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THE OFFICIAL VERSION OF THE PROPOSAL, THE OFFICIAL VERSION WILL GOVERN.

DEPARTMENT OF ENVIRONMENTAL PROTECTION

ENVIRONMENTAL REGULATION

Worker and Community Right to Know Regulations

Notice of administrative change revising the table of NAICS codes in the definition of “employer”

Take notice that the Department of Environmental Protection 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 (RTK) Regulations at N.J.A.C. 7:1G-1.2.

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 with NAICS codes the generally equivalent universe of employers and facilities that had been, to date, covered by the SIC codes listed in the Community Right to Know Act and the Department’s implementing rules at N.J.A.C. 7:1G. 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. 7:1G-1.2 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. 7:1G-1.7 requires the Department, in the event that the 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. 7:1G-1.2 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.

The Department publishes in the New Jersey Register a notice of the new or revised NAICS code(s) and the corresponding administrative change(s) 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 Telecommunication Carriers (Except Satellite), were previously covered under NAICS codes 517211, Paging, and 517212, Cellular and Other Wireless Telecommunications. The satellite exception was included in the definition of NAICS code 517410, a type of employer that the RTK Regulations did not historically cover; thus, amendment to the employer table for NAICS code 517410 is not required.

New NAICS code 519130, Internet Publishing and Broadcasting and Web Search Portals, combines 2002 codes 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, an exception for Web Search Portals is added to the existing exceptions in the rule.

Under the 2002 NAICS codes, NAICS code 541710, Research and Development in the Physical, Engineering and Life Sciences, included the economic activity relating to Biotechnology Research and Development. The new NAICS code for Research and Development in the Physical, Engineering and Life Sciences, 541712, does include Biotechnology. Accordingly, in amending the definition of employer to delete NAICS code 541710 and include new NAICS code 541712, an exception for Biotechnology is included.

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

Subchapter 1. General Provisions

7:1G-1.2 Definitions

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise:

* * *

“Employer” means any person or corporation, regardless of whether he 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 PB 2002-502024), subject to the specified exceptions and limitations:

Subsector or Industry Code	Description	Exceptions and/or Limitations
* * *		
[516110]	Internet Publishing and Broadcasting	Except facilities engaged in internet broadcasting, special interest web sites, entertainment sites and interactive game sites]
517110	Wired Telecommunication Carriers	[No exceptions or limitations] <u>Except cable and other program distribution, and broadband internet service providers (e.g. cable, DSL)</u>
<u>517210</u>	<u>Wireless Telecommunication Carriers (Except Satellite)</u>	<u>Except Ship to shore broadcasting carriers</u>
[517211]	Paging	No exceptions or limitations]
[517212]	Cellular and Other Wireless	Except ship to shore broadcasting carriers]

	Communications	
[517310	Telecommunication	No exceptions or limitations]
	Resellers	
<u>517911</u>	<u>Telecommunication</u>	<u>No exceptions or limitations</u>
	<u>Resellers</u>	
<u>519130</u>	<u>Internet Publishing</u>	<u>Except web search portals, internet</u>
	<u>and Broadcasting</u>	<u>broadcasting, special interest web sites,</u>
	<u>and Web Search</u>	<u>entertainment sites and interactive game</u>
	<u>Portals</u>	<u>sites</u>

* * *

[541710	Research and	
	Development in the	Except facilities engaged in commercial
	Physical,	physical and biological research; and
	Engineering and Life	Noncommercial research organizations
	Sciences	(physical engineering and life sciences)]

<u>541712</u>	<u>Research and</u>	<u>Except facilities engaged in commercial</u>
	<u>Development in</u>	<u>physical and biological research; and</u>
	<u>the Physical,</u>	<u>Noncommercial research organizations</u>
	<u>Engineering and</u>	<u>(physical engineering and life sciences)</u>
	<u>Life Sciences</u>	
	<u>(except</u>	
	<u>Biotechnology)</u>	

* * *

Date

Lisa P. Jackson, Commissioner
Department of Environmental Protection