

<u>Subsector Code or Industry Code</u>	<u>Description</u>	<u>Exceptions and/or Limitations</u>	<u>Subsector Code or Industry Code</u>	<u>Description</u>	<u>Exceptions and/or Limitations</u>
		Industrial supplies, not elsewhere classified (agents and brokers); Service establishments equipment and supplies (agents and brokers); Scrap and waste metals (agents and brokers); Drugs, drug proprietaries, and druggists' sundries (agents and brokers); Plastic materials and basic forms and shapes (agents and brokers); Chemical and allied products, not otherwise classified (agents and brokers); Petroleum and petroleum products wholesalers, except bulk stations and terminals (agents and brokers); Beer, wine and distilled alcoholic beverages (agents and brokers); Farm supplies (agents and brokers); Books, periodicals and newspapers (agents and brokers); Flowers, nursery stock and florists' supplies (agents and brokers); Tobacco and tobacco products (agents and brokers); Paints, varnishes and supplies (agents and brokers); Nondurable goods, not elsewhere classified (agents and brokers);		Centers and Farm Supply Stores	sale facilities engaged in sales of the following: Farm supplies (lawn and garden supplies sold via retail method); and Flowers, nursery stock and florists' supplies (sold via retail method)
			445310	Beer, Wine and Liquor Stores	Limited to wholesale facilities engaged in sales of beer, wine and distilled alcoholic beverages via retail method
			446110	Pharmacies and Drug Stores	Limited to wholesale facilities engaged in sales of drugs, drug proprietaries, and druggists' sundries (drugs and sundries sold via retail method)
			446120	Cosmetics, Beauty Supplies and Perfume Stores	Limited to wholesale facilities engaged in retail sales of cosmetics and perfumes
			446191	Food (Health) Supplement Stores	Limited to wholesale facilities engaged in retail sales of food supplements
			4471	Gasoline Stations	Except convenience stores with gas
			451211	Book Stores	Limited to wholesale facilities engaged in sales of books, periodicals and newspapers (sold via retail method)
			453220	Gift, Novelty, and Souvenir Stores	Limited to wholesale facilities engaged in sales of curios, statuary, gifts, novelties, and souvenirs sold via retail method
			453910	Pet and Pet Supplies Stores	Limited to wholesale facilities engaged in sales of pets, pet supplies and tropical fish (sold via retail method)
44-45	Retail Trade				
441110	New Car Dealers	No exceptions or limitations	453991	Tobacco Stores	Limited to wholesale facilities engaged in sales of tobacco and tobacco
441120	Used Car Dealers	No exceptions or limitations			
444220	Nurseries, Garden	Limited to whole-			

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453998	All Other Miscellaneous Store Retailers (Except Tobacco Stores)	Limited to wholesale facilities engaged in sales of industrial supplies (sold via retail method), and plastic materials and basic forms and shapes (sold via retail method)	488490	Other Support Activities for Road Transportation	marine salvage, lighterage, marine surveyor services, and canal operations); and Repair shops and related services engaged in ship scaling Except terminal and service facilities for motor vehicle passenger transportation; Terminal and joint terminal maintenance facilities for motor freight transportation; Arrangement of passenger services (arrangement of carpools and vanpools); and Driving services, for example, auto or truck delivery and pilot car services
454311	Heating Oil Dealers	Limited to petroleum bulk stations and terminals engaged in the distribution of heating oil sold to final consumer	488510	Freight Transportation Arrangement	No exceptions and/or limitations
454312	Liquid Petroleum Gas (Bottled Gas) Dealers	Limited to petroleum bulk stations and terminals engaged in distribution of liquid petroleum gas sold to final consumer	488991	Packing and Crating	No exceptions and/or limitations
48-49	Transportation and Warehousing		488999	All Other Support Activities for Transportation	Limited to pipeline terminals and stockyards for transportation
4811	Scheduled Air Transportation	No exceptions or limitations	492110	Couriers	Limited to air courier services
486	Pipeline Transportation Industry	No exceptions or limitations	51	Information	
487110	Scenic and Sightseeing Transportation, Land	Limited to facilities engaged in horse-drawn cabs and carriages services	51111	Newspaper Publishers	No exceptions or limitations
488111	Air Traffic Control	No exceptions or limitations	51112	Periodical Publishers	No exceptions or limitations
488119	Other Airport Operations	Except facilities engaged in flying fields operated by aviation clubs	51113	Book Publishers	No exceptions or limitations
488190	Other Support Activities for Air Transportation	Limited to facilities engaged in aircraft servicing and repairing	51114	Directory and Mailing List publishers	Except direct mail advertising services (mailing list compilers)
488210	Support Activities for Rail Transportation	Except facilities engaged in railroad switching and terminal establishments (all but short line railroads)	511191	Greeting Card Publishers	No exceptions or limitations
488390	Other Support Activities for Water Transportation	Except facilities engaged in water transportation services (all but lighthouse operations, piloting vessels in and out of harbors, boat and ship rental,	511199	All Other Publishers	No exceptions or limitations
			512220	Integrated Record Production/Distribution	No exceptions or limitations
			512230	Music Publishers	Except facilities primarily engaged in music copyright authorizing use, music copyright buying and licensing, and music publishers

“Facility” means the building, equipment and contiguous area at a single location used for the conduct of business. For the purpose of this chapter, “Facility” shall not include a research and development laboratory.

“Hazard Code” means a number assigned by the Department to represent each hazard category established by the US Environmental Protection Agency pursuant to the Superfund Amendments and Reauthorization Act (SARA), Title III.

“Hazardous substance” means any substance defined by the State Department of Health in N.J.A.C. 8:58-9.

“Hazardous waste” means any solid waste defined as hazardous waste by the Department pursuant to P.L. 1970, c.39 (N.J.S.A. 13:1E-1 et seq.)

“Input” means the total of starting inventory, quantity produced on site, quantity brought on site, and quantity recycled out of process and reused on site.

“Inventory range” means the upper and lower limits of the quantity of a hazardous substance used, stored or manufactured on site.

“Inventory range code” is a representation of an inventory range for reportable hazardous substances.

“Local Emergency Planning Committee” means a committee formed pursuant to Title III of the Federal Superfund Amendments and Reauthorization Act.

“Mixture” means a combination of two or more substances not involving a chemical reaction.

“Output” means the total of quantity consumed, quantity shipped off site as (or in) product, ending inventory, quantity recycled out of process and reused on site, quantity destroyed through on site treatment, quantity destroyed through on-site energy recovery, air emissions, water discharges, quantity disposed of on site, and other off site transfers.

“Person” includes an individual, corporation, company, partnership, firm, association, trust, estate, public or private institution, group, society, joint stock company, municipality, county, all political subdivisions of this State or any agency or instrumentality thereof, including health department, any agency or instrumentality of the State and any legal successor, representative agent or agency of the foregoing.

“Pilot plant” means pilot facility as that term is defined at N.J.S.A. 13:1D.

“Release and Pollution Prevention Report” means the reporting form which is used to fulfill the environmental release and pollution prevention reporting requirements of the environmental survey, formerly known as Part II of the environmental survey.

“Research and development (R & D) laboratory” means a specially designated area, including pilot plants, used pri-

marily for research, development, and testing activity, and not primarily involved in the production of goods for commercial sale, in which environmental hazardous substances are used by or under the direct supervision of a technically qualified person. For the purpose of reporting on the Community Right to Know Survey, “primarily” means greater than 50 percent.

“Right to Know Survey” means a survey prepared by the Department of Health and completed by a public sector employer pursuant to the Act, on which the employer shall report each hazardous substance present at his facility.

“Special health hazard substance” means any substance defined by the State Department of Health in N.J.A.C. 8:59-10.

“Special health hazard substance list” means the list of substances defined by the State Department of Health in N.J.A.C. 8:59-10.

“Superfund Amendments and Reauthorization Act” or “SARA” means the Federal Act (PL 99-499) establishing the “Emergency Planning and Community Right to Know Act of 1986” at Title III (42 USC 11001).

“Technically qualified person” in a research and development (R & D) laboratory means a person who has a bachelors degree in industrial hygiene, environmental science, health education, chemistry, or a related field and understands the health risks associated with exposure to the hazardous substances used in the R & D laboratory.

“Trade secret” means any formula, plan, pattern, process, production data, information, or compilation of information, which is not patented, which is known only to an employer and certain other individuals, and which is used in the fabrication and production of an article of trade or service, and which gives the employer possessing it a competitive advantage over businesses who do not possess it, or the secrecy of which is certified by an appropriate official of the federal government as necessary for national defense purposes. The chemical name and the Chemical Abstracts Service number of a substance shall be considered a trade secret only if the employer can establish that the substance is unknown to competitors.

“Trade secret claim” means a written request, made by an employer pursuant to N.J.S.A. 34:5A-15, to withhold the public disclosure of information on the grounds that the disclosure would reveal a trade secret.

“Trade secret docket number” means a code number temporarily or permanently assigned to the identity of information on the Community Right to Know Survey or Release and Pollution Prevention Report by the Department of Environmental Protection.

“Transmit” means to send via first-class mail or otherwise distribute.

“Unstaffed site” means a remotely operated site, not contiguous to any other staffed sites and at which no full-time or part-time employees are assigned at any time except for maintenance or emergency repair. An unstaffed site includes, but is not limited to, a cellular telephone tower, telecommunications relay box, switching box, telephone pole, and well station.

“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).

Special amendment, R.2004 d.7, effective December 4, 2003 (to expire August 15, 2004).

See: 36 N.J.R. 212(a).

Rewrote “Employer”.

Administrative correction.

See: 36 N.J.R. 2762(b).

Adopted concurrent amendment, R.2004 d.328, effective July 29, 2004, changes effective September 7, 2004.

See: 36 N.J.R. 212(a), 36 N.J.R. 4121(a).

Rewrote “Employer”.

Amended by R.2005 d.27, effective January 18, 2005.

See: 36 N.J.R. 3376(a), 37 N.J.R. 275(a).

Added “Input”, “Output”, and “Unstaffed site”.

Amended by R.2006 d.167, effective May 1, 2006.

See: 37 N.J.R. 3896(a), 38 N.J.R. 1829(a).

In the table in the definition of “Employer”, inserted codes 488510, concerning freight transportation arrangement, 488991, concerning packing and crating, 488999, concerning all other support activities for transportation, and 517211, concerning paging.

Administrative change.

See: 40 N.J.R. 619(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.

7:1G-1.7 Revisions to North American Industry Classification System Codes for purposes of definition of “employer”

In the event that the Executive Office of the President, Office of Management and Budget, publishes new or revised North American Industry Classification System (NAICS) codes modifying the 2002 list of NAICS codes on which the definition of “employer” at N.J.A.C. 7:1G-1.2 is based, the