

Title 13.
Chapter 1D.
PART VIII.
INDUSTRIAL
CLASSIFICATION
SYSTEM.
§1-4-C.13:1D-138
to C.13:1D-141
§5-C.4:1C-9.1

P.L. 2003, CHAPTER 157, *approved August 15, 2003*
Assembly Bill No. 3648 (*Second Reprint*)

1 AN ACT concerning the replacement of the Standard Industrial
2 Classification ²[System] codes² with the North American Industrial
3 Classification System for certain regulated industries, ¹[and]¹
4 supplementing ¹Title 4 and¹ Title 13 of the Revised Statutes¹, and
5 amending P.L.1983, c.31¹.
6

7 **BE IT ENACTED** by the Senate and General Assembly of the State
8 of New Jersey:
9

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

14 a. identify the categories of employers, entities, establishments or
15 facilities contained in those Standard Industrial Classification codes
16 that are included in the definition of "business entity," "employer,"
17 "industrial establishment," ¹[or]¹ "industrial facility," ¹or "private
18 firm,"¹ regulated under P.L.1991, c.235 (C.13:1D-35 et seq.),
19 P.L.1983, c.330 (C.13:1K-6 et seq.), ¹P.L.1984, c.210 (C.13:1K-15
20 et seq.), P.L.1993, c.381 (C.58:28-1 et seq.),¹ P.L.1983, c.315
21 (C.34:5A-1 et seq.), or P.L.1986, c.142 (C.52:27D-222 et seq.); and
22 b. identify the universe of ¹those¹ employers, entities,
23 establishments¹,¹ or facilities under the North American Industry
24 Classification System of codes that are generally equivalent to ¹[the
25 universe] those¹ identified in subsection a. of this section.
26

27 2. ¹(New section) a.¹ The generally equivalent universe of
28 employers, entities, establishments¹,¹ or facilities identified in the
29 ¹rules and¹ regulations adopted by the Department of Environmental
30 Protection pursuant to subsection b. of section 1 of this act shall¹ [
31 upon the operative date of the regulations,]¹ be the regulated universe
32 of business entities, employers, industrial establishments ¹[or],¹
33 industrial facilities¹, or private firms¹ subject to the provisions of
34 P.L.1991, c.235 (C.13:1D-35 et seq.), P.L.1983, c.330 (C.13:1K-6 et

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Assembly AEN committee amendments adopted June 5, 2003.

² Assembly floor amendments adopted June 12, 2003.

1 seq.), ¹P.L.1984, c.210 (C.13:1K-15 et seq.), P.L.1993, c.381
 2 (C.58:28-1 et seq.),¹ P.L.1983, c.315 (C.34:5A-1 et seq.), or
 3 P.L.1986, c.142 (C.52:27D-222 et seq.) ¹upon the operative date of
 4 the regulations¹.

5 ¹b.¹ The department shall² [, to the maximum extent practicable,
 6 seek to]² ensure that the categories of employers, entities,
 7 establishments¹,¹ or facilities regulated pursuant to the ¹rules and¹
 8 regulations adopted pursuant to section 1 of this act are consistent
 9 with those regulated prior to the effective date of this act.

10 ²[¹c. The department may include or exclude from the categories
 11 of employers, entities, establishments, or facilities under the North
 12 American Industry Classification System of codes those employers,
 13 entities, establishments, or facilities that have been identified by the
 14 department after the effective date of this act as being subject to, or
 15 exempt from, regulation as provided by law.¹] No business entities,
 16 employers, industrial establishments, industrial facilities, or private
 17 firms shall be subject to, or excluded from the provisions of P.L.1991,
 18 c.235 (C.13:1D-35 et seq.), P.L.1983, c.330 (C.13:1K-6 et seq.),
 19 P.L.1984, c.210 (C.13:1K-15 et seq.), P.L.1993, c.381 (C.58:28-1 et
 20 seq.), P.L.1983, c.315 (C.34:5A-1 et seq.), or P.L.1986, c.142
 21 (C.52:27D-222 et seq.) solely as a result of the replacement of the
 22 Standard Industrial Classification codes with the North American
 23 Industrial Classification System of codes.²

24
 25 3. ¹(New section)¹ Prior to the operative date of the ¹rules and¹
 26 regulations required to be adopted by the ¹[department] Department
 27 of Environmental Protection¹ pursuant to section 1 of this act, every
 28 business entity, employer, industrial establishment, ¹[or]¹ industrial
 29 facility ¹or private firm¹ that is subject to P.L.1991, c.235 (C.13:1D-
 30 35 et seq.), P.L.1983, c.330 (C.13:1K-6 et seq.), ¹P.L.1984, c.210
 31 (C.13:1K-15 et seq.), P.L.1993, c.381 (C.58:28-1 et seq.),¹ P.L.1983,
 32 c.315 (C.34:5A-1 et seq.), or P.L.1986, c.142 (C.52:27D-222 et seq.)
 33 shall continue to be regulated pursuant to those acts without regard to
 34 the cessation of use by certain State or federal agencies of the
 35 Standard Industrial Classification system.

36
 37 4. ¹[Notwithstanding] (New section) Prior to the adoption of rules
 38 and regulations pursuant to section 1 of this act and notwithstanding¹
 39 the provisions of ¹the "Administrative Procedure Act,"¹ P.L.1968,
 40 c.410 (C.52:14B-1 et seq.) to the contrary, the Commissioner of
 41 Environmental Protection may, immediately upon filing ¹the proper
 42 notice¹ with the Office of Administrative Law, adopt such temporary
 43 regulations as the commissioner ¹[deems] determines is¹ necessary
 44 to¹ [implement the provisions of P.L. , c. (C.) (now pending
 45 before the Legislature as this bill), which] provide for classification

1 under the North American Industry Classification System of business
 2 entities, employers, industrial establishments, industrial facilities, or
 3 private firms regulated under P.L.1991, c.235 (C.13:1D-35 et seq.),
 4 P.L.1983, c.330 (C.13:1K-6 et seq.), P.L.1984, c.210 (C.13:1K-15 et
 5 seq.), P.L.1993, c.381 (C.58:28-1 et seq.), P.L.1983, c.315 (C.34:5A-
 6 1 et seq.), or P.L.1986, c.142 (C.52:27D-222 et seq.) and classified
 7 under the Standard Industrial Classification System. The temporary
 8 regulations shall not exclude any business entity, employer, industrial
 9 establishment, industrial facility, or private firm that was regulated
 10 prior to the effective date of this act, or include any business entity,
 11 employer, industrial establishment, industrial facility, or private firm
 12 that was not already regulated prior to the effective date of this act.
 13 The temporary¹ regulations shall be ¹[effective] in effect¹ for a period
 14 not to exceed 270 days ¹[from] after¹ the date of the filing, ¹[but]
 15 except that¹ in no case ¹[after] shall the temporary regulations be in
 16 effect¹ one year ¹[from] after¹ the effective date of P.L. , c.
 17 ¹(C.)¹(now pending before the Legislature as this bill). The
 18 ¹temporary¹ regulations may thereafter be amended, adopted or
 19 readopted by the commissioner as the commissioner ¹[deems]
 20 determines is¹ necessary in accordance with the requirements of
 21 ¹[P.L.1968, c.410] the "Administrative Procedure Act"¹.

22
 23 ¹5. (New section) a. The State Agriculture Development
 24 Committee, in consultation with the Department of Labor, shall adopt,
 25 pursuant to the "Administrative Procedure Act," P.L.1968, c.410
 26 (C.52:14B-1 et seq.), rules and regulations determining the
 27 classification for agriculture, forestry, fishing, and trapping under the
 28 North American Industry Classification System of codes, and for the
 29 production of agricultural and horticultural crops, trees and forest
 30 products, livestock, and poultry and other commodities that are
 31 described in the Standard Industrial Classification codes for
 32 agriculture, forestry, fishing and trapping, for the purposes of
 33 compliance with P.L.1983, c.31 (C.4:1C-1 et seq.). The State
 34 Agriculture Development Committee shall ensure that the provisions
 35 of P.L.1983, c.31 (C.4:1C-1 et seq.) shall continue to apply to any
 36 owner or operator of a commercial farm, or other person, to whom the
 37 provisions applied prior to the effective date of P.L. , c. (C.)
 38 (now pending before the Legislature as this bill).

39 b. Notwithstanding the provisions of the "Administrative Procedure
 40 Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to the contrary, the State
 41 Agriculture Development Committee may, immediately upon filing the
 42 regulations with the Office of Administrative Law, adopt such
 43 temporary regulations as the committee determines necessary to
 44 implement the provisions of P.L. , c. (C.) (now pending before
 45 the Legislature as this bill). The regulations shall be in effect for a
 46 period not to exceed 270 days after the date of filing, except that in no

1 case shall the regulations be in effect one year after the effective date
2 of P.L. , c. (C.)(now pending before the Legislature as this
3 bill). The regulations may thereafter be amended, adopted or
4 readopted as the committee determines necessary in accordance with
5 the "Administrative Procedure Act".¹

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

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

25 a. Produce agricultural and horticultural crops, trees and forest
26 products, livestock, and poultry and other commodities as described
27 in the Standard Industrial Classification for agriculture, forestry,
28 fishing and trapping or, after the operative date of the regulations
29 adopted pursuant to section 5 of P.L. , c. (C.)(now pending
30 before the Legislature as this bill), included under the corresponding
31 classification under the North American Industry Classification
32 System;

33 b. Process and package the agricultural output of the commercial
34 farm;

35 c. Provide for the operation of a farm market, including the
36 construction of building and parking areas in conformance with
37 municipal standards;

38 d. Replenish soil nutrients and improve soil tilth;

39 e. Control pests, predators and diseases of plants and animals;

40 f. Clear woodlands using open burning and other techniques, install
41 and maintain vegetative and terrain alterations and other physical
42 facilities for water and soil conservation and surface water control in
43 wetland areas;

44 g. Conduct on-site disposal of organic agricultural wastes;

45 h. Conduct agriculture-related educational and farm-based
46 recreational activities provided that the activities are related to

1 marketing the agricultural or horticultural output of the commercial
2 farm; and

3 i. Engage in any other agricultural activity as determined by the
4 State Agriculture Development Committee and adopted by rule or
5 regulation pursuant to the provisions of the "Administrative Procedure
6 Act," P.L.1968, c.410 (C.52:14B-1 et seq.).
7 (cf: P.L.1998, c.48, s.2)¹

8

9 ¹[5.] 7.¹ This act shall take effect immediately.

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13

14 Requires DEP to replace Standard Industrial Classification System
15 with North American Industrial Classification System.