

NEW JERSEY WORKER AND COMMUNITY RIGHT-TO-KNOW ACT

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STATE OF NEW JERSEY
Chris Christie
Governor



DEPARTMENT OF COMMUNITY AFFAIRS
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NEW JERSEY WORKER AND COMMUNITY RIGHT-TO-KNOW ACT

INTRODUCTION

This fire service reference booklet is designed to assist fire departments in complying with the regulations of the Worker and Community Right-to-Know Act and for personnel to understand their rights with regard to working with or around hazardous substances.

This booklet was developed with the invaluable assistance of the New Jersey Department of Health and Senior Services, Right to Know Program.

PURPOSE

The Worker and Community Right to Know (RTK) Act was signed into law on August 29, 1983 with the majority of the act taking effect on August 29, 1984.

The purpose of this law is to establish a program for the disclosure of information about hazardous substances in the workplace and in the community as well as provide public access to this information.

Additionally, the legislature took note of the fact that local health, fire, police, emergency medical services, safety and other governmental officials required detailed information about the identity, characteristics, and quantities of hazardous substances used and stored in their communities in order to adequately plan for and respond to emergencies involving those materials.

There are two ways that a fire department will become involved with the Worker and Community RTK ACT, They are:

- As an employer (See Section 2)
- As a planner and responder to local emergencies (See Section 3)

The fire department's responsibility in both areas are discussed below.

WHEN DID THIS LAW TAKE EFFECT?

The Worker and Community RTK Act became effective in stages between 1984 and 1986. The Department of Health and Senior Services (DHSS) regulations were adopted on October 1, 1984 and have been amended several times since. In 1989, the education and training program regulations were amended to include volunteer fire departments, rescue squads and emergency medical services units. The date which all volunteers who work for these groups were to receive training was October 1, 1990. Subsequent to this date, volunteers were required to receive training within six months of joining the department or squad. Municipalities were made responsible for providing the training to these volunteers.

In 1993, the regulations were amended to explain the relationship of the training requirements of the Public Employees Occupational Safety and Health Standard for Hazardous Waste Operations and Emergency Response to the training requirements of the Right to Know Act.

FIRE SERVICE REFERENCE BOOKLET 4 - RIGHT TO KNOW

SECTION 1

The Law: Worker and Community Right to Know Act
L. 1983, c. 315, N.J.S.A. 34:5A-1, *et seq.*

Effective Date: August 29, 1984

Enforcing Agencies: New Jersey Department of Health and Senior Services
Right to Know Program
P.O. Box 368
Trenton, New Jersey 08625-0368
(609) 984-2022
Right to Know regulations: N.J.A.C. 8:59

New Jersey Department of Environmental Protection
Bureau of Chemical Release Information and Prevention
P.O. Box 405
Trenton, New Jersey 08625-0405
(609) 292-6714
Right to Know regulations: N.J.A.C. 7:1G

New Jersey Department of Labor
Division of Workplace Standards
P.O. Box 386
Trenton, New Jersey 08625-0386
(609) 292-7036

SECTION 2

The Fire Department as an Employer

Depending on how it is organized, a fire department may be considered part of the municipality, part of a fire district or a private employer. If it is part of the municipality or a fire district, it is the employer's responsibility to ensure compliance with the RTK law by:

- Completing and submitting a RTK Survey.
- Maintaining Hazardous Substance Fact Sheets (HSFS) and Material Safety Data Sheets (MSDS) for all hazardous substances at the workplace in the RTK central file.
- Labeling all containers in the workplace.
- Providing RTK training for all employees.
- Posting the RTK poster.

If the fire department is an independent private employer, it is the municipality's responsibility to ensure that all employees receive RTK training. The requirements of a RTK survey, RTK central file, RTK labeling and RTK poster do not have to be met at the facility of a private fire department.

I. Completing and Submitting the Right to Know Survey

If the fire department is considered part of the municipality or fire district, then the municipality or fire district is responsible for completing the RTK survey. If the fire department is considered a private employer, it is not responsible for completing the RTK survey.

How Do I Determine Who Is Responsible?

If you are not sure if the fire department, the municipality or the fire district is the employer, check with the municipal clerk or the fire district administrator, the municipal or fire district attorney, or the local ordinance that created the fire department.

Right to Know Survey

All employers in the public sector are required to complete a RTK Survey developed by the DHSS every year. A complete inventory of products containing hazardous chemicals present at the fire house must be reported every five years. In the intervening years, only new products have to be reported.

Do I Have to Ask for a Right to Know Survey?

No. The New Jersey DHSS will automatically send all public employers a RTK Survey. A volunteer private company that owns its own building will not receive a survey and does not have to fill one out. However, if you do not receive a survey and need one, you may request a survey from the DHSS at the address listed on page 2.

What Should a Fire Department Do if it Receives a Right to Know Survey?

A fire department that is covered under the law will receive a RTK survey with its name and address preprinted on the survey. The list of hazardous substances required to be reported on the survey should already be present in the RTK central file. The municipality or fire district must report each hazardous substance listed on the RTK Hazardous Substance List (RTKHSL) which is present at its facilities. The information to be included on the survey includes the product name and a list of hazardous substance ingredients by:

- RTK Substance Number (see RTKHSL)
- Hazardous Chemical Name
- Chemical Abstracts Service (CAS) Number (see RTKHSL)
- DOT Identification Number (see RTKHSL)
- type of container (using a code)
- mixture percentage (using a code)
- inventory quantity (using a code)
- whether it is a solid, liquid or gas
- the number of employees exposed or potentially exposed to the chemical
- special health hazard codes, if any
- location (required only for large quantities at a single location)

How Do I Figure out What Has to Be Reported?

Consult the RTK instruction booklet that came with the RTK survey and the RTKHSL. This booklet and the list will provide the information needed for completing the Survey.

Who Do I Send the Survey To?

Send the original survey to NJDHSS, and copies to the local police department, health department, RTK county lead agency and the Local Emergency Planning Committee. Keep a copy in your RTK central file.

- II. Maintaining Hazardous Substance Fact Sheets and Material Safety Data Sheets for All Hazardous Substances at the Workplace in the Right to Know Central File.

What Is a Hazardous Substance Fact Sheet (HSFS)?

Once the fire department has submitted a completed survey for each of its facilities, the DHSS will send a HSFS for each hazardous substance reported on the RTK Survey. A sample fact sheet is found in Appendix D. The HSFS contains the following information:

FIRE SERVICE REFERENCE BOOKLET 4 - RIGHT TO KNOW

- Chemical name, Chemical Abstracts Services (CAS) Number, DOT number, and other names (synonyms) that the hazardous substance is known by.
- Definitions and common questions and answers.
- How to identify the number.
- Solubility in water, vapor pressure and flash point.
- Toxicity, carcinogenicity, mutagenicity, teratogenicity, flammability, explosiveness, corrosivity and reactivity (including with water).
- A description in non-technical language of the acute and chronic health effects from exposure to the chemical, including medical conditions that may be aggravated by exposure.
- Potential routes and symptoms of exposure.
- Proper precautions, work practices, necessary personal protective equipment, and other necessary measures for safe handling and storage.
- Information on how to control and extinguish a fire that involves the hazardous substance.
- Appropriate emergency and first aid procedures for spills, fires, explosions and accidental air emissions.

What Should We Do with the Hazardous Substance Fact Sheets?

If a fire department has reported any hazardous substances present at its facilities, it must maintain the fact sheets in a central file, described below, and make them available to all employees. This will allow firefighters and other employees access to information that is very specific to the hazardous substances that are present at the worksite. *Additionally*, the fire department may request an entire set of 1,055 HSFS for free from the DHSS for emergency response purposes. Page 6 of the fact sheet is specially prepared to provide important information to firefighters. The fact sheets are also available on computer (CD-ROMs and on-line services). Contact the DHSS for further information.

What Is the RTK Central File?

If the fire department has reported any hazardous substances present at its facilities, it is required to establish and maintain a central file at each facility containing a completed RTK Survey, appropriate HSFS and MSDS, and the RTK Hazardous Substance List.

Right to Know Poster

Every fire department is required to post on a bulletin board readily accessible to its employees, a poster giving notice of the availability of the RTK survey, HSFS, MSDS, and the RTK Hazardous Substance List for those substances found at the fire station. The poster can be obtained from the DHSS.

III. Labeling All Containers in the Workplace

A pamphlet explaining RTK labeling requirements is available from the DHSS. In general, all containers in the workplace must be labeled. There are exemptions for certain consumer products and products labeled according to certain federal labeling laws (such as for pesticides). Labeling information can be found in Appendix B. Contact the DHSS for further information if needed.

IV. Providing Right to Know Training for Firefighters

What Type of Training Is Required for Firefighters?

All municipal, county, and state employers, including fire districts, must develop an education and training program to inform all employees who are exposed or potentially exposed to hazardous substances of the hazards of those substances and of the provisions of the Worker and Community RTK Act. All firefighters, both paid and volunteer, are considered employees and are considered potentially exposed to hazardous substances in their work. Paid firefighters must receive RTK training within one month of hire. Volunteer firefighters must receive RTK training within six months of acceptance and both paid and volunteer firefighters must receive refresher training every two years. Fire departments may want to check with their

municipality or fire district to see if an existing program already exists. Information on training and education requirements can be found in Appendix A.

Municipalities are required to certify on their Right to Know survey, every year, that new paid and volunteer firefighters have received initial Right to Know training that year, and to certify, every other year, that existing paid and volunteer firefighters have received refresher Right to Know training within the prior two years. (N.J.A.C. 8:59-6.1(d))

A similar training requirement for paid and volunteer firefighters exists under the Hazardous Waste Operations and Emergency Response Standard (pursuant to the New Jersey Public Employees Occupational Safety and Health Act). 29 CFR 1910.120(q)

In order to prevent duplication of training, the Right to Know regulations allow much of the 1910.120(q) training to substitute for Right to Know training. The regulations say:

- Firefighters will be in compliance with Right to Know training requirements by taking the New Jersey Haz-mat Emergency Response Course - Awareness, and the New Jersey Haz-mat Emergency Response Course - Operations (using the manual dated May 10, 1990 or later), both developed by a committee under the auspices of the New Jersey State Police, Office of Emergency Management.
- In addition, firefighters should receive training on any hazardous materials in the firehouse which do not fit within the solid article or consumer product exemptions, if not already covered in other training.
- Training in the use of personal protective equipment must be given if not covered in other training.
- Instructors must provide documentation to the fire company that they are "technically qualified persons" and a signed attendance roster must be maintained at the firehouse.
- (Biennial) Right to Know training can be combined with the annual refresher training required by 29 CFR 1910.120(q), however, "demonstrated competency" will not be allowed as a substitute for Right to Know (biennial) training.
- A Right to Know brochure must be distributed to all firefighters during the (biennial) training course.
- Awareness and Operational courses developed by other organizations may be used in place of the State Police program for Right to Know compliance upon submission to and approval by the Department of Health and Senior Services, Right to Know Program.

Maintenance of Right to Know Records

Training records are required to be maintained by the employer. Fire departments should check with their municipality or fire district to determine where training records will be maintained. Information about the training records that must be maintained can be found in Appendix A.

SECTION 3

The Fire Department as a Planner and Responder to Emergencies

Right to Know Surveys

All fire departments will receive copies of RTK Surveys completed by public employers and Community RTK Surveys completed by private employers for facilities located within their jurisdiction every year. The surveys tell WHAT hazardous chemicals are present at these facilities, their quantities and locations, and their DOT Guidebook number from the North America Emergency Response Guidebook.

What Should a Department Do With The Right to Know Surveys That it Receives?

Fire departments should use both the RTK surveys and Community RTK surveys to help develop an emergency operations plan for facilities within its jurisdiction that report having hazardous substances. A sample Emergency Operations Plan (EOP) is available from the NJ State Police, Office of Emergency Management. HSFS are available from the DHSS for the hazardous substances reported on the surveys. You may request a complete set of HSFS from DHSS.

How Do You Use a Hazardous Substance Fact Sheet or Material Safety Data Sheet?

The fire department may maintain a file of the complete set of 1,055 HSFSs or MSDSs which it receives from certain reporting facilities, or both. This will allow firefighters to look up specific information on hazardous substances for any facility that they may be required to respond to. The HSFS and MSDS information can also be used in training and can be carried on apparatus or otherwise made available to officers during an incident.

If a firefighter is subject to hazardous chemical exposure during an incident, the HSFS and MSDS can be used in diagnoses and treatment at the hospital and in subsequent medical monitoring.

Fire departments should drill their firefighters and officers in the use of RTK surveys, Community RTK surveys and the accompanying HSFS and MSDS so that all are familiar with how to locate chemical information as well as the pertinent response information required during an emergency. Drills could both be in-house and practical evolutions using hazardous substance scenarios that would require the use of surveys as well as HSFS and MSDS. Walkthroughs of specific facilities to confirm the information on the surveys and check container labels would also be beneficial.

What Type of Response Training, if Any, is Required?

The emergency response training that is required by the Worker and Community RTK Act is covered in Section 2. Similar emergency response training is required by the Public Employees Occupational Safety and Health Act under 29 CFR 1910.120. A pamphlet describing the requirements of 29 CFR 1910.120 is available from the DHSS, PEOSH Program, at the address listed on page 1. The relationship between required RTK training and 29 CFR 1910.120 training is covered in section 2.

It is a good idea to incorporate RTK Surveys, Community RTK surveys, HSFS and MSDS into regular firefighter training so that firefighters can become familiar with them. Additionally, as emergency operations plans are developed utilizing the information from the RTK Surveys, Community RTK surveys, HSFS and MSDS, time should be allotted during company training to cover these areas. Both surveys and HSFS are accessible by dialing into the NJDEP computer at (609) 633-6099.

**APPENDIX A
RIGHT TO KNOW
EDUCATION AND TRAINING
PROGRAMS**

**THE NEW JERSEY WORKER AND COMMUNITY RIGHT TO KNOW ACT
NEW JERSEY DEPARTMENT OF HEALTH**

REQUIREMENTS FOR RIGHT TO KNOW EDUCATION AND TRAINING PROGRAMS

MARCH 1996

The Worker and Community Right to Know Act requires New Jersey public employers to provide their employees who are exposed or potentially exposed to hazardous chemical substances in the workplace with initial and biennial (every two years) education and training programs. (N.J.A.C. 8:59-6) The instructor must be a "technically qualified person" or a certified consultant.

Who are Exposed and Potentially Exposed Employees?

The definition of **employee** includes any paid full-time or part-time salaried, seasonal or hourly worker, plus volunteer firefighters and volunteers who work for a public employer. (N.J.A.C. 8:59-1.3)

An **exposed employee** is an employee who comes into contact with a hazardous chemical in the course of employment through any route of entry (inhalation, ingestion or skin contact). A **potentially exposed employee** is an employee who will foreseeably come into contact with a hazardous chemical. (N.J.A.C. 8:59-1.3)

Employees who are **not** exposed or potentially exposed are not required to attend these programs, however, they do need to receive the RTK Brochure every two years.

Who is "Technically Qualified" to Teach?

If the instructor is an employee, this person must meet the definition of a "technically qualified person". (N.J.A.C. 8:59-1.3) A technically qualified person is . . .

1. a person who is a registered nurse, Certified Industrial Hygienist, Certified Safety Professional, or has a bachelor's degree in industrial hygiene, environmental science, health education, chemistry or a related field and understands the health risks associated with exposure to hazardous substances.
OR
2. a person who "has completed at least 30 hours of hazardous materials training offered by the New Jersey State Safety Council, an accredited public or private educational institution, labor union, trade association, private organization or government agency and understands the health risks associated with exposure to hazardous substances, **and** has at least one year of experience supervising employees who handle hazardous substances or work with hazardous substances."
OR
3. a person who has successfully completed a NJDOH approved Right to Know Train-the-Trainer course.

Who is a "Certified" Consultant?

If the instructor is a private consultant, that consultant must be certified. (N.J.A.C. 8:59-12) A certified consultant is a person whose qualifications have been reviewed and approved by the NJDOH Right to Know Program. This person may teach an Education and Training Program that has been certified by NJDOH. Call the Right to Know Program for a current list of certified consultants and consulting agency training programs. A certification letter has been issued to each certified consultant and consulting agency. Ask for it.

THE NEW JERSEY WORKER AND COMMUNITY RIGHT TO KNOW ACT Education and Training Programs

Initial Program

The initial education and training program must be given to all exposed and potentially exposed new and reassigned employees within 30 days of employment or reassignment. An employer has up to 6 months to train volunteers.

The NJDOH Right to Know Program estimates that it will take approximately 4 hours to adequately cover the required topics in the initial program. A class size of not more than 25 persons is recommended.

The required course content must contain, at a minimum, the topics listed below and must include the opportunity for the employees to ask questions. This outline is not intended to mandate the order of presentation.

I. A general overview of occupational health, including an explanation of:

- A. Chemical Hazard Identification - Recognition (N.J.A.C. 8:59-6.3(b)(1)(i))
 - 1. Written information - labels, Material Safety Data Sheets, Hazardous Substance Fact Sheets, Right To Know Survey, PEOSH 200 log, etc.
 - 2. Form of the substance
 - a. solids
 - b. dusts
 - c. fumes
 - d. liquids
 - e. vapors
 - f. gases
 - g. mists
 - 3. Knowledge of the work process
 - 4. Use of your senses - odors, sight, sounds, recurring symptoms
- B. Evaluation of Hazard Seriousness (N.J.A.C. 8:59-6.3(b)(1)(i))
 - 1. Amount and concentration of the substance (dose)
 - 2. Length of exposure
 - 3. Route of exposure
 - a. ingestion
 - b. inhalation
 - c. absorption
 - 4. Synergism
 - 5. Individual sensitivity
- C. Types of Damage Caused by Hazardous Chemicals (N.J.A.C. 8:59-6.3(b)(1)(i))
 - 1. Acute vs. Chronic Effects
 - 2. Adverse Health Effects
 - a. Asphyxiants
 - b. Carcinogens
 - c. Corrosives
 - d. Irritants
 - e. Mutagens
 - f. Poisons
 - g. Teratogens
 - h. Sensitizers/Allergens
 - 3. Safety Hazards
 - a. Combustibles
 - b. Explosives
 - c. Flammables
 - d. Oxidizers
 - e. Reactives
 - f. Radioactives
- D. Measurement and Evaluation of Exposure (N.J.A.C. 8:59-6.3(b)(1)(ii))
 - 1. Sampling procedures
 - a. grab
 - b. continuous
 - c. bulk
 - d. wipe
 - 2. Exposure limits
 - a. TWA (time-weighted average)
 - b. Ceiling Value
 - c. PEL (permissible exposure limit)
 - d. TLV (threshold limit value)

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- E. Prevention and Control of Exposure (N.J.A.C. 8:59-6.3(b)(1)(iii))
 - 1. Substitution
 - 2. Isolation
 - a. isolate personnel
 - b. isolate work station
 - c. enclose the process
 - 1. glove boxes
 - 2. splash guards
 - 3. Ventilation
 - a. General dilution ventilation
 - b. Local exhaust ventilation (LEV)
 - 4. Good housekeeping methods
 - 5. Administrative measures
 - a. job rotation
 - b. frequent breaks
 - 6. Personal protective equipment (PPE)

II. Provisions of the Right To Know Act* (N.J.A.C. 8:59-6.3(b)(4))

- A. Employee rights and employer responsibilities.
 - 1. The employer's obligation to complete a Right To Know Survey which identifies chemical products that contain hazardous ingredients. The Survey provides the product name and the name of the hazardous chemical ingredient(s). (i)
 - 2. How to use RTK labeling and the employer's obligation to label containers. (ii)
 - 3. The purpose and use of Material Safety Data Sheets (MSDS) and Hazardous Substance Fact Sheets (HSFS). (Workers should be familiar with how to use MSDSs and HSFSs **together**. It takes about an hour to adequately cover this material.) (iii)
 - 4. The RTK Central File and the employer's obligation to maintain it, its location, the right to obtain MSDSs, HSFSs and the RTK Survey, and the method to obtain this information. (iv and v)
 - 5. An employee's limited right to refuse to work with a substance. (vi)
 - B. Provide each participant with a sample RTK Survey, MSDS and HSFS. These should be from the employees' own facility. (i and iii)
 - C. Provide a copy of the RTK Brochure. (N.J.A.C. 8:59-6.3(c))
 - D. Advise employees that copies of RTK Surveys and HSFSs may also be obtained from County Lead Agencies and the NJDOH. (N.J.A.C. 8:59-7.1(c) and 7.3(b))
- Most of this information can be covered by showing the video "PEOSH/RTK: What's It All About?" and reviewing the Right to Know Brochure. Some additional review of the site specific Right to Know (RTK) Survey and RTK labeling is necessary. Call the NJDOH at (609) 984-2202 to find out how to obtain a copy of the video.

III. Chemical Specific Training (N.J.A.C. 8:59-6.3(b)(2) and (3))

A. Employees must be trained on every product which poses a health or safety risk to them.

If there are only a few of these products in a facility, the MSDS/HSFSs should be reviewed for all of them. When more than one substance in a chemical class is involved, e.g., corrosives, the training can be generalized for the class of chemicals provided that each employee is advised of the name of each product he or she uses in the chemical class. Employees must be provided with a copy of the correctly completed current Right To Know Survey, or a list naming all products and their hazardous ingredients grouped according to hazard class. While training by hazard class is useful in a facility where there are large numbers of hazardous chemicals, the MSDS/HSFSs should still be discussed **individually** for the most commonly used products. Whichever method is used, the following must be accomplished:

1. Employees must be advised of the names of the products, what acute and chronic health problems may occur from using the products, and recommended emergency treatment in case of exposure.
2. Proper methods of controlling exposure should be identified for use of the products. Workers must receive training in the use of personal protective equipment, if applicable, including how to properly wear, remove, clean, and store the equipment.
3. Safe handling procedures must be covered.
4. Employees who are responsible for the clean up of spills and firefighting must be trained in the use of any necessary equipment associated with these tasks. If workers are not involved in the clean up of spills or firefighting, they should at least be familiar with the employer's policy about such incidents.

NOTE: Chemical specific training usually takes a **minimum** of one hour to cover.

IV. Walkthrough (N.J.A.C. 8:59-6.3(b)(5))

A walkthrough must be conducted to show the employees the location of the hazardous chemical products to which they are exposed or potentially exposed. This may include the location of first aid, firefighting, spill and clean-up equipment, and engineering controls which are in place to control exposure to hazardous chemicals.

The walkthrough must be documented and may be done by a supervisor. However, **if chemical specific training is to be conducted** during the walkthrough, the supervisor **must** be a "technically qualified person." Documentation of the walkthrough must be kept with the training program records if it is conducted separately from the rest of the program.

Update Program
(N.J.A.C. 8:59-6.2(a) and (g))

An Update Program must be given to all employees who received the Initial Program and continue to be exposed or potentially exposed to products whose hazardous chemical ingredients pose health and safety risks. It must be conducted by a technically qualified person or a certified consultant. The program must provide summary information about the law as well as information about the health hazards and safe use of products containing hazardous chemicals which are used by the employees.

NOTE: It will take approximately 2 hours to adequately cover the required topics in the Update Program. This training **cannot** be substituted for initial training for new employees.

Be sure to address the following:

1. A review of the current provisions of the Right to Know Act including any amendments to the Act relevant to the employees.
2. Chemical specific training for all **new** hazardous products as well as existing commonly used hazardous products.

Review Material Safety Data Sheets (MSDSs) and Hazardous Substance Fact Sheets (HSFSs) and explain the health effects, safety hazards, controls, and appropriate work practices for new products containing hazardous chemicals. Review the MSDSs and HSFs for all commonly used hazardous products and explain any new information obtained from the MSDSs and HSFs. The program should incorporate occupational health principles relevant to the employees while discussing these products.

3. A walkthrough of the facility to identify the location of **new** hazardous products. The walkthrough can be conducted by a supervisor.

NOTE:

- If any required segments were not covered in the Initial or prior Update Programs, the employer **must** be sure to provide the necessary supplemental training in the next Update Program.
- NJDOH has found that programs frequently fail to provide adequate chemical specific training.
- The video "PEOSH/RTK: What's It All About" can be shown during the Update Program, if not shown previously, to review the provisions of the Act.

**An Abbreviated RTK Training Program Can be Given
To Employees Who Are Only Exposed To Gasoline,
or Photocopier Toners or Developers
(N.J.A.C. 8:59-6.3(f))**

An abbreviated Right to Know Education and Training Program is allowed for employees who are only exposed to the chemicals in toner or developer for a copying machine when the employee periodically replenishes the toner or developer in the machine, or to gasoline for a motorized vehicle when the employee periodically fills the vehicle or a small can with gasoline. In these two situations the public employer is **not** required to provide the full education and training program, update training, or a technically qualified trainer. The public employer only has to:

1. Provide the employee with the appropriate Hazardous Substance Fact Sheet and Material Safety Data Sheet for the hazardous chemical in the toner or developer, or gasoline, as appropriate;
2. Review the Hazardous Substances Fact Sheet and Material Safety Data Sheet with the employee and explain all of its provision including health hazards and safe handling procedures;
3. Answer all questions asked by the employee about this information; and
4. Provide the employee with the Right to Know Brochure.

If you choose to provide this option, you must still document the training with signed rosters and keep copies of the Hazardous Substance Fact Sheet and Material Safety Data Sheet as part of your Right to Know Education and Training Program records.

**Public Employees Who Are Exposed To Products Used By Subcontractors
(N.J.A.C. 8:59-6.5)**

If public employees are exposed or potentially exposed to a product that belongs to a subcontractor who is working for the employer, and it poses health or safety risks to them, the public employer must provide the employees with:

1. The product's name and the names of all of its hazardous chemical ingredients;
2. Health hazard information; and
3. Protective procedure information.

This information may be presented during the Update Right to Know Education and Training Program or be provided in writing to employees at any time during the year, if requested by them. The employees must also be provided with the appropriate MSDS and HSFSSs, if requested.

**DOCUMENTATION THAT MUST BE MAINTAINED
(N.J.A.C. 8:59-6.4(a))**

An employer must maintain the following documentation of all Right to Know Education and Training Programs and provide it, upon request, to a Right to Know inspector. All material used for Right to Know training purposes shall be typed or legibly written. Records must include:

1. The date, time and location of the training program.
 2. The name and qualifications of the instructor or proof of certification for consultants.
 3. Rosters of attendance which include the names, signatures and the title or job description of the participants for each session.
 4. Whether the course is an initial or update program.
 5. Course objectives, including both cognitive (learned) and behavioral.
 6. A **detailed** course outline or **detailed** description of covered topics which includes the length of time for each major topic and describes the methods of instruction.
 7. Videotapes may be used as a teaching aide but not as a substitute for a live presentation. If a video is used to cover required subjects, a brief written description, including title, producer and subjects covered, must be recorded, or you may keep a copy of the video with the RTK education and training records.
 8. Copies must be kept of all handouts. Each participant **must be provided with**:
 - A sample RTK Survey, which preferably is the completed survey from their workplace. (N.J.A.C. 8:59-6.3(b)(4)(i))
 - A sample Material Safety Data Sheet (MSDS). (N.J.A.C. 8:59-6.3(b)(4)(iii))
 - A sample Hazardous Substance Fact Sheet (HSFS) which preferably matches one of the chemicals on the MSDS. (N.J.A.C. 8:59-6.3(b)(4)(iii))
 - The Right to Know Brochure.* The brochure must also be provided to all new employees within the first month of employment regardless of their exposure and every two years thereafter to all employees regardless of their exposure. (N.J.A.C. 8:59-6.3(c))
 9. The methods used to evaluate the effectiveness of the program such as tests, exercises or written evaluations.
- Copies of the Right to Know Brochure can be obtained from the NJDOH Right to Know Program. Employers can make their own copies if desired. The brochure is helpful in reviewing employee and employer rights and responsibilities. It is available in both English and Spanish.

"PEOSHA & RTK: WHAT'S IT ALL ABOUT?"
Developed by the New Jersey Department of Health and
UMDNJ-Robert Wood Johnson Medical School, 1990
(VHS Video, 35 Minutes)

This video assists public employees and employers in understanding the New Jersey Worker and Community Right to Know Act (RTK) and the Public Employees Occupational Safety and Health Act (PEOSHA). It provides an overview of the RTK and PEOSH Acts and how to effectively use them to resolve problems.

There are three sections to the video--a discussion of the provisions of the acts and two case situations that demonstrate in-depth applications of the laws. The video may be stopped after each section for discussion.

The video is available for loan from:

- Right to Know Program
Video Lending Library
New Jersey Department of Health
PO Box 368
Trenton, NJ 08625-0368
- All Right To Know County Lead Agencies
- The New Jersey State Library, County Libraries and some Local Libraries.

"PEOSHA & RTK: WHAT'S IT ALL ABOUT" can be purchased for \$75.00 from:

Environmental and Occupational Health Sciences Institute (EOHSI) Public Education and Risk Communication Division, Resource Center, 681 Frelinghuysen Road, P.O. Box 1179, Piscataway, NJ 08855-1179, (908) 932-0220.

RIGHT TO KNOW VIDEO LENDING LIBRARY

The Right to Know Program has established a video lending library on occupational health and safety topics. The library will lend videos to any public employer on a limited time basis. For a list of the available videos, write or call the Right to Know Program at (609) 984-2202.

If you would like to borrow any of the videos, please send a letter indicating the video you would like. The letter should include: the name of the person responsible for the video, the date(s) the video will be needed, the expected return date, and a telephone number to enable the Right to Know Program to contact the responsible party.

Common Questions About RTK Education and Training

Q: Does the NJDOH Right to Know Program provide RTK education and training for individual facilities?

A: No. Each public employer is responsible for providing their own education and training of employees. However, the Right to Know Program will assist employers by providing them with helpful training materials and by answering any questions. These materials include outlines, videos, and guidelines for developing a training program.

Q: Can the Right to Know Program recommend a consultant for training?

A: The Right to Know Program cannot recommend a particular consultant. However, the Right to Know Program will provide a list of those consultants who have been given provisional or full certification for RTK education and training.

Q: How can an employer develop a RTK education and training program?

A: One of the main resources that identifies the steps in setting up a RTK education and training program is the document "Guidelines for Developing a RTK Training Program" published by the NJDOH Right to Know Program.

The Right to Know Program has also developed a Right to Know Train-the-Trainer course in conjunction with the Human Resources Development Institute (HRDI). Completing this course will make a public employee a "technically qualified person" and enable that employee to provide RTK training for his/her employer. Call HRDI at (201) 648-4561 for more information about the course.

Q: If a facility does not report any hazardous substances, do the employees in that facility need to receive a Right to Know Brochure?

A: No, unless they are firefighters.

Q: Must firefighters who complete the New Jersey State Police Hazmat Emergency Response-Awareness and Operational Courses (in accordance with the Public Employees Occupational Safety and Health Act Standard 29 CFR 1910.120(q)) also be given the full Right to Know Education and Training Program?

A: No, if the manuals used are dated May 10, 1990 or later. The State Police Awareness and Operational courses incorporate most of the Right to Know Program's required course content. For initial RTK Training, the only additional training that may be necessary is: 1) to train on hazardous materials in the firehouse (if they are not exempted under the consumer product exclusion), 2) to provide training for personal protective equipment (if not already provided), and 3) to conduct a walkthrough of the firehouse to show the location of any hazardous materials. There must also be Update Right to Know education and training provided to all firefighters. Update RTK training can be combined with the annual refresher training required by CFR 1910.120. The instructor must meet the definition of a "technically qualified person." For the purpose of teaching the new Recruit Firefighters Training Course, a person who has been certified by the Department of Community Affairs as a Firefighter Instructor Level I is considered to meet the definition of a "technically qualified person."

Q: Do all police officers need Right to Know education and training?

A: No. Only those officers that are routinely exposed or potentially exposed to hazardous substances due to the nature of their assigned duties must receive Right to Know education and training. For instance, those who work with photographic chemicals and criminal scene investigation chemicals must receive initial and update Right to Know education and training. Officers that are certified by the New Jersey State Police to conduct breathalyzer tests will be receiving their training while attending the State Police Breathalyzer initial certification and recertification courses.

Q: How can Hazardous Substance Fact Sheets be obtained?

A: Employers have been sent Hazardous Substance Fact Sheets (HSFS) for chemicals reported on their prior RTK Surveys. Periodically employers will also be sent HSFs for new reported chemicals and HSFs that have been revised by NJDOH. If you need additional copies, up to ten individual Hazardous Substance Fact Sheets can be obtained at no charge by calling or writing the Right to Know Program. More than 10 have a charge of 25 cents per copy, plus postage and handling.

Q: What is the RTK poster and where should it be displayed?

A: The RTK poster is a notice advising employees about their right to obtain information about hazardous substances at their workplace and in their community. It must be displayed in facilities that report the presence of hazardous substances on their RTK Survey.

**APPENDIX B
RIGHT TO KNOW LABELING
REQUIREMENTS**

**THE NEW JERSEY WORKER AND COMMUNITY RIGHT TO KNOW ACT
MAJOR PROVISIONS OF RIGHT TO KNOW LABELING FOR
PUBLIC EMPLOYERS
August 1996**

The labeling requirements were amended on August 2, 1993 and January 3, 1994 to provide additional options and exclusions from labeling. The new provisions are in bold print in this informational bulletin.

General Provisions (N.J.A.C. 8:59-5.1 and 5.2)

The New Jersey Right to Know labeling requirements provide for exact identification of chemicals in the workplace by using the chemical names and Chemical Abstracts Service (CAS) numbers* of the chemicals. Container** labels must list the chemical name and CAS number of the five most predominant chemical ingredients in the container whether they are hazardous or non-hazardous. This is commonly referred to as "universal labeling." Any hazardous ingredients which are not in the top five ingredients must also be listed on the label (except if it is below 1% or below 0.1%, for carcinogens, mutagens, and teratogens). The Right to Know Hazardous Substance List provides a list of synonyms of chemical names which may also be used on the label. For chemicals not listed on the Right to Know Hazardous Substance List, any chemical name recognized by the Chemical Abstracts Service may be used.

Example:

| NAME | CAS# |
|---------------------------|------------|
| Hydroquinone | 123-31-9 |
| Paraformaldehyde | 30525-89-4 |
| Sodium Methanal Bisulfite | 870-72-4 |
| Triethylene Glycol | 112-27-6 |
| Water | 7732-18-5 |
| Sodium Sulfite | 7757-83-7 |

If the content of the container is not known or if only some of the contents are known, the container must bear a label stating either "Contents Unknown" or "Contents Partially Unknown" and a good faith effort must be made to find out the ingredients. In the latter case, whatever chemicals are known must be listed on the label.

Examples:

| |
|-------------------------|
| CONTENTS UNKNOWN |
|-------------------------|

| NAME | CAS# |
|-----------------------------------|------------|
| Hydroquinone | 123-31-9 |
| Paraformaldehyde | 30525-89-4 |
| CONTENTS PARTIALLY UNKNOWN | |

A good faith effort must involve at least two contacts by letter and/or documented phone calls to the product's manufacturer or supplier. If an employer finds out any additional ingredients of a product, the employer has up to 5 working days to add these ingredients to the existing label on the container.

***Chemical Abstracts Service Number** - The unique identification number assigned by the Chemical Abstracts Service to chemicals.

****Container** - A receptacle used to hold a liquid, solid, or gaseous substance, including but not limited to, bottles, pipelines, bags, barrels, boxes, cans, cylinders, drums, cartons, vessels, vats, and stationary or mobile storage tanks. This does not include process containers or buildings (unless the building "is" the container, such as a salt shed).

FIRE SERVICE REFERENCE BOOKLET 4 - RIGHT TO KNOW

You may find that one or more of the ingredients is considered a trade secret. In this case, the manufacturer may provide you with a New Jersey Trade Secret Registry Number (TSRN) to be used in place of the specific chemical substance name and CAS number on the label. A trade secret substance may be hazardous or non-hazardous but should never be a substance that is a carcinogen, mutagen or teratogen. An acceptable label would appear as follows:

| NAME | CAS # |
|----------------------|--------------|
| Hydroquinone | 123-31-9 |
| Paraformaldehyde | 30525-89-4 |
| Water | 7732-18-5 |
| Sodium Sulfite | 7757-83-7 |
| TSRN 43891000-5002p | |
| NJ TSRN 42-003-19642 | |

What the Label Should Look Like

The label must be a sign, emblem, sticker or marker of a durable nature affixed to or stenciled onto a container. The printing on these labels must be easy to read, not obscured, and prominently displayed on the container. (N.J.A.C. 8:59-5.8)

When Must Containers Be Labeled?

Labels must be affixed to new **direct use containers** before containers are opened *or* within five working days of the container's arrival at the facility, whichever is sooner. **A "direct use" container is the container that directly holds the product, such as a can of paint or a 55 gallon drum.**

Containers that are packed in shipping containers (e.g. boxes) do not need to be labeled until they are removed from the shipping container. The shipping container boxes do not need to be labeled since they are already labeled pursuant to USDOT requirements. Be sure to check new containers to see if the manufacturer or vendor has already labeled the containers. Shelf labeling is not allowed!

Special Circumstances

- **Containers which are present in offices that are used for office work do not need to be labeled. (Storage rooms, print shops, and other areas not used for office work in an office building are not included in this exemption.)**
- Containers which are two ounces or smaller may be labeled by means of a code or number system if the code or number system will allow the employee or emergency responder ready access to the names and CAS numbers or the trade secret registry numbers of the ingredients. If **direct use containers** are on a skid *and* it is not possible to get to all of the containers without breaking down the skid, only those containers on the outside face of the skid and within reach of the employee need to be labeled.

If the skid is shrink-wrapped, labels must be placed on the shrink-wrap on all four sides of the skid. If unlabeled **direct use** containers are removed from the skid, they must be labeled immediately.

- For petroleum products, the Department of Health and Senior Services will allow the following names (without CAS #'s) on labels:

1. For motor oil, the name "motor oil" can appear on the label.
2. For automatic transmission fluid, the name "automatic transmission fluid" can appear on the label.
3. For brake fluid, the name "brake fluid" can appear on the label.
4. For heating oil, the name "fuel oil" should appear on the label.
5. For diesel fuel, the name "diesel fuel" can appear on the label.
6. For grease, gear oil, hydraulic oil, cutting oil, lubricating oil, and other petroleum oil based products, the name should be combined with Petroleum Oil such as "Petroleum Oil (Grease)".

If a product is not petroleum oil based, then the words "Petroleum Oil" should not be included on the label. A CAS number would only be required on the label if the product has an assigned CAS number. Also, if a petroleum product contains a hazardous substance listed on the New Jersey Right to Know Hazardous Substance List, as an additive, that hazardous substance must be included on the label (with its CAS number).

- In approved Research and Development (R & D) Laboratories, **public employers may:** (a) label containers by means of a code or number system if the code or number system allows an employee or emergency responder ready access to the names and CAS numbers or the trade secret registry numbers of the ingredients in the containers, **or (b) label containers in accordance with the Public Employees Occupational Safety and Health Act (PEOSHA) Laboratory Standard. (Contact the PEOSH Program at (609) 984-1863 for the requirements of this Standard.)** To become an approved R & D laboratory, an application must be filed with and approved by the Department of Health and Senior Services. To obtain an application for a Research and Development Laboratory exemption, contact the NJDHSS at (609) 292-2202. (N.J.A.C. 8:59-5.3)
- If a subcontractor stores hazardous or other substances at a public employer's facility, the public employer must insure that these containers are properly labeled. (N.J.A.C. 8:59-5.10)
- Valves, outlets, sample connections, drains and vents of pipeline systems must be labeled if these points allow the release of a substance into the environment: (1) at least once during a twenty-four hour period; or (2) once a month when making repairs or conducting maintenance activities. Also, any valve located at the point at which a substance enters a facility's pipeline system must bear a label. This situation usually is found in water filtration plants, wastewater treatment plants, power plants and motor vehicle maintenance garages. (N.J.A.C. 8:59-5.2)

Containers That Do Not Need To Be Labeled

The following substances and containers do not need to be labeled (and do not need to be reported on the Right To Know Survey) because they are excluded from coverage under the law. These include:

- Any solid article (a manufactured item formed to its final shape or design) which is not used in a manner which changes its physical form, and which does not pose any acute or chronic health hazard to employees or emergency responders who are exposed to it.

Examples:

| | |
|--------------------|---|
| Ammunition | Pens |
| Bars of soap | Pills and capsules |
| Chalk | Photocopier toners and developers in self-contained cartridges |
| Dry cell batteries | Polaroid film |
| Glue sticks | Sorbent sample tubes |
| Grinding wheels | Thermometers |
| Pastels | |

- Consumer products if they are not used more frequently than a consumer would use them at home.
- Any fuel in a motor vehicle.
- Containers which are removed from a larger, properly labeled container, are only used by the employee who performs the removal, and are used up by that employee during his or her workshift.
- Process containers. These containers include:
 - a. containers whose contents are changed at least once per shift;
 - b. test tubes, beakers, flasks, or other containers which are regularly used and reused for different substances;
 - c. containers of ten gallons or less into which a worker has poured a substance from a labeled container and which is used by the employee who performed the transfer; AND
 - d. containers on which labels would be obscured by heat, spillage, or other factors.
- Typewriter correction fluid.
- **Products which are the personal property and are for the personal use of an employee.**
- Containers of bottled water intended for drinking purposes, drinking fountains, sinks, toilets, showers, safety showers, eye washes, soap dispensing units in bathrooms, fire hydrants, fire hose racks, sprinkler heads, and fire extinguishers.
- Sand bags and buckets, MSA Air Pak Respirators, portable grease guns, electrodes, biological organisms, tobacco products, wood products, and food and food additives intended for human or animal consumption also are exempted from labeling.
- **Substances which are an integral part of a facility structure or furnishings.**
- **Materials kept in an evidence locker or room by a law enforcement agency.**

Products and Substances That Do Not Require Additional Labeling

Containers that are labeled according to certain Federal and State laws do not need a Right to Know label. (N.J.A.C. 8:59-5.5 and 5.6) (However, they still *have to be reported on the Right to Know Survey* if they are hazardous.) These include:

- **Products in containers that are two kilograms (4.4 pounds) or two liters (0.53 gallons) or smaller that are labeled according to the OSHA Hazard Communication Standard (29 CFR 1910.1200.)**

Note: However, if containers below this threshold contain ingredients which are carcinogens, mutagens or teratogens, these ingredients and their CAS numbers must be listed on the label. Also, if the product, as a whole, meets the Special Health Hazard criteria for highly flammable (F3 or F4), reactivity/explosivity (R4, R3 or R2), or corrosivity, only those ingredients that contribute to the Special Health Hazard, and their CAS numbers, must be listed on the label. (See N.J.A.C. 8:59-10.2 for Special Health Hazard criteria.)

A Hazard Communication Standard label must contain the identity of the product and appropriate hazard warnings. The identity is any term used as a product identifier which serves as a link between the label and a Material Safety Data Sheet. The identity used may be a trade name (“Black Magic Formula”), or a chemical name (1,1,1,-Trichloroethane). The hazard warning is any type of message, words, pictures, or symbols that conveys the hazards of the chemical(s) in the container. Employers purchasing chemicals can usually rely on the labels provided by their suppliers.

HAZARD COMMUNICATION LABEL REQUIREMENTS

Product Identifier

Manufacturer's Name & Address

Hazard Warning

Target Organs

SUPER FLOOR STRIPPER

**123 MAIN STREET
MOPPIN, NJ 00000**

FLAMMABLE! KEEP AWAY FROM HEAT, SPARKS AND OPEN FLAME. MAY CAUSE EYE IRRITATION, NAUSEA, AND DIZZINESS FROM EXCESSIVE INHALATION.

TARGET ORGANS-SKIN, EYES, CENTRAL NERVOUS SYSTEM.

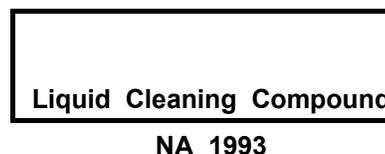
- Containers displaying labels pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). These products display the phrase "EPA Reg No. #". For example, disinfectants, pesticides, herbicides, and fungicides are all labeled according to FIFRA.

Example of a FIFRA Label

| | |
|--|--------------------------------------|
| Active Ingredients | |
| O,O-diethyl O-(2 isopropyl-6 methyl -4 pyrimidinyl) Phosphorothioate..... | 5.00% EPA Reg. No. 0011-00-1111 |
| Inert Ingredients | 95.00% EPA Est. No. 0011-OH-1 |
| Total..... | 100.00% |

- All shipping cartons, which are not direct use containers, that are labeled according to USDOT requirements. It is the responsibility of your supplier to meet this requirement. If USDOT regulations do not require a label on the shipping container, then none shall be required. (N.J.A.C 8:59-5.1(q))

Examples:



Direct use single substance containers that are labeled with specific chemical substance shipping names and their four digit UN or NA identification numbers from the U.S. Department of Transportation's (DOT) Hazardous Materials Table, 49 CFR Part 172.101.

Example:



Traffic Paint Reducer

- Containers containing hazardous waste material that are labeled pursuant to the Federal Resource Conservation and Recovery Act (RCRA) or the New Jersey Solid Waste Management Act.

Examples:



Hazardous Waste

- Containers that are labeled pursuant to the Federal Food, Drug, and Cosmetic Act (FDCA). For example, hand soaps are usually considered drugs or cosmetics, and rubbing alcohol is considered a drug.

Drug Example:

**Isopropyl Alcohol
70% by Volume**

Cosmetic Example:

Hair spray, nail polish, etc.

- Containers containing radioactive materials regulated by the Atomic Energy Act (AEA) and the Nuclear Regulatory Commission (NRC)
- For other exemptions, refer to N.J.A.C. 8:59-5.5

Sample Purchase Order and Service Contract Language

New Jersey manufacturers are required to include New Jersey Right to Know labeling on all containers. However, to obtain containers with New Jersey RTK labeling for those products manufactured outside of New Jersey, you can include a clause requiring New Jersey RTK labeling as a term or condition of your purchasing contract. If this clause is used, it will be effective only if it is enforced by you, the purchaser.

Public employers must also ensure that all containers which are stored at their facilities by subcontractors display RTK labeling. Be sure to address this issue in your service contracts.

The following is a sample clause that could be used (for both in-state and out-of-state suppliers and manufacturers) in purchase orders and service contracts:

All direct use containers shall bear a label indicating the chemical name(s) and Chemical Abstracts Service number(s) of all hazardous substances in the container, and all other substances which are among the five most predominant substances in the container, or their trade secret registry number(s). (N.J.A.C. 8:59-5)

"Container" means a receptacle used to hold a liquid, solid or gaseous substance such as bottles, bags, barrels, cans, cylinders, drums and cartons. (N.J.A.C. 8:59-1.3)

You can refer vendors to the New Jersey Department of Health and Senior Services Right to Know Program for assistance in developing proper labels.

**APPENDIX C
RIGHT TO KNOW
ENFORCEMENT AGENCIES**

HOW THE ACT IS ENFORCED

The following three state agencies work together to implement the RTK Act:

***New Jersey Department of Health and Senior Services
Right to Know Program
PO Box 368
Trenton, New Jersey 08625-0368
(609) 984-2202***

Enforces all provisions of the RTK Act in public workplaces and RTK labeling in private workplaces. The Department prepares Hazardous Substance Fact Sheets, the RTK brochure, and other materials to increase awareness of hazardous chemicals and help public employers comply with the RTK Act. Printed materials are available upon request.

***New Jersey Department of Environmental Protection
Bureau of Chemical Release Information & Prevention
PO Box 405
Trenton, New Jersey 08625-0405
(609) 292-6714***

Enforces the community provisions of the RTK Act in the private sector (except for labeling). The Department is also responsible for implementing Title III (Emergency Planning and Community Right to Know) of the federal Superfund Amendments and Reauthorization Act (SARA), which establishes requirements for industry regarding emergency planning and reporting of hazardous chemicals.

***New Jersey Department of Labor
Division of Workplace Standards
225 E. State Street
PO Box 386
Trenton, New Jersey 08625-0386
(609) 292-7036***

Collects RTK fees from private employers and investigates complaints by public employees who suspect they are being discriminated against for using their rights under the RTK law.

APPENDIX D
RIGHT TO KNOW
LOCAL INFORMATION

HOW TO OBTAIN INFORMATION LOCALLY

You can get copies of the Right to Know Survey, Community Right to Know Survey, and Hazardous Substance Fact Sheets from your designated Right to Know county agency listed below:

| | |
|-----------------|-------------------------|
| Atlantic..... | (609) 645-5971Ext. 4369 |
| Bergen..... | (201) 599-6150 |
| Burlington..... | (609) 265-5575 |
| Camden..... | (609) 374-6045 |
| Cape May..... | (609) 465-1208 |
| Cumberland..... | (609) 453-2156 |
| Essex..... | (201) 228-8152 |
| Gloucester..... | (609) 262-4200 |
| Hudson..... | (201) 223-1133 |
| Hunterdon..... | (908) 788-1351 |
| Mercer..... | (609) 989-6497 |
| Middlesex..... | (908) 494-6742 |
| Monmouth..... | (908) 431-7456 |
| Morris..... | (201) 285-6113 |
| Ocean..... | (908) 341-9700Ext. 7431 |
| Passaic..... | (201) 225-3643 |
| Salem..... | (609) 935-7510Ext. 484 |
| Somerset..... | (908) 231-7000Ext. 7506 |
| Sussex..... | (201) 948-4545 |
| Union..... | (908) 654-9890 |
| Warren..... | (908) 689-6693 |