

“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

(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 Appendix A of this chapter, incorporated herein by reference, for Industrial Survey Project reporting.
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).

Amended by R.1997 d.191, effective May 19, 1997.

See: 29 N.J.R. 725(a), 29 N.J.R. 2274(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 Sec-

tion 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.

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).

#### Case Notes

Employer's failure to timely complete and return survey form with respect to use of propane warranted imposition of fine. Department of Environmental Protection v. Amlack, 95 N.J.A.R.2d (EDE) 86.

Operator of nonprescription drug business was liable for penalty; Worker and Community Right to Know Survey requirements. Division of Environmental Quality v. VJS, Incorporated. 92 N.J.A.R.2d (EPE) 137.

Failure to timely file Worker and Community Right to Know Survey. Division of Environmental Quality v. Bob's Auto Sales, Inc. 92 N.J.A.R.2d (EPE) 113.

### 7:1G-3.2 Reporting exemptions

(a) EHSs meeting any of the following criteria are exempt from chemical inventory reporting on the Community Right to Know Survey:

1. EHSs present at a facility in quantities that do not meet or exceed the thresholds for reporting found at N.J.A.C. 7:1G-3.1(b);

2. EHSs located within a research and development laboratory as defined in N.J.A.C. 7:1G-1.2 and used for R & D activities are exempt from reporting on the Community Right to Know Survey provided the employer has obtained a research and development laboratory exemption from the Department, which may be obtained in accordance with the following procedure:

i. The employer shall submit to the Department for evaluation and approval a completed research and development laboratory exemption application, on forms approved by the Department, containing the following information:

(1) The facility name, location and New Jersey Employer Identification Number;

(2) An 8½ × 11 inch map of the facility indicating the designated research and development area(s) of the facility. The map should indicate if R & D activities are limited to specific locations within the facility or if the entire facility is dedicated to R & D activities;

(3) The percentage of total work hours devoted to R & D activities in the designated area;

(4) Written verification from the local fire department that an acceptable communications program has been established with them to assist in responding to emergencies at the research and development laboratory;

(5) A description of the technical qualifications of each supervisor of the R & D laboratory area(s) or a certification by the supervisor of the research and development laboratory operations at the facility that each research and development laboratory is under

the direct supervision of a technically qualified person; and

(6) A signed certification that the information contained in the R & D laboratory exemption application is true, accurate and complete;

ii. An employer with an approved research and development laboratory exemption from the Department will not be required to reapply for the exemption under this chapter.

iii. An approved research and development laboratory exemption may be reviewed by the Department from time to time to ascertain continued eligibility for the exemption. The Department may require clarifying information pursuant to N.J.A.C. 7:1G-5.2 or inspect the R & D laboratory pursuant to N.J.A.C. 7:1G-1.5 for this purpose. The Department may rescind an approved R & D laboratory exemption if the employer is found not in compliance with the conditions stated on the R & D laboratory exemption approval letter issued by the Department.

3. EHSs which are an integral part of a facility structure or furnishings;

4. EHSs which are the personal property and are for the personal use of an employee are not required to be reported on the Community Right to Know Survey; or

5. Ammunition when on the person of security personnel.

6. EHS's except those listed as unusually hazardous substances, that are present as a solid in any manufactured item which has been formed to a specific shape or design during manufacture to the extent that exposure to the EHS does not occur under normal conditions of use.

(b) The exemption from reporting at (a) above does not apply to container labeling pursuant to N.J.A.C. 8:59.

(c) An employer exempt from chemical inventory reporting in accordance with (a) above shall complete and return the first page of the Community Right to Know Survey indicating that an exemption from reporting is being claimed.

(d) An employer exempt from chemical inventory reporting in accordance with (a)1 and 2 above is subject to the Right to Know fee assessment pursuant to N.J.S.A. 34:5A-26.

(e) An employer having no EHSs is exempt from the annual Right to Know fee assessment in accordance with N.J.S.A. 34:5A-26.1 provided non-user status is indicated on the annual Community Right to Know Survey transmitted to the Department.

(f) An employer engaged only in administrative office activities is exempt from the annual Right to Know fee

assessment and the requirement to annually transmit the Community Right to Know Survey after initial notification to the Department indicating such status is made.

Amended by R.1988 d.90, effective February 16, 1988.  
See: 19 N.J.R. 703(a), 20 N.J.R. 388(a).

Added text "(or county clerk if there is no county health department)" and "Submission of the clarifying . . .".

Administrative Correction: Clarifying information mandatory within 30 days of notification.

See: 21 N.J.R. 3482(a).

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 "Clarification of completed Environmental Survey".

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-3.3 (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 "Updating of Environmental Survey".

## SUBCHAPTER 4. RELEASE AND POLLUTION PREVENTION REPORT

### 7:1G-4.1 Completion of Release and Pollution Prevention Report

(a) An employer who is subject to the reporting requirements of SARA Title III Section 313, or other criteria established by the Department in accordance with the Administrative Procedures Act, shall submit to the Department a Release and Pollution Prevention Report by July 1 of the year following the reporting year.

(b) An employer shall complete a Release and Pollution Prevention Report subject to the threshold(s) for reporting established pursuant to the Pollution Prevention Act (N.J.S.A. 13:1D).

(c) An employer shall provide the environmental release, throughput, waste transfer and pollution prevention information required by the Environmental Survey as defined at N.J.A.C. 7:1G-1.2 and any pollution prevention information required pursuant to the Pollution Prevention Act (N.J.S.A. 13:1D-40(b)) on the Release and Pollution Prevention Report component of the Environmental Survey.

(d) An employer who has obtained a research and development laboratory exemption pursuant to N.J.A.C. 7:1G-3.2(a)2 is not required to provide environmental release, throughput, waste transfer and pollution prevention information for the exempted R & D laboratory area(s) of the facility.

(e) Environmental release, throughput, and waste transfer reporting on the Release and Pollution Prevention Report shall be limited to the list of substances described at N.J.A.C. 7:1G-2.1(a)1 and 5.

Amended by R.1988 d.89, effective February 16, 1988.

See: 19 N.J.R. 438(a), 20 N.J.R. 387(a).

Added (b).

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 "Designation of Hazardous Materials".

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-4.2 (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 "Table and Hazardous Materials Table" and deleted "tale".

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 "Amendments to Hazardous Materials List".

## SUBCHAPTER 5. SUBMITTAL OF THE COMMUNITY RIGHT TO KNOW SURVEY AND RELEASE AND POLLUTION PREVENTION REPORT

### 7:1G-5.1 Survey submittal

(a) An employer subject to reporting under the Worker and Community Right to Know Act, regardless of whether the employer also meets the Federal requirements for reporting under Section 312 of SARA, shall transmit a Community Right to Know Survey for each covered facility to the Department by March 1 of the year following the reporting year. A copy shall also be transmitted to the local fire and police departments, local emergency planning committee, and the Right to Know County Lead Agency of the county in which the facility is located.

(b) An employer subject only to the reporting requirements of Section 312 of SARA shall transmit an original Community Right to Know Survey for each covered facility to the Department by March 1 of the year following the reporting year. A copy shall also be transmitted to the local fire department and local emergency planning committee.

(c) An employer shall transmit an original completed Release and Pollution Prevention Report to the Department by July 1 of the year following the reporting year. A copy shall also be transmitted to the county lead agency of the county in which the facility is located.

(d) An employer shall retain a copy of the Community Right to Know Survey and/or Release and Pollution Prevention Report at the facility and make it available to facility employees within five working days of the request.

(e) An employer shall make available, upon request, a copy of the Community Right to Know Survey and/or Release and Pollution Prevention Report for the most recent survey year to State inspectors, or their local designees, at the time of inspection.