

NEW JERSEY STATE LIBRARY

CHAPTER 1G

WORKER AND COMMUNITY RIGHT TO KNOW REGULATIONS

Authority

N.J.S.A. 34:5A-1 et seq., 13:1D et seq. and 52:27D-223.

Source and Effective Date

R.1994 d.349, effective June 16, 1994. See: 26 N.J.R. 123(a), 26 N.J.R. 2930(a).

Executive Order No. 66(1978) Expiration Date

Chapter 1G, Worker and Community Right to Know Regulations, expires on June 16, 1999.

Chapter Historical Note

Chapter 1G formerly contained the interim rules of the Pinelands Commission, subchapter 1 of which was filed and became effective on August 20, 1979 as R.1979 d.333. See: 11 N.J.R. 320(b), 11 N.J.R. 502(b). Subchapter 2 of the interim rules was filed and became effective on August 20, 1979 as R.1979 d.332. See: 11 N.J.R. 504(a). A comprehensive Management Plan for the Preservation Area was filed on August 15, 1980 to become effective on September 23, 1980 as R.1980 d.370. See: 12 N.J.R. 309(a), 12 N.J.R. 575(c). Regulations which superseded the interim rules contained in N.J.A.C. 7:1G and the Plan for the Preservation Area were filed and became effective on January 14, 1981 as R.1981 d.13. See: 12 N.J.R. 309(a), 12 N.J.R. 513(b), 13 N.J.R. 91(e). These superseding rules are codified as N.J.A.C. 7:50.

This chapter subsequently contained the drought crises emergency rules which were filed on an emergency basis and became effective on March 10, 1981 as R.1981 d.93 see: 13 N.J.R. 195(c). Subsequent amendments to the drought rules concerning car washing became effective on March 16, 1981 and were filed on March 18, 1981 as R.1981 d.105 see: 13 N.J.R. 204(c). Subsequent amendments concerning the watering of non-commercial crops, home vegetable gardens, the washing of refuse/garbage vehicles and street sweeping were filed and became effective on May 1, 1981 as R.1981 d.147 see: 13 N.J.R. 334(c). Amendments concerning the use of fresh water for horticultural purposes became effective on May 6, 1981 and were filed on May 7, 1981 as R.1981 d.159 see: 13 N.J.R. 335(a). Subsequent amendments to various sections of the drought rules were filed and became effective on May 20, 1981 as R.1981 d.203 see: 13 N.J.R. 397(d). Amendments concerning nonessential use of fresh water were filed and became effective on June 8, 1981 as R.1981 d.222 see: 13 N.J.R. 399(a). Amendments concerning the use of fresh water for watering lawns, plants, shrubs and gardens were filed and became effective on June 19, 1981 as R.1981 d.266 see: 13 N.J.R. 400(a). Amendments concerning excess use charges for landlords/tenants were filed and became effective on June 3, 1981 as R.1981 d.217 see: 13 N.J.R. 400(b). The drought crisis rules were repealed by Executive Order No. 5, sec. 6, on April 27, 1982.

On October 3, 1983 Water Supply Bond Loan Regulations for the Interconnection of Water Supply Systems were adopted at N.J.A.C. 7:1G pursuant to the Water Supply Bond Act, P.L. 1981, c.261, section 4, and became effective as R.1983 d.425. See: 14 N.J.R. 1012(a), 15 N.J.R. 1650(b). On June 18, 1984, R.1984 d.232 repealed the text of these rules except N.J.A.C. 7:1G-2.3, "Eligibility and criteria", and N.J.A.C. 7:1G-2.12, "Priority determination", which were recodified under Chapter 1A as N.J.A.C. 7:1A-4.1 and 4.2, respectively. Pursuant to amendments to the Water Supply Bond Act of 1981 (P.L. 1983, c.499), all Water Supply Bond Loan Programs were consolidated in Chapter 1A. See: 16 N.J.R. 631(a), 16 N.J.R. 1479(b).

Chapter 1G, Worker and Community Right to Know Regulations, Subchapters 1 through 5, was adopted as R.1984 d.278, effective July 2, 1984. See: 16 N.J.R. 646(a), 16 N.J.R. 1732(a). Subchapter 6, Trade Secrets, was adopted as R.1984 d.437, effective October 1, 1984. See: 16 N.J.R. 1854(a), 16 N.J.R. 1924(a), 16 N.J.R. 2530(b). Subchapter 7, Assessment of Civil Administrative Penalties, was adopted as R.1988 d.90, effective February 16, 1988. See: 19 N.J.R. 703(a), 20 N.J.R. 388(a). Pursuant to Executive Order No. 66(1978), Chapter 1G was readopted as R.1989 d.544, effective September 29, 1989. See: 21 N.J.R. 1944(a), 21 N.J.R. 3478(a).

Pursuant to Executive Order No. 66(1978), Chapter 1G was readopted as R.1994 d.349. See: Source and Effective Date. See, also, section annotations.

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**SUBCHAPTER 1. GENERAL PROVISIONS**

**7:1G-1.1 Scope**

Unless otherwise provided by rule or statute, this chapter shall constitute the rules of the Department implementing the Worker and Community Right to Know Act, P.L. 1983 c.315, N.J.S.A. 34:5A-1 et seq.

**7:1G-1.2 Definitions**

The following words and terms, when used in this chapter, shall have the following meanings unless the context clearly indicates otherwise.

“Act” means the Worker and Community Right to Know Act, P.L. 1983 c.315, N.J.S.A. 34:5A-1 et seq.

“Administrative order” means any and all orders issued or entered into by the Department including, but not limited, to administrative consent orders.

“Chemical Abstracts Service Registry Number” or “C.A.S. number” means the unique identification number assigned by the Chemical Abstracts Service to chemicals.

“Chemical name” means the scientific designation of a chemical in accordance with the nomenclature system developed by the International Union of Pure and Applied Chemistry or the Chemical Abstracts Service rules of nomenclature.

“Common name” means any designation or identification such as a code name, code number, trade name, brand name or generic name used to identify a chemical other than by its chemical name.

“Community Right to Know Survey” means the reporting form which combines the chemical inventory reporting requirements of the Environmental Survey, formerly Part I, and the Superfund Amendments and Reauthorization Act, Section 312.

“Compound” means a substance composed of two or more elements chemically united in a fixed proportion.

“Container” means a receptacle used to hold a liquid, solid, or gaseous substance, including, but not limited to, bottles, pipelines, bags, barrels, boxes, cans, cylinders, drums, cartons, vessels, vats, and stationary or mobile storage tanks. “Container” shall not include process containers.

“Department” means the New Jersey Department of Environmental Protection, however, for the purpose of N.J.A.C. 7:1G-6, it shall mean both the New Jersey Department of Environmental Protection and the State Department of Health, unless otherwise indicated.

“Designated county lead agency” means a health agency or office of emergency management designated by the county clerk to be responsible for conducting all county health department activities required by the Act in the county.

“Employee” means a person who works at a facility owned or operated by an employer as defined in this section on a paid or unpaid basis and who may or may not be directly paid by the employer who owns or operates the facility. It is not intended that this term encompass independent contractors.

“Unusually hazardous” means likely to explode due to a highly volatile nature, a propensity to produce toxic fumes, or a tendency to react with water or common firefighting chemicals and any other property which the Department of Environmental Protection determines will make a substance an uncommon danger to firefighters and the surrounding community in the event of its exposure to a fire.

Amended by R.1984 d.437, effective October 1, 1984.  
See: 16 N.J.R. 1854(a), 16 N.J.R. 2530(a).

Substantially amended.  
Amended by R.1993 d.386, effective August 2, 1993.  
See: 25 N.J.R. 858(a), 25 N.J.R. 3537(a).  
Amended by R.1994 d.3, effective January 3, 1994.  
See: 25 N.J.R. 1631(a), 26 N.J.R. 200(a).  
Administrative Correction.  
See: 26 N.J.R. 1337(a).  
Amended by R.1994 d.349, effective July 18, 1994.  
See: 26 N.J.R. 123(a), 26 N.J.R. 2930(a).

**7:1G-1.3 Burden of proof for exemptions**

(a) A person claiming that they qualify for any exemption under this chapter or that they are not otherwise subject to the rules of this chapter shall demonstrate and appropriately document entitlement to such exemption.

(b) Employers claiming that a certain chemical, hazardous substance, or mixture is not an EHS, as designated or delineated in N.J.A.C. 7:1G-2, shall, at a minimum, submit in support of such claim, a Material Safety Data Sheet (MSDS) for the substance or mixture in question.

(c) Employers shall, upon request, make available information to the Department to verify any statement made on the Community Right to Know Survey, Release and Pollution Prevention Report or in a request for an exemption. This information may include, but is not limited to: purchase records, sales records, production records, inventory records, or other business records or documents utilized by the employer or person. The employer shall make this information available to the Department within 30 days of notification.

New Rule, R.1994 d.3, effective January 3, 1994.  
See: 25 N.J.R. 1631(a), 26 N.J.R. 200(a).

**7:1G-1.4 Certification**

An employer shall submit a Community Right to Know Survey and/or Release and Pollution Prevention Report, or a Research and Development laboratory exemption to the Department which shall include an original certification signed by the employer or a duly authorized representative, which states the following:

“I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document and all attachments, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete.”

New Rule, R.1994 d.3, effective January 3, 1994.  
See: 25 N.J.R. 1631(a), 26 N.J.R. 200(a).

**7:1G-1.5 Department right of entrance and inspection**

Pursuant to N.J.S.A. 13:1D-9 and 34:5A-29b, the Department shall have the authority to enter any business premises or building during normal hours or other reasonable time to determine compliance with the rules and regulations of the Department hereunder. Failure to permit such inspection after presentation of official credentials is an offense punishable under N.J.S.A. 2C:29-1.

New Rule, R.1994 d.3, effective January 3, 1994.  
See: 25 N.J.R. 1631(a), 26 N.J.R. 200(a).

**7:1G-1.6 Severability**

If any provision of these rules or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions of these rules and to this end, the provisions of these rules are declared to be severable.

SUBCHAPTER 2. ENVIRONMENTAL HAZARDOUS SUBSTANCE LIST

**7:1G-2.1 Designation of environmental hazardous substances (EHSs)**

(a) The list of EHSs shall be comprised of the substances listed below:

1. Toxic Chemicals on the list at 40 CFR 372.65 established by the United States Environmental Protection Agency for reporting pursuant to SARA Title III section 313, incorporated herein by reference, as from time to time supplemented or amended;
2. Extremely Hazardous Substances on the list at 40 CFR 355 Appendix A designated under SARA Title III section 302, established by the United States Environmental Protection Agency for reporting, incorporated herein by reference, as from time to time supplemented or amended;
3. Chemicals designated as selected substances at N.J.A.C. 7:1F Appendix A for reporting on the Industrial Survey as from time to time supplemented or amended;
4. Unusually Hazardous Substances defined at N.J.A.C. 7:1G-1.2 and listed below by the Department pursuant to N.J.S.A. 52:27D-223:

Chemical	CAS Number
Saran	8013-77-2
PVC (Chloroethylene, polymer)	9002-86-2
Lopac	9003-54-7

5. Any hazardous substance added to the list of chemicals subject to pollution prevention planning pursuant to N.J.A.C. 7:1K-3.5; and

6. Regulated Substances on the list at 40 CFR 68.130 established by the United States Environmental Protection Agency for accidental release prevention under Section 112(r) of the Federal Clean Air Act Amendments, incorporated herein by reference, as from time to time supplemented or amended.

(b) Chemical inventory reporting on the Community Right to Know Survey shall include all EHSs listed at (a)1 through 6 above.

(c) Environmental release, throughput, and waste transfer reporting on the Release and Pollution Prevention Report shall be limited to the list of substances described at (a)1 and 5 above.

Amended by R.1984 d.416, effective September 17, 1984.  
See: 16 N.J.R. 1861(a), 16 N.J.R. 2432(a).

Added amitrol, 1,1-dimethyl hydrazine, hexachlorocyclopentadiene, vinylidene chloride.

Amended by R.1988 d.89, effective February 16, 1988.  
See: 19 N.J.R. 438(a), 20 N.J.R. 387(a).

Added bromine, chlorine, hydrogen chloride, hydrogen fluoride, hydrogen sulfide, methyl isocyanate and phosphorus trichloride.

Petition for Rulemaking: Three pigments excluded from list: C.I. Pigment Blue 15, Phthalocyanine Blue CAS No. 147-14-8, C.I. Pigment Green 7, Phthalocyanine Green CAS No. 1328-53-6 and C.I. Pigment Green 36, Phthalocyanine Green CAS No. 14302-13-7.

See: 24 N.J.R. 2636(a), 24 N.J.R. 3440(c).  
Amended by R.1993 d.408, effective August 16, 1993.

See: 25 N.J.R. 2166(a), 25 N.J.R. 3754(a).

Amended by R.1994 d.3, effective January 3, 1994.

See: 25 N.J.R. 1631(a), 26 N.J.R. 200(a).

Amended by R.1994 d.349, effective July 18, 1994.

See: 26 N.J.R. 123(a), 26 N.J.R. 2930(a).

Amended by R.1994 d.576, effective November 21, 1994.

See: 26 N.J.R. 2833(a), 26 N.J.R. 4606(a).

Public Notice: Petition for rulemaking.

See: 27 N.J.R. 4010(b).

Public Notice: Copper phthalocyanine compounds.

See: 27 N.J.R. 5054(a).

#### Case Notes

Asbestos tort defendants were jointly and severally liable. *Stevenson v. Keene Corp.*, 254 N.J.Super. 310, 603 A.2d 521 (A.D.1992), appeal granted 130 N.J. 2, 611 A.2d 643, affirmed 131 N.J. 393, 620 A.2d 1047.

#### 7:1G-2.2 (Reserved)

Amended by R.1988 d.89, effective February 16, 1988.  
See: 19 N.J.R. 438(a), 20 N.J.R. 387(a).

Added 34 Halogens and 35 Inorganic Acids.

Repealed by R.1994 d.3, effective January 3, 1994.

See: 25 N.J.R. 1631(a), 26 N.J.R. 200(a).

Section was "chemical group and group numbers".

### SUBCHAPTER 3. COMMUNITY RIGHT TO KNOW SURVEY

#### 7:1G-3.1 Completion of Community Right to Know Survey Portion of the Environmental Survey

(a) An employer shall complete and submit to the Department a Community Right to Know Survey for each facility covered by the rules indicating if EHSs were present during the reporting period and whether the EHSs met or exceeded the threshold quantities for reporting listed in (b) below.

(b) A threshold of 500 pounds or the Federal SARA 302 threshold planning quantity, whichever is lower, shall apply to all EHSs present in aggregate at the facility at any one time. These thresholds for reporting do not apply to container labeling pursuant to N.J.A.C. 8:59-1 et seq.

(c) For each EHS that met or exceeded the thresholds listed in (b) above, an employer shall provide all information on a Community Right to Know Survey form approved by the Department, which shall include, but is not limited to, the following:

1. The chemical name, Chemical Abstracts Service registry number, if available, and the EHS number and USDOT number, if available, of each EHS which is present at the facility in a pure state or mixture;

2. For reporting, EHSs shall be grouped according to container type and location within the facility;

3. For EHSs present in the pure state, the quantity of each, in pounds, in terms of daily maximum and average daily amount, and the hazard code for the EHS;

4. EHSs in mixtures shall be reported as follows:

- i. Each EHS comprising more than one percent of a mixture (or .1 percent if the EHS is carcinogenic as defined at 29 CFR 1910.1200(d)4 of the Occupational Safety and Health Standard) shall be reported with its quantity determined by multiplying the weight percent of the EHS by the mass, in pounds, of the entire mixture.

- ii. EHSs in mixtures in the following generic categories may be reported using the generic name and the quantity of the entire mixture: gasoline, new and used petroleum oil, and hazardous waste;

5. The major methods of storage, including container type, temperature, pressure conditions, and locations shall be reported including the number of days the EHS was present onsite during the calendar year at the facility; and

6. If no EHS is present in a mixture, and the mixture is subject only to reporting pursuant to the Federal requirements of Section 312 of SARA (40 CFR 370), a product name may be used to report the substance.

7. Quality control samples of substances that are elsewhere reported on the Community Right to Know Survey may be listed as a single entry: "samples of reported substances."

(d) An employer or owner or operator of any facility subject to Federal hazardous chemical reporting under Section 312 of SARA (40 CFR 370) shall submit a completed Community Right to Know Survey to the Department to satisfy these requirements.

Repeal and New Rule, R.1994 d.3, effective January 3, 1994.

See: 25 N.J.R. 1631(a), 26 N.J.R. 200(a).

Section was "Completion of Environmental Survey".

Amended by R.1994 d.349, effective July 18, 1994.

(d) The party requesting an adjudicatory hearing shall, in its request for a hearing, furnish the Department with the following:

1. A statement of the legal authority and jurisdiction under which the hearing or action to be taken is to be held;
2. A reference to the particular sections of the statutes and rules involved;
3. A short and plain statement of the matters of fact and law asserted; and
4. The provisions of the order or notice of assessment to which the party objects, the reasons for such objections, and any alternative provisions proposed.

(e) If a hearing request is not timely received by the Department, the Department shall deny the request.

(f) If a request is incomplete the Department may deny the hearing request. An additional 10 days to correct deficiencies in an incomplete filing may be granted by the Department.

(g) The adjudicatory hearing shall be held pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and the Uniform Administrative Practice Rules, N.J.A.C. 1:1-1 et seq.

(h) After an adjudicatory hearing, and upon finding that a violation has occurred, the Commissioner or his or her authorized representative may issue a final assessment of the amount of the penalty specified in the notice or such lesser amount as may be assessed pursuant to the provisions on compromise of N.J.S.A. 34:5A-31(d). If no hearing is requested or if the Department denies the request, the original Administrative Order and Notice of Civil Administrative Penalty Assessment becomes a final order upon the 21st calendar day following its receipt.

(i) Payment of an assessed civil administrative penalty is due when a final order is issued by the Commissioner or the notice becomes a final order. If the alleged violator fails to pay the penalty to the Department or to make acceptable arrangements to pay the penalty within a reasonable period of time thereafter, the Department may institute a civil action pursuant to N.J.S.A. 34:5A-31(e) for a civil penalty not to exceed \$2,500 for each day during which the violation continues.

Administrative change to (c).  
 See: 23 N.J.R. 3325(b).  
 Amended by R.1994 d.3, effective January 3, 1994.  
 See: 25 N.J.R. 1631(a), 26 N.J.R. 200(a).

**7:1G-7.4 Compromise of penalties**

(a) At his or her discretion, the Commissioner or his or her authorized representative may compromise a penalty assessed pursuant to this subchapter in whole or part, in the

following circumstances and on the following terms and conditions:

1. Upon the posting by the violator of a performance bond or similar form of security in an amount and upon terms deemed satisfactory by the Commissioner;
2. On the basis of mitigating or extenuating circumstances;
3. Upon any other terms or conditions acceptable to the Commissioner or his or her authorized representative;
4. Any other circumstances or conditions acceptable to the Department.

Amended by R.1994 d.3, effective January 3, 1994.  
 See: 25 N.J.R. 1631(a), 26 N.J.R. 200(a).

**7:1G-7.5 Alternative remedies**

Neither the issuance of an Administrative Order and Notice of Civil Administrative Penalty Assessment nor the payment of any such penalty shall be deemed to affect the availability to the Department of any enforcement provision provided for by N.J.S.A. 34:5A-31, or any other statute, in connection with the violation for which the assessment is levied.

Amended by R.1994 d.3, effective January 3, 1994.  
 See: 25 N.J.R. 1631(a), 26 N.J.R. 200(a).

**7:1G-7.6 (Reserved)**

Repealed by R.1994 d.3, effective January 3, 1994.  
 See: 25 N.J.R. 1631(a), 26 N.J.R. 200(a).  
 Section was "Records of assessments".

**7:1G-7.7 Penalties**

(a) Failure to submit a Community Right to Know Survey pursuant to N.J.S.A. 34:5A-1 et seq. shall result in the assessment of a civil administrative penalty of \$1,000.

(b) Failure to submit a Release and Pollution Prevention Report pursuant to N.J.S.A. 34:5A-1 et seq. shall result in the assessment of a civil administrative penalty of \$1,000.

(c) Failure of an employer to report all EHSs pursuant to these regulations on the Community Right to Know Survey or Release and Pollution Prevention Report shall result in the assessment of a civil administrative penalty based on the number of substances omitted as follows: one to 10 substances, \$500.00; more than 10 substances, \$1,000.

(d) Failure to respond to the Department's request for clarifying information shall result in the assessment of a civil administrative penalty of \$1,000.

(e) Failure to submit a copy of a Community Right to Know Survey or a Release and Pollution Prevention Report to any required agency pursuant to N.J.A.C. 7:1G-5 shall result in the assessment of a civil administrative penalty in the amount of \$500.00.

(f) Failure of an employer to maintain or make available copies of the current Community Right to Know Survey or Release and Pollution Prevention Report at his or her facility pursuant to N.J.S.A. 34:5A-12 shall result in the assessment of a civil administrative penalty of \$500.00.

Repeal and New Rule, R.1994 d.3, effective January 3, 1994.

See: 25 N.J.R. 1631(a), 26 N.J.R. 200(a).

Section was "Penalty for time related violations".

Amended by R.1994 d.349, effective July 18, 1994.

See: 26 N.J.R. 123(a), 26 N.J.R. 2930(a).

#### Case Notes

Penalties of \$500 for failure of two small firms to return Worker and Community Right to Know Survey in timely manner were appropriate. Division of Environmental Quality v. Liberman, 92 N.J.A.R.2d (EPE) 183.

Automobile dealership required to file Worker and Community Right to Know Survey despite going out of business; penalty assessed. Department of Environmental Protection v. Bachman Volkswagen, Inc. 92 N.J.A.R.2d (EPE) 45.

#### 7:1G-7.8 (Reserved)

Repealed by R.1994 d.3, effective January 3, 1994.

See: 25 N.J.R. 1631(a), 26 N.J.R. 200(a).

Section was "Penalty for non-time related violations".

#### 7:1G-7.9 (Reserved)

Repealed by R.1994 d.3, effective January 3, 1994.

See: 25 N.J.R. 1631(a), 26 N.J.R. 200(a).

Section was "Daily penalty".