

### §3-111 Hazardous Materials Penalty Schedule

#### HAZARDOUS SUBSTANCES EMERGENCY RESPONSE LAW PENALTY SCHEDULE

All citations, unless otherwise indicated are to the NYC Administrative Code.

A second violation is a violation by the same respondent of the same section of law with a date of occurrence within three (3) years of the date of occurrence of the previous violation.

\* The following shall be considered environmentally sensitive areas: wetlands and wetland buffer areas; National and State parks; critical habitats for endangered and threatened plant and animal species; wilderness and natural areas; marine sanctuaries; conservation areas; preserves; wildlife areas; scenic, wild or recreational rivers; seashore and lakeshore recreational areas; critical biological resource areas; National and State protected and critical environmental areas (CEAS) as defined in 6 NYCRR Section 617.2(i).

| SECTION/OFFENSE/<br>PENALTY  | MITIGATING FACTORS<br>(CUMULATIVE)   | AGGRAVATING FACTOR<br>(CUMULATIVE, UP TO A<br>TOTAL PENALTY OF<br>\$10,000)   | DEFAULT  |
|--|--|---|----------|
| 24-609(b)<br>1 <sup>st</sup> offense<br>Failed to comply with<br>notification<br>requirements upon<br>release of hazardous<br>substance<br>\$4,000<br>AHZ1 | <ol style="list-style-type: none"> <li>1. Subtract \$500, if telephone within 24 hours. Telephone notification shall be found where respondent provided DEP with all of the telephone notification requirements as provided in 15 RCNY 11-03(b) within 24 hours of when respondent knows or has reason to know of a release.</li> <li>2. Subtract \$500, if respondent did provide written notification. Written notification shall be found where respondent provided DEP with all of the written notification requirements as provided in 15 RCNY 11-03 (c).</li> <li>3. Subtract \$1000, if began abating release within 3 hours of when respondent knew or had reason to know of a release.</li> </ol> | <ol style="list-style-type: none"> <li>1. Add \$2,500, if release occurred within 1,000 feet of any of the following: residence district as defined by the New York City Zoning Resolution; school, highway, parkway or any other three lane roadway; environmentally sensitive area*; hazardous/toxic substance(s) industry/facility required to file under the New York City Community Right-to-know Law, Title 24 Chapter 7 of the New York Administrative Code.</li> <li>2. Add \$2,500, if amount of release was equal to or greater than twice the Reportable Quantity.</li> <li>3. Add \$2,500, if release caused actual injury to wildlife and/or human health.</li> <li>4. Add \$2,500 if willful or intentional release of the listed hazardous substance.</li> </ol> | \$10,000 |
| 24-609(b)<br>2 <sup>nd</sup> Offense<br>\$9,000<br>AHZ1  | SAME AS ABOVE  | SAME AS ABOVE   | \$10,000 |
| 24-610(c)  | 1. Subtract \$1,000, if  | 1. Add \$1,500, if failed to  | \$10,000 |

1<sup>st</sup> Offense  
willfully violated or  
failed or refused to  
comply with  
Commissioner's Order  
\$3,000  
AHZ2

complied with that portion of  
Scope of Work Order relating  
to securing of  
premises/building.

2. Subtract \$500, if complied  
with that portion of Scope of  
Work Order relating to  
identification of all hazardous  
substances.

comply with that portion of  
Scope of Work Order  
relating to Bills of Lading  
and Hazardous Waste  
Manifests.

2. Add \$1,500, if total non-  
compliance, i.e. failed to  
comply with any part of  
Commissioner's Order. (In  
such cases, there could be  
no mitigating factors.)

24-610(c)  
2<sup>nd</sup> Offense \$4,500  
AHZ2

SAME AS ABOVE

SAME AS ABOVE

\$10,000