

**CHAPTER 31
TOXIC CATASTROPHE PREVENTION
ACT PROGRAM**

Authority

N.J.S.A. 13:1B-3, 13:1D-9, 13:1K-19 et seq. and 26:2C-1 et seq.

Source and Effective Date

R.2003 d.335, effective July 14, 2003.
See: 35 N.J.R. 935(a), 35 N.J.R. 3618(b).

Chapter Expiration Date

Chapter 31, Toxic Catastrophe Prevention Act Program, expires on July 14, 2008.

Chapter Historical Note

Chapter 31, Toxic Catastrophe Prevention Act Program, except Subchapter 5, was adopted as R.1988 d.272, effective June 20, 1988 (operative July 21, 1988). See: 19 N.J.R. 1687(a), 20 N.J.R. 1356(a).

Subchapter 5, Confidentiality and Trade Secrets, was adopted as R.1988 d.378, effective August 1, 1988. See: 20 N.J.R. 350(a), 20 N.J.R. 1913(b).

Pursuant to Executive Order No. 66(1978), Chapter 31, Toxic Catastrophe Prevention Act Program, was readopted as R.1993 d.358, effective June 18, 1993. See: 25 N.J.R. 1425(b), 25 N.J.R. 3156(a).

Pursuant to Executive Order No. 66(1978), Chapter 31, Toxic Catastrophe Prevention Act Program, was readopted as R.1998 d.355, effective June 18, 1998. A new Subchapter 2, Hazard Assessment, was adopted and former Subchapter 2, General Requirements, Prohibitions and Procedures, was repealed and recodified; a new Subchapter 3, Minimum Requirements for a Program 2 TCPA Risk Management Program, was adopted and former Subchapter 3, Minimum Requirements for a Risk Management Program, was repealed and recodified; a new Subchapter 4, Minimum Requirements for a Program 3 TCPA Risk Management Program, was adopted, with N.J.A.C. 7:31-4.10 recodified from former N.J.A.C. 7:31-3.16, and former Subchapter 4, Work Plan Requirements, was repealed; a new Subchapter 5, Emergency Response, was adopted and former Subchapter 5, Confidentiality and Trade Secrets, was recodified as Subchapter 10; a new Subchapter 6, Extraordinarily Hazardous Substances, was adopted, with N.J.A.C. 7:31-6.3 recodified from former N.J.A.C. 7:31-2.3, and former Subchapter 6, Civil Administrative Penalties and Requests for Adjudicatory Hearings, was recodified as Subchapter 11; Subchapter 7, Risk Management Plan and TCPA Program Submission, was adopted, with N.J.A.C. 7:31-7.4 recodified from former N.J.A.C. 7:31-2.8; Subchapter 8, Other Federal Requirements, was adopted, with N.J.A.C. 7:31-8.2 recodified from former N.J.A.C. 7:31-2.12; Subchapter 9, Work Plan/EHSARA, was adopted; and former Appendices I and II were repealed by R.1998 d.355, effective July 20, 1998. See: 30 N.J.R. 908(a), 30 N.J.R. 2728(a).

Chapter 31, Toxic Catastrophe Prevention Act Program, was readopted as R.2003 d.335, effective July 14, 2003. See: Source and Effective Date. See, also, section annotations.

Petition for Rulemaking. See: 40 N.J.R. 1935(a).

CHAPTER TABLE OF CONTENTS

SUBCHAPTER 1. GENERAL PROVISIONS

- 7:31-1.1 Incorporation by reference
- 7:31-1.2 Construction
- 7:31-1.3 Purpose
- 7:31-1.4 Incorporation by reference of the Code of Federal Regulations

- 7:31-1.5 State definitions
- 7:31-1.6 Severability
- 7:31-1.7 Practice where these rules do not govern
- 7:31-1.8 Document availability
- 7:31-1.9 Prohibitions
- 7:31-1.10 Prevention of catastrophic accidents
- 7:31-1.11 (Reserved)
- 7:31-1.11A Fees
- 7:31-1.12 Release of information by insurance carriers

SUBCHAPTER 2. HAZARD ASSESSMENT

- 7:31-2.1 Incorporation by reference
- 7:31-2.2 Reactive hazard substance (RHS) hazard assessment

SUBCHAPTER 3. MINIMUM REQUIREMENTS FOR A PROGRAM 2 TCPA RISK MANAGEMENT PROGRAM

- 7:31-3.1 Incorporation by reference
- 7:31-3.2 Emergency response
- 7:31-3.3 Triennial reports
- 7:31-3.4 New covered processes—construction and new EHS service
- 7:31-3.5 Hazard review report

SUBCHAPTER 4. MINIMUM REQUIREMENTS FOR A PROGRAM 3 TCPA RISK MANAGEMENT PROGRAM

- 7:31-4.1 Incorporation by reference
- 7:31-4.2 Process hazard analysis with risk assessment for specific pieces of EHS equipment or operating alternatives.
- 7:31-4.3 Standard operating procedures
- 7:31-4.4 EHS operator training
- 7:31-4.5 Mechanical integrity/preventive maintenance program
- 7:31-4.6 Management of change
- 7:31-4.7 Safety reviews: design and pre-startup
- 7:31-4.8 Emergency response
- 7:31-4.9 Annual reports
- 7:31-4.10 Obligations upon temporary discontinuance of EHS use, storage and handling
- 7:31-4.11 New covered processes—construction and new EHS service

SUBCHAPTER 5. EMERGENCY RESPONSE

- 7:31-5.1 Incorporation by reference
- 7:31-5.2 Emergency response program

SUBCHAPTER 6. EXTRAORDINARILY HAZARDOUS SUBSTANCES

- 7:31-6.1 Incorporation by reference
- 7:31-6.2 Threshold quantity determination
- 7:31-6.3 Extraordinarily hazardous substance list

SUBCHAPTER 7. RISK MANAGEMENT PLAN AND TCPA PROGRAM SUBMISSION

- 7:31-7.1 Incorporation by reference
- 7:31-7.2 TCPA risk management plan submission and updates
- 7:31-7.3 Risk management program and RMP—initial evaluation
- 7:31-7.4 Transfer of risk management program
- 7:31-7.5 Schedule for risk management program implementation

SUBCHAPTER 8. OTHER FEDERAL REQUIREMENTS

- 7:31-8.1 Incorporation by reference
- 7:31-8.2 Audits

SUBCHAPTER 9. WORK PLAN/EHSARA

- 7:31-9.1 Work plan preparation
- 7:31-9.2 Generic scope of work
- 7:31-9.3 Selection of consultants
- 7:31-9.4 Proposal requirements
- 7:31-9.5 EHSARA report

SUBCHAPTER 10. CONFIDENTIALITY AND TRADE SECRETS

- 7:31-10.1 Scope and applicability
- 7:31-10.2 General provisions
- 7:31-10.3 Exclusions from confidential information and privileged trade secret or security information
- 7:31-10.4 Confidentiality claims
- 7:31-10.5 Determination of confidentiality claims
- 7:31-10.6 Petitions to withhold privileged trade secret or security information
- 7:31-10.7 Determinations of petitions to withhold privileged trade secret or security information
- 7:31-10.8 Maintaining the confidentiality and security of confidential information
- 7:31-10.9 Disclosure of confidential information
- 7:31-10.10 Wrongful access or disclosure
- 7:31-10.11 Use of confidential information in rulemaking, reviewing extraordinarily hazardous substance accident risk assessment reports and risk management programs, and enforcement proceedings

SUBCHAPTER 11. CIVIL ADMINISTRATIVE PENALTIES AND REQUESTS FOR ADJUDICATORY HEARINGS

- 7:31-11.1 Authority and purpose
- 7:31-11.2 Procedures for issuance of administrative orders and assessment of civil administrative penalties and payment of such penalties
- 7:31-11.3 Procedures to request an adjudicatory hearing
- 7:31-11.4 Civil administrative penalty determination
- 7:31-11.5 Grace period applicability; procedures

SUBCHAPTER 1. GENERAL PROVISIONS

7:31-1.1 Incorporation by reference

(a) This subchapter incorporates by reference 40 CFR 68 Subpart A, including all future amendments and supplements except as provided in (b) and (c) below.

(b) The following provisions of 40 CFR Part 68 Subpart A are not incorporated by reference: 40 CFR 68.2, Stayed provisions; 40 CFR 68.10(b), Applicability; and 40 CFR 68.12(b), General requirements.

(c) The following provisions of 40 CFR 68 Subpart A are incorporated by reference with the specified changes:

1. 40 CFR 68.1, Scope:
 - i. In the first and second sentences, delete the word "part" and replace with "chapter."
 - ii. Delete the phrase, "the petition process for adding or deleting substances to the list of regulated substances" and replace with the word "and".

iii. Delete the phrase, "and the state accidental release prevention programs approved under section 112(r)."

iv. Delete the sentence, "The list of substances, threshold quantities and accident prevention regulations promulgated under this part do not limit in any way the general duty provisions under section 112(r)1."

2. 40 CFR 68.3, Definitions:

i. At the definition of "covered process," delete "a regulated substance present in more than a threshold quantity as determined under § 68.115" and replace with "an EHS inventory that meets or exceeds the threshold quantity as determined under N.J.A.C. 7:31-6.3."

ii. At the definition of "process," add "at a facility" after "Process means any activity" and before "involving a regulated substance."

iii. At the definition of "threshold quantity," delete, "quantity specified for regulated substances pursuant to section 112(r)(5) of the Clean Air Act as amended, listed in § 68.130 and determined to be present at a stationary source as specified in § 68.115 of this part." and replace with, "minimum quantity of an EHS handled, used, manufactured, stored, or capable of being produced in one hour at a covered process that determines whether or not an owner or operator must register under the program."

iv. At the definition of "regulated substance," delete "any substance listed pursuant to section 112(r)(3) of the Clean Air Act as amended, in § 68.130.", and replace with, "an EHS listed in Table I, Parts A, B, C, or D of N.J.A.C. 7:31-6.3(a) and (c)."

3. 40 CFR 68.10, Applicability:

i. At 40 CFR 68.10(a), delete the phrase, "more than a threshold quantity" and replace with the phrase, "at least the threshold quantity", and delete the phrase, "as determined under 40 CFR 68.115" and replace with "as determined under N.J.A.C. 7:31-6" and at 40 CFR 68.10(a)(3) delete the phrase, "above a threshold quantity" and replace with "at a threshold quantity."

ii. At 40 CFR 68.10(a)1, delete June 21, 1999 and add the following, "September 30, 2004, for covered purposes with EHSs listed in N.J.A.C. 7:31-6.3 in Table I, Part D. For covered processes with EHSs listed in N.J.A.C. 7:31-6.3 Table I Part A, B, or C, the obligation to comply with this chapter shall continue and the obligation to revise an owner or operator's risk management program shall be in accordance with the schedule set forth in N.J.A.C. 7:31-7.5."

iii. After 40 CFR 68.10(a)(1)-(3), add another item, "For new covered processes, in accordance with the requirements at N.J.A.C. 7:31-3.4 (for Program 2 covered processes) or N.J.A.C. 7:31-4.11 (for Program 3 covered processes)."

“Hazard and operability study” or “HAZOP” means a systematic study of updated piping and instrument diagrams that describes the covered process taking into consideration process chemistry, standard operating procedures, maintenance procedures, EHS operator job descriptions, process flow diagrams, EHS inventory tabulations, electrical one-line diagrams and other documents. The study is performed by a multidisciplinary team to identify hazard or operability problems that would result in an EHS accident. Deviations from the design value of key parameters (flow, temperature, composition, time, quantity, etc.) of each segment of the covered process and its procedures are studied using guide words (such as, more of, less of, none of, part of, more than and other) to control the examination and evaluation. Results of the HAZOP study shall be reported by tabulation for a unit by key equipment, such as vessels or pipelines, and process parameter. The results are entered on the table as follows: guide word, causes of the deviation, consequences of the deviation in terms of a potential EHS release, the criticality based on the quantity or rate of potential release and the suggested action in terms of equipment or procedure to mitigate the deviation.

“Hazard unit” means the measure of inventory of an EHS expressed as multiples of its threshold quantity, used in calculating TCPA fees.

“Heat of reaction” or “ ΔH_R ” means the change in the amount of heat energy of the substances contained in a process vessel that occurs during a chemical reaction expressed as calories per gram; or specifically, the energy content of the reaction products minus the energy content of the reactants. The heat of reaction includes heat energies such as the heat of decomposition, heat of explosion or heat of combustion depending on the chemical reaction(s) taking place.

“Industrial complex” means the overall property of at least two contiguous TCPA regulated stationary sources which meet the following criteria:

1. Owners and operators of each source provide access to the hazard review, process hazard analyses with risk assessment and accident or potential catastrophic event investigation reports to the qualified person or the assigned designee of each of the other stationary sources, and the qualified person or the assigned designee of each source signs a certification statement annually that the records have been reviewed;
2. Employees of each of the individual sources have access to these reports and all information required to be developed under this chapter;
3. The owners or operators of each source have implemented security measures to restrict uncontrolled public access to the entire property; and

4. There is a previous history of ownership of the complex, now occupied by the individual regulated stationary sources, by one company.

“Inherently safer technology” means the principles or techniques incorporated in a newly designed and constructed covered process to minimize or eliminate the potential for an EHS accident that include, but are not limited to, the following:

1. Reducing the amount of EHS material that potentially may be released;
2. Substituting less hazardous materials;
3. Using EHSs in the least hazardous process conditions or form; and
4. Designing equipment and processes to minimize the potential for equipment failure and human error.

“Inventory” means the EHS quantity contained in a process or the quantity of EHS generated within one hour by the process, whichever is greater.

“Management system” means the composite of organizational structure, planning activities, responsibilities, practices, procedures, processes and resources for developing, implementing, achieving, reviewing, evaluating and maintaining the required Risk Management Program.

“Material deficiency” means an inadequacy or omission of an owner’s or operator’s risk management program that reduces the effectiveness of the risk management program.

“Operating alternative” means an alternative procedure, schedule or process chemistry or a combination thereof.

“Overpressure analysis” means the computation of the distance that a criterion level of overpressure extends from the center of a explosion due to a release/ignition scenario of a flammable substance.

“Person” means corporations, companies, associations, societies, firms, partnerships and joint stock companies, as well as individuals, and shall also include all political subdivisions of this State or any agencies or instrumentalities thereof, and any legal successor, representative, agent or agency of the foregoing.

“Petition to withhold privileged trade secret or security information” or “petition” means a written request made by an owner or operator of a covered process pursuant to this chapter to withhold from disclosure to the Department certain information which is privileged trade secret or security information.

"Petitioner" means any person who submits a petition to withhold privileged trade secret or security information under this chapter.

"Piping and instrument diagram" or "P & ID" means one or more detailed diagrams including legends and citations of referenced documents, showing: every item of EHS equipment and its identification number (including installed spare equipment); every pipe including size, flow direction, identification number and indication of ANSI piping specification and break between piping specifications; symbols and identification of every instrument including instrument function to show trips and interlocks represented in accordance with Instrument Society of America standards or a standard adequate for the conduct of a safety review or hazard analysis with an appropriate symbol legend shown; every valve; the failsafe position of control valves or non-hand operated valves in the case of instrument air or power failure; steam traps; representation of insulation or heat tracing of piping, EHS equipment and instruments; sizes of all important equipment nozzles with location shown schematically to reflect function and elevation, such as, drains, vents, flushing connections and steam connections; references to inter-facing with other diagrams describing process, service, treatment, disposal, or utility systems; data on type, size, and set pressures of every relief valve and relieving device; instruments to monitor early detection of abnormal conditions or an EHS release; where critical, the relative elevations between equipment and of key piping; notes or symbols on such items as slope of critical piping to avoid pockets, or, where critical, symmetrical piping; notes on each item of EHS equipment, such as, material of construction, design temperature, design pressure, design thermal duty of heat exchangers, design capacity and dynamic head of rotating equipment, etc.

"Potential catastrophic event" means an incident that could have reasonably resulted in a catastrophic release of an EHS.

"Privileged trade secret or security information" means trade secret or security information which the Department has determined the owner or operator of a covered process is entitled to withhold from and not disclose to the Department; consisting of trade secret or security information which is not otherwise required to be disclosed to either the public or to any governmental agency or entity by any Federal or state law or regulation, and which has never been released to any person other than the owner's or operator's employees involved in its use.

"Process chemistry" means the chemical reactions which are relevant to possible scenarios of EHS release, including information on raw materials, intermediates, products, and waste products.

"Process flow diagram" means one or more diagrams of a covered process including legends and citations of referenced documents showing the use, generation, storage or handling of an EHS, items of equipment (groups of duplicate equipment may be represented by one symbol, if desired), flow of material from item to item, simplified basic control loops or major control schemes, points of discharge to the environment, and showing or cross-referencing documents which give details of material balance, flows, raw materials, products, intermediates, treatment chemicals, operating conditions of temperature, pressure, and stream characteristics, operating cycles and batch sizes where applicable. A process flow diagram includes, or references, a block flow diagram that depicts the receipt, handling and storage steps at the stationary source of shipping containers of the EHS.

"Public copy" means a copy of any information submitted to the Department pursuant to the Act or this chapter which is identical to the confidential copy except that any confidential information shall be deleted. The public copy can be a photocopy of the confidential copy, with the confidential information blacked out.

"Qualified person or position" means the member of management who has the overall responsibility for the development, implementation and integration of the risk management program elements for the stationary source and who shall possess sufficient corporate authority and technical background to adjudicate issues relating to the execution of the risk management program based on information provided by manufacturing, engineering, maintenance, safety and environmental representatives.

"Rate of energy release" means the amount of heat energy released in a specified unit of time during a chemical reaction involving an EHS.

"Reactive hazard substance" or "RHS" means an EHS that is a substance, or combination of substances, which is capable of producing toxic or flammable EHSs or undergoing unintentional chemical transformations producing energy and causing an extraordinarily hazardous accident risk. RHSs are identified at N.J.A.C. 7:31-6.3(a), Table I, Part D, Group I (List of Individual Reactive Hazard Substances).

"Reactive hazard substance (RHS) mixture" means an EHS that is a combination of substances intentionally mixed in a process vessel and is capable of undergoing an exothermic chemical reaction which produces toxic or flammable EHSs or energy. An RHS mixture has a heat of reaction which, by convention, is expressed as a negative value for an exothermic reaction, that has an absolute value greater than or equal to 100 calories per gram of RHS mixture. RHS mixtures include a reactant, product, or byproduct that is a chemical substance or a mixture of substances having one or more of the chemical functional groups specified in N.J.A.C. 7:31-6.3(a), Table I, Part D, Group II.

“Registered EHS” means an EHS which is handled, used, manufactured or stored, or is capable of being generated within one hour, at a covered process in a quantity equal to or greater than the threshold quantity for that EHS in Table I of N.J.A.C. 7:31-6.3.

“Reliability study” means the determination of the probability of a piece of EHS equipment performing its required function in the desired manner under all relevant conditions and on the occasion or during the time intervals when it is required to so perform. It includes the analysis of the failure of EHS equipment to perform its normal required function.

“Risk assessment section” means all Department personnel engaged in the following activities concerning the review of risk management programs developed by owners and operators to ensure their compliance with TCPA: detailed review of the risk management programs; creation and implementation of work plans; review of submittals to construct and operate new EHS covered processes; and periodic inspections and audits of risk management programs.

“Risk management program” means the sum total of programs for the purpose of minimizing extraordinarily hazardous accident risks, including, but not limited to, requirements for safety review of design for new and existing equipment, requirements for standard operating procedures, requirements for preventive maintenance programs, requirements for operator training and accident investigation procedures, requirements for risk assessment for specific pieces of equipment or operating alternatives, requirements for emergency response planning, and internal or external audit procedures to ensure programs are being executed as planned. Risk management program includes all activities performed and documents prepared pursuant to 40 CFR 68.12(c) and (d) as incorporated by reference at N.J.A.C. 7:31-1.1(c).

“Risk reduction plan” means the plan developed as a result of a hazard analysis, risk assessment or EHSARA which identifies the risk reduction measures, recommends corrective actions, and provides for scheduling and implementation of remedial actions.

“Security information” means information the release of which could either compromise the physical security of the covered process or its operations, or adversely affect national security.

“Sewer system piping diagram” means one or more diagrams relevant to the covered process and its potential releases showing those portions of the site plan that include the chemical sewers, sanitary sewers and storm water sewers drainage systems in the covered process or the adjoining areas.

“Site plan” means a diagram of the stationary source showing exact locations to scale of all units or areas, warehouses,

buildings, roads, access ways, walkways, parking areas, fences, gates and property lines plus the covered process.

“Standard operating procedures” or “SOP” means the documents setting forth the operating procedures covering all details of operation involving an EHS that are currently in effect at the covered process.

“State-of-the-art” means current technology that, when applied to an owner or operator’s EHS equipment and procedures, will result in a significant reduction of risk. The technology represents an advancement in reduction of risk and shall have been demonstrated at a similar referenced facility to be reliable in commercial operation or in a pilot operation on a scale large enough to be translated into commercial operation. The technology shall be in the public domain or otherwise available at reasonable cost commensurate with the reduction of risk achieved.

“Stationary source emergency response team” means those personnel identified in the emergency response plan that respond to an emergency at the stationary source which involves an EHS. Functions for which the stationary source emergency response team shall be responsible include activities such as alarm identification and response, response to an EHS release, use of emergency protective equipment, rescue procedures, evacuation procedures, medical assistance, action plans for dealing with specific scenarios, and specifically assigned emergency response duties. Owners or operators of a covered process may arrange with outside providers for any portion of these functions as needed.

“Substantiation” means the written submittal on a Department provided form which supports either a confidentiality claim or a petition to withhold privileged trade secret or security information.

“Tabletop exercise” means an activity in which the participants are gathered informally to describe actions to be taken to respond to a pre-planned simulated EHS release scenario based upon the emergency response plan as if it were an actual release, to include documents relevant to the EHS release scenario such as site plans, equipment arrangement plans and local street maps referenced by the participants during the exercise.

“TCPA” means the Toxic Catastrophe Prevention Act, N.J.S.A. 13:1K-19 et seq.

“TCPA program operating expense” means the cost for normal TCPA program operating items such as postage, telephone, travel supplies and data management systems.

“Thermal analysis” means the computation of the distance from the center of a fireball that a criterion thermal radiation dose extends subsequent to specific release/ignition scenarios of a flammable substance.

“Total spending plan of the TCPA program” means the total annual estimated cost of operating the TCPA program approved by the Department for the fiscal year beginning July 1.

“Trade secret” means information concerning a formula, process, device or compilation which an owner or operator of a covered process uses to gain a business advantage over competitors who do not know or use it.

“What if Checklist” means a method of hazard analysis based on a systematic study of updated piping and instrument diagrams that describe the covered process taking into consideration process chemistry, standard operating procedures, maintenance procedures, EHS operator job descriptions, process flow diagrams, EHS inventory tabulations, electrical one-line diagrams and other documents. The study is composed of a comprehensive list of questions prepared in advance from study of the documents by team members either in conference or independently usually corresponding to their individual background. Results of the study shall be reported for a unit on a table. The results are entered on the table as follows: the “what if” question and its corresponding consequence/hazard, the criticality based on the quantity or rate of the potential release and the recommended action in terms of equipment or procedure to mitigate the consequence/hazard.

Administrative Correction.

See: 20 N.J.R. 1743(c).

Amended by R.1988 d.378, effective August 1, 1988.

See: 20 N.J.R. 350(a), 20 N.J.R. 1913(a).

Added definitions.

Amended by R.1993 d.358, effective July 19, 1993.

See: 25 N.J.R. 1425(b), 25 N.J.R. 3156(a).

Amended by R.1998 d.355, effective July 20, 1998.

See: 30 N.J.R. 908(a), 30 N.J.R. 2728(a).

Rewrote the section.

Amended by R.2003 d.335, effective August 4, 2003.

See: 35 N.J.R. 935(a), 35 N.J.R. 3618(b).

Added “Functional group”, “Heat of reaction” or “ ΔH_R ”, “Industrial complex”, “Inherently safer technology”, “Rate of energy release”, “Reactive Hazard Substance” or “RHS”, “Reactive Hazard Substance (RHS) mixture” and “State-of-the-art”; rewrote “Material deficiency”; in “Risk management program”, added the last sentence.

Amended by R.2006 d.143, effective April 17, 2006.

See: 37 N.J.R. 1595(a), 38 N.J.R. 1678(a).

Added definition “Grace period”.

7:31-1.6 Severability

If any section, subsection, provision, clause, or portion of this chapter is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this chapter shall not be affected thereby and shall remain in full force and effect.

7:31-1.7 Practice where these 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 the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. In any matter concerning chemical accident prevention that arises not governed by these rules, the Department shall exercise its

discretion within the authority of N.J.S.A. 13:1B-3, 13:1D-9, 13:1K-19 et seq., 26:2C-1 et seq. and all other legislatively conferred powers.

New Rule, R.1998 d.355, effective July 20, 1998.

See: 30 N.J.R. 908(a), 30 N.J.R. 2728(a).

7:31-1.8 Document availability

(a) Copies of the CFR (40 CFR Part 68) as adopted and incorporated by reference are available for review. Publications incorporated by reference within the Code of Federal Regulations are also available for review. These may be reviewed by contacting the Department at:

New Jersey Department of Environmental Protection
Division of Waste Compliance and Enforcement
and Release Prevention
PO Box 424
Trenton, NJ 08625-0424
Telephone: (609) 633-7289

(b) Copies of the CFR (40 CFR Part 68) as adopted and incorporated by reference 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 CFR (40 CFR Part 68) as adopted and incorporated by reference herein are also available for review at the following public libraries:

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

New Rule, R.1998 d.355, effective July 20, 1998.

See: 30 N.J.R. 908(a), 30 N.J.R. 2728(a).

7:31-1.9 Prohibitions

(a) No owner or operator of a covered process shall handle, use, manufacture, generate or store an EHS, except in a manner which complies with the TCPA, this chapter, and the approved risk management program.

ii. One hundred percent of the potential heat release (heat of reaction) assumed to contribute to the explosion for an RHS mixture in a process vessel;

iii. Twenty-eight percent of the potential heat release (heat of reaction) assumed to contribute to the explosion for a N.J.A.C. 7:31-6.3 Table I, Part D, Group I RHS in a storage vessel; and

4. All other parameters and calculation methods specified at 40 CFR 68 Subpart B as incorporated with changes at N.J.A.C. 7:31-2.1(c)1 and 2.

(c) An owner or operator having an RHS mixture containing one or more toxic or flammable EHS(s) listed in N.J.A.C. 7:31-6.3(a) Table I, Parts A, B, or C in a process above the threshold quantity who registered only the toxic or flammable EHS pursuant to N.J.A.C. 7:31-7.2(a)3iv shall be exempt from the requirement of this section to perform an additional hazard assessment for the RHS mixture.

New Rule, R.2003 d.335, effective August 4, 2003.
See: 35 N.J.R. 935(a), 35 N.J.R. 3618(b).

SUBCHAPTER 3. MINIMUM REQUIREMENTS FOR A PROGRAM 2 TCPA RISK MANAGEMENT PROGRAM

7:31-3.1 Incorporation by reference

(a) This subchapter incorporates by reference 40 CFR 68 Subpart C, including all future amendments and supplements, except as provided in (b) and (c) below.

(b) (Reserved)

(c) The following provisions are incorporated by reference with the specified changes:

1. 40 CFR 68.48(a), Safety information, at the end add the following:

i. Process flow diagrams and piping and instrumentation diagrams.

ii. Reactivity data applicable to the process in which an EHS is being used, handled, stored or generated that includes the following:

(1) Flash point up to 200 degrees Fahrenheit (and method used), flammable limits (lower explosive limit and upper explosive limit), extinguishing media, special fire fighting procedures, and unusual fire and explosion hazards;

(2) Thermal and chemical stability information: stability (unstable or stable), conditions to avoid for instability, incompatibility (materials to avoid), hazardous decomposition (products or byproducts), hazardous polymerization (may occur or will not occur), and conditions to avoid for polymerization;

(3) Thermodynamic and reaction kinetic data including: heat of reaction, temperature at which instability (uncontrolled reaction, decomposition, and/or polymerization) initiates, and rate of energy release at that temperature;

(4) Incidental formation of byproducts that are reactive and unstable; and

(5) Information showing the identity of toxic or flammable EHSs capable of being generated for individual RHSs listed at N.J.A.C. 7:31-6.3(a), Table I, Part D, Group I due to inadvertent mixing with incompatible substances, decomposition, and self-reaction.

2. 40 CFR 68.48(c), Safety information, delete the words "a major" and replace with the word "any" before the word "change."

3. 40 CFR 68.52, Operating procedures, beginning of heading, add the word "Standard." Also, at 40 CFR 68.52(a), add after the first sentence "Operating procedures shall be written in English in a manner that the EHS operators of the process can understand. If the EHS operators do not understand English, the operating procedures shall be written in a language the operators can understand."

4. 40 CFR 68.54, Training, beginning of heading, add "EHS operator" before "training."

5. 40 CFR 68.58(a), Compliance audits, after the first sentence, add, "Also, the owner or operator shall verify that the process technology and equipment, as built and operated, are in accordance with the safety information prepared pursuant to 40 CFR 68.48(a) and (b) as incorporated at N.J.A.C. 7:31-3.1(c)1."

6. 40 CFR 68.58(c), Compliance audits, after the first sentence add, "The compliance audit report shall also include the scope, audit techniques, methods used and the names of the audit participants."

7. 40 CFR 68.60(a), Incident investigation, delete the words "incident which resulted in, or could reasonably have resulted in, a catastrophic release" and replace with "EHS accident or potential catastrophic event."

8. 40 CFR 68.60(b), (c)(1), (c)(3) and (c)(4), Incident investigation, delete the word "incident" and replace with "EHS accident or potential catastrophic event."

9. At 40 CFR 68.50(c), Hazard review, add, after "document," "in a hazard review report prepared in accordance with N.J.A.C. 7:31-3.5."

10. 40 CFR 68.58(d), Compliance audits, after the first sentence, add, "The owner or operator shall prepare and include in the report a written schedule for implementation of corrective actions or state that such actions have been completed."

Amended by R.2003 d.335, effective August 4, 2003.
See: 35 N.J.R. 935(a), 35 N.J.R. 3618(b).
In (c), rewrote 1, 3 and 5, and added 9 and 10.

7:31-3.2 Emergency response

The owner or operator of a Program 2 covered process shall comply with the emergency response requirements of N.J.A.C. 7:31-5.

7:31-3.3 Triennial reports

(a) The owner or operator shall submit a triennial report to the Department reflecting the risk management program activities for the 36 month period ending on the anniversary date within 90 days of the third anniversary date, and each subsequent third anniversary date. The anniversary date shall be the date of the signing of the initial consent agreement or the date of issuance of an administrative order by the Department designating the approval of the risk management program for the stationary source. The Department shall change the anniversary date upon receipt of a written request from the owner or operator provided the anniversary date has not been changed in the preceding 24 months.

(b) The triennial report shall contain:

1. An update, if applicable, of the supplemental TCPA program information as specified in N.J.A.C. 7:31-7.2(a), if this supplemental information was not previously reported in a revised Risk Management Plan submittal. If there were no changes in the supplemental information since the last Risk Management Plan submittal, the owner or operator shall state this in the triennial report;

2. A description of significant changes to the management system; if there were no changes in the management system since the last triennial report, the owner or operator shall state this in the triennial report;

3. The hazard review report required at N.J.A.C. 7:31-3.5 for each hazard review completed during the previous three years. If there were no hazard review reports completed since the last triennial report, the owner or operator shall state this in the triennial report;

4. A summary of EHS accidents that occurred during the previous three years. If no EHS accidents occurred since the last triennial report, the owner or operator shall state this in the annual report. The summary of EHS accidents shall include:

i. The EHS involved and amount released if these facts can be reasonably determined based on the information obtained through the investigation;

ii. The date and time of the EHS accident and identification of the EHS equipment involved; and

iii. The basic and contributory causes; and

5. The compliance audit report and documentation for the previous three years ending on the anniversary date prepared pursuant to 40 CFR 68.58(c) and (d) incorporated with changes at N.J.A.C. 7:31-3.1(c)6 and 10.

Amended by R.2003 d.335, effective August 4, 2003.
See: 35 N.J.R. 935(a), 35 N.J.R. 3618(b).
Rewrote (b); deleted (c).

7:31-3.4 New covered processes—construction and new EHS service

(a) Owners or operators who plan to construct a new Program 2 covered process at a stationary source for which there is no previously approved risk management program shall:

1. Submit the documentation required at N.J.A.C. 7:31-7.2 and 40 CFR 68.150 with changes specified at N.J.A.C. 7:31-7.1(c) at least 90 days prior to construction of the covered process;

2. Proceed with construction of the new covered process only upon receiving written approval from the Department;

3. Submit to the Department at least 90 days prior to the date the equipment is scheduled to be placed into EHS service any updates of the documentation as required by (a)1; and

4. Submit to the Department the fees required by N.J.A.C. 7:31-1.11.

(b) Owners or operators who plan to utilize existing equipment for a new Program 2 covered process at a stationary source for which there is no previously approved risk management program shall:

1. Submit the documentation required at N.J.A.C. 7:31-7.2 and 40 CFR 68.150 with changes specified at N.J.A.C. 7:31-7.1(c) at least 90 days prior to placing the equipment into EHS service; and

2. Submit to the Department the fees required by N.J.A.C. 7:31-1.11.

(c) Owners or operators who plan to construct a new Program 2 covered process or utilize existing equipment for a new Program 2 covered process at a stationary source that has a previously approved risk management program shall:

1. Update documentation in accordance with N.J.A.C. 7:31-7.2 and 40 CFR 68.150 with changes specified at N.J.A.C. 7:31-7.1(c) at least 90 days prior to the scheduled placing of the equipment into EHS service; and

2. Submit to the Department the fees required by N.J.A.C. 7:31-1.11.

(d) Prior to placing equipment into EHS service the owner or operator of a covered process shall enter into a consent agreement, or consent agreement addendum, for that equipment with the Department, subsequent to a stationary source inspection by the Department, and complete any items of the consent agreement, or consent agreement addendum, for that equipment in accordance with the schedule in the consent agreement or consent agreement addendum.

7:31-3.5 Hazard review report

(a) The owner or operator shall prepare a hazard review report which includes:

1. Identification of the covered process;
2. The date the hazard review was performed;
3. The date of the completed hazard review report;
4. The names, positions, and affiliation of the hazard review participants;
5. Documentation of the hazards associated with the process and regulated substances;
6. Documentation of the opportunities for equipment malfunctions or human errors that could cause an accidental release;
7. Documentation of the safeguards used or needed to control the hazards or prevent equipment malfunction or human error;
8. Documentation of any steps used or needed to detect or monitor releases; and
9. Documentation on the implementation of recommended corrective actions that includes a schedule for implementations and resolution and the status for completing the corrective actions.

(b) The owner or operator shall retain all hazard review reports and documentation for the life of the covered process.

New Rule, R.2003 d.335, effective August 4, 2003.
See: 35 N.J.R. 935(a), 35 N.J.R. 3618(b).

SUBCHAPTER 4. MINIMUM REQUIREMENTS FOR A PROGRAM 3 TCPA RISK MANAGEMENT PROGRAM

7:31-4.1 Incorporation by reference

(a) This subchapter incorporates by reference 40 CFR 68 Subpart D, including all future amendments and supplements, except as provided in (b) and (c) below.

(b) (Reserved)

(c) The following provisions of 40 CFR 68 Subpart D are incorporated by reference with the specified changes:

1. 40 CFR 68.65(c)(1)(i), before "process flow diagram" delete "simplified."
2. 40 CFR 68.65(d)(1)i, at the beginning, add the words "Equipment specifications including" before the existing words "Materials of construction";
3. 40 CFR 68.65(d)(1), at the end, add the following:
 - i. Electrical one-line diagrams relevant to the covered process and its potential releases;
 - ii. Site plan;
 - iii. Firewater system piping diagrams relevant to the covered process and its potential releases;
 - iv. Sewer system piping diagrams relevant to the covered process and its potential releases; and
 - v. External forces and events data.
4. 40 CFR 68.65(d)(2), after "good engineering" add "and operating".
5. 40 CFR 68.67, Process hazard analysis, in the heading, after "Process hazard analysis" add "with risk assessment for specific pieces of EHS equipment or operating procedures."
6. 40 CFR 68.67(a), add the following:
 - i. In the first and second sentences, after the phrase "process hazard analysis" add the phrase "with risk assessment."
 - ii. In the third sentence, after the phrase "process hazard analyses" add the phrase "with risk assessments."
 - iii. In the third sentence, after the word "employees" add the phrase "and offsite public."
 - iv. In the fourth sentence, after the phrase "process hazard analysis" add the phrase "with risk assessment."
 - v. In the fifth sentence, after the citation "29 CFR 1910.119(e)" add the phrase "prior to June 21, 1999."
 - vi. In the fifth sentence, after the phrase "initial process hazard analyses" add the phrase "with risk assessments."
7. 40 CFR 68.67(f), add the following:
 - i. In the first sentence, after the first and the second occurrences of the phrase "process hazard analysis" add the phrase "(with risk assessment)."
 - ii. In the first sentence, after the third occurrence of the phrase "process hazard analysis" add the phrase "with risk assessment."

- iii. In the second sentence after "29 CFR 1910.119(e)" add the phrase, "and the additional requirements of N.J.A.C. 7:31-4.2".
8. 40 CFR 68.69, Operating procedures, in the heading, add "Standard" before "operating procedures." Also, at 40 CFR 68.69(a), Operating Procedures, at the end of the sentence, replace "the following elements" with "the elements listed at 1-4 below." Add, after the first sentence, "Operating procedures shall be written in English in a manner that the EHS operators of the process can understand. If the EHS operators do not understand English, the operating procedures shall be written in the language that the operators can understand."
9. 40 CFR 68.71, Training, in the heading, add "EHS operator" before "training."
10. 40 CFR 73, Mechanical integrity, in the heading, add "/preventive maintenance" after "Mechanical integrity."
11. 40 CFR 68.73(a)(6), at the end, add the following:
- i. All EHS equipment;
 - ii. Standby emergency equipment such as power generators, fire pumps, and lighting; and
 - iii. Electrical grounding systems.
12. 40 CFR 68.75(b)(2), at the end, add the words "and preventive maintenance procedures."
13. 40 CFR 68.79(a), Compliance audits, delete "every three years" and replace with "every year." Add, at the end of the sentence, "Also, the owner or operator shall verify that the process technology and equipment, as built and operated, are in accordance with the process safety information prepared pursuant to 40 CFR 68.65(c) and (d) as incorporated with changes at N.J.A.C. 7:31-4.1(c)1 through 4."
14. 40 CFR 68.79(c), add, "The compliance audit report shall also include the scope, audit techniques, methods used and the names of the audit participants."
15. 40 CFR 68.81, Incident investigation, in the heading and in (b), (c), (d)(1), (d)(3), (d)(4), (e), (f) and (g), delete the word "incident" and replace it with the words "EHS accident or potential catastrophic event."
16. 40 CFR 68.81(a), delete the phrase " incident which resulted in, or could reasonably have resulted in, a catastrophic release of a regulated substance" and replace it with "EHS accident or potential catastrophic event."
17. 40 CFR 68.81(d)(1), after the word "date" add " , time, and location."
18. 40 CFR 68.81(d)(3), after the word "incident," which is being replaced by the words "EHS accident and potential catastrophic event," (see (c)15 above) add, "in chronological order providing all the relevant facts. Include the identity, amount and duration of the EHS release if these facts can be reasonably determined based on the information obtained through the investigation. Also, identify the consequences, if any, of the EHS accident or potential catastrophic event including the number of evacuees, injured, and fatalities, and the impact on the community."
19. 40 CFR 68.81(d)(4), after the word "incident," which is being replaced by the words "EHS accident or potential catastrophic event," (see (c)15 above) add, "that includes an identification of basic and contributory causes, either direct or indirect."
20. 40 CFR 68.81(d)(5), after the word "investigation," add "to prevent a recurrence."
21. 40 CFR 68.81(d)(5), at the end, add the following:
- i. The names and position titles of the investigators.
22. 40 CFR 68.83, Employee participation, at (b) and (c), after the phrase "process hazard analyses" add "with risk assessments."
23. 40 CFR 68.79(d), Compliance Audits, at the end, add the sentence, "The owner or operator shall prepare and include in the report a written schedule for the implementation of corrective actions or state that such actions have been completed."
24. 40 CFR 68.65(b)(4), after "Reactivity data," add "applicable to the process in which an EHS is being used, handled, stored or generated that includes the following:
- i. Flash point up to 200 degrees Fahrenheit (and method used), flammable limits (lower explosive limit and upper explosive limit), extinguishing media, special fire fighting procedures, and unusual fire and explosion hazards;
 - ii. Thermodynamic and reaction kinetic data including: heat of reaction, temperature at which instability (uncontrolled reaction, decomposition, and/or polymerization) initiates, and rate of energy release data at that temperature; and
 - iii. Data regarding any incidental formation of by-products that are reactive and unstable.
25. 40 CFR 68.65(b)(6), after "Thermal and chemical stability data," add "applicable to the process in which an EHS is being used, handled, stored, or generated: stability (unstable or stable), conditions to avoid for instability, incompatibility (materials to avoid), hazardous decomposition (products or byproducts), hazardous polymerization (may occur or will not occur), and conditions to avoid for polymerization;"

26. 40 CFR 68.65(b)(7), after "Hazardous effects of inadvertent mixing of different materials that could foreseeably occur," add "which includes the explosive/flammable effects and information showing the identity of toxic or flammable EHSs capable of being generated for individual RHSs listed at N.J.A.C. 7:31-6.3(a) Table I, Part D, Group I due to inadvertent mixing with incompatible substances, decomposition, and self-reaction."

Amended by R.2003 d.335, effective August 4, 2003.

See: 35 N.J.R. 935(a), 35 N.J.R. 3618(b).

In (c), rewrote 8 and 13 and added 23 through 26.

7:31-4.2 Process hazard analysis with risk assessment for specific pieces of EHS equipment or operating alternatives.

(a) The provisions of this section apply in addition to those in 40 CFR 68.67 with changes specified at N.J.A.C. 7:31-4.1(c)5 through 7.

(b) The owner or operator of a covered process shall perform a process hazard analysis with risk assessment which shall include the following:

1. Identification of EHS equipment subject to the assessment, the points of possible EHS release, the corresponding approximate quantity of an instantaneous EHS release or the rate(s) and duration of a continuing EHS release, either steady or non-steady state, and the corresponding cause of the EHS release. Estimates of the quantity or rate and duration of a release shall be based on actual release mechanisms and shall reflect the operating procedures, safeguards, and mitigation equipment and procedures, planned for new or modified covered processes, or in place for existing covered processes.

2. Consideration of toxicity, flammability and reactivity for EHSs which appear in N.J.A.C. 7:31-6.3(a), Table I, Parts A and/or B as a toxic substance, Part C as a flammable substance, and/or Part D as an RHS or RHS mixture. The owner or operator shall consider both the explosive/flammability hazard and the capability to generate a toxic EHS, as applicable to the RHS or RHS mixture and process in which it is handled; and

3. Identification of all scenarios of toxic, flammable, and reactive hazards that have a potential offsite impact for the endpoint criteria at (b)3iii and iv below using a consequence analysis consisting of dispersion analysis, thermal analysis or overpressure analysis. The following parameters shall be used for the consequence analysis:

- i. 1.5 meters per second wind speed and F atmospheric stability class;
- ii. All parameters listed for alternative scenarios at 40 CFR 68.22(c) through (g);
- iii. As applicable to the scenario being analyzed, the endpoint criteria of 10 times the toxicity endpoint as designated at N.J.A.C. 7:31-2.1(c)2; 1,750 thermal dose units (equivalent to 17 kW/m² for 40 seconds); five psi

overpressure; or the lower flammability limit. As an alternative to using the 10 times toxicity endpoint as designated at N.J.A.C. 7:31-2.1(c)2, the value of five times the Acute Toxicity Concentration (ATC) may be used for toxic release scenarios; and

iv. As applicable to the scenario being analyzed, the endpoint criteria of five times the toxicity endpoint as designated at N.J.A.C. 7:31-2.1(c)2; 1,200 thermal dose units (equivalent to 15 kW/m² for 40 seconds); or 2.3 psi overpressure. As an alternative to using the five times toxicity endpoint as designated at N.J.A.C. 7:31-2.1(c)2, the value of the ATC may be used for toxic release scenarios.

(c) The owner or operator shall identify all release scenarios that have an offsite impact of the endpoint criteria specified at (b)3iii and iv above.

1. For each release scenario that has an offsite impact of the endpoint criteria specified at (b)3iii above, the owner or operator shall perform an evaluation of state-of-the-art, including alternative processes, procedures or equipment which would reduce the likelihood or consequences of an EHS release;

2. For each release scenario that has an offsite impact of the endpoint criteria specified at (b)3iv above, the owner or operator shall:

i. Perform an evaluation of state-of-the-art, including alternative processes, procedures or equipment which would reduce the likelihood or consequences of an EHS release; or

ii. Determine the likelihood of release occurrence. If the likelihood of release occurrence is greater than or equal to 10⁻⁴ per year, the owner or operator shall perform an evaluation of state-of-the-art, including alternative processes, procedures or equipment which would reduce the likelihood or consequences of an EHS release. If the frequency of release occurrence is less than 10⁻⁴ per year, no further assessment is required.

3. The owner or operator shall develop a risk reduction plan for the release scenarios requiring state-of-the-art evaluation determined pursuant to (c)1 and 2 above.

(d) The following documentation from the process hazard analysis with risk assessment shall be maintained:

1. Table(s) of the process hazard analysis results giving the release point and corresponding release scenario of the potential basic (initiating) and intermediate event sequences, the corresponding estimated quantity or rate and duration of releases, and the recommended resolution action based upon 40 CFR 68.67(e);

2. Table(s) summarizing each potential offsite release scenario identified that includes:

i. A scenario identification number and brief description;

ii. The rate and duration, or quantity, of potential release;

iii. The distance to the endpoint determined in (b)3iii and (b)3iv above and the respective distance to the nearest property line; and

iv. The release likelihood determined pursuant to (c)2ii above, if applicable.

3. Information from the dispersion modeling that includes:

i. The identification of the dispersion model used; and

ii. Printouts of the dispersion model inputs and outputs, if a dispersion model other than the lookup tables provided in the EPA's RMP Offsite Consequence Analysis Guidance current as of the time of modeling was used;

4. An explanation why any risk reduction measures identified in (c) and (d)1 above have not been included in the risk reduction plan; and

5. A statement of completion for each risk reduction measure in the risk reduction plan or an explanation of any changes made for each measure in the risk reduction plan.

(e) The owner or operator of a covered process shall prepare a report of the process hazard analysis with risk assessment. The report shall include the following:

1. An identification of the covered process that is the subject of the process hazard analysis with risk assessment; the name, position and affiliation of persons who performed the process hazard analysis with risk assessment; the date of completion; and the methodology used;

2. A description of each scenario identified in (b)3iii and iv above; and

3. The risk reduction plan developed pursuant to (c)3 and (d)1 above.

(f) The owner or operator of a stationary source that is part of an industrial complex as defined at N.J.A.C. 7:31-1.5 shall use either the property boundary of the industrial complex or the property boundary for the individual stationary source for the purpose of identifying release scenarios with offsite impact.

(g) The owner or operator shall evaluate inherently safer technology for newly designed and constructed covered processes in addition to performing the state-of-the-art evaluation pursuant to (c)1, 2i and ii above. The owner or operator shall document recommendations from the inherently safer technology evaluation in accordance with (c), (d) and (e) above.

Amended by R.2003 d.335, effective August 4, 2003.

See: 35 N.J.R. 935(a), 35 N.J.R. 3618(b).

In (b), inserted "safeguards," preceding "and mitigation equipment" in 1, and rewrote 2 and 3; rewrote (c); in (d), inserted "based upon 400 CFR 68.67(e)" in 1, substituted "likelihood" for "frequency" and "(c)2ii" for "(c)2" in 2iv, inserted "and (d)1" in 4 and added 5; in (e), rewrote 3; added (f) and (g).

7:31-4.3 Standard operating procedures

(a) The provisions of this section apply in addition to those in 40 CFR 68.69, Operating procedures, with changes specified at N.J.A.C. 7:31-4.1(c)8.

(b) The standard operating procedures shall include the following:

1. A process description defining the operation and showing flows, temperatures and pressures, or a reference to a document with this information;

2. Sampling procedures addressing apparatus and specific steps involved in the taking of samples;

3. Logsheets and checklists where appropriate to the operation;

4. A statement as to the number of EHS operators required to meet safety needs for each operation with requirements for shift coverage;

5. A requirement that an EHS operator be in attendance at the stationary source, be able to acknowledge alarms and take corrective action to prevent an accident at all times during EHS handling, use, manufacturing, storage, or generation except:

i. During chlorination of water using chlorine vapor out of a supply vessel, if the Department determines that chlorine monitoring equipment is provided with alarms reporting to a continuously attended station whose personnel are trained to take action to prevent an EHS accident and the online supply vessel total capacity is less than 2,100 pounds;

ii. During EHS storage requiring refrigeration, circulation, agitation or inert gas blanketing, if the Department determines that EHS monitoring equipment is provided with alarms reporting to a continuously attended station whose personnel are trained to take action for an appropriate response, and a risk assessment demonstrates that an EHS operator is not necessary onsite during the specified activity;

iii. During storage not requiring refrigeration, circulation, agitation or inert gas blanketing, if the Department determines that EHS monitoring equipment is provided with alarms reporting to a continuously attended station, or a risk assessment performed pursuant to N.J.A.C. 7:31-4.2 demonstrates that an EHS operator is not necessary onsite during the specified activity; or

iv. Notwithstanding any other applicable State and/or Federal requirements, during mechanical refrigeration using anhydrous ammonia within a closed loop system, if the Department determines that anhydrous ammonia detection monitoring equipment is capable of automatically isolating, shutting down, and emptying EHS equipment and is provided with alarms reporting to a continuously attended station whose personnel are trained to take action to prevent an EHS accident; and

6. A table of contents or a system to index each covered process's standard operating procedures covering the items of 40 CFR 68.69(a) and (b)1 through 5 above.

Amended by R.2003 d.335, effective August 4, 2003.

See: 35 N.J.R. 935(a), 35 N.J.R. 3618(b).

In (b), rewrote 5iii and added 5iv.

7:31-4.4 EHS operator training

(a) The provisions of this section apply in addition to those in 40 CFR 68.71 with changes specified at N.J.A.C. 7:31-4.1(c)9.

(b) The owner or operator of a covered process shall provide a written job description which includes the duties and responsibilities for each EHS operator position.

(c) The training program shall specify the qualifications required for the personnel responsible for training EHS operators.

7:31-4.5 Mechanical integrity/preventive maintenance program

(a) The provisions of this section apply in addition to those of 40 CFR 68.73 with changes specified at N.J.A.C. 7:31-4.1(c)10 and 11.

(b) The owner or operator shall implement a system for maintaining accurate records of all inspections, breakdowns, repairs and replacements of EHS equipment with the means of data retrieval and analysis to determine the frequency of inspections and tests and to evaluate equipment reliability.

Amended by R.2003 d.335, effective August 4, 2003.

See: 35 N.J.R. 935(a), 35 N.J.R. 3618(b).

In (b), substituted "to determine" for "for the primary purpose of determining" following "analysis" and inserted "and to evaluate equipment reliability" following "tests".

7:31-4.6 Management of change

(a) The provisions of this section apply in addition to those in 40 CFR 68.75 with changes specified at N.J.A.C. 7:31-4.1(c)12.

(b) If any change in the covered process or procedures results in an increase in rate, duration or quantity, or release frequency, the associated release scenarios and changes in rate, duration and quantity shall be identified. The associated release scenarios shall be analyzed in accordance with the parameters and methods required at N.J.A.C. 7:31-4.2

to determine whether a criterion endpoint defined at N.J.A.C. 7:31-4.2(b)3iv extends beyond the stationary source boundary.

(c) If a release scenario due to the change results in a criterion endpoint extending beyond the stationary source boundary, the documentation and report required by N.J.A.C. 7:31-4.2(d) and (e) shall be prepared or updated for that change prior to implementing the change.

(d) Temporary changes involving EHS procedures, equipment, or safety instrumentation shall not be considered a change requiring compliance with 40 CFR 68.75 with changes specified at N.J.A.C. 7:31-4.1(c)12 and 4.6(a), (b) and (c). The management of change procedures shall contain the following requirements for implementing temporary changes:

1. Preparation of a description of the temporary change that includes:

i. The temporary change to be made;

ii. Identification of the EHS equipment, piping and instrument diagram(s), and standard operating procedure(s) affected by the temporary change; and

iii. The reason for the temporary change;

2. Authorization of the temporary change by the appropriate person specified in the management system developed pursuant to 40 CFR 68.15(c);

3. Notification of all affected personnel of the temporary change;

4. A requirement to implement appropriate safety precautions while the temporary change is in EHS service;

5. The time limit for the temporary change. If this time limit is exceeded, the owner or operator shall comply with all requirements of 40 CFR 68.75 with changes specified at N.J.A.C. 7:31-4.1(c)12 and 4.6(a), (b) and (c); and

6. A requirement to ensure that the equipment and procedures are returned to their original or designed conditions at the end of the temporary change.

Amended by R.2003 d.335, effective August 4, 2003.

See: 35 N.J.R. 935(a), 35 N.J.R. 3618(b).

In (b), substituted "and" for "or" preceding "quantity".

7:31-4.7 Safety reviews: design and pre-startup

(a) The provisions of this section apply in addition to those in 40 CFR 68.77.

(b) For each new covered process, the owner or operator shall conduct a safety review of design for new EHS equipment prior to construction and shall document that the design of the covered process follows design and operating standards as reflected in the process safety information

compiled in accordance with 40 CFR 68.65 with changes specified at N.J.A.C. 7:31-4.1(c)1 through 4.

(c) A written report shall be prepared for each safety review performed pursuant to (b) above. The safety review of design report shall include the following:

1. The date of the report and an identification of the covered process, the process safety information, and standard operating procedures reviewed;
2. An identification of the codes and standards upon which the covered process design and operations were based;
3. The names of the persons who performed the safety review; and
4. The deviations from the design and operating codes and standards that were found with an appropriate description of the resolution of each deviation finding.

(d) For each new covered process or modified covered process, the owner or operator shall conduct and document a pre-startup safety review prior to placing the covered process into EHS service.

(e) A written report shall be prepared for each pre-startup safety review performed pursuant to (d) above. The pre-startup safety review report shall include the following:

1. The date of the report and an identification of the covered process; and
2. Documentation that all the requirements of 40 CFR 68.77(b) have been completed prior to the startup of the new or modified covered process.

7:31-4.8 Emergency response

Owners and operators of Program 3 covered processes are subject to the emergency response provisions of N.J.A.C. 7:31-5.

Amended by R.2003 d.335, effective August 4, 2003.
See: 35 N.J.R. 935(a), 35 N.J.R. 3618(b).
Amended the N.J.A.C. reference.

7:31-4.9 Annual reports

(a) Each owner or operator shall submit an annual report to the Department reflecting the risk management activities for the 12 month period ending on the anniversary date within 90 days of the anniversary date. The anniversary date shall be the date of the signing of the initial consent agreement or the date of issuance of an administrative order by the Department designating the approval of the risk management program for the stationary source. The Department shall change the anniversary date upon receipt of a written request from the owner or operator provided the anniversary date has not been changed in the preceding 24 months.

(b) The annual report shall contain:

1. An update, if applicable, of the supplemental TCPA program information as specified in N.J.A.C. 7:31-7.2(a)2, if this supplemental information was not previously reported in a revised Risk Management Plan submittal. If there were no changes in the supplemental information since the last Risk Management Plan submittal, the owner or operator shall state this in the annual report;

2. A description of significant changes to the management system. If there were no changes in the management system since the last annual report, the owner or operator shall state this in the annual report;

3. A process hazard analysis with risk assessment report prepared pursuant to N.J.A.C. 7:31-4.2(e) for each process hazard analysis with risk assessment completed during the previous year. For those risk assessment reports prepared pursuant to N.J.A.C. 7:31-4.6(c), a list of the reports may be substituted instead of the reports. If no process hazard analysis with risk assessment reports were completed since the last annual report, the owner or operator shall state this in the annual report;

4. A summary of EHS accidents that occurred during the previous year. If no EHS accidents occurred since the last annual report, the owner or operator shall state this in the annual report. The summary of EHS accidents shall include:

- i. The EHS involved and amount released if these facts can be reasonably determined based on the information obtained through the investigation;

- ii. The date and time of the EHS accident and identification of the EHS equipment involved; and

- iii. The basic and contributory causes; and

5. The compliance audit report and documentation for the year ending on the anniversary date, prepared pursuant to 40 CFR 68.79(c) and (d) with changes specified at N.J.A.C. 7:31-4.1(c)14 and 23.

Amended by R.2003 d.335, effective August 4, 2003.
See: 35 N.J.R. 935(a), 35 N.J.R. 3618(b).
Rewrote (b).

7:31-4.10 Obligations upon temporary discontinuance of EHS use, storage and handling

(a) The owner or operator of a covered process who temporarily discontinues use, storage, handling and generation of an EHS in the covered process, or temporarily stores it at less than the threshold quantity, shall continue activities required of the owner or operator by this chapter until the date a consent agreement, or consent agreement addendum, that is signed by the owner or operator, is signed by the Department which requires, at a minimum:

1. Performance of a pre-startup safety review of the discontinued EHS equipment and procedures in accordance with the requirements of 40 CFR 68.77(a), (b)(1) and (2) and N.J.A.C. 7:31-4.7(e), within 60 calendar days prior to bringing the EHS back to the covered process;
2. Performance of inspections, tests and checks for proper operation of the discontinued EHS equipment, conforming to requirements of 40 CFR 68.73 with changes specified at N.J.A.C. 7:31-4.1(c)10 and 11 and 4.5, within 60 calendar days prior to bringing the EHS back to the covered process; and
3. Performance of EHS operator training activities, conforming to 40 CFR 68.71 with changes specified at N.J.A.C. 7:31-4.1(c)9 and 4.4, within 60 calendar days prior to bringing the EHS back to the covered process; and
4. Payment of the annual fee.

New Rule, R.1993 d.358, effective July 19, 1993.
 See: 25 N.J.R. 1425(b), 25 N.J.R. 3156(a).
 Amended by R.1998 d.355, effective July 20, 1998.
 See: 30 N.J.R. 908(a), 30 N.J.R. 2728(a).
 Rewrote the section.

7:31-4.11 New covered processes—construction and new EHS service

(a) Owners or operators who plan to construct a new Program 3 covered process at a stationary source for which there is no previously approved RMP shall:

1. Submit to the Department a report of safety review of design in accordance with N.J.A.C. 7:31-4.7(b) and (c) and the documentation required at N.J.A.C. 7:31-7.2 and 40 CFR 68.150 with changes specified at N.J.A.C. 7:31-7.1(c)1 and 2 at least 90 days prior to construction of the covered process;
2. Proceed with construction of the new covered process only upon receiving written approval from the Department;
3. Submit to the Department at least 90 days prior to the date the equipment is scheduled to be placed into EHS service any updates of the documentation as required by N.J.A.C. 7:31-4.11(a)1;
4. Conduct a pre-startup safety review in accordance with N.J.A.C. 7:31-4.7(d) and (e); and
5. Submit to the Department the fees required by N.J.A.C. 7:31-1.11.

(b) Owners or operators who plan to utilize existing equipment for a new Program 3 covered process at a stationary source for which there is no previously approved risk management program shall:

1. Submit a report of safety review of design in accordance with N.J.A.C. 7:31-4.7(b) and (c) and the documentation required at N.J.A.C. 7:31-7.2 and 40 CFR

68.150 with changes specified at N.J.A.C. 7:31-7.1(c)1 and 2 at least 90 days prior to placing the equipment into EHS service;

2. Conduct a pre-startup safety review in accordance with N.J.A.C. 7:31-4.7(d) and (e); and
3. Submit to the Department the fees required by N.J.A.C. 7:31-1.11.

(c) Owners or operators who plan to construct a new Program 3 covered process or utilize existing equipment for a new Program 3 covered process at a stationary source that has a previously approved risk management program shall:

1. Submit a report of safety review of design in accordance with N.J.A.C. 7:31-4.7(b) and (c) and update documentation in accordance with N.J.A.C. 7:31-7.2 and 40 CFR 68.150 with changes specified at N.J.A.C. 7:31-7.1(c)1 and 2 at least 90 days prior to the scheduled placing of the equipment into EHS service;
2. Conduct a pre-startup safety review in accordance with N.J.A.C. 7:31-4.7(d) and (e); and
3. Submit to the Department the fees required by N.J.A.C. 7:31-1.11.

(d) Prior to placing equipment into EHS service the owner or operator of a covered process shall enter into a consent agreement, or consent agreement addendum, for that equipment with the Department, subsequent to a stationary source inspection by the Department, and complete any deficiencies in the consent agreement, or consent agreement addendum, for that equipment in accordance with the schedule in the consent agreement or consent agreement addendum.

SUBCHAPTER 5. EMERGENCY RESPONSE

7:31-5.1 Incorporation by reference

(a) This subchapter incorporates by reference 40 CFR 68 Subpart E, including all future amendments and supplements, except as provided in (b) and (c) below.

(b) (Reserved)

(c) The following provisions of 40 CFR 68 Subpart E are incorporated by reference with the specified changes:

1. 40 CFR 68.90(b), after "The owner or operator of a stationary source" add, "of a Program 2 covered process", and after "§ 68.95" add "(a)(1)(ii) and (iii), (2), (3), and (4), (b) and (c)."

2. 40 CFR 68.90(b)(3), at the end, add "The owner or operator shall obtain documentation from the local fire department or other outside emergency responder agencies, as applicable, that they will be responsible for re-

sponding to accidental releases at the owner or operator's stationary source."

3. 40 CFR 68.95(b), delete the words "complies with other Federal contingency plan regulations or"; and

4. 40 CFR 68.95(b), after the words "is consistent with" add the words "and as stringent as."

7:31-5.2 Emergency response program

(a) The provisions of this section apply in addition to those of 40 CFR 68.95 with changes specified at N.J.A.C. 7:31-5.1(c)3 and 4.

(b) Each owner or operator shall develop and implement a written emergency response (ER) program which shall include:

1. Initial and annual refresher emergency response training for all employees in relevant procedures to implement the emergency response plan;

2. Performance of at least one EHS ER exercise per calendar year in accordance with the following requirements:

i. Owners or operators of stationary sources for Program 2 covered processes whose employees will not respond to an EHS accident in accordance with 40 CFR 68.90(b) with changes specified at N.J.A.C. 7:31-5.1(c)2 shall invite at least one outside responder agency designated in the ER plan to participate in the ER exercise. Employees of the stationary source shall perform their assigned responsibilities for all ER exercises; and

ii. All other owners or operators shall perform at least one full scale ER exercise in which the ER team and ER containment, mitigation, and monitoring equipment are deployed at a strength appropriate to demonstrate the adequacy and implementation of the plan; and

3. A written assessment of the ER plan and of the adequacy or need for ER equipment after each ER plan implementation or each ER exercise;

4. A description of the emergency notification system at the stationary source which shall include the following requirements for reporting EHS accidents:

i. Immediate notification to the Department's emergency communications center at 1-877 WARN DEP (1-877-927-6337) by the emergency coordinator or designee of an EHS accident or imminent EHS accident at the stationary source. The notification shall include the following information:

(1) The company name and address of the EHS accident;

(2) The name, position, and telephone number of caller;

(3) The time of, or anticipated time, of the EHS accident and the projected duration;

(4) The chemical name of the EHS released;

(5) The actual EHS quantity or, if not known, the estimated EHS quantity and whether it will have an offsite impact; and

(6) Weather conditions, including wind direction and speed and expected offsite effects, if any;

ii. The emergency coordinator or designee for the stationary source shall be prepared to provide the Department's emergency communications center updates, if requested, which shall include the following information:

(1) The name and address of stationary source of the EHS accident;

(2) The name, position and telephone number of caller;

(3) The location of the point of EHS release, a description of the source, cause and type of EHS accident, quantity and concentration of the EHS released, and whether the EHS release is of a continuing nature;

(4) The measures taken to terminate the EHS release or to mitigate its effect, and the effectiveness of such measures; and

(5) An update on weather conditions; and

iii. The following EHS accidental releases shall be exempt from the notification provisions of (b)4 above provided the EHS accident is recorded in accordance with the procedures established for EHS accident investigation at 40 CFR 68.60 with changes specified at N.J.A.C. 7:31-3.1(c)7 and 8 for Program 2 covered processes or 40 CFR 68.81 with changes specified at N.J.A.C. 7:31-4.1(c)15 through 21 for Program 3 covered processes. This exemption does not affect any other State or Federal reporting requirements.

(1) An EHS release that has no potential offsite impact or that has no potential impact beyond the property boundary of the industrial complex;

(2) An EHS release that results in no actual or potential injuries or fatalities at the stationary source; and

(3) An EHS release that does not activate the emergency response plan.

Amended by R.2003 d.335, effective August 4, 2003.

See: 35 N.J.R. 935(a), 35 N.J.R. 3618(b).

In (b), rewrote the introductory paragraph, substituted "Initial" for "A schedule for initial" in 1, substituted "Performance of" for "A schedule to perform" in 2, amended the phone number in 4i, substituted "following EHS accidental releases" for "EHS accidental releases in(b)4iii(1) through iii below" in 4iii and rewrote 4iii(1).

<u>Categories of Offense</u>	<u>Cite</u>	<u>First Offense</u>	<u>Second Offense</u>	<u>Subsequent Offenses</u>	<u>Type of Violation</u>	<u>Grace Period (days)</u>
169. Failure to include in the triennial report a summary of any EHS accidents that occurred during the previous three years that including the basic and contributory causes.	N.J.A.C. 7:31-3.3(b)4iii	500	1,000	2,500	M	30
170. Failure to include in the triennial report a summary of any EHS accidents that occurred during the previous three years that including a statement that there were no EHS accidents if no EHS accidents occurred since the last triennial report.	N.J.A.C. 7:31-3.3(b)4iv	500	1,000	2,500	M	30
171. Failure to include in the triennial report the compliance audit report and documentation for the previous three years ending on the anniversary date prepared pursuant to 40 CFR 68.58(c) and (d) as incorporated with changes at N.J.A.C. 7:31-3.1(c)6 and 10.	N.J.A.C. 7:31-3.3(b)5	500	1,000	2,500	M	30
172. Failure to submit the documentation required at N.J.A.C. 7:31-7.2 and 40 CFR 68.150 with changes specified at N.J.A.C. 7:31-7.1(c) at least 90 days prior to construction of a new Program 2 covered process at a stationary source for which there is no previously approved risk management program.	N.J.A.C. 7:31-3.4(a)(1)	2,000	4,000	10,000	M	30
173. Failure to receive written approval from the Department before proceeding with construction of a new Program 2 covered process at a stationary source for which there is no previously approved risk management program.	N.J.A.C. 7:31-3.4(a)(2)	6,000	12,000	30,000	NM	
174. Failure to submit to the Department, at least 90 days prior to the date the equipment was scheduled to be placed into EHS service, updates of the documentation as required by N.J.A.C. 7:31-3.4(a) 1 on a new Program 2 covered process at a stationary source for which there is no previously approved risk management program.	N.J.A.C. 7:31-3.4(a)(3)	2,000	4,000	10,000	M	30
175. Failure to submit to the Department the fees required by N.J.A.C. 7:31-1.11A for a new Program 2 covered process at a stationary source for which there is no previously approved risk management program.	N.J.A.C. 7:31-3.4(a)(4)	one-third of fee	one-third of fee + 1000	one-third of fee + 2000	M	30
176. Failure to submit the documentation required by N.J.A.C. 7:31-7.2 and 40 CFR 68.150 with changes specified at N.J.A.C. 7:31-7.1(c) at least 90 days prior to placing existing equipment for a new Program 2 covered process into EHS service at a stationary source for which there is no previously approved risk management program.	N.J.A.C. 7:31-3.4(b)(1)	2,000	4,000	10,000	M	30
177. Failure to submit to the Department the fees required by N.J.A.C. 7:31-1.11A for a new Program 2 covered process at a stationary source for which there is no previously approved risk management program.	N.J.A.C. 7:31-3.4(b)(2)	one-third of fee	one-third of fee + 1000	one-third of fee + 2000	M	30
178. Failure to update documentation in accordance with N.J.A.C. 7:31-7.2 and 40 CFR 68.150 with changes specified at N.J.A.C. 7:31-7.1(c) at least 90 days prior to the scheduled placing of existing equipment for a new Program 2 covered process into EHS service at a stationary source that has a previously approved risk management program.	N.J.A.C. 7:31-3.4(c)(1)	2,000	4,000	10,000	M	30
179. Failure to submit to the Department the fees required by N.J.A.C. 7:31-1.11A for a new Program 2 covered process at a stationary source that has a previously approved risk management program.	N.J.A.C. 7:31-3.4(c)(2)	one-third of fee	one-third of fee + 1000	One-third of fee + 2000	M	30
180. Failure to enter into a consent agreement or consent agreement addendum with the Department prior to placing equipment into EHS service for a new covered process and subsequent to a stationary source inspection by the Department. or	N.J.A.C. 7:31-3.4(d)	5,000	10,000	25,000	NM	

<u>Categories of Offense</u>	<u>Cite</u>	<u>First Offense</u>	<u>Second Offense</u>	<u>Subsequent Offenses</u>	<u>Type of Violation</u>	<u>Grace Period (days)</u>
Failure to complete items of the consent agreement, or consent agreement addendum, for equipment in a new covered process in accordance with the schedule in the consent agreement or consent agreement addendum.						
181. Failure to prepare a hazard review report which includes identification of the covered process.	N.J.A.C. 7:31-3.5(a)1	500	1,000	2,500	NM	
182. Failure to prepare a hazard review report which includes the date the hazard review was performed.	N.J.A.C. 7:31-3.5(a)2	500	1,000	2,500	NM	
183. Failure to prepare a hazard review report which includes the date of the completed hazard review report.	N.J.A.C. 7:31-3.5(a)3	500	1,000	2,500	NM	
184. Failure to prepare a hazard review report which includes the names, positions, and affiliation of the hazard review participants.	N.J.A.C. 7:31-3.5(a)4	500	1,000	2,500	NM	
185. Failure to prepare a hazard review report which includes documentation of the hazards associated with the process and regulated substances.	N.J.A.C. 7:31-3.5(a)5	500	1,000	2,500	NM	
186. Failure to prepare a hazard review report which includes documentation of the opportunities for equipment malfunctions or human errors that could cause an accidental release.	N.J.A.C. 7:31-3.5(a)6	500	1,000	2,500	NM	
187. Failure to prepare a hazard review report which includes documentation of the safeguards used or needed to control the hazards or prevent equipment malfunction or human error.	N.J.A.C. 7:31-3.5(a)7	500	1,000	2,500	NM	
188. Failure to prepare a hazard review report which includes documentation of any steps used or needed to detect or monitor releases.	N.J.A.C. 7:31-3.5(a)8	500	1,000	2,500	NM	
189. Failure to prepare a hazard review report which includes documentation on the implementation of recommended corrective actions including a schedule for such implementations and the resolution and status for completing the corrective actions.	N.J.A.C. 7:31-3.5(a)9	500	1,000	2,500	NM	
190. Failure to retain all hazard review reports and documentation for the life of the covered process.	N.J.A.C. 7:31-3.5(b)	2,000	4,000	10,000	NM	
191. Failure to complete a compilation of written process safety information before conducting any required process hazard analysis in accordance with the schedule set forth in 40 CFR 68.67 as incorporated at N.J.A.C. 7:31-4.1(c)6.	40 CFR 68.65(a), N.J.A.C. 7:31-4.1(a)	2,000	4,000	10,000	NM	
192. Failure to include toxicity information in the process safety information pertaining to the hazards of the regulated substances in a process.	40 CFR 68.65(b)(1), N.J.A.C. 7:31-4.1(a)	500	1,000	2,500	NM	
193. Failure to include permissible exposure limits in the process safety information pertaining to the hazards of the regulated substances in a process.	40 CFR 68.65(b)(2), N.J.A.C. 7:31-4.1(a)	500	1,000	2,500	NM	
194. Failure to include physical data in the process safety information pertaining to the hazards of the regulated substances in a process.	40 CFR 68.65(b)(3), N.J.A.C. 7:31-4.1(a)	500	1,000	2,500	NM	
195. Failure to provide in the process safety information reactivity data including the flash point up to 200 degrees Fahrenheit (and method used), flammable limits (lower explosive limit and upper explosive limit), extinguishing media, special fire fighting procedures, or unusual fire and explosion hazards.	40 CFR 68.65(b)(4), N.J.A.C. 7:31-4.1(c)24i	500	1,000	2,500	NM	

<u>Categories of Offense</u>	<u>Cite</u>	<u>First Offense</u>	<u>Second Offense</u>	<u>Subsequent Offenses</u>	<u>Type of Violation</u>	<u>Grace Period (days)</u>
196. Failure to provide in the process safety information reactivity data including the following thermodynamic and reaction kinetic data: heat of reaction, temperature at which instability (uncontrolled reaction, decomposition, and/or polymerization) initiates, and energy release rate data.	40 CFR 68.65(b)(4), N.J.A.C. 7:31-4.1(c)24ii	500	1,000	2,500	NM	
197. Failure to provide in the process safety information reactivity data including the incidental formation of byproducts that are reactive and unstable.	40 CFR 68.65(b)(4), N.J.A.C. 7:31-4.1(c)24iii	500	1,000	2,500	NM	
198. Failure to include corrosivity data in the process safety information pertaining to the hazards of the regulated substances in the process.	40 CFR 68.65(b)(5), N.J.A.C. 7:31-4.1(a)	500	1,000	2,500	NM	
199. Failure to provide in the process safety information thermal and chemical stability data including stability (unstable or stable), conditions to avoid (for instability), incompatibility (materials to avoid), hazardous decomposition (products or byproducts), hazardous polymerization (may occur or will not occur), and conditions to avoid (for polymerization).	40 CFR 68.65(b)(6), N.J.A.C. 7:31-4.1(c)25	500	1,000	2,500	NM	
200. Failure to provide in the process safety information hazardous effects of inadvertent mixing of different materials that could foreseeably occur including the explosive/flammable effects and information showing the identity of potential toxic or flammable EHSs capable of being generated for individual RHSs listed at N.J.A.C. 7:31-6.3(a) Table I, Part D, Group I due to inadvertent mixing with incompatible substances, decomposition, and self-reaction.	40 CFR 68.65(b)(7), N.J.A.C. 7:31-4.1(c)26	500	1,000	2,500	NM	
201. Failure to include a block flow diagram or process flow diagram in the process safety information pertaining to the technology of the process.	40 CFR 68.65(c)(1)(i), N.J.A.C. 7:31-4.1(c)(1)	500	1,000	2,500	NM	
202. Failure to include process chemistry in the process safety information pertaining to the technology of the process.	40 CFR 68.65(c)(1)(ii), N.J.A.C. 7:31-4.1(a)	500	1,000	2,500	NM	
203. Failure to include maximum intended inventory in the process safety information pertaining to the technology of the process.	40 CFR 68.65(c)(1)(iii), N.J.A.C. 7:31-4.1(a)	500	1,000	2,500	NM	
204. Failure to include safe upper and lower limits for such items as temperatures, pressures, flows or compositions in the process safety information pertaining to the technology of the process.	40 CFR 68.65(c)(1)(iv), N.J.A.C. 7:31-4.1(a)	500	1,000	2,500	NM	
205. Failure to include an evaluation of the consequences of deviations in the process safety information pertaining to the technology of the process.	40 CFR 68.65(c)(1)(v), N.J.A.C. 7:31-4.1(a)	500	1,000	2,500	NM	
206. Failure to develop technical information in conjunction with the process hazard analysis in sufficient detail to support the analysis when the original technical information no longer exists.	40 CFR 68.65(c)(2), N.J.A.C. 7:31-4.1(a)	500	1,000	2,500	NM	
207. Failure to include equipment specifications including materials of construction in the process safety information pertaining to the equipment in the process.	40 CFR 68.65(d)(1)(i), N.J.A.C. 7:31-4.1(c)2	500	1,000	2,500	NM	
208. Failure to include piping and instrument diagrams (P&ID's) in the process safety information pertaining to the equipment in the process.	40 CFR 68.65(d)(1)(ii), N.J.A.C. 7:31-4.1(a)	500	1,000	2,500	NM	
209. Failure to include electrical classification in the process safety information pertaining to the equipment in the process.	40 CFR 68.65(d)(1)(iii), N.J.A.C. 7:31-4.1(a)	500	1,000	2,500	NM	
210. Failure to include relief system design and design basis in the process safety information pertaining to the equipment in the process.	40 CFR 68.65(d)(1)(iv), N.J.A.C. 7:31-4.1(a)	500	1,000	2,500	NM	

<u>Categories of Offense</u>	<u>Cite</u>	<u>First Offense</u>	<u>Second Offense</u>	<u>Subsequent Offenses</u>	<u>Type of Violation</u>	<u>Grace Period (days)</u>
211. Failure to include ventilation system design in the process safety information pertaining to the equipment in the process.	40 CFR 68.65(d)(1)(v), N.J.A.C. 7:31-4.1(a)	500	1,000	2,500	NM	
212. Failure to include design codes and standards employed in the process safety information pertaining to the equipment in the process.	40 CFR 68.65(d)(1)(vi), N.J.A.C. 7:31-4.1(a)	500	1,000	2,500	NM	
213. Failure to include material and energy balances for processes built after June 21, 1999 in the process safety information pertaining to the equipment in the process.	40 CFR 68.65(d)(1)(vii), N.J.A.C. 7:31-4.1(a)	500	1,000	2,500	NM	
214. Failure to include safety systems (for example, interlocks, detection or suppression systems) in the process safety information pertaining to the equipment in the process.	40 CFR 68.65(d)(1)(viii), N.J.A.C. 7:31-4.1(a)	500	1,000	2,500	NM	
215. Failure to include electrical one-line diagrams relevant to the covered process and its potential releases in the process safety information pertaining to the equipment in the process.	40 CFR 68.65(d)(1), N.J.A.C. 7:31-4.1(c)3i	500	1,000	2,500	NM	
216. Failure to include a site plan in the process safety information pertaining to the equipment in the process.	40 CFR 68.65(d)(1), N.J.A.C. 7:31-4.1(c)3ii	500	1,000	2,500	NM	
217. Failure to include firewater system piping diagrams relevant to the covered process and its potential releases in the process safety information pertaining to the equipment in the process.	40 CFR 68.65(d)(1), N.J.A.C. 7:31-4.1(c)3iii	500	1,000	2,500	NM	
218. Failure to include sewer system piping diagrams relevant to the covered process and its potential releases in the process safety information pertaining to the equipment in the process.	40 CFR 68.65(d)(1), N.J.A.C. 7:31-4.1(c)3iv	500	1,000	2,500	NM	
219. Failure to include external forces and events data in the process safety information pertaining to the equipment in the process.	40 CFR 68.65(d)(1), N.J.A.C. 7:31-4.1(c)3v	500	1,000	2,500	NM	
220. Failure to document that the equipment complies with recognized and generally accepted good engineering and operating practices.	40 CFR 68.65(d)(2), N.J.A.C. 7:31-4.1(c)4	500	1,000	2,500	NM	
221. Failure to determine and document that existing equipment designed and constructed in accordance with codes, standards, or practices that are no longer in general use, is designed, maintained, inspected, tested, and operating in a safe manner.	40 CFR 68.65(d)(3), N.J.A.C. 7:31-4.1(a)	500	1,000	2,500	NM	
222. Failure to perform an initial process hazard analysis (PHA) with risk assessment (hazard evaluation) on processes covered by 40 CFR 68 Subpart D as incorporated at N.J.A.C. 7:31-4.1. or Failure to perform a PHA with risk assessment appropriate to the complexity of the process and to identify, evaluate, and control the hazards involved in the process. or Failure to determine and document the priority order for conducting PHA's with risk assessments based on a rationale which includes such considerations as extent of the process hazards, number of potentially affected employees and offsite public, age of the process, and operating history of the process.	40 CFR 68.67(a), N.J.A.C. 7:31-4.1(c)6	5,000	10,000	25,000	NM	
223. Failure to use one or more of the methodologies listed at 40 CFR 68.67b(1)-(7) incorporated at N.J.A.C. 7:31-4.1(a) to determine and evaluate the hazards of the process being analyzed.	40 CFR 68.67(b)(1) through (7), N.J.A.C. 7:31-4.1(a)	2,000	4,000	10,000	NM	
224. Failure to address the hazards of the process in the process hazard analysis.	40 CFR 68.67(c)(1), N.J.A.C. 7:31-4.1(a)	2,000	4,000	10,000	NM	

<u>Categories of Offense</u>	<u>Cite</u>	<u>First Offense</u>	<u>Second Offense</u>	<u>Subsequent Offenses</u>	<u>Type of Violation</u>	<u>Grace Period (days)</u>
225. Failure to address the identification of any previous incident which had a likely potential for catastrophic consequences in the process hazard analysis.	40 CFR 68.67(c)(2), N.J.A.C. 7:31-4.1(a)	1,000	2,000	5,000	NM	
226. Failure to address in the process hazard analysis the engineering and administrative controls applicable to the hazards and their interrelationships such as appropriate application of detection methodologies to provide early warning of releases.	40 CFR 68.67(c)(3), N.J.A.C. 7:31-4.1(a)	1,000	2,000	5,000	NM	
227. Failure to address consequences of failure of engineering and administrative controls in the process hazard analysis.	40 CFR 68.67(c)(4), N.J.A.C. 7:31-4.1(a)	1,000	2,000	5,000	NM	
228. Failure to address stationary source siting in the process hazard analysis.	40 CFR 68.67(c)(5), N.J.A.C. 7:31-4.1(a)	1,000	2,000	5,000	NM	
229. Failure to address human factors in the process hazard analysis.	40 CFR 68.67(c)(6), N.J.A.C. 7:31-4.1(a)	1,000	2,000	5,000	NM	
230. Failure to address in the process hazard analysis a qualitative evaluation of a range of the possible safety and health effects of failure of controls.	40 CFR 68.67(c)(7), N.J.A.C. 7:31-4.1(a)	1,000	2,000	5,000	NM	
231. Failure to perform the process hazard analysis using a team with expertise in engineering and process operations which includes at least one employee who has experience and knowledge specific to the process being evaluated. or Failure to perform the process hazard analysis using a team with at least one member who is knowledgeable in the specific process hazard analysis methodology being used.	40 CFR 68.67(d), N.J.A.C. 7:31-4.1(a)	1,000	2,000	5,000	NM	
232. Failure to establish a system to promptly address the process hazard analysis team's findings and recommendations. or Failure to assure that the process hazard analysis team's recommendations are resolved in a timely manner or that the resolution is documented. or Failure to document what actions are to be taken to resolve the process hazard analysis recommendations. or Failure to complete actions required by the process hazard analysis recommendations as soon as possible. or Failure to develop a written schedule of when actions recommended in the process hazard analysis are to be completed. or Failure to communicate the actions recommended in the process hazard analysis to operating, maintenance and other employees whose work assignments are in the process and who may be affected by the recommendations or actions.	40 CFR 68.67(e), N.J.A.C. 7:31-4.1(a)	2,000	4,000	10,000	NM	
233. Failure to update and revalidate the process hazard analysis (with risk assessment) at least every five years after the completion of the initial process hazard analysis (with risk assessment) using a team meeting the requirements in 40 CFR 68.67(d) as incorporated at N.J.A.C. 7:31-4.1(c)7 to assure that the process hazard analysis with risk assessment is consistent with the current process.	40 CFR 68.67(f), N.J.A.C. 7:31-4.1(c)7	4,000	8,000	20,000	NM	

<u>Categories of Offense</u>	<u>Cite</u>	<u>First Offense</u>	<u>Second Offense</u>	<u>Subsequent Offenses</u>	<u>Type of Violation</u>	<u>Grace Period (days)</u>
234. Failure to retain process hazards analyses and updates or revalidations for each covered process, as well as the documented resolution of recommendations described in 40 CFR 68.67(e) as incorporated at N.J.A.C. 7:31-4.1(a) for the life of the process.	40 CFR 68.67(g), N.J.A.C. 7:31-4.1(a)	2,000	4,000	10,000	NM	
235. Failure to perform a process hazard analysis with risk assessment.	N.J.A.C. 7:31-4.2(b)	5,000	10,000	25,000	NM	
236. Failure to perform a process hazard analysis with risk assessment which includes the following: (1) identification of EHS equipment subject to the assessment, (2) the points of possible EHS release, (3) the corresponding approximate quantity of an instantaneous EHS release or the rate(s) and duration of a continuing EHS release, either steady or non-steady state, or (4) the corresponding cause of the EHS release. or Failure to base estimates of the quantity or rate and duration of a release on actual release mechanisms that reflect the operating procedures, safeguards, and mitigation equipment and procedures planned for new or modified covered processes or in place for existing covered processes.	N.J.A.C. 7:31-4.2(b)1	5,000	10,000	25,000	NM	
237. Failure to include in the process hazard analysis with risk assessment consideration of toxicity, flammability and reactivity for EHSs which appear in N.J.A.C. 7:31-6.3(a), Table I, Parts A and/or B as a toxic substance, Part C as a flammable substance and Part D as a Reactive Hazard Substance. or Failure to consider in the process hazard analysis with risk assessment both the explosive/flammability hazard and the capability to generate a toxic EHS, as applicable to the RHS or RHS Mixture and process in which it is handled, for RHSs or RHS Mixtures identified and listed at N.J.A.C. 7:31-6.3(a) Table I, Part D, Groups I and II.	N.J.A.C. 7:31-4.2(b)2	5,000	10,000	25,000	NM	
238. Failure to identify all scenarios of toxic, flammable, and reactive hazards that have a potential offsite impact for the endpoint criteria defined at N.J.A.C. 7:31-4.2(b)3iii and iv using a consequence analysis consisting of dispersion analysis, thermal analysis or overpressure analysis.	N.J.A.C. 7:31-4.2(b)3	2,000	4,000	10,000	NM	
239. Failure to use the parameters of 1.5 meters per second wind speed and F atmospheric stability class for the consequence analysis of a process in the process hazard analysis with risk assessment.	N.J.A.C. 7:31-4.2(b)3i	2,000	4,000	10,000	NM	
240. Failure to use all parameters listed for alternative scenarios at 40 CFR 68.22(c) through (g) for the consequence analysis of a process in the process hazard analysis with risk assessment.	N.J.A.C. 7:31-4.2(b)3ii	2,000	4,000	10,000	NM	
241. Failure to use the appropriate parameters for the consequence analysis in the process hazard analysis with risk assessment for the scenario being analyzed: the endpoint criteria of 10 times the toxicity endpoint as designated at N.J.A.C. 7:31-2.1(c)2 or the value of five times the Acute Toxicity Concentration (ATC); 1750 thermal dose units (equivalent to 17 kW/m ² for 40 seconds); five psi overpressure; or the lower flammability limit.	N.J.A.C. 7:31-4.2(b)3iii	2,000	4,000	10,000	NM	

<u>Categories of Offense</u>	<u>Cite</u>	<u>First Offense</u>	<u>Second Offense</u>	<u>Subsequent Offenses</u>	<u>Type of Violation</u>	<u>Grace Period (days)</u>
242. Failure to use the appropriate parameters for the consequence analysis of the process hazard analysis with risk assessment for the scenario being analyzed: the endpoint criteria of five (5) times the toxicity endpoint as designated at N.J.A.C. 7:31-2.1(c)2 or the value of the ATC; 1200 thermal dose units (equivalent to 15 kW/m ² for 40 seconds); or 2.3 psi overpressure.	N.J.A.C. 7:31-4.2(b)3iv	2,000	4,000	10,000	NM	
243. Failure to perform an evaluation of state-of-the-art, including alternative processes, procedures or equipment, which would reduce the likelihood or consequences of an EHS release, for each release scenario that has an offsite impact of the endpoint criteria specified at N.J.A.C. 7:31-4.2(b)3iii.	N.J.A.C. 7:31-4.2(c)1	2,000	4,000	10,000	NM	
244. Failure to perform an evaluation of state-of-the-art, including alternative processes, procedures or equipment which would reduce the likelihood or consequences of an EHS release for each release scenario that has an offsite impact of the endpoint criteria specified at N.J.A.C. 7:31-4.2(b)3iv or Failure to determine whether the likelihood of release occurrence is greater than or equal to 10 ⁻⁴ per year.	N.J.A.C. 7:31-4.2(c)2	2,000	4,000	10,000	NM	
245. Failure to develop a risk reduction plan for release scenarios requiring a state-of-the-art evaluation.	N.J.A.C. 7:31-4.2(c)3	2,000	4,000	10,000	NM	
246. Failure to maintain documentation from the process hazard analysis with risk assessment including a table(s) setting forth the process hazard analysis results giving the release point and corresponding release scenario of the potential basic (initiating) and intermediate event sequences, the corresponding estimated quantity or rate and duration of releases, and the recommended resolution action based upon 40 CFR 68.67(e).	N.J.A.C. 7:31-4.2(d)1	2,000	4,000	10,000	NM	
247. Failure to maintain documentation from the process hazard analysis with risk assessment including table(s) summarizing each potential offsite release scenario identified including the scenario identification number and brief description.	N.J.A.C. 7:31-4.2(d)2i	2,000	4,000	10,000	NM	
248. Failure to maintain documentation from the process hazard analysis with risk assessment including table(s) summarizing each potential offsite release scenario identified including the rate and duration, or quantity, of potential release.	N.J.A.C. 7:31-4.2(d)2ii	2,000	4,000	10,000	NM	
249. Failure to maintain documentation from the process hazard analysis with risk assessment including table(s) summarizing each potential offsite release scenario identified including the distance to the endpoint determined in N.J.A.C. 7:31-4.2(b)3iii and (b)3iv and the respective distance to the nearest property line.	N.J.A.C. 7:31-4.2(d)2iii	2,000	4,000	10,000	NM	
250. Failure to maintain documentation from the process hazard analysis with risk assessment including table(s) summarizing each potential offsite release scenario identified including the release likelihood determined pursuant to N.J.A.C. 7:31-4.2(c).	N.J.A.C. 7:31-4.2(d)2iv	2,000	4,000	10,000	NM	
251. Failure to maintain documentation from the process hazard analysis with risk assessment containing dispersion modeling information that identifies the dispersion model used.	N.J.A.C. 7:31-4.2(d)3i	2,000	4,000	10,000	NM	

<u>Categories of Offense</u>	<u>Cite</u>	<u>First Offense</u>	<u>Second Offense</u>	<u>Subsequent Offenses</u>	<u>Type of Violation</u>	<u>Grace Period (days)</u>
252. Failure to maintain documentation from the process hazard analysis with risk assessment containing dispersion modeling information that includes printouts of the dispersion model inputs and outputs for a dispersion model other than the lookup tables provided in the EPA's RMP Offsite Consequence Analysis Guidance current as of the time the modeling was performed.	N.J.A.C. 7:31-4.2(d)3ii	2,000	4,000	10,000	NM	
253. Failure to maintain documentation from the process hazard analysis with risk assessment including an explanation as to why any risk reduction measures identified in N.J.A.C. 7:31-4.2(c) and (d)1 have not been included in the risk reduction plan.	N.J.A.C. 7:31-4.2(d)4	2,000	4,000	10,000	NM	
254. Failure to maintain documentation from the process hazard analysis with risk assessment including the resolution of the risk reduction measures in the risk reduction plan.	N.J.A.C. 7:31-4.2(d)5	2,000	4,000	10,000	NM	
255. Failure to prepare a report of the process hazard analysis with risk assessment that includes an identification of the covered process that is the subject of the process hazard analysis with risk assessment; the name, position and affiliation of persons who performed the process hazard analysis with risk assessment; the date of completion; or the methodology used.	N.J.A.C. 7:31-4.2(e)1	2,000	4,000	10,000	NM	
256. Failure to prepare a report of the process hazard analysis with risk assessment that includes a description of each scenario identified in N.J.A.C. 7:31-4.2(b)3iii and iv.	N.J.A.C. 7:31-4.2(e)2	2,000	4,000	10,000	NM	
257. Failure to prepare a report of the process hazard analysis with risk assessment that includes the risk reduction plan developed pursuant to N.J.A.C. 7:31-4.2(c)3 and (d)1.	N.J.A.C. 7:31-4.2(e)3	2,000	4,000	10,000	NM	
258. Failure to use either the property boundary of the industrial complex or the property boundary for the individual stationary source for the purpose of identifying release scenarios with offsite impact at a stationary source that is part of an industrial complex as defined at N.J.A.C. 7:31-1.5.	N.J.A.C. 7:31-4.2(f)	500	1,000	2,500	NM	
259. Failure to evaluate inherently safer technology for newly designed and constructed covered processes in addition to performing the state-of-the-art evaluation pursuant to N.J.A.C. 7:31-4.2(c)1, 2i, and 2ii. or Failure to document recommendations from the inherently safer technology evaluation in accordance with N.J.A.C. 7:31-4.2(c), (d), and (e) for a new covered process.	N.J.A.C. 7:31-4.2(g)	2,000	4,000	10,000	NM	
260. Failure to develop and implement written operating procedures consistent with the process safety information that provide clear instructions for safely conducting activities involved in the covered process. or Failure to write the operating procedures in a manner and language that the EHS operators of a process are capable of understanding.	40 CFR 68.69(a), N.J.A.C. 7:31-4.1(c)8	4,000	8,000	20,000	NM	
261. Failure to address in the written operating procedures steps for each operating phase including initial startup.	40 CFR 68.69(a)(1)i N.J.A.C. 7:31-4.1(a)	1,000	2,000	5,000	NM	
262. Failure to address in the written operating procedures steps for each operating phase including normal operations.	40 CFR 68.69(a)(1)(ii), N.J.A.C. 7:31-4.1(a)	1,000	2,000	5,000	NM	

<u>Categories of Offense</u>	<u>Cite</u>	<u>First Offense</u>	<u>Second Offense</u>	<u>Subsequent Offenses</u>	<u>Type of Violation</u>	<u>Grace Period (days)</u>
263. Failure to address in the operating written procedures steps for each operating phase including temporary operations.	40 CFR 68.69(a)(1)(iii), N.J.A.C. 7:31-4.1(a)	1,000	2,000	5,000	NM	
264. Failure to address in the written operating procedures steps for emergency shutdown including the conditions under which emergency shutdown is required, and the assignment of shutdown responsibility to qualified operators to ensure that emergency shutdown is executed in a safe and timely manner.	40 CFR 68.69(a)(1)(iv), N.J.A.C. 7:31-4.1(a)	1,000	2,000	5,000	NM	
265. Failure to address in the written operating procedures steps for each operating phase including emergency operations.	40 CFR 68.69(a)(1)(v); N.J.A.C. 7:31-4.1(a)	1,000	2,000	5,000	NM	
266. Failure to address in the written operating procedures steps for each operating phase including normal shutdown.	40 CFR 68.69(a)(1)(vi), N.J.A.C. 7:31-4.1(a)	1,000	2,000	5,000	NM	
267. Failure to address in the written operating procedures steps for each operating phase including startup following a turnaround, or after an emergency shutdown.	40 CFR 68.69(a)(1)(vii), N.J.A.C. 7:31-4.1(a)	1,000	2,000	5,000	NM	
268. Failure to address in the written operating procedures operating limits including consequences of deviation.	40 CFR 68.69(a)(2)(i), N.J.A.C. 7:31-4.1(a)	1,000	2,000	5,000	NM	
269. Failure to address in the written operating procedures operating limits including steps required to correct or avoid deviation.	40 CFR 68.69(a)(2)(ii), N.J.A.C. 7:31-4.1(a)	1,000	2,000	5,000	NM	
270. Failure to address in the written operating procedures safety and health considerations including properties of, and hazards presented by, the chemicals used in the process.	40 CFR 68.69(a)(3)(i), N.J.A.C. 7:31-4.1(a)	1,000	2,000	5,000	NM	
271. Failure to address in the written operating procedures safety and health considerations containing precautions necessary to prevent exposure, including engineering controls, administrative controls, and personal protective equipment.	40 CFR 68.69(a)(3)(ii), N.J.A.C. 7:31-4.1(a)	1,000	2,000	5,000	NM	
272. Failure to address in the written operating procedures safety and health considerations including control measures to be taken if physical contact or airborne exposure occurs.	40 CFR 68.69(a)(3)(iii), N.J.A.C. 7:31-4.1(a)	1,000	2,000	5,000	NM	
273. Failure to address in the operating written procedures safety and health considerations including quality control for raw materials and control of hazardous chemical inventory levels.	40 CFR 68.69(a)(3)(iv), N.J.A.C. 7:31-4.1(a)	1,000	2,000	5,000	NM	
274. Failure to address in the written operating procedures safety and health considerations including any special or unique hazards.	40 CFR 68.69(a)(3)(v), N.J.A.C. 7:31-4.1(a)	1,000	2,000	5,000	NM	
275. Failure to address in the written operating procedures safety systems and their functions.	40 CFR 68.69(a)(4), N.J.A.C. 7:31-4.1(a)	1,000	2,000	5,000	NM	
276. Failure to make operating procedures readily accessible to employees who work in or maintain the process.	40 CFR 68.69(b), N.J.A.C. 7:31-4.1(a)	1,000	2,000	5,000	NM	
277. Failure to review the operating procedures as often as necessary to assure that they reflect current operating practice, including changes that result from changes in process chemicals, technology, and equipment, and changes to the stationary source.	40 CFR 68.69(c), N.J.A.C. 7:31-4.1(a)	1,000	2,000	5,000	NM	
278. Failure to certify annually that the operating procedures are current and accurate.	40 CFR 68.69(c), N.J.A.C. 7:31-4.1(a)	2,000	4,000	10,000	NM	

<u>Categories of Offense</u>	<u>Cite</u>	<u>First Offense</u>	<u>Second Offense</u>	<u>Subsequent Offenses</u>	<u>Type of Violation</u>	<u>Grace Period (days)</u>
279. Failure to develop and implement safe work practices that apply to employees and contractor employees that provide for the control of hazards during operations such as lockout/tagout; confined space entry; opening process equipment or piping; or control over entrance into the stationary source by maintenance, contractor, laboratory, or other support personnel.	40 CFR 68.69(d), N.J.A.C. 7:31-4.1(a)	2,000	4,000	10,000	NM	
280. Failure to include in the standard operating procedures a process description defining the operation and showing flows, temperatures and pressures, or a reference to a document with this information.	N.J.A.C. 7:31-4.3(b)1	500	1,000	2,500	NM	
281. Failure to include in the standard operating procedures sampling procedures addressing apparatus and specific steps involved in the taking of samples.	N.J.A.C. 7:31-4.3(b)2	500	1,000	2,500	NM	
282. Failure to include in the standard operating procedures logsheets and checklists where appropriate to the operation.	N.J.A.C. 7:31-4.3(b)3	500	1,000	2,500	NM	
283. Failure to include in the standard operating procedures a statement as to the number of EHS operators required to meet safety needs for each operation that has shift coverage requirements.	N.J.A.C. 7:31-4.3(b)4	500	1,000	2,500	NM	
284. Failure to include in the standard operating procedures a requirement that an EHS operator be in attendance at the stationary source to acknowledge alarms and take corrective action to prevent an accident at all times during EHS handling, use, manufacturing, storage or generation unless the conditions of N.J.A.C. 7:31-4.3(b)5i, are met. or Failure to provide EHS monitoring equipment with alarms reporting to a continuously attended station whose personnel are trained to take action to prevent an EHS accident.	N.J.A.C. 7:31-4.3(b)5i	500	1,000	2,500	NM	
285. Failure to include in the standard operating procedures a requirement that an EHS operator be in attendance at the stationary source to acknowledge alarms and take corrective action to prevent an accident at all times during EHS handling, use, manufacturing, storage or generation unless the conditions of N.J.A.C. 7:31-4.3(b)5ii are met. or Failure to provide EHS monitoring equipment with alarms reporting to a continuously attended station whose personnel are trained to take action to prevent an EHS accident.	N.J.A.C. 7:31-4.3(b)5ii	500	1,000	2,500	NM	
286. Failure to include in the standard operating procedures a requirement that an EHS operator be in attendance at the stationary source to acknowledge alarms and take corrective action to prevent an accident at all times during EHS handling, use, manufacturing, storage or generation unless the conditions of N.J.A.C. 7:31-4.3(b)5iii are met. or Failure to provide EHS monitoring equipment with alarms reporting to a continuously attended station, and failure to demonstrate that an EHS operator is not necessary during the specified activity by performing a risk assessment pursuant to N.J.A.C. 7:31-4.2.	N.J.A.C. 7:31-4.3(b)5iii	500	1,000	2,500	NM	

Categories of Offense	Cite	First Offense	Second Offense	Subsequent Offenses	Type of Violation	Grace Period (days)
287. Failure to include in the standard operating procedures a requirement that an EHS operator be in attendance at the stationary source to acknowledge alarms and take corrective action to prevent an accident at all times during EHS handling, use, manufacturing, storage or generation unless the conditions of N.J.A.C. 7:31-4.3(b)5iv are met. or Failure to implement anhydrous ammonia detection monitoring equipment capable of automatically isolating, shutting down, and emptying EHS equipment and provided with alarms reporting to a continuously attended station whose personnel are trained to take action to prevent an EHS accident.	N.J.A.C. 7:31-4.3(b)5iv	500	1,000	2,500	NM	
288. Failure to include in the standard operating procedures a table of contents or a system to index the standard operating procedures covering the items of 40 CFR 68.69(a) and N.J.A.C. 7:31-4.3(b)1 through 5 for each covered process.	N.J.A.C. 7:31-4.3(b)6	500	1,000	2,500	M	30
289. Failure to train each employee presently involved in operating a process in an overview of the process and in the operating procedures as specified in 40 CFR 68.69 as incorporated at N.J.A.C. 7:31-4.1(c)8. or Failure to include in the training for employees presently involved in operating a process emphasis on the specific safety and health hazards, emergency operations including shutdown, and safe work practices applicable to the employee's job tasks. or Failure to train each employee before being involved in operating a newly assigned process in an overview of the process and in the operating procedures as specified in 40 CFR 68.69 as incorporated at N.J.A.C. 7:31-4.1(c)8. or Failure to include in the training of a newly assigned employee emphasis on the specific safety and health hazards, emergency operations including shutdown, and safe work practices applicable to the employee's job tasks.	40 CFR 68.71(a)(1), N.J.A.C. 7:31-4.1(c)	2,000	4,000	10,000	NM	
290. Failure to certify in writing that an employee has the required knowledge, skills, and abilities to safely carry out the duties and responsibilities as specified in the operating procedures in lieu of initial training for those employees already involved in operating a process on June 21, 1999.	40 CFR 68.71(a)(2), N.J.A.C. 7:31-4.1(a)	2,000	4,000	10,000	NM	
291. Failure to provide refresher training at least every three years and more often as necessary to each employee involved in operating a process to assure that the employee understands and adheres to the current operating procedures of the process. or Failure to determine, in consultation with the employees involved in operating the process, the appropriate frequency of refresher training.	40 CFR 68.71(b), N.J.A.C. 7:31-4.1(a)	2,000	4,000	10,000	NM	
292. Failure to ascertain that each employee involved in operating a process has received and understood the required training.	40 CFR 68.71(c), N.J.A.C. 7:31-4.1(a)	500	1,000	2,500	NM	
293. Failure to prepare a record which contains the identity of the employee, the date of training, and the means used to verify that the employee understood the training.	40 CFR 68.71(c), N.J.A.C. 7:31-4.1(a)	1,000	2,000	5,000	NM	

<u>Categories of Offense</u>	<u>Cite</u>	<u>First Offense</u>	<u>Second Offense</u>	<u>Subsequent Offenses</u>	<u>Type of Violation</u>	<u>Grace Period (days)</u>
294. Failure to provide a written job description which includes the duties and responsibilities for each EHS operator position.	N.J.A.C. 7:31-4.4(b)	500	1,000	2,500	NM	
295. Failure to specify the qualifications required for the personnel responsible for training EHS operators.	N.J.A.C. 7:31-4.4(c)	500	1,000	2,500	NM	
296. Failure to apply paragraphs 40 CFR 68.73(b) through (f) as incorporated at N.J.A.C. 7:31-4.1(a) to pressure vessels and storage tanks.	40 CFR 68.73(a)(1), N.J.A.C. 7:31-4.1(a)	1,000	2,000	5,000	NM	
297. Failure to apply paragraphs 40 CFR 68.73(b) through (f) as incorporated at N.J.A.C. 7:31-4.1(a) to piping systems (including piping components such as valves).	40 CFR 68.73(a)(2), N.J.A.C. 7:31-4.1(a)	1,000	2,000	5,000	NM	
298. Failure to apply paragraphs 40 CFR 68.73(b) through (f) as incorporated at N.J.A.C. 7:31-4.1(a) to relief and vent systems and devices.	40 CFR 68.73(a)(3), N.J.A.C. 7:31-4.1(a)	1,000	2,000	5,000	NM	
299. Failure to apply paragraphs 40 CFR 68.73(b) through (f) as incorporated at N.J.A.C. 7:31-4.1(a) to emergency shutdown systems.	40 CFR 68.73(a)(4), N.J.A.C. 7:31-4.1(a)	1,000	2,000	5,000	NM	
300. Failure to apply paragraphs 40 CFR 68.73(b) through (f) as incorporated at N.J.A.C. 7:31-4.1(a) to controls (including monitoring devices and sensors, alarms, and interlocks).	40 CFR 68.73(a)(5), N.J.A.C. 7:31-4.1(a)	1,000	2,000	5,000	NM	
301. Failure to apply paragraphs 40 CFR 68.73(b) through (f) as incorporated at N.J.A.C. 7:31-4.1(a) to pumps.	40 CFR 68.73(a)(6), N.J.A.C. 7:31-4.1(a)	1,000	2,000	5,000	NM	
302. Failure to apply paragraphs 40 CFR 68.73(b) through (f) as incorporated at N.J.A.C. 7:31-4.1(c)11 to all EHS equipment.	40 CFR 68.73(a)(6), N.J.A.C. 7:31-4.1(c)11i	1,000	2,000	5,000	NM	
303. Failure to apply paragraphs 40 CFR 68.73(b) through (f) as incorporated at N.J.A.C. 7:31-4.1(c)11 to standby emergency equipment such as power generators, fire pumps, and lighting.	40 CFR 68.73(a)(6), N.J.A.C. 7:31-4.1(c)11ii	1,000	2,000	5,000	NM	
304. Failure to apply paragraphs 40 CFR 68.73(b) through (f) as incorporated at N.J.A.C. 7:31-4.1(c)11 to electrical grounding systems.	40 CFR 68.73(a)(6), N.J.A.C. 7:31-4.1(c)11iii	1,000	2,000	5,000	NM	
305. Failure to establish and implement written procedures to maintain the on-going integrity of process equipment.	40 CFR 68.73(b), N.J.A.C. 7:31-4.1(a)	2,000	4,000	10,000	NM	
306. Failure to train each employee involved in maintaining the on-going integrity of process equipment in an overview of that process and its hazards and in the procedures applicable to the employee's job tasks to assure that the employee can perform the job tasks in a safe manner.	40 CFR 68.73(c), N.J.A.C. 7:31-4.1(a)	2,000	4,000	10,000	NM	
307. Failure to perform inspections and tests on process equipment.	40 CFR 68.73(d)(1), N.J.A.C. 7:31-4.1(a)	2,000	4,000	10,000	NM	
308. Failure to follow recognized and generally accepted good engineering practices for inspection and testing procedures.	40 CFR 68.73(d)(2), N.J.A.C. 7:31-4.1(a)	1,000	2,000	5,000	NM	
309. Failure to make the frequency of inspections and tests of process equipment consistent with applicable manufacturers' recommendations and good engineering practices, and to increase frequency when determined to be necessary by prior operating experience.	40 CFR 68.73(d)(3), N.J.A.C. 7:31-4.1(a)	1,000	2,000	5,000	NM	
310. Failure to document each inspection and test that has been performed on process equipment. or	40 CFR 68.73(d)(4), N.J.A.C. 7:31-4.1(a)	500	1,000	2,500	NM	

<u>Categories of Offense</u>	<u>Cite</u>	<u>First Offense</u>	<u>Second Offense</u>	<u>Subsequent Offenses</u>	<u>Type of Violation</u>	<u>Grace Period (days)</u>
Failure to identify in the maintenance documentation the date of an inspection or test, the name of the person who performed the inspection or test, the serial number or other identifier of the equipment on which the inspection or test was performed, a description of the inspection or test performed, or the results of the inspection or test.						
311. Failure to correct deficiencies in equipment that are outside acceptable limits (defined by the process safety information in 40 CFR 68.65 as incorporated at N.J.A.C. 7:31-4.1(a)) before further use or in a safe and timely manner when necessary means are taken to assure safe operation.	40 CFR 68.73(e), N.J.A.C. 7:31-4.1(a)	2,000	4,000	10,000	NM	
312. Failure, in the construction of new plants and equipment, to assure that equipment as it is fabricated is suitable for the process application for which it will be used.	40 CFR 68.73(f)(1), N.J.A.C. 7:31-4.1(a)	1,000	2,000	5,000	NM	
313. Failure to perform appropriate checks and inspections to assure that equipment is installed properly and consistent with design specifications and the manufacturer's instructions.	40 CFR 68.73(f)(2), N.J.A.C. 7:31-4.1(a)	1,000	2,000	5,000	NM	
314. Failure to assure that maintenance materials, spare parts and equipment are suitable for the process application for which they will be used.	40 CFR 68.73(f)(3), N.J.A.C. 7:31-4.1(a)	1,000	2,000	5,000	NM	
315. Failure to implement a system for maintaining accurate records of all inspections, breakdowns, repairs and replacements of EHS equipment with the means of data retrieval and analysis to determine the frequency of inspections and tests and to evaluate equipment reliability.	N.J.A.C. 7:31-4.5(b)	2,000	4,000	10,000	NM	
316. Failure to establish and implement written procedures to manage changes (except for "replacements in kind") to process chemicals, technology, equipment, procedure, or other changes to stationary sources that affect a covered process.	40 CFR 68.75(a), N.J.A.C. 7:31-4.1(a)	2,000	4,000	10,000	NM	
317. Failure to assure in the management of change procedures that the technical basis for the proposed change is addressed prior to implementing the change.	40 CFR 68.75(b)(1), N.J.A.C. 7:31-4.1(a)	1,000	2,000	5,000	NM	
318. Failure to assure in the management of change procedures that the impact of the proposed change on safety and health and preventive maintenance procedures is addressed prior to implementing the change.	40 CFR 68.75(b)(2), N.J.A.C. 7:31-4.1(c)12	1,000	2,000	5,000	NM	
319. Failure to assure in the management of change procedures that modifications to operating procedures are addressed prior to implementing the change.	40 CFR 68.75(b)(3), N.J.A.C. 7:31-4.1(a)	1,000	2,000	5,000	NM	
320. Failure to assure in the management of change procedures that the necessary time period for the change is addressed prior to implementing the change.	40 CFR 68.75(b)(4), N.J.A.C. 7:31-4.1(a)	1,000	2,000	5,000	NM	
321. Failure to assure in the management of change procedures that the authorization requirements for the proposed change are addressed prior to implementing the change.	40 CFR 68.75(b)(5), N.J.A.C. 7:31-4.1(a)	1,000	2,000	5,000	NM	
322. Failure to train and inform employees involved in operating a process and maintenance and contract employees whose job tasks will be affected by a change in the process on a change prior to start-up of the changed process or the affected part of the process.	40 CFR 68.75(c), N.J.A.C. 7:31-4.1(a)	1,000	2,000	5,000	NM	
323. Failure to update the process safety information required by 40 CFR 68.65 as incorporated at N.J.A.C. 7:31-4.1 to reflect changes in such information.	40 CFR 68.75(d), N.J.A.C. 7:31-4.1(a)	1,000	2,000	5,000	NM	

<u>Categories of Offense</u>	<u>Cite</u>	<u>First Offense</u>	<u>Second Offense</u>	<u>Subsequent Offenses</u>	<u>Type of Violation</u>	<u>Grace Period (days)</u>
324. Failure to update the operating procedures or practices for a change covered by 40 CFR 68.75 as incorporated at N.J.A.C. 7:31-4.1 that resulted in a change in the operating procedures or practices.	40 CFR 68.75(e), N.J.A.C. 7:31-4.1(a)	1,000	2,000	5,000	NM	
325. Failure to identify the associated release scenarios and changes in rate, duration or quantity for a change in the covered process or procedures that resulted in an increase in rate, duration or quantity, or release frequency.	N.J.A.C. 7:31-4.6(b)	1,000	2,000	5,000	NM	
326. Failure to analyze the associated release scenarios for a change in the covered process or procedures that resulted in an increase in rate, duration and quantity, or release frequency in accordance with the parameters and methods required at N.J.A.C. 7:31-4.2 to determine whether a criterion endpoint defined at N.J.A.C. 7:31-4.2(b)3iv extends beyond the stationary source boundary.	N.J.A.C. 7:31-4.6(b)	2,000	4,000	10,000	NM	
327. Failure to prepare or update the documentation and report required by N.J.A.C. 7:31-4.2(d) and (e) prior to implementing a change for a release scenario that results in a criterion endpoint extending beyond the stationary source boundary.	N.J.A.C. 7:31-4.6(c)	4,000	8,000	20,000	NM	
328. Failure to require in the management of change temporary change procedure a description of the temporary change to be made.	N.J.A.C. 7:31-4.6(d)1i	2,000	4,000	10,000	NM	
329. Failure to require in the management of change temporary change procedure a description of the temporary change that includes identification of the EHS equipment, piping and instrument diagram(s), and standard operating procedure(s) affected by the temporary change.	N.J.A.C. 7:31-4.6(d)1ii	2,000	4,000	10,000	NM	
330. Failure to require in the management of change temporary change procedure a description of the temporary change including the reason for the temporary change.	N.J.A.C. 7:31-4.6(d)1iii	2,000	4,000	10,000	M	30
331. Failure to require in the management of change temporary change procedure the authorization of the temporary change by the appropriate person specified in the management system developed pursuant to 40 CFR 68.15(c) as incorporated at N.J.A.C. 7:31-1.1(c).	N.J.A.C. 7:31-4.6(d)2	2,000	4,000	10,000	NM	
332. Failure to require in the management of change temporary change procedure the notification of all personnel affected by the temporary change.	N.J.A.C. 7:31-4.6(d)3	2,000	4,000	10,000	NM	
333. Failure to require in the management of change temporary change procedure the implementation of appropriate safety precautions while the temporary change is in EHS service.	N.J.A.C. 7:31-4.6(d)4	2,000	4,000	10,000	NM	
334. Failure to require in the management of change temporary change procedure the time limit for the temporary change. or Failure to comply with all requirements of 40 CFR 68.75 with changes specified at N.J.A.C. 7:31-4.1(c)12 and N.J.A.C. 7:31-4.6(a), (b), and (c) for a temporary change that exceeded the time limit specified in the management of change procedures.	N.J.A.C. 7:31-4.6(d)5	2,000	4,000	10,000	NM	
335. Failure to include in the management of change temporary change procedure a requirement to ensure that the equipment and procedures are returned to their original or designed conditions at the end of the temporary change.	N.J.A.C. 7:31-4.6(d)6	2,000	4,000	10,000	NM	

<u>Categories of Offense</u>	<u>Cite</u>	<u>First Offense</u>	<u>Second Offense</u>	<u>Subsequent Offenses</u>	<u>Type of Violation</u>	<u>Grace Period (days)</u>
336. Failure to perform a pre-startup safety review for new stationary sources or modified stationary sources for a modification significant enough to require a change in the process safety information.	40 CFR 68.77(a), N.J.A.C. 7:31-4.1(a)	4,000	8,000	20,000	NM	
337. Failure to confirm in a pre-startup safety review that prior to the introduction of regulated substances to a process, construction and equipment are in accordance with design specifications.	40 CFR 68.77(b)(1), N.J.A.C. 7:31-4.1(a)	2,000	4,000	10,000	NM	
338. Failure to confirm in a pre-startup safety review that prior to the introduction of regulated substances to a process, safety, operating, maintenance, and emergency procedures are in place and are adequate.	40 CFR 68.77(b)(2), N.J.A.C. 7:31-4.1(a)	2,000	4,000	10,000	NM	
339. Failure to confirm in a pre-startup safety review that prior to the introduction of regulated substances to a process for a new stationary source, a process hazard analysis has been performed and recommendations have been resolved or implemented before startup. or Failure to confirm in a pre-startup safety review that modified stationary sources meet the management of change requirements contained in at 40 CFR 68.75 incorporated at N.J.A.C. 7:31-4.1(a).	40 CFR 68.77(b)(3), N.J.A.C. 7:31-4.1(a)	2,000	4,000	10,000	NM	
340. Failure to confirm in a pre-startup safety review that prior to the introduction of regulated substances to a process, training of each employee involved in operating the process has been completed.	40 CFR 68.77(b)(4), N.J.A.C. 7:31-4.1(a)	2,000	4,000	10,000	NM	
341. Failure to conduct a safety review of design for new EHS equipment in a new covered process prior to construction and to document that the design of the covered process follows design and operating standards as reflected in the process safety information compiled in accordance with 40 CFR 68.65 with changes specified at N.J.A.C. 7:31-4.1(c)1 through 4.	N.J.A.C. 7:31-4.7(b)	2,000	4,000	10,000	NM	
342. Failure to prepare a written report for the safety review of design for a new covered process.	N.J.A.C. 7:31-4.7(c)	2,000	4,000	10,000	NM	
343. Failure to include in the written report for each safety review performed pursuant to N.J.A.C. 7:31-4.7(b) the date of the report or an identification of the covered process, the process safety information, or the standard operating procedures reviewed.	N.J.A.C. 7:31-4.7(c)1	500	1,000	2,500	M	30
344. Failure to include in the written report for each safety review performed pursuant to N.J.A.C. 7:31-4.7(b) an identification of the codes and standards upon which the covered process design and operations were based.	N.J.A.C. 7:31-4.7(c)2	500	1,000	2,500	M	30
345. Failure to include in the written report for each safety review performed pursuant to N.J.A.C. 7:31-4.7(b) the names of the person(s) who performed the safety review.	N.J.A.C. 7:31-4.7(c)3	500	1,000	2,500	M	30
346. Failure to include in the written report for each safety review performed pursuant to N.J.A.C. 7:31-4.7(b) the deviations from the design and operating codes and standards that were found with an appropriate description of the resolution of each deviation.	N.J.A.C. 7:31-4.7(c)4	500	1,000	2,500	M	30
347. Failure to conduct and document a pre-startup safety review prior to placing a new or modified covered process into EHS service.	N.J.A.C. 7:31-4.7(d)	4,000	8,000	20,000	NM	
348. Failure to prepare a written report for each pre-startup safety review.	N.J.A.C. 7:31-4.7(e)	2,000	4,000	10,000	NM	

<u>Categories of Offense</u>	<u>Cite</u>	<u>First Offense</u>	<u>Second Offense</u>	<u>Subsequent Offenses</u>	<u>Type of Violation</u>	<u>Grace Period (days)</u>
349. Failure to prepare a written report for each pre-startup safety review performed pursuant to N.J.A.C. 7:31-4.7(d) that includes the date of the report and an identification of the covered process.	N.J.A.C. 7:31-4.7(e)1	1,000	2,000	5,000	M	30
350. Failure to include in the written report for each pre-startup safety review performed pursuant to N.J.A.C. 7:31-4.7(d) documentation that all the requirements of 40 CFR 68.77(b) as incorporated at N.J.A.C. 7:31-4.1(a) have been completed prior to the startup of the new or modified covered process.	N.J.A.C. 7:31-4.7(e)2	500	1,000	2,500	M	30
351. Failure to conduct a compliance audit and certify that compliance with the provisions of 40 CFR Subpart D incorporated at N.J.A.C. 7:31-4 has been evaluated at least every year to verify that the procedures and practices developed are adequate and are being followed. or Failure to verify that the process technology and equipment, as built and operated, are in accordance with the process safety information prepared pursuant to 40 CFR 68.65(c) and (d) as incorporated with changes at N.J.A.C. 7:31-4.1(c)1 through 4.	40 CFR 68.79(a), N.J.A.C. 7:31-4.1(c)13	4,000	8,000	20,000	NM	
352. Failure to conduct the compliance audit with at least one person knowledgeable in the process.	40 CFR 68.79(b), N.J.A.C. 7:31-4.1(a)	1,000	2,000	5,000	NM	
353. Failure to develop a report of the findings of the audit.	40 CFR 68.79(c), N.J.A.C. 7:31-4.1(c)14	1,000	2,000	5,000	NM	
354. Failure to include in the report of the findings of the audit the scope, audit techniques, methods used, or the names of the audit participants.	40 CFR 68.79(c), N.J.A.C. 7:31-4.1(c)14	1,000	2,000	5,000	M	30
355. Failure to promptly determine and document an appropriate response to each of the findings of the compliance audit. or Failure to document that deficiencies identified during the compliance audit have been corrected.	40 CFR 68.79(d), N.J.A.C. 7:31-4.1(a)	1,000	2,000	5,000	NM	
356. Failure to retain the two (2) most recent compliance audit reports.	40 CFR 68.79(e), N.J.A.C. 7:31-4.1(a)	1,000	2,000	5,000	NM	
357. Failure to investigate each EHS accident or potential catastrophic event.	40 CFR 68.81(a), N.J.A.C. 7:31-4.1(c)16	2,000	4,000	10,000	NM	
358. Failure to initiate an EHS accident or potential catastrophic event investigation as promptly as possible, but not later than 48 hours following the incident.	40 CFR 68.81(b), N.J.A.C. 7:31-4.1(c)15	1,000	2,000	5,000	NM	
359. Failure to establish an EHS accident or potential catastrophic event investigation team that consists of at least one person knowledgeable in the process involved, including a contract employee if the incident involved work of a contractor, and other persons with appropriate knowledge and experience to thoroughly investigate and analyze the incident.	40 CFR 68.81(c), N.J.A.C. 7:31-4.1(c)15	1,000	2,000	5,000	NM	
360. Failure to prepare a report at the conclusion of the EHS accident or potential catastrophe event investigation.	40 CFR 68.81(d) N.J.A.C. 7:31-4.1(c) 15 and 17	1,000	2,000	5,000	NM	
361. Failure to prepare a report at the conclusion of the investigation which includes the date, time, or location of the EHS accident or potential catastrophic event.	40 CFR 68.81(d)(1), N.J.A.C. 7:31-4.1(c)15 and 17	1,000	2,000	5,000	M	30
362. Failure to prepare a report at the conclusion of the EHS accident or potential catastrophic event investigation which includes the date the investigation began.	40 CFR 68.81(d)(2), N.J.A.C. 7:31-4.1(a)	1,000	2,000	5,000	M	30

<u>Categories of Offense</u>	<u>Cite</u>	<u>First Offense</u>	<u>Second Offense</u>	<u>Subsequent Offenses</u>	<u>Type of Violation</u>	<u>Grace Period (days)</u>
363. Failure to prepare a report at the conclusion of the EHS accident or potential catastrophic event investigation which includes a description of the EHS accident or potential catastrophic event in chronological order providing all the relevant facts. or Failure to include the identity, amount and duration of the EHS release when these facts could reasonably be determined based on the information obtained through the EHS accident or potential catastrophic event investigation. or Failure to identify consequences of the EHS accident or potential catastrophic event including the number of evacuees, injured, fatalities, or the impact on the community.	40 CFR 68.81(d)(3), N.J.A.C. 7:31-4.1(c)15 and 18	1,000	2,000	5,000	NM	
364. Failure to prepare a report at the conclusion of the investigation which includes the factors that contributed to the EHS accident or potential catastrophic event and an identification of basic and contributory causes, either direct or indirect.	40 CFR 68.81(d)(4), N.J.A.C. 7:31-4.1(c)15 and 19	1,000	2,000	5,000	NM	
365. Failure to prepare a report prepared at the conclusion of the EHS accident or potential catastrophic event investigation which includes any recommendations resulting from the investigation to prevent a recurrence.	40 CFR 68.81(d)(5), N.J.A.C. 7:31-4.1(c)20	1,000	2,000	5,000	NM	
366. Failure to prepare a report at the conclusion of the EHS accident or potential catastrophic event investigation which includes the names and position titles of the investigators.	40 CFR 68.81(d)(5), N.J.A.C. 7:31-4.1(c)21i	1,000	2,000	5,000	M	30
367. Failure to establish a system to promptly address and resolve the EHS accident or potential catastrophic event report findings and recommendations.	40 CFR 68.81(e), N.J.A.C. 7:31-4.1(c)15	2,000	4,000	10,000	NM	
368. Failure to document EHS accident or potential catastrophic event investigation resolutions and corrective actions.	40 CFR 68.81(e), N.J.A.C. 7:31-4.1(c)15	1,000	2,000	5,000	NM	
369. Failure to review the investigation report with all affected personnel whose job tasks are relevant to the EHS accident or potential catastrophic event findings including contract employees, where applicable.	40 CFR 68.81(f), N.J.A.C. 7:31-4.1(c)15	1,000	2,000	5,000	NM	
370. Failure to retain EHS accident or potential catastrophic event investigation reports for five years.	40 CFR 68.81(g), N.J.A.C. 7:31-4.1(c)15	2,000	4,000	10,000	NM	
371. Failure to develop a written plan of action regarding the implementation of the employee participation required by 40 CFR 68.83 as incorporated at N.J.A.C. 7:31-4.1(a).	40 CFR 68.83(a), N.J.A.C. 7:31-4.1(a)	2,000	4,000	10,000	NM	
372. Failure to consult with employees and their representatives on the conduct and development of process hazards analyses with risk assessments and on the development of the other elements of process safety management in this rule.	40 CFR 68.83(b), N.J.A.C. 7:31-4.1(c)22	1,000	2,000	5,000	NM	
373. Failure to provide to employees and their representatives access to process hazard analyses with risk assessments and to all other information required to be developed under this rule.	40 CFR 68.83(c), N.J.A.C. 7:31-4.1(c)22	2,000	4,000	10,000	M	30
374. Failure to issue a hot work permit for hot work operations conducted on or near a covered process.	40 CFR 68.85(a), N.J.A.C. 7:31-4.1(a)	1,000	2,000	5,000	NM	

<u>Categories of Offense</u>	<u>Cite</u>	<u>First Offense</u>	<u>Second Offense</u>	<u>Subsequent Offenses</u>	<u>Type of Violation</u>	<u>Grace Period (days)</u>
375. Failure to document in the hot work permit that the fire prevention and protection requirements in 29 CFR 1910.252(a) have been implemented prior to beginning the hot work operations, to indicate the date(s) authorized for hot work, and to identify the object on which hot work is to be performed. or Failure to keep the hot work permit on file until completion of the hot work operations.	40 CFR 68.85(b), N.J.A.C. 7:31-4.1(a)	500	1,000	2,500	NM	
376. Failure to apply the requirements of 40 CFR 68.87 as incorporated at N.J.A.C. 7:31-4.1(a) for contractors performing maintenance or repair, turnaround, major renovation, or specialty work on or adjacent to a covered process.	40 CFR 68.87(a), N.J.A.C. 7:31-4.1(a)	2,000	4,000	10,000	NM	
377. Failure to obtain and evaluate information regarding the contract owner or operator's safety performance and programs when selecting a contractor.	40 CFR 68.87(b)(1), N.J.A.C. 7:31-4.1(a)	2,000	4,000	10,000	NM	
378. Failure to inform a contract owner or operator of the known potential fire, explosion, or toxic release hazards related to the contractor's work and the process.	40 CFR 68.87(b)(2), N.J.A.C. 7:31-4.1(a)	2,000	4,000	10,000	NM	
379. Failure to explain to the contract owner or operator the applicable provisions of 40 CFR 68 subpart E as incorporated at N.J.A.C. 7:31-5.1(a).	40 CFR 68.87(b)(3), N.J.A.C. 7:31-4.1(a)	1,000	2,000	5,000	NM	
380. Failure to develop and implement safe work practices consistent with 40 CFR 68.69(d), as incorporated at N.J.A.C. 7:31-4.1(a) to control the entrance, presence, and exit of the contract owner or operator and contract employees in covered process areas.	40 CFR 68.87(b)(4), N.J.A.C. 7:31-4.1(a)	1,000	2,000	5,000	NM	
381. Failure to periodically evaluate the performance of the contract owner or operator in fulfilling their obligations as specified in 40 CFR 68.87(c) as incorporated at N.J.A.C. 7:31-4.1(a).	40 CFR 68.87(b)(5), N.J.A.C. 7:31-4.1(a)	2,000	4,000	10,000	NM	
382. Failure of the contract owner or operator to assure that each contract employee is trained in the work practices necessary to safely perform his/her job.	40 CFR 68.87(c)(1), N.J.A.C. 7:31-4.1(a)	2,000	4,000	10,000	NM	
383. Failure of the contract owner or operator to assure that each contract employee is instructed in the known potential fire, explosion, or toxic release hazards related to his/her job and the process, and the applicable provisions of the emergency action plan.	40 CFR 68.87(c)(2), N.J.A.C. 7:31-4.1(a)	2,000	4,000	10,000	NM	
384. Failure of the contract owner or operator to document that each contract employee has received and understood the training required by 40 CFR 68.87 as incorporated at N.J.A.C. 7:31-4.1(a). or Failure of the contract owner or operator to prepare a record which contains the identity of the contract employee, the date of training, and the means used to verify that each employee understood the training.	40 CFR 68.87(c)(3), N.J.A.C. 7:31-4.1(a)	1,000	2,000	5,000	NM	
385. Failure of the contract owner or operator to assure that each contract employee follows the safety rules of the stationary source including the safe work practices required by 40 CFR 68.69(d) as incorporated as N.J.A.C. 7:31-4.1(a).	40 CFR 68.87(c)(4), N.J.A.C. 7:31-4.1(a)	2,000	4,000	10,000	NM	
386. Failure of the contract owner or operator to advise the owner or operator of any unique hazards presented by the contract owner or operator's work, or of any hazards found by the contract owner or operator's work.	40 CFR 68.87(c)(5), N.J.A.C. 7:31-4.1(a)	2,000	4,000	10,000	NM	
387. Failure to comply with the emergency response provisions of N.J.A.C. 7:31-5.	N.J.A.C. 7:31-4.8(a)	4,000	8,000	20,000	NM	

<u>Categories of Offense</u>	<u>Cite</u>	<u>First Offense</u>	<u>Second Offense</u>	<u>Subsequent Offenses</u>	<u>Type of Violation</u>	<u>Grace Period (days)</u>
388. Failure to submit to the Department within 90 days of the anniversary date an annual report reflecting the risk management activities for the 12-month period ending on the anniversary date.	N.J.A.C. 7:31-4.9(a)	2,000	4,000	10,000	M	30
389. Failure to include in the annual report an update of the supplemental TCPA program information as specified in N.J.A.C. 7:31-7.2(a)2 if this supplemental information was not previously reported in a revised Risk Management Plan submittal. or Failure to state that there were no changes to the supplemental TCPA program information in the annual report if there were no changes in this information since the last Risk Management Plan submittal.	N.J.A.C. 7:31-4.9(b)1	500	1,000	2,500	M	30
390. Failure to include in the annual report a description of significant changes to the management system. or Failure to state that there were no changes to the management system in the annual report if there were no changes in this information since the last annual report.	N.J.A.C. 7:31-4.9(b)2	500	1,000	2,500	M	30
391. Failure to include in the annual report a process hazard analysis with risk assessment report prepared pursuant to N.J.A.C. 7:31-4.2(e) for each process hazard analysis with risk assessment completed during the previous year, when applicable. or Failure to include in the annual report a list of the risk assessment reports prepared pursuant to N.J.A.C. 7:31-4.6(c) or the actual risk assessment reports. or Failure to state in the annual report that there were no process hazard analysis with risk assessment reports completed if no such reports were completed since the last annual report.	N.J.A.C. 7:31-4.9(b)3	500	1,000	2,500	M	30
392. Failure to include in the annual report a summary of any EHS accidents that occurred during the previous year including the EHS involved and amount released if these facts could have been reasonably determined based on the information obtained through the investigation.	N.J.A.C. 7:31-4.9(b)4i	500	1,000	2,500	M	30
393. Failure to include in the annual report a summary of any EHS accidents that occurred during the previous year including the date and time of the EHS accident and identification of EHS equipment involved.	N.J.A.C. 7:31-4.9(b)4ii	500	1,000	2,500	M	30
394. Failure to include in the annual report a summary of any EHS accidents that occurred during the previous year including the basic and contributory causes.	N.J.A.C. 7:31-4.9(b)4iii	500	1,000	2,500	M	30
395. Failure to include in the annual report a summary of any EHS accidents that occurred during the previous year including a statement that there were no EHS accidents if no EHS accidents occurred since the last annual report.	N.J.A.C. 7:31-4.9(b)4iv	500	1,000	2,500	M	30
396. Failure to include in the annual report the compliance audit report and documentation for the year ending on the anniversary date prepared pursuant to 40 CFR 68.79(c) and (d) with changes specified at N.J.A.C. 7:31-4.1(c)14 and 23.	N.J.A.C. 7:31-4.9(b)5	500	1,000	2,500	M	30

<u>Categories of Offense</u>	<u>Cite</u>	<u>First Offense</u>	<u>Second Offense</u>	<u>Subsequent Offenses</u>	<u>Type of Violation</u>	<u>Grace Period (days)</u>
397. Failure to perform a pre-startup safety review of temporarily discontinued EHS equipment and procedures in accordance with the requirements of 40 CFR 68.77(a), (b)(1) and (2) and N.J.A.C. 7:31-4.7(e), within 60 calendar days prior to bringing the EHS back to the covered process.	N.J.A.C. 7:31-4.10(a)1	2,000	4,000	10,000	NM	
398. Failure to perform inspections, tests and checks conforming to requirements of 40 CFR 68.73 with changes specified at N.J.A.C. 7:31-4.1(c)10-11 and N.J.A.C. 7:31-4.5, for proper operation of temporarily discontinued EHS equipment, within 60 calendar days prior to bringing the EHS back to the covered process.	N.J.A.C. 7:31-4.10(a)2	2,000	4,000	10,000	NM	
399. Failure to perform EHS operator training activities conforming to 40 CFR 68.71 with changes specified at N.J.A.C. 7:31-4.1(c)9 and N.J.A.C. 7:31-4.4, for activities involving temporarily discontinued EHS equipment, within 60 calendar days prior to bringing the EHS back to the covered process.	N.J.A.C. 7:31-4.10(a)3	2,000	4,000	10,000	NM	
400. Failure to pay the annual fee for a temporary discontinuance in accordance with N.J.A.C. 7:31-1.11A(o) and (p).	N.J.A.C. 7:31-4.10(a)4	2,000	4,000	10,000	M	30
401. Failure to submit to the Department a report of safety review of design, in accordance with N.J.A.C. 7:31-4.7(b) and (c), and the documentation required at N.J.A.C. 7:31-7.2 and 40 CFR 68.150 with changes specified at N.J.A.C. 7:31-7.1(c)1 and 2, at least 90 days prior to construction of a new Program 3 covered process at a stationary source for which there is no previously approved risk management program.	N.J.A.C. 7:31-4.11(a)1	2,000	4,000	10,000	M	30
402. Failure to receive written approval from the Department before proceeding with construction of a new Program 3 covered process at a stationary source for which there is no previously approved risk management program.	N.J.A.C. 7:31-4.11(a)2	6,000	12,000	30,000	NM	
403. Failure to submit to the Department, at least 90 days prior to the date the equipment was scheduled to be placed into EHS service, any updates of the documentation as required by N.J.A.C. 7:31-4.11(a)1 for a new Program 3 covered process at a stationary source for which there is no previously approved risk management program.	N.J.A.C. 7:31-4.11(a)3	2,000	4,000	10,000	M	30
404. Failure to conduct a pre-startup safety review in accordance with N.J.A.C. 7:31-4.7(d) and (e) for a new Program 3 covered process at a stationary source for which there is no previously approved risk management program.	N.J.A.C. 7:31-4.11(a)4	4,000	8,000	20,000	NM	
405. Failure to submit to the Department the fees required by N.J.A.C. 7:31-1.11A for a new Program 3 covered process at a stationary source for which there is no previously approved risk management program.	N.J.A.C. 7:31-4.11(a)5	one-third of fee	one-third of fee + 1,000	one-third of fee + 2000	M	30
406. Failure to submit a report of safety review of design in accordance with N.J.A.C. 7:31-4.7(b) and (c) and the documentation required at N.J.A.C. 7:31-7.2 and 40 CFR 68.150 with changes specified at N.J.A.C. 7:31-7.1(c)1 and 2 at least 90 days prior to placing the equipment into EHS service for a new Program 3 covered process that utilizes existing equipment at a stationary source for which there is no previously approved risk management program.	N.J.A.C. 7:31-4.11(b)1	2,000	4,000	10,000	M	30

<u>Categories of Offense</u>	<u>Cite</u>	<u>First Offense</u>	<u>Second Offense</u>	<u>Subsequent Offenses</u>	<u>Type of Violation</u>	<u>Grace Period (days)</u>
407. Failure to conduct a pre-startup safety review in accordance with N.J.A.C. 7:31-4.7(d) and (e) on a new Program 3 covered process that utilizes existing equipment at a stationary source for which there is no previously approved risk management program.	N.J.A.C. 7:31-4.11(b)2	2,000	4,000	10,000	NM	
408. Failure to submit to the Department the fees required by N.J.A.C. 7:31-1.11A for a new Program 3 covered process that utilizes existing equipment at a stationary source for which there is no previously approved risk management program.	N.J.A.C. 7:31-4.11(b)3	one-third of fee	one-third of fee + 1,000	one-third of fee + 2,000	M	30
409. Failure to submit a report of safety review of design in accordance with N.J.A.C. 7:31-4.7(b) and (c) and update documentation in accordance with N.J.A.C. 7:31-7.2 and 40 CFR 68.150 with changes specified at N.J.A.C. 7:31-7.1(c)1 and 2 at least 90 days prior to the scheduled placing of equipment into EHS service for a Program 3 covered process that is newly constructed or that utilizes existing equipment at a stationary source that has a previously approved risk management program.	N.J.A.C. 7:31-4.11(c)1	2,000	4,000	10,000	M	30
410. Failure to conduct a pre-startup safety review in accordance with N.J.A.C. 7:31-4.7(d) and (e) for a new Program 3 covered process that is newly constructed or utilizes existing equipment at a stationary source that has a previously approved risk management program.	N.J.A.C. 7:31-4.11(c)2	2,000	4,000	10,000	NM	
411. Failure to submit to the Department the fees required by N.J.A.C. 7:31-1.11A for a newly constructed Program 3 covered process or one that utilizes existing equipment at a stationary source that has a previously approved risk management program.	N.J.A.C. 7:31-4.11(c)3	one-third of fee	one-third of fee + 1,000	one-third of fee + 2,000	M	30
412. Failure to enter into a consent agreement or consent agreement addendum with the Department prior to placing equipment into EHS service for a new covered process and subsequent to a stationary source inspection by the Department. or Failure to complete corrective action of deficiencies in the consent agreement or consent agreement addendum for equipment in a new covered process in accordance with the schedule in the consent agreement or consent agreement addendum.	N.J.A.C. 7:31-4.11(d)	6,000	12,000	30,000	NM	
413. Failure of an owner/operator of a Program 2 covered process, whose employees will not respond to accidental releases of regulated substances, to meet the emergency response exemption applicability and failure requirements of 40 CFR 68.90(b) incorporated at N.J.A.C. 7:31-5.1(c)1 and 2 and to develop and implement an emergency response program in accordance with 40 CFR 68.95.	40 CFR 68.90(a) N.J.A.C. 7:31-5.1(a)	1,000	2,000	5,000	NM	
414. Failure to develop and implement an emergency response program that includes an emergency response plan which is maintained at the stationary source.	40 CFR 68.95(a) N.J.A.C. 7:31-5.1(a)	4,000	8,000	20,000	NM	
415. Failure to include in the emergency response plan procedures for informing the public and local emergency response agencies about accidental releases.	40 CFR 68.95(a)(1)(i) N.J.A.C. 7:31-5.1(a)	500	1,000	2,500	NM	
416. Failure to include in the emergency response plan documentation of proper first-aid and emergency medical treatment necessary to treat accidental human exposures.	40 CFR 68.95(a)(1)(ii), N.J.A.C. 7:31-5.1(a)	500	1,000	2,500	NM	
417. Failure to include in the emergency response plan procedures and measures for emergency response after an accidental release of a regulated substance.	40 CFR 68.95(a)(1)(iii), N.J.A.C. 7:31-5.1(a)	500	1,000	2,500	NM	

<u>Categories of Offense</u>	<u>Cite</u>	<u>First Offense</u>	<u>Second Offense</u>	<u>Subsequent Offenses</u>	<u>Type of Violation</u>	<u>Grace Period (days)</u>
418. Failure to include in the emergency response program procedures for the use of emergency response equipment and for its inspection, testing, and maintenance.	40 CFR 68.95(a)(2), N.J.A.C. 7:31-5.1(a)	1,000	2,000	5,000	NM	
419. Failure to include in the emergency response program emergency response program training for all employees in relevant procedures.	40 CFR 68.95(a)(3), N.J.A.C. 7:31-5.1(a)	1,000	2,000	5,000	NM	
420. Failure to include in the emergency response program procedures to review and update, as appropriate, the emergency response plan to reflect changes at the stationary source and to ensure that employees are informed of changes.	40 CFR 68.95(a)(4), N.J.A.C. 7:31-5.1(a)	1,000	2,000	5,000	NM	
421. Failure to include elements of 40 CFR 68.95(a) and 40 CFR 68.95(c) as incorporated at N.J.A.C. 7:31-5.1(a) in the emergency response plan that are consistent with and as stringent as the National Response Team's Integrated Contingency Plan Guidance ("One Plan").	40 CFR 68.95(b), N.J.A.C. 7:31-5.1(a)3 and 4	1,000	2,000	5,000	NM	
422. Failure to coordinate the emergency response plan developed under 40 CFR 68.95(a)(1) as incorporated at N.J.A.C. 7:31-5.1(a) with the community emergency response plan developed under 42 U.S.C. §11003. or Failure to promptly provide to the local emergency planning committee or emergency response officials, upon their request, information necessary for developing and implementing the community emergency response plan.	40 CFR 68.95(c), N.J.A.C. 7:31-5.1(a)	1,000	2,000	5,000	NM	
423. Failure to develop and implement a written emergency response (ER) program which includes initial and annual refresher emergency response training for all employees in relevant procedures to implement the emergency response plan.	N.J.A.C. 7:31-5.2(b)1	2,000	4,000	10,000	NM	
424. Failure to develop and implement a written emergency response (ER) program which includes performance of at least one EHS ER exercise per calendar year.	N.J.A.C. 7:31-5.2(b)2	2,000	4,000	10,000	NM	
425. Failure to invite at least one outside responder agency who is designated in the ER plan to participate in the ER exercise at a stationary source with a Program 2 covered process whose employees will not respond to an EHS accident in accordance with 40 CFR 68.90(b) with changes specified at N.J.A.C. 7:31-5.1(c)2. or Failure to require employees of the stationary source to perform their assigned responsibilities for all ER exercises.	N.J.A.C. 7:31-5.2(b)2i	2,000	4,000	10,000	NM	
426. Failure to perform at least one full scale ER exercise in which the ER team and ER containment, mitigation, and monitoring equipment are deployed at a strength appropriate to demonstrate the adequacy and implementation of the plan for a stationary source at which the employees will respond to an EHS accident.	N.J.A.C. 7:31-5.2(b)2ii	2,000	4,000	10,000	NM	
427. Failure to make a written assessment of the ER plan and of the adequacy or need for ER equipment after each ER plan implementation or each ER exercise.	N.J.A.C. 7:31-5.2(b)3	1,000	2,000	5,000	NM	
428. Failure to provide in the emergency response (ER) program a description of the emergency notification system which requires immediate notification of an EHS accident or imminent EHS accident at the stationary source, including company name and address of the EHS accident, to the Department's emergency communications center at 877-WARNDEP by the emergency coordinator or designee.	N.J.A.C. 7:31-5.2(b)4i(1)	2,000	4,000	10,000	NM	

<u>Categories of Offense</u>	<u>Cite</u>	<u>First Offense</u>	<u>Second Offense</u>	<u>Subsequent Offenses</u>	<u>Type of Violation</u>	<u>Grace Period (days)</u>
429. Failure to provide in the emergency response (ER) program a description of the emergency notification system which requires immediate notification of an EHS accident or imminent EHS accident at the stationary source, including the name, position and telephone number of the caller, to the Department's emergency communications center at 877-WARNDEP by the emergency coordinator or designee.	N.J.A.C. 7:31-5.2(b)4i(2)	1,000	2,000	5,000	NM	
430. Failure to provide in the emergency response (ER) program a description of the emergency notification system which requires immediate notification of an EHS accident or imminent EHS accident at the stationary source, including time of, or anticipated time of the EHS accident and the projected duration to the Department's emergency communications center at 877-WARNDEP by the emergency coordinator or designee.	N.J.A.C. 7:31-5.2(b)4i(3)	1,000	2,000	5,000	NM	
431. Failure to provide in the emergency response (ER) program's emergency notification system a requirement for immediate notification of an EHS accident or imminent EHS accident, including the chemical name of the EHS released, to the Department's emergency communications center at 877-WARNDEP by the emergency coordinator or designee.	N.J.A.C. 7:31-5.2(b)4i(4)	1,000	2,000	5,000	NM	
432. Failure to provide in the emergency notification system a requirement for immediate notification to the Department's emergency communications center at 877-WARNDEP of an EHS accident or imminent EHS accident by the emergency coordinator or designee stating the actual EHS quantity (or estimated quantity if not known), and whether it will have an offsite impact.	N.J.A.C. 7:31-5.2(b)4i(5)	1,000	2,000	5,000	NM	
433. Failure to require in the emergency response (ER) program's emergency notification system the weather conditions, including wind direction and speed and expected offsite effects in the immediate notification to the Department's emergency communications center at 877-WARNDEP by the emergency coordinator or designee for an EHS accident or imminent EHS accident.	N.J.A.C. 7:31-5.2(b)4i(6)	1,000	2,000	5,000	NM	
434. Failure to provide in the emergency response (ER) program an EHS accident reporting requirement that the emergency coordinator or designee for the stationary source be prepared to provide the Department's emergency communications center with updates, if requested, which include the name and address of the stationary source.	N.J.A.C. 7:31-5.2(b)4ii(1)	1,000	2,000	5,000	NM	
435. Failure to provide in the emergency response (ER) program an EHS accident reporting requirement that the emergency coordinator or designee for the stationary source be prepared to provide the Department's emergency communications center updates, if requested, which include the name, position and telephone number of the caller.	N.J.A.C. 7:31-5.2(b)4ii(2)	1,000	2,000	5,000	NM	
436. Failure to require in the emergency response (ER) program an EHS accident reporting requirement that the emergency coordinator or designee be prepared to provide the Department's emergency communications center with updates, if requested, which include the location of the point of EHS release, a description of the source, cause and type of EHS accident, quantity and concentration of the EHS released, and whether the EHS release is of a continuing nature.	N.J.A.C. 7:31-5.2(b)4ii(3)	1,000	2,000	5,000	NM	

<u>Categories of Offense</u>	<u>Cite</u>	<u>First Offense</u>	<u>Second Offense</u>	<u>Subsequent Offenses</u>	<u>Type of Violation</u>	<u>Grace Period (days)</u>
437. Failure to provide in the emergency response (ER) program an EHS accident reporting requirement that the emergency coordinator or designee for the stationary source be prepared to provide the Department's emergency communications center updates, if requested, which include the measures taken to terminate the EHS release or to mitigate its effect, and the effectiveness of such measures.	N.J.A.C. 7:31-5.2(b)4ii(4)	1,000	2,000	5,000	NM	
438. Failure to provide in the emergency response (ER) program an EHS accident reporting requirement that the emergency coordinator or designee for the stationary source be prepared to provide the Department's emergency communications center updates, if requested, which include an update on weather conditions.	N.J.A.C. 7:31-5.2(b)4ii(5)	1,000	2,000	5,000	NM	
439. Failure to report to the Department's emergency communications center an EHS accident that had potential offsite impact or that extended beyond an industrial complex property boundary.	N.J.A.C. 7:31-5.2(b)4iii(1)	4,000	8,000	20,000	NM	
440. Failure to report to the Department's emergency communications center an EHS accident that resulted in actual or potential injuries or fatalities at the stationary source.	N.J.A.C. 7:31-5.2(b)4iii(2)	4,000	8,000	20,000	NM	
441. Failure to report to the Department's emergency communications center an EHS accident that activates the emergency response plan.	N.J.A.C. 7:31-5.2(b)4iii(3)	4,000	8,000	20,000	NM	
442. Failure to submit a single RMP that includes the information required by 40 CFR 68.155 through 40 CFR 68.185 as incorporated at N.J.A.C. 7:31-7.1 for all covered processes. or Failure to submit the RMP for covered processes regulated under 40 CFR 68 as incorporated at N.J.A.C. 7:31-7.1 in a method and format to a central point as specified by USEPA as of the date of submission. or Failure to submit the RMP for all covered processes to the Department in accordance with N.J.A.C. 7:31-7.2.	40 CFR 68.150(a), N.J.A.C. 7:31-7.1(c)1 and 2	5,000	10,000	25,000	NM	
443. Failure to submit the first RMP on or before June 21, 1999.	40 CFR 68.150(b)(1), N.J.A.C. 7:31-7.1(a)	5,000	10,000	25,000	NM	
444. Failure to submit the first RMP on or before three years after the date on which a regulated substance is first listed under 40 CFR 68.130.	40 CFR 68.150(b)(2), N.J.A.C. 7:31-7.1(a)	5,000	10,000	25,000	NM	
445. Failure to submit the first RMP on or before the date on which a regulated substance is first present above a threshold quantity in a process.	40 CFR 68.150(b)(3), N.J.A.C. 7:31-7.1(a)	5,000	10,000	25,000	NM	
446. The owner or operator of any stationary source for which an RMP was submitted before June 21, 2004, shall revise the RMP to include the information required by 40 CFR 68.160(b)(6) and (14) by June 21, 2004 in the manner specified by EPA prior to that date. Any such submission shall also include the information required by 40 CFR 68.160(b)(20) (indicating that the submission is a correction to include the information required by 40 CFR 68.160(b)(6) and (14) or an update under 40 CFR 68.190).	40 CFR 68.150(c), N.J.A.C. 7:31-7.1(a)	1,000	2,000	5,000	NM	
447. Failure to update and correct RMPs submitted under 40 CFR 68 in accordance with 40 CFR 68.190 as incorporated at N.J.A.C. 7:31-7.1(c)3,4, and 5 and 68.195 incorporated at N.J.A.C. 7:31-7.1(a).	40 CFR 68.150(d), N.J.A.C. 7:31-7.1(a)	1,000	2,000	5,000	NM	

<u>Categories of Offense</u>	<u>Cite</u>	<u>First Offense</u>	<u>Second Offense</u>	<u>Subsequent Offenses</u>	<u>Type of Violation</u>	<u>Grace Period (days)</u>
448. Failure to provide an executive summary in the RMP.	40 CFR 68.155 N.J.A.C. 7:31-7.1(a)	1,000	2,000	5,000	M	30
449. Failure to provide in the RMP executive summary a brief description of the accidental release prevention and emergency response policies at the stationary source.	40 CFR 68.155(a), N.J.A.C. 7:31-7.1(a)	500	1,000	2,500	M	30
450. Failure to provide in the RMP executive summary a brief description of the stationary source and regulated substances handled.	40 CFR 68.155(b), N.J.A.C. 7:31-7.1(a)	500	1,000	2,500	M	30
451. Failure to provide in the RMP executive summary a brief description of the general accidental release prevention program and chemical specific prevention steps.	40 CFR 68.155(c), N.J.A.C. 7:31-7.1(a)	500	1,000	2,500	M	30
452. Failure to provide in the RMP executive summary a brief description of the five-year accident history.	40 CFR 68.155(d), N.J.A.C. 7:31-7.1(a)	500	1,000	2,500	M	30
453. Failure to provide in the RMP executive summary a brief description of the emergency response program.	40 CFR 68.155(e), N.J.A.C. 7:31-7.1(a)	500	1,000	2,500	M	30
454. Failure to provide in the RMP executive summary a brief description of the planned changes to improve safety.	40 CFR 68.155(f), N.J.A.C. 7:31-7.1(a)	500	1,000	2,500	M	30
455. Failure to complete a single registration form that is included in the RMP that covers all regulated substances handled in covered processes.	40 CFR 68.160(a), N.J.A.C. 7:31-7.1(a)	2,000	4,000	10,000	NM	
456. Failure to include in the registration any of the following: stationary source name, street, city, county, state, zip code, latitude and longitude, method for obtaining latitude and longitude, or description of location that latitude and longitude represent.	40 CFR 68.160(b)(1), N.J.A.C. 7:31-7.1(a)	500	1,000	2,500	M	30
457. Failure to include in the registration the stationary source's Dun and Bradstreet number.	40 CFR 68.160(b)(2), N.J.A.C. 7:31-7.1(a)	500	1,000	2,500	M	30
458. Failure to include in the registration the name and Dun and Bradstreet number of the corporate parent company.	40 CFR 68.160(b)(3), N.J.A.C. 7:31-7.1(a)	500	1,000	2,500	M	30
459. Failure to include in the registration the name, telephone number, and mailing address of the owner or operator.	40 CFR 68.160(b)(4), N.J.A.C. 7:31-7.1(a)	500	1,000	2,500	M	30
460. Failure to include in the registration the name and title of the person or position with overall responsibility for RMP elements and implementation, and (optional) the e-mail address for that person or position.	40 CFR 68.160(b)(5), N.J.A.C. 7:31-7.1(a)	500	1,000	2,500	M	30
461. Failure to include in the registration the emergency contact person's name, title, telephone number, 24-hour telephone number, and, as of June 21, 2004, the e-mail address (if an e-mail address exists).	40 CFR 68.160(b)(6), N.J.A.C. 7:31-7.1(a)	500	1,000	2,500	M	30
462. Failure to include in the registration for each covered process the name and CAS number of each regulated substance held above the threshold quantity in the process, the maximum quantity of each regulated substance or mixture in the process (in pounds) to two significant digits, the five- or six-digit NAICS code that most closely corresponds to the process, and the Program level of the process.	40 CFR 68.160(b)(7), N.J.A.C. 7:31-7.1(a)	500	1,000	2,500	NM	
463. Failure to include in the registration the stationary source USEPA identifier.	40 CFR 68.160(b)(8), N.J.A.C. 7:31-7.1(a)	500	1,000	2,500	M	30
464. Failure to include in the registration the number of full-time employees at the stationary source.	40 CFR 68.160(b)(9), N.J.A.C. 7:31-7.1(a)	500	1,000	2,500	M	30
465. Failure to include in the registration whether the stationary source is subject to 29 CFR 1910.119.	40 CFR 68.160(b)(10), N.J.A.C. 7:31-7.1(a)	500	1,000	2,500	M	30

<u>Categories of Offense</u>	<u>Cite</u>	<u>First Offense</u>	<u>Second Offense</u>	<u>Subsequent Offenses</u>	<u>Type of Violation</u>	<u>Grace Period (days)</u>
466. Failure to include in the registration whether the stationary source is subject to 40 CFR part 355.	40 CFR 68.160(b)(11), N.J.A.C. 7:31-7.1(a)	500	1,000	2,500	M	30
467. Failure to include in the registration the CAA Title V operating permit number for a stationary source that has a CAA Title V operating permit.	40 CFR 68.160(b)(12), N.J.A.C. 7:31-7.1(a)	500	1,000	2,500	M	30
468. Failure to include in the registration the date of the last safety inspection of the stationary source by a Federal, state, or local government agency and the identity of the inspecting entity.	40 CFR 68.160(b)(13), N.J.A.C. 7:31-7.1(a)	500	1,000	2,500	M	30
469. Failure to include in the registration as of June 21, 2004, the name, the mailing address, and the telephone number of the contractor who prepared the RMP (if any).	40 CFR 68.160(b)(14), N.J.A.C. 7:31-7.1(a)	500	1,000	2,500	M	30
470. Failure to include in the registration as of June 21, 2004, the type of and reason for any changes being made to a previously submitted RMP categorized as follows: (i) Updates and re-submissions required under 40 CFR 68.190(b); (ii) Corrections under Sec. 68.195 or for purposes of correcting minor clerical errors, updating administrative information, providing missing data elements or reflecting facility ownership changes, and which do not require an update and re-submission as specified in 40 CFR 68.190(b); (iii) De-registrations required under 40 CFR 68.190(c); and (iv) Withdrawals of an RMP for any facility that was erroneously considered subject to 40 CFR Part 68.	40 CFR 68.160(b)(20), N.J.A.C. 7:31-7.1(a)	500	1,000	2,500	M	30
471. Failure to submit in the RMP for Program 2 and 3 processes information on one worst-case release scenario to represent all regulated toxic substances held above the threshold quantity and one worst-case release scenario to represent all regulated flammable substances held above the threshold quantity. or Failure to submit information for additional worst-case scenarios for toxics or flammables required by 40 CFR 68.25(a)(2)(iii) incorporated at N.J.A.C. 7:31-2.1(a). or Failure to submit information on one alternative release scenario for each regulated toxic substance held above the threshold quantity and one alternative release scenario to represent all regulated flammable substances held above the threshold quantity.	40 CFR 68.165(a)(2), N.J.A.C. 7:31-7.1(a)	2,000	4,000	10,000	NM	
472. Failure to submit the chemical name in the off-site consequence analysis (OCA).	40 CFR 68.165(b)(1), N.J.A.C. 7:31-7.1(a)	1,000	2,000	5,000	NM	
473. Failure to submit the percentage weight of the chemical in a liquid mixture (toxics only) in the OCA.	40 CFR 68.165(b)(2), N.J.A.C. 7:31-7.1(a)	1,000	2,000	5,000	M	30
474. Failure to submit the physical state (toxics only) in the OCA.	40 CFR 68.165(b)(3), N.J.A.C. 7:31-7.1(a)	1,000	2,000	5,000	M	30
475. Failure to submit the basis for the results of the off-site consequence analysis data in the RMP (including model name if used).	40 CFR 68.165(b)(4), N.J.A.C. 7:31-7.1(a)	1,000	2,000	5,000	M	30
476. Failure to submit the scenario (explosion, fire, toxic gas release, or liquid spill and vaporization) in the OCA.	40 CFR 68.165(b)(5), N.J.A.C. 7:31-7.1(a)	1,000	2,000	5,000	M	30
477. Failure to submit the quantity released in pounds in the OCA.	40 CFR 68.165(b)(6), N.J.A.C. 7:31-7.1(a)	1,000	2,000	5,000	M	30
478. Failure to submit release rate in the OCA.	40 CFR 68.165(b)(7), N.J.A.C. 7:31-7.1(a)	1,000	2,000	5,000	M	30

<u>Categories of Offense</u>	<u>Cite</u>	<u>First Offense</u>	<u>Second Offense</u>	<u>Subsequent Offenses</u>	<u>Type of Violation</u>	<u>Grace Period (days)</u>
479. Failure to submit the release duration in the OCA.	40 CFR 68.165(b)(8), N.J.A.C. 7:31-7.1(a)	1,000	2,000	5,000	M	30
480. Failure to submit the wind speed and atmospheric stability class (toxics only) in the OCA.	40 CFR 68.165(b)(9), N.J.A.C. 7:31-7.1(a)	1,000	2,000	5,000	M	30
481. Failure to submit the topography (toxics only) in the OCA.	40 CFR 68.165(b)(10), N.J.A.C. 7:31-7.1(a)	1,000	2,000	5,000	M	30
482. Failure to submit the distance to endpoint in the OCA.	40 CFR 68.165(b)(11), N.J.A.C. 7:31-7.1(a)	1,000	2,000	5,000	NM	
483. Failure to submit the public and environmental receptors within the distance to endpoint in the OCA.	40 CFR 68.165(b)(12), N.J.A.C. 7:31-7.1(a)	1,000	2,000	5,000	NM	
484. Failure to submit the passive mitigation considered in the OCA.	40 CFR 68.165(b)(13), N.J.A.C. 7:31-7.1(a)	1,000	2,000	5,000	M	30
485. Failure to submit the active mitigation considered (alternative releases only) in the OCA.	40 CFR 68.165(b)(14), N.J.A.C. 7:31-7.1(a)	1,000	2,000	5,000	M	30
486. Failure to submit in the RMP the five year accident history information required at 40 CFR 68.42(b) incorporated at N.J.A.C. 7:31-2.1(a) on each accident covered by 40 CFR 68.42(a) incorporated at N.J.A.C. 7:31-2.1(a).	40 CFR 68.168, N.J.A.C. 7:31-7.1(a)	1,000	2,000	5,000	NM	
487. Failure to indicate in the RMP to which Program 2 processes the prevention program information in 40 CFR 68.170(b) through (k) incorporated at N.J.A.C. 7:31-7.1(a) applies, for prevention program information provided only once which applies to more than one covered process.	40 CFR 68.170(a), N.J.A.C. 7:31-7.1(a)	1,000	2,000	5,000	M	30
488. Failure to provide in the RMP the five- or six-digit NAICS code that most closely corresponds to each Program 2 process.	40 CFR 68.170(b), N.J.A.C. 7:31-7.1(a)	500	1,000	2,500	M	30
489. Failure to provide in the RMP the name(s) of the chemical(s) covered for each Program 2 process.	40 CFR 68.170(c), N.J.A.C. 7:31-7.1(a)	1,000	2,000	5,000	M	30
490. Failure to provide in the RMP for each Program 2 process the date of the most recent review or revision of the safety information and a list of Federal or state regulations or industry specific design codes and standards used to demonstrate compliance with the safety information requirement.	40 CFR 68.170(d), N.J.A.C. 7:31-7.1(a)	1,000	2,000	5,000	M	30
491. Failure to provide in the RMP the date of completion of the most recent hazard review or update for each Program 2 process.	40 CFR 68.170(e), N.J.A.C. 7:31-7.1(a)	1,000	2,000	5,000	M	30
492. Failure to provide in the RMP the expected date of completion of any changes resulting from the hazard review for each Program 2 process.	40 CFR 68.170(e)(1), N.J.A.C. 7:31-7.1(a)	1,000	2,000	5,000	M	30
493. Failure to provide in the RMP the major hazards identified for each Program 2 process.	40 CFR 68.170(e)(2), N.J.A.C. 7:31-7.1(a)	1,000	2,000	5,000	M	30
494. Failure to provide in the RMP the process controls in use for each Program 2 process.	40 CFR 68.170(e)(3), N.J.A.C. 7:31-7.1(a)	1,000	2,000	5,000	M	30
495. Failure to provide in the RMP the mitigation systems in use for each Program 2 process.	40 CFR 68.170(e)(4), N.J.A.C. 7:31-7.1(a)	1,000	2,000	5,000	M	30
496. Failure to provide in the RMP the monitoring and detection systems in use for each Program 2 process.	40 CFR 68.170(e)(5), N.J.A.C. 7:31-7.1(a)	1,000	2,000	5,000	M	30
497. Failure to provide in the RMP the changes since the last hazard review for each Program 2 process.	40 CFR 68.170(e)(6), N.J.A.C. 7:31-7.1(a)	1,000	2,000	5,000	M	30
498. Failure to provide in the RMP the date of the most recent review or revision of operating procedures for each Program 2 process.	40 CFR 68.170(f), N.J.A.C. 7:31-7.1(a)	1,000	2,000	5,000	M	30
499. Failure to provide in the RMP the date of the most recent review or revision of training programs for each Program 2 process.	40 CFR 68.170(g), N.J.A.C. 7:31-7.1(a)	1,000	2,000	5,000	M	30

<u>Categories of Offense</u>	<u>Cite</u>	<u>First Offense</u>	<u>Second Offense</u>	<u>Subsequent Offenses</u>	<u>Type of Violation</u>	<u>Grace Period (days)</u>
500. Failure to provide in the RMP the type of training provided-(classroom, classroom plus on the job, on the job) for each Program 2 process.	40 CFR 68.170(g)(1), N.J.A.C. 7:31-7.1(a)	1,000	2,000	5,000	M	30
501. Failure to provide in the RMP the type of competency testing used for each Program 2 process.	40 CFR 68.170(g)(2), N.J.A.C. 7:31-7.1(a)	1,000	2,000	5,000	M	30
502. Failure to provide in the RMP the date of the most recent review or revision of maintenance procedures, the date of the most recent equipment inspection or test, or the equipment inspected or tested for each Program 2 process.	40 CFR 68.170(h), N.J.A.C. 7:31-7.1(a)	1,000	2,000	5,000	M	30
503. Failure to provide in the RMP the date of the most recent compliance audit or the expected date of completion of any changes resulting from the compliance audit for each Program 2 process.	40 CFR 68.170(i), N.J.A.C. 7:31-7.1(a)	1,000	2,000	5,000	M	30
504. Failure to provide in the RMP the date of the most recent incident investigation and the expected date of completion of any changes resulting from the investigation for each Program 2 process.	40 CFR 68.170(j), N.J.A.C. 7:31-7.1(a)	1,000	2,000	5,000	M	30
505. Failure to provide in the RMP the date of the most recent change that triggered a review or revision of the safety information, the hazard review, operating or maintenance procedures, or training for each Program 2 process.	40 CFR 68.170(k), N.J.A.C. 7:31-7.1(a)	1,000	2,000	5,000	M	30
506. Failure to indicate to which Program 3 processes the prevention program information required by 40 CFR 68.175(b) through (p) incorporated at N.J.A.C. 7:31-7.1(a) applies, for prevention program information provided only once which applies to more than one covered process.	40 CFR 68.175(a), N.J.A.C. 7:31-7.1(a)	1,000	2,000	5,000	M	30
507. Failure to provide in the RMP the five- or six-digit NAICS code that most closely corresponds to each Program 3 process.	40 CFR 68.175(b), N.J.A.C. 7:31-7.1(a)	500	1,000	2,500	M	30
508. Failure to provide in the RMP the name(s) of the substance(s) covered for each Program 3 process.	40 CFR 68.175(c), N.J.A.C. 7:31-7.1(a)	1,000	2,000	5,000	M	30
509. Failure to provide in the RMP the date on which the safety information was last reviewed or revised for each Program 3 process.	40 CFR 68.175(d), N.J.A.C. 7:31-7.1(a)	1,000	2,000	5,000	M	30
510. Failure to provide in the RMP the date of completion of the most recent process hazard analysis or update and the technique used for each Program 3 process.	40 CFR 68.175(e), N.J.A.C. 7:31-7.1(a)	1,000	2,000	5,000	M	30
511. Failure to provide in the RMP the expected date of completion of any changes resulting from the PHA for each Program 3 process.	40 CFR 68.175(e)(1), N.J.A.C. 7:31-7.1(a)	1,000	2,000	5,000	M	30
512. Failure to provide in the RMP the major hazards identified for each Program 3 process.	40 CFR 68.175(e)(2), N.J.A.C. 7:31-7.1(a)	1,000	2,000	5,000	M	30
513. Failure to provide in the RMP the process controls in use for each Program 3 process.	40 CFR 68.175(e)(3), N.J.A.C. 7:31-7.1(a)	1,000	2,000	5,000	M	30
514. Failure to provide in the RMP the mitigation systems in use for each Program 3 process.	40 CFR 68.175(e)(4), N.J.A.C. 7:31-7.1(a)	1,000	2,000	5,000	M	30
515. Failure to provide in the RMP the monitoring and detection systems in use for each Program 3 process.	40 CFR 68.175(e)(5), N.J.A.C. 7:31-7.1(a)	1,000	2,000	5,000	M	30
516. Failure to provide in the RMP the changes since the last PHA for each Program 3 process.	40 CFR 68.175(e)(6), N.J.A.C. 7:31-7.1(a)	1,000	2,000	5,000	M	30
517. Failure to provide in the RMP the date of the most recent review or revision of the operating procedures for each Program 3 process.	40 CFR 68.175(f), N.J.A.C. 7:31-7.1(a)	1,000	2,000	5,000	M	30
518. Failure to provide in the RMP the date of the most recent review or revision of training programs for each Program 3 process.	40 CFR 68.175(g), N.J.A.C. 7:31-7.1(a)	1,000	2,000	5,000	M	30

<u>Categories of Offense</u>	<u>Cite</u>	<u>First Offense</u>	<u>Second Offense</u>	<u>Subsequent Offenses</u>	<u>Type of Violation</u>	<u>Grace Period (days)</u>
519. Failure to provide in the RMP for each Program 3 process the type of training given (classroom, classroom plus on the job, on the job).	40 CFR 68.175(g)(1), N.J.A.C. 7:31-7.1(a)	1,000	2,000	5,000	M	30
520. Failure to provide in the RMP the type of competency testing used for each Program 3 process.	40 CFR 68.175(g)(2), N.J.A.C. 7:31-7.1(a)	1,000	2,000	5,000	M	30
521. Failure to provide in the RMP the date of the most recent review or revision of maintenance procedures and the date of the most recent equipment inspection or test and the equipment inspected or tested for each Program 3 process.	40 CFR 68.175(h), N.J.A.C. 7:31-7.1(a)	1,000	2,000	5,000	M	30
522. Failure to provide in the RMP the date of the most recent change that triggered management of change procedures or the date of the most recent review or revision of management of change procedures for each Program 3 process.	40 CFR 68.175(i), N.J.A.C. 7:31-7.1(a)	1,000	2,000	5,000	M	30
523. Failure to provide in the RMP the date of the most recent pre-startup review for each Program 3 process.	40 CFR 68.175(j), N.J.A.C. 7:31-7.1(a)	1,000	2,000	5,000	M	30
524. Failure to provide in the RMP the date of the most recent compliance audit and the expected date of completion of any changes resulting from the compliance audit for each Program 3 process.	40 CFR 68.175(k), N.J.A.C. 7:31-7.1(a)	1,000	2,000	5,000	M	30
525. Failure to provide in the RMP the date of the most recent incident investigation and the expected date of completion of any changes resulting from the investigation for each Program 3 process.	40 CFR 68.175(l), N.J.A.C. 7:31-7.1(a)	1,000	2,000	5,000	M	30
526. Failure to provide in the RMP the date of the most recent review or revision of employee participation plans for each Program 3 process.	40 CFR 68.175(m), N.J.A.C. 7:31-7.1(a)	1,000	2,000	5,000	M	30
527. Failure to provide in the RMP the date of the most recent review or revision of hot work permit procedures for each Program 3 process.	40 CFR 68.175(n), N.J.A.C. 7:31-7.1(a)	500	1,000	2,500	M	30
528. Failure to provide in the RMP the date of the most recent review or revision of contractor safety procedures for each Program 3 process.	40 CFR 68.175(o), N.J.A.C. 7:31-7.1(a)]	500	1,000	2,500	M	30
529. Failure to provide in the RMP the date of the most recent evaluation of contractor safety performance for each Program 3 process.	40 CFR 68.175(p), N.J.A.C. 7:31-7.1(a)	500	1,000	2,500	M	30
530. Failure to provide in the RMP whether there is a written emergency response plan.	40 CFR 68.180(a)(1), N.J.A.C. 7:31-7.1(a)	1,000	2,000	5,000	M	30
531. Failure to provide in the RMP whether the emergency response plan includes specific actions to be taken in response to an accidental release of a regulated substance.	40 CFR 68.180(a)(2), N.J.A.C. 7:31-7.1(a)	1,000	2,000	5,000	M	30
532. Failure to provide in the RMP whether the emergency response plan includes procedures for informing the public and local agencies responsible for responding to accidental releases.	40 CFR 68.180(a)(3), N.J.A.C. 7:31-7.1(a)	1,000	2,000	5,000	M	30
533. Failure to provide in the RMP whether the emergency response plan includes information on emergency health care.	40 CFR 68.180(a)(4), N.J.A.C. 7:31-7.1(a)	1,000	2,000	5,000	M	30
534. Failure to provide in the RMP the date of the most recent review or update of the emergency response plan.	40 CFR 68.180(a)(5), N.J.A.C. 7:31-7.1(a)	1,000	2,000	5,000	M	30
535. Failure to provide in the RMP the date of the most recent emergency response training for employees.	40 CFR 68.180(a)(6), N.J.A.C. 7:31-7.1(a)	1,000	2,000	5,000	M	30
536. Failure to provide in the RMP the name and telephone number of the local agency with which emergency response activities and the emergency response plan is coordinated.	40 CFR 68.180(b), N.J.A.C. 7:31-7.1(a)	1,000	2,000	5,000	M	30

<u>Categories of Offense</u>	<u>Cite</u>	<u>First Offense</u>	<u>Second Offense</u>	<u>Subsequent Offenses</u>	<u>Type of Violation</u>	<u>Grace Period (days)</u>
537. Failure to list in the RMP other Federal or state emergency plan requirements to which the stationary source is subject.	40 CFR 68.180(c), N.J.A.C. 7:31-7.1(a)	1,000	2,000	5,000	M	30
538. Failure to submit in the RMP a single certification that, to the best of the signer's knowledge, information, and belief formed after reasonable inquiry, the information submitted is true, accurate, and complete.	40 CFR 68.185(b), N.J.A.C. 7:31-7.1(a)	2,000	4,000	10,000	NM	
539. Failure to review and update the RMP as specified in 40 CFR 68.190(b) incorporated at N.J.A.C. 7:31-7.1(c) and submit it in a method and format to a central point specified by EPA as of the date of submission.	40 CFR 68.190(a), N.J.A.C. 7:31-7.1(c)3-4	1,000	2,000	5,000	NM	
540. Failure to submit RMP updates to the Department in accordance with 40 CFR 190(b) incorporated N.J.A.C. 7:31-7.1(c) and N.J.A.C. 7:31-7.2 for all covered processes.	40 CFR 68.190(b), N.J.A.C. 7:31-7.1(c)5, N.J.A.C. 7:31-7.2	1,000	2,000	5,000	NM	
541. Failure to revise and update the RMP submitted under 40 CFR 68.150 incorporated with changes specified at N.J.A.C. 7:31-7.1(c)1 and 2 at least once every five years from the date of its initial submission or most recent update required by 40 CFR 68.190(b)(2) through (b)(7), whichever is later. For purposes of determining the date of initial submissions, RMPs submitted before June 21, 1999 are considered to have been submitted on that date.	40 CFR 68.190(b)(1), N.J.A.C. 7:31-7.1(c)5	1,000	2,000	5,000	NM	
542. Failure to revise and update the RMP submitted under 40 CFR 68.150 incorporated with changes specified at N.J.A.C. 7:31-7.1(c)1 and 2 prior to three years after a newly regulated substance is first listed by EPA.	40 CFR 68.190(b)(2), N.J.A.C. 7:31-7.1(c)5	1,000	2,000	5,000	NM	
543. Failure to revise and update the RMP submitted under 40 CFR 68.150 incorporated with changes specified at N.J.A.C. 7:31-7.1(c)1 and 2 prior to the date on which a new regulated substance is first present above a threshold quantity in an already covered process.	40 CFR 68.190(b)(3), N.J.A.C. 7:31-7.1(c)5	1,000	2,000	5,000	NM	
544. Failure to revise and update the RMP submitted under 40 CFR 68.150 incorporated with changes specified at N.J.A.C. 7:31-7.1(c)1 and 2 prior to the date on which a regulated substance was first present above a threshold quantity in a new process.	40 CFR 68.190(b)(4), N.J.A.C. 7:31-7.1(c)5	1,000	2,000	5,000	NM	
545. Failure to revise and update the RMP submitted under 40 CFR 68.150 incorporated with changes specified at N.J.A.C. 7:31-7.1(c)1 and 2 within six months of a change that requires a revised PHA or hazard review.	40 CFR 68.190(b)(5), N.J.A.C. 7:31-7.1(c)5	1,000	2,000	5,000	NM	
546. Failure to revise and update the RMP submitted under 40 CFR 68.150 incorporated with changes specified at N.J.A.C. 7:31-7.1(c)1 and 2 within six months of a change that requires a revised offsite consequence analysis as provided in 40 CFR 68.3 incorporated at N.J.A.C. 7:31-2.1(c).	40 CFR 68.190(b)(6), N.J.A.C. 7:31-7.1(c)5	1,000	2,000	5,000	NM	
547. Failure to revise and update the RMP submitted under 40 CFR 68.150 incorporated with changes specified at N.J.A.C. 7:31-7.1(c)1 and 2 within six months of a change that alters the Program level that applied to any covered process.	40 CFR 68.190(b)(7), N.J.A.C. 7:31-7.1(c)5	1,000	2,000	5,000	NM	
548. Failure to submit a de-registration to EPA and the Department within six months of being no longer subject to 40 CFR 68 as incorporated at N.J.A.C. 7:31 indicating that the stationary source is no longer covered.	40 CFR 68.190(c), N.J.A.C. 7:31-7.1(a)	1,000	2,000	5,000	M	30

<u>Categories of Offense</u>	<u>Cite</u>	<u>First Offense</u>	<u>Second Offense</u>	<u>Subsequent Offenses</u>	<u>Type of Violation</u>	<u>Grace Period (days)</u>
549. Failure to correct the RMP for any accidental release meeting the five-year accident history reporting criteria of 40 CFR 68.42 and occurring after April 9, 2004 by submitting the data required under 40 CFR 68.168, 68.170(j), and 68.175(l) with respect to that accident within six months of the release or by the time the RMP is updated under 40 CFR 68.190, whichever is earlier.	40 CFR 68.195(a), N.J.A.C. 7:31-7.1(a)	1,000	2,000	5,000	NM	
550. Failure to correct the RMP beginning June 21, 2004, within one month of any change in the emergency contact information required under 40 CFR 68.160(b)(6), the owner or operator shall submit a correction of that information.	40 CFR 68.195(b), N.J.A.C. 7:31-7.1(a)	1,000	2,000	5,000	NM	
551. Failure to submit to the Department in a specified format all documents required by 40 CFR 68.150 incorporated with changes specified at N.J.A.C. 7:31-7.1(c)1 and 2.	N.J.A.C. 7:31-7.2(a)1	1,000	2,000	5,000	M	30
552. Failure to submit to the Department in a specified format, supplemental TCPA program information including identification of the position titles, expertise and affiliation of the persons involved with the development of each element of the risk management program.	N.J.A.C. 7:31-7.2(a)2i	1,000	2,000	5,000	M	30
553. Failure to submit to the Department in a specified format supplemental TCPA program information including a description and profile of the area in which the covered process is situated and its proximity to population and water supplies.	N.J.A.C. 7:31-7.2(a)2ii	1,000	2,000	5,000	M	30
554. Failure to submit to the Department in a specified format supplemental TCPA program information identifying insurance carriers underwriting the stationary source's environmental liability and workers compensation insurance policies including the address of the carrier, the type of policy, the amount of insurance and limitations or exclusions to the policy.	N.J.A.C. 7:31-7.2(a)2iii	1,000	2,000	5,000	M	30
555. Failure to submit to the Department in a specified format supplemental TCPA program information identifying the extraordinarily hazardous substances inventory at the covered process as end products, intermediate products, by-products or waste products.	N.J.A.C. 7:31-7.2(a)2iv	1,000	2,000	5,000	M	30
556. Failure to submit to the Department in a specified format supplemental TCPA program information identifying each covered process containing an RHS Mixture and the number of process vessels in which the RHS Mixture is present at or above its threshold quantity for RHS Mixtures containing one or more EHSs listed in Parts A, B, or C of N.J.A.C. 7:31-6.3(a) Table I.	N.J.A.C. 7:31-7.2(a)2v	1,000	2,000	5,000	M	30
557. Failure to identify and register each regulated individual RHS and RHS Mixture and provide in the RMP registration section pursuant to 40 CFR 68.160(b)(7) incorporated at N.J.A.C. 7:31-7.1(a) the total amount of the individual RHS in the covered process for each individual RHS listed at N.J.A.C. 7:31-6.3(a), Table I, Part D, Group I.	N.J.A.C. 7:31-7.2(a)3i	1,000	2,000	5,000	NM	
558. Failure to identify and register a RHS Mixture in the RMP registration section pursuant to 40 CFR 68.160(b)(7) incorporated at N.J.A.C. 7:31-7.1(a) the maximum capacity of the process vessel containing the RHS Mixture, for each regulated RHS Mixture identified pursuant to N.J.A.C. 7:31-6.3. or	N.J.A.C. 7:31-7.2(a)3ii	1,000	2,000	5,000	NM	

<u>Categories of Offense</u>	<u>Cite</u>	<u>First Offense</u>	<u>Second Offense</u>	<u>Subsequent Offenses</u>	<u>Type of Violation</u>	<u>Grace Period (days)</u>
Failure to register the total combined capacity of multiple vessels with a capacity at or above the threshold quantity of an RHS Mixture.						
559. Failure to identify and register each regulated individual RHS and RHS mixture and provide in the RMP registration section pursuant to 40 CFR 68.160(b)(7) incorporated at N.J.A.C. 7:31-7.1(a) the heat of reaction range for RHS mixtures in calories/gram of RHS mixture as listed at Table II of N.J.A.C. 7:31-6.3(c). or Failure to identify and register the RHS mixture having the highest heat of reaction range as shown on Table II in the RMP registration section pursuant to 40 CFR 68.160(b)(7) incorporated at N.J.A.C. 7:31-7.1(a) when more than one RHS mixture is present in the process vessel at different times.	N.J.A.C. 7:31-7.2(a)3iii	1,000	2,000	5,000	NM	
560. Failure to identify and register only the EHS listed on Part A, B, or C as a toxic or flammable substance, as applicable, in the RMP registration section pursuant to 40 CFR 68.160(b)(7) incorporated at N.J.A.C. 7:31-7.1(a), for RHS Mixtures containing one or more EHS(s) listed in Parts A, B, or C of Table I in a process above their threshold.	N.J.A.C. 7:31-7.2(a)3iv	1,000	2,000	5,000	NM	
561. Failure to submit an update to the Department within 60 days of an increase in maximum inventory of a covered process in addition to the updates required by N.J.A.C. 7:31-7.1(c)3 through 5.	N.J.A.C. 7:31-7.2(b)	2,000	4,000	10,000	NM	
562. Failure to adopt the existing, or obtain a new, approved Program 2 or Program 3 TCPA risk management program for the covered process before operating EHS equipment following the transfer of the covered process to a new owner or operator or change in ownership or the name of an owner or operator.	N.J.A.C. 7:31-7.4(a)	2,000	4,000	10,000	NM	
563. Failure to adopt an existing approved Program 2 or Program 3 TCPA risk management program by submitting an updated registration in accordance with Subchapter 7 and signing an addendum to the consent agreement that was previously signed by the Department and the former owner or operator.	N.J.A.C. 7:31-7.4(b)	2,000	4,000	10,000	NM	
564. Failure to comply with the approved risk management program for EHSs listed in N.J.A.C. 7:31-6.3, Table I, Parts A, B and/or C until the risk management program is revised to reflect the new requirements of N.J.A.C. 7:31. or Failure to revise the risk management program to reflect the new requirements of this chapter by January 1, 2004.	N.J.A.C. 7:31-7.5(a)	2,000	4,000	10,000	NM	
565. Failure to be in compliance with this chapter by September 30, 2004.	N.J.A.C. 7:31-7.5(b)	2,000	4,000	10,000	NM	
566. Failure to maintain records supporting the implementation of 40 CFR 68 as incorporated at N.J.A.C. 7:31 for five years unless otherwise provided in N.J.A.C. 7:31-3 and 4.	40 CFR 68.200, N.J.A.C. 7:31-8.1(c)1	2,000	4,000	10,000	NM	
567. Failure to provide the Department access to the stationary source, supporting documentation, or any area where an accidental release could occur in accordance with N.J.A.C. 7:31-8.2.	40 CFR 68.220(d), N.J.A.C. 7:31-8.1(c)2 and 5	2,000	4,000	10,000	NM	

<u>Categories of Offense</u>	<u>Cite</u>	<u>First Offense</u>	<u>Second Offense</u>	<u>Subsequent Offenses</u>	<u>Type of Violation</u>	<u>Grace Period (days)</u>
568. Failure to include in the written response to a preliminary determination a statement that the revisions contained in the preliminary determination will be implemented in accordance with the timetable included in the preliminary determination or a statement that the revisions in whole or in part are rejected. or Failure to explain the basis for rejecting in whole or in part a revision contained in a preliminary determination.	40 CFR 68.220(f)(1), N.J.A.C. 7:31-8.1(c)7	2,000	4,000	10,000	NM	
569. Failure to submit the written response under 40 CFR 68.220(f)(1) as incorporated at N.J.A.C. 7:31-8.1(c)7 to the Department within 60 days of the issue of the preliminary determination.	40 CFR 68.220(f)(2), N.J.A.C. 7:31-8.1(c)8	4,000	8,000	20,000	NM	
570. Failure to enter into a consent agreement (or consent agreement addendum for previously approved risk management programs) with the Department within 120 days of receipt of a preliminary determination. or Failure to comply with the requirements of the approved risk management program as set forth in the consent agreement or consent agreement addendum.	40 CFR 68.220(g), N.J.A.C. 7:31-8.1(c)9	2,000	4,000	10,000	NM	
571. Failure to revise and submit the RMP prepared under 40 CFR 68.150 as incorporated at N.J.A.C. 7:31-7.1(c) as required by a consent agreement, consent agreement addendum or administrative order under 40 CFR 68.220(g) as incorporated at N.J.A.C. 7:31-8.1(c)9 within 30 days after completion of the actions detailed in the implementation schedule set forth in the consent agreement, consent agreement addendum or administrative order.	40 CFR 68.220(h), N.J.A.C. 7:31-8.1(c)10	2,000	4,000	10,000	NM	
572. Failure to provide the Department the right to enter and inspect and/or audit any stationary source, building or equipment, or any portion thereof, at any time, in order to determine compliance with the TCPA, N.J.A.C. 7:31, any order, consent order or agreement. or Failure to provide the Department the right to test or sample any materials at the stationary source, to sketch or photograph any portion of the stationary source, building or equipment, to copy or photograph any document or records necessary to determine such compliance or non-compliance, and to interview any employees or representatives of the owner or operator. or Failure to assist the Department by hindering or delaying during the performance of any aspects of an inspection and audit.	N.J.A.C. 7:31-8.2(a)	2,000	4,000	10,000	NM	
573. Failure to submit to the Department a risk management program document for review.	N.J.A.C. 7:31-8.2(c)	1,000	2,000	5,000	NM	
574. Failure to assist the Department in developing a work plan to perform an Extraordinarily Hazardous Substance Accident Risk Assessment (EHSARA) and develop a risk reduction plan.	N.J.A.C. 7:31-9.1(a)	2,000	4,000	10,000	NM	
575. Failure to compile and submit to the Department the list of risk management program documents within 30 days after receipt of notice of the determination that the owner or operator does not have an established risk management program. or	N.J.A.C. 7:31-9.1(c)	2,000	4,000	10,000	NM	

<u>Categories of Offense</u>	<u>Cite</u>	<u>First Offense</u>	<u>Second Offense</u>	<u>Subsequent Offenses</u>	<u>Type of Violation</u>	<u>Grace Period (days)</u>
Failure to group the list of documents by operating or utility unit area in EHS service at the stationary source giving their document number, name, the EHS involved, most recent revision number and date, file location at the stationary source, and code of sheet size according to ANSI Y14.1-1996 (A, B, C, D, or E) or Deutshes Institute Fuer Normung (DIN) 823-1965 (A4, A3, A2, A1, or A0).						
576. Failure to attend a meeting with the Department for the purpose of discussing any workplan items listed at N.J.A.C. 7:31-9.1(d)1 through 7.	N.J.A.C. 7:31-9.1(d)1 through 7	2,000	4,000	10,000	NM	
577. Failure to submit within 60 days of receipt of the finished workplan the names and proposals of three consultants who meet the requirements at N.J.A.C. 7:31-9.4(b) and are willing and able to perform the EHSARA in accordance with the schedule set in the work plan.	N.J.A.C. 7:31-9.3(b)	2,000	4,000	10,000	NM	
578. Failure to obtain approval in writing from the Department to subcontract work involved in the EHSARA.	N.J.A.C. 7:31-9.3(c)4	750	1,500	3,750	NM	
579. Failure to submit the names and proposals of an additional three consultants to the Department for its selection of one of the consultants to perform the EHSARA within 60 days after the Department's determination that none of the original proposals meet the requirements in N.J.A.C. 7:31-9.4.	N.J.A.C. 7:31-9.4(d)2	2,000	4,000	10,000	NM	
580. Failure to execute a contract with the consultant chosen by the Department within 45 days after receipt of the name of the consultant from the Department.	N.J.A.C. 7:31-9.4(e)	2,000	4,000	10,000	NM	
581. Failure to require the consultant to perform the EHSARA and develop a recommended risk reduction plan which includes the identification of those activities necessary to create a risk management program in conformity with the work plan developed and explained at the meeting held pursuant to N.J.A.C. 7:31-9.1(d).	N.J.A.C. 7:31-9.4(f)	2,000	4,000	10,000	NM	
582. Failure to require the consultant to prepare an EHSARA report upon completion of the EHSARA which includes recommendations to reduce risks.	N.J.A.C. 7:31-9.5(a)	2,000	4,000	10,000	NM	
583. Failure to submit the original EHSARA report to the Department in accordance with the schedule set forth in the work plan.	N.J.A.C. 7:31-9.5(b)	2,000	4,000	10,000	M	30
584. Failure to include in the EHSARA report the findings of the verification required by N.J.A.C. 7:31-9.2(a)2.	N.J.A.C. 7:31-9.5(c)1	1,000	2,000	5,000	NM	
585. Failure to include in the EHSARA report the findings of the review required by N.J.A.C. 7:31-9.2(a)3.	N.J.A.C. 7:31-9.5(c)2	1,000	2,000	5,000	NM	
586. Failure to include in the EHSARA report the findings of the safety review required by N.J.A.C. 7:31-9.2(a)4.	N.J.A.C. 7:31-9.5(c)3	1,000	2,000	5,000	NM	
587. Failure to include in the EHSARA report the reports of the process hazard analysis with risk assessment required by N.J.A.C. 7:31-9.2(a)5.	N.J.A.C. 7:31-9.5(c)4	1,000	2,000	5,000	NM	
588. Failure to include in the EHSARA report the findings of the reviews required by N.J.A.C. 7:31-9.2(a)6 through 10.	N.J.A.C. 7:31-9.5(c)5	1,000	2,000	5,000	NM	
589. Failure to include in the EHSARA report the recommended risk reduction plan including the listing of all of the deficiencies identified in N.J.A.C. 7:31-9.5(c)1 through 5, the remedial actions and alternatives to correct the deficiencies or a proposed schedule for implementation.	N.J.A.C. 7:31-9.5(c)6	1,000	2,000	5,000	NM	

Categories of Offense	Cite	First Offense	Second Offense	Subsequent Offenses	Type of Violation	Grace Period (days)
590. Failure to include in the EHSARA report the findings of the verification required by N.J.A.C. 7:31-9.2(b)2.	N.J.A.C. 7:31-9.5(d)1	1,000	2,000	5,000	NM	
591. Failure to include in the EHSARA report the findings of the review required by N.J.A.C. 7:31-9.2(b)3.	N.J.A.C. 7:31-9.5(d)2	1,000	2,000	5,000	NM	
592. Failure to include in the EHSARA report the report of the hazard review required by N.J.A.C. 7:31-9.2(b)4.	N.J.A.C. 7:31-9.5(d)3	1,000	2,000	5,000	NM	
593. Failure to include in the EHSARA report the findings of the reviews required by N.J.A.C. 7:31-9.2(b)5 through 9.	N.J.A.C. 7:31-9.5(d)4	1,000	2,000	5,000	NM	
594. Failure to include in the EHSARA report the recommended risk reduction plan including the listing of all of the deficiencies identified in N.J.A.C. 7:31-9.5(d)1 through 4, the remedial actions and alternatives to correct the deficiencies or a proposed schedule for implementation.	N.J.A.C. 7:31-9.5(d)5	1,000	2,000	5,000	NM	
595. Failure to implement the risk reduction plan which includes a list of risks that must be reduced.	N.J.A.C. 7:31-9.5(e)1	4,000	8,000	20,000	NM	
596. Failure to implement the risk reduction plan which includes the scheduled actions that were required to be taken to reduce the risks including those necessary to complete a risk management program meeting the requirements of N.J.A.C. 7:31-3 for Program 2 covered processes or N.J.A.C. 7:31-4 for Program 3 covered processes.	N.J.A.C. 7:31-9.5(e)2	4,000	8,000	20,000	NM	

(d) The Department may assess a civil administrative penalty for a violation of the Toxic Catastrophe Prevention Act and for violations of any rule, consent agreement or administrative order adopted or issued pursuant thereto, for which no penalty amount is specified under (c) above, according to the following:

1. The Department shall assess a penalty in an amount not to exceed the following:

- i. \$10,000 for the first offense;
- ii. \$20,000 for the second offense;
- iii. \$50,000 for the third and each subsequent offense.

2. The Department shall determine whether the violation is a minor violation and subject to a grace period or whether the violation is non-minor and not subject to a grace period and shall assess a penalty as follows:

- i. If, pursuant to (e) below, the violation is comparable to a violation listed in (c) above, and the comparable violation in (c) above is minor, then the violation under this section is also minor, provided the criteria at N.J.A.C. 7:31-11.5(c)1 through 4 are also met. The minor violation shall be subject to the grace period set forth in (c) above for the comparable violation, and the penalty shall be assessed in the amount of the penalty for the comparable violation, in accordance with the procedures set forth at N.J.A.C. 7:31-11.5;

ii. If the violation is not comparable to a violation listed in (c) above and the violation meets all of the criteria at (d)2ii(1) through (3) below as well as the criteria at N.J.A.C. 7:31-11.5(c)1 through 4, then the violation under this section is minor. The minor violation shall be subject to a grace period of 30 days, and may be subject to a penalty to be assessed under (d)1 above, in accordance with the procedures set forth at N.J.A.C. 7:31-11.5.

(1) The violation poses minimal risk to the public health, safety and natural resources;

(2) The violation does not materially and substantially undermine or impair the goals of the regulatory program; and

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

iii. If, pursuant to (e) below, the violation is comparable to a violation listed in (c) above, and the comparable violation in (c) above is non-minor, then the violation under this section is also non-minor and the penalty shall be assessed in the amount of the penalty for the comparable non-minor violation.

iv. If the violation is not comparable to a violation listed in (c) above and the violation does not meet the requirements of (d)2ii above, the violation is non-minor

and the penalty shall be assessed pursuant to (d)1 above, and (g) below as appropriate.

(e) Comparability of a violation under (d) above with a violation listed in (c) above is based upon the nature of the violation (for example, a violation of recordkeeping, completeness, reporting completeness or performance of risk management program requirements) and the nature and extent of the extraordinarily hazardous accident risk likely to result from the type of violation.

(f) If the owner or operator has not committed the same offense within the three year period preceding the pending offense, the penalty for the pending offense will be assessed at the frequency of violation level of the prior offense. The Department may, in its discretion, treat an offense as a first offense solely for civil administrative penalty determination purposes if the violator has not committed the same offense in the five years immediately preceding the date of the pending offense.

(g) The Department may, in its discretion, adjust the amount of any penalty assessed for a non-minor violation pursuant to this section to assess a civil administrative penalty amount no greater than \$ 10,000 for the first offense, \$ 20,000 for the second offense and \$ 50,000 for the third and each subsequent offense, based upon any or all of the following factors:

1. The nature of the violation;
2. The nature and extent of the extraordinarily hazardous accident risk;
3. The nature, timing and effectiveness of prevention measures to minimize extraordinarily hazardous accident risks in addition to those minimally required by applicable statute or rule;
4. The compliance history of the violator;
5. The number of times and the frequency with which the violation occurred;
6. The severity of the violation;
7. Any other mitigating, extenuating or aggravating circumstances; and/or
8. 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.

Amended by R.1993 d.358, effective July 19, 1993.

See: 25 N.J.R. 1425(b), 25 N.J.R. 3156(a).

Amended by R.1998 d.355, effective July 20, 1998.

See: 30 N.J.R. 908(a), 30 N.J.R. 2728(a).

Rewrote the section.

Amended by R.2003 d.335, effective August 4, 2003.

See: 35 N.J.R. 935(a), 35 N.J.R. 3618(b).

In (c), substituted "III" for "II" in the introductory paragraph and rewrote the Table.

Amended by R.2006 d.143, effective April 17, 2006.

See: 37 N.J.R. 1595(a), 38 N.J.R. 1678(a).

In introductory paragraph (c), added "the type of violation as minor (M) or non-minor (NM), and the applicable grace period if the violation

is minor,"; in (c) Table III, added type of violation and grace period columns; rewrote (d), (e) and in (g) added "for a non-minor violation" after "assessed".

Administrative correction.

See: 38 N.J.R. 2800(a).

Case Notes

Municipal water utility failed to timely file site documentation; penalty assessed. Department of Environmental Protection and Energy v. North Brunswick Water Works. 92 N.J.A.R.2d (EPE) 121.

Late filing of summary risk management program statement; de minimis violation. Division of Environmental Quality v. Middlesex Water Company. 92 N.J.A.R.2d (EPE) 62.

Failure of municipal utilities authority to timely submit Summary Risk Management Program Statement was one-time event. Department of Environmental Protection and Energy v. Gloucester Township Municipal Utilities Authority. 92 N.J.A.R.2d (EPE) 57.

Utility operating sewerage treatment facility utilizing liquid chlorine could not be penalized for failing to enter into administrative consent agreement. Camden County Municipal Utilities Authority v. New Jersey Department of Environmental Protection and Energy. 92 N.J.A.R.2d (EPE) 41.

7:31-11.5 Grace period applicability; procedures

(a) Each violation identified in the penalty table at N.J.A.C. 7:31-11.4(c) Table III by an "M" in the Type of Violation column and for each violation determined under N.J.A.C. 7:31-11.4(d) as minor, for which conditions at (c) below are satisfied, is a minor violation and is subject to a grace period, the length of which (in days) is indicated in the column with the heading "Grace Period."

(b) Each violation identified in the penalty table at N.J.A.C. 7:31-11.4(c) Table III by an "NM" in the Type of Violation column is a non-minor violation and is not subject to a grace period.

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

1. The violation is not the result of the purposeful, knowing, reckless or criminally negligent conduct of the person responsible for the violation;
2. The activity or condition constituting the violation has existed for less than 12 months prior to the date of discovery by the Department or local government agency;
3. The person responsible for the violation has not been identified in a previous enforcement action by the Department or a local government agency as responsible for the same or a substantially similar violation at the same stationary source within the preceding 12-month period; and
4. The person responsible for the violation has not been identified by the Department or a local government agency as responsible for the same or substantially similar violations at any time that reasonably indicate a pattern of

illegal conduct and not isolated incidents on the part of the person responsible.

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

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

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

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

2. If the person responsible for the minor violation corrects that violation and demonstrates, in accordance with (d)3 below, that compliance has been achieved within the specified grace period, the Department or local government agency shall not impose a penalty for the violation, and the violation will not be considered an offense for purposes of determining whether the violation constitutes a second or subsequent offense.

3. The person responsible for the minor violation shall submit to the Department or local government agency, before the end of the specified grace period, written information, certified in accordance with 40 C.F.R. 68.185, incorporated by reference at N.J.A.C. 7:31-7.1, and signed by a qualified person or position as defined in N.J.A.C. 7:31-1.5, detailing the corrective action taken or compliance achieved.

4. If the person responsible for the minor violation seeks additional time beyond the specified grace period to achieve compliance, the person shall request an extension of the specified grace period. The request shall be made in writing no later than one week before the end of the

specified grace period and include the anticipated time needed to achieve compliance, the specific cause or causes of the delay, and any measures taken or to be taken to minimize the time needed to achieve compliance and shall be certified in accordance with 40 C.F.R. 68.185, incorporated by reference at N.J.A.C. 7:31-7.1. The Department may, at its discretion, approve in writing an extension, which shall not exceed 90 days, to accommodate the anticipated delay in achieving compliance. In exercising its discretion to approve a request for an extension, the Department may consider the following:

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

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

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

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

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

6. The person responsible for a minor violation shall not request more than one extension of a grace period specified in a notice of violation.

New Rule, R.2006 d.143, effective April 17, 2006.
See: 37 N.J.R. 1595(a), 38 N.J.R. 1678(a).