

(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).

### 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."