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RULE ADOPTIONS

**HEALTH AND SENIOR SERVICES
PUBLIC HEALTH SERVICES BRANCH
DIVISION OF EPIDEMIOLOGY, ENVIRONMENTAL AND OCCUPATIONAL HEALTH
RIGHT TO KNOW PROGRAM**

42 N.J.R. 1731(a)

N.J.A.C. 8:59-11.3

Worker and Community Right to Know Act Rules

Notice of Administrative Changes Revising the Table of NAICS Codes in the Definition of "Employer"

Take notice that the Department of Health and Senior Services is revising the table of North American Industry Classification System (NAICS) codes in the definition of "employer" in the Worker and Community Right to Know Act (RTK) rules at N.J.A.C. 8:59-11.3(b).

The conversion from Standard Industrial Classification (SIC) codes to NAICS codes was effected as a result of the 1993 North American Free Trade Agreement (NAFTA) with Canada and Mexico. As a result of this conversion, the New Jersey Legislature directed the Department to adopt rules identifying NAICS codes for the generally equivalent universe of employers and facilities that had been, to date, covered by the SIC codes listed in the Worker and Community Right to Know Act and the Department's implementing rules at N.J.A.C. 8:59. The intent of the legislation was to maintain a constant regulated universe. See N.J.S.A. 13:1D-139.

The table incorporated within the definition of "employer" at N.J.A.C. 8:59-11.3(b) lists NAICS Subsector codes or Industry codes, Descriptions, and Exceptions and/or Limitations in order to meet the legislative directive.

The Executive Office of the President, Office of Management and Budget (OMB), published a revised list of NAICS codes in 2007. N.J.A.C. 8:59-11.3(c) requires the Department, in the event that OMB publishes new or revised NAICS codes modifying the 2002 list of NAICS codes on which the definition of "employer" at N.J.A.C. 8:59-11.3(b) is based, to modify the NAICS codes in the definition as necessary to ensure that the generally equivalent universe of employers

continues to be regulated under this chapter. N.J.A.C. 8:59-11.3(c) allows the Department to publish in the New Jersey Register a notice of the new or revised NAICS codes and the corresponding changes to the definition.

This notice constitutes publication by the Department in the New Jersey Register of notice of the new or revised NAICS codes and the corresponding administrative changes to the definition.

All of the employers covered by NAICS codes that are being added as a function of this notice were previously listed under different NAICS codes. The assignment of new codes does not expand or contract the universe of regulated entities.

Employers covered by the new NAICS code 517210, Wireless Telecommunications Carriers (except Satellite), were previously covered under NAICS codes 517211, Paging, and 517212, Cellular and Other Wireless Telecommunications. Satellite Telecommunications, a type of employer that the RTK rules have not historically covered, has been excluded by OMB in the new NAICS code 517210.

New NAICS code 517911, Telecommunications Resellers, covers the same employers as NAICS code 517310. Only the number has changed.

New NAICS code 519130, Internet Publishing and Broadcasting and Web Search Portals, combines 2002 NAICS code 516110, Internet Publishing and Broadcasting, which was covered by the RTK rules, and NAICS code 518112, Web Search Portals, which was not covered by the RTK rules. Since Web Search Portals were not historically covered by the Right to Know Act, an exception for Web Search Portals is added to the existing exceptions in the rule to maintain coverage of the generally equivalent universe of employers.

Although the 2002 NAICS codes, NAICS code 541710, Research and Development in the Physical, Engineering, and Life Sciences, included the economic activity related to Biotechnology Research and Development, the Right to Know Act never covered biotechnology. The new NAICS code for Research and Development in the Physical, Engineering, and Life Sciences, 541712, excludes Biotechnology, which is consistent with the generally equivalent universe of employers originally covered by the Right to Know Act.

Full text of the changed rule follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

8:59-11.3 Definitions

(a) (No change.)

(b) For this subchapter and for N.J.A.C. 8:59-1, 3, 5, 8, 9 and 10, "employer" shall also mean any person or corporation, regardless of whether he or she pays employees, in the State, engaged in business operations having the following United States North American Industry Classification System (NAICS) codes, dated and published in 2002 by the Executive Office of the President, Office of Management and Budget, ISBN 0-934213-87-9 (NTIS PB2002-502024), subject to the specified exceptions and limitations:

Subsector Code or Industry Code	Description	Exceptions and/or Limitations
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[516110]	[Internet Publishing and Broadcasting]	[Except facilities engaged in internet broadcasting, special interest web sites, entertainment sites and interactive game sites.]
517110	Wired Telecommunications Carriers	Except cable and other program distribution, and broadband Internet service providers (for example, cable, DSL)
[517211]	[Paging]	
[517212] 517210	[Cellular and Other] Wireless Telecommunications Carriers (except Satellite)	Except facilities engaged as ship to shore broadcasting carriers
[517310] 517911	Telecommunications Resellers	
519130	Internet Publishing and Broadcasting and Web Search Portals	Except facilities engaged in web search portals, internet broadcasting, special interest web sites, entertainment sites and interactive game sites.
...		
[541710] 541712	Research and Development in the Physical, Engineering, and Life Sciences (except Biotechnology)	Except facilities engaged in commercial physical and biological research; and Noncommercial research organizations (physical

engineering and life
sciences)

...

(c) (No change.)