

**CHAPTER 31  
TOXIC CATASTROPHE PREVENTION  
ACT PROGRAM**

**Authority**

N.J.S.A. 13:1K-19 et seq., 13:1D-9, 13:1B-3 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2, Hazard Assessment, was adopted and former Subchapter 2, General Requirements, Prohibitions and Procedures, was repealed and recodified; a new Subchapter 3, Minimum Requirements for a Program 2 TCPA Risk Management Program, was adopted and former Subchapter 3, Minimum Requirements for a Risk Management Program, was repealed and recodified; a new Subchapter 4, Minimum Requirements for a Program 3 TCPA Risk Management Program, was adopted, with N.J.A.C. 7:31-4.10 recodified from former N.J.A.C. 7:31-3.16, and former Subchapter 4, Work Plan Requirements, was repealed; a new Subchapter 5, Emergency Response, was adopted and former Subchapter 5, Confidentiality and Trade Secrets, was recodified as Subchapter 10; a new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from former N.J.A.C. 7:31-2.12; Subchapter 9, Work Plan/EHSARA, was adopted; and former Appendices I and II were repealed by R.1998 d.355, effective July 20, 1998.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.

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**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)."

“Commissioner” means the Commissioner of the Department of Environmental Protection or the person delegated to act on his behalf.

“Confidential copy” means a copy of any information submitted to the Department pursuant to the Act or this chapter which contains all the required information including any information which the claimant requests to be treated as confidential. The confidential copy shall be labelled as such and all confidential information contained therein shall be clearly identified.

“Confidential information” means information required to be submitted or disclosed to the Department pursuant to this chapter, the public disclosure of which would competitively disadvantage the owner or operator or compromise the security of the covered process or its operations; consisting of non-privileged trade secret information, proprietary information and non-privileged security information.

“Confidentiality claim” or “claim” means a written request made by an owner or operator of a covered process pursuant to this chapter to withhold from public disclosure certain information required to be submitted to the Department.

“Consequence analysis” means the determination of the potential consequence of an EHS release on the surrounding population, using dispersion, thermal or overpressure analysis and, at a minimum, identifying potential populations exposed to the toxic, thermal or overpressure endpoint for each EHS.

“Department” means the New Jersey Department of Environmental Protection.

“Dispersion analysis” means the calculation, by means of EPA Offsite Consequence Analysis look-up tables or a model acceptable to the Department, of the ambient concentrations of an EHS after its release, taking into account the physical and chemical states and properties of the EHS, the release scenario and the geographical, topographical, geological and meteorological characteristics of the environment, which will influence the migration, movement, dispersion, or degradation of the EHS in the environment.

“EHS accident” means an unplanned, unforeseen or unintended incident, situation, condition, or set of circumstances which directly or indirectly results in an EHS release.

“EHS equipment” means that equipment within a covered process whose failure or improper operation could directly or indirectly result in or contribute to an EHS accident, including, but not limited to, vessels, piping, compressors, pumps, instrumentation and electrical equipment. EHS equipment includes fire suppression, risk mitigation,

EHS release detection equipment, and EHS shipping container handling equipment.

“EHS operator” means an employee who is directly involved with an EHS and qualified and trained in the operations of EHS equipment or procedures.

“EHS procedure” means a step of an operation involving an EHS, which if conducted improperly, could directly or indirectly result in or contribute to an EHS accident.

“EHS release” means a discharge or emission of an EHS into the environment, excluding discharges or emissions occurring pursuant to and in compliance with the conditions of any State permit or a regulation promulgated pursuant to the Air Pollution Control Act, N.J.S.A. 26:2C-1 et seq.

“EHS service” means the handling, use, manufacture, storage or generation of an EHS.

“Electrical classification” means the electrical area or bubble classification according to the National Electrical Code (NEC) which provides the NEC group number of the flammable or combustible substance(s) handled, stored or used. The NEC may be obtained from the National Fire Protection Association, 11 Tracy Drive, Avon, MA 02322.

“Electrical one-line diagram” means a diagram including legend of the electrical power distribution system that could contribute to an EHS release showing such items as power consumers, the chain of supply back through starters, distribution centers, substations to the main feeder, emergency power supply, and connections to various components. For complex systems, the one-line diagram may be a group of drawings.

“Emergency condition” means any situation at a covered process during which an EHS release is in progress or will occur because no preventive measures would be effective.

“Employee” means any person allowed or permitted to work by an owner or operator of a covered process, except that independent contractors, subcontractors, consultants and employees of affiliated companies or corporations shall not be considered employees of the owner or operator of a covered process.

“External forces and events” means forces of nature or sabotage or such events as neighboring fires or explosions, neighboring EHS releases, electric power failures, and intrusions of external transportation vehicles such as aircraft, ships, trucks or automobiles.

“Extraordinarily hazardous accident risk” means a potential for an EHS release which could produce a significant likelihood that persons exposed may suffer acute health effects resulting in death or permanent disability.

"Extraordinarily hazardous substance accident risk assessment" or "EHSARA" means a review and safety evaluation of those operations at a covered process which involve the generation, storage, or handling of an extraordinarily hazardous substance.

"Extraordinarily hazardous substance" or "EHS" means any substance or chemical on the extraordinarily hazardous substance list in Table I in N.J.A.C. 7:31-6.3.

"Extraordinarily Hazardous Substance List" means the list of substances and chemical compounds set forth in Table I of N.J.A.C. 7:31-6.3.

"Extraordinarily Hazardous Substance Risk Reduction Work Plan" or "work plan" means the document developed by the Department for each covered process at which is generated, stored, or handled an extraordinarily hazardous substance, setting forth the scope and detail of the EHSARA to which the covered process will be submitted.

"Facility" means a building, equipment, and contiguous area which embodies a process. Facility shall not include a research and development laboratory, which means a specially designated area used primarily for research, development, and testing activity, and not primarily involved in the production of goods for commercial sale, in which extraordinarily hazardous substances are used by or under the supervision of a technically qualified person. Facility shall include pilot plant scale operations.

"Failure mode and effects analysis" or "FMEA" means a specifically designed method to identify the conceivable ways that EHS equipment or its components can fail and the effect of the failure on the system with respect to an EHS release. The failure and effects are determined in a study of updated piping and instrument diagrams that describe the covered process taking into consideration process chemistry, standard operating procedures, maintenance procedures, operator job descriptions, process flow diagrams, EHS inventory tabulations, electrical one-line diagrams and other documents. The resulting qualitative analysis is translated into a quantitative FMEA when probabilities of the failure of components are assigned. The results of the FMEA are reported for a unit or system of a covered process on an FMEA table. The results entered on an FMEA table for each equipment item or component studied are as follows: the identification number of the item, the name of the item, entries of failure modes of the item and for each entry of failure mode, the other equipment potentially affected with the equipment identification number and the effect of the failure on that equipment, a classification of the criticality ranking of the failure based on quantity or rate of the potential EHS release, the probability of the failure and the suggested action in terms of equipment or procedure to prevent the failure or to mitigate the results of the failure.

"Fault tree analysis" or "FTA" means the analysis of the logic diagram constructed from a study of the updated piping and instrument diagrams that describe the covered process taking into consideration process chemistry, standard operating procedures, maintenance procedures, operator job descriptions, process flow diagrams, EHS inventory tabulations, electrical one-line diagrams and other documents. The logic diagram will contain the conceivable human or mechanical event sequences that could result in an EHS accident. The logic diagram is called a fault tree and represents a qualitative analysis of the hazards. Results of the FTA are reported for a unit or system on a table. Entered on the table are the descriptions of the various combinations of equipment or procedural failures that can lead to an EHS release. The combinations are determined by solving the fault tree logic diagram for the minimal cut sets, that is, the smallest combination of equipment or procedural failures, which if all occur, will result in the "top event", that is the EHS release. The table is also entered with a criticality ranking based on the quantity or rate of the potential EHS release, a probability for the respective failures and the suggested action in terms of equipment or procedure to prevent the failure or to mitigate the results of the failure. The analysis of the logic diagram includes the identification of "minimal cut sets." When probabilities are assigned to each element of the event sequence, a quantitative fault tree is obtained which gives the probability or frequency of occurrence of the EHS release.

"Fire water system piping diagram" means one or more diagrams relevant to the covered process and its potential releases showing that portion of the site plan that includes fire water pumps and piped distribution system showing the location of branches for fire monitors, fire hydrants, sprinklers and deluge systems and, where available, the sizes and designation numbers of header and subheader piping and piping specifications.

"Functional group" means a group of chemical compounds that have similar structural and/or molecular features which impart similar physical characteristics to the compounds in that group.

"Hazard analysis" means a systematic identification of the potential conditions that may result in an EHS accident.

“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 " $\Delta H_R$ ", "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.

### 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.

(e) An owner or operator having previously registered EHSs who is registering a new covered process or increasing the EHS inventory shall submit the inventory derived fee for the incremental EHS inventory, computed in accordance with (i) below, in accordance with the bill received from the Department.

(f) The annual fees are assessed on the basis of the fiscal year and shall not be prorated or refunded.

(g) Except for the fees submitted pursuant to (d) and (e) above, the Department, during the month of January, will send each owner or operator a bill for each stationary source stating the fee for that calendar year.

1. This bill shall include the base fee and fees calculated using inventory and covered process data from the owner or operator's Risk Management Plan on file with the Department as of the previous October 1.

(h) The owner or operator shall pay his or her fee by check or money order, payable to "Treasurer, State of New Jersey" prior to February 28 of the year in which it is billed. Any owner or operator who has not paid the annual fee by the due date shall be assessed a 25 percent late fee. The check or money order shall be submitted in accordance with the remittance information contained on the bill.

(i) For the purpose of calculating fees, "inventory" as used in this section means the maximum quantity for each EHS reported by the owner or operator of a covered process on the Risk Management Plan submitted to the Department in accordance with N.J.A.C. 7:31-7.

(j)-(l) (Reserved)

(m) The annual fee for the owner or operator of a stationary source shall be the sum of the base fee and the sum of the covered process derived fee for each covered process and the sum of each EHS inventory derived fee except as provided at (o) and (p) below.

(n) (Reserved)

(o) The annual fee for an owner or operator who has temporarily discontinued use, handling, storage or generation of all EHSs at the stationary source and has signed a consent agreement or consent agreement addendum pursuant to N.J.A.C. 7:31-4.10 (for the Program 3 covered processes) shall be 25 percent of the base fee.

(p) The annual fee for an owner or operator who has obtained a temporary discontinuance in accordance with N.J.A.C. 7:31-4.10 for one or more EHSs, but has retained other EHSs at the stationary source that are registered in the most current Risk Management Plan in amounts that meet or exceed threshold quantities shall be the full base fee and the covered process and inventory fees for the registered EHSs.

(q) Each owner or operator submitting a confidentiality claim substantiation form in accordance with N.J.A.C. 7:31-10.5(d) shall submit a fee of \$350.00 for the review of his or her petition at the time of submitting the petition substantiation form. The fee shall be submitted in accordance with the remittance information contained on the bill.

(r) Each owner or operator submitting a petition to withhold privileged trade secret or security information in accordance with N.J.A.C. 7:31-10.6 shall submit a fee of \$350.00 for the review of his or her petition at the time of submitting the petition substantiation form. The fee shall be submitted in accordance with the remittance information contained on the bill.

(s) Any fee under this chapter that is subject to N.J.A.C. 7:1L shall be payable in installments in accordance with N.J.A.C. 7:1L.

New Rule, R.1998 d.355, effective June 21, 1999.

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

Public Notice: Toxic Catastrophe Prevention Act fee schedule report for fiscal year 2000.

See: 31 N.J.R. 4342(a).

Public Notice: Toxic Catastrophe Prevention Act fee schedule report for fiscal year 2001.

See: 32 N.J.R. 4478(c).

Public Notice: Toxic Catastrophe Prevention Act fee schedule report for fiscal year 2002.

See: 34 N.J.R. 311(b).

Public Notice: Toxic Catastrophe Prevention Act fee schedule report for fiscal year 2003.

See: 34 N.J.R. 4475(a).

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 "October" for "December" in the introductory paragraph; in (g)1 and (i), substituted "Risk Management Plan" for "registration form"; rewrote (p); in (q) and (r), rewrote the second sentence.

Public Notice: Availability of Annual TCPA Fee Schedule Report for Fiscal Year (FY) 2004.

See: 36 N.J.R. 222(c).

Public Notice: Availability of Annual TCPA Fee Schedule Report for Fiscal Year (FY) 2005.

See: 37 N.J.R. 537(b).

Public notice: Availability of annual TCPA fee schedule report for Fiscal Year (FY) 2006.

See: 37 N.J.R. 5067(a).

### 7:31-1.12 Release of information by insurance carriers

(a) After a review of documents and a stationary source inspection, the Department may determine that an owner or operator shall authorize its environmental liability or worker's compensation insurance carrier to supply certain information to the Department.

(b) The determination will be based on a finding that the insurance information is necessary for the Department to evaluate effectively the owner or operator's EHS management practices.

(c) The information to be supplied to the Department by the insurance carrier shall include, but not be limited to:

1. Reports of inspections for compliance with mandated codes or standards;

2. Reports of safety and environmental inspections or audits;

3. Reports of inspections of fire protection equipment;

4. Reports of any additional studies conducted which evaluated the adequacy of the owner or operator's management of EHSs; and

5. The reports requested in (c)1 through 4 above shall include a summary of any deficiencies found and any recommended remedial actions.

(d) Upon written request from the Department, the owner or operator shall, within 30 days, authorize the insurance carrier to release the information requested to the Department. The insurance company shall forward to the Department the requested information within 30 days of the receipt of the authorization to do so from the owner or operator.

(e) The Department is authorized to disclose information obtained from an insurance carrier or its representative pursuant to this section only to its own employees or agents to assist in enforcing the provisions of the TCPA, or for use in a civil or criminal proceeding, if so ordered by a court.

New Rule, R.1988 d.378, effective August 1, 1988.

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

The rule that was printed 6-20-88 had not been adopted and was printed in error. This section should have been (Reserved). See: 20 N.J.R. 1743(a).

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

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

Recodified from N.J.A.C. 7:31-2.15 and amended by R.1998 d.355, effective July 20, 1998.

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

Substituted references to owners and operators for references to registrants throughout; and in (a), substituted a reference to stationary source inspection for a reference to site inspection.

accordance with the criteria used by EPA in developing 40 CFR Part 68 Appendix A."

### 7:31-2.2 Reactive hazard substance (RHS) hazard assessment

(a) The owner or operator of a covered process in which an RHS or RHS mixture is used, handled, stored or generated shall perform and document a hazard assessment for the RHS in accordance with 40 CFR 68 Subpart B as incorporated by reference with changes at N.J.A.C. 7:31-2.1(c)1 and 2 and this section. As part of this hazard assessment:

1. The owner or operator shall consider the explosive/flammability hazard of the RHS.

2. For stationary sources that have multiple RHSs or RHS mixtures in covered process(es), the owner or operator shall report in the RMP the one worst-case release scenario that is estimated to create the greatest distance in any direction to the endpoint. The owner or operator shall report in the RMP additional worst-case release scenarios if a worst-case release from another covered process at the stationary source potentially affects public receptors different from those potentially affected by the worst-case scenario with the greatest endpoint distance.

3. The owner or operator shall identify, analyze, and report at least one alternative release scenario to represent all RHSs or RHS mixtures held in covered processes.

4. The owner or operator shall report in the RMP the RHS hazard assessment results in the RMP Offsite Consequence Analysis sections for flammable substances.

(b) The owner or operator shall use the following parameters and methods for the RHS hazard assessment:

1. Endpoint parameters: the endpoints for flammables listed at 40 CFR 68.22(a)(2);

2. Worst case release quantity: the maximum capacity of the largest process vessel containing an RHS or RHS mixture, not taking into account administrative controls that limit the maximum quantity;

3. A TNT-equivalent explosion method or any commercially or publicly available explosion modeling techniques, provided the techniques account for the modeling conditions and are recognized by industry as applicable as part of current practices. Proprietary models that account for the modeling conditions may be used provided the owner or operator allows the implementing agency access to the model and describes model features and differences from publicly available models upon request. When using a TNT-equivalent explosion method, the owner or operator shall use the following parameters:

i. The heat of reaction of the RHS or RHS mixture;

## SUBCHAPTER 2. HAZARD ASSESSMENT

### 7:31-2.1 Incorporation by reference

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

(b) The following provision of 40 CFR 68 Subpart B is not incorporated by reference: 40 CFR 68.25(a)(1).

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

1. 40 CFR 68.20, in the first sentence, delete the word "part" and replace with "chapter."

2. 40 CFR 68.22(a)(1), after "in Appendix A of this part." add, "Toxic endpoints for Table I, Part A toxic substances not listed in Appendix A shall be determined in

(g) Requests for adjudicatory hearings shall be sent to:

Office of Legal Affairs  
 New Jersey Department of Environmental Protection  
 PO Box 402  
 Trenton, New Jersey 08625-0402  
 Attention: Hearing Request

Amended by R.1988 d.378, effective August 1, 1988.  
 See: 20 N.J.R. 350(a), 20 N.J.R. 1913(b).

Added text in (b) "or of a . . . or security information." and added text in (c) "and/or an . . . or security information."

Administrative change in (c).

See: 23 N.J.R. 3325(b).

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).

In (a), deleted "except as provided in (b) below" at the end of the introductory paragraph, and rewrote 2; rewrote (b) and (c); and in (d), changed N.J.A.C. reference.

**7:31-11.4 Civil administrative penalty determination**

(a) Each violation of the Toxic Catastrophe Prevention Act or any rule, consent agreement or administrative order issued pursuant thereto, shall constitute an additional, separate and distinct offense.

(b) If the violation is of a continuing nature, each day during which it continues constitutes an additional, separate and distinct offense.

(c) The Department shall determine the amount of the civil administrative penalty for the offenses described in Table III below on the basis of the category of offense and the frequency of the violation as follows:

TABLE III

Categories of Offense	Penalty in U.S. Dollars By Offense Category	Cite	First	Second	Subsequent
			Offense	Offense	Offenses
			2,000	4,000	10,000
1. Failure to comply with the requirements of 40 CFR 68 as incorporated at N.J.A.C. 7:31 by September 18, 2004 for covered processes with EHSs listed in Table I, Part or by June 18, 2003 for covered processes with EHSs listed in N.J.A.C. 7:31-6.3 Table 1 Part A, B, or C.		40 CFR 68.10(a)(1), N.J.A.C. 7:31-1.1(c)3i and ii			
2. Failure to comply with the requirements of 40 CFR 68 as incorporated at N.J.A.C. 7:31 within three years after the date on which a regulated substance is first listed at 40 CFR 68.130.		40 CFR 68.10(a)(2), N.J.A.C. 7:31-1.1(c)3i	2,000	4,000	10,000
3. Failure to comply with the requirements of 40 CFR 68 as incorporated at N.J.A.C. 7:31 no later than the date on which a regulated substance is first present at a threshold quantity in a process.		40 CFR 68.10(a)(3), N.J.A.C. 7:31-1.1(c)3i	2,000	4,000	10,000
4. Failure to comply with the requirements of 40 CFR 68 as incorporated at N.J.A.C. 7:31 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).		40 CFR 68.10(a), N.J.A.C. 7:31-1.1(c)3iii	1,000	2,000	5,000
5. Failure to determine that a covered process is subject to Program 2 requirements when the process does not meet the eligibility requirements of Program 3.		40 CFR 68.10(c), N.J.A.C. 7:31-1.1(c)3iv	1,000	2,000	5,000
6. Failure to determine that a covered process in NAICS code 32211, 32411, 32511, 325181, 325188, 325192, 325199, 325211, 325311, or 32532 is subject to Program 3 requirements.		40 CFR 68.10(d)(1), N.J.A.C. 7:31-1.1(c)3v	2,000	4,000	10,000
7. Failure to determine that a covered process subject to the OSHA process safety management standard, 29 CFR 1910.119, is subject to Program 3 requirements.		40 CFR 68.10(d)(2), N.J.A.C. 7:31-1.1(c)3v	2,000	4,000	10,000
8. Failure to comply with the requirements of a new Program level that applies to the process and update the RMP as provided in 40 CFR 68.190 as incorporated at N.J.A.C. 7:31-7.1(c) at the time the covered process no longer meets the eligibility criteria of its Program level.		40 CFR 68.10(e), N.J.A.C. 7:31-1.1(a)	2,000	4,000	10,000
9. Failure to submit a single RMP, as provided in 40 CFR 68.150 to 40 CFR 68.185(b) with changes specified at N.J.A.C. 7:31-7.1(c). or Failure to include in the RMP a registration that reflects all covered processes.		40 CFR 68.12(a), N.J.A.C. 7:31-1.1(c)4i	5,000	10,000	25,000
10. Failure to develop and implement a management system for a Program 2 covered process as provided in 40 CFR 68.15 with changes specified at N.J.A.C. 7:31-1.1(c)5 in addition to meeting the requirements of 40 CFR 68.12(a) as incorporated at N.J.A.C. 7:31-1.1(c)4.		40 CFR 68.12(c)(1), N.J.A.C. 7:31-1.1(c)4ii(1) and (2)	4,000	8,000	20,000

Categories of Offense	Cite	First Offense 6,000	Second Offense 12,000	Subsequent Offenses 30,000
11. Failure to conduct a hazard assessment as provided in 40 CFR 68.20 through 68.42, incorporated with changes specified at N.J.A.C. 7:31-2.1(c)1 and 2 and N.J.A.C. 7:31-2.2 in addition to meeting the requirements of 40 CFR 68.12(a) as incorporated at N.J.A.C. 1.1(c)4.	40 CFR 68.12(c)(2), N.J.A.C. 7:31-1.1(c)4ii(1) and (3)			
12. Failure to implement the Program 2 prevention steps provided in 40 CFR 68.48 through 40 CFR 68.60 incorporated with changes specified at N.J.A.C. 7:31-3.1(c)1 through 10 and N.J.A.C. 7:31-3.2 through 3.5 or implement the Program 3 prevention steps provided in 40 CFR 68.65 through 68.87, incorporated with changes specified at N.J.A.C. 7:31-4.1(c)1 through 23 and N.J.A.C. 7:31-4.2 through 4.11, in addition to meeting the requirements of 40 CFR 68.12(a) incorporated at N.J.A.C. 7:31-1.1(c)4.	40 CFR 68.12(c)(3), N.J.A.C. 7:31-1.1(c)4ii(1) and (4)	1,000	2,000	5,000
13. Failure to develop and implement an emergency response program as provided in 40 CFR 68.90 to 68.95 incorporated with changes specified at N.J.A.C. 7:31-5.1(c)1 through 4 and N.J.A.C. 7:31-5.2 in addition to meeting the requirements of 40 CFR 68.12(a) incorporated at N.J.A.C. 7:31-1.1(c)4.	40 CFR 68.12(c)(4), N.J.A.C. 7:31-1.1(c)4ii(1) and (5)	4,000	8,000	20,000
14. Failure to submit as part of the RMP the data on prevention program elements for Program 2 processes as provided in 40 CFR 68.170 as incorporated at N.J.A.C. 7:31-7.1(a) in addition to meeting the requirements of 40 CFR 68.12(a) as incorporated at N.J.A.C. 7:31-1.1(c)4.	40 CFR 68.12(c)(5), N.J.A.C. 7:31-1.1(c)4ii(1) and (5)	500	1,000	2,000
15. Failure to develop and implement a management system for a Program 3 covered process as provided in 40 CFR 68.15 with changes specified at N.J.A.C. 7:31-1.1(c)5 in addition to meeting the requirements of 40 CFR 68.12(a) as incorporated at N.J.A.C. 7:31-1.1(c)4.	40 CFR 68.12(d)(1), N.J.A.C. 7:31-1.1(c)4iii(1) and (2)	4,000	8,000	20,000
16. Failure to conduct a hazard assessment as provided in 40 CFR 68.20 through 68.42 with changes specified at N.J.A.C. 7:31-2.1(c)1 and 2 and N.J.A.C. 7:31-2.2 in addition to meeting the requirements of 40 CFR 68.12(a) as incorporated at N.J.A.C. 7:31-1.1(c)4.	40 CFR 68.12(d)(2), N.J.A.C. 7:31-1.1(c)4iii(1) and (3)	6,000	12,000	30,000
17. Failure to implement the prevention requirements of 40 CFR 68.65 through 68.87 with changes specified at N.J.A.C. 7:31-4.1(c)1 through 24 and N.J.A.C. 7:31-4.2 through 4.11 in addition to meeting the requirements of 40 CFR 68.12(a) as incorporated at N.J.A.C. 7:31-1.1(c)4.	40 CFR 68.12(d)(3), N.J.A.C. 7:31-1.1(c)4iii(1) and (4)	1,000	2,000	5,000
18. Failure to develop and implement an emergency response program as provided in 40 CFR 68.90 to 68.95 incorporated with changes specified at N.J.A.C. 7:31-5.1(c)1 through 4 and N.J.A.C. 7:31-5.2 in addition to meeting the requirements of 40 CFR 68.12(a) as incorporated at N.J.A.C. 7:31-1.1(c)4.	40 CFR 68.12(d)(4), N.J.A.C. 7:31-1.1(c)4iii(1) and (5)	4,000	8,000	20,000
19. Failure to submit as part of the RMP the data on prevention program elements for Program 3 processes as provided in 40 CFR 68.175 as incorporated at N.J.A.C. 7:31-7.1(a) in addition to meeting the requirements of 40 CFR 68.12(a) as incorporated at N.J.A.C. 7:31-1.1(c)4.	40 CFR 68.12(d)(5), N.J.A.C. 7:31-1.1(c)4iii(1)	500	1,000	2,000
20. Failure to develop a management system to oversee the implementation of the risk management program elements for Program 2 and Program 3 covered processes.	40 CFR 68.15(a), N.J.A.C. 7:31-1.1(a)	4,000	8,000	20,000
21. Failure to assign a qualified person or position that has the overall responsibility for the development, implementation, and integration of the risk management program elements.	40 CFR 68.15(b), N.J.A.C. 7:31-1.1(a)	1,000	2,000	5,000
22. Failure to document the names or positions of the people who have been assigned responsibility for implementing individual requirements of 40 CFR 68 incorporated at N.J.A.C. 7:31 and define the lines of authority through an organization chart or similar document.	40 CFR 68.15(c), N.J.A.C. 7:31-1.1(a)	1,000	2,000	5,000
23. Failure to include in the management system a documentation plan which: (1) provides a means of identifying all documentation required by this chapter; and (2) describes how the owner or operator of a covered process will store, maintain and update all documentation required by this chapter.	40 CFR 68.15, N.J.A.C. 7:31-1.1(c)5i	2,000	4,000	10,000

Categories of Offense	Cite	First Offense 2,000	Second Offense 4,000	Subsequent Offenses 10,000
24. Failure to provide in the management system a means for recording the daily quantity of each extraordinarily hazardous substance (EHS) contained in storage vessels and shipping containers.	40 CFR 68.15, N.J.A.C. 7:31-1.1(c)5ii			
25. Failure to handle, use, manufacture generate or store an EHS in a manner which complies with the TCPA, N.J.A.C. 7:31 and/or the approved risk management program.	N.J.A.C. 7:31-1.9(a)	2,000	4,000	10,000
26. Failure to pay an annual fee to the Department computed in accordance with N.J.A.C. 7:31-1.11A(b), (c) and (i) through (m), and billed and remitted in accordance with N.J.A.C. 7:31-1.11(f) through (h).	N.J.A.C. 7:31-1.11A(a)	one-third of fee	one-third of fee + 1,000	one-third of fee + 2,000
27. Failure to authorize the insurance carrier to release information within 30 days from the written request of the Department. or Failure to require the insurance company to forward to the Department the requested information within 30 days of the receipt of the authorization to do so from the owner or operator.	N.J.A.C. 7:31-1.12(d)	2,000	4,000	10,000
28. Failure to prepare a worst-case release scenario analysis as provided in 40 CFR 68.25 incorporated at N.J.A.C. 7:31-2.1(a) and to complete the five-year accident history as provided in 40 CFR 68.42 incorporated at N.J.A.C. 7:31-2.1(a).	40 CFR 68.20, N.J.A.C. 7:31-2.1(c)1	2,000	4,000	10,000
29. Failure to use the toxic endpoints provided in Appendix A of 40 CFR 68 for analyses of offsite consequences for toxic substances. or Failure to use the toxic endpoints determined by the Department in accordance with the criteria used by EPA in developing 40 CFR 68 Appendix A for Table 1 Part A toxic substances not listed in Appendix A.	40 CFR 68.22(a)(1), N.J.A.C. 7:31-2.1(c)2	500	1,000	2,500
30. Failure to use the endpoint of 1 psi for explosion for analyses of offsite consequences for flammable substances.	40 CFR 68.22(a)(2)(i), N.J.A.C. 7:31-2.1(a)	500	1,000	2,500
31. Failure to use the endpoint of a radiant heat of 5 kw/m for 40 seconds for radiant heat/exposure time for analyses of offsite consequences for flammable substances.	40 CFR 68.22(a)(2)(ii), N.J.A.C. 7:31-2.1(a)	500	1,000	2,500
32. Failure to use the endpoint of a lower flammability limit as provided in NFPA documents or other generally recognized sources for lower flammability limit for analyses of offsite consequences for flammable substances.	40 CFR 68.22(a)(2)(iii), N.J.A.C. 7:31-2.1(a)	500	1,000	5,000
33. Failure to use a wind speed of 1.5 meters per second and F atmospheric stability class for the worst-case release analysis. Failure to demonstrate that local meteorological data applicable to the stationary source show a higher minimum wind speed or less stable atmosphere at all times during the previous three years when using these minimums.	40 CFR 68.22(b), N.J.A.C. 7:31-2.1(a)	500	1,000	2,500
34. Failure to use the highest daily maximum temperature in the previous three years and average humidity for the site, based on temperature/humidity data gathered at the stationary source or at a local meteorological station for worst-case release analysis of a regulated toxic substance.	40 CFR 68.22(c), N.J.A.C. 7:31-2.1(a)	500	1,000	2,500
35. Failure to analyze the worst-case release of a regulated toxic substance assuming a ground level (0 feet) release. or Failure to use the correct release height as determined by the release scenario for an alternative scenario analysis of a regulated toxic substance.	40 CFR 68.22(d), N.J.A.C. 7:31-2.1(a)	500	1,000	2,500
36. Failure to use either urban or rural topography, as appropriate.	40 CFR 68.22(e), N.J.A.C. 7:31-2.1(a)	500	1,000	2,500
37. Failure to ensure that tables or models used for dispersion analysis of regulated toxic substances appropriately account for gas density.	40 CFR 68.22(f), N.J.A.C. 7:31-2.1(a)	500	1,000	2,500
38. Failure to consider liquids other than gases, liquified only by refrigeration, to be released at the highest daily maximum temperature, based on data for the previous three years appropriate for the stationary source, or at process temperature, whichever is higher, for worst case.	40 CFR 68.22(g), N.J.A.C. 7:31-2.1(a)	500	1,000	2,500

<u>Categories of Offense</u>	<u>Cite</u>	<u>First Offense</u>	<u>Second Offense</u>	<u>Subsequent Offenses</u>
or Failure to consider substances to be released at a process or ambient temperature that is appropriate for the scenario for alternative scenarios.				
39. Failure to analyze and report in the RMP for Program 2 and/or 3 processes one worst-case release scenario that is estimated to create the greatest distance in any direction to an endpoint provided in Appendix A of 40 CFR 68 resulting from an accidental release of regulated toxic substances from covered processes under worst-case conditions defined in 40 CFR 68.22 incorporated at N.J.A.C. 7:31-2.1(c).	40 CFR 68.25(a)(2)(i), N.J.A.C. 7:31-2.1(a)	4,000	8,000	20,000
40. Failure to analyze and report in the RMP for Program 2 and/or 3 processes one worst-case release scenario that is estimated to create the greatest distance in any direction to an endpoint defined in 40 CFR 68.22(a) incorporated at N.J.A.C. 7:31-2.1(c) resulting from an accidental release of regulated flammable substances from covered processes under worst-case conditions defined in 40 CFR 68.22 incorporated at N.J.A.C. 7:31-2.1(c).	40 CFR 68.25(a)(2)(ii), N.J.A.C. 7:31-2.1(a)	4,000	8,000	20,000
41. Failure to analyze and report in the RMP for Program 2 and/or 3 processes additional worst-case release scenarios for a hazard class if a worst-case release from another covered process at the stationary source potentially affects public receptors different from those potentially affected by the worst-case release scenario developed under paragraphs 40 CFR 68.25(a)(2)(i) or (a)(2)(ii) incorporated at N.J.A.C. 7:31-2.1(a).	40 CFR 68.25(a)(2)(iii), N.J.A.C. 7:31-2.1(a)	4,000	8,000	20,000
42. Failure to use the worst-case release quantity which was the greater of the following: (1) For substances in a vessel, the greatest amount held in a single vessel, taking into account administrative controls that limit the maximum quantity; or (2) For substances in pipes, the greatest amount in a pipe, taking into account administrative controls that limit the maximum quantity.	40 CFR 68.25(b)(1)or(2), N.J.A.C. 7:31-2.1(a)	4,000	8,000	20,000
43. Failure to assume that the quantity in the vessel or pipe, as determined under 40 CFR 68.25(b), incorporated at N.J.A.C. 7:31-2.1(a) is released as a gas over 10 minutes in the worst case release scenario for regulated toxic substances that are normally gases at ambient temperature and handled as a gas or as a liquid under pressure. or Failure to assume the release rate to be the total quantity divided by 10 unless passive mitigation systems are in place.	40 CFR 68.25(c)(1), N.J.A.C. 7:31-2.1(a)	4,000	8,000	20,000
44. Failure to assume that the substance is released as a gas in 10 minutes for a released substance that is not contained by passive mitigation systems or that is in a contained pool that has a depth of 1 cm or less in the worst case release scenario for gases handled as refrigerated liquids at ambient pressure.	40 CFR 68.25(c)(2)(i), N.J.A.C. 7:31-2.1(a)	4,000	8,000	20,000
45. Failure to calculate the volatilization rate (release rate) at the boiling point of the substance and at the conditions specified in 40 CFR 68.25(d) incorporated at N.J.A.C. 7:31-2.1(a).	40 CFR 68.25(c)(2)(ii), N.J.A.C. 7:31-2.1(a)	2,000	4,000	10,000
46. Failure to assume that the quantity in the vessel or pipe, as determined under 40 CFR 68.25(b), incorporated at N.J.A.C. 7:31-2.1(a), is spilled instantaneously to form a liquid pool in the worst case release scenario for regulated toxic substances that are normally liquids at ambient temperature.	40 CFR 68.25(d)(1), N.J.A.C. 7:31-2.1(a)	2,000	4,000	10,000
47. Failure to determine the surface area of the pool by assuming that the liquid spreads to one centimeter deep unless passive mitigation systems are in place that serve to contain the spill and limit the surface area in the worst case release scenario for regulated toxic substances that are normally liquids at ambient temperature. Failure to use the surface area of the contained liquid to calculate the volatilization rate where passive mitigation is in place.	40 CFR 68.25(d)(1)(i), N.J.A.C. 7:31-2.1(a)	2,000	4,000	10,000

Categories of Offense	Cite	First Offense 2,000	Second Offense 4,000	Subsequent Offenses 10,000
48. Failure to take into account the actual surface characteristics where a release would occur onto a surface that is not paved or smooth in the worst case release scenario for regulated toxic substances that are normally liquids at ambient temperature.	40 CFR 68.25(d)(1)(ii), N.J.A.C. 7:31-2.1(a)			
49. Failure to account for: (1) the highest daily maximum temperature occurring in the past three years, (2) the temperature of the substance in the vessel, or (3) the concentration of the substance for a liquid spilled as a mixture or solution, to calculate the volatilization rate in the worst case release scenario for regulated toxic substances that are normally liquids at ambient temperature.	40 CFR 68.25(d)(2), N.J.A.C. 7:31-2.1(a)	2,000	4,000	10,000
50. Failure to determine the rate of release to air from the volatilization rate of the liquid pool in the worst case release scenario for regulated toxic substances that are normally liquids at ambient temperature.	40 CFR 68.25(d)(3), N.J.A.C. 7:31-2.1(a)	2,000	4,000	10,000
or Failure to use the methodology in the RMP Offsite Consequence Analysis Guidance or any other publicly available techniques that account for the modeling conditions and are recognized by industry as applicable as part of current practices.				
or Failure to allow the implementing agency access to the model and to describe model features and differences from publicly available models to local emergency planners upon request when using a proprietary model that accounts for the modeling conditions,				
51. Failure to assume that the quantity of the substance, as determined under 40 CFR 68.25(b) through (i), incorporated at N.J.A.C. 7:31-2.1(a) vaporizes resulting in a vapor cloud explosion in the worst-case release scenario for flammable gases.	40 CFR 68.25(e), N.J.A.C. 7:31-2.1(a)	2,000	4,000	10,000
or Failure to use a yield factor of 10 percent of the available energy released in the explosion to determine the distance to the explosion endpoint when the model used is based on TNT equivalent methods.				
52. Failure to assume that the total quantity in the vessel or pipe, as determined under 40 CFR 68.25(b), incorporated at N.J.A.C. 7:31-2.1(a), is released as a gas over 10 minutes in the worst-case release scenario for flammable gases, for regulated flammable substances that are normally gases at ambient temperature and handled as a gas, or as a liquid under pressure, and is involved in the vapor cloud explosion.	40 CFR 68.25(e)(1), N.J.A.C. 7:31-2.1(a)	2,000	4,000	10,000
53. Failure to assume that the total quantity of the substance is released as a gas in 10 minutes, and the total quantity will be involved in the vapor cloud explosion for a released substance that is not contained by passive mitigation systems or for a contained pool that has a depth of one centimeter or less in the worst-case release scenario for flammable gases handled as refrigerated liquids at ambient pressure.	40 CFR 68.25(e)(2)(i), N.J.A.C. 7:31-2.1(a)	2,000	4,000	10,000
54. Failure to assume that the quantity in the vessel or pipe, as determined under 40 CFR 68.25(b), incorporated at N.J.A.C. 7:31-2.1(a), is spilled instantaneously to form a liquid pool in the worst-case release scenario, for a flammable gas handled as a refrigerated liquid at ambient pressure that is contained by passive mitigation systems in a pool with a depth greater than 1 centimeter.	40 CFR 68.25(e)(2)(ii), N.J.A.C. 7:31-2.1(a)	2,000	4,000	10,000
or Failure to calculate the volatilization rate (release rate) at the boiling point of the substance and at the conditions specified in 40 CFR 68.25(d) incorporated at N.J.A.C. 7:31-2.1(a).				
or Failure to assume that the quantity which becomes vapor in the first 10 minutes is involved in the vapor cloud explosion.				

Categories of Offense	Cite	First Offense 2,000	Second Offense 4,000	Subsequent Offenses 10,000
55. Failure to assume that the quantity of the substance, as determined under 40 CFR 68.25(b) and (g) through (i), incorporated at N.J.A.C. 7:31-2.1(a), vaporizes resulting in a vapor cloud explosion, for the worst-case release scenario for flammable liquids. or Failure to use a yield factor of 10 percent of the available energy released in the explosion to determine the worst case release scenario distance to the explosion endpoint for a model used that is based on TNT equivalent methods.	40 CFR 68.25(f), N.J.A.C. 7:31-2.1(a)			
56. Failure to assume that the entire quantity in the vessel or pipe, as determined under 40 CFR 68.25(b), incorporated at N.J.A.C. 7:31-2.1(a), is spilled instantaneously to form a liquid pool in the worst-case release scenario for regulated flammable substances that are normally liquids at ambient temperature. or Failure to calculate the volatilization rate at the conditions specified in 40 CFR 68.25(d) incorporated at N.J.A.C. 7:31-2.1(a) for liquids at temperatures below their atmospheric boiling point.	40 CFR 68.25(f)(1), N.J.A.C. 7:31-2.1(a)	2,000	4,000	120,000
57. Failure to assume that the quantity which becomes vapor in the first 10 minutes is involved in the vapor cloud explosion in the worst-case release scenario for flammable liquids.	40 CFR 68.25(f)(2), N.J.A.C. 7:31-2.1(a)	2,000	4,000	10,000
58. Failure to use the parameters defined in 40 CFR 68.22 incorporated at N.J.A.C. at 7:31-2.1(c), to determine distance to the endpoints. or Failure to use the methodology provided in the RMP Offsite Consequence Analysis Guidance or any commercially or publicly available air dispersion modeling techniques that account for the modeling conditions and are recognized by industry as applicable as part of current practices. or Failure to allow the implementing agency access to the model and to describe model features and differences from publicly available models to local emergency planners upon request, when using a proprietary model that accounts for the modeling conditions.	40 CFR 68.25(g), N.J.A.C. 7:31-2.1(a)	2,000	4,000	10,000
59. Failure to perform an accurate worst case scenario analysis by considering a passive mitigation system that is not capable of withstanding the release event triggering the scenario and which would function as intended.	40 CFR 68.25(h), N.J.A.C. 7:31-2.1(a)	2,000	4,000	10,000
60. Failure to select a worst case scenario for flammable regulated substances or regulated toxic substances based on smaller quantities handled at a higher process temperature or pressure that would result in a greater distance to an endpoint defined in 40 CFR 68.22(a) incorporated at N.J.A.C. 7:31-2.1(c), beyond the stationary source boundary than the scenario provided under 40 CFR 68.25(b) incorporated at N.J.A.C. 7:31-2.1(a).	40 CFR 68.25(i)(1), N.J.A.C. 7:31-2.1(a)	2,000	4,000	10,000
61. Failure to select a worst case scenario for flammable regulated substances or regulated toxic substances based on proximity to the boundary of the stationary source that would result in a greater distance to an endpoint defined in 40 CFR 68.22(a) incorporated at N.J.A.C. 7:31-2.1(c), beyond the stationary source boundary than the scenario provided under 40 CFR 68.25(b) incorporated at N.J.A.C. 7:31-2.1(a).	40 CFR 68.25(i)(2), N.J.A.C. 7:31-2.1(a)	2,000	4,000	10,000
62. Failure to identify and analyze at least one alternative release scenario for each regulated toxic substance held in a covered process(es) and at least one alternative release scenario to represent all flammable substances held in a covered process(es).	40 CFR 68.28(a), N.J.A.C. 7:31-2.1(a)	4,000	8,000	20,000
63. Failure to select a scenario that is more likely to occur than the worst-case release scenario under 40 CFR 68.25 incorporated at N.J.A.C. 7:31.2.1(a), for each alternative release scenario required under 40 CFR 68.28(a) incorporated at N.J.A.C. 7:31-2.1(a).	40 CFR 68.28(b)(1)(i), N.J.A.C. 7:31-2.1(a)	4,000	8,000	20,000

Categories of Offense	Cite	First Offense	Second Offense	Subsequent Offenses
		4,000	8,000	20,000
64. Failure to select a scenario that will reach an endpoint offsite for an alternative release scenario required under 40 CFR 68.28(a) incorporated at N.J.A.C. 7:31-2.1(a).	40 CFR 8.28(b)(1)(ii), N.J.A.C. 7:31-2.1(a)			
65. Failure to consider alternative release scenarios such as those listed at 40 CFR 68.28(b)(2)(i-v) incorporated at N.J.A.C. 7:31-2.1.	40 CFR 68.28(b)(2)(i) through (v), N.J.A.C. 7:31-2.1(a)	4,000	8,000	20,000
66. Failure to use the appropriate parameters defined in 40 CFR 68.22 incorporated at N.J.A.C. 7:31-2.1(c) to determine distance to the endpoints in the analysis of alternative release scenarios. or Failure to use the methodology provided in the RMP Offsite Consequence Analysis Guidance or a commercially or publicly available air dispersion modeling technique that accounts for the specified modeling conditions and is recognized by industry as applicable as part of current practices. or Failure to allow the implementing agency access to a proprietary model that accounts for the modeling conditions and to describe model features and differences from publicly available models to local emergency planners upon request	40 CFR 68.28(c), N.J.A.C. 7:31-2.1(a)	2,000	4,000	10,000
67. Failure to perform an accurate alternative release scenario analysis by considering active and passive mitigation systems that are not capable of withstanding the event that triggered the release or that are not functional.	40 CFR 68.28(d), N.J.A.C. 7:31-2.1(a)	2,000	4,000	10,000
68. Failure to consider the five-year accident history provided in 40 CFR 68.42 incorporated at N.J.A.C. 7:31-2.1(a) in selecting alternative release scenarios.	40 CFR 68.28(e)(1), N.J.A.C. 7:31-2.1(a)	4,000	8,000	20,000
69. Failure to consider the failure scenarios identified under 40 CFR 68.50 incorporated at N.J.A.C. 7:31-3.1(c) or 40 CFR 68.67 incorporated at N.J.A.C. 7:31-4.1(c) in selecting alternative release scenarios.	40 CFR 68.28(e)(2), N.J.A.C. 7:31-2.1(a)	4,000	8,000	20,000
70. Failure to estimate in the RMP the population within a circle with its center at the point of the release and a radius determined by the distance to the endpoint defined in 40 CFR 68.22(a) incorporated at N.J.A.C. 7:31-2.1(c).	40 CFR 68.30(a), N.J.A.C. 7:31-2.1(a)	500	1,000	2,500
71. Failure to include residential population in the population estimate. or Failure to note the presence of institutions (schools, hospitals, prisons), parks and recreational areas, and major commercial, office, and industrial buildings in the RMP.	40 CFR 68.30(b), N.J.A.C. 7:31-2.1(a)	500	1,000	2,500
72. Failure to use the most recent Census data or other updated information to estimate the population potentially affected.	40 CFR 68.30(c), N.J.A.C. 7:31-2.1(a)	500	1,000	2,500
73. Failure to estimate population to two significant digits.	40 CFR 68.30(d), N.J.A.C. 7:31-2.1(a)	500	1,000	2,500
74. Failure to list in the RMP environmental receptors within a circle with its center at the point of the release and a radius determined by the distance to the endpoint defined in 40 CFR 68.22(a) incorporated at N.J.A.C. 7:31-2.1(c).	40 CFR 68.33(a), N.J.A.C. 7:31-2.1(a)	500	1,000	2,500
75. Failure to rely on information provided on local U.S. Geological Survey maps or on any data source containing U.S.G.S. data to identify environmental receptors.	40 CFR 68.33(b), N.J.A.C. 7:31-2.1(a)	500	1,000	2,500
76. Failure to review and update the offsite consequence analyses at least once every five years.	40 CFR 68.36(a), N.J.A.C. 7:31-2.1(a)	2,000	4,000	10,000
77. Failure to complete a revised analysis within six months of a change in processes, quantities stored or handled, or any other aspect of the stationary source that might reasonably be expected to increase or decrease the distance to the endpoint by a factor of two or more and to submit a revised risk management plan as provided in 40 CFR 68.190 as incorporated at N.J.A.C. 7:31-7.1(c).	40 CFR 68.36(b), N.J.A.C. 7:31-2.1(a)	2,000	4,000	10,000

Categories of Offense		Cite	First Offense 2,000	Second Offense 4,000	Subsequent Offenses 10,000
78.	Failure to maintain records for the worst-case scenarios of the offsite consequence analyses that include a description of the vessel or pipeline and substance selected as worst case, assumptions and parameters used, and the rationale for selection. or Failure to describe for the worst case scenarios the use of administrative controls and passive mitigation that were assumed to limit the quantity that could be released. or Failure to include in the documentation of the worst case scenarios the anticipated effect of the controls and mitigation on the release quantity and rate.	40 CFR 68.39(a), N.J.A.C. 7:31-2.1(a)			
79.	Failure to maintain the records for alternative release scenarios of the offsite consequence analyses that include a description of the scenarios identified, assumptions and parameters used, and the rationale, for the selection of specific scenarios. or Failure to include for the alternate release scenarios correct assumptions on the use of administrative controls and mitigations that were assumed to limit the quantity that could be released. or Failure to include in the documentation of scenario the effect of the controls and mitigation on the release quantity and rate.	40 CFR 68.39(b), N.J.A.C. 7:31-2.1(a)	2,000	4,000	10,000
80.	Failure to maintain records on the offsite consequence analyses that include the documentation of estimated quantity released, release rate, and duration of release for offsite consequence analyses.	40 CFR 68.39(c), N.J.A.C. 7:31-2.1(a)	2,000	4,000	10,000
81.	Failure to maintain records on the offsite consequence analyses that include the methodology used to determine distance to endpoints for offsite consequence analyses.	40 CFR 68.39(d), N.J.A.C. 7:31-2.1(a)	2,000	4,000	10,000
82.	Failure to maintain records on the offsite consequence analyses that include data used to estimate population and environmental receptors potentially affected for offsite consequence analyses.	40 CFR 68.39(e), N.J.A.C. 7:31-2.1(a)	2,000	4,000	10,000
83.	Failure to include in the five-year accident history all accidental releases from covered processes that resulted in deaths, injuries, or significant property damage on site, or known offsite deaths, injuries, evacuations, sheltering in place, property damage, or environmental damage.	40 CFR 68.42(a), N.J.A.C. 7:31-2.1(a)	1,000	2,000	5,000
84.	Failure to report the date, time, and approximate duration of the release for each accidental release included in the five-year accident history.	40 CFR 68.42(b)(1), N.J.A.C. 7:31-2.1(a)	500	1,000	2,500
85.	Failure to report the chemical(s) released for each accidental release included in the five-year accident history.	40 CFR 68.42(b)(2), N.J.A.C. 7:31-2.1(a)	500	1,000	2,500
86.	Failure to report the estimated quantity released in pounds for each accidental release included in the five-year accident history.	40 CFR 68.42(b)(3), N.J.A.C. 7:31-2.1(a)	1,000	2,000	5,000
87.	Failure to report the five-or six-digit NAICS code that most closely corresponds to the process for each accidental release included in the five-year accident history.	40 CFR 68.42(b)(4), N.J.A.C. 7:31-2.1(a)	500	1,000	2,500
88.	Failure to report the type of release event and its source for each accidental release included in the five-year accident history.	40 CFR 68.42(b)(5), N.J.A.C. 7:31-2.1(a)	1,000	2,000	5,000
89.	Failure to report known weather conditions for each accidental release included in the five-year accident history.	40 CFR 68.42(b)(6), N.J.A.C. 7:31-2.1(a)	500	1,000	2,500
90.	Failure to report the on-site impacts for each accidental release included in the five-year accident history.	40 CFR 68.42(b)(7), N.J.A.C. 7:31-2.1(a)	1,000	2,000	5,000
91.	Failure to report the known offsite impacts for each accidental release included in the five-year accident history.	40 CFR 68.42(b)(8), N.J.A.C. 7:31-2.1(a)	1,000	2,000	5,000
92.	Failure to report the known initiating event and contributing factors for each accidental release included in the five-year accident history.	40 CFR 68.42(b)(9), N.J.A.C. 7:31-2.1(a)	1,000	2,000	5,000

Categories of Offense	Cite	First Offense	Second Offense	Subsequent Offenses
93. Failure to report whether offsite responders were notified when known for each accidental release included in the five-year accident history.	40 CFR 68.42(b)(10), N.J.A.C. 7:31-2.1(a)	500	1,000	2,500
94. Failure to report the operational or process changes that resulted from investigation of the release for each accidental release included in the five-year accident history.	40 CFR 68.42(b)(11), N.J.A.C. 7:31-2.1(a)	500	1,000	2,500
95. Failure to provide numerical estimates of at least two significant digits of the quantity of regulated substance released in the five-year accident history.	40 CFR 68.42(c), N.J.A.C. 7:31-2.1(a)	1,000	2,000	5,000
96. Failure to document a hazard assessment for a covered process in which an RHS or RHS Mixture is used, handled, or stored in accordance with 40 CFR 68 Subpart B as incorporated with changes at N.J.A.C. 7:31-2.1(c)1 and 2 and N.J.A.C. 7:31-2.2.	N.J.A.C. 7:31-2.2(a)	1,000	2,000	5,000
97. Failure to consider the explosive flammability hazard of an RHS in the hazard assessment.	N.J.A.C. 7:31-2.2(a)1	500	1,000	2,500
98. Failure to report in the RMP the one worst-case scenario that is estimated to create the greatest distance in any direction to the endpoint for stationary sources that have multiple RHSs or RHS Mixtures in covered process(es). or Failure to report in the RMP additional worst-case release scenarios for stationary sources that have multiple RHSs or RHS Mixtures in covered process(es) if a worst-case release from another covered process at the stationary source potentially affects public receptors different from those potentially affected by the worst-case scenario with the greatest endpoint distance.	N.J.A.C. 7:31-2.2(a)2	4,000	8,000	20,000
99. Failure to identify, analyze, and report in the hazard assessment at least one alternative release scenario to represent all RHSs or RHS Mixtures held in covered processes.	N.J.A.C. 7:31-2.2(a)3	4,000	8,000	20,000
100. Failure to report in the RMP the RHS hazard assessment results in the RMP Offsite Consequence Analysis sections for flammable substances.	N.J.A.C. 7:31-2.2(a)4	2,000	4,000	10,000
101. Failure to use the endpoints for flammables listed at 40 CFR 68.22(a)(2) as the endpoint parameter for the RHS hazard assessment.	N.J.A.C. 7:31-2.2(b)1	500	1,000	2,500
102. Failure to use the maximum capacity of the largest process vessel containing an RHS or RHS mixture, not taking into account administrative controls that limit the maximum quantity, as the worst case release quantity for the RHS hazard assessment.	N.J.A.C. 7:31-2.2(b)2	4,000	8,000	20,000
103. Failure to use a TNT-equivalent explosion method or any commercially or publicly available explosion modeling techniques, provided the techniques account for the modeling conditions and are recognized by industry as applicable as part of current practices, for the RHS hazard assessment.	N.J.A.C. 7:31-2.2(b)3	4,000	8,000	20,000
104. Failure to use the heat of reaction of the RHS or RHS Mixture when using a TNT-equivalent explosion method for the RHS hazard assessment.	N.J.A.C. 7:31-2.2(b)3i	4,000	8,000	20,000
105. Failure to use 100 percent of the potential heat release (heat of reaction) assumed to contribute to the explosion for an RHS Mixture in a process vessel when using a TNT-equivalent explosion method for the RHS hazard assessment.	N.J.A.C. 7:31-2.2(b)3ii	4,000	8,000	20,000
106. Failure to use 28 percent of the potential heat release (heat of reaction) assumed to contribute to the explosion for a Table I, Part D, Group I RHS in a storage vessel when using a TNT-equivalent explosion method for the RHS hazard assessment.	N.J.A.C. 7:31-2.2(b)3iii	4,000	8,000	20,000
107. Failure to use 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 as the parameters for the RHS hazard assessment.	N.J.A.C. 7:31-2.2(b)4	2,000	4,000	10,000
108. Failure to include Material Safety Data Sheets that meet the requirements of 29 CFR 1910.1200(g) in the up-to-date safety information required to be compiled and maintained for the regulated substances, processes, and equipment.	40 CFR 68.48(a)(1), N.J.A.C. 7:31-3.1(a)	2,000	4,000	10,000

		First Offense <u>2,000</u>	Second Offense <u>4,000</u>	Subsequent Offenses <u>10,000</u>
109.	<u>Categories of Offense</u> Failure to include the maximum intended inventory of equipment in which the regulated substances are stored or processed in the up-to-date safety information required to be compiled and maintained for the regulated substances, processes, and equipment.			
	Cite 40 CFR 68.48(a)(2), N.J.A.C. 7:31-3.1(a)			
110.	Failure to include safe upper and lower temperatures, pressures, flows, and compositions in the up-to-date safety information required to be compiled and maintained for the regulated substances, processes, and equipment.	2,000	4,000	10,000
	40 CFR 68.48(a)(3), N.J.A.C. 7:31-3.1(a)			
111.	Failure to include equipment specifications in the up-to-date safety information required to be compiled and maintained for the regulated substances, processes, and equipment.	2,000	4,000	10,000
	40 CFR 68.48(a)(4), N.J.A.C. 7:31-3.1(a)			
112.	Failure to include codes and standards used to design, build, and operate the process in the up-to-date safety information required to be compiled and maintained for the regulated substances, processes, and equipment.	2,000	4,000	10,000
	40 CFR 68.48(a)(5), N.J.A.C. 7:31-3.1(a)			
113.	Failure to include process flow diagrams and piping and instrumentation diagrams in the up-to-date safety information required to be compiled and maintained for the regulated substances, processes, and equipment.	2,000	4,000	10,000
	40 CFR 68.48(a), N.J.A.C. 7:31-3.1(c)i			
114.	Failure to include 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 in the reactivity data applicable to the process in which an EHS is used, handled, stored or generated required to be compiled and maintained in the up-to-date-safety information for the regulated substances, processes, and equipment.	2,000	4,000	10,000
	40 CFR 68.48(a), N.J.A.C. 7:31-3.1(c)ii(1)			
115.	Failure to include 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) in the reactivity data applicable to the process in which an EHS is used, handled, stored or generated required to be compiled and maintained in the up-to-date-safety information for the regulated substances, processes, and equipment.	2,000	4,000	10,000
	40 CFR 68.48(a), N.J.A.C. 7:31-3.1(c)ii(2)			
116.	Failure to include thermodynamic and reaction kinetic data including: heat of reaction, temperature at which instability (uncontrolled reaction, decomposition, and/or polymerization) initiates, and energy release rate data in the reactivity data applicable to the process in which an EHS is used, handled, stored or generated required to be compiled and maintained in the up-to-date-safety information for the regulated substances, processes, and equipment.	2,000	4,000	10,000
	40 CFR 68.48(a), N.J.A.C. 7:31-3.1(c)ii(3)			
117.	Failure to include incidental formation of byproducts that are reactive and unstable in the reactivity data applicable to the process in which an EHS is used, handled, stored or generated required to be compiled and maintained in the up-to-date-safety information for the regulated substances, processes, and equipment.	2,000	4,000	10,000
	40 CFR 68.48(a), N.J.A.C. 7:31-3.1(c)iii(4)			
118.	Failure to include 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 1, Part D, Group I due to inadvertent mixing with incompatible substances, decomposition, and self-reaction in the reactivity data applicable to the process in which an EHS is used, handled, stored or generated required to be compiled and maintained in the up-to-date-safety information for the regulated substances, processes, and equipment.	2,000	4,000	10,000
	40 CFR 68.48(a), N.J.A.C. 7:31-3.1(c)iii(5)			
119.	Failure to ensure that a process is designed in compliance with recognized and generally accepted good engineering practices. or	5,000	10,000	25,000
	40 CFR 68.48(b), N.J.A.C. 7:31-3.1(a)			

Categories of Offense	Cite	First Offense	Second Offense	Subsequent Offenses
120. Failure to comply with Federal or state regulations that address industry-specific safe design or industry-specific design codes and standards.	40 CFR 68.48(c), N.J.A.C. 7:31-3.1(c)2	500	1,000	2,500
121. Failure to update the safety information for a change to a covered process that made the safety information inaccurate.	40 CFR 68.50(a)(1), N.J.A.C. 7:31-3.1(a)	4,000	8,000	20,000
122. Failure to conduct a hazard review that identifies the opportunities for equipment malfunctions or human errors that could cause an accidental release.	40 CFR 68.50(a)(2), N.J.A.C. 7:31-3.1(a)	4,000	8,000	20,000
123. Failure to conduct a hazard review that identifies the safeguards used or needed to control a hazard or prevent equipment malfunction or human error.	40 CFR 68.50(a)(3), N.J.A.C. 7:31-3.1(a)	4,000	8,000	20,000
124. Failure to conduct a hazard review that identifies any steps used or needed to detect or monitor releases.	40 CFR 68.50(a)(4), N.J.A.C. 7:31-3.1(a)	4,000	8,000	20,000
125. Failure to determine in a hazard review, by inspecting all equipment, whether the process is designed, fabricated, or operated in accordance with the applicable industry standards or Federal or state design rules, for processes designed to meet those standards or rules.	40 CFR 68.50(b), N.J.A.C. 7:31-3.1(a)	2,000	4,000	10,000
126. Failure to document the results of a hazard review in a hazard review report prepared in accordance with N.J.A.C. 7:31-3.6 or ensure that problems identified are resolved in a timely manner.	40 CFR 68.50(c), N.J.A.C. 7:31-3.1(c)9	2,000	4,000	10,000
127. Failure to update a hazard review at least once every five years.	40 CFR 68.50(d), N.J.A.C. 7:31-3.1(a)	2,000	4,000	10,000
128. Failure to conduct a hazard review for a major change in a process.	40 CFR 68.50(d), N.J.A.C. 7:31-3.1(a)	2,000	4,000	10,000
129. Failure to resolve all issues identified in the hazard review before startup of a changed process.	40 CFR 68.50(d), N.J.A.C. 7:31-3.1(a)	2,000	4,000	10,000
130. Failure to prepare written operating procedures that provide clear instructions or steps for safely conducting activities associated with each covered process consistent with the safety information for that process.	40 CFR 68.52(a); N.J.A.C. 7:31-3.1(c)3	4,000	8,000	20,000
or Failure to write operating procedures in a manner and language that the EHS operators of a process are capable of understanding.				
131. Failure to address initial startup in the operating procedures.	40 CFR 68.52(b)(1), N.J.A.C. 7:31-3.1(a)	1,000	2,000	5,000
132. Failure to address normal operations in the operating procedures.	40 CFR 68.52(b)(2), N.J.A.C. 7:31-3.1(a)	1,000	2,000	5,000
133. Failure to address temporary operations in the operating procedures.	40 CFR 68.52(b)(3), N.J.A.C. 7:31-3.1(a)	1,000	2,000	5,000
134. Failure to address emergency shutdown and operations in the operating procedures.	40 CFR 68.52(b)(4), N.J.A.C. 7:31-3.1(a)	1,000	2,000	5,000
135. Failure to address normal shutdown in the operating procedures.	40 CFR 68.52(b)(5), N.J.A.C. 7:31-3.1(a)	1,000	2,000	5,000
136. Failure to address startup following a normal or emergency shutdown or a major change that requires a hazard review in the operating procedures.	40 CFR 68.52(b)(6), N.J.A.C. 7:31-3.1(a)	1,000	2,000	5,000
137. Failure to address the consequences of deviations and steps required to correct or avoid deviations in the operating procedures.	40 CFR 68.52(b)(7), N.J.A.C. 7:31-3.1(a)	1,000	2,000	5,000
138. Failure to address equipment inspections in the operating procedures.	40 CFR 68.52(b)(8), N.J.A.C. 7:31-3.1(a)	1,000	2,000	5,000
139. Failure to ensure that the operating procedures were updated, if necessary, when a major change occurred and prior to startup of the changed process.	40 CFR 68.52(c), N.J.A.C. 7:31-3.1(a)	1,000	2,000	5,000
140. Failure to ensure that each employee operating a process or each employee newly assigned to a covered process have been trained or tested competent in the operating procedures provided in 40 CFR 68.52 incorporated at N.J.A.C.7:31-3.1(a) that pertain to their duties.	40 CFR 68.54(a), N.J.A.C. 7:31-3.1(a)	2,000	4,000	10,000
or Failure to certify in writing that the employee already operating a process on June 21, 1999 has the required knowledge, skills, and abilities to safely carry out the duties and responsibilities as provided in the operating procedures.				

Categories of Offense	Cite	First Offense 2,000	Second Offense 4,000	Subsequent Offenses 10,000
141. Failure to provide refresher training at least every three years, and more often as necessary, to each employee operating a process to ensure that the employee understands and adheres to the current operating procedures of the process.	40 CFR 68.54(b), N.J.A.C. 7:31-3.1(a)			
or				
Failure to determine the appropriate frequency of refresher training in consultation with the employees operating the process.				
142. Failure to ensure that operators are trained in updated or new procedures prior to startup of a process after a major change.	40 CFR 68.54(d), N.J.A.C. 7:31-3.1(a)	2,000	4,000	10,000
143. Failure to prepare and implement procedures to maintain the on-going mechanical integrity of the process equipment.	40 CFR 68.56(a), N.J.A.C. 7:31-3.1(a)	2,000	4,000	10,000
144. Failure to train or cause to be trained each employee involved in maintaining the on-going mechanical integrity of a process.	40 CFR 68.56(b), N.J.A.C. 7:31-3.1(a)	2,000	4,000	10,000
or				
Failure to train each such employee in the hazards of the process, in how to avoid or correct unsafe conditions, and in the procedures applicable to the employee's job tasks to ensure that the employee can perform the job tasks in a safe manner.				
145. Failure to require a maintenance contractor to ensure that each contract maintenance employee is trained to perform the maintenance procedures developed under 40 CFR 68.56(a) incorporated at N.J.A.C. 7:31-3.1(a).	40 CFR 68.56(c), N.J.A.C. 7:31-3.1(a)	2,000	4,000	10,000
146. Failure to perform or cause to be performed inspections and tests on process equipment.	40 CFR 68.56(d), N.J.A.C. 7:31-3.1(a)	2,000	4,000	10,000
or				
Failure to follow recognized and generally accepted good engineering practices when performing inspection and testing procedures.				
or				
Failure to make the frequency of inspections and tests of process equipment consistent with applicable manufacturers' recommendations, industry standards or codes, good engineering practices, or prior operating experience.				
147. Failure to conduct a compliance audit and certify at least every three years that compliance with the provisions of 40 CFR 40 Subpart C as incorporated at N.J.A.C. 7:31-3 has been evaluated in order to verify that the procedures and practices developed under the rule are adequate and are being followed.	40 CFR 68.58(a), N.J.A.C. 7:31-3.1(c)5	5,000	10,000	25,000
or				
Failure to 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 with changes at N.J.A.C. 7:31-3.1(c)1.				
148. Failure to conduct a compliance audit with at least one person knowledgeable in the process.	40 CFR 68.58(b), N.J.A.C. 7:31-3.1(a)	1,000	2,000	5,000
149. Failure to develop a report of the audit findings that includes the scope, audit techniques, methods used or the names of the audit participants.	40 CFR 68.58(c), N.J.A.C. 7:31-3.1(c)6	1,000	2,000	5,000
150. Failure to promptly determine and document an appropriate response to each of the findings of a compliance audit or document that deficiencies found during the audit have been corrected.	40 CFR 68.58(d), N.J.A.C. 7:31-3.1(c)10	1,000	2,000	5,000
or				
Failure to prepare and include in the compliance audit report a written schedule for the implementation of corrective actions or state that such actions have been completed.				
151. Failure to retain the two most recent compliance audit reports.	40 CFR 68.58(e), N.J.A.C. 7:31-3.1(a)	1,000	2,000	5,000
152. Failure to investigate each EHS accident or potential catastrophic event.	40 CFR 68.60(a), N.J.A.C. 7:31-3.1(c)7	5,000	10,000	25,000

Categories of Offense	Cite	First Offense 1,000	Second Offense 2,000	Subsequent Offenses 5,000
153. 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 68.60(b), N.J.A.C. 7:31-3.1(c)8			
154. Failure to prepare a summary at the conclusion of an investigation which includes the date of an EHS accident or potential catastrophic event.	40 CFR 68.60(c)(1), N.J.A.C. 7:31-3.1(c)8	1,000	2,000	5,000
155. Failure to prepare a summary at the conclusion of an investigation of an EHS accident or potential catastrophic event which includes the date the investigation began.	40 CFR 68.60(c)(2), N.J.A.C. 7:31-3.1(c)7	1,000	2,000	5,000
156. Failure to prepare a summary at the conclusion of an investigation which includes a description of the EHS accident or potential catastrophic event.	40 CFR 68.60(c)(3), N.J.A.C. 7:31-3.1(c)8	1,000	2,000	5,000
157. Failure to prepare a summary at the conclusion of an investigation of an EHS accident or potential catastrophic event which includes the factors that contributed to the EHS accident or potential catastrophic event.	40 CFR 68.60(c)(4), N.J.A.C. 7:31-3.1(c)8	1,000	2,000	5,000
158. Failure to prepare a summary at the conclusion of an EHS accident or potential catastrophic event investigation which includes any recommendations resulting from the investigation.	40 CFR 68.60(c)(5), N.J.A.C. 7:31-3.1(a)	1,000	2,000	5,000
159. Failure to promptly address and resolve the EHS accident or potential catastrophic event investigation findings and recommendations. or Failure to document the resolutions and corrective actions of an EHS accident or potential catastrophic event investigation.	40 CFR 68.60(d), N.J.A.C. 7:31-3.1(a)	2,000	4,000	10,000
160. Failure to review the findings of an EHS accident or potential catastrophic event investigation with all affected personnel whose job tasks are affected by the findings.	40 CFR 68.60(e), N.J.A.C. 7:31-3.1(a)	1,000	2,000	5,000
161. Failure to retain EHS accident or potential catastrophic event investigation summaries for five years.	40 CFR 68.60(f), N.J.A.C. 7:31-3.1(a)	2,000	4,000	10,000
162. Failure to comply with the emergency response requirements of N.J.A.C. 7:31-5.	N.J.A.C. 7:31-3.2(a)	2,000	4,000	10,000
163. Failure to submit within 90 days of the third anniversary date, and each subsequent third anniversary date, a triennial report to the Department reflecting the risk management program activities for the 36-month period ending on the anniversary date.	N.J.A.C. 7:31-3.3(a)	2,000	4,000	10,000
164. Failure to include in the triennial 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 triennial report if there were no changes in this information since the last Risk Management Plan submittal.	N.J.A.C. 7:31-3.3(b)1	500	1,000	2,500
165. Failure to include in the triennial 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 triennial report if there were no changes in this information since the last triennial report.	N.J.A.C. 7:31-3.3(b)2	500	1,000	2,500
166. Failure to include in the triennial report the hazard review report required at N.J.A.C. 7:31-3.5 for each hazard review completed during the previous three years. or Failure to state that there were no hazard review reports completed in the triennial report if there were no hazard review reports completed since the last triennial report.	N.J.A.C. 7:31-3.3(b)3	500	1,000	2,500
167. Failure to include in the triennial report a summary of any EHS accidents that occurred during the previous three years including the EHS involved and amount released if these facts could have been reasonably determined based on the information obtained through an investigation.	N.J.A.C. 7:31-3.3(b)4i	500	1,000	2,500

		First Offense	Second Offense	Subsequent Offenses
168.	<u>Categories of Offense</u> Failure to include in the triennial report a summary of any EHS accidents that occurred during the previous three years that including the date and time of the EHS accident and identification of EHS equipment involved.	N.J.A.C. 7:31-3.3(b)4ii 500	1,000	2,500
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
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
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
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
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
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
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
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
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
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
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
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 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.	N.J.A.C. 7:31-3.4(d) 5,000	10,000	25,000

Categories of Offense	Cite	First Offense	Second Offense	Subsequent Offenses
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
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
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
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
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
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
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
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
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
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
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
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
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
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
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
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
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
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
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

		First Offense	Second Offense	Subsequent Offenses
	<u>Categories of Offense</u>			
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
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
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
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
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
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
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
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
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
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
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
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
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
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
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
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
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
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
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
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

		<u>First Offense</u>	<u>Second Offense</u>	<u>Subsequent Offenses</u>
	<u>Categories of Offense</u>			
220.	Failure to document that the equipment complies with recognized and generally accepted good engineering and operating practices.	500	1,000	2,500
	<u>Cite</u>			
	40 CFR 68.65(d)(2), N.J.A.C. 7:31-4.1(c)4			
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.	500	1,000	2,500
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.	5,000	10,000	25,000
223.	Failure to use one or more of the methodologies listed at 40 CFR 68.67b(1) through (7) incorporated at N.J.A.C. 7:31-4.1(a) to determine and evaluate the hazards of the process being analyzed.	2,000	4,000	10,000
224.	Failure to address the hazards of the process in the process hazard analysis.	2,000	4,000	10,000
225.	Failure to address the identification of any previous incident which had a likely potential for catastrophic consequences in the process hazard analysis.	1,000	2,000	5,000
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.	1,000	2,000	5,000
227.	Failure to address consequences of failure of engineering and administrative controls in the process hazard analysis.	1,000	2,000	5,000
228.	Failure to address stationary source siting in the process hazard analysis.	1,000	2,000	5,000
229.	Failure to address human factors in the process hazard analysis.	1,000	2,000	5,000
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.	1,000	2,000	5,000
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.	1,000	2,000	5,000
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	2,000	4,000	10,000

	<u>Categories of Offense</u>	<u>Cite</u>	<u>First Offense</u>	<u>Second Offense</u>	<u>Subsequent Offenses</u>
	<p>Failure to develop a written schedule of when actions recommended in the process hazard analysis are to be completed.</p> <p>or</p> <p>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.</p>				
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	5,000	20,000
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
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
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.	N.J.A.C. 7:31-4.2(b)1	5,000	10,000	25,000
	<p>or</p> <p>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.</p>				
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.	N.J.A.C. 7:31-4.2(b)2	5,000	10,000	25,000
	<p>or</p> <p>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.</p>				
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
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
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
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 <sup>2</sup> 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

	Categories of Offense	Cite	First Offense 2,000	Second Offense 4,000	Subsequent Offenses 10,000
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 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 <sup>2</sup> for 40 seconds); or 2.3 psi overpressure.	N.J.A.C. 7:31-4.2(b)3iv			
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
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 <sup>-4</sup> per year.	N.J.A.C. 7:31-4.2(c)2	2,000	4,000	10,000
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
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
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
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
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
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
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
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
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

		First Offense 2,000	Second Offense 4,000	Subsequent Offenses 10,000
254.	<u>Categories of Offense</u> 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		
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
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
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
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
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
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
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
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
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
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
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
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
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
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
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

Categories of Offense	Cite	First Offense 1,000	Second Offense 2,000	Subsequent Offenses 5,000
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)			
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
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
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
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
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
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
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
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
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
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
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
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
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
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
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	N.J.A.C. 7:31-4.3(b)5ii	500	1,000	2,500

	<u>Categories of Offense</u>	<u>Cite</u>	<u>First Offense</u>	<u>Second Offense</u>	<u>Subsequent Offenses</u>
	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.				
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
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
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
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
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
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

		First Offense 500	Second Offense 1,000	Subsequent Offenses 2,500	
292.	Categories of Offense Failure to ascertain that each employee involved in operating a process has received and understood the required training.				
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
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
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
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
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
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
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
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
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
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
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
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
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
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
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
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
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
310.	Failure to document each inspection and test that has been performed on process equipment. or 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.	40 CFR 68.73(d)(4), N.J.A.C. 7:31-4.1(a)	500	1,000	2,500
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

	<u>Categories of Offense</u>	<u>Cite</u>	<u>First Offense</u> 1,000	<u>Second Offense</u> 2,000	<u>Subsequent Offenses</u> 5,000
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)			
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
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
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
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
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
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
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
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
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
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
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
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
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
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
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
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)li	2,000	4,000	10,000

<u>Categories of Offense</u>	<u>Cite</u>	<u>First Offense 2,000</u>	<u>Second Offense 4,000</u>	<u>Subsequent Offenses 10,000</u>
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)lii			
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)liii	2,000	4,000	10,000
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
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
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
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
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
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
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
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
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
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
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
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

Categories of Offense	Cite	First Offense 500	Second Offense 1,000	Subsequent Offenses 2,500
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			
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
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
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
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
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
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	500	2,000	5,000
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
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
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
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
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
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
356. Failure to retain the two 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
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
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
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

		First Offense	Second Offense	Subsequent Offenses	
	<u>Categories of Offense</u>				
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
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
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
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.	40 CFR 68.81(d)(3), N.J.A.C. 7:31-4.1(c)15 and 18	1,000	2,000	5,000
	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.				
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
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
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
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
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
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
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
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
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
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
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
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.	40 CFR 68.85(b), N.J.A.C. 7:31-4.1(a)	500	1,000	2,000
	or				

	<u>Categories of Offense</u>	<u>Cite</u>	<u>First Offense</u>	<u>Second Offense</u>	<u>Subsequent Offenses</u>
	Failure to keep the hot work permit on file until completion of the hot work operations.				
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
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
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
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
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
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
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 or her job.	40 CFR 68.87(c)(1), N.J.A.C. 7:31-4.1(a)	2,000	4,000	10,000
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 or 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
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).	40 CFR 68.87(c)(3), N.J.A.C. 7:31-4.1(a)	1,000	2,000	5,000
	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.				
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
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
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
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
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.	N.J.A.C. 7:31-4.9(b)1	500	1,000	2,500
	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.				
390.	Failure to include in the annual report a description of significant changes to the management system.	N.J.A.C. 7:31-4.9(b)2	500	1,000	2,500
	or				

	<u>Categories of Offense</u>	<u>Cite</u>	<u>First Offense</u>	<u>Second Offense</u>	<u>Subsequent Offenses</u>
	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.				
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
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
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
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
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
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
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
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
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
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
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

Categories of Offense	Cite	First Offense 6,000	Second Offense 12,000	Subsequent Offenses 30,000
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			
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
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
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
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
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
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 + 2000
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
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
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 + 2000
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

Categories of Offense	Cite	First Offense 1,000	Second Offense 2,000	Subsequent Offenses 5,000
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)			
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
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
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
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
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
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
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
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
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
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
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
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
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

Categories of Offense	Cite	First Offense 1,000	Second Offense 2,000	Subsequent Offenses 5,000
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			
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
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
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
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
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
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
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
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
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

Categories of Offense	Cite	First Offense 1,000	Second Offense 2,000	Subsequent Offenses 5,000
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)			
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
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
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
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
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 EPA prior to June 21, 1999. 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
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
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
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
446. Failure to make subsequent submissions of RMPs in accordance with 40 CFR 68.190, as incorporated at N.J.A.C. 7:31-7.1(c)3, 4, and 5.	40 CFR 68.150(c), N.J.A.C. 7:31-7.1(a)	1,000	2,000	5,000
447. 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
448. 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
449. 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
450. Failure to provide in the RMP executive summary a brief description of the worst-case release scenario(s) and the alternative release scenario(s), including administrative controls and mitigation measures to limit the distances for each reported scenario.	40 CFR 68.155(c), N.J.A.C. 7:31-7.1(a)	500	1,000	2,500
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(d), N.J.A.C. 7:31-7.1(a)	500	1,000	2,500
452. Failure to provide in the RMP executive summary a brief description of the five-year accident history.	40 CFR 68.155(e), N.J.A.C. 7:31-7.1(a)	500	.000	2,500
453. Failure to provide in the RMP executive summary a brief description of the emergency response program.	40 CFR 68.155(f), N.J.A.C. 7:31-7.1(a)	500	1,000	2,500
454. Failure to provide in the RMP executive summary a brief description of the planned changes to improve safety.	40 CFR 68.155(g), N.J.A.C. 7:31-7.1(a)	500	1,000	2,500

Categories of Offense	Cite	First Offense 2,000	Second Offense 4,000	Subsequent Offenses 10,000
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)			
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
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
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
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
460. Failure to include in the registration the name and title of the person or position with overall responsibility for RMP elements and implementation.	40 CFR 68.160(b)(5), N.J.A.C. 7:31-7.1(a)	500	1,000	2,500
461. Failure to include in the registration the emergency contact person's name, title, telephone number, and 24-hour telephone number.	40 CFR 68.160(b)(6), N.J.A.C. 7:31-7.1(a)	500	1,000	2,500
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
463. Failure to include in the registration the stationary source EPA identifier.	40 CFR 68.160(b)(8), N.J.A.C. 7:31-7.1(a)	500	1,000	2,500
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
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
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
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
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
469. 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
470. 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
471. 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
472. 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
473. 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
474. 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

Categories of Offense	Cite	First Offense	Second Offense	Subsequent Offenses
		1,000	2,000	5,000
475. 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)			
476. 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
477. 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
478. 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
479. 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
480. 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
481. 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
482. 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
483. 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
484. 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
485. 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
486. 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
487. 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
488. 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
489. 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
490. 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
491. 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
492. 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
493. 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
494. 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
495. 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
496. 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
497. 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
498. 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
499. 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
500. 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

	Categories of Offense	Cite	First Offense 1,000	Second Offense 2,000	Subsequent Offenses 5,000
501.	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)			
502.	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
503.	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
504.	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
505.	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
506.	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
507.	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
508.	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
509.	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
510.	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
511.	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
512.	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
513.	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
514.	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
515.	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
516.	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
517.	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
518.	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
519.	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
520.	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
521.	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
522.	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

	Categories of Offense	Cite	First Offense 1,000	Second Offense 2,000	Subsequent Offenses 5,000
523.	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(f), N.J.A.C. 7:31-7.1(a)			
524.	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
525.	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
526.	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
527.	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
528.	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
529.	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
530.	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
531.	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
532.	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
533.	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
534.	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
535.	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
536.	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
537.	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.	40 CFR 68.190(a), N.J.A.C. 7:31-7.1(c)3-4	1,000	2,000	5,000
538.	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
539.	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 five years of its initial submission or most recent update required by 40 CFR 68.190(b)(2) through (b)(7) incorporated at N.J.A.C. 7:31-7.1(c), whichever is later.	40 CFR 68.190(b)(1), N.J.A.C. 7:31-7.1(c)5	1,000	2,000	5,000
540.	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
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 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
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 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

		First Offense 1,000	Second Offense 2,000	Subsequent Offenses 5,000
543.	<b>Categories of Offense</b> 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.			
	<b>Cite</b> 40 CFR 68.190(b)(5), N.J.A.C. 7:31-7.1(c)5			
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 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).	1,000	2,000	5,000
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 alters the Program level that applied to any covered process.	1,000	2,000	5,000
546.	Failure to submit a revised 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.	1,000	2,000	5,000
547.	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)1-2.	1,000	2,000	5,000
548.	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.	1,000	2,000	5,000
549.	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.	1,000	2,000	5,000
550.	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.	1,000	2,000	5,000
551.	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.	1,000	2,000	5,000
552.	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 at N.J.A.C. 7:31-6.3(a), Table I.	1,000	2,000	5,000
553.	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.	1,000	2,000	5,000
554.	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 Failure to register the total combined capacity of multiple vessels with a capacity at or above the threshold quantity of an RHS mixture.	1,000	2,000	5,000

Categories of Offense	Cite	First Offense 1,000	Second Offense 2,000	Subsequent Offenses 5,000
555. 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			
556. 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 at N.J.A.C. 7:31-6.3(a) in a process above their threshold.	N.J.A.C. 7:31-7.2(a)3iv	1,000	2,000	5,000
557. 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
558. Failure to adopt the existing, or obtain a new, approved Program 2 or Program 3 TPCA 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
559. Failure to adopt an existing approved Program 2 or Program 3 TPCA 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
560. Failure to comply with the approved risk management program for EHSs listed in N.J.A.C. 7:31-6.3(a), 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
561. Failure to be in compliance with this chapter by September 18, 2004.	N.J.A.C. 7:31-7.5(b)	2,000	4,000	10,000
562. 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
563. 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
564. 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
565. 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
566. 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.	40 CFR 68.220(g), N.J.A.C. 7:31-8.1(c)9	2,000	4,000	10,000

<u>Categories of Offense</u>	<u>Cite</u>	<u>First Offense</u>	<u>Second Offense</u>	<u>Subsequent Offenses</u>
or Failure to comply with the requirements of the approved risk management program as set forth in the consent agreement or consent agreement addendum.				
567. 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
568. 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.	N.J.A.C. 7:31-8.2(a)	2,000	4,000	10,000
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.				
569. 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
570. 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
571. 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.	N.J.A.C. 7:31-9.1(c)	2,000	4,000	10,000
or 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 Deutsches Institut fuer Normung (DIN) 823-1965 (A4, A3, A2, A1, or A0).				
572. 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
573. 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
574. 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
575. 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
576. 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

<u>Categories of Offense</u>	<u>Cite</u>	<u>First Offense 2,000</u>	<u>Second Offense 4,000</u>	<u>Subsequent Offenses 10,000</u>
577. 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)			
578. 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
579. 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
580. 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	2,500
581. 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	2,500
582. 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	2,500
583. 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	2,500
584. 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	2,500
585. 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	2,500
586. 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	2,500
587. 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	2,500
588. 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	2,500
589. 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	2,500
590. 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	2,500
591. 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
592. 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

(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. Not more than \$10,000 for the first offense;
2. Not more than \$20,000 for the second offense; and
3. Not more than \$50,000 for the third and each subsequent offense.

(e) The Department may, in its discretion, adjust the penalty amount determined pursuant to (d) above to assess

a civil administrative penalty based on any or all of the following factors:

1. The amount of the penalty established under (c) above for a violation which is comparable to the violation in question. Comparability is based upon the nature of the violations (for example, violations 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; and/or

2. The factors listed in (g) below.

(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 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.

#### 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.