

**Model Union Request Letter to Submit to Facility Management
for Facilities Covered by the OSHA *Process Safety Management Standard*, federal
Clean Air Act Section 112(r), and/or the NJ *Toxic Catastrophe Prevention Act***

This model letter is intended for use by unions representing private sector facilities.

The NJ Work Environment Council (WEC) has created this sample letter to management to help your union protect your members and the local community. Edit the letter to fit your needs.

Which regulations cover your facility?

1. Your facility may not be covered by all of the statutes listed in the letter. IF the facility is covered by OSHA's *Process Safety Management Standard*, it is likely covered by federal *Clean Air Act* (CAA) Section 112(r). However, not all facilities covered by CAA Section 112 (r) are covered by OSHA's PSM Standard.

To determine if your facility is covered by OSHA's PSM standard, please consult the booklet entitled, "Preventing Chemical Accidents: OSHA's Process Safety Management Standard" included with the Union Toolkit for Health & Safety at High-Hazard Facilities.

2. To determine if your facility is covered by New Jersey's *Toxic Catastrophe Prevention Act (TCPA)*, consult the list of facilities covered by NJ TCPA on the fact sheet entitled, "Rule for Inherently Safer Technology Review".

A few notes about the information requested in the letter:

1. Information concerning "working conditions" must also be provided to the union (concerning a private sector facility) based on precedents issued by the National Labor Relations Board. Consult your union's attorney if you want to consider using this approach.
2. Management *may* want you personally or the union to sign a confidentiality agreement not to disclose some or all of this information to the public or even to union members. Please consult your union or WEC for advice on how to handle such management requests.

We ask that your local send WEC a blind copy of the union's letter to management and keep us informed of your progress in obtaining this information. Send a blind copy to WEC at 142 West State Street, Third Floor, Trenton, NJ 08608.

If you need further assistance with filing this request or if your request is denied, contact us at (609) 695-7100.

Union Letterhead

Date
Certified, Return Receipt

Name of Management Official
Title
Facility
Address
City, State, Zip

Dear _____:

On behalf of the union, which represents employees at this facility, we request information concerning the risks that this facility may pose to nearby communities because the facility manufactures, uses, stores, and/or handles extremely (or extraordinarily) hazardous chemicals. If there was an accident involving such substances that originated at our site, it is highly likely that employees would be at risk to suffer serious physical harm.

Provision of this information to the union is mandated under the provisions of the referenced statutes and regulations referenced below.

___ This facility is regulated under OSHA’s *Process Safety Management Standard* (PSM – CFR 1910.119). Therefore, please provide copies of the following information for this facility:

- ___ The written plan of action regarding employee participation.
- ___ Process hazard analyses.
- ___ Material safety data sheets for all highly hazardous chemicals (access is also guaranteed by OSHA’s Hazard Communication standard).
- ___ Plans for worker refresher training.
- ___ The two most recent compliance audit reports.

___ This facility is regulated under the federal *Clean Air Act, Section 112(r)*. Section 68.83(c) says “The owner or operator shall provide to employees and their representatives access to process hazard analyses **and to all other information required to be developed under this rule”. This includes the hazard assessment and worst-case information. **Therefore, please provide copies of the following information for this facility:****

___ The Risk Management Plan for this facility provided to the US Environmental Protection Agency, including all off-site consequence information.

___ **This facility is regulated under the *New Jersey Toxic Catastrophe Prevention Act (TCPA)*.** TCPA incorporates the federal *Clean Air Act* requirement at Section 68.83(c) that “The owner or operator shall provide to employees and their representatives access to process hazard analyses **and to all other information** [our emphasis] required to be developed under this rule”.

Therefore, please provide copies of the following information for this facility:

___ If not previously provided to the union, the initial Inherently Safer Technology (IST) Review.^{1,2}

___ All subsequent IST Reviews and updates in accordance with N.J.A.C. 7:31-4.12(b). (IST Reviews must be updated at the same time as Process Hazard Analysis reviews.)

___ **This facility is regulated under OSHA regulation 1904.35 – OSHA’s Injury and Illness Recordkeeping Requirement.** Therefore, please provide copies of all OSHA Incident Reports (Form 301) involving highly hazardous substances for the current calendar year and for the previous three calendar years for this facility.

Thank you for your cooperation in responding to this request.

Sincerely,

President (or other authorized union officer)

¹ The initial IST review pursuant **for chemical plants** was required by the *Best Practices Standards at TCPA/DPCC Chemical Sector Facilities*, Section 5, issued on November 21, 2005. This report should have been completed by April 2006.

² For **other** types of TCPA covered facilities than chemical plants, an initial *Inherently Safer Technology Review Report* must have been completed pursuant to the TCPA Rules at N.J.A.C. 7:31-3.6 and 4.12 adopted on May 5, 2008. This report should have been completed and received by the NJ Department of Environmental Protection by September 2, 2008.