

13:1D-1

LEGISLATIVE HISTORY CHECKLIST
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(Pollution
Prevention Act)

LAWS OF: 1991

CHAPTER: 235

Bill No: S2220

Sponsor(s): Dalton

Date Introduced: Pre-filed

Committee: Assembly: Appropriation

Senate: Environmental Quality; Revenue, Finance

Amended during passage: Yes Senate Substitute (1R) enacted

Date of Passage: Assembly: June 17, 1991

Senate: December 13, 1990

Date of Approval: August 1, 1991

Following statements are attached if available:

Sponsor statement: Yes

Committee Statement: Assembly: Yes

Senate: Yes 5-17-90 & 12-3-90

Fiscal Note: Yes

Veto Message: No

Message on signing: Yes

Following were printed:

Reports: No

Hearings: Yes

(over)

Bills during previous Legislative sessions:

S3581 (1988-89)

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New Jersey. Legislature. Senate. Committee on Energy and Environment.

Hearing on S3581, held 12-18-89. Trenton, 1989.

See newspaper clippings--attached:

KBG/SLJ

[FIRST REPRINT]

SENATE COMMITTEE SUBSTITUTE FOR
SENATE, No. 2220 SCS

STATE OF NEW JERSEY

ADOPTED DECEMBER 3, 1990

Sponsored by Senators DALTON, COWAN, McNAMARA,
ORECHIO, FOY and LESNIAK

1 AN ACT concerning pollution prevention, amending P.L.1983,
2 c.315, and supplementing Title 13 of the Revised Statutes.

3

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

6 1. (New section) ¹[This] Sections 1 through 16 of this¹ act
7 shall be known, and may be cited, as the "Pollution Prevention
8 Act."

9 2. (New section) The Legislature finds and declares that
10 thousands of tons of a multitude of hazardous substances, the
11 environmental and health effects of which are largely unknown,
12 are discharged into the environment of the State each year; that
13 most of these hazardous substances are legally discharged under
14 the terms of air pollution, water pollution, and hazardous waste
15 management permits that allow discharges ¹of¹ up to certain
16 stipulated amounts; and that the discharge of these hazardous
17 substances into air and water, onto the land, and into the
18 workplaces and neighborhoods of the State constitutes an
19 unnecessary risk to the environment and to occupational and
20 public health.

21 The Legislature further finds and declares that for the past two
22 decades the State's major environmental regulatory efforts, to
23 wit, the air pollution, water pollution, and hazardous waste
24 management programs administered by the Department of
25 Environmental Protection as directed and mandated under federal
26 and State law, have focused on controlling or managing
27 discharges of hazardous substances through permit systems and
28 the installation of pollution control technologies; that the
29 traditional system of separately regulating air pollution, water
30 pollution, and hazardous waste management constitutes a
31 fragmented approach to environmental protection and potentially
32 allows pollution to be shifted from one environmental medium to
33 another; and that while the traditional system has produced
34 palpable improvements in the State's environmental quality, it
35 ¹[inadequately addresses] does not adequately address¹ the
36 impact of the use of hazardous substances upon occupational
37 health in pollution-generating industrial processes.

EXPLANATION--Matter enclosed in bold-faced brackets [thus] in the
above bill is not enacted and is 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 AAP committee amendments adopted June 13, 1991.

1 The Legislature further finds and declares that the inherent
2 limitations of the traditional system of pollution control should
3 be addressed by a new emphasis on pollution prevention, including
4 ¹the¹ reduction ¹[in] ¹of¹ the use of hazardous substances in
5 industrial and manufacturing processes; that a rigorous
6 accounting ¹[for] ¹of¹ the use of hazardous substances, the
7 generation of hazardous substances as nonproduct output, and the
8 multimedia environmental release of hazardous substances at
9 each step of an industrial process will identify the points at
10 which, and the procedures by which, pollution can be prevented;
11 that pollution prevention can be achieved through a more
12 efficient and rational use of hazardous substances, or through the
13 use of less hazardous substitute substances or processes less
14 prone to produce pollution; and that a soundly planned pollution
15 prevention program can be implemented without adversely
16 affecting the State's economic health or the livelihood of those
17 employed by industries that use and discharge hazardous
18 substances.

19 The Legislature therefore determines that it is in the interest
20 of the environment and public and occupational health, and in the
21 general public interest of all residents of the State, to transform
22 the current system of pollution control to a system of pollution
23 prevention; that it is in the public interest to propose as a State
24 public policy goal a significant reduction over five years after the
25 preparation of the pollution prevention plans required by this act,
26 calculated on the basis of 1987 amounts, in the use of hazardous
27 substances at industrial facilities, and a 50% reduction over five
28 years after the preparation of the pollution prevention plans
29 required by this act, calculated on the basis of 1987 amounts, in
30 the generation of hazardous substances as nonproduct output;
31 that an Office of Pollution Prevention should be established in
32 the Department of Environmental Protection, charged with
33 implementing a comprehensive pollution prevention program and
34 integrating the air pollution, water pollution, and hazardous
35 waste management programs into the pollution prevention
36 program; and that certain industries ¹or facilities¹ should be
37 required to prepare and implement pollution prevention plans
38 ¹[and] ¹pollution prevention plan summaries¹, and pollution
39 prevention progress reports for the purpose of making pollution
40 prevention a primary technique in the control of hazardous
41 substances and their environmental and health effects¹.

42 3. (New section) As used in this act:

43 "Board" means the Pollution Prevention Advisory Board
44 established pursuant to section 5 of this act.

45 "Commissioner" means the Commissioner of the Department
46 of Environmental Protection.

47 ¹"Consume" means to change or alter the molecular structure
48 of a hazardous substance within a production process.¹

49 "Department" means the Department of Environmental
50 Protection.

1 "Facility" means all buildings, equipment, structures, and other
2 property that are located on a single site or on contiguous or
3 adjacent sites and that are owned or operated by the same person.

4 "Facility-wide permit" means a single permit issued by the
5 department ¹[for an] to the owner or operator of a priority¹
6 industrial facility incorporating the permits, certificates,
7 registrations, or any other relevant department approvals
8 previously issued to the ¹owner or operator of the priority¹
9 industrial facility pursuant to P.L.1970, c.39 (C.13:1E-1 et seq.),
10 P.L.1977, c.74 (C.58:10A-1 et seq.), or P.L.1954, c.212
11 (C.26:2C-1 et seq.), and the appropriate provisions of the
12 pollution prevention plan prepared by the owner or operator of
13 the priority industrial facility pursuant to ¹[sections] section¹ 7
14 and ¹section¹ 8 of this act.

15 "Hazardous substance" means any substance on the list
16 established by the United States Environmental Protection
17 Agency for reporting pursuant to 42 U.S.C. §11023, and any other
18 substance which the department, pursuant to the
19 ¹["Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1
20 et seq.)] provisions of subsection i. of section 8 of this act¹,
21 defines as a hazardous substance for the purposes of this act.

22 "Hazardous waste" means any solid waste defined as hazardous
23 waste by the department pursuant to P.L.1970, c.39 (C.13:1E-1
24 et seq.).

25 "Industrial facility" means any facility having a Standard
26 Industrial Classification, as designated in the Standard Industrial
27 Classification Manual prepared by the federal Office of
28 Management and Budget, within the Major Group Numbers, Group
29 Numbers, or Industry Numbers listed in subsection h. of section 3
30 of P.L.1983, c.315 (C.34:5A-3) and which is subject to the
31 regulatory requirements of P.L.1970, c.39 (C.13:1E-1 et seq.),
32 P.L.1977, c.74 (C.58:10A-1 et seq.), or P.L.1954, c.212
33 (C.26:2C-1 et seq.).

34 "Manufacture" means to produce, prepare, import, or
35 compound a hazardous substance.

36 "Multimedia release" means the release of a hazardous
37 substance to any environmental medium, ¹or any combination of
38 media,¹ including the air, water or land, and shall include any
39 release into workplaces.

40 "Nonproduct output" means all ¹[nonproduct multimedia
41 outputs of]¹ hazardous substances ¹or hazardous wastes¹ that are
42 generated ¹[at a source or, in instances where a more specific
43 source cannot be identified, at a production process, including
44 outputs that are destined for release to air or discharge to water
45 or any other waste streams]¹ prior to storage, recycling,
46 treatment ¹, control,¹ or disposal ¹and that are not intended for
47 use as a product¹.

48 "Office" means the Office of Pollution Prevention established
49 in the department pursuant to section 4 of this act.

50 "Operator" means any person in control of, or exercising

1 responsibility for, the daily operation of an industrial facility or a
2 priority industrial facility.

3 "Owner" means any person who owns an industrial facility or a
4 priority industrial facility.

5 "Person" means any individual, partnership, company,
6 corporation, society, firm, consortium, joint venture, ¹[political
7 subdivision of the State or any agency or instrumentality thereof,
8 Federal entities,]¹ or any commercial or other legal entity.

9 "Pilot facility" means a facility or designated area of a facility
10 used for pilot-scale development of products or processes.

11 "Pollution prevention" means: changes in production
12 technologies, raw materials or products, that result in the
13 reduction of the demand for hazardous substances per unit of
14 product manufactured and the creation of hazardous products ¹[,]
15 or¹ nonproduct outputs ¹[or destructive results]¹; or changes in
16 the use of raw materials, products, or production technologies
17 that result in the reduction of the input use of hazardous
18 substances and the creation of hazardous by-products or
19 destructive results; or on-site facility changes in production
20 processes, products, or the use of substitute raw materials that
21 result in the reduction of the amount of hazardous waste
22 generated and disposed of on the land or hazardous substances
23 discharged into the air or water per unit of product manufactured
24 prior to treatment, and that reduce or eliminate, without
25 shifting, the risks that the use of hazardous substances at an
26 industrial facility pose to employees, consumers, and the
27 environment ¹and human health¹. "Pollution prevention" shall
28 include, but need not be limited to, raw material substitution,
29 product reformulation, production process redesign or
30 modification, in-process recycling, and improved operation and
31 maintenance of production process equipment. "Pollution
32 prevention" shall not include any action or change entailing a
33 substitution of one hazardous substance, product or nonproduct
34 output for another that results in the creation of substantial new
35 risk, and shall not include treatment, increased pollution control,
36 out-of-process recycling, or incineration, except ¹[that the
37 department may allow an industrial facility to consider
38 out-of-process recycling in a pollution prevention plan and
39 pollution prevention plan summary prepared] as otherwise
40 provided¹ pursuant to subsection f. of section 7 of this act.

41 "Pollution prevention plan" means a plan required to be
42 prepared by an industrial facility pursuant to the provisions of
43 ¹section 7 of¹ this act.

44 ¹"Pollution prevention plan progress report" means a report
45 required to be submitted annually to the department by the owner
46 or operator of an industrial facility pursuant to the provisions of
47 section 7 of this act.¹

48 "Pollution prevention plan summary" means a summary of a
49 pollution prevention plan required to be prepared by an industrial
50 facility and submitted to the department pursuant to the

1 provisions of ¹section 7 of¹ this act.

2 "Priority industrial facility" means any industrial facility
3 required to prepare and submit a toxic chemical release form
4 pursuant to 42 U.S.C. §11023, or any other facility designated a
5 priority industrial facility pursuant to rules and regulations
6 adopted by the department pursuant to ¹[the "Administrative
7 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.)] the
8 provisions of subsection h. of section 8 of this act¹ .

9 "Process" means the preparation of a hazardous substance,
10 after its manufacture, for sale or use in the same form or
11 physical state, or in a different form or physical state, as that in
12 which it was received at the industrial facility where it is
13 processed, or as part of an article or product containing the
14 hazardous substance.

15 "Product" means a desired result of a production process that
16 is used as a commodity in trade in the channels of commerce by
17 the general public in the same form as it is produced.

18 "Production process" means a process, line, method, activity or
19 technique, or a series or combination of processes, lines, methods
20 or techniques used to produce a product or reach a planned result.

21 "Research and development laboratory" means a facility or a
22 specially designated area of a facility used primarily for
23 research, development, and testing activity, and not primarily
24 involved in the production of goods for commercial sale, in which
25 hazardous substances are used by, or under, the direct supervision
26 of a technically qualified person.

27 "Source" means a ¹[locational component of] point or location
28 in¹ a production process at which a nonproduct output is
29 generated or released ¹, provided, however, that similar, related,
30 or identical kinds of sources may be considered a single source
31 for the purposes of this act¹ .

32 ¹"Targeted production process" means any production process
33 which significantly contributes to the use or release of hazardous
34 substances or the generation of hazardous waste or nonproduct
35 output, as determined by the owner or operator of an industrial
36 facility pursuant to criteria established by the department."

37 "Targeted source" means any source which significantly
38 contributes to the generation of nonproduct output, as
39 determined by the owner or operator of an industrial facility
40 pursuant to criteria established by the department."¹

41 "Use" means to process or otherwise use a hazardous substance.

42 "Violation of this act" means a violation of any provision of
43 this act, or any rule or regulation, administrative order, or
44 facility-wide permit adopted or issued pursuant thereto.

45 4. (New section) a. There is established in the Department of
46 Environmental Protection the Office of Pollution Prevention.
47 The office shall be under the immediate supervision of an
48 administrator appointed by the commissioner who shall report
49 directly to the commissioner. The administrator and all
50 managerial employees necessary to implement the provisions of

1 this act as determined by the commissioner may be members of
2 the unclassified service of the State. The office shall be
3 responsible for the implementation of the provisions of this act,
4 for the coordination of all pollution prevention policies within the
5 department, ¹[and]¹ for conducting an ongoing review of all
6 appropriate regulatory and enforcement policies to ensure that
7 these policies require or encourage pollution prevention to the
8 maximum extent practicable and feasible, and for performing any
9 other function that the commissioner may deem appropriate.

10 ¹[b. The department shall have the authority to review any
11 rule or regulation, administrative consent order, administrative
12 order, compliance schedule, permit, or license issued pursuant to
13 P.L.1970, c.33 (C.13:1D-1 et seq.), P.L.1970, c.39 (C.13:1E-1
14 et seq.), P.L.1977, c.74 (C.58:10A-1 et seq.), or P.L.1954, c.212
15 (C.26:2C-1 et seq.), to determine if the rule or regulation,
16 administrative consent order, administrative order, compliance
17 schedule, permit, or license encourages or requires pollution
18 prevention. The department may also conduct this review for the
19 purpose of determining if the terms of an administrative consent
20 order, administrative order, compliance schedule, permit, or
21 license issued to, or entered into with, an industrial facility
22 comply with the provisions of the pollution prevention plan or
23 pollution prevention plan summary, as appropriate, prepared by
24 the industrial facility pursuant to this act. If any rule or
25 regulation, administrative consent order, administrative order,
26 compliance schedule, permit, or license does not encourage or
27 require pollution prevention, the department may require that it
28 be changed to do so. The department shall have the authority to
29 require any changes it deems necessary in any administrative
30 consent order, administrative order, compliance schedule, permit,
31 or license issued to, or entered into with, the owner or operator
32 of a industrial facility, including the inclusion of the provisions of
33 the pollution prevention plan, or pollution prevention plan
34 summary, as appropriate, as a component of the administrative
35 consent order, administrative order, compliance schedule, permit,
36 or license.

37 c.] ¹b.¹ The department ¹[shall] may¹ establish an educational
38 and outreach program designed to explain and make available to
39 the ¹general¹ public all pollution prevention plan summaries ¹and
40 pollution prevention plan progress reports¹ submitted to the
41 department pursuant to ¹[sections 7 and 8 of]¹ this act, in
42 accordance with rules and regulations adopted by the department
43 to protect trade secret information.

44 ¹c.¹ Upon a written request by a member of the public for a
45 copy of a pollution prevention plan summary ¹or pollution
46 prevention plan progress report submitted to the department
47 pursuant to this act¹, the ¹[office] department¹ shall provide ¹[a
48 member of the public] that person¹ with a copy of any pollution
49 prevention plan summary ¹or pollution prevention plan progress
50 report¹ submitted to the department pursuant to this act within

1 30 days ¹of receipt of the request therefor¹ for a cost not to
2 exceed the cost of printing and postage.

3 5. (New section) a. There is established in the Department of
4 Environmental Protection the Pollution Prevention Advisory
5 Board. The board shall consist of the Administrator of the Office
6 of Pollution Prevention, the Executive Director of the Hazardous
7 Waste Facilities Siting Commission, and the Director of the State
8 Technical Assistance Program at the New Jersey Institute of
9 Technology, ¹[the three of whom] who¹ shall serve ex officio, and
10 12 public members appointed by the Governor with the advice and
11 consent of the Senate. Of the public members of the board, one
12 shall have experience or training in the field of environmental
13 compliance ¹[with] at¹ a large ¹[industry] industrial facility¹ ,
14 one shall have experience or training in the field of
15 environmental compliance ¹[with] at¹ a ¹[medium industry]
16 medium-sized industrial facility¹ , one shall have experience or
17 training in the field of environmental compliance ¹[with] at¹ a
18 small ¹[industry] industrial facility¹, three shall be members of
19 recognized Statewide environmental organizations, one shall be a
20 person with academic training in the field of industrial processes,
21 one shall be a person with academic training in the field of
22 environmental economics, two shall be representatives of
23 organized labor and have training or experience in the field of
24 occupational diseases and health, one shall have experience in
25 local government, and one shall be a representative of the
26 general public. Each of the public members shall be appointed
27 for a term of three years, except that of the public members first
28 appointed by the Governor, four shall serve for terms of three
29 years, four shall serve for terms of two years, and four shall
30 serve for terms of one year.

31 b. A majority of the membership of the board shall constitute
32 a quorum for the transaction of board business. Action may be
33 taken and motions adopted by the board at any meeting thereof
34 by the affirmative vote of a majority of the members of the
35 board present and voting.

36 c. The Governor shall appoint a chairman and other officers as
37 may be necessary from among ¹[its] the¹ members ¹of the
38 board¹. Members of the board shall serve without compensation
39 but the board may, within the limits of funds appropriated or
40 otherwise made available to it for such purposes, reimburse its
41 members for ¹reasonable and¹ necessary expenses incurred in the
42 discharge of their official duties.

43 d. The board ¹[shall] may¹:

44 (1) Review any matters submitted to it by the department or
45 the office concerning any aspect of the provisions or
46 implementation of this act, and report its recommendations to
47 the department or office;

48 (2) Conduct an ongoing review of the implementation of this
49 act and submit any recommendations for administrative or
50 legislative changes it deems necessary to the department or the

1 office; ¹[and]¹
2 (3) Investigate techniques to develop standardized
3 classifications of production processes employed by industrial
4 facilities, and investigate the feasibility of ¹utilizing¹ such
5 techniques¹[.] in the development and implementation of
6 pollution prevention plans;¹
7 ¹[e. The board may:
8 (1)] (4)¹ Advise the office on the interpretation of information
9 submitted in pollution prevention plan summaries ¹and pollution
10 prevention plan progress reports¹ and on the content of pollution
11 prevention plans ¹, pollution prevention plan summaries, and
12 pollution prevention plan progress reports¹;
13 ¹[(2)] (5)¹ Review the scientific literature concerning the
14 occupational, public health, and environmental risks presented by
15 exposures to specific hazardous substances, evaluate scientific
16 interpretations of these risks, and assess the risks of the
17 discharge of these hazardous substances into different
18 environmental media;
19 ¹[(3)] (6)¹ Review and evaluate the impact of reductions in the
20 use or discharge of specific hazardous substances on employment
21 levels;
22 ¹[(4)] (7)¹ Conduct periodic reviews of the criteria adopted by
23 the department for the preparation of pollution prevention plans
24 ¹[and] ¹, pollution prevention plan summaries, ¹and pollution
25 prevention plan progress reports¹ and, if deemed necessary, make
26 recommendations ¹to the department¹ for administrative or
27 legislative changes;
28 ¹[(5)] (8)¹ Study and evaluate the practicability and feasibility
29 of achieving hazardous substance pollution prevention without
30 reductions in employment levels through the use of substitute
31 substances, alternative procedures or processes, or other means;
32 ¹[or
33 (6)] (9)¹ Conduct research or hold public hearings concerning
34 the continued use, production, manufacture, discharge, or
35 disposal of any hazardous substance in the State and the threat
36 that this use, production, manufacture, discharge, or disposal
37 poses to human health or the environment, and, if warranted,
38 make a written recommendation to the Governor and the
39 Legislature concerning the prohibition of, or restrictions on, the
40 continued use, production, manufacture, discharge, or disposal of
41 the hazardous substance in the State¹[.] ,except that the board
42 shall not conduct research or hold public hearings concerning the
43 siting of hazardous waste facilities; and
44 (10) Review the expenditure by the department of monies
45 deposited in the "Pollution Prevention Fund" established pursuant
46 to section 16 of this act.¹
47 6. (New section) a. Within 18 months of the effective date of
48 this act, the department shall adopt, pursuant to the
49 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1
50 et seq.), rules and regulations necessary for the implementation

1 of this act.

2 b. Within 18 months of the effective date of this act the
3 department shall adopt, pursuant to the "Administrative
4 Procedure Act," rules and regulations ¹[establishing a document]¹
5 that ¹[outlines] outline¹ the ¹[specific] substantive¹ requirements
6 of pollution prevention plans ¹[and] ¹ pollution prevention plan
7 summaries, ¹and pollution prevention plan progress reports,¹ and
8 shall make ¹[this] a¹ document ¹setting forth these
9 requirements¹ available to owners and operators of priority
10 industrial facilities. ¹The rules and regulations adopted pursuant
11 to this subsection shall, to the maximum extent practicable and
12 feasible, require that information required for the preparation of
13 a pollution prevention plan, pollution prevention plan summary,
14 and a pollution prevention plan progress report be based on
15 information developed by the owner or operator of an industrial
16 facility for the purposes of compliance with 42 U.S.C. § 11023 and
17 P.L.1983, c.315 (C.34:5A-1 et al.). These rules and regulations
18 shall specify which information required in a pollution prevention
19 plan summary and pollution prevention plan progress report may
20 be reported to the department in an environmental survey
21 submitted pursuant to P.L. 1983, c. 315 instead of in a pollution
22 prevention plan summary or a pollution prevention plan progress
23 report. These regulations may require owners or operators of
24 industrial facilities to submit pollution prevention plan summaries
25 or pollution prevention plan progress reports in a form that is
26 compatible with the department's electronic information storage
27 and retrieval system.

28 c. Within 18 months of the effective date of this act the
29 department shall adopt, pursuant to the "Administrative
30 Procedure Act," rules and regulations establishing criteria
31 pursuant to which the department shall be authorized to issue a
32 directive requiring an industrial facility which is not a priority
33 industrial facility to prepare a pollution prevention plan, pollution
34 prevention plan summary, and a pollution prevention plan
35 progress report. These criteria shall include the toxicity and
36 volume of the hazardous substances or hazardous waste used,
37 generated or released at the industrial facility, and the history of
38 unpermitted releases at the industrial facility. These criteria
39 shall also include a requirement that the department, prior to
40 issuing a directive pursuant to this subsection, make a written
41 finding that, based on the past performance of the industrial
42 facility and the compliance of the industrial facility with the
43 terms of any permit, certificate, registration, or any other
44 relevant department approval issued to the owner or operator of
45 the industrial facility pursuant to P.L.1970, c.33 (C.13:1D-1 et
46 seq.), P.L.1970, c.39 (C.13:1E-1 et seq.), P.L.1977, c.74
47 (C.58:10A-1 et seq.), or P.L.1954, c.212 (C.26:2C-1 et seq.), and
48 the extent to which the industrial facility contributes to the total
49 amount of hazardous substances used, generated, or released in
50 the State or a region of the State, the preparation of a pollution

1 prevention plan, pollution prevention plan summary, and pollution
2 prevention plan progress report for the industrial facility could
3 result in a reduction in the use or release of hazardous substances
4 or the generation of hazardous waste or nonproduct output at the
5 industrial facility and a reduction in the threat posed to the
6 environment or public health by the use or release of hazardous
7 substances or the generation of hazardous waste or nonproduct
8 output at the industrial facility.¹

9 ¹[c.] d.¹ The department, pursuant to rules and regulations
10 adopted pursuant to the "Administrative Procedure Act," may
11 establish for any hazardous substance used or manufactured at an
12 industrial facility a facility-wide threshold quantity of up to
13 10,000 pounds below which the hazardous substance need not be
14 included in the pollution prevention plan ¹[or] ¹ pollution
15 prevention plan summary ¹or pollution prevention plan progress
16 report¹, or a 10-employee threshold below which an industrial
17 facility would not be required to prepare a pollution prevention
18 plan or submit a pollution prevention plan summary ¹and a
19 pollution prevention plan progress report¹.

20 ¹[d.] e.¹ An owner or operator of an industrial facility may
21 include in a pollution prevention plan ¹[and] ¹ pollution
22 prevention plan summary ¹, and pollution prevention plan
23 progress report¹ an input-use exemption list of any hazardous
24 substances used in a specific production process at the industrial
25 facility, the input-use of which he has determined through
26 pollution prevention planning cannot be reduced below the
27 current level. For each hazardous substance included on the
28 input-use exemption list, the owner or operator shall be required
29 to demonstrate, in writing, that there is no reasonably available
30 and economically viable alternative to the current level of
31 input-use of the hazardous substances in the specified production
32 process. ¹An owner or operator shall not be required to include
33 in a pollution prevention plan, pollution prevention plan summary,
34 or pollution prevention plan progress report a reduction in use for
35 any hazardous substance included on an input-use exemption list,
36 but shall be required to provide all other information concerning
37 such a hazardous substance required in a pollution prevention
38 plan, pollution prevention plan summary, and pollution prevention
39 plan progress report.¹ Notwithstanding the inclusion of a
40 hazardous substance on an input-use exemption list, the owner or
41 operator of an industrial facility shall be required to ¹[employ
42 other] consider¹ pollution prevention techniques ¹other than use
43 reduction¹ with regard to each hazardous substance on the
44 input-use exemption list.

45 ¹[e.] f.¹ An owner or operator of an industrial facility shall not
46 be required to include in a pollution prevention plan ¹[or] ¹
47 pollution prevention plan summary ¹or pollution prevention plan
48 progress report¹ information pertaining to improvements in
49 pollution prevention for a production process established after
50 January 1, ¹[1991] 1992¹ until the first five-year revision of the

1 pollution prevention plan and pollution prevention plan summary
2 prepared for the industrial facility at which the production
3 process is ¹[located] carried out¹ after the establishment of the
4 production process, or until five years after the establishment of
5 the production process, whichever occurs later. ¹Within 18
6 months of the effective date of this act, the department shall
7 adopt, pursuant to the "Administrative Procedure Act," rules and
8 regulations establishing criteria for the identification of
9 production processes subject to the provisions of this subsection.¹

10 7. (New section) a. The information required by the
11 department in a pollution prevention plan shall cover the previous
12 calendar year and be reported in two parts.

13 b. ¹Part I of a pollution prevention plan shall consist of a
14 comprehensive inventory and analysis of the use and release of
15 hazardous substances, and the generation of hazardous waste and
16 nonproduct output at an industrial facility.¹ The information
17 required by the department in Part I of a pollution prevention
18 plan ¹except as otherwise provided by the department in rules
19 and regulations adopted pursuant to section 6 of this act,¹ shall
20 include ¹[, but need not be limited to,]¹ the following information:

21 (1) A certification by the highest ranking corporate official
22 with direct operating responsibility ¹at the industrial facility¹
23 that he has read the pollution prevention plan and that the
24 pollution prevention plan is true, accurate, and complete to the
25 best of his knowledge, and a certification by the highest ranking
26 corporate official at the industrial facility that he is familiar
27 with the pollution prevention plan and that it is the corporate
28 policy of that industrial facility to achieve the goals of the
29 pollution prevention plan;

30 (2) The name and ¹business¹ telephone number of the owner or
31 operator of the industrial facility, and of the highest ranking
32 corporate official at the industrial facility, and the name and
33 ¹business¹ telephone number of a non-management employee
34 representative at the industrial facility;

35 (3) An identification of each production process using or
36 producing hazardous substances at the industrial facility, the
37 product produced in the production process, and the total units of
38 production produced in each production process during the year;

39 (4) The chemical identity and Chemical Abstract Service
40 (CAS) number of each hazardous substance manufactured ¹,
41 stored¹ or used ¹at the industrial facility¹ ;

42 (5) The amounts of each hazardous substance in pure form or
43 contained in a mixture in storage at the industrial facility on the
44 first and last days of the year, stored on an annual average at the
45 industrial facility, manufactured as a product at the industrial
46 facility, brought into the industrial facility, generated as
47 nonproduct output at the industrial facility, used at the industrial
48 facility, consumed at the industrial facility, and contained in the
49 product or products produced at the industrial facility;

50 (6) For each production process, the amounts of each

1 hazardous substance, either in pure form or contained in a
2 mixture, manufactured, used, consumed, contained in the product
3 or products produced, and generated as nonproduct output;

4 (7) The amounts of each hazardous waste ¹[and] generated,
5 and¹ hazardous substance ¹[as] released at each production
6 process at the industrial facility and the amount of¹ nonproduct
7 output generated at each source ¹[and production process]¹ at the
8 industrial facility;

9 (8) The address of each off-site treatment, disposal, or storage
10 facility to which hazardous waste generated at the industrial
11 facility is transported, and the type of treatment or disposal
12 method utilized at each off-site facility;

13 (9) For the industrial facility as a whole, the amounts of each
14 hazardous waste generated, recycled in-process, treated, stored,
15 disposed of or recycled outside of any production process on-site,
16 recycled outside of any production process off-site, and treated,
17 stored, or disposed of off-site;

18 (10) The amount of each hazardous substance in nonproduct
19 output recycled within each production process at the industrial
20 facility, recycled outside of any production process on-site and
21 recycled outside of any production process off-site;

22 (11) ¹[The sources and amounts of each hazardous substance
23 generated as nonproduct output;

24 (12)]¹ The ¹[sources and]¹ amounts of all hazardous substances
25 that are released into the air or discharged into the water or any
26 other waste stream following recycling, treatment, or any
27 combination thereof;

28 ¹[(13)] (12)¹ A ¹[full-cost accounting] comprehensive financial
29 analysis of the costs associated with the use, generation, release,
30 or discharge of hazardous substances which occur as a result of
31 current production processes at the industrial facility¹ , including
32 the ¹[economic benefits or increased costs associated with the
33 use of hazardous substances, the generation of hazardous
34 substances as nonproduct output, the release of hazardous
35 substances into the air, and the discharge of hazardous substances
36 into water and any other waste stream following recycling,
37 treatment, or any combination thereof, which occur as a result of
38 current production processes at the industrial facility] costs of
39 generation of non product output, the savings realized by
40 investments in pollution prevention and the more efficient use of
41 raw materials, the cost of the treatment and disposal of
42 hazardous waste, and the cost of liability insurance¹ ;

43 ¹[(14)] (13)¹ A calculation of the reduction or increase in the
44 use of each hazardous substance per ¹comparable¹ unit of
45 production in each ¹targeted¹ production process ¹, or any other
46 production process, as determined by the department,¹ in
47 comparison to the use of each hazardous substance per unit of
48 production in each production process reported in the pollution
49 prevention plan for the previous year, including an indication if
50 the calculation is an estimate;

1 ¹[(15)] (14)¹ A calculation of the reduction or increase in the
2 amount of each hazardous substance generated as nonproduct
3 output from each ¹targeted¹ source and ¹targeted¹ production
4 process¹ or any other production process or source, as determined
5 by the department,¹ per ¹comparable¹ unit of product, and in
6 the amount of each hazardous waste generated at each
7 ¹targeted¹ source and ¹targeted¹ production process ¹, or any
8 other production process or source, as determined by the
9 department,¹ per unit of product, in comparison to the amounts
10 reported in the pollution prevention plan for the previous year;

11 ¹[(16)] (15)¹ A calculation of the reduction or increase in the
12 use of each hazardous substance by the entire industrial facility
13 in comparison to the use of each hazardous substance by the
14 entire industrial facility reported in the pollution prevention plan
15 for the previous year, including an indication if the calculation is
16 an estimate;

17 ¹[(17)] (16)¹ A calculation of the reduction or increase in the
18 amount of each hazardous substance generated as nonproduct
19 output by the entire industrial facility and in the amount of each
20 hazardous waste generated by the entire industrial facility, in
21 comparison to the amounts reported in the pollution prevention
22 plan for the previous year; and

23 ¹[(18)] (17)¹ Indications of the methods, modifications, or
24 procedures used to achieve each reduction reported pursuant to
25 paragraphs ¹(13),¹ (14), (15), ¹and¹ (16) ¹[and (17)]¹ of this
26 subsection, and the industrial facility's five-year goals for such
27 reductions at each production process and on a facility-wide
28 basis, except that ¹[a hazardous substance that is]¹ the product
29 of a production process need not be included in the reduction goal
30 ¹, and except that any hazardous substance listed on an input-use
31 exemption list pursuant to subsection d. of section 6 of this act
32 need not be included in the use reduction goal.

33 The information identified in paragraphs (13), (14), (15), and
34 (16) of this subsection shall not be required for the first year
35 covered by a pollution prevention plan prepared pursuant to this
36 subsection¹.

37 c. The information required by the department in Part II of a
38 pollution prevention plan ¹shall consist of information concerning
39 targeted production processes and sources, and, except as
40 otherwise provided by the department in rules and regulations
41 adopted pursuant to section 6 of this act,¹ shall include ¹[, but
42 need not be limited to,]¹ the following information:

43 (1) For the industrial facility, the industrial facility's
44 five-year numeric goals for reducing the use of each hazardous
45 substance and for reducing the generation as nonproduct output
46 of each hazardous substance;

47 (2) For each ¹targeted¹ production process, the industrial
48 facility's five-year numeric goals for reducing the use of each
49 hazardous substance per unit of product in the ¹targeted¹
50 production process, and for reducing the generation as nonproduct

1 output of each hazardous substance per unit of product in the
2 ¹targeted¹ production process;

3 ¹[(3)] A description, for each affected production process, of
4 techniques the owner or operator of the industrial facility intends
5 to undertake during the next five years to achieve its reduction
6 goals and a schedule for implementation of the techniques. The
7 techniques to be described shall include, but need not be limited
8 to, employee training, management policies, inventory control,
9 scheduling improvements, material handling improvements, spill
10 and leak prevention, water use and reuse practices, and waste
11 stream segregation;]¹

12 ¹[(4)] ¹(3)¹ A description ¹[, if appropriate,]¹ of each
13 ¹targeted¹ production process and ¹targeted¹ source ¹[identified
14 in subsection b. of section 7 of this act at the industrial facility
15 targeted for reduction based, in part, on toxicity, volume,
16 disposal costs, and liability costs]¹;

17 ¹[(5)] ¹(4)¹ An ¹[assessment] identification¹ , for each
18 ¹targeted¹ production process and ¹targeted¹ source, of available
19 reduction options, including procedures, technologies and
20 equipment, that may substantially reduce the use and generation
21 of hazardous substances;

22 ¹[(6)] ¹(5)¹ A feasibility analysis, for each ¹targeted¹
23 production process and ¹targeted¹ source, of reduction options
24 identified pursuant to paragraph ¹[(3)] ¹(4)¹ of this subsection,
25 which shall include, but need not be limited to, a full-cost
26 accounting of the options, and any technological obstacles to
27 adopting the options;

28 ¹[(7)] A list of the options identified pursuant to paragraph (3)
29 of this subsection that the owner or operator of the industrial
30 facility intends to install or utilize based, in part, on the
31 feasibility analysis, and a time schedule for the implementation
32 of the options;]

33 (6) A description, for each targeted production process, of
34 options the owner or operator of the industrial facility intends to
35 undertake during the next five years to achieve its reduction
36 goals and a schedule for the implementation of the options. The
37 options to be described shall include, but need not be limited to,
38 employee training, management policies, inventory control,
39 scheduling improvements, material handling improvements, and
40 spill and leak prevention;¹

41 ¹[(8)] ¹(7)¹ A description of the valuation methods used by the
42 owner or operator to determine not to install or utilize each
43 option identified pursuant to paragraph ¹[(3)] ¹(6)¹ of this
44 subsection that would have resulted in a greater percentage
45 reduction in ¹the¹ use ¹of hazardous substances¹ or generation
46 ¹[as] ¹of¹ nonproduct output ¹[of hazardous substances]¹ than the
47 option chosen;

48 ¹[(9)] ¹(8)¹ An assessment and schedule for implementing
49 on-site out-of-process recycling with regard to industrial
50 facilities authorized by the department to include out-of-process

1 recycling in a pollution prevention plan; and

2 ¹[(10)] (9)¹ A quantitative description of the impact that
3 individual pollution prevention techniques have had on
4 post-treatment multimedia environmental releases of hazardous
5 substances, reported by medium.

6 d. ¹[For industrial facilities within individual four-digit
7 Standard Industrial Classification Industry Numbers, the
8 department may, pursuant to rules and regulations adopted
9 pursuant to the "Administrative Procedure Act," P.L.1968, c.410
10 (C.52:14B-1 et seq.) limit reporting of information required
11 pursuant to subsection c. of this section to specific chemicals,
12 processes, or multimedia waste streams based on their
13 contribution to the industrial facility's total use, release, or
14 generation as nonproduct output of a hazardous substance]
15 Within 18 months of the effective date of this act, the
16 department shall adopt, pursuant to the "Administrative
17 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and
18 regulations establishing criteria pursuant to which owners and
19 operators of industrial facilities may identify targeted production
20 processes and targeted sources for the purpose of focusing
21 pollution prevention strategies on these targeted production
22 sources and targeted sources. The criteria for the identification
23 of targeted production processes and targeted sources shall be
24 based on a consideration of the toxicity of specific hazardous
25 substances or hazardous wastes used, generated or released at the
26 targeted production process or targeted source, and shall require
27 that a targeted production process or targeted source be a
28 production process or source which makes a significant
29 contribution to the use and release of hazardous substances, the
30 generation of hazardous waste, and the generation of nonproduct
31 output, as appropriate, at the industrial facility.¹

32 e. ¹[In instances when the department limits reporting based on
33 production processes, the department may identify priority
34 production processes.] The owner or operator of an industrial
35 facility may include in a pollution prevention plan and pollution
36 prevention plan summary a description of any pollution
37 prevention strategies implemented at the industrial facility prior
38 to 1987.¹

39 f. The department may authorize an owner or operator of an
40 industrial facility to include out-of-process recycling in a
41 pollution prevention plan and a pollution prevention plan summary
42 if the department determines that ¹[other]¹ pollution prevention
43 strategies are not reasonably available to the owner or operator.

44 g. The information required by the department in a pollution
45 prevention plan ¹[summary] progress report, except as otherwise
46 provided by the department in rules and regulations adopted
47 pursuant to section 6 of this act,¹ shall include ¹[, but need not
48 be limited to,]¹ the following:

49 (1) ¹[Calculations] An identification of each production
50 process and targeted production process, and calculations¹, for

1 the industrial facility and for each ¹targeted¹ production process
2 ¹and any other production process required by the department¹ ,
3 of the reduction or increase in the use of ¹each¹ hazardous
4 ¹[substances] substance per unit of production¹ , in the
5 generation of ¹[hazardous substances as] each¹ nonproduct
6 ¹[outputs] output¹ per unit of production, and in multimedia
7 releases, by medium, following recycling and treatment of each
8 hazardous substance, in comparison to the previous year;

9 (2) An indication of the method used to achieve each reduction
10 listed pursuant to paragraph (1) of this subsection;

11 (3) A numerical statement demonstrating the industrial
12 facility's progress towards achieving ¹each of¹ its five-year
13 goals, including the most recent information required pursuant to
14 paragraphs (1) and (2) of subsection c. of this section;

15 (4) An explanation of why the industrial facility's annual
16 progress may be less than that anticipated in the pollution
17 prevention plan time schedule for implementation; ¹and¹

18 (5) A description of pollution prevention techniques that the
19 owner or operator of the industrial facility intends to undertake
20 during the forthcoming year at a ¹targeted¹ production process
21 level¹[:]

22 h. The information required by the department in a pollution
23 prevention plan summary, except as otherwise provided by the
24 department in rules and regulations adopted pursuant to section 6
25 of this act, shall contain the following:

26 (1) For the industrial facility, the industrial facility's
27 five-year numeric goal for reducing the use of each hazardous
28 substance, and for reducing the generation of each nonproduct
29 output;

30 (2) For each targeted production process, the industrial
31 facility's five year numeric goals for reducing the use of each
32 hazardous substance per unit of production, and for reducing the
33 generation of nonproduct output per unit of product in the
34 targeted production process;

35 (3) A description of each targeted production process and
36 targeted source;

37 (4) A description, for each targeted production process, of the
38 techniques the owner or operator of the industrial facility intends
39 to undertake during the next five years to achieve the industrial
40 facility's reduction goals, and a schedule for the implementation
41 of the techniques;

42 (5) An indication, for each hazardous substance used in a
43 targeted production process, of whether the hazardous substance
44 is used in an amount of 0 to 5,000 pounds, 5000 pounds to 10,000
45 pounds, or greater than 10,000 pounds;¹

46 (6) A written certification that the owner or operator of the
47 industrial facility has prepared a pollution prevention plan and
48 that the plan is available on site for the department's inspection;
49 ¹and¹

50 (7) ¹[A description, if appropriate, of each priority production

1 process and source identified at the industrial facility and
2 targeted for reduction, based in part on toxicity, volume, disposal
3 costs, and liability costs; and

4 (8)]¹ A list of all other permits, certificates, registrations, or
5 other approvals, or documents issued by the department for the
6 industrial facility.

7 ¹[h.] i.¹ The owner or operator of an industrial facility shall
8 not be required to include in a pollution prevention plan or
9 pollution prevention plan summary information concerning a
10 research and development laboratory located at the industrial
11 facility.

12 ¹[i.] j.¹ The owner ¹[of] or¹ operator of an industrial facility
13 shall not be required to prepare a pollution prevention plan ¹[or]
14 pollution prevention plan summary ¹or pollution prevention
15 plan progress report¹ for a pilot facility ¹[at which less than
16 10,000 pounds of a hazardous substance is used or generated per
17 year.

18 j. To the maximum extent practicable and feasible, the
19 information required for the preparation of a pollution prevention
20 plan and a pollution prevention plan summary shall be based on
21 information developed by an owner or operator of an industrial
22 facility for the purposes of compliance with 42 U.S.C. §11023 and
23 P.L.1983, c.315 (C.34:5A-1 et al.).

24 k. The department shall have the authority to determine which
25 information required in a pollution prevention plan and pollution
26 prevention plan summary may be reported to the department in
27 an environmental survey submitted pursuant to P.L.1983, c.315
28 instead of in a pollution prevention plan or a pollution prevention
29 plan summary.

30 l. The department may require owners and operators of
31 industrial facilities to submit pollution prevention plan summaries
32 in a form that is compatible with the department's electronic
33 information storage and retrieval system]¹.

34 ¹k. The department shall adopt, pursuant to the
35 "Administrative Procedure Act," rules and regulations
36 establishing criteria under which the department shall consider
37 sources or production processes that use similar ingredients to
38 produce one or more similar products as a single source or
39 production process for the purposes of reporting information in a
40 pollution prevention plan, pollution prevention plan summary, or
41 pollution prevention plan progress report.

42 l. Nothing in this act shall be construed to authorize the
43 department to request or require the owner or operator of an
44 industrial facility to provide information concerning
45 non-hazardous substances or product formulas for mixtures that
46 include non-hazardous substances, or to require that such
47 information be included in a pollution prevention plan, pollution
48 prevention plan summary, or pollution prevention plan progress
49 report.¹

50 8. (New section) a. The owner or operator of each priority

1 industrial facility having a Standard Industrial Classification, as
2 designated by the federal Office of Management and Budget,
3 within Major Group Numbers 26, 28, 30, 33 and 34, shall prepare a
4 pollution prevention plan and submit a pollution prevention plan
5 summary to the department on or before July 1, ¹[1993] 1994¹.

6 b. The owner or operator of each priority industrial facility,
7 other than those priority industrial facilities enumerated in
8 subsection a. of this section, shall prepare a pollution prevention
9 plan and submit a pollution prevention plan summary to the
10 department on or before July 1, ¹[1995] 1996¹.

11 c. ¹[The owner or operator of each priority industrial facility
12 shall prepare and submit to the department an annual pollution
13 prevention plan progress report documenting the pollution
14 prevention progress made in the previous year. The owner or
15 operator of a priority industrial facility shall update the
16 information contained in Part I of a pollution prevention plan
17 annually and shall prepare a complete revision of a pollution
18 prevention plan every five years.

19 d.]¹ The owner or operator of a priority industrial facility shall
20 maintain a copy of the pollution prevention plan for the facility
21 at the facility, where it shall be available for inspection by the
22 department.

23 ¹[e. The owner or operator of an industrial facility may
24 prepare a pollution prevention plan, and submit a pollution
25 prevention plan summary to the department.

26 f. The department shall have the authority to: require the
27 owner or operator of a priority industrial facility or industrial
28 facility to prepare and submit a pollution prevention plan and
29 submit a pollution prevention plan summary to the department;
30 approve a pollution prevention plan or pollution prevention plan
31 summary; and require the owner or operator of a priority
32 industrial facility or industrial facility to make any revisions or
33 modifications in a pollution prevention plan or pollution
34 prevention plan summary necessary for compliance with the
35 provisions of this act as determined by the department.]

36 d. The owner or operator of a priority industrial facility shall
37 annually update the information required to be reported pursuant
38 to paragraphs (13) through (17) of subsection b of section 7 of this
39 act. The owner or operator of a priority industrial facility shall
40 update the information required to be reported in paragraphs (1)
41 through (12) of subsection b. of section 7 of this act, and pursuant
42 to subsection h. of section 7 of this act, if a significant change in
43 the operation of the priority industrial facility occurs, including
44 the cessation or major expansion of a production process, the
45 installation or removal of primary components of a production
46 process, or the use or release of a hazardous substance, or the
47 generation of a hazardous waste, which was not used, released, or
48 generated when the initial pollution prevention plan was
49 completed.

50 e. The owner or operator of a priority industrial facility shall

1 prepare a complete revision of a pollution prevention plan by July
2 1 of the fifth year after the year of the initial completion of the
3 pollution prevention plan, and by July 1 of each fifth year
4 thereafter.

5 f. The owner or operator of a priority industrial facility shall
6 prepare and submit to the department a complete revision of a
7 pollution prevention plan summary by July 1 of the fifth year
8 after the year of the initial completion of the pollution
9 prevention plan summary, and by July 1 of each fifth year
10 thereafter.

11 g. The owner or operator of a priority industrial facility shall
12 prepare and submit to the department, on July 1 of each year
13 after the year of the initial completion of a pollution prevention
14 plan or the year of a complete revision of the pollution
15 prevention plan, a pollution prevention plan progress report that
16 indicates the progress made in the previous year in complying
17 with the pollution prevention goals set forth in the initial
18 pollution prevention plan, or revised pollution prevention plan, as
19 appropriate.

20 h. After January 1, 1995, the department, pursuant to the
21 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
22 seq.), may adopt rules and regulations designating as priority
23 industrial facilities industrial facilities other than those
24 designated as priority industrial facilities pursuant to section 3 of
25 this act. At least one year prior to the final adoption of any rules
26 and regulations designating proposed priority industrial facilities
27 pursuant to this subsection, the department shall submit to the
28 Legislature a list of the proposed priority industrial facilities.

29 i. The department may adopt, pursuant to the "Administrative
30 Procedure Act," rules and regulations establishing criteria for the
31 inclusion of hazardous substances in pollution prevention plans,
32 pollution prevention plan summaries, and pollution prevention
33 plan progress reports other than the hazardous substances on the
34 list established pursuant to 42 U.S.C. § 11023, which criteria shall
35 include a consideration of the toxicity of a substance, evidence of
36 the production of the substance in commercial quantities, and
37 prior regulation as a hazardous substance pursuant to P.L.1976,
38 c.141 (C.58:10-23.11 et seq.), section 4 of P.L.1985, c.403
39 (C.13:1K-22), or 42 U.S.C. 9601.¹

40 ^{19.} (New section) a. The department shall have the authority
41 to require the owner or operator of a priority industrial facility
42 to prepare and submit a pollution prevention plan and submit a
43 pollution prevention plan summary and pollution prevention plan
44 progress report to the department.

45 b. The department shall have the authority to approve a
46 pollution prevention plan, pollution prevention plan summary, or
47 pollution prevention plan progress report prepared pursuant to
48 this act and require the owner or operator of a priority industrial
49 facility to make any revisions or modifications of a pollution
50 prevention plan, pollution prevention plan summary, or pollution

1 prevention plan progress report necessary for compliance with
2 the provisions of this act, as determined by the department
3 pursuant to rules and regulations adopted pursuant to section 6 of
4 this act. In reviewing a pollution prevention plan, pollution
5 prevention plan summary, or pollution prevention plan progress
6 report, the department shall have the authority to require an
7 owner or operator of a priority industrial facility to provide such
8 information as the department deems necessary to support the
9 owner or operator's identification of a targeted production
10 process or targeted source. If the department requires the owner
11 or operator of a priority industrial facility to make revisions or
12 modify a pollution prevention plan, pollution prevention plan
13 summary, or pollution prevention plan progress report, the
14 department shall consider the financial impact on the owner or
15 operator of the priority industrial facility of the changes or
16 modifications.

17 c. At the time of an initial application for, or renewal of, any
18 permit, certificate, registration, or any other relevant
19 department approval issued to the owner or operator of a priority
20 industrial facility pursuant to P.L.1970, c.33 (C.13:1D-1 et seq.),
21 P.L.1970, c.39 (C.13:1E-1 et seq.), P.L.1977, c.74 (C.58:10A-1 et
22 seq.), or P.L.1954, c.212 (C.26:2C-1 et seq.), the department may
23 require that the permit, certificate, registration or approval
24 include the pollution prevention strategies set forth in the
25 pollution prevention plan or pollution prevention plan summary
26 prepared for the priority industrial facility pursuant to this act,
27 or may require, as a condition of issuing a permit, certificate,
28 registration, or any other relevant department approval to the
29 owner or operator of a priority industrial facility pursuant to
30 P.L.1970, c.33 (C.13:1D-1 et seq.), P.L.1970, c.39 (C.13:1E-1 et
31 seq.), P.L.1977, c.74 (C.58:10A-1 et seq.), or P.L.1954, c.212
32 (C.26:2C-1 et seq.), that the owner or operator of the priority
33 industrial facility prepare a pollution prevention plan and submit
34 a pollution prevention plan summary to the department.

35 d. The department may revoke, issue, reissue, or modify any
36 permit, certificate, registration, or any other relevant approval
37 issued to the owner or operator of a priority industrial facility by
38 the department pursuant to P.L.1970, c.33 (C.13:1D-1 et seq.),
39 P.L.1970, c.39 (C.13:1E-1 et seq.), P.L.1977, c.74 (C.58:10A-1 et
40 seq.), or P.L.1954, c.212 (C.26:2C-1 et seq.) for the purpose of
41 issuing a facility-wide permit, or requiring more stringent
42 emission or effluent levels based on pollution prevention
43 strategies contained in the pollution prevention plan prepared by
44 the owner or operator of the priority industrial facility. Any
45 action taken by the department pursuant to this subsection to
46 revoke, issue, reissue, or modify any permit, certificate,
47 registration, or other departmental approval may be appealed
48 pursuant to the provisions of P.L.1970, c.33 (C.13:1D-1 et seq.),
49 P.L.1970, c.39 (C.13:1E-1 et seq.), P.L.1977, c.74 (C.58:10A-1 et
50 seq.), or P.L.1954, c.212 (C.26:2C-1 et seq.), as appropriate.¹

1 ¹10. (New section) a. The department, pursuant to the
2 criteria established in rules and regulations adopted pursuant to
3 subsection c of section 6 of this act, may direct the owner or
4 operator of an industrial facility which is not designated a
5 priority industrial facility pursuant to section 3 or subsection h.
6 of section 8 of this act, to prepare a pollution prevention plan for
7 the industrial facility and to submit a pollution prevention plan
8 summary and pollution prevention plan progress report to the
9 department. An owner or operator of an industrial facility
10 directed to prepare a pollution prevention plan, pollution
11 prevention plan summary, and pollution prevention plan progress
12 report pursuant to this subsection shall prepare the pollution
13 prevention plan, submit the pollution prevention plan summary to
14 the department within 18 months of receipt of the department's
15 directive, and shall annually submit to the department a pollution
16 prevention plan progress report.

17 b. The department shall have the authority to approve a
18 pollution prevention plan, pollution prevention plan summary, or
19 pollution prevention plan progress report prepared pursuant to
20 this section, and to require the owner or operator of an industrial
21 facility to make any revisions or modifications in a pollution
22 prevention plan or pollution prevention plan summary necessary
23 for compliance with the provisions of this act, as determined by
24 the department pursuant to rules and regulations adopted
25 pursuant to section 6 of this act. In reviewing a pollution
26 prevention plan, pollution prevention plan summary, or pollution
27 prevention plan progress report, the department shall have the
28 authority to require an owner or operator of an industrial facility
29 to provide such information as the department deems necessary
30 to support the owner or operator's identification of a targeted
31 production process or targeted source. If the department requires
32 the owner or operator of an industrial facility to make revisions
33 or modify a pollution prevention plan, pollution prevention plan
34 summary, or pollution prevention plan progress report, the
35 department shall consider the financial impact on the owner or
36 operator of the industrial facility of the changes or modifications.

37 c. At the time of an initial application for, or an application
38 for the renewal of, any permit, certificate, registration, or any
39 other relevant approval issued by the department pursuant to
40 P.L.1970, c.33 (C.13:1D-1 et seq.), P.L.1970, c.39 (C.13:1E-1 et
41 seq.), P.L.1977, c.74 (C.58:10A-1 et seq.), or P.L.1954, c.212
42 (C.26:2C-1 et seq.) to the owner or operator of an industrial
43 facility that has been directed by the department to prepare a
44 pollution prevention plan and pollution prevention plan summary
45 pursuant to subsection a of this section, the department may
46 require that the permit, certificate, registration, or approval
47 include the pollution prevention strategies set forth in the
48 pollution prevention plan or pollution prevention plan summary
49 prepared for the industrial facility.

50 d. The department may revoke, issue, reissue, or modify any

1 permit, certificate, registration, or any other relevant approval
2 issued by the department pursuant to P.L.1970, c.33 (C.13:1D-1
3 et seq.), P.L.1970, c.39 (C.13:1E-1 et seq.), P.L.1977, c.74
4 (C.58:10A-1 et seq.), or P.L.1954, c.212 (C.26:2C-1 et seq.) to
5 the owner or operator of an industrial facility that has been
6 directed by the department to prepare a pollution prevention plan
7 and pollution prevention plan summary pursuant to subsection a
8 of this section for the purpose of including the pollution
9 prevention strategies set forth in the pollution prevention plan or
10 pollution prevention plan summary prepared for the industrial
11 facility. Any action taken by the department pursuant to this
12 subsection to revoke, issue, reissue, or modify any permit
13 certificate, registration, or other department approval may be
14 appealed pursuant to the provisions of P.L.1970, c.33 (C.13:1D-1
15 et seq.), P.L.1970, c.39 (C.13:1E-1 et seq.), P.L.1977, c.74
16 (C.58:10A-1 et seq.), or P.L.1954, c.212 (C.26:2C-1 et seq.), as
17 appropriate.¹

18 ¹[9.] 11.¹ (New section) The department shall conduct
19 research on pollution prevention trends within each of the
20 Standard Industrial Classification industry groups represented by
21 priority industrial facilities. This research shall include an
22 analysis of information contained in pollution prevention plan
23 summaries prepared and submitted to the department by owners
24 or operators of priority industrial facilities, and may include an
25 analysis of pollution prevention plans. ¹[The] Within five years of
26 the effective date of this act, the¹ department shall prepare and
27 submit to the Governor and the Legislature, and shall make
28 available to the public, a pollution prevention profile report for
29 each of the Standard Industrial Classification industry groups
30 represented by priority industrial facilities that summarizes the
31 department's research on each industry group, and, if warranted
32 by the research, that recommends any administrative or
33 legislative action necessary to increase pollution prevention
34 activities at priority industrial facilities.

35 ¹[10. a. (New section) The department may require that any
36 permit, certificate, registration, or any other relevant
37 department approval issued pursuant to P.L.1970, c.33 (C.13:1D-1
38 et seq.), P.L.1970, c.39 (C.13:1E-1 et seq.), P.L.1977, c.74
39 (C.58:10A-1 et seq.), or P.L.1954, c.212 (C.26:2C-1 et seq.)
40 include pollution prevention strategies, or may require as a
41 condition of issuing a permit, certificate, registration, or any
42 other relevant department approval pursuant to P.L.1970, c.33
43 (C.13:1D-1 et seq.), P.L.1970, c.39 (C.13:1E-1 et seq.), P.L.1977,
44 c.74 (C.58:10A-1 et seq.), or P.L.1954, c.212 (C.26:2C-1 et seq.),
45 that the owner or operator of an industrial facility prepare a
46 pollution prevention plan and submit a pollution prevention plan
47 summary to the department.

48 b. The department may revoke, issue, reissue, or modify any
49 permit, certificate, registration, or any other relevant
50 department approval issued by the department pursuant to

1 P.L.1970, c.33 (C.13:1D-1 et seq.), P.L.1970, c.39 (C.13:1E-1 et
2 seq.), P.L.1977, c.74 (C.58:10A-1 et seq.), or P.L.1954, c.212
3 (C.26:2C-1 et seq.) for the purpose of issuing a facility-wide
4 permit, requiring pollution prevention at any facility, or requiring
5 more stringent emission or effluent levels based on pollution
6 prevention strategies or technologies applicable to that facility
7 or a particular industry.

8 c.] 12. (New section)¹ The department may enter any
9 industrial facility for the purpose of obtaining information
10 concerning the industrial facility's pollution prevention
11 practices, reviewing a pollution prevention plan, ascertaining the
12 quality of any work performed in accordance with this act or
13 rules or regulations adopted pursuant thereto, or ascertaining
14 compliance with a facility-wide permit or the provisions of this
15 act or any rule or regulation adopted pursuant thereto. Any
16 information relating to a trade secret obtained in the course of
17 implementing or enforcing the provisions of this act shall be kept
18 confidential and shall be inadmissible as evidence in any court or
19 in any other proceeding in such a manner so as to protect the
20 confidentiality of the information.

21 ¹[11.] 13.¹ (New section) a. Any owner or operator of an
22 industrial facility required to prepare a pollution prevention plan
23 and submit to the department a pollution prevention plan
24 summary may omit from the pollution prevention plan or
25 pollution prevention plan summary the specific chemical identity
26 of a hazardous substance about which information is required, and
27 include instead the generic class or category of the hazardous
28 substance, or may omit any other information required to be
29 disclosed, if the owner or operator files with the department a
30 trade secret claim pursuant to this section.

31 b. Any owner or operator of an industrial facility omitting
32 information from a pollution prevention plan or pollution
33 prevention plan summary pursuant to this section shall submit to
34 the department, accompanied by the pollution prevention plan
35 summary, a trade secret claim in which the owner or operator of
36 the industrial facility provides the commissioner with the
37 information omitted, and a statement demonstrating that the
38 information omitted meets the criteria for a valid trade secret
39 established pursuant to subsection c. of this section. The trade
40 secret claim shall include the information omitted from the
41 pollution prevention plan or pollution prevention plan summary,
42 and the commissioner shall maintain this information on a
43 confidential basis. Any trade secret claim made pursuant to this
44 section which the department determines is false or frivolous
45 shall be considered a violation of this act.

46 c. No owner or operator of an industrial facility shall omit
47 information from a pollution prevention plan or pollution
48 prevention plan summary unless the owner or operator can
49 demonstrate that:

50 (1) The information has not been disclosed to any other person

1 other than to a person bound by a confidentiality agreement;

2 (2) The owner or operator has taken all reasonable measures
3 necessary to protect the secrecy of the information;

4 (3) The information is not required to be disclosed, or to be
5 otherwise made available, to the public pursuant to any other
6 federal or State law;

7 (4) Disclosure of the information would be likely to cause the
8 owner or operator substantial economic disadvantage or harm; and

9 (5) The information is not readily discoverable through reverse
10 engineering or other analytical techniques.

11 d. The department shall act to make a determination on the
12 validity of a trade secret claim when a request is made by any
13 person for the disclosure of the information for which the trade
14 secret claim was made, or at any time that the department
15 deems appropriate. Upon making a determination on the validity
16 of a trade secret claim, the department shall inform the owner or
17 operator of the affected industrial facility of the determination
18 by certified mail. If the department determines that the owner
19 or operator's trade secret claim is not valid, the owner or
20 operator shall have 45 days from the receipt of the department's
21 determination to file with the department a written request for
22 an administrative hearing on the determination. If the owner or
23 operator does not file such a request within 45 days, the
24 department shall take action to provide that the information for
25 which the trade secret claim was made be disclosed pursuant to
26 the provisions of this act. If an owner or operator requests an
27 administrative hearing pursuant to the provisions of this
28 subsection, the department shall refer the matter to the Office
29 of Administrative Law for a hearing thereon. At the hearing, the
30 owner or operator shall have the burden to show that the trade
31 secret claim is valid. Within 45 days of receipt of the
32 administrative law judge's recommendation, the department shall
33 affirm, reject, or modify the recommendation. The department's
34 action shall be considered the final agency action for the
35 purposes of the "Administrative Procedure Act," P.L.1968, c.410
36 (C.52:14B-1 et seq.), and shall be subject only to judicial review
37 as provided in the Rules of Court. The department shall inform
38 the owner or operator of its decision on the administrative law
39 judge's recommendation by certified mail. If the department
40 determines that the trade secret claim is not valid, the owner or
41 operator shall have 45 days to notify the department in writing
42 that he has filed an appeal of the department's decision in the
43 courts. If the owner or operator does not so notify the
44 department, the department shall take action to provide that the
45 information for which the trade secret claim was made be
46 disclosed pursuant to the provisions of this act.

47 e. The department shall provide any information for which a
48 trade secret claim is pending or has been approved pursuant to
49 this section to a physician or osteopath when such information is
50 needed for medical diagnosis or treatment. The department shall

1 require the physician or osteopath to sign an agreement
2 protecting the confidentiality of information disclosed pursuant
3 to this subsection.

4 f. Any pollution prevention plan summary containing
5 information for which a trade secret claim is pending or has been
6 approved shall be made available to the public with that
7 information omitted.

8 g. The subject of any trade secret claim pending or approved
9 shall be treated as confidential information. ¹Confidential
10 information shall be kept in a locked file within a locked room at
11 the department, and shall not be duplicated by any person,
12 including any employee of the department. The department shall
13 maintain a record of all persons obtaining access to the
14 confidential information, including the date and time of, and the
15 reasons for, the access.¹ Except as provided in subsection e. of
16 this section, the department shall not disclose any confidential
17 information to any person except an officer or employee of the
18 State in connection with the official duties of the officer or
19 employee under any law for the protection of public health, or to
20 the contractors of the State and their employees if, in the opinion
21 of the department, the disclosure is necessary for the completion
22 of any work contracted for in connection with the
23 implementation of this act. Any officer or employee of the
24 State, contractor of the State, physician, or osteopath who has
25 access to any confidential information, and who willingly and
26 knowingly discloses the confidential information to any person
27 not authorized to receive it, is guilty of a crime of the third
28 degree.

29 h. The commissioner shall not approve any trade secret claim
30 for any information which the Administrator of the United States
31 Environmental Protection Agency has determined is not a trade
32 secret pursuant to 42 U.S.C. §11042 or 42 U.S.C. §6921.

33 i. An owner or operator of an industrial facility may not claim
34 the following information as a trade secret:

35 (1) The chemical name, identity, and amounts of any hazardous
36 substance discharged into the air or the surface or ground waters
37 of the State or into a wastewater treatment system, the chemical
38 identity and amounts of hazardous waste generated, or the
39 location of a discharge or generation; or

40 (2) Hazards to health or the environment posed by any
41 hazardous substance at an industrial facility, and potential routes
42 of human exposure to a hazardous substance.

43 j. The information for which a trade secret claim is made
44 pursuant to this section may be used by the department in general
45 compilations of information based on industry groups or
46 classifications of hazardous substances, or for the conducting of
47 research and preparation of the reports required pursuant to
48 section 9 of this act if this use does not identify the specific
49 industrial facility or priority industrial facility for which the
50 information was reported.

1 ¹[12.] 14.¹ (New section) a. Within 18 months of adoption of
2 the rules and regulations ¹[and preparation of the document]
3 required¹ pursuant to section 6 of this act, the department shall
4 designate no fewer than 10 but not more than 15 individual
5 priority industrial facilities to each receive a facility-wide
6 permit on the basis of criteria adopted by the department. These
7 criteria shall include, but need not be limited to:

8 (1) The potential for a priority industrial facility to serve as a
9 State-wide model for multimedia pollution prevention programs;

10 (2) The potential for a priority industrial facility that does not
11 meet industry-wide pollution prevention goals to meet these
12 goals through a facility-wide permit; and

13 (3) The potential for a priority industrial facility that has not
14 met the pollution prevention goals set forth in its pollution
15 prevention plan to meet these goals through a facility-wide
16 permit.

17 ¹At the time of the designation of priority industrial facilities
18 pursuant to this subsection, the department shall prepare and
19 submit to the Legislature a report summarizing the designation
20 process and progress made to date in establishing a facility wide
21 permitting program.¹

22 b. Within 30 months of the adoption of the rules and
23 regulations ¹[and preparation of the document] required¹
24 pursuant to section 6 of this act, the department shall issue
25 facility-wide permits to the priority industrial facilities
26 designated pursuant to subsection a. of this section.

27 c. Within 36 months of the adoption of the rules and
28 regulations ¹[and preparation of the document] required¹
29 pursuant to section 6 of this act, the department shall prepare
30 and submit to the Governor and the Legislature a report
31 analyzing the facility-wide permit program, evaluating the
32 successes or shortcomings of the facility-wide permit program,
33 evaluating the ability of the department to conduct and expand
34 the facility-wide permit program, and proposing, if warranted, a
35 schedule to expand the applicability of the facility-wide permit
36 program. ¹The department shall not expand the facility-wide
37 permitting program beyond the number of priority industrial
38 facilities designated pursuant to subsection a. of this section
39 without authorization by law.¹

40 ¹[13.] 15.¹ (New section) a. Whenever, on the basis of
41 information available to the commissioner, the commissioner
42 finds that a person is in violation of this act, the commissioner
43 shall:

44 (1) Issue an order in accordance with subsection b. of this
45 section requiring the person to comply;

46 (2) Bring a civil action in accordance with subsection c. of this
47 section;

48 (3) Levy a civil administrative penalty in accordance with
49 subsection d. of this section; or

50 (4) Bring an action for a civil penalty in accordance with

1 subsection e. of this section.

2 The exercise of any of the remedies provided in this section
3 shall not preclude recourse to any other remedy so provided.

4 b. Whenever, on the basis of information available to the
5 commissioner, the commissioner finds that a person is in violation
6 of this act, the commissioner may issue an order (1) specifying
7 the provision or provisions of this act, or the rule or regulation
8 adopted pursuant thereto, of which the person is in violation; (2)
9 citing the action that caused the violation; (3) requiring
10 compliance with the provision of this act or the rule or regulation
11 adopted pursuant thereto of which the person is in violation; and
12 (4) giving notice to the person of his right to a hearing on the
13 matters contained in the order.

14 c. The commissioner is authorized to commence a civil action
15 in Superior Court for appropriate relief from a violation of this
16 act. This relief may include an assessment against the violator
17 for the costs of any investigation, inspection, or monitoring
18 survey that led to the discovery and establishment of the
19 violation, and for the reasonable costs of preparing and litigating
20 the case under this subsection.

21 d. (1) The commissioner is authorized to impose a civil
22 administrative penalty of not more than \$15,000 for each
23 violation, and each day during which each violation continues
24 shall constitute an additional, separate, and distinct offense. Any
25 amount imposed under this subsection shall be assessed pursuant
26 to rules and regulations adopted by the commissioner for
27 violations of similar type, seriousness, and duration. The
28 commissioner shall have the authority to assess penalties prior to
29 the establishment of rules and regulations governing penalties to
30 the extent that such penalties are reasonable and based on other
31 violations of a similar type, seriousness, and duration. No civil
32 administrative penalty shall be imposed until after the person has
33 been notified by certified mail or personal service. The notice
34 shall include: a reference to the section of the act, rule,
35 regulation, order, or permit violated; a concise statement of the
36 facts alleged to constitute a violation; a statement of the amount
37 of the civil administrative penalties to be imposed; and a
38 statement of the person's right to a hearing. The person shall
39 have 20 days from receipt of the notice within which to deliver to
40 the commissioner a written request for a hearing. Subsequent to
41 the hearing and upon finding that a violation has occurred, the
42 commissioner may issue a final order or civil administrative
43 penalty after imposing the amount of the fine specified in the
44 notice. If no hearing is requested, the notice shall become a final
45 order or a final civil administrative penalty upon the expiration
46 of the 20-day period. Payment of the penalty is due when a final
47 order is issued or when the notice becomes a final order or a final
48 civil administrative penalty. The authority to levy a civil
49 administrative penalty is in addition to all other enforcement
50 provisions in this act, and the payment of a civil administrative

1 penalty shall not be deemed to affect the availability of any
2 other enforcement provision in connection with the violation for
3 which the penalty is levied. A civil administrative penalty
4 imposed under this subsection may be compromised by the
5 commissioner upon the posting of a performance bond by the
6 violator, or upon terms and conditions the commissioner may
7 establish by rule or regulation.

8 (2) In addition to the assessment of a civil administrative
9 penalty, the commissioner may, by administrative order and upon
10 an appropriate finding, assess a violator for the reasonable costs
11 of any investigation, inspection, or monitoring survey which led
12 to the establishment of the violation.

13 e. Any person who violates this act, an order issued pursuant
14 to subsection b. of this section, or a court order issued pursuant
15 to subsection c. of this section, or who fails to pay in full a civil
16 administrative penalty levied pursuant to subsection d. of this
17 section, shall be subject, upon order of a court, to a civil penalty
18 not to exceed \$15,000 for each day during which the violation
19 continues. Any penalty imposed pursuant to this subsection may
20 be collected, and any costs incurred in connection therewith may
21 be recovered, in a summary proceeding pursuant to "the penalty
22 enforcement law," N.J.S.2A:58-1 et seq. The Superior Court and
23 the municipal court shall have jurisdiction to enforce "the
24 penalty enforcement law."

25 f. Any violation of a pollution prevention condition of a
26 facility-wide permit issued pursuant to this act shall be
27 considered a violation of P.L.1970, c.33 (C.13:1D-1 et seq.),
28 P.L.1970, c.39 (C.13:1E-1 et seq.), P.L.1977, c.74 (C.58:10A-1
29 et seq.), or P.L.1954, c.212 (C.26:2C-1 et seq.), as the
30 department deems appropriate.

31 ¹[14.] 16.¹ (New section) There is established in the
32 department a nonlapsing fund to be known as the "Pollution
33 Prevention Fund," hereinafter referred to as "the fund." The
34 fund shall be credited with all fees imposed and collected by the
35 Department of Labor pursuant to paragraph (2) of subsection b. of
36 section 26 of P.L.1983, c.315 (C.34:5A-26), and with all penalties
37 collected for violations of this act, and with any other monies
38 that may be made available, or appropriated, to the department
39 for the implementation of this act. Monies in the fund shall be
40 used by ¹, and are hereby appropriated to,¹ the department solely
41 for the purpose of implementing the provisions of this act.

42 ¹[15.] 17.¹ Section 3 of P.L.1983, c.315 (C.34:5A-3) is
43 amended to read as follows:

44 3. As used in this act:

45 a. "Chemical Abstracts Service number" means the unique
46 identification number assigned by the Chemical Abstracts Service
47 to chemicals.

48 b. "Chemical name" means the scientific designation of a
49 chemical in accordance with the nomenclature system developed
50 by the International Union of Pure and Applied Chemistry or the

- 1 Chemical Abstracts Service rules of nomenclature.
- 2 c. "Common name" means any designation or identification
3 such as a code name, code number, trade name, brand name or
4 generic name used to identify a chemical other than by its
5 chemical name.
- 6 d. "Container" means a receptacle used to hold a liquid, solid,
7 or gaseous substance, including, but not limited to, bottles,
8 pipelines, bags, barrels, boxes, cans, cylinders, drums, cartons,
9 vessels, vats, and stationary or mobile storage tanks.
10 "Container" shall not include process containers.
- 11 e. "Council" means the Right to Know Advisory Council
12 created pursuant to section 18 of this act.
- 13 f. "County health department" means a county health agency
14 established pursuant to P.L.1975, c.329 (C.26:3A2-1 et seq.), or
15 the office of a county clerk in a county which has not established
16 a department.
- 17 g. "Employee representative" means a certified collective
18 bargaining agent or an attorney whom an employee authorizes to
19 exercise his rights to request information pursuant to the
20 provisions of this act, or a parent or legal guardian of a minor
21 employee.
- 22 h. "Employer" means any person or corporation in the State
23 engaged in business operations which has a Standard Industrial
24 Classification, as designated in the Standard Industrial
25 Classification Manual prepared by the federal Office of
26 Management and Budget, within the following Major Group
27 Numbers, Group Numbers, or Industry Numbers, as the case may
28 be: Major Group Number 07 (Agricultural Services), only Industry
29 Number 0782--Lawn and garden services; Major Group Numbers
30 20 through 39 inclusive (manufacturing industries); Major Group
31 Number 45 (Transportation by Air), only Industry Number
32 4511--Air Transportation, certified carriers, and Group Number
33 458--Air Transportation Services; Major Group Number 46
34 (Pipelines, Except Natural Gas); Major Group Number 47
35 (Transportation Services), only Group Numbers 471--Freight
36 Forwarding, 474--Rental of Railroad Cars, and
37 478--Miscellaneous Services Incidental to Transportation; Major
38 Group Number 48 (Communication), only Group Numbers
39 481--Telephone Communication, and 482--Telegraph
40 Communication; Major Group Number 49 (Electric, Gas and
41 Sanitary Services); Major Group Number 50 (Wholesale
42 Trade--Durable Goods), only Industry Numbers 5085--Industrial
43 Supplies, 5087--Service Establishment Equipment and Supplies,
44 and 5093--Scrap and Waste Materials; Major Group Number 51
45 (Wholesale trade, nondurable goods), only Group Numbers
46 512--Drugs, Drug Proprietaries and Druggist's Sundries,
47 516--Chemicals and Allied Products, 517--Petroleum and
48 petroleum products, 518--Beer, Wine and Distilled Alcoholic
49 Beverages, and 519--Miscellaneous Nondurable Goods; Major
50 Group Number 55 (Automobile Dealers and Gasoline Service

1 Stations), only Group Numbers 551--Motor Vehicle Dealers (New
2 and Used), 552--Motor Vehicle Dealers (Used only), and
3 554--Gasoline Service Stations; Major Group Number 72
4 (Personal Services), only Industry Numbers 7216--Dry Cleaning
5 Plants, Except Rug Cleaning, 7217--Carpet and Upholstery
6 Cleaning, and 7218--Industrial Launderers; Major Group Number
7 73 (Business Services), only Industry Number 7397 Commercial
8 testing laboratories; Major Group Number 75 (automotive repair,
9 services, and garages), only Group Number 753--Automotive
10 Repair Shops; Major Group Number 76 (miscellaneous repair
11 services), only Industry Number 7692--Welding Repair; Major
12 Group Number 80 (health services), only Group Number
13 806--Hospitals; and Major Group Number 82 (educational
14 services), only Group Numbers 821--Elementary and Secondary
15 Schools and 822--Colleges and Universities, and Industry Number
16 8249--Vocational Schools. Except for the purposes of section 26
17 of this act, "employer" means the State and local governments,
18 or any agency, authority, department, bureau, or instrumentality
19 thereof.

20 i. "Environmental hazardous substance" means any substance
21 on the environmental hazardous substance list.

22 j. "Environmental hazardous substance list" means the list of
23 environmental hazardous substances developed by the
24 Department of Environmental Protection pursuant to section 4 of
25 this act.

26 k. "Environmental survey" means a written form prepared by
27 the Department of Environmental Protection and transmitted to
28 an employer, on which the employer shall provide certain
29 information concerning each of the environmental hazardous
30 substances at his facility, including, but not limited to, the
31 following:

32 (1) The chemical name and Chemical Abstracts Service
33 number of the environmental hazardous substance;

34 (2) A description of the use of the environmental hazardous
35 substance at the facility;

36 (3) The quantity of the environmental hazardous substance
37 produced at the facility;

38 (4) The quantity of the environmental hazardous substance
39 brought into the facility;

40 (5) The quantity of the environmental hazardous substance
41 consumed at the facility;

42 (6) The quantity of the environmental hazardous substance
43 shipped out of the facility as or in products;

44 (7) The maximum inventory of the environmental hazardous
45 substance stored at the facility, the method of storage, and the
46 frequency and methods of transfer;

47 (8) The total stack or point-source emissions of the
48 environmental hazardous substance;

49 (9) The total estimated fugitive or nonpoint-source emissions
50 of the environmental hazardous substance;

1 (10) The total discharge of the environmental hazardous
2 substance into the surface or groundwater, the treatment
3 methods, and the raw wastewater volume and loadings;

4 (11) The total discharge of the environmental hazardous
5 substance into publicly owned treatment works;

6 (12) The quantity, and methods of disposal, of any wastes
7 containing an environmental hazardous substance, the method of
8 on-site storage of these wastes, the location or locations of the
9 final disposal site for these wastes, and the identity of the hauler
10 of the wastes;

11 (13) The total quantity of environmental hazardous substances
12 generated at the facility, including hazardous substances
13 generated as nonproduct output;

14 (14) The quantity of environmental hazardous substances
15 recycled on-site and off-site; and

16 (15) Information pertaining to pollution prevention activities
17 at the facility.

18 As used in this subsection, "pollution prevention" and
19 "nonproduct output" shall have the same meaning as set forth in
20 section 3 of P.L. , c. (C.) (pending in the Legislature as this
21 bill).

22 l. "Facility" means the building, equipment and contiguous
23 area at a single location used for the conduct of business. Except
24 for the purposes of subsection c. of section 13, section 14, and
25 subsection b. of section 25 of this act, "facility" shall not include
26 a research and development laboratory.

27 m. "Hazardous substance" means any substance, or substance
28 contained in a mixture, included on the workplace hazardous
29 substance list developed by the Department of Health pursuant to
30 section 5 of this act, introduced by an employer to be used,
31 studied, produced, or otherwise handled at a facility. "Hazardous
32 substance" shall not include:

33 (1) Any article containing a hazardous substance if the
34 hazardous substance is present in a solid form which does not
35 pose any acute or chronic health hazard to an employee exposed
36 to it;

37 (2) Any hazardous substance constituting less than 1% of a
38 mixture unless the hazardous substance is present in an aggregate
39 amount of 500 pounds or more at a facility;

40 (3) Any hazardous substance which is a special health hazard
41 substance constituting less than the threshold percentage
42 established by the Department of Health for that special health
43 hazard substance when present in a mixture; or

44 (4) Any hazardous substance present in the same form and
45 concentration as a product packaged for distribution and use by
46 the general public to which an employee's exposure during
47 handling is not significantly greater than a consumer's exposure
48 during the principal use of the toxic substance.

49 n. "Hazardous substance fact sheet" means a written
50 document prepared by the Department of Health for each

1 hazardous substance and transmitted by the department to
2 employers pursuant to the provisions of this act, which shall
3 include, but not be limited to, the following information:

4 (1) The chemical name, the Chemical Abstracts Service
5 number, the trade name, and common names of the hazardous
6 substance;

7 (2) A reference to all relevant information on the hazardous
8 substance from the most recent edition of the National Institute
9 for Occupational Safety and Health's Registry of Toxic Effects
10 of Chemical Substances;

11 (3) The hazardous substance's solubility in water, vapor
12 pressure at standard conditions of temperature and pressure, and
13 flash point;

14 (4) The hazard posed by the hazardous substance, including its
15 toxicity, carcinogenicity, mutagenicity, teratogenicity,
16 flammability, explosiveness, corrosivity and reactivity, including
17 specific information on its reactivity with water;

18 (5) A description, in nontechnical language, of the acute and
19 chronic health effects of exposure to the hazardous substance,
20 including the medical conditions that might be aggravated by
21 exposure, and any permissible exposure limits established by the
22 federal Occupational Safety and Health Administration;

23 (6) The potential routes and symptoms of exposure to the
24 hazardous substance;

25 (7) The proper precautions, practices, necessary personal
26 protective equipment, recommended engineering controls, and
27 any other necessary and appropriate measures for the safe
28 handling of the hazardous substance, including specific
29 information on how to extinguish or control a fire that involves
30 the hazardous substance; and

31 (8) The appropriate emergency and first aid procedures for
32 spills, fires, potential explosions, and accidental or unplanned
33 emissions involving the hazardous substance.

34 o. "Label" means a sign, emblem, sticker, or marker affixed to
35 or stenciled onto a container listing the information required
36 pursuant to section 14 of this act.

37 p. "Mixture" means a combination of two or more substances
38 not involving a chemical reaction.

39 q. "Process container" means a container, excluding a
40 pipeline, the content of which is changed frequently; a container
41 of 10 gallons or less in capacity, into which substances are
42 transferred from labeled containers, and which is intended only
43 for the immediate use of the employee who performs the
44 transfer; a container on which a label would be obscured by heat,
45 spillage or other factors; or a test tube, beaker, vial, or other
46 container which is routinely used and reused.

47 r. "Research and development laboratory" means a specially
48 designated area used primarily for research, development, and
49 testing activity, and not primarily involved in the production of
50 goods for commercial sale, in which hazardous substances or

1 environmental hazardous substances are used by or under the
2 direct supervision of a technically qualified person.

3 s. "Special health hazard substance" means any hazardous
4 substance on the special health hazard substance list.

5 t. "Special health hazard substance list" means the list of
6 special health hazard substances developed by the Department of
7 Health pursuant to section 5 of this act for which an employer
8 may not make a trade secret claim.

9 u. "Trade secret" means any formula, plan, pattern, process,
10 production data, information, or compilation of information,
11 which is not patented, which is known only to an employer and
12 certain other individuals, and which is used in the fabrication and
13 production of an article of trade or service, and which gives the
14 employer possessing it a competitive advantage over businesses
15 who do not possess it, or the secrecy of which is certified by an
16 appropriate official of the federal government as necessary for
17 national defense purposes. The chemical name and Chemical
18 Abstracts Service number of a substance shall be considered a
19 trade secret only if the employer can establish that the substance
20 is unknown to competitors. In determining whether a trade
21 secret is valid pursuant to section 15 of this act, the Department
22 of Health, or the Department of Environmental Protection, as the
23 case may be, shall consider material provided by the employer
24 concerning (1) the extent to which the information for which the
25 trade secret claim is made is known outside the employer's
26 business; (2) the extent to which the information is known by
27 employees and others involved in the employer's business; (3) the
28 extent of measures taken by the employer to guard the secrecy of
29 the information; (4) the value of the information, to the employer
30 or the employer's competitor; (5) the amount of effort or money
31 expended by the employer in developing the information; and (6)
32 the ease or difficulty with which the information could be
33 disclosed by analytical techniques, laboratory procedures, or
34 other means.

35 v. "Trade secret registry number" means a code number
36 temporarily or permanently assigned to the identity of a
37 substance in a container by the Department of Health pursuant to
38 section 15 of this act.

39 w. "Trade secret claim" means a written request, made by an
40 employer pursuant to section 15 of this act, to withhold the
41 public disclosure of information on the grounds that the
42 disclosure would reveal a trade secret.

43 x. "Workplace hazardous substance list" means the list of
44 hazardous substances developed by the Department of Health
45 pursuant to section 5 of this act.

46 y. "Workplace survey" means a written document, prepared by
47 the Department of Health and completed by an employer
48 pursuant to this act, on which the employer shall report each
49 hazardous substance present at his facility.

50 (cf: P.L.1985, c.543, s.1)

1 ¹[16.] 18.¹ Section 4 of P.L.1983, c.315 (C.34:5A-4) is
2 amended to read as follows:
3 4. a. The Department of Environmental Protection shall
4 develop an environmental hazardous substance list which ¹[shall
5 include, but not be limited to, substances used, manufactured,
6 stored, packaged, repackaged, or disposed of or released into the
7 environment of the State which, in the department's
8 determination, may be linked to the incidence of cancer; genetic
9 mutations; physiological malfunctions, including malfunctions in
10 reproduction; and other diseases; or which, by virtue of their
11 physical properties, may pose a threat to the public health and
12 safety. The [department shall base the] environmental hazardous
13 substance list]¹ [on] shall include the list of substances developed
14 and used by the department for the purposes of the Industrial
15 Survey Project, established pursuant to P.L.1970, c.33 (C.13:1D-1
16 et seq.) [and P.L.1977, c.74 (C.58:10A-1 et seq.)], ¹[any substance
17 which is a chemical constituent on the list of hazardous
18 substances adopted by the department pursuant to section 3 of
19 P.L.1976, c.141 (C.58:10-23.11b), any extraordinarily hazardous
20 substance listed on the extraordinarily hazardous substance list
21 established by the department pursuant to section 4 of P.L.1985,
22 c.403 (C.13:1K-22), or rules and regulations adopted pursuant
23 thereto,] and¹ any substance on the list established by the United
24 States Environmental Protection Agency for reporting pursuant
25 to ¹[Section 313 of Title III of the "Superfund Amendments and
26 Reauthorization Act of 1986" (]¹ 42 U.S.C. §11023 ¹), or any
27 substance that is a chemical constituent on the list of hazardous
28 substances established by the United States Environmental
29 Protection Agency pursuant to section 101 of the
30 "Comprehensive Environmental Response, Compensation, and
31 Liability Act of 1980" (42 U.S.C. §9601),]¹ and may include other
32 substances which the department, based on documented scientific
33 evidence, determines pose a threat to the public health and
34 safety.
35 b. The department shall develop an environmental survey,
36 which shall be designed to enable employers to report information
37 about environmental hazardous substances at their facilities.
38 c. The department shall prepare and, upon request, make
39 available to employers, county health departments, or the public
40 a Spanish translation of the environmental survey. The
41 department shall also prepare and make available a Spanish
42 translation of any written material prepared by the department
43 to inform the public of the information available pursuant to the
44 provisions of this act.
45 d. Three months prior to the effective date of this act the
46 department shall adopt, pursuant to the "Administrative
47 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), the
48 environmental hazardous substance list.
49 (cf: P.L.1983, c.315, s.4)
50 ¹19. Section 7 of P.L. 1983, c. 315 (C. 34:5A-7) is amended to

1 read as follows:

2 7. a. Except as otherwise provided in section 15 of this act, an
3 employer shall have until October 30, 1985, or within 90 days of
4 the employer's receipt of the workplace survey, whichever is
5 later, to complete the survey and transmit a copy of the
6 completed survey to the Department of Health, the health
7 department of the county in which the employer's facility is
8 located, the local fire department, and the local police
9 department. If an employer has reason to believe that a mixture
10 present at his facility contains a hazardous substance as a
11 component, but is unable to obtain from the manufacturer or
12 supplier of the mixture the chemical names and Chemical
13 Abstracts Service numbers of the components of the mixture, he
14 shall list the mixture by its common name in the space provided
15 on the survey. The department shall have the responsibility to
16 obtain the chemical names and Chemical Abstracts Service
17 numbers of the components of the mixture so listed, and, upon
18 obtaining this information, shall transmit it to the employer along
19 with any appropriate hazardous substance fact sheet or sheets
20 and directions to the employer on how to communicate this
21 information to his employees.

22 b. Except as otherwise provided in section 15 of this act, an
23 employer shall [have until October 30, 1985, or within 90 days of
24 the employer's receipt of the environmental survey, whichever is
25 later, to complete the survey and] transmit a copy of the
26 completed environmental survey to the Department of
27 Environmental Protection and the health department of the
28 county in which the employer's facility is located, and pertinent
29 sections of the survey to the local fire department and the local
30 police department on the date on which Toxic Chemical Release
31 Forms are due to be transmitted to the United States
32 Environmental Protection Agency pursuant to 42 U.S.C. §11023¹.
33 (cf: P.L.1985, c.216, s.1.)

34 ¹[17.] 20.¹ Section 26 of P.L.1983, c.315 (C.34:5A-26) is
35 amended to read as follows:

36 26. a. There is established in the Department of the Treasury a
37 nonlapsing, revolving fund to be known as the "Worker and
38 Community Right To Know Fund." The [fund] "Worker and
39 Community Right To Know Fund" shall be credited with all fees
40 collected pursuant to paragraph (1) of subsection b. of
41 this section and interest on moneys in the [fund] "Worker and
42 Community Right To Know Fund" shall be credited to the [fund]
43 "Worker and Community Right To Know Fund" and all moneys in
44 the [fund] "Worker and Community Right To Know Fund" are
45 appropriated for the purposes of the [fund] "Worker and
46 Community Right To Know Fund", and no moneys shall be
47 expended for those purposes without the specific appropriation
48 thereof by the Legislature. The State Treasurer shall be the
49 administrator of the [fund] "Worker and Community Right To
50 Know Fund", and all disbursements from the [fund] "Worker and

1 Community Right To Know Fund" shall be made by the State
2 Treasurer upon the warrant of the Director of the Division of
3 Budget and Accounting.

4 b. (1) The Department of Labor shall annually assess each
5 employer a fee of not less than \$50.00 nor more than an amount
6 equal to \$2.00 per employee to provide for the implementation of
7 the provisions of this act. All fees collected by the department
8 pursuant to this [section] paragraph shall be deposited in the
9 [fund] "Worker and Community Right To Know Fund".

10 (2) The Department of Labor shall annually assess each
11 employer a fee of \$2.00 per employee for the implementation of
12 P.L. , c. (C.) (pending in the Legislature as this bill). All
13 fees collected by the department pursuant to this paragraph shall
14 be deposited in the "Pollution Prevention Fund" established
15 pursuant to section ¹[14] ¹⁶ of P.L. , c. (C.) (pending in the
16 Legislature as this bill), and shall be used only for the
17 implementation of P.L. , c. (C.) (pending in the Legislature
18 as this bill).

19 c. The moneys in the [fund] "Worker and Community Right To
20 Know Fund" shall be disbursed only for the following purposes:

21 (1) Expenses approved by the Director of the Division of
22 Budget and Accounting and incurred by the Department of
23 Health, the Department of Environmental Protection, the
24 Department of Labor, the Department of the Treasury, and the
25 county health departments in implementing the provisions of this
26 act; and

27 (2) Repayment to the General Fund of any moneys
28 appropriated by law in order to implement the provisions of this
29 act.

30 d. The State Treasurer shall annually disburse the moneys in
31 the [fund] "Worker and Community Right To Know Fund" for
32 expenditures approved by the Director of the Division of Budget
33 and Accounting pursuant to paragraph (1) of subsection c. of this
34 section, but in no case in an amount to the several departments
35 that is greater than the following percentages of the [fund]
36 "Worker and Community Right To Know Fund" available in any
37 one year: the Department of Health, 40%; the Department of
38 Environmental Protection, 20%; the county health departments,
39 15%; the Department of Labor, 15%; and the Department of the
40 Treasury, 10%.

41 e. Beginning two years after the effective date of this act, the
42 State Treasurer shall make an annual audit of the [fund] "Worker
43 and Community Right To Know Fund" to determine the adequacy
44 of moneys on deposit in the [fund] "Worker and Community Right
45 To Know Fund" to support the implementation of the provisions
46 of this act. If the State Treasurer, in consultation with the
47 Department of Health, the Department of Environmental
48 Protection, and the Department of Labor makes a determination
49 that the revenues in the [fund] "Worker and Community Right To
50 Know Fund" are sufficient to warrant a reduction in the fees

1 imposed pursuant to paragraph (1) of subsection b. of this section
2 for the ensuing year, he may reduce the amount of the fees
3 imposed during that year by an amount warranted by the balance
4 in the [fund] "Worker and Community Right To Know Fund" at
5 the time of the determination.

6 (cf: P.L.1989, c.155, s.2)

7 ¹21. (New section) There is appropriated from the monies
8 deposited in the "Pollution Prevention Fund," established
9 pursuant to section 16 of P.L. , c. (C.) (pending in the
10 Legislature as this bill) during the first year following the
11 enactment of P.L. , c. (C.)(pending in the Legislature as
12 this bill), the sum of \$200,000 to the Hazardous Substance
13 Management Research Center at the New Jersey Institute of
14 Technology for the implementation of a technical assistance
15 program for pollution prevention.¹

16 ¹[18.] 22.¹ This act shall take effect immediately ¹, provided,
17 however, that the provisions of this act requiring industrial
18 facilities to prepare pollution prevention plans and submit
19 pollution prevention plan summaries and pollution prevention plan
20 progress reports to the department shall remain inoperative until
21 the department has adopted the rules and regulations necessary
22 to implement this act¹.

23

24

25 ENVIRONMENT

26

27

The "Pollution Prevention Act."

SENATE, No. 2220

STATE OF NEW JERSEY

Introduced Pending Technical Review by Legislative Counsel

PRE-FILED FOR INTRODUCTION IN THE 1990 SESSION

By Senator DALTON

1 AN ACT concerning pollution prevention and the reduction of the
2 use of hazardous substances, and supplementing Title 13 of the
3 Revised Statutes.

4

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

7 1. This act shall be known and may be cited as the "Pollution
8 Prevention Act."

9 2. The Legislature finds and declares that thousands of tons of
10 a multitude of hazardous substances, the environmental and
11 health effects of which are largely unknown, are discharged into
12 the environment of the State each year; that most of these
13 hazardous substances are legally discharged under the terms of
14 air pollution, water pollution and hazardous waste management
15 permits which allow discharges up to certain stipulated amounts;
16 and that the discharge of these hazardous substances into air and
17 water, onto the land, and into the workplaces and neighborhoods
18 of the State, constitute an unacceptable threat to the
19 environment and occupational and public health.

20 The Legislature further finds and declares that for the past two
21 decades the State's major environmental regulatory efforts,
22 namely, the air pollution, water pollution, and hazardous waste
23 management programs administered by the Department of
24 Environmental Protection, have focused on controlling or
25 managing discharges of hazardous substances through permit
26 systems and the installation of pollution control technologies;
27 that the traditional system of separately regulating air pollution,
28 water pollution, and hazardous waste management constitutes a
29 fragmented approach to environmental protection and potentially
30 allows pollution to be shifted from one environmental medium to
31 another; that while the traditional system has produced palpable
32 improvements in the State's environmental quality, the upper
33 limit of improvements that can be reasonably expected under the
34 traditional system is within sight; and that the traditional system
35 of pollution control utterly fails to address the impact of
36 hazardous substances utilization upon occupational health in
37 pollution generating industrial processes.

38 The Legislature further finds and declares that the inherent
39 limitations of the traditional system of pollution control should
40 be addressed by a new emphasis on pollution prevention through
41 the reduction in the use of hazardous substances in industrial and

1 manufacturing processes; that a rigorous accounting for the use
2 and discharge of hazardous substances at each step in an
3 industrial process will identify the points at which, and the
4 procedures by which, pollution can be prevented; that pollution
5 prevention can be achieved through a more efficient and rational
6 use of hazardous substances, or through the use of less hazardous
7 substitute substances or processes less prone to produce pollution;
8 and that a soundly planned pollution prevention program can be
9 implemented without adversely affecting the State's economic
10 health or the livelihood of the many people employed by
11 industries which use and discharge hazardous substances.

12 The Legislature therefore determines that it is in the interest
13 of the environment and public and occupational health, and in the
14 general public interest of all residents of the State, to transform
15 the current system of pollution control to a system of pollution
16 prevention; to establish as a State public policy goal a 50%
17 reduction over five years in the use and discharge of hazardous
18 substances in New Jersey; to establish an Office of Pollution
19 Prevention in the Department of Environmental Protection
20 charged with implementing a comprehensive pollution prevention
21 program and integrating the air pollution, water pollution, and
22 hazardous waste management programs into the pollution
23 prevention program; and to require certain industries to prepare
24 and implement pollution prevention plans.

25 3. As used in this act:

26 "Commissioner" means the Commissioner of the Department
27 of Environmental Protection.

28 "Council" means the Pollution Prevention Advisory Council
29 established pursuant to section 5 of this act.

30 "Department" means the Department of Environmental
31 Protection.

32 "Facility" means all buildings, equipment, structures, and other
33 property which are located on a single site or on contiguous or
34 adjacent sites and which are owned or operated by the same
35 person.

36 "Hazardous substance" means any substance listed on the
37 environmental hazardous substance list established by the
38 department pursuant to section 4 of P.L.1983, c.315 (C.34:5A-4)
39 or the workplace hazardous substance list established by the
40 Department of Health pursuant to section 5 of P.L.1983, c.315
41 (C.34:5A-5). "Hazardous substance" shall not include substances
42 which are used as pesticides or herbicides in routine commercial
43 agricultural applications.

44 "Hazardous substance inventory" means the inventory
45 established by the department pursuant to section 10 of this act.

46 "Hazardous waste" means any solid waste defined as hazardous
47 waste by the department pursuant to P.L.1970, c.39 (C.13:1E-1 et
48 seq.).

1 "Industrial facility" means any facility having a Standard
2 Industrial Classification, as designated in the Standard Industrial
3 Classification Manual prepared by the federal Office of
4 Management and Budget, within Major Group Numbers 20-39
5 inclusive (manufacturing industries), at which ten or more persons
6 are employed full time, and at which 25,000 pounds or more of a
7 hazardous substance are manufactured or processed each year,
8 or such a facility at which 10,000 pounds of a hazardous
9 substance are otherwise used each year.

10 "Manufacture" means to produce, prepare, import or compound
11 a hazardous substance.

12 "Office" means the Office of Pollution Prevention established
13 pursuant to section 4 of this act.

14 "Operator" means any person in control of, or exercising
15 responsibility for, the daily operation of an industrial facility.

16 "Owner" means any person who owns an industrial facility.

17 "Person" means any individual, partnership, company,
18 corporation, consortium, joint venture, or commercial or any
19 other legal entity.

20 "Pollution prevention" means on site facility changes in
21 production processes, products, or the use of substitute raw
22 materials that result in the reduction of the amount of hazardous
23 substances used per unit of product manufactured, that result in
24 the reduction of the amount of hazardous waste generated or
25 hazardous substances discharged into the air or water per unit of
26 product manufactured prior to treatment, and that reduce or
27 eliminate, without shifting, the risks which the use of hazardous
28 substances at an industrial facility pose to employees, consumers,
29 and the environment, and shall include, but need not be limited
30 to, raw material substitution, product reformulation, production
31 process redesign or modification, and improved operation and
32 maintenance of production process equipment.

33 "Pollution prevention plan" means a plan required to be
34 submitted by a priority industrial facility to the department
35 pursuant to section 8 of this act.

36 "Priority industrial facility" means any industrial facility for
37 which a pollution prevention plan must be submitted to the
38 department pursuant to section 7 of this act.

39 "Process" means the preparation of a hazardous substance,
40 after its manufacture, for sale or use in the same form or
41 physical state, or in a different form or physical state, as that in
42 which it was received at the industrial facility where it is
43 processed, or as part of an article or product containing the
44 hazardous substance.

45 "Production process" means a process line, method, activity, or
46 technique, or a series or combination of processes, lines,
47 methods, or techniques which is used to produce a product or a
48 planned result.

1 4. a. There is established in the Department of Environmental
2 Protection the Office of Pollution Prevention. The office shall
3 be under the immediate supervision of an administrator appointed
4 by the commissioner, who shall report directly to the
5 commissioner, and who shall be a member of the unclassified
6 service of the State. The office shall be responsible for the
7 implementation of the provisions of this act, for the
8 establishment of a Statewide goal of a 50% reduction over five
9 years in the use or discharge of hazardous substances and the
10 generation of hazardous waste in this State, for the coordination
11 of all pollution prevention policies within the department, and for
12 conducting on ongoing review of all appropriate regulatory and
13 enforcement policies to provide that these policies require or
14 encourage pollution prevention to the maximum extent
15 practicable and feasible, and for performing any other function
16 which the commissioner may deem appropriate.

17 b. The office shall have the authority to review any rule or
18 regulation, administrative consent order, administrative order,
19 compliance schedule, or permit issued pursuant to P.L.1970, c.39
20 (C.13:1E-1 et seq.), P.L.1977, c.74 (C.58:10A-1 et seq.), and
21 P.L.1954, c.212 (C.26:2C-1 et seq.), to determine if the rule or
22 regulation, order, compliance schedule, or permit encourages or
23 requires pollution prevention. The office may, after such a
24 review, recommend to the commissioner that a rule or regulation,
25 order, compliance schedule, or permit be modified to encourage
26 or require pollution prevention.

27 c. The office shall review, prior to issuance by the
28 department, every administrative consent order, compliance
29 schedule, or permit issued pursuant to P.L.1970, c.39, P.L.1977,
30 c.74, or P.L.1954, c.212, for a priority industrial facility to
31 determine if the terms of the order, compliance schedule, or
32 permit comply with the provisions of the pollution prevention
33 plan submitted to the department for the priority industrial
34 facility pursuant to the provisions of section 8 of this act. The
35 office shall have the authority to require any changes it deems
36 necessary in the order, compliance schedule, or permit.

37 d. The office shall establish an educational and outreach
38 program designed to explain and make available to the public all
39 pollution profiles and pollution prevention plans submitted to the
40 department pursuant to this act. Upon a request therefor, the
41 office shall provide a member of the public with a copy of any
42 pollution profile or pollution prevention plan submitted and
43 approved pursuant to this act for a cost not to exceed the cost of
44 printing and postage.

45 e. To the maximum extent practicable and feasible, the office
46 shall, within five years of the effective date of this act,
47 reschedule the issuing of permits pursuant to P.L.1970, c.39,
48 P.L.1977, c.74, or P.L.1954, c.212 for priority industrial facilities

1 to provide that all permits for a priority industrial facility are
2 issued pursuant to a single schedule.

3 5. a. There is established in the Department of Environmental
4 Protection the Pollution Prevention Advisory Council. The
5 council shall consist of the Commissioner of the Department of
6 Environmental Protection, the Commissioner of the Department
7 of Health, and the Commissioner of the Department of Labor, or
8 their designees, who shall serve ex officio, and eight public
9 members appointed by the Governor with the advice and consent
10 of the Senate. Of the public members, one shall have experience
11 or training in the field of environmental compliance with a large
12 industry, one shall have experience or training in the field of
13 environmental compliance with a medium or small industry, one
14 shall be a member of a recognized environmental organization,
15 one shall be a person with academic training in the field of water
16 pollution, one shall be a person with academic training in the
17 field of air pollution, one shall be a person with academic training
18 in the field of hazardous waste generation or management, one
19 shall be a representative of organized labor and have training or
20 experience in the field of occupational diseases and health, and
21 one shall be a person with academic training in the field of
22 environmental medicine or public health. Each of the public
23 members shall be appointed for a term of three years, except
24 that of the public members first appointed by the Governor, three
25 shall serve for terms of three years, three shall serve for terms
26 of two years, and two shall serve for terms of one year.

27 b. A majority of the membership of the council shall
28 constitute a quorum for the transaction of council business.
29 Action may be taken and motions adopted by the council at any
30 meeting thereof by the affirmative vote of a majority of the
31 membership of the council.

32 c. The council shall elect a chairman and other officers as may
33 be necessary from among its members. The council may, within
34 the limits of any funds appropriated or otherwise made available
35 to it for such purposes, appoint such staff or hire such experts as
36 it may require.

37 d. Members of the council shall serve without compensation,
38 but the council may, within the limits of funds appropriated or
39 otherwise made available to it for such purposes, reimburse its
40 members for necessary expenses incurred in the discharge of
41 their official duties.

42 e. The Director of the Division of Science and Research in the
43 department shall assign professional members of the division to
44 serve as full or part time professional staff, as the director
45 deems appropriate, to the council.

46 f. The council shall:

47 (1) Review any matters submitted to it by the department
48 concerning any aspect of the provisions or implementation of this

1 act, and report its recommendations to the department.

2 (2) Conduct an ongoing review of the implementation of this
3 act and submit any recommendations for administrative or
4 legislative changes it deems necessary to the department.

5 g. The council may:

6 (1) Advise the office on the interpretation of information
7 submitted in hazardous substance inventories, on the content of
8 pollution prevention plans, the addition or deletion of hazardous
9 substances to be included on the hazardous substance inventory,
10 changes in the method of reporting information required on
11 hazardous substance inventories, and any other aspect of the
12 implementation of this act.

13 (2) Review the scientific literature concerning the
14 occupational, public health, and environmental risks presented by
15 exposures to discharges of specific hazardous substances,
16 evaluate varying scientific interpretations of these risks, and
17 assess the risks of the discharge of these hazardous substances
18 into different environmental medium.

19 (3) Review and evaluate the impact of reductions in the use or
20 discharge of specific hazardous substances on employment levels.

21 (4) Conduct periodic reviews of the criteria adopted by the
22 department for the submission of pollution prevention plans and,
23 if deemed necessary, make recommendations for administrative
24 or legislative changes.

25 (5) Study and evaluate the practicability and feasibility of
26 achieving reductions in the use or discharge of specific hazardous
27 substances without reductions in employment levels through the
28 use of substitute substances, alternative procedures or processes,
29 or other means.

30 6. Within 18 months of the effective date of this act, every
31 owner or operator of an industrial facility shall prepare and
32 submit to the department, in a form and manner prescribed by
33 the department, a completed hazardous substance inventory for
34 each industrial facility owned or operated by the owner or
35 operator.

36 7. Within three months after the deadline for the submission of
37 hazardous substance inventories, the office shall determine,
38 pursuant to criteria established in rules or regulations adopted
39 pursuant to section 11 of this act, those priority industrial
40 facilities which shall be required to prepare and submit to the
41 department a pollution prevention plan, and shall notify these
42 priority industrial facilities of this requirement.

43 8. The owner or operator of an industrial facility which is
44 notified by the department pursuant to section 7 of this act of the
45 requirement to prepare and submit to the department a pollution
46 prevention plan, shall prepare and submit to the department a
47 pollution prevention plan and the fee assessed by the department,
48 within nine months of this notification.

1 9. Within six months of receipt of a pollution prevention plan
2 submitted pursuant to section 7 of this act, the department shall
3 approve, conditionally approve, or modify the pollution
4 prevention plan. If the department disapproves or conditionally
5 approves a pollution prevention plan, the department shall inform
6 the owner or operator of the priority industrial facility for which
7 the pollution prevention plan was submitted of the modifications
8 to the pollution prevention plan which are necessary to receive
9 the department's approval. The owner or operator of a priority
10 industrial facility shall have six months to revise and resubmit a
11 pollution prevention plan which the department disapproved or
12 conditionally approved.

13 10. a. Within 12 months of the effective date of this act the
14 department shall develop and make available to owners and
15 operators of industrial facilities a hazardous substance inventory
16 form on which owners and operators of industrial establishments
17 shall be required to provide the department with information
18 concerning hazardous substances at their industrial facilities, at
19 both the facility and production process level. This information
20 shall include, but need not be limited to:

21 (1) The name and telephone number of the owner or operator of
22 the industrial facility, or highest ranking corporate official at
23 each industrial facility, and the name and telephone number of a
24 non-management employee representative at each facility;

25 (2) An identification of each production process at the
26 industrial facility, the product produced in the production
27 process, and the total units of production produced in the
28 production process during the year;

29 (3) The chemical identity and Chemical Abstract Service (CAS)
30 number of each hazardous substance;

31 (4) The amount of each hazardous substance brought into the
32 industrial facility as raw materials, either in pure form or
33 contained in a mixture, and the amount of each hazardous
34 substance, either in pure form or contained in a mixture,
35 contained in the product or products produced or manufactured
36 for use or sale at the industrial facility;

37 (5) The amount of each hazardous substance used at each
38 production process at the industrial facility as raw materials,
39 either in pure form or contained in a mixture, and the amount of
40 each hazardous substance, either in pure form or contained in a
41 mixture, contained in the product or products produced or
42 manufactured for use or sale in the production process;

43 (6) The amount of hazardous waste generated in each
44 production process at the industrial facility;

45 (7) The address of each off-site treatment, disposal or storage
46 facility to which hazardous wastes generated at the industrial
47 facility are transported, and the type of treatment or disposal
48 method utilized at each off-site facility;

1 (8) The amounts of the hazardous substances released or
2 removed from each production process in the facility, including
3 point, non-point source, and fugitive emissions to the air,
4 discharges to the surface or groundwater of the State or to a
5 wastewater treatment system;

6 (9) The amount of each hazardous substance recycled within
7 each production process at the facility.

8 (10) A calculation of the reduction or increase in the use of
9 each hazardous substance per unit of production in each
10 production process in comparison to the hazardous substance
11 inventory submitted the previous year;

12 (11) A calculation of the reduction or increase in the amounts
13 of each hazardous substance released or removed from each
14 production process, including point, non-point, and fugitive
15 emissions to the air, discharges to the surface or groundwater of
16 the state or to a wastewater treatment system, and in the
17 amount of hazardous waste generated at each production process,
18 in comparison to the hazardous substance inventory submitted the
19 previous year; and

20 (12) An indication of the method, modification, or procedure
21 used to achieve any reduction reported pursuant to paragraphs
22 (10) or (11) of this subsection, and industrial facility's five year
23 goal for such reductions.

24 b. To the maximum extent practicable and feasible, the
25 information required for the completion of a hazardous substance
26 inventory shall be based on information developed by an owner or
27 operator of an industrial facility for the purpose of compliance
28 with P.L.1983, c.315 and Title III of the "Superfund Amendments
29 and Reauthorization Act of 1986," (U.S.C. 300-320).

30 c. The department may require owners and operators of
31 industrial facilities to submit hazardous substance inventories in
32 a form which is compatible with the department's electronic
33 information storage and retrieval system.

34 11. a. Within 15 months of the effective date of this act, the
35 department shall adopt, pursuant to the "Administrative
36 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules or
37 regulations establishing criteria for determining which industrial
38 facilities submitting a completed hazardous substance inventory
39 shall be required to prepare and submit a pollution prevention
40 plan to the department pursuant to section 8 of this act. These
41 criteria may be based on the threat posed to public health,
42 occupational health, or the environment by specific hazardous
43 substances, by discharges by specific industries or industry
44 groups, by specific forms of discharges of specific hazardous
45 substances, or any other basis deemed appropriate by the
46 department.

47 b. The rules or regulations adopted pursuant to subsection a. of
48 this section shall also set forth a five year schedule to provide for

1 the gradual increase in the in the number of industrial facilities
2 required to prepare and submit a pollution prevention plan. This
3 schedule shall provide for the submission of at least 10, but not
4 more than 15 pollution prevention plans for specific industrial
5 facilities during the first year in which pollution prevention plans
6 shall be required, and for an increase of at least 50% in the
7 number of facilities for which pollution prevention plans shall be
8 required in each of the succeeding years.

9 12. Within 15 months of the effective date of this act, the
10 department shall adopt, pursuant to the "Administrative
11 Procedure Act," rules or regulations establishing criteria for
12 information to be included in pollution prevention plans required
13 to be submitted by owners and operators of priority industrial
14 facilities pursuant to section 8 of this act. Information in a
15 pollution prevention plan shall include, but need not be limited to:

16 a. A list and description of all procedures and technologies and
17 equipment, including the date of installation and the reasonably
18 expected life span of the technologies or equipment, currently
19 used to control, reduce, or otherwise abate the use of hazardous
20 substances, the discharge of hazardous substances, or the
21 generation of hazardous waste, for each production process at the
22 priority industrial facility.

23 b. An itemized statement of the budget allocated for
24 compliance with State and federal environmental laws at the
25 priority industrial facility, including capital and operating and
26 maintenance costs for technologies and equipment currently used
27 to prevent, control, reduce or otherwise abate the use of
28 hazardous substances, the discharge of hazardous substances, or
29 the generation of hazardous waste, and expression of the total
30 budget as a percentage of the annual operating expenses of the
31 priority industrial facility and as a percentage of the profits
32 earned by the priority industrial facility.

33 c. A list and description of all available procedures,
34 technology, and equipment which could substantially reduce the
35 use of hazardous substances in each production process at the
36 priority industrial facility, and reduce or prevent the discharge of
37 hazardous substances or the generation of hazardous waste in
38 each production process at the priority industrial facility.

39 d. An estimate of the cost of, and an assessment of the
40 feasibility of, installing or utilizing available procedures and
41 technologies and equipment identified pursuant to subsection c.
42 of this section.

43 e. A list of the procedures, technologies, and equipment
44 identified pursuant to subsection d. of this section which the
45 owner or operator intends to install or utilize, the cost of this
46 installation or utilization, the savings estimated to result from
47 this installation or utilization, and an estimate of the impact of
48 this installation or utilization on employment levels at the

1 priority industrial facility.

2 f. A time schedule and scope of workplan for the installation
3 or utilization of the procedures, technologies, and equipment
4 identified pursuant to subsection e. of this section, and a five
5 year goal for reductions in the use or discharge of hazardous
6 substances and the generation of hazardous waste.

7 13. a. Any owner or operator of an industrial facility required
8 to submit to the department a pollution profile or pollution
9 prevention plan may omit from the pollution profile or pollution
10 prevention plan the specific chemical identity of a hazardous
11 substance about which information is required, and include
12 instead the generic class or category of the hazardous substance,
13 or may omit any other information required to be disclosed, if the
14 owner or operator files with the department a trade secret claim
15 pursuant to this section.

16 b. Any owner or operator omitting information from a
17 pollution profile or pollution prevention plan pursuant to this
18 section shall submit to the department, accompanied by the
19 pollution profile or pollution prevention plan, a trade secret
20 claim, in which the owner or operator provides the commissioner
21 with the information omitted, and a statement demonstrating
22 that the information omitted meets the criteria for a valid trade
23 secret established pursuant to subsection c. of this section. The
24 trade secret claim shall include the information omitted from the
25 pollution profile or pollution prevention plan, and the
26 commissioner shall maintain this information on a confidential
27 basis.

28 c. The owner or operator of an industrial facility may not omit
29 any information from a pollution profile or pollution prevention
30 plan unless he can demonstrate that:

31 (1) The information has not been disclosed to any other person
32 other than to a person bound by a confidentiality agreement;

33 (2) The owner or operator has taken all reasonable measures
34 necessary to protect the secrecy of the information;

35 (3) The information is not required to be disclosed, or
36 otherwise made available, to the public pursuant to any other
37 federal or State law;

38 (4) Disclosure of the information on a pollution profile or a
39 pollution prevention plan would be likely to cause the owner or
40 operator substantial economic disadvantage or harm; and

41 (5) The information is not readily discoverable through reverse
42 engineering or other analytical techniques.

43 d. The department shall act to make a determination on the
44 validity of a trade secret claim when a request is made by any
45 person for the disclosure of the information for which the trade
46 secret claim was made, or at any time that the department
47 deems appropriate. Upon making a determination on the validity
48 of a trade secret claim, the department shall inform the

1 employer of the determination by certified mail. If the
2 department determines that the employer's trade secret claim is
3 not valid, the employer shall have 45 days from the receipt of the
4 department's determination to file with the department a
5 written request for an administrative hearing on the
6 determination. If the employer does not file such a request
7 within 45 days, the department shall take action to provide that
8 the information for which the trade secret claim was made be
9 disclosed pursuant to the provisions of this act. If an employer
10 requests an administrative hearing pursuant to the provisions of
11 this subsection, the department shall refer the matter to the
12 Office of Administrative Law for a hearing thereon. At the
13 hearing the employer shall have the burden to show that the trade
14 secret claim is valid. Within 45 days of receipt of the
15 administrative law judge's recommendation, the department shall
16 affirm, reject, or modify the recommendation. The department's
17 action shall be considered the final agency action for the
18 purposes of the "Administrative Procedure Act," and shall be
19 subject only to judicial review as provided in the Rules of Court.
20 The department shall inform the employer of its decision on the
21 administrative law judge's recommendation by certified mail. If
22 the department determines that the trade secret claim is not
23 valid, the employer shall have 45 days to notify the department in
24 writing that he has filed an appeal of the department's decision
25 in the courts. If the employer does not so notify the department,
26 the department shall take action to provide that the information
27 for which the trade secret claim was made be disclosed pursuant
28 to the provisions of this act.

29 e. The department shall provide any information for which a
30 trade secret claim is pending or has been approved pursuant to
31 this section to a physician or osteopath when such information is
32 needed for medical diagnosis or treatment. The department shall
33 require the physician or osteopath to sign an agreement
34 protecting the confidentiality of information disclosed pursuant
35 to this subsection.

36 f. Any pollution profile or pollution prevention plan containing
37 information for which a trade secret claim is pending or has been
38 approved shall be made available to the public with that
39 information omitted.

40 g. The subject of any trade secret claim pending or approved
41 shall be treated as confidential information. Except as provided
42 in subsection e. of this section, the department shall not disclose
43 any confidential information to any person except an officer or
44 employee of the State in connection with the official duties of
45 the officer or employee under any law for the protection of
46 public health, or to the contractors of the State and their
47 employees if, in the opinion of the department, the disclosure is
48 necessary for the completion of any work contracted for in

1 connection with the implementation of this act. Any officer or
2 employee of the State, contractor of the State, physician or
3 osteopath who has access to any confidential information, and
4 who willingly and knowingly discloses the confidential
5 information to any person not authorized to receive it, is guilty
6 of a crime of the third degree.

7 h. The commissioner shall not approve any trade secret claim
8 for any information which the Administrator of the United States
9 Environmental Protection Agency has determined is not a trade
10 secret pursuant to section 322 of Title III of the "Superfund
11 Amendments and Reauthorization Act of 1986" (U.S.C. 322).

12 i. An owner or operator of an industrial facility may not claim
13 the following information as a trade secret:

14 (1) The chemical name, identity, and amounts of any hazardous
15 substance discharged into the air or the surface or ground waters
16 of the State or into a wastewater treatment system, the chemical
17 identity and amounts of hazardous waste generated, or the
18 location of such a discharge or such generation.

19 (2) Hazards to health or the environment posed by any
20 hazardous substance at an industrial facility, and potential routes
21 of human exposure to a hazardous substance.

22 14. a. Whenever, on the basis of information available to him,
23 the Commissioner of the Department of Environmental
24 Protection finds that a person is in violation of this act, or any
25 rule and regulation adopted pursuant thereto, the commissioner
26 shall:

27 (1) Issue an order in accordance with subsection b. of this
28 section requiring the person to comply;

29 (2) Bring a civil action in accordance with subsection c. of this
30 section;

31 (3) Levy a civil administrative penalty in accordance with
32 subsection d. of this section; or

33 (4) Bring an action for a civil penalty in accordance with
34 subsection e. of this section.

35 The exercise of any of the remedies provided in this section
36 shall not preclude recourse to any other remedy so provided.

37 b. Whenever, on the basis of information available to him, the
38 Commissioner of the Department of Environmental Protection
39 finds that a person is in violation of this act or any rule or
40 regulation adopted pursuant thereto, the commissioner may issue
41 an order (1) specifying the provision or provisions of this act, or
42 the rule or regulation adopted pursuant thereto of which the
43 person is in violation; (2) citing the action which caused the
44 violation; (3) requiring compliance with the provision of this act
45 or the rule or regulation adopted pursuant thereto of which he is
46 in violation; and (4) giving notice to the person of his right to a
47 hearing on the matters contained in the order.

48 c. The Commissioner of the Department of Environmental

1 Protection is authorized to commence a civil action in Superior
2 Court for appropriate relief from a violation of this act. This
3 relief may include an assessment against the violator for the
4 costs of any investigation, inspection, or monitoring survey which
5 led to the discovery and establishment of the violation, and for
6 the reasonable costs of preparing and litigating the case under
7 this subsection.

8 d. The Commissioner of the Department of Environmental
9 Protection is authorized to impose a civil administrative penalty
10 of not more than \$10,000.00 for each violation and each day
11 during which each violation continues shall constitute an
12 additional, separate and distinct offense. Any amount imposed
13 under this subsection shall fall within a range established by
14 regulation by the commissioner for violations of similar type,
15 seriousness, and duration. No civil administrative penalty shall
16 be imposed until after the person has been notified by certified
17 mail or personal service. The notice shall include a reference to
18 the section of the act, rule, regulation or order violated; a
19 concise statement of the facts alleged to constitute a violation; a
20 statement of the amount of the civil administrative penalties to
21 be imposed; and a statement of the person's right to a hearing.
22 The person shall have 20 days from receipt of the notice within
23 which to deliver to the commissioner a written request for a
24 hearing. Subsequent to the hearing and upon finding that a
25 violation has occurred, the commissioner may issue a final order
26 after imposing the amount of the fine specified in the notice. If
27 no hearing is requested, the notice shall become a final order
28 upon the expiration of the 20-day period. Payment of the penalty
29 is due when a final order is issued or when the notice becomes a
30 final order. The authority to levy a civil administrative penalty
31 is in addition to all other enforcement provisions in this act, and
32 the payment of a civil administrative penalty shall not be deemed
33 to affect the availability of any other enforcement provision in
34 connection with the violation for which the penalty is levied. A
35 civil administrative penalty imposed under this section may be
36 compromised by the commissioner upon the posting of a
37 performance bond by the employer, or upon terms and conditions
38 the commissioner may establish by regulation.

39 e. Any person who violates this act, an order issued pursuant
40 to subsection b. of this section, or a court order issued pursuant
41 to subsection c. of this section, or who fails to pay in full a civil
42 administrative penalty levied pursuant to subsection d. of this
43 section, shall be subject, upon order of a court, to a civil penalty
44 not to exceed \$15,000.00 for each day during which the violation
45 continues. Any penalty imposed pursuant to this subsection may
46 be collected, and any costs incurred in connection therewith may
47 be recovered, in a summary proceeding pursuant to "the penalty
48 enforcement law" (N.J.S.2A:58-1 et seq.). The Superior Court and

1 the municipal court shall have jurisdiction to enforce "the
2 penalty enforcement law."

3 15. The department shall adopt, pursuant to the
4 "Administrative Procedure Act," a fee schedule for the
5 imposition of annual and service-specific fees on owners or
6 operators of industrial facilities in amounts sufficient to cover
7 the development and review of hazardous substance inventories,
8 the maintenance of an electronic information storage and
9 retrieval system, the development of criteria for the designation
10 of priority industrial facilities, the development and review of
11 pollution prevention plans, and for all other costs associated with
12 the implementation of this act.

13 16. a. There is established in the department a nonlapsing
14 fund to be known as the "Pollution Prevention Program Fee
15 Fund," hereinafter referred to as the fund. The fund shall be
16 credited with all fees imposed and collected by the department to
17 implement the provisions of this act, with all penalties collected
18 for violations of the provisions of this act, and with any other
19 monies which may be made available or appropriated to the
20 department for the implementation of this act. Monies in the
21 fund shall be used by the department solely for the purpose of
22 implementing the provisions of this act.

23 b. There is appropriated \$2,000,000.00 from the "Hazardous
24 Discharge Site Cleanup Fund" established pursuant to section 1 of
25 P.L.1985, c.247 (C.58:10-23.34) as a loan to the "Pollution
26 Prevention Program Fee Fund." The loan shall be repaid to the
27 "Hazardous Discharge Site Cleanup Fund" in five equal annual
28 installments, commencing in the second fiscal year following the
29 effective date of this act, from the proceeds of fees imposed and
30 collected pursuant to this act.

31 17. This act shall take effect immediately.

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STATEMENT

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36 This bill would establish a regulatory program in the
37 Department of Environmental Protection designed to prevent
38 pollution through the reduction in the use and discharge of
39 hazardous substances. The bill would establish as a Statewide
40 goal a 50% reduction over five years in the use of hazardous
41 substances, in the discharge of hazardous substances into the air
42 and water, and in the generation of hazardous waste. Owners and
43 operators of certain facilities at which hazardous substances are
44 used or manufactured would be required to inventory the
45 substances they use or discharge, and certain facilities would be
46 required to prepare and submit to the department pollution
47 prevention plans demonstrating how they will reduce the use and
48 discharge of hazardous substances at their facility.

1 To administer the new pollution prevention program, this bill
2 establishes an Office of Pollution Prevention in the department.
3 The office would be responsible for coordinating all pollution
4 prevention policies in the department, for developing a hazardous
5 substance inventory which owners or operators of certain
6 industrial facilities would be responsible for completing, for
7 developing criteria for determining which facilities would be
8 required to submit pollution prevention plans, for developing
9 criteria for the content of pollution prevention plans, and for
10 reviewing pollution prevention plans submitted by designated
11 industries. For facilities required to submit pollution prevention
12 plans, the office would review any air pollution, water pollution,
13 or hazardous waste management permit issued for the facility to
14 certify that the permits encourage pollution prevention.

15 This bill also creates the Pollution Prevention Advisory
16 Council, an 11 member council composed of representatives of
17 industry, labor, environmental groups, and appropriate scientific
18 disciplines, charged with advising the department on the
19 administration of the pollution prevention program. Professional
20 staff from the Office of Science and Research in the department
21 would serve as staff to the council.

22 The Pollution Prevention Advisory Council would study and
23 make recommendations to the department concerning the risk
24 posed to public health or the environment by certain hazardous
25 substances, the impact of pollution prevention on employment
26 levels, and any other aspect of the pollution prevention program.

27 This bill would apply to industrial facilities in the
28 manufacturing sector which employ more than 10 fulltime
29 employees, and at which 25,000 pounds or more of a hazardous
30 substance are manufactured, or at which 10,000 pounds or more
31 of a hazardous substance are used. The substances required to be
32 inventoried, and the use of which would be required to be
33 reduced, are the hazardous substances regulated under the
34 "Worker and Community Right To Know Act." P.L.1983, c.315
35 (C.34:5A-1 et seq.). Of the facilities submitting inventories, the
36 department would select between 10 and 15 facilities the first
37 year to submit a pollution prevention plan. Each succeeding year
38 the number of facilities required to submit a pollution prevention
39 plan would be increased by 50%.

40 The bill authorizes the department to adopt a fee schedule to
41 cover all costs associated with the annual costs of implementing
42 the program. However, to provide funds for the initial
43 establishment of the program, this bill would provide for a
44 \$2,000,000 loan from the "Hazardous Discharge Site Cleanup
45 Fund" established pursuant to P.L.1985, c.247 to the program.
46 This loan would be repaid to the "Hazardous Discharge Site
47 Cleanup Fund" in five annual installments from revenues derived
48 from the pollution prevention program fees.

S2220

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ENVIRONMENT

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The "Pollution Prevention Act."

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

SENATE COMMITTEE SUBSTITUTE FOR

SENATE, No. 2220 SCS

with Assembly committee amendments

STATE OF NEW JERSEY

DATED: JUNE 13, 1991

The Assembly Appropriations Committee reports favorably Senate Bill No. 2220 (SCS) (SCS) with committee amendments.

Senate Bill No. 2220 (SCS) (SCS), as amended, the "Pollution Prevention Act," establishes a regulatory program in the Department of Environmental Protection (DEP) designed to prevent pollution by reducing the use and discharge of hazardous substances at certain industrial facilities. The bill sets a Statewide goal of a 50 percent reduction over five years in the use, discharge and generation of hazardous substances. Owners and operators of certain industrial facilities at which hazardous substances are used or manufactured will be required to prepare pollution prevention plans and pollution prevention plan summaries, which will be maintained at the facility for inspection by the department.

The bill establishes an Office of Pollution Prevention (OPP) in the DEP to administer this program; such an office currently exists in the department but does not perform some of the functions detailed in the bill. The bill also creates a 13-member Pollution Prevention Advisory Board composed of representatives of industry, labor, environmental groups, and appropriate scientific disciplines.

The bill increases by \$2.00 the per-employee fee charged to employers pursuant to the Worker and Community Right to Know Act (P.L.1983, c.315). The revenues from the fee increase and ~~certain fine monies will be deposited in a "Pollution Prevention Fund,"~~ and shall be used to administer the provisions of the bill, including funding the OPP and making a separate \$200,000 appropriation to the Hazardous Substance Management Research Center at the New Jersey Institute of Technology for the implementation of a technical assistance program for pollution prevention.

Senate Bill No. 2220 (SCS) (SCS), as amended, is identical to the Assembly committee substitute for Assembly Bill No. 988 ACS.

FISCAL IMPACT

This bill, as amended appropriates monies in the Pollution Prevention Fund for the purposes of the bill, including the operation of the OPP and a \$200,000 appropriation to the New Jersey Institute of Technology. The Senate Revenue, Finance and Appropriations Committee estimated that the increase in the Worker and Community Right to Know fee as provided in this bill for deposit in the fund will generate approximately \$2,500,000 at current

collection rates, and noted that DEP has estimated this is the amount necessary to administer the provisions of the bill. DEP presented the Senate Environmental Quality Committee with a proposed budget for the OPP based on this \$2,500,000 funding level. As noted above, this unit was created by DEP in August, 1989, and operated in a limited capacity during FY 1990 by utilizing existing positions and resources; in FY 1991, the annual appropriations act (P.L.1990, c.43) allocated \$250,000 in interest earnings from the N.J. Spill Compensation Fund to expand the OPP's activities. Notwithstanding this existing unit, the department's proposed OPP budget totalled \$2,429,424, as follows: salary, fringe benefits, and indirect costs for 31 employees, \$1,896,574; operating costs, \$532,850 (including \$250,000 for research and \$125,000 for consultant services).

COMMITTEE AMENDMENTS

The committee amendments include the following provisions:

1. Require the DEP to establish criteria for the expansion of the list of hazardous substances for which information is required in pollution prevention plans, plan summaries, and progress reports.
2. Reconfigure the reporting requirements to clarify that covered facilities would be required to prepare three documents: a pollution prevention plan (which is maintained at the facility and revised every five years), a plan summary (which is submitted to DEP at the time of the initial completion of a pollution prevention plan or revision), and a plan progress report which is submitted annually to the DEP, indicating the annual progress made in complying with the goals of the plan.
3. Require that pollution prevention plans, summaries, and progress reports focus on targeted industrial processes and sources.
4. Give the Pollution Prevention Advisory Board complete discretion in its operation, and authorize the board to monitor the expenditure of monies in the "Pollution Prevention Fund."
5. Require DEP to adopt strict criteria under which it could be authorized to require industrial facilities other than priority industrial facilities (those covered under the federal Right To Know Act and which are required to comply with the provisions of the bill) to comply with the pollution prevention provisions of the bill.
6. Require DEP to submit to the Legislature a list of any new industrial facilities to be designated priority industrial facilities (and thus subject to the provisions of the bill) at least one year prior to the date on which such facilities would be subject to the provisions of the bill.
7. Provide that trade secret information be maintained by DEP under secure conditions.
8. Provide that DEP may not issue more than 15 facility wide permits (the number authorized in the bill) unless authorized by additional legislation.
9. Provide that the State Right To Know reporting list of hazardous substances be identical to the federal Right To Know List (SARA 313 list).
10. Provide that industries would not be required to comply with

the provisions of the bill until DEP has adopted the rules and regulations necessary for the implementation of the bill.

11. Clarify that only a portion of a pollution prevention plan must be updated annually, and that other components of a plan must be updated only when a significant change occurs at the facility.

12. Exempt pilot facilities from the provisions of the bill.

13. Prohibit the department from requesting certain formula information.

14. Require that production processes which use similar ingredients to produce similar products be treated by the department as a single production process.

15. Require a pollution prevention plan to include information on the use of each hazardous substance in each production process, reported in the following ranges: 0 to 5,000 pounds, 5,000 to 10,000, and greater than 10,000 pounds.

16. Appropriate \$200,000 from the Pollution Prevention Fund to the Hazardous Substance Management Research Center at the New Jersey Institute of Technology for the implementation of a technical assistance program for pollution prevention.

The amendments also clarify the authority granted to DEP under various provisions of the bill, and make other technical and clarifying changes.

SENATE ENVIRONMENTAL QUALITY COMMITTEE

STATEMENT TO

SENATE COMMITTEE SUBSTITUTE FOR

SENATE, No. 2220

STATE OF NEW JERSEY

DATED: MAY 17, 1990

The Senate Environmental Quality Committee favorably reports the Senate Committee Substitute for Senate Bill No. 2220.

The Senate Committee Substitute establishes a regulatory program in the Department of Environmental Protection designed to prevent pollution through the reduction in the use and discharge of hazardous substances at certain industrial facilities. The bill would establish, as a Statewide goal, a 50% reduction over five years in the use of hazardous substances, in the discharge of hazardous substances into the air and water, and in the generation of hazardous wastes. Owners and operators of certain industrial facilities at which hazardous substances are used or manufactured would be required to prepare pollution prevention plans and pollution prevention plan summaries, which would be maintained at the facility for inspection by the department. Only pollution prevention plan summaries would be submitted to the department.

DEFINITION OF "POLLUTION PREVENTION"

"Pollution Prevention" is broadly defined to include reductions in the discharge of hazardous substances into the air, water or land, and reductions in the use of hazardous substances in production processes. These changes must be accomplished without shifting risks posed by hazardous substances between employees, consumers, or the environment.

Pursuant to this bill, "Pollution Prevention" would include: changes in the use of, or demand for, raw materials, products, or technologies that lead to reductions in the use or discharge of hazardous substances; changes in the use of raw materials or production processes that lead to reductions in the amount of hazardous substances used per unit of production; and raw material substitution, product reformulation, production process redesign or modification, in-process recycling, and improved operation and maintenance. "Pollution prevention" does not include treatment, increased pollution control, or out-of-process recycling.

ESTABLISHMENT OF OFFICE OF POLLUTION PREVENTION IN DEP

This bill establishes an Office of Pollution Prevention in the

department, which would administer the new pollution prevention program. The office would be authorized to:

- (1) Review and monitor all activities within DEP, air, water, solid and hazardous waste permits and regulations, to ensure that they require, or encourage, pollution prevention, and require, on a case by case basis, any industrial facility to prepare a pollution prevention plan and plan summary;
- (2) Review pollution prevention plans and plan summaries submitted by covered facilities and make them available to the public;
- (3) Establish an educational outreach program;
- (4) Enforce the provisions of the act;
- (5) Make loans to industries with monies from the "Pollution Prevention Fund"; and
- (6) Use pollution prevention plan summaries to conduct trend analyses of industrial pollution prevention practices.

ESTABLISHMENT OF POLLUTION PREVENTION ADVISORY BOARD

This bill also creates the Pollution Prevention Advisory Board, a 13 member council composed of representatives of industry, labor, environmental groups, and appropriate scientific disciplines, charged with advising the department on the administration of the pollution prevention program. The Pollution Prevention Advisory Board would be authorized to:

- (1) Advise the office on the interpretation of information submitted in pollution prevention summaries, on the content of pollution prevention plans, the addition or deletion of hazardous substances to be included in pollution prevention plans and pollution prevention plan summaries, changes in the method of reporting information required on pollution prevention plan summaries, and any other aspect of the implementation of this act;
- (2) Review the scientific literature concerning the occupational, public health, and environmental risks presented by exposures to specific hazardous substances, evaluate scientific interpretations of these risks, and assess the risks of the discharge of these hazardous substances into different environmental media;
- (3) Conduct periodic reviews of the criteria adopted by the department for the preparation of pollution prevention plans and pollution prevention plan summaries, and, if deemed necessary, make recommendations for administrative or legislative changes;
- (4) Review and evaluate the impact of reductions in the use or discharge of specific hazardous substances on employment levels and study and evaluate the practicability and feasibility of achieving reductions in the use or discharge of specific hazardous substances without reductions in employment levels through the use of substitute substances, alternative procedures or processes, or other means; and

(5) Conduct research and hold public hearings concerning the continued use, production, manufacture, discharge, or disposal of any hazardous substance in the State and the threat that this use, production, manufacture, discharge, or disposal poses to human health or the environment, and, if warranted, make a written recommendation to the Governor and the Legislature concerning the prohibition of, or restrictions on, the continued use, production, manufacture, discharge, or disposal of the hazardous substance.

INDUSTRIES COVERED UNDER THE ACT

The following industries (by SIC industry group numbers) would be required to prepare pollution prevention plans and submit pollution prevention plan summaries to DEP: 2816 (In-organic pigments); 2819 (Industrial inorganic chemicals); 2833 (Medicinal chemicals and botanical products); 2834 (Pharmaceutical preparations); 2865 (Cyclicorganic crudes and intermediate, and organic dyes); 2869 (Industrial Organic chemicals); 2892 (Explosives); 2911 (Petroleum refining); 3312 (Steelworks, blast furnaces, and rolling mills); 3471 (Electroplating, polishing, anodizing); 3555 (Paper industries machinery); 3643 (Current carrying wiring devices). Between 500 and 600 facilities in the state are covered by these industry groups. DEP is also authorized to expand the list by rule and regulation.

HAZARDOUS SUBSTANCES TO BE INCLUDED IN POLLUTION PREVENTION PLANS

Pollution prevention plans and pollution prevention plan summaries must address the use and discharge of the New Jersey Right-To-Know environmental substances (154 substances), New Jersey Toxic Catastrophe Prevention Act substances (110 substances), SARA 313 (Federal right-to-know) substances (329 substances), and Superfund (CERCLA) substances (1250 substances). Approximately 1850 substances would be covered under the "Pollution Prevention Act."

REQUIREMENTS OF COVERED INDUSTRIES

Covered industries would be required to prepare a pollution prevention plan and maintain it on-site for inspection by DEP. Plans must be updated each year and completely revised every 5 years. Also, pollution prevention plan summaries are required to be submitted to DEP. In addition, between 10 and 15 of the 500 to 600 targeted facilities would be required to receive facility-wide permits.

CONTENTS OF POLLUTION PREVENTION PLANS

Pollution prevention plans would consist of two parts

containing the following information:

For Part I:

- (1) The name and telephone number of the owner or operator of the priority industrial facility, or highest ranking corporate official at each priority industrial facility, and the name and telephone number of a non-management employee representative at each priority industrial facility;
- (2) An identification of each production process at the priority industrial facility, the product produced in the production process, and the total units of production produced in the production process during the year;
- (3) The chemical identity and Chemical Abstract Service (CAS) number of each hazardous substance;
- (4) The amount of each hazardous substance used in each production process at the priority industrial facility as a raw material, either in pure form or contained in a mixture, and the amount of each hazardous substance, either in pure form or contained in a mixture, contained in the product or products produced or manufactured in each production process for use at the priority industrial facility or for sale;
- (5) The amount of hazardous waste generated in each production process at the priority industrial facility;
- (6) The address of each off-site treatment, disposal, or storage facility to which hazardous waste generated at the priority industrial facility is transported, and the type of treatment or disposal method utilized at each off-site facility;
- (7) The amounts of the hazardous substances released or removed from each production process in the priority industrial facility, including point, non-point, and fugitive emissions to the air, discharges to the surface or groundwaters of the State or to a wastewater treatment system;
- (8) The amount of each hazardous substance recycled within each production process at the priority industrial facility;

For Part II of a pollution prevention plan:

- (1) A calculation of the reduction or increase in the use of each hazardous substance per unit of production in each production process in comparison to the use of each hazardous substance per unit of production in each production process reported in the pollution prevention plan for the previous year including an indication if the calculation is an estimate;
- (2) A calculation of the reduction or increase in the amount of each hazardous substance released or removed from each production process, including point, non-point, and fugitive emissions to the air, discharges to the surface or groundwaters of the state or to a wastewater treatment system, and in the amount of hazardous waste generated at each production process, in comparison to the amounts reported in the pollution prevention plan for the previous year;
- (3) An indication of the method, modification, or procedure used to achieve any reduction reported pursuant to paragraphs (1) or (2), and the priority industrial facility's five year goal for such reductions;

(4) A numeric statement of the priority industrial facility's five year goal for reducing the use and generation of hazardous substances;

(5) A description, for each affected production process, of techniques the owner or operator of the priority industrial facility intends to undertake during the next five years to achieve its reduction goal and a schedule for implementation of the techniques. The techniques to be described shall include, but need not be limited to, employee training, management policies, inventory control, scheduling improvements, material handling improvements, spill and leak prevention, water use and reuse practices, and waste stream segregation;

(6) A description, if appropriate, of priority waste streams at the priority industrial facility targeted for reduction based, in part, on toxicity, volume, disposal costs, and liability costs;

(7) An assessment, for each production process, of available reduction options, including procedures, technologies and equipment, that may substantially reduce the use and generation of hazardous substances;

(8) A feasibility analysis, for each production process, of reduction options identified pursuant to paragraph (7), which shall include, but need not be limited to, a full-cost accounting of the options, and any technological obstacles to adopting the options;

(9) A list of the options that the owner or operator intends to install or utilize based, in part, on the feasibility analysis, and a time schedule for the implementation of the options;

(10) A description of the valuation methods used by the owner or operator to determine not to install or utilize each option identified pursuant to paragraph (7) and

(11) An assessment and schedule for implementing out-of-process recycling with regard to priority industrial facilities authorized by the department to include out-of-process recycling in a pollution prevention plan.

CONTENTS OF POLLUTION PREVENTION PLAN SUMMARY

The pollution prevention plan summary submitted to DEP would include:

(1) A calculation, for each production process, of the reduction or increase in use and generation of hazardous substances per unit of production in comparison to the previous year;

(2) An indication of the method used to achieve each reduction;

(3) A numerical statement demonstrating the facility's progress towards achieving its five year goal;

(4) An explanation, if warranted, of why the facility's annual progress may be less than that anticipated in the pollution prevention plan time schedule for implementation;

(5) A description of pollution prevention techniques that the owner or operator of the facility intends to undertake during the

forthcoming year at a production process level;

(6) A written certification that the owner or operator of the facility has prepared a pollution prevention plan and that the plan is available on site for the department's inspection; and

(7) A list of all other permits, certificates, registrations, or other approvals, or documents issued by the department for the facility:

ISSUING OF FACILITY-WIDE PERMITS BY DEP

Within three years of enactment, DEP would be required to designate 10 to 15 specific covered facilities to each receive a facility-wide permit. A facility-wide permit would be a multi-media permit containing components of the air, water, solid, and hazardous waste permits previously issued to the facility, as well as the pollution prevention strategies contained in the pollution prevention plan or summary prepared for the facility. The facility-wide permit would address the use of hazardous substances at the facility on a wholistic basis, and would ensure that media specific information was integrated into a facility-wide approach.

IMPLEMENTATION SCHEDULE

Within 18 months, DEP would adopt rules and regulations concerning requirements for pollution prevention plans and pollution prevention plan summaries, and within 27 months, covered industries would be required to prepare pollution prevention plans and submit pollution prevention plan summaries to DEP. Within 36 months, DEP would designate 10 to 15 facilities to each receive a facility-wide permit, and within 48 months, DEP would issue facility-wide permits to 10 to 15 designated facilities.

FUNDING

The Pollution prevention program would be funded by increasing the per-employee Right-To-Know fee by \$3.00 per employee, which would raise approximately \$3 million. Of this amount, approximately \$2.5 million would be allocated to DEP and \$500,000 would be allocated to the Pollution Prevention Technical Assistance program. If other sources of funding become available to the fund, up to \$2 million per year could be used by DEP for making loans to industrial facilities to implement pollution prevention strategies.

SENATE REVENUE, FINANCE AND
APPROPRIATIONS COMMITTEE

STATEMENT TO

SENATE COMMITTEE SUBSTITUTE FOR

SENATE, No. 2220 SCS

STATE OF NEW JERSEY

DATED: DECEMBER 3, 1990

The Senate Revenue, Finance and Appropriations Committee favorably reports the Senate Committee Substitute for Senate Bill No. 2220 SCS.

The Senate Committee Substitute for Senate Bill No. 2220 SCS establishes a regulatory program in the Department of Environmental Protection designed to prevent pollution through reduction in the use and discharge of hazardous substances at certain industrial facilities. The bill would establish, as a Statewide goal, a 50% reduction over five years in the discharge of hazardous substances into the air and water and onto the land, and a significant reduction in the use of these substances. Owners and operators of certain industrial facilities at which hazardous substances are used or manufactured would be required to prepare pollution prevention plans and pollution prevention plan summaries, which would be maintained at the facility for inspection by the department. Only pollution prevention plan summaries would be submitted to the department.

DEFINITION OF "POLLUTION PREVENTION"

"Pollution prevention" is broadly defined to include reductions in the discharge of hazardous substances into the air, water or land, and reductions in the use of hazardous substances in production processes. These changes must be accomplished without shifting risks posed by hazardous substances between employees, consumers, or the environment.

Pursuant to this bill, "pollution prevention" would include: changes in the use of, or demand for, raw materials, products, or technologies that lead to reductions in the use or discharge of hazardous substances; changes in the use of raw materials or production processes that lead to reductions in the amount of hazardous substances used per unit of production; and raw material substitution, product reformulation, production process redesign or modification, in-process recycling, and improved operation and maintenance. "Pollution prevention" does not include treatment, increased pollution control, or out-of-process recycling. This bill also provides that in instances where there is no feasible alternative to the use of a hazardous substance, an owner or operator of a facility would not be required to reduce the input use of that substance at the facility.

ESTABLISHMENT OF OFFICE OF POLLUTION
PREVENTION IN DEP

This bill establishes an Office of Pollution Prevention in the department, which would administer the new pollution prevention program. The office and the department would be authorized to:

(1) Review and monitor all activities within DEP air, water, solid and hazardous waste permits and regulations to ensure that they require, or encourage, pollution prevention, and require, on a case by case basis, any industrial facility to prepare a pollution prevention plan and plan summary;

(2) Review pollution prevention plans and plan summaries submitted by covered facilities and make them available to the public;

(3) Establish an educational outreach program;

(4) Enforce the provisions of the act;

(5) Use pollution prevention plan summaries to conduct trend analyses of industrial pollution prevention practices.

ESTABLISHMENT OF POLLUTION
PREVENTION ADVISORY BOARD

This bill also creates the Pollution Prevention Advisory Board, a 15 member council composed of government officials and representatives of industry, labor, environmental groups, and appropriate scientific disciplines, charged with advising the department on the administration of the pollution prevention program. The Pollution Prevention Advisory Board would be authorized to:

(1) Advise the office on the interpretation of information submitted in pollution prevention summaries, on the content of pollution prevention plans, the addition or deletion of hazardous substances to be included in pollution prevention plans and pollution prevention plan summaries, changes in the method of reporting information required on pollution prevention plan summaries, and any other aspect of the implementation of this act;

(2) Review the scientific literature concerning the occupational, public health, and environmental risks presented by exposures to specific hazardous substances, evaluate scientific interpretations of these risks, and assess the risks of the discharge of these hazardous substances into different environmental media;

(3) Conduct periodic reviews of the criteria adopted by the department for the preparation of pollution prevention plans and pollution prevention plan summaries, and, if deemed necessary, make recommendations for administrative or legislative changes;

(4) Review and evaluate the impact of reductions in the use or discharge of specific hazardous substances on employment levels and study and evaluate the practicability and feasibility of achieving reductions in the use or discharge of specific hazardous substances without reductions in employment levels through the use of

substitute substances, alternative procedures or processes, or other means; and

(5) Conduct research and hold public hearings concerning the continued use, production, manufacture, discharge, or disposal of any hazardous substance in the State and the threat that this use, production, manufacture, discharge, or disposal poses to human health or the environment, and, if warranted, make a written recommendation to the Governor and the Legislature concerning the prohibition of, or restrictions on, the continued use, production, manufacture, discharge, or disposal of the hazardous substance.

INDUSTRIES COVERED UNDER THE ACT

This bill would require all facilities which are currently required to complete toxic chemical release forms pursuant to Section 313 of the federal "Emergency Planning and Community Right-To-Know Act of 1986" to prepare pollution prevention plans and submit pollution prevention plan summaries to the Department of Environmental Protection. Approximately 800 facilities are currently subject to this requirement. This bill would provide that approximately one half of these facilities would be required to prepare pollution prevention plans and submit plan summaries by July 1, 1993, and the second half by July 1, 1995. DEP is also authorized to expand the list by rule and regulation.

HAZARDOUS SUBSTANCES TO BE INCLUDED IN POLLUTION PREVENTION PLANS

Pollution prevention plans and pollution prevention plan summaries must address the use and discharge of those hazardous substances about which facilities are required to report discharge and release information pursuant to Section 313 of the federal "Emergency Planning and Community Right-To-Know Act of 1986." Approximately 330 substances thus would be covered under the "Pollution Prevention Act."

REQUIREMENTS OF COVERED INDUSTRIES

Covered industries would be required to prepare a pollution prevention plan and maintain it on-site for inspection by DEP. Plans must be updated each year and completely revised every five years. Also, pollution prevention plan summaries are required to be submitted to DEP. In addition, between 10 and 15 of the 500 to 600 targeted facilities would be required to receive facility-wide permits.

CONTENTS OF POLLUTION PREVENTION PLANS

Pollution prevention plans would include:

(1) An identification of each production process at the priority industrial facility, the product produced in the production process,

and the total units of production produced in the production process during the year;

(2) The amount of each hazardous substance used in each production process at the priority industrial facility as a raw material, either in pure form or contained in a mixture, and the amount of each hazardous substance, either in pure form or contained in a mixture, contained in the product or products produced or manufactured in each production process for use at the priority industrial facility;

(3) The amount of hazardous waste generated in each production process at the priority industrial facility;

(4) The address of each off-site treatment, disposal, or storage facility to which hazardous waste generated at the priority industrial facility is transported, and the type of treatment or disposal method utilized at each off-site facility;

(5) The amounts of the hazardous substances released or removed from each production process in the priority industrial facility, including point, non-point, and fugitive emissions to the air and discharges to the surface or groundwaters of the State or to a wastewater treatment system;

(6) The amount of each hazardous substance recycled within each production process at the priority industrial facility;

(7) A calculation of the reduction or increase in the use of each hazardous substance per unit of production in comparison to the use of each hazardous substance per unit of production reported in the pollution prevention plan for the previous year;

(8) A calculation of the reduction or increase in the amount of each hazardous substance released or removed from each production process, including point, non-point, and fugitive emissions to the air and discharges to the surface or groundwaters of the state or to a wastewater treatment system;

(9) A numeric statement of the priority industrial facility's five-year goal for reducing the use and generation of hazardous substances;

(10) A description of techniques the owner or operator of the priority industrial facility intends to undertake during the next five years to achieve its reduction goal and a schedule for implementation of the techniques;

(11) A description, if appropriate, of priority waste streams at the priority industrial facility targeted for reduction based, in part, on toxicity, volume, disposal costs, and liability costs; and

(12) An assessment, for each production process, of available reduction options, including procedures, technologies and equipment, that may substantially reduce the use and generation of hazardous substances.

CONTENTS OF POLLUTION PREVENTION PLAN SUMMARIES

The pollution prevention plan summary submitted to DEP would include:

- (1) A calculation, for each production process, of the reduction or increase in use and generation of hazardous substances per unit of production in comparison to the previous year;
- (2) An indication of the method used to achieve each reduction;
- (3) A numerical statement demonstrating the facility's progress towards achieving its five-year goal;
- (4) An explanation, if warranted, of why the facility's annual progress may be less than that anticipated in the pollution prevention plan time schedule for implementation; and
- (5) A description of pollution prevention techniques that the owner or operator of the facility intends to undertake during the forthcoming year at a production process level.

ISSUING OF FACILITY-WIDE PERMITS BY DEP

Within three years of enactment, DEP would be required to designate 10 to 15 specific covered facilities to each receive a facility-wide permit. A facility-wide permit would be a multimedia permit containing components of the air, water, solid, and hazardous waste permits previously issued to the facility, as well as the pollution prevention strategies contained in the pollution prevention plan or plan summary prepared for the facility. The facility-wide permit would address the use of hazardous substances at the facility on a wholistic basis, and would ensure that media specific information was integrated into a facility-wide approach.

IMPLEMENTATION SCHEDULE

Within 18 months, DEP would adopt rules and regulations concerning requirements for pollution prevention plans and pollution prevention plan summaries. DEP would also be required to prepare a guidance document to assist those required to prepare pollution prevention plans and pollution prevention plan summaries. By July 1, 1993 and 1995, respectively, one half of the covered priority industrial facilities would be required to prepare pollution prevention plans and submit pollution prevention plan summaries to DEP. Within 36 months, DEP would designate 10 to 15 facilities to each receive a facility-wide permit, and within 48 months, DEP would issue facility-wide permits to 10 to 15 designated facilities.

FUNDING

The pollution prevention program would be funded by increasing the per-employee Right-To-Know fee by \$2.00 per employee. Based on approximately 1.5 million eligible employees, and on current collection rates, this additional fee would raise approximately \$2.5 million, which is the amount that the department has estimated as necessary to implement the "Pollution Prevention Act."

LEGISLATIVE FISCAL ESTIMATE TO
SENATE COMMITTEE SUBSTITUTE FOR
SENATE, No. 2220

STATE OF NEW JERSEY

DATED: July 27, 1990

Senate Committee Substitute for Senate Bill No. 2220 of 1990 establishes a regulatory program in the Department of Environmental Protection (DEP) designed to prevent pollution through the reduction in the use and discharge of hazardous substances at certain industrial facilities. The bill would establish, as a Statewide goal, a 50 percent reduction over five years in the use of hazardous substances, in the discharge of hazardous substances into the air and water, and in the generation of hazardous wastes. Owners and operators of certain industrial facilities at which hazardous substances are used or manufactured would be required to prepare pollution prevention plans and pollution prevention plan summaries, which would be maintained at the facility for inspection by the department.

The bill establishes an Office of Pollution Prevention (OPP) in the DEP to administer this program, as well as a 13-member Pollution Prevention Advisory Board composed of representatives of industry, labor, environmental groups, and appropriate scientific disciplines. The OPP would be funded by increasing by \$3.00 the per-employee fee charged to the 1.1 million workers covered by the Worker and Community Right to Know Act (P.L.1983, c.315). This is expected to generate approximately \$3.0 million, of which \$500,000 would be allocated to finance the Pollution Prevention Technical Assistance program as proposed under Senate Bill No. 1714 (SCS).

Although the DEP did not respond to the Office of Legislative Services (OLS) request for fiscal note information, it did provide the Senate Environmental Quality Committee with a proposed budget for the OPP based on the \$2.5 million funding level provided under the bill. It should be noted that this unit was actually created in August, 1989 by the department. Hence, during FY 1990 it operated in a limited capacity by utilizing existing positions and resources; in FY 1991, the Appropriations Act, P.L.1990, c.43, allocates \$250,000 in interest earnings from the N.J. Spill Compensation Fund to expand the OPP's activities. Notwithstanding this existing unit, the department's proposed OPP budget as funded under the bill would be as follows:

Salary (includes fringe benefits, 4% wage increase and indirect costs for 31 employees).....	\$1,896,574
Operating Costs (includes \$250,000 for research and \$125,000 for consultant services).....	\$ 532,850
	<u>\$2,429,424</u>

The OLS estimates that the cost of operating this program will be limited by its funding level. It appears, however, that the funding level provided by the bill may overfund the program by approximately \$500,000 if the OPP's existing and proposed budget resources are utilized in FY 1991.

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67.



S2220

OFFICE OF THE GOVERNOR NEWS RELEASE

CN-001
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TRENTON, N.J. 08625

Release: Thursday
August 1, 1991

GOVERNOR FLORIO SIGNS POLLUTION PREVENTION ACT Model Law Aimed At Curbing Pollution At The Source

New Jersey is poised to lead the nation in pollution prevention efforts as Governor Jim Florio signed the Pollution Prevention Act of 1991, which will require industry to take steps to reduce pollution at the source by as much as 50 percent.

"The Pollution Prevention bill is founded in common sense. The kind that says if you can stop pollution at the source, you won't have to clean up the mess later," said Governor Florio, at a dual bill signing ceremony at Schering-Plough in Kenilworth and in Sewell. "Working together with industry leaders and environmental groups, we believe we've found an answer -- one that balances the needs of industry with the long-term goal of a cleaner, greener New Jersey. One that helps fulfill our vision of a New Jersey where jobs and economic opportunity go hand in hand with clean water and safe air."

The Pollution Prevention Act:

- Requires industry to develop pollution prevention plans which include: 1) an inventory of the facility's overall operation and use of hazardous substances, and 2) an outline of the production process and how pollution reductions will be accomplished.
- Requires the Department of Environmental Protection to issue approximately 10 facility-wide permits in a pilot project that will start once regulations are written. Earlier this year, Governor Florio announced the start-up of a facility-wide permit pilot project that involved Schering-Plough of Kenilworth; Fisher Scientific of Fair Lawn; and Sybron Chemicals of Birmingham.
- Gives DEP the authority to modify or revoke a permit if a facility is not in compliance with its pollution prevention plan.
- Establishes a Pollution Prevention Advisory Board made up of industry representatives, scientists, and citizen representatives to advise DEP on technology, pollution prevention trends and other issues.

• Creates a Technical Assistance Program to be administered by the New Jersey Institute of Technology to give economic assistance and advice to small companies attempting to implement pollution strategies.

The bill is designed to be phased in over a number of years. It defines by Standard Industrial Company (SIC) code the set of facilities that are required to do pollution prevention plans by 1994 (approximately 510 facilities) and by 1996 (up to 1,100 facilities and can be expanded.

In addition to reducing the sources of pollution, these efforts will also increase accountability of industry and will provide built-in incentives for industry to increase manufacturing efficiency and reduce pollution from wasteful practices. A big incentive for industry is that reducing the sources of pollution also means reducing unnecessary expenses. When pollution is released into the environment, a lot of costly raw materials are usually being lost at the same time, cutting into a company's profitability.

"New Jersey's focus on pollution prevention as a statewide environmental initiative has long been overdue. Up to now, the state controlled pollution by regulations that focused on the 'end of the pipe' - that is what is released into the environment," said DEP Commissioner Scott Weiner. "Pollution prevention shifts that focus to the 'front of the pipe', where pollution can be stopped by not creating the pollutants."

While several other states have implemented pollution prevention programs at various levels, New Jersey's program requires reporting by a large number of companies and gives the state greater regulatory authority than other states' programs.

New Jersey's biggest polluters, according to inventories recorded under the federal Right to Know program, will be required to identify areas of operations where sources of pollution can be reduced. Companies will also have to draw up pollution prevention plans that include five-year goals for reducing the use and generation of these hazardous chemicals.

These plans will be kept on-site at each facility and summaries of the plans will be filed with DEP and be available for public review upon request. Companies will also be required to submit annual reports to DEP on their progress toward achieving their five-year reduction plans.

DEP will also be required to issue up to 10 facility-wide permits in a pilot project. Facility-wide permitting offers important environmental advantages by regulating all releases affecting the air, water and land. In addition, each facility's pollution prevention plan will be built into each facility-wide permit.

"We won't end pollution overnight, but we're giving ourselves the tools we need to make sure we do what's right and leave a cleaner, greener and safer future for our children and grandchildren," said the Governor.

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