

NEW JERSEY REGISTER



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 See the Register Index for Subsequent Rulemaking Activity.

NEXT UPDATE: SUPPLEMENT JUNE 18, 1990

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On occasion, a proposing agency may extend the 30-day comment period to accommodate public hearings or to elicit greater public response to a proposed new rule or amendment. An extended comment deadline will be noted in the heading of a proposal or appear in a subsequent notice in the Register.

At the close of the period for comments, the proposing agency may thereafter adopt a proposal, without change, or with changes not in violation of the rulemaking procedures at N.J.A.C. 1:30-4.3. The adoption becomes effective upon publication in the Register of a notice of adoption, unless otherwise indicated in the adoption notice. Promulgation in the New Jersey Register establishes a new or amended rule as an official part of the New Jersey Administrative Code.

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NEW JERSEY REGISTER

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RULE PROPOSALS

BANKING

(a)

DIVISION OF REGULATORY AFFAIRS

Safe and Sound Methods of Banking

Proposed Readoption with Amendments: N.J.A.C.

3:7

Authorized By: Jeff Connor, Commissioner,
Department of Banking.

Authority: N.J.S.A. 17:1-8.1; 17:9A-256; 17:9A-260.

Proposal Number: PRN 1990-414.

Submit comments by September 5, 1990 to:

Robert M. Jaworski, Assistant Commissioner

Department of Banking

CN 040

Trenton, New Jersey 08625

The agency proposal follows:

Summary

The Department of Banking proposes to readopt the rules at N.J.A.C. 3:7 governing the examinations of banks and savings banks. The rules are scheduled to expire on September 16, 1990 pursuant to Executive Order No. 66(1978). The Department of Banking has reviewed the rules and, with some minor exceptions, has determined them to be necessary, reasonable and proper for the purpose for which they were originally promulgated, as required by the Executive Order.

When a bank or savings bank permits counsel to handle funds pursuant to a mortgage closing, subchapter 1 requires the institution to obtain an endorsement rider to its fidelity bond to cover the attorney and all employees in that office. Subchapter 2 concerns the internal operations procedures of a bank or savings bank, and requires periodic reviews of mortgage loan insurance files, retention of closing statements and verification of real estate tax payments.

Subchapter 3 sets forth the standards for the internal examination or audit of a bank or savings bank. In particular, the subchapter specifies the types of confirmations of deposits and debts required, and sets minimum standards for the scope of the audit program.

Subchapter 4 requires a bank or savings bank to give written notice of the date on which a time deposit of more than one year will mature. The notice must inform the depositor of the date of maturity and the time deposit options which the institution anticipates will be available at that time. Subchapter 5 requires executive officers and directors of a bank or savings bank to file a form with the institution of an interest in another business enterprise. This form is available for review by State and Federal bank examiners, and the directors, senior loan officers, auditor and public accounting firm of the bank or savings bank.

It is proposed that N.J.A.C. 3:7-3.2 be amended to require that the person performing the examination indicate the date of completion in the transmittal or report to the bank. This requirement would allow the Department to verify that it received the report in a timely manner as required by N.J.S.A. 17:9A-254. The other proposed amendments at N.J.A.C. 3:7-1.1, 2.1, 3.9 and 5.4 constitute technical changes or corrections in the rules.

Social Impact

The rules proposed for readoption apply to all State-chartered banks and savings banks. They impose reasonable requirements on those institutions to ensure that examinations are performed in a meaningful way. These examinations allow the Department and the institution to identify problems and to improve internal control. Soundness of all State-chartered banks and savings banks and the safety of depositor funds within those institutions is the goal of these practices.

In addition, the rules proposed for readoption require notice of the date on which a time deposit of more than one year will mature. This disclosure is intended to provide the depositor with timely information to enable the depositor to make informed judgments regarding time deposits.

Economic Impact

The rules proposed for readoption for the most part reflect current examination practice. Most financial institutions have periodic examinations to review their financial condition. To the extent that these rules set standards for these examinations, they impose minimal costs. The rules proposed for readoption also require the bank or savings bank to obtain a fidelity bond rider for counsel handling funds at time of settlement. This cost insures that closing funds will be disbursed in a proper way, and the Department views it as a necessary expense.

Regulatory Flexibility Analysis

The rules proposed for readoption place reporting, recordkeeping and compliance requirements on banks and savings banks, most of which are small businesses as defined by the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The compliance requirements include the need for an accountant other than an internal auditor to perform confirmations in the examination process, the need to obtain an endorsement rider to a fidelity bond when counsel is being allowed to handle monies, the verification of real estate tax payments, specific types of confirmations of deposits and debts and the meeting of certain minimum standards for the scope of audits. The recordkeeping requirements include the retention of closing statements and the retention of mortgage loan insurance files. The reporting requirements include the need for written notice to depositors regarding the date on which a time deposit will mature and the information which must be included and the disclosure by bank executives of other business enterprises in which they are involved. The requirements have been accepted over time as standard banking practices and are therefore not viewed as overly burdensome.

These requirements are intended to set standards in order to advance the soundness of banks and savings banks, and protect the funds of individual depositors. It is for these reasons that no differentiation in compliance, based on business size, is provided.

The proposed amendments impose no additional reporting, recordkeeping or compliance requirements on these institutions.

Full text of the proposed readoption may be found in the New Jersey Administrative Code at N.J.A.C. 3:7.

Full text of the proposed amendments to the readoption follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

3:7-1.1 Required fidelity coverage of counsel

When a bank or savings bank permits counsel to handle funds, either for distribution at the time of settlement of a mortgage loan or for any other [reasons] **reason**, the bank or savings bank shall procure an endorsement rider to its fidelity bond, procured by [its] **it** pursuant to N.J.S.A. 17:9A-115, which will cover counsel and all employees of his **or her** office concerned with such transactions.

3:7-2.1 Review of fire insurance

[Due to the increased cost of replacement or improvements to real estate, all banks] **Banks** and savings banks shall [make a] **periodically** review [of] all fire insurance **policies** supporting loans secured by mortgages and real estate owned by the bank or savings bank to ascertain if the amount of insurance is sufficient considering present values, especially where the policy contains a coinsurance clause.

3:7-3.2 Date of examination

The examination shall be commenced within the time period specified in [N.J.S.A. 17:9A-153A] **N.J.S.A. 17:9A-253B**. Prior to commencing the examination, the person scheduled to conduct the examination shall notify the Department of Banking so as to avoid conflict with an examination pursuant to N.J.S.A. 17:9A-260. **In the transmittal or report to the bank, the person conducting the examination shall specify the date of completion of the examination.**

3:7-3.9 Audit program

(a) The minimum audit scope to be performed in banks or savings banks, as applicable, includes the following:

1. (No change.)
2. Investment securities:
 - i-iv. (No change.)

v. Review procedures with respect to [a mortization] **amortization** of premiums and accretion of discounts.

3.-26. (No change.)

3:7-5.4 Location and retention of statements of interest

(a) All statement of interest forms shall be maintained at the principal [officer] **office** or at such other office as may be designated by the board of directors. Statement of interest forms which have been superseded by new or corrected forms shall be retained with the new statement of interest forms for a period of two years.

(b) (No change.)

(a)

DIVISION OF REGULATORY AFFAIRS

Mortgage Loans

Proposed Readoption with Amendments: N.J.A.C.

3:27

Proposed Repeal: N.J.A.C. 3:27-2

Authorized By: Jeff Connor, Commissioner,
Department of Banking.

Authority: N.J.S.A. 17:1-8.1; 17:12B-165; 17:12B-168.

Proposal Number: PRN 1990-415.

Submit comments by September 5, 1990 to:

Robert M. Jaworski, Assistant Commissioner
Department of Banking
CN 040

Trenton, New Jersey 08625

The agency proposal follows:

Summary

The Department of Banking proposes to readopt the rules at N.J.A.C. 3:27 governing mortgage loans by New Jersey savings and loan associations. The rules are scheduled to expire on September 16, 1990 pursuant to Executive Order No. 66(1978). The Department of Banking has reviewed the rules and, with some exceptions indicated below, has determined them to be necessary, reasonable and proper for the purpose for which they were originally promulgated, as required by the Executive Order.

Subchapter 1 specifies the documents which an association must acquire and maintain incident to a mortgage loan. Subchapter 2 currently authorizes an association to engage in loan participations to the same extent that Federal associations are permitted to do. Pursuant to N.J.A.C. 3:27-2.2, the application of this subchapter is limited to participations made under "section 165-3B, chapter 144, Laws of 1963." Section 165-3B was repealed by P.L. 1981, c.101, §16, effective March 31, 1981. That law also permitted associations to make participations (1) on mortgage loans other than those secured by dwelling units; and (2) in an amount in excess of 10 percent of the association's assets. In light of these statutory changes, subchapter 2 is no longer necessary, and it is proposed that it be repealed. State savings and loan associations still have parity with Federal Associations to make participation investments pursuant to N.J.A.C. 3:26-4.1.

Subchapter 3 is reserved. Subchapter 4 permits State associations to make loans or investments which are authorized for Federal associations pursuant to 12 U.S.C.A. §1464(c). In addition, associations may invest in service corporations to the same extent as Federal associations pursuant to 12 C.F.R. §545.74.

Subchapter 5 currently limits the amount of any real estate loan or investment by a State association to \$60,000 per dwelling unit or 2½ percent of the association's assets, whichever is greater. The total amount of all such real estate loans and investments in excess of \$60,000 per dwelling unit may not exceed 40 percent of the aggregate amount owing to it on all its mortgage loans at that time.

Recent changes in Federal law have limited the amount of loans an association may make to one borrower. In general, an association under the Financial Institutions Reform, Recovery, and Enforcement Act (FIRREA) may loan to one borrower up to 15 percent of its unimpaired capital and unimpaired surplus or \$500,000, whichever is greater. The Department believes that these standards provide sufficient protection against an institution investing too heavily in one loan. Accordingly, it is proposed that subchapter 5 be amended to allow an association to

invest up to the limits provided by Federal law, if it is not already entitled to do so.

The other proposed amendments constitute technical changes.

Social Impact

The rules proposed for readoption apply to all State-chartered savings and loan associations, and have no discernible social impact separable from the economic impact as set forth below.

Economic Impact

The record maintenance requirements of subchapter 1 result in nominal administrative costs to the institutions and are part of the normal cost of doing business. Subchapter 4 authorizes the State associations to make investments which may be made by Federal savings and loan associations. The proposed amendments to subchapter 5 would permit State associations to make loans to one borrower up to the limits set by Federal law. The amendments to subchapter 5, in some instances may make credit more available to the general public within the cautious parameters recently set by Federal statutes and regulations.

Regulatory Flexibility Analysis

The rules proposed for readoption place recordkeeping and compliance requirements on savings and loan associations, most of which are small businesses as defined by the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. In particular, subchapter 1 requires that the association maintain a mortgage file of specified documents and that certain minimum requirements of information on each document be met. These files and the information must be maintained by all associations in order to allow for effective departmental examination for compliance with laws and regulations. The compliance requirements in subchapter 4 include certain reporting and administrative requirements which are accepted as standard banking principles. The compliance requirements in subchapter 5 are now those required by Federal mandate only. Neither set of requirements are viewed as burdensome and are viewed as a necessary part of maintaining the soundness of the institutions involved. Accordingly, no differentiation is made for small businesses.

Full text of the proposed readoption may be found in the New Jersey Administrative Code at N.J.A.C. 3:27.

Full text of the proposed repeal of subchapter 2 may be found in the New Jersey Administrative Code at N.J.A.C. 3:27-2.

Full text of the proposed amendments to the readoption follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

3:27-1.1 Required documents

(a) Each association shall maintain a mortgage file with respect to each mortgage loan. The file [should] **shall** contain:

1.-8. (No change.)

3:27-1.2 Minimum requirements for title papers

(a) Title papers shall set forth, at a minimum:

1.-3. (No change.)

4. A certificate of counsel to the effect that the association's mortgage on the property in question is a first lien as defined by [Section 11 of the Savings and Loan Act (1963)] **N.J.S.A. 17:12B-11**, which shall be dated on or subsequent to the time the instrument was recorded.

3:27-1.3 Minimum requirements for title policies

Title policies shall set forth that the association's lien is within the meaning of [Section 11 of the Savings and Loan Act] **N.J.S.A. 17:12B-11**, or in lieu of such statement, a certificate of counsel which states that based upon his **or her** review of the title policy the association's lien is within the meaning of said Section.

3:27-1.7 Minimum requirements for Section 156 additional loans

Additional loans **as authorized by N.J.S.A. 17:12B-156** [will] require the same documentation **as** set forth in this [Subchapter] **subchapter** with respect to applications and loan closing statements. If required by the association, additional credit information and appraisals may be obtained.

3:27-4.2 Federal laws and regulations

An insured association, subject to the limitations and provisions of this [Subchapter] **subchapter**, may make any loan or investment

which is permitted to be made by a Federal savings and loan association by Federal law or under rules and regulations promulgated by the [Federal Home Loan Bank Board] **Office of Thrift Supervision, or other appropriate Federal regulator**, under the authority of Section 5 of the "Home Owners' Loan Act of 1933", as amended and supplemented or as the same may in the future be amended and supplemented.

3:27-4.6 Service corporations

(a) Any insured association, by resolution of its board of directors, may authorize its service corporation to engage in activities to the same extent as Federally chartered savings and loan associations under Part 545.74 of the Rules and Regulations for the Federal Savings and Loan System. A State chartered association making such investment shall comply with the following conditions and procedures:

1.-2. (No change.)

3. If the service corporation is to engage in activities not specifically outlined in Part 545.74 of the Rules and Regulations for the Federal Savings and Loan System, application shall be made to the Commissioner of Banking for approval where the service corporation is wholly owned by one or more State-chartered institutions. The application shall take the form of a resolution adopted by the State-chartered institutions, together with a letter explaining the nature and anticipated equity investment relative to the proposed activity. If the service corporation is jointly owned by both Federal and State chartered associations, a copy of the application filed with the [Federal Home Loan Bank Board] **Office of Thrift Supervision, or other appropriate Federal regulator**, will be forwarded to the Commissioner for approval.

3:27-5.1 Limitations

The amount of any real estate loan or investment by a State association for any one property containing one or more dwelling units[, as defined in section 4 of this subchapter,] shall not exceed [\$60,000 per dwelling unit or an amount equal to 2½ percent of a State association's assets, whichever is greater] **the amount the association is permitted to lend pursuant to Federal limitations on loans to one borrower as set forth in Federal statutes, or regulations promulgated by the Office of Thrift Supervision or other appropriate Federal regulator.** [The total amount owing to a State association upon all such loans and investments in excess of \$60,000 per dwelling unit shall not exceed 40 percent of the aggregate amount owing to it on all of its mortgage loans at the time any such loan or investment in excess of \$60,000 per dwelling unit is made.]

[3:27-5.2 Computation of loan amount

The amount of any real estate loan or investment made by any State association as set forth in section 168 on any one property shall be computed by dividing the total amount of the mortgage loan at the time said loan is made by the number of dwelling units.

3:27-5.3 Excludable loans

When the principal balance of any loan subject to the limitations of this section has been reduced by amortization or partial prepayment below \$60,000 per dwelling unit, the loan will be excluded when computing the 40 percent limitation.

3:27-5.4 Definitions

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

"Dwelling unit" means a single unified combination of rooms designed for residential use by one family.

"State associations" is defined in section 5 of the Savings and Loan Act (1963), N.J.S.A. 17:12B-5.]

COMMUNITY AFFAIRS

(a)

DIVISION OF HOUSING AND DEVELOPMENT Maintenance of Hotels and Multiple Dwellings Ceiling Height

Proposed Amendment: N.J.A.C. 5:10-22.5

Authorized By: Melvin R. Primas, Jr., Commissioner,
Department of Community Affairs.

Authority: N.J.S.A. 55:13A-7.

Proposal Number: PRN 1990-411.

A **public hearing** concerning this proposal will be held at 10:00 A.M. on Tuesday, September 4, 1990 at 101 South Broad Street, Trenton, New Jersey.

Submit written comments by September 5, 1990 to:

Michael L. Ticktin, Esq.
Chief, Legislative Analysis
Department of Community Affairs
CN 802
Trenton, New Jersey 08625

The agency proposal follows:

Summary

Rooms, spaces and portions thereof in hotels and multiple dwellings are currently deemed to be habitable only if there is a ceiling height of not less than seven feet. The Department has found it necessary to grant exceptions from this rule in a large number of cases involving seasonal hotels (including motels and guest houses) in shore areas, where occupancy of rooms with lesser ceiling heights on a transient basis does not pose any threat to the health or safety of the residents. Rather than continuing to require exception requests in each case, the Department considers it more appropriate to set forth the principle under which exceptions have been granted, as an amendment to N.J.A.C. 5:10-22.5.

Social Impact

This proposed amendment would give owners of older shore area hotels, many of which are historic structures, assurance that they can rent rooms with ceiling heights under seven feet to transient guests. Persons wishing to vacation at the shore will have a wider selection of available rooms.

Economic Impact

Since inadequate ceiling height is virtually impossible to correct in most cases, this proposed amendment would allow building owners to be sure that they will be allowed to rent out rooms that would otherwise be of no economic value to them. If the supply of rooms is thereby increased, transient guests should benefit from lower prices for rentals.

Regulatory Flexibility Analysis

This proposed amendment would have a favorable economic effect on owners of older shore area seasonal hotels, most of whom would qualify as "small businesses" for purposes of the New Jersey Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. No additional compliance, reporting or record keeping requirements are imposed.

Full text of the proposal follows (additions indicated in boldface thus).

5:10-22.5 Required ceiling height

(a) No room or space or portion of a room or space shall be considered habitable unless that room or space or portion of a room or space has a clear ceiling height of at least seven feet, zero inches; **provided, however, that rooms, spaces, and portions of rooms and spaces in hotels that are open and operating less than six months in each year, are located in municipalities bordering on the Atlantic Ocean and are used exclusively for transient occupancy shall be deemed to be habitable regardless of ceiling height unless there is a clear and present danger to the health or safety of the occupants.**

(b) (No change.)

(a)

DIVISION OF HOUSING AND DEVELOPMENT**Uniform Construction Code****Subcodes****Proposed Amendments: N.J.A.C. 5:23-3.4, 3.5, 3.8A, 3.10, 3.11, 3.11A, 3.14, 3.15, 3.16, 3.17, 3.18, 3.20 and 4A.8**

Authorized By: Melvin R. Primas, Jr., Commissioner,
Department of Community Affairs.

Authority: N.J.S.A. 52:27D-123 and 124.

Proposal Number: PRN 1990-397.

Submit comments by September 5, 1990 to:

Michael L. Ticktin, Esq.
Chief, Legislative Analysis
Department of Community Affairs
CN 802
Trenton, NJ 08625

The agency proposal follows:

Summary

The Department proposes to amend N.J.A.C. 5:23-3.4, 3.5, 3.8A, 3.10, 3.11, 3.11A, 3.14, 3.15, 3.16, 3.17, 3.18, 3.20 and 4A.8 to bring them into conformity with the latest editions of the respective model subcodes. The model subcodes are the BOCA National Building Code/1990, the National Standard Plumbing Code/1990, the National Electrical Code/1990, the BOCA National Energy Conservation Code/1990 and the BOCA National Mechanical Code/1990. Modifications made to the new editions of the codes relate to the administration and enforcement procedures of the State Uniform Construction Code and do not alter the technical, substantive provisions of the model codes, except to the extent that it is necessary to do so in order to make the adopted codes consistent with each other.

Modifications have been made to N.J.A.C. 5:23-3.11A to reflect new legislation (P.L. 1990, c.23) allowing qualified enforcing agencies to perform plan review on public school buildings and other structures, under the scope of N.J.A.C. 6:22.

Social Impact

Adoption of the appropriate references to the most recent editions and supplements of the adopted subcodes will allow users of the State Uniform Construction Code to avoid confusion about what code provisions are in effect and to benefit from the most recent technological innovations upon which they are based.

Economic Impact

These substantive technical changes that have become effective by operation of law may decrease construction costs in some cases and, perhaps, increase them in others. Correct cross-referencing, to the extent that it results in diminished uncertainty as to what is required, may be expected to reduce the chance that work will be done in reliance upon obsolete provisions and then have to be corrected at greater expense.

Regulatory Flexibility Statement

Because this proposed amendment, made to ensure that the State Uniform Construction Code remains consistent, merely reflects changes already made by codewriting organizations and in effect in New Jersey by operation of law, there is no identifiable differential impact on small businesses. All businesses, regardless of size, are subject to the adopted subcodes of the State Uniform Construction Code and must remain so in order to maintain uniformly safe standards of construction throughout the State.

Full text of the proposal follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]).

5:23-3.4 Responsibility

(a) Responsibility for enforcement of specific provisions of the building subcode shall be as follows:

1. Plan review functions of sections 513.0, **514.0**, 601.0 through 604.0, 606.0, 607.0, 609.0 through [622.0] **620.0**, and [626.0] **624.0**[;], articles 8[,] and 9 [and 10]; sections 2002.0, [and] 2301.0 and **2302.0**, articles 24 and 25; and sections [2607.0, 2608.0, 2611.0,

2612.0, 2616.0, 2617.0] **2606.0 through 2611.0**, 3018.0 and 3020.0[;] shall be enforced jointly by the building subcode official and fire protection subcode official.

2. Plan review functions of sections 605.0 [and], 608.0, and [623.0 through 625.0] **621.0 through 623.0** shall be enforced exclusively by the building subcode official.

3. Plan review functions of article 10 shall be enforced exclusively by the fire subcode official.

[3.]4. Construction inspection functions of sections 513.0 [and], [601.0 through 626.0] **601.0 through 601.8, 601.13 through 601.14.1, 601.14.3 through 624.0**; articles 8 and 9; sections 2002.0 and **2302.0** [and], article 24, sections **2606.0 through 2607.2 and 2607.4 through 2611.2** shall be enforced exclusively by the building subcode official.

[4.]5. Construction inspection functions of sections **601.9 through 601.12 and sections 601.14.2**, articles 10 and 25; and sections [2608.3] **2607.3, [2611.4, 2617.3] 2610.2.2, 2611.2.1 and 2611.2.2**, 3018.0 and 3020.0 shall be enforced exclusively by the fire protection subcode official.

Recodify existing 5.-6. as **6.-7.** (No change in text.)

(b)-(d) (No change.)

(e) Responsibility for enforcement of specific provisions of the energy subcode shall be as follows:

1.-3. (No change.)

[4. Plan review functions of article 7 shall be enforced by the Department of Community Affairs.]

[5. Construction]4. Plan review and construction inspection functions for structures submitted under article 7 shall be reserved to the respective subcode officials as delineated above.

Recodify existing 6. as **5.** (No change in text.)

(f) Responsibility for enforcement of specific provisions of the Mechanical Subcode shall be as follows:

1. Articles [3,] 12 and 14 and sections **M-301 through M-311, M-900, M-901.3, M-903.1, M-903.3, M-903.4, M-906, and M-908**[;]; Plan review functions shall be enforced jointly by the building and fire protection subcode officials. Construction inspection functions shall be enforced exclusively by the Building subcode official.

2. (No change.)

3. Articles 6, 7, 8, [9,] and 13 and sections **M-901.1, M-901.2, M-901.4 through M-901.9, M-902, M-903.2, M-904, M-905, M-907, M-909, and M-910**[;]; Plan review and construction inspection functions shall be enforced exclusively by the plumbing subcode official.

4. Article 11 and section **M-312**[;]; Plan review functions shall be enforced jointly by the building and fire protection subcode officials; construction inspection functions shall be enforced exclusively by the fire protection subcode official.

5.-7. (No change.)

5:23-3.5 Posting structures

(a) Posted use and occupancy: Every building and structure and part thereof designed for business, factory and industrial, high hazard, mercantile or storage use, (use groups B, F, H, M, and S) as defined in article 2 of the building subcode shall be posted on all floors by the owner with a suitably designed placard in a form designated by the building subcode official, which shall be securely fastened to the structure in a readily visible place, stating[;] the use group[, the fire grading,] and the live load and occupancy load.

(b)-(c) (No change.)

(d) Periodic inspections: The building subcode official or fire protection subcode official may periodically inspect all existing buildings and structures, except one and two-family dwellings, for compliance with the regulations in respect to posting; or they may accept the report of such inspection from an authorized licensed professional engineer or architect; and such inspection and report shall specify any violation of the requirements of the regulations in respect to the posting of floor load, [fire grading,] occupancy load and use group of the building.

(e) (No change.)

5:23-3.8A Products violating the Code

(a)-(c) (No change.)

(d) The Commissioner has determined that the following materials and supplies are not in conformance with the State Uniform Construction Code:

1. Building materials and supplies:

i. Wood paneling being used as an interior finish not in conformance with section [904.2] **903.2** of the building subcode. This section specifies that finish shall be classified in accordance with ASTM E84;

ii. Carpeting used as interior floor finish material not in conformance with section [904.3] **903.3** of the building subcode. This section specifies that interior floor finish shall be classified in accordance with ASTM E648;

2.-4. (No change.)

5:23-3.10 Enforcing agency classification

(a)-(b) (No change.)

(c) Enforcing agencies shall be permitted to perform plan review activities in accordance with the agency classification for the use groups listed in the following schedule (keyed to section 301.0 of the building subcode):

1. Class 3 agencies:

i.-iv. (No change.)

v. Use group R-3 as permitted in the building subcode and including accessory private garages (section 608.0), radio and television antennae (section [624.0] **622.0**) and swimming pools (section [625.0] **623.0**).

2. Class 2 agencies:

i. through viii. (No change.)

ix. Use group **F-1** less than 22,800 square feet, six story, 75 feet high;

x. Use group F-2 less than 34,200 square feet, six story, 75 feet high; [x.]xi. Use group H ([Paint] paint spray booths, section [622.0] 618.9 only);

Recodify existing xi.-xix. as **xii.-xx.** (No change in text.)

3. (No change.)

(d) (No change.)

(e) The [department] **Department** shall issue a roster of enforcing agencies and their classification upon request. Copies may be obtained by contacting the Licensing Section, [Bureau of Construction Code Enforcement, CN 805, Trenton, New Jersey 08625-0805] **Bureau of Technical Services, CN 816, Trenton, New Jersey 08625-0816.**

5:23-3.11 Enforcement activities reserved to the State

(a) The Department of Community Affairs shall be the sole plan review agency for the following structures:

1.-4. (No change.)

[5. Compliance with the energy subcode for structures submitted under the alternative systems and non-depletable energy source provisions of the energy subcode;]

Recodify existing 6. and 7. as **5. and 6.** (No change in text.)

(b)-(f) (No change.)

5:23-3.11A Enforcement activities reserved to other State agencies

(a)-(b) (No change.)

(c) The Department of Education shall be the sole [enforcing] **plan review agency**, except as provided in [section 12 of the act] **N.J.S.A. 52:27D-130 and (d) below**, for the following structures:

1. Public schools;

2. Private schools for the handicapped; and

3. Schools for the handicapped operated by the Department of Human Services.

(d) In lieu of obtaining construction code plan review approval from the State Department of Education, a school district, upon notice to the State Department of Education, may secure construction code plan review approval from any municipal code enforcing agency, pursuant to P.L. 1990, c.23.

1. The municipal code enforcing agency providing construction code plan approval must agree to perform the review and must be appropriately classified for the proposed project in accordance with this chapter.

2. When a review for educational adequacy is necessary, review and approval shall be obtained from the State Department of Education prior to obtaining a construction code plan review, whether this review

is performed by the State Department of Education or by a municipal code enforcing agency.

3. The municipal code enforcing agency performing the construction code plan review may require the payment of any municipal plan review fees.

4. No construction permit shall be issued for a public school facility unless and until the final plans and specifications have been approved by the State Department of Education or an appropriately classified municipal code enforcing agency.

5. The municipal code enforcing agency within the jurisdiction of which the facility is located shall be responsible for construction permit issuance, construction inspection and certificate of occupancy issuance.

6. Amendments to approved plans and specifications for reasons other than educational adequacy shall be submitted for review and approval to the State Department of Education or the municipal code enforcing agency, whichever originally approved the plans.

7. Release of the plans by the State Department of Education or the municipal code enforcing agency, as the case may be, shall not preclude the enforcing agency doing the inspection from requiring subsequent correction of any errors in the plans or from issuing a stop-work order in the event of a violation of the code. In any such case, the enforcing agency doing the inspection shall notify the agency that approved the plans and the Department of Community Affairs.

[(d)](e) The State Department of Education, or the municipal code enforcing agency providing construction code plan approval, shall be responsible for enforcing the following Uniform Construction Code enhancements in public school buildings:

1.-8. (No change.)

5:23-3.14 Building subcode

(a) Rules concerning the building subcode adopted are as follows:

1. Pursuant to authority of P.L. 1975, c.217, the Commissioner hereby adopts the model code of the Building Officials and Code Administrators International, Inc., known as the "BOCA National Building Code/[1987] **1990**," including all subsequent revisions and amendments thereto. This code is hereby adopted by reference as the building subcode for New Jersey subject to the modifications stated in (b) below.

i. (No change.)

ii. "The BOCA National Building Code/[1987] **1990**," including all subsequent revisions and amendments thereto, may be known and cited as the "building subcode".

2. Any references to the mechanical code, plumbing code, **CABO One and Two Family Dwelling Code**, or NFIPA 70 (including reference to Article 27) listed in Appendix A shall be considered a reference to the appropriate adopted mechanical plumbing, **one and two family dwelling**, or electrical subcode in N.J.A.C. 5:23-3.

[3. The 1989 Accumulative Supplement to the BOCA National Building Code/1987 is adopted by reference with modifications as cited in (c) below as part of the building subcode for New Jersey.]

(b) The following articles or sections of the following subcode are modified as follows:

1. (No change.)

2. The following amendments are made to article 2 of the building subcode, entitled "Definitions", section 201.0—general definitions.

i. From the definition of the term "addition", delete the reference "see Section 103.3";

ii. From the definition of the term "alteration" delete the reference "see Section 103.3";

Recodify existing i.-ix. as **iii.-xi.** (No change in text.)

[x.]xii. The definition of the term "dwellings-boarding house" is deleted[, and substitute]. Substitute in lieu thereof, the definition of the term "boarding house" found in N.J.S.A. 55:13B-3;

[xi. The definition of the term "fire limits" is amended to delete the words "this code" and in lieu thereof, substitute "the regulations;"]

xiii. The term and definition of "exterior envelope" is deleted.

Recodify existing xii. as **xiv.** (No change in text.)

[xiii.]xv. The term ["mobile unit is deleted and in lieu thereof, substitute the term "manufactured home." Further, the definition is deleted, and substitute in lieu thereof, the definition] and definition

of "mobile unit" is deleted. Substitute in lieu thereof the term and definition of "manufactured home" found in N.J.A.C. 55:23-1.4;

Recodify existing xiv. as xvi. (No change in text.)

xvii. From the definition of the term "permit", delete the reference "see Section 112.0";

Recodify existing xv.-xvi. as xviii.-xix. (No change in text.)

xx. From the definition of the term "professional engineer or architect", delete the reference "see Section 108.0";

Recodify existing xvii.-xix. as xxi.-xxiii. (No change in text.)

3. The following amendments are made to article 3 of the building subcode entitled "Use Group Classification."

i. Section 309.5 is amended to delete the phrase "not more than three stories in height" on line 2 [and to delete the phrase "One and Two Family Dwelling Code Listed in Appendix A" on lines 3, 4, and 5 and substitute in lieu thereof "one and two family dwelling subcode"];

4. The following amendments are made to Article 5 of the building subcode entitled "General Building Limitations":

i. (No change.)

ii. Section 506.5 is deleted in its entirety.

Recodify existing ii.-iii. as iii.-iv. (No change in text.)

[iv.]v. Section 511.3 is amended to [delete the phrase "or as directed by a decision of the board of appeals" after the word "discretion"] read as follows: "The construction official is hereby authorized to cancel such special approval and to order the demolition of any such construction when any permit conditions have been violated."

Recodify existing v.-vi. as vi.-vii. (No change in text.)

viii. Section 514.5 is amended to delete the term "authorities" and substitute in lieu thereof "authorities having jurisdiction."

5. The following amendments are made to Article 6 of the building subcode, entitled "Special Use and Occupancy Requirements":

[i. Section 600.1 is amended to delete the phrase "code official" and substitute in lieu thereof "construction official";]

[ii.]j. Section 600.2 is amended to delete the phrase "[code official] authority having jurisdiction" and substitute in lieu thereof "construction official";

ii. Section 602.2 "Maintenance and Inspection" is deleted in its entirety;

iii. Section [621.0] 620.0 is amended to delete the phrase "mobile units" and substitute in lieu thereof "manufactured homes";

iv. Sections [621.1 and 621.2] 620.1 and 620.2 are deleted in their entirety;

v. Sections [621.3 and 621.3.1] 620.3 and 620.3.1 are amended to delete the words "mobile units," "unit" and "units" and substitute in lieu thereof "manufactured homes," "home" and "homes";

vi. Section [623.5] 621.5 is amended to add the phrase "to comply with the requirements of the electrical subcode" after the word "grounded";

vii. Section [625.3] 623.3 is amended to delete the phrase "code official" and substitute in lieu thereof "construction official";

viii. Section [625.6] 623.6 is amended to [add] end with the phrase "in accordance with the plumbing subcode" [at the end];

ix. Section [625.6.1] 623.6.1 is deleted;

x. Section [625.6.2] 623.6.2 is amended to [add] end with the phrase "in accordance with the plumbing subcode" [at the end];

xi. Section [625.9] 623.9.3 is amended to delete the phrase "governing body" and substitute in lieu thereof "construction official";

xii. Section [626.1.1] 624.1.1 is deleted in its entirety and the following language is substituted in lieu thereof:

(1)-(3) (No change.)

[xiii. Section 626.5 is amended to delete the phrase "code official" and substitute in lieu thereof "fire protection subcode official";]

[xiv.] xiii. Section [626.6] 624.6 is amended to delete the phrase "code official" and substitute in lieu thereof "construction official."

6. (No change.)

7. The following amendments are made to Article 8 of the building subcode entitled "Means of Egress":

i.-ii. (No change.)

iii. Section 803.7, Exception, is amended to delete the phrase "Section 512.0" and substitute in lieu thereof "the Barrier-Free Subcode".

Recodify existing iii. as iv. (No change in text.)

[iv.] v. Sections [812.4, 812.4.1.2 and 812.4.2] 813.4, 813.4.1.2 and 813.4.2 are amended to delete the phrase "15-pounds (73N)" and substitute in lieu thereof "8-pounds (39N)";

[v.] vi. Section [815.3] 816.3 is amended to delete the phrase "the physically handicapped . . . otherwise" and substitute in lieu thereof "Barrier-Free accessibility shall be in accordance with the Barrier-Free Subcode";

[vi.] vii. [Sections 815.4 and 815.5 are] Section 816.4 is amended to delete the [third] second sentence and substitute in lieu thereof "Barrier-Free accessibility shall be in accordance with the Barrier-Free Subcode.";

[vii. Section 825.6 is amended to delete the phrase "Section 512.0" and substitute in lieu thereof "the Barrier-Free Subcode."]

viii. Section 816.5 is amended to delete the third sentence and substitute in lieu thereof "Barrier-Free accessibility shall be in accordance with the Barrier-Free Subcode."

8. The following amendments are made to Article 9 of the building subcode, entitled "Fireresistive Construction."

[i. Section 902.2 is amended to delete the phrase "or its designation shall be fixed by the approved rules";]

[ii.] i. Sections [904.4.3] 903.4.3 and [922.7.2] 922.8.2 are amended to delete the phrase "code official" and substitute in lieu thereof "fire protection subcode official."

9. The following amendments are made to Article 10 of the building subcode, entitled "Fire Protection Systems":

i. Section 1000.3 is amended to [add the phrase "and fire protection subcode official" following the words "fire department" on lines 5 and 8] delete the phrase "code official" and substitute in lieu thereof "fire protection subcode official";

ii. [Section 1000.6 is amended to delete the words "administrative authority" on line 3 and substitute in lieu thereof, "fire protection subcode official"] Sections 1000.7 and 1000.8 are amended to delete the phrase "code official" and substitute in lieu thereof "fire protection subcode official";

iii. Section 1001.1 is amended to [delete the word] replace the term "department" [on line 2 and in lieu thereof, substitute "fire protection and building subcode officials", and to delete the word "Since" on line 3; and substitute in lieu thereof,] with the phrase "enforcement agency responsible for plan review", and, in the note, to replace the term "Since" with the term "If";

iv. Section 1001.2 is amended to [delete the word] replace the term "department" [on line 1 and substitute in lieu thereof, "fire protection and building subcode officials] with the phrase "enforcement agency responsible for plan review";

[v. Section 1002.22 is amended to delete the "code" on line 4 and substitute in lieu thereof "fire protection subcode"; and to delete the words "and the fire prevention code official" on line 5;

vi. Section 1003.1 is amended to delete the words "administrative authority" and substitute in lieu thereof "fire protection subcode official";

vii. Section 1003.3 is amended to delete the words "code official" and substitute in lieu thereof, "fire protection subcode official";]

[viii.] v. Section[s] 1014.1 and] 1014.3 [are] is amended to delete the term "fire department" on [line 6 and] line 2, and substitute in lieu thereof the phrase "fire protection subcode official";

[ix.] vi. Section [1016.1] 1015.1 is amended to delete the phrase "administrative authority of this jurisdiction" and substitute in lieu thereof "fire protection subcode official";

[x.] vii. Section 1017.3 is amended to delete the words "new and existing" in the first line;

[xi.] viii. Section [1017.7.3] 1016.7.4 is amended to delete the term "code official" on line 2 and substitute in lieu thereof, "fire protection subcode official";

[xii. Section 1017.7.4 is amended to delete the word "department" and substitute in lieu thereof "Fire Protection Subcode Official;]

Recodify existing xiii. and xiv. as ix. and x. (No change in text.)

[xv.] xi. Section [1019.5.4] 1019.4.4 is amended to delete the phrase "fire department" on lines 6 and 7 and substitute in lieu thereof "fire protection subcode official."

10. The following amendments are made to Article 13 of the building subcode entitled "Materials and Tests":

i. Section 1300.2 is amended to delete the term "approved rules" and substitute in lieu thereof "regulations";

[i.] ii. Section [1301.1] 1302.1 is amended to [delete] replace the [words] phrase "approved rules" with the word "regulations" and to replace the phrase "Section 110.0" [and substitute in lieu thereof] with the phrase, "the regulations";

[ii.] iii. Section [1302.1] 1303.1 is amended to delete the phrase "and the approved [rules] procedures" on lines 7 and 8;

[iii.] Section 1303.6 is amended to delete the phrase "the approved rules" on line 10 and substitute in lieu thereof "the regulations";

iv. Section [1304.1] 1305.1 is amended to delete the phrase "the approved rules" on line 5 and substitute in lieu thereof, "the regulations";

v. Section 1308.0 is deleted in its entirety. In addition, any references to section 1308.0 are deleted and in lieu thereof shall be considered a reference to the regulations.

11. The following amendments are made to Article 21 of the building subcode, entitled "Exterior Walls":

i. Section [2102.7] 2101.6.7 is amended to delete the phrase "mobile units" and substitute in lieu thereof "manufactured homes";

ii. Section [2102.8] 2101.6.9 is deleted in its entirety;

iii. Section [2102.9] 2101.6.10 is deleted in its entirety.

12. The following amendments are made to Article 23 of the building subcode entitled "Roofs and Roof Coverings":

i. Section [2301.2 is deleted in its entirety] 2308.1 is amended to delete the phrase "The repair . . . for new roofing."

13. (No change.)

14. The following amendments are made to Article 26 of the building subcode entitled "Elevators, Dumbwaiter and Conveyor Equipment, Installation and Maintenance":

i. Section 2600.1 is amended to delete the phrase "Except as [may be] otherwise provided by statute" in the first line;

[ii.] Section 2600.2 is amended to delete the phrase "and except where more restrictive provisions govern" on lines 1 and 2;

iii. Section 2600.3 is amended to delete the word "exceptions" and substitute in lieu thereof, "variations";

Recodify existing iv.-vi. as ii-iv. (No change in text.)

[vii.] v. Section [2607.4] 2606.3 is amended to delete the phrase "ANSI A117.1 listed in Appendix A" and substitute in lieu thereof "the Barrier-Free subcode";

[viii.] vi. Section [2616.2.2] 2610.2.2 is amended to delete the phrase "code official" and substitute in lieu thereof "fire protection subcode official".

15.-17. (No change.)

18. The following amendments are made to Article 30 of the building subcode, entitled "Precautions During Building Operations":

i. (No change.)

ii. Section 3005.2 is amended to delete the words "and the construction and extension of soil and vent stacks and the location of window openings shall conform to the provisions of section 2805.4" and substitute in lieu thereof, the following language:

(1) "When a new building is erected higher than an existing building, windows or other wall openings shall not be located nearer than 10 feet to an existing soil or vent stack on the lower building unless the owner of the new building [marked] **makes** the necessary provision to extend such soil or vent stacks to a height of not less than two feet above the topmost opening at his own expense and with the approval of the adjoining owner."

(2) (No change.)

iii. (No change.)

19. (No change.)

20. The following amendments are made to Article 32 of the building subcode entitled "Repair, Alteration, Addition and Change of Use of Existing Buildings":

i. (No change.)

21. The following amendments are made to Appendix A of the building subcode entitled "Referenced Standards":

i. (No change.)

ii. Under the subheading "BOCA", delete the following titles:

(1) [National Existing Structure Code] National Property Maintenance Code;

(2) (No change.)

(3) [Basic/] National Private Sewage Disposal Code;

iii. Under the subheading "CABO", delete the following title:

[(1) One and Two Family Dwelling Code;]

Recodify existing (2) as (1) (No change in text.)

[iv. Under the subheading "NFIPA", delete the title "National Electrical Code".]

[(c) The following articles or sections of the 1988 Supplement to the building subcode are modified as follows:

1. The following amendment is made to Article 1 of the building subcode, entitled "Administration and Enforcement":

i. Sections 108.2, 108.2.1, 111.4, 115.2, 115.2.3.2 are deleted.

2. The following amendment is made to Article 2 of the building subcode, entitled "Definitions":

i. The definition, "Inspection, special" is amended to delete the words "Section 108.0" and substitute in lieu thereof "N.J.A.C. 5:23-2.21".

3. The following amendments are made to Article 6 of the building subcode, entitled "Special Use and Occupancy Requirements":

i. Section 602.2 is deleted; and

ii. Section 624.3.1 is amended to delete the word "code" and substitute in lieu thereof "building subcode".

4. The following amendment is made to Article 13 of the building subcode, entitled "Materials and Tests":

i. Delete section 1307.0 Special Inspections in its entirety and substitute in lieu thereof "See N.J.A.C. 5:23-2.18 for Special Inspection requirements".

5. The following amendments are made to Appendix A of the building subcode, entitled "Reference Standards":

i. Delete the entire subheading "ASHRAE" and all titles under this subheading;

ii. Under the subheading "BOCA", delete the following titles:

(1) National Existing Structures Code;

(2) National Plumbing Code; and

(3) Basic/National Private Sewage Disposal Code;

iii. Under the subheading "CABO", delete the following titles:

(1) One and Two Family Dwelling Code; and

(2) Model Energy Code; and

iv. Under the subheading "NFIPA", delete the title "National Electrical Code."]

5:23-3.15 Plumbing Subcode

(a) Rules concerning subcode adopted are as follows:

1. Pursuant to authority of P.L. 1975, c.217, the [commissioner] **Commissioner** hereby adopts the Model Code of the National Association of Plumbing—Heating—Cooling Contractors, known as "The National Standard Plumbing Code/[1987] 1990", including all subsequent revisions and amendments thereto, as the plumbing subcode for New Jersey.

i. (No change.)

2. "The National Standard Plumbing Code/[1987] 1990", including all subsequent revisions and amendments thereto, may be known and cited as "the plumbing subcode".

[3. The 1988 and 1989 supplements to the National Standard Plumbing Code/1987 are adopted by reference with modifications as cited in (c) and (d) below as part of the plumbing subcode for New Jersey.]

(b) The following pages, chapters, sections or appendices of the plumbing subcode are amended as follows:

1. [Number the page containing the Introductory Rate as page "v". At the bottom of this page, delete in its entirety the note referring to local changes.] **Page v: Delete the note referring to local changes under the heading Introductory Note.**

2. (No change.)

3. Chapter 2 of the plumbing subcode, entitled "General Regulations," is amended as follows:

i.-iii. (No change.)

[iv. Section 2.6.1.c is amended to delete the numbers "2.6.12" on line 3 and in lieu thereof substitute "2.6.3."]

Recodify existing v.-ix. as iv.-viii. (No change in text.)

4. Chapter 3 of the Plumbing Subcode, entitled "Materials," is amended as follows:

i.-vi. (No change.)

vii. Sections 3.12.1, 3.12.2, 3.12.3, 3.12.4, and 3.12.5 are deleted in their entirety.

5. Chapter 4 of the plumbing subcode entitled "Joints and Connections" is amended as follows:

[i. Section 4.2.4 is amended to delete the phrase "properly soldered together" on line 4 and to add after line 4 the sentence "Joints for potable water used in copper, brass, or wrought iron fittings should be made with a solder and flux having a lead content of not more than 0.2 percent."]

Recodify existing ii. as i. (No change in text.)

[iii. Section 4.3.2 is amended to delete the word "acceptable" on line 3 and in lieu thereof, substitute "approved".]

Recodify existing iv. as ii. (No change in text.)

6.-7. (No change.)

8. Chapter 7 of the plumbing subcode, entitled "Plumbing Fixtures," is amended as follows:

i-iv. (No change.)

v. Figure 7.4.5 on page 7-3 is amended to [insert the words "21 inches" in the space for clearance on the first fixture. Also] delete the word "Code" and substitute in lieu thereof "Subcode" in the block at bottom.

9. (No change.)

10. Chapter 10 of the plumbing subcode, entitled "Water Supply and Distribution," is amended as follows:

i. Section 10.2 is amended to add the words "in accordance with N.J.A.C. 5:23-3.3" after the words "Administrative Authority" on line 4.

Recodify existing i.-vi. as ii.-vii. (No change in text.)

[vii. Section 10.12.9 is amended to add the words "valves to be accessible" as the title of the section.]

viii. (No change.)

11.-13. (No change.)

14. Chapter 14 of the plumbing subcode, entitled "Medical Care Facility Plumbing Equipment," is amended as follows:

i. Section 14.21 is amended to delete the words "Administrative Authority" and in lieu thereof substitute "Authority having jurisdiction."

Recodify existing i. as ii. (No change in text.)

15.-16. (No change.)

17. Chapter 18 of the plumbing subcode, entitled "Mobile Home and Trailer Park Plumbing Standards," is amended as follows:

i. (No change.)

ii. Section [18.1.1] 18.2.1 is amended to delete the last sentence beginning "Trailer Home Park".

iii. Section [18.1.2.] 18.2.2 is amended to delete the words "or sewerage disposal" on line 1.

[iv. Section 18.1.2(c) is deleted.

v. Section 18.1.2(d) is amended to delete the last phrase, beginning "and shall, in addition, conform to all other pertinent local ordinances and State regulations."]

Recodify existing vi. as iv. (No change in text.)

[vii.] v. Section [18.8.1(b)] 18.8.1.2 is deleted.

[viii.] vi. Section [18.8.2] 18.8.3 is amended to add the phrase "for dependent trailers" after the word "park" on line 1.

[ix.] vii. Section [18.8.3] 18.8.4 is amended to add the phrase "For dependent trailers" after the word "park" on line 1.

18. Appendix D, entitled "Water Conservation," is amended as follows:

i. Item D.2 is amended to insert the numbers 3.5 and 4.0 respectively in the blanks provided.

[i.] ii. Item D.4 is amended to insert the number 3 in the blank provided and to add a note after line 4 to read "Note: See Energy subcode for public lavatories flow rate value."

iii. Item D.5 is amended to insert the number 3 in the blank provided.

iv. Item D.6 is amended to insert the number 3 in the blank provided.

v. Item D.7 entitled "Water Conservation—Barrier Free Lavatory Faucets" is amended to delete the text and substitute in lieu thereof the words "See the State Barrier Free Subcode N.J.A.C. 5:23-7."

19. Appendix E of the plumbing subcode, entitled "Special Design Plumbing Systems," [,] is amended as follows:

i. (No change.)

ii. Section E.4.2 is amended to delete the term "Administrative Authority" and substitute in lieu thereof "Authority Having Jurisdiction."

[(c) The 1988 Supplement to the 1987 National Standard Plumbing Code is adopted with the following amendments:

1. Chapter 15, entitled "Tests and Maintenance", Section 15.3.1, "Testing of Plumbing Systems—General" is amended to delete "only when required by the Administrative Authority"; adding "in accordance with N.J.A.C. 5:23-2.20 and 5:23-3.3(a)3".

2. Chapter 16 of the plumbing subcode, entitled "Regulations Governing Individual Sewage Disposal Systems for Homes and Other Establishments Where Public Sewage Systems Are Not Available" and comprising sections 16.1 through 16.12 is deleted in its entirety with the exception of section 16.1.7 to remain as it is.

Note: Existing standards of the Department of Environmental Protection and boards of health with respect to individual on-site sewage disposal systems remain in effect.

3. Chapter 17 of the plumbing subcode, entitled "Potable Water Supply System Pumps" and comprising sections 17.1 through 17.15.2 is deleted in its entirety.

Note: Existing standards of the Department of Environmental Protection and boards of health with respect to individual on-site water supply systems remains in effect.

4. Chapter 18 of the plumbing subcode, entitled "Mobile Home and Trailer Park Plumbing Standards", is amended as follows:

i. Whenever the term "trailer", "trailer coach", "trailer park", and so forth, is used in this subcode, it shall have the same meaning as "mobile home", "mobile home park", and so forth as used in the building subcode.

ii. Section 18.2.1 is amended to delete the last sentence beginning "Trailer home park".

iii. Section 18.2.2 is amended to delete the words "or sewerage disposal" on line 1.

iv. Section 18.2.2.3 is deleted.

v. Section 18.2.2.4 is amended to delete the last phrase, beginning "and shall, in addition, conform to all other pertinent local ordinances and State regulations".

vi. Section 18.5.8 is amended to add the phrase "and as provided by the authority having jurisdiction" after the words "chapter 10".

vii. Section 18.8.1.2 is deleted.

viii. Section 18.8.3 is amended to add the phrase "for dependent trailers" after the word "park" on line 1.

ix. Section 18.8.4 is amended to add the phrase "for dependent trailers" after the word "park" on line 1.

(d) The 1989 Supplement on the 1987 National Standard Plumbing Code is adopted with the following amendments:

1. Chapter 2 of the Plumbing Subcode, entitled "General Regulations", is amended as follows:

i. Section 2.16 is amended to insert the number "Forty-two" in the blank space under item (a), and to insert the number "Twenty-four" in the blank space under item (b). Under item (c), delete the words "section 3.12.1" and substitute in lieu thereof, the words "N.J.A.C. 5:23-2.9".

2. Chapter 7 of the Plumbing Subcode, entitled "Plumbing Fixtures", is amended as follows:

i. Table 7.4.5 on page 22 is amended to insert the words "21 inches" in the space for clearance at the front of the first fixture. Also delete the word "code" and substitute in lieu thereof "Subcode" in the block at the bottom.

ii. Table 7.24.1 Note #1 is amended to delete the words "for handicapped requirements see local state and nation ordinances" and substitute in lieu thereof, the words "for handicapped requirements see the State Barrier Free Subcode N.J.A.C. 5:23-7.1 et seq."

3. Appendix D of the Plumbing Subcode, entitled "Water conservation," is amended as follows:

i. Item D.4 is amended to add a note after line 4 to read "Note: see Energy subcode for public lavatories flow rate value".

ii. Item D.7 is deleted in its entirety, and substitute in lieu thereof "See the State Barrier Free Subcode, N.J.A.C. 5:23-7.1 et seq."]

5:23-3.16 Electrical subcode

- (a) (No change.)
- (b) The following chapters or articles of the electrical subcode are adopted as follows:
- 1.-3. (No change.)
 4. Chapter 5 of the electrical subcode, entitled "Special Occupancies," [,] is amended as follows:
 - i. In Article 550, entitled "Mobile Homes and Mobile Home Parks", delete from the title "Mobile Homes and".
 - (1) (No change.)
 - (2) Part B, entitled "Mobile Homes", comprising sections 550-5 through 550-15, is deleted in its entirety with the exception of section [550-5(a)] **550-5**, which shall be retained.

(A) **Exception—Part B is retained in its entirety in the case of mobile homes undergoing repair or alteration work.**
 - ii. In Article 551, entitled "Recreational Vehicles and Recreational Vehicle Parks", delete from the title the words "Recreational Vehicles and".
 - (1) Section [551-1(a)] **551-1** is amended to delete the phrase "within or on recreational vehicles" on line 2.
 - (2) Parts B, C, D, E and F, comprising sections 551-10 through 551-60, are deleted in their entirety, **with the exception of Figure 551-46(c), which shall be retained.**

5:23-3.17 Fire protection subcode

- (a) Rules concerning subcode adopted are as follows:
1. Pursuant to authority of P.L. 1975, c.217, as amended, the Commissioner hereby adopts the following portions of the building, electrical and mechanical subcodes to the extent delineated in N.J.A.C. 5:23-3.4, as the Fire Protection Subcode for New Jersey.
 - i. BOCA National Building Code/[1987 with 1989 Accumulative Supplement] **1990** of the Building Officials and Code Administrators International Inc. (N.J.A.C. 5:23-3.14):
 - (1) Sections 513.0 and **514.0** of article 5—General Building Limitations;
 - (2) through (6) (No change.)
 - (7) Sections 2301.0 and 2302.0 of Article 23—Roofs and Roof Coverings;
 - (8)-(9) (No change.)
 - (10) Sections [2608.0, 2611.0, 2612.0, 2616.0 and 2617.0] **2606.0 through 2611.0** of Article 26—Elevator, Dumbwaiter and Conveyor Equipment, Installation and Maintenance;
 - (11) (No change.)
 - ii. (No change.)
 - iii. BOCA National Mechanical Code/[1987 with 1989 Accumulative Supplement] **1990** of the Building Officials and Code Administrators International Inc. (N.J.A.C. 5:23-3.20):
 - (1) **Section 312.0 of Article 3—Air Distribution Systems;** Recodify existing (1) and (2) as (2) and (3). (No change in text.)
 - (4) **Article 9—Flammable and Combustible Liquid Storage and Piping Systems.** Recodify existing (3) as (5). (No change in text.)
 2. (No change.)
 - (b) (No change.)

5:23-3.18 Energy Subcode

- (a) Rules concerning the Energy Subcode adopted are as follows:
1. Pursuant to authority of P.L. 1975, c.217, as amended, the [commissioner] **Commissioner** hereby adopts the model code of the Building Officials and Code Administrators International, Inc., known as the BOCA National Energy Conservation Code/[1987] **1990**, including all subsequent revisions and amendments thereto, as well as the Illuminating Engineering Society's standard known as LEM-1, 1982, "IES Recommended Procedure for Lighting Power Limit Determination," including all subsequent revisions and amendments thereto.
 - i. Copies of the BOCA National Energy Conservation Code/[1987] **1990** may be obtained from the sponsor at BOCA, 4051 West Flossmoor Road, Country Club Hills, Illinois, 60477-5795.
 - ii. Copies of LEM-1, 1982, "IES Recommended Procedure for Lighting Power Determination," may be obtained from the sponsor at IES, 345 East 47th Street, New York, New York 10017.

[2.] iii. The model code and standard listed above, including (where appropriate) all subsequent revisions and amendments thereto, may be known and cited as the "energy subcode."

2. **Any reference to the building code, mechanical code, or plumbing code listed in Appendix A shall be considered a reference to the appropriate adopted building, mechanical, or plumbing subcode in N.J.A.C. 5:23-3.**

(b) The following chapters or articles of the Energy Subcode are amended as follows:

1. The following amendments are made to Article 1 of the Energy Subcode entitled "Scope and Application":
 - i. Section E-100.1 is [amended to delete Exception 4] **deleted in its entirety.**
 - ii. **Section E-100.2 is amended to delete Exception 4.**
 2. Article 2 of the Energy Subcode, entitled "Definitions,"[,] Section E-201—General Definitions, is amended to add the following definitions:
 - i.-x. (No change.)
 - [xi. "Heated Space" means—Space within a building which is provided with heat input from a heating system to maintain an air temperature of 50 degrees F. (10 degrees C.) or higher.] Recodify existing xii. as xi. (No change in text.)
 - [xiii. "New Energy" means—Energy which has not been recovered from mechanical systems within the building and is used for heating and cooling. This energy might be electrical, solar, or result from combustion of fuels.] Recodify existing xiv.-xxix. as **xii.-xxvii.** (No change in text.)
 - 3.-4. (No change.)
 5. The following amendments are made to Article 5 of the Energy Subcode entitled "Plumbing Systems":
 - [i. Section E-502.4 is amended to add the words "unless the water heater outlet temperature is limited to 110 degrees Fahrenheit" after "Appendix A. "] Recodify existing ii. as i. (No change in text.)
 - 6.-8. (No change.)
 - (c) (No change.)

5:23-3.20 Mechanical Subcode

- (a) Rules concerning subcode adopted are as follows:
1. Pursuant to authority of P.L. 1975, c.217, the [commissioner] **Commissioner** hereby adopts the model code of the Building Officials and Code Administrators International, Inc. known as the "BOCA National Mechanical Code/[1987] **1990**," including all subsequent revisions and amendments thereto. This code is hereby adopted by reference as the Mechanical Subcode for New Jersey subject to the modifications stated in [subsection] (b) [of this section] below.
 - i. Copies of this code may be obtained from the sponsor at: BOCA International, 4051 Flossmoor Road, Country Club Hills, Illinois [60477] **60478-5795.**
 - ii. The "BOCA National Mechanical Code/[1987] **1990**," including all subsequent revisions and amendments thereto, may be known and cited as the "mechanical subcode."
 2. (No change.)
 - [3. The 1989 Accumulative Supplement to the BOCA National Mechanical Code/1987 is adopted by reference with modifications cited in (c) below as part of the mechanical subcode for New Jersey.]
 - (b) The following articles, sections or pages of the BOCA National Mechanical Code/[1987] **1990** are amended as follows:
 1. (No change.)
 2. Article 2 of the Mechanical subcode, entitled "Definitions," is amended as follows:
 - i.-ii. (No change.)
 - iii. The definition and term "approved" is amended to delete the words "[mechanical] code official or other."
 - iv.-ix. (No change.)
 - 3.-4. (No change.)
 5. **Article 9 of the mechanical subcode, entitled "Flammable and Combustible Liquid Storage and Piping Systems," is amended as follows:**
 - i. **Section M-900.1 is amended to add the words "For those systems that are subject to the Department of Environmental Protection's Underground Storage Tank Systems rules, N.J.A.C. 7:14B, the re-**

quirements of this article that conflict with DEP rules shall be inapplicable."

Recodify existing 5.-7. as 6.-8. (No change in text.)

[8.] 9. Article [21] 20 of the mechanical subcode, entitled "Boilers and Pressure Vessels, Maintenance and Inspection," is deleted in its entirety, with the exception of section M-2000.2.

Recodify existing 9. as 10. (No change in text.)

[(c) The following articles or sections of the 1988 Supplement to the mechanical subcode are modified as follows:

1. The following amendment is made to article 3 of the mechanical subcode, entitled "Air Distribution Systems":

i. Section M-312.2.2 is amended to delete the word "code" and substitute in lieu thereof "fire protection".

2. The following amendments are made to Appendix A of the mechanical subcode entitled "Reference Standards":

i. Under the subheading "ASHRAE", delete the following titles:

- (1) Thermal Environmental Conditions for Human Occupancy;
- (2) Energy Conservation in New Building Design; and
- (3) Handbook, Fundamentals Volume.

ii. Under the subheading "BOCA", delete the following title:

- (1) Basic/National Plumbing Code.

iii. Under the subheading "NFIPA", delete the following title:

- (1) National Electrical Code.]

5:23-4A.8 Approvals of building systems and compliance assurance programs

(a) Approved evaluation agencies shall be permitted to approve building systems and compliance assurance programs for the following types of industrialized/modular buildings and building components, including, without limitation, the factory built portions of the buildings of the Use groups listed in the Class 3 agency schedule set forth at N.J.A.C. 5:23-3.10(c)1:

1. through 5. (No change.)

6. Factory built portions of buildings of **multiple single-family dwellings** of Use group R-3 of types 5A or 5B construction [meeting the requirements of Section 910.3 of the 1987 edition of the building subcode and] not exceeding 4,800 square feet per floor;

7. through 10. (No change.)

(b) through (d) (No change.)

(a)

DIVISION OF HOUSING AND DEVELOPMENT

Condominium and Cooperative Conversion Mobile Home Park Retirement

Proposed Amendments: N.J.A.C. 5:24-1.1, 1.2, 1.3, 1.6, 1.7, 1.8, 1.10 and 1.11

Authorized By: Melvin R. Primas, Jr., Commissioner,
Department of Community Affairs.

Authority: N.J.S.A. 2A:18-61.12.

Proposal Number: PRN 1990-387.

Submit comments by September 5, 1990 to:

Michael L. Tickin, Esq.
Chief, Legislative Analysis
Department of Community Affairs
CN 802
Trenton, NJ 08625

The agency proposal follows:

Summary

P.L. 1981, c.8 amended P.L. 1975, c.311 so as to extend to mobile home owners in mobile home parks being permanently retired from the rental market the entitlement to the opportunity to be shown comparable housing by the landlord and to petition the court for stays of eviction so long as no such comparable housing is available. The proposed amendments, made in response to a comment on the readoption proposal published at 22 N.J.R. 1455(b), (which readoption is published elsewhere in this issue of the New Jersey Register) amend the rules to reflect that statutory change. Other revisions of a technical nature are also made to the text.

Social Impact

The updating of the text of these rules will make them useful as a source of information for mobile home owners being evicted either by reason of conversion of the mobile home park or by reason of permanent retirement of the mobile home park from rental use.

Economic Impact

The rules establish no economic rights or obligations not already existing by statute. The only economic impact might be that, if the updating of the rules make information as to the rights of mobile home owners more widely known or understood, more mobile home owners are likely to avail themselves of these rights.

Regulatory Flexibility Analysis

These rules, since they restate statutory provisions, impose no new obligations on mobile home park owners, be they "small businesses" as defined in the New Jersey Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq., or larger business entities. The statutory rights of mobile home owners who are tenants in mobile home parks are the same regardless of the form of ownership of the park owner; therefore, no differentiation based on business size has been made in the rules.

Full text of the proposal follows (additions shown in boldface thus; deletions shown in brackets [thus]):

CHAPTER 24 CONDOMINIUM, FEE SIMPLE AND COOPERATIVE CONVERSION AND MOBILE HOME PARK RETIREMENT

SUBCHAPTER 1. GENERAL PROVISIONS

5:24-1.1 Introduction

[(a) Chapter 311 of] P.L. 1975, c.311, which amended and supplemented P.L. 1974, c.49 (N.J.S.A. 2A:18-61.1 through 61.12), became effective [immediately when signed into law] on February 19, 1976. P.L. 1981, c.8, which amended P.L. 1974, c. 49 and P.L. 1975, c.311 so as to extend certain protections to owners of mobile homes in mobile home parks being permanently retired from the rental market, became effective January 26, 1981. The [regulations] rules contained in this [chapter] subchapter have been adopted to enable the Department of Community Affairs ([hereinafter] DCA) to implement [this law] these laws and to assist owners and tenants of properties affected by [this act to more easily and fully comply] them in complying with, and realizing the protection provided by, [the] their requirements [of the act].

5:24-1.2 Procedures; [terms] definitions

(a) When an owner seeks to convert a building from the rental market to a condominium or a cooperative or fee simple ownership of two or more dwelling units, or to convert a mobile home park from the rental market to a condominium or cooperative or fee simple ownership of two or more units or park sites, or to retire a mobile home park permanently from the rental market, there are several procedures required [in section 3(g), 4, 5, 6, 7, 8 and 9 of] to be followed pursuant to N.J.S.A. 2A:18-61.6 through 61.12. [These regulations, as provided in N.J.A.C. 1.9, are to assist owners and tenants to more easily understand and implement the requirements of the act.]

(b) The following terms used in [this act and these regulations] the statutes and these rules are defined as follows:

1.-5. (No change.)

6. "Comparable housing or park site" means housing that is:

i. Decent, safe, sanitary, and in compliance with all local and State housing codes;

ii. Open to all persons regardless of race, creed, national origin, ancestry, marital status or sex; and

iii. Provided with facilities equivalent to that provided by the landlord in the dwelling unit or park site in which the tenant or mobile home owner then resides in regard to each of the following:

- (1) Apartment size, including number of rooms, or park site size;
- (2) Rent range;
- (3) Apartment's major kitchen and bathroom facilities; and
- (4) Special facilities necessary for the handicapped or infirm;

iv. Located in an area not less desirable than the area in which the tenant or mobile home owner then resides in regard to each of the following:

(1) Accessibility to the tenant or mobile home owner's place of employment;

(2) Accessibility of community and commercial facilities; and

(3) Environmental quality and conditions; and

v. In accordance with additional reasonable criteria that the tenant or mobile home owner has requested in writing at the time of making any request under P.L. 1975, c.311, as amended.

5:24-1.3 Documents required; conversion

(a)-(e) (No change in text.)

5:24-1.6 [Tenants] Rights of tenants and mobile home owners in occupancy

(a) Tenants in occupancy prior to the recording of the master deed, deed establishing a fee simple lot or deed transferring the property to a cooperative corporation or association who have received the three year notice of eviction on the grounds of conversion, or mobile home owners who have received the 18 month notice of eviction on the grounds of permanent retirement of the mobile home park from the rental market, have the right, for 18 full months after the receipt of such notice, to request of the landlord, and to be offered by the landlord, personally or through an agent, a reasonable opportunity to examine and rent "comparable housing," as defined in N.J.A.C. 5:24-1.2.

[1. "Comparable housing" means housing, or a park site in the case of a mobile home owner, which means the following criteria:

i. Decent, safe, sanitary and in compliance with all local and State housing codes;

ii. Open to all persons regardless of race, creed, national origin, ancestry, marital status or sex;

iii. Provided with facilities equivalent to that provided by the landlord in the dwelling unit in which the tenant then resides in regard to each of the following:

(1) Apartment size including number of rooms;

(2) Rent range;

(3) Major kitchen and bathroom facilities;

(4) Special facilities necessary for the handicapped or infirm.

iv. Located in an area not less desirable than the area in which the tenant then resides in regard to each of the following:

(1) Accessibility to the tenant's place of employment;

(2) Accessibility of community and commercial facilities;

(3) Environmental quality and conditions; and

v. In accordance with additional reasonable criteria which the tenant has requested in writing at the time of making any request under this act and regulations. A tenant must request any additional reasonable criteria in writing at the same time as making the original request as in paragraph 2 below.]

[2.](b) In order to be deemed to have offered a tenant or a mobile home owner a ["Offer] reasonable opportunity to examine and rent[" is defined specifically for purposes of the act, as follows: The owner] comparable housing, a landlord, or a person clearly authorized by a letter to the tenant or mobile home owner to be the [owner's] landlord's agent, must offer a comparable rental unit or mobile home park site fulfilling the definition of "comparable housing" [as in (a) above] set forth in N.J.A.C. 5:24-1.2. An offer of comparable housing must include the following elements[.]:

1. The offer must be made with reasonable notice in order to give the tenant or mobile home owner a fair opportunity to examine and rent the unit or mobile home park site. Reasonable notice [then] must be given to the tenant or mobile home owner by personal service or certified mail no less than 72 hours in advance, exclusive of legal holidays, of the opportunity to examine comparable housing[.];

2. If the landlord of the proposed comparable unit or mobile home park site should reject the application of any tenant or mobile home owner for such comparable housing, the offer [cannot] shall not be construed as an offer of comparable housing as required in these [regulations] rules[.]; and

3. In no case [will] shall a comparable rental unit or mobile home park site be deemed to have been offered if it was not available to be rented to the tenant or mobile home owner.

5:24-1.7 Evictions

(a) In order to evict for [this cause] conversion from the rental market to a condominium, cooperative or fee simple ownership of two or more dwelling units or park sites at the end of the three year notice period, or in order to evict for permanent retirement of a mobile home park from the rental market and the end of the 18 month notice period, the [owner] landlord must prove in court that the tenant or mobile home owner was offered comparable housing as requested and as defined in N.J.A.C. 5:24-[1.6(a)]1.2 and reasonable opportunity to examine and rent such housing, as described in N.J.A.C. 5:24-1.6(b).

(b) The court has authority under [this act] P.L. 1975, c.311, as amended, to authorize one-year stays of eviction with reasonable rent increases until the court is satisfied that the tenant or mobile home owner has been offered comparable housing and a reasonable opportunity to examine and rent such housing.

(c) If, after at least one one-year stay has been authorized, the [owner] landlord provides the tenant or mobile home owner with a "hardship relocation compensation," which shall consist of a waiver of payment of five months' rent, and has demonstrated this to the court, then the court cannot authorize any further stays. A warrant for possession could then issue at the end of the one-year stay.

(d) If the [owner] landlord does not provide the relocation compensation of five months' rent and fails, [to] within one year of a prior stay, to allege to the court that the tenant was offered a reasonable opportunity to examine and rent comparable housing, the court shall automatically renew the one-year stay.

(e) The court can grant up to five[,] one-year stays if evidence is not provided to the court of a reasonable opportunity to examine and rent comparable housing or of the payment of a hardship relocation compensation of waiver of payment of five months' rent.

5:24-1.8 Moving expense compensation

Any tenant whose tenancy began before the conversion, and is not evicted on grounds other than that of a conversion, and any mobile home owner who is not being evicted on grounds other than permanent retirement of the mobile home park from the rental market, shall receive from the [owner] landlord a moving expense compensation of a waiver of payment of one month's rent. No warrant of possession can be given until payment of one month's waiver has been proved. Even if tenants or mobile home owners leave without eviction proceedings, they are entitled to the waiver of payment of one month's rent. Nothing in this section in any way waives the rights of other parties under the security deposit law.

5:24-1.10 [Owner's] Landlord's liability

(a) The [owner or owner purchaser] landlord, whether the owner of the building or of the unit, can be liable to a former tenant in a civil action for triple damages plus attorney's fees and court costs for violating the requirements of [section 9 of this chapter] N.J.A.C. 5:24-1.9.

(b) This penalty of triple damages plus attorney's fees and court costs is also applicable where a tenant vacates the premises after being given a notice alleging that the [owner] landlord seeks to personally occupy the premises under [sections L(1) or L(2)] paragraph L of N.J.S.A. 2A:18-61.1, and the [owner] landlord thereafter arbitrarily fails to execute the contract for sale or take personal occupancy, but instead permits personal occupancy by another tenant.

(c) This penalty of triple damages plus attorney's fees and court costs is also applicable where a tenant or mobile home owner vacates the premises after being given a notice alleging that the landlord seeks to permanently board up or demolish the premises or retire the premises from rental use under subparagraph g(1) or paragraph h of N.J.S.A. 2A:18-16.1 and the landlord thereafter permits personal occupancy of the premises by another tenant or mobile home owner within five years of such vacancy.

(d) A tenant [would have to] must sue in a civil court action to recover any such damages.

5:24-1.11 Copies of [these regulations] this subchapter required to be furnished to certain tenants

(a) [A copy of these regulations] Copies of this subchapter shall be provided to [each and every tenant] all tenants of buildings, and all mobile home owners in mobile home parks, either about to be, or

being, converted to a condominium or cooperative or fee simple ownership of two or more units or park sites as part of the 60-day notice of intent to convert and the full plan of conversion. The mobile home owner or tenant's receipt of a copy of these [regulations will] rules shall be interpreted as being an integral and procedurally necessary part of the "full plan of conversion" described in N.J.A.C. 5:24-[1.11]1.5.

(b) Copies of this subchapter shall be provided to all mobile home owners in mobile home parks being permanently retired from the rental market at or prior to the time at which eviction notices are served.

HUMAN SERVICES

(a)

DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

Legal Assistance for Medicare Patients (LAMP) Extension of Eligible Services

Proposed Amendment: N.J.A.C. 10:13-2.2

Authorized By: Alan J. Gibbs, Commissioner, Department of Human Services.

Authority: N.J.S.A. 30:4H-1 et seq., specifically 30:4H-4.

Proposal Number: PRN 1990-384.

Submit comments by September 5, 1990 to:

Henry W. Hardy, Esq.
Administrative Practice Officer
Division of Medical Assistance
and Health Services
CN-712
Trenton, NJ 08625-0712

The agency proposal follows:

Summary

This proposed amendment concerns rules governing the Legal Assistance for Medicare Patients (LAMP) Program, which provides legal assistance in New Jersey to Medicare beneficiaries who are denied Medicare coverage for health care services.

The LAMP contractor is the Community Health Law Project.

The current text of the rule indicates that in the third contract year, LAMP program legal services will continue for home health care, skilled nursing facility and rehabilitation appeals. The rule also requires that if the Department desires to include other Medicare Part A and/or B services in the LAMP program, an amendment to these rules is necessary.

Therefore, the proposed amendment indicates the inclusion of all Medicare services within the scope of the LAMP program. The additional services include, but are not limited to, acute care hospital services, durable medical equipment, and some ambulance transport services. By including the full range of Medicare services in the LAMP program, the LAMP contractor will be able to appeal the denial of all Medicare services on behalf of a Medicare beneficiary.

The requirement that additional Medicare services be included in the LAMP program by regulatory amendment is being deleted. There does not appear to be a need for this restriction now that all Medicare services are included.

The LAMP contractor still retains the right to file appeals resulting from denials of the three services already mentioned in the existing text of the rule.

Social Impact

The proposed amendment impacts upon elderly and/or disabled Medicare beneficiaries who are denied Medicare services. The proposed amendment will enable Medicare beneficiaries to be represented by the LAMP contractor on all denials made by Medicare.

The proposed amendment impacts upon the LAMP contractor, who will be able to provide representation on Medicare denials beyond the three services that are listed in the current text of the rule.

Economic Impact

There will be no economic impact associated with this proposed amendment. There is no change in the amount of reimbursement between the Department and the LAMP contractor.

Medicare beneficiaries who are at or below 250 percent of the Federal poverty income level are not required to pay towards the cost of the legal fees. Medicare beneficiaries whose income is above 251 percent of the Federal poverty income level are required to pay a co-payment as specified by the rules (see N.J.A.C. 10:13-5.2).

Regulatory Flexibility Statement

The proposed amendment does not require a regulatory flexibility analysis because the Community Health Law Project is the only contractor under the LAMP program, and is "dominant in its field" under the Regulatory Flexibility Act (N.J.S.A. 52:14B-16 et seq.) and because its prospective clients, that is, Medicare beneficiaries, cannot be considered small businesses as defined by the Act.

Full text of the proposal follows (additions indicated in boldface thus; deletions indicated by brackets [thus]):

10:13-2.2 Eligible services

(a)-(b) (No change.)

(c) In the third contract year, LAMP program legal services will [continue for] **expand to cover all Medicare services, including, but not limited to, acute care hospital services, out-patient services, physician services, durable medical equipment, and some ambulance transportation services while continuing home health care, skilled nursing facility and rehabilitation hospital appeals.** [The Department will identify other Medicare Part A and/or Part B services for inclusion in the LAMP program by means of amendments to these rules.]

(d) (No change.)

(b)

DIVISION OF MENTAL HEALTH AND HOSPITALS

Community Mental Health Services Act Confidentiality of Records

Proposed Amendment: N.J.A.C. 10:37-6.79

Authorized By: Alan J. Gibbs, Commissioner, Department of Human Services

Authority: N.J.S.A. 30:9A-10.

Proposal Number: PRN 1990-385.

Submit comments by September 5, 1990 to:

Alan Kaufman, Director
Division of Mental Health and Hospitals
CN 727
Trenton, New Jersey 08625

The agency proposal follows:

Summary

N.J.A.C. 10:37, the Community Mental Health Services Act rules, became effective November 3, 1980 (see 12 N.J.R. 580(a) and 12 N.J.R. 704(g)). N.J.A.C. 10:37-6.79 provides for the disclosure of the contents of a client's records kept by State-funded community mental health programs. Generally, such disclosure is pursuant to either consent of the client, parent or guardian, or by a court order directing the disclosure, or is to the Division of Youth and Family Services in connection with investigations of abuse or neglect of a minor (N.J.A.C. 10:37-6.79(a)1). As an exception, certain specific representatives are also entitled to such disclosure without either client consent or court order (N.J.A.C. 10:37-6.79(a)2).

At the request and recommendation of the Attorney General's Office, the Division of Mental Health and Hospitals has added the State and County Medical Examiners, when they are making investigations conducting autopsies, to the list of specific representatives at N.J.A.C. 10:37-6.79(a)1, specifically at N.J.A.C. 10:37-6.79(a)1iv(3).

In recent years, some instances have arisen of State or County Medical Examiners being required by community mental health agencies to obtain court orders in order to gain disclosure of client records. The proposed amendment intends to acknowledge and accommodate these statutorily authorized activities of the State and County Medical Examiner (see N.J.S.A. 52:17B-78 et seq.).

Social Impact

The only significant social effect of this proposed amendment would be beneficial as it spares the State and County Medical Examiners' Offices

the burden of obtaining court orders for disclosure of these clients' records. In the past, court orders had been obtained when needed at the social cost of time and effort expanded. No further social impact is anticipated.

Economic Impact

This proposed amendment provides a beneficial economic impact as it eliminates the financial cost of securing court orders related to former clients of State-funded community mental health programs. No other economic impact is expected.

Regulatory Flexibility Analysis

The proposed amendment affects the mental health agencies and hospitals under contract with the Division of Mental Health and Hospitals to provide services under its community mental health programs. Some of these agencies may be considered small businesses as defined by the Regulatory Flexibility Act because they employ less than 100 full-time employees (see N.J.S.A. 52:14B-16 et seq.).

The proposed amendment sets out an additional compliance requirement on the service providers regarding the disclosure of the contents of a deceased client's records to State and County Medical Examiners. No capital costs beyond those minor costs presently associated with records disclosure (for example, photocopying) will be incurred under this amendment. No additional professional services will be needed for compliance.

A lesser disclosure requirement cannot be provided to agencies qualifying as small businesses, for to do so would run counter to the amendment's purpose to accommodate the statutory activities of State and County Medical Examiners.

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

10:37-6.79 Confidentiality of records

(a) These requirements govern the disclosure of information and records of persons who are receiving or have received State-funded mental health services. This section shall only apply to people for whom a formal client record has been established.

1. Disclosure of records and information to third parties: All information and records directly or indirectly identifying any person currently or formerly receiving services from an agency (client) shall be treated as confidential, and may only be disclosed in the following circumstances to persons presenting appropriate identification:

i.-iii. (No change.)

iv. Client records may also be disclosed to:

(1) Clinical records audit teams, monitoring and site review staff designated by the Division, the Office of Legislative Services; [and]

(2) A person participating in a Professional Standards Review Organization[.]; and

(3) **Officials within the offices of the State Medical Examiner or a County Medical Examiner making investigations conducting autopsies, pursuant to N.J.S.A. 52:17B-78 et seq.**

(a)

DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

Pharmacy Manual

Proposed Readoption: N.J.A.C. 10:51

Authorized By: Alan J. Gibbs, Commissioner, Department of Human Services.

Authority: N.J.S.A. 30:4D-6b(6), 7, 7a, b, and c; 30:4D-12; 30:4D-20.

Agency Control No.: 89-P-29.

Proposal Number: PRN 1990-381.

Submit comments by September 5, 1990 to:

Henry W. Hardy, Esq.
Administrative Practice Officer
Division of Medical Assistance
and Health Services
CN 712
Trenton, NJ 08625-0712

The agency proposal follows:

Summary

Pursuant to Executive Order No. 66(1978), N.J.A.C. 10:51, Pharmacy Manual, expires on October 28, 1990. This proposed re-adoption is designed to re-adopt all five subchapters.

An administrative review has been conducted, and a determination made that all subchapters should be continued because the rules are necessary, reasonable, adequate, efficient, and responsive for the purposes for which they were promulgated. Providers of pharmaceutical services must be aware of the program requirements, reimbursement structure, and billing procedures in order to dispense medication and be paid for this service. Medicaid or Pharmaceutical Assistance to the Aged and Disabled Program (PAAD) patients must be aware of the services that are covered.

Subchapter 1, Pharmaceutical Services, describes the basic program requirements for the New Jersey Medicaid Program. The topics covered include the requirements for participation in the Medicaid program, covered and noncovered services, those persons who are eligible to prescribe drugs and medicines, policies governing quantity of medication, dosage, refills and the basis of payment. In general, this subchapter deals primarily with the requirements for Title XIX (Medicaid). The PAAD program is mentioned only when there is a reference to claim processing or fees, because in these instances the Medicaid and PAAD programs use the same system with the same reimbursement rate.

Subchapter 2, Billing Procedures, describes the proper method for a provider of pharmaceutical services to submit a claim for either the Medicaid or PAAD program. The same claim form (MC-6) is used for both programs and is processed by New Jersey Blue Cross, acting as Fiscal Agent for the Division of Medical Assistance and Health Services. The rule contains instructions for completion of the form, use of payment vouchers, an explanation of the claim return statement and pharmacy adjustment request and tape-to-tape claims processing.

Subchapter 3 describes services for patients in long term care facilities.

Subchapter 4 describes the conditions and responsibilities for a consultant pharmacist.

Subchapter 5 describes the policies and procedures for the PAAD program that relate to the dispensing of legend drugs and drug products. The PAAD program does not pay for non-legend (over the counter) drugs pursuant to State law (N.J.S.A. 30:4D-22). The PAAD subchapter does not pertain to program eligibility, since this appears at N.J.A.C. 10:69A.

There have been amendments since the last re-adoption. The time frames for claim submittal were extended to 180 days (from date of service) for pharmaceutical providers. In addition, the reference to timely claim submittal for all providers was incorporated into one section in the Administration Manual, which is cited as N.J.A.C. 10:49-1.12 (see R.1987 d.408 at 19 N.J.R. 1800(a)). The time frame was subsequently extended to one year from date of services for pharmaceutical providers. This was accomplished by an amendment to the centralized reference for time frames for provider claim submittal at N.J.A.C. 10:49-1.12 (see R.1988 d.541 at 20 N.J.R. 2915(a)).

Another amendment concerned an emergency rule and concurrent proposal, which was subsequently adopted, pertaining to Federal legislation eliminating the Federal MAC (maximum allowable cost) program and substituting new methods for determining specific upper limits for certain multiple source drugs, but essentially retaining the estimated acquisition costs (EAC) provisions intact. In essence, the amendment imposed limits on the Division's payment for drugs and drug products in both the Medicaid and PAAD programs. (The emergency rule was effective as R.1987 d.494. See 19 N.J.R. 2203(a); the concurrent proposal was adopted as R.1987 d.48. See 20 N.J.R. 288(a)).

Social Impact

The proposed re-adoption impacts on all Medicaid patients who may need prescription drugs. The proposed re-adoption also impacts upon PAAD beneficiaries because it indicates the drugs and drug products available to them.

The proposed re-adoption also impacts on some patients in LTCFs.

The proposed re-adoption continues to make available access to prescription drugs that are properly prescribed for eligible individuals.

The proposed re-adoption impacts on pharmacies that participate in the Medicaid and/or PAAD programs, and it sets forth the standards that must be met by such pharmacies. These standards include, but are not limited to, licensure, necessary record keeping and procedures to be followed for submitting claims to either the Medicaid and/or PAAD program.

The proposed readoption also impacts on pharmacists that act as consultants for LTCFs.

Economic Impact

There is no cost to the Medicaid patient for pharmaceutical services. PAAD beneficiaries are required by law to pay a \$2 co-payment for each prescription (N.J.S.A. 30:4D-22); the remainder of the covered prescription is paid by the PAAD program, in accordance with established fee schedules.

The economic impact on pharmaceutical providers varies, depending on the number of Medicaid and/or PAAD prescriptions dispensed. Pharmacies are reimbursed in accordance with the policies and procedures set forth in the Pharmacy Manual, provided the claims are timely and accurately submitted to the Fiscal Agent.

The Division spent approximately \$134,806,883 (Federal-State share combined) in State Fiscal Year (FY) 1989.

The PAAD program is wholly State-funded. The Division spent approximately \$121,170,969 in State FY 1989.

Regulatory Flexibility Analysis

The rules proposed for readoption impact upon pharmacies, many of whom would be considered small businesses under the terms of the Regulatory Flexibility Act (N.J.S.A. 52:14B-16). The readoption of these rules does not impose any additional reporting, record keeping, or other compliance requirements other than those contained in the current text. Pharmaceutical providers participating in either the Medicaid and/or PAAD programs are required by State law to maintain sufficient records to fully disclose the name of the person receiving the service, the date the service was rendered, the nature and extent of the service, etc. (N.J.S.A. 30:4D-12) The existing rules require pharmaceutical providers to possess the necessary licenses and permits, as appropriate.

This proposed readoption does not require pharmacies to retain other professional services, such as accountants, consultants, billing agencies, etc., unless they choose to do so. There are no initial capital costs associated with the readoption. The annual compliance cost for a pharmacy would really depend on how the pharmacy structures its business, that is, is it independently owned and operated, or whether it is part of a large chain store operation.

The proposed readoption is designed to minimize the impact on small businesses by not changing existing program requirements.

It should be noted that the primary intent of the Division's rules governing pharmacy providers relates to the delivery of drugs and drug products to Medicaid patients or PAAD beneficiaries, the payment of claims for dispensing drugs and drug products, and the right to audit providers for both services and payment.

Full text of the proposed readoption may be found at N.J.A.C. 10:51.

(a)

DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

Pharmaceutical Assistance to the Aged and Disabled

Eligibility Factors, Including Income Exclusion, Renewals

Proposed Amendments: N.J.A.C. 10:69A-5.3, 6.1, 6.2 and 6.10

Authorized By: Alan J. Gibbs, Commissioner, Department of Human Services.

Authority: N.J.S.A. 30:4D-20, 21, 24.

Proposal Number: PRN 1990-388.

Submit comments by September 5, 1990, to:

Henry W. Hardy, Esq.
Administrative Practice Officer
Division of Medical Assistance
and Health Services
CN-712
Trenton, NJ 08625

The agency proposal follows:

Summary

The Department proposes amendments to the rules governing eligibility, and renewal of eligibility for Pharmaceutical Assistance to the Aged and Disabled (PAAD) beneficiaries.

According to current rules, persons who are already PAAD beneficiaries have to complete renewal forms annually, unless their annual income is below \$10,000 for a single person or \$13,000 for a married person. These figures are being increased by these proposed amendments by \$1,000 to \$11,000 for a single person and \$4,000 for a married person, respectively. PAAD beneficiaries whose income falls below these new levels will have to complete a renewal application every two years. The PAAD Program will advise the beneficiary if he or she needs to complete a renewal form approximately four months prior to his or her eligibility expiration date.

The rationale for allowing PAAD beneficiaries to complete renewal applications every two years is that generally persons whose income is below the income levels of \$11,000 and \$14,000 do not experience a significant increase to raise them above the statutory limit. However, if single or married persons' income did increase above the statutory limit, then they would be obligated to report this increase to the PAAD Program (see N.J.A.C. 10:69A-6.2(i)).

The proposed amendments also indicate that there are two categories of income exempt from PADD eligibility determinations. One source of exempt income is stipends from VISTA and foster grandparents, while a second is payments from the Agent Orange Settlement fund.

The proposed amendment to N.J.A.C. 10:69A-6.1(a) also explains that individuals under age 65 who receive disability benefits (under Title II of the Social Security Act) on behalf of someone other than themselves are ineligible for PAAD. In essence, persons acting in a representative capacity do not become eligible for PAAD merely because they received a check from Social Security on behalf of a disabled person.

Social Impact

The proposed amendments impact on PAAD applicants and beneficiaries. Applicants whose income falls within the protected categories will have this income excluded from eligibility determinations. This change may facilitate PAAD eligibility for some individuals.

Beneficiaries whose income falls below the specified levels will have to complete a renewal application every two years instead of annually. This requirement actually reduces the frequency of renewal applications for persons within the income categories. However, the income eligibility levels are not affected by the proposed amendment.

The Division wishes to clarify the situations where an individual may be receiving disability benefits on behalf of someone who is disabled (under Title II of the Social Security Act). Only the disabled individual would possibly be considered eligible for PAAD program participation.

Economic Impact

The proposed amendments have virtually no economic impact. The renewal figures governing the frequency of renewal applications do not change the statutory income eligibility criteria. It is doubtful that there would be a significant number of persons added to the PAAD eligibility roles as the result of the additions to the list of excluded sources of income.

There should be no economic impact on pharmaceutical providers, who will continue to fill prescriptions for PAAD eligibles. There is no change in reimbursement associated with this proposal.

PAAD beneficiaries are required by law to pay a \$2.00 copayment for each prescription (N.J.S.A. 30:4D-22); the remainder of the covered prescription is paid in accordance with established fee schedules.

Regulatory Flexibility Statement

A regulatory flexibility analysis is not required. The persons affected by these proposed amendments are not small businesses as defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The persons affected are individual applicants and/or beneficiaries of PAAD.

The PAAD Program is administered by the Division of Medical Assistance and Health Services, which is a governmental agency.

Full text of the proposal follows (additions indicated in boldface thus; deletions indicated by brackets [thus]):

10:69A-5.3 Eligibility effective date

(a) (No change.)

(b) A PAAD beneficiary [must] **shall** renew his/her eligibility every year unless his/her annual income is below [**\$10,000**] **\$11,000**

for single persons or [\$13,000] **\$14,000** for married persons. In that case, he/she would renew every two years. Approximately four months prior to his/her eligibility expiration date, PAAD will advise the beneficiary if he/she is eligible for biennial eligibility, or if he/she will be required to complete a renewal form.

1.-2. (No change.)

10:69A-6.1 Age

(a) To be eligible for PAAD, the applicant [must] **shall** be 65 years of age or older or [must] **shall** be under 65 and over 18 years of age and receive Social Security Title II disability benefits. **Individuals under age 65 who receive disability benefits on behalf of someone other than themselves are ineligible.** The applicant [must] **shall** be able to document his or her age upon request by the Division of Medical Assistance and Health Services. The Division will require that the [application] **applicant** submit a photocopy of his or her certificate or other [acceptance] **acceptable** proof of age if over 65 years of age.

(b)-(c) (No change.)

10:69A-6.2 Income standards

(a)-(b) (No change.)

(c) All income, from whatever source derived, is considered in determining eligibility for the purposes of PAAD. Jointly owned income sources will be allocated according to degree of ownership.

1. (No change.)

2. Sources of income which are excluded in considering eligibility for PAAD are as follows:

i.-iv. (No change.)

v. **Stipends from the Volunteers to Service in America (VISTA) and Foster Grandparents programs;**

vi. **Agent Orange payments.**

(d)-(i) (No change.)

10:69A-6.10 Eligibility period

(a) A PAAD eligibility card is effective for one year. The PADD beneficiary [must] **shall** renew his/her eligibility every year unless his/her income is below [\$10,000] **\$11,000** for single persons or [\$13,000] **\$14,000** for married persons. In that case, he/she would receive an updated eligibility card automatically for the second year, and would complete a renewal application every two years.

(b) (No change.)

(a)

DIVISION OF ECONOMIC ASSISTANCE

Food Stamp Program

Miscellaneous Program Requirements

Proposed Amendments: N.J.A.C. 10:87-1.14, 4.3, 5.9, 5.10, 5.11, 6.3, 7.14, 10.2, 10.10, and Appendix A

Authorized By: Alan J. Gibbs, Commissioner,
Department of Human Services.

Authority: N.J.S.A. 30:4B-2; 7 CFR Parts 245 and 273; P.L.

99-498, P.L. 99-198, P.L. 99-603, P.L. 100-50, and P.L. 100-435.

Proposal Number: PRN 1990-398.

Submit comments by September 5, 1990 to:

Marion E. Reitz, Director
Division of Economic Assistance
CN 716
Trenton, New Jersey 08625

The agency proposal follows:

Summary

The proposed amendments set forth general technical amendments to correct printing errors and incorporate changes in Federal requirements into the Food Stamp Program rules, in response to passage of Federal legislation and the issuance of clarifying Federal food stamp provisions.

The proposed amendment at N.J.A.C. 10:87-1.14(b)9 specifies that county welfare agencies (CWAs) are to release information to school districts for the purpose of verification of eligibility for the free school meals program. The proposed amendment clarifies that Aid to Families

with Dependent Children and food stamp households are categorically eligible to receive free school meals.

The proposed amendment at N.J.A.C. 10:87-4.3(a)1 corrects a cross-reference concerning lump sum payments.

The proposed amendment deleting text at N.J.A.C. 10:87-5.9(a)7-8 clarifies income exclusions of educational funds, in accordance with 7 CFR 273.9(c), to ensure conformity with Federal requirements.

The proposed amendment at N.J.A.C. 10:87-5.10 clarifies that CWAs need not adjust certain household medical expenses when the annual adjustment to food stamp allotments takes place. Food stamp allotments are adjusted annually in accordance with 7 CFR 273.9(e) and 273.10(e). The semiannual adjustment to allotments was eliminated by Congress in 1981.

The proposed amendment at N.J.A.C. 10:87-5.11(b) corrects, in accordance with 7 CFR 273.9(c)(4), the introductory portion of the definition of an institution of post-secondary education which was inadvertently omitted during prior recodification.

The proposed amendments at N.J.A.C. 10:87-5.11(d), (e), (f), (g) and (i) reflect a requirement of P.L. 100-50 which revised the Higher Education Act of 1986 (P.L. 99-498) by stating that moneys "made available" for educational expenses are excluded as income and resources for food stamp purposes. The previous exclusion stated that educational assistance had to be "used" by the student for educational purposes, which placed the burden of verification on the student. Language has been added at N.J.A.C. 10:87-5.11(e) which states that origination fees and insurance premiums on student loans are excludable charges, in accordance with 7 CFR 273.9(c)(3).

The proposed amendment at N.J.A.C. 10:87-6.3 specifies that any household receiving a notice of expiration at the time of certification shall not be subject to proration for the first month of its certification period, if the deadline for filing the recertification application occurs after the end of its current certification period.

The proposed amendments at N.J.A.C. 10:87-7.14(a) and (c) specify how to treat the income and resources of individuals who fail to attest to their citizenship or alien status when determining the eligibility and benefit level of remaining household members, in accordance with the Federal regulations at 7 CFR 273.11.

The proposed amendment at N.J.A.C. 10:87-7.14(c)3 stipulates that the dependent care deduction is to be applied separately from the shelter deduction when determining the food stamp income of a household containing an ineligible member. The Food Security Act of 1985 (P.L. 99-198) established the dependent care deduction as a separate deduction from the shelter deduction.

The proposed amendment at N.J.A.C. 10:87-10.2, deleting text at N.J.A.C. 10:87-10.2(c)6 and 7, requires that the number of persons disqualified from the Food Stamp Program for failure to comply with an employment and training (E & T) requirement or the number of E & T participants who become employed are not to be identified on the FNS-583 Report.

The proposed amendments at N.J.A.C. 10:87-10.10(a) and (b) delete all reference to quitting the "most recent" job. Deletion of the phrase "most recent" aligns New Jersey's Food Stamp Program with Federal regulations at 7 CFR 273.7.

The proposed amendment at Appendix A requires the Division of Economic Assistance or the CWAs to complete Form FNS-135, Affidavit of Return or Exchange of Food Coupons, when forwarding returned coupons to the United States Department of Agriculture.

Social Impact

The social impact on the population served is anticipated to be negligible as the proposed amendments are primarily designed to clarify rules and facilitate CWA administrative procedures. The proposed amendment at N.J.A.C. 10:87-7.14 clarifies that income and resources of individuals who fail to attest to citizenship or legal alien status are to be treated in the same manner as ineligible aliens. The proposed amendment ensures that the eligibility of remaining household members will be determined correctly.

Under current rules, educational assistance used for educational expenses is excluded from income. Verification that such moneys were used for such purposes rests with the student. The amended Higher Education Act of 1986 (P.L. 99-498) states that moneys "made available" for educational purposes shall be excluded from income and resources for food stamp purposes. The proposed amendment at N.J.A.C. 10:87-5.11 incorporates this statutory change and the Department anticipates that it will have a positive effect on students receiving food stamps because it

removes the burden of verification of educational expenses use from such students.

Economic Impact

Food stamp recipients will not experience a loss or reduction of benefits as a result of the enactment of the proposed amendments, as the amendments provide technical clarification of rules currently in N.J.A.C. 10:87. The proposed amendments will ensure that New Jersey's Food Stamp Program is consistent with Federal statutes and regulations, thus avoiding possible imposition of Federal fiscal sanctions due to noncompliance.

Regulatory Flexibility Statement

The proposed amendments have been reviewed with regard to the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The amendments impose no reporting, recordkeeping or other compliance requirements on small businesses; therefore, a regulatory flexibility analysis is not required. The rules govern a public assistance program designed to certify eligibility for Food Stamps to a low-income population by a governmental agency, rather than a private business establishment.

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

10:87-1.14 Confidentiality and disclosure of information

(a) (No change.)

(b) Disclosure of information: The CWA may release information concerning an applicant or recipient household in the following situations only:

1.-8. (No change.)

9. School officials: **Households that provide a food stamp or AFDC case number on the school meal application are categorically eligible for free school meals.** The CWA shall honor requests from school officials to verify Food Stamp Program participation for households applying for free school meals. The CWA shall not release any information with regard to the household beyond the verification of Food Stamp Program participation. **Section 169 of the Food Stamp Application Privacy Act (P.L. 97-253) allows such information to be provided to officials verifying eligibility for free school meals.**

10. (No change.)

10:87-4.3 Resources defined

(a) The resources of a household shall include the following which shall be recorded by the CWA in sufficient detail to permit verification if necessary (see N.J.A.C. 10:87-2.20, 2.21 and 4.5).

1. Liquid resources: Liquid resources such as cash on hand, money in checking and/or savings accounts, savings certificate, stocks and/or bonds, lump-sum payments as described in N.J.A.C. 10:87-5.9(a)[10]13, funds held in Individual Retirement Accounts (IRAs), and funds held in Keogh plans that do not involve the household member in a contractual relationship with individuals who are not household members.

i.-ii. (No change.)

2.-3. (No change.)

10:87-5.9 Identification of income exclusions

(a) Only the following shall be excluded from household income; no other income shall be excluded.

1.-6. (No change.)

7. Educational grants and loans: Educational loans on which payment is deferred, grants, scholarships, fellowships, veteran's educational benefits and the like shall be excluded to the extent that they are used for tuition and mandatory school fees[, books, supplies, transportation, and miscellaneous personal expenses for a student attending school on at least a half-time basis as determined by the institution] of post-secondary education, including correspondence schools at that level, or a school for the physically or mentally handicapped at any level (see N.J.A.C. 10:87-5.11).

8. Loans: All loans, including loans from private individuals as well as commercial institutions, are excluded from income [and resources]. Additionally, deferred payment educational loans that provide income assistance beyond that used for tuition and mandatory fees shall be excluded if the lender/financial aid office of the school specifically designates portions of the loan as educational expenses rather than living expenses (see N.J.A.C. 10:87-2.21(d)).

9.-15. (No change.)

10:87-5.10 Income deductions

(a) Deductions from income will be allowed only for the following expenses of the household:

1.-2. (No change.)

3. Excess medical deduction: That portion of medical expenses in excess of \$35.00 per month, excluding the cost of special diets, incurred by any household member who is elderly or disabled as defined in N.J.A.C. 10:87-2.38. Spouses or other persons ([i.e.] **that is, essential persons**) receiving benefits as dependents of the SSI or disability and/or blindness recipient are not eligible to receive this deduction. Persons receiving "emergency" SSI benefits based on presumptive eligibility are eligible for this deduction.

i. Allowable medical costs: The following items are allowable medical costs:

(1)-(9) (No change.)

(10) Attendant care: Maintaining an attendant, homemaker, home health aide, housekeeper, or child care services, necessary because of age, infirmity, or illness. In addition, an amount equal to the one person coupon allotment shall be deducted if the household furnishes the majority of the attendant's meals. The allotment for this meal related deduction shall be that in effect at the time of initial certification. The CWA shall update the allotment amount no later than the next scheduled recertification. It is not necessary for the CWA to update this deduction at the time of the [semiannual] **annual** allotment adjustment. If a household incurs attendant care costs that could qualify under both the medical deduction and dependent care deduction, the CWA shall treat the cost as a medical expense.

4.-5. (No change.)

10:87-5.11 Treatment of educational assistance

(a) (No change.)

(b) **Institution of post secondary education is defined as [Any] any public or private educational institution which normally requires a high school diploma or equivalency certificate for enrollment or admits persons who are beyond the age of compulsory school attendance in New Jersey. The institution must be legally authorized or recognized by the State to provide an educational program beyond secondary education or a training program to prepare students for gainful employment.**

(c) (No change.)

(d) Federal education assistance, funded in whole or part under Title IV of the Higher Education Act of 1986 (Public Law 99-498) or by the Bureau of Indian Affairs (BIA) Higher Education Grant Program, which is [used by] **made available to** the student for tuition, mandatory school fees or specified costs related to college expenses shall be excluded from both income and resources. Title IV programs include Pell, Supplemental Educational Opportunity Grants (SEOG), State Student Incentive Grants (SSIG), the National Direct Student Loan (NDSL) and Perkins Loans, Guaranteed Student Loans (GSL), the PLUS program, the College Work Study Program, and the Byrd Honor Scholarships.

1. (No change.)

2. The institution or grantor shall indicate on budget sheets or other appropriate documentation that the assistance is [meant to be used] **made available** for allowable costs of attendance. The student is not required to verify how the assistance is actually used. However, assistance provided for room, board and dependent care shall not be excluded under this provision.

(e) **Origination fees and insurance premiums on student loans are excludable charges.**

[(e)](f) State educational assistance such as Tuition Assistance Grants (TAG), Educational Opportunity Fund (EOF), Garden State Scholarships, and the PLUS program, shall be excluded from income to the extent that it is [used] **made available** for tuition, mandatory school fees and specified costs relating to education as designated by the "grantor" or the financial aid office of the school when that office takes part in determining eligibility for, and level of educational assistance.

[(f)](g) Non-Federal educational assistance (local and private) shall be excluded from income to the extent that it is [used by] **made available** to the student for tuition, mandatory school fees and specified costs of education such as books, supplies, transportation, and

other miscellaneous educational expenses. In order to be excluded, private educational assistance must be "earmarked" by the "grantor" for specific educational expenses.

[(g)](h) (No change in text.)

[(h)](i) The following shall not be considered as excludable reimbursements:

1. (No change.)

2. No portion of any Federal educational grant, scholarship, fellowship, or veteran's educational benefit, to the extent that it provides income assistance beyond that [used] **made available** for tuition and mandatory fees as set forth in N.J.A.C. 10:87-5.9(a)7. This provision does not apply to assistance provided by programs funded under Title IV of the Higher Education Act, except as specified under N.J.A.C. 10:87-5.9(a)[15xiv]15xiii.

3.-4. (No change.)

10:87-6.3 Application for recertification

(a)-(b) (No change.)

(c) Any household that receives a **notice of expiration at the time of certification**, as discussed in N.J.A.C. 10:87-9.1(a)[et seq.] shall not be subject to proration for the first month of its certification period if the deadline for filing for recertification falls after the end of its current certification period. However, households found ineligible for the first month following the end of their certification shall have the first month of any subsequent participation considered an initial month.

(d) (No change.)

10:87-7.14 Treatment of income and resources of certain nonhousehold members

(a) During the period of time that a household member cannot participate because he or she is an ineligible alien, disqualified due to intentional program violation[; or], failed/refused to obtain and provide a social security number, **or is ineligible for failing to sign the declaration attesting to his or her citizenship or alien status**, the eligibility and benefit level of the remaining household member(s) shall be determined in accordance with this section.

(b) (No change.)

(c) Excluded for other causes: The eligibility and benefit level of any remaining household members of a household containing individuals determined ineligible for being an ineligible alien, **for failing to sign the declaration attesting to his or her citizenship or alien status**, or because of disqualification for refusal to obtain or provide a Social Security number shall be determined as follows:

1.-2. (No change.)

3. Deductible expenses: The 20 percent earned income deduction shall only apply to that portion of the ineligible members' earned income which is attributed to the household in N.J.A.C. 10:87-7.14(c)2. That portion of the household's allowable shelter and dependent care expenses which are either paid by or billed to the ineligible member(s) shall be divided evenly among the household members including the ineligible member(s). All but the ineligible members' share is counted as a deductible shelter **and/or dependent care** expense for the remaining household members.

4. (No change.)

(d) (No change.)

10:87-10.2 State Plan general requirements

(a)-(b) (No change.)

(c) Quarterly reporting requirements: The Division of [Public Welfare] **Economic Assistance** shall submit a quarterly report (FNS-583) no later than 45 days after the end of each Federal fiscal quarter containing monthly figures for the number of:

1.-3. (No change.)

4. E&T mandatory participants, including Food Stamp Program applicants, who commence an approved E&T component; **and**

5. Work registrants sent a notice of adverse action for failure to comply with E&T requirements, and the number of applicants who were denied food stamp certification or recertification for failure to comply with an E&T component[;].

[6. The number of persons disqualified from the Food Stamp Program for failure to comply with an E&T requirement; and

7. The number of E&T participants who became employed.]

(d) (No change.)

10:87-10.10 Voluntary quit

(a) No household whose head of household, as defined in N.J.A.C. 10:87-2.6, voluntarily quits his or her [most recent] job without good cause shall be eligible for participation in the Food Stamp Program except as provided in (c) below. Changes in employment status that result from reducing hours of employment while working for the same employer, terminating a self-employment enterprise or resigning from a job at the demand of the employer shall not be considered as a voluntary quit. If an individual quits a job, secures new employment at comparable wages or hours, and is then laid off or, through no fault of his or her own, loses the new job, the earlier quit shall not be the basis of a disqualification. An employee of the Federal Government, or of a State or local government who participates in a strike against such government, and is dismissed from his or her job because of participation in the strike shall be considered to have voluntarily quit his or her job without good cause (see N.J.A.C. 10:87-10.16 concerning strikers). The CWA shall explain to the household at the time of application not only the potential consequences of the head of household quitting a job without good cause, but also the consequences of an individual subsequently joining the household as its head after that individual voluntarily quit employment.

(b) Determining whether a voluntary quit occurred: When a household files an application for participation, or when a participating household reports the loss of a source of income, the CWA shall determine if any currently unemployed (that is, employed less than 20 hours per week or receiving less than weekly earnings equivalent to the Federal minimum wage multiplied by 20 hours) household member who is required to register for full-time work has voluntarily quit his or her [most recent] job (that is, employment involving 20 hours or more per week or having received weekly earnings equivalent to the Federal minimum wage multiplied by 20 hours) without good cause. For applicant households, the CWA shall determine if a voluntary quit occurred within the last 60 days. If the CWA learns that a household has lost a source of income after the date of application but before the household is certified, the CWA shall determine whether a voluntary quit occurred. For participating households, the CWA shall determine whether any household member voluntarily quit his or her job while participating in the program.

1. (No change.)

(c)-(d) (No change.)

APPENDIX A FISCAL MANAGEMENT SECTION A

Technical requirements and specifications

The Division of Economic Assistance is responsible for designing, implementing and monitoring fiscal management procedures which ensure the security and control of Authorizations to Participate (ATPs) and Food Coupons.

The Bureau of Business Services/Food Stamp Program Fiscal Office (BBS/FSPFO) operating requirements in Appendix A are unique to the State of New Jersey Food Stamp Program fiscal administration. CWAs are encouraged to submit suggestions to improve this Appendix to:

Supervisor
Food Stamp Program Fiscal Office
Bureau of Business Services
Division of Economic Assistance—CN 716
Trenton, N.J. 08625

1.-2. (No change.)

3. Processing of returned books: Upon receipt of an improperly manufactured (see I(F) above) or mutilated (see I(L) above) coupon book(s) from a participant, the CWA Fiscal or Food Stamp Supervisor, with the authorization of the CWA Director, shall:

(A)-(D) (No change.)

(E) The State/county welfare agencies are required to complete form FNS-135, Affidavit of Return or Exchange of Food Coupons.
4.-9. (No change.)

(a)

DIVISION OF ECONOMIC ASSISTANCE

Ruling Number 11

Economic Assistance Staff Development Program

Proposed Readoption with Amendments: N.J.A.C. 10:109

Authorized By: Alan J. Gibbs, Commissioner,
Department of Human Services.

Authority: N.J.S.A. 44:10-3.

Proposal Number: PRN 1990-404.

Submit comments by September 5, 1990 to:

Marion E. Reitz, Director
Division of Economic Assistance
CN 716
Trenton, New Jersey 08625

The agency proposal follows:

Summary

Pursuant to Executive Order No. 66(1978), N.J.A.C. 10:109, Ruling Number 11, will expire on March 17, 1991. The Division of Economic Assistance has reviewed these rules and determined them to be necessary and effective for the purpose for which they were originally promulgated. The readoption of the rules becomes effective upon acceptance for filing by the Office of Administrative Law of the notice of readoption, if filed prior to the chapter expiration date. The amendments to the existing rules become effective upon publication in the New Jersey Register of a notice of adoption.

N.J.A.C. 10:109-1 is comprised of rules from the public assistance staff development program.

N.J.A.C. 10:109-1.1 sets forth the objectives of the public assistance staff development program which describe the relationship that staff development and training has to agency goals. The proposed amendment contains minor language changes for purposes of clarification.

N.J.A.C. 10:109-1.2 contains certain detailed information concerning county welfare agency training and staff development personnel. The purpose of this section is to delineate the responsibility of the training and staff development function of the agency. The proposed amendment provides specific reference to staffing requirements (see also N.J.A.C. 10:109-1.4).

N.J.A.C. 10:109-1.3 contains information concerning the overall objectives and guidelines for establishing a training advisory committee. The proposed amendment addresses more specifically the composition of this committee which is intended to allow for all agency staff to be represented.

N.J.A.C. 10:109-1.4 contains information about the required components of the staff development and training program. This section has been revised for purposes of clarification and to update the requirements based on various programmatic/system changes which have had an impact on the county welfare agency. The proposed amendment more accurately reflects those components which are necessary to support the goal of increasing the competence of agency staff so as to ensure quality service to persons served by public assistance programs.

N.J.A.C. 10:109-1.5 contains information as to the required reporting of training activities associated with costs. In addition to minor language clarification, specific reference is now made to the reporting of training activities to the Department's Division of Economic Assistance.

N.J.A.C. 10:109-2 and N.J.A.C. 10:109-3 continue to be reserved subchapters.

Social Impact

N.J.A.C. 10:109 provides the counties with a mechanism for use in conjunction with the Department's efforts to develop staff knowledge and skills, thereby upgrading the quality of the services provided to recipients of public assistance. The readoption of N.J.A.C. 10:109 is necessary to ensure the continuation of the staff development program. If the chapter is not readopted, staff training in the county welfare agencies would have no direction and may be subject to reduction or discontinuation. This

could adversely impact the quality of services provided to public assistance clients.

Economic Impact

The regulatory provisions at N.J.A.C. 10:109 enable the staff of the county welfare agencies to acquire the training essential to the delivery of services needed by New Jersey's disadvantaged population in a cost-efficient manner. The expenditure of public funds for programs administered by the county welfare agencies exceeds one billion dollars. In view of such a level of expenditure, the need for continuation of a comprehensive staff development program is self-evident.

Regulatory Flexibility Statement

This chapter has been reviewed with regard to the Regulatory Flexibility Act (Act), N.J.S.A. 52:14B-16 et seq. The rule and proposed amendments imposed no reporting, recordkeeping or other compliance requirements on small businesses as defined by the Act; therefore, a regulatory flexibility analysis is not required. The rules govern the education and training required by agency staff to support a public assistance program. Such rules are designed to certify eligibility for public assistance by a governmental agency, rather than a private business establishment.

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

CHAPTER 109
RULING NUMBER 11SUBCHAPTER 1. PUBLIC ASSISTANCE STAFF
DEVELOPMENT PROGRAM

10:109-1.1 Objectives for the public assistance staff development program

The purpose of public assistance staff development is to [enable] **support** the [public] county welfare agency (CWA) [to achieve] **in achieving** its operating goals effectively and efficiently. The quality and extent of service an agency is able to provide is dependent on the competence and skill of the staff charged with delivering those services. Therefore, increasing the competence of staff in order to assure the highest quality of service to the people served by the public assistance [program] **programs** is a continuing objective.

10:109-1.2 County welfare agency training and staff development personnel

The [Director] **director** of a [county welfare agency (CWA)] CWA shall be responsible for the administration of the training and staff development function of the agency. A training supervisor [and appropriate] **as well as** additional [training] **trainers** and support staff shall be employed [in order to adequately provide for the orientation to the agency of all new staff (clerical, professional, para-professional), intensive skill training requisite for effective job performance, supervisory training, and other training needed because of the expanded and/or changing programs, functions, and responsibilities of the total agency] **in accordance with yearly budget instructions issued by the Division of Economic Assistance (DEA), thereby adequately providing for all required components of the staff development and training program as listed at N.J.A.C. 10:109-1.4.**

10:109-1.3 Training advisory committee

Each [county welfare agency] CWA shall establish a training advisory committee which assists with the development of [an] **the required** annual training plan, [staff development and training policies and procedures, programmatic directions.] **and provides guidance, direction, and recommendations concerning the agency's overall policies and procedures for staff development and training. The committee shall be chaired by the training supervisor and shall include representation from clerical, para-professional, professional, supervisory, and administrative staff.**

10:109-1.4 Components of the staff development and training program

[(a) The components of a county welfare agency staff development program shall include: initial in-service training; programmatic in-service training; management and supervisory training; career/professional development; and academic, degree-oriented, and other long-term educational programs.]

1. Initial in-service training is a formal training program to acquaint, through intensive task-oriented instruction, new and transferring employees (and volunteers as applicable) with the mission, policies, and procedures of the agency and appropriate subunits, and for building knowledge and skills required to assume new or changing job responsibilities. This also included orientation to the agency, administrative policies and procedures, communications training and problem-solving instruction.

2. Programmatic in-service training is training related to the tasks and requirements inherent in particular positions within the agency. This training should enable employees to improve their knowledge, skills, and job performance.

3. Management and supervisory training is formalized skill development training for managerial and supervisory staff. It may include training to: develop and use organizational systems, assess agency performance in meeting goals, improve interpersonal skills, better plan and establish fiscal and programmatic priorities and means for implementation, and enhance organizational capacity for service delivery.

4. Career/professional development includes activities and programs aimed at providing information, experiences, and training that may enhance an individual's opportunities for advancement or career development.

5. Academic, degree-oriented, and other long-term educational programs are academic programs which will increase expertise in areas relevant to the agency's mission. These programs may include educational leave, tuition reimbursement, tuition aid.]

(a) Staff development and training activities will be provided through the use of both in-service and out-service resources, as determined by ongoing yearly needs assessments conducted by CWA training staff. Required components of a CWA staff development program shall include:

1. A mandated orientation program for new employees which shall include topics such as affirmative action, civil rights, and Acquired Immune Deficiency Syndrome (AIDS) awareness;

2. Ongoing training related to each of the public assistance programs supervised by the DEA and administered by the CWA such as Aid to Families with Dependent Children and Food Stamps;

3. Ongoing training concerning the use of all required management information systems such as Family Assistance Management Information System (FAMIS), Automated Child Support Enforcement Systems (ACSES), and On-line Management of Economic Goal Achievement (OMEGA);

4. A training program which provides for necessary skills development of CWA managers and supervisors, such as the Certified Public Managers Program or courses offered through the Management Development Institute;

5. A general skills development program for all agency staff based on individually assessed needs related to current job responsibilities. This would include programs such as Effective Writing, Communication Techniques, Computer Literacy, Tuition Reimbursement, as well as those courses available through DEA's Program to Reinforce Income Maintenance Development and Effectiveness (PRIDE) Program; and

6. Career/professional development opportunities for all staff which are offered as a means for upward mobility within the agency through such activities as tuition reimbursement for the purpose of attaining an academic degree.

10:109-1.5 [Contracted services] **Required reporting and approvals**

[Outside experts may be employed to conduct special courses but plans must be discussed with and receive prior approval by the Division of Economic Assistance in order to meet audit requirements when payments are made.]

The reporting of all training activities by an agency's staff development operation must be on a monthly basis in accordance with DEA issued instructions. Plans for cost related out-service training activities must be discussed with and receive the prior approval of the Training Office of the DEA.

CORRECTIONS

(a)

THE COMMISSIONER

Security and Control

Transport of Maximum Custody Inmates

Proposed Amendment: N.J.A.C. 10A:3-9.3

Authorized By: William H. Fauver, Commissioner, Department of Corrections.

Authority: N.J.S.A. 30:1B-6 and 30:1B-10.

Proposal Number: PRN 1990-394.

Submit comments by September 5, 1990 to:

Elaine W. Ballai, Esq.

Supervisor, Standards Development Unit

Department of Corrections

CN 863

Trenton, New Jersey 08625

The agency proposal follows:

Summary

The rule at N.J.A.C. 10A:3-9.3 covers the procedures to be followed in the transportation of maximum custody inmates to and from correctional facilities.

The proposed amendment to N.J.A.C. 10A:3-9.3 specifies that at least one escorting officer must be of the same sex as the inmate(s) when an inmate(s) is being transported outside of a correctional facility, and clarifies that strip searches must be conducted in accordance with the rules governing strip search at N.J.A.C. 10A:3-5.7 and New Jersey law.

Social Impact

The proposed amendment to N.J.A.C. 10A:3-9.3(i) requires at least one correction officer to be of the same sex as the inmate(s) when an inmate(s) is being transported outside of a correctional facility. The proposed amendment enhances maintenance of security by reducing the interaction between the sexes which could lead to assault, behavioral incidents and escape attempts. The proposed amendment to N.J.A.C. 10A:3-9.3(l) requires the strip search of an inmate(s) be conducted in accordance with the strip search rules at N.J.A.C. 10A:3-5.7 and will also enhance the maintenance of security by requiring the strip search to be conducted under the least embarrassing or humiliating circumstances.

Economic Impact

The proposed amendment will have no significant economic impact because no additional financial resources will be required to implement or maintain the proposed amendment.

Regulatory Flexibility Statement

A regulatory flexibility analysis is not required because this proposed amendment does not impose reporting, recordkeeping or other compliance requirements on small businesses, as defined under the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The proposed amendment impacts on inmates and the New Jersey Department of Corrections and has no significant effect on small businesses.

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

10A:3-9.3 Transport of maximum custody inmates

(a)-(h) (No change.)

(i) [When female inmates are being transported, at least one female escort must be present for the duration of the trip.] **When transporting inmates outside of a correctional facility, at least one correction officer shall be of the same sex as the inmate(s) being escorted. Additional correction officers may be assigned regardless of gender.**

(j)-(k) (No change.)

(l) **The strip search of an inmate(s), as part of the transportation process, shall be conducted in compliance with the provisions of N.J.A.C. 10A:3-5.7.**

(a)

THE COMMISSIONER**Juvenile Detention Facilities
Juvenile Population Capacity****Proposed Amendment: N.J.A.C. 10A:32-4.2**

Take notice that the Department of Corrections will conduct a public hearing on September 5, 1990, at 10:00 A.M. at the Department of Corrections Training Academy (C.O.T.A.), Whittlesey Road, Trenton, New Jersey. This public hearing concerns the amendment to N.J.A.C. 10A:32-4.2, Juvenile population capacity, as proposed in the June 18, 1990, New Jersey Register at 22 N.J.R. 1895(a).

The proposed amendment to N.J.A.C. 10A:32-4.2 is necessitated by a ruling of the Court in *County of Monmouth v. Department of Corrections*, Docket No. A-6351-88T3F, November 16, 1989 (N.J. App. Div.). The Court remanded this matter to the Commissioner, New Jersey Department of Corrections, with the direction that the Commissioner establish regulations under which the Department of Corrections will promptly comply with court ordered commitments of juveniles to State facilities by removing sentenced juveniles from county detention facilities to State facilities as expeditiously as possible upon notification of the court's disposition. This amendment establishes a three-day limit for the transportation of juveniles, in these circumstances, to be transported by the county to the State facility.

The public hearing will be conducted in a quasi-legislative rather than in a quasi-judicial manner and is open to interested individuals, representatives of government bodies, companies and associations. This Public Hearing is prescribed by law (see N.J.S.A. 52:14B-4(a)3).

Interested persons are invited to participate through written comments or oral presentations at the September 5, 1990, public hearing or through written comments submitted on or before September 5, 1990, by notifying:

Elaine W. Ballai, Esq.
Supervisor, Standards Development Unit
Department of Corrections
CN 863
Trenton, N.J. 08625

INSURANCE

(b)

DIVISION OF ADMINISTRATION**Nonrenewal of Automobile Insurance Policies****Proposed Repeal and New Rules: N.J.A.C. 11:3-8.4,
8.7 and Appendix A and B****Proposed New Rules: N.J.A.C. 11:3-8.2 and 8.6****Repealed Repeal and New Rule: N.J.A.C. 11:3-8.5****Repealed Amendment: N.J.A.C. 11:3-8.3**

Authorized By: Samuel F. Fortunato, Commissioner,
Department of Insurance.

Authority: N.J.S.A. 17:1-8.1; 17:1C-6(e); 17:22-6.14a1, 2 and 3;
39:6A-3, 39:6A-7; 39:6A-7.1 and 39:6A-19; N.J.S.A. 17:33B-1
et seq.

Proposal Number: PRN 1990-416.

Submit comments by September 5, 1990 to:
Verice M. Mason, Assistant Commissioner
Legislative and Regulatory Affairs
Department of Insurance
20 West State Street
CN 325
Trenton, New Jersey 08625-0325

The agency proposal follows:

Summary

The Department of Insurance ("Department") is proposing substantial changes in its rules concerning nonrenewal of automobile insurance policies, N.J.A.C. 11:3-8, as the result of changes in the underlying statutes to be implemented.

In 1988, the Legislature amended N.J.S.A. 17:29C-7.1 to provide additional bases for insurers to nonrenew automobile insurance policies. Accordingly, the Department proposed amendments, new rules and repeals to its nonrenewal rules on May 15, 1989 (see 21 N.J.R. 1306(a)). As a result of public comments received, that proposal was modified and repropoed February 5, 1990 (see 22 N.J.R. 316(a)).

Prior to adoption of the repropoed amendments, repeals and new rules, the Legislature enacted the Fair Automobile Insurance Reform Act of 1990 ("FAIR Act"), P.L. 1990, c.8 (N.J.S.A. 17:33B-1 et seq.). The FAIR Act creates new rights to obtain and renew automobile insurance policies in the voluntary market for defined "eligible persons". The Department is repropoing these new rules, amendments and repeals to implement both of these statutory changes.

For convenience, the Department proposes a new rule, N.J.A.C. 11:3-8.2, which provides definitions for terms used in this subchapter. Adding this proposed new rule requires a recodification or renumbering of subsequent rules. Further references to rules in this Summary shall refer to the renumbered rules included in this proposal.

The Department proposes amendments to N.J.A.C. 11:3-8.3, which set forth the requirements of the notice of nonrenewal which insurers are required to provide. Amendments are necessary to make N.J.A.C. 11:3-8.3 consistent with the new statutory bases for nonrenewal, which are described in the subsequent sections. This proposed amendments requires an insurer to identify the permissible reason for nonrenewal in the notice. The amendment further requires certain other information to be included in the notice, which is necessary both to ensure that the insurer properly identifies the statutory and regulatory bases for the nonrenewal and to provide for monitoring by the Department.

The Department proposes to repeal N.J.A.C. 11:3-8.4 (formerly 8.3). This rule contained several specific bases upon which an insurer was permitted to nonrenew an automobile insurance policy. Many of the specific provisions dealt with adverse events of driving behavior; others set forth special factual circumstances that may warrant nonrenewal. The FAIR Act provides, however, that insurers shall renew the policies of defined eligible persons. Adverse events of driving behavior are subsumed into the definition of "eligible persons" as set forth in the FAIR Act, N.J.S.A. 17:33B-13 and proposed new rules, N.J.A.C. 11:3-34 (see 22 N.J.R. 2108(a)). The other specific factual circumstances set forth in the prior rule no longer appear to be necessary as a basis for nonrenewal in view of the general authority granted insurers by N.J.S.A. 17:29C-7.1c and d to nonrenew additional policies at their discretion. In repealing the prior rule in its entirety, the Department notes that former N.J.A.C. 11:3-8.3(a)11 provided for certain duties of an insurer upon receipt of a notice from an insurance producer that a policy will not be renewed, but rather be written by another insurer. The Department has determined that the insurer's duty of providing notice to the insured under these circumstances should be retained, but included in a different part of its rules. The Department will propose an appropriate rule on this subject in the near future.

Proposed new N.J.A.C. 11:3-8.4(a) incorporates the insurer's duty to renew all eligible persons by providing that an insurer may nonrenew insureds who fail to meet the definition of eligible person. The proposed subsection further provides that the date for accrual of eligibility points in connection with the nonrenewal of a person who is not an eligible person shall be based upon the eligibility points accrued in the 36-month period ending 90 days prior to the policy expiration date. This is consistent with past practice and permits an insurer to issue the notice of nonrenewal in the 60- to 90-day period required by N.J.A.C. 11:3-8.3. Consistent with the proposed new rules concerning insurer underwriting rules, N.J.A.C. 11:3-35, published elsewhere in this issue of the New Jersey Register, the proposed rule prohibits issuance of a notice of nonrenewal when a member of the household is ineligible unless the ineligible member of the household accounts for more than 10 percent of the use of the insured vehicle. Furthermore, since an insurer may in its underwriting rules choose to renew some insureds who are not eligible persons, proposed N.J.A.C. 11:3-8.4(a)3 provides that an insurer shall renew all persons who qualify in accordance with its approved underwriting rules. The proposed rule also provides that insurers may nonrenew those who are not eligible persons and who no longer qualify for the non-standard or highest rate level in an insurer's standard/non-standard rating plan filed and approved in accordance with proposed new rules N.J.A.C. 11:3-19, published elsewhere in this issue of the New Jersey Register.

Proposed new rule N.J.A.C. 11:3-8.5 sets forth the rules for discretionary nonrenewals pursuant to N.J.S.A. 17:29C-7.1. That statute permits insurers to nonrenew up to two percent of the policies in each territory, or to nonrenew in each territory one automobile for each two newly insured automobiles. These repropoed new rules were thoroughly discussed in the prior proposals.

The Department proposes new rule N.J.A.C. 11:3-8.6 to set forth a provision of the FAIR Act regarding renewals, N.J.S.A. 17:33B-25. Insurers shall not nonrenew any automobile insurance policies when the new assigned risk plan is not accepting new applications for coverage as the result of the Commissioner's certification that the number of insureds in the assigned risk plan exceeds 10 percent of the private passenger automobile insurance market.

The Department also repropoed the repeal of N.J.A.C. 11:3-8.7 and a new rule concerning record keeping and reporting requirements. These requirements are necessary in order to permit the Department to monitor and oversee the nonrenewal of automobile insurance policies.

Existing Appendices A and B are proposed for repeal. They are no longer necessary because of the repeal of N.J.A.C. 11:3-8.3 to which they relate.

Social Impact

The proposed new rules and amendment will affect automobile insurance purchasers and automobile insurers. They implement recent legislative changes to the automobile insurance laws, and thus will have the positive social impact on the automobile insurance market as determined by the Legislature. They will prevent unfairly discriminatory nonrenewals.

Economic Impact

The proposed new rules and amendments will economically affect the Department, as the increase in automobile insurance nonrenewals is likely to increase the number of consumer complaints received and to which the Department must respond. If this proves correct, additional investigators must be added to the current staff. The number required cannot be determined at this time.

The proposed new rules and amendment will also affect automobile insurers, who may be required to amend their current procedures for nonrenewal of policies to provide additional information on their nonrenewal notices. This change will be a minor one and the cost should be more than offset by the increased competitive flexibility regarding nonrenewals permitted by the legislation and the repropoed rule and amendment. It also requires that an annual report summarizing the number of automobiles nonrenewed and specifying the reason for nonrenewal shall be submitted. This will involve some minimal expenditure by insurers, but is necessary for proper oversight.

Regulatory Flexibility Analysis

The proposed new rules and amendment may apply to "small businesses" as that term is defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. These "small businesses" consist of insurance companies authorized to write private passenger automobile insurance; a maximum of five automobile insurers may qualify as "small businesses."

The proposed new rules and amendment impose requirements on these businesses in connection with the nonrenewal of automobile insurance policies. They permit nonrenewals for specified reasons, but require the regulatory bases be provided on the notice of nonrenewal to the insured. Overall, the proposed new rules and amendment increase the underwriting flexibility of all companies.

When an insurance company chooses to nonrenew a policy pursuant to the proposed new rules and amendment, the rule authorizing it must be specified. This is a requirement of the current rule, and no additional costs are imposed. Some minor changes in internal company procedures may be required to adapt to the new reasons for nonrenewal, but they may be accomplished with the company's current underwriting staff. The legislation provides no additional flexibility for insurance companies that qualify as "small businesses."

The repropoed new rules and amendment require companies to maintain records of nonrenewals so as to provide a basis for regulatory oversight. These records must be maintained for the five-year period as provided in the rule prior to amendment. The records to be maintained are different, however, because they are to track nonrenewals based on the additional criteria now permitted by statute. The Department believes that this obligation has been minimized in the repropoed rule and the kinds of records required to be kept made clear by the report form. Reporting requirements have likewise been minimized, as set forth on the report form.

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

11:3-8.2 Definitions

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

"Automobile insurance eligibility points" or "eligibility points" means points calculated under the schedule set forth in N.J.A.C. 11:3-34.

"Commissioner" means the Commissioner of the New Jersey Department of Insurance.

"Department" means the New Jersey Department of Insurance.

"Eligible person" means an individual that meets the qualifications set forth in N.J.A.C. 11:3-34.

"Insurer" includes a group of affiliated companies.

"Renew" means to issue and deliver at the end of the policy period a policy superseding a policy previously issued and delivered, or to issue and deliver a certificate or notice extending the term of a policy beyond its policy period or term, by the same individual insurance company, or by another of a group of affiliated companies pursuant to a standard/nonstandard rating plan filed and approved in accordance with N.J.A.C. 11:3-19.

"Standard/non-standard rating plan" means a rating system used by an insurer that provides different base rates for different risks to those insureds who qualify in accordance with the insurer's approved underwriting rules, which has been filed and approved in accordance with N.J.A.C. 11:3-19.

11:3-[8.2]8.3 General provisions

(a)-(e) (No change.)

(f) No notice of nonrenewal shall be valid unless it is mailed or delivered by the insurer to the insured no less than 60 days and no more than 90 days prior to the expiration of the current policy, setting forth the reason(s) for such nonrenewal.

1. No notice of nonrenewal shall be valid unless it includes the text of the designated provision(s) of this subchapter under which action is being taken and the correct facts which bring the insured under the provision(s), including dates and any other facts necessary for identification of the incidents. [In the event action is being taken under N.J.A.C. 11:3-8.3(a)], the text of the exceptions under N.J.A.C. 11:3-8.3(a)2 must be included together with a statement that none of these exceptions are applicable.]

i. In the event action is being taken under N.J.A.C. 11:3-[8.3]8.4 (a)[1, (b) or (c)], the text of the notice shall [include both the number of accidents or claims where the insurer's nonrenewal is contingent thereon, and the number of automobiles in the household.] **provide the basis by which the insured fails to qualify as an eligible person. When notice of nonrenewal is based on automobile insurance eligibility points, the notice shall identify the number of eligibility points and the events and sources which resulted in their assessment.**

ii. In the event action is being taken under N.J.A.C. 11:3-8.4(b) to nonrenew an insured who is not an eligible person in accordance with the approved underwriting rules applicable to the non-standard rate level of an approved standard/non-standard rating plan, the notice shall provide the basis by which the insured fails to qualify as an eligible person and shall reference the specific underwriting rule by which the insured is disqualified. The notice shall set forth the specific facts upon which the insurer relied to determine that the insured is not an eligible person and is no longer qualified to be insured in accordance with the insurer's approved underwriting rules.

iii. In the event action is being taken under N.J.A.C. 11:3-8.5(a)1, the notice shall specify that the action is being taken in accordance with N.J.A.C. 11:3-8.5(a)1 (two percent territorial nonrenewal) and shall be consecutively numbered in each territory.

iv. In the event action is being taken under N.J.A.C. 11:3-8.5(a)2, the notice shall specify that the action is being taken in accordance with N.J.A.C. 11:3-8.5(a)2 (one nonrenewal for each two newly insured automobiles) and shall be consecutively numbered in each territory.

2. Each notice of nonrenewal shall include or be accompanied by the statement prescribed in (f)2i[.] below which shall be clearly and

prominently set out in boldface type or other manner which draws the reader's attention.

i. Each notice of nonrenewal must set forth: "If you have reason to believe that our decision to nonrenew [(or conditionally renew, as appropriate)] your policy is not in compliance with New Jersey Regulation N.J.A.C. 11:3-8, you should file a written complaint with the New Jersey Department of Insurance, Division of Licensing and Enforcement, CN [325] 329, Trenton, New Jersey 08625-0329."

[3. The notice of nonrenewal shall also include or be accompanied by a statement advising the insured of his possible eligibility for coverage through the New Jersey Automobile Full Insurance Underwriting Association.]

(g) through (i) (No change.)

11:3-[8.3]8.4 Standards of nonrenewal applicable to all automobile policies

[(a) An insurer may issue notice of nonrenewal based upon one or more of the following reasons:

1. Accident involvement: The named insured or any operator who customarily operates the automobile has been involved during the 36 month period ended 90 days prior to the expiration of the current policy in:

i. Two or more bodily injury accidents if there is one car in the household or three or more accidents if there are at least two cars in the household, provided a loss payment has been made or a loss reserve has been established for such accidents other than a payment for the personal injury protection benefits; or

ii. Two or more accidents involving damage to any property including his own of \$300.00 or more for which accidents a payment was made if there is one car in the household, or three or more such accidents if there are at least two cars in the household, provided that loss payments under the comprehensive physical damage coverage shall not be counted; or

iii. A bodily injury and a physical damage accident as described in i. and ii. above if there is one car in the household. Two bodily injury and one physical damage accident or two physical damage and one bodily injury accident if there are at least two cars in the household.

2. Exceptions: Accidents under i. to iii. above shall not be counted if the accident occurred under the following circumstances:

i. The accident resulted in a claim or payment only under the Personal Injury Protection Coverage;

ii. The automobile was lawfully parked at the time of the accident (an automobile rolling from a parked position shall not be considered as lawfully parked, but shall be considered as in the operation of the last operator);

iii. The named insured or anyone customarily operating the automobile, has been reimbursed by, or on behalf of, a person responsible for the accident or has a judgment against such persons;

iv. The automobile of the named insured or other customary operator was struck in the rear by another vehicle, and the operator has not been convicted of a moving traffic violation in connection with the accident.

v. The operator of another automobile involved in such accident was convicted for a moving traffic violation and the named insured or other customary operator was not convicted of a moving traffic violation in connection therewith;

vi. The automobile operated by the named insured or anyone who customarily operates the automobile is damaged as a result of contact with a "hit and run" driver, provided that the accident has been reported to legal authorities within a reasonable time thereafter;

vii. The accident resulted from contact with animals or fowl.

3. Convictions concerning motor vehicle law: The named insured or any operator who customarily operates the automobile:

i. Has been convicted, entered a plea of guilty or nolo contendere, forfeited bail bond or other security for any one of the following motor vehicle law violations during the 36 month period ended 90 days prior to the expiration date of the current policy:

(1) Driving while intoxicated or under the influence of drugs;

(2) Leaving the scene of an accident;

(3) Criminal negligence or assault arising out of the operation of a motor vehicle;

(4) Driving while license is suspended or revoked.

ii. Has been convicted, entered a plea of guilty or nolo contendere, or forfeited bail bond or other security for other moving traffic violations during the 36 month period ended 90 days prior to the expiration of the current policy which result in the accumulation of an average of nine points or more, as defined in the New Jersey Motor Vehicle Law, per car in the household or which result in an accumulation of nine or more points for any one such operator, provided that any operator who has been involved in such motor vehicle law violations continues to be an operator of the automobile at the time of renewal.

4. Convictions other than motor vehicle laws: The named insured or anyone customarily operating the automobile is convicted, entered a plea of guilty or nolo contendere, forfeited bail bond or other security for obtaining or attempting to obtain from any other person, insurance company or the Unsatisfied Claim and Judgment Fund any money or any other thing of value by falsely or fraudulently representing that such person is entitled to such consideration under the automobile insurance policy, or falsely or fraudulently making statement or presenting documentation in order to obtain such consideration, or by cooperating, conspiring or otherwise acting in concert with any person seeking to obtain or attempting to obtain falsely or fraudulently such consideration.

5. Use of the automobile in professional racing.

6. Physical or mental impairment of the named insured or anyone customarily operating the automobile which adversely affects the ability to operate the automobile safely, unless a physical disability is compensated for by corrective measures.

i. A nonrenewal premised upon physical or mental impairment must be supported by a current medical examination. The medical examination report must clearly state the nature of the impairment and, in the case of a physical disability, the extent to which such disability adversely affects the ability to safely operate the automobile. In the event such a current medical examination report is not otherwise available, it must be secured by the insurer at its own expense.

7. Refusal to submit to a medical examination at company expense where there is reason for the company to doubt an operator's ability to operate the automobile safely.

8. Addition of an operator of the automobile during the policy term or for the new policy term with respect to whom any of the above causes for nonrenewal would apply.

9. In the case of companies which limit their writing to members of a church, profession or occupation or similar group, loss of the qualification for such group by the owner of the automobile. In such case an additional 12 months of nonrenewal notice shall be given. The membership of an automobile or travel club does not constitute a qualified group subject to this paragraph.

10. Failure by an insured under the policy to comply with the cooperation or subrogation clause of the policy, subject to reasonable rules established by the Commissioner.

11. Written request by a producer of record not to renew the policy. The producer's request shall include a certification that the policy has been replaced with like coverage at approved rates in the voluntary market with an admitted insurer and shall specify the name of the replacing insurer. The producer's request shall also certify that the insured has been informed in writing of his or her right to renewal and has agreed in writing to the nonrenewal because the producer has obtained comparable coverage with an insurer. The producer's request not to renew the policy shall be submitted to the insurer not less than 90 days prior to the expiration date of the policy and a copy thereof shall be simultaneously sent by the producer to the named insured.

i. Upon receipt of such request from the producer, the transferor carrier shall advise the insured in writing of his or her right to renewal in the same company before obtaining the insured's consent to transfer and also of the insured's right to renew the policy if he or she is cancelled by the new insurer for reason other than nonpayment of premium or suspension or revocation of the registration or driver's license. Exhibit A appended to this subchapter is approved for this purpose. A nonrenewal based on such request shall be invalid and

the original company shall renew the policy at the request of the insured through an active agent and/or broker, or directly if the replacement policy is cancelled by the new carrier for any reason other than the reasons allowed for cancellation by N.J.S.A. 17:29C-7 (nonpayment of premium or suspension or revocation of registration or driver's license).

ii. Failure by a terminated agent to request renewal during the period of nine months from the effective date of termination as provided in N.J.S.A. 17:22-6.14(a) shall be construed as request not to renew in the context of this subchapter. In such event, the insurer shall in writing advise the insured of the status of the agent and that the agent's failure to request renewal denotes that replacement coverage as specified in 11 and 11i above has been obtained. The written notice shall also set forth the insured's right to renewal in the same company as set forth in 11i. above. Exhibit B appended to this subchapter is approved for this purpose. The insurer's notice shall be sent to the insured not less than 60 days prior to the expiration date of the policy.

3. Insurance companies and producers shall maintain copies of all correspondence required pursuant to 11, 11i and 11ii above for a period of three years.

iv. Notices to insureds set forth in Exhibits A and B shall be sent by certified mail or regular mail, if at the time of such mailing the insurer has obtained from the Post Office Department a date stamped proof of mailing showing the name and address of the insured. The insurer shall also maintain documentation of the mailing.

(b) An insurer may issue notice of nonrenewal with respect to comprehensive physical damage coverage, including towing and labor coverage, if the insurer, during the 12 month period ended 90 days prior to the expiration of the current policy, has paid under such coverage claims each of which involve a loss payment by the insurer of at least \$100.00, as specified in paragraphs 1 and 2 below:

1. Four or more such claims if there is one car in the household or six more such claims if there are at least two cars in the household.

2. For any policy which covers more than one car, an insurer may nonrenew comprehensive physical damage coverage, including towing and labor coverage for one of the covered cars, if that single car has four or more claims.

(c) An insurer may issue notice of nonrenewal with respect to towing and labor coverage if the insurer, during the 12-month period ended 90 days prior to the expiration of the current policy, has paid claims under such coverage as specified in 1 below;

1. Four or more such claims if there is one car in the household or six or more claims if there are at least two cars in the household.

(d) Except as provided at N.J.A.C. 11:3-8.4, any refusal to renew a policy or coverage, as applicable, which is not based upon the standards set forth in (a) through (c) above shall be submitted to the Commissioner of Insurance for review no later than 120 days prior the expiration of the policy. The Commissioner shall, in writing, acknowledge receipt of any refusal to renew submitted pursuant to this subsection. The Commissioner shall, within 45 days of receipt, either disapprove or authorize issuance of any nonrenewal submitted by an insurer for review and acknowledged by the Commissioner pursuant to this subsection. If the Commissioner shall fail to either disapprove or authorize issuance of the nonrenewal within such 45-day period, issuance of the nonrenewal shall be deemed to be authorized.]

(a) An insurer may issue a notice of nonrenewal to any person who is not an eligible person as defined in N.J.A.C. 11:3-34.

1. For the purpose of determining whether a person is an eligible person who must be renewed, an insurer shall consider those eligibility points accrued only in the 36 month period ending 90 days prior to the expiration of the current policy.

2. An insurer shall not issue a notice of nonrenewal for the reason that a member of the insured's household is not an eligible person unless the member of the insured's household usually accounts for 10 percent or more of the use of the vehicle insured.

3. No insurer shall issue a notice of nonrenewal to any person qualified to be renewed in accordance with the insurer's underwriting rules filed and approved pursuant to N.J.A.C. 11:3-35.

(b) An insurer which has filed a standard/non-standard rating plan pursuant to N.J.A.C. 11:3-19 may issue notices of intention not to renew any insured who is not an eligible person and who no longer qualifies for any rate level in accordance with its approved underwriting rules.

11:3-[8.4]8.5 Additional nonrenewals [based on underwriting guidelines]

[(a) An insurer may issue notice of nonrenewal based upon a failure to meet current underwriting standards as specified in such insurer's underwriting guidelines provided that such nonrenewals may be issued only with respect to a policy:

1. Issued by the insurer to any policyholder who was cancelled pursuant to N.J.S.A. 17:29C-7 or nonrenewal pursuant to this subchapter; or

2. Issued by the insurer to any policy who was last insured through a statutorily mandated residual market mechanism; or

3. Issued by the insurer to any policyholder who is a first-time applicant for automobile coverage.

i. For the purpose of this section, the term "first-term applicant" shall mean a person seeking automobile insurance for the first-time, including a child applying for a policy in his or her own name after being on their parent's policy.

(b) Pursuant to the provisions of N.J.S.A. 17:22-6.14 al., an insurer's underwriting guidelines shall not be arbitrary, capricious or unfairly discriminatory.

1. Nonrenewals based upon one or more of the following reasons are specifically prohibited:

i. The race, religion, nationality or ethnic group of an insured;

ii. Solely upon the lawful occupation or profession of an insured, except that this provision shall not apply to any insurer, agent, broker which limits its market to one lawful occupation or profession, or to several related lawful occupations or professions;

iii. The principal location of the insured motor vehicle, unless such decision is for a business purpose which is not a mere pretext for unfair discrimination. The insurer shall state the business purpose for such nonrenewal and provide the Department with documentation of such purpose on request;

iv. Solely upon the age, sex or marital status of an insured, except that this subparagraph shall not prohibit rating differentials based upon age, sex or marital status;

v. The insured previously obtained insurance coverage through a residual market insurance mechanism;

vi. Another insurer previously declined to insure the insured or terminated an existing policy of the insured.

(c) When policies are written subject to nonrenewal pursuant to this section, the company shall document that the insured is a first time applicant, was cancelled pursuant to N.J.S.A. 17:29C-7 or nonrenewal pursuant to this subchapter or was last insured through a statutorily mandated residual market insurance mechanism. Insurance companies shall maintain copies of such documentation for a period of not less than five years. Such documentation shall be available to the Department on request.

(d) Issuance of a notice of nonrenewal pursuant to this section shall be limited to a period of three years from the date as of which the policy becomes effective after first issuance.]

(a) In addition to nonrenewing an ineligible person, an insurer may:

1. For each calendar year period, issue notices of intention not to renew an automobile insurance policy in the voluntary market in an amount not to exceed two percent of the total number of voluntary market automobile insurance policies of the insurer, rounded to the nearest whole number, which are in force at the end of the previous calendar year in each of the insurer's territories; or

2. For every two newly insured automobiles which an insurer voluntarily writes in each territory during each calendar year period, the insurer shall be permitted to refuse to renew one additional automobile in that territory. For the purpose of this subsection, "voluntarily writes" shall not include any exposure voluntarily written by or assigned to an insurer to meet any quota established pursuant to N.J.S.A. 17:30E-14 and shall not include any new business cancelled by the insured pursuant to N.J.S.A. 17:29C-7.

(b) Any insurer that does not write its apportionment share of any quota established by the Commissioner pursuant to N.J.S.A. 17:30E-14 within the applicable time shall be precluded from nonrenewing automobile insurance policies pursuant to (a) above during the following year.

(c) Nothing in this rule shall be construed to authorize insurers to act in contravention of any applicable State or Federal law prohibiting discrimination on impermissible bases.

11:3-8.6 Suspension of nonrenewals

(a) Notwithstanding the provision of N.J.S.A. 17:29C-7, N.J.S.A. 17:29C-7.1 or any other section of the law to the contrary, if the plan for automobile insurance established pursuant to N.J.S.A. 17:29D-1 is not accepting new applications for coverage pursuant to N.J.S.A. 17:29D-1(d), no insurer transacting automobile insurance in this State shall refuse to issue or renew any private passenger automobile insurance policy in this State.

11:3-[8.5]8.7 Reporting requirements

[(a) The Commissioner will review and monitor the operation of this subchapter to ensure compliance with its provisions, and further, to determine whether depopulation of the residual market is being effected through the utilization of the non-renewal procedures specified at N.J.A.C. 11:3-8.4.

(b) In order to review and monitor the operation of this subchapter as indicated in (a) above the Commissioner may require the filing of such reports as he or she deems necessary.]

(a) Insurance companies shall maintain records of nonrenewals for not less than five years which shall include a copy of the notice of nonrenewal, data concerning the allowable number of nonrenewals in each territory computed in accordance with N.J.A.C. 11:3-8.5(a)1, and data concerning the actual number of newly insured automobiles and nonrenewals in each territory for each category, computed in accordance with N.J.A.C. 11:3-8.5(a)2. Such records and data shall be made available to the Department upon request. In addition, each insurer shall file summary reports of its nonrenewals as follows:

1. For insurers with approved standard/non-standard rating plans, in the form of report set forth as Exhibit A of the Appendix incorporated herein by reference; or

2. For all other insurers, in the form of report set forth as Exhibit B of the Appendix, incorporated herein by reference.

(b) Insurers shall submit summary reports of its nonrenewals for the year to date on or before February 15 and August 15 of each year to the following address:

New Jersey Department of Insurance
Division of Enforcement and Consumer Affairs
20 West State Street
CN-329
Trenton, New Jersey 08625-0329

Recodify existing N.J.A.C. 11:3-8.6 and 8.7 as 8.8 and 8.9 (No change in text.)

[EXHIBIT A

COMPANY LETTERHEAD INFORMATION GOES HERE

Date
Policy No.
Expiration Date

Insured's Name
and Address

Dear Policyholder:

Your automobile insurance policy is due to expire on (date).

Under New Jersey law you have the right TO RENEW your automobile policy with our company. It is our understanding that you have received written notification from your agent of your right to renew. Your agent has informed us, however, that after being so notified, you agreed in writing to the nonrenewal of your policy with us because your agent has obtained comparable coverage with another company. We have also been informed by your agent that your new policy will not be issued through the New Jersey Automobile Full Insurance Underwriting Association, also known as the JUA.

If any of these statements are not true and you wish to have your policy renewed by the (name of company) insurance company, please contact us before (date.)

If your replacement policy should be cancelled by your new company within 60 days after its effective date, you also have the right TO RENEW your old coverage unless you have been cancelled by the new company for:

- 1. Nonpayment of premium, or
- 2. Suspension or revocation of car registration or driver's license.

If you want to renew your policy with our company, contact your agent or write or telephone us at:

New Jersey Telephone Number or 800 Number
Address]

[EXHIBIT B

COMPANY LETTERHEAD INFORMATION GOES HERE

Date
Policy No.
Expiration Date

Insured's Name
and Address

Dear Policyholder:

Your automobile insurance policy is due to expire on (date).

Your insurance agent (name of agent) is no longer an agent for the (name of company) insurance company. We have not been notified whether your agent wishes to renew your policy with our company. Under New Jersey laws, failure to request renewal means that your agent has obtained comparable coverage with another company.

If any of these statements are not true and you wish to have your policy renewed by the (name of company) insurance company, please contact us before (date.)

Under New Jersey laws, we MUST RENEW your auto insurance if you want us to. You are not eligible to be placed in the New Jersey Automobile Full Insurance Underwriting Association, also known as the JUA.

If you have chosen to place your automobile insurance policy with another insurance company and it is cancelled by the new company within 60 days after its effective date, you also have the right TO RENEW your old coverage with us unless you have been cancelled by the new company for:

- 1. Nonpayment of premium, or
- 2. Suspension or revocation of car registration or driver's license.

If you want to renew your policy with our company, contact your agent or write or telephone us at:

New Jersey Telephone Number or 800 Number
Address]

APPENDIX

EXHIBIT A

NONRENEWAL REPORT—A
Standard/Nonstandard Rating System

Insurer Group Name: _____ NAIC Group No.: _____
Company Name: _____ NAIC Company No.: _____
(list all companies in _____
standard/nonstandard plan) _____

| (1) Territory | (2) Vehicles Insured 12/31/— | (3) Vehicles Cancelled | (4) Vehicles N/R by Insured | (5) Vehicles N/R for cause N.J.A.C. 11:3-8.4(a)1 | (6) Vehicles N/R Underwriting N.J.A.C. 11:3-8.4(b) | (7) Vehicles N/R 2% Rule N.J.A.C. 11:3-8.5(a)1 | (8) Vehicles N/R 2:1 Rule N.J.A.C. 11:3-8.5(a)2 | (9) *Vehicles Newly Insured | (10) JUA Depopulation Quota | (11) Vehicles Insured —/—/— |
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Totals:

Notes: Column (1) shall be numbered in accordance with insurer's approved rating plan.
Column (2) shall be dated as of previous year.
Columns (3) through (11) shall contain information as of date in column (11).
No cancellation or nonrenewal shall be double counted by including it in more than one column.
Renewals within standard/nonstandard system are not to be reported as nonrenewals or cancellations.
Nonrenewals for underwriting (column 6) do not qualify for highest rated tier of standard/nonstandard plan.
Column (7) cannot be greater than .02 x column (2).
Report total only for column (10).
Column (11) equals column (2) plus column (9) minus columns (3), (4), (5), (6), (7) and (8).

*Does not include a vehicle cancelled within the first 60 days.

Date Submitted _____

**NONRENEWAL REPORT—B
Individual Company**

Company Name: _____ NAIC Company No.: _____

| (1) Territory | (2) Vehicles Insured 12/31/-- | (3) Vehicles Cancelled | (4) Vehicles N/R by Insured | (5) Vehicles N/R for cause N.J.A.C. 11:3-8.4 | (6) Vehicles N/R 2% Rule N.J.A.C. 11:3-8.5(a)1 | (7) Vehicles N/R 2:1 Rule N.J.A.C. 11:3-8.5(a)2 | (8) *Vehicles Newly Insured | (9) JUA Depopulation Quota | (10) Vehicles Insured -/-/- |
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Totals:

Notes: Column (1) shall be numbered in accordance with insurer's approved rating plan.
 Column (2) shall be dated as of previous year.
 Columns (3) through (10) shall contain information as of date in column (10).
 No cancellation or nonrenewal shall be double counted by including it in more than one column.
 Column (6) cannot be greater than .02 x column (2).
 Report total only for column (9).
 Column (10) equals column (2) plus column (8) minus columns (3), (4), (5), (6) and (7).

*Does not include a vehicle cancelled within the first 60 days.

Date Submitted _____

(a)

**DIVISION OF PROPERTY/LIABILITY
Standard/Non-Standard Rating Plans****Proposed New Rules: N.J.A.C. 11:3-19**

Authorized By: Samuel F. Fortunato, Commissioner,
Department of Insurance.

Authority: N.J.S.A. 17:1-8.1; N.J.S.A. 17:1C-6(e); N.J.S.A.

17:29A-45 and 46, as amended, Sections 37 and 38 of P.L. 1990
c.8.

Proposal Number: PRN 1990-417.

Submit comments by September 5, 1990 to:

Verice M. Mason, Assistant Commissioner
Legislative and Regulatory Affairs
Department of Insurance
20 West State Street
CN 325
Trenton, New Jersey 08625

The agency proposal follows:

Summary

These proposed new rules implement N.J.S.A. 17:29A-45, as amended by Section 37 of the Fair Automobile Insurance Reform Act of 1990, P.L. 1990, c.8 (FAIR Act). The Department of Insurance (Department) previously proposed rules implementing N.J.S.A. 17:29A-45 on December 4, 1989 (see 21 N.J.R. 3721(a)). Since then, the Legislature has enacted the FAIR Act, which made significant changes in the underlying statutory provisions to be implemented. This proposal, therefore, replaces and supersedes the prior proposal.

Some of the provisions of these proposed rules are similar to those in the prior proposal. Provisions concerning filing requirements, renewal of policies at the proper rate level and the procedures for approval of these plans are virtually unchanged. The FAIR Act, however, provides a defined structure for the private passenger automobile insurance market to promote fairness and availability of coverage (see FAIR Act, sections 24-27; 34; 37-40 (N.J.S.A. 17:33B-13 et seq.)). The FAIR Act provides that beginning April 1, 1992, insurers shall insure all "eligible persons" in the voluntary market. Insurers may provide this coverage by one or more separate rating plans filed in accordance with N.J.S.A. 17:29A-45.

N.J.S.A. 17:29A-45 was substantially amended to set forth the role of standard/non-standard rating plans within the FAIR Act market structure. Among the significant changes are the provisions that the non-standard market shall include no more than 15 percent of the total private passenger automobile insurance market in this State, and that the non-standard rate level shall not be in excess of 135 percent of the voluntary market rate level. Separate provisions for "good driver rating plans" were repealed. FAIR Act amendments to N.J.S.A. 17:29A-46 eliminated the requirement that each affiliated insurer in a group establish separate rate levels through mutually exclusive underwriting rules. Consistent with these amendments to N.J.S.A. 17:29A-45 and 46, these rules are being newly proposed for standard/non-standard rating plans.

Standard/non-standard rating plans must be based on clearly stated underwriting rules filed with and approved by the Commissioner prior to implementing the rating plan. The standards for underwriting rules are set forth in proposed new rules N.J.A.C. 11:3-35, appearing elsewhere in this issue of the New Jersey Register. A standard/non-standard rating plan shall include underwriting rules that provide that all "eligible persons" be insured by the plan, and that all experienced drivers who have no automobile insurance eligibility points be insured at the standard rate level. Nevertheless, an insurer may seek approval of underwriting rules to expand its own voluntary market by accepting risks not defined as "eligible persons" or to insure at standard rate levels risks that have accrued automobile insurance eligibility points as the result of moving violations or at-fault accidents. These proposed rules contain specific standards for the disapproval of standard/non-standard rating plans in order to provide insurers with the parameters within which those plans should be designed.

In the event the Commissioner chooses to exercise his or her authority to define in more detail the risk characteristics of the non-standard market, the proposed rules require an insurer to modify its approved standard/non-standard rating plan to conform to the change. The rules further set forth the statutory mandate that an insurer must issue and renew policies at its standard rate level during any period of time that

the Commissioner certifies that the non-standard market exceeds 15 percent of the private passenger automobile market. Insurers may include provisions in these plans that persons not normally eligible for coverage in the voluntary market be insured at non-standard rates if the assigned risk plan is closed pursuant to N.J.S.A. 17:29D-1f.

N.J.A.C. 11:3-19.1 sets forth the purpose and scope of the proposed rules.

N.J.A.C. 11:3-19.2 sets forth definitions of words and terms used throughout the subchapter.

N.J.A.C. 11:3-19.3 sets forth the filing requirements for standard/non-standard rating plans.

N.J.A.C. 11:3-19.4 sets forth standards for disapproval or modification of these rating plans.

N.J.A.C. 11:3-19.5 sets forth rules concerning the implementation of these plans with regard to renewal of policies at the proper rate level.

N.J.A.C. 11:3-19.6 sets forth the rules concerning filing Excess Profits Reports, pursuant to N.J.A.C. 11:3-20 and 20A and merit rating accident surcharge systems, as provided by N.J.S.A. 17:29A-35.

N.J.A.C. 11:3-19.7 sets forth procedural provisions for the filing of these plans, including the role of the Public Advocate in the approval of the rates and rules.

N.J.A.C. 11:3-19.8 provides for penalties for violations of this subchapter.

Social Impact

These proposed rules set forth the filing requirements and standards for approval of standard/non-standard rating plans which automobile insurers may choose to file. Since the option to file these plans has been established by statute, the primary impact of these rules is to articulate clearly the requirements for filing, approval and implementation of these plans.

The Department expects that these rules will carry out the provisions of N.J.S.A. 17:29A-45, as amended by the FAIR Act, to permit insurers to file and maintain separate rating plans for non-standard risks.

Economic Impact

These proposed rules will affect the Department and automobile insurers that choose to file standard/non-standard rating plans. These rating plans will affect insureds based upon the applicable plan standards and the rate levels, which have been limited by statute to 135 percent of the voluntary market cost.

The Department expects that the statutory provisions will increase the number of automobile insurance filing requirements to be reviewed by the Department. This additional work will require additional staff.

With respect to insurers, it must be noted that these rating plans are optional with each insurer. Thus an insurer would make its own determination whether it is economically beneficial to file and implement a standard/non-standard rating plan. To the extent that these proposed rules have an impact on that process, the standards for filing and approval are made clear.

Regulatory Flexibility Analysis

These proposed rules may apply to "small businesses" as that term is defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. Individual insurance companies authorized to write private passenger automobile insurance, some of which may be small businesses, are affected by these proposed rules.

These proposed rules implement N.J.S.A. 17:29A-45, as amended by the FAIR Act. Because the establishment of such plans is optional with individual insurers, however, these rules do not impose any requirements on small business. Nevertheless, they do provide reporting, record keeping and compliance requirements for those insurers that qualify as "small businesses" should they choose to establish a standard/non-standard rating plan.

These rules do not establish different compliance requirements for insurers that qualify as small businesses. Those insurers may need to obtain the services of actuarial consultants to comply with the filing requirements if those services are not available in-house. Establishing different compliance requirements for automobile insurance companies that qualify as "small businesses" would be inconsistent with the purpose of these rules in establishing minimum standards. It would likewise be inconsistent with the purpose of the FAIR Act, which is to establish uniform and minimum requirements for the segments of the market reflected in the standard and non-standard rate levels. Automobile insurance companies that qualify as "small businesses" may, of course,

choose not to file these optional plans if they determine it is not in their economic interest to do so.

Full text of the proposal follows:

SUBCHAPTER 19. STANDARD/NON-STANDARD RATING PLANS

11:3-19.1 Purpose and Scope

(a) This subchapter implements N.J.S.A. 17:29A-45 as amended by section 37 of P.L. 1990, c.8, by establishing standards for standard/non-standard rating plans in the voluntary automobile insurance market. It sets forth the items to be filed and approved by the Commissioner in order to create a standard/non-standard rating plan; standards to be applied by the Department in approving a plan; and standards for the functioning of a plan in the market.

(b) This subchapter applies to all insurers that are licensed and authorized to transact private passenger automobile insurance in the voluntary market and that choose to establish standard/non-standard rating plans. It applies to groups of affiliated companies which insure risks through separate individual insurance companies.

11:3-19.2 Definitions

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

"Affiliated companies" means two or more individual insurance companies that are authorized to transact private passenger automobile insurance business in New Jersey and that are under both common ownership and common management.

"Automobile insurance eligibility points" means points accrued under the schedule set forth in N.J.A.C. 11:3-34 during the previous three years.

"Commissioner" means the Commissioner of the New Jersey Department of Insurance.

"Department" means the New Jersey Department of Insurance.

"Individual insurance company" means an insurance company separately licensed and authorized to transact private passenger automobile insurance business in New Jersey, regardless whether it is one of a group of affiliated companies.

"Insurer" includes a group of affiliated companies.

"Standard/non-standard rating plan" means a rating system used by an insurer that provides different base rates for different risks to those insureds who qualify in accordance with the insurer's approved underwriting rules.

"Public Advocate" means the Division of Rate Counsel of the New Jersey Department of the Public Advocate, established pursuant to N.J.S.A. 52:27E-16.

"Renew" means to issue and deliver at the end of the policy period a policy superseding a policy previously issued and delivered, or to issue and deliver a certificate or notice extending the term of a policy beyond its policy period or term, by the same individual insurance company, or by another of a group of affiliated companies pursuant to a standard/non-standard rating plan filed and approved in accordance with this subchapter.

11:3-19.3 Filing requirements for standard/non-standard rating plans

(a) Insurers may file standard/non-standard rating plans that provide different rates for risks separately described by the insurer's approved underwriting rules. No insurer shall implement or use a standard/non-standard rating plan that has not been filed and approved in accordance with N.J.S.A. 17:29A-45 and this subchapter.

(b) No insurer shall file, implement or use a standard/non-standard rating plan that would increase the insurer's total revenue from its population of insureds that will exist on the date of implementation.

(c) An insurer may initially establish a standard/non-standard rating plan by filing with the Commissioner the following items:

1. A narrative description of the plan, which shall include:

i. The percentage and dollar difference between the standard and non-standard rate levels;

ii. Any variation of the difference by coverage;

iii. The insurer's plan for determining upon renewal to which rate level a risk will be assigned;

iv. A statement that estimates the percentage of the insurer's current population of insureds, if any, that will be assigned to its proposed non-standard rate level if the plan is approved as submitted; and the insurer's plan for altering its current standard rates to preclude an increase in total revenue from its existing population of insureds; and

v. If the plan is submitted by a group of affiliated companies, the identity of all individual insurance companies in the group that transact private passenger automobile insurance business in New Jersey and the rate level to be used by each;

2. A complete set of underwriting rules that set forth qualifications for each rate level, which rules shall conform to the standards set forth in N.J.A.C. 11:3-35; and

3. Within 30 days of the date of approval of the underwriting rules or the effective date of the plan, whichever is later, manual rate pages for each rate level.

(d) A group of affiliated companies may file a standard/non-standard rating plan that provides that different individual insurance companies write risks at different rate levels.

(e) Any limitations on rates established by the provisions of N.J.S.A. 17:29A-36 shall be applied separately to each rate level.

11:3-19.4 Standards for disapproval or modification

(a) A standard/non-standard rating plan shall be disapproved for any of the following reasons:

1. If the non-standard rate level is in excess of 135 percent of the combined standard/non-standard rate level;

2. If the plan does not provide that the insurer shall, after April 1, 1992, insure at either its standard or non-standard rate level all applicants and insureds defined as "eligible persons" in N.J.A.C. 11:3-34;

3. If the plan does not provide that the insurer shall insure at its standard rate level all insureds and applicants who have been licensed to drive for the previous three years and who have accrued no automobile insurance eligibility points during that time;

4. If the underwriting rules do not meet the standards set forth in N.J.A.C. 11:3-35;

5. If the insurer fails to submit the items required for filing pursuant to N.J.A.C. 11:3-19.3; or

6. If the plan otherwise fails to meet any of the standards of this subchapter.

(b) The Commissioner may by rule or order direct an insurer with an approved standard/non-standard rating plan to modify its plan to conform to rules which may be adopted pursuant to N.J.S.A. 17:29A-45f that further define the non-standard voluntary market.

(c) Notwithstanding the approval of rate levels for a standard/non-standard rating plan, the insurer shall issue and renew policies at its standard rate level during any period of time that the Commissioner has certified that 15 percent or more of the aggregate number of private passenger automobile non-fleet exposures are insured in the non-standard market in this State.

(d) A standard/non-standard rating plan may provide that any applicant who is not an "eligible person" as defined in N.J.A.C. 11:3-34 may be insured at the non-standard rate level during any period of time certified by the Commissioner for the cessation of the acceptance of applications or the issuance of new policies by the assigned risk plan, pursuant to N.J.S.A. 17:29D-1d.

11:3-19.5 Renewal of policy at proper rate level

(a) An insurer which has implemented a standard/non-standard rating plan shall issue and renew its policies at the appropriate rate level for which the risk qualifies in accordance with the insurer's approved underwriting rules. The transfer of a risk from one rate level to another within an insurer's standard/non-standard rating plan shall not be deemed to be a nonrenewal of the policy as provided by N.J.S.A. 39:6A-3 and N.J.A.C. 11:3-8 if the insurer complies with the provisions set forth below.

1. If the insured qualifies for a rate level with lower rates, the insurer shall renew the insured at the lower rate level in accordance with procedures set forth in N.J.A.C. 11:3-8.2.

2. If the insured qualifies for a rate level with higher rates, the insurer shall renew the insured at the higher rate level in accordance with procedures set forth in N.J.A.C. 11:3-8.2 after providing notice to the insured as follows:

- i. Written notice shall be sent to the insured at least 30, but not more than 45, days before expiration of the policy;
- ii. The written notice shall advise the insured that he or she no longer meets the insurer's approved underwriting rules for the rate level to which the insured was previously assigned;
- iii. The notice shall set forth the standard of the underwriting rule that applies to the insured and the specific facts upon which the insurer relies to determine that the insured no longer meets the standard, including the specific events that resulted in the assessment of automobile insurance eligibility points; and
- iv. The notice shall advise the insured of his or her right to contact other insurers to determine whether comparable insurance can be purchased elsewhere at less cost.

11:3-19.6 Relationship to other rules

(a) Data for each rate level of a standard/non-standard rating plan shall be maintained and reported separately in an insurer's Excess Profits Report filed pursuant to N.J.A.C. 11:3-20 and 20A.

(b) With respect to any merit rating accident surcharge system provided by N.J.S.A. 17:29A-35, any rate surcharge shall be an equal dollar amount for all rate levels to which the surcharge applies. The dollar amount may vary in accordance with the type of coverage purchased.

11:3-19.7 Procedural provisions

(a) An individual insurance company operating pursuant to a rating plan approved on or before November 14, 1989 may initially file a standard/non-standard rating plan in which the modification is expressed as a percentage increase or decrease of the existing rate level.

(b) Contemporaneously with filing a standard/non-standard rating plan with the Department, an insurer operating pursuant to a rating plan approved on or before November 14, 1989, shall deliver a copy of the filing to the Public Advocate at the following address:

Department of the Public Advocate
Division of Rate Counsel
744 Broad Street
Newark, New Jersey 07102

1. The Public Advocate may intervene in the proceedings by filing notice with the Department within 10 days of date of receipt of the filing. A copy of the notice shall be contemporaneously sent to the insurer filing the plan.

2. The Public Advocate shall file with the Department its comments regarding the insurer's proposed rating plan and underwriting rules no later than 30 days after receipt of the filing. A copy of the comments shall be contemporaneously delivered to the insurer filing the plan.

3. The insurer may submit to the Department a response to the comments within 10 days of receipt. A copy shall be sent contemporaneously to the Public Advocate.

4. The decision of the Commissioner to approve or disapprove the rates and underwriting rules shall be based upon the documents submitted.

5. The Commissioner shall promptly notify the insurer whether the rating plan and underwriting rules have been approved or disapproved. A copy of the decision shall also be sent to the Public Advocate if it has filed a notice of its intention to intervene. Pursuant to N.J.S.A. 17:29A-45c, rates initially filed as a percentage increase or decrease of the existing rate level by an insurer which had rates approved on November 14, 1989, shall be deemed approved if not disapproved within 60 days.

(c) An individual insurance company which did not have a rating plan approved on or before November 14, 1989 may file a standard/non-standard rating plan by complying with the provisions of N.J.A.C. 11:3-19.3 and N.J.A.C. 11:3-16.5 (rate filing requirements for prior approval filings) even if it is one of a group of affiliated companies of which one or more companies has approved rates.

11:3-19.8 Penalties

Failure to comply with the provisions of this subchapter shall subject the insurer to penalties as provided by N.J.S.A. 17:33-2.

(a)

DIVISION OF PROPERTY/LIABILITY

Private Passenger Automobile Insurance Underwriting Rules

Proposed New Rules: N.J.A.C. 11:3-35

Authorized By: Samuel F. Fortunato, Commissioner,
Department of Insurance.

Authority: N.J.S.A. 17:1-8.1; N.J.S.A. 17:1C-6(e); N.J.S.A.

17:22-6.14a1; N.J.S.A. 17:29A-46; P.L. 1990, c.8, Section 27b
(enacted March 12, 1990).

Proposal Number: PRN 1990-418.

Submit comments by September 5, 1990 to:

Verice M. Mason, Assistant Commissioner
Legislative and Regulatory Affairs
Department of Insurance
CN 325
Trenton, New Jersey 08625

The agency proposal follows:

Summary

N.J.S.A. 17:29A-46 requires insurers which transact the business of private passenger automobile insurance in New Jersey (insurers) to put in writing all of their underwriting rules and to file the rules with the Commissioner of Insurance (Commissioner) for his or her prior approval. Administrative rules to implement this statute were previously proposed December 4, 1989 in connection with proposed new rules concerning multi-tier and good driver rating plans (see 21 N.J.R. 3721(a)). Some of the specific provisions of that proposal are incorporated into this one.

In March of this year, however, the Legislature enacted the Fair Automobile Insurance Reform Act of 1990, P.L. 1990, c.8 (FAIR Act). Among the significant reforms of the FAIR Act were several statutory provisions that regulate the market structure for private passenger automobile insurance (see FAIR Act sections 24-28; 34; 37-40). These provisions establish a three-tiered private passenger automobile insurance market with at least 75 percent insured at the standard rate level, up to 15 percent insured at the non-standard rate level, and up to 10 percent in a new assigned risk plan. The FAIR Act further provides that drivers be insured at a specific rate level based primarily on their driving behavior as evidenced by driving record. These rules regarding the filing of an insurer's underwriting rules are being proposed contemporaneously with other rules intended to implement the market structure provisions of the FAIR Act (see proposed new rules N.J.A.C. 11:3-19 published elsewhere in this issue of the New Jersey Register and 11:3-34 published at 22 N.J.R. 2108(a); and N.J.A.C. 11:3-33 to be published in a future New Jersey Register; see also proposed amendments to N.J.A.C. 11:3-8 published elsewhere in this issue of the New Jersey Register).

Within this market structure contemplated by the FAIR Act, the processes of filing and approving an insurer's underwriting rules serve several purposes. First, the processes are intended to ensure that each insurer develops and implements underwriting rules consistent with the market structure set forth in the FAIR Act. Thus an insurer will be required to file and use underwriting rules that contain the definition of an "eligible person" as set forth in proposed N.J.A.C. 11:3-34. Prior to April 1, 1992, these underwriting rules shall be used by insurers to determine whether to nonrenew its insureds. After that date these rules shall also be used to accept new business.

Secondly, an insurer's underwriting rules shall be used to define the driver and vehicle characteristics in connection with a standard/non-standard rating plan (see proposed N.J.A.C. 11:3-19). These proposed new rules require that an insurer which files for approval a standard/non-standard rating plan shall provide in that plan that all experienced drivers with no automobile insurance eligibility points, as set forth in proposed N.J.A.C. 11:3-34, shall be insured at its standard rate level.

Finally, approved underwriting rules may be used to broaden eligibility for the voluntary market or the standard rate level. In accordance with the provisions of the FAIR Act, these proposed rules provide that the Department will not approve underwriting rules that are more restrictive

than the definition of "eligible person", that is, rules that serve to nonrenew or refuse coverage to a person eligible for coverage in the voluntary market pursuant to proposed N.J.A.C. 11:3-34. An insurer may, however, choose to file for approval underwriting rules that broaden eligibility for its new or renewal business to some who do not meet the "eligible person" definition. Similarly, an insurer which has filed a standard/non-standard rating plan may choose to file underwriting rules to insure renewal business, or new applicants, at its standard rate level even though the risk is an inexperienced driver or has accrued automobile insurance eligibility points as the result of moving violations or at-fault accidents. In accordance with N.J.S.A. 17:29A-46a, the insurer shall, of course, apply its approved underwriting rules uniformly throughout the State.

As proposed, the rules give insurers six months to develop and file their underwriting rules. Failure to do so subjects the insurer to statutory penalties. Upon approval of its underwriting rules, failure by an insurer to transact business according to its approved underwriting rules carries a penalty of \$500.00 per offense.

N.J.A.C. 11:3-35.1 states the purpose and scope of the proposed new rules.

N.J.A.C. 11:3-35.2 sets forth definitions of terms used throughout the subchapter.

N.J.A.C. 11:3-35.3 sets forth general requirements and the format for filing underwriting rules.

N.J.A.C. 11:3-35.4 establishes the requirements of underwriting rules for eligible persons.

N.J.A.C. 11:3-35.5 establishes the requirements for standard/non-standard rating plans.

N.J.A.C. 11:3-35.6 requires insurers to file their underwriting rules for approval within six months, and provides penalties for failure to do so. It also sets forth the penalty provided in N.J.A.C. 17:29A-46a for failing to conduct business in accordance with approved underwriting rules.

Social Impact

These proposed new rules affect private passenger automobile insurers and insureds, as well as the Department. These rules carry out the statutory purposes of the market structure provisions of the FAIR Act by requiring insurers to file for approval of underwriting rules that establish the voluntary market as provided in the FAIR Act. In doing so, insureds which are "eligible persons" shall be guaranteed access to insurance in the voluntary market. Moreover, insureds that are proven "good drivers", that is, are experienced drivers and have accrued no automobile insurance eligibility points, will be provided insurance at standard market rates. These proposed rules further permit insurers to file for approval underwriting rules by which it may choose to renew business, or accept new business, even though the risk is not an "eligible person". These proposed rules further permit an insurer which files a standard/non-standard rating plan to choose to insure at standard market rates renewal business, or new business, even though the risk has a blemished driving record.

Economic Impact

These proposed new rules will impact private passenger automobile insurers and the Department. Insurers are required by N.J.S.A. 17:29A-46 to file for approval their underwriting rules. Doing so will, of course, involve some administrative expense. This impact should be minimal, however, as the rules set forth a simple and standardized format for these filings.

The Department will incur some additional cost in its duty to review and approve insurer underwriting rule filings. These anticipated costs will require additional personnel and resources, as will the Department's duty to enforce the provisions of N.J.S.A. 17:29A-46, as amended by the FAIR Act. These resources should be provided from the Department's funding for fiscal year 1991.

Regulatory Flexibility Analysis

The proposed new rules will affect insurers authorized to transact the business of private passenger automobile insurance in New Jersey. Some automobile insurance companies may be considered "small businesses" as defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq.

The compliance requirements imposed by these proposed rules are largely a function of the statutory mandate of N.J.S.A. 17:29A-46, which requires insurers to file for approval their underwriting rules. Specific compliance requirements are imposed by these rules, which include the format of the rules, certain standards for approval and the requirement that all insurers file their underwriting rules for approval within six months. Insurers will be required to expend certain administrative costs in developing and filing their underwriting rules. Since all insurers cur-

rently operate using their own internally developed underwriting rules, the Department believes that these proposed rules will not require insurers to hire additional professional or non-professional staff.

These proposed rules further carry out the statutory mandates of the market structure provisions of the FAIR Act which requires all insurers to insure in the voluntary market those persons defined as "eligible persons". Since the underlying statutory authority does not allow for disparate treatment for "small businesses", the rules apply equally to all insurers affected by their provisions.

Full text of the proposal follows:

SUBCHAPTER 35. PRIVATE PASSENGER AUTOMOBILE INSURANCE UNDERWRITING RULES

11:3-35.1 Purpose and scope

(a) This subchapter implements N.J.S.A. 17:29A-46 which requires that a private passenger automobile insurer's underwriting rules be filed and approved for use. Approval of underwriting rules shall serve to confirm that each insurer's business practices are consistent with law regarding the acceptance of new business, the renewal of current business and the assignment of a risk to an insurer's standard or non-standard rate level.

(b) This subchapter applies to all insurers that are licensed and authorized to transact private passenger automobile insurance in the voluntary market. It applies to affiliated companies which insure risks through different individual insurance companies.

11:3-35.2 Definitions

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

"Affiliated companies" means two or more individual insurance companies that are authorized to transact private passenger automobile insurance business in New Jersey and that are under both common ownership and common management.

"Automobile insurance eligibility points" means points accrued under the schedule set forth in N.J.A.C. 11:3-34 during the previous three years.

"Commissioner" means the Commissioner of the Department of Insurance.

"Department" means the New Jersey Department of Insurance.

"Individual insurance company" means an insurance company licensed and authorized to transact private passenger automobile insurance business in New Jersey, regardless whether it is one of a group of affiliated companies.

"Insurer" includes a group of affiliated companies.

"Renew" means to issue and deliver at the end of the policy period a policy superseding a policy previously issued and delivered, or to issue and deliver a certificate or notice extending the term of a policy beyond its policy period or term, by the same individual insurance company, or by another of a group of affiliated companies pursuant to a standard/non-standard rating plan filed and approved in accordance with N.J.A.C. 11:3-19.

11:3-35.3 General requirements and filing format

(a) All insurers which write private passenger automobile insurance in New Jersey shall file their underwriting rules for approval in accordance with N.J.S.A. 17:29A-46 and this subchapter. No insurer shall use or implement any underwriting rule not filed and approved as set forth herein.

(b) Underwriting rules shall be submitted on 8 1/2 by 11 inch paper using one side of the page. Each page shall be consecutively numbered. The first page shall show the filer's company name, the filer's identifying number for this filing, National Association of Insurance Commissioners (NAIC) company number(s), and NAIC group number. The underwriting rules filing shall clearly identify the rate level to which the underwriting rules will be applied and whether the underwriting rules apply to new business, renewal business or both. All tables shall be clearly labeled.

(c) Underwriting rules shall meet the following standards:

1. No underwriting rule shall be based on the territory in which an insured resides.

2. An underwriting rule shall be based on a reasonable and demonstrable relationship between the risk characteristics of the driver(s) or vehicle(s) insured and the hazards insured against.

3. An underwriting rule shall be based on specific and verifiable measurements. No underwriting rule shall be based on subjective judgments such as "pride of ownership evident", "poor attitude", "unsatisfactory environment to conduct business", etc.

4. No underwriting rule shall be based on race, color, creed, national origin or ancestry.

5. No underwriting rule shall be based on whether the applicant or insured was previously insured as a non-standard or sub-standard risk, was previously insured by a residual market mechanism, or whether another insurer declined to insure or terminated insurance.

6. No underwriting rule shall be based on whether the insured or a member of the insured's household purchases or continues to purchase other insurance or services from the insurer or its affiliates, agents or other companies under common management or ownership, except that this provision shall not prohibit a rate discount.

7. No underwriting rule shall be based on the lawful occupation or profession of an insured, except that this provision shall not apply to any insurer which limits all its insureds to one lawful occupation or profession, or to several related lawful occupations or professions.

8. No underwriting rule shall be based on whether the insured has changed employment in the recent past, except that this provision shall not prohibit a rate discount to an insurer's employees or agents.

9. No underwriting rule shall be based on whether the insured is impaired by physical or mental disabilities except those disabilities that impair the ability to operate an automobile safely.

10. No underwriting rule shall be based on whether a member of the insured's household is not an "eligible person" as defined in N.J.A.C. 11:3-34; has not been licensed to drive for the previous three years; or has accumulated one or more automobile insurance eligibility points, unless the member of the household usually accounts for 10 percent or more of the use of the automobile insured or to be insured. For the purpose of this section:

i. Any driver who is the principal driver of an automobile shall be presumed not to account for 10 percent or more of the use of any other automobile in the household.

ii. Except when there are more automobiles than drivers in the household, a person shall be presumed not to be the principal driver of more than one automobile.

11:3-35.4 Underwriting rules for eligible persons

(a) All insurers shall file for approval underwriting rules that provide that the insurer will make an offer to renew any of its insureds who is defined as an "eligible person" in N.J.A.C. 11:3-34.

(b) All insurers shall file for approval underwriting rules that provide that on or after April 1, 1992, the insurer shall not refuse to insure, refuse to renew or limit coverage available to any of its insureds, or to any applicant for insurance, which is defined as an "eligible person" in N.J.A.C. 11:3-34.

(c) An insurer may file for approval underwriting rules pursuant to which it will determine whether to insure any person not defined as an "eligible person" in N.J.A.C. 11:3-34.

11:3-35.5 Underwriting rules for standard/non-standard rating plans

(a) Insurers which file standard/non-standard rating plans shall file underwriting rules that provide that its insureds and applicants who have been licensed to drive for at least three years and who have accrued no automobile insurance eligibility points shall be assigned to its standard rate level.

(b) An insurer may file for approval underwriting rules pursuant to which it will determine whether to insure at its standard rate level any person who has been licensed to drive for less than three years, or who has accrued one or more automobile insurance eligibility points, or both.

11:3-35.6 Penalties

(a) An insurer which fails to file its underwriting rules for approval pursuant to N.J.S.A. 17:29A-46 and this subchapter within six months of the effective date of this subchapter shall be subject to penalties as provided by N.J.S.A. 17:33-2.

(b) An insurer which knowingly fails to transact automobile insurance business consistently with its approved underwriting rules shall be subject to a fine of not less than \$500.00 for each violation, pursuant to N.J.S.A. 17:29A-46a.

LABOR

(a)

OFFICE OF WAGE AND HOUR COMPLIANCE

Wage and Hour

Proposed Readoption with Amendments: N.J.A.C. 12:56

Authorized By: Raymond L. Bramucci, Commissioner,
Department of Labor.

Authority: N.J.S.A. 34:1-20, 34:1A-3(e), 34:11-56a19, and 34:2-21.64.

Proposal Number: PRN 1990-413.

Submit comments by September 5, 1990 to:

Office of the Commissioner
Department of Labor
CN 110

Trenton, New Jersey 08625-0110

The agency proposal follows:

Summary

Pursuant to Executive Order No. 66(1978), N.J.A.C. 12:56 expires on September 26, 1990. The Department has reviewed the rules and determined them to be necessary, reasonable and proper for the purpose for which they were originally promulgated as required by the Executive Order.

N.J.A.C. 12:56, concerning the Wage and Hour Law, is designed to implement the statutory requirements of N.J.S.A. 34:11-56a19, prevent the circumvention or evasion of the New Jersey Wage and Hour Law, N.J.S.A. 34:11-56a et seq., and to safeguard the wage rates established.

N.J.A.C. 12:56-1 sets forth the general provisions of the subchapter. The subchapter has been amended to delete unnecessary sections, and to make it gender-neutral.

N.J.A.C. 12:56-2 contains the definitions section, which has been amended to delete certain unnecessary words and phrases; specifically, to delete references to definitions that are defined in their respective subchapters.

N.J.A.C. 12:56-3 sets forth the minimum wage rates for specific years. The subchapter has been amended to reflect recent changes in the statutory minimum wage which were signed into law in May, 1990 as P.L. 1990 c. 18. The minimum wage as of May 3, 1990 is \$3.80. On April 1, 1991, it will increase to \$4.25 and to \$5.05 in April, 1992.

N.J.A.C. 12:56-4 concerns records which must be kept by employers concerning timekeeping, working schedules, gratuities, food and lodging and additions to wages.

N.J.A.C. 12:56-5 addresses payment for hours worked, and sets forth information concerning how the workweek is construed, accounting for irregular hours, and on-call time computation.

N.J.A.C. 12:56-6 sets forth overtime requirements, interprets "regular hourly wage" and states how and when overtime is to be paid.

N.J.A.C. 12:56-7 lists exemptions from overtime; specifically, employees who are classified as executive, administrative or professionals. The subchapter has been amended to reflect the level of pay which would classify an individual as belonging to one of these three categories. N.J.A.C. 12:56-7.1(a)6 has been amended to change the \$350.00 rate to \$300.00, effective (the effective date of the amendment), \$350.00 effective April 1, 1991 and \$400.00 effective April 1, 1992. The rule as it currently exists reads \$350.00 as of November 1, 1980. An amendment was made to the rule effective November 20, 1980 (see 13 N.J.R. 37(a)). However, the text of the rule was never changed to reflect this amendment, which would have reduced the \$350.00 rate to \$250.00. The text, as amended in this proposal, will bring the section into conformance with the provisions for administrative and professional employees.

N.J.A.C. 12:56-8 concerns gratuities, food and lodging, and offers a method of determining the "fair value" of these benefits. N.J.A.C. 12:56-8.9 has been amended to delete the reference to 58 percent in paragraph (a). Since 1980, the Department has used 60 percent to de-

termine what percentage of the minimum wage must equal the cash wages due food service workers.

N.J.A.C. 12:56-9 addresses the employment of handicapped persons and the method of obtaining a permit for hiring handicapped persons at wages less than minimum wage rates.

N.J.A.C. 12:56-10 sets forth the requirements to be followed for hiring learners, apprentices and students.

N.J.A.C. 12:56-11 concerns employment in the first processing of farm products occupations, and sets forth the overtime rates payable to individuals working in this capacity.

N.J.A.C. 12:56-12 addresses employment in seasonal amusement occupations. The subchapter defines certain terms associated with the industry, and sets forth the minimum wage and overtime rates to be paid to employees.

N.J.A.C. 12:56-13 relates to employment in hotel and motel occupations. The subchapter has been amended to change the applicable minimum wage rates in accordance with the adopted statutory rates. N.J.A.C. 12:56-13.3 has been amended to delete the reference to 58 percent in paragraph (a). Since 1980, the Department has used 60 percent to determine what percentage of the minimum wage must equal the cash wages due food service workers in hotels and motels.

N.J.A.C. 12:56-14 concerns employment in food service occupations. This subchapter has also been amended to bring the minimum wage rates into conformance with the new statutory rates. Additionally, the provision concerning uniforms has been deleted from this section as it has been added as a new subchapter. N.J.A.C. 12:56-14.3 has been amended to delete the reference to 58 percent in paragraph (a). Since 1980, the Department has used 60 percent to determine what percentage of the minimum wage must equal the cash wages due food service workers.

N.J.A.C. 12:56-15 addresses employment in the air carrier industry, and N.J.A.C. 12:56-16 concerns payroll deductions for mass transportation.

N.J.A.C. 12:56-17 has been added. The subchapter addresses uniforms, and was added as a new subchapter so that all employees required to wear uniforms would receive equal compensation. The existing rules allow uniform compensation only for hotel and motel occupations, and the re Adoption will apply this provision to all workers.

Finally, Appendix A has been amended to reflect an address change, and the entire chapter has been amended to make it gender-neutral.

Social Impact

The rules proposed for adoption will assure that the current requirements concerning minimum wage issues remain in effect. This will ensure that all workers are receiving the pay and benefits which they are due pursuant to the recent statutory changes. By receiving a higher minimum wage, these workers will enjoy a higher standard of living, as their hourly wages will be increasing over the next three years.

Economic Impact

The rules as proposed for re Adoption will impose increased costs on employers, specifically with regard to the increased minimum wage requirements. These changes, however, are statutorily mandated throughout the State, and all employers are subject to the new law. Other costs imposed on employers pertain to the requirements as detailed in the Regulatory Flexibility Analysis below.

The rules proposed for adoption will benefit workers by providing a higher minimum wage rate. The Department does not expect to be economically impacted as a result of the re Adoption of the rules.

Regulatory Flexibility Analysis

The rules proposed for re Adoption do impose some reporting, recordkeeping and compliance requirements on businesses, some of which are small businesses as defined by the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq.

Specifically, employers are required to keep records concerning hours worked, food and lodging, additions to wages and personnel records for each employee. Additionally, all employers, regardless of size, are required to pay minimum wage to their employees. It is imperative that all employers pay minimum wage and keep accurate records where necessary, as an exemption for any employer would defeat the overall purpose of the wage and hour laws, which is to provide equal pay and safe working conditions for all workers. The rules proposed for re Adoption will not require any employers to hire any outside professional services, with the possible exception of payroll services for very large employers. The rules proposed for re Adoption do not, however, impose any new requirements on employers which are not already in existence.

Full text of the proposed re Adoption may be found in the New Jersey Administrative Code at N.J.A.C. 12:56.

Full text of the proposed amendments follows (additions indicated in boldface thus; deletions indicated in brackets [thus]):

[FOREWORD

This chapter of Title 12 of the New Jersey Administrative Code replaces N.J.A.C. 12:56, New Jersey State Wage and Hour Law, effective December 15, 1966.

This chapter is promulgated by the Commissioner of Labor and Industry of the State of New Jersey, under authority vested in him by Section 19 of the New Jersey State Wage and Hour Law, N.J.S.A. 34:11-56 et seq. as follows:

"The commissioner may, from time to time after conference with the director and without reference to a wage board, propose such modifications of or additions to any administrative regulations issued pursuant to N.J.S.A. 34:11-56a5 and 34:11-56a16 as he may deem appropriate to effectuate the purposes of this article; provided, such proposed modifications or additions could legally have been included in the original regulation. Notice shall be given of a public hearing to be held by the commissioner or director not less than 15 days after such notice, at which all persons in favor of or opposed to the proposed modifications or additions may be heard. After the hearing the commissioner may make an order putting into effect the proposed modifications of or additions to the administrative regulations as he deems appropriate."

This chapter 56 has been revised to bring the regulations into step with the current statutory requirements under the New Jersey State Wage and Hour Law, effective March 1, 1979. Further efforts have been made in the regulations to clarify certain statutory requirements.

All standards and publications referenced in this chapter are available in accordance with Appendix A.]

12:56-1.1 [Title and citation

This chapter shall be known and may be cited as N.J.A.C. 12:56, New Jersey State Wage and Hour Law.

12:56-1.2 Purpose

The purpose of this chapter is to establish rules to carry out the purpose of the act, prevent the circumvention or evasion of the act, and to safeguard the wage rates established.

12:56-1.3 Scope

(a) This chapter shall apply to wages and hours subject to the New Jersey State Wage and Hour Law, N.J.S.A. 34:11-56a et seq.

(b) This chapter shall apply to wages paid to an employee for services rendered.

(c) This chapter shall not apply to:

1. Volunteers; and
2. Patients.

12:56-1.4 Validity

Should any section, paragraph, sentence or word of this chapter be declared for any reason to be invalid, such decision shall not affect the remaining portions of this chapter.] Purpose; scope

(a) The purpose of this subchapter is to establish rules to effectuate N.J.S.A. 34:11-56a et seq., the New Jersey State Wage and Hour Law (Act), to provide sanctions for noncompliance, and to protect established wage rates.

(b) The chapter is applicable to:

1. Wages and hours subject to the Act; and
2. Wages paid to an employee for services rendered.

(c) This chapter shall not apply to:

1. Volunteers; or
2. Patients.

12:56-[1.5]1.2 Violations [of act]

An employer is a disorderly person if he willfully hinders or delays the [commissioner, the director or their authorized representatives] Commissioner in the performance of his or her duties in the enforcement of this [act] chapter or fails to make, keep, and preserve any records as required under the provisions of this [act] chapter, or falsifies any such record, or refuses to make any such record accessible to the [commissioner, the director or their authorized rep-

representatives] **Commissioner** upon demand, or refuses to furnish a sworn statement of such record or any other information required for the proper enforcement of this chapter to the [commissioner, the director or their authorized representatives] **Commissioner** upon demand, or pays or agrees to pay wages at a rate less than the rate applicable under this [act] **chapter** or any wage order issued pursuant thereto, or otherwise violates any provision of this [act] **chapter** or of any regulation or order issued under this [act] **chapter** and shall be guilty of a disorderly person offense and shall, upon conviction therefor be fined not less than \$100.00 nor more than \$500.00 or by imprisonment of not less than 10 nor more than 90 days or by both such fine and imprisonment. Each week, in any day of which an employee is paid less than the rate applicable to him or her under this [act] **chapter** or under a minimum fair wage order, and each employee so paid, shall constitute a separate offense.

12:56-[1.6]1.3 Discharge or discrimination against employee making complaint

An employer is a disorderly person if he discharges or in any other manner discriminates against any employee because such employee has made any complaint to his or her employer[,] or to the [commissioner, the director or their authorized representatives] **Commissioner** that he or she has not been paid wages in accordance with the provisions of this [act] **chapter**, or because such employee has caused to be instituted or is about to cause to be instituted any proceeding under or related to this [act] **chapter**, or because such employee has testified or is about to testify in any such proceeding, or because such employee has served or is about to serve on a wage board, and shall be guilty of a disorderly person offense and shall, upon conviction therefor, be fined not less than \$50.00 nor more than \$200.00. Such employer shall be required, as a condition of such judgment of conviction, to offer reinstatement in employment to any such discharged employee and to correct any such discriminatory action, and also to pay to any such employee in full, all wages lost as a result of such discharge or discriminatory action, under penalty of contempt proceedings for failure to comply with such requirement.

12:56-2.1 Definitions

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

- ["Administrative": See N.J.A.C. 12:56-7.2]
- "Commissioner" means the Commissioner of the Department of Labor [and Industry] or his or her designee.
- ...
- ["Executive": See N.J.A.C. 12:56-7.1]
- "Fair value": See N.J.A.C. 12:56-8.1(a)
- ...
- "First processing of farm products occupations": See N.J.A.C. 12:56-11.1(a).
- "Gratuity": See N.J.A.C. 12:56-8.1(b).
- "Handicapped person": See N.J.A.C. 12:56-9.1(a).
- "Hotel and motel occupation": See N.J.A.C. 12:56-13.1(a).
- "Industry engaged primarily in first processing of farm products": See N.J.A.C. 12:56-11.1(b).
- "Minimum fair wage order" means a wage order promulgated pursuant to the act.]
- ...
- "Office of Wage and Hour Compliance" means Office of Wage and Hour Compliance of Division of Workplace Standards of New Jersey State Department of Labor [and Industry], CN 389, Trenton, N.J. 08625.
- ...
- ["Outside salesman": See N.J.A.C. 12:56-7.4]
- ...
- ["Professional": See N.J.A.C. 12:56-7.3]
- ...
- ["Restaurant industry": See N.J.A.C. 12:56-14.1(a).
- "Restaurant occupation": See N.J.A.C. 12:56-14.1(b).
- "Seasonal amusement occupation": See N.J.A.C. 12:56-12.1(a).
- "Seasonal hotel and motel": See N.J.A.C. 12:56-13.1(b).
- "Shall" means a mandatory requirement.

"Sheltered workshop": See N.J.A.C. 12:56-9.1(b).

"Should" means a recommendation or that which is advised but not required.

"Special handicap permit": See N.J.A.C. 12:56-9.1(c).

"Special learner, apprentice or student learner permit": See N.J.A.C. 12:56-10.1(a).

"Uniform": See N.J.A.C. 12:56-14.1(c.)

"Volunteer" means a person who donates his or her service for the protection of the health and safety of the general public. Such a person would include, among others, a volunteer fireman, rescue worker, an aide in the care of the sick, aged, young, mentally ill, destitute and the like or assistant in religious, eleemosynary, educational, hospital, cultural and similar activities.

...

12:56-3.1 Statutory minimum wage rates for specific years

(a) Except as provided in N.J.A.C. 12:56-3.2, employees shall be paid minimum wage rates of not less than:

1. [\$2.50] **\$3.80** per hour for each hour of working time, effective [January 1, 1977] **May 3, 1990**;
2. [\$2.90] **\$4.25** per hour for each hour of working time, effective [March 1, 1979] **April 1, 1991**; and
3. [\$3.10] **\$5.05** per hour for each hour of working time, effective [January 1, 1980] **April 1, 1992**.

12:56-4.3 Fixed working schedule

(a) Many employees, particularly in offices, are on a fixed working schedule from which they seldom vary. In these instances, the employer may keep a record showing the exact schedule of daily and weekly work hours that the employee is expected to follow and merely indicate each workweek that the schedule was followed.

(b) (No change.)

12:56-4.5 Location; inspection

(a) (No change.)

(b) In unusual circumstances where it is not feasible to keep records in New Jersey, exception from this provision may be obtained from the [commissioner, the assistant director, or his authorized representative] **Commissioner**.

(c) All records shall be open to inspection by the [commissioner, the assistant director, or his authorized representative] **Commissioner** at any reasonable time.

12:56-4.7 Employee gratuity reports

(a) Employees receiving gratuities shall report them either daily or weekly as required by the employer. The information in the report shall include:

1. The [employees'] **employee's** name, address and social security number;
- 2.-4. (No change.)

12:56-5.2 Computation

(a) All the time the employee is required to be at his or her place of work or on duty shall be counted as hours worked.

(b) Nothing in this [act] **chapter** requires an employer to pay an employee for hours the employee is not required to be at his or her place of work because of holidays, vacation, lunch hours, illness and similar reasons.

12:56-5.6 On-call time

(a) [Employees who] **When employees** are not required to remain on the employer's premises and are free to engage in their own pursuits, subject only to the understanding that they leave word at their home or with the employer where they may be reached, **the hours** shall not be considered hours worked. When an employee does not go out on an on call assignment, only the time actually spent in making the call shall be counted as hours worked.

(b) (No change.)

12:56-6.5 "Regular hourly wage" payment basis

(a) (No change.)

(b) The act does not require employers to compensate employees on a hourly rate basis. Their earnings may be determined on a piece-rate, salary, bonus, commission or other basis, but the overtime

compensation due to employees shall be paid on the basis of the hourly rate derived therefrom. Therefore, the regular hourly wage of an employee is determined by dividing his or her total remuneration for employment, exclusive of overtime premium pay, in any workweek, by the total number of hours worked in that workweek for which such compensation was paid.

(c) If an employee is remunerated solely on the basis of a single hourly rate, the hourly rate shall be his or her "regular hourly wage".

12:56-6.6 Items excluded from "regular hourly wage"

(a) The "regular hourly wage" shall not be deemed to include:

1.-2. (No change.)

3. Reasonable payments for traveling or other expenses incurred by an employee in the furtherance of his or her employer's interests and properly reimbursable by the employer which are not made as compensation for employment;

4.-7. (No change.)

12:56-7.1 Definition of executive

(a) "Executive" means any employee:

1. Whose primary duty consists of the management of the enterprise in which he or she is employed or of a customarily recognized department or subdivision thereof; and

2.-4. (No change.)

5. Who devotes less than 20 percent of his or her workweek to non-exempt work or less than 40 percent if employed by a retail or service establishment, provided that in either case he or she retains his or her services on a salary basis exclusive of gratuities, board, lodging or other facilities, at a rate of not less than [~~\$350.00~~] **\$300.00** per week effective [November 1, 1980] **(the effective date of this amendment), \$350.00 per week effective April 1, 1991, and \$400.00 per week effective April 1, 1992.**

6. Who is compensated for his or her services on a salary basis exclusive of gratuities, board, lodging or other facilities, at a rate of not less than \$350.00 per week effective [November 1, 1980] **September 26, 1990 and \$400.00 per week effective April 1, 1991.**

(b)-(c) (No change.)

12:56-7.2 Definition of administrative

(a) "Administrative" means any employee:

1. Whose primary duty consists of the performance of office or nonmanual work directly related to management policies or general business operations of his or her employer or his or her employer's customers; and

2.-3. (No change.)

4. Who devotes less than 20 percent of his or her work to nonexempt work or less than 40 percent if employed by a retail or service establishment; and

5. Who is compensated for his or her services on a salary or fee basis, exclusive [to] of gratuities, board, lodging or other facilities at a rate of not less than [~~\$250.00~~] **\$300.00** per week effective [November 1, 1980] **September 26, 1990, \$350.00 per week effective April 1, 1991 and \$400.00 per week effective April 1, 1992.**

(b) "Administrative" shall also include an employee whose primary duty consists of sales activity and who receives at least 50 percent of his or her total compensation from commissions and a total compensation of not less than [~~\$250.00~~] **\$300.00** per week effective **September 26, 1990, \$350.00 per week effective April 1, 1991 and \$400.00 per week effective April 1, 1992.**

12:56-7.3 Definition of professional

(a) "Professional" means any employee:

1.-3. (No change.)

4. Who devotes less than 20 percent of his or her workweek to nonexempt work; and

5. Who is compensated for his or her services on a salary or fee basis, exclusive of gratuities, board, lodging or other facilities at a rate of not less than [~~\$250.00~~] **\$300.00** per week effective [November 1, 1980] **September 26, 1990, \$350.00 per week effective April 1, 1991 and \$400.00 per week effective April 1, 1992.**

12:56-7.4 Definition of outside salesman

(a) "Outside salesman" means any employee:

1. Who is employed for the purpose of and who is customarily and regularly engaged away from his or her employer's place or places of business in:

i.-ii. (No change.)

2. (No change.)

12:56-8.4 Administrative handling of gratuities

(a) Provided there is an agreement in advance with the employees, the employer, in order to facilitate the administrative handling of gratuity allowances, may establish an average value of gratuities received by an employee based upon a percentage of gross sales apportioned on basis of hours worked among the employees being tipped. This portion shall be:

1.-2. (No change.)

3. Such other method as may be agreed upon subject to the approval of the [commissioner, the assistant director or his authorized representative] **Commissioner.**

(b) (No change.)

12:56-8.5 Additional cash contribution claim

In no event shall N.J.A.C. 12:56-6.4 and 6.5 be interpreted to deny to an employee the right to make claim for additional cash compensation where it is shown to the satisfaction of the [commissioner, assistant director, or his authorized representative] **Commissioner** that the actual amount of tips received was less than the amount determined by the employer.

12:56-8.6 Fair value computed

(a)-(b) (No change.)

(c) The cost of operation and maintenance, the rate of depreciation, and the depreciated amount of capital invested by the employer shall be arrived at [under good] **in accordance with generally accepted** accounting practices.

(d) [Good] **Generally accepted** accounting practices shall not include those rejected by the New Jersey Division of Taxation or the Federal Internal Revenue Service for tax purposes, and the term "depreciation" includes obsolescence.

(e)-(f) (No change.)

12:56-8.7 Inspection of fair value methods

Methods of determining fair value shall be subject to inspection and approval by the [commissioner, assistant director or his authorized representative] **Commissioner.**

12:56-8.9 Cash wage guarantee in food service occupations

[(a) Cash wages in food service occupations should not fall below 58 percent of the applicable minimum wage rate per hour, after allowances are made for gratuities, food and lodging, as follows:

1. \$1.45 per hour for each hour of working time effective January 1, 1977,

2. \$1.68 per hour for each hour of working time effective March 1, 1979.]

[(b)] (a) Cash wages in food service occupations should not fall below 60 percent of the applicable minimum wage rate per hour, after allowances are made for gratuities, food and lodging as follows:

1. [1.86] **\$2.28** per hour for each hour of working time effective [January 1, 1980.] **May 3, 1990;**

2. **\$2.55** per hour for each hour of working time effective **April 1, 1991; and**

3. **\$3.03** per hour for each hour of working time effective **April 1, 1992.**

12:56-9.5 Cancellation of permit

(a) The [commissioner, the assistant director or his authorized representative,] **Commissioner** may cancel any special handicap permit for cause.

(b) A special handicap permit may be cancelled as of the date of issuance upon the following conditions:

1.-2. (No change.)

3. As of the date of notice of cancellation, if in the judgment of the [commissioner, the assistant director or his authorized representative] **Commissioner**, the special handicap permit is no longer necessary in the interest of the employees covered.

12:56-10.5 Cancellation of permit

(a) The [commissioner, the assistant director, or his authorized representative,] **Commissioner** may cancel any special learner, apprentice and student permit for cause as outlined in (b) below.

(b) A special learner, apprentice, and student permit may be cancelled upon the following conditions:

1.-2. (No change.)

3. As of the date of notice of cancellation, if in the judgment of the [commissioner, the assistant director, or his authorized representative,] **Commissioner**, the special learner, apprentice, or student permit is no longer necessary in the interest of the employees covered.

12:56-12.2 Minimum wage; overtime rates]

Employees engaged in seasonal amusement occupations shall be paid at minimum wage rates as provided in N.J.A.C. 12:56-3.1.

12:56-13.3 Food service and other occupations in which gratuities are customary, except chambermaids

[(a) Cash wages should not fall below 58 percent of the applicable minimum wage rate per hour, after allowances are made for gratuities, food and lodging, as follows:

1. \$1.45 per hour for each hour of working time effective January 1, 1977.

2. \$1.68 per hour for each hour of working time effective March 1, 1979.]

[(b)](a) Cash wages should not fall below 60 percent of the applicable minimum wage rate per hour, after allowances are made for gratuities, food and lodging, as follows:

1. [\$1.86] **\$2.28** per hour for each hour of working time effective [January 1, 1980.] **May 3, 1990;**

2. **\$2.55** per hour for each hour of working time effective **April 1, 1991; and**

3. **\$3.03** per hour for each hour of working time effective **April 1, 1992.**

12:56-13.4 Chambermaids, except in seasonal hotels and motels

(a) Cash wages should not fall below 89 percent of the applicable minimum wage rate per hour, after allowances are made for gratuities, as follows:

1. [\$2.23] **\$3.38** per hour for each hour of working time effective [January 1, 1977.] **May 3, 1990;**

2. [\$2.58] **\$3.78** per hour for each hour of working time effective [March 1, 1979,] **April 1, 1991; and**

3. [\$2.76] **\$4.49** per hour for each hour of working time effective [January 1, 1980] **April 1, 1992.**

(b) Cash wages should not fall below 84 percent of the applicable minimum wage rate per hour, after allowances are made for gratuities, and food or lodging, as follows:

1. [\$2.10] **\$3.19** per hour for each hour of working time effective [January 1, 1977.] **May 3, 1990;**

2. [\$2.44] **\$3.57** per hour for each hour of working time effective [March 1, 1979.] **April 1, 1991; and**

3. [\$2.60] **\$4.24** per hour for each hour of working time effective [January 1, 1980] **April 1, 1992.**

12:56-13.5 Chambermaids in seasonal hotels and motels

(a) Cash wages should not fall below 80 percent of the applicable minimum wage rate per hour, after allowances are made for gratuities, as follows:

1. [\$2.00] **\$3.04** per hour for each hour of working time effective [January 1, 1977.] **May 3, 1990;**

2. [\$2.32] **\$3.40** per hour for each hour of working time effective [March 1, 1979,] **April 1, 1991; and**

3. [\$2.48] **\$4.04** per hour for each hour of working time effective [January 1, 1980] **April 1, 1992.**

(b) Cash wages should not fall below 75 percent of the applicable minimum wage rate per hour, after allowances are made for gratuities, and food or lodging, as follows:

1. [\$1.88] **\$2.85** per hour for each hour of working time effective [January 1, 1977.] **May 3, 1990;**

2. [\$2.18] **\$3.19** per hour for each hour of working time effective [March 1, 1979,] **April 1, 1991; and**

3. [\$2.32] **\$3.79** per hour for each hour of working time effective [January 1, 1980] **April 1, 1992.**

12:56-13.7 Cash wage standard; additional compensation on credits

(a) (No change.)

(b) In no event shall this section be construed to deny to an employee the right to claim additional compensation or to an employer to claim a credit in excess of that so established where it is proven to the satisfaction of the [commissioner, the assistant director, or his authorized representative] **Commissioner** that the actual amount of the gratuities received is either more or less than the amount of credit herein established.

12:56-13.8 Substantiation of gratuities; food and lodging cost

[(a)] Employer substantiation of gratuities received by an employee and the cost of food and lodging shall be as provided in this chapter.

[(b) Regulations previously promulgated under this act not in conflict with this subchapter shall apply.]

12:56-14.3 Occupational wages where gratuities are customary

[(a) Cash wages in food service and other occupations in which gratuities are customary should not fall below 58 percent of the applicable minimum wage rate per hour, after allowances are made for gratuities, food and lodging, as follows:

1. \$1.45 per hour for each hour of working time effective January 1, 1977.

2. \$1.68 per hour for each hour of working time effective March 1, 1979.]

[(b)](a) Cash wages in food service and other occupations in which gratuities are customary should not fall below 60 percent of the applicable minimum wage rate per hour, after allowances are made for gratuities, food and lodging, as follows:

1. [\$1.86] **\$2.28** per hour for each hour of working time effective [January 1, 1980.] **May 3, 1990;**

2. **\$2.55** per hour for each hour of working time effective **April 1, 1991; and**

3. **\$3.03** per hour for each hour of working time effective **April 1, 1992.**

12:56-14.4 Overtime rates

(a) Overtime at 1-1/2 times the regular hourly wage shall be paid for all hours worked in excess of 40 hours in any week.

1. The minimum overtime rate for those covered by the overtime provision is [\$4.34 and on January 1, 1980, is \$4.65 per hour] **\$5.70 on May 3, 1990, \$6.38 on April 1, 1991, and \$7.58 on April 1, 1992.**

2.-3. (No change.)

[12:56-14.10 Uniforms

(a) Any employer who requires an employee to furnish more than one style, type or color of uniform during any one year of his or her employment shall pay to each such employee, in addition to his or her regular wages otherwise due, the amount which employee is required to pay for newly required uniform or uniforms and such additional payment shall be made to the employee in the week in which the change is required.

(b) It shall be a presumption that the employer has required his employees to wear uniforms if such garments are of a similar design, color or material, or form part of the decorative pattern of the establishment.

(c) Maintenance and upkeep of uniforms of kitchen people, cooks, and dishwashers shall be provided and maintained by the employer.

(d) If uniforms are required which are not appropriate for street wear or use in other establishments, the employer shall pay for the cost of such uniforms.

(e) No deduction from the pay of employees for uniforms shall be permitted. If the employee pays for uniforms in cash and the cash payment brings the employee below the minimum wage, the employer shall make up the difference for the minimum wage for that week.]

SUBCHAPTER 17. UNIFORMS

12:56-17.1 Uniforms

(a) Any employer who requires an employee to furnish more than one style, type or color of uniform during any one year of his or her employment shall pay to each such employee, in addition to his or her regular wages otherwise due, the amount which employee is required to pay for newly required uniform or uniforms and such additional payment shall be made to the employee in the week in which the change is required.

(b) It shall be a presumption that the employer has required his or her employees to wear uniforms if such garments are of a similar design, color or material, or form part of the decorative pattern of the establishment.

(c) Maintenance and upkeep of uniforms of kitchen people, cooks, and dishwashers shall be provided and maintained by the employer.

(d) If uniforms are required which are not appropriate for street wear or use in other establishments, the employer shall pay for the cost of such uniforms.

(e) No deduction from the pay of employees for uniforms shall be permitted. If the employee pays for uniforms in cash and the cash payment brings the employee below the minimum wage, the employer shall make up the difference for the minimum wage for that week.

APPENDIX A
AVAILABILITY OF STANDARDS REFERRED TO
IN THIS CHAPTER

A copy of each of the standards referenced in this chapter is on file and may be inspected at the following office between the hours of 9:00 A.M. and 4:00 P.M. on normal working days:

[State] New Jersey Department of Labor [and Industry]
Division of Workplace Standards
[Labor and Industry Building, Room 1112]
John Fitch Plaza
Trenton, New Jersey

Copies of the referenced standards may be obtained from the following office:

Office of Wage and Hour Compliance
New Jersey Department of Labor [and Industry]
CN 389
Trenton, New Jersey 08625

(a)

OFFICE OF WAGE AND HOUR COMPLIANCE

Wage Orders for Minors

Proposed Readoption with Amendments: N.J.A.C. 12:57

Authorized By: Raymond L. Bramucci, Commissioner,
Department of Labor.

Authority: N.J.S.A. 34:1-20, 34:1A-3(e), 34:11-56a 19, and
34:2-21.64.

Proposal Number: PRN 1990-420.

Submit comments by September 5, 1990 to:

Office of the Commissioner
Department of Labor
CN 110
Trenton, New Jersey 08625-0110

The agency proposal follows:

Summary

Pursuant to Executive Order No. 66(1978), N.J.A.C. 12:57 expires on September 26, 1990. The Department has reviewed the rules and determined them to be necessary, reasonable and proper for the purpose for which they were originally promulgated as required by the Executive Order.

N.J.A.C. 12:57 concerns wage orders for minors. N.J.A.C. 12:57-1, General Provisions, sets forth the purpose and scope of the chapter, which is to apply the wage rates for the employment of minors employed in

mercantile, beauty culture and laundry, cleaning and dyeing operations. The subchapter has been amended to delete unnecessary provisions.

N.J.A.C. 12:57-2 contains the definitions section. It has been amended to delete duplicative references.

N.J.A.C. 12:57-3 applies to the minimum wage rates paid to minors engaged in mercantile occupations. The subchapter sets forth definitions used in the subchapter, such as "mercantile occupation" and "working time." The subchapter also addresses regular hourly wage, overtime, waiting time, travel time and piece work. Finally, the subchapter requires certain records to be kept for minors working in this occupation, and requires a notice concerning this subchapter to be posted.

N.J.A.C. 12:57-4 addresses minors working in beauty culture occupations. The subchapter sets forth definitions for use in the subchapter, and also sets forth criteria for minimum wage, overtime, regular hourly wage, waiting time, gratuities, equipment and the hiring of handicapped minors. The subchapter also requires records to be kept by the employer, and requires the posting of a notice setting forth the provisions of the subchapter.

N.J.A.C. 12:57-5 concerns laundry, cleaning and dyeing occupations. The subchapter sets forth the requirements for overtime, minimum wage, regular hourly wage, waiting time, travel time and piece work. Additionally, there are requirements for recording and posting a notice contained in the subchapter.

Social Impact

The rules proposed for readoption will assure that the current requirements concerning wage rates for minors remain in effect. By readopting the existing standards, the Department will retain the authority to ensure that minimum wages are paid to all minors.

Economic Impact

The rules as proposed for readoption will impose increased costs on employers, as a result of the increased minimum wage requirements. These wage rates, however, are statutorily mandated throughout the State, and all employers are subject to the new law. Other costs imposed on employers pertain to the requirements as detailed in the Regulatory Flexibility Analysis below.

The rules proposed for readoption will benefit minor workers by providing a higher minimum wage rate. The Department does not expect to be economically impacted as a result of the readoption of these rules.

Regulatory Flexibility Analysis

The rules proposed for readoption do impose some reporting, recordkeeping and compliance requirements on businesses, some which are small businesses as defined by the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq.

Specifically, employers are required to pay all minors the minimum wage, and keep personnel records. It is statutorily mandated that all employers, regardless of size, pay minimum wage to minors. An exemption for any employer would defeat the overall purpose of the wage laws for minors. The rules proposed for readoption will not require any employers to hire any outside professional services, with the possible exception of payroll services for very large employers. The rules proposed for readoption do not, however, impose any new requirements on employers which are not already in existence.

Full text of the proposed readoption may be found in the New Jersey Administrative Code at N.J.A.C. 12:57.

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

12:57-1.1 [Title and citation

This chapter shall be known and may be cited as N.J.A.C. 12:57, Wage Orders for Minors.

12:57-1.2] Purpose; scope

(a) The purpose of this chapter is to define and clarify certain sections of N.J.S.A. 34:11-56a et seq.

[12:57-1.3 Scope]

[(a)](b) This chapter shall apply to the wage rates for the employment of minors subject to N.J.S.A. 34:11-34 et seq.

[(b)](c) This [sub]chapter shall apply to minors employed in mercantile occupations, beauty culture operations, and laundry, cleaning and dyeing occupations.

[(c)](d) Other wage orders and regulations for minors under 18 years of age are provided for under [subchapter 11, 13, and 14 of] N.J.A.C. 12:56-11, 13 and 14, Wage and Hour [and shall apply].

12:57-1.4 (Reserved)

12:57-1.5 Validity

Should any section, paragraph, sentence or word of this chapter be declared for any reason to be invalid, such decision shall not affect the remaining portions of this chapter.]

12:57-[1.6]1.2 Violations and penalties

(a) An employer [and] or his agent, or the officer or agent of any corporation, is a disorderly person, if he or she discharges or in any other manner discriminates against any employee because the employee has served or is about to serve on a wage board or has testified or is about to testify before a wage board or in any other investigation or proceeding or because the employer believes that the employee may serve on a wage board or may testify before a wage board or in any investigation or proceeding under this chapter and shall be guilty of a disorderly person offense and upon conviction be punished by a fine of not more than \$500.00.

(b) An employer or the officer or agent of any corporation is a disorderly person if he or she pays or agrees to pay to any minor less than the rates applicable to such minor under a mandatory minimum fair wage order and shall be guilty of a disorderly person offense and upon conviction be punished by a fine of not more than \$500.00 or by imprisonment of not more than 90 days or by both such fine and imprisonment. Each week, in any day of which an employee is paid less than the rate applicable to him or her under a mandatory minimum fair wage order; and each employee so paid, shall constitute a separate offense.

(c) An employer or the officer or agent of any corporation is a disorderly person if he or she fails to keep the records required or to furnish such records to the Commissioner upon request and shall be guilty of a disorderly person offense and upon conviction be punished by a fine of not more than \$500.00 and each day of such failure to keep the records or to furnish same as required shall constitute a separate offense.

12:57-2.1 Definitions

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

...
 ["Beauty culture establishment", see N.J.A.C. 12:57-4.2(a).
 "Beauty culture occupation", see N.J.A.C. 12:57-4.2(b).]
 "Commissioner" means the Commissioner of the Department of Labor or his [authorized agent] or her designee.
 ["Diversified employment", see N.J.A.C. 12:57-3.10(a)]
 "Employee" [includes] means any individual employed by an employer.

"Employer" [includes] means any individual, partnership, association, corporation or any person or group of persons acting directly or indirectly in the interest of an employer in relation to an employee.

["Laundry cleaning and dyeing occupation," see N.J.A.C. 12:57-5.2.

"Mercantile occupation", see N.J.A.C. 12:57-3.2(a) and (b).]

...
 ["Operator" see N.J.A.C. 12:57-4.2(c).

"Regular hourly wage":

1. "Beauty culture", see N.J.A.C. 12:57-4.5.
2. "Laundry, Cleaning and Dyeing", see N.J.A.C. 12:57-5.5.
3. "Mercantile", see N.J.A.C. 12:57-3.5.

"Senior student permit", see N.J.A.C. 12:57-4.2(d).

"Shall" means a mandatory requirement.

"Temporary permit", see N.J.A.C. 12:57-4.2(c).

"Working time", see N.J.A.C. 12:57-3.2(b)]

12:57-3.1 Scope [of subchapter]

This subchapter shall apply to the minimum wage rates paid to all minors engaged in mercantile occupations, irrespective of the nature of the business of the employer or the location of the place where the work is being performed.

12:57-3.4 Overtime rate

(a) Overtime, at the rate of not less than one and one-half times the regular rate at which the employee is actually employed, shall be paid to each minor for hours worked in excess of 40 in any one week, except that the overtime rate shall not apply to an executive, professional or administrative employee who is paid for his or her services in accordance with N.J.A.C. 12:56-7.

1. [This document] N.J.A.C. 12:56-7 is available for review between the hours of 9:00 A.M. and 4:00 P.M. on normal working days at the New Jersey Department of Labor [and Industry] Division of Workplace Standards, [Labor and Industry Building Room 1112, John Fitch Plaza, Trenton, New Jersey 08625].

2. [This document] A copy of N.J.A.C. 12:56-7 may be obtained without cost from the Office of Wage and Hour Compliance, New Jersey Department of Labor [and Industry], CN 389, Trenton, New Jersey 08625.

12:57-4.1 Scope [of subchapter]

This subchapter shall apply to the minimum wage rates paid to all minors engaged in beauty culture occupations, irrespective of the nature of the business of the employer or the location of the place where the work is being performed.

12:57-4.4 Overtime rate

Overtime, at the rate of not less than one and one-half times the regular rate at which the employee is actually employed, shall be paid to each minor for hours worked in excess of 40 in any one week, except that the overtime rate shall not apply to an executive, professional or administrative employee who is paid for his or her services in accordance with N.J.A.C. 12:56-7.

[1. See N.J.S.A. 12:57-3.4 for availability of the document cited.]

12:57-5.1 Scope [of subchapter]

This subchapter shall apply to the minimum wage rate paid to all minors engaged in laundry, cleaning and dyeing occupations, irrespective of the nature of the business of the employer or the location of the place where the work is being performed.

12:57-5.4 Overtime rate

[(a)] Overtime, at the rate of not less than one and one-half times the regular rate at which the employee is actually employed, shall be paid to each minor for hours worked in excess of 40 in any one week, except that the overtime rate shall not apply to an executive, professional or administrative employee who is paid for his or her services in accordance with N.J.A.C. 12:56-7.

[1. See N.J.A.C. 12:57-3.4 for availability of the document cited.]

(a)

OFFICE OF WAGE AND HOUR COMPLIANCE

Child Labor

Proposed Readoption with Amendments: N.J.A.C. 12:58

Authorized By: Raymond L. Bramucci, Commissioner,
Department of Labor.

Authority: N.J.S.A. 34:1-20, 34:1A-3(e), 34:11-56a19, and
34:2-21.64.

Proposal Number: PRN 1990-421.

Submit comments by September 5, 1990 to:

Office of the Commissioner
Department of Labor
CN 110

Trenton, New Jersey 08625-0110

The agency proposal follows:

Summary

Pursuant to Executive Order No. 66(1978), N.J.A.C. 12:58 expires on September 26, 1990. The Department has reviewed the rules and determined them to be necessary, reasonable and proper for the purpose for which they were originally promulgated as required by the Executive Order.

N.J.A.C. 12:58 concerns child labor. N.J.A.C. 12:58-1 is the general provisions subchapter. The subchapter sets forth the scope and purpose of the chapter and provides that the chapter is not applicable to apprentices and student learners in cooperative vocational education programs.

N.J.A.C. 12:58-2 contains the definitions section. The section has been amended to delete certain duplicative references.

N.J.A.C. 12:58-3 sets forth occupations that are prohibited to minors under 16 years of age. These jobs include power driven machinery and conveyors and related equipment.

N.J.A.C. 12:58-4 sets forth the occupations that are prohibited to minors under the age of 18. Amendments to this subchapter include: in N.J.A.C. 12:58-4.2(b), changing the definition of "construction work" to include work on highways; in N.J.A.C. 12:58-4.6(d), prohibiting minors from fueling aircraft; at N.J.A.C. 12:58-4.12, specifying that slicing machines cannot be operated by minors to slice any food products; at N.J.A.C. 12:58-4.14, prohibiting minors from posing without generally-accepted attire and prohibiting minors from working in video stores which rent or sell X-rated videos; and at N.J.A.C. 12:58-4.15, prohibiting minors under 18 from working with pesticides.

Finally, a new section N.J.A.C. 12:58-4.16 has been added to prohibit minors under 18 from servicing single piece and multi-piece rim wheels. A rim wheel is the complete assembly of a wheel, tire and lube plus other components. The single piece and multi-piece rim wheels are used on large trucks, trailers, buses and off-road machines. When these wheels are changed, there is a sudden release of pressurized air, which may cause either the worker or the rim wheel to be forcefully propelled. The Department of Education suggested that this language be included in the proposed rules to avoid accidents involving minors.

Appendix A has been amended to reflect changes of address.

Social Impact

The rules proposed for readoption will have a positive impact on both workers and employers, as they will enable the Department to enforce the existing child labor laws, which will help maintain a safe work environment for minors. The rules will also provide working guidelines to employers which will help them determine the capacity in which minors can be hired.

Economic Impact

The rules proposed for readoption are not expected to adversely affect employers, as it merely outlines the situations in which minors can work. The rules as proposed for readoption may, however, have a negative impact on minors by excluding them from certain occupations. However, the prohibitions on minors' employment will enure to the benefit of workers under 18 by assuring that they are employed only in safe occupations.

The Department does not expect to be economically affected by the readoption of these rules.

Regulatory Flexibility Analysis

The rules proposed for readoption do not impose reporting or record keeping requirements on small businesses as defined by the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq.

The rules proposed for readoption with amendments list occupations which are prohibited to minors. As the rules' purpose is to insure that minors are only employed in safe occupations, no differentiation in the compliance requirements (that is, the prohibition of minor employees) can be provided based upon business size.

Full text of the proposed readoption may be found in the New Jersey Administrative Code at N.J.A.C. 12:58.

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

[FOREWORD

This chapter of Title 12 of the New Jersey Administrative Code replaces N.J.A.C. 12:58, Child Labor Law, effective November 20, 1958.

It has again become necessary to define and clarify certain provisions of the Child Labor Laws, N.J.S.A. 34:2-21., et seq. and N.J.S.A. 34:2-21.57 et seq.

Also, it is evident certain specific requirements had to be written to implement the intent and purpose of the Act as the result of experience and enforcement effort.

This chapter 58, Child Labor Law is based upon research conducted by the staff of the Division of Workplace Standards.

This chapter was promulgated in accordance with section 4 of the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq.

All standards and publications referenced in this chapter are available in accordance with Appendix A.]

12:58-1.1 [Title and citation

This chapter shall be known and may be cited as N.J.A.C. 12:58, Child Labor Law.

12:58-1.2] Purpose; scope

(a) The purpose of this chapter is to define and clarify certain sections of the child labor statutes.

[12:58-1.3 Scope]

(b) This chapter shall apply to the employment of minors subject to the child labor statutes, except as provided in N.J.A.C. 12:58-1.4.

12:58-[1.4]1.2 (No change in text.)

[12:58-1.5 Validity

Should any section, paragraph, sentence or word of this chapter be declared for any reason to be invalid, such decision shall not affect the remaining portions of this chapter.]

12:58-2.1 Definitions

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

["Agricultural machinery:" See N.J.A.C. 12:58-4.3.

"Apprentice:" See N.J.A.C. 12:58-1.4(b).

"Band saw:" See N.J.A.C. 12:58-4.11(f).

"Boning operation:" See N.J.A.C. 12:58-4.12(g).

"Building:" See N.J.A.C. 12:58-4.2(d).

"Carcinogenic substance:" See N.J.A.C. 12:58-4.8(b)]

... ["Circular saw:" See N.J.A.C. 12:58-4.11(e)]

... ["Compactor:" See N.J.A.C. 12:58-4.10(b).

"Conveyor:" See N.J.A.C. 12:58-3.3(b).

"Construction work:" See N.J.A.C. 12:58-4.2(b) and (c).

"Cooperative vocational education program:" See N.J.A.C. 12:58-1.4(c)]

... ["Curing cellar:" See N.J.A.C. 12:58-4.12(e).

"Disorderly house:" See N.J.A.C. 12:58-4.5(b).]

... ["Guillotine shear:" See N.J.A.C. 12:58-4.11(g).

"Hazardous substance:" See N.J.A.C. 12:58-4.9(b).

"Helper:" See N.J.A.C. 12:58-4.11(d).

"Hide cellar:" See N.J.A.C. 12:58-4.12(f).

"Highly inflammable substance:" See N.J.A.C. 12:58-4.6(c).

"Indecent or immoral theatrical exhibition:" See N.J.A.C. 12:58-4.14(b).

"Ionizing radiation:" See N.J.A.C. 12:58-4.7(f).

"Junk or scrap metal yard:" See N.J.A.C. 12:58-4.4(b).

"Killing floor:" See N.J.A.C. 12:58-4.12(d).]

... ["Operator:" See N.J.A.C. 12:58-4.11(c).

"Pesticide:" See N.J.A.C. 12:58-4.15(c).

"Power driven machinery:" See N.J.A.C. 12:58-3.2(b) and (c).]

... ["Radioactive substance:" See N.J.A.C. 12:58-4.7(b).

"Related equipment (conveyors):" See N.J.A.C. 12:58-3.3(c).

"Rendering plant:" See N.J.A.C. 12:58-4.12(c).

"Slaughtering and meat packing establishment:" See N.J.A.C. 12:58-4.12(b).

"Self-luminous compound:" See N.J.A.C. 12:58-4.7(d).

"Shall" means a mandatory requirement.

"Structure:" See N.J.A.C. 12:58-4.2(e).

"Student learner:" See N.J.A.C. 12:58-1.4(d).

"Toxic substance:" See N.J.A.C. 12:58-4.9(b).

"Workroom:" See N.J.A.C. 12:58-4.7(e).]

12:58-4.2 Construction work

(a) (No change.)

(b) "Construction work" shall mean the erection, alteration, repair, renovation, demolition or removal of any building or structure; the excavation, filling and grading of sites; **the excavation, renovation, repair or paving of roads and highways**; and any function performed within 30 feet of the above operations.

(c)-(e) (No change.)

12:58-4.6 Highly inflammable substances

(a)-(b) (No change.)

(c) "Highly inflammable substance" shall mean a flammable liquid or a pyroforic liquid [as defined in N.J.A.C. 12:58-2], except that a "highly flammable substance" shall not mean gasoline at a service station where gasoline tanks of gasoline motor driven vehicles are filled by use of a hose that is a part of powered pumping equipment.

(d) **Minors under 18 years of age shall be prohibited from fueling aircraft, either commercial or private.**

12:58-4.12 Slaughtering and meat packing establishments; rendering plants; wholesale, retail or service establishments

(a) Minors under age 18 shall not be employed, permitted or suffered to work in or about slaughtering and meat packing establishments, rendering plants, or wholesale, retail or service establishments in the following occupations:

1.-3. (No change.)

4. All occupations involved in the operation or feeding of the following power-driven meat-processing machines, including setting up, adjusting, repairing, oiling, or cleaning such machines: meat patty forming machines, meat and bone cutting saws, knives including circular and horizontal knives used for slicing meat, slicing machines used [for cutting delicatessen meats and cheeses] **in delicatessens and restaurants for cutting or slicing any food product** (except bacon-slicing machines), head-splitters, and guillotine cutters, snout-pullers and jaw-pullers, skinning machines, horizontal rotary washing machines, casing-cleaning machines such as crushing, stripping, and finishing machines, grinding, mixing, chopping, and hashing machines, and presses (except belly-rolling machines):

5.-7. (No change.)

(b)-(g) (No change.)

12:58-4.14 Indecent or immoral exposure

(a) Minors under 18 years of age shall not:

1.-4. (No change.)

5. Pose in the nude or **without generally-accepted attire**; [or]

6. Work in adult book stores or massage parlors[.]; or

7. **Work in video stores where x-rated movies are rented or sold.**

(b) (No change.)

12:58-4.15 Pesticide

(a) Minors under 18 years of age shall not be employed as applicators of pesticides [in the field], nor shall such minors be permitted in [the field] **any area** when such pesticides are being applied.

(b)-(c) (No change.)

12:58-4.16 Rim wheels

Minors under 18 years of age shall not be permitted to service single piece or multi-piece rim wheels.

APPENDIX A

AVAILABILITY OF STANDARDS AND PUBLICATIONS REFERRED TO IN THIS CHAPTER

A copy of each of the standards and publications referred to in this chapter is on file and may be inspected at the following office of the Division of Workplace Standards between the hours of 9:00 A.M. and 4:00 P.M. on normal working days:

State of New Jersey
 Department of Labor [and Industry]
 Division of Workplace Standards
 John Fitch Plaza
 [Labor and Industry Building, Room 1112]
 Trenton, New Jersey

N.J.S.A. New Jersey Statutes Annotated
 Copies available from:
 Office of Wage and Hour Compliance
 New Jersey Department of Labor [and Industry]
 CN 389
 Trenton, New Jersey 08625

TRANSPORTATION

(a)

DIVISION OF SUPPORT SERVICES
 BUREAU OF RECORDS AND SERVICES

Records Management

Proposed New Rules: N.J.A.C. 16:1

Authorized By: Robert A. Innocenzi, Deputy Commissioner
 (State Transportation Engineer), Department of Transportation.

Authority: N.J.S.A. 27:1A-5, 27:1A-6, 27:7-27 and 47:A-1 et seq.
 Proposal Number: PRN 1990-392.

Submit comments by September 5, 1990 to:

Charles L. Meyers
 Administrative Practice Officer
 Department of Transportation
 Bureau of Policy and Legislative Analysis
 1035 Parkway Avenue
 CN 600
 Trenton, New Jersey 08625

The agency proposal follows:

Summary

In accordance with Executive Order No. 66(1978), N.J.A.C. 16:1 expired on August 5, 1990. The staff of the Bureau of Records and Services has reviewed the rules and, with the following amendments, has determined them to be necessary, reasonable and proper for the purpose for which they were originally promulgated, as required by Executive Order 66(1978). Pursuant to N.J.A.C. 1:30-4.4, the expired rules the Department wishes to readopt are proposed herein as new rules.

Subchapter 1 outlines the manuals and regulations applicable to the operation of the records management program, and where they may be inspected by the public.

Subchapter 2 provides the procedure to be followed in the issuance and sale of New Jersey Department of Transportation public records. As indicated below, the proposed amendments effect inconsequential or administrative changes, updating the rules to comply with the Department's Reorganization Plan.

The proposed amendments will effect administrative changes which bring the rules into conformity with the current Reorganization Plan.

Social Impact

The expired rules, proposed as new, with amendments, will provide the public with a definition of a Department public record, the procedure for obtaining copies, and will bring the rules into conformity with the Department's Reorganization Plan. Availability of this information complies with statutory requirements regarding the ability of members of the public to access information of particular interest to them.

Economic Impact

The rules provides for fees, unless specified elsewhere in rule, regulation, or law, for copies of public records. The fees are \$.50 for the first 10 pages, \$.25 for the eleventh to twentieth pages, and \$.10 per page thereafter. The rules also make special provision for the public use of Department copying equipment, under specified circumstances. The proposed changes to the rules reflect administrative changes in the Department and impose no new requirements on the public.

Regulatory Flexibility Analysis

The expired rules, proposed as new, with amendments, provide the public with a definition of a Department public record, the procedure for obtaining copies, and bring the rules into conformity with the Department's Reorganization Plan. Some of the members of the public may be small business, as the term is defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq.; however, the Department does not feel that

any differentiation should be made in the rules based upon business size, since the fee requirements should not be onerous and simply cover the costs of the service provided.

Full text of the expired rules proposed as new may be found in the New Jersey Administrative Code at N.J.A.C. 16:1.

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

16:1-2.2 Requirements; **accessibility and sale of public records**

(a)-(b) (No change.)

(c) The records listed below shall not be deemed NJDOT public records but may be made available for inspection, examination, and copying only by an individual who demonstrates to the satisfaction of the Custodian of Records, Director, Division of [Central] **Support Services**, in conjunction with the [bureau chief] **manager**, regional engineer or higher level having custody of such records, that the citizen has a legitimate beneficial interest in such record or the protection of his property rights or the protection of any interest the citizen may have in any matter affecting the citizen to which said record is relevant. Availability may be limited to that part of the record which is particularly relevant to the citizen. Such records include all those which are made, maintained or kept on file by the NJDOT relating to:

1.-14. (No change.)

(d)-(i) (No change.)

16:1-2.3 Procedure for obtaining NJDOT public records

(a) A private citizen, in person or in writing, may obtain a NJDOT public record directly from a [bureau chief] **manager**, regional engineer, or higher level upon conferring with the Custodian of Records, Director, Division of [Central] Services.

(b) A private citizen who does not know where a particular NJDOT public record may be obtained should contact, in person or in writing, the:

Official Custodian of Records
Division of Support Services
 New Jersey Department of Transportation
 1035 Parkway Avenue
 CN 600
 Trenton, New Jersey 08625
 Attn: [Chief] **Manager**, Bureau of Records and Services

(a)

**DIVISION OF TRAFFIC ENGINEERING AND LOCAL AID
 BUREAU OF TRAFFIC ENGINEERING AND SAFETY PROGRAMS**

**Speed Limits
 Routes N.J. 159 in Morris and Essex Counties, and
 N.J. 183 in Morris and Sussex Counties
 Proposed Amendments: N.J.A.C. 16:28-1.8 and 1.27**

Authorized By: John F. Dunn, Jr., Director, Division of Traffic Engineering and Local Aid.

Authority: N.J.S.A. 27:1A-5, 27:1A-6 and 39:4-98.

Proposal Number: PRN 1990-390.

Submit comments by September 5, 1990 to:

Charles L. Meyers
 Administrative Practice Officer
 Department of Transportation
 Bureau of Policy & Legislative Analysis
 1035 Parkway Avenue
 CN 600
 Trenton, New Jersey 08625

The agency proposal follows:

Summary

The proposed amendments will establish revised "speed limits" zones along Routes N.J. 159 in Montville Township, Morris County and Fair-

field Borough, Essex County, and N.J. 183 in Roxbury Township and Netcong Borough, Morris County, and Stanhope Borough, Sussex County, for the safe and efficient flow of traffic, the enhancement of safety, and the well-being of the populace. Some speed limits have not been changed; however, the primary focus of the amendments is the clear specification of zones, using milepost numbers, organized by municipalities, within counties. These changes will make the requirements clear to the regulated public and to those responsible for enforcing the rules.

As part of a review of current conditions and upon requests from the local governments, in the interest of safety, the Department's Bureau of Traffic Engineering and Safety Programs conducted surveys and traffic investigations. The investigations and surveys proved that the revisions to current "speed limit" zones along Routes N.J. 159 in Morris and Essex Counties and N.J. 183 in Morris and Sussex Counties were warranted.

The Department, therefore, proposes amendments to N.J.A.C. 16:28-1.8 and 1.27, based upon the traffic investigations and surveys.

The Department is proposing to amend the speed zones on Routes N.J. 159 and N.J. 183, changing their locations and designating them by mileposts, in addition to other landmarks. Additionally, the Department proposes to add speed limits along Route N.J. 183 for northbound and southbound direction of traffic in Sussex and Morris Counties respectively.

Social Impact

The proposed amendments will establish revised "speed limit" zones along Routes N.J. 159 in Morris and Essex Counties and N.J. 183 in Morris and Sussex Counties for the safe and efficient flow of traffic, the enhancement of safety, and the well-being of the populace. The revised speed zones provide the motoring public specific areas and locations within the various municipalities to which they are applicable and provide some clarity within the rules. Appropriate signs will be erected to advise the motoring public.

Economic Impact

The Department and local governments will incur direct and indirect costs for mileage, personnel and equipment requirements which will total approximately \$117.00 plus \$7.00 per square foot for each sign installed. The Department will bear the costs for the installation of any additional "speed limit" zones signs, as necessary. Motorists who violate the rules will be assessed the appropriate fine in accordance with the "Statewide Violations Bureau Schedule," issued pursuant to New Jersey Court Rule 7:7-3.

Regulatory Flexibility Statement

The proposed amendments do not place any bookkeeping, record keeping or other compliance requirements on small businesses as the term is defined by the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The amendments primarily affect the motoring public.

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

16:28-1.8 Route 159

(a) The rate of speed designated for the certain [part] **parts** of State highway [route number] **Route** 159 described in this [section] **subsection** shall be [and hereby is] established and adopted as the maximum legal rate of speed [thereat]:

1. For both directions of traffic:

i. Zone 1: 45 miles per hour in Montville Township, Morris County-Fairfield Borough, Essex County from the westernmost intersection of Route 46 to the intersection of Bloomfield Avenue and Oak Road; thence

ii. Zone 2: 40 miles per hour in Fairfield Borough to the easternmost intersection of Route 46.]

i. **In Montville Township, Morris County:**

(1) **45 miles per hour between the westernmost intersection of Route U.S. 46 and the Borough of Fairfield (Essex County) westerly line (approximate mileposts 0.00 to 0.34); thence**

ii. **In Fairfield Borough, Essex County:**

(1) **Zone 1: 45 miles per hour between the Montville Township (Morris County) easterly line and Brook Street (Co. Rd. 614S) (approximate mileposts 0.34 to 0.58); thence**

(2) **Zone 2: 40 miles per hour between Brook Street (Co. Rd. 614S) and the easternmost intersection of Route U.S. 46 (approximate mileposts 0.58 to 1.35).**

16:28-1.27 Route 183

(a) The rate of speed designated for the certain [part] parts of State highway [route number] **Route 183** described in this [section] subsection shall be [and hereby is] established and adopted as the maximum legal rate of speed [thereat]:

1. For both directions of traffic:

[i. 50 miles per hour from the beginning of Route 183 at the southerly intersection with Route 206 in Roxbury Township, to the intersection with Route U.S. 46 in the Borough of Netcong; thence

ii. 30 miles per hour to a point 200 feet north of the center line of High Street in the Borough of Stanhope; thence

iii. 40 miles per hour to the end of Route 183 at the northerly intersection with Route U.S. 206.]

i. In Morris County:

(1) Roxbury Township:

(A) 50 miles per hour between Route N.J. 183 intersection with northbound Route U.S. 206 at milepost 95.23 intersection with Route I-80 southbound ramps and Netcong Borough southerly line (approximate mileposts 0.00 to 0.25); thence

(2) Netcong Borough:

(A) Zone 1: 50 miles per hour between Roxbury Township northerly line and the center of Route U.S. 46 (approximate mileposts 0.25 to 0.45); thence

(B) Zone 2: 30 miles per hour between the center of Route U.S. 46 and Stanhope Borough southerly line (approximate mileposts 0.45 to 0.94).

ii. In Sussex County:

(1) Stanhope Borough:

(A) Zone 1: 30 miles per hour between Netcong Borough northerly line and Brooklyn Road (approximate mileposts 0.94 to 1.14); thence

(B) Zone 2: 40 miles per hour between Brooklyn Road and Route N.J. 183 intersection with southbound Route N.J. 183 at Dell Road (approximate mileposts 1.14 to 1.85).

2. For northbound direction of traffic:

i. In Sussex County:

(1) Stanhope Borough:

(A) 40 miles per hour between Route N.J. 183 intersection with southbound Route N.J. 183 at Dell Road and northernmost intersection with northbound Route U.S. 206 at milepost 98.02 (approximate mileposts 1.85 to 2.12).

3. For southbound direction of traffic:

i. In Morris County:

(1) Roxbury Township:

(A) 50 miles per hour between Route N.J. 183 southernmost intersection with Route U.S. 206 and Route N.J. 183 intersection with Route I-80 southbound ramp (approximate mileposts Route U.S. 206, 95.03 to 95.23).

ii. In Sussex County:

(1) Stanhope Borough:

(A) 40 miles per hour between the intersection with southbound Route U.S. 206 at milepost 97.92 and intersection with northbound Route N.J. 183 at Dell Road (approximate mileposts Route U.S. 206, 97.92 to Route N.J. 183, 1.85).

(a)

**DIVISION OF TRAFFIC ENGINEERING AND LOCAL AID
BUREAU OF TRAFFIC ENGINEERING AND SAFETY PROGRAMS**

Speed Limits

Routes N.J. 31 in Hunterdon County and N.J. 47 in Cape May County

Proposed Amendments: N.J.A.C. 16:28-1.106 and 1.132

Authorized By: John F. Dunn, Jr., Director, Division of Traffic Engineering and Local Aid.

Authority: N.J.S.A. 27:1A-5, 27:1A-6, and 39:4-98.

Proposal Number: PRN 1990-391.

Submit comments by September 5, 1990 to:

Charles L. Meyers

Administrative Practice Officer

Department of Transportation

Bureau of Policy & Legislative Analysis

1035 Parkway Avenue

CN 600

Trenton, New Jersey 08625

The agency proposal follows:

Summary

The proposed amendments will establish revised "speed limit" zones along Routes N.J. 31 in Raritan Township and Flemington Borough, Hunterdon County, and N.J. 47 in Wildwood City, Lower, Middle and Dennis Townships, Cape May County, for the safe and efficient flow of traffic, the enhancement of safety, and the well-being of the populace.

As part of a review of current conditions and in the interest of safety, the Department's Bureau of Traffic Engineering and Safety Programs conducted resurveys and traffic investigations. The resurveys and traffic investigations proved that the revisions to current "speed limit" zones along Routes N.J. 31 in Hunterdon County and N.J. 47 in Cape May County were warranted.

The Department, therefore, proposes amendments to N.J.A.C. 16:28-1.106 and 1.132 based upon the resurveys and traffic investigations.

The Department is proposing to amend speed zones on Routes N.J. 31 and N.J. 47, changing their locations and designating them by mileposts in addition to other landmarks. The rules regarding Route N.J. 47 have been amended at N.J.A.C. 16:28-1.132(a), to designate speed limit zones by municipality within Cape May County. A proposal published at 22 N.J.R. 1694(b) and adopted elsewhere in this issue of the New Jersey Register amended N.J.A.C. 16:28-1.132 to designate speed limit zones by municipality in Cumberland, Gloucester and Camden counties.

Social Impact

The proposed amendment will establish revised "speed limit" zones along Routes N.J. 31 in Hunterdon County and N.J. 47 in Cape May County for the safe and efficient flow of traffic, the enhancement of safety, and the well-being of the populace. The revised speed zones provide the motoring public specific areas and locations within the various municipalities to which they are applicable and provide some clarity within the rule. Appropriate signs will be erected to advise the motoring public.

Economic Impact

The Department will incur direct and indirect costs for mileage, personnel and equipment requirements which will cost approximately \$117.00 plus \$7.00 per square foot for each sign installed. The Department will bear the costs for the installation of any additional "speed limit" zones signs, as necessary. Motorists who violate the rules will be assessed the appropriate fine, in accordance with the "Statewide Violations Bureau Schedule," issued under New Jersey Court Rule 7:7-3.

Regulatory Flexibility Statement

The proposed amendments do not place any bookkeeping, recordkeeping or compliance requirements on small businesses as the term is defined by the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The amendments primarily affect the motoring public and the governmental entities responsible for enforcement of the rules.

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

16:28-1.106 Route 31

(a) The rate of speed designated for State highway Route 31 described [herein below] in this subsection shall be [, and hereby is,] established and adopted as the maximum legal rate of speed [thereat] for both directions of traffic:

1. (No change.)

2. Hunterdon County:

i.-ii. (No change.)

iii. Raritan Township:

(1) **Zone 6a:** [Fifty-five] **55** mph between Toad Lane (East Amwell Township line-southerly Raritan Township line) and [Raritan Avenue (mileposts 17.8 to 21.4)] **the driveway to Exxon Products (approximate mileposts 17.83 to 20.50); thence**

(2) **Zone 7:** [Fifty] **50** mph between [Raritan Avenue and the Raritan Township-southerly Flemington Borough line (mileposts

21.4 to 21.6).] the driveway to Exxon Products and Raritan Street (approximate mileposts 20.50 to 21.50); thence

(3) **Zone 7a: 45 mph between Raritan Street and the Borough of Flemington southerly line (approximate mileposts 21.50 to 21.61).**

iv. Flemington Borough:

(1) **Zone 8:** [Fifty] 45 mph between the Raritan Township line [southerly Flemington Borough line] and the Route U.S. 202 [and 31-] -Route N.J. 31-Route N.J. 12 traffic circle (approximate mileposts [21.6 to 22.0] **21.61 to 21.95**); thence

(2) **Zone 9:** [Forty] 40 mph between the Route [US] U.S. 202 [and 31-] -Route N.J. 31-Route N.J. 12 traffic circle and [400 feet north of Church Street] **Raritan Township line (mileposts [22.0] 21.95 to 22.28)**; thence

(3) Forty-five mph between [400 feet north of Church Street and] the Flemington Borough-Raritan Township line (mileposts 22.28 to 22.4); thence

v. Raritan Township: [45 mph between the Flemington Borough-Raritan Township line and 50 feet south of Highland Avenue (mileposts 22.4 to 22.8).]

(1) **Forty-five mph between the Flemington Borough-Raritan Township line and 50 feet south of Highland Avenue (mileposts 22.4 to 22.8); thence**

(2) **Zone 9a: 40 mph between the Flemington Borough northerly line and the Raritan Township southerly line (approximate mileposts 22.88 to 22.97); thence**

vi. Raritan Township and Flemington Borough: [40 mph between 50 feet south of Highland Avenue and 100 feet north of Main Street—Route 523 (mileposts 22.8 to 23.1).]

(1) **Zone 10: 40 mph between the Raritan Township northerly line and the Raritan Township southerly line (approximate mileposts 22.97 to 23.13); thence**

vii. Raritan Township:

(1) **Zone 11: 40 mph between the dual municipal lines of Flemington Borough and Raritan Township and Minneakonig Road (approximate mileposts 23.13 to 23.85); thence**

[1] (2) **Zone 11a:** [Forty-five] 45 mph between [100 feet north of Main Street-Route 523 and Cherryville Klinesville-Bartles Corner Road (mileposts 23.1 to 24.35);] **Minneakonig Road and Bartels Corner-Sand Hill Road (Co. Rd. 612) (approximate mileposts 23.85 to 24.40); thence**

[2] (3) **Zone 12:** [Fifty] 50 mph between [Cherryville Klinesville-Bartles Corner Road and the northerly Raritan Township-Readington Township line (So. Branch Raritan River) (mileposts 24.35 to 25.4).] **Bartles Corner-Sand Hill Road (Co. Rd. 612) and the Readington Township southerly line (South Branch Raritan River) (approximate mileposts 24.40 to 25.45); thence**

viii.-xiv. (No change.)

3. (No change.)

16:28-1.132 Route N.J. 47

(a) The rate of speed designated for the certain part of State highway Route 47 described in this subsection shall be established and adopted as the maximum legal rate of speed for both directions of traffic:

i. In Cape May County:

[i. Zone 1: 35 mph within the corporate limits of the City of Wildwood (mileposts 0.68 to 0.90); thence

ii. Zone 2: 40 mph to 200 feet south of Shawcrest Road, Lower Township (milepost 1.16); thence

iii. Zone 3: 50 mph to 675 feet south of the center of the northbound roadway of the Garden State Parkway overpass (milepost 2.96); thence

iv. Zone 4: 40 mph to 425 feet north of Shunpike Road, Middle Township (milepost 4.39); thence

v. Zone 5: 50 mph to Paula Lane, Middle Township (milepost 6.09); thence

vi. Zone 6: 45 mph to 2,300 feet north of Burleigh Avenue, Middle Township (milepost 7.06); thence

vii. Zone 7: 50 mph to Sluice Creek, Dennis Township-Middle Township line (milepost 16.02), and within the corporate limits of Dennis Township (mileposts 16.02 to 24.48);

viii. School zone: 25 mph in the Rio Grande School zone, during recess or while children are going to or leaving school, during opening or closing hours.]

i. City of Wildwood:

(1) **35 mph between Susquehanna Avenue and Lower Township-Wildwood City line (southernmost end of the bridge over the Grassy Sound Channel) (approximate mileposts 0.66 to 0.90); thence**

ii. Lower Township:

(1) **Zone 1: 40 mph between the Wildwood City-Lower Township line (southernmost end of the bridge over the Grassy Sound Channel), and Shawcrest Road (approximate mileposts 0.90 to 1.15); thence**

(2) **Zone 2: 50 mph between Shawcrest Road and the Middle Township-Lower Township line (approximate mileposts 1.15 to 1.55); thence**

iii. Middle Township:

(1) **Zone 1: 50 mph between the Lower Township-Middle Township line and 700 feet south of the center at the northbound roadway of the Garden State Parkway overpass (approximate mileposts 1.55 to 2.96); thence**

(2) **Zone 2: 40 mph between 700 feet south of the center of the northbound roadway of the Garden State Parkway overpass and Route U.S. 9 (approximate mileposts 2.96 to 3.76); thence**

(3) **Zone 3: 35 mph between Route U.S. 9 and Co. Road 626 (Railroad Avenue) (approximate mileposts 3.76 to 4.07); thence**

(4) **Zone 4: 40 mph between Co. Road 626 (Railroad Avenue) and Hawthorne Drive (approximate mileposts 4.07 to 4.46); thence**

(5) **Zone 5: 45 mph between Hawthorne Drive and 1000 feet north of Fishing Creek (approximate mileposts 4.46 to 5.47); thence**

(6) **Zone 6: 50 mph between 1000 feet north of Fishing Creek and 1000 feet south of Burleigh Avenue (approximate mileposts 5.47 to 6.43); thence**

(7) **Zone 7: 40 mph between 1000 feet south of Burleigh Avenue and 1000 feet north of Burleigh Avenue (approximate mileposts 6.43 to 6.83); thence**

(8) **Zone 8: 45 mph between 1000 feet south of Burleigh Avenue and 1,700 feet north of Burleigh Avenue (approximate mileposts 6.83 to 7.0); thence**

(9) **Zone 9: 50 mph between 1,700 feet north of Burleigh Avenue and the Dennis Township-Middle Township line (approximate mileposts 7.0 to 15.96); thence**

iv. Dennis Township:

(1) **50 mph between the Middle Township-Dennis Township line and the Dennis Township-Maurice River Township line (Cape May County-Cumberland County line) (approximate mileposts 15.96 to 24.45).**

2.-4. (No change.)

(a)

**DIVISION OF CONSTRUCTION AND MAINTENANCE
ENGINEERING SUPPORT
BUREAU OF MAINTENANCE**

**Roadside and Drainage Maintenance
Responsibility for Maintenance; Litter**

Proposed Amendment: N.J.A.C. 16:38-1.1

Proposed New Rule: N.J.A.C. 16:38-1.5

Authorized By: Robert A. Innocenzi, Deputy Commissioner
(State Transportation Engineer), Department of
Transportation.

Authority: N.J.S.A. 27:1A-5, 27:1A-6, and 27:7 et seq.

Proposal Number: PRN 1990-402.

Submit comments by September 5, 1990 to:

Charles L. Meyers
Administrative Practice Officer
Department of Transportation
Bureau of Policy & Legislative Analysis
1035 Parkway Avenue
CN 600
Trenton, New Jersey 08625

The agency proposal follows:

Summary

In accordance with the sunset and other provisions of Executive Order No. 66(1978), the Department of Transportation, Bureau of Maintenance Support, has reviewing its existing rules at N.J.A.C. 16:38, to determine their continuing usefulness and necessity.

Subchapter 1 outlines the responsibility for the maintenance of road-sides abutting a highway, road, street or thoroughfare under State jurisdiction. The amendment to N.J.A.C. 16:38-1.1 places the responsibility for clearing of ice and snow on the property owner, whether or not such abutting sidewalks, driveway cuts, openings or aprons are on public or private property. No costs shall be reimbursed by the State or any public entity for any reason, whether or not the snow has been placed upon the areas as a result of the State or State contractor's snow clearing operations. Proposed new rule N.J.A.C. 16:38-1.5, Litter, places the responsibility for maintaining the area between the sidewalk and the curb in a litter-free condition upon the property owners abutting a highway, road, street or thoroughfare under State jurisdiction.

Social Impact

The proposed amendment and new rule requires the property owners of real estate abutting a highway, road, street or thoroughfare under State jurisdiction to be responsible for maintaining the abutting sidewalks, driveway cuts, openings or aprons in a snow, ice and litter-free condition. Property maintenance will definitely enhance the aesthetics of the community and will make such areas easier to traverse.

Economic Impact

The proposed amendment and new rule will have some economic impact on property owners in the maintenance of their property, in that the costs incurred for snow and litter removal will be borne by the property owner, in cases where snow removal is accomplished by someone other than the property owner. Costs in this instance are variable. The Department will incur direct and indirect costs associated with the rulemaking process. There will be no economic impact on the public.

Regulatory Flexibility Statement

The proposed amendment and new rule do not place any bookkeeping or recordkeeping requirements on small businesses as the term is defined by the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. Small businesses, which may be abutting property owners, will be required to comply with the amendment and new rule. The Department does not believe that it is appropriate to provide differential standards for small businesses, since the need to maintain the areas abutting State roads in a snow-free and litter-free condition is in the interest of public safety.

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

16:38-1.1 Sidewalks and driveways

(a)-(c) (No change.)

(d) Snow removal: Owners of the real property abutting a highway, road, street or thoroughfare under State jurisdiction shall be entirely responsible for the clearing of snow and ice from all abutting sidewalks and abutting driveway cuts, openings or aprons, whether or not they are located on public or private property. No costs incurred directly or indirectly by abutting property owners or their tenants, in snow or ice clearing, shall be reimbursed by the State or any public entity for any reason, including, but not limited to, where snow or ice has been placed upon such areas as a result of the State or State contractor's snow or ice clearing operations.

16:38-1.5 Litter

Abutting property owners shall be responsible for maintaining the area fronting their property from the curb to the sidewalk in a litter-free condition.

(a)

DIVISION OF PROCUREMENT BUREAU OF CONSTRUCTION SERVICES

Construction Services

Distribution on Sale of Construction Plans and

Supplementary Specifications; Deferred

Payments to Contractors for Materials Supplied and Work Performed in the Construction of State Highways and Related Projects

Proposed Amendments: N.J.A.C. 16:44-3.1 through 3.5, 7.2 and 7.3

Authorized By: Robert A. Innocenzi, Deputy Commissioner
(State Transportation Engineer) Department of
Transportation.

Authority: N.J.S.A. 27:1A-5, 27:1A-6, 27:2-1 and 14.15-2.

Proposal Number: PRN 1990-393.

Submit comments by September 5, 1990 to:

Charles L. Meyers

Administrative Practice Officer

Department of Transportation

Bureau of Policy and Legislative Analysis

1035 Parkway Avenue

CN 600

Trenton, New Jersey 08625

The agency proposal follows:

Summary

The Department of Transportation, Bureau of Construction, has reviewed N.J.A.C. 16:44 as part of its ongoing review, in compliance with the provisions of Executive Order No. 66(1978), and is proposing the following amendments:

At N.J.A.C. 16:44-3.1, amendments have been made to change the name of the Department to the Department of Transportation.

At N.J.A.C. 16:44-3.2, the fees have been raised to accommodate current expenses and in conjunction with the requirements of N.J.A.C. 16:1-2.2(g). At N.J.A.C. 16:44-3.2(d)5, the Department is conforming its requirements to those at N.J.S.A. 47:1A-2. Throughout the rules affected by this proposal, amendments have been made to change references from "contract administration" to "construction services."

At N.J.A.C. 16:44-7.2, the partial payment limit has been changed from 80 percent of the value of the material to 85 percent of the bid price for the pay item.

At N.J.A.C. 16:44-7.3, the text has been deleted and new text inserted which lowers the deduction to be retained by the Department pending completion of the project from 10 percent to five percent.

Social Impact

The proposed amendments which clarify name changes are expected to have a positive social impact, if any, as the public may reach the appropriate bureau of the Department more readily. No social impact from the other amendments is anticipated.

Economic Impact

Those individuals who purchase black line plans and/or supplementary specifications will be required to pay a higher fee, which will more adequately compensate the Department for the expenses incurred in providing the copies. Those contractors working on State highways and related projects will realize an economic benefit from the amendments proposed to N.J.A.C. 16:44-7.2 and 7.3, as the effect of these amendments will be to allow the contractors to request an increase in payment on work in progress, from 80 percent of the value of the material to 85 percent of the bid price for the pay item. Additionally, the contractors will have a smaller percentage of the payment withheld pending completion of the project, from 10 percent to five percent.

Regulatory Flexibility Analysis

The proposed amendments increase copying charges for plans and specifications issued by the Department upon the request of any individual or any business, some of which may be considered small businesses, as the term is defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The Department does not believe that the increase in fees are unduly burdensome, and has, therefore, made no differential

provisions for small businesses in the amendments. Additionally, the amendments to subchapter 7 provide for larger percentages of payment to contractors for work in progress, which may be particularly beneficial to small businesses which operate on a smaller cash flow than large businesses.

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

16:44-3.1 Definitions

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

“Supplementary specifications” means amendments or revisions updating the current New Jersey [State Highway] Department of **Transportation** Standard Specifications for Road and Bridge Construction.

16:44-3.2 Requirements

(a)-(c) (No change.)

(d) A charge shall be made for each set of black line plans and supplemental specifications pursuant to requests from outside of the NJDOT in accordance with the following, except as otherwise authorized herein:

1. (No change.)

2. For the key sheets, supplementary specifications and any other pertinent documents in instances where the advertised work does not require construction plans: [\$7.00] **\$10.00**.

3. Supplementary specifications unaccompanied by construction plans: [\$3.00] **\$5.00**.

4. For individual sheets of a set of plans, a charge of [\$.60] **\$1.00** per sheet will be imposed but the total charge for request for individual sheets will not exceed the scheduled price for a complete set of black line prints as set forth in (d)1 above.

5. If copies of the supplementary specifications are not available subsequent to the award of the contract, photocopies shall be made at **first to tenth page, \$.50 per page; eleventh to twentieth page, \$.25 per page; and all pages over 20, \$.10 per page.**

(e) Requests from outside the NJDOT for distribution of plans, or for any portion thereof, or for any individual sheet or sheets therefrom, shall be honored during the advertised period. However, distribution under such requests will only be made after one of the following:

1. The Department cashier has furnished a receipt indicating that the proper remittance [(\$.60 per sheet not to exceed the scheduled price for a complete set of black line prints)] has been submitted; or

2.-3. (No change.)

16:44-3.3 Requisitioning of plans

Requests for plans should be sent to the Bureau of [Contract Administration] **Construction Services**, Department of Transportation, 1035 Parkway Avenue, Trenton, New Jersey 08625.

16:44-3.4 Non-departmental distribution and sale

(a) The Bureau of [Contract Administration] **Construction Services** shall issue plans and supplementary specifications in the quantities indicated without cost to the following:

1.-6. (No change.)

16:44-3.5 Department distribution

(a) The [Bureau of Contract Administration] **division or bureau of origination** shall provide construction plans and specifications on each advertised project to the various Design Offices in the state to enable the contracting organizations to make a review of these plans and specifications. The four [(4)] Design Field Offices are located in:

1.-2. (No change.)

3. [Haddonfield] **Mt. Laurel**;

4. [Edison] **Freehold**.

16:44-7.2 Partial payments to contractors

(a) (No change.)

(b) Contracts may also provide for partial payments to contractors at least once each month or from time to time as the work progresses on all materials placed along or upon the site which are suitable for the use and execution of the contract, provided the contractor furnishes releases of liens for all materials furnished at the time each estimate of work is submitted for payment, but [such partial payments shall be 80 per cent of the value of the material] **the amount of the partial payment may not exceed 85 percent of the bid price for the pay item into which the materials are to be incorporated.**

16:44-7.3 Per centum withheld pending completion of contract

[Ten per centum of the amount due on partial payments on the first 50 per cent of the total contract price shall be withheld from the contractor pending completion of the contract. Thereafter, on the remaining 50 percent of the total contract price, no per centum of the partial payments shall be withheld from the contractor pending such completion.] **Five per centum of the amount due on partial payments on the first 50 percent of the total adjusted contract price will be deducted and retained by the Department pending substantial completion. On the remaining 50 percent of the total adjusted contract price, no percentage of the partial payments will be withheld as retainages.**

TREASURY-GENERAL

(a)

OFFICE OF THE STATE TREASURER

Local Public Employee Charitable Fund-Raising Campaign

Proposed Readoption: N.J.A.C. 17:29

Authorized By: Douglas C. Berman, State Treasurer.

Authority: N.J.S.A. 52:14-15.9c1 and N.J.S.A. 52:18A-30.

Proposal Number: PRN 1990-399.

Submit comments by September 5, 1990 to:

Steven B. Frakt
Administrative Practice Officer
Office of the State Treasurer
State House, 1st Floor
CN 002
Trenton, New Jersey 08625

The agency proposal follows:

Summary

Pursuant to Executive Order No. 66(1978), N.J.A.C. 17:29 expires on October 18, 1990. The Office of the State Treasurer has reviewed the rules and has determined them to be necessary, reasonable and proper for the purposes for which they were originally promulgated, as required by the Executive Order.

The Public Employee Charitable Fund-Raising Act, N.J.S.A. 52:14-15.9c1 et seq., was enacted in 1985 to provide for a charitable Fund-Raising Campaign among public employees at the State and local level. The Act followed a successful court challenge to prior law which had afforded only the United Way access to public employees to conduct a payroll deduction campaign. Under the new law, the State Treasurer is directed to develop regulations to implement the provisions of the Act.

Under the terms of the Act, a voluntary fund-raising campaign is conducted annually among public employees, who may authorize their contributions to be deducted from their paychecks during the following year. The readoption of these regulations, which have governed the successful operation of the campaign since 1985, will ensure that the planning and implementation of the campaign continues in an uninterrupted fashion.

For over 30 years public employee charitable fund-raising campaigns have contributed millions of dollars to support vital health, welfare and human care services throughout the State. These good works must be assured continued support.

The chapter is divided into five subchapters. The first contains general provisions, including the chapter's scope and purpose, definitions and forms. Subchapter 2 gives the duties of and membership on the local

charitable fund-raising campaign steering committee. Subchapter 3 sets forth the eligibility and application requirements for the campaign. Administration of the campaign is provided for under subchapter 4. Campaign accounts requirements are in subchapter 5.

Social Impact

The rules provide access to the local public workplace to a variety of charitable organizations and agencies in order that these groups may solicit and collect contributions and further their respective missions. These rules for charitable fund-raising campaigns among State employees will afford employees of local units of government wider avenues of expression and more freedom in designating recipients of their charitable contributions. The rules will ensure a truly united and comprehensive fund drive.

The rules are intended to provide the basis for local units of government to establish their own payroll deduction scheme as set forth in N.J.S.A. 52:14-15.9c1 et seq. and to ensure that the campaigns conform to State and Federal guarantees of freedom of speech and equal protection under the law.

The procedures set forth in this chapter will also provide an additional source of funds to agencies which are neither affiliated with nor members of any umbrella fund-raising organization. This new source of funds may replace some Federal funds that are no longer provided due to budgetary cutbacks.

Economic Impact

The rules proposed for reoption have no significant economic impact on the finances of local units of government. However, as many charitable organizations and agencies participate in local units of government campaigns, some minimal administrative costs are incurred. The bulk of these costs will be deducted from contributions. It should be noted that provisions for increased organization and agency participation may well encourage greater total charitable giving by employees of local units of government through payroll deductions.

Regulatory Flexibility Analysis

As defined under the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq., the term "small business" may apply to some charitable agencies wishing to participate in the Local Public Employee Charitable Fund-Raising Campaign. The only requirements imposed on such agencies relate to the application process, the documentation for which should be maintained by the agency in the normal course of operation. Other than the minor administrative cost of application, the Department anticipates no capital costs need be expended or professional services engaged by small businesses to comply with these rules. Therefore, no differentiation in the application process based upon business size is provided.

Full text of the proposed reoption may be found at N.J.A.C. 17:29.

The agency proposal follows:

Summary

The Division of Taxation proposes to amend N.J.A.C. 18:22-1.3 to clarify the kind of areas which are included in the definition of "public street, highway, road or other public place," under N.J.S.A. 54:30A-17(f) and N.J.S.A. 54:30A-50(g). Under N.J.S.A. 54:30A-17(f) and N.J.S.A. 54:30A-50(g), "public street, highway, road or other public place," includes any street, highway, road or other public place which is open and used by the public, even though the same has not been formally accepted as a public street, highway, road or other public place." The amendment makes clear that a number of areas, such as dead-end streets and various types of connecting roads, to which the public has unrestricted access, are included within the definition. The definition clarifies the basis, for tax purposes, of an assessment of the use of such public streets, highways, roads or other public places by utility companies. Material owned by a utility and placed in such public areas incurs a tax liability upon the utility.

Social Impact

The proposed amendment will provide a clear definition of a public street, highway, road or other public place for the purposes of the public utilities tax statutes. Public utilities operating in New Jersey will know with a greater certainty how the applicable tax statutes will be applied.

Economic Impact

The proposed amendment will make it easier for tax practitioners working with the public utilities rules to understand how the statutes will be applied, reducing expenses for tax preparation. Litigation costs may be reduced through clarification of a potential area of controversy. The State's revenues will be protected through accurate apportionment of utility lines and poles between public and nonpublic areas. The Division believes that the proposed amendments correctly interprets the legislative intent and will facilitate proper administration of the tax statutes. The amendments reflect past interpretation of the statute. It is possible that the clarification of the definition may increase tax revenues, but this cannot be adequately determined at this point in time.

Regulatory Flexibility Analysis

The proposed amendments clarify the definition of public street, highway, road or other public place in the public utility tax rules, and in so doing, delineate more specifically the tax obligations of public utilities, some of which are small businesses, as the term is defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The clarification is in accordance with previous Division interpretations of the terms. To differentiate between small and large businesses in the rules would tend to create inequity in the application of the requirements and would contradict the statutory requirements which provide for uniform application of tax statutes.

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

18:22-1.3 Definitions

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

...
 "Public street, highway, road or other public place" means [and includes] any street, highway, road or other public place which is open and used by the public, even though the same has not been formally accepted as a public street, highway, road or other public place[.] **and includes without limitation dead end streets, cul-de-sacs, alleys, water or riparian ways, and non-restricted roadways, such as extended residential, commercial or recreational facility driveways, or dead end streets, cul-de-sacs or alleys which are connected to public roadways and are for access to or the use of supermarkets, shopping malls, planned communities (such as apartment complexes and condominium developments), commercial enterprises, and recreation facilities (such as marinas, golf clubs, drag strips, etc.) and the connecting roads within or around the above facilities whether these roadways shall be located on public or on private property. The term "public street, highway, road or other public place" shall not include restricted residential communities that control, by way of a permanently manned gate, access to or through said community.**
 ...

TREASURY-TAXATION

(a)

DIVISION OF TAXATION

Public Utility Corporations

Definitions

Proposed Amendment: N.J.A.C. 18:22-1.3

Authorized By: Benjamin J. Redmond, Acting Director, Division of Taxation.

Authority: N.J.S.A. 54:50-1.

Proposal Number: PRN 1990-405.

Submit comments by September 5, 1990 to:

Nicholas Catalano
 Chief Tax Counselor
 Division of Taxation
 50 Barrack Street
 CN-269
 Trenton, NJ 08646

(a)

DIVISION OF TAXATION**Railroad Tax****Proposed Repeal and New Rules: N.J.A.C. 18:23-7
Proposed Amendments: N.J.A.C. 18:23-1.1, 3.6, 5.6,
6.3, 8.1, 8.2, 8.6, 11.2, 11.3, Appendix I**

Authorized By: Benjamin J. Redmond, Acting Director, Division of Taxation.

Authority: N.J.S.A. 54:29A-6, 54:29A-62, 54:50-1.

Proposal Number: PRN 1990-406.

Submit comments by September 5, 1990 to:

Nicholas Catalano
Chief Tax Counselor
Division of Taxation
50 Barrack Street
CN 269
Trenton, NJ 08646

The agency proposal follows:

Summary

The following proposal updates the rules under the railroad tax law and explicitly reflects certain statutory changes, including P.L. 1979, c.95, §2, N.J.S.A. 54:29A-7.1.

N.J.A.C. 18:23-1.1 and 8.2 have been amended to correct typographical errors.

N.J.A.C. 18:23-3.6 has been proposed as a new rule which conforms to the requirements of N.J.S.A. 54:29A-7.1 (P.L. 1979, c.95 §2).

N.J.A.C. 18:23-5.6, 6.3, and Appendix I have been proposed for amendment and subchapter 7 proposed for repeal to indicate a change in procedure in that the mechanism for appeals of railroad tax matters to the Tax Court is no different from appeals for other State taxes. References to the Division of Tax Appeals have been deleted and references to Tax Court have been added. For the sake of clarity, the Division of Taxation proposes that subchapter 7 be repealed and new rules be adopted in order to incorporate the significant changes in the ways appeals are considered. The new rules proposed at N.J.A.C. 18:23-7.1 and 7.2 state the manner of appeal and the circumstances which apply to appeals to the Tax Court.

N.J.A.C. 18:23-8.1, 8.6 and 11.2 have been amended to make references current.

N.J.A.C. 18:23-11.3 has been amended to add provisions originally in the text of the rule but inadvertently omitted from the May 21, 1984 supplement updating the New Jersey Administrative Code.

Social Impact

The proposed changes will make the existing rules more easily understood by the public and will inform the public regarding the procedure to be followed in presenting a railroad tax appeal.

Economic Impact

The proposed changes are not expected to have a direct economic impact on State revenue, or on the regulated public. The substantive, as opposed to the procedural, preparation for appeals of railroad tax matters would be essentially unchanged. The proposed changes are intended to allow the readers of the rules both within government and in the general public to understand the provisions and the applicable procedures more readily.

Regulatory Flexibility Statement

The proposed changes place no additional requirements on the members of the regulated public, some of whom are small businesses, as the term is defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The amendments, repeals and new rules correct typographical errors, reflect administrative changes and reference applicable tax law. The change in procedure for railroad tax appeals will not entail any change in requirements for professional services which may be required in the preparation of the appeal.

Full text of the rules proposed for repeal may be found in the New Jersey Administrative Code at N.J.A.C. 18:23-7.

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

18:23-1.1 Definitions

...
"Railroad" means any common carrier by railroad engaged in, [owing] **owning** or constructing facilities for the transportation of persons or property in or through this State, including railroads not owning any rolling stock, other than a street railway or traction company using or occupying the public streets, highways, roads or other public places, the taxation of which is otherwise provided by law.
...

18:23-3.6 [(Reserved)] **Real property deemed to be in railroad use**

Real property shall be deemed to be in railroad use if such property is used for the transportation of persons or freight by a railroad, regardless of the ownership or possession of the real property.

18:23-5.6 Inspection of classifications and valuations; conference; appeal

(a)-(b) (No change.)

(c) Any matters not corrected at such time are not given further administrative review and may be corrected only by appeal to the [New Jersey Division of Tax Appeals] **Tax Court in accordance with applicable law.**

18:23-6.3 Credit for taxes paid locally on omitted property

(a) Any taxpayer will be given credit against the assessment for the railroad property tax for the local tax paid if he:

1.-3. (No change.)

4. Has submitted satisfactory proof of such payment to the Director and to the [Division of Tax Appeals] **Tax Court**, if the matter is pending before it.

18:23-7.1 Appeals

Any taxpayer desiring to contest the validity or amount of any assessment or reassessment of property or franchise tax made by the Director of the Division of Taxation under the railroad tax law may appeal to the Tax Court in accordance with the provisions of the State Tax Uniform Procedure Law, N.J.S.A. 54:48-1 et seq. (See N.J.A.C. 54:51A-13.)

18:23-7.2 Dual assessment; appeal to tax court

(a) **If property of a taxpayer has or shall have been, in any year, assessed by the local authorities of the taxing district, and also has or shall have been classified as Class I or Class III property or classified and assessed by the Director of the Division of Taxation of the State Department of the Treasury as Class II property, an appeal may be taken to the Tax Court in accordance with the provisions of the State Tax Uniform Procedure Law, N.J.S.A. 54:48-1 et seq., which court shall determine, in a summary manner, the character of the property and whether used for railroad purposes and by whom it has lawfully been assessed.**

(b) **Such determination shall be made whether the taxes in question have been paid or not and whether an appeal to review either assessment has been made or not.**

18:23-8.1 Return of information

(a) Every taxpayer must, on or before March 1 of the pre-tax year, file with the Local Property [and Public Utility] Branch statements and/or schedules showing:

1.-2. (No change.)

(b) The Local Property [and Public Utility] Branch has developed and maintains a perpetual inventory of all property owned by each railroad or system in the State of New Jersey and only changes in the ownership, character or value of such property are required to be reported annually. Such annual returns of information must be submitted to the Local Property [and Public Utility] Branch on forms R.R. 51 through R.R. 452 which are available from said Branch.

(c) (No change.)

(d) On or before April 1 of the tax year, each taxpayer must file with the Director, through the Local Property [and Public Utility] Branch, at its own expense, a sworn and complete copy of its Railroad Annual Report [Form A or Form C] for the pre-tax year, which has been filed **or will be filed** with the **Interstate Commerce Commission or with** the Department of [Public Utilities] **Transportation** of the State of New Jersey.

(e) Furthermore, all taxpayers must complete and file Local Property [and Public Utility] Branch Forms R.R. 551 through 556 with such Branch, together with such supplemental statements and schedules as may from time to time be required by the Director or the State Superintendent of the Local Property [and Public Utility] Branch, acting in his behalf.

18:23-8.2 Monthly statistics report

All taxpayers [are to] **shall** submit monthly reports of net railway operating income to the Local Property [and Public Utility] Branch, as soon as such information is available or projected. Such report [is to] **shall** include the monthly net [railing] railway operating income, and the complete net [R]railway operating income for the year up to the month reported.

18:23-8.6 Payment

All checks [are to] **shall** be made payable to the New Jersey State Treasurer, and mailed or delivered to the Division of Budget and Accounting, [State House] 33 West State Street, Trenton, New Jersey 08625.

18:23-11.2 Taxpayer's right to informal conference

Where, under [section 5. (Conference; appeal) N.J.A.C. 18:23-5.6, of this chapter,] a taxpayer requests an informal hearing, a conference will be held before the Local Property [and Public Utility] Branch to be conducted on an informal basis, with or without representation on behalf of the taxpayer or other party in interest.

18:23-11.3 Taxpayer's right to formal hearing

(a) (No change.)

1.-3. (No change.)

4. The Director or any employee of the Division of Taxation he may designate, may conduct hearings, administer oaths to, and examine under oath, **any taxpayer and the directors, officers, agents, and employees of any taxpayer, and all other witnesses relative to the liability of the taxpayer for any taxes pursuant to the provisions of the act.**

(b) (No change.)

APPENDIX I
CALENDAR OF TAX EVENTS

PRE-TAX YEAR (No change.)

TAX YEAR

January 1 (No change.)

January 1 (No change.)

April 1 (On or before) (No change.)

[Third Monday of May (On or before) Appeal of property tax assessments to Division of Tax Appeals: Appeals from property assessments may be filed with the Division of Tax Appeals on or before this date. (See N.J.A.C. 18:23-7.1)

Third Monday of May Division of Tax Appeals to fix date for hearing: The Division of Tax Appeals to meet on this date to fix a time and place for hearing of appeals against property tax. (See N.J.A.C. 18:23-7.1)]

June 1 (On or before) (No change.)

June 1 (After) (No change.)

June 10 (On or before) (No change.)

June 15 (No change.)

[First Tuesday of September (On or before) Appeals of franchise tax to Division of Tax Appeals: Appeals from franchise assessments may be filed with the Division of Tax Appeals on or before this date. (See N.J.A.C. 18:23-7.1)

First Tuesday of September Division of Tax Appeals to fix date for hearing: The Division of Tax Appeals to meet on this date to fix a time and place for hearing of appeals against franchise tax. (See N.J.A.C. 18:23-7.1)

November 1 (On or before) Hearings concluded: The Division of Tax Appeals shall conclude its hearings of all appeals. (See N.J.A.C. 18:23-7.2)

November 5 to 10 Determination by Division of Tax Appeals certified to the Director, Division of Taxation: The Division of Tax Appeals shall between November fifth and November tenth certify its final determination of appeals to the Director, Division of Taxation, who shall forthwith certify all changes and corrections to the Director, Division of Budget and Accounting. (See N.J.A.C. 18:23-7.2)]

OTHER AGENCIES

(a)

ELECTION LAW ENFORCEMENT COMMISSION
Election Law Enforcement Commission Regulations
Proposed Readoption with Amendments: N.J.A.C. 19:25

Authorized By: Election Law Enforcement Commission, Frederick M. Herrmann, Ph.D., Executive Director.
Authority: N.J.S.A. 19:44A-6, 19:44A-38, 19:44B-7, 52:13C-22.3.
Proposal Number: PRN 1990-389.

Submit written comments by September 5, 1990 to:

Gregory E. Nagy, Legal Director
Election Law Enforcement Commission
CN-185
Trenton, New Jersey 08625-0185

The agency proposal follows:

Summary

Pursuant to Executive Order No. 66(1978), N.J.A.C. 19:25 expires on January 9, 1991. The Election Law Enforcement Commission has reviewed the rules and, with the following exceptions, has determined them to be necessary, reasonable and proper for the purpose for which they were originally promulgated, as required by the Executive Order.

Subchapter 1 contains general provisions, including definitions of words and terms used in rules pertinent to "The New Jersey Campaign Contributions and Expenditures Reporting Act," N.J.S.A. 19:44A-1 et seq. (hereafter, the Campaign Reporting Act). The Commission proposes to amend N.J.A.C. 19:25-1.1, Scope of regulations, by adding that the rules apply not only to the Reporting Act, but also to the Gubernatorial Legislative Disclosure Statement Act, N.J.S.A. 19:44B-1 et seq. (hereafter, the Disclosure Statement Act), and to the Legislative Activities Disclosure Act of 1971, N.J.S.A. 52:13C-18 et seq. (hereafter, the Lobbying Disclosure Act). Also, the reference to the rules governing all hearings has been deleted because hearings are usually conducted by the Office of Administrative Law which has promulgated hearing rules at N.J.A.C. 1:1.

The Commission proposes to add a definition to N.J.A.C. 19:25-1.7, Definitions, for the terms "file" or "filed" which definition states that all reports or documents must be deposited at the Commission offices before they will be deemed to be filed. This definition corresponds to the statutory definition of those terms in N.J.S.A. 19:1-1. Depositing reports or documents in the United States mail or other delivery system does not constitute filing because, until they are received at the Commission offices, a report or document is not available for public inspection.

Subchapter 2 contains administrative rules. N.J.A.C. 19:25-2.1, Office, has been amended to correct the Commission's mailing address.

Subchapters 3 through 13 contain substantive requirements pertinent to the Campaign Reporting Act. These rules have proved to be necessary for the reporting of financial transactions concerning candidates, political committees, continuing political committees and other reporting entities, and promote the salutary purposes of the Campaign Reporting Act set forth at N.J.S.A. 19:44A-2. Subchapters 3 (pre-candidate activity) and 9 (pre-election and post-election reports) specifically address reporting requirements of candidates and political committees active in a specific election, while Subchapter 10 (quarterly reports) addresses requirements of ongoing, continuing political committees, including political action

committees (that is, PACs). Subchapters 4 (general reporting requirements), 5 (appointment of treasurers), 6 (deposit of funds), 7 (use of funds), 8 (record keeping), 11 (contribution reporting), 12 (expenditure reporting), and 13 (allocation of expenditures) have applicability to all reporting entities under the Campaign Reporting Act.

The Commission proposes to amend the following rules that are specifically pertinent to the Campaign Reporting Act.

N.J.A.C. 19:25-4.4, Continuing political committees: political party committees, will be amended to delete from the existing text the reference to political club because such an entity is only required to file quarterly reports if its expenditures exceed \$2,500 annually; see 20 N.J.R. 3009(a) and 21 N.J.R. 459(a) deleting "political club" from the definition of "political party committee" at N.J.A.C. 19:25-1.7, Definitions.

N.J.A.C. 19:25-4.6(d) will be amended to correct the citation to N.J.A.C. 19:25-4.5, Continuing political committees: others.

N.J.A.C. 19:25-4.7(c) will be amended to conform the reporting requirements of a write-in candidate receiving a contribution of more than \$100.00 to those of other candidates.

N.J.A.C. 19:25-6.1(b) will be amended to correct a textual error.

N.J.A.C. 19:25-7.7 will be amended to correct the statutory citation.

N.J.A.C. 19:25-9.8 and 10.6(a) will be amended to clarify that expedited mail or other expedited delivery method (but not electronic facsimile transmission) may be used for filing 48-hour notices of contributions.

Subchapter 14 sets forth the procedures for obtaining advisory opinions from the Commission for questions arising under the Campaign Reporting Act.

Subchapters 15 and 16 contain the rules pertinent to the gubernatorial public financing program in the primary and general elections, respectively. These rules were substantially amended during 1989 to reflect statutory changes made by P.L.1989, c.4, effective January 20, 1989. The Commission is undertaking a report of the 1989 gubernatorial election program, and amendments to these rules may be proposed when that report is completed later this year.

Subchapter 17 contains a single section, which concerns default for failure to respond to a Commission penalty proceeding. Subchapter 18 is reserved.

Subchapter 19 contains rules pertinent to the Disclosure Statement Act, and Subchapter 20 contains rules pertinent to the Lobbying Disclosure Act. These rules promote the salutary purposes of those laws, and continue to be necessary in order to achieve the disclosure of the information those laws seek to provide to the electorate and the general public. N.J.A.C. 19:25-20.15, Severability clause, is proposed for deletion because the severability clause contained in Subchapter 21 makes it superfluous.

Social Impact

These rules are designed to carry out the disclosure purposes of the Campaign Reporting Act, the Disclosure Statement Act, and the Lobbying Disclosure Act. They have been promulgated to further the integrity of the electoral and legislative processes in this State. The proposed amendments clarify existing Commission practices, but do not establish new substantive requirements.

Economic Impact

These rules generate compliance costs for filing entities. Such costs include opening and maintaining bank accounts, maintaining records of financial activity, and preparing and filing disclosure reports. However, the Commission believes these costs are justified by the public purposes of election and lobbying disclosure. The proposed amendments do not generate any additional costs because they merely clarify existing Commission practice.

Regulatory Flexibility Analysis

The proposed readoption and amendments affect election campaign and legislative disclosure, and as such do not affect, impact, or impose reporting, recordkeeping or other compliance duties on small businesses as that term is defined under the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. Therefore, a regulatory flexibility analysis is not required.

Full text of the proposed readoption may be found in the New Jersey Administrative Code at N.J.A.C. 19:25.

Full text of the proposed amendments follows (additions indicated in boldface thus; deletions indicated by brackets [thus]):

19:25-1.1 Scope of regulations

The provisions of this chapter are promulgated pursuant to the New Jersey Campaign Contributions and Expenditures Reporting Act, P.L. 1973, c.83, as amended, N.J.S.A. 19:44A-1 and following ("the act") [.; the Gubernatorial Legislative Disclosure Statement Act; N.J.S.A. 19:44B-1 et seq.; and the Legislative Activities Disclosure Act of 1971, N.J.S.A. 52:13C-18 et seq. Such provisions shall constitute the rules and regulations of practice and procedure [and shall govern all hearings in] of the New Jersey Election Law Enforcement Commission ("the [commission] Commission").

19:25-1.7 Definitions

The following words and terms, when used in this chapter and in the interpretation of the act, shall have the following meanings unless a different meaning clearly appears from the context.

...
"File" or "filed" means deposited in the office of the Commission designated in N.J.A.C. 19:25-2.1.
 ...

19:25-2.1 Office

The office of the Election Law Enforcement Commission is located at [Suite 1215, National State Bank Building.] 28 W. State Street, Trenton, New Jersey [08608, telephone (609) 292-8700.]. **All correspondence may be sent to the following address only: Election Law Enforcement Commission, CN-185, Trenton, New Jersey 08625-0185. The telephone number is: (609) 292-8700.**

19:25-4.4 Continuing political committees: political party committees

(a) (No change.)

(b) A political party committee[, and a political club which carries on in fact some or all of the continuing functions of a political party committee] is a continuing political committee for the purposes of the quarterly reporting requirements of the act regardless of the amount expended on election-related activity in any one or subsequent years.

19:25-4.6 Statement of organization: continuing political committee

(a)-(c) (No change.)

(d) Upon receiving the statement of organization, the [commission] **Commission** shall review the information provided by the continuing political committee for the purposes of determining the classification of the committee in accordance with N.J.A.C. [19:25-4.6] **19:25-4.5**. The [commission] **Commission** shall thereafter notify the committee of its classification and filing obligation, if any.

19:25-4.7 Write-in candidates

(a)-(b) (No change.)

(c) If a write-in candidate who spends or has \$2,000 or less spent on his or her behalf receives any contribution from any one source aggregating more than \$100.00[, the write-in candidate must, within 48-hours of receipt, file a report (Form C-1) with the Commission including the name and address of the source and the dates of and aggregate total of contributions.] **during any reporting period, the write-in candidate shall file a report (Form C-1) of such contribution with the Commission on the appropriate reporting period date set forth in N.J.S.A. 19:44A-16. The report shall include the identity of the source and the aggregate total of the contribution during the reporting period.**

19:25-6.1 Deposits of funds by candidates or committees

(a) (No change.)

(b) All funds received by a treasurer or deputy treasurer of a candidate, a political committee, or a continuing political committee serving as the campaign committee of a candidate **shall** be deposited by the treasurer or deputy treasurer in a depository of the candidate or committee, in an account clearly designated as such a campaign account, no later than the 10th calendar day following receipt of such funds; except that any such treasurer or deputy treasurer may, when authorized by the candidate or committee of which he is the treasurer or deputy treasurer transmit any such funds to the duly designated or deputy treasurer of another candidate or committee for inclusion in his or her or its campaign fund without first so depositing them;

provided, however, that a record of non-deposited funds so transmitted shall be maintained and included in the pre and post-election reports of the original recipient, identifying them as to the source and amount in the same manner as deposited funds.

(c)-(d) (No change.)

19:25-7.7 Limitation on or expenditure financial activity by political party committee

A State, county or municipal committee of a political party may not receive or expend funds in violation of N.J.S.A. 19:34-33 and N.J.S.A. [19:44A-12] **19:44A-11.**

19:25-9.8 Contributions made immediately before election

Each campaign treasurer of a candidate or a political committee shall file a written notice with the Commission of a contribution in excess of \$250.00 received during the period between midnight on the 13th day prior to the election and the date of the election. The notice shall be filed in writing or by telegram or other expedited delivery system with the [commission] **Commission** within 48 hours of the receipt of the contribution, [and the] **but such notice cannot be filed with the Commission by use of electronic facsimile transmission (that is, FAX).** The notice shall set forth the amount and the date of receipt of the contribution and the name and address of the contributor.

19:25-10.5 Time and place of filing

The original and one copy of the report must be received by the [commission] **Commission** at its office by 5:00 P.M. on the [following] **filing** day. A report postmarked on the filing day but received by the [commission] **Commission** at any time subsequent to 5:00 P.M. on the filing day will not be deemed timely filed.

19:25-10.6 Contributions made immediately before election

(a) Each organizational treasurer of a continuing political committee shall file a written notice with the [commission] **Commission** of a contribution in excess of \$250.00 received after the final day of the quarterly report and on or before the date of an election as to which it has made or intends to make a contribution, or otherwise intends to or does participate or intends to participate in. The notice shall be filed in writing or by telegram or other expedited delivery system with the [commission] **Commission** within 48 hours of the receipt of the contribution, [and the] **but such notice cannot be filed with the Commission by use of electronic facsimile transmission (that is, FAX).** The notice shall set forth the amount and the date of receipt of the contribution and the name and address of the contributor.

(b)-(c) (No change.)

(a)

**CASINO CONTROL COMMISSION
Accounting and Internal Controls
Jobs Compendium Submission**

Proposed Amendment: N.J.A.C. 19:45-1.11A

Authorized By: Casino Control Commission, Joseph A. Papp,
Executive Secretary.

Authority: N.J.S.A. 5:12-69(a), 70(a) and 99.
Proposal Number: PRN 1990-395.

Submit comments by September 5, 1990 to:
Mary S. LaMantia, Assistant Counsel
Casino Control Commission
3131 Princeton Pike Office Park
Building No. 5, CN-208
Trenton, N.J. 08625

The agency proposal follows:

Summary

The Casino Control Commission (Commission) rule at N.J.A.C. 19:45-1.11A requires that each casino licensee and casino license applicant maintain a jobs compendium detailing job descriptions and lines of authority for all personnel engaged in the operation of the hotel and casino. The jobs compendium must be submitted for Commission approval at least six months prior to the projected date of issuance of a

certificate of operation and, except as otherwise provided by N.J.A.C. 19:45-1.11A, any amendments to an approved jobs compendium must also be submitted for the Commission's prior approval.

The proposed amendment to N.J.A.C. 19:45-1.11A(f) modifies the filing requirements for jobs compendiums, providing that only a casino license applicant must file an additional copy of its jobs compendium submission with the Division of Gaming Enforcement (Division). This requirement is eliminated for casino licensees, to reflect the Division's decision to no longer participate in the review of such submissions. The proposed amendment also clarifies that jobs compendium submissions are to be filed with the Commission's Records Administrator.

Social Impact

The proposed amendment is not anticipated to have any significant social impact, since only the filing requirements for jobs compendiums are modified.

Economic Impact

The proposed amendment will provide an economic benefit to casino licensees, by avoiding any additional costs incurred in filing a jobs compendium submission with the Division.

Regulatory Flexibility Statement

The proposed amendment affects only casino licensees and casino license applicants, and therefore does not impact on small businesses as defined by the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq.

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

19:45-1.11A Jobs [/Compendium/Submission] **compendium submission**

(a)-(e) (No change.)

(f) Whenever required by this section, a casino licensee shall file five copies of a jobs compendium or an amendment to a jobs compendium with the [License Division] **Records Administrator** of the Commission [and one copy with the Division of Gaming Enforcement]. **A casino license applicant shall file five copies of a jobs compendium or an amendment to a jobs compendium with the Records Administrator of the Commission and one copy with the Division of Gaming Enforcement.** The cover shall indicate the name of the casino licensee or applicant, the date of the submission and shall be labeled "Jobs Compendium Submission" or "Jobs Compendium Amendment" as appropriate.

(b)

**CASINO CONTROL COMMISSION
Accounting and Internal Controls
Progressive Slot Machines**

Proposed Amendment: N.J.A.C. 19:45-1.39

Authorized By: Casino Control Commission, Joseph A. Papp,
Executive Secretary.

Authority: N.J.S.A. 5:12-63(c).

Proposal Number: PRN 1990-386.

Submit comments by September 5, 1990 to:

Deno R. Marino
Deputy Director—Operations
Casino Control Commission
CitiCenter Building—4th Floor
1300 Atlantic Avenue
Atlantic City, NJ 08401

The agency proposal follows:

Summary

The proposed amendment to N.J.A.C. 19:45-1.39(f) would permit the resetting of progressive meters after each hopper payout of jackpots up to \$1,199 without the written approval of a Commission Inspector.

Social Impact

The proposed amendment to N.J.A.C. 19:45-1.39(f) would permit progressive slot machine players to play games with fewer interruptions and to receive their winnings without delay.

Economic Impact

The proposed amendment may facilitate progressive slot machine play and thereby increase casino revenues and New Jersey tax revenues.

Regulatory Flexibility Statement

This proposed amendment will only affect the operation of casino licensees and, therefore, will not impact on any business protected under the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq.

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

19:45-1.39 Progressive slot machines

(a)-(e) (No change.)

(f) No "progressive meter(s)" shall be turned back to a lesser amount unless the amount indicated has been actually paid to a winning patron, or the progressive jackpot amount won by the patron has been recorded in accordance with an approved system of internal controls, or the change in the meter(s) reading is necessitated by a slot machine or meter(s) malfunction, in which case an explanation must be entered on the Progressive Slot Summary required in (j) below. [and the] **The Commission inspector must preapprove the resetting in writing except if the jackpot amount to be paid to a winning patron is \$1,199 or less and the jackpot amount is to be paid automatically from the hopper of the progressive slot machine and the resetting of the progressive meter(s) is to be effected electronically.**

(g)-(k) (No change.)

(a)

CASINO CONTROL COMMISSION**Rules of the Games****Supplemental Wagers Made After Come Out Roll in Support of Pass, Don't Pass, Come and Don't Come Bets (Making and Laying Odds)****Proposed Amendment: N.J.A.C. 19:47-1.6**

Authorized By: Casino Control Commission, Joseph A. Papp, Executive Secretary.

Authority: N.J.S.A. 5:12-63(c), 69(c), 70(f) and 100(e).

Proposal Number: PRN 1990-407.

Submit comments by September 5, 1990 to:

Deno R. Marino
Deputy Director—Operations
Casino Control Commission
CitiCenter Building—4th Floor
1300 Atlantic Avenue
Atlantic City, NJ 08401

The agency proposal follows:

Summary

The proposed amendment to N.J.A.C. 19:47-1.6 would permit a casino licensee to offer up to five times odds in support of a Pass, Don't Pass, Come or Don't Come Wager at the game of Craps. The proposed amendment would also require each casino to post a sign advising patrons of the type of odds offered in the casino.

Social Impact

With the addition of triple, quadruple and quintuple odds to the rule, the additional options, if offered by a casino, will enhance the variety of the game of Craps.

Economic Impact

The economic impact on casino licensee(s) is difficult to determine since it can not be predicted which type of odds a casino will offer.

Regulatory Flexibility Statement

This proposed amendment will only affect the operation of casino licensees and, therefore, will have no impact on any business protected under the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq.

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

19:47-1.6 Supplemental wagers made after come out roll in support of pass, don't pass, come and don't come bets (making and laying odds)

(a) Whenever a player makes a Pass Bet and a total of 4, 5, 6, 8, 9 or 10 is thrown on the come out roll, he shall have the right to make an additional wager in support of the Pass Bet [which may be limited by the casino licensee to an amount double or equal to the amount of the original Pass Bet]. If, in such circumstances, the Pass Bet wins, the original amount of the Pass Bet shall be paid at odds of 1 to 1 and the supplemental amount shall be paid at odds of 2 to 1 if the come out point was 4 or 10, 3 to 2 if the come out point was 5 or 9, and 6 to 5 if the come out point was 6 or 8.

(b) Whenever a player makes a Don't Pass Bet and a total of 4, 5, 6, 8, 9 or 10 is thrown on the come out roll, he shall have the right to make an additional wager in support of the Don't Pass Bet [which may be limited by the casino licensee to an amount so calculated as to provide winnings not in excess of the amount originally wagered on the Don't Pass Bet]. If, in such circumstances, the Don't Pass Bet wins, the original amount of the Don't Pass Bet shall be paid at odds of 1 to 1 and the supplemental amount shall be paid at odds of 1 to 2 if the come out point was 4 or 10, 2 to 3 if the come out point was 5 or 9, and 5 to 6 if the come out point was 6 or 8.

(c) Whenever a player makes a Come Bet and a total of 4, 5, 6, 8, 9 or 10 is thrown on the roll immediately following placement of such bet, he shall have the right to make an additional wager in support of the Come Bet [which may be limited by the casino licensee to an amount double or equal to the amount of the original Come Bet]. If, in such circumstances, the Come Bet wins, the original amount of the Come Bet shall be paid at odds of 1 to 1 and the supplemental amount shall be paid at odds of 2 to 1 if the come point was 4 or 10, 3 to 2 if the come point was 5 or 9, and 6 to 5 if the come point was 6 or 8.

(d) Whenever a player makes a Don't Come Bet and a total of 4, 5, 6, 8, 9 or 10 is thrown on the roll immediately following placement of such bet, he shall have the right to make an additional wager in support of the Don't Come Bet [which may be limited by the casino licensee to an amount so calculated as to provide winnings not in excess of the amount originally wagered on the Don't Come Bet]. If, in such circumstances, the Don't Come Bet wins, the original amount of the Don't Come Bet shall be paid at odds of 1 to 1 and the supplemental amount shall be paid at odds of 1 to 2 if the come point was 4 or 10, 2 to 3 if the come point was 5 or 9, and 5 to 6 if the come point was 6 or 8.

(e) **A casino may offer up to five times odds at the game of craps in support of the Pass, Come, Don't Pass or Don't Come Bets.**

[(e)](f) Any casino offering "double odds," "triple odds," "quadruple odds," or "quintuple odds" in craps shall post signs within its casino room, advising the patrons of [this] **the option being offered** provided that the location, size and language contained on such signs are submitted to and approved by the Commission or its authorized designee.

HIGHER EDUCATION

(b)

BOARD OF HIGHER EDUCATION**Auditing and Accounting Standards for County Colleges Noncredit Courses****Proposed Amendment: N.J.A.C. 9:4-3.12**

Authorized By: Board of Higher Education,
Edward D. Goldberg, Acting Chancellor and Secretary.

Authority: N.J.S.A. 18A:64A-7.

Proposal Number: PRN 1990-400.

Submit comments by September 5, 1990 to:
 Grey J. Dimenna, Esq.
 Administrative Practice Officer
 Department of Higher Education
 20 West State Street
 CN 542
 Trenton, New Jersey 08625

The agency proposal follows:

Summary

Currently, N.J.A.C. 9:4-3.12 provides a mechanism for State funding of noncredit courses at county community colleges. The Department of Higher Education periodically reviews the certified institutional enrollment reports of the county community colleges. A periodic review revealed that several practices in the reporting of enrollment data were in violation of the county community college noncredit course rule or did not comply with Board of Higher Education policy. These practices included: the charging of tuition for courses which exceeded the Board's maximum limits; the absence of documentation which would indicate the course development costs charged to corporate, private or public agencies; inclusion of contact hours for students enrolled in high school equivalency courses with non-specified sessions in enrollment data and claims for funding of credit hours partially funded by the New Jersey Department of Education. The proposed revised rule standardizes the reporting of noncredit courses. This is essential to the community college audit process.

Noncredit courses, for purposes of State funding, mean remedial, developmental, general education diploma and adult basic education courses. Specifically, the proposed addition at N.J.A.C. 9:4-3.12(g)1, requiring the separation of course and/or laboratory fees from tuition in all promotional material and invoices, will ensure that the tuition charged by the county community colleges does not exceed Board of Higher Education maximum limits, and will also provide the student, corporate, private or public agency with a list of itemized charges.

For those colleges that request State full-time equivalent support for courses that require expenditures for the development of syllabi, instructional materials and evaluative instruments, the proposed addition at N.J.A.C. 9:4-3.12(g)2 permits the charging of development fees when the costs are fully documented and listed separately on invoices. In addition, such costs may be charged only once unless the course is subsequently refined to meet the needs of a corporation, private or public agency.

N.J.A.C. 9:4-3.12(g)3 requires that tuition for training courses be based on the number of students enrolled. This requirement will ensure that the colleges charge tuition only on a per student basis, as per the Board of Higher Education's established maximum tuition rate. Finally, the proposed revision in N.J.A.C. 9:4-3.12(k) would require institutions to calculate attendance for high school equivalency courses and any other courses with non-specified session on a daily or actual use basis. Therefore, the six county community colleges that offer programs which allow students to learn at their own pace will all calculate attendance in a similar manner.

Social Impact

The revised rule will clarify the method of recording data regarding noncredit courses at county community colleges. This is essential to the county college audit process and will standardize the reporting process ensuring that the county community colleges comply with Board of Higher Education maximum tuition limitation policies.

Economic Impact

The proposed amendment will ensure that: the tuition charged by county community colleges does not exceed Board of Higher Education maximum limits; students, corporate, private or public agencies receive an itemized list of charges; full-time equivalent support for development costs are charged once unless the course is refined, and will standardize calculation of attendance for high school equivalency and other courses with non-specified sessions. These requirements may result in reduced revenues for those county community colleges which have not complied with the community college noncredit course rules or Board of Higher Education maximum tuition policies.

Regulatory Flexibility Statement

A regulatory flexibility analysis is not required because the proposed amendment does not impose reporting, recordkeeping or other compliance requirements on small businesses as defined by the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The proposed amendment

contains provisions regarding accounting practices at county community colleges.

Full text of the proposal follows (additions indicated in boldface thus):

9:4-3.12 Noncredit courses

(a)-(f) (No change.)

(g) To be eligible for State funding, noncredit courses as defined in this section shall be in compliance with the Board of Higher Education tuition ceiling currently in effect.

1. Colleges may, as allowed for credit courses, institute course and/or laboratory fees where appropriate, as long as these fees are clearly differentiated from tuition in promotional material and invoices rendered to a student and/or contracting agency. Course, laboratory and other fees are not eligible for reimbursement under this section.

2. Colleges requesting State FTE support may charge course development fees. Such fees may be charged once for the development of a given course. Costs for the refinement of a course previously developed and for which fees have been charged are allowable but shall be fully documented. Course development fees shall be listed separately on invoices and shall be fully documented as actual course development costs.

3. Tuition for training courses shall be based upon the number of students formally enrolled.

(h)-(j) (No change.)

(k) The equivalent credit-hour calculation for a noncredit course shall be based upon only those students who are formally registered and in attendance at the institutional session to be selected by the college for the equivalent credit-hour count. **For noncredit courses with non-specified sessions, funding shall be based on actual daily attendance.**

(l) (No change.)

(a)

BOARD OF HIGHER EDUCATION

State Colleges

Elements of the Institutional Plan

Proposed Amendment: N.J.A.C. 9:6-7.4

Authorized By: Board of Higher Education,

Edward D. Goldberg, Acting Chancellor and Secretary.

Authority: N.J.S.A. 18A:64-6(v) and N.J.S.A. 18A:3-14(t).

Proposal Number: PRN 1990-412.

Submit comments by September 5, 1990 to:

Grey J. Dimenna, Esq.
 Administrative Practice Officer
 Department of Higher Education
 20 West State Street
 CN 542
 Trenton, New Jersey 08625

The agency proposal follows:

Summary

The proposed amendment to N.J.A.C. 9:6-7.4 modifies a rule adopted elsewhere in this issue of the New Jersey Register regarding institutional plans to be submitted by State colleges to the Board of Higher Education. In the initial proposal, there was a typographical error in the language of a particular subsection of the rule which was not discovered until after publication in the New Jersey Register. Rather than renounce the entire proposal, the Board determined that it would adopt the rule as proposed and correct the error through a subsequent noticing of the particular subsection in question. This proposed amendment serves that purpose.

The proposed amendment involves the elements which are to be placed by State colleges within their institutional plans which are to be considered by the Board. The plan is required to include certain trends, goals and outcomes including those involving human resources. This proposed amendment further defines what is required within that particular area.

Social Impact

The proposed amendment defines the trends, goals and outcomes in the area of human resources which the State colleges must include in their

institutional plans that they file with the Board of Higher Education. Inclusion of this information will help to ensure that the plans submitted by the colleges will take into account all types of employees at the colleges.

Economic Impact

The proposed amendment does not have a particular economic impact on the State colleges. It merely expands the types of employees which are to be taken into account in the reporting of certain data which is to be placed within the State college's institutional plans to be filed with the Board.

Regulatory Flexibility Analysis

In accordance with the New Jersey Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq., the Department has determined that this proposed amendment will not impose reporting, recordkeeping, or other compliance requirements on small businesses because these rules impact upon State colleges, all of which fail to qualify as small businesses as defined in the Regulatory Flexibility Act. The proposed amendment modifies the type of information which the colleges must include in their institutional plans to the Board of Higher Education.

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

9:6-7.4 Elements of the institutional plan

(a) The plan approved by the board of trustees shall include the following:

- 1.-3. (No change.)
- 4. Trends, goals and outcomes in the following:
 - i.-vi. (No change.)
 - vii. Human resources, including total salary expenditures, faculty staffing both by academic unit and by rank and tenure, [and administrative computing] administrative staff, support staff, faculty and staff development and affirmative action;
 - viii.-xi. (No change.)

(a)

BOARD OF HIGHER EDUCATION

Disbursement of Funds for Technical and Engineering Facilities and Equipment Under the Jobs, Science and Technology Bond Act of 1984, P.L. 1984, c. 99

Proposed Readoption: N.J.A.C. 9:8

Authorized By: Board of Higher Education,
Edward D. Goldberg, Acting Chancellor and Secretary.
Authority: P.L. 1984, c.99.
Proposal Number: PRN 1990-401.

Submit comments by September 5, 1990 to:
Grey J. Dimenna, Esq.
Administrative Practice Officer
Department of Higher Education
20 West State Street
CN 542
Trenton, New Jersey 08625

The agency proposal follows:

Summary

Pursuant to the provisions of Executive Order No. 66(1978), N.J.A.C. 9:8, Disbursement of Funds for Technical and Engineering Facilities and Equipment Under the Jobs, Science and Technology Bond Act of 1984, will expire on November 4, 1990.

The primary goal of this \$33 million portion of the Jobs, Science and Technology (JST) Bond Funds is to improve the education of undergraduate students in science and technology through the construction and upgrading of undergraduate science and technical/engineering-related facilities and equipment. Subchapter 1 outlines the two-stage proposal review procedure for funds for undergraduate technical and engineering related facilities and equipment and for high technology job training and retraining programs. First, the procedure consists of a competitive request for proposals to determine educational viability and, second, compliance with the Board of Higher Education's existing Facilities Planning Standard and Approval Procedures, N.J.A.C. 9:3. In addition, Subchapter

2, Funds for Capital Construction, outlines the review process for proposals from accredited engineering schools for the construction of northern and/or central region computer integrated manufacturing (CIM) centers.

The chapter is not being amended on readoption. The JST rules are currently in effect and are accomplishing their goals. The rules need to be continued so that the remaining projects can be completed.

Social Impact

Many students have benefitted from the improved training programs and facilities that the JST Bond Act has made possible. To date, nearly \$18 million has been expended to improve the education of undergraduate students in science and technology through the construction and upgrading of undergraduate science and technical/engineering-related facilities and equipment at nine of New Jersey's colleges and universities. There are twenty projects, of which seven have been completed, nine have had documents submitted to start the construction approval process, and four have yet to be started.

Economic Impact

Disbursement of the \$33 million for the construction or upgrading of technical and engineering facilities and equipment at New Jersey institutions of higher education will be economically beneficial to the State by improving the higher educational facilities and thereby attracting industry and research revenues to the State. In addition, the funds will favorably impact the State's economy by stimulating the construction industry.

Regulatory Flexibility Statement

A regulatory flexibility analysis is not required because the proposed amendments do not impose reporting, recordkeeping or other compliance requirements on small businesses as defined by the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The rules proposed for readoption without amendment are applicable to New Jersey institutions of higher education which are not small businesses under the provisions of the Act.

Full text of the proposed readoption appears in the New Jersey Administrative Code at N.J.A.C. 9:8.

LAW AND PUBLIC SAFETY

(b)

**DIVISION OF CRIMINAL JUSTICE
POLICE TRAINING COMMISSION**

**School Administration
Operating Entity Responsibilities**

Proposed Amendment: N.J.A.C. 13:1-7.2

Authorized By: Police Training Commission, Robert T. Winter,
Chairman and Director, Division of Criminal Justice.
Authority: N.J.S.A. 52:17B-71(h).
Proposal Number: PRN 1990-410.

Submit comments by September 5, 1990 to:
Geri Schaeffer
Police Training Commission
CN 085
Trenton, New Jersey 08625

The agency proposal follows:

Summary

The Police Training Commission has designated the State Medical Examiner, the Department of Corrections' Laboratory and certain laboratories approved by the Department of Health as facilities for drug screening of trainees at the Commission approved schools. The proposed amendment is intended to clarify existing provisions at N.J.A.C. 13:1-7.2(a)20 concerning drug screening in order that the procedures employed at all schools and all laboratories will be identical. The purpose of the deletion of the specific specimen handling requirements imposed at N.J.A.C. 13:1-7.2(a)20xi, and its replacement with a requirement that specimens be handled and processed in accordance with procedures approved by the Commission, is to provide flexibility to account for differences and advances in testing equipment technology.

Social Impact

The Police Training Commission requires that trainees at all Commission approved schools undergo drug screening. The Commission has

approved several laboratories as designated facilities for this purpose. The proposed amendment is deemed appropriate so as to insure that all screening procedures are administered uniformly and with proper safeguards to maintain the integrity of the process.

Economic Impact

The adoption of the proposed amendment will not result in any appreciable increase in the cost of the drug screening procedures for trainees.

Regulatory Flexibility Statement

A regulatory flexibility analysis is not required because the proposed amendment does not impose reporting, recordkeeping or other compliance requirements on small businesses. It relates solely to the training of law enforcement officers in schools operated by non-small business entities.

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

13:1-7.2 Operating entity responsibilities

(a) The law enforcement agency, combination of law enforcement agencies, institution of higher learning, or recognized governmental entity certified to operate a school is vested with the power, responsibility and duty.

1.-19. (No change.)

20. To conduct drug screening of all trainees so as to provide for the safety and welfare of all trainees, instructors and other school [persons] **personnel** in accordance with the following procedures:

i.-v. (No change.)

vi. A staff member of the school will serve as the official monitor and, as such, will be responsible for ensuring that all required forms, such as waivers, laboratory [request] forms and medical questionnaires, have been thoroughly and accurately completed by the trainee. Prior to the submission of the sample, both the staff member and the trainee will inspect the specimen bottle for indications of pre-void tampering;

vii.-ix. (No change.)

x. The trainee will complete the information requested on the specimen bottle label and [the laboratory chain of request form] **any related agency or laboratory forms;**

xi. After the official monitor has inspected the information for accuracy, the trainee will void [at least] **approximately** 50 milliliters of urine into the specimen bottle. [The trainee will then secure the cap of the specimen bottle and initial and wrap evidence tape along the top of the bottle beginning on one side of the bottle, along the cap and down the other side. The trainee will place the specimen bottle and the original copy of the laboratory chain of custody form in a plastic evidence bag and initial and seal the bag with evidence tape prior to surrendering the specimen to the official monitor. The trainee and the school director shall also maintain a copy of the laboratory chain of custody form] **The specimen will be handled and processed in accordance with procedures approved by the Commission;**

xii. After ascertaining that all forms have been completed accurately [by the trainee] and [the person] **after** serving as a witness to the void, the official monitor shall take possession of the sample and place it in a controlled access refrigerated storage area until it is delivered to the designated laboratory. This delivery shall occur within [24 hours] **one laboratory working day** of acquisition;

xiii. The school director shall request that the designated laboratory provide [written] notification of any urinalysis resulting in a positive test result. A sample shall be considered positive for the presence of drugs only when resulting from a confirmatory test procedure. A written laboratory report shall be obtained for all positive samples. All trainees who are found positive for drugs and an appropriate official in the trainee's law enforcement agency will be orally notified by the school director of the positive confirmation result as soon after [the written] notification from the laboratory as possible. A copy of the laboratory report [may] **shall** be provided to the trainee by the school director if requested;

21.-23. (No change.)

(a)

STATE BOARD OF DENTISTRY

Announcement of Practice in a Special Area of Dentistry

Reproposed Amendment: N.J.A.C. 13:30-8.4

Authorized By: State Board of Dentistry, Samuel Furman, D.D.S., President.

Authority: N.J.S.A. 45:6-7.

Proposal Number: PRN 1990-408.

Submit comments by September 5, 1990 to:
William Gutman, Executive Director
State Board of Dentistry, Room 510
1100 Raymond Boulevard
Newark, New Jersey 07102

The agency proposal follows:

Summary

A proposed amendment of N.J.A.C. 13:30-8.4, which would permit a general dentist to announce services in a special area of dentistry or a limitation of practice, was initially published in the March 5, 1990 New Jersey Register at 22 N.J.R. 783(a). The proposal stated the Board's belief that since a general dentist legally may limit his or her practice to a special area of dentistry, the public would benefit from a general dentist's advertisement of the availability of such services, provided the advertisement was truthful and non-deceptive. In that regard, a proposed new subsection was added requiring a general dentist who wished to advertise services in a special area of dentistry to use the phrase "General Dentist" immediately following his or her name and prohibiting use of the words "specialist," "specialty," or "specializing."

Eighteen responses were received during the comment period, including responses from the American Dental Association (ADA), the New Jersey Dental Association (NJDA), 10 professional associations representing various dental specialists, and six licensed dentists. The majority of those responding objected to the proposed amendments on the basis that it would confuse and mislead the consumer, who would be unable to perceive the difference between a specialist by virtue of advanced training and a general dentist advertising services in a specialty area. While six commenters, including the ADA and the NJDA, expressed support for the right of general dentists to announce the services offered in their practices, including services that fall within the scope of any of the dental specialties, these commenters also were concerned that a consumer would be unable to distinguish a general practitioner from a specialist. Specifically, these commenters objected to a general dentist's use of the phrase "practice limited to" because they felt that phrase was universally understood to mean practice by a dentist who has advanced education in a specialty area.

Based upon the responses received and upon further consideration, the Board is persuaded that use of the phrase "practice limited to" by a general dentist may have the potential to cause the consumer wrongfully to infer that the advertising licensee is a specialist by virtue of advanced education. Accordingly, the Board has determined to repropose the amendment to N.J.A.C. 13:30-8.4 in order to diminish that possibility.

In addition to prohibiting a general dentist who advertises from using the terms "specialist," "specialty" or "specializing," the reproposed amendment specifically prohibits a general dentist from using the phrase "practice limited to" or any other word or phrase connoting advanced education in a specialty area. Two examples are provided of phrases a general dentist may use to ensure that the advertising is not misleading. Further, the amendment requires the phrase "General Dentist," which must appear immediately preceding or following the description of services offered, to be in a type size and style at least as prominent as the description of services offered.

In response to a comment from the ADA, a subsection has been added to the rule in regard to advertisement of services in an area of dentistry other than the recognized specialty areas; in order to avoid any misconception that these areas are recognized areas of dental specialty, dentists advertising such services are prohibited from using the terms "specialist," "specialty," "specializing," or "practice limited to."

The Board is also reproposing, without change from the March 5 proposal, the following changes to the current rule. Subsection (d) has been deleted since it primarily concerns advertising by a specialist and, pursuant to this reproposed amendment, all dentists, not just specialists,

will be permitted to advertise a specialty. The Board also wishes to clarify that other than the restrictions set forth in new subsection (h), it will place no restrictions on the content of an advertisement as long as the advertisement is truthful and non-deceptive, and otherwise complies with the Board's rules.

The words "subsequent to October 15, 1975" have been deleted from N.J.A.C. 13:30-8.4(c)2, and N.J.A.C. 13:30-8.4(c)3 has been deleted in its entirety, since these provisions were promulgated in 1976 as the so-called "grandfather clause" and are no longer applicable. Further, all references to limited practice have been replaced by references to specialty practice. As stated, the Board is persuaded that references to "limited practice" may be confusing to the general public whereas specialty practice clearly defines the practice of a licensee with advanced education in a specialty area.

The Board will continue to require that a licensee who wishes to announce to the public that he or she is a specialist obtain a permit from the Board upon proper application and include the permit number in all advertising of specialization. The permit or copy of it must be displayed in all office locations. Finally, a few technical changes have been made for clarification and to correct typographical errors.

Social Impact

The repropoed amendments will have a positive effect on potential patients seeking a dentist in a specialty area. Since a general dentist will be permitted to advertise the services offered in his or her practice, including services that fall within the scope of any of the dental specialties, the potential patient will have access to a larger list of dentists in the specialty area from which to choose. The general dentist should also benefit since advertising may result in additional patients. The potential patient will benefit from the requirement that a general dentist who advertises the availability of services in a specialty area must distinguish himself or herself from a specialist. This distinction will diminish any possibility of confusion as to the licensee's specific credentials. Finally, since the amendment removes many of the restrictions on the content of the advertisement, all licensees who advertise will be able to supply additional information to potential patients, such as the number of years in practice, hospital or university affiliation, etc. The potential patient will therefore be better informed when choosing a dentist in a specialty area.

Economic Impact

There will be no economic impact upon the public as a result of this repropoed amendment. General dentists who choose to advertise the availability of their services in a specialty area may gain economically in that they may attract more patients as a result of such advertising.

Regulatory Flexibility Analysis

If, for the purposes of the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq., dentists are deemed "small businesses" within the meaning of the statute, the following statement is applicable:

The State Board of Dentistry licenses approximately 19,500 dentists. The repropoed amendment creates no new reporting or recordkeeping requirements for these licensees, and the services of other professionals are not needed in order to comply. There are no initial capital costs or annual costs to comply. The only compliance requirement is specific identification as a "general dentist" in any announcement of practice in a specialty area. Because this requirement is intended to reduce confusion on the part of the public, no exemption from it is possible regardless of the size of practice.

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

13:30-8.4 Announcement of practice in a special area of dentistry

(a) Any licensee who seeks to announce to the public that he or she is a specialist[,] or specializes in [or limits his practice to] one or more area(s) of dental practice listed in (b) below shall first obtain a permit to do so from the Board of Dentistry [for the licensee's main office and all branch locations].

(b) The following special areas of dentistry are hereby recognized as suitable for the announcement of [limited] **specialty** dental practices:

1. Endodontics;
2. Oral surgery;
3. Oral pathology;
4. [Orthodontics] **Orthodontics**;

5. Pediatric dentistry (also called Pedodontics);
6. Periodontics;
7. Prosthodontics;
8. Public health.

(c) The Board shall grant permission to announce [such limitation of practice] **specialty or specialization** to:

1. Any licensed dentist who is currently certified or currently eligible for certification by a specialty board recognized by the American Dental Association appropriate to that area of dental practice listed in (b) above; or

2. Any licensed dentist who first meets the educational requirements and standards approved by the Board. The educational requirements and standards of the Board[, subsequent to October 15, 1975] shall be the successful completion of a post-doctoral education of two or more years in duration in one or more of the special areas [of (c)1 above] **listed in (b) above** and which, at the time of completion, was accredited or [previsionally] **provisionally** accredited by the American Dental Association Council on Dental Education[; or].

[3. Any licensed dentist who has announced, in this State, a limitation of practice in a special area(s) of dentistry included in (b) above prior to October 15, 1975.]

3.[4.] The Board may review the credentials and educational background of any licensed dentist eligible by (c)2 above and [to] approve or deny permission to announce [limitation] **specialization** in a special area of dentistry.

[(d) A licensed dentist who wishes to announce the limitation of practice in a special area of dentistry in (b) above and who is permitted to do so under (c) above may use any of the following words and phrases in all advertisements as permitted by N.J.A.C. 18:30-8.6;

1. "Practice limited to . . ." or "Specializing in . . ." using the appropriate name for the special area of dentistry in subsection (b), in which the licensee was granted permission to announce limitation of practice, such as Endodontics, Oral Surgery, etc., and/or the name that identifies an individual licensee permitted to announce in that special area, such as Endodontist, Oral Surgeon, etc.

2. The post-graduate degree received from a recognized accredited academic institution.

3. The name of the current specialty board certification.

4. The limitation of practice certificate permit number issued by this Board.

(e) All licensed dentists who are not permitted by (c) above to announce the limitation of practice in a special area of dentistry shall be prohibited from doing so and shall not hold out to the public as being qualified in any special area of dentistry by:

1. Announcement through the press, sign, card, letterhead or printed matter, or any other means of public advertising;

2. Use of a term such as "specialist";

3. Use of the name of a specialty or any phrase customarily used to imply to the public limitation of practice in a special area of dentistry as contained in (b) and (d) above.]

[(f)](d) A licensed dentist permitted to announce by (c) above shall avoid any inference, implication or announcement by press, sign, card, letterhead or printed matter or any other means of public advertising that another licensed dentist not permitted to announce, and associated or employed in the same practice, is also qualified for the announcement in the [limited] **specialty** practice area.

[(g)](e) These rules regarding the announcement of [limited] **specialty** practice shall not prohibit any licensed dentist from engaging in [an] **any** aspect of the practice of dentistry in accord with applicable laws or other rules and regulations of the Board.

[(h)] (f) Prior to making any announcement of [limitation of practice] **specialty** in accord with the preceding paragraphs, a licensed dentist shall apply to the Board for permission to do so. Application to the Board for permission to announce in a special area of dental practice shall be upon such form and contain such information as the Board may direct. When granted a permit of announcement of [limited practice] **specialty** in a designated area(s) of dentistry, a licensee shall display this permit or a copy thereof in [the main (and all branch)] **all** office location(s) during the period of [limited] **specialty** practice. If a licensee discontinues a [limited] **specialty** practice, the Board shall be so notified.

[(i)] A licensed dentist granted a permit of announcement of limited practice by this section, but who wishes to conduct general practice combined with a practice in a special area(s) contained in (b) above shall:

1. Inform the board of such intentions and retain the permit of announcement in accord with (h) above;
2. Announce such a practice to the public by stating "General Practice of Dentistry and . . ." using the appropriate name of the special area(s) in which the permit of announcement has been granted contained in (b) above;
3. Conform to (d) above, except for (d)1;
4. Not use the term "specialist" nor any term which would convey a singular area of expertise.]

[(j)] (g) All advertisements and public representations of a licensee granted a permit of announcement of [limited practice or] specialization [in a special area of dentistry] shall contain the licensee's name and permit number.

(h) If a dentist, other than a specialist granted a permit by the Board, wishes to advertise services in one or more of the special areas of dentistry in (b) above, such advertisement shall contain the licensee's name and the phrase "General Dentist" immediately preceding or following the specialty area claim in a type size and style at least as prominent as any service described as being offered in the practice. The advertisement shall not use the terms "specialist," "specialty," "specializing," "practice limited to," or any other word or phrase connoting advanced education in a specialty area. General dentists who practice in one area of dentistry or whose practice is concentrated in one or more areas may use such terms as "services in ____ only," or "practice concentrated in ____."

(i) If a dentist wishes to advertise services in an area of dentistry other than the recognized special areas of dentistry in (b) above, such advertisement shall not use the terms "specialist," "specialty," "specializing," or "practice limited to."

[(k)] (j) A licensee advertising or publicly representing that his or her practice specializes in [or is limited to] one or more area(s) of dental practice listed in (b) above shall list the name and permit number of the Board licensee(s) rendering dental services in said special area(s) in all advertisements and public representations.

[(l)] (k) Noncompliance with these rules for announcement of [limitation] specialization or for announcement of the availability of services in a specialty area of practice may subject the licensee to suspension or revocation of his or her license to practice dentistry.

[(m)] (l) Applications for a permit pursuant to (a) above may be obtained by writing to the Office of the Board of Dentistry, 1100 Raymond Boulevard, Newark, New Jersey 07102.

(a)

**BOARD OF PHYSICAL THERAPY
Educational Requirements for Applicants for
Licensure as Physical Therapists**

Reproposed Amendment: N.J.A.C. 13:39A-5.1

Authorized By: Board of Physical Therapy, Patricia E. Stewart,
Executive Director.

Authority: N.J.S.A. 45:9-37.18(f); 45:9-37.23.

Proposal Number: PRN 1990-409.

Submit comments by September 5, 1990 to:
Patricia E. Stuart, Executive Director
Board of Physical Therapy, Room 513
1100 Raymond Boulevard
Newark, New Jersey 07102

The agency proposal follows:

Summary

On September 6, 1988, at 20 N.J.R. 2243(a), the Board of Physical Therapy proposed to amend N.J.A.C. 13:39A-5.1 to describe required course content rather than specific number of credit hours required of a foreign-trained applicant for licensure. N.J.A.C. 13:39A-5.1 presently requires such applicants to successfully complete an approved physical therapy program of 120 credits, 60 or more in courses relating to the

practice of physical therapy and at least 45 in courses of general academic study. In the Board's experience, the education of a number of applicants qualifying under the present rules was not, as required by N.J.S.A. 45:9-37.23, substantially equivalent to the education required of applicants graduating from physical therapy programs in the United States. N.J.S.A. 45:9-37.23, states, in pertinent part:

"An applicant for licensure who is a graduate of a foreign school of physical therapy shall furnish evidence satisfactory to the board that:

a. He has completed a course of study in physical therapy which is *substantially equivalent* to that provided in an accredited program as described in section 12a. of this act . . ." (Emphasis added.) N.J.S.A. 45:9-37.22, the "section 12a" referred to above, requires a

". . . program in physical therapy which has been approved for the education and training of physical therapists or physical therapist assistants by an accrediting agency recognized by the Council on Post-Secondary Accreditation and the United States Department of Education . . ."

In order to clarify the "substantially equivalent" statutory requirement, the proposed amendment set forth a list of specific courses, developed as a result of a Board survey of United States college and university physical therapy programs, which are included in and must be completed by graduates of physical therapy programs in the United States. During the comment period, two letters were received urging greater specificity in course and credit hour requirements. The Board of Physical Therapy considered the comments but ultimately decided that variances in the credit system of foreign training programs mandated a more flexible approach.

Accordingly, on December 18, 1989, the Board repropoed its amendment to N.J.A.C. 13:39A-5.1 without change (see 21 N.J.R. 3855(a)). The Board subsequently extended the comment period for the repropoed amendment to February 16, 1990 (see 22 N.J.R. 326(a)). Thirty-nine responses were received during the comment period, including 24 responses from hospital representatives, five responses from licensed physical therapists and six responses from Health Professionals International and its attorney. Responses were also received from the New Jersey Chapter of the American Physical Therapy Association (APTA), the Council of Hospital Physical Therapy Directors and the New Jersey Hospital Association. In addition, on February 13, 1990, during the extended comment period, the Educational Subcommittee of the Board of Physical Therapy met with representatives of the APTA, the New Jersey Hospital Association and Health Professionals International to receive constructive comments on the repropoal. The responses, all but one of which were negative, may be summarized as follows:

The most consistent concern of the hospital representatives was that the amendment would exacerbate an already critical shortage of physical therapists, creating a negative impact on the health care marketplace. The APTA and other commenters stated that the course requirements were too restrictive, that many otherwise qualified applicants would be excluded from licensure, and that these courses were not required of domestically trained applicants. Several commenters stated that the specified courses were irrelevant to the practice of physical therapy, and some suggested the test for licensure was sufficient to evaluate an applicant. Questions were raised regarding the accuracy of the Board's survey, and several commenters requested a public hearing. The favorable comment was from a hospital representative who stated that a standardized curriculum will provide patients with the most effective treatment and will ensure patient safety.

Following a thorough review of the comments received and upon further consideration, the Board is repropoing the amendment to N.J.A.C. 13:39A-5.1. As a guideline both to applicants and to the credit evaluating agency, the Board is maintaining in this amendment the reference to the specific number of credit hours required of a foreign-trained applicant (60 credits in professional education and 45 credits in general education subjects). However, in response to the comment of APTA and others, the amendment requires completion of credits in "core" areas rather than completion of specified courses. This will provide for variances in the credit system of foreign training programs while providing the Board with the assurance that foreign-trained applicants have received an education substantially similar to that received by applicants graduating from an approved physical therapy program in the United States.

In response to the comments of the hospital representatives that the amendment would exacerbate a critical shortage of physical therapists, the Board wishes to stress that its statutory obligation is to protect the public health and welfare by ensuring that only truly qualified individuals are licensed to practice physical therapy; the Board cannot by regulation effectively dilute these statutory requirements. In any event, the Board

has found that the majority of foreign-trained applicants who apply are qualified, and it does not expect the reposed amendment to significantly affect the number of qualified foreign-trained applicants.

Further, while the Board acknowledges that U.S. physical therapy schools have no standardized curriculum, a close review of programs both nationally and in-State reveals a required curriculum as set forth in this amendment. In response to those who questioned the accuracy of the Board's survey of United States college and university physical therapy programs, the Board points out that this survey was used only as a tool; the educational requirements were developed using a number of factors, including a random study of transcripts, the majority of which included these core areas as a requirement for graduation. In any event, the Board is assisted in determining course equivalencies by an independent agency.

The Board also points out in response to those who commented that the general education courses are irrelevant to the practice of physical therapy, that general education courses are an integral component of a physical therapist's training; in addition to being professionally competent, a physical therapist must be well-rounded in order to provide needed support to the patient and the patient's family. Specifically, as stated by the APTA Commission on Accreditation in Physical Therapy Education, the accrediting agency recognized by the Council on Post-Secondary Accreditation, a physical therapist should be able to recognize his or her own reaction to illness and disability; recognize the patient's and family's reaction to illness and disability; respect individual cultural, religious and socioeconomic differences; and utilize appropriate communicative processes (see Standard 6 of the APTA Comprehensive Curriculum Plan Guidelines). In this regard, the test for licensure is not, as some of the commenters stated, sufficient to evaluate an applicant, since it tests for professional competency only.

The Board of Physical Therapy believes the educational requirements for foreign-trained applicants, as clarified in this amendment, will enable the Board to maintain the highest possible level of professionalism for the benefit and protection of the public.

Social Impact

By clarifying the "substantially equivalent" statutory requirement of N.J.S.A. 45:9-37.23, this reposed amendment will enable the Board of Physical Therapy to fulfill its statutory duty to protect the public health and welfare. The impact upon the public will be beneficial in that the consumer will be assured that only truly qualified individuals are licensed to practice physical therapy. The amendment will also be advantageous to the transcript evaluators as well as to foreign-trained applicants, since it clearly defines the number of credits required in certain core subject areas. While some applicants may require additional course work, once this amended rule is in place, applicants will be able to avoid remedial work because they will clearly understand the Board's educational requirements.

Economic Impact

The reposed amendment will have no discernible economic impact. The amendment merely specifies the number of credits in certain core subject areas which must be completed prior to examination and licensure of an applicant from a physical therapy program at a foreign school.

Regulatory Flexibility Statement

In accordance with the New Jersey Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq., it has been determined that this amendment will not impose reporting, recording or other compliance requirements on small businesses within New Jersey, since it relates to individual applicants and not to licensees.

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

13:39A-5.1 Educational credentials for applicants for licensure as physical therapists

(a) Applicants for examination shall submit to the Board satisfactory proof of:

1. Graduation from a program in physical therapy which has been approved for the education and training of physical therapists by an accrediting agency recognized by the Council on Post-secondary Accreditation and the United States Department of Education; or

2. [With respect to foreign trained applicants for licensure as physical therapists, graduation from or successful completion of an approved physical therapy program which shall have included 120 credits of which 60 or more shall be in courses relating to the practice

of physical therapy and at least 45 of which shall be in courses of general academic study. English General College Equivalent A level courses will be accepted toward the necessary credits in general education.] **With respect to foreign trained applicants for licensure as physical therapists, the applicant shall demonstrate satisfactory evidence of graduation from a physical therapy program that is substantially equivalent to a physical therapy program approved for the education and training of physical therapists by an accrediting agency recognized by the Council on Post-secondary Accreditation and the United States Department of Education. The applicant shall show successful completion of course work with a minimum of 45 credits of general education and 60 credits of professional education. General education courses shall include, but not be limited to, mathematics, physical science, biological science, humanities, social science and behavioral science. The professional component of the program shall include, but not be limited to, human anatomy, pathology, physiology, neurologic science and clinical practice.**

(a)

VIOLENT CRIMES COMPENSATION BOARD

Attorney's Fees

Proposed Amendment: N.J.A.C. 13:75-1.12

Authorized By: Violent Crimes Compensation Board,

Jacob C. Toporek, Chairman.

Authority: N.J.S.A. 52:4B-9.

Proposal Number: PRN 1990-396.

Submit comments by September 5, 1990 to:

Cindy R. Merker, Esq.

Violent Crimes Compensation Board

60 Park Place

Newark, New Jersey 07102

The agency proposal follows:

Summary

The Violent Crimes Compensation Board is proposing certain changes to its payment of fees for attorneys representing victims or claimants before the Board. These changes are a result of the Board taking notice that attorney's fees paid by the Board have not increased over the last 10 years.

The proposed amendment provides that attorney's fees for all claim applications filed as of July 1, 1990 will be computed on an hourly basis at the rate of \$75.00 per hour. A fee of \$300.00 shall be awarded for an appearance pursuant to N.J.A.C. 13:75-1.10(d) resulting in an Order of Payment, notwithstanding the amount of time spent in attending such hearing. In addition, the amendment provides that the affidavits of service required of attorneys whose fees exceed \$500.00 must include an hourly accounting of work completed by the attorney in direct relation to the claim before the Board.

Social Impact

The purpose of the proposed amendment is to increase the number of attorneys willing to represent claimants before the Board. In doing so, claimants will become more aware of their legal rights before the Board and their claims can be more efficiently handled.

Economic Impact

The proposed amendment provides for increasing the amount of fees paid to attorneys representing claimants before the Board. This increase will not have a substantial effect on the Board's funding each year.

Regulatory Flexibility Analysis

The Violent Crimes Compensation Board's Rules and Regulations govern the process by which victims of violent crimes and their attorneys may make claims for compensation.

The individual victims of violent crime would not be considered small businesses. The attorneys may be considered small businesses, within the meaning of the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq., but are not required to keep any records or to engage in any other activities other than that which would ordinarily be done by a person in that occupation.

Full text of the proposed amendment follows (deletions shown in brackets [thus]; additions shown in boldface **thus**):

13:75-1.12 Attorney's fees

(a) Attorney's fees shall be approved by the Board. [However,] **Whenever** an award is made, the claimant's attorney shall receive [a fee not exceeding] **an hourly fee as outlined in (b) below, which fee shall not exceed** 15 percent of the amount awarded as compensation. [Before approval, the Board shall require an affidavit of services rendered where said fees exceed \$500.00.] An attorney shall not ask for, contract for, or receive from the claimant any sum other than the fee set by the Board.

(b) Where [no Order of Payment] **an Order of Denial** is entered by the Board, the Board shall make no award of a legal fee to the attorney for the claimant. Where an appearance is made pursuant to N.J.A.C. 13:75-1.10(d), **and a subsequent Order of Denial is entered**, the Board shall make no award of a legal fee.

(c) **For all claim applications filed prior to July 1, 1990**, [Attorney's] attorney's fees shall be computed on an hourly basis and shall not exceed a maximum of \$50.00 per hour.

1. **For all claim applications filed on or after July 1, 1990**, attorney's fees shall be computed on an hourly basis at the rate of \$75.00 per hour. **Where an appearance is made pursuant to N.J.A.C. 13:75-1.10(d) which results in an Order of Payment**, the Board shall award a fee of \$300.00 for said appearance notwithstanding the amount of time spent in attending said hearing.

2. The Board shall require an affidavit of service where attorney's fees exceed \$500.00. **Said affidavit must include an hourly accounting of work completed by the attorney in direct relation to the claim before the Board.**

(d) (No change.)

RULE ADOPTIONS

ADMINISTRATIVE LAW

(a)

OFFICE OF ADMINISTRATIVE LAW Uniform Administrative Procedure Rules Partial Summary Decision

Adopted Amendment: N.J.A.C. 1:1-12.5

Proposed: January 2, 1990 at 22 N.J.R. 3(a).

Adopted: July 2, 1990 by Jaynee LaVecchia, Director,
Office of Administrative Law.

Filed: July 3, 1990 as R.1990 d.368, with a substantive change not requiring additional public notice and comment (see N.J.A.C. 1:30-4.3).

Authority: N.J.S.A. 52:14F-5(e), (f) and (g).

Effective Date: August 6, 1990.

Expiration Date: May 4, 1992.

Summary of Public Comments and Agency Responses:

The Department of Insurance submitted the only comment on the proposed rule amendment. The Department supported the proposed amendment, but suggested that the ability of an agency to return a partial summary decision order should not be restricted to cases where the agency head concludes that immediate review will not avoid further litigation or expense. The Department suggested adding the phrase "... or other good cause" to the rule. The OAL decided not to modify the proposal because the agency head can under the proposed language decline to undertake an immediate review of the matter for any reason that would promote the efficient processing of the case. The OAL believes that this option should be broad enough to cover all valid case-related reasons an agency head may prefer not to engage in an immediate review. Consequently, the OAL decided not to expand the rule by permitting return for good cause other than the reason stated in the proposal.

The OAL has decided to make one change in the proposed rule amendment, which is to change the word "remand" to "return" in order to avoid any confusion with the remand process under N.J.A.C. 1:1-18.7. Return of cases under N.J.A.C. 1:1-12.5 would not be a remand because the remainder of the case is still at the OAL. Rather, the case would be administratively returned to the judge to continue the proceedings.

Full text of the adoption follows (addition to proposal indicated in boldface with asterisks *thus*; deletion from proposal indicated in brackets with asterisks *[thus]*).

1:1-12.5 Motion for summary decision; when and how made;
partial summary decision

(a)-(d) (No change.)

(e) A partial summary decision order shall by its terms not be effective until a final agency decision has been rendered on the issue, either upon interlocutory review pursuant to N.J.A.C. 1:1-14.10 or at the end of the contested case, pursuant to N.J.A.C. 1:1-18.6. However, at the discretion of the judge, for the purpose of avoiding unnecessary litigation or expense by the parties, the order may be submitted to the agency head for immediate review as an initial decision, pursuant to N.J.A.C. 1:1-18.3(c)12. If the agency head concludes that immediate review of the order will not avoid unnecessary litigation or expense, the agency head may *[remand]* *return* the matter to the judge and indicate that the order will be reviewed at the end of the contested case. Within 10 days after a partial summary decision order is filed with the agency head, the Clerk shall certify a copy of pertinent portions of the record to the agency head.

(f) (No change.)

(b)

OFFICE OF ADMINISTRATIVE LAW

Special Education Program: Scheduling of Hearing Adopted Amendments: N.J.A.C. 1:6A-4.2 and 9.1

Proposed: May 7, 1990 at 22 N.J.R. 1295(a).

Adopted: July 17, 1990 by Jaynee LaVecchia, Director, Office
of Administrative Law.

Filed: July 18, 1990 as R.1990 d.405, with substantive changes not requiring additional public notice and comment (see N.J.A.C. 1:30-4.3).

Authority: N.J.S.A. 52:14F-5(e), (f) and (g).

Effective Date: August 6, 1990.

Expiration Date: March 19, 1995.

Summary of Public Comments and Agency Responses:

The Office of Administrative Law received five comments on the proposed amendments to N.J.A.C. 1:6A-4.2 and 9.1. Two of the commenters, the Association for Retarded Citizens of New Jersey and the New Jersey Center for Outreach and Services for the Autism Community, Inc., supported the amendments.

COMMENT: The Parent Information Center of New Jersey, Inc., supported the requirement that the parents provide a phone number but suggested that parents also be required to supply a written statement of issues and relief sought. The Learning Disabilities Association made a number of suggestions concerning the conference held by the Division of Special Education, including requiring documentation of the attempts to notify parents of the conference; specifying the types of information concerning the conference and the proposed action which must be communicated to the parents, and inclusion of reference to the conference in N.J.A.C. 6:28-2.3.

RESPONSE: These comments concern the nature of the conference, notice, and any documents required of the parties at the conference. Those matters are within the jurisdiction of the Department of Education, not the OAL. This purpose of the proposed amendment is solely to provide a mechanism for a telephone conference to facilitate scheduling of the hearing.

COMMENT: The Division of Advocacy for the Developmentally Disabled of the Department of the Public Advocate pointed out that the amendment to N.J.A.C. 1:6A-4.2 required the phone number of parents, but that a special education hearing may also involve an adult pupil between the ages of 18 and 21. The comments also suggested that N.J.A.C. 1:6A-9.1 continue to provide that the deadline for decision shall be "agreed upon by all parties." The proposed amendment requires that a later date be "approved by a judge." The Public Advocate indicated that the new requirement may be unduly burdensome to the parents.

RESPONSE: The Public Advocate is correct that these hearings may involve adult pupils and that the adult pupil should be contacted for scheduling the hearing if the parents have not been appointed as guardians for the pupil. Although this situation occurs very infrequently, the adoption has been clarified to state that the parent or adult pupil shall be contacted for scheduling purposes.

The amendment to N.J.A.C. 1:6A-9.1 which requires the judge's approval of any extended hearing date is required by Federal law (see 34 C.F.R. 300.512(c)). However, the agreement of the parties to a later hearing date would be an important factor in the judge's decision to grant such approval.

Full text of the adoption follows (additions to proposal indicated in boldface with asterisks *thus*; deletions from proposal indicated in brackets with asterisks *[thus]*).

1:6A-4.2 Conference by the Department of Education

(a)-(e) (No change.)

(f) The board of education or public agency shall insure that a representative attends the conference. Participation by the parents *or by an adult pupil* is voluntary. However, if the parents *or adult pupil* do not attend the conference, they shall provide the Depart-

ADOPTIONS

ment of Education with a telephone number where they can be contacted at the time of the conference, so that dates for the hearing may be scheduled.

1:6A-9.1 Scheduling of hearing by Office of Administrative Law

(a) If the matter is not fully resolved at the conference, the representative of the Department at the conference shall, either in the presence of the parties or through telephone conference call to the parents pursuant to N.J.A.C. 6:28-2.7(b)*, telephone the Clerk of the Office of Administrative Law and the Clerk shall assign a peremptory hearing date. The hearing date shall, to the greatest extent possible, be convenient to all parties but shall be no later than 14 days from the date of the conference, unless a later date is approved by a judge. If the parents *or adult pupil* are not available for scheduling, either at the conference or by telephone conference call, a hearing date shall be assigned by the Clerk. If a later date is approved by a judge, the deadline for decision, as established in N.J.A.C. 1:6A-18.1, shall be extended by a time equal to the amount of delay.

(b) The Commissioner of Education shall, no later than three days after the conference, transmit the matter to the Office of Administrative Law. Copies of all notices, requests, pleadings, filings, stipulations of issues and facts, evidence and witness lists compiled at the conference and a description of the positions of each party shall be included with the standard Office of Administrative Law transmittal form required by N.J.A.C. 1:1-8.2.

PERSONNEL

(a)

MERIT SYSTEM BOARD

Family Leave

Adopted Amendments: N.J.A.C. 4A:6-1.1, 4A:6-1.8, 4A:6-1.10 and 4A:8-2.4.

Adopted New Rule: N.J.A.C. 4A:6-1.21

Proposed: May 7, 1990 at 22 N.J.R. 1300(b).

Adopted: July 10, 1990 by the Merit System Board,

Andrew Weber, Commissioner, Department of Personnel.

Filed: July 13, 1990 as R.1990 d.387, with **substantive and technical changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-4.3).

Authority: N.J.S.A. 11A:6-1, 11A:8-1 and P.L. 1989, c.261.

Effective Date: August 6, 1990.

Expiration Date: January 4, 1993, N.J.A.C. 4A:6-1.21, 4A:6-1.1, 4A:6-1.8, and 4A:6-1.10 and January 16, 1995, N.J.A.C. 4A:8-2.4.

Summary of Public Comments and Agency Responses:

COMMENT: A representative of the Legal Affairs Section of the Department of Law and Public Safety commented that the proposed rules are premature because the agency charged with the duty to effectuate the purposes of the Family Leave Act, the Division on Civil Rights, has not yet promulgated rules on family leave. She suggested that any rules adopted by the Merit System Board on this subject should be limited to a uniform administrative procedure for the processing of family leave requests, until such time as the Division on Civil Rights promulgates rules.

RESPONSE: The Board recognizes that the Division on Civil Rights has rulemaking authority under the Family Leave Act, and has so stated in the rule. However, N.J.S.A. 11A:6-1 authorizes the Board to adopt rules on leaves of absence. Therefore, the Board proposed a rule on family leave for the purpose of apprising merit system appointing authorities and employees of the provisions of the Family Leave Act and also proposed necessary amendments to conform existing rules to the requirements of the Act. Moreover, the Board has made changes requested by the Attorney General to ensure that there is no conflict with future Division on Civil Rights rules on this subject, which have just been proposed and appear in the July 16, 1990 issue of the New Jersey Register.

PERSONNEL

COMMENT: The Director of Human Resources, Department of the Treasury, asked whether family leave is to be granted with pay or without pay.

RESPONSE: The Family Leave Act states that family leave may be paid, unpaid, or a combination of the two. Therefore, part or all of an employee's family leave can be with pay if the employee is eligible for one of the types of paid leave (sick, vacation and administrative) under N.J.A.C. 4A:6-1.

COMMENT: A representative of CWA Local 1031 expressed concern that the amendment to N.J.A.C. 4A:6-1.8(b) suggests that employees who are eligible for 12 weeks of family leave would not be eligible for one year of unpaid leave for child care.

RESPONSE: In response to the comment, the Board has decided to change the wording of this amendment to clarify that employees eligible for family leave remain eligible for additional unpaid leave for child care purposes.

COMMENT: The Director, Division of Human Resources, Department of Transportation, noted that seniority for layoff purposes is unaffected by family leave, pursuant to the amendment to N.J.A.C. 4A:8-2.4(c). She asked whether seniority for vacation leave credit is similarly unaffected by family leave.

RESPONSE: In response to the comment, the Board has decided to clarify the rules by adding a new subsection (i) to N.J.A.C. 4A:6-1.21 to provide that, except for layoff purposes, family leave without pay is to be treated the same as other leaves without pay with respect to seniority. Therefore, seniority, for vacation leave credit, is affected by family leave without pay (see N.J.A.C. 4A:6-1.2(c), 2.).

COMMENT: Representatives of the New Jersey School Boards Association and the New Jersey Association of School Administrators commented that N.J.A.C. 4A:6-1.21 provides no definition of "intermittent leave."

RESPONSE: In response to the comment and upon the request of the Attorney General, the Board has added a definition of intermittent leave which is identical to the definition of the term proposed by the Division on Civil Rights in the July 16, 1990 issue of the New Jersey Register. The Board believes that the inclusion upon adoption of definitions for "reduced leave" and "intermittent leave" merely clarifies these terms as set forth in the Family Leave Act and therefore does not constitute a substantive change requiring additional notice and comment.

COMMENT: The Director of Human Resources, Department of the Treasury, proposed that the definition of "child" in N.J.A.C. 4A:6-1.21(b)1 be changed to read "a biological, adopted, or foster child, stepchild, legal ward, or child who is under 18 years of age, or a child 18 years of age or older but incapable of self-care because of mental or physical impairment." A representative of the New Jersey Association of School Administrators stated that, as drafted, the definition of child would permit an employee to take family leave to care for the offspring of the employee's child, who may be a minor or disabled in some way. She also asked for a definition of "mental or physical impairment," because the phrase could be read expansively to permit family leave for the care of a schizophrenic adult child rather than a retarded or physically handicapped adult child.

RESPONSE: The language defining "child" is taken directly from the statute. However, a clarification of the definition is provided in the rules proposed by the Division on Civil Rights in the July 16, 1990 issue of the New Jersey Register. It should be noted that the statute provides no guidance on the definition of "mental or physical impairment." Guidance on these issues is appropriately sought from the Division of Civil Rights.

COMMENT: The Director, Office of Personnel Services, Department of Higher Education, asked whether N.J.A.C. 4A:6-1.21(b)3 would require a 10-month employee to work 12 months before becoming eligible for family leave.

RESPONSE: A 10-month employee need not have actually worked 12 months to be considered to have had employment status for 12 months. The employee would be eligible if he or she commenced employment at the start of the immediately preceding 12-month period and worked for at least 1,000 hours for the employer during that 12-month period.

COMMENT: A representative of the New Jersey School Boards Association commented that the definition of "employer" in N.J.A.C. 4A:6-1.21(b)4 is overbroad in that "employer" is defined as an entity which employs a specific number of "persons." However, the Family Leave Act defines an employer in terms of the number of "employees" it engages. The meaning of "employee" includes only those eligible for family leave.

RESPONSE: Based on Attorney General advice, employer coverage is based on the number of persons employed, not the number of em-

ployees who are eligible for family leave. Therefore, the Board has decided to adopt this language as proposed.

COMMENT: The Executive Director for the Commission on Sex Discrimination in the Statutes stated that, in the public sector, the employer should be considered the entire State, as well as whole counties and municipalities, rather than departments. A representative of Local 1031 of the Communications Workers of America (CWA) also urged that the entire State, rather than its departments or agencies, be considered an employer, citing the definition of "employer" found in the Public Employee Relations Act at N.J.S.A. 34:13A-1. Finally, an assistant county counsel for the county of Monmouth argued that the State, counties and municipalities are not meant to be covered by the Family Leave Act until the third year of enactment.

RESPONSE: In response to the comments, and based upon Attorney General advice, the State and each county and municipality should be considered a separate employer for purposes of employee coverage under the Family Leave Act. Therefore, the Board has decided to adopt language conveying this broad interpretation of "employer" for coverage under the Act. However, as in the case of other leaves, the appointing authority, which is defined at N.J.A.C. 4A:1-1.3 as a person or group of persons having power of appointment or removal, is the appropriate unit for purposes of granting and denying leave, subject to statutory and regulatory requirements.

With regard to the comment by the Assistant Monmouth County Counsel, there does not appear to be a basis for the argument that the State, counties and municipalities are not subject to the Act until the third year. An employer is subject to the Act based on the employee threshold found in Section 3(f) of L.1989, c.261.

COMMENT: The Director, Division of Human Resources, Department of Transportation, noted that, although "employment benefits" are defined in N.J.A.C. 4A:6-1.21(b)5, the term is not actually used anywhere in the rule. She also asked whether benefits other than just health insurance, such as sick leave, would remain in force for the employee.

RESPONSE: In response to the comment, the Merit System Board has decided to clarify the rule by adding a new subsection (g) to N.J.A.C. 4A:6-1.21 to provide that, except for health insurance as provided in subsection (f), other employment benefits are available to employees on family leave without pay as are available to employees on other personal leaves without pay. This change is in accordance with N.J.S.A. 34:11B-8b.

COMMENT: A representative of the New Jersey Association of School Administrators noted that the definition of family leave in N.J.A.C. 4A:6-1.21(b)6 does not take into account the specific language on leave for the serious illness of the spouse or parent of the employee, as described in Section 3(i) of the Family Leave Act.

RESPONSE: The language to which this commenter refers was deleted by the Legislature prior to final enactment.

COMMENT: The Director of Human Resources, Department of the Treasury, stated that the definition of "family member" in N.J.A.C. 4A:6-1.21(b)7 conflicts with the definition of "immediate family" currently found in N.J.A.C. 4A:1-1.3. The former is more limited, including only a child, parent or spouse. The latter may be used to determine an appropriate use of sick leave. She expressed concern that confusion on eligibility for sick leave under merit system rules and family leave would ensue. She also asked for a more specific definition of "parent" than that found in the proposed N.J.A.C. 4A:6-1.21(b)8.

RESPONSE: The definition of "family member" found in N.J.A.C. 4A:6-1.21(b)7 and the definition of "parent" in paragraph (b)9 (as amended) are identical to the definitions found in the Family Leave Act. Whenever possible, language identical to the Act's has been utilized in N.J.A.C. 4A:6-1.21 since the rule is primarily informational in nature. The Board recognizes the concerns raised by the commenter. However, the Board is not free to change these specific statutory definitions.

COMMENT: The Executive Director for the Commission on Sex Discrimination in the Statutes proposed that the rules provide a definition of employer for purposes of approval of an employee's reduced leave schedule, as defined in the proposed N.J.A.C. 4A:6-1.21(b)9. In addition, the Treasury Department's Director of Human Resources asked whether the reduced leave schedule may not be taken in increments less than a full workday and, if so, whether paragraph (b)9 could be changed to specifically state this requirement. In addition, she asked whether reduced leave can ever be considered intermittent leave.

RESPONSE: For purposes of approval of a reduced leave schedule and for other instances in which an agreement is required between the employee and employer, the employer will be deemed the appointing authority, as reflected in changes which the Board has adopted. The

meaning of "reduced leave" is a leave which is taken in increments of not less than one workday, but not more than one workweek at a time. This definition, adopted by the Merit System Board, is identical to that found in the family leave rules proposed by the Division on Civil Rights which appear in the July 16, 1990 issue of the New Jersey Register. An intermittent leave, on the other hand, although also non-consecutive, must be taken in increments of at least one workweek but less than 12, within a 12-month period.

COMMENT: The Director of Human Resources, Department of the Treasury, asked about the meaning of "continuing medical treatment" referred to in the definition of "serious health condition" in the proposed N.J.A.C. 4A:6-1.21(b)10, and whether periodic follow-up visits with a physician would constitute such continuing treatment.

RESPONSE: Again, the definition of "serious health condition" is taken directly from the Family Leave Act and the Board is not free to change the statutorily determined definitions.

COMMENT: A representative of the New Jersey Association of School Administrators stated that N.J.A.C. 4A:6-1.21(c)3 and (c)5 should give employers a better indication of an employee's duty to make a "reasonable effort to schedule" reduced or intermittent leave and how much "prior notice" an employee must provide the employer.

RESPONSE: The language "in a manner which is reasonable and practicable" has been added to these sections to conform with the Family Leave Act.

COMMENT: The Director, Office of Personnel Services, Department of Higher Education, asked whether N.J.A.C. 4A:6-1.21(c)4 prohibits leave time taken on a reduced leave schedule from being deducted from the 12-week family leave entitlement.

RESPONSE: The meaning of that provision is that the total number of days of family leave to which an employee is entitled would be the same for an employee whether or not he or she is on a reduced leave schedule. Twelve weeks is the equivalent of 60 days for an employee working a five-day workweek. An employee on a reduced leave schedule is entitled to the full 60 days of family leave, even if 12 weeks have passed. An example has been added to clarify this provision.

COMMENT: The Acting Director, Division of Youth and Family Services, asked whether N.J.A.C. 4A:6-1.21(d) could be changed to permit an employee who is among the highest paid five percent or one of the seven highest paid employees to take a family leave on a reduced or intermittent basis. Also, the Director of Human Resources, Department of the Treasury, stated that the application of subsection (d) could differ from department to department in State service because of the varying sizes of the departments. She also expressed concern that the application of subsection (d) could change in a single department following salary structure changes in that department. A representative of the Legal Affairs Section of the Department of Law and Public Safety stated that subsection (d) should include the requirement that an employee who has already commenced leave return to work within 10 working days of notification that family leave has been denied.

RESPONSE: Again, the provisions of subsection (d) are taken directly from the Family Leave Act (see N.J.S.A. 34:11B-4h). It should be noted that the Act does not require an employer to deny the employees described in subsection (d) family leave; the right to such leave is simply not guaranteed for those employees. Also, pursuant to Attorney General advice, employer means the entire State, as well as whole counties and municipalities. In response to the comment by the representative of the Legal Affairs Section, the Board has decided to add appropriate statutory language to N.J.A.C. 4A:6-1.21(d).

COMMENT: The Director, Office of Personnel Services, Department of Higher Education, stated that N.J.A.C. 4A:6-1.21(e) needs a provision to ensure that an employee on family leave does not work part-time for another employer during regular work hours.

RESPONSE: Such a provision would not be consistent with the Family Leave Act.

COMMENT: The Director of Personnel, Hudson County, stated that the requirement in N.J.A.C. 4A:6-1.21(f) that an employer maintain an employee's group health insurance during the employee's family leave conflicts with State Health Benefits Program rules. He noted that N.J.A.C. 17:9-7.1 requires that a full-time employee who becomes a part-time employee be taken off State Health Benefits coverage. Also, N.J.A.C. 17:9-7.2(c)1 only allows three months of continued coverage for an employee who takes an unpaid leave of absence for personal illness.

The Director of Human Resources, Department of the Treasury, asked whether N.J.A.C. 4A:6-1.21(f) requires an employer or the employee to maintain the employee's health benefits during family leave.

RESPONSE: With regard to the comment by the Hudson County Personnel Director, it is noted that this rule is primarily informational. Any concerns regarding inconsistency between the Family Leave Act and current rules for the State Health Benefits Program should be addressed to the Health Benefits Commission. However, it should be noted that the Act does not concern leave for personal illness; it only concerns leave because of the birth or adoption of a child or the serious health condition of a family member. Even if an unpaid leave for personal illness and a family leave were one and the same, the required maintenance by the employer of coverage for three months during a leave for personal illness would equal the employer's obligation under the Family Leave Act, since the family leave entitlement is 12 weeks. Finally, the intention of (f) is that the employer pay for the employee's health coverage to the same extent that the employer did prior to the family leave.

COMMENT: A representative of the Legal Affairs Section of the Department of Law and Public Safety commented that N.J.A.C. 4A:6-1.21(g) does not adequately explain that an employee on family leave is not protected from a layoff by virtue of being on family leave.

RESPONSE: N.J.A.C. 4A:6-1.21(g) is intended to convey that the provisions of N.J.A.C. 4A:8 apply to an employee on family leave in the same way that they apply to all other employees. The suggested change is unnecessary, since N.J.A.C. 4A:8 does not preclude employees on a leave from being subject to layoff. The rules in that chapter simply grant all career service employees specific rights that apply equally to career service employees on family leave.

In addition to the changes noted above, other changes have been made based upon Departmental review. In N.J.A.C. 4A:6-1.1, for purposes of clarity, proposed paragraph (a)5 has been deleted and a cross-reference to family leave has been added to paragraph (a)1. In N.J.A.C. 4A:6-1.21(c), technical changes have been made to provide a clearer explanation of reduced and intermittent leave.

Full text of the adoption follows (additions to proposal indicated in boldface with asterisks *thus*; deletions from proposal indicated in brackets with asterisks *[thus]*).

4A:6-1.1 General provisions

(a) In local service, appointing authorities shall establish types of leaves and procedures for leaves of absence.

1. Pursuant to this subchapter, employees in local service shall also be entitled to vacation leave (N.J.A.C. 4A:6-1.2(b) through (h)); sick leave (N.J.A.C. 4A:6-1.3(a) through (h)); military leave (N.J.A.C. 4A:6-1.11); gubernatorial appointment leave (N.J.A.C. 4A:6-1.12); convention leave (N.J.A.C. 4A:6-1.12); *[and]* elective office leave (N.J.A.C. 4A:6-1.17)*; and family leave (N.J.A.C. 4A:6-1.21)*.

2.-4. (No change.)

[5. Employees may be eligible for family leave. See N.J.A.C. 4A:6-1.21.]

(b)-(e) (No change.)

4A:6-1.3 Sick leave

(a)-(f) (No change.)

(g) Sick leave may be used by employees who are unable to work because of:

1.-2. (No change.)

3. Care, for a reasonable period of time, of a seriously ill member of the employee's immediate family (see N.J.A.C. 4A:1-1.3 for definition of immediate family and see N.J.A.C. 4A:6-1.21 for family leave); or

4. (No change.)

(h) (No change.)

4A:6-1.8 Pregnancy-disability and child care leave: State service

(a) (No change.)

(b) *[Employees eligible for family leave (see N.J.A.C. 4A:6-1.21) may use such leave for child care purposes.]* Child care leave may be granted to other State employees under the same terms and conditions as all *[other]* leaves without pay. See N.J.A.C. 4A:6-1.10. *For family leave, see N.J.A.C. 4A:6-1.21.*

4A:6-1.10 Leave without pay: State service

(a)-(d) (No change.)

(e) For family leave see N.J.A.C. 4A:6-1.21.

4A:6-1.21 Family leave

(a) This section describes leaves for which employees in State and local service may be eligible, pursuant to the Family Leave Act, L.1989, c.261. The Division on Civil Rights, Department of Law and Public Safety, has the authority to promulgate rules pursuant to the Family Leave Act.

(b) The following definitions are used in this section:

1. "Child" means a biological, adopted, or foster child, stepchild, legal ward, or child of a parent who is under 18 years of age or 18 years of age or older but incapable of self-care because of a mental or physical impairment.

2. "Employ" means to suffer or permit to work for compensation and includes ongoing, contractual relationships in which the employer retains substantial direct or indirect control over the employee's employment opportunities or terms and conditions of employment.

3. "Employee" means a person who is employed for at least 12 months by an employer, with respect to whom benefits are sought under the Family Leave Act, P.L.1989 c.261, for not less than 1,000 base hours during the immediately preceding 12-month period, and includes employees in the career, senior executive and unclassified services.

4. "Employer" means a legal entity which engages the services of an employee and which from May 4, 1990 to May 3, 1991, employed 100 or more persons; from May 4, 1991 to May 3, 1993, employed 75 or more persons; and from May 4, 1993 and thereafter employed 50 or more persons.

i. In State service, "employer" refers to the *[department or autonomous agency]* *State of New Jersey*. In local service, "employer" refers to the *[county, municipality or autonomous agency. An autonomous agency in local service is one which, by statute, is a body corporate and has the powers of an appointing authority]* *political subdivision or autonomous public officer, board or body*.

5. "Employment benefits" means all benefits and policies provided or made available to employees by an employer, and includes group life insurance, health insurance, disability insurance, sick leave, annual leave, pensions, or other similar benefits.

6. "Family leave" means leave from employment so that the employee may provide care made necessary by reason of:

i. The birth of a child of the employee;

ii. The placement of a child with the employee in connection with adoption of such child by the employee; or

iii. The serious health condition of a family member of the employee.

7. "Family member" means a child, parent, or spouse.

8. "Intermittent leave" means a non-consecutive leave comprised of intervals, each of which is at least one but less than 12 workweeks within a consecutive 12-month period.

*[8.]*9.* "Parent" means a person who is the biological parent, adoptive parent, foster parent, step-parent, parent-in-law or legal guardian, having a "parent-child relationship" with a child as defined by law, or having sole or joint legal or physical custody, guardianship, or visitation with a child.

10. "Reduced leave" means a non-consecutive leave of up to the equivalent of 12 workweeks which is taken in increments of not less than one workday, but not more than one workweek at a time.

*[9.]*11.* "Reduced leave schedule" means *[leave scheduled for fewer than an employee's usual number of hours worked per workweek but not fewer than an employee's usual number of hours worked per workday unless agreed to by the employee and the employer]* *a reduced leave that is scheduled for not more than 24 consecutive weeks.*

*[10.]*12.* "Serious health condition" means an illness, injury, impairment, or physical or mental condition which requires:

i. Inpatient care in a hospital, hospice, or residential medical care facility; or

ii. Continuing medical treatment or continuing supervision by a health care provider.

(c) An employee shall be entitled to a family leave of 12 weeks in any 24-month period*, unless denied under (d) below*.

1. Leave taken because of the birth or placement for adoption of a child may commence at any time within a year after the date of the birth or placement for adoption.

2. An employee shall be entitled, at the option of the employee, to take *[this]* ***family*** leave on a reduced leave schedule, *[except that:]* ***in the case of a family member with a serious health condition.***

i. The employee shall not be entitled to a reduced leave schedule for a period exceeding 24 consecutive weeks*;* and*]*****.**

ii. The employee shall not be entitled to take the leave on a reduced leave schedule without an agreement between the *[employer and]* ***employee and the appointing authority***, if the leave is taken upon the birth or adoption of a healthy child.

*[3.]**iii.** The employee shall make a reasonable effort to schedule reduced leave so as not to disrupt unduly the operations of the *[employer]* ***appointing authority*** and the employee shall provide the *[employer]* ***appointing authority*** with prior notice of the care, medical treatment, or continuing supervision by a health care provider necessary due to a serious health condition of a family member ***in a manner which is reasonable and practicable***.

*[4.]**iv.** Leave taken on a reduced leave schedule shall not result in a reduction of the total amount of family leave to which an employee is entitled.

EXAMPLE: An employee on a five day workweek schedule is entitled to a total of 12 weeks of family leave, or 60 working days. The employee takes reduced leave of two days per week for a total of 20 days. The employee remains entitled to 40 working days of family leave.

*[5.]**3.** In the case of a family member who has a serious health condition, the leave may be taken intermittently when medically necessary, if:

i. The total time within which the leave is taken does not exceed a 12-month period for each serious health condition episode;

ii. The employee provides the *[employer]* ***appointing authority*** with prior notice of the leave ***in a manner which is reasonable and practicable***; and

iii. The employee makes a reasonable effort to schedule the leave so as not to disrupt unduly the operations of the *[employer]* ***appointing authority***.

*[6.]**iv.** In the case of the birth or adoption of a healthy child, the leave may be taken intermittently if agreed to by the *[employer and]* ***the employee and the appointing authority***.

(d) Family leave may be denied to an employee if^{*}:

*[the]**1. The** employee is among the highest paid five percent of the employer's employees or the seven highest paid employees of the employer, whichever is greater^[, and the] ***;**

2. The denial is necessary to prevent substantial and grievous economic injury to the employer's operations^{[.]**;} and

3. The appointing authority notifies the employee of its intent to deny the leave at the time the appointing authority determines that the denial is necessary.

i. **When leave has already commenced at the time of the notification pursuant to (d)iii above, the employee shall return to work within 10 working days of the date of notification.***

(e) No employee shall, during any period of family leave, perform services on a full-time basis for any employer for whom the employee did not provide those services immediately prior to commencement of the leave.

(f) During a family leave, the employer shall maintain coverage under any group health insurance policy, group subscriber contract or health care plan at the level and under the conditions coverage would have been provided if the employee had continued in employment continuously from the date the employee commenced the leave to the date the employee returns to work or the date on which the employee's coverage would have expired had the employee not been on leave, whichever is sooner.

[g] Except for health insurance as provided in (f) above, other employment benefits shall be available to employees on family leave without pay as are available to employees on all other leaves without pay.

[[g]**(h) If a layoff occurs during a family leave, the employee shall retain all rights available under N.J.A.C. 4A:8 as if the employee had not taken the leave.

[i] Family leave without pay shall not be deducted from seniority for layoff purposes. See (c) above. For all other purposes, family leave without pay shall be treated the same as other leaves without pay.

4A:8-2.4 Seniority

(a)-(b) (No change.)

(c) The following types of leaves shall not be deducted from seniority calculations: all leaves with pay including sick leave injury (SLI); military, educational, gubernatorial appointment, personal sick, disability, family and voluntary alternative to layoff leave without pay; and, in local service, leave to fill elective public office. Suspensions, other leaves of absence without pay and any period an employee is laid off shall be deducted in calculating seniority.

(d)-(g) (No change.)

(a)

MERIT SYSTEM BOARD

Notice of Administrative Correction Equal Employment Opportunity and Affirmative Action General

N.J.A.C. 4A:7-1.1

Take notice that the Department of Personnel has discovered an error in the text of N.J.A.C. 4A:7-1.1(a) concerning the references therein to sections of N.J.A.C. 4 which have been repealed and replaced by provisions of N.J.A.C. 4A. By this notice, the referenced sections will be replaced by a reference to N.J.A.C. 4A:4-4.5. This notice of administrative correction is published pursuant to N.J.A.C. 1:30-2.7.

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

4A:7-1.1 General

(a) There shall be equal employment opportunity for all persons in, or applicants for the career, unclassified and senior executive services, regardless of race, creed, color, national origin, sex, age, marital status, religion or handicap, except where a particular qualification is specifically permitted and is essential to successful job performance. See N.J.A.C. [4:1-12.7, 4:2-6.3 and 4:3-6.4] **4A:4-4.5** on bona fide occupational qualifications.

(b)-(d) (No change.)

COMMUNITY AFFAIRS

(b)

DIVISION OF HOUSING AND DEVELOPMENT

Notice of Administrative Correction Uniform Construction Code Electrical Subcode

N.J.A.C. 5:23-3.16

Take notice that the Department of Community Affairs has discovered an error in the text of N.J.A.C. 5:23-3.16(b)4i(2) in that certain references to the electrical subcode were not correctly incorporated into the New Jersey Administrative Code following the most recent adopted amendment to this rule (see 22 N.J.R. 909(b) and 22 N.J.R. 1554(a)). This notice of administrative correction is published pursuant to N.J.A.C. 1:30-2.7.

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

5:23-3.16 Electrical subcode

(a) (No change.)

(b) The following chapters or articles of the electrical subcode are amended as follows:

1.-3. (No change.)

4. Chapter 5 of the electrical subcode, entitled "Special Occupancies," is amended as follows:

i. In Article 550, entitled "Mobile Homes and Mobile Home Parks", delete from the title the words "Mobile Homes and".

(1) (No change.)

(2) [Section A] **Part B**, entitled "Mobile Homes,"[,] comprising sections [500-5] **550-5** through 550-15, is deleted in its entirety with the exception of section [500-5(a)] **550-5(a)**, which shall be retained.

ii. (No change.)

(a)

DIVISION OF HOUSING AND DEVELOPMENT

Uniform Construction Code

Barrier Free Subcode

Adopted Amendments: N.J.A.C. 5:23-7.2 through 7.6, 7.8, 7.9, 7.11, 7.12, 7.17, 7.18, 7.30, 7.37, 7.41, 7.55 through 7.57, 7.61, 7.67, 7.68, 7.71 through 7.73, 7.75, 7.76, 7.80 through 7.82, 7.87, 7.94 through 7.97

Proposed: September 5, 1989 at 21 N.J.R. 2774(a).

Adopted: June 15, 1990 by Melvin R. Primas, Jr., Commissioner, Department of Community Affairs.

Filed: June 19, 1990 as R.1990 d.345, **with substantive and technical changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-3.4).

Authority: N.J.S.A. 52:27D-124.

Effective Date: August 6, 1990.

Expiration Date: March 1, 1993.

Summary of Public Comments and Agency Responses:

Comments were received from the Atlantic County Department of Social Services, the Bergen County Office of the Disabled, Building Inspection Underwriters, the Center for Independent Living of South Jersey, CHANCE, the Clifton Elevator Company, the Community Health Law Project, the Community Planning and Advocacy Council, the Council of Organizations and Schools for Autistic Children and Adults, Disabled Information Awareness and Living, the Eastern Paralyzed Veterans Association, the Governor's Committee on the Disabled, HAIL, the Hamilton Mayor's Office for the Disabled, Heightened Independence and Progress, Holy Name Hospital, the Independent Living Advisory Council, the Indoor Sports Club, Jaros, Baum and Bolles Consulting Engineers, KGDR Architects, the Middlesex County Office of the Handicapped, the New Jersey Builders Association, the Ocean County Office for the Disabled, the Parkinson's Disease Foundation, Project Freedom, the Department of the Public Advocate, the Union County Office on Handicapped, and several private citizens.

COMMENT: The Department received a comment from the Department of the Public Advocate requesting that N.J.A.C. 5:23-7.2, Scope and applicability, remain unamended and intact unless N.J.A.C. 5:23-7.3, Exemptions, is deleted in a future proposal. The Eastern Paralyzed Veterans Association and Disabled Information Awareness and Living, Inc. commended the proposed change.

RESPONSE: The text as proposed, however, is necessary for purposes of consistency with the statute (see N.J.S.A. 52:32-5, as amended by P.L. 1987, c.246).

COMMENT: The Department received a comment from the New Jersey Builders Association requesting that the proposed change in N.J.A.C. 5:23-7.3(a)1 from four to three dwelling units be made effective March 13, 1991 in compliance with the Federal Fair Housing Amendments Act of 1988.

RESPONSE: The effective date of the FFHAA is expressed in terms of first occupancy; the UCC, however, works with permits. The United States Department of Housing and Urban Development (HUD) regulations stipulate that in order to be "deemed in compliance" with the FFHAA, the last date for the issuing of a building permit for a covered multifamily dwelling constructed for first occupancy on or before March 13, 1991 was January 13, 1990. In order to avoid confusion and since the January date has passed, the Department has decided to follow the Federal rule and to make the change from four to three dwelling units effective upon adoption.

COMMENT: The Department of the Public Advocate commented that the term "dwelling" should be narrowly construed in order to produce more accessible units.

RESPONSE: The Department notes that its previous interpretation of the term "dwelling" has been upheld in the courts and it would not, therefore, be appropriate to change it now.

COMMENT: The Department received several comments on specific exemption provisions at N.J.A.C. 5:23-7.3(a)6. The Department of the Public Advocate and the Community Health Law Project commented that mechanical areas of buildings and floors of 3,000 square feet or less in buildings of 10,000 square feet or more should not be exempt from accessibility requirements.

RESPONSE: The Department responds that this is a statutory question and that the proposed amendment is in compliance with the Barrier Free Act, N.J.S.A. 52:32-4 et seq.

COMMENT: The Department of the Public Advocate and the Community Health Law Project also commented that N.J.A.C. 5:23-7.3(a)7, exemptions for historic buildings, is too broad and should be more specific. Eastern Paralyzed Veterans Association suggests that the Department monitor the application of this section to historic buildings.

RESPONSE: The Department is of the opinion that the proposed amendment establishes reasonable guidelines for determining a balance between maintaining a building's historic character and providing access for disabled citizens. Enforcement is provided for through the permit process and the local construction official.

COMMENT: The Community Health Law Project requested that the Department make it clear in N.J.A.C. 5:23-7.4 that the term "accessible facility" means "accessible according to the Barrier Free Subcode."

RESPONSE: The Department notes that the definition of "accessible," found at N.J.A.C. 5:23-7.6, includes the statement "This term is synonymous with the term 'barrier-free'." Adding language to N.J.A.C. 5:23-7.4 would be redundant.

COMMENT: N.J.A.C. 5:23-7.6 drew two comments. Both the New Jersey Builders Association and KGDR Architects requested that language be added that permits the penetration of the fire wall except for openings intended for human passage.

RESPONSE: The Department points out that, for purposes of the Barrier Free Subcode, area calculations are significant for determining whether a building is required to be in compliance, and the relevant area is the area accessible to persons within the building. Penetration of a wall by a passage usable by people is relevant to this determination; penetration by mechanical systems is not. The definition of "area" is therefore being deleted (thereby leaving in effect the definition of "area, building" in Article 2 of the building subcode) and N.J.A.C. 5:23-7.2 is being changed upon adoption to make it clear that communicating interior spaces are to be taken together in determining if a building is a large or a small building.

COMMENT: The Department received one comment regarding N.J.A.C. 5:23-7.9. The Department of the Public Advocate requested that the Barrier Free Subcode stipulate that the accessible inmate cell be the one closest to the accessible bathroom.

RESPONSE: The Appellate Division decision in the case of *Community Health Law Project et al vs. New Jersey Department of Community Affairs*, Dkt. No. A-1496-86T7 (App. Div. 1988), *certif. den.* 113 N.J. 343 (1988), required the Department to set a standard for accessible inmate cells. The Department has done so. The Barrier Free Subcode (N.J.A.C. 5:23-7.54(a)2) does stipulate that an accessible bathroom must be on an accessible route of travel.

COMMENT: The Department received nine comments on N.J.A.C. 5:23-7.11. DIAL, Inc., Department of Public Advocate, Community Health Law Project, Project Freedom and several private citizens declared that the height restriction in N.J.A.C. 5:23-7.11(a)6 should be deleted to achieve compliance with the Federal Fair Housing Amendments Act of 1988.

RESPONSE: The Department believes that the requirements of the FFHAA 1988 are unclear. As N.J.A.C. 5:23-7.11(a)6 was not proposed for deletion, the Department notes that it will require a new proposal to delete it. Therefore, the Department will wait to review the accessibility regulations of the FFHAA 1988. The section remains as proposed.

COMMENT: The Eastern Paralyzed Veterans Association suggested that N.J.A.C. 5:23-7.11(a)3 be clarified.

RESPONSE: The Department believes that the section is clear and declines additional change.

COMMENT: The Department received 29 comments on that portion of N.J.A.C. 5:23-7.18(a)3 which is proposed for deletion (see agency note

in proposal). All requested that the text that restricts the use of platform lifts in new construction be retained. Comments were received from advocacy groups, representatives of State and local government, several county offices for the disabled, and from several private citizens.

RESPONSE: The Department has already deleted this text upon adoption effective November, 1986. The Department will repropose text in the near future for further public comment. This procedure is necessary to ensure fair opportunity to comment for all parties involved, as this would be a significant substantive addition to the text of the rule.

COMMENT: Eight comments were received on N.J.A.C. 5:23-7.18(b)2. The Department of the Public Advocate, DIAL, Inc., and several private citizens protested the reduction of restaurant space required to be accessible. The Community Health Law Project, Project Freedom, Inc., and the Independent Living Advisory Council stated that the change is not required by the 1987 amendments to the Barrier Free Subcode.

RESPONSE: The Department refers the commenters to N.J.S.A. 52:32-5, in which buildings are categorized by size. The change in this section brings it into consistency with the 1987 amendments to the Barrier Free Subcode and, in the Department's opinion, is in accord with the legislative intent.

COMMENT: The Department received several comments on the illustrated figures in several diagrams. KGDR Architects suggested that N.J.A.C. 5:23-7.30(c) be modified to reflect a similar section in the Building Officials and Code Administrator's (BOCA) Building Code.

RESPONSE: The Department believes that the diagram and language are clear as submitted and declines change.

COMMENT: KGDR Architects pointed out that the diagrams for N.J.A.C. 5:23-7.55 and 7.56 contain inconsistent measurements.

RESPONSE: The Department agrees and has corrected Figure 7.56d to show 4'4", in agreement with N.J.A.C. 5:23-7.55.

COMMENT: New Jersey Builders Association pointed out that the directional arrows in Figure 7.56b should have been labeled "wall mounted" and "floor mounted" to identify the appropriate measurements.

RESPONSE: Those terms have been added.

COMMENT: The Department received one comment on N.J.A.C. 5:23-7.57, from the New Jersey Builders Association, suggesting that the requirement of a 36" centerline be replaced by 34"-38" in order to "avoid exact code compliance."

RESPONSE: The Department notes that a range dimension will not provide sufficient assistance in this instance and therefore declines that change.

COMMENT: JBB Consulting Engineers requested that the section on urinals either be made more specific or deleted entirely.

RESPONSE: The Department believes that either suggestion would require a new proposal and therefore declines the change.

COMMENT: KGDR Architects asked that N.J.A.C. 5:23-7.58 clarify whether toe space is included in the turning radius.

RESPONSE: The Department believes that the section clearly refers to knee space, not toe space, in the turning radius and therefore declines additional change. Figure 7.58a has been adjusted to correct an error: 6" minimum has been changed to 6" maximum.

COMMENT: The Department received two comments on N.J.A.C. 5:23-7.61. The New Jersey Builders Association requested that the language be adjusted to allow the grab bar to be 8"-12" above the tub rim.

RESPONSE: The Department notes that a range dimension will not provide sufficient assistance in this instance.

COMMENT: Eastern Paralyzed Veterans Association requested that three grab bars be shown in the diagrams.

RESPONSE: As three grab bars were not part of the proposal, the Department believes that a new proposal is required to effect that change. Therefore, the diagrams are adopted as drawn.

COMMENT: The Department received two comments on N.J.A.C. 5:23-7.65. Frank Dolan and KGDR Architects suggested that this configuration is unnecessarily restrictive and asked that additional figures be submitted that depict alternatives, if there is no bathtub. KGDR Architects also suggested that the section be written in terms of required clear space.

RESPONSE: Since additional figures and delineation of required clear space were not proposed, the Department believes that a new proposal is needed to effect that change. Therefore, the diagram is adopted as proposed.

COMMENT: The Department received three comments on N.J.A.C. 5:23-7.67. The New Jersey Builders Association requested that the height requirement be changed to 8"-12" to "avoid exact Code compliance."

RESPONSE: The Department notes that a range dimension will not provide sufficient assistance in this instance. Therefore the Department declines this change.

COMMENT: The Eastern Paralyzed Veterans Association suggested that the diagrams be clarified to show the proper number of required grab bars.

RESPONSE: Because changes in the diagrams were not included in the proposal and alterations in the diagrams must be proposed, the Department is adopting the section as proposed, without change.

COMMENT: One comment was received on N.J.A.C. 5:23-7.72. KGDR Architects asked that the Department add clarifying language specifying that "control panel" be added to the section, thereby specifying that grab bars are not to be installed across the control panel.

RESPONSE: The Department thinks that it is clear that use of the elevator would be inhibited were grab bars to be installed across control panels. Therefore, the change is implemented as proposed.

COMMENT: The Department received two comments on N.J.A.C. 5:23-7.73(c) and 7.75(a). The Building Inspection Underwriters, Inc. asked that these subsections be retained in their original forms.

RESPONSE: The Department notes the number of complaints it had received about this section which led it to propose the change. The complainants asserted that the multiplicity of audible signals both in the car and at each floor would prove too confusing. The Department was persuaded by the logic of their complaints and notes there was no substantive information provided by the commenter which documented the need to retain the audible signal.

COMMENT: The Clifton Elevator Company asked if the Department intended to delete both audible and visual signal requirements at N.J.A.C. 5:23-7.73(c).

RESPONSE: The Department notes that elevator standards published in the building subcodes include a requirement for visual signals; however, to clarify the Department's intent that visual signals be provided, such a requirement has been added on adoption.

COMMENT: The Department received four comments on N.J.A.C. 5:23-7.80, asking that a qualification be inserted to make it clear that inclined lifts may not block fire stairs.

RESPONSE: The Department notes that the building subcode currently prohibits blocking fire stairs for any reason.

COMMENT: The Department received 25 comments on N.J.A.C. 5:23-7.95. Of the comments, 24 requested that the sections specifying adaptability requirements for kitchens not be deleted. The comments received were from advocacy groups, county offices on the disabled, representatives of State and local government, and private citizens. The New Jersey Builders Association agreed with the proposed deletion. Several commenters stated that the proposed deletions are not in compliance with the requirements of the FFHAA 1988.

RESPONSE: The Department has reviewed the FFHAA 1988, which specifies adaptability through an adequate turning radius, and has determined that the proposed changes are sufficient to satisfy the FFHAA 1988.

COMMENT: The Department received seven comments asking that N.J.A.C. 5:23-7.96(a) not be changed. Comments were received from the Eastern Paralyzed Veterans Association, the Department of the Public Advocate, the Independent Living Advisory Council, DIAL, Inc., KGDR Architects, and several private citizens, who stated that to reverse the swing of a metal door is expensive and therefore restricts affordability and accessibility for the disabled. The New Jersey Builders Association agreed with the proposed change.

RESPONSE: The Department has reviewed the question and, in the absence of data to the contrary, does not believe that it is prohibitively expensive to reverse the door even if hung in a metal frame. Therefore, the Department adopts the section as proposed.

Full text of the adoption follows (additions to proposal indicated in boldface with asterisks *thus*; deletions from proposal indicated in brackets with asterisks *[thus]*):

5:23-7.2 Scope and applicability

(a) The provisions of this subchapter shall apply to all buildings, building sites, and portions thereof, as delineated in (a)1 and 2 below, unless exempted by N.J.A.C. 5:23-7.3.

1. Large buildings, defined as those with a total gross enclosed floor area of 10,000 square feet or more, shall be required to have

accessible entrances, facilities for the physically handicapped on all accessible floors, and elevators or other means of access for the physically handicapped between floors.

2. Small buildings, defined as those with a total gross enclosed floor area of less than 10,000 square feet, shall have accessible entrances servicing the first or ground floor areas and facilities for the physically handicapped on any other floors which are on an accessible route of travel.

***3. Interior spaces under separate ownership or control shall not be considered to be in separate buildings if they are separated by fire walls or party walls through which there are openings allowing for human passage.**

4. Interior spaces within common exterior walls and under common ownership or control shall not be considered to be in separate buildings.*

(b)-(d) (No change.)

5:23-7.3 Exemptions

(a) The following are exempt from the provisions of this subchapter:

1. Buildings or projects of Use Group R-2 or R-3 with three or fewer dwelling units, having common entrances or separate entrances directly from the exterior, whether for rental or arranged for sale shall be exempt. A dwelling unit shall be deemed to be "arranged for sale" if it is located on a separate lot or is part of a condominium project for which a Master Deed has been filed and which has been approved for registration as a planned real estate development by the Department at the time that the building permit is issued.

i. (No change.)

2.-4. (No change.)

5. (No change in text.)

6. Floors or spaces containing only mechanical equipment shall be exempt.

7. Floors in large buildings which contain less than 3,000 square feet of total floor area and are at other than the entrance level shall be exempt.

i. Exception: Floors which contain less than 3,000 square feet of total floor area, but are served by an elevator or other means of access, shall not be exempt.

5:23-7.4 Variations and exceptions

(a) (No change.)

(b) In buildings, facilities, or portions thereof which primarily serve children, variations and exceptions are not required for adjustments of dimensions to make them suitable for children. However, in such buildings, accessible facilities for use by adults must be provided.

(c)-(d) (No change.)

5:23-7.5 Construction Boards of Appeals

(a)-(b) (No change.)

(c) DCA shall sponsor and provide training to qualified handicapped persons and their advocates for inclusion on the list specified in (b) above.

5:23-7.6 Definitions

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

...
["Area" means the total gross floor area enclosed by exterior walls or fire walls. For the purposes of computing area or otherwise applying the provisions of this subchapter, the fire walls shall not be penetrated by openings of any kind whether protected or unprotected.]

"Large building" means a building with a total gross enclosed floor area of 10,000 square feet or more.

...
"Small building" means a building with a total gross enclosed floor area of less than 10,000 square feet.

5:23-7.8 Alterations or changes of use

(a)-(b) (No change.)

(c) The degree to which alterations to existing buildings shall comply with the provisions of this subchapter shall be determined in accordance with N.J.A.C. 5:23-2.4.

1. Exception: The provisions of this subchapter shall not apply to renovations or modifications of a small building as defined in N.J.A.C. 5:23-7.6 if there is insufficient space between the building and its lot lines or between the building and the public way to allow for the installation of an entrance ramp which meets the criteria of this subchapter where one would be required.

(d) The provisions of this subchapter shall not apply to a change of use group of a small building as defined in N.J.A.C. 5:23-7.6.

(e) The provisions of this subchapter shall not be mandatory for the alteration of historic buildings, structures or sites provided that the following conditions are met:

1. The historic building, structure or site is designated, listed or registered by the State or Federal government authority as an historic building or site; and

2. A finding is made by the designating, listing or registering authority that compliance with the provision of the subchapter in question would alter the historic character of the building or site.

5:23-7.9 Use Group I

(a) (No change.)

(b) Buildings or portions thereof of Use Group I-2 shall be made accessible as follows:

1. Hospitals licensed by the Department of Health shall be made accessible as follows:

i. Ten percent of patient bedrooms, rounded to the next higher whole number, shall be accessible.

(1)-(2) (No change.)

(3) Accessible patient bedrooms shall be proportionately distributed among all patient care areas and through all types and classes of rooms within the areas (one-bedded, two-bedded, three-bedded and four-bedded rooms).

2. (No change.)

3. Long Term Care Facilities (skilled nursing homes) licensed by the Department of Health shall be made accessible as follows:

i. Fifty percent of patient bedrooms, rounded to the next higher whole number, shall be accessible.

(1)-(2) (No change.)

(3) Accessible patient bedrooms shall be proportionately distributed among all patient care areas and through all types and classes of rooms within the areas (one-bedded, two-bedded, three-bedded and four-bedded rooms).

4. Outpatient Facilities licensed by the Department of Health shall be made accessible as follows:

i. (No change.)

(c) Buildings or portions thereof of Use Group I-3 shall be made accessible as follows:

1. At least one inmate confinement area or room per institution shall be accessible.

2. At least one toilet and bathing facility per institution provided for inmates shall be accessible.

3. All public or common areas and employee areas, including toilet or bathing facilities associated with these areas, shall be made accessible.

5:23-7.11 Use Group R-2 and R-3

(a) Buildings of Use Group R-2 or R-3, which are not exempted by N.J.A.C. 5:23-7.3, shall be made accessible to handicapped persons as follows:

1.-2. (No change.)

3. All units in elevator serviced buildings and all entry and/or grade level units in non-elevator serviced buildings shall be made adaptable in accordance with N.J.A.C. 5:23-7.94 through 7.97.

4. (No change.)

5. Each dwelling unit which has two or more levels of living space with an elevation difference of more than 24 inches and which does not have an internal elevator, is exempt from the requirements of N.J.A.C. 5:23-7.11(a)3. However, in each building or project containing such multi-level units, at least four percent of the total number

of units (rounded to the next whole number) shall be accessible or 100 percent of the units shall be adaptable.

6. (No change.)

5:23-7.12 Parking lots and parking garages

(a) Every parking lot or parking garage servicing an accessible entrance as described in this subchapter shall have at least the number of accessible parking spaces for the handicapped as set forth in Table 7.12.

1. Parking lots or parking garages servicing buildings of Use Group I-2 licensed by the Department of Health shall have at least the number of accessible parking spaces for the handicapped as set forth below:

i-iii. (No change.)

iv. In parking lots or parking garages servicing an outpatient facility, 10 percent of the parking spaces, but not less than two, shall be accessible.

(b)-(c) (No change.)

5:23-7.13 Parking spaces

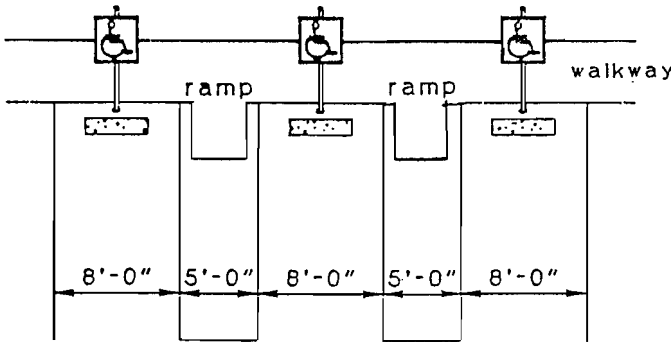
(a)-(b) (No change.)

(c) There shall be four acceptable configurations for accessible parking spaces as illustrated in Figures 7.13a through 7.13d.

1. (No change.)

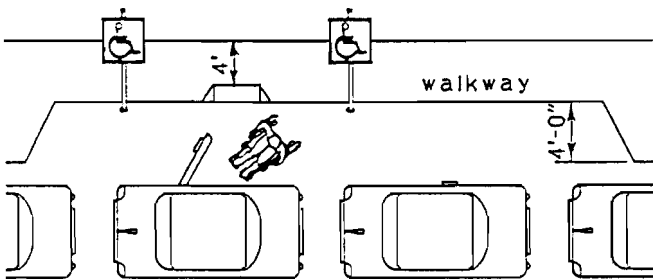
2. Parking spaces each not less than eight feet wide with an adjacent access aisle at least five feet wide.

Figure 7.13b
Parking Spaces



3. Curb side parking, provided that the curb has been indented at least four feet so that a handicapped person does not exit from a vehicle into a traffic lane.

Figure 7.13c
Parking Spaces



4. (No change.)
(d) (No change.)

5:23-7.17 Accessible routes, walks and floors

(a) At least one accessible route shall comply with N.J.A.C. 5:23-7.18 through 5:23-7.23 and shall connect each accessible building entrance to the following:

Renumber 2.-6. as 1.-5. (No change in text.)

5:23-7.18 Accessible routes: change in level

(a) All changes in level or grade on accessible routes, walks, or floors, shall comply with the following:

1.-2. (No change.)

3. Changes in level of greater than three-quarter inch are to be connected by ramp, curb ramp, elevator, or platform lift meeting criteria of this subchapter. However, the maximum change in level within a building which may be bridged by a ramp shall be 60 inches.

4. (No change.)

(b) The following are exceptions to the requirements of (a) above:

1. (No change.)

2. In Use Group A-2 and in those buildings or areas of Use Group A-3 that are used as restaurants, raised or depressed areas not exceeding 3,000 square feet of total floor area shall be allowed provided that at least one-third of the usable net area is located on an accessible route of travel and provided that identical facilities and services are available on accessible levels.

3. (No change.)

5:23-7.19 Accessible routes: width

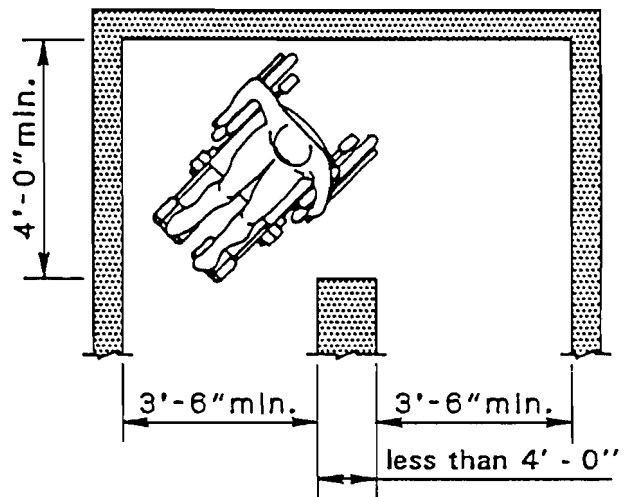
(a) Accessible routes, walks and floors, shall provide clearances for moving wheelchairs as follows:

1. (No change.)

2. Maximum maneuvering clearances as shown in Figures 7.19b and 7.19c if the accessible route requires a turn around an obstruction.

Figure 7.19b (No change.)

Figure 7.19c
Turn-Maneuvering Clearance



3. (No change.)

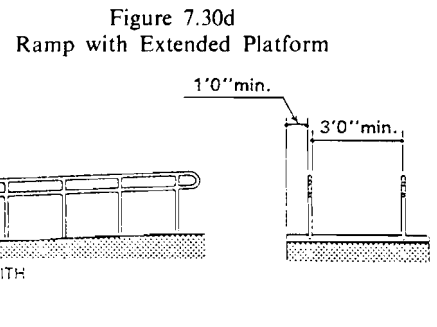
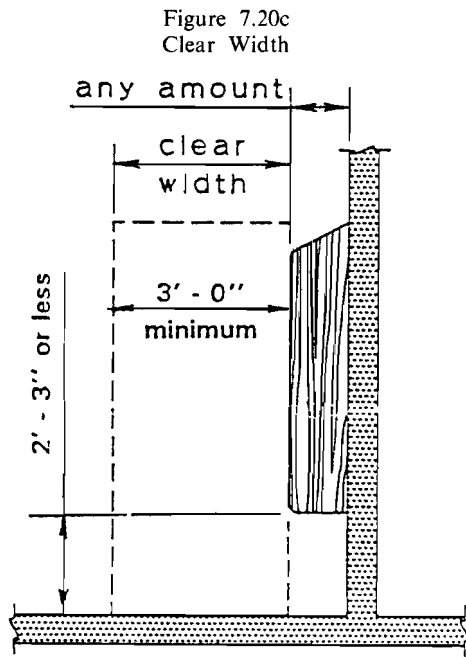
5:23-7.20 Accessible routes: protruding objects

(a) No protruding objects shall reduce the clear width of an accessible route or maneuvering space below the minimum required by N.J.A.C. 5:23-7.19. See Figure 7.20a.

Figure 7.20a (No change.)

1. (No change.)

2. Objects fixed to wall surfaces may project more than four inches if mounted with the lower extreme of their leading edge less than two feet three inches above the finished floor. These objects shall not project, however, into the minimum required clear width specified in N.J.A.C. 5:23-7.19. See Figure 7.20c.



5:23-7.31 Curb ramps: special requirements

(a) In addition to the requirements of N.J.A.C. 5:23-7.24 through 5:23-7.30 above, curb ramps shall comply with the following requirements:

1.-3. (No change.)

4. Diagonal or corner-type ramps having flared sides shall have at least a two foot long segment of straight curb located on each side of the curb ramp and within the marked crossings. See Figure 7.31f.

3. (No change.)

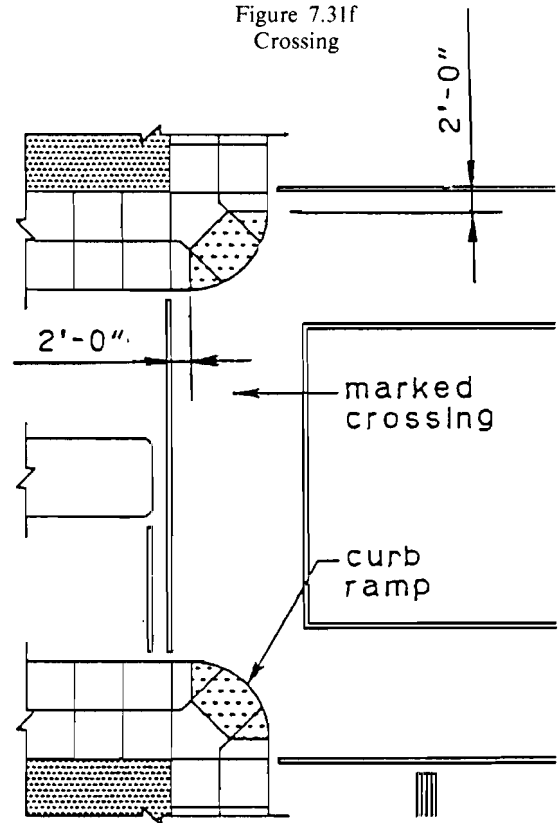
5:23-7.30 Ramps: additional requirements

(a) In addition to the requirements of N.J.A.C. 5:23-7.24 through 7.29, all ramps shall meet the following requirements:

1.-2. (No change.)

3. Provide curbs, walls, vertical guards or projected edges at ramps and landings with drop-offs exceeding six inches. Minimum curb height shall be two inches. See Figures 7.30a through 7.30d.

Figure 7.31f
Crossing



5.-8. (No change.)

5:23-7.37 Accessible entrances

(a) The following entrances to a building or facility shall be constructed in a manner that makes them accessible either through adjusting the exterior grade level to coincide with the entrance or providing walkways, ramps, elevators or platform lifts which comply with this subchapter:

1.-2. (No change.)

3. For additions to existing buildings, the above requirements shall apply except if it can be shown that they have all been appropriately met in the structure to which an addition is being made and there is an accessible route of travel from such entrances to the addition.

Figure 7.30a
Ramp with Curb

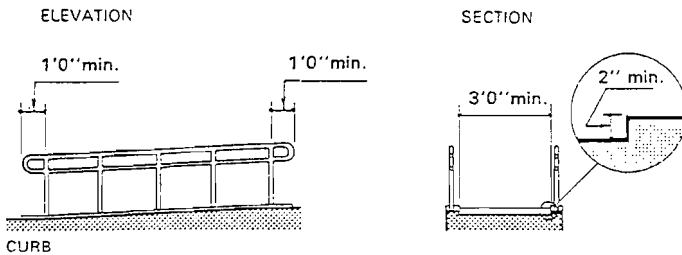


Figure 7.30b
Ramp with Wall

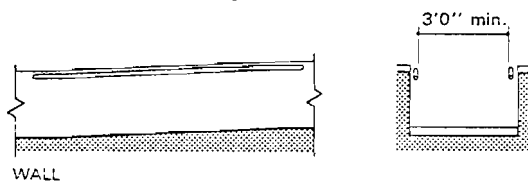
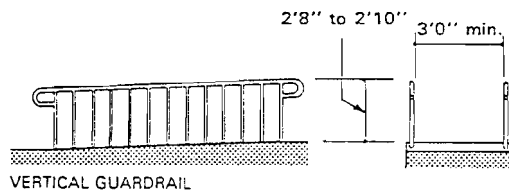


Figure 7.30c
Ramp with Vertical Guards



Such entrances and accessible route must be available during all hours of operation of functions within the addition (see N.J.A.C. 5:23-7.7.);

5:23-7.41 Doors and doorways: double leaf, revolving and turnstiles (a)-(b) (No change.)

5:23-7.42 Doors and doorways; clear width
 (a) Accessible doorways shall provide a clear opening of two feet eight inches as measured with the door open 90 degrees between the face of the door and the latch side stop. See Figure 7.42a, b, and c.

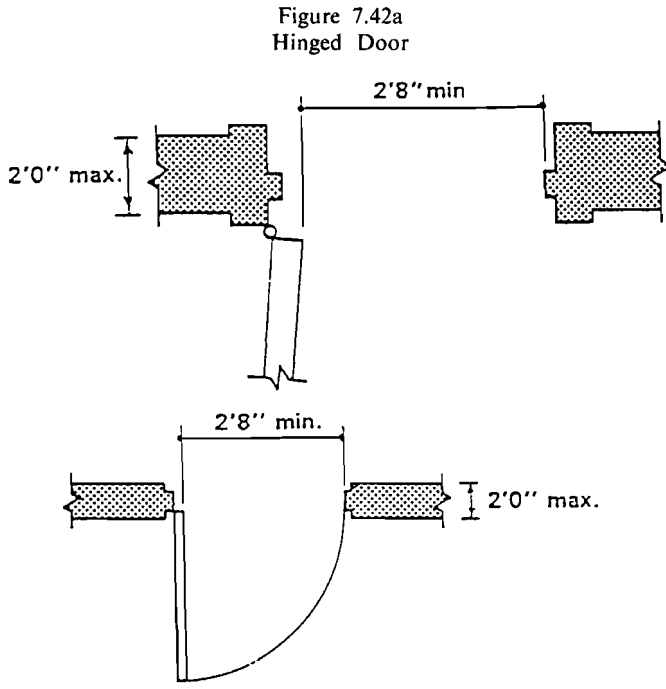


Figure 7.42a
Hinged Door

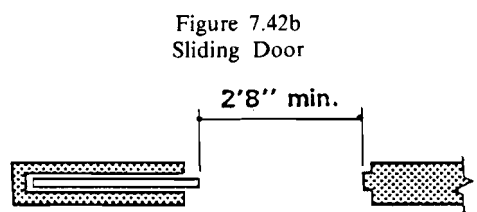


Figure 7.42b
Sliding Door

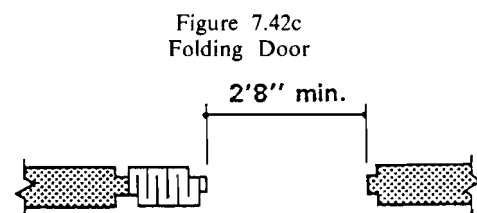


Figure 7.42c
Folding Door

(b) (No change.)
 5:23-7.55 Accessible toilet and bathing facilities: Water closets
 (a) At least four percent (rounded off to the next higher whole number) but not less than one water closet in each toilet room shall:
 1.-2. (No change.)
 3. Have automatic or hand operated flush controls. Controls shall be mounted no higher than 44 inches above finished floor.
 4. Have grab bars mounted as shown in Figures 7.55c and d. Figure 7.55c (No change.)

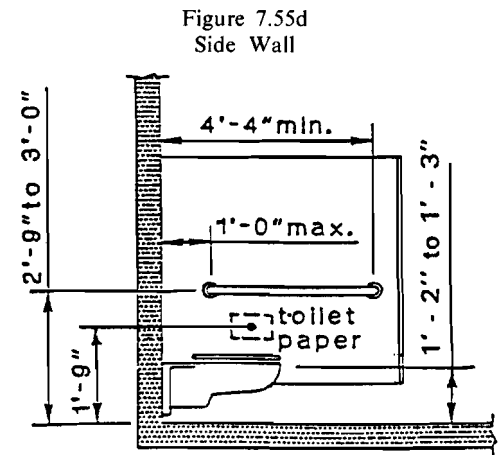


Figure 7.55d
Side Wall

5. Have toilet paper dispensers mounted as shown in Figure 7.55d. Height measured from the centerline of the dispenser to the finished floor shall be one foot nine inches. Dispensers shall not project beyond the front edge of the water closet. Dispensers that control delivery or do not permit continuous paper flow shall not be used.

5:23-7.56 Accessible toilet and bathing facilities: toilet stalls
 (a) In toilet rooms containing toilet stalls, at least four percent, rounded off to ***the*** next higher whole number, but not less than one stall, shall be made accessible.

1. (No change.)
 2. Accessible toilet stalls shall be of the size and arrangement as shown in Figure 7.56a. Stall configuration may be reversed for left or right hand approach. In alteration work, where the provision of the standard stall (Figure 7.56a) is structurally impractical or plumbing fixture code requirements prevent combining existing stalls to provide necessary space, the alternate stall configuration of Figure 7.56b may be utilized.

Figure 7.56a
Standard Stall

(No change in Figure 7.56a.)

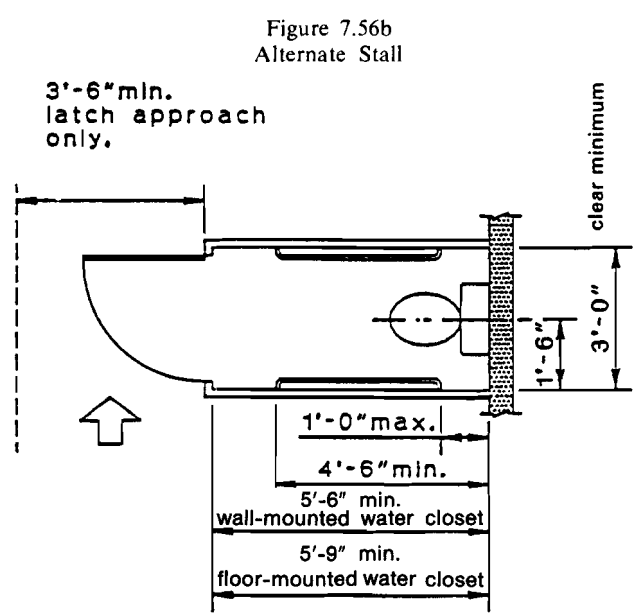


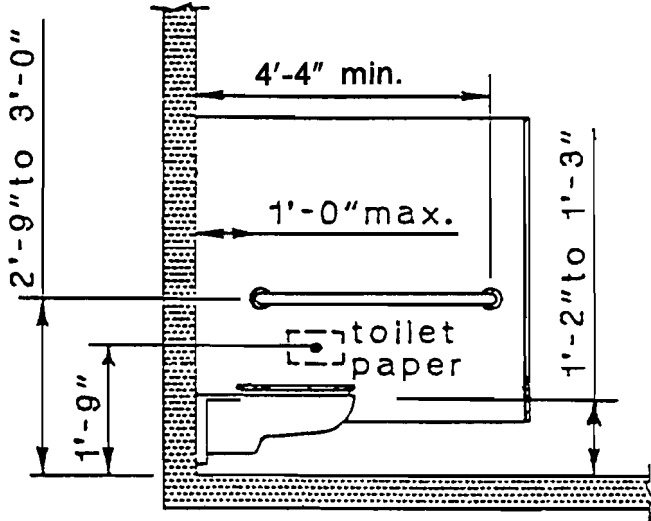
Figure 7.56b
Alternate Stall

ADOPTIONS

COMMUNITY AFFAIRS

- 3.-5. (No change.)
- 6. Accessible toilet stalls shall have grab bars mounted as shown in Figures 7.56c and d.
- Figure 7.56c (No change.)

Figure 7.56d
Side Wall



7. Accessible toilet stalls shall have toilet paper dispensers mounted as shown in Figure 7.56d. Height measured from the centerline of the dispenser to the finished floor shall be one foot nine inches. Dispensers shall not project beyond the front edge of the water closet. Dispensers that control delivery or do not permit continuous flow shall not be used.

5:23-7.57 Accessible toilet and bathing facilities: urinals

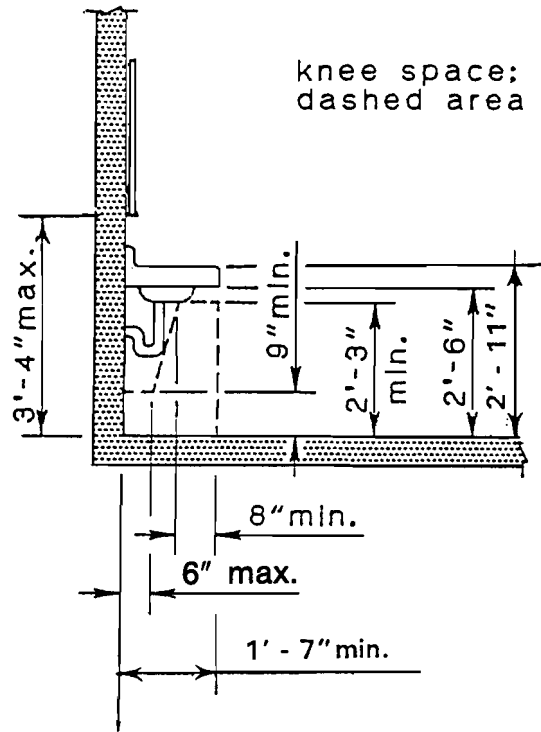
- (a) (No change.)
- (b) A vertical grab bar shall be located next to at least one standard height urinal. The grab bar should be 24 inches in length, installed with its centerline 36 inches from the finished floor.

5:23-7.58 Accessible toilet and bathing facilities: lavatories

(a) Four percent (rounded off to ***the* next *higher* *highest* whole number**) in each toilet room or bathing facility, but not less than one, shall be accessible. Accessible lavatories shall meet the following requirements.

1. Lavatories with the rim or counter surface shall be mounted no higher than two feet 11 inches above finished floor. Knee space between bottom of apron and finished floor shall be at least two feet six inches high, two feet six inches wide, and one foot seven inches deep. Toe space of at least nine inches high shall be provided. See Figure 7.58a.

Figure 7.58a
Lavatory



2.-5. (No change.)

5:23-7.61 Accessible toilet and bathing facilities: bathtubs and showers

(a) At least one fixture of each type provided shall be made accessible in each toilet or bathing facility (where required). Accessible bathtubs or showers shall:

1.-2. (No change.)

3. Have grab bars mounted as shown in Figures 7.61a through 7.61e. Grab bars provided for tubs shall be mounted at a height of nine inches above the flood rim. See specifications for grab bars in N.J.A.C. 5:23-7.62.

Figure 7.61a
Clear floor space with ledge seat
(Lateral Approach)

(No change in current Figure 7.61a; proposed additional aspect of Figure 7.61a reproduced below.)

Clear floor space with ledge seat
(Frontal Approach)

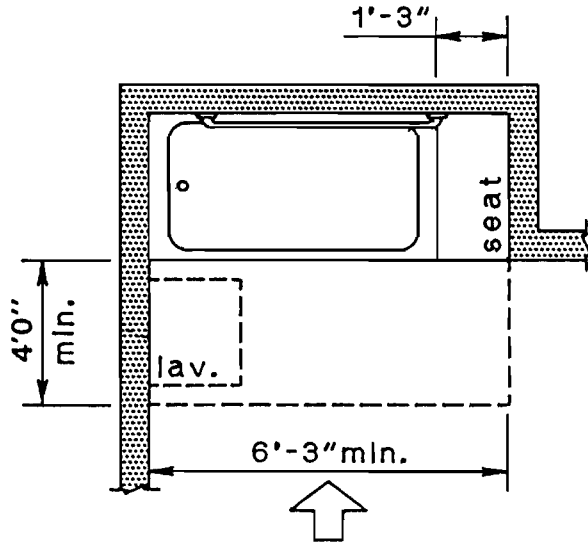


Figure 7.61b
Clear floor space with in-tub seat
Frontal Approach

(No change in Figure 7.61b)

Figure 7.61c
Clear floor space with in-tub seat
Lateral Approach

(No change in Figure 7.61c)

Figure 7.61d
Clear floor space
Transfer stall shower

(No change in Figure 7.61d.)

Figure 7.61e
Clear floor space
Roll-in stall shower

(No change in Figure 7.61e.)
4.-7. (No change.)

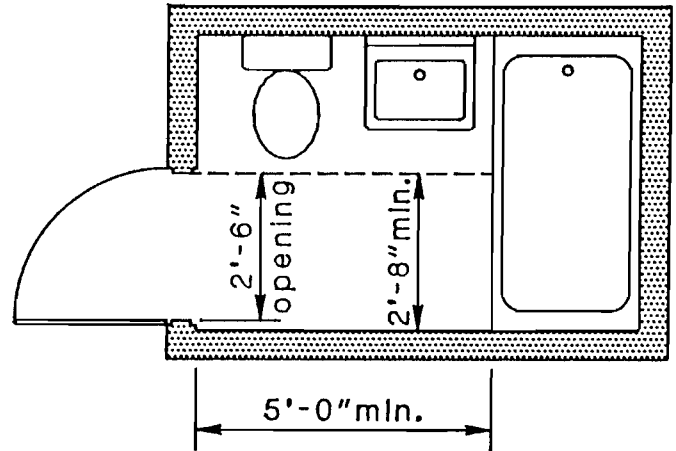
5:23-7.65 Minimally accessible toilet and bathing facilities: clear spaces

(a) Each toilet room and bathing facility shall have an unobstructed clear space that:

1. Is a minimum of 60 inches long and 32 inches wide, with the door opening onto the 32 inches side. See Figure 7.65. Fixtures must be arranged as shown in Figure 7.65.

Figure 7.65
Clear Space

Note: Fixtures must be arranged as shown.



2. (No change.)

5:23-7.67 Minimally accessible toilet and bathing facilities: grab bars

In buildings of Use Group R-1, each toilet room and bathing facility required to be minimally accessible shall have grab bars meeting criteria of N.J.A.C. 5:23-7.62 mounted at the foot and back of tubs of the length and positioning shown in figures 7.67a and b. In buildings of Use Groups R-2 and R-3, each toilet room and bathing facility required to be minimally accessible shall have blocking for grab bars at the foot and back of tubs, positioned as indicated in Figures 7.67a and b.

Figures 7.67a and b. (No change.)

5:23-7.68 Elevators

(a) Every multi-storied building shall provide elevator(s) that are accessible to and usable by physically handicapped people with the following exceptions:

1. Small buildings as defined in N.J.A.C. 5:23-7.6;
2. In large buildings as defined in N.J.A.C. 5:23-7.6, floors which contain less than 3,000 square feet of total floor area or floors which contain only mechanical equipment;
3. In Use Groups B and F, mezzanines of less than 3,000 square feet total gross area.

Renumber 3. as 4. (No change in text.)

(b)-(c) (No change.)

5:23-7.71 Elevator door operation

(a) Elevator doors shall be a minimum of three feet-wide and automatic door controls shall comply with the following requirements:

1.-2. (No change.)

3. Doors shall have a reopening device which will function to stop and reopen the car door and adjacent hoistway door in case the car door is obstructed when the door is closing. This reopening device shall also be capable of sensing an object or person in the path of a closing door without requiring contact for activation at a nominal height of five inches and two feet five inches above finished floor. Such devices shall remain effective for a period not less than 20 seconds.

5:23-7.72 Elevator car

(a)-(b) (No change.)

(c) Handrails shall be provided on all walls of cars except where doors occur. Rails shall be smooth and the inside surface at least one and one-half inches clear of the walls at a nominal height of 32 inches from the floor.

5:23-7.73 Elevators: car controls

(a)-(b) (No change.)

(c) A visual signal indicating when each call is registered and answered shall be provided.

Redesignate (c)-(d) as *(d)-(e)*. (No change in text from proposal.)

[(e)](f)*** All control buttons shall be designated by raised standard alphabet characters for letters, arabic characters for numerals, or standard symbols as shown in Figure 7.73b. Raised designations shall be placed to the immediate left of the button to which they apply. Permanently attached or applied plates are acceptable. The call button for the main entry floor shall be located in the left-most column designated with a raised star as shown in Figure 7.73b.

Figure 7.73b (No change.)

Redesignate (f) as *(g)*. (No change in text from proposal.)

5:23-7.75 Elevators: lobby call buttons

(a) Lobby call buttons shall:

1.-2. (No change.)

3. Have visual signals indicating when a call is registered and answered;

4.-6. (No change.)

5:23-7.76 Elevators: hall lanterns

(a) Audible and visual signals shall be provided at each hoistway entrance to indicate car arrival and its travel direction.

1.-2. (No change.)

3. For elevators with not more than two landings, in-car lanterns mounted on car door jambs and that comply with N.J.A.C. 5:23-7.74 are acceptable.

5:23-7.80 Platform lifts

(a) Platform lifts shall:

1. Accommodate an occupied wheelchair. For vertical lifts, the platform shall be at least 30 inches in width and 48 inches in length. For inclined lifts, the platform shall be at least 28 inches in width and 35 inches in length.

2.-4. (No change.)

5:23-7.81 Technical criteria for platform lifts

(a)-(c) (No change.)

(d) For vertical lifts, guarding around the lift shall be provided as follows:

1.-2. (No change.)

(e) through (f) (No change.)

5:23-7.82 Drinking fountains and water coolers

(a) through (b) (No change.)

(c) Water spouts on accessible drinking fountains shall:

1. Be mounted three feet above the finished floor, measured to the water outlet of the spout:

3. (No change.)

(d) (No change.)

5:23-7.87 Assembly areas

(a) Assembly areas, such as auditoriums and other similar assembly areas, which provide fixed seating for viewing a performance or event shall comply with this section. Assembly areas shall provide the number of accessible viewing position as specified in Table 7.87.

1.-3. (No change.)

5:23-7.88 Mercantile-fitting/dressing rooms

In each department (for example, sportswear, swimsuits, lingerie, etc.) where fitting rooms are provided, at least one fitting/dressing room shall be made accessible and a size five feet by five feet (minimum) with an entrance having a clear opening complying with N.J.A.C. 5:23-7.42 through 7.46.

5:23-7.94 Residential adaptable units

(a) (No change.)

(b) Adaptable units shall comply with N.J.A.C. 5:23-7.95 through 7.97.

5:23-7.95 Adaptable units: kitchens

(a) Kitchens in adaptable units shall be on an accessible route and shall meet the following criteria:

1.-2. (No change.)

3. At least one 30 inch section of counter shall provide a work surface that complies with the following requirements:

i. The finished floor shall extend under the counter to the wall; Renummer iii. as ii. (No change in text.)

iii. A clear floor space 30 inches by 48 inches shall allow a forward approach to the counter. Nineteen inches maximum of clear floor space required may extend underneath the counter. The knee space shall have a minimum clear width of 30 inches and a minimum clear depth of 19 inches. NOTE: The measurement of knee space assumes the removal of base cabinets;

Renummer v. as iv. (No change in text.)

4. The sink and surrounding counter shall comply with the following requirements:

i. The total width of sink and counter area shall be 30 inches minimum;

ii. (No change.)

iii. The finished flooring shall extend under the counter to the wall;

iv. (No change.)

v. A clear floor space 30 inches by 48 inches shall allow forward approach to the sink. Nineteen inches maximum of the clear floor space may extend underneath the sink. The knee space shall have a minimum clear width of 30 inches and a clear depth of 19 inches. NOTE: The measurement of knee space assumes the removal of base cabinets;

vi. (No change.)

5:23-7.96 Adaptable units: bathrooms

(a) Each bathroom required to be adaptable shall be on an accessible route and shall meet the requirements of this section.

Renummer 2.-5. as 1.-4. (No change in text.)

5:23-7.97 Adaptable units: consumer information

(a) To ensure that the existence of adaptable features will be known to the owner or occupant of a dwelling, the following consumer information shall be provided in each adaptable dwelling unit for rent or sale:

1.-5. (No change.)

(a)**DIVISION OF HOUSING AND DEVELOPMENT****Uniform Construction Code****Records Retention****Adopted New Rule: N.J.A.C. 5:23-9.5**

Proposed: May 21, 1990 at 22 N.J.R. 1455(a).

Adopted: June 26, 1990 by Melvin R. Primas, Jr., Commissioner, Department of Community Affairs.

Filed: June 29, 1990 as R.1990 d.364, **without change.**

Authority: N.J.S.A. 52:27D-124.

Effective Date: August 6, 1990.

Expiration Date: March 1, 1993.

Summary of Public Comments and Agency Responses:**No comments received.****Full text of the adoption follows.**

5:23-9.5 Records retention

(a) A construction office shall maintain, for the life of each structure wholly or partially within its jurisdiction, copies of the following documents: construction application, permit(s), any update(s), notice of unsafe structure, certificate of occupancy, ongoing inspection control card, elevator inspection, decision of construction board of appeals, cut-in card and the inspection and certificate logs (F-100A, F-110A, F-120A, F-130A, F-140A, F-170A and B, F-190A, F-240A, F-260A, F-290A, F-310A, F-340A, L-710A, L-720A).

(b) Copies of additional documents may be retained at the discretion of the construction official.

(c) A construction office shall retain copies of plans for Class I and Class II structures for at least the life of the structures and copies of plans for Class III structures for at least 10 years.

(a)

DIVISION OF HOUSING AND DEVELOPMENT

Condominium and Cooperative Conversion

Readoption: N.J.A.C. 5:24

Proposed: May 21, 1990 at 22 N.J.R. 1455(b).

Adopted: July 3, 1990 by Melvin R. Primas, Jr., Commissioner, Department of Community Affairs.

Filed: July 10, 1990 as R.1990 d.379, with technical changes not requiring additional public notice and comment (see N.J.A.C. 1:30-4.3).

Authority: N.J.S.A. 2A:18-61.12 and 2A:18-61.38.

Effective Date: July 10, 1990.

Expiration Date: July 10, 1995.

Summary of Public Comments and Agency Responses:

COMMENT: A comment was received from an attorney representing mobile home owners, who pointed out that the current rules do not reflect statutory changes extending entitlement to stays and to comparable housing to mobile home owners facing eviction from mobile home parks being retired from the rental market.

RESPONSE: The Department agrees with this comment and has proposed amendments to the chapter. These proposed amendments have been published in this issue of the New Jersey Register.

Technical changes have been made to the current text to reflect the transfer of the Office of Landlord-Tenant Information to the Bureau of Homeowner Protection.

Full text of the adoption follows (additions to proposal indicated in boldface with asterisks *thus*; deletions from proposal indicated in brackets with asterisks *[thus]*).

5:24-1.4 Contents of notice of intent to convert

(a) The notice of intent to convert shall consist of three items as follows:

1.-2. (No change.)

3. A copy of *[these regulations]* ***this subchapter*** or any statement of tenants' rights in relation to conversion subsequently approved for this purpose by the Department of Community Affairs. These may be obtained from: Bureau of *[Housing Inspection]* ***Homeowner Protection***, Office of Landlord-Tenant ***[Relations]* *Information***, CN ***[810]* *809***, Trenton, New Jersey 08625.

(b)

LOCAL FINANCE BOARD

Local Finance Board Rules

Adopted Amendments: N.J.A.C. 5:30

Adopted New Rules: N.J.A.C. 5:33

Proposed: March 5, 1990 at 22 N.J.R. 706(b).

Adopted: July 5, 1990 by the Local Finance Board, Barry Skokowski, Sr., Chairman.

Filed: July 11, 1990 as R.1990 d.383, with substantive and technical changes not requiring additional public notice and comment (see N.J.A.C. 1:30-4.3).

Authority: N.J.S.A. 52:27BB-10, 52:27BB-32, 52:27D-18, 40A:4-83, 40A:5-38, 40A:11-11 and 40A:12-6.

Effective Date: August 6, 1990.

Expiration Date: June 29, 1993, N.J.A.C. 5:30; August 6, 1995, N.J.A.C. 5:33.

Summary of Public Comments and Agency Responses:

Two letters were received in regard to the amendments. The first, from the New Jersey Council of Savings Institutions, highlighted that, pursuant to statute, savings banks should be listed as authorized legal depositories under 5:33-1.2. This is being corrected as a technical amendment.

The second letter, from a president of a bank, highlighted the need for municipalities to take advantage of new banking technologies involving electronic transfers of funds for tax deposits and other purposes. The author proposed unspecified changes be made to permit use of these technologies. The Board advised that the rules in question are "a re-adoption" of existing ones, and are in response to statutory authorizations which do not permit the type of transactions being advocated. The Board also noted that it would work with representatives of concerned organizations to develop legislative proposals as might be appropriate to address these issues.

The Board is also deleting the second half of N.J.A.C. 5:30-8.7(b), which was erroneously retained in the course of the recodification.

Full text of the adoption follows (additions to proposal indicated in boldface with asterisks *thus*; deletions from proposal indicated in brackets with asterisks *[thus]*).

5:30-1.1 Rules and regulations

(a) (No change.)

(b) The Local Finance Board shall meet on the third Monday of January, April, July, and October of each year; in addition, it shall meet on the third Tuesday of each month at its office, 101 South Broad Street, Trenton, New Jersey at 9:30 A.M., unless otherwise ordered by formal action of the board.

(c)-(d) (No change.)

5:30-1.2 and 1.3 (No change.)

5:30-1.4 Vote

(a) In the case of a vote on any appeal from a determination of the Director, the Director shall disqualify himself or herself from a vote, but shall preside at the hearing on the appeal. A vote of a majority of the whole board, namely, five votes, shall be required in determining whether any appeal from any action of the Director shall be sustained or reserved.

(b) (No change.)

5:30-1.5 and 1.6 (No change.)

5:30-1.7 Forms; general provisions

All forms required to be filed with the Local Finance Board or Division of Local Government Services, such as statements, applications and reports shall be filed on forms (or approved facsimiles) approved by the Board or the Director of the Division of Local Government Services, certified as to their accuracy by an appropriate official and in accordance with the instructions relating to each. Forms are available upon request to the Local Finance Board or the Division of Local Government Services.

5:30-1.11 Realized revenue

(a) When required to do so by the Local Finance Board, governmental units shall file a form entitled "Realized Revenue Report." The form of the Realized Revenue Report shall be approved by the Board.

(b) All statements shall be certified as being accurate and complete by the Chief Financial Officer of the local unit.

5:30-2.1 (No change.)

5:30-2.2 Interpretation of N.J.S.A. 40A:2-7 and N.J.S.A. 40A:2-11(c)

(a) (No change.)

(b) The Local Finance Board has determined as a matter of policy that approvals of bond and note financing will not be granted under paragraphs (c), (d) and (e) of Section 40A:2-7 of the Local Bond Law of New Jersey where the amount of such bonds or notes together with existing indebtedness is not in excess of the debt limitation, unless extraordinary conditions have been presented to the Board by an applicant to justify the waiver of this policy. The provisions of the existing Local Bond Law permit necessary down payments to be raised by emergency appropriation as was not possible prior to 1962.

ADOPTIONS

5:30-2.3 through 3.4 (No change.)

5:30-3.5 Supplemental detail in support of current budget appropriation

(a) The need for detailed information pertaining to the current budget appropriations is recognized and the regulations of the Local Finance Board are stated below:

1. Resolved that the Local Finance Board, having considered the matter of budget preparation, is hereby recorded to the effect that the published budget must contain a minimum breakdown for "salaries and wages" and "other expenses"; and

2. Be it further resolved that if in any instance any person petitions the board to the effect that he is unable to secure appropriate detail covering the makeup of any appropriation under the foregoing classification, the board will forthwith require the local unit to submit to its forms specifically breaking down "salaries and wages" and "other expenses", together with a budget information sheet covering such further detail in the form hereinabove recommended and added detail which may be deemed necessary.

3. The board in considering budget procedure can only conclude the preparation of the budget is a matter for the sound discretion of the governing body. The members of the governing body are the elected representatives of the people and it is their duty to introduce and approve the budget. This responsibility cannot be delegated; however, the governing body can hold pre-budget conferences if they so elect. This procedure has been helpful and productive, plus it has generated excellent public relations where it has been tried.

4. Insofar as the preparation of the supporting detail for the current budget is concerned, the board is of the opinion that this material should be available at any time after the introduction of the budget and, in any event, at least one week before the time set for the public hearing. This is necessary in order that interested persons may have an opportunity to study the material in conjunction with the printed budget and presentation at the public hearing.

5. The board directs that any petition must be filed not less than seven days prior to the time set for the public hearing on the budget. The board further directs that in case satisfactory information is made available by the local unit, the petitioner must notify the board at least three days before the time set for the public hearing on the budget that the request of the petitioner has been met. This regulation is made with the idea that some orderly procedure is necessary to avoid confusion and eliminate unnecessary hearings.

(b) The board recommends the use of standardized work sheets or budget request forms covering the following in reasonable detail:

1. Salaries and wages;
2. Other expenses;
3. Budget recapitulation sheet;
4. Budget information sheet.

5:30-3.6 through 5:30-3.8 (Reserved)

5:30-4.1 through 4.9 (No change.)

SUBCHAPTER 5. EMERGENCY APPROPRIATIONS

5:30-5.1 Road repairs

(a) The Local Finance Board reviewed certain suggested procedures in connection with the operation of this statute. In accordance with the statute, the Local Finance Board will require that a copy of every ordinance together with a statement supporting the request for approval of funds be filed with the Local Finance Board upon introduction of the ordinance and passage on first reading.

(b) The Local Finance Board also considered a form of an ordinance, a form of supporting statement to be signed by the chief financial officer, road supervisor and engineer, and a form of emergency resolution.

(c) The procedures outlined in (a) and (b) above, together with a form of ordinance, supporting statement and emergency resolution must be approved, and the forms made part of the official minutes of the Local Finance Board.

5:30-5.2 Disaster accounting procedures

(a) The Local Finance Board has reviewed the accounting requirements in connection with "Disaster" accounting required by

COMMUNITY AFFAIRS

Chapters 16 and 18, Laws of 1962. While the administrative procedures in the two Chapters differ, the accounting procedures are the same. Local Finance Board, is, therefore, setting forth certain procedures to be followed in "Disaster" accounting. These will be followed in connection with all "Disaster" expenditures regardless of whether these expenditures are subject to Federal or State Aid:

1. There must be an appropriation to which all expenditures are or will be charged.

2. Procedure approved by the State Treasurer will control in all instances.

3. Where there are, or were, current budget appropriations, the procedure set forth in this section will apply and be required.

4. Where there are ordinance appropriations pursuant to N.J.S.A. 40A-2.3, the same procedures hereinafter referred to will apply to amounts received or to be received from the Federal, State or other governmental units.

5. All revenues from the Federal or State governments shall be miscellaneous revenues and in no instance shall be credited to any appropriation.

6. At the completion of State or Federal work amounts received as advances or reimbursements shall be credited to "deferred charges" created by any emergency appropriations which have heretofore been adopted by the local unit. The foregoing shall apply in all cases where financing has been by emergency appropriations.

7. Where advantage of a five year emergency is being taken, an appropriation shall be included in the budget for not less than 20 percent of the net deferred charge unless the local unit elects to include a greater amount.

8. When an emergency appropriation is being funded pursuant to the Local Bond Law, the funding shall be for the net amount reflected in the "deferred charge" and shall represent the total subject to bonding plus not more than one percent of the amount of the "deferred charge" for issuing expense.

9. Where expenses were covered by 1962 budget appropriation, the revenue derived from Federal or State Aid shall be treated as current revenue.

10. Paragraphs (a)1 through 9 above will set forth certain procedures needed to provide for orderly financing of "disaster" appropriations and is hereby approved by the following resolution: the foregoing shall constitute a required procedure for all local units in connection with the funding or other disposition of "disaster appropriations". (L.F.B. Regulation)

5:30-5.3 Emergency resolutions exceeding the three percent limitation; written opinion required

All emergency resolutions exceeding the three percent limitation as prescribed by N.J.S.A. 40A:4-49, prior to being reviewed and approved by the Director, Division of Local Government Services, must be accompanied by a written opinion from the municipal attorney as to its compliance with N.J.S.A. 40A:4-46.

5:30-6.1 through 7.9 (No change.)

5:30-7.13 (Reserved)

SUBCHAPTER 8. FINANCIAL ADMINISTRATION

5:30-8.1 Mechanical and data processing accounting

(a) In any instance where a local unit is planning any mechanical, punch card or E.D.P. installation or utilizing the services of an Electronic Data Processing Center, it shall before entering into any agreement or contract submit a detailed resume of the program, the type thereof, the results to be obtained, the personnel required and the savings in operations (a complete brochure).

(b) Effective December 1, 1964, the Division will indicate its disapproval thereof if there are any unworkable features such as a failure to have at all times a complete, visible statement of a taxpayer's account, or information needed for tax searches, or conventional visible forms for other financial activities capable of being checked by approved auditing standards either in detail or by adequate "test check". (L.F.B. regulation)

5:30-8.2 Unbudgeted school aid refunds per P.L. 1977, c.15

(a) This regulation is adopted to implement the provisions of section 6 of chapter 15, P.L. 1977. Under this section, it is the responsibility of the Division of Local Government Services to promulgate rules and regulations to determine methods as to how the prorated apportionment shall be refunded to the property owners in each school district by May 1, 1977.

(b) Each municipal governing body affected by the provision of the above referenced section shall take all steps necessary to assure that each tax collector and treasurer shall implement the refunds by the methods set forth herein.

(c) General rules include the following:

1. The "unbudgeted State school aid" to be refunded shall be placed in a separate bank account in the trust fund as an escrow account so that accountability is easily recognizable and funds will not be intermingled. Such escrow account shall be held for a minimum of two years in order to have funds available for those items returned because of unknown addressee. Such balances may be placed in an interest bearing account and any interest earned shall be credited to interest or investments.

2. Chapter 15, P.L. 1977, indicates that the distribution of "unbudgeted State school aid funds" shall be refunded to all taxpayers on or before May 1, 1977, and it is hereby interpreted to indicate that the term "refund" means that a payment must have been made; therefore, it is hereby determined that:

i. Any properties with unpaid 1976 property taxes shall have the amount of "refund" applied by check directly to payment of the balances of taxes, net of interest due. Notification shall be made to taxpayer of the action by written notice.

ii. Any 1976 property taxes transferred to tax title liens shall have the "refund" applied directly by check to pay the 1977 taxes due, net of interest due;

iii. Any bankrupt properties as shown on the tax records shall have the "refund" credited by check against the unpaid 1976 taxes;

iv. Any properties having had an increase or decrease in assessed valuation in 1976 due to a tax appeal shall have the check prepared utilizing the adjusted assessed valuation;

v. Increased assessed valuation due to added assessments or omitted assessments cannot be considered as a basis in computing amount of refund due.

3. The envelopes used for mailing should include the wording "Do Not Forward, Return to Sender", or a similar notation to assure that if names of taxpayer have changed from billing date the municipality will be notified. Upon such notification, it shall be the responsibility of the tax collector, assessor and treasurer to collectively determine the proportionate shares of refund due the previous property owner and the present property owner. It is recommended that the municipal attorney be consulted in determining such a breakdown.

(d) Accounting procedures include the following:

1. The treasurer shall adjust the general ledger records by decreasing "school taxes payable" and increasing an account entitled "unbudgeted State school aid payable" by the amount shown on the notification prepared by the Commissioner of Education.

2. The treasurer shall deduct from the amount to be paid to the custodian of school funds an amount sufficient to meet the required unbudgeted State aid to be refunded.

3. Disbursement checks shall be charged to the general ledger account entitled "unbudgeted State school aid payable".

(e) Tax collector's office rules are:

1. In determining the property owners entitled to the unbudgeted State school aid refund, the data to be utilized will be the exact data utilized in mailing property tax bills for the last two quarters in 1976 and the first two quarters in 1977 (August 1, 1976; November 1, 1976; February 1, 1977; and May 1, 1977).

2. The tax collector's office shall prepare or have prepared a register to determine the amount required to be refunded to each property owner by utilizing the tax rate reduction shown on the Commissioner of Education's notification to a limit of not less than five decimal places; that is .0045.

3. The register shall be forwarded to the treasurer.

(f) Treasurer's office rules are:

1. The treasurer shall be responsible for preparing checks for distribution to each property owner as shown on the register on or before May 1, 1977.

2. Prior to distributing each check it shall be the responsibility of the tax collector to advise the treasurer of all unpaid 1976 taxes or all properties that have been transferred to tax title liens in 1976, so that the treasurer can prepare checks in accordance with the provisions of subsection (c)2 of this section relating to delinquent tax balances, tax title liens and bankrupt properties.

3. Each check issued shall include with it an informational notice which will be provided by the Division of Local Government Services, Department of Treasury, and additional explanatory information may be included by the municipality.

(g) Local units of government shall have the option of acquiring the services of an outside contractor to prepare the requirements necessary to respond to chapter 15, P.L. 1977. Should the local unit of government accept this option, it shall be accomplished by a resolution of the governing body authorizing the use of an outside contractor. In authorizing such a resolution a determination must be made by municipal legal counsel whether such contract is subject to the bidding requirements of the Local Public Contracts Law (chapter 198, P.L. 1971).

1. Using the tax reduction rate provided in the certification from the Department of Education, the contractor shall calculate by taxpayer line item the amount of refund due each taxpayer;

2. Print a check register with control totals and audit trail reports;

3. Deliver the documentation to the municipality for check preparation, stuffing and mailing to be completed on or before May 1, 1977.

4. Such contracts may further include procedures to:

i. Prepare checks on the standard check format;

ii. Using a check signer, sign all checks with the authorized municipal signatures;

iii. Print a message on the checks to explain the reason for the refund to the taxpayer;

iv. Prepare a complete reconciliation of returned checks.

5. It shall be further required that all material prepared by the outside contractor, such as the check register, cancelled checks, bank statements, computer runoffs, and so forth, shall be the property of the local unit of government and that the contractor shall have sufficient surety coverage to account for any shortages.

6. It will be the responsibility of the local unit of government to assure itself that the outside contractor will have the ability to accomplish the contract within the statutory timetable, May 1, 1977.

(h) The Director of the Division of Local Government Services is hereby authorized to take such additional action as may be necessary to clarify or extend these regulations and to provide additional direction or modification of these requirements as he may deem, in his sole judgment, to be necessary to effectuate the purposes of chapter 15, P.L. 1977, within the time period allowed.

5:30-8.3 Minimum surety bond coverage for tax collectors

(a) The Local Finance Board has further considered the provisions of N.J.S.A. 54:4-122.5 and has determined that the minimum surety bond coverage for tax collections should be made applicable to the collector of utility rentals and charges.

(b) The Local Finance Board promulgated the following requirements:

1. The minimum requirement for the surety bond of each tax collector (or the collector's office) shall be such percentage of the preceding year's tax duplicate as is required by the schedule set forth in paragraph 3 of this subsection.

2. The minimum requirement for the surety bond of each collector of utility rents shall be such percentage of the preceding year's utility charges as is required by the schedule set forth in paragraph 3 of this subsection.

| | |
|--------------------------------|---------------------------------------|
| 3. Tax Levy or Utility Charges | Minimum Bond Required |
| Up to \$100,000 | 25% of the Levy |
| \$100,000 to \$250,000 | \$25,000 + 8% of all over \$100,000 |
| \$250,000 to \$500,000 | \$37,000 + 6% of all over \$250,000 |
| \$500,000 to \$750,000 | \$52,000 + 4% of all over \$500,000 |
| \$750,000 to \$1,000,000 | \$62,000 + 2% of all over \$750,000 |
| \$1,000,000 to \$2,000,000 | \$67,000 + 1% of all over \$1,000,000 |
| \$2,000,000 to \$5,000,000 | \$77,000 + ½% of all over \$2,000,000 |
| \$5,000,000 and upwards | \$92,000 + ¼% of all over \$5,000,000 |

4. That in fixing such minimum bond the nearest even \$1,000 shall be used.

5. When the collector of taxes and the collector of utility charges is the same person the minimum surety bond coverage shall be computed separately. The required amounts shall be combined in a single surety bond.

6. That the minimum coverage arrived at by use of the foregoing schedule shall be an overall minimum amount where there is more than one person in the office. The several persons handling funds should be bonded in accordance with their responsibility.

7. The Board hereby directs that the Director of Local Finance notify every municipality that each and every collector, collector's office and utility collector or utility collector's office be bonded in accordance with the aforementioned minimum amounts.

8. That in any case where a municipality desires to substitute for the foregoing method any other method which it deems satisfactory and which complies with the provisions of the existing statutes, such substituted procedure, shall, if approved by the Local Finance Board, be deemed to comply with the regulations of the Board.

5:30-8.4 Minimum surety bond requirements for municipal courts

(a) The Local Finance Board reviewed the present minimum surety bond requirements for the municipal courts. The minimum surety bond requirements shall be in accordance with the following schedule:

| | |
|--------------------------|---------------------------------------|
| Total Annual Receipts | Minimum Bond Required |
| \$1 to \$5,000 | \$2,000 |
| \$5,000 to \$10,000 | \$2,000 + 30% of all over \$5,000 |
| \$10,000 to \$20,000 | \$3,500 + 25% of all over \$10,000 |
| \$20,000 to \$50,000 | \$6,000 + 15% of all over \$20,000 |
| \$50,000 to \$100,000 | \$10,500 + 12% of all over \$50,000 |
| \$100,000 to \$200,000 | \$16,500 + 8% of all over \$100,000 |
| \$200,000 to \$500,000 | \$24,500 + 5% of all over \$200,000 |
| \$500,000 to \$1,000,000 | \$39,500 + 2% of all over \$500,000 |
| \$1,000,000 and up | \$49,500 + 1% of all over \$1,000,000 |

(b) The Magistrate as well as the Clerk of the Court, and all other proper officers, shall be bonded in such amount as may be deemed appropriate and adequate under the circumstances, the amount, including all assistants, to be not less than the minimum referred to in subsection (a) of this section, and in every case where the minimum requirement applies, based on the volume of annual transactions, the Magistrate and the Clerk of the Court shall be bonded in the amount of not less than \$1,000.00 each.

(c) In those cases where the minimum requirement, based on the volume of business of the Court, calls for an amount in excess of \$2,000.00, it may be appropriate to bond the Magistrate or the Clerk, as the case may be, in an amount which shall be above the \$1,000.00 minimum required by statute to the nearest \$500.00 above said minimum.

(d) The municipal governing body and the Municipal Judge may allocate the amount of the coverage as between the Magistrate, the Clerk of the Court and other employees, in accordance with the financial responsibility of each officer with due regard to the \$1,000.00 minimum for each individual.

(e) There shall be a recomputation as to the minimum bond requirement annually and if the bond presently in force is less than the minimum required by the above schedule, the bond shall be increased.

(f) In all cases, however, a new bond shall be obtained at least every three years, coinciding with the term of office of the Magistrate.

5:30-8.5 Guidelines concerning receipt and custody of public funds

(a) No officer of a local unit shall accept in receipt of the payment of any tax, license, fee or other charge, a check in excess of the amount actually due.

(b) Under no circumstances shall said officer engage in the practice of cashing checks with public funds.

(c) The Director of the Division of Local Government Services shall provide copies of this resolution to all fiscal units together with such explanatory information as he may deem appropriate, and he is hereby directed to take such steps as are necessary to implement this resolution.

5:30-8.6 Signatures on checks drawn upon the treasury of the local unit

(a) Each municipality by July 1, 1972 and at each subsequent organizational meeting shall designate by resolution the individual or individuals, in accordance with N.J.S.A. 40A:5-17b, in addition to the signature of the treasurer, or if there is no treasurer, such other person who is the custodian of funds of the municipality, whose signature or signatures shall appear on checks drawn upon the treasury of the municipality.

(b) Each county board of freeholders at its annual first organizational meeting shall designate such county officer(s), in addition to the county treasurer, or if there is no treasurer, such other person who is custodian of funds of the county, whose signature or signatures shall appear on checks drawn upon the treasury of the county.

(c) Pursuant to N.J.S.A. 40A:5-19, a different signature practice may be established by ordinance in the case of a municipality and by resolution in the case of a county, for checks for wages and salaries.

(d) The Director of the Division of Local Government Services shall provide copies of the resolution to all affected local units together with such explanatory information as he may deem appropriate, and he is hereby directed to take such steps as are necessary to implement this resolution.

5:30-8.7 Type I school bonds

(a) The provisions of N.J.S.A. 18:10-15 and N.J.S.A. 18:10-29, 52 to 59 are intended to provide a method of preventing defaults in the payment of certain school bonds; and it is apparent that it will be necessary to secure information from the municipality in the case of a Type I school bond or interest which may go into default.

(b) It is the duty and responsibility of the municipal treasurer to advise the Division of Local *Finance* *Government Services* and the Department of Education in any case where there might be a prospective default in the payment of principal or interest of any school bonds falling due from this date (1958)*; and a copy of this resolution be incorporated in the next Newsletter of the Division as due notice of the requirements made necessary by N.J.S.A. 18:10-15 and N.J.S.A. 18:10-29, 52 to 59, and a form of notice be attached to such letter and it is hereby directed that the municipal clerk turn this notice over to the municipal treasurer, together with a copy of this resolution in order that he may be informed of his duties in connection with the statutes. (L.F. Board Regulation)* *.*

5:30-8.8 Implementation of the Housing and Community Development Act of 1974

(a) The dedicated revenues from the Housing and Community Development Act of 1974 and appropriated for the purpose to which the revenue is dedicated will be made a part of the budget of the local unit as a dedication by rider under the provisions of N.J.S.A. 40A:4-39.

(b) The local unit shall establish a separate bank account entitled "community development block grant" which shall be part of a separate trust fund.

(c) All operating expenditures must conform to each contract.

(d) Expenditures for capital purposes shall follow the process of adoption of an ordinance authorizing such capital expenditures.

(e) All the provisions of the Local Public Contracts Law (N.J.S.A. 40A:11) and the Local Lands and Buildings Law (N.J.S.A. 40A:12) shall be complied with.

5:30-8.9 Implementation of the Housing and Community Development Act of 1974; urban counties

(a) The governing body of each participating municipality shall adopt an ordinance to enter into an agreement with their respective county as prescribed by the Division of Local Government Services for compliance with the Interlocal Services Act.

(b) There may be established an interfund loan should the participating municipality expect to expend funds prior to receipt of Housing and Community Development Act of 1974 funds from the county.

(c) The dedicated revenues from the Housing and Community Development Act of 1974 and appropriated for the purpose to which the revenue is dedicated will be made a part of the budget of the local unit as a dedication by rider under the provisions of N.J.S.A. 40A:4-39.

(d) The local unit shall establish a separate bank account entitled "community development block grant" which shall be part of a separate trust fund.

(e) All operating expenditures must conform to each contract. Any expenditures not included in contract with the county shall be considered an overexpenditure and a violation of N.J.S.A. 40A:4-57.

(f) Expenditures for capital purposes shall follow the process of adoption of an ordinance authorizing such capital expenditures.

(g) All the provisions of the Local Public Contracts Law, N.J.S.A. 40A:11, and the Local Lands and Building Law, N.J.S.A. 40A:12, shall be complied with.

SUBCHAPTER 10. (No change.)

SUBCHAPTER 11. SCHOOL BONDS

5:30-11.1 through 5:30-11.7 (Reserved)

SUBCHAPTER 12. (No change.)

SUBCHAPTER 14. (No change.)

SUBCHAPTER 17. (No change.)

CHAPTER 33

TAX COLLECTION ADMINISTRATION

SUBCHAPTER 1. TAX COLLECTION PROCEDURES

5:33-1.1 Tax bill receipting machine

In any municipality, the governing body may require the collector to use a tax bill receipting machine so constructed as to imprint duplicate figures on a continuous record locked within the machine, simultaneously as bills are receipted. Such machine shall be subject to approval as to design, type and function by the State Board. Access to the recording section of the machine shall be restricted to the clerk, who, not less than once each week, shall remove the recorded figures and compare them with the collector's bank deposits during the same period. Whenever such comparison reveals any default, delinquency or official misconduct, the clerk shall immediately report the results thereof to the local governing body and to the collector's surety. Not less than once each month, the clerk shall certify to the local governing body that he has complied with the requirements of this section during the next preceding 30 days.

5:33-1.2 Bank collection of tax payments

(a) Any municipality adopting a resolution to contract for services in connection with this Act shall, prior to awarding the contract, receive approval of the Director of the Division of Local Government Services of the contract. Such contract shall include detailed procedures to be used in implementing procedures to receive and deposit funds, forwarding of back-up materials to the collector, holding of funds, audit trails and all other information required for evaluation of the proposed system.

(b) The bank*, savings bank* or trust company designated by any resolution to receive current tax payments, current water and sewer rents, and other public moneys must be designated as an official depository in accordance with N.J.S.A. 40A:5-14.

(c) Any municipality which has contracted with a bank*, savings bank* or trust company under this Act shall notify all taxpayers at

least once annually that such a service has been contracted. Notification must be made by mail to all taxpayers at least 30 days prior to the next payment due, payable and subject to possible receipt by such bank*, savings bank* or trust company agent, following the designation of such agent.

(d) The following words, when used in this subchapter, have the following meanings.

"Current" payment means any payment which is not yet due and payable, or any payment which became due and payable within the tenth calendar day prior to its receipt, provided that the municipality has adopted a resolution allowing "that no interest shall be charged if payment of any installment is made within the tenth calendar day following the date upon which the same became payable" in accordance with provisions of N.J.S.A. 54:4-67.

"Delinquent" payment means any payment which is not current (as defined above), plus any payments for accounts on which a municipality held Tax Title Lien exists.

5:33-1.3 Form of tax collection record

Use of this form of tax collection record for posting preliminary and final taxes is required by municipal taxing districts of the State of New Jersey. Sample copies can be obtained from:

Division of Local Government Services
Department of Community Affairs
CN 803
Trenton, N.J. 08625

5:33-1.4 Municipal Lien Forms

(a) Use of the following forms for the stated purposes is required by municipal taxing districts in the State of New Jersey.

1. Original and Duplicate Certificates of Sale for Unpaid Municipal Liens; and

2. Official Search and Certificates of Search for Municipal Liens.

(b) Samples of these forms are available through the Division of Local Government Services.

SUBCHAPTER 2. TAX COLLECTOR CERTIFICATION

5:33-2.1 Course of instruction—Certified Tax Collector

(a) In addition to other requirements defined by statute, successful completion of the three courses described in (b) through (d) below and as administered through Rutgers, the State University Bureau of Government Research, shall be required of candidates for Municipal Tax Collector certification (see N.J.S.A. 40A:9-145).

(b) Principles of Municipal Tax Collection I, as follows:

i. Local government in New Jersey;
ii. Office and duties of the tax collector;
iii. Office and duties of the assessor and the county board of taxation;

iv. Assessments for local improvements;

v. Tax deductions and exemptions;

vi. Billing duties;

vii. Cashier duties;

viii. Reports;

ix. Interest;

x. Enforcement duties prior to tax sale;

xi. Personal property;

xii. Miscellaneous duties;

xiii. Office and duties of the treasurer;

xiv. Office and duties of the utility collector;

xv. Office and duties of the tax search officer;

xvi. Treasurer of school monies;

xvii. Tax sale overview.

(c) Principles of Municipal Tax Collection II, as follows:

i. Study of N.J.S.A. 54:5, Articles 1 through 11.

(d) Principles of Municipal Tax Collection III, as follows:

i. Setting up an office;

ii. Management techniques;

iii. Office procedures;

iv. Internal control;

v. Records;

vi. Reconciliations;

vii. Reports; and

viii. Miscellaneous.

(e) A Certificate of Completion of each course is subject to the following requirements:

1. Each candidate must attend at least three-quarters of the scheduled classes in addition to the final examination period(s); and
2. Passage of the final examination. The passing grades for the final examination shall be in accordance with the standards in effect and as prescribed by Rutgers, the State University, and shall be graded by the course instructors under the supervision of the Bureau of Government Research.

5:33-2.2 Examination *[previews]* *reviews*: tax collector certification

(a) Review of a particular examination will be permitted only for those applicants who were not successful in passing such an examination.

(b) All examination reviews will be conducted in the offices of the Division of Local Government Services, 101 South Broad Street, Trenton, New Jersey 08625.

(c) Requests for examination reviews must be made in writing within two months of the date which appears on the notice of the mailing of the examination results. To arrange an examination review, an unsuccessful applicant must make a written request to the Division of Local Government Services, 101 South Broad Street, CN 803, Trenton, New Jersey 08625, setting forth several alternative dates and times which would be convenient to attend such a review. One of the dates will be selected and the applicant will be advised of the appointment date and time.

(d) Examination reviews will be conducted by a representative or representatives of the Division of Local Government Services. No one other than representatives of the Division of Local Government Services and the unsuccessful applicant for whom the review is being conducted shall be present at the examination review.

(e) The examination review will consist of the following:

1. Informing the applicant of his grade and explaining the manner in which the grade has been calculated.
2. Informing the applicant of the grade required for passage of the examination.
3. Specifying the categories of questions covered in the examination and informing the applicant how he fared category by category.
4. In limited circumstances, the representative of the Division conducting the review may discuss and review a specific question with the applicant.

(f) No applicant will be permitted to copy any questions or answers.

(g) No applicant will be permitted more than one review of a particular examination.

(h) The availability of examination reviews and instructions for requesting such a review are to be announced by proctors at examination centers before each examination commences.

SUBCHAPTER 3. TENANTS' PROPERTY TAX REBATE PROGRAM

5:33-3.1 Background of program

(a) The Tenants' Property Tax Rebate Act was approved as P.L. 1976, c. 63, on August 17, 1976, and subsequently amended by chapter 81, P.L. 1977. The purpose of this act is to require owners of "qualified real rental property" to pass to their residential tenants in the form of a rebate or credit, a specified proportion of tax reductions owners receive after 1976.

(b) The Director of the Division of Local Government Services is responsible, under this act, to promulgate rules and regulations prescribing the procedure for computing property tax reductions and rebates or credits in 1977 and thereafter, and the necessary forms to be used by local officials and "qualified real rental property" owners in determining same. The Director of the Division of Local Government Services may also promulgate such other rules or regulations as he deems necessary or advisable for the efficient administration and implementation of the purposes and provisions of this act.

(c) All correspondence and inquiries regarding the tenants' property tax rebate program should be addressed to the Division of Local Government Services, Department of Community Affairs, 363 West State Street, Trenton, New Jersey 08625.

5:33-3.2 Definitions

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

"Base year" means, for a property qualifying on the effective date of this act, the calendar year 1976, and for qualified real rental property which is first rented or leased or offered for rent or lease after the effective date of this act, the calendar year in which it is first offered for rent or lease.

"Owners" means owner(s) of qualified real rental property.

"Property tax reduction" means 0.65 times the difference between the amount of property tax paid or payable in any year on any qualified real rental property, exclusive of improvements not included in the assessment on the real property for the base year and exclusive of such improvements included in succeeding years, and the amount of property tax paid in the base year; but such calculations for the property tax reduction shall exclude reductions resulting from judgments entered by county boards of taxation, the Division of Tax Appeals in the Department of the Treasury, or by courts of competent jurisdiction. "Property tax reduction" shall also include 0.65 times any rebate or refund of school property taxes which may be provided pursuant to c.15, P.L. 1977. "Property tax reduction" shall not include any amount in excess of that which is identified herein. Any such amount shall be retained by the property owner.

"Qualified real rental property" means any real property containing a mobile home park or two or more spaces which are rented or leased or offered for rent or lease for occupancy by mobile homes, or any building or structure or complex of buildings or structures in which housing units are rented or leased or offered for rental or lease for residential purposes, except hotels, motels or other guest houses serving transient or seasonal guests, and owner-occupied structures of three units or less.

5:33-3.3 Responsibility of municipal tax collector

(a) Municipal property tax bills are prepared pursuant to N.J.S.A. 54:4-64. For the tax year 1977, and each year thereafter, the municipal tax collector when preparing property tax bills shall compute the amount of property tax reduction for the year for each owner of qualified real rental property and shall notify owner(s) of such reduction within 30 days after mailing the 1977 property tax bill. Such property tax reduction notification shall also include any amount of unbudgeted school aid moneys applicable and pursuant to chapter 15, P.L. 1977. Tax collectors, in so informing owners, will indicate the amount, where applicable, that owners are required to rebate or credit to their tenants, which shall be equal to 0.65 of the property tax reduction as defined in these regulations. A copy of the notice shall be provided to the rent leveling board, or similar agency charged with regulating rents, or where no such board exists, retained by the tax collector.

(b) The Division of Local Government Services in the Department of Community Affairs shall provide, pursuant to N.J.A.C. 5:33-3.2(c), the manner in which municipal tax collectors are to compute the property tax reduction that each owner of a qualified real rental property receives, and methods of locating property owners of qualified real rental properties.

(c) The tax collector's certification to the property owner may be reproduced in any legible format so long as it provides information for the appropriate fiscal period as indicated on the sample form in N.J.A.C. 5:33-3.11.

(d) In municipalities where ordinances regulate rent and the municipal tax collector determines that 1977 property tax bills are higher than 1976 property tax bills for the same properties, the tax collector need only certify the amount of unbudgeted school aid refund received by an owner.

(e) Since there exists a difficulty in determining which taxpayer is affected by this act, the municipal tax collector shall notify all property taxpayers of his or her property tax reduction, or may develop

an alternate system of notifying owners of qualified real rental property for purposes intended by these regulations.

5:33-3.4 Rebate or credit distribution process

(a) The owner calculates the rebate or credit pursuant to N.J.A.C. 5:33-3.6. When the first rent payment is made 30 days after receipt of the municipal tax collector's certification, the tenant shall receive a credit or rebate retroactive to January 1 from the owner(s). An example would be as follows:

| Type of unit | 1977 annual rebate/credit | Rebate/credit in August (8/12) | Rebate/credit due Sept., Oct., Nov., Dec., (1/12) |
|--------------|---------------------------|--------------------------------|---|
| A | \$110.00 | \$9.00x8 months=\$72.00 | \$9.17 rounded to \$9.00 |
| B | 90.00 | \$8.00x8 months=\$64.00 | \$7.50 rounded to \$8.00 |

1. Beginning with the effective date of these regulations, owners must make a total commitment to obtain forwarding addresses of tenants who move out during a year for which they may be entitled to rebates or credits.

(b) Rebates or credits will apply to the tenant or tenants who reside in qualified real rental property beginning on January 1, 1977.

(c) By December 31, 1977, owner(s) will rebate or credit to tenants the entire unbudgeted school rebate and property tax reduction certified to the owner(s) by the municipal tax collector for calendar year 1977.

(d) For calendar year 1978 and subsequent calendar years, the tenant rebate or credit shall be determined by calculating said rebates or credits pursuant to the procedures depicted in N.J.A.C. 5:33-3.6.

(e) All tenant rebates or credits are determined by the property tax reduction certified by the municipal tax collector using 1976 as the base year, unless a "qualified real rental property" is erected and occupied after the base year.

5:33-3.5 Applicability of property tax reduction

(a) In municipalities, where ordinances regulate rent, the unbudgeted school aid refund shall not be netted as shown below, but rather individually calculated and applied to the tenant who will receive said rebate or credit.

(b) In municipalities where there are no rent control ordinances, tenant rebates or credits are applicable only when there is a reduction of property taxes as certified by the municipal tax collector.

1. Where the municipal tax collector certifies to the owner(s) a net increase of 1977 property tax combined with any 1976 unbudgeted State school aid, as compared to the base year property tax as defined in this act, no tenant rebate or credit is applicable.

2. Where the municipal tax collector certifies to the owner(s) an amount of 1977 property taxes combined with any 1976 unbudgeted State school aid equal to the base year property tax as defined in this act, no tenant rebate or credit is applicable.

3. Where the municipal tax collector certifies to the owner(s) a net reduction of the 1977 property taxes combined with any 1976 unbudgeted State school aid, as compared to the base year property tax defined in this act, tenant rebate(s) or credit(s) are applicable provided the criteria stated in N.J.A.C. 5:33-3.7(b) are met.

i. The municipal tax collector's certification will be based upon the methodology employed in the following hypothetical table:

| Property Tax | | 1976 Unbudgeted State school aid | Property tax reduction |
|--------------|----------|----------------------------------|------------------------|
| 1976 | 1977 | | |
| \$100,000 | \$90,000 | \$10,000 | \$20,000 |
| 100,000 | 92,000 | 10,000 | 18,000 |
| 100,000 | 100,000 | 10,000 | 10,000 |
| 100,000 | 90,000 | -0- | 10,000 |
| 100,000 | 102,000 | 10,000 | 8,000 |
| 100,000 | 120,000 | 10,000 | None* |
| 100,000 | 110,000 | 10,000 | None* |
| 100,000 | 110,000 | -0- | None* |

*In cases where the unbudgeted school aid is less than the property tax increase, 65 per cent of such funds must be credited against any rent increases that the tenant would pay due to the increase in property taxes.

5:33-3.6 Responsibility of property owner

(a) Chapter 63, P.L. 1976, as amended, provides that the property tax rebate for each tenant residing in qualified real rental property shall be computed by the property owner in either of the two following manners:

1. Upon notification by the municipal tax collector of the property tax reduction and/or the amount of tax rebate or refund received by the owner pursuant to chapter 15 of the Public Laws of 1977, the following annual rent computation shall be employed by the owner:

Property tax reduction:
 Total annual rent for all occupied or unoccupied dwelling units. (multiplied by) Annual rent of each individual dwelling unit in the qualified real rental property.

i. Hypothetically, an example would be:

- (1) \$ 78,699.72—1976 property tax;
- (2) 46,357.10—1977 property tax;
- (3) 32,342.62—Property tax reduction;
- (4) 7,466.00—1976 unbudgeted school aid;
- (5) 39,808.62—Total tax collectors certification to owner(s);
- (6) 25,875.60—Tenants' property tax reduction (0.65);
- (7) \$828,240.00—Total annual rent for all occupied and unoccupied units for the calendar year prior to the current year are computed as follows:

- (A) \$240,720.00 = 68 class A units at \$3,540 per annual rent;
- (B) \$587,520.00 = 204 class B units at \$2,880 per annual rent;
- (8) Class A unit:

$$\frac{\$ 25,875.60}{\$828,240.00} \times \$3,540 = \$110.59;$$

(9) Class B unit:

$$\frac{\$ 25,875.60}{\$828,240.00} \times \$2,880 = \$89.97;$$

Note: The act requires that rebate/credit be made at the time rents are paid or payable. Therefore, the following schedule would apply to the above illustration.

| | Class A | Rounded | Class B | Rounded |
|---------------|----------|----------|---------|---------|
| Annual | \$110.59 | \$111.00 | \$89.97 | \$90.00 |
| Quarterly | 27.64 | 28.00 | 22.49 | 22.00 |
| Monthly 1/12 | 9.21 | 9.00 | 7.49 | 7.00 |
| Biweekly 1/26 | 4.25 | 4.00 | 3.46 | 3.00 |
| Weekly 1/52 | 2.12 | 2.00 | 1.73 | 2.00 |

(10) Should a unit(s) be unoccupied, that is, a unit(s) for which there is no verbal or written lease covering a specific period of time, then the owner shall retain such applicable rebate/credit as if said unit(s) were occupied;

(11) Where a structure contains commercial unit(s) as well as qualified residential rental units as defined under this act, the owner will subtract from the tax collector's certification for the commercial units before computing the applicable residential tenants' rebate or credit.

(A) After the June 1, 1978, tax bill is received, the rebate or credit schedule is calculated pursuant to (a) above exclusive of unbudgeted school aid refund.

(B) In calendar 1979, the system repeats itself.

2. Instead of the annual rent method, municipalities have the option of providing by ordinance that the property tax reduction shall be computed by a square foot method. This option method is depicted as follows:

$$\frac{\text{Property tax reduction for such qualified property}}{\text{Total rentable square footage}} = \text{Rebate or credit per square foot}$$

$$\text{Rebate per square foot (X square feet of residential unit)} = \text{Annual amount of property tax rebate per unit}$$

ADOPTIONS

COMMUNITY AFFAIRS

Using elementary amounts in an example of the square foot method:

\$100—property tax reduction for owner

1000—total rentable square footage

250 square feet—amount of square footage in a particular residential unit of such property

$$\frac{\$100}{1000 \text{ square feet}} = \$0.10$$

0.10 (x 250 square feet = \$25.00 annual property tax rebate for this unit.

Note: Rebates or credits based on the square footage methodology shall follow the same rounding procedures depicted in the example of this section that employs the rent computation methodology. This calculation must be repeated annually for the duration of this act.

3. When advertising for rental units, owner(s) shall indicate that the rent(s) will be subject to any applicable rebate of credit. It is further suggested that owners seek cooperation from newspapers in obtaining a single statement relating to the fact that all newspaper advertisements for qualified real rental property are subject to a rebate or credit. This would satisfy the requirement of this section of these regulations. It is recommended that leasehold agreements, from the effective date of these regulations, indicate that rents are subject to applicable rebates or credits under chapter 81, P.L. 1977.

5:33-3.7 Tenant rebate or credit

(a) All applicable tenant rebates or credits are payable at the time each rent payment is made, except in cases where a tenant does not pay his/her rent, then a rebate is not owing to such tenant at such time.

(b) The amount of the rebate or credit due the tenant at the time the rent is paid shall be rounded off whereby any amount less than \$0.50 shall be reduced to the next lower dollar and any amount \$0.50 or higher shall be increased to the next higher dollar. Stated differently, an amount of \$0.49 or less at the time the rent is paid shall mean no rebate or credit, and an amount of \$1.00, or more than \$0.50, shall mean a rebate of credit of \$1.00.

(c) Owners receiving reductions are required to state on a form required to be filed with the rent leveling board or similar agency charged with regulating rents, or where no such board exists, with the municipal tax collector, the total property tax rebate paid accruing to the qualified real rental property, and shall certify that the provisions of this act have been fulfilled.

1. This form shall be filed within 30 days following notification by the municipal tax collector of the amount of property tax reduction.

2. Upon such filing, the owner shall also post and maintain in a prominent place within his qualified real rental property a notice indicating the specific amount of rent rebate applicable pursuant to N.J.A.C. 5:33-6.6 for each rental unit category.

(d) Owners shall inform prior tenants eligible for a rebate by mailing to the last known forwarding address of such tenants a notification of same. If, after one year from the date of mailing, such tenant does not claim such rebate, the owner shall retain the rebate without further obligation.

(e) Owners who have not paid their property taxes during the duration of this act shall rebate or credit their tenants pursuant to the provisions of this act.

(f) Tenants who are delinquent in the payment of their rent shall receive rebates or credits pursuant to this act when such rent payments are made to the owner. However, if a tenant fails to pay his rent within one year, no rebate or credit will be required to be passed through to such tenant.

5:33-3.8 Failure to provide rebate or credit

(a) If an owner fails to provide a tenant with a property tax rebate or credit as defined in the provisions of this act, the owner shall be liable to the tenant for twice the amount of the computed property tax rebate or credit to which the tenant was entitled, or \$100.00, whichever is greater.

(b) Any owner who fails to provide property tax rebates or credits to his tenants in accordance with the provisions of this act, or who

knowingly and willfully fails to comply with any of the provisions of this act, shall be liable for a penalty of not more than \$100.00 for each offense. Such penalty shall be collected and enforced pursuant to the Penalty Enforcement Law, N.J.S.A. 2:58-1 et seq. The county district court of the county and the municipal court of the municipality where the qualified real rental property is located shall have jurisdiction in proceedings involving purported violations of the Tenants' Property Tax Rebate Act. Any money received as a result of such proceedings shall be paid over to the governing body of the municipality in which the qualified real rental property is located and may be used by the governing body for any lawful municipal purpose.

5:33-3.9 Consistency with municipal ordinances

The provisions of this act and the regulations promulgated thereunder take precedence insofar as any municipal ordinance conflicts with any of the provisions of this act or regulations.

5:33-3.10 Severability

If any section, subsection, clause, sentence, paragraph or part of these regulations or the application thereof to any person(s) or circumstance(s) shall, for any reason, be adjudged by a court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder of these regulations.

5:33-3.11 Tax collector certification of property tax reduction to property owner; minimum standards for owner's certification to rent leveling board/tax collector of rebates or credits

(a) The following is an example form, based in the year 1978, for a Tax Collector Certification of Property Tax Reduction to Property Owner:

1978 Tax Collector Certification
of Property Tax Reduction to Property Owner

I (a) 1976 Property Tax Paid or Payable on a "Qualified Real Rental Property" (see definition below) \$ _____

(b) 1978 Property Tax for same property* \$ _____

II Property Tax Reduction Certification** \$ _____
(Line Ia minus Line Ib)

III Certification of 65% of Line II. This is the amount to be Rebated/Credited to Tenants by Owner \$ _____

*Exclusive of improvements not included in the assessment on the real property for 1976.

**Reduction resulting from judgement entered by county boards of taxation, the Division of Tax Appeals in the Department of Treasury or by courts of competent jurisdiction are excluded from the calculation.

Instructions to Residential Property Owner:

1. Amount on Line III is the total amount to be rebated to calendar year 1978 tenants, subject to the following modifications:

a. If any part of the property is not rented or is rented for purposes other than residential the amount may be reduced in the proportion that the non-residential rental property bears to the property as a whole, preferably on the basis of assessed valuation. Your local tax assessor should be consulted.

b. If any dwelling units in this property are occupied by the owner or his/her employees, the amount may be reduced by the proportion that the number of such units bears to the total number of units in the property. (For example, if one unit of a four unit structure is occupied by the owner or an employee, one-quarter may be deducted from line III above.)

2. The amount to be rebated is to be divided proportionally, according to the annual rent of each apartment unit. Where tenancy is less than the entire annual period (January 1-December 31) prorate the apartment unit's annual rebate on a monthly or daily basis. (For example, if there were two tenants residing in a unit during the year, each for six months, each tenant would be eligible for 50% of the rebate due for the unit.)

3. Commercial tenants are not entitled to receive rebates under this program.

4. Within 30 days of the receipt of this form, you must file a statement* with the local rent control/rent leveling board or tax collector, showing:

- Total amount to be rebated (Line III);
- An explanation of modifications, if any, made to that amount;
- The actual amount being rebated;
- The amount of rebate per year and per rent payment for each category of rent payable.

*This statement must also be posted and maintained in a prominent place within the qualified rental property, within 30 days of date receipt of this form.

IF YOU DO NOT RENT THIS PROPERTY, DISREGARD THIS FORM

This form applies only to owners of "Qualified Real Rental Property" which is defined as any real property containing a mobile home park or two or more spaces which are rented or leased or offered for rent or lease for occupancy by mobile homes, or any building or structure or complex of buildings or structures in which housing units are rented or leased or offered for rental or lease for residential purposes except hotels, motels or other guest-houses serving transient or seasonal guests, residents of a residential cooperative or mutual housing corporation who are entitled to a homestead rebate pursuant to section 1 of P.L. 1976, c.72 (c.54:4-3.80), and owner-occupied structures of three units or less.

For further information or assistance, call the Tenant Rebate Hotline at (609) 394-0440.

(b) The following is an example form for Maximum Standards for Owner's Certification to Rent Leveling Board/Tax Collector of Rebates or Credits:

Minimum Standards for Owner's Certification to Rent Leveling Board/Tax Collector of Rebates or Credits

Tenant Rebate/Credit Schedule for Calendar Year _____

Name of Residential Property* _____

Street Address _____

Municipality _____

Rents are paid on a (Monthly) basis

| Type of Unit | Rebate/Credit Per (Month) | Annual Rebate or Credit Per Year |
|--|---------------------------|----------------------------------|
| Type A**\$295 rent per month (\$3540 rent per annum) | \$7.48 rounded to \$7.00 | \$89.85 |
| Type B \$240 rent per month (\$2880 rent per annum) | \$6.09 rounded to \$6.00 | \$73.10 |

Signed _____
Owner or Manager

Address _____

*If no name, indicate owner's name.

**When authorized by municipal ordinance, use square foot method.

ENVIRONMENTAL PROTECTION

(a)

**DIVISION OF HAZARDOUS WASTE MANAGEMENT
DIVISION OF WATER RESOURCES**

Discharges of Petroleum and Other Hazardous Substances

Adopted New Rules: N.J.A.C. 7:1E

Proposed: June 4, 1990, at 22 N.J.R. 1651(a).

Adopted: July 13, 1990, by Judith A. Yaskin, Commissioner, Department of Environmental Protection.

Filed: July 16, 1990 as R.1990 d.398, **without change**.

Authority: N.J.S.A. 58:10-23.11 et seq., specifically 58:10-28.11t, and N.J.S.A. 13:1D-1 et seq., specifically 13:1D-9.

DEP Docket Number: 020-90-04.

Effective Date: August 6, 1990.

Expiration Date: August 6, 1995.

Summary of Public Comments and Agency Responses:

On April 27, 1990, the Department of Environmental Protection (Department) proposed to readopt N.J.A.C. 7:1E without change. Since the chapter expired on July 15, 1990, and the readoption was not filed with the Office of Administrative Law until July 16, 1990, the rules proposed for readoption are adopted as new rules, pursuant to N.J.A.C. 1:30-4.4(f). The Department received one public comment in response to the proposed readoption before the close of the comment period on July 5, 1990. A summary of the comment and the response follows:

COMMENT: A trade association representing New Jersey marinas noted that some of its member marinas make retail sales of gasoline and diesel fuels, which are stored at the marina in quantities ranging from 2,000 to 5,000 gallons. The trade association questioned whether, as a result of this storage of gasoline and diesel fuels, the marinas would be considered "major facilities" subject to the requirements of N.J.A.C. 7:1E-4.

RESPONSE: The definition of "major facility" set forth in N.J.A.C. 7:1E-1.3 encompasses facilities having total combined above-ground and buried storage capacity of 400,000 gallons or more, or an appropriate equivalent measure as set by the Director of the Division of Taxation in the Department of the Treasury for hazardous substances which are other than fluid or which are not commonly measured by the barrel. A facility which stores only 2,000 to 5,000 gallons of petroleum products would not be considered a major facility under this definition. The readoption does not change the definition of "major facility."

Full text of the rules proposed for readoption adopted as new rules may be found in the New Jersey Administrative Code at N.J.A.C. 7:1E.

(b)

OFFICE OF LOCAL ENVIRONMENTAL MANAGEMENT

County Environmental Health Standards of Administrative Procedure and Performance

Readoption: N.J.A.C. 7:1H

Proposed: March 5, 1990 at 22 N.J.R. 732(a).

Adopted: July 11, 1990 by Judith A. Yaskin, Commissioner, Department of Environmental Protection.

Filed: July 13, 1990 as R.1990 d.385, **without change**.

Authority: N.J.S.A. 26:3A2-21 et seq., specifically, 26:3A2-28, and 13:10-1 et seq.

DEP Docket Number: 004-90-02.

Effective Date: July 13, 1990.

Expiration Date: July 13, 1995.

Summary of Public Comments and Agency Responses:

This readoption was proposed on March 5, 1990. One commenter submitted written comments within the comment period which closed on

May 4, 1990. Secondary notice was achieved by mailing copies of the proposal to the county clerk in each county and to all 114 full-time local health agencies.

COMMENT: The number of counties who still do not have designated lead agencies shows that these rules are not enforced. (According to N.J.A.C. 7:1H-2.3(c), if the county fails to designate a lead agency within 90 days, the Department shall designate a lead agency.)

RESPONSE: In designating a lead agency, it is important for the Department to approve an agency which can perform the functions entrusted to the lead agencies pursuant to the County Environmental Health Act (Act), N.J.S.A. 26:3A2-21 et seq., and rules promulgated pursuant thereto. This designation requires a comprehensive environmental health work program to be developed by the county. In three of the four uncertified counties, the planning process is still underway.

COMMENT: Since the quarterly reports which the agencies submit to the Department are quantitative rather than qualitative, there does not exist a method of assuring compliance with the performance standards, many of which are qualitative in nature.

RESPONSE: The quarterly reports are submitted by the agencies as required by the grant contracts in order to serve as a program auditing and accountability tool. They are intended merely to aid in determining the level of program activity for the purpose of grant monitoring. They are necessarily quantitative in nature and were never intended solely to assure compliance with these rules. Compliance is ascertained in a variety of ways including program audits, annual site visits, and annual reports, as required by N.J.A.C. 7:1H-2.3. These evaluative tools yield both quantitative and qualitative information.

COMMENT: N.J.A.C. 7:1H-2.5(b), Personnel standards, needs to be clarified. The duties of the sanitary inspector should be specified in accordance with N.J.S.A. 26:3A2-15 enacted in 1976, so that any work ordinarily performed by licensed personnel in 1976 when adherence to environmental health performance standards were required as a condition of licensure must still be performed by licensed personnel. It should be clarified that education and experience are not a substitute for licenses.

RESPONSE: N.J.A.C. 7:1H-2.5(b) does require that the duties of the sanitary inspector be performed by a licensed inspector. N.J.S.A. 26:3A2-15 prohibits local health agencies from employing anyone who does not hold a current sanitary inspector's license from doing work ordinarily performed by a sanitary inspector. Local health agencies are defined in N.J.S.A. 26:3A2-3 so as to apply to N.J.S.A. 26:3A2-21 et seq., especially N.J.S.A. 26:3A2-33 and thus to these rules. The actual duties of the sanitary inspector are specified in Department of Health performance standards, which are and have always been promulgated pursuant to Health Department licensing responsibilities at N.J.A.C. 8:7-1.1 et seq. For this Department to attempt to add licensing requirements to a Department of Health program would be impractical at best. To require personnel licensed by the Department of Health to perform work prescribed by the Department of Environmental Protection would be worse than pointless since there is no Department of Health requirement of training or competence as a prerequisite of licensure. It is not licensure in and of itself which assures competence in the discharge of the environmental health duties imposed by these rules, but the adherence to performance standards. These standards are enunciated at N.J.A.C. 7:1H-3 and are current.

COMMENT: The requirements of N.J.A.C. 7:1H-3.1(p), Performance standards for conducting an air pollution control program, are excessive. Yearly recertification is more than adequate and would eliminate half of the man hours lost to recertification if required every six months.

RESPONSE: This provision is required by Federal standards, at 40 C.F.R. Part 60. The specific reference is in Method 9—Visual Determination of the Opacity of Emissions from stationary sources (Appendix A).

COMMENT: The requirements at subsections (c) and (d) of N.J.A.C. 7:1H-3.2, Performance standards for conducting a noise control program, are excessive. Yearly calibration of the calibrator is not necessary according to Quest Electronics which is a manufacturer of calibrators, but should be performed every two years for a savings of \$75.00 to \$130.00 which could be put to better use. The current recertification procedure for the operation of sound level meters—viz., attendance at the Noise Institute at Rutgers which is the Department-approved noise control course—is repetitive and unproductive.

RESPONSE: Annual calibration of equipment is the accepted industry norm for regulatory purposes which is supported by the National Association of Noise Control Officials. That frequency is maintained to preserve the integrity of the program. The personnel recertification requirements are set at the minimum level for investigators who may not

use the equipment frequently during that year. A biennial refresher ensures a satisfactory level of competence as well as familiarity with recent changes on all government levels.

COMMENT: The program prescribed at subsections (h) and (i) of N.J.A.C. 7:1H-3.7, Performance standards for groundwater pollution control and on-site sewage system management program, should be pursued on a State level since groundwater does not respect county lines. Groundwater monitoring should not be a regional program and these subsections should be eliminated.

RESPONSE: While the primary responsibility for a Statewide groundwater monitoring program rests with the Department, there are many instances of localized plumes and site-specific groundwater pollution problems which can be very effectively handled at the county and municipal level.

COMMENT: The annual figure of \$5,000 to provide for these environmental health programs is unrealistic. This would provide for no more than 25 percent of one person to provide all eight programs for an entire county. Using the \$2 million figure from the State-aid funds plus the 50 percent matching funds, each of the counties would have \$142,858 for partial support of these programs.

RESPONSE: Five thousand dollars described in the rule proposal as the estimated economic impact of compliance is the estimated cost of the preparation of the work program pursuant to N.J.S.A. 7:1H-2.3. Delivery of services is supported in part by State grants which are distributed on a 50 percent (matching fund) basis. For calendar year 1990, these totaled \$3,300,000. With matching funds alone, each of the 17 eligible counties would have an average of approximately \$380,000 to administer the program. In actuality these funds are often supplemented with grants from other agencies, as well.

Full text of the reoption can be found in the New Jersey Administrative Code at N.J.A.C. 7:1H.

(a)

DIVISION OF WATER RESOURCES

**Bureau of Marine Water Classification and Analysis
Shellfish Growing Water Classification**

**Adopted Amendments: N.J.A.C. 7:12-1.1, 2.1, 3.2,
4.1 and 4.2**

Proposed: May 7, 1990 at 22 N.J.R. 1304(a).

Adopted: July 13, 1990 by Judith A. Yaskin, Commissioner,
Department of Environmental Protection.

Filed: July 16, 1990 as R.1990 d.399, with substantive and technical
changes not requiring additional public notice and comment
(see N.J.A.C. 1:30-4.3(c)).

Authority: N.J.S.A. 13:1D-9 and 58:24-1 et seq.

DEP Docket Number: 13-90-04.

Effective Date: August 6, 1990.

Expiration Date: April 11, 1993.

Summary of Public Comments and Agency Responses:

These amendments were proposed on May 7, 1990, at 22 N.J.R. 1304(a). The comment period closed on June 6, 1990.

No comments were received.

Summary of Agency Initiated Changes:

The Department has made the following changes upon adoption of these amendments to the Shellfish Growing Water Classification Rules:

1. At N.J.A.C. 7:12-1.1(i), the reference date of Nautical Chart 12304 has been changed from 31st Edition, December 26, 1987, to 30th Edition, March 16, 1985. The 31st Edition of the chart was incorrectly scaled and so the previous edition of the chart will continue to be used. The change in reference charts will not result in any increase or decrease of harvestable shellfish waters.

2. At N.J.A.C. 7:12-4.1(a)2ii(1), coordinates have been revised to eliminate reference to channel marker Can 81, which is now out of service. The change will not significantly alter the boundaries of these Seasonally Approved growing waters.

3. At N.J.A.C. 7:12-4.1(a)4i, the previous reference to Lower Water Thorofare has been changed to accurately reflect the area's true name, Low Water Thorofare.

Full text of the adopted amendments follows (additions to proposal indicated in boldface with asterisks *thus*; deletions from proposal indicated in brackets with asterisks *[thus]*).

7:12-1.1 General provisions

(a)-(h) (No change.)

(i) Charts designating growing water classifications as hereinafter referenced are available from the Bureau of Marine Water Classification and Analysis Offices, Marine Police Stations, and Shellfisheries Field Offices at Bivalve and Nacote Creek. However, all persons are cautioned that emergency closures may be necessary and may not be charted. These Shellfish Growing Water Classification Charts are developed from Nautical Charts Number 12327 New York Harbor, 81st Edition, March 15, 1986; Number 12324 Intracoastal Waterway, Sandy Hook to Little Egg Harbor, 24th Edition, November 1986; Number 12316 Intracoastal Waterway, Little Egg Harbor to Cape May, 23rd Edition, January 1987; and Number 12304 Delaware Bay, *[31st Edition, December 26, 1987.]* ***30th Edition, March 16, 1985.*** The Department of Environmental Protection hereby condemns all shellfish growing waters as described in this chapter and other places from which shellfish are or may be taken as listed in N.J.A.C. 7:12-9 at all times of the year, except when otherwise noted in N.J.A.C. 7:12-4 and 5.

(j) (No change.)

7:12-2.1 Shellfish growing water classification—Prohibited

(a) The following shellfish growing waters are classified Prohibited:

1.-4. (No change.)

5. Manasquan River area (Note: A portion is also designated as a Special Restricted area. See N.J.A.C. 7:12-3):

i. All of the Point Pleasant Canal; and

ii. All of the waters of the Manasquan River and tributaries located north and west of the State Highway Route 70 bridge.

6.-11. (No change.)

12. Strathmere and Sea Isle City area (Note: Portions are also designated as Special Restricted and Seasonal. See N.J.A.C. 7:12-3 and 4):

i.-ii. (No change.)

iii. All of Ludlam Thorofare from a line bearing approximately 229 degrees T through Flashing Red Light 120 (Fl R 8ft "120") to a line bearing approximately 122 degrees T through Flashing Red Light 8ft 134 (Fl R 8ft "134"); and

iv. All of Sunks Creek and tributaries thereof.

13. (No change.)

14. Stone Harbor area (Note: A portion is also designated as Seasonal. See N.J.A.C. 7:12-4):

Recodify existing ii.-iv. as i.-iii. (No change in text.)

iv. All of Scotch Bonnet northwest of the line defined by two Department maintained markers approximately 700 yds. northwest of the junction with Great Channel;

v. All of Ludlam Gut;

Recodify existing vii.-xii. as vi.-xi. (No change in text.)

15. Jenkins Sound Area:

i. All of Jenkins Sound north of a line from a Department maintained marker northeast of the Darking area at Shellbed Landing and bearing approximately 078 degrees T to another Department maintained marker and terminating; and

ii. All of Genesis Bay north of a line defined by two Department maintained markers outside the mouth of Hetty Creek;

16. The Wildwoods Area (Note: Portions are also designated as Special Restricted and Seasonal. See: N.J.A.C. 7:12-3 and 4):

i. All of Grassy Sound Channel and tributaries thereof south of a line defined by Department maintained markers on either shoreline approximately 100 yds. south of Fl R 8ft "26";

Recodify existing iii.-iv. as ii.-iii. (No change in text.)

iv. All of Grassy Sound and tributaries thereof south of a line from the southern end of the railroad bridge over Grassy Sound Channel and bearing approximately 072 degrees T across Grassy Sound to another Department maintained marker;

Recodify existing vi.-viii. as v.-vii. (No change in text.)

viii. All of the tributaries of Richardson Sound northwest of the Intracoastal Waterway;

Recodify existing x.-xv. as ix.-xiv. (No change in text.)

17.-19. (No change.)

20. Atlantic Ocean:

i.-viii. (No change.)

ix. All of the ocean waters inshore of a line beginning at the southeasternmost point of the City of North Wildwood and bearing approximately 224 degrees T towards the light at the end of the eastern jetty of Cape May Inlet charted as Fl 4s 30ft 7M for approximately 2.4 nautical miles until it intersects a line bearing approximately 130 degrees T from the standpipe located on the corner of Park Boulevard and Myrtle Road, Borough of Wildwood Crest, with coordinates of latitude 38 degrees 58.4 minutes N., longitude 74 degrees 50.4 minutes W. This point of intersecting lines is approximately 0.4 nautical miles from the shoreline and has coordinates of latitude 38 degrees 57.9 minutes N., longitude 74 degrees 49.6 minutes W. Then proceeding in a southeasterly direction along that line to a point approximately 1.5 nautical miles from the shoreline with coordinates of latitude 38 degrees 57.2 minutes N., longitude 74 degrees 48.5 minutes W., then proceeding parallel to the shoreline in a southwesterly direction 1.5 nautical miles offshore for approximately 2.4 nautical miles to a point with coordinates of latitude 38 degrees 55.4 minutes N., longitude 74 degrees 50.5 minutes W., then bearing approximately 310 degrees T (reciprocal 130 degrees T) for approximately 1.2 nautical miles to the light noted above at the end of the eastern jetty of Cape May Inlet, then along that jetty to the shore and terminating;

x.-xii. (No change.)

7:12-3.2 Shellfish growing waters that are classified as Special Restricted

(a) The following shellfish growing waters are classified as Special Restricted:

1.-4. (No change.)

5. All of Manasquan River and tributaries located south and east of the State Highway Route 70 bridge to its union with the Atlantic Ocean at the Manasquan Inlet (See N.J.A.C. 7:12-2).

6.-27. (No change.)

28. Strathmere and Sea Isle City area (Note: A portion is also designated as Seasonal. See N.J.A.C. 7:12-4):

i. (No change.)

ii. That portion of Ludlam Bay lying south and west of a line beginning at a Department maintained marker on the shoreline of the barrier island near the mouth of Swimming Creek and bearing approximately 315 degrees T to a Department maintained marker near the Intracoastal Waterway, then bearing approximately 226 degrees T to a Department maintained marker on the mainland and terminating.

iii.-iv. (No change.)

v. The area of Townsend Channel adjacent to the town of Townsends Inlet contained within a line beginning at the street end of 77th St. and bearing approximately 212 degrees T to a Department maintained marker at the mouth of Middle Thorofare, then bearing approximately 171 degrees T to the southernmost pier in Townsend Channel (at the end of 94th Street) then running along that pier to the shore and terminating.

29.-33. (No change.)

7:12-4.1 Seasonally approved growing waters (Approved November 1 through April 30 yearly, Special Restricted May 1 through October 31, yearly)

(a) The following shellfish growing waters designed on the charts referred to in N.J.A.C. 7:12-1.1 shall be Special Restricted for the harvest of shellfish from May 1 through October 31 yearly and Approved for the harvest of shellfish from November 1 through April 30 yearly:

1. (No change.)

2. Barnegat Bay to Little Egg Harbor Bay-Long Beach Island area:

i. (No change.)

ii. Southern Long Beach Island: Seasonal-Special Restricted May 1 through October 31 yearly. Approved November 1 through April 30 yearly:

(1) All those waters lying east of a line beginning at the point where Route 72 (Manahawkin Causeway) intersects with Long Beach Island (in Ship Bottom) and proceeding in a westerly direction as it follows the southern edge of Route 72 (this line coincides with that described in (a)2i(1) above to where the highway intersects with the westernmost shoreline of Cedar Bonnet Island, and then following that shoreline in a generally southerly direction, but following all changes in direction of the shoreline bearing approximately 190 degrees T to the unnamed island immediately south (this island is generally considered part of the Cedar Bonnet group) and then following that shoreline in a southerly direction to that island's southernmost point where it intersects a line beginning at the range markers (Department maintained) located on the above unnamed island and following that line bearing 203 degrees T to Flashing Red light 8 ft. "28" (Fl R 8 ft. "28") marking the intracoastal waterway, then bearing approximately 177 degrees T to the most northerly point of land on High Island and then following this island's eastern shoreline to its southernmost point, then bearing approximately 107 degrees T to channel marker Red Nun "36" (RN "36"), then bearing approximately 118 degrees T to Flashing Red Light "38" (Fl R "38"), then following the west side of the intracoastal waterway bearing approximately 097 degrees T to channel marker R "42" (R "42") then bearing approximately 220 degrees T to channel marker Nun "44A" (N "44A") then bearing approximately 208 degrees T to Flashing Green Light 8 ft. "47" (Fl G 8 ft. "47"), then bearing approximately 254 degrees T to Can buoy "49" (C "49"), then bearing approximately 212 degrees T to Flashing Green light "53" (Fl G "53"), then bearing approximately 175 degrees T to the northernmost point of the easternmost Marshelder Island, and then following the eastern shoreline of this island in a southerly direction to this island's southernmost point, and then bearing approximately 200 degrees T to Flashing Red light 8 ft. "64" (Fl R 8 ft. "64"), then bearing approximately 233 degrees T to the northernmost Point on Mordecai Island, then following the western shore of that island to its westernmost point, then bearing approximately 245 degrees T to Flashing Green light "75" (Fl G "75"), then bearing approximately 210 degrees T to channel marker Can "77" (C "77"), then bearing approximately 195 degrees T to channel marker Can "81" (C "81"), and then bearing approximately 135 degrees T to the point where the northern boundary of the Edwin B. Forsythe National Wildlife Refuge-Barnegat Division Holgate Unit intersects the shoreline (Long Beach Township) where this line terminates.* ***193 degrees T to a point on the westernmost end of the southernmost pier at Woehr's Marine Dock, 5410 West Avenue, Holgate, then on a bearing of 123 degrees T to a point on shore and terminating.***

3. (No change.)

4. Absecon Bay-Absecon Channel Reed Bay area: Seasonal-Special Restricted May 1 through October 31 yearly, Approved November 1 through April 30 yearly:

i. All of Middle Thorofare, Wills Thorofare, Absecon Channel, Absecon Inlet, Little Panama, *[Lower]* ***Low*** Water Thorofare and Absecon Bay contained within a line beginning at the point of land on the western shore at the mouth of Point Bar Thorofare, then along that shoreline and across the mouth of Newfound Thorofare, then along that shoreline and across the mouth of Jonathan Thorofare, then along that shoreline to the Department maintained marker located at the mouth of the first major man-made cut or lagoon (not including mosquito ditches) and bearing approximately 036 degrees T to another Department maintained marker on the opposite bank and continuing along that shoreline in a northeast direction to the Department maintained marker, then bearing approximately 134 degrees T to the Department maintained marker at the mouth on the west shore of Wills Thorofare, then bearing approximately 075 degrees T across Wills Thorofare, then along the northeast shore of Wills Thorofare and Absecon Channel, then across the mouth of Middle Thorofare and along the eastern shoreline of two unnamed islands, including Low Water Thorofare and an unnamed thorofare, and across the mouth of Little Panama and along the

shoreline in a southerly direction to Absecon Channel, then in a seaward direction across the mouth of St. George's Thorofare and along that shoreline to the seaward end of the jetty, then channelward to a line from R "2" (Fl R 2.5s) and bearing approximately 328 degrees T to the midspan of the Vincent Haneman Bridge, then along that line to the Rte. 87 bridge, then along the bridge in a westerly direction to the base of the bridge, then along the shoreline in a northerly direction across the mouth of Clam Thorofare and Beach Thorofare and along that shoreline to the point of origin at the point of land at Point Bar Thorofare.

ii. (No change.)

5.-6. (No change.)

7. Ocean City-Somers Point-Great Egg Harbor Bay: Seasonal-Special Restricted May 1 through October 31, yearly, Approved November 1 through April 30 yearly;

i. (No change.)

ii. All the waters of Ship Channel contained within a line from the base of Somers Point-Ocean City Bridge in Somers Point, then along the bridge to the northern end of the bascule, then bearing approximately 056 degrees T to Flashing light "1" (Fl "1"), then bearing approximately 134 degrees T to marker B W N "A", then bearing approximately 027 degrees T to a Department maintained marker at Anchorage Point, then in a westerly direction, then northwesterly direction along the shoreline and across the mouth of an unnamed lagoon, continuing along the shoreline and across the mouth of Bass Harbor continuing to the point of origin at the base of Somers Point-Ocean City Bridge and terminating.

8. (No change.)

9. Great Sound area:

i. (No change.)

ii. All of Cresse Thorofare, Gull Island Thorofare, Great Channel and Scotch Bonnet contained within a line starting at the base of the Stone Harbor Blvd. Bridge and proceeding in a northeast direction along the Stone Harbor shoreline, across the mouths of Snug Harbor, South Basin, North Basin, Stone Harbor Creek and Oldmans Creek, continuing along the shoreline including Shark Creek, then along that shoreline in a northerly direction to a Department maintained marker along Sturgeon Hole, then bearing approximately 232 degrees T to the mouth of Southeast Creek (on Gull Island), then along the shoreline in a southeasterly direction (excluding Southeast Creek), then in a northwesterly direction to a Department maintained marker, then bearing approximately 271 degrees T across Cresse Thorofare to another Department maintained marker, then in a southerly direction along the shoreline and across the mouth of Scotch Bonnet and continuing along the shoreline including Goths Creek, continuing along the shoreline and across the mouth of Muddy Hole, continuing along the shoreline and across the second mouth of Muddy Hole, then along the shoreline to the mouth of Scotch Bonnet then along the Scotch Bonnet shoreline to a Department maintained marker, then bearing approximately 215 degrees T through R 2 sec 6ft "2" to another Department maintained marker, then along the shoreline in a southeasterly direction to the junction of Great Channel and along that shoreline in a southwesterly direction across an unnamed creek and continuing along the shoreline and across the mouth of Dung Thorofare and the shoreline of Nummy Island to a Department maintained marker and bearing approximately 296 degrees T to another Department maintained marker, then along the Stone Harbor shoreline in a northeasterly direction to the base of the Ocean Drive Bridge (Rt. 619), then bearing approximately 018 degrees T to the point of land at the junction of Great Channel and Pleasure Bay and continuing along the shoreline of Great Channel across the mouth of Stone Harbor and Shelter Haven to the point of origin at the base of the Stone Harbor Blvd. Bridge.

10. Jenkins Sound-Grassy Sound-Richardson Sound: Seasonal-Special Restricted May 1 through October 31 yearly, Approved November 1 through April 30 yearly:

i. All of Nichols Channel, Dung Thoro, Great Flat Thoro, Drum Thoro, Jenkins Channel, Genesis Bay, Jenkins Sound and tributaries thereof contained within a line beginning at the Darking area at Shellbed Landing and continuing along the Jenkins Sound shoreline in a southwesterly direction to a Department maintained marker at

the mouth of an unnamed tributary to Race Cove, then bearing approximately 126 degrees T to another Department maintained marker, then in a southeasterly direction along the Jenkins Channel shoreline excluding tributaries to Dead Thoro Point, then in a southwesterly direction to Grassy Sound Channel, then bearing approximately 118 degrees T to Nummy Island, then along that shoreline in a northeasterly direction including tributaries to Great Channel, then bearing approximately 013 degrees T to the opposite shoreline, then along the shoreline of Dung Thoro and Nichols Channel, excluding tributaries to a Department maintained marker on the shoreline of Genesis Bay, then bearing approximately 279 degrees T to a Department maintained marker, then along the shoreline in a southerly direction to a Department maintained marker, then bearing approximately 258 degrees T to a Department maintained marker, then along the shoreline in a southwesterly direction to the point of origin and terminating.

ii. All of Richardson Sound, Grassy Sound, Grassy Sound Channel and Hereford Inlet contained within a line beginning on the western shoreline of Grassy Sound Channel, at the Rt. 147 Bridge, then continuing along that shoreline in a southwesterly direction across the mouth of Old Turtle Thoro and continuing along the Grassy Sound Channel and along the western shoreline of Grassy Sound and the northern shoreline of Richardson Sound and across the mouth of Old Turtle Thoro and along the northwest shoreline of Richardson Sound (excluding tributaries) to a Department maintained marker, then bearing approximately 126 degrees T to another Department maintained marker, then along the southwestern shoreline of Richardson Sound to a Department maintained marker at the mouth of Grassy Sound Channel, then bearing approximately 094 degrees T across the channel and along the shoreline in a northeasterly direction to the base of the railroad bridge, then bearing approximately 072 degrees T across Grassy Sound to another Department maintained marker, then along the Grassy Sound shoreline in a northeasterly direction and along the Grassy Sound Channel shoreline and across the mouth of Beach Creek and along the shoreline of Hereford Inlet to FI 10S 57ft 24M. then bearing approximately 030 degrees T to the southeasternmost tip of Stone Harbor, then along the shoreline in a western direction, then northern direction along the shoreline to a Department maintained marker, then bearing approximately 116 degrees T to another Department maintained marker on Nummy Island, then along the shoreline in a northwesterly direction and across the mouth of Great Flat Thoro and continuing along the shoreline of Grassy Sound Channel and across the mouth of Turtle Gut and continuing along the shoreline to the point of origin at the base of the Rt. 147 Bridge.

11. Delaware Bay area:

i.-ii. (No change.)

iii. Maurice River Cove: Seasonal-Special Restricted May 1 through October 31 yearly, Approved November 1 through April 30 yearly:

(1) All those waters inside of a line beginning at the East Point Lighthouse and bearing approximately 311 degrees T (known as the Summer Line) to a marker on the western bank at the mouth of New England Creek, then along the shoreline in a westerly direction approximately 1600 yds to a Department maintained marker, then bearing approximately 132 degrees T to Flashing Green 2.5 second "5" (FI G 2.5 sec. "5"), then bearing approximately 048 degrees T to the East Point Lighthouse and terminating; and

(2) (No change.)

iv.-vii. (No change.)

7:12-4.2 Seasonally Approved Growing Waters (Approved January 1 through April 30 yearly, Special Restricted May 1 through December 31 yearly)

(a) The following shellfish growing waters, designated on the charts referred to in N.J.A.C. 7:12-1.1, shall be Special Restricted for harvest of shellfish from May 1 through December 31 yearly and Approved January 1 through April 30 yearly:

1.-4. (No change.)

5. Tuckerton area: Seasonal-Special Restricted May 1 through December 31 yearly, Approved January 1 through April 30 yearly:

i. All those waters of Tuckerton Cove between the line described in N.J.A.C. 7:12-3.2(a)18 and a line connecting the east and west banks of the cove formed by the alignment of the range (Department maintained) located on the west bank of the Tuckerton Cove and the telephone pole (P-35877) on the east bank. When the range is aligned, the bearing it creates is approximately 227 degrees T (reciprocal 47 degrees).

6.-8. (No change.)

(a)

**DIVISION OF FISH, GAME AND WILDLIFE
FISH AND GAME COUNCIL**

1990-91 Game Code

Adopted Amendments: N.J.A.C. 7:25-5

Proposed: May 21, 1990 at 22 N.J.R. 1459(a).

Adopted: July 17, 1990 by Fish and Game Council, Cole Gibbs, Chairman.

Filed: July 18, 1990 as R.1990 d.404, **with substantive and technical changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-4.3).

Authority: N.J.S.A. 13:1B-29 et seq.

DEP Docket Number: 017-90-04.

Effective Date: August 6, 1990.

Expiration Date: February 18, 1991.

Summary of Public Comments and Agency Responses:

Secondary notice was achieved by mailing press releases to 200 newspapers, posting copies of the rule proposal including summaries of the amendments and notice of the public hearing in Division field offices and mailing copies of the rule proposal to 10 interested organizations, and delivering notices of the public hearing to the Atlantic City Press and the Newark Star Ledger. One hundred written comments were received by the end of the comment period, including a petition with 601 signatures. A public hearing was held by the Fish and Game Council ("Council") on June 12, 1990. Twelve commenters presented oral comments and/or submitted written comments.

COMMENT in general: I am in favor of the code as written. I wish to commend Fred Carlson and his staff and the Fish and Game Council for the work and effort they put into this code. They did a great job.

RESPONSE: The Council and the Division acknowledge the support of these commenters.

COMMENT in general: Hunting should not take place at Monmouth Battlefield Mercer County Park, or anywhere else in this State especially on public lands. Parks and refuges should not be opened to the senseless shedding of the innocent blood of animals by Neanderthal wildlife management methods. Farm damage, which is used as an excuse to hunt in parks, is unsubstantiated. The deer population in Mercer County Park is stable and hunting there is dangerous because of adjacent housing.

RESPONSE: The Council is legally mandated by N.J.S.A. 13:1B-29 et seq. to manage wildlife throughout the State of New Jersey, including State parks and other public lands, as a renewable natural resource and to maximize the benefits to be derived from this resource, including the taking of game species, while minimizing its negative impacts. The Council accepts the overwhelming weight of anthropological evidence to the effect that hunting is the most natural way to substitute human predators for those non-human predators who have been unable to compete successfully in the face of development and previously less well-regulated hunting policies.

Annual promulgation of amendments to the Game Code by the Council is essential to meet its responsibilities by adjusting seasons, bag limits and methods of taking according to the best scientific information available.

Although Monmouth Battlefield is listed in N.J.A.C. 7:20-5.29(p)64 as a deer management zone, the Fish and Game Council is not charged with responsibility for management of this park, Mercer County Park, or other lands owned by municipalities, counties, or other public entities and, therefore, is unable to open them to hunting.

COMMENT on N.J.A.C. 7:25-5.7(f)1 and (h)2, 7:25-5.28(f)1 and (h)3, 7:25-5.29(f)1 and (h)2, and 7:25-5.30(h): Altering your application procedure to allow applications for leftover permits during the mail-in

period, thus eliminating the "buddy" permit option (allowing a pair of hunters to receive one permit between them and otherwise treating them as one hunter), is unfair. While the success, according to your 1989 figures, of only 400 hunters would be affected, we are concerned for handicapped or younger individuals, in particular, who would be deprived of transportation or other assistance necessary for hunting.

RESPONSE: The Council previously determined that the majority of zones in both the turkey and deer season are undersubscribed, negating the benefit of applying as "buddies" and the benefits of eliminating the buddy permit far outweigh its retention. Its elimination will provide for a more expedient, convenient and cost effective procedure for issuing left-over permits involving an estimated 10,000 persons whereas only about 300 persons will probably be affected by its deletion. Elimination of the "buddy" permit option will not deprive any hunter of the opportunity to hunt. Anyone may apply as an individual and, if he or she wishes, may be accompanied on a hunt by another individual without a permit—the effect would be the same.

COMMENT on N.J.A.C. 7:25-5.9(f), 7:25-5.10(g), and 7:25-5.12(a): Although not a subject of the current amendments, these sections, which require beaver and other traps to be visibly tagged above the water or ice with the owner's name and address, serve no valid purpose, since an illegal trapper will not use a tag. This regulation serves only to advertise a legal trap so as to encourage theft.

RESPONSE: Tags are necessary for enforcement purposes, as there is no other way for Division personnel to distinguish a legal from an illegal trap. Moreover, tags do not contribute to theft—tags can be made unobtrusive, but the poles necessary to anchor the traps cannot.

COMMENT on N.J.A.C. 7:25-5.25(a) and 7:25-5.29(d) and (p): Farm damage caused by deer in Mercer County is severe. There should be a separate zone for Mercer County Park and hunting should be allowed during the bow season and during the January shotgun season, when the park is not used for anything else.

RESPONSE: It would be pointless to allocate a separate zone for Mercer County Park, since the Council has no control over whether or not there will be hunting allowed there. Moreover, there is no valid wildlife management reason, in light of the most up-to-date scientific data, to do so.

COMMENT on N.J.A.C. 7:25-5.25(a) and 7:25-5.30(d): The proposed changes from last year's code in these sections should not be adopted because of inadequate public notice and review of alternatives. The public hearing should have been held in Sussex County, where much of the land is State-owned, rather than in Mercer County, and the adoption should be postponed until such a hearing can take place.

RESPONSE: Both public notice and the time and manner required for acceptance of comments for review are governed by the Administrative Procedure Act (N.J.S.A. 52:14B-1 et seq.) which requires publication of notice in the New Jersey Register and in other ways likely to reach the affected population and which prescribes a 30-day period for agency acceptance and consideration of public comments and N.J.S.A. 13:1B-33, which mandates a public hearing. These requirements have been amply met, as described in the first paragraph of this notice, and the Council assures the several municipalities who have submitted resolutions to this effect that all alternatives have been considered and addressed, partially by changes to the proposed amendments, elsewhere in this Code.

The Trenton area is centrally located and therefore the most convenient and accessible location for a public hearing on regulations of Statewide effect and significance. In addition to testimony received at the public hearing, written comments are accepted until the end of the comment period and are given equal consideration.

COMMENT on N.J.A.C. 7:25-5.25(a) and 7:25-5.3(d): Besides looking primarily at declining buck kill, what factors did you use to determine season length?

RESPONSE: As to the methodology used in determining seasons, bag limits and permit quotas, New Jersey's current deer management program is guided by four major objectives: 1) to perpetuate a healthy and productive deer herd; 2) to maintain a population density which is compatible with major land uses; 3) to maximize the recreational use of the deer resources; and 4) to enhance the economic return generated from deer hunting and associated recreational activities.

To provide the data base necessary to meet these objectives, New Jersey operates the most extensive and intensive data collection system in the northeast. Information on the number of deer harvested, age and sex ratios within the harvest, physical condition, kill location, and land ownership and related information is collected from a Statewide network of mandatory deer checking stations. Additional factors which are reviewed

each year include habitat loss and other, land use changes, deer damage complaints, highway mortality, hunter success rates, hunter access, and population goals. After zone management strategies are determined, an antlerless deer harvest quota is set which will increase, decrease or stabilize the population. Because herd health and reproduction vary by zone, different rates of harvest are applied to different zones, and annual adjustments to seasons, permit quotas, bag limits, method of take and permit procedures are proposed.

COMMENT on N.J.A.C. 7:25-5.25(a): Reductions in the bow hunting season in Zones 1 to 4 from those seasons of last year in favor of a one-day shotgun season decrease overall recreational opportunity and State revenues from extended bow-season permits and will have a severe impact on retailers and landowners who depend on hunting. It is impractical for hunters to go to other zones, as suggested by a Division spokesman. Moreover, many hunters will purchase licenses in other States rather than for a shortened season in New Jersey. To minimize the damage to the resource it would be preferable to lower the bag limit to one deer. Other alternatives in view of the large amount of publicly owned land in Zone 1 would be to subdivide that zone into two zones, of public and privately-owned lands, respectively; or, coyotes could be eliminated from the zone.

RESPONSE: The one-day unisex shotgun season set this year for December 12 was not instituted as an alternative to a longer bow season, but is a deer management tool that has been utilized by the Council for several years. Moreover, since coyotes are a natural part of the State ecosystem, they cannot be eliminated from Zone 1. Coyotes are not currently significant predators of deer and, therefore, do not have a measurable impact upon the deer population.

Nonetheless, the Council agrees with the more than 700 submissions that supported or agreed with this comment. The Council has determined that a six week fall bow season could be provided in Zones 1 and 4 if only antlered males were permitted to be taken during the first three weeks (September 29-October 19). This would restore the recreational opportunity, thus allowing hunters to remain in this zone, without increasing the antlerless deer harvest, the total annual buck harvest or the total annual deer harvest. Empirical data from past hunting seasons indicate that not only will the resource not be affected by the lengthening of the bow season, but that the very small percentage of antlered deer that can be projected to be harvested during the longer season will probably affect only the total bow harvest. As a result, proposals to lower the bag limit to one deer or to subdivide zone 1 need not be addressed at this time.

The continuation from last year of a six-week fall bow deer season in Zones 1 and 4 should lessen any negative economic impacts on local retailers and landowners. The economic impact on farmers should be unchanged from that anticipated at the time of proposal because this adjustment in the length of the season should not significantly affect the size of the herd.

These amendments to the Game Code should further the conservation and enhancement of the wildlife resource upon which a significant recreation and commercial industry is dependent and therefore occasion a long-term economic boon.

COMMENT on N.J.A.C. 7:25-5.25(a) and 7:25-5.29(d): The beginning of the shotgun permit season should be changed from Monday to Saturday and bow hunters should be required to take a doe before a buck to increase the harvest.

RESPONSE: Results of previously conducted shotgun permit seasons held during firearm buck seasons in Zones 9 and 13 show that more permit deer are shot on Monday than Saturday. Therefore, it is anticipated that the amendments as proposed will provide for more antlerless deer being taken. A requirement that an antlerless deer be taken before an antlered deer can be taken would, at this time, impose an unnecessary restriction on the bow hunters. Landowners, since they control the access rights, could address their specific agricultural concerns by requiring hunters to take an antlerless deer first or insist that both deer be antlerless if they want more antlerless deer to be taken on their lands. The Council believes, however, that the amendments as proposed will adequately provide for the anticipated harvest of antlerless deer.

COMMENT on N.J.A.C. 7:25-5.28(d), 7:25-5.29(c), and 7:25-5.30(d): I strongly urge and support the reduction of special permit deer hunting season in Sussex County (Zone 1).

RESPONSE: The Council acknowledges this commenter's support of these amendments.

COMMENT on N.J.A.C. 7:25-5.28(d), 7:25-5.29(c) and 7:25-5.30(d): The special permit or extended fall bow and muzzleloader seasons should not be shortened from those of last year, and the permit

shotgun quotas should not be reduced. When municipalities are surfeited by deer killed by cars that are no longer being picked up by the Division, it is unfair that hunters in specific zones are being asked to curtail their seasons because of the low buck population.

RESPONSE: The Council could determine no feasible alternative to the season and/or permit reductions proposed for the permit bow, permit muzzleloader and permit shotgun seasons without affecting the anticipated antlerless harvest or adversely affecting what the Council believes to be the equitable distribution of the antlerless deer harvest among all the users. Particularly because of increased success among bow hunters in these zones due to gains in the popularity of the sport and the proficiency of its practitioners, some reduction in hunting is necessary to achieve the antlerless harvest objectives throughout the State.

The number of deer killed on the highways generally does reflect the status of the population in a particular area. These figures are taken into account by the Council when setting permit quotas, bag limits and seasons. Reductions in these numbers from those of previous years are adopted based in part on "road-kill" data.

COMMENT on N.J.A.C. 7:25-5.25(b) and 7:25-5.30(c): The current bow hunter bag limit should be restricted to one buck and one doe for both the fall season and the extended fall season to control the size of the deer herd and to increase the hunting opportunity for the shotgun hunter.

RESPONSE: Both the proper control of the deer herd and the fairest allocation of the resource among the various hunting constituencies is already achieved by adjustments in the number of permits, lengths of the seasons and bag limits. If this modification in bow season bag limits would have the intended effect of increasing the number of bucks available to firearms hunters at the expense of bow hunters, it would only upset the balance unfairly in favor of firearms hunters who have been reporting increasing buck harvests annually.

COMMENT on N.J.A.C. 7:25-5.27(b): Farmers appreciate the inclusion in the Game Code of either-sex deer hunting in the highly populated zones this year, as many farmers are sustaining severe damage.

RESPONSE: The Council acknowledges this commenter's support.

COMMENT on N.J.A.C. 7:25-5.28(h)4: An applicant for a muzzleloader permit should have to provide a valid rifle permit number with his application.

RESPONSE: Because the Division is devoting itself to education and enforcement efforts in preventing firearms hunting without the appropriate firearms permit, this additional requirement is unnecessary and would prevent people who register for the required firearms safety course in the summer from applying for a permit during the mail-in period.

Summary of Agency-Initiated Changes:

Six typographical errors are corrected herein:

The Council noted that Deer Management Zone 64, which has a proposed season bag limit of one deer, was inadvertently designated under N.J.A.C. 7:25-5.29(c) as having a season bag limit of three deer. To make the correction and to agree with the permit quotas and one-day season segments provided in N.J.A.C. 7:25-5.29(k) and (m)12, the Council made the correction.

In addition, for the purpose of clarifying the intent of amendments and to agree with the season designation of Zone 64 as having three one-day shotgun season segments as correctly provided elsewhere in the Game Code, the Council clarified the wording of N.J.A.C. 7:25-5.29(d)12 and 7:25-5.29(m)12 to reflect three separate hunting segments of one day each in duration.

The shotgun deer permit quota and the anticipated harvest number for Zone 39 under N.J.A.C. 7:25-5.29(k) were transposed in typing. The Council made the correction which will provide a permit quota of 64 and a realistic anticipated harvest of 32 deer. Consequently, it was necessary to adjust the total permit quotas and the total anticipated harvest figures. The total shotgun permit quota was corrected to 37,861 and the total anticipated harvest corrected to 18,079.

In N.J.A.C. 7:25-5.31(c), the sixth and last permit shotgun season date for Zone 38 appeared as January 22, 1990. The correction was made to read January 12, 1990 to provide the intended season of three consecutive days, as in previous Codes.

In N.J.A.C. 7:25-5.29(d)1, Deer Management Zone 25 was listed as having a one-day shotgun permit season. That zone is now correctly listed in N.J.A.C. 7:25-5.29(d)3 as having a three-day shotgun permit season to conform to other references in that section, as N.J.A.C. 7:25-5.29(d)2 and (k).

Deer management zone 22 is added to N.J.A.C. 7:25-5.29(d)2 to conform to N.J.A.C. 7:25-5.29(k), which indicates a three-day shotgun permit season.

Deer Management Zones 14 and 17, which were inadvertently deleted from N.J.A.C. 7:25-5.29(d)3, are restored to that subsection in order to conform to N.J.A.C. 7:25-5.29(k).

It was also necessary for Council to adjust the shotgun permit season days for Zone 60 (Round Valley) as designated in N.J.A.C. 7:25-5.29(d) and 7:25-5.29(m). The season dates were proposed as December 3 and 12, 1990 and January 18, 1991. However, following a separate public hearing and comment period, the agency responsible for administering Round Valley approved the dates of December 12, 13 and 14, 1990 instead. The season length of three days and the bag limit remains unchanged from the proposal.

In N.J.A.C. 7:25-5.25(a), the Council increased the three-week fall bow season for Zones 1 and 4 to six weeks to run concurrently with the statewide fall bow season; however, during the additional three-week segment (from September 29 to October 19, 1990), only bucks with antlers of at least three inches in length may be taken. This will increase recreational opportunity for bow hunters without adversely affecting rifle and shotgun hunters or the herd. Further explanation may be found in the Responses to Comments pertaining to that section.

Full text of the adoption follows (additions to proposal indicated in boldface with asterisks *thus*; deletions from proposal indicated in brackets with asterisks *[thus]*).

SUBCHAPTER 5. 1990-91 GAME CODE

7:25-5.1 General provisions

(a)-(b) (No change.)

(c) This Code, when adopted and when effective, shall supersede the provisions of 1989-90 Game Code.

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

1. "Bag limit" means the amount of permitted take per person per season except in a permit season the "bag limit" is the amount of permitted take per permit per season.

2. "Leftover permits" means those permits within the amount presented as the permit quota remaining after closure of the initial permit-granting process.

3. "Permit quota" means the maximum amount of permits allocated for a given locality, season, or species category.

4. "Possession tag" means the tag or metal seal affixed to the animal by Division personnel or designated agent.

5. "Transportation tag" means the tag portion of the hunting license or special permit which is removed and affixed to the animal immediately upon kill or removal from the trap. It is also a tag supplied by the Division with the beaver and otter trapping license.

(e) (No change in text.)

7:25-5.2 Pheasant—Chinese ringneck (*Phasianus colchicus torquatus*), English or blackneck (*P. c. colchicus*), Mongolian (*P. mongolicus*), Japanese green (*P. versicolor*); including mutants and crosses of above

(a) The duration for the male pheasant season is November 10, to December 1, 1990, inclusive, and December 10, 1990 through January 5, 1991, excluding December 12, 13, and 14, 1990 in those deer management zones in which a shotgun permit deer season is authorized and also excluding any extra permit deer season day(s) if declared open.

(b) The duration for the male pheasant season for properly licensed persons engaged in falconry is September 1 to December 1, 1990, inclusive and December 10, 1990 through March 31, 1991, excluding November 9 and December 12, 13 and 14, 1990 and January 18, 19 and 26, 1991 in those management zones in which a shotgun deer permit season is authorized and also excluding any extra permit deer season day(s) if declared open.

(c) (No change.)

(d) The duration of the season for pheasants of either sex in the area described as Warren County north of Route 80, Morris County north of Route 80, Ocean County south of Route 70 and the counties of Sussex, Passaic, Bergen, Hudson, Essex, Camden, Atlantic and Cape May and all wildlife management areas is November 10 to December 1, 1990, inclusive, and December 10, 1990 through February 18, 1990, excluding December 12, 13 and 14, 1990 and January

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18, 19 and 26, 1991 in those deer management zones in which a shotgun permit deer season is authorized and also excluding any extra permit deer season day(s) if declared open.

(e) The hours for hunting pheasants on November 10, 1990 are 8:00 A.M. to 1/2 hour after sunset. All other days on which the hunting for pheasants is legal, the hours are sunrise to 1/2 hour after sunset.

(f) (No change.)

(g) The opening of the season on semi-wild preserves coincides with the listed Statewide opening of November 10, 1990.

(h) (No change.)

7:25-5.3 Cottontail rabbit (*Sylvilagus floridanus*), black-tailed jack rabbit (*Lepus californicus*), white-tailed jack rabbit (*L. townsendii*), European hare (*L. europeus*), chukar partridge (*Alectoris graeca*), and quail (*Colinus virginianus*)

(a) The duration of the season for the hunting of cottontail rabbit, black-tailed jack rabbit, white-tailed jack rabbit, European hare, chukar partridge and quail is November 10 through December 1, 1990, inclusive, and December 10, 1990 to February 18, 1991, excluding December 12, 13 and 14, 1990 and January 18, 19 and 26, 1991 in those deer management zones in which a shotgun permit deer season is authorized and also excluding any extra permit deer season day(s) if declared open.

(b) The duration of the season for the hunting of the animals enumerated by (a) above for properly licensed persons engaged in falconry is September 1 to December 1, 1990, inclusive and December 10, 1990 through March 31, 1991, excluding November 9 and December 12, 13 and 14, 1990 and January 18, 19 and 26, 1991 in those deer management zones in which a shotgun permit deer season is authorized and also excluding any extra permit deer season day(s) if declared open.

(c) (No change.)

(d) The hunting hours for the animals enumerated in this section are as follows: November 10, 1990, 8:00 A.M. to 1/2 hour after sunset. On all other days for which hunting for these animals is legal, the hours are sunrise to 1/2 hour after sunset.

(e) (No change.)

7:25-5.4 Ruffed grouse (*Bonasa umbellus*)

(a) The duration of the season for the hunting of grouse is October 13 through December 1, 1990, inclusive, and December 10, 1990 to February 18, 1991, excluding December 12, 13 and 14, 1990 and January 18, 19 and 26, 1991 in those deer management zones in which a shotgun permit deer season is authorized and excluding any extra deer permit season day(s) that is declared open.

(b) (No change.)

(c) The hunting hours for ruffed grouse are sunrise to 1/2 hour after sunset, with the exception of November 10, 1990 when legal hunting hours are 8:00 A.M. to 1/2 hour after sunset.

(d) (No change.)

7:25-5.5 Eastern gray squirrel (*Sciurus carolinensis*)

(a) The duration of the season for the hunting of squirrels is October 13 through December 1, 1990, inclusive, and December 10, 1990 to February 18, 1991, excluding December 12, 13 and 14, 1990 and January 18, 19 and 26, 1991 in those deer management zones in which a shotgun permit deer season is authorized and also excluding any extra permit season day(s) if declared open.

(b) The duration of the season for the hunting of squirrels for properly licensed persons engaged in falconry is September 1 to December 1, 1990, inclusive, and December 10, 1990 through March 31, 1991, excluding December 12, 13 and 14, 1990 and January 18, 19 and 26, 1991 in those deer management zones in which a shotgun permit deer season is authorized and also excluding any extra permit deer season day(s) if declared open.

(c) (No change.)

(d) Hunting hours for squirrels are sunrise to 1/2 hour after sunset, with the exception of November 10, 1990 when legal hunting hours are 8:00 A.M. to 1/2 hour after sunset.

(e) (No change.)

ENVIRONMENTAL PROTECTION

7:25-5.6 (No change.)

7:25-5.7 Wild turkey (*Melagris gallapavo*)

(a) The duration of the Spring Wild Turkey Gobbler hunting season includes five separate hunting periods of four, five or 10 days each. The hunting periods for all hunting areas shall be:

1. Monday, April 22, 1991-Friday, April 26, 1991
2. Monday, April 29, 1991-Friday, May 3, 1991
3. Monday, May 6, 1991-Friday, May 10, 1991
4. Monday, May 13, 1991-Friday, May 17, 1991 and Monday, May 20, 1991-Friday, May 24, 1991
5. Saturday, April 27, 1991; Saturday, May 4, 1991; Saturday, May 11, 1991 and Saturday May 18, 1991

(b)-(c) (No change.)

(f) Method: The taking of one male wild turkey per special turkey permit with firearm or bow and arrow is permitted in any designated turkey hunting areas by holders of a special wild turkey permit.

1. Special wild turkey permits will be issued on an individual basis to holders of valid and current firearm or archery hunting licenses. Only one application per person may be submitted for the spring wild turkey season during the initial application period and only one application per person may be submitted for a leftover permit during the initial application period. All persons, while their hunting licenses are void under authority of N.J.S.A. 23:3-22, are prohibited from making application for, or otherwise procuring a turkey hunting permit.

(g) (No change.)

(h) Wild Turkey Hunting Permits shall be applied for as follows:

1. (No change.)

i.-iv. (No change.)

2. Only one application for an initial permit and only one application for a leftover permit may be submitted by any one individual during the prescribed application period. Duplicate applications will cause all applications by an individual to be void.

3. The application form shall be filled in to include: Name, address, 1991 firearm or archery hunting license number, turkey hunting areas applied for, hunting periods applied for, and any other information requested. Only those applications will be accepted for participation in random selection which are received in the Trenton office during the period of February 1-15, 1991, inclusive. Applications received after February 15 will not be considered for the initial drawing. Selection of permits will be by random drawing.

i. If a fall turkey hunting season is authorized for 1991, application shall be made in conjunction with the spring season application procedures in a form as prescribed by the Division.

4. Unless otherwise indicated, the permit fee in the form of a check or money order made payable to "Division of Fish, Game and Wildlife", must accompany the completed application form.

5. Unsuccessful applicants will be notified by return of permit fees, less an application fee per permit applied for. Any permit obtained by fraud is void.

6. Nothing contained herein shall preclude the Division from issuing unfilled permits on a first come-first served basis to any properly licensed bow and arrow hunter, firearm hunter or qualified farmer after the permit selection process.

(i) Special Farmer Spring Turkey Permits shall be applied for as follows:

1.-2. (No change.)

3. The application form shall be filled in to include: Name, age, address and any further information requested thereon. THIS APPLICATION MUST BE NOTARIZED. Properly completed application forms will be accepted in the Trenton office only during the period of February 1-15, 1991. There is no fee required and all qualified applicants will receive a Special Farmer Spring Turkey Permit delivered by mail.

4. (No change.)

(j) (No change.)

(k) Turkey Hunting Area Map is on file at the Office of Administrative Law and is available from that agency or the Division. The 1991 Spring Turkey Hunting Season Permit Quotas are as follows:

1991 SPRING TURKEY HUNTING SEASON PERMIT QUOTAS

| Turkey Hunting Area Number | Weekly Permit Quota* | Season Total | Portions of Counties Involved |
|----------------------------|----------------------|--------------|---|
| 1 | 100 | 500 | Sussex |
| 2 | 120 | 600 | Sussex, Warren |
| 3 | 80 | 400 | Sussex, Warren |
| 4 | 100 | 500 | Sussex, Warren, Morris |
| 5 | 100 | 500 | Sussex |
| 6 | 150 | 750 | Sussex, Passaic, Bergen |
| 7 | 150 | 750 | Sussex, Morris, Passaic |
| 8 | 60 | 300 | Warren, Hunterdon |
| 9 | 60 | 300 | Warren, Hunterdon, Morris |
| 10 | 25 | 125 | Essex, Middlesex, Morris, Somerset, Union |
| 11 | 40 | 200 | Middlesex, Mercer, Hunterdon, Somerset |
| 13 | 10 | 50 | Burlington, Ocean |
| 14 | 50 | 250 | Burlington, Ocean, Mercer, Monmouth |
| 15 | 50 | 250 | Burlington, Camden, Atlantic |
| 16 | 60 | 300 | Burlington, Atlantic, Ocean, Cape May, Cumberland |
| 20 | 60 | 300 | Cumberland, Salem |
| 21 | 50 | 250 | Atlantic, Cumberland, Salem |
| 22 | 0 | 0 | Atlantic, Cape May, Cumberland |
| Total | 1,265 | 6,325 | |

*Applied to each of the five hunting periods (A,B,C,D,E) in all areas:

- A. Monday, April 22, 1991-Friday, April 26, 1991
- B. Monday, April 29, 1991-Friday, May 3, 1991
- C. Monday, May 6, 1991-Friday, May 10, 1991
- D. Monday, May 13, 1991-Friday, May 17, 1991 and Monday, May 20, 1991-Friday, May 24, 1991
- E. Saturday, April 27, 1991; Saturday, May 4, 1991; Saturday, May 11, 1991 and Saturday, May 18, 1991

(l) (No change.)

(m) Turkey Hunting Areas are as follows:

1. Turkey Hunting Area No. 1: That portion of Sussex County lying within a continuous line beginning at the intersection of Routes 206 and 519 at Branchville; then northwest along Rt. 206 to its intersection with Rt. 560; then west along Rt. 560 to its intersection with the Delaware River at Dingman's Ferry; then north along the east bank of the Delaware River to the New York State Line; then east along the New York State Line to Rt. 519; then south along Rt. 519 to the point of beginning at Branchville. The islands of Namanock, Minisink and Mashipacong lying in the Delaware River are included in the Hunting Area.

2.-11. (No change.)

12. Turkey Hunting Area No. 13: That portion of Burlington and Ocean Counties lying within a continuous line beginning at the intersection of the Garden State Parkway and Route 37; then east along Route 37 to the Atlantic Ocean at Seaside Heights; then south along the Atlantic Ocean to Little Egg Inlet; then west along the north shore of Great Bay and the Mullica River to the Garden State Parkway to the point of beginning.

Recodify existing 12.-17. as 13.-18. (No change in text.)

7:25-5.8 Mink (*Mustela vison*), muskrat (*Ondatra zibethicus*) and nutria (*Myocaster coypus*) trapping only

(a) (No change.)

(b) The duration of mink, muskrat and nutria trapping season is as follows:

1. Northern Zone: 6:00 A.M. on November 15, 1990 through March 15, 1991, inclusive, except on State Fish and Wildlife Management Areas.

2. Southern Zone: 6:00 A.M. on December 1, 1990 through March 15, 1991, inclusive, except on State Fish and Wildlife Management Areas.

3. (No change.)

4. On State Fish and Wildlife Management Areas: 6:00 A.M. on January 1 through March 15, 1991, inclusive.

(c)-(e) (No change.)

7:25-5.9 Beaver (*Castor canadensis*) trapping

(a) (No change.)

(b) The duration of the trapping season for beaver shall be February 1 through February 28, 1991, inclusive.

(c) Special Permit: A special permit obtained from the Division of Fish, Game and Wildlife shall be required to trap beaver. (If the number of applications received in the Trenton office exceeds the quotas listed, a random drawing will be held to determine permit holders.) Applications shall be received in the Trenton office during the period December 1, 1990-December 26, 1990. Applicants may apply for only one beaver trapping permit and shall provide their 1990 trapping license number. Permits will be allotted on a zone basis as follows: Zone 1-11, Zone 2-9, Zone 3-3, Zone 4-5, Zone 5-3, Zone 6-18, Zone 7-3, Zone 8-1, Zone 9-3, Zone 10-5, Zone 11-3, Zone 12-2, Zone 13-0, Zone 14-1, Zone 15-0, Zone 16-3, Zone 17-1, Zone 18-2. Total 73. Successful applicants must trap with a valid, current trapping license.

(d) (No change.)

(e) A "beaver transportation tag" provided by the Division shall be affixed to each beaver taken immediately upon removal from trap, and all beaver shall be taken to a designated beaver checking station at the times and dates specified on the beaver permit and, in any case, no later than March 2, 1991.

(f)-(g) (No change.)

7:25-5.10 River otter (*Lutra canadensis*) trapping

(a) (No change.)

(b) The duration of the trapping season for otter shall be February 1 through February 28, 1991, inclusive.

(c) Special Permit: A special permit obtained from the Division of Fish, Game and Wildlife shall be required to trap otter. (If the number of applications received in the Trenton office exceeds the quotas listed, a random drawing will be held to determine permit holders). Beaver permit holders will be given first opportunity for otter permits in their respective zones. Applications shall be received in the Trenton office during the period December 1, 1990-December 26, 1990. Only 1 application per person may be submitted for trapping otter and applicants shall provide their 1990 trapping license number. Permits will be allotted on a zone basis as follows: Zone 1-8, Zone 2-8, Zone 3-3, Zone 4-5, Zone 5-4, Zone 6-9, Zone 7-3, Zone 8-6, Zone 9-3, Zone 10-4, Zone 11-5, Zone 12-2, Zone 13-14, Zone 14-7, Zone 15-12, Zone 16-4, Zone 17-2, Zone 18-5. Total 104. Successful applicants must trap with a valid, current trapping license.

(d) (No change.)

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(e) The "otter transportation tag" provided by the Division must be affixed to each otter taken immediately upon removal from the trap. All otter pelts and carcasses shall be taken to a beaver-otter check station at dates specified on the otter permit and, in any case, no later than March 2, 1991, where a pelt tag will be affixed and the carcass surrendered.

(f)-(h) (No change.)

(i) Beaver and Otter Zones are described as follows:

1.-9. (No change.)

10. Zone 10: That portion of Burlington, Camden and Atlantic Counties lying within a continuous line beginning at the intersection of Rt. 73 and Rt. 561 near Blue Anchor, then north on Rt. 73 to its intersection with Rt. 70 at Marlton, then east on Rt. 70 to its intersection with Rt. 541 at Medford, then southeast on Rt. 541 to its intersection with Rt. 532 at Medford Lakes, then east on Rt. 532 to its intersection with Rt. 206, then south on Rt. 206 to its intersection with Rt. 54, then southwest on Rt. 54 to its intersection with Rt. 561 near Hammonton, then northwest on Rt. 561 to its intersection with Rt. 73 near Blue Anchor, the point of beginning.

11. (No change.)

12. Zone 12: That portion of Atlantic, Gloucester and Camden Counties lying in a continuous line beginning at the intersection of Rt. 322 and Spur 536 Williamstown, then northeast on Spur 536 to its intersection with Rt. 73 near Tansboro, then south on Rt. 73 to its intersection with Rt. 561 at Blue Anchor, then southeast on Rt. 561 to its intersection with Rt. 54 near Hammonton, then southwest on Rt. 54 to its intersection with Rt. 557 at Buena, then northwest on Rt. 557 to its intersection with Rt. 322/536 near Williamstown, then east on Rt. 322/536 to its intersection with Spur 536 Williamstown, the point of beginning.

13.-15. (No change.)

16. Zone 16: That portion of Burlington and Atlantic Counties lying with a continuous line beginning at the intersection of Rt. 206 and Rt. 532 near Tabernacle, then southeast on Rt. 532 to its intersection with Rt. 563 at Chatsworth, then south on Rt. 563 to its intersection with Rt. 30 at Egg Harbor, then northwest on Rt. 30 to its intersection with Rt. 206, then north on Rt. 206 to its intersection with Rt. 532 near Tabernacle, the point of beginning.

17. Zone 17: That portion of Atlantic County lying within a continuous line beginning at the intersection of Rt. 557 and Rt. 54 at Buena, then northeast on Rt. 54 to its intersection with Rt. 30 at Hammonton, then southeast along Rt. 30 to its intersection with Rt. 50 at Egg Harbor, then southeast along Rt. 50 to its intersection with Rt. 557 near Buck Hill, then northwest on Rt. 557 to its intersection with Rt. 54 at Buena, the point of beginning.

18. Zone 18: That portion of Atlantic and Cape May Counties lying within a continuous line beginning at the intersection of Rt. 50 and Rt. 557 near Buck Hill, then northeast along Rt. 50 to its intersection with Rt. 30/563 at Egg Harbor, then southeast on Rt. 30/563 to the Absecon Lighthouse in Atlantic City, then south along the Atlantic Ocean to Sea Isle Boulevard (Rt. 625) in Sea Isle, then west on Sea Isle Boulevard to its intersection with Rt. 9 then north on Rt. 9 to its intersection with Rt. 50 at Seaville, then northwest on Rt. 50 to its intersection with Rt. 557 near Buck Hill, the point of beginning.

7:25-5.11 Raccoon (*Procyon lotor*), red fox (*Vulpes vulpes*), gray fox (*Urocyon cinereoargenteus*), Virginia opossum (*Didelphis virginiana*), striped skunk (*Mephitis mephitis*), long-tailed weasel (*Mustela frenata*), short-tailed weasel (*Mustela erminea*), and coyote (*Canis latrans*) trapping only

(a) (No change.)

(b) The duration of the regular raccoon, red fox, gray fox, Virginia opossum, striped skunk, long-tailed weasel, short-tailed weasel and coyote trapping season is 6:00 A.M. on November 15, 1990 to March 15, 1991, inclusive, except on State Fish and Wildlife Management Areas.

(c) The duration for trapping on State Fish and Wildlife Management Areas is 6:00 A.M. on January 1, 1991 to March 15, 1991, inclusive.

(d)-(h) (No change.)

7:25-5.12 (No change.)

7:25-5.13 Migratory birds

(a) Should any open season on migratory game birds, including waterfowl, be set by Federal regulation which would include the date of November 10, 1990, the starting time on such date will be 8:00 A.M. to coincide with the opening of the small game season on that date. However, this shall not preclude the hunting of migratory game birds, including waterfowl, on the tidal marshes of the State as regularly prescribed throughout the season by Federal regulations.

(b) (No change.)

(c) A person shall not take, attempt to take, hunt for or have in possession, any migratory game birds including waterfowl, except at the time and in the manner prescribed in the Code of Federal Regulations by the U.S. Department of the Interior, U.S. Fish and Wildlife Service, for the 1990-91 hunting seasons. The species of migratory game birds, including waterfowl, that may be taken or possessed and, unless otherwise provided, the daily bag limits shall be the same as those prescribed by the U.S. Department of the Interior, U.S. Fish and Wildlife Service for the 1990-91 hunting season.

(d)-(g) (No change.)

(h) Hunting hours for waterfowl shall be those hours that are prescribed by the Department of the Interior, United States Fish and Wildlife Service for the 1990-91 hunting season.

(i)-(l) (No change.)

(m) A person shall not take or attempt to take migratory game birds:

1.-10. (No change.)

11. Before 8:00 A.M. on November 10, 1990. However this shall not preclude the hunting of migratory game birds on tidal waters or tidal marshes of the State.

12.-13. (No change.)

14. Except at the time and manner prescribed by the State or Federal regulation, or by the 1990-91 Game Code.

15.-19. (No change.)

(n) Seasons and bag limits are as follows:

1. Mourning dove (*Zenaidura macroura*) are protected. There will be no open season on these birds during 1990-91.

2. Rail and gallinule season and bag limits are as follows:

i. The duration of the season for hunting clapper rail (*Rallus longirostris*), Virginia rail (*R. limicola*), sora rail (*Porzana carolina*) and common gallinule or moorhen (*Gallinula chloropus*) is September 1 through November 9, 1990, inclusive.

ii. (No change.)

(o) Woodcock zones and hunting hours are as follows:

1.-2. (No change.)

3. Hunting hours for woodcock are sunrise to sunset except on November 10, when the hunting hours are 8:00 A.M. to sunset.

(p)-(r) (No change.)

7:25-5.14 Special regulation limiting use of shotguns and shotgun shells containing lead pellets

(a) No person shall have in possession or use in hunting waterfowl and coot or any snipe, rail or gallinules after the season for hunting waterfowl commences any shotgun shell containing lead shot or lead pellets or have in possession or use any shotgun containing lead shot in New Jersey including all territorial waters.

1. Only shotgun shells containing steel pellets and only shotguns containing steel pellets shall be used for hunting waterfowl.

(b)-(c) (No change.)

7:25-5.15 Crow (*Corvus brachyrhynchos*)

(a) Duration for the season for hunting the crow shall be Monday, Thursday, Friday and Saturday from August 13, 1990 through March 23, 1991, inclusive, excluding December 3-8 and December 12, 13 and 14, 1990 and January 18, 19 and 26, 1991 in those deer management zones in which a shotgun permit deer season is authorized.

(b) (No change.)

(c) The hours for hunting crows shall be sunrise to 1/2 hour after sunset, except on November 10, 1990 when the hours are 8:00 A.M. to 1/2 hour after sunset.

(d) (No change.)

7:25-5.16 (No change.)

7:25-5.17 Raccoon (*Procyon lotor*) and Virginia opossum (*Didelphis virginiana*) hunting

(a) The duration for the season of hunting raccoons and Virginia opossum is one hour after sunset on October 1, 1990 to one hour before sunrise on March 1, 1991. The hours for hunting are one hour after sunset to one hour before sunrise.

(b) (No change.)

(c) A person shall not hunt for raccoon or opossum with dogs and firearms or weapons of any kind on December 3-8 and on December 12, 13 and 14, 1990 and January 18, 19 and 26, 1991 in those deer management zones in which a shotgun permit deer season is authorized and including any extra permit deer season day(s).

(d) A person shall not train a raccoon or opossum dog other than during the period of September 1 to October 1, 1990 and from March 1 to May 1, 1991. The training hours are one hour after sunset to one hour before sunrise.

(e) (No change.)

7:25-5.18 Woodchuck (*Marmota monax*) hunting

(a) Duration for the hunting of woodchucks with a rifle in this State is March 9 through September 21, 1991. Licensed hunters may also take woodchuck with shotgun or long bow and arrow or by means of falconry during the regular woodchuck rifle season and during the upland game season established in N.J.A.C. 7:25-5.3.

(b)-(f) (No change.)

7:25-5.19 Red fox (*Vulpes vulpes*) and gray fox (*Urocyon cinereoargenteus*) hunting

(a) The duration of the red fox and gray fox hunting season is as follows:

1. Bow and Arrow Only—September 29 through November 9, 1990.

2. Firearm or Bow and Arrow—November 10, 1990 through February 23, 1991, excluding December 3-8, 12, 13 and 14, 1990 and January 18, 19 and 26, 1991 in those deer management zones in which a shotgun permit deer season is authorized and also excluding any extra permit deer season day(s) if declared open.

(b) The use of dogs shall not be allowed for fox hunting during the Statewide bow and arrow only season of September 29-November 9, 1990. There shall be no fox hunting during the firearm deer season, except that a person hunting deer during the firearm deer season may kill fox if the fox is encountered before said person kills a deer. However, after a person has killed a deer he must cease all hunting immediately.

(c) The hours for hunting fox are 8:00 A.M. to 1/2 hour after sunset on November 9, 1990 and on other days from sunrise to 1/2 hour after sunset.

(d)-(e) (No change.)

7:25-5.20 Dogs

(a) A person shall not exercise or train dogs on State Fish and Wildlife Management Areas May 1 to August 31, inclusive, except on portions of various wildlife management areas designated as dog training areas, and there shall be no exercising or training of dogs on any Wildlife Management Area on November 9, 1990.

(b)-(c) (No change.)

7:25-5.21 and 5.22 (No change.)

7:25-5.23 Firearms and missiles, etc.

(a)-(d) (No change.)

(e) Within the areas described as portions of Passaic, Mercer, Hunterdon, Warren and Sussex Counties lying within a continuous line beginning at the intersection of Rt. 513 and the New York State line; then south along Rt. 513 to its intersection with the Morris-Passaic County line; then west along the Morris-Passaic County line to the Sussex County line; then south along the Morris-Sussex County line to the Warren County line; then southwest along the Morris-Warren County line to the Hunterdon County line; then southeast along the Morris-Hunterdon County line to the Somerset County line; then south along the Somerset-Hunterdon County line to its intersection with the Mercer County line; then west and south along the Hunterdon-Mercer County line to its intersection with Rt. 31; then south along Rt. 31 to its intersection with Rt. 546; then west

along Rt. 546 to the Delaware River; then north along the east bank of the Delaware River to the New York State Line; then east along the New York State Line to the point of beginning at Lakeside; and in that portion of Salem, Gloucester, Camden, Burlington, Mercer, Monmouth, Ocean, Atlantic, Cape May and Cumberland counties lying within a continuous line beginning at the intersection of Rt. 295 and the Delaware River; then east along Rt. 295 to its intersection with the New Jersey Turnpike; then east along the New Jersey Turnpike to its intersection with Rt. 40; then east along Rt. 40 to its intersection with Rt. 47; then north along Rt. 47 to its intersection with Rt. 536; then east along Rt. 536 to its intersection with Rt. 206; then north along Rt. 206 to its intersection with the New Jersey Turnpike; then northeast along the New Jersey Turnpike to its intersection with Rt. 571; then southeast along Rt. 571 to its intersection with the Garden State Parkway; then south along the Garden State Parkway to its intersection with Rt. 9 at Somers Point; then south along Rt. 9 to its intersection with Rt. 83; then west along Rt. 83 to its intersection with Rt. 47; then north along Rt. 47 to its intersection with Dennis Creek; then south along the west bank of Dennis Creek to its intersection with Delaware Bay; then northwest along the east shore of Delaware Bay and the Delaware River to the point of beginning; persons holding a valid and proper rifle permit in addition to their 1991 firearm hunting license may hunt for squirrels between January 28 and February 18, 1991 using a .36 caliber or smaller muzzleloading rifle loaded with a single projectile.

(f) Except as specifically provided below for waterfowl hunters, semi-wild and commercial preserves, muzzleloader deer hunters and trappers, from December 3-8, 1990, inclusive, it shall be illegal to use any firearm of any kind other than a shotgun. Nothing herein contained shall prohibit the use of a shotgun not smaller than 20 gauge nor larger than 10 gauge with a rifled bore for deer hunting only. Persons hunting deer shall use a shotgun not smaller than 20 gauge or larger than 10 gauge with the lead or lead alloy rifled slug or slug shotgun shell only or a shotgun not smaller than 12 gauge nor larger than 10 gauge with the buckshot shell. It shall be illegal to have in possession any firearm missile except the 20, 16, 12 or 10 gauge lead or lead alloy rifled slug or hollow base slug shotgun shell or the 12 or 10 gauge buckshot shell. (This does not preclude a person legally engaged in hunting on semi-wild or commercial preserves for the species under license from being possessed solely of shotgun(s) and nothing larger than No. 4 fine shot, nor a person engaged in hunting waterfowl only from being possessed solely of shotgun and nothing larger than No. 2 lead fine shot or T (.200 inch) steel shot.) A legally licensed trapper possessing a valid rifle permit may possess and use a .22 rifle and short rimfire cartridge only while tending his trap line.

1. Persons who are properly licensed may hunt for deer with a muzzleloader rifle during the 1990 six-day firearm deer season and the permit muzzleloader rifle deer season.

2.-3. (No change.)

(g)-(p) (No change.)

7:25-5.24 Bow and arrow, general provisions

(a) (No change.)

(b) No person shall use a bow and arrow for hunting, on December 12, 13 and 14, 1990 and January 18, 19 and 26, 1991 in those deer management zones in which a permit shotgun deer season is authorized, on any additional Permit Deer Season Day(s) if declared open, during the Six-Day Firearm Deer Season, or between 1/2 hour after sunset and sunrise during other seasons. Deer shall not be hunted for or taken on Sunday except on wholly enclosed preserves that are properly licensed for the propagation thereof.

(c)-(f) (No change.)

7:25-5.25 White-tailed deer (*Odocoileus virginianus*) fall bow season (either sex)

(a) Deer of either sex and any age may be taken by bow and arrow exclusively from September 29-November 9, 1990, inclusive, except in Zones 1 and 4 where the season shall *[be October 20-November 9, 1990]* *run concurrent; however, only deer with antlers at least three inches long may be taken from September 29-October 19*. Legal hunting hours shall be 1/2 hour before sunrise to 1/2 hour after sunset.

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(b)-(d) (No change.)

7:25-5.26 White-tailed deer winter bow season (either sex)

(a) Deer of either sex and any age may be taken by bow and arrow exclusively from 1/2 hour before sunrise on January 2 to 1/2 hour after sunset on January 25, 1991, inclusive, excluding January 18 and 19, 1991 in those management zones in which a shotgun permit season is authorized. Legal hunting hours shall be 1/2 hour before sunrise to 1/2 hour after sunset.

(b)-(d) (No change.)

7:25-5.27 White-tailed deer six-day firearm season

(a) Duration for this season will be December 3-8, 1990 inclusive with shotgun or muzzleloader rifle, exclusively.

(b) Bag Limit: Two deer, with antler at least three inches long, except in those areas designated as "hunters choice" indicated in (d) below, where the bag limit is two deer of either sex. Only one deer may be taken in a given day per person on a regular firearm hunting license. Persons awarded Zone 9 or Zone 13 shotgun permits may also take one deer of either sex and any age, per permit, on December 3 and 8, 1990, and persons possessing Zone 5, 7, 8, 10, 11, 12, 41 or 63 shotgun permits may also take one deer of either sex and any age per permit on December 3, 1990 subject to the provisions of N.J.A.C. 7:25-5.29. Deer shall be tagged immediately with the "transportation tag" appropriate for the season, completely filled in and shall be transported to a checking station before 7:00 P.M. E.S.T. on the day killed. Upon completion of the registration of the first deer, one valid and proper "New Jersey Second Deer Permit And Transportation Tag" (second tag) will be issued which will allow that person to continue hunting and take one additional deer with antler at least three inches long or one additional deer of either sex in the "hunters choice" area, exclusively, during the current, six-day firearm season. The second tag shall not be valid on the day of issuance and all registration requirements apply. Any legally killed deer which is recovered too late to be brought to a check station by closing time shall be immediately reported by telephone to the nearest Division of Fish, Game and Wildlife law enforcement regional headquarters. This deer must be brought to a checking station on the next open day to receive a legal "possession tag." If the season has concluded, this deer must be taken to a regular deer checking station on the following weekday to receive a legal "possession tag."

(c)-(d) (No change.)

(e) Hunting Hours: December 3-8, 1990, inclusive, 7:00 A.M. E.S.T. to 5:00 P.M. E.S.T., with shotgun or muzzleloader rifle.

(f)-(g) (No change.)

7:25-5.28 White-tailed deer muzzleloader rifle, permit season (either sex)

(a)-(c) (No change.)

(d) Duration of the muzzleloader rifle permit season is December 10, 11, 15, 17-22, 24, 26-29, 31, 1990 in zones 2, 3, 5-36, 40-51, 55, 57, 58, 61 and 63; November 10-17, 1990 (first segment) and December 10-28, 1990 (second segment) in zones 37 and 52; December 10-31, 1990 in zones 39, 54 and 62; November 24-December 1, 1990 (first segment) and December 10-31, 1990 (second segment) in zone 53; December 15-22, 1990 in zones 1 and 4 or any other time as determined by the Director. Legal hunting hours shall be sunrise to 1/2 hour after sunset E.S.T.

(e) (No change.)

(f) Method: The taking of two deer of either sex and any age or the taking of deer as designated for special hunts is authorized to holders of valid permits for muzzleloader rifle permit season in designated deer management zones. Only one deer may be taken in a given day per permit. The taking of two deer of either sex and any age or the taking of deer as designated for special hunts is authorized to holders of valid farmer permits for muzzleloader rifle permit season only on the farm occupied and designated on the permit application. Only one deer may be taken in a given day per permit.

1. Permits for muzzleloader rifle permit season will be issued on an individual basis to holders of valid and current firearm licenses and qualified farmers. Only one application per regular firearm license holder may be submitted, whether for muzzleloader rifle or shotgun permit seasons, during the initial application period. During

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the initial application period, regular firearm license holders may also submit one application for either a left-over shotgun or muzzleloader deer permit in the event such permits are available following the initial drawing. Duplicate or multiple applications will cause all applications to be void. All persons, while their hunting licenses are void under the authority of N.J.S.A. 23:3-22, are prohibited from making application for, or otherwise procuring a muzzleloader deer permit.

(g) (No change.)

(h) Muzzleloader Rifle Permit Season Permits shall be applied for as follows:

1. Only holders of valid and current firearm hunting licenses may apply by detaching from their hunting license the stub marked "Special Deer Season 1990" signing as provided on the back, and sending the stub, together with the permit fee and an application form which has been properly completed in accordance with instructions. Application forms may be obtained from:

i.-iv. (No change.)

2. (No change.)

3. Only one application whether for muzzleloader rifle or shotgun permit season, accompanied by the hunting license stub, may be submitted by any regular firearm license holder during the initial permit application period. During the initial application period, regular firearm license holders may also submit one application for either a left-over shotgun or muzzleloader deer permit in the event such permits are available following the initial drawing. Applications for more than the allowable number of permits during the initial application period will cause all applications by an individual to be void.

4. The application form shall be filled in to include: Name, address, current firearm hunting license number, deer management zone applied for, and any other information requested. Only those applications will be accepted for participation in random selection which are received in the Trenton office during the period of August 25-September 10, 1990 inclusive. Applications postmarked after September 10 will not be considered for the initial drawing. Selection of permittees will be made by random selection.

5. Unsuccessful applicants will be notified by return of permit fees, less application fee per permit applied for. Any permit obtained by fraud shall be void.

6. Successful applicants will receive their permits by mail. Unless otherwise indicated the permit fee in the form of a check or money order, made payable to "Division of Fish, Game and Wildlife," must accompany the completed application form.

7. Nothing contained herein shall preclude the Division from issuing unfilled permits on a first come-first served basis to any properly licensed hunter or qualified farmer after the permit selection process.

(i) Farmer Muzzleloader Rifle Permit Season Permits shall be applied for as follows:

1.-2. (No change.)

3. The application form shall be filled in to include: Name, age, size of farm, address, and any other information requested thereon. THIS APPLICATION MUST BE NOTARIZED. Properly completed application forms will be accepted in the Trenton office only during the period of August 1 to 15, 1990. There is no fee required, and all qualified applicants will receive a farmer muzzleloader rifle permit season permit, delivered by mail.

4. (No change.)

5. Nothing contained herein shall preclude the Division from issuing unfilled or unclaimed permits on a first come-first served basis to any qualified farmer or property licensed hunter after the permit selection process.

(j) (No change.)

(k) The Deer Management Zone Map is on file at the Office of Administrative Law and is available from that agency or the Division. The 1990 Muzzleloader Rifle Deer Season Permit Quotas (either sex) are as follows:

1990 MUZZLELOADER RIFLE PERMIT SEASON PERMIT QUOTAS

| Deer Mgt. Zone No. | Season Dates Code | Anticipated Deer Harvest 1990 | Permit Quota 1990 | Portions of Counties Involved |
|--------------------|-------------------|-------------------------------|-------------------|---|
| 1 | 5 | 104 | 667 | Sussex |
| 2 | 1 | 148 | 480 | Sussex |
| 3 | 1 | 130 | 689 | Sussex, Passaic, Bergen |
| 4 | 5 | 80 | 506 | Sussex, Warren |
| 5 | 1 | 512 | 1,400 | Sussex, Warren |
| 6 | 1 | 188 | 700 | Sussex, Morris, Passaic, Essex |
| 7 | 1 | 254 | 750 | Warren, Hunterdon |
| 8 | 1 | 473 | 1,500 | Warren, Hunterdon, Morris, Somerset |
| 9 | 1 | 116 | 400 | Morris, Somerset |
| 10 | 1 | 270 | 900 | Warren, Hunterdon |
| 11 | 1 | 150 | 550 | Hunterdon |
| 12 | 1 | 327 | 1,075 | Mercer, Hunterdon, Somerset |
| 13 | 1 | 41 | 225 | Morris, Somerset |
| 14 | 1 | 134 | 600 | Mercer, Somerset, Middlesex, Burlington |
| 15 | 1 | 111 | 400 | Mercer, Monmouth, Middlesex |
| 16 | 1 | 120 | 380 | Ocean, Monmouth |
| 17 | 1 | 68 | 200 | Ocean, Monmouth, Burlington |
| 18 | 1 | 57 | 221 | Ocean |
| 19 | 1 | 87 | 325 | Camden, Burlington |
| 20 | 1 | 84 | 250 | Burlington |
| 21 | 1 | 142 | 450 | Burlington, Ocean |
| 22 | 1 | 30 | 110 | Burlington, Ocean |
| 23 | 1 | 221 | 675 | Burlington, Camden, Atlantic |
| 24 | 1 | 176 | 502 | Burlington, Ocean |
| 25 | 1 | 128 | 475 | Gloucester, Camden, Atlantic, Salem |
| 26 | 1 | 267 | 630 | Atlantic |
| 27 | 1 | 197 | 513 | Salem, Cumberland |
| 28 | 1 | 147 | 380 | Salem, Cumberland, Gloucester |
| 29 | 1 | 154 | 362 | Salem, Cumberland |
| 30 | 1 | 36 | 114 | Cumberland |
| 31 | 1 | 15 | 50 | Cumberland |
| 32 | 1 | 6 | 18 | Cumberland |
| 33 | 1 | 41 | 145 | Cape May, Atlantic |
| 34 | 1 | 165 | 430 | Cape May, Cumberland |
| 35 | 1 | 132 | 450 | Gloucester, Salem |
| 36 | 1 | 14 | 140 | Bergen, Hudson, Essex, Morris, Union, Somerset, Middlesex |
| 37 | 2 | 85 | 223 | Burlington (Fort Dix Military Reservation) |
| 38 | | | | Morris (Great Swamp National Wildlife Refuge) |
| 39 | 3 | 14 | 23 | Monmouth (Earle Naval Weapons Station) |
| 40 | 1 | 9 | 80 | Warren (Allamuchy State Park) |
| 41 | 1 | 124 | 360 | Mercer, Hunterdon |
| 42 | 1 | 20 | 50 | Atlantic |
| 43 | 1 | 48 | 107 | Cumberland |
| 44 | 1 | 20 | 50 | Cumberland |
| 45 | 1 | 56 | 200 | Cumberland, Atlantic, Cape May |
| 46 | 1 | 38 | 125 | Atlantic |
| 47 | 1 | 20 | 80 | Atlantic, Cumberland, Gloucester |
| 48 | 1 | 45 | 200 | Burlington |
| 49 | 1 | 4 | 20 | Burlington, Camden, Gloucester |
| 50 | 1 | 29 | 175 | Middlesex, Monmouth |
| 51 | 1 | 38 | 100 | Monmouth, Ocean |
| 52 | 2 | 35 | 63 | Ocean (Fort Dix Military Reservation) |
| 53 | 4 | 4 | 30 | Ocean (Lakehurst Naval Engineering Center) |
| 54 | 3 | 1 | 6 | Morris (Picatinny Arsenal—ARRAD Com) |
| 55 | 1 | 10 | 40 | Atlantic (Federal Aviation Administration Technical Center) |
| 56 | | | 0 | Atlantic (Forsythe National Wildlife Refuge) |
| 57 | 1 | 20 | 40 | Atlantic (Forsythe National Wildlife Refuge) |
| 58 | 1 | 12 | 60 | Burlington, Ocean (Forsythe National Wildlife Refuge) |
| 59 | | | 0 | Salem (Supawna National Wildlife Refuge) |
| 60 | | | | Hunterdon (Round Valley Recreation Area) |
| 61 | 1 | 24 | 105 | Atlantic (Atlantic County Parks) |
| 62 | 3 | 3 | 5 | Monmouth (Fort Monmouth) |
| 63 | 1 | 85 | 200 | Salem |
| Total | | <u>6,069</u> | <u>19,994</u> | |

ADOPTIONS

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(1) The Season Dates Code referred in the table in (k) above is as follows:

1. Indicates the season dates will be December 10, 11, 15, 17-22, 24, 26-29, 31, 1990.

2. Indicates the season dates will be November 10-17, 1990 (first segment) and December 10-28, 1990 (second segment).

3. Indicates the season dates will be December 10-31, 1990.

4. Indicates the season dates will be November 24-December 1, 1990 (first segment) and December 10-31, 1990 (second segment).

5. Indicates the season dates will be December 15-22, 1990.

(m) (No change.)

(n) Muzzleloader rifle permit season permits not applied for by September 10, 1990 will be reallocated to shotgun and bow permit season applicants.

7:25-5.29 White-tailed deer shotgun permit season (either sex)

(a)-(b) (No change.)

(c) The season bag limit per permit shall be one deer of either sex and any age with a shotgun permit season permit in Zones 1, 3, 4, 18, 20, 21, 23, 24, 26, 30, 32, 34, 37, 39, 40, 43-46, 52-55, *and* 62 *and*; two deer of either sex and any age with a shotgun permit season permit in Zones 2, 5-17, 19, 22, 25, 27-29, 33, 41, 42, 47-51, and 63; three deer of either sex and any age with a shotgun permit season permit in Zones 55-61 *and* 64*; and, six deer of either sex and any age in Zone 38. Only one deer may be taken in a given day per permit. Persons awarded Zone 9 and 13 shotgun permits may also take a deer with antlers at least three inches long on December 3 or 8, 1990 with a regular firearm license, and persons awarded Zone 5, 7, 8, 10-12, 41 or 63 shotgun permits may also take a deer with antlers at least three inches long on December 3, 1990 subject to the provisions of N.J.A.C. 7:25-5.27. It is unlawful to attempt to take or hunt for more than the number of deer permitted.

(d) Duration of the permit shotgun deer season is from sunrise to 1/2 hour after sunset E.S.T. on the following dates:

1. December 12, 1990 in Zones 1, 3, 4, 18, 20, 21, *23-26* *23, 24, 26,* 30-32, 34, 43-46;

2. December 12, 13 and 14, 1990 in Zones 15, 16, *22,* 25, 28, 33, 42, 47, 56-58 and 61;

3. December 12, 13 and 14, 1990 and January 18, 19 and 26, 1991 in Zones 2, 6, *14, 17,* 19, 27, 29, 35, 36, 48-51;

4. December 3, 12, 13, and 14, 1990 and January 18, 19 and 26, 1991 in Zones 5, 7, 8, 10, 11, 12, 41 and 63;

5. December 3, 8, 12, 13 and 14, 1990 and January 18, 19 and 26, 1991 in Zones 9 and 13;

6. December 29, 1990 in Zones 37 and 52;

7. December 6, 7 and 8, 1990 and January 10, 11 and 12, 1991 in Zone 38;

8. December 15, 1990 in Zones 39, 54 and 62;

9. January 5, 1991 in Zone 53;

10. December 3, 4, 5, 12, 13 and 14, 1990 and January 18, 19 and 26, 1991 in Zone 59;

11. December *3 and* 12, *13 and 14,* 1990 *and* January 18, 1991* in Zone 60;

12. January 18 *first segment*, *January* 19 *second segment* and *January* 26, *third segment* 1991 in Zone 64; or

13. At other times as determined by the Director.

(e) (No change.)

(f) Method: The taking of a deer of either sex and any age with a shotgun under a shotgun permit season permit or a farmer shotgun permit season permit is permitted in designated deer management zones by holders of a shotgun permit season permit and, on their own property, by holders of a farmer shotgun permit season permit.

1. Shotgun permits for shotgun permit season will be issued on an individual basis to holders of valid and current firearm licenses and qualified farmers. Only one application, whether for shotgun or

muzzleloader permit season, accompanied by the hunting license stub, may be submitted by regular firearm license holders for the initial permit drawing. During the initial application period, regular firearm license holders may also submit one application for either a leftover shotgun or muzzleloader permit in the event such permits are available following the initial drawing. Applications for more than the allowable number of permits during the initial application period will cause all applications by an individual to be void. All persons, while their hunting licenses are void under the authority of N.J.S.A. 23:3-22, are prohibited from making application for, or otherwise procuring, a shotgun deer permit.

(g) (No change.)

(h) Shotgun Permit Season Permits shall be applied for as follows:

1. Only holders of valid and current firearm hunting licenses including juvenile firearm license holders may apply by detaching from their hunting license the stub marked "Special Deer Season 1990" signing as provided on the back, and sending the stub, together with the permit fee and an application form properly completed in accordance with instructions. Application forms may be obtained from:

i.-iv. (No change.)

2. Permits for shotgun permit season will be issued on an individual basis to holders of valid and current firearm licenses. Only one application, whether for shotgun or muzzleloader permit season, accompanied by the hunting license stub, may be submitted by any one individual during the initial application period and only one application, whether for a leftover shotgun or leftover muzzleloader permit, may be submitted by any one individual during the initial application period. Applications for more than the allowable number of permits during the initial application period will cause all applications to be void.

3. The application form shall be filled in to include: Name, address, current firearm hunting license number, deer management zone applied for, and any other information requested. Only those applications will be accepted for participation in random selection which are received in the Trenton office during the period of August 25-September 10, 1990. Applications postmarked after September 10 will not be considered for the initial drawing. Selection of permittees will be made by random selection.

4. Unsuccessful applicants will be notified by return of permit fees less the application fee per permit applied for. Any permit obtained by fraud is void.

5. Successful applicants will receive their permits by mail. Unless otherwise indicated, the permit fee in the form of a check or money order made payable to "The Division of Fish, Game and Wildlife" shall accompany the completed application form.

6. Nothing herein contained shall preclude the Division from issuing unfilled and unclaimed permits on a first come-first served basis to any properly licensed hunter after the permit selection process.

(i) Farmer Shotgun Permit Season Permits shall be applied for as follows:

1.-2. (No change.)

3. The application form shall be filled in to include: Name, age, size of farm, address, and any other information requested thereon. THIS APPLICATION MUST BE NOTARIZED. Properly completed application forms will be accepted in the Trenton office only during the period of August 1 to 15, 1990. There is no fee required, and all qualified applicants will receive a farmer, shotgun permit season permit, delivered by mail.

4. (No change.)

(j) (No change.)

(k) The Deer Management Zone Map is on file at the Office of Administrative Law and is available from that agency or the Division. The 1990 Shotgun Permit Season Permit Quotas (Either Sex) are as follows:

1990 SHOTGUN PERMIT SEASON PERMIT QUOTAS (EITHER SEX)

| Deer Mgt. Zone No. | Season Dates Code | Anticipated Deer Harvest 1990 | Permit Quota 1990 | Portions of Counties Involved |
|--------------------|-------------------|-------------------------------|----------------------------|---|
| 1 | 1 | 249 | 1,245 | Sussex |
| 2 | 3 | 603 | 1,376 | Sussex |
| 3 | 1 | 51 | 462 | Sussex, Passaic, Bergen |
| 4 | 1 | 40 | 267 | Sussex, Warren |
| 5 | 4 | 2,152 | 4,195 | Sussex, Warren |
| 6 | 3 | 433 | 1,203 | Sussex, Morris, Passaic, Essex |
| 7 | 4 | 1,216 | 1,962 | Warren, Hunterdon |
| 8 | 4 | 2,694 | 4,345 | Warren, Hunterdon, Morris, Somerset |
| 9 | 5 | 569 | 1,262 | Morris, Somerset |
| 10 | 4 | 1,650 | 2,662 | Warren, Hunterdon |
| 11 | 4 | 891 | 1,437 | Hunterdon |
| 12 | 4 | 1,560 | 2,736 | Mercer, Hunterdon, Somerset |
| 13 | 5 | 354 | 1,000 | Morris, Somerset |
| 14 | 3 | 926 | 1,954 | Mercer, Somerset, Middlesex, Burlington |
| 15 | 2 | 239 | 723 | Mercer, Monmouth, Middlesex |
| 16 | 2 | 114 | 479 | Ocean, Monmouth |
| 17 | 3 | 295 | 469 | Ocean, Monmouth, Burlington |
| 18 | 1 | 14 | 136 | Ocean |
| 19 | 3 | 276 | 552 | Camden, Burlington |
| 20 | 1 | 36 | 199 | Burlington |
| 21 | 1 | 29 | 234 | Burlington, Ocean |
| 22 | 2 | 59 | 215 | Burlington, Ocean |
| 23 | 1 | 28 | 210 | Burlington, Camden, Atlantic |
| 24 | 1 | 26 | 192 | Burlington, Ocean |
| 25 | 2 | 103 | 518 | Gloucester, Camden, Atlantic, Salem |
| 26 | 1 | 47 | 204 | Atlantic |
| 27 | 3 | 368 | 681 | Salem, Cumberland |
| 28 | 2 | 134 | 328 | Salem, Cumberland, Gloucester |
| 29 | 3 | 427 | 822 | Salem, Cumberland |
| 30 | 1 | 35 | 105 | Cumberland |
| 31 | 1 | 0 | 0 | Cumberland |
| 32 | 1 | 0 | 0 | Cumberland |
| 33 | 2 | 25 | 140 | Cape May, Atlantic |
| 34 | 1 | 39 | 232 | Cape May, Cumberland |
| 35 | 3 | 385 | 740 | Gloucester, Salem |
| 36 | 3 | 39 | 140 | Bergen, Hudson, Essex, Morris, Union, Somerset, Middlesex |
| 37 | 6 | 38 | 179 | Burlington (Fort Dix Military Reservation) |
| 38 | 7 | 190 | 600 | Morris (Great Swamp National Wildlife Refuge) |
| 39 | 8 | *[64]* *32* | *[32]* *64* | Monmouth (Earle Naval Weapons Station) |
| 40 | 1 | 7 | 80 | Warren (Allamuchy State Park) |
| 41 | 4 | 623 | 1,005 | Mercer, Hunterdon |
| 42 | 2 | 22 | 49 | Atlantic |
| 43 | 1 | 0 | 0 | Cumberland |
| 44 | 1 | 12 | 50 | Cumberland |
| 45 | 1 | 0 | 0 | Cumberland, Atlantic, Cape May |
| 46 | 1 | 15 | 90 | Atlantic |
| 47 | 2 | 27 | 80 | Atlantic, Cumberland, Gloucester |
| 48 | 3 | 288 | 596 | Burlington |
| 49 | 3 | 32 | 64 | Burlington, Camden, Gloucester |
| 50 | 3 | 135 | 438 | Middlesex, Monmouth |
| 51 | 3 | 56 | 217 | Monmouth, Ocean |
| 52 | 6 | 26 | 51 | Ocean (Fort Dix Military Reservation) |
| 53 | 9 | 26 | 47 | Ocean (Lakehurst Naval Engineering Center) |
| 54 | 8 | 13 | 31 | Morris (Picatinny Arsenal—ARRAD Com) |
| 55 | 9 | 15 | 40 | Atlantic (Federal Aviation Administration Technical Center) |
| 56 | 2 | 28 | 20 | Atlantic (Forsythe National Wildlife Refuge) |
| 57 | 2 | 20 | 40 | Atlantic (Forsythe National Wildlife Refuge) |
| 58 | 2 | 20 | 50 | Burlington, Ocean (Forsythe National Wildlife Refuge) |
| 59 | 10 | 60 | 60 | Salem (Supawna National Wildlife Refuge) |
| 60 | 11 | 50 | 120 | Hunterdon (Round Valley Recreation Area) |
| 61 | 2 | 21 | 105 | Atlantic (Atlantic County Parks) |
| 62 | 8 | 10 | 20 | Monmouth (Fort Monmouth) |
| 63 | 4 | 117 | 225 | Salem |
| 64 | 12 | 90 | 135 | Monmouth (Monmouth Battlefield State Park) |
| Total | | *[18,111]* *18,079* | *[37,829]* *37,861* | |

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(1) Shotgun permit season permit not applied for by September 10, 1990 may be reallocated to muzzleloader rifle, permit season applicants.

(m) The Season Dates Code referred in the table in (k) above is as follows:

1. Indicates one-day shotgun permit season—December 12, 1990.
2. Indicates three-day shotgun permit season—December 12, 13, and 14, 1990.
3. Indicates six-day shotgun permit season—December 12, 13 and 14, 1990 and January 18, 19 and 26, 1991.
4. Indicates seven-day shotgun permit season—December 3, 12, 13, 14, 1990 and January 18, 19 and 26, 1991.
5. Indicates an eight-day shotgun permit season—December 3, 8, 12, 13, 14, 1990 and January 18, 19 and 26, 1991.
6. Indicates a one-day shotgun permit season—December 29, 1990.
7. Indicates a six-day shotgun permit season—December 6, 7 and 8, 1990 and January 10, 11 and 12, 1991.
8. Indicates a one-day shotgun permit season—December 15, 1990.
9. Indicates a one-day shotgun permit season—January 5, 1991.
10. Indicates three three-day shotgun permit season segments—December 3, 4 and 5, 1990 (first segment); December 12, 13 and 14, 1990 (second segment); and January 18, 19 and 26, 1991 (third segment).
11. Indicates a three-day shotgun permit season—December *[3 and]* 12, *13 and 14,* 1990 *[and January 18, 1991]*.
12. Indicates three one-day shotgun season segments—January 18 *first segment*, *January* 19 *second segment*, and *January* 26 *third segment*, 1991.

(n) (No change.)

(o) Permit quotas for Zones 37, 38, 39, 40, 52-62 and 64 are contingent upon approval by appropriate land management agencies for those zones.

(p) Deer management zones are located as follows:

1.-14. (No change.)

15. Zone No. 15: That portion of Monmouth, Mercer and Middlesex Counties lying within a continuous line beginning at the intersection of the New Jersey Turnpike and Rt. 522 near Jamesburg; then south on the Turnpike to its intersection with Rt. 195; then east on Rt. 195 to its intersection with Rt. 537 near Holmson; then northeast on Rt. 537 to its intersection with Rt. 522 in Freehold; then northwest on Rt. 522 to its intersection with the New Jersey Turnpike, the point of beginning. Monmouth Battlefield State Park is excluded from this zone.

16.-18. (No change.)

19. Zone No. 19: That portion of Burlington and Camden Counties lying within a continuous line beginning at the intersection of Rt. 530 and Rt. 206 near Birmingham; then south along Rt. 206 to its intersection with Rt. 532, Chatsworth Road; then east along Rt. 532 to its intersection with Buttersworth Bogs Road; then south and west along Buttersworth Bogs Road to its intersection with Bozartown Road; then southwest along Bozartown Road to its intersection with Dingtletown Road; then southwest along Dingtletown Road which becomes Forked Neck Road and curves to the west; then west along Forked Neck Road to its intersection with Rt. 206; then south along Rt. 206 to its intersection with Rt. 541, Stokes Road; then northwest along Rt. 541 to its intersection with Willow Grove Road; then southwest on Willow Grove Road to its intersection with Atsion Road; then northwest on Atsion Road to its intersection with Rt. 534, Jackson Road; then west along Rt. 534 to its intersection with Rt. 73; then north along Rt. 73 to its intersection with the New Jersey Turnpike; then northeast along the New Jersey Turnpike to its intersection with Rt. 38; then east along Rt. 38 to its intersection with Rt. 530; then east along Rt. 530 to its intersection with Rt. 206 near Birmingham, the point of beginning.

20.-22. (No change.)

23. Zone No. 23: That portion of Burlington, Atlantic and Camden Counties lying within a continuous line beginning at the intersection of Rts. 542 and 563 at Green Bank; then west along Rt. 542 to its intersection with Rt. 30 near Hammonton; then northwest

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along Rt. 30 to its intersection with Rt. 73; then north on Rt. 73 to its intersection with Rt. 534, Jackson Road; then east along Rt. 534 to its intersection with Atsion Road; then southeast on Atsion Road to its intersection with Willow Grove Road; then northeast on Willow Grove Road to its intersection with Rt. 541, Stokes Road; then southeast along Rt. 541 to its intersection with Rt. 206; then north along Rt. 206 to its intersection with Forked Neck Road; then east along Forked Neck Road which becomes Dingtletown Road, curving to the northeast; then northeast along Dingtletown Road to its intersection with Bozartown Road; then northeast along Bozartown Road to its intersection with Buttersworth Bogs Road; then east and north along Buttersworth Bogs Road to its intersection with Rt. 532, Chatsworth Road; then east along Rt. 532 to its intersection with Rt. 563 at Chatsworth; then south along Rt. 563 to Rt. 542 the point of beginning at Green Bank.

24.-26. (No change.)

27. Zone No. 27: That portion of Cumberland and Salem Counties lying within a continuous line beginning at the intersection of Rts. 77 and 40 at Pole Tavern; then northwest on Rt. 40 to its intersection with Rt. 48; then west on Rt. 48 through Penns Grove to the Delaware River; then south along the east bank of the Delaware River to its intersection with the Salem Canal at Deepwater; then eastward along the south bank of the Salem Canal to its intersection with the Salem River; then southward along the west bank of the Salem River to its intersection with Rt. 49 at Salem; then southeast on Rt. 49 to its intersection with Rt. 540 at Pecks Corner; then east along Rt. 540 to its intersection with Rt. 77; then north on Rt. 77 to its intersection with Rt. 40 at Pole Tavern, the point of beginning.

28. (No change.)

29. Zone No. 29: That portion of Salem and Cumberland Counties lying within a continuous line beginning with the intersection of Rts. 77 and 49 at Bridgeton; then northwest on Rt. 49 to its intersection with Alloway Creek at Quinton; then southwest along the northern bank of the Alloway Creek to its intersection with the Delaware River; then south along the east bank of the Delaware River to the Cohansey River; then along the northwest bank of the Cohansey River to Bridgeton, the point of beginning.

30.-49. (No change.)

50. Zone No. 50: That portion of Monmouth and Middlesex Counties lying in a continuous line beginning at the intersection of the New Jersey Turnpike and Rt. 522 near Jamesburg; then southeast on Rt. 522 to its intersection with Rt. 537 at Freehold; then southwest on Rt. 537 to its intersection with Rt. 33; then east on Rt. 33 to its intersection with the western edge of the fenced boundary of the Earle Naval Weapons Depot; then north and east along the fenced boundary of the Earle Depot to its intersection with County Route 38 (Wayside Road); then south on County Route 38 to its intersection with Rt. 547; then north on Rt. 547 and to its intersection with the Garden State Parkway; then north on the Garden State Parkway to its intersection with Rt. 36 near Eatontown; then east on Rt. 36 to the Atlantic Ocean; then north along the Atlantic coastline to the Raritan Bay; then south and west along the shore of Raritan Bay to the Raritan River; then continuing west along the south bank of the Raritan River to its intersection with the New Jersey Turnpike; then southwest along the New Jersey Turnpike to its intersection with Rt. 522, the point of beginning. Monmouth Battlefield is excluded from this zone.

51.-58. (No change.)

59. Zone No. 59: That portion of Supawna Meadows National Wildlife Refuge, U.S. Dept. of the Interior, designated as open for deer hunting, lying within Salem County.

60. Zone No. 60: That portion of Round Valley Recreation Area, designated as open for hunting, lying within Hunterdon County.

Recodify existing 60. and 61. as 61. and 62. (No change in text.)

63. Zone No. 63: That portion of Salem County lying within a continuous line beginning at the intersection of the Salem Canal and the Delaware River at Deepwater; then eastward along the south bank of the Salem Canal to its intersection with the Salem River; then southward along the west bank of the Salem River to its intersection with Rt. 49 at Salem; then southeastward on Rt. 49 to its intersection with Alloway Creek at Quinton; then, southwest along

the northern bank of the Alloway Creek to its intersection with the Delaware River; then northward along the east bank of the Delaware River and New Jersey State line to Finns Point and Fort Mott State Park; then northward along the New Jersey State Line through Killcohook National Wildlife Refuge to the Delaware River; then northwest along the east bank of the Delaware River; then northward along the east bank of the Delaware River and New Jersey State line to its intersection with the Salem Canal at Deepwater, the point of beginning. The Supawna Meadows National Wildlife Refuge (Zone 59) is excluded from Zone 63.

64. Zone No. 64: That portion of Monmouth Battlefield State Park, designated as open for hunting, lying within Monmouth County.

7:25-5.30 White-tailed deer bow permit season (either sex)

(a)-(c) (No change.)

(d) Duration of the bow permit season is from November 10-December 1, 1990 in Zones 2, 5-31, 33-36, 39-51, 53-55, 58, 59 and 61-63; November 19-December 1, 1990 in Zones 37 and 52 or any other time as determined by the Director. Legal hunting hours shall be 1/2 hour before sunrise to 1/2 hour after sunset.

(e)-(g) (No change.)

(h) Bow Permit Season Permits shall be applied for as follows:

1. Only holders of valid bow and arrow licenses including juvenile bow license holders may apply by detaching from their bow hunting license the stub marked special deer season 1990, signing as provided on the back, and sending the stub together with the permit fee and an application form which has been properly completed in accordance with instructions. Application forms may be obtained from:

i.-iv. (No change.)

2. (No change.)

3. Only one application may be submitted per regular bow license holder during the initial application period and only one application for a left-over permit may be submitted by any one individual during the initial application period. Application for more than the allowable number of permits during the initial application period will cause all applications by an individual to be void. All persons, while their hunting licenses are void under the authority of N.J.S.A. 23:3-22, are prohibited from making application for or otherwise procuring a bow deer permit.

4. (No change.)

5. Unsuccessful applicants will be notified only by return of permit fees, less the application fee. Any permit obtained by fraud is void.

6. Unless otherwise indicated, the permit fee in the form of a check or money order made payable to "Division of Fish, Game and Wildlife" must accompany the completed application form.

7. (No change.)

8. Nothing herein contained shall preclude the Division from issuing unfulfilled or unclaimed permits on a first-come, first-served basis to any properly licensed hunter or qualified farmer, after the permit selection process.

(i)-(j) (No change.)

(k) The Deer Management Zone Map is on file at the Office of Administrative Law and is available from that agency or the Division. The 1990 Bow Permit Season Quotas (Either Sex) are as follows:

1990 BOW PERMIT SEASON PERMIT QUOTAS (EITHER SEX)

| Deer Mgt. Zone No. | Season Dates Code | Anticipated Deer Harvest | Permit Quota | Portions of Counties Involved |
|--------------------|-------------------|--------------------------|--------------|--|
| | | 1990 | 1990 | |
| 1 | 1 | 0 | 0 | Sussex |
| 2 | 1 | 116 | 835 | Sussex |
| 3 | 1 | 0 | 0 | Sussex, Passaic, Bergen |
| 4 | 1 | 0 | 0 | Sussex, Warren |
| 5 | 1 | 326 | 2,400 | Sussex, Warren |
| 6 | 1 | 65 | 900 | Sussex, Morris, Passaic, Essex |
| 7 | 1 | 189 | 1,300 | Warren, Hunterdon |
| 8 | 1 | 336 | 2,750 | Warren, Hunterdon, Morris, Somerset |
| 9 | 1 | 113 | 1,000 | Morris, Somerset |
| 10 | 1 | 217 | 1,400 | Warren, Hunterdon |
| 11 | 1 | 118 | 940 | Hunterdon |
| 12 | 1 | 284 | 1,985 | Mercer, Hunterdon, Somerset |
| 13 | 1 | 72 | 675 | Morris, Somerset |
| 14 | 1 | 102 | 1,200 | Mercer, Somerset, Middlesex, Burlington |
| 15 | 1 | 81 | 725 | Mercer, Monmouth, Middlesex |
| 16 | 1 | 61 | 600 | Ocean, Monmouth |
| 17 | 1 | 33 | 320 | Ocean, Monmouth, Burlington |
| 18 | 1 | 14 | 221 | Ocean |
| 19 | 1 | 34 | 325 | Camden, Burlington |
| 20 | 1 | 19 | 225 | Burlington |
| 21 | 1 | 23 | 235 | Burlington, Ocean |
| 22 | 1 | 21 | 190 | Burlington, Ocean |
| 23 | 1 | 49 | 450 | Burlington, Camden, Atlantic |
| 24 | 1 | 30 | 275 | Burlington, Ocean |
| 25 | 1 | 40 | 550 | Gloucester, Camden, Atlantic, Salem |
| 26 | 1 | 35 | 315 | Atlantic |
| 27 | 1 | 68 | 546 | Salem, Cumberland |
| 28 | 1 | 43 | 250 | Salem, Cumberland, Gloucester |
| 29 | 1 | 55 | 440 | Salem, Cumberland |
| 30 | 1 | 8 | 99 | Cumberland |
| 31 | 1 | 6 | 50 | Cumberland |
| 32 | 1 | 0 | 0 | Cumberland |
| 33 | 1 | 16 | 135 | Cape May, Atlantic |
| 34 | 1 | 49 | 300 | Cape May, Cumberland |
| 35 | 1 | 69 | 650 | Gloucester, Salem |
| 36 | 1 | 11 | 140 | Bergen, Hudson, Essex, Morris, Union, Somerset and Middlesex |
| 37 | 2 | 6 | 103 | Burlington (Fort Dix Military Reservation) |

ADOPTIONS

| | | | |
|-------|---|--------------|---------------|
| 38 | 1 | 0 | 0 |
| 39 | 1 | 9 | 34 |
| 40 | 1 | 4 | 80 |
| 41 | 1 | 85 | 650 |
| 42 | 1 | 5 | 60 |
| 43 | 1 | 18 | 150 |
| 44 | 1 | 9 | 50 |
| 45 | 1 | 15 | 150 |
| 46 | 1 | 14 | 75 |
| 47 | 1 | 15 | 80 |
| 48 | 1 | 45 | 400 |
| 49 | 1 | 4 | 40 |
| 50 | 1 | 35 | 375 |
| 51 | 1 | 33 | 260 |
| 52 | 2 | 2 | 25 |
| 53 | 1 | 3 | 30 |
| 54 | 1 | 8 | 30 |
| 55 | 1 | 5 | 40 |
| 56 | | 0 | 0 |
| 57 | | 0 | 0 |
| 58 | 1 | 5 | 50 |
| 59 | 1 | 14 | 30 |
| 60 | | | |
| 61 | 1 | 14 | 135 |
| 62 | 1 | 4 | 15 |
| 63 | | 28 | 225 |
| 64 | | | |
| Total | | <u>3,083</u> | <u>25,513</u> |

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Morris (Great Swamp National Wildlife Refuge)
 Monmouth (Earle Naval Weapons Station)
 Warren (Allamuchy State Park)
 Mercer, Hunterdon
 Atlantic
 Cumberland
 Cumberland
 Cumberland, Atlantic, Cape May
 Atlantic
 Atlantic, Cumberland, Gloucester
 Burlington
 Burlington, Camden, Gloucester
 Middlesex, Monmouth
 Monmouth, Ocean
 Ocean (Fort Dix Military Reservation)
 Ocean (Lakehurst Naval Engineering Center)
 Morris (Picatinny Arsenal—ARRAD Com)
 Atlantic (Federal Aviation Administration Technical Center)
 Atlantic (Forsythe National Wildlife Refuge)
 Atlantic (Forsythe National Wildlife Refuge)
 Burlington, Ocean (Forsythe National Wildlife Refuge)
 Salem (Supawna National Wildlife Refuge)
 Hunterdon (Round Valley Recreation Area)
 Atlantic (Atlantic County Parks)
 Monmouth (Fort Monmouth)
 Salem
 Monmouth (Monmouth Battlefield State Park)

(1) The Season Dates Code referred to in the table in (k) above is as follows:

1. Indicates the season dates will be November 10-December 1, 1990.

2. Indicates the season dates will be November 19 through December 1, 1990.

(m) Permit quotas for Zones 37, 39, 40, 52-55, 58, 59, 61 and 62 are contingent upon approval by the appropriate land management agencies for these zones.

(n) (No change.)

7:25-5.31 White-tailed deer permit shotgun season permit (either sex), Great Swamp National Wildlife Refuge (Zone 38).

(a)-(b) (No change.)

(c) Duration of the Great Swamp Permit Shotgun Season Permit shall be from sunrise to 1/2 hour after sunset on the following dates: December 6, 7 and 8, 1990 and January 10, 11 and *12*, 1991 or as may otherwise be designated by the U.S. Fish and Wildlife Service.

(d)-(i) (No change.)

7:25-5.32 Special Wildlife Management Permits

(a) (No change.)

(b) In granting this special wildlife management permit the Director shall consider any data available to him including, but not limited to, damage being done to crops or property, the biological condition of the animal or any other special management problem.

1. Issuance of additional permit shotgun and muzzleloader season deer permits for specific farms within oversubscribed deer management zones shall be based on the following criteria:

i. The farm must include an area of 10 acres or more, produce a gross income in excess of \$500.00, be assessed as farm land and have a documented history of deer damage;

ii. The zone in which the farm is located must be oversubscribed in the initial permit drawing(s);

iii. The permit shall only be valid for the specific farm applied for and shall not be transferable; and

iv. Permits will be issued on the basis of not more than one permit per 10 acres.

(c) (No change.)

7:25-5.33 (No change.)

7:25-5.34 Controlled hunting—hunting restrictions on wildlife management areas

(a) No wildlife management areas have been selected for limited hunter density for the 1990-91 season. However, hunting with firearms shall be prohibited on November 9, 1990 on those wildlife management areas designated as pheasant and quail stamp areas in N.J.A.C. 7:25-5.33.

(b) (No change.)

7:25-5.35 through 5.38 (No change.)

(a)

DIVISION OF FISH, GAME AND WILDLIFE

Notice of Administrative Correction

Marine Fisheries

General Net Regulations

N.J.A.C. 7:25-18.5

Take notice that the Department of Environmental Protection has discovered an error in the text of N.J.A.C. 7:25-18.5(g)6vi in that the words "2.75 inches stretched beginning" in the first clause of the second sentence of the subparagraph were omitted from the revised Code text following the most recent adopted amendment to this rule (see 19 N.J.R. 1609(a) and 20 N.J.R. 1344(b)). The words were part of the rule prior to the adopted amendment. This notice of administrative correction is published pursuant to N.J.A.C. 1:30-2.7.

Full text of the corrected rule follows (addition indicated in boldface **thus**):

7:25-18.5 General net regulations

(a)-(f) (No change.)

(g) Persons intending to take fish with a net in the marine waters of this State pursuant to N.J.S.A. 23:5-24.2 shall, as required, apply to the Commissioner for a license. Upon receipt of the application and the prescribed license fee, the Commissioner may, in his discretion, issue single season licenses as specified for each net type for the taking of fish with nets only as follows:

1.-5. (No change.)

6. Staked and anchored gill nets shall be used only in the Atlantic Ocean, Raritan Bay, Sandy Hook Bay, and the Delaware Bay and its tributaries. Staked or anchored gill nets shall not be fastened

together to form a series of nets exceeding 400 fathoms in length from the beginning of the season through May 15 or exceeding 200 fathoms in length beginning May 16 through December 15.

i.-v. (No change.)

vi. Staked gill nets may be used in Delaware Bay for any species except those specifically protected only beginning February 1 through December 15, where individual gill net length shall not exceed 30 fathoms. The mesh of any such net used in Delaware Bay shall be 2.75 inches stretched beginning February 1 through February 29 and shall not be less than 2.75 inches beginning March 1 through December 15. Staked gill nets shall not be used in that portion of Delaware Bay known as the Brandywine Shoal Restricted Area as defined in (g)5v above:

7.-12. (No change.)

(h) (No change.)

(a)

**DIVISION OF ENVIRONMENTAL QUALITY
Fees for Initial Registration Application and Annual
Registration of Ionizing Radiation-Producing
Machines**

Adopted Amendment: N.J.A.C. 7:28-3.12

Proposed: June 4, 1990 at 22 N.J.R. 1653(a).

Adopted: July 13, 1990 by Judith A. Yaskin, Commissioner,
Department of Environmental Protection.

Filed: July 16, 1990 as R.1990 d.400, **without change.**

Authority: N.J.S.A. 13:1D-1 et seq. and N.J.S.A. 26:2D-1 et seq.,
specifically N.J.S.A. 26:2D-9.

DEP Docket Number: 021-90-05.

Effective Date: August 6, 1990.

Expiration Date: October 7, 1990.

Summary of Public Comments and Agency Responses:

The proposed rules were published in the June 4, 1990 issue of the New Jersey Register. Secondary notice was achieved by publication in the Newark Star Ledger, the Camden Courier Post, and the Trenton Times, three newspapers of general circulation, and by direct mail to eight interested industry groups. The public comment period extended until July 5, 1990, during which one written comment was received. A public hearing on the proposed amendment was held at the New Jersey State Museum in Trenton, New Jersey on June 20, 1990. No persons attended the hearing.

COMMENT: The sole commenter suggested that the Department consider the economic significance of different types of ionizing radiation-producing equipment in assessing the proposed fees. This suggestion is based on the premise that commercial equipment, such as that used for medical, therapeutic, and/or diagnostic purposes generates substantial income for the registrant, whereas non-commercial equipment such as fluorescence spectroscopy units and electron microscopes used for research produce no revenue for the registrant. To illustrate this point, the commenter referred to the XRF unit used by local health departments in evaluating environmental lead hazards. The commenter noted that such equipment should not be assessed the \$100.00 annual registration fee because its value was disproportionate to other types of licensed instruments. In light of the foregoing, the commenter suggested that the Department prorate the proposed fees based on the initial cost of the instrument or equipment or, alternatively, that the Department establish two classes of licenses: one for commercial instruments or equipment and one for non-commercial instruments or equipment. The commenter further suggested that the fees for commercial equipment be increased to raise the needed revenue while fees for non-commercial equipment be raised slightly or not at all.

RESPONSE: The Department does not believe that the economic value of a particular category of ionizing radiation-producing equipment, whether measured by the cost of acquiring the equipment or by the amount of income generated by its use, is a valid basis upon which to establish the proposed fee schedule. In accordance with the provisions of the Radiation Protection Act ("the Act"), N.J.S.A. 26:2D-1 et seq., specifically, N.J.S.A. 26:2D-9(1), all fees established by the Department must relate to the actual or projected cost of the services that the Depart-

ment performs in furtherance of its statutory duties. The fees embodied in proposed N.J.A.C. 7:28-3.12 encompass several services performed in furtherance of the Department's duties under the Act, among them essential registration and inspection services. The Department's cost in performing these services, both actual and projected, does not rise or fall depending upon the type or economic value of the regulated equipment. By way of example, the administrative cost to the Department to register all the types of ionizing radiation-producing machines is the same regardless of the type of equipment registered. The Department's total cost of inspecting each type of unit does not differ significantly from one type to another. The Department, therefore, disagrees with the comment that the proposed fees should reflect the economic significance or the revenue-generating value of the equipment.

The Department would also like to respond to the commenter's reference to the XRF (x-ray fluorescence) units used by local health departments in evaluating environmental lead hazards. The commenter noted that such equipment should not be assessed the \$100.00 annual registration fee because its value was disproportionate to the other types of licensed instruments. The Department notes that the equipment in question, the XRF unit, utilizes radioactive material as its source of radiation and is, therefore, covered by N.J.A.C. 7:28-4, Licensing of Naturally Occurring and Accelerator Produced Radioactive Materials and by N.J.A.C. 7:28-3.5, Registration of Radioactive By-product Material, Source Material and Special Nuclear Material. As such the fee for the XRF equipment is covered by those sections of the Radiation Protection Code and not by N.J.A.C. 7:28-3.12.

Full text of the adopted amendment follows.

Ionizing Radiation-Producing Machine Registration and Inspection Staff

- Bureau Chief (1)
 - Radiation Physicist I (3)
 - Radiation Physicist II (4)
 - Radiation Physicist III (4)
 - Management and Operations Analyst II (1)
 - Principal Clerk Typist (3)
 - Audit Account Clerk (2)
 - Legal (1)
 - Administrative Support (2)
 - Receptionist (1)
 - Enforcement (2)
- | | |
|--------------------------|-------------|
| Estimated Salaries | \$ 792,000 |
| Fringe Benefits | \$ 218,988 |
| Indirect Costs | \$ 330,593 |
| Subtotal | \$1,341,581 |

Program Costs

- | | |
|---|-------------|
| Printing and Office Supplies | \$ 20,000 |
| Vehicular (gas/oil) | 4,500 |
| Technical Equipment | 70,000 |
| Travel | 10,000 |
| Telephone | 14,400 |
| Postage | 4,000 |
| Data Processing Supplies | 5,000 |
| Training, Other Services | 4,000 |
| Maintenance of Equipment | 9,000 |
| Maintenance of Vehicles | 4,500 |
| Rent: Buildings and Grounds | 40,800 |
| Rent: Central Motor Pool (CMP) | 32,400 |
| Data Processing (CDS Lease 70% of cost) | 63,000 |
| Technical Supplies | 5,000 |
| Subtotal | \$ 286,600 |
| TOTAL | \$1,628,181 |
| Inflation Factor 5.5% | \$ 89,549 |
| GRAND TOTAL | \$1,717,730 |

These resources will be used by the Department to administer the registration program and to provide the inspection services needed to protect the public from unnecessary exposure to radiation resulting from the use of ionizing radiation-producing machines.

ADOPTIONS

HIGHER EDUCATION

7:28-3.12 Fees for initial registration application, and annual registration of ionizing radiation-producing machines

(a) The fees for initial registration applications and for annual registrations are as follows:

| Machine Source Category | Initial Registration Application Fee | Annual Registration Fee |
|---|--------------------------------------|-------------------------|
| 1. Dental Units | \$100.00 | \$100.00 |
| 2. Fixed Radiographic Diagnostic X-ray Units | \$100.00 | \$100.00 |
| 3. Portable Radiographic Diagnostic X-ray Units | \$100.00 | \$100.00 |
| 4. Medical Fluoroscopic Units (fixed, under table) | \$100.00 | \$100.00 |
| 5. Medical Fluoroscopic Units (portable) | \$100.00 | \$100.00 |
| 6. Mobile Diagnostic Units (motor vehicle mounted) | \$100.00 | \$100.00 |
| 7. Medical Radiographic-Fluoroscopic Units (fixed, over table combination tube, C-arm unit) | \$100.00 | \$100.00 |
| 8. Medical Radiographic-Fluoroscopic Units (portable, C-arm) | \$100.00 | \$100.00 |
| 9. CAT Scanning Diagnostic X-ray Units | \$100.00 | \$100.00 |
| 10. Mammography Units | \$100.00 | \$100.00 |
| 11. Therapeutic Units capable of operation at no more than 60 kVp | \$100.00 | \$100.00 |
| 12. Therapeutic Units capable of operation at no more than 500 kVp | \$100.00 | \$100.00 |
| 13. Therapeutic Units capable of operation at no more than 1 MeVp | \$100.00 | \$100.00 |
| 14. Therapeutic Units including accelerators capable of operating at no more than 25 MeV | \$100.00 | \$100.00 |
| 15. Therapeutic Units delivering a Neutron Beam to 14 MeV | \$325.00 | \$ 75.00 |
| 16. Therapeutic Units including accelerators capable of operating at no more than 6 MeV | \$100.00 | \$100.00 |
| 17. Industrial and Research Radiography | \$100.00 | \$100.00 |
| 18. Electron Beam Welding Unit | \$100.00 | \$100.00 |
| 19. X-ray Diffraction Units | \$100.00 | \$100.00 |
| 20. X-ray Fluorescence Spectroscopy Units | \$100.00 | \$100.00 |
| 21. Electron Microscope Units | \$100.00 | \$100.00 |
| 22. Cabinet X-ray Systems | \$100.00 | \$100.00 |
| 23. X-ray Baggage Inspection Systems or Mailroom Units | \$100.00 | \$100.00 |
| 24. Industrial Accelerators | \$100.00 | \$100.00 |
| 25. Research Accelerators to 1 MeV | \$125.00 | \$125.00 |
| 26. Research Accelerators to 100 MeV | \$125.00 | \$125.00 |
| 27. Research Accelerators above 100 MeV | \$125.00 | \$125.00 |

(b) For each additional machine listed in (a)1 to (a)11 above, which is at the same address, the initial registration application fee is \$100.00 and the annual registration application fee is \$100.00.

(c)-(e) (No change.)

HIGHER EDUCATION

(a)

BOARD OF HIGHER EDUCATION

State Colleges

Institutional Promotional Policies; Exemptions From Limitations for Professorial Classifications; Institutional Plans

Adopted New Rules: N.J.A.C. 9:6-3.7, 3.9 and 9:6-7

Proposed: April 16, 1990 at 22 N.J.R. 1216(a).

Adopted: July 6, 1990 by the Board of Higher Education, Edward D. Goldberg, Acting Chancellor and Secretary.

Filed: July 6, 1990 as R.1990 d.375, with technical changes not requiring additional public notice and comment (see N.J.A.C. 1:30-4.3).

Authority: N.J.S.A. 18A:64-6(h) and N.J.S.A. 18A:3-14(h).

Effective Date: August 6, 1990.

Expiration Date: April 30, 1995.

Summary of Public Comments and Agency Responses:

The Board received one comment on the proposal from the Council of New Jersey State College Locals, NJSFT-AFT/AFL-CIO.

COMMENT: The Council argued that the proposed new rules which allow for the removal of the promotion caps set forth in N.J.A.C. 9:6-3.8 only act to switch the caps from the State to the local level. The Council

alleges that the promotion caps are corrosive to faculty morale and that they should be abolished.

RESPONSE: The new rules set forth a procedure whereby the State colleges may control the percentage of faculty in the various ranks rather than having particular requirements imposed by the State. In that sense, the local colleges will have responsibility for this area rather than the Board of Higher Education. The Board disagrees with the view of the Council that the promotion caps should be abolished. The caps were originally put in place to prevent excessive numbers of faculty in the highest ranks. The Board believes that the caps, combined with a promotional system based upon merit, allows for appropriate promotions among the faculty without resulting in an inordinate number of faculty in the upper ranks.

COMMENT: The Council stated that the Board's policy regarding salary/non-salary base budget proportion, referenced in N.J.A.C. 9:6-7.6, is an arbitrary and artificially rigid approach to problems created by under funding and that the policy should be abolished.

RESPONSE: The Board disagrees with the views of the Council. The Board's policy in this area was set into place as a result of previous fiscal years where the colleges were not sufficiently funding non-salary accounts due to high funding of salary accounts. This policy has served to ensure sufficient funding of the non-salary accounts since that time. The new rules allow for the suspension of this policy if the institution submits a plan to the Board pursuant to the new rules which will ensure appropriate funding levels for various accounts at the colleges.

Summary of Agency Initiated Changes

The language of N.J.A.C. 9:6-7.5 requiring that the initial institutional plan be submitted no later than July 1, 1990 has been modified as these rules will not be effective until after that date.

Full text of the adoption follows (additions to proposal indicated in boldface with asterisks *thus*; deletions from proposal indicated in brackets with asterisks *[thus]*).

9:6-3.7 Institutional promotion policies

(a) Each board of trustees shall maintain a promotion policy which clearly supports the mission of the college and which considers the impact on current and future students of the college. The promotion policy shall constitute a companion to the comprehensive five year institutional plan (see N.J.A.C. 9:6-7) and shall be submitted to the Board of Higher Education Budget Committee along with the institutional plan and budget request. The policy shall include the following elements:

1. Criteria for promotion for each faculty rank;
2. A description of the current procedures for making promotion decisions;
3. A description of the impact of implementing the promotion policy with specific reference to the mission of the college and the impact on its students. Such description shall include the projected distribution by rank and tenure of the teaching faculty for each year over a 10 year period. It should also include an analysis of such distribution for each year following the effective date of this regulation and prior to the annual promotion policy submission to the Board of Higher Education;
4. A budgetary impact statement indicating the sources of funding for implementing the promotion policy of the college;
5. A statement of how the promotion policy will impact upon the recruitment, enrollment and retention of students at the college;
6. A statement of how the policy will affect new program development and current program update at the college;
7. A statement of how the policy will impact upon productivity of the faculty including but not limited to such issues as teaching, scholarly achievement, new courses, and advisement;
8. A plan for the inclusion of affirmative action considerations in the promotion policy; and
9. A plan for utilizing qualitative assessment of faculty performance including the quality of teaching.

(b) The Chancellor shall review the implementation of the promotion policy of the college annually and shall also complete a comprehensive review at five year intervals.

Recodify existing 9:6-3.7 as 9:6-3.8 (No change in text.)

9:6-3.9 Exemption from limitations for professorial classifications

(a) A State college board of trustees may seek exemption from the limitation on senior rank set forth in N.J.A.C. 9:6-3.8(a), based upon the criteria set forth in N.J.A.C. 9:6-3.7, by including a specific exemption request along with the submission of its institutional promotion policy to the Chancellor.

(b) An exemption, if granted, shall be effective upon approval of the institutional promotion policy by the Board of Higher Education.

(c) Upon review of the progress of the college in implementing its plan at the time of five-year comprehensive review, the Chancellor shall make a recommendation to the Board of Higher Education whether to transfer authority on such decisions to the board of trustees, to renew the exemption for another five years or to reimpose the limitation on the ranks of associate professor and above set forth in N.J.A.C. 9:6-3.8.

Recodify existing 3.8 through 3.16 as 3.10 through 3.18 (No change in text.)

SUBCHAPTER 7. INSTITUTIONAL PLANS

9:6-7.1 Scope and purpose

This subchapter governs the process for the development of and the elements to be included in the institutional plans to be submitted to the Board of Higher Education by the State colleges.

9:6-7.2 Use of the plan

Each State college shall develop and prepare a comprehensive institutional plan that clearly delineates institutional goals and priorities in order to guide the development and expenditure of the college's budget as well as the deployment of its human resources. The plan shall make substantial connections between academic and

financial planning. The plan's greatest utility is expected to be its foundation for board of trustee decisions, including the development of the annual budget request which must be congruent with the plan. The plan shall also be used to inform the Department and Board of Higher Education in their decisions and recommendations regarding budget, new degree programs, capital facilities, etc.

9:6-7.3 Planning timelines

Each college shall develop and maintain a comprehensive five-year institutional plan. The board of trustees shall determine whether the planning process shall be based on sequential five-year plans with annual progress reports or on rolling five-year plans that are modified annually.

9:6-7.4 Elements of the institutional plan

(a) The plan approved by the board of trustees shall include the following:

1. The college's mission statement;
2. A foundation, where appropriate, based upon campus history, tradition, special strengths and characteristics and view for the future, with references to service area and population to be served;
3. An environmental assessment that incorporates trend data, identifies external and internal forces, and expresses how these forces affect or relate to strengths, areas to be strengthened or curtailed, opportunities for instruction, research and service, competitive advantage and challenges to institutional stability and integrity;
4. Trends, goals and outcomes in the following:
 - i. Enrollment management, both recruitment and retention (with special attention to the needs of the people of the State);
 - ii. Major curriculum changes anticipated (undergraduate, graduate and continuing education);
 - iii. Planned allocations in the areas of library, instructional equipment, and other non-salary categories that support the academic program;
 - iv. Campus life, including human relations and student services;
 - v. Campus support services;
 - vi. Planned allocations for information systems, both academic and administrative computing;
 - vii. Human resources, including total salary expenditures, faculty staffing by rank and tenure, and administrative computing;
 - viii. Capital facilities, including on-going maintenance, deferred capital renewal and replacement, on-going capital renewal and replacement, and new facilities;
 - ix. Public service/outreach;
 - x. Financing and resource development; and
 - xi. Organizational framework.

9:6-7.5 Development, approval and submission of plans and periodic progress reports

The board of trustees shall maintain an institutional plan. The plan shall incorporate a principle of consultation with the college community. The *[initial]* institutional plan *[under the transition to autonomy must be submitted to the Chancellor no later than July 1, 1990. Thereafter, the plan]* and annual progress reports shall be submitted to the Chancellor no later than January 10th in order to coincide with the start of the Board of Higher Education's annual budget development process.

9:6-7.6 Conditions for the transfer of authority over base budget allocation to boards of trustees

(a) Upon receipt of a fiscal plan that supports the mission of the college and its institutional plan the Chancellor shall suspend the Board of Higher Education's salary/non-salary base budget proportion policy for a period of five years.

(b) To maintain the suspension, the board of trustees must include in its annual budget submission a report on the progress of achieving the goals of the plan, explaining any deviation.

(c) Upon review of the performance of a State college at the end of the five-year suspension period, the Chancellor shall make a recommendation to the Board of Higher Education whether to transfer authority for such decisions to the college's board of trustees, to renew the suspension of the policy for another five years or to reimpose the salary limitation policy.

(a)

STUDENT ASSISTANCE BOARD

**Tuition Aid Grant Program
1990-91 Award Table**

Adopted Amendment: N.J.A.C. 9:7-3.2

Reproposed: May 7, 1990 at 22 N.J.R. 1318(a).
 Adopted: July 9, 1990 by the Student Assistance Board,
 M. Wilma Harris, Chairperson.
 Filed: July 13, 1990 as R.1990 d.386, **without change**.
 Authority: N.J.S.A. 18A:71-47(b) and 18A:71-48.
 Effective Date: August 6, 1990.
 Expiration Date: February 28, 1993.

Summary of Public Comments and Agency Responses:
 COMMENT: One comment was received from the President of Ramapo College which supports the continuation of full tuition funding in the public sector for the neediest student population with a New Jersey Eligibility Index (NJEI) under 1500. However, for those students in the subsequent neediest NJEI categories of the table, he expressed concern about the ever-growing "need gap" between student budgets and Federal, State, institutional, and student resources which may or may not be available to meet these budgets. The question of possibly eliminating the

minimum Tuition Aid Grant (TAG) award and redistributing those monies to the lower NJEI ranges of higher need students was posed for consideration by the Department.

RESPONSE: With the increase in the TAG appropriation for the 1990-91 academic year, the Department has been able to provide full tuition awards to the neediest students attending New Jersey public institutions and a maximum award of \$4,200 for students attending New Jersey independent institutions. In addition, because of the increase above last year's State appropriation for the TAG Program, approximately 27,000 students from families with incomes below \$30,000, which is 70 percent of all TAG recipients, will receive significant award increases to cover higher tuition levels. These students are in the three neediest NJEI categories of the TAG Award Table. This assignment of higher award amounts based on the program appropriation and tuition levels for next year does not effect a change in the percentage based table published in the New Jersey Register since all award amounts are within the allowable percentage ranges of tuition for each NJEI category indicated on the table. Unfortunately, the Department is unable to recommend any increase for the 10,000 moderate and middle income students because of the continued surge of applications in the program and a second successive annual increase in the number of students expected to receive a TAG award. However, the Department has been able to maintain award amounts for these middle income students at current levels with no decrease for the 1990-91 academic year.

Full text of the adoption follows:

9:7-3.2 Tuition Aid Grant award table

(a) The value of the grant is related to the tuition charges of the various institutional sectors in New Jersey and the student's ability to pay for educational costs.

I. TUITION AID GRANT (TAG) AWARD TABLE FOR 1989-90 .
 APPROXIMATE TUITION AID GRANT VALUES¹
 NEW JERSEY COLLEGES AND UNIVERSITIES

| NJ Eligibility Index (NJEI) | County Colleges | State Colleges | Independent Institutions | Rutgers Univ. & UMDNJ ² | NJ Inst. of Tech. |
|-----------------------------|-----------------|-----------------|--------------------------|------------------------------------|-------------------|
| Under 1500 | 100% of tuition | 100% of tuition | 40-50% ³ | 100% of tuition | 100% of tuition |
| 1500-2499 | 85-99% | 80-99% | 85-99% | 85-99% | 85-99% |
| 2500-3499 | 70-84% | 70-79% | 75-84% | 75-84% | 75-84% |
| 3500-4499 | 50-69% | 60-69% | 65-74% | 65-74% | 65-74% |
| 4500-5499 | Minimum | 50-59% | 55-64% | 50-64% | 50-64% |
| 5500-6499 | 0 | 30-49% | 45-54% | 40-49% | 40-49% |
| 6500-7499 | 0 | Minimum | 35-44% | 30-39% | 30-39% |
| 7500-8499 | 0 | 0 | 25-34% | 20-29% | 20-29% |
| 8500-9499 | 0 | 0 | 15-24% | Minimum | Minimum |
| 9500-10499 | 0 | 0 | Minimum | 0 | 0 |
| Over 10499 | 0 | 0 | 0 | 0 | 0 |

¹In accordance with State guidelines, the value of the student's grant may decrease dependent upon appropriated funds, the student's college budget and other financial aid. The student will be notified of any increase in his/her grant if additional funds become available. Percentages listed for NJEI categories 1500 and above represent percentages of the first cell award. For purposes of N.J.A.C. 9:7-3.2, Tuition Aid Grant Award Table, the minimum grant for all institutional sectors shall not exceed \$400.00.

²Students enrolled in eligible programs at UMDNJ should contact the university's financial aid office for details.

³Pursuant to N.J.S.A. 18A:71-47, the maximum award for a student attending an independent institution of higher education is 50 percent of the average tuition normally charged students attending those institutions. The FY1990 Budget Request contains a recommended \$3,700.00 maximum award level in the independent sector for students with an NJEI under 1500.

2. TUITION AID GRANT (TAG) AWARD TABLE FOR 1990-91
 APPROXIMATE TUITION AID GRANT VALUES¹
 NEW JERSEY COLLEGES AND UNIVERSITIES

| NJ Eligibility Index (NJEI) | County Colleges | State Colleges | Independent Institutions | Rutgers Univ. & UMDNJ ² | NJ Inst. of Tech. |
|-----------------------------|-----------------|-----------------|--------------------------|------------------------------------|-------------------|
| Under 1500 | 100% of tuition | 100% of tuition | 40-50% ³ | 100% of tuition | 100% of tuition |
| 1500-2499 | 70-99% | 70-99% | 75-99% | 75-99% | 75-99% |
| 2500-3499 | 50-75% | 60-75% | 65-74% | 65-80% | 65-80% |
| 3500-4499 | 35-55% | 50-60% | 55-64% | 55-70% | 55-70% |
| 4500-5499 | Minimum | 40-50% | 45-54% | 50-60% | 50-60% |
| 5500-6499 | 0 | 25-40% | 35-44% | 35-50% | 35-50% |
| 6500-7499 | 0 | Minimum | 30-34% | 25-35% | 30-40% |
| 7500-8499 | 0 | 0 | 20-29% | 20-30% | 20-30% |
| 8500-9499 | 0 | 0 | 10-19% | Minimum | Minimum |
| 9500-10499 | 0 | 0 | Minimum | 0 | 0 |
| Over 10499 | 0 | 0 | 0 | 0 | 0 |

¹In accordance with State guidelines, the value of the student's grant may decrease dependent upon appropriated funds, the student's college budget and other financial aid. The student will be notified of any increase in his/her grant if additional funds become available. Percentages listed for NJEI categories 1500 and above represent percentages of the first cell award. The award in each subsequent NJEI category above 1500 will continue to decrease in value until the minimum grant is reached in each sector. For purposes of N.J.A.C. 9:7-3.2, Tuition Aid Grant Award Table, the minimum grant for all institutional sectors shall not exceed \$400.00.

²Students enrolled in eligible programs at UMDNJ should contact the university's financial aid office for details.

³Pursuant to N.J.S.A. 18A:71-47, the maximum award for a student attending an independent institution of higher education is 50 percent of the average tuition normally charged students attending those institutions. The FY1991 Budget Request contains a recommended \$4,200.00 maximum award level in the independent sector for students with an NJEI under 1500.

HUMAN SERVICES

(a)

DIVISION OF MENTAL HEALTH AND HOSPITALS

Interim Assistance Program

Adopted Recodification with Amendments: N.J.A.C. 10:38

Adopted Repeal: N.J.A.C. 10:38-5

Proposed: August 7, 1989 at 21 N.J.R. 2280(a).

Adopted: July 3, 1990 by Alan J. Gibbs, Commissioner, Department of Human Services.

Filed: July 5, 1990 as R. 1990 d.370, with substantive and technical changes not requiring additional public notice and comment (see N.J.A.C. 1:30-4.3).

Authority: N.J.S.A. 30:4-27.19.

Effective Date: August 6, 1990.

Expiration Date: May 28, 1991.

Summary of Public Comments and Agency Responses:

The Division of Mental Health and Hospitals (DMH&H) sent copies of the Interim Assistance Proposal (IAP) to a list of over two dozen interested parties. Fourteen interested parties sent comments. Five responded verbally and nine in writing. Most comments expressed concern over specific sections:

SUBCHAPTER 1. GENERAL PROVISIONS

COMMENT: Program description unfairly limits the scope of the IAP to State hospital patients. It should be expanded to include county psychiatric hospital residents.

RESPONSE: County hospitals are owned and operated by the counties themselves. The Department supports the creation of interim assistance programs at county hospitals and the Division of Mental Health and Hospitals is available to assist in their development. However, the Department has no authority to compel individual counties to fund an Interim Assistance Program, whose costs are not entirely reimbursable (see N.J.A.C. 10:38-1.1).

COMMENT: The definition of "Interim Assistance Agreement" needs expanding. It should describe financial assistance and how the rates are

calculated. It should also separate initial payments and post-eligibility payments.

RESPONSE: The Department agrees regarding the calculation of the rates and has added text at N.J.A.C. 10:38-4.3(e)3 regarding rate calculation. Financial assistance is at family care per diem rates calculated to parallel the amount of SSI an eligible individual would receive. However, since the experience at the Department has been that only initial payments have been received by patients within the Interim Assistance Program, no need to separate them from post-eligibility payments appears to be indicated.

SUBCHAPTER 2. INTERIM ASSISTANCE ELIGIBILITY

COMMENT: Include patients discharged to their own homes or family as IAP eligibles.

RESPONSE: The Department agrees with the concept. Fiscal constraints preclude such an expansion of the program at this time (see N.J.A.C. 10:38-2.2(a)4).

COMMENT: Do not eliminate the requirement that a patient must sign form MH-30 as a prerequisite to go on IAP.

RESPONSE: The MH-30 authorizes SSA to send the initial retroactive SSI check to the Division. While use of the MH-30 will continue, lack of signature should not be used as a tactic to delay application (see N.J.A.C. 10:38-2.2(a)6).

SUBCHAPTER 3. INTERIM ASSISTANCE PROCESSING

COMMENT: Hospital Social Services staff responsibilities are too specific. Some hospitals divide these responsibilities.

RESPONSE: The Department expands N.J.A.C. 10:38-3.3(a) by adding "or designee" after "social services staff."

COMMENT: Delete "if unable to return to family" at N.J.A.C. 10:38-3.3(a)3. This unduly restricts recipients of Discharge Unit services.

RESPONSE: The Department agrees and has made the deletion at N.J.A.C. 10:38-3.3(a)3.

COMMENT: Delete the provision that requires hospitals to retain IA patients on hospital rolls until receiving the retroactive SSI check.

RESPONSE: Discharging a client from the rolls upon placement would end his or her institutional Medicaid coverage. It takes from 60 to 90 days to convert to a community Medicaid number. The only objective of maintaining IA clients on the hospital books is to retain their coverage for that 60-90 day period. It is not the Department's intent to circumvent Screening legislation requirements. Interim Assistance clients in need of rehospitalization will be discharged and readmitted in accordance with the screening process (see N.J.A.C. 10:38-3.3(a)5).

COMMENT: The MH-30 form should go to SSA with the SSI application package, not at the time of placement. This protects the placement date as the initial date of SSI eligibility. Also, the entire application package is not necessary for redeterminations (on active SSI roles within the past year).

RESPONSE: The Department cannot require a signed MH-30 as a prerequisite as evidenced by *Rivers v. Schweiker*, 523 F. Supp. 783 (S.D.N.Y. 1981). Thus, the form may not be available with the application package. The Department agrees with the comment on redetermination and inserted, "For clients not on the active SSI roles (within the past year)" forward a completed SSI referral packet, at N.J.A.C. 10:38-3.4(d)5.

COMMENT: Agencies eligible for payments should include those provider agencies licensed and/or under contract to the Division of Mental Health and Hospitals.

RESPONSE: The Department agrees with the commenter and inserted appropriate terminology at N.J.A.C. 10:38-3.4(e)1. . . . "Such facility shall be licensed and/or under contract to either the Division of Mental Health and Hospitals, the Division of Developmental Disabilities, the Department of Community Affairs, or the Department of Health, as appropriate."

COMMENT: One individual from SSA suggested eliminating N.J.A.C. 10:38-3.6(a)11. "If a patient was previously receiving SSI and an MH-30 is already on file from a prior application, the initial retroactive check may go directly to the payee. In that event, the business office shall utilize a mechanism to bill the client and recover Interim Assistance advanced." She stated step 11 is not necessary because there is no way the initial retroactive check could go directly to the client.

RESPONSE: The Division discovered 11 cases where the initial check did go to the client. Regardless of the reason (system failure or human error), the Department recognizes the need to leave this step intact.

SUBCHAPTER 4. INTERIM ASSISTANCE PAYMENT PROCEDURES

COMMENT: Resources other than burial funds and liened assets are exempt only up to the SSI eligibility cap. Also, SSI policy requires SSA approval to disburse any funds accumulated from Federal annuity benefits.

RESPONSE: The Department agrees with the commenter regarding the resources other than burial funds and liened assets and has added the words "up to the SSI resource cap." The Department also agrees that SSI policy precludes direct payment of accumulated benefits to clients without prior SSA approval and, therefore, has deleted the sentence: "Upon discharge, this amount, if in the client's account, shall be paid to him or her directly" at N.J.A.C. 10:38-4.2.

COMMENT: Clarify how hospitals may use client personal funds as part of the process.

RESPONSE: The Department agrees with the commenter and has made appropriate changes at N.J.A.C. 10:38-4.3(b)3. "If a client has personal funds such funds shall be utilized instead of Interim Assistance;"

COMMENT: Hospitals should automatically give PNA (Personal Needs Allowance) unless the Financial Coordinator states otherwise.

RESPONSE: The Department agrees with the commenter that automatically providing PNA would result in better access to needed funds without affecting eligibility requirements. Most IA patients do not have sufficient funds to cover their own PNA. In the interest of efficiency and reduced paperwork, written statements should be the exception rather than the rule. PNA should automatically go to IA patients unless otherwise noted. Hospitals generally recover this money from the retroactive check. The appropriate language has been changed at N.J.A.C. 10:38-4.3(b)4 to read "If the client has no personal funds, State funds shall be advanced for a Personal Needs Allowance. Payment shall be made from the Hospital petty cash fund or approved special fund."

SUBCHAPTER 5. (REPEALED) TRIAL PLACEMENT

COMMENT: Several hospitals and mental health advocacy interests objected to elimination of the Trial Placement designation. Eliminating the Trial Placement option severely compromises hospitals' ability to place troublesome or hard-to-place clients. Most boarding home operators are reluctant to take a chance on accepting such individuals.

RESPONSE: Screening legislation enacted June 1989 (N.J.S.A. 30:4-27 et seq.) repeals and replaces N.J.S.A. 30:4-107, which was the basis for Trial Placement. Repeal of Trial Placement will remove the potential for inappropriately returning a client to the hospital without due process.

SUBCHAPTER 5. MEDICAL COVERAGE

COMMENT: Clarify what facilities qualify to be contracted housing providers.

RESPONSE: The Department agrees with the commenter. New language was developed to include boarding homes and group homes at N.J.A.C. 10:38-5.2(a)2.

SUBCHAPTER 6. APPEAL PROCEDURES

COMMENT: The request for an administrative law judge review should go through the Division of Mental Health and Hospitals, not the Division of Economic Assistance.

RESPONSE: The Department agrees that this change is more efficient because the Division of Mental Health and Hospitals already possesses all the relevant records for this appeal and has handled the initial appeal. Therefore, changes at N.J.A.C. 10:38-6.14(d) will be made as follows: "The client shall have the right to request a further hearing before an Administrative Law Judge if he or she is dissatisfied with the Assistance Director's decision. Such a request must be submitted to the Assistant Director within 10 calendar days of issuance of the Assistant Director's decision. Upon receipt of such a request, the Assistant Director shall immediately refer the matter to the Office of Administrative Law for scheduling of a hearing before an Administrative Law Judge pursuant to the Administrative Procedures Act, N.J.S.A. 52:14B-1 et seq." The Division will also change language in the manual and on related forms.

SUBCHAPTER 7. CLIENT INCOME AND RESOURCE MONITORING

COMMENT: The business manager should have the option to bill for other available income either monthly or at the end of the placement.

RESPONSE: The Department agrees that this will give the Business Manager more flexibility to accomplish the billing process. The wording at N.J.A.C. 10:38-7.4(a) has been changed to: "the business manager may bill the client and/or the payee on a monthly basis *or at the end of placement*, in accordance with the Payment Agreement".

COMMENT: The Financial Inquiry form should go to the representative payee, who may not necessarily be the client.

RESPONSE: The Department agrees and the language has been changed at N.J.A.C. 10:38-7.4(b) to provide the option of sending the form to either the client or the outside payee. This will allow the Business Manager more flexibility.

COMMENT: Provide an appendix reference at the first mention of each form in the manual.

RESPONSE: The Department agrees and provides appendice references at the first mention of each form in the manual.

Summary of changes made between proposal and adoption:

Upon reviewing the proposed amendments to N.J.A.C. 10:38, the Department has initiated two changes upon adoption for purposes of clarification. In response to an in-house comment that not every facility uses the name "Discharge Unit" for the unit that performs the "Discharge Unit" function, the Department agrees. It has added the words "or equivalent" to the definition of "Discharge Unit" at N.J.A.C. 10:38-1.4 in order to clarify variations in terminology. Regarding an in-house comment that in some instances it might be easier for the client rather than the housing provider to return form FD-34 to the hospital, the Department also agrees. Accordingly, it has added the words "or client" to text at N.J.A.C. 10:38-5.3(c) referring to the returning of form FD-34.

Full text of the adoption follows (additions to proposal indicated in boldface with asterisks *thus*; deletions from proposal indicated in brackets with asterisks *[thus]*).

RECODIFICATION TABLE

| Old | New | Old | New |
|-----------|-----------|------------|------------|
| 10:38-2 | 10:38-1.4 | 10:38-8.3 | 10:38-6.3 |
| 10:38-3.1 | 10:38-2.1 | 10:38-8.4 | 10:38-6.4 |
| 10:38-3.2 | 10:38-2.2 | 10:38-8.5 | 10:38-6.5 |
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| 10:38-7.2 | 10:38-5.2 | 10:38-9.6 | 10:38-7.6 |
| 10:38-7.3 | 10:38-5.3 | 10:38-9.7 | 10:38-7.7 |
| 10:38-8.1 | 10:38-6.1 | 10:38-9.8 | 10:38-7.8 |
| 10:38-8.2 | 10:38-6.2 | | |

SUBCHAPTER 1. GENERAL PROVISIONS

10:38-1.1 Program description

(a) Interim Assistance (IA) is a payment procedure developed by the State of New Jersey and the Federal Department of Health and Human Services which permits a client who has been released from a State psychiatric hospital and who has applied for Federal Supplemental Security Income (SSI) benefits to receive State funds while his or her SSI claim is being evaluated. Through this process, the client shall receive a Personal Needs Allowance and have his or her initial maintenance costs paid by the Division of Mental Health and Hospitals upon release from the hospital. The Division, in turn, may directly receive the client's retroactive SSI payment from the Social Security Administration, may recoup Interim Assistance expenditures made and shall deposit this reimbursement in the hospital Interim Assistance account.

(b) The revolving hospital fund which is thereby created shall be used to ensure that:

1. A client shall return to the community at an appropriate point in his or her treatment;
2. A client's income, upon release, shall be adequate and at an established standard.

10:38-1.4 Definitions

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

... "Discharge" means legal discharge of a patient from the hospital to which he or she has been confined, as defined in N.J.S.A. 30:4-23.

"Discharge Coordinator or designee" means the individual responsible for maintaining a housing resource file, providing technical assistance to placement social workers and monitoring the discharge process. This individual may also fulfill the role of Financial Coordinator.

"Discharge Oriented Service Plan" means a document used to coordinate and record all aspects of the discharge planning process.

"Discharge Unit **or equivalent**" means a discrete placement unit within the State psychiatric hospital responsible for locating housing, linking to aftercare services, and monitoring the adequacy of post-discharge housing and social services.

"Family care home" means a private home or apartment in which the owner resides with up to three clients.

"Financial Coordinator or designee" means the individual responsible for overseeing the functions of the Financial Entitlement Unit, including the supervision of the Income Maintenance Technician (IMT). This Coordinator is also responsible for monitoring post-discharge financial services. This individual may also fulfill the role of Discharge Coordinator.

"Financial Entitlement Unit or its equivalent" means that institutional unit within the Division of Mental Health and Hospitals which processes Interim Assistance, Supplemental Security Income and General Assistance applications for State psychiatric hospital clients who are being prepared for release.

"General Assistance" means assistance provided by a municipal welfare department to a financially needy person who is ineligible for other categorical assistance programs or who is awaiting an SSI eligibility evaluation.

"Income Maintenance Technician (IMT)" means the individual responsible for processing financial entitlement applications for clients referred for financial services.

"Interdisciplinary Treatment Team" means a group of persons who are responsible for evaluating a client's treatment and service needs, monitoring the client's progress and assessing his or her readiness for discharge. The team is composed of hospital staff and community service representatives.

"Interim Assistance Account" means an account established at a State psychiatric hospital which is used to pay for maintenance costs of a client who has been released to the community and who is awaiting an SSI eligibility evaluation.

"Interim Assistance ***Reimbursement*** Agreement" means a formal agreement between the State of New Jersey and the Federal Department of Health and Human Services which establishes procedures to reimburse the State for financial assistance provided to a client while his or her SSI application is being evaluated.

"Interim Assistant Statement" ***(Appendix A)*** means a client's formal statement of interest in applying for Interim Assistance benefits.

...

"Personal Needs Allowance (PNA)" means funds provided to a client in the community to be used for his or her incidental personal expenses.

...

SUBCHAPTER 2. INTERIM ASSISTANCE ELIGIBILITY

10:38-2.1 Clients eligible for Interim Assistance

(a) To be determined eligible for Interim Assistance (IA), a client shall:

- 1.-2. (No change.)
3. Have been evaluated by the Interdisciplinary Treatment Team as ready for release to one of the following:
 - i. Residential health care facility;
 - ii. Boarding house;
 - iii. Rooming house; or
 - iv. Transitional residence; and
4. Have applied for Supplemental Security Income (SSI) benefits.

10:38-2.2 Clients ineligible for Interim Assistance

(a) A client in a State psychiatric hospital is not eligible for Interim Assistance when any of the following conditions exist:

- 1.-3. (No change.)
4. The client is returning to his or her own home or family; or
5. The client is on the active SSI rolls.

10:38-2.3 Selection criteria

- (a) (No change.)
- (b) When choices must be made among Interim Assistance applicants, the following selection criteria shall be used:
 1. Urgency of placement, as determined by the Interdisciplinary Treatment Team, and a clearly established need for Interim Assistance in order to implement the Discharge Oriented Service Plan;
 2. (No change.)

10:38-2.4 Approval authority

Approval authority for the Interim Assistance Program shall rest with the Financial Coordinator of the Institutions' Financial Entitlement Unit of the Division of Mental Health and Hospitals.

SUBCHAPTER 3. INTERIM ASSISTANCE CASE PROCESSING

10:38-3.1 (No change in text.)

10:38-3.2 The Interdisciplinary Treatment Team

(a) The role of the Interdisciplinary Treatment Team in the Interim Assistance case processing system shall be to:

1. Regularly evaluate the client's progress while in the hospital and his or her readiness for community living;
2. Determine the client's need for assistance in financial planning, including consultation to determine special needs and discharge needs; and
3. Complete the Discharge Oriented Service Plan, noting the person responsible for financial planning.

10:38-3.3 The hospital social service staff *or designee*

(a) The Discharge Oriented Service Plan shall establish the client's need for assistance in financial planning and placement needs. If such a financial need is evident and the client appears to meet Interim Assistance eligibility criteria, the hospital social service staff *or designee* shall:

1. Provide the client or family with a description of the Interim Assistance Program, its requirements and the client's or family's rights and obligations under the program, if assigned client placement responsibility;
2. Obtain the client's signature, if he or she expresses an interest in the program, on an Interim Assistance Statement and form MH30 *(Appendix B)*, if assigned client placement responsibility;
3. Refer the client to the Discharge Unit for financial assistance and*,* if *[unable to return to family]* *necessary*, assist in locating approved residential setting;
4. Obtain and forward to the Discharge Unit a medical history, current staff notes and a social history, including social and financial information;
5. Ensure that a client placed in Interim Assistance is recorded as an "Other" transaction on the hospital daily population movement report;
6. Once notified by the business manager that the retroactive SSI check is received and Interim Assistance has been terminated, ensure that the client's discharge is recorded properly on the hospital daily population movement report and that all appropriate hospital staff are notified of discharge; and
7. Assist the client in the utilization of funds preserved for discharge needs, as well as other remaining personal funds, ensuring that the client's wishes are the primary determinant of the use of these funds, but pointing out needs the client may not have anticipated.

10:38-3.4 Responsibilities of the Discharge and/or Financial Units

(a) The Discharge or Financial Unit shall play a major role in several areas, specifically:

- 1.-3. (No change.)
4. Obtain placements in suitable and approved residential settings and obtain signed Contracts for Interim Assistance *(Appendix C)*;
- 5.-6. (No change.)
7. Assist clients in filing and processing appeals; and
8. Notify the Business Manager to terminate Interim Assistance payments when eligibility or ineligibility for Supplemental Security Income Benefits is established.

(b) The Discharge or Financial Unit shall maintain a record of each referral received and processed. This record shall contain the dates when:

- 1.-6. (No change.)
 7. An approval or denial of the Supplemental Security Income application is received; and
 8. (No change.)
- (c) The Financial Entitlement Unit shall, within five working days of receipt of a referral:

1. Submit an initial inquiry to the Social Security Administration to verify social security numbers and to determine if the client is already a recipient of SSI. (If clients are already on the active roll of SSI, they are not in need of the Interim Assistance Program);

2. (No change.)

3. Make an assessment of the client's potential Supplemental Security Income eligibility based on available documents and information. This evaluation shall result in one of the following decisions:

- i. The client is eligible for Interim Assistance payments because he or she meets the eligibility criteria of the Interim Assistance Program and appears to be potentially eligible for Supplemental Security Income benefits; or
- ii. The client is ineligible for Interim Assistance payments because he or she does not meet Interim Assistance eligibility criteria and/or does not appear to be potentially eligible for Supplemental Security Income benefits.

(d) The Financial Entitlement Unit shall, for a client assessed as eligible for Interim Assistance:

1. Obtain from the client a signed Supplemental Security Income application *and* a Payee Agreement *(Appendix E)*;

- 2.-3. (No change.)

4. Forward, within two working days of placement, one copy of the signed MH-30 to the Social Security Administration District Office, one copy to the client and retain one copy for the Financial Entitlement Unit's file;

5. *For clients not on the active SSI roles (within the past year), forward* *[Forward]* a completed Supplemental Security Income referral packet, containing all required hospital forms and reports, necessary Supplemental Security Income application and supporting documents, and a copy of the court order of discharge, if applicable, to the Social Security Administration District Office within 15 calendar days of submission of the signed form MH-30 to that office; *and*

6. (No change.)

(e) The Discharge Unit shall:

1. Locate an available, affordable and suitable approved residential facility for the client. Such facility shall be licensed *[by]* *and/or under contract to* either the Division of Mental Health and Hospitals, the Division of Developmental Disabilities, the Department of Community Affairs, or the Department of Health, as appropriate.

2. The placement Social Worker shall visit the selected site with the client and, if the client finds it acceptable:

- i.-iii. (No change.)

(f) The Financial Coordinator shall:

Renumber 9.-12. as 1.-4. (No change in text.)

5. Notify the client and the hospital business manager, in writing, when Interim Assistance payments are terminated; and

6. Send the hospital business manager, if requested, an Interim Assistance maintenance report covering the client's final month on the program.

(g) The Financial Entitlement Unit shall, for a client who has been found eligible for Interim Assistance and is subsequently denied SSI benefits:

1. Continue Interim Assistance payments upon authorization by the Financial Coordinator, if the client files an appeal with the Social Security Administration, during the period of the SSI reconsideration and the hearing at the Administrative Law level;

- 2.-7. (No change.)

(h) The Financial Entitlement Unit shall, for a client assessed as ineligible for Interim Assistance:

- 1.-2. (No change.)

3. Assist the client in filing an appeal to the Financial Coordinator; and

4. (No change.)

10:38-3.5 The Office of Fiscal and Management Operations of the Division of Mental Health and Hospitals

(a) The role of the Office of Fiscal and Management Operations of the Division of Mental Health and Hospitals shall be to:

- 1.-2. (No change.)

3. Forward recorded checks to the appropriate hospital business offices; and

4. Receive copies of form FS-9, Business Manager's Statement to SSI recipient *(Appendix H)*, from the hospital business managers, assure that SSI benefits were disbursed in accordance with Social

Security Administration regulations and add this information to the record.

10:38-3.6 Responsibilities of the hospital business office

(a) The hospital business office shall be responsible for all fiscal matters relating to the Interim Assistance program other than those described in previous and succeeding sections. Business office staff's specific responsibilities shall be to:

1. Complete form FS-10, Statement of Business Manager ***(Appendix D)***;
2. Forward form FS-10 to the designated Social Security Administration District Office within one working day of receipt of notification from the Financial Coordinator regarding the client's placement, and provide the Financial Coordinator with one copy of the form;
3. Initiate Interim Assistance payments when authorized in writing by the Financial Entitlement Unit;
4. (No change.)
5. Monitor client income sources other than Interim Assistance in accordance with procedures described in N.J.A.C. 10:38-7;
6. Obtain a completed monthly invoice ***(Appendix F)*** from the housing provider for maintenance costs;
7. Make monthly payments to the housing provider for validated billings in accordance with procedures described in N.J.A.C. 10:38-4.3;
8. Receive a client's initial retroactive Supplemental Security Income check from the Office of Fiscal and Management Operations and deposit it into the client's account, and notify the Financial Entitlement Unit that the check has been received;
- 9.-10. (No change.)
11. If a patient was previously receiving SSI and an MH-30 is already on file from a prior application, the initial retroactive check may go directly to the payee. In that event, the business office shall utilize a mechanism to bill the client and recover Interim Assistance advanced;
12. Forward copies of form FS-9 to the Financial Entitlement Unit and to the Office of Fiscal and Management Operations;
13. Conduct administrative review of the retroactive SSI check disbursement upon client's request;
14. File Supplemental Security Income Notice of Interim Assistance Reimbursement Eligibility and Accountability Report, form SSA-8125 ***(Appendix J)***. (This procedure requires, within 30 days of receipt, an individual accounting for each check received by the Division of Mental Health and Hospitals from the Social Security Administration. Completed form SSA-8125 must be forwarded directly to the Social Security Administration Regional Office, to the attention of State Relations Staff); and
15. Terminate Interim Assistance as of the day following the last day of the period covered by the client's retroactive Supplemental Security Income check.

10:38-3.7 Action by the Social Security Administration

- (a) The Social Security Administration will:
- 1.-3. (No change.)
 4. Notify the Financial Entitlement Unit of approvals and denials of Supplemental Security Income applications;
 5. (No change.)
 6. Notify clients and/or representative payees that initial Supplemental Security Income retroactive checks shall be forwarded to the Division of Mental Health and Hospitals;
 7. (No change.)

AGENCY NOTE: The text of N.J.A.C. 10:38-5, Trial Placement Status, which is proposed for repeal, can be found in New Jersey Administrative Code at N.J.A.C. 10:38-5.

SUBCHAPTER 4. INTERIM ASSISTANCE PAYMENT PROCEDURES

10:38-4.1 Authorization of payments

Interim Assistance payments require the authorization of the Financial Coordinator or his or her designee.

10:38-4.2 Exempt resources

Client cash resources, including Federal annuity awards, funds set aside for burial expense or identified special needs, and liened resources up to the amount due for care and maintenance shall be considered exempt ***(up to the SSI resource cap)*** in Interim Assistance eligibility determination. ***[Upon discharge, this amount, if in the client's account, shall be paid to him or her directly.]***

10:38-4.3 Business office payment procedures

(a) The hospital business manager, or his or her designee, shall record the date of written notification from the Financial Entitlement Unit verifying a client's eligibility for Interim Assistance.

(b) The client's initial Personal Needs Allowance payment shall be issued in the following manner:

1. The client's Personal Needs Allowance shall be mailed directly to him or her by the business manager or his or her designee on the day of the client's placement;
2. Payment shall be made at the established per diem rate, and shall cover the remainder of the month of release;
3. If the client has personal funds, such funds ***[may]* *shall*** be utilized ***instead of Interim Assistance***; and
4. If the client has no personal funds, ***[a written statement from the Financial Entitlement Unit, authorizing]* *State funds shall be advanced for*** a Personal Needs Allowance ***[payment, shall be provided to the business manager's designated liaison on the day of the client's placement]***. Payment shall be made from the hospital petty cash fund or approved special fund.

(c) Each succeeding monthly Personal Needs Allowance payment shall be authorized, in writing, by the Financial Entitlement Unit.

(d) The business manager, or his or her designee, shall mail Personal Needs Allowance checks at the per diem rate and covering a full calendar month, to the client at the community placement address on the first working day of each month.

(e) The client's Interim Assistance maintenance payment shall be calculated and disbursed as follows:

1. At the end of each month, the business manager shall obtain a completed invoice form AR 50/54, from the housing provider;
2. The invoice shall be compared for accuracy with the signed Contract for Interim Assistance and the Financial Entitlement Unit's Interim Assistance maintenance report, if utilized; and
3. Validated payments from the Interim Assistance account shall be made to the housing provider by the 10th calendar day of the following month at the established maintenance ***[per diem]*** rate. ***This is a per diem rate based on the current SSI payment.***

10:38-4.4 Termination of payments

(a) Interim Assistance payments shall be terminated for an eligible client:

1. As of the day after the last day of the period covered by a retroactive Supplemental Security Income check received by the hospital business manager; or

2. When a client has been formally determined to be ineligible for Supplemental Security Income benefits by the Social Security Administration. This shall be interpreted to mean that Interim Assistance payments may continue through the SSI reconsideration and the hearing at the Administrative Law level if approved by the Financial Coordinator.

(b) Retroactive county billing shall be pursued by the hospital business office, utilizing form 1113, Billing Classification Report ***(Appendix I)***, in a case where a client is denied Supplemental Security Income benefits, or when the initial SSI check is less than the amount of Interim Assistance advanced.

(c) The client shall be notified of Interim Assistance termination by the Financial Entitlement Unit.

SUBCHAPTER 5. MEDICAID COVERAGE FOR INTERIM ASSISTANCE CLIENTS

10:38-5.1 Institutional Medicaid coverage

An Interim Assistance recipient shall be eligible for institutional Medicaid coverage until his or her Supplemental Security Income application is processed and he or she is discharged.

10:38-5.2 Procedures

(a) To ensure continued institutional Medicaid coverage for an Interim Assistance client, the following procedures shall be followed:

1. The individual completing the hospital daily population movement report shall list an Interim Assistance client as released to "Other".

2. Form FD-34, Medicaid validation, shall be completed by the designated hospital representative on the date of placement, and on the first of each month thereafter, and forwarded to the *[contracted housing provider]* ***appropriate congregate facility, including, but not limited to, boarding homes and group homes***; and

3. The housing provider may use the FD-34, Medicaid validation, to obtain medical care for the client.

10:38-5.3 Termination of institutional Medicaid coverage

(a) Upon notification by the Financial Entitlement Unit of the client's approval for Supplemental Security Income benefits and community Medicaid, the hospital shall list the client as "Discharged" on the daily population movement report.

(b) The client's institutional Medicaid coverage shall be terminated as of the last day of the month of his or her discharge.

(c) The housing provider ***or client*** shall return the currently valid (last issued) form FD-34 to the hospital social service department.

SUBCHAPTER 6. APPEAL PROCEDURES

10:38-6.1 Right to appeal

(a) An Interim Assistance client shall have the right to appeal an adverse eligibility decision in the following situations:

1. The client has been denied Interim Assistance by the Financial Entitlement Unit and he or she has filed an application for Supplemental Security Income benefits; or

2. The client has been found eligible for Interim Assistance and has subsequently been terminated from the Interim Assistance program for reasons other than the receipt of Supplemental Security Income benefits.

10:38-6.2 Notice of decision and right of appeal

(a) The Financial Entitlement Unit shall, within five working days of an adverse eligibility decision, notify the client, in writing, of such decision and shall furnish him or her with a summary statement giving the factual and/or legal basis upon which such decision was based.

(b) The client shall also, at the same time, be advised in writing of his or her right to appeal an adverse eligibility decision and of the procedure to be followed in filing an appeal.

(c) (No change.)

10:38-6.3 Procedure for filing appeal

(a) The client or his or her representative may provide either written or oral notice to the Financial Coordinator of the Discharge or Financial Entitlement Office, of his or her intention to appeal an adverse eligibility decision.

(b) Such notice must be provided to the Financial Coordinator within 20 calendar days of the date of mailing of the adverse eligibility decision and summary statement to the client.

(c) The Financial Coordinator shall, within three working days of receipt of the client's notice of intention to appeal, provide the client with written acknowledgement of such receipt.

(d) A request for appeal received after the time period specified shall be denied, unless an unusual situation, such as client illness, exists. In such a case, an additional 10 calendar days may be allowed by the Financial Coordinator for providing notice of intention to appeal.

(e) The placement worker shall assist the client in providing the Financial Coordinator with notice of his or her intention to appeal.

10:38-6.4 Scheduling of Financial Entitlement Unit's review—rights of client

(a) A review shall be scheduled by the Financial Entitlement Unit within 10 calendar days of receipt of the client's notice of intention to appeal.

(b) (No change.)

(c) The client and his or her representative shall have the right to inspect, prior to and at the review, all Financial Entitlement Unit generated documents. The client and his or her representative shall be made aware of other documents contained in the Financial Entitlement Unit's file. These shall be made available to the client and his or her representative upon the receipt by the Financial Entitlement Unit of proper authorization from the originating person or agency.

(d) The client shall have the right to present any and all evidence which will support his or her claim and to question any evidence upon which the denial or termination of Interim Assistance was based.

10:38-6.5 Financial Entitlement Unit's review

(a) The review shall be conducted by an employee, at the supervisory level or above, designated as a reviewing officer, other than the person who made the original eligibility determination. Such reviewing officer shall be thoroughly familiar with the requirements of the Interim Assistance program and relevant Social Security Administration regulations.

(b) (No change.)

(c) Only those persons whose presence or testimony are essential, that is persons presenting testimony and persons appearing under N.J.A.C. 10:38-6.4(b), shall be permitted to attend the review.

(d) The reviewing officer shall determine eligibility for Interim Assistance solely upon the documents and testimony submitted to him or her at the time of the review.

(e) (No change.)

(f) If neither the client nor his or her representative appears at the scheduled review, after having received proper notification of such review, the client's appeal shall be considered to have been abandoned and the appeal shall be denied, unless the reviewing officer is provided with prior notice by the client or his or her representative of his or her inability to attend due to unavoidable circumstances. Postponement may be granted by the reviewing officer for a period not to exceed 10 calendar days from the originally scheduled review date.

(g) If a mutually satisfactory agreement between the client and the Financial Entitlement Unit is reached prior to the time of the review, the review may be cancelled by the reviewing officer, or discontinued if begun, at the client's request in writing.

10:38-6.6 Results of the financial entitlement unit's review

(a) If the reviewing officer concludes, after hearing all the evidence, that the client is eligible for Interim Assistance, he or she shall, within five calendar days of the review, notify the client and his or her representative to that effect and shall also advise the Financial Entitlement Unit's staff person who made the original eligibility determination that Interim Assistance must be provided to the client effective the date of his or her placement in a community setting.

(b) If the reviewing officer concludes, after hearing all the evidence, that the client is ineligible for Interim Assistance, the reviewing officer shall, within five calendar days of the review, notify the client, his or her representative and the Financial Entitlement Unit of the decision. The reviewing officer shall advise the client and his or her representative of the client's right to have the decision reviewed at the Divisional level.

(c) The reviewing officer shall prepare a written report of his or her findings, based on the evidence presented, summarizing what transpired at the review. Copies of this report shall be provided to the client, his or her representative, the Financial Entitlement Unit, the Chief Executive Officer of the hospital, and to the Assistant Director, Office of Fiscal and Management Operations, within five calendar days of the review.

(d) The review and resulting decision by the reviewing officer shall be treated and recognized as the initial administrative decision of the client's claim for Interim Assistance.

10:38-6.7 Effect of determination by the Social Security Administration

(a) If, prior to the review date, the Social Security Administration determines that the client is eligible for Supplemental Security Income benefits, then the client, if he or she meets all eligibility requirements, shall be eligible for Interim Assistance from the date of his

or her placement in a community setting until he or she begins to receive Supplemental Security Income benefits.

(b) If, prior to the review date, the Social Security Administration determines that the client is ineligible for Supplemental Security Income benefits, then the client's sole recourse shall be through the Social Security Administration and his or her Interim Assistance appeal shall be denied.

10:38-6.8 Divisional review

(a) The client shall have the right to a divisional review of the Financial Entitlement Unit's reviewing officer's decision.

(b) A divisional review must be requested, in writing, within 10 calendar days of issuance of the Financial Entitlement Unit's reviewing officer's decision, and must be submitted to the Assistant Director, Office of Fiscal and Management Operations, Division of Mental Health and Hospitals.

(c) (No change.)

(d) The Financial Entitlement Unit shall assist the client in requesting a divisional review.

(e) The Financial Entitlement Unit shall be responsible for advising the client regarding the availability of legal representation through the Community Health Law Project or local legal services corporation, as appropriate, and shall assist the client in communicating his or her desire for such representation.

(f) The client, and/or representative, shall be permitted to submit comments on the review, as well as additional evidence to substantiate his or her claim, to the Assistant Director, Office of Fiscal and Management Operations. Such comments and/or evidence must be submitted within 15 calendar days of the issuance of the Financial Entitlement Unit's reviewing officer's decision.

10:38-6.9 Results of divisional review

(a) The Assistant Director, Office of Fiscal and Management Operations, or his or her designee, shall review the Financial Entitlement Unit's reviewing officer's decision and shall affirm or reject such decision.

(b) The Assistant Director, Office of Fiscal and Management Operations, shall, within 10 calendar days of receipt of the client's request for review, notify the client, his or her representative and the Financial Entitlement Unit of the results of the Divisional review.

(c) If the Financial Entitlement Unit's reviewing officer's decision is affirmed, such decision shall be treated and recognized as the final administrative decision of the client's claim for Interim Assistance. The client, his or her representative and the Financial Entitlement Unit shall be so advised.

(d) (No change.)

(e) If the Financial Entitlement Unit's reviewing officer's decision is rejected, the client shall be declared eligible for Interim Assistance benefits from the date of his or her community placement and the client, his or her representative and the Financial Entitlement Unit shall be so advised.

10:38-6.10 Appeal to the hospital business manager of computation of net payment

(a) An Interim Assistance client shall have the right to appeal to the hospital business manager regarding the procedures used to compute the net payment from his or her retroactive Supplemental Security Income check.

(b) The client shall, within five working days of receipt of his or her retroactive Supplemental Security Income check by the hospital, be provided with a statement by the hospital business manager or designee detailing the manner in which the net payment was computed. The client shall also be provided with a written statement regarding his or her right to appeal such computation.

(c) The client shall, within 20 calendar days of mailing of the above statement, be required to serve written or oral notice upon the hospital business manager of his or her dissatisfaction with the computation and of his or her intention to appeal.

(d) The Financial Entitlement Unit shall assist the client in communicating to the hospital business manager his or her intention to appeal.

10:38-6.11 Business manager's review

(a) (No change.)

(b) The business manager, or his or her designee, shall meet with the client as scheduled and explain to him or her the procedures used to compute the net payment from the client's retroactive Supplemental Security Income check.

(c) The business manager, or his or her designee, shall compute the amount of the net payment.

(d) (No change.)

(e) The client shall have the right to be represented at the review by a person of his or her choice.

(f) The client shall have the right to present any and all evidence that would support his or her claim for a larger net payment.

(g) The business manager, or his or her designee, may require the attendance of the Financial Coordinator and/or placement social worker at the review for the purpose of assisting the client and the business manager in the full development of facts.

10:38-6.12 Results of business manager's review

(a) The business manager shall advise the client and the client's representative, in writing, within five calendar days of the review of his or her decision. Copies of this notice shall also be provided to the Discharge or Financial Entitlement Unit, the Chief Executive Officer of the hospital, and the Assistant Director, Office of Fiscal and Management Operations.

(b) The business manager, or his or her designee, shall advise the client of his or her right to a divisional review.

(c)-(d) (No change.)

10:38-6.13 Divisional review

(a) The client shall have the right to a divisional review of the procedure used by the business manager in computing the client's net payment from his or her retroactive Supplemental Security Income check.

(b) (No change.)

(c) The Discharge or Financial Entitlement Unit shall assist the client in requesting a divisional review.

(d) The Discharge or Financial Entitlement Unit shall be responsible for advising the client regarding the availability of legal representation through the Community Mental Health Law Project or local legal services corporation, as appropriate, and shall assist the client in communicating his or her desire for such representation.

10:38-6.14 Results of divisional review

(a) The Assistant Director, Office of Fiscal and Management Operations, or his or her designee, shall review the business manager's computation of the client's net payment and shall affirm or reject such computation.

(b) The Assistant Director, Office of Fiscal and Management Operations, shall, within 10 calendar days of receipt of the client's request for a review, notify the client, his or her representative, the business manager and the Financial Entitlement Unit of the results of the divisional review.

(c) If the business manager's computation is affirmed, such decision shall be treated and recognized as the final administrative decision of the client's claim for a larger net payment. The client, his or her representative, the business manager and the Discharge or Financial Entitlement Unit shall be so advised.

(d) The client shall have the right to request a further hearing before an Administrative Law judge if he or she is dissatisfied with the Assistant Director's decision. Such request must be submitted to the *[Division of Economic Assistance, Bureau of Administrative Reviews and Appeals]* *Assistant Director* within 10 calendar days of issuance of the Assistant Director's decision. Upon receipt of such request, the *[Bureau]* *Assistant Director* shall immediately refer the matter to the Office of Administrative Law for scheduling of a hearing before an Administrative Law judge, pursuant to the Administrative Procedures Act, N.J.S.A. 52:14B-1 et seq.

(e) (No change.)

SUBCHAPTER 7. CLIENT INCOME AND RESOURCE MONITORING

10:38-7.1

(No change in text.)

10:38-7.2 Responsibilities of the hospital business manager

(a) The hospital business manager shall be responsible for recouping the total amount of Interim Assistance payments made, first from the client's retroactive Supplemental Security Income check, then from the client's personal funds and finally from the client's other resources.

(b) The net balance of funds controlled by the hospital shall be directed to the client upon his discharge.

10:38-7.3 Chief Executive Officer as representative payee for client income

(a) When the Chief Executive Officer of the hospital is payee for the client's available income other than Interim Assistance, the hospital business manager may recoup Interim Assistance expenditures as client income payments are received and shall deposit recoveries in the Interim Assistance account.

(b) The client shall be notified by the business manager, in writing, that recoveries may be made in this manner.

10:38-7.4 Client or non-institutional agent as payee for available client income

(a) When an Interim Assistance client receives or has available income directed to a payee other than the Chief Executive Officer of the hospital, the business manager shall bill the client and/or the payee on a monthly basis ***or at the end of placement***, in accordance with the Payee Agreement.

(b) The Business Manager's Financial Inquiry form ***(Appendix G)*** shall be mailed to the client ***[and to]**,*** the housing provider ***or outside payee*** at the end of each month that the client is eligible for and receives Interim Assistance payments. Invoice form AR 50/54 for next month's payment shall be attached to the Financial Inquiry form sent to the housing provider.

(c) When the Financial Inquiry form is returned to the hospital business manager showing additional available income, the business manager shall direct the client and/or payee, in writing, to make payments from the additional income to the hospital in accordance with the Payee Agreement.

10:38-7.5 Client or non-institutional agent as payee for anticipated income

(a) When an Interim Assistance client or representative payee has not begun to receive anticipated other income payments, the Business Manager's Financial Inquiry form shall be mailed to the client and to the housing provider at the end of each month that the client is eligible for and receives Interim Assistance payments. Invoice form AR 50/54 for next month's payment shall be attached to the inquiry form sent to the housing provider.

(b) When the Financial Inquiry form, which indicates available income, is returned to the business manager, he or she shall direct the client and/or payee to make payments to the hospital in accordance with the Payee Agreement.

10:38-7.6 Refusal to honor payee agreement—client

(a) When an Interim Assistance client refuses to honor the Payee Agreement, the following procedures shall be followed:

1. The business manager shall notify the Financial Entitlement Unit of this fact;

2. A representative of the Discharge or Financial Entitlement Unit shall, within five working days, visit the client and review the Payee Agreement with him or her;

3. The business manager shall continue to make full Interim Assistance payments until the client's discharge if the client makes full reimbursement to the hospital; and

4. Interim Assistance shall be terminated immediately if the client continues to refuse to make reimbursement.

10:38-7.7 Refusal to honor payee agreement—representative payee

(a) When a representative payee refuses to honor the Payee Agreement or questions any of its stipulations, the following procedures shall be followed:

1. The hospital business manager shall notify the Financial Coordinator of this fact;

2. The Financial Entitlement Unit shall, within 10 working days, contact the representative payee, clarify the situation and encourage him or her to comply with the Payee Agreement;

3. The Financial Entitlement Unit shall have the client initiate necessary procedures to have a new representative payee appointed if compliance with the terms of the Payee Agreement is not forthcoming;

4. Interim Assistance payments shall continue while payee reassignment is being effected; and

5. (No change.)

10:38-7.8 Termination of Interim Assistance

(a) When notified by the Financial Entitlement Unit that the client's Interim Assistance has been terminated, the business manager shall:

1. (No change.)

2. Refer to the Discharge or Financial Entitlement Unit, within 30 calendar days after mailing of the bill, instances of failure by the client and/or representative payee to make payment to the hospital of any outstanding balance;

3. The Discharge or Financial Entitlement Unit shall review the matter with the client and/or representative payee, as necessary, in an effort to effect reimbursement; and

4. If the client and/or representative payee continue to fail or refuse to make payment to the hospital of any outstanding balance, the Discharge or Financial Entitlement Unit shall immediately refer the matter to the Division of Mental Health and Hospitals' attorney for possible legal action.

(a)

DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

Administration Manual

Readoption with Amendment: N.J.A.C. 10:49

Proposed: May 21, 1990 at 22 N.J.R. 1512(a).

Adopted: Alan J. Gibbs, Commissioner,

Department of Human Services.

Filed: July 13, 1990 as R.1990 d.390, **without change**.

Authority: N.J.S.A. 30:4D-3, 6, 7; 30:4D-12.

Effective Date: July 13, 1990, Readoption; August 6, 1990, Amendment.

Expiration Date: July 13, 1995.

Summary of Public Comments and Agency Responses:

No comments received.

Full text of the readoption may be found in the New Jersey Administrative Code at N.J.A.C. 10:49.

Full text of the adopted amendment follows.

APPENDIX A
MEDICAID DISTRICT OFFICES

| County | Address | Telephone Number |
|------------|---|------------------|
| Atlantic | 1601 Atlantic Avenue, 7th Floor Atlantic City, NJ 08401 | (609) 441-3620 |
| Bergen | 171-173 Main Street Hackensack, NJ 07601 | (201) 488-5667 |
| Burlington | 50 Rancocas Road Mt. Holly, 08060 | (609) 261-0448 |
| Camden | 1800 Davis Avenue East Building, Suite 301 Camden, NJ 08104 | (609) 757-2870 |

HUMAN SERVICES

ADOPTIONS

| | | |
|----------------------------------|---|----------------------------------|
| *Cumberland (Cape May) | 108 Landis Avenue Vineland, NJ 08360 | (609) 696-6560 |
| Essex (Newark) | 155 Washington Street Newark, NJ 07102 | (201) 648-2470 (201) 648-3700 |
| Essex (Suburban) | 76 South Orange Avenue, 2nd Floor South Orange, NJ 07079 | (201) 761-7441 |
| Gloucester (Salem) | 251 North Delsea Drive Deptford Center Deptford, NJ 08096 | (609) 853-4177 |
| Hudson | 2815 Kennedy Boulevard, 2nd Floor Jersey City, NJ 07306 | (201) 433-8011 |
| Hunterdon (Somerset) | 84 Park Avenue, 2nd Floor Flemington, NJ 08822 | (201) 782-1130 |
| Mercer | 314-316 East State Street Trenton, NJ 08608 | (609) 292-7315 |
| *Middlesex | 25 South Main Street Bldg. B—Suite 5-6 Edison, NJ 08837 | (201) 549-3884 |
| Monmouth | Casino 9 220 Route 9 Howell, NJ 07731 | (201) 308-1159 |
| Morris (Sussex and Warren) | 10 Park Place, 4th Floor Morristown, NJ 07960 | (201) 267-1700 |
| Ocean | 1510 Hooper Avenue Toms River, NJ 08753 | (201) 255-0731 |
| Passaic | Law Building 66 Hamilton Street Paterson, NJ 07505 | (201) 977-4077 |

| | | |
|---|--|----------------|
| Union | Hersh Towers 125 Broad Street, 6th Floor Elizabeth, NJ 07201 | (201) 355-8860 |
| *Regional Director Northern Regional Office | 100 Hamilton Plaza 6th Floor, Room 601 Paterson, NJ 07505 | (201) 977-4541 |

*Denotes office where the Regional Director can be reached.

(a)

DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

Pharmaceutical Services Manual Appendices B, C, D and E

Adopted Amendments: N.J.A.C. 10:51-1, Appendices B, C, D and E

Proposed: April 16, 1990 at 22 N.J.R. 1217(a).

Adopted: July 12, 1990 by Alan J. Gibbs, Commissioner, Department of Human Services.

Filed: July 13, 1990 as R.1990 d.391, **without change**.

Authority: N.J.S.A. 30:4D-6b(6); 30:4D-7, 7a, 7b, 7c; 30:4D-12; 30:4D-22, 24.

Effective Date: August 6, 1990.

Expiration Date: October 28, 1990.

Summary of Public Comments and Agency Responses:
No comments received.

Full text of the adoption follows.

OAL NOTE: The following is a list of adopted additions to Appendix B, the text of which is not published in the New Jersey Administrative Code. A copy of this appendix may be obtained from the Division of Medical Assistance and Health, CN 712, Trenton, New Jersey 08625.

**SUMMARIZED LISTING OF ADDITIONS
APPENDIX B**

General Non-Legend

| <u>Product</u> | <u>Size</u> | <u>R.U.</u> | <u>N.D.C.</u> |
|--------------------------------------|-------------|-------------|---------------|
| Acetaminophen 500mg Caps Generic | 100 | CAP | 00999-0520-01 |
| Antiminth Suspension | 60 cc | CC | 00069-6400-23 |
| Aveeno Bar (Dry) | 3 oz | EACH | 20494-0034-00 |
| Aveeno Bar (Medicated) | 3 oz | EACH | 20494-0034-05 |
| Aveeno Bar (Regular) | 3 oz | EACH | 20494-0034-10 |
| Aveeno Bath | 240 gm | EACH | 20494-0034-40 |
| Aveeno Bath | 480 gm | EACH | 20494-0034-30 |
| Aveeno Lotion | 240 cc | EACH | 20494-0034-50 |
| Aveeno Shower and Bath Oil | 240 cc | EACH | 20494-0034-53 |
| Bisacodyl Suppository Generic | 12 | SUPP | 00999-0513-01 |
| Bisacodyl Tablets Generic | 100 | TAB | 00999-0512-01 |
| Cal Carb-HD | 30 | EACH | 00224-0427-30 |
| Celluvisc Lub. Ophth. Solution | 30 | EACH | 00023-4554-30 |
| Citrucel Powder | 210 gm | EACH | 00068-0419-07 |
| Citrucel Powder | 300 gm | EACH | 00068-0419-10 |
| Co-Advil Caplets | 20 | CAP | 00573-0575-20 |
| Co-Advil Caplets | 48 | CAP | 00573-0575-30 |
| Co-Advil Caplets | 100 | CAP | 00573-0575-40 |
| Docusate Sod. 100mg Cap Generic | 100 | CAP | 00999-0514-01 |
| Docusate Sod. 250mg Cap Generic | 100 | CAP | 00999-0515-01 |
| Docusate Sod. Syrup 20mg/5ml Generic | 480 cc | CC | 00999-0516-01 |
| Fiberall Powder (Natural) | 300 gm | EACH | 00083-0270-69 |
| Fiberall Powder (Orange) | 300 gm | EACH | 00083-0290-69 |
| Fiberall Powder (Natural) | 450 gm | EACH | 00083-0270-70 |
| Fiberall Powder (Orange) | 450 gm | EACH | 00083-0290-70 |
| Fiberall Tablets | 18 | TAB | 00083-0310-18 |
| Fiberall Wafers | 14 | WAFER | 00083-4030-86 |
| Fibrad Powder | 414 gm | EACH | 70074-0504-35 |
| Fototar Cream 2% | 90 gm | EACH | 00163-0526-03 |
| Fototar Cream 2% | 480 gm | EACH | 00163-0526-05 |

ADOPTIONS

HUMAN SERVICES

| | | | |
|----------------------------------|--------|------|---------------|
| Hydrocortisone Cream 5% Generic | 15 gm | EACH | 00999-0504-01 |
| Hydrocortisone Cream 5% Generic | 30 gm | EACH | 00999-0504-02 |
| Hydrocortisone Cream 5% Generic | 120 gm | EACH | 00999-0504-03 |
| Hydrocortisone Cream 5% Generic | 480 gm | EACH | 00999-0504-04 |
| Hydrocortisone Lotion 5% Generic | 30 cc | EACH | 00999-0505-01 |
| Hydrocortisone Lotion 5% Generic | 60 cc | EACH | 00999-0505-02 |
| Hydrocortisone Lotion 5% Generic | 120 cc | EACH | 00999-0505-03 |
| Hydrocortisone Oint. 5% Generic | 30 gm | EACH | 00999-0506-01 |
| Hydrocortisone Oint. 5% Generic | 120 gm | EACH | 00999-0506-02 |
| Ibuprofen 200mg Tablets Generic | 100 | TAB | 00999-0509-01 |
| Imodium A-D Liquid | 120 cc | CC | 00045-0293-04 |
| Lipo-Nicin 300mg Capsules | 100 | CAP | 00248-1850-01 |
| Mag-Tab S.R. | 60 | TAB | 00013-4201-16 |
| Mag-Tab S.R. | 100 | TAB | 00013-4201-17 |
| Naldecon Senior DX Liquid | 120 cc | CC | 00015-5659-01 |
| Naldecon Senior DX Liquid | 480 cc | CC | 00015-5659-02 |
| Naldecon Senior EX Liquid | 120 cc | CC | 00015-5658-01 |
| Naldecon Senior EX Liquid | 480 cc | CC | 00015-5658-02 |

Diabetic Testing Material

| <u>Product</u> | <u>Size</u> | <u>R.U.</u> | <u>N.D.C.</u> |
|--------------------------|-------------|-------------|---------------|
| Glucoscan Test Strips | 50 | EACH | 53885-0031-50 |
| Glucoscan Test Strips | 100 | EACH | 53885-0073-10 |
| One Touch Test Strips | 50 | EACH | 53885-0198-50 |
| Soft Touch Lancets | 100 | EACH | 50924-0585-10 |
| Soft Touch Lancet Device | 1 | EACH | 50924-0580-01 |

| | | | |
|--|--------|------|---------------|
| Phenaphen Capsules 325mg | 1000 | CAP | 00031-6207-74 |
| Phenergan Decong. Cold Formula | 120 cc | CC | 00008-0693-02 |
| Phenergan Decong. Cold Formula | 240 cc | CC | 00008-0693-04 |
| Phenergan DM Cough Formula | 120 cc | CC | 00008-0694-02 |
| Phenergan DM Cough Formula | 240 cc | CC | 00008-0694-04 |
| Povidine-Iodine Ointment Generic | 30 gm | EACH | 00999-0510-01 |
| Povidine-Iodine Ointment Generic | 480 gm | EACH | 00999-0510-02 |
| Povidine-Iodine Solution Generic | 240 cc | CC | 00999-0511-01 |
| Povidine-Iodine Solution Generic | 480 cc | CC | 00999-0511-02 |
| Pseudoephedrine 30mg Tabs Generic | 24 | TAB | 00999-0517-01 |
| Pseudoephedrine 30mg Tabs Generic | 100 | TAB | 00999-0517-02 |
| Pseudoephedrine 60mg Tabs Generic | 100 | TAB | 00999-0518-01 |
| Pseudoephedrine Syrup Generic | 120 cc | CC | 00999-0519-01 |
| Pseudoephedrine & Triprolidine Syrup Generic | 120 cc | CC | 00999-0508-01 |
| Pseudoephedrine & Triprolidine Tablets Generic | 24 | TAB | 00999-0507-01 |
| Pseudoephedrine & Triprolidine Tablets Generic | 100 | TAB | 00999-0507-02 |
| Riopan Plus-2 Chewable Tablets | 60 | TAB | 00573-3215-30 |
| Ru-Tuss Expectorant | 480 cc | CC | 00048-3010-16 |
| Ru-Tuss Liquid | 480 cc | CC | 00048-1009-16 |
| Step 2 Nit Removal System | 60 cc | CC | 52761-0652-02 |

Contraceptive Materials

| <u>Product</u> | <u>Size</u> | <u>R.U.</u> | <u>N.D.C.</u> |
|----------------------------|-------------|-------------|---------------|
| Today Contraceptive Sponge | 3 | EACH | 00573-3685-10 |
| Today Contraceptive Sponge | 6 | EACH | 00573-3685-20 |
| Today Contraceptive Sponge | 12 | EACH | 00573-3685-30 |

Insulin Preparations

| <u>Product</u> | <u>Size</u> | <u>R.U.</u> | <u>N.D.C.</u> |
|----------------------------------|-------------|-------------|---------------|
| Insulin Humulin 70/30 U-100 | 10 cc | CC | 00002-8715-01 |
| Insulin Nordisk/Mixtard Human | 10 cc | CC | 50445-0333-01 |
| Novolin Human NPH U-100 | 10 cc | CC | 00003-1834-10 |
| Novolin 70/30 NPH | 10 cc | CC | 00003-1837-10 |
| Novolin N Penfill Cartridges | 5 | CART | 00003-1834-15 |
| Novolin R Penfill Cartridges | 5 | CART | 00003-1833-15 |
| Novolin 70/30 Penfill Cartridges | 5 | CART | 00003-1837-15 |

SUMMARIZED LISTING OF CHANGES
APPENDIX B

General Non-Legend Drugs

| Product | Current NDC | | |
|-----------------------------------|-----------------|-------------------------------------|-----------------|
| Alu-Cap Capsules | 0000089-0105-10 | Metamucil Powder Any Flavor 595gm | 0037000-0010-04 |
| Amosan Powder 20 | 0000041-0850-20 | Muro Tears Solution 15cc | 0010119-9904-15 |
| Amosan Powder 40 | 0000041-0850-40 | Murocel Solution 15cc | 0000303-9902-15 |
| Ascriptin Tablets | 0000067-0145-68 | Naldecon CX Adult Liquid 120cc | 0000015-5661-40 |
| Ascription A/D Tablets | 0000067-0147-68 | Naldecon DX Adult Liquid 120cc | 0000015-5669-40 |
| Bacid Capsules | 0000235-0105-01 | Nico-400 Capsules | 0052604-1575-01 |
| Bonacal-Plus Tablets | 0000482-0104-23 | Nuprin Tablets 200mg | 0019810-0076-04 |
| Cal-Sup Tablets | 0000890-0110-10 | Orthoxicol Syrup 120cc | 0000009-3476-02 |
| Cerose-DM Liquid | 0000008-4204-02 | Parepectolin 120cc | 0000075-0660-60 |
| Coricidin Nasal Mist Spray | 0000085-0238-15 | Pedialyte R.T.U. Bottles 240cc | 0000074-6470-08 |
| Coryban-D Capsules | 0074300-0044-50 | Perdiem Granules 100gm | 0000067-0690-68 |
| Dermoplast Lotion | 0000573-0845-20 | Perdiem Granules 250gm | 0000067-0690-70 |
| Dermoplast Spray | 0000573-0855-20 | Peri-Wash Liquid 120cc | 0011701-0014-04 |
| Di-Gel Liquid | 0041100-0713-80 | Peri-Wash II Liquid 120cc | 0011701-0009-04 |
| Di-Gel Tablets | 0041100-0577-90 | Persistin Tablets | 0000235-0122-00 |
| Dia-Quel Liquid | 0052836-0333-33 | Posture Tablets 300mg | 0000573-2725-30 |
| Dilone Tablets | 0025866-0052-40 | Posture Tablets 600mg | 0000573-2730-20 |
| Dimacol Capsules | 0000031-1653-63 | Posture-D Tablets 300mg | 0000573-2735-30 |
| Dramimine Liquid | 0000014-1736-80 | Posture-D Tablets 600mg | 0000573-2740-20 |
| Duolube Ointment | 0010119-9901-38 | Pyroxate Capsules | 0000009-3212-01 |
| Enzactin Cream | 0000573-1436-10 | Riopan Plus 2 Suspension 360cc | 0000573-3220-20 |
| Festal II Tablets | 0000039-0101-10 | Romilar Children's Cough Syrup 90cc | 0010158-0190-20 |
| Fiber Guard Tablets | 0000573-1485-20 | Romilar-CF Syrup 90cc | 0010158-0180-40 |
| Gemisyn Tablets | 0000091-0171-01 | Serutan Granules 180gm | 0053100-1353-10 |
| Hytone Cream 0.05% | 0000066-0182-01 | Serutan Granules 540gm | 0053100-1355-10 |
| I.L.X. Tablets w/B-12 | 0000482-0110-23 | Serutan Powder 210gm | 0053100-1363-10 |
| Ipsatol Syrup | 0000482-0650-04 | Serutan Powder 420gm | 0053100-1365-10 |
| Iron Tablets 200mg | 0000482-0628-01 | Serutan Powder 1.32lb | 0053100-1367-10 |
| Isoclor Liquid | 0000235-2264-01 | Sterile Sod. Chl. Sol. 0.45% 3cc | 0049502-0620-03 |
| Isoclor Tablets | 0000235-2265-01 | Sterile Sod. Chl. Sol. 0.45% 5cc | 0049502-0620-05 |
| Isoclor Timesules | 0000235-2266-01 | Terramycin Topical Oint. 30gm | 0074300-0043-30 |
| Kaopectate Conc. 240cc | 0000009-3465-01 | Terramycin Topical Powder 30gm | 0074300-0043-40 |
| Konsyl Powder (10oz) | 0000224-1801-06 | Triaminicin Tablets | 0000043-0074-51 |
| Konsyl Powder (15oz) | 0000224-1801-07 | Tussar-2 Syrup 480cc | 0000075-3666-01 |
| Kondremul Liquid 480cc | 0000235-0121-00 | Tussar-SF Syrup 120cc | 0000075-3665-05 |
| Lipoflavonoid Capsules | 0055499-0501-17 | Ultra Tears Oph. Solution 15cc | 0000998-0412-15 |
| Lipotriad Capsules | 0055499-0500-17 | Vaponefrin Solution 7.5cc | 0000235-1201-03 |
| Lipotriad Liquid 480cc | 0055499-0505-30 | Vaponefrin Solution 15cc | 0000235-1201-04 |
| Lytren Nursette | 0000087-0294-03 | Vaponefrin Solution 30cc | 0000235-1201-05 |
| Maalox Suspension 360cc | 0000067-0330-71 | Visine Eye Drops 15cc | 0074300-0080-30 |
| Maalox Therapeutic Conc. 360cc | 0000067-0334-71 | Visine Eye Drops 22.5cc | 0074300-0013-60 |
| Marezine Tablets | 0000081-0652-15 | Visine Eye Drops 30cc | 0074300-0030-80 |
| Metamucil Powder Any Flavor 198gm | 0037000-0010-02 | Vit. B Comp. Tabs/Squibb | 0000003-0204-61 |
| Metamucil Powder Any Flavor 397gm | 0037000-0010-03 | Vitron-C Plus Tablets | 0000235-1125-02 |
| | | Vitron-C Tablets | 0000235-0123-00 |
| | | Zephiran Chl. Conc. Sol. 17% 120cc | 0000024-2534-02 |

APPENDIX C

Hypodermic Syringes and/or Needles

(No change in introductory text.)

| Product Description | Reporting Unit | Assigned Product Code |
|---------------------------------------|----------------|-----------------------|
| ... | | |
| Syringes and Needle Units, Disposable | | |
| ... | | |
| Regular, 5cc, w/any size needle | Each | 00293-5630-01 |
| Regular, 10cc, w/any size needle | Each | 00293-5641-01 |
| ... | | |

APPENDIX D
Legend Devices

(No change in introductory text.)

| <u>Product Description</u> | <u>Reporting Unit</u> | <u>Assigned Product Code</u> |
|---|-----------------------|------------------------------|
| Actiderm Dermatological Patch 5 | Each | 00003-0375-05 |
| Aerochamber Device | Each | 0000456-3154-67 |
| Aerochamber with Mask 1 | Each | 00456-8745-13 |
| ... | | |
| Envisan Treatment Multipack 1 | Each | 00088-5000-02 |
| ... | | |
| Inhal-Aid Drug Delivery System | Each | 0000085-4600-01 |
| ... | | |
| Inspirease Replacement Bags 12 | Bag | 00085-4602-12 |
| ... | | |
| Novolin Pen Insulin Deliv. Syst. 1 | Each | 00003-1875-35 |
| ... | | |
| Respigard II Nebulizer 20 | Neb. | 00293-1240-30 |
| Respigard II Nebulizer 50 | Neb. | 00293-1240-31 |
| Swivel Nut and Tail Piece Connector 1 (For use with Respigard) | Each | 00293-1935-00 |

APPENDIX E

Protein Replacements and Other Special Items

(No change in introductory text.)

| <u>Product Description</u> | <u>Reporting Unit</u> | <u>NDC or Product Code</u> |
|--|-----------------------|----------------------------|
| Alimentum Liquid 32 oz | Each | 70074-0602-37 |
| ... | | |
| Citroprotein Powder 14 oz | Each | 00212-1700-08 |
| ... | | |
| Lactrase Capsules 100 | Cap | 0000091-3505-01 |
| ... | | |
| Resource Liquid (any flavor) 8 oz | Each | 00212-3371-62 |
| Resource Plus Liquid (any flavor) 8 oz | Each | 00212-3381-62 |
| ... | | |
| Sustacal Powder 1 lb | Each | 00087-0353-44 |
| ... | | |
| Sustacal Pudding (any flavor) 5 oz | Each | 00087-0410-41 |
| ... | | |
| Tolerex Packets 6x80 gm | Each | 00149-0458-01 |
| ... | | |
| Vivonex T.E.N. Packets 10x80 gm | Each | 00149-0067-01 |
| ... | | |

(a)

**DIVISION OF ECONOMIC ASSISTANCE
Public Assistance Manual
Refugee Resettlement Program**

Adopted Amendment: N.J.A.C. 10:81-10.7

Proposed: April 16, 1990 at 22 N.J.R. 1225(a).
 Adopted: June 28, 1990 by Alan J. Gibbs, Commissioner,
 Department of Human Services.
 Filed: June 29, 1990 as R.1990 d.365, **without change**.
 Authority: N.J.S.A. 44:10-3; 45 CFR 400.200, 400.203, and
 400.204.

Effective Date: August 6, 1990.
 Expiration Date: August 24, 1994.

Summary of Public Comments and Agency Responses:
No comments received.

Full text of the adoption follows.

10:81-10.7 Eligibility

(a) No U.S. citizen is eligible for RRP (exception: see (a)2 and 3 below) and a refugee may be eligible only if he or she meets the appropriate definition and INS status in N.J.A.C. 10:81-10.2 through 10.3. In addition, all refugees whose time limitations have expired will cease to be eligible for cash and medical assistance under RRP (see (b) below). Such ineligible refugees who are still in need shall, as appropriate, be assisted under AFDC-N or referred to the municipal welfare department via Form PA-14, "Referral for Services", giving the reason for referral.

1.-3. (No change.)

(b) Eligibility limitations: Eligibility for assistance under RRP is limited to a total of 12 months for AFDC-N and General Assistance type cases, and four months for AFDC-C and -F type cases.

1. (No change.)

2. Rules concerning GA (AFDC-N or GA) type cases are as follows:

i. For all GA and AFDC-N type applicants/recipients residing in the U.S. for 12 months or less from their initial entry date or when parole status was first granted as identified on INS Form I-94, income and resources shall be treated in accordance with the stan-

dards and criteria applicable to AFDC-C or -F, except, that CWAs shall not apply the \$30.00 and one-third earned income disregard. The assistance standard for applicants/recipients shall be the appropriate amount for eligible family size using Schedule I found in N.J.A.C. 10:82-1.2.

ii. During the 12 month period, all eligible GA type cases will retain Medicaid eligibility.

(c)-(j) (No change.)

(a)

DIVISION OF ECONOMIC ASSISTANCE

Public Assistance Manual

Paternity Services for Non-Public Assistance Clients

Adopted Amendment: N.J.A.C. 10:81-11.9

Proposed: April 2, 1990 at 22 N.J.R. 1053(a).

Adopted: July 16, 1990 by Alan J. Gibbs, Commissioner, Department of Human Services.

Filed: July 16, 1990 as R.1990 d.401, with substantive changes not requiring additional public notice and comment (see N.J.A.C. 1:30-4.3).

Authority: N.J.S.A. 44:10-3, Family Support Act of 1988 (P.L. 100-485), and 45 CFR 302.31 and 303.5.

Effective Date: August 6, 1990.

Expiration Date: August 24, 1994.

Summary of Public Comments and Agency Responses:

Comments were received from four county welfare agencies.

COMMENT: Several commenters expressed concern that the proposed amendment could be interpreted to mean that the CWA was now responsible for initial as well as additional blood testing costs.

RESPONSE: In accordance with the New Jersey Parentage Act (P.L. 1983, c.17), in cases where paternity is an issue, either of the involved parties are always the first in line concerning the responsibility to pay for genetic tests. The proposed amendment is being revised to provide the CWAs with a larger measure of control over the genetic testing process and provide the court with the opportunity to charge either of the involved parties for payment of the testing. The Parentage Act allows the court to apportion the cost of genetic tests among the parties.

COMMENT: A commenter questioned as to the reason the CWA would be responsible for payment of blood testing costs in non-AFDC cases.

RESPONSE: The ultimate responsibility for genetic testing costs continue to remain with the involved parties. Initial payment of genetic testing costs by the CWA, however, would provide for the immediate removal of any financial barriers in paternity determinations. This approach would ensure that the opportunity for early paternity establishment is available to all cases. In non-AFDC cases, the CWA would be reimbursed for these costs through Federal funds and/or by either of the involved parties.

COMMENT: A commenter requested a delay in the implementation of the proposed amendment until January 1991, due to fiscal concerns.

RESPONSE: After careful consideration, it has been determined that a later implementation date would not be appropriate since CWAs will be receiving 90 percent reimbursement for the affected cases from Federal funds or will be reimbursed by either of the involved parties. It is, therefore, not anticipated that a significant fiscal burden will be experienced and protracted implementation is not justified.

COMMENT: A commenter noted that in accordance with the New Jersey Parentage Act and the Family Support Act of 1988 (P.L. 100-485), the phrase "blood test" has been replaced with "genetic test".

RESPONSE: Reference to "blood test" is being changed to "genetic test" with respect to the proposed amendment. It is noted that the Department has already undertaken separate rulemaking and proposed amendments in the June 4, 1990 Register (see 22 N.J.R. 1664(a)) to change the term "blood test" to "genetic test".

COMMENT: A commenter questioned the authority of the CWA to have the court stipulate who is responsible for payment of genetic testing.

RESPONSE: The commenter addresses text which is not subject to this rulemaking. The Department, by way of information, at this time observes, however, that the language is deemed to be appropriate and is

not to be construed to provide unauthorized powers to the CWA which in effect "order the court". The Department will, nevertheless, take the comment into consideration for possible language clarification in the future.

Full text of the adoption follows (additions to proposal indicated in boldface with asterisks *thus*; deletions from proposal indicated in brackets with asterisks *[thus]*).

10:81-11.9 Responsibilities of the CWA/CSP Unit

(a)-(c) (No change.)

(d) Legal action taken by the CSP Unit: If the CSP Unit collects information sufficient to locate the absent parent, legal proceedings shall be initiated for the purpose of establishing paternity and/or obtaining support.

1. (No change.)

2. Filiation proceedings: With regard to cases in which paternity has not been acknowledged, the CSP Unit shall file a complaint to establish paternity in a court of competent jurisdiction.

i. (No change.)

ii. Payment for *[blood]* *genetic* test: The CWA shall provide *initial* payment *[of all fees]* for paternity determinations in AFDC and non-AFDC cases *through any of the laboratories approved by the State*. *[No fee shall be imposed on the applicant.]* *Although the CWA will provide initial payment,* *[The]* *the* CWA/CSP Unit shall have the court stipulate that the *[defendant is responsible for payment of the blood test]* *cost for genetic testing be paid by either of the parties involved as determined by the practice of the court.* The only exceptions would be for the following reasons:

(1)-(2) (No change.)

iii.-v. (No change.)

3.-10. (No change.)

(e)-(l) (No change.)

(b)

DIVISION OF YOUTH AND FAMILY SERVICES

Social Services Program for Individuals and Families

Readoption with Amendments: N.J.A.C. 10:123

Proposed: May 21, 1990 at 22 N.J.R. 1520(a).

Adopted: July 12, 1990 by Alan J. Gibbs, Commissioner, Department of Human Services.

Filed: July 13, 1990, as R.1990 d.388, without change.

Authority: N.J.S.A. 30:1-12.

Effective Date: July 13, 1990, Readoption; August 6, 1990, Amendments.

Expiration Date: July 13, 1995.

Summary of Public Comments and Agency Responses:

The Ocean County Board of Social Services submitted the only comment to the proposed readoption.

COMMENT: The Ocean County Board of Social Services questioned the clarity and accuracy of the definitions of "rooming house" and "single room occupancy," N.J.A.C. 10:123-2.1.

RESPONSE: The two questioned definitions are identical to the definitions of these terms in the Rooming and Boarding House Act of 1979, N.J.S.A. 55:13B-3. The statutory definitions are also cited by the Department of Community Affairs in their rules on the Personal Needs Allowance, see N.J.A.C. 5:27-2.1. The Division has determined that these definitions are clear and accurate, and for this reason and for purposes of consistency, with statute and with the Department of Community Affairs, the Division has decided to adopt the definitions as proposed.

COMMENT: The commenter questioned whether the proposed readoption changed the current eligibility for the Personal Needs Allowance.

RESPONSE: The proposed readoption does not change the current eligibility for the Personal Needs Allowance, currently set at \$59.00. The Division appreciates the comment of the Ocean County Board of Social Services and will work with them to resolve any perceived differences.

Full text of the readoption may be found in the New Jersey Administrative Code at N.J.A.C. 10:123.

Full text of the adopted amendments follows.

CHAPTER 123

SOCIAL SERVICES PROGRAM FOR INDIVIDUALS AND FAMILIES

SUBCHAPTER 1. SOCIAL SERVICES BLOCK GRANT PROVISIONS

10:123-1.1 Purpose and scope

This subchapter contains the rules of the Division of Youth and Family Services regarding the social services programs for individuals and families which are supported by Federal Social Services Block Grant funds.

10:123-1.2 Pre-Expenditure Report availability

The Federal Omnibus Reconciliation Act of 1981, P.L. 97-35, which amended Title XX of the Social Security Act to establish a Social Services Block Grant (SSBG), requires the State to submit a Pre-Expenditure Report which outlines how the State plans to expend funds allocated to it for the program to furnish social services to individuals and families in accordance with the provisions of the annual Pre-Expenditure Report, and with Title XX of the Social Security Act. The Division of Youth and Family Services' social services programs which are supported by Federal SSBG revenues are included in the Department of Human Services' annual Pre-Expenditure Report, which is available from the Department, CN 700, Trenton, New Jersey 08625.

10:123-1.3 Agreement with Federal requirements

The Department of Human Services, Division of Youth and Family Services, hereby agrees to administer the Social Services Block Grant Program to furnish social services to individuals and families in accordance with the provisions of the annual Pre-Expenditure Report, and with Title XX of the Social Security Act and all applicable Federal regulations.

10:123-2.1 Purpose and scope

(a)-(b) (No change.)

(c) The provisions of this subchapter apply to all rooming houses, boarding houses and residential health care facilities in the State of New Jersey, and all the residents of such facilities.

10:123-2.3 Definitions

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

"Abuse" means the willful infliction of physical pain, injury or mental anguish, unreasonable confinement, or the willful deprivation of services which are necessary to maintain a person's physical or mental health.

"Boarding house" means any building, together with any related structure, accessory building, any land appurtenant thereto, and any part thereof, which contains two or more units of dwelling space arranged or intended for single-room occupancy, exclusive of any such unit occupied by an owner or operator, and wherein personal or financial services are provided to the residents, including any residential hotel or congregate living arrangement, but excluding any hotel, motel, or established guest house wherein a minimum of 85 percent of the units of dwelling space are offered for limited tenure only, any foster home as defined in N.J.S.A. 30:4C-26.1, and community residence for the developmentally disabled as defined in N.J.S.A. 30:11B-2, any dormitory owned or operated on behalf of any nonprofit institution of primary, secondary, or higher education for the use of its students, any building arranged for single-room occupancy wherein the units of dwelling space are occupied exclusively by students enrolled in a full-time course of study at an institution of higher education approved by the Department of Higher Education, and any facility or living arrangement operated by, or under contract with, any State department or agency, upon the written authorization of the Commissioner of the Department of Community Affairs.

"Department" means the Department of Human Services.

"Eligible resident" means a resident of a rooming house, boarding house, or residential health care facility who receives services under

the latest New Jersey Social Services Block Grant Pre-Expenditure Report for the use of funds appropriated under Title XX of the Federal Social Security Act, and as otherwise defined in P.L. 1979, c.496 (the Rooming and Boarding House Act of 1979), N.J.S.A. 30:1A and 11A.

"Exploitation" means the act or process of using a person or his or her resources for another person's profit or advantage.

"Full and free access" means the lawful authority to enter any rooming house, boarding house, or residential health care facility without notice to meet with the residents and employees in private and, after notifying a person in charge, to inspect the premises and operations of any such facility and inspect any books, files, medical records, or other records that pertain to the residents of the facility and which are required by law or regulation to be maintained by the facility.

"Limited tenure" means residence at a rooming or boarding house on a temporary basis for a period lasting no more than 90 days, when a resident either maintains a primary residence at such a location and does so within 90 days after taking up original residence at the rooming or boarding house.

"Residential health care facility" means a facility, whether in single or multiple dwellings, whether public or private, whether incorporated or unincorporated, whether for profit or nonprofit, operated at the direction of or under the management of an individual or individuals, corporation, partnership, society, or association which furnishes food and shelter to four or more persons 18 years of age or older who are unrelated to the proprietor, and which provides dietary services, recreational activities, supervision of self-administration of medications, supervision of and assistance in activities of daily living and assistance in obtaining health services to any one or more of such persons, excluding, however, any community residence for the developmentally disabled as defined in N.J.S.A. 30:11B-2, any facility or living arrangement operated by or under contract with any State department or agency, upon the written authorization of the Commissioner of the Department of Health, and any privately operated establishment licensed under N.J.S.A. 30:11.

"Rooming house" means a boarding house wherein no personal or financial services are provided to the residents.

"Single-room occupancy" means an arrangement of dwelling space which does not provide a private, secure dwelling space arranged for independent living, which contains both the sanitary and cooking facilities required in dwelling spaces pursuant to the Hotel and Multiple Dwelling Law, N.J.S.A. 55:13A-1 et seq., and which is not used for limited tenure occupancy in a hotel, motel, or established guest house, regardless of the number of individuals occupying any room or rooms.

"Units of dwelling space" means any room, rooms, suite, or portion thereof, whether furnished or unfurnished, which is occupied or intended, arranged, or designed to be occupied for sleeping or dwelling purposes by one or more persons.

Recodify existing N.J.A.C. 10:123-2.3 through 2.8 as 10:123-2.4 through 2.9 (No change in text.)

SUBCHAPTER 3. PERSONAL NEEDS ALLOWANCE

10:123-3.1 Purpose

The purpose of this subchapter is to ensure that each eligible resident of a rooming house, boarding house or residential health care facility has reserved to him or her a monthly amount as a personal needs allowance.

10:123-3.2 Scope

This subchapter applies to all eligible residents, as defined in this subchapter, of all rooming houses, boarding houses and residential health care facilities in the State of New Jersey as such are defined in this subchapter.

10:123-3.3 Definitions

The following words and terms, when used in this subchapter, shall have the following meanings.

"Boarding house" means any building, together with any related structure, accessory building, any land appurtenant thereto, and any part thereof, which contains two or more units of dwelling space

arranged or intended for single-room occupancy, exclusive of any such unit occupied by an owner or operator, and wherein personal or financial services are provided to the residents, including any residential hotel or congregate living arrangement, but excluding any hotel, motel, or established guest house wherein a minimum of 85 percent of the units of dwelling space are offered for limited tenure only, any foster home as defined in Section 1 of N.J.S.A. 30:4C-26-1, and community residence for the developmentally disabled as defined in N.J.S.A. 30:11B-2, any dormitory owned or operated on behalf of any nonprofit institution of primary, secondary, or higher education for the use of its students, any building arranged for single-room occupancy wherein the units of dwelling space are occupied exclusively by students enrolled in a full-time course of study at any institution of higher education approved by the Department of Higher Education, and any facility or living arrangement operated by, or under contract with any State department or agency upon the written authorization of the Commissioner of the Department of Community Affairs.

"Eligible resident" means a resident of a rooming house, boarding house, or residential health care facility who receives services from agencies funded under the latest New Jersey Social Services Block Grant Pre-Expenditure Report for the use of funds appropriated under Title XX of the Federal Social Security Act, and as otherwise defined in the Rooming and Boarding House Act of 1979, N.J.S.A. 30:1A and 11A.

"General Public Assistance" means assistance rendered to needy persons not otherwise provided for under the laws of this State, where such persons are willing to work but are unable to secure employment due either to physical or mental disabilities or inability to find employment, and includes what is commonly called relief or emergency relief (see N.J.S.A. 44:8-107 et seq. and N.J.A.C. 10:85).

"Limited tenure" means residence at a rooming or boarding house on a temporary basis for a period lasting no more than 90 days, when a resident either maintains a primary residence at a location other than the rooming or boarding house or intends to establish a primary residence at such a location and does so within 90 days after taking up original residence at the rooming or boarding house.

"Operator" means any individual who is responsible for the daily operation of any residential health care facility or boarding house.

"Owner" means any person who owns, purports to own, or exercises control of any residential health care facility or boarding house.

"Personal needs allowance" means a monthly amount of money intended to meet those personal and incidental expenses or needs of Supplemental Security Income recipients in residential health care facilities or boarding houses which are not included among those services provided by the facility in accord with the respective licensure standards.

"Residential health care facility" means a facility, whether in single or multiple dwellings, whether public or private, whether incorporated or unincorporated, whether for profit or nonprofit, operated at the direction of or under the management of an individual or individuals, corporation, partnership, society, or association which furnishes food and shelter to four or more persons 18 years of age or older who are unrelated to the proprietor, and which provides dietary services, recreational activities, supervision of self-administration of medications, supervision of and assistance in activities of daily living and assistance in obtaining health services to any one or more of such persons, excluding, however, any community residence for the developmentally disabled as defined in N.J.S.A. 30:11B-2, any facility of living arrangement operated by or under contract with any State department or agency, upon the written authorization of the Commissioner of the Department of Health, and any privately operated establishment licensed under N.J.S.A. 30:11A.

"Single-room occupancy" means an arrangement of dwelling space which does not provide a private, secure dwelling space arranged for independent living, which contains both the sanitary and cooking facilities required in dwelling spaces pursuant to the Hotel and Multiple Dwelling Law, N.J.S.A. 55:13A-1 et seq. and which is not used for limited tenure occupancy in a hotel, motel, or established guest house, regardless of the number of individuals occupying any room or rooms.

"Units of dwelling space" means any room, rooms, suite, or portion thereof, whether furnished or unfurnished, which is occupied or intended, arranged, or designed to be occupied, for sleeping or dwelling purposes by one or more persons.

10:123-3.4 (No change in text.)

SUBCHAPTER 4. FINANCIAL ELIGIBILITY

10:123-4.1 Financial eligibility: income schedule

(a) Financial eligibility for services provided by the county welfare agencies and funded through the Social Services Block Grant program of the Social Security Act shall be determined using the following income schedule:

INCOME SCHEDULE

| Family Size | Maximum Allowable Per Month | Gross Income Per Year |
|-------------|-----------------------------|-----------------------|
| 1 | \$1,264 | \$15,162 |
| 2 | 2,652 | 19,927 |
| 3 | 2,041 | 24,493 |
| 4 | 2,430 | 29,158 |
| 5 | 2,819 | 33,823 |
| 6 | 3,207 | 38,489 |
| 7 | 3,280 | 39,362 |
| 8 | 3,353 | 40,238 |
| 9 | 3,426 | 41,112 |
| 10 | 3,499 | 41,987 |
| 11 | 3,572 | 42,862 |
| 12 | 3,645 | 43,737 |

For each family member over 12, add \$73.00 to the maximum allowable gross income per month.

(b) Persons whose gross monthly or annual family income does not exceed the maximums established in (a) above shall be eligible for services provided by the county welfare agency and funded by the Social Services Block Grant program.

(c) Persons who wish to appeal a determination of ineligibility for services based upon the income guidelines in (a) above shall proceed in accordance with N.J.A.C. 10:120-3.

(a)

DIVISION OF YOUTH AND FAMILY SERVICES

Child Abuse and Neglect Cases

Readoption: N.J.A.C. 10:129

Proposed: May 21, 1990 at 22 N.J.R. 1535(a).

Adopted: July 12, 1990 by Alan J. Gibbs, Commissioner, Department of Human Services.

Filed: July 13, 1990, as R.1990 d.389, without change.

Authority: N.J.S.A. 9:6-8.36a; 30:1-12; 30:4C-4; 9:6-8.10a, 9:6-8.15 and 45 CFR 1340.14(i).

Effective Date: July 13, 1990.

Expiration Date: July 13, 1995.

Summary of Public Comments and Agency Responses:

No comments received.

Full text of the readoption may be found in the New Jersey Administrative Code at N.J.A.C. 10:129.

CORRECTIONS**(a)****THE COMMISSIONER
FISCAL MANAGEMENT****Inmate Reimbursement for Lost, Damaged or
Destroyed Property****Adopted New Rules: N.J.A.C. 10A:2-6**

Proposed: May 7, 1990 at 22 N.J.R. 1320(a).

Adopted: June 27, 1990 by William H. Fauver, Commissioner,
Department of Corrections.Filed: June 29, 1990 as R.1990 d.363, **without change.**

Authority: N.J.S.A. 30:1B-6 and 30:1B-10.

Effective Date: August 6, 1990.

Expiration Date: February 5, 1995.

Summary of Public Comments and Agency Responses:**No comments received.****Full text of the adoption follows.****SUBCHAPTER 6. INMATE REIMBURSEMENT FOR LOST,
DAMAGED OR DESTROYED PERSONAL
PROPERTY****10A:2-6.1 Inmate personal property defined**

"Inmate personal property" means items owned by an inmate which have been approved for retention in his or her possession while incarcerated in a correctional facility.

**10A:2-6.2 Filing a claim at an adult or juvenile institution or
satellite unit**

(a) When an inmate claims the loss, damage or destruction of personal property, other than personal property disposed of in accordance with N.J.A.C. 10A:1-11, Personal Property of Inmates, the inmate shall complete Form 943-I INMATE CLAIM FOR LOST, DAMAGED OR DESTROYED PERSONAL PROPERTY and submit the Form to the Superintendent or his or her designee.

(b) The Superintendent or his or her designee shall submit the Form 943-I to the Internal Affairs Unit for investigation and preparation of a report. The investigation conducted by the Internal Affairs Unit shall consist of, but not be limited to:

1. Obtaining statements from the inmate, witnesses and correctional facility personnel; and
2. Verifying the inmate's legitimate possession of the lost, damaged or destroyed personal property.

(c) Verification of possession of lost, damaged or destroyed personal property may be made by reviewing documents such as the personal property inventory form maintained by the correctional facility (see N.J.A.C. 10A:1-11.6).

(d) Upon completion of the investigation, the Form 943-I along with a copy of the investigative report shall be submitted to the Business Manager of the correctional facility for review.

(e) The Business Manager shall review the Form 943-I and the Internal Affairs Unit's investigative report and complete Form 943-II CERTIFICATION OF INMATE CLAIM indicating the Business Manager's recommendation to approve or deny the claim and the reasons therefor.

(f) Form 943-I, Form 943-II and the Internal Affairs Unit's investigative report shall be submitted, by the Business Manager, to the Superintendent to be denied or recommended for approval.

(g) Claims that are denied by the Superintendent shall not be processed any further. In all cases of denial, the inmate shall be notified in writing by the Superintendent with substantiating reasons.

(h) If the Superintendent recommends approving a claim, the Superintendent shall complete Form 943-III REVIEW OF INMATE CLAIM and request that the Business Manager of the correctional facility complete Invoice Form AR 50/54, and have Form AR 50/54 presented to the inmate for signature.

(i) The signed Invoice Form AR 50/54 along with Forms 943-I, 943-II, 943-III and the Internal Affairs Unit's investigative report shall be submitted by the Superintendent to the appropriate Assistant Commissioner for review.

(j) The Assistant Commissioner shall review the claim and determine whether to approve or disapprove the claim.

(k) If the Assistant Commissioner disapproves the claim, he or she shall sign and date Section V on Form 943-III and return the entire packet of documents to the Superintendent.

(l) If the Assistant Commissioner approves the claim, he or she shall sign and date Section IV on Form 943-III and submit the entire packet of documents, listed in (i) above, to the Chief, Bureau of Accounts, to be reviewed for compliance with the requirements of this section.

(m) When a claim is not in compliance with the requirements of this section the Chief, Bureau of Accounts, shall return the entire packet to the appropriate Assistant Commissioner with the reasons therefor.

(n) When a claim is in compliance with technical requirements, the Chief, Bureau of Accounts, shall indicate "Compliance" and submit the entire packet to the Deputy Commissioner for approval and payment.

10A:2-6.3 Filing a claim at a juvenile community residential center

(a) When an inmate assigned to a juvenile community residential center claims the loss, damage or destruction of personal property, other than personal property disposed of in accordance with N.J.A.C. 10A:1-11, Personal Property of Inmates, the inmate shall complete Form 943-I INMATE CLAIM FOR LOST, DAMAGED OR DESTROYED PERSONAL PROPERTY and submit the Form to the Superintendent or his or her designee.

(b) The Superintendent or his or her designee shall designate a staff member to investigate the claim and prepare a report.

(c) Upon completion of the investigation, the Form 943-I along with a copy of the investigative report shall be submitted to the Superintendent to be denied, or recommended for approval.

(d) Claims that are denied by the Superintendent shall not be processed any further. In all cases of denial, the inmate shall be notified in writing by the Superintendent with substantiating reasons.

(e) If the Superintendent recommends approving the claim, the Superintendent shall submit Form 943-I and a copy of the investigative report to the Executive Assistant of the Assistant Commissioner, Division of Juvenile Services, to be denied or recommended for approval.

(f) If the Executive Assistant denies the inmate's claim, the substantiating reasons for denying the claim shall be entered on Form 943-II CERTIFICATION OF INMATE CLAIM and returned to the Superintendent along with Form 943-I and the investigative report.

(g) If the Executive Assistant approves the inmate's claim, Invoice Form AR 50/54 and Form 943-II CERTIFICATION OF INMATE CLAIM shall be completed and Form AR 50/54 shall be forwarded to correctional facility for the inmate's signature.

(h) Upon receipt of the signed Form AR 50/54, the Superintendent shall complete Form 943-III REVIEW OF INMATE CLAIM and submit Form AR 50/54 and Forms 943-III to the Executive Assistant. The Executive Assistant shall submit Form 943-I, 943-II, 943-III, Form AR 50/54 and the investigative report to the Assistant Commissioner, Division of Juvenile Services, for review.

(i) The Assistant Commissioner shall review the claim and determine whether to approve or disapprove the claim.

(j) If the Assistant Commissioner disapproves the claim, he or she shall sign and date Section V on Form 943-III and return the entire packet of documents to the Superintendent.

(k) If the Assistant Commissioner approves the claim, he or she shall sign and date Section IV on Form 943-III and submit the entire packet of documents, listed in (h) above, to the Chief, Bureau of Accounts, to be reviewed for a compliance with the requirements of this section.

(l) When a claim is not in compliance with technical requirements, the Chief, Bureau of Accounts, shall return the entire packet to the

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Assistant Commissioner, Division of Juvenile Services, with the reasons therefor.

(m) When a claim is in compliance with the requirements of this section the Chief, Bureau of Accounts, shall indicate "Compliance" and submit the entire packet to the Deputy Commissioner for approval and payment.

10A:2-6.4 Filing a claim at an adult community service center

(a) When an inmate assigned to an adult community service center claims the loss, damage or destruction of personal property, other than personal property disposed of in accordance with N.J.A.C. 10A:1-11, Personal Property of Inmates, the inmate shall complete Form 943-I INMATE CLAIM FOR LOST, DAMAGED OR DESTROYED PERSONAL PROPERTY and submit the Form to the Superintendent or his or her designee.

(b) The Superintendent or his or her designee shall designate a staff member to investigate the claim and prepare a report.

(c) Upon completion of the investigation, the Form 943-I along with a copy of the investigative report shall be submitted to the Superintendent to be denied or recommended for approval.

(d) Claims that are denied by the Superintendent shall not be processed any further. In all cases of denial, the inmate shall be notified in writing by the Superintendent with substantiating reasons.

(e) If the Superintendent recommends approving the claim, the Superintendent shall submit Form 943-I, Form 943-II, 943-III, Form AR 50/54 signed by the inmate and the investigative report to the Chief, Bureau of Community and Professional Services, within the Division of Adult Institutions for review.

(f) If the Chief, Bureau of Community and Professional Services, denies the inmate's claim, the substantiating reasons shall be documented on Form 943-II and returned to the facility Superintendent along with the entire package of documents.

(g) If the Chief, Bureau of Community and Professional Services recommends approving the claim, he or she shall submit the entire packet of documents to the Assistant Commissioner, Division of Adult Institutions, for review.

(h) The Assistant Commissioner shall review the claim and determine whether to approve or disapprove the claim.

(i) If the Assistant Commissioner disapproves the claim, he or she shall sign and date Section V on Form 943-III and return the entire packet of documents to the Chief, Bureau of Community and Professional Services, who will return these documents to the Superintendent.

(j) If the Assistant Commissioner approves the claim, he or she shall sign and date Section IV on Form 943-III and submit the entire packet of documents, listed in (e) above, to the Chief, Bureau of Accounts, to be reviewed for compliance with technical requirements.

(k) When a claim is not in compliance with the requirements of this section, the Chief, Bureau of Accounts, shall return the entire packet to the Assistant Commissioner, Division of Adult Institutions, with the reasons therefor.

(l) When a claim is in compliance with the requirements of this section, the Chief, Bureau of Accounts, shall indicate "Compliance" and submit the entire packet to the Deputy Commissioner for approval and payment.

10A:2-6.5 Decision making factors for approving or denying a claim

(a) The following factors should be considered before recommending approval or disapproval of claims:

1. Whether the investigation disclosed any neglect by the correctional facility;

2. Whether care was exercised by facility personnel in preventing property loss, damage or destruction;

3. Whether the inmate exercised care in preventing property loss, damage or destruction;

4. Whether it has been proven that the inmate was authorized to have and did, in fact, possess the item(s) mentioned in the claim;

5. Whether sufficient information has been supplied by the inmate, including proper receipts, witnesses and investigative reports;

6. Whether the loss or damage exceeds authorized amounts of correctional facility personal property limits;

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7. Whether the personal property is considered contraband; and

8. Whether other reviewers recommended denial of the claim and the reasons therefor.

10A:2-6.6 Time limit for filing a claim

(a) It shall be the inmate's responsibility to initiate the claim by completing Form 943-I INMATE CLAIM FOR LOST, DAMAGED OR DESTROYED PERSONAL PROPERTY within 15 days of the incident or discovery of the incident.

(b) Unless there are exceptional circumstances which require extending the investigative process, the claim form and accompanying documents shall be submitted to the Deputy Commissioner within one month of the filing of the claim by the inmate.

10A:2-6.7 Notification of inmates

The written procedures contained in this subchapter shall be incorporated into the next revision of the correctional facility's inmate handbook.

10A:2-6.8 Forms

(a) The following forms related to inmate reimbursement for lost, damaged or destroyed personal property shall be reproduced by each correctional facility from originals that are available by contacting the Standards Development Unit, New Jersey Department of Corrections:

1. 943-I INMATE CLAIM FOR LOST, DAMAGED OR DESTROYED PERSONAL PROPERTY;

2. 943-II CERTIFICATE OF INMATE CLAIM; and

3. 943-III REVIEW OF INMATE CLAIM.

(a)

THE COMMISSIONER

Medical and Health Services

Informed Consent to Perform Medical, Dental or Surgical Treatment

Refusal and Guardianship

Adopted Amendments: N.J.A.C. 10A:16-5.2 and 5.5

Adopted New Rule: N.J.A.C. 10A:16-5.6

Proposed: May 7, 1990 at 22 N.J.R. 1322(a).

Adopted: July 5, 1990 by William H. Fauver, Commissioner, Department of Corrections.

Filed: July 5, 1990 as R.1990 d.369, **without change**.

Authority: N.J.S.A. 30:1B-6 and 30:1B-10.

Effective Date: August 6, 1990;

Operative Date: August 13, 1990.

Expiration Date: April 6, 1992.

Summary of Public Comments and Agency Responses:

The New Jersey Department of Corrections received several written comments from one commenter during the public comment period which closed on June 6, 1990.

COMMENT: Commenter objected to the proposed amendments because "The proposed rule still fails to require that an inmate's inability to consent to treatment precede a guardianship application, and in fact expands the circumstances authorizing such an application to inmates engaged in hunger strikes". Further objection is made to N.J.A.C. 10A:16-5.6(b)4 which permits a Corrections' official to be appointed guardian, on the ground that such status would create a conflict of interest. Commenter also contended that the rule should permit the inmate's wishes regarding treatment to be effectuated through his or her guardian.

RESPONSE: A careful reading of the entire subchapter, N.J.A.C. 10A:16-5, will reveal that contemporary standards regarding consent for medical treatment, consistent with legal requirements for their application in the correctional environment, are being followed. The necessity of informed consent, when possible, is set forth in N.J.A.C. 10A:16-5.1(a)4 subject to exceptions as stated in N.J.A.C. 10A:16-5.2. Legal action to appoint a guardian is taken only in circumstances where the inmate is refusing treatment or is engaged in a hunger strike, sufficient to be life threatening, or where the inmate is deemed to need treatment, but is

considered by medical/psychiatric staff to be incompetent to give informed consent. The rule as amended, therefore, deals with two kinds of situations. The first situation is a case which the medical condition requires prompt treatment, but the inmate is deemed incompetent to provide informed consent. The second situation is life threatening due to illness or hunger strike, but the inmate refuses to give consent, or refuses to eat. In the latter situation, the State of New Jersey is obligated to institute appropriate legal action to safeguard the well-being of inmates committed to the State's care. Regardless of the inmate's wish, which may actually be a deliberate attempt to commit suicide, the State of New Jersey has a valid and compelling interest to preserve life.

Whenever possible, a family member(s) if approved by the Court, may be chosen as guardian. However, in the event no such family person is willing or able, the Court will appoint the Superintendent or Health Services Supervisor, as appropriate. The New Jersey Department of Corrections disagrees that any conflict of interest is present in such situation. There have been numerous cases in which courts have acted to appoint State officials to act as guardians.

Full text of the adoption follows:

10A:16-5.2 Exception to adult inmate written consent requirement
(a) Written consent shall not be required in the case of adult inmates (18 years or older) in the following circumstances:

1. (No change.)
2. In any case in which a court of competent jurisdiction has determined that the inmate is incompetent to give informed consent on his or her own behalf, or is otherwise ordered to undergo treatment (see N.J.A.C. 10A:16-5.6).

10A:16-5.5 Refusal by adult inmates

In every case in which the adult inmate, after having been informed of his or her condition and the treatment prescribed, refuses treatment, this refusal shall be recorded on Form 306-I CONSENT FOR MEDICAL, DENTAL OR SURGICAL TREATMENT in the space provided. Medical staff shall advise the inmate of the possible medical/dental consequences of such refusal.

10A:16-5.6 Guardianship of adult inmates

(a) An application for guardianship of an inmate may be submitted to the Attorney General's Office for legal action under the following circumstances:

1. The inmate lacks sufficient mental capacity to make a reasonably informed decision regarding his or her well being; or
2. The inmate is refusing treatment and the medical staff determines that the inmate's condition is or may soon become life threatening; or
3. The inmate is engaging in a hunger strike and the medical staff determines that the inmate's condition is or may become life threatening.

(b) The following information shall be provided to the Attorney General's Office in memorandum form when application is made for guardianship:

1. The name, age, race, height, weight, offense, sentence and parent institution of the inmate;
2. The name and relationship of family member(s) contacted regarding guardianship;
3. The name, address and telephone number of family member(s) agreeing to be appointed guardian;
4. A request, when no family member is available, that the Health Services Unit Supervisor, Office of Institutional Support Services (O.I.S.S.) be appointed guardian when inmates are assigned to the Saint Francis Medical Center or a Special Medical Unit, or a request that the Superintendent of the parent institution be appointed guardian when inmates are assigned to other medical facilities;
5. A letter from the inmate's treating physician which details the history of the inmate's condition, the consequences of treatment refusal and that physician's opinion as to the inmate's competency; and
6. A letter from a psychiatrist which describes the inmate's mental condition and competency.

(c) An examination by the treating physician and the psychiatrist shall be conducted within 20 days prior to the application for guardianship. The date of the most recent examination shall be

documented in the physicians' respective reports. The physicians shall indicate whether they are related, by either blood or marriage, to the inmate.

10A:16-5.7 (No change in text.)

INSURANCE

(a)

DIVISION OF THE REAL ESTATE COMMISSION

Approved Schools; Requirements

Adopted Amendment: N.J.A.C. 11:5-1.28

Proposed: March 15, 1990 at 22 N.J.R. 777(a).

Adopted: July 5, 1990 by the New Jersey Real Estate Commission, Daryl G. Bell, Executive Director.

Filed: July 10, 1990 as R.1990 d.378, with substantive changes not requiring additional public notice and comment (see N.J.A.C. 1:30-4.3).

Authority: N.J.S.A. 45:15-6.

Effective Date: August 6, 1990.

Expiration Date: October 28, 1993.

Summary of Public Comments and Agency Responses:

After receiving a petition for rulemaking in the area of recruitment of students at real estate preclicensure schools by brokers, the New Jersey Real Estate Commission published a Notice of Preproposal in the New Jersey Register at 21 N.J.R. 1641(a) on June 19, 1989. Upon reviewing the public comments submitted in response to that notice, the Commission proposed an amendment to N.J.A.C. 11:5-1.28 restricting recruitment activities at preclicensure schools. After considering the public comments received on that proposal, the Commission determined to adopt the proposed amendment with only minor substantive changes, as indicated below, which, pursuant to N.J.A.C. 1:30-4.3(c), do not require additional public notice and comment. An explanation of the changes and a summary of the comments received and of the agency's responses to them follows.

In several points in the rule, the term "soliciting," which was defined in paragraph (x)2, has been substituted for the undefined term "recruiting". The introductory paragraph of the subsection was clarified by adding the term "offending" to the reference to the type of licensee that will be subjected to sanctions pursuant to N.J.S.A. 45:15-17(e) and (r) for violations of this subsection. The Commission also added language to this subsection clarifying that it may impose sanctions for a violation of these provisions by non-licensees pursuant to N.J.A.C. 11:5-1.28(w).

Several changes were made to the text of the Notice required to be provided to new students pursuant to subsection (x). The phrase "after you are licensed" was deleted and additional text was added to clarify the type of solicitation activities which brokers are prohibited from directing toward students. Language was also added to the Notice to inform students that they should consider other, non-pecuniary factors when deciding which broker they will seek employment with.

References to displaying solicitation materials at a school were added to paragraphs (x)3 and 5 to clarify which activities are permissible under this subsection. Paragraphs (x)3 and 4 were also revised to add the phrase "nor within seven days following" to better assure that students are not subjected to solicitation efforts by school personnel or instructors until a reasonable time has passed after the student has successfully completed the course.

Paragraph (x)4 was also supplemented to clarify that approved instructors who are also licensed brokers or salespersons may conduct preclicensure courses, and that licensees may also appear as guest lecturers, so long as their presentations do not include the solicitation of students.

Language was also added to paragraph (x)5 to clarify that class time is not to be used for the distribution of written solicitation material.

Finally, subparagraph (x)7(i) was revised to assure that prospective students are made aware that their attendance at a particular school does not obligate them to become employed by a brokerage firm which may operate that school. A minor revision to the text of paragraph (x)9 was also approved in an effort to have it read more clearly.

The public comments and Commission responses are summarized as follows:

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COMMENT 1: One commenter expressed her support for the amendment because she believed it is essential for the continuance of the real estate brokerage business. She also inquired as to whether the amendment addressed instances where a broker offers to pay the full tuition or partial tuition fee of a student as a recruitment tool.

RESPONSE: The Commission reviewed and discussed the issue and concluded that the proposed amendment will allow a brokerage firm to pay the partial or full tuition of a prospective employee, so long as it is not used in a deceptive manner.

COMMENT 2: The commenter indicated that he supports the amendment, and believes that the most effective way to assure that the new provisions are adequately enforced is by employing more Real Estate Commission staff.

RESPONSE: The commenter's suggestion is well taken. However, the Commission would advise him to contact his local legislators as the Commission must operate within the budget allocation it receives from the Department of Insurance, whose budget is established by the Legislature.

COMMENT 3: This commenter also expressed support for this amendment; however he took exception to the text of the Notice to be provided to all students because it appeared to stress monetary factors as the primary consideration in choosing a broker. The commenter suggested that the notice should include language which emphasizes other values and considerations which are of equal or greater importance.

RESPONSE: The Commission agreed with the comment and has supplemented the language in the Notice as described above.

COMMENT 4: The commenter indicated that the wording in subparagraph (x)7i regarding advertisements by schools could lead a student to conclude that they were compelled to accept employment with a company which sponsored the school they had attended.

RESPONSE: The Commission agreed and has revised the language in question to prevent any misunderstandings on the part of prospective students along these lines.

COMMENT 5: The commenter expressed concern that the proposed amendment does not go far enough because it fails to prohibit real estate brokers from owning and operating schools. The commenter felt strongly that brokers should not be in the education business.

RESPONSE: The Commission had previously and exhaustively reviewed this issue during the preproposal process and determined, on advice of counsel, that a ban on broker-owned schools would constitute an illegal restraint on such businesses.

COMMENT 6: This commenter opposed the adoption of any rule restricting recruitment by brokers at preclicensure schools. He noted that in his experience as an instructor he had never observed any abuses in this area.

RESPONSE: The Commission disagrees with this comment and has concluded, based upon the results of the preproposal and proposal processes, that safeguards are needed to prevent abuses in this area, and that the amendment to be adopted is a reasonable and rational means to accomplish that objective.

COMMENT 7: The commenter agreed that it would be detrimental to salespersons and brokers if instructors were allowed to solicit students during class time. However, he urged that brokers be allowed from three to five minutes to discuss the basics of real estate sales and what their firm can offer during class time. The commenter also suggested that the Commission specifically state what a reduced tuition rate consists of in terms of a dollar amount and whether a broker can give a rebate of tuition to a salesperson who has successfully completed the real estate course.

RESPONSE: In response to the suggestion that the Commission allow solicitation activities during a small portion of class time, the Commission deems that suggestion to be unworkable because of the unlimited number of brokers who might wish to make such presentations, and contrary to the purpose of the amendment. Further, neither the licensing law nor the current rules of the Real Estate Commission preclude brokers from offering rebates of tuition to salespersons in an effort to persuade them to become licensed with them.

COMMENT 8: The commenter, a real estate instructor, argued that the amendment is not needed and that students should be exposed to solicitations from workers in a controlled situation such as the classroom, since they are already being inundated by real estate brokers' recruiting efforts. The commenter asserted that brokers should be allowed to appear as guest speakers during class time to give students a practical view of the brokerage business, so long as they do not result in recruiting sessions.

RESPONSE: The Commission disagrees with the premise of this comment. The Commission has concluded that it is essential to assure that

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students not be subjected to solicitation activities during class time. However, as noted above, language has been added to clarify that the new subsection does not prevent brokers from working as instructors or appearing as guest lecturers to instruct students on the practicalities of the business, so long as their presentations do not include solicitation efforts.

COMMENT 9: The commenter objects to allowing schools to be operated on the same premises as a brokerage business because students at such locations would be exposed to subtle advertisements to join that brokerage firm. In addition, the commenter stated that small real estate companies will be forced to close because of their inability to compete for new salespersons with the larger companies which operate affiliated schools in the same general location where their brokerage offices are situated.

RESPONSE: The Commission disagrees with the commenter. The issue of broker-owned schools operating in the same general location as brokerage offices was extensively reviewed by the Commission during the preproposal process and it was determined that there was no public need to prohibit the holding of courses at such locations, but that effective standards could be established and enforced to separate the school from the brokerage operations.

COMMENT 10: The commenter supported the Commission's efforts to discourage the use of licensing schools as recruiting centers. This commenter suggested the substitution of the term solicitation for recruitment, and the textual changes to the opening paragraph and to paragraph (x)3 and 9 which, as noted above, the Commission agreed to incorporate into the adopted amendment. This commenter opposed the provisions in the subsection which would permit recruitment activities at school locations, such as career nights, before students had completed their course or within seven days thereafter. They also suggested deleting references to the displaying of recruitment materials and substituting therefore references to their distribution.

RESPONSE: The Commission rejected the proposal that no career nights or similar recruitment functions be permitted at school locations during the time between the first and last class sessions of any course as unduly restrictive. It was noted that at one of the largest preclicensure schools, some courses are always ongoing, which would mean no such functions could ever be held at that location if this suggestion were adopted. It was also noted that it would be impossible to effectively limit access to such functions to only those students who had completed their courses. Finally, it was noted that many community colleges which routinely have recruitment fairs for a whole range of career opportunities and which also administer preclicensure education programs would have to preclude brokers from participating in such functions were such a restriction to be imposed. The Commission determined to include references to the distribution of recruitment materials at appropriate locations in the text of the subsection in addition to, rather than in lieu of, the references to the displaying of such materials in an effort to make the subsection as explicit and unambiguous as possible.

COMMENT 11: This commenter supported the intent of the proposed amendment but felt it did not go far enough in restricting the influence of brokers on students who attend their affiliated preclicensure schools. To strengthen the effectiveness of the subsection, it was suggested that the term "equal" be substituted for the term "similarly" in paragraph (x)5 and that, to remove any ambiguities concerning the area within the licensed location, paragraph (x)8 be revised to prohibit conducting any preclicensure courses in any building wherein a licensed brokerage office is located.

RESPONSE: The Commission disagrees with both suggestions of the commenter. The word "similarly" was purposely used in the subsection to reflect the Commission's intent that schools must afford essentially equal treatment to all brokers who wish to make solicitation materials available at their school, without imposing too exacting a standard by using a more restrictive term. The objection regarding permitting schools to be situated at the same general locations as brokerage offices is addressed above.

COMMENT 12: The commenter supports the proposed amendment and the use of the Notice therein; however, he suggested that the Commission require all schools to keep a "library" of solicitation materials and allow no infringement on instructional time for recruiting.

RESPONSE: The Commission determined that the library concept is a good idea and will encourage schools to maintain an area where all recruitment-related materials can be placed and reviewed by the students. However, it will not require that schools do so by rule. The language of the subsection explicitly provides that no solicitation activities may occur during class time.

COMMENT 13: This commenter objected to broker-owned schools being permitted to advertise and operate under a name which evidences their affiliation with a licensed broker and to the provision in the subsection which would permit courses to be conducted in the same general location where a brokerage office is maintained.

RESPONSE: On advice of counsel, the Commission determined that prohibiting a broker affiliated school from truthfully advertising its affiliation by restricting the name under which it could operate would be of very questionable legality. The comment regarding school locations at broker office locations is addressed above.

Full text of the adoption follows (additions to proposal indicated in boldface with asterisks ***thus***; deletions from proposal indicated in brackets with asterisks ***[thus]***):

11:5-1.28 Approved schools; requirements

(a)-(w) (No change.)

(x) The purpose of this subsection is to assure that there is a total separation between instructional activity conducted by approved schools and ***any solicitation of students, which, as defined in (x)2ii below, means any* recruiting *efforts* or brokerage activity *directed at students***. These provisions will be construed in a manner consistent with that regulatory objective. A violation of any of these provisions will be considered by the Commission as conduct demonstrating unworthiness for licensure, thereby subjecting the ***offending*** licensee to sanctions pursuant to N.J.S.A. 45:15-17(e) and (r). ***The Commission may also impose sanctions for a violation of these provisions pursuant to N.J.A.C. 11:5-1.28(w)***. Requirements regulating the involvement of approved schools in ***[recruiting]* *soliciting*** students to become salespersons for particular real estate brokers are as follows:

1. At the beginning of the first class session of all salesperson prelicensure courses, all approved schools shall distribute to all students in attendance in writing the following:

NOTICE

TO: ALL SALESPERSON COURSE STUDENTS
FROM: NEW JERSEY REAL ESTATE COMMISSION
RE: ***[RECRUITMENT]* *SOLICITATION* OF SALESPERSON LICENSE CANDIDATES AT PRELICENSURE SCHOOLS**

It is the policy of the New Jersey Real Estate Commission that there be a complete and total separation between the instruction you receive in your prelicensure education course and any efforts by brokers to recruit you to join the firm ***[after you are licensed]* *and/or to secure listings or offers on listed properties from you***. This policy is reflected in Commission rule N.J.A.C. 11:5-1.28(x), which is reproduced in its entirety below.

If you are subjected to any recruitment efforts ***or are solicited for listings or offers*** during class time you should immediately notify your instructor, the Director of your school, and the New Jersey Real Estate Commission by writing to:

New Jersey Real Estate Commission
20 West State Street, CN 328
Trenton, New Jersey 08625
Attn: Director, Real Estate Education

You are free to negotiate the terms of your employment with any broker. It is in your own best interest to talk to several prospective employing brokers before deciding which offers the best compensation plan, including post-termination payment provisions, and support package for you. ***You should also consider a prospective employer's professionalism and reputation for honesty and integrity when deciding which broker to work for.***

(Repeat text of N.J.A.C. 11:5-1.28(x))

In the event an enrolled student does not attend the first session of a salespersons course, a copy of the foregoing notice shall be delivered to that student at the commencement of the first class session which that student does attend.

2. For the purposes of this subsection, the following definitions shall apply:

i. The phrase "brokerage activity" means any activity which, pursuant to N.J.S.A. 45:15-1 and 15-3 would require the person

engaging in such activity to hold a license as a real estate broker or real estate salesperson;

ii. The term "solicit" means to ***recruit***, invite or urge a student to seek employment with a particular broker, or to list, purchase or lease through, or to make referrals of listing, purchaser or lessee prospects to a particular broker; and

iii. The phrase "successful completion" means the receipt by the student of a Real Estate Commission school certificate form, duly signed by the instructor and school director and stamped by the school, certifying to the student's having completed and passed an approved prelicensure course.

3. With the exception of posting ***[or]**,*** distributing written materials as provided in (x)5 below, no school director, instructor, guest lecturer or staff member shall, prior to ***,*** nor within seven days following ***,*** a student's successful completion of a course, solicit a student to become a salesperson for any particular real estate broker, nor shall any such person at any time accept any fee or other compensation for soliciting or recruiting students attending their school to apply for employment with a particular real estate broker.

4. No in-person or electronic solicitation of students to apply for employment as salespersons with a particular real estate broker or any referral program shall be permitted at an approved school location during the prescribed class hours, nor in the breaks between such class hours. Such soliciting may be scheduled and held at approved schools before, after or separate from prescribed class hours, for example as a "career night" for students, provided that students are notified in writing in advance that their attendance at such recruitment functions is completely voluntary. However, no school director, instructor, guest lecturer or staff member shall engage in such activity at any time prior to ***,*** nor within seven days following ***,*** a student's successful completion of a course. ***Approved instructors who are also licensed brokers or salespersons may conduct prelicensure courses, and licensees who are not approved instructors may appear as guest lecturers in such courses, so long as their presentations do not include the solicitation of students.***

5. Any approved school which posts ***[or]**,*** distributes ***or displays*** written material which solicits students to inquire about employment as a salesperson with a particular broker must similarly post ***[or]**,*** distribute ***or display*** comparable written material from any real estate broker who requests the school to do so. ***However, no written material soliciting students to apply for employment with a particular real estate broker or any referral program shall be distributed during the prescribed class hours.***

6. No approved school may offer a reduced tuition rate to students where eligibility for the lower tuition is contingent upon a student making a commitment to become licensed through a particular broker subsequent to their qualifying for licensure and no approved school may otherwise make or imply any promise or guarantee of employment to any student.

7. No oral statements or written text referring to an approved school may be included or contained in any advertisement by a real estate licensee and no advertisement of an approved school may refer to the brokerage operation or include the telephone number of any licensee, except that a school which is owned by a real estate licensee or franchisor may use that name in its school name.

i. Any advertisement by a school whose name includes the name of an affiliated licensed real estate broker or franchisor shall include the following disclosure legend:

Attending this school will not
***obligate you to become employed with our affiliated real estate broker(s), nor* guarantee you an interview or a job with our affiliated real estate broker(s).**

ii. No advertisement referring to an approved school may be placed in the Help Wanted classified section of any newspaper or periodical.

8. No approved school shall conduct prelicensure course sessions in any area which is a part of a location which is licensed as a main or branch office of a real estate broker. For the purposes of this

paragraph, an area will be considered as part of a licensed location if any brokerage activity is conducted in that area at any time.

i. Where space on two or more floors in a multi-story building is licensed as a main or branch office location, it is permissible for preclicensure courses to be conducted in such a building, provided that the primary means of access to and egress from the floor where the courses are conducted does not require the students to walk through any area of the licensed office location wherein brokerage activity occurs.

ii. Where only one floor in a building is licensed as a main or branch office, it is permissible for preclicensure courses to be conducted in another area on that floor, provided that there is a separate entrance to that area either from the exterior of the building or from a common foyer or lobby and provided that the primary means of access to and egress from the area wherein the courses will be conducted does not require students to walk through a portion of the licensed premises wherein brokerage activity takes place.

iii. In all situations where preclicensure courses are conducted in the same building in which brokerage activity occurs under the authority of a broker in any way affiliated with the approved school conducting such courses, the broker shall post signs either on the exterior of the building or in any common foyer or lobby, directing students either to the separate exterior entrance to the school location or to the primary route of access to the school location from such foyer or lobby.

9. No approved school shall *[grant permission to, nor]* allow any person to, solicit students enrolled in, or considering enrolling in, a preclicensure course *[for listings;]* to *list,* purchase or lease any property; or for referrals of prospective sellers, purchasers or lessees at any time while such students are on school premises.

(a)

DIVISION OF ACTUARIAL SERVICES

Dental Services

Readoption with Amendment: N.J.A.C. 11:10

Proposed: June 4, 1990 at 22 N.J.R. 1691(a).

Adopted: July 12, 1990 by Samuel F. Fortunato, Commissioner, Department of Insurance.

Filed: July 12, 1990 as R.1990 d.384, with a technical change not requiring additional public notice and comment (see N.J.A.C. 1:20-4.3).

Authority: N.J.S.A. 17:1-8.1, 17:1C-6(e), 17:48D-1 et seq. and P.L. 1983, chapters 142-145 (17B:26-44.4 et seq., 17:48D-9.1 et seq., 17:48C-18.1 et seq. and 17B:27-51.10a et seq.).

Effective Date: July 12, 1990, Readoption; August 6, 1990, Amendment.

Expiration Date: July 12, 1995.

Summary of Public Comments and Agency Responses:

The Department received a number of proposed revisions to Subchapter 1 on Dental Plan Organizations from CIGNA which will assist the Department in preparing amendments to the rules to be formally proposed at a later date, at which time the submitted revisions will be discussed. The Department stated in the proposed readoption of Chapter 10 that no modifications are presently required in connection with the readoption.

The Department, upon adoption, has clarified the chapter heading.

Full text of the readoption may be found in the New Jersey Administrative Code at N.J.A.C. 11:10.

Full text of the adopted amendment follows (deletions from proposal indicated in brackets with asterisks *[thus]*).

CHAPTER 10

[HOSPITAL/MEDICAL-] DENTAL SERVICES

11:10-1.2 through 2.6 (No change.)

LABOR

(b)

DIVISION OF EMPLOYMENT SERVICES

Workfare

Readoption with Amendments: N.J.A.C. 12:35

Proposed: May 21, 1990 at 22 N.J.R. 1430(a).

Adopted: July 16, 1990 by Raymond L. Bramucci, Commissioner, Department of Labor.

Filed: July 16, 1990 as R.1990 d.396, with substantive and technical changes not requiring additional public notice and comment (see N.J.A.C. 1:30-4.3).

Authority: N.J.S.A. 34:1-20, 34:1A-3(e) and 44:8-114.

Effective Date: July 16, 1990, Readoption; August 6, 1990, Amendments.

Expiration Date: July 16, 1995.

Summary of Public Comments and Agency Responses:

The Department received three written comments on the proposed readoption with amendments within the allotted 30-day comment period. These comments were thoroughly reviewed by the Department and some of the suggested amendments have been incorporated into the adoption.

The Department also received one written comment after the expiration of the 30-day comment period. Because this comment was submitted late, the Department cannot consider the comment applicable to this particular proposal. The Department, however, will consider the comment for possible future amendments to the Workfare rules.

COMMENT: The municipal welfare director should be permitted to make a general assistance disqualification for noncompliance. Under the rules as proposed for readoption, only the Employment Service is authorized to make the disqualification.

RESPONSE: The Department agrees. Under N.J.A.C. 10:85-10.6, the municipal welfare director has the authority to disqualify a participant for noncompliance. Accordingly, N.J.A.C. 12:35-5.1(a)6 has been changed to reflect the commenters' suggestion.

COMMENT: N.J.A.C. 12:35-1.5(a) should be amended to require personal service of the worksite assignment notice to each worksite participant. This amendment is necessary to ensure that participants actually receive notices containing the required information.

RESPONSE: The Department disagrees. The Department currently prepares notices for approximately 45,000 workfare participants. It would be administratively burdensome to require personal service on each worksite participant.

COMMENT: The information in N.J.A.C. 12:35-1.5(a) should be posed in sentence form rather than a column because the proposed column form contains the signature of the participant which is not information.

RESPONSE: The Department disagrees. The Department believes that the column form actually aids the reader in finding the information required to be in the notice.

COMMENT: The information in the worksite notice should contain a statement about how transportation is to be provided to the worksite and that the transportation is free.

RESPONSE: The Department agrees. N.J.A.C. 12:35-1.5 has been changed to reflect the commenter's suggestion.

COMMENT: The worksite notice should state the penalty for failure to comply with the work requirement and the means by which the participant is to report and support his reasons for failure to comply.

RESPONSE: The Department disagrees. The worksite agreement already sets forth the penalty for failure to comply. Thus, a penalty statement in the worksite notice is not necessary. Also, N.J.A.C. 10:85-7.2 and 7.3 afford the participant notice and hearing rights in case of any action by the municipal welfare director which adversely affects the eligibility of the participant receiving assistance. Thus, a statement in the worksite notice concerning a notice and hearing is not necessary.

COMMENT: A 24 hour number to call should be included in the worksite notice.

RESPONSE: The Department disagrees. The Department does not have the resources to handle a 24-hour-a-day phone number.

COMMENT: N.J.A.C. 12:35-5.1(a)6 should be amended to state that a good cause exception should exist for any registrant who fails to make

a bona fide application for employment when asked to do so by the Employment Service.

RESPONSE: The Department agrees. A good cause exception has been added pursuant to the commenter's suggestion.

COMMENT: N.J.A.C. 12:35-5.1(a)8 should be amended to specify that call-in notices should be in writing, personally served and state the penalty for noncompliance.

RESPONSE: The Department disagrees. Call-in notices are necessary to expedite the assignment of a participant to a worksite assignment. Also, as stated above, it would be administratively burdensome to personally serve 45,000 participants with worksite notices.

Finally, the Department has made a few minor technical changes to the proposed readoption. These changes are as follows.

The definition of "municipal worksite agreements" has been amended to include "a public or non-profit agency representative" as a party to the agreement. This party was inadvertently omitted from the proposed definition.

Form "511F" referenced in N.J.A.C. 12:35-1.3 has been changed to Form NJES-1A.

In N.J.A.C. 12:35-1.3(e), a sentence has been added to state that the recipient must sign the appraisal sheet to certify that the Employment Service interview was conducted.

N.J.A.C. 12:35-3.1(b) has been changed to include an Employment Service representative as a notice signatory.

Full text of the readoption can be found in the New Jersey Administrative Code at N.J.A.C. 12:35.

Full text of the amendments follows (additions to proposal indicated by boldface with asterisks ***thus***; deletions from proposal indicated in brackets with asterisks ***[thus]***).

12:35-1.1 Purpose and scope

(a) These rules establish the general assistance employability program or workfare and set forth the appropriateness of worksite assignments.

(b) These rules apply to each person eligible to receive public assistance from a municipality.

12:35-1.2 Definitions

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

"Agency" means either a municipal welfare department or the Employment Service.

"Employment Service" means the New Jersey Department of Labor, Division of Employment Services.

"GA" means general assistance.

"General Assistance Employability Program or Workfare" means the program established by the New Jersey Department of Labor, Division of Employment Services, pursuant to N.J.S.A. 44:8-114.

"Municipal worksite agreements" means an agreement between the New Jersey Department of Labor, Division of Employment Services*, a **public or non-profit agency representative*** and a municipal welfare department to establish a worksite for a recipient.

"Participant" means a recipient who has been assigned to a worksite.

"Recipient" means an employable person who is receiving general assistance from a municipal welfare department.

"Worksite agent" means a paid employee of the agency for whom the worksite activity is being performed and who is authorized by that agency to conduct on-site supervision of participants and maintain time and attendance reports.

12:35-1.3 Registration and reporting requirements

(a) Each recipient shall register for workfare at his or her municipal welfare department. The recipient shall complete Form ***[511F]*** ***NJES-1A*** which is available at the municipal welfare department.

(b) Each employable general assistance recipient not specifically exempted by the municipal welfare department from workfare shall report to municipal worksites only after the Employment Service is in receipt of Form ***[511F]*** ***NJES-1A*** and the municipal worksite agreement from the municipal welfare department. General assistance recipients may not be assigned to worksite activities until the Employment Service has received both Form ***[511F]***

NJES-1A and the signed municipal worksite agreement (See the GA Manual at N.J.A.C. 10:85-3.2(g)).

(c) The municipal welfare department shall submit Form ***[511F]*** ***NJES-1A*** to the appropriate Employment Service office. Receipt of Form ***[511F]*** ***NJES-1A*** by the Employment Service shall fulfill a recipient's registration requirement.

(d) Once registered with the Employment Service, a recipient remains registered as long as he or she remains on an employable general assistance grant and is not exempt from the work requirement.

(e) Each recipient for whom a Form ***[511F]*** ***NJES-1A*** is received shall be interviewed by the Employment Service for an appraisal of their employability potential and referral to an appropriate worksite, employability development service and/or job. ***The recipient shall sign the appraisal sheet to certify that the interview was conducted.***

12:35-1.4 Workers' Compensation coverage requirements

(a) To insure State Workers' compensation coverage for each worksite participant each municipal welfare department shall file a municipal worksite agreement with the Employment Service. (See Appendix 1).

(b) The municipal welfare director, the worksite agent and a representative of the Employment Service shall sign the municipal worksite agreement.

(c) The Employment Service shall monitor and evaluate each municipal worksite agreement within 14 days after receipt of the agreement from the municipal welfare director. The worksite agreement shall be evaluated by the Employment Service based on the following criteria:

1. Working conditions are such that they do not represent a substantial risk to the individual's health and safety;

2. That such employable persons shall not be used to replace any regular employees of any department or unit of any municipality, county and state agency or nonprofit agency or institution; and

3. That the wage rate for the position covered by the municipal worksite agreement is commensurate with beginning regular employees similarly employed.

(d) If any of the above criteria is not met, the Employment Service shall inform the municipal welfare director that the municipal worksite agreement is not acceptable and that no participants may be assigned to the worksite.

(e) Failure to comply with Employment Service recommendations shall lead to the municipality's assumption of responsibility for liability coverage on that worksite as set forth in the GA Manual at N.J.A.C. 10:85-10.2(f).

12:35-1.5 Worksite assignments; notices

(a) The Employment Service shall prepare a notice in duplicate for each worksite participant. (See Appendix 2.) Each notice shall contain the following information:

1. The signature of the participant;

2. A description of the worksite job;

3. The schedule of hours per month;

4. The wage rate used to determine the schedule of hours per month;

5. The name of the person to whom the participant is required to report to on the worksite;

6. The address of the worksite; ***[and]***

7. The date upon which the participant is to begin work***[.]**; and***

8. If appropriate, a description of the transportation to be provided to the worksite and a statement that the transportation is free.

(b) One copy of the worksite notice shall be retained by the participant; the other shall be kept in the participant's welfare department case folder.

(c) Municipal welfare directors shall forward an additional copy of the notice to the appropriate Employment Service office for evaluation for any worksite assignments made.

12:35-1.6 Worksite assignments; evaluations

(a) Worksite assignments shall be made and evaluated by the Employment Service based on the following criteria:

1. The assigned individual is capable of performing the duties involved at the worksite. The documented employment and academic/vocational training history of the participant, developed in consultation with the participant, shall be the basis of the worksite assignments.

2. Working conditions are such that they do not represent a substantial risk to the individual's health and safety.

3. The participant has a reasonable means of transportation to the worksite assignment. "Reasonable" means at no cost to the participant. (See the GA Manual at N.J.A.C. 10:85-10.2(e)3.)

(b) If any of the criteria in (a) above are not met, a worksite assignment will not be made by either the Employment Service or a municipal welfare director. When a municipal welfare director makes an inappropriate worksite assignment, the Employment Service shall inform the municipal welfare director that the participant must be reassigned because the criteria in (a) above are not being met. Reassignment may include job search orientation, active registrant pool, training worksite, or another worksite assignment if such is available. Failure to comply with the Employment Service recommendations for reassignment shall lead to the municipality's assumption of the responsibility for liability coverage on that worksite, as set forth in the GA Manual at N.J.A.C. 10:85-10.2(f).

12:35-1.7 Attendance and worksite activity; monitoring

Attendance and worksite activity shall be monitored by the agency that develops the municipal worksite agreement and makes the individual worksite assignments.

12:35-2.3 Establishment of training worksites

(a) Training worksites in rehabilitative and educational agencies may be established by the Employment Service staff to allow registrants in need of these services to fulfill their worksite requirement by attending educational and vocational development classes or rehabilitative and therapeutic sessions.

(b) (No change.)

(c) A training worksite agreement shall be on file with the Employment Service and shall be signed by the municipal welfare director, the training agent and a representative of the Employment Service. (See Appendix 3).

12:35-2.4 Establishment of Job Search Orientation worksite

(a) Job Search Orientation worksite may be established by the Employment Service staff to allow registrants with marketable employment skills to fulfill their worksite requirement by attending sessions for work search techniques and a monitored job search.

(b) Individuals assigned to this worksite activity will be required to supply documented employer contacts to the Employment Service staff during the period assigned to the monitored worksearch. No participant shall remain in this activity more than three consecutive months without reassignment to a municipal worksite activity.

(c) A training worksite agreement shall be used to establish this worksite activity.

12:35-3.1 Hours of work or training

(a) Persons assigned to a municipal worksite by either the Employment Service or the municipal welfare department shall work only the number of hours equal to the amount of their grant divided by an hourly wage rate commensurate with beginning regular employees similarly employed.

(b) Persons assigned to a training worksite shall participate in accordance with the scheduling procedures of the training agency itself. A notice in duplicate will be prepared for each training worksite participant and will be signed by the participant*, a representative from the Employment Service* and the municipal welfare director.

(c) (No change.)

12:35-3.2 Determination of prevailing wage rate

In cases where there are no beginning regular employees similarly employed, the Employment Service shall contact the local labor market analyst and determine the prevailing wage rate for that particular worksite assignment.

12:35-5.1 Patterns of behavior

(a) The following actions or patterns of behavior shall constitute a failure or refusal to participate in the General Assistance Employment Program and will result in the Employment Service making a GA disqualification request to the municipal welfare department:

1.-4. (No change.)

5. The record and employment history of the registrant shows that he or she has the required education, experience or aptitude to perform the assignment but fails to utilize these skills and experience to benefit from the activity. The determining factors would be the reasonable judgment of the Employment Service as to whether the individual intentionally is performing at or near his or her potential as documented under N.J.A.C. 12:35-1.6(a)1;

6. A registrant fails to make a bona fide application for employment *without good cause* when asked to do so by the Employment Service *or municipal welfare director*;

7. A registrant voluntarily leaves a training or rehabilitation worksite before completion of the assignment without good cause;

8. (No change.)

12:35-5.2 Notification of failure to comply

(a) (No change.)

(b) The municipal welfare director shall determine whether good cause existed for a failure or refusal to participate and shall notify the Employment Service of his or her decision through the use of the NJES-1A. (See the GA Manual at N.J.A.C. 10:85-3.2(g)7, 10:85-10.6-10.7 and 10:85-7.3-7.4).

(c) Participants determined in noncompliance by the municipal welfare director shall be denied all general assistance according to regulations developed by the Division of Economic Assistance.

APPENDIX 1
GENERAL ASSISTANCE EMPLOYABILITY PROGRAM
Municipal Worksite Agreement

The State of New Jersey Department of Labor, and the Department of Human Services, agree to establish the following worksite:

Municipality _____

Occupational Classification _____

(DOT CODE OR JOB TITLE)

Hourly Wage Rate _____

Public Works Project Agent _____

(Agency for whom public works project is performed)

Number of General Assistance Employable

Recipients to be Assigned _____

This worksite is established in accordance with P.L. 1979, Chapter 267.

Signed,

DATE _____

New Jersey Department of Labor,
Employment Service Manager

Municipal Welfare Director

Public Works Project Agent

APPENDIX 2

(No change in text.)

EDITOR'S NOTE: Appendix 3, Training Worksite Agreement, cited in N.J.A.C. 12:35-3.2, was not filed as part of these rules.

For information on this item, write:

Division of Employment Services
CN 058
Trenton, N.J. 08625

(a)

DIVISION OF WORKPLACE STANDARDS**Safe Dispensing of Retail Gasoline****Adopted New Rules: N.J.A.C. 12:196**

Proposed: May 21, 1990 at 22 N.J.R. 1433(a).

Adopted: July 16, 1990 by Raymond L. Bramucci,
Commissioner, Department of Labor.Filed: July 16, 1990 as R.1990 d.397, **with substantive technical changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-4.3).Authority: N.J.S.A. 34:1-20, 34:1A-3(e), and 34:3A-4 et seq.,
specifically 34:3A-11.

Effective Date: August 6, 1990.

Expiration Date: August 6, 1995.

Summary of Public Comments and Agency Responses:

The Department of Labor received two public comments during the comment period concerning N.J.A.C. 12:196, Safe Dispensing of Retail Gasoline.

COMMENT: The "Operation of Marine Service Stations" is excluded in the proposed regulations. This topic was not addressed in the recently-enacted legislation, but should be included in the rules upon adoption, as marine fueling poses many safety hazards.

RESPONSE: The Department acknowledges the commenter's concerns about marine fueling. However, the statute does not give express authority to the Department to regulate this area, and thus limits the Department's ability to include marine fueling in the rules. If the statute is amended, the Department will be able to amend the rules to include marine fueling.

COMMENT: N.J.A.C. 12:196-1.5(a) requires that a certificate be prepared by the service station dealer stating that the attendant has successfully completed the training requirements. The commenter suggests that the section be amended to state whether the certificate of completion is transferable from station to station.

RESPONSE: The Department agrees that the commenter's suggestion is valid. A certificate should be transferable from station to station, as to require the training of attendants more than once is unnecessary. The section has been amended to include appropriate language permitting the transfer of certificates.

COMMENT: N.J.A.C. 12:196-1.3(d) requires motorcyclists to "step away" during refueling. The commenter notes that many motorcyclists wish to protect the motorcycle's finish from scratches and minor gasoline spills. The commenter suggests that the word "dismount" be substituted for "step away."

RESPONSE: The Department agrees with the commenter, and has made the suggested language change.

COMMENT: N.J.A.C. 12:196-1.10(a)2 requires the posting of a sign concerning the dispensing of gasoline into an approved container. The commenter believes this requirement to be redundant, as the public is prohibited from dispensing gas into any container, and an attendant will have been trained concerning the types of containers into which gasoline can be dispensed.

RESPONSE: The Department disagrees with the commenter. NFPA-30-A 8.9 sets forth the requirements concerning approved containers. The Department believes that posting these requirements will help assure that trained attendants and consumers remember that only red containers may be filled. Many customers bring blue containers to be filled; these blue containers are designed solely for use with kerosene. To avoid any misunderstanding, the Department wants the sign posted as proposed in the rules.

In addition to the changes made as a result of the public comments, the Department has made some technical changes upon adoption. Specifically, parentheses have been added in several places; a citation has been corrected and the word "only" has been added to clarify the meaning of N.J.A.C. 12:196-1.3(c)2. N.J.A.C. 12:196-1.11(a)3 has been amended to delete incorrect language; and the sentence structure of one sentence in N.J.A.C. 12:196-1.7(a)1 has been revised. None of these changes are substantive in nature.

Full text of the adoption follows (additions to proposal indicated in boldface with asterisks *thus*; deletions to proposal indicated in brackets with asterisks *[thus]*).

CHAPTER 196
SAFE DISPENSING OF RETAIL GASOLINE

SUBCHAPTER 1. REQUIREMENTS

12:196-1.1 Purpose; scope

(a) The purpose of this chapter is to provide reasonable standards for:

1. The prohibition of the self service of gasoline and other inflammable liquids at retail gasoline stations;
2. The training and certification of attendants; and
3. The installation of safety signs and equipment and the establishment of procedures to enhance safety at retail gasoline stations.

(b) The provisions of this chapter shall be applicable to:

1. The operation of retail gasoline stations; and
2. The training and certification of attendants at retail gasoline stations.

(c) The provisions of this chapter will not be applicable to:

1. The operation of marine service stations;
2. The operation of service stations for the fueling of aircraft;
3. The dispensing of diesel fuel; or
4. The operation of employer gasoline stations that are solely for the use of a company's employees and are not open to the public.

12:196-1.2 Definitions

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

"Approved" means acceptable to the Commissioner.

"Attendant" means a retail dealer or employee of a retail dealer.

"Closed container" means a container so sealed by means of a lid or other device that neither liquid nor vapor will escape from it at ordinary temperatures.

"Commissioner" means the Commissioner, New Jersey Department, of Labor, or his or her designee.

"Container" means any vessel of 60 U.S. gallons (227 liters)* or less capacity used for transporting or storing liquids.

"Flammable liquid" means a liquid having a flash point below 100 degrees Fahrenheit (37.8 degrees Centigrade) and having a vapor pressure not exceeding 40 pounds per square inch (psi) absolute (2.068 millimeters/mercury (mm/Hg) at 100 degrees Fahrenheit (37.8 degrees Centigrade) and shall be known as a Class I liquid.

"Fuel" means any liquid commonly or commercially known or sold as gasoline, or other inflammable liquid, which is sold for use as fuel in the internal combustion engines of motor vehicles.

"Gasoline station" means a place of business located in the State and used for the retail sale and dispensing of fuel into the tanks of motor vehicles.

"Inflammable liquid" means flammable liquid.

"Nationally recognized testing laboratory" means:

1. Underwriters Laboratories Incorporated, 333 Pflugsten Road, Northbrook, Illinois 60002;
2. Factory Mutual System, 1151 Boston-Providence Turnpike, Norwood, Massachusetts 02062;
3. Applied Research Laboratories of Florida, Incorporated, 5371 NW 161 Street, Miami, Florida 33014;

4. Any testing laboratory that may be accepted by the Commissioner as a nationally recognized testing laboratory upon submission of testing procedures and logo types supporting a request by a laboratory for such recognition.

"Safety can" means an approved container of not more than five gallons (18.9 liters) capacity, having a spring-closing lid and spout cover and designed so that it will safely relieve internal pressure when subjected to fire exposure.

"Station" means gasoline station.

12:196-1.3 Attendant duties

(a) Service stations accessible to the public shall have an attendant on duty whenever the station is open for business.

(b) Only an attendant shall dispense fuel into fuel tanks or into containers.

(c) An attendant shall:

1. Dispense fuel into the tank of a motor vehicle only when the vehicle's engine is not in operation;

2. ***[Dispense]* *Only dispense*** fuel into portable containers that meet the requirements of N.J.A.C. 12:196-***[1.7]**1.6***;

3. Prohibit any person who is not an attendant to dispense fuel into the tank of a motor vehicle or into any container; and

4. Be prohibited from smoking while dispensing fuel.

(d) Attendants shall require a motorcyclist to ***[step away from]* *dismount*** his or her motorcycle while gasoline is being dispensed into their vehicle.

12:196-1.4 Training of attendants

(a) An attendant shall dispense fuel at a gasoline station only if the attendant has:

1. Received instructions from an experienced operator regarding the dispensing of fuel;

2. Had practical experience dispensing fuel under the direct supervision of an experienced operator for a period of not less than one full working day; and

3. Demonstrated his or her understanding of those instructions upon examination by the operator at the end of that period.

(b) The instructions required pursuant to (a) 1 above shall include:

1. A full explanation of the dispensing standards set forth at N.J.A.C. 12:196-1.3(c);

2. The location and operation of the remote switch or circuit breaker installed in accordance with N.J.A.C. 12:196-1.7; and

3. Training in the recognition of approved portable containers pursuant to N.J.A.C. 12:196-1.6.

12:196-1.5 Certification

(a) Upon satisfactory completion of the attendant's training and examination, the retail dealer who operates the station shall prepare a certificate for each person who dispenses fuel at his or her station, certifying that the person has met the training requirements of N.J.A.C. 12:196-1.4 above.

1. The certificate shall be signed by the person who received the training and the retail dealer and shall indicate who gave the training; ***[and]***

2. The ***[certificate]* *certificate*** shall be available at each station for inspection by the Commissioner^[.]****;** **and***

3. Should the attendant perform work for more than one station after training, the certificate shall be transferable to any station that employs the attendant.

12:196-1.6 Portable containers

(a) An attendant shall only dispense fuel into a portable container which:

1. Is of sound metal construction or is of approved non-metal construction;

2. Has a tight closure with screwed or spring cover; and

3. Is fitted with a spout or so designed that the contents may be poured without spilling.

(b) Portable containers constructed of non-metallic materials shall conspicuously display an embossment by the manufacturer of the logogram of a nationally recognized testing laboratory.

(c) Gasoline shall not be dispensed into glass containers.

(d) Portable containers intended to hold 10 gallons (0.038 cubic meters) or less and to be used for gasoline or other flammable liquid shall be red in color as specified in the New Jersey Uniform Fire Code, N.J.A.C. 5:18. The name of the flammable liquid shall be prominently displayed on the container in bold letters of a contrasting color.

12:196-1.7 Remote emergency shut-off

(a) A clearly identified and easily accessible switch(es) or circuit breaker(s) shall be provided at a location remote from dispensing devices.

1. The devices shall be used to shut-off the power in conformance with article 514 of the National Electrical Code (National Fire Protection Association ***[(NFPA)-70]* *and NFPA-30A***, each of which is incorporated herein by reference, ***[and NFPA-30A,]*** to all dispensing devices in the event of an emergency, or when an individual other than an attendant attempts to operate the pump.

12:196-1.8 Sources of ignition

(a) No smoking or open flames shall be permitted in the areas used for fueling, servicing fuel systems for internal combustion engines, or receiving or dispensing of Class I liquids.

(b) The attendant shall assure that the motors of all vehicles being fueled are shut off during fueling operations.

12:196-1.9 Fire control

The station owner shall insure that there is at least one listed fire extinguisher having a minimum classification of 20 B:C located so that there is an extinguisher within 100 feet (30 meters)^{*} of each pump, dispenser, underground fill pipe opening, and lubrication or service room as required by the New Jersey Uniform Fire Code, N.J.A.C. 5:18.

12:196-1.10 Signs

(a) Warning signs shall be conspicuously posted in the dispensing area, incorporating all of the following or equivalent language:

1. It is unlawful to serve yourself. Wait for an attendant;

2. **WARNING**—It is unlawful and dangerous to dispense gasoline or other flammable or combustible liquid into any portable container unless the container is constructed of metal or is approved and is red in color;

3. No smoking; and

4. Stop motor.

12:196-1.11 Documents referred to by reference

(a) The full title and edition of each of the standards and publications referred to in this chapter are as follows:

1. N.J.S.A. 34:3A-4 et seq.—Retail Gasoline Dispensing Safety Act;

2. N.J.A.C. 5:18—New Jersey Uniform Fire Code;

3. National Electrical Code (National Fire Protection Association—***[(NFPA)-70]* *[(Automotive and Marine Service Stations Code (1978 Edition)]***; and

4. National Fire Protection Association (NFPA)-30A—(Automotive and Marine Service Stations Code (1987 Edition)).

12:196-1.12 Availability of documents for inspection

A copy of each of the standards and publications referred to in this chapter is on file and may be inspected at the following office of the Division of Workplace Standards between the hours of 9:00 A.M. and 4:00 P.M. on normal working days.

New Jersey Department of Labor
Division of Workplace Standards
28 Yard Avenue, Station Plaza No. 4
CN 386
Trenton, New Jersey 08625-0386

COMMERCE, ENERGY AND ECONOMIC DEVELOPMENT

(a)

DEVELOPMENT AUTHORITY FOR SMALL BUSINESSES, MINORITIES' AND WOMEN'S ENTERPRISES

Notice of Administrative Correction Loan Guarantee and Direct Loan Programs Application

Adopted New Rules: N.J.A.C. 12A:31-2.3 and 3.3

Take notice that the New Jersey Development Authority for Small Businesses, Minorities' and Women's Enterprises has discovered errors in the text of N.J.A.C. 12A:31-2.3 and 3.3 adopted in the July 16, 1990 New Jersey Register at 22 N.J.R. 2176(a) and 2178(a), respectively. Paragraphs (d)6 in each rule contains the erroneous word "beneficiary;" the correct word is "beneficially." This notice of administrative correction is published pursuant to N.J.A.C. 1:30-2.7.

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

ADOPTIONS

- 12A:31-2.3 Application for loan guarantee
 - (a)-(c) (No change.)
 - (d) Each application for a loan guarantee shall be accompanied by the following items:
 - 1.-5. (No change.)
 - 6. Any proof of certification by a public entity which certifies that the business is at least 51 percent [beneficiary] **beneficially** owned by, and in which the majority of the management are, minorities and women; and
 - 7. (No change.)
- 12A:31-3.3 Applications for a direct loan
 - (a)-(c) (No change.)
 - (d) Each application for a direct loan shall be accompanied by the following items:
 - 1.-5. (No change.)
 - 6. Any proof of certification by a public entity which certifies that the business is at least 51 percent [beneficiary] **beneficially** owned by, and in which the majority of the management are, minorities and women; and
 - 7. (No change.)

LAW AND PUBLIC SAFETY

(a)

**DIVISION OF CONSUMER AFFAIRS
BOARD OF ACCOUNTANCY**

Adopted Repeal and New Rule: N.J.A.C. 13:29-1.4

Proposed: May 21, 1990 at 22 N.J.R. 1438(a).
 Adopted: June 21, 1990 by the Board of Accountancy,
 Milton Brown, Public Accountant, President.
 Filed: July 5, 1990 as R.1990 d.373, **without change**.
 Authority: N.J.S.A. 45:2B-6(g).
 Effective Date: August 6, 1990.
 Expiration Date: May 23, 1995.

Summary of Public Comments and Agency Responses:
No comments received.

Full text of the adoption follows.

- 13:29-1.4 Notification of change of address; service of process
 - (a) A licensee of the Board of Accountancy shall notify the Board in writing of any change of address from that currently registered with the Board and shown on the most recently issued license. Such notice shall be sent to the Board by certified mail, return receipt requested, not later than 30 days following the change of address.
 - (b) Failure to notify the Board of any change of address pursuant to (a) above may result in disciplinary action in accordance with N.J.S.A. 45:1-21(h), including, but not limited to, a civil penalty of \$200.00.
 - (c) Service of any administrative complaint or other Board-initiated process at a licensee's address currently on file with the Board shall be deemed adequate notice for the purposes of N.J.A.C. 1:1-7.1 and commencement of any disciplinary proceedings.

(b)

**STATE BOARD OF MORTUARY SCIENCE
License Revival Fees**

Adopted Amendment: N.J.A.C. 13:36-1.6

Proposed: May 7, 1990 at 22 N.J.R. 1328(a).
 Adopted: June 9, 1990 by the State Board of Mortuary Science,
 Donald R. Codey, Acting President.
 Filed: July 5, 1990 as R.1990 d.372, **without change**.
 Authority: N.J.S.A. 45:7-38.

LAW AND PUBLIC SAFETY

Effective Date: August 6, 1990.
 Expiration Date: September 27, 1994.

Summary of Public Comments and Agency Responses:

No comments received.

Full text of the adoption follows.

- 13:36-1.6 Fees and charges
 - (a) There shall be paid to the State Board of Mortuary Science the following fees:
 - 1.-10. (No change.)
 - 11. Biennial license renewal fees:
 - i. Practitioner \$100.00;
 - ii. Embalmer \$100.00;
 - iii. Funeral director \$100.00;
 - iv. Revival fee for lapsed license \$75.00
 - plus current biennial license renewal fee.
 - v. Mortuary certificate of registration \$220.00;
 - 12.-15. (No change.)

(c)

DIVISION OF CONSUMER AFFAIRS

**Administrative Rules
Petition for Rulemaking**

Adopted New Rule: N.J.A.C. 13:45A-19.1

Proposed: March 5, 1990 at 22 N.J.R. 786(a).
 Adopted: May 24, 1990 by Patricia A. Royer, Director,
 Division of Consumer Affairs.
 Filed: July 5, 1990 as R.1990 d.371, **with technical changes** not
 requiring additional public notice and comment pursuant to
 N.J.A.C. 1:30-4.3.
 Authority: N.J.S.A. 52:17B-122a.
 Effective Date: August 6, 1990.
 Expiration Date: December 16, 1990.

The Division of Consumer Affairs afforded all interested parties an opportunity to comment on the proposed new rule, N.J.A.C. 13:45A-19.1, relating to petitions for rulemaking. The official comment period ended on April 4, 1990. Announcement of the opportunity to respond to the Division appeared in the New Jersey Register on March 5, 1990 at 22 N.J.R. 786(a). Announcements were also forwarded to the Office of Administrative Law, the New Jersey State Bar Association, the Trenton Times, the Star Ledger, various professional groups and other interested parties.

A full record of this opportunity to be heard can be inspected by contacting the Division of Consumer Affairs, Room 504, 1100 Raymond Boulevard, Newark, New Jersey 07102.

Summary of Public Comments and Agency Responses:

The Division received comments from Dr. Edward S. Campell, president of the State Board of Optometrists, and from J. Leo Kymer, president of the Board of Examiners of Ophthalmic Dispensers and Ophthalmic Technicians, regarding board receipt of petitions. These commenters suggested that the rule needed to be clarified to ensure that the individual professional and occupational boards within the Division of Consumer Affairs receive such petitions as are applicable to the respective boards.

The Division agrees with this comment and, for clarification purposes, has added language indicating that any interested person may file a petition for rulemaking with the Division Director or with any board, bureau, committee or other agency located within the Division.

Summary of Changes Upon Adoption:

- 1. The words "or with any board, bureau, committee or other agency located within the Division" have been added in N.J.A.C. 13:45A-19.1(a) to clarify that petitions for rulemaking should be directed to the appropriate professional or occupational licensing board or to an appropriate Division section, when applicable.
- 2. N.J.A.C. 13:45A-19.1(e) has also been amended for clarification purposes. In order to provide a comprehensive set of rules with regard to petitions for rulemaking, the Division has set forth here the precise

action required by statute to be taken within 30 days of receipt of a petition and has inserted the appropriate statutory citation. Further, language was added to clarify that, in addition to the Register notice of action, the administrative head of the applicable unit will respond to the petitioner.

Full text of the adoption follows (additions to proposal indicated in boldface with asterisks *thus*; deletions from proposal indicated in brackets with asterisks *[thus]*).

SUBCHAPTER 19. PETITION FOR RULEMAKING

13:45A-19.1 Petition for promulgating, amending or repealing rules

(a) Any interested person may file a petition with the Director of the Division of Consumer Affairs ***or with any board, bureau, committee or other agency located within the Division*** to promulgate, amend or repeal a rule.

(b) With respect to a petition for a new rule, the petitioner shall include his or her name and address, the substance or nature of the request, the problem or purpose which is the subject of the request, the proposed text of the new rule and the statutory authority under which the requested action may be taken.

(c) With respect to a petition for an amended rule, the petitioner shall indicate any existing text to be deleted and include any new text to be added.

(d) Within 15 days of receiving the petition, the Director shall file with the Office of Administrative Law for publication in the New Jersey Register a notice of petition pursuant to N.J.A.C. 1:30-3.6(a).

(e) Within 30 days of receiving the petition, the Director ***or the board, bureau, or other agency located within the Division shall, pursuant to N.J.S.A. 52:14B-4(f), either deny the petition, giving a written statement of its reasons, or proceed to act on the petition, which action may include initiation of a formal rulemaking proceeding. The Director or the administrative head of the appropriate board, bureau, committee or other agency located within the Division*** shall advise the petitioner in writing of the response to the request and shall file with the Office of Administrative Law for publication in the New Jersey Register a notice of action on the petition pursuant to N.J.A.C. 1:30-3.6(b).

(a)

OFFICE OF EMERGENCY TELECOMMUNICATIONS SERVICES

9-1-1 Emergency Telecommunication System

Adopted New Rules: N.J.A.C. 13:81

Proposed: April 16, 1990 at 22 N.J.R. 1234(a).

Adopted: July 13, 1990 by Robert J. Del Tufo, Attorney General, Department of Law and Public Safety.

Filed: July 16, 1990, as R.1990 d.392, **with substantive and technical change** not requiring additional public notice and comment (see N.J.A.C. 1:30-4.3).

Authority: N.J.S.A. 52:17C-3(b), 52:17C-15(b) (P.L.1989, c.3, secs. 3 and 15).

Effective Date: August 6, 1990.

Expiration Date: August 6, 1995.

Summary of Public Comments and Agency Responses:

This chapter was proposed on April 16, 1990. Nineteen commenters submitted written comments during the comment period which closed on May 16, 1990.

COMMENT: When 9-1-1 is implemented Statewide, New Jersey is saying two things which are either implied or expressed, and as such 9-1-1 is understood to warrant the following. First, when 9-1-1 is used, the emergency service that is needed will be immediately dispatched; second, once dispatched, the responding emergency service will locate the caller. At this time, both of the above assertions are untrue and to proceed with 9-1-1 knowing that we may not be able to locate the caller because of address confusion, and that quite often there is no one available to respond, is probably going to result in lawsuits claiming all sorts of negligence. There is a moral imperative here that extends beyond the law and the public will not be served if 9-1-1 is implemented with these known

defects. There is nothing in the 9-1-1 program that covers reasonable response times (for emergency services) and that is a serious defect. Somehow, the local governments have to be put on notice that if their existing services are not able to handle calls in a proper and timely way, they are to make other arrangements that will.

RESPONSE: This chapter proposes to establish the technical requirements and operational standards for all components of the Statewide 9-1-1 Enhanced Emergency Telephone System. It defines and allocates responsibility for planning, equipping, staffing, establishing, operating and maintaining Public Safety Answering Points, Public Safety Dispatch Points, and the Enhanced 9-1-1 Network. And, it defines and allocates responsibility for providing information necessary to establish and maintain the Automatic Location Information capability of the System. OETS does not have the authority to propose rules and standards for other elements and components of public safety such as minimum response times for public safety services and a preferred addressing system. As defined in the introduction of the **State of New Jersey 9-1-1 Emergency Number Plan**, "The 9-1-1 system starts with the initiation of the 9-1-1 call and ends when the appropriate Public Safety Dispatch Point (PSDP) is connected through the designated PSAP". Even without a new addressing system as proposed by this commenter, as a minimum, the 9-1-1 caller will be connected automatically to the proper dispatch agency for his or her community. The available information about the caller's identity and location will be supplied automatically and the dispatcher will have the opportunity to solicit additional information orally. This is a vast improvement over the system in place today.

COMMENT: Local jurisdictions feel that they are being locked into a mandated "ringdown time standard" which they cannot meet and that this standard is unrealistic because they are successfully handling emergency calls at present on their regular seven-digit numbers. They also fear that the required compliance will mean extra staff for the call-taker positions.

RESPONSE: The 10 second answer requirement is a National ASTM standard which has been adopted in other states such as California, Connecticut, Florida, Illinois, Maryland, New Mexico, and Texas to name a few. Existing 9-1-1 centers throughout New Jersey have also supported this regulation. Jersey City reports a 7.5 second answering time and Gloucester County reports a 4.5 second answering time. Additionally, other areas of the State have reported that they currently meet this requirement. OETS believes this to be a reasonable standard.

COMMENT: The 80 hours of mandated training required of all dispatchers/desk personnel who would handle 9-1-1 calls needs further clarification and fine tuning. It should be taken into consideration that many departments have persons that are already trained before mandating an additional 80 hour block of instruction. Training requirements should be looked at with a view to dove-tailing them to existing levels of expertise at the local level.

RESPONSE: The proposed rules neither state nor suggest that 80 hours of training will be mandated. The current position of OETS on training of existing personnel is that their previous training and experience will be considered as training programs are developed for the new enhanced 9-1-1 system.

COMMENT: The training and dispatchers must be improved and the status of dispatching must be uplifted. There are untrained dispatchers that cause much grief as it relates to the dispatching of basic life support units. When you deal with incompetent dispatchers, the (emergency medical) call can become a real mess. It is the public that is cheated and this is not fair.

RESPONSE: Many training programs have been reviewed by OETS and the 9-1-1 Commission Subcommittee on Training. Among those programs are Emergency Medical Dispatcher programs. All programs are under active consideration and training will be the subject of further rulemaking.

COMMENT: Commenter requests that N.J.A.C. 13:81-5 indicate Municipal 9-1-1 Coordinator appointment and Municipal 9-1-1 plan be done by resolution, and also that N.J.A.C. 13:81-6, County 9-1-1 Coordinator appointment, County 9-1-1 Plan, and modifications to County 9-1-1 Plan be done by resolution also.

RESPONSE: There is nothing in the rules that would specifically preclude the appointment by resolution of the 9-1-1 coordinators and the adoption and/or modification of 9-1-1 plans.

COMMENT: In many cases, PSAPs will not be able to dispose of a 9-1-1 call for a couple of minutes, especially if they are required to stay on the line while the call is transferred to a PSDP. Therefore, any further calls coming in on the same emergency will time out and re-route to a

back-up PSAP after 20 seconds. This is going to create a lot of wasted time and communications problems.

RESPONSE: Calls will not be re-routed to a back-up PSAP or be redirected after 20 seconds if they are not answered by the PSAP initially called. Calls will only be re-routed in the event of a blocked call from the 9-1-1 switch to the selected PSAP.

COMMENT: Our township is a distressed city, and any additional expenditure is an extreme hardship. The cost of the 9-1-1 equipment for a two position PSAP is approximately \$25,000. The cost of the training, and for the possibility of additional staffing to stay within answering guidelines, would raise costs substantially. We cannot afford this and I fear the loss of staffing in the Police Department. If the State stands to make \$28 million the first year in the new telephone tax, they can afford to pay the estimated \$9 million for implementing the system around the State.

RESPONSE: OETS is quite concerned with the cost of the Statewide mandated 9-1-1 program. The State has undertaken to pay the bulk of the cost of the 9-1-1 system; the local municipalities are only required to pay for their premises equipment. The entire cost of the network design and maintenance up to the door of local PSAPs and PSDPs is paid for by the State. The cost of designing and maintaining the MSAG database is borne by the State. The cost of all phone calls within the 9-1-1 network is borne by the State. Other than in New Jersey, these charges are paid for by county and local governments. The cost of 9-1-1 equipment for a two-position PSAP is about \$14,000. Savings may be realized if municipalities group together to form a regional or county-wide PSAP.

COMMENT: Eighty hours of training is excessive and would be too expensive for our Police Department. Training can be limited to just the new equipment for 9-1-1.

RESPONSE: For existing operators, OETS and 9-1-1 Commission Sub-Committee on Training are considering training which is limited to 9-1-1 equipment, multi-responses, and other 9-1-1 procedures.

COMMENT: While I have had an audit and find that we comply with the 10 second answering standard, I think it is unfair for the State to legislate exact times.

RESPONSE: The standard in question requires that only 90 percent of all 9-1-1 calls be answered in 10 seconds. The balance must be answered in 20 seconds. The 10 second answering threshold is a national standard which has been somewhat relaxed for New Jersey. OETS feels the New Jersey 10 second standard is a reasonable and achievable standard which is in the best interest of the public.

COMMENT: The 20 second switchover to a sister town has the potential to be a nightmare.

RESPONSE: 9-1-1 calls will not be switched over to a sister town or be re-routed in the event the call is not answered within 20 seconds.

COMMENT: Statewide Police Emergency Network (SPEN) is currently in place and will not cost any extra. Is this acceptable as alternate communications required under N.J.A.C. 13:81-2.1(g)?

RESPONSE: Yes.

COMMENT: We recommend that emergency generators be mandatory, not optional.

RESPONSE: The Commission considered making emergency generators mandatory. Realizing the economic impact of such a requirement, the Commission looked at the objectives of the program as it has elsewhere. The objectives of maintaining PSAP services during the loss of commercial power can be fulfilled (albeit with some difficulty) without an emergency generator. Therefore, the Commission thought it proper to mandate that each PSAP must employ and state a procedure in their 9-1-1 plan which will allow for the continuance of essential services in the event of loss of commercial power. Many PSAPs will opt for an emergency generator if one is not currently available.

COMMENT: Commenter operates with a large number of call-takers and wants to include an operator identification number as part of the answered response, for example, "9-1-1 emergency operator #15 what are you reporting?". We have found this allows better follow-up on user complaints.

RESPONSE: The proposed rules specify that 9-1-1 calls be answered in a neutral manner such as, "9-1-1 Emergency, what are you requesting?", or "9-1-1, may I help you?". Answering 9-1-1 calls "9-1-1 emergency operator #15, what are you reporting?", is in compliance with the proposed rules and would be a local option.

COMMENT: Commenter requests allowances be made for municipalities with Geographical Information System (GIS) capabilities to supply data transfers to meet their responsibilities to provide ALI.

RESPONSE: Requests for direct data exchange from local GIS files to the Statewide MSAG (ALI) database will be considered on a case-by-case basis. Where direct data transfers are technically possible and economically feasible to all parties involved, this procedure may be permitted.

COMMENT: How will OETS handle existing 9-1-1 equipment which is to be utilized and/or modified to comply with the 9-1-1 E requirements? We suggest also that provisional approval be included so as to evaluate new technological developments.

RESPONSE: OETS will grant type approval of all 9-1-1 equipment, including existing equipment, providing the equipment in question is capable of performing its proposed function, is sufficiently reliable to perform its proposed function and will not present a danger to the integrity of the system. Provisional approval will be considered where appropriate.

COMMENT: The digital cross-connect switches require a certain amount of time to complete the switch-over cycle. There is really no such thing as "instantaneous" switching for this type of switch. N.J.A.C. 13:81-4.2(a)4 refers to the "black box" call diverter scenario presently under development. The deployment of these units will provide essentially instantaneous default routing in the event of a failure of either the 9-1-1 tandem or the direct interoffice trunks connecting to it. Since the call diverters will provide for "instantaneous" alternate routing of 9-1-1 calls, and the tandem switch bypass arrangement **cannot**, physically, be instantaneous, the word "instantaneous" should be replaced with "expeditious-ly" in N.J.A.C. 13:81-4.2(a)3.

RESPONSE: OETS concurs, and believes the term "expeditious" better conveys the meaning intended. Accordingly, the relatively synonymous term will be substituted.

COMMENT: We are opposed to the requirement that call-takers must answer all calls within 10 seconds. We do not feel that this is a realistic time for situations where an actual emergency exists and numerous calls come in on the same emergency.

RESPONSE: The requirement is that 90 percent (not 100 percent) of 9-1-1 calls be answered in 10 seconds. Through both Statewide and local training on when and how to call 9-1-1, the 9-1-1 calls will be used for reporting emergencies only. Additionally, 9-1-1 call-takers will be able to switch redundant reports on the same event to a recorded announcement. As stated elsewhere in these responses, OETS feels that the 10 second requirement is realistic and in the best interest of the public.

COMMENT: Regarding the training program for dispatchers at PSDPs, it is my understanding that the PSDP dispatchers are going to be required to take an 80 hour training course. All of our PSDP dispatchers are fully trained in all aspects of emergency dispatching and it would be redundant for them to receive 80 hours of training on how to answer a telephone.

RESPONSE: The requirements for PSDP dispatchers have not yet been formulated. However, OETS and the 9-1-1 Commission are looking at training courses for existing dispatchers in the two to three day range. These courses will be tailored to existing PSAP and PSDP personnel on the new enhanced 9-1-1 system. Currently, no one is trained on the new system.

COMMENT: It is apparent that input from a comprehensive cross-section of local police departments is absent.

RESPONSE: The amount of input of the local police departments was a product of the local police departments themselves. Public hearings on 9-1-1 were heard throughout the State by the "Emergency Response Commission". All police departments were specifically sent invitations to come to those hearings and make their concerns known. All of the meetings of the "Emergency Response Commission" and the "9-1-1 Commission" have also been open to the public and have been properly advertised. Additionally, an appointed representative of the New Jersey Police Chief's Association was a member of the "Emergency Response Commission" and currently is a member of the "9-1-1 Commission".

COMMENT: We would like a specific definition of the "appropriate enforcement action" as it applies to findings of noncompliance. We would like to know specifically what level of sanctions or penalties may be imposed.

RESPONSE: The 9-1-1 Statute authorizes the Attorney General to commence legal action to require compliance with the statute and also contains provisions for the imposition of civil penalties. The type of action will have to depend on the type of noncompliance involved. Efforts will be made to obtain voluntary compliance whenever possible.

COMMENT: The regulations require the installation of a line printer to interface with the other 9-1-1 equipment. We would like to know the specific purpose of this line printer.

RESPONSE: The line printer will produce a record of all 9-1-1 calls, including the caller's telephone number, the time the 9-1-1 telephone equipment seized the line, the time the call was answered, the time the call was transferred (if applicable), the time the call was disconnected, the trunk line the call came in on, and the call-taker position in the PSAP. Additionally, the printer will be used to determine the telephone number of abandoned calls, and will be used to receive network reports for the local PSAP at the end of each shift or day.

COMMENT: What is the record retention schedule for the reports generated by the line printer?

RESPONSE: All documents and records related to 9-1-1 calls must be retained in a secured area for no less than 31 days.

COMMENT: We require information as to what training will be mandated for the certification of call-takers and dispatchers.

RESPONSE: As previously indicated, the training program is under review and will be the subject of additional rule making.

COMMENT: The rules stipulate that municipalities with more than five percent of their population speaking a language other than English have an interpreter available on a 24-hour basis. Would this interpreter be required to have the same certification as call-takers?

RESPONSE: The rules state that a PSAP serving a municipality identified by the most recent census as having a non-English speaking population of greater than five percent of the population shall either have a language interpreter available at the PSAP or have a language interpreter immediately available, under contract, by telephone conference call. If the PSAP hires a language interpreter who also serves as a call-taker or dispatcher, then the interpreter must be certified as such. An interpreter who does not serve in this dual capacity need not be certified as a call-taker or dispatcher.

COMMENT: We would like to know what allowances will be made for part-time employees who are already fully trained in the communication function. Will "grandfathering" be considered?

RESPONSE: Existing training levels will be considered in selecting the appropriate training for both new and existing employees, whether full-time or part-time. No one is "fully" trained on the New Jersey Enhanced 9-1-1 System. Therefore, it is not likely that existing call-takers or dispatchers will be grandfathered without receiving some amount of training.

COMMENT: It is recommended that in the event of equipment failure at the PSAP, an option should be established to facilitate the forwarding of calls to standard seven-digit voice lines.

RESPONSE: This feature is in place with the present proposed network. It is referred to in the proposed rules as "instantaneous default" (see N.J.A.C. 13:81-4.2(a)4).

COMMENT: The State of New Jersey has mandated a program where they expect the municipalities to foot all of the costs of implementation and maintenance. The worst part of this truly unfortunate situation is that the State of New Jersey continues to perpetuate a "great fraud" on the people of this State. The imposition of the tax on telephone equipment for the expressed purpose of funding 9-1-1 in New Jersey leaves our constituents greatly frustrated with being charged twice for this service. They are charged the first time by the tax, and the second time when the municipalities will have to recover the costs through increased taxation.

RESPONSE: The State of New Jersey did not create and does not perpetuate a "great fraud" on the people of this State. The "9-1-1 Emergency Telephone System Account" created by the 9-1-1 Act (Public Law 1989, chapter 3) was never intended to cover the cost of local PSAP and/or PSDP equipment. This account was created to pay for the initial installation and ongoing operation and maintenance of the Statewide "Enhanced 9-1-1 Network". The "Enhanced 9-1-1 Network" is defined in the Act as the switching equipment, trunk system, database operation and connections to the public safety answering points. The 9-1-1 Act specifically spelled out that PSAP and PSDP equipment was the responsibility of the local PSAP and/or PSDP. The funding source mentioned by the commenter was never dedicated to the 9-1-1 system by the Legislature.

COMMENT: We have determined that none of the municipalities contiguous to our city feel that their PSAP could be designated as our alternate PSAP. What action will OETS take to coordinate compliance to this regulation?

RESPONSE: The municipal and county 9-1-1 plans must specify the location of all PSAPs (including alternate and default) and PSDPs throughout the County. The county 9-1-1 coordinator is the appropriate person to coordinate the selection of alternate PSAPs. Municipalities may divide their 9-1-1 calls to several alternate locations. Calls will only be

re-routed to an alternate PSAP when calls are blocked between the 9-1-1 tandem switch and the designated PSAP.

COMMENT: Can a PSAP call-taker also be a dispatcher for emergency services such as police, fire and ambulance? N.J.A.C. 13:81-2.3(a)6i states, "the PSAP call-taker shall transfer the call to the appropriate dispatcher." Please clarify.

RESPONSE: Yes, if the PSAP also serves as a PSDP with respect to some or all emergency services. This mode of operation is commonly referred to as a one-stage operation and is permissible providing the operational standards of the proposed rules are met.

COMMENT: The rules do not call for the identification of individuals on the ALI screen which have (deaf and hard of hearing) disabilities, provided they have self-identified their disability.

RESPONSE: The information displayed on the ALI screen is limited to that which is on record in the ALI database. The top line of the ALI screen is reserved for specialized warning messages from the ALI database including the identification of those who may have hearing disabilities. If the deaf and hard of hearing person has registered their telephone as such with their telephone company, then the ALI information on that address will display, "**CAUTION* POSSIBLE TDD CALLER**".

COMMENT: TDDs used with the 9-1-1 system should have hard copy capability and be equipped with a time and date stamp feature to provide a physical record of the conversion without having to rerun the voice date and decode it.

RESPONSE: The rules as proposed call for two recording logs, the 9-1-1 line printer, and the logging (tape) recorder. Both of these devices time and date stamp all calls and the lineprinter does not have to be rerun to read the date or time. OETS does not feel another device is needed to time and date stamp calls. Instant voice play-back recorders are also mandated at each operator position. The instant play-back recorders can instantly play back the voice conversation, however, they cannot play back a visual display of the TDD conversation without special adaptation. Therefore, OETS accepts the proposed recommendation for hard copy TDDs and will modify N.J.A.C. 13:81-2.1(e)1 in future rulemaking to read, "A TDD: A telecommunications device *with a hard copy* for the deaf or speech impaired which is available for immediate connection to the 9-1-1 network at all PSAPs."

Summary of Changes Upon Adoption:

The following changes were made to more clearly reflect the intended meaning of proposed N.J.A.C. 13:81:

In proposed N.J.A.C. 13:81-4.2(a)3 the word "instantaneously" has been changed to "expeditiously". At N.J.A.C. 13:81-5.3(a) and 6.2(a), deadlines based upon the effective date of these rules have been changed to dates definite.

Full text of the adoption follows (additions to proposal indicated in boldface with asterisks *thus*; deletions from proposal indicated in brackets with asterisks *[thus]*).

CHAPTER 81

9-1-1 EMERGENCY TELEPHONE SYSTEM

SUBCHAPTER 1. GENERAL PROVISIONS

13:81-1.1 Purpose

The chapter establishes the technical requirements and operational standards for all components of the Statewide 9-1-1 Enhanced Emergency Telephone System. It defines and allocates responsibility for planning, equipping, staffing, establishing, operating and maintaining Public Safety Answering Points, Public Safety Dispatch Points, and the Enhanced 9-1-1 Network, and it defines and allocates responsibility for providing information necessary to establish and maintain the Automatic Location Information capability of the System.

13:81-1.2 Definitions

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

"Automatic Location Identification (ALI)" means the automatic display of the calling party's telephone number, address and supplementary information at the PSAP.

"Automatic Number Identification (ANI)" means the automatic display of the calling party's telephone number.

"Average busiest hour" means the one-hour period during each week in which the most emergency telephone calls are received.

"Call relay" means pertinent information is received by the PSAP operator and relayed to the proper dispatch center.

"Call referral" means callers are referred to secondary numbers for response to their needs.

"Call transfer" means the PSAP operator determines the proper responding agency and connects the caller to that agency which then performs the necessary dispatching.

"Calling party hold" means a feature that prevents the calling party from disconnecting the call even if the caller hangs up the telephone.

"Computer Aided Dispatch (CAD)" means a computer system designed to assist PSAP/PSDP operators and dispatchers to increase the efficiency and accuracy of dispatching public safety services.

"Dedicated trunks" means telephone lines used exclusively for transmission of 9-1-1 calls. Other trunks are shared by multiple telephone numbers.

"Dial tone first" means the allowance of a 9-1-1 or "0" Operator calls to be completed without the deposit of a coin or credit card.

"Direct dispatch" means 9-1-1 call answering and public safety dispatching is done by the personnel at the PSAP.

"Emergency Service Zone" (ESZ) means the geographical area having a unique combination of police, fire, and EMS services.

"Enhanced 9-1-1" means an emergency telephone system that provides sophisticated features via computers and electronic switches so that calls can be selectively routed to one of multiple PSAPs and, when answered, provides an ANI and/or ALI display at the PSAP.

"Forced disconnect" means the capability of a PSAP to disconnect a 9-1-1 call to avoid caller jamming of the incoming phone lines.

"Instant playback recorder" means a device that records voice or voice/ALI data and is capable of instantly replaying the same.

"Logging recorder" means a device that electronically records all voice communications and transactions on the 9-1-1 network at PSAPs and PSDPs. A logging recorder provides date/time information, is operative on a continuous or controlled basis, and is primarily for archival purposes.

"Master Street Address Guide (MSAG)" means the computer file containing address ranges and communities that define the emergency service zones.

"OETS" means the Office of Emergency Telecommunications Services in the Department of Law and Public Safety.

"P.01 grade of service" means a grade of emergency telephone service where no more than one call in 100 attempts will be blocked during the average busiest hour.

"Public Safety Answering Point (PSAP)" means the first point of reception of a 9-1-1 call.

"Public Safety Dispatch Points (PSDP)" means a location which provides dispatch services for one or more public safety agencies.

"Public safety agency" means a functional division of a public agency which provides firefighting, police, EMS, or other emergency service.

"Ringback" means a feature that permits the PSAP to ring the hung up telephone on a held circuit.

"Ringdown time" means the length of time that a phone rings before it is answered. This factor affects both the number of telephone lines and the number of 9-1-1 call-takers that are required at the PSAP.

"Selective routing" means a feature that routes a 9-1-1 call from a central office to the designated PSAP based upon the identified number of the calling party, or in the case of a cellular call, a unique seven-digit identification number for each cell site, or if so configured, each sector at the cell site.

"TDD" means a telecommunication device for the deaf.

13:81-1.3 Inspection

OETS will cause an inspection to be made of each PSAP and PSDP prior to start-up and, thereafter, periodically, at announced or unannounced times, to determine whether the facility meets the technical and operational standards specified in this chapter and in N.J.S.A. 52:17C-1 to 52:17C-16. This inspection may include an inspection of any records required by this chapter.

13:81-1.4 Enforcement

OETS will issue a Notice of Noncompliance upon discovery of any failure to comply with this chapter or with the provisions of N.J.S.A. 52:17C-1 to 52:17C-16. Such Notice will allow 10 days for correction of any noncompliance noted, unless a shorter compliance time is warranted under the circumstances. If compliance is not achieved as specified in the Notice of Noncompliance, OETS will take appropriate enforcement action.

SUBCHAPTER 2. PUBLIC SAFETY ANSWERING POINTS: STAFFING AND EQUIPMENT REQUIREMENTS AND OPERATIONAL STANDARDS

13:81-2.1 PSAP: required and recommended equipment

(a) Each PSAP call-taker position shall have the following equipment:

1. Telephone: A telephone which will enable the call-taker to utilize all the enhanced features of the 9-1-1 network;

2. Conference and transfer: Conference and transfer "push-button" type buttons which will allow the PSAP operator to do single button transfers and conferences to other PSAPs and/or Public Safety Dispatch Points (PSDPs) as well as other telephones on the public switched telephone network;

3. ANI display: A device which displays the telephone number from which the call was made. Typically, this display is also used for error indication and other messages generated by 9-1-1 telephone equipment;

4. ALI screen: A computer-like screen which displays the address location information (ALI) and telephone number of the telephone from which the 9-1-1 call was made, and which lists the primary police, fire, and EMS agency having jurisdiction in the area in which the address is located; and

5. Instant playback recorders: Either an:

i. Instant playback voice recorder that will record and is capable of instantly replaying a 9-1-1 call; or

ii. Instant playback voice/ALI screen recorder that will record and is capable of instantly replaying a 9-1-1 call and ALI data.

(b) Each PSAP shall have the number of fully equipped call-taker positions sufficient to provide a ringdown time of no more than 10 seconds for 90 percent of all 9-1-1 calls during the average busiest hour of the day.

(c) Each PSAP shall have the number of telephone lines necessary to provide a P.01 grade of service.

(d) Each PSAP shall be equipped with a 9-1-1 line printer, in the immediate vicinity of the PSAP operators, which prints a teleprinter record for each 9-1-1 call indicating the caller's telephone number, the time the 9-1-1 telephone equipment seized the line, the time the call was answered, the time the call was transferred (if applicable), the time the call was disconnected, the trunk line the call came in on, and the call-taker position in the PSAP.

(e) Each PSAP shall provide for the hearing or speech impaired through either:

1. A TDD: A telecommunications device for the deaf or speech impaired which is available for immediate connection to the 9-1-1 network at all PSAPs; or

2. Equipment that permits the PSAP operator to single button transfer the caller to a location approved by OETS as prepared to take and handle such calls.

(f) Each 9-1-1 line or each 9-1-1 telephone shall be connected to a logging recorder that records and time-date stamps the time and disposition of all 9-1-1 calls.

(g) Each PSAP shall maintain a means of communication other than the 9-1-1 system to permit interagency communications in the event of a failure or breakdown in the 9-1-1 system.

(h) The following PSAP equipment is recommended but not required:

1. Emergency generators for all critical electric circuits;

2. An uninterruptable power supply (UPS) that offers a high degree of protection from power surges and spikes and has a capacity sufficient to keep all 9-1-1 telephone equipment fully operative for a minimum of 15 minutes;

3. Lightning protection consisting of a state-of-the-art common ground, ring-type lightning protection system that will minimize catastrophic damage and downtime due to electrical storms. Cad-welding should be used to the extent feasible on all earth grounds; and

4. Logging recorders for all radio channels and other public safety emergency telephone lines, if the PSAP is also a PSDP.

13:81-2.2 PSAP: required staffing

(a) Each PSAP shall be staffed 24 hours a day, seven days a week.

(b) Each PSAP shall, at all times, be staffed with the number of call-takers necessary to permit the PSAP to answer all calls within 10 seconds, except that during the average busiest hour 10 percent of the calls may be answered within 20 seconds.

(c) Each call-taker position in a PSAP shall be staffed by a person certified by OETS as qualified on the basis of successful completion of a training program approved or adopted by the 9-1-1 Commission.

(d) A PSAP serving a municipality identified by the most recent census as having a non-English speaking population of greater than five percent of the population, shall either:

1. Have a language interpreter available at the PSAP; or

2. Have a language interpreter immediately available, under contract, by telephone conference call.

13:81-2.3 PSAP: operational standards

(a) Each PSAP shall be operated so as to comply with the following operational standards:

1. All components of the 9-1-1 network shall meet or exceed a P.01 grade of service which is no more than one busy signal in 100 call attempts in the average busiest hour.

2. All PSAPs shall be operated on a full-time basis, 24 hours a day, seven days a week.

3. All 9-1-1 calls should be answered in 10 seconds, except that 10 percent of the calls received during the average busiest hour may be answered within 20 seconds.

4. No more than two percent of incoming 9-1-1 calls shall overflow to an alternate PSAP.

5. All 9-1-1 calls shall be answered with a response such as "9-1-1 Emergency, what are you reporting?" or "9-1-1, may I help you?" No 9-1-1 call shall be answered with a response that identifies the PSAP as a police department, fire department, or emergency service or that gives a geographical or political location of the PSAP.

6. Following receipt of a 9-1-1 call requiring a dispatch of emergency medical, emergency police or emergency fire services, a PSAP call-taker, within 20 seconds for 90 percent of the calls received, will dispose of the call as follows:

i. If the PSAP also serves as a PSDP with respect to some or all emergency services, the PSAP call-taker shall transfer the call to the appropriate dispatcher;

ii. If the PSAP does not serve as a PSDP, the PSAP call-taker shall transfer the call to the appropriate PSDP or PSAP, unless the circumstances require a different approved disposition.

7. No call-taker shall transfer a 9-1-1 call without first advising the calling party that the call is being transferred and that the caller should remain on the line until the call is connected. No "blind transfers" are permitted.

8. Following receipt of a 9-1-1 call that is not emergent and does not require emergency services, the call-taker shall clear the line as quickly as possible under the circumstances. If circumstances permit, the call-taker may, if appropriate, refer the caller to the appropriate public safety agency, either verbally or through a pre-recorded message.

13:81-2.4 PSAP: record keeping

(a) Each PSAP shall maintain the following:

1. Tape recordings produced by the logging recorder and all documents or records related to 9-1-1 calls in a secured area for no less than 31 days; and

2. A current listing of PSAP call-takers, which indicates the call-takers' certification date, at all times.

13:81-2.5 PSAP: formation

Nothing contained in this chapter shall be construed to prohibit or require in any manner the formation of multi-agency, multi-

jurisdictional, regional or county-wide PSAPs. However, the formation of PSAPs that serve groups of municipalities is encouraged in the interest of reducing costs and increasing the efficiency of administration.

SUBCHAPTER 3. PUBLIC SAFETY DISPATCH POINTS: STAFFING AND EQUIPMENT REQUIREMENTS AND OPERATIONAL STANDARDS

13:81-3.1 PSDP: required and recommended equipment

(a) Each PSDP shall be equipped with basic or integrated PSAP telephones which will allow 9-1-1 calls to be transferred from the New Jersey Bell 9-1-1 tandem central offices by either direct connection or seven-digit transfers over the shared public network as determined by OETS in consultation with the county 9-1-1 coordinator.

(b) Each PSDP shall be equipped with the number of telephone lines sufficient to permit the PSDP to answer 90 percent of the PSAP transfers within 10 seconds during the average busiest hour.

(c) A PSDP may elect to have enhanced 9-1-1 call-taker equipment such as ANI displays, ALI screens, and line printers, as approved by OETS in consultation with the county 9-1-1 coordinator.

13:81-3.2 PSDP: required staffing

(a) Each PSDP shall, at all times, be staffed with the number of dispatchers necessary to permit the PSDP to comply with the level of dispatch performance established by the local governing agencies.

(b) Each dispatcher shall be a person certified by OETS as qualified on the basis of successful completion of a training program approved or adopted by the 9-1-1 Commission.

13:81-3.3 PSDP: record keeping

(a) Each PSDP shall maintain the following:

1. All documents or records related to 9-1-1 calls in a secured area for no less than 31 days; and

2. A current listing of PSDP dispatchers, which indicates the dispatchers' certification date, at all times.

SUBCHAPTER 4. NETWORK FEATURES AND DESIGN

13:81-4.1 Network features

(a) The following features shall be incorporated in the 9-1-1 enhanced network and will, where appropriate, be provided for in any contract for such telephone services:

1. Selective routing: A feature that routes a 9-1-1 call from a central office to the designated PSAP based upon the identified number of the calling party or, in the case of a cellular call, a unique seven-digit identification number for each cell site, or if so configured, each sector at the cell site;

2. Number identification (ANI): The automatic display of the seven-digit number used to place a 9-1-1 call. Additionally, the last digit of the area code is displayed;

3. Automatic location identification (ALI): The automatic display of information on a computer-like screen which displays the geographical location of the telephone used to place a 9-1-1 call;

4. Idle-circuit-tone application: An idle circuit tone which enables the PSAP attendant to distinguish between calls that have been abandoned before they are answered and calls where the calling party is connected but unable to speak;

5. Switchhook status indication: A feature which provides the PSAP with audible and visual indications of whether a 9-1-1 call which has been received and put on hold is still on hold or has disconnected. This feature helps ensure that a caller's line is not held up unnecessarily after the emergency call is completed;

6. Forced disconnect: A feature which enables the PSAP to release a connection (hang up to clear the line) on a 9-1-1 call even if the calling party has not hung up. The time required for a forced disconnect varies with telephone central office switching equipment, but is generally under 10 seconds. This feature prevents intentional jamming of 9-1-1 lines by individuals who dial 9-1-1 and refuse to hang up;

7. Alternate routing: A feature which provides backup for a PSAP by routing 9-1-1 calls to an alternate PSAP when all lines to the intended PSAP are busy or out of service;

8. Default routing: A feature which provides backup for a PSAP by routing 9-1-1 calls to a location based on the originating local trunk group when an incoming 9-1-1 call cannot be selectively routed due to an ANI failure, garbled digits, party-line service or multi-party service, or for any other reason;

9. Selective transfer: A feature which allows call-takers to transfer incoming calls to PSDPs by depressing a single "type of service" button;

10. Call detail recording: A teleprinter record for each 9-1-1 call indicating the caller's telephone number, the time the 9-1-1 telephone equipment seized the line, the time the call was answered, the time the call was transferred (if appropriate), the time the call was disconnected, the trunk line the call came in on, and the call-taker position in the PSAP;

11. Protected circuits: All facilities and equipment associated with, included in or attached to the 9-1-1 network shall be equipped with protective devices to prevent accidental worker contact. Each protected termination shall be clearly identified, and no protected 9-1-1 circuits shall be opened, grounded, short-circuited, or manipulated in any way unless the appropriate PSAP has released the circuit;

12. Calling party hold: (Reserved); and

13. Ringback: (Reserved).

13:81-4.2 Network design

(a) The following features shall be incorporated in the 9-1-1 enhanced network design and will, where appropriate, be provided for in any contract for such telephone services:

1. A three or more tandem switch architecture, featuring redundant, diversely routed links to all local central offices and between the tandems. This design shall support both integrated PSAPs which do not require on-site control cabinets or switches as well as conventional PSAPs;

2. A network protection plan that permits network recovery from a catastrophic switch failure;

3. A mechanism to *[instantaneously]* ***expeditiously*** provide switching and rerouting to a back-up 9-1-1 tandem in the event of a 9-1-1 tandem failure. The back-up 9-1-1 tandem shall provide selective routing, in a normal fashion, to the designed PSAP until the failed tandem has been restored;

4. A method to instantaneously default 9-1-1 calls to a PSAP or PSDP in accordance with the respective county 9-1-1 plan, in the event a 9-1-1 call cannot be routed to a 9-1-1 tandem;

5. Monitoring of all 9-1-1 tandems on a 24-hour, seven day basis by a 9-1-1 switching control center (SCC). The 9-1-1 SCC's responsibilities include the maintenance and repair of the 9-1-1 tandem switches. The 9-1-1 SCC acts as the central point of contact for all PSAP trouble reports via a toll free 800 number. The 9-1-1 SCC is also responsible for the expeditious repair of any other 9-1-1 network components affecting the critical 9-1-1 service; and

6. Monitoring of the Statewide 9-1-1 network providing 24-hour coverage, with priority 9-1-1 traffic flow from all dedicated lines, end offices, sector tandems, and operator services position system tandems into the 9-1-1 network.

SUBCHAPTER 5. MUNICIPALITIES: RESPONSIBILITY TO PROVIDE DATA FOR AUTOMATIC LOCATION IDENTIFICATION AND TO PLAN, EQUIP, STAFF AND OPERATE PSAPs AND PSDPs

13:81-5.1 Municipal 9-1-1 coordinator

(a) The governing body of each municipality shall appoint a municipal 9-1-1 coordinator who shall coordinate the 9-1-1 implementation and the operation of 9-1-1 activities within the municipality in accordance with N.J.S.A. 52:17C-1 to 52:17C-16 and the rules incorporated in this chapter.

(b) The municipal 9-1-1 coordinator, after consultation with representatives of local public safety agencies, and the State Police, shall:

1. Prepare a draft municipal plan for implementation of 9-1-1 enhanced service throughout the municipality. The draft plan shall specify:

i. The number and locations of all PSAPs and PSDPs serving the municipality;

ii. The procedure each PSAP will employ for continuing essential services during the loss of commercial power;

iii. The membership and organizational characteristics of each PSAP and PSDP;

iv. The number of lines and call-taker positions that each PSAP will utilize; and

v. Alternate communications as required by section 13:80-2.1(g); and

2. Submit the draft plan and background documentation necessary to determine the adequacy of the plan to the governing body of the municipality for approval in sufficient time to permit the governing body of the county to comply with the remaining provisions of this subchapter.

13:81-5.2 Municipalities: responsibility to provide ALI data

(a) The governing body of each municipality shall provide the data necessary for the Automatic Location Identification capability of the 9-1-1 Emergency Telecommunication System as follows:

1. Within 60 days of receipt of the appropriate map through OETS;

i. Correct or verify the accuracy of the street and address information;

ii. Where necessary, supplement the street and address information; and

iii. Label the map to indicate political boundaries, fire service zones, emergency medical service zones and police service zones; and

2. Following submission of the initial information, update the map when required by changes in or the addition of streets and addresses in the municipality.

13:81-5.3 Municipalities: 9-1-1 plan

(a) Except as provided in (b) below, *[within 60 days of the effective date of this chapter]* ***by October 5, 1990***, the governing body of each municipality shall provide the county 9-1-1 coordinator with a written plan that identifies:

1. PSAPs and PSDPs that will be utilized by the municipality, either alone or in conjunction with other municipalities, to service the municipality; and

2. Alternate PSAPs.

(b) Municipalities located in counties that currently utilize a county-wide PSAP need not supply the written plan described in (a) above, if the municipality indicates in writing that it will continue to utilize its county-wide PSAP. If the municipality at any time discontinues its association with its county-wide PSAP or its county-wide PSAP fails to gain approval as required by N.J.A.C. 13:81-6.2, the municipality must submit a plan within 60 days.

SUBCHAPTER 6. COUNTIES: RESPONSIBILITY TO PLAN AND IMPLEMENT ENHANCED 9-1-1 SERVICE THROUGHOUT THE COUNTY

13:81-6.1 County 9-1-1 coordinator

(a) The governing body of each county shall appoint a county 9-1-1 coordinator who shall coordinate the 9-1-1 implementation and the operation of 9-1-1 activities within the county in accordance with N.J.S.A. 52:17C-1 to 52:17C-16 and the rules incorporated in this chapter.

(b) The county coordinator, after consultation with representatives of the county, the municipalities, local public safety agencies, and the State Police, and utilizing the information supplied by the municipalities, shall:

1. Prepare a draft county plan for implementation of 9-1-1 enhanced service throughout the county. The draft plan shall specify:

i. The number and locations of all PSAPs and PSDPs serving municipalities within the county;

ii. The procedure each PSAP will employ for continuing essential services during the loss of commercial power;

iii. The membership and organizational characteristics of each PSAP and PSDP; and

iv. The number of lines and call-taker position that each PSAP will utilize; and

2. Submit the draft plan and background documentation necessary to determine the adequacy of the plan to the county governing body

for approval in sufficient time to permit the governing body of the county to comply with the remaining provisions of this subchapter.

13:81-6.2 Submission and approval of county plan

(a) No later than *[120 days from the effective date of this chapter]* ***December 4, 1990***, the governing body of each county shall submit an enhanced 9-1-1 service utilization plan to the OETS for its review and approval.

(b) OETS will review the plan for compliance with N.J.S.A. 52:17C-1 to 52:17C-16 and this chapter. OETS shall act on each submission within 60 days, by either approving or disapproving it, or returning it to the county for revision.

13:81-6.3 Modification of county plan

A county plan that has been approved by OETS cannot be changed until a modified plan is submitted by the county and approved by OETS pursuant to N.J.A.C. 13:81-6.2(b).

SUBCHAPTER 7. CELLULAR PHONE COMPANIES: RESPONSIBILITY TO PROVIDE CELL- SITE INFORMATION

13:81-7.1 Cellular phone companies: responsibility

Each cellular mobile telephone company shall transmit to a New Jersey Bell 9-1-1 tandem, via a single common trunk group, a unique seven-digit identification number for each cell site, or if so configured, each sector at the cell site. This number will be selectively routed to a PSAP designated by OETS after consultation with county 9-1-1 coordinators and municipalities.

SUBCHAPTER 8. CONNECTIONS TO THE 9-1-1 SYSTEM: APPROVAL OF EQUIPMENT

13:81-8.1 Suppliers of 9-1-1 equipment: responsibility to obtain approval of equipment

(a) No vendor, manufacturer, or installer shall connect any device to the New Jersey 9-1-1 network that has not been approved by OETS as follows:

1. Manufacturers or suppliers of equipment proposed for connection to the 9-1-1 network shall submit application for type approval to OETS at least 90 days prior to a proposed connection.
2. OETS will grant type approval if the equipment is capable of performing its proposed 9-1-1 function, is sufficiently reliable to perform its proposed function and will not present a danger to the integrity of the system.

13:81-8.2 Automatic dial devices

No person shall connect to a telephone company network an automatic alarm or alerting device that causes the number 9-1-1 to be dialed. OETS has not approved any automatic dialing device.

13:81-8.3 Blockage of 9-1-1 calls

No person, firm or corporation shall program any telephone or associated equipment with outgoing access to the public switched network of a telephone company so as to prevent a 9-1-1 call from being transmitted from such telephone to a PSAP.

SUBCHAPTER 9. SUPPLIERS OF PUBLIC TELEPHONES

13:81-9.1 Suppliers of public telephones: responsibility to provide dial tone first equipment

As 9-1-1 emergency service becomes available in areas throughout the State and at least 30 days prior to the availability date as published by OETS or its agents, all public telephones in an area in which 9-1-1 service will become available, including coin and credit card telephones, both public and private, shall be configured to allow a caller to dial and complete a 9-1-1 call without inserting a coin or any other device. On each such telephone, instructions on how to access the emergency enhanced 9-1-1 system shall be prominently displayed.

SUBCHAPTER 10. PUBLICATION AND USE OF THE 9-1-1 NUMBER

13:81-10.1 Publishers of telephone number listings

Any person who publishes a telephone listing including emergency numbers shall list "9-1-1" as the only "Emergency" number. Nothing in this section is intended to preclude a listing of the telephone numbers of police or fire departments or emergency medical services under headings other than "Emergency."

13:81-10.2 Use of the 9-1-1 number

No company or organization, either public or private, shall use the numerals 9-1-1 in the name of their company or organization or display the numerals 9-1-1 on their property or in their advertising, unless authorized by OETS for the purpose of publicizing or promoting 9-1-1 emergency services.

13:81-10.3 Advertising and promoting emergency numbers

No person or entity, including a public safety agency, shall advertise or otherwise promote the use of any telephone number for emergency services other than "9-1-1," once 9-1-1 service becomes available in their respective response area.

AGENCY NOTE: Persons interested in acquiring a POISON GROUP CAPACITY TABLE or an ERLANG OVERFLOW TABLE for use in calculating the number of telephone lines, call-taker positions and staffing required in order to comply with N.J.A.C. 13:81-2.1 through 13:81-2.3, may acquire a copy of either or both tables by contacting:

Captain Joseph C. Saia
Director
Office of Emergency Telecommunications Services
New Jersey State Police Headquarters
P.O. Box 7068
West Trenton, New Jersey 08628-0068

PUBLIC ADVOCATE

(a)

THE PUBLIC ADVOCATE

Organization of the Department

Adopted Amendment: N.J.A.C. 15A:2-1.1

Adopted: June 28, 1990 by Wilfredo Caraballo, Public Advocate.
Filed: July 6, 1990 as R.1990 d.374.

Authority: N.J.S.A. 52:27E-4c and 52:14B-4(b).

Effective Date: July 6, 1990.

Expiration Date: December 27, 1994.

Take notice that Wilfredo Caraballo, Public Advocate, has adopted an amendment to N.J.A.C. 15A:2-1.1, the administrative rule reflecting the organization of the Department of the Public Advocate. Pursuant to N.J.S.A. 52:14B-4(b), this amendment need not be proposed and is effective upon filing with the Office of Administrative Law.

Full text of the adopted amendment follows (additions indicated in boldface thus):

15A:2-1.1 Organization of the Department

(a) The Department of the Public Advocate is responsible for providing counsel for mentally ill and developmentally disabled persons, for investigating complaints from citizens about State government, for representing the public in rate proceedings and for representing the public interest as prescribed in N.J.S.A. 52:27E-1 et seq. The following five Divisions carry out the Department's statutory mandates:

1. The Division of Mental Health Advocacy is responsible for providing individual and class action representation for former, present and potential indigent psychiatric hospital admittees on issues affecting their commitment to, release from and conditions of confinement in psychiatric hospitals, as well as issues affecting quality of psychiatric treatment and related rights issues in non-institutional settings.

ADOPTIONS

i. Representation of individuals at involuntary commitment hearings held pursuant to N.J.S.A. 30:4-27.12 is limited to individuals committed from the Counties of Atlantic, Bergen, Camden, Cape May, Cumberland, Essex, Gloucester, **Hudson**, Hunterdon, Mercer, Monmouth, Ocean and Salem.

ii-iv. (No change.)

2. The Division of Advocacy for the Developmentally Disabled is responsible for protecting and advocating for the legal, civil and human rights of people with **developmental and similar disabilities** through the provision of information and referral services; **legal representation; investigative and monitoring services; mediation and negotiation**; technical assistance and training for consumers, advocates and public and private service providers and agencies; and outreach services.

i. (No change.)

3.-5. (No change.)

(b) (No change.)

(a)

THE PUBLIC ADVOCATE

Procedure for Filing a Rulemaking Petition

Adopted New Rule: N.J.A.C. 15A:2-1.2

Proposed: February 20, 1990 at 22 N.J.R. 620(a).

Adopted: June 26, 1990 by Wilfredo Caraballo, Public Advocate.

Filed: July 2, 1990 as R.1990 d.367, **without change**.

Authority: N.J.S.A. 52:27E-1 et seq., specifically 52:27E-4.

Effective Date: August 6, 1990.

Expiration Date: December 27, 1994.

Summary of Public Comments and Agency Responses:

No comments received.

Full text of the adoption follows.

15A:2-1.2 Procedure to petition for a rule

(a) This section shall constitute the Department of the Public Advocate's rules regarding the disposition of all requests for rulemaking pursuant to N.J.S.A. 52:14B-4(f).

(b) Any interested person may petition the Department of the Public Advocate to promulgate, amend or repeal any rule of the Department of the Public Advocate. Such petition must be in writing, signed by the petitioner, and must state clearly and concisely:

1. The full name and address of the petitioner;
2. The substance or nature of the rulemaking which is requested;
3. The reasons for the request;
4. The petitioner's interest in the request, including any relevant organization affiliation or economic interest;
5. The statutory authority under which the Department of the Public Advocate may take the requested action; and
6. Existing Federal or State statutes and rules which the petitioner believes may be pertinent to the request.

(c) Petitions for the promulgation, amendment or repeal of a rule by the Department of the Public Advocate shall be addressed to:

Department of the Public Advocate
Commissioner's Office
Hughes Justice Complex
CN-850
Trenton, NJ 08625

(d) Any document submitted to the Department of the Public Advocate that is not in substantial compliance with this section shall not be deemed to be a petition for rulemaking requiring further agency action.

(e) Upon receipt by the Department of petition for rulemaking, the following shall occur:

1. The petition shall be dated, stamped and logged;
2. The petition shall be referred to the relevant Department division or other Department office, as appropriate; and

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3. A notice of petition shall be prepared and filed within 15 days of receipt with the Office of Administrative Law in compliance with N.J.A.C. 1:30-3.6(a).

(f) Within 30 days following receipt of a petition, the Department shall mail to the petitioner and file with the Office of Administrative Law for publication in the New Jersey Register a notice of action on the petition which shall contain the information prescribed by N.J.A.C. 1:30-3.6(b).

(g) In accordance with N.J.A.C. 1:30-3.6(c), the Department's action on the petition may include:

1. Denial of the petition;
2. Filing a notice of proposed rule or a notice of preproposal for a rule with the Office of Administrative Law; or
3. Referral of the matter for further deliberations, the nature of which shall be specified and which shall conclude upon a specified date. The results of these further deliberations shall be mailed to the petitioner and shall be submitted to the Office of Administrative Law for publication in the New Jersey Register.

TRANSPORTATION

(b)

DIVISION OF TRAFFIC ENGINEERING AND LOCAL AID

BUREAU OF TRAFFIC ENGINEERING AND SAFETY PROGRAMS

Speed Limits

Route U.S. 9 in Cape May County; N.J. 54 in Atlantic County; U.S. 130 in Camden County; and N.J. 47 in Cumberland, Gloucester and Camden Counties

Adopted Amendments: N.J.A.C. 16:28-1.41, 1.55, 1.69 and 1.132

Proposed: June 4, 1990 at 22 N.J.R. 1694(b).

Adopted: July 10, 1990 by John F. Dunn Jr., Director, Division of Traffic Engineering and Local Aid.

Filed: July 11, 1990 as R.1990 d.382, **without change**.

Authority: N.J.S.A. 27:1A-5, 27:1A-6, and 39:4-98.

Effective Date: August 6, 1990.

Expiration Date: June 1, 1993.

Summary of Public Comments and Agency Responses:

No comments received.

Full text of the adoption follows.

16:28-1.41 Route U.S. 9

(a) The rate of speed designated for the certain parts of State highway Route U.S. 9 described in this subsection shall be established and adopted as the maximum legal rate of speed:

1. For both directions of traffic in Cape May County:
 - i. Lower Township:
 - (1) Zone 1: 50 miles per hour between Route 109 and Cresse Lane (mileposts 3.00 to 3.81); thence
 - (2) Zone 2: 40 miles per hour between Cresse Lane and the Lower Township-Middle Township corporate line (mileposts 3.81 to 6.63); thence
 - ii. Middle Township:
 - (1) Zone 1: 40 miles per hour between Lower Township-Middle Township line and 100 feet south of the exit from the Garden State Parkway except for 25 miles per hour when passing through the Cape May County Christian School zone (mileposts 10.508 to 10.572) during recess when the presence of children is clearly visible from the roadway or while children are going to or leaving school, during opening or closing hours (mileposts 6.63 to 10.90); thence
 - (2) Zone 2: 35 miles per hour between 100 feet south of the exit from the Garden State Parkway and Locust Lane (mileposts 10.90 to 11.94); thence

(3) Zone 3: 30 miles per hour between Locust Lane and 1000 feet north of Orbit Drive except for 25 miles per hour when passing through the Middle Township Elementary School Zone (mileposts 12.249 to 12.421) while "25 MPH when flashing" signs are operating during recess or while children are going to or leaving school, during opening or closing hours (mileposts 11.94 to 13.34); thence

(4) Zone 4: 40 miles per hour between 1000 feet north of Orbit Drive and 1000 feet north of Crest Haven Boulevard (Co. Rd. 609) (mileposts 13.34 to 14.34); thence

(5) Zone 5: 50 miles per hour between 1000 feet north of Crest Haven Boulevard (Co. Rd. 609) and the Middle Township-Dennis Township corporate line (mileposts 14.34 to 17.97); thence

iii. Dennis Township:

(1) 50 miles per hour between the Middle Township-Dennis Township corporate line and the Dennis Township-Upper Township corporate line (mileposts 17.97 to 22.36); thence

iv. Upper Township:

(1) Zone 1: 50 miles per hour between the Dennis Township-Upper Township corporate line and 700 feet south of Route N.J. 50 (approximate mileposts 22.36 to 23.46); thence

(2) Zone 2: 40 miles per hour between 700 feet south of Route N.J. 50 and 1350 feet north of Route N.J. 50 (approximate mileposts 23.46 to 23.86); thence

(3) Zone 3: 50 miles per hour between 1350 feet north of Route N.J. 50 and Run Creek (approximate mileposts 23.86 to 28.05); thence

(4) Zone 4: 45 miles per hour between Run Creek and 800 feet south of Tuckahoe Road-Marmora Road (County Road 631) (approximate mileposts 28.05 to 28.35); thence

(5) Zone 5: 40 miles per hour between 800 feet south of Tuckahoe Road-Marmora Road (County Road 631) and 100 feet north of Lenape Lane (approximate mileposts 28.35 to 29.40); thence

(6) Zone 6: 45 miles per hour between 100 feet north of Lenape Lane and 200 feet south of Harbor Road (approximate mileposts 29.40 to 30.50); thence

(7) Zone 7: 40 miles per hour between 200 feet south of Harbor Road and the southernmost end of the Beesley's Point Bridge (approximate mileposts 30.50 to 30.72).

2. (No change.)

(b) No change.)

16:28-1.55 Route 54

(a) The rate of speed designated for the certain parts of State highway Route 54 described in this subsection shall be established and adopted as the maximum legal rate of speed:

1.-2. (No change.)

3. In Folsom Borough, Atlantic County:

i. For both directions of traffic:

(1) Zone 1: 55 miles per hour between the Buena Vista northerly line and Town of Hammonton southerly line (approximate mileposts 6.10 to 8.20).

4. In the Town of Hammonton, Atlantic County:

i. For both directions of traffic:

(1) Zone 1: 55 miles per hour between the Folsom Borough northerly line and 200 feet south of the center of the bridge over Penny Pot Stream (approximate mileposts 8.20 to 8.257); thence

(2) Zone 2: 50 miles per hour between 200 feet south of the center of the bridge over Penny Pot Stream and 500 feet south of Chews Road (Co. Rd. 559) (approximate mileposts 8.257 to 9.944); thence

(3) Zone 3: 35 miles per hour between 500 feet south of Chews Road (Co. Rd. 559) and Madison Avenue (approximate mileposts 9.944 to 10.318); thence

(4) Zone 4: 25 miles per hour between Madison Avenue and Tilton Street (approximate mileposts 10.318 to 10.988); thence

(5) Zone 5: 35 miles per hour between Tilton Street and Route U.S. 30 (approximate mileposts 10.988 to 11.88).

16:28-1.69 Route U.S. 130 including parts of the Route I-295, Route U.S. 30 and Route U.S. 206

(a) The rate of speed designated for State highway Route U.S. 130, including parts of Route I-295, Route U.S. 30 and Route U.S. 206 described in this subsection are established and adopted as the maximum legal rate of speed for both directions of traffic:

1.-2. (No change.)

3. Camden County:

i.-ii. (No change.)

iii. Haddon Township, City of Camden, Collingswood Borough, Woodlynne Borough and Pennsauken Township:

(1) (No change.)

(2) Zone 11: 45 mph to the Camden Airport Circle (includes Route U.S. 30): (milepost 28.2 to 31.9); thence

(3)-(5) (No change.)

4.-6. (No change.)

(b) (No change.)

16:28-1.132 Route 47

(a) The rate of speed designated for the certain part of State highway Route 47 described in this subsection shall be established and adopted as the maximum legal rate of speed for both directions of traffic:

1. In Cape May County:

i.-viii. (No change.)

2. In Cumberland County:

i. Maurice River Township:

(1) Zone 1: 50 miles per hour between the Dennis Township (Cape May County) northerly line and Whitney Point Road (approximate mileposts 24.45 to 25.48); thence

(2) Zone 2: 45 miles per hour between Whitney Point Road and 1,100 feet north of Glade Road (approximate mileposts 25.48 to 26.748); thence

(3) Zone 3: 50 miles per hour between 1,100 feet north of Glade Road and Front Street (approximate mileposts 26.748 to 32.752); thence

(4) Zone 4: 45 miles per hour between Front Street and Tralinger Road (AKA Fries Mill Road), except for 30 miles per hour when passing through the Maurice River Township Elementary School zone (mileposts 33.186 to 33.283) during recess when the presence of children is clearly visible from the roadway or while children are going to or leaving school, during opening or closing hours (approximate mileposts 32.752 to 34.061); thence

(5) Zone 5: 50 miles per hour between Tralinger Road (AKA Fries Mill Road) and the City of Millville southerly line (approximate mileposts 34.061 to 36.08).

ii. The City of Millville:

(1) Zone 1: 50 miles per hour between the Maurice River Township northerly line and Jupiter Drive (approximate mileposts 36.08 to 38.008); thence

(2) Zone 2: 45 miles per hour between Jupiter Drive and Myrtle Avenue (approximate mileposts 38.008 to 38.644); thence

(3) Zone 3: 40 miles per hour between Myrtle Avenue and Whitall Avenue (approximate mileposts 38.644 to 39.207); thence

(4) Zone 4: 35 miles per hour between Whitall Avenue and Ware Avenue (approximate mileposts 39.207 to 39.848); thence

(5) Zone 5: 30 miles per hour between Ware Avenue and "E" Street, except for 25 miles per hour when passing through the Culver School zone (mileposts 40.005 to 40.150) during recess when the presence of children is clearly visible from the roadway or while children are going to or leaving school, during opening or closing hours (approximate mileposts 39.848 to 40.638); thence

(6) Zone 6: 35 miles per hour between "E" Street and Harrison Street (approximate mileposts 40.638 to 41.027); thence

(7) Zone 7: 45 miles per hour between Harrison Street and the City of Vineland southerly line (approximate mileposts 41.027 to 42.36).

iii. Vineland City:

(1) Zone 1: 45 miles per hour between the City of Millville northerly line and Chestnut Avenue (approximate mileposts 42.36 to 45.881); thence

(2) Zone 2: 40 miles per hour between Chestnut Avenue and Park Avenue (approximate mileposts 45.881 to 46.754); thence

(3) Zone 3: 45 miles per hour between Park Avenue and Oak Road (approximate mileposts 46.754 to 47.511); thence

(4) Zone 4: 45 miles per hour between Oak Road and the Franklin Township (Gloucester County) southerly line (approximate mileposts 47.511 to 51.79).

3. In Gloucester County:

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i. Franklin Township:

(1) Zone 1: 50 miles per hour between City of Vineland (Cumberland County) northerly line and Malaga Terrace (approximate mileposts 51.79 to 51.96); thence

(2) Zone 2: 40 miles per hour between Malaga Terrace and Malaga Branch Creek (approximate mileposts 51.96 to 53.188); thence

(3) Zone 3: 50 miles per hour between Malaga Branch Creek and Pine Street, except for 35 miles per hour when passing through the Caroline Reutter School zone (mileposts 55.46 to 55.70) during recess when the presence of children is clearly visible from the roadway or while children are going to or leaving school, during opening or closing hours (approximate mileposts 53.188 to 53.973); thence

(4) Zone 4: 40 miles per hour between Pine Street and 500 feet north of MacArthur Avenue (approximate mileposts 53.973 to 56.725); thence

(5) Zone 5: 50 miles per hour between 500 feet north of MacArthur Avenue and the Clayton Borough southerly line (approximate mileposts 56.725 to 58.17).

ii. Clayton Borough:

(1) Zone 1: 50 miles per hour between the Franklin Township northerly line and Hickory Lane (approximate mileposts 58.17 to 58.263); thence

(2) Zone 2: 40 miles per hour between Hickory Lane and Linden Street (approximate mileposts 58.263 to 58.902); thence

(3) Zone 3: 30 miles per hour between Linden Street and Howard Street (approximate mileposts 58.902 to 59.525); thence

(4) Zone 4: 35 miles per hour between Howard Street and 612 feet north of Costill Street (approximate mileposts 59.525 to 59.788); thence

(5) Zone 5: 45 miles per hour between 612 feet north of Costill Street and Sienna Drive (approximate mileposts 59.788 to 60.10); thence

(6) Zone 6: 50 miles per hour between Sienna Drive and Glassboro Borough southerly line (approximate mileposts 60.10 to 60.65).

iii. Glassboro Borough:

(1) Zone 1: 50 miles per hour between the Clayton Borough northerly line and the roadway to M. Jetter & Son (approximate mileposts 60.65 to 61.58); thence

(2) Zone 2: 45 miles per hour between the roadway to M. Jetter & Son and Grove Street (approximate mileposts 61.58 to 61.988); thence

(3) Zone 3: 35 miles per hour between Grove Street and Bristol Drive (including coincident Route U.S. 322 section mileposts 62.20 to 62.22), except for 25 miles per hour when passing through the Glassboro Intermediate School zone (mileposts 62.675 to 62.806) during recess when the presence of children is clearly visible from the roadway or while children are going to or leaving school, during opening or closing hours (approximate mileposts 61.988 to 63.308); thence

(4) Zone 4: 45 miles per hour between Bristol Drive and the roadway to Autumn Ridge Homes (approximate mileposts 63.308 to 64.298); thence

(5) Zone 5: 50 miles per hour between the roadway to Autumn Ridge Homes and Washington Township southerly line (approximate mileposts 64.298 to 64.86).

iv. Washington Township:

(1) Zone 1: 50 miles per hour between the Glassboro Borough northerly line and Bethel Mill Road (approximate mileposts 64.86 to 65.86); thence

(2) Zone 2: 45 miles per hour between Bethel Mill Road and Grenlock-Salina Road (approximate mileposts 65.86 to 66.818); thence

(3) Zone 3: 50 miles per hour between Grenlock-Salina Road and the Deptford Township southerly line (approximate mileposts 66.818 to 68.16).

v. Deptford Township:

(1) Zone 1: 50 miles per hour between Washington Township northerly line and Essex Boulevard-Harrington Parkway (approximate mileposts 68.16 to 71.377); thence

(2) Zone 2: 45 miles per hour between Essex Boulevard-Harrington Parkway and Westville Borough southerly line, except for 30 miles

per hour when passing through the Central School zone (mileposts 71.351 to 71.637) during recess when the presence of children is clearly visible from the roadway or while children are going to or leaving school, during opening or closing hours (approximate mileposts 71.377 to 73.77).

vi. Westville Borough:

(1) Zone 1: 45 miles per hour between the Deptford Township northerly line and Harvard Avenue (approximate mileposts 73.77 to 73.964); thence

(2) Zone 2: 35 miles per hour between Harvard Avenue and Brooklawn Borough (Camden County) line (approximate mileposts 73.964 to 74.89).

4. In Camden County:

i. Brooklawn Borough:

(1) 35 miles per hour between the Westville Borough (Gloucester County) line and the southerly approach to Route U.S. 130 circle (approximate mileposts 74.87 to 74.98).

(a)

DIVISION OF TRAFFIC ENGINEERING AND SAFETY PROGRAMS

BUREAU OF TRAFFIC ENGINEERING AND SAFETY PROGRAMS

Restricted Parking and Stopping: Time Limit Parking Route U.S. 202 in Somerset County

Adopted Amendment: N.J.A.C. 16:28A-1.55

Proposed: May 21, 1990 at 22 N.J.R. 1536(b).

Adopted: June 26, 1990 by John F. Dunn Jr., Director, Division of Traffic Engineering and Local Aid.

Filed: June 26, 1990 as R.1990 d.361, **without change**.

Authority: N.J.S.A. 27:1A-5, 27:1A-6, 39:4-138.1, and 39:4-199.

Effective Date: August 6, 1990.

Expiration Date: June 1, 1993.

Summary of Public Comments and Agency Responses:

No comments received.

Full text of the adoption follows.

16:28A-1.55 Route U.S. 202

(a)-(c) (No change.)

(d) The certain parts of State highway Route U.S. 202 described in this subsection shall be designated and established as "Time Limit Parking" zones. In accordance with the provisions of N.J.S.A. 39:4-199, permission is granted to erect appropriate signs at the following established Time Limit Parking zones:

1. Time Limit Parking zones in Bernardsville Borough, Somerset County:

i. Two-hour time limit parking, between 7:00 A.M. to 6:00 P.M.:

(1) Along the west side:

(A) From a point 35 feet south of the southerly curb line of Anderson Hill Road and extending 143 feet southerly therefrom;

(B) From a point 278 feet south of the southerly curb line of Anderson Hill Road to a point 400 feet south of the southerly curb line of Claremont Road;

(C) Beginning at a point 313 feet south of the southerly curb line of Church Street to a point 78 feet southerly therefrom;

(2) Along the east side:

(A) From a point 158 feet south of the southerly curb line of Mt. Airy Road to the northerly curb line of Depot Square;

ii. One half-hour time limit parking, between 7:00 A.M. to 6:00 P.M.:

(1) Along the east side:

(A) From a point 64 feet south of the southerly curb line of Mt. Airy Road and extending 80 feet southerly therefrom;

(2) Along the west side:

(A) Beginning at a point 391 feet south of the southerly curb line of Church Street to a point 40 feet southerly therefrom;

(B) From a point 178 feet south of the southerly curb line of Anderson Hill Road and extending 100 feet southerly therefrom.

TREASURY-GENERAL

(a)

DIVISION OF PENSIONS

Administration

Retired Employees: Health Insurance Charges

Adopted Amendments: N.J.A.C. 17:1-1.19 and 1.21

Adopted Repeals: N.J.A.C. 17:1-1.22, 1.23 and 1.24

Proposed: May 7, 1990 at 22 N.J.R. 347(b).

Adopted: July 9, 1990 by Margaret M. McMahon, Director, Division of Pensions.

Filed: July 16, 1990 as R.1990 d.395, without change.

Authority: N.J.S.A. 52:18A-96 et seq.

Effective Date: August 6, 1990.

Expiration Date: May 6, 1993.

Summary of Public Comments and Agency Responses:

No comments received.

Full text of the adoption follows.

17:1-1.19 Retired employees; health insurance charges

(a) If possible, whenever any beneficiary of the Public Employees' Retirement System, Teachers' Pension and Annuity Fund, Police and Firemen's Retirement System, State Police Retirement System, Judicial Retirement System, Consolidated Police and Firemen's Pension Fund, Prison Officer's Pension Fund or Central Pension Fund authorizes deductions from the retirement allowance checks for coverage under the State Health Benefits Program, the Division may make the deductions and transmit them to the State Health Benefits Program.

(b) The authorization may be withdrawn by filing an application to terminate coverage and deductions.

17:1-1.21 Discontinuance of allowance

(a) (No change.)

17:1-1.22 Reserved)

17:1-1.23 Reserved)

17:1-1.24 Reserved)

(b)

DIVISION OF PENSIONS

Administration

Enrollment Entry Age

Adopted Repeal: N.J.A.C. 17:1-12.7

Proposed: May 21, 1990 at 22 N.J.R. 1454(a).

Adopted: July 6, 1990 by Margaret McMahon, Director, Division of Pensions.

Filed: July 9, 1990 as R.1990 d.376, without change.

Authority: N.J.S.A. 52:18A-96 et seq.

Effective Date: August 6, 1990.

Expiration Date: May 6, 1993.

Summary of Public Comments and Agency Responses:

No comments received.

Full text of the adoption follows:

17:1-12.7 (Reserved)

(c)

DIVISION OF PENSIONS

Public Employees' Retirement System

Computation of Final Compensation

Adopted Amendments: N.J.A.C. 17:2-3.2 and 6.24

Proposed: May 7, 1990 at 22 N.J.R. 1348(a).

Adopted: July 6, 1990, by the Public Employees' Retirement System, Janice Nelson, Secretary.

Filed: July 9, 1990 as R.1990 d.377, without change.

Authority: N.J.S.A. 43:15A-17.

Effective Date: August 6, 1990.

Expiration Date: November 8, 1994.

Summary of Public Comments and Agency Responses:

No comments received.

Full text of the adoption follows.

17:2-3.2 Computation of insurance benefits

(a) Any member who is reported on a 10 months basis and who has not resigned or been discharged, shall be covered by his or her insurance benefits for the month or months he or she is on his or her regular seasonal layoff.

1. The death benefit shall be based upon the base salary upon which contributions to the annuity savings fund were made that are attributable to the 12 months or 26 biweekly pay periods immediately preceding his or her death.

2. (No change.)

(b)-(c) (No change.)

(d) For a member dying after the first year following his or her date of compulsory enrollment, both the noncontributory and contributory insurance benefit shall be determined upon the base salary upon which contributions to the annuity savings fund were made that are attributable to the 12 months or 26 biweekly pay periods preceding death.

(e)-(k) (No change.)

17:2-6.24 Final compensation; biweekly salary computation for State employees reported by centralized payroll

(a) In computing "final compensation" upon which pension contributions were based, in the case of a 12 months State employee reported on a biweekly basis, a total of 78 biweekly pays will be used, including any retroactive salary payments that are attributable to the prescribed period.

(b)-(d) (No change.)

OTHER AGENCIES

(d)

CASINO CONTROL COMMISSION

Accounting and Internal Controls

Procedures for Granting Credit, and Recording

Checks Exchanged, Redeemed or Consolidated

Adopted Amendment: N.J.A.C. 19:45-1.27

Proposed: January 16, 1990 at 22 N.J.R. 162(a).

Adopted: June 27, 1990 by the Casino Control Commission, Valerie H. Armstrong, Acting Chair.

Filed: June 28, 1990 as R.1990 d.362, without change.

Authority: N.J.S.A. 5:12-63(c), 5:12-69 and 5:12-101.

Effective Date: August 6, 1990.

Expiration Date: March 24, 1993.

Summary of Public Comments and Agency Responses:

No comments were received.

Full text of the adoption follows.

19:45-1.27 Procedures for granting credit, and recording checks exchanged, redeemed or consolidated

(a)-(c) (No change.)

(d) All verifications performed by the credit department in (c) above together with accurate and verifiable information received from the security and surveillance departments pursuant to N.J.A.C. 19:45-1.11(c) shall be recorded in the credit file and accompanied by the signature of the credit department representative who performed the required verifications or filed the relevant information. The date and time of the signature of the credit department representative shall be recorded either mechanically or manually contemporaneously with the transaction. The casino licensee's credit department shall fill the requirements of (c) above as follows:

1.-3. (No change.)

4. Verification of the patron's personal checking account information, as required by (c)4 above, shall be performed by the casino licensee or a bank verification service directly with the patron's bank. A bank verification service utilized by a casino licensee may make use of another bank verification service to make direct communication with the patron's bank. If such information is not immediately available, the casino licensee may use an alternative source. The casino licensee shall record the source of the verification and the method by which each verification was performed in the patron's credit file. The verification may be performed telephonically prior to the credit approval provided the casino licensee or bank verification service requests written documentation of all information obtained as soon as possible and such written documentation is included in the patron's credit file. All requests for written documentation shall be maintained in the patron's credit file until such documentation is obtained. No bank verification service may be used by a casino licensee or another bank verification service to perform the verifications required by this section unless the bank verification service has filed a completed application for an appropriate casino service industry license under N.J.S.A. 5:12-92 and N.J.A.C. 19:43. If a bank verification service is used as a primary source of verification, either directly by a casino licensee or by another bank verification service, each service and the licensee shall, in addition to complying with any other requirement imposed by this section, record the date that the patron's personal checking account information was obtained from the bank by the service.

(e)-(p) (No change.)

(a)

**CASINO CONTROL COMMISSION
Temporary Amendment of Gaming Equipment and
Rules of the Games Pursuant to Double-Spot
Blackjack Layout Experiment**

N.J.A.C. 19:46-1.10(b) and 19:47-2.14

Petitioner: Resorts International Hotel, Inc.

Authority: N.J.S.A. 5:12-69(e) (P.L. 1987 c.354) and 5:12-70(f).

Take notice that beginning August 13, 1990, the Casino Control Commission shall, pursuant to N.J.S.A. 5:12-69(e), conduct a test for the period of 90 days (until November 11, 1990) for the purpose of determining if new rules should be adopted which would permit casino licensees to utilize a Blackjack layout with eight betting areas arranged in four sets of two for a maximum of four seated players.

Specifically, the test would allow Resorts International Hotel, Inc. to use a Blackjack layout with four double-spot betting areas which would permit a maximum of four seated players to wager at the table. The test will be conducted at a limited number of tables at Resorts International Hotel, Inc. for the purpose of evaluating the effect that a layout with double-spot betting areas has on the vitality of casino operations and whether these rule changes have an adverse or beneficial effect on the game of Blackjack. Signage will be posted at major casino entrances and at the tables using the double-spot Blackjack layouts.

A petition for rulemaking on this subject was filed with the Commission on April 17, 1990. Should the test prove successful, the Commission will propose new rules for adoption in accordance with the public notice and comment requirements of the Administrative Procedure Act and N.J.A.C. 1:30-1 et seq.

(b)

**CASINO CONTROL COMMISSION
Notice of Administrative Correction
Rules of the Games
Minimum and Maximum Wagers
N.J.A.C. 19:47-8.2**

Take notice that the Casino Control Commission has discovered an error in the text of N.J.A.C. 19:47-8.2. The Foreword now appearing in the rule was deleted upon the adoption of amendments to the rule effective October 8, 1981 (see 13 N.J.R. 709(b)), but was erroneously retained in the Code. This notice of administrative correction is published pursuant to N.J.A.C. 1:30-2.7.

Full text of the corrected rule follows (deletions indicated in brackets [thus]):

19:47-8.2 Minimum and maximum wagers

[FOREWORD]

The Casino Control Act requires the Casino Control Commission to promulgate rules establishing such minimum wagers and other limitations as the Commission determines are necessary to assure the vitality of casino operations and to assure fair odds to and maximum participation by casino patrons. Based upon the evidence presented to the Commission at public hearings, upon studies conducted by Commission staff and upon public comment to its proposed rules on this subject, the Commission finds that, at present, the patron demand for low minimum wager table games exceeds the supply of such table games. The Commission further finds that, at least until such time as the supply of low minimum wager table games meets or exceeds this patron demand a regulation concerning low minimum wager table games is necessary to assure maximum participation by casino patrons.

In enacting the Casino Control Act, the Legislature intended to revitalize the hospitality and convention industries by utilizing casino gaming as a unique tool of urban redevelopment. The Legislature recognized that to achieve this goal new investment capital would have to be attracted to the area. In light of these legislative policies, in light of the mandate of the Casino Control Act to promulgate rules establishing such minimum wagers and other limitations as are necessary to insure the vitality of casino operations, and in light of the evidence presented before it, the Commission finds that such rules must allow licensed casinos to be favorably competitive with casinos in other jurisdictions and must allow licensed casinos sufficient flexibility to react to market conditions and other variables of the industry. The Commission further finds that, under prevailing conditions, the best way to assure the vitality of casino operations while providing for maximum participation by casino patrons is by adopting a regulation which establishes guidelines, standards and factors to be applied by the Commission to each licensed casino on a case-by-case basis.

The Commission deems it advisable in light of the above considerations that this regulation shall be reexamined no later than one year from the date of its formal adoption.]

(a)-(c) (No change.)

EDUCATION

(a)

STATE BOARD OF EDUCATION

Pupil Records

Adopted Amendments: N.J.A.C. 6:3-2.1, 2.2, 2.5, 2.6, 2.7 and 2.8

Proposed: May 7, 1990 at 22 N.J.R. 1302(a).

Adopted: July 5, 1990 by John Ellis, Commissioner, Department of Education; Secretary, State Board of Education.

Filed: July 10, 1990 as R.1990 d.380, with a technical change not requiring additional public notice and comment (see N.J.A.C. 1:30-4.3).

Authority: N.J.S.A. 18A:1-1, 18:4-15, 18A:36-19, 18A:36-19a and Public Law 94-142.

Effective Date: August 6, 1990.

Expiration Date: July 8, 1993.

Summary of Public Comments and Agency Responses:

The Department received two written letters.

COMMENT: Commenter questioned the missing text of the definitions, "parent surrogate," "pupil," "pupil record," and "student information directory," from the May 7, 1990 New Jersey Register.

RESPONSE: The Office of Administrative Law does not reprint in the New Jersey Register sections of the code which contain no changes in text. The existing definitions of these words remain a part of the rules.

COMMENT: Commenter recommended that the provision for classified students in N.J.A.C. 6:3-2.2(i) be extended to all students.

RESPONSE: Such information may be helpful in future placement of a classified student. For the student who is not classified, it would be unnecessary to keep information which is no longer descriptive of, or that would not have any bearing on, the pupil's educational placement.

COMMENT: Commenter has asked that the requirement for district boards of education to provide interpretation of pupil records for parents and adult pupils whose dominant language is not English be eliminated.

RESPONSE: The Federal Educational Right and Privacy Act (F.E.R.P.A.) of 1984 requires school districts to provide for interpretation of pupil records in the dominant language of the parent or adult pupil. The State Board of Education has no authority to remove this requirement.

COMMENT: Commenter questions the clarity of existing language in N.J.A.C. 6:13-2.2(g)6 that does not appear to state the obligation of the institution to comply with a parent or adult pupil's request to be excluded from the student information directory.

RESPONSE: The current language clearly states that the institution is prohibited from including the name of a student in the student information directory once the written request for exclusion has been received.

COMMENT: Commenter questioned the need for N.J.A.C. 6:3-2.2(i) to specify the type of prior notice to classified students and the extent of time and process for responding to objections when information no longer descriptive of the pupil's educational program is deleted.

RESPONSE: The reference in N.J.A.C. 6:3-2.2(i) to the special education rules, N.J.A.C. 6:28, responds to the need for educators to comply with the parental notice provisions for classified students.

Full text of the adoption follows (addition to proposal indicated in boldface with asterisks *thus*).

6:3-2.1 Definitions

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

...
 "Adult pupil" means a person who is at least 18 years of age, or is attending an institution of postsecondary education, or is an emancipated minor.

"Parent" means the natural parent(s) or legal guardian(s), foster parent(s) or parent surrogate(s) of a pupil. Where parents are separated or divorced, "parent" means the person or agency who has legal custody of the pupil, as well as the natural or adoptive parents of

the pupil, provided such parental rights have not been terminated by a court of appropriate jurisdiction.

6:3-2.2 General considerations

(a)-(c) (No change.)

(d) The district board of education shall notify parents and adult pupils annually in writing of their rights in regard to pupil records and pupil participation in educational, occupational and military recruitment programs. Copies of the applicable State and Federal laws and local policies shall be made available upon request. District boards of education shall make every effort to notify parents and adult pupils in their dominant language.

(e) (No change.)

(f) The parent or adult pupil shall either have access to or be specifically informed about only that portion of another pupil's record that contains information about his or her own child or him or herself.

(g) Each district board of education shall establish written policies and procedures for pupil records which:

1.-5. (No change.)

6. Provide the parent or adult pupil a 10-day period to submit a written statement to the chief school administrator prohibiting the institution from including any or all types of information about the student in any student information directory before allowing access to such directory and school facilities to educational, occupational and military recruiters pursuant to N.J.S.A. 18A:36-19.1;

7.-8. (No change.)

(h) (No change.)

(i) The chief school administrator or his or her designee shall require all permitted pupil records of currently enrolled pupils to be reviewed annually by certified school personnel to determine the educational relevance of the material contained therein. The reviewer shall cause data no longer descriptive of the pupil or educational situation to be deleted from the records except that prior notice must be given for classified students in accordance with N.J.A.C. 6:28. Such information shall be destroyed and not be recorded elsewhere. No record of any such deletion shall be made.

(j) (No change.)

(k) When the parent's or adult pupil's dominant language is not English or the parent or adult pupil is deaf, the district board of education shall provide interpretation of the pupil record in the dominant language of the parent or adult pupil.

6:3-2.5 Access to pupil records

(a)-(b) (No change.)

(c) Authorized organizations, agencies and persons shall include only:

1.-2. (No change.)

3. The adult pupil* and the pupil's parent who has the written permission of such pupil, except that the parent shall have access without consent of the pupil as long as the pupil is financially dependent on the parent and enrolled in the public school system or if the pupil has been declared legally incompetent by a court of appropriate jurisdiction. The parent of the financially dependent adult pupil may not disclose information contained in the adult pupil's record to a second or third party without the consent of the adult pupil;

4. Certified school district personnel who have assigned educational responsibility for the pupil;

5.-8. (No change.)

9. Officials of other district boards of education within the State of New Jersey in which the pupil is placed, registered or intends to enroll, subject to the following conditions:

i.-iv. (No change.)

v. The chief school administrator or his or her designee of the school district of last attendance shall, upon request, provide a parent(s) or an adult pupil with a copy of the records disclosed to other educational agencies or institutions.

vi. Proper identification, such as a certified copy of the pupil's birth certificate, shall be requested at the time of enrollment in a new school district.

10.-13. (No change.)

6:3-2.6 Conditions for access to pupil records

(a) All authorized organizations, agencies and persons defined in this subchapter shall have access to the records of a pupil, subject to the following conditions:

1. No pupil record shall be altered or destroyed during the time period between a request to review the record and the actual review of the record.

2.-4. (No change.)

5. A record may be withheld from a parent of a pupil under 18 or from an adult pupil only when the chief school administrator in consultation with the professional staff is convinced that the disclosure would create a substantial risk of harm to the pupil or to a person with whom the record is concerned. When the chief school administrator is convinced that the risk is of such high degree, he or she shall notify the parent or adult pupil in writing within five days that access to the record has been denied and that the person has the right to appeal this decision to the Commissioner of Education. If an appeal is made, the Commissioner shall designate a professional of the same discipline as the originator of the record to review the record and to recommend whether access should be granted. The Commissioner shall make a determination within 30 days of the receipt of the request. Any decision made by the Commissioner may be appealed to the State Board of Education.

6:3-2.7 Rights of appeal for parents and adult pupils

(a) (No change.)

(b) To appeal, a parent or adult pupil must notify the chief school administrator in writing of the specific issues relating to the pupil record. Within 10 days of notification, the chief school administrator or his or her designee shall meet with the parent or adult pupil to review the issues set forth in the appeal. If the matter is not satisfactorily resolved, the parent or adult pupil may appeal this decision either to the district board of education or the Commissioner of education within 10 days. If appeal is made to the district board of education, a decision shall be rendered within 20 days. The decision of the district board of education may be appealed to the Commissioner pursuant to N.J.S.A. 18A:6-9 and rules adopted in accordance with such statute. At all stages of the appeal process, the parent or adult pupil shall be afforded a full and fair opportunity to present evidence relevant to the issue. A record of the appeal proceedings and outcome shall be made a part of the pupil record with copies made available to the parent or adult pupil.

(c)-(d) (No change.)

6:3-2.8 Retention and destruction of pupil records

(a) (No change.)

(b) Mandated pupil records of currently enrolled pupils, other than that described in (e) below, may be destroyed after the information is no longer necessary to provide educational services to a pupil. Such destruction shall be accomplished only after written parental or adult pupil notification and written parental or adult pupil permission has been granted or after reasonable attempts of such notification and reasonable attempts to secure parental or adult pupil permission have been unsuccessful.

(c) Upon graduation or permanent departure of a pupil from the school system:

1. (No change.)

2. Information in pupil records, other than that described in (e) below, may be destroyed but only in accordance with the Destruction of Public Records Law, N.J.S.A. 47:3-15 et seq. Such destruction shall be accomplished only after written parental or adult pupil notification and written parental or adult pupil permission has been granted, or after reasonable attempts at such notification and reasonable attempts to secure parental or adult pupil permission have been unsuccessful.

(d)-(e) (No change.)

(a)

STATE BOARD OF EDUCATION

Business Services

Readoption with Amendments: N.J.A.C. 6:20

Proposed: April 16, 1990 at 22 N.J.R. 1246(a).

Adopted: July 5, 1990 by John Ellis, Commissioner, Department of Education; Secretary, State Board of Education.

Filed: July 16, 1990 as R.1990 d.393, **without change.**

Authority: N.J.S.A. 18A:1-1, 18A:4-14, 18A:4-14.1, 18A:4-15, 18A:7A-19, 18A:7A-25, 18A:7A-26, 18A:7B-12, 18A:17-45, 18A:18A-4, 18A:18A-5, 18A:18A-7, 18A:18A-27, 18A:18A-37, 18A:18A-40, 18A:18A-42, 18A:19-13, 18A:22-8, 18A:29-3, 18A:29-5, 18A:29-5.1, 18A:29-5.3, 18A:29-5.6, 18A:29-5.12, 18A:33-3, 18A:38-5, 18A:38-19, 18A:38-25, 18A:44-2, 18A:46-6.1, 18A:46-21, 18A:58-33.39, 18A:58-37.1 et seq., 18A:58-68, 18A:58-72, 18A:58-74, 18A:58-75, 18A:58-76, 40A:11-11, 52:14-15.9(e), 52:14B-4(c), Chapter 154, Laws of 1987; and Executive Order No. 34 (1976).

Effective Dates: July 16, 1990, Readoption; August 6, 1990, Amendments.

Expiration Date: July 16, 1995.

Summary of Public Comments and Agency Responses:

Two individuals spoke at the April public testimony session provided by the State Board of Education, and one letter was received.

COMMENT: One commenter urges the State Board of Education (Board) to permit districts to use approved data processing registers, as opposed to the standard school register established in N.J.A.C. 6:20-1.1(b).

RESPONSE: School districts are already permitted to use data processing registers instead of manual school registers. It is unnecessary to include this provision in these rules.

The Department prepares and distributes annually a school register for recording pupil attendance. The manner in which this data must be collected is not specified, therefore allowing districts with data processing capability to duplicate the register for this purpose.

COMMENT: The same commenter recommends changing language in N.J.A.C. 6:20-1.2(b) to eliminate the possibility of students appearing in two registers.

RESPONSE: The rule is clear that students may not be enrolled in two registers. N.J.A.C. 6:20-1.2(b) clearly stipulates that "no pupil attending a school operated by a district board of education shall be enrolled in more than one school register."

COMMENT: Two commenters oppose the monthly certification and procedures regarding line account and fund overexpenditures which are contained in N.J.A.C. 6:20-2.13(d) and (e) and 2A.11(d) and (e).

RESPONSE: The "early warning system" was developed in response to a query from a State Board member concerning the effectiveness of existing regulations in light of reported fund overexpenditures.

The amendments formalize in writing the established monthly reporting and review procedures to ensure compliance through a proactive monthly certification process which must be duly noted in the minutes.

COMMENT: One commenter suggests that a definition section be added to the rules.

RESPONSE: Definitive explanations specific to New Jersey are contained in statute and in a series of publications on the New Jersey school district financial accounting system including the audit program and directions manual. Because the definitions are developed by the governmental accounting standards board as well as the Federal government, these definitions are subject to change based on evolving developments on school finance issues in the nation, not just New Jersey; therefore defining these terms in the New Jersey Administrative Code would make them inflexible to change as it arises. The publishing of these definitions in DOE bulletins is a more efficient manner to remain current of national standards.

COMMENT: The same commenter indicated that the NJEA only permits the withdrawal of authorization to deduct dues on two specified dates and not at an individual's discretion as indicated in N.J.A.C. 6:20-2.9.

RESPONSE: This rule was broadly constructed to recognize all employee organizations. A specific organization agreement would override any individual request inconsistent with the agreement.

COMMENT: The same commenter suggests that local controls being employed on budgetary accounts which exceed the minimum requirements need not be formalized in local board policy as required by N.J.A.C. 6:20-2A.11(a).

RESPONSE: The Department believes that boards opting to expand the level of budgetary detail beyond the minimum requirements should be allowed flexibility in establishing associated controls but that such controls should be documented in formal board policy. Generally accepted auditing standards require the independent auditor to express an opinion on the board's internal control system in the annual audit report. Such an opinion would be limited if no written policy was available.

COMMENT: One commenter urges that the actual cost per pupil as contained in N.J.A.C. 6:20-3.1(b) be certified by June 30 following the audited year.

RESPONSE: The Department is working to streamline the data collection process which will reduce the time needed to certify actual costs. This should enable the Department to complete the process by June 30 each year. It is not necessary to put a notification date into regulation.

COMMENT: The same commenter suggests changing the deadline to December 1 from December 15, as established in N.J.A.C. 6:20-3.1(d)2, for sending districts to notify receiving districts of the estimated number of pupils to be sent.

RESPONSE: The Department agrees that this technical change should be made; the change was not suggested in time for inclusion in the adoption of this rule; therefore the Division of Finance will incorporate it into separate rulemaking currently under discussion by the State Board.

COMMENT: The same commenter suggests that N.J.A.C. 6:20-6.4 be changed to allow district boards of education to establish controls for the receipt and inventory of textbooks within the district or at the non-public school.

RESPONSE: The Department disagrees with this suggestion because it is contrary to the intent of the law, which stipulates that the receipt of textbooks from the vendor and inventory of such textbooks is the responsibility of the local education agency only and not nonpublic schools.

COMMENT: The same commenter recommends a listing of examples of extraordinary unspecifiable services be contained in N.J.A.C. 6:20-8.1 because the concept has numerous problems in applications.

RESPONSE: The rule at N.J.A.C. 6:20-8.1(a) is very clear in its definition of extraordinary unspecifiable services. It would not be appropriate to include examples of such services because there are many types of services which fall under this definition. Any list of examples could easily be perceived as an exclusive list creating unnecessary confusion.

COMMENT: One commenter recommends that the original proposal of the private schools for the handicapped tuition rules (N.J.A.C. 6:20-4) be reinstated for adoption with all proposed amendments.

RESPONSE: The "original proposal" was a draft which was relegated to a subcommittee. After review and modification to clarify sections of the draft, it is being considered by the State Board for proposal with minor changes.

Full text of the readoption may be found in the New Jersey Administrative Code at N.J.A.C. 6:20.

Full text of the adopted amendments follows.

6:20-1.1 School register

(a) The Commissioner shall prepare and distribute annually a school register which shall be known as the New Jersey School Register, for recording pupil attendance in all public schools of the State operated by district boards of education, except adult high schools.

(b) (No change.)

(c) Separate school registers shall be kept for pupils attending a.m. kindergarten, p.m. kindergarten, full-day kindergarten, grades 1 through 6, grades 7 and 8, grades 9 through 12, each pre-school handicapped class, each handicapped class, shared-time classes for regular pupils, shared-time classes for handicapped pupils, full-time bilingual education programs and vocational day programs, and summer schools operated by district boards of education.

(d) The attendance record of all pupils furnished individual instruction or training shall be recorded in a separate official record of home instruction provided by the district board of education.

Pupils on roll in home instruction shall not be regarded as enrolled for purposes of average daily enrollment and average daily attendance.

6:20-1.2 School enrollment

(a) The enrollment in a class, a school or a school district shall be the total number of original entries in any such unit during a school year. The total number of original entries in all the classes and schools of a school district shall constitute the school enrollment for that district board of education during any school year.

(b) No pupil attending a school operated by a district board of education shall be enrolled in more than one school register in any school district during a school year. All pupils shall be enrolled as of the first day of attendance for that year.

(c) No pupil shall be enrolled in a school register until the pupil has reached the following legal school age:

1. Kindergarten—over four years and less than six years;
2. Day school—over five years;
3. Pre-school handicapped—over three years and less than five years.

(d) (No change.)

(e) The average daily enrollment in a school district for a school year shall be the sum of the days present and absent of all enrolled pupils when schools were in session during the year, divided by the number of days schools were actually in session. The average daily enrollment for the classes or schools of a district having varying lengths of terms shall be the sum of the average daily enrollments obtained for the individual classes or schools.

(f) The average daily attendance in a school district for a school year shall be the sum of the days present of all enrolled pupils when schools were in session during the year, divided by the number of days schools were actually in session. The average daily attendance for the classes or schools of a district having varying lengths of terms shall be the sum of the average daily attendance obtained for the individual classes or schools.

6:20-1.3 School attendance

(a)-(c) (No change.)

(d) A day of attendance shall be one in which a pupil is present for the full day under the guidance and direction of a teacher while school is in session. Whenever overcrowded conditions make it necessary to hold two separate sessions with a different group of pupils in each session a pupil attending for all of either session shall be regarded as having attended for the full day. An excused absence for any reason shall not be counted as a day of attendance in the school register.

(e) (No change.)

(f) (No change in text.)

(g) No pupil shall be recorded as present unless the school is in session and the pupil or pupils so recorded are under the guidance and direction of a teacher in the teaching process.

(h) (No change in text.)

(i) A pupil shall be recorded as either present, absent, or excused for religious observance, every day the school is in session after the pupil enters until the date the pupil is transferred to another school, transferred to an individual home instruction record, or officially leaves the school system.

(j) (No change in text.)

(k) The mere presence of a pupil at roll call shall not be regarded as sufficient attendance for compliance with these rules. In a school which is in session during both the forenoon and the afternoon, a pupil shall be present at least one hour during both the forenoon and the afternoon in order to be recorded as present for the full day. In a school which is in session during either the forenoon or the afternoon, a pupil shall be present at least two hours in the session in order to be recorded as present for the full day.

6:20-2.1 Prescribed system of single entry bookkeeping

(a)-(c) (No change.)

(d) This subchapter shall expire on July 1, 1993 upon implementation of the double entry, GAAP accounting rules contained in N.J.A.C. 6:20-2A pursuant to N.J.S.A. 18A:4-14.1.

6:20-2.5 Accounting directions

The Commissioner shall prepare directions to be used by school officials in keeping the bookkeeping and accounting system in this subchapter and shall from time to time prepare, publish and distribute handbooks, materials or bulletins for the guidance of school officials.

6:20-2.7 Bookkeeping and accounting forms

The Commissioner shall prepare and distribute the necessary forms for the bookkeeping and accounting system except to those district boards of education which utilize mechanical or electronic data processing bookkeeping systems.

6:20-2.8 Mechanical bookkeeping systems

District boards of education which contract for electronic data processing bookkeeping services shall annually have an audit prepared or obtain a copy of an audit of the internal controls of the service company or agency as prescribed by Statement of Auditing Standards No. 44 of the American Institute of Certified Public Accountants and maintain a copy of such audit on file.

6:20-2.13 Overexpenditure of funds

(a)-(c) (No change.)

(d) A district board of education shall obtain a certification from the district board of education secretary each month that no line item account or program category account has been overexpended in violation of (a) above. If a violation has occurred, the district board of education shall by resolution either transfer amounts among line items and/or from the free balance or direct the district board of education secretary or the chief school administrator, as appropriate, to transfer amounts among line items and/or from the free balance to eliminate the line item account deficit(s). If the latter option is selected, the appropriate official shall provide a detailed report of the amounts transferred into and out of the affected line item account(s) or free balance for the board's ratification at the next regularly scheduled meeting. As applicable, the secretary's certification or a detailed account of all transfers and the board's ratification, when this option is selected, shall be reflected in the minutes of the board. All transfers shall be subject to the restrictions contained in N.J.S.A. 18A:22-8.1 and 18A:22-8.2.

(e) A district board of education, after review of the secretary's monthly financial report (appropriations section) and upon consultation with the appropriate district officials, shall certify in the minutes of the board each month that no major account or fund has been overexpended in violation of (b) above and that sufficient funds are available to meet the district's financial obligations for the remainder of the fiscal year. If the board is unable to make such a certification, the board shall direct the chief school administrator to initiate the steps outlined in (b) above and such directive shall be reflected in the minutes of the board.

Recodify existing (d)-(f) as (f)-(h) (No change in text.)

6:20-2A.1 Prescribed system of double entry bookkeeping and GAAP accounting

(a)-(b) (No change.)

(c) All school districts shall conform to the requirements of this subchapter on July 1, 1993 pursuant to N.J.S.A. 18A:4-14.1.

6:20-2A.2 Summary statement of principles

(a)-(h) (No change.)

(i) An annual budget(s) shall be adopted by each district board of education and shall be included in the minutes of the board.

1.-2. (No change in text.)

3. A district board of education shall take appropriate action, as necessary, to maintain a "balanced budget", that is, one in which budgeted anticipated revenues and fund balance equal budgeted appropriations.

i. (No change.)

(j)-(n) (No change.)

6:20-2A.4 Accounting and reporting directives

The Commissioner shall prepare accounting and reporting directives to be used by school officials in keeping the double entry bookkeeping and accounting system mandated in this subchapter and

shall from time to time prepare, publish and distribute handbooks, materials or bulletins for the guidance of school officials.

6:20-2A.5 Supplies and equipment

(a) Criteria to distinguish between supplies and equipment for accounting purposes as prescribed by GAAP pursuant to N.J.A.C. 6:20-2A.1 and contained in the Financial Accounting for Local and State School Systems (presently referred to as Handbook 2R2) which is established by the National Center for Education Statistics, is herein adopted by reference and on file and may be reviewed at the Office of Administrative Law, Quakerbridge Plaza, Building 9, CN 049, Trenton, New Jersey and the Department of Education, 225 West State Street, CN 500, Trenton, New Jersey.

(b)-(e) (No change.)

6:20-2A.6 Mechanical bookkeeping systems

District boards of education which contract for electronic data processing bookkeeping services shall annually have an audit prepared or obtain a copy of an audit of the internal controls of the service company or agency as prescribed by Statement of Auditing Standards No. 44 of the American Institute of Certified Public Accountants and maintain a copy of such audit on file.

6:20-2A.11 Overexpenditure of funds

(a)-(c) (No change.)

(d) A district board of education shall obtain a certification from the district board of education secretary each month that no line item account has encumbrances and expenditures which in total exceed the line item appropriation in violation of (a) above. If a violation has occurred, the district board of education shall by resolution either transfer amounts among line items and/or from free balance or direct the district board of education secretary or the chief school administrator, as appropriate, to transfer amounts among line items and/or from free balance to eliminate the line item account deficit(s). If the latter option is selected, the appropriate official shall provide a detailed report of the amounts transferred into and out of the affected line item account(s) or free balance for the board's ratification at the next regularly scheduled meeting. As applicable, the secretary's certification or a detailed account of all transfers and the board's ratification, when this option is selected, shall be reflected in the minutes of the board. All transfers shall be subject to the restrictions contained in N.J.S.A. 18A:22-8.1 and 18A:22-8.2.

(e) A district board of education, after review of the secretary's monthly financial report (appropriations section) and upon consultation with the appropriate district officials, shall certify in the minutes of the board each month that no major account or fund has been overexpended in violation of (b) above and that sufficient funds are available to meet the district's financial obligations for the remainder of the fiscal year. If the board is unable to make such a certification, the board shall direct the chief school administrator to initiate the steps outlined in (b) above and such directive shall be reflected in the minutes of the board.

Recodify existing (d)-(f) as (f)-(h) (No change in text.)

6:20-3.1 Method of determining tuition rates

(a) (No change.)

(b) The Commissioner shall certify the "actual cost per pupil" for each tuition category for a given year for each receiving district board of education based upon either:

1. An optional report submitted annually by the receiving district board of education indicating the actual amounts expended for each applicable item in the program for which the tuition rate is required, according to the prescribed bookkeeping and accounting system; or

2. A report prepared annually by the Commissioner for each receiving district board of education in accordance with (d) below.

(c) Once having determined to submit the optional report annually to the Commissioner pursuant to (b)1 above a receiving district may not have the Commissioner certify the "actual cost per pupil" pursuant to (b)2 above without the approval of the Commissioner. A receiving district requesting a change from the optional report must submit a written request to the Commissioner. The request must indicate the reason(s) for the change.

(d) The share of each item of expenditure for each program shall be determined on a pro rata basis in accordance with the following ratios:

1. Administration: Ratio of number of teachers in each program to total number of teachers in the system.

2. Instruction:

i. Principals' salaries: Ratio of number of teachers in each program to total number of teachers in the system;

ii. Supervisors of instruction: Ratio of number of teachers in each program to total number of teachers in the system;

iii. (No change.)

iv. Other instructional staff, secretarial and clerical assistants, and other salaries for instruction: Ratio of average daily enrollment in each program to average daily enrollment for all programs;

v. Textbooks, school library and audio-visual materials, teaching supplies, and other expenses: Ratio of average daily enrollment in each program to average daily enrollment for all programs.

3. Attendance and health services: Ratio of average daily enrollment in each program to average daily enrollment for all programs.

4. Transportation curricular activities: Ratio of average daily enrollment in each program to average daily enrollment for all programs. Transportation salaries and other expenses shall be excluded.

5. Operation, salaries and all other costs: Ratio of square feet of floor space used by each program to total floor space used for all programs. Such floor space shall not include offices, boiler rooms, corridors or other rooms not used by pupils. Whenever a room shall be used for two or more programs, such square footage shall be prorated as to time devoted to each program.

6. Maintenance, salaries and all other costs: Ratio of square feet of floor space used by each program to average daily enrollment for all programs.

7. Fixed charges: Ratio of average daily enrollment in each program to average daily enrollment for all programs. For rental on a site or school building acquired by a lease purchase agreement pursuant to N.J.S.A. 18A:20-4.2, only the portion of the rental which is interest shall be included based upon the ratio of square feet of floor space used by each program for which such site or school building is used to total floor space used for all programs.

8. (No change.)

9. Food services, salaries and expenses: Ratio of average daily enrollment in each program to average daily enrollment for all programs.

10. Student body activities, salaries and expenses shall be on an actual basis.

11. (No change.)

12. Building use charge: Ratio of square feet of floor space used by each program to total floor space used for all programs multiplied by the amount which remains after the following calculation:

i. (No change.)

ii. Multiply the debt service interest charges paid on debt for the buildings in which the program is located by the ratio of State support obtained in (c)12i above;

iii. Subtract the amount obtained in (c)12ii above from the debt service interest charge paid on debt for the buildings in which the program is located.

13. (No change.)

Recodify existing (d) through (f) as (e) through (g) (No change in text.)

6:20-5.1 Law enforcement officer

(a) Each district board of education intending to employ a public school law enforcement officer shall submit an application for approval to employ school law enforcement officers to the county superintendent of schools.

(b) Such application shall set forth the reasons for the request, the name of the school or schools with enrollments for which officers are requested, the hours during which protection is required, a job description, the salary range to be used, the qualifications or training required, and the number of officers to be assigned to each school.

(c) If the district board of education is also requesting State aid, the district board of education shall file the name or names of the

law enforcement officer or officers, the school assignment or assignments and the wages or salaries paid.

(d) The county superintendent of schools shall review and approve the application from the district board of education if there is a need for such law enforcement officer or officers. The approved application shall be forwarded to the Commissioner of Education.

(e) The Commissioner of Education shall review and approve the application if the appointment of such law enforcement officer or officers is necessary and may authorize a State aid reimbursement within the limits of available appropriations.

(f) If the district board of education has requested State aid reimbursement such reimbursement shall not exceed 75 percent of the cost.

(g)-(h) (No change.)

(i) All appointments of law enforcement officers shall be made subject to the provisions of N.J.S.A. 11A:1-1 et seq.

6:20-5.3 Method of determining the district of residence

(a) The district of residence for school funding purposes shall be determined according to the following criteria:

1. The "present district of residence" of a child in a residential State facility defined in N.J.S.A. 18A:7A-3 and referred to in paragraph one of N.J.S.A. 18A:7B-12(b) shall mean the New Jersey district of residence of the child's parent(s) or guardian(s) as of the last school day of September.

2.-3. (No change.)

(b)-(f) (No change.)

(g) As prescribed by P.L. 1989, c.290 (N.J.S.A. 18A:7B-12), the "district of residence" for a homeless child whose parent(s) or guardian(s) temporarily moves from one school district to another shall be the district in which the parent(s) or guardian(s) last resided prior to becoming homeless. This district shall be designated as the district of residence for as long as the parent(s) or guardian(s) remains homeless.

6:20-5.5 Public school asbestos removal and encapsulation State aid

(a) (No change.)

(b) A district board of education shall only be reimbursed under the provisions of the "State School Aid Act for Asbestos" for expenditures actually incurred. State aid reimbursements for projects currently planned, undertaken and substantially completed shall be adjusted once actual expenditures and the State aid received under any other law based upon the actual expenditures are known. Adjustments shall only be made to the extent State aid funds are available.

(c)-(h) (No change.)

(i) A district board of education receiving a State aid entitlement for asbestos removal or encapsulation projects currently planned, undertaken and substantially completed, shall complete all work on the asbestos removal or encapsulation project within two years from the date the entitlement is approved. State aid funds shall not be paid when there is noncompliance with this section.

6:20-5.6 Teaching staff member minimum salary State aid

(a) A district board of education shall adopt a salary schedule(s) for full-time teaching staff members which provides that no step on the salary schedule(s) is lower than \$18,500 regardless of funding source.

(b) (No change.)

(c) The base salary for State aid shall be determined as follows:
1. (No change.)

Recodify existing 3.-4. as 2.-3. (No change in text.)

(d) (No change.)

(e) Every district board of education shall submit to the Division of Finance the salary schedule(s) prescribed for all teaching staff members for each school year.

(f) A district board of education shall not transfer out of any line item account or program category any funds replaced by State aid received pursuant to the Teacher Quality Employment Act.

(g) For the purpose of (f) above, a district board of education shall determine the amount of funds replaced by State aid as follows:

1.-2. (No change.)

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3. Subtract the amount obtained in (g)1 and 2 above from \$18,500. In the event the amount thus obtained is negative, the amount of funds replaced by State aid shall be zero.

(h) Any part of the funds replaced by State aid as determined in (g) above which remains unexpended at the completion of any school year, shall be held as a special balance appropriated which shall only be used in subsequent school years for the payment of full-time teaching staff member salaries for duties which are part of the teaching staff members' regular contractual responsibilities.

(i) (No change in text.)

6:20-5.7 Nonpublic school asbestos removal and encapsulation State aid

(a) For the purpose of the State aid program for asbestos removal and encapsulation for nonpublic schools, the following words and terms shall have the following meanings, unless the context indicates otherwise:

"Completed project" means a project on which all of the work has been finished and for which all of the cost of the project has been incurred.

"Currently planned project" means a project for which no funds have been expended and no work has been undertaken.

"Project undertaken" means a project on which work was begun which is not substantially completed.

"Substantially completed project" means a project on which work has begun and for which more than 50 percent of the work is completed.

(b)-(l) (No change.)

(m) A nonpublic school receiving a State aid entitlement for asbestos removal or encapsulation projects currently planned, undertaken and substantially completed shall complete all work on the asbestos removal or encapsulation project within two years from the date the entitlement is approved. State aid funds shall not be paid when there is noncompliance with this section.

6:20-6.3 Individual requests

(a) Individual written requests signed by the parent(s) or legal guardian(s) of nonpublic school pupils for the loan of textbooks shall be addressed to the district board of education in which the nonpublic school is located.

(b)-(d) (No change.)

(e) Pupils attending public schools shall not be required to submit such requests.

6:20-6.4 Ownership and storage of textbooks

(a) (No change.)

(b) The district board of education shall be responsible for the receipt of the textbooks from the vendor and inventory of such textbooks.

(c) (No change.)

6:20-6.5 Accounting entries

(a) (No change.)

(b) The cost of textbooks for pupils enrolled in the public schools shall be entered in the general current expense fund in the account designated in the minimum chart of accounts.

(c) The cost of textbooks for nonpublic school pupils shall be entered in the special revenue fund in the account designated in the minimum chart of accounts.

(d) State aid received by the district board of education pursuant to N.J.S.A. 18A:58-37.1 et seq. shall be recorded separately in the special revenue fund as State aid.

6:20-8.1 Restricting the avoidance of competitive bidding for extraordinary, unspecifiable services

(a) Extraordinary, unspecifiable services (hereinafter referred to as "EUS") are those services which are specialized and qualitative in nature requiring expertise, extensive training and proven reputation in the field of endeavor.

(b) Any purchase, contract or agreement of the character described in N.J.S.A. 18A:18A-4, may be made, negotiated or awarded by a district board of education by resolution at a public meeting without public advertising for bids and bidding if the subject matter

thereof consists of EUS. This exception shall be construed narrowly in favor of open competitive bidding where possible and in each instance of such exception, the district board of education is required to state the supporting reasons for its action in the resolution awarding the contract. The use of such exception shall be further limited by the following conditions:

1. The assertion that the service can only be provided by a single contractor ("sole source") shall not be sufficient alone to justify avoidance of competitive bidding as an EUS;

2.-4. (No change.)

5. Services rendered as EUS must generally be characterized as not being of a continuous ongoing nature. Services which are continued or regularly repetitive shall be subject to a presumption that specifications can be written to describe what has been done. Where this is not the case, the district board of education must specifically address this question;

6.-9. (No change.)

6:20-8.2 Certain leases of equipment and service agreements beyond the fiscal year

(a) Leases (which term includes rental agreements) and service agreements for automobiles, motor vehicles, electronic communications equipment and machinery and equipment of every nature and kind may not be renewed or extended beyond five years. Rebidding after five years should not require that the equipment be in the service of the district board of education.

(b) Such leases and service agreements may be written for any period of time not to exceed five years, or for shorter periods with provision for renewal at the option of the district board of education provided that such renewal shall not cause the cumulative length to exceed five years. Such renewals may be authorized only by resolution of the district board of education.

(c) In addition to providing for the use of equipment during the period of the lease, the lease may provide for rental payments to be credited towards the purchase price for purpose of acquisition of the equipment if the district board of education, at its sole option, decides to buy the equipment, and said option was included in the original specifications and in the original contract. Leases may not, however, provide for the acquisition of ownership at the beginning of the lease term, with installment payments to be made thereafter.

(d)-(f) (No change.)

6:20-8.3 Change orders and open-end contracts

(a) Definitions include the following:

1. (No change.)

2. Open-end contracts are contracts for which price bids were solicited on a unit basis because exact quantities needed were not known at the time bids were sought. Such contracts, when advertised and awarded, must include a maximum number of units that can be ordered for each item under the contract. Orders placed under such open-end contracts shall not be considered as change orders for purposes of this rule, but shall be subject to the requirements specified in (f) below.

(b) (No change.)

(c) Professional and EUS contract change orders shall be governed by the following:

1.-4. (No change.)

(d)-(h) (No change.)

6:20-8.4 Bonds

(a) Types of bonds include:

1. (No change in text.)

2. (No change in text.)

3. (No change in text.)

(b) (No change in text.)

(a)

STATE BOARD OF EDUCATION**School Facility Planning Service****Readoption with Amendments: N.J.A.C. 6:22**

Proposed: April 16, 1990 at 22 N.J.R. 1253(a).

Adopted: July 5, 1990 by John Ellis, Commissioner, Department of Education; Secretary, State Board of Education.

Filed: July 16, 1990 as R.1990, d.394, with technical and

substantive changes not requiring additional public notice and comment (see N.J.A.C. 1:30-4.3).

Authority: N.J.S.A. 18A:1-1, 18A:4-15, 18A:18A-16, 18A:18A-18, 18A:18A-39, 18A:20-36, 18A:33-1 et seq. and 52:27D-130.

Effective Date: July 16, 1990, Readoption; August 6, 1990, Amendments.

Expiration Date: July 16, 1995.

Summary of Public Comments and Agency Responses:

One individual spoke at the Public Testimony Session on April 18, 1990 and four letters were received with comments.

COMMENT: One commenter stated that the Regulatory Flexibility Statement does not address code changes other than submission of plans which may impact on small businesses.

RESPONSE: The only impact on small businesses which results from the amendments to N.J.A.C. 6:22 are within the areas of plan submission and approval. Compliance with these rules requiring plan approval is addressed in the Regulatory Flexibility Statement. Subchapter 5, Application of the Uniform Construction Code, and Subchapter 6, Substandard School Facilities, include minor changes to these sections of code and have minimal impact on small businesses.

COMMENT: The same commenter indicated that room size standards noted in N.J.A.C. 6:22-5.5 are arbitrary and need to be revised or abandoned. Special Education requires individualization and flexibility.

RESPONSE: School space sizes are not arbitrary but are based on requirements necessary for a thorough and efficient education. Capacity sizes for private schools for the handicapped are identical to the requirements for public schools, including those with special education classes. Room sizes may be varied for special education environments when necessary.

COMMENT: The same commenter suggested that the items on the "checklist" required in N.J.A.C. 6:22-1.6(a) be spelled out in the code.

RESPONSE: The Department of Education disagrees. The "checklist," which is an administrative procedure, is being required to assist both parties in providing an accurate submission. The checklist should not be incorporated into N.J.A.C. 6:22 since it is a list of items which should be included in a complete plan package and simply reflects requirements that already exist as part of the rules in this chapter.

COMMENT: The same commenter claimed that private schools for the handicapped are excluded from leasing municipally-owned land in N.J.A.C. 6:22-2.1(e). Private schools should have the same rights as public schools.

RESPONSE: The Department of Education agrees. This was a typographical error and N.J.A.C. 6:22-4.1(d) was revised to include a reference to N.J.A.C. 6:22-2.1(e) which allows private schools for the handicapped to lease municipally-owned land.

COMMENT: The same commenter noted that N.J.A.C. 6:22-5.4(b) requires all school buildings to include laboratory and library services although these spaces may not be needed for special education populations.

RESPONSE: The Department disagrees. These are general design and construction requirements which apply to all schools. These requirements may be varied based on the individual situation.

COMMENT: The same commenter objected to the paperwork process required if a school chooses to provide toilet rooms outside of the classroom for early intervention, pre-kindergarten and kindergarten programs; and to the annual resubmission of the form which certifies how the child will be supervised when traveling to and from the facilities.

RESPONSE: Toilet rooms were previously required inside these classrooms. To provide more flexibility, the Department is providing an option which allows toilet rooms to be outside of the classroom. The school district must now certify how the child will be supervised while

traveling to and from the alternate facilities. This requirement is necessary to assure the safety of the school children at all times. Annual resubmission is necessary to confirm continued compliance with this section of the code.

COMMENT: The same commenter indicated that retrospective square footage application continues to be generally applied to the private school in a different standard as applied to the public schools.

RESPONSE: The Department of Education disagrees. Public schools previously were required to comply with design guidelines; however, the private schools for the handicapped did not have to meet these design guidelines. Private schools for the handicapped will have a choice to comply with either the existing design rules in N.J.A.C. 6:22-2.5(b) or the design guidelines previously required for the public schools. They must meet one of these sets of standards.

COMMENT: Several commenters suggested that time limits for plan review be placed on the Department of Education, with automatic approval after a certain period of time. They also suggested the option of review by other licensed agencies.

RESPONSE: The Department disagrees because there are too many variables involved in plan review to set specific timelines. Automatic approval could not provide for safety to the building occupants. Also, P.L. 1990, c.23 allows districts to have plans reviewed for U.C.C. compliance by a local code enforcing agency. The rule will be amended to reflect this local option for plan review, in a future rulemaking.

COMMENT: Another commenter indicated that the phrase "in effect on the date of plan submission" may be more stringent than the U.C.C., which allows for a six-month grace period after submission for approval.

RESPONSE: The Department of Education also provides for the same six-month grace period and is no more stringent than the U.C.C.

COMMENT: The same commenter noted that under the National Electrical Code all receptacles in garages require ground-fault circuit interruption and the code should not be limited to receptacles within a six-foot radius of sinks.

RESPONSE: This was a technical error and N.J.A.C. 6:22-5.4 was revised upon adoption to remove the reference to garages and thereby require all receptacles in garages to be circuit interrupted.

COMMENT: The same commenter indicated that terms such as trailers, vans, self-propelled vans and mobile units are not synonymous with premanufactured construction and should be deleted from the code.

RESPONSE: The Department of Education disagrees. These terms, which are all recognized as premanufactured educational units, are used as examples of premanufactured units in an educational setting for ease of understanding application of the code.

COMMENT: The same commenter prefers the term local enforcing agency rather than local building official.

RESPONSE: The Department agrees that local enforcing agency is the preferred term and has revised the section to reflect this change.

COMMENT: This commenter also noted that several requirements of N.J.A.C. 6:22 are more stringent than the U.C.C. (that is, means of egress from trailers, handrail requirements, automatic fire detection systems, etc.).

RESPONSE: N.J.A.C. 6:22 is more stringent than the U.C.C. because these facilities are being used by children and require special measures to assure their safety.

COMMENT: The same commenter also stated that wheel chocks are an inadequate substitute for tie downs.

RESPONSE: The Department believes that wheel chocks are acceptable because a van or other mobile unit is not a structure; nor is it subject to the U.C.C.

COMMENT: This commenter also indicated that the U.C.C. requires all new construction to conform to the barrier free subcode, and that trailers used in educational settings should also conform.

RESPONSE: Since premanufactured trailers are for two-year emergency temporary use, the Department of Education only requires barrier free access to units which are to be used by the physically handicapped.

COMMENT: The same commenter noted that trailer ceiling heights in N.J.A.C. 6:22-5.4 should be corrected for compliance with the BOCA code.

RESPONSE: This was a technical error. The Department of Education agrees and has revised N.J.A.C. 6:22-5.4 to comply with BOCA.

COMMENT: Another commenter expressed concern that the term "substandard" may be misconceived as a substandard facility in terms of construction as well as academics. He suggested the use of a more positive term to describe these facilities.

RESPONSE: The Department disagrees. "Substandard" is the term used in N.J.S.A. 18A:33-1.1. To use a term other than "substandard" may be more positive but would be inappropriate.

COMMENT: Another commenter suggested that the staff of the county offices have a larger role in the process of reviewing and approving facility projects since many projects result from the findings of pre-monitoring visits, monitoring deficiencies or a Level II monitoring plan.

RESPONSE: Staff of the county offices are currently involved in facilities reviews to the extent in which they are technically trained. They can monitor facilities based on a "checklist;" however, a thorough review of plans for code conformance requires the expertise of licensed code officials as required by statute.

COMMENT: The same commenter suggested that the minimum square footage for each type of educational space be determined by the State Department of Education and not the BOCA code.

RESPONSE: The Department of Education agrees. These requirements are established by the Department of Education and are in N.J.A.C. 6:22-5.5 of the School Facility Service rules, which is being readopted.

COMMENT: Another commenter suggested that fees received by the Department for the review of facility projects should not be affected by the hiring freeze and should be used to acquire additional staff.

RESPONSE: The Department of Education agrees. Requests for hiring additional fee-based staff within the Bureau of Facility Planning Services have been submitted and approved by the Office of Management and Budget (OMB) within the Department of Treasury.

COMMENT: The same commenter suggested that a quick response unit be developed to expedite the review and approval of small projects under \$250,000.

RESPONSE: The Bureau of Facility Planning Services had previously implemented this idea but a quick response unit created a large backlog of small projects and was therefore disbanded.

COMMENT: The same commenter suggested that all applications be reviewed on a first-come, first-served basis.

RESPONSE: The Department currently reviews projects on a first-come, first-served basis.

COMMENT: This same commenter stated that submissions to other state agencies such as the Department of Environmental Protection should be allowed at the schematic level. Other State approvals should not delay submission to the Bureau of Facility Planning Services.

RESPONSE: The Department of Education does not prohibit the submission to another agency at the schematic level. Approvals of other State agencies are not required prior to submission to the Department of Education for review.

COMMENT: This commenter also suggests that the State prequalify contractors.

RESPONSE: The Department of Education requires all contractors to be prequalified by the Division of Building and Construction within the Department of Treasury.

Summary of Changes upon Adoption:

At N.J.A.C. 6:22-1.4(b), the Department changed the word "movable", which appears twice in this section, to "moveable" in order to maintain consistency throughout the text.

At N.J.A.C. 6:22-1.4(b)1, the Department changed the comma after the word "equipment" to a semi-colon.

At N.J.A.C. 6:22-1.5(a), the Department added the word "licensed" before the word engineer because it was inadvertently omitted at proposal level. The word "movable" is changed to "moveable" to provide consistency throughout the text.

N.J.A.C. 6:22-1.5(a)5, 6 and 7 were inadvertently omitted from the proposal at 22 N.J.R. 1253(a) April 16, 1990 New Jersey Register and have been placed back into the document. It should be noted that the provisions in these sections are administrative in nature, requiring documentation in a plan of the projected heat, lighting and sanitary systems, etc. These items are generally part of any schematic plan, and including them in the code at adoption does not expand the scope of this rule or impose any additional costs.

At N.J.A.C. 6:22-1.7(c), the Department changed the word "is" in the last sentence to "are" to be grammatically correct.

At N.J.A.C. 6:22-2.1(b), the Department changed the word "Facilities" to "Facility" in the first sentence.

At N.J.A.C. 6:22-2.1(b)10, the Department changed the citation from N.J.S.A. 18A:18.49 to N.J.S.A. 18A:18-49 to correct a typographical error in the published proposal.

At N.J.A.C. 6:22-2.1(d)1vi, the Department deleted an unnecessary comma.

At N.J.A.C. 6:22-4.1(d), a typographical error resulted in the exclusion of private schools for the handicapped being allowed to lease municipally-owned land. The Department corrected this section to read as follows: Acquisition of land for a school site shall be according to N.J.A.C. 6:22-2.1(b) through *(d)**(e)*.

At N.J.A.C. 6:22-5.2, to correct a typographical error, the Department revised the definition of "change-of-use" to include reference to the rules in "this chapter." "Movable" was changed to "moveable" for consistency throughout the text.

At N.J.A.C. 6:22-5.3(a)5iii, the Department included a semi-colon after the word "devices" to provide needed punctuation.

At N.J.A.C. 6:22-5.4(b)1, the wording and punctuation of this section as proposed was ambiguous and confusing. Without changing the requirements of the section, the Department reworded the section to ensure clarity.

At N.J.A.C. 6:22-5.4(c)1i, the Department deleted hyphens from "wall-to-wall" to be consistent with other references in the text.

At N.J.A.C. 6:22-5.4(f)6, to correct an error, the Department changed this section to conform to the National Electric Code which requires all receptacles in garages to be ground-fault circuit interruption. The rules shall not be limited to receptacles within a six-foot radius of sinks.

At N.J.A.C. 6:22-5.4(i)1, in response to comment and to use the correct terminology, the Department revised this section to refer to the "enforcing agency" instead of "building code official".

At N.J.A.C. 6:22-5.4(i)1vii, the trailer ceiling heights were out of compliance with the BOCA code; the Department therefore revised this section to bring it into compliance.

At N.J.A.C. 6:22-5.4(i)2, the Department changed the word "are" to "is" in the first sentence to be grammatically correct.

At N.J.A.C. 6:22-5.4(i)7, the Department changed Chapter 1, Chapters 192 and 193, L. 1977 to P.L. 1977, c.1, 192 and 193 to meet OAL codification standards.

At N.J.A.C. 6:22-5.5(f)1, the Department corrected an inaccurate cite changing N.J.A.C. 6:22-2.5(b) to N.J.A.C. 6:22-5.5(b). This was necessary due to a recodification.

Similarly, at N.J.A.C. 6:22-5.5(f)2, due to the recodification of the code, a citation was no longer accurate. Therefore, the agency changed N.J.A.C. 6:22-2.5(b) to N.J.A.C. 6:22-5.5(b).

At N.J.A.C. 6:22-8.1(b), the Department corrected the text of this paragraph by adding the words "a formal hearing," which were inadvertently omitted during the printing process.

Full text of the readoption with amendments follows (additions to proposal indicated in boldface with asterisks ***thus***; deletions from proposal indicated in brackets with asterisks ***[thus]***).

SUBCHAPTER 1. APPROVAL OF PLANS AND SPECIFICATIONS BY THE DEPARTMENT OF EDUCATION, BUREAU OF FACILITY PLANNING SERVICES

6:22-1.1 Types of building construction work requiring Department of Education review

(a) Types of building construction work requiring a review by the Department of Education are as follows:

1. New school buildings including pre-fabricated facilities;
2. An addition to an existing school building;
3. A change involving the total number of instructional spaces or the number of any one kind of instructional space;
4. A change in the dimensions (volume and/or area) of any instructional space;
5. A change of use as defined in N.J.A.C. 6:22-5.2;
6. The utilization of pre-manufactured trailers and vans; and
7. Any site or school building change or alteration for the purpose of making the site and school barrier free and accessible to handicapped persons as per N.J.A.C. 5:23 and Section 504 of the Federal Rehabilitation Act of 1973.

(b) Other construction projects that do not require a review for educational adequacy shall be submitted to the local municipal construction enforcing agency in accordance with N.J.A.C. 5:23-2.

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6:22-1.2 Educational specifications for building construction or modifications

(a) Educational specifications shall be prepared in writing detailing all the facilities considered for the construction program and shall be submitted to the Department of Education, Bureau of Facility Planning Services for approval.

(b) Estimates of dimensions and square feet for each area of new or modified construction shall be provided, together with an explanation of the proposed area utilization and relationships, and shall be signed by the president of the district board of education and chief school administrator as evidence of certification of approval by the district board of education.

(c) Educational specifications and subsequent revisions must be approved prior to the submission of plans and specifications. Incomplete educational specifications will not be accepted and shall be returned to the district board of education.

6:22-1.3 Architectural plans and specifications; general

(a) Architectural plans and specifications for the temporary and permanent construction, erection, reconstruction, alteration, conversion and renovation of public school facilities shall be submitted to the Department of Education, Bureau of Facility Planning Services.

(b) A New Jersey registered architect or licensed engineer, as prescribed by N.J.S.A. 45:4B-1 et seq. which defines the practice of architecture and engineering, shall submit the architectural plans and specifications on behalf of the district board of education.

6:22-1.4 Submission of schematic plans prior to local funding

(a) One set of schematic plans drawn to a scale of not less than 1/16 inch per foot shall be approved before funds are authorized locally via a bond referendum, lease-purchase agreement, gift or any other means of financing building construction, erection, reconstruction, alteration, conversion or renovation.

(b) Schematic plans shall be reviewed for conformance with the educational specifications and shall include layouts of the built-in and *[movable]* ***moveable*** furniture and equipment drawn to a scale of not less than 1/8 inch. A list of the built-in and movable furniture which shows the dimensions and square feet of each item for an instructional space which is typical of any kind of instructional space may be included in lieu of plans of furniture and equipment layouts.

1. The review for educational adequacy shall take into consideration the suitability of the site; size, location and number of instructional and ancillary spaces; furniture and equipment*[,]**; and provisions for the handicapped.

2. Room sizes shall meet or exceed the prescribed minimum acceptable net and gross areas as required in N.J.A.C. 6:22-5.5.

(c) Schematic plans shall be signed and sealed by a New Jersey registered architect or licensed engineer and signed by the president of the district board of education and chief school administrator.

(d) This set of plans shall be submitted to the Bureau of Facility Planning Services with a site plan whenever site work is being affected, a project cost estimate (including a construction cost estimate escalated to the mid-point of construction), a project schedule, a transmittal letter indicating plan submission to the county superintendent, and local planning board, when applicable, and a five-year long-range facility plan in accordance with N.J.A.C. 6:22-7.1, including a current five-year enrollment projection.

(e) The Director of the Office of Equal Educational Opportunity must receive a completed OEEO questionnaire, in accordance with Federal regulations, from the district and make a positive recommendation in writing to the Bureau of Facility Planning Services before schematic plans can be approved.

6:22-1.5 Submission of preliminary plans following local funding authorization

(a) One set of preliminary plans shall be submitted by a New Jersey registered architect or ***licensed*** engineer on behalf of a district board of education after funds are authorized locally. This set of plans shall include:

1. A site plan whenever site work is being affected, drawn to scale, giving overall dimensions;

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2. Floor plans, drawn at not less than 1/16 inch per foot, giving overall dimensions;

3. The location, size and present or intended use of all areas of the plans;

4. The tentative layout of built-in and ***[movable]* *moveable*** furniture and equipment drawn at a scale of not less than 1/8 inch per foot;

***5. A statement giving the general method of heating, lighting, and ventilation of all spaces;**

6. Planned locations of sanitary facilities;

7. Location of all exits;*

8. Building elevations and sections indicating the finished floor elevations and ceiling heights and their relationship to the finished outside grade; and

9. Documentation that the local district has applied to the Department of Environmental Protection for review of the methods of sewerage disposal and water supply such as a copy of the letter of transmittal.

(b) Preliminary plans shall be signed and sealed by a New Jersey registered architect or licensed engineer, and signed by the president of the district board of education and chief school administrator.

6:22-1.6 Submission of final plans

(a) When written receipt of preliminary plan approval has been received by the architect or engineer and the district board of education, one set of final plans, drawn to a scale of not less than 1/8 inch per foot, and specifications, signed and sealed by a New Jersey registered architect or licensed engineer and signed by the president of the district board of education and chief school administrator shall be submitted to the Bureau of Facility Planning Services for review and approval. This submission shall include the following:

1. A completed final application;

2. A completed fee schedule as specified in N.J.A.C. 5:23-4.20;

3. A check payable to the "Treasurer, State of New Jersey" for 20 percent of the total fee;

4. The results of soil analysis;

5. The appropriate documents indicating compliance with the energy subcode;

6. A copy of a letter requesting approval from the New Jersey Department of Agriculture regarding soil erosion control;

7. A copy of a letter requesting approval from the New Jersey Department of Environmental Protection regarding sewerage disposal, water supply, gas installations, major excavations and air contaminant control apparatus or equipment;

8. Room layouts for all typical spaces;

9. A completed "Checklist: Subcodes of the State Uniform Construction Code to Assist in the Design Completion of Public School Buildings," as provided by the Department of Education, Bureau of Facility Planning Services, signed by the architect or engineer certifying compliance and signed by the president of the district board of education and chief school administrator; and

10. A copy of letters requesting approval from all State agencies having jurisdiction over wetlands, pinelands, and waterfront development applicable to site development and public school construction.

(b) Copies of letters of approval from all other State agencies having jurisdiction over this project shall be required prior to receiving final approval from the Bureau of Facility Planning Services. Upon written receipt of final approval to the architect or engineer and to the district board of education, four sets of final plans and specifications, including a cover sheet signed by the president of the district board of education and chief school administrator, shall be submitted to the Bureau of Facility Planning Services for approval and distribution.

1. Each page of the plans and the title page of the specifications shall bear the signature and embossed seal of the architect or engineer.

2. The name, signature and embossed seal of the consulting engineers shall be placed on their own plans.

(c) The scope of the review of final plans shall include those code sections specifically identified in the "Plan Review Record" of the Building Officials and Code Administrators (BOCA) International, Incorporated, for the building, fire, mechanical and structural codes.

Plans shall also be reviewed for compliance with the barrier-free subcode N.J.A.C. 5:23-7, electrical code N.J.A.C. 5:23-3.16 and plumbing code N.J.A.C. 5:23-3.15.

6:22-1.7 Bids, construction permits and variances

(a) Bids may be advertised, received, and contracts awarded only after the receipt of final plans, specifications and written approval from the Department of Education, Bureau of Facility Planning Services.

(b) Following the Department's approval, the district board of education may sign contracts and apply to the municipal construction enforcing official for the required building permits.

(c) When there are difficulties involved in meeting the requirements of the State Uniform Construction Code, the designated and licensed construction official in the Department of Education, Bureau of Facility Planning Services may vary the rules provided the spirit and intent of the rules are observed and the public welfare and safety *~~is~~* **are** ensured.

1. Variations to the State Uniform Construction Code may be acted upon in accordance with N.J.A.C. 5:23-1.

2. Fees will be submitted for each variance request as per the fee schedule of the Bureau of Facility Planning Services in accordance with N.J.A.C. 5:23-4.20(c)4ix.

SUBCHAPTER 2. ACQUISITION AND DISPOSAL OF LAND

6:22-2.1 Approval of land acquisition for school sites

(a) (No change.)

(b) Before any action is taken to purchase or otherwise acquire or lease land, approval of the adequacy of the land from the Department of Education, Bureau of *~~Facilities~~* **Facility** Planning Services is required. To consider the approval of such land, the Director of the Bureau of Facility Planning Services shall be provided with the following:

1. A written request for approval from the district board of education, which includes a statement indicating the immediate and ultimate proposed uses of the land in terms of grade organization and potential maximum enrollment;

2. Statements from the State Department of Environmental Protection or a local or county water/sewerage agency certifying that:

i. The land can be adequately provided with the necessary water for the proposed maximum enrollment;

ii. The land can be adequately provided with the necessary and acceptable sewerage disposal system for the proposed maximum enrollment; and

iii. The land is not subject to wetlands, pinelands or the waterfront development acts.

3. A statement from a New Jersey registered architect or licensed engineer indicating that the land to be acquired is suitable for the proposed use;

4. A completed plot plan of the land to be acquired showing topographical and contour lines, all adjacent properties and access roads. The acreage and dimensions of the tract proposed for acquisition shall be included as per the application of the standards for minimum acceptable school site sizes in (c) below and on it shall be shown the intended location of the school and a layout of the locations of all other structures, play and recreation areas, athletic fields, walkways, roadways, access roads, buffer and set-back zones, and parking areas;

5-8. (No change in text.)

9. Data regarding the impact of such a facility upon racial balance within the district's public schools;

10. Recommendations of the local planning board in the municipality which has an approved master plan or portion thereof as required by N.J.S.A. 40:55D-31, *~~[18A:18.49]~~* ***18A:18-49*** and 18A:18A-16;

11. Prior approvals of other agencies such as the State Departments of Agriculture and Environmental Protection and the Pinelands Commission;

12. Documentation that available data on soil conditions have been examined by the architect or engineer; and

13. Reports by the architect or engineer of actual soil test borings and percolation tests on any site located less than one mile from a landfill.

(c) School site sizes shall be directly related to the acreage required for the structures and activities to be situated therein. Except where specifically noted, the acres shall be considered for single use. Only where specifically noted can the acres be designated for multiple use, for example, using the same acres for sports which occur at different times of the year.

(d) All school sites shall include the following:

1. Sufficient acreage for the following:

i.iii. (No change in text.)

iv. Basic multi-purpose physical education and recreation field(s) as defined by the educational specifications in N.J.A.C. 6:22-1.2;

v. (No change in text.)

vi. Public and service access roads onto the site including, where warranted*~~;~~**,* a one-way school bus road of 30 foot width and a two-way road of 36 foot width; a school bus drop off area*~~;~~.*;* and 18 foot wide posted fire lanes for fire apparatus;

vii. A 30 foot wide access around the entire building; and

viii. (No change in text.)

(e) Land owned by a board of education which does not meet the standards of this section may be supplemented by adjacent municipally owned land so long as such land is formally leased on a long-term basis to the board of education for exclusive use during school hours.

(f) If a district board of education does not have authority to acquire the land by bond referendum, an approved lease-purchase agreement or other statutory means, within 18 months from the date of approval of a school site by the Bureau, the district board of education shall re-submit the information required in (b) above for consideration and approval before any action is taken to conduct a bond referendum, or purchase, lease-purchase or otherwise acquire the site.

6:22-2.2 Approval for the disposal of land for school sites

(a) If an approved school site on which there is an operational school building is to be altered through sale, transfer or exchange of all or part of the total acreage, a written request for approval shall be made to the Department of Education, Bureau of Facility Planning Services. A copy of the request shall be sent to the county superintendent of schools who shall make recommendations to the Bureau, with a copy of the recommendations to the district board of education.

(b) Written approval or disapproval shall be given to the county superintendent with a copy to the district board of education.

SUBCHAPTER 3. SUBSTANDARD SCHOOL FACILITIES has been recodified to Subchapter 6.

SUBCHAPTER 3. ACQUISITION OF EXISTING BUILDINGS AND CLOSINGS

6:22-3.1 Approval for the acquisition of existing buildings

(a) A district board of education planning to acquire any existing building or facility through purchase, gift, lease or otherwise shall comply with all procedures and rules pertaining to the appropriation and use of capital funds as required by N.J.S.A. 18A:20-4 and 18A:20-4.2 and shall also have the building approved in accordance with the rules of this chapter which apply to the construction of a new building.

(b) Off-site facilities which are to be procured for temporary, emergency use must comply with N.J.A.C. 6:22-6 Substandard School Facilities.

6:22-3.2 Approval for the closing of a school or schools

(a) The district board of education shall provide the Department of Education, Bureau of Facility Planning Services with the following assurances that with the closing of a school or schools:

1. Sufficient school building capacity exists to house district students following such closing for each of the succeeding five years;

2-3. (No change.)

(b) A letter of approval from the Bureau is required before the closing of a school or schools.

SUBCHAPTER 4. APPROVAL OF PRIVATE SCHOOLS FOR HANDICAPPED PUPILS AND SCHOOLS FOR HANDICAPPED PUPILS OF NEW JERSEY DEPARTMENT OF HUMAN SERVICES

6:22-4.1 Requirements for Department of Education approval of private schools for handicapped pupils and schools for handicapped pupils of the New Jersey State Department of Human Services

(a) This subchapter shall govern review of facilities for private schools for handicapped pupils which are approved or seeking approval pursuant to N.J.A.C. 6:28-7 and schools for handicapped pupils operated by the Department of Human Services. Bureau of Facility Planning Services review is required for the type of work set forth in N.J.A.C. 6:22-1.1(a).

(b) Submission and review of plans and specifications will be conducted as follows:

1. Educational specifications shall be prepared and submitted as per N.J.A.C. 6:22-1.2 except that they shall be signed by designated officials of the private schools for handicapped pupils or the State Department of Human Services.

2. A New Jersey registered architect or licensed engineer as required by N.J.A.C. 5:23-2.15, shall submit the plans and specifications for the temporary and permanent construction, erection, reconstruction, alteration, conversion and renovation of facilities to the Bureau of Facility Planning Services on behalf of the private schools for handicapped pupils and the State Department of Human Services for review and subsequent approval for compliance with this chapter.

3. For review and subsequent approval for compliance with the Uniform Construction Code (U.C.C.), N.J.A.C. 5:23, plans and specifications shall be submitted by the private schools for the handicapped pupils to the local construction official of the municipality in which the facility will be constructed and by the State Department of Human Services to the Division of Building and Construction, State Department of the Treasury.

4. The plans and specifications shall be submitted to the Bureau of Facility Planning Services as per N.J.A.C. 6:22-1.3, 1.4, 1.5 and 1.6.

(c) Variances to the State Uniform Construction Code shall be made according to N.J.A.C. 5:23-2.9 through 2.13. Requests for variances to N.J.A.C. 6:22-2.1, 5.4 and 5.5 shall be in writing to the Director, Bureau of Facility Planning Services who may approve them provided the spirit and intent of the standards are observed and the need for variances is satisfactorily documented.

(d) Acquisition of land for a school site shall be according to N.J.A.C. 6:22-2.1(b) through ***[(d)]**(e)***.

(e) Disposal of land used as a school site shall be according to N.J.A.C. 6:22-2.2.

(f) (No change.)

(g) Appeals and hearings arising from action of the Bureau of Facility Planning Services shall be according to N.J.A.C. 6:22-8.

(h) Reviews of plans and specifications of facilities of private schools for handicapped pupils and schools for handicapped pupils operated by the State Department of Human Services shall be done to assure that the design adheres to:

1. School site sizes, N.J.A.C. 6:22-2.1;

2. Enhancements to Uniform Construction Code, N.J.A.C. 6:22-5.3;

3. Educational facility planning standards, N.J.A.C. 6:22-5.4(a) through (h);

4. School space sizes and capacity, N.J.A.C. 6:22-5.5; and

5. The State Uniform Construction Code, N.J.A.C. 5:23.

(i) Emergency provisions for accommodation of school pupils in substandard school facilities shall be according to N.J.A.C. 6:22-6.1.

SUBCHAPTER 5. APPLICATION OF THE UNIFORM CONSTRUCTION CODE

6:22-5.1 Model code adoption

(a) The State Board of Education hereby confirms that public school construction shall be done in accordance with the State Uniform Construction Code, hereafter referred to as the U.C.C.

1. This document is available for review at the Offices of the Bureau of Facility Planning Services, Department of Education or at the Office of Administrative Law, Trenton, New Jersey.

2. This document may be purchased from the New Jersey Department of Community Affairs, Trenton, New Jersey.

6:22-5.2 Definitions

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

“Built-in equipment” means equipment that is constructed into the building and not easily removed from its location at the time of construction or added later.

“Change-of-use” means any change from the approved educational use or educational function of a space wherein the new use would by the U.C.C. ***and this chapter*** require physical, mechanical or electrical changes. Some examples of a change-of-use are: classroom to laboratory or other specialized activity space, or storage room to classroom.

“Core facilities” means those spaces in a school building which serve directly or indirectly all or most of the students on a regular basis, such as library/ media center, auditorium, gymnasium, cafeteria or administrative offices.

“Department” means the New Jersey Department of Education, Bureau of Facility Planning Services.

“Multi-purpose” means any space that has been approved for more than one non-simultaneous use, including instruction.

“Portable or moveable equipment” means any equipment not secured to the building such as free-standing display cases and ***[movable]* *moveable*** furniture.

“Pre-manufactured, modular classroom” means a unit which is manufactured in modular sections or in pre-cut and pre-sized components which are assembled on a school site. It is designed to be a permanent facility, and is set upon a permanent foundation.

“Trailers and vans” means pre-manufactured modular units which are designed to be used at more than one location during the life of the facility. Wheels and axles are a part of the unit, and the unit shall not be set upon a permanent foundation.

“School capacity formula” means the computational formula used in computing the capacity of a school building to derive the capacity for the building as per N.J.A.C. 6:22-5.5(a)i and ii.

6:22-5.3 Enhancements to Uniform Construction Code (U.C.C.)

(a) Under the authority granted to it in P.L. 1983, c.496, the State Board of Education hereby adopts the following enhancements to the Uniform Construction Code (U.C.C.):

1. (No change.)

2. Guardrails along stair runs and landings shall be at 42 inches above the tread nosing.

3. No fuel-fired heating appliances intended to supply domestic hot water or hot water/steam/air for space heating shall be located in any occupied space except for industrial arts and vocational education shops and laboratories.

4. An electric solenoid key-operated gas shut-off switch shall be installed in all gas supply lines to all instructional rooms, laboratories, shops or other spaces where gas is used by students.

5. An automatic fire detection system shall be installed in all new buildings, and additions or renovations to existing buildings, in accordance with applicable National Fire Protection Association standards in effect on the date of plan submission. The system shall utilize:

i. Combination fixed-temperature and Rate of Rise device in all enclosed classrooms and other spaces not covered in (a)5ii below;

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- ii. (No change.)
- iii. An automatic fire suppression system and, in areas where suppression is deleted, automatic detection devices*;* or
- iv. A combination of the above three types of detection devices except that a fixed-temperature detector shall be permitted in approved locations, such as a boiler or incinerator room.

6. Manual fire alarms, in addition to BOCA requirements as amended, shall be provided in the natural path of escape from fire, near each exterior door from the corridor, kitchen, heater room and other exterior exits that are required to serve 50 or more persons. Additional manual fire alarms shall be located in the main office, stage, at each stairway entrance from a corridor or place of assembly and at all required exterior exits in each section of a place of assembly. It shall not be necessary to traverse more than 200 feet of unobstructed horizontal distance on the same floor in order to reach a fire alarm.

7. Each instructional space and room of assembly which is illuminated with the use of high intensity discharge (HID) sources, such as mercury vapor, high pressure sodium and metal halide lamps, shall also be provided with a second source of illumination to provide illumination instantly upon activation of the circuit. All high intensity discharge (HID) lamps shall be of the fail-safe type which will permanently extinguish within two minutes after the outer glass of the bulb is broken. All fixtures including fluorescents shall be provided with a glass or plastic lens to protect the lamp.

8. All school buildings shall be equipped with a mechanical air supply and exhaust ventilation system which will provide, during periods of occupancy, standard tempered outdoor air supply and mechanical exhaust at the minimum rates set forth in the BOCA Basic National Mechanical Code in effect on the date of plan submission.

6:22-5.4 Educational facility planning standards

- (a) (No change.)
- (b) General design and construction requirements are as follows:
 1. School buildings shall afford *[suitable]* accommodations for *[study;]* ***general,*** class and laboratory work*[*]; library services*[*]; ***health and physical education*[*];**,*** guidance and counseling*[*]; industrial, vocational and homemaking instruction when the curriculum requires it;]**,* administration*[*]; food services; health services;]**, **and* health services*, the suitability of which shall be pursuant to the requirements of this section.****[*]; art and music education, when the curriculum requires it; and, all other school services generally recognized in the approval of a school.]* ***In addition, when the curriculum requires it, school buildings shall afford accommodations for library services; industrial, vocational and homemaking instruction; food services; art and music education; and all other school services generally recognized in the approval of a school.***

- 2. (No change in text.)
- 3. Inner courts shall have a minimum width of 20 feet.
- 4. (No change in text.)
- 5. Power tools and machines in shops which generate dust shall be provided with dust-collecting equipment. Such equipment shall be either single or multi-use vacuum packs or a central dust collection system. Installed systems shall comply with National Fire Protection Association Standards, and New Jersey Department of Environmental Protection rules (N.J.A.C. 7:27-81).

6. The ceiling height of an academic classroom or other instructional space containing more than 300 square feet in area shall average nine feet six inches and no part of the ceiling or other obstruction shall be lower than eight feet. Instructional spaces of less than 300 square feet and areas of larger spaces devoted to clothing alcoves, storage or work space may have ceilings eight feet in height.

7. Heights of the ceiling or other obstruction in other areas shall provide a minimum clearance as listed below:

| | |
|--|---------|
| Gymnasium | 22 feet |
| Auxiliary Gymnasium | 14 feet |
| Weight Room | 12 feet |
| Music Room (Vocal and/or Instrumental) | 12 feet |

or eight feet from the highest riser to the ceiling but in no case less than nine feet six inches

| | |
|---|---------------|
| Multipurpose Room | 18 feet |
| Cafeteria | 12 feet |
| Industrial Arts and Vocational Shop | 12 to 15 feet |
| Library/Media Center | 9½ feet |

- 8. (No change in text.)
- 9. A health unit shall be provided and shall include a nurse's area, waiting area, an examination area, a rest area with privacy, drinking water and toilet facilities sized and arranged so that physically handicapped persons requiring assistance will be able to receive such aid.
- 10. (No change in text.)
- 11. Wherever chemicals are stored or used, an eyewash fountain or similar device, capable of providing a 15-minute continuous water flow, shall be provided.

- i. Eyewash devices shall also be provided as per N.J.A.C. 6:3-1.14.
- 12. The minimum dimension of any instructional space shall be 10 feet.

- (c) Exit requirements are as follows:
 1. Minimum clear widths for primary corridors in elementary schools, grades kindergarten through eight, shall be:
 - i. Seven feet, *[wall-to-wall]* ***wall to wall*** without lockers or wardrobes;
 - ii.-iii. (No change.)
 2. (No change.)
 3. Minimum clear widths for secondary corridors serving 50 or less occupants shall be five feet.

4. Doors from all spaces used by students and school staff, excluding lavatories, storage rooms, janitors' closets, instructional spaces under 300 gross square feet, and locker rooms, shall swing into the corridor and shall have a safety vision panel of ¼ inch glazing which is not less than 100 square inches.

- (d) The environment requirement is as follows:
 1. Windowless classrooms and other occupied instructional spaces (excluding gymnasiums, auditoriums and cafeterias) which do not have operable windows equal to at least four percent of the floor space shall be air conditioned.

- (e) Safety requirements are as follows:
 1. Glazing in fire rated assemblies shall be in accordance with BOCA. All other interior glazing shall be safety glazing.
 2. (No change.)
 3. The sleeve of gas supply lines shall extend at least four inches outside and be vented above grade. Vent pipes shall terminate outside the building at a point not less than two feet measured vertically or horizontally from any window or other building opening. The outer end of vent pipes shall terminate in a weatherproof and securely fastened vent cap. Vent pipes shall terminate sufficiently above the ground to avoid being obstructed with snow and shall be secured firmly to the building. The entire installation shall be such that the gas piping can be readily replaced without damage to the building. Vents in courts shall extend at least five feet above the roof.

4. Science rooms, laboratories, shops and other instructional spaces, with the exception of home economic rooms, in which an open flame and/or the use of hazardous chemicals occurs shall be equipped with an emergency safety cold-water shower and a floor drain or a self-contained water receptacle or catch basin.

5. Materials provided at the base of playground equipment shall be of a soft composition such as sand or synthetic composition materials in order to prevent injuries to pupils/users.

6. When provided, ceiling paddle fans shall be a maximum of 18 inches from the ceiling or a minimum of eight feet above the floor and be enclosed with a metal guard.

- (f) Electrical requirements are as follows:
 1. Push-type emergency cut-out switches shall be provided at appropriate locations within shops to de-energize the electrical supply to non-portable machinery and shall have a clear unobstructed access of a minimum of 36 inches. These switches shall be provided on the basis of one for each 1,000 square feet or fraction thereof of floor area in the shop, but in no case less than two. Reset of the interrupted service shall be by a key-operated switch located within the shop. The cut-off and reset circuits shall be designed and installed to negate the possibility of the control circuit being de-energized, thereby being inoperative.

2.-3. (No change.)

4. Large group areas such as assembly rooms, auditoriums and other large group instructional spaces shall be provided with convenience outlets at the location of portable projectors and built-in speaker cables at the above location as well as stage and platform areas.

5. (No change.)

6. All 125 volt, single-phase, 15 and 20 amp receptacles, when installed within a six foot radius of sinks, shall have ground-fault circuit interrupter protection. This shall apply, but not be limited to, classrooms, home economics laboratories, art rooms, science laboratories, vocational education shops, industrial arts shops, photography wet areas, lavatories, shower rooms and other wet areas*[, and garages]*.

(g) Lighting requirements are as follows:

1. Installed artificial lighting intensity shall comply with the following minimum footcandles which shall be maintained on the task at any time:

INSTALLED LIGHTING INTENSITY

| Locations | Minimum Acceptable Footcandles |
|---|--------------------------------|
| Classrooms and instructional areas—study halls, lecture rooms, art rooms, offices, libraries, conference rooms, work rooms, shops, laboratories and secondary school cafeterias | 50 |
| Drafting, typing and sewing rooms | 70 |
| Reception rooms, gymnasiums, auditoriums, cafeterias, all-purpose rooms and swimming pools | 30 |
| Locker rooms, washrooms, toilet rooms, corridors containing lockers, stairways | 10 |
| Corridors without lockers and storerooms | 5 |
| Classrooms for the partially sighted | 70 |

(h) Plumbing requirements are as follows:

1. The number of plumbing fixtures and ventilation requirements shall be in conformance with the provisions of this chapter and be calculated according to N.J.A.C. 6:22-5.5(a)j and ii.

2. General pupil toilet rooms are those which are designed and labeled for pupil use, contain at least two of each required fixture and are directly accessible from a corridor or an open plan instructional space. Pupils housed within an instructional space which is in excess of 300 square feet shall not be required to travel through any other space except a corridor to reach a general pupil toilet room.

3. There shall be at least one general toilet room for each sex on each floor occupied by pupils or all instructional rooms shall have individual toilet rooms. Where classrooms, shops or physical education rooms are provided with self-contained individual facilities (water closet, lavatory and drinking fountains), the pupil capacity of these rooms shall not be counted in computing the number of fixtures required in the general pupil toilet rooms.

4. Toilet facilities for early intervention, pre-kindergarten and kindergarten classrooms shall be provided as follows:

i. An individual toilet room shall be provided in each classroom and shall meet the following criteria:

(1) (No change in text.)

(2) (No change in text.)

(3) (No change in text.)

(4) Pre-kindergarten and kindergarten classrooms shall contain a junior-juvenile size water closet suitable for children's use, equipped with an open front seat with a flood rim height no greater than 14 inches from the floor, and a lavatory (sink) with a flood rim height no greater than 26 inches from the floor; and

(5) Facilities for early intervention programs shall provide a diaper/clothes changing area.

ii. In lieu of providing an individual toilet room in each classroom as required in (h)4i above, toilet rooms may be provided adjacent to or outside the classroom if the following criteria are satisfactorily addressed:

(1) No child or group of children shall be left unsupervised at any time when traveling to or from the facilities. Provisions shall be made for adult supervision in a manner that will not infringe upon instructional time.

(2) Toilet facilities shall be readily accessible and the toilet room and signage shall be visible to a child from the classroom door.

(3) Toilet facilities for early intervention, pre-kindergarten pupils shall be designated for their exclusive use and shall be so identified.

(4) Toilet facilities shall be provided for both boys and girls and shall meet the requirements of (h)4i(4) above.

iii. If a school district chooses to provide toilet rooms adjacent to or outside the classroom in conformance with (h)4ii above, the chief school administrator shall certify to the county superintendent how the alternate method of compliance shall be addressed, on forms prescribed by the Commissioner. The completed form and a copy of a resolution by the school board approving the alternate method of compliance shall be submitted to the county superintendent for approval. Annually, thereafter, the chief school administrator shall resubmit the form certifying how the alternate method of compliance shall be addressed. Any changes to the approved alternate method of compliance shall be submitted to the county superintendent for approval.

5.-8. (No change.)

9. Where showers are provided, benches shall be 30 inches apart, one shower head for each 10 students, with a shower head height of six feet, and shall provide 12 square feet per shower head.

10. (No change.)

11. Arts and crafts classrooms shall be equipped with a water source, sink and appropriate sink trap.

(i) Pre-manufactured educational units, vans, trailers and/or other mobile units shall comply with the following:

1. Pre-manufactured units shall be reviewed and approved by the Bureau of Facility Planning Services. The local *[building code official]* ***enforcing agency*** shall inspect the installation and shall issue the certificate of occupancy. Pre-manufactured units shall:

i.-ii. (No change.)

iii. Meet code requirements for educational buildings as specified in the U.C.C. and in N.J.A.C. 6:22-5.3 and 6:22-5.4;

iv. If the unit is a trailer in excess of 20 feet in length, the unit shall have two means of clear and unobstructed egress which are remote from each other, otherwise there shall be a single means of egress;

v. Have sturdy steps and be provided with a handrail and, if the unit is to be used by a physically handicapped person, it shall be barrier free;

vi. Have electric heat which provides a temperature of 68 to 72 degrees Fahrenheit;

vii. Have a ceiling height as follows:

(1) Vans and other mobile units—seven feet;

(2) Trailers ***[less than 150 square feet]*—seven feet *six inches* minimum*[:]***.***

***[(3) Trailers of 151 to 300 square feet—seven feet six inches minimum; and**

(4) Trailers in excess of 300 square feet—eight feet minimum.]* viii.-xi. (No change.)

xii. Be provided with an electric smoke detection unit which has an audible alarm for each 900 square feet or portion thereof or for each instructional space if the trailer is divided into more than one approved instructional space; and

xiii. Be situated on an approved site.

2. Non-conformance to requirements (i)li through xiii above which ***[are]* *is*** found during an evaluation of any pre-manufactured unit placed in service after June 4, 1986 or of a subsequent future inspection of a unit approved according to li through xiii above shall be corrected within 30 days of such evaluation. Staff of the Bureau of Facility Planning Services or county offices of education may order a unit immediately abandoned if, as a result of an evaluation, it is concluded that a clear and present danger exists for

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students and staff. A clear and present danger shall be defined as deficiencies involving code requirements relating to construction materials, fire safety or exiting. Failure or inability to correct code deficiencies shall be cause to permanently abandon a pre-manufactured unit.

3. A pre-manufactured trailer unit being utilized as an emergency, temporary replacement for a regular classroom facility may be utilized for a maximum of two school years. As a pre-condition to the approval for the use of a trailer, a school district must have a plan approved by the county superintendent of schools for the provision of permanent facilities, which includes an implementation schedule. A trailer utilized for the delivery of basic skills services to nonpublic school students under the Federal Education Consolidation Improvement Act, P.L. 1977, c.1, 192 and 193, may be used as long as it meets the standards of this section and is evaluated and approved annually by the county superintendent of schools.

4. A self-propelled van and/or other mobile unit used for instruction shall:

- i.-iii. (No change.)
- iv. Have electric heat which provides a temperature 68 to 72 degrees Fahrenheit;
- v.-vi. (No change.)
- vii. Have two means of clear and unobstructed egress which are remote from each other. If the exit is not at grade level, sturdy steps with a handrail shall be provided, and, if the unit is to be used by a physically handicapped person, it shall be barrier free;
- viii.-xvii. (No change.)
- xviii. Be furnished with wheel chocks to assure that the unit will not move in any direction when parked.

5. Non-conformance of code requirements (i)4i through xviii above which is found during an evaluation of any van and/or other mobile unit placed in service after June 4, 1986 or of a subsequent future inspection of a van and/or other mobile unit approved according to this subsection shall be corrected within 30 days of such evaluation. Staff of the Bureau of Facility Planning Services or the county superintendent may order a van and/or other mobile unit immediately abandoned if, as a result of an evaluation, it is concluded that a clear and present danger exists for students and staff. A clear and present danger shall be defined as deficiencies involving code requirements relating to construction materials, fire safety and exiting. Failure or inability to correct code deficiencies shall be cause to order a permanent abandonment of a van and/or other mobile unit.

6. (No change.)

7. A self-propelled van or other pre-manufactured mobile unit being utilized as an emergency, temporary replacement for a regular classroom facility may be utilized for a maximum of two school years. As a pre-condition to the approval for the use of a van or other mobile unit, a school district must have a plan, including an implementation schedule, approved by the county superintendent of schools for the provision of permanent facilities. A van or other mobile unit to be used for the delivery of basic skills services to nonpublic school students under the Federal Education Consolidation Improvement Act, *[Chapter 1, Chapters 192 and 193 L.1977]* *P.L. 1977, c.1, 192 and 193* may be used as long as it meets the standards of this section.

(j) All buildings and structures and parts thereof, both existing and new, shall be maintained in a safe, sanitary and energy-efficient condition. All service equipment, means of egress, devices and safeguards which are required by the State Uniform Construction Code in a building or structure or which were required by a previous statute for a building or structure, when erected, altered or repaired, shall be maintained in good working order.

6:22-5.5 School space sizes and capacity

(a) The following words and terms, when used in this section, shall have the following meanings, unless the context clearly indicates otherwise.

(b) The minimum square feet for each instructional space shall be determined by the net and gross square feet values shown below together with the definitions of net and gross square feet presented

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in (c) below. The capacity of a school building shall be calculated according to definitions in (a) above.

| Area | Minimum Required Floor Area in Square Feet per Occupant |
|--------------------------------------|--|
| Multi-purpose Room | |
| Spectator area | 3 net |
| Physical education-athletics | 80 net |
| Food service | 12 net |
| Assembly, unfixed seats | 7 net |
| Library/Media Center (No change.) | |

(c)-(e) (No change from proposal.)

(f) Spaces occupied but not previously approved prior to May 7, 1990, in order to be approved for capacity, must meet the following requirements:

1. Special education classrooms in private schools for the handicapped and in schools for the handicapped operated by the Department of Human Services shall be either a minimum of 40 square feet gross per student, as previously set forth in the Department of Education School Capacity Bulletin, or 20 net square feet per student as set forth in N.J.A.C. *[6:22-2.5(b)]* *6:22-5.5(b)*; and
2. Spaces, other than special education classrooms in private schools for the handicapped and in schools for the handicapped operated by the Department of Human Services, shall be either the square foot amounts previously set forth in the Department of Education's School Capacity Bulletin or meet the standards set forth in N.J.A.C. *[6:22-2.5(b)]* *6:22-5.5(b)*.

SUBCHAPTER 6. SUBSTANDARD SCHOOL FACILITIES

6:22-6.1 Emergency provisions for accommodation of school pupils in substandard school facilities

- (a) Substandard facilities shall be defined as:
1. All on-site facilities which have never received:
 - i. Approval of the State Board of Education as having met the requirements of this chapter, the rules in effect at the time the facilities were constructed, or the requirements of N.J.A.C. 5:23; or
 - ii. (No change.)
 2. All off-site facilities being provided by district boards of education or approved private schools for the handicapped for use by public school pupils;
 3. All facilities not planned and constructed as school buildings which are rented or leased from private owners by district boards of education or approved private schools for the handicapped for use as school buildings by public school pupils.
- (b) All substandard educational facilities shall be initially approved by the county superintendent of schools in which the district board of education or approved private school for the handicapped is situated, such approval to be given for a maximum period of two years. No substandard educational facility, however, shall be approved for more than two consecutive years unless inspected by the Bureau of Facility Planning Services, Department of Education to ensure that:
- 1.-2. (No change.)
 3. A plan has been developed by the district board of education or approved private school for the handicapped and approved by the county superintendent of schools to upgrade the facilities to standard, fully approved conditions.

(c) The Bureau of Facility Planning Services and the county superintendent of schools, when considering educational adequacy, shall apply the minimum standards of square feet per space and per pupil as contained in this chapter. In cases where a district board of education or approved private school for the handicapped feels it must have relief from the minimum square feet requirements, such relief shall be determined upon application to the county superintendent of schools. The county superintendent of schools shall make recommendations to the assistant commissioners of the

Divisions of Finance and County and Regional Services who jointly may grant relief.

(d) County superintendents of schools will annually monitor the plans of district boards of education or approved private schools for the handicapped to upgrade facilities to State-approved temporary substandard and/or fully approved, standard status.

(e) District boards of education or approved private schools for the handicapped must provide funds in the next immediate annual budget to correct deficiencies about which they are notified by the Bureau of Facility Planning Services on or before October 1 annually. Failure to budget for the correction of deficiencies and to implement the corrections by the next September 1 following the October 1 notice, except as specified in (f) below, shall result in the facility being abandoned.

(f) If a district board of education cannot afford to correct all identified deficiencies in one budget year because of the total costs associated with large numbers of substandard facilities, the district board's long-range facility plan must include a sub-plan for the correction of the deficiencies. The sub-plan must be updated annually and identify funding sources such as an annual budget or a capital improvement authorization. Inclusion of a sub-plan to correct deficiencies in substandard facilities does not relieve a district board of education from implementing the corrections in the shortest time possible nor extend the use of substandard facilities beyond five years.

(g) In making a determination upon any application for the use of emergency substandard facilities, the following factors shall be taken into account:

1. Accommodations in an existing public school:

i. Safety factors:

(1)-(8) (No change.)

(9) Concrete floors in all instructional areas, except shops, shall be covered with a resilient floor covering. Any carpeting, together with its backing or underlayment, shall have passed the flame spread requirements of 75 or less as per the American Society for Testing and Material 84-77.

ii. Ceiling height: The average ceiling height shall be at least eight feet for instructional spaces.

iii. Heating and ventilation:

(1) The room shall be heated to a temperature as established by the local school district;

(2) (No change.)

iv. (No change.)

v. Lighting: At least 50 footcandles of uniformly distributed artificial illumination shall be provided in all instructional areas. Emergency lighting shall also be provided if the space is windowless.

vi. (No change.)

vii. Room size: Each small group instruction room shall provide at least 20 net square feet of open floor area per pupil with no dimension less than 10 feet and total space not less than 150 square feet. Boards of education shall consider the recommendations of the Department of Education in planning for facilities housing handicapped pupils.

viii. (No change.)

2. Emergency provisions for accommodation of school pupils in off-site, rented or leased buildings:

i. Safety factors:

(1)-(4) (No change.)

(5) Concrete floors in all instructional areas, except shops, shall be covered with a resilient floor covering. Any carpeting, together with its backing or underlayment, shall have passed the flame spread requirements of 75 or less as per the American Society for Testing and Material 84-77;

(6) (No change.)

(7) An off-site, rented or leased building shall be provided with an automatic and manual fire detection system which is interconnected to every space in use installed prior to occupancy by students and staff;

(8) Adequate and approved units of exit and exitways as required by the Uniform Construction Code shall be provided. The minimum clear width for corridors shall be 6'0". Directions for exiting the

facility under emergency conditions shall be posted in every instructional room;

(9) (No change.)

ii. Ceiling height: The average ceiling height shall be at least eight feet for instructional spaces.

iii. Heating and ventilation:

(1) The room shall be heated to a temperature as established by the local school district;

(2) (No change.)

iv. Lighting: At least 50 footcandles of uniformly distributed artificial illumination shall be provided in all instructional areas. Emergency lighting shall also be provided if the space is windowless.

v. Toilet facilities and drinking fountains:

(1) There shall be a minimum of two urinals, two water closets and two lavatories in boys' toilets and a minimum of two water closets and two lavatories in girls' toilets. Toilet facilities shall be available within a reasonable distance, not more than one floor away, and shall be equipped with an exterior operating window sash or mechanical exhaust ventilation. Toilet facilities shall be provided for students in early intervention, pre-kindergarten and kindergarten programs as per N.J.A.C. 6:22-5.4(h)4.

(2) At least one drinking fountain for each 50 pupils shall be provided. Drinking fountains shall be provided for students in early intervention, pre-kindergarten and kindergarten programs as per N.J.A.C. 6:22-5.4(h)10.

vi.-vii. (No change.)

viii. Room size: Each small group instructional space shall provide at least 20 net square feet of open floor area per pupil with no dimension less than 10 feet and not less than 150 square feet.

ix. (No change.)

x. Other:

(1) A copy of the certificate of occupancy for the facility issued by the local construction official shall be on file in the Department of Education and in the office of the county superintendent of schools, prior to occupancy.

(2) A copy of the annual inspection report from the local fire official and/or health official approving use of the facility shall be on file in the office of the county superintendent of schools prior to occupancy.

SUBCHAPTER 7. LONG-RANGE FACILITIES PLANS

6:22-7.1 Long-range facilities plans

(a) (No change.)

(b) Long-range facilities plans shall be updated every five years from the original submission date of July 1, 1985 and submitted to the county superintendent of schools.

(c) Revised facilities plans shall be submitted to the county superintendent whenever construction plans are sent to the Bureau of Facility Planning Services.

(d) (No change.)

(e) The following items need to be completed only if changes in these areas have occurred or are anticipated since the submission of a long-range facilities plan on or before July 1, 1990:

1.-3. (No change.)

SUBCHAPTER 8. APPEALS AND HEARING PROCESS

6:22-8.1 Appeals and hearing process

(a) Appeals arising from decisions of the Bureau of Facility Planning Services of the Department of Education may be requested in writing, and an opportunity given for an informal hearing before the Bureau Director or other designated official. Such written request for an informal hearing must be made within 30 days of the receipt of the Bureau's decision.

(b) In the event of an adverse decision after such an informal hearing, appellants may request within 90 days of an informal hearing ***a formal hearing*** pursuant to N.J.S.A. 18A:6-9, 18A:6-24 and 18A:6-27. Such hearings will be governed by the provisions of the Administrative Procedure Act (N.J.S.A. 52:14B-1 et seq. and 52:14F-1 et seq., as implemented by N.J.A.C. 1:1).

(c) Requests for variances from the Department of Education requirements as specified in N.J.A.C. 6:22-2.1, and N.J.A.C. 6:22-5.4,

N.J.A.C. 6:22-5.5 and the State Uniform Construction Code as specified in N.J.A.C. 5:23 may be made in writing by the district board of education to the Director of the Bureau of Facility Planning Services. The Director may approve variances from department requirements provided the spirit and intent of the standards are observed and the need for the variances is satisfactorily documented. Variations from the State Uniform Construction Code must be acted upon in accordance with N.J.A.C. 5:23.

(a)

STATE BOARD OF EDUCATION

Notice of Administrative Correction
 School Facility Planning Services; Health, Safety
 and Physical Education; State Library Assistance
 Programs

N.J.A.C. 6:22-1.1 and 1.7; 6:29-2.4 and 5.2; 6:68-2.4,
 5.1, 5.8 and 10.2

Take notice that the Department of Education has discovered errors in the current text of N.J.A.C. 6:22, 29 and 68.

At N.J.A.C. 6:22-1.1(b)3, the phrase, "the architect and district board of education have received," was deleted from the rule (see 21 N.J.R. 3210(a) and 22 N.J.R. 366(c)), but was erroneously retained in the updated Code text.

At N.J.A.C. 6:22-1.7(b), the word "shall" in the last sentence erroneously replaced the proposed and adopted word "must" in the printing process of the updated Code text (see 21 N.J.R. 3210(a) and 22 N.J.R. 366(c)).

At N.J.A.C. 6:29-2.4(d)1, the citation to N.J.A.C. 6:28-1.1 was proposed and adopted as a citation to N.J.A.C. 6:28 (see 21 N.J.R. 1315(b) and 22 N.J.R. 793(a)).

At N.J.A.C. 6:29-5.2(l), subsection (k) should be deleted, as it was replaced upon adoption by what now appears as subsection (l) (see 22 N.J.R. 793(a)).

At N.J.A.C. 6:68-2.4(a)2iii, the number 129,000 in Chart B is an error produced in the printing of the 3-19-90 Code update. The correct number, as previously appeared in the Code, is 129,999.

At N.J.A.C. 6:68-5.1, the citation to N.J.S.A. 18A:174-14 was proposed and adopted as a citation to N.J.S.A. 18A:74-14 (see 21 N.J.R. 3822(a) and 22 N.J.R. 921(c)).

At N.J.A.C. 6:68-5.8(a), the phrase, "to be in approvable form," was deleted from the rule (see 21 N.J.R. 3822(a) and 22 N.J.R. 921(c)), but was erroneously retained in the updated Code text.

At N.J.A.C. 6:68-10.2, the word "used" should follow when in the introductory paragraph (see 21 N.J.R. 3822(a) and 22 N.J.R. 921(c)).

This notice of administrative correction is published pursuant to N.J.A.C. 1:30-2.7.

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

6:22-1.1 Approval of plans and specifications

(a) (No change.)

(b) Plans and specifications for the temporary and permanent construction, erection, reconstruction, alteration, conversion and renovation of public school facilities, shall be submitted to the Department of Education, Bureau of Facility Planning Services whenever a review for compliance with this chapter is necessary. An architect or engineer licensed in New Jersey shall submit the plans and specifications on behalf of the district board of education, as follows:

1.-2. (No change.)

3. Four sets of signed and sealed final plans and specifications shall be submitted for review and approval after [the architect and district board of education have received] preliminary plan approval. This submission shall include the following:

i.-vii. (No change.)

4.-8. (No change.)

(c)-(e) (No change.)

6:22-1.7 Appeals and hearing process

(a) (No change.)

(b) Requests for variances from the Department of Education requirements as specified in N.J.A.C. 6:22-1.2, N.J.A.C. 6:22-2.4, N.J.A.C. 6:22-2.5 and the State Uniform Construction Code as specified in N.J.A.C. 5:23 may be made in writing by the district board of education to the manager of the Bureau of Facility Planning Services. The manager may approve variances from Department requirements provided the spirit and intent of the standards are observed and the need for the variances is satisfactorily documented. Variations from the State Uniform Construction Code [shall] **must** be acted upon in accordance with N.J.A.C. 5:23.

6:29-2.4 Attendance at school by HIV (Human Immunodeficiency Virus) infected children

(a)-(c) (No change.)

(d) A district board of education may act to exclude a pupil with HIV infection only when:

1. The district medical inspector, the pupil's parent(s) or guardian(s) and physician agree that he or she manifests those exceptional conditions delineated in N.J.A.C. 8:61-1.1. In such cases, the pupil must be provided an appropriate education pursuant to N.J.A.C. 6:28[-1.1].

2. (No change.)

(e) (No change.)

6:29-5.2 Screening procedures

(a)-(j) (No change.)

[(k)] The school nurse shall notify in writing the parent or guardian of pupils failing auditory screening of the necessity for additional evaluation by a physician or family health care provider.]

[(l)](k) The school nurse shall notify in writing the parent or guardian of pupils failing audiometric screening of the necessity for additional evaluation by a physician or family health care provider.

6:68-2.4 Employees

(a) All public libraries (municipal, joint, association and county) shall meet the following minimum requirements based on the population of the area from which the library receives tax support:

1. (No change.)

2. Professional staff:

i.-ii. (No change.)

iii. Libraries serving a population over 50,000 must employ a minimum of one full-time professional librarian or the full-time equivalent for every 10,000 population up to 50,000 and one additional full-time professional librarian or the full-time equivalent for each 20,000 population over 50,000 as set forth in Chart B below.

Chart B

| Population | Number of Full-Time Professionals |
|----------------------------------|---|
| 0- 9,999 | 0 |
| 10,000- 19,999 | 1 |
| 20,000- 29,999 | 2 |
| 30,000- 39,999 | 3 |
| 40,000- 49,999 | 4 |
| 50,000- 69,999 | 5 |
| 70,000- 89,999 | 6 |
| 90,000-109,999 | 7 |
| 110,000-[129,000] 129,999 | 8 |
| 130,000 and over | 9 plus one additional full-time professional for each additional 20,000 population. |

6:68-5.1 Purpose

Under the provisions of the New Jersey Library Construction Incentive Act, N.J.S.A. [18A:174-14]**18A:74-14**, the State Librarian, as the designated representative of the Commissioner of Education of the State of New Jersey, is authorized to supervise and administer State funds to assist in the construction, expansion, renovation or acquisition of a public library building. The following are minimum requirements for participation in the grant program.

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6:68-5.8 Review and approval procedures

(a) Application for a grant[, to be in approvable form] must be in the completed official form NJLCIA-2, "Application for Construction Grant."

(b)-(o) (No change.)

ADOPTIONS

6:68-10.2 Definitions

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

...

EMERGENCY ADOPTION

ENVIRONMENTAL PROTECTION

(a)

DIVISION OF COASTAL RESOURCES

Coastal Permit Program Rules

Waterfront Development

Adopted Emergency Amendment and Concurrent Proposed Amendment: N.J.A.C. 7:7-2.3

Emergency Amendment Adopted: July 17, 1990 by
Judith A. Yaskin, Commissioner, Department of
Environmental Protection.

Gubernatorial Approval (see N.J.S.A. 58:14B-4(c)): July 17, 1990.
Emergency Adoption Filed: July 17, 1990 as R.1990 d.403.

Authority: N.J.S.A. 12:5-1 et seq., 13:1B-3, 13:1D-1 et seq.,
13:9A-1 et seq., and 13:19-1 et seq.

Emergency Amendment Effective Date: July 17, 1990.

Emergency Amendment Expiration Date: September 15, 1990.

DEP Docket Number: 025-90-07.

Concurrent Proposal Number: PRN 1990-425.

A **public hearing** concerning the concurrent proposal will be held on:
Wednesday, August 29, 1990 at 10:00 A.M.
Rooms One, Two, and Three
Monmouth County Library System
125 Symmes Road
Manalapan, New Jersey 07726

Submit written comments by September 5, 1990 to:
Sue Kleinberg, Esq.
Division of Regulatory Affairs
Department of Environmental Protection
CN 402
Trenton, New Jersey 08625

This amendment was adopted on an emergency basis and became effective upon acceptance for filing by the Office of Administrative Law (see N.J.S.A. 54:14B-4(c) as implemented by N.J.A.C. 1:30-4.5). Concurrently, the provisions of the emergency amendment are being proposed for re-adoption in compliance with the normal rulemaking requirements of the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. The re-adopted amendment becomes effective upon acceptance of the notice of adoption for filing by the Office of Administrative Law (see N.J.A.C. 1:30-4.5(d)), if filed on or prior to the emergency amendment's expiration date.

The emergency adoption and concurrent proposal follows:

Summary

The Waterfront Development Act (Act), N.J.S.A. 12:5-3, provides that all plans for development of any waterfront upon or bounding upon any navigable water should be submitted to the Department of Environmental Protection (Department) and that no such development shall be commenced prior to receiving approval of the Department. As a result of the Supreme Court decision in *Last Chance Development Partnership v. Thomas H. Kean* (Dkt. No. A-102, decided June 20, 1990), this amendment redefines the waterfront that bounds upon navigable water within the coastal area, defined by N.J.S.A. 13:19-4, as lands lying below the mean high water line plus those lands lying upland to a landward boundary 500 feet from the mean high water line or, where present, the most inland oceanfront "dune" or "beach" as these terms are defined in N.J.A.C. 7:7E.

Beaches and dunes are features located at the interface between the land and the sea. They are integral components of a complex system formed by the interaction of wind and wave. This critical water's-edge area functions to moderate the effects of erosion and storm hazards and in so doing to maintain the character of the shorefront. Because the size of a beach and thus the location of the high water line changes seasonably as a function of the dynamic tension between the land and the sea, the oceanfront beach and dune zone is properly characterized as water's-edge.

This amendment also changes the permitting process to comply with the Court's decision. Thus, the Department will require waterfront de-

velopment permits for all developments less than 500 feet from the mean high water line in order to conform the practice in the coastal area to that in the waterfront area in the remainder of the State (except for that in the Hackensack Meadowlands). For any development proposed within that part of the waterfront area that is beyond 500 feet from the mean high water line, an impact statement may be submitted instead of an application. Criteria which identify commerce and navigation concerns to be addressed in the impact statement are provided in this amendment. If, on the basis of that statement, the Department finds that the proposed development in relation with the surrounding land will not affect the waterfront and the waterway and thereby commerce and navigation, the applicant may proceed without a waterfront development permit.

This amendment further defines and enumerates the types of development which must be considered by this Department pursuant to the Act, details the application procedures required for waterfront development permits and provides a means by which a property owner or developer may receive written confirmation that a proposed project does not require a waterfront development permit.

Among those developments which will not require permits pursuant to this amendment are those consisting of construction or expansion of single family dwelling units not within 500 feet of the mean high water line. When located more than 500 feet from the mean high water line, the impacts of such projects upon commerce and navigation are not believed to be highly significant. However, this scale of development, when located immediately within 500 feet of the water's edge, warrants close scrutiny to ensure that navigation and commerce are not adversely affected.

Reconstruction of buildings existing prior to January 1, 1981, provided that the reconstruction does not result in a greater footprint or total area than the original building, and existing building expansions of less than 750 square feet are not regulated. In addition, those projects in the coastal area for which all local permits were received prior to October 3, 1988, or for which lawful on-site construction, excluding site preparation, was in progress on or prior to July 17, 1990, are exempt.

This amendment is intended to accomplish the Act's principal objective of facilitation of navigation and commerce. By restricting regulation of those projects beyond 500 feet from the mean high water line to those developments proposed along the ocean shorefront that will directly affect the waterfront and the waterway as such, this amendment falls squarely within the Act's purpose of unifying governance of development that affects commerce in the waters. Within 500 feet of the mean high water line, any development, by virtue of its interaction with wind and precipitation, will have some effect upon the configuration of the coastline as well as the land lying below the mean high water line. The resulting shifting and silting of channels has an enormous negative effect upon navigation, while the effect both on navigation and the potential public access and integrity of recreation areas and natural areas, which are primary assets of New Jersey's four billion dollar per year tourist industry, may be just as directly affected by such development. Such development will also adversely affect the State's shellfish industry. Certain types of development on waterfronts of specific configuration may also have impacts that can readily be felt at distances of 500 feet from such water-related features as dunes and beaches. As a result, standards are provided in this amendment that will encompass a showing that the proposed development in relation with surrounding land either will directly affect the waterfront and the waterway and thus will require a permit or should be exempted.

This emergency amendment and concurrent proposed amendment changes the waterfront development rule of 1980, N.J.A.C. 7:7-2.3, as further amended in 1988 and 1989. Because the Supreme Court in *Last Chance Development Partnership* invalidated the 1988 and 1989 amendments, this amendment is made to clarify the purposes of this rule, to specify the standards for its application, and to conform its implementation to the requirement enunciated by the Supreme Court.

Social Impact

The social impact of this amendment will be to protect one of this State's most valued economic assets—its waterfront. Unregulated development would have a grave negative effect both on navigation and on its orderly commercial development. Erosion of the coast sufficient to destroy public beaches, silting and shifting of the navigational channels sufficient not only to wreak havoc with navigation but also to bankrupt established marinas, destruction of upland habitat sufficient to severely

degrade pristine nature trails would be the inevitable result of unbridled development in this extremely critical area. In light of the most recent technological and scientific advances in the understanding of the interaction of natural forces along the waterfront, regulation of the areas described in this rule will preserve this asset both for the enjoyment of those who wish to visit it and the safety of those who live and work in this State.

Economic Impact

The economic impact of extending regulation pursuant to the Act inland from the mean high water line within the coastal area will impose an increased economic burden upon the shorefront building community through additional planning and application costs as well as the costs of the additional time required by the application process. However, this impact may be reduced slightly from the 1988 and 1989 amendments due to the reduction in distance from the mean high water line to which the waterfront area now extends in the coastal area and due to the smaller number of projects that are subject to permit requirements. A positive economic impact, which will increase over the long term, will result from orderly development of the waterfront. This positive economic impact will directly benefit both navigation and the commercial establishments along the waterfront, from lighters to boardwalks, which serve navigation as well as supporting the State's four billion dollar per year tourist industry. Noncommercial economic benefits will result from the preservation of property due to effective management and protection of other currently developed and natural areas which perform various protective and stabilizing functions.

Environmental Impact Statement

This amendment will have a positive environmental impact in that further environmental damage that will adversely affect commerce and navigation can be prevented. Protection of the existing shoreline as well as preservation of water quality will have as direct an impact on the environment as they will on the tourist, shipping, and coasting trades and their dependent industries.

Regulatory Flexibility Statement

This amendment will apply to any developments along the waterfront. Many of those affected by this amendment may be "small businesses" as defined in the New Jersey Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. In order to comply with this amendment, some small businesses will have to apply for a permit for development along the waterfront. In so doing it is possible that small businesses may need some additional engineering services, which will increase the overall cost of the project, although those businesses beyond 500 feet from the mean high water line probably will not need services beyond those necessary for local approvals in order to receive an initial determination as to the applicability of this rule. In developing this amendment, the Department has determined that minimizing the impact of the rule will endanger the environment, the public health or the public safety.

Full text of the adopted emergency amendment and concurrent proposal follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

7:7-2.3 Waterfront development

(a) The waterfront area regulated under this subchapter is divided into three sections, and will vary in width in accordance with the following rules:

1. Within any part of the Hackensack Meadowlands Development District delineated at N.J.S.A. 13:17-4.1, the area regulated by this section shall include any tidal waterway of this State and all lands lying thereunder, up to the mean high water line.

2. Within the "coastal area" defined by section 4 of CAFRA (N.J.S.A. 13:19-4), the regulated waterfront area shall consist of [the area described in (a)1 above,] **any tidal waterway and all lands lying thereunder up to the mean high water line and also extend inland to include an adjacent upland area [measured from] to a boundary 500 feet inland of the mean high water line, the most inland oceanfront beach, or most inland oceanfront dune[, wetland or other water area], as these terms are defined in N.J.A.C. 7:7E, measuring from that feature which results in the greatest regulated waterfront area[, to the lesser of:**

- i. One thousand feet; or
- ii. The inland limit of the first property associated with residential, commercial or industrial use that involves a permanent building

based on property lines existing on October 1, 1988 provided, however, should the Division issue a Waterfront Development Permit after October 1, 1988 for a use involving a permanent building, upon project completion the inland limit for purposes of this subparagraph shall be the inland property boundary associated with this permit; and further provided that if the inland limit of the property is closer to the baseline than 100 feet, the waterfront area boundary shall be 100 feet inland from the baseline].

3. In all other areas of the State (that is in those areas outside of the "coastal area" defined by CAFRA and outside of the Hackensack Meadowlands Development District), the regulated waterfront area shall consist of [the area as described in (a)1 above,] **any tidal waterway and all the lands lying thereunder up to the mean high water line and an adjacent upland area extending landward from the mean high water line to the first paved public road, railroad or surveyable property line existing on September 26, 1980 [(the effective date of these rules)] generally parallel to the waterway, provided that the landward boundary of the upland area shall be no less than 100 feet and no more than 500 feet from the mean high water line.**

(b)-(c) (No change.)

(d) A permit shall be required [in the waterfront area] for the construction, reconstruction, alteration, expansion or enlargement of any structure, or for the excavation or [filling] **filling** of any area, **any portion of which is in the waterfront area as defined in (a) above, with the exceptions listed below:**

1.-2. (No change.)

3. In the area defined at (a)2 above, [in the event of damage or destruction, in whole or part, by fire, storms, natural hazards, or other acts of God,] reconstruction of any [existing] building **existing prior to January 1, 1981 not resulting in [a greater footprint or total area than] an increase in size of more than 750 square feet over that of the [damaged or destroyed] building as it existed prior to January 1, 1981, provided the reconstruction does not bring the footprint of the building any closer to the mean high water line, most inland oceanfront beach, or most inland oceanfront dune;**

4. In the area defined at (a)2 above, the expansion or enlargement of any existing structure, conducted in one or more phases on or after [October 3, 1988] **July 17, 1990** such that the total area of all phases of expansion or enlargement is [1,500] **750** square feet or less, **provided the expansion does not bring the footprint of the structure any closer to the mean high water line, most inland oceanfront beach, or most inland oceanfront dune;** provided, however, the construction or the reconstruction of a bulkhead or other shore protection structure shall not be included in the calculation of expansion or enlargement area;

5.-7. (No change.)

8. In the area defined at (a)2 above, development **not within 500 feet of the mean high water line** consisting of the **construction, reconstruction, or expansion or enlargement of one single-family residential dwelling unit [for which all necessary municipal approvals or permits have been issued on or before October 3, 1988 and such approvals or permits are still in effect at the commencement of construction].**

[9. In the area defined at (a)2 above, reconstruction of a single family residential dwelling unit which replaces or reconstructs a voluntarily demolished unit which existed on or before October 3, 1988, as long as such reconstruction or replacement does not result in a footprint or total area greater than that of the replaced dwelling unit.]

9. **In the area defined in (a)2 above, any development which is not within 500 feet of the mean high water line and that has received a Division determination pursuant to (e)3 below that it does not directly affect commerce and navigation along the waterfront or on the waterways.**

10. This subchapter shall not apply to any development or activity in the upland area defined in (a)3 above and in man-made waterways and lagoons for which on-site construction, including site preparation, was in progress on or prior to September 26, 1980 or to any development or activity in the upland area defined in (a)2 above for which all necessary municipal approvals or permits were received prior to October 3, 1988, or for which lawful on-site construction, excluding site preparation, was in progress on or prior to July 17, 1990. For the purpose of this section, "construction, excluding site preparation" encompasses

improvements which include, but are not limited to, paved roads, curbs, pilings, water lines, sewer lines, and storm drains. In order for such improvements to be considered "in progress" on or before July 17, 1990, materials must have been brought to the site and partially installed on or before that date. For the purpose of this section, "construction, excluding site preparation" does not include clearing vegetation, bringing construction materials to the site, site grading or other earth work associated with preparing a site for construction or structures.

i. Any interruption in the process of construction and completion of the facility in excess of one year may be cause for denial of an exemption request under this paragraph, or where previously exempted, it may be cause for revocation of such exemption under this paragraph, by the Division.

ii. A finding that a proposed facility is exempt under this paragraph from the requirements of this subchapter shall apply only to the facility as conceived and designed prior to September 26, 1980, for the area defined in (a)3 above, and prior to July 17, 1990 for the area defined in (a)2 above. Any modification which expands or substantially changes the exempted facility and which would not be classified as a minor modification under N.J.A.C. 7:7-4.10 shall require a permit.

(e) Any person proposing to undertake or cause to be undertaken any development or activity in or near the waterfront area may request in writing a determination that the proposal is not subject to the requirements of this subchapter on the basis that the proposed development site is located outside the waterfront area, or that the proposed facility does not require a permit under (d) above[,], provided that no development proposed in the area described in (a)2 above shall be considered exempt because it does not affect commerce or navigation along the waterfront or on the waterways pursuant to (d)9 above and (e)3 below unless such a determination is first obtained from the Division.

1. The requesting party shall provide the Division with two copies of a map depicting the project site in a scale of not less than 1:2, 400 (one inch equals 200 feet) and a project description. When the applicability determination request is based on a proposed facility's location in accordance with paragraphs (a)2 and 3 above, the map shall depict that property line as it is depicted on the official local tax map as of September 26, 1980, for the area defined in (a)3 above, and [October 3, 1988] July 17, 1990, for the area defined in (a)2 above, shall delineate the mean high water line, and shall graphically depict the proposed project.

2. (No change.)

3. When the request for a determination that the project is not subject to the requirements of this subchapter is based on a proposed lack of direct effect upon commerce or navigation along the waterfront or upon the waterways of a development proposed for that portion of the area described in (a)2 above which is not within 500 feet of the mean high water line, the map shall be accompanied by an impact statement which includes the following:

i. Project description including:

- (1) Location of the project;
- (2) Size, in terms of both overall area and footprint;
- (3) Proposed use of the project; and
- (4) A listing of all adjacent developed properties with their uses and the distance of each from the proposed project; and

ii. Information adequate to demonstrate the following:

- (1) Erosion control sufficient to maintain current coastal or bottom configuration;
- (2) Lack of interference with public access to currently established commercial and recreational uses including tourism; and
- (3) Compatibility with current commercial uses, including tourism, within the waterfront area as defined in (a) above.

4. Nothing in this rule shall be construed to prevent filing of a completed application for a waterfront development permit at the option

of the applicant instead of a request for a determination that the project is not subject to the requirements of this subchapter for that area of the waterfront defined in (a)2 that is beyond 500 feet from the mean high water line.

5. Any person who believes that a proposed development or activity is exempt from the requirements of this subchapter due to lawful on-site construction pursuant to (d)10 above may request in writing a determination of exemption from the Division.

i. Exemptions shall be sought and considered upon submission of information sufficient for the Division to determine that the physical work specified in (d)10 above necessary to begin the construction of the proposed facility was actually performed prior to September 26, 1980 for the area defined in (a)1 and (a)3 above and prior to July 17, 1990 for the area defined in (a)2 above, or that all required local permits have been obtained prior to October 3, 1988 for the area defined in (a)2 above.

(f) A permit is required for the additional filling of any lands formerly flowed by the tide, if any filling took place after 1914 without the issuance of a tidelands grant, lease or license by the Department of Environmental Protection and Tidelands Resource Council or their predecessor agencies, even where such lands extend beyond the landward boundary of the [upland] waterfront area defined in [paragraph (a)3] (a) above.

1. (No change.)

(g) The subchapter shall not apply to any development or activity in the upland area defined in (a)3 above and in man-made waterways and lagoons for which on-site construction, including site preparation, was in progress on or prior to September 26, 1980 or to any development or activity in the upland area defined in (a)2 above for which on-site construction, excluding site preparation, was in progress on or prior to October 3, 1988. For the purpose of this section, "construction, excluding site preparation" encompasses improvements which include, but are not limited to, paved roads, curbs, and storm drains. In order for such improvements to be considered "in progress" on or before October 3, 1988 materials must have been brought to the site and partially installed on or before that date. For the purpose of this section, "construction, excluding site preparation" does not include clearing vegetation, bringing construction materials to the site, site grading or other earth work associated with preparing a site for construction or structures.

1. Any person who believes that a proposed facility is exempt from the requirements of this subchapter due to on-site construction may request in writing a determination of exemption from the Division.

2. Exemptions shall be applied for and considered upon submission of information sufficient for the division to determine that the physical work specified in (g) above necessary to begin the construction of the proposed facility was actually performed prior to September 26, 1980, for the area defined in (a)3 above, and prior to October 3, 1988 for the area defined in (a)2 above, the effective dates of these provisions.

i. Any interruption in the process of construction and completion of the facility in excess of one year may be cause for denial of an exemption request, or where previously exempted, it may be cause for revocation of such exemption by the Division.

ii. A finding that a proposed facility is exempt from the requirements of this subchapter shall apply only to the facility as conceived and designed prior to September 26, 1980, for the area defined in (a)3 above, and prior to October 3, 1988 for the area defined in (a)2 above. Any modification which expands or substantially changes the exempted facility, and which would not be classified as a minor modification under N.J.A.C. 7:7-4.10, shall require a permit.]

PUBLIC NOTICES

ENVIRONMENTAL PROTECTION

(a)

DIVISION OF HAZARDOUS WASTE MANAGEMENT Notice of Receipt of Petition for Rulemaking concerning Fees for Solid and Hazardous Waste Haulers and Facilities

N.J.A.C. 7:26-16.13

Petitioner: Waste Management Association.

Authority: N.J.S.A. 13:1E-6(a)2; 52:14B-4(f).

Take notice that on June 19, 1990, the Department of Environmental Protection received a petition from Waste Management Association requesting an amendment to N.J.A.C. 7:26-16.13 concerning fees for solid and hazardous waste haulers and facilities subject to disclosure statement and integrity review pursuant to N.J.S.A. 13:1E-126 et seq. ("A-901").

Specifically, petitioner requests that an amendment to the current fee structure be implemented which:

- Bases each regulated entity's fee not only on the number of key individuals of the entity but also on the entity's annual revenue;
- Eliminates non-managerial individuals from the formula for determining the number of key individuals;
- Establishes fees which increase incrementally when one or more key individuals is added;
- Establishes separate application and renewal fees which are tied to the anticipated effort required to process an application and renewal, respectively;
- Reinstates a lower fee for family-owned businesses; and
- Establishes a fee structure which is "designed to recover not more than the actual amount of appropriation proposed in Governor Florio's current budget."

This petition will be considered by the Department of Environmental Protection in accordance with the provisions of N.J.A.C. 7:1-1.2. A notice of action on the petition will subsequently be mailed to the petitioner and filed with the Office of Administrative Law.

(b)

DIVISION OF HAZARDOUS WASTE MANAGEMENT Notice of Receipt of Petition for Rulemaking on A-901 Background Investigations for Hazardous Waste Transporters

N.J.A.C. 7:26-16.3

Petitioner: National Solid Wastes Management Association.

Authority: N.J.S.A. 13:1E-6(a)2; 52:14B-4(f).

Take notice that on June 21, 1990, the Department of Environmental Protection (Department) received a petition for rulemaking concerning the background investigation all prospective solid or hazardous waste licensees must undergo pursuant to N.J.S.A. 13:1E-126 et seq. and its implementing rules at N.J.A.C. 7:26-16 to determine the competence, reliability, and expertise of the applicant to comply with the State's solid and hazardous waste laws. The petitioner seeks an exemption from individual licensing for those drivers operating pursuant to an exclusive lease agreement.

This petition will be considered by the Department in accordance with the provisions of N.J.A.C. 7:1-1.2. The Department shall subsequently mail to the petitioner and file with the Office of Administrative Law a notice of action on the petition for publication in the New Jersey Register.

(c)

DIVISION OF WATER RESOURCES

Notice of Action on Petition for Rulemaking on the Safe Drinking Water Act Regulations

Petitioner: Nicholas J. Fano, Esq.

Take notice that on March 1, 1990, the Department of Environmental Protection (Department) received a petition for rulemaking concerning the Safe Drinking Water Act Regulations. A notice acknowledging receipt of the petition was filed with the Office of Administrative Law and appeared in the April 16, 1990 New Jersey Register at 22 N.J.R. 1275(a).

In accordance with N.J.A.C. 7:1-1.2, the Department gives notice that it will take the following actions on the issues set forth in the petition:

1. The petitioner requests that the Department establish lower maximum contaminant levels (MCLs) for existing contaminants based on technological advancements in testing methods. The Department denies this request. The testing methods currently accepted are identical or very similar to those available when the MCLs were established. The Department, in conjunction with the New Jersey Drinking Water Quality Institute (Institute), does review and consider any existing and proposed standards as a normal course of business. As part of the Department's ongoing mandate to identify additional contaminants for regulation in drinking water and to establish new MCLs or revise existing MCLs, the Department is planning a comparative laboratory study for the second half of 1990 and all of 1991 to evaluate analytical capabilities for proposed and existing contaminants, depending on whether or not resources are available. If the petitioner knows of any analytical study similar to the one previously done by the Department to establish the existing MCLs, the Department would be interested in obtaining the data and avoiding the need to do our own study. If any future data shows that lower MCLs can be established (either improvements in testing methodologies or new health effects information) then the Department in conjunction with the Institute will evaluate the data and revise the standards accordingly.

2. The petitioner asks that the Department require testing and establish MCLs for the following groups of chemicals:

- Contaminants set forth in the Groundwater Quality Standards, N.J.A.C. 7:9-6;
- Those listed in 40 C.F.R. 141.40; and
- Chloroform, Bromodichloromethane, Aroclor 1016, 1221, 1232, 1242, 1248, 1254, 1260 (as found in West Caldwell's drinking water).

The Department has the following responses to the above requests:

(a) The Department defers this request for further deliberation until December 31, 1990. The addition of the contaminants set forth in the Groundwater Quality Standards, N.J.A.C. 7:9-6, to the Safe Drinking Act Regulations, N.J.A.C. 7:10, requires evaluation for consistency with the entire water quality program and for its enforceability. The results of these deliberations shall be mailed to the petitioner and shall be submitted to the Office of Administrative Law for publication in the New Jersey Register.

(b) All contaminants adopted by the Federal government in 40 C.F.R. 141.40 are automatically adopted by reference through N.J.A.C. 7:10-5.1. At this time there are several changes to these Federal regulations that have been proposed which would result in the establishment of MCLs for 38 additional synthetic organic and inorganic contaminants. Additionally, one recently adopted regulation specified a large number of chemicals to be monitored for, but did not set MCLs. This monitoring is currently being conducted at New Jersey water supplies covered by the Federal requirements. The Department does not plan to change its present policy of adopting by reference the most current Federal standards. Therefore, this request is denied.

(c) These chemicals all have existing MCLs, but under different names. Chloroform and bromodichloromethane are two of four chemicals classified as trihalomethanes (THMs). The MCL for this group of contaminants is 100 ug/l for all four chemicals added together. Since West Caldwell purchases all of its water from the Jersey City Water Department, it will contain some of these chemicals which are caused as a by-product of the disinfection process used to make water microbiologically safe. Therefore, this request is denied.

It should be noted that all drinking water coming from surface water supplies such as Jersey City, Newark, Trenton, Hackensack Water Company, Passaic Valley Water Commission, North Jersey District Water

Supply Commission, and Elizabethtown Water Company contain THMs below the established MCL.

The seven Aroclors listed are all commercial formulations of polychlorinated biphenyls (PCBs). The Department has established an MCL of 0.5 ug/l for PCBs. Therefore, this request is denied. Additionally, Jersey City and West Caldwell have submitted a total of six tests between 1985 and 1989 for PCBs, all showing no detectable levels. If the petitioner has data showing the presence of PCB in the finished drinking water the Department would be interested in receiving that data for further evaluation.

3. The petitioner requests the establishment of MCLs for all contaminants set forth in N.J.S.A. 58:12-1 et seq. The 1984 amendments to the New Jersey Safe Drinking Water Act are commonly called A-280 (after the Assembly bill number). These amendments called for establishing MCLs for a list of 22 compounds, after receiving recommendations from the New Jersey Drinking Water Quality Institute (Institute), which was also created by the A-280 amendments. The Department established MCLs for 16 of the 22 compounds in January of 1989. The remaining six compounds had no analytical methodologies capable of being used in a regulatory framework. The Department, with the concurrence of the Institute, first commissioned a research effort involving the development of appropriate drinking water testing methods for these remaining compounds. These draft methods were presented to the Department in 1989. Subsequently, the Department contracted with two independent laboratories to validate the methods as accurate and precise. These studies are expected to be complete in 1990. Upon reviewing the results of these studies, the Department in consultation with the Institute shall move forward to establish practical quantitation levels for these contaminants and appropriate MCLs. Therefore, the request to establish MCLs at this time is denied. However, the Department in conjunction with the Institute has developed a list of six additional hazardous organic chemicals that it is considering for future regulatory action.

4. The petitioner requests that the Department establish MCLs for those compounds listed in N.J.A.C. 7:10 which do not have established MCLs. The Department is not quite sure what chemicals the petitioner means, but it believes he means the same chemicals as required by the A-280 amendments; therefore, the Department's response is the same as for number 3 above.

5. The petitioner requests that the Department complete "major revisions" to N.J.A.C. 7:10 as indicated in the response to comments for the 1989 re-adoption of N.J.A.C. 7:10 (21 N.J.R. 3098). The Department has been working for a number of months on major revisions to most subchapters of 7:10, particularly subchapters 5 and 11, to incorporate and make State discretionary changes to recent Federal regulations regarding total coliforms and surface water treatment.

The Department intends to propose "major revisions" by the end of 1990 and adopt the "major revisions" by June 1991. Therefore, the Department grants the petitioner's request for "major revisions" to N.J.A.C. 7:10.

A copy of this notice has been mailed to the petitioner as required by N.J.A.C. 7:1-1.2.

(a)

DIVISION OF WATER RESOURCES
Amendment to the Mercer County Water Quality
Management Plan
Public Notice

Take notice that Princeton Township has petitioned Mercer County to amend the Mercer County Water Quality Management (WQM) Plan. This amendment would update the Princeton Township and Princeton Borough Wastewater Management Plan (WMP). The WMP identifies an addition of approximately 635 acres to the Stony Brook Regional Sewerage Authority (SBRSA) sewer service area in Princeton Township. Areas of the Township are also removed from the sewer service area of the SBRSA. The Pretty Brook Sewage Treatment Plant (STP) will be abandoned and flows conveyed to the SBRSA STP.

This notice is being given to inform the public that a plan amendment has been proposed for the Mercer County WQM Plan. All information dealing with the aforesaid WQM Plan and the proposed amendment is located at the Mercer County Planning Division, County Administration Building, Room 412, 640 South Broad Street, P.O. Box 8068, Trenton, New Jersey 08650; and the NJDEP, Division of Water Resources, Bureau

of Water Quality Planning, 3rd Floor, 401 East State Street, CN-029, Trenton, New Jersey 08625. It is available for inspection between 8:30 A.M. and 4:00 P.M., Monday through Friday.

The Mercer County Planning Board will hold a public hearing on the proposed WQM Plan amendment. The public hearing will be on Wednesday, September 12, 1990, at 8:30 A.M. in Room 211 of the Mercer County Administration Building. Interested persons may submit written comments on the amendment to the Secretary, Mercer County Planning Board at the address cited above; and to Mr. Barry Chalofsky, Bureau of Water Quality Planning, at the NJDEP address cited above. All comments must be submitted within 30 days following the public notice publication date or until 15 days following the public hearing(s), whichever is later. All comments submitted by interested persons in response to this notice, within the time limit, shall be considered by the County Planning Board and the County Executive with respect to this amendment request. In addition, if the amendment is adopted by Mercer County, the NJDEP must review the amendment prior to final adoption. The comments received in reply to this notice and to the public hearing will also be considered by the NJDEP during its review. Mercer County and the NJDEP thereafter may approve and adopt this amendment without further notice.

(b)

DIVISION OF WATER RESOURCES
Amendment to the Cape May County Water Quality
Management Plan
Public Notice

Take notice that Cape May County has submitted for approval an amendment to the Cape May County Water Quality Management (WQM) Plan. This amendment would adopt a Wastewater Management Plan (WMP) for Dennis Township. This WMP identifies the use of individual subsurface disposal systems for wastewater treatment within the township. The WMP also provides for the utilization of on-site wastewater treatment facilities provided that they comply with the NJPDES permit requirements. Environmentally sensitive areas are shown as not to be served.

This notice is being given to inform the public that a plan amendment has been proposed for the Cape May County WQM Plan. All information dealing with the aforesaid WQM Plan and the proposed amendment is located at the Cape May County Planning Board, Cape May Court House, New Jersey 08210, and the NJDEP, Division of Water Resources, Bureau of Water Quality Planning, 401 East State Street, Third Floor, CN-029, Trenton, New Jersey 08625. It is available for inspection between 8:30 A.M. and 4:00 P.M., Monday through Friday.

Interested persons may submit written comments on the amendment to Barry Chalofsky, Bureau of Water Quality Planning, at the NJDEP address cited above. All comments must be submitted within 30 days of the date of this public notice. All comments submitted by interested persons in response to this notice, within the time limit, shall be considered by NJDEP with respect to the amendment request.

Any interested person may request in writing that NJDEP hold a nonadversarial public hearing on the amendment or extend the public comment period in this notice up to 30 additional days. These requests must state the nature of the issues to be raised at the proposed hearing or state the reasons why the proposed extension is necessary. These requests must be submitted within 30 days of this public notice to Mr. Chalofsky at the NJDEP address cited above. If a public hearing is held, the public comment period in this notice shall be extended 15 days after the close of the public hearing.

(c)

DIVISION OF WATER RESOURCES
Amendment to the Upper Raritan Water Quality
Management Plan
Public Notice

Take notice that an amendment to the Upper Raritan Water Quality Management (WQM) Plan has been submitted for approval. This amendment would adopt a Wastewater Management Plan (WMP) for Bedminster Township, Somerset County. The WMP allows for expansion of

the Bedminster Township Sewage Treatment Plant (STP) to accommodate wastewater flows of 0.306 million gallons per day. The Bedminster Township STP sewer service area will also be expanded. The sewer service area of the Environmental Disposal Corporation STP will be expanded. The remainder of the Township is identified as an on-site groundwater disposal area for facilities with design flows of less than 20,000 gallons per day.

This notice is being given to inform the public that a plan amendment has been developed for the Upper Raritan WQM Plan. All information dealing with the aforesaid WQM Plan and the proposed amendment is located at the office of NJDEP, Division of Water Resources, Bureau of Water Quality Planning, 401 East State Street, 3rd Floor, CN-029, Trenton, New Jersey 08625. It is available for inspection between 8:30 A.M. and 4:00 P.M., Monday through Friday.

Interested persons may submit written comments on the amendment to Barry Chalofsky, Bureau of Water Quality Planning, at the NJDEP address cited above. All comments must be submitted within 30 days of the date of this public notice. All comments submitted by interested persons in response to this notice, within the time limit, shall be considered by NJDEP with respect to the amendment request.

Any interested persons may request in writing that NJDEP hold a nonadversarial public hearing on the amendment or extend the public comment period in this notice up to 30 additional days. These requests must state the nature of the issues to be raised at the proposed hearing or state the reasons why the proposed extension is necessary. These requests must be submitted within 30 days of this public notice to Mr. Chalofsky at the NJDEP address cited above. If a public hearing is held, the public comment period in this notice shall be extended 15 days after the close of the public hearing.

INSURANCE

(a)

DIVISION OF ENFORCEMENT AND CONSUMER PROTECTION

Notice of Receipt of Petition for Rulemaking and Action Thereon

Licensure of Certain Salaried Officers and Employees

N.J.A.C. 11:17A, 17B, 17C and 17D

Petitioner: New Jersey Land Title Association.

Authority: N.J.S.A. 52:14B-4(f); N.J.A.C. 11:1-15.1 et seq.

Take notice that petitioner New Jersey Land Title Association, whose membership consists of 20 title insurance underwriting companies which write substantially all of the title insurance written in New Jersey and 132 title insurance agents which are licensed by the Department of Insurance (Department), through its Executive Director/Attorney John R. Weigel, filed with the Department a petition to amend certain portions and to repeal certain other portions of the rules concerning Standards of Conduct for Insurance Producers and Limited Insurance Representatives, N.J.A.C. 11:17A, 17B, 17C and 17D, which rules were adopted January 2, 1990 (see 22 N.J.R. 30(b)). The petition was received on June 4, 1990.

The petition is directed at two matters as follows:

1. To the extent that the administrative rules are directed to title insurance underwriters (requiring the licensure of certain salaried officers and employees of those underwriters pursuant to N.J.A.C. 11:17A-1.3(e)), the rules are inconsistent with the New Jersey Insurance Producer Licensing Act, N.J.S.A. 17:22A-1 et seq.; exceed the authority given to the Department by the New Jersey Insurance Producer Licensing Act; and are illegal.

2. The administrative rules mandate such an enormous increase in the number of title insurance personnel who must be licensed that the presently approved title insurance education courses simply cannot accommodate that greatly increased pool of licensees. The Department must adopt such transitional rules as are indicated by the circumstances.

With regard to the first matter, the petitioner requests that N.J.A.C. 11:17A-1.3(e) be repealed. The petitioner also urges that N.J.A.C. 11:17A-1.3(b) be repealed because it "erroneously infers that some categories of persons, other than 'insurance producers' are required to be licensed under the statute." The petitioner recommends that N.J.A.C.

11:17A-1.3 be rewritten in its entirety "to make it clear that licensure is required of 'insurance producers' ('insurance agents', 'insurance brokers' and 'insurance consultants') and no one else."

With regard to the second matter, the petitioner requests that the Commissioner of Insurance (Commissioner) amend the administrative rules to provide for a transitional rule which will fairly accommodate the large number of licensees within the existing title insurance pre-licensing education system.

The Commissioner hereby certifies that the petition was duly considered pursuant to law. Upon due deliberation, Department hereby responds to the petition as set forth below in numbered paragraphs which respond to the two separate matters raised by petitioner.

1. The Commissioner notes that this particular provision of its rules has resulted in a significant amount of comment from insurance underwriters and producers. While the Department agrees that N.J.A.C. 11:17A-1.3(e) requires the licensure of a person not previously licensed, it notes that this rule was intended to implement the apparent intent of the underlying statutory requirements, N.J.S.A. 17:22A-3. It further notes that many persons who should be licensed under the New Jersey Insurance Producer Licensing Act, and should have been licensed under prior laws because of the nature of their activities, have improperly avoided becoming licensed to date. Because of the importance of this issue, and its implications for insurance underwriters, insurance producers, insurance consumers and the Department, the Commissioner has determined to refer the matter for further deliberations by the Department to be concluded no later than September 4, 1990. The results of these further deliberations shall be mailed to petitioner and published in the New Jersey Register in accordance with N.J.A.C. 11:1-15.3(c).

2. The Commissioner hereby denies at this time the relief requested in petitioner's second request. The Department notes that the New Jersey Insurance Producer Licensing Act became effective April 18, 1988 and contained certain transitional provisions to permit the re-licensing of then-current licensees as of August 1, 1988. The administrative rules adopted January 2, 1990 provided additional time for transition, in that employees of title insurance underwriters were given until January 1, 1991 to comply with N.J.A.C. 11:17A-1.3(e). While the Department acknowledges that compliance with this rule by January 1, 1991 will require an expansion of the pre-licensing education system, it is premature to determine at this time that this expansion cannot be accomplished. The Department will review the matter on or before September 30, 1990 to determine whether an extension of the compliance date beyond January 1, 1991 is appropriate. In making that review, the Department will examine both the efforts of those subject to the rule to complete the pre-licensing education requirements, and the results of its further deliberations regarding the first matter, in order to determine whether an extension of the compliance date is warranted.

LAW AND PUBLIC SAFETY

(b)

DIVISION OF MOTOR VEHICLES

Notice of Common Carrier Applicant

Take notice that Col. Clinton L. Pagano, Director, Division of Motor Vehicles, pursuant to the authority of N.J.S.A. 39:5E-11, hereby list the name and address of an applicant who has filed an application for common carrier's Certificate of Public Convenience Permit.

COMMON CARRIER (NON-GRANDFATHER)

Chemical Transportation Management Co., Inc.

587 Skippack Pike

Suite 100

Blue Bell, PA 19422

Protests in writing and verified under oath may be presented by interested parties to the Director, Division of Motor Vehicles, 25 South Montgomery St., Trenton, N.J. 08666, within 20 days (August 26, 1990) following the publication of an application.

OTHER AGENCIES

(a)

CASINO CONTROL COMMISSION

Petition for Rulemaking

Internal Controls

Transportation Expense Reimbursements

N.J.A.C. 19:45-1.9A

Petitioner: Boardwalk Regency Corporation.

Authority: N.J.S.A. 5:12-69c. and N.J.S.A. 52:14B-4(f).

Take notice that on June 15, 1990, petitioner filed a petition with the Casino Control Commission requesting an amendment to N.J.A.C. 19:45-1.9A, concerning procedures for the documentation of transportation expense reimbursements.

Specifically, the petitioner requests an amendment to establish procedures whereby a casino patron may receive reimbursement of transportation expenses by mail.

The petitioner states that this amendment is necessary to accommodate those situations where the requisite travel documentation or the patron's player rating are unavailable during the patron's stay at the casino.

After due notice, this petition will be considered by the Casino Control Commission in accordance with the provisions of N.J.S.A. 5:12-69c.

EXECUTIVE ORDER NO. 66(1978) EXPIRATION DATES

Pursuant to N.J.A.C. 1:30-4.4, all expiration dates are now affixed at the chapter level. The following table is a complete listing of all current New Jersey Administrative Code expiration dates by **Title** and **Chapter**. If a chapter is not cited, then it does not have an expiration date. In some instances, however, exceptions occur to the chapter-level assignment. These variations do appear in the listing along with the appropriate chapter citation, and are noted either as an exemption from Executive Order No. 66(1978) or as a subchapter-level date differing from the chapter date.

Current expiration dates may also be found in the loose-leaf volumes of the Administrative Code under the **Title** Table of Contents for each executive department or agency and on the **Subtitle** page for each group of chapters in a Title. Please disregard all expiration dates appearing elsewhere in a Title volume.

This listing is revised monthly and appears in the first issue of each month.

OFFICE OF ADMINISTRATIVE LAW—TITLE 1

| N.J.A.C. | Expiration Date | N.J.A.C. | Expiration Date |
|----------|-----------------|----------|-----------------|
| 1:1 | 5/4/92 | 3:17 | 6/18/91 |
| 1:5 | 10/20/91 | 3:18 | 1/19/93 |
| 1:6 | 5/4/92 | 3:19 | 3/17/91 |
| 1:6A | 3/19/95 | 3:21 | 2/2/92 |
| 1:7 | 5/4/92 | 3:22 | 5/12/94 |
| 1:10 | 5/4/92 | 3:23 | 7/6/92 |
| 1:10A | 5/4/92 | 3:24 | 8/18/94 |
| 1:10B | 10/6/91 | 3:25 | 8/17/92 |
| 1:11 | 5/4/92 | 3:26 | 12/31/90 |
| 1:13 | 5/4/92 | 3:27 | 9/16/90 |
| 1:13A | 4/3/94 | 3:28 | 12/12/94 |
| 1:20 | 5/4/92 | 3:32 | 10/3/93 |
| 1:21 | 5/4/92 | 3:33 | 9/18/94 |
| 1:30 | 2/14/91 | 3:38 | 10/5/92 |
| 1:31 | 6/17/92 | 3:41 | 10/16/90 |
| | | 3:42 | 4/4/93 |

AGRICULTURE—TITLE 2

| N.J.A.C. | Expiration Date | N.J.A.C. | Expiration Date |
|----------|---|----------|-----------------|
| 2:1 | 9/3/90 | 4:1 | 1/28/90 |
| 2:2 | 1/17/94 | 4:2 | 1/28/90 |
| 2:3 | 8/21/94 | 4:3 | 6/20/94 |
| 2:5 | 8/21/94 | 4:6 | 5/5/91 |
| 2:6 | 9/3/90 | 4A:1 | 10/5/92 |
| 2:9 | 7/7/91 | 4A:2 | 10/5/92 |
| 2:16 | 5/7/90 | 4A:3 | 9/6/93 |
| 2:22 | 7/6/92 | 4A:4 | 6/6/93 |
| 2:23 | 7/18/93 | 4A:5 | 10/5/92 |
| 2:24 | 4/2/95 | 4A:6 | 1/4/93 |
| 2:32 | 6/1/92 | 4A:7 | 10/5/92 |
| 2:33 | 3/6/94 | 4A:8 | 1/16/95 |
| 2:34 | 1/2/95 | 4A:9 | 10/5/92 |
| 2:48 | 11/27/90 | 4A:10 | 11/2/92 |
| 2:50 | 5/1/92 | | |
| 2:52 | 5/1/95 | | |
| 2:53 | 3/3/91 | | |
| 2:54 | Exempt (7 U.S.C. 601 et seq. 7 C.F.R. 1004) | | |
| 2:68 | 11/7/93 | | |
| 2:69 | 11/7/93 | | |
| 2:70 | 5/7/90 | | |
| 2:71 | 7/8/93 | | |
| 2:72 | 7/8/93 | | |
| 2:73 | 7/8/93 | | |
| 2:74 | 7/8/93 | | |
| 2:76 | 7/31/94 | | |
| 2:90 | 6/22/95 | | |

PERSONNEL (CIVIL SERVICE)—TITLE 4/4A

COMMUNITY AFFAIRS—TITLE 5

BANKING—TITLE 3

| N.J.A.C. | Expiration Date | N.J.A.C. | Expiration Date |
|----------|-----------------|----------|-----------------|
| 3:1 | 1/6/91 | 5:1 | 2/5/95 |
| 3:2 | 4/12/95 | 5:2 | 4/10/94 |
| 3:3 | 1/11/95 | 5:3 | 9/1/93 |
| 3:6 | 3/3/91 | 5:4 | 10/5/92 |
| 3:7 | 9/16/90 | 5:10 | 11/17/93 |
| 3:11 | 5/1/94 | 5:11 | 3/10/94 |
| 3:13 | 11/17/91 | 5:12 | 12/27/94 |
| 3:16 | 6/18/95 | 5:13 | 12/24/92 |
| | | 5:14 | 12/1/90 |
| | | 5:15 | 5/1/94 |
| | | 5:18 | 1/4/95 |
| | | 5:18A | 1/4/95 |
| | | 5:18B | 1/4/95 |
| | | 5:18C | 2/5/95 |
| | | 5:19 | 2/1/93 |
| | | 5:22 | 2/5/95 |
| | | 5:23 | 3/1/93 |
| | | 5:24 | 7/10/95 |
| | | 5:25 | 3/1/91 |
| | | 5:26 | 3/1/91 |
| | | 5:27 | 5/2/95 |
| | | 5:28 | 12/20/90 |
| | | 5:29 | 6/18/91 |
| | | 5:30 | 6/29/93 |

| N.J.A.C. | Expiration Date |
|----------|-----------------|
| 5:31 | 12/1/94 |
| 5:33 | 8/6/95 |
| 5:37 | 11/18/90 |
| 5:38 | 10/27/93 |
| 5:51 | 9/1/93 |
| 5:52 | 1/2/95 |
| 5:70 | 7/9/92 |
| 5:71 | 6/4/95 |
| 5:80 | 4/20/95 |
| 5:91 | 6/16/91 |
| 5:92 | 6/16/91 |
| 5:100 | 6/18/95 |

| N.J.A.C. | Expiration Date |
|----------|-----------------|
| 7:11 | 5/13/93 |
| 7:12 | 4/11/93 |
| 7:13 | 7/14/94 |
| 7:14 | 4/27/94 |
| 7:14A | 6/2/94 |
| 7:14B | 12/21/92 |
| 7:15 | 10/2/94 |
| 7:17 | 4/7/91 |
| 7:18 | 8/6/91 |
| 7:19 | 2/26/95 |
| 7:19A | 3/19/95 |
| 7:19B | 3/19/95 |
| 7:20 | 5/2/95 |
| 7:20A | 12/16/93 |
| 7:22 | 1/5/92 |
| 7:22A | 2/5/95 |
| 7:23 | 6/9/94 |
| 7:24 | 5/19/91 |
| 7:25 | 2/18/91 |
| 7:25A | 4/23/95 |
| 7:26 | 11/4/90 |
| 7:26B | 12/21/92 |
| 7:27 | Exempt |
| 7:27A | 12/4/94 |
| 7:27B-3 | Exempt |
| 7:28 | 10/7/90 |
| 7:29 | 5/21/95 |
| 7:29B | 2/1/93 |
| 7:30 | 12/4/92 |
| 7:31 | 6/20/93 |
| 7:36 | 11/21/93 |
| 7:38 | 9/18/90 |
| 7:45 | 2/6/94 |

DEPARTMENT OF MILITARY AND VETERANS' AFFAIRS—TITLE 5A

| N.J.A.C. | Expiration Date |
|----------|-----------------|
| 5A:1 | 3/12/95 |
| 5A:2 | 5/17/95 |

EDUCATION—TITLE 6

| N.J.A.C. | Expiration Date |
|----------|-----------------|
| 6:2 | 2/6/94 |
| 6:3 | 7/8/93 |
| 6:7 | 1/2/95 |
| 6:8 | 1/5/92 |
| 6:11 | 12/12/90 |
| 6:12 | 4/2/91 |
| 6:20 | 7/16/95 |
| 6:21 | 11/22/94 |
| 6:22 | 7/16/95 |
| 6:22A | 12/19/93 |
| 6:24 | 4/2/91 |
| 6:28 | 4/10/94 |
| 6:29 | 2/8/95 |
| 6:30 | 7/5/93 |
| 6:31 | 11/16/94 |
| 6:39 | 8/14/94 |
| 6:43 | 4/7/91 |
| 6:46 | 10/5/92 |
| 6:53 | 7/7/92 |
| 6:64 | 1/11/93 |
| 6:68 | 2/26/95 |
| 6:69 | 6/4/91 |
| 6:70 | 10/17/94 |
| 6:78 | 11/7/93 |
| 6:79 | 11/25/92 |

HEALTH—TITLE 8

| N.J.A.C. | Expiration Date |
|----------|-----------------|
| 8:7 | 9/16/90 |
| 8:8 | 4/12/94 |
| 8:9 | 2/18/91 |
| 8:13 | 9/8/92 |
| 8:18 | 11/6/94 |
| 8:19 | 5/11/95 |
| 8:20 | 3/2/95 |
| 8:21 | 11/18/90 |
| 8:21A | 4/1/90 |
| 8:22 | 8/4/91 |
| 8:23 | 12/13/94 |
| 8:24 | 5/2/93 |
| 8:25 | 5/19/93 |
| 8:26 | 8/4/91 |
| 8:31 | 1/16/95 |
| 8:31A | 2/20/95 |
| 8:31B | 10/15/90 |
| 8:31C | 1/20/92 |
| 8:33 | 10/7/90 |
| 8:33A | 2/20/92 |
| 8:33B | 10/7/90 |
| 8:33C | 7/17/91 |
| 8:33E | 6/23/92 |
| 8:33F | 11/16/94 |
| 8:33G | 7/17/94 |
| 8:33H | 5/16/95 |
| 8:33I | 9/15/91 |
| 8:33J | 4/24/94 |
| 8:33K | 3/27/94 |
| 8:33L | 11/16/92 |
| 8:33M | 7/17/94 |
| 8:33N | 5/15/94 |
| 8:33P | 3/19/95 |
| 8:34 | 11/15/93 |
| 8:39 | 6/20/93 |
| 8:40 | 5/7/91 |
| 8:41 | 2/17/92 |
| 8:42 | 8/17/92 |
| 8:42A | 6/19/94 |

ENVIRONMENTAL PROTECTION—TITLE 7

| N.J.A.C. | Expiration Date |
|----------|-----------------|
| 7:1 | 9/16/90 |
| 7:1A | 6/5/92 |
| 7:1C | 6/15/95 |
| 7:1D | 11/28/93 |
| 7:1E | 8/6/95 |
| 7:1F | 4/20/92 |
| 7:1G | 9/29/94 |
| 7:1H | 7/13/95 |
| 7:1I | 7/18/93 |
| 7:2 | 6/24/93 |
| 7:3 | 3/21/93 |
| 7:4A | 9/18/94 |
| 7:5C | 1/16/95 |
| 7:6 | 6/9/94 |
| 7:7 | 5/12/94 |
| 7:7A | 6/6/93 |
| 7:7E | 7/24/90 |
| 7:7F | 1/19/93 |
| 7:8 | 2/5/93 |
| 7:9 | 1/21/91 |
| 7:9A | 8/21/94 |
| 7:10 | 9/1/94 |

| N.J.A.C. | Expiration Date |
|----------|-----------------|
| 8:42B | 7/18/93 |
| 8:43 | 1/21/91 |
| 8:43A | 9/3/90 |
| 8:43E | 12/11/92 |
| 8:43F | 2/20/95 |
| 8:43G | 2/5/95 |
| 8:43H | 8/21/94 |
| 8:43I | 3/21/93 |
| 8:44 | 11/2/93 |
| 8:45 | 2/7/95 |
| 8:51 | 9/16/90 |
| 8:52 | 12/15/91 |
| 8:53 | 8/4/91 |
| 8:57 | 4/20/95 |
| 8:57A | 4/20/95 |
| 8:59 | 9/29/94 |
| 8:60 | 5/3/95 |
| 8:61 | 10/6/91 |
| 8:65 | 12/2/90 |
| 8:66 | 3/5/95 |
| 8:66A | 3/5/95 |
| 8:70 | 8/19/93 |
| 8:71 | 2/17/94 |

| N.J.A.C. | Expiration Date |
|----------|-----------------|
| 10:58 | 3/3/91 |
| 10:59 | 3/3/91 |
| 10:60 | 8/27/90 |
| 10:61 | 3/3/91 |
| 10:62 | 3/3/91 |
| 10:63 | 11/28/94 |
| 10:64 | 3/3/91 |
| 10:65 | 8/25/94 |
| 10:66 | 12/15/93 |
| 10:67 | 3/3/91 |
| 10:68 | 7/7/91 |
| 10:69 | 6/6/93 |
| 10:69A | 4/20/93 |
| 10:69B | 11/21/93 |
| 10:70 | 6/16/91 |
| 10:71 | 1/6/91 |
| 10:72 | 8/27/92 |
| 10:80 | 5/19/94 |
| 10:81 | 8/24/94 |
| 10:82 | 8/24/94 |
| 10:83 | 1/19/94 |
| 10:85 | 12/20/94 |
| 10:87 | 1/27/94 |
| 10:89 | 5/24/95 |
| 10:90 | 10/14/92 |
| 10:95 | 8/23/89 |
| 10:97 | 5/15/94 |
| 10:99 | 6/4/95 |
| 10:109 | 3/17/91 |
| 10:120 | 8/21/91 |
| 10:121 | 7/16/95 |
| 10:121A | 12/7/92 |
| 10:122 | 5/15/94 |
| 10:122A | Exempt |
| 10:123 | 7/13/95 |
| 10:124 | 12/7/92 |
| 10:125 | 6/4/95 |
| 10:126 | 11/7/93 |
| 10:126A | 5/7/95 |
| 10:127 | 8/26/93 |
| 10:129 | 7/13/95 |
| 10:130 | 7/2/95 |
| 10:131 | 12/7/92 |
| 10:132 | 1/5/92 |
| 10:141 | 2/7/94 |

HIGHER EDUCATION—TITLE 9

| N.J.A.C. | Expiration Date |
|----------|-----------------|
| 9:1 | 2/21/94 |
| 9:2 | 5/4/95 |
| 9:3 | 9/27/93 |
| 9:4 | 10/30/91 |
| 9:5 | 1/21/91 |
| 9:6 | 4/30/95 |
| 9:6A | 1/4/93 |
| 9:7 | 2/28/93 |
| 9:8 | 11/4/90 |
| 9:9 | 10/3/93 |
| 9:11 | 4/17/94 |
| 9:12 | 4/17/94 |
| 9:14 | 4/11/95 |
| 9:15 | 8/21/94 |

HUMAN SERVICES—TITLE 10

| N.J.A.C. | Expiration Date |
|----------|-----------------|
| 10:1 | 11/7/93 |
| 10:2 | 1/5/92 |
| 10:3 | 11/21/93 |
| 10:11 | 1/16/95 |
| 10:12 | 1/5/92 |
| 10:13 | 7/18/93 |
| 10:14 | 5/16/93 |
| 10:31 | 6/5/94 |
| 10:36 | 8/18/91 |
| 10:37 | 11/4/90 |
| 10:38 | 5/28/91 |
| 10:39 | 5/7/95 |
| 10:40 | 5/11/94 |
| 10:41 | 3/20/94 |
| 10:42 | 8/18/91 |
| 10:43 | 8/21/94 |
| 10:44A | 11/21/93 |
| 10:44B | 7/16/95 |
| 10:45 | 2/20/95 |
| 10:47 | 11/4/90 |
| 10:48 | 1/21/91 |
| 10:49 | 7/13/95 |
| 10:50 | 3/3/91 |
| 10:51 | 10/28/90 |
| 10:52 | 2/8/95 |
| 10:53 | 4/27/95 |
| 10:54 | 3/3/91 |
| 10:55 | 3/8/95 |
| 10:56 | 8/26/91 |
| 10:57 | 3/3/91 |

CORRECTIONS—TITLE 10A

| N.J.A.C. | Expiration Date |
|----------|-----------------|
| 10A:1 | 7/6/92 |
| 10A:2 | 2/5/95 |
| 10A:3 | 10/6/91 |
| 10A:4 | 7/21/91 |
| 10A:5 | 10/6/91 |
| 10A:6 | 11/2/92 |
| 10A:8 | 11/16/92 |
| 10A:9 | 1/20/92 |
| 10A:10-6 | 8/17/92 |
| 10A:16 | 4/6/92 |
| 10A:17 | 12/15/91 |
| 10A:18 | 7/6/92 |
| 10A:19 | 8/21/94 |
| 10A:22 | 7/5/93 |
| 10A:31 | 3/5/95 |
| 10A:32 | 4/16/95 |
| 10A:33 | 5/2/94 |
| 10A:34 | 4/6/92 |
| 10A:70 | Exempt |
| 10A:71 | 2/5/95 |

INSURANCE—TITLE 11

| N.J.A.C. | Expiration Date |
|----------|-----------------|
| 11:1 | 2/3/91 |
| 11:1-20 | 6/24/90 |

| N.J.A.C. | Expiration Date |
|----------|-----------------|
| 11:1-22 | 6/24/90 |
| 11:2 | 12/2/90 |
| 11:3 | 1/6/91 |
| 11:4 | 12/2/90 |
| 11:5 | 10/28/93 |
| 11:7 | 10/19/92 |
| 11:10 | 7/12/95 |
| 11:12 | 10/27/91 |
| 11:13 | 11/12/92 |
| 11:15 | 10/26/94 |
| 11:16 | 2/3/91 |
| 11:17 | 4/18/93 |
| 11:17A | 1/2/95 |
| 11:17B | 1/2/95 |
| 11:17C | 1/2/95 |
| 11:17D | 1/2/95 |
| 11:18 | 12/18/94 |

LAW AND PUBLIC SAFETY—TITLE 13

| N.J.A.C. | Expiration Date |
|----------|-----------------|
| 13:1 | 7/5/93 |
| 13:2 | 8/5/90 |
| 13:3 | 4/25/93 |
| 13:4 | 1/21/91 |
| 13:10 | 3/27/94 |
| 13:13 | 7/16/95 |
| 13:18 | 3/30/95 |
| 13:19 | 8/18/94 |
| 13:20 | 12/18/90 |
| 13:21 | 12/16/90 |
| 13:23 | 5/26/94 |
| 13:24 | 9/27/94 |
| 13:25 | 3/16/95 |
| 13:26 | 9/26/93 |
| 13:27 | 2/20/95 |
| 13:28 | 5/16/93 |
| 13:29 | 5/23/95 |
| 13:30 | 3/12/95 |
| 13:31 | 12/12/91 |
| 13:32 | 10/23/92 |
| 13:33 | 3/12/95 |
| 13:34 | 10/26/93 |
| 13:35 | 9/21/94 |
| 13:36 | 9/27/94 |
| 13:37 | 1/23/95 |
| 13:38 | 10/7/90 |
| 13:39 | 6/19/94 |
| 13:39A | 7/7/91 |
| 13:40 | 9/3/90 |
| 13:41 | 9/3/90 |
| 13:42 | 10/31/93 |
| 13:43 | 9/1/93 |
| 13:44 | 8/7/94 |
| 13:44B | 11/2/92 |
| 13:44C | 7/18/93 |
| 13:44D | 8/7/94 |
| 13:45A | 12/16/90 |
| 13:45B | 4/17/94 |
| 13:46 | 6/3/90 |
| 13:47 | 2/2/92 |
| 13:47A | 10/5/92 |
| 13:47B | 2/21/94 |
| 13:47C | 6/9/94 |
| 13:48 | 1/21/91 |
| 13:49 | 12/16/93 |
| 13:51 | 4/27/92 |
| 13:54 | 10/5/91 |
| 13:59 | 9/16/90 |
| 13:60 | 1/20/92 |
| 13:61 | 3/5/95 |
| 13:62 | 3/19/95 |
| 13:70 | 1/25/95 |
| 13:71 | 1/25/95 |
| 13:75 | 6/5/94 |
| 13:76 | 6/27/93 |
| 13:77 | 2/1/93 |
| 13:78 | 3/20/94 |
| 13:81 | 8/6/95 |

LABOR—TITLE 12

| N.J.A.C. | Expiration Date |
|----------|-----------------|
| 12:3 | 12/19/93 |
| 12:5 | 9/19/93 |
| 12:6 | 10/17/93 |
| 12:15 | 8/19/90 |
| 12:16 | 3/23/95 |
| 12:17 | 1/6/91 |
| 12:18 | 3/7/93 |
| 12:19 | 7/2/95 |
| 12:20 | 8/14/94 |
| 12:35 | 7/16/95 |
| 12:40 | 2/5/95 |
| 12:41 | 1/17/94 |
| 12:45 | 5/2/93 |
| 12:46 | 5/2/93 |
| 12:47 | 5/2/93 |
| 12:48 | 5/2/93 |
| 12:49 | 5/2/93 |
| 12:51 | 6/30/91 |
| 12:56 | 9/26/90 |
| 12:57 | 9/26/90 |
| 12:58 | 9/26/90 |
| 12:60 | 3/21/93 |
| 12:90 | 12/15/94 |
| 12:100 | 9/22/94 |
| 12:102 | 5/21/95 |
| 12:105 | 1/21/91 |
| 12:110 | 1/19/93 |
| 12:112 | 9/6/93 |
| 12:120 | 5/3/95 |
| 12:175 | 11/28/93 |
| 12:190 | 1/4/93 |
| 12:195 | 6/24/93 |
| 12:196 | 8/6/95 |
| 12:200 | 8/5/90 |
| 12:210 | 9/6/93 |
| 12:235 | 5/5/91 |

COMMERCE, ENERGY, AND ECONOMIC DEVELOPMENT—TITLE 12A

| N.J.A.C. | Expiration Date |
|-----------|-----------------|
| 12A:9 | 3/7/93 |
| 12A:10-1 | 10/13/94 |
| 12A:11 | 9/21/92 |
| 12A:12 | 9/21/92 |
| 12A:31 | 7/16/95 |
| 12A:50 | 8/15/93 |
| 12A:54 | 8/15/93 |
| 12A:60 | 11/21/93 |
| 12A:80 | 7/2/95 |
| 12A:100-1 | 9/8/91 |
| 12A:120 | 9/6/93 |
| 12A:121 | 12/5/93 |

PUBLIC UTILITIES—TITLE 14

| N.J.A.C. | Expiration Date |
|----------|-----------------|
| 14:1 | 12/16/90 |
| 14:3 | 5/6/90 |
| 14:5 | 12/16/90 |
| 14:6 | 3/3/91 |
| 14:9 | 4/15/90 |
| 14:10 | 9/8/91 |
| 14:10-6 | 9/5/91 |
| 14:11 | 1/27/92 |
| 14:17 | 4/24/94 |
| 14:18 | 7/29/90 |
| 14:25 | 3/5/95 |

ENERGY—TITLE 14A

| N.J.A.C. | Expiration Date |
|----------|-----------------|
| 14A:2 | 4/17/89 |
| 14A:3 | 10/7/90 |
| 14A:6 | 1/16/95 |
| 14A:7 | 9/16/90 |
| 14A:8 | 1/16/95 |
| 14A:11 | 1/16/95 |
| 14A:13 | 2/2/92 |
| 14A:14 | 1/30/94 |
| 14A:20 | 2/3/91 |
| 14A:21 | 11/21/90 |
| 14A:22 | 6/4/89 |

STATE—TITLE 15

| N.J.A.C. | Expiration Date |
|----------|-----------------|
| 15:2 | 5/2/93 |
| 15:3 | 7/7/91 |
| 15:5 | 2/17/92 |
| 15:10 | 2/18/91 |

PUBLIC ADVOCATE—TITLE 15A

| N.J.A.C. | Expiration Date |
|----------|-----------------|
| 15A:2 | 12/27/94 |

TRANSPORTATION—TITLE 16

| N.J.A.C. | Expiration Date |
|----------|-----------------|
| 16:1 | 8/5/90 |
| 16:1A | 6/16/94 |
| 16:5 | 11/20/94 |
| 16:6 | 8/7/94 |
| 16:7 | 3/6/94 |
| 16:20A | 2/20/95 |
| 16:20B | 2/20/95 |
| 16:21 | 9/3/90 |
| 16:21A | 11/20/94 |
| 16:22 | 2/3/91 |
| 16:24 | 2/5/95 |
| 16:25 | 8/15/93 |
| 16:25A | 7/18/93 |
| 16:26 | 9/5/94 |
| 16:27 | 9/8/91 |
| 16:28 | 6/1/93 |
| 16:28A | 6/1/93 |
| 16:29 | 6/1/93 |
| 16:30 | 6/1/93 |
| 16:31 | 6/1/93 |
| 16:31A | 6/1/93 |
| 16:32 | 2/8/95 |
| 16:41 | 7/28/92 |
| 16:41A | 1/23/95 |
| 16:41B | 7/2/95 |
| 16:43 | 5/10/95 |
| 16:44 | 5/25/93 |
| 16:45 | 9/18/94 |
| 16:46 | 11/6/94 |
| 16:49 | 2/8/95 |
| 16:51 | 4/6/92 |
| 16:53 | 7/17/94 |
| 16:53B | 7/3/94 |
| 16:53C | 6/16/93 |
| 16:53D | 5/3/94 |
| 16:54 | 4/7/91 |
| 16:55 | 6/14/93 |
| 16:56 | 8/7/94 |
| 16:60 | 6/14/93 |
| 16:61 | 6/14/93 |
| 16:62 | 2/26/95 |
| 16:72 | 3/31/91 |
| 16:73 | 1/30/92 |
| 16:74 | 10/20/91 |
| 16:75 | 5/13/93 |

| N.J.A.C. | Expiration Date |
|----------|-----------------|
| 16:76 | 2/6/94 |
| 16:77 | 3/5/95 |
| 16:78 | 10/7/90 |
| 16:79 | 10/20/91 |
| 16:80 | 11/7/93 |
| 16:81 | 11/7/93 |
| 16:82 | 9/5/94 |

TREASURY-GENERAL—TITLE 17

| N.J.A.C. | Expiration Date |
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| 17:1 | 5/6/93 |
| 17:2 | 11/8/94 |
| 17:3 | 8/15/93 |
| 17:4 | 6/8/95 |
| 17:5 | 12/2/90 |
| 17:6 | 11/22/93 |
| 17:7 | 12/19/93 |
| 17:8 | 6/27/90 |
| 17:9 | 10/3/93 |
| 17:10 | 5/6/93 |
| 17:12 | 10/13/94 |
| 17:13 | 10/13/94 |
| 17:14 | 10/13/94 |
| 17:16 | 12/2/90 |
| 17:19 | 3/8/95 |
| 17:20 | 9/26/93 |
| 17:25 | 5/26/94 |
| 17:27 | 10/7/93 |
| 17:28 | 9/13/90 |
| 17:29 | 10/18/90 |
| 17:30 | 5/4/92 |
| 17:32 | 3/21/93 |
| 17:33 | 4/17/94 |

TREASURY-TAXATION—TITLE 18

| N.J.A.C. | Expiration Date |
|----------|-----------------|
| 18:1 | 7/21/94 |
| 18:2 | 9/6/93 |
| 18:3 | 3/14/94 |
| 18:5 | 3/14/94 |
| 18:6 | 3/14/94 |
| 18:7 | 3/14/94 |
| 18:8 | 2/24/94 |
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| 18:12 | 7/29/93 |
| 18:12A | 7/29/93 |
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| 18:19 | 3/14/94 |
| 18:22 | 2/24/94 |
| 18:23 | 2/24/94 |
| 18:23A | 8/5/90 |
| 18:24 | 6/7/93 |
| 18:25 | 1/6/91 |
| 18:26 | 6/7/93 |
| 18:35 | 6/7/93 |
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| 18:37 | 8/5/90 |
| 18:38 | 2/16/93 |
| 18:39 | 9/8/92 |

OTHER AGENCIES—TITLE 19

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| 19:3 | 5/26/93 |
| 19:3B | Exempt (N.J.S.A. 13:17-1) |
| 19:4 | 5/26/93 |
| 19:4A | 6/20/93 |
| 19:8 | 7/5/93 |
| 19:9 | 10/17/93 |

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6/8/93
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1/9/91
10/7/90
8/24/94
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5/12/93
4/27/94
9/29/93

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4/28/93
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REGISTER INDEX OF RULE PROPOSALS AND ADOPTIONS

The research supplement to the New Jersey Administrative Code

A CUMULATIVE LISTING OF CURRENT PROPOSALS AND ADOPTIONS

The **Register Index of Rule Proposals and Adoptions** is a complete listing of all active rule proposals (with the exception of rule changes proposed in this Register) and all new rules and amendments promulgated since the most recent update to the Administrative Code. Rule proposals in this issue will be entered in the Index of the next issue of the Register. **Adoptions promulgated in this Register have already been noted in the Index by the addition of the Document Number and Adoption Notice N.J.R. Citation next to the appropriate proposal listing.**

Generally, the key to locating a particular rule change is to find, under the appropriate Administrative Code Title, the N.J.A.C. citation of the rule you are researching. If you do not know the exact citation, scan the column of rule descriptions for the subject of your research. To be sure that you have found all of the changes, either proposed or adopted, to a given rule, scan the citations above and below that rule to find any related entries.

At the bottom of the index listing for each Administrative Code Title is the Transmittal number and date of the latest looseleaf update to that Title. Updates are issued monthly and include the previous month's adoptions, which are subsequently deleted from the Index. To be certain that you have a copy of all recent promulgations not yet issued in a Code update, retain each Register beginning with the June 4, 1990 issue.

If you need to retain a copy of all currently proposed rules, you must save the last 12 months of Registers. A proposal may be adopted up to one year after its initial publication in the Register. Failure to adopt a proposed rule on a timely basis requires the proposing agency to resubmit the proposal and to comply with the notice and opportunity-to-be-heard requirements of the Administrative Procedure Act (N.J.S.A. 52:14B-1 et seq.), as implemented by the Rules for Agency Rulemaking (N.J.A.C. 1:30) of the Office of Administrative Law. If an agency allows a proposed rule to lapse, "Expired" will be inserted to the right of the Proposal Notice N.J.R. Citation in the next Register following expiration. Subsequently, the entire proposal entry will be deleted from the Index. See: N.J.A.C. 1:30-4.2(c).

Terms and abbreviations used in this Index:

N.J.A.C. Citation. The New Jersey Administrative Code numerical designation for each proposed or adopted rule entry.

Proposal Notice (N.J.R. Citation). The New Jersey Register page number and item identification for the publication notice and text of a proposed amendment or new rule.

Document Number. The Registry number for each adopted amendment or new rule on file at the Office of Administrative Law, designating the year of adoption of the rule and its chronological ranking in the Registry. As an example, R.1990 d.1 means the first rule adopted in 1990.

Adoption Notice (N.J.R. Citation). The New Jersey Register page number and item identification for the publication notice and text of an adopted amendment or new rule.

Transmittal. A series number and supplement date certifying the currency of rules found in each Title of the New Jersey Administrative Code: Rule adoptions published in the Register after the Transmittal date indicated do not yet appear in the loose-leaf volumes of the Code.

N.J.R. Citation Locator. An issue-by-issue listing of first and last pages of the previous 12 months of Registers. Use the locator to find the issue of publication of a rule proposal or adoption.

MOST RECENT UPDATE TO THE ADMINISTRATIVE CODE: SUPPLEMENT MAY 21, 1990

NEXT UPDATE: SUPPLEMENT JUNE 18, 1990

Note: If no changes have occurred in a Title during the previous month, no update will be issued for that Title.

N.J.R. CITATION LOCATOR

| If the N.J.R. citation is between: | Then the rule proposal or adoption appears in this issue of the Register | If the N.J.R. citation is between: | Then the rule proposal or adoption appears in this issue of the Register |
|---------------------------------------|--|---------------------------------------|--|
| 21 N.J.R. 2149 and 2426 | August 7, 1989 | 22 N.J.R. 585 and 686 | February 20, 1990 |
| 21 N.J.R. 2427 and 2690 | August 21, 1989 | 22 N.J.R. 687 and 884 | March 5, 1990 |
| 21 N.J.R. 2691 and 2842 | September 5, 1989 | 22 N.J.R. 885 and 1010 | March 19, 1990 |
| 21 N.J.R. 2843 and 3042 | September 18, 1989 | 22 N.J.R. 1011 and 1182 | April 2, 1990 |
| 21 N.J.R. 3043 and 3204 | October 2, 1989 | 22 N.J.R. 1183 and 1290 | April 16, 1990 |
| 21 N.J.R. 3205 and 3330 | October 16, 1989 | 22 N.J.R. 1291 and 1408 | May 7, 1990 |
| 21 N.J.R. 3331 and 3584 | November 6, 1989 | 22 N.J.R. 1409 and 1648 | May 21, 1990 |
| 21 N.J.R. 3585 and 3688 | November 20, 1989 | 22 N.J.R. 1649 and 1806 | June 4, 1990 |
| 21 N.J.R. 3689 and 3812 | December 4, 1989 | 22 N.J.R. 1807 and 1964 | June 18, 1990 |
| 21 N.J.R. 3813 and 3986 | December 18, 1989 | 22 N.J.R. 1965 and 2062 | July 2, 1990 |
| 22 N.J.R. 1 and 88 | January 2, 1990 | 22 N.J.R. 2063 and 2202 | July 16, 1990 |
| 22 N.J.R. 89 and 272 | January 16, 1990 | 22 N.J.R. 2203 and 2386 | August 6, 1990 |
| 22 N.J.R. 273 and 584 | February 5, 1990 | | |

| N.J.A.C. CITATION | | PROPOSAL NOTICE (N.J.R. CITATION) | DOCUMENT NUMBER | ADOPTION NOTICE (N.J.R. CITATION) |
|-----------------------------------|---|--------------------------------------|--------------------|--------------------------------------|
| ADMINISTRATIVE LAW—TITLE 1 | | | | |
| 1:1-8.2 | Transmission of contested cases to the OAL | 22 N.J.R. 2066(a) | | |
| 1:1-9.5 | OAL Notice of Filing: preproposal regarding notification of parties to contested case | 22 N.J.R. 2066(b) | | |
| 1:1-12.5 | Partial summary decisions | 22 N.J.R. 3(a) | R.1990 d.368 | 22 N.J.R. 2262(a) |
| 1:1-18.4 | Filing of exceptions to initial decisions | 22 N.J.R. 2065(a) | | |
| 1:6A | Special education hearings: public hearings | 21 N.J.R. 3045(a) | | |
| 1:6A-4.2, 9.1 | Scheduling of special education hearing | 22 N.J.R. 1295(a) | R.1990 d.405 | 22 N.J.R. 2262(b) |
| 1:10-18.2 | Filing of exceptions to initial decisions | 22 N.J.R. 2065(a) | | |
| 1:10B-18.2 | Filing of exceptions to initial decisions | 22 N.J.R. 2065(a) | | |
| 1:11-10.1 | Discovery in private passenger automobile insurance rate hearings | 21 N.J.R. 3815(a) | | |

Most recent update to Title 1: TRANSMITTAL 1990-3 (supplement May 21, 1990)

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| AGRICULTURE—TITLE 2 | | | | |
| 2:6-1 | Distribution and use of veterinary biologics | 22 N.J.R. 2068(a) | | |
| 2:19-2 | Rose mosaic disease control | 22 N.J.R. 2069(a) | | |
| 2:20-2 | White pine blister rust control | 22 N.J.R. 2070(a) | | |
| 2:52-6, 7 | Milk supply and sale | 22 N.J.R. 1629(a) | R.1990 d.355 | 22 N.J.R. 2138(a) |
| 2:53-3, 4, 6, 7 | Milk supply and sale | 22 N.J.R. 1629(a) | R.1990 d.355 | 22 N.J.R. 2138(a) |
| 2:69-1.11 | Commercial values of primary plant nutrients | 22 N.J.R. 1295(b) | R.1990 d.353 | 22 N.J.R. 2140(a) |
| 2:70-1 | Classification of liming materials | 22 N.J.R. 1411(a) | | |
| 2:71-2.2-2.6 | Jersey Fresh Quality Grading Program | 22 N.J.R. 1296(a) | R.1990 d.354 | 22 N.J.R. 2140(b) |
| 2:71-2.28, 2.29, 2.31 | Fruits and vegetables: fees for inspection and grading | 22 N.J.R. 1242(c) | R.1990 d.318 | 22 N.J.R. 1914(a) |
| 2:76-6.2, 6.5, 6.6, 6.9-6.12, 6.15-6.17 | Farmland preservation program | 22 N.J.R. 1244(a) | | |
| 2:90 | State Soil Conservation Committee rules | 22 N.J.R. 1299(a) | R.1990 d.356 | 22 N.J.R. 2142(a) |

Most recent update to Title 2: TRANSMITTAL 1990-4 (supplement May 21, 1990)

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| BANKING—TITLE 3 | | | | |
| 3:0 | Compensation to mortgage bankers, brokers and real estate licensees for placing mortgage loans: preproposal | 22 N.J.R. 275(a) | | |
| 3:1-4.2, 4.7, 4.9, 4.10 | Protection of governmental unit deposits | 22 N.J.R. 1809(a) | | |
| 3:1-14 | Revolving credit equity loans | 21 N.J.R. 3333(b) | | |
| 3:1-17 | Senior citizen homeowner's reverse mortgage loans | 21 N.J.R. 3207(b) | | |
| 3:16-2.3 | Pawnbrokers' sales of unredeemed pledges at public auction | 22 N.J.R. 1015(a) | R.1990 d.302 | 22 N.J.R. 1914(b) |
| 3:18-3.5 | Repeal (see 3:1-14) | 21 N.J.R. 3333(b) | | |
| 3:29-1.1-1.4, 1.6, 1.7, 1.8 | Savings and loan associations: audit requirements | 22 N.J.R. 1968(a) | | |
| 3:41-7.4 | Temporary storage of human remains by cemetery company | 22 N.J.R. 1185(a) | R.1990 d.357 | 22 N.J.R. 2142(b) |

Most recent update to Title 3: TRANSMITTAL 1990-3 (supplement May 21, 1990)

CIVIL SERVICE—TITLE 4

Most recent update to Title 4: TRANSMITTAL 1990-1 (supplement January 16, 1990)

| N.J.A.C. CITATION | | PROPOSAL NOTICE (N.J.R. CITATION) | DOCUMENT NUMBER | ADOPTION NOTICE (N.J.R. CITATION) |
|--------------------------------|---|-----------------------------------|-----------------|-----------------------------------|
| PERSONNEL—TITLE 4A | | | | |
| 4A:2-2.3 | Misuse of State property | 22 N.J.R. 1015(b) | R.1990 d.308 | 22 N.J.R. 1915(a) |
| 4A:4-6.5 | Psychological disqualification proceeding | 22 N.J.R. 1300(a) | R.1990 d.346 | 22 N.J.R. 2143(a) |
| 4A:6-1.1, 1.3, 1.8, 1.10, 1.21 | Family leave | 22 N.J.R. 1300(b) | R.1990 d.387 | 22 N.J.R. 2263(a) |
| 4A:7-1.1 | Equal employment opportunity: administrative correction | _____ | _____ | 22 N.J.R. 2266(a) |
| 4A:8-2.4 | Family leave | 22 N.J.R. 1300(b) | R.1990 d.387 | 22 N.J.R. 2263(a) |

Most recent update to Title 4A: TRANSMITTAL 1990-1 (supplement January 16, 1990)

| COMMUNITY AFFAIRS—TITLE 5 | | | | |
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| 5:14 | Neighborhood Preservation Balanced Housing Program | 22 N.J.R. 1700(b) | | |
| 5:15-2.1 | Emergency shelters for homeless: hospitality rooms | 22 N.J.R. 1969(a) | | |
| 5:18-2.7 | Uniform Fire Code and Building Subcode: tents and tensioned membrane structures requiring permits | 21 N.J.R. 1654(a) | R.1990 d.325 | 22 N.J.R. 2001(a) |
| 5:23 | Uniform Construction Code: annual public hearing on change proposals | 22 N.J.R. 1016(a) | | |
| 5:23-1.1, 1.4, 3.11, 4.1, 4.12-4.15, 4.21, 4.22, 4.24-4.39, 4A | Uniform Construction Code: industrialized and modular buildings | 22 N.J.R. 691(a) | | |
| 5:23-2.14, 3.14 | Uniform Construction Code: temporary greenhouses | 22 N.J.R. 1969(b) | | |
| 5:23-3.14 | Uniform Fire Code and Building Subcode: tents and tensioned membrane structures requiring permits | 21 N.J.R. 1654(a) | R.1990 d.325 | 22 N.J.R. 2001(a) |
| 5:23-3.16 | Electrical subcode: administrative correction | _____ | _____ | 22 N.J.R. 2366(b) |
| 5:23-4.17 | Uniform Construction Code: appropriation of municipal fees | 22 N.J.R. 1871(a) | | |
| 5:23-7.2-7.6, 7.8, 7.9, 7.11, 7.12, 7.17, 7.18, 7.30, 7.37, 7.41, 7.55-7.57, 7.61, 7.67, 7.68, 7.71-7.73, 7.75, 7.76, 7.80-7.82, 7.87, 7.94-7.97 | Barrier Free Subcode | 21 N.J.R. 2774(a) | R.1990 d.345 | 22 N.J.R. 2267(a) |
| 5:23-9.3 | Uniform Construction Code: FRT plywood as roof sheathing | 21 N.J.R. 3870(a) | | |
| 5:23-9.3 | Uniform Construction Code: public meeting regarding FRT plywood use as roof sheathing | 22 N.J.R. 706(a) | | |
| 5:23-9.4 | Uniform Construction Code: earthquake zones and seismic design requirements | 22 N.J.R. 592(a) | | |
| 5:23-9.5 | Uniform Construction Code: records retention by code office | 22 N.J.R. 1455(a) | R.1990 d.364 | 22 N.J.R. 2275(a) |
| 5:24 | Condominium and cooperative conversion | 22 N.J.R. 1455(b) | R.1990 d.379 | 22 N.J.R. 2276(a) |
| 5:25 | New home warranties and builders' registration | 22 N.J.R. 1701(a) | | |
| 5:25-5.4 | New Home Warranty Security Plan: builder premium rates | 21 N.J.R. 3698(a) | | |
| 5:25-5.4 | New Home Warranty Security Plan: builder premium rates | 22 N.J.R. 277(a) | | |
| 5:26 | Planned real estate development full disclosure | 22 N.J.R. 1702(a) | | |
| 5:26-2.2 | Planned real estate development full disclosure: registration exemptions | 22 N.J.R. 1872(a) | | |
| 5:27 | Rooming and boarding houses | 21 N.J.R. 3871(a) | R.1990 d.275 | 22 N.J.R. 1720(a) |
| 5:27-1.6, 1.9, 2.1, 8.1 | Rooming and boarding house licensure: alcohol and drug rehabilitation facilities | 22 N.J.R. 912(a) | R.1990 d.274 | 22 N.J.R. 1720(b) |
| 5:28 | State Housing Code | 22 N.J.R. 1456(a) | | |
| 5:29 | Landlord-tenant relations | 22 N.J.R. 2070(b) | | |
| 5:29-1.2 | Landlord registration form for one and two-unit rental dwellings: administrative correction | 21 N.J.R. 3699(a) | | |
| 5:30 | Local Finance Board rules | 22 N.J.R. 706(b) | R.1990 d.383 | 22 N.J.R. 2276(b) |
| 5:30-14, 17 | Repeal; recodify (see 5:34) | 22 N.J.R. 724(a) | | |
| 5:33 | Tax collection administration | 22 N.J.R. 706(b) | R.1990 d.383 | 22 N.J.R. 2276(b) |
| 5:34 | Local public contracts | 22 N.J.R. 724(a) | | |
| 5:70-6.3 | Congregate Housing Services Program: income and service subsidies | 22 N.J.R. 1970(a) | | |
| 5:71 | County offices on aging | 22 N.J.R. 1016(b) | R.1990 d.282 | 22 N.J.R. 1720(c) |
| 5:80-5.1, 5.2, 5.3, 5.8, 5.9, 5.10 | Housing and Mortgage Finance Agency: transfer of ownership interests | 22 N.J.R. 1971(a) | | |
| 5:80-29 | Housing and Mortgage Finance Agency: investment of surplus funds | 22 N.J.R. 1974(a) | | |
| 5:92-8.2 | Council on Affordable Housing: administrative correction to adoption notice | _____ | _____ | 22 N.J.R. 2143(b) |
| 5:92-12.13, 12.15, 12.16, App. | Council on Affordable Housing: central air conditioning in income-qualified units | 22 N.J.R. 1703(a) | | |

| N.J.A.C. CITATION | | PROPOSAL NOTICE (N.J.R. CITATION) | DOCUMENT NUMBER | ADOPTION NOTICE (N.J.R. CITATION) |
|--------------------------------|---|-----------------------------------|-----------------|-----------------------------------|
| 5:92-12.13, 12.15, 12.16, App. | Council on Affordable Housing: extension of comment period regarding central air conditioning in income-qualified units | 22 N.J.R. 1975(a) | | |
| 5:100 | Ombudsman for institutionalized elderly: practice and procedure | 22 N.J.R. 1016(c) | R.1990 d.316 | 22 N.J.R. 1926(a) |

Most recent update to Title 5: TRANSMITTAL 1990-5 (supplement May 21, 1990)

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| 5A:2 | Military leave for public employee members of National Guard | 22 N.J.R. 1185(b) | R.1990 d.309 | 22 N.J.R. 1935(a) |

Most recent update to Title 5A: TRANSMITTAL 1990-1 (supplement April 16, 1990)

EDUCATION—TITLE 6

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| 6:3-1.11, 1.12, 1.24 | Teacher preparation and certification | 22 N.J.R. 1873(a) | | |
| 6:3-2.1, 2.2, 2.5-2.8 | Pupil records | 22 N.J.R. 1302(a) | R.1990 d.380 | 22 N.J.R. 2344(a) |
| 6:11 | Teacher preparation and certification | 22 N.J.R. 1873(a) | | |
| 6:20 | School business services | 22 N.J.R. 1246(a) | R.1990 d.393 | 22 N.J.R. 2345(a) |
| 6:22 | School facility planning service | 22 N.J.R. 1253(a) | R.1990 d.394 | 22 N.J.R. 2350(a) |
| 6:22-1.1, 1.7 | School facility planning: administrative corrections | | | 22 N.J.R. 2359(a) |
| 6:28-1.1, 1.3, 1.4, 2.1, 2.3, 2.5-2.9, 3.3-3.7, 3.9, 4.1, 4.2, 4.4-4.8, 5.1, 5.2, 6.1-6.5, 7.1, 7.4, 8.1, 8.4-8.6, 9.2, 10.1, 11.5, 11.6, 11.11, 11.12 | Special education | 22 N.J.R. 1412(a) | | |
| 6:29-2.4, 5.2 | Health services: administrative corrections | | | 22 N.J.R. 2359(a) |
| 6:42 | Repeal (see 6:43) | 22 N.J.R. 1705(a) | | |
| 6:43 | Vocational and technical programs and standards | 22 N.J.R. 1705(a) | | |
| 6:68-2.4, 5.1, 5.8, 10.2 | Library assistance: administrative corrections | | | 22 N.J.R. 2359(a) |

Most recent update to Title 6: TRANSMITTAL 1990-4 (supplement May 21, 1990)

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| 7:1 | Practice and procedure; hazardous substances discharge reporting; pesticides disposal | 22 N.J.R. 1457(a) | | |
| 7:1C | Ninety-day construction permits | 22 N.J.R. 731(a) | R.1990 d.343 | 22 N.J.R. 2143(c) |
| 7:1E | Discharges of petroleum and other hazardous substances | 22 N.J.R. 1651(a) | R.1990 d.398 | 22 N.J.R. 2284(a) |
| 7:1H | Administration of county environmental health services | 22 N.J.R. 732(a) | R.1990 d.385 | 22 N.J.R. 2284(b) |
| 7:5C-5.1 | Endangered plant species | 22 N.J.R. 94(a) | R.1990 d.292 | 22 N.J.R. 1743(a) |
| 7:6-3.13, 4.9 | Boating and water skiing on Budd Lake | 22 N.J.R. 1631(a) | R.1990 d.366 | 22 N.J.R. 2182(b) |
| 7:7-2.3 | Waterfront development | Emergency (expires 9-15-90) | R.1990 d.403 | 22 N.J.R. 2361(a) |
| 7:7A-9.2 | Freshwater wetlands protection: Statewide general permits | 22 N.J.R. 278(a) | | |
| 7:7E | Coastal zone management | 22 N.J.R. 1188(a) | | |
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| 7:11-2.1, 2.2, 2.3, 2.9 | Delaware and Raritan Canal-Spruce Run/Round Valley Reservoir System: schedule of rates | 21 N.J.R. 3836(a) | R.1990 d.294 | 22 N.J.R. 1755(a) |
| 7:11-4 | Manasquan Reservoir Water Supply System: rate schedule | 21 N.J.R. 3838(a) | R.1990 d.293 | 22 N.J.R. 1756(a) |
| 7:11-4 | Manasquan Reservoir Water Supply System rate schedule: change of public hearing location | 22 N.J.R. 4(a) | | |
| 7:11-5 | Use of water from Manasquan Reservoir water supply system | 21 N.J.R. 3701(a) | | |
| 7:12-1.1, 2.1, 3.2, 4.1, 4.2 | Shellfish growing water classification | 22 N.J.R. 1304(a) | R.1990 d.399 | 22 N.J.R. 2285(a) |
| 7:12-1.2, 9 | Soft clam and hard clam depuration | 22 N.J.R. 97(a) | | |
| 7:13-7.1 | Redelineation of Rowe Brook in Tewksbury Township, Hunterdon County | 21 N.J.R. 3843(a) | R.1990 d.320 | 22 N.J.R. 1937(b) |
| 7:13-7.1 | Redelineation of Pond Run in Hamilton Township, Mercer County | 21 N.J.R. 3843(b) | R.1990 d.319 | 22 N.J.R. 1937(a) |
| 7:14A-1.8 | NJPDES permit program: preproposal regarding minimum discharge fees | 22 N.J.R. 1652(a) | | |
| 7:14A-2.1 | Application for NJPDES permit: administrative corrections | | | 22 N.J.R. 2001(b) |
| 7:14A-12.22, 12.23 | Sewer connection ban exemptions | 21 N.J.R. 2240(c) | | |
| 7:14B-1.3, 1.4, 1.6, 2.1-2.5, 2.7, 2.8, 3.1, 3.2, 3.4, 3.5, 4-12, 15 | Underground storage tank systems | 21 N.J.R. 2242(a) | | |

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| 7:14B-13 | Underground Storage Tank Improvement Fund loan program | 21 N.J.R. 2265(a) | | |
| 7:15-1.1, 1.5, 3.1, 3.2, 3.4, 3.5, 3.6, 3.8, 3.9, 4.1, 4.2, 5.2, 5.4, 5.6, 5.8, 5.14, 5.18, 5.19, 5.23 | Statewide water quality management planning: administrative corrections | _____ | _____ | 22 N.J.R. 2001(b) |
| 7:17 | Repeal (see 7:12-1.2, 9) | 22 N.J.R. 97(a) | | |
| 7:18-1.1, 1.4, 1.6, 1.7, 1.9, 2.1-2.4, 2.6, 2.7, 2.10-2.13, 2.15, 5.3, 5.4, 5.5, 5.7, 5.8 | Radon laboratory certification program | 21 N.J.R. 3354(a) | | |
| 7:20-1 | Dam safety standards | 22 N.J.R. 279(a) | R.1990 d.276 | 22 N.J.R. 1760(a) |
| 7:25-4.13, 4.17 | Endangered and nongame wildlife species | 22 N.J.R. 1308(a) | | |
| 7:25-5 | 1990-91 Game Code | 22 N.J.R. 1459(a) | R.1990 d.404 | 22 N.J.R. 2288(a) |
| 7:25-6 | 1991-92 Fish Code | 22 N.J.R. 2071(a) | | |
| 7:25-7.13 | Crab dredging in Atlantic Coast section: administrative correction | _____ | _____ | 22 N.J.R. 2005(a) |
| 7:25-18.5 | Gill netting: administrative correction | _____ | _____ | 22 N.J.R. 2301(a) |
| 7:25-18.5-18.11 | Gill netting in Delaware Bay | 22 N.J.R. 1311(a) | | |
| 7:26-1.4, 7.4, 7.5, 7.6, 8.2, 8.3 | Hazardous waste exports, imports; small quantity generators; farm pesticide waste | 22 N.J.R. 1472(a) | | |
| 7:26-2, 2A, 2B, 8 | Management of resource recovery facility combustion residual ash: preproposal | 22 N.J.R. 108(b) | | |
| 7:26-3A.8 | Medical waste generator fees | 22 N.J.R. 1478(a) | R.1990 d.358 | 22 N.J.R. 2145(a) |
| 7:26-6.5 | Interdistrict and intradistrict solid waste flow: Bergen County | 21 N.J.R. 1486(a) | R.1990 d.324 | 22 N.J.R. 2005(b) |
| 7:26-6.5 | Interdistrict and intradistrict solid waste flow: Camden, Gloucester, Essex and Sussex counties | 22 N.J.R. 284(a) | | |
| 7:26-7.2, 7.4, 8.1, 8.5, 8.7, 8.13, 8.20 | Hazardous waste management: waste code hierarchy; waste determination; waste oils listing; container labeling | 22 N.J.R. 288(a) | | |
| 7:26-8.13 | Manifesting of nonhazardous waste: preproposal | 21 N.J.R. 3220(a) | | |
| 7:27-8 | Air pollution control permit and certificate process | 22 N.J.R. 292(a) | | |
| 7:27-8.2 | Air pollution control permit and certificate process: correction to proposed amendment | 22 N.J.R. 593(a) | | |
| 7:27-23.2-23.7 | Volatile organic substances in architectural coatings and air fresheners | 21 N.J.R. 3360(a) | R.1990 d.342 | 22 N.J.R. 2145(b) |
| 7:28 | Radiation protection | 22 N.J.R. 890(a) | | |
| 7:28-1.4, 20 | Particle accelerators for industrial and research use | 21 N.J.R. 3364(a) | | |
| 7:28-3.12 | Ionizing radiation-producing machines: registration fees | 22 N.J.R. 1653(a) | R.1990 d.400 | 22 N.J.R. 2302(a) |
| 7:28-16 | Dental radiographic installations | 22 N.J.R. 894(a) | | |
| 7:28-19.12 | Radiologic technologists: licensure and renewal fees | 22 N.J.R. 1975(b) | | |
| 7:28-27 | Certification of radon testers and mitigators | 21 N.J.R. 3369(a) | | |
| 7:30-1.3, 3.3, 3.4, 3.5, 4.2, 5.4, 5.5, 6.4, 6.5, 6.6, 7.2, 8.3, 9.3 | Pesticide Control Program: certification, registration and permit fees | 22 N.J.R. 1314(a) | | |
| 7:36-8 | Green Acres Program: public hearing requirement on proposed transfers or use of Department-held land and water | 22 N.J.R. 593(b) | | |
| 7:36-8 | Green Acres Program: public hearing and extension of comment period regarding public hearing requirement on proposed transfers or use of Department-held land and water | 22 N.J.R. 1352(a) | | |
| 7:38 | Wild and Scenic Rivers System | 22 N.J.R. 1317(a) | | |

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HEALTH—TITLE 8

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| 8:7 | Licensure of persons for public health positions | 22 N.J.R. 1977(a) | | |
| 8:13-2 | Depuration of hard shell and soft shell clams | 22 N.J.R. 109(a) | | |
| 8:19 | Newborn Screening Program | 22 N.J.R. 733(a) | R.1990 d.289 | 22 N.J.R. 1764(a) |
| 8:31B | Hospital rate setting | 22 N.J.R. 1480(a) | | |
| 8:31B-3.3, 4.6, 4.41 | Hospital reimbursement: uncompensated care audit | 21 N.J.R. 3638(a) | | |
| 8:31B-3.17 | Hospital reimbursement: on-site audits | 21 N.J.R. 3639(a) | | |
| 8:31B-3.24 | Hospital reimbursement: employee health insurance | 21 N.J.R. 3277(a) | | |
| 8:31B-4.38, 4.61 | Hospital reimbursement: Maternity, Outreach, and Management Services (MOMS) | 22 N.J.R. 594(a) | | |
| 8:31B-4.40 | Hospital reimbursement: appropriate collection procedures | 21 N.J.R. 3873(a) | | |
| 8:31B-4.125 | Hospital reimbursement: outside collection costs | 21 N.J.R. 3639(b) | | |
| 8:33 | Certificate of need application and review process | 22 N.J.R. 1494(a) | | |
| 8:33B-1 | Extracorporeal shock wave lithotripsy services | 22 N.J.R. 1495(a) | | |

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| 8:33H | Long-term care facilities and services | 22 N.J.R. 897(a) | R.1990 d.303 | 22 N.J.R. 1938(a) |
| 8:39-8.1, 8.2, 8.4, 9.2, 11.2, 13.1, 18.4, 19.3, 19.7, 19.8, 23.2, 24.1, 27.1, 27.5, 28.1, 28.2, 29.4, 32.1, 35.2, 37.3, 38.1, 41.3 | Licensure of long-term care facilities | 22 N.J.R. 1889(a) | | |
| 8:39-25.2 | Nurse staffing requirements for long-term care facilities: suspension of enforcement | _____ | _____ | 22 N.J.R. 2162(a) |
| 8:41-8.1, 8.3 | Mobile intensive care units: administration of medications | 22 N.J.R. 1980(a) | | |
| 8:43A | Ambulatory care facilities: licensure standards | 22 N.J.R. 1496(a) | | |
| 8:43F-23, 24 | Adult day health care facilities: physical plant and functional requirements | 21 N.J.R. 3403(a) | | |
| 8:43G-4.2 | Patient rights (advisory) | 21 N.J.R. 2160(b) | | |
| 8:43G-5.4, 5.6, 5.8, 5.10, 5.17 | Administrative and hospital-wide (advisory) | 21 N.J.R. 2926(a) | | |
| 8:43G-7.4, 7.6, 7.11, 7.13, 7.27, 7.36 | Cardiac services (advisory) | 21 N.J.R. 2162(a) | | |
| 8:43G-9.3, 9.6, 9.8, 9.10, 9.12, 9.15, 9.17, 9.22 | Critical and intermediate care (advisory) | 21 N.J.R. 2167(a) | | |
| 8:43G-15.6 | Medical records (advisory) | 21 N.J.R. 2171(a) | | |
| 8:43G-19.4, 19.6, 19.9, 19.11, 19.28 | Obstetrics (advisory) | 21 N.J.R. 2926(a) | | |
| 8:43G-19.35-19.53 | Hospital licensure: newborn care physical plant standards | 21 N.J.R. 3642(a) | | |
| 8:43G-20.3, 20.5 | Employee health (advisory) | 21 N.J.R. 2173(a) | | |
| 8:43G-21.3, 21.6, 21.8, 21.10, 21.12, 21.14, 21.16 | Oncology (advisory) | 21 N.J.R. 2926(a) | | |
| 8:43G-22.4, 22.7, 22.11, 22.18, 22.21 | Pediatrics (advisory) | 21 N.J.R. 2926(a) | | |
| 8:43G-24.5, 24.7, 24.14 | Plant maintenance and fire and emergency preparedness (advisory) | 21 N.J.R. 2926(a) | | |
| 8:43G-26.4, 26.6, 26.8, 26.10, 26.13 | Psychiatry (advisory) | 21 N.J.R. 2926(a) | | |
| 8:43G-28.3, 28.4, 28.6, 28.9, 28.11, 28.15, 28.17, 28.21 | Radiology (advisory) | 21 N.J.R. 2174(a) | | |
| 8:43G-29.2, 29.4, 29.7, 29.11, 29.14, 29.16, 29.18, 29.22 | Physical and occupational therapy (advisory) | 21 N.J.R. 2926(a) | | |
| 8:43G-30.4, 30.7, 30.10, 30.12 | Renal dialysis (advisory) | 21 N.J.R. 2926(a) | | |
| 8:43G-30.13-30.17 | Acute renal dialysis services: physical plant requirements | 21 N.J.R. 3406(a) | | |
| 8:43G-31.4, 31.6, 31.8, 31.10, 31.13 | Respiratory care (advisory) | 21 N.J.R. 2926(a) | | |
| 8:43G-32.6, 32.8, 32.15, 32.17, 32.19 | Same-day stay (advisory) | 21 N.J.R. 2177(a) | | |
| 8:43G-34.2, 34.10, 34.12 | Surgery (advisory) | 21 N.J.R. 2177(a) | | |
| 8:43G-35.5, 35.8 | Postanesthesia care (advisory) | 21 N.J.R. 2926(a) | | |
| 8:43I-1.3, 1.11 | Hospital Policy Manual: inpatient obstetric units | 22 N.J.R. 1891(a) | | |
| 8:44-3 | Local health services: limited purpose laboratories | 22 N.J.R. 1323(a) | | |
| 8:51 | Childhood lead poisoning | 22 N.J.R. 1502(a) | | |
| 8:57 | Reportable communicable diseases and immunization requirements | 21 N.J.R. 3897(a) | R.1990 d.243 | 22 N.J.R. 1766(a) |
| 8:59-1.3, 12 | Worker and Community Right to Know: certification of consultants and consulting agencies | 22 N.J.R. 1892(a) | | |
| 8:60 | Asbestos training courses | 22 N.J.R. 736(a) | R.1990 d.278 | 22 N.J.R. 1773(a) |
| 8:66-1.1 | Intoxicated Driving Program | 22 N.J.R. 1024(a) | | |
| 8:66-1.1 | Intoxicated Driving Program: reopening of comment period | 22 N.J.R. 1655(a) | | |
| 8:71 | Interchangeable drug products (see 21 N.J.R. 2107(c), 2996(a)) | 21 N.J.R. 662(a) | R.1989 d.575 | 21 N.J.R. 3665(a) |
| 8:71 | Interchangeable drug products (see 21 N.J.R. 2997(a), 3664(a), 22 N.J.R. 214(b), 1137(a)) | 21 N.J.R. 1790(a) | R.1990 d.263 | 22 N.J.R. 1598(a) |
| 8:71 | Interchangeable drug products (see 22 N.J.R. 214(c), 1136(b), 1597(a)) | 21 N.J.R. 3292(a) | R.1990 d.349 | 22 N.J.R. 2164(a) |
| 8:71 | Interchangeable drug products | 21 N.J.R. 3710(a) | R.1990 d.190 | 22 N.J.R. 1136(a) |
| 8:71 | Interchangeable drug products | 21 N.J.R. 3711(a) | | |
| 8:71 | Interchangeable drug products (see 22 N.J.R. 1597(b)) | 22 N.J.R. 596(a) | R.1990 d.348 | 22 N.J.R. 2163(a) |

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| 8:71 | Interchangeable drug products | 22 N.J.R. 1214(b) | R.1990 d.347 | 22 N.J.R. 2162(b) |
| 8:71 | Interchangeable drug products | 22 N.J.R. 1511(a) | | |

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| 9:1-1.2, 3.1 | Characteristics of a university | 22 N.J.R. 1655(b) | | |
| 9:2 | Board administrative policies and programs | 22 N.J.R. 749(a) | R.1990 d.280 | 22 N.J.R. 1721(a) |
| 9:2-13.9, 13.11 | Auxiliary organizations: personnel; purchasing | 22 N.J.R. 1656(a) | | |
| 9:2-14.2 | Immunization requirements for students: exemptions | 22 N.J.R. 1215(a) | | |
| 9:3-4 | Minority and women-owned businesses: participation in State construction contracts | 22 N.J.R. 1656(b) | | |
| 9:4-2.4 | County community colleges: code of ethics | 22 N.J.R. 755(a) | R.1990 d.281 | 22 N.J.R. 1724(a) |
| 9:4-4 | County community colleges: alumni trustee representatives | 22 N.J.R. 1657(a) | | |
| 9:4-7.6 | Evaluation of community college presidents | 21 N.J.R. 2697(a) | | |
| 9:6-1.2, 3.2, 3.11, 3.12, 4.5 | State Colleges: policies and standards | 22 N.J.R. 1658(a) | | |
| 9:6-3.7, 3.9, 7 | State college promotional and tenure policies; institutional plan | 22 N.J.R. 1216(a) | R.1990 d.375 | 22 N.J.R. 2303(a) |
| 9:7-3.2 | Tuition Aid Grant Program: 1990-91 award table | 22 N.J.R. 1318(a) | R.1990 d.386 | 22 N.J.R. 2305(a) |
| 9:11-1.5 | Educational Opportunity Fund: financial eligibility for undergraduate grants | 22 N.J.R. 1659(a) | | |
| 9:11-1.23 | Educational Opportunity Fund: part-time students | 22 N.J.R. 1660(a) | | |

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HUMAN SERVICES—TITLE 10

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| 10:36-3 | State psychiatric facilities: transfers of involuntarily committed patients | 21 N.J.R. 2751(a) | | |
| 10:37-7.8 | Community mental health services: fee collection | 21 N.J.R. 3221(a) | | |
| 10:38 | Interim Assistance Program for discharged psychiatric hospital clients | 21 N.J.R. 2280(a) | R.1990 d.370 | 22 N.J.R. 2306(a) |
| 10:44B | Community care residences for developmentally disabled | 22 N.J.R. 756(a) | R.1990 d.359 | 22 N.J.R. 2164(b) |
| 10:46 | Developmental disability services: determination of eligibility | 21 N.J.R. 3712(a) | | |
| 10:46 | Developmental disability services: public hearings regarding determination of eligibility | 22 N.J.R. 764(a) | | |
| 10:49 | Medicaid program administration manual | 22 N.J.R. 1512(a) | R.1990 d.390 | 22 N.J.R. 2313(a) |
| 10:49-1.10 | Medicaid/Medicare claims processing | 22 N.J.R. 117(a) | R.1990 d.326 | 22 N.J.R. 2009(a) |
| 10:50-1.1, 1.3, 1.4, 1.5, 1.6, 2.6, 3.2, App. I, II | Medicaid transportation services: provider reimbursement | 22 N.J.R. 1513(a) | | |
| 10:51-1, App. B, C, D, E | Pharmaceutical Services Manual: non-legend drugs and products | 22 N.J.R. 1217(a) | R.1990 d.391 | 22 N.J.R. 2314(a) |
| 10:56-3.1, 3.3, 3.4, 3.10, 3.12 | Dental services HCPCS codes | 22 N.J.R. 1660(a) | | |
| 10:60 | Home Care Services Manual | 22 N.J.R. 1663(a) | | |
| 10:60-4 | Home Care Expansion Program | 22 N.J.R. 597(a) | | |
| 10:63-1.2-1.8, 1.14, 1.16, 3.3, 3.8, 3.9 | Long-term care (nursing) facilities: patient care and reimbursement | 22 N.J.R. 118(a) | | |
| 10:63-1.15 | Long-term care facilities: Medicaid Program requirements and sanctions | 22 N.J.R. 5(a) | R.1990 d.327 | 22 N.J.R. 2009(b) |
| 10:63-1.16 | Long-term care facilities: preproposal concerning pre-admission screening of Medicaid patients | 21 N.J.R. 2773(a) | | |
| 10:71-4.5-4.9, 5.4, 5.6, 5.7 | Medicaid Only Program: eligibility determinations for long-term care | 22 N.J.R. 7(a) | | |
| 10:81-10.7 | Refugee Resettlement Program: eligibility for assistance | 22 N.J.R. 1225(a) | R.1990 d.365 | 22 N.J.R. 2317(a) |
| 10:81-11.2, 11.4, 11.5, 11.7, 11.9, 11.11-11.15, 11.21 | Public Assistance Manual: child support and paternity | 22 N.J.R. 1664(a) | | |
| 10:81-11.9 | Paternity determination services for non-AFDC clients | 22 N.J.R. 1053(a) | R.1990 d.401 | 22 N.J.R. 2318(a) |
| 10:81-14.18, 14.18A, 14.18B | REACH post-AFDC sliding fee scales | 22 N.J.R. 1054(a) | R.1990 d.340 | 22 N.J.R. 2010(a) |
| 10:82-5.10 | Emergency Assistance: administrative correction | _____ | _____ | 22 N.J.R. 1938(b) |
| 10:85-4.6 | Emergency shelter grants: administrative correction | _____ | _____ | 22 N.J.R. 2171(a) |
| 10:85-4.6 | General Assistance: emergency assistance | 22 N.J.R. 2078(a) | | |
| 10:87-5.10, 6.15, 12.1-12.7 | Food Stamp Program: annual adjustments | 22 N.J.R. 1670(a) | | |
| 10:89 | Home Energy Assistance | 22 N.J.R. 599(a) | R.1990 d.315 | 22 N.J.R. 1939(a) |
| 10:91 | Commission for the Blind and Visually Impaired: operations and procedures | 21 N.J.R. 2753(a) | | |
| 10:95 | Repeal (see 10:91) | 21 N.J.R. 2753(a) | | |
| 10:99 | State Use Program for blind and severely handicapped | 22 N.J.R. 766(a) | R.1990 d.295 | 22 N.J.R. 1724(b) |
| 10:121 | Adoption of children | 21 N.J.R. 3047(b) | R.1990 d.344 | 22 N.J.R. 2172(a) |
| 10:121 | Adoption of children: extension of comment period | 22 N.J.R. 310(a) | | |

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| 10:123 | Social services program for individuals and families | 22 N.J.R. 1520(a) | R.1990 d.388 | 22 N.J.R. 2318(b) |
| 10:123A | Personal Attendant Services Program | 22 N.J.R. 1527(a) | | |
| 10:123A | Personal Attendance Services Program: extension of comment period | 22 N.J.R. 2082(a) | | |
| 10:125 | Youth and Family Services capital funding program | 21 N.J.R. 1514(a) | R.1990 d.277 | 22 N.J.R. 1724(c) |
| 10:125 | Youth and Family Services capital funding program: reopening of public comment period | 22 N.J.R. 766(b) | | |
| 10:129 | Child abuse and neglect cases | 22 N.J.R. 1535(a) | R.1990 d.389 | 22 N.J.R. 2320(a) |
| 10:130 | Shelters for victims of domestic violence | 22 N.J.R. 767(a) | R.1990 d.328 | 22 N.J.R. 2019(a) |

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CORRECTIONS—TITLE 10A

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| 10A:2-6 | Inmate reimbursement for lost, damaged or destroyed personal property | 22 N.J.R. 1320(a) | R.1990 d.363 | 22 N.J.R. 2321(a) |
| 10A:16-5.2, 5.5, 5.6, 5.7 | Medical and health services: guardianship of an adult inmate | 22 N.J.R. 1322(a) | R.1990 d.369 | 22 N.J.R. 2322(a) |
| 10A:17-3 | Volunteers in Parole Program | 22 N.J.R. 1981(a) | | |
| 10A:18-2.6 | Incoming correspondence: inspection and identification | 22 N.J.R. 147(a) | | |
| 10A:18-2.7 | Inspection of outgoing correspondence | 21 N.J.R. 3913(a) | | |
| 10A:22-2.6 | Release of confidential inmate or parolee records | 22 N.J.R. 898(a) | R.1990 d.284 | 22 N.J.R. 1725(a) |
| 10A:32-4.2 | Transfer of juvenile under State sentence | 22 N.J.R. 1895(a) | | |

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| 11:0 | Compensation to real estate licensees for placing mortgage loans: preproposal | 22 N.J.R. 314(a) | | |
| 11:0 | Automobile insurance: preproposal regarding model anti-fraud plan | 22 N.J.R. 1983(a) | | |
| 11:1-14.1 | Insurance Producer Property and Casualty Advisory Committee | 22 N.J.R. 15(b) | | |
| 11:1-20.12, 22.4 | Cancellation and nonrenewal of commercial policies | 22 N.J.R. 1225(b) | R.1990 d.321 | 22 N.J.R. 1940(a) |
| 11:1-24 | Use of credit cards to pay premiums | 21 N.J.R. 3418(b) | | |
| 11:1-27 | Insurer record retention and production for examination | 21 N.J.R. 2210(a) | | |
| 11:1-32 | Exportable list of surplus lines: hearing and promulgation procedures | 22 N.J.R. 314(b) | | |
| 11:2 | Insurance group rules | 22 N.J.R. 1673(a) | | |
| 11:2-17.7 | Automobile coverage: payment of PIP claims | 22 N.J.R. 1677(a) | | |
| 11:2-24 | High-risk investments by domestic insurers | 21 N.J.R. 3245(a) | | |
| 11:2-25 | Insurer tie-ins | 21 N.J.R. 3053(a) | | |
| 11:2-27 | Personal lines policy form standards | 21 N.J.R. 3421(a) | | |
| 11:2-28 | Credit for property/casualty reinsurance | 21 N.J.R. 3625(a) | | |
| 11:2-29 | Orderly withdrawal of insurance business | 21 N.J.R. 3622(a) | | |
| 11:2-29 | Orderly withdrawal of insurance business: extension of comment period | 22 N.J.R. 15(c) | | |
| 11:2-30 | Product liability risk retention groups and purchasing groups | 21 N.J.R. 3618(a) | | |
| 11:2-31 | Premiums for perpetual homeowners insurance | 22 N.J.R. 601(a) | | |
| 11:3 | Automobile insurance | 22 N.J.R. 1678(a) | | |
| 11:3-7.2, 7.4, 7.5, 14.2, 14.5, 15.1, 15.2, 15.3, 15.5, 15.6, 15.7, 15.9 | Automobile Coverage Selection Form and Buyer's Guide | 22 N.J.R. 1681(a) | | |
| 11:3-8.2, 8.4 | Nonrenewal of automobile policies | 22 N.J.R. 316(a) | | |
| 11:3-8.4 | Nonrenewal of automobile policies: administrative correction and extension of comment period | 22 N.J.R. 769(a) | | |
| 11:3-19 | Multi-tier and good driver rating plans | 21 N.J.R. 3721(a) | | |
| 11:3-20.3, 20.6, 20.8, 20.11, 20.12, App. | Automobile insurers: filing Excess Profits Report | 20 N.J.R. 2082(b) | | |
| 11:3-20.9 | Automobile insurers: excess profits carry forward | 22 N.J.R. 1025(a) | | |
| 11:3-25.4 | Residual market equalization charges: suspension of certain changes to N.J.A.C. 11:3-25.4; new public comment period | 21 N.J.R. 2208(a) | | |
| 11:3-29 | Automobile insurance: medical fee schedules for PIP coverage | 20 N.J.R. 2086(a) | | |
| 11:3-31.5, App. | Private passenger automobile insurers: annual Financial Data Report | 22 N.J.R. 1026(a) | R.1990 d.290 | 22 N.J.R. 1725(b) |
| 11:3-32 | Out-of-state vehicles: certification of mandatory liability coverage | 22 N.J.R. 1040(a) | | |
| 11:3-34 | Voluntary market automobile insurance coverage: eligible persons qualifications and eligibility points schedule | 22 N.J.R. 2108(a) | | |
| 11:3-36 | Automobile physical damage coverage: inspection procedures prior to issuance | 20 N.J.R. 2111(a) | | |
| 11:4 | Actuarial services | 22 N.J.R. 1689(a) | | |

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| 11:4-11.6 | Insurer record retention and production for examination | 21 N.J.R. 2210(a) | | |
| 11:4-16.6, 16.8, 23.6, 23.8, App. | Medicare supplement coverage | 22 N.J.R. 771(a) | | |
| 11:4-18.4, 18.5 | Individual health insurance rate filings | 21 N.J.R. 3428(a) | | |
| 11:4-35 | Annual Medicare supplement coverage survey | 22 N.J.R. 1226(a) | | |
| 11:5-1.25 | Repeal (see 11:5-6) | 22 N.J.R. 1421(a) | | |
| 11:5-1.28 | Approved real estate schools | 22 N.J.R. 777(a) | R.1990 d.378 | 22 N.J.R. 2323(a) |
| 11:5-6 | Real estate sales full disclosure | 22 N.J.R. 1421(a) | | |
| 11:10 | Hospital/medical-dental services | 22 N.J.R. 1691(a) | R.1990 d.384 | 22 N.J.R. 2326(a) |
| 11:13-6 | Commercial insurance: rating plans for individual risk premium modification | 21 N.J.R. 3430(a) | | |
| 11:13-7 | Commercial lines policy forms | 21 N.J.R. 3057(a) | | |
| 11:13-7 | Commercial lines policy forms: extension of comment period | 21 N.J.R. 3422(a) | | |
| 11:15-1.2, 2.2, 2.3, 2.4, 2.6, 2.9, 2.10, 2.23 | Joint insurance funds for local jurisdictions | 22 N.J.R. 16(a) | | |

Most recent update to Title 11: TRANSMITTAL 1990-4 (supplement April 16, 1990)

LABOR—TITLE 12

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| 12:17-2.1 | Unemployment insurance benefits: mail claims system | 22 N.J.R. 901(a) | | |
| 12:18-2.25 | Temporary disability benefits: private plan employer security exemption | 22 N.J.R. 1229(a) | | |
| 12:19-1 | Unemployment Compensation and Temporary Disability: program definitions | 22 N.J.R. 605(a) | R.1990 d.337 | 22 N.J.R. 2020(a) |
| 12:35 | Workfare: General Assistance Employability Program | 22 N.J.R. 1430(a) | R.1990 d.396 | 22 N.J.R. 2326(b) |
| 12:45-1 | Vocational Rehabilitation Services: procedures and standards | 22 N.J.R. 1045(c) | | |
| 12:45-1 | Vocational Rehabilitation Services: correction to proposal | 22 N.J.R. 1230(a) | | |
| 12:46-12:49 | Repeal (see 12:45-1) | 22 N.J.R. 1045(c) | | |
| 12:120 | Asbestos training courses | 22 N.J.R. 736(a) | R.1990 d.278 | 22 N.J.R. 1773(a) |
| 12:190-3.15 | Explosives: administrative correction concerning recordkeeping by permit holders | _____ | _____ | 22 N.J.R. 2022(a) |
| 12:196 | Safe dispensing of retail gasoline | 22 N.J.R. 1433(a) | R.1990 d.397 | 22 N.J.R. 2329(a) |
| 12:200 | Liquefied petroleum gas installations: standards of design and operations | 22 N.J.R. 1984(a) | | |
| 12:235-14 | Workers' compensation: uninsured employer's fund | 21 N.J.R. 3852(a) | R.1990 d.338 | 22 N.J.R. 2023(a) |

Most recent update to Title 12: TRANSMITTAL 1990-4 (supplement May 21, 1990)

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| 12A:80-1 | Urban Development Corporation: economic development programs | 22 N.J.R. 780(a) | R.1990 d.334 | 22 N.J.R. 2026(a) |
| 12A:81 | Repeal (see 12A:80-1) | 22 N.J.R. 780(a) | R.1990 d.334 | 22 N.J.R. 2026(a) |
| 12A:82 | Repeal (see 12A:80-1) | 22 N.J.R. 780(a) | R.1990 d.334 | 22 N.J.R. 2026(a) |

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| 13:1A-2.11 | Legislative agents: annual fee | 22 N.J.R. 1810(a) | | |
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| 13:3-3.4 | Maximum fee for participation in amusement games | 22 N.J.R. 1435(b) | | |
| 13:13 | Discrimination on the basis of handicap | 22 N.J.R. 1436(a) | R.1990 d.360 | 22 N.J.R. 2181(a) |
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| 13:20-10 | Automatic vehicle identification system for toll collection | 22 N.J.R. 2133(a) | | |
| 13:20-40.1 | Motor vehicle registration: reflectorized plates fee | 22 N.J.R. 1230(b) | R.1990 d.322 | 22 N.J.R. 1940(b) |
| 13:21-1.3, 1.4, 1.5 | Commercial driver licenses: disclosure and use of social security numbers | 22 N.J.R. 2134(a) | | |
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| 13:27-5.5, 5.6 | Architecture pre-examination requirements | 22 N.J.R. 1326(a) | R.1990 d.341 | 22 N.J.R. 2181(b) |

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| 13:27-8.6 | Landscape architect certification: experience requirement | 22 N.J.R. 325(a) | R.1990 d.312 | 22 N.J.R. 1940(c) |
| 13:29 | Board of Accountancy rules | 22 N.J.R. 1042(a) | R.1990 d.314 | 22 N.J.R. 1940(d) |
| 13:29-1.4 | Board of Accountancy: licensee change of address | 22 N.J.R. 1438(a) | R.1990 d.373 | 22 N.J.R. 2331(a) |
| 13:30-8.4 | Announcement of practice in special area of dentistry | 22 N.J.R. 783(a) | | |
| 13:30-8.10 | Board of Dentistry: accuracy of dental insurance forms | 22 N.J.R. 153(a) | R.1990 d.311 | 22 N.J.R. 1941(a) |
| 13:32-1.2, 1.7, 1.8, 1.10, 1.11, 1.12 | Licensed master plumbers: standards and practices | 22 N.J.R. 784(a) | | |
| 13:35-6.2 | Pronouncement and certification of death | 22 N.J.R. 154(b) | | |
| 13:35-6.3 | Podiatric trainee: countersigning of orders and prescriptions | 22 N.J.R. 905(a) | R.1990 d.291 | 22 N.J.R. 1738(a) |
| 13:35-6.13 | Board of Medical Examiners: FLEX fees | 22 N.J.R. 1988(a) | | |
| 13:35-6.13 | Board of Medical Examiners: change of address for receipt of comments regarding FLEX fees | 22 N.J.R. 2135(a) | | |
| 13:35-6.15 | Delegation of tasks to physician assistants | 22 N.J.R. 2135(b) | | |
| 13:36-1.6 | Mortuary science license revival fees | 22 N.J.R. 1328(a) | R.1990 d.372 | 22 N.J.R. 2331(b) |
| 13:36-10 | Mortuary science: continuing education | 21 N.J.R. 3655(a) | | |
| 13:38 | Board of Optometrists rules | 22 N.J.R. 1866(a) | | |
| 13:39-5.6 | Pharmacy recordkeeping: prescriptions for controlled substances | 22 N.J.R. 1866(b) | | |
| 13:39-6.9 | Sale of Scheduled V over-the-counter controlled substances | 22 N.J.R. 1329(a) | | |
| 13:39A-5.1 | Licensure of foreign-trained physical therapists | 21 N.J.R. 3855(a) | | |
| 13:39A-5.1 | Licensure of foreign-trained physical therapists: extension of comment period | 22 N.J.R. 326(a) | | |
| 13:40 | Professional engineers and land surveyors | 22 N.J.R. 1867(a) | | |
| 13:40-5.1 | Preparation of land surveys | 21 N.J.R. 3715(a) | | |
| 13:40-5.1 | Preparation of land surveys: extension of comment period | 22 N.J.R. 157(a) | | |
| 13:41 | Board of Professional Planners rules | 22 N.J.R. 1438(b) | | |
| 13:44-2.6 | Continuance of veterinary practice | 22 N.J.R. 326(b) | R.1990 d.279 | 22 N.J.R. 1739(a) |
| 13:44-2.12 | Close of veterinary practice: maintenance of medical records | 22 N.J.R. 1868(a) | | |
| 13:44-2.16 | Duplicate registration of veterinary practice | 22 N.J.R. 905(b) | | |
| 13:45A-19.1 | Division of Consumer Affairs: petitions for rulemaking | 22 N.J.R. 786(a) | R.1990 d.371 | 22 N.J.R. 2331(c) |
| 13:45A-21.4 | Kosher poultry identification | 22 N.J.R. 1439(a) | | |
| 13:45B-6.1 | Private employment agencies and personnel services firms: license, registration, and other fees | 22 N.J.R. 906(a) | R.1990 d.317 | 22 N.J.R. 1941(b) |
| 13:45B-6.1 | Private employment agencies and personnel services forms: administrative correction regarding license fees | _____ | _____ | 22 N.J.R. 2182(a) |
| 13:46 | Boxing, wrestling and sparring events | 22 N.J.R. 1231(a) | | |
| 13:47D | Repeal (see 13:47K) | 22 N.J.R. 1440(a) | | |
| 13:47K | Weights and measures: packaged commodities | 22 N.J.R. 1440(a) | | |
| 13:59-1 | Criminal history checks for non-criminal matters | 22 N.J.R. 1869(a) | | |
| 13:70-1.30 | Thoroughbred racing: annual contribution to horsemen's pension program | 22 N.J.R. 1232(a) | | |
| 13:70-1.30 | Thoroughbred racing: "horseman" defined | 22 N.J.R. 1232(b) | | |
| 13:70-3.41 | Thoroughbred racing: employee compensation insurance | 22 N.J.R. 1716(a) | | |
| 13:70-14A.9 | Thoroughbred racing: certification of respiratory bleeders from other jurisdictions | 22 N.J.R. 1233(a) | | |
| 13:70-14A.9 | Thoroughbred racing: administering medication to respiratory bleeders | 22 N.J.R. 1716(b) | | |
| 13:71-1.25 | Harness racing: "horseman" defined | 22 N.J.R. 1233(b) | | |
| 13:71-6.1 | Harness racing: employee compensation insurance | 22 N.J.R. 1717(a) | | |
| 13:71-23.8 | Harness racing: certification of respiratory bleeders from other jurisdictions | 22 N.J.R. 1233(c) | | |
| 13:71-23.8 | Harness racing: administering medication to respiratory bleeders | 22 N.J.R. 1718(a) | | |
| 13:80-1 | Solid and hazardous waste information awards | 21 N.J.R. 2911(a) | | |
| 13:81 | Statewide 9-1-1 emergency telecommunication system | 22 N.J.R. 1234(a) | R.1990 d.392 | 22 N.J.R. 2332(a) |

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| 14:0 | Energy conservation: preproposal and public hearing | 22 N.J.R. 1692(a) | | |
| 14:1-8.6 | Access to documents filed with Board of Public Utilities | 21 N.J.R. 3864(a) | | |
| 14:3 | All utilities | 22 N.J.R. 1112(a) | | |
| 14:3 | All utilities: public hearing | 22 N.J.R. 1330(a) | | |
| 14:3-3.2 | Customer's proof of identity | 22 N.J.R. 615(a) | | |
| 14:3-3.6 | Utility service discontinuance | 22 N.J.R. 616(a) | | |
| 14:3-4.5, 4.10 | Billing disputes and meter test options | 22 N.J.R. 617(a) | | |
| 14:3-4.7 | Water meter accuracy and billing adjustments | 22 N.J.R. 618(a) | | |
| 14:3-4.11 | Meter tampering | 21 N.J.R. 3865(a) | | |
| 14:3-7.5 | Return of customer deposits | 22 N.J.R. 619(a) | | |
| 14:3-7.13 | Late payment charges | 22 N.J.R. 619(b) | | |
| 14:3-7.14 | Discontinuance of service to multiple family premises | 21 N.J.R. 3865(b) | | |

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| 14:3-11 | Earned return analysis of utility rates | 21 N.J.R. 2003(a) | Expired | |
| 14:9 | Water and sewer utilities | 22 N.J.R. 907(a) | | |
| 14:9 | Sewer and water utilities: public hearing | 22 N.J.R. 1330(a) | | |
| 14:9-3.3 | Water meter accuracy and billing adjustments | 22 N.J.R. 618(a) | | |
| 14:10-5 | InterLATA telecommunications carriers | 21 N.J.R. 3631(a) | | |
| 14:18 | Cable television | 22 N.J.R. 1330(b) | | |

Most recent update to Title 14: TRANSMITTAL 1990-2 (supplement March 19, 1990)

ENERGY—TITLE 14A

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| 14A:22 | Commercial and Apartment Conservation Service Program | 21 N.J.R. 2010(a) | Expired | |
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Most recent update to Title 14A: TRANSMITTAL 1990-1 (supplement January 16, 1990)

STATE—TITLE 15

Most recent update to Title 15: TRANSMITTAL 1989-1 (supplement February 21, 1989)

PUBLIC ADVOCATE—TITLE 15A

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| 15A:2-1.2 | Petitions for rulemaking | 22 N.J.R. 620(a) | R.1990 d.367 | 22 N.J.R. 2339(a) |
| 15A:2-1.2 | Petitions for rulemaking: extension of comment period | 22 N.J.R. 1694(a) | | |

Most recent update to Title 15A: TRANSMITTAL 1990-2 (supplement April 16, 1990)

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| 16:21 | State aid to counties and municipalities | 22 N.J.R. 1896(a) | | |
| 16:28-1.20, 1.37, 1.81, 1.105 | Speed limit zones along U.S. 322, Routes 182, 49, and 284 | 22 N.J.R. 1340(a) | R.1990 d.330 | 22 N.J.R. 2028(a) |
| 16:28-1.25 | Speed limit zone along Route 23 in Riverdale Borough | 22 N.J.R. 788(a) | R.1990 d.232 | 22 N.J.R. 1379(a) |
| 16:28-1.38 | Speed limit zones along Route 57 in Mansfield Township: administrative correction | _____ | _____ | 22 N.J.R. 1942(a) |
| 16:28-1.41, 1.55, 1.69, 1.132 | Speed limit zones along U.S. 9 in Cape May County, Route 54 in Atlantic County, U.S. 130 in Camden County, and Route 47 in Cumberland, Gloucester and Camden counties | 22 N.J.R. 1694(b) | R.1990 d.382 | 22 N.J.R. 2339(b) |
| 16:28-1.55, 1.104, 1.119 | Speed limit zones along Routes 54 in Atlantic County, 26 in Middlesex County, and 83 in Cape May County | 22 N.J.R. 1060(a) | R.1990 d.285 | 22 N.J.R. 1739(b) |
| 16:28-1.57 | Speed limit zones along U.S. 30 in Camden County | 22 N.J.R. 1343(a) | R.1990 d.331 | 22 N.J.R. 2030(a) |
| 16:28-1.80, 1.86 | Speed limit zones along Routes 172 and 171 in Middlesex County | 22 N.J.R. 1239(a) | R.1990 d.297 | 22 N.J.R. 1942(b) |
| 16:28-1.94 | Speed limit zones along Route 10 in Morris and Essex counties | 22 N.J.R. 1697(a) | | |
| 16:28A-1.7, 1.11, 1.65 | Restricted parking and stopping along U.S. 9 in Marlboro and Middle Township, Route 21 in Passaic, and Route 15 in Dover | 22 N.J.R. 1897(a) | | |
| 16:28A-1.13, 1.62 | No stopping or standing zones along U.S. 22 in Warren, Hunterdon, Somerset and Union counties, and Route 12 in Hunterdon County | 22 N.J.R. 2118(a) | | |
| 16:28A-1.21, 1.33 | No stopping or standing zones along U.S. 30 in Berlin and Route 47 in Franklin Township | 22 N.J.R. 1239(b) | R.1990 d.298 | 22 N.J.R. 1943(a) |
| 16:28A-1.25 | Restricted parking along Route 35 in Red Bank | 22 N.J.R. 1240(a) | R.1990 d.299 | 22 N.J.R. 1943(b) |
| 16:28A-1.33 | Restricted stopping along Route 47 in Dennis Township | 22 N.J.R. 1536(a) | | |
| 16:28A-1.33, 1.41, 1.55 | Restricted parking and stopping along Routes 47 in Vineland, 77 in Bridgeton, and U.S. 202 in Morris Plains | 22 N.J.R. 1990(a) | | |
| 16:28A-1.55 | Time limit parking along U.S. 202 in Bernardsville | 22 N.J.R. 1536(b) | R.1990 d.361 | 22 N.J.R. 2341(a) |
| 16:28A-1.61 | Bus stop zones along U.S. 9W in Alpine | 22 N.J.R. 1241(a) | R.1990 d.300 | 22 N.J.R. 1943(c) |
| 16:30-3.6 | Shoulder lane usage along U.S. 1 in West Windsor and Plainsboro | 22 N.J.R. 1345(a) | R.1990 d.332 | 22 N.J.R. 2031(a) |
| 16:30-3.6 | Shoulder lane usage along U.S. 1: administrative correction to adoption notice | _____ | _____ | 22 N.J.R. 2183(a) |
| 16:30-10.11 | Midblock crosswalk along Route 49 in Fairfield Township | 22 N.J.R. 1242(a) | R.1990 d.301 | 22 N.J.R. 1944(a) |
| 16:30-10.12 | Mid-block crosswalks along Route 47 in Glassboro and Deptford | 22 N.J.R. 1992(a) | | |
| 16:41-2 | Repeal (see 16:47) | 22 N.J.R. 1061(b) | | |
| 16:41-8 | Outdoor advertising along Federal Aid Primary System: preproposal | 22 N.J.R. 157(b) | | |
| 16:41-8 | Outdoor advertising along Federal Aid Primary System: public meeting on preproposal | 22 N.J.R. 621(a) | | |
| 16:41B | Newspaper boxes on State highways | 22 N.J.R. 1346(a) | R.1990 d.333 | 22 N.J.R. 2032(a) |
| 16:43 | Junkyards adjacent to State highway systems | 22 N.J.R. 1061(a) | R.1990 d.286 | 22 N.J.R. 1740(a) |
| 16:44-8.1, 8.2, 8.3 | Construction services: vendor ethical standards | 22 N.J.R. 1898(a) | | |

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| 16:47 | State Highway Access Management Code | 22 N.J.R. 1061(b) | | |
| 16:47 | State Highway Access Management Code: public hearings | 22 N.J.R. 1346(b) | | |
| 16:47 | State Highway Access Management Code: extension of comment period | 22 N.J.R. 1347(a) | | |
| 16:47 | State Highway Access Management Code: extension of comment period | 22 N.J.R. 1699(a) | | |
| 16:53D-1 | Regular route autobus carriers: zone of rate freedom | 22 N.J.R. 1993(a) | | |
| 16:62-7.2 | Air safety zone for Somerset Airport | 22 N.J.R. 1899(a) | | |

Most recent update to Title 16: TRANSMITTAL 1990-5 (supplement May 21, 1990)

TREASURY-GENERAL—TITLE 17

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| 17:1-12.7 | Police and Firemen's Retirement System: entry age limit and transfers | 22 N.J.R. 1454(a) | R.1990 d.376 | 22 N.J.R. 2342(b) |
| 17:2-3.2, 6.24 | Public Employees' Retirement System: computation of final compensation | 22 N.J.R. 1348(a) | R.1990 d.377 | 22 N.J.R. 2342(c) |
| 17:3-6.16 | Teachers' Pension and Annuity Fund: mandatory retirement | 22 N.J.R. 329(a) | R.1990 d.283 | 22 N.J.R. 1740(b) |
| 17:4 | Police and Firemen's Retirement System | 22 N.J.R. 908(a) | R.1990 d.329 | 22 N.J.R. 2032(b) |
| 17:4-1.1 | Board meetings, Police and Firemen's Retirement System | 22 N.J.R. 909(a) | | |
| 17:5-5.5 | State Police Retirement System: outstanding loans at retirement | 22 N.J.R. 1348(b) | | |
| 17:8 | Supplemental Annuity Collective Trust program | 22 N.J.R. 1900(a) | | |
| 17:9-4.2 | State Health Benefits Program: "full-time employee" | 22 N.J.R. 1903(a) | | |
| 17:9-6.7 | Police and Firemen's and State Police retirement systems: health insurance coverage for accidental death benefit recipients | 22 N.J.R. 1903(b) | | |
| 17:16-7.2 | State pension fund investments: corporate obligations | 22 N.J.R. 1042(b) | R.1990 d.304 | 22 N.J.R. 1944(b) |
| 17:16-27.1 | State funds investment: certificates of deposit | 22 N.J.R. 1349(a) | R.1990 d.335 | 22 N.J.R. 2032(c) |
| 17:16-43 | State pension fund investments: mortgage-backed passthrough securities | 22 N.J.R. 1043(a) | R.1990 d.305 | 22 N.J.R. 1945(a) |
| 17:16-50 | State pension fund investments: U.S. Treasury futures | 22 N.J.R. 1043(b) | R.1990 d.306 | 22 N.J.R. 1945(b) |
| 17:16-51 | State pension fund investments: guaranteed income contracts | 22 N.J.R. 1044(a) | | |
| 17:16-52 | State pension fund investments: use of covered put options | 22 N.J.R. 1044(b) | R.1990 d.307 | 22 N.J.R. 1945(c) |
| 17:28 | Public Employee Charitable Fund-Raising Campaign | 22 N.J.R. 1994(a) | | |
| 17:32-3, 4 | Municipal and county cross-acceptance of State Development and Redevelopment Plan | 22 N.J.R. 621(c) | R.1990 d.336 | 22 N.J.R. 2033(a) |
| 17:40 | Governor's Council on Alcoholism and Drug Abuse | 22 N.J.R. 2120(a) | | |

Most recent update to Title 17: TRANSMITTAL 1990-3 (supplement April 16, 1990)

TREASURY-TAXATION—TITLE 18

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| 18:1-1.8 | Administrative hearings | 22 N.J.R. 1995(a) | | |
| 18:1-2 | Division of Taxation: petitions for rules | 22 N.J.R. 160(a) | R.1990 d.287 | 22 N.J.R. 1742(a) |
| 18:5-8.10 | Administrative hearings | 22 N.J.R. 1995(a) | | |
| 18:7-1.15, 3.8 | Corporation Business Tax: investment companies | 22 N.J.R. 1904(a) | | |
| 18:7-3.13 | Corporation Business Tax: application of overpayment to estimated tax | 22 N.J.R. 1045(a) | R.1990 d.296 | 22 N.J.R. 1946(a) |
| 18:7-3.18 | Corporation Business Tax: recycling equipment credit | 22 N.J.R. 789(a) | | |
| 18:7-11.12, 11.15, 12.1, 12.3 | Corporation Business Tax: IRC 338(h)(10) election | 22 N.J.R. 2125(a) | | |
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| 18:9-6.7-6.10 | Administrative hearings | 22 N.J.R. 1995(a) | | |
| 18:12A-1.14 | Local property tax revaluation and reassessment | 22 N.J.R. 1350(a) | R.1990 d.339 | 22 N.J.R. 2183(b) |
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| 19:14-6.5, 7.2, 7.3 | Public Employment Relations Commission: hearing transcripts | 22 N.J.R. 1910(a) | | |
| 19:25-1.7, 7.8 | Election Law Enforcement Commission: personal interest disclosure statement | 22 N.J.R. 331(a) | | |
| 19:25-1.7, 7.8 | Personal interest disclosure statement: public hearing | 22 N.J.R. 1242(b) | | |
| 19:30 | Economic Development Authority: organization and procedure | 22 N.J.R. 1537(a) | | |
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| 19:75-1.1, 4.4, 6.2, 9.2, 9.3, 9.4, 10 | Fee schedule for review of applications | 22 N.J.R. 1999(a) | | |

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| 19:45-1.12 | Gaming supervision | 21 N.J.R. 3080(a) | R.1990 d.323 | 22 N.J.R. 2039(a) |
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| 19:46-1.10 | Double-spot blackjack layout: 90-day experiment | Expires 11-11-90 | | 22 N.J.R. 2343(a) |
| 19:47-1.3 | “Don’t come bet” in craps | 21 N.J.R. 3869(b) | R.1990 d.310 | 22 N.J.R. 1946(b) |
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