

13:1D-138

LEGISLATIVE HISTORY CHECKLIST

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LAWS OF: 2003 **CHAPTER:** 157
NJSA: 13:1D-138 (DEP to replace Standard Industrial Classification System)
BILL NO: A3648 (Substituted for S2390)

SPONSOR(S): Guscoria and Chivukula

DATE INTRODUCED: May 19, 2003

COMMITTEE: **ASSEMBLY:** Environment and Solid Waste

SENATE: ---

AMENDED DURING PASSAGE: Yes

DATE OF PASSAGE: **ASSEMBLY:** June 23, 2003

SENATE: June 23, 2003

DATE OF APPROVAL: August 15, 2003

FOLLOWING ARE ATTACHED IF AVAILABLE:

[FINAL TEXT OF BILL](#) (2nd reprint enacted)
(Amendments during passage denoted by superscript numbers)

A3648

[SPONSORS STATEMENT](#): (Begins on page 3 of original bill) Yes

COMMITTEE STATEMENT: **ASSEMBLY:** Yes

SENATE: No

[FLOOR AMENDMENT STATEMENT](#): Yes

LEGISLATIVE FISCAL ESTIMATE: No

S2390

[SPONSORS STATEMENT](#): (Begins on page 3 of original bill) Yes

Bill and Sponsors Statement identical to A3648

COMMITTEE STATEMENT: **ASSEMBLY:** No

SENATE: Yes

FLOOR AMENDMENT STATEMENT: No

LEGISLATIVE FISCAL ESTIMATE: No

VETO MESSAGE: No

GOVERNOR'S PRESS RELEASE ON SIGNING: No

FOLLOWING WERE PRINTED:

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No

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.

10

11

12

13

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

ASSEMBLY, No. 3648

STATE OF NEW JERSEY
210th LEGISLATURE

INTRODUCED MAY 19, 2003

Sponsored by:
Assemblyman REED GUSCIORA
District 15 (Mercer)

SYNOPSIS

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

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning the replacement of the Standard Industrial
2 Classification System with the North American Industrial
3 Classification System for certain regulated industries, and
4 supplementing Title 13 of the Revised Statutes.

5

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

8

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

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

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

24

25 2. The generally equivalent universe of employers, entities,
26 establishments or facilities identified in the regulations adopted by the
27 Department of Environmental Protection pursuant to subsection b. of
28 section 1 of this act shall, upon the operative date of the regulations,
29 be the regulated universe of business entities, employers, industrial
30 establishments or industrial facilities subject to the provisions of
31 P.L.1991, c.235 (C.13:1D-35 et seq.), P.L.1983, c.330 (C.13:1K-6 et
32 seq.), P.L.1983, c.315 (C.34:5A-1 et seq.), or P.L.1986, c.142
33 (C.52:27D-222 et seq.). The department shall, to the maximum extent
34 practicable, seek to ensure that the categories of employers, entities,
35 establishments or facilities regulated pursuant to the regulations
36 adopted pursuant to section 1 of this act are consistent with those
37 regulated prior to the effective date of this act.

38

39 3. Prior to the operative date of the regulations required to be
40 adopted by the department pursuant to section 1 of this act, every
41 business entity, employer, industrial establishment, or industrial facility
42 that is subject to P.L.1991, c.235 (C.13:1D-35 et seq.), P.L.1983,
43 c.330 (C.13:1K-6 et seq.), P.L.1983, c.315 (C.34:5A-1 et seq.), or
44 P.L.1986, c.142 (C.52:27D-222 et seq.) shall continue to be regulated
45 pursuant to those acts without regard to the cessation of use by certain
46 State or federal agencies of the Standard Industrial Classification
47 system.

1 4. Notwithstanding the provisions of P.L.1968, c.410 (C.52:14B-1
2 et seq.) to the contrary, the Commissioner of Environmental
3 Protection may, immediately upon filing with the Office of
4 Administrative Law, adopt such temporary regulations as the
5 commissioner deems necessary to implement the provisions of P.L. ,
6 c. (C.) (now pending before the Legislature as this bill), which
7 regulations shall be effective for a period not to exceed 270 days from
8 the date of the filing, but in no case after one year from the effective
9 date of P.L. , c. (now pending before the Legislature as this bill).
10 The regulations may thereafter be amended, adopted or readopted by
11 the commissioner as the commissioner deems necessary in accordance
12 with the requirements of P.L.1968, c.410.

13

14 5. This act shall take effect immediately.

15

16

17

STATEMENT

18

19 The Standard Industrial Classification (SIC) was originally
20 developed in the 1930's to classify establishments by the type of
21 activity in which they are primarily engaged and to promote the
22 comparability of establishment data describing various facets of the
23 U.S. economy. The SIC covers the entire field of economic activities
24 by defining industries in accordance with the composition and
25 structure of the economy. Over the years, it was revised periodically
26 to reflect the economy's changing industry composition and
27 organization. The federal Office of Management and Budget last
28 updated the SIC in 1987.

29 Because of the SIC's usefulness, several State statutes define the
30 industrial companies, facilities and groups regulated pursuant to those
31 acts by referencing specific SIC codes. However, changes made
32 pursuant to the North American Free Trade Agreement have resulted
33 in a gradual phasing out of the SIC system, replacing it with the North
34 American Industry Classification System. Once this change is
35 completed, it may be difficult to clarify which facilities will continue
36 to be regulated. For the health and safety of New Jersey residents, it
37 is important that affected State statutes, such as the "Worker and
38 Community Right to Know Act," the "Pollution Prevention Act" and
39 the "Industrial Site Recovery Act," continue uninterrupted.

40 This bill would therefore require the Department of Environmental
41 Protection (DEP), working in consultation with the Department of
42 Labor, to adopt rules and regulations that would ensure continual
43 regulation. These regulations would first identify the categories of
44 employers, entities, establishments or facilities regulated pursuant to
45 P.L.1991, c.235 (C.13:1D-35 et seq.), P.L.1983, c.330 (C.13:1K-6 et
46 seq.), P.L.1983, c.315 (C.34:5A-1 et seq.), or P.L.1986, c.142

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1 (C.52:27D-222 et seq.) using the SIC system. The department would
2 then identify the universe of employers, entities, establishments or
3 facilities under the North American Industry Classification System of
4 codes that are generally equivalent to these regulated categories. The
5 bill would then require that upon adoption of the regulations, the
6 universe of employers, entities, establishments or facilities identified
7 by the North American Industrial Classification System of codes be
8 regulated pursuant to the cited statutes. The bill also clarifies that any
9 employers, entities, establishments or facilities currently regulated
10 pursuant to these statutes would continue to be regulated should there
11 be a gap between the time that State or federal governments stop using
12 SIC codes and the new regulations are adopted.

ASSEMBLY ENVIRONMENT AND SOLID WASTE
COMMITTEE

STATEMENT TO

ASSEMBLY, No. 3648

with committee amendments

STATE OF NEW JERSEY

DATED: JUNE 5, 2003

The Assembly Environment and Solid Waste Committee reports favorably and with committee amendments Assembly Bill No. 3648.

The bill, as amended, provides for the uninterrupted regulation of facilities under the "Pollution Prevention Act," P.L.1991, c.235 (C.13:1D-35 et seq.), the "Environmental Cleanup Responsibility Act," 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), the "Worker and Community Right to Know Act," P.L.1983, c.315 (C.34:5A-1 et seq.), and P.L.1986, c.142 (C.52:27D-222 et seq.) as the Standard Industrial Classification (SIC) System is phased out and the North American Industry Classification (NAIC) System is phased in. These State laws regulate industrial pollution, the cleanup of contaminated sites, hazardous discharges, public-private wastewater treatment contracts, and the use and handling of hazardous substances. The bill, as amended, provides for clarifying which facilities will continue to be regulated under these laws after the changeover to the NAIC System.

The bill, as amended, would also provide for the statutory reference to the SIC System under the "Right to Farm Act," P.L.1983, c.31 (C.4:1C-1 et seq.) to be addressed by the State Agriculture Development Committee (SADC) by regulation, in consultation with the Department of Labor (DOL).

More specifically, the bill would require the Department of Environmental Protection (DEP), in consultation with the DOL, to adopt rules and regulations that:

- 1) identify the categories of employers, entities, establishments, or facilities contained in those SIC codes that are included in the definition of "business entity," "employer," "industrial establishment," "industrial facility," or "private firm," and that are regulated under the State laws cited in the bill; and

- 2) identify the NAIC codes for the universe of those employers, entities, establishments or facilities that are generally equivalent to these regulated categories.

The bill, as amended, would then require that upon adoption of the

regulations, the employers, entities, establishments or facilities identified by the NAIC System of codes be regulated pursuant to the cited statutes. The bill, as amended, also permits DEP to include or exclude from the categories of employers, entities, establishments, or facilities under the North American Industry Classification System of codes those employers, entities, establishments, or facilities that have been identified by the department subsequent to the effective date of this act as being subject to, or exempt from, regulation as provided by law.

The bill, as amended, further provides that, prior to the adoption of the rules and regulations required under section 1 of the bill, the Commissioner of Environmental Protection may, immediately upon filing the proper notice with the Office of Administrative Law, adopt 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 the State laws cited in the bill and classified under the Standard Industrial Classification System. The bill, as amended, requires that the temporary regulations 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 would be in effect for 270 days or no longer than one year after the effective date of this act, after which they may be amended, adopted, or readopted in accordance with the requirements of the "Administrative Procedure Act."

Finally, the bill, as amended, authorizes the SADC, in consultation with the DOL, to adopt regulations, and if necessary emergency regulations not to be in effect more than 270 days after the filing or one year after the effective date of the act, that determine the classification for agriculture, forestry, fishing, and trapping under the NAIC 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 SIC codes for agriculture, forestry, fishing, and trapping, for the purposes of compliance with the "Right to Farm Act". The bill, as amended, adds the reference to the NAIC system to the appropriate section of the "Right to Farm Act," and further directs the SADC to ensure that the provisions of the "Right to Farm Act" will continue to apply to any owner or operator of a commercial farm, or other person, to whom the provisions applied to prior to the effective date of this bill, as amended.

The SIC System was originally developed in the 1930's to classify establishments by the type of activity in which they are primarily engaged and to promote the comparability of establishment data describing various facets of the U.S. economy. The SIC System

covers the entire field of economic activities by defining industries in accordance with the composition and structure of the economy. Several State statutes define the industrial companies, facilities and groups regulated pursuant to State laws by referencing specific SIC codes. However, changes made pursuant to the North American Free Trade Agreement have resulted in a gradual phasing out of the SIC System, replacing it with the NAIC System.

COMMITTEE AMENDMENTS:

The committee amendments to the bill:

1) add "private firm" to the list of terms whose definitions include references to SIC codes;

2) clarify that the SIC codes referenced under P.L.1984, c.210 (C.13:1K-15 et seq.) and P.L.1993, c.381 (C.58:28-1 et seq.) will also be addressed under the regulations required under the bill as amended;

3) permit the DEP to include or exclude from the categories of employers, entities, establishments, or facilities under the North American Industry Classification System of codes those employers, entities, establishments, or facilities that have been identified by the DEP after the effective date of this act as being subject to, or exempt from, regulation as provided by law;

4) clarify the purpose of the temporary regulations;

5) require the temporary regulations adopted by DEP provide that the regulated entities under the SIC system would continue to be regulated under the NAIC System;

6) require the temporary regulations adopted by DEP provide the entities not regulated under the SIC system would continue to not be regulated under the NAIC System;

7) provide for the statutory reference to the SIC System under the "Right to Farm Act" to be addressed by the SADC by regulation, in consultation with the DOL;

8) add to the appropriate provision of the "Right to Farm Act" a reference to the NAIC System classifications; and

9) make technical corrections to the bill.

STATEMENT TO
[First Reprint]
ASSEMBLY, No. 3648

with Assembly Floor Amendments
(Proposed By Assemblyman GUSCIORA)

ADOPTED: JUNE 12, 2003

These amendments would: (1) require that the Department of Environmental Protection ensure that the categories of employers, entities, establishments, or facilities regulated pursuant to the rules and regulations adopted pursuant to section 1 of the bill are consistent with those regulated prior to the bill's effective date; and (2) prohibit the Department from subjecting to, or excluding from the provisions of the State laws cited in the bill any business entities, employers, industrial establishments, industrial facilities, or private firms solely as a result of the replacement of the Standard Industrial Classification codes with the North American Industrial Classification System of codes.

These amendments make Assembly Bill No. 3648 1R identical to Senate Bill No. 2390 1R.

SENATE, No. 2390

STATE OF NEW JERSEY
210th LEGISLATURE

INTRODUCED MARCH 10, 2003

Sponsored by:

Senator STEPHEN M. SWEENEY

District 3 (Salem, Cumberland and Gloucester)

Senator HENRY P. MCNAMARA

District 40 (Bergen, Essex and Passaic)

SYNOPSIS

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

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 6/17/2003)

1 AN ACT concerning the replacement of the Standard Industrial
2 Classification System with the North American Industrial
3 Classification System for certain regulated industries, and
4 supplementing Title 13 of the Revised Statutes.

5

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

8

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

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

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

24

25 2. The generally equivalent universe of employers, entities,
26 establishments or facilities identified in the regulations adopted by the
27 Department of Environmental Protection pursuant to subsection b. of
28 section 1 of this act shall, upon the operative date of the regulations,
29 be the regulated universe of business entities, employers, industrial
30 establishments or industrial facilities subject to the provisions of
31 P.L.1991, c.235 (C.13:1D-35 et seq.), P.L.1983, c.330 (C.13:1K-6 et
32 seq.), P.L.1983, c.315 (C.34:5A-1 et seq.), or P.L.1986, c.142
33 (C.52:27D-222 et seq.). The department shall, to the maximum extent
34 practicable, seek to ensure that the categories of employers, entities,
35 establishments or facilities regulated pursuant to the regulations
36 adopted pursuant to section 1 of this act are consistent with those
37 regulated prior to the effective date of this act.

38

39 3. Prior to the operative date of the regulations required to be
40 adopted by the department pursuant to section 1 of this act, every
41 business entity, employer, industrial establishment, or industrial facility
42 that is subject to P.L.1991, c.235 (C.13:1D-35 et seq.), P.L.1983,
43 c.330 (C.13:1K-6 et seq.), P.L.1983, c.315 (C.34:5A-1 et seq.), or
44 P.L.1986, c.142 (C.52:27D-222 et seq.) shall continue to be regulated
45 pursuant to those acts without regard to the cessation of use by certain
46 State or federal agencies of the Standard Industrial Classification

1 system.

2

3 4. Notwithstanding the provisions of P.L.1968, c.410 (C.52:14B-1
4 et seq.) to the contrary, the Commissioner of Environmental
5 Protection may, immediately upon filing with the Office of
6 Administrative Law, adopt such temporary regulations as the
7 commissioner deems necessary to implement the provisions of P.L. ,
8 c. (C.) (now pending before the Legislature as this bill), which
9 regulations shall be effective for a period not to exceed 270 days from
10 the date of the filing, but in no case after one year from the effective
11 date of P.L. , c. (now pending before the Legislature as this bill).
12 The regulations may thereafter be amended, adopted or readopted by
13 the commissioner as the commissioner deems necessary in accordance
14 with the requirements of P.L.1968, c.410.

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16 5. This act shall take effect immediately.

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STATEMENT

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21 The Standard Industrial Classification (SIC) was originally
22 developed in the 1930's to classify establishments by the type of
23 activity in which they are primarily engaged and to promote the
24 comparability of establishment data describing various facets of the
25 U.S. economy. The SIC covers the entire field of economic activities
26 by defining industries in accordance with the composition and
27 structure of the economy. Over the years, it was revised periodically
28 to reflect the economy's changing industry composition and
29 organization. The federal Office of Management and Budget last
30 updated the SIC in 1987.

31 Because of the SIC's usefulness, several State statutes define the
32 industrial companies, facilities and groups regulated pursuant to those
33 acts by referencing specific SIC codes. However, changes made
34 pursuant to the North American Free Trade Agreement have resulted
35 in a gradual phasing out of the SIC system, replacing it with the North
36 American Industry Classification System. Once this change is
37 completed, it may be difficult to clarify which facilities will continue
38 to be regulated. For the health and safety of New Jersey residents, it
39 is important that affected State statutes, such as the "Worker and
40 Community Right to Know Act," the "Pollution Prevention Act" and
41 the "Industrial Site Recovery Act," continue uninterrupted.

42 This bill would therefore require the Department of Environmental
43 Protection (DEP), working in consultation with the Department of
44 Labor, to adopt rules and regulations that would ensure continual
45 regulation. These regulations would first identify the categories of
46 employers, entities, establishments or facilities regulated pursuant to

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1 P.L.1991, c.235 (C.13:1D-35 et seq.), P.L.1983, c.330 (C.13:1K-6 et
2 seq.), P.L.1983, c.315 (C.34:5A-1 et seq.), or P.L.1986, c.142
3 (C.52:27D-222 et seq.) using the SIC system. The department would
4 then identify the universe of employers, entities, establishments or
5 facilities under the North American Industry Classification System of
6 codes that are generally equivalent to these regulated categories. The
7 bill would then require that upon adoption of the regulations, the
8 universe of employers, entities, establishments or facilities identified
9 by the North American Industrial Classification System of codes be
10 regulated pursuant to the cited statutes. The bill also clarifies that any
11 employers, entities, establishments or facilities currently regulated
12 pursuant to these statutes would continue to be regulated should there
13 be a gap between the time that State or federal governments stop using
14 SIC codes and the new regulations are adopted.

SENATE ENVIRONMENT COMMITTEE

STATEMENT TO

SENATE, No. 2390

with committee amendments

STATE OF NEW JERSEY

DATED: JUNE 12, 2003

The Senate Environment Committee reports favorably and with committee amendments Senate Bill No. 2390.

The bill, as amended, provides for the uninterrupted regulation of facilities under the "Pollution Prevention Act," P.L.1991, c.235 (C.13:1D-35 et seq.), the "Environmental Cleanup Responsibility Act," 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), the "Worker and Community Right to Know Act," P.L.1983, c.315 (C.34:5A-1 et seq.), and P.L.1986, c.142 (C.52:27D-222 et seq.) as the Standard Industrial Classification (SIC) System is phased out and the North American Industry Classification (NAIC) System is phased in. These State laws regulate industrial pollution, the cleanup of contaminated sites, hazardous discharges, public-private wastewater treatment contracts, and the use and handling of hazardous substances. The bill, as amended, provides for clarifying which facilities will continue to be regulated under these laws after the changeover to the NAIC System.

The bill, as amended, would also provide for the statutory reference to the SIC System under the "Right to Farm Act," P.L.1983, c.31 (C.4:1C-1 et seq.) to be addressed by the State Agriculture Development Committee (SADC) by regulation, in consultation with the Department of Labor (DOL).

More specifically, the bill would require the Department of Environmental Protection (DEP), in consultation with the DOL, to adopt rules and regulations that:

(1) identify the categories of employers, entities, establishments, or facilities contained in those SIC codes that are included in the definition of "business entity," "employer," "industrial establishment," "industrial facility," or "private firm," and that are regulated under the State laws cited in the bill; and

(2) identify the NAIC codes for the universe of those employers, entities, establishments or facilities that are generally equivalent to these regulated categories.

The bill, as amended, would then require that upon adoption of the regulations, the employers, entities, establishments or facilities

identified by the NAIC System of codes be regulated pursuant to the cited statutes. The bill, as amended, requires that the DEP ensure that the categories of employers, entities, establishments, or facilities regulated pursuant to the rules and regulations adopted pursuant to section 1 of the bill are consistent with those regulated prior to the bill's effective date. Further, no business entities, employers, industrial establishments, industrial facilities, or private firms could be subject to, or excluded from the provisions of the State laws cited in the bill solely as a result of the replacement of the Standard Industrial Classification codes with the North American Industrial Classification System of codes.

The bill, as amended, further provides that, prior to the adoption of the rules and regulations required under section 1 of the bill, the Commissioner of Environmental Protection may, immediately upon filing the proper notice with the Office of Administrative Law, adopt 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 the State laws cited in the bill and classified under the Standard Industrial Classification codes.

The bill, as amended, requires that the temporary regulations 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 would be in effect for 270 days or no longer than one year after the bill's effective date, after which they may be amended, adopted, or readopted in accordance with the requirements of the "Administrative Procedure Act."

Finally, the bill, as amended, authorizes the SADC, in consultation with the DOL, to adopt regulations, and if necessary emergency regulations not to be in effect more than 270 days after the filing or one year after the effective date of the act, that determine the classification for agriculture, forestry, fishing, and trapping under the NAIC 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 SIC codes for agriculture, forestry, fishing, and trapping, for the purposes of compliance with the "Right to Farm Act". The bill, as amended, adds the reference to the NAIC system to the appropriate section of the "Right to Farm Act," and further directs the SADC to ensure that the provisions of the "Right to Farm Act" will continue to apply to any owner or operator of a commercial farm, or other person, to whom the provisions applied to prior to the effective date of this bill, as amended.

The SIC System was originally developed in the 1930's to classify

establishments by the type of activity in which they are primarily engaged and to promote the comparability of establishment data describing various facets of the U.S. economy. The SIC System covers the entire field of economic activities by defining industries in accordance with the composition and structure of the economy. Several State statutes define the industrial companies, facilities and groups regulated pursuant to State laws by referencing specific SIC codes. However, changes made pursuant to the North American Free Trade Agreement have resulted in a gradual phasing out of the SIC System, replacing it with the NAIC System.

COMMITTEE AMENDMENTS:

The committee amendments to the bill:

(1) add "private firm" to the list of terms whose definitions include references to SIC codes;

(2) clarify that the SIC codes referenced under P.L.1984, c.210 (C.13:1K-15 et seq.) and P.L.1993, c.381 (C.58:28-1 et seq.) will also be addressed under the regulations required under the bill as amended;

(3) prohibit the DEP from subjecting to, or excluding from the provisions of the State laws cited in the bill any business entities, employers, industrial establishments, industrial facilities, or private firms solely as a result of the replacement of the SIC codes with the NAIC System;

(4) clarify the purpose of the temporary regulations;

(5) require the temporary regulations adopted by DEP provide that the regulated entities under the SIC system would continue to be regulated under the NAIC System;

(6) require the temporary regulations adopted by DEP provide the entities not regulated under the SIC system would continue to not be regulated under the NAIC System;

(7) provide for the statutory reference to the SIC System under the "Right to Farm Act" to be addressed by the SADC by regulation, in consultation with the DOL;

(8) add to the appropriate provision of the "Right to Farm Act" a reference to the NAIC System classifications; and

(9) make technical corrections to the bill.