

## CHAPTER 49

## TRANSPORTATION OF HAZARDOUS MATERIALS

## Authority

N.J.S.A. 27:1A-5, 27:1A-6 and 39:5B-26 and 31.

## Source and Effective Date

R.2010 d.224, effective September 16, 2010.  
See: 42 N.J.R. 1339(a), 42 N.J.R. 2430(b).

## Chapter Expiration Date

Chapter 49, Transportation of Hazardous Materials, expires on September 16, 2015.

## Chapter Historical Note

Chapter 49, Transportation of Hazardous Materials, was adopted as R.1985 d.123, effective March 18, 1985. See: 16 N.J.R. 2979(a), 17 N.J.R. 712(a).

Pursuant to Executive Order No. 66(1978), Chapter 49, Transportation of Hazardous Materials, was readopted as R.1990 d.156, effective February 8, 1990. See: 22 N.J.R. 21(a), 22 N.J.R. 837(c).

Pursuant to Executive Order No. 66(1978), Chapter 49, Transportation of Hazardous Materials, was readopted as R.1995 d.74, effective January 12, 1995. See: 26 N.J.R. 4488(b), 27 N.J.R. 509(a).

Pursuant to Executive Order No. 66(1978), Chapter 49, Transportation of Hazardous Materials, was readopted as R.2000 d.7, effective December 7, 1999. See: 31 N.J.R. 2692(a), 32 N.J.R. 102(a).

Subchapter 3, Hazardous Materials Restrictions in the Route 29 Tunnel Facility was readopted as R.2002 d.4, effective January 7, 2002. See: 33 N.J.R. 3627(b), 34 N.J.R. 284(a).

Chapter 49, Transportation of Hazardous Materials, was readopted as R.2005 d.163, effective April 22, 2005. See: 37 N.J.R. 32(a), 37 N.J.R. 1784(a).

Chapter 49, Transportation of Hazardous Materials, was readopted as R.2010 d.224, effective September 16, 2010. As a part of R.2010 d.224, Subchapter 1, General Requirements, was renamed General Provisions, Subchapter 2, Adoption of Portions of Title 49, Code of Federal Regulations, by Reference, and Adoption and Incorporation, by Reference, of Federal Motor Carrier Safety Regulations when Adopted, Amended, or Supplemented by the FMCSA, was repealed; Subchapter 2, Definitions, was adopted as new rules; Subchapter 3, General Requirements, was adopted as new rules; and former Subchapter 3, Hazardous Materials Restrictions in the Route 29 Tunnel Facility, was recodified to Subchapter 4, effective October 18, 2010. See: Source and Effective Date. See, also, section annotations.

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## APPENDIX. (RESERVED)

## SUBCHAPTER 1. GENERAL PROVISIONS

## 16:49-1.1 Purpose, scope and application

(a) The purpose of this chapter is to protect public safety, health and welfare from unreasonable risks of the transportation of hazardous materials by rail and motor carrier in New Jersey.

(b) This chapter governs the transportation of hazardous materials by rail and motor carrier in the State of New Jersey, regulates the shipping, packaging, marking, labeling, placarding, handling and transportation of hazardous materials, and, to the maximum extent practicable, conforms to the requirements of the regulations issued by the United States Department of Transportation.

(c) Every person(s) involved, in any manner including, but not limited to, management, maintenance, operation or driving of rail cars or motor carriers related to the transportation of interstate and/or intrastate commerce, shall comply with and be bound by these rules and any future amendments, and shall take such measures as are necessary to insure compliance therewith.

(d) Modes of transportation by air, water or pipeline are not the subject of this chapter.

Amended by R.1990 d.550, effective November 19, 1990.  
See: 22 N.J.R. 2676(a), 22 N.J.R. 3500(c).

Stylistic changes.

Amended by R.2005 d.163, effective May 16, 2005.  
See: 37 N.J.R. 32(a), 37 N.J.R. 1784(a).

Rewrote the section.

Amended by R.2010 d.224, effective October 18, 2010.  
See: 42 N.J.R. 1339(a), 42 N.J.R. 2430(b).

Section was "Purpose and definitions". In (a), deleted the first sentence, deleted a comma following "health" and inserted "by rail and motor carrier"; rewrote (b); and added (c) and (d).

## 16:49-1.2 Incorporation by reference

(a) Pursuant to N.J.S.A. 39:5B-25 et seq., the Department adopts and incorporates by reference the following portions

of 49 CFR Parts 171, 172, 173, 174, 177, 178, 179 and 180, Hazardous Materials Regulations, revised as of 2009 and as supplemented and amended. Any portions of the Federal regulations governing transportation of hazardous materials by air, water or pipeline within 49 CFR Parts 107, 171, 172, 173, 174, 177, 178, 179 and 180 are excluded. The parts adopted and incorporated by reference are summarized below:

1. Part 171—General Information, Regulations and Definitions. (Sections 171.1, 171.4, 171.6 and 171.20 are omitted from adoption herein; modifications are made to Sections 171.15 and 171.16).

2. Part 172—Hazardous Materials Table, Special Provisions, Hazardous Materials Communications, Emergency Response Information, and Training Requirements. (Modifications are made to Section 172.3.)

3. Part 173—Shippers—General Requirements for Shipments and Packagings (Section 173.32a is excluded from adoption herein).

4. Part 174—Carriage by Rail.

5. Part 177—Carriage by Public Highway. (Modifications are made to Section 177.804.)

6. Part 178—Specifications for Packagings.

7. Part 179—Specifications for Tank Cars. (Sections 179.3, 179.4, and 179.5 are excluded from adoption herein.)

8. Part 180—Continuing Qualification and Maintenance of Packagings.

(b) The Department adopts and incorporates by reference 49 CFR Parts 380, 382, 390, 391, 392, 393, 394, 395, 396 and 397 of the Federal Motor Carrier Safety Administration regulations, revised as of 2009 and as supplemented and amended. The parts and appendices adopted and incorporated by reference are summarized below:

1. Part 380—Special Training Requirements

2. Part 382—Controlled Substances and Alcohol Use and Testing.

3. Part 390—Federal Motor Carrier Safety Regulations: General. (Modifications are made to Sections 390.21 and 390.23.)

4. Part 391—Qualification of Drivers and Longer Combination Vehicle (LCV) Driver Instructors. (Exceptions are made to Sections 391.21 and 391.23; modifications are made to 391.31, 391.41 and 391.49(a).)

5. Part 392—Driving of Commercial Motor Vehicles.

6. Part 393—Parts and Accessories Necessary for Safe Operation.

7. Part 394—(Removed and Reserved).

8. Part 395—Hours of Service of Drivers.

9. Part 396—Inspection, Repair, and Maintenance.

10. Part 397—Transportation of Hazardous Materials; Driving and Parking Rules.

(c) Amendments to the Federal Hazardous Materials regulations and the Federal Motor Carrier Safety Administration regulations that have been adopted and incorporated by reference pursuant to this section are included in a daily updated electronic version found at: <http://ecfr.gpoaccess.gov>.

(d) The following provisions adopted and incorporated by reference are modified as set forth below:

1. 49 CFR 171.15 is modified to state the following. (Note: Paragraph (a) has been changed and paragraph (d) has been added.)

(a) At the earliest practicable moment, but no later than 12 hours after the occurrence of any incident described in this section, each person in physical possession of the hazardous material must provide notice in accordance with paragraph (b) or paragraph (d) of this section after each incident that occurs during the course of transportation (including loading, unloading and temporary storage) in which—

(1) As a direct result of hazardous materials:

i. A person is killed;

ii. A person receives injuries requiring his or her hospitalization;

iii. An evacuation of the general public occurs lasting one or more hours;

iv. One or more major transportation arteries or facilities are closed or shut down for one hour or more; or

v. The operation flight pattern or routine of an aircraft is altered;

(2) Fire, breakage, spillage or suspected radioactive contamination occurs involving shipment of radioactive material (see also section 176.48 of this subchapter);

(3) Fire, breakage, spillage or suspected contamination occurs involving an infectious substance other than a regulated medical waste; or

(4) A situation exists of such a nature (for example, a continuing danger to life exists at the scene of the incident) that, in the judgment of the person in possession of the hazardous material it should be reported in accordance with (b) and (d) of this section.

(b) Each notice required by paragraph (a) of this section shall be given to the National Response Center (NRC) on 800-424-8802 (toll free) or 202-267-2675 (toll call) or online at <http://www.nrc.uscg.mil>. Notice