

## CHAPTER 190

AN ACT concerning hazardous substances in flood plains, amending P.L.1983, c.315, and supplementing Title 58 of the Revised Statutes.

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

1. Section 14 of P.L.1983, c.315 (C.34:5A-14) is amended to read as follows:

C.34:5A-14 Labeling of containers.

14. a. Every employer shall have until October 30, 1985 to take any action necessary to assure that every container at the employer's facility containing a hazardous substance shall bear a label indicating the chemical name and Chemical Abstracts Service number of the hazardous substance or the trade secret registry number assigned to the hazardous substance. The labels on all containers except pipelines and underground storage tanks shall be designed and affixed in such a manner to ensure that if there is a flood or other natural disaster when the container is transported or stored, the label shall remain in place and visible. Employers may label containers in a research and development laboratory by means of a code or number system, if the code or number system will enable an employee to readily make a cross-reference to a hazardous substance fact sheet which will provide the employee with the chemical name and Chemical Abstracts Service number of the hazardous substance contained in the container, or the trade secret registry number assigned to the hazardous substance. The code or number system shall be designed to allow the employee free and ready access at all times to the chemical name and Chemical Abstracts Service number of the hazardous substance in the container, shall be designed to allow the employee access to this information without the permission or assistance of management, and shall be available to the employee at close proximity to the employee's specific job location or locations. Employers shall be required to label pipelines only at the valve or valves located at the point at which a hazardous substance enters a facility's pipeline system, and at normally operated valves, outlets, vents, drains and sample connections designed to allow the release of a hazardous substance from the pipeline.

b. Within two years of the effective date of this act, every employer shall take any action necessary to assure that every container at the employer's facility bears a label indicating the chemical name and Chemical Abstracts Service number of the substance in the container, except as provided in subsection d. of this section, or the trade secret registry number assigned to the substance. Employers may label containers in a research and development laboratory by means of a code or number system, if the code or number system will enable an employee to readily make a cross-reference to documentary material retained on file by the employer at the facility which will provide the employee with the chemical name and Chemical Abstracts Service number of the substance contained in the container, except as provided in subsection d. of this section, or the trade secret registry number assigned to the substance. The code or number system shall be designed to allow the employee free and ready access at all times to the chemical name and Chemical Abstracts Service number of the substance in the container, shall be designed to allow the employee access to this information without the permission or assistance of management, and shall be available to the employee at close proximity to the employee's specific job location or locations. If a container contains a mixture, an employer shall be required to insure that the label identify the chemical names and Chemical Abstracts Service numbers, except as provided in subsection d. of this section, or the trade secret registry numbers, of the five most predominant substances contained in the mixture. The provisions of this subsection shall not apply to any substance constituting less

than 1% of a mixture unless the substance is present at the facility in an aggregate amount of 500 pounds or more. Employers shall be required to label pipelines only at the valve or valves located at the point at which a substance enters a facility's pipeline system, and at normally operated valves, outlets, vents, drains and sample connections designed to allow the release of a substance from the pipeline. One year after the effective date of this act the Department of Health and Senior Services shall establish criteria for containers which, because of the finished and durable characteristics of their contents, shall be exempt from the provisions of this subsection. These standards shall be consistent with the intent of this subsection to provide for the labeling of every container which may contain a substance which is potentially hazardous.

c. The labeling requirements of subsections a. and b. of this section shall not apply to containers labeled pursuant to the "Federal Insecticide, Fungicide, and Rodenticide Act," 61 Stat. 163 (7 U.S.C. s.121 et al.), except that the label for any such container except pipelines and underground storage tanks shall be designed and affixed in such a manner to ensure that if there is a flood or other natural disaster when the container is transported or stored, the label shall remain in place and visible. The Department of Health and Senior Services may, by rule and regulation, certify containers labeled pursuant to any other federal act as labeled in compliance with the provisions of this section.

d. One year after the effective date of this act the Department of Health and Senior Services shall adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), a list of substances the containers of which may be labeled with the common names and Chemical Abstracts Service numbers of their contents. The department shall include on the list adopted pursuant to this subsection only substances which are widely recognized by their common names. An employer shall provide the chemical name of a substance in a container labeled pursuant to this subsection within five working days of the request therefor.

C.58:16A-55.8 Hazardous substances, placing, storing in certain flood plains, prohibited.

2. a. No person shall place or store, or cause to be placed or stored, any containers holding hazardous substances as defined in section 3 of P.L.1976, c.141 (C.58:10-23.11b) in a 100-year flood plain, as defined by the Commissioner of Environmental Protection in rules and regulations adopted pursuant to the provisions of the "Flood Hazard Area Control Act," P.L.1962, c.19 (C.58:16A-50 et seq.), unless:

(1) The facility at which any containers holding hazardous substances are to be placed or stored is in compliance with flood protection measures to prevent the release of hazardous substances due to flooding, as follows: (a) an approved engineering design of site-specific flood protection devices designed to prevent washout; or (b) an approved written plan of emergency procedures for removing the containers to safety or out of the facility before the facility is flooded; and

(2) Every container is visibly marked in a manner determined in rules and regulations adopted by the department pursuant to the "Administrative Procedure Act" with a label designed and affixed to ensure that the label shall remain visible and in place if there is a flood or other natural disaster stating the following:

Caution: Hazardous Contents

To be handled and opened only by authorized personnel

If found, please contact

The New Jersey Department of Environmental Protection

1-877-927-6337

b. The labeling requirements of subsection a. of this section shall not apply to containers required to be labeled pursuant to other State or federal laws or containers labeled pursuant to the "Federal Insecticide, Fungicide, and Rodenticide Act," 7 U.S.C. s.136 et seq.

c. For the purposes of this section, "container" means a receptacle used to hold a liquid, solid, or gaseous substance, including, but not limited to, bottles, bags, barrels, boxes, cans, cylinders, drums, cartons, vessels, vats, and stationary or mobile storage tanks; except that "container" shall not include process containers, pipelines or underground storage tanks.

3. This act shall take effect immediately.

Approved October 18, 2007.