

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

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

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

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

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

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

(j)-(l) (Reserved)

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

(n) (Reserved)

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

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

(q) Each owner or operator submitting a confidentiality claim substantiation form in accordance with N.J.A.C. 7:31-10.5(d) shall submit a fee of \$350.00 in 1988 dollars, adjusted pursuant to (u) below by the Consumer Price Index from July

1988 to the month in which the claim is submitted, for the review of the claim at the time of submitting the claim substantiation form. The fee shall be submitted in accordance with the remittance information contained on the bill.

(r) Each owner or operator submitting a petition to withhold privileged trade secret or security information in accordance with N.J.A.C. 7:31-10.6 shall submit a fee of \$350.00 in 1988 dollars, adjusted pursuant to (u) below by the Consumer Price Index from July 1988 to the month in which the petition is submitted, for the review of his or her petition at the time of submitting the petition substantiation form. The fee shall be submitted in accordance with the remittance information contained on the bill.

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

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

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

1. The CPI for July 1988 is 117.2;

2. The CPI used in calculating the fee for the submittal month shall be the most recent CPI-U available at the time the request is submitted;

3. The percentage change in the CPI relative to the July 1988 CPI shall be calculated in accordance with the following formula:

i. $\text{Percentage Change} = 100 \times ((\text{submittal month CPI} - 117.2)/117.2)$

ii. Where:

(1) Submittal month CPI is the CPI determined pursuant to (u)2 above; and

(2) 117.2 is the CPI for July 1988, pursuant to (u)1 above;

4. If the percentage change is a negative number, the submittal fee shall not be decreased; and

5. The submittal fee shall be rounded up to the nearest half dollar.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Public Notice: Availability of annual TCPA fee schedule report for Fiscal Year (FY) 2007.

See: 39 N.J.R. 260(b).

Public Notice: Availability of Annual TCPA Fee Schedule Report for Fiscal Year (FY) 2008.

See: 40 N.J.R. 758(b).

Public Notice: Availability of Annual TCPA Fee Schedule Report for Fiscal Year (FY) 2009.

See: 41 N.J.R. 1107(a).

Amended by R.2009 d.85, effective March 16, 2009.

See: 40 N.J.R. 5109(a), 41 N.J.R. 1206(b).

In (c)5i, substituted "facilities" for "stationary sources"; in (o) and (p), substituted "facility" for "stationary source"; rewrote (q); in (r), inserted "in 1988 dollars, adjusted pursuant to (u) below by the Consumer Price Index from July 1988 to the month in which the petition is submitted,"; and added (t) and (u).

Public Notice: Availability of Annual TCPA Fee Schedule Report for Fiscal Year (FY) 2010.

See: 42 N.J.R. 528(a).

Public Notice: Availability of Annual TCPA Fee Schedule Report for Fiscal Year (FY) 2011.

See: 43 N.J.R. 750(a).

Public Notice: Availability of Annual TCPA Fee Schedule Report for Fiscal Year (FY) 2012.

See: 44 N.J.R. 598(a).

7:31-1.12 Release of information by insurance carriers

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

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

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

1. Reports of inspections for compliance with mandated codes or standards;
2. Reports of safety and environmental inspections or audits;
3. Reports of inspections of fire protection equipment;
4. Reports of any additional studies conducted which evaluated the adequacy of the owner or operator's management of EHSs; and
5. The reports requested in (c)1 through 4 above shall include a summary of any deficiencies found and any recommended remedial actions.

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

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

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

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

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

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

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

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

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

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

SUBCHAPTER 2. HAZARD ASSESSMENT

7:31-2.1 Incorporation by reference

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

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

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

1. 40 CFR 68.20, in the first sentence, delete the word "part" and replace with "chapter."
2. 40 CFR 68.22(a)(1), after "in Appendix A of this part." add, "Toxic endpoints for Table I, Part A toxic substances not listed in Appendix A shall be determined in accordance with the criteria used by EPA in developing 40 CFR Part 68 Appendix A."

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

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

1. The owner or operator shall consider the explosive/flammability hazard of the RHS.
2. For stationary sources that have multiple RHSs or RHS mixtures in covered process(es), the owner or operator shall report in the RMP the one worst-case release scenario that is estimated to create the greatest distance in any direction to the endpoint. The owner or operator shall report in the RMP additional worst-case release scenarios if a worst-case release from another covered process at the stationary source potentially affects public receptors different from those potentially affected by the worst-case scenario with the greatest endpoint distance.
3. The owner or operator shall identify, analyze, and report at least one alternative release scenario to represent all RHSs or RHS mixtures held in covered processes.
4. The owner or operator shall report in the RMP the RHS hazard assessment results in the RMP Offsite Consequence Analysis sections for flammable substances.

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

1. Endpoint parameters: the endpoints for flammables listed at 40 CFR 68.22(a)(2);
2. Worst case release quantity: the maximum capacity of the largest process vessel containing an RHS or RHS mixture, not taking into account administrative controls that limit the maximum quantity;
3. A TNT-equivalent explosion method or any commercially or publicly available explosion modeling techniques, provided the techniques account for the modeling conditions and are recognized by industry as applicable as part of current practices. Proprietary models that account for the modeling conditions may be used provided the owner or operator allows the implementing agency access to the model and describes model features and differences from publicly available models upon request. When using a TNT-equivalent explosion method, the owner or operator shall use the following parameters:
 - i. The heat of reaction of the RHS or RHS mixture;
 - ii. One hundred percent of the potential heat release (heat of reaction) assumed to contribute to the explosion for an RHS mixture in a process vessel;
 - iii. One hundred percent of the potential heat release (heat of reaction) assumed to contribute to the explosion

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

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

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

New Rule, R.2003 d.335, effective August 4, 2003.
 See: 35 N.J.R. 935(a), 35 N.J.R. 3618(b).
 Amended by R.2009 d.85, effective March 16, 2009.
 See: 40 N.J.R. 5109(a), 41 N.J.R. 1206(b).

In (b)3iii, substituted "One hundred" for "Twenty-eight", and inserted "but 28 percent of the heat of combustion may be used as an approximation if the detailed heat of reaction data is not available".

SUBCHAPTER 3. (RESERVED)

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

7:31-4.1 Incorporation by reference

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

(b) (Reserved)

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

1. 40 CFR 68.65(c)(1)(i), before "process flow diagram" delete "block flow diagram or simplified."
2. 40 CFR 68.65(d)(1)i, at the beginning, add the words "Equipment specifications including" before the existing words "Materials of construction";
3. 40 CFR 68.65(d)(1), at the end, add the following:
 - i. Electrical one-line diagrams relevant to the covered process and its potential releases;
 - ii. Site plan;
 - iii. Firewater system piping diagrams relevant to the covered process and its potential releases;

- iv. Sewer system piping diagrams relevant to the covered process and its potential releases; and
 - v. External forces and events data.
4. 40 CFR 68.65(d)(2), after “good engineering” add “and operating”.
 5. 40 CFR 68.67, Process hazard analysis, in the heading, after “Process hazard analysis” add “with risk assessment for specific pieces of EHS equipment or operating procedures.”
 6. 40 CFR 68.67(a), add the following:
 - i. In the first and second sentences, after the phrase “process hazard analysis” add the phrase “with risk assessment.”
 - ii. In the third sentence, after the phrase “process hazard analyses” add the phrase “with risk assessments.”
 - iii. In the third sentence, after the word “employees” add the phrase “and offsite public.”
 - iv. In the fourth sentence, after the phrase “process hazard analysis” add the phrase “with risk assessment.”
 7. 40 CFR 68.67(f), add the following:
 - i. In the first sentence, after the first and the second occurrences of the phrase “process hazard analysis” add the phrase “(with risk assessment).”
 - ii. In the first sentence, after the third occurrence of the phrase “process hazard analysis” add the phrase “with risk assessment.”
 - iii. In the second sentence after “29 CFR 1910.119(e)” add the phrase, “and the additional requirements of N.J.A.C. 7:31-4.2”.
 8. 40 CFR 68.69, Operating procedures, in the heading, add “Standard” before “operating procedures.” Also, at 40 CFR 68.69(a), Operating Procedures, at the end of the