

States - D.J.

TO: Distribution

FROM: T. G. Grumbles
DATE: October 27, 1987

Interoffice
Communication

SUBJ: NEW JERSEY TOXIC CATASTROPHE PREVENTION ACT: PROPOSED RULES

VISTA

Enclosed is an SDA summary and a copy of the proposed rules implementing the subject act. I know we have received some customer inquiries regarding the applicability of the act to our products. One of our products, methyl chloride, is on the list. It should be noted that the hydrochloric acid listed is more concentrated than our Baltimore products.

While the enclosed is provided for your reference, we will still assist you in answering customer questions when needed.


T. G. Grumbles

ajo

Enclosure
.213

cc Dave Mahler
Mike Hayes

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VVV 000014952



ENVIRONMENTAL LEGISLATION REPORT

Editor: Mary P. Kilcoyne

ER-279

October 2, 1987

STATE LEVEL

NEW JERSEY

TOXIC CATASTROPHE PREVENTION IMPLEMENTATION

PROPOSED NEW RULES

This proposal (New Jersey Register, 9/21/87, pp. 1687-1711, attached), prepared by the Department of Environmental Protection, would implement the Toxic Catastrophe Prevention Act. The proposed rules would apply to all facilities which handle, use, manufacture, store or generate extraordinarily hazardous substances in or above the quantities established by law.

Some of the provisions of the proposed rules include:

Establishing rules regarding registration procedures to be followed by owners or operators. Prohibiting owners or operators of sites from handling, using, manufacturing, storing or generating EHSs unless registered with the Department.

Providing procedures for the development of risk management and risk reduction plans. Establishing the standards by which the Department will evaluate such plans.

Providing for the monitoring of sites. The Department's right to inspect and the registrant's responsibilities during inspections of sites are stated. Also provided are the types of actions the Department may take to prevent catastrophic accidents from a potential release of EHS.

Establishing the civil administrative penalties that will be imposed on violators.

Defining a risk management program and introducing the eight elements that comprise it. Each registrant's program will include:

- 1) Safety design review for new and existing EHS facilities
- 2) Standard operating procedures
- 3) Preventive maintenance program
- 4) Operator training
- 5) Accident investigation procedures
- 6) Risk assessments for EHS equipment or operating alternatives

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(continued)

- 7) Emergency response planning
- 8) Risk management program audit procedures

The minimum requirements the preceding elements must comply with are provided.

For facilities that have not adopted a risk management program, the rules require the development of a risk reduction plan. This plan must include the development of a risk management program and other remedial actions to reduce risk. Such registrants will be required to engage an independent consultant to follow the detailed scope of work in the plan.

Public hearings concerning this proposal will be held as follows:

October 27, 1987 - 10:30 am
Hackensack Environmental Center
2 Dekorte Park Plaza
Lyndhurst, New Jersey

October 28, 1987 - 10:00 am
Cherry Hill Township Municipal Building
820 Mercer Avenue
Cherry Hill, New Jersey

October 29, 1987 - 6:30 pm
War Memorial Building
West Lafayette Street
Trenton, New Jersey

Submit comments by November 6, 1987 to:

Roger S. Haase, Esq.
Office of Regulatory Services
Department of Environmental Protection
CN-402
Trenton, New Jersey 08625

VVV 000014954

Economic Impact

The proposed amendment will have no economic impact because no additional costs are necessary to implement or maintain this rule. Persons penalized pursuant to the proposed amendment will be impacted upon economically to the extent that they are fined in legal proceedings pursuant to the proposed amendment.

Regulatory Flexibility Statement

The proposed amendment does not affect nor impose any reporting or compliance requirements upon small businesses. A regulatory flexibility analysis of this proposed amendment is therefore not required.

Full text of the proposal follows (additions indicated in boldface thus; deletions shown in brackets [thus]).

5:100-2.5 Penalties

(a) Any person required to report suspected abuse or exploitation pursuant to P.L. 1983, c. 43, N.J.S.A. 52:27G-7.1, who fails to make such report, shall be fined not more than [\$500.00] \$5,000. Such penalty shall be collected and enforced by summary proceedings pursuant to "the penalty enforcement law" (N.J.S.A. 2A:58-1, et seq.) as provided in P.L. 1983, c. 43, N.J.S.A. 52:27G-7.1(f). Each violation of the act shall constitute a separate offense. When a person has been penalized under this subsection, a letter making note of the penalty shall immediately be sent by the court to the licensing authority or the professional board, if any, having jurisdiction over the person who has been penalized.

(b) Any person who willfully hinders the lawful actions of the office or willfully refuses to comply with its lawful demands, including the demand of immediate entry into and inspection of a facility or government agency or the demand of immediate access to a patient, resident or client thereof, or who offers any compensation, gratuity, or promise thereof to the office in an effort to affect the outcome of any matter which is being investigated, or is likely to be investigated, shall be subject to a penalty of not more than \$5,000. Such penalty shall be collected and enforced by summary proceedings pursuant to "the penalty enforcement law" (N.J.S.A. 2A:58-1, et seq.) upon complaint of the office or any other person. Each violation of the act shall constitute a separate offense. When a person has been penalized under this subsection, a letter making note of the penalty shall immediately be sent by the court to the licensing authority or the professional board, if any, having jurisdiction over the person who has been penalized.

ENVIRONMENTAL PROTECTION**(a)****DIVISION OF ENVIRONMENTAL QUALITY****Toxic Catastrophe Prevention Act****Proposed New Rules: N.J.A.C. 7:31-1, 2, 3 and 4**

Authorized By: Richard T. Dewling, Commissioner, Department of Environmental Protection.

Authority: N.J.S.A. 13:1B-3, 13:1D-9, 13:1K-19 et seq., and 26:2C-1 et seq., specifically 26:2C-8.

DEP Docket Number: 042-87-08.

Proposal Number: PRN 1987-387.

Public hearings concerning this proposal will be held on:

October 27, 1987 at 10:30 A.M.

Hackensack Environmental Center

2 Dekorte Park Plaza

Lyndhurst, New Jersey

October 28, 1987 at 10:00 A.M.

Cherry Hill Township Municipal Building

820 Mercer Avenue

Cherry Hill, New Jersey

October 29, 1987 at 6:30 P.M.

War Memorial Building

West Lafayette Street

Trenton, New Jersey

Submit comments by November 6, 1987 to:

Roger S. Haase, Esq.

Office of Regulatory Services

Department of Environmental Protection

CN 402

Trenton, New Jersey 08625

The Department has prepared a *Basis and Background document* for the proposal which is available for public inspection at the Office of Administrative Law, Quakerbridge Plaza, Building No. 9, Quakerbridge Road, Hamilton, New Jersey. Requests for copies of the Basis and Background document should be addressed to:

Neil P. Mulvey, Assistant Director

Division of Environmental Quality

New Jersey Department of Environmental Protection

CN 027

Trenton, New Jersey 08625

The agency proposal follows:

VVV 000014955

Summary

The New Jersey Department of Environmental Protection ("Department") is proposing N.J.A.C. 7:31 to implement the Toxic Catastrophe Prevention Act, N.J.S.A. 13:1K-19 et seq., ("TCPA" or the "Act") which became effective January 8, 1986. The proposed new rules will establish the TCPA program and fulfill certain requirements mandated by the Act.

The Act was adopted by the Legislature during a period of special concern for public safety created by the releases of hazardous substances in New Jersey during the fall of 1984 and early 1985, the same time frame during which methyl isocyanate was released with catastrophic results in Bhopal, India when 2,500 people were killed. All the incidents represented cases of industrial facilities releasing toxic substances to the atmosphere principally because key elements of risk management programs did not exist or, where existing, were not implemented. During its investigation of facilities responsible for the releases, the Department gathered important information on deficiencies of risk management programs. As a result of the investigations, the Department and the Legislature identified the need to define more fully the elements of risk management programs which, when implemented, would require more thorough analysis techniques and preventive measures by owners or operators of facilities handling extraordinarily hazardous substances (EHSs) in the State.

The proposed new rules establish a program which, when implemented, will help to reduce the incidence of releases of extraordinarily hazardous substances to the environment. In order to achieve the goals of the Act, the proposed new rules mandate that owners or operators of facilities which handle these substances institute and implement risk management programs to prevent the release of EHSs. The TCPA program combines recommendations made as the result of Departmental investigations of incidents with information on the state of the art analysis techniques and preventive methods documented in the world's technical literature and summarized by such professional, service and trade organizations as the: American Institute of Chemical Engineers; Institution of Chemical Engineers, (United Kingdom); World Bank Office of Environmental and Scientific Affairs and CONCAWE (the oil companies study group for conservation of Clean Air and Water, Europe).

The proposed new rules contain four subchapters. Subchapter 1 establishes the framework of the TCPA program and the definitions that are used throughout the rules. Subchapter 2 establishes the practices and procedures for the TCPA program including the facility registration procedures. Subchapter 3 establishes the Department's minimum requirements for a risk management program. Subchapter 4 establishes a generic extraordinarily hazardous substance risk reduction work plan (work plan) to be used by those facilities which do not have a risk management program and thus must complete an extraordinarily hazardous substance accident risk assessment (EHSARA) which will lead to a risk reduction plan and ultimately a risk management program. Some of the provisions are described in more detail, below.

N.J.A.C. 7:31-1.5 presents definitions, including the nine in the Act, which clarify the meaning of the terms used in the rules and thereby facilitate the implementation of the Act.

Table I of N.J.A.C. 7:31-2.3 contains a list of extraordinarily hazardous substances which includes the initial 11 substances set forth in N.J.S.A. 13:1K-22a and an expansion of the extraordinarily hazardous substance list mandated by N.J.S.A. 13:1K-22c. Part I of the list consists of the initial 11 substances named in the Act. Part II of the list represents the atmospheric dispersive phase of the list expansion and contains 93 substances selected from candidates on six existing lists of hazardous substances developed by other state, Federal and European governmental agencies. All substances selected in Part II of the list are atmospheric dispersive hazards, gases or volatile substances at ambient conditions with combined volatility and acute toxicity equal to or greater than those of hydrogen chloride (36 percent aqueous), a substance on the initial statutory list. In the future, the Department may add additional chemicals or substances to the list consistent with the statutory definition of ex-

traordinarily hazardous substance and intends to develop criteria for the selection of chemicals for the list that are highly reactive, used at elevated temperature or pressure, or are dispersed through water or soil contamination. Additionally, new chemicals that meet the selection criteria of this expansion may be added based on new information or scientific data that becomes available to the Department.

N.J.A.C. 7:31-2.4 prohibits owners or operators of sites from handling, using, manufacturing, storing, or generating EHSs unless registered with the Department. It prohibits owners or operators from installing or placing into service new EHS equipment before obtaining approval from the Department. It also prohibits owners or operators, or registrants, from operating EHS facilities except in accordance with the TCPA program.

N.J.A.C. 7:31-2.5 establishes the registration procedures to be followed by owners or operators of facilities required to register with the Department and the content of the registration information that must be submitted.

N.J.A.C. 7:31-2.6 establishes the procedures, including time frames, for the submittal, review and approval of risk management programs.

N.J.A.C. 7:31-2.7 sets forth the standard by which a risk management program submitted by a registrant to the Department will be evaluated. The risk management programs which meet the standard will be accepted by the Department for further review to bring them into compliance with Subchapter 3. Those registrants whose risk management programs do not meet the standard will be required to implement a work plan and retain an independent consultant chosen by the Department to perform an EHSARA.

N.J.A.C. 7:31-2.9 establishes the procedures, including time frames, for the development of the extraordinarily hazardous substance risk reduction work plan, the performance of the EHSARA and the development of the risk reduction plan, including the risk management program.

N.J.A.C. 7:31-2.10 establishes the approval procedure to be followed by an owner or operator planning to construct a new EHS facility. N.J.A.C. 7:31-2.11 establishes the procedure to be followed by a registrant modifying its facility's equipment or procedures.

N.J.A.C. 7:31-2.12 describes the Department's rights to inspect and the registrant's responsibilities during inspections of sites in the State of New Jersey to determine compliance with the Act and these rules.

N.J.A.C. 7:31-2.13 sets forth some of the types of actions the Department may take to prevent catastrophic accidents from a potential release of an EHS.

N.J.A.C. 7:31-2.15 establishes the administrative procedure that will be followed to obtain information concerning risks at EHS facilities from insurance carriers which underwrite any part of the environmental liability or worker's compensation insurance for a registrant's site.

N.J.A.C. 7:31-2.16 establishes the fee schedule for the TCPA program. The fee schedule is set forth in Table II. The fee schedule will generate sufficient funds to cover the cost of administering the TCPA program. Except for fiscal year 1987/1988, where fees for registrants with at least one of the 11 initial substances or chemicals will be collected in the Spring of 1988, the fees will be collected on an annual basis in August of each year. A registrant will be required to pay a fee reflecting risk management activities and the EHSs it has at a site.

N.J.A.C. 7:31-2.17 establishes the signatory and certification requirements to be used by owners or operators or registrants submitting registration forms, risk management program descriptions, risk management program checklists and other reports to the Department.

N.J.A.C. 7:31-2.18 establishes the minimum criteria to be used for selecting an independent consultant to implement the work plan. The criteria reflect the planned application of a systematic method to evaluate the qualifications of consulting firms or consortia of consulting firms and the personnel the consulting firms propose to use to implement the work plan.

N.J.A.C. 7:31-2.19 establishes the procedures by which a registrant may request an adjudicatory hearing to contest certain decisions by the Department in connection with this program.

N.J.A.C. 7:31-2.20 establishes the civil administrative penalties that will be imposed on the violators of the Act, these rules or any order or consent agreement issued pursuant thereto. The penalty schedule is designed to discourage noncompliance by owners and operators of facilities with the requirements of the TCPA program.

N.J.A.C. 7:31-2.21 establishes the criteria for exempting certain EHS equipment from the requirements of N.J.A.C. 7:31-3.

Subchapter 3 establishes the minimum requirements for each of the eight elements of a risk management program mandated by the Act. These requirements are based upon the Department's experience resulting from

its investigations of facilities which had releases. These investigations uncovered deficiencies in the facilities' established risk management programs. The Department also took advantage of the prior and extensive non-governmental experience that the TCPA program's engineering and technical staff had with manufacturing, engineering and construction contracting firms. Additionally, the Department reviewed technical literature and established and consulted with a technical advisory committee composed of representatives of government agencies, universities, manufacturing firms and consulting firms.

N.J.A.C. 7:31-3.3 defines a risk management program and introduces the eight elements that comprise it. This section also establishes the documentation required to support the risk management program.

N.J.A.C. 7:31-3.4 establishes the minimum requirements for safety reviews of new and existing EHS facilities. For new EHS facilities, this includes comparison of design to state of the art and criteria for design and operation, documentation of the findings of this comparison, and the preparation of a report of the results. For existing EHS facilities, the safety reviews include an annual visual inspection of the EHS facility and review of pertinent inspection reports, documentation of the findings and preparation of a report of the results.

N.J.A.C. 7:31-3.5 establishes the minimum requirements for the standard operating procedures (SOP) which shall be readily available and understandable by EHS equipment operators. The contents shall include a simplified process description, procedures for normal and emergency operation, start-up and shut down procedures, sampling and all pertinent safety procedures. This section requires the registrant to establish minimum manpower requirements for each EHS operation.

N.J.A.C. 7:31-3.6 establishes the minimum requirements for the preventive maintenance program, including the identification of all EHS equipment and the schedules for the internal and external inspection and testing thereof. This section also includes requirements for procedures for commissioning and decommissioning EHS equipment, requirements for training in maintenance practices, procedures to insure the compliance of outside contractors with the requirements of the preventive maintenance program and for a tabulation of EHS equipment inspected and tested versus EHS equipment scheduled to be inspected and tested during the previous year.

N.J.A.C. 7:31-3.7 establishes the minimum written requirements for the EHS operator training program, including job descriptions and qualifications for each EHS operator position, and specific EHS training, on the job training and annual refresher training for each EHS operator position. All pertinent details of the standard operating procedures and safety training for each specific EHS shall be incorporated into the training program. The training program must also contain qualifications for the personnel responsible for training EHS operators. This section also requires that documentation of all training, evaluations and qualifying activities shall be kept at the site.

N.J.A.C. 7:31-3.8 establishes the minimum requirements for an accident investigation program, including written procedures, reports and records retention. The accident investigation program procedures must include an analysis of the accident with identification and implementation of recommendations for risk reduction and procedures to ensure implementation.

N.J.A.C. 7:31-3.9 establishes the minimum requirements for the risk assessment program for specific pieces of equipment or operating alternatives, including the requirements and procedures for conducting hazard analyses. It sets forth the requirements that a hazard analysis team must follow to identify potential points of EHS release for which the hazard analysis team must recommend either remedial measures or further quantitative risk assessment study.

In cases where the hazard analysis team identifies a potential for an EHS release which within one hour will be greater than or equal to five times the reportable quantity for the specific EHS, a risk assessment is required. A risk assessment is a quantitative estimate of potential release quantity, dispersion analysis, consequence analysis and potential release probability. A risk reduction plan is required which consists of recommendations for remedial actions and a schedule for their implementation.

N.J.A.C. 7:31-3.10 establishes the minimum requirements for the emergency response program which includes creation of an emergency response program committee and the requirements for the planning, preparation and implementation of the site's emergency response plan. This section also establishes notification requirements for potential and actual EHS releases.

N.J.A.C. 7:31-3.11 establishes the minimum annual audit requirements for risk management programs. The purpose of these requirements is to

ensure that all elements of the program are being planned, scheduled, updated and executed in compliance with the Act.

N.J.A.C. 7:31-3.12 sets forth the requirements for the summary risk management program statement. This statement contains a description of the registrant's risk management program, reports of safety reviews and hazard analysis, a copy of the site's emergency response plan and a completed risk management program checklist. The summary risk management program statement submitted will be used by the Department to evaluate each registrant's risk management program.

N.J.A.C. 7:31-3.13 sets forth the contents of the annual report to be submitted to the Department.

N.J.A.C. 7:31-3.14 establishes the contents of, and requirements for, completing and submitting the risk management program checklist. The actual checklist is set forth in Appendix I of the rules.

Subchapter 4 establishes a generic extraordinarily hazardous substance risk reduction work plan to be followed by registrants without a risk management program for the development of a risk reduction plan which will include the development of a risk management program and other remedial actions to reduce risk. Such registrants will be required to engage an independent consultant which will follow the detailed scope of work in the work plan developed to address the areas of concern mandated by the Act. N.J.A.C. 7:31-4.4 sets forth the requirements for documents and lists of documents that the registrant will be required to submit to the Department to facilitate preparation of the work plan. N.J.A.C. 7:31-4.5 sets forth the generic scope of work which all consultants performing an EHSARA will be required to implement. This will ensure that consultants who bid on the work will be evaluated on a uniform basis for a defined amount of work. N.J.A.C. 7:31-4.6 establishes the requirements for the EHSARA. This report will contain recommended remedial actions which will be incorporated in the risk reduction plan, including the development of a risk management program which the registrant will implement at the facility.

Social Impact

The TCPA program will have a positive social impact across the State. Implementation of the TCPA program is designed to prevent releases of EHSs and to reduce the number of emergency incidents associated with releases of EHSs. It will significantly reduce the potential for injury and death and the need to evacuate or hospitalize people.

New Jersey is not only the most densely populated state in the country, but also the second leading producer of chemicals in the country. Many of the State's residential communities abut industrial zones and are frequently intermingled with industrial facilities. As New Jersey's economy continues to expand, residential and commercial areas will continue to encroach upon industrial areas using EHSs.

Registered facilities which will be regulated by the TCPA program are widespread over the 21 counties at urban, suburban and rural sites. The 741 TCPA facilities which have already registered with the Department pursuant to N.J.S.A. 13:1K-22 are located in 385 of the state's 567 municipalities. The proposed 93 substances to be added to the EHS list are projected to add approximately 200 additional sites in at least 43 additional municipalities.

The TCPA program's benefit is expected to be greatest among those people whose place of work or residence is near EHS facilities. This community is expected to experience fewer accidents and the accidents they do experience are expected to have reduced consequences resulting in fewer injuries, deaths, hospitalizations and evacuations.

For the period of January, 1980 through May, 1986, the Department recorded some 671 emergency incidents impacting over 7,500 people. Incidents occurred in all 21 counties. Emergency incidents caused 6,500 people to be evacuated, 448 injured, 400 sheltered, 312 hospitalized and 19 fatalities. It should be noted that the foregoing represents only part of the people significantly affected in New Jersey as assistance from the Department was not always requested during the period.

More recently, in the eight month period ending June 15, 1987, 159 incidents of accidental releases of air contaminants from industrial facilities were reported to the Department under its new air pollution release notification program established pursuant to N.J.S.A. 26:2C-19. Of these incidents, 124 were reported to involve exposure of the public outside of the site to the release, nine included evacuation of people in the surrounding area, and six included injuries. Extraordinarily hazardous substances as proposed in these rules were released during 54 of these incidents. An EHS was involved in five of the six incidents for which injuries were reported.

The implementation of the TCPA program and its resultant risk assessments and EHSARAs will identify the potential points of release within a facility that are potential sources for causing catastrophic inci-

dents. The undertaking of risk reduction measures including the installation of state of the art equipment, improved operating and maintenance procedures and improved training of the facility's operators are designed to reduce the potential for, and the severity of, a release of an EHS that may impact the surrounding community. The creation and implementation of a facility's emergency response program will enable the facility and the community's local emergency planning committee to respond to and quickly mitigate the effects of an incident should one occur. The TCPA program will result in a regime of management practices dedicated to the prevention of catastrophic incidents.

Economic Impact

The TCPA program is expected to increase the costs of doing business for the registrants involved with EHSs. The increased costs will include the cost of preparing the initial risk management program, the taking of remedial measures to reduce risks, the retention of consultants, if needed, to perform an EHSARA, the continued implementation of the risk management program including, as examples, more frequent safety reviews, hazard analyses and increased maintenance, and the TCPA fees.

Registrants with ongoing risk management programs will have encountered some of these costs already as part of implementing their risk management programs developed prior to the TCPA program. The increase in cost to these registrants will be moderate as expenses for compliance may be relatively minor. For the others, the cost of TCPA may substantially be higher as implementing risk reduction plans will be completely new.

Many registrants may be required to allocate a greater portion of their facility operating budgets to safety related expense than heretofore. Without TCPA requirements, some registrants may tend to limit expenses on safety items to reduce their total operating costs. Compliance with the requirements of these rules will require registrants to make available funds for all necessary safety related expenditures.

Some of the increased costs are expected to be offset by savings in some areas. Certain activities of the risk management program itself may reduce the cost of particular products. For example, fewer and shorter periods of unexpected equipment breakdowns that result from preventive maintenance and operator training programs may provide savings in excess of the costs of these programs. Hazard analysis and risk assessments also find ways to avoid material losses in general, which would reflect a considerable cost saving. The reduced number of incidents and the reduced severity of incidents expected as a result of the program may reduce the liability insurance rates of registrants. The reduced number of incidents will translate to lower costs of post-incident cleanup and of interrupted production. Finally, the program may result in registrants being exposed to fewer and smaller legal claims.

Environmental Impact

The implementation of the TCPA program will result in a positive environmental impact because it will reduce the probability of releases of EHSs into the environment. Once an EHS is released into the environment, it generally cannot be retrieved and will penetrate air, water and land resources.

In the event of a release to the atmosphere, damage may occur directly to the environment in the path of the EHS released. Plant and animal life would be exposed and may be killed due to the toxic properties as a result of ingestion, inhalation or absorption. In addition to the human fatalities, the accident in Bhopal, India, killed over 1800 animals and caused visible damage to the ecology. Furthermore, there would be indirect damage to the environment when a released EHS impacts plants, soil and wildlife and enters surface and ground water during rainfall. The EHS may then contaminate drinking water supplies.

In the event of a spill, damage would be the same as described for a release to the atmosphere, since liquid EHS would evaporate into the atmosphere. Liquid spills may contaminate surface and ground water and drinking water supplies. In addition, the soil which is exposed to the spill may remain contaminated indefinitely or have to be excavated or otherwise remediated.

In addition to the effect on the environment due to the toxic nature of the EHSs, the reaction products of these substances, due to contact with moisture or fire after release, can have environmental significance. Many of the EHSs have such reaction products which include chlorine and fluorine compounds and nitrogen oxides, some of which have recognized negative environmental effects. For example, phosphorous trichloride vapor will react with water vapor to form hydrogen chloride which will make surface waters acidic and detrimental to fish and other

fauna. Similarly, toluene diisocyanate vapors will form nitrogen dioxide when in contact with a fire; nitrogen dioxide also makes surface waters acidic and dangerous to fish.

Once the TCPA program is implemented, the risk of environmental damage will be reduced because existing facilities will be operated and new facilities designed under a regime of management practices dedicated to reducing the probability of a release plus the rate or quantity of EHSs released.

Regulatory Flexibility Statement

These rules would apply to all facilities which handle, use, manufacture, store, or generate extraordinarily hazardous substances in or above the reportable quantities established for the EHS in N.J.A.C. 7:31-2.3. It is estimated that of the 741 facilities already impacted by the Act, 68 are "small businesses" as defined in the New Jersey Regulatory Flexibility Act, P.L. 1986, c.169, and will be impacted by these rules.

In order to comply with the proposed new rules, the small businesses will have to prepare or present to the Department for review a copy of their facilities' risk management program which meets the requirements for the safe handling, use, manufacturing, storage, or generation of EHSs in order to prevent the accidental release of the EHS into the environment. In doing so, it is likely that small businesses will need to hire professional safety and environmental consultants, to appoint a contact person for environmental affairs, to implement changes in their facilities' operations or to design to prevent or mitigate the consequences of an accidental release, and to pay fees for registration and yearly review of their risk management program.

It is expected that the initial capital costs for each small business could range from approximately \$5,000 to \$1,000,000 with annual costs of compliance ranging between \$5,000 to \$250,000.

In developing these proposed new rules, the Department has balanced the need to protect the environment against the economic impact of the rules and has determined that to minimize the impact of the rules on small businesses would endanger the environment, public health, and public safety and, therefore, no exemption from coverage is provided.

Full text of the proposed new rules follows:

CHAPTER 31

TOXIC CATASTROPHE PREVENTION ACT PROGRAM

SUBCHAPTER 1. GENERAL PROVISIONS

7:31-1.1 Scope and applicability

(a) This chapter shall constitute the rules for the Department's Toxic Catastrophe Prevention Act Program.

(b) All owners or operators of facilities required to register with the Department because they handle, use, manufacture, store or have the capability to generate an extraordinarily hazardous substance in at least the reportable quantity established for such substance or chemical compound on the Extraordinarily Hazardous Substance List set forth in Table I of N.J.A.C. 7:31-2.3, are subject to, and shall comply with, the provisions of this chapter and the Toxic Catastrophe Prevention Act, N.J.S.A. 13:1K-19 et seq.

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; and

9. Administrative penalties for those facilities which violate the Act, this chapter or any order or consent agreement issued pursuant thereto.

7:31-1.4 Program information

Unless otherwise specified, any questions concerning the TCPA Program should be directed to:

Assistant Director

Release Prevention and Emergency Response Element

Division of Environmental Quality

New Jersey Department of Environmental Protection

CN 027

Trenton, New Jersey 08625

VVV 000014958

7:31-1.5 Definitions

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

"Abnormal condition" means any deviation in the operation of an EHS facility from that prescribed in the standard operating procedure for normal operation, which, if not corrected, could result in an EHS accident.

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

"ANSI" means the American National Standards Institute.

"Audit" means an annual review of the registrant's risk management program conducted by an audit team to assess the overall implementation and effectiveness of the risk management program to insure that all risk management program elements are in place, up-to-date, and being executed as planned.

"Audit team" means those persons who perform the audits of the registrant's risk management program.

"CAS #" means a number assigned by the Chemical Abstracts Service Division of the American Chemical Society to identify a specific compound.

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

"Consequence analysis" means the determination of the potential consequence of an EHS release on the surrounding population by comparison of the concentration of extraordinarily hazardous substances, determined by dispersion analysis, to a toxicological base criteria.

"Criteria for design and operation" means any code, consensus or governmentally mandated standard applicable to the particular EHS facility's design and operation. It also includes documented guidelines, practices or procedures adopted by the registrant when codes and standards are nonexistent or need supplementation. These guidelines, practices or procedures shall be based on sound engineering practices supported by documentation demonstrating their successful application to the particular EHS service.

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

"Dispersion analysis" means the calculation, by means of 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 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 results in a direct or indirect EHS release.

"EHS equipment" means that equipment systematically integrated within an EHS facility 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 facility" means a facility which handles, uses, manufactures or stores an EHS, or has the capacity to generate an EHS within one hour in a quantity equal to or greater than the minimum reportable quantity for that EHS in Table I of N.J.A.C. 7:31-2.3.

"EHS operator" means an employee or employees at an EHS facility who is directly involved with an EHS and qualified and trained in, or being trained in, the operations of an EHS facility.

"EHS release" means a discharge or emission of an EHS into the environment, excluding discharges or emissions occurring pursuant to

and in compliance with the conditions of any State permit or a regulation promulgated pursuant to the Air Pollution Control Act, N.J.S.A. 26:2C-1 et seq.

"EHS service" means the handling, use, manufacture, storage or generation of a specific EHS.

"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 facility during which an EHS release is in progress or will occur because no preventive measures would be effective.

"Emergency response team" means those employees at the site appointed by the emergency response program committee who are responsible for implementing the site's emergency response plan in the event of an EHS accident.

"Equipment failure" means any event associated with EHS equipment which results in an EHS accident even though the equipment is being maintained and operated in accordance with the approved risk management program.

"EHS equipment" means that equipment systematically integrated within an EHS facility 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.

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

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

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

"Extraordinarily hazardous substance" or "EHS" means any substance or chemical compound used, manufactured, stored, or capable of being produced from onsite components in this State in sufficient quantities at a single site, such that its release into the environment would produce a significant likelihood that persons exposed will suffer acute health effects resulting in death or permanent disability. Any substance or chemical on the extraordinarily hazardous substance list in Table I in N.J.A.C. 7:31-2.3 is an extraordinarily hazardous substance.

"Extraordinarily Hazardous Substance List" means the list of substances and chemical compounds set forth in Table I of N.J.A.C. 7:31-2.3.

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

"Facility" means a building, equipment, and contiguous area. 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.

"Fact sheet" means a document which describes, at a minimum, the chemical and physical properties and the physical and health hazards of a substance, prepared by the New Jersey Department of Health pursuant to N.J.S.A. 34:5A-1 et seq.

"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 by a study of updated process chemistry, standard operating procedures, maintenance procedures, operator job descriptions, process flow diagrams, EHS inventory tabulations, piping and instrument diagrams and other design documents that describe the EHS facility. The resulting qualitative analysis is translated into a quantitative FMEA when probabilities of the failure of components are assigned from which the probability of an EHS release would be estimated. The results of the FMEA are reported for

a unit or system of an EHS facility on an FMEA table. The results entered on a 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 logic diagram constructed from a study of the updated process chemistry, standard operating procedures, maintenance procedures, operator job descriptions, process flow diagrams, EHS inventory tabulations, piping and instrument diagrams and other design documents that describe the EHS facility. 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 and 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. When probabilities are assigned to each element of the event sequence, a quantitative fault tree is obtained which gives the probability of the EHS release.

"Hazard analysis" means a systematic identification of the potential conditions that may result in an EHS accident using singly or in combination a Hazard and Operability Study, Failure Mode and Effect Analysis, qualitative Fault Tree Analysis or What If Check List.

"Hazard and Operability Study" or "HAZOP" means a systematic study of updated process chemistry, standard operating procedures, maintenance procedures, EHS operator job descriptions, process flow diagrams, EHS inventory tabulations, piping and instrument diagrams and other design documents that describe the facility. 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 EHS facility 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. The study team shall consist of trained personnel knowledgeable in the technology and operations, such as the process chemistry, the design of the system, the procedures of its operation and maintenance, and the related codes, standards and practices. In addition, the study team shall have technical expertise to answer most questions of the review without resorting to further expertise. The study team shall include a study leader specifically qualified for his leadership role by training or previous experience in HAZOP studies and a team secretary who shall record the results of the study. Persons who occupy these study team positions shall be technically trained and be available for the duration of the study. 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 a quantity of EHS held in inventory at a site or a quantity of EHS capable of being generated in one hour equal to the minimum reportable quantity of an EHS as listed in Table I of N.J.A.C. 7:31-2.3.

"Human error" means human action or omission deviating from any established procedures of the registrant which results or could result in an EHS accident.

"Material safety data sheet" or "MSDS" means a document which describes, at a minimum, the chemical and physical properties and the physical and health hazards of a substance, prepared pursuant to 29 CFR 1910.1200(g).

"Modification" means any change in existing EHS equipment or procedures which are directly involved with an EHS, including additions or deletions. Modification does not include routine maintenance or replacement in kind.

"Material deficiency" means the failure of a registrant's risk management program to meet each of the requirements of N.J.A.C. 7:31-3, or the failure of a registrant to use a state of the art risk reduction measure commensurate with the site's environment.

"NFPA" means National Fire Protection Association.

"New EHS equipment" means any equipment to be placed into EHS service or any EHS equipment to be placed into new EHS service after the operative date of this chapter. New EHS equipment remains new EHS equipment until all reviews and approvals required by this chapter for the particular piece of new EHS equipment have been completed and the equipment has been placed into EHS service.

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

"Piping and instrument diagram" or "P&ID" means detailed documents properly cross-referenced including legends 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 piping specification change; every instrument including instrument function to show trips and interlocks represented in accordance with Instrument Society of America standards; 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 materials of construction and pressure rating per ANSI code for every pipe (such as, pipe line list); 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; critical relative elevations between equipment and of key piping; notes or symbols on such items as slope of piping to avoid pockets, or symmetrical piping; notes on each item of EHS equipment, such as, material of construction, design temperature, design pressure, design thermal duty of heat exchangers, design capacity and dynamic head of rotating equipment, etc.; data on insulation and steam tracing of piping, equipment and instruments.

"Process chemistry" means the chemical reactions involving EHSs that occur or could occur at the site under normal, abnormal, and emergency conditions, including information on raw materials, intermediates, products, and waste products.

"Process flow diagram" means a diagram including a legend of any EHS facility which depicts the use, generation, storage or handling of an EHS showing items of equipment (groups of duplicate equipment may be represented by one symbol, if desired) showing flow of material from item to item and including details of operating conditions, material balance, flows, temperatures and pressures, raw materials, products, basic control loops or major control schemes, points of discharge to the environment, and operating cycles and batch sizes where applicable.

"Registrant" means an owner or operator of a site who has registered one or more EHS facilities at that site with the Department pursuant to the Act or this chapter.

"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.

"Responsible manager" means the member of the registrant's management who is responsible for the management of the registrant's risk management program at the site 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.

"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 of EHS released, a dispersion analysis, a consequence analysis, and an estimate of the probability or frequency of the undesired event.

"Risk management program" or "RMP" 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 reduction plan" means the plan developed as a result of the EHSARA based on review of process chemistry, safety and hazard analyses, maintenance, operator training, accident investigation, emergency response, and audit procedures, which identifies the deficiencies in the program, recommends corrective actions, and provides for scheduling and implementation of remedial actions.

"Safety procedures" means the rules of conduct to safeguard personnel at a site from injury or ill effect on health.

"Site" means the entire plot of contiguous land upon which the registrant operates or locates one or more facilities.

"Site plan" means a diagram of the site 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 EHS facility and area handling an EHS.

"Standard Operating Procedures" or "SOP" means the document setting forth the operating procedures covering all details of operation involving an EHS that are currently in effect at the facility.

"State of the art" means up-to-date technology reflected in equipment or procedures that, when applied at a registrant's EHS facility, will result in a significant reduction of risk. The technology may have been demonstrated at a similar referenced facility to be reliable in commercial operation or in a pilot operation on a scale large enough to be translated into commercial operation. The technology may be in the public domain or otherwise available at reasonable cost.

"Wastewater treatment system" means any structure or structures by means of which domestic, or combined domestic and industrial liquid wastes or sewage are subjected to any process in order to remove or so alter constituents as to render the wastes less offensive or dangerous to public health, safety, welfare, comfort, property or environment of the State or any inhabitants of the State before discharge of the resulting effluent either directly or indirectly into any waters of the State. Such term includes: any collection, treatment, storage and discharge facilities under control of the operator of such system and used primarily in connection with such system.

"Water treatment system" means a system for the provision to the public of piped water for human consumption, if such system has at least 15 service connections or regularly serves at least 25 individuals daily at least 60 days out of the year. Such term includes: any collection, treatment, storage and distribution facilities under control of the operator of such system and used primarily in connection with such system.

"What If Checklist" means a method of hazard analysis based on a systematic study of updated process chemistry, standard operating procedures, maintenance procedures, EHS operator job descriptions, process flow diagrams, EHS inventory tabulations, piping and instrument diagrams and other design documents that describe the EHS facility. The study is performed by a multidisciplinary team to identify hazards or operability problems that could result in an EHS accident. 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. The study team shall consist of trained personnel knowledgeable in the technology and operations, such as the process chemistry, the design of the equipment, the procedures of operation and maintenance and the related criteria for design and operation. In addition, they shall have technical expertise to answer most of the questions of the review without recourse to further expertise. The team shall include a person assigned to lead the study and a person to record the results who are technically trained and will be available for the duration of the study. 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.

7:31-1.6 Severability

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

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SUBCHAPTER 2. GENERAL REQUIREMENTS, PROHIBITIONS
AND PROCEDURES

7:31-2.1 Scope and applicability

(a) This subchapter establishes programmatic requirements, prohibitions and procedures applicable to all facilities subject to the Toxic Catastrophe Prevention Act, N.J.S.A. 13:1K-19 et seq.

(b) This subchapter is applicable to all owners or operators of facilities required by the Act or this chapter to register with the Department because they handle, use, manufacture, store or have the capability to generate one or more of the substances or chemical compounds listed in N.J.A.C. 7:31-2.3.

7:31-2.2 Purpose

(a) This subchapter is promulgated for the following purposes:

1. To establish an extraordinarily hazardous substance list;
2. To establish the procedures and time schedules each owner or operator, or registrant shall follow to comply with the Act and this chapter;
3. To establish the fee schedule;
4. To establish the penalty schedule;
5. To establish the standard for initial evaluation of risk management programs by the Department;
6. To establish the procedures and standards for reviewing proposed new EHS facilities and modifications to existing EHS facilities;
7. To establish the requirements for the registrant's annual report to the Department; and
8. To establish the criteria for selecting an independent consultant to perform an extraordinarily hazardous substance accident risk assessment.

7:31-2.3 Extraordinarily hazardous substance list

(a) The substances and chemical compounds listed in Table I below shall constitute the Department's extraordinarily hazardous substance list:

TABLE I

Name of Extraordinarily Hazardous Substance	CAS #	Minimum Reportable Quantity in Pounds
PART 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	74-90-8	500
Hydrogen fluoride (HF)	7664-84-1	500
Hydrofluoric acid		
70 percent by weight or more HF	7664-84-1	700
Chlorine	7782-50-5	500
Phosphorous trichloride	7719-12-2	500
Hydrogen sulfide	7783-06-4	500
Phosgene	75-44-5	100
Bromine	7726-95-6	100
Methyl isocyanate	624-83-9	100
Toluene-2, 4-diisocyanate	584-84-9	100
Name of Extraordinarily Hazardous Substance	CAS #	Minimum Reportable Quantity in Pounds
PART 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
Ammonium hydroxide		
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 (CO)		
10 percent by volume or more CO	630-080-0	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	123-73-9	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
N,N-Dimethylhydrazine	57-14-7	800
Epoxypropane	75-56-9	7,700
Ethylamine	75-04-7	7,500
Ethylene oxide	75-21-8	2,700
Ethylenimine	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	75-22-1	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)		
94.5 percent by weight or more HNO ₃	7697-37-2	450
Nitrogen Oxides		
Nitrogen dioxide (NO ₂)		
10 percent by volume or more as NO ₂	10102-44-0	200 as NO ₂
Nitric oxide		
10 percent by volume or more as NO ₂	10102-43-9	200 as NO ₂
Nitrogen tetroxide		
10 percent by volume or more as NO ₂	10544-72-6	200 as NO ₂
Nitrogen trioxide		
10 percent by volume or more as NO ₂	10544-73-7	200 as NO ₂
Nitrogen trifluoride	7783-54-2	10,000
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
Phosphorous 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	10086-47-2	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

7:31-2.4 Prohibitions

(a) No owner or operator of a facility shall handle, use, manufacture or store a substance or chemical compound in amounts greater than or equal to the reportable quantity or have the capability to generate, within one hour, at least the reportable quantity or greater of an EHS listed in Part I of Table I in N.J.A.C. 7:31-2.3 unless registered pursuant to the Act with the Department.

(b) No owner or operator of a facility shall handle, use, manufacture or store a substance or chemical compound in amounts greater than or equal to the reportable quantity or have the capability to generate, within one hour, at least the reportable quantity of an EHS listed in Part II of Table I in N.J.A.C. 7:31-2.3, unless registered pursuant to this chapter with the Department within 90 days after the operative date of this subchapter or within 90 days after an EHS has been added to Table I of N.J.A.C. 7:31-2.3.

(c) No owner or operator shall construct a new EHS facility unless the owner or operator has:

1. Registered with the Department pursuant to N.J.A.C. 7:31-2.5;
2. Complied with the requirements of N.J.A.C. 7:31-2.10; and
3. Received written Departmental approval to construct the new EHS facility.

(d) No registrant of a new EHS facility shall begin operating that facility until the Department and the registrant have executed an administrative consent agreement containing an approved risk management program.

(e) No registrant with an approved risk management program shall operate a new EHS facility or utilize an existing facility for a new EHS service:

1. Before submitting to the Department:
 - i. An amendment to the RMP description prepared in accordance with N.J.A.C. 7:31-3.12;
 - ii. An update of Section D of the registrant's registration form;
 - iii. The documentation required by N.J.A.C. 7:31-2.10(b); and
 - iv. The fee required by N.J.A.C. 7:31-2.16(e).
2. Before receiving written Departmental approval to operate the EHS facility.

(f) No registrant with an approved site risk management program shall implement a modification to an existing EHS facility at its site without completing the requirements of its risk management program and performing a safety review and a hazard analysis in accordance with N.J.A.C. 7:31-3.4 and 3.9.

(g) No registrant shall handle, use, manufacture, generate or store an EHS, except in a manner which complies with the Act and this chapter.

(h) No registrant with an approved risk management program shall handle, use, manufacture, store or generate an EHS except in a manner which complies with the approved risk management program.

7:31-2.5 Registration

(a) Each owner or operator of a site handling, using, manufacturing or storing at least the reportable quantity of an EHS, or who has the capability to generate, within one hour, at least the reportable quantity of an EHS on the EHS list in Part II of Table I in N.J.A.C. 7:31-2.3, shall register with the Department on forms provided by the Department within 90 days after the substance or chemical compound has been added to the EHS list.

(b) Each owner or operator of a site which has handled, used, manufactured, stored or generated at least the reportable quantity of one or more of the EHSs included in Table I of N.J.A.C. 7:31-2.3 at the same site and plans to handle, use, manufacture, store or generate such substances

in the future, may register all the substances with the Department on the forms provided by the Department within 90 days after the substances are added to Table I of N.J.A.C. 7:31-2.3.

(c) Each owner or operator of a site planning to construct a new EHS facility which will handle, use, manufacture or store an EHS in at least the reportable quantity established for that EHS in Table I of N.J.A.C. 7:31-2.3, or which will have the capability of generating an EHS within one hour in at least the reportable quantity established for that EHS in Table I of N.J.A.C. 7:31-2.3 shall register with the Department at least 90 days prior to construction and comply with the requirements of N.J.A.C. 7:31-2.10(a).

(d) Each registrant with an RMP previously approved by the Department planning to construct a new EHS facility at its site, or to utilize an existing EHS facility for a new EHS service, shall submit an updated registration form at least 90 days prior to the scheduled placing of the equipment into EHS service and comply with the requirements of N.J.A.C. 7:31-2.10(b).

(e) Each registrant shall submit an updated registration form to the Department within 30 days after a change occurs which makes the EHS facility's registration form incorrect or incomplete.

(f) Each registrant shall indicate on its registration form whether or not it has a risk management program.

1. A registrant which indicates that it has an RMP shall submit the RMP to the Department for review in accordance with N.J.A.C. 7:31-2.6.

2. A registrant which indicates that it does not have an RMP shall assist the Department in the preparation of the required work plan in accordance with N.J.A.C. 7:31-2.9.

(g) Each registrant shall provide the following information in the appropriate section of the registration form:

1. Section A of the registration form shall contain:
 - i. Legal name of owner or operator of the EHS site;
 - ii. The nature of the registrant's business;
 - iii. The identification number assigned by the Department's Air Pollution Enforcement Data System (APEDS) for the facility or the Employer Identification Number issued by the New Jersey Department of Labor if APEDS is not available;
 - iv. The site's geographic address;
 - v. The site's mailing address; and
 - vi. The name, title and telephone number of the responsible manager.
2. Section B of the registration form shall contain responses to the following questions:

- i. Does the site handle, use, manufacture, store or generate at any time any of the EHSs listed in Table I of N.J.A.C. 7:31-2.3; and
- ii. For those site's with an EHS, does the site handle, use, manufacture, or store at least the minimum reportable quantity established for that EHS, or does it generate within one hour at least the minimum reportable quantity established for that EHS in Table I of N.J.A.C. 7:31-2.3.

3. Section C of the registration form shall contain the names, titles, certifications and signatures of the signatories as required by N.J.A.C. 7:31-2.17.
4. Section D of the registration form shall contain the inventory of EHSs or the quantity of EHS capable of being generated in one hour for each facility on the site.

5. Section E of the registration form shall contain the process description of, and principal equipment used with, each EHS at the site by facility, and the Standard Industrial Classification Code for that type facility published by the United States Department of Commerce.
6. Section F of the registration form shall contain:

- i. Answers to the questions regarding the registrant's risk management program, safety reviews and hazard analyses;
- ii. An identification of the major elements included in the registrant's RMP;
- iii. An identification of any risk reduction efforts and safety measures undertaken by the registrant to minimize the risks of an accidental release at the site;
- iv. An identification of the position titles, expertise and affiliation of the persons involved with the development of the risk management program; and
- v. A description and profile of the area surrounding the site, including the population and proximity to water supplies.

7. Section G of the registration form shall identify the insurance carriers underwriting the site'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.

NEW JERSEY REGISTER, MONDAY, SEPTEMBER 21, 1987

(CITE 19 N.J.R. 1695)
ENVIRONMENTAL PROTECTION**7:31-2.6 Risk management program procedures**

(a) No risk management program of a registrant shall be approved by the Department until it meets, to the satisfaction of the Department, all the requirements of N.J.A.C. 7:31-3.

(b) Each registrant with an EHS listed in Part I of Table I in N.J.A.C. 7:31-2.3, who has indicated on its registration form that it has a risk management program, shall submit a summary risk management program statement containing the information required by N.J.A.C. 7:31-3.12 to the Department within 60 days after the operative date of this chapter.

(c) Each registrant with an EHS listed in Part II of Table I in N.J.A.C. 7:31-2.3, who indicates on its registration form that it has a risk management program, shall submit a summary risk management program statement containing the information required by N.J.A.C. 7:31-3.12 to the Department between October 1 and October 31, 1988.

(d) Each submitted summary risk management program statement will be initially reviewed to determine if the registrant has a risk management program that meets the standard established in N.J.A.C. 7:31-2.7(b).

(e) Each risk management program accepted for further review shall be reviewed for its compliance with N.J.A.C. 7:31-3. The review shall consist of a review of documents and a site inspection. Any documents to be reviewed may be reviewed at the site or at the Department at the discretion of the Department.

(f) Upon completion of its review of a registrant's risk management program, the Department will develop, and send to the registrant, a draft consent agreement which will contain:

1. The portions of the registrant's risk management program which are approvable;

2. The portions of the registrant's risk management program that are materially deficient;

3. The proposed actions that must be taken to correct the material deficiencies; and

4. The proposed time schedule for taking the actions to correct the deficiencies.

(g) Within 60 days after the registrant receives the draft consent agreement, the registrant shall submit its proposals to correct the deficiencies.

(h) If the Department and registrant reach agreement on the risk management program, the registrant shall enter into a consent agreement with the Department and shall comply with the consent agreement.

(i) If the Department and registrant cannot reach agreement on the measures necessary to correct the deficiencies or omissions in the risk management program, the Department shall:

1. Prepare and send to the registrant an administrative order incorporating the approvable portions of the risk management program, the actions required to bring the risk management program into compliance with N.J.A.C. 7:31-3, and the time schedule to implement the required actions; and

2. Advise the registrant of its rights to an adjudicatory hearing pursuant to N.J.A.C. 7:31-2.19.

7:31-2.7 Initial evaluation of the risk management program

(a) In order to determine if a registrant has a risk management program, the Department shall review the RMP description, and the reports of safety reviews, hazard analyses and risk assessments of existing EHS facilities included in the summary risk management program statement (see N.J.A.C. 7:31-3.12) submitted by the registrant for compliance with the requirements of N.J.A.C. 7:31-3.4 and 3.9.

(b) Each registrant whose summary risk management program statement contains at least one safety review prepared in the past two years on each EHS facility at the site which the Department determines meets the requirements of N.J.A.C. 7:31-3.4, and at least one hazard analysis and, where required, risk assessment prepared in the past four years on each EHS facility at the site which the Department determines meets the requirements of N.J.A.C. 7:31-3.9, shall be notified that its RMP is accepted for further review in accordance with the procedure beginning at N.J.A.C. 7:31-2.6(e).

(c) Each registrant whose summary risk management program statement does not meet the standard established in (b) above shall be notified in writing that its risk management program is unacceptable and that it shall follow the procedures in N.J.A.C. 7:31-2.9 for developing and implementing an extraordinarily hazardous substance risk reduction work plan, accident risk assessment and risk reduction plan.

7:31-2.8 (Reserved)

7:31-2.9 Extraordinarily hazardous substance risk reduction work plan, accident risk assessment and risk reduction plan

(a) Each registrant who indicated on the registration forms that it did not have a risk management program, or whose risk management program was determined to be unacceptable by the Department pursuant to N.J.A.C. 7:31-2.7, shall assist the Department in developing a work plan.

(b) A registrant assisting the Department in the development of the required work plan shall compile the site data required by N.J.A.C. 7:31-4.4 and submit them to the Department:

1. Within 30 days after receipt of a request for the data from the Department for registrants who indicated on their registration form that they did not have a risk management program; or

2. Within 30 days after a receipt of notice of the determination of the unacceptability of its risk management program for registrants whose risk management program is determined to be unacceptable by the Department.

(c) Upon review of the documents submitted by the registrant, the Department will schedule a meeting with the registrant for the purpose of:

1. Reviewing any other documents the registrant is required to bring to the meeting with the Department;

2. Identifying any other documents the registrant must submit to the Department;

3. Discussing and adapting the work plan developed in accordance with the requirements of N.J.A.C. 7:31-4 to the registrant's EHS facility;

4. Explaining the consultant selection process as described in (e) below to the registrant;

5. Determining any limits on the scope or details of the work plan;

6. Identifying the members of the registrant's staff who will assist in the work of the EHSARA under the direction of the independent consultant or the Department;

7. Setting an end-date of the EHSARA that will be included in the registrant's request for proposal to independent consultants; and

8. Reviewing the instructions to bidders to be included in the registrant's request for proposal document to which the work plan will be attached.

(d) The Department will authorize one of the following types of personnel to perform the extraordinarily hazardous substance accident risk assessment on a registrant's EHS facility:

1. Department personnel;

2. A consultant hired by the Department and paid by the registrant; or

3. An independent consultant nominated by the registrant, chosen by the Department and hired and paid by the registrant.

(e) Each registrant authorized to nominate three consultants as candidates to perform the EHSARA shall submit the names and proposals of three consultants, who meet the requirements set forth in N.J.A.C. 7:31-2.18 and are willing and able to perform the EHSARA in accordance with the schedule set forth in the work plan, to the Department within 60 days after receipt of the finalized work plan from the Department pursuant to (c) above;

(f) The Department, within 15 days after receipt of the names and proposals from the registrant, shall:

1. Select one of the consultants to perform the Extraordinarily Hazardous Substance Accident Risk Assessment on the Registrant's EHS facility; or

2. After determining that none of the consultants' proposals submitted by the registrant meet the requirements in N.J.A.C. 7:31-2.18, direct the registrant to submit, within 60 days, the names and proposals of an additional three consultants to the Department for its selection of one of the consultants to perform the extraordinarily hazardous substance accident risk assessment on the registrant's EHS facility.

(g) The registrant shall execute a contract with the consultant chosen by the Department within 30 days after receipt of the name of the consultant from the Department.

(h) The consultant or Department shall perform the extraordinarily hazardous substance accident risk assessment of the registrant's EHS facility 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 (c) above. Members of the registrant's staff may participate in the work preparatory to the EHSARA.

(i) Upon completion of the extraordinarily hazardous substance accident risk assessment, the consultant or the Department shall prepare an

EHSARA report in accordance with N.J.A.C. 7:31-4.6, including its recommendations to reduce risks at the EHS facility.

(j) The original EHSARA report shall be submitted to the Department and a copy of the EHSARA report shall be submitted to the registrant.

(k) 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 registrant. The administrative order shall direct the registrant to implement the risk reduction plan which shall include:

1. A list of risks at the EHS facility that must be reduced; and
2. The actions the registrant is to take to reduce the risks including those necessary to complete a risk management program meeting the requirements of N.J.A.C. 7:31-3 and the schedule within which the registrant shall take the actions.

(l) Any registrant aggrieved by the administrative order issued pursuant to (k) above may request an adjudicatory hearing by following the procedures set forth at N.J.A.C. 7:31-2.19.

7:31-2.10 New EHS facilities

(a) Each owner or operator of a site planning to construct a new EHS facility shall:

1. Register with the Department in accordance with N.J.A.C. 7:31-2.5(c);
2. Submit a safety review of the new EHS facility prepared in accordance with N.J.A.C. 7:31-3.4 and a hazard analysis and risk assessment report on the new EHS facility prepared in accordance with N.J.A.C. 7:31-3.9 to the Department at least 90 days prior to construction of the EHS facility;
3. Submit a summary risk management program statement for the new EHS facility prepared in accordance with N.J.A.C. 7:31-3.12 at least 90 days prior to the date the equipment is scheduled to be placed into EHS service; and

4. Submit to the Department the fees required by N.J.A.C. 7:31-2.16(d).

(b) Each registrant with an RMP previously approved by the Department planning to construct a new EHS facility at its site, or to utilize an existing facility for a new EHS service shall:

1. Register with the Department in accordance with N.J.A.C. 7:31-2.5(d);
2. Submit a revised RMP description meeting the requirements of N.J.A.C. 7:31-3.12(a)1, a safety review of the new EHS facility or service prepared in accordance with N.J.A.C. 7:31-3.4, and a hazard analysis and risk assessment of the new EHS facility or service prepared in accordance with N.J.A.C. 7:31-3.9 at least 90 days prior to the scheduled placing of the equipment into EHS service. The equipment placed into EHS service shall be placed into service as represented in the reports of safety review, hazard analysis and risk assessment submitted to the Department; and

3. Submit to the Department the fees required by N.J.A.C. 7:31-2.16(e).

7:31-2.11 Modification to an EHS facility

(a) A registrant with an approved site risk management program planning to implement a modification to an existing EHS facility at its site shall comply with the requirements of its risk management program and perform a safety review and a hazard analysis in accordance with the requirements of N.J.A.C. 7:31-3.4 and 3.9.

(b) The registrant shall submit the safety review, the hazard analysis and the risk assessment on the modification to the Department at least 60 days prior to the date of placing the equipment or procedure in EHS service if the hazard analysis on the modification identifies an increase in the potential for a release in an amount which within one hour either will be equal to or greater than five times the minimum reportable quantity established for that EHS in Table I of N.J.A.C. 7:31-2.3 or will be equal to twice the potential release that existed before the modification, whichever is smaller. The equipment placed into EHS service shall be placed into service as represented in the reports of safety review, hazard analysis and risk assessment submitted to the Department.

7:31-2.12 Inspections

(a) The Department shall have the right to enter and inspect any site, building or equipment, or any portion thereof, at any time, in order to ascertain compliance or non-compliance with the act, this chapter, or any order or consent order or agreement issued or entered into pursuant thereto. Such right shall include, but not be limited to, the right to test or sample any materials at the site, to sketch or photograph any portion of the site, 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, operator or registrant. Such right shall be absolute, and shall not be conditioned upon any action by the Department, except the presentation of appropriate credentials as requested. Owners, operators or registrants, and any employees or representatives thereof, shall not hinder or delay, and shall assist, the Department and its representatives in the performance of all aspects of any inspection.

(b) The Department plans to inspect a site at least annually to verify the registrant's compliance with the Act, this chapter and the risk management program or risk reduction plan.

(c) Within a reasonable time after an inspection, the registrant or owner or operator shall be furnished with an inspection report which will list any deficiencies found.

7:31-2.13 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 be 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 or registrant immediately submit a facility's risk management program to the Department for review;
2. A requirement that the owner or operator or registrant perform a safety review, hazard analysis or risk assessment;
3. A requirement that the owner or operator or registrant immediately take risk reduction actions or implement a risk reduction plan;
4. A requirement that the owner or operator or registrant 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 Act 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.

7:31-2.14 Annual report

Each registrant with an approved risk management program shall submit on or before each anniversary of the initial approval of its risk management program an annual report meeting the requirements of N.J.A.C. 7:31-3.13.

7:31-2.15 Release of information by insurance carriers

(a) After a review of documents and an EHS facility inspection, the Department may determine that a registrant shall authorize the facility's environmental liability or workers 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 facility'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 registrant'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 registrant 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 registrant.

7:31-2.16 Fees

(a) Each registrant shall pay an annual fee to the Department.

(b) Each registrant with an EHS on Part I of Table I of N.J.A.C. 7:31-2.3 shall submit its annual fee for fiscal year July 1, 1987 to June 30, 1988, computed in accordance with (i) through (m) below, 60 days after the operative date of this chapter.

(c) Each registrant with an EHS on Part II of Table I of N.J.A.C. 7:31-2.3 shall begin paying annual fees in the fiscal year July 1, 1988 to June 30, 1989. The fees shall be computed in accordance with (i) through (m) below, and billed and remitted in accordance with (f) through (h) below.

(d) Each owner or operator of a new EHS facility at a site with no EHSs registered who registers an extraordinarily hazardous substance with the Department subsequent to the dates specified in (b) and (c) above, shall submit the annual fee for that fiscal year computed in accordance with (i) through (m) below with the registration forms.

(e) Each registrant registering a new EHS facility at a site with previously registered EHSs shall submit the inventory derived fee for the incremental EHS inventory, computed in accordance with (i), (l) and (m) below, with the amended registration forms.

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

(g) Except for the fees due for fiscal year 1987/1988 which shall be submitted in accordance with (b) above and the fees submitted pursuant to (d) and (e) above, the Department, during the month of July, will send each registrant a bill stating the fee for that fiscal year.

(h) Each registrant shall pay its fee by check or money order, payable to "Treasurer, State of New Jersey" prior to August 31 of the year in which it is billed. The check or money order shall be submitted to:

New Jersey Department of Environmental Protection
Bureau of Revenue
Division of Financial Management, Planning and General Services
CN 402
Trenton, New Jersey 08625

(i) For the purpose of calculating fees, "inventory" as used in (j), (k), (l) and (m) below means the maximum quantity for each EHS reported by the registrant on Section D of the registration form it submitted to the Department as part of its initial registration and its subsequent annual report in compliance with N.J.A.C. 7:31-2.5 and 2.14.

(j) Each registrant of a water treatment system and wastewater treatment system shall pay a base fee of \$4,000 annually plus an EHS inventory derived fee.

(k) All other registrants not included in (j) above shall pay a base fee of \$4,000 per site annually plus an EHS inventory derived fee.

(l) The inventory derived fee at each site, water treatment system and wastewater treatment system is determined in the following manner:

1. The inventory of each EHS is divided by the minimum reportable quantity for that EHS as set forth in Table I in N.J.A.C. 7:31-2.3;

2. The number resulting from the division required by (l)1 above is the number of hazard units for that EHS;

3. The number of hazard units for each EHS is multiplied by \$5.75 per hazard unit to determine the fee for each EHS.

(m) The annual fee for each registrant shall be the sum of the base fee and the sum of each EHS inventory derived fee.

7:31-2.17 Required signatories and certifications

(a) All registration forms, risk management program descriptions and risk management program checklists shall contain the following signatures and two-part certification which provides the following:

1. "I certify under penalty of law that the information provided in this document is true, accurate and complete. I am aware that there are significant civil and criminal penalties for submitting false, inaccurate or incomplete information, including fines and/or imprisonment."

i. The certification required by (a)1 above shall be signed by the highest ranking corporate, partnership or governmental officer or official at the site to which the information pertains.

2. "I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant civil and criminal penalties for submitting false information, including the possibility of fine and/or imprisonment."

i. The certification required by (a)2 above shall be signed as follows:

(1) For a corporation, by a principal executive officer of at least the level of vice president;

(2) For a partnership or sole proprietorship, by a general partner or the proprietor, respectively; or

(3) For a municipality, State, Federal or other public agency, by either a principal executive officer or ranking elected official.

(b) All other reports required by this chapter, the risk management program and other information requested by the Department shall be signed by a person described in (a)1i above or the responsible manager, and the person who signs the report shall make the certification set forth in (a)1 above.

7:31-2.18 Criteria for selecting independent consultants

(a) A registrant required to nominate consultants capable of performing an EHSARA on its facility and submit their names to the Department shall initially obtain proposals from at least three consultants.

(b) The registrant shall not submit the name of any consultant who:

1. Is owned or controlled by the registrant or by a firm which owns or controls both the registrant and the consultant or owns or controls the registrant;

2. Was the designer of any EHS facility at the site; or

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 with the State.

(c) The registrant in its contract with the consultant chosen by the Department shall prohibit the subcontracting of any of the work involved in the EHSARA unless approved in writing by the Department.

(d) Each proposal shall explain in a clear and concise manner how the consultant is going to address each task in the registrant's workplan.

(e) Each proposal shall demonstrate the consultant's ability to perform the EHSARA set forth in N.J.A.C. 7:31-4 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 analyses;

ix. Performance of risk assessments;

x. Preparation or review of emergency response plans;

xi. Performance of audits of risk management programs;

xii. Knowledge of state of the art; and

xiii. With respect to each of the above qualifications, the following:

(1) Name of consultant's client;

(2) Name of client's contact person;

(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.

(f) The resumes of members of the consultant's staff who are to be committed to the work plan agreed to by the registrant and the Department shall be submitted to the Department and shall demonstrate that collectively 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 (e)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. Assisting staff with 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.

7:31-2.19 Adjudicatory hearings: general

(a) Within 20 calendar days from receipt of an executed administrative order, except those issued pursuant to N.J.A.C. 7:31-2.20, or a letter from the Department withholding approval of a new EHS facility or rejecting a modification, the registrant may submit a written request to the Department for an adjudicatory hearing to contest such action.

1. Any request for an adjudicatory hearing shall be based on specific relevant issues raised by the registrant.

2. The registrant shall include the following information in a request for an adjudicatory hearing:

- i. The name, address and telephone number of the registrant or its authorized representative;
- ii. The Department's identification number for the EHS facility, as specified in Section A of the registrant's registration form;
- iii. A statement of the legal authority and jurisdiction under which the hearing is to be held;
- iv. A reference to the particular sections of the statutes and rules involved;
- v. A short and plain statement of the matters of law and fact asserted;
- vi. The registrant'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 and an estimate of the amount of hearing time necessary to adjudicate each factual issue;
- vii. Information supporting the registrant's factual position and proposed conditions and copies of other written documents relied upon to support the request for a hearing; and
- viii. (Reserved).

(b) If the registrant fails to include all the information required by (a)2 above, the Department shall deny the request for a hearing and the administrative order or the letter withholding approval of a new EHS facility or the letter rejecting a modification shall be the Department's final decision on the matter.

(c) If it grants the request, 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. 1:1-1 et seq.

(d) During the pendency of the review and hearing on an administrative order issued pursuant to N.J.A.C. 7:31-2.9, the timetable for compliance with these conditions being appealed in the order shall be suspended.

7:31-2.20 Adjudicatory hearings; enforcement

(a) The Department, prior to assessing a civil administrative penalty, shall, by means of an administrative order or notice of civil administrative penalty assessment, notify the violator by certified mail (return receipt requested) or by personal service. This notice shall:

1. Identify the provisions of the Act, this chapter, consent agreement, administrative order or administrative consent order that have been violated;
2. Concisely state the facts which constitute the violation;
3. Specify the amount of civil administrative penalties to be imposed; and

4. Advise the violator of the right to request an adjudicatory hearing.

(b) If the violator wishes to request an adjudicatory hearing to contest the assessment of the penalty and the findings of fact, the violator, within 20 days following receipt of the Department's administrative order or notice of civil administrative penalty assessment, shall submit a written request to the Department which meets the requirements of (c) below.

(c) The violator shall include the following information in a request for an adjudicatory hearing:

1. The name, address and telephone number of the violator or its authorized representative;
2. The Department's identification number for the EHS facility, as specified in Section A of the registrant's registration form;
3. The violator's defenses to each of the findings of fact stated in short and plain terms;
4. An admission or denial of each of the 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. Any 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;
5. A statement of the legal authority and jurisdiction under which the hearing is to be held;
6. A reference to the particular sections of the statutes and rules involved;
7. A short and plain statement of the matters of law and fact asserted;

8. (Reserved.)

9. Information supporting the request and copies of other written documents relied upon to support the request for a hearing.

(d) If the violator fails to include all the information required by (c) above, the Department shall deny the request for a hearing and the administrative order or notice of civil administrative penalty assessment shall become a final order.

(e) If it grants the request, 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. 1:1-1 et seq.

(f) The Department, after the hearing and upon a finding that a violation has occurred, shall issue a final order specifying the amount of the penalty to be assessed.

(g) If no hearing is requested, the administrative order or notice of civil administrative penalty assessment shall become a final order on the twenty-first day following receipt of the administrative order or notice of civil administrative penalty assessment by the violator.

(h) Payment of the civil administrative penalty is due upon issuance by the Department of a Final Order or, where no adjudicatory hearing is requested, after expiration of the 20 day period following receipt of the notice of civil administrative penalty assessment.

(i) Any person who violates the Toxic Catastrophe Prevention Act, N.J.S.A. 13:1K-19 et seq., this chapter, a consent agreement, administrative consent order or an administrative order issued by the Department shall be subject to the civil administrative penalties set forth in Table II:

TABLE II

Categories of Offense	Penalty in U.S. Dollars By Offense Category		
	First Offense	Second Offense	Third Offense
A. Failure to register a new or existing EHS facility as set by the total hazard units at the site:			
1. Less than 10 hazard units	\$ 2,000	\$ 4,000	\$25,000
2. 10 through 49 hazard units	5,000	10,000	25,000
3. 50 and more hazard units	10,000	20,000	50,000
B. Failure to pay annual fee:	25 percent of fee up to 10,000	50 percent of fee up to 20,000	75 percent of fee up to 50,000
C. Failure to submit summary risk management program statement on time:	2,000	5,000	10,000
D. Failure to execute contract with consultant within 30 days of receipt of notification:	5,000	10,000	25,000
E. Failure to initiate an EHSARA according to the schedule in the work plan:	5,000	10,000	25,000
F. EHSARA not performed according to the schedule in the work plan:	2,000	5,000	10,000
G. Failure to implement a risk reduction plan:	10,000	20,000	50,000
H. Failure to comply with the requirements of an approved RMP, each requirement:	up to 5,000	up to 10,000	up to 20,000
I. Failure to comply with conditions of a consent agreement or administrative order, see condition:	up to 5,000	up to 10,000	up to 20,000
J. Failure to provide information requested by the Department:	2,000	5,000	10,000
K. Failure to grant access to Departmental employees or agents for inspections:	5,000	10,000	25,000
L. Failure to provide information or grant access to Departmental employees or agents during an emergency condition:	10,000	20,000	50,000
M. Falsification of information submitted to the Department:	10,000	20,000	50,000
N. Failure to submit an annual report:	5,000	10,000	25,000
O. Construction of a new EHS facility without Departmental approval:	10,000	20,000	50,000

P. Startup of a new EHS facility without an approved risk management program:	10,000	20,000	50,000
Q. For a site with an approved RMP, placing a new EHS facility into service or placing an existing facility in different EHS service without Departmental approval:	5,000	10,000	25,000

(j) The penalty for each offense set forth in Table II in (i) above subsequent to the third offense shall be \$50,000 per offense.

(k) If no subsequent offense occurs within a three year period of an offense, the next penalty will be assessed at the level of the last offense.

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

(m) The Department may compromise and settle any claim for a penalty imposed pursuant to the Act or this chapter in such amount in the discretion of the Department as may appear appropriate and equitable under all the circumstances including the posting of a performance bond by the violator.

(n) Neither the assessment of a civil administrative penalty nor the payment of any such assessment shall be deemed to affect the availability of any other enforcement provision provided for by this Act or any other statute, in connection with the violation for which the assessment is levied.

(o) Each violator shall pay its penalty by check or money order, payable to "Treasurer, State of New Jersey." The check or money order shall be submitted to: New Jersey Department of Environmental Protection, Environmental Enforcement Element, CN-027, Trenton, New Jersey 08625.

7:31-2.21 Exemptions for non-contiguous EHS equipment

(a) A registrant may request that non-contiguous EHS equipment be exempted from the requirements of N.J.A.C. 7:31-3 provided that the following conditions are met:

1. The equipment has only the capability to contain or generate in one hour less than the minimum reportable quantity of the EHS as listed in Table I, N.J.A.C. 7:31-2.3;

2. The equipment is located a minimum of 100 meters from the property line and other EHS equipment; and

3. The registrant demonstrates to the satisfaction of the Department by dispersion and consequence analyses that a release of the contained or generated quantity of the EHS will not result in acute health effects to persons exposed at the site boundary, which is the boundary closest to the point of release.

(b) The request for exemption shall include the results of the dispersion and consequence analyses and may be submitted as appropriate, either with:

1. The initial summary risk management program statement;
2. The revised summary risk management program statement; or
3. The annual report.

(c) The Department shall grant the exemption only if the registrant demonstrates to the satisfaction of the Department that the requirements of (a) above are met.

SUBCHAPTER 3. MINIMUM REQUIREMENTS FOR A RISK MANAGEMENT PROGRAM

7:31-3.1 Scope and applicability

(a) This subchapter establishes the Department's minimum requirements for an approvable risk management program.

(b) All risk management programs shall meet the requirements of this subchapter before being approved by the Department.

(c) Risk management programs that do not comply with the requirements of this subchapter shall not be approved by the Department.

7:31-3.2 Purpose

This subchapter is promulgated for the purpose of reducing the risk of catastrophic releases of extraordinarily hazardous substances by establishing minimum requirements for risk management programs.

7:31-3.3 Risk management program

(a) Each registrant's risk management program shall, at a minimum, include:

1. Safety review of design for new and existing EHS facilities;
2. Standard operating procedures;
3. Preventive maintenance program;
4. Operator training;
5. Accident investigation procedures;
6. Risk assessments for specific pieces of EHS equipment or operating alternatives;

7. Emergency response planning; and

8. Internal or external risk management program audit procedures.

(b) Each registrant with a risk management program shall appoint a responsible manager for each site who shall be responsible for the following activities regarding EHS facilities for each site:

1. Approval of all safety reviews;
2. Approval of all standard operating procedures;
3. Approval of preventive maintenance procedures;
4. Approval of operator training procedures;
5. Approval of accident investigation procedures;
6. Approval of all hazard analyses and risk assessments;
7. Approval of all modifications;
8. Approval of all new EHS construction;
9. Approval of emergency response plans;
10. Approval of internal and external audit procedures; and
11. Submission of all reports to the Department.

(c) Each registrant shall maintain and make available for Department review, either at the site or at the Department's offices in the discretion of the Department, the following updated documentation including revision dates covering process information involving EHSs in support of the risk management program and a catalog list of all such documents showing title, identification number and date of issue:

1. Process chemistry and process design criteria;
2. Facility inventory of each extraordinarily hazardous substance;
3. Reports of hazard analyses, risk assessments, safety reviews and audits performed during the previous six years;
4. Accident investigation reports covering accidents at EHS facilities for the past six years;
5. Updated process flow and piping and instrumentation diagrams;
6. Standard operating procedures;
7. Site-wide safety procedures; and
8. Site-wide emergency response plan.

(d) Each registrant shall maintain and make available for Department review, either at the site or at the Department's offices in the discretion of the Department, the following updated EHS operating training documentation in support of the risk management program and a catalog list of all such documents showing title, identification number and date of issue:

1. Job classifications and job descriptions for EHS operators;
2. Description of the EHS operator training program and its records; and
3. Annual tabulation of EHS operator training conducted.

(e) Each registrant shall maintain and make available for Departmental review, either at the site or at the Department's offices in the discretion of the Department, the following updated engineering and maintenance documentation in support of the risk management program and a catalog list of all such documents showing title, identification number and date of issue:

1. Topographic maps;
2. Site plan;
3. EHS equipment specifications including instrument and piping specifications;
4. National Electrical Code area classification diagrams for the site;
5. EHS electrical one line diagrams;
6. Fire water system piping diagrams for the site;
7. Sewer system piping diagrams for the site;
8. List of criteria for design and operation used at the site;
9. Preventive maintenance program procedures and records covering EHS equipment; and
10. Annual tabulations of EHS equipment inspected and tested versus EHS equipment scheduled to be inspected and tested.

7:31-3.4 Safety review of new and existing facilities

(a) All new EHS facilities or modifications shall be designed, installed and operated in accordance with the state of the art and criteria for design and operation.

(b) The requirements for safety review of design of new EHS facilities or modifications shall include:

1. Comparison of the following information describing the EHS equipment and operations with state of the art and criteria for design and operation:
 - i. Process description and process chemistry;
 - ii. Process flow sheets;
 - iii. Piping and instrumentation diagrams;
 - iv. Facility location map, site plans and equipment layout;
 - v. Electrical one-line diagrams;
 - vi. Electrical area classification drawing;

- vii. Specifications of safety relief devices and interlocks and controls;
- viii. Specifications for materials of construction;
- ix. EHS inventories;
- x. EHS equipment specifications; and
- xi. External forces and events data;
- 2. Documentation of the safety review and its findings; and
- 3. A report of the safety review of design of new EHS facilities or modifications. The report may be prepared by the designers and shall:
 - i. Contain a list of the criteria for design and operation upon which the design is based;

- ii. Identify the new EHS facility or modification, the EHS equipment items reviewed, the drawings and documents reviewed, and the name, position and affiliation of the persons who performed the review; and
 - iii. Explain where the design of the new EHS facility or modification deviates from the listed consensus standards of the criteria for design and operation and the reasoning for such a deviation.

(c) There shall be an annual safety review performed on each existing EHS facility.

(d) The requirements for the annual safety review of existing EHS facility shall include:

- 1. A visual inspection of the EHS facility or review of up-to-date inspection records against process flow diagrams, piping and instrument diagrams, and electrical one line diagrams to determine whether the diagrams reflect actual conditions with respect to EHS equipment, runs and sizes of pipe, location and function of instruments, and location, function and size of valves. Deviations found shall constitute an unauthorized modification and shall be immediately discontinued from service until the requirements of this chapter for a modification are satisfied;

- 2. A visual inspection of the facility or review of up-to-date inspection records against design documents to determine whether safety relief devices and emergency systems such as deluges, interlocks, controls, back-up systems and alarms are functioning or capable of functioning as designed. EHS safety systems or devices found to be inoperable shall be returned to operational status immediately;

- 3. A review of actual operating conditions of flow, temperature and pressure, process chemistry and raw material feeds and specifications against design documents to determine whether the actual conditions are within the limits of the design criteria of individual equipment items. Deviations found shall be immediately discontinued;

- 4. An inspection of the EHS facility and procedures and interviews of site personnel to determine whether actual conditions reflect standard operating procedures. Deviations found to be unauthorized shall be immediately discontinued;

- 5. Documentation of the deviations of procedure or equipment found by (d)1 through 5 above;

- 6. A report of the results of the safety review by the registrant shall be written and shall:

- i. Identify the EHS facility;
 - ii. Identify the EHS equipment, procedures, drawings and documents reviewed;

- iii. Describe the deviations found and the corresponding actions taken pursuant to (d) above; and

- iv. Identify the name, position and affiliation of the persons who performed the review; and

- 7. Distribution of the report to the responsible manager.

7:31-3.5 Standard operating procedures

(a) The standard operating procedures shall be written in English in a manner understandable by EHS operators and shall also be written in the language of fluency of EHS operators not fluent in English.

(b) A copy of the standard operating procedures shall be readily available to EHS operators.

(c) The standard operating procedures shall include, but not be limited to:

- 1. Simplified process flow sheets and a process description defining the operation and showing flows, temperatures and pressures;

- 2. Procedures and conditions for normal operations;

- 3. A description of abnormal conditions, including the control and mitigating procedures to be followed to return to normal conditions;

- 4. A description of emergency conditions which could occur including the control and mitigating procedures to be followed to reduce the impact of the emergency conditions;

- 5. Pre-startup procedures covering, at a minimum, testing for leak tightness prior to placing into EHS service;

- 6. Startup procedures including conditions to be maintained during startup;

- 7. Shutdown procedures including provisions for normal and emergency shutdown and details on the condition of equipment to be maintained after shutdown;

- 8. A description of the type, location and purpose of safety relief devices, interlocks and alarms with their respective activation points indicated;

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

- 10. Safety procedures related to each specific operation in the standard operating procedures;

- 11. Procedures to prepare EHS equipment for maintenance and inspection of maintenance work upon completion and prior to placement of equipment in EHS service;

- 12. Material safety data sheets or fact sheets for each EHS used in the operation;

- 13. Logsheets and checklists where appropriate to the operation;

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

- 15. A requirement that an EHS operator be in attendance at the EHS 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. That the requirement that an EHS operator be in attendance during chlorination of water using chlorine vapor out of a supply vessel does not apply if the Department determines that chlorine monitoring equipment is provided with alarms reporting to a station continuously attended by the registrant's employees who are trained to take action to prevent an EHS accident and the online supply vessel capacity is less than 2,100 pounds;

- ii. That the requirement that an EHS operator be in attendance on the site during EHS storage requiring refrigeration, circulation, agitation or inert gas blanketing does not apply 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 to prevent an accident, and a risk assessment demonstrates that an EHS operator is not necessary onsite during the specified activity; or

- iii. That the requirement that an EHS operator be in attendance on site during storage not requiring refrigeration, circulation, agitation or inert gas blanketing does not apply if the Department determines that EHS monitoring equipment contains alarms reporting to a continuously attended station.

- (d) Modifications to the standard operating procedures shall be made in accordance with N.J.A.C. 7:31-2.11.

- (e) Modifications to the standard operating procedures shall be incorporated into the standard operating procedure prior to their implementation.

- (f) A current index of the EHS standard operating procedures with corresponding latest dates of issue shall be maintained, filed and distributed to the responsible manager.

7:31-3.6 Preventive maintenance program

(a) The preventive maintenance program shall be written, be kept at the site and include all preventive maintenance program documents. Requirements of the preventive maintenance program shall include, but not be limited to, the following:

- 1. Identification of all EHS equipment to be included in the preventive maintenance program;

- 2. A procedure insuring that only modifications approved and authorized by the responsible manager are made and that communications are maintained between the maintenance, production, safety and engineering departments;

- 3. Schedules for internal and external inspections of EHS equipment at intervals necessary to prevent the failure of the equipment. Schedules for inspections shall be based on equipment histories, suppliers recommendations, standards of the industry as available or corrosion rates of the construction materials;

- 4. Inspection or testing of all pressure safety devices in EHS service at least as frequently as the frequency set forth in the criteria for design and operation applicable to the particular EHS involved. In the absence of frequencies in the criteria for design and operation, inspections or tests shall be performed, at a minimum, annually;

- 5. Checks for proper operation of all safety instrumentation in E service such as interlocks, pressure, temperature and flow alarms and shut down devices at least as frequently as recommended in the criteria for design and operation for the particular EHS involved. In the absence of

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frequencies in the criteria for design and operation, checks for proper operation shall be performed annually and after extended shutdowns, or more frequently as conditions require;

6. Procedures for commissioning new or modified EHS equipment and decommissioning existing EHS equipment;

7. Testing of standby emergency equipment such as power generators, fire pumps and lighting as frequently as specified in the criteria for design and operation. In the absence of frequencies in the criteria for design and operation, testing shall be done weekly;

8. Training on codes and practices pertinent to the particular extraordinarily hazardous substance including materials of construction, material safety data sheets and EHS accident reports for employees assigned to perform maintenance work on equipment in extraordinarily hazardous substance service. This is in addition to the standard maintenance training existing at the site;

9. Procedures to insure that work performed by outside contractors will be done in accordance with the requirements of the preventive maintenance program;

10. Use of permits and check lists for all EHS equipment entries, lockouts, welding and burning operations.

11. Documentation and centralized filing at the site of all inspection, maintenance and testing reports, and training information; and

12. 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 perform equipment reliability studies.

(b) A tabulation of EHS equipment inspected and tested versus EHS equipment scheduled to be inspected and tested during the previous calendar year shall be prepared by the registrant, filed at the site and submitted to the responsible manager.

7:31-3.7 EHS operator training

(a) The training program for EHS operators shall be written and, at a minimum, including the following:

i. A written job description which includes the duties and responsibilities for each position and the education, experience and training necessary to qualify for the position;

2. Procedures to determine whether an EHS operator has demonstrated the ability to carry out the duties and responsibilities of a specific position; and

3. Specified time periods of in-house training for each position covering orientation, specific EHS training and on-the-job training, trainee evaluation, final qualification and periodic refresher training. A procedure shall be established for tracking the progress of each EHS operator at regular intervals. In addition, the maximum period of time for each training program shall be established within which the EHS operator must achieve qualified status.

(b) The training which EHS operators will receive shall, at a minimum, include:

1. General orientation and initial training of new employees before assignment to EHS equipment and EHS procedures which shall include instruction on the general site rules and practices, safety procedures and equipment, and emergency procedures;

2. Classroom training for newly assigned EHS operators on specific EHS activities. This training shall cover the details of standard operating procedures and safety training specific to an EHS including a detailed review of the EHS material safety data sheets or fact sheets, the safe handling practices for the EHS, the hazards of the operations involving the EHS, and emergency procedures regarding fires, explosions and leaks;

3. On-the-job training for newly assigned EHS operators at the specific EHS facility shall include, but not be limited to, the following:

i. Equipment familiarization;

ii. Operating data collection and entry;

iii. Actual equipment startup and shutdown;

iv. Control and adjustment of operating conditions; and

v. The application of the standard operating procedure to actual conditions; and

4. Refresher training at least once a year which shall present an overview and updated information on the standard operating procedures, EHS material safety data sheets, safe handling of the EHS, EHS emergency procedures and review of EHS accident reports.

(c) The EHS operator's performance will be evaluated by a supervisor having operational and technical knowledge of the facility. The evaluation will be based on both oral and written tests on the standard operating procedures and a demonstration by the trainees of their ability to perform the job. The employee must qualify within the established maximum period established for training in each EHS position.

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

(e) Documentation of all training, evaluations and qualifying activities for each employee shall be kept at the site.

(f) A tabulation of EHS operator training performed during the previous year shall be prepared by the registrant, filed and submitted to the responsible manager. The tabulation shall include identification of EHS operators trained, their job titles and facility designation, subjects covered and training dates.

7:31-3.8 EHS accident investigation procedures

(a) There shall be written procedures for investigating all EHS accidents which shall include the following:

1. The identification by title or position of personnel responsible for investigating the accident and reporting the findings of the EHS accident investigation;

2. The schedule for initiating EHS accident investigations, key milestones and projected completion dates;

3. The preparation of a written report on all EHS accidents;

4. The record keeping requirements including a requirement to retain EHS accident reports for a minimum of six years;

5. The methods of implementing recommendations for risk reduction resulting from analysis of EHS accident investigations including:

i. Procedures for management review of EHS accident reports;

ii. Decision procedures for implementing EHS accident investigation recommendations;

iii. Procedures for establishing a timetable for implementing recommendations for risk reduction;

iv. Procedures to ensure that recommendations are implemented such as the use of status reports; and

v. Procedures for evaluating the need for employee retraining or re-assignment based on the record of employee errors; and

6. Review of EHS accident reports as part of the EHS operator training refresher course and maintenance training course.

(b) All EHS accident reports shall be written and shall include, at a minimum, the following:

1. The date, time, and location of the EHS accident;

2. The identity, amount and duration of the EHS release or potential EHS release;

3. The equipment, materials, procedures or personnel involved;

4. A detailed description of the EHS accident in chronological order providing all the facts related to the EHS accident;

5. The consequences of the EHS accident including the number of evacuees, injured and fatalities, and the impact on the community;

6. An identification of basic and contributory causes, either direct or indirect, of the EHS accident and a determination of whether it was caused by either human error or equipment failure;

7. Recommended actions to be implemented to prevent a recurrence which shall include the following, as appropriate:

i. Employee retraining and human error analysis where the accident cause was determined to be due to human error; and

ii. Equipment redesign based on considerations of state of the art or revisions of preventive maintenance procedures when the cause of the EHS accident was determined to be due to equipment failure;

8. Schedule for implementation of recommended actions; and

9. Signatures and position titles of the investigators.

(c) EHS accident investigation records shall include:

1. A separate file of all EHS accident reports for the Toxic Catastrophe Prevention Act Program;

2. A monthly list updating the implementation status of all active recommendations for corrective action;

3. An updated record of employee errors including a list of each employee by EHS facility involved in an EHS accident caused by human error; and

4. An end of year summary report which shall be prepared, filed on site, distributed to the responsible manager, and shall consist of:

i. A list containing a brief description of each EHS accident;

ii. A categorization of EHS accidents as being caused by human error or equipment failure;

iii. A schedule for implementation of corrective actions; and

iv. A statement of progress on corrective action to date.

7:31-3.9 Risk assessment program for specific pieces of EHS equipment or operating alternatives

(a) A hazard analysis shall be conducted on each new EHS facility, new operating alternative and modification.

(b) A hazard analysis shall be conducted on existing EHS facilities at least once every three years.

(c) The procedure for a hazard analysis shall be a What If Checklist, HAZOP, FMEA, or FTA performed in accordance with the following:

1. The hazard analysis shall be conducted either by a team trained to perform the hazard analysis and comprised of members of the registrant's staff, an outside qualified consulting firm chosen by the registrant or by a combination thereof;

2. The hazard analysis team shall:

i. Identify possible EHS releases, the points of possible EHS releases, the corresponding approximate quantity or rate of EHS release and corresponding cause of the EHS release;

ii. Consider EHS equipment failure data and EHS accident reports of the EHS facility that have been prepared since the last hazard analysis in its identification of possible EHS releases;

iii. Determine the instances of possible EHS release on which further study by risk assessment will be performed based on the criteria set forth in (d) below;

iv. For the instances where the criteria in (d) below does not require a risk assessment, conduct a state of the art technology search from which it will recommend risk reduction measures; and

v. Recommend risk reduction measures as a result of any other findings of the hazard analysis team;

3. The hazard analysis team shall document its findings of possible EHS releases, estimates of quantity or rate of EHS releases, findings of the state of the art technology search and risk reduction recommendations. Documentation of the recommended risk reduction measures shall include an explanation of the onsite control, secondary containment or other state of the art equipment or procedures to be implemented with a schedule and the date of implementation. When state of the art technology is not used, an explanation of its exclusion shall be documented;

4. The team shall prepare a report of each hazard analysis performed on each existing EHS facility. The report shall:

i. Identify the EHS facility that is subject to hazard analysis, the procedure followed and the names, positions and affiliations of the persons who performed the hazard analysis;

ii. Identify the points of potential EHS release, and the potential cause, rate and quantity of EHS release;

iii. Include the findings of the state of the art technology search;

iv. Identify the EHS accident risks, present the risk reduction plan and the dates of implementation; and

v. Explain why an EHS accident risk is not addressed in the risk reduction plan; and

5. The team shall prepare a report of the hazard analysis performed on each new EHS facility, new operating alternative or modification. The report shall:

i. Identify the EHS facility that is subject to hazard analysis, the procedure followed and the names, positions and affiliations of the persons who performed the hazard analysis;

ii. Identify the points of potential EHS release, and the potential cause, rate and quantity of EHS release;

iii. Include the findings of the state of the art technology searches;

iv. Identify the EHS accident risks, present the risk reduction measures incorporated in the design; and

v. Explain why an EHS accident risk is not addressed by the risk reduction measures.

(d) The registrant shall perform a risk assessment on:

1. EHS equipment or operating alternatives identified by a hazard analysis as having a potential for EHS release in an amount within one hour which is equal to or greater than five times the minimum reportable quantity for the particular EHS listed in Table I of N.J.A.C. 7:31-2.3; and

2. A modification identified by a hazard analysis as having an increase in the potential for an EHS release in an amount which within one hour will be equal to or greater than five times the minimum reportable quantity established for that EHS listed in Table I of N.J.A.C. 7:31-2.3 or will be twice the potential release that existed before the modification, whichever is smaller.

(e) The registrant shall maintain at the site a written statement designating the site's procedures for risk assessment which will include the records and documentation used in risk assessment.

(f) The risk assessment shall include, but not be limited to:

1. An estimate of potential EHS release quantity;

2. A dispersion analysis;

3. A consequence analysis involving surrounding populations;

4. An estimate of the probability of EHS release occurrence or the assumption that the probability of the EHS release occurrence is 100 percent;

5. An evaluation of state of the art, including alternate processes, procedures or equipment which would reduce probability or consequences of an EHS release or control the discharge of an EHS within the facility. The evaluation of the alternatives shall be based on estimates of their respective EHS release quantity and probability of occurrence along with corresponding dispersion and consequence analyses that should be precise enough to arrive at a selection decision; and

6. Preparation of a risk reduction plan including the recommendations for remedial actions and a schedule for their implementation in each instance.

(g) The registrant shall document all estimates and analysis performed as part of the risk assessment.

(h) The registrant shall prepare a report of the risk assessment for each new EHS facility or modification. The report shall:

1. Identify the facility that is the subject of the risk assessment and the name, position and affiliation of persons who performed it;

2. Present the EHS accident risks identified, the features incorporated in the constructed facility that reflect current state of the art and the lowered possible risk commensurate with the neighboring environment;

3. Evaluate each incorporated feature of the risk reduction plan; and

4. Explain why an EHS accident risk is not addressed in the risk reduction plan.

(i) The registrant shall prepare a report of the risk assessment of each existing EHS facility which shall be kept at the site.

1. The report shall:

i. Identify the EHS facility whose equipment or procedure is the subject of the risk assessment and the name, position and affiliation of the persons who performed it;

ii. Present the EHS accident risks identified, the recommended risk reduction plan that reflects consideration of state of the art and the lowered possible risk commensurate with the environment of the site, a proposed schedule of implementation, a summary of the evaluation of each recommended item of the risk reduction plan; and

iii. Explain why an EHS accident risk is not addressed in the risk reduction plan.

(j) Each report of hazard analysis and report of risk assessment shall be submitted to the responsible manager.

(k) The responsible manager shall implement the risk reduction plan.

7:31-3.10 Emergency response program

(a) Each registrant shall have an emergency response committee consisting of representatives from management, production supervision, safety and emergency services, environmental and industrial hygiene services, plant maintenance and public relations. This committee shall develop and implement the emergency response program prepared in accordance with (b) below. The program shall include an emergency response plan prepared in accordance with (c) below:

(b) Each registrant shall have a written emergency response program which shall include, at a minimum, requirements and procedures for:

1. Distribution of copies of the emergency response plan;

2. Procurement and distribution of plot plans and maps of the surrounding community;

3. Preparation and distribution of EHS material safety data sheets or fact sheets and process flow diagrams;

4. Determining the need for and arrangement of equipment capable of sensing the imminence or existence of an EHS release and of a continuously attended station where such equipment would be monitored;

5. Determining the need for and distribution of two way radio equipment;

6. Determining the need for and location of emergency lighting equipment;

7. Recording the sequence of events for each incident for which the emergency response plan is implemented and the emergency response drill involving the emergency response team by using log books or tape recorders;

8. Determining the quantity needed and distribution of:

i. Self contained breathing apparatus;

ii. Fire fighting equipment;

iii. Portable EHS gas monitors and detectors, including calibration and maintenance schedules;

iv. Emergency medical supplies; and

v. Protective clothing;

9. Emergency response training for all site employees including schedules for initial and annual refresher training in:

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- i. Alarm identification and response;
 - ii. Response to EHS release;
 - iii. Use of emergency response protective equipment; and
 - iv. Evacuation procedures;
 - 10. Emergency response training for the site's emergency response team including a schedule for initial and annual refresher training in:
 - i. Alarm identification and response;
 - ii. Response to EHS release;
 - iii. Use of emergency protective equipment;
 - iv. Rescue procedures;
 - v. Evacuation procedures;
 - vi. Medical assistance;
 - vii. Action plans for dealing with specific scenarios; and
 - viii. Specifically assigned emergency response duties;
 - 11. Emergency response drills including, but not limited to:
 - i. A schedule with a minimum of two drills per year; and
 - ii. The establishment of preplanned EHS release criteria for the drill;
 - 12. A written assessment of the emergency response plan after each implementation or emergency response drill, including, but not limited to:
 - i. The adequacy of the emergency response plan;
 - ii. The implementation of the emergency response plan;
 - iii. The performance of the site personnel and the site emergency response team;
 - iv. The adequacy of treatment of exposed personnel at the site and at offsite facilities;
 - v. The adequacy of onsite and offsite emergency response communication systems; and
 - vi. The adequacy of emergency power and lighting systems;
 - 13. The installation, within 180 days of the operative date of this chapter, of an onsite meteorological station capable of providing, at a minimum, a continuous record of wind speed and direction;
 - 14. The procurement, within 180 days of the operative date of this chapter, of onsite hand held or mobile EHS detection equipment where commercially available; and
 - 15. The establishment of a program to coordinate the site's emergency response plan with the emergency response plan of the local emergency planning committee.
- (c) Each registrant shall have a written emergency response plan that includes, but is not limited to, the following:
- 1. A description and location of the extraordinarily hazardous substances at the site;
 - 2. A list, updated every six months, of the emergency response equipment and supplies and their location at the site;
 - 3. The names and titles of the site emergency coordinator and alternates selected by the registrant, who shall be responsible for emergency response coordination with State and local agencies on a 24 hour basis;
 - 4. An organization chart showing key site individuals making up the site's emergency response team with their titles, emergency positions and primary and backup telephone numbers;
 - 5. An organization chart showing offsite contract or mutual aid responders to an emergency at the site identifying their emergency roles, the respective organization, telephone numbers, the expected time it will take each responder to arrive at the site after notification and the name and title of the site person to whom each shall report;
 - 6. An organization chart showing governmental responders to an emergency at the site, identifying their emergency roles, the respective organization and the name and title of the site person to whom each shall report;
 - 7. A description of the site's emergency notification system which shall include the following requirements for reporting an emergency:
 - i. Designation of emergency operators, on a 24 hour basis, at the site or central control station, by name and title to be notified in case of an EHS release or imminent EHS release at the site, and the internal procedures to be followed in making that notification;
 - ii. Immediate notification of the Department's emergency communications center at 609-292-7172 by the emergency operator of an EHS release or imminent EHS release at the site. The notification shall include the following information:
 - (1) Name and address of site where the EHS release will or has occurred;
 - (2) Name, position, and telephone number of caller;
 - (3) The time of, or anticipated time, of EHS release and the projected duration;
 - (4) The chemical name of the EHS released;

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

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

iii. In addition to the information required by (c)7ii above, the emergency operator shall state that the notification is:

(1) An ALERT which means an EHS release is imminent and will probably occur;

(2) A SITE EMERGENCY which means an EHS release has occurred which will probably not have an off-site impact; or

(3) A GENERAL EMERGENCY which means an EHS release has occurred which will probably have an off-site impact; and

iv. The site emergency coordinator shall place a second call to the Department within 15 minutes of the first notification and provide the Department's emergency communications center with an update which shall include the following information:

(1) Name and address of site where the EHS release will or has occurred;

(2) Name, position and telephone number of caller;

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

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

(5) Update on weather conditions;

8. A description of the onsite hand held or mobile EHS monitoring equipment including the procedures for their use during an emergency;

9. A description of potential EHS accidents which would have offsite impacts, and the specific procedures to be followed by the response team to mitigate the effects of the accident;

10. Procedures for timely and appropriate notification of and coordination with the emergency coordinator for local emergency planning committee;

11. Procedures for treatment of exposed personnel including first aid at the site and medical treatment at offsite medical facilities;

12. A detailed plan of evacuation of on site personnel, including but not limited to, the following:

i. On site notification procedure capable of identifying areas to be evacuated;

ii. Map exhibits of primary and alternate routes of evacuation;

iii. Designation of primary and alternate assembly areas after evacuation; and

iv. Provisions for sufficient transport vehicles; and

13. A detailed plan for reentry and site recovery including, but not limited to, procedures and equipment for the safe cleanup and decontamination of the site and removal of waste materials.

7:31-3.11 Audit requirements for risk management programs

(a) The registrant shall conduct an annual audit of its risk management program for each site to insure that all elements of the program are being planned, scheduled, updated and executed in compliance with the Act, this chapter and the approved risk management program;

(b) The registrant shall prepare written requirements for auditing which shall include, at a minimum:

1. Audit scope and procedures including:

i. Completion of risk management program checklist established in N.J.A.C. 7:31-3.14;

ii. A list of deficiencies found in completing the check list;

iii. Recommendations for remedial actions;

iv. Submission of audit report to the responsible manager; and

v. Requirements for review and implementation of remedial actions, including schedule, by the facility; and

2. The audit team shall be employees of the registrant or an independent consultant. Only a minority of the members of the audit team may be involved in the day-to-day operation or management of the EHS facility being audited.

7:31-3.12 Summary risk management program statement

(a) The summary risk management program statement shall contain:

1. An RMP description which describes each of the eight program elements of the risk management program defined in N.J.A.C. 7:31-3.3(a), which demonstrates how each program element of the registrant's RMP meets the requirements of N.J.A.C. 7:31-3.4 through 3.11. The description of each program element shall include the registrant's policies, standards and procedures for that program element and the persons or positions responsible for ensuring their implementation. The description of any

program element may reference other submittals included in the summary risk management program statement which are applicable to the particular element.

2. The reports of all safety reviews of design of new and existing EHS equipment for each EHS facility meeting the requirements of N.J.A.C. 7:31-3.4 conducted on each EHS facility during the previous two years.

3. Reports of all hazard analyses and risk assessments meeting the requirements of N.J.A.C. 7:31-3.9 performed on each existing EHS facility within the past four years;

4. A copy of the site's emergency response plan prepared in accordance with N.J.A.C. 7:31-3.10(c);

5. A catalog listing the documents required by N.J.A.C. 7:31-3.3(c), (d) and (e), and their location at the site; and

6. A completed risk management program checklist for the site prepared in accordance with N.J.A.C. 7:31-3.14.

7:31-3.13 Annual reports

(a) The annual report shall contain:

1. An update of the RMP description prepared in conformance with N.J.A.C. 7:31-3.12(a) showing by additions or deletions any revisions to the risk management program;

2. A complete update of Section D of the registration form;

3. A risk management program checklist for the site, prepared in accordance with N.J.A.C. 7:31-3.14, and completed during the previous 12 months;

4. A list of all safety reviews conducted in accordance with N.J.A.C. 7:31-3.4 during the previous 12 months;

5. Reports of hazard analyses and risk assessments required by N.J.A.C. 7:31-3.9(b), conducted during the previous 12 months which have not been previously submitted to the Department;

6. A list of all hazard analyses required by N.J.A.C. 7:31-3.9(a) conducted during the previous 12 months, the report of which has not been previously submitted to the Department;

7. A copy of the changes to the site's emergency response plan implemented during the previous 12 months;

8. A copy of the end of year summary report regarding EHS accidents required by N.J.A.C. 7:31-3.8(c); and

9. Updated catalogs or updated pages for the catalogs prepared pursuant to N.J.A.C. 7:31-3.3(c), (d) and (e).

7:31-3.14 Risk management program checklist

(a) Each registrant shall answer the questions on the Risk Management Program Checklist, DEQ-092, as set forth in Appendix I and make a part of these rules. The Risk Management Program Checklist shall be submitted:

1. As part of the registrant's initial submittal of its risk management program as required by N.J.A.C. 7:31-3.12; and

2. As part of the registrant's annual report required by N.J.A.C. 7:31-3.13.

(b) The questions shall be answered in the affirmative or the negative, and when the answer is negative the registrant shall provide an explanation using separate pages, if necessary.

SUBCHAPTER 4. WORK PLAN REQUIREMENTS

7:31-4.1 Scope and applicability

(a) This subchapter establishes the Department's minimum requirements for an extraordinarily hazardous substance risk reduction work plan.

(b) All work plans developed by the Department in conjunction with the registrant shall meet the minimum requirements of this subchapter.

7:31-4.2 Purpose

This subchapter is promulgated for the purpose of reducing the risk of catastrophic releases of extraordinarily hazardous substances by establishing the minimum requirements for an extraordinarily hazardous substance risk reduction work plan.

7:31-4.3 Extraordinarily Hazardous Substance Risk Reduction Work Plan

(a) Each work plan shall consist of the site data required by N.J.A.C. 7:31-4.4 and the detailed scope of work necessary to perform an extraordinarily hazardous substance accident risk assessment. The EHSARA will result in a recommended risk reduction plan that will include the deficiencies that when corrected will result in a risk management program;

(b) Each registrant's work plan shall at a minimum address each of the following:

1. Site data;

2. Scope of work with implementation schedule; and

3. Report of EHSARA including identification of findings, recommended risk reduction plan and implementation schedule.

7:31-4.4 Site data

The Registrant shall submit to the Department the EHS facility documents and lists of site documents set forth in N.J.A.C. 7:31-4.7.

7:31-4.5 Generic scope of work

(a) The scope of work in the work plan for each registrant required to have an EHSARA performed by a consultant or the Department shall include the following:

1. A general description of how the registrant uses EHSs at the site;

2. A requirement for the verification of the quantities and methods of handling all EHSs at the site against the registration submitted by the registrant;

3. A requirement for the following reviews and, where necessary, the completion or creation of the documents necessary to perform the reviews:

i. A process chemistry review to define all the possible chemical reactions involving EHSs at the site; and

ii. A review of EHS process flow diagrams, piping and instrument diagrams including those of process, utility or service units at the site that are interactive with the EHS piping and instrument diagrams, electrical one-line diagrams and site and plot plans for:

(1) Completeness as defined in N.J.A.C. 7:31-1.5 for each document referred to in (a)3ii above;

(2) Legibility;

(3) Uniformity of symbols;

(4) Drawing title; and

(5) Revision number and date;

4. A requirement for a safety review which shall meet the requirements of N.J.A.C. 7:31-3.4(b) and (d). 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 and electrical area classification drawings 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 N.J.A.C. 7:31-3.5;

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 EHS facility from external forces and events and for the purpose of controlling EHS releases within the site;

iv. An electrical area classification review to determine conformance with the most current edition of the National Electrical Code, ANSI/NFPA 70-1987;

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 against current state of the art and 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;

(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 facility for evidence of inadequate equipment and piping supports;

5. A requirement for a hazard analysis meeting the requirements of N.J.A.C. 7:31-3.9 on each EHS facility using the method of analysis

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specified in the work plan by the Department. The hazard analysis will determine, at a minimum, the circumstances that would have to occur in order for there to be an EHS release;

6. A requirement for risk assessments meeting the requirements of N.J.A.C. 7:31-3.9 on specific pieces of EHS equipment or operating procedures identified by the hazard analysis as having the potential to have an EHS release at least five times the reportable quantity for that particular EHS established in Table I of N.J.A.C. 7:31-2.3;

7. A requirement for a review of the registrant's preventive maintenance program by inspection of internal documents, correspondence and standard forms and by interviews with the registrant's staff, and identification of those activities necessary to achieve compliance with N.J.A.C. 7:31-3.6;

8. A requirement for review of the registrant's operator training program by inspection of internal documents, correspondence and standard forms and by interviews with the registrant's staff, and identification of those activities necessary to achieve compliance with N.J.A.C. 7:31-3.7;

9. A requirement for review of the registrant's EHS accident investigation procedures by inspection of internal documents, correspondence and standard forms and by interviews with the registrant's staff and identification of those activities necessary to achieve compliance with N.J.A.C. 7:31-3.8;

10. A requirement for review of the registrant's emergency response program by inspection of internal documents, correspondence and standard forms and by interviews with the registrant's staff and identification of those activities necessary to achieve compliance with N.J.A.C. 7:31-3.10;

11. A requirement for review of the registrant's audit program by comparing the registrant's internal documents, correspondence and standard forms with the risk management program checklist required by N.J.A.C. 7:31-3.11; and

12. 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.

7:31-4.6 EHSARA report

(a) The consultant or the Department shall, upon completion of the requirements of the scope of work, prepare an EHSARA report.

(b) The EHSARA report shall contain, but not be limited to, the following:

1. The findings of the verification required by N.J.A.C. 7:31-4.5(a)2;
2. The findings of the review required by N.J.A.C. 7:31-4.5(a)3;
3. The findings of the safety reviews required by N.J.A.C. 7:31-4.5(a)4 including any deficiencies that are identified by the reviews performed pursuant to N.J.A.C. 7:31-4.5(a)4iii through ix;
4. The reports of the hazard analyses and risk assessments required by N.J.A.C. 7:31-4.5(a)5 and 6;
5. The findings of the reviews required by N.J.A.C. 7:31-4.5(a)7 through 11; and
6. The recommended risk reduction plan including the listing of all of the deficiencies identified in (b)1 through 5 above, the remedial actions recommended to correct the deficiencies and the schedule for implementation.

(c) The report required by (a) above shall be submitted to the Department and the registrant at the same time.

7:31-4.7 Site documentation

(a) The following lists of site documents, if existing, shall be submitted by the registrant prior to the registrant's meeting with the Department to establish the work plan. Lists of documents shall be grouped by operating or utility unit or area at the EHS facility giving their document number, name, the EHS involved, most recent revision number and date, file location at the site, and code of sheet size according to ANSI Y14.1-1980 (A, B, C, D, or E) or Deutsche Institut Fuer Normung (DIN) 823-1965 (A4, A3, A2, A1, or A0):

1. Equipment list;
2. Instrument list;
3. Pipe line list;
4. List of process flow diagrams;
5. List of process chemistry documents;
6. List of piping and instrument diagrams;
7. List of site plans and topographic maps;
8. List of equipment specifications or fabrication drawings;
9. List of piping material specifications;
10. List of instrument specifications;
11. List of trip and interlock logic sheets;
12. List of electrical one-line diagrams;

13. List of electrical area classification drawings;
14. List of fire water system diagrams;
15. List of sewer system diagrams;
16. List of criteria for design and operation used at the facility;
17. List of hazard analysis reports;
18. List of emergency response program documents;
19. List of equipment testing schedules;
20. List of preventive maintenance procedure documents;
21. List of standard operating procedures;
22. List of descriptions of relief and control systems and secondary containments;
23. List of audit procedures documents;
24. List of equipment and instrumentation maintenance records including the data necessary for reliability studies;
25. List of operator training procedures;
26. List of EHS accident investigation procedures; and
27. List of safety procedures.

APPENDIX I

NEW JERSEY DEPARTMENT OF
ENVIRONMENTAL PROTECTION
Division of Environmental Quality
CN 027, Trenton, N.J. 08625

"TOXIC CATASTROPHE PREVENTION ACT" RISK MANAGEMENT PROGRAM CHECKLIST

Facility Name (Full Business Name) _____

Nature of Business _____

SIC Code _____ Plant I.D. No. _____

Facility Location _____

No.		Street	
City	County	State	Zip
Lot No.		Block No.	

Facility Mailing
Address _____

No.		Street	
City	County	State	Zip

Name of Responsible Manager _____

Title _____ Telephone No. (____) _____

CERTIFICATIONS

Highest Ranking Official on Site:

I certify under penalty of law that the information provided in this document is true, accurate and complete. I am aware that there are significant civil and criminal penalties for submitting false, inaccurate or incomplete information, including fines and/or imprisonment.

Signature _____ Date _____

Name (Print) _____ Title _____

Principal Executive Officer, General Partner or Proprietor, Ranking Elected Official:

I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant civil and criminal penalties for submitting false information, including the possibility of fine and/or imprisonment.

Signature _____ Date _____

Name (Print) _____ Title _____ VVV 000014973

Check One: ☐ Initial Submittal

☐ Annual Submittal—Covering Period
from _____ to _____

RISK MANAGEMENT CHECKLIST

Questions shall be answered in the affirmative or the negative, and when the answer is negative the registrant shall provide an explanation. Use separate pages.

DOCUMENTATION

The following are the questions on supporting documentation (see N.J.A.C. 7:31-3.3):

	Yes	No	Comments
1. Is the following updated documentation including appropriate revision dates covering process information maintained at the site and available for inspection by the Department:			
i. Process chemistry and process design criteria?	___	___	___
ii. Facility inventory of each extraordinarily hazardous substance?	___	___	___
iii. Reports of hazards analyses, risk assessments, safety reviews and audits performed during the previous five years?	___	___	___
iv. Accident investigation reports covering accidents at EHS facilities for the past five years?	___	___	___
v. Process flow and piping instrumentation diagrams, with appropriate dates indicated?	___	___	___
vi. Standard operating procedures?	___	___	___
vii. Site wide safety procedures?	___	___	___
viii. Site wide emergency response plan?	___	___	___
2. Is the following updated EHS operator training documentation maintained at the site and available for inspection by the Department:			
i. Job classifications and job descriptions for EHS operators?	___	___	___
ii. Description of the EHS operator training program and its records?	___	___	___
iii. Annual tabulation of EHS operator training conducted?	___	___	___
3. Is the following updated engineering and maintenance documentation maintained at the site and available for inspection by the Department:			
i. Topographic maps?	___	___	___
ii. Site plan?	___	___	___
iii. EHS equipment specifications including instrument and piping specifications?	___	___	___
iv. National Electrical Code area classification diagrams for the site?	___	___	___
v. EHS electrical one-line diagrams?	___	___	___
vi. Fire water system piping diagrams for the site?	___	___	___
vii. Sewer system piping diagrams for the site?	___	___	___
viii. List of criteria for design and operation used at the site?	___	___	___
ix. Preventive maintenance program, procedures and records covering EHS equipment?	___	___	___
x. Annual tabulations of EHS equipment inspected and tested versus scheduled?	___	___	___

SAFETY REVIEW

The following are the questions on safety review of new EHS facilities and modifications (see N.J.A.C. 7:31-3.4):

1. Are all new EHS facilities or modifications designed, installed and operated in accordance with the state of the art and criteria for design and operation?	___	___	___
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2. Have the state of the art and criteria for design and operation been identified for each new EHS facility and modification, and have they been compared with the following information describing the EHS equipment and operations:

i. Process description and process chemistry?	___	___	___
ii. Process flow sheet?	___	___	___
iii. Piping and instrumentation diagrams?	___	___	___
iv. EHS facility location maps, site plans and equipment layout?	___	___	___
v. Electrical one-line diagrams?	___	___	___
vi. Electrical area classification drawing?	___	___	___
vii. Specifications of safety relief devices and interlocks and controls?	___	___	___
viii. Specifications for materials of construction?	___	___	___
ix. EHS inventories?	___	___	___
x. EHS equipment specifications?	___	___	___
xi. External forces and events data?	___	___	___
3. Has the identification and comparison required in 2 above been documented?	___	___	___
4. Has a report of the results of each safety review of design of each new EHS facility or modification been prepared?			
i. Has each report been distributed in accordance with N.J.A.C. 7:31-2.5, 2.10 or 2.11 as appropriate?	___	___	___
ii. Does each report contain a list of the criteria for design and operation upon which the design is based?	___	___	___
iii. Does each report explain where the design of the new EHS facility or modification deviates from the state of the art or listed consensus standards of the criteria for design and operation?	___	___	___
iv. Does each report explain the reasoning upon which an intended deviation from the state of the art or listed consensus standard is based?	___	___	___
v. Does each report identify the new EHS facility or modification, the EHS equipment items reviewed, the drawings and documents reviewed, and the name, position and affiliation of the persons who performed the review?	___	___	___

The following are the questions on safety review of existing EHS equipment (see N.J.A.C. 7:31-3.4):

1. Has a safety review of each existing EHS facility been performed during the past 12 months?	___	___	___
2. Has each safety review included:			
i. A visual inspection of the EHS facility or review of up-to-date inspection records to determine if process flow diagrams, piping and instrument diagrams, and electrical one-line diagrams reflect actual conditions with respect to EHS equipment, runs and sizes of pipe, location and function of instruments; and location, function and size of valves?	___	___	___

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- ii. An inspection of the facility or review of up-to-date inspection records to determine if safety relief devices and emergency systems such as deluges, interlocks, controls, back-up systems and alarms are functioning as designed? _____
- iii. A review to determine if actual operating conditions of flow, temperature and pressure, process chemistry and raw material feeds and specifications are within the limits of the current design criteria of individual equipment items? _____
- iv. Inspections and interviews of EHS facility personnel to determine if standard operating procedures reflect actual conditions? _____
3. Have the deviations of procedure or EHS equipment found by each safety review been documented? _____
4. Have deviations found as a result of the visual inspections or reviews specified in 2i, iii and iv above been immediately discontinued? _____
5. Have the safety systems found to be inoperable during the inspection specified in 2ii above been immediately returned to operational status? _____
6. Has a report of the results of each safety review of an existing EHS facility been prepared? _____
 - i. Does each report identify the existing EHS facility, the equipment items and procedures reviewed, the drawings and documents, and the name, position and affiliation of the persons who performed the review? _____
 - ii. Has each report been distributed to the responsible manager? _____
 - iii. Does each report identify the deviations found and corresponding actions taken as the result of a safety review? _____

STANDARD OPERATING PROCEDURES

The following are the questions on Standard Operating Procedures (see N.J.A.C. 7:31-3.5):

1. Are the standard operating procedures written in plain English? _____
2. Are there versions of each of the standard operating procedures written in the language of fluency of EHS operators not fluent in English? _____
3. Is each standard operating procedure readily available to EHS operators? _____
4. Does each standard operating procedure include:
 - i. Simplified process flow sheets and a process description defining the operation and showing flows, temperatures and pressures? _____
 - ii. Procedures and conditions for normal operations? _____
 - iii. A description of abnormal conditions, including the control and mitigating procedures to be followed to return to normal conditions? _____

- iv. A description of emergency conditions which could occur including the control and mitigating procedures to be followed to reduce the impact of the emergency conditions? _____
- v. Pre-start procedures covering testing for leak tightness prior to charging the EHS? _____
- vi. Startup procedures including conditions to be maintained during startup? _____
- vii. Shutdown procedures including provisions for normal and emergency shutdown and details on the condition of EHS equipment to be maintained after shutdown? _____
- viii. A description of the type, location and purpose of safety relief devices, interlocks and alarms with their respective activation points indicated? _____
- ix. Sampling procedures addressing apparatus and specific steps involved in the taking of samples? _____
- x. Safety procedures related to each specific operation in the standard operating procedure? _____
- xi. Procedures to prepare EHS equipment for maintenance? _____
- xii. Material safety data sheets for each EHS used in the operation? _____
- xiii. Logsheets and checklists where appropriate to the operation? _____
- xiv. A statement as to the number of EHS operators required to meet safety need for each operation with requirements for shift coverage? _____
- xv. A requirement that an EHS operator be in attendance at the facility and be able to acknowledge alarms and take corrective action at all times during specified activities of EHS handling, use, manufacture, storage or generation? _____
5. Have modifications to the standard operating procedures been made in accordance with N.J.A.C. 7:31-2.11? _____
6. Have modifications been incorporated in the standard operating procedure before being implemented? _____
7. Has a current index of the standard operating procedures with corresponding latest dates of issue been maintained and filed in accordance with N.J.A.C. 7:31-3.3? _____

PREVENTIVE MAINTENANCE

The following are the questions for the preventive maintenance program (see N.J.A.C. 7:31-3.6):

1. Have the preventive maintenance program documents been written, filed at the site, and are they available for inspection by the Department? _____
2. Has all EHS equipment needed to be included in the preventive maintenance program been identified? _____
3. Have all modifications been approved and authorized by the responsible manager? _____

4. Have the internal and external inspection of EHS equipment prescribed by the preventive maintenance program been performed as scheduled? ☐ ☐ ☐
 - i. Are the frequencies of inspection sufficient to prevent the failure of the equipment? ☐ ☐ ☐
5. Have the inspections or tests prescribed by the preventive maintenance program for pressure safety devices in EHS service been performed as scheduled? ☐ ☐ ☐
6. Has the safety instrumentation in EHS service been checked for proper operation, as prescribed by the preventive maintenance program? ☐ ☐ ☐
7. Have the procedures for commissioning new or modified EHS equipment and de-commissioning existing EHS equipment prescribed by the preventive maintenance program been followed? ☐ ☐ ☐
8. Have emergency power supply systems been tested in accordance with the schedule prescribed by the criteria for design and operation? ☐ ☐ ☐
9. Has the training of the employees assigned to perform maintenance work on EHS equipment been performed in accordance with the requirements of the preventive maintenance program? ☐ ☐ ☐
10. Have the procedures to insure that work performed by outside contractors is done in accordance with the requirements of the preventive maintenance program been followed? ☐ ☐ ☐
11. Have the permits and checklists for all EHS equipment entries, lockouts, and welding and burning operations required by the preventive maintenance program been used? ☐ ☐ ☐
12. Have all inspections reports, and preventive maintenance testing and training information been filed in a centralized location as required by the preventive maintenance program? ☐ ☐ ☐
13. Has the record keeping system prescribed by the preventive maintenance program been followed? ☐ ☐ ☐

OPERATOR TRAINING

The following are the questions for the EHS operator training program (see N.J.A.C. 7:31-3.7):

1. Has the training program for EHS operators been written? ☐ ☐ ☐
2. Has a job description been written for each EHS operator position which includes the duties and responsibilities, the education, experience and training necessary to qualify for that position? ☐ ☐ ☐
3. Have the evaluation procedures prescribed by the EHS operator training program to determine whether an EHS operator has demonstrated the ability to carry out the duties and responsibilities of a specific position been used? ☐ ☐ ☐
4. Have the time periods prescribed by the EHS operator training program for in house training for each position been followed? ☐ ☐ ☐

- i. Has the plan established for tracking the training progress of each EHS operator at regular intervals prescribed by the EHS operator training program been followed? ☐ ☐ ☐
5. Has the training EHS operators received during the previous 12 months included:
 - i. For new employees, general orientation and initial training as prescribed by the EHS operator training program? ☐ ☐ ☐
 - ii. For newly assigned EHS operators, the training on specific extraordinarily hazardous substance activities prescribed by the EHS operator training program? ☐ ☐ ☐
 - iii. For newly assigned EHS operators, the on-the-job training at a specific EHS facility as prescribed by the EHS operator training program? ☐ ☐ ☐
 - iv. The refresher training prescribed by the EHS operator training program? ☐ ☐ ☐
6. Have the evaluations of EHS operators included oral and written tests? ☐ ☐ ☐
7. Have EHS operators qualified within the maximum periods established for training in each EHS position? ☐ ☐ ☐
8. Do all personnel responsible for training and evaluating EHS operators meet the qualifications prescribed for instructors and evaluators by the EHS operator training program? ☐ ☐ ☐
9. Have all training, evaluations and qualifying activities been documented as prescribed by the EHS operator training program? ☐ ☐ ☐

ACCIDENT INVESTIGATION

The following are the questions for the EHS accident investigation program (see N.J.A.C. 7:31-3.8):

1. Have the written procedures for investigating all EHS accidents prescribed by the accident investigation program been followed for each accident? ☐ ☐ ☐
2. Were the EHS investigations completed within the time frame prescribed by the EHS accident investigation program? ☐ ☐ ☐
3. Is there a written accident investigation report of each EHS accident that occurred during the past 12 months? ☐ ☐ ☐
4. Did management review each EHS accident report completed during the past 12 months? ☐ ☐ ☐
5. Did management implement the recommendations in each EHS accident investigation report? ☐ ☐ ☐
6. Is there a requirement to include the review of EHS accident reports in operator refresher training and maintenance training? ☐ ☐ ☐
7. Does each EHS accident report include:
 - i. The date, time and location of the EHS accident? ☐ ☐ ☐
 - ii. The identity, amount and duration of the release or potential EHS release? ☐ ☐ ☐

- iii. The EHS equipment, materials, procedures and personnel involved? ☐ ☐ ☐
 - iv. A detailed chronological description of the accident including all the facts related to the EHS accident? ☐ ☐ ☐
 - v. The consequences of the EHS accident including the number of people injured or killed and the impact on the community? ☐ ☐ ☐
 - vi. The identity of the basic and contributory causes of the EHS accident? ☐ ☐ ☐
 - vii. The determination of whether the EHS accident was caused by human error or equipment failure? ☐ ☐ ☐
 - viii. Recommend actions addressing human error and equipment failure to be implemented to prevent a recurrence? ☐ ☐ ☐
 - ix. Schedule for implementation of recommended actions? ☐ ☐ ☐
 - x. Signatures and position titles of investigators? ☐ ☐ ☐
8. Do the EHS accident investigation files include:
- i. A separate file of EHS accident reports for the Toxic Catastrophe Prevention Act program? ☐ ☐ ☐
 - ii. A monthly list on which the implementation status of all active recommendations for corrective action is updated? ☐ ☐ ☐
 - iii. An updated list of employees involved in EHS accidents? ☐ ☐ ☐
 - iv. End of year summary reports consisting, at a minimum of the following:
 - (1) A list and brief description of each EHS accident? ☐ ☐ ☐
 - (2) An identification of the cause of each EHS accident as human error or equipment failure or both? ☐ ☐ ☐
 - (3) A consolidated schedule of implementation and completion status covering all EHS accidents? ☐ ☐ ☐

RISK ASSESSMENT

The following are the questions for the risk assessment program for specific pieces of EHS equipment or operating alternative (see N.J.A.C. 7:31-3.9):

1. Was a hazard analysis conducted on each new EHS facility, operating alternative or modification required by N.J.A.C. 7:31-2.10 and 2.11? ☐ ☐ ☐
2. Was each EHS facility subjected to a hazard analysis during the last three years? ☐ ☐ ☐
3. Was the procedure used for hazard analysis:
 - i. A "What If" checklist? ☐ ☐ ☐
 - ii. A HAZOP? ☐ ☐ ☐
 - iii. An FMEA?, or ☐ ☐ ☐
 - iv. An FTA? ☐ ☐ ☐
4. Was the qualified team which conducted the hazard analysis composed of personnel of:
 - The registrant's staff? ☐ ☐ ☐
 - A consulting firm? ☐ ☐ ☐
 - The registrant's staff and a consulting firm? ☐ ☐ ☐

5. Did each hazard analysis team:
 - i. Review EHS equipment failure data and EHS accident reports of the existing facility? ☐ ☐ ☐
 - ii. Identify the point of possible EHS releases, the corresponding approximate quantity or rate of EHS releases and the corresponding cause of EHS releases? ☐ ☐ ☐
 - iii. Determine the instances of possible EHS releases on which further study of risk assessment must be performed using the criteria set forth in N.J.A.C. 7:31-3.9(d)? ☐ ☐ ☐
 - iv. Conduct a state of the art technology search for the instances not requiring a risk assessment? ☐ ☐ ☐
6. Did each hazard analysis team:
 - i. Document its findings of possible EHS releases, estimates of quantity or rate of EHS releases, findings of the state of the art technology search and risk reduction recommendations? ☐ ☐ ☐
 - ii. Provide an explanation for the exclusion of state of the art technology from its risk reduction recommendations? ☐ ☐ ☐
7. Did each hazard analysis team prepare a report of hazard analysis of each *existing* EHS facility?
 - i. Identifying the EHS facility that is subject to hazard analysis? ☐ ☐ ☐
 - ii. Identifying the procedure followed in hazard analysis? ☐ ☐ ☐
 - iii. Listing the names, positions and affiliation of the persons who performed the hazard analysis? ☐ ☐ ☐
 - iv. Presenting the findings of possible points of EHS release, and the corresponding causes and quantities or rates of possible EHS release? ☐ ☐ ☐
 - v. Presenting the findings of the state of the art technology search? ☐ ☐ ☐
 - vi. Presenting the risk reduction plan and the dates of implementation, scheduled and actual? ☐ ☐ ☐
8. Did each hazard analysis team prepare a report of hazard analysis of *new* EHS facilities or modifications?
 - i. Identifying the EHS facility that is subject to hazard analysis? ☐ ☐ ☐
 - ii. Identifying the procedure followed in hazard analysis? ☐ ☐ ☐
 - iii. Listing the names, positions and affiliation of the persons who performed the hazard analysis? ☐ ☐ ☐
 - iv. Presenting the findings of possible points of EHS release, and the corresponding causes and quantities or rates of possible EHS release? ☐ ☐ ☐
 - v. Presenting the findings of the state of the art technology search? ☐ ☐ ☐
 - vi. Presenting the risk reduction measures incorporated into the design? ☐ ☐ ☐

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9. Have risk assessments on the new EHS equipment, operating alternatives or modifications identified by a hazard analysis as having a potential for an EHS release in an amount within one hour which is equal to or greater than five times the minimum reportable quantity for that EHS listed in Table I of N.J.A.C. 7:31-2.3 been performed? _____
10. Is a written statement defining the procedures for risk assessment including the records and documentation used in risk assessment maintained at the site? _____
11. Did each risk assessment include:
- i. An estimate of potential EHS release quantity? _____
 - ii. A dispersion analysis? _____
 - iii. A consequence analysis involving surrounding populations? _____
 - iv. An estimate of the probability of the occurrence of an EHS release? _____
 - v. An evaluation of state of the art, including alternate processes, procedures or equipment which would reduce the risk of the probability or consequence of an EHS release? _____
 - (1) Are the evaluations of the alternates based on estimates of their respective EHS release quantity and probability of occurrence along with corresponding dispersion and consequence analysis precise enough to arrive at a selection decision? _____
 - vi. Preparation of a risk reduction plan including the recommendations for remedial actions and a schedule for their implementation in each instance? _____
12. Have all estimates and analyses performed as part of the risk assessment been documented? _____
13. Did the persons performing the risk assessment on the new EHS facilities or modifications prepare a report of the risk assessment?
- i. Identifying the EHS facility that is the subject of the risk assessment? _____
 - ii. Listing the names, positions and affiliations of persons who performed it? _____
 - iii. Presenting the risks identified? _____
 - iv. Identifying the features incorporated in the constructed EHS facility that reflect current state of the art and the lowered possible risk commensurate with the environment of the site? _____
 - v. Evaluating each incorporated feature of the risk reduction plan? _____
14. Did the persons performing the risk assessment of each existing EHS facility meeting the criteria of N.J.A.C. 7:31-3.9 prepare a report of the risk assessment:
- i. Identifying the EHS facility that is the subject of the risk assessment? _____
 - ii. Listing the names, positions and affiliations of the persons who performed it? _____
 - iii. Presenting the risks identified? _____

- iv. Recommending a risk reduction plan that reflects consideration of state of the art including a proposed schedule of implementation? _____
- v. Presenting a summary of the evaluation of each recommended item of the risk reduction plan? _____

EMERGENCY RESPONSE

The following are the questions for emergency response planning (see N.J.A.C. 7:31-3.10):

- 1. Has the approved written emergency response program been updated to reflect changes approved by the responsible manager during the past 12 months? _____
- 2. Has the membership of the emergency response program committee been maintained at the level required by the emergency response program? _____
- 3. Has the emergency response program committee maintained and updated the emergency response plan? _____
- 4. Have the copies of the distributed emergency response plan been maintained in an up-to-date condition? _____
- 5. Have up-to-date plot plans and maps of the surrounding community been distributed as prescribed in the site's emergency response program? _____
- 6. Have up-to-date EHS material safety data sheets and process flow diagrams been distributed as prescribed in the site's emergency response program? _____
- 7. Has equipment capable of sensing the imminence or existence of an EHS release been maintained in working order? _____
- 8. Has the two-way radio equipment been maintained in working order? _____
- 9. Has the emergency lighting equipment been maintained in working order? _____
- 10. Have the procedures for recording sequence of events during emergency conditions been utilized during the past 12 months? _____
- 11. Has the self-contained breathing apparatus been maintained in working order and distributed in accordance with the emergency response program? _____
- 12. Has the fire fighting equipment been maintained in working condition? _____
- 13. Have the portable EHS gas monitors and detectors been maintained in working conditions and calibrated in accordance with the approved schedule in the emergency response program? _____
- 14. Have the emergency medical supplies been inspected, maintained and, where necessary, replenished? _____
- 15. Has the protective clothing been inspected, maintained and, where appropriate, replaced? _____
- 16. Has the scheduled initial and refresher emergency response training for all site employees been performed? _____

- i. Did the emergency response training include:
- (1) Alarm identification and response? _____
 - (2) Response to EHS release? _____
 - (3) Use of emergency response protective equipment? _____
 - (4) Evacuation procedures? _____
17. Has the scheduled initial and refresher emergency response training for the site's emergency response team been performed? _____
- i. Did emergency response training include:
- (1) Alarm identification and response? _____
 - (2) Response to EHS release? _____
 - (3) Use of emergency protective equipment? _____
 - (4) Rescue procedures? _____
 - (5) Evacuation procedures? _____
 - (6) Medical assistance? _____
 - (7) Training in specific assigned emergency response duties? _____
18. Have the two scheduled emergency response drills been performed? _____
19. Has there been a written assessment of the emergency response program including, but not limited to:
- i. The adequacy of the emergency response plan? _____
 - ii. The implementation of the emergency response plan during the two drills and any emergencies that occurred during the past 12 months? _____
 - iii. The performance of the site personnel and the site emergency response team during the two drills and any emergencies that occurred during the past 12 months? _____
 - iv. The adequacy of first aid and medical treatment procedures during the two drills and any emergency that occurred during the past 12 months? _____
 - v. The adequacy of the on-and-off site emergency response communications system? _____
 - vi. The adequacy of emergency power and lighting systems? _____
20. Has the onsite meteorological station been properly maintained in working condition? _____
21. Has the site's emergency response plan been coordinated with the emergency response plan of the local emergency planning committee during the past 12 months? _____
22. Has a written emergency response plan been prepared in accordance with N.J.A.C. 7:31-3.10(b) and is it maintained at the site? _____
23. Has the list of the emergency response equipment and supplies and their location at the site been updated in the last six months? _____
24. Are the names and titles of the site emergency coordinator and alternates current? _____

25. Is the designation of emergency operators required by N.J.A.C. 7:31-3.10(b)(6) current? _____
26. Has the Department's emergency control center been notified immediately for each EHS release or imminent EHS release at the site as prescribed by the plan? _____
27. Has the site's emergency coordinator placed a second call to the Department within 15 minutes of each EHS release or imminent EHS release at the site as prescribed by the emergency response plan? _____

HUMAN SERVICES

(a)

DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

Pharmaceutical Services Manual Dispensing Fee

Proposed Amendment: N.J.A.C. 10:51-1.17

Authorized By: Drew Altman, Commissioner, Department of Human Services

Authority: N.J.S.A. 30:4D-3i, 30:4D-6b(6) and g(1) and (2), 30:4D-7, 7a, b and c, and 12, 30:4D-20 and 24

Proposal Number: PRN 1987-381.

Submit comments by October 21, 1987 to:

Henry W. Hardy, Esq.
Administrative Practice Officer
Division of Medical Assistance and Health Services
CN-712
Trenton, NJ 08625

The agency proposal follows:

Summary

Pharmacies that participate in the Medicaid and/or PAAD (Pharmaceutical Assistance to the Aged and Disabled) programs are reimbursed by the following method: cost of the drug, plus a dispensing fee. This proposed amendment will raise the dispensing fee by \$0.10 (10 cents) or from \$3.53 to \$3.63. This fee increase pertains only to legend drugs.

The basis for the fee increase is the State Appropriations Act for State Fiscal Year 1988 (P.L. 1987, c.154).

Social Impact

There should be a positive social impact on both pharmaceutical providers and the community. The providers should continue to participate in both the Medicaid and PAAD programs, thereby enabling qualified individuals to receive necessary pharmaceutical services.

Economic Impact

The total cost of the fee increase has been projected to be approximately \$1.2 million. The cost to the State will be approximately \$850,000. The Federal government will contribute approximately \$350,000. The reason for the difference in Federal-State dollars is that only the Medicaid program is entitled to federal matching funds. The PAAD program is wholly State funded.

The economic impact on pharmaceutical providers who participate in Medicaid and/or PAAD will vary, depending on the number of prescriptions filled under these programs.

There will be no cost to the Medicaid patient. The PAAD beneficiary is required to pay a \$2.00 co-payment for each prescription.

Regulatory Flexibility Statement

This proposed amendment does not require a regulatory flexibility analysis because it does not impose any reporting, recordkeeping or compliance requirements upon small business. There are no capital costs for complying with this rule.

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