

CHAPTER 157

AN ACT concerning the replacement of the Standard Industrial Classification codes with the North American Industrial Classification System for certain regulated industries, supplementing Title 4 and Title 13 of the Revised Statutes, and amending P.L.1983, c.31.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

C.13:1D-138 Rules, regulations adopted by DEP.

1. The Department of Environmental Protection, in consultation with the Department of Labor, shall adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) rules and regulations that:

a. identify the categories of employers, entities, establishments or facilities contained in those Standard Industrial Classification codes that are included in the definition of "business entity," "employer," "industrial establishment," "industrial facility," or "private firm," regulated under P.L.1991, c.235 (C.13:1D-35 et seq.), P.L.1983, c.330 (C.13:1K-6 et seq.), P.L.1984, c.210 (C.13:1K-15 et seq.), P.L.1993, c.381 (C.58:28-1 et seq.), P.L.1983, c.315 (C.34:5A-1 et seq.), or P.L.1986, c.142 (C.52:27D-222 et seq.); and

b. identify the universe of those employers, entities, establishments, or facilities under the North American Industry Classification System of codes that are generally equivalent to those identified in subsection a. of this section.

C.13:1D-139 Regulated universe of business entities.

2. a. The generally equivalent universe of employers, entities, establishments, or facilities identified in the rules and regulations adopted by the Department of Environmental Protection pursuant to subsection b. of section 1 of this act shall be the regulated universe of business entities, employers, industrial establishments, industrial facilities, or private firms subject to the provisions of P.L.1991, c.235 (C.13:1D-35 et seq.), P.L.1983, c.330 (C.13:1K-6 et seq.), P.L.1984, c.210 (C.13:1K-15 et seq.), P.L.1993, c.381 (C.58:28-1 et seq.), P.L.1983, c.315 (C.34:5A-1 et seq.), or P.L.1986, c.142 (C.52:27D-222 et seq.) upon the operative date of the regulations.

b. The department shall ensure that the categories of employers, entities, establishments, or facilities regulated pursuant to the rules and regulations adopted pursuant to section 1 of this act are consistent with those regulated prior to the effective date of this act.

No business entities, employers, industrial establishments, industrial facilities, or private firms shall be subject to, or excluded from the provisions of P.L.1991, c.235 (C.13:1D-35 et seq.), P.L.1983, c.330 (C.13:1K-6 et seq.), P.L.1984, c.210 (C.13:1K-15 et seq.), P.L.1993, c.381 (C.58:28-1 et seq.), P.L.1983, c.315 (C.34:5A-1 et seq.), or P.L.1986, c.142 (C.52:27D-222 et seq.) solely as a result of the replacement of the Standard Industrial Classification codes with the North American Industrial Classification System of codes.

C.13:1D-140 Regulation prior to operative date.

3. Prior to the operative date of the rules and regulations required to be adopted by the Department of Environmental Protection pursuant to section 1 of this act, every business entity, employer, industrial establishment, industrial facility or private firm that is subject to P.L.1991, c.235 (C.13:1D-35 et seq.), P.L.1983, c.330 (C.13:1K-6 et seq.), P.L.1984, c.210 (C.13:1K-15 et seq.), P.L.1993, c.381 (C.58:28-1 et seq.), P.L.1983, c.315 (C.34:5A-1 et seq.), or P.L.1986, c.142 (C.52:27D-222 et seq.) shall continue to be regulated pursuant to those acts without regard to the cessation of use by certain State or federal agencies of the Standard Industrial Classification system.

C.13:1D-141 Temporary regulations.

4. Prior to the adoption of rules and regulations pursuant to section 1 of this act and notwithstanding the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to the contrary, the Commissioner of Environmental Protection may, immediately upon filing the proper notice with the Office of Administrative Law, adopt such temporary regulations as the commissioner determines is necessary to provide for classification under the North American Industry Classification System of business entities, employers, industrial establishments, industrial facilities, or private firms regulated under P.L.1991, c.235

(C.13:1D-35 et seq.), P.L.1983, c.330 (C.13:1K-6 et seq.), P.L.1984, c.210 (C.13:1K-15 et seq.), P.L.1993, c.381 (C.58:28-1 et seq.), P.L.1983, c.315 (C.34:5A-1 et seq.), or P.L.1986, c.142 (C.52:27D-222 et seq.) and classified under the Standard Industrial Classification System. The temporary regulations shall not exclude any business entity, employer, industrial establishment, industrial facility, or private firm that was regulated prior to the effective date of this act, or include any business entity, employer, industrial establishment, industrial facility, or private firm that was not already regulated prior to the effective date of this act. The temporary regulations shall be in effect for a period not to exceed 270 days after the date of the filing, except that in no case shall the temporary regulations be in effect one year after the effective date of P.L.2003, c.157 (C.13:1D-13.8 et al.). The temporary regulations may thereafter be amended, adopted or readopted by the commissioner as the commissioner determines is necessary in accordance with the requirements of the "Administrative Procedure Act".

C.4:1C-9.1 Rules, regulations adopted by State Agriculture Development Committee.

5. a. The State Agriculture Development Committee, in consultation with the Department of Labor, shall adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations determining the classification for agriculture, forestry, fishing, and trapping under the North American Industry Classification System of codes, and for the production of agricultural and horticultural crops, trees and forest products, livestock, and poultry and other commodities that are described in the Standard Industrial Classification codes for agriculture, forestry, fishing and trapping, for the purposes of compliance with P.L.1983, c.31 (C.4:1C-1 et seq.). The State Agriculture Development Committee shall ensure that the provisions of P.L.1983, c.31 (C.4:1C-1 et seq.) shall continue to apply to any owner or operator of a commercial farm, or other person, to whom the provisions applied prior to the effective date of P.L.2003, c.157 (C.13:1D-13.8 et al.).

b. Notwithstanding the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to the contrary, the State Agriculture Development Committee may, immediately upon filing the regulations with the Office of Administrative Law, adopt such temporary regulations as the committee determines necessary to implement the provisions of P.L.2003, c.157 (C.13:1D-13.8 et al.). The regulations shall be in effect for a period not to exceed 270 days after the date of filing, except that in no case shall the regulations be in effect one year after the effective date of P.L.2003, c.157 (C.13:1D-13.8 et al.). The regulations may thereafter be amended, adopted or readopted as the committee determines necessary in accordance with the "Administrative Procedure Act".

6. Section 6 of P.L.1983, c.31 (C.4:1C-9) is amended to read as follows:

C.4:1C-9 Commercial farm owners, operators; permissible activities.

6. Notwithstanding the provisions of any municipal or county ordinance, resolution, or regulation to the contrary, the owner or operator of a commercial farm, located in an area in which, as of December 31, 1997 or thereafter, agriculture is a permitted use under the municipal zoning ordinance and is consistent with the municipal master plan, or which commercial farm is in operation as of the effective date of P.L.1998, c.48 (C.4:1C-10.1 et al.), and the operation of which conforms to agricultural management practices recommended by the committee and adopted pursuant to the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), or whose specific operation or practice has been determined by the appropriate county board, or in a county where no county board exists, the committee, to constitute a generally accepted agricultural operation or practice, and all relevant federal or State statutes or rules and regulations adopted pursuant thereto, and which does not pose a direct threat to public health and safety may:

a. Produce agricultural and horticultural crops, trees and forest products, livestock, and poultry and other commodities as described in the Standard Industrial Classification for agriculture, forestry, fishing and trapping or, after the operative date of the regulations adopted pursuant to section 5 of P.L.2003, c.157 (C.4:1C-9.1), included under the corresponding classification under the North American Industry Classification System;

- b. Process and package the agricultural output of the commercial farm;
- c. Provide for the operation of a farm market, including the construction of building and parking areas in conformance with municipal standards;
- d. Replenish soil nutrients and improve soil tilth;
- e. Control pests, predators and diseases of plants and animals;
- f. Clear woodlands using open burning and other techniques, install and maintain vegetative and terrain alterations and other physical facilities for water and soil conservation and surface water control in wetland areas;
- g. Conduct on-site disposal of organic agricultural wastes;
- h. Conduct agriculture-related educational and farm-based recreational activities provided that the activities are related to marketing the agricultural or horticultural output of the commercial farm; and
- i. Engage in any other agricultural activity as determined by the State Agriculture Development Committee and adopted by rule or regulation pursuant to the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

7. This act shall take effect immediately.

Approved August 15, 2003.