This is a courtesy copy of this rule. All of the Department's rules are compiled in Title 7 of the New Jersey Administrative Code.

New Jersey Department of Environmental Protection
Title 7, Chapter 31
Toxic Catastrophe Prevention Act Program

Consolidated Rule Document

Authority:	N.J.S.A. 13:1B-3, 13:1D-9, 13:1K-19 et seq., and 26:2C-1 et seq.
Effective Date:	February 9, 2009, Readoption; March 16, 2009, Amendments and Repeals.
Operative Date:	March 16, 2010 – repeal of N.J.A.C. 7:31-3.1, 3.2, 3.3, 3.5 and 3.6; new N.J.A.C. 7:31- 7.1(c)9 through 12; amendments to N.J.A.C. 7:31-1.1(c)3v; deletion of and new N.J.A.C. 7:31-1.1(c)4ii; and deletion of N.J.A.C. 7:31-11.4(c) Table III penalties 10 - 14, 108 - 208, and 522 - 540.
Expiration Date:	February 9, 2014

Revision date of the Consolidated Rule Document: March 29, 2012

Explanation of the Consolidated Rule Document

The purpose of this document is to facilitate understanding of the new Toxic Catastrophe Prevention Act (TCPA) regulatory requirements by combining the N.J.A.C. 7:31 rule text with the adopted text of the federal Accidental Release Prevention (ARP) rules at 40 CFR 68. In the official adopted TCPA rule, section 1, paragraph (a) of each subchapter of N.J.A.C. 7:31 incorporates by reference the corresponding subpart of 40 CFR 68, and paragraphs (b) and (c) detail the EPA provisions that are not incorporated and those that are changed, respectively. This document shows the official text of paragraphs (b) and (c) in section 1 of each N.J.A.C. 7:31 subchapter, and it shows the full EPA text incorporated by section 1 of each particular subchapter as modified by the DEP's rule.

For example, in the adopted rule published in the New Jersey Register, N.J.A.C. 7:31-3.1(c)1 through 8 describe changes that DEP has made to various requirements of the EPA's 40 CFR 68 Subpart C, which is incorporated by reference at N.J.A.C. 7:31-3.1(a). This consolidated rule document shows the text of EPA's 40 CFR 68.48 through 68.60 with the DEP changes.

Also, for ease of reading, the text of additional New Jersey requirements has been inserted at the end of the EPA provision to which each is related. In many cases, these additional New Jersey requirements actually appear in a different location in the official New Jersey rule. However, the rule cites remain the same as they are in the official rule.

Explanation of fonts

This document gives a combination of the text from two rules: the adopted N.J.A.C. 7:31, and the federal 40 CFR 68. Various fonts are used to determine from which document the text originates:

1. The adopted N.J.A.C. 7:31 is shown in standard font thus.
2. Text of 40 CFR 68 is shown in italics *thus*.
3. Deletions to 40 CFR 68 are shown in italics with strikeout ~~*thus*~~.
4. New Jersey additions to the federal text are shown in underlined standard font <u>thus</u>.

5. Amendments to the TCPA rule that were published in the March 16, 2009 New Jersey Register are highlighted in yellow thus. (Which will appear in gray when printed on a black and white printer.)
6. Additions to EPA's 40 CFR 68 published in the April 9, 2004 Federal Register are in bold italic ***thus***; deletions are in bold italic with strikeout ***~~thus~~***.

This document should be used as a guidance document only. The readopted rules and amendments of the Toxic Catastrophe Prevention Act (TCPA) Program are published in the March 16, 2009 New Jersey Register, and all of the Department's rules are compiled in Title 7 of the New Jersey Administrative Code. Should there be any discrepancies between this text and the official version of the rules, the official version will govern. The TCPA rule incorporates portions of 40 CFR 68 by reference. Please refer to the Code of Federal Regulations for the official text of 40 CFR 68.

This is a courtesy copy of this rule. All of the Department's rules are compiled in Title 7 of the New Jersey Administrative Code.

Table of Contents

SUBCHAPTER 1. GENERAL PROVISIONS

		Page
7:31-1.1	Incorporation by reference	7
§68.1	*Scope.*	9
§68.3	*Definitions.*	9
7:31-1.5	State definitions	12
§68.10	*Applicability.*	21
§68.12	*General requirements.*	22
§68.15	*Management.*	23
7:31-1.2	Construction	24
7:31-1.3	Purpose	24
7:31-1.4	Incorporation by reference of the Code of Federal Regulations	24
7:31-1.6	Severability	25
7:31-1.7	Practice where these rules do not govern	25
7:31-1.8	Document availability	26
7:31-1.9	Prohibitions	26
7:31-1.10	Prevention of catastrophic accidents	27
7:31-1.11A	Fees (Effective on June 21, 1999)	28
7:31-1.12	Release of information by insurance carriers	31

SUBCHAPTER 2. HAZARD ASSESSMENT

7:31-2.1	Incorporation by reference	34
§68.20	*Applicability.*	34
§68.22	*Offsite consequence analysis parameters.*	34
§68.25	*Worst-case release scenario analysis.*	35
§68.28	*Alternative release scenario analysis.*	37
§68.30	*Defining offsite impacts--population.*	38
§68.33	*Defining offsite impacts--environment.*	38
§68.36	*Review and update.*	39
§68.39	*Documentation.*	39
§68.42	*Five-year accident history.*	39
Appendix A to	*Part 68 – Table of Toxic Endpoints*	41
7:31-2.2	RHS Hazard Assessment	44

SUBCHAPTER 3. Reserved 45

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

7:31-4.1	Incorporation by reference	47

§68.65	*Process safety information.*	50
§68.67	*Process hazard analysis* with risk assessment for specific pieces of EHS equipment or operating procedures.	52
7:31-4.2	Process hazard analysis with risk assessment for specific pieces of EHS equipment or operating alternatives	53
§68.69	Standard *Operating procedures.*	55
7:31-4.3	Standard operating procedures	56
§68.71	EHS operator *Training.*	57
7:31-4.4	EHS Operator training	58
§68.73	*Mechanical integrity*/preventive maintenance	58
7:31-4.5	Mechanical integrity/preventive maintenance program	59
§68.75	*Management of change.*	59
7:31-4.6	Management of change	59
§68.77	*Pre-startup review.*	60
7:31-4.7	Safety reviews: design and pre-startup	61
§68.79	*Compliance audits*.	62
§68.81	~~*Incident*~~ EHS accident or potential catastrophic event *investigation.*	62
§68.83	*Employee participation.*	63
§68.85	*Hot work permit.*	63
§68.87	*Contractors.*	63
7:31-4.8	Emergency response	64
7:31-4.9	Annual reports	64
7:31- 4.10	Obligations upon temporary discontinuance of EHS use, storage and handling	65
7:31-4.11	New covered processes - construction and new EHS service	65
7:31-4.12	Inherently safer technology review	66

SUBCHAPTER 5. EMERGENCY RESPONSE

7:31-5.1	Incorporation by reference	70
§68.90	*Applicability.*	70
§68.95	*Emergency response program.*	71
7:31-5.2	Emergency response program	71

SUBCHAPTER 6. EXTRAORDINARILY HAZARDOUS SUBSTANCES

7:31-6.1	Incorporation by reference	74
§68.100	*Purpose.*	74
§68.115	*Threshold determination.*	74
§68.126	*Exclusion.*	77
§68.130	*List of substances.*	77
7:31-6.2	Threshold quantity determination	78
7:31-6.3	Extraordinarily hazardous substance list	79

SUBCHAPTER 7. RISK MANAGEMENT PLAN AND TCPA PROGRAM SUBMISSION

7:31-7.1	Incorporation by reference	101
§68.150	*Submission.*	102
§68.151	*Assertion of claims of confidential business information*.	102
§68.152	*Substantiating claims of confidential business information*.	103
§68.155	*Executive summary*.	103
§68.160	*Registration.*	103
§68.165	*Offsite consequence analysis.*	104
§68.168	*Five-year accident history*.	105
§68.175	*Prevention program/Program 3*.	106
§68.180	*Emergency response program.*	106
§68.185	*Certification.*	107
§68.190	*Updates.*	107
§68.195	*Required corrections.*	108
7:31-7.2	TCPA Risk Management Plan submission and updates	108
7:31-7.3	Risk management program and RMP - initial evaluation	109
7:31-7.4	Transfer of risk management program	110
7:31-7.5	Schedule for risk management program implementation	110

SUBCHAPTER 8. OTHER FEDERAL REQUIREMENTS

7:31-8.1	Incorporation by reference	112
§68.200	*Recordkeeping.*	113
§68.220	*Audits.*	114
7:31-8.2	Audits	116

SUBCHAPTER 9. WORK PLAN/EHSARA

7:31-9.1	Work plan preparation	118
7:31-9.2	Generic scope of work	118
7:31-9.3	Selection of consultants	120
7:31-9.4	Proposal requirements	121
7:31-9.5	EHSARA report	123

SUBCHAPTER 10. CONFIDENTIALITY AND TRADE SECRETS

7:31-10.1	Scope and applicability	126
7:31-10.2	General provisions	126
7:31-10.3	Exclusions from confidential information and privileged trade secret or security information	127
7:31-10.4	Confidentiality claims	128
7:31-10.5	Determination of confidentiality claims	130

7:31-10.6	Petitions to withhold privileged trade secret or security information	133
7:31-10.7	Determinations of petitions to withhold privileged trade secret or security information	136
7:31-10.8	Maintaining the confidentiality and security of confidential information	138
7:31-10.9	Disclosure of confidential information	139
7:31-10.10	Wrongful access or disclosure	141
7:31-10.11	Use of confidential information in rulemaking, reviewing extraordinarily hazardous substance accident risk assessment reports and risk management programs, and enforcement proceedings	142

SUBCHAPTER 11. CIVIL ADMINISTRATIVE PENALTIES AND REQUESTS FOR ADJUDICATORY HEARINGS

7:31-11.1	Authority and purpose	143
7:31-11.2	Procedures for issuance of administrative orders and assessment of civil administrative penalties and payment of such penalties	143
7:31-11.3	Procedures to request an adjudicatory hearing	144
7:31-11.4	Civil administrative penalty determination	146
7:31-11.5	Grace period applicability; procedures	237

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 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) and 40 CFR 68.10(e) Applicability; and 40 CFR 68.12(b) and (c), 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 present as determined under N.J.A.C. 7:31-6.3. A petroleum refining process unit having an EHS present is considered a single covered process."

ii. At the end of the definition of "petroleum refining process unit," add "Each petroleum refining process unit having an EHS present is a single covered process."

iii. Replace the definition of "threshold quantity" with "Threshold quantity means the quantity specified for EHSs pursuant to N.J.A.C. 7:31-6."

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)."

v. Replace the definition of "owner or operator" with "Owner or operator means any person who owns, leases, operates, controls, or supervises a facility (stationary source)."

3. *40 CFR 68.10*, Applicability:

i. At 40 CFR 68.10(a), delete the introductory paragraph, and replace with, "An owner or operator of a facility (stationary source) that uses, manufactures, stores or has the capability of producing at least the threshold quantity of an EHS as determined under N.J.A.C. 7:31-6 shall comply with the requirements of this Chapter. Determination of whether a threshold quantity is present at the facility shall be made using the sum of the EHS inventory of all covered processes at the facility. The EHS inventory of a covered process shall be the greatest of the instantaneous static inventory of the EHS contained and stored, the hourly generation rate of the EHS, or the amount of the EHS that can be released in one hour from any EHS equipment within a covered process. The owner or operator shall comply no later than the latest of the following dates:". At 40 CFR 68.10(a)(3), delete the phrase, "above a threshold quantity in a process" and replace with "at or above a threshold quantity at the facility."

ii. At 40 CFR 68.10(a)1, delete June 21, 1999 and add the following, "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. 7:31-4.11."

iv. Replace 40 CFR 68.10(c) with, "A covered process is subject to Program 2 requirements if it does not meet Program 3 requirements. However, any covered process that is subject to Program 2 requirements shall, on or after March 16, 2010 be subject to only Program 3 requirements.

v. At 40 CFR 68.10(d), delete the phrase "if the process does not meet the requirements of paragraph (b) of this section", delete the phrase "and if either of the following conditions is met" and delete 40 CFR 68.10(d)(1) and (2).

4. *40 CFR 68.12*, General requirements:

i. At *40 CFR 68.12(a)*, delete the word "part" and replace with "chapter," and add "with changes specified at *N.J.A.C. 7:31-7.1(c)*1 and 2" after "68.150" and add "(b)" after " *40 CFR 68.185*.".

ii. Delete the entirety of 40 CFR 68.12(c)(1) through (5).

iii. At *40 CFR 68.12(d)*, change the following:

(1) At *40 CFR 68.12(d)*, after "§ 68.10(d)" add "with changes specified at *N.J.A.C. 7:31-1.1(c)*3v."

(2) At *40 CFR 68.12(d)(1)*, add "with changes specified at *N.J.A.C. 7:31-1.1(c)*5" after "§ 68.15."

(3) At *40 CFR 68.12(d)*2, delete the semicolon at the end of the sentence and add ", with changes specified at *N.J.A.C. 7:31-2.1(c)*1 and 2."

(4) At *40 CFR 68.12(d)(3)*, delete the semicolon and add "with changes specified at *N.J.A.C. 7:31-4.1(c)*1-24 and *N.J.A.C. 7:31-4.2* through 4.12."

(5) At *40 CFR 68.12(d)(4)*, insert "with changes specified at *N.J.A.C. 7:31-5.1(c)*1-4 and *N.J.A.C. 7:31-5.2*" after "of this part;".

5. At 40 CFR 68.15, Management, add the text as indicated in (c)5i and ii below and delete the text as indicated in (c)5iii and iv below:

i. The management system shall include a documentation plan which shall: (1) provide a list identifying all documentation required by this chapter including the document title, identification number, and storage location; and (2) describe how the owner or operator of a covered process will store, maintain and update all documentation required by this chapter.

ii. The management system shall provide a means of tracking and recording the EHS inventory at the facility against the Risk Management Plan registration quantity to ensure that the EHS registration quantity of each registered covered process is not exceeded.

iii. At 40 CFR 68.15(a), delete the phrase "of a stationary source."

iv. At 40 CFR 68.15(a), delete "Program 2 and Program 3."

40 CFR 68 Subpart A - General

§68.1 Scope.

This ~~Part~~ chapter *sets forth the list of regulated substances and thresholds, ~~the petition process for adding or deleting substances to the list of regulated substances~~, and the requirements for owners or operators of stationary sources concerning the prevention of accidental releases, ~~and the State accidental release prevention programs approved under section 112(r)~~. ~~The list of substances, threshold quantities, and accident prevention regulations promulgated under this part chapter do not limit in any way the general duty provisions under s ection 112(r)(1).~~*

§68.3 Definitions.

For the purposes of this Part:

Accidental release means an unanticipated emission of a regulated substance or other extremely hazardous substance into the ambient air from a stationary source.

Act means the Clean Air Act as amended (42 U.S.C. 7401 et seq.)

Administrative controls mean written procedural mechanisms used for hazard control.

Administrator means the administrator of the U.S. Environmental Protection Agency.

AIChE/CCPS means the American Institute of Chemical Engineers/Center for Chemical Process Safety.

API means the American Petroleum Institute.

Article means a manufactured item, as defined under 29 CFR 1910.1200(b), that is formed to a specific shape or design during manufacture, that has end use functions dependent in whole or in part upon the shape or design during end use, and that does not release or otherwise result in exposure to a regulated substance under

normal conditions of processing and use.

ASME means the American Society of Mechanical Engineers.

CAS means the Chemical Abstracts Service.

Catastrophic release means a major uncontrolled emission, fire, or explosion, involving one or more regulated substances that presents imminent and substantial endangerment to public health and the environment.

Classified information means ``classified information'' as defined in the Classified Information Procedures Act, 18 U.S.C. App. 3, section 1(a) as ``any information or material that has been determined by the United States Government pursuant to an executive order, statute, or regulation, to require protection against unauthorized disclosure for reasons of national security.''

Condensate means hydrocarbon liquid separated from natural gas that condenses due to changes in temperature, pressure, or both, and remains liquid at standard conditions.

Covered process means a process that has ~~a regulated substance present in more than a threshold quantity as determined under § 68.115~~ an EHS present as determined under N.J.A.C. 7:31-6.3. A petroleum refining process unit having an EHS present is considered a single covered process

Crude oil means any naturally occurring, unrefined petroleum liquid.

Designated agency means the state, local, or Federal agency designated by the state under the provisions of § 68.215(d) .

DOT means the United States Department of Transportation.

Environmental receptor means natural areas such as national or state parks, forests, or monuments; officially designated wildlife sanctuaries, preserves, refuges, or areas; and Federal wilderness areas, that could be exposed at any time to toxic concentrations, radiant heat, or overpressure greater than or equal to the endpoints provided in § 68.22(a) , as a result of an accidental release and that can be identified on local U. S. Geological Survey maps.

Field gas means gas extracted from a production well before the gas enters a natural gas processing plant.

Hot work means work involving electric or gas welding, cutting, brazing, or similar flame or spark-producing operations.

Implementing agency means the state or local agency that obtains delegation for an accidental release prevention program under subpart E, 40 CFR part 63. The implementing agency may, but is not required to, be the state or local air permitting agency. If no state or local agency is granted delegation, EPA will be the implementing agency for that state.

Injury means any effect on a human that results either from direct exposure to toxic concentrations; radiant heat; or overpressures from accidental releases or from the direct consequences of a vapor cloud explosion (such as flying glass, debris, and other projectiles) from an accidental release and that requires medical treatment or hospitalization.

Major change means introduction of a new process, process equipment, or regulated substance, an alteration of process chemistry that results in any change to safe operating limits, or other alteration that introduces a new hazard.

Mechanical integrity means the process of ensuring that process equipment is fabricated from the proper materials of construction and is properly installed, maintained, and replaced to prevent failures and accidental releases.

Medical treatment means treatment, other than first aid, administered by a physician or registered professional personnel under standing orders from a physician.

Mitigation or mitigation system means specific activities, technologies, or equipment designed or deployed to capture or control substances upon loss of containment to minimize exposure of the public or the environment. Passive mitigation means equipment, devices, or technologies that function without human, mechanical, or other energy input. Active mitigation means equipment, devices, or technologies that need human, mechanical, or other energy input to function.

NAICS means North American Industry Classification System.

Natural gas processing plant (gas plant) means any processing site engaged in the extraction of natural gas liquids from field gas, fractionation of mixed natural gas liquids to natural gas products, or both, classified as North American Industrial Classification System (NAICS) code 211112 (previously Standard Industrial Classification (SIC) code 1321).

NFPA means the National Fire Protection Association.

Offsite means areas beyond the property boundary of the stationary source, and areas within the property boundary to which the public has routine and unrestricted access during or outside business hours.

OSHA means the U.S. Occupational Safety and Health Administration.

Owner or operator means any person who owns, leases, operates, controls, or supervises a facility (*stationary source*)*.*

Petroleum refining process unit means a process unit used in an establishment primarily engaged in petroleum refining as defined in NAICS code 32411 for petroleum refining (formerly SIC code 2911) and used for the following: Producing transportation fuels (such as gasoline, diesel fuels, and jet fuels), heating fuels (such as kerosene, fuel gas distillate, and fuel oils), or lubricants; Separating petroleum; or Separating, cracking, reacting, or reforming intermediate petroleum streams. Examples of such units include, but are not limited to, petroleum based solvent units, alkylation units, catalytic hydrotreating, catalytic hydrorefining, catalytic hydrocracking, catalytic reforming, catalytic cracking, crude distillation, lube oil processing, hydrogen production, isomerization, polymerization, thermal processes, and blending, sweetening, and treating processes. Petroleum refining process units include sulfur plants. Each petroleum refining process unit having an EHS present is a single covered process.

Population means the public.

Process means any activity involving a regulated substance including any use, storage, manufacturing, handling, or on-site movement of such substances, or combination of these activities. For the purposes of this definition, any group of vessels that are interconnected, or separate vessels that are located such that a regulated substance could be involved in a potential release, shall be considered a single process.

Produced water means water extracted from the earth from an oil or natural gas production well, or that is separated from oil or natural gas after extraction.

Public means any person except employees or contractors at the stationary source.

Public receptor means offsite residences, institutions (e.g., schools, hospitals), industrial, commercial, and office buildings, parks, or recreational areas inhabited or occupied by the public at any time without restriction by the stationary source where members of the public could be exposed to toxic concentrations, radiant heat, or overpressure, as a result of an accidental release.

Regulated substance is ~~*any substance listed pursuant to section 112(r)(3) of the Clean Air Act as amended, in 68.130.*~~ an EHS listed in Table I, Parts A, B, C, or D of N.J.A.C. 7:31-6.3(a) and (c).

Replacement in kind means a replacement that satisfies the design specifications.

Retail facility means a stationary source at which more than one- half of the income is obtained from direct sales to end users or at which more than one-half of the fuel sold, by volume, is sold through a cylinder exchange program.

RMP means the risk management plan required under subpart G of this part.

Stationary source means any buildings, structures, equipment, installations, or substance emitting stationary activities which belong to the same industrial group, which are located on one or more contiguous properties, which are under the control of the same person (or persons under common control), and from which an accidental release may occur. The term stationary source does not apply to transportation, including storage incident to transportation, of any regulated substance or any other extremely hazardous substance under the provisions of this part. A stationary source includes transportation containers used for storage not incident to transportation and transportation containers connected to equipment at a stationary source for loading or unloading. Transportation includes, but is not limited to, transportation subject to oversight or regulation under 49 CFR parts 192, 193, or 195, or a state natural gas or hazardous liquid program for which the state has in effect a certification to DOT under 49 U.S.C. section 60105. A stationary source does not include naturally occurring hydrocarbon reservoirs. Properties shall not be considered contiguous solely because of a railroad or pipeline right-of-way.

Threshold quantity means the ~~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.~~ quantity specified for EHSs pursuant to N.J.A.C. 7:31-6

Typical meteorological conditions means the temperature, wind speed, cloud cover, and atmospheric stability class, prevailing at the site based on data gathered at or near the site or from a local meteorological station.

Vessel means any reactor, tank, drum, barrel, cylinder, vat, kettle, boiler, pipe, hose, or other container.

Worst-case release means the release of the largest quantity of a regulated substance from a vessel or process line failure that results in the greatest distance to an endpoint defined in § 68.22(a).

Additional New Jersey Definitions

7:31-1.5 State definitions

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

"Acute toxicity concentration" or "ATC" means a minimum lethal concentration which is greater than the Threshold Limit Value (TLV) or the Short Term Exposure Limit (STEL) as defined by the American Conference of Governmental Industrial Hygienists, and equivalent to the lowest of the following three categories: one-tenth of the median lethal concentration (LC_{50}); or one times the lowest lethal concentration (LC_{LO}) of test data for any mammalian species in test periods up to eight hours; or the Immediately Dangerous to Life and Health (IDLH) concentration. LC_{50}, LC_{LO}, IDLH, TLV, and STEL have been defined by the U.S. Department of Health and Human Services in the "Registry of Toxic Effects of Chemical Substance" (RTECS) and the National Institute of Occupational Safety and Health (NIOSH) "Pocket Guide to Chemical Hazards".

"Agent of the Department" means a person, including a consultant or a contractor, authorized by the Department to act for it in implementing the Act and this chapter.

"ANSI" means American National Standards Institute.

"Budget-expenditure variance" means the difference, either positive or negative, between the gross

expenditures and the spending plan (budget) of the same fiscal year of the TCPA program. Where budget exceeds expenditures, this difference is positive.

"Change" means any modification in existing EHS equipment or procedures which are directly involved with an EHS, including additions or deletions. Change does not include routine maintenance, which means the repair or replacement in kind of existing EHS equipment to provide continuity of operation, or replacement with identical equipment.

"Claimant" means any person who submits a confidentiality claim under this chapter.

"Commissioner" means the Commissioner of the Department of Environmental Protection and Energy 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 labeled 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 and Energy.

"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 and 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 from a piece of EHS equipment in which it is contained, excluding discharges or emissions occurring pursuant to and in compliance with the conditions of any State permit or regulation.

"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.

"Emergency response team" means those personnel identified in the emergency response plan that respond to an emergency at the facility which involves an EHS. Functions for which the 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.

"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, electrical 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 the combination of all structures, buildings, and processes that are located on a single property site or on contiguous or adjacent property sites and that are under common control of the same owner or operator. 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 as specified at 40 CFR 68.115(b)(5)(ii) with changes specified at N.J.A.C. 7:31-6.1(c)4.

"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.

"Feasible" means capable of being successfully accomplished, taking into account environmental, public health and safety, legal, technological, and economic factors.

"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 sub-header 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.

"Grace period" means the period of time afforded under N.J.S.A. 13:1D-125 et seq., commonly known as the Grace Period Law, for a person to correct a minor violation in order to avoid imposition of a penalty that would be otherwise applicable for such violation.

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

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

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

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

"Inherently safer technology" means the principles or techniques that can be incorporated in a covered process to minimize or eliminate the potential for an EHS release.

"Inventory" means the instantaneous static quantity of the EHS contained and stored in a process, the hourly generation rate of the EHS in a process, or the amount of the EHS that can be released in one hour from the process, whichever is greatest.

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

"Material deficiency" means an inadequacy or omission of an owner's or operator's risk management program that reduces the effectiveness of the risk management program.

"Maximum achievable temperature" means the highest temperature that can be attained during abnormal conditions in a process vessel taking into consideration the vessel design, heating and cooling systems connected to the vessel, and the potential chemical reactions involving the vessel's contents. Abnormal conditions include scenarios such as:

1. A vessel having a steam heating system where maximum heating is applied to the vessel;
2. A vessel having a cooling system where there is a total loss of cooling;
3. An exothermic reaction generating heat that takes place inside the vessel;
4. Contamination to the normal vessel contents causing an exothermic reaction;
5. External fire; and
6. Unintended ratio or amounts of reaction ingredients.

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

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

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

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

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

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

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

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

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

"Process flow diagram" means one or more diagrams of a covered process including legends and citations of referenced documents showing the use, generation, storage or handling of an EHS, items of equipment (groups of duplicate equipment may be represented by one symbol, if desired), flow of material from item to item, simplified basic control loops or major control schemes, points of discharge to the environment, and showing or cross-referencing documents which give details of material balance, flows, raw materials, products, intermediates, treatment chemicals, operating conditions of temperature, pressure, and stream

characteristics, operating cycles and batch sizes where applicable. A process flow diagram includes, or references, a block flow diagram that depicts the receipt, handling and storage steps at the stationary source of shipping containers of the EHS.

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

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

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

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

"Reactive hazard substance (RHS) mixture" means an EHS that is a combination of substances intentionally mixed in a process vessel and is capable of undergoing an exothermic chemical reaction which produces toxic or flammable EHSs or energy. RHS mixtures include a reactant, product, or byproduct that is a chemical substance or a mixture of substances having one or more chemical functional groups specified in N.J.A.C. 7:31-6.3 (a), Table I, Part D, Group II. RHS mixture does not include non-reacting substances such as solvents. An RHS mixture has a heat of reaction which, by convention, is expressed as a negative value for an exothermic reaction, that has an absolute value greater than or equal to 100 calories per gram of RHS mixture.

"Registered EHS" means an EHS listed in the Risk Management Plan for a covered process.

"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" means the evaluation of the results of quantitative analyses to facilitate development of an effective risk reduction plan. The quantitative analyses shall consist of an estimate of the quantity, rate and duration of EHS released, a dispersion analysis, a consequence analysis, and an estimate of the probability or frequency of the undesired event.

"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. Examples include, but are not limited to, offsite consequence analysis data and quantities and locations of EHSs at facilities.

"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.

"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:lK-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.

§68.10 Applicability.

(a) An owner or operator of a facility (*stationary source*) ~~*that*~~ ~~*has*~~ ~~*more than a threshold quantity of a regulated substance in a process, as determined under § 68.115*~~ that uses, manufactures, stores or has the capability of producing at least the threshold quantity of an EHS as determined under N.J.A.C. 7:31-6 shall comply with the requirements of this Chapter. Determination of whether a threshold quantity is present at the facility shall be made using the sum of the EHS inventory of all covered processes at the facility. The EHS inventory of a covered process shall be the greatest of the instantaneous static inventory of the EHS contained and stored, the hourly generation rate of the EHS, or the amount of the EHS that can be released in one hour from any EHS equipment within a covered process. The owner or operator *shall comply* ~~*with the requirements of this part*~~ *no later than the latest of the following dates:*

(1) ~~*June 21, 1999*~~ the schedule set forth in N.J.A.C. 7:31-7.5;

(2) Three years after the date on which a regulated substance is first listed under § 68.130; or

(3) The date on which a regulated substance is first present ~~*above a threshold quantity*~~ at or above a threshold quantity at the facility. ~~*in a process.*~~

(4)For new covered processes, in accordance with the requirements at N.J.A.C. 7:31-4.11.

~~*(b) Program 1 eligibility requirements. A covered process is eligible for Program 1 requirements as provided in § 68.12(b) if it meets all of the following requirements:*~~

~~*(1) For the five years prior to the submission of an RMP, the process has not had an accidental release of a regulated substance where exposure to the substance, its reaction products, overpressure generated by an explosion involving the substance, or radiant heat generated by a fire involving the substance led to any of the following offsite:*~~

~~*(i) Death;*~~

~~*(ii) Injury; or*~~

~~*(iii) Response or restoration activities for an exposure of an environmental receptor;*~~

~~*(2) The distance to a toxic or flammable endpoint for a worst-case release assessment conducted under Subpart B and § 68.25 is less than the distance to any public receptor, as defined in § 68.30; and*~~

~~*(3) Emergency response procedures have been coordinated between the stationary source and local emergency planning and response organizations.*~~

(c) A covered process is subject to Program 2 requirements if it does not meet Program 3 requirements. However, any covered process that is subject to Program 2 requirements shall, on or after March 16, 2010, be subject to only Program 3 requirements.

(d) Program 3 eligibility requirements. A covered process is subject to Program 3. ~~*if the process does not meet the requirements of paragraph (b) of this section, and*~~ ~~*if either of the following conditions is met:*~~

~~*(1) The process is in NAICS code 32211, 32411, 32511, 325181, 325188, 325192, 325199, 325211, 325311, or 32532; or*~~

~~*(2) The process is subject to the OSHA process safety management standard, 29 CFR 1910.119*~~.(Note: this deletion will take effect on March 16, 2010.)

~~*(e) If at any time a covered process no longer meets the eligibility criteria of its Program level, the owner or operator shall comply with the requirements of the new Program level that applies to the process and update the RMP as provided in § 68.190.*~~

(f) The provisions of this part shall not apply to an Outer Continental Shelf (``OCS") source, as defined in 40 CFR 55.2.

§68.12 General requirements.

(a) General requirements. The owner or operator of a stationary source subject to this ~~*part*~~ chapter *shall submit a single RMP, as provided in §68.150* with changes specified at N.J.A.C. 7:31-7.1(c)1 and 2 *to 68.185*(b)*. The RMP shall include a registration that reflects all covered processes.*

~~*(b) Program 1 requirements. In addition to meeting the requirements of paragraph (a) of this section, the owner or operator of a stationary source with a process eligible for Program 1, as provided in § 68.10(b), shall:*~~

~~*(1) Analyze the worst-case release scenario for the process(es), as provided in § 68.25; document that the nearest public receptor is beyond the distance to a toxic or flammable endpoint defined in § 68.22(a); and submit in the RMP the worst-case release scenario as provided in § 68.165;*~~

~~*(2) Complete the five-year accident history for the process as provided in § 68.42 of this part and submit it in the RMP as provided in § 68.168;*~~

~~*(3) Ensure that response actions have been coordinated with local emergency planning and response agencies; and*~~

~~*(4) Certify in the RMP the following: ``Based on the criteria in 40 CFR 68.10, the distance to the specified endpoint for the worst-case accidental release scenario for the following process(es) is less than the distance to the nearest public receptor: [list process(es)]. Within the past five years, the process(es) has (have) had no accidental release that caused offsite impacts provided in the risk management program rule (40 CFR 68.10(b)(1)). No additional measures are necessary to prevent offsite impacts from accidental releases. In the event of fire, explosion, or a release of a regulated substance from the process(es), entry within the distance to the specified endpoints may pose a danger to public emergency responders. Therefore, public emergency responders should not enter this area except as arranged with the emergency contact indicated in the RMP. The*~~

~~*undersigned certifies that, to the best of my knowledge, information, and belief, formed after reasonable inquiry, the information submitted is true, accurate, and complete. [Signature, title, date signed]."*~~

~~*(c) Program 2 requirements. In addition to meeting the requirements of paragraph (a) of this section, the owner or operator of a stationary source with a process subject to Program 2, as provided in § 68.10(c), shall:*~~

~~*(1) Develop and implement a management system as provided in § 68.15;*~~

~~*(2) Conduct a hazard assessment as provided in § 68.20 through 68.42 ,*~~

~~*(3) Implement the Program 2 prevention steps provided in § 68.48 through 68.60 or implement the Program 3 prevention steps provided in Secs. 68.65 through 68.87;*~~

~~*(4) Develop and implement an emergency response program as provided in § 68.90 to 68.95;*~~

~~*(5) Submit as part of the RMP the data on prevention program elements for Program 2 processes as provided in § 68.170.*~~

(d) Program 3 requirements. In addition to meeting the requirements of paragraph (a) of this section, the owner or operator of a stationary source with a process subject to Program 3, as provided in § 68.10(d) with changes specified at N.J.A.C. 7:31-1.1(c)3v. *shall:*

(1) Develop and implement a management system as provided in § 68.15 with changes specified at N.J.A.C. 7:31-1.1(c)5*;*

(2) Conduct a hazard assessment as provided in § 68.20 through 68.42~~;~~, with changes specified at N.J.A.C. 7:31-2.1(c)1 and 2.

(3) Implement the prevention requirements of § 68.65 through 68.87~~;~~ with changes specified at N.J.A.C. 7:31-4.1(c)1-~~22~~ 24 and N.J.A.C. 7:31-4.2 through 4.~~11~~ 12.

(4) Develop and implement an emergency response program as provided in § 68.90 to 68.95 of this part with changes specified at N.J.A.C. 7:31-5.1(c)1-4 and N.J.A.C. 7:31-5.2*; and*

(5) Submit as part of the RMP the data on prevention program elements for Program 3 processes as provided in § 68.175.

§68.15 Management.

(a) The owner or operator ~~of a stationary source~~ with processes ~~subject to Program 2 or Program 3~~ shall develop a management system to oversee the implementation of the risk management program elements.

(b) The owner or operator shall assign a qualified person or position that has the overall responsibility for the development, implementation, and integration of the risk management program elements.

(c) When responsibility for implementing individual requirements of this part is assigned to persons other than the person identified under paragraph (b) of this section, the names or positions of these people shall be documented and the lines of authority defined through an organization chart or similar document.

i. The management system shall include a documentation plan which shall: (1) provide a list identifying all documentation required by this chapter including the document title, identification number, and storage location; and (2) describe how the owner or operator of a covered process will store, maintain and update all documentation required by this chapter.

ii. The management system shall provide a means of tracking and recording the EHS inventory at the facility against the Risk Management Plan registration quantity to ensure that the EHS registration quantity of

each registered covered process is not exceeded.

Additional New Jersey Requirements

7:31-1.2 Construction

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

(b) The Commissioner may amend or repeal this chapter in conformance with the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and N.J.A.C. 1:30-1 et seq.

7:31-1.3 Purpose

(a) The general purpose of this chapter is to protect the public from catastrophic accidents from chemical releases of extraordinarily hazardous substances to the environment by anticipating the circumstances that could result in such releases and requiring precautionary and preemptive actions to prevent such releases.

(b) In order to achieve this general purpose, this chapter establishes:

1. The extraordinarily hazardous substance list which, among other things, is used to determine the facilities subject to the Toxic Catastrophe Prevention Act program;
2. The procedures to be followed by owners or operators subject to the program;
3. The minimum requirements for an acceptable risk management program;
4. The requirements for an extraordinarily hazardous substance risk reduction work plan and accident risk assessment;
5. The criteria for selecting an independent consultant to perform an extraordinarily hazardous substance accident risk assessment;
6. Fees for the administration of the TCPA Program;
7. The requirements for emergency response plans:
8. The reporting requirements for owners and operators subject to the Toxic Catastrophe Prevention Act Program;
9. Administrative penalties for those facilities which violate the Act, this chapter or any order or consent agreement issued pursuant thereto; and
10. The incorporation by reference of specified provisions of the Federal Chemical Accident Prevention Provisions at 40 CFR Part 68.

7:31-1.4 Incorporation by reference of the Code of Federal Regulations

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

(b) When a provision of 40 CFR Part 68 is incorporated by reference all internal references contained therein are also incorporated by reference for the purposes of that provision, unless otherwise noted. Each internal reference to 40 CFR Part 68 shall be interpreted to include, in addition to the Federal citation, any changes or deletions to that citation by the corresponding state subchapter. For example, all references within the CFR to 40 CFR Part 68 shall include the changes, additions and deletions which N.J.A.C. 7:31 makes to 40 CFR Part 68.

(c) Provisions of the CFR which are excluded from incorporation by reference in these rules are excluded in their entirety, unless otherwise specified. If there is a cross reference to a federal citation which was specifically entirely excluded from incorporation, the cross referenced citation is not incorporated by virtue of the cross reference.

(d) Federal statutes and regulations that are cited in 40 CFR Part 68 that are not specifically adopted by reference shall be used to assist in interpreting the Federal regulations in 40 CFR Part 68.

(e) In the event that there are inconsistencies or duplications in requirements in the provisions incorporated by reference from 40 CFR Part 68 and the rules set forth in this chapter, the provisions incorporated by reference from 40 CFR Part 68 shall prevail, except where the rules set forth in this chapter are more stringent.

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

(g) Any future additional Subparts of 40 CFR Part 68 are incorporated by reference.

Note: 7:31-1.5 can be found on page 10.

7:31-1.6 Severability

(a) 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 theses 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.

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
Bureau of Release Prevention
PO Box 424
Trenton NJ 08625-0424
Telephone (609)633-0619

(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

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.

(b) No owner or operator of a facility for which there is no previously approved risk management program shall construct a new covered process or utilize an existing process for a new EHS service unless the owner or operator has complied with N.J.A.C. 7:31-3.4 (Program 2) or N.J.A.C. 7:31-4.11 (Program 3).

1. As of March 16, 2010, no owner or operator of a facility for which there is no previously approved risk management program shall construct a new covered process or utilize an existing process for a new EHS service unless the owner or operator has complied with N.J.A.C. 7:31-4.11.

(c) No owner or operator of a newly constructed covered process or an existing process being utilized for a new EHS service at a facility for which there is no previously approved risk management program shall begin operating that covered process until the Department and the owner or operator have executed a consent agreement containing an approved risk management program.

(d) No owner or operator of a facility with an approved risk management program shall operate a new process or utilize an existing covered process for a new EHS service before submitting to the Department the documentation required by N.J.A.C. 7:31-3.4(c) or (d) (Program 2) or N.J.A.C. 7:31-4.11(c) or (d) (Program 3), and the fee required by N.J.A.C. 7:31-1.11. The owner or operator shall not operate the new covered process before executing a consent agreement to update the approved risk management program for the new covered process.

1. As of March 16, 2010, no owner or operator of a facility with an approved risk management program shall operate a new process or utilize an existing covered process for a new EHS service before submitting to the Department the documentation required by N.J.A.C. 7:31-4.11(c) or (d) (Program 3) and the fee required by N.J.A.C. 7:31-1.11.

(e) No owner or operator of a covered process shall fail to provide the Department with any information required to be submitted to the Department pursuant to the TCPA or this chapter.

7:31-1.10 Prevention of catastrophic accidents

(a) The Department may take such actions as it deems necessary in order to protect human health from an EHS release. Such actions may include, but shall not be limited to, issuing such orders as may be necessary to protect the health of persons who may subject to such a release.

(b) The Department may include in the orders, at its discretion, the following:

1. A requirement that the owner or operator immediately submit a risk management program to the Department for review;

2. A requirement that the owner or operator perform a safety review, hazard analysis or risk assessment;

3. A requirement that the owner or operator immediately take risk reduction actions or implement a risk reduction plan;

4. A requirement that the owner or operator cease operating until the identified risk or risks

have been abated; or

5. Any other requirement the Department determines is necessary to carry out the purposes of the TCPA or this chapter.

(c) When the Department issues an order or takes other appropriate action pursuant to this section, such order or action shall not be deemed to affect the availability of, or preclude the use of, any other enforcement provision.

7:31-1.11A Fees

(a) After June 21, 1999, each owner or operator of a stationary source subject to this chapter shall pay an annual fee to the Department. The annual fee shall be computed in accordance with (b), (c) and (i) through (m) below, and billed and remitted in accordance with (f) through (h) below.

(b) The Department shall assess annual fees that include a base fee, a covered process derived fee, and an inventory derived fee. The base fee unit rate, covered process derived fee unit rate, and inventory derived fee unit rate shall be calculated using the data from the TCPA database as of October 1 of the current year.

(c) The Department shall annually determine during the month of October the base fee and the covered process and inventory derived fee unit rates, taking the following steps:

1. Establish the spending plan by projecting the amount of money required to fund the TCPA program during the fiscal year in which owners or operators shall be charged fees based on the following data:

i. The cost of Department staff in all positions of the TCPA program for which fees are charged for the current fiscal year;

ii. The cost of fringe benefits for those staff members identified at (c)1i above, calculated as a percentage of their salaries, which percentage is set by the New Jersey Department of the Treasury based upon costs associated with pensions, health benefits, workers' compensation, disability benefits, unused sick leave, and the employer's share of FICA;

iii. Indirect costs attributable to those staff members identified at (c)1i above. "Indirect costs" means costs incurred for a common or joint purpose, benefiting more than one cost objective, and not readily assignable to the cost objective specifically benefited without effort disproportionate to the results achieved. Indirect costs shall be calculated at the rate negotiated annually between the Department and the United States Environmental Protection Agency, multiplied by the total of salaries and fringe benefits;

iv. The estimated TCPA program operating expenses; and

v. The budgeted annual cost of legal services rendered by the Department of Law and Public Safety, Division of Law, in connection with the TCPA program;

2. Subtract a positive difference or add a negative difference of the "budget-expenditure variance" of the spending plan for the TCPA program of the prior fiscal year, determined by the Department as

of October 1 of the current fiscal year, from the amount of money required to fund the TCPA program determined in (c)1 above to determine the net money required.

3. Project the total amount to be contributed by the inventory derived fee to the aggregate fee of each owner or operator. This projection shall be based on the following data and steps:

i. Determine the sum of hazard units at all covered processes registered as of October 1 of the fiscal year during which the determination is made; and

ii. Determine the contribution of the aggregate inventory fees to be collected as forty percent of the net money required as determined at (c)2 above; and

iii. Determine the value of the unit inventory derived fee in dollars per hazard unit by dividing (c)3ii by (c)3i.

4. Determine the total amount to be contributed by the covered process derived fee to the aggregate fee of each owner or operator of a covered process. The determination shall be based on the following data and steps:

i. Determine the number of covered processes as of October 1 of the fiscal year during which the determination is made;

ii. Determine the contribution of the aggregate covered process fees to be collected as forty percent of the net money required as determined at (c)2 above; and

iii. Determine the value of the unit covered process derived fee in dollars per covered process by dividing (c)4ii by (c)4i.

5. Determine the total amount to be contributed by the base fee to the aggregate fee of each owner or operator. The determination shall be based on the following data and steps:

i. Determine the total number of facilities as of October 1 of the fiscal year during which the determination is made;

ii. Determine the contribution of the aggregate base fee to be collected as twenty percent of the net money required as determined at (c)2 above; and

iii. Determine the value of the base fee in dollars per owner or operator by dividing (c)5ii by (c)5i.

6. Each year, the Department shall prepare an Annual TCPA Fee Schedule Report. During the month of December, the Department shall publish a summary including the fee schedule in the New Jersey Register setting forth the adjusted base fee, covered process derived, and inventory derived unit rates and the operative date thereof. The notice shall state that the report is available, and shall direct interested persons to contact the Department for a copy of the report. The Department shall provide a copy of the report to each person requesting a copy.

(d) An owner or operator of a new covered process with no EHSs registered who registers an extraordinarily hazardous substance with the Department shall submit the annual fee for that calendar year computed in accordance with (b), (c) and (i) through (m) below in accordance with the bill received from the

Department.

(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/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 will 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 facility 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 facility 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 in 1988 dollars, adjusted pursuant to (u) below by the Consumer Price Index from July 1988 to the month in which the claim is submitted, for the review of the claim

at the time of submitting the claim 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 in 1988 dollars, adjusted pursuant to (u) below by the Consumer Price Index from July 1988 to the month in which the petition is submitted, 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.

(t) Each owner or operator submitting an exemption request in accordance with N.J.A.C. 7:31-6.3(e) shall submit a fee of $275.50 in 1988 dollars, adjusted pursuant to (u) below by the Consumer Price Index from July 1988 to the month in which the exemption request is made, for the review of the request. The fee shall be submitted in accordance with the remittance information contained on the bill provided by the Department.

(u) The Consumer Price Index used to adjust the fee submitted with a request pursuant to (q), (r) or (t) above shall be calculated using the CPI-U data published monthly by the U.S. Department of Labor. The CPI-U data is re-published monthly in the Survey of Current Business, Bureau of Economic Analysis, U.S. Department of Commerce. The percentage increase in the CPI for the month in which a request pursuant to (q), (r) or (t) is made (the submittal month), relative to the CPI for July 1988, shall be determined in accordance with the following procedure:

1. The CPI for July 1988 is 117.2;
2. The CPI used in calculating the fee for the submittal month shall be the most recent CPI-U available at the time the request is submitted;
3. The percentage change in the CPI relative to the July 1988 CPI shall be calculated in accordance with the following formula:
   i. Percentage Change = 100 x ((submittal month CPI – 117.2)/117.2)
   ii. Where:
      (1) Submittal month CPI is the CPI determined pursuant to (u)2 above; and
      (2) 117.2 is the CPI for July 1988, pursuant to (u)1 above;
4. If the percentage change is a negative number, the submittal fee shall not be decreased; and
5. The submittal fee shall be rounded up to the nearest half dollar.

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.

This is a courtesy copy of this rule. All of the Department's rules are compiled in Title 7 of the New Jersey Administrative Code.

(This page intentionally blank)

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

40 CFR 68 Subpart B--Hazard Assessment

§68.20 Applicability.

The owner or operator of a stationary source subject to this part shall prepare a worst-case release scenario analysis as provided in § 68.25 of this ~~part~~ chapter *and complete the five-year accident history as provided in § 68.42. The owner or operator of a Program 2 and 3 process must comply with all sections in this subpart for these processes.*

§68.22 Offsite consequence analysis parameters.

(a) Endpoints. For analyses of offsite consequences, the following endpoints shall be used:

(1) Toxics. The toxic endpoints provided in Appendix A of this part. Toxic endpoints for Table I, Part A toxic substances not listed in Appendix A shall be determined by the Department in accordance with the criteria used by EPA in developing 40 CFR Part 68 Appendix A.

(2) Flammables. The endpoints for flammables vary according to the scenarios studied:

(i) Explosion. An overpressure of 1 psi.

(ii) Radiant heat/exposure time. A radiant heat of 5 kw/m^2 for 40 seconds.

(iii) Lower flammability limit. A lower flammability limit as provided in NFPA documents or other generally recognized sources.

(b) Wind speed/atmospheric stability class. For the worst-case release analysis, the owner or operator shall use a wind speed of 1.5 meters per second and F atmospheric stability class. If the owner or operator can 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, these minimums may be used. For

analysis of alternative scenarios, the owner or operator may use the typical meteorological conditions for the stationary source.

(c) Ambient temperature/humidity. For worst-case release analysis of a regulated toxic substance, the owner or operator shall 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; an owner or operator using the RMP Offsite Consequence Analysis Guidance may use 25 deg.C and 50 percent humidity as values for these variables. For analysis of alternative scenarios, the owner or operator may use typical temperature/humidity data gathered at the stationary source or at a local meteorological station.

(d) Height of release. The worst-case release of a regulated toxic substance shall be analyzed assuming a ground level (0 feet) release. For an alternative scenario analysis of a regulated toxic substance, release height may be determined by the release scenario.

(e) Surface roughness. The owner or operator shall use either urban or rural topography, as appropriate. Urban means that there are many obstacles in the immediate area; obstacles include buildings or trees. Rural means there are no buildings in the immediate area and the terrain is generally flat and unobstructed.

(f) Dense or neutrally buoyant gases. The owner or operator shall ensure that tables or models used for dispersion analysis of regulated toxic substances appropriately account for gas density.

(g) Temperature of released substance. For worst case, liquids other than gases liquified by refrigeration only shall be considered 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 alternative scenarios, substances may be considered to be released at a process or ambient temperature that is appropriate for the scenario.

§68.25 Worst-case release scenario analysis.

(a) The owner or operator shall analyze and report in the RMP:

~~(1) For Program 1 processes, one worst-case release scenario for each Program 1 process;~~

(2) For Program 2 and 3 processes:

(i) One worst-case release scenario that is estimated to create the greatest distance in any direction to an endpoint provided in Appendix A of this part resulting from an accidental release of regulated toxic substances from covered processes under worst-case conditions defined in § 68.22;

(ii) One worst-case release scenario that is estimated to create the greatest distance in any direction to an endpoint defined in § 68.22(a) resulting from an accidental release of regulated flammable substances from covered processes under worst-case conditions defined in § 68.22; and

(iii) 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 (a)(2)(i) or (a)(2)(ii) of this section.

(b) Determination of worst-case release quantity. The worst-case release quantity shall be 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.

(c) Worst-case release scenario--toxic gases.

(1) For regulated toxic substances that are normally gases at ambient temperature and handled as a gas or as a liquid under pressure, the owner or operator shall assume that the quantity in the vessel or pipe, as determined under paragraph (b) of this section, is released as a gas over 10 minutes. The release rate shall be assumed to be the total quantity divided by 10 unless passive mitigation systems are in place.

(2) For gases handled as refrigerated liquids at ambient pressure:

(i) If the released substance is not contained by passive mitigation systems or if the contained pool would have a depth of 1 cm or less, the owner or operator shall assume that the substance is released as a gas in 10 minutes;

(ii) If the released substance is contained by passive mitigation systems in a pool with a depth greater than 1 cm, the owner or operator may assume that the quantity in the vessel or pipe, as determined under paragraph (b) of this section, is spilled instantaneously to form a liquid pool. The volatilization rate (release rate) shall be calculated at the boiling point of the substance and at the conditions specified in paragraph (d) of this section.

(d) Worst-case release scenario--toxic liquids.

(1) For regulated toxic substances that are normally liquids at ambient temperature, the owner or operator shall assume that the quantity in the vessel or pipe, as determined under paragraph (b) of this section, is spilled instantaneously to form a liquid pool.

(i) The surface area of the pool shall be determined by assuming that the liquid spreads to 1 centimeter deep unless passive mitigation systems are in place that serve to contain the spill and limit the surface area. Where passive mitigation is in place, the surface area of the contained liquid shall be used to calculate the volatilization rate.

(ii) If the release would occur onto a surface that is not paved or smooth, the owner or operator may take into account the actual surface characteristics.

(2) The volatilization rate shall account for the highest daily maximum temperature occurring in the past three years, the temperature of the substance in the vessel, and the concentration of the substance if the liquid spilled is a mixture or solution.

(3) The rate of release to air shall be determined from the volatilization rate of the liquid pool. The owner or operator may 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. 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 to local emergency planners upon request.

(e) Worst-case release scenario--flammable gases. The owner or operator shall assume that the quantity of the substance, as determined under paragraph (b) of this section and the provisions below, vaporizes resulting in a vapor cloud explosion. A yield factor of 10 percent of the available energy released in the explosion shall be used to determine the distance to the explosion endpoint if the model used is based on TNT equivalent methods.

(1) For regulated flammable substances that are normally gases at ambient temperature and handled as a gas or as a liquid under pressure, the owner or operator shall assume that the quantity in the vessel or pipe, as determined under paragraph (b) of this section, is released as a gas over 10 minutes. The total quantity shall be assumed to be involved in the vapor cloud explosion.

(2) For flammable gases handled as refrigerated liquids at ambient pressure:

(i) If the released substance is not contained by passive mitigation systems or if the contained pool

would have a depth of one centimeter or less, the owner or operator shall 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.

(ii) If the released substance is contained by passive mitigation systems in a pool with a depth greater than 1 centimeter, the owner or operator may assume that the quantity in the vessel or pipe, as determined under paragraph (b) of this section, is spilled instantaneously to form a liquid pool. The volatilization rate (release rate) shall be calculated at the boiling point of the substance and at the conditions specified in paragraph (d) of this section. The owner or operator shall assume that the quantity which becomes vapor in the first 10 minutes is involved in the vapor cloud explosion.

(f) Worst-case release scenario--flammable liquids. The owner or operator shall assume that the quantity of the substance, as determined under paragraph (b) of this section and the provisions below, vaporizes resulting in a vapor cloud explosion. A yield factor of 10 percent of the available energy released in the explosion shall be used to determine the distance to the explosion endpoint if the model used is based on TNT equivalent methods.

(1) For regulated flammable substances that are normally liquids at ambient temperature, the owner or operator shall assume that the entire quantity in the vessel or pipe, as determined under paragraph (b) of this section, is spilled instantaneously to form a liquid pool. For liquids at temperatures below their atmospheric boiling point, the volatilization rate shall be calculated at the conditions specified in paragraph (d) of this section.

(2) The owner or operator shall assume that the quantity which becomes vapor in the first 10 minutes is involved in the vapor cloud explosion.

(g) Parameters to be applied. The owner or operator shall use the parameters defined in § 68.22 to determine distance to the endpoints. The owner or operator may use the methodology provided in the RMP Offsite Consequence Analysis Guidance or any commercially or publicly available air dispersion 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 to local emergency planners upon request.

(h) Consideration of passive mitigation. Passive mitigation systems may be considered for the analysis of worst case provided that the mitigation system is capable of withstanding the release event triggering the scenario and would still function as intended.

(i) Factors in selecting a worst-case scenario. Notwithstanding the provisions of paragraph (b) of this section, the owner or operator shall select as the worst case for flammable regulated substances or the worst case for regulated toxic substances, a scenario based on the following factors if such a scenario would result in a greater distance to an endpoint defined in § 68.22(a) beyond the stationary source boundary than the scenario provided under paragraph (b) of this section:

(1) Smaller quantities handled at higher process temperature or pressure; and

(2) Proximity to the boundary of the stationary source.

§68.28 Alternative release scenario analysis.

(a) The number of scenarios. The owner or operator shall 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 covered processes.

(b) Scenarios to consider. (1) For each scenario required under paragraph (a) of this section, the owner or operator shall select a scenario:

(i) That is more likely to occur than the worst-case release scenario under § 68.25; and

(ii) That will reach an endpoint offsite, unless no such scenario exists.

(2) Release scenarios considered should include, but are not limited to, the following, where applicable:

(i) Transfer hose releases due to splits or sudden hose uncoupling;

(ii) Process piping releases from failures at flanges, joints, welds, valves and valve seals, and drains or bleeds;

(iii) Process vessel or pump releases due to cracks, seal failure, or drain, bleed, or plug failure;

(iv) Vessel overfilling and spill, or overpressurization and venting through relief valves or rupture disks; and

(v) Shipping container mishandling and breakage or puncturing leading to a spill.

(c) Parameters to be applied. The owner or operator shall use the appropriate parameters defined in § 68.22 to determine distance to the endpoints. The owner or operator may use either the methodology provided in the RMP Offsite Consequence Analysis Guidance or any commercially or publicly available air dispersion modeling techniques, provided the techniques account for the specified 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 to local emergency planners upon request.

(d) Consideration of mitigation. Active and passive mitigation systems may be considered provided they are capable of withstanding the event that triggered the release and would still be functional.

(e) Factors in selecting scenarios. The owner or operator shall consider the following in selecting alternative release scenarios:

(1) The five-year accident history provided in § 68.42; and

(2) Failure scenarios identified under Secs. 68.50 or 68.67.

§68.30 Defining offsite impacts--population.

(a) The owner or operator shall 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 § 68.22(a).

(b) Population to be defined. Population shall include residential population. The presence of institutions (schools, hospitals, prisons), parks and recreational areas, and major commercial, office, and industrial buildings shall be noted in the RMP.

(c) Data sources acceptable. The owner or operator may use the most recent Census data, or other updated information, to estimate the population potentially affected.

(d) Level of accuracy. Population shall be estimated to two significant digits.

§68.33 Defining offsite impacts--environment.

(a) The owner or operator shall 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 § 68.22(a) of this part.

(b) Data sources acceptable. The owner or operator may 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.

§68.36 Review and update.

(a) The owner or operator shall review and update the offsite consequence analyses at least once every five years.

(b) If changes in processes, quantities stored or handled, or any other aspect of the stationary source might reasonably be expected to increase or decrease the distance to the endpoint by a factor of two or more, the owner or operator shall complete a revised analysis within six months of the change and submit a revised risk management plan as provided in § 68.190.

§68.39 Documentation

The owner or operator shall maintain the following records on the offsite consequence analyses:

(a) For worst-case scenarios, a description of the vessel or pipeline and substance selected as worst case, assumptions and parameters used, and the rationale for selection; assumptions shall include use of any administrative controls and any passive mitigation that were assumed to limit the quantity that could be released. Documentation shall include the anticipated effect of the controls and mitigation on the release quantity and rate.

(b) For alternative release scenarios, a description of the scenarios identified, assumptions and parameters used, and the rationale for the selection of specific scenarios; assumptions shall include use of any administrative controls and any mitigation that were assumed to limit the quantity that could be released. Documentation shall include the effect of the controls and mitigation on the release quantity and rate.

(c) Documentation of estimated quantity released, release rate, and duration of release.

(d) Methodology used to determine distance to endpoints.

(e) Data used to estimate population and environmental receptors potentially affected.

§68.42 Five-year accident history.

(a) The owner or operator shall 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.

(b) Data required. For each accidental release included, the owner or operator shall report the following information:

(1) Date, time, and approximate duration of the release;

(2) Chemical(s) released;

(3) Estimated quantity released in pounds and, for mixtures containing regulated toxic substances, percentage concentration by weight of the released regulated toxic substance in the liquid mixture;

(4) Five- or six-digit NAICS code that most closely corresponds to the process;

(5) The type of release event and its source;

(6) Weather conditions, if known;

(7) On-site impacts;

(8) Known offsite impacts;

(9) Initiating event and contributing factors if known;

(10) Whether offsite responders were notified if known; and

(11) Operational or process changes that resulted from investigation of the release ***and that have been made by the time this information is submitted in accordance with Sec. 68.168****.*

(c) Level of accuracy. Numerical estimates may be provided to two significant digits.

Appendix A to Part 68--Table of Toxic Endpoints
[As defined in Sec. 68.22 of this part]

CAS No.	*Chemical name*	*Toxic endpoint (mg/L)*
107-02-8	*Acrolein [2-Propenal]*	*0.0011*
107-13-1	*Acrylonitrile [2-Propenenitrile]*	*0.076*
814-68-6	*Acrylyl chloride [2-Propenoyl chloride]*	*0.00090*
107-18-6	*Allyl alcohol [2-Propen-1-ol]*	*0.036*
107-11-9	*Allylamine [2-Propen-1-amine]*	*0.0032*
7664-41-7	*Ammonia (anhydrous)*	*0.14*
7664-41-7	*Ammonia (conc 20% or greater)*	*0.14*
7784-34-1	*Arsenous trichloride*	*0.010*
7784-42-1	*Arsine*	*0.0019*
10294-34-5	*Boron trichloride [Borane, trichloro-]*	*0.010*
7637-07-2	*Boron trifluoride [Borane, trifluoro-]*	*0.028*
353-42-4	*Boron trifluoride compound with methyl ether (1:1)[Boron, trifluoro[oxybis[methane]]-, T-4.*	*0.023*
7726-95-6	*Bromine*	*0.0065*
75-15-0	*Carbon disulfide*	*0.16*
7782-50-5	*Chlorine*	*0.0087*
10049-04-4	*Chlorine dioxide [Chlorine oxide (ClO2)]*	*0.0028*
67-66-3	*Chloroform [Methane, trichloro-]*	*0.49*
542-88-1	*Chloromethyl ether [Methane, oxybis[chloro-]*	*0.00025*
107-30-2	*Chloromethyl methyl ether [Methane, chloromethoxy-]*	*0.0018*
4170-30-3	*Crotonaldehyde [2-Butenal]*	*0.029*
123-73-9	*Crotonaldehyde, (E)-, [2-Butenal, (E)-]*	*0.029*
506-77-4	*Cyanogen chloride*	*0.030*
108-91-8	*Cyclohexylamine [Cyclohexanamine]*	*0.16*
19287-45-7	*Diborane*	*0.0011*
75-78-5	*Dimethyldichlorosilane [Silane, dichlorodimethyl-].*	*0.026*
57-14-7	*1,1-Dimethylhydrazine [Hydrazine, 1,1-dimethyl-]*	*0.012*
106-89-8	*Epichlorohydrin [Oxirane, (chloromethyl)-]*	*0.076*
107-15-3	*Ethylenediamine [1,2-Ethanediamine]*	*0.49*
151-56-4	*Ethyleneimine [Aziridine]*	*0.018*
75-21-8	*Ethylene oxide [Oxirane]*	*0.090*
7782-41-4	*Fluorine*	*0.0039*
50-00-0	*Formaldehyde (solution)*	*0.012*
110-00-9	*Furan*	*0.0012*
302-01-2	*Hydrazine*	*0.011*
7647-01-0	*Hydrochloric acid (conc 37% or greater)*	*0.030*
74-90-8	*Hydrocyanic acid*	*0.011*

7647-01-0	*Hydrogen chloride (anhydrous) [Hydrochloric acid]..*	*0.030*
7664-39-3	*Hydrogen fluoride/Hydrofluoric acid (conc 50% or greater) [Hydrofluoric acid].*	*0.016*
7783-07-5	*Hydrogen selenide.....*	*0.00066*
7783-06-4	*Hydrogen sulfide.....*	*0.042*
13463-40-6	*Iron, pentacarbonyl- [Iron carbonyl (Fe(CO)5), (TB-5-11)-].*	*0.00044*
78-82-0	*Isobutyronitrile [Propanenitrile, 2-methyl-].....*	*0.14*
108-23-6	*Isopropyl chloroformate [Carbonochloride acid, 1-methylethyl ester].*	*0.10*
126-98-7	*Methacrylonitrile [2-Propenenitrile, 2-methyl-]....*	*0.0027*
74-87-3	*Methyl chloride [Methane, chloro-].....*	*0.82*
79-22-1	*Methyl chloroformate [Carbonochloridic acid, methylester].*	*0.0019*
60-34-4	*Methyl hydrazine [Hydrazine, methyl-].....*	*0.0094*
624-83-9	*Methyl isocyanate [Methane, isocyanato-].....*	*0.0012*
74-93-1	*Methyl mercaptan [Methanethiol].....*	*0.049*
556-64-9	*Methyl thiocyanate [Thiocyanic acid, methyl ester].*	*0.085*
75-79-6	*Methyltrichlorosilane [Silane, trichloromethyl-]...*	*0.018*
13463-39-3	*Nickel carbonyl.....*	*0.00067*
7697-37-2	*Nitric acid (conc 80% or greater).....*	*0.026*
10102-43-9	*Nitric oxide [Nitrogen oxide (NO)].....*	*0.031*
8014-95-7	*Oleum (Fuming Sulfuric acid) [Sulfuric acid, mixture with sulfur trioxide].*	*0.010*
79-21-0	*Peracetic acid [Ethaneperoxoic acid].....*	*0.0045*
594-42-3	*Perchloromethylmercaptan [Methanesulfenyl chloride, trichloro-].*	*0.0076*
75-44-5	*Phosgene [Carbonic dichloride].....*	*0.00081*
7803-51-2	*Phosphine.....*	*0.0035*
10025-87-3	*Phosphorus oxychloride [Phosphoryl chloride].....*	*0.0030*
7719-12-2	*Phosphorus trichloride [Phosphorous trichloride]...*	*0.028*
110-89-4	*Piperidine.....*	*0.022*
107-12-0	*Propionitrile [Propanenitrile].....*	*0.0037*
109-61-5	*Propyl chloroformate [Carbonochloridic acid, propylester].*	*0.010*
75-55-8	*Propyleneimine [Aziridine, 2-methyl-].....*	*0.12*
75-56-9	*Propylene oxide [Oxirane, methyl-].....*	*0.59*
7446-09-5	*Sulfur dioxide (anhydrous).....*	*0.0078*
7783-60-0	*Sulfur tetrafluoride [Sulfur fluoride (SF4), (T-4)-].*	*0.0092*
7446-11-9	*Sulfur trioxide.....*	*0.010*
75-74-1	*Tetramethyllead [Plumbane, tetramethyl-].....*	*0.0040*
509-14-8	*Tetranitromethane [Methane, tetranitro-].....*	*0.0040*
7750-45-0	*Titanium tetrachloride [Titanium chloride (TiCl4) (T-4)-].*	*0.020*

584-84-9	*Toluene 2,4-diisocyanate [Benzene, 2,4-diisocyanato-1-methyl-].*	*0.0070*
91-08-7	*Toluene 2,6-diisocyanate [Benzene, 1,3-diisocyanato-2-methyl-].*	*0.0070*
26471-62-5	*Toluene diisocyanate (unspecified isomer) [Benzene, 1,3-diisocyanatomethyl-].*	*0.0070*
75-77-4	*Trimethylchlorosilane [Silane, chlorotrimethyl-]...*	*0.050*
108-05-4	*Vinyl acetate monomer [Acetic acid ethenyl ester]..*	*0.26*

7:31-2.2 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 N.J.A.C. 7:31-2.2. 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); and.

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;

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

iii. One hundred percent of the potential heat release (heat of reaction) assumed to contribute to the explosion for a N.J.A.C. 7:31-6.3 Table I, Part D Group I RHS in a storage vessel but 28 percent of the heat of combustion may be used as an approximation if the detailed heat of reaction data is not available; and

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

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

This is a courtesy copy of this rule. All of the Department's rules are compiled in Title 7 of the New Jersey Administrative Code.

SUBCHAPTER 3. Reserved.

This is a courtesy copy of this rule. All of the Department's rules are compiled in Title 7 of the New Jersey Administrative Code.

(This page intentionally blank)

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

7:31-4.1 Incorporation by reference

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

(b) Reserved.

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

1. 40 CFR 68.65(c)(1)(i), before "process flow diagram" delete "block flow diagram or simplified."

2. *40 CFR 68.65(d)(1)*i, at the beginning, add the words "Equipment specifications including" before the existing words "Materials of construction";

3. *40 CFR 68.65(d)(1)*, at the end, add the following:

i. Electrical one-line diagrams relevant to the covered process and its potential releases;

ii. Site plan;

iii. Firewater system piping diagrams relevant to the covered process and its potential releases;

iv. Sewer system piping diagrams relevant to the covered process and its potential releases; and

v. External forces and events data.

4. *40 CFR 68.65(d)(2)*, after "good engineering" add "and operating".

5. *40 CFR 68.67*, Process hazard analysis, in the heading, after "Process hazard analysis" add "with risk assessment for specific pieces of EHS equipment or operating procedures."

6. *40 CFR 68.67(a)*, add the following:

i. In the first and second sentences, after the phrase "process hazard analysis" add the phrase "with risk assessment."

ii. In the third sentence, after the phrase "process hazard analyses" add the phrase "with risk assessments."

iii. In the third sentence, after the word "employees" add the phrase "and offsite public."

iv. In the fourth sentence, after the phrase "process hazard analysis" add the phrase "with risk assessment."

v. In the fifth sentence, after the citation " *29 CFR 1910.119(e)*" add the phrase "prior to June 21, 1999."

vi. In the fifth sentence, after the phrase "initial process hazard analyses" add the phrase "with risk assessments."

7. *40 CFR 68.67(f)*, add the following:

i. In the first sentence, after the first and the second occurrences of the phrase "process hazard analysis" add the phrase "(with risk assessment)."

ii. In the first sentence, after the third occurrence of the phrase "process hazard analysis" add the phrase "with risk assessment."

iii. In the second sentence after " *29 CFR 1910.119(e)*" add the phrase, "and the additional requirements of *N.J.A.C. 7:31-4.2*".

8. *40 CFR 68.69*, Operating procedures, in the heading, add "Standard" before "operating procedures." Also, at *40 CFR 68.69(a)*, Operating Procedures, at the end of the sentence, replace "the following elements" with "the elements listed at 1-4 below." Add, after the first sentence, "Operating procedures shall be written in English in a manner that the EHS operators of the process can understand. If the EHS operators do not understand English, the operating procedures shall be written in the language that the operators can understand."

9. *40 CFR 68.71*, Training, in the heading, add "EHS operator" before "training."

10. 40 CFR 73, Mechanical integrity, in the heading, add "/preventive maintenance" after "Mechanical integrity."

11. *40 CFR 68.73(a)(6)*, at the end, add the following:

i. All EHS equipment;

ii. Standby emergency equipment such as power generators, fire pumps, and lighting; and

iii. Electrical grounding systems.

12. *40 CFR 68.75(b)(2)*, at the end, add the words "and preventive maintenance procedures."

13. *40 CFR 68.79(a)*, Compliance audits, delete "every three years" and replace with "every year." Add, at the end of the sentence, "Also, the owner or operator shall verify that the process technology and equipment, as built and operated, are in accordance with the process safety information prepared pursuant to *40 CFR 68.65(c)* and (d) as incorporated with changes at *N.J.A.C. 7:31-4.1(c)*1 through 4."

14. *40 CFR 68.79(c)*, add, "The compliance audit report shall also include the scope, audit techniques, methods used and the names of the audit participants."

15. *40 CFR 68.81*, Incident investigation, in the heading and in (b), (c), (d)(1), (d)(3), (d)(4), (e), (f) and (g), delete the word "incident" and replace it with the words "EHS accident or potential catastrophic event."

16. *40 CFR 68.81(a)*, delete the phrase " incident which resulted in, or could reasonably have resulted in, a catastrophic release of a regulated substance" and replace it with "EHS accident or potential catastrophic event."

17. *40 CFR 68.81(d)(1)*, after the word "date" add ", time, and location."

18. *40 CFR 68.81(d)(3)*, after the word "incident," which is being replaced by the words "EHS accident and potential catastrophic event," (see (c)15 above) add, "in chronological order providing all the relevant facts. Include the identity, amount and duration of the EHS release if these facts can be reasonably determined based on the information obtained through the investigation. Also, identify the consequences, if any, of the EHS accident or potential catastrophic event including the number of evacuees, injured, and fatalities, and the impact on the community."

19. *40 CFR 68.81(d)(4)*, after the word "incident," which is being replaced by the words "EHS accident or potential catastrophic event," (see (c)15 above) add, "that includes an identification of basic and contributory causes, either direct or indirect."

20. *40 CFR 68.81(d)(5)*, after the word "investigation," add "to prevent a recurrence."

21. *40 CFR 68.81(d)(5)*, at the end, add the following:

i. The names and position titles of the investigators.

22. *40 CFR 68.83*, Employee participation, at (b) and (c), after the phrase "process hazard analyses" add "with risk assessments."

23. *40 CFR 68.79(d)*, Compliance Audits, at the end, add the sentence, "The owner or operator shall prepare and include in the report a written schedule for the implementation of corrective actions or state that such actions have been completed."

24. *40 CFR 68.65(b)(4)*, after "Reactivity data," add "applicable to the process in which an EHS is being used, handled, stored or generated that includes the following:

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

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

iii. Data regarding any incidental formation of byproducts that are reactive and unstable; and

iv. For covered RHS mixtures, detailed reactivity data including the rate of pressure rise (dP/dt), the rate of temperature rise (dT/dt), and the onset temperature at which the rate of temperature

change due to uncontrolled reaction, decomposition, change in molecular structure, or polymerization exceeds 0.01 degrees Celsius per minute, all of which are corrected to a thermal inertia (φ)of 1.0.

25. *40 CFR 68.65(b)(6)*, after "Thermal and chemical stability data," add "applicable to the process in which an EHS is being used, handled, stored, or generated: stability (unstable or stable), conditions to avoid for instability, incompatibility (materials to avoid), hazardous decomposition (products or byproducts), hazardous polymerization (may occur or will not occur), and conditions to avoid for polymerization;"

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

27. 40 CFR 68.73(b), at the end, add "The owner or operator shall establish and implement a written procedure to periodically review, document, and approve delays in conducting preventive maintenance of EHS equipment."

28. 40 CFR 68.73(e), at the end, add "Timely shall mean as soon as feasibly possible but in no case shall exceed 3 months without providing a written justification including an explanation of the necessary measures taken to ensure safe operation."

29. 40 CFR 68.87(c), before "Contract owner or operator responsibilities." add "Owner or operator's oversight of". After "Contract owner or operator responsibilities." add "The owner or operator shall require the contract owner or operator to complete the following prior to a contract owner or operator performing work at a covered process:".

40 CFR 68 Subpart D--Program 3 Prevention Program

§68.65 Process safety information.

(a) In accordance with the schedule set forth in § 68.67, the owner or operator shall complete a compilation of written process safety information before conducting any process hazard analysis required by the rule. The compilation of written process safety information is to enable the owner or operator and the employees involved in operating the process to identify and understand the hazards posed by those processes involving regulated substances. This process safety information shall include information pertaining to the hazards of the regulated substances used or produced by the process, information pertaining to the technology of the process, and information pertaining to the equipment in the process.

(b) Information pertaining to the hazards of the regulated substances in the process. This information shall consist of at least the following:

(1) Toxicity information;

(2) Permissible exposure limits;

(3) Physical data;

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

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

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

iii. Data regarding any incidental formation of byproducts that are reactive and unstable; and

iv. For covered RHS mixtures, detailed reactivity data including the rate of pressure rise (dP/dt), the rate of temperature rise (dT/dt), and the onset temperature at which the rate of temperature change due to uncontrolled reaction, decomposition, change in molecular structure, or polymerization exceeds 0.01 degrees Celsius per minute, all of which are corrected to a thermal inertia (φ) of 1.0.

(5) Corrosivity data;

(6) Thermal and chemical stability data applicable to the process in which an EHS is being used, handled, stored or generated: stability (unstable or stable), conditions to avoid for instability, incompatibility (materials to avoid), hazardous decomposition (products or byproducts), hazardous polymerization (may occur or will not occur), and conditions to avoid for polymerization; *and*

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

Note to paragraph (b): Material Safety Data Sheets meeting the requirements of 29 CFR 1910.1200(g) may be used to comply with this requirement to the extent they contain the information required by this subparagraph.

(c) Information pertaining to the technology of the process.

(1) Information concerning the technology of the process shall include at least the following:

(i) A ~~block flow diagram or~~ ~~simplified~~ process flow diagram;

(ii) Process chemistry;

(iii) Maximum intended inventory;

(iv) Safe upper and lower limits for such items as temperatures, pressures, flows or compositions; and

(v) An evaluation of the consequences of deviations.

(2) Where the original technical information no longer exists, such information may be developed in conjunction with the process hazard analysis in sufficient detail to support the analysis.

(d) Information pertaining to the equipment in the process.

(1) Information pertaining to the equipment in the process shall include:

(i) Equipment specifications including *Materials of construction;*

(ii) Piping and instrument diagrams (P&ID's);

(iii) Electrical classification;

(iv) Relief system design and design basis;

(v) Ventilation system design;

(vi) Design codes and standards employed;

(vii) Material and energy balances for processes built after June 21, 1999; and

(viii) Safety systems (e.g. interlocks, detection or suppression systems).

i. Electrical one-line diagrams relevant to the covered process and its potential releases;

ii. Site plan;

iii. Firewater system piping diagrams relevant to the covered process and its potential releases;

iv. Sewer system piping diagrams relevant to the covered process and its potential releases; and

v. External forces and events data.

(2) The owner or operator shall document that equipment complies with recognized and generally accepted good engineering and operating *practices.*

(3) For existing equipment designed and constructed in accordance with codes, standards, or practices that are no longer in general use, the owner or operator shall determine and document that the equipment is designed, maintained, inspected, tested, and operating in a safe manner.

§68.67 Process hazard analysis with risk assessment for specific pieces of EHS equipment or operating procedures.

(a) The owner or operator shall perform an initial process hazard analysis with risk assessment *(hazard evaluation) on processes covered by this part. The process hazard analysis* with risk assessment *shall be appropriate to the complexity of the process and shall identify, evaluate, and control the hazards involved in the process. The owner or operator shall determine and document the priority order for conducting process hazard analyses* 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. The process hazard analysis* with risk assessment *shall be conducted as soon as possible, but not later than June 21, 1999. Process hazards analyses completed to comply with 29 CFR 1910.119(e)* prior to June 21, 1999 *are acceptable as initial process hazards analyses* with risk assessments. *These process hazard analyses* with risk assessments *shall be updated and revalidated, based on their completion date.*

(b) The owner or operator shall use one or more of the following methodologies that are appropriate to determine and evaluate the hazards of the process being analyzed.

(1) What-If;

(2) Checklist;

(3) What-If/Checklist;

(4) Hazard and Operability Study (HAZOP);

(5) Failure Mode and Effects Analysis (FMEA);

(6) Fault Tree Analysis; or

(7) An appropriate equivalent methodology.

(c) The process hazard analysis shall address:

(1) The hazards of the process;

(2) The identification of any previous incident which had a likely potential for catastrophic consequences.

(3) Engineering and administrative controls applicable to the hazards and their interrelationships such as appropriate application of detection methodologies to provide early warning of releases. (Acceptable detection methods might include process monitoring and control instrumentation with alarms, and detection hardware such as hydrocarbon sensors.);

(4) Consequences of failure of engineering and administrative controls;

(5) Stationary source siting;

(6) Human factors; and

(7) A qualitative evaluation of a range of the possible safety and health effects of failure of controls.

(d) The process hazard analysis shall be performed by a team with expertise in engineering and process operations, and the team shall include at least one employee who has experience and knowledge specific to the process being evaluated. Also, one member of the team must be knowledgeable in the specific process hazard analysis methodology being used.

(e) The owner or operator shall establish a system to promptly address the team's findings and recommendations; assure that the recommendations are resolved in a timely manner and that the resolution is documented; document what actions are to be taken; complete actions as soon as possible; develop a written schedule of when these actions are to be completed; communicate the actions to operating, maintenance and other employees whose work assignments are in the process and who may be affected by the recommendations or actions.

(f) At least every five (5) years after the completion of the initial process hazard analysis (with risk assessment)*, the process hazard analysis* (with risk assessment) *shall be updated and revalidated by a team meeting the requirements in paragraph (d) of this section, to assure that the process hazard analysis* with risk assessment *is consistent with the current process. Updated and revalidated process hazard analyses completed to comply with 29 CFR 1910.119(e)* and the additional requirements of N.J.A.C. 7:31-4.2 *are acceptable to meet the requirements of this paragraph.*

(g) The owner or operator shall retain process hazards analyses and updates or revalidations for each process covered by this section, as well as the documented resolution of recommendations described in paragraph (e) of this section for the life of the process.

Additional New Jersey Requirements -

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

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

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

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

2. Consideration of toxicity, flammability, explosion, and reactivity hazards applicable to the EHS; however, consideration of toxicity shall be required only for those EHSs which appear in N.J.A.C.

7:31-6.3(a), Table I, Parts A and/or B as a toxic substance. The owner or operator shall consider both the explosive/flammability hazard and the capability to generate a toxic EHS, as applicable to the RHS or RHS mixture and process in which it is handled.

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

i. 1.5 meters per second wind speed measured at 10 meters height and F atmospheric stability class;

ii. All parameters listed for alternative scenarios at 40 CFR 68.22(c) through (g); and

iii. As applicable to the scenario being analyzed, the endpoint criteria of five times the toxicity endpoint as designated at N.J.A.C. 7:31-2.1(c)2; five kW/m^2 for 40 seconds; the lower flammability limit; or 2.3 psi overpressure. As an alternative to using the five times toxicity endpoint as designated at N.J.A.C. 7:31-2.1(c)2, the value of the ATC may be used for toxic release scenarios.

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

1. For each release scenario that has an offsite impact of the endpoint criteria specified at (b)3iii above, the owner or operator shall determine the likelihood of release occurrence. If the likelihood of release occurrence is greater than or equal to 10^{-6} per year, the owner or operator shall perform an evaluation of risk reduction measures which would reduce the likelihood or consequences of an EHS release. If the frequency of release occurrence is less than 10^{-6} per year, no further assessment is required.

2. The owner or operator shall develop and implement a risk reduction plan for feasible risk reduction measures determined pursuant to (c)1 above.

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

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

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

i. Scenario identification number and brief description;

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

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

iv. The release likelihood determined pursuant to (c)1 above.

3. Information from the consequence analysis modeling that includes:

i. The identification of the consequence analysis model used;

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

4. Documentation to justify the determination of why risk reduction measures are not feasible; and

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

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

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

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

3. The risk reduction plan developed pursuant to (c)2 and (d)1 above.

§68.69 Standard *Operating procedures.*

(a) The owner or operator shall develop and implement written operating procedures that provide clear instructions for safely conducting activities involved in each covered process consistent with the process safety information and shall address at least ~~the following elements~~. the elements listed at 1-4 below. Operating procedures shall be written in English in a manner that the EHS operators of the process can understand. If the EHS operators do not understand English, the operating procedures shall be written in the language that the operators can understand.

(1) Steps for each operating phase:

(i) Initial startup;

(ii) Normal operations;

(iii) Temporary operations;

(iv) 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.

(v) Emergency operations;

(vi) Normal shutdown; and,

(vii) Startup following a turnaround, or after an emergency shutdown.

(2) Operating limits:

(i) Consequences of deviation; and

(ii) Steps required to correct or avoid deviation.

(3) Safety and health considerations:

(i) Properties of, and hazards presented by, the chemicals used in the process;

(ii) Precautions necessary to prevent exposure, including engineering controls, administrative controls, and personal protective equipment;

(iii) Control measures to be taken if physical contact or airborne exposure occurs;

(iv) Quality control for raw materials and control of hazardous chemical inventory levels; and,

(v) Any special or unique hazards.

(4) Safety systems and their functions.

(b) Operating procedures shall be readily accessible to employees who work in or maintain a process.

(c) The operating procedures shall be reviewed 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 stationary sources. The owner or operator shall certify annually that these operating procedures are current and accurate.

(d) The owner or operator shall develop and implement safe work practices to provide for the control of hazards during operations such as lockout/tagout; confined space entry; opening process equipment or piping; and control over entrance into a stationary source by maintenance, contractor, laboratory, or other support personnel. These safe work practices shall apply to employees and contractor employees.

Additional New Jersey Requirements -

7:31-4.3 Standard operating procedures

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

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

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

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

3. Logsheets and checklists where appropriate to the operation;

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

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

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

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

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

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

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

§68.71 EHS operator *Training.*

(a) Initial training. (1) Each employee presently involved in operating a process, and each employee before being involved in operating a newly assigned process, shall be trained in an overview of the process and in the operating procedures as specified in § 68.69. The training shall include emphasis on the specific safety and health hazards, emergency operations including shutdown, and safe work practices applicable to the employee's job tasks.

(2) In lieu of initial training for those employees already involved in operating a process on June 21, 1999 an owner or operator may certify in writing that the employee has the required knowledge, skills, and abilities to safely carry out the duties and responsibilities as specified in the operating procedures.

(b) Refresher training. Refresher training shall be provided at least every three years, and more often if 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. The owner or operator, in consultation with the employees involved in operating the process, shall determine the appropriate frequency of refresher training.

(c) Training documentation. The owner or operator shall ascertain that each employee involved in operating a process has received and understood the training required by this paragraph. The owner or operator shall 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.

Additional New Jersey Requirements -

7:31-4.4 EHS Operator training

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

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

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

§68.73 Mechanical integrity/preventive maintenance.

(a) Application. Paragraphs (b) through (f) of this section apply to the following process equipment:
(1) Pressure vessels and storage tanks;
(2) Piping systems (including piping components such as valves);
(3) Relief and vent systems and devices;
(4) Emergency shutdown systems;
(5) Controls (including monitoring devices and sensors, alarms, and interlocks) and,
(6) Pumps.
i. All EHS equipment;
ii. Standby emergency equipment such as power generators, fire pumps, and lighting; and
iii. Electrical grounding systems.
(b) Written procedures. The owner or operator shall establish and implement written procedures to maintain the on-going integrity of process equipment. The owner or operator shall establish and implement a written procedure to periodically review, document, and approve delays in conducting preventive maintenance of EHS equipment.
(c) Training for process maintenance activities. The owner or operator shall 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.
(d) Inspection and testing. (1) Inspections and tests shall be performed on process equipment.
(2) Inspection and testing procedures shall follow recognized and generally accepted good engineering practices.
(3) The frequency of inspections and tests of process equipment shall be consistent with applicable manufacturers' recommendations and good engineering practices, and more frequently if determined to be necessary by prior operating experience.
(4) The owner or operator shall document each inspection and test that has been performed on process equipment. The documentation shall identify the date of the 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, and the results of the inspection or test.
(e) Equipment deficiencies. The owner or operator shall correct deficiencies in equipment that are outside acceptable limits (defined by the process safety information in § 68.65) before further use or in a safe

and timely manner when necessary means are taken to assure safe operation. Timely shall mean as soon as feasibly possible but in no case shall exceed 3 months without providing a written justification including an explanation of the necessary measures taken to ensure safe operation.

(f) Quality assurance. (1) In the construction of new plants and equipment, the owner or operator shall assure that equipment as it is fabricated is suitable for the process application for which they will be used.

(2) Appropriate checks and inspections shall be performed to assure that equipment is installed properly and consistent with design specifications and the manufacturer's instructions.

(3) The owner or operator shall assure that maintenance materials, spare parts and equipment are suitable for the process application for which they will be used.

Additional New Jersey Requirements -

7:31-4.5 Mechanical integrity/preventive maintenance program

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

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

§68.75 Management of change.

(a) The owner or operator shall establish and implement written procedures to manage changes (except for ``replacements in kind'') to process chemicals, technology, equipment, and procedures; and, changes to stationary sources that affect a covered process.

(b) The procedures shall assure that the following considerations are addressed prior to any change:

(1) The technical basis for the proposed change;

(2) Impact of change on safety and health and preventive maintenance procedures*;*

(3) Modifications to operating procedures;

(4) Necessary time period for the change; and,

(5) Authorization requirements for the proposed change.

(c) Employees involved in operating a process and maintenance and contract employees whose job tasks will be affected by a change in the process shall be informed of, and trained in, the change prior to start-up of the process or affected part of the process.

(d) If a change covered by this paragraph results in a change in the process safety information required by § 68.65 of this part, such information shall be updated accordingly.

(e) If a change covered by this paragraph results in a change in the operating procedures or practices required by § 68.69, such procedures or practices shall be updated accordingly.

Additional New Jersey Requirements -

7:31-4.6 Management of change

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

(b) If any change in the covered process or procedures results in an increase in rate, duration or quantity, or release frequency, the associated release scenarios and changes in rate, duration and quantity shall be identified. The associated release scenarios shall be analyzed in accordance with the parameters and methods required at N.J.A.C. 7:31-4.2 to determine whether a criterion endpoint defined at N.J.A.C. 7:31-4.2(b)3iv extends beyond the stationary source boundary.

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

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

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

i. The temporary change to be made;

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

iii. The reason for the temporary change.

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

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

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

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

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

§68.77 Pre-startup review.

(a) The owner or operator shall perform a pre-startup safety review for new stationary sources and for

modified stationary sources when the modification is significant enough to require a change in the process safety information.

(b) The pre-startup safety review shall confirm that prior to the introduction of regulated substances to a process:

(1) Construction and equipment is in accordance with design specifications;

(2) Safety, operating, maintenance, and emergency procedures are in place and are adequate;

(3) For new stationary sources, a process hazard analysis has been performed and recommendations have been resolved or implemented before startup; and modified stationary sources meet the requirements contained in management of change, §68.75.

(4) Training of each employee involved in operating a process has been completed.

Additional New Jersey Requirements -

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

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

(b) For each new covered process, the owner or operator shall conduct a safety review of design for new EHS equipment prior to construction and shall document that the design of the covered process follows design and operating standards as reflected in the process safety information compiled in accordance with 40 CFR 68.65 with changes specified at N.J.A.C. 7:31-4.1(c)1 through 4.

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

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

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

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

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

§68.79 Compliance audits.

(a) The owner or operator shall certify that they have evaluated compliance with the provisions of this subpart at least ~~*every three years*~~ every year *to verify that the procedures and practices developed under this subpart are adequate and are being followed.* Also, the owner or operator shall verify that the process technology and equipment, as built and operated, are in accordance with the process safety information prepared pursuant to 40 CFR 68.65(c) and (d) as incorporated with changes at N.J.A.C. 7:31-4.1(c)1 through 4.

(b) The compliance audit shall be conducted by at least one person knowledgeable in the process.

(c) A report of the findings of the audit shall be developed. The compliance audit report shall also include the scope, audit techniques, methods used and the names of the audit participants.

(d) The owner or operator shall promptly determine and document an appropriate response to each of the findings of the compliance audit, and document that deficiencies have been corrected. The owner or operator shall prepare and include in the report a written schedule for the implementation of corrective actions or state that such actions have been completed.

(e) The owner or operator shall retain the two (2) most recent compliance audit reports.

§68.81 ~~*Incident*~~ EHS accident or potential catastrophic event *investigation.*

(a) The owner or operator shall investigate each ~~*incident which resulted in, or could reasonably have resulted in a catastrophic release of a regulated substance*~~ EHS accident or potential catastrophic event.

(b) An ~~*incident*~~ EHS accident or potential catastrophic event *investigation shall be initiated as promptly as possible, but not later than 48 hours following the incident.*

(c) An ~~*incident*~~ EHS accident or potential catastrophic event *investigation team shall be established and consist of at least one person knowledgeable in the process involved, including a contract employee if the incident involved work of the contractor, and other persons with appropriate knowledge and experience to thoroughly investigate and analyze the incident.*

(d) A report shall be prepared at the conclusion of the investigation which includes at a minimum:

(1) Date ,time, and location *of* ~~*incident*~~ EHS accident or potential catastrophic event*;*

(2) Date investigation began;

(3) A description of the ~~*incident*~~ EHS accident or potential catastrophic event in chronological order providing all the relevant facts. Include the identity, amount and duration of the EHS release if these facts can be reasonably determined based on the information obtained through the investigation. Also, identify the consequences, if any, of the EHS accident or potential catastrophic event including the number of evacuees, injured, and fatalities, and the impact on the community.*;*

(4) The factors that contributed to the ~~*incident*~~ EHS accident or potential catastrophic event that includes an identification of basic and contributory causes, either direct or indirect*; and,*

(5) Any recommendations resulting from the investigation to prevent a recurrence.

i. The names and position titles of the investigators.

(e) The owner or operator shall establish a system to promptly address and resolve the ~~*incident*~~ EHS accident or potential catastrophic event *report findings and recommendations. Resolutions and corrective actions shall be documented.*

(f) The report shall be reviewed with all affected personnel whose job tasks are relevant to the ~~*incident*~~ EHS accident or potential catastrophic event *findings including contract employees where applicable.*

(g) ~~*Incident*~~ EHS accident or potential catastrophic event *investigation reports shall be retained for five*

years.

§68.83 Employee participation.

(a) The owner or operator shall develop a written plan of action regarding the implementation of the employee participation required by this section.

(b) The owner or operator shall 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.*

(c) The owner or operator shall 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.*

§68.85 Hot work permit.

(a) The owner or operator shall issue a hot work permit for hot work operations conducted on or near a covered process.

(b) The permit shall document that the fire prevention and protection requirements in 29 CFR 1910.252(a) have been implemented prior to beginning the hot work operations; it shall indicate the date(s) authorized for hot work; and identify the object on which hot work is to be performed. The permit shall be kept on file until completion of the hot work operations.

§68.87 Contractors.

(a) Application. This section applies to contractors performing maintenance or repair, turnaround, major renovation, or specialty work on or adjacent to a covered process. It does not apply to contractors providing incidental services which do not influence process safety, such as janitorial work, food and drink services, laundry, delivery or other supply services.

(b) Owner or operator responsibilities. (1) The owner or operator, when selecting a contractor, shall obtain and evaluate information regarding the contract owner or operator's safety performance and programs.

(2) The owner or operator shall inform contract owner or operator of the known potential fire, explosion, or toxic release hazards related to the contractor's work and the process.

(3) The owner or operator shall explain to the contract owner or operator the applicable provisions of subpart E of this part.

(4) The owner or operator shall develop and implement safe work practices consistent with § 68.69(d), to control the entrance, presence, and exit of the contract owner or operator and contract employees in covered process areas.

(5) The owner or operator shall periodically evaluate the performance of the contract owner or operator in fulfilling their obligations as specified in paragraph (c) of this section.

(c) Owner or operator's oversight of *Contract owner or operator responsibilities.* The owner or operator shall require the contract owner or operator to complete the following prior to a contract owner or operator performing work at a covered process:

(1) The contract owner or operator shall assure that each contract employee is trained in the work practices necessary to safely perform his/her job.

(2) The contract owner or operator shall assure that each contract employee is instructed in the known

potential fire, explosion, or toxic release hazards related to his/her job and the process, and the applicable provisions of the emergency action plan.

(3) The contract owner or operator shall document that each contract employee has received and understood the training required by this section. The contract owner or operator shall prepare a record which contains the identity of the contract employee, the date of training, and the means used to verify that the employee understood the training.

(4) The contract owner or operator shall assure that each contract employee follows the safety rules of the stationary source including the safe work practices required by § 68.69(d).

(5) The contract owner or operator shall 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.

Additional New Jersey Requirements

7:31-4.8 Emergency response

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

7:31-4.9 Annual reports

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

(b) The annual report shall contain:

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

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

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

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

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

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

iii. The basic and contributory causes;

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

6. Each inherently safer technology review report completed pursuant to N.J.A.C. 7:31-4.12(b) and (f) during the previous year.

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

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

1. Performance of a pre-startup safety review of the discontinued EHS equipment and procedures in accordance with the requirements of 40 CFR 68.77(a), (b)(1) and (2) and N.J.A.C. 7:31-4.7(e), within 60 calendar days prior to bringing the EHS back to the covered process;

2. Performance of inspections, tests and checks for proper operation of the discontinued EHS equipment, conforming to requirements of 40 CFR 68.73 with changes specified at N.J.A.C. 7:31-4.1(c)10-11 and N.J.A.C. 7:31-4.5, within 60 calendar days prior to bringing the EHS back to the covered process; and

3. Performance of EHS operator training activities, conforming to 40 CFR 68.71 with changes specified at N.J.A.C. 7:31-4.1(c)9 and N.J.A.C. 7:31-4.4, within 60 calendar days prior to bringing the EHS back to the covered process; and

4. Payment of the annual fee.

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

(a) Owners or operators who plan to construct a new Program 3 covered process at a facility for which there is no previously approved risk management program shall:

1. Submit to the Department a report of safety review of design in accordance with N.J.A.C. 7:31-4.7(b) and (c) and the documentation required at N.J.A.C. 7:31-7.2 and 40 CFR 68.150 with changes specified at N.J.A.C. 7:31-7.1(c) 1.2 at least 90 days prior to construction of the covered process;

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

3. Submit to the Department at least 90 days prior to the date the equipment is scheduled to be placed into EHS service any updates of the documentation as required by N.J.A.C. 7:31-4.11(a)1;

4. Conduct a pre-startup safety review in accordance with N.J.A.C. 7:31-4.7(d) and (e); and

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

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

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

2. Conduct a pre-startup safety review in accordance with N.J.A.C. 7:31-4.7(d) and (e); and

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

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

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

2. Conduct a pre-startup safety review in accordance with N.J.A.C. 7:31-4.7(d) and (e); and

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

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

(e) The owner or operator shall complete an inherently safer technology review and report pursuant to N.J.A.C. 7:31-4.12(c) through (f) for each new covered process. The owner or operator shall submit the inherently safer technology review report with the submittal required at (a)1, (b)1, or (c)1 above, as applicable.

7:31-4.12 Inherently safer technology review

(a) By September 2, 2008 for each covered process at the stationary source, the owner or operator shall complete an initial inherently safer technology review pursuant to (c) through (e), below and shall prepare and submit to the Department an inherently safer technology review report pursuant to (f) below. An inherently safer technology review report completed pursuant to the Best Practices

Standards at TCPA/DPCC Chemical Sector Facilities, November 21, 2005 (http://www.nj.gov/dep/rpp/brp), prior to the effective date of this rule may be submitted to comply with this requirement.

(b) The owner or operator shall update the inherently safer technology review submitted pursuant to (a) above on the same schedule as the process hazard analysis with risk assessment revalidations and updates pursuant to 40 CFR 68.67(f) incorporated with changes at N.J.A.C. 7:31-4.1(c)7 and N.J.A.C. 7:31-4.6(c) are updated for each covered process at the stationary source, including each new covered process brought on line since the date of the previous inherently safer technology review. The owner or operator shall address the inherently safer technologies that have been developed since the last inherently safer technology review. Unless an update is required pursuant to N.J.A.C. 7:31-4.6(c), the first inherently safer technology review update shall not be required until two years after the date of the initial inherently safer technology review.

(c) Each inherently safer technology review required by this section shall be conducted by a team of qualified experts convened by the owner or operator, whose members shall have expertise in environmental health and safety, chemistry, design and engineering, process controls and instrumentation, maintenance, production and operations, and chemical process safety.

(d) Each inherently safer technology review required by this section shall identify available inherently safer technology alternatives or combinations of alternatives that minimize or eliminate the potential for an EHS release. Using any available inherently safer technology analysis method, this review shall include, at a minimum, an analysis of the following principles and techniques:

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

(e) Each inherently safer technology review required by this section shall include a determination of whether each of the inherently safer technologies identified pursuant to (d) above is feasible. For purposes of this determination, feasible means capable of being accomplished in a successful manner, taking into account environmental, public health and safety, legal, technological, and economic factors.

(f) The owner or operator shall prepare and submit to the Department a report that documents each inherently safer technology review required by this section. The report shall include:

1. An identification of the covered process that is the subject of the review; a list of the review team members with name, position, affiliation, responsibilities, qualifications and experience for each; the date of report completion; and the inherently safer technology analysis method used to

complete the review;

2. The questions asked and answered to address the inherently safer technology principles and techniques pursuant to (d) above;

3. A list of inherently safer technologies determined to be already present in the covered process;

4. A list of additional inherently safer technologies identified;

5. A list of the additional inherently safer technologies selected to be implemented and a schedule for their implementation; and

6. A list of the inherently safer technologies determined to be infeasible; and

7. A written explanation justifying the infeasibility determination for each inherently safer technology determined to be infeasible. The owner or operator shall substantiate the infeasibility determination using a qualitative and quantitative evaluation of environmental, public health and safety, legal, technological, and economic factors.

(g) An owner or operator may file a claim with the Department pursuant to N.J.A.C. 7:31-10 to withhold from public disclosure confidential information included in an inherently safer technology review report required to be submitted to the Department pursuant to this section.

This is a courtesy copy of this rule. All of the Department's rules are compiled in Title 7 of the New Jersey Administrative Code.

(This page intentionally blank)

SUBCHAPTER 5. EMERGENCY RESPONSE

7:31-5.1 Incorporation by reference

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

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

1. 40 CFR 68.90(b), delete the introductory paragraph and replace with, "The owner or operator of a facility whose employees will not respond to accidental EHS releases shall comply with the following:".

2. 40 CFR 68.90(b)(1), delete, "For stationary sources with any regulated toxic substance held in a process above the threshold quantity, the stationary source" and replace with, "For facilities with any regulated toxic substance at or above the threshold quantity, the facility". 40 CFR 68.90(b)(2), delete, "For stationary sources with only regulated flammable substances held in a process about the threshold quantity" and replace with "For facilities with only regulated flammable substances at or above the threshold quantity". 40 CFR 68.90(b)(3), at the end, add "The owner or operator shall obtain documentation from the local fire department or other outside emergency responder agencies, as applicable, that they will be responsible for responding to accidental releases at the owner or operator's facility."

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

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

40 CFR 68 Subpart E--Emergency Response

§68.90 Applicability.

(a) Except as provided in paragraph (b) of this section, the owner or operator of a stationary source with Program 2 and Program 3 processes shall comply with the requirements of § 68.95.

(b) ~~The owner or operator of stationary source whose employees will not respond to accidental releases of regulated substances need not comply with § 68.95 of this part provided that they meet the following:~~ The owner or operator of a facility whose employees will not respond to accidental EHS releases shall comply with the following:

(1) ~~For stationary sources with any regulated toxic substance held in a process above the threshold quantity, the stationary source~~ For facilities with any regulated toxic substance at or above the threshold quantity, the facility *is included in the community emergency response plan developed under 42 U.S.C. 11003;*

(2) ~~For stationary sources with only regulated flammable substances held in a process above the threshold quantity~~ For facilities with only regulated flammable substances at or above the threshold quantity, *the owner or*

operator has coordinated response actions with the local fire department; and

(3) Appropriate mechanisms are in place to notify emergency responders when there is a need for a response. The owner or operator shall obtain documentation from the local fire department or other outside emergency responder agencies, as applicable, that they will be responsible for responding to accidental releases at the owner or operator's facility.

§68.95 Emergency response program.

(a) The owner or operator shall develop and implement an emergency response program for the purpose of protecting public health and the environment. Such program shall include the following elements:

(1) An emergency response plan, which shall be maintained at the stationary source and contain at least the following elements:

(i) Procedures for informing the public and local emergency response agencies about accidental releases;

(ii) Documentation of proper first-aid and emergency medical treatment necessary to treat accidental human exposures; and

(iii) Procedures and measures for emergency response after an accidental release of a regulated substance;

(2) Procedures for the use of emergency response equipment and for its inspection, testing, and maintenance;

(3) Training for all employees in relevant procedures; and

(4) Procedures to review and update, as appropriate, the emergency response plan to reflect changes at the stationary source and ensure that employees are informed of changes.

(b) A written plan that ~~complies with other Federal contingency plan regulations or~~ is consistent with and as stringent as *the approach in the National Response Team's Integrated Contingency Plan Guidance (``One Plan'') and that, among other matters, includes the elements provided in paragraph (a) of this section, shall satisfy the requirements of this section if the owner or operator also complies with paragraph (c) of this section.*

(c) The emergency response plan developed under paragraph (a)(1) of this section shall be coordinated with the community emergency response plan developed under 42 U.S.C. 11003. Upon request of the local emergency planning committee or emergency response officials, the owner or operator shall promptly provide to the local emergency response officials information necessary for developing and implementing the community emergency response plan.

Additional New Jersey Requirements -

7:31-5.2 Emergency response program

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

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

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

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

following requirements:

i. The owner or operator of a facility 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)1 and 2 shall invite at least one outside responder agency designated in the ER plan to participate in the ER exercise. Employees of the facility shall perform their assigned responsibilities for all ER exercises; and

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

3. A written assessment of the ER plan, of the adequacy of notification to outside agencies and the public, and of the adequacy or need for ER equipment after each ER plan implementation or each ER exercise;

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

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

(1) Company name and address of the EHS accident;

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

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

(4) The chemical name of the EHS released;

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

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

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

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

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

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

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

(5) An update on weather conditions;

iii. The following EHS accidental releases shall be exempt from the notification provisions of N.J.A.C. 7:31-5.2(b)4 above provided the EHS accident is recorded in accordance with the procedures established for EHS accident investigation for the facility. This exemption does not affect any other

This is a courtesy copy of this rule. All of the Department's rules are compiled in Title 7 of the New Jersey Administrative Code.

State or Federal reporting requirements.

(1) An EHS release that has no potential offsite impact;

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

(3) An EHS release that does not activate the emergency response plan. This exemption does not affect any other State or Federal reporting requirements.

SUBCHAPTER 6. EXTRAORDINARILY HAZARDOUS SUBSTANCES

7:31-6.1 Incorporation by reference

(a) This subchapter incorporates by reference 40 CFR 68 Subpart F, Regulated Substances for Accidental Release Prevention, including all future amendments and supplements, except as provided below.

(b) The following provisions are not incorporated by reference: 40 CFR 68.120, Petition process; and 40 CFR 68.125, Exemptions.

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

1. *40 CFR 68.100*, delete "subpart" and replace with "subchapter", after "as amended," add "and the Toxic Catastrophe Prevention Act, as amended, and". Delete the phrase "and establishes the requirements for petitioning to add or delete substances from the list".

2. *40 CFR 68.115(a)*, delete "regulated substance" and replace with "EHS" at both occurrences. After "listed in" delete "§ 68.130" and replace with " *N.J.A.C. 7:31-6.3(a)*, Table 1," and add "meets or" before "exceeds".

3. 40 CFR 68.115(b), (b)(1) through (b)(5) at all occurrences delete "more than" before "a threshold quantity," and delete "regulated toxic substance" and replace with "toxic EHS" and delete "regulated flammable substance" and replace with "flammable EHS". Also, at all occurrences, delete "stationary source" and replace with "facility".

4. 40 CFR 68.115(b)(5)(ii), after "operations;" replace "and" with "however, only pilot plant scale operations handling the substances listed at 40 CFR 68.130 in a covered process shall be covered under this chapter; and".

5. *40 CFR 68.130*, all substances and their specified threshold quantities are incorporated by reference into two lists as follows:

i. *40 CFR 68.130* Table 1 (and 2), List of Regulated Toxic Substances, including all future amendments and supplements, are incorporated as *N.J.A.C. 7:31-6.3(a)*, Table I, Part B;

ii. 40 CFR 68.130 Table 3 (and 4), List of Regulated Flammable Substances, including all future amendments and supplements.

40 CFR 68 Subpart F - Regulated Substances for Accidental Release Prevention

§68.100 Purpose.

This ~~subpart~~ subchapter *designates substances to be listed under section 112(r)(3), (4), and (5) of the Clean Air Act, as amended,* and the Toxic Catastrophe Prevention Act, as amended, and *identifies their threshold quantities, ~~and establishes the requirements for petitioning to add or delete substances from the list~~.*

§68.115 Threshold determination.

(a) ~~*A threshold quantity of a regulated substance listed in §68.130 is present at a stationary source if the total quantity of the regulated substance contained in a process exceeds the threshold.*~~ A threshold quantity of an EHS in N.J.A.C. 7:31-6.3(a), Table 1, is present at a facility if the total quantity of the EHS at the facility meets or exceeds the threshold.

(b) For the purposes of determining whether ~~*more than*~~ *a threshold quantity of a regulated substance is present at the* ~~*stationary source*~~, facility *the following exemptions apply:*

(1) Concentrations of a ~~*regulated toxic substance*~~ toxic EHS *in a mixture. If a regulated substance is present in a mixture and the concentration of the substance is below one percent by weight of the mixture, the amount of the substance in the mixture need not be considered when determining whether* ~~*more than*~~ *a threshold quantity is present at the stationary source. Except for oleum, toluene 2,4-diisocyanate, toluene 2,6-diisocyanate, and toluene diisocyanate (unspecified isomer), if the concentration of the regulated substance in the mixture is one percent or greater by weight, but the owner or operator can demonstrate that the partial pressure of the regulated substance in the mixture (solution) under handling or storage conditions in any portion of the process is less than 10 millimeters of mercury (mm Hg), the amount of the substance in the mixture in that portion of the process need not be considered when determining whether* ~~*more than*~~ *a threshold quantity is present at the* ~~*stationary source*~~ facility*. The owner or operator shall document this partial pressure measurement or estimate.*

(2) Concentrations of a ~~*regulated flammable substance*~~ flammable EHS *in a mixture.*

(i) General provision. If a regulated substance is present in a mixture and the concentration of the substance is below one percent by weight of the mixture, the mixture need not be considered when determining whether ~~*more than*~~ *a threshold quantity of the regulated substance is present at the* ~~*stationary source*~~ facility*. Except as provided in paragraph (b)(2) (ii) and (iii) of this section, if the concentration of the substance is one percent or greater by weight of the mixture, then, for purposes of determining whether a threshold quantity is present at the* ~~*stationary source*~~ facility*, the entire weight of the mixture shall be treated as the regulated substance unless the owner or operator can demonstrate that the mixture itself does not have a National Fire Protection Association flammability hazard rating of 4. The demonstration shall be in accordance with the definition of flammability hazard rating 4 in the NFPA 704, Standard System for the Identification of the Hazards of Materials for Emergency Response, National Fire Protection Association, Quincy, MA, 1996. Available from the National Fire Protection Association, 1 Batterymarch Park, Quincy, MA 02269-9101. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be inspected at the Environmental Protection Agency Air Docket (6102), Attn: Docket No. A-96-O8, Waterside Mall, 401 M. St. SW., Washington D.C.; or at the Office of Federal Register at 800 North Capitol St., NW, Suite 700, Washington, D.C. Boiling point and flash point shall be defined and determined in accordance with NFPA 30, Flammable and Combustible Liquids Code, National Fire Protection Association, Quincy, MA, 1996. Available from the National Fire Protection Association, 1 Batterymarch Park, Quincy, MA 02269-9101. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be inspected at the Environmental Protection Agency Air Docket (6102), Attn: Docket No. A-96-O8, Waterside Mall, 401 M. St. SW., Washington D.C.; or at the Office of Federal Register at 800 North Capitol St., NW, Suite 700, Washington, D.C. The owner or operator shall document the National Fire Protection Association flammability hazard rating.*

(ii) Gasoline. Regulated substances in gasoline, when in distribution or related storage for use as fuel for internal combustion engines, need not be considered when determining whether ~~*more than*~~ *a threshold quantity is present at a* facility*.* ~~*stationary source.*~~

(iii) Naturally occurring hydrocarbon mixtures. Prior to entry into a natural gas processing plant or a petroleum refining process unit, regulated substances in naturally occurring hydrocarbon mixtures need not be considered when determining whether ~~more than~~ a threshold quantity is present at a facility. *~~stationary source.~~ Naturally occurring hydrocarbon mixtures include any combination of the following: condensate, crude oil, field gas, and produced water, each as defined in § 68.3 of this part.*

(3) Articles. Regulated substances contained in articles need not be considered when determining whether more than a threshold quantity is present at the facility. *~~stationary source.~~*

(4) Uses. Regulated substances, when in use for the following purposes, need not be included in determining whether more than a threshold quantity is present at the facility: *~~stationary source:~~*

(i) Use as a structural component of the facility; *~~stationary source;~~*

(ii) Use of products for routine janitorial maintenance;

(iii) Use by employees of foods, drugs, cosmetics, or other personal items containing the regulated substance; and

(iv) Use of regulated substances present in process water or non-contact cooling water as drawn from the environment or municipal sources, or use of regulated substances present in air used either as compressed air or as part of combustion.

(5) Activities in Laboratories. If a regulated substance is manufactured, processed, or used in a laboratory at a facility *~~stationary source~~ under the supervision of a technically qualified individual as defined in 720.3(ee) of this chapter, the quantity of the substance need not be considered in determining whether a threshold quantity is present. This exemption does not apply to:*

(i) Specialty chemical production;

(ii) Manufacture, processing, or use of substances in pilot plant scale operations; ~~and~~ however, only pilot scale operations handling the substances listed at 40 CFR 68.130 in a covered process shall be covered under this chapter; and

(iii) Activities conducted outside the laboratory.

~~§68.120 Petition process.~~

~~(a) Any person may petition the Administrator to modify, by addition or deletion, the list of regulated substances identified in 68.130. Based on the information presented by the petitioner, the Administrator may grant or deny a petition.~~

~~(b) A substance may be added to the list if, in the case of an accidental release, it is known to cause or may be reasonably anticipated to cause death, injury, or serious adverse effects to human health or the environment.~~

~~(c) A substance may be deleted from the list if adequate data on the health and environmental effects of the substance are available to determine that the substance, in the case of an accidental release, is not known to cause and may not be reasonably anticipated to cause death, injury, or serious adverse effects to human health or the environment.~~

~~(d) No substance for which a national primary ambient air quality standard has been established shall be added to the list. No substance regulated under Title VI of the Clean Air Act, as amended, shall be added to the list.~~

~~(e) The burden of proof is on the petitioner to demonstrate that the criteria for addition and deletion are met. A petition will be denied if this demonstration is not made.~~

~~(f) The Administrator will not accept additional petitions on the same substance following publication~~

~~*of a final notice of the decision to grant or deny a petition, unless new data becomes available that could significantly affect the basis for the decision.*~~

~~*(g) Petitions to modify the list of regulated substances must contain the following:*~~

~~*(1) Name and address of the petitioner and a brief description of the organization(s) that the petitioner represents, if applicable;*~~

~~*(2) Name, address, and telephone number of a contact person for the petition;*~~

~~*(3) Common chemical name(s), common synonym(s), Chemical Abstracts Service number, and chemical formula and structure;*~~

~~*(4) Action requested (add or delete a substance);*~~

~~*(5) Rationale supporting the petitioner's position; that is, how the substance meets the criteria for addition and deletion. A short summary of the rationale must be submitted along with a more detailed narrative; and*~~

~~*(6) Supporting data; that is, the petition must include sufficient information to scientifically support the request to modify the list. Such information shall include:*~~

~~*(i) A list of all support documents;*~~

~~*(ii) Documentation of literature searches conducted, including, but not limited to, identification of the database(s) searched, the search strategy, dates covered, and printed results;*~~

~~*(iii) Effects data (animal, human, and environmental test data) indicating the potential for death, injury, or serious adverse human and environmental impacts from acute exposure following an accidental release; printed copies of the data sources, in English, should be provided; and*~~

~~*(iv) Exposure data or previous accident history data, indicating the potential for serious adverse human health or environmental effects from an accidental release. These data may include, but are not limited to, physical and chemical properties of the substance, such as vapor pressure; modeling results, including data and assumptions used and model documentation; and historical accident data, citing data sources.*~~

~~*(h) Within 18 months of receipt of a petition, the Administrator shall publish in the Federal Register a notice either denying the petition or granting the petition and proposing a listing.*~~

~~*§68.125 Exemptions.*~~

~~*Agricultural nutrients. Ammonia used as an agricultural nutrient, when held by farmers, is exempt from all provisions of this part.*~~

§68.126 Exclusion.

Flammable Substances Used as Fuel or Held for Sale as Fuel at Retail Facilities. A flammable substance listed in Tables 3 and 4 of Sec. 68.130 is nevertheless excluded from all provisions of this part when the substance is used as a fuel or held for sale as a fuel at a retail facility.

§68.130 List of substances.

(a) Regulated toxic and flammable substances under section 112(r) of the Clean Air Act are the substances listed in Tables 1, 2, 3, and 4. Threshold quantities for listed toxic and flammable substances are

specified in the tables.

(b) The basis for placing toxic and flammable substances on the list of regulated substances are explained in the notes to the list.

(TCPA Program Note: Tables 1, 2, 3, and 4 are provided at N.J.A.C. 7:31-6.3. Tables 1 and 2 are listed as Table I, Part B, and Tables 3 and 4 are listed as Table I, Part C.)

Additional New Jersey Requirements

7:31-6.2 Threshold quantity determination

(a) If an EHS is listed as a toxic substance in N.J.A.C. 7:31-6.3(a) Table I, Part A and Part B, the lower threshold quantity shall apply as the threshold quantity throughout this chapter.

(b) If an EHS is listed in N.J.A.C. 7:31-6.3(a) as a toxic substance in Table I, Part A or B and as a flammable substance in Part C, the lower threshold quantity shall apply as the threshold quantity throughout this chapter.

(c) If a toxic EHS listed in N.J.A.C. 7:31-6.3(a) Table I, Part A is present in a mixture at a concentration which is lower than the acute toxicity concentration (ATC), the amount of the EHS in the mixture shall not be considered in determining if the threshold quantity is present at a facility.

(d) For mixtures of EHS listed in N.J.A.C. 7:31-6.3(a) Table I, Parts A or D, Group I, for which no concentration is specified, the threshold quantity shall be calculated using the weight percent of EHS contained in the mixture. When the weight of the total mixture times the weight percent is equal to or greater than the threshold quantity for that EHS, the owner or operator must comply with this chapter.

1. For EHS's in Table I, Part A listed with a concentration in weight percent, the total weight of the solution shall be used to determine whether a threshold quantity is present at a facility.

2. For EHS's in Table I, Part A listed with a concentration in volume percent, the weight of only the pure EHS shall be used to determine whether a threshold quantity is present at a facility.

(e) For a toxic EHS listed in N.J.A.C. 7:31-6.3(a) Table I, Part B, threshold quantity shall be determined in accordance with 40 CFR 68.115(b) with changes specified at N.J.A.C. 7:31-6.1(c)3 and 4.

(f) For mixtures containing toxic EHSs listed in N.J.A.C. 7:31-6.3(a) Table I, Part B, the weight of the pure EHS shall be considered in determining whether a threshold quantity is present at a facility.

(g) For intentional mixtures involving one or more functional groups listed on N.J.A.C. 7:31-6.3(a) Table I, Part D, Group II, the threshold quantity shall be based on the heat of reaction (ΔH_R) as determined in accordance with N.J.A.C. 7:31-6.3(b)1 through 6 and shall be derived from Table II at N.J.A.C. 7:31-6.3(c).

(h) For the purpose of determining whether a threshold quantity of an RHS mixture is present at a facility, the maximum capacity of the process vessel containing the RHS mixture shall be used assuming that the vessel is filled to capacity with the reactive ingredients of the RHS mixture. The maximum capacity of each individual

process vessel containing an RHS mixture shall be compared to the threshold quantity to determine applicability. Administrative controls that limit the maximum quantity in the process vessel shall not be taken into account; however, if the total quantity of reactant ingredients used in the RHS mixture present at the facility is less than the amount of the vessel capacity, that total quantity may be used for threshold quantity determination.

(i) An owner or operator may request EHS equipment containing an RHS mixture that would otherwise meet the threshold quantity at (h) above to not be considered in determining if the threshold quantity is present at the facility. In the request for exemption, the owner or operator shall demonstrate to the satisfaction of the Department that there is no possibility of a runaway reaction, overpressurization, and accidental EHS release during either normal or abnormal conditions based on an evaluation, using calorimetry testing or other scientific analysis, of the reaction chemistry of the RHS mixture, and in accordance with the following:

1. The results of calorimetry testing or other scientific analysis shall be independently verified by a New Jersey licensed professional engineer or an officer or other authorized individual of a laboratory certified pursuant to N.J.A.C. 7:18 and certified by that engineer or officer or other authorized individual of a laboratory as follows: "I certify under penalty of law that I have personally examined and am familiar with the information submitted in this application and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I further certify that the operation described herein satisfies the criteria for exemption as set forth in N.J.A.C. 7:31-6.2(i). I am aware that there are significant civil and criminal penalties for submitting false, inaccurate, or incomplete information."

2. The owner or operator shall include a certification statement specified at N.J.A.C. 7:31-8.2(c) with the request for exemption. Submittal of false information may be grounds for termination of any exemption.

3. The Department shall review the request for exemption and provide the owner or operator written notification of approval or denial of the exemption request.

7:31-6.3 Extraordinarily hazardous substance list

(a) The substances listed in Table I, Parts A, B, C, and D Group I and Group II (with its correlated thresholds listed in Table II at (c) below) constitute the Department's extraordinarily hazardous substance list.

This is a courtesy copy of this rule. All of the Department's rules are compiled in Title 7 of the New Jersey Administrative Code.

Table I
Part A - EHS List

Name of Extraordinarily Hazardous Substance (EHS)	CAS #	Threshold Quantity in Pounds
	Group I	
*Hydrogen chloride (HCl)	7647-01-0	2,000
*Hydrochloric acid 36 percent by weight or more HCl	7647-01-0	5,600
Allyl chloride	107-05-1	2,000
*Hydrogen cyanide (hydrocyanic acid)	74-90-8	500
*Hydrogen fluoride (HF)	7664-39-3	500
*Hydrofluoric acid 70 percent by weight or more HF	7664-39-3	700
*Chlorine	7782-50-5	1,000
*Phosphorus trichloride	7719-12-2	500
*Hydrogen sulfide	7783-06-4	1,000
*Phosgene	75-44-5	100
*Bromine	7726-95-6	1,000
*Methyl isocyanate	624-83-9	100
*Toluene-2,4-diisocyanate	584-84-9	10,000
*Toluene-2,4-diisocyanate	26471-62-5 (mixture with Toluene-2,6-diisocyanate, unspecified isomer)	10,000
	Group II	
*Acetaldehyde	75-07-0	4,900
*Acrolein	107-02-8	200
*Acrylonitrile	107-13-1	2,300
*Allylamine	107-11-9	1,200
*Ammonia (NH_3)	7664-41-7	5,200
*Ammonia (aqueous) 28 percent by weight or more NH_3	1336-21-6	19,000
*Arsine	7784-42-1	60

*bis (Chloromethyl) ether	542-88-1	80
Boron tribromide	10294-33-4	10,000
*Boron trichloride	10294-34-5	1,700
*Boron trifluoride	7637-07-2	200
Bromine chloride	13863-41-7	800
Bromine pentafluoride	7789-30-2	1,300
Carbon monoxide (10 percent by volume or more)	630-08-0	12,000
Carbonyl fluoride	353-50-4	1,700
*Chlorine dioxide	10049-04-4	500
Chlorine pentafluoride	13637-63-3	500
Chlorine trifluoride	7790-91-2	600
*Chloromethyl methyl ether	107-30-2	300
Chloropicrin	76-06-2	900
Chloroprene	126-99-8	12,000
*Crotonaldehyde (cis-, trans-isomers)	123-73-9 4170-30-3	450
*Cyanogen	460-19-5	1,300
*Cyanogen chloride	506-77-4	200
Diazomethane	334-88-3	300
*Diborane	19287-45-7	60
Dichloroacetylene	7572-29-4	125
*Dichlorosilane	4109-96-0	2,000
Diethylamine	109-89-7	9,600
*Dimethylamine	124-40-3	6,600
*1,1 Dimethylhydrazine	57-14-7	800
*Epoxypropane (Propylene oxide)	75-56-9	7,700
*Ethylamine	75-04-7	7,500
*Ethylene oxide (Oxirane)	75-21-8	2,700
*Ethylenimine (Aziridine)	151-56-4	800
*Ethyl mercaptan	75-08-1	13,000
*Fluorine	7782-41-4	450
*Formaldehyde (gas)	50-00-0	175
*Furan	110-00-9	200
Hexafluoroacetone	684-16-2	3,300
Hydrogen bromide (HBr)	10035-10-6	2,900
Hydrobromic acid 62 percent by weight or more HBr	10035-10-6	4,800
*Hydrogen selenide	7783-07-5	125
*Isopropylamine	75-31-0	3,300

Ketene	463-51-4	50
Methacrylaldehyde	78-85-3	1,300
*Methyl acrylonitrile	126-98-7	175
*Methylamine	74-89-5	2,300
Methyl bromide	74-83-9	1,800
*Methyl chloride	74-87-3	12,000
*Methyl chloroformate	79-22-1	350
Methyl dichlorosilane	75-54-7	27,000
Methyl fluoroacetate	453-18-9	90
Methyl fluorosulfate	421-20-5	50
*Methylhydrazine	60-34-4	125
Methyl iodide	74-88-4	2,900
*Methyl mercaptan	74-93-1	2,400
Methyl vinyl ketone	78-94-4	10
*Nickel carbonyl	13463-39-3	125
*Nitric acid (HNO_3)		
94 percent by weight or more HNO_3	7697-37-2	450
Nitrogen Oxides		
Nitrogen dioxide (NO_2)		
10 percent by volume or more	10102-44-0	200
*Nitric oxide		
10 percent by volume or more	10102-43-9	125
Nitrogen tetroxide		
10 percent by volume or more	10544-72-6	200
Nitrogen trifluoride	7783-54-2	10,000
Nitrogen trioxide		
10 percent by volume	10544-73-7	175
*Oleum 65 percent by weight or more		
free sulfur trioxide (SO_3)	8014-95-7	800
Osmium tetroxide	20816-12-0	4,500
Oxygen difluoride	7783-41-7	10
Ozone	10028-15-6	15
Pentaborane	19624-22-7	15
*Perchloromethyl mercaptan	594-42-3	125
Perchloryl fluoride	7616-94-6	2,900
*Phosphine	7803-51-2	30
Phosphorus trifluoride	7783-55-3	34,000
*Phosphoryl chloride	10025-87-3	800
Propylamine	107-10-8	11,000

Selenium hexafluoride	7783-79-1	700
Stibine	7803-52-3	250
*Sulfur dioxide (SO_2) 10 percent by volume or more SO_2	7446-09-5	4,600
Sulfur monochloride	10025-67-9	2,800
Sulfur pentafluoride	5714-22-7	175
*Sulfur tetrafluoride	7783-60-0	150
*Sulfur trioxide	7446-11-9	500
Sulfuryl fluoride	2699-79-8	22,000
Tellurium hexafluoride	7783-80-4	175
Tetrafluorohydrazine	10036-47-2	3,800
*Tetramethyl lead	75-74-1	800
*Tetranitromethane	509-14-8	900
Thionyl chloride	7719-09-7	250
*Titanium tetrachloride	7550-45-0	600
*Trichlorosilane	10025-78-2	2,700
*Trifluorochloroethylene	79-38-9	7,300
Trimethoxysilane	2487-90-3	1,100
*Trimethylamine	75-50-3	11,000
*Trimethylchlorosilane	75-77-4	1,400
Vinyl trichlorosilane	75-94-5	7,700

*EHS also listed in Part B or Part C as of the date of adoption. Some may appear with different Federal thresholds or concentrations.

Part B
40 CFR 68.130 Table 1 (and 2) incorporated by reference

Table I, Part B
TABLE 1 TO 68.130 - LIST OF REGULATED TOXIC SUBSTANCES AND THRESHOLD QUANTITIES FOR ACCIDENTAL RELEASE PREVENTION
[ALPHABETICAL ORDER - 77 SUBSTANCES]

Chemical Name	*CAS No.*	*Threshold quantity (lbs.)*	*Basis for listing*
Acrolein [2-Propenal]	*107-02-8*	*5,000*	*b*
Acrylonitrile [2-Propenenitrile]	*107-13-1*	*20,000*	*b*
Acrylyl chloride [2-Propenoyl chloride]	*814-68-6*	*5,000*	*b*
Allyl alcohol [2-Propen-1-ol]	*107-18-6*	*15,000*	*b*
Allylamine [2-Propen-1-amine]	*107-11-9*	*10,000*	*b*
Ammonia (anhydrous)	*7664-41-7*	*10,000*	*a, b*
Ammonia (conc 20% or greater)	*7664-41-7*	*20,000*	*a, b*
Arsenous trichloride	*7784-34-1*	*15,000*	*b*
Arsine	*7784-42-1*	*1,000*	*b*
Boron trichloride [Borane, trichloro-]	*10294-34-5*	*5,000*	*b*
Boron trifluoride [Borane, trifluoro-]	*7637-07-2*	*5,000*	*b*
Boron trifluoride compound with methyl ether (1:1) [Boron, trifluoro[oxybis[metane]]-, T-4-	*353-42-4*	*15,000*	*b*
Bromine	*7726-95-6*	*10,000*	*a, b*
Carbon disulfide	*75-15-0*	*20,000*	*b*
Chlorine	*7782-50-5*	*2,500*	*a, b*
Chlorine dioxide [Chlorine oxide (ClO2)]	*10049-04-4*	*1,000*	*c*
Chloroform [Methane, trichloro-]	*67-66-3*	*20,000*	*b*
Chloromethyl ether [Methane, oxybis[chloro-]	*542-88-1*	*1,000*	*b*
Chloromethyl methyl ether [Methane, chloromethoxy-]	*107-30-2*	*5,000*	*b*
Crotonaldehyde [2-Butenal]	*4170-30-3*	*20,000*	*b*
Crotonaldehyde, (E)- [2-Butenal, (E)-]	*123-73-9*	*20,000*	*b*
Cyanogen chloride	*506-77-4*	*10,000*	*c*
Cyclohexylamine [Cyclohexanamine]	*108-91-8*	*15,000*	*b*
Diborane	*19287-45-7*	*2,500*	*b*

Dimethyldichlorosilane [Silane, dichlorodimethyl-]	*75-78-5*	*5,000*	*b*
1,1-Dimethylhydrazine [Hydrazine, 1,1-dimethyl-]	*57-14-7*	*15,000*	*b*
Epichlorohydrin [Oxirane, (chloromethyl)-]	*106-89-8*	*20,000*	*b*
Ethylenediamine [1,2-Ethanediamine]	*107-15-3*	*20,000*	*b*
Ethyleneimine [Aziridine]	*151-56-4*	*10,000*	*b*
Ethylene oxide [Oxirane]	*75-21-8*	*10,000*	*a, b*
Fluorine	*7782-41-4*	*1,000*	*b*
Formaldehyde (solution)	*50-00-0*	*15,000*	*b*
Furan	*110-00-9*	*5,000*	*b*
Hydrazine	*302-01-2*	*15,000*	*b*
Hydrochloric acid (conc 37% or greater)	*7647-01-0*	*15,000*	*d*
Hydrocyanic acid	*74-90-8*	*2,500*	*a, b*
Hydrogen chloride (anhydrous) [Hydrochloric acid]	*7647-01-0*	*5,000*	*a*
Hydrogen fluoride/Hydrofluoric acid (conc 50% or greater) [Hydrofluoric acid]	*7664-39-3*	*1,000*	*a, b*
Hydrogen selenide	*7783-07-5*	*500*	*b*
Hydrogen sulfide	*7783-06-4*	*10,000*	*a, b*
Iron, pentacarbonyl- [Iron carbonyl (Fe(CO)5), (TB-5-11)-]	*13463-40-6*	*2,500*	*b*
Isobutyronitrile [Propanenitrile, 2-methyl-]	*78-82-0*	*20,000*	*b*
Isopropyl chloroformate [Carbonochloridic acid, 1-methylethyl ester]	*108-23-6*	*15,000*	*b*
Methacrylonitrile [2-Propenenitrile, 2-methyl-]	*126-98-7*	*10,000*	*b*
Methyl chloride [Methane, chloro-]	*74-87-3*	*10,000*	*a*
Methyl chloroformate [Carbonochloridic acid, methylester]	*79-22-1*	*5,000*	*b*
Methyl hydrazine [Hydrazine, methyl-]	*60-34-4*	*15,000*	*b*
Methyl isocyanate [Methane, isocyanato-]	*624-83-9*	*10,000*	*a, b*
Methyl mercaptan [Methanethiol]	*74-93-1*	*10,000*	*b*
Methyl thiocyanate [Thiocyanic acid, methyl ester]	*556-64-9*	*20,000*	*b*
Methyltrichlorosilane [Silane, trichloromethyl-]	*75-79-6*	*5,000*	*b*
Nickel carbonyl	*13463-39-3*	*1,000*	*b*
Nitric acid (conc 80% or greater)	*7697-37-2*	*15,000*	*b*

Nitric oxide [Nitrogen oxide (NO)]	*10102-43-9*	*10,000*	*b*
Oleum (Fuming Sulfuric acid) [Sulfuric acid, mixture with sulfur trioxide][1]	*8014-95-7*	*10,000*	*e*
Peracetic acid [Ethaneperoxoic acid]	*79-21-0*	*10,000*	*b*
Perchloromethylmercaptan [Methanesulfenyl chloride, trichloro-]	*594-42-3*	*10,000*	*b*
Phosgene [Carbonic dichloride]	*75-44-5*	*500*	*a, b*
Phosphine	*7803-51-2*	*5,000*	*b*
Phosphorus oxychloride [Phosphoryl chloride]	*10025-87-3*	*5,000*	*b*
Phosphorus trichloride [Phosphorous trichloride]	*7719-12-2*	*15,000*	*b*
Piperidine	*110-89-4*	*15,000*	*b*
Propionitrile [Propanenitrile]	*107-12-0*	*10,000*	*b*
Propyl chloroformate [Carbonochloridic acid, propylester]	*109-61-5*	*15,000*	*b*
Propyleneimine [Aziridine, 2-methyl-]	*75-55-8*	*10,000*	*b*
Propylene oxide [Oxirane, methyl-]	*75-56-9*	*10,000*	*b*
Sulfur dioxide (anhydrous)	*7446-09-5*	*5,000*	*a, b*
Sulfur tetrafluoride [Sulfur fluoride (SF4), (T-4)-]	*7783-60-0*	*2,500*	*b*
Sulfur trioxide	*7446-11-9*	*10,000*	*a, b*
Tetramethyllead [Plumbane, tetramethyl-]	*75-74-1*	*10,000*	*b*
Tetranitromethane [Methane, tetranitro-]	*509-14-8*	*10,000*	*b*
Titanium tetrachloride [Titanium chloride (TiCl4) (T-4)-]	*7550-45-0*	*2,500*	*b*
Toluene 2,4-diisocyanate [Benzene, 2,4-diisocyanato-1-methyl-][1]	*584-84-9*	*10,000*	*a*
Toluene 2,6-diisocyanate [Benzene, 1,3-diisocyanato-2-methyl-][1]	*91-08-7*	*10,000*	*a*
Toluene diisocyanate (unspecified isomer) [Benzene, 1,3-diisocyanatomethyl-][1]	*26471-62-5*	*10,000*	*a*
Trimethylchlorosilane [Silane, chlorotrimethyl-]	*75-77-4*	*10,000*	*b*
Vinyl acetate monomer [Acetic acid ethenyl ester]	*108-05-4*	*15,000*	*b*

[1] *The mixture exemption in 68.115(b)(1) does not apply to the substance.*

Note: Basis for Listing:

a Mandated for listing by Congress.
b On EHS list, vapor pressure 10 mmHg or greater.
c Toxic gas.
d Toxicity of hydrogen chloride, potential to release hydrogen chloride, and history of accidents.
e Toxicity of sulfur trioxide and sulfuric acid, potential to release sulfur trioxide, and history of accidents.

TABLE 2 TO 68.130 - LIST OF REGULATED TOXIC SUBSTANCES AND THRESHOLD QUANTITIES FOR ACCIDENTAL RELEASE PREVENTION
[CAS NUMBER ORDER - 77 SUBSTANCES]

CAS No.	Chemical Name.	Threshold quantity (lbs.)	Basis for listing
50-00-0	Formaldehyde (solution)	15,000	b
57-14-7	1,1-Dimethylhydrazine [Hydrazine, 1,1-dimethyl-]	15,000	b
60-34-4	Methyl hydrazine [Hydrazine, methyl-]	15,000	b
67-66-3	Chloroform [Methane, trichloro-]	20,000	b
74-87-3	Methyl chloride [Methane, chloro-]	10,000	a
74-90-8	Hydrocyanic acid	2,500	a, b
74-93-1	Methyl mercaptan [Methanethiol]	10,000	b
75-15-0	Carbon disulfide	20,000	b
75-21-8	Ethylene oxide [Oxirane]	10,000	a, b
75-44-5	Phosgene [Carbonic dichloride]	500	a, b
75-55-8	Propyleneimine [Aziridine, 2-methyl-]	10,000	b
75-56-9	Propylene oxide [Oxirane, methyl-]	10,000	b
75-74-1	Tetramethyllead [Plumbane, tetramethyl-]	10,000	b
75-77-4	Trimethylchlorosilane [Silane, chlorotrimethyl-]	10,000	b
75-78-5	Dimethyldichlorosilane [Silane, dichlorodimethyl-]	5,000	b
75-79-6	Methyltrichlorosilane [Silane, trichloromethyl-]	5,000	b
78-82-0	Isobutyronitrile [Propanenitrile, 2-methyl-]	20,000	b
79-21-0	Peracetic acid [Ethaneperoxoic acid]	10,000	b
79-22-1	Methyl chloroformate [Carbonochloridic acid, methylester]	5,000	b
91-08-7	Toluene 2,6-diisocyanate [Benzene, 1,3-diisocyanato-2-methyl-][1]	10,000	a

106-89-8	*Epichlorohydrin [Oxirane, (chloromethyl)-]*	*20,000*	*b*
107-02-8	*Acrolein [2-Propenal]*	*5,000*	*b*
107-11-9	*Allylamine [2-Propen-1-amine]*	*10,000*	*b*
107-12-0	*Propionitrile [Propanenitrile]*	*10,000*	*b*
107-13-1	*Acrylonitrile [2-Propenenitrile]*	*20,000*	*b*
107-15-3	*Ethylenediamine [1,2-Ethanediamine]*	*20,000*	*b*
107-18-6	*Allyl alcohol [2-Propen-1-ol]*	*15,000*	*b*
107-30-2	*Chloromethyl methyl ether [Methane, chloromethoxy-]*	*5,000*	*b*
108-05-4	*Vinyl acetate monomer [Acetic acid ethenyl ester]*	*15,000*	*b*
108-23-6	*Isopropyl chloroformate [Carbonochloridic acid, 1-methylethyl ester]*	*15,000*	*b*
108-91-8	*Cyclohexylamine [Cyclohexanamine]*	*15,000*	*b*
109-61-5	*Propyl chloroformate [Carbonochloridic acid, propylester]*	*15,000*	*b*
110-00-9	*Furan*	*5,000*	*b*
110-89-4	*Piperidine*	*15,000*	*b*
123-73-9	*Crotonaldehyde, (E)- [2-Butenal, (E)-]*	*20,000*	*b*
126-98-7	*Methacrylonitrile [2-Propenenitrile, 2-methyl-]*	*10,000*	*b*
151-56-4	*Ethyleneimine [Aziridine]*	*10,000*	*b*
302-01-2	*Hydrazine*	*15,000*	*b*
353-42-4	*Boron trifluoride compound with methyl ther (1:1) [Boron, trifluoro[oxybis[metane]]-, T-4-*	*15,000*	*b*
506-77-4	*Cyanogen chloride*	*10,000*	*c*
509-14-8	*Tetranitromethane [Methane, tetranitro-]*	*10,000*	*b*
542-88-1	*Chloromethyl ether [Methane, oxybis[chloro-]*	*1,000*	*b*
556-64-9	*Methyl thiocyanate [Thiocyanic acid, methyl ester]*	*20,000*	*b*
584-84-9	*Toluene 2,4-diisocyanate [Benzene, 2,4-diisocyanato-1-methyl-]*[1]	*10,000*	*a*
594-42-3	*Perchloromethylmercaptan [Methanesulfenyl chloride, trichloro-]*	*10,000*	*b*
624-83-9	*Methyl isocyanate [Methane, isocyanato-]*	*10,000*	*a, b*
814-68-6	*Acrylyl chloride [2-Propenoyl chloride]*	*5,000*	*b*
4170-30-3	*Crotonaldehyde [2-Butenal]*	*20,000*	*b*

7446-09-5	*Sulfur dioxide (anhydrous)*	*5,000*	*a, b*
7446-11-9	*Sulfur trioxide*	*10,000*	*a, b*
7550-45-0	*Titanium tetrachloride [Titanium chloride (TiCl4) (T-4)-]*	*2,500*	*b*
7637-07-2	*Boron trifluoride [Borane, trifluoro-]*	*5,000*	*b*
7647-01-0	*Hydrochloric acid (conc 37% or greater)*	*15,000*	*d*
7647-01-0	*Hydrogen chloride (anhydrous) [Hydrochloric acid]*	*5,000*	*a*
7664-39-3	*Hydrogen fluoride/Hydrofluoric acid (conc 50% or greater) [Hydrofluoric Acid]*	*1,000*	*a, b*
7664-41-7	*Ammonia (anhydrous)*	*10,000*	*a, b*
7664-41-7	*Ammonia (conc 20% or greater)*	*20,000*	*a, b*
7697-37-2	*Nitric acid (conc 80% or greater)*	*15,000*	*b*
7719-12-2	*Phosphorus trichloride [Phosphorous trichloride]*	*15,000*	*b*
7726-95-6	*Bromine*	*10,000*	*a, b*
7782-41-4	*Fluorine*	*1,000*	*b*
7782-50-5	*Chlorine*	*2,500*	*a, b*
7783-06-4	*Hydrogen sulfide*	*10,000*	*a, b*
7783-07-5	*Hydrogen selenide*	*500*	*b*
7783-60-0	*Sulfur tetrafluoride [Sulfur fluoride (SF4), (T-4)-]*	*2,500*	*b*
7784-34-1	*Arsenous trichloride*	*15,000*	*b*
7784-42-1	*Arsine*	*1,000*	*b*
7803-51-2	*Phosphine*	*5,000*	*b*
8014-95-7	*Oleum (Fuming Sulfuric acid) [Sulfuric acid, mixture with sulfur trioxide]1*	*10,000*	*e*
10025-87-3	*Phosphorus oxychloride [Phosphoryl chloride]*	*5,000*	*b*
10049-04-4	*Chlorine dioxide [Chlorine oxide(ClO2)]*	*1,000*	*c*
10102-43-9	*Nitric oxide [Nitrogen oxide (NO)]*	*10,000*	*b*
10294-34-5	*Boron trichloride [Borane, trichloro-]*	*5,000*	*b*
13463-39-3	*Nickel carbonyl*	*1,000*	*b*
13463-40-6	*Iron, pentacarbonyl- [Iron carbonyl (Fe(CO)5), (TB-5-11)-]*	*2,500*	*b*
19287-45-7	*Diborane*	*2,500*	*b*
26471-62-5	*Toluene diisocyanate (unspecified isomer) [Benzene, 1,3-diisocyanatomethyl-]*[1]	*10,000*	*a*

[1] *The mixture exemption in 68.115(b)(1) does not apply to the substance.*

Note: Basis for Listing:

This is a courtesy copy of this rule. All of the Department's rules are compiled in Title 7 of the New Jersey Administrative Code.

a Mandated for listing by Congress.
b On EHS list, vapor pressure 10 mmHg or greater.
c Toxic gas.
d Toxicity of hydrogen chloride, potential to release hydrogen chloride, and history of accidents.
e Toxicity of sulfur trioxide and sulfuric acid, potential to release sulfur trioxide, and history of accidents.

Part C

40 CFR 68.130 Table 3 (and 4) incorporated by reference

Table I, Part C

TABLE 3 TO 68.130 - LIST OF REGULATED FLAMMABLE SUBSTANCES[1] AND THRESHOLD QUANTITIES FOR ACCIDENTAL RELEASE PREVENTION [ALPHABETICAL ORDER - 63 SUBSTANCES]

Chemical Name	*CAS No.*	*Threshold quantity (lbs.)*	*Basis for listing*
Acetaldehyde	*75-07-0*	*10,000*	*g*
Acetylene [Ethyne]	*74-86-2*	*10,000*	*f*
Bromotrifluorethylene [Ethene, bromotrifluoro-]	*598-73-2*	*10,000*	*f*
1,3-Butadiene	*106-99-0*	*10,000*	*f*
Butane	*106-97-8*	*10,000*	*f*
1-Butene	*106-98-9*	*10,000*	*f*
2-Butene	*107-01-7*	*10,000*	*f*
Butene	*25167-67-3*	*10,000*	*f*
2-Butene-cis	*590-18-1*	*10,000*	*f*
2-Butene-trans [2-Butene, (E)]	*624-64-6*	*10,000*	*f*
Carbon oxysulfide [Carbon oxide sulfide (COS)]	*463-58-1*	*10,000*	*f*
Chlorine monoxide [Chlorine oxide]	*7791-21-1*	*10,000*	*f*
2-Chloropropylene [1-Propene, 2-chloro-]	*557-98-2*	*10,000*	*g*
1-Chloropropylene [1-Propene, 1-chloro-]	*590-21-6*	*10,000*	*g*
Cyanogen [Ethanedinitrile]	*460-19-5*	*10,000*	*f*
Cyclopropane	*75-19-4*	*10,000*	*f*
Dichlorosilane [Silane, dichloro-]	*4109-96-0*	*10,000*	*f*
Difluoroethane [Ethane, 1,1-difluoro-]	*75-37-6*	*10,000*	*f*
Dimethylamine [Methanamine, N-methyl-]	*124-40-3*	*10,000*	*f*
2,2-Dimethylpropane [Propane, 2,2-dimethyl-]	*463-82-1*	*10,000*	*f*
Ethane	*74-84-0*	*10,000*	*f*
Ethyl acetylene [1-Butyne]	*107-00-6*	*10,000*	*f*
Ethylamine [Ethanamine]	*75-04-7*	*10,000*	*f*
Ethyl chloride [Ethane, chloro-]	*75-00-3*	*10,000*	*f*
Ethylene [Ethene]	*74-85-1*	*10,000*	*f*
Ethyl ether [Ethane, 1,1'-oxybis-]	*60-29-7*	*10,000*	*g*
Ethyl mercaptan [Ethanethiol]	*75-08-1*	*10,000*	*g*

Ethyl nitrite [Nitrous acid, ethyl ester]	*109-95-5*	*10,000*	*f*
Hydrogen	*1333-74-0*	*10,000*	*f*
Isobutane [Propane, 2-methyl]	*75-28-5*	*10,000*	*f*
Isopentane [Butane, 2-methyl-]	*78-78-4*	*10,000*	*g*
Isoprene [1,3-Butadiene, 2-methyl-]	*78-79-5*	*10,000*	*g*
Isopropylamine [2-Propanamine]	*75-31-0*	*10,000*	*g*
Isopropyl chloride [Propane, 2-chloro-]	*75-29-6*	*10,000*	*g*
Methane	*74-82-8*	*10,000*	*f*
Methylamine [Methanamine]	*74-89-5*	*10,000*	*f*
3-Methyl-1-butene	*563-45-1*	*10,000*	*f*
2-Methyl-1-butene	*563-46-2*	*10,000*	*g*
Methyl ether [Methane, oxybis-]	*115-10-6*	*10,000*	*f*
Methyl formate [Formic acid, methyl ester]	*107-31-3*	*10,000*	*g*
2-Methylpropene [1-Propene, 2-methyl-]	*115-11-7*	*10,000*	*f*
1,3-Pentadiene	*504-60-9*	*10,000*	*f*
Pentane	*109-66-0*	*10,000*	*g*
1-Pentene	*109-67-1*	*10,000*	*g*
2-Pentene, (E)-	*646-04-8*	*10,000*	*g*
2-Pentene, (Z)-	*627-20-3*	*10,000*	*g*
Propadiene [1,2-Propadiene]	*463-49-0*	*10,000*	*f*
Propane	*74-98-6*	*10,000*	*f*
Propylene [1-Propene]	*115-07-1*	*10,000*	*f*
Propyne [1-Propyne]	*74-99-7*	*10,000*	*f*
Silane	*7803-62-5*	*10,000*	*f*
Tetrafluoroethylene [Ethene, tetrafluoro-]	*116-14-3*	*10,000*	*f*
Tetramethylsilane [Silane, tetramethyl-]	*75-76-3*	*10,000*	*g*
Trichlorosilane [Silane, trichloro-]	*10025-78-2*	*10,000*	*g*
Trifluorochloroethylene [Ethene, chlorotrifluoro-]	*79-38-9*	*10,000*	*f*
Trimethylamine [Methanamine, N,N-dimethyl-]	*75-50-3*	*10,000*	*f*
Vinyl acetylene [1-Buten-3-yne]	*689-97-4*	*10,000*	*f*
Vinyl chloride [Ethene, chloro-]	*75-01-4*	*10,000*	*a, f*
Vinyl ethyl ether [Ethene, ethoxy-]	*109-92-2*	*10,000*	*g*
Vinyl fluoride [Ethene, fluoro-]	*75-02-5*	*10,000*	*f*
Vinylidene chloride [Ethene, 1,1-dichloro-]	*75-35-4*	*10,000*	*g*
Vinylidene fluoride [Ethene, 1,1-difluoro-]	*75-38-7*	*10,000*	*f*

Vinyl methyl ether [Ethene, methoxy-]	*107-25-5*	*10,000*	*f*

[1] A flammable substance when used as a fuel or held for sale as a fuel at a retail facility is excluded from all provisions of this part (see §68.126).

Note:Basis for Listing:
a Mandated for listing by Congress.
f Flammable gas.
g Volatile flammable liquid.

TABLE 4 TO 68.130 - LIST OF REGULATED FLAMMABLE SUBSTANCES[1] AND THRESHOLD QUANTITIES FOR ACCIDENTAL RELEASE PREVENTION
[CAS NUMBER ORDER - 63 SUBSTANCES]

CAS No.	*Chemical Name.*	*CAS No.*	*Threshold quantity (lbs.)*	*Basis for listing*
60-29-7	*Ethyl ether [Ethane, 1,1'-oxybis-]*	*60-29-7*	*10,000*	*g*
74-82-8	*Methane*	*74-82-8*	*10,000*	*f*
74-84-0	*Ethane*	*74-84-0*	*10,000*	*f*
74-85-1	*Ethylene [Ethene]*	*74-85-1*	*10,000*	*f*
74-86-2	*Acetylene [Ethyne]*	*74-86-2*	*10,000*	*f*
74-89-5	*Methylamine [Methanamine]*	*74-89-5*	*10,000*	*f*
74-98-6	*Propane*	*74-98-6*	*10,000*	*f*
74-99-7	*Propyne [1-Propyne]*	*74-99-7*	*10,000*	*f*
75-00-3	*Ethyl chloride [Ethane, chloro-]*	*75-00-3*	*10,000*	*f*
75-01-4	*Vinyl chloride [Ethene, chloro-]*	*75-01-4*	*10,000*	*a, f*
75-02-5	*Vinyl fluoride [Ethene, fluoro-]*	*75-02-5*	*10,000*	*f*
75-04-7	*Ethylamine [Ethanamine]*	*75-04-7*	*10,000*	*f*
75-07-0	*Acetaldehyde*	*75-07-0*	*10,000*	*g*
75-08-1	*Ethyl mercaptan [Ethanethiol]*	*75-08-1*	*10,000*	*g*
75-19-4	*Cyclopropane*	*75-19-4*	*10,000*	*f*
75-28-5	*Isobutane [Propane, 2-methyl]*	*75-28-5*	*10,000*	*f*
75-29-6	*Isopropyl chloride [Propane, 2-chloro-]*	*75-29-6*	*10,000*	*g*
75-31-0	*Isopropylamine [2-Propanamine]*	*75-31-0*	*10,000*	*g*

75-35-4	*Vinylidene chloride [Ethene, 1,1-dichloro-]*	*75-35-4*	*10,000*	*g*
75-37-6	*Difluoroethane [Ethane, 1,1-difluoro-]*	*75-37-6*	*10,000*	*f*
75-38-7	*Vinylidene fluoride [Ethene, 1,1-difluoro-]*	*75-38-7*	*10,000*	*f*
75-50-3	*Trimethylamine [Methanamine, N,N-dimethyl-]*	*75-50-3*	*10,000*	*f*
75-76-3	*Tetramethylsilane [Silane, tetramethyl-]*	*75-76-3*	*10,000*	*g*
78-78-4	*Isopentane [Butane, 2-methyl-]*	*78-78-4*	*10,000*	*g*
78-79-5	*Isoprene [1,3-Butadiene, 2-methyl-]*	*78-79-5*	*10,000*	*g*
79-38-9	*Trifluorochloroethylene [Ethene, chlorotrifluoro-]*	*79-38-9*	*10,000*	*f*
106-97-8	*Butane*	*106-97-8*	*10,000*	*f*
106-98-9	*1-Butene*	*106-98-9*	*10,000*	*f*
106-99-0	*1,3-Butadiene*	*106-99-0*	*10,000*	*f*
107-00-6	*Ethyl acetylene [1-Butyne]*	*107-00-6*	*10,000*	*f*
107-01-7	*2-Butene*	*107-01-7*	*10,000*	*f*
107-25-5	*Vinyl methyl ether [Ethene, methoxy-]*	*107-25-5*	*10,000*	*f*
107-31-3	*Methyl formate [Formic acid, methyl ester]*	*107-31-3*	*10,000*	*g*
109-66-0	*Pentane*	*109-66-0*	*10,000*	*g*
109-67-1	*1-Pentene*	*109-67-1*	*10,000*	*g*
109-92-2	*Vinyl ethyl ether [Ethene, ethoxy-]*	*109-92-2*	*10,000*	*g*
109-95-5	*Ethyl nitrite [Nitrous acid, ethyl ester]*	*109-95-5*	*10,000*	*f*
115-07-1	*Propylene [1-Propene]*	*115-07-1*	*10,000*	*f*
115-10-6	*Methyl ether [Methane, oxybis-]*	*115-10-6*	*10,000*	*f*
115-11-7	*2-Methylpropene , [1-Propene 2-methyl-]*	*115-11-7*	*10,000*	*f*
116-14-3	*Tetrafluoroethylene [Ethene, tetrafluoro-]*	*116-14-3*	*10,000*	*f*
124-40-3	*Dimethylamine , [Methanamine N-methyl-]*	*124-40-3*	*10,000*	*f*
460-19-5	*Cyanogen [Ethanedinitrile]*	*460-19-5*	*10,000*	*f*
463-49-0	*Propadiene [1,2-Propadiene]*	*463-49-0*	*10,000*	*f*
463-58-1	*Carbon oxysulfide [Carbon oxide sulfide (COS)]*	*463-58-1*	*10,000*	*f*

463-82-1	*2,2-Dimethylpropane [Propane, 2,2-dimethyl-]*	*463-82-1*	*10,000*	*f*
504-60-9	*1,3-Pentadiene*	*504-60-9*	*10,000*	*f*
557-98-2	*2-Chloropropylene [1-Propene, 2-chloro-]*	*557-98-2*	*10,000*	*g*
563-45-1	*3-Methyl-1-butene*	*563-45-1*	*10,000*	*f*
563-46-2	*2-Methyl-1-butene*	*563-46-2*	*10,000*	*g*
590-18-1	*2-Butene-cis*	*590-18-1*	*10,000*	*f*
590-21-6	*1-Chloropropylene [1-Propene, 1-chloro-]*	*590-21-6*	*10,000*	*g*
598-73-2	*Bromotrifluorethylene [Ethene, bromotrifluoro-]*	*598-73-2*	*10,000*	*f*
624-64-6	*2-Butene-trans [2-Butene, (E)]*	*624-64-6*	*10,000*	*f*
627-20-3	*2-Pentene, (Z)-*	*627-20-3*	*10,000*	*g*
646-04-8	*2-Pentene, (E)-*	*646-04-8*	*10,000*	*g*
689-97-4	*Vinyl acetylene [1-Buten-3-yne]*	*689-97-4*	*10,000*	*f*
1333-74-0	*Hydrogen*	*1333-74-0*	*10,000*	*f*
4109-96-0	*Dichlorosilane [Silane, dichloro-]*	*4109-96-0*	*10,000*	*f*
7791-21-1	*Chlorine monoxide [Chlorine oxide]*	*7791-21-1*	*10,000*	*f*
7803-62-5	*Silane*	*7803-62-5*	*10,000*	*f*
10025-78-2	*Trichlorosilane [Silane, trichloro-]*	*10025-78-2*	*10,000*	*g*
25167-67-3	*Butene*	*25167-67-3*	*10,000*	*f*

[1] A flammable substance when used as a fuel or held for sale as a fuel at a retail facility is excluded from all provisions of this part (see §68.126).

Note:Basis for listing:

a Mandated for listing by Congress.
f Flammable gas.
g Volatile flammable liquid.

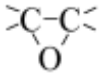
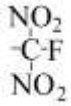
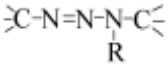
Table I, Part D, Group I
List of Individual Reactive Hazard Substances

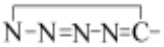
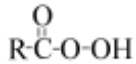
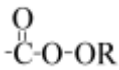
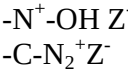
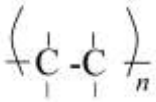
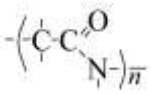
	Substance	CAS #	Threshold Quantity (pounds)	Basis for Listing
1.	Acetyl Peroxide	110-22-5	2,500	e
2.	Butyl Hydroperoxide tertiary	75-91-2	2,500	e
3.	Butyl hypochlorite tertiary	507-40-4	2,500	b
4.	Calcium dithionite or Calcium hydrosulfite	15512-36-4	5,000	b
5.	Chlorodinitrobenzenes	97-00-7	2,500	d, e
6.	Cumene Hydroperoxide	80-15-9	2,500	e
7.	Dibenzoyl peroxide	94-36-0	2,500	f
8.	Diethyl Peroxide	628-37-5	2,500	e
9.	Diisopropyl Peroxydicarbonate	105-64-6	2,500	e
10.	Dinitro phenol, dry or wet,less than 15% water as 2,4	51-28-5	2,500	a
11.	Dinitro resourcinol (wetted with not less than 15% water)	35860-51-6	2,500	a
12.	Dipicryl sulfide	2217-06-3	2,500	a
13.	Di-tert-butyl Peroxide	110-05-4	2,500	e
14.	Divinyl Acetylene	821-08-9	2,500	e
15.	Ethyl Nitrate	625-58-1	2,500	e
16.	Ethyl Nitrite (solutions)	109-95-5	2,500	d, e
17.	Isosorbide dinitrate	87-33-2	2,500	a
18.	Magnesium diamide	7803-54-5	2,500	b
19.	m-Dinitrobenzene	99-65-0	2,500	d
20.	Nitroglycerine (alcohol solution)	55-63-0	2,500	e
21.	Nitromethane	75-52-5	2,500	d, e
22.	o-Dinitrobenzene	528-29-0	2,500	e
23.	p-Dinitrobenzene	100-25-4	2,500	d
24.	Peracetic acid (greater than 56% peracetic acid)	79-21-0	2,500	d, e
25.	Picric acid (wet, with not less than 10% water)	88-89-1	2,500	d
26.	Potassium dithionite or Potassium hydrosulfite	14293-73-3	5,000	b
27.	Propargyl bromide (3-Bromopropyne)	106-96-7	2,500	d, e
28.	Silver picrate wetted with not less than 30% water	146-84-9	2,500	a
29.	Sodium dithionite or Sodium hydrosulfite	7775-14-6	5,000	b
30.	Trinitro benzene as 1,3,5 (wetted not less than 30 % water)	99-35-4	2,500	a

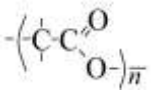
Basis for listing:
a = DOT 4.1
b = DOT 4.2
c = DOT 4.3
d = NFPA 49

e = NFPA 325
f = NFPA 432

Table I, Part D, Group II
Reactive Hazard Substance Mixtures Functional Groups
(For Threshold Quantity Determination See N.J.A.C. 7:31-6.3(b) and N.J.A.C. 7:31-6.3(c))

	Functional Group(s)	Reactive Substance Class
1.	-C≡C-	Acetylenic compounds
2.	-C≡C-M	Metal acetylides
3.	-C≡C-X	Haloacetylene derivatives
		Diazirines
4.	CN_2	Diazo compounds
5.	-C-N=O -N-N=O	Nitroso compounds
6.	-C-NO_2 Ar-NO_2, Ar$(NO_2)_n$ C$(NO_2)_n$ O_2NC-CNO_2 HC[$OCH_2C(NO_2)_3]_3$, C[$OCH_2C(NO_2)_3]_4$	Nitroalkanes, C-nitro and Nitroaryl and Polynitroaryl compounds Polynitroalkyl compounds Trinitroethyl orthoesters
7.	-C-O-N=O	Acyl or alkyl nitrites
8.	-C-O-NO_2	Acyl or alkyl nitrates
9.		1,2-Epoxides
10.	MC≡N→O C=N-O-M	Metal fulminates or aci-nitro salts, oximates
11.		Fluorodinitromethyl compounds
12.	-N-M	N-metal derivatives
13.	-N=Hg^+=N-	Poly(dimercuryimmonium salts)
14.	-N-NO_2	N-nitro compounds
15.	=N^+-N-NO_2	N-Azolium nitroimidates
16.	-C-N=N-C-	Azo compounds
17.	Ar-N=N-O-R	Arenediazoates
18.	ArN=N-S-Ar	Arenediazo aryl sulfides
19.	Ar-N=N-O-N=N-Ar	Bis(arenediazo) oxides
20.	Ar-N=N-S-N=N-Ar	Bis(arenediazo) sulfides
21.	 (R=H, CN, OH, NO)	Trizenes (TCPA note: typographical error, correct spelling is "Triazines"

	Functional Group(s)	Reactive Substance Class
22.	-N=N-N=N-	High-nitrogen compounds
		Tetrazoles
23.	-C-O-O-H	Alkylhydroperoxides
		Peroxyacids
24.	-C-O-O-C-	Peroxides (cyclic, diacyl, dialkyl,), peroxyesters
		
25.	-O-O-M	Metal peroxides, peroxoacid salts
	EOO^-	
	MOO^-	
26.	-O-O-E	Peroxoacids, peroxyesters
27.	$H_3N \rightarrow Cr$-OO-	Amminechromium peroxocomplexes
28.	$-N_3$	Azides (acyl, halogen, nonmetal, organic)
29.		Arenediazonium oxides
30.	$-C-N_2^+S^-$	Diazonium sulfides and derivatives, "Xanthates"
31.	N^+-HZ^-	Hydrazinium salts
	$N^+EO_n^-$	Oxosalts of nitrogenous bases
32.	$-N^+$-OH Z^-	Hydroxylaminium salts
33.	$-C-N_2^+Z^-$	Diazonium carboxylates or salts
34.	$[N \rightarrow Metal]^+ Z^-$	Amminemetal oxosalts
35.	Ar-Metal-X	Halo-arylmetals
	X-Ar-Metal	Haloarenemetal π-complexes
36.	-N-X	Halogen azides
	XN_3	N-halogen compounds
		N-haloimides
37.	$-N-F_2$	Difluoroamino compounds
	$-C(NF)NF_2$	*N,N,N*-trifluoroalkylamidines
38.	N-O-	N-O compounds
39.	-O-X	Hypohalites
	XO_n	Halogen oxides
	$-Cl-O_3$	Perchloryl compounds
	ClO_2^-	Chlorite salts
	$R-O-Cl-O_3$	Alkyl perchlorates
	$RN^+H_3ClO_4^-$	Aminium perchlorates
40.		Polymerization, alkene (vinyl) polymers and monomers thereof
41.		Polymerization, polyamide polymers and monomers thereof

	Functional Group(s)	Reactive Substance Class
42.		Polymerization, polyester polymers and monomers thereof
43.	$S_2O_4^{--}$	Dithionites
44.	-C-Metal	Organometallics

Abbreviations: Ar = aromatic (benzene); M = metal; R = organic chain; X = halogen; E = nonmetal; Z = anion; n = integer variable; all other abbreviations are for the element symbols from the periodic table of elements

Note: Not all chemical bond symbols are shown.

(b) The following conditions apply for determining whether RHSs or RHS Mixtures listed in Part D of Table I are subject to the requirements of this chapter.

1. Individual RHSs listed in Table I, Part D, Group I that are received, stored, and handled in combination with one or more other chemical substances specifically formulated to inhibit the reactive hazard (such as water reactivity, pyrophoric, or self-reacting) of the RHS shall not be exempt from this chapter.

2. An RHS Mixture is a combination of substances that is intentionally mixed in a process vessel and is capable of undergoing an exothermic chemical reaction, which produces toxic or flammable EHSs or energy. RHS mixtures include a reactant, product, or byproduct that is a chemical substance or a mixture of substances having one or more of the chemical functional groups specified in Table I, Part D, Group II. An RHS mixture has a heat of reaction which, by convention, is expressed as a negative value for an exothermic reaction, that has an absolute value greater than or equal to 100 calories per gram of RHS mixture. Non-reacting substances such as solvents shall not be included in the determination of the heat of reaction value of the RHS mixture.

3 The heat of solution or dilution shall not be considered when determining whether a mixture of substances is an RHS subject to this chapter.

4. RHS mixtures that are only processed in a scrubber that is operated as an air pollution control device in compliance with the conditions of a State permit pursuant to the Air Pollution Control Act, N.J.S.A. 26:2C-1 et seq. shall not be subject to this chapter.

5. The owner or operator shall determine and document the heat of reaction by using one of the following methods:

i. Testing the intended combination in a calorimetry test to the lower of 400 degrees Celsius or the maximum achievable temperature in the process vessel; or

ii. A generally accepted practice such as a literature review or engineering calculations applicable to the RHS mixture to the lower of 400 degrees or the maximum achievable temperature in the process vessel.

6. The heat of reaction of an RHS mixture in a semi-batch reaction shall be determined assuming that all reactants are added at the same time as in a batch reaction.

This is a courtesy copy of this rule. All of the Department's rules are compiled in Title 7 of the New Jersey Administrative Code.

(c) **Table II - Reactive Hazard Substance Mixture Threshold Quantities**

- Heat of Reaction ($-\Delta H_R$) (calories/g)	**Threshold Quantity (Pounds)**
$100 \leq -\Delta H_R < 200$	13,100
$200 \leq -\Delta H_R < 300$	8,700
$300 \leq -\Delta H_R < 400$	6,500
$400 \leq -\Delta H_R < 500$	5,200
$500 \leq -\Delta H_R < 600$	4,400
$600 \leq -\Delta H_R < 700$	3,700
$700 \leq -\Delta H_R < 800$	3,300
$800 \leq -\Delta H_R < 900$	2,900
$900 \leq -\Delta H_R < 1,000$	2,600
$-\Delta H_R \geq 1,000$	2,400

SUBCHAPTER 7. RISK MANAGEMENT PLAN AND TCPA PROGRAM SUBMISSION

7:31-7.1 Incorporation by reference

(a) This subchapter incorporates by reference the provisions of 40 CFR 68 Subpart G, Risk Management Plan, including all future amendments and supplements, except as provided below.

(b) The following provisions of 40 CFR 68 Subpart G are not incorporated by reference: *40 CFR 68.165(a)(1)* and *40 CFR 68.185(a)*.

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

1. *40 CFR 68.150(a)* Submission, add the following phrase to the end of the last sentence "for covered processes regulated under to 40 CFR 68."

2. *40 CFR 68.150(a)* Submission, after "June 21, 1999" add the following sentence, "Submittal of the RMP to the Department shall be in accordance with *N.J.A.C. 7:31-7.2* below."

3. *40 CFR 68.190(a)* Updates, in the first sentence after "owner or operator", add "of a covered process regulated under 40 CFR 68".

4. *40 CFR 68.190(a)* Updates, after "June 21, 1999" add the following sentence, "For all covered processes submittal of updates to the Department shall be in accordance with *40 CFR 68.190(b)* and *N.J.A.C. 7:31-7.2*."

5. *40 CFR 68.190(b)* Updates, after "§ 68.150" add "with changes specified at *N.J.A.C. 7:31-7.1(c)*1 and 2."

6. *40 CFR 68.190(c)*, after EPA, add "and the Department."

7. 40 CFR 68.150(b)(3), delete "above a threshold quantity in a process" and replace with "at or above a threshold quantity at the facility."

8. 40 CFR 68.160(b)(7), in the phrase, "For each covered process, the name and CAS number of each regulated substance held above the threshold quantity in the process," replace "above the threshold quantity in the process" with "at or above the threshold quantity at the facility".

9. 40 CFR 68.165(a)(2), delete all references to "Program 2". (Note: Operative March 16, 2010)

10. Delete 40 CFR 68.170. (Note: Operative March 16, 2010)

11. 40 CFR 68.190(b)5, delete "or hazard review". (Note: Operative March 16, 2010)

12. 40 CFR 68.195(a), delete "68.170(j)". (Note: Operative March 16, 2010)

40 CFR 68 Subpart G--Risk Management Plan

§68.150 Submission.

(a) The owner or operator shall submit a single RMP that includes the information required by Secs. 68.155 through 68.185 for all covered processes. The RMP shall be submitted in a method and format to a central point as specified by EPA ***~~prior to June 21, 1999~~ as of the date of submission*** for covered processes regulated under 40 CFR 68. Submittal of the RMP to the Department shall be in accordance with N.J.A.C. 7:31-7.2 below.

(b) The owner or operator shall submit the first RMP no later than the latest of the following dates:

(1) June 21, 1999;

(2) Three years after the date on which a regulated substance is first listed under § 68.130; or

(3) The date on which a regulated substance is first present at or above a threshold quantity at the facility. ~~*above a threshold quantity in a process*~~.

(c) The owner or operator of any stationary source for which an RMP was submitted before June 21, 2004, shall revise the RMP to include the information required by Sec. 68.160(b)(6) and (14) by June 21, 2004 in the manner specified by EPA prior to that date. Any such submission shall also include the information required by Sec. 68.160(b)(20) (indicating that the submission is a correction to include the information required by Sec. 68.160(b)(6) and (14) or an update under Sec. 68.190).

~~(c)~~(d) ~~Subsequent submissions of RMPs shall be in accordance with § 68.190.~~ RMPs submitted under this section shall be updated and corrected in accordance with Sec. Sec. 68.190 and 68.195.

~~(d)~~(e) *Notwithstanding the provisions of Secs. 68.155 to 68.190, the RMP shall exclude classified information. Subject to appropriate procedures to protect such information from public disclosure, classified data or information excluded from the RMP may be made available in a classified annex to the RMP for review by Federal and state representatives who have received the appropriate security clearances.*

~~(e)~~(f) *Procedures for asserting that information submitted in the RMP is entitled to protection as confidential business information are set forth in §§ 68.151 and 68.152.*

§68.151 Assertion of claims of confidential business information.

(a) Except as provided in paragraph (b) of this section, an owner or operator of a stationary source required to report or otherwise provide information under this part may make a claim of confidential business information for any such information that meets the criteria set forth in 40 CFR 2.301.

(b) Notwithstanding the provisions of 40 CFR part 2, an owner or operator of a stationary source subject to this part may not claim as confidential business information the following information:

(1) Registration data required by § 68.160(b)(1) through (b)(6) and (b)(8), (b)(10) through (b)(13) and NAICS code and Program level of the process set forth in § 68.160(b)(7);

(2) Offsite consequence analysis data required by § 68.165(b)(4), (b)(9), (b)(10), (b)(11), and (b)(12);

(3) Accidental history data required by § 68.168;

(4) Prevention program data required by § 68.170(b), (d), (e)(1), (f) through (k);

(5) Prevention program data required by § 68.175(b), (d), (e)(1), (f) through (p); and

(6) Emergency response program data required by § 68.180.

(c) Notwithstanding the procedures specified in 40 CFR part 2, an owner or operator asserting a claim of CBI with respect to information contained in its RMP, shall submit to EPA at the time it submits the RMP the following:

(1) The information claimed confidential, provided in a format to be specified by EPA;

(2) A sanitized (redacted) copy of the RMP, with the notation "CBI" substituted for the information claimed confidential, except that a generic category or class name shall be substituted for any chemical name or identity claimed confidential; and

(3) The document or documents substantiating each claim of confidential business information, as described in § 68.152.

§68.152 Substantiating claims of confidential business information.

(a) An owner or operator claiming that information is confidential business information must substantiate that claim by providing documentation that demonstrates that the claim meets the substantive criteria set forth in 40 CFR 2.301.

(b) Information that is submitted as part of the substantiation may be claimed confidential by marking it as confidential business information. Information not so marked will be treated as public and may be disclosed without notice to the submitter. If information that is submitted as part of the substantiation is claimed confidential, the owner or operator must provide a sanitized and unsanitized version of the substantiation.

(c) The owner, operator, or senior official with management responsibility of the stationary source shall sign a certification that the signer has personally examined the information submitted and that based on inquiry of the persons who compiled the information, the information is true, accurate, and complete, and that those portions of the substantiation claimed as confidential business information would, if disclosed, reveal trade secrets or other confidential business information.

§68.155 Executive summary.

The owner or operator shall provide in the RMP an executive summary that includes a brief description of the following elements:

(a) The accidental release prevention and emergency response policies at the stationary source;

(b) The stationary source and regulated substances handled;

~~(c) 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;~~

***~~(d)~~(c)** The general accidental release prevention program and chemical specific prevention steps;*

***~~(e)~~(d)** The five-year accident history;*

***~~(f)~~(e)** The emergency response program; and*

***~~(g)~~(f)** Planned changes to improve safety.*

§68.160 Registration.

(a) The owner or operator shall complete a single registration form and include it in the RMP. The form shall cover all regulated substances handled in covered processes.

(b) The registration shall include the following data:

(1) Stationary source name, street, city, county, state, zip code, latitude and longitude, method for obtaining latitude and longitude, and description of location that latitude and longitude represent;

(2) The stationary source Dun and Bradstreet number;

(3) Name and Dun and Bradstreet number of the corporate parent company;

(4) The name, telephone number, and mailing address of the owner or operator;

*(5) The name and title of the person or position with overall responsibility for RMP elements and implementation**, and (optional) the e-mail address for that person or position**;*

*(6) The name, title, telephone number, ~~**and**~~ 24-hour telephone **number, and, as of June 21, 2004, the e-mail address (if an e-mail address exists)** of the emergency contact;*

(7) For each covered process, the name and CAS number of each regulated substance held at or above the threshold quantity at the facility *~~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;*

(8) The stationary source EPA identifier;

(9) The number of full-time employees at the stationary source;

(10) Whether the stationary source is subject to 29 CFR 1910.119;

(11) Whether the stationary source is subject to 40 CFR part 355;

(12) If the stationary source has a CAA Title V operating permit, the permit number; and

(13) 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.

(14) As of June 21, 2004, the name, the mailing address, and the telephone number of the contractor who prepared the RMP (if any);

*~~(14)~~**(15)** Source or Parent Company E-mail Address (Optional);*

*~~(15)~~**(16)** Source Homepage address (Optional)*

*~~(16)~~**(17)** Phone number at the source for public inquiries (Optional);*

*~~(17)~~**(18)** Local Emergency Planning Committee (Optional);*

*~~(18)~~**(19)** OSHA Voluntary Protection Program status (Optional);*

(20) As of June 21, 2004, the type of and reason for any changes being made to a previously submitted RMP; the types of changes to RMP are categorized as follows:

(i) Updates and re-submissions required under Sec. 68.190(b);

(ii) Corrections under Sec. 68.195 or for purposes of correcting minor clerical errors, updating administrative information, providing missing data elements or reflecting facility ownership changes, and which do not require an update and re-submission as specified in Sec. 68.190(b);

(iii) De-registrations required under Sec. 68.190(c); and

(iv) Withdrawals of an RMP for any facility that was erroneously considered subject to this part 68.

§68.165 Offsite consequence analysis.

(a) The owner or operator shall submit in the RMP information:

~~(1) One worst-case release scenario for each Program 1 process; and~~

(2) For Program ~~2 and~~ 3 processes, 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. If additional worst-case scenarios for toxics or flammables are required by § 68.25(a)(2)(iii), the owner or operator shall submit the same information on the additional scenario(s). The owner or operator of Program ~~2 and~~ 3 processes shall also 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.

(b) The owner or operator shall submit the following data:
(1) Chemical name;
(2) Percentage weight of the chemical in a liquid mixture (toxics only);
(3) Physical state (toxics only);
(4) Basis of results (give model name if used);
(5) Scenario (explosion, fire, toxic gas release, or liquid spill and vaporization);
(6) Quantity released in pounds;
(7) Release rate;
(8) Release duration;
(9) Wind speed and atmospheric stability class (toxics only);
(10) Topography (toxics only);
(11) Distance to endpoint;
(12) Public and environmental receptors within the distance;
(13) Passive mitigation considered; and
(14) Active mitigation considered (alternative releases only);

§68.168 Five-year accident history.

The owner or operator shall submit in the RMP the information provided in § 68.42(b) on each accident covered by § 68.42(a).

~~*§68.170 Prevention program/Program 2.*~~

~~*(a) For each Program 2 process, the owner or operator shall provide in the RMP the information indicated in paragraphs (b) through (k) of this section. If the same information applies to more than one covered process, the owner or operator may provide the information only once, but shall indicate to which processes the information applies.*~~
~~*(b) The five- or six-digit NAICS code that most closely corresponds to the process.*~~
~~*(c) The name(s) of the chemical(s) covered.*~~
~~*(d) 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.*~~
~~*(e) The date of completion of the most recent hazard review or update.*~~
~~*(1) The expected date of completion of any changes resulting from the hazard review;*~~
~~*(2) Major hazards identified;*~~
~~*(3) Process controls in use;*~~
~~*(4) Mitigation systems in use;*~~
~~*(5) Monitoring and detection systems in use; and*~~
~~*(6) Changes since the last hazard review.*~~
~~*(f) The date of the most recent review or revision of operating procedures.*~~
~~*(g) The date of the most recent review or revision of training programs;*~~
~~*(1) The type of training provided—classroom, classroom plus on the job, on the job; and*~~
~~*(2) The type of competency testing used.*~~
~~*(h) 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.*~~

~~*(i) The date of the most recent compliance audit and the expected date of completion of any changes resulting from the compliance audit.*~~

~~*(j) The date of the most recent incident investigation and the expected date of completion of any changes resulting from the investigation.*~~

~~*(k) The date of the most recent change that triggered a review or revision of safety information, the hazard review, operating or maintenance procedures, or training.*~~

§68.175 Prevention program/Program 3.

(a) For each Program 3 process, the owner or operator shall provide the information indicated in paragraphs (b) through (p) of this section. If the same information applies to more than one covered process, the owner or operator may provide the information only once, but shall indicate to which processes the information applies.

(b) The five- or six-digit NAICS code that most closely corresponds to the process.

(c) The name(s) of the substance(s) covered.

(d) The date on which the safety information was last reviewed or revised.

(e) The date of completion of the most recent PHA or update and the technique used.

(1) The expected date of completion of any changes resulting from the PHA;

(2) Major hazards identified;

(3) Process controls in use;

(4) Mitigation systems in use;

(5) Monitoring and detection systems in use; and

(6) Changes since the last PHA.

(f) The date of the most recent review or revision of operating procedures.

(g) The date of the most recent review or revision of training programs;

(1) The type of training provided--classroom, classroom plus on the job, on the job; and

(2) The type of competency testing used.

(h) 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.

(i) The date of the most recent change that triggered management of change procedures and the date of the most recent review or revision of management of change procedures.

(j) The date of the most recent pre-startup review.

(k) The date of the most recent compliance audit and the expected date of completion of any changes resulting from the compliance audit;

(l) The date of the most recent incident investigation and the expected date of completion of any changes resulting from the investigation;

(m) The date of the most recent review or revision of employee participation plans;

(n) The date of the most recent review or revision of hot work permit procedures;

(o) The date of the most recent review or revision of contractor safety procedures; and

(p) The date of the most recent evaluation of contractor safety performance.

§68.180 Emergency response program.

(a) The owner or operator shall provide in the RMP the following information:

(1) Do you have a written emergency response plan?

(2) Does the plan include specific actions to be taken in response to an accidental releases of a regulated substance?

(3) Does the plan include procedures for informing the public and local agencies responsible for responding to accidental releases?

(4) Does the plan include information on emergency health care?

(5) The date of the most recent review or update of the emergency response plan;

(6) The date of the most recent emergency response training for employees.

(b) The owner or operator shall provide the name and telephone number of the local agency with which emergency response activities and the emergency response plan is coordinated.

(c) The owner or operator shall list other Federal or state emergency plan requirements to which the stationary source is subject.

§68.185 Certification.

~~*(a) For Program 1 processes, the owner or operator shall submit in the RMP the certification statement provided in § 68.12(b)(4).*~~

(b) For all other covered processes, the owner or operator shall 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.

§68.190 Updates.

(a) The owner or operator of a covered process regulated under 40 CFR 68 *shall review and update the RMP as specified in paragraph (b) of this section and submit it in a method and format to a central point specified by EPA* ~~***prior to June 21, 1999***~~ ***as of the date of submission***. For all covered processes submittal of updates to the Department shall be in accordance with 40 CFR 68.190(b) and N.J.A.C. 7:31-7.2.

(b) The owner or operator of a stationary source shall revise and update the RMP submitted under §68.150 with changes specified at N.J.A.C. 7:31-7.1(c)1 and 2 *as follows:*

(1) ~~***Within five years of its initial submission or most recent update required by paragraphs (b)(2) through (b)(7) of this section, whichever is later.***~~ ***At least once every five years from the date of its initial submission or most recent update required by paragraphs (b)(2) through (b)(7) of this section, whichever is later. For purposes of determining the date of initial submissions, RMPs submitted before June 21, 1999 are considered to have been submitted on that date.***

(2) No later than three years after a newly regulated substance is first listed by EPA;

(3) No later than the date on which a new regulated substance is first present in an already covered process above a threshold quantity;

(4) No later than the date on which a regulated substance is first present above a threshold quantity in a new process;

(5) Within six months of a change that requires a revised PHA ~~*or hazard review*~~*;*

(6) Within six months of a change that requires a revised offsite consequence analysis as provided in § 68.36; and

(7) Within six months of a change that alters the Program level that applied to any covered process.

(c) If a stationary source is no longer subject to this part, the owner or operator shall submit a ***~~revised registration~~ deregistration*** *to EPA* and the Department *within six months indicating that the stationary source is no longer covered.*

§68.195 Required corrections.

The owner or operator of a stationary source for which a RMP was submitted shall correct the RMP as follows:

(a) New accident history information--For any accidental release meeting the five-year accident history reporting criteria of Sec. 68.42 and occurring after April 9, 2004, the owner or operator shall submit the data required under Sec. Sec. 68.168, ~~68.170(j),~~ and 68.175(l) with respect to that accident within six months of the release or by the time the RMP is updated under Sec. 68.190, whichever is earlier.

(b) Emergency contact information--Beginning June 21, 2004, within one month of any change in the emergency contact information required under Sec. 68.160(b)(6), the owner or operator shall submit a correction of that information.

Additional New Jersey Requirements

7:31-7.2 TCPA Risk Management Plan submission and updates

(a) All owners or operators shall submit the following to the Department in a format to be specified:

1. All documents required by 40 CFR 68.150 with changes specified at N.J.A.C. 7:31-7.1(c)1-2.; and

2. The following supplemental TCPA program information:

i. Identification of the position titles, expertise and affiliation of the persons involved with the development of each element of the risk management program;

ii. A description and profile of the area in which the covered process is situated, including its proximity to population and water supplies;

iii. Identification of 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; and

iv. Identification of the extraordinarily hazardous substances inventory at the covered process as end products, intermediate products, by-products or waste products.

3. The owner or operator shall identify and register each covered process having an individual RHS or an RHS mixture and provide the following information in the RMP registration section pursuant to 40 CFR 68.160(b)(7) incorporated at N.J.A.C. 7:31-7.1(a):

i. For each individual RHS listed at N.J.A.C. 7:31-6.3(a), Table I, Part D, Group I, the owner or operator shall register the total amount of the individual RHS in the covered process.

ii. For each regulated RHS mixture identified pursuant to N.J.A.C. 7:31-6.3, the

owner or operator shall register the maximum capacity of the process vessel containing the RHS mixture. Administrative controls that limit the maximum quantity in the process vessel shall not be taken into account. For a covered process that has multiple process vessels containing an RHS mixture at or above the threshold quantity, the owner or operator shall register the total combined capacity of the process vessels.

iii. For RHS mixtures, the heat of reaction range in calories/gram as listed at Table II of N.J.A.C. 7:31-6.3(c). If more than one RHS mixture is present in the process vessel at different times, the owner or operator shall register the RHS mixture having the highest heat of reaction range as shown on Table II.

iv. For RHS mixtures containing one or more EHS(s) listed in Parts A, B, or C of N.J.A.C. 7:31-6.3(a) Table I, at or above the threshold quantity at the facility, an owner or operator shall register the EHS listed on Part A, B, or C as a toxic or flammable substance, as applicable, and the RHS mixture.

(b) In addition to the updates required by N.J.A.C. 7:31-7.1(c)3 through 5, all owners or operators shall submit a correction to the Department within 60 days of an increase in maximum inventory of a covered process.

(c) The owner or operator shall submit to the Department a Risk Management Plan correction within one month of a change in the qualified person or position.

7:31-7.3 Risk management program and RMP - initial evaluation

(a) All RMPs submitted in accordance with this subchapter shall be reviewed by the Department to determine if they comply with the requirements of 40 CFR 68.150-185 with changes specified at N.J.A.C. 7:31-7.1(c)1-2 and N.J.A.C. 7:31-7.2.

(b) The RMPs and risk management programs of owners or operators that have an existing approved risk management program at their stationary source shall be audited or inspected in accordance with N.J.A.C. 7:31-8 for the covered processes that are already part of the approved risk management program and also for the newly regulated covered processes.

(c) The RMPs of owners or operators that do not have an approved risk management program at their facility shall be reviewed by the Department to determine whether the facility has an established risk management program. Owners or operators that have at least one process hazard analysis (for Program 3 covered processes) shall be determined to have an established risk management program and shall be notified and audited or inspected in accordance with N.J.A.C. 7:31-8.

(d) Approval of the risk management program for owners or operators who are audited pursuant to (c) above shall be the signing of the consent agreement or implementation of corrective actions required by the administrative order issued pursuant to N.J.A.C. 7:31-8.1(c)9.

(e) Owners or operators that do not have an approved risk management program at their facility and that the Department determines do not have an established risk management program shall be notified that they

are subject to workplan in accordance with N.J.A.C. 7:31-9.

7:31-7.4 Transfer of risk management program

(a) In the event of the transfer of the covered process to a new owner or operator, change in ownership or the name of an owner or operator, the new owner or operator shall, before operating EHS equipment, adopt the existing, or obtain a new, approved TCPA Risk Management Program for the covered process.

(b) A new owner or operator shall adopt an existing approved TCPA Risk Management Program by submitting an updated registration in accordance with this subchapter and signing an addendum to the consent agreement that was previously signed by the Department and the former owner or operator.

7:31-7.5 Schedule for risk management program implementation

(a) Owners or operators having an approved risk management program shall comply with their approved risk management program for EHSs listed in N.J.A.C. 7;31-6.3, Table I, Parts A, B, C, or D until the risk management program is revised to reflect the new requirements of this chapter, which shall be no later than March 16, 2010.

(b) All owners or operators of facilities having listed EHSs on N.JA.C. 7:31-6.3(a), Table I, Part D, at or above threshold quantities, shall be in compliance with this chapter by September 30, 2004 except that all owners or operators having as of March 16, 2009 reactive hazard substance mixtures subject to this chapter with functional group number 44 on N.J.A.C. 7:31-6.3(a), Table 1, Part D, Group II, and all owners or operators having, as of March 16, 2009, reactive hazardous substance mixtures subject to this chapter based on the calculation of the heat of reaction of the RHS mixture excluding solvents under N.J.A.C. 7:31-6.3(b)2, at or above threshold quantities shall be in compliance with this chapter no later than March 16, 2010..

(c) Owners or operators planning to put into EHS service a new covered process for an EHS listed in N.J.A.C. 7:31-6.3, Table I, Parts A, B, and/or C shall comply with N.J.A.C. 7:31-4.11 for Program 3 covered processes.

(d) Owners or operators planning to put into EHS service a new covered process for an EHS listed in N.J.A.C. 7:31-6.3, Table I, Part D on or after September 30, 2004, shall comply with N.J.A.C. 7:31-4.11 for Program 3 covered processes.

(e) Owners or operators of facilities having propane (CAS No. 74-98-6), propylene (CAS No. 115-07-1), butanes (normal butane (CAS No. 106-97-8) or isobutane (CAS No. 75-28-5), or butylenes (1-butene (CAS No. 106-98-9), 2-butene (CAS No. 107-01-7), butene (CAS No. 25167-67-3), 2-butene-cis (CAS No. 590-18-1), 2-butene-trans (CAS No. 624-64-6), and 2-methylpropene (CAS No. 115-11-7)) listed at N.J.A.C. 7:31-6.3(a), at Table I, Part C , at or above threshold quantities shall be in compliance with this chapter no later than March 16, 2010.

(f) Owners or operators of facilities having individual RHSs listed in Table 1, Part D, Group I, that are received, stored and handled in combination with one or more other chemical substances specifically formulated to inhibit the reactive hazard (such as water reactivity, pyrophoric, or self-reacting) where the RHS is at or above the threshold quantity shall be in compliance with this chapter no later than March 16, 2010.

(g) As of March 16, 2009, owners or operators having an approved risk management program for EHSs listed in N.J.A.C. 7:31-6.3, Table I, Parts A, B, C, or D shall comply with the process hazard analysis with risk assessment requirements of 40 CFR 68.67 with changes specified at N.J.A.C. 7:31-4.1(c) and 4.2.

(h) All owners or operators that, as of March 16, 2009, are subject to this chapter based on the threshold quantity at the facility as provided at 40 CFR 68.10 with changes specified at N.J.A.C. 7:31-1.1(c)3 shall be in compliance with this chapter no later than March 16, 2010.

SUBCHAPTER 8. OTHER FEDERAL REQUIREMENTS

7:31-8.1 Incorporation by reference

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

(b) The following provisions of 40 CFR Part 68 Subpart H are not incorporated by reference: *40 CFR 68.210* Availability of information to the public, and *40 CFR 68.215* Permit content and air permitting authority or designated agency requirements.

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

1. 40 CFR 68.200 Recordkeeping replace "part" with "Chapter" and replace "Subpart D of this part" with "N.J.A.C. 7:31- 4 and as follows: mechanical integrity/preventive maintenance records for the lifetime of EHS equipment, design safety review reports for the lifetime of a covered process, and hot work permits until they are reviewed in the next Department audit or inspection."

2. 40 CFR 69.220 Audits, replace "implementing agency" with "the Department" and replace "Subpart G of this part" with "N.J.A.C. 7:31-7" in all occurrences of this section.

3. 40 CFR 68.220(a) delete the Federal requirement and replace with "The Department shall periodically audit or inspect risk management programs and RMPs to review their adequacy and require revisions when necessary to ensure compliance with N.J.A.C. 7:31 and the Act.

4. (Reserved.)

5. *40 CFR 68.220(d)* at the end of the sentence, add the phrase "in accordance with *N.J.A.C. 7:31-8.2*."

6. 40 CFR 68.220(e) replace the first sentence with "Based on the audit, the Department shall issue the owner or operator of a facility a written preliminary determination of material deficiencies and necessary revisions to the owner or operator's RMP and risk management program for the facility to ensure that the RMP and the risk management program meet the criteria of N.J.A.C. 7:31.

7. *40 CFR 68.220(f)* change the introductory clause from "Written response to a preliminary determination" to "In response to a preliminary determination:".

8. *40 CFR 68.220(f)(2)* replace this provision with "The written response under paragraph (f)(1) of this section shall be received by the Department within 60 days of the issue of the preliminary determination."

9. *40 CFR 68.220(g)* replace this provision with "If the Department and owner or operator reach agreement on the RMP and risk management program, the owner or operator shall enter into a consent agreement (or consent agreement addendum for previously approved risk management programs) with the Department and shall comply with the requirements of the approved risk management program as set forth in the consent agreement or consent agreement addendum. The consent agreement or consent agreement addendum shall be signed by the owner or operator or his/her

representative and by the Chief of the Bureau of Chemical Release Information and Prevention or his/her supervisor. If the owner or operator has not signed a consent agreement or consent agreement addendum within 120 days of receipt of the preliminary determination, the Department shall prepare and send an administrative order. The administrative order may adopt or modify the revisions contained in the preliminary determination under *40 CFR 68.220(e)* with changes specified at *N.J.A.C. 7:31-8.1(c)*6 or may modify the substitute revisions provided in the response under *40 CFR 68.220(f)* with changes specified at *N.J.A.C. 7:31-8.1(c)*7-8. An administrative order that adopts a revision rejected by the owner or operator shall include an explanation of the basis for the revision. An administrative order that fails to adopt a substitute revision provided under *40 CFR 68.220(f)* with changes specified at *N.J.A.C. 7:31-8.1(c)* 7-8 shall include an explanation of the basis for finding such substitute revision unreasonable. In the administrative order, the Department shall advise the owner or operator of his/her right to an adjudicatory hearing pursuant to *N.J.A.C. 7:31-11.3(b)*."

10. *40 CFR 68.220(h)* delete "final determination" and replace with "consent agreement or consent agreement addendum or administrative order" at all occurrences.

11. *40 CFR 68.220(i)* replace "final determinations" with "consent agreements or consent agreement addenda or administrative orders" and "§ 68.210 of this part" with " *N.J.S.A. 47:1A-1* et seq."

12. *40 CFR 68.220(j)* replace "EPA or the state" with "the Department" and "part under the Act" with "chapter."

40 CFR 68 Subpart H--Other Requirements

§68.200 Recordkeeping.

*The owner or operator shall maintain records supporting the implementation of this C*hapter ~~*part*~~ *for five years unless otherwise provided in* ~~*Subpart D of this part*~~ N.J.A.C. 7:31-4 and as follows: mechanical integrity/preventive maintenance records for the lifetime of EHS equipment, design safety review reports for the lifetime of a covered process, and hot work permits until they are reviewed in the next Department audit or inspection.

~~*§68.210 Availability of information to the public.*~~

~~*(a) The RMP required under subpart G of this part shall be available to the public under 42 U.S.C. 7414(c).*~~

~~*(b) The disclosure of classified information by the Department of Defense or other Federal agencies or contractors of such agencies shall be controlled by applicable laws, regulations, or executive orders concerning the release of classified information.*~~

~~*§68.215 Permit content and air permitting authority or designated agency requirements.*~~

~~*(a) These requirements apply to any stationary source subject to this part 68 and parts 70 or 71 of this Chapter. The 40 CFR part 70 or part 71 permit for the stationary source shall contain:*~~

~~*(1) A statement listing this part as an applicable requirement;*~~

~~*(2) Conditions that require the source owner or operator to submit:*~~

~~*(i) A compliance schedule for meeting the requirements of this part by the date provided in § 68.10(a) or;*~~

~~*(ii) As part of the compliance certification submitted under 40 CFR 70.6(c)(5), a certification statement that the source is in compliance with all requirements of this part, including the registration and submission of the RMP.*~~

~~*(b) The owner or operator shall submit any additional relevant information requested by the air permitting authority or designated agency.*~~

~~*(c) For 40 CFR part 70 or part 71 permits issued prior to the deadline for registering and submitting the RMP and which do not contain permit conditions described in paragraph (a) of this section, the owner or operator or air permitting authority shall initiate permit revision or reopening according to the procedures of 40 CFR 70.7 or 71.7 to incorporate the terms and conditions consistent with paragraph (a) of this section.*~~

~~*(d) The state may delegate the authority to implement and enforce the requirements of paragraph (c) of this section to a state or local agency or agencies other than the air permitting authority. An up-todate copy of any delegation instrument shall be maintained by the air permitting authority. The state may enter a written agreement with the Administrator under which EPA will implement and enforce the requirements of paragraph (c) of this section.*~~

~~*(e) The air permitting authority or the agency designated by delegation or agreement under paragraph (d) of this section shall, at a minimum:*~~

~~*(1) Verify that the source owner or operator has registered and submitted an RMP or a revised plan when required by this part;*~~

~~*(2) Verify that the source owner or operator has submitted a source certification or in its absence has submitted a compliance schedule consistent with paragraph (a)(2) of this section;*~~

~~*(3) For some or all of the sources subject to this section, use one or more mechanisms such as, but not limited to, a completeness check, source audits, record reviews, or facility inspections to ensure that permitted sources are in compliance with the requirements of this part; and*~~

~~*(4) Initiate enforcement action based on paragraphs (e)(1) and (e)(2) of this section as appropriate.*~~

§68.220 Audits.

(a) ~~*In addition to inspections for the purpose of regulatory development and enforcement of the Act, the implementing agency shall periodically audit RMPs submitted under subpart G of this part to review the adequacy of such RMPs and require revisions of RMPs when necessary to ensure compliance with subpart G of this part*~~ The Department shall periodically audit or inspect risk management programs and RMPs to review their adequacy and require revisions when necessary to ensure compliance with N.J.A.C. 7:31 and the Act.

(b) The ~~*implementing agency*~~ the Department *shall select stationary sources for audits based on any of the following criteria:*

(1) Accident history of the stationary source;

(2) Accident history of other stationary sources in the same industry;

(3) Quantity of regulated substances present at the stationary source;

(4) Location of the stationary source and its proximity to the public and environmental receptors;

(5) The presence of specific regulated substances;

(6) The hazards identified in the RMP; and

(7) A plan providing for neutral, random oversight.

(c) Exemption from audits. A stationary source with a Star or Merit ranking under OSHA's voluntary protection program shall be exempt from audits under paragraph (b)(2) and (b)(7) of this section.

(d) The ~~*implementing agency*~~ the Department *shall have access to the stationary source, supporting documentation, and any area where an accidental release could occur* in accordance with N.J.A.C. 7:31-8.2.

(e) ~~*Based on the audit, the implementing agency may issue the owner or operator of a stationary source a written preliminary determination of necessary revisions to the stationary source's RMP to ensure that the RMP meets the criteria of subpart G of this part*~~. Based on the audit, the Department shall issue the owner or operator of a facility a written preliminary determination of material deficiencies and necessary revisions to the owner or operator's RMP and risk management program for the facility to ensure that the RMP and the risk management program meet the criteria of N.J.A.C. 7:31. *The preliminary determination shall include an explanation for the basis for the revisions, reflecting industry standards and guidelines (such as AIChE/CCPS guidelines and ASME and API standards) to the extent that such standards and guidelines are applicable, and shall include a timetable for their implementation.*

(f) ~~*Written response to a preliminary determination.*~~ In response to a preliminary determination:

(1) The owner or operator shall respond in writing to a preliminary determination made in accordance with paragraph (e) of this section. The response shall state the owner or operator will implement the revisions contained in the preliminary determination in accordance with the timetable included in the preliminary determination or shall state that the owner or operator rejects the revisions in whole or in part. For each rejected revision, the owner or operator shall explain the basis for rejecting such revision. Such explanation may include substitute revisions.

(2) ~~*The written response under paragraph (f)(1) of this section shall be received by the implementing agency within 90 days of the issue of the preliminary determination or a shorter period of time as the implementing agency specifies in the preliminary determination as necessary to protect public health and the environment. Prior to the written response being due and upon written request from the owner or operator, the implementing agency may provide in writing additional time for the response to be received.*~~ The written response under paragraph (f)(1) of this section shall be received by the Department within 60 days of the issue of the preliminary determination.

(g) ~~*After providing the owner or operator an opportunity to respond under paragraph (f) of this section, the implementing agency may issue the owner or operator a written final determination of necessary revisions to the stationary source's RMP. The final determination may adopt or modify the revisions contained in the preliminary determination under paragraph (e) of this section or may adopt or modify the substitute revisions provided in the response under paragraph (f) of this section. A final determination that adopts a revision rejected by the owner or operator shall include an explanation of the basis for the revision. A final determination that fails to adopt a substitute revision provided under paragraph (f) of this section shall include an explanation of the basis for finding such substitute revision unreasonable.*~~ If the Department and owner or operator reach agreement on the RMP and risk management program, the owner or operator shall enter into a consent agreement (or consent agreement addendum for previously approved risk management programs) with the Department and shall comply with the requirements of the approved risk management program as set forth in the consent agreement or consent agreement addendum. The consent agreement or consent agreement addendum shall be signed by the owner or operator or his/her representative and by the Chief of the Bureau of Chemical Release Information and Prevention or his/her supervisor. If the owner or operator has not signed a

consent agreement or consent agreement addendum within 120 days of receipt of the preliminary determination, the Department shall prepare and send an administrative order. The administrative order may adopt or modify the revisions contained in the preliminary determination under 40 CFR 68.220(e) with changes specified at N.J.A.C. 7:31-8.1(c)6 or may modify the substitute revisions provided in the response under 40 CFR 68.220(f) with changes specified at N.J.A.C. 7:31-8.1(c)7-8. An administrative order that adopts a revision rejected by the owner or operator shall include an explanation of the basis for the revision. An administrative order that fails to adopt a substitute revision provided under 40 CFR 68.220(f) with changes specified at N.J.A.C. 7:31-8.1(c)7-8 shall include an explanation of the basis for finding such substitute revision unreasonable. In the administrative order, the Department shall advise the owner or operator of his/her right to an adjudicatory hearing pursuant to N.J.A.C. 7:31-11.3(b).

(h) Thirty days after completion of the actions detailed in the implementation schedule set in the ~~final determination~~ consent agreement or consent agreement addendum or administrative order *under paragraph (g) of this section, the owner or operator shall be in violation of ~~subpart G of this part~~* N.J.A.C. 7:31-7 *and this section unless the owner or operator revises the RMP prepared under ~~subpart G of this part~~* N.J.A.C. 7:31-7 *as required by the ~~final determination~~* consent agreement or consent agreement addendum or administrative order, *and submits the revised RMP as required under § 68.150.*

(i) The public shall have access to the preliminary determinations, responses, and ~~final determinations~~ consent agreements or consent agreement addenda or administrative orders *under this section in a manner consistent with § ~~68.210~~* N.J.S.A. 47:1A.

(j) Nothing in this section shall preclude, limit, or interfere in any way with the authority of ~~EPA or the state~~ the Department *to exercise its enforcement, investigatory, and information gathering authorities concerning this ~~part under the Act~~* chapter.

Additional New Jersey Requirements

7:31-8.2 Audits and inspections

(a) The Department shall have the right to enter and inspect and/or audit any facility, building or equipment, or any portion thereof, at any time, in order to determine compliance with the TCPA, this chapter, or any order or consent order or agreement. Such right shall include, but not be limited to, the right to test or sample any materials at the facility, to sketch or photograph any portion of the facility, 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. Such right shall be absolute except for those parts or portions of any materials, equipment, documents and records which contain either privileged trade secret or security information or confidential information for which the owner or operator has submitted a petition in accordance with N.J.A.C. 7:31-10.6, or claim in accordance with N.J.A.C. 7:31-10.4, and which petition or claim has not been denied by the Department. Those parts or portions of any materials, equipment, documents and records containing privileged trade secret or security information shall be treated as provided in (b)1 below, and those parts or portions containing confidential information shall be treated as provided in (b)2 below. Such right of inspection and audit shall not be conditioned upon any action by the Department, except the presentation of appropriate credentials as requested. Owners, operators, employees, and representatives shall not hinder or delay, and shall, upon request, assist the Department in the performance of all aspects of any inspection or audit.

(b) At the beginning of an inspection and/or audit by the Department, an owner or operator may identify those materials, equipment, documents and records at the stationary source which contain either privileged trade secret or security information or confidential information for which an appropriate petition or claim has been asserted and which has not been denied by the Department.

1. Those parts or portions of any materials, equipment, documents and records at the stationary source which contain privileged trade secret or security information need not be disclosed to or submitted to the Department. Any such materials, areas, documents or records disclosed to or submitted to the Department during an inspection shall not be entitled to be treated as privileged trade secret or security information thereafter. The fact that such trade secret or security information has been disclosed, or submitted, to the Department shall not prohibit the owner or operator from asserting a confidentiality claim concerning such information.

2. Those parts or portions of any materials, equipment, documents and records at the site which contain confidential information shall be disclosed to or submitted to the Department during an inspection, including all negatives and prints of photographs, and shall be labeled "confidential". In order to assert a confidentiality claim, a properly completed claim form must be submitted to the Department at the same time any such confidential information is submitted or disclosed to the Department. These materials, equipment, documents and records shall not be disclosed by the Department to other persons except in accordance with the provisions of this chapter.

(c) The Department may require submittal of any risk management program document for review.

1. The owner or operator shall include the following certification with any risk management program document required to be submitted:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant civil and criminal penalties, including the possibility of fines or imprisonment or both, for submitting false, inaccurate or incomplete information."

2. The certification shall be signed by the qualified person or position specified in the owner or operator's RMP, or person of higher authority for the owner or operator.

(d) Within a reasonable time after an audit, the owner or operator shall be furnished with a preliminary determination of material deficiencies and necessary revisions to the risk management program and RMP in accordance with 40 CFR 68.220(e) with changes specified at N.J.A.C. 7:31-8.1(c).

(e) The owner or operator shall make all documentation required pursuant to this chapter readily accessible for review by the Department during an audit or inspection.

SUBCHAPTER 9. WORK PLAN/EHSARA

7:31-9.1 Work plan preparation

(a) An owner or operator who does not have an established risk management program as determined by the Department pursuant to N.J.A.C. 7:31-7.3 shall assist the Department in developing a work plan to perform an Extraordinarily Hazardous Substance Accident Risk Assessment (EHSARA) and develop a risk reduction plan.

(b) The work plan shall consist of the facility data and the detailed scope of work necessary to perform an EHSARA. The EHSARA will result in a recommended risk reduction plan that will include any deficiencies that when corrected will result in an approved risk management program.

(c) An owner or operator assisting the Department in the development of the required work plan shall 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. The list of documents shall be grouped by operating or utility unit area in EHS service at the stationary source giving their document number, name, the EHS involved, most recent revision number and date, file location at the stationary source, and code of sheet size according to ANSI Y14.1-1996 (A, B, C, D, or E) or Deutshes Institut Fuer Normung (DIN) 823-1965 (A4, A3, A2, A1, or A0).

(d) Upon review of the documents submitted, the Department will schedule a meeting with the owner or operator for the purpose of:

1. Identifying any other documents the owner or operator must submit to the Department;
2. Discussing and adapting the work plan to be developed to the owner or operator's EHS equipment and procedures;
3. Explaining the consultant selection process as described in N.J.A.C. 7:31-9.3 below;
4. Determining any limits on the scope or details of the work plan;
5. Identifying the members of the owner or operator's staff who will assist in the work of the EHSARA under the direction of the independent consultant or the Department;
6. Setting an end-date of the EHSARA that will be included in the owner or operator's request for proposal to independent consultants;
7. Reviewing the instructions to bidders to be included in the owner or operator's request for proposal document to which the work plan will be attached.

7:31-9.2 Generic scope of work

(a) The scope of work for the work plan for each owner or operator required to have an EHSARA performed by a consultant or the Department for a Program 3 covered process shall include the following:

1. A general description of how the owner or operator uses EHSs at the stationary source;

2. A requirement for the verification of the quantities and methods of handling all EHSs at

the stationary source against the registration submitted by the owner or operator;

3. A requirement for the following reviews and, where necessary, the completion or creation of the documents necessary to perform the reviews:

i. A review of process description and process chemistry to define all the possible chemical reactions at the stationary source that may cause or contribute to an EHS accident;

ii. A review or creation of the design codes and standards and operating consensus standards employed; and

iii. A review of the EHS process flow diagrams; piping and instrument diagrams including those of process, utility or service units at the stationary source that are interactive with the EHS piping and instrument diagrams; electrical one-line diagrams; and site plans for**:**

(1) Completeness as defined in N.J.A.C. 7:31-1.5 for each document referred to in (a)3iii above;

(2) Legibility;

(3) Uniformity of symbols;

(4) Drawing title; and

(5) Revision number and date;

4. A requirement for a safety review of existing equipment which shall meet the requirements of N.J.A.C. 7:31-4.7(b). In addition the safety review shall include at a minimum the following:

i. Annotation or preparation of process flow diagrams, piping and instrument diagrams, electrical one-line diagrams, electrical classification drawings, site plan, sewer system piping diagrams, and fire water system piping diagrams incorporating drawing title, revision number, date, signature, etc., as necessary to reflect actual conditions. The annotation of the piping and instrument diagrams shall be limited to EHS equipment, run and size of piping, location and function of instruments and location, function and size of valves;

ii. Completion or creation of the standard operating procedures necessary to comply with the requirements of 40 CFR 68.69 with changes specified at N.J.A.C. 7:31-4.1(c)8 and N.J.A.C. 7:31-4.3;

iii. A site plan review to determine at a minimum the following:

(1) Conformance of location of the EHS equipment with the criteria for design and operation relative to parameters of flammability, reactivity and toxicity;

(2) Accessibility for operations, maintenance and emergency response including corridors, roadways and walkways; and

(3) The measures and precautions designed for the purpose of protecting the covered process from external forces and events and for the purpose of controlling EHS releases within the stationary source;

iv. An electrical classification review to determine conformance with the most current edition of the National Electrical Code, ANSI/NFPA 70;

v. A review of fire water and sewer system drawings to determine if these systems as built conform with current design practices;

vi. A mechanical design review comparing the specifications of installed EHS equipment and instrumentation with criteria for design and operation including but not limited to:

(1) Pressure and temperature ratings;

(2) Materials of construction;

(3) Corrosion allowance;

(4) Safety relief devices and interlocks;

(5) Leak tightness and pressure testing; and

(6) Potential points of EHS releases due to failure of EHS equipment, such as, seal systems, packings, sight glasses, expansion joints and rotameters;

vii. A review and detailed analysis of any EHS accidents that occurred in the past six years for the purpose of identifying problem areas;

viii. A determination of the nature and age of EHS equipment and an examination of their physical integrity by visual inspection for evidence of deterioration or distortion by processes such as corrosion, erosion, vibration and fluid leaks; and

ix. An examination of the EHS equipment for evidence of inadequate equipment and piping supports;

5. A requirement for a process hazard analysis with risk assessment meeting the requirements of N.J.A.C. 7:31-4.2 on EHS equipment or operating alternatives using the method of analysis specified in the work plan by the Department.

6. A requirement for a review of the owner or operator's preventive maintenance program by inspection of internal documents, correspondence and standard forms and by interviews with the owner or operator's staff, and identification of those activities necessary to achieve compliance with N.J.A.C. 7:31-4.5;

7. A requirement for review of the owner or operator's operator training program by inspection of internal documents, correspondence and standard forms and by interviews with the owner or operator of a covered process's staff, and identification of those activities necessary to achieve compliance with N.J.A.C. 7:31-4.4;

8. A requirement for review of the owner or operator's EHS accident investigation procedures by inspection of internal documents, correspondence and standard forms and by interviews with the owner or operator's staff and identification of those activities necessary to achieve compliance with 40 CFR 68.81 with changes specified at N.J.A.C. 7:31-4.1(c)15-21;

9. A requirement for review of the owner or operator's emergency response program by inspection of internal documents, correspondence and standard forms and by interviews with the owner or operator's staff and identification of those activities necessary to achieve compliance with N.J.A.C. 7:31-5;

10. A requirement for review of the owner or operator's audit program; and

11. A requirement for preparation and submittal of progress reports to the Department detailing the status of implementation of the scope of work at intervals to be established by the Department and included in the work plan.

(b) Reserved.

7:31-9.3 Selection of consultants

(a) The Department shall authorize an independent consultant nominated by the owner or operator to perform the Extraordinarily Hazardous Substance Accident Risk Assessment. The independent consultant shall be chosen by the Department and hired and paid for by the owner or operator in accordance with the provisions of this subchapter.

(b) Within 60 days after receipt of the finished work plan, an owner or operator shall submit 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.

(c) The owner or operator shall not submit the name and proposal of any consultant who:

1. Is owned or controlled by the owner or operator or by a firm which owns or controls both the owner or operator and the consultant or owns or controls the owner or operator;
2. Was the designer of any covered process at the stationary source;
3. Is debarred or suspended pursuant to N.J.A.C. 7:1-5 or on the New Jersey Department of Treasury's list of firms debarred or suspended from engaging in work in the State;
4. Fails to state in its written proposal that it will not subcontract any of the work involved in the EHSARA unless provided in writing by the Department; or
5. Fails to state in its written proposal that it will not change the staff named to do any of the work involved in the EHSARA unless approved in writing by the Department.

7:31-9.4 Proposal requirements

(a) Each proposal shall explain in a clear and concise manner how the consultant is going to address each task in the owner or operator's work plan.

(b) Each proposal shall demonstrate the consultant's ability to perform the EHSARA set forth in N.J.A.C. 7:31-9 and shall include:

1. The consultant's qualifications in:
   i. Process engineering;
   ii. Safety engineering;
   iii. Preparation of operating procedures;
   iv. Preparation or review of maintenance procedures;
   v. Preparation or review of safety procedures;
   vi. Preparation or review of operator training programs;
   vii. Performance or review of accident investigations;
   viii. Performance of hazard reviews and process hazard analyses;
   ix. Performance of risk assessments;
   x. Preparation or review of emergency response plans;
   xi. Performance of audits of risk management programs; and
   xii. Knowledge of risk reduction methods; and

xiii. With respect to each of the above qualifications, the following:

(1) Name of consultant's client; if the client's name cannot be divulged then a description of the client;

(2) Name of client's contact person, if available;

(3) Date and duration of work;

(4) Names of consultant's employees who performed the work;

(5) Schedule of the work; and

(6) Brief description of the work.

2. The qualifications and experience of additional staff who may be assigned on an as needed basis; and

3. The level of effort to be dedicated and schedule for performing each workplan task item including:

i. Names of staff assigned;

ii. Expected starting and completion dates;

iii. Estimated personhours; and

iv. Scope and extent of usage of collateral items such as computer use, outside consultants, etc.

(c) The resumes of the consultant or the consultant's staff who are to be committed to the work plan agreed to by the owner or operator of a covered process and the Department shall be included in the proposal submitted to the Department and shall demonstrate that the consultant or the consultant's staff implementing the workplan has the following qualifications, at a minimum:

1. At least one previous project in each of the 12 areas of experience listed in (b)1 above;

2. Key staff members each having at least five years of professional experience and one key staff member who is a licensed professional engineer;

3. A task force leader with at least 36 months of accumulated experience as a project manager of multidisciplinary technical teams;

4. A technical leader of the hazard analysis and risk assessment portions of the work who has at least 12 months aggregate experience at such work; and

5. Any assisting staff shall have at least three years of professional work experience and at least six months accumulated experience on the type of work involved in the portion of the EHSARA to which they will contribute.

(d) The Department, within 15 days after receipt of the names and proposals from the owner or operator, shall:

1. Select one of the consultants to perform the EHSARA; or

2. Within 60 days after determining that none of the consultants' proposals submitted by the owner or operator meet the requirements in N.J.A.C. 7:31-9.4, direct the owner or operator 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.

(e) The owner or operator of a covered process shall execute a contract with the consultant chosen by the Department within 45 days after receipt of the name of the consultant from the Department.

(f) The consultant or Department shall perform the EHSARA and develop a recommended risk reduction plan which will include the identification of those activities necessary to create a risk management program. These shall be performed in conformity with the work plan developed and explained at the meeting held pursuant to N.J.A.C. 7:31-9.1(d) above. Members of the owner or operator's staff may participate in the work preparatory to the EHSARA.

7:31-9.5 EHSARA report

(a) Upon completion of the EHSARA, the consultant or the Department shall prepare an EHSARA report which shall include recommendations to reduce risks.

(b) The original EHSARA report shall be submitted to the Department and a copy of the EHSARA report shall be submitted to the owner or operator at the same time.

(c) The EHSARA report shall contain, but not be limited to, the following for Program 3 covered processes:

1. The findings of the verification required by N.J.A.C. 7:31-9.2(a)2;
2. The findings of the review required by N.J.A.C. 7:31-9.2(a)3;
3. The findings of the safety review required by N.J.A.C. 7:31-9.2(a)4;
4. The reports of the process hazard analysis with risk assessment required by N.J.A.C. 7:31-9.2(a)5;
5. The findings of the reviews required by N.J.A.C. 7:31-9.2(a)6 through 10; and
6. The recommended risk reduction plan including the listing of all of the deficiencies identified in (c)1 through 5 above, the remedial actions and alternatives to correct the deficiencies and a proposed schedule for implementation.

(d) Reserved.

(e) The Department shall review the EHSARA report and prepare a risk reduction plan which will be incorporated into an administrative order which will be issued to the owner or operator. The administrative order shall direct the owner or operator to implement the risk reduction plan which shall include:

1. A list of risks that must be reduced;
2. The actions the owner or operator is to take to reduce the risks including those necessary

to complete a risk management program meeting the requirements of N.J.A.C. 7:31-4 and the schedule within which the owner or operator shall complete the actions; and

3. A statement that the owner or operator has an established risk management program.

(f) Any owner or operator aggrieved by the administrative order issued pursuant to (e) above may request an adjudicatory hearing by following the procedures set forth at N.J.A.C. 7:31- 11.3.

(g) Upon implementation of the risk reduction plan as required by the administrative order, the established risk management program will be audited in accordance with 40 CFR 68.220 with changes specified at N.J.A.C. 7:31-8.1(c)2-12 and N.J.A.C. 7:31-8.2.

(h) The Department may by regulation or on a case-by-case basis limit the scope or detail of the work plan where it determines that the action does not remove or compromise the protection required for the public interest.

This is a courtesy copy of this rule. All of the Department's rules are compiled in Title 7 of the New Jersey Administrative Code.

(This page intentionally blank)

SUBCHAPTER 10. CONFIDENTIALITY AND TRADE SECRETS

7:31-10.1 Scope and applicability

(a) This subchapter constitutes the rules for the assertion, substantiation, review, and appeal of confidentiality claims and petitions to withhold privileged trade secret or security information, and establishes the principles, guidelines and procedures governing the internal management and disclosure of confidential information provided to the Department pursuant to this chapter.

(b) All owners or operators asserting a confidentiality claim or a petition to withhold privileged trade secret or security information shall follow the procedures set forth in this subchapter.

(c) The Department, its employees and its agents shall strictly adhere to the procedures established by this subchapter for maintaining the confidentiality and security of confidential information and for the disclosure of confidential information.

7:31-10.2 General provisions

(a) All information collected by or originated by the Department in connection with the Act, this chapter or the TCPA program shall be made available to the public in accordance with N.J.S.A. 47:lA-1 et seq. except as otherwise provided in this subchapter.

(b) The Department shall protect from disclosure to the public any security information and any confidential information obtained pursuant to the Act or this chapter.

(c) Confidential information, supplied to the Department, will be disclosed only to the employees or agents of the Department and only on a need-to-know basis for the purposes of carrying out or enforcing the provisions of the Act or this chapter, or for use in civil or criminal proceedings, if so ordered by a court.

(d) An owner or operator may file a claim with the Department to withhold from public disclosure confidential information required to be submitted to the Department at any time such information is required to be submitted to the Department. An owner or operator may file a petition to withhold from the Department privileged trade secret or security information only at the time of filing the initial document submittals with the Department pursuant to N.J.A.C. 7:31-7.2, or within 30 days after receipt of a Department request for the facility data for owners or operators with no risk management program as provided by N.J.A.C. 7:31-9.1(c), or within 30 days of the creation of new privileged trade secret or security information. All such claims or petitions and any required substantiation shall be submitted in writing on forms provided by the Department in accordance with N.J.A.C. 7:31-10.4 and 10.6, respectively. If the space provided for responses on Department forms is not sufficient, additional pages, properly referenced, may be attached to the required forms to provide complete responses. All forms can be obtained from:

Chief, Bureau of Release Prevention
New Jersey Department of Environmental Protection

PO Box 424
Trenton, New Jersey 08625-0424

Note: The Bureau of Chemical Release Information and Prevention has been succeeded by the Bureau of Release Prevention. The correct data for the Bureau of Release Prevention are:

New Jersey Department of Environmental Protection
Bureau of Release Prevention
PO Box 424
Trenton, New Jersey 08625-0424
Telephone (609)633-7289

(e) The owner or operator shall initially submit or disclose only the confidential copy of documents containing confidential information to the Department. The public copy which shall have deleted all confidential information and be available for public disclosure shall be submitted to the Department only upon the Department's receipt of a request for the public disclosure of the information or if the Department otherwise decides to determine whether the information is entitled to confidential treatment. The confidential copy shall be for the Department's records and shall include all necessary information.

(f) Any confidential information supplied to the Department shall be sent by certified mail, return receipt requested, by personal delivery, or by other means that provides verification of delivery, the date of delivery, and the name of the person who receives the document in the Department.

(g) A properly completed and submitted petition to withhold privileged trade secret or security information or any subsequent interim decisions by the Department concerning such petition shall not exempt the owner operator from compliance with the requirements of the Act or this chapter, except that the owner or operator will not be required to provide the Department with the trade secret or security information claimed as privileged, unless the petition is finally denied.

(h) No employees or agents of the Department are authorized to sign a confidentiality agreement or other non-disclosure agreement, and any such agreement so executed will be of no force or effect as to the Department.

7:31-10.3 Exclusions from confidential information and privileged trade secret or security information

(a) Information required to be submitted or disclosed to the Department pursuant to the Act or this chapter which meets the following criteria shall not be considered as confidential information, regardless of any claim or petition either pending or approved:

1. The name of the owner or operator, his or her address, and the name and location of his or her EHS facilities;

2. The chemical or common name, Chemical Abstract Services number, United States Department of Transportation identification number, extraordinarily hazardous substance name or other identifying name for the substances listed in Table I in N.J.A.C. 7:31-6.3, or any regulation Promulgated under

the Act;

3. Information required to be publicly disclosed pursuant to any other Federal or state act or regulations;

4. Information supplied to the Department by an owner or operator contained within the RMP;

5. Information required to be publicly disclosed pursuant to a court order or ruling;

6. Information which is patented;

7. Information which is published or available through any public source;

8. Information which is known to persons outside the owner or operator's business, who are not bound by a confidentiality agreement or other duty to keep the information confidential;

9. Information which is determined not to be confidential information pursuant to this chapter;

10. (Reserved)

11. Information required to be included in the registrant's emergency response plan pursuant to N.J.A.C. 7:31-5.1 through 5.2; and

12. Information submitted or disclosed to the Department by an owner or operator which is not marked or which does not display in bold type or stamp the word "Confidential" on the top of each page.

(b) At a minimum the following information required to be submitted or disclosed to the Department pursuant to the Act or this chapter shall not be considered privileged trade secret or security information regardless of any petition either pending or approved:

1. Process hazard analysis with risk assessment records;
2. Safety review records;
3. EHS Accident records;
4. Process flow and piping and instrumentation diagrams;
5. Standard operating procedures;
6. Preventive maintenance procedures;
7. Inspection reports;
8. Safety and emergency procedures;
9. Training records and procedures;
10. Design criteria and standards and operating consensus standards; and
11. Inherently safer technology review reports.

7:31-10.4 Confidentiality claims

(a) Any owner or operator required to submit or disclose to the Department any information pursuant to the Act or this chapter which is the owner or operator's opinion constitutes confidential information, may assert a confidentiality claim by following the procedures set forth in this section.

(b) Any owner or operator asserting a confidentiality claim shall do so in writing on a form provided by the Department at the time the owner or operator provides or discloses confidential information to the

Department.

(c) Any owner or operator submitting any information to the Department and asserting a confidentiality claim covering any information contained therein shall submit a confidential copy of the document to the Department along with a properly executed confidentiality claim form. The confidential copy shall contain all the information required by the Act or this chapter including any information which the claimant requests to be treated as confidential. A second copy, the public copy, which shall be identical to the confidential copy except that it shall contain no information which the claimant requests to be treated as confidential, shall be submitted to the Department only if the Department receives a request for public disclosure of the information or if the Department decides to determine whether the information is entitled to confidential treatment. The public copy can be a photocopy of the confidential copy, with the allegedly confidential information blacked out. When a public copy is required, the Department shall notify the claimant by certified mail, return receipt requested, that it must submit the public copy and the required fee, along with the confidentiality claim substantiation form as required by N.J.A.C. 7:31-10.5(d), to the Department within 30 days. If the public copy, required fee or the confidentiality claim substantiation form is not received by the Department within the 30 day time limit, the Department shall send a letter by certified mail, return receipt requested, notifying the claimant that its claim will be considered abandoned and the confidential copy shall be treated as public information, unless the public copy, required fee or substantiation form is received by the Department within 10 days of receipt of the Department's notice.

(d) The top of each page of the confidential copy containing any information which the claimant desires to be treated as confidential shall display the heading "CONFIDENTIAL" in bold type, or stamp.

(e) All parts of the text of the confidential copy which the claimant requests to be treated as confidential shall be underscored or highlighted in a clearly identifiable manner. This manner of marking confidential information shall be such that both the information claimed as confidential and the underscoring or highlighting is reproducible on photocopying machines. Information not so marked will be treated as public and may be disclosed without notice to the claimant.

(f) The confidential copy, containing the information which the claimant alleges to be entitled to confidential treatment, shall be sealed in an envelope which shall display the work "CONFIDENTIAL" in bold type or stamp on both sides. This envelope, together with the confidentiality claim form (which may or may not be enclosed in a separate envelope, at the option of the claimant), shall be enclosed in another envelope for transmittal to the Department, at the following address:

Chief, Bureau of Release and Prevention
New Jersey Department of Environmental Protection
PO Box 424
Trenton, New Jersey 08625-0424

Note: The Bureau of Chemical Release Information and Prevention has been succeeded by the Bureau of Release Prevention. The correct data for the Bureau of Release Prevention are:

New Jersey Department of Environmental Protection

Bureau of Release Prevention
PO Box 424
Trenton, New Jersey 08625-0424

The outer envelope shall bear no marking indicating the confidential nature of its contents.

(g) To ensure proper delivery, the complete package should be sent by certified mail, return receipt requested, by personal delivery or by other means which will provide verification of delivery, the date of delivery and the name of the person who receives the document at the Department. Ordinary mail may be used, but the Department will assume no responsibility for packages until they are actually received at the address provided in (f) above.

(h) The certification on the bottom of the confidentiality claim form shall contain the signature and certification specified in 40 CFR 68.185. Any substantiation form which the claimant submits to support a confidentiality claim shall also contain the signature and certification as specified in 40 CFR 68.185.

(i) For information which in the owner or operator's opinion constitutes confidential information and which is merely disclosed to the Department during an inspection at the covered process, only one copy, the confidential copy, need be revealed to the Department at that time. A properly executed confidentiality claim form for the information disclosed shall be submitted to the Department at the time of such disclosure. The second copy, the public copy, will be submitted to the Department only if it becomes necessary for the Department to make a confidentiality determination concerning the information claimed as confidential which is disclosed during an inspection. Any information disclosed to the Department during an inspection which is not properly marked and identified as confidential information will not be considered confidential or be treated as such by the Department.

(j) If upon receipt of the public copy the Department becomes aware of an apparent error or omission on the part of a claimant in failing to delete information from the public copy which it identified as being confidential by underscoring or highlighting on the confidential copy, the Department shall send a letter by certified mail, return receipt requested, notifying the claimant of the apparent error or omission. The letter shall advise the claimant that the claim as to all information not deleted on the Public copy will be considered abandoned and the public copy will be treated as public information, unless the Department receives a corrected Public copy within 10 days of receipt of the Department's notice.

7:31-10.5 Determination of confidentiality claims

(a) Information for which a confidentiality claim has been asserted will be treated by the Department as entitled to confidential treatment, unless the Department determines that the information is not entitled to confidential treatment as provided in this section.

(b) The Department shall act upon a confidentiality claim and determine whether information is or is not entitled to confidential treatment whenever the Department:

1. Receives a request under N.J.S.A. 47:lA-1 et seq. to inspect or copy such information;

2. Decides to determine whether information in its possession is entitled to confidential treatment; or

3. Desires for any reason in the public interest to disclose the information to persons not authorized by this subchapter to have access to confidential information.

(c) Whenever the Department is required to or decides to make a determination whether information is entitled to confidential treatment, the Department shall first make a determination that the information claimed as confidential has not been the subject of a prior confidentiality determination by the Department concerning the same covered process, or if it has, that the prior determination upheld the owner or operator's claim. If such a prior determination held that the confidentiality claim was invalid, the Department shall notify the claimant by registered mail, return receipt requested, that the information claimed as confidential is the subject of a prior determination concerning the confidentiality of the same information in which it was held that such claim was invalid and the Department will treat the information as public information.

(d) If the Department determines that the information is not the subject of a prior confidentiality determination, the Department shall notify the claimant by certified mail, return receipt requested, of the claimant's right to submit substantiation in support of its claim that the information is entitled to be treated as confidential. The substantiation shall be submitted in writing on a form provided by the Department, shall be accompanied by the public copy of the information and the fee set forth in N.J.A.C. 7:31-1.11(q) for review of the substantiation, and shall be received by the Department within 30 days of receipt of the Department's notice. The substantiation shall include, but need not be limited to, the following:

1. The reasons why the information needs to be treated as confidential;

2. The extent to which disclosure of the information would result in damage to the claimant, including a description of the damage, and an explanation of the relationship between disclosure and the damage;

3. The period of time for which confidential treatment is desired by the claimant (for example, until a certain date, until the occurrence of a specified event, or permanently);

4. The measures taken by the claimant to guard against undesired disclosure of the information to others, and claimant's intention to continue such measures and any new measures the claimant intends to implement in the future to protect the information;

5. The extent to which the information has been published or otherwise disclosed to others, including employees, and the precautions taken in connection therewith;

6. Prior confidentiality determinations concerning the information made by the Department, another agency or a court, and a copy of such determination;

7. Whether the information is patented, and, if so, identification of the patent and an explanation why the patent:

i. Does not connect the claimant with the confidential information; and

ii. Does not protect the claimant from competitive harm.

8. The ease or difficulty with which the information could be discovered through reverse engineering and an estimate for the cost;

9. Whether any Federal or state statute or regulation requires the public disclosure of the information, and a copy thereof; and

10. For security information, a description of the adverse impact disclosure would have on either the facility's security or its operations.

(e) Failure of a claimant to furnish the public copy, the confidentiality claim substantiation form or to pay the required fee within 10 days of receipt of the Department's second notice provided in accordance with N.J.A.C. 7:31-10.4(c), waives the claimant's confidentiality claim and the information will be treated as public information.

(f) The owner or operator may assert a confidentiality claim for any confidential information contained in its substantiation form submitted to the Department pursuant to (d) above. To claim this material as confidential, the claimant shall clearly designate those portions of the substantiation form claimed as confidential in accordance with the procedures provided in N.J.A.C. 7:31-10.4(d) and (e). Information not properly marked will be treated as public and may be disclosed without notice to the claimant.

1. The claimant shall initially submit to the Department only the confidential copy of any substantiation form which contains confidential information prepared in accordance with the provisions specified in N.J.A.C. 7:31-10.4(c). The certification on the substantiation form shall be executed as provided in N.J.A.C. 7:31-10.4(h).

(g) The substantiation form shall be enclosed in envelopes as specified in N.J.A.C. 7:31 10.4(f) and be forwarded to the address provided therein. To ensure proper delivery, the methods specified in N.J.A.C. 7:31-10.4(g) shall be followed.

(h) The Department may extend the time limit for submitting substantiation pursuant to (d) above to not more than 60 days upon receipt of a request in writing for good cause shown.

(i) After receiving the substantiation, the Department shall make a final confidentiality determination in accordance with the criteria set forth in (j) below.

1. If, after review, the Department determines that the information is not entitled to confidential treatment, the Department shall so notify the claimant by certified mail, return receipt requested. The notice shall state the basis for the determination, and shall advise the claimant of its right to request an adjudicatory hearing in accordance with the procedures specified in N.J.A.C. 7:31-11.3(b). The notice shall also advise the claimant that the Department shall make the information available to the public on the 30th day following receipt by the claimant of the written notice, unless the Department has received a timely written request for an adjudicatory hearing to contest such decision.

2. If, after review, the determination is made that information is entitled to confidential treatment, the information shall not be disclosed, except as otherwise provided by this subchapter. The claimant shall be notified of the Department's determination by regular mail. The notice shall state the basis for the determination and that it constitutes final agency action.

(j) If the claimant satisfies each of the following substantive criteria, the Department shall determine that the information for which a confidentiality claim has been asserted shall be treated as confidential:

1. The claimant has established a reasonable basis for treating the information as confidential;

2. Except for security information, the claimant has shown that disclosure of the information would be likely to cause damage to its competitive position;

3. The claimant has asserted a confidentiality claim which has not expired by its terms, been waived or withdrawn;

4. The claimant has shown that reasonable measures have been taken to protect the confidentiality of the information and that the claimant intends to continue to take such measures;

5. The information is not, and has not been, available or otherwise disclosed to persons other than employees, except under a confidentiality or non-disclosure agreement, without the claimant's consent (other than by subpoena or by discovery based on a showing of special need in a judicial or quasi-judicial proceeding, as long as the information has not become available to a person not involved in the proceeding);

6. Any prior confidentiality determinations concerning the information made by the Department, another agency or a court approved or upheld the registrant's confidentiality claim;

7. The information is not the subject of a patent, or if patented, the patent does not connect the claimant with the confidential information and does not protect the claimant from competitive harm;

8. The confidential information is not readily discoverable through reverse engineering;

9. No statute or regulation requires public disclosure of the information; and

10. For security information, the claimant has shown that disclosure of the information would likely have an adverse effect on the security of the facility or its operations.

7:31-10.6 Petitions to withhold privileged trade secret or security information

(a) An owner or operator required to submit or disclose trade secret or security information pursuant to the Act or this chapter which the owner or operator believes must be kept privileged so as not to competitively disadvantage the covered process, or compromise the security of the covered process or its operations, may petition the Department for the right to withhold the privileged trade secret or security information by following the procedures set forth in this section and by paying the fee set forth in N.J.A.C. 7:31-1.11(r). Any owner or operator submitting such a petition shall provide complete responses on all required submissions to the Department except for those items which would require the disclosure of privileged trade secret or security information which the petitioner seeks to withhold. For those items, the petitioner shall note that a petition to withhold privileged trade secret or security information has been submitted, along with the date thereof.

(b) Any owner or operator petitioning the Department for the right to withhold privileged trade secret or security information shall do so in writing on a form provided by the Department at the time of initial document submittal, or within 30 days after receipt of a Department request for the site data for owners or operators with no risk management program as provided by N.J.A.C. 7:31-9.1(c), or within 30 days of the creation of new privileged trade secret or security information. A petitioner shall also submit in writing substantiation on a form provided by the Department to support its assertion that the information sought to be withheld is privileged trade secret or security information and pay the fee set forth in N.J.A.C. 7:31-1.11(r) for review of its petition and substantiation in accordance with the following:

1. A petitioner whose initial RMP submittal is accepted for further review in accordance

with N.J.A.C. 7:31-7.3(c) shall submit its substantiation and fee within 30 days of receipt of a written request by the Department.

2. A petitioner whose risk management program is determined to be unacceptable shall submit its substantiation and fee at the time it submits the site data as required by N.J.A.C. 7:31-9.1(c), that is, within 30 days after receipt of notice that its risk management program is unacceptable.

3. (Reserved)

4. A petitioner who creates new privileged trade secret or security information shall submit its substantiation and fee within 30 days after receipt of a written request by the Department.

(c) The substantiation shall include, but need not be limited to, the following:

1. Identification of the specific use of the trade secret and an explanation why it is of interest to competitors and should be treated as a Privileged trade secret. Such identification shall include, but not be limited to, the following:

i. A description of the specific use of the trade secret, identifying the product, process, or activity in which it is used;

ii. If the petitioner's company or facility has been linked to the trade secret in publications or other information available to the public, an explanation why this knowledge does not eliminate the justification for trade secrecy;

iii. If the trade secret is unknown outside of the petitioner's company, an explanation how competitors could deduce this information from any disclosure required under the Act or this chapter; and

iv. An explanation why the trade secret information sought to be withheld would be valuable to competitors;

2. A description of the specific measures taken to safeguard the confidentiality of the trade secret or security information;

3. Identification of any and all persons, including employees of the covered process, to whom the trade secret or security information has been disclosed, including a copy of any signed confidentiality agreement requiring the person to refrain from disclosing the information sought to be withheld, or a description of any other methods used to ensure the confidentiality of the trade secret or security information. Officers or employees of the United States government to whom the information was disclosed for use in national defense purposes are not to be identified;

4. An indication of the number of and location of all documents which contain the allegedly privileged trade secret or security information;

5. A list of all local, state and Federal government entities to which the trade secret or security information has been disclosed. For each entity, whether a confidentiality claim for the information was asserted and whether the government entity granted or denied that claim shall be indicated;

6. A description of the harm to the petitioner's competitive position that would likely result from disclosure of the trade secret, including an estimate of the potential loss in sales or profitability;

7. A description of the extent to which the trade secret information is discoverable through the process of reverse engineering, including a description of the factors which influence the cost of discovering the trade secret by reverse engineering and a rough estimate of the cost of such discovery;

8. Identification of any patent to which the trade secret or petitioner's use of the trade secret is subject and an explanation why the patent:

i. Does not connect the petitioner with the trade secret; and

ii. Does not protect the petitioner from competitive harm;

9. A description of how disclosure of the trade secret or security information would likely affect the security of the facility or national defense; and

10. Any other relevant information to assist the Department in determining the validity of the petition to withhold privileged trade secret or security information.

(d) The petition and substantiation form shall contain the certification specified at N.J.A.C. 7:31-8.2(c).

(e) The owner or operator petitioning to withhold privileged trade secret or security information may claim as confidential any confidential information contained in the substantiation form by following the procedures set forth in N.J.A.C. 7:31-10.4(d) and (e). Information not properly marked will be treated as public and may be disclosed without notice to the petitioner.

(f) The petitioner shall initially submit to the Department only the confidential copy of any substantiation form which contains confidential information prepared in accordance with the provisions specified in N.J.A.C. 7:31-10.4(c).

(g) The Department may request supplemental information from the petitioner in support of its petition and substantiation to withhold trade secret or security information. The Department may specify the kind of information to be submitted, and the petitioner may submit any additional detailed information which further supports the information previously supplied to the Department in the petitioner's initial substantiation within 30 days of receipt of the Department's request. The petitioner may claim as confidential any confidential information included in the supplemental information, and shall clearly designate those portions of the supplemental information claimed as confidential in the manner described in N.J.A.C. 7:31-10.4(d) and (e). Information not properly marked will be treated as public information and may be disclosed without notice to the petitioner. A petitioner submitting supplemental information shall include a certification specified at N.J.A.C. 7:31-8.2(c). . If supplemental information is submitted by the petitioner and the petitioner claims portions of it as confidential information, then the petitioner shall initially submit to the Department only the confidential copy of the supplemental information as prescribed in N.J.A.C. 7:31-10.4(c).

(h) The confidential copy of any petition to withhold privileged trade secret or security information, and the substantiation form or supplemental information which contains confidential information shall be enclosed in envelopes in accordance with the procedures set forth in N.J.A.C. 7:31 10.4(f) and be forwarded to the address Provided therein.

(i) To ensure proper delivery, the methods specified in N.J.A.C. 7:31-10.4(g) shall be followed.

(j) A petitioner shall update information submitted to the Department regarding a pending or approved petition within 30 days of the petitioner's knowledge or receipt of new information which could affect the petition to withhold privileged trade secret or security information.

7:31-10.7 Determinations of petitions to withhold privileged trade secret or security information

(a) Upon receipt of a petition to withhold privileged trade secret or security information, the Department shall first make a determination that the information petitioned to be withheld as privileged trade secret or security information has not been the subject of a prior determination by the Department of a petition to withhold the same information concerning the same covered process, or if it has, that the prior determination upheld the owner or operator's petition to withhold the information.

1. If such a prior determination held that the petition to withhold the trade secret or security information was invalid, the Department shall notify the petitioner that the information petitioned to be withheld from the Department is the subject of a prior determination concerning the withholding of the same information in which it was held that such petition was invalid, and the Department shall require the petitioner to submit or disclose the information to the Department.

(b) Failure of petitioner to furnish timely substantiation or to pay the required fee waives its petition to withhold privileged trade secret or security information and the Department will require the petitioner to submit or disclose the information to the Department. Failure to furnish substantiation or to pay the required fee does not affect the owner or operator's right to assert a confidentiality claim concerning the same information.

(c) If the Department determines that the petition to withhold privileged trade secret or security information is not the subject of a prior determination, the Department shall determine whether the petitioner has presented sufficient support for its petition to withhold privileged trade secret or security information in its substantiation. A petition to withhold such information as privileged will be considered sufficient if, assuming all the information contained in the substantiation is true, this supporting information meets the criteria set forth in (d) below.

(d) A substantiation submitted under N.J.A.C. 7:31-10.6 will be determined to be sufficient to support a petition to withhold privileged trade secret or security information if the substantiation asserts specific facts to support the following conclusions:

1. The petitioner has established that the information sought to be withheld as privileged trade secret or security information is entitled to protection as confidential information in accordance with the criteria in N.J.A.C. 7:31-10.6(c)1 through 10;

2. The petitioner has not disclosed the information sought to be withheld to any other person other than to the petitioner's employees involved in its use, or, if the information relates to national security, to officers or employees of the United States government; and

3. The petitioner is not required by any state or Federal law or regulation to disclose the information to any governmental entity or agency, regardless of any right of the petitioner to make a claim of confidentiality upon disclosing the information to such governmental entity or agency.

(e) If the petition does not meet the criteria for sufficiency set forth in (d) above, the Department shall notify the petitioner in writing of this fact by certified mail (return receipt requested). The notification shall include the reasons for the Department's initial decision that the petition is insufficient, and shall inform the petitioner of its right to submit in writing supplemental information to the Department within 30 days of receipt of the notice in accordance with N.J.A.C. 7:31-10.6(g) to support the facts asserted in its substantiation. The notification may specifically request supplemental information in particular areas relating to the petition and shall inform the petitioner of its right to claim as confidential, any confidential information contained in any supplemental information it submits, and will include a reference to N.J.A.C. 7:31-10.4(d) and (e) as the source for the proper procedures for making such confidentiality claim.

(f) Upon receipt of supplemental information or after the 30 day period to submit supplemental information has expired, the Department shall determine whether the petition meets the standard of sufficiency set forth in (d) above.

1. If after receipt of supplemental information, the Department determines that the petition is sufficient, the Department will make a final determination concerning the petition to withhold trade secret or security information in accordance with (g) below.

2. If after the expiration of the 30 day period specified in (e) above, no supplemental information has been received by the Department, and the Department makes a final determination that the petition is still insufficient, the Department will notify the petitioner by certified mail (return receipt requested) that its petition is considered abandoned. The notice shall state the basis for the determination and will require the owner or operator to submit or disclose the information to the Department within 30 days of the registrant's receipt of the Department's determination. A determination that a petition to withhold privileged trade secret or security information is insufficient does not affect a registrant's right to assert a confidentiality claim concerning the same information, unless the determination of insufficiency concluded that the information sought to be withheld is not confidential information.

(g) Once a petition has been determined to be sufficient under (d) or (f)1 above, the Department will determine whether the petition to withhold trade secret or security information will be granted or denied.

1. The petitioner will be notified by regular mail that its petition has been granted if the Department determines that the information submitted in support of the petition is true and that the information sought to be withheld is a trade secret or security information which meets the following criteria:

i. The information is trade secret or security information entitled to be treated as confidential information in accordance with the criteria established in N.J.A.C. 7:31-10.6(c)1 through 10;

ii. The information has never been released to any person other than to the petitioner's employees who are involved in its use, or, if the information relates to national security, to officers or employees of the United States government;

iii. The information is not otherwise required to be disclosed by any Federal or state law or regulation to any governmental entity or agency, regardless of any right by the petitioner to make a claim

of confidentiality upon disclosing the information to any such governmental entity or agency; and

iv. The information is not included on the list provided at N.J.A.C. 7:31-10.3(b).

2. If the Department determines that the information submitted in support of the petition is not true or that the information sought to be withheld is not a trade secret or security information which is entitled to be treated as privileged in accordance with the criteria set forth in (g)1 above, the petitioner shall be notified by certified mail (return receipt requested) that its petition has been denied. The notification shall state the basis for the determination, and shall advise the petitioner of its right to request an adjudicatory hearing in accordance with the procedures specified at N.J.A.C. 7:31-11.3(b). Unless a request for an adjudicatory hearing is received within the registrant to submit or disclose the information to the Department within 30 days of the registrant's receipt of the Department's denial of its petition. A denial of a petition to withhold privileged trade secret or security information does not affect an owner or operator's right to assert a confidentiality claim concerning the same information, unless the denial concluded that the information sought to be withheld is not confidential information.

7:31-10.8 Maintaining the confidentiality and security of confidential information

(a) Until such time as a final confidentiality determination has been made, access to any information for which a confidentiality claim has been made will be limited to only those Department employees and agents whose activities necessitate such access and as provided at N.J.A.C. 7:31-10.9.

(b) No disclosure of information for which a confidentiality claim has been asserted shall be made to any other persons except as provided in this subchapter.

(c) Nothing in this section shall be construed as prohibiting the incorporation of confidential information into cumulations of data subject to disclosure as public records, provided that such disclosure is not in a form that would foreseeably allow persons, not otherwise having knowledge of such confidential information, to deduce from it the confidential information or the identity of the registrant who supplied it to the Department.

(d) Only those Department employees who are designated as records custodians in accordance with (1) below, shall open any envelope which is marked "CONFIDENTIAL" and is addressed as provided at N.J.A.C. 7:31-10.4(f).

(e) All submissions entitled to confidential treatment as determined at N.J.A.C. 7:31-10.5 shall be stored by the Department or its agents only in locked cabinets.

(f) Any record made or maintained by Department employees or agents which contains confidential information shall be treated as confidential in accordance with the provisions of this section.

(g) Confidential information shall not be publicly disclosed by the Department and shall not be communicated over telecommunications networks, including but not limited to telephones, computers connected by modems, or electronic mail systems.

(h) Any document, which contains confidential information and is transmitted by the Department to the registrant or to any authorized person, shall be sent by certified mail or by other means that requires a verification of receipt, the date of receipt, and the name of the person who receives the document.

(i) The Department's contact regarding confidential information shall be the owner or operator's qualified person.

(j) Any document prepared by the Department for the registrant which contains confidential information shall display the word "CONFIDENTIAL" in bold type or stamp on the top of each page. The envelope containing this document shall be addressed to the registrant's responsible manager and shall display the word "CONFIDENTIAL" in bold type or stamp on both sides. This envelope shall be enclosed in a plain envelope addressed for mailing.

(k) No persons other than the Commissioner and his or her designated employees or designated agents or an administrative law judge conducting a hearing on the confidentiality of information pursuant to N.J.S.A. 52:14F-1 et seq. shall have access to confidential information and such access shall be on a need-to-know basis only. Said designated representatives of the Commissioner shall be employees or agents of the Department and such designation shall be made in writing.

(1) The Commissioner shall designate employees to act as records custodians of all confidential information gathered pursuant to the Act or this chapter. These designated employees shall be responsible for acknowledging and recording the receipt of confidential information from an owner or operator, for tracking and recording all confidential information given to Department-designated employees or agents or an administrative law judge, for maintaining and upkeeping the confidential information file and storage area and for establishing any other methods deemed appropriate to protect the confidentiality of information through internal procedures or guidelines.

(m) Any confidential information added to a computerized data base shall only be added to computers which are:

1. Capable of being locked during periods of non-use by means of a lock and key mechanism, or by the use of passwords or levels of security clearances, or by other means that restrict access only to authorized Department personnel;
2. Are not tied to another computer system by means of communications network; and
3. Are kept within an office capable of being locked when not being used by an authorized person.

(n) Any confidentia1 information submitted to the Department which becomes obsolete or is no longer needed by the Department for the implementation of the Act or this chapter shall be returned to the owner or operator.

7:31-10.9 Disclosure of confidential information

(a) The Department may disclose confidential information to a person other than a Department employee, agent or administrative law judge only as provided in this section.

(b) The Department may disclose confidential information to any other governmental agency if:

1. The Department receives a written request for disclosure of the information from a duly authorized officer or employee of the other agency;

2. The request sets forth the official purpose for which the information is needed;

3. The Department notifies the other agency of the Department's determination that the information is entitled to confidential treatment, or of any unresolved confidentiality claim covering the information;

4. The other governmental agency has first furnished to the Department a written formal legal opinion from the agency's chief legal officer or counsel stating that under applicable law the agency has the authority to compel the person who submitted the information to the Department to disclose such information to the other agency;

5. The other agency agrees not to disclose the information further unless;

i. The other agency has statutory authority both to compel production of the information and to make the proposed disclosure; or

ii. The other agency has obtained the consent of the affected registrant to the proposed disclosure;

6. The other agency has adopted regulations or operates under statutory authority that will allow it to preserve confidential information from unauthorized disclosure.

(c) The Department may disclose confidential information to an agent of the Department and to an agent's employees when the agent is assisting in implementing the Act, its activities necessitate such access, and the requirements of (c)1 below have been satisfied. Any such disclosure of confidential information shall be restricted to a person approved in writing by the Department.

1. An agent shall not receive any confidential information unless:

i. It has submitted a plan to the Department which describes measures for adequately protecting confidential information form unauthorized disclosure, and such plan has been approved by the Department;

ii. It has provided written documentation demonstrating, to the satisfaction of the Department, that it maintains professional liability insurance and comprehensive general liability insurance in amounts to be set by the Department; and

iii. In addition to the requirement of (c)2 below, it has signed an agreement developed by the Department, protecting confidential information from unauthorized disclosure. The agreement shall include a provision whereby the agent assumes liability for any damages to the registrant resulting from the

intentional or negligent release of confidential information by the agent and its employees.

2. Any person granted access to confidential information pursuant to this section shall sign an agreement developed by the Department protecting the confidentiality of the information prior to receipt of the information.

3. Any person who receives confidential information pursuant to this section shall take appropriate measures to protect the information from unauthorized disclosure which shall include, but not be limited to:

i. Keeping the information confidential from unauthorized persons;

ii. Keeping any records containing confidential information in a locked file cabinet or safe, when not in use;

iii. Using the information only for the use approved by the Department;

iv. Not reproducing the confidential information; and

v. Returning all material on which the confidential information has been recorded to the Department within 30 days after finishing using the information.

(d) Except as otherwise provided in (e) below, the Department shall notify in writing the owner or operator who supplied the confidential information of:

1. Its disclosure to another agency or agent of the Department;
2. The date on which disclosure was made;
3. The name of the agency or agent to which disclosed; and
4. A description of the information disclosed.

(e) The Department may disclose any confidential information to any other person if it has obtained the written consent of the owner or operator's qualified person to such disclosure.

1. The giving of consent by an owner or operator to disclose shall not be deemed to waive a confidentiality claim with regard to further disclosures unless the authorized disclosure is of such nature as to make the disclosed information accessible to the general public.

(f) The Department may use confidential information in a civil or criminal proceeding, if permitted by a court.

7:31-10.10 Wrongful access or disclosure

(a) A person shall not disclose, seek access to, obtain or have possession of any confidential information obtained pursuant to the Act or this chapter, except as authorized by this subchapter.

(b) Every Department employee or agent who has custody or possession of confidential information shall take appropriate measures to safeguard such information and to protect against its improper disclosure.

(c) A Department employee or agent shall not disclose, or use for his or her private gain or advantage, any information which came into his or her possession, or to which he or she gained access, by virtue of his or her official position of employment or contractual relationship with the Department.

(d) If the Department finds that any person has violated the provisions of this subchapter, it may:

1. Commence a civil action in Superior Court for a restraining order and an injunction barring that person from further disclosing confidential information; and

2. Pursue any other remedy available by law.

(e) In addition to any other penalty that may be sought by the Department, violation of this subchapter by a Department employee shall constitute grounds for dismissal, suspension, fine or other adverse Personnel action.

(f) Disclosure by an agent in violation of this subchapter or the contractual provisions described in N.J.A.C. 7:31-10.9(c) shall constitute grounds for debarment or suspension as provided in "Debarment, Suspension and Disqualification from Department Contracting", N.J.A.C. 7:1-5, in addition to whatever other remedies may be available to the Department at equity or law.

(g) Use of any of the remedies specified under this section shall not preclude the use of any other remedy.

7:31-10.11 Use of confidential information in rulemaking, reviewing extraordinarily hazardous substance accident risk assessment reports and risk management programs, and enforcement proceedings.

Notwithstanding any other provisions of this subchapter, the Department may use confidential information in the development of the TCPA program rules, in the review and preparation of documents approving or withholding approval of extraordinarily hazardous substance accident risk assessment reports and risk management programs, and in the preparation of enforcement documents and during enforcement proceedings.

SUBCHAPTER 11. CIVIL ADMINISTRATIVE PENALTIES AND REQUESTS FOR ADJUDICATORY HEARINGS

7:31-11.1 Authority and purpose

(a) This subchapter shall govern the Department's assessment of civil administrative penalties for violations of the Toxic Catastrophe Prevention Act, N.J.S.A. 13:lK-19 et seq., including violations of any rule, consent agreement or administrative order issued pursuant to the Toxic Catastrophe Prevention Act. This subchapter shall also govern the procedures for requesting an adjudicatory hearing on a notice of civil administrative penalty assessment, an administrative order, a written notice from the Department withholding approval of a new covered process, or a certified letter denying a confidentiality claim or denying a petition to withhold privileged trade secret or security information..

(b) Neither the assessment of a civil administrative penalty nor the payment of any such civil administrative penalty shall be deemed to affect the availability of any other enforcement provision provided for by N.J.S.A. 13:lK-30 or any other statute, in connection with the violation for which the assessment is levied.

7:31-11.2 Procedures for issuance of administrative orders and assessment of civil administrative penalties and payment of such penalties

(a) For violation of the Act or any rule, consent agreement, information request, access request, or order promulgated or issued pursuant to the Act, the Department shall, by issuance of an administrative order and/or notice of civil administrative penalty assessment, notify the violator using certified mail (return receipt requested) or personal service. The Department may, in its discretion, require cessation of violation and/or assess a civil administrative penalty for more than one offense in a single administrative order and/or notice of civil administrative penalty assessment or in multiple administrative orders and/or notices of civil administrative penalty assessment. This administrative order and/or notice of civil administrative penalty assessment shall:

1. Identify the section of the Act, rule, consent agreement, information request, or access request, or order violated;
2. Concisely state the facts which constitute the violation;
3. For any violation still continuing, order such violation to cease;
4. Specify the amount of the civil administrative penalty to be imposed, if any; and
5. Advise the violator of the right to request an adjudicatory hearing pursuant to the procedures in N.J.A.C. 7:31-11.3.

(b) Payment of the civil administrative penalty is due and compliance with the terms of an administrative order is required upon receipt by the violator of the Department's final order in a contested case or when an administrative order and/or a notice of civil administrative penalty assessment otherwise becomes a final order, as follows:

1. If no hearing is requested pursuant to N.J.A.C. 7:31-11.3 or the Department does not receive a hearing request within 20 calendar days, the administrative order and/or notice of civil administrative

penalty assessment becomes a final order and is deemed received on the 21st calendar day following receipt by the violator of the administrative order and/or notice of civil administrative penalty assessment;

2. If the Department denies the hearing request pursuant to N.J.A.C. 7:31-11.3(e), an administrative order and/or notice of civil administrative penalty assessment becomes a final order upon the violator's receipt, by certified mail or personal service, of notice of such denial; or

3. If an adjudicatory hearing is conducted, an administrative order and/or notice of civil administrative penalty assessment becomes a final order upon receipt by the violator of a final order in a contested case.

(c) Any person who violates any provision of N.J.S.A. 13:1K-22 through 13:1K-26 or any rule, regulation, or order promulgated or a court order issued pursuant thereto, or who fails to pay a civil administrative penalty in full is subject, upon order of the court, to a civil penalty not to exceed $10,000.00 per day of the violation, and each day's continuance of the violation constitutes a separate and distinct violation. Any penalty imposed under this subsection may be recovered with cost in a summary proceeding before the Superior Court and pursuant to the Penalty Enforcement Law, N.J.S.A. 2A:58-1 et seq.

(d) The Department may, in its discretion, settle any civil administrative penalty assessed pursuant to N.J.A.C. 7:31-11.4 according to the following factors provided that these factors were not already considered during the assessment of the penalty:

1. Mitigating or extenuating circumstances;

2. The timely implementation by the violator of measures leading to compliance;

3. The full payment by the violator of a specified part of the civil administrative penalty assessed if made within a time period established by the Department in an administrative order and/or notice of civil administrative penalty assessment and provided that the violator waives the right to request an adjudicatory hearing on the civil administrative penalty; or

4. Any other terms or conditions acceptable to the Department.

7:31-11.3 Procedures to request an adjudicatory hearing

(a) Within 20 calendar days from receipt of an administrative order and/or a notice of civil administrative penalty assessment issued pursuant to the Toxic Catastrophe Prevention Act, the violator may request an adjudicatory hearing to contest such administrative order and/or penalty assessment by submitting a written request to the Department which shall include the following information:

1. The name, address, and telephone number of the violator and his or her authorized representative, if any;

2. The Department's identification number for the covered process as specified in the owner or operator's registration form (if applicable);

3. The violator's defenses to each of the Department's findings of fact stated in short and plain terms;

4. An admission or denial of each of the Department's findings of fact. If the violator is without knowledge or information sufficient to form a belief as to the truth of a finding, the violator shall so

state and this shall have the effect of a denial. A denial shall fairly meet the substance of the findings denied. When the violator intends in good faith to deny only a part or a qualification of a finding, the violator shall specify so much of it as is true and material and deny only the remainder. The violator may not generally deny all of the findings but shall make all denials as specific denials of designated findings. For each finding the violator denies, the violator shall allege the fact or facts as the violator believes it or them to be;

5. Information supporting the request and specific reference to or copies of other written documents relied upon to support the request;

6. An estimate of the time required for the hearing (in days and/or hours); and

7. A request, if necessary, for a barrier-free hearing location for disabled persons.

(b) Within 20 calendar days from receipt of an administrative order issued by the Department pursuant to 40 CFR 68.220(g) with changes specified at N.J.A.C. 7:31-8.1(c)9-10. or N.J.A.C. 7:31-9.5(e), or of a written notice from the Department withholding approval of a new covered process, or a certified letter denying a confidentiality claim or denying a petition to withhold privileged trade secret or security information, issued pursuant to the Toxic Catastrophe Prevention Act, the owner or operator may request an adjudicatory hearing to contest such action by submitting a written request to the Department which shall include the following information:

1. The name, address, and telephone number of the owner or operator and his or her authorized representative if any;

2. The Department's identification number for the covered process as specified in the owner or operator's registration form;

3. The owner or operator's factual position on each question alleged to be at issue, its relevance to the Department's decision, specific reference to contested conditions as well as suggested revised or alternative conditions;

4. Information supporting the owner or operator's factual position and proposed conditions and copies of other written documents relied upon to support the request for a hearing;

5. An estimate of the time required for the hearing (in days and/or hours); and

6. A request, if necessary, for a barrier-free hearing location for disabled persons.

(c) A written hearing request not received within 20 calendar days after receipt by the owner or operator or violator of the notice of a civil administrative penalty assessment and/or an administrative order and/or a written notification from the Department withholding approval of a new covered process and/or a certified letter denying a confidentiality claim or denying a petition to withhold privileged trade secret or security information shall be denied by the Department.

(d) During the pendency of the review and hearing on an administrative order issued pursuant to N.J.A.C. 7:31-9.5(e), the timetable for compliance with those conditions being appealed in the order shall be suspended.

(e) If the violator fails to include all the information required by (a) or (b) above, the Department may deny the hearing request.

(f) If it grants the request for a hearing, the Department shall file the request for a hearing with the Office of Administrative Law. The hearing shall be held before an administrative law judge and in accordance with the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1.

(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

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, the frequency of the violation, the type of violation as minor (M) or non-minor (NM), and the applicable grace period if the violation is minor, as follows:

TABLE III

Penalty in U.S. Dollars
By Offense Category

	Categories of Offense	Cite	First Offense	Second Offense	Subsequent Offenses	Type of Violation	Grace Period (days)
1.	Failure to comply with the requirements of 40 CFR 68 as incorporated at N.J.A.C. 7:31 by the schedule set forth in N.J.A.C. 7:31-7.5.	40 CFR 68.10(a)(1), N.J.A.C. 7:31-1.1(c)3i and ii	2,000	4,000	10,000	NM	

	Categories of Offense	Cite	First Offense	Second Offense	Subsequent Offenses	Type of Violation	Grace Period (days)
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	NM	
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	NM	
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. 7:31-4.11.	40 CFR 68.10(a), N.J.A.C. 7:31-1.1(c)3iii	1,000	2,000	5,000	NM	
5.	Reserved						
6.	Reserved						
7.	Reserved						
8.	Reserved						
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	NM	
	Note: Penalties 10-14 to be deleted March 16, 2010.						
10.	Reserved						
11.	Reserved						
12.	Reserved						
13.	Reserved						
14.	Reserved						

	Categories of Offense	Cite	First Offense	Second Offense	Subsequent Offenses	Type of Violation	Grace Period (days)
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	NM	
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	NM	
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	NM	
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	NM	
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	2,500	NM	
20.	Failure to develop a management system to oversee the implementation of the risk management program elements for covered processes.	40 CFR 68.15(a), N.J.A.C. 7:31-1.1(c)5iv	4,000	8,000	20,000	NM	

	Categories of Offense	Cite	First Offense	Second Offense	Subsequent Offenses	Type of Violation	Grace Period (days)
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	NM	
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	M	30
23.	Failure to include in the management system a documentation plan which: (1) provides a list identifying all documentation required by this chapter including the document title, identification number, and storage location; 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	M	30
24.	Failure to provide in the management system a of tracking and recording the EHS inventory at the facility against the Risk Management Plan registration quantity to ensure that the EHS registration quantity of each registered covered process is not exceeded.	40 CFR 68.15, N.J.A.C. 7:31-1.1(c)5ii	2,000	4,000	10,000	NM	
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	NM	
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	M	30

	Categories of Offense	Cite	First Offense	Second Offense	Subsequent Offenses	Type of Violation	Grace Period (days)
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	NM	
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	NM	
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 USEPA 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	NM	
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	NM	
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	NM	
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	NM	

	Categories of Offense	Cite	First Offense	Second Offense	Subsequent Offenses	Type of Violation	Grace Period (days)
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	NM	
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	NM	
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	NM	
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	NM	
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	NM	

	Categories of Offense	Cite	First Offense	Second Offense	Subsequent Offenses	Type of Violation	Grace Period (days)
38.	Failure to consider liquids other than gases, liquefied 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. or Failure to consider substances to be released at a process or ambient temperature that is appropriate for the scenario for alternative scenarios.	40 CFR 68.22(g), N.J.A.C. 7:31-2.1(a)	500	1,000	2,500	NM	
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	NM	
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	NM	

	Categories of Offense	Cite	First Offense	Second Offense	Subsequent Offenses	Type of Violation	Grace Period (days)
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	NM	
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	NM	
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	NM	
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	NM	

	Categories of Offense	Cite	First Offense	Second Offense	Subsequent Offenses	Type of Violation	Grace Period (days)
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	NM	
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	NM	
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	NM	
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)	2,000	4,000	10,000	NM	
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	NM	

	Categories of Offense	Cite	First Offense	Second Offense	Subsequent Offenses	Type of Violation	Grace Period (days)
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. 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.	40 CFR 68.25(d)(3), N.J.A.C. 7:31-2.1(a)	2,000	4,000	10,000	NM	
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. 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.	40 CFR 68.25(e), N.J.A.C. 7:31-2.1(a)	2,000	4,000	10,000	NM	
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	NM	

	Categories of Offense	Cite	First Offense	Second Offense	Subsequent Offenses	Type of Violation	Grace Period (days)
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	NM	
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. 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.	40 CFR 68.25(e)(2)(ii), N.J.A.C. 7:31-2.1(a)	2,000	4,000	10,000	NM	
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)	2,000	4,000	10,000	NM	

	Categories of Offense	Cite	First Offense	Second Offense	Subsequent Offenses	Type of Violation	Grace Period (days)
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	10,000	NM	
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	NM	
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	NM	

	Categories of Offense	Cite	First Offense	Second Offense	Subsequent Offenses	Type of Violation	Grace Period (days)
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	NM	
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	NM	
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	NM	
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	NM	
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	NM	

	Categories of Offense	Cite	First Offense	Second Offense	Subsequent Offenses	Type of Violation	Grace Period (days)
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 68.28(b)(1)(ii), N.J.A.C. 7:31-2.1(a)	4,000	8,000	20,000	NM	
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	NM	
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	NM	
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	NM	
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	NM	

	Categories of Offense	Cite	First Offense	Second Offense	Subsequent Offenses	Type of Violation	Grace Period (days)
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	NM	
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	NM	
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	NM	
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	NM	
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	NM	
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	NM	
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	M	30
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	NM	

	Categories of Offense	Cite	First Offense	Second Offense	Subsequent Offenses	Type of Violation	Grace Period (days)
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	NM	
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)	2,000	4,000	10,000	NM	
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	NM	

	Categories of Offense	Cite	First Offense	Second Offense	Subsequent Offenses	Type of Violation	Grace Period (days)
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	NM	
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	NM	
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	NM	
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	NM	
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	M	30
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	M	30
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	M	30
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	M	30

	Categories of Offense	Cite	First Offense	Second Offense	Subsequent Offenses	Type of Violation	Grace Period (days)
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	M	30
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	M	30
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	M	30
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	M	30
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	M	30
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	M	30
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 and that have been made by the time this information is submitted in accordance with 40 CFR 68.168.	40 CFR 68.42(b)(11), N.J.A.C. 7:31-2.1(a)	500	1,000	2,500	M	30
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	M	30
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	NM	

	Categories of Offense	Cite	First Offense	Second Offense	Subsequent Offenses	Type of Violation	Grace Period (days)
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	NM	
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	NM	
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	NM	
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	NM	
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	NM	
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	NM	

	Categories of Offense	Cite	First Offense	Second Offense	Subsequent Offenses	Type of Violation	Grace Period (days)
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	NM	
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	NM	
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	NM	
106.	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)3iii	4,000	8,000	20,000	NM	
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	NM	

Note: Penalties 108-208 to be deleted March 16, 2010.

108. Reserved
109. Reserved
110. Reserved
111. Reserved
112. Reserved
113. Reserved
114. Reserved
115. Reserved
116. Reserved
117. Reserved
118. Reserved

	Categories of Offense	Cite	First Offense	Second Offense	Subsequent Offenses	Type of Violation	Grace Period (days)
119.	Reserved						
120.	Reserved						
121.	Reserved						
122.	Reserved						
123.	Reserved						
124.	Reserved						
125.	Reserved						
126.	Reserved						
127.	Reserved						
128.	Reserved						
129.	Reserved						
130.	Reserved						
131.	Reserved						
132.	Reserved						
133.	Reserved						
134.	Reserved						
135.	Reserved						
136.	Reserved						
137.	Reserved						
138.	Reserved						
139.	Reserved						
140.	Reserved						
141.	Reserved						
142.	Reserved						
143.	Reserved						
144.	Reserved						
145.	Reserved						
146.	Reserved						
147.	Reserved						
148.	Reserved						
149.	Reserved						
150.	Reserved						
151.	Reserved						
152.	Reserved						
153.	Reserved						
154.	Reserved						
155.	Reserved						
156.	Reserved						
157.	Reserved						
158.	Reserved						
159.	Reserved						
160.	Reserved						
161.	Reserved						
162.	Reserved						
163.	Reserved						
164.	Reserved						
165.	Reserved						

	Categories of Offense	Cite	First Offense	Second Offense	Subsequent Offenses	Type of Violation	Grace Period (days)
166.	Reserved						
167.	Reserved						
168.	Reserved						
169.	Reserved						
170.	Reserved						
171.	Reserved						
172.	Reserved						
173.	Reserved						
174.	Reserved						
175.	Reserved						
176.	Reserved						
177.	Reserved						
178.	Reserved						
179.	Reserved						
180.	Reserved						
181.	Reserved						
182.	Reserved						
183.	Reserved						
184.	Reserved						
185.	Reserved						
186.	Reserved						
187.	Reserved						
188.	Reserved						
189.	Reserved						
190.	Reserved						
191.	Reserved						
192.	Reserved						
193.	Reserved						
194.	Reserved						
195.	Reserved						
196.	Reserved						
197.	Reserved						
198.	Reserved						
199.	Reserved						
200.	Reserved						
201.	Reserved						
202.	Reserved						
203.	Reserved						
204.	Reserved						
205.	Reserved						
206.	Reserved						
207.	Reserved						
208.	Reserved						

	Categories of Offense	Cite	First Offense	Second Offense	Subsequent Offenses	Type of Violation	Grace Period (days)
209.	Failure to complete a compilation of written process safety information before conducting any required process hazard analysis in accordance with the schedule set forth in 40 CFR 68.67 as incorporated at N.J.A.C. 7:31-4.1(c)6.	40 CFR 68.65(a), N.J.A.C. 7:31-4.1(a)	2,000	4,000	10,000	NM	
210.	Failure to include toxicity information in the process safety information pertaining to the hazards of the regulated substances in a process.	40 CFR 68.65(b)(1), N.J.A.C. 7:31-4.1(a)	500	1,000	2,500	NM	
211.	Failure to include permissible exposure limits in the process safety information pertaining to the hazards of the regulated substances in a process.	40 CFR 68.65(b)(2), N.J.A.C. 7:31-4.1(a)	500	1,000	2,500	NM	
212.	Failure to include physical data in the process safety information pertaining to the hazards of the regulated substances in a process.	40 CFR 68.65(b)(3), N.J.A.C. 7:31-4.1(a)	500	1,000	2,500	NM	
213.	Failure to provide in the process safety information reactivity data including the flash point up to 200 degrees Fahrenheit (and method used), flammable limits (lower explosive limit and upper explosive limit), extinguishing media, special fire fighting procedures, or unusual fire and explosion hazards.	40 CFR 68.65(b)(4), N.J.A.C. 7:31-4.1(c)24i	500	1,000	2,500	NM	
214.	Failure to provide in the process safety information reactivity data including the following thermodynamic and reaction kinetic data: heat of reaction, temperature at which instability (uncontrolled reaction, decomposition, and/or polymerization) initiates, and energy release rate data.	40 CFR 68.65(b)(4), N.J.A.C. 7:31-4.1(c)24ii	500	1,000	2,500	NM	
215.	Failure to provide in the process safety information reactivity data including the incidental formation of byproducts that are reactive and unstable.	40 CFR 68.65(b)(4), N.J.A.C. 7:31-4.1(c)24iii	500	1,000	2,500	NM	

	Categories of Offense	Cite	First Offense	Second Offense	Subsequent Offenses	Type of Violation	Grace Period (days)
215A	Failure to provide in the process safety information reactivity data including for covered RHS mixtures, detailed reactivity data including the rate of pressure rise (dP/dt), the rate of temperature rise (dT/dt), and the onset temperature at which the rate of temperature change due to uncontrolled reaction, decomposition, change in molecular structure, or polymerization exceeds 0.01 degrees Celsius per minute, all of which are corrected to a thermal inertia (φ) of 1.0.	40 CFR 68.65(b)(4), N.J.A.C. 7:31-4.1(c)24iv	500	1,000	2,500	NM	
216.	Failure to include corrosivity data in the process safety information pertaining to the hazards of the regulated substances in the process.	40 CFR 68.65(b)(5), N.J.A.C. 7:31-4.1(a)	500	1,000	2,500	NM	
217.	Failure to provide in the process safety information thermal and chemical stability data including stability (unstable or stable), conditions to avoid (for instability), incompatibility (materials to avoid), hazardous decomposition (products or byproducts), hazardous polymerization (may occur or will not occur), and conditions to avoid (for polymerization).	40 CFR 68.65(b)(6), N.J.A.C. 7:31-4.1(c)25	500	1,000	2,500	NM	
218.	Failure to provide in the process safety information hazardous effects of inadvertent mixing of different materials that could foreseeably occur including the explosive/flammable effects and information showing the identity of potential toxic or flammable EHSs capable of being generated for individual RHSs listed at N.J.A.C. 7:31-6.3(a) Table I, Part D, Group I due to inadvertent mixing with incompatible substances, decomposition, and self-reaction.	40 CFR 68.65(b)(7), N.J.A.C. 7:31-4.1(c)26	500	1,000	2,500	NM	
219.	Failure to include a block flow diagram or process flow diagram in the process safety information pertaining to the technology of the process.	40 CFR 68.65(c)(1)(i), N.J.A.C. 7:31-4.1(c)(1)	500	1,000	2,500	NM	

	Categories of Offense	Cite	First Offense	Second Offense	Subsequent Offenses	Type of Violation	Grace Period (days)
220.	Failure to include process chemistry in the process safety information pertaining to the technology of the process.	40 CFR 68.65(c)(1)(ii), N.J.A.C. 7:31-4.1(a)	500	1,000	2,500	NM	
221.	Failure to include maximum intended inventory in the process safety information pertaining to the technology of the process.	40 CFR 68.65(c)(1)(iii), N.J.A.C. 7:31-4.1(a)	500	1,000	2,500	NM	
222.	Failure to include safe upper and lower limits for such items as temperatures, pressures, flows or compositions in the process safety information pertaining to the technology of the process.	40 CFR 68.65(c)(1)(iv), N.J.A.C. 7:31-4.1(a)	500	1,000	2,500	NM	
223.	Failure to include an evaluation of the consequences of deviations in the process safety information pertaining to the technology of the process.	40 CFR 68.65(c)(1)(v), N.J.A.C. 7:31-4.1(a)	500	1,000	2,500	NM	
224.	Failure to develop technical information in conjunction with the process hazard analysis in sufficient detail to support the analysis when the original technical information no longer exists.	40 CFR 68.65(c)(2), N.J.A.C. 7:31-4.1(a)	500	1,000	2,500	NM	
225.	Failure to include equipment specifications including materials of construction in the process safety information pertaining to the equipment in the process.	40 CFR 68.65(d)(1)(i), N.J.A.C. 7:31-4.1(c) 2	500	1,000	2,500	NM	
226.	Failure to include piping and instrument diagrams (P&ID's) in the process safety information pertaining to the equipment in the process.	40 CFR 68.65(d)(1)(ii), N.J.A.C. 7:31-4.1(a)	500	1,000	2,500	NM	
227.	Failure to include electrical classification in the process safety information pertaining to the equipment in the process.	40 CFR 68.65(d)(1)(iii), N.J.A.C. 7:31-4.1(a)	500	1,000	2,500	NM	
228.	Failure to include relief system design and design basis in the process safety information pertaining to the equipment in the process.	40 CFR 68.65(d)(1)(iv), N.J.A.C. 7:31-4.1(a)	500	1,000	2,500	NM	

	Categories of Offense	Cite	First Offense	Second Offense	Subsequent Offenses	Type of Violation	Grace Period (days)
229.	Failure to include ventilation system design in the process safety information pertaining to the equipment in the process.	40 CFR 68.65(d)(1)(v), N.J.A.C. 7:31-4.1(a)	500	1,000	2,500	NM	
230.	Failure to include design codes and standards employed in the process safety information pertaining to the equipment in the process.	40 CFR 68.65(d)(1)(vi), N.J.A.C. 7:31-4.1(a)	500	1,000	2,500	NM	
231.	Failure to include material and energy balances for processes built after June 21, 1999 in the process safety information pertaining to the equipment in the process.	40 CFR 68.65(d)(1)(vii), N.J.A.C. 7:31-4.1(a)	500	1,000	2,500	NM	
232.	Failure to include safety systems (for example, interlocks, detection or suppression systems) in the process safety information pertaining to the equipment in the process.	40 CFR 68.65(d)(1)(viii), N.J.A.C. 7:31-4.1(a)	500	1,000	2,500	NM	
233.	Failure to include electrical one-line diagrams relevant to the covered process and its potential releases in the process safety information pertaining to the equipment in the process.	40 CFR 68.65(d)(1), N.J.A.C. 7:31-4.1(c)3i	500	1,000	2,500	NM	
234.	Failure to include a site plan in the process safety information pertaining to the equipment in the process.	40 CFR 68.65(d)(1), N.J.A.C. 7:31-4.1(c)3ii	500	1,000	2,500	NM	
235.	Failure to include firewater system piping diagrams relevant to the covered process and its potential releases in the process safety information pertaining to the equipment in the process.	40 CFR 68.65(d)(1), N.J.A.C. 7:31-4.1(c)3iii	500	1,000	2,500	NM	
236.	Failure to include sewer system piping diagrams relevant to the covered process and its potential releases in the process safety information pertaining to the equipment in the process.	40 CFR 68.65(d)(1), N.J.A.C. 7:31-4.1(c)3iv	500	1,000	2,500	NM	
237.	Failure to include external forces and events data in the process safety information pertaining to the equipment in the process.	40 CFR 68.65(d)(1), N.J.A.C. 7:31-4.1(c)3v	500	1,000	2,500	NM	

	Categories of Offense	Cite	First Offense	Second Offense	Subsequent Offenses	Type of Violation	Grace Period (days)
238.	Failure to document that the equipment complies with recognized and generally accepted good engineering and operating practices.	40 CFR 68.65(d)(2), N.J.A.C. 7:31-4.1(c)4	500	1,000	2,500	NM	
239.	Failure to determine and document that existing equipment designed and constructed in accordance with codes, standards, or practices that are no longer in general use, is designed, maintained, inspected, tested, and operating in a safe manner.	40 CFR 68.65(d)(3), N.J.A.C. 7:31-4.1(a)	500	1,000	2,500	NM	
240.	Failure to perform an initial process hazard analysis (PHA) with risk assessment (hazard evaluation) on processes covered by 40 CFR 68 Subpart D as incorporated at N.J.A.C. 7:31-4.1. or Failure to perform a PHA with risk assessment appropriate to the complexity of the process and to identify, evaluate, and control the hazards involved in the process. or Failure to determine and document the priority order for conducting PHA's with risk assessments based on a rationale which includes such considerations as extent of the process hazards, number of potentially affected employees and offsite public, age of the process, and operating history of the process.	40 CFR 68.67(a), N.J.A.C. 7:31-4.1(c)6	5,000	10,000	25,000	NM	
241.	Failure to use one or more of the methodologies listed at 40 CFR 68.67b(1)-(7) incorporated at N.J.A.C. 7:31-4.1(a) to determine and evaluate the hazards of the process being analyzed.	40 CFR 68.67(b)(1) through (7), N.J.A.C. 7:31-4.1(a)	2,000	4,000	10,000	NM	
242.	Failure to address the hazards of the process in the process hazard analysis.	40 CFR 68.67(c)(1), N.J.A.C. 7:31-4.1(a)	2,000	4,000	10,000	NM	
243.	Failure to address the identification of any previous incident which had a likely potential for catastrophic consequences in the process hazard analysis.	40 CFR 68.67(c)(2), N.J.A.C. 7:31-4.1(a)	1,000	2,000	5,000	NM	

	Categories of Offense	Cite	First Offense	Second Offense	Subsequent Offenses	Type of Violation	Grace Period (days)
244.	Failure to address in the process hazard analysis the engineering and administrative controls applicable to the hazards and their interrelationships such as appropriate application of detection methodologies to provide early warning of releases.	40 CFR 68.67(c)(3), N.J.A.C. 7:31-4.1(a)	1,000	2,000	5,000	NM	
245.	Failure to address consequences of failure of engineering and administrative controls in the process hazard analysis.	40 CFR 68.67(c)(4), N.J.A.C. 7:31-4.1(a)	1,000	2,000	5,000	NM	
246.	Failure to address stationary source siting in the process hazard analysis.	40 CFR 68.67(c)(5), N.J.A.C. 7:31-4.1(a)	1,000	2,000	5,000	NM	
247.	Failure to address human factors in the process hazard analysis.	40 CFR 68.67(c)(6), N.J.A.C. 7:31-4.1(a)	1,000	2,000	5,000	NM	
248.	Failure to address in the process hazard analysis a qualitative evaluation of a range of the possible safety and health effects of failure of controls.	40 CFR 68.67(c)(7), N.J.A.C. 7:31-4.1(a)	1,000	2,000	5,000	NM	
249.	Failure to perform the process hazard analysis using a team with expertise in engineering and process operations which includes at least one employee who has experience and knowledge specific to the process being evaluated. or Failure to perform the process hazard analysis using a team with at least one member who is knowledgeable in the specific process hazard analysis methodology being used.	40 CFR 68.67(d), N.J.A.C. 7:31-4.1(a)	1,000	2,000	5,000	NM	

	Categories of Offense	Cite	First Offense	Second Offense	Subsequent Offenses	Type of Violation	Grace Period (days)
250.	Failure to establish a system to promptly address the process hazard analysis team's findings and recommendations. or Failure to assure that the process hazard analysis team's recommendations are resolved in a timely manner or that the resolution is documented. or Failure to document what actions are to be taken to resolve the process hazard analysis recommendations. or Failure to complete actions required by the process hazard analysis recommendations as soon as possible. or Failure to develop a written schedule of when actions recommended in the process hazard analysis are to be completed. or Failure to communicate the actions recommended in the process hazard analysis to operating, maintenance and other employees whose work assignments are in the process and who may be affected by the recommendations or actions.	40 CFR 68.67(e), N.J.A.C. 7:31-4.1(a)	2,000	4,000	10,000	NM	
251.	Failure to update and revalidate the process hazard analysis (with risk assessment) at least every five years after the completion of the initial process hazard analysis (with risk assessment) using a team meeting the requirements in 40 CFR 68.67(d) as incorporated at N.J.A.C. 7:31-4.1(c)7 to assure that the process hazard analysis with risk assessment is consistent with the current process.	40 CFR 68.67(f), N.J.A.C. 7:31-4.1(c)7	4,000	8,000	20,000	NM	
252.	Failure to retain process hazards analyses and updates or revalidations for each covered process, as well as the documented resolution of recommendations described in 40 CFR 68.67(e) as incorporated at N.J.A.C. 7:31-4.1(a) for the life of the process.	40 CFR 68.67(g), N.J.A.C. 7:31-4.1(a)	2,000	4,000	10,000	NM	

	Categories of Offense	Cite	First Offense	Second Offense	Subsequent Offenses	Type of Violation	Grace Period (days)
253.	Failure to perform a process hazard analysis with risk assessment.	N.J.A.C. 7:31-4.2(b)	5,000	10,000	25,000	NM	
254.	Failure to perform a process hazard analysis with risk assessment which includes the following: (1) identification of EHS equipment subject to the assessment, (2) the points of possible EHS release, (3) the corresponding approximate quantity of an instantaneous EHS release or the rate(s) and duration of a continuing EHS release, either steady or non-steady state, or (4) the corresponding cause of the EHS release. or Failure to base estimates of the quantity or rate and duration of a release on actual release mechanisms that reflect the operating procedures, safeguards, and mitigation equipment and procedures planned for new or modified covered processes or in place for existing covered processes.	N.J.A.C. 7:31-4.2(b)1	5,000	10,000	25,000	NM	
255.	Failure to include in the process hazard analysis with risk assessment consideration of toxicity, flammability, explosion and reactivity hazards applicable to the EHS; however, consideration of toxicity shall be required only for those EHSs which appear in N.J.A.C. 7:31-6.3(a), Table I, Parts A and/or B as a toxic substance. or Failure to consider in the process hazard analysis with risk assessment both the explosive/flammability hazard and the capability to generate a toxic EHS, as applicable to the RHS or RHS Mixture and process in which it is handled.	N.J.A.C. 7:31-4.2(b)2	5,000	10,000	25,000	NM	

	Categories of Offense	Cite	First Offense	Second Offense	Subsequent Offenses	Type of Violation	Grace Period (days)
256.	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 and overpressure analysis as applicable to the EHS and scenario.	N.J.A.C. 7:31-4.2(b)3	2,000	4,000	10,000	NM	
257.	Failure to use the parameters of 1.5 meters per second wind speed measured at 10 meters height and F atmospheric stability class for the consequence analysis of a process in the process hazard analysis with risk assessment.	N.J.A.C. 7:31-4.2(b)3i	2,000	4,000	10,000	NM	
258.	Failure to use all parameters listed for alternative scenarios at 40 CFR 68.22(c) through (g) for the consequence analysis of a process in the process hazard analysis with risk assessment.	N.J.A.C. 7:31-4.2(b)3ii	2,000	4,000	10,000	NM	
259.	Reserved						
260.	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; five kW/m^2 for 40 seconds; the lower flammability limit; or 2.3 psi overpressure.	N.J.A.C. 7:31-4.2(b)3iii	2,000	4,000	10,000	NM	
261.	Reserved						
262.	Failure to determine whether the likelihood of release occurrence is greater than or equal to 10^{-6} per year. or Failure to perform an evaluation of risk reduction measures which would reduce the likelihood or consequences of an EHS release if the likelihood of offsite impact is greater than or equal to 10^{-6} per year.	N.J.A.C. 7:31-4.2(c)1	2,000	4,000	10,000	NM	

	Categories of Offense	Cite	First Offense	Second Offense	Subsequent Offenses	Type of Violation	Grace Period (days)
263.	Failure to develop and implement a risk reduction plan for feasible risk reduction measures.	N.J.A.C. 7:31-4.2(c)3	2,000	4,000	10,000	NM	
264.	Failure to maintain documentation from the process hazard analysis with risk assessment including a table(s) setting forth the process hazard analysis results giving the release point and corresponding release scenario of the potential basic (initiating) and intermediate event sequences, the corresponding estimated quantity or rate and duration of releases, and the recommended resolution action based upon 40 CFR 68.67(e).	N.J.A.C. 7:31-4.2(d)1	2,000	4,000	10,000	NM	
265.	Failure to maintain documentation from the process hazard analysis with risk assessment including table(s) summarizing each potential offsite release scenario identified including the scenario identification number and brief description.	N.J.A.C. 7:31-4.2(d)2i	2,000	4,000	10,000	NM	
266.	Failure to maintain documentation from the process hazard analysis with risk assessment including table(s) summarizing each potential offsite release scenario identified including the rate and duration, or quantity, of potential release.	N.J.A.C. 7:31-4.2(d)2ii	2,000	4,000	10,000	NM	
267.	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 the respective distance to the nearest property line.	N.J.A.C. 7:31-4.2(d)2iii	2,000	4,000	10,000	NM	
268.	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)1.	N.J.A.C. 7:31-4.2(d)2iv	2,000	4,000	10,000	NM	

	Categories of Offense	Cite	First Offense	Second Offense	Subsequent Offenses	Type of Violation	Grace Period (days)
269.	Failure to maintain documentation from the process hazard analysis with risk assessment containing consequence analysis information that identifies the consequence analysis model used.	N.J.A.C. 7:31-4.2(d)3i	2,000	4,000	10,000	NM	
270.	Failure to maintain documentation from the process hazard analysis with risk assessment containing consequence analysis modeling information that includes printouts of the consequence analysis model inputs and outputs for a consequence analysis model other than the lookup tables provided in the EPA's RMP Offsite Consequence Analysis Guidance current as of the time the modeling was performed.	N.J.A.C. 7:31-4.2(d)3ii	2,000	4,000	10,000	NM	
271.	Failure to maintain documentation from the process hazard analysis with risk assessment including documentation to justify the determination of why risk reduction measures are not feasible. .	N.J.A.C. 7:31-4.2(d)4	2,000	4,000	10,000	NM	
272.	Failure to maintain documentation from the process hazard analysis with risk assessment including the resolution of the risk reduction measures in the risk reduction plan.	N.J.A.C. 7:31-4.2(d)5	2,000	4,000	10,000	NM	
273.	Failure to prepare a report of the process hazard analysis with risk assessment that includes an identification of the covered process that is the subject of the process hazard analysis with risk assessment; the name, position and affiliation of persons who performed the process hazard analysis with risk assessment; the date of completion; or the methodology used.	N.J.A.C. 7:31-4.2(e)1	2,000	4,000	10,000	NM	
274.	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.	N.J.A.C. 7:31-4.2(e)2	2,000	4,000	10,000	NM	

	Categories of Offense	Cite	First Offense	Second Offense	Subsequent Offenses	Type of Violation	Grace Period (days)
275.	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)2 and (d)1.	N.J.A.C. 7:31-4.2(e)3	2,000	4,000	10,000	NM	
276.	Reserved.						
277.	Failure to develop and implement written operating procedures consistent with the process safety information that provide clear instructions for safely conducting activities involved in the covered process. or Failure to write the operating procedures in a manner and language that the EHS operators of a process are capable of understanding.	40 CFR 68.69(a), N.J.A.C. 7:31-4.1(c)8	4,000	8,000	20,000	NM	
278.	Failure to address in the written operating procedures steps for each operating phase including initial startup.	40 CFR 68.69(a)(1)i N.J.A.C. 7:31-4.1(a)	1,000	2,000	5,000	NM	
279.	Failure to address in the written operating procedures steps for each operating phase including normal operations.	40 CFR 68.69(a)(1)(ii), N.J.A.C. 7:31-4.1(a)	1,000	2,000	5,000	NM	
280.	Failure to address in the operating written procedures steps for each operating phase including temporary operations.	40 CFR 68.69(a)(1)(iii), N.J.A.C. 7:31-4.1(a)	1,000	2,000	5,000	NM	
281.	Failure to address in the written operating procedures steps for emergency shutdown including the conditions under which emergency shutdown is required, and the assignment of shutdown responsibility to qualified operators to ensure that emergency shutdown is executed in a safe and timely manner.	40 CFR 68.69(a)(1)(iv), N.J.A.C. 7:31-4.1(a)	1,000	2,000	5,000	NM	
282.	Failure to address in the written operating procedures steps for each operating phase including emergency operations.	40 CFR 68.69(a)(1)(v); N.J.A.C. 7:31-4.1(a)	1,000	2,000	5,000	NM	
283.	Failure to address in the written operating procedures steps for each operating phase including normal shutdown.	40 CFR 68.69(a)(1)(vi), N.J.A.C. 7:31-4.1(a)	1,000	2,000	5,000	NM	

	Categories of Offense	Cite	First Offense	Second Offense	Subsequent Offenses	Type of Violation	Grace Period (days)
284.	Failure to address in the written operating procedures steps for each operating phase including startup following a turnaround, or after an emergency shutdown.	40 CFR 68.69(a)(1)(vii), N.J.A.C. 7:31-4.1(a)	1,000	2,000	5,000	NM	
285.	Failure to address in the written operating procedures operating limits including consequences of deviation.	40 CFR 68.69(a)(2)(i), N.J.A.C. 7:31-4.1(a)	1,000	2,000	5,000	NM	
286.	Failure to address in the written operating procedures operating limits including steps required to correct or avoid deviation.	40 CFR 68.69(a)(2)(ii), N.J.A.C. 7:31-4.1(a)	1,000	2,000	5,000	NM	
287.	Failure to address in the written operating procedures safety and health considerations including properties of, and hazards presented by, the chemicals used in the process.	40 CFR 68.69(a)(3)(i), N.J.A.C. 7:31-4.1(a)	1,000	2,000	5,000	NM	
288.	Failure to address in the written operating procedures safety and health considerations containing precautions necessary to prevent exposure, including engineering controls, administrative controls, and personal protective equipment.	40 CFR 68.69(a)(3)(ii), N.J.A.C. 7:31-4.1(a)	1,000	2,000	5,000	NM	
289.	Failure to address in the written operating procedures safety and health considerations including control measures to be taken if physical contact or airborne exposure occurs.	40 CFR 68.69(a)(3)(iii), N.J.A.C. 7:31-4.1(a)	1,000	2,000	5,000	NM	
290.	Failure to address in the operating written procedures safety and health considerations including quality control for raw materials and control of hazardous chemical inventory levels.	40 CFR 68.69(a)(3)(iv), N.J.A.C. 7:31-4.1(a)	1,000	2,000	5,000	NM	
291.	Failure to address in the written operating procedures safety and health considerations including any special or unique hazards.	40 CFR 68.69(a)(3)(v), N.J.A.C. 7:31-4.1(a)	1,000	2,000	5,000	NM	
292.	Failure to address in the written operating procedures safety systems and their functions.	40 CFR 68.69(a)(4), N.J.A.C. 7:31-4.1(a)	1,000	2,000	5,000	NM	

	Categories of Offense	Cite	First Offense	Second Offense	Subsequent Offenses	Type of Violation	Grace Period (days)
293.	Failure to make operating procedures readily accessible to employees who work in or maintain the process.	40 CFR 68.69(b), N.J.A.C. 7:31-4.1(a)	1,000	2,000	5,000	NM	
294.	Failure to review the operating procedures as often as necessary to assure that they reflect current operating practice, including changes that result from changes in process chemicals, technology, and equipment, and changes to the stationary source.	40 CFR 68.69(c), N.J.A.C. 7:31-4.1(a)	1,000	2,000	5,000	NM	
295.	Failure to certify annually that the operating procedures are current and accurate.	40 CFR 68.69(c), N.J.A.C. 7:31-4.1(a)	2,000	4,000	10,000	NM	
296.	Failure to develop and implement safe work practices that apply to employees and contractor employees that provide for the control of hazards during operations such as lockout/tagout; confined space entry; opening process equipment or piping; or control over entrance into the stationary source by maintenance, contractor, laboratory, or other support personnel.	40 CFR 68.69(d), N.J.A.C. 7:31-4.1(a)	2,000	4,000	10,000	NM	
297.	Failure to include in the standard operating procedures a process description defining the operation and showing flows, temperatures and pressures, or a reference to a document with this information.	N.J.A.C. 7:31-4.3(b)1	500	1,000	2,500	NM	
298.	Failure to include in the standard operating procedures sampling procedures addressing apparatus and specific steps involved in the taking of samples.	N.J.A.C. 7:31-4.3(b)2	500	1,000	2,500	NM	
299.	Failure to include in the standard operating procedures logsheets and checklists where appropriate to the operation.	N.J.A.C. 7:31-4.3(b)3	500	1,000	2,500	NM	
300.	Failure to include in the standard operating procedures a statement as to the number of EHS operators required to meet safety needs for each operation that has shift coverage requirements.	N.J.A.C. 7:31-4.3(b)4	500	1,000	2,500	NM	

	Categories of Offense	Cite	First Offense	Second Offense	Subsequent Offenses	Type of Violation	Grace Period (days)
301.	Failure to include in the standard operating procedures a requirement that an EHS operator be in attendance at the facility to acknowledge alarms and take corrective action to prevent an accident at all times during EHS handling, use, manufacturing, storage or generation unless the conditions of N.J.A.C. 7:31-4.3(b)5i, are met. or Failure to provide EHS monitoring equipment with alarms reporting to a continuously attended station whose personnel are trained to take action to prevent an EHS accident.	N.J.A.C. 7:31-4.3(b)5i	500	1,000	2,500	NM	
302.	Failure to include in the standard operating procedures a requirement that an EHS operator be in attendance at the facility to acknowledge alarms and take corrective action to prevent an accident at all times during EHS handling, use, manufacturing, storage or generation unless the conditions of N.J.A.C. 7:31-4.3(b)5ii are met. or Failure to provide EHS monitoring equipment with alarms reporting to a continuously attended station whose personnel are trained to take action to prevent an EHS accident.	N.J.A.C. 7:31-4.3(b)5ii	500	1,000	2,500	NM	
303.	Failure to include in the standard operating procedures a requirement that an EHS operator be in attendance at the facility to acknowledge alarms and take corrective action to prevent an accident at all times during EHS handling, use, manufacturing, storage or generation unless the conditions of N.J.A.C. 7:31-4.3(b)5iii are met. or Failure to provide EHS monitoring equipment with alarms reporting to a continuously attended station, and failure to demonstrate that an EHS operator is not necessary during the specified activity by performing a risk assessment pursuant to N.J.A.C. 7:31-4.2.	N.J.A.C. 7:31-4.3(b)5iii	500	1,000	2,500	NM	

	Categories of Offense	Cite	First Offense	Second Offense	Subsequent Offenses	Type of Violation	Grace Period (days)
304.	Failure to include in the standard operating procedures a requirement that an EHS operator be in attendance at the facility 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 and shutting down EHS equipment and provided with alarms reporting to a continuously attended station whose personnel are trained to take action to prevent an EHS accident.	N.J.A.C. 7:31-4.3(b)5iv	500	1,000	2,500	NM	
305.	Failure to include in the standard operating procedures a table of contents or a system to index the standard operating procedures covering the items of 40 CFR 68.69(a) and N.J.A.C. 7:31-4.3(b)1 through 5 for each covered process.	N.J.A.C. 7:31-4.3(b)6	500	1,000	2,500	M	30

	Categories of Offense	Cite	First Offense	Second Offense	Subsequent Offenses	Type of Violation	Grace Period (days)
306.	Failure to train each employee presently involved in operating a process in an overview of the process and in the operating procedures as specified in 40 CFR 68.69 as incorporated at N.J.A.C. 7:31-4.1(c)8. or Failure to include in the training for employees presently involved in operating a process emphasis on the specific safety and health hazards, emergency operations including shutdown, and safe work practices applicable to the employee's job tasks. or Failure to train each employee before being involved in operating a newly assigned process in an overview of the process and in the operating procedures as specified in 40 CFR 68.69 as incorporated at N.J.A.C. 7:31-4.1(c)8. or Failure to include in the training of a newly assigned employee emphasis on the specific safety and health hazards, emergency operations including shutdown, and safe work practices applicable to the employee's job tasks.	40 CFR 68.71(a)(1), N.J.A.C. 7:31-4.1(c)	2,000	4,000	10,000	NM	
307.	Failure to certify in writing that an employee has the required knowledge, skills, and abilities to safely carry out the duties and responsibilities as specified in the operating procedures in lieu of initial training for those employees already involved in operating a process on June 21, 1999.	40 CFR 68.71(a)(2), N.J.A.C. 7:31-4.1(a)	2,000	4,000	10,000	NM	

	Categories of Offense	Cite	First Offense	Second Offense	Subsequent Offenses	Type of Violation	Grace Period (days)
308.	Failure to provide refresher training at least every three years and more often as necessary to each employee involved in operating a process to assure that the employee understands and adheres to the current operating procedures of the process. or Failure to determine, in consultation with the employees involved in operating the process, the appropriate frequency of refresher training.	40 CFR 68.71(b), N.J.A.C. 7:31-4.1(a)	2,000	4,000	10,000	NM	
309.	Failure to ascertain that each employee involved in operating a process has received and understood the required training.	40 CFR 68.71(c), N.J.A.C. 7:31-4.1(a)	500	1,000	2,500	NM	
310.	Failure to prepare a record which contains the identity of the employee, the date of training, and the means used to verify that the employee understood the training.	40 CFR 68.71(c), N.J.A.C. 7:31-4.1(a)	1,000	2,000	5,000	NM	
311.	Failure to provide a written job description which includes the duties and responsibilities for each EHS operator position.	N.J.A.C. 7:31-4.4(b)	500	1,000	2,500	NM	
312.	Failure to specify the qualifications required for the personnel responsible for training EHS operators.	N.J.A.C. 7:31-4.4(c)	500	1,000	2,500	NM	
313.	Failure to apply paragraphs 40 CFR 68.73(b) through (f) as incorporated at N.J.A.C. 7:31-4.1(a) to pressure vessels and storage tanks.	40 CFR 68.73(a)(1), N.J.A.C. 7:31-4.1(a)	1,000	2,000	5,000	NM	
314.	Failure to apply paragraphs 40 CFR 68.73(b) through (f) as incorporated at N.J.A.C. 7:31-4.1(a) to piping systems (including piping components such as valves).	40 CFR 68.73(a)(2), N.J.A.C. 7:31-4.1(a)	1,000	2,000	5,000	NM	
315.	Failure to apply paragraphs 40 CFR 68.73(b) through (f) as incorporated at N.J.A.C. 7:31-4.1(a) to relief and vent systems and devices.	40 CFR 68.73(a)(3), N.J.A.C. 7:31-4.1(a)	1,000	2,000	5,000	NM	

	Categories of Offense	Cite	First Offense	Second Offense	Subsequent Offenses	Type of Violation	Grace Period (days)
316.	Failure to apply paragraphs 40 CFR 68.73(b) through (f) as incorporated at N.J.A.C. 7:31-4.1(a) to emergency shutdown systems.	40 CFR 68.73(a)(4), N.J.A.C. 7:31-4.1(a)	1,000	2,000	5,000	NM	
317.	Failure to apply paragraphs 40 CFR 68.73(b) through (f) as incorporated at N.J.A.C. 7:31-4.1(a) to controls (including monitoring devices and sensors, alarms, and interlocks).	40 CFR 68.73(a)(5), N.J.A.C. 7:31-4.1(a)	1,000	2,000	5,000	NM	
318.	Failure to apply paragraphs 40 CFR 68.73(b) through (f) as incorporated at N.J.A.C. 7:31-4.1(a) to pumps.	40 CFR 68.73(a)(6), N.J.A.C. 7:31-4.1(a)	1,000	2,000	5,000	NM	
319.	Failure to apply paragraphs 40 CFR 68.73(b) through (f) as incorporated at N.J.A.C. 7:31-4.1(c)11 to all EHS equipment.	40 CFR 68.73(a)(6), N.J.A.C. 7:31-4.1(c)11i	1,000	2,000	5,000	NM	
320.	Failure to apply paragraphs 40 CFR 68.73(b) through (f) as incorporated at N.J.A.C. 7:31-4.1(c)11 to standby emergency equipment such as power generators, fire pumps, and lighting.	40 CFR 68.73(a)(6), N.J.A.C. 7:31-4.1(c)11ii	1,000	2,000	5,000	NM	
321.	Failure to apply paragraphs 40 CFR 68.73(b) through (f) as incorporated at N.J.A.C. 7:31-4.1(c)11 to electrical grounding systems.	40 CFR 68.73(a)(6), N.J.A.C. 7:31-4.1(c)11iii	1,000	2,000	5,000	NM	
322.	Failure to establish and implement written procedures to maintain the on-going integrity of process equipment. or Failure to establish and implement a written procedure to periodically review, document, and approve delays in conducting preventive maintenance of EHS equipment.	40 CFR 68.73(b), N.J.A.C. 7:31-4.1(a)	2,000	4,000	10,000	NM	

	Categories of Offense	Cite	First Offense	Second Offense	Subsequent Offenses	Type of Violation	Grace Period (days)
323.	Failure to train each employee involved in maintaining the on-going integrity of process equipment in an overview of that process and its hazards and in the procedures applicable to the employee's job tasks to assure that the employee can perform the job tasks in a safe manner.	40 CFR 68.73(c), N.J.A.C. 7:31-4.1(a)	2,000	4,000	10,000	NM	
324.	Failure to perform inspections and tests on process equipment.	40 CFR 68.73(d)(1), N.J.A.C. 7:31-4.1(a)	2,000	4,000	10,000	NM	
325.	Failure to follow recognized and generally accepted good engineering practices for inspection and testing procedures.	40 CFR 68.73(d)(2), N.J.A.C. 7:31-4.1(a)	1,000	2,000	5,000	NM	
326.	Failure to make the frequency of inspections and tests of process equipment consistent with applicable manufacturers' recommendations and good engineering practices, and to increase frequency when determined to be necessary by prior operating experience.	40 CFR 68.73(d)(3), N.J.A.C. 7:31-4.1(a)	1,000	2,000	5,000	NM	
327.	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	NM	

	Categories of Offense	Cite	First Offense	Second Offense	Subsequent Offenses	Type of Violation	Grace Period (days)
328.	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. or Failure to correct a deficiency within three months without providing a written justification including an explanation of the necessary means taken to ensure safe operation.	40 CFR 68.73(e), N.J.A.C. 7:31-4.1(a)	2,000	4,000	10,000	NM	
329.	Failure, in the construction of new plants and equipment, to assure that equipment as it is fabricated is suitable for the process application for which it will be used.	40 CFR 68.73(f)(1), N.J.A.C. 7:31-4.1(a)	1,000	2,000	5,000	NM	
330.	Failure to perform appropriate checks and inspections to assure that equipment is installed properly and consistent with design specifications and the manufacturer's instructions.	40 CFR 68.73(f)(2), N.J.A.C. 7:31-4.1(a)	1,000	2,000	5,000	NM	
331.	Failure to assure that maintenance materials, spare parts and equipment are suitable for the process application for which they will be used.	40 CFR 68.73(f)(3), N.J.A.C. 7:31-4.1(a)	1,000	2,000	5,000	NM	
332.	Failure to implement a system for maintaining accurate records of all inspections, breakdowns, repairs and replacements of EHS equipment with the means of data retrieval and analysis to determine the frequency of inspections and tests and to evaluate equipment reliability.	N.J.A.C. 7:31-4.5(b)	2,000	4,000	10,000	NM	
333.	Failure to establish and implement written procedures to manage changes (except for "replacements in kind") to process chemicals, technology, equipment, procedure, or other changes to stationary sources that affect a covered process.	40 CFR 68.75(a), N.J.A.C. 7:31-4.1(a)	2,000	4,000	10,000	NM	

	Categories of Offense	Cite	First Offense	Second Offense	Subsequent Offenses	Type of Violation	Grace Period (days)
334.	Failure to assure in the management of change procedures that the technical basis for the proposed change is addressed prior to implementing the change.	40 CFR 68.75(b)(1), N.J.A.C. 7:31-4.1(a)	1,000	2,000	5,000	NM	
335.	Failure to assure in the management of change procedures that the impact of the proposed change on safety and health and preventive maintenance procedures is addressed prior to implementing the change.	40 CFR 68.75(b)(2), N.J.A.C. 7:31-4.1(c)12	1,000	2,000	5,000	NM	
336.	Failure to assure in the management of change procedures that modifications to operating procedures are addressed prior to implementing the change.	40 CFR 68.75(b)(3), N.J.A.C. 7:31-4.1(a)	1,000	2,000	5,000	NM	
337.	Failure to assure in the management of change procedures that the necessary time period for the change is addressed prior to implementing the change.	40 CFR 68.75(b)(4), N.J.A.C. 7:31-4.1(a)	1,000	2,000	5,000	NM	
338.	Failure to assure in the management of change procedures that the authorization requirements for the proposed change are addressed prior to implementing the change.	40 CFR 68.75(b)(5), N.J.A.C. 7:31-4.1(a)	1,000	2,000	5,000	NM	
339.	Failure to train and inform employees involved in operating a process and maintenance and contract employees whose job tasks will be affected by a change in the process on a change prior to start-up of the changed process or the affected part of the process.	40 CFR 68.75(c), N.J.A.C. 7:31-4.1(a)	1,000	2,000	5,000	NM	
340.	Failure to update the process safety information required by 40 CFR 68.65 as incorporated at N.J.A.C. 7:31-4.1 to reflect changes in such information.	40 CFR 68.75(d), N.J.A.C. 7:31-4.1(a)	1,000	2,000	5,000	NM	
341.	Failure to update the operating procedures or practices for a change covered by 40 CFR 68.75 as incorporated at N.J.A.C. 7:31-4.1 that resulted in a change in the operating procedures or practices.	40 CFR 68.75(e), N.J.A.C. 7:31-4.1(a)	1,000	2,000	5,000	NM	

	Categories of Offense	Cite	First Offense	Second Offense	Subsequent Offenses	Type of Violation	Grace Period (days)
342.	Failure to identify the associated release scenarios and changes in rate, duration or quantity for a change in the covered process or procedures that resulted in an increase in rate, duration or quantity, or release frequency.	N.J.A.C. 7:31-4.6(b)	1,000	2,000	5,000	NM	
343.	Failure to analyze the associated release scenarios for a change in the covered process or procedures that resulted in an increase in rate, duration and quantity, or release frequency in accordance with the parameters and methods required at N.J.A.C. 7:31-4.2 to determine whether a criterion endpoint defined at N.J.A.C. 7:31-4.2(b)3iv extends beyond the stationary source boundary.	N.J.A.C. 7:31-4.6(b)	2,000	4,000	10,000	NM	
344.	Failure to prepare or update the documentation and report required by N.J.A.C. 7:31-4.2(d) and (e) prior to implementing a change for a release scenario that results in a criterion endpoint extending beyond the stationary source boundary.	N.J.A.C. 7:31-4.6(c)	4,000	8,000	20,000	NM	
345.	Failure to require in the management of change temporary change procedure a description of the temporary change to be made.	N.J.A.C. 7:31-4.6(d)1i	2,000	4,000	10,000	NM	
346.	Failure to require in the management of change temporary change procedure a description of the temporary change that includes identification of the EHS equipment, piping and instrument diagram(s), and standard operating procedure(s) affected by the temporary change.	N.J.A.C. 7:31-4.6(d)1ii	2,000	4,000	10,000	NM	
347.	Failure to require in the management of change temporary change procedure a description of the temporary change including the reason for the temporary change.	N.J.A.C. 7:31-4.6(d)1iii	2,000	4,000	10,000	M	30

	Categories of Offense	Cite	First Offense	Second Offense	Subsequent Offenses	Type of Violation	Grace Period (days)
348.	Failure to require in the management of change temporary change procedure the authorization of the temporary change by the appropriate person specified in the management system developed pursuant to 40 CFR 68.15(c) as incorporated at N.J.A.C. 7:31-1.1(c).	N.J.A.C. 7:31-4.6(d)2	2,000	4,000	10,000	NM	
349.	Failure to require in the management of change temporary change procedure the notification of all personnel affected by the temporary change.	N.J.A.C. 7:31-4.6(d)3	2,000	4,000	10,000	NM	
350.	Failure to require in the management of change temporary change procedure the implementation of appropriate safety precautions while the temporary change is in EHS service.	N.J.A.C. 7:31-4.6(d)4	2,000	4,000	10,000	NM	
351.	Failure to require in the management of change temporary change procedure the time limit for the temporary change. or Failure to comply with all requirements of 40 CFR 68.75 with changes specified at N.J.A.C. 7:31-4.1(c)12 and N.J.A.C. 7:31-4.6(a), (b), and (c) for a temporary change that exceeded the time limit specified in the management of change procedures.	N.J.A.C. 7:31-4.6(d)5	2,000	4,000	10,000	NM	
352.	Failure to include in the management of change temporary change procedure a requirement to ensure that the equipment and procedures are returned to their original or designed conditions at the end of the temporary change.	N.J.A.C. 7:31-4.6(d)6	2,000	4,000	10,000	NM	
353.	Failure to perform a pre-startup safety review for new stationary sources or modified stationary sources for a modification significant enough to require a change in the process safety information.	40 CFR 68.77(a), N.J.A.C. 7:31-4.1(a)	4,000	8,000	20,000	NM	

	Categories of Offense	Cite	First Offense	Second Offense	Subsequent Offenses	Type of Violation	Grace Period (days)
354.	Failure to confirm in a pre-startup safety review that prior to the introduction of regulated substances to a process, construction and equipment are in accordance with design specifications.	40 CFR 68.77(b)(1), N.J.A.C. 7:31-4.1(a)	2,000	4,000	10,000	NM	
355.	Failure to confirm in a pre-startup safety review that prior to the introduction of regulated substances to a process, safety, operating, maintenance, and emergency procedures are in place and are adequate.	40 CFR 68.77(b)(2), N.J.A.C. 7:31-4.1(a)	2,000	4,000	10,000	NM	
356.	Failure to confirm in a pre-startup safety review that prior to the introduction of regulated substances to a process for a new stationary source, a process hazard analysis has been performed and recommendations have been resolved or implemented before startup. or Failure to confirm in a pre-startup safety review that modified stationary sources meet the management of change requirements contained in at 40 CFR 68.75 incorporated at N.J.A.C. 7:31-4.1(a).	40 CFR 68.77(b)(3), N.J.A.C. 7:31-4.1(a)	2,000	4,000	10,000	NM	
357.	Failure to confirm in a pre-startup safety review that prior to the introduction of regulated substances to a process, training of each employee involved in operating the process has been completed.	40 CFR 68.77(b)(4), N.J.A.C. 7:31-4.1(a)	2,000	4,000	10,000	NM	
358.	Failure to conduct a safety review of design for new EHS equipment in a new covered process prior to construction and to document that the design of the covered process follows design and operating standards as reflected in the process safety information compiled in accordance with 40 CFR 68.65 with changes specified at N.J.A.C. 7:31-4.1(c)1 through 4.	N.J.A.C. 7:31-4.7(b)	2,000	4,000	10,000	NM	
359.	Failure to prepare a written report for the safety review of design for a new covered process.	N.J.A.C. 7:31-4.7(c)	2,000	4,000	10,000	NM	

	Categories of Offense	Cite	First Offense	Second Offense	Subsequent Offenses	Type of Violation	Grace Period (days)
360.	Failure to include in the written report for each safety review performed pursuant to N.J.A.C. 7:31-4.7(b) the date of the report or an identification of the covered process, the process safety information, or the standard operating procedures reviewed.	N.J.A.C. 7:31-4.7(c)1	500	1,000	2,500	M	30
361.	Failure to include in the written report for each safety review performed pursuant to N.J.A.C. 7:31-4.7(b) an identification of the codes and standards upon which the covered process design and operations were based.	N.J.A.C. 7:31-4.7(c)2	500	1,000	2,500	M	30
362.	Failure to include in the written report for each safety review performed pursuant to N.J.A.C. 7:31-4.7(b) the names of the person(s) who performed the safety review.	N.J.A.C. 7:31-4.7(c)3	500	1,000	2,500	M	30
363.	Failure to include in the written report for each safety review performed pursuant to N.J.A.C. 7:31-4.7(b) the deviations from the design and operating codes and standards that were found with an appropriate description of the resolution of each deviation.	N.J.A.C. 7:31-4.7(c)4	500	1,000	2,500	M	30
364.	Failure to conduct and document a pre-startup safety review prior to placing a new or modified covered process into EHS service.	N.J.A.C. 7:31-4.7(d)	4,000	8,000	20,000	NM	
365.	Failure to prepare a written report for each pre-startup safety review.	N.J.A.C. 7:31-4.7(e)	2,000	4,000	10,000	NM	
366.	Failure to prepare a written report for each pre-startup safety review performed pursuant to N.J.A.C. 7:31-4.7(d) that includes the date of the report and an identification of the covered process.	N.J.A.C. 7:31-4.7(e)1	1,000	2,000	5,000	M	30

	Categories of Offense	Cite	First Offense	Second Offense	Subsequent Offenses	Type of Violation	Grace Period (days)
367.	Failure to include in the written report for each pre-startup safety review performed pursuant to N.J.A.C. 7:31-4.7(d) documentation that all the requirements of 40 CFR 68.77(b) as incorporated at N.J.A.C. 7:31-4.1(a) have been completed prior to the startup of the new or modified covered process.	N.J.A.C. 7:31-4.7(e)2	500	1,000	2,500	M	30
368.	Failure to conduct a compliance audit and certify that compliance with the provisions of 40 CFR Subpart D incorporated at N.J.A.C. 7:31-4 has been evaluated at least every year to verify that the procedures and practices developed are adequate and are being followed. or Failure to verify that the process technology and equipment, as built and operated, are in accordance with the process safety information prepared pursuant to 40 CFR 68.65(c) and (d) as incorporated with changes at N.J.A.C. 7:31-4.1(c)1 through 4.	40 CFR 68.79(a), N.J.A.C. 7:31-4.1(c)13	4,000	8,000	20,000	NM	
369.	Failure to conduct the compliance audit with at least one person knowledgeable in the process.	40 CFR 68.79(b), N.J.A.C. 7:31-4.1(a)	1,000	2,000	5,000	NM	
370.	Failure to develop a report of the findings of the audit.	40 CFR 68.79(c), N.J.A.C. 7:31-4.1(c)14	1,000	2,000	5,000	NM	
371.	Failure to include in the report of the findings of the audit the scope, audit techniques, methods used, or the names of the audit participants.	40 CFR 68.79(c), N.J.A.C. 7:31-4.1(c)14	1,000	2,000	5,000	M	30
372.	Failure to promptly determine and document an appropriate response to each of the findings of the compliance audit. or Failure to document that deficiencies identified during the compliance audit have been corrected.	40 CFR 68.79(d), N.J.A.C. 7:31-4.1(a)	1,000	2,000	5,000	NM	
373.	Failure to retain the two (2) most recent compliance audit reports.	40 CFR 68.79(e), N.J.A.C. 7:31-4.1(a)	1,000	2,000	5,000	NM	

	Categories of Offense	Cite	First Offense	Second Offense	Subsequent Offenses	Type of Violation	Grace Period (days)
374.	Failure to investigate each EHS accident or potential catastrophic event.	40 CFR 68.81(a), N.J.A.C. 7:31-4.1(c)16	2,000	4,000	10,000	NM	
375.	Failure to initiate an EHS accident or potential catastrophic event investigation as promptly as possible, but not later than 48 hours following the incident.	40 CFR 68.81(b), N.J.A.C. 7:31-4.1(c)15	1,000	2,000	5,000	NM	
376.	Failure to establish an EHS accident or potential catastrophic event investigation team that consists of at least one person knowledgeable in the process involved, including a contract employee if the incident involved work of a contractor, and other persons with appropriate knowledge and experience to thoroughly investigate and analyze the incident.	40 CFR 68.81(c), N.J.A.C. 7:31-4.1(c)15	1,000	2,000	5,000	NM	
377.	Failure to prepare a report at the conclusion of the EHS accident or potential catastrophe event investigation.	40 CFR 68.81(d) N.J.A.C. 7:31-4.1 (c) 15 and 17	1,000	2,000	5,000	NM	
378.	Failure to prepare a report at the conclusion of the investigation which includes the date, time, or location of the EHS accident or potential catastrophic event.	40 CFR 68.81(d)(1), N.J.A.C. 7:31-4.1(c)15 and 17	1,000	2,000	5,000	M	30
379.	Failure to prepare a report at the conclusion of the EHS accident or potential catastrophic event investigation which includes the date the investigation began.	40 CFR 68.81(d)(2), N.J.A.C. 7:31-4.1(a)	1,000	2,000	5,000	M	30

	Categories of Offense	Cite	First Offense	Second Offense	Subsequent Offenses	Type of Violation	Grace Period (days)
380.	Failure to prepare a report at the conclusion of the EHS accident or potential catastrophic event investigation which includes a description of the EHS accident or potential catastrophic event in chronological order providing all the relevant facts. or Failure to include the identity, amount and duration of the EHS release when these facts could reasonably be determined based on the information obtained through the EHS accident or potential catastrophic event investigation. or Failure to identify consequences of the EHS accident or potential catastrophic event including the number of evacuees, injured, fatalities, or the impact on the community.	40 CFR 68.81(d)(3), N.J.A.C. 7:31-4.1(c)15 and 18	1,000	2,000	5,000	NM	
381.	Failure to prepare a report at the conclusion of the investigation which includes the factors that contributed to the EHS accident or potential catastrophic event and an identification of basic and contributory causes, either direct or indirect.	40 CFR 68.81(d)(4), N.J.A.C. 7:31-4.1(c)15 and 19	1,000	2,000	5,000	NM	
382.	Failure to prepare a report prepared at the conclusion of the EHS accident or potential catastrophic event investigation which includes any recommendations resulting from the investigation to prevent a recurrence.	40 CFR 68.81(d)(5), N.J.A.C. 7:31-4.1(c)20	1,000	2,000	5,000	NM	
383.	Failure to prepare a report at the conclusion of the EHS accident or potential catastrophic event investigation which includes the names and position titles of the investigators.	40 CFR 68.81(d)(5), N.J.A.C. 7:31-4.1(c)21i	1,000	2,000	5,000	M	30
384.	Failure to establish a system to promptly address and resolve the EHS accident or potential catastrophic event report findings and recommendations.	40 CFR 68.81(e), N.J.A.C. 7:31-4.1(c)15	2,000	4,000	10,000	NM	

	Categories of Offense	Cite	First Offense	Second Offense	Subsequent Offenses	Type of Violation	Grace Period (days)
385.	Failure to document EHS accident or potential catastrophic event investigation resolutions and corrective actions.	40 CFR 68.81(e), N.J.A.C. 7:31-4.1(c)15	1,000	2,000	5,000	NM	
386.	Failure to review the investigation report with all affected personnel whose job tasks are relevant to the EHS accident or potential catastrophic event findings including contract employees, where applicable.	40 CFR 68.81(f), N.J.A.C. 7:31-4.1(c)15	1,000	2,000	5,000	NM	
387.	Failure to retain EHS accident or potential catastrophic event investigation reports for five years.	40 CFR 68.81(g), N.J.A.C. 7:31-4.1(c)15	2,000	4,000	10,000	NM	
388.	Failure to develop a written plan of action regarding the implementation of the employee participation required by 40 CFR 68.83 as incorporated at N.J.A.C. 7:31-4.1(a).	40 CFR 68.83(a), N.J.A.C. 7:31-4.1(a)	2,000	4,000	10,000	NM	
389.	Failure to consult with employees and their representatives on the conduct and development of process hazards analyses with risk assessments and on the development of the other elements of process safety management in this rule.	40 CFR 68.83(b), N.J.A.C. 7:31-4.1(c)22	1,000	2,000	5,000	NM	
390.	Failure to provide to employees and their representatives access to process hazard analyses with risk assessments and to all other information required to be developed under this rule.	40 CFR 68.83(c), N.J.A.C. 7:31-4.1(c)22	2,000	4,000	10,000	M	30
391.	Failure to issue a hot work permit for hot work operations conducted on or near a covered process.	40 CFR 68.85(a), N.J.A.C. 7:31-4.1(a)	1,000	2,000	5,000	NM	

	Categories of Offense	Cite	First Offense	Second Offense	Subsequent Offenses	Type of Violation	Grace Period (days)
392.	Failure to document in the hot work permit that the fire prevention and protection requirements in 29 CFR 1910.252(a) have been implemented prior to beginning the hot work operations, to indicate the date(s) authorized for hot work, and to identify the object on which hot work is to be performed. or Failure to keep the hot work permit on file until completion of the hot work operations.	40 CFR 68.85(b), N.J.A.C. 7:31-4.1(a)	500	1,000	2,500	NM	
393.	Failure to apply the requirements of 40 CFR 68.87 as incorporated at N.J.A.C. 7:31-4.1(a) for contractors performing maintenance or repair, turnaround, major renovation, or specialty work on or adjacent to a covered process.	40 CFR 68.87(a), N.J.A.C. 7:31-4.1(a)	2,000	4,000	10,000	NM	
394.	Failure to obtain and evaluate information regarding the contract owner or operator's safety performance and programs when selecting a contractor.	40 CFR 68.87(b)(1), N.J.A.C. 7:31-4.1(a)	2,000	4,000	10,000	NM	
395.	Failure to inform a contract owner or operator of the known potential fire, explosion, or toxic release hazards related to the contractor's work and the process.	40 CFR 68.87(b)(2), N.J.A.C. 7:31-4.1(a)	2,000	4,000	10,000	NM	
396.	Failure to explain to the contract owner or operator the applicable provisions of 40 CFR 68 subpart E as incorporated at N.J.A.C. 7:31-5.1(a).	40 CFR 68.87(b)(3), N.J.A.C. 7:31-4.1(a)	1,000	2,000	5,000	NM	
397.	Failure to develop and implement safe work practices consistent with 40 CFR 68.69(d), as incorporated at N.J.A.C. 7:31-4.1(a) to control the entrance, presence, and exit of the contract owner or operator and contract employees in covered process areas.	40 CFR 68.87(b)(4), N.J.A.C. 7:31-4.1(a)	1,000	2,000	5,000	NM	

	Categories of Offense	Cite	First Offense	Second Offense	Subsequent Offenses	Type of Violation	Grace Period (days)
398.	Failure to periodically evaluate the performance of the contract owner or operator in fulfilling their obligations as specified in 40 CFR 68.87(c) as incorporated at N.J.A.C. 7:31-4.1(a).	40 CFR 68.87(b)(5), N.J.A.C. 7:31-4.1(a)	2,000	4,000	10,000	NM	
399.	Failure to require the contract owner or operator to assure that each contract employee is trained in the work practices necessary to safely perform his/her job.	40 CFR 68.87(c)(1), N.J.A.C. 7:31-4.1(a)	2,000	4,000	10,000	NM	
400.	Failure to require the contract owner or operator to assure that each contract employee is instructed in the known potential fire, explosion, or toxic release hazards related to his/her job and the process, and the applicable provisions of the emergency action plan.	40 CFR 68.87(c)(2), N.J.A.C. 7:31-4.1(a)	2,000	4,000	10,000	NM	
401.	Failure to require the contract owner or operator to document that each contract employee has received and understood the training required by 40 CFR 68.87 as incorporated at N.J.A.C. 7:31-4.1(a). or Failure to require the contract owner or operator to prepare a record which contains the identity of the contract employee, the date of training, and the means used to verify that each employee understood the training.	40 CFR 68.87(c)(3), N.J.A.C. 7:31-4.1(a)	1,000	2,000	5,000	NM	
402.	Failure to require the contract owner or operator to assure that each contract employee follows the safety rules of the stationary source including the safe work practices required by 40 CFR 68.69(d) as incorporated as N.J.A.C. 7:31-4.1(a).	40 CFR 68.87(c)(4), N.J.A.C. 7:31-4.1(a)	2,000	4,000	10,000	NM	
403.	Failure to require the contract owner or operator to advise the owner or operator of any unique hazards presented by the contract owner or operator's work, or of any hazards found by the contract owner or operator's work.	40 CFR 68.87(c)(5), N.J.A.C. 7:31-4.1(a)	2,000	4,000	10,000	NM	

	Categories of Offense	Cite	First Offense	Second Offense	Subsequent Offenses	Type of Violation	Grace Period (days)
404.	Failure to comply with the emergency response provisions of N.J.A.C. 7:31-5.	N.J.A.C. 7:31-4.8(a)	4,000	8,000	20,000	NM	
405.	Failure to submit to the Department within 90 days of the anniversary date an annual report reflecting the risk management activities for the 12-month period ending on the anniversary date.	N.J.A.C. 7:31-4.9(a)	2,000	4,000	10,000	M	30
406.	Failure to include in the annual report an update of the supplemental TCPA program information as specified in N.J.A.C. 7:31-7.2(a)2 if this supplemental information was not previously reported in a revised Risk Management Plan submittal. or Failure to state that there were no changes to the supplemental TCPA program information in the annual report if there were no changes in this information since the last Risk Management Plan submittal.	N.J.A.C. 7:31-4.9(b)1	500	1,000	2,500	M	30
407.	Failure to include in the annual report a description of significant changes to the management system. or Failure to state that there were no changes to the management system in the annual report if there were no changes in this information since the last annual report.	N.J.A.C. 7:31-4.9(b)2	500	1,000	2,500	M	30

	Categories of Offense	Cite	First Offense	Second Offense	Subsequent Offenses	Type of Violation	Grace Period (days)
408.	Failure to include in the annual report a process hazard analysis with risk assessment report prepared pursuant to N.J.A.C. 7:31-4.2(e) for each process hazard analysis with risk assessment completed during the previous year, when applicable. or Failure to include in the annual report a list of the risk assessment reports prepared pursuant to N.J.A.C. 7:31-4.6(c) or the actual risk assessment reports. or Failure to state in the annual report that there were no process hazard analysis with risk assessment reports completed if no such reports were completed since the last annual report.	N.J.A.C. 7:31-4.9(b)3	500	1,000	2,500	M	30
409.	Failure to include in the annual report a summary of any EHS accidents and potential catastrophic events that occurred during the previous year including the EHS involved and amount released if these facts could have been reasonably determined based on the information obtained through the investigation.	N.J.A.C. 7:31-4.9(b)4i	500	1,000	2,500	M	30
410.	Failure to include in the annual report a summary of any EHS accidents and potential catastrophic events that occurred during the previous year including the date and time of the EHS accident and identification of EHS equipment involved.	N.J.A.C. 7:31-4.9(b)4ii	500	1,000	2,500	M	30
411.	Failure to include in the annual report a summary of any EHS accidents and potential catastrophic events that occurred during the previous year including the basic and contributory causes.	N.J.A.C. 7:31-4.9(b)4iii	500	1,000	2,500	M	30

	Categories of Offense	Cite	First Offense	Second Offense	Subsequent Offenses	Type of Violation	Grace Period (days)
412.	Failure to include in the annual report a summary of any EHS accidents and potential catastrophic events that occurred during the previous year including a statement that there were no EHS accidents if no EHS accidents occurred since the last annual report.	N.J.A.C. 7:31-4.9(b)4iv	500	1,000	2,500	M	30
413.	Failure to include in the annual report the compliance audit report and documentation for the year ending on the anniversary date prepared pursuant to 40 CFR 68.79(c) and (d) with changes specified at N.J.A.C. 7:31-4.1(c)14 and 23.	N.J.A.C. 7:31-4.9(b)5	500	1,000	2,500	M	30
414.	Failure to include in the annual report each inherently safer technology review update report completed pursuant to N.J.A.C. 7:31-4.12(b) and (f).	N.J.A.C. 7:31-4.9(b)6	500	1,000	2,500	M	30
415.	Failure to perform a pre-startup safety review of temporarily discontinued EHS equipment and procedures in accordance with the requirements of 40 CFR 68.77(a), (b)(1) and (2) and N.J.A.C. 7:31-4.7(e), within 60 calendar days prior to bringing the EHS back to the covered process.	N.J.A.C. 7:31-4.10(a)1	2,000	4,000	10,000	NM	
416.	Failure to perform inspections, tests and checks conforming to requirements of 40 CFR 68.73 with changes specified at N.J.A.C. 7:31-4.1(c)10-11 and N.J.A.C. 7:31-4.5, for proper operation of temporarily discontinued EHS equipment, within 60 calendar days prior to bringing the EHS back to the covered process.	N.J.A.C. 7:31-4.10(a)2	2,000	4,000	10,000	NM	
417.	Failure to perform EHS operator training activities conforming to 40 CFR 68.71 with changes specified at N.J.A.C. 7:31-4.1(c)9 and N.J.A.C. 7:31-4.4, for activities involving temporarily discontinued EHS equipment, within 60 calendar days prior to bringing the EHS back to the covered process.	N.J.A.C. 7:31-4.10(a)3	2,000	4,000	10,000	NM	

	Categories of Offense	Cite	First Offense	Second Offense	Subsequent Offenses	Type of Violation	Grace Period (days)
418.	Failure to pay the annual fee for a temporary discontinuance in accordance with N.J.A.C. 7:31-1.11A(o) and (p).	N.J.A.C. 7:31-4.10(a)4	2,000	4,000	10,000	M	30
419.	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 facility for which there is no previously approved risk management program.	N.J.A.C. 7:31-4.11(a)1	2,000	4,000	10,000	M	30
420.	Failure to receive written approval from the Department before proceeding with construction of a new Program 3 covered process at a facilityfor which there is no previously approved risk management program.	N.J.A.C. 7:31-4.11(a)2	6,000	12,000	30,000	NM	
421.	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 facility for which there is no previously approved risk management program.	N.J.A.C. 7:31-4.11(a)3	2,000	4,000	10,000	M	30
422.	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 facility for which there is no previously approved risk management program.	N.J.A.C. 7:31-4.11(a)4	4,000	8,000	20,000	NM	
423.	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 facility for which there is no previously approved risk management program.	N.J.A.C. 7:31-4.11(a)5	one-third of fee	one-third of fee + 1,000	one-third of fee + 2000	M	30

	Categories of Offense	Cite	First Offense	Second Offense	Subsequent Offenses	Type of Violation	Grace Period (days)
424.	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 facility for which there is no previously approved risk management program.	N.J.A.C. 7:31-4.11(b)1	2,000	4,000	10,000	M	30
425.	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 facility for which there is no previously approved risk management program.	N.J.A.C. 7:31-4.11(b)2	2,000	4,000	10,000	NM	
426.	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 facility for which there is no previously approved risk management program.	N.J.A.C. 7:31-4.11(b)3	one-third of fee	one-third of fee + 1,000	one-third of fee + 2,000	M	30
427.	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 facility that has a previously approved risk management program.	N.J.A.C. 7:31-4.11(c)1	2,000	4,000	10,000	M	30
428.	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 facility that has a previously approved risk management program.	N.J.A.C. 7:31-4.11(c)2	2,000	4,000	10,000	NM	

	Categories of Offense	Cite	First Offense	Second Offense	Subsequent Offenses	Type of Violation	Grace Period (days)
429.	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 facility that has a previously approved risk management program.	N.J.A.C. 7:31-4.11(c)3	one-third of fee	one-third of fee + 1,000	one-third of fee + 2,000	M	30
430.	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 facility audit or inspection by the Department. or Failure to complete corrective action of deficiencies in the consent agreement or consent agreement addendum for equipment in a new covered process in accordance with the schedule in the consent agreement or consent agreement addendum.	N.J.A.C. 7:31-4.11(d)	6,000	12,000	30,000	NM	
431.	Failure to complete an inherently safer technology review and report pursuant to N.J.A.C. 7:31-4.12(c) through (f) for each new covered process; and/or Failure to submit the inherently safer technology review report with the submittal required at N.J.A.C. 7:31-4.11(a)1, (b)1, or (c)1, as applicable.	N.J.A.C. 7:31-4.11(e)	2,000	4,000	10,000	NM	
432.	Failure to complete an initial inherently safer technology review and submit to the Department an inherently safer technology review report for each covered process at the stationary source by 120 days from the effective date of this rule.	N.J.A.C. 7:31-4.12(a)	2,000	4,000	10,000	NM	

	Categories of Offense	Cite	First Offense	Second Offense	Subsequent Offenses	Type of Violation	Grace Period (days)
433.	Failure to update the inherently safer technology review on the same schedule as the process hazard analysis with risk assessment revalidations and updates for each covered process at the stationary source, including each new covered process brought on line since the date of the previous inherently safer technology review. and/or Failure to address the inherently safer technologies that have been developed since the last inherently safer technology review.	N.J.A.C. 7:31-4.12(b)	2,000	4,000	10,000	NM	
434.	Failure to conduct each inherently safer technology review with a team of qualified experts whose members have expertise in environmental requirements, chemistry, design and engineering, process controls and instrumentation, maintenance, production and operations, and chemical process safety.	N.J.A.C. 7:31-4.12(c)	1,000	2,000	5,000	NM	
435.	Failure to include an analysis of the following principle and technique in each inherently safer technology review to identify available inherently safer technology alternatives, or combinations of alternatives, that minimize or eliminate the potential for an EHS release: reducing the amount of EHS material that potentially may be released.	N.J.A.C. 7:31-4.12(d)1	1,000	2,000	5,000	NM	
436.	Failure to include an analysis of the following principle and technique in each inherently safer technology review to identify available inherently safer technology alternatives, or combinations of alternatives, that minimize or eliminate the potential for an EHS release: substituting less hazardous materials.	N.J.A.C. 7:31-4.12(d)2	1,000	2,000	5,000	NM	

	Categories of Offense	Cite	First Offense	Second Offense	Subsequent Offenses	Type of Violation	Grace Period (days)
437.	Failure to include an analysis of the following principle and technique in each inherently safer technology review to identify available inherently safer technology alternatives, or combinations of alternatives, that minimize or eliminate the potential for an EHS release: using EHSs in the least hazardous process conditions or form.	N.J.A.C. 7:31-4.12(d)3	1,000	2,000	5,000	NM	
438.	Failure to include an analysis of the following principle and technique in each inherently safer technology review to identify available inherently safer technology alternatives, or combinations of alternatives, that minimize or eliminate the potential for an EHS release: designing equipment and processes to minimize the potential for equipment failure and human error.	N.J.A.C. 7:31-4.12(d)4	1,000	2,000	5,000	NM	
439.	Failure to determine whether the inherently safer technologies are feasible, which means capable of being accomplished in a successful manner, taking into account environmental, public health and safety, legal, technological, and economic factors.	N.J.A.C. 7:31-4.12(e)	1,000	2,000	5,000	NM	
440.	Failure to prepare and submit to the Department a report to document each inherently safer technology review.	N.J.A.C. 7:31-4.12(f)	1,000	2,000	5,000	NM	
441.	Failure to include in an inherently safer technology review report an identification of the covered process that is the subject of the review; a list of the review team members with name, position, affiliation, responsibilities, qualifications and experience for each; the date of report completion; and the inherently safer technology analysis method used to complete the review.	N.J.A.C. 7:31-4.12(f)1	500	1,000	2,500	NM	

	Categories of Offense	Cite	First Offense	Second Offense	Subsequent Offenses	Type of Violation	Grace Period (days)
442.	Failure to include in an inherently safer technology review report the questions asked and answered to address the inherently safer technology principles and techniques pursuant to N.J.A.C. 7:31-4.12(d).	N.J.A.C. 7:31-4.12(f)2	500	1,000	2,500	NM	
443.	Failure to include in an inherently safer technology review report a list of inherently safer technologies determined to be already present in the covered process.	N.J.A.C. 7:31-4.12(f)3	500	1,000	2,500	NM	
444.	Failure to include in an inherently safer technology review report a list of additional inherently safer technologies identified.	N.J.A.C. 7:31-4.12(f)4	500	1,000	2,500	NM	
445.	Failure to include in an inherently safer technology review report a list of the additional inherently safer technologies selected to be implemented with a schedule for their completion.	N.J.A.C. 7:31-4.12(f)5	500	1,000	2,500	NM	
446.	Failure to include in an inherently safer technology review report a list of the inherently safer technologies determined to be infeasible.	N.J.A.C. 7:31-4.12(f)6	500	1,000	2,500	NM	
447.	Failure to include a written explanation justifying the infeasibility determination for each inherently safer technology determined to be infeasible; and/or Failure to substantiate the infeasibility determination using a qualitative and quantitative evaluation of economic, environmental, legal and technological factors.	N.J.A.C. 7:31-4.12(f)7	500	1,000	2,500	NM	
448.	Failure of an owner/operator whose employees will not respond to accidental EHS releases comply with the requirements of 40 CFR 68.90(b)1, 2, and 3 incorporated at N.J.A.C. 7:31-5.1(c)1 and 2.	40 CFR 68.90 N.J.A.C. 7:31-5.1(a)	1,000	2,000	5,000	NM	

	Categories of Offense	Cite	First Offense	Second Offense	Subsequent Offenses	Type of Violation	Grace Period (days)
449.	Failure to develop and implement an emergency response program that includes an emergency response plan which is maintained at the stationary source.	40 CFR 68.95(a) N.J.A.C. 7:31-5.1(a)	4,000	8,000	20,000	NM	
450.	Failure to include in the emergency response plan procedures for informing the public and local emergency response agencies about accidental releases.	40 CFR 68.95(a)(1)(i) N.J.A.C. 7:31-5.1(a)	500	1,000	2,500	NM	
451.	Failure to include in the emergency response plan documentation of proper first-aid and emergency medical treatment necessary to treat accidental human exposures.	40 CFR 68.95(a)(1)(ii), N.J.A.C. 7:31-5.1(a)	500	1,000	2,500	NM	
452.	Failure to include in the emergency response plan procedures and measures for emergency response after an accidental release of a regulated substance.	40 CFR 68.95(a)(1)(iii), N.J.A.C. 7:31-5.1(a)	500	1,000	2,500	NM	
453.	Failure to include in the emergency response program procedures for the use of emergency response equipment and for its inspection, testing, and maintenance.	40 CFR 68.95(a)(2), N.J.A.C. 7:31-5.1(a)	1,000	2,000	5,000	NM	
454.	Failure to include in the emergency response program emergency response program training for all employees in relevant procedures.	40 CFR 68.95(a)(3), N.J.A.C. 7:31-5.1(a)	1,000	2,000	5,000	NM	
455.	Failure to include in the emergency response program procedures to review and update, as appropriate, the emergency response plan to reflect changes at the stationary source and to ensure that employees are informed of changes.	40 CFR 68.95(a)(4), N.J.A.C. 7:31-5.1(a)	1,000	2,000	5,000	NM	
456.	Failure to include elements of 40 CFR 68.95(a) and 40 CFR 68.95(c) as incorporated at N.J.A.C. 7:31-5.1(a) in the emergency response plan that are consistent with and as stringent as the National Response Team's Integrated Contingency Plan Guidance ("One Plan").	40 CFR 68.95(b), N.J.A.C. 7:31-5.1(a)3 and 4	1,000	2,000	5,000	NM	

	Categories of Offense	Cite	First Offense	Second Offense	Subsequent Offenses	Type of Violation	Grace Period (days)
457.	Failure to coordinate the emergency response plan developed under 40 CFR 68.95(a)(1) as incorporated at N.J.A.C. 7:31-5.1(a) with the community emergency response plan developed under 42 U.S.C. §11003. or Failure to promptly provide to the local emergency planning committee or emergency response officials, upon their request, information necessary for developing and implementing the community emergency response plan.	40 CFR 68.95(c), N.J.A.C. 7:31-5.1(a)	1,000	2,000	5,000	NM	
458.	Failure to develop and implement a written emergency response (ER) program which includes initial and annual refresher emergency response training for all employees in relevant procedures to implement the emergency response plan.	N.J.A.C. 7:31-5.2(b)1	2,000	4,000	10,000	NM	
459.	Failure to develop and implement a written emergency response (ER) program which includes performance of at least one EHS ER exercise per calendar year.	N.J.A.C. 7:31-5.2(b)2	2,000	4,000	10,000	NM	
460.	Failure to invite at least one outside responder agency who is designated in the ER plan to participate in the ER exercise at a facility 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)1 and 2. or Failure to require employees of the facility to perform their assigned responsibilities for all ER exercises.	N.J.A.C. 7:31-5.2(b)2i	2,000	4,000	10,000	NM	
461.	Failure to perform at least one full scale ER exercise in which the ER team and ER containment, mitigation, and monitoring equipment are deployed at a strength appropriate to demonstrate the adequacy and implementation of the plan for a stationary source at which the employees will respond to an EHS accident.	N.J.A.C. 7:31-5.2(b)2ii	2,000	4,000	10,000	NM	

	Categories of Offense	Cite	First Offense	Second Offense	Subsequent Offenses	Type of Violation	Grace Period (days)
462.	Failure to make a written assessment of the ER plan, of the adequacy of notification to outside agencies and the public, and of the adequacy or need for ER equipment after each ER plan implementation or each ER exercise.	N.J.A.C. 7:31-5.2(b)3	1,000	2,000	5,000	NM	
463.	Failure to provide in the emergency response (ER) program a description of the emergency notification system which requires immediate notification of an EHS accident or imminent EHS accident at the stationary source, including company name and address of the EHS accident, to the Department's emergency communications center at 877-WARNDEP by the emergency coordinator or designee.	N.J.A.C. 7:31-5.2(b)4i(1)	2,000	4,000	10,000	NM	
464.	Failure to provide in the emergency response (ER) program a description of the emergency notification system which requires immediate notification of an EHS accident or imminent EHS accident at the stationary source, including the name, position and telephone number of the caller, to the Department's emergency communications center at 877-WARNDEP by the emergency coordinator or designee.	N.J.A.C. 7:31-5.2(b)4i(2)	1,000	2,000	5,000	NM	
465.	Failure to provide in the emergency response (ER) program a description of the emergency notification system which requires immediate notification of an EHS accident or imminent EHS accident at the stationary source, including time of, or anticipated time of the EHS accident and the projected duration to the Department's emergency communications center at 877-WARNDEP by the emergency coordinator or designee.	N.J.A.C. 7:31-5.2(b)4i(3)	1,000	2,000	5,000	NM	

	Categories of Offense	Cite	First Offense	Second Offense	Subsequent Offenses	Type of Violation	Grace Period (days)
466.	Failure to provide in the emergency response (ER) program's emergency notification system a requirement for immediate notification of an EHS accident or imminent EHS accident, including the chemical name of the EHS released, to the Department's emergency communications center at 877-WARNDEP by the emergency coordinator or designee.	N.J.A.C. 7:31-5.2(b)4i(4)	1,000	2,000	5,000	NM	
467.	Failure to provide in the emergency notification system a requirement for immediate notification to the Department's emergency communications center at 877-WARNDEP of an EHS accident or imminent EHS accident by the emergency coordinator or designee stating the actual EHS quantity (or estimated quantity if not known), and whether it will have an offsite impact.	N.J.A.C. 7:31-5.2(b)4i(5)	1,000	2,000	5,000	NM	
468.	Failure to require in the emergency response (ER) program's emergency notification system the weather conditions, including wind direction and speed and expected offsite effects in the immediate notification to the Department's emergency communications center at 877-WARNDEP by the emergency coordinator or designee for an EHS accident or imminent EHS accident.	N.J.A.C. 7:31-5.2(b)4i(6)	1,000	2,000	5,000	NM	
469.	Failure to provide in the emergency response (ER) program an EHS accident reporting requirement that the emergency coordinator or designee for the stationary source be prepared to provide the Department's emergency communications center with updates, if requested, which include the name and address of the stationary source.	N.J.A.C. 7:31-5.2(b)4ii(1)	1,000	2,000	5,000	NM	

	Categories of Offense	Cite	First Offense	Second Offense	Subsequent Offenses	Type of Violation	Grace Period (days)
470.	Failure to provide in the emergency response (ER) program an EHS accident reporting requirement that the emergency coordinator or designee for the stationary source be prepared to provide the Department's emergency communications center updates, if requested, which include the name, position and telephone number of the caller.	N.J.A.C. 7:31-5.2(b)4ii(2)	1,000	2,000	5,000	NM	
471.	Failure to require in the emergency response (ER) program an EHS accident reporting requirement that the emergency coordinator or designee be prepared to provide the Department's emergency communications center with updates, if requested, which include the location of the point of EHS release, a description of the source, cause and type of EHS accident, quantity and concentration of the EHS released, and whether the EHS release is of a continuing nature.	N.J.A.C. 7:31-5.2(b)4ii(3)	1,000	2,000	5,000	NM	
472.	Failure to provide in the emergency response (ER) program an EHS accident reporting requirement that the emergency coordinator or designee for the stationary source be prepared to provide the Department's emergency communications center updates, if requested, which include the measures taken to terminate the EHS release or to mitigate its effect, and the effectiveness of such measures.	N.J.A.C. 7:31-5.2(b)4ii(4)	1,000	2,000	5,000	NM	
473.	Failure to provide in the emergency response (ER) program an EHS accident reporting requirement that the emergency coordinator or designee for the stationary source be prepared to provide the Department's emergency communications center updates, if requested, which include an update on weather conditions.	N.J.A.C. 7:31-5.2(b)4ii(5)	1,000	2,000	5,000	NM	
474.	Failure to report to the Department's emergency communications center an EHS accident that had potential offsite impact.	N.J.A.C. 7:31-5.2(b)4iii(1)	4,000	8,000	20,000	NM	

	Categories of Offense	Cite	First Offense	Second Offense	Subsequent Offenses	Type of Violation	Grace Period (days)
475.	Failure to report to the Department's emergency communications center an EHS accident that resulted in actual or potential injuries or fatalities at the facility.	N.J.A.C. 7:31-5.2(b)4iii(2)	4,000	8,000	20,000	NM	
476.	Failure to report to the Department's emergency communications center an EHS accident that activates the emergency response plan.	N.J.A.C. 7:31-5.2(b)4iii(3)	4,000	8,000	20,000	NM	
477.	Failure to submit a single RMP that includes the information required by 40 CFR 68.155 through 40 CFR 68.185 as incorporated at N.J.A.C. 7:31-7.1 for all covered processes. or Failure to submit the RMP for covered processes regulated under 40 CFR 68 as incorporated at N.J.A.C. 7:31-7.1 in a method and format to a central point as specified by USEPA as of the date of submission. or Failure to submit the RMP for all covered processes to the Department in accordance with N.J.A.C. 7:31-7.2.	40 CFR 68.150(a), N.J.A.C. 7:31-7.1(c)1&2	5,000	10,000	25,000	NM	
478.	Failure to submit the first RMP on or before June 21, 1999.	40 CFR 68.150(b)(1), N.J.A.C. 7:31-7.1(a)	5,000	10,000	25,000	NM	
479.	Failure to submit the first RMP on or before three years after the date on which a regulated substance is first listed under 40 CFR 68.130.	40 CFR 68.150(b)(2), N.J.A.C. 7:31-7.1(a)	5,000	10,000	25,000	NM	

	Categories of Offense	Cite	First Offense	Second Offense	Subsequent Offenses	Type of Violation	Grace Period (days)
480.	Failure to submit the first RMP on or before the date on which a regulated substance is first present at or above a threshold quantity at the facility.	40 CFR 68.150(b)(3), N.J.A.C. 7:31-7.1(a)	If found by the Department: 10,000 per year out of compliance plus amount of past fees due as calculated per N.J.A.C. 7:31-1.11A. If self-reported: 10,000	If found by the Department: 25,000 per year out of compliance plus amount of past fees due as calculated per N.J.A.C. 7:31-1.11A. If self-reported: 25,000	If found by the Department: 50,000 per year out of compliance plus amount of past fees due as calculated per N.J.A.C. 7:31-1.11A. If self-reported: 50,000	NM	
481.	The owner or operator of any stationary source for which an RMP was submitted before June 21, 2004, shall revise the RMP to include the information required by 40 CFR 68.160(b)(6) and (14) by June 21, 2004 in the manner specified by EPA prior to that date. Any such submission shall also include the information required by 40 CFR 68.160(b)(20) (indicating that the submission is a correction to include the information required by 40 CFR 68.160(b)(6) and (14) or an update under 40 CFR 68.190).	40 CFR 68.150(c), N.J.A.C. 7:31-7.1(a)	1,000	2,000	5,000	NM	
482.	Failure to update and correct RMPs submitted under 40 CFR 68 in accordance with 40 CFR 68.190 as incorporated at N.J.A.C. 7:31-7.1(c)3, 4, and 5 and 68.195 incorporated at N.J.A.C. 7:31-7.1(a).	40 CFR 68.150(d), N.J.A.C. 7:31-7.1(a)	1,000	2,000	5,000	NM	
483.	Failure to provide an executive summary in the RMP.	40 CFR 68.155 N.J.A.C. 7:31-7.1(a)	1,000	2,000	5,000	M	30

	Categories of Offense	Cite	First Offense	Second Offense	Subsequent Offenses	Type of Violation	Grace Period (days)
484.	Failure to provide in the RMP executive summary a brief description of the accidental release prevention and emergency response policies at the stationary source.	40 CFR 68.155(a), N.J.A.C. 7:31-7.1(a)	500	1,000	2,500	M	30
485.	Failure to provide in the RMP executive summary a brief description of the stationary source and regulated substances handled.	40 CFR 68.155(b), N.J.A.C. 7:31-7.1(a)	500	1,000	2,500	M	30
486.	Failure to provide in the RMP executive summary a brief description of the general accidental release prevention program and chemical specific prevention steps.	40 CFR 68.155(c), N.J.A.C. 7:31-7.1(a)	500	1,000	2,500	M	30
487.	Failure to provide in the RMP executive summary a brief description of the five-year accident history.	40 CFR 68.155(d), N.J.A.C. 7:31-7.1(a)	500	1,000	2,500	M	30
488.	Failure to provide in the RMP executive summary a brief description of the emergency response program.	40 CFR 68.155(e), N.J.A.C. 7:31-7.1(a)	500	1,000	2,500	M	30
489.	Failure to provide in the RMP executive summary a brief description of the planned changes to improve safety.	40 CFR 68.155(f), N.J.A.C. 7:31-7.1(a)	500	1,000	2,500	M	30
490.	Failure to complete a single registration form that is included in the RMP that covers all regulated substances handled in covered processes.	40 CFR 68.160(a), N.J.A.C. 7:31-7.1(a)	2,000	4,000	10,000	NM	
491.	Failure to include in the registration any of the following: stationary source name, street, city, county, state, zip code, latitude and longitude, method for obtaining latitude and longitude, or description of location that latitude and longitude represent.	40 CFR 68.160(b)(1), N.J.A.C. 7:31-7.1(a)	500	1,000	2,500	M	30
492.	Failure to include in the registration the stationary source's Dun and Bradstreet number.	40 CFR 68.160(b)(2), N.J.A.C. 7:31-7.1(a)	500	1,000	2,500	M	30

	Categories of Offense	Cite	First Offense	Second Offense	Subsequent Offenses	Type of Violation	Grace Period (days)
493.	Failure to include in the registration the name and Dun and Bradstreet number of the corporate parent company.	40 CFR 68.160(b)(3), N.J.A.C. 7:31-7.1(a)	500	1,000	2,500	M	30
494.	Failure to include in the registration the name, telephone number, and mailing address of the owner or operator.	40 CFR 68.160(b)(4), N.J.A.C. 7:31-7.1(a)	500	1,000	2,500	M	30
495.	Failure to include in the registration the name and title of the person or position with overall responsibility for RMP elements and implementation, and (optional) the e-mail address for that person or position.	40 CFR 68.160(b)(5), N.J.A.C. 7:31-7.1(a)	500	1,000	2,500	M	30
496.	Failure to include in the registration the emergency contact person's name, title, telephone number, 24-hour telephone number, and, as of June 21, 2004, the e-mail address (if an e-mail address exists).	40 CFR 68.160(b)(6), N.J.A.C. 7:31-7.1(a)	500	1,000	2,500	M	30
497.	Failure to include in the registration for each covered process the name and CAS number of each regulated substance held at or above the threshold quantity at the facility, the maximum quantity of each regulated substance or mixture in the process (in pounds) to two significant digits, the five- or six-digit NAICS code that most closely corresponds to the process, and the Program level of the process.	40 CFR 68.160(b)(7), N.J.A.C. 7:31-7.1(a)	500	1,000	2,500	NM	
498.	Failure to include in the registration the stationary source USEPA identifier.	40 CFR 68.160(b)(8), N.J.A.C. 7:31-7.1(a)	500	1,000	2,500	M	30
499.	Failure to include in the registration the number of full-time employees at the stationary source.	40 CFR 68.160(b)(9), N.J.A.C. 7:31-7.1(a)	500	1,000	2,500	M	30
500.	Failure to include in the registration whether the stationary source is subject to 29 CFR 1910.119.	40 CFR 68.160(b)(10), N.J.A.C. 7:31-7.1(a)	500	1,000	2,500	M	30
501.	Failure to include in the registration whether the stationary source is subject to 40 CFR part 355.	40 CFR 68.160(b)(11), N.J.A.C. 7:31-7.1(a)	500	1,000	2,500	M	30

	Categories of Offense	Cite	First Offense	Second Offense	Subsequent Offenses	Type of Violation	Grace Period (days)
502.	Failure to include in the registration the CAA Title V operating permit number for a stationary source that has a CAA Title V operating permit.	40 CFR 68.160(b)(12), N.J.A.C. 7:31-7.1(a)	500	1,000	2,500	M	30
503.	Failure to include in the registration the date of the last safety inspection of the stationary source by a Federal, state, or local government agency and the identity of the inspecting entity.	40 CFR 68.160(b)(13), N.J.A.C. 7:31-7.1(a)	500	1,000	2,500	M	30
504.	Failure to include in the registration as of June 21, 2004, the name, the mailing address, and the telephone number of the contractor who prepared the RMP (if any).	40 CFR 68.160(b)(14), N.J.A.C. 7:31-7.1(a)	500	1,000	2,500	M	30
505.	Failure to include in the registration as of June 21, 2004, the type of and reason for any changes being made to a previously submitted RMP categorized as follows: (i) Updates and re-submissions required under 40 CFR 68.190(b); (ii) Corrections under Sec. 68.195 or for purposes of correcting minor clerical errors, updating administrative information, providing missing data elements or reflecting facility ownership changes, and which do not require an update and re-submission as specified in 40 CFR 68.190(b); (iii) De-registrations required under 40 CFR 68.190(c); and (iv) Withdrawals of an RMP for any facility that was erroneously considered subject to 40 CFR Part 68.	40 CFR 68.160(b)(20), N.J.A.C. 7:31-7.1(a)	500	1,000	2,500	M	30

	Categories of Offense	Cite	First Offense	Second Offense	Subsequent Offenses	Type of Violation	Grace Period (days)
506.	Failure to submit in the RMP information on one worst-case release scenario to represent all regulated toxic substances held above the threshold quantity and one worst-case release scenario to represent all regulated flammable substances held above the threshold quantity. or Failure to submit information for additional worst-case scenarios for toxics or flammables required by 40 CFR 68.25(a)(2)(iii) incorporated at N.J.A.C. 7:31-2.1(a). or Failure to submit information on one alternative release scenario for each regulated toxic substance held above the threshold quantity and one alternative release scenario to represent all regulated flammable substances held above the threshold quantity.	40 CFR 68.165(a)(2), N.J.A.C. 7:31-7.1(a)	2,000	4,000	10,000	NM	
507.	Failure to submit the chemical name in the off-site consequence analysis (OCA).	40 CFR 68.165(b)(1), N.J.A.C. 7:31-7.1(a)	1,000	2,000	5,000	NM	
508.	Failure to submit the percentage weight of the chemical in a liquid mixture (toxics only) in the OCA.	40 CFR 68.165(b)(2), N.J.A.C. 7:31-7.1(a)	1,000	2,000	5,000	M	30
509.	Failure to submit the physical state (toxics only) in the OCA.	40 CFR 68.165(b)(3), N.J.A.C. 7:31-7.1(a)	1,000	2,000	5,000	M	30
510.	Failure to submit the basis for the results of the off-site consequence analysis data in the RMP (including model name if used).	40 CFR 68.165(b)(4), N.J.A.C. 7:31-7.1(a)	1,000	2,000	5,000	M	30
511.	Failure to submit the scenario (explosion, fire, toxic gas release, or liquid spill and vaporization) in the OCA.	40 CFR 68.165(b)(5), N.J.A.C. 7:31-7.1(a)	1,000	2,000	5,000	M	30
512.	Failure to submit the quantity released in pounds in the OCA.	40 CFR 68.165(b)(6), N.J.A.C. 7:31-7.1(a)	1,000	2,000	5,000	M	30
513.	Failure to submit release rate in the OCA.	40 CFR 68.165(b)(7), N.J.A.C. 7:31-7.1(a)	1,000	2,000	5,000	M	30

	Categories of Offense	Cite	First Offense	Second Offense	Subsequent Offenses	Type of Violation	Grace Period (days)
514.	Failure to submit the release duration in the OCA.	40 CFR 68.165(b)(8), N.J.A.C. 7:31-7.1(a)	1,000	2,000	5,000	M	30
515.	Failure to submit the wind speed and atmospheric stability class (toxics only) in the OCA.	40 CFR 68.165(b)(9), N.J.A.C. 7:31-7.1(a)	1,000	2,000	5,000	M	30
516.	Failure to submit the topography (toxics only) in the OCA.	40 CFR 68.165(b)(10), N.J.A.C. 7:31-7.1(a)	1,000	2,000	5,000	M	30
517.	Failure to submit the distance to endpoint in the OCA.	40 CFR 68.165(b)(11), N.J.A.C. 7:31-7.1(a)	1,000	2,000	5,000	NM	
518.	Failure to submit the public and environmental receptors within the distance to endpoint in the OCA.	40 CFR 68.165(b)(12), N.J.A.C. 7:31-7.1(a)	1,000	2,000	5,000	NM	
519.	Failure to submit the passive mitigation considered in the OCA.	40 CFR 68.165(b)(13), N.J.A.C. 7:31-7.1(a)	1,000	2,000	5,000	M	30
520.	Failure to submit the active mitigation considered (alternative releases only) in the OCA.	40 CFR 68.165(b)(14), N.J.A.C. 7:31-7.1(a)	1,000	2,000	5,000	M	30
521.	Failure to submit in the RMP the five year accident history information required at 40 CFR 68.42(b) incorporated at N.J.A.C. 7:31-2.1(a) on each accident covered by 40 CFR 68.42(a) incorporated at N.J.A.C. 7:31-2.1(a).	40 CFR 68.168, N.J.A.C. 7:31-7.1(a)	1,000	2,000	5,000	NM	

522. Reserved
523. Reserved
524. Reserved
525. Reserved
526. Reserved
527. Reserved
528. Reserved
529. Reserved
530. Reserved
531. Reserved
532. Reserved
533. Reserved
534. Reserved
535. Reserved
536. Reserved
537. Reserved

	Categories of Offense	Cite	First Offense	Second Offense	Subsequent Offenses	Type of Violation	Grace Period (days)
538.	Reserved						
539.	Reserved						
540.	Reserved						
541.	Failure to indicate to which Program 3 processes the prevention program information required by 40 CFR 68.175(b) through (p) incorporated at N.J.A.C. 7:31-7.1(a) applies, for prevention program information provided only once which applies to more than one covered process.	40 CFR 68.175(a), N.J.A.C. 7:31-7.1(a)	1,000	2,000	5,000	M	30
542.	Failure to provide in the RMP the five- or six-digit NAICS code that most closely corresponds to each Program 3 process.	40 CFR 68.175(b), N.J.A.C. 7:31-7.1(a)	500	1,000	2,500	M	30
543.	Failure to provide in the RMP the name(s) of the substance(s) covered for each Program 3 process.	40 CFR 68.175(c), N.J.A.C. 7:31-7.1(a)	1,000	2,000	5,000	M	30
544.	Failure to provide in the RMP the date on which the safety information was last reviewed or revised for each Program 3 process.	40 CFR 68.175(d), N.J.A.C. 7:31-7.1(a)	1,000	2,000	5,000	M	30
545.	Failure to provide in the RMP the date of completion of the most recent process hazard analysis or update and the technique used for each Program 3 process.	40 CFR 68.175(e), N.J.A.C. 7:31-7.1(a)	1,000	2,000	5,000	M	30
546.	Failure to provide in the RMP the expected date of completion of any changes resulting from the PHA for each Program 3 process.	40 CFR 68.175(e)(1), N.J.A.C. 7:31-7.1(a)	1,000	2,000	5,000	M	30
547.	Failure to provide in the RMP the major hazards identified for each Program 3 process.	40 CFR 68.175(e)(2), N.J.A.C. 7:31-7.1(a)	1,000	2,000	5,000	M	30
548.	Failure to provide in the RMP the process controls in use for each Program 3 process.	40 CFR 68.175(e)(3), N.J.A.C. 7:31-7.1(a)	1,000	2,000	5,000	M	30
549.	Failure to provide in the RMP the mitigation systems in use for each Program 3 process.	40 CFR 68.175(e)(4), N.J.A.C. 7:31-7.1(a)	1,000	2,000	5,000	M	30

	Categories of Offense	Cite	First Offense	Second Offense	Subsequent Offenses	Type of Violation	Grace Period (days)
550.	Failure to provide in the RMP the monitoring and detection systems in use for each Program 3 process.	40 CFR 68.175(e)(5), N.J.A.C. 7:31-7.1(a)	1,000	2,000	5,000	M	30
551.	Failure to provide in the RMP the changes since the last PHA for each Program 3 process.	40 CFR 68.175(e)(6), N.J.A.C. 7:31-7.1(a)	1,000	2,000	5,000	M	30
552.	Failure to provide in the RMP the date of the most recent review or revision of the operating procedures for each Program 3 process.	40 CFR 68.175(f), N.J.A.C. 7:31-7.1(a)	1,000	2,000	5,000	M	30
553.	Failure to provide in the RMP the date of the most recent review or revision of training programs for each Program 3 process.	40 CFR 68.175(g), N.J.A.C. 7:31-7.1(a)	1,000	2,000	5,000	M	30
554.	Failure to provide in the RMP for each Program 3 process the type of training given (classroom, classroom plus on the job, on the job).	40 CFR 68.175(g)(1), N.J.A.C. 7:31-7.1(a)	1,000	2,000	5,000	M	30
555.	Failure to provide in the RMP the type of competency testing used for each Program 3 process.	40 CFR 68.175(g)(2), N.J.A.C. 7:31-7.1(a)	1,000	2,000	5,000	M	30
556.	Failure to provide in the RMP the date of the most recent review or revision of maintenance procedures and the date of the most recent equipment inspection or test and the equipment inspected or tested for each Program 3 process.	40 CFR 68.175(h), N.J.A.C. 7:31-7.1(a)	1,000	2,000	5,000	M	30
557.	Failure to provide in the RMP the date of the most recent change that triggered management of change procedures or the date of the most recent review or revision of management of change procedures for each Program 3 process.	40 CFR 68.175(i), N.J.A.C. 7:31-7.1(a)	1,000	2,000	5,000	M	30
558.	Failure to provide in the RMP the date of the most recent pre-startup review for each Program 3 process.	40 CFR 68.175(j), N.J.A.C. 7:31-7.1(a)	1,000	2,000	5,000	M	30

	Categories of Offense	Cite	First Offense	Second Offense	Subsequent Offenses	Type of Violation	Grace Period (days)
559.	Failure to provide in the RMP the date of the most recent compliance audit and the expected date of completion of any changes resulting from the compliance audit for each Program 3 process.	40 CFR 68.175(k), N.J.A.C. 7:31-7.1(a)	1,000	2,000	5,000	M	30
560.	Failure to provide in the RMP the date of the most recent incident investigation and the expected date of completion of any changes resulting from the investigation for each Program 3 process.	40 CFR 68.175(l), N.J.A.C. 7:31-7.1(a)	1,000	2,000	5,000	M	30
561.	Failure to provide in the RMP the date of the most recent review or revision of employee participation plans for each Program 3 process.	40 CFR 68.175(m), N.J.A.C. 7:31-7.1(a)	1,000	2,000	5,000	M	30
562.	Failure to provide in the RMP the date of the most recent review or revision of hot work permit procedures for each Program 3 process.	40 CFR 68.175(n), N.J.A.C. 7:31-7.1(a)	500	1,000	2,500	M	30
563.	Failure to provide in the RMP the date of the most recent review or revision of contractor safety procedures for each Program 3 process.	40 CFR 68.175(o), N.J.A.C. 7:31-7.1(a)]	500	1,000	2,500	M	30
564.	Failure to provide in the RMP the date of the most recent evaluation of contractor safety performance for each Program 3 process.	40 CFR 68.175(p), N.J.A.C. 7:31-7.1(a)	500	1,000	2,500	M	30
565.	Failure to provide in the RMP whether there is a written emergency response plan.	40 CFR 68.180(a)(1), N.J.A.C. 7:31-7.1(a)	1,000	2,000	5,000	M	30
566.	Failure to provide in the RMP whether the emergency response plan includes specific actions to be taken in response to an accidental release of a regulated substance.	40 CFR 68.180(a)(2), N.J.A.C. 7:31-7.1(a)	1,000	2,000	5,000	M	30
567.	Failure to provide in the RMP whether the emergency response plan includes procedures for informing the public and local agencies responsible for responding to accidental releases.	40 CFR 68.180(a)(3), N.J.A.C. 7:31-7.1(a)	1,000	2,000	5,000	M	30

	Categories of Offense	Cite	First Offense	Second Offense	Subsequent Offenses	Type of Violation	Grace Period (days)
568.	Failure to provide in the RMP whether the emergency response plan includes information on emergency health care.	40 CFR 68.180(a)(4), N.J.A.C. 7:31-7.1(a)	1,000	2,000	5,000	M	30
569.	Failure to provide in the RMP the date of the most recent review or update of the emergency response plan.	40 CFR 68.180(a)(5), N.J.A.C. 7:31-7.1(a)	1,000	2,000	5,000	M	30
570.	Failure to provide in the RMP the date of the most recent emergency response training for employees.	40 CFR 68.180(a)(6), N.J.A.C. 7:31-7.1(a)	1,000	2,000	5,000	M	30
571.	Failure to provide in the RMP the name and telephone number of the local agency with which emergency response activities and the emergency response plan is coordinated.	40 CFR 68.180(b), N.J.A.C. 7:31-7.1(a)	1,000	2,000	5,000	M	30
572.	Failure to list in the RMP other Federal or state emergency plan requirements to which the stationary source is subject.	40 CFR 68.180(c), N.J.A.C. 7:31-7.1(a)	1,000	2,000	5,000	M	30
573.	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	M	**30**
574.	Failure to review and update the RMP as specified in 40 CFR 68.190(b) incorporated at N.J.A.C. 7:31-7.1(c) and submit it in a method and format to a central point specified by EPA as of the date of submission.	40 CFR 68.190(a), N.J.A.C. 7:31-7.1(c)3-4	1,000	2,000	5,000	NM	
575.	Failure to submit RMP updates to the Department in accordance with 40 CFR 190(b) incorporated N.J.A.C. 7:31-7.1(c) and N.J.A.C. 7:31-7.2 for all covered processes.	40 CFR 68.190(b) N.J.A.C. 7:31-7.1(c)5 N.J.A.C. 7:31-7.2	1,000	2,000	5,000	NM	

	Categories of Offense	Cite	First Offense	Second Offense	Subsequent Offenses	Type of Violation	Grace Period (days)
576.	Failure to revise and update the RMP submitted under 40 CFR 68.150 incorporated with changes specified at N.J.A.C. 7:31-7.1(c)1 and 2 at least once every five years from the date of its initial submission or most recent update required by 40 CFR 68.190(b)(2) through (b)(7), whichever is later. For purposes of determining the date of initial submissions, RMPs submitted before June 21, 1999 are considered to have been submitted on that date.	40 CFR 68.190(b)(1), N.J.A.C. 7:31-7.1(c)5	1,000	2,000	5,000	NM	
577.	Failure to revise and update the RMP submitted under 40 CFR 68.150 incorporated with changes specified at N.J.A.C. 7:31-7.1(c)1 and 2 prior to three years after a newly regulated substance is first listed by EPA.	40 CFR 68.190(b)(2), N.J.A.C. 7:31-7.1(c)5	1,000	2,000	5,000	NM	
578.	Failure to revise and update the RMP submitted under 40 CFR 68.150 incorporated with changes specified at N.J.A.C. 7:31-7.1(c)1 and 2 prior to the date on which a new regulated substance is first present above a threshold quantity in an already covered process.	40 CFR 68.190(b)(3), N.J.A.C. 7:31-7.1(c)5	1,000	2,000	5,000	NM	
579.	Failure to revise and update the RMP submitted under 40 CFR 68.150 incorporated with changes specified at N.J.A.C. 7:31-7.1(c)1 and 2 prior to the date on which a regulated substance was first present above a threshold quantity in a new process.	40 CFR 68.190(b)(4), N.J.A.C. 7:31-7.1(c)5	1,000	2,000	5,000	NM	
580.	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.	40 CFR 68.190(b)(5), N.J.A.C. 7:31-7.1(c)5	1,000	2,000	5,000	NM	

	Categories of Offense	Cite	First Offense	Second Offense	Subsequent Offenses	Type of Violation	Grace Period (days)
581.	Failure to revise and update the RMP submitted under 40 CFR 68.150 incorporated with changes specified at N.J.A.C. 7:31-7.1(c)1 and 2 within six months of a change that requires a revised offsite consequence analysis as provided in 40 CFR 68.3 incorporated at N.J.A.C. 7:31-2.1(c).	40 CFR 68.190(b)(6), N.J.A.C. 7:31-7.1(c)5	1,000	2,000	5,000	NM	
582.	Failure to revise and update the RMP submitted under 40 CFR 68.150 incorporated with changes specified at N.J.A.C. 7:31-7.1(c)1 and 2 within six months of a change that alters the Program level that applied to any covered process.	40 CFR 68.190(b)(7), N.J.A.C. 7:31-7.1(c)5	1,000	2,000	5,000	NM	
583.	Failure to submit a de-registration to EPA and the Department within six months of being no longer subject to 40 CFR 68 as incorporated at N.J.A.C. 7:31 indicating that the stationary source is no longer covered.	40 CFR 68.190(c), N.J.A.C. 7:31-7.1(a)	1,000	2,000	5,000	M	30
584.	Failure to correct the RMP for any accidental release meeting the five-year accident history reporting criteria of 40 CFR 68.42 and occurring after April 9, 2004 by submitting the data required under 40 CFR 68.168 and 68.175(l) with respect to that accident within six months of the release or by the time the RMP is updated under 40 CFR 68.190, whichever is earlier.	40 CFR 68.195(a), N.J.A.C. 7:31-7.1(a)	1,000	2,000	5,000	NM	
585.	Failure to correct the RMP beginning June 21, 2004, within one month of any change in the emergency contact information required under 40 CFR 68.160(b)(6), the owner or operator shall submit a correction of that information.	40 CFR 68.195(b), N.J.A.C. 7:31-7.1(a)	1,000	2,000	5,000	NM	
586.	Failure to submit to the Department in a specified format all documents required by 40 CFR 68.150 incorporated with changes specified at N.J.A.C. 7:31-7.1(c)1 and 2.	N.J.A.C. 7:31-7.2(a)1	1,000	2,000	5,000	M	30

	Categories of Offense	Cite	First Offense	Second Offense	Subsequent Offenses	Type of Violation	Grace Period (days)
587.	Failure to submit to the Department in a specified format, supplemental TCPA program information including identification of the position titles, expertise and affiliation of the persons involved with the development of each element of the risk management program.	N.J.A.C. 7:31-7.2(a)2i	1,000	2,000	5,000	M	30
588.	Failure to submit to the Department in a specified format supplemental TCPA program information including a description and profile of the area in which the covered process is situated and its proximity to population and water supplies.	N.J.A.C. 7:31-7.2(a)2ii	1,000	2,000	5,000	M	30
589.	Failure to submit to the Department in a specified format supplemental TCPA program information identifying insurance carriers underwriting the stationary source's environmental liability and workers compensation insurance policies including the address of the carrier, the type of policy, the amount of insurance and limitations or exclusions to the policy.	N.J.A.C. 7:31-7.2(a)2iii	1,000	2,000	5,000	M	30
590.	Failure to submit to the Department in a specified format supplemental TCPA program information identifying the extraordinarily hazardous substances inventory at the covered process as end products, intermediate products, by-products or waste products.	N.J.A.C. 7:31-7.2(a)2iv	1,000	2,000	5,000	M	30
591.	Failure to identify and register each regulated individual RHS and RHS Mixture and provide in the RMP registration section pursuant to 40 CFR 68.160(b)(7) incorporated at N.J.A.C. 7:31-7.1(a) the total amount of the individual RHS in the covered process for each individual RHS listed at N.J.A.C. 7:31-6.3(a), Table I, Part D, Group I.	N.J.A.C. 7:31-7.2(a)3i	1,000	2,000	5,000	NM	

	Categories of Offense	Cite	First Offense	Second Offense	Subsequent Offenses	Type of Violation	Grace Period (days)
592.	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.	N.J.A.C. 7:31-7.2(a)3ii	1,000	2,000	5,000	NM	
593.	Failure to identify and register each regulated individual RHS and RHS mixture and provide in the RMP registration section pursuant to 40 CFR 68.160(b)(7) incorporated at N.J.A.C. 7:31-7.1(a) the heat of reaction range for RHS mixtures in calories/gram of RHS mixture as listed at Table II of N.J.A.C. 7:31-6.3(c). or Failure to identify and register the RHS mixture having the highest heat of reaction range as shown on Table II in the RMP registration section pursuant to 40 CFR 68.160(b)(7) incorporated at N.J.A.C. 7:31-7.1(a) when more than one RHS mixture is present in the process vessel at different times.	N.J.A.C. 7:31-7.2(a)3iii	1,000	2,000	5,000	NM	
594.	Failure to identify and register the EHS listed on Part A, B, or C as a toxic or flammable substance, as applicable, and the 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), for RHS Mixtures containing one or more EHS(s) listed in Parts A, B, or C of Table I at the facility at or above their threshold.	N.J.A.C. 7:31-7.2(a)3iv	1,000	2,000	5,000	NM	

	Categories of Offense	Cite	First Offense	Second Offense	Subsequent Offenses	Type of Violation	Grace Period (days)
595.	Failure to submit a correction to the Department within 60 days of an increase in maximum inventory of a covered process in addition to the updates required by N.J.A.C. 7:31-7.1(c)3 through 5.	N.J.A.C. 7:31-7.2(b)	2,000	4,000	10,000	NM	
596.	Failure to submit to the Department a Risk Management Plan correction within one month of a change in the qualified person or position.	N.J.A.C. 7:31-7.2(c)	500	1,000	2,500	M	**30**
597.	Failure to adopt the existing, or obtain a new, approved TCPA risk management program for the covered process before operating EHS equipment following the transfer of the covered process to a new owner or operator or change in ownership or the name of an owner or operator.	N.J.A.C. 7:31-7.4(a)	2,000	4,000	10,000	NM	
598.	Failure to adopt an existing approved TCPA risk management program by submitting an updated registration in accordance with N.J.A.C. 7:31-7 and signing an addendum to the consent agreement that was previously signed by the Department and the former owner or operator.	N.J.A.C. 7:31-7.4(b)	2,000	4,000	10,000	NM	
599.	Failure to comply with the approved risk management program for EHSs listed in N.J.A.C. 7:31-6.3, Table I, Parts A, B, C, or D 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 no later than March 16, 2010.	N.J.A.C. 7:31-7.5(a)	2,000	4,000	10,000	NM	

	Categories of Offense	Cite	First Offense	Second Offense	Subsequent Offenses	Type of Violation	Grace Period (days)
600.	Failure of an owner or operator having reactive hazard substance mixtures subject to this chapter with newly listed functional group number 44 on N.J.A.C. 7:31-6.3(a), Table 1, Part D, Group II, or that is newly subject to this chapter as a result of the change to applicability based on the heat of reaction to "calories per gram of the substance with the specified functional group" (instead of "calories per gram of the RHS mixture") as specified at N.J.A.C. 7:31-6.3(b)2, at or above threshold quantities to be in compliance with this chapter by March 16, 2010.	N.J.A.C. 7:31-7.5(b)	2,000	4,000	10,000	NM	
601.	Failure of an owner or operator having propane (CAS No. 74-98-6), propylene (CAS No. 115-07-1), butanes (normal butane (CAS No. 106-97-8) or isobutane (CAS No. 75-28-5), or butylenes (1-butene (CAS No. 106-98-9), 2-butene (CAS No. 107-01-7), butene (CAS No. 25167-67-3), 2-butene-cis (CAS No. 590-18-1), 2-butene-trans (CAS No. 624-64-6), and 2-methylpropene (CAS No. 115-11-7)) listed at N.J.A.C. 7:31-6.3(a), at Table I, Part C, at or above threshold quantities to be in compliance with this chapter by March 16, 2010.	N.J.A.C. 7:31-7.5(e)	2,000	4,000	10,000	NM	
602.	Failure of an owner or operator having individual RHSs listed in Table 1, Part D, Group I, that are received, stored and handled in combination with one or more other chemical substances specifically formulated to inhibit the reactive hazard (such as water reactivity, pyrophoric, or self-reacting) where the RHS is at or above the threshold quantity to be in compliance with this chapter by March 16, 2010.	N.J.A.C. 7:31-7.5(f)	2,000	4,000	10,000	NM	

	Categories of Offense	Cite	First Offense	Second Offense	Subsequent Offenses	Type of Violation	Grace Period (days)
603.	Failure of an owner or operator having an approved risk management program for EHSs listed in N.J.A.C. 7:31-6.3, Table I, Parts A, B, C, or D to comply with the process hazard analysis with risk assessment requirements of 40 CFR 68.67 with changes specified at N.J.A.C. 7:31-4.1(c) and 4.2.	N.J.A.C. 7:31-7.5(g)	2,000	4,000	10,000	NM	
604.	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 and as follows: mechanical integrity/preventive maintenance records for the lifetime of EHS equipment, design safety review reports for the lifetime of a covered process, and hot work permits until they are reviewed in the next Department audit or inspection..	40 CFR 68.200, N.J.A.C. 7:31-8.1(c)1	2,000	4,000	10,000	NM	
605.	Failure to provide the Department access to the stationary source, supporting documentation, or any area where an accidental release could occur in accordance with N.J.A.C. 7:31-8.2.	40 CFR 68.220(d), N.J.A.C. 7:31-8.1(c)2 and 5	2,000	4,000	10,000	NM	
606.	Failure to include in the written response to a preliminary determination a statement that the revisions contained in the preliminary determination will be implemented in accordance with the timetable included in the preliminary determination or a statement that the revisions in whole or in part are rejected. or Failure to explain the basis for rejecting in whole or in part a revision contained in a preliminary determination.	40 CFR 68.220(f)(1), N.J.A.C. 7:31-8.1(c)7	2,000	4,000	10,000	NM	
607.	Failure to submit the written response under 40 CFR 68.220(f)(1) as incorporated at N.J.A.C. 7:31-8.1(c)7 to the Department within 60 days of the issue of the preliminary determination.	40 CFR 68.220(f)(2), N.J.A.C. 7:31-8.1(c)8	4,000	8,000	20,000	NM	

	Categories of Offense	Cite	First Offense	Second Offense	Subsequent Offenses	Type of Violation	Grace Period (days)
608.	Failure to enter into a consent agreement (or consent agreement addendum for previously approved risk management programs) with the Department within 120 days of receipt of a preliminary determination. or Failure to comply with the requirements of the approved risk management program as set forth in the consent agreement or consent agreement addendum.	40 CFR 68.220(g), N.J.A.C. 7:31-8.1(c)9	2,000	4,000	10,000	NM	
609.	Failure to revise and submit the RMP prepared under 40 CFR 68.150 as incorporated at N.J.A.C. 7:31-7.1(c) as required by a consent agreement, consent agreement addendum or administrative order under 40 CFR 68.220(g) as incorporated at N.J.A.C. 7:31-8.1(c)9 within 30 days after completion of the actions detailed in the implementation schedule set forth in the consent agreement, consent agreement addendum or administrative order.	40 CFR 68.220(h), N.J.A.C. 7:31-8.1(c)10	2,000	4,000	10,000	NM	
610.	Failure to provide the Department the right to enter and inspect and/or audit any facility, building or equipment, or any portion thereof, at any time, in order to determine compliance with the TCPA, N.J.A.C. 7:31, any order, consent order or agreement. or Failure to provide the Department the right to test or sample any materials at the facility, 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 or audit.	N.J.A.C. 7:31-8.2(a)	2,000	4,000	10,000	NM	

	Categories of Offense	Cite	First Offense	Second Offense	Subsequent Offenses	Type of Violation	Grace Period (days)
611.	Failure to submit to the Department a risk management program document for review.	N.J.A.C. 7:31-8.2(c)	1,000	2,000	5,000	NM	
612.	Failure to include the certification with any risk management program document required to be submitted.	N.J.A.C. 7:31-8.2(c)1	2,000	4,000	10,000	M	30
613.	Failure to submit true, accurate or complete information.	N.J.A.C. 7:31-8.2(c)1	2,000	4,000	10,000	NM	
614.	Failure to sign the certification by the qualified person or position specified in the owner or operator's risk management plan, or person of higher authority for the owner or operator.	N.J.A.C. 7:31-8.2(c)2	2,000	4,000	10,000	M	30
615.	Failure to make documentation required pursuant to this chapter readily accessible for review by the Department during an audit or inspection.	N.J.A.C. 7:31-8.2(e)	2,000	4,000	10,000	NM	
616.	Failure to assist the Department in developing a work plan to perform an Extraordinarily Hazardous Substance Accident Risk Assessment (EHSARA) and develop a risk reduction plan.	N.J.A.C. 7:31-9.1(a)	2,000	4,000	10,000	NM	
617.	Failure to compile and submit to the Department the list of risk management program documents within 30 days after receipt of notice of the determination that the owner or operator does not have an established risk management program. or Failure to group the list of documents by operating or utility unit area in EHS service at the stationary source giving their document number, name, the EHS involved, most recent revision number and date, file location at the stationary source, and code of sheet size according to ANSI Y14.1-1996 (A, B, C, D, or E) or Deutshes Institute Fuer Normung (DIN) 823-1965 (A4, A3, A2, A1, or A0).	N.J.A.C. 7:31-9.1(c)	2,000	4,000	10,000	NM	

	Categories of Offense	Cite	First Offense	Second Offense	Subsequent Offenses	Type of Violation	Grace Period (days)
618.	Failure to attend a meeting with the Department for the purpose of discussing any workplan items listed at N.J.A.C. 7:31-9.1(d)1 through 7.	N.J.A.C. 7:31-9.1(d)1 through 7	2,000	4,000	10,000	NM	
619.	Failure to submit within 60 days of receipt of the finished workplan the names and proposals of three consultants who meet the requirements at N.J.A.C. 7:31-9.4(b) and are willing and able to perform the EHSARA in accordance with the schedule set in the work plan.	N.J.A.C. 7:31-9.3(b)	2,000	4,000	10,000	NM	
620.	Failure to obtain approval in writing from the Department to subcontract work involved in the EHSARA.	N.J.A.C. 7:31-9.3(c)4	750	1,500	3,750	NM	
621.	Failure to submit the names and proposals of an additional three consultants to the Department for its selection of one of the consultants to perform the EHSARA within 60 days after the Department's determination that none of the original proposals meet the requirements in N.J.A.C. 7:31-9.4.	N.J.A.C. 7:31-9.4(d)2	2,000	4,000	10,000	NM	
622.	Failure to execute a contract with the consultant chosen by the Department within 45 days after receipt of the name of the consultant from the Department.	N.J.A.C. 7:31-9.4(e)	2,000	4,000	10,000	NM	
623.	Failure to require the consultant to perform the EHSARA and develop a recommended risk reduction plan which includes the identification of those activities necessary to create a risk management program in conformity with the work plan developed and explained at the meeting held pursuant to N.J.A.C. 7:31-9.1(d).	N.J.A.C. 7:31-9.4(f)	2,000	4,000	10,000	NM	
624.	Failure to require the consultant to prepare an EHSARA report upon completion of the EHSARA which includes recommendations to reduce risks.	N.J.A.C. 7:31-9.5(a)	2,000	4,000	10,000	NM	

	Categories of Offense	Cite	First Offense	Second Offense	Subsequent Offenses	Type of Violation	Grace Period (days)
625.	Failure to submit the original EHSARA report to the Department in accordance with the schedule set forth in the work plan.	N.J.A.C. 7:31-9.5(b)	2,000	4,000	10,000	M	30
626.	Failure to include in the EHSARA report the findings of the verification required by N.J.A.C. 7:31-9.2(a)2.	N.J.A.C. 7:31-9.5(c)1	1,000	2,000	5,000	NM	
627.	Failure to include in the EHSARA report the findings of the review required by N.J.A.C. 7:31-9.2(a)3.	N.J.A.C. 7:31-9.5(c)2	1,000	2,000	5,000	NM	
628.	Failure to include in the EHSARA report the findings of the safety review required by N.J.A.C. 7:31-9.2(a)4.	N.J.A.C. 7:31-9.5(c)3	1,000	2,000	5,000	NM	
629.	Failure to include in the EHSARA report the reports of the process hazard analysis with risk assessment required by N.J.A.C. 7:31-9.2(a)5.	N.J.A.C. 7:31-9.5(c)4	1,000	2,000	5,000	NM	
630.	Failure to include in the EHSARA report the findings of the reviews required by N.J.A.C. 7:31-9.2(a)6 through 10.	N.J.A.C. 7:31-9.5(c)5	1,000	2,000	5,000	NM	
631.	Failure to include in the EHSARA report the recommended risk reduction plan including the listing of all of the deficiencies identified in N.J.A.C. 7:31-9.5(d)1 through 4, the remedial actions and alternatives to correct the deficiencies or a proposed schedule for implementation.	N.J.A.C. 7:31-9.5(d)5	1,000	2,000	5,000	NM	
632.	Failure to implement the risk reduction plan which includes a list of risks that must be reduced.	N.J.A.C. 7:31-9.5(e)1	4,000	8,000	20,000	NM	
633.	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. 7:31-4.	N.J.A.C. 7:31-9.5(e)2	4,000	8,000	20,000	NM	

Note that Subchapter 3 is being deleted by this revision. The requirements of this subchapter remain valid for 365

days after adoption of this revision for facilities presently registered as being in Program 2. Subsequent to that date, March 16, 2010, all facilities registered with TCPA will be Program 3 and the requirements of Subchapter 3 will be void. Penalties 10 thru 14, 108 thru 208, and 522 thru 540 will be deleted at that time.

(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 N.J.A.C. 7:31-11.4(c), according to the following:

1. The Department shall assess a penalty in an amount not to exceed the following:
   i. Not more than $10,000 for the first offense;
   ii. Not more than $20,000 for the second offense; and
   iii. Not more than $50,000 for the third and each subsequent offense.

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

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

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

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

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

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

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

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

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

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

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

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

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

7:31-11.5 Grace period applicability; procedures

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

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

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

1. The violation is not the result of the purposeful, knowing, reckless or criminally

negligent conduct of the person responsible for the violation;

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

3. The person responsible for the violation has not been identified in a previous enforcement action by the Department or a local government agency as responsible for the same or a substantially similar violation at the same stationary source within the preceding 12-month period; and

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

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

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

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

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

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

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

4. If the person responsible for the minor violation seeks additional time beyond the specified grace period to achieve compliance, the person shall request an extension of the specified grace period. The request shall be made in writing no later than one week before the end of the specified grace period and include the anticipated time needed to achieve compliance, the specific cause or causes of the delay, and any measures taken or to be taken to minimize the time needed to achieve compliance and shall be certified in accordance with 40 C.F.R. 68.185, incorporated by reference at N.J.A.C. 7:31-7.1. The Department may, at its discretion, approve in writing an extension, which shall not exceed 90 days, to accommodate the anticipated delay in achieving compliance. In exercising its discretion to approve a request for an extension, the Department may consider the following:

i. Whether the violator has taken reasonable measures to achieve compliance in

a timely manner;

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

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

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

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

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