

# **ASSEMBLY, No. 1014**

## **STATE OF NEW JERSEY**

### **208th LEGISLATURE**

PRE-FILED FOR INTRODUCTION IN THE 1998 SESSION

**Sponsored by:**

**Assemblyman CHARLES "KEN" ZISA**

**District 37 (Bergen)**

**Co-Sponsored by:**

**Assemblywoman Weinberg and Assemblyman Improveduto**

**SYNOPSIS**

Requires facilities that generate, store, or handle certain explosives to comply with the provisions of the Toxic Catastrophe Prevention Act.

**CURRENT VERSION OF TEXT**

Introduced Pending Technical Review by Legislative Counsel.



**(Sponsorship Updated As Of: 10/19/1999)**

1 AN ACT concerning the regulation of explosives and amending  
2 P.L.1985, c.403.

3  
4 **BE IT ENACTED** *by the Senate and General Assembly of the State*  
5 *of New Jersey:*

6  
7 1. Section 3 of P.L.1985, c.403 (C.13:1K-21) is amended to read  
8 as follows:

9 3. 13:1K-21. Definitions

10 As used in this act:

11 a. "Extraordinarily hazardous accident risk" means a potential for  
12 release of an extraordinarily hazardous substance into the environment,  
13 or a potential for an explosion caused by an extraordinarily hazardous  
14 substance, which could produce a significant likelihood that persons  
15 exposed or impacted may suffer acute health effects resulting in death  
16 or permanent disability;

17 b. "Commissioner" means the Commissioner of the Department of  
18 Environmental Protection;

19 c. "Department" means the Department of Environmental  
20 Protection;

21 d. "Extraordinarily Hazardous Substance Accident Risk  
22 Assessment" or "EHSARA" means a review and safety evaluation of  
23 those operations in a facility which involve the generation, storage, or  
24 handling of an extraordinarily hazardous substance, as provided in  
25 section 6 of this act;

26 e. "Extraordinarily Hazardous Substance" means any substance or  
27 chemical compound used, manufactured, stored, or capable of being  
28 produced from on-site components in this State in sufficient quantities  
29 at a single site such that its release into the environment, or its causing  
30 an explosion, would produce a significant likelihood that persons  
31 exposed or impacted will suffer acute health effects resulting in death  
32 or permanent disability;

33 f. "Extraordinarily Hazardous Substance List" means the  
34 substances or chemical compounds identified in subsection a. of  
35 section 4 of this act and adopted by regulation pursuant to subsection  
36 c. of that section;

37 g. "Extraordinarily Hazardous Substance Risk Reduction Work  
38 Plan" or "work plan" means the document developed by the  
39 department for each facility at which is generated, stored, or handled  
40 an extraordinarily hazardous substance, setting forth the scope and  
41 detail of the EHSARA to which the facility will be submitted, as  
42 provided in section 6 of this act;

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

**EXPLANATION** - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.

Matter underlined thus is new matter.

1 Facility shall not include a research and development laboratory, which  
2 means a specially designated area used primarily for research,  
3 development, and testing activity, and not primarily involved in the  
4 production of goods for commercial sale, in which extraordinarily  
5 hazardous substances are used by or under the supervision of a  
6 technically qualified person;

7 i. "Risk management program" means the sum total of programs  
8 for the purpose of minimizing extraordinarily hazardous accident risks,  
9 including, but not limited to, requirements for safety review of design  
10 for new and existing equipment, requirements for standard operating  
11 procedures, requirements for preventive maintenance programs,  
12 requirements for operator training and accident investigation  
13 procedures, requirements for risk assessment for specific pieces of  
14 equipment or operating alternatives, requirements for emergency  
15 response planning, and internal or external audit procedures to ensure  
16 programs are being executed as planned.

17 (cf: P.L.1985, c.403, s.3)

18

19 2. Section 3 of P.L.1985, c.403 (C.13:1K-22) is amended to read  
20 as follows:

21 3. a. The following chemicals or chemical compounds, in the  
22 quantities indicated, shall constitute the initial extraordinarily  
23 hazardous substance list: hydrogen chloride (HCl) and allyl chloride  
24 in quantities of 2,000 pounds or more; hydrogen cyanide (HCN),  
25 hydrogen fluoride (HF), chlorine (Cl<sub>2</sub>), phosphorus trichloride, and  
26 hydrogen sulfide (H<sub>2</sub>S) in quantities of 500 pounds or more; and  
27 phosgene, bromine, methyl isocyanate (MIC), and toluene-2,  
28 4-diisocyanate (TDS) in quantities of 100 pounds or more.

29 b. Within 60 days of the effective date of this act, the department  
30 shall develop and issue a registration form to be completed within 120  
31 days of the effective date of this act, by the owner or operator of each  
32 facility in the State which at any time generates, stores, or handles any  
33 of the extraordinarily hazardous substances on the initial  
34 extraordinarily hazardous substance list, pursuant to subsection a. of  
35 this section. The registration form shall provide, in addition to any  
36 other information that may be required by the department, the  
37 following: an inventory of the extraordinarily hazardous substance or  
38 substances generated, stored, or handled at the facility and the quantity  
39 or quantities thereof, which inventory shall identify whether those  
40 substances are end products, intermediate products, by-products, or  
41 waste products; a general description of the processes and principal  
42 equipment involved in the management of the substance or substances;  
43 a profile of the area in which the facility is situated, including its  
44 proximity to population and water supplies; the extent to which the  
45 risks and hazards of the processes, equipment, and operations have  
46 been identified, evaluated, and abated, and the expertise and affiliation

1 of the evaluators and any direct or indirect relationship between the  
2 evaluators and the owner or operator of the facility; and the name or  
3 names of all insurance carriers underwriting the facility's environmental  
4 liability and workers' compensation insurance policies and the scope  
5 of these policies, including any limitations and exclusions.

6 c. Within 18 months of the effective date of this act, the  
7 Department of Environmental Protection, in consultation with the  
8 Department of Health, shall develop and, after public hearing, adopt  
9 as a regulation, pursuant to the "Administrative Procedure Act,"  
10 P.L.1968, c.410 (C.52:14B-1 et seq.), an extraordinarily hazardous  
11 substance list. The list shall correlate the substances or compounds  
12 with the quantities thereof required to produce the potentially  
13 catastrophic circumstance. The department shall have the power to  
14 amend, by regulation, the extraordinarily hazardous substance list to  
15 accommodate new chemical compounds that may be developed or  
16 reflect new information or scientific data that may become available to  
17 the department. Within 180 days of the effective date of P.L. \_\_, c.  
18 (now before the Legislature as this bill), the department shall adopt a  
19 regulation amending the extraordinarily hazardous substance list to  
20 include Class 1, Division 1.1 explosives, in quantities of 5,000 pounds  
21 or more, as listed in regulations of the United States Department of  
22 Transportation pursuant to 49 U.S.C. §5101 et seq. and codified at 49  
23 CFR §172.101.

24 d. Within 90 days of the adoption by the department of an  
25 extraordinarily hazardous substance list pursuant to subsection c. of  
26 this section, or of an addition to that list, the owner or operator of  
27 each facility in the State which generates, stores, or handles any of the  
28 extraordinarily hazardous substances on the extraordinarily hazardous  
29 substance list, not registered pursuant to subsection b. of this section,  
30 shall complete the registration form developed and issued by the  
31 department.

32 (cf: P.L.1985, c.403, s.4)

33  
34 3. Section 6 of P.L.1985, c.403 (C.13:1K-24) is amended to read  
35 as follows:

36 6. Upon review of all registrations and accompanying materials  
37 submitted pursuant to this section, the department shall, in cooperation  
38 with the facility owner or operator, develop an Extraordinarily  
39 Hazardous Substance Risk Reduction Work Plan for each registered  
40 facility without a risk management program agreed upon by the facility  
41 owner and the department or subject to a consent agreement or  
42 administrative order entered into pursuant to section 5 of this act. The  
43 work plan shall constitute the basis for any Extraordinarily Hazardous  
44 Substance Accident Risk Assessment required of that facility, to be  
45 performed pursuant to this section. The work plan shall require the  
46 reporting of the identity and quantity of all extraordinarily hazardous

1 substances generated, stored, handled, or that could unwittingly be  
2 produced in the event of an equipment breakdown, human error,  
3 design defect, or procedural failure, or the imposition of an external  
4 force; the nature, age, and condition of all the equipment and  
5 instruments involved in the handling and management of the  
6 extraordinarily hazardous substance or substances at the facility, and  
7 the schedules for their testing and maintenance; the measures and  
8 precautions designed to protect against the intrusions of external  
9 forces and events, or to control or contain discharges and explosions  
10 within the facility; the circumstances that would have to obtain in  
11 order for there to result a discharge or explosion of an extraordinarily  
12 hazardous substance, and the practices, procedures, and equipment  
13 designed to forestall such an event; any alternative processes,  
14 procedures, or equipment which might reduce the risk of a release or  
15 explosion of an extraordinarily hazardous substance while yielding the  
16 same or commensurate results, and the specific reasons they are not  
17 employed; any training or management practices in place which impart  
18 knowledge to relevant personnel regarding the dangers posed by a  
19 release or explosion of an extraordinarily hazardous substance and the  
20 training provided to prepare them for the safe operation of the facility  
21 and for unanticipated occurrences; any other preventive maintenance  
22 measure or on-site emergency response capability or other internal  
23 mechanism developed to safeguard against the occurrence of an  
24 accidental release or explosion of an extraordinarily hazardous  
25 substance or any other aspect or component of the facility deemed  
26 relevant by the department. The department may, by regulation or on  
27 a case-by-case basis, limit the scope or detail of the work plan and the  
28 priority or frequency of review of any facility or facility operation or  
29 component thereof where it determines, in writing, that the action does  
30 not remove or compromise the protection required for the public  
31 interest, and enables the department to allocate its resources more  
32 efficiently and effectively.

33 (cf: P.L.1985, c.403, s.6)

34  
35 4. This act shall take effect immediately.

#### 36 37 38 STATEMENT

39  
40 This bill would amend the "Toxic Catastrophe Prevention Act,"  
41 P.L.1985, c.403 (C.13:1K-19 et seq.) (TCPA), to include certain  
42 explosives. The TCPA was enacted in 1985 to prevent extremely  
43 hazardous chemicals from being released into the atmosphere and  
44 which chemicals had the potential to cause serious harm or death to  
45 humans from exposure. The TCPA was enacted in response to the  
46 chemical release tragedy in Bhopal, India.

1       As enacted, the TCPA does not specifically include explosives but  
2 rather regulates a number of chemicals that could cause harm if a  
3 person were to be exposed to them. Because of the serious potential  
4 danger posed to the State's population from explosives, especially  
5 given the population density of this State, it is appropriate to include  
6 explosives under the TCPA. This amendment would help ensure that  
7 accidents at facilities that generate, store, or handle explosives would  
8 be prevented and if an explosion were to occur, that the appropriate  
9 emergency response would be taken.

10       The bill does not include all explosives but is limited to Class 1,  
11 Division 1.1 explosives as determined by the United States Department  
12 of Transportation, and only if they are generated, stored, or handled  
13 in quantities of 5,000 pounds or more. These explosives are listed at  
14 49 CFR§172.101. These explosives are generally defined as  
15 "explosives that have a mass explosion hazard. A mass explosion is  
16 one which affects almost the entire load instantaneously." 49  
17 CFR§173.50.