

**TOXIC CATASTROPHE PREVENTION ACT PROGRAM**

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

Added (n).

Amended by R.1991 d.463, effective September 3, 1991.

See: 23 N.J.R. 818(a), 23 N.J.R. 2780(a).

In (a), added references to N.J.A.C. 7:31-2.5, "(i) through (m) below" for computation of fees and "(f) through (h) below" for billing and remittance. Deleted texts of (b) and (c); Reserved. In (d), deleted reference to (b) and (c); deleted "with the registration forms"; added "in accordance with the bill received from the Department". In (e), deleted "with the amended registration forms"; added "in accordance with the bill received from the Department". In (g), deleted references to calendar year 1988 and (f). In (h), added "Any registrant which has not paid its annual fee by the due date will be assessed a 25 percent late fee." In (j), the words "or" and "or both" replaced "and" as a clarification of what the fee applies to and the fee was revised to "\$6,500". In (k), fee revised to "\$6,500". In (l)3, revised inventory derived fee. In (m), added "except for (n) below". Added (n). Recodified existing (n) and (o) as (o) and (p).

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

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

Public Notice: Annual TCPA Fee Schedule Report, FY 1995.

See: 26 N.J.R. 5116(a).

Public Notice: Annual TCPA Fee Schedule Report, FY 1996.

See: 27 N.J.R. 5055(a).

Public Notice: Annual TCPA Fee Schedule Report, FY 1997.

See: 28 N.J.R. 5499(b).

Public Notice: Annual TCPA Fee Schedule Report, FY 1998.

See: 29 N.J.R. 5334(c).

Recodified from N.J.A.C. 7:31-2.16 and amended by R.1998 d.355, effective July 20, 1998 (to expire June 21, 1999).

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

In (a), (i), (l) and (o), changed N.J.A.C. references; in (h), substituted "in accordance with the remittance information contained on the bill" for an address at the end; in (q) and (r), changed N.J.A.C. references, and substituted "on the bill" for "in N.J.A.C. 7:31-2.16(h)" at the end of each; and added (s) through (u).

Public Notice: Annual TCPA Fee Schedule Report, FY 1999.

See: 30 N.J.R. 4478(b).

**7:31-1.11A Fees (effective on June 21, 1999)**

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

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

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

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

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

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

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

- iv. The estimated TCPA program operating expenses; and

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

2. Subtract a positive difference or add a negative difference of the "budget-expenditure variance" of the spending plan for the TCPA program of the prior fiscal year, determined by the Department as of October 1 of the current fiscal year, from the amount of money required to fund the TCPA program determined in (c)1 above to determine the net money required;

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

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

- ii. Determine the contribution of the aggregate inventory fees to be collected as 40 percent of the net money required as determined at (c)2 above; and

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

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

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

ii. Determine the contribution of the aggregate covered process fees to be collected as 40 percent of the net money required as determined at (c)2 above; and

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

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

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

ii. Determine the contribution of the aggregate base fee to be collected as 20 percent of the net money required as determined at (c)2 above; and

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

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

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

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

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

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

1. This bill shall include the base fee and fees calculated using inventory and covered process data from the owner or operator's registration form 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 registration form 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 stationary source 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 obtained or has temporarily discontinued in accordance with N.J.A.C. 7:31-4.10 for one or more EHSs, but has retained other registered EHSs at the stationary source, 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 for the review of the claim at the time he or she submits the claim substantiation form. The fee shall be paid in the manner specified and be sent to the address indicated in N.J.A.C. 7:31-1.11(h).

(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 for the review of his or her petition at the time of submitting the petition substantiation form. The fee shall be paid in the manner specified and be sent to the address indicated in N.J.A.C. 7:31-1.11(h).

(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.

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).