm, or other organization. If an organization can show that the person who made the request for which payment is overdue did not make the request on behalf of the organization, the organization will not be considered in arrears, but the individual shall be.

#### 7:26G-16.12 Fee schedule for confidentiality claims

Any person submitting documents to the Department under a claim of confidentiality under N.J.A.C. 7:26G-16.5 shall submit a check in the amount of \$250.00 for the first 50 confidential pages and \$1.00 for each page thereafter, to cover the costs of evaluating the confidentiality claim.