

# NEW JERSEY REGISTER

010033  
 CLERK, DEPARTMENT OF JOB  
 TRAINING AND PUBLIC HISTORY  
 INTER-OFFICE

## THE JOURNAL OF STATE AGENCY RULEMAKING

**VOLUME 23      NUMBER 19**  
**October 7, 1991      Indexed 23 N.J.R. 2899-3060**  
 (Includes adopted rules filed through September 16, 1991)

**MOST RECENT UPDATE TO NEW JERSEY ADMINISTRATIVE CODE: JULY 15, 1991**  
**See the Register Index for Subsequent Rulemaking Activity.**

**NEXT UPDATE: SUPPLEMENT AUGUST 19, 1991**

### RULEMAKING IN THIS ISSUE

#### RULE PROPOSALS

|  |             |
|--|-------------|
| <b>Interested persons comment deadline .....</b>   | <b>2900</b> |
| <b>ADMINISTRATIVE LAW</b>  |             |
| Discipline of administrative law judges .....  | 2901(a)     |
| <b>BANKING</b>   |             |
| Reporting of crimes .....  | 2903(a)     |
| Bank holding companies and interstate acquisitions .....                                   | 2904(a)     |
| Low-income credit unions .....   | 2905(a)     |
| <b>PERSONNEL</b>   |             |
| Expungement from personnel files of references to disciplinary action .....                | 2906(a)     |
| Inspection of examination scoring keys .....   | 2906(b)     |
| Reinstatement following disability retirement .....  | 2907(a)     |
| Sick Leave Injury (SLI): State service .....   | 2907(b)     |
| <b>COMMUNITY AFFAIRS</b>   |             |
| Uniform Construction code: preproposal regarding private enforcing agencies .....          | 2908(a)     |
| <b>EDUCATION</b>   |             |
| Thorough and efficient system of schools .....   | 2908(b)     |
| <b>ENVIRONMENTAL PROTECTION AND ENERGY</b>   |             |
| Shellfish growing water classification .....   | 2993(a)     |
| <b>HUMAN SERVICES</b>  |             |
| Role of county adjuster .....  | 2953(a)     |
| Referral of handicapped students for adult educational services .....                      | 2959(a)     |
| Child Care Services: provision, eligibility for programs, co-payments and procedures ..... | 2960(a)     |
| REACH child care co-payment .....  | 2981(a)     |
| REACH/JOBS Program: Medicaid eligibility .....   | 2988(a)     |
| REACH child care voucher rates .....   | 2989(a)     |

#### LABOR

|  |         |
|--|---------|
| Vocational Rehabilitation Services .....   | 2927(a) |
| Wage payments .....  | 2939(a) |
| Wage and hour violations, administrative penalties and fees, hearings, and employer offenses ..... | 2942(a) |
| Child labor violations and administrative penalties .....  | 2944(a) |
| Public works employers: inspection of payroll records .....  | 2945(a) |
| Prevailing wages for public works: violations, penalties, and fees .....                           | 2945(b) |
| Wage collection .....  | 2947(a) |
| Boilers, pressure vessels, and refrigeration units: inspection and license fees .....              | 2948(a) |
| Explosives: annual fees for permits to manufacture, sell, store or use .....                       | 2949(a) |
| Carnival-amusement rides: annual inspection fees .....   | 2950(a) |
| Apparel industry registration .....  | 2951(a) |
| <b>LAW AND PUBLIC SAFETY</b>   |         |
| Persian Gulf War commemorative license plates .....  | 2916(a) |
| Board of Examiners of Electrical Contractors: administration and procedure .....                   | 2917(a) |
| Employment and personnel services: extension of comment period .....                               | 2919(a) |
| Regulation of firearms: extension of comment period .....  | 2919(b) |
| Thoroughbred racing: first-time respiratory bleeders .....   | 2919(c) |
| Harness racing: first-time respiratory bleeders .....  | 2919(d) |
| <b>CASINO CONTROL COMMISSION</b>   |         |
| Implementation of sic bo .....   | 2922(a) |
| Movement of slot machines and bill changers .....  | 2920(a) |
| Annuity jackpot payouts .....  | 2920(b) |
| Slot machine hopper fill procedure .....   | 2921(a) |
| Vigorish options in baccarat, minibaccarat, and baccarat-chemin de fer .....                       | 2926(a) |
| Dealing of hands .....   | 2927(a) |

(Continued on Next Page)

# INTERESTED PERSONS

**Interested persons** may submit comments, information or arguments concerning any of the rule proposals in this issue until **November 6, 1991**. Submissions and any inquiries about submissions should be addressed to the agency officer specified for a particular proposal or group of proposals.

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.

## RULEMAKING IN THIS ISSUE—Continued

### RULE ADOPTIONS

#### ADMINISTRATIVE LAW

- Council on Affordable Housing hearings ..... 2998(a)  
 Medical Assistance and Health Services hearings ..... 2998(b)  
 Board of Public Utility hearings: prefiled testimony;  
 interlocutory review ..... 2998(c)

#### PERSONNEL

- Enforcement of residency requirements ..... 2999(a)

#### COMMUNITY AFFAIRS

- Uniform Fire Code: life hazard uses and permit fees ..... 2999(b)  
 Uniform Construction Code: approval of completed  
 work ..... 3001(a)  
 Tenants' Property Tax Rebate Program ..... 3002(a)

#### ENVIRONMENTAL PROTECTION AND ENERGY

- State Park Service rules ..... 3005(a)

#### HEALTH

- Sanitation in community residences and bed and  
 breakfast establishments ..... 3026(a)

#### HUMAN SERVICES

- Independent Clinic Services: partial care ..... 3027(a)  
 Extended Medicaid eligibility for newborns ..... 3028(a)  
 Public Assistance Manual forms: administrative  
 correction ..... 3029(a)  
 Food Stamp Program: income eligibility, deduction,  
 and coupon allotment standards ..... 3030(a)

#### CORRECTIONS

- Inmate accounts ..... 3031(a)  
 Security and control ..... 3031(b)

#### COMMERCE AND ECONOMIC DEVELOPMENT

- Tourism Matching Grants: application deadline ..... 3032(a)

#### LAW AND PUBLIC SAFETY

- Master plumbers licensing examination ..... 3032(b)  
 Chemical breath testing ..... 3032(c)  
 Thoroughbred racing: daily double ..... 3033(a)  
 Harness racing: daily double ..... 3034(a)  
 Violent Crimes Compensation Board: victim  
 compensation ..... 3034(b)

#### PUBLIC UTILITIES

- Telephone utilities ..... 3035(a)

#### TRANSPORTATION

- No stopping or standing zone along U.S. 40 in  
 Hamilton Township, Atlantic County ..... 3037(a)  
 No stopping or standing zones along Route 77  
 in Bridgeton ..... 3037(b)  
 Transportation of hazardous materials: physical  
 qualifications of drivers ..... 3037(c)

- Zone of Rate Freedom for regular route autobus carriers:  
 1992 percentage maximums ..... 3038(a)  
 NJ TRANSIT: background checks of prospective  
 employees ..... 3039(b)  
**TREASURY-GENERAL**  
 Preference laws and out-of-State vendors ..... 3039(c)  
 Local Public Employee Charitable Fund-Raising  
 Campaign ..... 3040(a)

### EMERGENCY ADOPTION

#### HEALTH

- Hospital reimbursement: Schedule of Rates adjustments  
 and reconciliation ..... 3042(a)

### PUBLIC NOTICES

#### ENVIRONMENTAL PROTECTION AND ENERGY

- Delaware and Raritan Canal State Park: public hearing  
 on proposed drainage easement ..... 3044(a)  
 Lake Musconetcong State Park: public hearing on  
 proposed sewer lateral easement ..... 3044(b)  
 Northeast and Upper Raritan water quality  
 management: Bernards Township ..... 3044(c)  
 Lower Delaware water quality management:  
 Oldmans Township ..... 3045(a)

#### HEALTH

- SHARE hospital reimbursement: agency response to  
 petition to amend N.J.A.C. 8:31A regarding minimum  
 base year challenge ..... 3045(b)

#### HUMAN SERVICES

- Child Care Certificate Program for Essex County:  
 availability of grant funds ..... 3045(c)  
 Child Care Certificate Program for Middlesex County:  
 availability of grant funds ..... 3046(a)  
 Advanced Research Fellowship Program (FY93) for  
 prevention of mental retardation and other  
 developmental disabilities: availability  
 of grant funds ..... 3046(b)  
 OPMRDD Public Information Project (FY93)  
 regarding prevention of mental and physical disabilities:  
 availability of grant funds ..... 3046(c)

#### LAW AND PUBLIC SAFETY

- Quarterly Report of Legislative Agents: availability  
 of 2nd Quarter, 1991 ..... 3047(a)

(Continued on page 3060)

## NEW JERSEY REGISTER

The official publication containing notices of proposed rules and rules adopted by State agencies pursuant to the New Jersey Constitution, Art. V, Sec. IV, Para. 6 and the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. Issued monthly since September 1969, and twice-monthly since November 1981.

The New Jersey Register (ISSN 0300-6069) is published the first and third Mondays (Tuesday, if Monday is a holiday) of each month by OAL Publications of the Office of Administrative Law, CN 301, Trenton, New Jersey 08625. Telephone: (609) 588-6606. Subscriptions, payable in advance, are one year, \$125 (\$215 by First Class Mail); back issues when available, \$15 each. Make checks payable to OAL Publications.

POSTMASTER: Send address changes to New Jersey Register, CN 301, Trenton, New Jersey 08625. Second Class Postage paid in South Plainfield, New Jersey.

Copyright 1991 New Jersey Office of Administrative Law

(CITE 23 N.J.R. 2900)

NEW JERSEY REGISTER, MONDAY, OCTOBER 7, 1991

# RULE PROPOSALS

## ADMINISTRATIVE LAW

(a)

### OFFICE OF ADMINISTRATIVE LAW

#### Discipline of Administrative Law Judges

#### Proposed New Rules: N.J.A.C. 1:31-3

Authorized By: Jaynee LaVecchia, Director, Office of Administrative Law.

Authority: N.J.S.A. 52:14F-5(a), (e) and (f).

Proposal Number: PRN 1991-480.

Submit comments by November 6, 1991 to:

Steven L. Lefelt, Deputy Director  
Office of Administrative Law  
Quakerbridge Plaza, Bldg. 9  
CN 049  
Trenton, New Jersey 08625

The agency proposal follows:

#### Summary

The proposed new rules at N.J.A.C. 1:31-3 provide a process for the disciplining of administrative law judges. These rules are promulgated in accordance with the legislative mandate that the Director "administer and cause the work of the office to be performed in such manner and pursuant to such program as may be required or appropriate" N.J.S.A. 52:14F-5.

A summary of the proposed new rules follows. N.J.A.C. 1:31-3.1 and 3.2 set forth the general causes for discipline and the forms of discipline that may be imposed. The Director may suspend up to six months, fine, or publicly or privately reprimand an administrative law judge. Since an administrative law judge is appointed by the Governor, the Director may only recommend to the Governor that an administrative law judge be removed, pursuant to Art. V, Sec. IV, Par. 5 of the New Jersey Constitution.

N.J.A.C. 1:31-3.3 permits the Director to impose a written or oral reprimand after providing an administrative law judge with notice of the charges, an opportunity to review the charges, and an opportunity to respond to the Director either orally or in writing. A formal hearing will not be provided. Matters which the Director believes require a penalty greater than an oral or written reprimand may be forwarded to the OAL Advisory Committee on Judicial Conduct established according to N.J.A.C. 1:31-3.5. The Director will appoint the Committee of three, comprised of administrative law judges, and, if willing to serve, retired administrative law judges or retired judges of the Superior Court, to investigate complaints and make appropriate recommendations.

N.J.A.C. 1:31-3.6 requires the Committee to notify the judge of the charges and to provide an opportunity for the judge to respond to the charges. The record before the Committee shall be confidential. As set forth in N.J.A.C. 1:31-3.7, upon completion of its investigation, the Committee may recommend to the Director that the charges be dismissed, an oral or written reprimand imposed, or that formal proceedings be instituted to impose a penalty greater than reprimand. The Director may accept, reject, or modify the Committee's recommendation.

The formal hearing provided in N.J.A.C. 1:31-3.9 will be conducted by a designee of the Director. The decision of the designated hearer will be a recommendation to the Director who shall make the final decision in the matter. The record before the Advisory Committee shall be confidential; however, upon the issuance of a complaint and order to show cause the matter shall become public.

#### Social Impact

All of the administrative law judges since 1979 have striven to perform their judicial duties and conduct their personal lives in ways that promote the public's trust and confidence in their work. These efforts have been quite successful. If there are any occasions when due to poor judgment or negligence, the public's trust may be violated, the OAL in promulgating these rules announces its intended response to such instances. These rules communicate to the public the standards to which administrative law judges hold themselves and the process by which they regulate themselves.

#### Economic Impact

The OAL budget must cover the administrative costs associated with any disciplinary proceeding brought pursuant to these proposed new rules. In addition, the charged administrative law judge may be responsible for some legal fees. Since it is expected that these proceedings will be few in number, however, the rules are not likely to cause a significant economic impact.

#### Regulatory Flexibility Statement

A regulatory flexibility analysis is not required because the proposed new rules do 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 rules set forth the discipline procedures for administrative law judges.

Full text of the proposed new rules follows:

### SUBCHAPTER 3. DISCIPLINE OF ADMINISTRATIVE LAW JUDGES

#### 1:31-3.1 General causes for discipline

(a) The Director of the Office of Administrative Law may discipline an administrative law judge for:

1. Willful misconduct including misconduct which, although not directly pertaining to judicial duties, brings the office into disrepute or is prejudicial to the administration of justice;
2. Willful, persistent, or negligent failure of a judge to perform judicial duties, including incompetent performance of judicial duties;
3. Intemperance, including injudicious personal conduct, recurring loss of temper or control, abuse of alcohol, or the abuse of controlled dangerous substances;
4. Any conduct which constitutes a violation of the OAL Office Policies for Administrative Law Judges or the Code of Judicial Conduct, Appendix to Part 1, Pressler, Current N.J. Court Rules (1991), as made applicable by Sec. IV(6) of the OAL Code of Ethics; or
5. Other sufficient cause.

#### 1:31-3.2 Complaints and forms of discipline

(a) Upon becoming aware of any circumstance, statement, criticism, or complaint, which is not obviously unfounded or frivolous, which does not relate solely to a matter subject to an appeal, and which indicates that an administrative law judge has committed any conduct described in N.J.A.C. 1:31-3.1, the Director may initiate proceedings to impose disciplinary sanctions. Such sanctions shall include, but not be limited to:

1. The issuance of a private reprimand;
2. The issuance of a public reprimand;
3. The imposition of a fine;
4. A suspension of up to six months; or
5. A recommendation to the Governor for removal, pursuant to Art. V, Sec. IV, Par. 5 of the New Jersey Constitution.

#### 1:31-3.3 Minor discipline

When the Director seeks to impose a written or oral reprimand, public or private, an administrative law judge shall receive formal notification of the charges and shall be afforded an opportunity to review the charges and to respond to the Director either orally or in writing. No formal hearing will be provided. The notice to the judge shall specify in ordinary and concise language the charges against the judge and the alleged facts upon which they are based. The decision of the Director shall be final.

#### 1:31-3.4 Penalty beyond reprimand

When the Director believes that a penalty greater than an oral or written reprimand may be appropriate, the Director may forward the matter to the Office of Administrative Law Advisory Committee on Judicial Conduct or issue a formal complaint and order in accordance with N.J.A.C. 1:31-3.8.

### 1:31-3.5 Establishment of OAL Advisory Committee on Judicial Conduct

(a) There is established an OAL Advisory Committee on Judicial Conduct to investigate complaints referred by the Director concerning judicial conduct and to give advisory opinions, recommendations, and reports to the Director of the Office of Administrative Law. The Committee shall consist of three members who shall be appointed by the Director for terms expiring respectively one, two, and three years after appointment, whose respective successors shall be appointed upon the expiration of such terms and annually thereafter to serve three-year terms. A Committee member may be reappointed at the discretion of the Director. The Director may appoint any administrative law judge to serve as a member of the Committee. If willing to serve, retired administrative law judges or retired judges of the Superior Court of New Jersey may be eligible for appointment to the Committee at the discretion of the Director. The Director shall appoint one member to serve as Chairperson. All appointments to fill vacancies shall be for the unexpired term.

(b) No action of the Committee shall be valid unless concurred to by a majority of its membership.

(c) An employee of OAL designated by the Director will serve as secretary to the Committee.

(d) The Committee shall be provided with clerical and administrative assistance as may be needed to perform its function. If a criminal investigation is required, the matter shall be referred to the Attorney General.

(e) All papers filed with and proceedings before the Committee shall be confidential.

### 1:31-3.6 Preliminary investigation

(a) The Committee shall conduct a preliminary investigation at the request of the Director. To perform a preliminary investigation, the Committee may utilize the following methods:

1. It may request that the Director provide sufficient resources to conduct an investigation of the matter.

2. Unless the circumstances render it unnecessary or inappropriate, the Committee may require the complainant to file with the Committee a statement signed under oath against the judge.

3. The Committee shall notify the judge of the nature of the charge, the name of the person making it where appropriate, and that the judge has the opportunity to present within such reasonable time as the Committee shall fix, such matters as the judge may choose with respect to it. This includes the right to appear before the Committee, with or without counsel, and to make a statement under oath as the judge deems appropriate. If deemed appropriate, the Committee may request that the complainant make a supplemental statement under oath. These statements, if oral, shall be sound recorded.

4. The notice to the judge shall specify in ordinary and concise language the charges against the judge and the alleged facts upon which they are based.

### 1:31-3.7 Recommendations of the Committee

(a) Upon completion of the preliminary investigation, the Committee may take any of the following actions which may be accepted, rejected, or modified by the Director:

1. The Committee may recommend that the Director dismiss the charges and notify the parties of the action taken. If the matter has been made public, the Director may, at the request of the judge involved, issue a short statement of clarification and correction.

2. If the investigation reveals some departures by the judge from common standards of judicial propriety, such as discourtesy, rudeness, disparagement of witnesses or attorneys, and the like, or other conduct or demeanor which would reflect unfavorably upon the administration of justice if persisted in or were to become habitual or more substantial in character, the Committee may request the judge to appear at a time and place designated for an informal discussion of the matter. After making the judge aware of the objectionable conduct, and becoming satisfied that it was temporary in nature and not likely to become habitual, the Committee may recommend to the Director that the complaint be dismissed and the parties advised of the action taken, and the reasons therefor. Any

such conference shall be recorded by a sound recording device and a transcribed record of the tape filed with the papers in the proceeding.

3. If the Committee believes that the judge may be suffering from a mental or physical disability which is disabling the judge and may continue to disable the judge indefinitely or permanently from the performance of his or her duties, it shall recommend to the Director an appropriate response that balances any medical need of the judge and protects the public interest.

4. Whenever the Committee concludes from the preliminary investigation that the circumstances merit an oral or written reprimand, the Committee shall promptly file a copy of the recommendation, and the record of the Committee certified as such by its secretary, with the Director. If the Director agrees with the recommendation, the Director shall proceed in accordance with N.J.A.C. 1:31-3.3. If the Director disagrees with the recommendation, the Director may issue a formal complaint and order in accordance with N.J.A.C. 1:31-3.8.

5. Whenever the Committee concludes from the preliminary investigation that the circumstances, if established at an evidentiary hearing, merit disciplinary action greater than an oral or written reprimand, and that formal proceedings to that end should be instituted, the Committee shall promptly file a copy of the recommendation and the record of the Committee certified as such by its secretary with the Director. The Committee shall issue also without delay and serve upon the judge a notice advising him or her that it has filed such a recommendation with the Director.

### 1:31-3.8 Issuance of order

Upon receipt and review of any opinions, recommendations, and reports from the Committee under N.J.A.C. 1:31-3.7(e), the Director may proceed in accordance with N.J.A.C. 1:31-3.3 or may issue a formal complaint and order the judge to show cause why a specific sanction should not be imposed or a recommendation for removal not be sent to the Governor. The order to show cause shall require the judge to answer the complaint within 30 days of service of the complaint and order upon the judge.

### 1:31-3.9 Formal hearing

Unless the judge's answer to the complaint renders further formal proceedings unnecessary, a due process hearing shall be conducted by a designee of the Director. The evidentiary hearing in this matter shall begin within 30 days from the filing of the answer with the OAL. At the hearing, the OAL will be represented by the secretary to the Committee or the Director may request representation from the Office of the Attorney General. The decision of the designated hearer shall be a recommendation to the Director. The Director shall make the final decision in the matter within 10 days unless notice is provided to the judge that the time for review needs to be extended.

### 1:31-3.10 Confidentiality

The record before the OAL Advisory Committee shall be confidential and shall not be available to any person except in the proper discharge of official duties, unless the judge requests that the charge, proceedings, and action shall be made public. If a public reprimand is imposed by the Director, the written reprimand shall be made public. Upon the issuance of a complaint and order to show cause, the complaint and order shall be made public. The entire record shall, unless the Director otherwise orders, be made public upon the entry of a final order imposing a fine, suspension, or removal.

### 1:31-3.11 Judicial independence and discipline process

The methods used by the judge, but not the result arrived at by the judge in any case, may be the cause for discipline of the judge. In order to foster and encourage judicial independence, claims of error shall be left to appellate review and not be subject to discipline.

## BANKING

### (a)

#### OFFICE OF REGULATORY AFFAIRS

#### Reporting of Crimes

#### Reproposed Amendments: N.J.A.C. 3:6-4.5 and 3:26-3.1

#### Reproposed New Rules: N.J.A.C. 3:6-4.6 and 3:26-3.2

Authorized By: Jeff Connor, Commissioner, New Jersey

Department of Banking.

Authority: N.J.S.A. 17:1-8.1.

Proposal Number: PRN 1991-473.

Submit comments by November 6, 1991 to:

Robert M. Jaworski  
Assistant Commissioner  
Department of Banking  
CN 040  
Trenton, N.J. 08625

The agency proposal follows:

#### Summary

On August 5, 1991, the Department of Banking proposed to amend its rules concerning criminal reporting by depository institutions (see 23 N.J.R. 2209(a), August 5, 1991). Prior to publication, a technical change was made to the rules which was not intended. In particular, the technical change would have amended N.J.A.C. 3:26-3.1 to exempt from the filing requirements for associations all crimes involving \$5,000 or less. It was only intended that crimes by employees or agents of the association involving amounts of \$5,000 or less be exempted. All crimes by directors, officers or attorneys of the association should be reported. Accordingly, the Department of Banking withdraws the prior proposal and submits this proposal in its place.

In response to the proposed readoption of Chapter 6 of its rules (See 23 N.J.R. 147(a) (January 22, 1991)), the Department of Banking received a comment from a trade association concerning the criminal reporting requirements contained in subchapter 4. The rules as proposed for readoption required a bank or savings bank to notify criminal authorities of all apparent crimes, regardless of amount. The commenter suggested that these rules be amended to allow the institution greater flexibility for reporting minor crimes. The rules were readopted without change at 23 N.J.R. 998(a), effective April 1, 1991 with the Department responding to the commenter that the suggested amendment was to be addressed in the near future.

In addition, the commenter noted that the proposed readoption increased the threshold amounts for filing criminal referrals with the Department. Crimes involving an agent or employee of \$5,000 or less, and outside crimes involving non-affiliated persons of \$9,000 or less, were exempt from the reporting requirements. The commenter suggested that the Department extend these exemption amounts, recently adopted for banks and savings banks, to savings and loan associations.

In these proposed rules and amendments, the Department has extended the \$5,000 and \$9,000 exemptions to savings and loan associations. In addition, it has proposed that a bank, savings bank and savings and loan association will only need to notify the appropriate criminal authorities if it is required to report to the Department.

#### Social Impact

By exempting certain minor crimes from reporting requirements, the Department will now be able to further concentrate its resources on major crimes. In addition, it will relieve the administrative burden on depositories. It is hoped that this will have a positive social impact of enabling the Department and depositories to respond to crimes in a more efficient manner.

#### Economic Impact

By limiting the reports that depositories must make, the proposed rules and amendments will have a positive economic impact on depositories.

#### Regulatory Flexibility Statement

In accordance with the New Jersey Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq., the Department has determined that the proposed rules and amendments will not impose reporting, recordkeeping or other

compliance requirements on small businesses, since reporting requirements will be reduced. Therefore, a regulatory flexibility analysis is not required.

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

#### 3:6-4.5 Notice of crime by other perpetrators

In the event of a crime against the bank, capital stock savings bank or mutual savings bank by one other than an officer, director, attorney, or agent or employee of the institution, including crimes in which no immediate loss or any loss is incurred by the bank, capital stock savings bank or mutual savings bank, the board of directors or managers shall promptly report the apparent criminal violation to the Commissioner of Banking if the suspected criminal activity involves an actual or probable loss in excess of \$9,000. [Appropriate criminal authorities must be notified in all cases, irrespective of amount.] For purposes of reporting to the Department pursuant to this section, a suspected civil fraud shall be treated like a crime.

#### 3:6-4.6 Notice to criminal authorities

**(a) A bank, capital stock savings bank or mutual savings bank must notify the appropriate criminal authorities of all suspected criminal activity it is required to report to the Commissioner.**

**(b) A bank, capital stock savings bank or mutual savings bank may notify the appropriate criminal authorities of any suspected criminal activity which it is not required to report pursuant to (a) above.**

#### 3:26-3.1 Action upon detection or discovery of crime

(a) Every State association, including any service corporation which is owned, wholly or jointly, by a State association, shall immediately notify the Commissioner [by telephone] of the detection or discovery of any embezzlement, defalcation, misapplication, or misuse of funds by any director, officer, employee, attorney or agent of the State association or service corporation. [As soon thereafter as is practical, the association's or service corporation's management or auditor shall submit to the Commissioner a written report of the crime or crimes discovered or detected, including the names of the individuals involved, the extent of any loss, and the method used to effectuate the embezzlement, defalcation, misapplication or misuse. Compliance with the requirement in this subsection for a written report shall be evidenced:

1. By the filing of a copy of any forms required under rules adopted by any appropriate Federal agency concerning internal crimes; or

2. By filing Department of Banking Form No. S.L. 4.]

**An association may comply with this section by filing with the Commissioner a copy of forms required under rules adopted by any appropriate Federal agency concerning reporting of crimes.**

[(b) Every State association shall notify the Commissioner in the manner described in (a) above, of every crime or criminal activity not related to the association or service corporation wherein any director, officer, employee, attorney or agent of the association was charged, indicted or convicted.

(c) Every State association shall notify the Commissioner in the manner described in (a) above, of every crime either attempted or perpetrated against the association or service corporation by individuals other than an officer, director, employee, attorney or agent of the association irrespective of the amount of loss. In the case of robbery, burglary or non-employee larceny, compliance with this subsection shall be evidenced by the filing with the Commissioner of a copy of any form required under rules adopted by any appropriate Federal agency concerning external crimes or by filing with the Commissioner Department of Banking Form No. S.L. 5.]

**(b) Any fraud, embezzlement, defalcation, misapplication or misuse of the institution's funds committed by an agent or employee of the association which involves amounts of \$5,000 or less is exempt from the requirements of this section.**

**(c) In the event of a crime against the association by one other than an officer, director, attorney, or agent or employee of the institution, including crimes in which no immediate loss or any loss**

is incurred by the association, the association shall promptly report the apparent criminal violation to the Commissioner of Banking if the suspected criminal activity involves an actual or probable loss in excess of \$9,000. For purposes of reporting to the Department, a suspected civil fraud shall be treated like a crime.

### 3:26-3.2 Notice to criminal authorities

(a) An association must notify the appropriate criminal authorities of any suspected criminal activity which it is required to report to the Commissioner.

(b) An association may notify the appropriate criminal authorities of any suspected criminal activity which it is not required to report pursuant to (a) above.

## (a)

### OFFICE OF REGULATORY AFFAIRS

#### Proposed Readoption with Amendments: N.J.A.C. 3:13

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

Authority: N.J.S.A. 17:9A-379.

Proposal Number: PRN 1991-481.

Submit written comments by November 6, 1991 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 its rules concerning bank holding companies and interstate acquisitions. The rules are scheduled to expire on November 17, 1991 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.

In the New Jersey Banking Oversight and Change of Control Act, N.J.S.A. 17:9A-373 et seq. (the "Act"), the Legislature granted the Commissioner of Banking the authority to monitor the structure of bank holding companies operating in the State of New Jersey. Consistent with the Act, the Department in this chapter sets forth the registration and reporting requirements for bank holding companies and other persons controlling banks.

Subchapter 1 requires the registration of any person or company which acquires control of a banking institution. The filing must be made within 30 days of such acquisition. Thereafter, each such person or company must file an annual registration, and must notify the Department upon acquiring control of a banking institution or upon divesting itself of a banking institution. The fee for registration or notification of change is \$50.00. References to obsolete time frames are proposed for deletion at N.J.A.C. 3:13-1.3(d).

Subchapter 2 requires the filing of financial reports by all persons or companies controlling banking institutions located in New Jersey. In general, a bank holding company must provide the Department of Banking with copies of the reports which it files with the Federal Reserve Board. If a bank holding company is not required to file with the Federal Reserve Board, it must file with the Department a copy of its form 10K which it filed with the Securities and Exchange Commission. Persons other than bank holding companies must file an annual report setting forth the following: (1) the name and address of the person; (2) a resume of material business activities and affiliations during the past five years; (3) a description of pending legal or administrative proceedings in which the person is a party, and any criminal indictments or convictions; and (4) a statement of assets and losses for the past five years. Reports required under this subchapter must be accompanied by a \$50.00 or \$100.00 filing fee.

A definition section is proposed to be added at N.J.A.C. 3:13-2.2 to ensure consistency.

Subchapter 3 recognizes that, pursuant to N.J.S.A. 17:9A-375, the Commissioner shall have the right to examine any company which con-

trols a bank and to charge the holding company the cost of the examination. The examination fee as set forth in N.J.A.C. 3:1-6.6 is \$300.00 per diem per person.

The proposed amendment to N.J.A.C. 3:13-3.1 includes a cross-reference to N.J.A.C. 3:13-6.6 which contains examination charges.

Subchapter 4 concerns out-of-State bank holding companies which desire to acquire and retain control of a bank or bank holding company located in New Jersey. N.J.S.A. 17:9A-370 et seq. (the "Interstate Act") permits interstate bank holding company acquisitions in New Jersey on a reciprocal basis. The Interstate Act provides for implementation first on a regional and then on a nationwide basis.

During the regional phase, when at least three states in the Central Atlantic region have reciprocal legislation which permits bank holding companies located in this State to acquire banks or bank holding companies located in that state on substantially the same terms as bank holding companies in that State could acquire banks and bank holding companies in that state, then all bank holding companies located in a state in the region which have reciprocal legislation in effect could acquire a bank or banks in this State. When at least 13 States in the nation (including four of the 10 largest) enacted such reciprocal legislation, then all bank holding companies located in the nation in states which have reciprocal legislation in effect could acquire a bank or banks in this State.

The regional phase became effective on August 24, 1986 pursuant to a Decision and Determination dated August 8, 1986 (see 18 N.J.R. 1963(a) (September 22, 1986)). The nationwide phase became effective on January 1, 1988 pursuant to a Decision and Determination dated June 22, 1987 (see 19 N.J.R. 1572(b) (August 17, 1987)). Accordingly all bank holding companies in states having reciprocal legislation in effect may acquire a bank or banks in New Jersey. If the interstate law of the other jurisdiction imposes limitations and restrictions on the acquisition or ownership of a banking institution there by a New Jersey bank holding company, then the same limitations and restrictions are applicable when bank holding companies from that jurisdiction seek to make acquisitions in New Jersey.

Consistent with the Interstate Act, the rules require any out-of-State bank holding company proposing to acquire a bank or bank holding company located in New Jersey to file an application.

#### Social Impact

These rules permit the Department to determine which bank holding companies are operating in New Jersey, which reporting provisions these companies must follow and what direction bank holding companies are taking within this State. In addition, the rules specify the reporting requirements of bank holding companies and other persons who control banks or bank holding companies. Consistent with the Act, these rules help provide a mechanism for the supervision of bank holding companies by the Department.

Subchapter 4 sets forth the application provisions for out-of-State bank holding companies. This procedure will enable the Commissioner to ascertain whether any proposed interstate acquisition of a New Jersey institution falls within the parameters set forth by the Legislature, and to determine whether any limitations or restrictions on reciprocity will be applied to the transaction, as set forth in the Interstate Act.

#### Economic Impact

The registration provisions in subchapter 1 require a \$50.00 fee to accompany each filing, and the reports required by subchapter 2 must be accompanied by a \$50.00 or a \$100.00 filing fee. An application by an out-of-State bank holding company to acquire a bank or bank holding company located in New Jersey must be accompanied by a \$1,500 application fee. A person requesting a determination regarding compliance with N.J.S.A. 17:9A-371 must submit a \$100.00 fee. None of these fees are increased in the readoption.

These fees will help reimburse the Department for the administrative expense of supervising these entities for compliance with the Act and the Interstate Act. These filing requirements will only have a minor negative economic impact on persons controlling banks or bank holding companies.

#### Regulatory Flexibility Analysis

The rules proposed for readoption place reporting, recordkeeping and compliance requirements on bank holding companies and other persons who control banking institutions and bank holding companies, many of which are small businesses as defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. In particular, the rules require these persons

to file reports and register annually with the Department. These requirements are necessary for the Department to monitor compliance with the Act and Interstate Act. For this reason, no differentiation is made based on business size.

**Full text** of the proposed re Adoption may be found in the New Jersey Administrative Code at N.J.A.C. 3:13.

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

### 3:13-1.3 Initial registration

[(a) Any person or company which controls a banking institution shall file an initial registration form with the Department of Banking by January 15, 1987 reflecting the information set out in (c) below as of December 31, 1986.]

Recodify (b)-(c) as **(a)-(b)** (No change in text.)

### 3:13-2.2 Definitions

**The words and terms defined at N.J.A.C. 3:13-1.2, when used in this subchapter, shall have the meanings set forth in N.J.A.C. 3:13-1.2, unless the context clearly indicates otherwise.**

Recodify 3:13-2.2 and 2.3 as **3:13-2.3** and **2.4**. (No change in text.)

### 3:13-3.1 [Purpose and scope] Examination Charges

[This subchapter establishes the per diem per person examination charge to be assessed against and paid by a company to defray the Department of Banking examination costs relative to an examination of a company which controls a bank.]

**The Commissioner may examine any company which controls a bank, and shall charge for any such examination a per diem per person examination charge in an amount set forth in N.J.A.C. 3:1-6.6.**

(a)

## DIVISION OF SUPERVISION

### Low-Income Credit Unions

#### Proposed New Rule: N.J.A.C. 3:21-1

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

Authority: N.J.S.A. 17:1-8, 17:13-90 and 17:13-113.

Proposal Number: PRN 1991-465.

Submit comments by October 16, 1991 to:

Robert M. Jaworski, Asst. Comm.  
Office of Regulatory Affairs  
Department of Banking, CN-040  
20 W. State Street  
Trenton, New Jersey 08625

The agency proposal follows:

#### Summary

These proposed new rules would authorize the Commissioner, with the concurrence of the appropriate Regional Director of the National Credit Union Administration, to designate certain credit unions as low-income credit unions ("LICU's"). This designation would permit them to apply to participate in certain Federal programs, for example, as "Participating Credit Unions" pursuant to 12 C.F.R. §705. Low income credit unions, which the Federal government selects, may participate in the Community Development Revolving Loan Program for Credit Unions. The State has previously had no procedure for designating LICU's.

The rules specify the characteristics of LICU's, and authorize the loss of designation in the event a credit union no longer meets the qualifying criteria.

The rules set forth a schedule for calculating the fees for examining low-income credit unions.

#### Social Impact

By enabling some State-chartered credit unions to become designated as low-income credit unions, these rules will allow designated entities to apply for participation in certain Federal programs. If selected, they will obtain access to Federal community development revolving loan

funds which can be used for beneficial purposes in New Jersey communities. Therefore, the rules should have a beneficial social impact. There are no detrimental aspects to the rules.

#### Economic Impact

Because of the close connection between the economic benefits of the Federal programs and the social benefits to New Jersey communities, their economic impact is fully discussed in the Social Impact statement above.

#### Regulatory Flexibility Analysis

Almost all LICU's will fall within the definition of "small businesses" as set forth in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. No recordkeeping or reporting requirements are imposed. The application procedure is simple and confers a substantial benefit on designated institutions. For these reasons, no exemptions or differentiation in requirements based on business size are needed.

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

## SUBCHAPTER 1. [(RESERVED)] LOW-INCOME CREDIT UNIONS

### 3:21-1.1 Definitions

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

"Applicant" means an applicant for designation as a low-income credit union.

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

"Credit union" means a State-chartered credit union or an entity which has submitted an application for a State charter for a credit union.

"Low-income credit union" or "LICU" means a credit union which has been designated a low-income credit union pursuant to this subchapter.

"Low-income members" or "low-income residents" means those members or residents:

1. Whose annual income falls at or below the lower level standard of living classification as established by the Bureau of Labor Statistics and as updated by the Employment Training Administration of the U.S. Department of Labor;

2. Who are residents of a public housing project who qualify for such residency because of low income;

3. Who qualify as recipients in a community action program; or

4. Who are enrolled as full-time or part-time students in a college, university, high school, or vocational school.

"NCUA" means the National Credit Union Administration.

"Predominantly" means a majority.

"State" means the State of New Jersey.

### 3:21-1.2 Application for designation as a low-income credit union

(a) A credit union may apply to the Commissioner for designation as a low-income credit union pursuant to this subchapter.

(b) An applicant shall submit the following to the Department:

1. A completed application, the form of which may be prescribed by the Commissioner;

2. Sufficient evidence to allow the Commissioner to determine whether the applicant meets the criteria set forth in (c) below;

3. An application fee of \$50.00; and

4. Such other information as the Commissioner may require.

(c) The Commissioner shall approve an applicant for designation as a LICU:

1. In the case of an existing credit union, whose members are predominantly low-income; or

2. In the case of an entity which has submitted or which intends to submit an application for a State charter for a credit union, which is located in a well-defined neighborhood, community, or rural geographical area, recognized as distinct by residents and populated predominantly by low-income residents.

**3:21-1.3 Concurrence of the appropriate Regional Director of the NCUA**

Upon approving an application for designation as an LICU, the Commissioner shall forward that determination, along with the materials submitted by the applicant, to the appropriate Regional Director of the NCUA for concurrence.

**3:21-1.4 Publication and effective date of designation**

(a) Upon the Commissioner's receipt of the concurrence of the appropriate Regional Director in the designation of a credit union as an LICU, the Commissioner shall, by mail, inform the applicant, the New Jersey Credit Union League and the National Credit Union Association of the designation.

(b) The designation of the credit union as an LICU shall be effective on the date of the Commissioner's notice to the applicant.

**3:21-1.5 Removal of designation**

The Commissioner may, after opportunity for a hearing pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-14F and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1 and with the concurrence of the appropriate Regional Director of the NCUA, remove the designation of a credit union as a LICU upon determining that the credit union no longer meets the criteria set forth in N.J.A.C. 3:21-1.2(c).

**3:21-1.6 Examination fees for LICU's**

Examination fees for LICU's shall be computed according to the following schedule:

| Total Assets                                     | Fee   |
|--|---|
| Not more than \$49,999                           | \$0.00  |
| Over \$49,999 but less than \$324,399            | \$100.00  |
| Over \$324,399 but less than \$272,250,000 total | .000308262 × total assets                                       |
| \$272,250,000 and over                           | \$83,924.32 plus<br>.0000898762 × assets<br>over \$272,250,000. |

**PERSONNEL**

**(a)**

**MERIT SYSTEM BOARD**

**Major Discipline**

**Proposed New Rule: N.J.A.C. 4A:2-2.13**

Authorized By: Merit System Board, Peter J. Calderone, Assistant Commissioner, Department of Personnel.

Authority: N.J.S.A. 11A:2-13 et seq.

Proposal Number: PRN 1991-485.

A public hearing concerning the proposed new rule will be held on:

Wednesday, October 23, 1991 at 5:30 P.M.

Office of Administrative Law  
Quakerbridge Plaza, Building 9  
Quakerbridge Road  
Trenton, New Jersey

Please call the Regulations Unit at (609) 984-0118 if you wish to be included on the list of speakers.

Submit written comments by November 6, 1991 to:

Peter J. Calderone  
Assistant Commissioner  
Department of Personnel  
CN 312  
Trenton, New Jersey 08625

The agency proposal follows:

**Summary**

The proposed new rule, N.J.A.C. 4A:2-2.13, would provide for a process whereby all references to a major disciplinary action in an employee's personnel files would be removed and destroyed if the employee is completely exonerated and the disciplinary action is reversed, following a complete adjudication of the matter by the Merit

System Board. The expungement process would not be applicable to a settlement unless the settlement specifically provided for such a remedy. Likewise, when disciplinary action is merely modified (for example, a removal is changed to a suspension) the rule would not require the removal of all references to the disciplinary action from the employee's personnel files.

**Social Impact**

The social impact of this proposed new rule would be positive for employees who are completely exonerated by the Merit System Board. Once all references to disciplinary action are removed from the employee's personnel file and destroyed, that action could not be used against the employee in the future as a basis for further disciplinary action, as a factor in promotions, or in any of a wide variety of personnel decisions that may occur over the course of the employee's career.

**Economic Impact**

No economic impact is anticipated for the proposed rule at N.J.A.C. 4A:2-2.13.

**Regulatory Flexibility Statement**

A regulatory flexibility analysis is not required since this proposed new rule would have no effect on small businesses as defined under the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The rule would regulate employment in the public sector.

Full text of the proposal follows:

**4A:2-2.13 Expungement**

When an appellant has been completely exonerated and the disciplinary action has been reversed, the appointing authority shall remove from the appellant's personnel files, and destroy, all references and documents relating to the disciplinary action.

**(b)**

**MERIT SYSTEMS BOARD**

**Examinations Records**

**Proposed Amendment: N.J.A.C. 4A:4-2.16**

Authorized By: Merit System Board, Peter J. Calderone, Assistant Commissioner, Department of Personnel.

Authority: N.J.S.A. 11A:4-1 et seq.

Proposal Number: PRN 1991-483.

A public hearing concerning the proposed amendment will be held on:

Wednesday, October 23, 1991 at 5:30 P.M.  
Office of Administrative Law  
Quakerbridge Plaza, Building 9  
Quakerbridge Road  
Trenton, New Jersey

Please call the Regulations Unit at (609) 984-0118 if you wish to be included on the list of speakers.

Submit written comments by November 6, 1991 to:

Peter J. Calderone  
Assistant Commissioner  
Department of Personnel  
CN 312  
Trenton, New Jersey 08625

The agency proposal follows:

**Summary**

The proposed amendment would take examination scoring keys out of the category of examination records open to public inspection. The amendment would codify the existing procedure which is that an examination candidate may review the scoring key during the examination review period but cannot copy it or take it home.

**Social Impact**

The social impact of the proposed amendment would be minimal. It would not change existing practice. The amendment would ensure that examination candidates would have the chance to assess their own examination performance without a risk that examination security would be compromised.

**Economic Impact**

The proposed amendment would have a minimal, though positive, economic impact by preventing a compromise of examination security and thereby keeping down the cost of examination development.

**Regulatory Flexibility Statement**

A regulatory flexibility analysis is not required since this proposed amendment would have no effect on small businesses as defined under the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The amendment would regulate employment in the public sector.

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

4A:4-2.16 Retention and inspection of examination records

(a) The following examination records shall be retained until the expiration of the eligible list:

1.-2. (No change.)

3. The examination papers **and scoring keys**;

4. A description of the examination, including the date held, rating system[, scoring keys] and minimum score required, if any;

5.-6. (No change.)

(b) All examination records listed in (a)1, 4 and 5 above shall be open to public inspection. The Commissioner shall determine which other records may be open to public inspection and the conditions for such inspection.

**(a)****MERIT SYSTEM BOARD****Reinstatement Following Disability Retirement**

**Proposed Amendment: N.J.A.C. 4A:4-7.10**

**Proposed New Rule: N.J.A.C. 4A:4-7.12**

Authorized By: Merit System Board, Peter J. Calderone,  
Assistant Commissioner, Department of Personnel.

Authority: N.J.S.A. 11A:4-1 et seq.

Proposal Number: PRN 1991-484.

A **public hearing** concerning the proposed amendment and new rule will be held on:

Wednesday, October 23, 1991 at 5:30 P.M.

Office of Administrative Law

Quakerbridge Plaza, Building 9

Quakerbridge Road

Trenton, New Jersey

**Please call** the Regulations Unit at (609) 984-0118 if you wish to be included on the list of speakers.

Submit written comments by November 6, 1991 to:

Peter J. Calderone

Assistant Commissioner

Department of Personnel

CN 312

Trenton, New Jersey 08625

The agency proposal follows:

**Summary**

The proposed amendment and new rule would take out all references to reinstatement following disability retirement from the existing N.J.A.C. 4A:4-7.10 and would place them, and provisions on seniority relevant to such reinstatement, in a new N.J.A.C. 4A:4-7.12.

The amendment and new rule clarify that the reinstatement process in these situations is unrelated to regular reemployment. The amendment and new rule are also intended to clarify the seniority rights of employees who are found fit for service following a period of disability retirement. The existing practice codified in the new rule is to aggregate the seniority of such employees accumulated prior to retirement with that to be accumulated following reinstatement.

**Social Impact**

The proposed amendment and new rule will affect primarily police officers and firefighters in local service. The proposed amendment and new rule do not change current practice; rather, they are intended to eliminate confusion about the process for returning these individuals to employment, as well as clarify reinstated employees' seniority rights. To

that end, the amendment and new rule would have the beneficial effect of ensuring that any employee reinstated following a period of disability retirement would be credited with the seniority to which he or she is entitled.

**Economic Impact**

Insofar as an accurate crediting of seniority to a reinstated employee would assist him or her in layoff rights determinations and promotional examination scoring, the proposed amendment and new rule would have a positive economic impact on the employee.

**Regulatory Flexibility Statement**

A regulatory flexibility analysis is not required since this proposed amendment and new rule would have no effect on small businesses as defined under the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The amendment and new rule would regulate employment in the public sector.

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

4A:4-7.10 Regular reemployment

(a) (No change.)

[(b) A permanent employee who has been placed on disability retirement may be reinstated following a determination from the Division of Pensions that the retiree is no longer disabled.]

[(c)](b) Seniority commences as of the date of regular reemployment.

4A:4-7.12 Reinstatement following disability retirement

(a) A permanent employee who has been placed on disability retirement may be reinstated following a determination from the Division of Pensions that the retiree is no longer disabled.

(b) Seniority for an employee who is reinstated following a period of disability retirement shall be the aggregate of permanent service in the employee's permanent title prior to retirement and following reinstatement. Seniority shall not be granted for the period of retirement.

**(b)****MERIT SYSTEM BOARD****Leaves of Absence; Sick Leave Injury (SLI)**

**Proposed Amendment: N.J.A.C. 4A:6-1.6**

Authorized By: Merit System Board, Peter J. Calderone,

Assistant Commissioner, Department of Personnel.

Authority: N.J.S.A. 11A:2-6(d) and 11A:6-8.

Proposal Number: PRN 1991-482.

A **public hearing** concerning the proposed amendment will be held on:

Wednesday, October 23, 1991 at 5:30 P.M.

Office of Administrative Law

Quakerbridge Plaza, Building 9

Quakerbridge Road

Trenton, New Jersey

**Please call** the Regulations Unit at (609) 984-0118 if you wish to be included on the list of speakers.

Submit written comments by November 6, 1991 to:

Peter J. Calderone

Assistant Commissioner

Department of Personnel

CN 312

Trenton, New Jersey 08625

The agency proposal follows:

**Summary**

The longstanding policy of the Merit System Board is that sick leave injury (SLI) benefits are available for injuries resulting from a specific work accident or event, but that SLI is not available for illness or injury not caused by a specific, discrete incident. To clarify this policy, the Board proposes to amend N.J.A.C. 4A:6-1.6, concerning SLI eligibility requirements. The current rule refers to injuries or illnesses resulting from a

work-related accident or condition of employment. The amendment would substitute the word "event" for "condition of employment."

**Social Impact**

The proposed amendment affects only State employees and agencies, since the rule does not apply to local government service. In State service, it is not anticipated that this proposed amendment will have a substantial impact, since it merely clarifies a policy expressed through numerous decisions issued by the Merit System Board.

It is further noted that this proposed amendment has no impact upon workers' compensation, since SLI is a distinct, limited program. See *Morreale v. State of New Jersey, Civil Service Commission*, 166 N.J. Super. 536 (App. Div. 1979), cert. den., 81 N.J. 275 (1979).

**Economic Impact**

As noted above, the proposed amendment merely clarifies current policy, and therefore no substantial economic impact is anticipated. However, by providing clearer standards for SLI in the rules, more SLI cases should be resolved at the appointing authority level, thus avoiding the costs associated with appeals to the Merit System Board.

**Regulatory Flexibility Statement**

A regulatory flexibility statement is not required since this proposed amendment would have no effect on small businesses as defined under the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The amendment would regulate employment in the public sector.

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

- 4A:6-1.6 Sick Leave Injury (SLI) requirements: State service
  - (a)-(b) (No change.)
  - (c) The disability must be due to an injury or illness resulting from the employment.
    1. Injuries or illnesses which would not have occurred but for a specific work-related accident or [condition of employment] event are compensable.
    2. Preexisting illnesses, diseases and conditions aggravated by a work-related accident or [condition of employment] event are not compensable when such aggravation was reasonably foreseeable.
    3. Illnesses which are generally not caused by a specific work-related accident or [condition of employment,] event are not compensable except when the claim is supported by medical documentation that clearly establishes the injury or illness is work related.
    - 4.-5. (No change.)
    - (d)-(e) (No change.)

**COMMUNITY AFFAIRS**

**(a)**

**DIVISION OF HOUSING AND DEVELOPMENT**

**Uniform Construction Code**

**Private Enforcing Agencies**

**Pre-Proposed Amendments: N.J.A.C. 5:23-4.14, 4A.17 and 8.18**

Take notice that the Department of Community Affairs has reviewed comments submitted in response to the pre-proposal notice published on July 1, 1991 at 23 N.J.R. 1985(a) and has concluded that it is not necessary as a matter of public interest at this time to establish additional insurance requirements for the various types of private enforcing agencies.

The Department's concern is to prevent disruption of the code enforcement system as a result of sudden inability of a private enforcing agency to function. The Department has found that the number of firms that control enough of the market to make their withdrawal disruptive is very small and that the type of insurance that would be needed to ensure that the types of claims most likely to be made would be covered, liability insurance on a "claims made" rather than an "occurrence" basis, is not readily available. In the field of code enforcement, it is commonly the case that a construction defect that an inspector fails to detect may only become evident years after the fact, in which case an "occurrence" policy, which only would cover negligent acts committed while the policy

was in effect, would be of no value. (A "claims made" policy, in contrast would cover any defect that might become evident and be the subject of a claim during the term of the policy.)

The Department is also concerned that the cost of obtaining the appropriate insurance, even if it were available, would be so great as to make it impossible for smaller firms to continue to operate, or to enter the market in the first place, with consequent detriment to the public due to decreased competition.

**EDUCATION**

**(b)**

**STATE BOARD OF EDUCATION**

**Thorough and Efficient System of Free Public Schools**

**Proposed Readoption with Amendments: N.J.A.C. 6:8 Proposed Repeal: N.J.A.C. 6:8-8**

Authorized By: State Board of Education, John Ellis, Secretary, State Board of Education and Commissioner, Department of Education.

Authority: N.J.S.A. 18A:1-1, 18A:4-15, as supplemented and amended by N.J.S.A. 18A:7A-1 et seq., P.L.1990, c.52, P.L.1991, c.3, and P.L.1991, c.62.

Proposal Number: PRN 1991-486.

Submit written comments by November 6, 1991 to:  
 Irene Nigro, Rules Analyst  
 New Jersey Department of Education  
 225 West State Street, CN 500  
 Trenton, New Jersey 08625-0500

The agency proposal follows:

**Summary**

In accordance with the provisions of N.J.S.A. 18A:7A-1 et seq., the rules at N.J.A.C. 6:8 were originally adopted January 1976 to ensure the existence of a thorough and efficient system of free public schools. The underlying premise of the law as implemented by these rules is the requirement for educational program planning by the local school district. The law and rules emphasize involvement of the public and teaching staff members in the setting of educational goals. The rules extend provisions for involvement of the public by mandating consultation with parents and guardians regarding pupil progress toward district and school educational goals and objectives; communication regarding pupil participation in State preventive and/or remedial programs; and establishment of a policy for reporting progress to parents and guardians. Community involvement is enhanced by the requirement for annual reporting prior to September 30, of the district's progress and plans in implementing local goals, objectives and standards. These rules require the Commissioner of Education to recommend to the State Board of Education for certification those districts that have met the prescribed standards.

P.L.1991, c.3 halted the evaluation of all school districts except those in Level II or Level III monitoring until July 1993. The legislation also requires the appointment of a State task force on educational assessment and monitoring to establish new standards for the evaluation of school districts. The task force is to review the Statewide system for evaluating the performance of each school to determine the State performance standards that would most effectively achieve the legislative goal of a thorough and efficient system of free public schools. The task force shall establish criteria for the certification of school districts and performance indicators for certified school districts. Within eight months of appointment, the task force shall submit its report to the State Board of Education and the Joint Committee on the Public Schools. The report shall include recommendations for a uniform, Statewide system to evaluate the performance of each school pursuant to State performance standards.

No later than December 1, 1992, the State Board of Education must establish State goals and standards, and adopt rules concerning procedures for the establishment and assessment of educational goals, learning objectives and performance standards by local boards of education. The procedure for evaluation of all public schools in the State shall first apply July 1, 1993.

In the interim, the new law calls for continuing the evaluation of those districts that were in Level II or Level III when the law was enacted. Readopting these rules with the amended subchapters will provide continuity of the evaluation process initially begun for districts currently in Level II and Level III. Revisions to the rules will be made when the State-appointed task force releases its report regarding evaluation standards.

Pursuant to the provisions of Executive Order 66(1978), the existing rules for a thorough and efficient system of free public schools are due to expire on January 5, 1992. The Department of Education has, therefore, reviewed these rules internally and have found them to be of continued necessity for the maintenance of a thorough and efficient system of free public schools in accordance with the New Jersey Constitution and the provisions of N.J.S.A. 18A:7A-1 et seq. If these amended rules are not adopted, there will be no prescribed procedure for the continued evaluation of districts currently in Level II or Level III monitoring pursuant to law.

A review of each of the subchapters of N.J.A.C. 6:8 and proposed amendments follows:

#### N.J.A.C. 6:8-1 Definitions

This subchapter defines words and terms used in the chapter. These amendments are a result of the Quality Education Act (QEA) and reflect the change from categorical State compensatory education funding based on educational criteria to at-risk aid based on economic criteria. No further changes are being made to this subchapter at this time. (See overview of subchapter 6 below for details on the history of these amendments).

#### N.J.A.C. 6:8-2 State educational goals and standards

This subchapter lists the State educational outcome and process goals adopted by the State Board of Education and describes State standards for the administration of a thorough and efficient system of free public schools. The subchapter also requires the State Board of Education to review the State educational goals and standards in consultation with the Commissioner and the Joint Committee on the Public Schools. No amendments are proposed to this subchapter at this time.

#### N.J.A.C. 6:8-3 Annual reporting and staffing of school districts

This subchapter requires district boards of education to submit annually a report describing their progress towards achieving district objectives. This subchapter also requires district employment of certified teaching staff members and other support personnel to meet the specific instructional needs of pupils. No changes are being made to this subchapter at this time.

#### N.J.A.C. 6:8-4 Procedures for the evaluation of the performance of each public school district

This subchapter describes the standards and procedures for the evaluation and certification of school districts. N.J.A.C. 6:8-4 contains the ten essential elements and the prescribed indicators of standards of acceptable performance which are evaluated by the State monitoring teams. The heading for the subchapter has been changed to "Interim Rules for the Evaluation of the Performance of Each Public School District." The proposed amendments will provide continuance of the evaluation procedure for districts assigned to Level II or Level III monitoring. N.J.A.C. 6:8-4.6 has been deleted since the provisions of this section were only applicable to districts monitored during the period January 1, 1984 to December 31, 1986. Minor stylistic, punctuation and grammatical changes are proposed throughout the subchapter.

#### N.J.A.C. 6:8-5 Corrective Plans

This subchapter provides for the appointment of a team of persons by the county superintendent of schools to review the performance of a district which has failed to become certified. N.J.A.C. 6:8-5 also provides for intervention by the Commissioner of Education, where a non-certified district does not demonstrate reasonable progress toward compliance with school law or regulation and/or resolution of major problems. The heading for the subchapter has been changed to "Interim Rules for Level II and Level III Districts." The proposed amendments are a result of P.L.1991, c.3 which halts the evaluation of all public school districts, except those that were currently under the procedures for evaluation at Level II or Level III. These amendments will permit closure in the evaluation procedure for Level II and Level III districts. No additional changes are being made to this subchapter at this time.

#### N.J.A.C. 6:8-6 Preventive and remedial programs in reading, writing and mathematics

This subchapter requires the assessment of pupils, to identify pupils who are not meeting State proficiency levels. Pupils not meeting the established levels must be provided with a pupil improvement plan. This subchapter describes provisions for a State compensatory education program.

The amendments to this subchapter and subchapter 1 were proposed in the July 15, 1991, New Jersey Register at 23 N.J.R. 2305(a). In order to avoid confusion regarding requirements for this subchapter, the State Board decided not to adopt the formerly proposed amendments, but to allow further public comment and testimony regarding these sections. Although the currently proposed amendments are identical to those proposed on July 15, 1991, they supercede and replace that proposal and are being presented for further comment at this time.

#### N.J.A.C. 6:8-7 Promotion and high school graduation requirements and procedures

This subchapter requires district boards of education to adopt policies and procedures for pupil promotion and high school graduation. Included in these policies and procedures is the requirement that pupils perform at or above the established uniform Statewide level of pupil proficiency. Districts are also required to define a minimum high school curriculum and pupil proficiencies.

The Department does not recommend any changes in the current high school graduation requirements. Changes in the high school graduation requirements are felt to be premature, as the Department is just now beginning to study the impact of the new graduation requirements which were adopted in September of 1987 and recently phased into the mandated high school program. The Department would also like to implement and study the impact of both the Grade 11 High School Proficiency Test, and the core course proficiencies development and testing before changes are made in current requirements. The Department is, however, updating N.J.A.C. 6:8-7.1(b)1 and 3 to reflect the State-mandated Grade 8 Early Warning Test (N.J.S.A. 18A:7C-6.2). A new paragraph 7. has been added to update and include the high school graduation requirements for pupils of limited English proficiency pursuant to N.J.S.A. 18A:35-15 to 35-26. No additional changes are being made to this subchapter at this time.

#### N.J.A.C. 6:8-8 Interim rules for the evaluation of elements and standards for school districts monitored between January 1, 1984 and December 31, 1986

This subchapter provides interim evaluation procedures and standards for school districts monitored under the existing rules. In conjunction with section 6:8-4.6, N.J.A.C. 6:8-8 contains the corrective procedure required of a certified district that fails to meet the High School Proficiency Test standard pursuant to N.J.A.C. 6:8-7. These provisions expired June 30, 1988. The entire subchapter is being deleted as it is no longer necessary. The text of Subchapter 8 may be found in the New Jersey Administrative Code at N.J.A.C. 6:8-8.

#### N.J.A.C. 6:8-9 Approve public elementary and secondary school summer sessions

This subchapter delineates the rules for the operation, staffing, admissions and grade placement of pupils in elementary and secondary school summer sessions. No changes are being made to the text of this subchapter. The subchapter will, however, be recodified as N.J.A.C. 6:8-8.

#### Social Impact

The rules, as originally adopted were intended to institute a planning process for school improvement which were predicated upon community involvement. Since that adoption several amendments have been made to the rules to include minimum proficiency and preventive and remedial programs for pupils who are not achieving to the standard established by the Statewide Testing Program. Another amendment eliminated reference to minimum level basic skills and instead emphasized the attainment of State standards in reading, writing and mathematics skills. Subsection (c) of N.J.A.C. 6:8-7, was also significantly expanded to include development of Statewide core course proficiencies. The existing rules have accomplished their intended purpose. If readopted these rules will update the current rules to include both the Early Warning Test required by N.J.S.A. 18A:7C-6.2 and the graduation requirements for limited English proficient pupils provided for in N.J.S.A. 18A:35-15 to 35-26 and N.J.A.C. 6:31. These rules will also provide interim evaluation procedures

for boards of education currently assigned to Level II and Level III monitoring.

The readoption of these rules will ensure a thorough and efficient pupil school system pursuant to the provisions of N.J.S.A. 18A:7A et seq. and P.L.1991, c.3.

**Economic Impact**

These rules maintain procedures for evaluating the performance of school districts in providing a thorough and efficient system of free public schools in those districts currently being evaluated at Level II or Level III. The amended procedures are not expected to generate costs beyond those which are already being expended at the State and local levels. The assistance, monitoring and evaluation prescribed in subchapter 5 of these amended rules will provide continued oversight of the proper expenditure of State and local funds.

The only additional costs to the State will be the support of externally appointed review teams and, if necessary, additional State aid to districts to implement a corrective action plan. When an external review is deemed necessary, the review teams will be reimbursed for travel, meals and lodging expenses incurred during the on-site review of the district.

**Regulatory Flexibility Statement**

A regulatory flexibility analysis is not required because this readoption with amendments 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. This chapter impacts solely upon New Jersey school districts and schools operated by the Department of Education.

Full text of the proposed readoption may be found in the New Jersey Administrative Code at N.J.A.C. 6:8.

Full text of the proposed repeal may be found in the New Jersey Administrative Code at N.J.A.C. 6:8-8.

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

6:8-1.1 Words and phrases defined

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

...  
 "At risk pupil" means a pupil who is in danger of failure or dropping out of school because of specific cognitive, affective, economic, social and/or health needs.

"Basic Skills Improvement (BSI) Plan" means a plan submitted by districts to the department which outlines the provisions of services to all pupils in need of assistance in [communications and computation] reading, writing and mathematics skills.

...  
 ["Communications" means reading and/or writing.]

...  
 ["Computation" means mathematics.]

...  
 ["Maintenance of effort" means that a district's combined fiscal effort per student or aggregate expenditures of State and local funds with respect to the provision of free public education for the preceding fiscal year was not less than the combined fiscal effort per student or the aggregate expenditures for the second preceding fiscal year.]

...  
 "Preventive and remedial program" means any supplemental program which is designed to prevent regression and to improve the level of pupil proficiency in the areas of [communications and computation] reading, writing, and mathematics or related services. These may be programs offered during the normal school day or programs offered beyond the normal school day or during summer vacation which are integrated and coordinated with programs operated during the regular school day and year for students below the State minimum levels of proficiency. A preventive and remedial program is one example of a program for at-risk pupils.

"Preventive and remedial pupil" means a pupil who is enrolled in an approved preventive and/or remedial program, and who:

1. Is in grades K through 2 and does not meet locally established, State-approved standards of proficiency in reading, writing, and/or mathematics; or

2. Is in grades 3 through 12 and does not meet the State minimum levels of pupil proficiency in reading, writing, and/or mathematics.

...  
 "Program for at-risk pupils" means a program, including early intervention and/or prevention strategies, which addresses the factors which put a pupil at-risk of failure or dropping out of school. Students served by such a program are those in danger of not acquiring the knowledge, skills, behaviors and attitudes necessary for school success, school completion, and successful functioning as an adult in society because of specific cognitive, affective, economic, social and/or health needs.

...  
 ["State compensatory education pupil" means a pupil who is enrolled on September 30 in an approved preventive and remedial program, and who:

1. Is in grades K-3 and does not meet locally established, State approved standards of proficiency in communications and/or computation; or

2. Is in grades 4-9 and does not meet the State minimum levels of pupil proficiency in communications and/or computation; or

3. Is in grades 10-12 and does not pass the ninth grade State test in communications and/or computation.]

...  
 ["Supplemental program for State compensatory education" means instruction or related services provided over and above the regular school program which are funded in whole or in part by State compensatory education funds.]

6:8-2.2 State educational standards  
 The State educational standards shall be those set forth in N.J.A.C. 6:8-[4.3]4.2 which shall be used for the implementation of a thorough and efficient system of free public schools in accordance with N.J.S.A. 18A:7A-1 et seq. and the New Jersey Constitution.

SUBCHAPTER 4. [PROCEDURES] INTERIM RULES FOR THE EVALUATION OF THE PERFORMANCE OF EACH PUBLIC SCHOOL DISTRICT

6:8-4.1 General requirements

(a) The Commissioner of Education shall evaluate each school district in implementing the standards required by this chapter.

(b) Based upon the evaluation, the commissioner shall recommend to the State Board of Education the certification of each district meeting the criteria established in this chapter.]

(a) This subchapter shall apply to each school district not currently certified.

1. Any district that failed to become certified shall be required to take corrective action as described in N.J.A.C. 6:8-5.

2. The corrective action shall address deficiencies identified during monitoring of the elements and standards described in N.J.A.C. 6:8-4.2.

(b) This subchapter shall become operative January 1, 1992 and expire June 30, 1993.

(c) (No change.)

(d) A district certified pursuant to this chapter shall not be required to be formally evaluated for [five] seven years.

(e) The [commissioner] Commissioner reserves the right to recommend that the State Board of Education rescind the certification of any district which may fall into noncompliance with the standards set forth in this chapter.

[6:8-4.2 Evaluation procedures

(a) Each school district within a county shall be monitored between July 1, 1988 and June 30, 1993 and, if certified, every five years thereafter by a team of persons from the county office under

the supervision of the county superintendent of schools.

1. The county superintendent of schools shall establish a monitoring schedule with the approval of the assistant commissioner, Division of County and Regional Services.

2. Each district scheduled for monitoring shall be notified in advance by the county superintendent of schools. The dates for such monitoring visits to the district shall be established in consultation with the chief school administrator of the district.

3. A representative of the county superintendent of schools shall conduct a pre-monitoring conference with a representative of the district to establish the monitoring format.

4. Prior to the monitoring visit, the county office representative shall request that the district representative provide such documentation materials that are unavailable at the county office. The district representative shall be directed to either forward the documentation materials or make them available at the time of the monitoring visit.

(b) During the monitoring visit, the team shall evaluate the school district pursuant to the elements and standards set forth in N.J.A.C. 6:8-4.3.]

[6:8-4.3] **6:8-4.2** Evaluation of elements and standards

(a) The following 10 essential elements and the prescribed indicators of standards of acceptable performance shall be evaluated by the monitoring team under the supervision of the county superintendent of schools as specified in this section.

1. The annual educational planning element of the district shall be rated acceptable upon demonstration of performance in three indicators as follows:

i. (No change.)

ii. Three or more written educational objectives, which shall include standards of pupil achievement and action plans based upon district needs, shall be developed annually in consultation with teaching staff members and the community under the direction of the chief school administrator in accordance with requirements established by the Commissioner.

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

iii. A [long range] **long-range** plan containing a five-year written schedule and procedure for evaluation and improvement of all curriculum and educational services shall be developed and implemented.

2. (No change.)

3. The comprehensive curriculum and instruction element of the district shall be rated acceptable upon documentation of performance in seven indicators as follows:

i. The district board of education shall approve annually a curriculum for all grades from pre-kindergarten through grade 12 for all subjects including all State-mandated programs and services.

(1)-(2) (No change.)

(3) In accordance with N.J.A.C. 6:8-7.1(c)2iii and N.J.A.C. 6:39-1.3(b), district boards of education shall provide for:

(A)-(B) (No change.)

(C) Annual assessment of all students in those proficiencies necessary to meet all [state] **State** and local high school graduation requirements.

ii-vii. (No change.)

4.-6. (No change.)

7. The mandated programs element of the district shall be rated acceptable upon documentation of performance in three indicators as follows:

i. The district shall implement a basic skills improvement plan pursuant to N.J.A.C. 6:8-[6.3]6.2.

(1)-(2) (No change.)

ii-iii. (No change.)

8. The mandated basic skills test element of the district shall be rated acceptable upon documentation of achievement in two indicators as follows:

i. Seventy-five percent of the pupils in grade nine of each school shall have passed the [State mandated] **State-mandated** High School Proficiency Test pursuant to N.J.A.C. 6:39-1.2(a) and (b).

ii. (No change.)

9. The equal educational opportunity and affirmative action element of the district shall be rated acceptable by documentation of performance in three indicators as follows:

i. (No change.)

ii. Annually, the district shall review progress toward the objectives of the [State approved] **State-approved** affirmative action plans for classroom and employment practices of the district.

iii. (No change.)

10. (No change.)

6:8-[4.4]4.3 Findings

(a) The monitoring team shall record its findings on each element required by this chapter, using worksheets prescribed by the Commissioner of Education.

1.-2. (No change.)

3. The notification shall include:

i. (No change.)

ii. A copy of the recommendation to the [commissioner] **Commissioner** of the certification status of the districts; and

iii. (No change.)

4. (No change.)

6:8-[4.5]4.4 Certification

(a) Certification of a district shall be based on an acceptable rating of all indicators in the 10 essential elements required by this chapter.

1. For each district that receives an acceptable rating on all indicators in the 10 essential elements, the county superintendent of schools shall submit a recommendation for certification and a summary report of the findings to the Commissioner of Education. The [commissioner] **Commissioner**, with approval of the State Board of Education, shall notify the district of State certification.

2. (No change.)

(b) (No change.)

[6:8-4.6] Failure of a certified district to meet the State-mandated High School Proficiency Test standards

(a) A district which falls below the passing standards for the State mandated High School Proficiency Test (HSPT) pursuant to N.J.A.C. 6:8-8.3(b)8i and has been determined by the Commissioner of Education to be in danger of not meeting the HSPT standard within the district's five-year certification period shall be required to develop a local planning objective and improvement plan to bring the district's performance to the prescribed standard.

1. The objective and improvement plan shall be approved by the district board of education and submitted to the county superintendent for review and approval.

2. The county superintendent shall periodically review the progress of the district in meeting the objective and in implementing the improvement plan.

(b) The district shall have two school years to achieve an interim standard of a minimum of 60 percent of ninth grade students passing the High School Proficiency Test.

(c) If a district fails to implement the improvement plan and/or fails to achieve the interim standard, the county superintendent shall recommend to the Commissioner of Education that the district's certification be rescinded.

(d) As a result of the county superintendent's recommendation, the commissioner may issue an order requiring the district to show cause as to why the State Board of Education should not rescind the district's certification.

(e) Upon rescission of the district's certification, the district shall be required to undergo the Level II corrective action process pursuant to N.J.A.C. 6:8-5.1.]

SUBCHAPTER 5. [CORRECTIVE PLANS] INTERIM RULES FOR LEVEL II AND LEVEL III DISTRICTS

[6:8-5.1] Level II review process

(a) A Level II review process shall be implemented when a local school district is formally notified by the county superintendent of schools after monitoring that the district is not certified.

1. The chief school administrator shall organize a self-study team within one month of notification, according to established procedures.

i. The chief school administrator shall inform the county superintendent of schools that a team has been formed.

ii. The county superintendent of schools shall acknowledge formation of the team, confirm its task and establish a deadline for submission of the improvement plan.

2. The team shall analyze the nature and causes of the problem identified by the monitoring team and within three months develop an improvement plan to correct the problem. The improvement plan shall contain the following components:

- i. Objective(s);
- ii. Activities;
- iii. Person(s) responsible;
- iv. Resources;
- v. Timelines; and
- vi. Documentation/evaluation of completed activity.

3. The plan shall be submitted to the district board of education for approval.

(b) The approved plan shall be submitted to the county superintendent of schools.

1. The county superintendent of schools, after reviewing the improvement plan with the assistant commissioner, Division of County and Regional Services, shall approve or disapprove the plan within one month of receipt.

2. If the plan is approved, the chief school administrator shall be authorized to implement the plan.

3. If the plan is unacceptable, it shall be referred back to the chief school administrator with recommendations.

4. The district shall have one month to make the necessary revisions and resubmit the plan to the county superintendent of schools for approval.

(c) The district shall correct the deficiency(ies) in accordance with the approved improvement plan.

(d) The district's chief school administrator shall make periodic progress reports at district board of education public meetings.

(e) The county superintendent of schools shall monitor progress and conduct interim reviews at least once every three months by reviewing the chief school administrator's reports to the board of education, by conducting onsite visits or both.

(f) At the completion of the improvement plan activities, the county superintendent of schools, in consultation with the assistant commissioner, Division of County and Regional Services, shall determine the scope of the required reassessment of the district's current status with regard to all elements and indicators.

(g) The county superintendent of schools shall monitor the district to determine that all elements and required indicators have been achieved.

1. A formal notification of the findings shall be sent by the county superintendent of schools to the chief school administrator and board secretary within 20 workdays of the completion of the monitoring visit.

i. The notification shall include:

(1) Copies of the revised worksheets;

(2) A copy of the recommendation to the Commissioner of Education of the certification status of the district; and

(3) If necessary, a statement of future actions to be taken by the district.

2. The district shall, within 60 days of the receipt of formal notification, discuss the findings of the monitoring team at a regular or special meeting of the district board of education.

3. If the district has achieved an acceptable rating on all elements and indicators, the county superintendent of schools shall submit a recommendation for certification and a summary report of the findings to the Commissioner of Education.

i. The commissioner, with approval of the State Board of Education, shall notify the district of State certification.

4. If the district receives an unacceptable rating on any element(s) and required indicator(s), the county superintendent of schools shall recommend to the commissioner that the district not be certified.

6:8-5.2 Level III corrective action

(a) A district which fails to become certified as a result of its own corrective action pursuant to N.J.A.C. 6:8-5.1 shall be examined by a review team consisting of an external committee appointed by the county superintendent of schools from among qualified staff of other districts and supplemented by the Department of Education's compliance unit.

1. The review team shall review the identified deficiencies of the district.

2. Prior to the team's review of the district, the county superintendent shall provide the team with background information about the district, results of Level I monitoring, recommendations of the Level II self-study team and the Level II monitoring report of findings.

3. The team shall assess the reasons for the inability of the district to correct the identified deficiencies.

(b) The team shall prepare a report of the identified deficiencies of the district and submit the report to the assistant commissioner, Division of County and Regional Services, within 15 calendar days after completion of the team's review of the district. The report shall include two primary components:

1. Specific findings and directives for correcting programmatic deficiencies.

2. An assessment of potential causative factors that contribute to the district's deficiencies.

(c) The assistant commissioner, Division of County and Regional Services, in consultation with the county superintendent, chairperson of the review team, coordinating county superintendent and director of compliance, shall review the team's report to determine if the district shall begin implementation of a corrective action plan or, if conditions within the district warrant, the initiation of a comprehensive compliance investigation, pursuant to N.J.A.C. 6:8-5.3.

1. If it is determined that the district can resolve the deficiencies through the implementation of a corrective action plan, the assistant commissioner shall require the county superintendent to transmit, within seven days, the team's findings and directives to the chief school administrator of the district.

2. Upon receiving the findings and directives, the chief school administrator of the district shall develop a corrective action plan to implement the directives.

3. Within 45 days of receipt of the findings and directives, the chief school administrator shall submit a corrective action plan approved by the district board of education to the county superintendent for approval.

(d) The district shall complete the approved corrective action plan activities within one year.

1. Monthly, until the district is certified, the county superintendent shall monitor and assess the progress of the district in implementing the corrective action plan and shall submit quarterly reports to the assistant commissioner, Division of County and Regional Services.

2. The county superintendent, upon the completion of the district's corrective action plan activities shall determine whether the standards for certification have been achieved and shall recommend to the assistant commissioner, Division of County and Regional Services, that the district be certified.

3. The assistant commissioner, Division of County and Regional Services, shall submit to the Commissioner of Education a formal report evaluating the corrected deficiencies and recommending certification of the district.

(e) If a district fails to achieve certification after completion of a Level III corrective action plan, but demonstrates reasonable progress in correcting its deficiencies, corrective action plan activities and timelines may be extended by the assistant commissioner, Division of County and Regional Services. However, if the district does not demonstrate reasonable progress toward meeting certification standards, a comprehensive compliance investigation will be initiated, pursuant to this chapter.]

6:8-5.1 Determination of Level II districts

(a) When a district does not meet the required standards of the evaluation of school districts pursuant to N.J.A.C. 6:8-4, the county superintendent of schools shall meet with the chief school administrator and board secretary to review the identified deficiency(ies)

and determine if the district can correct the identified deficiency(ies) without additional diagnostic monitoring or technical assistance within a period of time not to exceed 12 months, or should be directed by the Commissioner of Education to enter Level II.

(b) Following the meeting with the school district representatives, the county superintendent of schools, in consultation with the assistant commissioner, Division of County and Regional Services, shall recommend to the Commissioner that the district be granted certification with conditions or be directed to Level II.

(c) When a district is certified with conditions the following steps shall be taken:

1. Within 30 days of the county superintendent's recommendation, the district shall be formally notified by the Commissioner of Education that the district is certified with conditions and that the deficiency(ies) must be corrected within the specified period of time.

2. The district shall proceed with the correction of monitoring deficiencies according to established timelines.

3. At the conclusion of the approved timeline for correction of deficiencies, the county superintendent of schools, in consultation with the assistant commissioner, Division of County and Regional Services shall determine the validation necessary to document the district's current status with regard to previously approved indicators.

4. The county superintendent of schools shall verify the district's correction of deficiencies and its current status with regard to previously approved indicators; and shall, in consultation with the assistant commissioner, Division of County and Regional Services, recommend to the Commissioner of Education that the district be:

- i. Recommended to the State Board of Education for certification;
- ii. Granted an extended amount of time to correct deficiencies when reasonable progress has been demonstrated by the district in correcting its deficiencies; or
- iii. Directed by the Commissioner of Education to enter Level II monitoring pursuant to law.

(1) The board of education of a school district which is directed to enter Level II monitoring may appeal that decision to the State Board of Education pursuant to P.L. 1991, c.3.

(d) When a district becomes a Level II District the following steps shall be taken:

1. A district which is directed by the Commissioner of Education to enter Level II monitoring shall be examined by an external review team appointed by the county superintendent of schools. The review team shall consist of members qualified by training and experience to examine specific conditions within the district. The entire cost of the activities associated with the review team shall be paid by the Department of Education.

2. The Commissioner of Education shall direct the county superintendent to establish an open public meeting within the district that is duly advertised and posted whereby parents, school employees and community residents may meet with the county superintendent and external review team to discuss their concerns regarding the district.

3. In conjunction with the Department of Education, and at the direction of the Commissioner, the external review team shall determine which aspects of the district's operation to examine. The examination may be limited to identified deficiencies within the district or may include all aspects of the district's operations such as educational programs, school district management, school district governance and school district finance.

4. The external review team shall, in addition, examine conditions in the community which may adversely affect the ability of pupils to learn.

5. Within 30 calendar days after its review, the external team shall submit a report to the Commissioner of Education. The report shall include:

- i. Findings, conclusions and directives to be used by the district in the development and implementation of a corrective action plan to achieve certification; and
- ii. Recommendations as to the technical assistance the district will require to effectively implement the corrective action plan.

6. In addition, the external team may recommend measures to be taken to mitigate adverse community conditions which affect the ability of pupils to learn.

7. The Commissioner of Education shall transmit, within 15 calendar days, the findings of the external review team and shall direct the district to develop a corrective action plan to implement the recommendations.

8. The district, within 30 days of formal notification, shall discuss the findings of the external team at a regular or special meeting of the board of education.

9. Within 60 calendar days of receipt of the directives, the chief school administrator shall submit a corrective action plan approved by the district board of education to the Commissioner for approval.

10. In reviewing the district's corrective action plan, the Commissioner shall determine the cost of implementing the plan and shall identify those aspects of the plan which are already contained in the district's current expense budget.

11. The Commissioner, where appropriate, shall reallocate funds within the district's budget to support the corrective action plan. Any line item transfers of reallocated funds shall have prior approval of the Commissioner.

12. In cases where the Commissioner determines that additional revenue is needed to implement the corrective action plan, the Commissioner shall recertify a budget for the district.

13. The district shall implement the corrective action plan activities within one year of the Commissioner's formal notification that the plan has been approved. The Commissioner shall ensure that technical assistance is provided to the district to implement the corrective action plan.

i. Monthly, until the district is certified, the county superintendent of schools shall monitor and assess the progress of the district in implementing the corrective action plan and shall submit quarterly reports to the assistant commissioner, Division of County and Regional Services.

ii. The county superintendent of schools, upon completion of the district's corrective action plan activities, shall determine whether the standards for certification have been achieved and shall submit a formal report to the assistant commissioner, Division of County and Regional Services.

iii. The assistant commissioner, Division of County and Regional Services, shall submit to the Commissioner of Education a formal report which recommends that the district be:

- (1) Recommended to the State Board of Education for certification;
- (2) Granted an extended amount of time to correct deficiencies when reasonable progress has been demonstrated by the district in correcting its deficiencies; or
- (3) Directed by the Commissioner of Education to enter Level III Monitoring pursuant to law;

(A) The board of education of a school district which is directed to enter Level III monitoring may appeal that decision to the State Board of Education pursuant to P.L. 1991 c.3.

#### 6:8-5.2 Determination of Level III districts

(a) A district which fails to correct the deficiencies noted in the Level II evaluation process will be directed by the Commissioner to enter Level III monitoring.

(b) When a district which has had a comprehensive examination of all aspects of its operations by an external review team is directed to enter Level III monitoring, the Commissioner shall prepare an administrative order directing the corrective actions which shall be taken by the district.

1. The corrective actions will be based on the findings and conclusions of the external review team and the monitoring of the Level II plan by the county superintendent.

2. The Commissioner shall insure that technical assistance is provided to the district to implement the corrective actions.

3. If the Commissioner determines, based on the findings of the Level II or Level III review team and the Department of Education, that conditions within the district may preclude the successful implementation of a corrective action plan, he shall direct that a

comprehensive compliance investigation be conducted by the State Department of Education and may order any necessary action to insure the security of the books, papers, vouchers and records of the district.

4. In reviewing the district's corrective action plan, the Commissioner shall determine the cost of implementing the plan and shall identify those aspects of the plan which are already contained in the district's current expense budget.

5. The Commissioner, where appropriate, shall reallocate funds within the district, or take whatever other measures deemed necessary and appropriate to insure implementation of the corrective action. Any line item transfers of reallocated funds shall have prior approval by the Commissioner.

6. In cases where the Commissioner determines that additional revenue is needed to implement the corrective action plan, the Commissioner shall recertify a budget for the district.

7. The district shall implement the corrective action plan within one year of the Commissioner's formal issuance of the administrative order.

i. Monthly, until the district is certified, the county superintendent shall monitor and assess the progress of the district in implementing the corrective action plan and shall submit quarterly reports to the assistant commissioner, Division of County and Regional Services.

ii. The county superintendent, upon completion of the district's corrective action plan, shall determine whether the standards for certification have been met and shall submit a formal report to the assistant Commissioner, Division of County and Regional Services.

iii. The assistant commissioner, Division of County and Regional Services shall submit to the Commissioner a formal report which recommends that the district be:

(1) Recommended to the State Board of Education for certification; or

(2) Directed by the Commissioner to have a comprehensive compliance investigation conducted by the State Department of Education.

(b) When a district which has not had a comprehensive examination of all aspects of the district's operations by an external review team is directed to enter Level III, the Commissioner shall designate the county superintendent to appoint an external review team, whose members shall be qualified by training and experience to examine the conditions in the district.

1. Within three months, in conjunction with the Department of Education, the team shall examine all aspects of the district's operation, including, but not limited to, education, governance, management and finance.

2. Within 30 calendar days after its review, the external team shall report its findings and conclusions, including directives to be utilized in the preparation of a corrective action plan to achieve certification, to the Commissioner.

3. If the Commissioner determines, based on the findings of the Level II or Level III review team and the Department of Education, that conditions within the district may preclude the successful implementation of a correction action plan, he or she shall direct that a comprehensive compliance investigation be conducted by the Department of Education and may order any necessary action to insure the security of the books, papers, vouchers and records of the district.

4. Within 30 calendar days of the receipt of the report, the Commissioner shall prepare an administrative order directing the corrective actions which shall be taken by the district based upon the findings and conclusions of the Level III external review team and the county superintendent's monitoring of the Level II plan.

5. The Commissioner shall insure that technical assistance is provided to the district in order to implement the corrective actions.

6. In reviewing the district's corrective action plan, the Commissioner shall determine the cost of implementing the plan and shall identify those aspects of the plan which are already contained in the district's current expense budget.

7. The Commissioner, where appropriate, shall reallocate funds within the district's budget or take whatever other measures deemed

necessary and appropriate to support the district's corrective action plan. Any line item transfers of reallocated funds shall have prior approval by the Commissioner.

8. In cases where the Commissioner determines that additional revenue is needed to implement the corrective action plan, the Commissioner shall recertify a budget for the district.

9. The district shall implement the corrective action plan within one year of the Commissioner's formal issuance of the administrative order.

i. Monthly, until the district is certified, the county superintendent shall monitor and assess the progress of the district in implementing the corrective action plan and shall submit quarterly reports to the assistant commissioner, Division of County and Regional Services.

ii. The county superintendent, upon completion of the district's corrective action plan, shall determine whether the standards for certification have been achieved and shall submit a formal report to the assistant commissioner, Division of County and Regional Services.

iii. The assistant commissioner, Division of County and Regional Services, shall submit to the Commissioner a formal report which recommends that the district be:

(1) Recommended to the State Board of Education for certification; or

(2) Directed by the Commissioner to have a comprehensive compliance investigation conducted by the State Department of Education.

#### 6:8-5.3 Compliance investigation

(a) A comprehensive compliance investigation will be conducted under the supervision of the assistant commissioner, Division of County and Regional Services, under one of the following circumstances:

1. (No change.)

2. After completion of the corrective action plan activities, a district fails to achieve certification and does not demonstrate reasonable progress toward meeting certification standards, pursuant to N.J.A.C. 6:8-5.2[(e)](b)9.

(b)-(e) (No change.)

#### 6:8-5.4 Corrective action by Commissioner of Education

Any noncertified district which does not demonstrate reasonable progress toward compliance with the provisions of N.J.S.A. 18A:7A-1 et seq. (Public School Education Act of 1975) and New Jersey Administrative Code Title 6, Education and toward the resolution of major problems shall be submitted to further intervention by the Commissioner of Education, as provided by law.

### SUBCHAPTER 6. PREVENTIVE AND REMEDIAL PROGRAMS IN [COMMUNICATIONS AND COMPUTATION] IN READING, WRITING AND MATHEMATICS

#### 6:8-6.1 Assessment procedures

[(a)] Each pupil shall be assessed, upon entrance into the educational system and annually thereafter, to identify pupils not meeting [state] State minimum levels of proficiency in reading, writing, and mathematics. These assessment procedures shall be completed no later than one month after the date of enrollment in a district. Pupils so identified shall be provided with an individual comprehensive assessment. In instances of pupil transfers, assessment records shall be forwarded within 10 days [from the previous school or district to the school or district in which the pupil is newly enrolled.] in accordance with N.J.A.C. 6:3-2.5(c)9iii.

[(b)] Limited English proficient students shall be assessed to identify pupils not meeting state proficiency levels.]

#### 6:8-6.2 [Individual Student Improvement Plans] Required supplemental preventive and remedial programs

(a) For each pupil in grades K through 2 who does not meet locally established minimum levels of proficiency in reading, writing, and mathematics and who has not been exempted from these requirements in an individualized education program, the district

board of education shall provide a supplemental preventive and remedial program.

(b) For each pupil in grades 3 through 12 who does not meet state minimum levels of proficiency in reading, writing, and/or mathematics and who has not been exempted from these requirements in an individualized education program, the district board of education shall provide a supplemental preventive and remedial program.

(c) The preventive and remedial programs required in (a) and (b) above and the budget plan required in (f) below shall be reviewed and approved by the State Board of Education through the Commissioner or his or her designee. These programs shall be supplemental to the regular program and designed to assist students who have academic, social, economic, or environmental needs that prevent them from succeeding in regular school programs.

(d) To meet the supplemental requirement, district boards of education may provide remediation services in reading, writing, and mathematics, or related services. These may be programs offered during the normal school day or programs offered beyond the normal school day or during summer vacation through the use of an instructional method or in an instructional setting they deem appropriate. District boards of education may provide remedial services through a variety of program models (for example, in-class, pull-out, reduced class size, replacement projects or laboratories).

[(a)](e) For [pupils] each pupil performing below [state] State minimum levels of proficiency after completion of three academic years of instruction beyond kindergarten, the district board of education shall [develop procedures for] ensure the development and implementation of an Individual Student Improvement [Plans] Plan. [These procedures shall include but not be limited to] The district board of education shall ensure that:

[1. A process for the development of the Individual Student Improvement Plan including those persons responsible for the development and implementation of the plan;

2. Identification of a teaching staff member responsible for monitoring the development, implementation and evaluation of the Individual Student Improvement Plan; and

3. A process for notifying the pupil and parent(s) or guardian(s) of the need for and content of the Individual Student Improvement Plan in the language or mode of communication which is understood by the pupil and the parent(s) or guardian(s).]

1. A certified staff member is identified as responsible for developing and implementing the plan and monitoring the progress of the student;

2. The pupil and the pupil's parent(s) or guardian(s) are informed of the need for and content of the Individual Student Improvement Plan in the language or mode of communication which is understood by the pupil and the parent(s) or guardian(s) in accordance with N.J.A.C. 6:3-2.2(k); and

3. Ongoing communication shall take place among those responsible for providing services described in the Individual Student Improvement Plan, the regular classroom teacher, and the parent(s) or guardian(s) of the pupil for whom the plan has been developed.

(f) The district board of education shall submit a budget plan for the preventive and remedial programs contained in (a) and (b) above to the county superintendent for approval as part of the supporting documentation for the annual school district budget. This budget plan shall include a description of the services to be provided including the estimated number of students, the average instructional time and the instructional setting to be used.

(g) The district board of education shall annually evaluate the effectiveness of the preventive and remedial basic skills services, including measuring pupil gains in basic skills proficiency, to ensure that students are meeting State minimum levels of pupil proficiency in reading, writing and mathematics.

6:8-6.3 [State compensatory education preventive and remedial programs] (Reserved)

[(a) State compensatory education preventive and remedial programs, supplemental to the regular school programs, shall be established by the district board of education. Application for and

approval of these State compensatory education programs shall be based upon the following:

1. Enrollment in appropriate preventive and remedial programs of all pupils who have academic needs that prevent them from succeeding in the regular school programs, and who are:

i. In grades K-3 and do not meet locally established, State approved standards of proficiency in communications and/or computation; or

ii. Are in grades 4-9 and do not meet the State minimum levels of pupil proficiency in communications and/or computation; or

iii. Are in grades 10-12 and do not pass the State mandated High School Proficiency Test in communications and/or computation.

2. Procedures for the screening of currently and newly enrolled pupils to determine whether they should be enrolled in preventive and remedial programs. Screening procedures shall be completed within one month of the date of enrollment. These procedures should include those diagnostic measures which are used to predict the relevant learning difficulties and needs;

3. Instructional and related activities and services which are supplemental to the regular school program and based upon identified priority pupil needs and designed to meet the academic, social, economic and environmental needs of enrolled pupils.

4. Procedures to provide ongoing communications between teaching staff members and parents or guardians of pupils who are participating in State compensatory education preventive and remedial programs;

5. Evaluation procedures which measure pupil gains in basic skills proficiency which are related to preventive and remedial program objectives and to State minimum levels of pupil proficiency in communications and computation;

6. Evaluation of the effectiveness of State compensatory education preventive and remedial programs in terms of pupil gains in basic skills proficiency and other relevant indicators;

7. A detailed budget for administration, instructional personnel, paraprofessional and clerical personnel, instructional materials and supplies, equipment, staff training, health and community services;

8. Assurance of maintenance of effort in the provision of the regular school program.

(b) The commissioner shall determine annually, on or before August 15, which applications for compensatory education programs are approved and so notify each district board of education.

(c) State compensatory education funds shall be calculated and distributed on the basis of actual enrollment in approved programs as of the last school day of September.

(d) The Department of Education shall conduct studies and evaluate findings annually after the effective date of this chapter in order to report the status of progress toward the attainment of State minimum levels of pupil proficiency in communications and computation skills.]

6:8-7.1 Promotion, remediation, and graduation procedures

(a) District boards of education shall adopt policies and procedures for:

1.-3. (No change.)

4. The exemption of handicapped pupils from the high school graduation requirements, pursuant to N.J.A.C. 6:28-3.6 and 4.4, 6:39-[1.7]1.3(e), and (b)6 below.

5.-10. (No change.)

(b) District boards of education shall adopt policies and procedures for high school graduation of all pupils, pursuant to law and rule, which shall include, but not be limited to, performing at or above the State minimum levels of pupil proficiency on the State-mandated High School Proficiency Test in reading, writing, and mathematics skills.

1. Pupils in grades 9 and 10 who perform below State minimum levels of pupil proficiency on one or more areas of the State-mandated Early Warning Test and pupils in grades 11 and 12 who perform below State minimum levels of pupil proficiency on one or more areas of the State-mandated High School Proficiency Test shall be provided with an individual comprehensive assessment, as specified in N.J.A.C. 6:8-6.1. Based on the individual comprehensive assessment, the pupil shall receive the necessary services to remedy

the identified deficiencies. Such services shall include, but not be limited to, the development and implementation of an Individual Student Improvement Plan. This individual plan may be carried out through the regular program or through an extended school day, extended school week, or extended school year. Comprehensive pupil assessment and re-evaluation of the individual plans shall take place at least once each year until all identified deficiencies have been remediated.

2. (No change.)

3. Pupils who perform below State levels of pupil proficiency on one or more areas of the State-mandated **Early Warning Test** or the High School Proficiency Test shall be provided an opportunity to demonstrate mastery in each academic year.

4-6. (No change.)

7. **All pupils of limited English proficiency must satisfy requirements for high school graduation in accordance with the provisions of this section except:**

i. **Pupils of limited English proficiency who enter New Jersey schools in grade nine or later may demonstrate that they have attained State minimum levels of proficiency through the Special Review Assessment in their native language, and**

ii. **Pupils of limited English proficiency who enter New Jersey schools in grade nine or later and who demonstrate that they have attained State minimum levels of proficiency through the Special Review Assessment in their native language must take the Maculaitis Assessment Program and attain the passing level of fluency of 133 raw score points to be eligible for a State-endorsed high school diploma.**

[7].8. Any out-of-school youth or adult age 18 or older who has otherwise met all State and local graduation requirements, but has failed to pass the [State mandated] **State-mandated High School Proficiency Test** may return at times which have been scheduled and publicly announced by the district for the purpose of taking the necessary test. Upon certification of passing the test, a State-endorsed diploma will be granted by the high school of record.

(c) (No change.)

(d) Subject to approval of the State Board of Education:

1. Each district board of education shall establish graduation requirements on the basis of either course credits, program completion, or a combination of course credits and program completion.

i. Course credit requirements shall be established as follows:

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

(4) Credit toward graduation shall be awarded by the following method:

(A) (No change.)

(B) Credit may be assigned by each district board of education for curricular activities[, as defined in N.J.A.C. 6:27-1.13].

(C) (No change.)

ii. (No change.)

2. (No change.)

(e)-(f) (No change.)

**Full text of Subchapter 8., Interim Rules For The Evaluation of Elements and Standards For School Districts Monitored Between January 1, 1984 and December 31, 1986, proposed for repeal may be found in the New Jersey Administrative Code at N.J.A.C. 6:8-8.**

**Recodify Subchapter 9 Approved Public Elementary and Secondary School Summer Sessions, as Subchapter 8. (No change in text.)**

## LAW AND PUBLIC SAFETY

(a)

### DIVISION OF MOTOR VEHICLES

#### Persian Gulf War Commemorative License Plates

#### Proposed New Rules: N.J.A.C. 13:20-41

Authorized By: Stratton C. Lee, Jr., Director, Division of Motor Vehicles.

Authority: P.L. 1991, c.264, §1.

Proposal Number: PRN 1991-506.

Submit written comments by November 6, 1991 to:

Stratton C. Lee, Jr., Director

Division of Motor Vehicles

23 South Montgomery St., 7th Floor

Trenton, New Jersey 08666

The agency proposal follows:

#### Summary

The proposed new rules effectuate the purposes of P.L. 1991 c.264, which provides for the issuance of Persian Gulf War commemorative license plates. N.J.A.C. 13:20-41.1 defines various terms which are used in the proposed new rules. N.J.A.C. 13:20-41.2(a) provides that the Division of Motor Vehicles shall charge a fee of \$3.00 per plate for Persian Gulf War commemorative license plates which it issues to nonprofit organizations pursuant to subsection (a) of section 1 of P.L. 1991, c.264. N.J.A.C. 13:20-41.2(a) also provides that the commemorative license plates shall be issued by the Division only in multiples of 50. N.J.A.C. 13:20-41.2(b) provides that nonprofit organizations which are issued Persian Gulf War commemorative license plates by the Division of Motor Vehicles pursuant to subsection (a) of section 1 of P.L. 1991, c.264 may sell such plates at a fee of \$10.00 per plate up to and including January 31, 1992, and not more than \$10.00 per plate thereafter. N.J.A.C. 13:20-41.3(a) provides that Persian Gulf War commemorative license plates may be displayed on a New Jersey registered vehicle in accordance with subsection (b) of section 1 of P.L. 1991, c.264 and N.J.A.C. 13:20-41 from October 1, 1991 until April 1, 1992. N.J.A.C. 13:20-41.3(b) provides that the commemorative license plate shall be mounted on the front of the New Jersey registered vehicle at the same location as the regular front license plate, which shall be removed from the vehicle immediately prior to the mounting of the commemorative license plate. N.J.A.C. 13:20-41.3(b) also provides that the regular front license plate shall remain mounted on those vehicles which do not display the commemorative license plate. N.J.A.C. 13:20-41.3(c) provides that after the last day during which the commemorative license plate may be displayed on a vehicle pursuant to subsection (b) of section 1 of P.L. 1991, c.264, the commemorative license plate may no longer be displayed in place of the regular front license plate, and the regular front license plate shall be immediately re-mounted on the front of the vehicle at the same location where it had previously been mounted. N.J.A.C. 13:20-41.4 provides that the Division shall, through its employees during regular business hours, be available to receive complaints from the public regarding the sale of Persian Gulf War commemorative license plates to the public pursuant to P.L. 1991, c.264 and N.J.A.C. 13:20-41. N.J.A.C. 13:20-41.4 also provides that the Division may conduct such investigations into the sale of the commemorative license plates as it deems necessary and proper.

#### Social Impact

The proposed new rules will have a beneficial social impact upon those members of the public who wish to obtain a Persian Gulf War commemorative license plate pursuant to P.L. 1991, c.264 because the proposed rules effectuate the purposes of that statutory enactment. The rules specify the per plate fee which the Division will charge nonprofit organizations for such commemorative license plates. Such nonprofit organizations may in turn sell the commemorative license plates. The rules specify the per plate fee which may be charged by nonprofit organizations which sell such plates. The rules also specify the period of time during which such commemorative license plates may be displayed on vehicles, as well as the location on a vehicle where the plate must be mounted. The rules will have no social impact upon the Division.

**Economic Impact**

The proposed new rules will impact economically upon those nonprofit organizations which wish to obtain Persian Gulf War commemorative license plates from the Division of Motor Vehicles pursuant to subsection (a) of section 1 of P.L. 1991, c.264. Such nonprofit organizations must pay the Division a fee of \$3.00 per plate for the commemorative license plates pursuant to N.J.A.C. 13:20-41.2(a). N.J.A.C. 13:20-41.2(a) also provides that the commemorative license plates shall be issued by the Division only in multiples of 50. Nonprofit organizations which are issued Persian Gulf War commemorative license plates by the Division may sell such plates at a fee of \$10.00 per plate up to and including January 31, 1992, and not more than \$10.00 per plate thereafter pursuant to N.J.A.C. 13:20-41.2(b). Thus, those persons who wish to obtain Persian Gulf War commemorative license plates from a nonprofit organization pursuant to subsection (a) of section 1 of P.L. 1991, c.264 may be charged a fee of \$10.00 per plate up to and including January 31, 1992, and not more than \$10.00 per plate thereafter. The administrative and production costs incurred by the Division of Motor Vehicles in connection with the issuance of the commemorative license plates will be defrayed by the Division's collection of the \$3.00 per plate fee from nonprofit organizations pursuant to N.J.A.C. 13:20-41.2(a), as authorized by subsection (a) of section 1 of P.L. 1991, c.264.

**Regulatory Flexibility Analysis**

Nonprofit organizations and commercial establishments which qualify as "small businesses" as defined in the New Jersey Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq., will be impacted economically by the proposed new rules only if they voluntarily choose to obtain Persian Gulf War commemorative license plates. Nonprofit organizations which voluntarily choose to obtain Persian Gulf War commemorative license plates from the Division of Motor Vehicles pursuant to subsection (a) of section 1 of P.L. 1991, c.264 must pay a fee of \$3.00 per plate for the commemorative license plates pursuant to N.J.A.C. 13:20-41.2(a). N.J.A.C. 13:20-41.2(a) also provides that the commemorative license plates shall be issued by the Division only in multiples of 50. It must be emphasized that only those nonprofit organizations which wish to obtain the commemorative plates must pay the aforementioned per plate fee to the Division; those nonprofit organizations which do not wish to obtain the commemorative plates will incur no costs. Commercial establishments which qualify as "small businesses" and which voluntarily choose to obtain Persian Gulf War commemorative license plates from a nonprofit organization pursuant to subsection (a) of section 1 of P.L. 1991, c.264 may be charged a fee of \$10.00 per plate up to and including January 31, 1992, and not more than \$10.00 per plate thereafter for the commemorative license plates pursuant to N.J.A.C. 13:20-41.2(b). It must be emphasized that only those commercial establishments which wish to obtain the commemorative plates may be charged the aforementioned per plate fee by a nonprofit organization; those commercial establishments which do not wish to obtain the commemorative plates will incur no costs. It should also be noted that the sale of such commemorative license plates by commercial establishments is governed by subsection (c) of section 1 of P.L. 1991, c.264. Other than as specified above with regard to fees, the proposal imposes no other requirements upon small businesses. The proposed new rules impose no additional small business reporting requirements, and should not require small businesses to engage additional professional services.

Full text of the proposed new rules follows:

**SUBCHAPTER 41. PERSIAN GULF WAR  
COMMEMORATIVE LICENSE PLATES**

**13:20-41.1 Definition**

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

"Division" means the Division of Motor Vehicles in the Department of Law and Public Safety.

"Nonprofit organization" means:

1. Any nonprofit organization dedicated to celebrating or commemorating the Persian Gulf War or aiding the participants or their families; or
2. Any nonprofit organization dedicated to establishing or maintaining a memorial to any war.

**13:20-41.2 Fees**

(a) The Division of Motor Vehicles shall charge a fee of \$3.00 per plate for Persian Gulf War commemorative license plates which it issues to nonprofit organizations pursuant to subsection (a) of section 1 of P.L. 1991, c.264. The commemorative license plates shall be issued by the Division only in multiples of 50.

(b) Nonprofit organizations which are issued Persian Gulf War commemorative license plates by the Division of Motor Vehicles pursuant to subsection (a) of section 1 of P.L. 1991, c.264 may sell such plates at a fee of \$10.00 per plate up to and including January 31, 1992, and not more than \$10.00 per plate thereafter.

**13:20-41.3 Display**

(a) Persian Gulf War commemorative license plates may be displayed on a New Jersey registered vehicle in accordance with subsection (b) of section 1 of P.L. 1991, c.264 and this subchapter from October 1, 1991 until April 1, 1992.

(b) The commemorative license plate shall be mounted on the front of the New Jersey registered vehicle at the same location as the regular front license plate, which shall be removed from the vehicle immediately prior to the mounting of the commemorative license plate. The regular front license plate shall remain mounted on those vehicles which do not display the commemorative license plate.

(c) After the last day during which the commemorative license plate may be displayed on a vehicle pursuant to subsection (b) of section 1 of P.L. 1991, c.264, the commemorative license plate may no longer be displayed in place of the regular front license plate, and the regular front license plate shall be immediately re-mounted on the front of the vehicle at the same location where it had previously been mounted.

**13:20-41.4 Complaints; investigations**

The Division shall, through its employees during regular business hours, be available to receive complaints from the public regarding the sale of Persian Gulf War commemorative license plates to the public pursuant to P.L. 1991, c.264 and this subchapter. The Division may conduct such investigations into the sale of the commemorative license plates as it deems necessary and proper.

**(a)**

**DIVISION OF CONSUMER AFFAIRS  
Board of Examiners of Electrical Contractors  
Board of Examiners of Electrical Contractors Rules  
Proposed Readoption with Amendments: N.J.A.C.  
13:31**

Authorized By: Board of Examiners of Electrical Contractors,  
Christine DeGregorio, Executive Director.

Authority: N.J.S.A. 45:5A-6.

Proposal Number: PRN 1991-487.

Submit written comments by November 6, 1991 to:  
Christine DeGregorio, Executive Director  
Board of Examiners of Electrical Contractors  
Post Office Box 45006  
Newark, New Jersey 07101

The agency proposal follows:

**Summary**

Pursuant to Executive Order No. 66(1978), N.J.A.C. 13:31 is scheduled to expire on December 12, 1991. The rules in this chapter were originally promulgated in order to implement the provisions of the Electrical Contractors Licensing Act of 1962, N.J.S.A. 45:5A-1 et seq. The current rules proposed for re-adoption have had an advantageous impact on the regulation of electrical contracting by enabling the Board to have in place procedures which serve and protect the public's best interests.

As required by the Executive Order, the Board of Examiners of Electrical Contractors has reviewed these rules and has determined that they continue to be necessary, reasonable and proper for the purposes for which they were originally promulgated. The Board anticipates some

rule changes in the near future; however, because of time constraints it is presently proposing to readopt its rules with only minor changes to provide the Board's new address and to correct typographical errors.

All of the Board's rules are contained in subchapter 1 of N.J.A.C. 13:31, which is entitled "General Rules and Regulations." Subchapter 2 has been reserved for future use. A brief summary of the 16 sections of subchapter 1 follows:

N.J.A.C. 13:31-1.1 describes the operating methods of the Board, and N.J.A.C. 13:31-1.2 sets forth the qualifications required of individual applicants for an electrical contractor's license. N.J.A.C. 13:31-1.3 pertains to the licensing examination and includes information on reexamination. An amendment has been made to this section to provide the Board's new address.

N.J.A.C. 13:31-1.4 defines "minor repair work" which, pursuant to N.J.S.A. 45:5A-18(a), may be performed by persons who do not hold a license and business permit to engage in electrical contracting. A proposed amendment to this section adding a definition of "qualified journeyman electrician" was published in the New Jersey Register on April 1, 1991 at 23 N.J.R. 979(a). Under N.J.S.A. 45:5A-18(l), when a qualified journeyman electrician who is a regular employee of a firm or corporation performs certain on-premises work, the individual is exempt from the statutory business permit requirement. The amendment was intended to assist the Department of Community Affairs, which raised the question of the definition of the term, in determining when permit work must be done by an independent licensed contractor and when the employees of a firm or corporation may do the work themselves.

N.J.A.C. 13:31-1.5 designates who is eligible to receive the financial protection of the bond required to be obtained by business permit holders. N.J.A.C. 13:31-1.6 advises Board licensees that they are responsible for being familiar with all laws affecting the business of electrical contracting, and N.J.A.C. 13:31-1.7 informs business permit holders of their duty to obtain worker's compensation insurance for their employees.

N.J.A.C. 13:31-1.8 sets forth the obligation of Board licensees to assume full responsibility for the inspection and supervision of all electrical work in conformity with recognized safety standards. These standards are incorporated in the National Electrical Code, which has been adopted by the State pursuant to the State Uniform Construction Code Act, N.J.S.A. 52:27D-119 et seq., and the Uniform Construction Code, N.J.A.C. 5:23. This section also explains that violations discovered during inspections must be corrected within a reasonable time and at no additional charge to the consumer, and that failure to comply with this section shall be deemed occupational misconduct.

N.J.A.C. 13:31-1.9 requires licensees and permittees to include their license number and business permit number on vehicles and business correspondence as well as in advertisements. This section also requires licensees to carry a Board-issued identification card. N.J.A.C. 13:31-1.10 advises the licensee of the duty to ensure that no unauthorized person uses the Board-issued seal and requires that the seal be impressed upon applications for electrical inspections. The Board's fee schedule is set forth in N.J.A.C. 13:31-1.11. N.J.A.C. 13:31-1.12 requires licensees to attend a course of study relating to the National Electrical Code at the time each new Code edition is published. Completion of this course is a prerequisite to license renewal.

N.J.A.C. 13:31-1.13 details the supervisory obligations of a licensee whose license qualifies the holder of a business permit to engage in the business of electrical contracting. The licensee is obligated to be actively involved in the business and assume full responsibility for the supervision and inspection of the electrical work performed by the business. Where the permit holder maintains a New Jersey office, the licensee's regular and continuous absence from that office will be deemed to be evidence of a failure to assume the required supervisory responsibilities. N.J.A.C. 13:31-1.14 requires every licensee and business permit holder to notify the Board of a change of address within 10 days of the change.

N.J.A.C. 13:31-1.15 informs licensees and business permit holders that where a joint venture is formed for the purpose of entering into contracts to perform electrical work, each party to the joint venture must hold a business permit. N.J.A.C. 13:31-1.16 sets forth the licensee's responsibilities in connection with the Board-issued identification card.

#### Social Impact

The rules proposed for readoption provide various procedures for the orderly administration of the Board's operations and the conduct of examinations. Readoption of these rules will enable the Board to con-

tinue to fulfill its statutory mandate to protect the public welfare by ensuring that truly qualified individuals are licensed to perform electrical contracting work. Board licensees and permittees will also benefit from the readoption in that this chapter provides a clear set of required actions, procedures and prohibitions.

The rules are of obvious benefit to the consumer in that they establish competency and safety standards: licensees are required to be aware of the latest safety standards and to perform all electrical work in accordance with nationally recognized safety standards. In addition, the pressure seal requirement will benefit the public by preventing unlicensed individuals from holding themselves out as electrical contractors, and the bond requirement will continue to provide the benefit of the protection of the statutorily required contractor's bond to consumers dealing with licensees.

#### Economic Impact

The rules proposed for readoption will have an economic impact on applicants for licensure and all Board licensees and permittees, who will be responsible for application, licensing and permit fees. Licensees will also be responsible for the cost of taking a course of study relating to the National Electrical Code at the time each new Code edition is published. The Board considers these expenses to be reasonable and necessary in order to maintain its competency and safety standards for the protection of the consumer. The Board does not anticipate that the proposed readoption will have any economic impact upon the consumer.

Because funding of the Board's operation is derived from licensing fees, readoption of these rules will have a positive economic impact on the Board by enabling it to continue its operations. In accordance with N.J.S.A. 45:1-3.2, the sums to be raised have been estimated not to exceed the amount required to cover Board expenses. Failure to readopt the rules would jeopardize the Board's operation.

#### Regulatory Flexibility Analysis

The Board of Examiners of Electrical Contractors currently registers approximately 8,800 active licensees and approximately 7,100 business permit holders, the majority of whom practice as small businesses as that term is defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16.

The rules proposed to be adopted do contain reporting, recordkeeping and other compliance requirements relating to licensure and practice. Specifically, licensees and business permit holders are required to be familiar with all Federal, State and municipal laws, ordinances and regulations pertaining to electrical contracting and are required to ensure that all work performed conforms to National Electrical Code standards and is inspected in accordance with the Uniform Construction Code. Other compliance requirements include the requirement that licensees properly identify themselves (in person, upon applications for electrical inspection, and on business correspondence and advertising); that business permit holders obtain worker's compensation insurance; that licensees attend a course of study relating to each new edition of the National Electrical Code; that a licensee whose license qualifies the holder of a business permit to engage in the electrical contracting business exercises the appropriate level of supervision; and that licensees and business permit holders notify the Board of any change of address within 10 days of such change.

Compliance costs include triennial licensing and permit fees as set forth in N.J.A.C. 13:31-1.11, inspection costs, the cost of a course of study relating to the National Electrical Code, and worker's compensation insurance premiums. Professional instructional services will be required in connection with the National Electrical Code course.

Because these rules seek to promote and protect the public welfare, they must be uniformly applied. No differential treatment can be accorded to small businesses.

Full text of the proposed readoption may be found in the New Jersey Administrative Code at N.J.A.C. 13:31.

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

#### 13:31-1.3 Examinations

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

(c) An applicant shall complete all required application forms and questionnaires supplied by the Board. Examinations shall be held at least four times a year. Information about scheduled examinations and deadlines for submissions of completed applications including

appropriate fees may be obtained from the Board offices at [1100 Raymond Boulevard] Post Office Box 45006, Newark, New Jersey [07102] 07101.

13:31-1.4 Minor repair work

Minor repair work within the meaning of N.J.S.A. 45:5A-18(a) shall include, without limitation, the replacement of lamps and fuses operating at less than 150 volts to ground with [alike] a like or similar item.

13:31-1.10 Requirement of pressure seal defined

(a) At the time of the issuance of the license or as soon thereafter as deemed appropriate, the Board of Examiners of Electrical Contractors shall furnish a seal to every State-licensed electrical contractor. The cost of the seal shall be [payed] paid for by the State-licensed electrical contractor to whom it is issued. The seal shall be used exclusively by the State-licensed electrical contractor in the conduct of his practice. The State-licensed electrical contractor is required to impress the said seal upon all applications for electrical inspection by the appropriate duly licensed State inspection agency.

(b) (No change.)

(a)

**DIVISION OF CONSUMER AFFAIRS  
BUREAU OF EMPLOYMENT AND PERSONNEL  
SERVICES**

**Notice of Extension of Comment Period  
Personnel Services**

**Proposed Repeal and New Rules: N.J.A.C. 13:45B**

Take notice that the Division of Consumer Affairs, Department of Law and Public Safety, is extending the period for public comment on the proposed repeal and new rules at N.J.A.C. 13:45B, published in the August 19, 1991 New Jersey Register at 23 N.J.R. 2470(a), to October 16, 1991.

Submit written comments by October 16, 1991 to:  
Charles Tantum, Chief  
Bureau of Employment and Personnel Services  
P.O. Box 45028  
Newark, New Jersey 07101

(b)

**DIVISION OF STATE POLICE**

**Notice of Extension of Comment Period  
Licensing and Registration of Dealers and  
Manufacturers; Sale, Purchase, Acquisition and  
Transfer of Firearms by Dealers to Eligible  
Persons; Investigation of Applications and  
Qualifications for Permits to Carry Handguns;  
Security Systems**

**Proposed Readoption with Amendments:  
N.J.A.C. 13:54**

Take notice that the Division of State Police, Department of Law and Public Safety, is extending the period for public comment on the proposed readoption with amendments of N.J.A.C. 13:54, published in the August 5, 1991, New Jersey Register at 23 N.J.R. 2250(a), to October 16, 1991.

Submit comments by October 16, 1991 to:  
Colonel Justin J. Dintino, Superintendent  
c/o Firearms Investigation Unit  
New Jersey State Police  
P.O. Box 7068  
West Trenton, New Jersey 08625

(c)

**NEW JERSEY RACING COMMISSION  
Thoroughbred Rules  
Administering Medication to Respiratory Bleeders  
Proposed Amendment: N.J.A.C. 13:70-14A.9**

Authorized By: New Jersey Racing Commission, Frank Zanzuccki, Deputy Director.  
Authority: N.J.A.C. 5:5-30.  
Proposal Number: PRN 1991-488.

Submit written comments by November 6, 1991 to:  
Frank Zanzuccki, Deputy Director  
New Jersey Racing Commission  
200 Woolverton Street, CN 088  
Trenton, New Jersey 08625

The agency proposal follows:

**Summary**

The proposed amendment is intended to correct one paragraph of the rule that was inadvertently not included in amendments adopted effective May 20, 1991 (see 23 N.J.R. 674(a) and 1684(a)). Specifically, the amendment reduced the number of days a first-time bleeder is placed on the veterinarian's list from 14 to 10 days. Therefore, paragraph (a)3 of the rule should be corrected to indicate 10 days and not 14 days in order to maintain consistency in the rule.

**Social Impact**

The proposed amendment will have a positive impact in that the correction will clarify the rule.

**Economic Impact**

The proposed amendment will not have any economic impact on the state of New Jersey, the track associations, the horsemen in the form of purses, and breeder organizations or patrons as it is a minor correction for consistency in an adopted rule.

**Regulatory Flexibility Statement**

There are no compliance requirements imposed by this proposed amendment, which corrects an inconsistency in the rule concerning the length of time a horse is placed on a veterinarian's list as a result of respiratory bleeding. Therefore, a regulatory flexibility analysis is not required.

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

13:70-14A.9 Administering medication to respiratory bleeders

(a) The stewards may permit the administration of medication to control respiratory bleeding in animals that:

- 1.-2. (No change.)
3. Are observed in New Jersey to bleed during the running or driving of a workout or race at a duly licensed New Jersey racetrack, or in the detention barn following such workout or race by the State or Associate State Veterinarian and have been placed on a veterinarian's list for at least [14] **10** days; or
4. (No change.)
- (b)-(e) (No change.)

(d)

**NEW JERSEY RACING COMMISSION  
Harness Rules  
Administering Medication to Respiratory Bleeders  
Proposed Amendment: N.J.A.C. 13:71-23.8**

Authorized By: New Jersey Racing Commission, Frank Zanzuccki, Deputy Director.  
Authority: N.J.A.C. 5:5-30.  
Proposal Number: PRN 1991-489.

Submit written comments by November 6, 1991 to:  
 Frank Zanzuccki, Deputy Director  
 New Jersey Racing Commission  
 200 Woolverton Street, CN 088  
 Trenton, New Jersey 08625

The agency proposal follows:

**Summary**

The proposed amendment is intended to correct one paragraph of the rule that was inadvertently not included in amendments adopted effective May 20, 1991 (see 23 N.J.R. 675(c) and 1684(e)). Specifically, the amendment reduced the number of days a first-time bleeder is placed on the veterinarian's list from 14 to 10 days. Therefore, paragraph (a)2 of the rule should be corrected to indicate 10 days and not 14 days in order to maintain consistency in the rule.

**Social Impact**

The proposed amendment will have a positive impact in that the correction will clarify the rule.

**Economic Impact**

The proposed amendment will not have any economic impact on the state of New Jersey, the track associations, the horsemen in the form of purses, and breeder organizations or patrons as it is a minor correction for consistency in an adopted rule.

**Regulatory Flexibility Statement**

There are no compliance requirements imposed by this proposed amendment, which corrects an inconsistency in the rule concerning the length of time a horse is placed on a veterinarian's list as a result of respiratory bleeding. Therefore, a regulatory flexibility analysis is not required.

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

13:71-23.8 Administering medication to respiratory bleeders

(a) The judges may permit the administration of medication to control bleeding in animals that:

1. (No change.)
  2. Are observed in New Jersey to bleed during the running or driving or a workout or race at a duly licensed New Jersey racetrack, or in the detention barn following such workout or race by the State or Associate State Veterinarian and have been placed on a veterinarian's list for at least [14] **10** days; or
  3. (No change.)
- (b)-(e) (No change.)

**OTHER AGENCIES**

**(a)**

**CASINO CONTROL COMMISSION**

**Accounting and Internal Controls  
 Slot machines and Bill Changers; Location;  
 Movements**

**Proposed Amendment: N.J.A.C. 19:45-1.38**

Authorized By: Casino Control Commission, Joseph A. Papp,  
 Executive Secretary.

Authority: N.J.S.A. 5:12-63(c).

Proposal Number: PRN 1991-476.

Submit comments by November 6, 1991 to:  
 Barbara A. Mattie, Chief Analyst  
 Casino Control Commission  
 Arcade Building  
 Tennessee Avenue and the Boardwalk  
 Atlantic City, NJ 08401

The agency proposal follows:

**Summary**

The proposed amendment to N.J.A.C. 19:45-1.38(c) eliminates the requirement that the Commission Inspector sign the machine movement log approving the movement of each individual slot machine and/or bill

changer. In addition, the proposed amendment modifies the signature requirements for the casino personnel involved in the movement of a slot machine and/or bill changer, in that, the amendment would only require the signatures of the slot shift manager and the lead technician on the machine movement log as a verification that all the slot machines and/or bill changers involved in the scheduled movement were, in fact, correctly moved.

**Social Impact**

The proposed amendment to N.J.A.C. 19:45-1.38(c) merely changes the required signatures on the machine movement log and would have no social impact.

**Economic Impact**

The proposed amendment to N.J.A.C. 19:45-1.38(c) would have a slight economic benefit to the casino in that it would reduce the number of required signatures on the machine movement log, and therefore, would reduce the time involved in completing said movement.

**Regulatory Flexibility Statement**

This proposed amendment will only affect the operation of New Jersey casino licensees, and, therefore, will not impact on any small business as defined 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]):

19:45-1.38 Slot machines and bill changers; location, movements

(a) Each casino licensee shall file with the Commission a floor plan of the casino which identifies each slot machine and bill changer on the casino floor by a location number in accordance with N.J.A.C. 19:45-1.37(a)7. Any alterations to such floor plan shall not become effective until approved in writing by [a] the Commission [inspector]. A revised floor plan containing such alterations shall be filed with the Commission within 24 hours of the alteration.

(b) No slot machine or bill changer shall be removed from, or returned to, a location in the casino or moved from one location to another without the prior written approval of [a] the Commission [inspector].

(c) Once a slot machine or bill changer has been placed in the casino, all movements of that machine and/or bill changer from or to a location shall be recorded by a slot department member in a machine movement log which shall include the following:

1.-3. (No change.)

4. The location to which the slot machine and/or bill changer was moved; and

[5. The signature of the Commission inspector approving the movement; and]

[6.]5. The signatures of the [persons moving] slot shift manager and the lead technician verifying the movement of the slot machine and/or bill changer.

(d)-(f) (No change.)

**(b)**

**CASINO CONTROL COMMISSION**

**Accounting and Internal Controls  
 Jackpot Payouts in the Form of an Annuity**

**Proposed Amendment: N.J.A.C. 19:45-1.40B**

Authorized By: Casino Control Commission, Joseph A. Papp,  
 Executive Secretary.

Authority: N.J.S.A. 5:12-63(c), 69(a), 70(f), (l) and (m).

Proposal Number: PRN 1991-475.

Submit comments by November 6, 1991 to:

Seth Brilliant, Assistant Counsel  
 Casino Control Commission  
 Arcade Building  
 Tennessee Avenue and the Boardwalk  
 Atlantic City, NJ 08401

The agency proposal follows:

**Summary**

On March 6, 1991, the Commission adopted amendments to its annuity jackpot rules, N.J.A.C. 19:45-1.40B (see 23 N.J.R. 1025(b)), effective April 1, 1991. These amendments authorized casino licensees to purchase United States treasury bonds in addition to annuity contracts, to fund trusts used to make future cash payments. This rule is necessary to assure that deferred annuity jackpot payments are made.

Subsequently, the Atlantic City Megabucks Trust sought permission to purchase United States treasury bills and notes in addition to treasury bonds. All three securities are backed by the full faith and credit of the Federal government, and differ only in the length of their terms. Thus, the proposed amendment would permit some flexibility in obtaining the necessary securities to fund the trust while still maintaining the high level of financial security required to assure payment of the deferred portions of an annuity jackpot.

**Social Impact**

The proposed amendment should have no social impact upon casino licensees, their patrons or the general public.

**Economic Impact**

The proposed amendment could have a beneficial economic impact upon casino licensees that offer annuity jackpots, since it may give them more flexibility, and thus a reduced cost of arranging financing for the deferred annuity payments.

**Regulatory Flexibility Statement**

The proposed amendment will not affect any "small business" as that term is defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq., since it will only affect New Jersey casino licensees.

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

19:45-1.40B Jackpot payouts in the form of an annuity

(a) (No change.)

(b) Any casino licensee or group of casino licensees planning to offer an annuity jackpot shall establish a trust fund which shall be used to make the future cash payments. The trust fund shall be administered in accordance with a written trust agreement which shall be reviewed and approved by the Commission prior to the offering of the jackpot. The trust agreement shall, at a minimum, require that:

1. (No change.)

2. The monies in the trust fund be used to purchase annuity contracts or United States [Treasury Bonds] **treasury bonds, treasury notes, or treasury bills**, in accordance with (c) or (d) below to assure that the trust will have sufficient monies available in each year to make all annuity jackpot payments which are required under the terms of the annuity jackpots which are won;

3. A reserve be established and maintained within the trust fund which is sufficient to purchase the annuity contracts, [or] **treasury bonds, treasury notes or treasury bills** required under (b)2 above as annuity jackpots are won;

4.-5. (No change.)

(c) (No change.)

(d) If the trustee or trustees purchase United States [Treasury Bonds] **treasury bonds, treasury notes or treasury bills** in satisfaction of (b)2 above, a separate treasury bond, **note or bill** shall be purchased for each payment which is required to be made under the terms of the annuity jackpot. Each treasury bond, **note or bill** shall have a surrender value at maturity, excluding any interest which is paid before the maturity date, which is equal to or greater than the value of the corresponding annuity jackpot payment, and shall have a maturity date which is prior to the date the annuity jackpot payment is required to be made. All treasury bonds, **notes or bills** shall be purchased within 180 days after the annuity jackpot is won, and a copy of the bonds, **notes or bills** will be provided to the Commission and the Division within 30 days of [the final] **their** purchase [of the bonds]. No treasury bond, **note or bill** purchased pursuant to this section shall be sold prior to its maturity date unless the proceeds are used to purchase another treasury bond, **note or bill** or an annuity contract in compliance with the requirements of

this section to assure that the remaining deferred payments are made as promised, which purchase must be completed within 30 days of the sale of the bonds, **notes or bills**.

(e) (No change.)

(f) All checks received by the trustees under the annuity contracts and all checks received upon the sale or surrender of the treasury bonds, **notes or bills** shall be restrictively endorsed "for deposit only" to the bank account of the trust and immediately recorded on an Annuity Deposit Log. The Annuity Deposit Log shall contain, at a minimum, the following:

1.-4. (No change.)

(g)-(j) (No change.)

**(a)**

**CASINO CONTROL COMMISSION**

**Accounting and Internal Controls**

**Procedure for Filling Payout Reserve Containers of Slot Machines**

**Proposed Amendment: N.J.A.C. 19:45-1.41**

Authorized By: Casino Control Commission, Joseph A. Papp, Executive Secretary.

Authority: N.J.S.A. 5:12-69(a), 70(f) and (m), 99(a)(10) and (11). Proposal Number: PRN 1991-478.

Submit comments by November 6, 1991 to:  
Seth H. Brilliant, Assistant Counsel  
Casino Control Commission  
Arcade Building  
Tennessee Avenue and the Boardwalk  
Atlantic City, NJ 08401

The agency proposal follows:

**Summary**

The procedure for filling slot machine payout reserve containers ("hoppers") has customarily been initiated manually by a request to the slot booth cashier. Using the information from that request, the slot booth cashier prepares a Hopper Fill Slip, either manually or by use of a computer.

Technology now permits partial automation of fill requests; a computerized slot monitoring system can automatically generate a Hopper Fill Slip for the slot cashier when a hopper fill is necessary.

The present rule contemplates that Hopper Fill Slips will be "prepared" by the slot booth cashier; it is silent as to whether such slips may also be generated by a computerized slot monitoring system. This amendment would expressly permit casino licensees to utilize such technology, subject to approval of any necessary changes to their internal control procedures.

**Social Impact**

Computer generated Hopper Fill Slips should decrease the time required to perform the hopper fill procedure, and thus the length of time a slot machine is out of service. Hopper fills are also sometimes needed to complete the payout of a slot jackpot. To the extent that these fill procedures are faster and more efficient, there should be less slot machines out of service and faster jackpot payouts, resulting in increased patron satisfaction.

**Economic Impact**

By clarifying and expressly permitting automated fill procedures, this amendment should reduce the amount of paperwork and manual labor involved in a hopper fill, which may eventually result in some cost savings for casino licensees. There will be no economic impact upon casino patrons.

**Regulatory Flexibility Statement**

This proposed amendment would only affect casino licensees, none of which is a "small business" as that term is defined in 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 proposal follows (additions indicated in boldface thus; deletions indicated in brackets [thus]).

19:45-1.41 Procedure for filling payout reserve containers of slot machines

(a) Whenever a slot supervisor, attendant or mechanic requests [coins to fill a] **that the payout reserve container ("Hopper") of a slot machine be filled**, a [slot booth cashier ("Slot Cashier")] shall prepare a] Hopper Fill Slip ("Hopper Fills") **shall be prepared, in accordance with procedures approved by the Commission.**

(b) Hopper Fills shall be serially prenumbered forms, each series of Hopper Fills shall be used in sequential order, and the series numbers of all Hopper Fills received by a casino shall be accounted for by employees independent of the cashiers' cage and the slot department. All originals and duplicate void Hopper Fills shall be marked "VOID" and shall require the signature of the [preparer] **slot booth cashier ("Slot Cashier")**. Notwithstanding the above, a serially prenumbered combined Jackpot Payout/Hopper Fill form may be utilized in conjunction with N.J.A.C. 19:45-1.40(b), as approved by the Commission, provided that the combined form shall be used in a manner which otherwise complies with the procedures and requirements established by this section.

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

(e) On originals, duplicates and triplicates, or in stored data, [the preparer shall record, at a minimum,] **the following information shall be recorded:**

1.-4. (No change.)

5. The [slot booth number, if applicable,] **location** from which the coins are distributed; [and]

6. The signature [or] **and**, if computer prepared, **the identification code of the [preparer] slot cashier; and**

7. **The name or identification code of the person requesting coins to fill the hopper.**

(f)-(i) (No change.)

(j) Upon meeting the signature requirements as described in (i)1 and 2 above, the security department member shall maintain and control the duplicate and the slot [or cage] cashier shall maintain and control the original.

(k) (No change.)

(a)

**CASINO CONTROL COMMISSION**

**Accounting and Internal Controls**

**Gaming Equipment**

**Rules of the Games**

**Casino Licensee's Organization**

**Personnel Assigned to the Operation and Conduct**

**of Gaming and Slot Machines**

**Sic Bo Table; Sic Bo Shaker; Physical Characteristics**

**Dice; Physical Characteristics**

**Dice; Receipt, Storage, Inspections and Removal from use**

**Sic Bo Shaker; Security Procedures**

**Approval of Gaming Equipment; Retention by**

**Commission and Division; Evidence of Tampering**

**Sic Bo**

**Minimum and Maximum Wagers**

**Proposed New Rules: N.J.A.C. 19:46-1.13A and**

**1.16A, and 19:47-9.1 through 9.6**

**Proposed Amendments: N.J.A.C. 19:45-1.11, 1.12,**

**19:46-1.15, 1.16 and 1.20, and 19:47-8.2**

Authorized By: Casino Control Commission, Joseph A. Papp, Executive Secretary.

Authority: N.J.S.A. 5:12-5, 69(a), 70(f), (j) and 100(e).

Proposal Number: PRN 1991-507.

Submit comments by November 6, 1991 to:

Catherine A. Walker, Esq.  
Senior Assistant Counsel  
Casino Control Commission  
Arcade Building  
Tennessee Avenue and Boardwalk  
Atlantic City, NJ 08401

The agency proposal follows:

**Summary**

The proposed new rules and amendments are intended to govern the implementation of the newly authorized game of sic bo in Atlantic City casinos. The game of sic bo was authorized by legislative amendments signed into law on June 29, 1991. The actual rules of the game are set forth in N.J.A.C. 19:47-9.1 through 9.6.

Sic bo is a game played with three dice in which the player wagers on the combinations that appear on one or more of the dice and/or on the total numerical value of the three dice. The payoffs at sic bo vary and range from even money to odds of 150 to 1.

The proposed new rules, N.J.A.C. 19:46-1.13A and 1.16A, promulgate the requirements for an illuminated sic bo table and a sic bo shaker, equipment necessary to play the game of sic bo. Unlike any currently approved game in Atlantic City, the sic bo table illuminates the winning wagers after the dealer enters the numerical value of each die into an electrical device. The sic bo shaker is a sealed container which permits the dealer to shake the dice randomly.

The remainder of the proposed amendments to N.J.A.C. 19:45 and 19:46 are technical amendments which simply add the game of sic bo to various existing regulatory requirements governing the operation of games in Atlantic City casinos. The proposed amendment to N.J.A.C. 19:47-8.2 establishes, in accordance with N.J.S.A. 5:12-100(e), the required spread between the minimum and maximum wagers offered at a sic bo table.

**Social Impact**

The proposed new rules and amendments are not anticipated to have any social impact independent of that created by the statutory authorization of the new game. The proposed rules of the game are self-explanatory and the sic bo layout will clearly depict all wagers available including payout odds. The proposed rules do not reflect any significant social judgments made by the Commission. It is anticipated that the implementation of the game of sic bo may generate patron interest. However, it cannot be determined at present whether new or additional patrons will be attracted to Atlantic City as a result of the introduction of sic bo.

**Economic Impact**

Any casino licensee choosing to implement the game of sic bo will incur costs in preparing to offer the game of sic bo. These costs will presumably be offset by an increase in casino revenue generated by the new game. Any increase in casino revenues which materializes will benefit senior and disabled citizens of New Jersey from the additional tax revenues realized.

A quantifiable increase in casino revenue is speculative at the present. The proposed new rules and amendments are not anticipated to result in any significant costs to the regulatory agencies.

**Regulatory Flexibility Statement**

The proposed amendments will only affect the operation of New Jersey 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]):

19:45-1.11 Casino licensee's organization

(a) (No change.)

(b) In addition to satisfying the requirements of (a) above, each casino licensee's system of internal controls shall include, at a minimum, the following departments and supervisory positions. Each of these departments and supervisors shall be required to cooperate with, yet perform independently of, all other departments and supervisors. Mandatory departments are as follows:

1.-3.(No change.)

4. A table games department supervised by a casino key employee holding a license endorsed with the position of casino manager. The

table games department shall be responsible for the operation and conduct of the following games:

- i. Craps;
- ii. Blackjack;
- iii. Baccarat;
- iv. Roulette;
- v. Big six; [and]
- vi. Minibaccarat; and
- vii. Sic Bo.

5.-9. (No change.)  
 (c)-(f) (No change.)

19:45-1.12 Personnel assigned to the operation and conduct of gaming and slot machines

- (a) (No change.)
- (b) The following personnel shall be used to operate the table games in an establishment:

- 1. (No change.)
- 2. Dealers shall be the persons assigned to each craps, baccarat, blackjack, roulette, minibaccarat, sic bo, and big six table to directly operate and conduct the game.

- 3.-4. (No change.)
- 5. Floorperson shall be:
- i. (No change.)

- ii. The first level supervisor assigned the responsibility for directly supervising the operation and conduct of gaming at not more than a total of four blackjack, roulette, sic bo, or big six tables or a combination thereof;

- iii. (No change.)

- iv. The first level supervisor assigned the responsibility for directly supervising the operation and conduct of gaming at not more than two minibaccarat tables or a combination of one minibaccarat table and a blackjack, roulette, sic bo or big six table.

- 6. Pit boss shall be:

- i. The third level supervisor assigned the responsibility for the overall supervision of the operation and conduct of craps games at no more than eight craps tables. Nothing in this subsection shall preclude a pit boss from supervising a combination of table games including craps, blackjack, roulette, minibaccarat, big six, sic bo or baccarat, provided however, the number of supervised tables complies with the following limitations:

| Craps Games | All Other Table Games |
|-------------|-----------------------|
| 1           | 9                     |
| 2           | 8                     |
| 3           | 6                     |
| 4           | 4                     |
| 5           | 3                     |
| 6           | 2                     |
| 7           | 1                     |

- ii. The second level supervisor assigned the responsibility for the overall supervision of the operation and conduct of table games at not more than a total of 12 blackjack, roulette, minibaccarat, big six, sic bo or baccarat tables or a combination thereof.

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

19:46-1.13A Sic bo table; sic bo shaker; physical characteristics

(a) Each sic bo table shall have the name of the casino licensee imprinted on the cloth covering it and shall have a drop box and tip box attached to it with the location of said boxes on the same side of the gaming table but on opposite sides of the dealer, as approved by the Commission.

(b) Each sic bo table shall have an electrical device which, when the numeric value of each die has been entered, shall cause the winning combinations to be illuminated. The sic bo table shall have an area, as approved by the Commission, which depicts all permissible wagers pursuant to N.J.A.C. 19:47-9.2. Each combination shall have the capability to be illuminated, if it is a winning combination, after the numeric value of each die has been entered into the electrical device by the dealer.

(c) The sic bo layout shall have inscribed thereon the payout odds currently being offered in accordance with N.J.A.C. 19:47-9.4.

(d) Sic bo shall be played with a sealed container, to be known as a "sic bo shaker," which shall be used to shake the dice in order to arrive at the winning combinations. The sic bo shaker shall be designed and constructed to contain any feature the Commission may require to maintain the integrity of the game and shall, at a minimum, adhere to the following specifications:

1. The sic bo shaker shall have a compartment to secure the three dice required by N.J.A.C. 19:47-9.1 and a separate cover which conceals the dice while the dealer is shaking the sic bo shaker. The compartment to secure the three dice shall be transparent and the cover which conceals the dice shall be opaque;

2. The sic bo shaker shall have the capability of being sealed or locked in order to ensure the integrity of the dice contained therein;

3. The sic bo shaker shall have the name of the casino or identifying logo imprinted or impressed thereon; and

4. The sic bo shaker shall be secured to the sic bo table when the table is open for gaming activity.

19:46-1.15 Dice; physical characteristics

(a) Each die used in gaming at craps or sic bo shall:

1.-10. (No change.)

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

19:46-1.16 Dice; receipt, storage, inspections and removal from use

(a)-(d) (No change.)

(e) Unless otherwise approved by the Commission or its authorized designee, all dice shall be inspected and distributed to the gaming tables in accordance with one of the following alternatives:

1. Alternative No. 1: Distribution to and inspection at tables:

i. The assistant shift manager or person above him and the security officer who removed the dice from the cabinet or primary storage area shall distribute sufficient sets directly to a craps supervisor in each craps pit and to a pit boss in each sic bo pit or place them in a locked compartment in the pit stand, keys to which shall be in the possession of the pit boss or those persons above him in the organizational hierarchy;

ii. At the time of receipt, a box person at each craps table and the floorperson at each sic bo table shall, in the presence of the dealer, inspect the dice given to him with a micrometer or any other approved instrument which performs the same function, balancing caliper, steel set square and magnet, which instruments shall be kept in a compartment at each craps table or pit stand, to assure that the dice conform to the Commission standards and are otherwise in a condition to assure fair play;

iii. Following this inspection[.];

(1) For craps, the box person shall in the presence of the dealer place the dice in a cup on the table for use in gaming, and while the dice are at the table, they shall never be left unattended; and

(2) For sic bo, the floorperson shall in the presence of the dealer place three dice into the shaker and seal or lock the sic bo shaker. The floorperson shall then place some form of seal over the area that allows access to open the sic bo shaker and the floorperson and dealer shall sign and date the seal. The floorperson shall then secure the sic bo shaker to the table. No sic bo shaker that has been secured to a table shall remain there for more than 24 hours; and

iv. (No change.)

2. Alternative No. 2: Distribution to and inspection at the pit stand:

i. The assistant shift manager or person above him and the security officer who removed the dice from the cabinet or primary storage area shall distribute sufficient sets directly to the craps supervisor who will perform the inspection in each craps pit and to the pit boss who will perform the inspection in each sic bo pit.

ii. [A] Inspection procedures are as follows:

(1) For craps, a craps supervisor shall, in the presence of another craps supervisor, neither of whom shall be a pit boss or person above the pit boss in the organizational hierarchy, inspect the dice at the pit stand. The dice shall be inspected with a micrometer or any other

approved instrument which performs the same function, balancing caliper, steel set square and magnet, which instruments shall be kept at the pit stand, to assure that the dice conform to Commission standards and are otherwise in a condition to assure fair play.

(2) For sic bo, a pit boss shall, in the presence of a security officer, inspect the dice at the pit stand. The dice shall be inspected with a micrometer or any other approved instrument which performs the same function, balancing caliper, steel set square and magnet, which instruments shall be kept at the pit stand, to assure that the dice conform to Commission standards and are otherwise in a condition to assure fair play.

iii. (No change.)

iv. Following this inspection:

(1) For craps, the craps supervisor who inspected the dice shall distribute such dice to the boxperson at each craps table. The boxperson shall, in the presence of the dealer, place the dice in a cup on the table for use in gaming and while the dice are at the table they shall never be left unattended[.] ; and

(2) For sic bo, the pit boss shall in the presence of the security officer place three dice into the shaker and seal or lock the sic bo shaker. The pit boss shall then place some form of seal over the area that allows access to open the sic bo shaker and the pit boss and security officer shall sign and date the seal. The pit boss shall then secure the sic bo shaker to the table. No sic bo shaker that has been secured to a table shall remain there for more than 24 hours.

v. (No change.)

3. Alternative No. 3: Inspection in storage area and distribution to tables:

i. [A] For craps, a craps supervisor, in the presence of an assistant shift manager or person above him, and a security officer, shall inspect sets of dice in an approved storage area. For sic bo, the assistant shift manager or above, in the presence of a security officer, shall inspect the dice to be placed in the sic bo shakers.

(1)-(2) (No change.)

ii. [After] For craps, after each set of at least five dice are inspected and found to conform to Commission standards, they shall be placed in a sealed envelope or container; provided, however, that reserve dice may be placed in individual sealed envelopes or containers.

[iii.] A label that identifies the date of the inspection and contains the signatures of those responsible for the inspection together with the security officer present at the time shall be attached to each envelope or container;

iii. For sic bo, following inspection, the assistant shift manager or above shall place three dice into the shaker and seal or lock the sic bo shaker. The assistant shift manager or above shall then place some form of seal over the area that allows access to open the sic bo shaker and sign and date the seal attesting to the completion of the inspection. The security officer who witnessed the inspection of the dice shall also sign the seal.

iv. At the beginning of each shift or day and at such other times as may be necessary, an assistant shift manager or person above him and a security officer shall distribute the sic bo shaker to the pit boss supervising the game of sic bo and the envelopes or containers of dice to a craps supervisor in each craps pit or place [them] the dice in a locked compartment in the pit stand, keys to which shall be in the possession of the pit boss or those persons above him in the organizational hierarchy;

v. [A] For craps, a boxperson, at each craps table, after assuring the seal and envelopes or containers are intact and free from tampering, shall open the sealed envelope or container, in the presence of the dealer, and place the dice in a cup on the table for use in gaming. For sic bo—a pit boss shall then secure the sic bo shaker to the table. No sic bo shaker shall remain on a table for more than 24 hours.

(1) (No change.)

(2) When the envelope or container or the seal is damaged, broken or tampered with, the dice for craps shall be reinspected by the boxperson, in the presence of a dealer, and the dice for sic

bo shall be reinspected by the pit boss in the presence of the dealer, prior to being used for gaming activity;

vi. (No change.)

vii. A micrometer or any other approved instrument which performs the same function, balancing caliper, steel set square and magnet shall also be maintained in a locked compartment in each craps and sic bo pit stand; and

viii. (No change.)

(f) (No change.)

(g) At the end of each shift or day, for craps, a craps supervisor other than the one who originally inspected the dice, and for sic bo a sic bo pit boss other than the one who originally inspected the dice, shall reinspect each die for evidence of tampering. Such evidence discovered at this time or at any other time shall be immediately reported to an agent of the Commission and the Division by completion and delivery of an approved three-part Dice Discrepancy Report.

1. Such dice shall be placed in a sealed envelope or container.

i. A label shall be attached to each envelope or container which shall identify the table number, date and time and shall be signed by the boxperson and floorperson or pit boss for craps dice and the pit boss for sic bo dice.

ii.-iii. (No change.)

2. All other dice at this time shall be put into envelopes or containers.

i. A label shall be attached to each envelope or container which shall identify the table number, date and time and shall be signed by the boxperson and floorperson or pit boss for craps dice and the pit boss for sic bo dice.

ii. (No change.)

(h)-(k) (No change.)

#### 19:46-1.16A Sic bo shaker; security procedures

(a) Sic bo shakers which have been filled with dice in accordance with N.J.A.C. 19:46-1.16(e)3iii may only be stored in a locked compartment in the primary storage area. Sic bo shakers which have not been filled with dice may be stored in a locked compartment in the pit stand.

(b) At the end of each gaming day a pit boss shall inspect all sic bo shakers that have been placed in use for gaming for evidence of tampering. Such evidence discovered at this time shall be immediately reported to the Commission and the Division. At a minimum, such reports shall include:

1. The date and time when the tampering was discovered;

2. The table number where the sic bo shaker was used; and

3. The name and license number of the individual discovering the tampering.

19:46-1.20 Approval of gaming equipment; retention by [commission and division] Commission and Division; evidence of tampering

(a) The [commission] Commission shall have the discretion to review and approve all gaming equipment and other devices used in a casino as to quality, design, integrity, fairness, honesty and suitability including without limitation gaming tables, layouts, roulette wheels, roulette balls, drop boxes, big six wheels, sic bo shakers, sic bo electrical devices, chip holders, racks and containers, scales, counting devices, trolleys, slip dispensers, dealing shoes, dice, cards, locking devices and data processing equipment.

(b) (No change.)

(c) Any evidence that gaming equipment or other devices used in a casino including, without limitation, gaming tables, layouts, roulette wheels, roulette balls, drop boxes, big six wheels, sic bo shakers, sic bo electrical devices, gaming chips, plaques, chip holders, racks and containers, scales, counting devices, trolleys, slip dispensers, dealing shoes, locking devices, data processing equipment, tokens and slot machines have been tampered with or altered in any way which would affect the integrity, fairness, honesty or suitability of the gaming equipment or other device for use in a casino shall be immediately reported to an agent of the Commission and the Division. A member of the casino licensee's security department shall be required to insure that the gaming equipment or other

device and any evidence required to be reported pursuant to this subsection is maintained in a secure manner until the arrival of an agent of the Division. Rules concerning evidence of tampering with dice and cards may be found at N.J.A.C. 19:46-1.16(g) and N.J.A.C. 19:46-1.18(1), respectively.

19:47-8.2 Minimum and maximum wagers

- (a) (No change.)
- (b) The spread between the minimum wager and the maximum wager at table games shall be as follows:
  - 1.-6. (No change.)
  - 7. Sic bo:
    - i. If the minimum wager at the table is \$5.00 or less, the maximum wager shall be at least \$100.00. Nothing in this chapter shall preclude a casino licensee from establishing different maximum wagers for each wager at the game of sic bo, provided however, that such limitations are posted at the table.

SUBCHAPTER 9. SIC BO

19:47-9.1 Dice; number of dice; sic bo shaker

Sic bo shall be played with three dice, which shall be sealed inside a sic bo shaker pursuant to N.J.A.C. 19:46-1.16. The sic bo shaker while at the table shall be the responsibility of the dealer at all times.

19:47-9.2 Permissible wagers

- (a) The following shall constitute the definitions of permissible wagers at the game of sic bo:
  - 1. "Three of a kind" shall mean a wager which shall win if the same number is showing on all three dice and the player selected that number to appear on all three dice.
  - 2. "Two of a kind" shall mean a wager which shall win if the same number is showing on two of the three dice and the player selected that number to appear on two out of the three dice.
  - 3. "Any three of a kind" shall mean a wager which shall win if the numeric value on all three dice is the same and the player wagered that any of the numbers 1 through 6 would appear on all of the three dice.
  - 4. "Total Value Bet" shall mean a wager which shall win if the numeric total of all three dice equals the total of the number wagered.
  - 5. "Two Dice Combination" shall mean a wager which shall win when the player wagered that a combination of two specific but different numeric values would appear on at least two of the dice and the two numeric values chosen are showing.
  - 6. "Small Bet" shall mean a wager which shall win if the numeric total of all three dice equals any one of the following totals: 4, 5, 6, 7, 8, 9, or 10 and shall lose if any other numeric total is shown or if three of a kind appears.
  - 7. "Big Bet" shall mean a wager which shall win if the numeric total of all three dice equals any one of the following totals: 11, 12, 13, 14, 15, 16 or 17 and shall lose if any other numeric total is shown or if three of a kind appears.
  - 8. "One of a kind" shall mean a wager which shall win if one or more of the three dice shows a numeric value equal to the number wagered.

19:47-9.3 Wagers

- (a) All wagers at sic bo shall be made by placing gaming chips or plaques on the appropriate areas of the sic bo layout. No verbal wagers accompanied by cash may be accepted at the game of sic bo.
- (b) Each player shall be responsible for the correct positioning of his or her wagers on the sic bo layout regardless of whether the player is assisted by the dealer. Each player must ensure that any instructions given to the dealer regarding the placement of wagers are correctly carried out.
- (c) Each wager shall be settled strictly in accordance with its position on the layout when the dice come to rest and the numeric value showing on each die has been entered into the electrical device and illuminated at the table.

(d) Each casino licensee shall submit to the Commission for review and approval, in accordance with N.J.A.C. 19:47-8.2, the minimum wagers permitted at each sic bo table.

(e) Each casino licensee shall provide notice in accordance with N.J.A.C. 19:47-8.3 of the minimum and maximum wagers in effect at each sic bo table.

19:47-9.4 Payout odds

(a) Payout odds on any layout or in any brochure or other publication distributed by a casino licensee shall be stated through the use of the word "to" or "win" and no odds shall be stated through the use of the word "for."

(b) Each casino licensee shall pay off winning wagers at the game of sic bo at no less than the odds listed below:

| Wager                    | Payout Odds |
|--------------------------|-------------|
| Three of a kind          | 150 to 1    |
| Two of a kind            | 8 to 1      |
| Any three of a kind      | 24 to 1     |
| Total value of 4         | 50 to 1     |
| Total value of 5         | 18 to 1     |
| Total value of 6         | 14 to 1     |
| Total value of 7         | 12 to 1     |
| Total value of 8         | 8 to 1      |
| Total value of 9         | 6 to 1      |
| Total value of 10        | 6 to 1      |
| Total value of 11        | 6 to 1      |
| Total value of 12        | 6 to 1      |
| Total value of 13        | 8 to 1      |
| Total value of 14        | 12 to 1     |
| Total value of 15        | 14 to 1     |
| Total value of 16        | 18 to 1     |
| Total value of 17        | 50 to 1     |
| Any two dice combination | 5 to 1      |
| Small Bet                | 1 to 1      |
| Big Bet                  | 1 to 1      |
| One of a kind            | 1 to 1      |

(c) "One of a kind" shall be paid at 2 to 1, if two of the dice show the same numeric value, and at 3 to 1, if all three dice show the same numeric value.

19:47-9.5 Procedures for opening and dealing the game

(a) Prior to opening the sic bo table for gaming activity, the floorperson assigned to the sic bo table shall inspect the electrical device in order to ensure that the table is in proper working order. At a minimum, the inspection shall be completed by entering three numeric values into the electrical device and verifying that all winning combinations are properly illuminated.

(b) Prior to shaking the sic bo shaker, the dealer shall announce "No more bets."

(c) Once "No more bets" has been announced, the dealer shall place the cover on the sic bo shaker, and shake the sic bo shaker at least three times so as to cause a random mixture of the dice.

(d) The dealer shall then remove the cover from the sic bo shaker, announce the numeric value of each die and enter the numeric value of each die into the electrical device on the table. The electrical device shall then cause the winning combinations to be illuminated on the sic bo layout.

(e) After the winning combinations have been illuminated, the dealer shall first collect all losing wagers and then pay off all winning wagers at the odds currently being offered in accordance with N.J.A.C. 19:47-9.4. The sic bo shaker shall remain uncovered until all winning wagers have been paid.

(f) After all losing wagers have been collected and all winning wagers paid, the dealer shall clear the previously illuminated winning combinations from the table.

19:47-9.6 Irregularities

(a) If the dealer uncovers the sic bo shaker and all three dice do not land flat on the bottom of the shaker, the dealer shall call a "No Roll."

(b) If the electrical device malfunctions and the sic bo shaker has been uncovered, the dealer shall, in the presence of the casino supervisor, collect all losing wagers and pay all winning wagers. Once the wagers on the layout have been settled, all gaming at sic bo shall cease until the electrical device has been fixed.

## (a)

**CASINO CONTROL COMMISSION****Rules of the Games****Vigorish Options for Baccarat, Minibaccarat, and Baccarat-Chemin De Fer****Proposed Amendments: N.J.A.C. 19:47-3.3, 4.10 and 7.3**

Authorized By: Casino Control Commission, Joseph A. Papp,  
Executive Secretary.

Authority: N.J.S.A. 5:12-69(a) and 70(f).

Proposal Number: PRN 1991-477.

Submit comments by November 6, 1991 to:

Seth H. Brilliant, Assistant Counsel  
Casino Control Commission  
Arcade Building  
Tennessee Avenue & Boardwalk  
Atlantic City, NJ 08401

The agency proposal follows:

**Summary**

N.J.A.C. 19:47-3.3(b), 4.10(c) and 7.3(b) currently permit a casino licensee to charge a commission (vigorish) not exceeding five percent on winning wagers made on the Banker's hand in Baccarat, Minibaccarat, and Baccarat-Chemin De Fer, respectively. This amendment would revise the relevant Commission rules to conform with the actual Atlantic City gaming industry practice of charging either a four or five percent vigorish on Baccarat, Minibaccarat, and Baccarat-Chemin De Fer wagers (Baccarat-Chemin De Fer is not presently offered by any Atlantic city casino licensee). Also incorporated is the industry practice of rounding off a five percent vigorish to the nearest 25 cents, and a four percent vigorish to the nearest 20 cents. Minibaccarat vigorish is rounded off to the nearest five cents regardless of the vigorish percentage.

Although casino licensees are now permitted to change the percentage of their vigorish, any such change is required to be in effect for the entire gaming day and for all gaming tables in the casino offering that game. This amendment would enable a casino licensee to change its vigorish percentage on these games at any time and on such individual gaming tables as it desired. Although the vigorish percentage could vary from table to table in the casino, the percentage would be required to be identical for all players at a particular table.

Moreover, the vigorish percentage, and any increase in that percentage, would have to be posted in accordance with proposed new rule N.J.A.C. 19:47-8.3, which requires a 30-minute advance notice of any change and posting of sign indicating current vigorish percentage at the gaming table (see 23 N.J.R. 1784(b)). No 30-minute notice of any reduction in the vigorish percentage would be required.

**Social Impact**

To the extent that the proposed amendments codify existing industry practice with regard to offering either a four or five percent vigorish in these games, they should not have any social impact.

The amendments do change the present practice of requiring a uniform percentage of vigorish throughout the casino, and licensees would be permitted to offer different vigorish options at different tables. This flexibility should help licensees to adjust their marketing programs to reach their intended market.

By imposing the posting and notice requirements of proposed N.J.A.C. 19:47-8.3 for any increase in the vigorish percentage, gaming patrons would have information that may be useful to them in determining whether and how to conduct their gaming at a particular table. The 30-minute period would give patrons time to consider that information and adjust their gaming strategy and decisions accordingly. The amendment protects the public by informing them, in advance, of the vigorish percentage and any pending increase.

**Economic Impact**

The ability of casino licensees to respond more quickly to market demand and offer different vigorish options in these games may attract more patrons and may produce more revenue for licensees as well as the State. It is anticipated that the economic impact of these changes upon the public may also be favorable, since a uniform vigorish percentage throughout the casino would no longer be required.

**Regulatory Flexibility Statement**

These proposed amendments will only affect casino licensees, none of which qualify as a "small business" as defined in 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 proposal follows (additions indicated in boldface thus; deletions indicated in brackets [thus]):

19:47-3.3 Payout odds; vigorish

(a) (No change.)

(b) **A winning tie bet shall be paid off by a casino licensee at odds of at least 8 to 1.**

[(b)](c) A winning wager made on the "Banker's Hand" shall be paid off by a casino licensee at odds of 1 to 1, except that the casino licensee [may] **shall** extract a [charge] **commission** [(to be) known as [a "commission" or] "vigorish"[]] on the amount won not to exceed five percent of such amount provided however a] **from the winning player in an amount equal to, in the casino licensee's discretion, either four or five percent of the amount won; provided, however, that when collecting the vigorish, the casino licensee may round off the [commission or] amount of a five percent vigorish to 25 cents or the next highest multiple of 25 cents, [when the commission or vigorish is not exactly 25 cents or a multiple thereof], and the amount of a four percent vigorish to 20 cents or the next highest multiple of 20 cents.** A casino licensee may collect the vigorish from a player at the time the winning [payout] **payout** is made or may defer it to a later time; provided, however, that all outstanding vigorish shall be collected prior to reshuffling the cards in a shoe [and in no event shall the collection of any vigorish be deferred beyond such point]. The amount of any vigorish not collected at the time of the winning payouts shall be evidenced by the placing of a coin or a marker button containing the amount of the vigorish owed in a rectangular space in front of the dealer on the layout imprinted with the number of the [participant] **player** owing such vigorish.

[(c)] A winning tie bet shall be paid off by a casino licensee at odds of at least 8 to 1.]

(d) **Each casino licensee shall provide notice of any increase in the percentage of vigorish being charged at each baccarat table, in accordance with N.J.A.C. 19:47-8.3. The percentage of vigorish charged at a baccarat table shall apply to all players at that table.**

19:47-4.10 Announcement of result of round; payment and collection of wagers; [casino fee] **payout odds; vigorish**

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

(c) As its fee in housing the game, the casino licensee [may] **shall** extract a [charge] **commission** [(to be) known as [a] "vigorish" [or "commission"] of not more than 5 percent of] **from the amount won by the Banker on each round of play [provided however a], in an amount equal to, in the casino licensee's discretion, either four or five percent of the amount won; provided, however, that when collecting the vigorish, the casino licensee may round off the [commission or] amount of a five percent vigorish to [twenty-five] 25 cents or the next highest multiple of [twenty five] 25 cents, and the amount of a four percent vigorish to 20 cents or the next highest multiple of 20 cents [when the commission or vigorish is not exactly twenty-five cents or a multiple thereof]. Such [fee] vigorish shall be collected immediately after each round won by the Banker.**

(d) **Each casino licensee shall provide notice of any increase in the percentage of vigorish being charged at each Baccarat-Chemin De Fer table, in accordance with N.J.A.C. 19:47-8.3. The percentage of vigorish charged at a Baccarat-Chemin De Fer table shall apply to all players at that table.**

19:47-7.3 Payout odds; vigorish

(a) (No change.)

(b) A winning tie bet shall be paid off by a casino licensee at odds of at least 8 to 1.

[b](c) A winning wager made on the "Banker's Hand" shall be paid off by a casino licensee at odds of 1 to 1, except that the casino licensee [may] shall extract a [charge] commission [(to be) known as [a "commission" or ] "vigorish"')] on the amount won not to exceed five percent of such amount (provided, however, a) from the winning player in an amount equal to, in the casino licensee's discretion, either four or five percent of the amount won; provided, however, that when collecting the vigorish, the casino licensee may round off the [commission or] vigorish to five cents or the next highest multiple of five cents. [when the commission or vigorish is not exactly five cents or a multiple thereof.] A casino licensee may collect the vigorish from a [participant] player at the time the winning [payoff] payout is made or may defer it to a later time provided, however, that all outstanding vigorish shall be collected prior to reshuffling the cards in a shoe [and in no event shall the collection of any vigorish be deferred beyond such point]. The amount of any vigorish not collected at the time of the winning payouts shall be evidenced by the placing of a coin or marker button containing the amount of the vigorish owed in a rectangular space in front of the dealer on the layout imprinted with the number of the [participant] player owing such vigorish.

[(c) A winning tie bet shall be paid off by a casino licensee at odds of at least 8 to 1.]

(d) Each casino licensee shall provide notice of any increase in the percentage of vigorish being charged at each minibaccarat table, in accordance with N.J.A.C. 19:47-8.3. The percentage of vigorish charged at a minibaccarat table shall apply to all players at that table.

(a)

**CASINO CONTROL COMMISSION**

**Rules of the Games**

**Hands of Player and Banker; Procedure for Dealing**

**Initial Two Cards to Each Hand**

**Procedure for Dealing of Additional Cards**

**Proposed Amendments: N.J.A.C. 19:47-7.7 and 7.8**

Authorized By: Casino Control Commission, Joseph A. Papp, Executive Secretary.

Authority: N.J.S.A. 5:12-63(c) and 70(f).

Proposal Number: PRN 1991-479.

Submit comments by November 6, 1991 to:

Barbara A. Mattie, Chief Analyst  
Casino Control Commission  
Arcade Building  
Tennessee Avenue and Boardwalk  
Atlantic City, NJ 08401

The agency proposal follows:

**Summary**

The proposed amendments to N.J.A.C. 19:47-7.7 and 7.8 would allow casino licensees the option of dealing the initial four cards either: (1) face up and to the designated area on the layout; or (2) face down with the first and third cards being dealt to the appropriate area on the layout ("Player's Hand") and the second and fourth cards being placed underneath the corner of the dealing shoe. Option one is being proposed and option two is the current method of dealing.

**Social Impact**

The proposed amendments to N.J.A.C. 19:47-7.7 and 7.8 are not anticipated to have any significant social impact.

**Economic Impact**

If a casino elects to deal the cards face up directly to the designated area on the layout, thereby eliminating a step in the dealing procedures, the casino should experience an increase in the number of hands dealt at the game which should produce an economic benefit for that casino.

**Regulatory Flexibility Statement**

These proposed amendments will only affect the operations of New Jersey casino licensees, and therefore, will not impact 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]):

19:47-7.7 Hands of player and banker; procedure for dealing initial two cards to each hand

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

(c) The dealer shall deal an initial four cards from the shoe [face down]. The first and third cards dealt shall [be placed face down in the area on the layout designated for] constitute the first and second cards of the "Player's Hand["]]. The second and fourth cards dealt shall [be placed face down underneath the right corner of the dealing shoe until the "Player's Hand" is called as provided for in N.J.A.C. 19:47-7.8(a) at which time the second and fourth cards shall be placed face up in the area on the layout designated for] constitute the first and second cards of the "Banker's Hand["]]. The casino licensee may deal the initial four cards in accordance with one of the following options:

1. Each dealer shall remove cards from the shoe with his or her left hand, turn them face up and then place them on the appropriate area of the layout with his or her right hand. The first and third cards dealt shall be placed on the area designated for the "Player's Hand" and the second and fourth cards dealt shall be placed on the area designated for the "Banker's Hand;" or

2. The first and third cards dealt shall be placed face down in the area designated for the "Player's Hand" and the second and fourth cards dealt shall be placed face down underneath the right corner of the dealing shoe until the "Player's Hand" is called as provided for in N.J.A.C. 19:47-7.8(a), at which time the second and fourth cards shall be turned face up and placed on the area designated for the "Banker's Hand."

19:47-7.8 Procedure for dealing of additional cards

(a) [After the cards are dealt to each hand, the dealer shall turn the "Player's Hand" face upwards and announce the Point Count of the "Player's Hand." The dealer shall then turn the "Banker's Hand" face upwards and announce the Point count of the "Banker's Hand".] After the dealer positions the cards in accordance with either N.J.A.C. 19:47-7.7(c)1 or 2, the dealer shall announce the point count of the "Player's Hand" and then the "Banker's Hand."

(b)-(e) (No change.)

**LABOR**

(b)

**DIVISION OF VOCATIONAL REHABILITATION SERVICES**

**Vocational Rehabilitation Services Program Rules**

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

**12:51**

Authorized By: Raymond L. Bramucci, Commissioner, Department of Labor.

Authority: N.J.S.A. 34:16-27, 34:1-20, 34:1A-3, 34:16-20 et seq., 29 USCA, Section 701 et seq. and 34 CFR 361.1 et seq.

Proposal Number: PRN 1991-497.

Submit written comments by November 6, 1991 to:

Linda Flores, Esq.  
Special Assistant for External and Regulatory Affairs  
Office of the Commissioner  
CN 110  
Trenton, New Jersey 08625-0110

The agency proposal follows:

**Summary**

Pursuant to a waiver of Executive Order No. 66(1978) by Governor James J. Florio on June 19, 1991, N.J.A.C. 12:51 expires on December

31, 1991 (see 23 N.J.R. 1893(a)). The Department has reviewed these rules and has determined them to be necessary, reasonable, and proper for the purposes for which they were originally promulgated. The Department of Labor, therefore, proposes to readopt the standards governing vocational rehabilitation facilities, with amendment. The rules define the criteria for operating a vocational rehabilitation facility eligible to provide services to the New Jersey Department of Labor and establish the standards of performance for vocational rehabilitation facilities to assist and encourage their orderly development, growth and successful operation.

The provisions of this chapter were adopted originally on August 6, 1981. This chapter was substantially amended effective January 3, 1984. It was readopted on June 30, 1986, pursuant to Executive Order No. 66(1978). The proposed amendments are intended to assist facilities from which the Department of Labor purchases services. The chapter on vocational rehabilitation has been updated to include a clarification of its purpose and conformity to time frames that have been altered since the chapter was last adopted. The additional amendments update references and eliminate redundancy that exists in the current rules and more accurately describe the State program.

A discussion of the chapter's contents are as follows:

Subchapter 1 provides the general scope of the rules.

Subchapter 2 gives the reasons standards are necessary and beneficial.

Subchapter 3 specifies the corporate organization and administration of approved nonprofit agencies.

Subchapter 4 specifies the vocational evaluation procedure.

Subchapter 5 specifies the conditions of work adjustment training programs.

Subchapter 6 sets forth the rules and record maintenance requirements for an extended employee program; articulates the level of production capacity traditionally utilized by the program, but only implied in subchapter 5; and restates the existing requirements in the jargon of the affected community.

Subchapter 7 outlines the program, recording and reporting requirements for an approved psychosocial program.

Subchapter 8 indicates the methods and requirements for fees paid for services and directly references the Federal accounting and audit requirements which are indirectly contained in the existing rules by reference to a publication which simply reiterates same. N.J.A.C. 12:51-8.5 has been repealed to eliminate redundancy since, except for formatting, the section is identical to N.J.A.C. 12:51-8.3.

Subchapter 9 outlines staffing requirements for each program.

Subchapter 10 outlines additional reporting requirements to the State agency.

Subchapter 11 provides minimal physical plant requirements for accessibility, health and safety.

Subchapter 12 indicates minimal community relation requirements.

Subchapter 13 describes the advisory committee charged with reviewing these rules.

Subchapter 14 outlines the procedure for awarding grants if funds become available.

Subchapter 15 describes the ongoing State planning for facility utilization.

Subchapter 16 discusses the need for ongoing communication with the local State agency offices.

Subchapter 17 sets forth the payment and attendance policies.

Subchapter 18 explains the need for certification by the Commission on Accreditation of Rehabilitation Facilities (CARF).

Subchapter 19 provides the eligibility criteria established by the State agency. The format of the section has been changed to set forth the eligibility criteria in sentence form, rather than in artificially imposed paragraphs.

#### Social Impact

The rules proposed for readoption assure individuals with handicaps that vocational services which they receive from sheltered workshops and psychosocial vocational rehabilitation centers, sponsored by the State Vocational Rehabilitation Agency in New Jersey meet specific program requirements. The rules provide the rehabilitation community with guidelines by which to prepare their programs for consideration for Vocational Rehabilitation sponsorship. The readoption of these rules ensure that the Department of Labor maintains the necessary regulatory structure to enforce its responsibilities pursuant to N.J.S.A. 34:16-21. These rules provide that Vocational Rehabilitation facilities operated under this program are of high quality, economical and humane.

The proposed rules will enhance the quality of life for individuals with various disabilities by providing them with quality vocational training and job opportunities. The adoption of these rules will assist individuals with severe disabilities in gaining remunerative employment.

#### Economic Impact

Private not-for-profit agencies who have been vending vocational rehabilitation services to the State must continue to maintain the required records. These records will continue to be subject to auditing and accounting procedures that currently exist. These rules contain no increased reporting or auditing requirements and no increase in costs.

The readoption of these rules continues the existing expenses of compliance for maintaining and educating professional staff, evaluations accounting and audit costs, space and material requirements, that are currently set forth in the existing rules.

The proposed amendments and the rules proposed for readoption will not have any direct economic impact on individuals seeking rehabilitation services. The fees discussed in subchapter 8 refer to those fees received by the facilities from the State. These will continue in accordance with Federal regulations.

#### Regulatory Flexibility Analysis

The rules proposed for readoption with amendments continue to impose reporting, recordkeeping and other compliance requirements on providers of vocational rehabilitation services sponsored by DVRS. The majority of these providers may be small businesses, as defined under the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq.

These rules continue to impose requirements, with their attendant costs, in those areas as specified in the Summary and Economic Impact statement above. Professional services, such as accountants, may be necessary in order to comply. The current audit, staffing, space and certification costs, necessary to comply with State and Federal requirements, will continue.

No differentiation in requirements based upon provider business size is established because the requirements as imposed are necessary in order to provide efficient and effective rehabilitation services to individuals with disabilities.

Full text of the proposed readoption may be found in the New Jersey Administrative Code at N.J.A.C. 12:51.

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

### CHAPTER 51

#### VOCATIONAL REHABILITATION SERVICES

##### SUBCHAPTER 1. GENERAL PROVISIONS

###### 12:51-1.1 Scope and purpose

Prior to this submission, the New Jersey Department of Labor, Division of Vocational Rehabilitation Services (DVRS) [has] published Standards for [Vocational Rehabilitation Facilities] **vocational rehabilitation facilities** which have had the force of [Policy] **policy**. This chapter is intended to strengthen the legal impact of these [rules] **standards**. The purpose of this chapter is to define the criteria for operation of a program [of services] which is eligible to vend services to the [New Jersey] Division of Vocational Rehabilitation Services.

###### 12:51-1.2 (No change.)

##### SUBCHAPTER 2. INTRODUCTION

###### 12:51-2.1 [Rules] Standards

###### (a) (No change.)

(b) The [Facilities Staff] **facilities staff** of the [New Jersey] Division of Vocational Rehabilitation Services has called together from time to time a committee to assist and give counsel in the development of appropriate standards for the various rehabilitation facilities in New Jersey. This committee has been composed of representatives of the New Jersey Association of Rehabilitation Facilities[,] and the [Facilities Staff] **facilities staff**. Initial standards were developed in June, 1967, similar to those published by the National Policy and Performance Council under the sponsorship of the Vocational Rehabilitation Administration.

(c) The basic rationale for the development of these standards of operations consists of the following:

1. (No change.)
2. Established, recognized standards[,] give evidence of a professional discipline, help facilities provide the consumer with quality services, and establish accountability of operations.
3. Standards for rehabilitation facilities are necessitated by the enactment of [the] State and Federal legislation to help establish and improve rehabilitation facilities. These standards will be utilized as a minimum basis for establishing the approval of assistance grants under the Federal Vocational Rehabilitation Act and other legislation, and for the use of such rehabilitation services, and by the New Jersey Commission for the Blind and Visually Impaired. They shall also be applicable to the purchase of services [from] and the payment of fees to the rehabilitation facility by the [New Jersey] Division of Vocational Rehabilitation Services and the New Jersey Commission for the Blind and Visually Impaired.

[4. In order to vend services to the New Jersey Division of Vocational Rehabilitation Services, a facility must apply for and be granted a certificate from that agency. This certificate will be issued by the Director of the Division of Vocational Rehabilitation Services upon his being satisfied that:

- i. There is a need for the service to be vended; and
- ii. The facility is in compliance with the rules and regulations governing Vocational Rehabilitation Facilities.

5. Certificates will be issued covering several specific service areas including but not restricted to:

- i. Vocational Evaluation;
- ii. Work Adjustment Training;
- iii. Sheltered Employment;
- iv. Psycho-Social Vocational Rehabilitation Services;
- v. Skill Training.]

### SUBCHAPTER 3. CORPORATE ORGANIZATION AND ADMINISTRATION

#### 12:51-3.1 Organization and by-laws

- (a) (No change.)
- (b) The facility will be incorporated as a not-for-profit organization and will hold a letter of exemption under Section 501(c)3 of the Internal Revenue Service Code of 1954.

1. The agency's charter from the State of New Jersey will identify the corporate entity, state the objective of the corporate entity, and describe categories of the qualifications for membership, if applicable.

2. (No change.)
- (c) (No change.)
- (d) The purpose of the facility will be related to the human needs it serves. The facility will describe how its programs contribute to these purposes[,] and conditions or restrictions on admission or provision of services.

1. The by-laws will:
  - i. Provide for a governing body/board;
  - ii. Describe qualifications for [membership in] election to the governing body/board [election,] and tenure of office;
  - iii. Provide for the election and specification of duties of officers;
  - iv. Establish regular and special meetings of the governing body/board, in no event fewer than four meetings each year;
  - v. Provide for committees of the governing body/board;
  - vi. Describe the parliamentary procedures which will be followed in the conduct of business meetings;
  - vii. Describe methods of amending the by-laws;
  - viii. Establish a quorum with requirements of at least one-third of the governing body/board; and
  - ix. Require recording of minutes.
2. (No change.)

#### 12:51-3.2 Governing body/board

(a) The governing body/board has a legal and moral responsibility for the formulation of basic policies concerned with the [establishment] achievement of its purposes and conduct of its program.

(b) The governing body/board shall be constituted so as to provide effective ethical leadership, resourcefulness, and stability for the facility.

(c) The governing body/board, to the extent practicable, on a rotating basis, will reflect a wide range of community interests, including consumer participation.

(d) The governing body/board, whose members shall serve without pay, and whose membership will not [mean] result in financial gain, shall be responsible for establishing all broad workshop policies of administration and operation.

1. The [Board] governing body/board will be broadly representative of the community and reflect the major areas of activities in which the workshop is engaged. The [Board] governing body/board should [include] reflect such professional and related fields as management, personnel, rehabilitation, manufacturing, public relations, finance or accounting, medicine, law and public welfare. A disabled person, associations for the disabled, and [also] organized labor should also be represented.

2. The [Board] governing body/board will be organized into committees corresponding to the major activities of the workshop. The minimum committees [should be] include an Executive Committee, Personnel Committee, Finance Committee, and Nominating Committee. [Preferably, the following functional committees should be added: Rehabilitation Services Committee, and Industrial or Manufacturing Committee, a Public Relations Committee, and a Facilities Committee.]

3. There will be a provision in the Articles of Incorporation and/or the By-Laws stating a maximum length of time for a term of office of a [Board] governing body/board member to ensure [a] rotation of membership.

4. The [Board] governing body/board, or its [Executive Committee] executive committee, shall meet at least quarterly and minutes of all meetings will be on file and distributed to all [Board] governing body/board members.

(e) The [Board] governing body/board will formulate a mission statement, approve and evaluate programs, stimulate continuing program planning, and [make] adopt recommendations for program growth[,], including:

1. [This includes establishing] Establishing policy regarding property, funds, [management] personnel operations[.]; and

2. [Part of the functioning and responsibility for the Board is to obtain] Obtaining adequate financial support for the workshop[,] and [to provide] providing funding for the building and equipment needs for the organization as part of its responsibilities.

(f) The [Board] governing body/board will have the responsibility for the establishment and maintenance of high standards of operations for the facility[,] and for its continuing development.

(g) [It] The governing body/board will approve the initiation, expansion, or modification of the facility's program based upon the rehabilitation needs of the community and the capability of the facility to [have an effect] affect [upon] those needs within its established goals and objectives.

(h) [It] The governing body/board will adopt an annual budget, establish policies for administration of funds, and it will [regularly] quarterly review the financial status of the facility.

(i) The governing body/board will consist of no less than seven people. No maximum is set at this time.

(j) Staff members of the facility other than the executive director, and staff members of DVRS, will not serve as members of the governing body/board.

#### 12:51-3.3 Executive [Director] director

(a) The governing body/board will appoint an [Executive Director] executive director or equivalent. It will formally state his or her relationship to the governing body or its designated authority[,] and [his] duties, and delegate to him or her in writing such authority and responsibility as is necessary to direct the facility in accordance with its policies.

(b) The [Executive Director] executive director will maintain an effective liaison with the governing body/board and standing committees, except when his or her personal status is under consideration.

(c) [Staff members other than the Executive Director will not serve as members of the governing body.] The [Executive Director] **executive director will develop a written orientation package for members of the governing body/board** [to the operations of the facility]. He or she will assist the governing body/board in the formulation of policy by presenting and interpreting operating reports, including reports reflecting the efficiency and effectiveness of the facility, and by presenting and interpreting financial statements, short-term and long-term plans, changing concepts, needs and related information.

(d) The [Executive Director] **executive director** will assist the governing body/board as required in such functions as fund-raising, community relations, and related duties.

(e) The [Executive Director] **executive director** will coordinate and direct activities of the facility in accordance with the policies of the governing body/board. He or she will develop the organizational structure for the facilities staff.

(f) The [Executive Director] **executive director** will maintain personnel policies. He or she will control the operation of the facility through day-to-day decisions and authorization of expenditures, and other procedures in accordance with the policies established by the governing body/board.

(g) The [Executive Director] **executive director** shall upgrade the operation of the facility by studying and analyzing reports of the various services comparing the performance against budgetary, administrative, and professional standards and the extent to which facility goals and objectives are being attained, and taking appropriate corrective measures. He or she will also keep informed of [the] **local and national** rehabilitation developments [locally and nationally].

(h) The [Executive Director] **executive director** will be held responsible to the [Governing Body] **governing body/board** and its [Executive Committee] **executive committee** for the overall and entire administration of the facility's operations and programs and offer to them appropriate information, guidance, and recommendations with respect to any matter thereto or as otherwise required by his or her job description.

#### 12:51-3.4 Staff organization

(a) There will be a staff organization under the [chief] **executive director** which sets forth lines of authority, responsibility, and communication in accordance with policies established by the governing body/board. The organizational structure will be designed to promote efficient and effective operation of the facility's programs. **The organizational chart will be updated annually.**

1.-2. (No change.)

3. Each department head will be responsible to the [chief] **executive director** or his or her designee for fulfillment of [his] assigned duties. Each department head will:

i. Carry out the administration of his or her department in keeping with policies established by the governing body/board and by the [chief] **executive director**[:];

ii. Have direct access to the [chief] **executive director** or his or her designee[:];

iii. Participate in decisions affecting his or her department, such as the establishment of department goals and objectives, budgeting, staffing, space allocation, travel, client selection, in-service training, consultants, public relations, and program development[:];

iv. Be responsible for employee's scheduling, job performance, and periodic rating of employee's effectiveness[:]; **and**

v. Be responsible for interns, trainees, aides, and volunteers assigned to his or her department.

#### 12:51-3.5 Business and financial practices

(a) The rehabilitation facility will observe sound business and financial practices in all areas and will manage its fiscal affairs consistent with the purposes of the organization, applicable legal requirements, and generally accepted principles of financing.

1. The facility will operate on an annual budget. The budget should be prepared by the facility's [chief] **executive [officer] director** [realizing its goals]. It shall be submitted to and approved by the

governing body/board or its designated authority, and will be used during the year covered[:], as a yardstick to assess accomplishment of budgetary goals.

2. The rehabilitation facility's accounting system will follow the standards established by the Commission on the Accreditation of Rehabilitation Facilities (101 N. Wilmont Rd., Suite 500, Tucson, Arizona 85711) and the [A.I.C.P.A.] **American Institute of Certified Public Accountants (AICPA) Audit Guide for Audits of Voluntary Health [&] and Welfare Organizations, as amended and supplemented, incorporated herein by reference. The Audit Guide is available from AICPA, 666 Fifth Ave., New York, New York 10019.** Such an accounting system will be functional and enable the organization to identify clearly the cost of rehabilitation services, production activities, administration, and other expenses of operation. The financial records of accounts must be kept on the premises of the facility.

3. Fiscal reports will be prepared and communicated to the governing body/board or its designated authority at no less than quarterly intervals, or more frequently, if needed.

4. An annual report, demonstrating stewardship of resources received and services rendered, will be published and made available to the public. The report should include information on financial status, administration, and program activities as well as composition of [Board of Directors] **the governing body/board.**

5. **The governing body/board and the executive director shall have an audit conducted which meets the requirements for the Single Audit Act, Federal OMB Circular A-133, "Audits of Institutions of Higher Education and Other Nonprofit Organizations," as amended and supplemented, incorporated herein by reference (Federal Register, Vol. 55, No. 52, Friday, March 16, 1990).** [A copy of certified audit which renders an opinion and is conducted by a certified public accountant] **This audit shall be conducted** in accordance with generally accepted auditing standards and the [A.I.C.P.A.] **AICPA Industry Guide for Voluntary Health and Welfare Organizations [will] and a copy shall be filed with the [New Jersey] Division of Vocational Rehabilitation Services each year.**

6.-7. (No change.)

8. Fund-raising programs will conform to legal requirements and established ethical standards for fund-raising activities.

9. (No change.)

10. In quoting bids for contract work, an overhead mark-up averaging at least 80 percent on direct labor, supported by the precise analysis of costs of normal direct labor, should be charged for subcontract work. The value of any services, equipment or space provided by the contractor for the contract operation may be included in the determination of this mark-up. Bid quotations for contract work should not be less than the minimum hourly overhead rate established (usually known as the "shop rate") for the workshop and take into consideration the following:

i. Knowledge of local industry prevailing piece or time rates for comparable work;

ii. Determination of production norms of the clients;

iii. Production rate norms established when industry rates are not available; **and**

iv. Costs of supplies, [of] equipment peculiar to the work, and [of] administration overhead.

11. (No change.)

12. Subcontract prices and selling prices of manufactured items will be reviewed at least annually to assure that they remain fair and competitive. The workshop will not knowingly accept work from companies [which] **whose workers are legally on strike at the time they accept it.**

13.-14. (No change.)

15. The facility must comply with all Federal and State [Wage and Hour Laws and Regulations] **wage and hour laws and regulations**, and be certified when applicable, by the Wage and Hour Public Contracts Division of the U.S. Department of Labor and by the State of New Jersey. All clients under the age of 18 are required to have working papers issued by the local [Board of Education] **board of education.** The facility will comply with Federal, State, and local laws and regulations covering the physical facility, staff, client benefits,

and will also comply as nearly as practicable [to] with local industrial and/or business practices relating to fringe benefits, including Social Security coverage for all clients so eligible.

16. Active membership should be maintained in the appropriate State and [National] national professional associations such as the National Rehabilitation Association, the New Jersey Rehabilitation Association[,] and their affiliates, the National Association of Rehabilitation Facilities, the New Jersey Association of Rehabilitation Facilities, the New Jersey Psychiatric Rehabilitation Association, and any other allied health and welfare organizations.

17. All financial records will be made available to authorized representatives of the New Jersey [Division of Vocational Rehabilitation Services] Department of Labor and the New Jersey Commission for the Blind and Visually Impaired [Facilities Staff] facilities staff and will be subject to examination and audit upon satisfactory notice thereof.

18. The facility will file with the Division of Vocational Rehabilitation Services an annual copy of its certified audit and the management letter.

19. The Division of Vocational Rehabilitation Services will suspend payment to any facility that does not keep appropriate records.

#### SUBCHAPTER 4. VOCATIONAL EVALUATION

##### [12:51-4.1 Evaluation

(a) Evaluation is a systematic appraisal of a handicapped individual's employability, to determine the individual's vocational potential and to predict the extent to which any limitations can be removed, corrected, or minimized by specific rehabilitation services.

(b) The basic evaluation (pre-vocational evaluation) can last from one to 20 weeks. The initial authorization will normally be for 10 weeks but may be shorter by mutual agreement. Further authorization will depend entirely upon justification, viable staff conferences, and reporting.

(c) In programs where production activities which may include work samples, are a part of the evaluation process, the client should be expected to produce at 12 percent of normal productivity rates by the end of evaluation. If the client produces at nine percent of normal productivity rates, extensions may be given in five-week intervals until the 20-weeks is reached. The client's productivity should be sampled over the last three-day period prior to the preparation of the report. If at the end of evaluation the client is not producing at 12 percent of normal productivity it is doubtful they have vocational potential, and they should be terminated from DVRS sponsorship and referral made to a program of appropriate level.

##### 12:51-4.2 Procedure

(a) In some instances a DVRS office may contract with a facility for a short term evaluation on a specific system, such as SINGER or JEVS or part thereof. In these instances the authorization will be for the length of time mutually agreed as sufficient by the facility and the DVRS Counselor. Diagnostic prescription will be developed mutually between the DVRS Counselor and the appropriate facility staff person. The evaluation period will be complete when one of the following goals is accomplished:

1. Development of a facility rehabilitation plan;
2. Determination that the facility program is not suitable to the client's needs.

(b) The evaluation report will be prepared following the staffing conducted at the end of the eighth week of evaluation. It should arrive at the DVR office during the ninth week and will be processed for further action by DVR during the 10th week. If significant information develops during week nine and 10 it should be communicated to DVR by phone and a handwritten note will be entered on the evaluation report by the responsible counselor or supervisor. DVRS will be responsible to provide appropriate documentation of this decision to the facility during the 10th week. Any significant development or event involving a DVRS client should be reported immediately to the DVRS Counselor.

(c) Vocational Evaluation, other than on floor work observation, shall be carried on in a separate room with appropriate space, light and ventilation. Sound levels shall not exceed 70 decibels.]

##### 12:51-4.1 Vocational evaluation

(a) Vocational evaluation is a comprehensive, individual process that utilizes work, real or simulated, as the primary focus for assessment for the purpose of determining individual vocational objectives, assets, limitations, and behaviors in the context of work environments in which the individual might function and includes specific recommendations to reduce or eliminate barriers to obtaining specific vocational objective(s). Vocational evaluation takes into consideration medical, psychological, social, previous work history, educational cultural, and economic data is the attainment of vocational goals.

1. The vocational evaluation process must include intake procedures as well as an orientation procedure in order to define reasonable expectations for all parties involved. In addition, psychometrics, and one or more of the following techniques: work samples, simulated job stations or on-the-job evaluation, will be considered necessary for a comprehensive vocational evaluation.

2. The length of the basic evaluation should be based upon the time necessary to accomplish the individual's evaluation goals which generally should be completed within a five-week (25 days of work) period, but may be more intensive and thereby shorter by mutual agreement. Further time extensions will depend entirely upon justification, viable staff conferences and written reports. The evaluation period will be complete when one of the following goals is accomplished:

1. Development of a facility rehabilitation plan with a specific vocational objective; or
2. Determination that the facility's program is not suitable to meet the client's needs.

3. Production rate by the client must be 12 percent of standard production rates at the end of the evaluation process in those programs where production activities, which may include work samples, are part of the evaluation process. If the client produces at nine percent of normal productivity rates, one five-week extension may be considered. The client's productivity should be sampled over the last three-day period prior to the preparation of the report. If at the end of the evaluation, the client is not producing at 12 percent of standard productivity, the client will be deemed to have minimal vocational potential and will, therefore, be terminated from DVRS sponsorship and referred for appropriate program services.

##### 12:51-4.2 Procedure

(a) The rehabilitation facility will maintain a current description of the tools, forms, and materials used for the vocational evaluation process, noting when such tools are utilized. DVRS may contract with a facility for a short term evaluation utilizing a specific system such as Apticon. In these instances, the maximum fees and length of time will be those on file with the facilities unit.

(b) The evaluation staff conference will be conducted no later than the fourth week and will include all parties interested/involved in the individual's rehabilitation.

(c) The evaluation report will be prepared following the staff conference and should arrive at the DVRS office during the fifth week and will be processed for further action by DVRS. DVRS will be responsible for providing appropriate documentation of such action to the facility in a timely manner. The vocational evaluation report will be comprehensive in nature and include information as referenced in the most recently published CARF standards manual concerning the range and scope of vocational evaluation.

(d) Vocational evaluation, other than simulated job stations, on-floor work observation, and on-the-job evaluation, shall be carried out in a separate room with appropriate space, light, and ventilation. Sound levels shall not exceed 70 decibels.

#### SUBCHAPTER 5. WORK ADJUSTMENT TRAINING (WAT)

##### 12:51-5.1 Work [Adjustment Training] adjustment training

(a) Work [Adjustment Training] adjustment training (WAT) is designed to help the handicapped individual form a work personality

that will help [him] increase his or her productivity and [handle] **handling of the day-to-day demands** of competitive employment, by developing one or more of the following: self-confidence, self-control, work tolerance, ability to handle interpersonal relationships and understanding of work. There may also be varying degrees of skill acquisition involved.

(b) Clients who are earning between 20 percent and 40 percent of **standard production rates** at the end of 18 weeks should be [closed] **retained as extended** (sheltered) employees at that time. Clients who are earning above 40 percent of **standard production rates** may be considered for up to two[,] nine-week extensions if there is a definable upward trend in their production. Clients earning between 15 percent and 20 percent of [normal] **standard production rates** may be given one nine-week extension of **work adjustment training** if patterns of performance indicate that there is reason to believe they can achieve the **extended** (sheltered) level of employment. If a client cannot achieve **extended** (sheltered) level of employment, an attempt should be made to find another appropriate program for the individual.

(c) It is recognized that the acceptable level for **extended** (sheltered) employees' production vary from shop to shop dependent on several factors such as the level of sophistication of contract work. These figures are meant to serve as minimums and do not preclude a shop's setting higher minimum standards [of] for **extended** (sheltered) employees so long as those standards are forwarded in writing to DVRS.

(d) During [Work Adjustment Training] **work adjustment training**, [staffings] **staff conferences** are to be held no less than every six weeks[, or more frequently]. Written notes of these [staffing] **conferences** will be submitted to DVRS during the week following [staffing] **the conference**. A comprehensive review of the client's progress will be conducted at the [staffing] **staff conference** two weeks prior to the end of the authorization (approximately week 16 for a 90-day authorization[,] and week seven for a 45-day authorization). The same relative schedule for processing will be binding on both parties.

## SUBCHAPTER 6. EXTENDED (SHELTERED) [EXTENDED] EMPLOYMENT

### 12:51-6.1 [Sheltered (Extended) Employment] **Extended (sheltered) employment**

(a) [Sheltered (Extended) Employment] **Extended (sheltered) employment** is a program designed to prepare an individual for competitive employment, where feasible, at a rate tailored to his/[or her own needs. The program has available all the services of the basic [VR] **vocational rehabilitation program provided by DVRS** at a lower level of intensity and without the time constraints of the [VR] **basic vocational rehabilitation program. After completion of a certified Title I program and the achievement of at least 20 percent of the normal production level, these persons will be individually certified by DVRS.**

(b) [Sheltered (Extended) Employment] is intended for those persons whose handicapped conditions fit them only for extended sheltered employment in a sheltered workshop or in the performance of industrial homework under the supervision of a sheltered workshop. After completion of a certified program of Vocational Evaluation and Training, these persons shall be individually certified by DVRS.

(c) Aside from the production area the] **The services available to [sheltered (extended)] extended (sheltered) employees must include evaluation, counseling and placement [as a minimum]. A case record [will] shall be maintained on each individual which [will] shall include documentation of all services provided to the [sheltered (extended)] extended (sheltered) employee.**

[(d)](c) The case record will also include a [Facility Individual Rehabilitation Plan] **facility individual rehabilitation plan** which will be developed in concert with the evaluation of the **extended** (sheltered) [(extended)] employee. [One of the facility's primary resources for demonstrating services provided is the case record. [This] **The case record is the primary source of documentation and must be updated every three months.**

[(e)](d) Each **extended** (sheltered) [(extended)] employee will have a formal [semiannual] **semi-annual** review conducted by appropriate professional staff and modification will be made [to] of the **individual's [Facility Rehabilitation Plan] facility rehabilitation plan** as indicated by progress or lack of the same.

[(f)](e) Case records will include regular quarterly notation of client earnings as a percentage of competitive pay on jobs. Specific explanations are required in those instances where an individual is earning over 50 percent of the competitive rate and is not involved in active efforts toward competitive placement. Active placement efforts in progress must be documented.

[(g)](f) The ratio for floor supervision shall be one supervisor to 20 clients. Floor supervisors shall not be absent from the floor due to other assigned duties not related to floor supervision ([e.g.] for example, contract procurement). Staff meetings, safety committee, etc., are considered regular supervisory responsibilities.

[(h)](g) In computing supervisor ratio in satellite facilities, off-site, or crew labor programs, these will be considered as separate entities. While counseling and placement services need not be "on site" full time, all services must be available on a regularly scheduled basis.

[(i)](h) When a staff vacancy exists through illness or separation that is expected to last more than 10 consecutive days, the facility must notify [the Division] **the DVRS facility specialist**. If it appears the vacancy will exist beyond 10 days, the facility will submit, in writing, a plan for assuring continued services to [the] clients.

[(j)](i) For the purposes of standards compliance, a position will be considered vacant for 40 work days. After 40 work days, the position will be considered not to exist until such time as it is filled.

[(k)](j) Each facility to place a percentage of its **extended** (sheltered) [(extended)] employees in competitive employment each year. It is recognized that economic considerations will impact on performance in this area and consideration will be given for economic factors.

[(l)](k) Physical plant facilities must comply **the Commission on Accreditation of Rehabilitation Facilities (CARF) standards [7-1 through 7.8 and 7.9.4.] for "Physical Facilities, Health, and Safety", as amended and supplemented, incorporated herein by reference.**

[1. Demonstration of compliance to Standards for New Jersey Vocational Rehabilitation Facilities is the responsibility of the facility. On an attached sheet marked "Program Description", describe in relative detail the services, program methodology, and results that may be expected as a result of the program.]

[(m)](l) A client who is released early for medical appointments shall be considered to have attended the full day for purposes of counting program days unless such early releases [shall] occur on more than five percent of the days he or she is present.

### 12:51-6.2 Reporting

(a) (No change.)

(b) A narrative report shall also be submitted on June 15 of each year, relative to the **Extended** (sheltered) [(Extended)] Employment Program, which shall detail the major accomplishments of the program and explain any problems that were encountered.

### 12:51-6.3 Business and financial practices; records; requirements

(a) Contractor's accounting records are required to include the following information:

1. Individual client attendance records summarizing periodically on a calendar basis the number of days the client is present and absent, and the reason. The scheduled "working day" of a facility's **extended** (sheltered) [extended] employment program will consist of not less than five working or instructional hours. This record will be maintained either for all clients in a single binder or individually in each client's case file.

2. Total wages or other payments to **all individual** clients [annually and individually] **on an annual basis** for the agency's fiscal or calendar year.

3. Supplementary cost records: Records [should] **shall** also be maintained that will enable the State [Auditor] **auditor** to readily and accurately determine the separate cost for direct labor, indirect labor, and payments made in excess of those required by minimum Wage and Hour regulations[.] [(Often] **often** called wage supplements or "subsidies"[.].)

4. Annual auditor's reports, copies of the auditor's adjustments and work papers, if [necessary] any, to explain the adjustments and depreciation schedules. An analysis of the agency's costs will not be completed until this information has been reviewed by State auditors. In the absence of this information, the agency's book figures and the State auditor's estimates will be used in computing the agency's program costs.

5. The validity and reliability of the expenses (costs recorded in [your] agency records) [is] are determined to a large extent by the agency's internal control procedures and organization and maintenance of source documents. To the extent that they do not adequately provide for accounting of the agency's financial transactions in accordance with generally accepted accounting principles, recommendations will be made, if necessary, to bring them into conformity with such.

6. Such records and procedures as may be necessary or required to meet the requirements of Contract Sections VII, VIII, XII, XIII, XV, XIX, XX, et al., and [Standards of New Jersey Vocational Rehabilitation Facilities as revised currently] this chapter.

#### 12:51-6.4 Wage and hour compliance

Contracts will comply with all applicable State and Federal [Wage and Hour] wage and hour regulations including the possession of all certificates legally required and on a current basis.

#### 12:51-6.5 Reevaluation of extended (sheltered) [extended] employees

(a) Annual reevaluation and ongoing services to extended (sheltered) [(extended)] employees is the responsibility of the [Vocational Rehabilitation Facility] vocational rehabilitation facility. This activity is supported by DVRS [through] under the funding of the [Sheltered] Extended Employment Act.

(b) (No change.)

[(c) It should be kept in mind that the majority of sheltered (extended) employees are Medicaid or Medicare eligible and as such must be considered for similar benefits.]

[(d)](c) Vocational rehabilitation services to individuals to maintain them in extended (sheltered) [(extended)] employment are also a matter of individual consideration. If the vocational goal continues to be extended (sheltered) [(extended)] employment, the Plan of Services and all justification must be reviewed and signed by the Manager. In Manager II offices, the District Supervisor must also review and sign same.

### SUBCHAPTER 7. [PSYCHOSOCIAL] PSYCHO-SOCIAL CENTERS

#### 12:51-7.1 Psycho-social centers

(a) Psycho-social rehabilitation is a structured program of vocational preparation which endeavors to:

1. Discover and develop the individual's strengths and assets;
2. Build positive and adaptive skills[.]; and

3. Increase and extend the individual's repertoire of skilled behavior in the physical, emotional and intellectual areas. The purpose of the center is to teach living, learning and working skills necessary to function effectively in [his] the individual's community with the least possible support.

(b) [It] Psycho-social rehabilitation is distinguishable from treatment or maintenance programs by its emphasis on vocational performance skills acquisition. Treatment seeks to alleviate discomfort, reduce symptoms and minimize "sickness" in a non-threatening environment with minimum demands. Vocational rehabilitation begins when work ceases to be a treatment modality and becomes the program goal toward which all psycho-social activities and all performance expectations are oriented.

(c) The tactic of providing vocational performance skill acquisition is designed to make the client increasingly less dependent upon the program itself and upon the mental health system. Rather than solving [his] the immediate problems, or assisting [him] through a crisis, the rehabilitation goal is ultimately to teach the individual the skills necessary to prevent future problems, enabling him or her to live and work effectively and independently. Effective rehabilitation programs are those in which all activities are systematically

synchronized to progress deliberately toward that goal utilizing existing resources and linking the client to program services that ultimately enhance his or her independence in the community.

(d) The minimum staff required for approval of a facility in this classification should consist of the following:

1. Executive [Director] director (agency);
2. Program [Director or Supervisor] director or supervisor (full time);
3. Rehabilitation [Counselor] counselor (full time);
4. Work [Supervisor] supervisor (full time);
5. Employment [Specialist] specialist (full time); and
6. Consulting [Psychiatrist] psychiatrist.

(e) At least two of the above, exclusive of the [Executive Director and Consulting Psychiatrist] executive director and consulting psychiatrist, must have a master's degree or a B.A. and at least three-years' experience in providing vocational programming to the psychiatrically disabled. A staff-to-client ratio of one to 12 exclusive of the [Executive Director and Consulting Psychiatrist] executive director and consulting psychiatrist must be maintained.

(f) Specific staff qualifications appear at N.J.A.C. 12:51-9.1(i)1 through 24 and will be followed. The staff personnel in (d) above must be approved by [NJ]DVRS.

(g) Demonstration of compliance [to] with standards for New Jersey [Vocational Rehabilitation] vocational rehabilitation facilities is the responsibility of the facility.

#### 12:51-7.2 Program description: vocational readiness assessment

(a) [Vocational Readiness Assessment (a diagnostic service):] A [Vocational Readiness Assessment] vocational readiness assessment (VRA) is designed as a short-term period of time during which a facility evaluates the readiness of a client to engage in and benefit from a variety of vocational services. A determination is made at the end of this short-term assessment that the client understands and is committed to the goal of employment [as a goal at the] upon completion of [his] the rehabilitation process.

(b) Community living skills are often the greatest barrier to employment for psychiatric clients. In recognition of this fact, the VRA shall evaluate the [following] various skills and their potential impact on vocational service provision. These skills include, but are not limited to: medication, housing, transportation, self-maintenance, including grooming and appearance, money management, home maintenance (cooking, cleaning, shopping, etc.), psychological and psychiatric factors including interpersonal skills, and ability to utilize leisure time [activity]. The VRA shall also evaluate the client's ability to participate in vocational activities.

(c) A VRA can be accomplished through a variety of activities and services, examples of which are[,] interviewing, group and individual counseling, service procurement, activities of daily living, leisure time activity groups, psychometrics, community contacts and work activities such as facility work situations, contracts or volunteer work.

(d) A VRA can be authorized to a maximum of 10 program days over a period of 20 working days. An agency must provide the following services over this period[.]:

1. Vocational activities (40 percent of time);
2. Related [Activities] activities (ADL, use of [Leisure] leisure time, etc.) (40 percent of time);
3. Assessment related counseling (15 percent of time);
4. Community contacts ([5] five percent of time).

(e) (No change.)

(f) On the ninth or [10th] tenth day of VRA a [staffing] staff conference will be held which will be attended by appropriate facility staff and the DVRS counselor.

(g) Written notes of the [staffing] staff conference [noted in (f) above] shall be submitted which address the results of the assessment including the potential impact of community living issues, potential adjustment to a vocational program, a determination as to the feasibility of further vocational [programming] services and a tentative [Rehabilitation Diagnostic Plan] rehabilitation diagnostic plan for those services. If an agency has determined that the client is not appropriate for further vocational services at this time, recommendations for referral, type of service, and mechanisms for linkage

shall be made. [Psychosocial] **Psycho-social** centers shall make every effort to utilize other existing services to assist their clients in realizing their full potential prior to the development of such services at the facility.

12:51-7.3 [Rehabilitation diagnosis (a diagnostic service)] **Program description: rehabilitation assessment**

(a) The primary purpose of a rehabilitation [diagnosis] **assessment** [(evaluation)] is to [assess] **evaluate** the client's present level [or] of skilled performance and to ascertain the level of skilled performance [he needs] needed to live, learn and work in his or her community with the least possible amount of support.

(b) The ultimate outcome of rehabilitation [diagnosis] **assessment** is the formulation of the [Facility Rehabilitation Plan] **individual facility rehabilitation plan** that will specify the individual client's rehabilitation goals and will provide the standards against which progress is measured.

(c) An agency offering a rehabilitation [diagnosis] **assessment** must provide the client with the following minimum time in direct service.

1. Two hours of vocational activities per day, which must include either a facility or community site situational assessment in at least two occupational areas. The use of work samples, contract work and psychometrics is desirable but optional. The vocational activities shall be provided in a systematic organized basis for the purpose of determining client conditions and job objectives in the context of the work environment in which he or she shall function. Direct observation of the client within the context of the work environment shall become the basis for the evaluation.

2. Two hours of related activities, such as interactional group activities, activities of daily living, etc., **per day, which** [These related activities] should be consistent with the client's level of functioning and complement the vocational activities in terms of how the client's interactional style and related skills development [effect] **affect** the client's potential for employment and the employment maintenance.

3. [Counseling] **Two hours of counseling a week** must be an integral part of the rehabilitation [diagnosis] **assessment** provided by the facility. It should be directed towards vocational or related issues which impact on a client's progress toward competitive employment.

(d) A rehabilitation [diagnosis] **assessment** may be authorized up to 10 weeks. The evaluation period will be completed when one of the following goals is accomplished:

1. Development of a facility rehabilitation plan; or  
2. Determination that the facility program is not suitable to the client's needs.

(e) The evaluation report shall include answers to questions such as:

1. Was the client's [original] **originally** stated vocational goal realistic? If not, why wasn't it and has a realistic goal been formulated?

2. Is the client ready for a transitional work experience or competitive employment? If so, what occupational area?

3.-5. (No change.)

(f) As a result of the rehabilitation diagnosis, the agency may decide to discontinue the client's program and refer him or her to another appropriate service through the Division of Vocational Rehabilitation Services [Counselor] **counselor**.

12:51-7.4 [Rehabilitation Plan] **Program description: rehabilitation plan**

(a) The [Rehabilitation Plan] **rehabilitation plan** will describe the means by which the client will progress from the present level of skilled performance to the needed level of skill performance.

(b) Each [Rehabilitation Plan] **rehabilitation plan** will specify long-range and short-range goals.

(c) Each goal statement will describe observable, measurable behavior to be [dealt with] **addressed**, the environment in which the behavior occurs, the technique or method to be used, the measure of effectiveness, and the staff **person** responsible.

(d) Progress reports will [individually] address each **individual** short-range goal. The facility shall make every effort to identify and

utilize existing services at other agencies to assist [their] its clients in realizing their full potential as part of the rehabilitation plan.

(e) The [Diagnostic Report] **diagnostic report** will be prepared following the [staffing] **staff conference** conducted at the end of the eighth week of the diagnostic phase. [It] **The report** should arrive at the DVRS office during the ninth week and will be processed for further action by the DVRS during the [10th] **tenth** week. If significant information develops during weeks nine and 10, it should be communicated to DVRS by phone and a handwritten note will be entered on the diagnostic report by the responsible counselor.

(f) Any significant development or event at any time during the rehabilitation process must be reported immediately to the DVRS counselors.

12:51-7.5 [Vocational Development Training (a case service)]

**Program description: vocational development training**

(a) Vocational [Development Training] **development training** is a process of increasing and extending the individual's repertoire of performance skills (behaviors) in the physical, emotional and intellectual areas of functioning for the purpose of providing the individual with the living, learning and working skills necessary to function effectively in employment and independently in [his] **the** community in spite of his or her emotional handicap. The process involves exposure to situational experiences and related activities that enhance inter-personal interaction, personal attitudes, work habits, skills work and stress tolerance and motivation.

(b) An agency providing vocational development training must provide the client with the following minimum time in direct services:

1. Four hours of vocational activities **per day** which [might] **may** include facility site operations in food service, janitorial/maintenance, clerical, other services or contract work.

2. Two hours of related activity such as interactional group activities, activities of daily living, etc., **per week**. These related activities should compl[i]ment the vocational activities in terms of improving the client's interactional style and related skills development so as to affect the client's potential for employment and employment maintenance.

3. [Counseling] **One hour of counseling per week** must be an integral part of vocational development training provided by the agency. It should be directed towards vocational or related issues which impede a client's progress toward competitive employment.

4. Transitional work experience[: This experience] may be utilized in lieu of the four hours of work activities and two hours of related activities during the initial authorization as long as the following three criteria[s] are met.

i. The client is on the job site for a minimum of four hours per day;

ii. There is a work-site visit by the professional facility staff at least once per week; **and**

iii. There exists some related activity at least once per week to maintain the client's connection with the facility.

(c) Vocational development training can be authorized initially up to [22] **18** weeks. An initial [eight] **nine**-week extension can be authorized. This initial extension shall be utilized with the client participating in [Transitional Work Experience] **transitional work experience**. A facility may request continuation of agency site programming rather than [Transitional Work Experience] **transitional work experience** only with justification and concurrence of the DVRS counselor.

(d) During [Vocational Development] **vocational development** training [staffings] **staff conferences** are to be held no less than every six weeks[, or more frequently]. Written notes of these [staffings] **staff conferences** will be submitted to DVRS during the week following the [staffing] **staff conferences**. A comprehensive review of the client's progress will be conducted at the [staffing] **staff conference** two weeks prior to the end of the authorization (approximately week [20] **16** for a [110] **90**-day authorization[, and week [seven] **eight** for a [40] **45**-day authorization). The same relative schedule for processing will be binding on both parties.

12:51-7.6 [Transitional Work Experience (a case service)] **Program description: transitional work experience**

(a) Transitional [Work Experience] **work experience** is a realistic experience in the community that allows the client to test his or her employment skills in a real work setting. This can be either subsidized or unsubsidized and may take the form of the transitional employment, [CETA subsidized work experience,] formal volunteer situations or some variations. [All] **Compliance with all** applicable [Wage and Hour] **wage and hour** regulations [must be adhered to] **is required.**

(b) An agency providing [Transitional Work Experience] **transitional work experience** must provide the client with the following minimum time in the program:

1. Four hours of transitional work experience per day;
2. A minimum of one site visit by an agency professional staff person per week; **and**
3. Some related activity at least once per week to maintain the client's connection with the facility.

(c) Transitional [Work Experience] **work experience** will have had an initial [eight] **nine-week** authorization during vocational development training. An additional [eight] **nine** weeks of [Transitional Work Experience] **transitional work experience** may be authorized as indicated based on client progress.

[12:51-7.7 [Job] **Program description: job maintenance** [(a case service)]

(a) Job maintenance is a stabilization process after job placement has occurred to assist the client in maintaining the job he or she has acquired. This has been demonstrated to be a crucial service for clients with significant emotional difficulties. During this service, problems that the client and the employer experience can be resolved with the assistance of the facility professional staff person. Since service needs in this area will vary, a unit fee structure will be employed. A unit is a session of individual or group counseling or a job site visit. They are called units because in terms of actual staff time expenditure, they would be basically comparable with three to four hours of time.

(b) Job maintenance may be accomplished through group or individual counseling which addresses specific employment or employment related problems as well as through job site visits.

(c) An initial 22 units of job maintenance is provided during the initial 60 working day period. These units can be utilized in any combination of individual/ [and] group counseling or job site visits. Upon completion of 60 working days and participation by the client and facility professional staff person in the job maintenance **program**, a rehabilitation plan will be submitted to the referring DVRS counselor with one of the following recommendations.

1. [That] **No** further maintenance is needed, [and] **therefore**, the case can be closed; or
2. [That an] **An** extension be requested for a maximum of 20 job maintenance units in segments of 10 job maintenance units.

## SUBCHAPTER 8. FEES

### 12:51-8.1 Classifications; fees and program requirements

Federal regulations require that payments for vocational rehabilitation services [will] be based on the reasonable cost of providing them. Reasonable cost will be defined and determined by the [New Jersey] Division of Vocational Rehabilitation Services **based on the Federal Office of Management and Budget (OMB) Circular A-122, "Cost Principles for Nonprofit Organizations," as amended and supplemented, incorporated herein by reference (Federal Register, Vol. 45, No. 132, Tuesday, July 8, 1980) [and the New Jersey Commission for the Blind and Visually Impaired facilities staff].**

### 12:51-8.2 Establishment and changes in fees

(a) A fee schedule consisting of an appropriate fee structure for each classification will be maintained by the [N.J.] Division of Vocational Rehabilitation Services which will provide reasonable compensation to the rehabilitation facilities for services provided.

(b) Each approved facility will be reviewed periodically by the facilities and audit staffs of [NJ]DVRS for the purpose of determin-

ing [their] its program effectiveness and results, and efficiency and compliance with applicable laws and regulations. The appropriateness of fees and other support of funding which a facility receives as it relates to the costs of its programs[,] will be determined in accordance with [Principles and Procedures for Determining Costs of Rehabilitation Facility Program, Services, originally issued April 1, 1982, and the following standards.] **principles and procedures for determining costs promulgated in Federal OMB Circular A-122 and reported in accordance with Federal OMB Circular A-133, "Audits of Institutions of Higher Education and Other Nonprofit Organizations."**

- [1. Quality of programs and services;
2. Degree of adherence to C.A.R.F. Standards and/or National Accreditation Council;
3. Standards for New Jersey Rehabilitation Facilities.]

(c) The following [C.A.R.F.] **Organizational CARF** Standards are of prime importance in this evaluation:

1. (No change.)
2. The rehabilitation facility will be organized and administered so as to achieve its stated [goals] **mission.**
- 3.-4. (No change.)
5. The rehabilitation facility will maintain accurate and complete records necessary to [the] conduct [of] its programs. It will prepare and distribute reports that demonstrate and interpret the level of fulfillment of its purposes.
6. (No change.)
7. The rehabilitation facility will be designed, located, constructed, equipped and operated so as to promote the efficient[,] **and** effective conduct of its programs and to protect the health and safety of persons served and staff.
- 8.-9. (No change.)

(d) (No change.)

(e) In the event that the total revenues earned from DVRS for these programs are determined by this review and analysis to exceed the actual cost of these programs by more than 10 percent during the most recently completed **fiscal year** [or budget year], the total "excess revenues" will be treated as an unabsorbed cost for the fiscal year and carried-forward and added to the total cost for the following fiscal year. A cost analysis, including the roll-forward for these unabsorbed costs, will be completed for the following fiscal year. In the event the total DVRS [reviews] **revenues** exceed the actual program operating costs for the second fiscal year and the unabsorbed costs carried-forward from the preceding fiscal year, an appropriate revision of the fees for these programs will be considered and [enforced] **implemented** upon approval [by] of the Director of [NJ]DVRS at that time.

### 12:51-8.3 Program requirements, existing and new programs

(a) A written narrative description of all the facility's programs, services and administrative procedures [should] **shall** be maintained and made available to interested parties. This description will also be submitted to [D.Y.R.S.] **DVRS.**

(b) Services [should] **shall** be geared to the objective development of the client's maximum potential for employment in a competitive labor market, or in a sheltered workshop if the client's needs are best served in such an environment.

1. To accomplish (b) above, the following services should be provided:

i. Medical, psychological, social, educational, and vocational evaluation at the time of intake. There will be [a] written criteria for procedures for admissions;

ii. The following kinds of services should be made available to clients, trainees, and employees: [Vocational] **vocational** evaluation, work adjustment training, on-the-job training, skill training, placement and follow-up.

(c) An internal system of [Program Evaluation] **program evaluation** will be developed which offers continuous information about the quality of services provided and the results achieved by persons following their provision.

(d) Programming of facility services for clients [should] **shall** be based upon professional evaluations of the individual's assets, needs, progress and vocational goal. A [Facilities Rehabilitation Plan]

**facilities rehabilitation plan** will be developed for each client and revised periodically; it will also be coordinated with the **individual written rehabilitation plan [I.W.R.P.] (IWRP)** developed by the local DVRS office.

(e) Professional ethics will be maintained at all times with respect to confidentiality in the use of the client's records. It is recommended that a central comprehensive client record system be kept in a secured place; for example, all client[s] records may be kept in a central location[,] and [be] controlled by a designated person.

1. These records should include the following:

- i. [First] **Completed facility application [blank];**
- ii. Medical history;
- iii. Medical examination report and work precautions;
- iv. Social history and case information;
- v. Psychological reports and/or psychiatric reports;
- vi. Evaluation reports, prognosis, and summary reports and [Facilities Rehabilitation Plan] **facilities rehabilitation plan;**
- vii. Information on wages paid and written report on the discussion of wages with the client;
- viii. A summary description [describing] fully **setting forth** the reasons for non-acceptance or closure **of the case;**
- ix. A written record of follow-up placement **efforts; and**
- x. A continuous running record, updated monthly, of client activity.

(f) (No change.)

(g) Each client in [sheltered] **extended** employment will be evaluated twice a year and appropriate modification will be made to the client's rehabilitation plan.

(h) Records will be kept which reflect the productivity of each [worker or client] **client/worker** on a continuing basis.

(i) The facility will have a carefully planned placement program for clients who are ready for employment in the competitive labor market, including an adequate follow-up program.

(j) The facility will [periodically] evaluate **every three years** its total program, its coordination with related rehabilitation programs in the community, the capacity of the facility for providing services needed in the community, follow-up of clients served, and the adequacy of the total program. Information derived from the facility's system of program evaluation should be utilized in this regard.

(k) The written consent of the client, guardian, and, if necessary, cooperating agencies [should] **shall** be obtained prior to the use of facility clientele for public relations and publicity purposes.

(l) A facility [should] **shall** have a written grievance procedure for [communication with] **distribution** to clients, trainees, and employees, which facilitates receiving and hearing complaints and discussing problems of a general or specific nature.

(m) All records of both client and facility pertaining to DVRS sponsored clients will be made available to [D.V.R.S. Facility Specialist] (DVRS) **facility specialist** and/or facility and auditors upon request.

#### 12:51-8.4 Procedure for program approval

(a) A facility that wishes to implement a new program on a "fee for service" basis should first discuss the proposed program with the manager and staff of the local office. It should be noted that the endorsement of the manager and staff of the local office will have great significance on the final disposition of [their] **its** request.

(b) The next step would be to discuss the concept with the [Facilities Specialist] **facilities specialist** assigned to the area. The [Facility Specialist] **facilities specialist** should be used as a consultant in designing and detailing the program to be offered.

(c) [It should be noted that creation of new programs is not routine procedure.] The program description must be detailed and [should] **must** clearly show how the proposed program differs from existing previously approved programs; **the creation of new programs is not routine procedure.**

(d)-(e) (No change.)

(f) Once the final proposal is completed in sufficient detail, a cost analysis [should] **must** be prepared and a fee request made. These items [should] **must** be attached to the [Program Description] **program description** and forwarded to the [Facilities Specialist] **facilities specialist**.

(g) The [Facilities Specialist] **facilities specialist** will assemble the "Program Request Package," [, to] **which** includes the detailed written comments [on] of the [Local] **local office [Manager] manager** and [their] **the specialist's** own written endorsement. [to the Facilities Research Utilization Specialist who will deliver the entire package] **This package will be delivered through the Chief of Rehabilitation Services** to the [Audit Staff] **audit staff** who will prepare a recommendation on the Fee Request and present the package to the [Chief] **Deputy Director** of [Administrative Services] **Administration for DVRS** in conjunction with the [Chief] **Deputy Director of Field Services for DVRS** for final approval.

(h) **In order to vend services to the Division of Vocational Rehabilitation Services, a facility must apply for and be granted a certificate from that agency. This certificate will be issued by the Director of the Division of Vocational Rehabilitation Services upon his or her being satisfied that:**

- i. **There is a need for the service to be vended; and**
- ii. **The facility is in compliance with the rules and regulations governing vocational rehabilitation facilities.**

(i) **Certificates will be issued covering several specific service areas including, but not restricted to:**

- i. **Vocational evaluation;**
- ii. **Work adjustment training;**
- iii. **Sheltered employment;**
- iv. **Psycho-social vocational rehabilitation services; or**
- v. **Skill training.**

#### [12:51-8.5 Description of services for new program approval

(a) A written, narrative description of all the facility's programs, services and administrative procedures should be maintained and made available to interested parties. This description will also be submitted to D.V.R.S.

1. Services should be geared to the objective development of the client's maximum potential for employment in a competitive labor market or in a sheltered workshop if the client's needs are best served in such an environment.

i. To accomplish this, the following services should be provided:

(1) Medical, psychological, social, educational, and vocational evaluation at the time of intake. There will be a written criteria for procedures for admissions;

(2) The following kinds of services should be made available to clients, trainees, and employees: Vocational evaluation, work adjustment training, on-the-job training, skill training, placement and follow-up.

2. An internal system of Program Evaluation will be developed which offers continuous information about the quality of services provided and the results achieved by persons following their provision.

3. Programming of facility services for clients should be based upon professional evaluations of the individual's assets, needs, progress and vocational goal. A Facilities Rehabilitation Plan will be developed for each client and revised periodically; it will also be coordinated with the I.W.R.P. developed by the local DVR office.

4. Professional ethics will be maintained at all times with respect to confidentiality in the use of the client's records. It is recommended that a central comprehensive client record system be kept; i.e., all client's records be kept in a central location, and be controlled by a designated person.

i. These records should include the following:

- (1) First application blank;
- (2) Medical history;
- (3) Medical examination report and work precautions;
- (4) Social history and case information;
- (5) Psychological reports and/or psychiatric reports;
- (6) Evaluation reports, prognosis, and summary reports and Facilities Rehabilitation Plan;
- (7) Information on wages paid and written report on the discussions of wages with the client;
- (8) A summary description describing fully the reasons for non-acceptance or closure;
- (9) A written record of follow-up placement;

(10) A continuous running record, updated monthly, of client activity.

5. A current client or worker manual, or handbook covering services available and personnel policies, regulations and benefits should be given to each client at the time of acceptance.

6. Each client in sheltered employment will be evaluated twice a year and appropriate modification will be made to their rehabilitation plan.

7. Records will be kept which reflect the productivity of each worker or client on a continuing basis.

8. The facility will have a carefully planned placement program for clients who are ready for employment in the competitive labor market including an adequate follow-up program.

9. The facility will periodically evaluate its total program its coordination with related rehabilitation programs in the community, the capacity of the facility for providing services needed in the community, follow-up of clients served, and the adequacy of the total program. Information derived from the facility's system of program evaluation should be utilized in this regard.

10. The written consent of the client, guardian and, if necessary, cooperating agencies should be obtained prior to the use of facility clientele for public relations and publicity purposes.

11. A facility should have a written grievance procedure for communication with clients, trainees, and employees, which facilitates receiving and hearing complaints and discussing problems of a general or specific nature.

12. All records of both client and facility pertaining to DVR sponsored clients will be made available to D.V.R.S. Facility Specialists and/or facility and auditors upon request.]

## SUBCHAPTER 9. STAFFING

### 12:51-9.1 Staffing requirements, procedures and qualifications

(a) In the process of developing maximum work capacity, a client [/or] worker may require assistance with personal problems, including the development of vocational goals, his or her role as a worker, acceptance and adjustment to his or her disability and adequate interpersonal relationships, and acceptance of supervision. The availability of competent licensed ethical and qualified professional disciplines of medicine, psychiatry, psychology, social work, vocational rehabilitation counseling, teaching, and a variety of therapies assures the effective use of the workshop for rehabilitation purposes in realizing the goal of employment of the handicapped for more effective living.

1. The [Executive Director] **executive director** will maintain a functional organizational chart which is available at all times.

(b) The facility will provide a staff improvement program designed to encourage professional growth and development of the staff; [e.g.] **for example**, University Training Programs. Part of this program should include attendance at professional conferences each year pertaining to the work of the staff member, such as Association of Rehabilitation Facilities and State Association meetings and programs which are offered by Cornell University and the Institute for the Crippled and Disabled (ICD).

(c) The staffing pattern of the facility will be based upon an endeavor to provide a program of services designed to fulfill the individual needs of the handicapped clients being served. Generally speaking, the professional and supervisory staff-client ratio should be [at least] **no more than** one to 12. The staff referred to are those directly involved in services to the client. When dealing with the more severely handicapped, this ratio should be much less.

(d) Personnel policies, procedures and practices, and job descriptions must be stated in writing, a matter of official record, and given to all staff members. Such personnel codes [should] **shall** be reviewed annually.

(e) Staff meetings at which appropriate staff members are present [will] **must** be held periodically [(at least once every two weeks)], and the minutes for every meeting will be kept on file and distributed for the use of the staff members involved.

(f) The [Executive Director] **executive director** and the [Board] **governing body/board** will conduct a periodic review of professional staff salary ranges.

(g) Evidence that the [Director and Staff] **director and staff** actively participate in interagency and community planning activities should be available.

(h) All staff members will have an annual written evaluation of their performance.

(i) Minimum qualifications for staff personnel are:

1. [Executive Director] **Executive director should possess:**

i. [He should possess] A Bachelor's Degree and some of the college and university education should have included training in business administration, personnel management, the social sciences, [or] industrial engineering, or management[.];

ii. Three years of experience in an administrative capacity directing professional, technical or supervisory personnel [should be a requirement]. Graduate degree(s) work may be substituted for two years experience[.]; **and**

iii. Experience as a staff member in a rehabilitation facility [is desirable].

2. Supervisor [(Production)] **(production) should possess:** [The minimum requirements are]

i. A high school or technical school education or equivalency; and [Supervisory]

ii. **Supervisory** experience in industrial production.

3. Rehabilitation [Counselor:] **counselor should possess** [He will possess] a Bachelor's Degree in vocational rehabilitation[,] or related fields.

4. Bookkeeper **should possess** [He will have] a high school education or business school training in bookkeeping[,] **and/or** accounting.

5. Vocational [Evaluator] **evaluator should** [He will] possess an undergraduate degree, with emphasis in the [Rehabilitation] **rehabilitation** area, and [will] **must** attend a DVRS approved training program within six months of employment. Post graduate training in vocational evaluation may be substituted for the DVRS training program.

6. Vocational [Instructor] **instructor should possess:** [He will be accredited]

i. **Accreditation** by the New Jersey State Department of Education, or qualified as a journeyman in his or her field; and [have one]

ii. **One** year's experience in teaching a trade with teaching experience acceptable to the [New Jersey] Division of Vocational Rehabilitation Services.

7. Director of [Professional Services] **professional services should possess:** [He should possess a]

i. A Master's Degree in vocational rehabilitation or related field; [plus at]

ii. **At least** one year of experience in an administrative capacity directing professional, technical, or supervisory personnel[.]; **and**

iii. Experience as a staff member in a rehabilitation facility [should also be required].

8. Psychiatrist **should possess board certification.** [He must be board certified.]

9. Program [Director (Psycho-Social): This individual] **director (psycho-social), who** will be responsible for the overall development, implementation and maintenance of the psycho-social program. [The Program Director] **and** may have direct service responsibility, **should possess:**

i. A Master's Degree in vocational rehabilitation or a related field; [plus at]

ii. **At least** three years' experience, one of which must be in an administrative capacity, directing professional, technical or supervisory personnel[.]; **and**

iii. Experience in direct vocational service with **the** psychiatrically disabled [is required].

10. Work [Supervisor (Psycho-Social): He] **supervisor (psycho-social) should possess:[a]**

i. A high school education or equivalent; **and** [plus five]

ii. **Five** years of work experience in occupational areas similar to those being offered at the facility. The individual [will] **must** have a clear understanding of the demands and expectations in business and industry, particularly related to the occupational area supervised. The individual must understand the functional limitations imposed by a psychiatric handicap. Any combination of college or technical

school may be substituted for experience on a year for year basis. College credits should be within the helping professions.

11. Employment [Specialist (Psycho-Social): He] **specialist (psycho-social)** should possess: [a]

i. A Bachelor of Arts degree in human services or a related field; [plus two] **and**

ii. **Two years'** experience in working with the disabled, particularly with individuals who have significant emotional problems. He **or she** must have an understanding of the functional limitations imposed by such a handicap[,] and must be familiar with the demands and expectations of business and industry. Experience in job placement should also be required.

#### SUBCHAPTER 10. REPORTING

##### 12:51-10.1 Reporting

(a) It is the responsibility of the Division of Vocational Rehabilitation Services to monitor activity within [Vocational Rehabilitation Facilities] **vocational rehabilitation facilities** to insure both the quality of service and availability of service.

(b) (No change.)

(c) DVRS keeps statistics based on the Federal fiscal year. This begins October 1, and ends on September 30. Therefore, [for reporting purposes] **reports are due as follows:**

|                |                 |              |
|----------------|-----------------|--------------|
| First Quarter  | Oct. 1—Dec. 31  | Due Jan. 21  |
| Second Quarter | Jan. 1—March 31 | Due April 21 |
| Third Quarter  | April 1—June 30 | Due July 21  |
| Fourth Quarter | July 1—Sept. 30 | Due Oct. 21  |

(d) (No change.)

#### SUBCHAPTER 11. PHYSICAL FACILITIES

##### 12:51-11.1 Considerations

(a) The rehabilitation facility will be designed, located, constructed, and equipped so as to promote effective conduct of its program and to protect the safety of its clientele, staff, and equipment.

1. The facility will be located in a community convenient to main thoroughfares and public transportation and where there are adequate parking and [eating facilities] **food service** for clients and staff.

2. (No change.)

3. Private offices, easily accessible, [will] **shall** be available for [all administrative and professional staff members] **client counselling**.

4. Space[s] will be provided for lavatory facilities of adequate number, design, and construction to accommodate [handicapped people] **individuals with disabilities** and will be kept in a clean, orderly and sanitary manner.

5. Architectural barriers [for handicapped clients] must be eliminated. A plan for removal of all barriers will be developed and submitted to DRVS, in accordance with [N.J.A.C. 17:19A, as authorized by N.J.S.A. 52:32-1 and 52:32-5 as amended and supplemented. (N.J. Barrier Free Design Regulation.)] **the Uniform Construction Code, N.J.A.C. 5:23-7, Barrier Free Subcode**.

6. The facility will conform to all local, State and Federal codes, regulations, and standards with respect to health and safety. It shall have regular fire drills and an evacuation plan and require an annual inspection by the local [Fire Control Agency] **fire control agency**.

7. (No change.)

8. New construction and remodeling will be in keeping with present day industrial design and meet all building codes. An automatic fire alarm system [should] **shall** be required.

9.-12. (No change.)

(b) (No change.)

#### SUBCHAPTER 12. COMMUNITY RELATIONS

##### 12:51-12.1 Program requirements

(a) The workshop will cooperate on a continuing basis with all other community agencies, the State Rehabilitation Facility Association, the New Jersey Psychiatric Rehabilitation Association, and the appropriate State agencies[,] in defining the needs of [handicapped

individuals] **individuals with disabilities**, providing services to meet those needs, and solving problems they have in common.

b. (No change.)

(c) Fund-raising practices will comply with the State and local laws, ordinances and regulations.

(d) Every effort should be made to maintain liaison with the local labor unions.

(e) The facility will work closely with the local DVRS office and other [referring] **referral** agencies to establish and maintain a coordinated system of service delivery for all of its community's disabled.

(f) The facility will be [responsible] **responsive** to the needs of the community.

(g) In the event of a lay-off of employees, either professional or extended, DVRS must be notified immediately.

#### SUBCHAPTER 13. PROFESSIONAL ADVISORY COMMITTEE

##### 12:51-13.1 Composition and purpose

(a) The permanent Professional Advisory Committee will consist of the Chief of Rehabilitation Service, the [Facilities Staff] **facilities staffs** of the Division of Vocational Rehabilitation Services and the [State] **New Jersey Commission for the Blind and Visually Impaired**, the President of the New Jersey Association of Rehabilitation Facilities, and representatives of the [association] **Association**.

(b) (No change.)

(c) Other duties of this [professional] **Professional Advisory Committee** will consist of [the] assistance in handling differences of opinion, grievances and/or problems which may arise between directors of rehabilitation facilities and any private or public agencies, including the New Jersey Division of Vocational Rehabilitation Services. Those involved in whatever dispute is being mediated[,] will in all cases be invited to attend the [advisory committee] **Professional Advisory Committee** meeting.

(d) (No change.)

#### SUBCHAPTER 14. GRANTS

##### 12:51-14.1 Availability

(a) The availability of grant monies is often difficult to determine. When specific grant monies are available [the Division] **DVRS** will publish this information and inform facilities of **the** specific details for application.

(b) (No change.)

##### 12:51-14.2 Procedure

(a) The facility specialist will acknowledge receipt of the proposal and forward it to the [Research Utilization Specialist] **DVRS Chief of Rehabilitation Services for Facilities** who will maintain a file of proposals.

(b) The [Research Utilization Specialist] **Chief of Rehabilitation Services for Facilities** will, when appropriate, act as facilitator for those grant requests which show particular merit.

#### SUBCHAPTER 15. STATE PLAN

##### 12:51-15.1 Procedure

(a) The New Jersey Division of Vocational Rehabilitation Services will maintain a State Rehabilitation Facilities Plan containing an inventory of rehabilitation facilities available within the State and a description of the utilization pattern of the facilities and their utilization potential. The inventory of rehabilitation facilities will include a determination of needs for new, expanded, or otherwise modified rehabilitation facilities or rehabilitation facility services, and a prioritized list of facility projects necessary to achieve short range State goals. This plan will be developed with the active participation of a representative group of providers and recipients of [VR] **vocational rehabilitation** services and will be available to the public for review and inspection.

(b) (No change.)

(c) If these efforts fail, consideration will be given to the establishment of a new facility. [It is not desired of DVRS to establish an excess of facilities. This approach would be costly and wasteful.] **An**

excess of facilities is not a desired goal inasmuch as this approach would be costly and wasteful.

#### SUBCHAPTER 16. COOPERATIVE RELATIONSHIPS

##### 12:51-16.1 Responsibilities

(a) It is expected that each facility will have an on-going relationship with the local DVRS office. The local office manager will function as the focal point of that relationship and will be responsible [to] for reporting to the appropriate facility specialist[, after consultation with his District supervisor].

(b) (No change.)

(c) It shall be the [Facility Director's] facility director's responsibility to inform the DVRS [Facility Specialist] facility specialist of any problems that cannot be corrected at the local level.

(d) All requests for modification of standards, policy and procedure, or grant assistance should be directed to the [Facility Specialist] facility specialist after discussion with the local office manager. [It should be noted that discussion] Discussion with the local DVRS [Manager] manager is advisable as his[er] or her input will [have a great deal to do with] significantly impact the outcome of any such request.

(e) (No change.)

(f) The role of all concerned is to provide timely, appropriate, and effective service to [the disabled citizens of New Jersey. This concept will always govern all relationships] individuals with disabilities.

#### SUBCHAPTER 17. PAYMENT AND ATTENDANCE POLICY

##### 12:51-17.1 Procedure

(a) All [DVR-7] authorization forms issued for services in [Rehabilitation Facilities] rehabilitation facilities will be authorized in terms of number of days of services. A starting date will be stated.

(b) The facility will provide the number of days of service authorized for the client allowing up to 10 percent absenteeism. Exceptions must be agreed to, in writing and signed by the DVRS [Manager] manager, or the facility will be responsible for the exception.

(c) DVRS reserves the right to terminate any authorization by submitting[,] in writing, such a notification to the facility, giving [them] it five-days' notice.

(d) (No change.)

(e) DVRS is interested in the evaluation of [their] its clients from a competitive employment point of view. There are not, within the DVRS context, excused absences. Clients whose attendance does not compare favorably with the industrial norms should not be represented as having good attendance.

#### SUBCHAPTER 18. COMMISSION ON ACCREDITATION OF REHABILITATION FACILITIES (CARF) ACCREDITATION

##### 12:51-18.1 [NJDVRS] New Jersey Division of Vocational Rehabilitation Services

(a) The New Jersey Division of Vocational Rehabilitation Services (DVRS) has developed, maintained, and applied [its own] standards for [the accreditation of] approving vocationally oriented rehabilitation facilities [since 1968] to vend services to DVRS. These standards constitute the basis for this [sub]chapter.

(b) The New Jersey standards document has proven to be an effective tool in measuring the quality and effectiveness of vocational rehabilitation services being provided to [VR] DVRS clients.

(c) The [NJDVRS] DVRS maintains a firm commitment to ensure that quality, meaningful rehabilitation services will continue to be provided to [the handicapped citizens of New Jersey] individuals with disabilities. This commitment mandates [the NJ] DVRS to: 1.-3. (No change.)

(d) [Rehabilitation Facilities established after July 1, 1978, who] In order to achieve the above, rehabilitation facilities which are providing services to clients of [NJDVRS] DVRS will apply for accreditation and [receive] arrange an on-site survey by the Commission on Accreditation of Rehabilitation Facilities no later

than the third year of operation from date of approval by [NJDVRS] DVRS.

#### SUBCHAPTER 19. ELIGIBILITY FOR DVRS SERVICES

##### 12:51-19.1 Client eligibility

(a) To be eligible for services from DVRS, an individual must [meet the following criteria:

1. The existence of a disability;
2. A limitation created by the disability;
3. The existence of a substantial handicap to employment as a result of the limitation;
4. A reasonable expectation that an individual can engage in remunerative employment following the provision of services.] have a physical or mental disability which constitutes or results in a substantial handicap to employment for the individual and regarding which there is a reasonable expectation that vocational rehabilitation services may enhance the individual's employability.

(b) (No change.)

(a)

#### OFFICE OF WAGE AND HOUR COMPLIANCE

##### Wage Payments

##### Proposed Repeal and New Rules: N.J.A.C. 12:55

Authorized By: Raymond L. Bramucci, Commissioner,  
Department of Labor.

Authority: N.J.S.A. 34:1-20, 34:1A-3(e), and 34:11-4.1, and 24,  
as amended by P.L. 1991, c.205, and 34:11-4.4.

Proposal Number: PRN 1991-498.

Submit written comments by November 6, 1991 to:

Linda Flores  
Special Assistant for External and Regulatory Affairs  
Office of the Commissioner  
CN 110  
Trenton, New Jersey 08625-0110

The agency proposal follows:

##### Summary

N.J.A.C. 12:55 became effective on April 16, 1990 for a period of five years which expires April 4, 1995. Prior to that date, these rules were codified at N.J.A.C. 12:56-16. For the sake of clarity, the Department of Labor proposes that N.J.A.C. 12:55 be repealed and new rules adopted in order to incorporate numerous changes in language, format and organization of material. The proposed new rules establish the minimum criteria which must be satisfied concerning payment of wages. The proposed new rules also establish guidelines concerning deductions.

N.J.A.C. 12:55 concerning the Wage Payment Law is designed to implement the statutory requirements of N.J.S.A. 34:11-4.1 et seq.

The amendments to N.J.S.A. 34:11-4.1 et seq. enacted under P.L. 1991, c.205 provide for the imposing of fees to be paid by certain employers when the Department of Labor collects wages due and owing from the employer to pay employees. The amendments enacted require that the amount of administrative fee be specified in a schedule of fees set by regulation and that such fees be not less than 10 percent or more than 25 percent of the amount collected.

The amendments also require that when determining the amount of an administrative penalty to be imposed because of a violation of workplace standards laws, the Commissioner consider factors including the history of previous violations by the employer, the seriousness of the violation, the good faith of the employer, and the size of the employer's business.

A summary of the proposed new rules follows:

N.J.A.C. 12:55-1.1 provides the purpose and scope of the rules.

N.J.A.C. 12:55-1.2 sets forth the definitions for chapter words and terms.

N.J.A.C. 12:55-1.3 lists the powers of the Commissioner.

N.J.A.C. 12:55-1.4 states the possible punishment for violation of the Wage Payment Law.

N.J.A.C. 12:55-1.5 sets a schedule of administrative fees as authorized by law.

N.J.A.C. 12:55-1.6 sets a schedule of administrative penalties, the procedure for notification of such penalty, and factors to be considered in assessing such penalty.

N.J.A.C. 12:55-1.7 sets the procedure for a hearing request for an administrative penalty.

N.J.A.C. 12:55-2.1 sets forth provisions governing payroll deductions, taken directly from N.J.S.A. 34:11-4.4.

N.J.A.C. 12:55-2.2 concerns deductions for mass transportation commuter tickets and maintains the text of the current rule.

N.J.A.C. 12:55-2.3 concerns voluntary wage deductions for repayment of financial obligations to the State of New Jersey, and maintains the text of the current rule.

#### Social Impact

The proposed new rules will ensure that the workers will receive the pay and benefits which they are due, and that the Department will be able to continue to enforce these rules, to the benefit of the workers.

#### Economic Impact

The proposed new rules will impose increased costs in the form of fees and penalties only on those employers found to be in violation of the Wage and Hour Laws of New Jersey. These changes are statutorily mandated throughout the State, and will benefit workers who will receive all wages earned and due.

#### Regulatory Flexibility Statement

The proposed new rules do not impose any additional reporting, recording, 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. These rules codify the penalties, administrative fees and hearing rights provided under P.L. 1991, c.205.

Full text of the proposed repeal may be found in the New Jersey Administrative Code at N.J.A.C. 12:55.

Full text of the proposed new rules follows:

### CHAPTER 5 WAGE PAYMENTS

#### SUBCHAPTER 1. GENERAL PROVISIONS; VIOLATIONS; FEES AND PENALTIES; HEARINGS

##### 12:55-1.1 Purpose and scope

(a) The purpose of this chapter is to establish rules to effectuate N.J.S.A. 34:11-41 et seq., an act regarding the payment of wages.

(b) The chapter is applicable to:

1. Wages and hours subject to the Act;
2. Wages paid to an employee for services rendered; and
3. Time and mode of payment.

(c) This chapter shall not apply to:

1. Volunteers; or
2. Patients.

##### 12:55-1.2 Definitions

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

"Act" means N.J.S.A. 34:11-4.1 et seq., an act regarding the payment of wages.

"Commissioner" means the Commissioner of Labor or his or her designee.

"Employee" means any person suffered or permitted to work by an employer, except that independent contractors and subcontractors shall not be considered employees.

"Employer" means any individual, partnership, association, joint stock company, trust, corporation, the administrator or executor of the estate of a deceased individual, or the receiver, trustee, or successor of any of the same, employing any person in this State. For the purposes of the Act and this chapter, the officers of a corporation and any agents having the management of such corporation shall be deemed to be the employers of the employees of the corporation.

"Mass transportation" means railroads operated by steam, electricity or other power, rapid transit lines and buses, or ferries.

"Wages" means the direct monetary compensation for labor or services rendered by an employee, where the amount is determined

on a time, task, piece, or commission basis excluding any form of supplementary incentives and bonuses which are calculated independently of regular wages and paid in addition thereto.

##### 12:55-1.3 Powers of the Commissioner

(a) The Commissioner shall enforce and administer the provisions of the Act and the Commissioner or his or her authorized representatives are empowered to investigate charges of violations of the Act.

(b) The Commissioner or his or her authorized representatives are empowered to enter and inspect such places, question such employees and investigate such facts, conditions or matters as they may deem appropriate to determine whether any person has violated any provision of the Act or this chapter or which may aid in the enforcement of the provisions of the Act or this chapter.

(c) The Commissioner or his or her authorized representatives shall have power to administer oaths and examine witnesses under oath, issue subpoenas, compel the attendance of witnesses, and the production of papers, books, accounts, records, payrolls, documents, and testimony, and to take depositions and affidavits in any proceeding before the Commissioner.

(d) If a person fails to comply with any subpoena lawfully issued, or on the refusal of any witness to testify to any matter regarding which he or she may be lawfully interrogated, it shall be the duty of the Superior Court, on application by the Commissioner, to compel obedience by proceedings for contempt, as in the case of disobedience of the requirements of a subpoena issued from such court or a refusal to testify therein.

(e) The Commissioner is authorized to supervise the payment of amounts due to employees pursuant to Article 1 of chapter 11 of Title 34 of the Revised Statutes, and the employer may be required to make these payments to the Commissioner to be held in a special account in trust for the employees, and paid on order of the Commissioner directly to the employee or employees affected. The employer shall also pay the Commissioner an administrative fee equal to not less than 10 percent or more than 25 percent of any payment made to the Commissioner pursuant to this section. The amount of the administrative fee is specified in N.J.A.C. 12:55-1.5. The fee shall be applied to enforcement and administration costs of the Division of Workplace Standards in the Department of Labor.

##### 12:55-1.4 Violation; punishment

Any employer who knowingly and willfully violates any provision of P.L. 1965, c.173 (N.J.S.A. 34:11-4.1 et seq.) shall be guilty of a disorderly persons offense and, upon conviction for a violation, shall be punished by a fine of not less than \$100.00 nor more than \$1,000. Each day during which any violation of the Act continues shall constitute a separate and distinct offense.

##### 12:55-1.5 Administrative fee

(a) The employer shall pay the Commissioner an administrative fee on all payments of gross amounts due employees pursuant to N.J.S.A. 34:11-4.1 et seq.

(b) A schedule of fees is as follows:

1. First violation—10 percent of the amount due the employee;
2. Second violation—18 percent of the amount due the employee;
3. Third and subsequent violations—25 percent of the amount due the employee.

(c) All payments shall be made payable to the Commissioner of Labor, Trust Account for Wage Payment by certified check or money order, or in the form suitable to the Director, Division of Workplace Standards.

##### 12:55-1.6 Administrative penalty

(a) As an alternative or in addition to any other sanctions provided for in N.J.S.A. 34:11-4.1 et seq. when the Commissioner finds that an employer has violated the Act, the Commissioner is authorized to assess and collect an administrative penalty in the amounts that follow:

1. First violation—not more than \$250.00;
2. Second and subsequent violations—not less than \$25.00 nor more than \$500.00.

(b) No administrative penalty shall be levied pursuant to this subchapter unless the Commissioner provides the alleged violator

with notification of the violation and the amount of the penalty by certified mail and an opportunity to request a formal hearing. A request for formal hearing must be received within 15 days following the receipt of the notice. Within the Commissioner's discretion, the hearing will be held before him or her or transmitted as a contested case to the Office of Administrative Law for a hearing.

1. The notice shall become Final Order upon the expiration of the 15 day period following receipt of the notice if a hearing is not requested.

2. If a hearing is requested the Commissioner shall issue a Final Order upon such hearing and a finding that the violation has occurred.

3. All fees and penalties shall be paid within 30 days of the Final Order. Failure to pay such fees and/or penalty shall result in a Judgment being obtained in a court of competent jurisdiction.

4. All payments shall be payable to the Commissioner of Labor, Trust Account for Wage Payment in the form of a certified check or money order, or such other form suitable to the Director, Division of Workplace Standards.

(c) In assessing an administrative penalty pursuant to this chapter, the Commissioner shall consider the following factors, where applicable, in determining what constitutes an appropriate penalty for the particular violations:

1. The seriousness of the violations;
2. The past history of previous violations by the employer;
3. The good faith of the employer;
4. The size of the employer's business; and
5. Any other factors which the Commissioner deems to be appropriate in the determining of the penalty assessed.

**12:55-1.7 Hearings**

(a) When the Commissioner assesses an administrative penalty under N.J.A.C. 12:55-1.6, the employer shall have the right to a hearing under (b) below.

(b) No administrative penalty shall be levied pursuant to this subchapter unless the Commissioner provides the alleged violator with notification of the violation and the amount of the penalty by certified mail and an opportunity to request a formal hearing. A request for formal hearing must be received within 15 days following the receipt of the notice. Within the Commissioner's discretion, the hearing will be held before him or her or transmitted as a contested case to the Office of Administrative Law for a hearing.

(c) If a hearing is requested, the Commissioner shall issue a final order upon such hearing and a finding that a violation has occurred.

(d) Recipients of an administrative penalty assessment may request the initiation of a settlement conference at the time that a hearing request is made.

(e) Payment of the penalty is due when a final order is issued or when the notice becomes a final order.

(f) Upon final order the penalty imposed may be recovered with cost in a summary proceeding commenced by the Commissioner pursuant to the Penalty Enforcement Law, N.J.S.A. 2A:58-1 et seq.

**SUBCHAPTER 2. PAYROLL DEDUCTIONS**

**12:55-2.1 Payroll deductions; general**

(a) No employer may withhold or divert any portion of an employee's wages unless:

1. The employer is required or empowered to do so by New Jersey or United States law; or
2. The amounts withheld or diverted are for:

i. Contributions authorized either in writing by employees, or under a collective bargaining agreement, to employee welfare, insurance, hospitalization, medical or surgical or both, pension, retirement, and profit-sharing plans, and to plans establishing individual retirement annuities on a group or individual basis, as defined by section 408(b) of the Federal Internal Revenue Code of 1954 as amended (26 U.S.C. 408(b)), or individual retirement accounts at any State or Federally chartered bank, savings bank, or savings and loan association, as defined by section 408(a) of the Federal Internal Revenue Code of 1954, as amended (26 U.S.C. 408(a)), for the employee, his or her spouse or both.

ii. Contributions authorized either in writing by employees, or under a collective bargaining agreement, for payment into company-operated thrift plans; or security option or security purchase plans to buy securities of the employing corporation, an affiliated corporation, or other corporations at market price or less, provided such securities are listed on a stock exchange or are marketable over the counter.

iii. Payments authorized by employees for payment into employee personal savings accounts, such as payments to a credit union, savings fund society, savings and loan or building and loan association; and payments to banks for Christmas, vacation, or other savings funds; provided all such deductions are approved by the employer.

iv. Payments for company products purchased in accordance with a periodic payment schedule contained in the original purchase agreement; payments for employer loans to employees, in accordance with a periodic payment schedule contained in the original loan agreement; payments for safety equipment; payments for the purchase of United States Government bonds; and payments to correct payroll errors; provided all such deductions are approved by the employer.

v. Contributions authorized by employees for organized and generally recognized charities; provided the deductions for such contributions are approved by the employer.

vi. Payments authorized by employees or their collective bargaining agents for the rental of work clothing or uniforms or for the laundering or dry cleaning of work clothing or uniforms; provided the deductions for such payments are approved by the employer.

vii. Labor organization dues and initiation fees, and such other labor organization charges permitted by law.

viii. Such other contributions, deductions and payment as the Commissioner of Labor may authorize by regulation as proper and in conformity with the intent and purpose of the Act, if such deductions are approved by the employer.

**12:55-2.2 Payroll deductions for mass transportation commuter tickets**

(a) Each employer may use a payroll deduction as a means of providing mass transportation commuter tickets only if the payroll deduction has been authorized by the employee in writing or in a collective bargaining agreement.

(b) Each employer that uses a payroll deduction as set forth in (a) above shall make this method of payment for mass transportation commuter tickets available to all of its employees.

**12:55-2.3 Voluntary wage deduction for repayment of financial obligations to the State of New Jersey**

(a) Each employer may institute a system whereunder a portion of an employee's salary is withheld as an installment payment against any financial obligation by that employee to the State of New Jersey.

(b) Any employer who institutes such a repayment plan pursuant to (a) above shall withhold on a periodic basis from an employee's salary only such an amount as that employee shall have expressly authorized in writing.

(c) Any employer who withholds any sum from an employee's salary for repayment of a financial obligation by the employee to the State shall forthwith pay the amount of such withheld salary to the appropriate State officer or agent to whom such obligation is made payable.

(d) Nothing in this section shall be construed as mandating participation by an employer or employee in such an installment repayment program.

(a)

**OFFICE OF WAGE AND HOUR COMPLIANCE****Wage and Hour****Violations; Administrative Fees and Penalties;  
Discrimination Against Employees****Proposed Repeals and New Rules: N.J.A.C. 12:56-1.2  
and 1.3****Proposed New Rules: N.J.A.C. 12:56-1.4, 1.5 and 1.6**

Authorized By: Raymond L. Bramucci, Commissioner,  
Department of Labor.

Authority: N.J.S.A. 34:1-20, 34:1A-3(e), 2A:150-1 and  
34:11-56a22, 23 and 24, as amended by P.L.1991, c.205.

Proposal Number: PRN 1991-504.

Submit written comments by November 6, 1991 to:

Linda Flores  
Special Assistant for External and Regulatory Affairs  
Office of the Commissioner  
CN 110  
Trenton, New Jersey 08625-0110

The agency proposal follows:

**Summary**

N.J.A.C. 12:56, concerning the Wage and Hour Law, consists of rules 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.

The amendments to N.J.S.A. 34:11-56a et seq. enacted under P.L.1991, c.205 increase the authority of the Department of Labor to take action against employers who do not provide employees with lawful compensation. The statutory amendments provide for the imposition of fees to be paid by an employer when the Department collects wages due and owing from the employer to pay employees. The amendments enacted require that the amount of such administrative fee be specified in a schedule of fees set by regulation and that such fees be not less than 10 percent or more than 25 percent of the amount of wages collected by the Department from the employer.

The amendments enacted under P.L.1991, c.205 also authorize the Commissioner to impose administrative penalties as an alternative to or in addition to other fines or penalties imposed under the Act. The Commissioner is authorized to promulgate a schedule of penalties for first, second and subsequent offenses, and to afford the employer a hearing before the Commissioner.

The amendments to the Act also require that when determining the amount of an administrative penalty to be imposed because of a violation of workplace standards laws, the Commissioner shall consider factors including the history of previous violations by the employer, the seriousness of the violation, the good faith of the employer, and the size of the employer's business.

N.J.A.C. 12:56-1 sets forth the general provisions of the subchapter, and is being amended by repeals and new rules to incorporate the changes mandated by P.L.1991, c.205.

The penalty sections, N.J.A.C. 12:56-1.2 and 1.3, have been deleted and substituted with the violations of the Act at N.J.A.C. 12:56-1.2 and the schedule of administrative penalties at N.J.A.C. 12:56-1.3. The proposed new rules at N.J.A.C. 12:56-1.4 set forth administrative fees. The provision for hearings to protest a penalty are proposed at N.J.A.C. 12:56-1.5. Discrimination against employees and the subsequent penalty schedule are proposed as new rules at N.J.A.C. 12:56-1.6.

**Social Impact**

The proposed new rules ensure that the workers will receive the pay and benefits which they are due, and that the Department will be able to continue to enforce the chapter to the benefit of the workers.

**Economic Impact**

The proposed new rules will impose increased costs in the form of fees and penalties only on those employers found to be in violation of the Wage and Hour Laws of New Jersey. These changes are statutorily mandated throughout the State, and will benefit workers who will receive all wages earned and due.

**Regulatory Flexibility Statement**

The proposed new rules do not impose any additional reporting, recording or 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. These rules codify the penalties, administrative fees, and hearing rights provided under P.L.1991, c.205. Thus, no regulatory flexibility analysis is required.

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

**12:56-1.2 Violations**

[An employer is a disorderly person if he willfully hinders or delays the Commissioner in the performance of his or her duties in the enforcement of this chapter or fails to make, keep, and preserve any records as required under the provisions of this chapter, or falsifies any such record, or refuses to make any such record accessible to the 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 upon demand, or pays or agrees to pay wages at a rate less than the rate applicable under this chapter or any wage order issued pursuant thereto, or otherwise violates any provision of this chapter or of any regulation or order issued under this 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 chapter or under a minimum fair wage order, and each employee so paid, shall constitute a separate offense.]

(a) A violation of the Act shall occur when an employer:

1. Willfully hinders or delays the Commissioner in the performance of the duties of the Commissioner in the enforcement of this chapter;
2. Fails to make, keep and preserve any records as required under the provisions of this chapter;
3. Falsifies any such record;
4. Refuses to make any such record accessible to the Commissioner upon demand;
5. Refuses to furnish a sworn statement of such record or any other information required for the proper enforcement of this chapter to the Commissioner upon demand;
6. Pays or agrees to pay wages at a rate less than the rate applicable under this chapter or any wage order issued pursuant thereto;
7. Requests, demands, or receives, either for himself or any other person, either before or after a worker is engaged in public or private work at a specified rate of wages, the following:
  - i. That such worker forego, pay back, return, donate, contribute or give any part, or all, of his or her wages, salary or thing of value, to any person upon the statement, representation or understanding that failure to comply with such request or demand will prevent such worker from processing or retaining employment; or
8. Otherwise violates any provision of this chapter or of any order issued under this chapter.

(b) An employer who knowingly and willfully violates any provision of N.J.S.A. 34:11-56a et seq shall be guilty of a disorderly persons offense and shall, upon conviction for a first violation, be punished by a fine of not less than \$100.00 nor more than \$1,000, or by imprisonment for not less than 10 nor more than 90 days, or by both the fine and imprisonment.

(c) The employer shall, upon conviction for a second or subsequent violation, be punished by a fine of not less than \$500.00 nor more than \$1,000 or by imprisonment for not less than 10 nor more than 100 days or by both the fine and imprisonment.

(d) Each week in any day of which an employee is paid less than the rate applicable to him or her under the Act or under a minimum fair wage order, and each employee so paid, shall constitute a separate offense.

(e) The wage rate applicable to the employee shall conform to the overtime provisions of N.J.A.C. 12:56-6.

12:56-1.3 [Discharge or discrimination against employee making complaint] **Administrative Penalties**

[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 that he or she has not been paid wages in accordance with the provisions of this 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 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.]

(a) As an alternative to or in addition to any other sanctions provided for in N.J.A.C. 12:56-1.2 under N.J.S.A. 34:11-56 et seq. when the Commissioner of Labor finds that an employer has violated that Act, the Commissioner is authorized to assess and collect an administrative penalty in the amounts that follow:

1. First violation—not more than \$250.00;
2. Second and subsequent violation—not less than \$25.00 nor more than \$500.00.

(b) No administrative penalty shall be levied pursuant to this subchapter unless the Commissioner provides the alleged violator with notification of the violation and the amount of the penalty by certified mail and an opportunity to request a formal hearing. A request for formal hearing must be received within 15 days following the receipt of the notice. Within the Commissioner's discretion, the hearing will be held before him or her or transmitted as a contested case to the Office of Administrative Law for a hearing.

1. If a hearing is not requested, the notice shall become a Final Order upon the expiration of the 15 day period following receipt of the notice.

2. If a hearing is requested, the Commissioner shall issue a Final Order upon such hearing and a finding that a violation has occurred.

3. All wages due, fees and penalties shall be paid within 30 days of the date of Final Order. Failure to pay such wages due, fees and/or penalty shall result in a judgment being obtained in a court of competent jurisdiction.

4. All payments shall be made payable to the Commissioner of Labor, Wage and Hour Trust Account. All payments shall be made by certified check or money order, or payable in form suitable to the Director.

(c) In assessing an administrative penalty pursuant to this chapter, the Commissioner shall consider the following factors, where applicable, in determining what constitutes an appropriate penalty for the particular violations:

1. The seriousness of the violation;
2. The past history of previous violations by the employer;
3. The good faith of the employer;
4. The size of the employer's business; and
5. Any other factors which the Commissioner deems to be appropriate in the determining of the penalty assessed.

12:56-1.4 **Administrative fees**

(a) The Commissioner is authorized to supervise the payment of amounts due to employees under this chapter, and the employer may be required to make these payments to the Commissioner to be held in a special account in trust for the employee, and paid on order of the Commissioner to the employee or employees affected.

(b) The employer shall also pay the Commissioner an administrative fee on all payments of gross amounts due to employees pursuant to Articles 1 and 2 of Chapter II of Title 34 of the revised statutes.

(c) A schedule of the administrative fees is set forth in Table 1.4(c) below.

Table 1.4(c)  
Schedule of Administrative Fees

1. **First Violation**—10 percent of amount of any payment made to the Commissioner pursuant to this chapter.

2. **Second Violation**—18 percent of amount of any payment made to the Commissioner pursuant to this chapter.

3. **Third and Subsequent Violations**—25 percent of amount of any payment made to the Commissioner pursuant to this chapter.

12:56-1.5 **Hearings**

(a) When the Commissioner assesses an administrative penalty under N.J.A.C. 12:56-1.3, the employer shall have the right to a hearing under (b) below.

(b) No administrative penalty shall be levied pursuant to this subchapter unless the Commissioner provides the alleged violator with notification of the violation and the amount of the penalty by certified mail and an opportunity to request a formal hearing. A request for formal hearing must be received within 15 days following the receipt of the notice. Within the Commissioner's discretion, the hearing will be held before him or her or transmitted as a contested case to the Office of Administrative Law for a hearing.

(c) Upon such hearing and a finding that a violation has occurred such hearing officer report shall constitute a final agency determination.

(d) Recipients of an administrative penalty assessment may request the initiation of a settlement conference at the time that a hearing request is made.

(e) Payment of the penalty is due when a final agency determination is issued.

(f) Upon final order the penalty imposed may be recovered with cost in a summary proceeding commenced by the Commissioner pursuant to the Penalty Enforcement Law N.J.S. 2A:58-1 et seq.

12:56-1.6 **Discharge or discrimination against employee making complaint**

(a) An employer is a disorderly person, if he or she 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 that he or she has not been paid wages in accordance with the provisions of this 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 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 persons offense and shall, upon conviction therefor, be fined not less than \$100.00 nor more than \$1,000. 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.

(b) As an alternative to, or in addition to, any sanctions imposed under (a) above, the Commissioner is authorized under N.J.S.A. 34:11-56a24 to assess and collect administrative penalties as provided for in N.J.A.C. 12:56-1.3.

## (a)

**OFFICE OF WAGE AND HOUR COMPLIANCE****Child Labor****Violations and Administrative Penalties****Proposed New Rules: N.J.A.C. 12:58-5**

Authorized By: Raymond L. Bramucci, Commissioner,  
Department of Labor.

Authority: N.J.S.A. 34:1-20, 34:1A-3(e), and 34:2-21.1 et seq.,  
specifically 34:2-21.19, as amended by P.L. 1991, c.205.

Proposal Number: PRN 1991-505.

Submit written comments by November 6, 1991 to:

Linda Flores  
Special Assistant for External and Regulatory Affairs  
Office of the Commissioner  
CN 110  
Trenton, New Jersey 08625-0110

The agency proposal follows:

**Summary**

N.J.A.C. 12:58, concerning child labor, consists of rules which set forth standards for the statutory requirements of New Jersey Child Labor Act, N.J.S.A. 34:2-21.1 et seq., which is enacted to provide a safe work environment for minors.

The amendments to N.J.S.A. 34:2-21.1 et seq. enacted under P.L. 1991, c.205 increase the authority of the Commissioner of Labor to take action against the employers who do not provide mandated protection for minor employees in the workplace. These changes provide for the imposition of administrative penalties to be paid by certain employers when the Department of Labor determines that the child labor laws have been violated. The amendments enacted require that the amount of administrative penalties be listed in a schedule set by regulation.

The amendments require that when determining the amount of an administrative penalty to be imposed as a result of violation of workplace standards laws, the Commissioner shall consider factors including the history of previous violations by the employer, the seriousness of the violation, the good faith of the employer, and the size of the employer's business.

N.J.A.C. 12:58-5, Violations and Administrative Penalties, as set forth in this proposal, incorporates the changes mandated in P.L. 1991, c.205.

The new subchapter 5 lists the purpose and scope at N.J.A.C. 12:58-5.1, and violations of the Act are addressed at N.J.A.C. 12:58-5.2. The schedule of administrative penalties is listed at N.J.A.C. 12:58-5.3. N.J.A.C. 12:58-5.4 addresses hearings under the Act.

**Social Impact**

The proposed new rules will have an impact on both employers and the workers as they will enable the Department to enforce existing child labor laws, thereby helping maintain a safe workplace for minors.

**Economic Impact**

The proposed new rules will impose increased costs in the form of administrative penalties only on those employers found to be in violation of the child labor laws of New Jersey. These changes are authorized by statute, and apply to all employers of minors under the Act.

**Regulatory Flexibility Statement**

The proposed new rules do not impose any additional reporting, recordkeeping or compliance requirements on small businesses as defined by the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. These rules codify the administrative penalties and hearing rights provided under P.L. 1991, c.205. Thus, no regulatory flexibility analysis is required.

Full text of the proposal follows:

**SUBCHAPTER 5. VIOLATIONS AND ADMINISTRATIVE PENALTIES****12:58-5.1 Purpose; scope**

(a) The purpose of this subchapter is to establish rules to effectuate N.J.S.A. 34:2-21.1 et seq., the New Jersey Child Labor Act (Act), specifically, amended N.J.S.A. 34:2-21.19 which provides sanctions for non-compliance.

(b) The chapter is applicable to the employment of minors subject to the Child Labor Law, N.J.S.A. 34:2-21.1 et seq.

**12:58-5.2 Violations of the Act**

(a) Violations of the Act shall occur when:

1. An employer obstructs the Commissioner in the performance of the duties of the Commissioner in the enforcement of this chapter; or

2. An employer permits or suffers any minor to be employed or to work in violation of the Act; or

3. Any person who, having under his control or custody any minor, permits or suffers him or her to be employed or to work in violation of the Act.

(b) If a defendant acts knowingly, an offense under this section shall be a crime of the fourth degree.

(c) A defendant who violates any provision of this chapter shall be guilty of a disorderly persons offense and, shall, upon conviction therefor, be fined not less than \$100.00 nor more than \$1,000.

1. Each day during which any violation of the act continues shall constitute a separate and distinct offense.

2. The employment of any minor in violation of the Act shall, with respect to each minor so employed, constitute a separate offense.

**12:58-5.3 Administrative penalties**

(a) As an alternative to, or in addition to, any other sanctions provided for in N.J.A.C. 12:58-5.2, pursuant to N.J.S.A. 34:2-21.1 et seq., when the Commissioner finds that an employer has violated that Act, the Commissioner is authorized to assess and collect administrative penalties in the amounts that follow:

1. First violation—not more than \$250.00;

2. Second and subsequent violations—not less than \$25.00 nor more than \$500.00.

(b) No administrative penalty shall be levied pursuant to this subchapter unless the Commissioner provides the alleged violator with notification of the violation and the amount of the penalty by certified mail and an opportunity to request a formal hearing. A request for formal hearing must be received within 15 days following the receipt of the notice. Within the Commissioner's discretion, the hearing will be held before him or her or transmitted as a contested case to the Office of Administrative Law for a hearing.

1. If a hearing is not requested, the notice shall become a final order upon the expiration of the 15-day period following receipt of the notice.

2. If a hearing is requested, the Commissioner shall issue a final order upon such hearing and a finding that a violation has occurred.

3. All wages due, fees and penalties shall be paid within 30 days of the date of final order. Failure to pay such wages due, fees and/or penalty shall result in a judgment being obtained in a court of competent jurisdiction.

4. All payments shall be made payable to the "Commissioner of Labor, Child Labor Trust Account." All payments shall be made by certified check or money order, or payable in form suitable to the Assistant Commissioner, Division of Labor Standards.

(c) When the Commissioner assesses an administrative penalty pursuant to this chapter, the Commissioner shall consider the following factors, where applicable, in determining what constitutes an appropriate penalty for the particular violations:

1. The seriousness of the violation;

2. The past history of previous violations by the employer;

3. The good faith of the employer;

4. The size of the employer's business; and

5. Any other factors which the Commissioner deems to be appropriate in the determining of the penalty assessed.

**12:58-5.4 Hearings**

(a) When the Commissioner assesses an administrative penalty under N.J.A.C. 12:58-5.3, the employer shall have the right to a hearing pursuant to (b) below.

(b) No administrative penalty shall be levied pursuant to this subchapter unless the Commissioner provides the alleged violator with notification of the violation and the amount of the penalty by certified mail and an opportunity to request a formal hearing. A request for formal hearing must be received within 15 days following the receipt of the notice. Within the Commissioner's discretion, the

hearing will be held before him or her or transmitted as a contested case to the Office of Administrative Law for a hearing.

(c) Upon such hearing and a finding that a violation has occurred, such hearing officer shall constitute a final agency determination.

(d) Recipients of an administrative penalty assessment may request the initiation of a settlement conference at the time that a hearing request is made.

(e) Payment of the penalty is due when a final agency determination is issued.

(f) Upon final order the penalty imposed may be recovered with cost in a summary proceeding commenced by the Commissioner pursuant to the Penalty Enforcement Law, N.J.S.A. 2A:58-1 et seq.

**(a)**

**DIVISION OF WORKPLACE STANDARDS**

**Prevailing Wages for Public Works  
Inspection of Records**

**Proposed Amendments: N.J.A.C. 12:60-2.1 and 6.1**

Authorized By: Raymond L. Bramucci, Commissioner,  
Department of Labor.

Authority: N.J.S.A. 34:1-20, 34:1A-3(e), 34:11-56.25 et seq.,  
specifically 34:11-56.31, 34:11-56.34(a), and 34:11-56.43.

Proposal Number: PRN 1991-492.

Submit written comments by November 6, 1991 to:

Linda Flores  
Special Assistant for External and Regulatory Affairs  
Office of the Commissioner  
Department of Labor  
CN 110  
Trenton, New Jersey 08625-0110

The agency proposal follows:

**Summary**

Pursuant to N.J.S.A. 34:11-56.31 as amended by P.L.1987, c.451, the Commissioner of the Department of Labor (Commissioner) was granted the power to direct that funds be withheld from public works employers who fail to produce records requested by the Commissioner. The amended definition of "Public Work" is added at N.J.A.C. 12:60-2.1 pursuant to P.L. 1990, c.27. The proposed amendment at N.J.A.C. 12:60-6.1(c) sets forth recordkeeping requirements for public works employers, whereby certified payroll records (for which a definition is now provided at N.J.A.C. 12:60-2.1) shall be submitted each pay period to the public body which contracted for the public works project. N.J.A.C. 12:60-6.1(d) restates N.J.S.A. 36:11-56.34(a) concerning the statutory responsibility of the public body to notify the Commissioner of failure of the employer to pay the prevailing wage.

**Social Impact**

The proposed amendments will enable compliance with the New Jersey Prevailing Wage Act, N.J.S.A. 34:11-56.25 et seq., to be performed in a timely and continuing manner. This process of instituting affirmative checks on compliance procedures at the beginning of the public works project will increase the number of employers who are in compliance with the prevailing wage law.

**Economic Impact**

The proposed amendments will not have any new or additional economic impact on the employers or on the Department. The employers will continue to use existing recordkeeping procedures in accordance with past agency practice. The designation of the public body as a recipient of certified payroll records will entail some additional cost to that body, if that body is not already involved in monitoring the public works project.

**Regulatory Flexibility Statement**

Although small businesses, as defined under the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq., are affected by the proposed amendments, the impact upon them is not new since they have been complying with the past agency practice of maintaining records of wages paid in various job titles. The additional requirement of routinely certifying and submitting the pertinent record is not an added burden, since they are already required to submit such records if requested.

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

12:60-2.1 Definitions

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

...  
"Certified payroll record" means a payroll record which is attested to by the employer, or the owner of the company doing business as the employer, or a corporate officer of such company, or an authorized agent of the employer.

...  
"Payroll record" means a form satisfactory to the Commissioner, wherein is shown employee information such as name, address, social security number, craft or trade, together with actual hourly rate of pay, actual daily, overtime and weekly hours worked in each craft or trade, gross pay, itemized deductions, and net pay paid to the employee; such record shall also include:

1. Any fringe benefits paid to approved plans, funds or programs on behalf of the employee; and
2. Fringe benefits paid in cash to the employee.

...  
"Public work" means construction, reconstruction, demolition, alteration, or repair work, or maintenance work, including painting and decorating, done under contract and paid for in whole or in part out of the funds of a public body, except work performed under a rehabilitation program. "Public work" shall also mean construction, reconstruction, demolition, alteration, or repair work, done on any property or premises, whether or not the work is paid for from public funds, if, at the time of the entering into of the contract:

1. Not less than 55 percent of the property or premises is leased by a public body, or is subject to an agreement to be subsequently leased by the public body; and
2. The portion of the property or premises that is leased or subject to an agreement to be subsequently leased by the public body measures more than 20,000 square feet.

12:60-6.1 Inspections

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

(c) The public works employers shall submit to the public body or lessor which contracted for the public works project the following, in a form satisfactory to the Commissioner.

1. A certified payroll record on each public works project.
  - i. Such record shall be submitted each payroll period within 10 days of the payment of wages.

(d) The fiscal or financial officer of any public body or lessor having public work performed under which any workman shall have been paid less than the prevailing wage shall forthwith notify the Commissioner in writing of the name of the person or firm failing to pay the prevailing wages.

**(b)**

**DIVISION OF WORKPLACE STANDARDS**

**Prevailing Wages for Public Works  
Violations, Penalties and Fees**

**Proposed New Rules: N.J.A.C. 12:60-9**

Authorized By: Raymond L. Bramucci, Commissioner,  
Department of Labor.

Authority: N.J.S.A. 34:1-20, 34:1A-3(e), 2A:150-1 and  
34:11-56.25 et seq., specifically 34:11-56.35, 56.36 and 56.39,  
as amended by P.L. 1991, c.205.

Proposal Number: PRN 1991-501.

Submit written comments by November 6, 1991 to:

Linda Flores  
Special Assistant for External and Regulatory Affairs  
Office of the Commissioner  
CN 110  
Trenton, New Jersey 08625-0110

The agency proposal follows:

#### Summary

N.J.A.C. 12:60, concerning the New Jersey Prevailing Wage Act, consists of rules promulgated to enforce the statutory requirements of N.J.S.A. 34:11-56.25 et seq., which provides that a worker employed in the performance of a contract placed by a public body with public funds shall be paid at not less than the prevailing wage rate for that worker's craft in that locality.

The amendments to N.J.S.A. 34:11-56.35 and 34:11-56.36 enacted under P.L. 1991, c.205 increase the authority of the Department of Labor to take action against employers who do not provide employees with lawful compensation.

The amending law authorizes the Commissioner impose fees to be paid by an employer in violation of the Act when the Department collects wages due and owing from that employer to pay employees. The amendment requires that the amount of such administrative fee is to be specified in a schedule of fees to be set by regulations, and that such fees be not less than 10 percent or more than 25 percent of any payment made to the Commissioner pursuant to this amended statute.

The amending law also authorizes the Commissioner to impose administrative penalties, as an alternative to or in addition to other fines or penalties imposed under the Act. These amendments also require that when determining the amount of an administrative penalty to be imposed because of a violation of the Prevailing Wage Act, the Commissioner consider factors including the history of previous violations by the employer, the seriousness of the violation, the good faith of the employer, and the size of the employers business.

The Commissioner is required to promulgate a schedule of penalties for first, second and subsequent offenses, and to afford the employer a hearing before the Commissioner.

N.J.A.C. 12:60-9, Violations, Penalties and Fees, has been added to the Prevailing Wage Rules to effectuate the requirements of the amendments contained in P.L. 1991, c.205.

The new subchapter 9 lists the purpose and scope at N.J.A.C. 12:60-9.1; N.J.A.C. 12:60-9.2 addresses violations of the Act; the administrative penalty schedule is listed in N.J.A.C. 12:60-9.3, and N.J.A.C. 12:60-9.4 addresses the administrative fees. The procedure for hearings pursuant to the Act is addressed under N.J.A.C. 12:60-9.5, and the matter of discrimination against employees is addressed at N.J.A.C. 12:60-9.6.

#### Social Impact

The proposed new rules will ensure that the workers will receive the pay and benefits which they are due, and that the Department will be able to continue to enforce this chapter to the benefit of the workers.

#### Economic Impact

The proposed new rules will impose increased costs in the form of fees and penalties only on those employers found to be in violation of the Prevailing Wage Laws of New Jersey. These changes are statutorily mandated throughout the State, and will benefit workers who will receive all wages earned and due.

#### Regulatory Flexibility Statement

The proposed new rules do not impose any additional reporting, recording and compliance requirements on employers, or small businesses as defined by the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. These rules codify the penalties, administrative fees and hearing rights provided under P.L. 1991, c.205. Thus, a regulatory flexibility analysis is not required.

Full text of the proposal follows:

### SUBCHAPTER 9. VIOLATIONS, PENALTIES, AND FEES

#### 12:60-9.1 Purpose; scope

(a) The purpose of this subchapter is to establish rules to effectuate N.J.S.A. 34:11-56.25 et seq., the New Jersey Prevailing Wage Act (Act), provide sanctions for non-compliance, 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.

#### 12:60-9.2 Violations of the Act

(a) Violations of the Act shall occur when an employer:

1. Willfully hinders or delays the Commissioner in the performance of the duties of the Commissioner in the enforcement of this chapter;

2. Fails to make, keep and preserve any records as required under the provisions of this chapter;

3. Falsifies any such record;

4. Refuses to make any such record accessible to the Commissioner upon demand;

5. Refuses to furnish a sworn statement of such record or any other information required for the proper enforcement of this chapter to the Commissioner upon demand;

6. Pays or agrees to pay wages at a rate less than the prevailing rate applicable under this chapter;

7. Requests, demands, or receives, either for himself or any other person, either before or after a worker is engaged in public work at a specified rate of wages, the following:

i. That such worker forego, pay back, return, donate, contribute or give any part, or all, of his or her wages, salary or thing of value, to any person upon the statement, representation or understanding that failure to comply with such request or demand will prevent such worker from procuring or retaining employment; or

8. Otherwise violates any provision of this chapter or of any order issued under this chapter.

(b) An employer who knowingly and willfully violates any provision of this chapter shall be guilty of a disorderly persons offense and shall, upon conviction therefor:

1. Be fined not less than \$100.00 nor more than \$1,000;

2. Be imprisoned for not less than 10 nor more than 90 days; or

3. Be subject to both the fine and imprisonment.

(c) Each week in any day of which an employee is paid less than the rate applicable to him or her under the Act or under a minimum fair wage order, and each employee so paid, shall constitute a separate offense.

#### 12:60-9.3 Administrative penalties

(a) As an alternative to or in addition to any other sanctions provided for in N.J.A.C. 12:60-9.2, pursuant to N.J.S.A. 34:11-56.25 et seq. when the Commissioner finds that an employer has violated that Act, the Commissioner is authorized to assess and collect administrative penalties in the amounts that follow:

1. First violation—not more than \$250.00.

2. Second and subsequent violations—not less than \$25.00 nor more than \$500.00.

(b) No administrative penalty shall be levied pursuant to this subchapter unless the Commissioner provides the alleged violator with notification of the violation and the amount of the penalty by certified mail and an opportunity to request a formal hearing. A request for formal hearing must be received within 15 days following the receipt of the notice. Within the Commissioner's discretion, the hearing will be held before him or her or transmitted as a contested case to the Office of Administrative Law for a hearing.

1. If a hearing is not requested, the notice shall become a final order upon the expiration of the 15-day period following receipt of the notice.

2. If a hearing is requested, the Commissioner shall issue a final order upon such hearing and a finding that a violation has occurred.

3. All wages due, fees and penalties shall be paid within 30 days of the date of the final order. Failure to pay such wages due, fees and/or penalty shall result in a judgment being obtained in a court of competent jurisdiction.

4. All payments shall be made payable to the "Commissioner of Labor, Prevailing Wage Trust Account." All payments shall be made by certified check or money order, or payable in form suitable to the Assistant Commissioner, Labor Standards.

(c) In assessing an administrative penalty pursuant to this chapter, the Commissioner shall consider the following factors, where applicable, in determining what constitutes an appropriate penalty for the particular violations.

1. The seriousness of the violation;

2. The past history of previous violations by the employer;

3. The good faith of the employer;

4. The size of the employer's business; and

5. Any other factors which the Commissioner deems to be appropriate in the determining of the penalty assessed.

12:60-9.4 Administrative fees

(a) The Commissioner is authorized to supervise the payment of amounts due to employees under this chapter, and the employer may be required to make these payments to the Commissioner to be held in a special account in trust for the employee, and paid on order of the Commissioner directly to the employee or employees affected.

2. The employer shall also pay the Commissioner an administrative fee on all payments due to employees pursuant to Articles 1 and 2 of Chapter 11 of Title 34 of the revised statutes.

(c) A schedule of the administrative fees is set forth in Table 9.4(c) below:

Table 9.4(c)  
Schedule of Administrative Fees

1. First violation—10 percent of amount of any payment made to the Commissioner pursuant to this chapter;
2. Second violation—18 percent of amount of any payment made to the Commissioner pursuant to this chapter;
3. Third and subsequent violations—25 percent of amount of any payment made to the Commissioner pursuant to this chapter;

12:60-9.5 Hearings

(a) When the Commissioner assesses an administrative penalty under N.J.A.C. 12:60-9.3, the employer shall have the right to a hearing under (b) below.

(b) No administrative penalty shall be levied pursuant to this subchapter unless the Commissioner provides the alleged violator with notification of the violation and the amount of the penalty by certified mail and an opportunity to request a formal hearing. A request for formal hearing must be received within 15 days following the receipt of the notice. Within the Commissioner's discretion, the hearing will be held before him or her or transmitted as a contested case to the Office of Administrative Law for a hearing.

(c) Upon such hearing and a finding that a violation has occurred such hearing officer report shall constitute a final agency determination.

(d) Recipients of an administrative penalty assessment may request the initiation of a settlement conference at the time that a hearing request is made.

(e) Payment of the penalty is due when a final agency determination is issued.

(f) Upon final order the penalty imposed may be recovered with cost in a summary proceeding commenced by the Commissioner pursuant to the Penalty Enforcement Law, N.J.S.A. 2A:58-1 et seq.

12:60-9.6 Discharge or discrimination against employee making complaint

(a) An employer is a disorderly person, if he or she discharges or in any other manner discriminates against any employee because such employee has made any complaint to his or her employer, to the public body, or to the Commissioner that he or she has not been paid wages in accordance with the provisions of this 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 chapter, or because such employee has testified or is about to testify in any such proceeding, shall be guilty of a disorderly persons offense and shall, upon conviction therefor, be fined not less than \$100.00 nor more than \$1,000.00.

(b) As an alternative to, or in addition to, any sanctions imposed under (a) above, the Commissioner is authorized under N.J.S.A. 34:11-56a.24 to assess and collect administrative penalties as provided for in N.J.A.C. 12:60-9.3.

(a)

OFFICE OF WAGE AND HOUR COMPLIANCE

Wage Collection

Proposed New Rules: N.J.A.C. 12:61

Authorized By: Raymond L. Bramucci, Commissioner,  
Department of Labor.

Authority: N.J.S.A. 34:1-20, 34:1A-3(e) and 34:11-57 et seq., as amended by P.L. 1991, c.205.

Proposal Number: PRN 1991-500.

Submit written comments by November 6, 1991 to:

Linda Flores  
Special Assistant for External and Regulatory Affairs  
Office of the Commissioner  
CN 110  
Trenton, New Jersey 08625-0110

The agency proposal follows:

Summary

N.J.A.C. 12:61, concerning wage collection, is designed to implement the statutory requirements of New Jersey State Wage Collection Law, N.J.S.A. 34:11-57 et seq.

The amendments to N.J.S.A. 34:11-57 et seq., enacted under P.L. 1991, c.205, empower the Commissioner of Labor or his duly authorized representatives and raises the amount of an award or decision from \$2,000 to \$10,000.

The amendments to N.J.S.A. 34:11-57 et seq. also provide for the imposing of fees to be paid by certain employers when the Department of Labor collects wages due and owing from the employer to pay employees. The amendments enacted required that the amount of administrative fee be specified in a schedule of fees set by regulation and that such fees be not less than 10 percent or more than 25 percent of the amount collected.

A summary of the proposed new rules follows:

N.J.A.C. 12:61-1.1 states the purpose and scope of this subchapter.

N.J.A.C. 12:61-1.2 defines terms used within this subchapter.

N.J.A.C. 12:61-1.3 lists the powers of the Commissioner.

N.J.A.C. 12:61-1.4 sets forth the schedule of administrative fees.

Social Impact

The proposed new rules will ensure that workers will receive the pay and benefits which they are due, and that the Department will be able to continue to enforce these rules, to the benefit of the workers.

Economic Impact

The proposed new rules will impose increased costs in the form of fees only on those employers found to be in violation of the Wage and Hour Laws of New Jersey. These changes are statutorily mandated throughout the State, and will benefit workers who will receive all wages earned and due.

Regulatory Flexibility Statement

The proposed new rules do not impose any additional reporting, recording, 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. These rules codify the Commissioner's powers and the administrative fees provided under N.J.S.A. 34:11-57 et seq., as amended by P.L. 1991, c.205.

Full text of the proposal follows:

CHAPTER 61  
WAGE COLLECTION

SUBCHAPTER 1. GENERAL PROVISIONS

12:61-1.1 Purpose; scope

(a) The purpose of this subchapter is to establish rules to effectuate N.J.S.A. 34:11-57 et seq., the New Jersey State Wage Collection Law, to empower the Commissioner of Labor means of collecting wages due.

(b) The chapter is applicable to:

1. Wages and hours subject to the New Jersey State Wage Collection Law;
2. Wages paid to an employee for services rendered; and

3. Time and mode of payment.
- (c) This chapter shall not apply to:
  1. Volunteers; or
  2. Patients.

#### 12:61-1.2 Definitions

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

"Commissioner" means the Commissioner of Labor or any person or persons in the Department designated in writing by him or her for the purposes of this article.

"Employee" means any natural person who works for another for hire.

"Employer" means any person, partnership, firm or corporation employing another for hire.

"Wages" means any moneys due an employee from the employer whether payable by the hour, day, week, semimonthly, monthly or yearly and shall include commissions, bonus, piecework compensation and any other benefits arising out of an employment contract.

#### 12:61-1.3 Powers of the Commissioner

(a) The Commissioner of Labor or his or her representative is authorized and empowered to investigate any claim for wages due an employee. In conducting such investigation, the Commissioner or his or her representative may do the following:

1. Summon the defendant;
2. Subpoena witnesses;
3. Administer oaths; and
4. Take testimony.

(b) If the Commissioner determines that a matter concerning a wage collection constitutes a contested case, then, within the Commissioner's discretion, either the Commissioner will conduct a hearing himself or herself or transmit the matter as a contested case to the Office of Administrative Law.

(c) The Commissioner of Labor or his or her duly authorized representative shall upon such proceeding make a decision or award when the sum, in controversy, exclusive of costs does not exceed \$10,000.

(d) Such decision or award as mentioned in (c) above shall be a judgment when a certified copy thereof is filed with the Superior Court.

(e) The Commissioner of Labor is authorized to supervise payments of amounts due to employees.

#### 12:61-1.4 Administrative fees

(a) The employer shall pay the Commissioner an administrative fee on all payment of gross amounts due employees pursuant to N.J.S.A. 34:11-58.

(b) A schedule of fees are as follows:

1. First violation—10 percent of the amount due an employee;
2. Second violation—18 percent of the amount due an employee;
3. Third and subsequent violations—25 percent of the amount due an employee.

(c) All payments shall be made payable to the Commissioner of Labor, Trust Account for Wage Collection by certified check or money order or in the form suitable to the Director of Workplace Standards.

(d) All fees shall become part of the judgment as mentioned in 12:61-1.3(d).

(a)

## DIVISION OF WORKPLACE STANDARDS Boilers, Pressure Vessels and Refrigeration Fees

### Proposed Amendments: N.J.A.C. 12:90-4.12, 4.13, 5.9, 5.14 and 7.2

Authorized By: Raymond L. Bramucci, Commissioner,  
Department of Labor.

Authority: N.J.S.A. 34:1-20, 34:1A-3(e), 34:7-1 et seq., specifically 34:7-3, 15, 16, 25, as amended by P.L. 1991, c.205.

Proposal Number: PRN 1991-502.

Submit written comments by November 6, 1991 to:

Linda Flores

Special Assistant for External and Regulatory Affairs

Office of the Commissioner

CN 110

Trenton, New Jersey 08625-0110

The agency proposal follows:

#### Summary

N.J.A.C. 12:90 consists of rules which set forth standards for the licensing and operation of boilers, pressure vessels and refrigeration units.

The standards contained in the chapter govern the licensing of the engineers who operate the equipment, and the periodic inspection of the equipment, and thus ensure the protection of life and property in the use of boilers, pressure vessels and refrigeration units.

The proposed amendments at N.J.A.C. 12:90-4.12 increase the shop inspection fees for boilers to \$18.00 per boiler. The minimum fee for a shop inspection lasting up to four hours is set at \$120.00, and at \$225.00 for shop inspection of more than four hours. The fee paid to the State by an insurance company making an annual field inspection is increased to \$10.00 per boiler, under N.J.A.C. 12:90-4.13(a).

The proposed amendments increase the shop inspection fees at N.J.A.C. 12:90-5.14 for unfired pressure vessels, to \$18.00 per vessel. The minimum fee for a shop inspection lasting up to four hours is set at \$120.00, and at \$225.00 for shop inspection of more than four hours.

At N.J.A.C. 12:90-5.9(b)4, the application fee for New Jersey approved unfired pressure vessel is increased to \$1,000. In addition, N.J.A.C. 12:90-7.2 is revised to provide that license application fee checks or money orders be made payable to the Commissioner of Labor.

These proposed amendments are authorized by the amendments to N.J.S.A. 34:7-1 et seq. and 34:7-14 et seq. under P.L. 1991, c.205 signed into law on July 12, 1991. These statutory amendments will enable the Department to continue to enforce the rules.

It should be noted that certain fee increases mandated under P.L. 1991, c.205, sections 7, 9, 10, and 12 were incorporated into N.J.A.C. 12:90-4.13, 6.5, 7.2, 7.16, and 7.19 through a notice of administrative correction published in the August 19, 1991 New Jersey Register at 23 N.J.R. 2512(b).

#### Social Impact

The proposed amendments will enable the Department to continue to protect the lives of those who operate and are affected by boilers, pressure vessels and refrigeration units. By maintaining strict licensing and enforcement procedures, the Department can help eliminate accidents caused by human error and equipment failure.

#### Economic Impact

The proposed amendments will impose increases in the licensing fees for individuals; also there are increases in the registration and inspection fees paid by employers and owners of the equipment. These fees have been minimal and not been increased since 1982; the Department feels that the increases are necessary, reasonable and proper in light of increasing program costs, and will not impose an undue burden upon the citizenry.

#### Regulatory Flexibility Statement

The proposed amendments do not impose additional reporting or recordkeeping requirements on small businesses, as that term is defined under the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. Com-

pliance requirements on small business owners of boiler, unfired pressure vessels, and insurance companies inspecting boilers, are changed by way of increased inspection fees and application fees for New Jersey Approved unfired pressure vessels. Because these fees are statutorily authorized, and are necessary to impose and enforce uniform safety standards, the increased fees are imposed uniformly on all sizes of businesses. Given the relative fee amounts, the Department does not anticipate that the increased fees will impose an undue burden on small businesses.

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

#### SUBCHAPTER 4. BOILERS

##### 12:90-4.12 Fee for shop inspection

(a) A fee of [\$12.00] **\$18.00** shall be charged for each boiler inspected in the shop of the manufacturer of the boiler.

(b) The minimum fee shall be [\$80.00] **\$120.00** for any shop inspection that is four hours or less.

(c) The minimum fee shall be [\$150.00] **\$225.00** for any shop inspection exceeding four hours.

(d) (No change.)

##### 12:90-4.13 Fee for field inspection

(a) An insurance company making an annual field inspection shall pay a fee of [\$5.00] **\$10.00** to the State, payable by and collected from the user by the inspector at the time of inspection for each boiler.

(b)-(e) (No change.)

#### SUBCHAPTER 5. UNFIRED PRESSURE VESSELS

##### 12:90-5.9 Class III unfired pressure vessels, New Jersey Approved.

(a) (No change.)

(b) The application for a New Jersey Approved unfired pressure vessel shall meet the following requirements:

1.-3. (No change.)

4. All letters of application shall be accompanied by payment of [\$500.00] **\$1,000** for each non-code design. Additional fees shall be required for designs submitted for a single project and shall be repetitive for each user application of design;

5.-6. (No change.)

(c)-(m) (No change.)

##### 12:90-5.14 Fee for shop inspection

(a) A fee of [\$12.00] **\$18.00** shall be charged for each unfired pressure vessel inspected in the shop of the manufacturer of the unfired pressure vessel.

(b) The minimum fee shall be [\$80.00] **\$120.00** for any shop inspection that is four hours or less.

(c) The minimum fee shall be [\$150.00] **\$225.00** for any shop inspection exceeding four hours.

(d) (No change.)

#### SUBCHAPTER 7. LICENSING OF OPERATING ENGINEERS AND FIREMEN

##### 12:90-7.2 Application for licenses

(a)-(n) (No change.)

(o) The fee for application for a license shall be a check or money order made payable to the order of the [Office of Boiler and Pressure Vessel Compliance] **Commissioner of Labor, Office of Boilers and Pressure Vessels trust account.**

(p) (No change.)

## (a)

### DIVISION OF WORKPLACE STANDARDS

#### Explosives

#### Fees

#### Proposed Amendments: N.J.A.C. 12:190-3.14

Authorized By: Raymond L. Bramucci, Commissioner,  
Department of Labor.

Authority: N.J.S.A. 34:1-20, 34:1A-3(e), 21:1A-128 et seq.,  
specifically 21:1A-134, as amended by P.L.1991, c.205.

Proposal Number: PRN 1991-503.

Submit written comments by November 6, 1991 to:

Linda Flores

Special Assistant for External and Regulatory Affairs

Office of the Commissioner

CN 110

Trenton, New Jersey 08625-0110

The agency proposal follows:

#### Summary

N.J.A.C. 12:190, Explosives, consists of rules which set forth standards to regulate the manufacture, sale, off-the-highway transportation, storage, use and possession of explosives for the protection of the public. The administration of the chapter is described in N.J.A.C. 12:190-3, which addresses the procedures for the issuance of permits, the payment of fees, recordkeeping for permit holders, and reporting procedures.

The amendments to N.J.S.A. 21:1A-134 enacted under P.L.1991, c.205 authorize the Commissioner to increase the fees established by regulation for permits to manufacture, to sell, to store or to use explosives.

These fee changes are listed in the proposed amendments at N.J.A.C. 12:190-3.14, Annual fees for permits.

#### Social Impact

The proposed amendment will enable the Department to continue to protect the lives of those who use explosives and those who work in proximity to explosives. By maintaining strict licensing and permitting procedures, the Department can help eliminate accidents caused by human error.

#### Economic Impact

The proposed amendment will impose increases in the permit fees for individuals, and will also impose increases in the fees for usage, storage, sales, and the manufacture of explosives. These fees have been minimal and have not been increased since 1978; the Department feels that the increases are necessary, reasonable and proper in light of increasing program costs, and will not impose an undue burden upon the citizens.

#### Regulatory Flexibility Statement

The proposed amendment does not impose additional reporting or recordkeeping requirements on small businesses, as that term is defined under the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. Compliance requirements on these business owners are changed by way of increased permit fees on the manufacture, storage and use of explosives. Because these fees are statutorily authorized, and are necessary to impose and enforce uniform safety standards, the increased fees are imposed uniformly on all sizes of businesses. Given the relative fee amounts, the Department does not anticipate that the increased fees will impose an undue burden on small businesses.

Full text of the proposed amendments follow (additions indicated in boldface thus; deletions indicated by brackets [thus]):

##### 12:190-3.14 Annual fees for permits

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

(f) An annual fee shall be paid for a permit to manufacture explosives shall be in accordance with Table 3.14(f).

Table 3.14(f)  
Fee for "Permit to Manufacture" Explosives

| Explosives      |                    | Annual Fee<br>dollars |
|-----------------|--------------------|-----------------------|
| Pounds<br>over  | Pounds<br>not over |                       |
| 0               | 500                | [100] 200             |
| 500             | 5,000              | [200] 400             |
| 5,000           | 10,000             | [300] 600             |
| 10,000 and over |                    | [500] 1,000           |

(g) An annual fee shall be paid for a "permit to sell" explosives in accordance with Table 3.14(g).

Table 3.14(g)  
Fee for "Permit to Sell" Explosives

| Type of Sale              | Annual Fee<br>dollars |
|---------------------------|-----------------------|
| High explosives retail    | [100] 150             |
| Low explosives retail     | [25] 35               |
| High explosives wholesale | [200] 300             |
| Low explosives wholesale  | [100] 150             |

(h) An annual fee shall be paid for a "permit to store" commercial explosives other than detonators in accordance with Table 3.14(h).

Table 3.14(h)  
Fee for "Permit to Store" Commercial  
Explosives Other than Detonators

| Explosives       |                    | Annual Fee<br>dollars |
|------------------|--------------------|-----------------------|
| Pounds<br>over   | Pounds<br>not over |                       |
| 0                | 100                | 25                    |
| 100              | 500                | 50                    |
| 500              | 2,000              | 75                    |
| 2,000            | 10,000             | 100                   |
| 10,000           | 20,000             | 125                   |
| 20,000           | 30,000             | 150                   |
| 30,000           | 40,000             | [175] 200             |
| 40,000           | 50,000             | [200] 250             |
| 50,000           | 100,000            | [225] 350             |
| 100,000          | 200,000            | [250] 450             |
| 200,000          | 250,000            | [275] 500             |
| 250,000 and over |                    | [300] 750             |

(i) An annual fee shall be paid for a "permit to store" detonators in accordance with Table 3.14(i).

Table 3.14(i)  
Fee for "Permit to Store" Detonators

| Detonators         |                    | Annual Fee<br>dollars |
|--------------------|--------------------|-----------------------|
| number<br>over     | number not<br>over |                       |
| 0                  | 500                | 25                    |
| 500                | 1,000              | 50                    |
| 1,000              | 5,000              | 75                    |
| 5,000              | 10,000             | 100                   |
| 10,000             | 100,000            | 125                   |
| 100,000            | 300,000            | 150                   |
| 300,000            | 400,000            | [175] 200             |
| 400,000            | 500,000            | [200] 250             |
| 500,000            | 600,000            | [225] 300             |
| 600,000            | 700,000            | [250] 350             |
| 700,000            | 1,000,000          | [275] 500             |
| 1,000,000 and over |                    | [300] 750             |

(j) An annual fee shall be paid for a "permit to use" explosives in accordance with Table 3.14(j).

Table 3.14(j)  
Fee for "Permit to Use" Explosives

| Grade of<br>Permit | Annual Fee*<br>dollars | Grade of<br>Permit | Annual Fee*<br>dollars |
|--------------------|------------------------|--------------------|------------------------|
| A                  | [100] 200              | Q-3                | [35] 55                |
| S-1                | [75] 125               | Q-4                | [30] 50                |
| S-2                | [60] 90                | Q-5                | [10] 25                |
| S-3                | [50] 80                | Q-6                | [10] 15                |
| S-4                | [40] 70                | U                  | [25] 50                |
| S-5                | [25] 50                | D                  | [50] 200               |
| S-6                | [10] 20                | G                  | [10] 25                |
| Q-1                | [60] 80                | H                  | [25] 50                |
| Q-2                | [45] 65                | J                  | [100] 200              |

Note to Table

\*A person holding more than one grade of permit is only required to pay the fee for the highest grade.

(k)-(l) (No change.)

(a)

**DIVISION OF WORKPLACE STANDARDS**

**Carnival-Amusement Rides  
Inspection Fee and Permit**

**Proposed Amendment: N.J.A.C. 12:195-1.9**

Authorized By: Raymond L. Bramucci, Commissioner,  
Department of Labor.

Authority: N.J.S.A. 5:3-31 et seq., specifically N.J.S.A. 5:3-39,  
as amended by P.L.1991, c.205.

Proposal Number: PRN 1991-491.

Submit written comments by November 6, 1991 to:

Linda Flores  
Special Assistant for External and Regulatory Affairs  
Office of the Commissioner  
Department of Labor  
CN 110  
Trenton, New Jersey 08625-0110

The agency proposal follows:

**Summary**

Pursuant to N.J.S.A. 5:3-31 et seq., specifically 5:3-39, the Department of Labor is authorized to determine a schedule of inspections and permit fees for carnival or amusement rides. The proposed amendment would raise the current inspection fee from \$25.00 for a kiddie ride and \$50.00 for a major ride to \$50.00 for a kiddie ride and \$100.00 for a major ride.

**Social Impact**

The proposed amendment will allow the level of Safety Compliance to continue thereby assuring the public safety.

**Economic Impact**

The proposed fee increase will impact upon all carnival-amusement ride owners. However, the fees have not been raised since the enabling legislation was enacted into law in 1975. The financial impact on the carnival-amusement ride owners is in line with the price of a ride. The law requires the Department to determine a schedule of inspection and permit fees, as nearly as practicable and within the limits of reasonableness, to bring the fees into line with the costs of implementing the provisions of the Act.

**Regulatory Flexibility Analysis**

The proposed amendment imposes compliance requirements on owners of carnival or amusement rides, the large majority of which are small businesses as defined under the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. This inspection fee payment requirement imposes no need for professional services to be employed. Lesser fees for small businesses are not imposed in the interest of public safety, since the uniform fees proposed fairly distribute costs and are necessary for the Department to maintain its ride inspection and permit program.

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

- 12:195-1.9 Inspection fee and permit
  - (a)-(c) (No change.)
  - (d) Upon application for a permit, the appropriate officials of the Division of Workplace Standards shall inspect the amusement ride for which an annual fee shall be charged at the rate of [\$50.00] \$100.00 for each major ride and [\$25.00] \$50.00 for each kiddie ride.
  - (e)-(i) (No change.)

(a)

**OFFICE OF WAGE AND HOUR COMPLIANCE  
Apparel Industry Registration  
Proposed Repeal and New Rules: N.J.A.C. 12:210**

Authorized By: Raymond L. Bramucci, Commissioner,  
Department of Labor.  
Authority: N.J.S.A. 34:1-20, 34:1A-3(e) and specifically, 34:6-144 and 157, as amended by P.L. 1991 c.189.  
Proposal Number: PRN 1991-499.

Submit written comments by November 6, 1991 to:  
Linda Flores  
Special Assistant for External and Regulatory Affairs  
Office of the Commissioner  
CN 110  
Trenton, New Jersey 08625-0110

The agency proposal follows:

**Summary**

N.J.A.C. 12:210 became effective on September 6, 1988 for a period of five years which expires September 6, 1993. For the sake of clarity, the Department of Labor proposes that N.J.A.C. 12:210 be repealed and new rules adopted in order to incorporate numerous changes in language, format and organization of material. The proposed new rules establish the minimum criteria which must be satisfied concerning the various amendments to the Apparel Registration Act.

N.J.A.C. 12:210 concerning the Apparel Registration Act is designed to implement the statutory requirements of N.J.S.A. 34:6-144 et seq.

The amendments to N.J.S.A. 34:6-144 et seq. enacted under P.L. 1991, c.189 authorizes the Commissioner of Labor or his or her designee to revoke the registration of the apparel manufacturer or contractor or to require the manufacturer or contractor to post a surety of not more than \$2,500 per production employee if the manufacturer or contractor or subcontractor commits a second violation of the same provision of any applicable labor law within a three-year period. The bond would be payable to the State and used to benefit production employees who are damaged by violations of labor standards.

The amendments to N.J.S.A. 34:6-144 et seq. also authorize the Apparel Industry Unit to impose administrative penalties authorized by applicable labor laws. In the case of a violation of registration requirements under the Apparel Registration Act or a violation of any provisions of a labor law for which no administrative penalties are currently authorized, the enabling legislation establishes administrative penalties provided for in the schedule of penalties as cited at N.J.A.C. 12:210-1.5(f).

The proposed new rules also broaden the scope of this chapter to allow the Department to assure compliance with the Apparel Registration Act as amended by P.L. 1991, c.1989.

The amendments to the Apparel Registration Act also increase the registration fee for apparel manufacturers and contractors to \$300.00.

N.J.S.A. 34:6-151 allows the Commissioner, in addition to seeking civil, administrative or criminal penalties pursuant to N.J.S.A. 34:6-144 et seq., to order the Apparel Industry Unit to confiscate any partially or completely assembled articles of apparel and any equipment used in the assembly of apparel from any manufacturer or contractor who is violating any provision of N.J.S.A. 34:6-144 et seq. and has previously been found liable for a civil or administrative penalty for two or more separate violations of N.J.S.A. 34:6-144 et seq. during the immediately preceding three-year period. Additionally, N.J.S.A. 34:6-151(b) mandates certain time limits regarding notifications of violation and confiscation, requested hearing and appeals process, before the issuance of a final confiscation order.

The Department intends to promulgate rules concerning the method of disposal of confiscated articles of apparel and equipment within 90 days of adoption of the rules it now proposes.

**Social Impact**

The proposed new rules will assure that all apparel manufacturers and contractors, who conduct business within the State of New Jersey, will comply with the State laws and rules concerning wages and hours, child labor, unemployment, temporary disability insurance, workers' compensation and the payment of payroll taxes, to the benefit of the employees of the garment industry.

**Economic Impact**

The proposed new rules will impose increased cost in the form of fees, penalties, surety, confiscation and subsequent disposal of goods and equipment only on those employers found to be in violation of various labor laws and regulations.

**Regulatory Flexibility Statement**

The proposed new rules will impose additional reporting requirements concerning the registration requirements, N.J.A.C. 12:210-1.3, and recordkeeping, N.J.A.C. 12:210-1.6, on all manufacturers, contractors, subcontractors, jobbers or wholesalers who conduct business in the Apparel Industry within the State of New Jersey, some of which are small businesses as defined by the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. No lesser standards are provided in the rules for small businesses, as it is imperative that all businesses, regardless of size, abide by the safety standards and other labor laws designed to protect apparel industry workers. It is not anticipated that any outside professional help will be necessary to aid businesses in meeting their reporting or recordkeeping requirements.

Full text of the proposed repeal may be found in the New Jersey Administrative Code at N.J.A.C. 12:210.

Full text of the proposed new rules follows:

**CHAPTER 210  
APPAREL INDUSTRY REGISTRATION**

**SUBCHAPTER 1. GENERAL PROVISION**

**12:210-1.1 Purpose and scope**

(a) The purpose of this subchapter is to establish a registration system which requires apparel industry manufacturers and contractors to register with the Department as a condition of doing business in the State.

(b) This subchapter is applicable to all apparel industry manufacturers and contractors who conduct business within the State of New Jersey.

**12:210-1.2 Definitions**

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

"Apparel industry" means the making, cutting, sewing, finishing, assembling, pressing or otherwise producing of apparel, designed or intended to be worn by any individual and sold or offered for sale for that purpose, but does not include cleaning, pressing or tailoring services performed upon apparel sold or offered for sale at retail.

"Commissioner" means the Commissioner of Labor.

"Contractor" means any person who contracts to perform in this State the cutting, sewing, finishing, assembling, pressing or otherwise producing of any apparel, or a section of component of apparel, designed or intended to be worn by any individual and sold or offered for sale, except at retail, for that purpose. "Contractor" shall include, but not be limited to, a subcontractor, jobber or wholesaler, but shall not include a production employee employed for wages who does not employ others.

"Department" means the State Department of Labor.

"Manufacturer" means any person who contracts with a contractor to perform in this State the cutting, sewing, finishing, assembling, pressing or producing of any apparel, or a section or component of apparel, designed or intended to be worn by any individual and sold or offered for sale, except at retail, for that purpose, or who cuts, sews, finishes, assembles, presses or otherwise produces in this

State any apparel, or a section or component of apparel, designed or intended to be work by any individual and sold or offered for sale, except at retail, for that purpose. "Manufacturer" shall not include a production employee employed for wages who does not employ others.

"Production employee" means any person who is employed by a contractor or manufacturer directly to perform the cutting, sewing, finishing, assembling, pressing or otherwise producing of any apparel, or a section or component of apparel, designed or intended to be worn by any individual and sold or offered for sale, except at retail, for that purpose.

#### 12:210-1.3 Registration

(a) Prior to engaging in the apparel industry business in this State, a manufacturer or contractor shall register with the Department by completing a form prescribed by the Commissioner.

(b) The registration form shall contain, but not be limited to, the following information for all manufacturers and contractors.

1. The structure of the business, that is, sole proprietorship, partnership or corporation;

2. The manufacturer's or contractor's name and principal business address in the State; and the name and address of each person with a financial interest in the manufacturer's or contractor's business and the amount of that interest, except that if the manufacturer or contractor is a publicly traded corporation, only the names and addresses of the corporate officers shall be required;

3. The tax identification number;

4. If the registrant is a contractor the registrant must list all manufacturers to whom the registrant will be subcontracting this work. The list shall contain the name, address and tax identification (I.D.) numbers of the manufacturers and/or subcontractors; and

5. A certified list of all violations of any of New Jersey's labor laws or regulations for the period of three years prior to this current application must accompany the registration form.

(c) Divisions, subsidiary corporations or related companies may be named and included under one omnibus registration.

(d) The Commissioner shall issue a certificate of registration upon receipt of the following:

1. A manufacturer's or contractor's completed registration form;

2. Documentation which is suitable to the Commissioner or his or her authorized representative that the manufacturer or contractor has paid any surety bond required pursuant to N.J.S.A. 34:6-150;

3. Documentation that the registrant has workers' compensation coverage for his or her production employees working in the State; and

4. Payment of the \$300.00 registration fee made payable to the Division of Workplace Standards Apparel Registration Trust Account.

(e) New manufacturers or contractors shall file the initial registration upon the commencement of business in the apparel industry in this State. The registration shall be valid until January 15 of the following year.

(f) The certificate of registration shall be renewed by January 15 of each year.

#### 12:210-1.4 Apparel Industry Unit

(a) There is established an Apparel Industry unit, comprised of Departmental personnel, to enforce all State labor laws which affect the apparel industry.

(b) The Apparel Industry Unit has the power to:

1. Inspect manufacturers and contractors, with respect to their production employees, for compliance with:

i. The registration requirements of N.J.A.C. 12:210-1.3;

ii. State wage and hour, unemployment compensation, temporary disability, workers' compensation, child labor and industrial homework laws; and

iii. All orders and assessments of civil penalties by the Commissioner;

2. Investigate and conduct inspections of a manufacturers' or contractors' locations, books, records and premises to ensure compliance with this subchapter; and

3. Take any action necessary to implement the provisions of this subchapter.

(c) The Apparel Industry Unit members shall receive special training with regard to the State labor laws to enable them to enforce the provisions of this subchapter.

#### 12:210-1.5 Violations; penalties

(a) The following acts constitute violations of this subchapter:

1. Failure to comply with the registration requirements pursuant to N.J.A.C. 12:210-1.3;

2. Performing services or representing oneself as being registered to perform apparel industry services without holding a valid registration;

3. Contracting for the performance of an apparel industry service with a manufacturer or contractor who is known to have failed to register, renew its registration, or whose registration has been revoked; and

4. Failure to comply, for the second time in three years, with an order of the Commissioner concerning registration compliance.

(b) The following civil penalties may be imposed by the Commissioner for committing the violations in (a)1 through 4 above:

1. A fine of up to \$1,000 for an initial violation;

2. A fine of up to \$2,000 for each subsequent violation.

(c) Penalties shall be payable to the Division of Workplace Standards.

(d) An intentional failure to comply with the registration requirements shall be a crime of the fourth degree.

(e) If a manufacturer or contractor fails to comply with an order by the Commissioner to register or renew registration, the Commissioner may obtain an injunction prohibiting the manufacturer or contractor from conducting business.

(f) If a manufacturer or contractor is found guilty, after a hearing held pursuant to the Administrative Procedure Act, N.J.S.A. 51:14B-1 et seq. and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1, of two violations of the same provision of this subchapter in three years, the Commissioner may suspend the registration of any such manufacturer or contractor for a period ranging from 30 days to one year.

(g) Any manufacturer or contractor who contracts, for the second time in three years, with a manufacturer or contractor who is known to have failed to comply with the registration requirements in N.J.A.C. 12:210-1.3, shall be liable to pay any civil penalty assessed against the known violator, if such violator has not paid the penalty.

(h) As an alternative or in addition to any other sanctions provided for in N.J.S.A. 34:6-149(e) when the Commissioner of Labor finds that an employer has violated the Act, the Commissioner is authorized to assess and collect an administrative penalty in the amounts that follow:

i. First violation—not more than \$250.00;

ii. Second and subsequent violations—not less than \$25.00 nor more than \$500.00.

(i) No administrative penalty shall be levied pursuant to this subchapter unless the Commissioner provides the alleged violator with notification of the violation and the amount of the penalty by certified mail and an opportunity to request a formal hearing. A request for formal hearing must be received within 15 days following the receipt of the notice. Within the Commissioner's discretion, the hearing will be held before him or her or transmitted as a contested case to the Office of Administrative Law for a hearing.

1. The notice shall become a Final Order upon the expiration of the 15-day period following receipt of the notice if a hearing is not requested.

#### 12:210-1.6 Records

(a) Each manufacturer and contractor shall keep accurate records regarding all of its production employees during the preceding three years and make those records available to the apparel industry unit upon request. The records shall include:

1. The name and address of each production employee and the age of each production employee who is a minor;

2. The number of hours of work and the time of day that work begins and ends for each production employee;

- 3. The wages, wage rates, and piece rates paid during each payroll period;
- 4. The number of pieces per hour when piece rate is paid; and
- 5. Contract worksheets indicating the price per unit agreed between manufacturer and contractor.

**12:210-1.7 Surety bond**

(a) The Commissioner or his or her duly authorized designee may, after a hearing thereon, and after due consideration of the size and past experience of the manufacturer or contractor and the seriousness of the violation, require as a condition of continued registration the payment of a surety bond or may revoke, by order, the registration of any manufacturer or contractor for any period ranging from 30 days to one year upon being found guilty of:

- 1. A second violation of the same provision of the Apparel Registration Act within any three-year period; or
- 2. A second violation within any three-year period of the same provision of any other labor law applicable to employment of production employees.

(b) Each week in which a violation occurs constitutes a separate violation.

(c) The surety shall be made payable to the State and shall be for the benefit of production employees damaged by any failure to the manufacturer or contractor to pay wages or benefits or otherwise comply with the provisions of law. The surety bond shall be in the sum and form that the Commissioner deems necessary for the protection of the production employees, but shall not exceed \$2,500 per production employee.

(d) Surety may be held for a period of two years from the date the employer's operation ceases.

**12:210-1.8 Hearings**

(a) When the Commissioner assesses an administrative penalty under N.J.A.C. 12:210-1.5 the employer shall have the right to a hearing under (b) below.

(b) No administrative penalty shall be levied pursuant to this subchapter unless the Commissioner provides the alleged violator with notification of the violation and the amount of the penalty by certified mail and an opportunity to request a formal hearing. A request for formal hearing must be received within 15 days following the receipt of the notice. Within the Commissioner's discretion, the hearing will be held before him or her or transmitted as a contested case to the Office of Administrative Law for a hearing.

(c) Upon such hearing and a finding that a violation has occurred, such hearing officer report shall constitute a final agency determination.

(d) Recipients of an administrative penalty assessment may request the initiation of a settlement conference at the time that a hearing request is made.

(e) Payment of the penalty is due when a final agency determination is issued.

(f) Upon final order the penalty imposed may be recovered with cost in a summary proceeding commenced by the Commissioner pursuant to the Penalty Enforcement Law, N.J.S.A. 2A:58-1 et seq.

**HUMAN SERVICES**

**(a)**

**OFFICE OF FINANCE AND ACCOUNTING**

**Role of the County Adjuster**

**Proposed New Rules: N.J.A.C. 10:7**

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

Authority: N.J.S.A. 30:1-12; P.L.1990, c.73.

Proposal Number: PRN 1991-469.

Submit comments by November 6, 1991 to:

Paul W. Maksimow, Director  
Office of Finance and Accounting  
Department of Human Services  
222 South Warren Street, 4th Floor  
CN 700  
Trenton, New Jersey 08625

The agency proposal follows:

**Summary**

In accordance with P.L.1990, c.73, approved July 17, 1990, "The commissioner shall have the power to promulgate regulations to assure that county adjusters effectively and efficiently conduct investigations, notify legally responsible persons of amounts to be assessed against them, petition the courts, represent patients in psychiatric facilities, and as necessary reopen the question of payment for maintenance of persons residing in psychiatric facilities or facilities for developmentally disabled persons. Regulations may include minimum standards for determining payment of care by legally responsible persons; a uniform reporting system of findings, conclusions and recommendations; and the establishment of sanctions to assure compliance with State laws and regulations."

The Department of Human Services, Office of Finance and Accounting, as the result of the preceding law, is proposing administrative rules governing the role of the county adjusters within N.J.A.C. 10:7. The county adjuster is the county official charged with the responsibility for determining clients and/or legally responsible relatives' (LRRs) financial ability to pay for the cost of care and maintenance for services received from the Division of Developmental Disabilities (DDD) and the Division of Mental Health and Hospitals (DMH&H). This determination is obtained by the county adjuster through an investigation of the client's/LRR's financial resources. The county adjuster also determines the client's legal settlement and assists the county court system in the correct and timely completion of the appropriate commitment court order(s). The county adjuster reviews and approves State bills to the county and prepares and/or reviews county bills for their county settlement clients/LRRs.

The reason for the proposed new rules is to standardize the procedures utilized by the 21 county adjusters in accomplishing their responsibilities.

**Social Impact**

The rules governing the role of the county adjusters affect and work to the benefit of the client, as the client will be receiving standardized services from each county adjuster, for services rendered by the Department of Human Services, Division of Developmental Disabilities, Division of Mental Health and Hospitals, and the county psychiatric facilities.

**Economic Impact**

The proposed new rules should have a minimal economic impact upon the public. There is no added cost to the State. There may be a slight administrative cost to the individual counties to implement the proposed new rules. The public as taxpayers will benefit. The county adjuster's offices will have a more efficient and consistent operation with formal standards and procedures for the investigation of settlement and determination of clients' and LRRs' ability to pay for DMH&H and DDD services and the county psychiatric facilities. This will add to the resources available to both the State and the counties.

**Regulatory Flexibility Statement**

The rules governing the role of the county adjusters only affect certain Human Services clients, public employers and employees. Thus, these proposed new rules do not impose any reporting, recordkeeping or other compliance requirements upon small businesses. Therefore, a regulatory flexibility analysis is not required.

Full text of the proposed new rules follows:

**CHAPTER 7**

**ROLE OF THE COUNTY ADJUSTER**

**SUBCHAPTER 1. GENERAL PROVISIONS**

**10:7-1 Purpose and scope**

(a) In accordance with P.L. 1990, c.73, approved July 17, 1990, the Department of Human Services, Office of Finance and Accounting is codifying the administrative rules governing the role of the county adjuster. The promulgation of these rules shall assure that

the role of each county adjuster is standardized and carried out in an effective and efficient manner.

(b) These rules on the role of the county adjuster apply to the county adjusters of the 21 counties of the State of New Jersey.

(c) The rules, on the role of the county adjuster, relating to the Administrative Office of the Courts (AOC), have been written utilizing the Civil Practice Rules 4:74-7, Civil Commitment, current during 1991. Should these civil commitment rules be changed in the future, the latest effective Civil Practice Rules 4:74-7, Civil Commitment, shall supercede these rules, where appropriate.

## SUBCHAPTER 2. DEFINITIONS

### 10:7-2 Definitions

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

"Agency" means a Division, institution, facility, or organizational unit within the Department of Human Services.

"Amended order" means a superior court order changing the terms of a court order.

"Chief executive officer" means the highest ranking official in a State agency or county psychiatric facility.

"Client" means an individual receiving services from the Department of Human Services or the county psychiatric facilities.

"Compromise" means a decision made by the Office of the Commissioner, with regard to State agencies and the county governing body or a proper committee thereof, with regard to a county psychiatric facility, as authorized by N.J.S.A. 30:4-77 and 30:4-80.6, to: satisfy any debt due to a State agency or county psychiatric facility, as appropriate, by accepting less than the amount owed; or release all or part of the assets subject to a lien claim for the use or benefit of the client or his/her dependents, heirs or assignees. A compromise is not necessary for the release of a lien claim if a partial payment is made that constitutes the final distributive share to a creditor (the Department or county) from: the estate of a deceased client; or assets available from a bankruptcy proceeding of a client or former client. (N.J.S.A. 30:4-80.6)

"Compromise offer" means a written offer by or on behalf of a client or former client to: satisfy any debt due to a State agency or county psychiatric facility by offering less than the amount owed; or release all or part of the assets subject to a lien claim for the use or benefit of the client or his/her dependents, heirs, or assignees. Compromise offers can also be made by or on behalf of legally responsible relatives (LRRs) to satisfy any unpaid debts the LRR is obligated to pay, as substantiated by a court order, for the care and maintenance of a client or former client. (N.J.S.A. 30:4-80.6)

"County adjuster" means the county official charged with the responsibility for determining the client's financial ability to pay the DHS agency and/or the county psychiatric facility for the cost of care and maintenance. The individual is also responsible for determination of a client's legal settlement. The use of this term in these rules shall mean the county adjuster or county designee.

"County bills" means the monthly State charges to the counties for their share of care and maintenance costs for services provided by the various Department of Human Services agencies to county chargeable clients.

"County of admission/commitment" means the county where the temporary order of commitment was signed committing a client to a short-term care facility, psychiatric facility or special psychiatric hospital or where a voluntary or DDD client is admitted to a facility for treatment. The county of admission/commitment issues the original and all amended support orders, unless venue has been transferred to the county of settlement. The county of admission/commitment need not be the county of settlement.

"County per diem rate" means the daily per capita rate established for each State agency. It is set annually by the State House Commission. It is used to charge counties for their share of the cost of care and maintenance for clients with county settlement in State operated facilities.

"County psychiatric facility" means a county operated psychiatric facility which participates in the State Aid Program of the New Jersey Division of Mental Health and Hospitals.

"County settlement" means continuous residence of a client or parents of a child under age 18 in a county for a period of not less than five years immediately preceding the date of application for admission/commitment. The time spent in any charitable or correctional institutions, or public hospital does not count toward an establishment of or a change in a client's settlement. (Refer to N.J.S.A. 30:4-49 et seq. for additional settlement criteria.)

"Court order" means a legal document issued by the superior court that authorizes the admission/commitment/discharge of a client and specifies financial liability and/or legal settlement of the client.

"Division of Developmental Disabilities" (DDD) means a division of the Department of Human Services which administers the State developmental centers, provides special residential facilities, and supplies social services for the developmentally disabled.

"Division of Mental Health and Hospitals" (DMH&H) means a division within the Department of Human Services which establishes State-wide policy and coordination regarding the delivery of mental health services, operates the seven State psychiatric hospitals, and contracts with community-based mental health providers for direct services.

"Involuntary commitment—adult" means a commitment of an adult who is mentally ill, whose mental illness causes the person to be dangerous to self or dangerous to others or property and who is unwilling to be admitted to a facility voluntarily for care, and who needs care at a short term care facility, psychiatric facility or special psychiatric hospital because services are not appropriate or available to meet the person's mental health care needs. (N.J.S.A. 30:4-27.2m)

"Involuntary commitment—minor" means a commitment of a minor in need of intensive psychiatric therapy which cannot practically or feasibly be rendered in the home or in the community or on an outpatient basis. (Civil Practice Rules 4:74-7(f))

"Legal settlement" means the client's legal residence defined by statute and used to determine whether the State and/or a specific county is responsible for the cost of care and maintenance of the client if he/she is unable to pay the full private rate. (Refer to N.J.S.A. 30:4-49 et seq. for additional settlement criteria.)

"Legally responsible relative (LRR)" means a spouse, mother, father, or adult child who is statutorily responsible for a client's cost of care and maintenance. (Refer to N.J.S.A. 30:4-66 for additional criteria.)

"Lien" means a legal encumbrance against the assets of a client or LRR precluding disposition until settlement with the State and/or county for services. Settlements in this context can take many forms, for example, payment, compromise, etc. Liens are filed by the chief executive officer (or equivalent) or a duly constituted agent, for example, county adjuster or supervisor of patient's accounts (SPA). (N.J.S.A. 30:4-80.1, 80.2 and 80.3 et seq.)

"Lien subordination" means a lien claim for the cost of care and maintenance on a client/LRR is placed in a subordinate position to another debt.

"Maintenance bill" means a billing, by year, reflecting the number of days a client was present at the agency, multiplied by the daily State Board of Human Services rate for those years. From this charge, all payments and recoveries realized from the client and/or LRR are deducted.

"No settlement" means a client who does not have State or county settlement and is charged to the State pending his or her removal to the place where he/she has legal settlement, if any. (N.J.S.A. 30:4-52)

"Notice of Commitment Hearing" means a written document giving the time and place of the commitment hearing. The form of notice served upon the client and his or her counsel or guardian *ad litem* shall include a copy of the temporary court order, a statement of the client's rights at the hearing and the screening or clinical certificates and supporting documents. (Civil Practice Rules 4:74-7(c)(4))

"Order of Commitment" means a document signed by either a municipal court judge or a superior court judge which orders a client

to be detained in or transferred to a short-term care facility, a psychiatric facility, or a special psychiatric hospital and contains all the terms mandated in the Civil Practice Rules 4:74-7(c)4.

"Order of Settlement and Support" means a superior court order establishing legal settlement and financial obligations for institutional care. The order determines the extent of county, State, client and LRR liability.

"Petition for Settlement and Maintenance" means a document by which the county adjuster petitions the court for the designation of the client's legal settlement and provision for payment of the expenses of the client's care and treatment. The petitions shall be accompanied by a report stating the results of the county adjuster's investigation and his or her recommendations. (Civil Practice Rules 4:74-7(i)(1))

"Power of attorney" means a legal document authorizing an individual to represent another.

"Private rate" means the full per capita rate as set by the State Board of Human Services for State agencies and the county governing body or a proper committee thereof for the county psychiatric facilities.

"Psychiatric facility" means a State psychiatric hospital listed in N.J.S.A. 30:1-7, a county psychiatric hospital, or a psychiatric unit of a county hospital. (N.J.S.A. 30:4-27.2u)

"Recovery" means any money received on behalf of a client to offset accumulated maintenance charges for care and treatment in a State or county facility or community program. Sources of recoveries may include: regularly recurring income such as wages, pensions, interest, annuity benefits and Social Security benefits; inheritances; judgements; voluntary contributions; LRR contributions; and Medicare and other third-party insurance coverage.

"Release of property from lien" means to preserve a lien on a client/LRR while removing certain property from its effect. (N.J.S.A. 30:4-80.4)

"Representative payee" means an individual or agency receiving federal annuity benefits for another person. A representative payee is necessary whenever a client is incapable of managing funds.

"Short-term care facility" means an inpatient, community based mental health treatment facility which provides acute care and assessment services to a mentally ill person whose mental illness causes the person to be dangerous to self or dangerous to others or property. A short-term care facility is so designated by the Commissioner and is authorized by the Commissioner to serve persons from a specified geographic area. A short-term care facility may be a part of a general hospital or other appropriate health care facility and shall meet certificate of need requirements and shall be licensed and inspected by the Department of Health pursuant to P.L. 1971, c.136 (N.J.S.A. 26:2H-1 et seq.) and in accordance with standards developed jointly with the Commissioner of Human Services. (N.J.S.A. 30:4-27.2bb; N.J.A.C. 8:43E-3.3).

"Special psychiatric hospital" means a public or private hospital licensed by the Department of Health to provide voluntary and involuntary mental health services, including assessment, care, supervision, treatment and rehabilitation services to persons who are mentally ill. (N.J.S.A. 30:4-27.2cc)

"State House Commission" means commission empowered by the State Legislature to establish the yearly per capita costs to counties for client maintenance in county psychiatric facilities and in specific State funded programs in the Department of Human Services.

"State settlement" means when there is no continuous residency in any county for a period of five years or more immediately preceding the date of admission/commitment and there is continuous residence in the State for one year. There are no county charges. (N.J.S.A. 30:4-51)

"Treasury formula" means the method of determining the financial ability to pay for care and maintenance by a client and/or LRR(s). (N.J.S.A. 30:4-60)

"Voluntary admission—adult" means an admission of an adult who is mentally ill, whose mental illness causes the person to be dangerous to self or dangerous to others or property and is willing to be admitted to a facility voluntarily for care, needs care at a short-term care or psychiatric facility because other facilities or services

are not appropriate or available to meet the person's mental health care needs. A person may also be voluntarily admitted to a psychiatric facility if his or her mental illness presents a substantial likelihood of rapid deterioration in functioning in the near future, there are no appropriate community alternatives available and the psychiatric facility can admit the person and remain within its rated capacity. (N.J.S.A. 30:4-27.2ee)

"Voluntary admission—minor" means any minor 14 years of age or over may request his or her admission to an institution for psychiatric treatment provided the court, on a finding that the minor's request is voluntary, enters an order approving the admission. If an order approving a voluntary admission of a minor is entered, the minor may discharge himself or herself from the institution in the same manner as an adult who has voluntarily admitted himself or herself. (Civil Practice Rules 4:74-7(k))

"Warrant to Enter Satisfaction" means the legal document by which the satisfaction of liens are authorized. They are signed by the chief executive officer or equivalent at the State agency or county psychiatric facility making the claim. (N.J.S.A. 30:4-4.80.6)

### SUBCHAPTER 3. COMMITMENTS/ADMISSIONS/REVIEWS/DISCHARGES

#### 10:7-3.1 Procedures for commitments/admissions/reviews/discharges

(a) The county adjuster shall be responsible for commitment, admission, reviews and discharges of persons receiving DDD services and DMH&H services (including county psychiatric facilities).

(b) The county adjuster's responsibilities for commitments/admissions to DMH&H services (including county psychiatric facilities) are as follows:

1. Regarding voluntary admissions, the county adjuster shall arrange for a hearing at short-term care facilities, psychiatric facilities or special psychiatric hospitals for all involuntary clients converting to voluntary status within 20 days of conversion. The county adjuster shall arrange for hearings within 20 days of admission to short-term care facilities and psychiatric facilities for voluntary admitted clients from screening centers. The county adjuster shall make certain that the client is represented by counsel at the hearing. The county adjuster shall review the notification of voluntary admission documentation for sufficiency and correctness. The county adjuster shall conduct an investigation to determine the client's/LRR's ability to pay for the cost of care and maintenance per N.J.A.C. 10:7-4.

2. Regarding involuntary commitments, the county adjuster shall receive commitment papers for clients committed to Federal facilities, short-term care facilities, psychiatric facilities or special psychiatric hospitals. The county adjuster shall review the involuntary admission documents for sufficiency and correctness and shall forward the involuntary admission documents to the court for its consideration and possible issuance of a temporary commitment order, except when the hospital/facility seeks a temporary commitment order on an emergent basis during non-business hours. The county adjuster shall arrange for a commitment hearing to be held in accordance with Civil Practice Rules 4:74.7, Civil Commitment. The county adjuster shall include, in the form of the notice of commitment hearing served upon the client and his or her counsel or guardian ad litem, a copy of the temporary court order, a statement of the client's rights at the hearing and the screening or clinical certificates and supporting documents. The county adjuster, as directed by the court, shall make certain that the client is represented by counsel at the hearing.

3. The county adjuster shall arrange for the conduct of review hearings, as directed by the court. The county adjuster shall make certain that the client is represented by counsel at the review hearing. The county adjuster shall prepare and submit for the court's action the appropriate order.

4. The county adjuster shall complete reports to the Administrative Office of the Courts (AOC) each month, as directed by the court. These reports include information utilized to track all involuntary and voluntary psychiatric commitments/admissions through the court system.

(c) Regarding admissions to DDD services, the county adjuster shall receive the DDD admissions documentation once eligibility and placement are determined. The county adjuster shall review the DDD admissions documentation for sufficiency and correctness.

(d) If the county adjuster is licensed to practice law in this State, the county adjuster shall present the case for the client's involuntary commitment to the court. The county adjuster shall be available to advise the court of the appropriate Federal and State laws and regulations pertaining to commitment and review hearings.

(e) The county adjuster, for those counties with Medicaid-certified county psychiatric facilities, shall make certain that a Medicaid application has been submitted for each potentially eligible client.

(f) The county adjuster shall process the necessary documentation for the payment of legal representation and/or interpreters utilized by clients at their hearings, where necessary.

#### SUBCHAPTER 4. COURT ORDERS OF SETTLEMENT AND SUPPORT

##### 10:7-4.1 County adjuster's responsibilities for preparing court orders of settlement and support

(a) The county adjuster, at the discretion of the court, shall act as referee to conduct investigations to determine each client's legal settlement and the client's/LRR's financial ability to pay for the cost of care and maintenance. This investigation shall be a thorough and systematic attempt to learn the facts about the client's/LRR's financial circumstances and residence(s).

1. The county adjuster shall utilize his or her subpoena powers to conduct such investigation, when necessary.

2. The investigation shall be completed within six to eight weeks but no later than 60 days after receipt of notification of admission/commitment of the client.

3. The county adjuster's investigatory testimony, in the form of findings, conclusions and recommendations, are subject to the approval of the court and shall be based on factual evidence.

4. The county adjuster shall utilize the "Methodology and Formula for Determination of Financial Ability to Pay of Clients and Legally Responsible Relatives—The Treasury Formula" procedures manual. Published annually, this manual assists in identifying those areas to be addressed by these investigations.

5. The county adjuster of the county of admission shall refer all cases when an investigation indicates settlement is in another county. The county adjuster of the county to which the client's case is referred shall review the information provided by the county of admission, conduct its investigation as required and respond in writing to the referring county. If accepted, the county of admission shall obtain an order transferring venue to the county of settlement and the county of settlement will then proceed with petition.

(b) The formal investigation to determine legal settlement shall take into consideration each of the following listed items. However, it need not be limited to just those items. The county adjuster shall:

1. Obtain client residency data from screening, admissions and commitment documents;

2. Contact facilities from previous admissions of the client to obtain residency data and to inquire as to the county of admission and the classification of the admission (including private hospitals, county facilities, other counties and their facilities, and State agencies);

3. Interview the client for residency data, when possible;

4. Interview the client's spouse, relatives, friends and neighbors for residency data;

5. Obtain residency data from Federal, State and county agencies supplying the client with benefits or assistance (SSA, SSI, SSD, RR, VA, Pensions, Medicare, Medicaid, DYFS, DEA, General Assistance, etc);

6. Contact county, State and Federal correctional facilities for residency data (including county probation offices), if applicable;

7. Review local municipal records to verify residency data, such as property tax records, occupancy permits/inspections, etc.;

8. Obtain written verification of residency data, whenever possible;

9. Obtain oral verification of residency data when written data is not obtainable; and

10. Keep a record of the client's settlement investigation, including date, time, data obtained, method data obtained and the source of the data.

(c) The formal investigation of support to determine financial ability of the client and/or LRR(s) to pay shall take into consideration each of the following listed items. However, it need not be limited to just those items. The county adjuster shall:

1. Obtain client financial data from admissions documents;

2. Contact facilities from previous admissions of the client to obtain financial data (including private hospitals, county facilities, other counties and their facilities, and State agencies);

3. Interview the client for financial data, when possible;

4. Interview the client's spouse, relatives, friends and neighbors for financial data;

5. Obtain financial data from Federal, State and county agencies supplying the client with benefits or assistance (SSA, SSI, SSD, RR, VA, Pensions, Medicare, Medicaid, DYFS, DEA, General Assistance, etc.);

6. Obtain client's/LRR's employment financial data, when possible;

7. Review client/LRR's tax records, pay stubs, banking/savings institution's records, employment retirement records, insurance records, etc., for financial data;

8. Contact county, State and Federal correctional facilities for financial data, if applicable;

9. Review local municipal records to verify financial data, such as property tax records;

10. Obtain written verification of financial data, whenever possible;

11. Obtain oral verification of financial data when written data is not obtainable;

12. Keep a record of the client's/LRR's financial investigation, including date, time, data obtained, method data obtained and the source of the data; and

13. Complete the appropriate treasury formula worksheets.

(d) The county adjuster shall utilize the procedures found in the "Methodology and Formula for Determination of Financial Ability to Pay of Clients and Legally Responsible Relatives—The Treasury Formula" procedures manual to calculate the amount of monthly charges to clients/LRRs.

1. The county adjuster shall utilize the appropriate treasury formula worksheets. The county adjuster shall complete the appropriate worksheet to the maximum extent possible. The county adjuster shall complete the "Summary of Total Charges" form for each client/LRR.

2. The county adjuster shall only utilize the manual for the current calendar year. The "Methodology and Formula for Determination of Financial Ability to Pay of Clients and Legally Responsible Relatives—The Treasury Formula" procedures manuals are distributed in December of each year with an effective date of January 1st of the next year. Copies can be obtained from the:

Department of Human Services  
Office of Finance and Accounting  
222 South Warren Street, 4th Floor  
CN 700  
Trenton, New Jersey 08625

(e) The county adjuster shall review the settlement and support court orders prior to submission to make sure that they are in compliance with all appropriate Federal and State laws and regulations. Specifically, the county adjuster shall ensure that said orders do not contain Federal benefit funds consisting of Social Security benefits, Veterans Administration benefits, Railroad Retirement benefits and/or Federal Civil Service Pension benefits.

(f) The county adjuster shall submit a petition for the court to determine the client's legal settlement and provision for payment of expenses of the client's care and maintenance, in accordance with Civil Practice Rules 4:74.7, Civil Commitment. The county adjuster shall attach a report to the petition which includes the investigative findings and/or testimony, the treasury formula worksheet(s), the

results of the investigation and the recommendations for an order of settlement and support. The county adjuster shall schedule a hearing, with proper notice, for settlement and support, only if there are objections to the proposed court order. The county adjuster shall distribute a copy of the petition and report:

1. Directly to the client or the client's guardian or guardian ad litem, if any, by certified mail, return receipt requested, or as directed by the court;

2. To the client's counsel, by regular mail, as required;

3. To the supervisor of patients accounts of the State agency where the client is located, by regular mail;

4. To the CEO or his or her designee of the county psychiatric facility, by regular mail;

5. To the Division of Mental Health and Hospitals for State and no settlement clients in county psychiatric facilities, by regular mail; and

6. To the legally responsible relative(s) (LRRs), where applicable, by certified mail, return receipt requested, or as directed by the court.

(g) The county adjuster shall file the completed Orders of Settlement and Support in the county clerk's office of the county of settlement.

(h) The county adjuster shall be available to advise the court of any Federal and State laws and regulations pertaining to hearings on petitions for proposed Orders of Settlement and Support.

(i) The county adjuster shall re-evaluate the client's and/or LRR's financial circumstances annually or sooner when information is obtained that their financial circumstances have changed. The county adjuster shall take the appropriate action to initiate an amendment to the client's and/or LRR's Order of Settlement and Support.

(j) The county adjuster shall distribute copies of the following documentation to the appropriate agency's supervisor of patients' accounts, or equivalent, no later than 90 days after receipt of notification that the client is admitted/committed:

1. An appropriate Order of Settlement and Support;

2. An amended Order of Settlement and Support, if applicable;

3. Investigative findings and/or testimony;

4. Treasury Formula worksheets;

5. Summary of Monthly Charges form(s); and

6. Outside representative payee voluntary agreement(s), if applicable.

## SUBCHAPTER 5. ACCOUNTING

### 10:7-5.1 County adjuster accounting procedures

(a) The county adjuster is responsible for accounting activities with respect to the State billing for clients with county settlement, the county billing for clients with State or no settlement, and billing and collection of client and/or LRR maintenance contributions and recoveries for clients with county settlement.

(b) The county adjuster shall review and reconcile the State billing to the county for clients with county settlement. The county adjuster shall determine that those clients charged to the county have appropriate county settlement, and that the number of days charged are accurate to the extent possible. The county adjuster shall certify to the county administration that the State billing is correct and is authorized for payment.

1. The county adjuster shall notify the Department of Human Services, Office of Finance and Accounting, in writing within 25 days from the date of receipt of the State billing of any adjustments required.

2. The county adjuster shall review all credits issued by the State to determine if appropriate for clients charged to the county. The county adjuster shall notify the State within 25 days of receipt of the credits of any discrepancies, additional information and/or adjustments required.

(c) The county adjuster shall review the county billing to the State and certify to the State that clients billed by the county psychiatric facility have appropriate State or county settlement and that the clients were resident in the facility for the number of days charged.

1. The Department of Human Services, Division of Mental Health and Hospitals shall notify the county adjuster in writing within 25

days from the receipt of the county billing of any adjustments required.

2. The county adjuster shall review all credits issued by the county to the State to determine if the clients were properly charged to the State. The Division of Mental Health and Hospitals will review the accuracy of the credits to the State and notify the county adjuster within 25 days of receipt of any adjustments required.

(d) The county adjuster shall actively pursue court-ordered and voluntary contributions due from county chargeable clients. A monthly statement shall be issued to contributing clients and/or LRRs indicating the amount of contribution expected (court ordered or voluntary) for the month as well as any open balances from previous months.

(e) The county adjuster shall maintain a ledger account for each client with county settlement. This ledger shall reflect the amounts of county charges incurred on the clients' behalf for services in State agencies and county psychiatric facilities. The ledger shall also reflect the amounts of offsetting client/LRR contributions, State maintenance recoveries, retroactive recoveries (compromises, settlements, etc.), and credits from county and/or State facilities for Medicare and/or commercial insurance recoveries.

(f) The county adjuster shall issue a monthly report to the Department of Human Services, Office of Finance and Accounting, indicating the amounts of client/LRR court ordered and/or voluntary contributions received by client, service period, and nature of contribution. This report shall be issued no later than 25 days after the end of each month on forms developed by the State.

1. The county adjuster shall report LRR contributions for county chargeable clients in DDD Intermediate Care Facility/Mental Retardation (ICF/MR) facilities to the Division of Medical Assistance and Health Services.

2. The county adjuster shall issue an aged statement of court ordered accounts receivable to the Department of Human Services, Office of Finance and Accounting, and the county administration on forms developed by the State. This statement shall reflect the amounts outstanding at the end of each quarter resulting from the county contributor billing. The statement shall reflect the age of the amounts due from each client by segregating the amounts in the following categories: one to three months, three to six months, six to 12 months, 13 to 24 months, 25 to 36 months, and over 36 months old. The statement shall also segregate all balances for litigation, which has been initiated or is pending for collection, and write-offs.

i. For the purpose of reporting to the State, the county adjuster shall not consider voluntary contributions as receivables.

ii. For court-ordered contributions, the county adjuster shall initiate individual collection efforts for those balances outstanding for more than six months.

iii. For court ordered contributions, the county adjuster shall refer to the court for collection, those balances outstanding for more than one year.

iv. For court ordered contributions, the county adjuster shall prepare justification to support balances outstanding for more than two years. The justification shall document previous collection efforts taken in accordance with (f)2ii and iii above.

v. For court-ordered contributions, the county adjuster shall prepare a request to remove from the receivables, those balances determined to be uncollectible. The removal of the receivable, an accounting transaction, must be reported to the Department of Human Services, Office of Finance and Accounting. For court-ordered contributions, the county adjuster shall prepare an amended order for removal of those balances determined to be uncollectible.

(g) The county adjuster shall forward for payment a duly executed voucher to be issued to the State within 25 days after the end of each month. This payment shall remit to the State amounts collected by the county in excess of the county share of the cost for county clients in State agencies and programs. The amounts paid by client, service period and source, shall be made payable to the "Treasurer, State of New Jersey" and mailed with a remittance advice, on a form developed by the State, to the "New Jersey Department of Human Services, P.O. Box 15280, Newark, New Jersey 07192." Amounts

reported shall also be segregated into court-ordered payments and voluntary payments.

(h) The county adjuster is responsible for reconciling with the State agencies the county charges on behalf of clients with county settlement in State agencies net of subsequent contributions and recoveries, on a monthly basis.

#### SUBCHAPTER 6. LIENS

##### 10:7-6.1 Procedures for the handling of Liens and Compromises

(a) If after collecting third party insurance and other payments, there is still an outstanding debt, the county adjuster shall file a lien for the cost of care and maintenance against the real and personal property of every State and county settlement client admitted or committed to a State agency or county psychiatric facility, whether or not a client has any known property. Such liens shall be filed by the chief executive officer or his or her designee or by the county adjuster on his or her specific request for authorization to the chief executive officer. The only exception is that liens for Medicaid clients shall be filed by the Division of Medical Assistance and Health Services. The county adjuster, when authorized, shall file the non-Medicaid liens with the county clerk, or the register of deeds and mortgages, as appropriate for that county. The county adjuster may also file liens with the clerk of the Superior Court of New Jersey, depending on the circumstances.

1. Regarding state agencies, the county adjuster, acting as an agent for a particular Department of Human Services agency, may request and be authorized in writing by the chief executive officer to file the liens required for all clients, except Medicaid clients, with their county's settlement. This authorization to file liens is in the form of a power of attorney, which shall be completed anew whenever the county adjuster and/or the person authorizing the power of attorney changes.

i. The county adjuster, if authorized to file liens by the chief executive officer of the agency, shall file liens against LRRs of clients only when the LRR fails to pay the court ordered payments which were based on his/her ability to pay. (N.J.S.A. 30:4-80.1)

ii. The county adjuster, if authorized to file liens, shall mail a copy of the lien by certified mail, return receipt requested, to the client, the LRR, or the person with power of attorney over the client's assets. Additionally, a copy shall be forwarded by regular mail to the State agency.

2. Regarding county psychiatric facilities, the county adjuster shall request authorization in writing from the chief executive officer of the county psychiatric facility to file liens against all clients, except those receiving Medicaid, in the county psychiatric facility and their LRRs, as appropriate. Liens shall be filed against LRRs only when they fail to make the court ordered payments based on their ability to pay. (N.J.S.A. 30:4-80.1)

i. The county adjuster shall mail a copy of the lien by certified mail, return receipt requested, to the client, the LRR, or the person with power of attorney over the client's assets. Additionally, a copy shall be mailed to the county psychiatric facility.

3. Liens shall not be filed against those portions of bank or investment accounts which are comprised of Social Security, Veterans Administration, Railroad Retirement or Federal Civil Service benefits. Federal law specifies that these benefits be excluded from legal attachment.

(b) A lien against a client shall only be discharged after receiving payment in full for the outstanding cost of the client's non-Medicaid care and maintenance, as documented in the client profile (see N.J.A.C. 10:7-5.1(e)), or as a result of a compromise and settlement. Only the Division of Medical Assistance and Health Services shall discharge Medicaid filed liens. A lien against an LRR shall be discharged after receiving payment of the delinquent court ordered payments from the LRR or the client or as stipulated in a compromise and settlement.

1. Regarding state agencies, the chief executive officer of the State agency shall discharge a lien by filing a "Warrant to Enter Satisfaction" in the county or with the clerk of the Superior Court of New Jersey, depending on where the original lien(s) were filed.

i. The chief executive officer shall mail a copy of the "Warrant to Enter Satisfaction" by certified mail, return receipt requested, to the client, the LRR, or the person with power of attorney over the client's assets. Additionally, a copy shall be mailed, by regular mail, to the county adjuster if the involved client has county settlement.

2. Regarding county psychiatric facilities, the chief executive officer of a county psychiatric facility or his or her designee shall discharge a lien by filing a "Warrant to Enter Satisfaction" with the county or with the clerk of the Superior Court of New Jersey, depending on where the original lien(s) were filed.

i. The chief executive officer of a county psychiatric facility or his/her designee shall mail a copy of the "Warrant to Enter Satisfaction" by certified mail, return receipt requested, to the client, the LRR, or the person with power of attorney over the client's assets. Additionally, a copy shall be mailed, by regular mail, to the county adjuster to be placed in the client's file.

##### 10:7-6.2 Procedures for compromises, settlements, releases of property from liens and lien subordinations.

(a) The following apply only to actions on non-Medicaid liens or debt. Liens filed by Division of Medical Assistance and Health Services shall only be compromised, settled, subordinated or released by Division of Medical Assistance and Health Services.

(b) Regarding state agencies, the county adjuster shall forward all requests for compromises, settlements, releases of property from liens and lien subordinations to the State agency involved. The county adjuster shall be notified of a compromise by the State or by an original request. The county adjuster shall include his or her written opinion and any additional information on the request in the package sent to the appropriate State agency. The agency will process the request and the Department of Human Services, Office of Finance and Accounting, will notify the county adjuster of the decision and action taken.

(c) Regarding county psychiatric facilities, the county adjuster shall investigate, gather testimony in the form of findings and conclusions and make recommendations to the county governing body concerning the compromise of lien claims for current and former clients and/or LRRs of clients in county psychiatric facilities.

1. The county adjuster shall request an opinion from the Department of Human Services, Office of Finance and Accounting, on all compromises where the State is a creditor party to the lien.

2. The county adjuster shall notify the Department of Human Services, Office of Finance and Accounting, within 30 calendar days, of all compromises of liens and provide the appropriate amount of funds owed to the State of New Jersey by the client/LRR in accordance with the laws for the time periods covered by the lien and the compromise settlement.

3. The county adjuster shall mail a copy of the letter of approval/disapproval of a compromise offer to the client, the LRR, or the person with power of attorney over the client's assets. A copy of this letter shall also be forwarded to the Department of Human Services, Office of Finance and Accounting.

(d) Regarding county psychiatric facilities, on occasion, requests may be received from clients, former clients or LRRs to permit the release of specified property from a lien or to subordinate a lien. Generally these requests are as a result of a desire to secure a home equity loan, second mortgage, car loan or to avoid a foreclosure proceeding. Each request shall be reviewed on a case-by-case basis and the approval/disapproval of the request should be documented to the requestor and in the client's file. By subordinating the lien or releasing only specified property from the lien, the county and State are able to maintain their claims for potential collection in the future.

1. If a lien has encumbered a savings or investment account which is exclusively Social Security, Veterans Administration, Railroad Retirement or Federal Civil Service benefits, the chief executive officer of the county psychiatric facility or his or her designee (the county adjuster if so designated) shall immediately release the account from the lien by filing a "Release of Property from Lien" form. Federal law specifies that these benefit funds are immune from legal attachment.

2. The chief executive officer of the county psychiatric facility or his or her designee (the county adjuster if so designated) shall file the "Release of Property from Lien" and "Lien Subordination Form" with the county or with the clerk of the Superior Court of New Jersey, depending on where the original lien(s) were filed.

SUBCHAPTER 7. ADMINISTRATION

10:7-7.1 Procedures for administering the county adjuster's office

(a) In addition to the county government's record keeping requirements, the county adjuster shall maintain client legal and financial records for the life of the client plus, 20 years. The county adjuster shall ensure that county records retention schedules reflect this record keeping requirement.

1. The county adjuster shall ensure that these records are secured in accordance with the appropriate Federal and State confidentiality and/or access laws and regulations.

2. The county adjuster shall ensure that records to be microfilmed/fiched are not destroyed until the microfilm/fiche has been returned from processing and reviewed. Such film shall be scanned for light spots, piggy-backed items and illegibility. If a problem has developed, the original documents shall be reprocessed.

(b) The county adjuster shall serve as a member of the county Board of Social Services, as required by law (N.J.S.A. 44:7-7). The county adjuster shall also serve as a member of other boards or committees as directed by their county government.

(c) The county adjuster shall conduct mental health searches of individuals seeking gun permits for any history of psychiatric admissions within the county, as required by law (N.J.S.A. 2C:58-3c).

(d) The county adjuster shall participate, where appropriate, in guardianship proceedings.

(e) The county adjuster shall accomplish those office administrative duties which include, but are not limited to, the areas of personnel, payroll and budgeting as determined by the county.

(f) The county adjuster shall act as liaison between county government, the clients/LRRs, and the Department of Human Services agencies.

1. The county adjuster shall forward to the Department of Human Services, Office of Finance and Accounting, each January, a current organizational chart of the adjuster's office with names of employees, their titles and their office phone numbers.

2. The county adjuster shall report all communication/cooperation problems with State agencies to the Department of Human Services, Office of Finance and Accounting, to permit appropriate corrective actions.

3. The county adjuster may act as liaison with the Administrative Office of the Courts (AOC) pertaining to involuntary commitments.

(g) The county adjusters shall also complete any number of additional responsibilities that their particular county government or AOC may assign.

SUBCHAPTER 8. SANCTIONS/APEAL PROCEDURES

10:7-8.1 Sanctions for Non-Compliance with Federal and State Laws and Regulations

The county adjuster shall assure compliance with Federal and State law and these regulations or appropriate sanctions may be applied. A county's failure to submit required legal documents, financial reports and payments within the time periods specified may result in the imposition or initiation of sanctions by the Commissioner of the Department of Human Services. Sanctions shall be initiated at the Commissioner's discretion on a case-by-case basis. Sanctions may be administrative and/or financial. Administrative sanctions may be, but are not limited to, letters of warning and/or notice to the county for non-compliance and/or referral to the Attorney General for advice and/or action. Financial sanctions may be, but are not limited to, the withholding of funds from the county.

10:7-8.2 Procedures for appeals from sanctions

(a) The governing body of each county shall be afforded an opportunity to appeal any sanction imposed. Appeals will not be expected to resolve issues which have policy implications or broader applicability. There are two levels of appeal available:

1. Level 1: A request for a Level 1 appeal will be considered timely filed if it is submitted in writing to the Department of Human Services, Director of Finance and Accounting within 30 days of receipt of the State applied sanctions.

i. The first level of appeal represents an informal administrative process. The appeal will be heard by the Director and appropriate staff of the Office of Finance and Accounting of the Department of Human Services within 60 days of receipt.

ii. The county should be prepared to present such substantiating materials as may be required for an informal discussion of the subject matter.

iii. This level of appeal will attempt to reach equitable resolutions of the matters under dispute.

2. Level 2: If the county is not satisfied with the results of the first level of appeal, a second level may be requested. A request for a Level 2 appeal will be considered timely filed if it is submitted in writing to the Commissioner, Department of Human Services, within 60 days of receipt of notification of results of the Level 1 appeal.

i. The second level appeal will be heard by a panel of representatives from the Department of Human Services consisting of the Commissioner or designee, the Assitant Commissioner of Budget, Finance and Administration or designee, and the Director(s) of the Division(s) appropriate to the subject under dispute. The Department will schedule an appropriate time and place for the panel to hear the appeal within 60 days of receipt.

(b) Any financial adjustments resulting from an appeal will be determined during the appeals process and depend on the specific situation.

(c) The date of submission is defined as the date received by the Department.

(a)

OFFICE OF EDUCATION

Referral of Handicapped Students for Adult Educational Services

Proposed Readoption: N.J.A.C. 10:12

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

Authority: N.J.S.A. 30:1-12 and 18A:46-18.2 et seq. (P.L.1986, c.32).

Proposal Number: PRN 1991-471.

Submit comments by November 6, 1991 to:

Patricia Holliday, Ed.D.  
Director, Office of Education  
Department of Human Services  
10 Quakerbridge Plaza  
CN 700  
Trenton, New Jersey 08625

The agency proposal follows:

Summary

Pursuant to Executive Order No. 66(1978), the rules governing the referral of handicapped students for adult educational services (N.J.A.C. 10:12) expire on January 5, 1992. The Office of Education has reviewed these rules and determined them to be necessary, reasonable, adequate, efficient, understandable and responsive to the purpose for which they were originally promulgated. The readoption is necessary in order to ensure that the multidisciplinary treatment team at each State residential facility provides written notice to parent(s) or legal guardian(s) of students age 18 or older that the student will not be entitled to receive tuition-free education after the age of 21 years. The rules describe the procedures for the teams to obtain parental consent to forward the relevant information to the Commissioner of Human Services, who in consultation with the Commissioner of Education will make recommendations for appropriate adult educational programs operated and approved by both Departments or other agencies. The Office of Education coordinates the mandated (P.L.1986, c.32) planning and referral process for handicapped children placed in State residential facilities, who may require educational services after they attain the age of 21.

Presently, in accordance with N.J.A.C. 6:28, Special Education, during a 21-year-old student's last year in an educational program, a multidisciplinary team meeting is held to develop non-binding written recommendations concerning services and resources available after the responsibility of the district board of education has ended. The enactment of the P.L.1986, c.32 and the promulgation of the rules at N.J.A.C. 10:12 reinforce N.J.A.C. 6:28 and establish a mechanism for projecting the educational programming needs of students over 21 years of age who will no longer be eligible to receive tuition-free educational services.

N.J.A.C. 10:12 is not being amended on readoption. Subchapters 1 and 2 will continue to be reserved and subchapter 3, General Procedures, is proposed for readoption without change. The Office of Education believes that the current text of the rule is sufficient for the purposes of administering the referral of students for adult educational services.

#### Social Impact

The rules proposed for readoption of planning and referral process will aid in the identification of students' educational and vocational needs and provide the information necessary for the determination of services for students beyond the age of 21. This information will complete the transitional planning. The information will serve to enhance the potential ability of these students to lead more independent and productive lives.

#### Economic Impact

The rules proposed for readoption have a minimal economic impact regarding administrative costs in the planning and referral process, followed by the multidisciplinary treatment teams. Existing staff within the State facilities, who are routinely involved in the educational evaluation of these individuals, will provide the evaluations; give notice to the parent(s) and guardian(s); report findings to the Commissioner of Human Services and Commissioner of Education; and determine the educational needs of young handicapped adults. The nature and variety of existing programs, both within the Departments of Human Services and Education, will be examined to ascertain the current level of service available and to develop recommendations to address the programmatic needs of these students.

#### Regulatory Flexibility Statement

The rules proposed for readoption affect the staff and clients within the State residential facilities, who are routinely involved in the educational evaluations of students and provide the necessary information to the Office of Education. Therefore, a regulatory flexibility analysis is not required because the proposed readoption 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.

Full text of the rules proposed for readoption can be found in the New Jersey Administrative Code at N.J.A.C. 10:12.

### (a)

**OFFICE OF THE COMMISSIONER  
Department of Human Services Child Care Services  
Provision of Child Care Services  
Eligibility for Individual Child Care Service Programs  
Co-Payment Fees and Procedures  
Proposed New Rules: N.J.A.C. 10:15, 15A, 15B and  
15C**

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

Authority: N.J.S.A. 30:1-12 and the Omnibus Budget Reconciliation Act of 1990, Public Law 101-508, Sections 5081 and 5082.

Proposal Number: PRN 1991-493.

Submit comments by November 6, 1991 to:

Aletha Wright, Director  
Office of Child Care Development  
New Jersey Department of Human Services  
CN 700  
Trenton, New Jersey 08625

The agency proposal follows:

#### Summary

These proposed new rules comprise the Department of Human Services Child Care Services Manual. The "Manual" means all of the proposed chapters established in this proposal, including N.J.A.C. 10:15, 10:15A, 10:15B and 10:15C. The introductory chapter, N.J.A.C. 10:15, establishes the general provisions applying to all the chapters in the series N.J.A.C. 10:15A, 10:15B and 10:15C, and defines the terms to be used throughout the series of chapters to follow. Subsequent chapters on provision of child care services (N.J.A.C. 10:15A), eligibility for individual child care service programs (N.J.A.C. 10:15B), and co-payments and procedures (N.J.A.C. 10:15C), are included. Future new rules concerning child care services will be added as the need arises. The Department anticipates publication of subsequent proposals to the proposed new rules in early 1992 to elaborate in such areas as the application process, good cause and the appeals process, case record content, the re-determination process and specific operational and fiscal procedures. The Manual is the direct result of two major new child care funding sources authorized under the Federal Omnibus Budget Reconciliation Act (OBRA) of 1990 (Public Law 101-508), the Aid to Families with Dependent Children At-Risk Child Care Program (Section 5081), and the Child Care and Development Block Grant Act of 1990 (Section 5082).

The Child Care and Development Block Grant Act of 1990, hereinafter referred to as CCDBG, is intended to increase the availability, affordability, and quality of child care for low-income families with a parent or caretaker who is working or attending a training or educational program. That Program also provides for child care services for protective services children when such care is indicated as necessary as part of the child's treatment plan or for those families providing a substitute care setting for protective services children who are in need of child care services.

The Aid to Families with Dependent Children (IV-A) At-Risk Child Care Program, also known as the Title IV-A "At Risk" Program, is intended to provide a child care program for low-income working families who are not receiving Aid to Families with Dependent Children (AFDC), need child care in order to work, and would otherwise be at risk of becoming eligible for AFDC.

Both the IV-A "At-Risk" and the CCDBG programs emphasize the availability of child care services for families with protective services children who are serving as substitute care settings for protective services children identified by DYFS. Such families must also satisfy the eligibility criteria for either of the child care service programs as set forth at N.J.A.C. 10:15B.

The Department of Human Services (DHS) shall operate these child care service programs through the coordination efforts of its Office of Child Care Development in conjunction with existing Departmental programs available through its Divisions of Youth and Family Services (DYFS) and Economic Assistance (DEA), as described in rules set forth at N.J.A.C. 10:125B, 10:81 and 10:82 (proposed new rules and amendments are published elsewhere in this issue of the New Jersey Register).

The Department of Human Services has been designated the lead State agency responsible for the development and implementation of a Statewide comprehensive child care system that supports the needs of eligible families in the State as a priority initiative of the Governor. Eventually, child care resources available in the State will be accessed through this single comprehensive system.

The U.S. Department of Health and Human Services Administration for Children and Families (ACF) has approved State Plans submitted by the New Jersey Department of Human Services for receipt of the State's share of the block grant monies authorized under OBRA 1990 to establish the child care service programs described herein.

The proposed new rules provide the conceptual framework for the child care service programs made available through the Department (namely, CCDBG and IV-A "At-Risk") and align certain program components which are applicable to all of the child care programs under the auspices of the Department including, Social Service Block Grant (SSBG) child care (see N.J.A.C. 10:125B) and REACH/JOBS child care (N.J.A.C. 10:81-14.18 and 10:82-5.3). Child care rates for categories of care in specific child care arrangements and co-payment procedures, whereby a portion of the cost of subsidized child care is met by the eligible family, are two significant component areas which overlap in all the child care programs. Concurrent proposals to N.J.A.C. 10:81-14.18, 10:82-5.3 and 10:125B align the overlapping components in all DHS child care service programs.

All of the concurrent proposed rules support one approach in the establishment of equalized child care maximum rates which are consistent in all child care service programs offered through the Department for the type of child care arrangement and category of care. Separate rate tables have been established in these rules for licensed child care centers, school-age programs and day camps (Table I); registered family day care homes (Table II); and approved family day care homes (Table III).

Likewise, co-payment scales introduced in the concurrent proposals and in these rules are universal from child care program to program as offered through the Department. The co-payment scales are structured based on family size and annual gross income.

The proposed co-payment scales are progressive, that is, the lower the family's income, the greater the percentage of the family's income that is required for fixed costs such as housing and food needs. Therefore, lower income families are required to pay a smaller portion of the family's income toward child care costs. The co-payment scales reflect this thinking and have been formulated likewise. Such families (families with income up to 30 percent of the State 1989 Median Family Income) in the co-payment scales are expected to contribute six percent of the family's income toward child care. Families in the range of 31 to 50 percent of the State 1989 Median Family Income shall contribute eight percent of the family's income as a co-payment toward the cost of child care. Ten percent of the family's income is considered the co-payment toward child care costs for families in the range of 51 to 75 percent of the State 1989 Median Family Income.

Thus, even at the lowest income levels, families are required to make payment for a portion of child care costs. When people pay even a small amount of the monies expended for child care, experience has shown that they tend to take a greater interest in the child care arrangement.

Co-payments are determined on up to two children in the family under subsidized child care. The co-payment amount paid by the family is a portion of the total cost of child care services received by that same family. The family's composite co-payment is based on whether the two children on whom the calculation is determined are in full-time or part-time care. Two scales are included in the proposals: co-payment for full-time child care services (defined as 30 or more hours of care in a week), and co-payment for part-time child care (less than 30 hours of care per week provided to the child).

Children in full-time care arrangements are considered first in computing the co-payment amount. Such arrangements determine the first child on whom the co-payment is established; if one or both children are in full-time care arrangements, then the co-payment is based on the full-time scale. If one child is in full-time care and the second in part-time care, then both scales are used to calculate the total co-payment amount.

The composite co-payment amount is based on the total co-payment for the first child in care (as determined above based on full-time or part-time arrangements) from the appropriate scale for family size and annual income, plus one-half of the co-payment for the second child in care (from the applicable scale based on full-time or part-time care arrangements). The third and subsequent child(ren) in the family in subsidized care are not included in determining the family's total co-payment.

These proposed new rules, through the provision of new child care assistance funding, will enable low-income families to maintain or achieve self-sufficiency through employment by expanding the availability of child care services to such families. Likewise, that funding will also provide for child care services for protective services children. Parents and caretakers shall be able to choose from a broad range of child care arrangements including licensed child care centers, before- and after-school care programs, summer camps, family day care offerings and care made available through sectarian organizations. All providers must meet applicable State and local health and safety requirements to ensure a safe, secure environment for children in subsidized care.

The two new child care funding streams (IV-A "At-Risk" and CCDBG) complement each other and the other significant sources of publicly funded child care through DHS: SSBG and REACH/JOBS child care. The Department's goal throughout the concurrent proposals is maximum integration and consistency among all DHS child care resources.

A summary of the proposed new rules follows:

The new rules proposed at N.J.A.C. 10:15 set forth the Department of Human Services child care services.

N.J.A.C. 10:15-1.1(a) sets forth the purpose, scope, and authority of these proposed new rules and designates the Department of Human

Services (DHS) as the lead State agency responsible for the development and implementation of a Statewide comprehensive system of child care services.

N.J.A.C. 10:15-1.1(b) discusses the funding sources from which the child care service programs described herein are available.

N.J.A.C. 10:15-1.1(c) confirms the operation of a Statewide child care system (administered within the framework of Federal and State law and regulations) through the coordination efforts of the Department's Office of Child Care Development (OCCD), in conjunction with existing Departmental programs available through its Divisions of Youth and Family Services and Economic Assistance.

N.J.A.C. 10:15-1.1(d) describes the general principles under which these child care service programs will operate. Those principles are delineated as follows:

1. A primary objective of DHS is to offer families a comprehensive child care delivery system of child care services that will enable them to secure or maintain employment, and thus become self-sufficient from public assistance benefit programs. Secondly, it is imperative that child care services be made available for protective services children as part of the child's treatment plan or for families serving as substitute care settings to protective services children under the custody of DYFS.

2. The Department supports child care services addressing the needs and concerns of working families, employers, and government.

3. The Department believes that those in need of child care should have the maximum choice possible among a diversity of types of child care programs offered in settings that meet basic health and life/safety guidelines. It also believes that mechanisms should exist for improving child care program quality.

4. In order to support local child care needs, the Department consults with numerous interdepartmental State agencies and child care organizations and, incorporates recommendations received into its ongoing child care planning process.

5. The Department supports unlimited access by parents to their children while in care and to the providers caring for their children. Further, the Department shall make available consumer materials containing information on child care concerns, such as licensing, etc.

6. The Department shall ensure compliance of county contracted child care service agencies within State Plan provisions in accordance with Federal requirements.

7. The Department shall ensure that payment rates (within limits of Legislative appropriations) for these child care service programs will be comparable to child care in unsubsidized programs.

8. The Department promotes the development of employer-supported child care in its efforts to expand the supply of child care services in the State.

N.J.A.C. 10:15-1.1(e) confirms that if fiscal or other resources necessary for child care service provision are unavailable, the family and the county selected child care service agency shall be released from all obligations.

N.J.A.C. 10:15-1.1(f) precludes duplication of assistance when child care service needs are provided by any other source.

N.J.A.C. 10:15-1.1(g) emphasizes that counties coordinate child care service programs with local government programs, existing child care resources and sponsors of various child care programs.

N.J.A.C. 10:15-1.2 provides the definitions used throughout N.J.A.C. 10:15, 10:15A, 10:15B and 10:15C.

N.J.A.C. 10:15-1.3 discusses the provision giving individuals the opportunity to make the decision to apply for child care services.

N.J.A.C. 10:15-1.4 provides that an atmosphere of mutual respect be rendered between county selected child care agencies and the families they serve.

N.J.A.C. 10:15-1.5 sets forth the principle of nondiscrimination in the administration of child care service programs.

N.J.A.C. 10:15-1.6 discusses the confidentiality of information about applicants and recipients of child care service programs. Information requested shall be pertinent to the determination of eligibility and for Federal reporting purposes.

N.J.A.C. 10:15-1.7 assures that applicants and recipients are the primary source of information about themselves; and that verification shall be obtained only with the consent of the applicant/recipient.

N.J.A.C. 10:15-1.8 stresses the importance of the county child care service agency's determining financial eligibility of the applicant family in order that the appropriate eligibility funding stream be determined (that is, title IV-A At-Risk or CCDBG).

N.J.A.C. 10:15-1.9 provides for the issuance and availability of the Child Care Services Program Manual (comprised of N.J.A.C. 10:15 through 10:15C). Contracted county child care service agencies shall ensure that staff members are thoroughly familiar with the manual's contents in order to apply required policy and procedures consistently.

Subchapter 2 introduces the administrative responsibilities of the various agencies that are a party to the administration of the child care service programs.

N.J.A.C. 10:15-2.1 delineates the Department of Human Services responsibilities to coordinate and supervise the administration of the CCDBG and IV-A At-Risk programs.

N.J.A.C. 10:15-2.1(a) discusses the responsibilities of the Division of Economic Assistance in the administration of DHS child care service programs.

N.J.A.C. 10:15-2.1(b) delineates the responsibilities of the Division of Youth and Family Services in the child care service programs.

N.J.A.C. 10:15-2.2 describes the responsibilities of the county selected child care service agency.

N.J.A.C. 10:15-2.3 states the responsibilities of the provider of child care services.

N.J.A.C. 10:15-2.4 lists the responsibilities of the applicant or recipient of child care services.

The proposed new rules at N.J.A.C. 10:15A set forth the provision of child care services requirements.

N.J.A.C. 10:15A-1 gives the general child care eligibility requirements.

N.J.A.C. 10:15A-1.1(a) describes child care service program availability.

N.J.A.C. 10:15A-1.1(b) delineates the child's eligibility for child care services.

N.J.A.C. 10:15A-1.1(c) refers to eligibility requirements at N.J.A.C. 10:15B-1 and 2 for IV-A At-Risk and CCDBG programs respectively.

N.J.A.C. 10:15A-1.1(d) delineates procedures for child care arrangements to be completed mutually by the parent or caretaker and the county child care service agency.

N.J.A.C. 10:15A-1.1(e) stipulates conditions under which refusal of child care benefits by the applicant may be inferred; such refusal must be documented by the child care service agency.

N.J.A.C. 10:15A-1.1(f) states that applicants and recipients of child care services are entitled to hearings and notices on issues concerning child care benefits.

N.J.A.C. 10:15A-1.2 discusses payment policies for child care in various types of arrangements; care during summers and school vacations; child care rates; the period of eligibility for child care service benefits; the conditions which must be met for receipt of child care service benefits; and situations in which eligibility for child care may be reestablished.

N.J.A.C. 10:15A-1.3 sets forth qualification criteria for various providers of child care services in order to receive payment; such providers include child care centers, family day care providers (registered, approved and in-home care), school-age programs and summer camps.

N.J.A.C. 10:15A-1.4 describes the child care service programs' methods for issuing payments for child care through vendor payments to the provider and through contracts with licensed day care centers.

N.J.A.C. 10:15A-1.5 states the requirement for co-payment toward the cost of child care by each family receiving such care in accordance with N.J.A.C. 10:15C. An exception to the co-payment requirement applies to protective services children as identified by DYFS who are living in substitute care settings under the custody of DYFS (see also N.J.A.C. 10:15C-1.1(a)1).

The proposed new rules at N.J.A.C. 10:15B describe eligibility for individual child care service programs.

N.J.A.C. 10:15B is concerned with eligibility for child care service programs: IV-A "At-Risk" and CCDBG.

N.J.A.C. 10:15B-1.1 contains a description of the IV-A "At-Risk" child care (ARCC) program.

N.J.A.C. 10:15B-1.2 delineates the eligibility criteria required by families in order to receive ARCC benefits.

N.J.A.C. 10:15B-1.3 explains how eligible families may access ARCC assistance in the counties.

N.J.A.C. 10:15B-2.1 contains a description of the CCDBG program.

N.J.A.C. 10:15B-2.2 delineates the eligibility criteria required by families in order to receive CCDBG benefit.

N.J.A.C. 10:15B-2.3 explains how eligible families may access CCDBG assistance in the counties.

The proposed new rules at N.J.A.C. 10:15C set forth co-payment fees and procedures.

N.J.A.C. 10:15C-1.1(a) through (c) detail the general provisions concerning the requirement that eligible families contribute a co-payment toward the cost of child care services. The co-payment, which is deducted from the amount to be paid to the provider by the Program, is paid directly by the parent to the provider. The child care co-payment policy and procedures are applicable for all types of care arrangements through the child care service programs.

N.J.A.C. 10:15C-1.1(d) through (e) discusses the two co-payment scales (Table I for full-time care and Table II for part-time care) used in determining the amount of the assessed co-payment, which is based on a family's annual gross income level, size and number of children in the family, and number of children in care.

N.J.A.C. 10:15C-1.1(f) confirms that no co-payment is required for the third and subsequent children in a family.

N.J.A.C. 10:15C-1.2 describes in more detail the process used for co-payment assessment.

N.J.A.C. 10:15C-1.3 discusses situations which warrant distribution of composite co-payment to the provider, depending on the care arrangements of the family.

N.J.A.C. 10:15C-1.4 delineates procedures required concerning collection, reporting and monitoring of the co-payment and procedures pertaining to the notice of termination. Specific responsibilities and functions are designated for providers and county contracted child care service agencies.

#### Social Impact

The Child Care and Development Block Grant (CCDBG) and IV-A "At-Risk" programs made available through OBRA 1990 are expected to have an overall beneficial impact on low-income families and to providers of care. The funding permits the State to expand subsidized child care services to those populations in need of such services so that such families can remain employed or can attend educational or work/training programs to better their chances of increasing earnings to avoid dependency on public assistance programs. Secondly, the funding aids the State in offering child care services to some categories of needy families who may have not been eligible for such care in the past. The State intends to use a portion of these monies to serve low-income families who have a protective services child(ren), as identified by DYFS, who as part of the child's treatment plan is in need of child care services; and for low-income families serving as substitute care settings for protective services children under the custody of DYFS. The expansion of child care services shall permit families to choose from a broad range of child care providers, including types of child care arrangements which may have not been available to such families if it were not for the expansion of subsidized child care services.

The proposed rules emphasize the role of the parents/legal guardians/caretakers in making crucial decisions in the selection of child care providers. The rules place responsibility on the parent or caretaker for receipt of subsidized child care. As such, both the CCDBG and the IV-A "At-Risk" programs mandate a system of cost sharing by the family, based on income and size of family, that is, a co-payment scale, as well as income eligibility guidelines for receipt of services.

The proposed child care co-payment scale is progressive, reflecting the relatively greater percentage of income spent by families with lower incomes on housing and food. It is based on the family's ability to pay by varying the amount of parent co-payment both by income and by family size. The co-payment scale is simple and shall be consistent for all subsidized child care programs administered by DHS. This policy is meant to strengthen the parent's responsibility in payment of a portion of the care by enforcing his or her commitment to making a timely payment of incurred expenses and by accepting the liabilities related to his or her behavior in this regard.

The co-payment scale is constructed so that small changes in family income do not result in disproportionate increases in the co-payment. Co-payments increase gradually, avoiding disincentives to work, and progressively, so that families exiting the subsidized system do not experience difficulty when faced with paying the full market rate for child care.

The proposed rules will impact positively on needy families by enabling the Department to provide for a continuum of care in its child care service programs. Proof of eligibility for the programs rests with the family.

Since the income eligibility guidelines are different in both programs, families whose income makes them ineligible for IV-A "At-Risk" (this program is targeted for lower-income families) may continue to need child care services. Subsidized care can be extended to such families under CCDBG criteria since that program provides for a higher income threshold. This factor furthers the Department's goal of a seamless child care system which provides services to needy families under Departmental programs until the family becomes self-sufficient.

For example, a welfare family participating in REACH/JOBS and receiving child care services through Title IV-A (see N.J.A.C. 10:81-14.18) could become ineligible for AFDC and the related child care benefits. That family could theoretically continue services under the IV-A "At-Risk" Program (ARCC) and, when earnings increase to the point of ineligibility for ARCC child care services, could continue to be funded under CCDBG eligibility criteria. Thus, the family's child care needs could be subsidized until the parent or caretaker's earnings were sufficient to support the family.

Child care maximum rates have been standardized in the child care service programs offered by the Department. Those rates support the continuum of care approach available through the various Departmental child care funding streams. Consistent rates alleviate such problems as competition of the programs for available child care openings with providers, and inflation of child care costs.

The Department is working toward the development of a Statewide comprehensive child care delivery system with similar requirements for receipt of child care services by the various eligibility groups to whom services are provided through the Department. As such, concurrent proposals to N.J.A.C. 10:81-14.18, 10:82-5.3 and 10:125B shall align those child care service programs available through the Divisions of Economic Assistance and Youth and Family Services respectively, with these rules.

The proposed "two-tiered" eligibility system (for CCDBG and ARCC) will have a similar effect by enabling families to stay in the subsidized system until the family's income exceeds 75 percent of State Median Income (SMI). This will benefit the working poor families, allowing them to continue utilizing subsidized child care for a longer period; thus, enabling families to become more self-sufficient before having to assume full, unsubsidized payments for child care.

It is expected that reaction to the proposed new rules will be generally favorable since the proposed co-payment scale was recommended by the full consensus of the Ad Hoc Task Force on the Child Care Fee Scale, convened by the Commissioner of Human Services in January 1991. The Task Force consisted of equal numbers of community and administration representatives. In addition, prior to the conclusion of Task Force work, members explored the recommended concepts with child care providers in six regional forums, and received uniformly positive comments regarding the proposed fee scale and income eligibility guidelines.

#### Economic Impact

The proposed rules define income eligibility for subsidized child care under Title IV-A "At-Risk," and Child Care Development Block Grant for low-income working families. Low income families with incomes at 185 percent of the Federal Poverty Level Guidelines, and very low income families at 150 percent of the Federal Poverty Level, will be targeted as those most at-risk of welfare dependency, and needing child care assistance through the child care service programs. New Jersey families with incomes up to 60 percent of the State Median Income (SMI) will be eligible to make application for child care service programs. This expands the pool of families whose ability to work or train for work may be helped through the availability of a subsidy for child care services. The proposed two-tiered eligibility will foster growth toward economic self-sufficiency by allowing families who are receiving a subsidy to continue in the system until the family's income reaches 75 percent of the SMI.

The proposed new rules also specify the amount that each eligible family is expected to contribute toward child care (co-payment). This amount is determined according to a proposed co-payment scale, which is based on the family's income level, family size, and number of children in care.

#### Regulatory Flexibility Analysis

Child care providers eligible to receive parent certificates for child care services through these programs will be affected. Some of these providers can be categorized as small businesses as defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq.

Many of the providers affected by these rules already maintain a fee assessing system and should experience minimal disruption since the

requirements of the co-payment will be incorporated into their existing system. No additional professional services or costs will be needed to comply with the provisions of these rules. Reporting requirements under the rules, which are set forth at N.J.A.C. 10:15C-1.4, are minimal and should not result in differing impacts on businesses as a result of business size. Recordkeeping and other compliance requirements include the setting forth of administrative responsibilities for the various agencies involved in the administration of the child care programs at N.J.A.C. 10:15-2, the delineation of payment policies at N.J.A.C. 10:15A-1.2 through 1.5, and the delineation of procedures requiring the collection, reporting and monitoring of co-payments at N.J.A.C. 10:15C-1.4. Because the proposed new rules are designed to coordinate and standardize the delivery of child care services throughout the State, there is no differentiation in the application of these requirements based upon business size. Technical assistance will be available through the county selected child care agency.

Full text of the proposed new rules follows:

### CHAPTER 15 DEPARTMENT OF HUMAN SERVICES CHILD CARE SERVICES

#### SUBCHAPTER 1. GENERAL PROVISIONS

##### 10:15-1.1 Purpose and scope

(a) The purpose of this manual is to set forth the policies and procedures on a Statewide basis for the efficient and equitable provisions of child care services, through the supervision of the New Jersey Department of Human Services (DHS). The Department has been designated the lead State agency responsible for the development and implementation of a Statewide comprehensive child care system that supports the needs of eligible families in the State as a priority initiative of the Governor. Eventually, child care resources available in the State will be accessed through this single comprehensive system.

(b) The child care service programs, described herein, are made available through block grant monies of the Omnibus Budget Reconciliation Act (OBRA) of 1990, Public Law 101-508. The block grant child care service programs are: The Aid to Families with Dependent Children (AFDC) At-Risk Child Care (ARCC) Program as implemented by Section 5081 of OBRA 1990; and the Child Care and Development Block Grant (CCDBG) Act of 1990 as implemented by Section 5082 of OBRA 1990. Those funds are offered by the Administration for Children and Families (ACF), U.S. Department of Health and Human Services, to states with approved State Plans to increase the availability, affordability, and quality of child care.

(c) The AFDC At-Risk Program (also known as IV-A At-Risk Program) and the CCDBG eligibility requirements, specific for each of those funding streams, are described at N.J.A.C. 10:15B-1 and 10:15B-2 respectively. DHS shall operate these child care service programs through the coordination efforts of its Office of Child Care Development in conjunction with existing Departmental programs available through its Divisions of Youth and Family Services (DYFS) and Economic Assistance (DEA), as described in rules set forth at N.J.A.C. 10:125B, 10:81 and 10:82. The policy provisions and terms in this chapter are general provisions which are applicable throughout all chapters N.J.A.C. 10:15A, 10:15B and 10:15C on child care services through the Department of Human Services.

1. The policies and procedures set forth in this manual are binding on those agencies contracting with the Department to provide services through these child care programs, and are enforceable through the Divisions of the Department that are jointly responsible for overseeing the programs, the Divisions of Youth and Family Services and Economic Assistance. Questions of interpretation shall be resolved by the aforementioned Divisions.

2. The child care programs shall be administered within the framework of Federal and State law and regulations. Requirements, other than those established pursuant to Federal and State law and these regulations, shall not be imposed as a condition of receiving child care services.

(d) New Jersey has the opportunity to expand, improve, and develop child care services for the families of this State. A primary

objective of the New Jersey Department of Human Services (NJ DHS) is to offer families comprehensive child care services that will enable them to secure or maintain employment and thus become self-sufficient from public assistance benefit programs. Additionally, both the IV-A "At-Risk" and the CCDBG programs emphasize the availability of child care services for families serving as substitute care settings for protective services children identified by DYFS. Such families must satisfy the eligibility criteria for those programs. Based on its extensive experience in child care and early education programs, the Department of Human Services sets forth the following principles for a comprehensive child care delivery system of child care services in the State.

1. New Jersey supports programs that encourage family stability and self-sufficiency. As such, the Department supports child care services addressing the needs and concerns of working families, employers and government.

2. The Department believes that consumers of child care should have the maximum choice possible among types of child care options available (including center-based care, family child care, in-home care, and care by relatives) under contracts between providers and the DHS for the provision of child care services, or through the child care certificate process.

3. The Department encourages the development of diverse types of child care by type of sponsorship (employers, public schools, religious institutions, community organizations, and recreation programs), and by types of corporate status (both for profit and non-profit).

4. The Department believes that mechanisms should exist for improving child care program quality, including, but not limited to, supports for the improvement of curriculum development and administration, a comprehensive training initiative for child care staff members, and monies for building repairs to child care sites.

5. The Department believes that child care should be provided in settings that meet basic health and life/safety guidelines. To this end, the Department authorizes payments for child care in programs in compliance with laws, and regulations pertaining to health and life/safety.

6. The Department incorporates into its ongoing child care planning process recommendations received from interdepartmental agencies of the State; child care organizations within the State, including, but not limited to, the New Jersey Child Care Advisory Council; the human services community; the State Human Services Advisory Council; units of local government; child care resource and referral agencies; providers of child care services; employers; and the general public. That input is used by the Department to support local child care needs.

7. The Department supports unlimited access by parents to their children and to the providers caring for their children during the normal hours of operations, or whenever such children are in the care of such providers.

8. The Department believes that an informed consumer of child care services is that individual who has available to him or her information on child care concerns, such as licensing and regulatory requirements, compliant procedures, and policies and practices relative to child care services available in the State. The Department shall make available consumer materials for that purpose.

9. The Department ensures that child care service programs shall be established in the respective counties of the State in accordance with Federal provisions as agreed upon in State Plan submittals to the Federal ACF on specific Federally-funded programs. DHS shall ensure compliance of the county selected child care service agencies within State Plan provisions. The State Plan(s) shall be updated by DHS routinely, as changes are made to program requirements by Federal and/or State government.

10. The Department, to the best of its ability within annual State Legislative appropriations, shall ensure that payment rates for services through the child care service programs are sufficient to ensure equal access for eligible children under these subsidized programs to comparable child care services in the State that are provided to children whose parents are not eligible to receive assistance under these programs.

11. The Department promotes the development of employer-supported child care. DYFS, in conjunction with the Department's Office of Child Care Development, continues to work with the Department of Community Affairs' Division on Women and the New Jersey Task Force on Employer-Supported Child Care in directing a program of information-sharing and technical assistance to promote the creation and expansion of employer-supported child care resources.

(e) Nothing in these rules shall be construed as conferring on an applicant or recipient of child care services an entitlement to those services. If the fiscal or other resources necessary for child care service provision to an applicant/recipient are unavailable, that individual shall not be deemed to have a right to such services and the individual and the county selected child care service agency shall be released from all obligations for those services under these rules.

(f) Financial assistance provided through the Department's child care service programs shall not be authorized when, during the same period, such needs are actually being provided by any other source, including child care resources under the various funding streams through the Department sponsored programs described at N.J.A.C. 10:81-14, 10:82 and 10:125B.

(g) Each county shall coordinate child care service programs with units of local government; existing child care resource and referral agencies; with early childhood education programs in the county, including Head Start programs; preschool programs funded under Chapter 1 of the Education Consolidation and Improvement Act of 1981 (Public Law 97-35); school and nonprofit child care programs (including community-based organizations receiving funds designated for preschool programs for handicapped children); with organizations sponsoring before-and-after school activities; with the REACH/JOBS program; SSBG centers; private providers; sectarian providers; and with Federal and/or State demonstration programs, such as the Urban Pre-Kindergarten Pilot program, the REACH/JOBS Capital Expansion Program, and the Mini-Child Care Center program.

#### 10:15-1.2 Definitions

The following words and terms, when used in this chapter and N.J.A.C. 10:15A, 15B and 15C, shall have the following meanings, unless the context clearly indicates otherwise.

"Approved home" means a family day care provider not registered pursuant to the Family Day Care Provider Registration Act (see N.J.A.C. 10:126), whose home has been evaluated and which has passed a health and safety check to qualify for payment through the Department's child care service programs. Such providers may receive payment for a maximum of two nonsibling children, or all the sibling children of one family so long as the total number of children in the provider's care does not exceed seven children; and, the number of sibling children for whom payment is made does not exceed five.

"ARCC" means the IV-A "At-Risk" Child Care Program.

"At-Risk" means working low-income families whose income upon entry into the program is at or below 185 percent of the Federal Poverty Income Guidelines, which are published in the Federal Register. Such families must be in need of child care assistance in order to remain employed (or to accept employment) and to avoid dependency on public assistance (that is AFDC).

"Care by a relative" means a child care provider who is 18 years of age or older who provides child care services to children who are by blood relationship, marriage or court decree, the grandchild, niece or nephew of such provider.

"Caregiver" means an individual who is at least 18 years of age who provides child care services directly to an eligible child on a person-to-person basis and whose home has been evaluated for health and safety purposes.

"Caretaker family" means the family providing the substitute care setting for a protective services child(ren) identified by DYFS.

"Categories of care" means licensed center-based care, registered family day care, approved home care, in-home care, before-and/or after-school care, and summer camp.

"CCDBG" means Child Care and Development Block Grant.

"Center-based child care provider" means any person owning or legally responsible for operating a licensed child care center.

"Certificate" means an authorization that is issued by the county selected child care service agency to a parent, legal guardian or caretaker who may use such a certificate as assistance to obtain child care services from a provider of such service.

"Child care center" means any home or facility, by whatever name known, which is maintained for the care, development or supervision of six or more children under six years of age who attend for less than 24 hours a day.

"Child Care Development Block Grant" means the Child Care and Development Block Grant Act of 1990, Section 5082 of the Omnibus Budget Reconciliation Act of 1990, Public Law 101-508.

"Child care services" means child care services pursuant to N.J.A.C. 10:15, 15A, 15B and 15C.

"Child care service agency" means the agency selected by each county, under contract, to administer the child care certificate program; also known as the county selected agency or the county contracted agency.

"Co-payment" means a portion of the family income that is paid by the eligible family toward the cost of child care. The amount of the required co-payment is based on the family's annual gross income level, family size, and number of children in care.

"County selected agency" means the agency selected by each county, under contract, to administer the child care certificate program in the county; also known as the child care service agency or the county contracted agency.

"DEA" means the Division of Economic Assistance in the New Jersey Department of Human Services.

"Department" means the New Jersey Department of Human Services.

"DYFS" means the Division of Youth and Family Services in the New Jersey Department of Human Services.

"Early Childhood Development Program" means a program of services that are intended to provide an environment that enhances the educational, social, cultural, emotional, and recreational development of children, and which is not intended to serve as a substitute for compulsory academic programs.

"Eligible child" means a child who:

1. Is under 13 years of age;
2. Is under 19 years of age and is physically or mentally incapable of caring for himself or herself (that is, a "special needs" child);
3. Resides with a family that meets income eligibility guidelines; or
4. Is under the supervision of DYFS (that is, child in protective service).

"Family day care provider" means a person who provides child care services for fewer than 24 hours per day per child, as a sole caregiver, and in a private residence other than the child's residence. Payment for DHS child care services rendered may not exceed payment for more than five children.

"In-home child care provider" means an individual who provides child care services in the child's own home for fewer than 24 hours per day.

"IV-A At-Risk" means the Aid to Families with Dependent Children (IV-A) "At-Risk" Program, Section 5081 of the Omnibus Budget Reconciliation Act of 1990, Public Law 101-508.

"Low income" for IV-A At-Risk means families with gross annual incomes at or below 185 percent of the Federal Poverty Income Guidelines, as determined by family size, which are published annually in the Federal Register.

"Low income for CCDBG" means families with annual gross incomes for the family size at or below 75 percent of the State's median income (SMI) as published in the Federal Register for a family of the same size; however, low income for application purposes for CCDBG means families with annual gross incomes for the family size at or below 60 percent of the SMI for a family of the same size.

"Manual" means the New Jersey Department of Human Services Child Care Services Manual which covers eligibility for child care services through OBRA 1990 grant funds (that is, ARCC and

CCDBG programs) and consists of N.J.A.C. 10:15, 10:15A, 10:15B, and 10:15C.

"OCCD" means the Office of Child Care Development in the New Jersey Department of Human Services.

"Parent" means a parent by blood, marriage or adoption and also means a legal guardian, or any other person having responsibility for, or custody of, a child or standing in "loco parentis".

"Protective services" means services on behalf of any child, under age 18, considered at risk of abuse, neglect, or exploitation; or found to be abused, neglected, exploited or abandoned and whose condition or situation gives observable evidence of the injurious effects of failure on the part of parents or others responsible for meeting at least the minimum needs of the child, as identified by DYFS. The term includes services provided to children in their own home, in foster care, children in para-foster care, children in pre-adoptive homes, children under the guardianship of DYFS, and children surrendered to DYFS.

"Provider" means the entity providing child care services.

"Provider register" means a listing of providers who have contacted the county child care service agency expressing an interest in participating as a provider to families in need of child care services through DHS child care service programs.

"Registered home" means a family day care provider registered pursuant to the Family Day Care Provider Registration Act (see N.J.A.C. 10:126). Providers who serve three or more nonsibling children (but less than six) must be registered pursuant to the Act to receive payment through DHS child care service programs.

"Sectarian organization or sectarian child care provider" means religious organizations or providers generally, not merely those of a specific religious character or that are affiliated with a church or synagogue who can provide proof that the organization is sectarian, such as incorporation as a non-profit religious organization or tax-exempt status as a religious organization.

"Service eligibility period" means up to a 12 consecutive month period of child care services from the date child care services commence based on satisfying ongoing child care program eligibility criteria. Resources are allocated to the child care service programs for a State fiscal year (SFY) beginning July 1 of a calendar year and ending June 30 of the following calendar year.

"SMI" means State Median Income.

"Special needs child" means a child age 19 or younger who is physically or mentally incapable of self-care; or, for CCDBG and IV-A At-Risk eligibility, a child who has been identified through a written referral from a county welfare agency, legal, medical, social service agency, emergency shelter, or public school which indicates that the child has a serious physical, emotional or mental, or cognitive condition and child care services are required as part of a treatment plan designed to stabilize or ameliorate the situation.

"Substitute care setting" means a situation wherein a child is a protective services child identified by DYFS and living in an arrangement under custody of DYFS.

"Types of providers" means the different classes of providers under each category of care. Types of providers include non-profit providers, for-profit providers, sectarian providers and relatives who provide care.

"Voucher" means the child care voucher form developed and produced by DHS that the county child care service agency issues to participating providers in the CCDBG and ARCC programs for vendor payments.

#### 10:15-1.3 Opportunity and decision to apply for child care service programs

(a) Any parent and his or her child(ren), or the child(ren) of a legal guardian, or the caretaker of a protective services child(ren) under the custody of DYFS shall be given the opportunity to apply without delay for child care service programs.

(b) Applicants shall be informed about the eligibility requirements and of their rights and obligations in applying for and receiving child care services through the Department's child care service programs.

(c) The decision to apply rests with the applicant.

(d) The applicant has the right to withdraw the application before eligibility or ineligibility has been determined.

## 10:15-1.4 Atmosphere of mutual respect

(a) Assistance and services through the child care service programs shall be rendered to all applicants/recipients in an atmosphere of mutual respect between county selected service agency employees and the families they serve.

(b) County selected child care service agencies shall ensure that assistance and services are:

1. Extended in a manner and environment which increases a person's sense of importance, dignity and self-esteem;
2. Administered in a manner which respects the human and civil rights of persons applying for or receiving child care services; and
3. Provided in the least restrictive, most appropriate setting to ensure privacy and confidentiality.

## 10:15-1.5 Nondiscrimination

There shall be no discrimination on grounds of race; color; religious affiliation; sex; national origin; ethnic background; marital, parental or birth status; or handicap by the Department, its Offices and Divisions or the county contracted child care service agencies in the administration of the child care service programs.

## 10:15-1.6 Confidential nature of information

(a) Information about applicants or recipients for child care service programs shall be used and disclosed only for purposes directly connected with the administration of child care service programs.

(b) The information requested by the Department and the county selected agency shall be information that is required:

1. To determine eligibility for child care service benefits without which child care services could not be provided; and
2. For Federal reporting purposes.

(c) The information required to establish eligibility is in accordance with this manual.

## 10:15-1.7 Primary source of information

(a) Applicants and recipients of child care service program benefits are in all instances that the primary source of information about themselves and their families.

(b) It is the responsibility of the county selected child care service agency to determine eligibility based on the information provided by the applicant/recipient and, as necessary, to secure verification from secondary sources. Such verification shall be limited to those facts which are essential to establish eligibility and shall be obtained only with the known consent of the applicant/recipient.

(c) The county selected child care service agency worker shall explain to the applicant/recipient that verification is necessary and that lack of consent on behalf of the applicant/recipient to obtain the necessary verification shall make processing of the application/reapplication impossible.

## 10:15-1.8 Financial eligibility determination

The county child care service agency worker shall determine financial eligibility (need) of the applicant family in accordance with N.J.A.C. 10:15B-1 or 10:15B-2 to determine the appropriate eligibility funding stream (IV-A At-Risk or Child Care and Development Block Grant).

## 10:15-1.9 Issuance and availability of manual

(a) The Department of Human Services Division of Economic Assistance (DEA) shall issue the manual and amendments to the manual, as necessary. It is the responsibility of each holder of the manual to maintain its accuracy by inserting new material as it is issued and by removing obsolete pages promptly.

(b) Copies of the manual shall be provided to Department and Divisional administrative and other appropriate staff associated with the child care service programs. Those individuals are expected to be thoroughly familiar with its contents in order that policy and procedures may be consistently applied.

(c) DEA shall ensure that each contracted agency is provided with the number of copies of the manual as requested for initial use by its staff. Additional copies shall be available from DEA through written request, at the cost of printing and mailing.

(d) The director of the contracted county child care service agency shall make available copies of this manual to all staff members

working with applicants and recipients of child care service programs. Likewise, all updates to manuals shall also be issued to staff. The contracted agency has the responsibility and shall ensure that each staff member working with these service programs is thoroughly familiar with the manual's contents, and applies the required policy and procedures consistently.

(e) One administrative copy of obsolete material related to this manual shall be kept by the contracting entity. Such material reflects time frames of changes in policies and serves as a historical reference for the agency.

(f) This manual is a public document. It is important that all copies in use be up-to-date. It is available as follows:

1. Copies are available for examination or review during regular office hours on regular work days in the Department of Human Services, Office of Child Care Development; in the Divisions of Economic Assistance and Youth and Family Services; and in each county, at the office of the contracted county child care service agency.

i. Specific policy material necessary for an applicant or recipient or his or her representative to determine the basis for a fair hearing request, or to prepare for a hearing, shall be provided to such persons without charge.

2. Public and university libraries which have agreed with the Department request to keep the manual up-to-date will have a copy available in accordance with the library reference procedures.

3. Each county legal services office shall be furnished with a copy of this manual.

4. County boards of social services shall be provided copies of this manual.

5. Other welfare, social service and nonprofit organizations shall be furnished with a copy of this manual (at no cost) through written request to DEA.

6. Employment, education and training organizations (that is, vocational/technical schools, community colleges, JTPA offices) shall be furnished with a copy of this manual.

7. A current up-to-date copy of the manual, or any portion of the manual, is available from DEA through a written request by the interested person, at the cost of printing and mailing.

8. All supplementary updates will routinely be sent to those who have been supplied with the manual. A mailing list shall be maintained and updated by DEA.

## SUBCHAPTER 2. ADMINISTRATIVE RESPONSIBILITIES

## 10:15-2.1 Department of Human Services responsibilities in child care service programs

(a) The Department of Human Services (DHS) is the lead State agency responsible for child care service program delivery in the State. DHS, through its Office of Child Care Development, shall coordinate and supervise the administration of the Child Care and Development Block Grant (CCDBG) and IV-A "At-Risk" (ARCC) programs, by its Divisions of Youth and Family Services and Economic Assistance.

(b) DHS shall submit and update required State Plans and amendments for both the CCDBG and ARCC programs to the Federal Administration for Children and Families.

1. The CCDBG and ARCC programs in effect in the State shall comply with the provisions in the approved State Plans.

(c) DHS shall adhere to Federal laws and regulations pertaining to the administration of CCDBG and ARCC programs in these rules and shall establish program operational and fiscal procedures for the effective Statewide administration of these programs.

1. The fiscal procedures shall delineate the State's expenditure of CCDBG and ARCC funds.

2. The operational and fiscal procedures used by DHS to monitor, report and contract for services with other agencies and units of State and local government in the operation of the child care programs shall be established and made available to interested parties.

(d) DHS shall contract with county child care service agencies to administer both the CCDBG and ARCC programs at the local level. DHS shall ask for assurances from the service agency that no conflict

of interest exists in the agency's provision of Departmental child care programs with existing contracts and/or agreements held by that agency in administering child care services.

(e) DHS shall provide child care services for children through contracts with providers, or through county contracted agencies through the Statewide child care certificate process.

(f) DHS shall make available to the general public educational information concerning licensing and regulatory requirements, complaint procedures, and policies relative to child care service programs.

(g) DHS shall have an appeals process through the respective Divisions (DEA and DYFS), in place to resolve issues concerning both the CCDBG and ARCC programs which are not satisfied at the level of the county contracted child care service agency as delineated at N.J.A.C. 10:15A-1.1(f).

(h) DHS shall monitor the county contracted child care service agencies for compliance with child care program policies.

(i) DHS shall work through the State appropriations process to ensure that payment rates for child care services under DHS child care programs are sufficient to provide equal access for eligible children under its programs to comparable child care services in the State that are provided to children whose parents are not eligible to receive assistance under these programs.

(j) DHS shall ensure that through its child care services' planning process, services are coordinated with existing Federal, State and local child care and early childhood development programs. Written agreements which delineate responsibilities and duties shall be executed by DHS for interagency coordination with other State departments.

(k) For activities to improve the quality of child care, DHS shall enter into purchase of service contracts and/or grants with eligible entities through the competitive State process (request for proposal). DHS plans to invest in:

1. Grants for renovation and start-up of child care sites;
2. Expanded monitoring activities by State staff in conjunction with local governments and child care resource and referral agencies to ensure that programs meet standards;
3. Training and technical assistance to child care providers in areas such as, but not limited to, parental choice, management and early childhood development; and
4. To increase the availability of early childhood development programs and to increase the availability of before- and after-school care services.

**10:15-2.2 Divisional responsibilities**

(a) The Division of Economic Assistance shall be responsible for the following activities in the administration of DHS child care service programs.

1. The development and issuance of eligibility forms and letters used in the child care service programs;
2. The supervision of the certificate system with the 21 community based organizations which will be administering the certificate program at the county level;
3. Collaboration with the Division of Youth and Family Services in the development of policies and procedures for the child care service programs;
4. Providing for an appeals process through Divisional proceedings when situations concerning certificate applicants and/or recipients are not resolved at the level of the local contracted child care service agency in accordance with N.J.A.C. 10:81-6;
5. Submission of required reports to the Federal Administration for Children and Families on the IV-A "At-Risk" and CCDBG child care programs; and
6. Issuance of and updates to the manual, and maintenance of a current mailing list for dissemination of manual revisions.

(b) The Division of Youth and Family Services has responsibility for the following types of activities in the child care service programs:

1. The monitoring of licensed child care center providers and registered family care homes for regulatory compliance by the DYFS Bureau of Licensing to ensure compliance with all applicable State or local health and safety requirements. DYFS gives assistance to

providers in meeting State and local standards, including routinely providing information on health and safety training;

2. Collaboration with the Division of Economic Assistance in the development of policies and procedures for the child care service programs; and

3. Periodically conducting a local market survey of child care costs for the various types of child care arrangements and full or part time care to ensure that the Department's rates for child care services are competitive with rates for unsubsidized care to ensure the continued availability of child care services for child care service program recipients.

**10:15-2.3 County selected child care service agency responsibilities**

- (a) Each county child care service agency shall:
  1. Inform families requesting child care benefits of their rights and responsibilities;
  2. Respond to a request for child care assistance within a period of time as defined in procedures issued by the Department of Human Services;
  3. Assist the caretaker to explore the types of child care arrangements authorized for payment through the child care service programs (that is, licensed child care centers, registered family day care homes, in-home care, approved family day care homes, school-age child care programs and summer camps) and provide the caretaker relative the opportunity to choose his or her child care arrangement from those available options;
  4. Ensure that providers of care permit parental access to children in care during the normal hours of a provider's operation, or whenever such children are in the care of the provider;
  5. Ensure that each of its staff members working with these child care service programs be thoroughly familiar with the child care service program policies and procedures and apply those required policies and procedures consistently;
  6. Maintain current up-to-date policy and procedure manuals for staff use;
  7. Maintain a record of substantiated parental complaints and make information regarding such complaints available to the public on request. Any records concerning child abuse/neglect are not available to the public.
  8. Make available to parents and the general public consumer education information on child care service concerns including, but not limited to, State/local licensing requirements and complaint procedures;
  9. Maintain a waiting list of families requesting child care subsidies through the child care service programs;
  10. Maintain a register of providers interested in participating in child care service programs and make referral to DYFS, Bureau of Licensing, for registration of the home in accordance with the Family Day Care Provider Registration Act (see N.J.A.C. 10:126) upon request of the provider;
  11. Conduct home evaluations on providers of family day care not registered pursuant to the Family Day Care Provider Registration Act (see N.J.A.C. 10:126) using the "Family Day Care Home Approval Checklist" (see Appendix B, N.J.A.C. 10:81 incorporated herein by reference); and minimum life-safety evaluations of school-age child care programs;
  12. Ensure that child care providers comply with applicable State or local health and safety requirements;
  13. Determine eligibility and availability of child care service funds for the child care service programs (CCDBG and ARCC) and verify the eligibility factors;
  14. Issue certificates to eligible applicants/recipients for receipt of provider services;
  15. Maintain records on agency contracted activities;
  16. Provide for due process for applicant/recipient complaints and provider concerns. Issues not resolved at the local county agency level may be taken to the Divisional level (see N.J.A.C. 10:6);
  17. Establish written agreements for services among the agency, the recipient, and the provider regarding agreed-upon arrangements, co-payment responsibilities, and the submission of vouchers for payment of service;

18. Determine payment to provider(s) from the program and the amount of the co-payment paid by the recipient;

19. Establish a written agreement between the county agency and the DYFS District Office in the county for protective service children;

20. Conduct redeterminations of eligibility for service programs at the beginning of each new service eligibility period as defined by DHS, or when reported changes necessitate such a redetermination;

21. Maintain and update the client database and case files in accordance with State and Federal standards and requirements;

22. Verify children's attendance in the care of providers participating in the child care service programs;

23. Provide information on the certificate program operation to applicant/recipients and the community;

24. Maintain an audit trail of all financial and accounting reports and transactions associated with the child care service program;

25. Account for all funds, both administrative and direct subsidies to providers of service, in accordance with State and Federal requirements;

26. Provide for the timely processing of payments to eligible providers via the certificate system in accordance with State requirements;

27. Provide assistance to providers in child care voucher completion;

28. Submit monthly and quarterly reports as defined and required in DHS operational and fiscal procedures;

29. Maintain a Federally acceptable cost allocation plan for the distribution of all administrative costs in accordance with DHS procedures;

30. Provide notices to participants and providers when changes in circumstances may affect child care service benefits; and

31. Assure the Department, in writing, that no conflict of interest shall occur with existing contracts and/or agreements held by that agency for administering child care services due to the agency's provision of Departmental child care services.

#### 10:15-2.4 Provider responsibilities

(a) The provider shall comply with all applicable laws and regulations to ensure a safe environment for the children in care.

(b) The provider shall collect the parent co-payment and report the nonpayment of that co-payment to the county child care service agency to initiate the termination of the child care subsidy.

(c) The provider shall complete vouchers with child(ren)'s attendance data and co-payment information, obtains the caretaker's signature and sends vouchers to the county child care service agency within three business days of closing of reporting payment periods.

(d) The provider shall cooperate in the evaluation of the child care site in accordance with State and local regulations and requirements for health and safety checks.

#### 10:15-2.5 Applicant or recipient responsibilities

(a) The applicant or recipient shall:

1. Provide for the documentation and verification of eligibility requirements for child care service programs;

2. Take the lead in interviewing providers of care to determine that provider(s) meets his or her family's needs;

3. Sign agreements for the provision of child care services with the county contracted child care service agency and the provider;

4. Sign provider vouchers to verify to the agency that the child(ren) in care attended care on those days for the hours indicated by the provider on the voucher;

5. Make timely payment of the co-payment amount determined by the county contracted child care service agency to the provider(s); and

6. Report all changes in circumstances regarding eligibility such as, but not limited to, loss of job, changes in income, status change in participation in educational or work/training activities, provider changes, and changes in family size, to the child care entity within five working days of the change in circumstance.

## CHAPTER 15A PROVISION OF CHILD CARE SERVICES

### SUBCHAPTER 1. GENERAL PROVISIONS

#### 10:15A-1.1 Child Care Service Program availability

(a) To the extent that such child care is necessary to permit an eligible family member to accept employment, to remain employed, or to participate in work/training or educational activities, child care service benefits are available based on the individual needs of each family. Additionally, child care services are also available for protective services children identified by DYFS if child care services are necessary as part of the child's treatment plan, and for protective services children in substitute care settings under the custody of DYFS. Payments through the child care service programs for child care shall not be made for care provided by the child's own parents, legal guardians, or members of the applicant's family unit, on the basis of their responsibility of caring for their own child(ren). Child care service programs include the IV-A "At-Risk" Program (see N.J.A.C. 10:15B-1) and the Child Care and Development Block Grant (CCDBG) Program (see N.J.A.C. 10:15B-2). Other child care service programs offered through DHS are set forth at N.J.A.C. 10:81-14.18 and 10:125B.

1. No child found eligible for ARCC or CCDBG child care services who is receiving such services shall be displaced by another child for the sole reason of service priority groups (see N.J.A.C. 10:15B-1.1(c) and 2.1(e)). The applicant child shall instead be placed on the waiting list with the county selected service agency by date of application for service benefits as received by the agency and by priority group status.

2. Each county child care service agency shall keep a waiting list of those persons who apply for and are found eligible for the CCDBG or ARCC program but for whom resources are not yet available.

3. The waiting list shall be kept by the agency according to the date the application was received by the agency and by priority group status (see N.J.A.C. 10:15B-1.1(c) and 2.1(e)).

4. The waiting list shall be reviewed and waiting list families re-evaluated for service when resources are available. If the family who is next on the waiting list is unable to utilize the vacancy when it occurs, the agency proceeds to the next family on the list.

5. Names shall be retained on the list for one year. At the end of the year, the family is to be contacted (if not contacted previously) to make a new application for services if still interested and if in need of child care.

6. Families found eligible to participate who are provided ARCC or CCDBG services shall be retained in child care for up to 12 consecutive months if the need for the service remains, the program eligibility criteria are met, and resources remain available.

i. A child shall not be retained in child care if the need for service no longer exists.

ii. An exception may be made in the case of loss of employment by the parent. In such situations, the child(ren) may be continued in child care for a period not to exceed one month, if the parent can demonstrate to the agency that he or she is actively seeking employment.

(b) To be eligible for services through the child care services programs, a child must:

1. Be under 13 years of age;

2. Be under 19 years of age and physically or mentally incapable of caring for himself or herself (that is, a "special needs" child as defined at N.J.A.C. 10:15-1.2), based on a determination by a physician or a licensed or certified psychologist, as verified by the county child care entity. The child's social or medical diagnosis shall be documented as a result of a standardized developmental or psychological test given by the certified professional or physician. The specific needs of the child shall be identified and delineated in the documentation; or

3. Be under the supervision of DYFS (that is, protective service child).

(c) In addition to the eligibility criteria set forth in (b) above, families shall also satisfy additional requirements for receipt of child

care service benefits through the specific child care service programs, IV-A "At-Risk" and CCDBG. The eligibility criteria for each of those programs are set forth at N.J.A.C. 10:15B-1 and 10:15B-2, respectively.

(d) The parent and the county child care service agency, upon request of the applicant, will mutually arrange for child care for the parent's child(ren) while the individual is employed full-time or participating in full-time educational or work/training activity, or for a protective services child identified by DYFS as set forth in the application for child care services. Parental choice from among categories of care or types of providers is guaranteed to the extent practicable under Federal and State laws and regulations.

1. Child care arrangements shall be in the best interests of the child and parent or legal guardian and shall consider the individual needs of the child, including the reasonable accessibility of the care to the child's home and school, and the appropriateness of the care to the age and special needs of the child.

2. Child care arrangements shall be agreeable to the parent (to the maximum extent practicable). The hours provided or claimed for reimbursement shall be reasonably related to the hours of participation in the educational/training activity or employment and shall be sufficient to accommodate the hours required by the employer or the activity.

3. The caregiver providing child care shall allow unlimited parental access of parents to their children or to the caregiver caring for their children during the normal hours of operations or whenever such children are in the care of such providers.

4. Child care arrangements shall meet applicable standards of State and local law and regulations and be in accordance with N.J.A.C. 10:15A-1.3.

5. Child care is available to the extent that child care is necessary to permit a member of the family to accept or retain full-time employment or to participate in full-time educational or work/training activities if the family meets income eligibility levels; and for protective services children needing child care as part of the child's treatment plan or when such children are in a substitute care setting under the custody of DYFS, and to the extent that fiscal or other resources necessary for child care service provision are available.

(e) Refusal of child care benefits may be inferred if the applicant does not select a child care provider within 10 calendar days of the date the participant and the child care entity evaluate the participant's child care needs and preference of providers and made referral(s) to appropriate child care provider(s); does not provide the information necessary for determining eligibility and co-payment amount, including verification of earnings; does not sign the Agreement for the receipt of care; or does not co-sign the child care voucher.

1. Refusal of child care benefits shall be documented in the case record by the county child care service agency.

2. In instances where refusal of child care is disputed, it is the responsibility of the child care service agency to show that referrals for appropriate care were made, and it is the responsibility of the participant to show that he or she complied with the referrals timely, and in good faith.

3. The county child care service agency shall take reasonable precautions to guard against fraud and abuse in the funding and provision of child care benefits.

(f) Applicants and recipients of child care service programs are entitled to hearings and notices through the county contracted child care agency on issues concerning the appropriateness of, denial of, prompt issuance of, or intended actions to terminate or reduce child care benefits.

1. Timely and adequate notice must be given if child care benefits are denied, reduced, or terminated due to ineligibility or nonpayment of the co-payment. Timely notice to the parent or guardian means at least 10 calendar days prior to the change taking effect. Adequate notice means advising the parent of the reasons for and circumstances surrounding the denial, reduction or termination of child care benefits.

2. If the individual had been receiving child care benefits and is awaiting a hearing concerning those benefits because such benefits

were reduced, he or she is not entitled to receive child care benefits at the prior unreduced level. Benefits shall continue at the determined reduced level pending the hearing. If the individual had not been receiving any child care benefits and is awaiting a hearing due to nonreceipt of child care benefits, he or she is not entitled to receive any child care benefits pending the hearing.

3. If a particular issue is not resolved at the county agency level, (a hearing shall be provided in accordance with N.J.A.C. 10:81-6 for those participants receiving care through the certificate (voucher) process or through DYFS for contracted child care services (N.J.A.C. 10:120-3 and 10:125B-2.11(c)).

10:15A-1.2 Payment policies

(a) Child care payments are available for care of an infant, toddler, preschool child, school-aged child or child with special needs in various types of arrangements, including full and part-time day care and care before and after school.

(b) Payment for care of school-aged children, which is normally limited to part-time or after school care during the school year, shall be made at the full-day rates during summer vacations and recognized vacations and holidays during the school year, for example, Christmas, spring vacation, and so forth.

(c) The maximum child care payment rates are set forth in Tables I, II and III below. The maximum child care payment rates utilized in the Department of Human Services child care service programs are available through a written request to the Office of Child Care Development, New Jersey Department of Human Services, CN 700, Trenton, NJ 08625, or the local Division of Youth and Family Services Regional Office, the county welfare agency or the county child care service agency.

1. Table I includes maximum rates for licensed child care centers, school-age programs and day camps (see N.J.A.C. 10:15A-1.3(b)).

2. Table II includes maximum rates for registered family day care provider homes (see N.J.A.C. 10:15A-1.3(c)), including the "special needs" rates for such children as defined at N.J.A.C. 10:15-1.2.

3. Table III includes maximum rates for approved family day care provider homes (see N.J.A.C. 10:15A-1.3(d)), including the "special needs" rates for such children as defined at N.J.A.C. 10:15-1.2.

4. Tables I, II, and III specify weekly and daily rates for the various age categories of children based on the hours of care provided.

Table I

CHILD CARE VOUCHER MAXIMUM DAILY RATES

LICENSED CHILD CARE CENTERS,  
SCHOOL-AGE PROGRAMS, DAY CAMPS

HOURS OF CARE PROVIDED

|   | Full-Time              | Part-Time                |
|---|------------------------|--------------------------|
| Child's Service Category                  | 6 hrs. or more per day | less than 6 hrs. per day |
| Infants/Toddlers                          |                        |                          |
| Weekly                                    | \$113.00               | \$56.50                  |
| Daily                                     | \$ 22.60               | \$11.30                  |
| Pre-schoolers (2.5 up to 5 yrs)           |                        |                          |
| Weekly                                    | \$92.00                | \$46.00                  |
| Daily                                     | \$18.40                | \$ 9.20                  |
| Kindergarteners & School-Agers (5-13 yrs) |                        |                          |
| Weekly                                    | \$92.00                | \$46.00                  |
| Daily                                     | \$18.40                | \$ 9.20                  |

Table II  
CHILD CARE VOUCHER MAXIMUM DAILY RATES  
REGISTERED FAMILY DAY CARE HOMES  
HOURS OF CARE PROVIDED

| Child's Service Category   | Full-Time<br>6 hrs. or<br>more per day | Three-Quarter<br>Time*<br>4 or 5 hrs.<br>per day | One-Half<br>Time*<br>2 or 3 hrs.<br>per day | One-Quarter<br>Time*<br>1 hr.<br>per day |
|--|--|--|---|--|
| <b>Infants/Toddlers</b>  |  |  |   |  |
| Weekly   | \$ 90.00                               | \$67.50  | \$45.00                                     | \$22.50                                  |
| Daily  | \$ 18.00                               | \$13.50  | \$ 9.00                                     | \$ 4.50                                  |
| <b>Pre-schoolers<br/>(2.5 up to 5 yrs)</b>                         |  |  |   |  |
| Weekly   | \$ 70.00                               | \$52.50  | \$35.00                                     | \$17.50                                  |
| Daily  | \$ 14.00                               | \$10.50  | \$ 7.00                                     | \$ 3.50                                  |
| <b>Kindergarteners &amp;<br/>School-Agers<br/>(5 up to 13 yrs)</b> |  |  |   |  |
| Weekly   | \$ 70.00                               | \$52.50  | \$35.00                                     | \$17.50                                  |
| Daily  | \$ 14.00                               | \$10.50  | \$ 7.00                                     | \$ 3.50                                  |
| <b>Special Needs<br/>Infants/Toddlers<br/>(0 up to 2.5 yrs)</b>    |  |  |   |  |
| Weekly   | \$110.00                               | \$82.50  | \$55.00                                     | \$27.50                                  |
| Daily  | \$ 22.00                               | \$16.50  | \$11.00                                     | \$ 5.50                                  |
| <b>Special Needs<br/>Child(ren)<br/>(2.5 yrs &amp; up)</b>         |  |  |   |  |
| Weekly   | \$ 90.00                               | \$67.50  | \$45.00                                     | \$22.50                                  |
| Daily  | \$ 18.00                               | \$13.50  | \$ 9.00                                     | \$ 4.50                                  |

\*Care given for any portion of an hour shall be rounded to the next full hour. For example, one hour and 15 minutes is rounded to two hours.

Table III  
CHILD CARE VOUCHER MAXIMUM DAILY RATES

| Child's Service Category                                   | APPROVED HOME DAY CARE<br>HOURS OF CARE PROVIDED |  |                                       |                                    |
|--|--|--|---------------------------------------|------------------------------------|
|  | Full-Time<br>6 hrs. or more per day              | Three-Quarter Time*<br>4 or 5 hrs. per day | One-Half Time*<br>2 or 3 hrs. per day | One-Quarter Time*<br>1 hr. per day |
| <b>Infants/Toddlers</b>                                    |  |  |                                       |                                    |
| Weekly   | \$55.00  | \$41.25                                    | \$27.50                               | \$13.75                            |
| Daily  | \$11.00  | \$ 8.25                                    | \$ 5.50                               | \$ 2.75                            |
| <b>Pre-schoolers (2.5 up to 5 yrs)</b>                     |  |  |                                       |                                    |
| Weekly   | \$41.00  | \$30.75                                    | \$20.50                               | \$10.25                            |
| Daily  | \$ 8.20  | \$ 6.15                                    | \$ 4.10                               | \$ 2.05                            |
| <b>Kindergarteners &amp; School-Agers (5 up to 13 yrs)</b> |  |  |                                       |                                    |
| Weekly   | \$41.00  | \$30.75                                    | \$20.50                               | \$10.25                            |
| Daily  | \$ 8.20  | \$ 6.15                                    | \$ 4.10                               | \$ 2.05                            |
| <b>Special Needs</b>                                       |  |  |                                       |                                    |
| <b>Infants/Toddlers (0 up to 2.5 yrs)</b>                  |  |  |                                       |                                    |
| Weekly   | \$66.00  | \$49.50                                    | \$33.00                               | \$16.50                            |
| Daily  | \$13.20  | \$ 9.90                                    | \$ 6.60                               | \$ 3.30                            |
| <b>Special Needs Child(ren) (2.5 yrs &amp; up)</b>         |  |  |                                       |                                    |
| Weekly   | \$55.00  | \$41.25                                    | \$27.50                               | \$13.75                            |
| Daily  | \$11.00  | \$ 8.25                                    | \$ 5.50                               | \$ 2.75                            |

\*Care given for any portion of an hour shall be rounded to the next full hour. For example, one hour and 15 minutes is rounded to two hours.

(d) Notwithstanding when the family requests child care, eligibility for child care continues for a period of up to 12 consecutive months before reevaluation of eligibility for continued receipt of child care service program benefits, or upon notification of change in eligibility or as determined necessary by the child care service agency. The possible 12-month period shall consist of up to 52 consecutive weeks. Employment or participation in work/training activities throughout this 12-month period shall be presumed unless the participant reports otherwise.

(e) The following conditions must be met for receipt of child care service program benefits:

1. The applicant shall request child care benefits and provide the information necessary, including verification of earnings, for determining eligibility and co-payment and the family meets the financial eligibility requirements for either the IV-A "at-Risk" program or the CCDBG program as set forth at N.J.A.C. 10:15B-1 and N.J.A.C. 10:15B-2, respectively, or the child is a protective services child.

2. The applicant shall sign an agreement covering the period during which the child care is to be provided;

3. The applicant shall select a provider as set forth in the agreement;

4. The recipient shall pay the required co-payment (see N.J.A.C. 10:15C-1.1(a)1 for the exception to co-payment) to the provider of care; and

5. The recipient shall report changes in circumstances to the county child care service agency.

(f) The family is not eligible for child care for any remaining portion of the 12-month period if the caretaker:

1. Terminates full-time employment or training or educational programs without good cause, or the wages/income exceed eligibility levels;

2. Fails to pay the required co-payment to the provider(s); or  
3. Otherwise does not meet eligibility criteria.

(g) If the caretaker loses a job with good cause, and then begins employment within one month of the loss of the previous job, the family can qualify for the one month of care during the transition between jobs as well as for the remaining portion of up to 12 months in the child care eligibility period. However, child care service benefits shall be terminated and eligibility shall not be reestablished if the recipient loses a job without good cause, or does not attend or stops participation without good cause in educational or work/training activities. (Protective services children shall be treated in accordance with N.J.A.C. 10:15A-1.5(d).) That individual shall be placed on the waiting list for services.

10:15A-1.3 Provider requirements

(a) Payments to providers of child care through child care service programs are available according to the following conditions and are in accordance with existing payment procedures for child care providers set forth at N.J.A.C. 10:81-14.18.

(b) To qualify for child care payments, a child care center or program shall meet one of the following requirements as set forth at N.J.A.C. 10:122, Manual of Requirements for Child Care Centers, (N.J.S.A. 30:5B-1 through 15); (see also N.J.A.C. 10:81-14.18(f)1):

1. Centers providing care for infant and pre-school children shall be licensed by DYFS, Bureau of Licensing or shall have a letter of exemption from DYFS, Bureau of Licensing; or shall be operated under the auspices of the public school system;

2. Child care programs for school-age children shall meet local occupancy building and fire codes and shall have satisfactorily completed an inspection using the DHS' "School-Age Child Care Interim Guidelines Checklist" (see Appendix A, incorporated herein by

reference) or shall be operated under the auspices of the public school system or a DYFS contract; or

3. Summer camps shall be approved by the New Jersey Department of Health. (see N.J.A.C. 8:25)

(c) All family day care providers who serve three or more nonsibling children must be registered pursuant to the Family Day Care Provider Registration Act (see N.J.A.C. 10:126) in order to qualify for payment of child care services through these programs.

1. Family day care providers of one or two children may choose to register under the Family Day Care Provider Registration Act or to provide family day care as an approved home.

2. Payment shall be made to the provider who has secured a Certificate of Registration or a temporary registration certificate, as defined by rules promulgated under the Family Day Care Provider Registration Act (see N.J.A.C. 10:126).

(d) Providers of family day care who are not living in the home of the child care applicant/recipient and who are not registered under (c) above shall be approved by the Department of Human Services in order to qualify for payment through any child care service program. Unregistered relatives, friends or neighbors are eligible for approved home status.

1. The minimum requirements for approval of the home are an inspection of the home using the "Family Day Care Home Approval Checklist" (see Appendix B, incorporated herein by reference), and standard interview procedures with the provider and family members (see N.J.A.C. 10:81-14.18(f)2).

2. As an approved home, providers may receive payment for a maximum of two nonsibling children or of all the sibling children of one family so long as the total number of children in the home does not exceed seven children, five of which are for payment purposes; and, the number of sibling children for whom payment is made does not exceed five.

(e) Providers of in-home care, that is, care of a child in the child's own home, shall be evaluated using the "Family Day Care Home Approval Checklist," in order to qualify for payment through the child care service programs.

(f) Providers of child care not in the categories (b) through (e) above are not entitled to payment through the child care service programs.

**10:15A-1.4 Payment methods**

(a) The child care service programs' methods for issuing payments for child care are vendor payments (voucher process) to the provider and through contracts with licensed day care centers.

(b) Vendor payments to providers are the primary method for issuing child care payments in the child care service programs. Under this method, a voucher is issued to the child care provider after the completion and signing of a provider agreement. The provider completes the voucher, lists the dates of care, signs the voucher, secures the parent's signature and returns it to the agency responsible for issuing payment. Upon verification of the voucher information, the agency issues child care payment to the provider.

(c) There are instances in which a contract with a licensed child care center may be the only viable option for the provision of day care services. Such contracts shall be negotiated by the Division of Youth and Family Services (see N.J.A.C. 10:125B).

**10:15A-1.5 Requirement of co-payment**

(a) Each family receiving child care is required to contribute a co-payment toward the cost of such care. The exception to the co-payment requirement applies to protective services child(ren) as identified by DYFS (see N.J.A.C. 10:15-1.2) living in a substitute care setting under the custody of DYFS.

(b) A co-payment scale established by the Department of Human Services will provide for some level of contribution by most recipients of child care. The co-payment scale shall consider: family income, family size, number of children, and number of children in care. The co-payment scale is set forth at N.J.A.C. 10:15C-1.1(d).

(c) Individuals who fail to cooperate in paying the required co-payment will, subject to appropriate notice and hearing requirements, lose eligibility for child care benefits for so long as back co-payments are owed, unless satisfactory arrangements are made with each provider to make full payment of arrearages.

(d) Children under DYFS supervision and placed with a caretaker family shall not be terminated from services until:

1. The referring DYFS District Office or community referral agency has been notified;

2. Alternate child care arrangements have been made; and

3. The termination of child care services has been approved by the DYFS case manager, in writing, to the child care service agency.

(e) Any emergency termination of service initiated by a child care provider of a protective services child for reasons other than loss of financial eligibility or failure to comply with other rules or contractual provisions shall be reported to the DYFS Regional Contract Administrator.

APPENDIX A
SCHOOL-AGE CHILD CARE PROGRAM
Interim Evaluation Guidelines

Program Site

NAME: FEDERAL ID SOCIAL SECURITY NO:
STREET ADDRESS:
CITY, STATE: ZIP CODE: TELEPHONE:
NAME OF PERSON RESPONSIBLE AT SITE:
AGENCY CONDUCTING EVALUATION:
DATE OF EVALUATION:

- A. PURPOSE OF PROGRAM
B. CHILD TO STAFF RATIOS
C. NONDISCRIMINATION
D. SUITABILITY OF THE CHILD CARE ENVIRONMENT
E. SAFETY AND SANITATION
F. HEALTH SERVICES

I understand that this information is being given in connection with the receipt of payments for Child Care Services that the evaluation agency, may, for cause, verify information; that the information provided on this form is true to the best of my knowledge and that deliberate misrepresentation may subject me to prosecution or civil action under applicable state and federal criminal or civil statutes.

SIGNATURE OF AUTHORIZED PROGRAM REPRESENTATIVE TITLE DATE

FOR EVALUATOR ONLY

Program Approved Denied

COMMENTS

Date: Evaluator's Signature:

APPENDIX B
HOME APPROVAL CHECKLIST

This checklist shall be used by agency conducting evaluation at a preliminary visit to home of new caregiver applicant.

Agency conducting evaluation
Evaluator
Applicant
Address
City
State
Zip Code
County
Telephone
Applicant's Social Security Number

For office use only:
Approved:
Denied:

Referred by
For (Children's Name) (Date of Birth) (Sex) (Case Numbers)

Language Spoken In Home Case Manager

A. INSPECTION CHECKLIST

Mark each item: C=compliance NC=Non-compliance NA=Not applicable

I. Physical environment Compliance Comments

- 1. Adequate floor space
2. Minimum temperature 65°F
3. Surfaces clean, in good repair
4. Adequate ventilation
5. Warm and cold running water available
6. Working indoor toilets accessible
7. Indoor and outdoor equipment sturdy, safe, non-toxic, easy to clean, free of hazards
8. Sufficient furniture and equipment for children
9. Working telephone in home
10. If no working telephone in home
i. Provider demonstrates inability to afford telephone
ii. If able to afford telephone, provider agrees to install in 90 days
iii. Working telephone accessible within 5 minutes at all times when enrolled children present

II. Fire Safety

- 1. Working smoke detector on each floor
2. Lockable interior doors can be unlocked from outside
3. Heating/cooling devices vented, protected by guards, kept clear of combustible materials

Compliance

Comments

- 4. Woodburning stoves have barriers, are not accessible to children
- 5. Portable liquid fuel-burning appliances are not used when children are in care
- 6. Stairways, hallways, exits unobstructed
- 7. Electrical cords in good condition

III. General Safety

- 1. Home and furnishings present no hazard
- 2. All toxic substances out of reach
- 3. Non-permanent barriers on stairs, ramps, balconies, porches, elevated play areas
- 4. Electrical outlets accessible to children are covered
- 5. Working flashlight available

IV. Outdoor Space

- 1. Adequate, safe outdoor play area adjacent to or within walking distance of home

V. Accidents, Injuries and Emergencies

First aid supplies accessible

VI. Sanitation

Individual towels and washcloths or disposable towels and washcloths

VII. Program

- 1. Safe toys, play equipment, creative materials for all ages, interests, and number of children
- 2. Materials for preschoolers include:
  - i. Dramatic play/language development
  - ii. Visual/small muscle development
  - iii. Auditory development
  - iv. Creative expression
  - v. Large muscle development

VIII. Rest and sleep

- 1. Daily rest/sleep for each child in clean safe area according to needs
- 2. Children under 18 months/non-walkers sleep in crib, playpen, cot, bed with rails, or floor mat 1" thick

- 3. Crib and playpen slats no more than 2 3/8" apart
- 4. Drinking water available?

**B. STANDARD INTERVIEW PROCEDURE**

| Name | Relationship to Caregiver | Sex | Date of Birth |
|------|---------------------------|-----|---------------|
|      |                           |     |               |
|      |                           |     |               |

**Other Children Living in Home**

| Name | Relationship to Caregiver | Sex | Date of Birth |
|------|---------------------------|-----|---------------|
|      |                           |     |               |
|      |                           |     |               |

**QUESTION**

**RESPONSE**

1. Are you over 18 years of age?
2. What other adults and/or children will be in your home during the time the children are in your care? What type of contact will they have with the children?
3. How long can you provide the day care? (Days/weeks/months).
4. Full time?/Part time?
5. Holidays?/Summers?
6. Have you ever been convicted of a crime? If yes, explain  
 (Evidence of conviction of a crime, in itself, shall not automatically preclude an individual from serving as a caregiver. Such determination shall be made on a case by case basis.)
7. Do you have any illnesses or medical condition that would prevent you from providing child care services?
8. Based on compliance with the policy outlined above are you willing to provide day care to the child/children of the client?
9. Have you had other experiences in working with children?  
 Describe
10. What methods of discipline will you use with the child in your care?
11. How will you handle medical emergencies if you or the child should get sick during the hours child care is being provided?
12. Who, other than the child's parent, will be able to pickup the child at the end of the day? Do you have a telephone number in order to contact this person?

13. What arrangements have been made to provide nutritious meals to the child/children in your care?

C. OBSERVATIONS

1. Describe the applicant's home in relation to assessing their home management skills.

2. Have you observed any condition or situation that would cause you to deny this applicant?

If yes, explain

3. If applicant is being approved for child care, has emergency card been provided?

For evaluator only: (check)

Home Approved \_\_\_\_\_

Home Denied \_\_\_\_\_ Reason \_\_\_\_\_

Date: \_\_\_\_\_ Evaluator's signature \_\_\_\_\_

CHAPTER 10:15B
ELIGIBILITY FOR INDIVIDUAL CHILD CARE SERVICE PROGRAMS

SUBCHAPTER 1. IV-A "AT-RISK" CHILD CARE PROGRAM

10:15B-1.1 Description of IV-A "At-Risk" Program

(a) The Title IV-A "At-Risk" Child Care (ARCC) Program provides child care assistance to low-income working families who might otherwise be vulnerable to welfare dependency if not provided the opportunity for affordable, stabilized child care arrangements. It is anticipated that the families served will be more likely to remain employed if given child care assistance, thereby reducing the likelihood that those families will need the help of public assistance benefit programs.

(b) Child care assistance is also available to a protective services child who resides with a family whose income meets the definition of low income as set forth in N.J.A.C. 10:15B-1.2(b).

(c) Services shall be provided to the extent of the State's entitlement to Federal monies, by targeting those most "at-risk" of becoming AFDC-dependent. Groups identified as most "at-risk" for participation include:

1. Families who are former AFDC recipients and who have completed their 12-months of REACH/JOBS transitional child care eligibility (see N.J.A.C. 10:81-14.18);

2. Families who are ineligible for Federal REACH/JOBS transitional child care benefits;

3. Families who are enrolled in the non-public assistance Food Stamp Program; and

4. Families who have children identified as being in need of protective services; or, who are at-risk of becoming homeless; or, who are teen parents (not on AFDC) who are employed and otherwise eligible for IV-A "At-Risk" assistance.

10:15B-1.2 Eligibility for IV-A "At-Risk" Child Care (ARCC) Program

(a) Families shall be in need of IV-A "At-Risk" child care assistance in order to remain employed or to accept employment and shall be eligible to apply for ARCC benefits.

(b) Families shall be working low-income families or a working low-income family that has a protective services child in need of child care services residing in the family's home.

1. "Low-income" families are defined for purposes of this program as families whose gross annual income for the family size is at or below 185 percent of the Federal Poverty Income Guidelines published annually in the Federal Register (reference the Federal Register, Vol. 56, No. 34, dated February 20, 1991, page 5860). Subsequent updates to these Guidelines in the Federal Register will be published as a public notice by the Department in the New Jersey Register.

2. The annual gross income of the family must fall at or below 185 percent of the Federal Poverty Income Guidelines for the family size to establish income eligibility.

i. Priority attention shall be given to those families at the lower end of the income spectrum, that is, at or below 150 percent of poverty.

(c) Children shall be eligible for IV-A "At-Risk" assistance if they meet the general eligibility requirement set forth at N.J.A.C. 10:15A-1.1(b).

(d) The family cannot be receiving AFDC.

(e) The family must be at-risk of becoming eligible for AFDC, as defined in N.J.A.C. 10:15B-1.1(c) through 4.

(f) Families shall meet the conditions set forth at N.J.A.C. 10:15CA 2.1(e) for receipt of IV-A "At-Risk" assistance.

(g) Families shall comply with the rules set forth in N.J.A.C. 10:15 and 10:15A through 10:15C for receipt of child care assistance through the ARCC program.

(h) Families shall make a co-payment toward the cost of care in accordance with N.J.A.C. 10:15C. The exception to the co-payment requirement exists when the child is identified as a protective services child by DYFS as defined at N.J.A.C. 10:15-1.2 who is living in a substitute care setting under the custody of DYFS. No co-payment is determined for such children (see also N.J.A.C. 10:15C-1.1 and 10:125B).

#### 10:15B-1.3 Accessing ARCC assistance

(a) Eligible families shall access ARCC assistance in the county through the county selected child care service agency.

(b) Application for ARCC assistance and the ARCC income eligibility determination are handled by the county child care service agency.

(c) Other child care service provisions established in these rules (see N.J.A.C. 10:15 and 10:15A-15C) are applicable to the IV-A "At-Risk" Child Care Program.

## SUBCHAPTER 2. CHILD CARE AND DEVELOPMENT BLOCK GRANT PROGRAM (CCDBG)

### 10:15B-2.1 Description of CCDBG Program

(a) The Child Care and Development Block Grant Program provides low-income families with the child care assistance necessary to find and afford quality child care for their children or children who have been identified by DYFS as protective services children and placed in the family's care.

(b) Monies through the CCDBG Program shall be used by the Department to expand child care services and provide for improvements to the child care system of the State. Funding is provided through the CCDBG Program to improve the availability and quality of child care and for early childhood development and before-and-after-school services.

(c) CCDBG assistance is intended for "low-income" families with a parent who is working or attending a training or educational program or who has a protective services child, as identified by DYFS, residing in the home.

1. "Low income" for purposes of the CCDBG Program for recipient families is defined as an annual gross family income for the family size that does not exceed 75 percent of the State's median income (SMI) for a family of the same size if the family has been receiving child care services through Departmental child care programs. "Low income" for purposes of the CCDBG program for new applicant families is defined as an annual gross family income for the family size that does not exceed 60 percent of the SMI for a family of the same size. (The SMI for states is published by the Federal Administration for Children and Families in the Federal Register. The SMI was last published in the Federal Register, Vol. 53, No. 64, April 4, 1988. Subsequent update to the SMI will be published as a public notice by the Department in the New Jersey Register.)

(d) Priority consideration and placement of children through CCDBG assistance is given to children who are from families with "very low income," as well as children who have been identified as protective services children or as having special needs (see N.J.A.C. 10:15-1.2 for definition of a special needs child).

1. Families with "very low income" are defined as families with incomes at or below 185 percent of the Federal Poverty Level, as determined by family size.

(e) Groups identified for priority CCDBG participation include:

1. Children in need of protective services as identified by the Department's Division of Youth and Family Services (DYFS) and defined at N.J.A.C. 10:15-1.2.

2. Children identified as having special needs and/or in special circumstances, that is, a child that is not under DYFS supervision who has been identified through a written referral from a county welfare agency; legal, medical, or social service agency; emergency shelter; or public school which indicates that the child is from a family experiencing medical or social problems or adverse living conditions. Such children require short-term special child care arrangements to help ameliorate the situation and/or prevent the placement of the child or other family member(s) outside the home.

3. Children in families with very low incomes at or below 185 percent of the Federal Poverty Level.

4. Children from families receiving assistance under the Title IV-A "At-Risk" Child Care Program who are at-risk of becoming ineligible for that child care service assistance, due to an increase in earnings, and who continue to need child care services in order to remain in full-time employment.

### 10:15B-2.2 Eligibility for CCDBG Program

(a) Families shall be in need of CCDBG child care assistance in order to remain employed or to accept full-time employment or to attend full-time educational and/or work/training programs; or the family has a protective services child in need of child care services residing with the family.

(b) The child(ren) shall be residing with a family whose annual gross income does not exceed 75 percent of the State's median income for a family of the same size (see N.J.A.C. 10:15B-2.1(c)) for recipient families who have been receiving child care services through other Departmental child care service programs; or be residing with an applicant family whose annual gross income does not exceed 60 percent of the SMI for a family of the same size.

(c) The child(ren) under protective service supervision where child care has been identified as part of the case plan to ensure that such children receive necessary child care services.

(d) Children shall be eligible for CCDBG assistance if they meet the general eligibility requirements set forth at N.J.A.C. 10:15A-1.1(b).

(e) Families shall meet the conditions set forth at N.J.A.C. 10:15A-1.2(e) for receipt of CCDBG assistance.

(f) Families shall comply with the rules set forth in N.J.A.C. 10:15, and 10:15A through 10:15C for receipt of child care assistance through the CCDBG program.

(g) Families shall make a co-payment toward the cost of care in accordance with N.J.A.C. 10:15C. The exception to the co-payment requirement exists when the child is identified as a protective services child by DYFS (see N.J.A.C. 10:15-1.2) who is living in a substitute care setting under the custody of DYFS. No co-payment is determined for such children (see also N.J.A.C. 10:15C-1.1 and 10:125B).

### 10:15B-2.3 Accessing CCDBG assistance

(a) Eligible families shall access CCDBG assistance in the county through the county selected child care service agency.

(b) Application for CCDBG assistance and the CCDBG income eligibility determination are handled by the county child care service agency.

(c) Other child care service provisions established in these rules (see N.J.A.C. 10:15, 10:15A and 10:15C) are applicable to the CCDBG Child Care Program.

## CHAPTER 15C CO-PAYMENTS AND PROCEDURES

### SUBCHAPTER 1. GENERAL PROVISIONS

#### 10:15C-1.1 Co-payment procedures

(a) All eligible families shall pay a fee toward the cost of child care services. This fee is termed a co-payment.

1. The exception to the co-payment requirement exists when the child is identified as a protective services child by DYFS (see

N.J.A.C. 10:15-1.2) who is living in a substitute care setting under the custody of DYFS. No co-payment is determined for such children (see also N.J.A.C. 10:125B).

(b) By the adoption of a Statewide co-payment scale for child care service programs provided to families, the programs seek to:

1. Enable an eligible family to accept and maintain employment or to participate in work/training or educational activities through child care service program aid or to provide child care services to a protective services child as identified by DYFS;

2. Ensure that the family has freedom of choice in selecting child care arrangements and is provided with flexibility to choose the location and type of provider that best meets their child care needs under the child care service programs; and

3. Require that all recipient families of child care service program benefits (with the exception of protective service children living in substitute care settings under the custody of DYFS) pay a portion of the cost of care based on ability to pay, as required by the Omnibus Budget Reconciliation Act of 1990 (Public Law 100-508).

(c) Once assessed, the co-payment is deducted from the amount to be paid to the provider by the Program. This assessed co-payment

for child care services is then paid directly by the parent to the provider of care; any remaining balance of the cost of care, up to the maximum rates established by the Department (see N.J.A.C. 10:15A-1.2(c)), is paid by the Program. The child care co-payment policy and procedures are applicable for all types of care arrangements available through the child care service programs including:

1. Licensed child care centers;
2. Registered family day care homes;
3. Self-arranged care (including in-home care);
4. Summer camps which are approved by the Department of Health (see N.J.A.C. 8:25); and
5. School-age child care programs.

(d) The amount of the required co-payment is based on the family's annual gross income level, family size, number of children, and number of children in care. Assessed co-payments are apportioned weekly and are due for the entire period of time that subsidized child care assistance is received. Holidays, emergency closings, and absences do not exclude or reduce the required co-payment. There are two co-payment scales:

TABLE I  
CO-PAYMENT SCALE

By Family Size  
(Full-Time Care)\*\*

| Full Time Weekly Fee | Percent of State 1989 Median Family Income | Family Size and Annual Income |               |               |               |               |
|----------------------|--|-------------------------------|---------------|---------------|---------------|---------------|
|                      |  | 2                             | 3             | 4             | 5             | 6             |
| 1.00                 | 0%- 5%                                     | 0- 1,768                      | 0- 2,184      | 0- 2,600      | 0- 3,016      | 0- 3,432      |
| 4.00                 | 6%-10%                                     | 1,769- 3,536                  | 2,185- 4,368  | 2,601- 5,200  | 3,017- 6,031  | 3,433- 6,863  |
| 6.00                 | 11%-15%                                    | 3,537- 5,304                  | 4,369- 6,552  | 5,201- 7,799  | 6,032- 9,047  | 6,864-10,295  |
| 9.00                 | 16%-20%                                    | 5,305- 7,071                  | 6,553- 8,735  | 7,800-10,399  | 9,048-12,063  | 10,296-13,727 |
| 11.00                | 21%-25%                                    | 7,072- 8,839                  | 8,736-10,919  | 10,400-12,999 | 12,064-15,079 | 13,728-17,159 |
| 14.00                | 26%-30%                                    | 8,840-10,607                  | 10,920-13,103 | 13,000-15,599 | 15,080-18,094 | 17,160-20,590 |
| 18.00                | 31%-35%                                    | 10,608-12,375                 | 13,104-15,287 | 15,600-18,198 | 18,095-21,110 | 20,591-24,022 |
| 22.00                | 36%-40%                                    | 12,376-14,143                 | 15,288-17,471 | 18,199-20,798 | 21,111-24,126 | 24,023-27,454 |
| 27.00                | 41%-45%                                    | 14,144-15,911                 | 17,472-19,655 | 20,799-23,398 | 24,127-27,141 | 27,455-30,885 |
| 32.00                | 46%-50%                                    | 15,912-17,679                 | 19,656-21,839 | 23,399-25,998 | 27,142-30,157 | 30,886-34,317 |
| 37.00                | 51%-55%                                    | 17,680-19,446                 | 21,840-24,022 | 25,999-28,597 | 30,158-33,173 | 34,318-37,749 |
| 43.00                | 56%-60%                                    | 19,447-21,214                 | 24,023-26,206 | 28,598-31,197 | 33,174-36,188 | 37,750-41,180 |
| 50.00                | 61%-65%                                    | 21,215-22,982                 | 26,207-28,390 | 31,198-33,797 | 36,189-39,204 | 41,181-44,612 |
| 57.00                | 66%-70%                                    | 22,983-24,750                 | 28,391-30,574 | 33,798-36,397 | 39,205-42,220 | 44,613-48,044 |
| 61.00                | 71%-75%                                    | 24,751-26,518                 | 30,575-32,758 | 36,398-38,996 | 42,221-45,236 | 48,045-51,476 |

\*\*Full-time care is defined as six or more hours of care per day or 30 or more hours of care per week.

TABLE II  
CO-PAYMENT SCALE

By Family Size  
(Part-Time Care)

| Part Time Weekly Fee | Percent of State 1989 Median Family Income | Family Size and Annual Income |               |               |               |               |
|----------------------|--|-------------------------------|---------------|---------------|---------------|---------------|
|                      |  | 2                             | 3             | 4             | 5             | 6             |
| 0.00                 | 0%- 5%                                     | 0- 1,768                      | 0- 2,184      | 0- 2,600      | 0- 3,016      | 0- 3,432      |
| 2.00                 | 6%-10%                                     | 1,769- 3,536                  | 2,185- 4,368  | 2,601- 5,200  | 3,017- 6,031  | 3,433- 6,863  |
| 3.00                 | 11%-15%                                    | 3,537- 5,304                  | 4,369- 6,552  | 5,201- 7,799  | 6,032- 9,047  | 6,864-10,295  |
| 4.00                 | 16%-20%                                    | 5,305- 7,071                  | 6,553- 8,735  | 7,800-10,399  | 9,048-12,063  | 10,296-13,727 |
| 5.00                 | 21%-25%                                    | 7,072- 8,839                  | 8,736-10,919  | 10,400-12,999 | 12,064-15,079 | 13,728-17,159 |
| 7.00                 | 26%-30%                                    | 8,840-10,607                  | 10,920-13,103 | 13,000-15,599 | 15,080-18,094 | 17,160-20,590 |
| 9.00                 | 31%-35%                                    | 10,608-12,375                 | 13,104-15,287 | 15,600-18,198 | 18,095-21,110 | 20,591-24,022 |
| 11.00                | 36%-40%                                    | 12,376-14,143                 | 15,288-17,471 | 18,199-20,798 | 21,111-24,126 | 24,023-27,454 |
| 13.00                | 41%-45%                                    | 14,144-15,911                 | 17,472-19,655 | 20,799-23,398 | 24,127-27,141 | 27,455-30,885 |
| 16.00                | 46%-50%                                    | 15,912-17,679                 | 19,656-21,839 | 23,399-25,998 | 27,142-30,157 | 30,886-34,317 |
| 18.00                | 51%-55%                                    | 17,680-19,446                 | 21,840-24,022 | 25,999-28,597 | 30,158-33,173 | 34,318-37,749 |
| 21.00                | 56%-60%                                    | 19,447-21,214                 | 24,023-26,206 | 28,598-31,197 | 33,174-36,188 | 37,750-41,180 |
| 25.00                | 61%-65%                                    | 21,215-22,982                 | 26,207-28,390 | 31,198-33,797 | 36,189-39,204 | 41,181-44,612 |
| 28.00                | 66%-70%                                    | 22,983-24,750                 | 28,391-30,574 | 33,798-36,397 | 39,205-42,220 | 44,613-48,044 |
| 30.00                | 71%-75%                                    | 24,751-26,518                 | 30,575-32,758 | 36,398-38,996 | 42,221-45,236 | 48,045-51,476 |

(e) The criteria for determination and re-determination of the co-payment are as follows:

1. Family size, which consists of the applicant, the applicant's spouse and all children for whom the applicant is a legal guardian;

2. Family income, which includes all gross earned and unearned income received by all members of the family unit defined in (e)1i above. The gross annual family income amount must be verified by wage stubs or similar documentation as a condition of receiving child care benefits; and

3. The number of hours child care services are being provided to the child.

i. Full-time care is defined as care for 30 hours or more per week for co-payment purposes.

ii. Part-time care is defined as care for less than 30 hours per week for co-payment purposes.

iii. In no case may the co-payment exceed the cost of care.

(f) Once the co-payment is determined, it will remain unchanged for the duration of the eligibility period (up to 12 months) unless there is an increase in family size, a reduction in gross family income or a change in care from full-time to part-time or vice versa. The participant must notify the county child care service agency of any changes occurring in the family related to family size, income, work status or training attendance. The child care entity shall then determine any changes in the co-payment based on reported circumstances affecting co-payment calculation.

(g) The co-payment assessment is based on up to two children in care in a family. If more than two children in a family are in care, no co-payment is required for the third and subsequent children in the family. The co-payment is determined on a per week basis.

#### 10:15C-1.2 Process for co-payment assessment

(a) The weekly co-payment is based on whether the care is full-time or part-time care, on the number of children (up to two per family) in the family needing such care through the program, and on the family's annual gross income level.

(b) If only one child is in care, the weekly co-payment is the payment which results from Table I or Table II at N.J.A.C. 10:15C-1.1(d). That co-payment is assessed on that family's size, the family's annual gross income, and whether the care is full-time or part-time care for that child, resulting in the co-payment from Table I or Table II.

(c) If two or more children in the family receive child care services through the Program, the weekly co-payment amount is a composite total payment for up to two children in the family receiving such services. The weekly co-payment sum equals the full co-payment assessed for the first child from Table I or Table II, plus one-half of the full assessed co-payment for the second child in care from Table I or Table II. The two children are selected for determination of the co-payment from all children in the family in care, based first, on the number of children in the family in full-time care arrangements.

1. If two or more children in the family are in full-time care arrangements, the full co-payment amount is assessed on two children in full-time care. A full co-payment amount is assessed for the first child in full-time care from Table I; to that co-payment amount is added one-half of the full co-payment amount for the second child in full-time care from Table I. The resulting composite co-payment equals one and one-half of the full-time co-payment amount from Table I based on the family's size and annual income level.

2. If at least one child in the family is in a full-time care arrangement and the second and subsequent children are in part-time care arrangements, the full weekly co-payment amount is assessed from Table I on the first child in full-time care; to that co-payment amount is added one-half of the part-time co-payment amount from Table II for the second child in part-time care. The resulting composite co-payment equals the full-time co-payment assessed amount from Table I plus one-half of the part-time co-payment amount from Table II.

3. If all children in the family are in part-time care arrangements, the full weekly co-payment amount is based on up to two children

in care and is one and one-half times the part-time co-payment amount from Table II for the family's size and income amount.

#### 10:15C-1.3 Provider's receipt of co-payment

(a) The composite co-payment is paid to only one provider of care based on the care arrangements of the family. That is, the composite co-payment amount is paid in total to the provider of the highest cost of care arrangement (that is, either the full-time care provider or the provider with the highest reimbursement rate per category of care). The following situations may result and the co-payment shall be distributed as follows:

1. When one child is receiving child care services through the Program, the full assessed co-payment from Table I or Table II is made by the recipient to that provider of care.

2. If one child is receiving child care services through the Program but more than one provider is involved in giving care, the co-payment from Table I or Table II is paid by the recipient to that child care provider who provides the highest cost care arrangement (see (a) above).

3. When two children are receiving child care services from the same provider, the composite co-payment amount is determined in accordance with N.J.A.C. 10:15C-1.2(c) above, and the sum total is paid by the recipient to that provider of care. The composite total is based on the respective type of care (full-time or part-time) provided each child; the full assessed co-payment fee from Table I or Table II for the first child is added to one-half of the full assessed fee from Table I or Table II for the second child in care with the provider, for the total co-payment amount.

4. When both children are receiving different child care services from separate providers, the child care provider who provides either full-time care or receives the highest reimbursement rate per category of care, will receive from the recipient the full amount of the composite co-payment assessed for both children from Tables I and II based on the respective type of care provided (full-time or part-time care) for both children.

5. When both children are receiving the same child care services but from different providers (for example both receiving full-time care) the provider assessed at the highest cost of care arrangement receives the full composite assessed co-payment from the recipient.

(b) No co-payment shall be assessed for the third and additional children in a family receiving child care service program benefits.

(c) Co-payments shall be rounded down to the nearest dollar.

#### 10:15C-1.4 Collection, reporting and monitoring of the co-payment; notice of termination

(a) The child care voucher process will be used by the provider to report child care co-payment collection and nonpayment to the county child care service agency. Co-payments are not required for protective service children identified by DYFS who are living in a substitute care setting.

(b) The county selected child care service agency is responsible for advising the provider and the parent/guardian of the co-payment requirement, for training the provider and parent/guardian in voucher completion, and for advising both the provider and the parent/guardian of the consequences of failure to make required co-payments.

(c) Co-payment collection, monitoring, and procedures for late payment or nonpayment of co-payments and termination of child care benefits are as follows:

1. It is the responsibility of the child care service provider to collect co-payments and report nonpayment of co-payments to the county child care service agency in accordance with Departmental procedures. Whenever the child care co-payment has not been paid to the provider by the end of the voucher service period, the co-payment is considered unpaid.

i. In the event of nonpayment of the co-payment by the participant, the provider will complete the voucher, indicate on the voucher the child(ren) for whom the participant failed to pay the required co-payment and return the voucher to the designated county child care service agency. This action by the provider will initiate the process for terminating child care benefits.

ii. The provider must continue to attempt to collect the co-payment from the participant and must document such collection efforts.

2. It is the responsibility of the county child care service agency to monitor co-payment collection by examining the completed vouchers returned by providers and responding to nonpayment of co-payments reported on the voucher.

3. Following receipt of a voucher from a provider indicating nonpayment of the assessed co-payment by the participant, the county child care service agency worker shall:

i. Determine the effective date that child care benefits will be terminated; and

ii. Complete a letter notifying the participant and provider of termination of child care services.

4. The purpose of the letter in (c)3ii above is to provide written notice to:

i. Advise the parent or guardian of the amount of assessed co-payment monies which have not been paid;

ii. Advise the parent or guardian of the right to request and obtain a hearing;

iii. Serve as formal notice to the participant that child care services will be terminated by a specific date unless overdue co-payments are paid;

iv. Serve as written confirmation for the provider and the child care service agency that child care services will be terminated due to the late or nonpayment status of the parent or guardian; and

v. Advise the parent or guardian to pay the required co-payment arrearages and to contact the county child care service agency immediately if overdue co-payment(s) have been paid so that benefits may be continued.

5. Three copies of the notification of termination letter must be completed and signed by the agency worker. The agency worker will:

i. Send the original to the parent or guardian;

ii. Distribute a copy to the provider; and

iii. Retain an agency copy in the parent or guardian's file.

6. Protective services children identified by DYFS shall not be terminated until the conditions at N.J.A.C. 10:15A-1.5(d) are met.

7. When child care services are terminated due to nonpayment of the co-payment, the parent or guardian of a child receiving child care services retains the right to request a hearing of the agency. If child care services are terminated, no payment shall be rendered by the agency under the program from the date of termination until a hearing is held by the agency and a final determination is made (see N.J.A.C. 10:15A-1.1(f)).

i. In all cases where a hearing is requested of the county agency, the agency must adhere to its established procedures. If the issue is not resolved through the due process proceedings at the county agency level, a fair hearing may be requested at the Divisional level in accordance with DEA hearing procedures at N.J.A.C. 10:81-6 for those participants receiving care through the certificate (voucher) process or through DYFS for contracted child care services (see N.J.A.C. 10:120-3 and 10:125B-2.11(e)).

## (a)

### DIVISION OF ECONOMIC ASSISTANCE

#### Public Assistance Manual REACH/JOBS Child Care

#### Proposed Amendments: N.J.A.C. 10:81-14.18, 14.18A and 14.18B

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

Authority: N.J.S.A. 44:7-6, 44:10-3 and 44:10-1 et seq.

Proposal Number: PRN 1991-494.

Submit comments by November 6, 1991 to:

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

The agency proposal follows:

#### Summary

The proposed amendments shall align the co-payment process in the REACH/JOBS Program with concurrent proposals in other child care service programs available through the Department of Human Services. New rules (published elsewhere in this issue of the New Jersey Register) are proposed under the auspices of the Department at N.J.A.C. 10:15, 10:15A, 10:15B, and 10:15C which introduce two new child care programs authorized under the Omnibus Budget Reconciliation Act of 1990 (Public Law 101-508), namely, the Child Care and Development Block Grant for low income families who are in need of child care in order to work or participate in work/training programs; and the Aid to Families with Dependent Children At-Risk Program for low income families who are at-risk of becoming dependent on public assistance and for whom child care services will enable the family to become employed or to maintain current employment thus remaining self-sufficient. Both of those programs incorporate the requirement that a co-payment by the parent or legal guardian be made for child care service costs. Additionally, the Division of Youth and Family Services is proposing new rules at N.J.A.C. 10:125B for a co-payment in situations when Social Service Block Grant (SSBG) child care services are rendered.

The three proposals introduce the same co-payment scales (sliding fee scales) so that contributions made by parents or guardians in all child care service programs through the Department are universal, structured on family size and annual gross income. The Department is working toward the development of a Statewide comprehensive child care delivery system with similar requirements for the various eligibility groups to whom services are provided through the Department. Uniform co-payment scales are the first such procedure to be made consistent in all of the child care programs.

The proposed co-payment scales are progressive, that is, the lower the family's income, the greater the percentage of the family's income that is required for fixed costs such as housing and food needs. Therefore, lower income families are required to pay a smaller portion of the family's income toward child care costs. The co-payment scales reflect this thinking and have been formulated likewise. Such families (families with income up to 30 percent of the State 1989 Median Family Income) in the co-payment scales are expected to contribute six percent of the family's income on child care. Families in the range of 31-50 percent of the State 1989 Median Family Income shall contribute eight percent of the family's income as a co-payment toward the cost of child care. Ten percent of the family's income is considered the co-payment toward child care costs for families in the range of 51-75 percent of the State 1989 Median Family Income.

Thus, even at the lowest income levels, families are required to make payment for a portion of child care costs. When people pay even a small amount of the monies expended for child care, experience has shown that they tend to take a greater interest in the child care arrangement.

Co-payments are determined on up to two children in the family under subsidized child care. The co-payment amount paid by the family is a portion of the total cost of child care services received by that same family. The family's composite co-payment is based on whether the two children on whom the calculation is determined are in full-time or part-time care. Two scales are included in the proposals: co-payment for full-time child care services (defined as 30 or more hours of care in a week); and co-payment for part-time child care (less than 30 hours of care per week provided to the child).

Children in full-time care arrangements are considered first in computing the co-payment amount. Such arrangements determine the first child on whom the co-payment (fee) is established; if one or both children are in full-time care arrangements, then the co-payment is based on the full-time scale. If one child is in full-time care and the second in part-time care, then both scales are used to calculate the total co-payment amount.

The composite co-payment amount is based on the total fee for the first child in care (as determined above based on full-time or part-time arrangements) from the appropriate scale for family size and annual income, plus one-half of the fee for the second child in care (from the applicable scale based on full-time or part-time care arrangements). The third and subsequent child(ren) in the family in subsidized care are not included in determining the family's total co-payment.

The co-payment determination process is the same in the three concurrent proposals. The procedure for determining the co-payment in REACH/JOBS is aligned with the other child care service program co-

payment calculation procedure as previously explained. Presently REACH/JOBS bases the co-payment, first, on the oldest child in care arrangements. This change in policy may increase a family's co-payment in some instances.

In the REACH/JOBS Program, the co-payment is applicable to those families who have been participating in REACH/JOBS and lose eligibility for Aid to Families with Dependent Children (AFDC) because of increased earnings, increased hours of work, or a new job and move into the post-AFDC transitional benefit period. Child care services are a post-AFDC benefit to working individuals. Those families, under Federal regulations, must make a co-payment toward the cost of child care services. Such families have been making those payments. The co-payment, as part of the Department's standardization process, will be slightly increased with these proposed scales over existing fee scales used by REACH/JOBS transitional families.

Additionally, the payment of the fee to providers is also standardized with the Department's other child care programs. Currently, in most circumstances when there are two providers, each provider is paid a co-payment by the REACH/JOBS family based on the care arrangement for the first and second child respectively. Under these amendments, the provider of care of the first child shall now receive the whole (composite) co-payment determined for the family for both children (if two or more children are in care) from the parent or guardian rather than being distributed between those providers.

The word "co-payment" is standardized throughout the three proposal packages.

It is noted that the various child care service programs may require specific eligibility criteria based on the program's unique characteristics which differ from another program even though they have been made consistent where possible. Such is the case with the REACH/JOBS transitional child care program. Once the eligibility is determined for those benefits, the family is presumed working unless the family reports a change in circumstances, and remains eligible for 52 consecutive weeks for child care services after the loss of AFDC eligibility. The co-payment is only re-calculated when a change in family size or a reduction in income is reported. No other changes necessitate reconfiguring the co-payment. This policy shall remain in effect.

Throughout N.J.A.C. 10:81-14.18, 14.18A and 14.18B, the term "sliding fee scale" is deleted and replaced with "co-payment scale" to align the terminology with that used in concurrent proposed regulations at N.J.A.C. 10:15, 10:15A, 10:15B, 10:15C and 10.125B. "Co-payment" has been substituted, where appropriate, for the word "fee".

At N.J.A.C. 10:81-14.18A(b) and (e)3 language is added merely for clarifications.

N.J.A.C. 10:81-14.18A(d) deletes the current sliding fee scale, Tables I and II, and replaces them with new co-payment scales, Table I—Full-Time Care, and Table II—Part-Time Care.

At N.J.A.C. 10:81-14.18A(d)2, language is revised to explain that co-payments are appropriated weekly and are due for the entire 52-week period that subsidized child care assistance is provided.

Text concerning the process for fee assessment at N.J.A.C. 10:81-14.18A(f) is deleted and replaced with new text which describes the process for determining co-payment assessment as explained above in this Summary.

Current text at N.J.A.C. 14.18A(g), concerning the requirements for refunds of co-payments, has been codified to N.J.A.C. 10:81-14.18A(h).

New text has been added at N.J.A.C. 14.18A(g) defining the child care provider's receipt of co-payment. When more than one child is in care, a composite co-payment is paid to the provider of the highest cost of care arrangement (that is, either the full time provider or the provider receiving the highest reimbursement rate for the category of care). The composite co-payment comprises the total fee for the first child in care, and one-half the co-payment rate for the second child in care. As heretofore, there is no co-payment for the third and additional children as the family receiving child care.

#### Social Impact

The proposed amendments will impact on the recipient family, the provider and on case management.

REACH/JOBS transitional families shall be slightly disadvantaged in that the proposed co-payment scales have been increased. However, it is the intent of the Department, in light of recent budget reductions in the 1992 REACH/JOBS program, to continue to provide services where possible. As such, the Department has tried to maximize the Federal dollars available to the State for child care by ensuring that child care services have not been cut; in this respect, a slight increase in the

co-payment of transitional families for the first two children in subsidized care will still permit the State to provide those transitional services not only for the children for whom the fee is assessed, but also for other children in the family in need of care.

The calculation procedure has been simplified and should be easier to compute for case management staff and to explain to recipients of services.

The payment procedures for the co-payment to providers by parents and guardians have become less cumbersome. Families consolidate co-payment totals and pay such fees to only one provider, rather than dividing the payment between the respective providers. This policy is meant to strengthen the parent's responsibility in payment of a portion of the care by enforcing his or her commitment to making a timely payment of incurred expenses and by accepting the liabilities related to his or her behavior in this regard.

#### Economic Impact

Based on July 1991 monthly statistics, 1,250 families were receiving post-AFDC child care benefits. Such families had an average family size of three with an average annual full-time income of \$11,357. Based on that income level and family size, a difference in the weekly co-payment fee from current scales is a difference of two dollars more per family. That impact is not believed to be an undue hardship on families. However, to the State, the number of families completing REACH/JOBS will increase as all counties in the State are now phased into the program. If families shoulder any increased portion of child care costs, such action, even though small in comparison, helps to extend the State dollars to more families.

No additional administrative costs should be incurred as child care agencies and case management have been working with co-payment policies. Procedures are in place related to co-payment assessment responsibilities, collection and reporting.

The proposed amendments also align Division of Economic Assistance REACH/JOBS transitional child care co-payment policies with those same procedures for social service block grant child care co-payment policies through the Division of Youth and Family Services. Likewise, these proposed amendments standardize co-payment procedures with the two new child care service programs available through the Department of Human Services proposed at N.J.A.C. 10:15, 15A, 15B, and 15C.

#### 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 proposed 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 the Aid to Families with Dependent Children program 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]):

10:81-14.18 REACH support services: child care

(a) (No change.)

(b) Payment for the cost of child care to support participation is available through the REACH program at rates established by the Department of Human Services.

1. When child care that is in the best interests of the child has been arranged, the case manager has the responsibility to determine eligibility and authorize payment for the child care that will obtain the maximum Federal financial participation for the particular employment-directed activity. In determining payment of the cost of child care, the following sequence will be applied:

i.iii. (No change.)

iv. The participant's funds for the amount of the required post-AFDC child care [fee] **co-payment (see (e) below)**; and

v. (No change.)

2. (No change.)

3. Effective date: In all counties, REACH child care payments will be available as each begins the operation of the REACH program, as defined by the Department of Human Services. Payment of the required post-AFDC child care [fee] **co-payment** will be effective for participants becoming ineligible for AFDC on or after April 1, 1990 in accordance with criteria at (e)3i below.

(c) (No change.)

(d) Duration of payment: REACH child care benefits are routinely available to participants for participation in a REACH employment-directed activity for a limited time to bridge the period between participation in REACH employment-directed activities or between a REACH employment-directed activity and employment; for the post-employment period after commencement of employment that does not result in ineligibility for AFDC, that is, while a participant is employed and receiving AFDC, to supplement as necessary, child care paid by the participant as required by the Social Security Act (see (g)4 below); and, after the commencement of employment that results in ineligibility for AFDC, one year post-AFDC child care, subject to payment of a post-AFDC child care [fee] co-payment.

1.-4. (No change.)

(e) Post-AFDC child care pertains to child care available to families whose eligibility for AFDC has ceased due to increased earnings, increased hours of employment (including new employment) which result in increased earnings, or as a result of the loss of earned income disregards due to the expiration of time limits at N.J.A.C. 10:82-4.

1.-2. (No change.)

3. Eligibility for post-AFDC child care: A family is eligible for post-AFDC child care provided the following conditions are met:

i.-v. (No change.)

vi. The family pays the required [fee] co-payment, if the family ceased to be eligible for AFDC on or after April 1, 1990; and

vii. (No change.)

4. (No change.)

5. Ineligibility for post-AFDC child care: The family is not eligible for post-AFDC child care for any remaining portion of the 12-month period if the caretaker relative:

i.-ii. (No change.)

iii. Fails to pay required [fees] co-payment (see (e)7iii below).

6. (No change.)

7. [Fee] Co-payment requirement for post-AFDC child care: Each family receiving post-AFDC child care is required to contribute a [fee] co-payment toward the cost of such care.

i. [Sliding fee] Co-payment scale: A [sliding fee] co-payment scale established by the Department of Human Services will provide for some level of contribution by all recipients of post-AFDC child care. The [sliding fee] co-payment scale shall consider: family income, family size, number of children, and number of children in care. The [fee] co-payment scale is set forth in N.J.A.C. 10:81-14.18A.

ii. Collection of [fees] co-payments: Pursuant to requirements established by the Department of Human Services, each county must establish methods and procedures for the collection of [fees] co-payments, and may vary the period of collection for different fee levels. The requirements for [fee] co-payment collection are set forth in N.J.A.C. 10:81-14.18B.

iii. Failure to pay the required [fee] co-payment: Individuals who fail to cooperate in paying the required [fees] co-payment will,

subject to appropriate notice and hearing requirements, lose eligibility for post-AFDC child care benefits for so long as back [fees] co-payments are owed, unless satisfactory arrangements are made to make full payment.

8. (No change.)

9. Notice and hearings for post-AFDC child care: Provision of post-AFDC child care benefits is subject to timely and adequate notice and hearing requirements at N.J.A.C. 10:81-6, 10:81-7, and 10:90-2.5 (also see N.J.A.C. 10:81-14.7).

i. Timely and adequate notice must be given if post-AFDC child care benefits are reduced, discontinued or suspended due to nonpayment of the [fee] co-payment; or if a change in the manner of payment results in a discontinuance, suspension, reduction or termination of benefits; or forces a change in child care arrangements.

ii. (No change.)

(f)-(j) (No change.)

10:81-14.18A REACH post-AFDC [sliding fee] co-payment scale

(a) By the adoption of a Statewide [sliding] co-payment scale for REACH post-AFDC child care benefits provided to families ineligible for AFDC as a result of increased earnings, increased hours of work or the loss of time-limited earned income disregards on or after April 1, 1990, the REACH Program seeks to:

1.-3. (No change.)

(b) The REACH post-AFDC child care [sliding fee] co-payment scales, based on the family size and gross income of the AFDC eligible unit at case closing, are used to determine the [fee] co-payment. Once assessed, the [fee] co-payment is deducted from the amount to be paid to the provider by the REACH Program up to the maximum REACH rates. This assessed [fee] co-payment for child care services is then paid directly by the parent to the provider of care. Any balance remaining (up to the maximum REACH rates) is paid by the REACH Program for the total cost of care. The REACH post-AFDC child care [fee] co-payment policy and procedures are applicable for all types of care arrangements available through the REACH Program and approved by the appropriate child care evaluating agency, as follows:

1.-5. (No change.)

(c) All AFDC families who become ineligible for AFDC on or after April 1, 1990 due to (increased) income from employment shall pay a [fee] co-payment toward the cost of REACH Post-AFDC child care services.

(d) The [sliding fee] co-payment scales are as follows:

1. The amount of the required [fee] co-payment is based on the family's income level, family size, number of children, and number of children in care. There are two [sliding fee] co-payment scales:

i. [Sliding fee] Co-payment Scale Table I—Full-Time Care; and

ii. [Sliding fee] Co-payment Scale Table II—Part-Time Care.

2. Assessed [fees] co-payments are apportioned [to cover a] weekly and are due for the entire 52-week period that subsidized child care assistance is received. Holidays, emergency closings, and absences do not exclude or reduce the required fee co-payment.

[REACH POST-AFDC SLIDING FEE SCALE<sup>1</sup> I BY FAMILY SIZE  
FULL-TIME

| 2             | 3             | 4             | 5             | 6             | 7             | Weekly Fee | Bi-Weekly Fee |
|---------------|---------------|---------------|---------------|---------------|---------------|------------|---------------|
| 0- 1,676      | 0- 2,070      | 0- 2,464      | 0- 2,858      | 0- 3,253      | 0- 3,326      | 2.00       | 4.00          |
| 1,677- 3,351  | 2,071- 4,140  | 2,465- 4,928  | 2,859- 5,716  | 3,254- 6,505  | 3,327- 6,653  | 4.00       | 8.00          |
| 3,352- 3,749  | 4,141- 4,943  | 4,929- 5,688  | 5,717- 6,433  | 6,506- 7,178  | 6,654- 7,922  | 5.00       | 10.00         |
| 3,750- 5,027  | 4,944- 6,209  | 5,689- 7,392  | 6,434- 8,575  | 7,179- 9,758  | 7,923- 9,979  | 6.00       | 12.00         |
| 5,028- 6,702  | 6,210- 8,279  | 7,393- 9,856  | 8,576-11,433  | 9,759-13,010  | 9,980-13,306  | 8.00       | 16.00         |
| 6,703- 8,378  | 8,280-10,349  | 9,857-12,320  | 11,434-14,291 | 13,011-16,263 | 13,307-16,632 | 10.00      | 20.00         |
| 8,379-10,053  | 10,350-12,419 | 12,321-14,784 | 14,292-17,149 | 16,264-19,515 | 16,633-19,958 | 12.00      | 24.00         |
| 10,054-11,729 | 12,420-14,489 | 14,785-17,248 | 17,150-20,007 | 19,516-22,768 | 19,959-23,285 | 15.00      | 30.00         |
| 11,730-13,404 | 14,490-16,558 | 17,249-19,712 | 20,008-22,866 | 22,769-26,020 | 23,286-26,611 | 18.00      | 36.00         |
| 13,405-15,009 | 16,559-18,541 | 19,713-22,072 | 22,867-25,604 | 26,021-29,136 | 26,612-29,797 | 21.00      | 42.00         |
| 15,010-16,615 | 18,542-20,525 | 22,073-24,434 | 25,605-28,344 | 29,137-32,254 | 29,798-32,986 | 24.00      | 48.00         |
| 16,616-18,221 | 20,526-22,509 | 24,435-26,796 | 28,345-31,084 | 32,255-35,371 | 32,987-36,174 | 27.00      | 54.00         |
| 18,222-19,827 | 22,510-24,493 | 26,797-29,158 | 31,085-33,823 | 35,372-38,489 | 36,175-39,362 | 30.00      | 60.00         |
| 19,828-23,000 | 24,494-27,000 | 29,159-32,000 | 33,824-37,000 | 38,490-41,000 | 39,363-42,000 | 33.00      | 66.00         |

<sup>1</sup>Families with a Maximum Gross Income, for their Family size, in excess of their scale will be assessed an additional weekly fee of \$1.00 (\$2.00 for a bi-weekly fee) for each \$1,000 of gross income above their scale.]

[REACH POST-AFDC SLIDING FEE SCALE<sup>1</sup> I BY FAMILY SIZE  
FULL-TIME

| 8             | 9             | 10            | 11            | 12            | Weekly Fee | Bi-Weekly Fee |
|---------------|---------------|---------------|---------------|---------------|------------|---------------|
| 0- 3,400      | 0- 3,474      | 0- 3,548      | 0- 3,622      | 0- 3,696      | 2.00       | 4.00          |
| 3,401- 6,801  | 3,475- 6,948  | 3,549- 7,096  | 3,623- 7,244  | 3,697- 7,392  | 4.00       | 8.00          |
| 6,802- 8,667  | 6,949- 9,412  | 7,097-10,156  | 7,245-10,901  | 7,393-11,603  | 5.00       | 10.00         |
| 8,668-10,201  | 9,413-10,433  | 10,157-10,645 | 10,902-11,866 | 11,604-11,808 | 6.00       | 12.00         |
| 10,202-13,601 | 10,434-13,897 | 10,646-14,193 | 11,867-14,488 | 11,809-14,784 | 8.00       | 16.00         |
| 13,602-17,002 | 13,898-17,371 | 14,194-17,741 | 14,489-18,111 | 14,785-18,480 | 10.00      | 20.00         |
| 17,003-20,402 | 17,372-20,845 | 17,742-21,289 | 18,112-21,733 | 18,481-22,176 | 12.00      | 24.00         |
| 20,403-23,802 | 20,846-24,319 | 21,290-24,837 | 21,734-25,355 | 22,177-25,872 | 15.00      | 30.00         |
| 23,803-27,202 | 24,320-27,794 | 24,838-28,386 | 25,356-28,977 | 25,873-29,568 | 18.00      | 36.00         |
| 27,203-30,460 | 27,795-31,122 | 28,387-31,784 | 28,978-34,426 | 29,569-33,109 | 21.00      | 42.00         |
| 30,461-33,719 | 31,123-34,452 | 31,785-35,185 | 34,427-35,918 | 33,110-36,651 | 24.00      | 48.00         |
| 33,720-36,978 | 34,453-37,782 | 35,186-38,586 | 35,919-39,390 | 36,652-40,194 | 27.00      | 54.00         |
| 36,979-40,238 | 37,783-41,112 | 38,587-41,987 | 39,391-42,862 | 40,195-43,737 | 30.00      | 60.00         |
| 40,239-43,000 | 41,113-44,000 | 41,988-45,000 | 42,863-46,000 | 43,738-47,000 | 33.00      | 66.00         |

<sup>1</sup>Families with a Maximum Gross Income, for their Family Size, in excess of their scale will be assessed an additional weekly fee of \$1.00 (\$2.00 for a bi-weekly fee) for each \$1,000 of gross income above their scale.]

[REACH POST-AFDC SLIDING FEE SCALE<sup>1</sup> II BY FAMILY SIZE  
PART-TIME<sup>2</sup>

| 2             | 3             | 4             | 5             | 6             | 7             | Weekly Fee | Bi-Weekly Fee |
|---------------|---------------|---------------|---------------|---------------|---------------|------------|---------------|
| 0- 1,676      | 0- 2,070      | 0- 2,464      | 0- 2,858      | 0- 3,253      | 0- 3,326      | 1.00       | 2.00          |
| 1,677- 3,351  | 2,071- 4,140  | 2,465- 4,928  | 2,859- 5,716  | 3,254- 6,505  | 3,327- 6,653  | 2.00       | 4.00          |
| 3,352- 3,749  | 4,141- 4,943  | 4,929- 5,688  | 5,717- 6,433  | 6,506- 7,178  | 6,654- 7,922  | 2.50       | 5.00          |
| 3,750- 5,027  | 4,944- 6,209  | 5,689- 7,392  | 6,434- 8,575  | 7,179- 9,758  | 7,923- 9,979  | 3.00       | 6.00          |
| 5,028- 6,702  | 6,210- 8,279  | 7,393- 9,856  | 8,576-11,433  | 9,759-13,010  | 9,980-13,306  | 4.00       | 8.00          |
| 6,703- 8,378  | 8,280-10,349  | 9,857-12,320  | 11,434-14,291 | 13,011-16,263 | 13,307-16,632 | 5.00       | 10.00         |
| 8,379-10,053  | 10,350-12,419 | 12,321-14,784 | 14,292-17,149 | 16,264-19,515 | 16,633-19,958 | 6.00       | 12.00         |
| 10,054-11,729 | 12,420-14,489 | 14,785-17,248 | 17,150-20,007 | 19,516-22,768 | 19,959-23,285 | 7.50       | 15.00         |
| 11,730-13,404 | 14,490-16,558 | 17,249-19,712 | 20,008-22,866 | 22,769-26,020 | 23,286-26,611 | 9.00       | 18.00         |
| 13,405-15,009 | 16,559-18,541 | 19,713-22,072 | 22,867-25,604 | 26,021-29,136 | 26,612-29,797 | 10.50      | 21.00         |
| 15,010-16,615 | 18,542-20,525 | 22,073-24,434 | 25,605-28,344 | 29,137-32,254 | 29,798-32,986 | 12.00      | 24.00         |
| 16,616-18,221 | 20,526-22,509 | 24,435-26,796 | 28,345-31,084 | 32,255-35,371 | 32,987-36,174 | 13.50      | 27.00         |
| 18,222-19,827 | 22,510-24,493 | 26,797-29,158 | 31,085-33,823 | 35,372-38,489 | 36,175-39,362 | 15.00      | 30.00         |
| 19,828-23,000 | 24,494-27,000 | 29,159-32,000 | 33,824-37,000 | 38,490-41,000 | 39,363-42,000 | 16.50      | 33.00         |

<sup>1</sup>Families with a Maximum Gross Income, for their Family Size, in excess of their scale will be assessed an additional weekly fee of \$.50 (\$1.00 for a bi-weekly fee) for each \$1,000 of gross income above their scale.

<sup>2</sup>Less than 30 hours per week, for example, summer care for school-age children]

TABLE I  
CO-PAYMENT SCALE

By Family Size  
(Full-Time Care)\*\*

| Full Time Weekly Fee | Percent of State 1989 Median Family Income | Family Size and Annual Income |               |               |               |               |
|----------------------|--|-------------------------------|---------------|---------------|---------------|---------------|
|                      |  | 2                             | 3             | 4             | 5             | 6             |
| 1.00                 | 0%- 5%                                     | 0- 1,768                      | 0- 2,184      | 0- 2,600      | 0- 3,016      | 0- 3,432      |
| 4.00                 | 6%-10%                                     | 1,769- 3,536                  | 2,185- 4,368  | 2,601- 5,200  | 3,017- 6,031  | 3,433- 6,863  |
| 6.00                 | 11%-15%                                    | 3,537- 5,304                  | 4,369- 6,552  | 5,201- 7,799  | 6,032- 9,047  | 6,864-10,295  |
| 9.00                 | 16%-20%                                    | 5,305- 7,071                  | 6,553- 8,735  | 7,800-10,399  | 9,048-12,063  | 10,296-13,727 |
| 11.00                | 21%-25%                                    | 7,072- 8,839                  | 8,736-10,919  | 10,400-12,999 | 12,064-15,079 | 13,728-17,159 |
| 14.00                | 26%-30%                                    | 8,840-10,607                  | 10,920-13,103 | 13,000-15,599 | 15,080-18,094 | 17,160-20,590 |
| 18.00                | 31%-35%                                    | 10,608-12,375                 | 13,104-15,287 | 15,600-18,198 | 18,095-21,110 | 20,591-24,022 |
| 22.00                | 36%-40%                                    | 12,376-14,143                 | 15,288-17,471 | 18,199-20,798 | 21,111-24,126 | 24,023-27,454 |
| 27.00                | 41%-45%                                    | 14,144-15,911                 | 17,472-19,655 | 20,799-23,398 | 24,127-27,141 | 27,455-30,885 |
| 32.00                | 46%-50%                                    | 15,912-17,679                 | 19,656-21,839 | 23,399-25,998 | 27,142-30,157 | 30,886-34,317 |
| 37.00                | 51%-55%                                    | 17,680-19,446                 | 21,840-24,022 | 25,999-28,597 | 30,158-33,173 | 34,318-37,749 |
| 43.00                | 56%-60%                                    | 19,447-21,214                 | 24,023-26,206 | 28,598-31,197 | 33,174-36,188 | 37,750-41,180 |
| 50.00                | 61%-65%                                    | 21,215-22,982                 | 26,207-28,390 | 31,198-33,797 | 36,189-39,204 | 41,181-44,612 |
| 57.00                | 66%-70%                                    | 22,983-24,750                 | 28,391-30,574 | 33,798-36,397 | 39,205-42,220 | 44,613-48,044 |
| 61.00                | 71%-75%                                    | 24,751-26,518                 | 30,575-32,758 | 36,398-38,996 | 42,221-45,236 | 48,045-51,476 |

\*\*Full-time care is defined as six or more hours of care per day or 30 or more hours of care per week.

TABLE II  
CO-PAYMENT SCALE

By Family Size  
(Part-Time Care)

| Part Time Weekly Fee | Percent of State 1989 Median Family Income | Family Size and Annual Income |               |               |               |               |
|----------------------|--|-------------------------------|---------------|---------------|---------------|---------------|
|                      |  | 2                             | 3             | 4             | 5             | 6             |
| 0.00                 | 0%- 5%                                     | 0- 1,768                      | 0- 2,184      | 0- 2,600      | 0- 3,016      | 0- 3,432      |
| 2.00                 | 6%-10%                                     | 1,769- 3,536                  | 2,185- 4,368  | 2,601- 5,200  | 3,017- 6,031  | 3,433- 6,863  |
| 3.00                 | 11%-15%                                    | 3,537- 5,304                  | 4,369- 6,552  | 5,201- 7,799  | 6,032- 9,047  | 6,864-10,295  |
| 4.00                 | 16%-20%                                    | 5,305- 7,071                  | 6,553- 8,735  | 7,800-10,399  | 9,048-12,063  | 10,296-13,727 |
| 5.00                 | 21%-25%                                    | 7,072- 8,839                  | 8,736-10,919  | 10,400-12,999 | 12,064-15,079 | 13,728-17,159 |
| 7.00                 | 26%-30%                                    | 8,840-10,607                  | 10,920-13,103 | 13,000-15,599 | 15,080-18,094 | 17,160-20,590 |
| 9.00                 | 31%-35%                                    | 10,608-12,375                 | 13,104-15,287 | 15,600-18,198 | 18,095-21,110 | 20,591-24,022 |
| 11.00                | 36%-40%                                    | 12,376-14,143                 | 15,288-17,471 | 18,199-20,798 | 21,111-24,126 | 24,023-27,454 |
| 13.00                | 41%-45%                                    | 14,144-15,911                 | 17,472-19,655 | 20,799-23,398 | 24,127-27,141 | 27,455-30,885 |
| 16.00                | 46%-50%                                    | 15,912-17,679                 | 19,656-21,839 | 23,399-25,998 | 27,142-30,157 | 30,886-34,317 |
| 18.00                | 51%-55%                                    | 17,680-19,446                 | 21,840-24,022 | 25,999-28,597 | 30,158-33,173 | 34,318-37,749 |
| 21.00                | 56%-60%                                    | 19,447-21,214                 | 24,023-26,206 | 28,598-31,197 | 33,174-36,188 | 37,750-41,180 |
| 25.00                | 61%-65%                                    | 21,215-22,982                 | 26,207-28,390 | 31,198-33,797 | 36,189-39,204 | 41,181-44,612 |
| 28.00                | 66%-70%                                    | 22,983-24,750                 | 28,391-30,574 | 33,798-36,397 | 39,205-42,220 | 44,613-48,044 |
| 30.00                | 71%-75%                                    | 24,751-26,518                 | 30,575-32,758 | 36,398-38,996 | 42,221-45,236 | 48,045-51,476 |

(e) The criteria for determination and re-determination of the [fee] co-payment are as follows:

1. The criteria for determining the amount of the [fee] co-payment are family size and family annual gross income.

i.-ii. (No change.)

2. The [sliding fee scale] co-payment is determined by the number of hours child care services are being provided to the child.

i.-ii. (No change.)

iii. In no case may the co-payment [fee] exceed the cost of care.

3. Once the [fee] co-payment is determined, it will remain unchanged for the duration of the [child care placement] eligibility period for the 12-month post-AFDC period, unless there is an increase in family size, or a reduction in gross family income. The participant must notify the CWA of any such changes occurring in the family. The CWA (case management) shall determine any changes in the [fee] co-payment based on reported circumstances affecting co-payment calculation.

[(f) The process for fee assessment based on the number of children in care is as follows:

1. When only one child in the family is receiving post-AFDC child care services, 100 percent of the fee is assessed.

2. Fees will be assessed for the first and second child in a family receiving REACH post-AFDC child care benefits as follows:

i. When both children are receiving the same child care services from the same provider (for example, both receiving full-time care), one shall be assessed at 100 percent of the fee while the sibling will be assessed at 50 percent of the fee. The fee assessment shall be applied according to the age of child care: 100 percent of the fee for the oldest child in care, and 50 percent of the fee for the next oldest child in care.

ii. When both children are receiving different child care services from the same provider (for example, full-time and part-time care), the fee shall be determined for the respective type of care. The higher fee will then be charged at 100 percent and the lower fee at 50 percent (for example, 100 percent fee for full-time care and 50 percent fee for part-time care).

iii. When both children are receiving different child care services from separate providers, the child care service with the highest fee

will be assessed to the client at 100 percent of the required fee. The second child care service will be assessed to the participant at 50 percent of the required fee (for example, 100 percent fee for full-time care and 50 percent fee for part-time care).

iv. When both children are receiving the same child care services but from different providers (for example, both receiving full-time care), one shall be assessed at 100 percent of the fee while the sibling will be assessed at 50 percent of the fee. The fee assessment shall be applied according to the age of child in care: 100 percent of the fee for the oldest child in care, and 50 percent of the fee for the next oldest child in care.

v. Fees shall be rounded to the nearest dollar. If the fee is one to 49 cents, it will be rounded down to the nearest dollar, and if 50 to 99 cents, it will be rounded up to the next dollar.

3. No fee will be assessed to a family for the third and additional children receiving REACH post-AFDC child care benefits.]

(f) The process for co-payment assessment is as follows:

1. The process for co-payment assessment is based on up to two children in care in a family. If more than two children in a family are in care, no co-payment is required for the third and subsequent children. The co-payment is determined on a per week basis.

2. The weekly co-payment is based on whether the care is full-time or part-time care, on the number of children (up to two per family) in the family needing such care through the program, and on the family's annual gross income level.

3. If only one child is in care, the weekly co-payment is the payment which results from Table I or Table II in (d)1 above. That co-payment is assessed on that family's size, the family's annual gross income, and whether the care is full-time or part-time care for that child, resulting in the co-payment from Table I or Table II.

4. If two or more children in the family receive child care services through the Program, the weekly co-payment amount is a composite total payment for up to two children in the family receiving such service.

i. The weekly co-payment sum equals the full co-payment assessed for the first child from Table I or Table II plus one-half of the full assessed co-payment for the second child in care from Table I or Table II. The two children are selected for determination of the co-payment from all children in the family in care, based first, on the number of children in the family in full-time care arrangements.

(1) If two or more children in the family are in full-time care arrangements, the full co-payment amount is assessed on two children in full-time care. A full co-payment amount is assessed for the first child in full-time care from Table I; to that co-payment amount is added one-half of the full co-payment amount for the second child in full-time care from Table I. The resulting composite co-payment equals one and one-half of the full-time co-payment amount from Table I based on the family's size and annual income level.

(2) If at least one child in the family is in a full-time care arrangement and the second and subsequent children are in part-time care arrangements, the full weekly co-payment amount is assessed from Table I on the first child in full-time care; to that co-payment amount is added one-half of the part-time co-payment amount from Table II for the second child in part-time care. The resulting composite co-payment equals the full-time co-payment assessed amount from Table I plus one-half of the part-time co-payment amount from Table II.

(3) If all children in the family are in part-time care arrangements, the full weekly co-payment amount is based on up to two children in care and is one and one-half times the part-time co-payment amount from Table II for the family's size and income amount.

(g) The requirements for a provider's receipt of co-payment are as follows:

1. The composite co-payment is paid to only one provider of care based on the care arrangements of the family. That is, the composite co-payment amount is paid in total to the provider of the highest cost of care arrangement (that is, either the full-time care provider

or the provider with the highest reimbursement rate per category of care). The following situations may result and the co-payment is distributed as follows:

i. When one child is receiving child care services through the Program, the full assessed co-payment from Table I or Table II is made by the recipient to that provider of care.

ii. If one child is receiving child care services through the Program but more than one provider is involved in giving care, the co-payment from Table I or Table II is paid by the recipient to that child care provider who provides the highest cost of care arrangement.

iii. When two children are receiving child care services from the same provider, the composite co-payment amount is determined in accordance with (f) above, and the sum total is paid by the recipient to that provider of care. The composite total is based on the respective type of care (full-time or part-time) provided each child; the full assessed co-payment fee from Table I or Table II for the first child is added to one-half of the full assessed fee from Table I or Table II for the second child in care with the provider, for the total co-payment amount.

iv. When both children are receiving different child care services from separate providers, the child care provider providing either full-time care or who receives the highest reimbursement rate per category of care will receive from the recipient the full amount of the composite co-payment assessed for both children from Table I and Table II based on the respective type of care provided (full-time or part-time care) for both children.

v. When both children are receiving the same child care services but from different providers (for example, both receiving full-time care), the provider assessed at the highest cost of care arrangement receives the full composite assessed co-payment from the recipient.

vi. No co-payment shall be assessed for the third and additional children in a family receiving child care service program benefits.

vii. Fees shall be rounded down to the nearest dollar.

[(g)](h) The requirements for refunds of [fees] co-payments are as follows:

1. Refunds are made to the participant by the REACH program as a lump sum payment when:

i. A fair hearing decision results in a reduced [fee] co-payment; or

ii. An error in [fee] co-payment computation has resulted in overcharges to the participant.

2. Overcharges are refunded within 30 calendar days of the fair hearing decision or discovery of the error.

10:81-14.18B [Sliding fee] Co-payment determination, collection and monitoring

(a) This section sets forth procedures for determining the amount of a REACH participant's [fee] co-payment toward the cost of post-AFDC child care, for the collection of the [fee] co-payment, monitoring payment (and nonpayment) of the [fee] co-payment, and for notification of nonpayment of [fees] co-payments, and termination of post-AFDC child care benefits for continued nonpayment of [fees] co-payments.

1. The procedures are listed according to the entities involved in the [fee] co-payment determination and collection process: the county welfare agency income maintenance staff, the county REACH case management staff, the provider of child care, and the county REACH lead child care entity.

2. Counties are responsible for the entire [fee] co-payment determination and collection process and functions, according to the standard procedures detailed in this section. Counties may adapt the procedures to local operations, and may reassign functions among the entities listed below. However, counties must make sure that the tasks are completed, benefits are processed in a timely manner that affords participants maximum benefits, [fees] co-payments are accurately determined, and participants are not denied benefits they are otherwise eligible to receive.

(b) Procedures for determining REACH post-AFDC child care [fees] co-payments are as follows:

1. County welfare agency (CWA) income maintenance (IM) functions are as follows:

i.-ii. (No change.)

iii. If earned income received or expected to be received renders the family ineligible for AFDC, the IM worker will initiate AFDC case closing and the processing of post-AFDC REACH benefits, including extended Medicaid benefits and post-AFDC child care.

(1) The IM worker will do the following:

(A) Enter the amount of verified earnings into FAMIS at the time the action is taken on computer to close the AFDC case. These earnings will be used to compute the [fee] co-payment that the participant must pay toward cost of post-AFDC child care, if the participant elects to apply for such benefits.

(B) (No change.)

(C) Send out Form R-10, REACH Benefit Letter, advising the participant of:

(I) The availability of post-AFDC REACH benefits—extended Medicaid and post-AFDC child care:

(II) The requirement to pay a co-payment [fee] toward the cost of post-AFDC child care; and

(III) The need to apply for post-AFDC child care by contacting (by phone, mail or in-person) the REACH case manager listed at the bottom of Form R-10.

(2) (No change.)

iv. To the extent possible, the IM worker should complete the AFDC case closing, income verification process and mailing of Form R-10 before the AFDC case is closed. This will ensure that participants receive child care benefits in a timely and uninterrupted manner, and ensure that providers receive payment of [fees] co-payments and REACH voucher payments. If this is not possible, the process should be completed as soon as possible after the AFDC case is closed, during the first month of AFDC ineligibility.

v. (No change.)

i.-iii. (No change.)

iv. Upon receipt of a response from a participant requesting REACH post-AFDC child care benefits, the REACH case manager and the participant will discuss the child care arrangements, including the requirement to pay a [fee] co-payment toward the cost of care. The REACH case manager will determine the amount of the participant's [fee] co-payment based on verified earnings, family size and the number of children in post-AFDC child care. The case manager and participant will then complete a REACH Agreement for Support Services indicating the child(ren) for whom child care is to be provided, the duration of the child care benefits, the name(s) and address(es) of the child care provider(s), and the amount of the child care benefits.

(1)-(2) (No change.)

v. The case manager, in consultation with the REACH participant, will complete Form R-20, Notification of REACH Post-AFDC Child Care [Fee] Co-payment. Form R-20 is a four-part form which contains information about the REACH post-AFDC child care [fee] co-payment arrangement. It sets forth the requirement of the REACH participant to pay a [fee] co-payment toward the cost of care and of the REACH program to pay the balance of the approved cost of child care. It contains the amount(s) of [fee(s)] co-payment(s) computed for the first and, if necessary, second child in care, the total [fees] co-payment to be paid. It provides instructions about [fee payment] co-payment arrangements, proof of payment and accounting of [fees] co-payments collected. The form specifies actions to be taken for nonpayment of the [fee] co-payment, including written notice from case management and termination of all post-AFDC child care benefits for continued nonpayment (with right to a fair hearing). Form R-20 is signed by the REACH case manager, and may be signed by additional agency representatives.

(1) The purposes of Form R-20 are to:

(A) Provide the participant receiving REACH post-AFDC child care benefits with written documentation of his or her [fee] co-payment obligation;

(B) (No change.)

(C) Establish a basis for monitoring compliance with the REACH post-AFDC [fee] co-payment policy.

(2) Form R-20 is to be completed and signed for each child for whom a [fee] co-payment is assessed.

(3) (No change.)

vi. The biweekly REACH child care voucher process will be used to report post-AFDC child care [fee] co-payment collection and nonpayment. Case management (or other entity designated by the county REACH program to process its REACH vouchers) will issue the voucher biweekly listing the name(s) of the post-AFDC REACH participant's child(ren). Case management or the county entity will ensure that a method for recording payment or nonpayment of the fee is included in this voucher issuance. Acceptable methods include a separate form attached to the voucher, a computer-printed message on the voucher, or any other method approved in writing by the county's Division of Economic Assistance representative.

3. Child care service provider functions are as follows:

i. Upon receipt of the Form R-20, Notification of REACH Post-AFDC Child Care Fee, from case management, the participant and the provider must negotiate the frequency of [fee payment] co-payments and collection (either weekly or biweekly), and date or day of [fee payment] co-payment. Frequency and day of [fee payment] co-payment can be based on individual circumstances, including the participant's source and frequency of income and the [fee payment] co-payment procedures already established by the provider, but the [fee] co-payment must be paid by the last day of the voucher service period. Collection periods must coincide with the periods covered by the REACH post-AFDC child care voucher.

(1) (No change.)

ii. The provider should implement a system designed to ensure an efficient, error-free method of recording and accounting for all [fee] co-payment collections. The Lead Child Care Entity is available to provide technical assistance to providers in establishing such a system. The provider may wish to adapt recordkeeping systems used in the Social Services Block Grant (SSBG) system, such as the One-Write Fee Collection System or a comparable method.

(1) Providers must establish procedures for the collection of the [fee] co-payment from the participant.

iii. The provider and REACH participant will then follow the terms of the Form R-20 notification. The provider will collect the assessed [fees] co-payments from the participant during the voucher service period. The child care provider has the responsibility to make reasonable efforts to collect assessed [fees] co-payments from the REACH post-AFDC participant.

iv. At the end of the voucher service period the provider will complete the voucher indicating the child(ren)'s attendance, the amount of the REACH payment due for child care services provided and whether the REACH participant(s) paid the required [fees] co-payments. The provider must return the voucher to obtain payment for REACH services provided, to document [fees] co-payments not paid and thereby to preserve his or her right to possible reimbursement for unpaid [fees] co-payments.

v. The income and [fee] co-payment information recorded on the Form R-20 notification is confidential. The provider, Lead Child Care Entity, and REACH Case Manager are responsible for ensuring that access to this information is restricted to those individuals responsible for assessing and collecting [fees] co-payments.

4. REACH Lead Child Care Entity functions are as follows:

i. The Lead Child Care Entity is responsible for advising the provider at time of recruitment into REACH of the post-AFDC [fee] co-payment requirements, including the requirement that the participant must pay a portion of the cost of care[, for]; training the provider in voucher completion[, and for]; and providing assistance in [fee] co-payment collection and monitoring, as determined by the county.

ii. (No change.)

5. Reassignment of Functions shall be accomplished as follows:

i. (No change.)

ii. A county must use the Form R-20 in its REACH post-AFDC operations. Each county must provide to the Division of Economic Assistance a copy of its notice of [fee] co-payment payment and nonpayment. This is completed by the provider and its notice of termination of REACH post-AFDC benefits.

(c) [Fee] Co-payment collection, monitoring, and procedures for late payment or nonpayment of [fees] co-payments and termination of REACH post-AFDC child care benefits are as follows:

1. The following are provider functions:

i. It is the responsibility of the child care service provider to collect [fees] co-payments and report nonpayment of [fees] co-payments in accordance with the terms of the R-20 notification.

ii. Whenever the REACH post-AFDC child care [fee] co-payment has not been paid to the provider by the end of the voucher service period, the [fee] co-payment is considered unpaid.

iii. In the event of nonpayment of assessed [fees] co-payments by the participant, the provider will complete the voucher, indicate on the voucher the child(ren) for whom the participant(s) failed to pay the required [fee] co-payment; and return the voucher to the designated entity in the county REACH program. This action by the provider in conjunction with the REACH case manager will initiate the process for terminating REACH post-AFDC child care benefits.

iv. The provider must continue to attempt to collect [fees] co-payments from the participant and must document such collection efforts.

v. Under no circumstances may the participant be charged a late [fee payment] co-payment penalty.

2. (No change.)

3. REACH case management functions are as follows:

i. It is the responsibility of case management to monitor [fee] co-payment collection by examining the completed REACH post-AFDC vouchers returned by providers and responding to nonpayment of [fees] co-payments reported in the voucher.

ii. Following receipt of a REACH voucher from a provider indicating nonpayment of assessed [fees] co-payments by the participant, the REACH case manager will do the following:

(1) (No change.)

(2) Complete a letter notifying the participant of termination of REACH post-AFDC child care services. A county may develop a letter specifically for this purpose or may amend an existing notification letter. The letter must contain at a minimum the information in the sample form, Notice of Termination of REACH Child Care Support Agreement, in Appendix A. The purpose of this notice is to provide written notice to:

(A) Advise the participant of a child receiving REACH post-AFDC child care services of the amount of assessed [fees] co-payments which have not been paid;

(B) (No change.)

(C) Serve as formal notice to the participant that REACH post-AFDC child care services will be terminated by a specific date unless overdue [fees] co-payments are paid;

(D) (No change.)

(E) Advise the participant to pay the required [fees] co-payments and to contact the county REACH program immediately if she has already paid the overdue [fee(s)] co-payment(s) so that benefits may be continued.

(3) (No change.)

4. When post-AFDC child care services are terminated due to nonpayment of [fees] co-payments, the participant of a child receiving REACH post-AFDC child care services retains the right to request a fair hearing. If timely request (within 10 days) is made, the REACH Program will continue to make payment to the provider for the REACH portion of child care services rendered until a fair hearing is held, and a final determination is made.

i. (No change.)

5. Reassignment of functions shall be accomplished as follows:

i. (No change.)

ii. A county must use the Form R-20 in its REACH post-AFDC operations. Each county must provide to the Division of Economic Assistance a copy of its notice of [fee] co-payment payment and nonpayment that is completed by the provider and its notice of termination of REACH post-AFDC benefits.

6. Reimbursement of unpaid [fees] co-payments shall be accomplished as follows:

i. If a REACH participant fails to pay assessed [fees] co-payments for care provided to her child(ren), the provider(s) may be reimbursed by the REACH program for the amount of unpaid [fees] co-payments subject to the following.

(1) Reimbursement by the REACH program will be made if all of the following conditions are met:

(A) (No change.)

(B) The provider has documented on the REACH voucher nonpayment of the [fees] co-payments for each voucher service period for which a claim of nonpayment is made; and

(C) (No change.)

(2) Reimbursement of unpaid [fees] co-payments is limited to a maximum period of two months. Exceptions may be granted in extreme circumstances with prior written approval by the Division of Economic Assistance representative for the county.

(3) Reimbursement of unpaid [fees] co-payments to the provider must be paid from State REACH funds.

ii. If a participant whose post-AFDC REACH benefits have been terminated due to nonpayment of [fees] co-payments reapplies for post-AFDC child care benefits, the participant must reimburse the amount of the unpaid [fees] co-payments before eligibility for post-AFDC child care benefits will be granted for the balance of the post-AFDC period.

(1) If the county REACH program has already paid the provider(s) for previous unpaid [fees] co-payments, the participant must reimburse the county for the full amount of [fees] co-payment arrearages due. Reimbursement may be in the form of a lump sum or installment payments as determined by the county.

(2) If the county REACH program has not yet paid the provider(s) for previous unpaid [fees] co-payment arrearages, the participant must reimburse the provider(s) for the full amount of [fees] co-payments due. Reimbursement may be in the form of a lump sum or installment payments as determined by the county and the provider(s).

(a)

**DIVISION OF ECONOMIC ASSISTANCE**

**Public Assistance Manual**

**Other Governmental Programs: Medicaid**

**Proposed Amendments: N.J.A.C. 10:81-3.19, 8.22, 14.8 and 14.20**

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

Authority: N.J.S.A. 44:7-3 and 44:10-3; The Family Support Act (FSA) of 1988; Social Security Act, Title XIX, Section 1925.

Proposal Number: PRN 1991-472.

Submit comments by November 6, 1991 to:

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

The agency proposal follows:

**Summary**

The proposed amendments serve to clarify existing Realizing Economic Achievement (REACH)/Job Opportunities and Basic Skills (JOBS) Program rules concerning Medicaid eligibility related to the Federal Family Support Act (FSA) of 1988 provisions which established the JOBS program.

The proposed amendments at N.J.A.C. 10:81-3.19(a) clarifies text to distinguish when required participation in REACH/JOBS is necessary to satisfy the AFDC work/training condition of eligibility. The proposed amendment specifies that if an individual applies for only Medicaid coverage without receipt of an AFDC money payment, then participation in REACH/JOBS is not required since such an eligibility determination is based solely on AFDC financial criteria with no work/training requirements.

Obsolete language at N.J.A.C. 10:81-8.22(b)3 and 14.20(e) has been deleted since the provisions are no longer applicable pertaining to additional months of Medicaid extension beyond 12 months, for families receiving and qualifying for the extension prior to April 1, 1990, the date when certain Medicaid provisions of the Family Support Act became effective. Such families who were granted the additional extension have completed that full extension period as of the date of this rulemaking.

The proposed amendment at N.J.A.C. 10:81-14.8(i)8 states more clearly that Medicaid eligibility continues during a period of sanction for non-compliance with REACH/JOBS requirements for any adult individual, or child 16 to 18 years old (or up to 19 years if attending school).

**Social Impact**

The proposed amendments will have no significant social impact since they delete obsolete provisions no longer applicable concerning the Medicaid extension beyond 12 months. All families who had qualified for such an extension have already exhausted their allowed timeframe. The rules have been revised for clarification purposes in response to questions raised by county welfare agencies concerning Medicaid eligibility for individuals during periods of sanction.

**Economic Impact**

It is anticipated that the proposed amendments concerning the Medicaid Extension beyond 12 months will not have any economic impact. The Family Support Act of 1988 eliminated that extension for those families qualifying for the extension on or after April 1, 1990 and the duration of the time period allowed has expired.

**Regulatory Flexibility Statement**

These 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 the Aid to Families with Dependent Children program, 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]):

10:81-3.19 Employment and training requirements

(a) REACH/JOBS requirement: Each individual who does not satisfy exemption criteria set forth at N.J.A.C. 10:81-14.3A shall participate in the Realizing Economic Achievement (REACH) Program, the AFDC work and training program. Participation in REACH/JOBS is required as a condition of eligibility for AFDC-C, -F, and -N. If, because of Federal AFDC requirements which prohibit payment of a cash assistance benefit of \$10.00 or less, the individual [requests Medicaid only with no AFDC cash assistance or] is eligible for only Medicaid [only because the cash assistance benefit is \$10.00 or less, then the], that individual shall participate in REACH/JOBS unless exempt for the reasons set forth at N.J.A.C. 10:81-14.3A. **If an individual applies for only Medicaid with no request for AFDC cash assistance (that is, the Medicaid eligibility is determined based on AFDC financial eligibility criteria), then the individual is not required to participate in REACH/JOBS.**

(b)-(h) (No change.)

10:81-8.22 Persons eligible for medical assistance

(a) (No change.)

(b) Extension of Medicaid benefits: Extended Medicaid benefits shall be provided former AFDC families in accordance with the provisions of this subsection.

1.-2. (No change.)

[3. Any family formerly receiving AFDC-C or -F qualifying for this extension prior to April 1, 1990 because of the loss of the \$30.00 or one-third disregards, shall receive an additional three months of Medicaid extension if, at the expiration of the 12-month extension, the family would be eligible for AFDC if the \$30.00 and the one-third still applied. To receive this additional three months of Medicaid extension, the family must demonstrate to the satisfaction of the CWA that, had the \$30.00 and one-third disregard of earned income not been time-limited, the family would have been continuously eligible for AFDC from the time it became ineligible for AFDC.]

Recodify existing 4. and 5. as 3. and 4. (No change in text.)  
(c)-(g) (No change.)

10:81-14.8 Noncompliance; good cause; conciliation; sanctions

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

(i) Sanctions: The following sanctions shall apply for failure or refusal to comply with REACH/JOBS requirements (see (k) below for duration of sanction periods):

1.-7. (No change.)

8. Eligibility of sanctioned individuals for Medicaid: [An] Any adult individual, or child 16 to 18 years old (or up to 19 years if attending school), sanctioned for noncompliance with REACH/JOBS work or training requirements, [loses categorical eligibility for Medicaid under Federal JOBS requirements. However, in New Jersey, the individual] remains eligible for Medicaid so long as other Medicaid eligibility criteria are met (all segments). [Children 16 to 18 years old who are sanctioned for noncompliance with REACH will continue to be eligible for Medicaid so long as there are other children in the family eligible for AFDC (all segments).]

(j)-(o) (No change.)

10:81-14.20 REACH/JOBS support services: medical assistance

(a)-(d) (No change.)

[(e) Any family prior to April 1, 1990 formerly receiving AFDC-C or -F qualifying for this 12-month extension because of the loss of the \$30.00 or one-third disregards (see (b)1 above) shall receive an additional three months of Medicaid extension if, at the expiration of the 12-month extension, the family would be eligible for AFDC if the \$30.00 and one-third disregards still applied. To receive this additional three months of Medicaid extension, the family must demonstrate to the satisfaction of the CWA that, had the \$30.00 and one-third disregard of earned income not been time-limited, the family would have been continuously eligible for AFDC from the time it became ineligible for AFDC.]

(a)

**DIVISION OF ECONOMIC ASSISTANCE  
Assistance Standards Handbook  
REACH Child Care Voucher Maximum Rates  
Proposed Amendment: N.J.A.C. 10:82-5.3**

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

Authority: N.J.S.A. 44:7-6 and 44:10-3.

Proposal Number: PRN 1991-496.

Submit comments by November 6, 1991 to:

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

The agency proposal follows:

**Summary**

The proposed amendments to N.J.A.C. 10:82-5.3(g) align the child care payment rates under Title IV-A (including REACH/JOBS child care rates) with concurrent proposals (published elsewhere in this issue of the New Jersey Register) in other child care service programs available through the Department of Human Services (DHS). The Department has proposed rules at N.J.A.C. 10:15, 10:15A, 10:15B, and 10:15C on two new child care programs made available under the Omnibus Budget Reconciliation Act of 1990 (Public Law 101-508), namely, the Child Care and Development Block Grant (CCDBG) and the Aid to Families with Dependent Children At-Risk Program. Both of those programs advocate payment for child care services at the same rate levels being proposed for Title IV-A under this proposed amendment. Likewise, the Division of Youth and Family Services is proposing new rules at N.J.A.C. 10:125B for equivalent child care rates to those proposed in this rule for child care services rendered through the Social Service Block Grant (SSBG).

While the three concurrent proposals address four separate funding streams covering child care services available through the Department of Human Services and its Divisions of Economic Assistance (DEA) and

Youth and Family Services (DYFS), all of the proposed rules support one approach in the establishment of equalized rates for child care services which are consistent from program to program. The same rate maximums for the type of child care arrangement and category of care (including infant/toddler care, pre-school care, school-age care and special needs rates) are used in all DHS child care programs (see also proposed N.J.A.C. 10:15A-1.2(c) and 10:125B).

The proposed amendments at N.J.A.C. 10:82-5.3(g) delete existing Tables I and II and replace them with proposed new Tables I, II and III. These amendments set forth a separate rate table for licensed child care centers, school-age programs and day camps (Table I). Currently, Table 1 sets forth the Title IV-A rates for those types of arrangements which are equivalent to rates in registered family day care homes. Maximum rates for child care under this type of arrangement have been increased. The new rates for center-based care are consistent with the proposed rates under SSBG and in the new DHS IV-A "At-Risk" and the CCDBG programs. Rates in Table II and newly proposed Table III for registered and approved home settings have been slightly increased to equivocate prior rate inconsistencies.

The term "special circumstance" has been changed to "special needs" for alignment with language used in the concurrent proposal at N.J.A.C. 10:15, 10:15A, 10:15B and 10:15C.

#### Social Impact

The proposed amendment should have a positive impact on families and providers. In particular, the amendment increases the maximum rates for licensed center-based care and standardizes this rate universally in all Departmental child care service programs. This provision should enhance the Department's ability to provide for a continuum of care through its various child care programs based on increasing family income levels for eligibility for child care services. Likewise, the increased rate for licensed center-based care recognizes that the extra services provided for children in such care settings warrant higher costs of care for which compensation is needed.

#### Economic Impact

The increased licensed center-based rates average a 29 percent increase over present rates for all child care service categories (infant/toddlers, pre-school, kindergarteners and school-age). Costs to licensed center providers in fiscal year 1991 for the period July 1, 1990 through June 30, 1991 were estimated at \$7,445,580.00. With current rates, estimated payments to licensed centers in fiscal year 1992 were \$9,083,608 plus the additional rate increase for the period January 1, 1992 through June 30, 1992 of \$4,995,984.00. The estimated additional

costs with the new rates is \$1.47 million for the period January through June 30, 1992 with an annualized additional cost of \$2.94 million.

#### Regulatory Flexibility Statement

This proposed amendment has been reviewed with regard to the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The proposed amendment imposes 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 the Aid to Families with Dependent Children program 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]):

#### 10:82-5.3 Payment for child care

(a)-(f) (No change.)

(g) Statewide maximum child care payment rates are based upon either the age or special [circumstance] **needs** status of the child and on the number of hours of care provided in the various types of child care arrangements. Included in the types of arrangements are registered homes, approved homes, in-home care, child care centers and day camps, and the hours of care provided (that is, full and part-time day care and care before and after school and during school recesses).

1. ["Special circumstances" or "special needs"] "**Special needs**" children as defined in N.J.A.C. 10:82-5.2 shall be eligible for the appropriate "special [circumstance] **needs**" child care rate (see [Table I] **Tables II and III** below). Appropriate authorization shall be obtained from DEA before placement of the child in care and issuance of payment.

2. (No change.)

3. Before and after school care for school-age children, age five and older, shall be actual costs up to the maximum rate set forth in Tables I [and], II **and III** below.

4. (No change.)

5. The maximum authorized rates for child care are set forth in Tables I [and], II **and III** below, as determined by the type of child care arrangements, and based upon either the age or special [circumstance] **needs** status of the child and the hours of care provided.

[Table I

These rates shall be utilized for licensed child care centers, school-age programs, registered family day care homes and day camps.

MAXIMUM CHILD CARE PAYMENT RATES

HOURS OF CARE PROVIDED

| Child(ren)<br>Served  | HOURS OF CARE PROVIDED  |  |   |  |
|---|---|--|---|--|
|   | Full-Time<br>(30 hrs/week<br>or more; 6 hrs<br>or more per day) | Three-Quarter<br>Time<br>(16 to 29 hrs/wk;<br>less than 6<br>hrs/day but more<br>than 3 hrs/day) | One-Half<br>Time<br>(7 to 15<br>hrs/wk) | One-Quarter<br>Time<br>(6 hrs/wk<br>or less) |
| Infants/Toddlers<br>(0 up to 2.5 yrs)                             | \$89/wk<br>based on<br>rate \$18/day                            | \$67/wk<br>based on<br>rate \$13/day   | \$45/wk<br>based on<br>rate \$9/day     | \$22/wk<br>based on<br>rate \$4/day          |
| Pre-schoolers<br>(2.5 up to 5 yrs)                                | \$68/wk<br>based on<br>rate \$14/day                            | \$51/wk<br>based on<br>rate \$10/day   | \$34/wk<br>based on<br>rate \$7/day     | \$17/wk<br>based on<br>rate \$3/day          |
| School-agers<br>(5 yrs-13 yrs)                                    | \$68/wk<br>based on<br>rate \$14/day                            | \$51/wk<br>based on<br>rate \$10/day   | \$34/wk<br>based on<br>rate \$7/day     | \$17/wk<br>based on<br>rate \$3/day          |
| *Special<br>Circumstance<br>Infants/Toddlers<br>(0 up to 2.5 yrs) | \$110/wk<br>based on<br>rate \$22/day                           | \$83/wk<br>based on<br>rate \$16/day   | \$56/wk<br>based on<br>rate \$11/day    | \$27/wk<br>based on<br>rate \$5/day          |
| *Special<br>Circumstance<br>Child(ren)<br>(2.5 yrs and up)        | \$89/wk<br>based on<br>rate \$18/day                            | \$67/wk<br>based on<br>rate \$13/day   | \$45/wk<br>based on<br>rate \$9/day     | \$22/wk<br>based on<br>rate \$4/day]         |

[Table II

These rates shall be utilized for Approved Home and in-home care providers. Reimbursement for services shall be at a rate of 60 percent of the Statewide maximum rates set forth in Table I.

60 PERCENT MAXIMUM CHILD CARE PAYMENT RATES—  
APPROVED HOMES/IN-HOME CARE PROVIDERS

HOURS OF CARE PROVIDED

| Child(ren)<br>Served  | HOURS OF CARE PROVIDED  |  |   |  |
|---|---|--|---|--|
|   | Full-Time<br>(30 hrs/week<br>or more; 6 hrs<br>or more per day) | Three-Quarter<br>Time<br>(16 to 29 hrs/wk;<br>less than 6<br>hrs/day but more<br>than 3 hrs/day) | One-Half<br>Time<br>(7 to 15<br>hrs/wk) | One-Quarter<br>Time<br>(6 hrs/wk<br>or less) |
| Infants/Toddlers<br>(0 up to 2.5 yrs)                             | \$53/wk<br>based on<br>rate \$11/day                            | \$40/wk<br>based on<br>rate \$8/day  | \$27/wk<br>based on<br>rate \$5/day     | \$13/wk<br>based on<br>rate \$3/day          |
| Pre-schoolers<br>(2.5 up to 5 yrs)                                | \$41/wk<br>based on<br>rate \$8/day                             | \$31/wk<br>based on<br>rate \$6/day  | \$20/wk<br>based on<br>rate \$4/day     | \$10/wk<br>based on<br>rate \$2/day          |
| School-agers<br>(5 yrs-13 yrs)                                    | \$41/wk<br>based on<br>rate \$8/day                             | \$31/wk<br>based on<br>rate \$6/day  | \$20/wk<br>based on<br>rate \$4/day     | \$10/wk<br>based on<br>rate \$2/day          |
| *Special<br>Circumstance<br>Infants/Toddlers<br>(0 up to 2.5 yrs) | \$66/wk<br>based on<br>rate \$13/day                            | \$50/wk<br>based on<br>rate \$10/day   | \$34/wk<br>based on<br>rate \$7/day     | \$16/wk<br>based on<br>rate \$3/day          |
| *Special<br>Circumstance<br>Child(ren)<br>(2.5 yrs and up)        | \$53/wk<br>based on<br>rate \$11/day                            | \$40/wk<br>based on<br>rate \$8/day  | \$27/wk<br>based on<br>rate \$5/day     | \$13/wk<br>based on<br>rate \$3/day]         |

**CHILD CARE VOUCHER MAXIMUM DAILY RATES**

**Table I**

These rates shall be utilized for:  
**LICENSED CHILD CARE CENTERS,  
 SCHOOL-AGE PROGRAMS, DAY CAMPS**  
**HOURS OF CARE PROVIDED**

| Child's Service Category                             | Full-Time              | Part-Time                |
|--|------------------------|--------------------------|
|  | 6 hrs. or more per day | less than 6 hrs. per day |
| <b>Infants/Toddlers</b>                              |                        |                          |
| Weekly   | \$113.00               | \$56.50                  |
| Daily  | \$ 22.60               | \$11.30                  |
| <b>Pre-schoolers (2.5 up to 5 yrs)</b>               |                        |                          |
| Weekly   | \$92.00                | \$46.00                  |
| Daily  | \$18.40                | \$ 9.20                  |
| <b>Kindergarteners &amp; School-Agers (5-13 yrs)</b> |                        |                          |
| Weekly   | \$92.00                | \$46.00                  |
| Daily  | \$18.40                | \$ 9.20                  |

**CHILD CARE VOUCHER MAXIMUM DAILY RATES**

**Table II**

These rates shall be utilized for:  
**REGISTERED FAMILY DAY CARE HOMES**  
**HOURS OF CARE PROVIDED**

| Child's Service Category                                   | Full-Time              | Three-Quarter Time* | One-Half Time*      | One-Quarter Time* |
|--|------------------------|---------------------|---------------------|-------------------|
|  | 6 hrs. or more per day | 4 or 5 hrs. per day | 2 or 3 hrs. per day | 1 hr. per day     |
| <b>Infants/Toddlers</b>                                    |                        |                     |                     |                   |
| Weekly   | \$ 90.00               | \$67.50             | \$45.00             | \$22.50           |
| Daily  | \$ 18.00               | \$13.50             | \$ 9.00             | \$ 4.50           |
| <b>Pre-schoolers (2.5 up to 5 yrs)</b>                     |                        |                     |                     |                   |
| Weekly   | \$ 70.00               | \$52.50             | \$35.00             | \$17.50           |
| Daily  | \$ 14.00               | \$10.50             | \$ 7.00             | \$ 3.50           |
| <b>Kindergarteners &amp; School-Agers (5 up to 13 yrs)</b> |                        |                     |                     |                   |
| Weekly   | \$ 70.00               | \$52.50             | \$35.00             | \$17.50           |
| Daily  | \$ 14.00               | \$10.50             | \$ 7.00             | \$ 3.50           |
| <b>Special Needs Infants/Toddlers (0 up to 2.5 yrs)</b>    |                        |                     |                     |                   |
| Weekly   | \$110.00               | \$82.50             | \$55.00             | \$27.50           |
| Daily  | \$ 22.00               | \$16.50             | \$11.00             | \$ 5.50           |
| <b>Special Needs Child(ren) (2.5 yrs &amp; up)</b>         |                        |                     |                     |                   |
| Weekly   | \$ 90.00               | \$67.50             | \$45.00             | \$22.50           |
| Daily  | \$ 18.00               | \$13.50             | \$ 9.00             | \$ 4.50           |

\*Care given for any portion of an hour shall be rounded to the next full hour. For example, one hour and 15 minutes is rounded to two hours.

CHILD CARE VOUCHER MAXIMUM DAILY RATES

Table III

These rates shall be utilized for:  
**APPROVED HOME DAY CARE**  
**HOURS OF CARE PROVIDED**

| Child's Service Category                                   | Full-Time<br>6 hrs. or more per day | Three-Quarter Time*<br>4 or 5 hrs. per day | One-Half Time*<br>2 or 3 hrs. per day | One-Quarter Time*<br>1 hr. per day |
|--|-------------------------------------|--|---------------------------------------|------------------------------------|
| <b>Infants/Toddlers</b>                                    |                                     |  |                                       |                                    |
| Weekly   | \$55.00                             | \$41.25                                    | \$27.50                               | \$13.75                            |
| Daily  | \$11.00                             | \$ 8.25                                    | \$ 5.50                               | \$ 2.75                            |
| <b>Pre-schoolers (2.5 up to 5 yrs)</b>                     |                                     |  |                                       |                                    |
| Weekly   | \$41.00                             | \$30.75                                    | \$20.50                               | \$10.25                            |
| Daily  | \$ 8.20                             | \$ 6.15                                    | \$ 4.10                               | \$ 2.05                            |
| <b>Kindergarteners &amp; School-Agers (5 up to 13 yrs)</b> |                                     |  |                                       |                                    |
| Weekly   | \$41.00                             | \$30.75                                    | \$20.50                               | \$10.25                            |
| Daily  | \$ 8.20                             | \$ 6.15                                    | \$ 4.10                               | \$ 2.05                            |
| <b>Special Needs Infants/Toddlers (0 up to 2.5 yrs)</b>    |                                     |  |                                       |                                    |
| Weekly   | \$66.00                             | \$49.50                                    | \$33.00                               | \$16.50                            |
| Daily  | \$13.20                             | \$ 9.90                                    | \$ 6.60                               | \$ 3.30                            |
| <b>Special Needs Child(ren) (2.5 yrs &amp; up)</b>         |                                     |  |                                       |                                    |
| Weekly   | \$55.00                             | \$41.25                                    | \$27.50                               | \$13.75                            |
| Daily  | \$11.00                             | \$ 8.25                                    | \$ 5.50                               | \$ 2.75                            |

\*Care given for any portion of an hour shall be rounded to the next full hour. For example, one hour and 15 minutes is rounded to two hours.

(h) (No change.)

**ENVIRONMENTAL PROTECTION AND ENERGY**

(a)

**BUREAU OF MARINE WATER CLASSIFICATION AND ANALYSIS**

**Shellfish Growing Water Classification**

**Proposed Amendments: N.J.A.C. 7:12-1.1, 2.1, 3.2, 4.1, 4.2, 7.1, 9.8 and 9.10**

Authorized By: Scott A. Weiner, Commissioner, Department of Environmental Protection and Energy.

Authority: N.J.S.A. 13:1D-9 and 58:24-1 et seq.

DEP Docket Number: 036-91-09.

Proposal Number: PRN 1991-508.

Submit comments, identified by the Docket Number above, by November 6, 1991 to:

Samuel A. Wolfe  
 Administrative Practice Officer  
 Office of Legal Affairs  
 N.J. Department of Environmental Protection and Energy  
 CN 402  
 Trenton, New Jersey 08625

The agency proposal follows:

**Summary**

The Department of Environmental Protection and Energy (the Department) proposes to amend its rules on the classification of certain shellfish beds as the result of surveys conducted by the Bureau of Marine Water Classification and Analysis.

The survey work consists of the collection and analysis of water samples, the inventory of actual and potential sources of pollution, and hydrographic studies of flow patterns which distribute pollution. These surveys are conducted in accordance with applicable State and Federal (Food and Drug Administration (FDA)) guidelines and regulations as described in the National Shellfish Sanitation Program Manual of Operations (Part I—Sanitation of Shellfish Growing Areas). The FDA further requires that each state annually appraise the quality of those waters classified as "Approved" for the harvest of shellfish. New Jersey conducts scientific investigatory work and research and, pursuant to N.J.S.A. 58:24-1 et seq., revises the rules annually.

The reasons for the proposal to revise the rules fall into three categories: changes in water quality; enhanced monitoring; and clarification of existing rules.

These proposed rules will result in the reclassification of approximately 14,336 acres with a net upgrade of approximately 13,497 acres. The majority of this gain is a consequence of improved water quality resulting from a new regional waste water treatment facility coming on-line and the elimination of several back bay discharges. The names of the waterways and number of acres to be reclassified area listed below in general

**ENVIRONMENTAL PROTECTION**

**PROPOSALS**

terms (Note: Approved means waters meeting the sanitary requirements to allow year round shellfish harvesting; Seasonal means waters meeting the sanitary requirements for harvesting part of the year; Special

Restricted means waters not meeting the sanitary requirements to harvest except by special permit; and Prohibited means waters not meeting the sanitary requirements for shellfish harvesting).

| Chart # | Area                          | Action                         | Acres |
|---------|-------------------------------|--------------------------------|-------|
| 5       | Cedar Run Cove                | Seasonal to Special Restricted | 175   |
| 7       | Broad Creek (Brigantine area) | Approved to Seasonal           | 27    |
| 7       | Great Egg Inlet               | Approved to Special Restricted | 72    |
| 7       | Ship Channel                  | Seasonal to Special Restricted | 36    |
|         |                               | Seasonal to Approved           | 9     |
|         |                               | Approved to Special Restricted | 15    |
|         |                               | Approved to Seasonal           | 153   |
| 8       | Great Egg Harbor Bay          | Approved to Seasonal           | 8     |
| 9       | Grassy Sound Channel          | Seasonal to Special Restricted | 45    |
| 9       | Grassy Sound-Richardson Sound | Approved to Seasonal           | 246   |
| 9       | Grassy Sound-Richardson Sound | Seasonal to Approved           | 1126  |
| 9       | Richardson Sound              | Seasonal to Prohibited         | 22    |
| 9       | Old Turtle Thorofare          | Prohibited to Seasonal         | 45    |
| 9-10    | Atlantic Ocean                | Approved to Prohibited         | 40    |
| 9-10    | Atlantic Ocean                | Prohibited to Approved         | 6705  |
| 9-10    | Delaware Bay                  | Prohibited to Approved         | 5612  |

In addition to the above described reclassification of shellfish growing waters, these amendments contain a revision to the Sanctuaries. In 1986 the Department, in cooperation with the shellfish industry, established a spawner sanctuary program. The concept was to concentrate shellfish at selected sites to re-establish shellfish populations through natural processes. Two areas were designated as hard clam spawner sanctuaries. These areas were placed off-limits to harvesting and were further condemned when shellfish from Condemned waters were placed on the sites. The research has been completed and the project terminated. These areas may now be harvested since the classification of the waters will be Approved.

The proposed amendments also contain a change to the Relay Program. The Relay Program permits the safe utilization of shellfish from moderately polluted waters by placing the shellfish in approved waters to allow for the natural elimination of bacterial contaminants. The change will require the bags used to transport clams from the harvest sites to the relay site to be filled to the imprinted line on the bag. Currently, the requirement is to place three-quarters of a bushel per bag. This new requirement will enhance program uniformity in that all bags without regard to clam size will be filled to the same level.

The Transplant Program rule is amended to require a permit applicant to provide a chart showing from where the shellfish to be transplanted will be harvested.

**Social Impact**

In addition to the more than 23,000 persons licensed to harvest shellfish, the adoption of these amendments would benefit the far greater number of consumers who utilize the shellfish harvested from New Jersey waters. While the downgrading of specific waters may, in limited cases, reduce localized recreational opportunities, the net effect of adopting the amendments will be to increase such opportunities by making more waters available for harvest. The continued monitoring efforts undertaken by the Department insure that the State's shellfish resource remains a wholesome food product, available to both recreational and commercial harvesters.

**Economic Impact**

The shellfish growing water reclassifications contained in these amendments represent an increase in the availability of harvest water to shellfishermen. The overall economic impact of these regulatory changes is favorable to the shellfish industry while allowing the Department to fulfill its statutory responsibility to protect the public health.

**Environmental Impact**

The continuous monitoring of New Jersey's shellfish growing waters benefits the State not only by affording protection from shellfish related disease, but also by serving as an environmental yardstick

by which the progress of pollution abatement programs can be measured.

In addition, the demand for increased recreational residential and commercial facilities in New Jersey's coastal zone continues to present a dilemma to environmental planners. The level of discord associated with the conflicting interests that depend upon publicly owned and managed natural resources can only be expected to increase. Therefore, the need for an objective method of evaluating the impact of man's activities upon complex estuarine and marine systems is increasing. The criteria associated with the National Shellfish Sanitation Program, which forms the basis of these water quality classifications, are but one suggested method that can be utilized to quantify the impact of development.

The proposed amendments represent a tangible measurement of the quality of New Jersey's surface waters as well as providing a historical record for future comparison. The adoption of this proposal will exert a positive environmental impact primarily by sanctioning the extensive monitoring efforts that precede the specific changes recommended herein.

**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 these rules will not impose reporting or recordkeeping requirements on small business. The proposed amendments, except for those to N.J.A.C. 7:12-9.8 and 9.10, delineate areas for shellfish harvesting and those areas from which shellfish cannot be harvested. The changed bag requirement in the Relay Program would promote uniform compliance. The additional chart requirement in the Transplant Program is not a significant economic imposition.

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

7:12-1.1 General provisions

(a)-(i) (No change.)

(j) Designated areas utilized in conjunction with one of the Special Permit Programs under N.J.A.C. 7:12-9 which are leased from the State and may contain shellfish harvested from the Seasonal Special Restricted or Special Restricted area, are under the Relay Program, N.J.A.C. 7:12-[9.7]9.8, **Transfer Program, N.J.A.C. 7:12-9.9, and Transplant Programs, N.J.A.C. 7:12-9.10,** and may be harvested only upon notification by the Bureau of Marine Water Classification and Analysis, Division of Water Resources, Non-leased lots within these designated areas are not available to harvest of shellfish at any time.

7:12-2.1 Shellfish growing water classification—Prohibited

(a) The following shellfish growing waters are classified Prohibited:

1.-15. (No change.)

16. The Wildwoods Area (Note: Portions are designated as Special Restricted and Seasonal. See: N.J.A.C. 7:12-3 and 4):

i.-iii. (No change.)

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;] **All of Richardson Sound within a line beginning at the western end of the Route 47 bridge to a Department maintained marker at the mouth of Gar Creek, then proceeding easterly to the northernmost tip of Wishbone Island, then along the shoreline of Wishbone Island to its easternmost point, then proceeding easterly to another Department maintained marker on the northernmost tip of Hildreth Meadow, then southwesterly along the shoreline of Hildreth Meadow to the eastern end of the Route 47 bridge, then northwesterly along the bridge to the point of origin at the western end of the bridge:**

v. All of Old Turtle Thorofare and its tributaries [thereof] **north and east of its junction with Tempe Creek;**

vi.-xiv. (No change.)

18. Delaware Bay area (Note: Portions are also designated as Special Restricted and Seasonal. See N.J.A.C. 7:12-3 and 4[.]):

i. All that portion of Delaware Bay contained within a line beginning at the [pumping station at the mouth of Fishing Creek, Cape May County, bearing approximately 296 degrees T and extending into the bay for one nautical mile, then bearing approximately 199 degrees T to Flashing light number 4 (R "4" Fl R 2.5 sec) at Crowshoal, then continuing to Cape May Lighthouse and terminating. The closure includes all tributaries flowing into the above described area, including Fishing Creek, Cox Hall Creek and Pond Creek. This condemnation adjoins the closure defined in (a)20ix below.] **Cape May Lighthouse (Fl 15 sec 165ft 24 M) and bearing approximately 336 degrees T to Red Number 8 (R "8" Fl 4sec Bell) then bearing approximately 054 degrees T to the standpipe at North Cape May and terminating;**

ii.-vii. (No change.)

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] **base of the groin located on the beach near the intersection of Ocean Avenue and 2nd Avenue, City of North Wildwood, and continuing along that groin in a northeasterly direction to its outermost tip, then bearing approximately 147 degrees T towards a point with coordinates of latitude 38 degrees 0.0 minutes N., longitude 74 degrees 46.2 minutes W. (generally marked by a buoy charted as R "8" Fl R 4sec BELL) for approximately 0.5 nautical miles until it intersects a line bearing 044 degrees T from the light at the end of the eastern jetty of Cape May Inlet charted as Fl 4s 30ft 7M and passing tangent to the southeasternmost point of land of the City of North Wildwood. This point of intersecting lines has coordinates of latitude 38 degrees 59.9 minutes N., longitude 74 degrees 47.0 minutes West. The line then continues from the point of intersection bearing approximately 224 degrees T (reciprocal 44 degrees T) along that line towards the above noted light at the end of the eastern jetty of Cape May Inlet for approximately 2.8 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.-xi. (No change.)

xii. All those water inshore of a line beginning at the water tank located on the United States Coast Guard Training Center, City of Cape May, with coordinates of latitude 38 degrees 56.8 minutes N., and longitude 74 degrees 53.6 minutes W., and bearing approximately 151 degrees T for approximately 0.25 nautical miles from the shoreline to a point with coordinates of latitude 38 degrees 56.2 minutes N., and longitude 74 degrees 53.2 minutes W., then parallel along the shoreline in a westerly direction, 0.25 nautical miles offshore, for approximately [1.4] **2.4 nautical miles [until it intersects a line bearing 166 degrees T from the water tank located on the corner of Madison Avenue and Columbia Avenue, City of Cape May, with coordinates of latitude 38 degrees 56.2 minutes N., longitude 74 degrees 54.9 minutes West. This point of intersecting lines is approximately 0.25 miles from the shoreline and has coordinates of latitude 38 degrees 55.6 minutes N., longitude 74 degrees 54.7 minutes West. Then proceeding in a southeasterly direction along that line for approximately 1.75 nautical miles to a point with coordinates of 38 degrees 53.9 minutes N., longitude 74 degrees 54.2 minutes W., then proceeding in a westerly direction two nautical miles offshore for approximately 5.7 nautical miles until it intersects a line bearing approximately 033 degrees T connecting a point with coordinates of latitude 38 degrees 54.3 minutes N., longitude 75 degrees 01.7 minutes W. (generally marked by a buoy charted as R "2" Fl R 4s) and a point with coordinates of latitude 38 degrees 56.0 minutes N., longitude 75 degrees 00.3 minutes W. (generally marked by a buoy charted as R "4" Fl R 2.5sec marking the southwest side of Crow Shoal). This point of intersecting lines has coordinates of latitude 38 degrees 55.5 minutes N., longitude 75 degrees 0.7 minutes West. Then proceeding in a northeasterly direction for approximately 0.5 nautical miles to the point with coordinates of latitude 38 degrees 56.0 minutes N., longitude 75 degrees 00.3 minutes W., then along the line described in (a)18i above to the Cape May Point Lighthouse (Fl 15 sec 165 ft 24M) to a point with coordinates of latitude 38 degrees 55.5 minutes N., longitude 74 degrees 56.1 minutes W., then bearing approximately 356 degrees T (reciprocal 176 degrees T) for approximately 0.2 nautical miles to the southern tip of Third Avenue groin located at the western end of Beach Avenue, City of Cape May, then along that groin to the shore and terminating. [This closure adjoins those Prohibited waters described in (a)18i above.]**

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.-14. (No change.)

15. Cedar Run area. (Note: A portion is designated as Seasonal. See N.J.A.C. 7:12-4):

[i. All those waters of Cedar Run and tributaries north and west from a straight line beginning at Flashing Red light number "2" (Fl R "2") marking the Cedar Run Channel and bearing approximately 220 degrees T to the southern shore where this line terminates.]

**i. All of Cedar Run Cove, Creek and Tributaries north and west (upstream) of a straight line beginning at Horse Point and bearing approximately 037 degrees T to a point of land on the opposite side of the cover.**

ii. (No change.)

16.-23. (No change.)

24. Pleasantville-Northfield-Linwood-Margate-Ventnor-Longport area (Note: A portion is also designated as Seasonal. See N.J.A.C. 7:12-4[.]):

i.-ii. (No change.)

iii. All of Great Thorofare and all of Beach Thorofare from the Route 40 Bridge (near Bader Field in Atlantic City) to a line from the tip of the stone jetty at the end of Atlantic Avenue (Longport)

and bearing approximately [003 degrees T to the westernmost bulkhead in the Seaview Harbor Community at 69 Sunset Boulevard West] 336 degrees T across beach Thorofare to the center of the Longport Blvd.-Route 152 bridge, that crosses an unnamed creek on the unnamed island immediately north and west of the city of Longport;

iv.-vi. (No change.)

25. Ocean City-Somers Point area (Note: A portion is also designated as Seasonal. See N.J.A.C. 7:12-4):

i.-vii. (No change.)

viii. All of those waters in Ship Channel within a line bearing approximately 190 degrees T through a Department maintained marker on the northern shore of Ship Channel approximately 1,000 feet west of the mouth of the Anchorage Point Lagoon, to another Department maintained marker on the southern shore of Ship Channel, then bearing approximately 066 degrees T to another Department maintained marker which is approximately 1,000 feet east of the mouth of the Anchorage Point Lagoon, then proceeding northwesterly along the shoreline of Ship Channel, across the mouth of the Anchorage Point Lagoon and to the point of origin at the Department maintained marker.

26.-29. (No change.)

30. The Wildwoods area:

i. Those waters of Grassy Sound Channel from the Ocean Drive Bridge (Route 619) southwest to a line bearing approximately 062 degrees T through F1 R 8ft '8";

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

31.-33. (No change.)

7:12-4.1 Seasonally approved growing waters (Approved November 1 through April 30 yearly, Special Restricted May through October 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 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.-6. (No change.)

7. Ocean City-Somers Point Area-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"), [134 degrees T to a 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] then bearing approximately 310 degrees T to a point of intersection with the shoreline of Ship Channel, then proceeding westerly along the shoreline [and across the mouth of Bass Harbor continuing] of Ship Channel to the point of origin at the base of Somers Point-Ocean City Bridge terminating.

iii. (No change.)

iv. All of the waters of Great Egg Harbor Bay and its tributaries north of a line from the tip of the municipal pier at the boat ramp at Kennedy Parks, Somers Point, to the tip of a privately maintained pier (High Bank Apartments, Broadway, Somers Point) which is just west of the municipal pier, then bearing approximately 260 degrees T to a Department maintained marker located on the northern shore of Drag Channel.

v. All of the waters of Ship Channel within a line bearing approximately 246 degrees T through a Department maintained marker located on the northern shore of Ship Channel approximately 1,000 feet from the mouth of the Anchorage Point Lagoon to another Department maintained marker located on the southern shore of Ship Channel, then bearing approximately 135 degrees T to another Department maintained marker on the southern shore of Ship Channel, then bearing approximately 140 degrees T to buoy N "2",

then bearing approximately 008 degrees T to another Department maintained marker at the eastern end of Anchorage Point, then proceeding along the shoreline of Ship Channel to the point of origin approximately 1,000 feet from the mouth of the Anchorage Point Lagoon.

8.-9. (No change.)

10. Jenkins Sound-Grassy Sound-Richardson Sound: Seasonal-Special Restricted May 1 through October 31, yearly, Approved November 1 through April 30, yearly:

i. (No change.)

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 125 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 F1 10S 57ft 24M. then] from the Ocean Drive Bridge (Route 619) to a line bearing approximately 030 degrees T through F1 10S 57ft 24M at Hereford Inlet [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].

iii. All of Grassy Sound contained within a line beginning at the southern end of the railroad bridge in West Wildwood along the shoreline of Grassy Sound in an easterly direction, across the mouth of the Wildwood Canal and Beach Creek to a Department maintained marker at Grassy Point, then bearing approximately 257 degrees T to the northern end of the railroad bridge at Hann Point, then across Grassy Sound Channel to the point of origin at the southern end of the railroad bridge.

iv. Those waters of Old Turtle Thoro from the mouth of Old Turtle Thoro at Richardson Sound to a line created by two Department maintained markers on opposite banks of Old Turtle Thoro just south of its junction with Tempe Creek.

11. (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 that 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.-3. (No change.)

4. Cedar Run area: Seasonal-Special Restricted May 1 through December 31, yearly, Approved January 1 through April 30 yearly:

i. [All of Cedar Run Cove lying between the above described line and a straight line beginning at Horse Point and bearing approximately 037 degrees T to a point of land on the opposite side of the cove]. (Reserved)

5.-6. (No change.)

7. Brigantine area: Seasonal-Special Restricted May 1 through December 31 yearly; Approved January 1 through April 30 yearly:

i. An area adjacent to the City of Brigantine inshore from a line beginning at the telephone pole (A4229) at the north end of 13th Street North and bearing approximately 325 degrees T through Steelman Bay to Flashing light 5 (F1 "5"), then to the northwest tip of George's Dock (1427 North Shore Drive) then proceeding in a westerly direction to the first pier [and] end west of the Brigantine [County] Country Club (1048 North Shore Drive), then to the pier end at 1002 North Shore Drive (next to dead end street), then to the third pier end west of the Lafayette Boulevard Street end (860 North Shore Drive), then from pier end to 800 West Shore Drive, then to pier end at 174 West Shore Drive and bearing approximately 173 degrees T into Shore Drive and bearing approximately 173 degrees T into Wading Thorofare until it intersects a line connecting Flashing lights 6 and 8 (F1 R "6" and F1 R "8" in Wading Thorofare, then along the line connecting Flashing lights 6 and 8 (F1 "6" and F1 "8") to Flashing light 8, then bearing approximately 211 degrees T to a point of land on the west shore of Bonita Tideway, then along the shoreline in a southerly direction to the first unnamed creek past Sand Creek, then bearing approximately 030 degrees T to the point of land on the opposite shore and terminating.

ii. **That portion of Broad Creek immediately south of Sunflower Island (U.S.G.S. quad designation), between the Brigantine shoreline and a line from a Department maintained marker on Boot Island (U.S.G.S. quad designation) and bearing approximately 238 degrees T across Broad Creek, to another Department maintained marker on the opposite shore and terminating.**

8. (No change.)

#### 7:12-7.1 Sanctuaries

(a) The Department may establish areas known as sanctuaries to be utilized for research purposes such as spawner areas. Sanctuaries shall be delineated by the Department. Shellfish may be relocated to such an area to supply brood stock to re-establish populations elsewhere. When shellfish from waters other than Approved are relocated to areas classified as Approved or Seasonal Approved, the relocation site (sanctuary) will be Prohibited to the harvest of shellfish.

##### [1. Spawner sanctuaries:

i. Hard clam sanctuary site 1: (Note: See Miscellaneous Notice at 18 N.J.R. 1000(a)). The Department condemns and prohibits the taking of all shellfish from those State waters classified as Approved including specifically those waters of Parker Cove in Little Egg Harbor bounded by latitude 39 degrees 26.49 minutes N. longitude 74 degrees 17.11 minutes W; latitude 39 degrees 36.49 minutes N, longitude 74 degrees 17.04 minutes W; latitude 39 degrees 36.42 minutes N, longitude 74 degrees 17.11 minutes W.

ii. Hard clam sanctuary site 2. Barnegat Bay adjacent to the Blind Camp (Note: See Miscellaneous Notice at 19 N.J.R. 569(a)): The Department condemns and prohibits the taking of shellfish from those State waters previously classified as Approved including specifically those waters of Barnegat Bay bounded by latitude 39

degrees 46 minutes 02.92 seconds N., longitude 74 degrees 11 minutes 06.16 seconds W.; latitude 39 degrees 46 minutes 02.92 seconds N., longitude 74 degrees 10 minutes 59.78 seconds W.; latitude 39 degrees 45 minutes 58.31 seconds N.; longitude 74 degrees 10 minutes 5.31 seconds W.; latitude 39 degrees 45 minutes 58.31 seconds N.; longitude 74 degrees 11 minutes 06.16 seconds W.; containing 5.006 acres.]

#### 7:12-9.8 Relay program

(A) (No change.)

(b) Permits 5a and 5b shall be valid only under the following specific requirements or conditions. Violations may subject the holder to prosecution under N.J.S.A. 58:24-3. These rules must be read together with the shellfisheries rules which appear at N.J.A.C. 7:25-15.1.

1.-14. (No change.)

15. Shellfish taken from the designated relay section shall be bagged by the participant, [three-quarter bushel] to the **imprinted line on the bag**, in bags available to the participant from the Department. These bags will be provided, at cost, to the participant through the Leeds Point office of this bureau. No unmarked bags will be allowed in to the harvesters' or buyers' vehicles or boat except during reharvest. Each bag shall have a tag attached, marked with the harvester's name and/or buyer's name and permit number. Shellfish not in compliance with the bagging requirements will be seized and returned to Condemned waters by the designated enforcement unit. Participants will place the shellfish in vehicles provided by them and approved by the Department. The vehicles will be sealed by the Department, or an agent designated by the Department, at the harvest landing site and opened by the Department or a designated agent at the off-loading site. The enforcement unit may specify the route to be taken from the harvest landing site to the planting off-loading site. Shellfish purchased from a holder of a valid Hard clam depuration permit (Number 9) shall be handled under the same conditions.

16.21. (No change.)

#### 7:12-9.10 Transplant program

(a) (No change.)

(b) Permit No. 6 shall be valid only under the following specific requirements or conditions. Violations may subject the holder to prosecution under N.J.S.A. 58:24-3.

1. (No change.)

2. This permit is limited to persons having a leased shellfish lot(s) in Approved waters and/or Seasonally Approved waters and a valid commercial shellfish harvesting license issued by the New Jersey Division of Fish, Game and Wildlife. The applicant shall provide a chart delineating the leased grounds [for] to which the shellfish are to be transplanted. This chart shall be validated by the appropriate Bureau of Shellfisheries Office at Nacote Creek or Bivalve. **Additionally, a chart showing the area from which the shellfish are to be harvested shall be provided by the applicant.**

3.-10. (No change.)

(c) (No change.)

# RULE ADOPTIONS

## ADMINISTRATIVE LAW

### (a)

#### OFFICE OF ADMINISTRATIVE LAW

#### Uniform Administrative Procedure Rules

#### Special Hearing Rules

#### Council on Affordable Housing Hearings

#### Readoption with Amendments: N.J.A.C. 1:5

Proposed: July 15, 1991 at 23 N.J.R. 2082(a).

Adopted: September 11, 1991, by Jaynee LaVecchia, Director,  
Office of Administrative Law.

Filed: September 13, 1991 as R.1991 d.499, **without change**.

Authority: N.J.S.A. 52:14F-5(e), (f) and (g).

Effective Date: September 13, 1991, Readoption;  
October 7, 1991, Amendments.

Expiration Date: September 13, 1996.

#### Summary of Public Comments and Agency Responses:

One comment was received from the Council on Affordable Housing which favored retention of the rule permitting issue referral to the OAL from the Council's mediation process. While agreeing that this process has not been utilized, the Council argued in favor of its retention because the Council might wish to use the process in the future.

As the commenter noted, this process has never been used by the Council. Should the Council have some future use for a proceeding other than the contested case hearing, it can request the Office of Administrative Law to provide an uncontested case proceeding. However, in this time of limited resources, OAL does not believe it is advisable to provide a procedure of such limited utility. Of course, should the mediation be unsuccessful, the contested case procedure is unchanged.

**Full text** of the readoption may be found in the New Jersey Administrative Code at N.J.A.C. 1:5.

**Full text** of the adopted amendments follows.

#### 1:5-1.1 Applicability

(a) The rules in this chapter shall apply to hearings arising under N.J.S.A. 52:27D-301 et seq. and N.J.A.C. 5:91-8.1 concerning an objection to a municipality's petition for substantive certification.

(b) Any aspect of the hearing not covered by these special hearing rules shall be governed by the Uniform Administrative Procedure Rules (U.A.P.R.) contained in N.J.A.C. 1:1. To the extent that these rules are inconsistent with the U.A.P.R. these rules shall apply.

#### SUBCHAPTER 20. (RESERVED)

### (b)

#### OFFICE OF ADMINISTRATIVE LAW

#### Uniform Administrative Procedure Rules

#### Special Hearing Rules

#### Division of Medical Assistance and Health Services

#### Applicant/Recipient Hearings

#### Readoption with Amendments: N.J.A.C. 1:10B

Proposed: July 15, 1991 at 23 N.J.R. 2083(b).

Adopted: September 11, 1991 by Jaynee LaVecchia, Director,  
Office of Administrative Law.

Filed: September 13, 1991 as R.1991 d.500, **without change**.

Authority: N.J.S.A. 52:14F-5(e), (f) and (g).

Effective Date: September 13, 1991, Readoption;  
October 7, 1991, Amendments.

Expiration Date: September 13, 1996.

(CITE 23 N.J.R. 2998)

#### 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. 1:10B.

**Full text** of the adopted amendments follows.

#### 1:10B-1.1 Applicability

(a) The rules in this chapter shall apply to matters transmitted pursuant to N.J.A.C. 10:6 to the Office of Administrative Law by the Division of Medical Assistance and Health Services involving applicants for or recipients of Medicaid and Medically Needy benefits or services.

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

#### 1:10B-5.1 Representation

An applicant/recipient may appear at a proceeding without representation or may be represented by an attorney or by a relative, friend or other spokesperson pursuant to the procedures set forth in N.J.A.C. 1:1-5.4. See, 42 C.F.R. 431.206(b)(3).

### (c)

#### OFFICE OF ADMINISTRATIVE LAW

#### Uniform Administrative Procedure Rules

#### Special Hearing Rules

#### Board of Public Utility Hearings

#### Prefiled Testimony; Interlocutory Review

#### Adopted New Rules: N.J.A.C. 1:14-14.1 and 1:14-14.4

Proposed: July 15, 1991 at 23 N.J.R. 2083(c).

Adopted: September 11, 1991 by Jaynee LaVecchia, Director,  
Office of Administrative Law.

Filed: September 13, 1991 as R.1991 d.501, **without change**.

Authority: N.J.S.A. 52:14F-5(e), (f) and (g).

Effective Date: October 7, 1991.

Expiration Date: July 15, 1996.

#### Summary of Public Comments and Agency Responses:

Comments were received from three attorneys, Joseph Rosa, William Babbat and Anthony Andora, all supporting the proposed new rule which permits the judge to establish a schedule for filing direct testimony in writing and to adjust the discovery schedule to foster timely filing of the direct testimony. The OAL agrees that the rules establish a balance between the need for an adequate opportunity to prepare the case and the need to avoid lengthy and undue delays.

**Full text** of the adoption follows.

#### SUBCHAPTER 14. CONDUCT OF CASES

#### 1:14-14.1 Prefiled testimony

(a) The judge may require that all parties prefile their direct testimony in writing, certified, verified or sworn to under oath. The schedule for the submission of this testimony shall be established by the judge to ensure a fair and expeditious hearing.

(b) The judge shall adjust the discovery schedule to facilitate the timely filing of prefiled direct testimony.

#### 1:14-14.4 Interlocutory review

When a party requests interlocutory review, the BPU shall determine at its next regularly scheduled open meeting whether the order or ruling will be reviewed.

## PERSONNEL

(d)

## MERIT SYSTEM BOARD

## Selection and Appointment

## Residency Standards

## Adopted Amendment: N.J.A.C. 4A:4-2.11

Proposed: July 1, 1991 at 23 N.J.R. 1984(a).

Adopted: September 5, 1991 by the Merit System Board; William G. Scheuer, Acting Commissioner, Department of Personnel.

Filed: September 12, 1991 as R.1991 d.498, **without change**.

Authority: N.J.S.A. 11A:2-6 and 11A:4-1 et seq.

Effective Date: October 7, 1991.

Expiration Date: June 6, 1993.

## Summary of Public Comments and Agency Responses:

A public hearing on the proposed amendment was held on Thursday, July 18, 1991. Mr. Henry Maurer served as hearing officer. **No comments were received** at that time and no recommendations were made by the hearing officer.

**No written comments received.**

**Full text of the adoption follows.**

4A:4-2.11 Residence standards

(a) (No change.)

(b) Unless otherwise specified, residency requirements shall be met by the announced closing date for the examination and must be continuously maintained from that date up to and including the date of appointment.

(c)-(e) (No change.)

## COMMUNITY AFFAIRS

(a)

## DIVISION OF HOUSING AND DEVELOPMENT

## Uniform Fire Code

## Fees

## Adopted Amendments: N.J.A.C. 5:18-2.4A, 2.4B, 2.4C, 2.4D, 2.8 and 5:18A-2.6

Proposed: August 5, 1991 at 23 N.J.R. 2234(a).

Adopted: September 9, 1991 by Melvin R. Primas, Jr., Commissioner, Department of Community Affairs.

Filed: September 16, 1991 as R.1991 d.504, **without change as to those portions adopted, but with the following proposed amendments not adopted at this time, but reserved pending future action: N.J.A.C. 5:18-2.4A(f)5, (g)4 and (g)5; 5:18-2.4B(b)4, (c)2, (c)3, (c)4, (d)6, (e)2, (e)3, (e)4, (f)21, (g)29, (g)31, (g)32, (i)2, (i)3, (i)4, (k)5, (k)6, (k)7; 5:18-2.7; and 5:18-2.8(a)33.**

Authority: N.J.S.A. 52:27D-198 and 201.

Effective Date: October 7, 1991.

Expiration Date: January 4, 1995.

## Summary of Public Comments and Agency Responses:

Comments were received from Lewis S. Ripps, President of Palmer Asphalt Company; William Dressler, Assistant Director of the New Jersey Gasoline Retailers' Association and Allied Trades, Inc.; Craig A. Peterson, Fire Official of Fire District Four in Old Bridge Township; Richard M. Stokes, Esq., Manager of Government Affairs of Atlantic Electric; Peter Allen, Executive Director of the New Jersey Lumber & Building Material Dealers Association, Inc.; John J. Sakosits, Chairman of Hoboken Wood Flooring Corporation; D.L. Mone, President of John J. Demarest Supply Co.; James W. Arnoldi, President of Home Supply & Lumber Center, Inc.; Robert W. Howard, President of Reisen Lumber

Industries; Louis F. Kreyer, President of Dykes Lumber Company, Inc.; Benjamin T. Forester of Rex Lumber Company; and Barbara McConnell, President of the New Jersey Food Council.

COMMENT: The increased fees are excessive and are especially harmful to business during a recessionary period.

RESPONSE: The Bureau of Fire Safety must have a staff sufficient to allow it to enforce the Uniform Fire Safety Act. The Bureau's budget is determined by the Legislature, which has also determined that the program must be fully supported by fees. The Department certainly does not wish to harm the businesses that are subject to the Code, but it has not raised fees any more than is necessary to sustain the code enforcement program.

COMMENT: The cost of doing an inspection is less than the amounts being paid by businesses.

RESPONSE: The cost of code enforcement involves more than the value of the inspector's time. The total amount of revenue that the Bureau receives approximates the total cost of the program.

COMMENT: The addition of new categories of life hazard uses is unjustified.

RESPONSE: The codes council of the Fire Safety Commission will be giving further consideration to the addition of new categories of life hazard uses and action on the new categories that have been proposed is therefore being reserved.

COMMENT: The increased fees are really a tax that will go into the general treasury.

RESPONSE: This is not the case. These fees will not generate any surplus for the general treasury.

COMMENT: There has been no audit of how much money is being collected or how it is spent. There should be no fee increases until there is an audit to assess whether the program has met its intended purpose and whether the fees are justified.

RESPONSE: All income and expenditures of the Bureau of Fire Safety are continually monitored by the Department of Treasury. The Bureau's accounts are at all times subject to audit by the Office of the State Auditor. Any delay in raising fees will result in still higher fees having to be imposed in order to cover current operating costs. It would be fiscally irresponsible for the Department to hold off on raising fees pending a possible audit.

COMMENT: The Department has not made clear the actual economic impact that the increased fees will have on businesses or how much money has been collected and how it has been spent.

RESPONSE: Since the increased fees are stated, it should be clear to owners of different businesses subject to these fees what the impact on them will be. The revenue collected in each fiscal year and the manner in which it is being spent are set forth in the State Budget.

COMMENT: Retail food stores are improperly classified and bailers and compactors should not be subject to separate fees.

RESPONSE: These changes are beyond the scope of the proposal.

COMMENT: There are still several types of facilities that should be classified as life hazard uses but, as yet, are not.

RESPONSE: As has been indicated, the codes council will be giving further consideration to the establishment of additional life hazard use categories.

**Full text of the adopted amendments follows.**

5:18-2.4A Type Aa through Aj life hazard uses

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

(c) Type Ac life hazard uses are as follows:

1.-2. (No change.)

3. Eating and/or drinking establishments with a maximum permitted occupancy of fewer than 50 persons.

(d)-(e) (No change.)

(f) Type Af life hazard uses are as follows:

1.-3. (No change.)

4. Rooming and boarding homes of two or three stories.

(g) Type Ag life hazard uses are as follows:

1. Eating and/or drinking establishments with a maximum permitted occupancy of 50 or more but fewer than 100 persons;

2.-3. (No change.)

(h)-(i) (No change.)

(j) Type Aj life hazard uses are as follows:

1. (Reserved)

2. (No change.)

## 5:18-2.4B Type Ba through Bo life hazard uses

- (a) (No change.)
- (b) Type Bb life hazard uses are as follows:
  - 1. (Reserved)
  - 2. (No change.)
  - 3. Welding or cutting operations on a regular basis not using flammable gases in buildings or structures of 10,000 or more but less than 50,000 square feet;
  - 4. (Reserved)
  - 5. Spraying or dipping operations involving paint, varnish, lacquer, stain, or other flammable or combustible liquids in all approved areas of less than 100 square feet.
- (c) Type Bc life hazard uses are as follows:
  - 1. Recreation centers, multipurpose rooms, lecture halls without fixed seating and similar uses where persons assemble other than for religious services with a maximum permitted occupancy of 200 persons or more.
- (d) Type Bd life hazard uses are as follows:
  - 1.-3. (No change.)
  - 4. Storage of fireworks, explosives or blasting agents in a type 4 magazine;
    - i. Type 2 and 3 magazines are portable and intended only for the temporary storage of explosives and blasting agents, and, as such, must be covered by a permit;
    - 5. Eating and/or drinking establishments with a maximum permitted occupancy of 100 or more but fewer than 200 persons;
    - 6. (Reserved)
    - 7. Spraying or dipping operations involving paint, varnish, lacquer, stain, or other flammable or combustible liquids in all approved areas of 100 or more but less than 250 square feet.
- (e) Type Be life hazard uses are as follows:
  - 1. (Reserved)
- (f) Type Bf life hazard uses are as follows:
  - 1.-5. (No change.)
  - 6. (Reserved)
  - 7.-18. (No change.)
  - 19. Storage of fireworks, explosives or blasting agents in a type UG magazine;
    - i. Type 2 and 3 magazines are portable and intended only for the temporary storage of explosives and blasting agents, and as such, must be covered by a permit;
    - 20. (No change.)
- (g) Type Bg life hazard uses are as follows:
  - 1.-4. (No change.)
  - 5. Eating and/or drinking establishments with a maximum permitted occupancy of 200 or more but fewer than 300 persons;
  - 6.-28. (No change.)
  - 29. (Reserved)
  - 30. Warehouses, storehouses and freight depots, used for the storage and handling of ordinary combustible materials, of 100,000 or more but less than 150,000 square feet in gross floor area;
- (h) (No change.)
- (i) Type Bi life hazard uses are as follows:
  - 1. (No change.)
- (j) Type Bj life hazard uses are as follows:
  - 1.-2. (No change.)
  - 3. (Reserved)
  - 4.-21. (No change.)
- (k) Type Bk life hazard uses are as follows:
  - 1.-4. (No change.)
- (l)-(o) (No change.)

## 5:18-2.4C Type Ca through Ci life hazard uses

- (a) Type Ca life hazard uses are as follows:
  - 1. (No change.)
  - 2. (Reserved)
- (b) (No change.)
- (c) Type Cc life hazard uses are as follows:
  - 1. (Reserved)
  - 2. (No change.)
  - 3. Eating and/or drinking establishments with a maximum permitted occupancy of 300 or more but fewer than 500 persons.

## (d) (No change.)

- (e) Type Ce life hazard uses are as follows:
  - 1. (No change.)
  - 2. (Reserved)
  - 3. (No change.)
  - 4. (Reserved)
- (f) (No change.)
- (g) Type Cg life hazard uses are as follows:
  - 1. (Reserved)
  - 2. (No change.)
  - 3. Eating and/or drinking establishments with a maximum permitted occupancy of 500 or more but less than 750 persons.
- (h) Type Ch life hazard uses are as follows:
  - 1. Eating and/or drinking establishments with a maximum permitted occupancy of 750 or more but fewer than 1,000 persons.
- (i) Type Ci life hazard uses are as follows:
  - 1. Eating and/or drinking establishments with a maximum permitted occupancy of 1,000 or more persons.

## 5:18-2.4D Type Da through Dc life hazard uses

- (a) Type Da life hazard uses are as follows:
  - 1. Covered mall buildings with a mall portion of 12,000 or more but less than 50,000 square feet.
- (b) Type Db life hazard uses are as follows:
  - 1. Covered mall buildings with a mall portion of 50,000 or more but less than 100,000 square feet.
- (c) Type Dc life hazard uses are as follows:
  - 1. Covered mall buildings with a mall portion of 100,000 or more square feet.

## 5:18-2.7 Permits

- (a) (No change.)
- (b) Permits shall be obtained from the fire official for any of the following listed activities or uses. Permits shall at all times be kept in the premises designated therein and shall at all times be subject to inspection by the fire official.
  - 1.-4. (No change.)
  - 5. Type 3 permit:
    - i. (No change.)
    - ii. Any wrecking yard or junk yard; or
    - iii. The storage or discharging of fireworks.
  - 6. Type 4 permit:
    - i.-iv. (No change.)
    - v. Any installation of liquified petroleum gas or liquified natural gas utilizing storage containers of over 2,000 gallons individual water capacity or with an aggregate water capacity exceeding 4,000 gallons;
    - vi.-vii. (No change.)

## 5:18-2.8 Fees, registration and permit

- (a) The annual registration fee for life hazard uses shall be as follows:
  - 1. Type Aa—\$70.00 per year;
  - 2. Type Ab—\$103.00 per year;
  - 3. Type Ac—\$110.00 per year;
  - 4. Type Ad—\$123.00 per year;
  - 5. Type Ae—\$138.00 per year;
  - 6. Type Af—\$166.00 per year;
  - 7. Type Ag—\$208.00 per year;
  - 8. Type Ah—\$248.00 per year;
  - 9. Type Ai—\$331.00 per year;
  - 10. Type Aj—\$414.00 per year;
  - 11. Type Ba—\$110.00 per year;
  - 12. Type Bb—\$208.00 per year;
  - 13. Type Bc—\$331.00 per year;
  - 14. Type Bd—\$414.00 per year;
  - 15. Type Be—\$484.00 per year;
  - 16. Type Bf—\$622.00 per year;
  - 17. Type Bg—\$662.00 per year;
  - 18. Type Bh—\$828.00 per year;
  - 19. Type Bi—\$997.00 per year;
  - 20. Type Bj—\$1,036.00 per year;
  - 21. Type Bk—\$1,242.00 per year;

- 22. Type B1—\$1,450.00 per year;
- 23. Type Bm—\$1,656.00 per year;
- 24. Type Bn—\$2,070.00 per year;
- 25. Type Bo—\$2,484.00 per year;
- 26. Type Ca—\$828.00 per year;
- 27. Type Cb—\$994.00 per year;
- 28. Type Cc—\$1,076.00 per year;
- 29. Type Cd—\$1,159.00 per year;
- 30. Type Ce—\$1,325.00 per year;
- 31. Type Cf—\$1,450.00 per year;
- 32. Type Cg—\$1,656.00 per year;
- 33. (Reserved)
- 34. Type Ci—\$2,500.00 per year;
- 35. Type Da—\$1,650.00 per year;
- 36. Type Db—\$2,500.00 per year;
- 37. Type Dc—\$3,250.00 per year.

(b) Where more than one life hazard use exists under one ownership at a given location, the highest life hazard use shall be registered at full fee and subsequent life hazard uses at one-half the scheduled fee; provided, however, that no public or private K-12 educational building shall pay more than one \$138.00 life hazard use registration fee, regardless of the number or type of life hazard uses contained within the building.

1. (No change.)

(c) The application fee for a permit shall be as follows:

- 1. Type 1—\$35.00;
- 2. Type 2—\$138.00;
- 3. Type 3—\$276.00;
- 4. Type 4—\$414.00;
- 5. Type 5—\$1,380.00.

(d) (No change.)

5:18A-2.6 Collection of and accounting for fees and penalties

(a) State collection of registration fees shall be as follows:

1. (No change.)

2. The Bureau of Fire Safety shall remit 65 percent of the amount collected to the local enforcing agency established for the inspection of life safety uses. This payment shall be disbursed by the end of the quarter next succeeding the one in which the fees were collected.

3. The 65 percent local share shall not be considered State funds but rather local funds held in trust by the State.

(b)-(e) (No change.)

(a)

**DIVISION OF HOUSING AND DEVELOPMENT**

**Uniform Construction Code**

**Minor Work; Certificates of Occupancy**

**Adopted Amendments: N.J.A.C. 5:23-2.8, 2.17A, 2.24 and 2.32**

Proposed: August 5, 1991 at 23 N.J.R. 2236(a).

Adopted: September 13, 1991 by Melvin R. Primas, Jr.,

Commissioner, Department of Community Affairs.

Filed: September 16, 1991 as R.1991 d.509, **without change.**

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

Effective Date: October 7, 1991.

Expiration Date: March 1, 1993.

**Summary of Public Comments and Agency Responses:**

Comments were received from Jacob M. Block, Architect, and from Brian D. Damant, Chapter Manager of the Northern New Jersey Chapter, Inc., of the National Electrical Contractors Association.

COMMENT: A certificate of occupancy for an entire building should not be denied just because a non-essential elevator is either non-functional or not registered.

RESPONSE: The purpose of the elevator subcode is to regulate all elevator devices that may be used by members of the public. An elevator that is not in use and is not intended to be used may be rendered inoperable and inaccessible, in which case it does not have to be reg-

istered and inspected. If this is not done, however, it must be maintained in compliance with the elevator subcode in order for the building to be given a certificate of occupancy, which is a certification that the entire building is in compliance with all applicable provisions of the Uniform Construction Code.

COMMENT: The rule should be further amended to require that the contractor who performed the work, as well as the property owner, receive a copy of the certificate of approval.

RESPONSE: The purpose of these amendments was to make appropriate changes in terminology and make clear the documents that are to be used for different approvals. The requested change would go beyond the scope of the proposal and therefore cannot be made on adoption. In any event, copies of public documents may be obtained by any interested person under the Right-to-Know Law, N.J.S.A. 47:1A-1 et seq.

Full text of the adoption follows.

5:23-2.8 Installation of equipment

When the installation, extension, alteration or repair of an elevator, moving stairway, mechanical equipment, refrigeration, air conditioning or ventilating apparatus, plumbing, gas piping, electric wiring, heating system or any other equipment is specifically controlled by the provisions of this chapter, it shall be unlawful to use such equipment until a certificate of occupancy, certificate of approval or certificate of compliance, as the case may be, has been issued therefor by the construction official having jurisdiction.

5:23-2.17A Minor work

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

(d) Inspection of minor work:

1. (No change.)

2. Upon written request from the owner and within 10 days of the completion of said minor work, the construction official shall issue a certificate of occupancy, certificate of approval or certificate of compliance, as the case may be, stating that the work performed under a Minor Work Permit substantially complies with the UCC. The inspection shall be based upon what is visible at the time of said inspection and the certificate of occupancy, certificate of approval or certificate of compliance shall so indicate.

5:23-2.24 Conditions of certificate of occupancy

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

(f) No certificate of occupancy shall be issued for any building containing one or more elevators unless:

1. Compliance certificates for all the elevators installed in the building have been issued in accordance with N.J.A.C. 5:23-2.23; and

2. All of the elevators in the building have been registered with the Department in accordance with N.J.A.C. 5:23-12.3.

Recodify (f) as (g) (No change in text.)

5:23-2.32 Unsafe structures

(a) All buildings or structures that shall become unsafe, or unsanitary, or that contain deficient or blocked exitway facilities, or that constitute a fire hazard or are otherwise dangerous to human life or the public welfare, or that by reason of illegal or improper use or occupancy shall be deemed unsafe buildings or structures, shall be taken down and removed or made safe and secure. A vacant building that is unguarded or open at door or window shall be deemed a fire hazard and unsafe within the meaning of this chapter.

1.-2. (No change.)

3. Restoration of unsafe structure: A building or structure condemned by the construction official may be restored to safe condition provided change of use or occupancy is not contemplated or compelled by reason of such reconstruction or restoration; except that if the damage or cost of reconstruction or restoration is in excess of 50 percent of its physical value, as defined and computed in accordance with this subchapter, exclusive of foundations, such structure shall be made to comply in all respects with the requirements for new construction. A certificate of occupancy shall be obtained prior to reoccupancy of the building or structure.

4. Posting notice of unsafe structure: If the person addressed with a notice of unsafe structure cannot be found within the municipality after diligent search, then such notice shall be sent by registered

or certified mail to the last known address of such person, as on file with the office of the tax collector, and a copy of the notice of unsafe structure shall be posted in a conspicuous place on the premises; and such procedures shall be deemed the equivalent of personal notice.

5. Upon refusal or neglect of the person served with a notice of unsafe structure to comply with the requirements of the order to abate the unsafe condition, the construction official shall, in addition to any other remedies herein provided, forward the matter to the legal counsel of the jurisdiction for an action to compel compliance.

(b) (No change.)

**(a)**

**DIVISION OF LOCAL GOVERNMENT SERVICES  
Tax Collection Administration  
Tenant Property Tax Rebate Program Administration  
Adopted Concurrent New Rules: N.J.A.C. 5:33-3**

Proposed: July 15, 1991 at 23 N.J.R. 2183(a).  
Adopted: August 29, 1991 by Barry Skokowski, Sr., Director,  
Division of Local Government Services, Department of  
Community Affairs.

Filed: August 29, 1991 as R.1991 d.484, **without change.**

Authority: N.J.S.A. 54:4-6.10.

Effective Date: August 30, 1991.

Expiration Date: August 6, 1995.

**Summary of Public Comments and Agency Responses:**

The Honorable Peter A. Cantu, Mayor of the Township of Plainsboro, submitted the only written comment.

COMMENT: The rule should not require the Notice of Tax Reduction to be mailed to all residential properties because of the cost (printing, postage and labor). The Mayor recommends that this notice be substituted with a general public notice to all rental property owners placed in local newspapers.

RESPONSE: The statute (N.J.S. 54:4-6.5) requires the tax collector to provide a notice to each property owner of qualified real rental property. This issue is not new; the determination of those properties that are "qualified real rental properties" was addressed similarly in the rules being repealed. Most municipalities do not have records of rented residential properties (single, two and three family units). In addition, many rented single family units (particularly in condominium developments) have absentee owners who may not see local newspaper notices. However, the proposed rules require that the Notice of Tax Reduction be sent to all residential properties in 1991; thereafter, records collected by the tax collector may be used for future mailings. It is acknowledged that this may be a costly process; however, it is a one-time requirement that will build an information base for future years.

COMMENT: Municipalities who have only fractional or marginal reductions in their taxes should be exempt from notifying property owners, because the rent reductions will be marginal, if at all payable.

RESPONSE: The only exemption in the statute for not paying a rebate is when a rebate is less than \$.50 a month (a result of the rounding process found at N.J.S. 54:4-6.7). No explicit authorization for a minimum tax reduction threshold is granted, nor is there guidance on what the level should be. The issue becomes more complex when differences in number of units and rent payments are considered. As the intent of the legislation is to provide tenants a rebate based on tax reduction, the Division is of the opinion that setting an arbitrary minimum limit on rent reduction is not permissible and should be addressed through legislative action.

Full text of the adoption follows.

**SUBCHAPTER 3. TENANTS' PROPERTY TAX REBATE PROGRAM**

**5:33-3.1 Authority**

(a) This subchapter is promulgated under the authority of N.J.S.A. 54:4-6.10.

(b) This subchapter implements the provisions of the Tenant Property Tax Rebate Program, originally adopted in 1976 and revised in 1991.

(c) Correspondence and inquiries regarding the program may be addressed to:

Tenant Rebate Program  
Division of Local Government Services  
N.J. Department of Community Affairs  
CN 803  
Trenton, New Jersey 08625

**5:33-3.2 Definitions**

The words and terms used in this subchapter shall have the following meanings, unless the context clearly indicates otherwise: "Act" means the Tenants' Property Tax Rebate Act, N.J.S.A. 54:4-6.2 et seq., as amended by P.L. 1991, c.65.

"Base year" means, as appropriate:

1. Calendar 1990, for real rental property qualified on March 15, 1991, the effective date of the Act;
2. Any year after 1990 which produces a larger tax reduction in comparison with the current year than the current year compared to 1990.

"Current year" means the calendar year in which a property tax reduction is realized and rebates are calculated.

"Director" means the Director of the Division of Local Government Services.

"Division" means the Division of Local Government Services.

"Local agency" means the local rent control agency, where one exists, or the tax collector, in absence of a local rent control agency.

"MOD IV" means the MOD IV New Jersey Property Tax System administered by the State Division of Taxation, mandated for use by every municipal assessor and municipality, and authorized for use by data centers serving municipal clients.

"Notice" or "Notice of Tax Reduction" means the notice that the tax collector sends to owners when there is a property tax reduction in the current year. It includes a Tax Reduction Calculation, an Owner's Rent Rebate Certification, and a plain language summary of the law and rules.

"Owner" means the owner or landlord of qualified real rental property.

"Property tax reduction" means the difference between property taxes paid in the base year, and the lower taxes paid or payable in the current year, excluding taxes on improvements added since the base year, and reductions ordered by a county tax board, the State tax court, or any civil court. A negative number or zero does not produce a property tax reduction.

"Qualified property" or "qualified real rental property" means any building or structure, or complex of buildings and structures, in which dwelling units are rented or offered for rent, except: hotels, motels, and other guesthouses serving transient or seasonal guests; units in cooperative or mutual housing corporations whose occupants are eligible for homestead rebates, and owner-occupied structures of three units or less.

**5:33-3.3 Tax collector responsibilities**

(a) When property tax bills are prepared for the June 14 mailing in accordance with N.J.S.A. 54:4-64, each collector shall identify those properties in MOD IV Qualification Codes 2 (Residential), 3A (Farm Regular), 4A (Commercial), and 4C (Apartments, five-family or more) on which property taxes are reduced with respect to the base year.

(b) The collector shall, within 30 days after tax bills are mailed, send a Notice of Tax Reduction to each owner of qualified property on which property taxes are reduced, with a copy to the local agency to retain for at least one year.

(c) Beginning in 1992, collectors shall send Notices to all owners who returned Rent Rebate Certifications the year before and whose qualified property again shows a tax reduction with respect to the base year; to all owners of newly qualified properties, and to all others identified as possibly liable for tenant rebates.

## ADOPTIONS

### 5:33-3.4 Notice of Tax Reduction

(a) The Notice of Tax Reduction, the form of which is incorporated herein by reference as Appendix A, shall include the following components:

1. Tax Reduction Calculation/Rent Rebate Certification. The front of this form is the collector's calculation of the decrease in taxes from the base year to the current year; the back provides for a rent rebate schedule, to be completed and certified by the owner or his agent, listing the various rental amounts and the amount of rebate for each, monthly and annual. The form shall contain the following information:

- i. The jurisdiction name;
- ii. The property owner name and address;
- iii. The property block and lot numbers;
- iv. The property tax reduction calculation;
- v. The purpose of form/general explanation;
- vi. The instructions;
- vii. The owner's Certification of Rent Rebate;
- viii. The signature of the owner;
- ix. The rent list with corresponding rebate amounts; and
- x. The return address of the local agency.

2. Supplemental Rent Rebate Certification. An additional form for use when the original contains insufficient room.

3. Summary Statement. A plain language summary of the law and these rules, to guide owners as to their legal responsibilities. Reliance upon the Summary Statement shall not relieve an owner of any responsibilities under the law or rules.

(b) Collectors and MOD IV data centers may develop alternate forms, subject to approval of the Director, to meet their individual needs.

(c) Each collector shall maintain an active current file of qualified property owners, to facilitate future distribution of Notices and to assist in answering inquiries regarding the program.

### 5:33-3.5 Owner responsibilities

(a) Within 30 days after receipt of a Notice of Tax Reduction, every owner shall return to the local agency his Rent Rebate Certification, showing the total annual rebate due his residential tenants, adjustments for commercial or owner-occupied units when applicable, and his statement of compliance with the Act.

(b) When he returns his Rent Rebate Certification, every owner shall also post and maintain in a prominent place on his property a notice listing each different rent category and the corresponding amount of annual and monthly rebate due his tenants.

(c) Every owner shall endeavor to obtain addresses of former tenants who would be eligible for rebates for any period of the calendar year preceding the first rebate payment date, and to notify them by mail of their entitlement. Owners shall hold such rebates in escrow for one year, pending possible claims; unclaimed rebates shall thereafter revert to the owners with no further obligation.

## COMMUNITY AFFAIRS

### 5:33-3.6 Rebate calculation and payments

(a) Tenant rebates may be calculated by either of the two following methods; provided, that the Square Foot Method shall be used only when authorized or directed by ordinance.

Rent Method:

$$\text{i. Total tax reduction*} = \text{Rebate percentage} \\ \text{Total rent payable from all units} \quad \text{for all units}$$

$$\text{ii. Rebate percentage} \times \text{rent of each unit} = \text{Rebate per unit}$$

2. Square Foot Method (when permitted or directed by ordinance):

$$\text{i. Total tax reduction*} = \text{Rebate} \\ \text{Total rentable square footage} \quad \text{per square foot}$$

$$\text{ii. Rebate per square foot} \times \text{area of each} \\ \text{unit} = \text{Rebate per unit}$$

\*Less allowance for commercial or owner occupancy

(b) When applicable, owners may reduce their "total tax reduction" subject to rebate by the proportion that owner-occupied units bear to total residential units, or that commercial occupancy bears to total rentable area (for example, 10 percent, where the owner occupies one unit in a 10-unit complex; 25 percent, where commercial occupancy is one-fourth the square-foot area of a multi-unit building).

(c) The first rebate of any year shall include payment or credit retroactive to January 1 for each current tenant resident for any part of that time, and for former tenants similarly resident and paid up. Thereafter, rebate payments or credits shall be given whenever rents are due and paid.

1. Rebate amounts shall be completely paid or credited by the end of the calendar year for all tenants whose rent payments are current, provided that, rebates for delinquent tenants or cases in dispute shall be held in escrow pending resolution.

(d) When a lease is terminated by the death of a tenant, any prior payment or credit due shall be paid promptly to the surviving spouse or to the executor or administrator of the decedent's estate.

(e) All rebate payments and credits shall be rounded to the nearest dollar. If credited rather than paid, rebates shall be treated as immediate rent reductions.

(f) Rebates for unoccupied units shall revert to the owner, on a pro rata basis, for whatever periods the units are unoccupied.

### 5:33-3.7 Penalty provisions

(a) An owner who fails to provide a rebate to his tenants when it is due, or to a surviving spouse or executor of a deceased tenant, shall be liable to them for twice the amount due, or \$100.00, whichever is greater.

(b) An owner who knowingly and willfully fails to comply with specified provisions of the act shall be liable to the penalties and enforcement provisions prescribed in N.J.S.A. 54:4-6.12.

### New Jersey Tenant Property Tax Rebate Program - Notice of Tax Reduction

If the property identified on this card is not a rented residential property, disregard this notice.

Municipality:

County:

#### Tax Rebate Calculation

Block:

Lot:

Qual:

Base Year - 19XX

\$

Property Address:

19XX Taxes

\$

The N.J. Tenant Property Tax Rebate Act requires landlords of most year-round, rented residential property to rebate 100% of property tax reductions to tenants. Exceptions include 2 and 3 unit owner-occupied properties, and seasonal or transient rentals. If this property is not exempt, you must rebate to your tenant(s) the amount shown to the right, in accordance with the law and program rules (N.J.S. 54:4-6.2 et seq. and N.J.A.C. 5:33-3.1 et seq.)

Amount to be rebated

\$

**The owner must complete the other side, and return this entire form, within 30 days of receipt, to:**

Name of Office  
Municipality Name  
Address  
City, State, Zip

Refer to the enclosed explanation sheet for additional information on the law and program rules.

*Text set in this type style is to be replaced by computer generated data*

### New Jersey Tenant Property Tax Rebate Program - Rent Rebate Certification

For instructions on calculating the rebates, please consult the enclosures received with this form.

Landlords of non-owner occupied properties with 3 or fewer units complete the section below. If more room is required, or for properties of 4 or more units, use this or the enclosed Supplemental Owner's Rent Rebate Certification form (or a facsimile of it). In all cases, post a copy of the other side of this card and the Owner's Rent Rebate Certification form in a prominent place on the property. Return this card and a copy of any Supplemental certification form to the municipal office at the address shown on the other side.

#### Owner Rent Rebate Certification

The undersigned hereby certifies that the amounts shown below reflect the property tax rebate to be paid to tenants and that a copy of both sides of this form and any Supplemental Owner's Certification have been posted prominently for tenant inspection.

**Rent per unit**

**Rebate/Credit per month**

**Rebate / credit per year**

1. \$

\$

\$

2.

3.

4.

Residential Totals.

\$

Owner or Agent

Allocation to owner-occupied or commercial unit:

\$

Date:

## ENVIRONMENTAL PROTECTION AND ENERGY

(a)

### DIVISION OF PARKS AND FORESTRY

#### State Park Service

**Adopted Repeals: N.J.A.C. 7:2-1 through 10 and 13 through 16**

**Adopted New Rules: N.J.A.C. 7:2**

**Adopted Recodification: N.J.A.C. 7:2-11 and 12 to 7:5A and 7:5B**

Proposed: September 4, 1990 at 22 N.J.R. 2652(a).

Adopted: September 4, 1991 by Scott A. Weiner, Commissioner  
Department of Environmental Protection.

Filed: September 4, 1991 as R. 1991, d.487, 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-3, 13:1B-15.100 et seq., and 13:1L-1 et seq.

DEP Docket Number: 026-90-08.

Effective Date: October 7, 1991.

Expiration Date: October 7, 1996, N.J.A.C. 7:2;

June 24, 1993, N.J.A.C. 7:5A and 7:5B

#### Summary of Public Comments and Agency Responses:

The New Jersey Department of Environmental Protection ("Department") is repealing N.J.A.C. 7:2-1 through 10 and 13 through 16, recodifying N.J.A.C. 7:2-1 through 10 and 13 through 16, recodifying N.J.A.C. 7:2-11 and 12 with no change in text to N.J.A.C. 7:5A and 7:5B, and adopting N.J.A.C. 7:2 as proposed on September 4, 1990 at 22 N.J.R. 2652(a). The public comment period expired on November 5, 1990. Written comments were received from commenters. The following is a list of the 272 persons or organizations that submitted written comments directly related to the proposal:

|                    |                       |
|--------------------|-----------------------|
| Paul Payton        | Richard Hoffman       |
| Charles Stahl      | Mary Ann Hoffman      |
| Diane Stahl        | David B. Brady        |
| Martin Eckstein    | Michael Dob           |
| Robert Stevens     | Cheryl Dob            |
| Natalie Stevens    | Joseph V. Burakevich  |
| John Kenny         | Don Petersen          |
| Frances Kenny      | Ralph V. Balfourt     |
| Richard Green      | William G. Wrublewski |
| Michael Mee        | Carolyn Rothman       |
| Maureen Mee        | Dieter H. Metzger     |
| Donald L. Weirick  | Paul DeVincenzo       |
| Norman Horowitz    | C.W. Porte            |
| Terry J. Sprague   | Dr. Vincent DiNapoli  |
| Francis Miller     | Hugh Kilmer           |
| David Bresser      | Jack O'Sullivan       |
| John O'Sullivan    | Silvio Levy           |
| John H. Hart       | Richard J. Connor     |
| John Thorne        | Michael Begley        |
| Sharon Thorne      | Carl Beckley          |
| C.J. O'Rouke       | Suzanne Beckley       |
| Douglas Finey      | Donald E. Dugas       |
| John C. Edmund     | Richard W. Bankart    |
| Michael Corbin     | David Connoy          |
| Steven Ivas        | David Leachman        |
| Peter M. O'Connell | Robert P. McCormick   |
| Carol De Jong      | Alan Bases            |
| Howard Chegwidben  | Matthew R. Stein      |
| Arthur F. Kelley   | Pam Haworth           |
| John Clayconike    | Warren Buckland       |
| John Phillips      | Jill G. Kishkill      |
| Elaine Kocis       | Edward Kishkill       |
| Robert D. Reich    | Edward Adamovich      |
| Thomas Y. Swatland | Louis G. Miller       |
| Karl Goldschmidt   | Michael Rhinesmith    |
| Paul P. Oryll, Jr. | Rudolf Shubert        |

|                        |                       |
|------------------------|-----------------------|
| Martha Shubert         | Jospeh Quinn          |
| Richard Jones          | Daniel E. Watts       |
| Richard Lane           | Mary L. Watts         |
| Jeannette Lane         | Gideon Dominitz       |
| Thomas Davis           | Robert Bruder         |
| Dr. Beverly DiNapoli   | David W. Knott        |
| Sylvia Carroll         | Mandita Bery          |
| Jerome Shed            | Sally Malanga         |
| Dennis Marshall        | Joseph S. DiMauro     |
| Philip L. Burget       | Van Fabricus          |
| Curtis Marz            | Kathleen Nowak        |
| David Pasteelnick      | Edwin R. Egan         |
| Jean-Erancis Briere    | Juris Menke           |
| Gus Ferrara            | Marty Stromsen        |
| Peter C. Scott         | Wendy Booz            |
| Robert Fechter         | Bruce W. Muntz        |
| Paul Kreyling          | Susan M. Muntz        |
| Carl B. Tienken        | Grover Gedney         |
| John Bradley           | Donald C. Beck        |
| Ronald Boccia          | Barbara Kyle          |
| Thomas Ferrante        | George Kyle           |
| Charles Meke           | Sheila S. Newberry    |
| Ray Scott              | Frank S. Newberry     |
| Glenn G. Bruckno       | M. Balmaceda          |
| Stan Milkowski         | E.R. Kerstel          |
| Arnold L. Mitchell     | Daniel Monk           |
| Barney Vircelette      | Linda Glikin          |
| Wally Tunison          | Haina Meyer           |
| Jack E. Granzow        | Gordon Meyer          |
| Joseph A. Higgins, Jr. | David E. Mosher       |
| Meredith N. Springer   | Helene R. Speirman    |
| Denise A. Schreib      | Bill Sanders          |
| Robert J. Stevens      | D. Morrison           |
| Natalie F. Stevens     | Terrence McCarthy     |
| Karen L. Souilliard    | M. Alberto Alvarez    |
| John D. Schubert       | Dr. C.G. Olsen        |
| Carol E. Titus         | Lawrence J. Mara      |
| Tom Reams              | David M. Hildreth     |
| Shelly Reams           | Mark L. Milliman      |
| Ann Gastrich           | Alfred D. Galanti     |
| Michael Maxwell        | Diana D. Muir         |
| Robert Wenzel          | John P. Brady         |
| Irvin R. Davis         | Lynn Brady            |
| Peter H. Peuler        | Wilhelmine Bilicki    |
| Kevin Malanga          | Fred Wetherall        |
| A. Adams               | Warren F. Smith       |
| David M. Garrison      | David Lord            |
| Alfred M. Venezia, Jr. | David C. Witt         |
| Edgar R. Ligon, Jr.    | Dianne E. Reese       |
| Barbara Green          | Peter Larkin          |
| John Cobb              | Eileen H. Larkin      |
| Philip E. Rowland      | Richard Clark         |
| Sharon Jacobson        | Kevin T. Koo          |
| John K. Moe            | Janet G. Rispoli      |
| Jospeh Fratello        | Mary Lou Schloss      |
| Jane Sanders           | Morley Schloss        |
| Amy Manowitz           | Florence H. Woodhull  |
| Gary Wasserman         | Slawomir G. Kozlowski |
| Joellen Hawkins        | William F. Gratz      |
| Robert Sparling        | David Hoerl           |
| Robert Weinberg        | Gwenn Roberts         |
| T. Albanese            | Dr. Stephen M. Watt   |
| Barry Plaxen           | D. Kathleen Lake      |
| Paul Giacomo           | Robert J. Penella     |
| Stanley Teger          | Deborah L. Reiss      |
| Alice Teger            | Richard K. Reiss, Sr. |
| Pat Cuntena            | Kathleen L. Tokuda    |
| Edgar R. Hays          | Michael W. Bradbury   |
| Francis H. Laxar       | Jay MacFarland        |
| Heda M. Eisenberg      | Gina MacFarland       |
| Michael Vasisko        | David Peter Alan      |
| Carol L. Goeken        | M. Marvilla           |
| Richard H. Goeken      | Thomas E. Kuhn        |
| Arnold Burkhoff        | William P. Deile      |
| George M. Billings     | Marilyn R. Lovell     |

Abe Roth  
 Bruce E. Doden  
 Denise Grace  
 John F. Fitzpatrick  
 Patrick Donohue  
 Carl F. Eggers  
 Richard Chapline  
 Ronald Marsh  
 Orlyn Ericson  
 D.W. Williston  
 Kathleen Jordan  
 James L. Barry  
 Linda Cozze  
 Ralph McClurg  
 Linc Griffiths  
 Robert J. Callene  
 Naturist Action Committee  
 Mark Conrad  
 Paul Flynn  
 Robert Jeffer  
 Arthur W. Ketchen  
 A.F. Verdi  
 Michael J. D'Amico  
 Lisa G. Keiderling  
 Charles Perkins  
 Bonnie Barden

John M. Mitchel  
 Peter V. Young  
 Ellen R. Young  
 Greg Montonaro  
 Barry Leiba  
 Lester Hemphill  
 Gary Cooper  
 Susan A. Weaver  
 Dick Farwell  
 Jim Smith  
 Bertha Owen  
 Thomas J. Marinovich  
 Bernard Gastrich  
 Robert Hojnosi  
 Robert P. McCaffery  
 David M. Bradley  
 Lester Hemphill  
 Leonard H. Ponder  
 P.V. Schneller  
 Ron Cozze  
 Thomas W. Styer  
 Lake Hopatcong  
 Protective Association  
 Lake Hopatcong Regional  
 Planning Board

N.J.A.C. 7:2-2.6

1. COMMENT: The Lake Hopatcong Protective Association commented that the provision in N.J.A.C. 7:2-2.6 prohibiting the possession and/or consumption of alcoholic beverages on waters under the jurisdiction of the State Park Service should be revised to allow possession and consumption of alcoholic beverages at Lake Hopatcong.

RESPONSE: The possession and/or consumption of alcoholic beverages is often considered to be a part of recreational activity. However, the Department's experience in the management of State Parks for public recreation and the experience of Federal and State marine law enforcement agencies statewide has clearly demonstrated that with the increasing number of boaters and higher performance equipment the possession and/or consumption of alcoholic beverages is not consistent with safe boating. The stated purpose of the proposed rules is to provide for the safety, protection and general welfare of all persons visiting the State Parks.

N.J.A.C. 7:2-2.7

2. COMMENT: The Lake Hopatcong Protective Association commented that N.J.A.C. 7:2-2.7, prohibiting littering on waters under the jurisdiction of the State Park Service, should be revised to clearly provide that the provision applies to boats on the water.

RESPONSE: The Department agrees to clarify N.J.A.C. 7:2-2.7(a) on adoption to provide that the prohibition of littering on waters under the jurisdiction of the State Park Service applies to vessels on the water.

N.J.A.C. 7:2-2.8

3. COMMENT: Jack Granzow commented that the provision at N.J.A.C. 7:2-2.8(b) providing that any furred animal or pet shall be caged or kept on a leash should be revised to allow a pet out of a cage or off a leash where there is sufficient space for the pet without bothering other park users.

RESPONSE: The Department recognizes the important role of pets in the daily activity of their owners. However, the Department's experience in the management of State Parks for a variety of often competing recreation and conservation activities has demonstrated that allowing furred animals or pets to be uncaged or unleashed on lands under the jurisdiction of the State Park Service is not consistent with the stated purpose of the rule to provide for the safety, protection and general welfare of all persons visiting the State Parks. Pursuant to N.J.A.C. 7:2-2.9(b), dogs used while hunting during open season or while used in field trials in accordance with New Jersey fish, game and wildlife rules are exempt from the leashing requirement.

4. COMMENT: The Lake Hopatcong Protective Association commented that N.J.A.C. 7:2-2.8(b) should be revised to provide that pets do not have to be caged or leashed while on boats on waters under the jurisdiction of the State Park Service.

RESPONSE: The Department agrees to revise N.J.A.C. 7:2-2.8(b) on adoption to provide that furred animals or other pets do not have to

be caged or leashed while on a vessel on waters under the jurisdiction of the State Park Service except for designated bathing beaches and bathing waters.

N.J.A.C. 7:2-2.12

5. COMMENT: The Lake Hopatcong Protective Association commented that the provision at N.J.A.C. 7:2-2.12(a) prohibiting any open fire on any lands or frozen waters under the jurisdiction of the State Park Service without first obtaining the approval of the officer-in-charge should be revised to allow small handwarming fires in areas designated for ice fishing under N.J.A.C. 7:2-2.18(e).

RESPONSE: The Department agrees to clarify N.J.A.C. 7:2-2.12(a) an adoption to provide that small handwarming fires in areas designated for ice fishing under N.J.A.C. 7:2-2.18(e) are allowed subject to conditions posted by the Department.

N.J.A.C. 7:2-2.14

Comments on N.J.A.C. 7:2-14 were received from 266 commenters. Those comments are summarized as follows:

6. COMMENT: N.J.A.C. 7:2-2.14(a), providing that all persons on State Park Service property "shall be clothed sufficiently to conform with current commonly accepted standards of dress or recreational wearing apparel," is too vague.

7. COMMENT: N.J.A.C. 7:2-2.14(c) should be modified to provide that a person shall not be nude in public on State Park Service property except in the privacy of designated changing areas, bathhouses, dressing rooms or such other private facilities and personal areas specifically designed or designated to allow this activity incidental to washing, showering, changing clothing, personal care "and/or areas so designated and posted to allow clothing optional recreation." The proper answer to any problems caused by clothes optional recreation is planning and management, not suppression. State Park Service property should be open for the public to enjoy in the manner of their choosing so long as the rights of others are not infringed upon or the property damaged. The sensibilities of those who might be offended by clothing optional recreation could be protected by clearly designating and posting areas on State Park Service property which through established custom have become used for clothing optional recreation.

RESPONSE: While N.J.A.C. 7:2-2.14(a) by itself may be arguably vague with respect to dress, there is nothing vague about the prohibition against public nudity in N.J.A.C. 7:2-2.14. Subsection (a) is intended to acknowledge that persons engaging in recreational activity in a State Park shall wear any appropriate apparel acceptable under the current mores of the general community. The subsection when read in conjunction with N.J.A.C. 7:2-2.14(c), prohibiting public nudity on State Park Service property except in the privacy of designated changing areas, gives a person of ordinary intelligence fair notice of the nature of the prohibited conduct. *State v. Monteleone*, 36 N.J. 93, 99 (1961); *Tri-State Metro Naturists v. Lower Township*, 219 N.J. Super 103, 111 (1987).

New Jersey courts have acknowledged the personal liberty of an individual to engage in nude sunbathing in private, but have found that the State or any other governmental entity is not obligated to designate a part of public land for clothes optional recreation. The personal liberty of an individual to engage in nude sunbathing in private is no longer private when it occurs as public land thereby impacting the sensibilities of others. *Tri-State Metro Naturists v. Lower Township*, 219 N.J. Super 103, 113 (1987). Such a personal liberty is subject to reasonable intrusion in furtherance of a legitimate governmental interest which, under the proposed rules, is the management of State Parks for public recreation and conservation purposes.

The Department is charged with the responsibility of making State Parks available for a wide variety of competing public recreation and conservation purposes. In the management of State Parks for the benefit of the public, the Department must, in addition to the safety, protection and general welfare of the general public visiting the State Parks and the effect of the activity upon the natural resources, consider the current mores of the general community. In determining whether to designate and manage part of a State Park as a clothes optional recreation area, the Department must consider not only the site, but the essential privacy of the act and its capacity to offend others.

8. COMMENT: Joseph A. Higgins, Jr., Richard Jones, and Jack Granzow commented that N.J.A.C. 7:2-2.19(b) is unduly restrictive in that the prohibition against urinating or defecating in any areas other than places designated for such purpose is not appropriate in a situation where a person is out in the woods some distance from a designated place.

## ADOPTIONS

RESPONSE: Although the Department acknowledges the occurrence of situations necessitating urinating or defecating in areas other than places designated for such purpose, the Department's experience in the management of State Parks for public recreation and conservation purposes has established that a policy allowing uncontrolled indiscriminate urination and defecation is not consistent with the purpose of the rule to provide for the safety, protection and general welfare of all persons visiting the State Parks and with the management and protection of the natural resources for the benefit of the public.

N.J.A.C. 7:2-2.20

9. COMMENT: Jack Granzow commented that N.J.A.C. 7:2-2.20(a) unduly prohibits swimming while canoeing.

RESPONSE: The Department acknowledges the occurrence of swimming or bathing under the jurisdiction of the State Park Service in areas not designated as bathing area open and staffed to allow the activity. However, the Department's experience in the management of State Parks for public recreation and conservation activities has established that a policy allowing uncontrolled swimming or bathing is not consistent with the stated purpose of the rule to provide for the safety, protection and general welfare of all persons visiting the State Parks.

10. COMMENT: The Lake Hopatcong Protective Association commented that the provision at N.J.A.C. 7:2-2.20(a) providing that a person shall not swim or bathe in waters under the jurisdiction of the State Park Service except in designated bathing areas open and staffed to allow this activity should be revised to clarify that this provision applies only to State Park Service land bordering Lake Hopatcong. Although the waters of Lake Hopatcong are under the jurisdiction of the State Park Service, most of the approximately 43 miles of shoreline is developed as private residences or beach clubs. This provision should not prohibit swimming from private lands on the Lake.

RESPONSE: The Department agrees that owners of private property and those in private possession of land bordering waters under the jurisdiction of the State Park Service should have access to said waters from their property for swimming and bathing on a non-commercial or non-membership basis. Based on the Department's experience in the management of State Parks for a variety of often competing recreation and conservation purposes, the Department is concerned that use of private land bordering waters under the jurisdiction of the State Park Service for swimming or bathing on a commercial or membership basis could interfere with the use of the waters for recreation and conservation purposes and not be consistent with the purposes of the proposed rules to provide for the safety, protection, and general welfare of all persons using the lands and waters under the jurisdiction of the State Park Service. Accordingly, the Department will clarify N.J.A.C. 7:2-2.20(a) on adoption to provide that a person shall not swim or bathe from land comprising part of a State Park and administered for public recreation and conservation purposes in waters under the jurisdiction of the State Park Service except in designated bathing areas open and staffed to allow this activity. In addition, the Department will revise N.J.A.C. 7:2-2.20 on adoption to include N.J.A.C. 7:2-2.20(i) providing that land not comprising part of a State Park or not administered for public recreation and conservation purposes and bordering waters under the jurisdiction of the State Park Service shall not be used for swimming or bathing in waters under the jurisdiction of the State Park Service on a commercial or membership basis without first obtaining the approval of the State Park Service.

N.J.A.C. 7:2-2.22

11. COMMENT: The Lake Hopatcong Protective Association commented that the provision at N.J.A.C. 7:2-2.22(a)8 prohibiting ice sailing or ice boating on waters under the jurisdiction of the State Park Service should be revised to allow such recreational activities on Lake Hopatcong.

RESPONSE: The Department agrees that historically ice sailing and ice boating have been a common recreational activity on both Lake Hopatcong and Greenwood Lake. Therefore, the Department will revise N.J.A.C. 7:2-2.22(a)8 on adoption to allow ice sailing and ice boating on Lake Hopatcong and Greenwood Lake.

N.J.A.C. 7:2-2.23

12. COMMENT: Joseph A. Higgins, Jr. commented that in providing that all found articles should be turned over to the area Officer-in-Charge and that all articles not claimed within 90 days "shall be disposed of in accordance with established State Park Service policy", N.J.A.C. 7:2-2.23 should be revised to include said policy.

## ENVIRONMENTAL PROTECTION

RESPONSE: The Department agrees to revise N.J.A.C. 7:2-2.23 on adoption to provide that the State Park Service policy for the disposal of unclaimed articles shall be posted at each State Park.

N.J.A.C. 7:2-2.25

13. COMMENT: Joseph A. Higgins, Jr. commented that in restricting the use of roller skates and skateboards to areas specifically designated for such use, N.J.A.C. 7:2-2.25(k) should include a provision requiring the State Park Service to make a reasonable effort to designate such areas.

RESPONSE: The Department acknowledges that the use of roller skates and skateboards is a significant recreational activity and is committed to allowing the activity in areas where it is consistent with the purpose of these rules to provide for the safety, protection, and general welfare of persons on the lands under the jurisdiction of the State Park Service. The Department's experience in the management of State Parks for a variety of recreation activities has established that the safety of both those engaged in an activity such as roller skating and skateboarding is so dependent on varying factors including skill and equipment that a general approval of such activity for all State Parks or even a commitment in the rule to make a reasonable effort to designate areas for such activity is not consistent with the purpose of the rule.

N.J.A.C. 7:2-3.7

14. COMMENT: Joseph A. Higgins commented that the provision at N.J.A.C. 7:2-3.7(a) prohibiting the parking of any motor vehicle except in areas designated for parking should be revised to acknowledge that in wilderness areas that lack designated parking areas the public may park in convenient clearings customarily used for such purpose for access to trails and rivers.

RESPONSE: The Department acknowledges that in wilderness areas lacking designated parking areas the public parks in convenient clearings customarily used for such purpose for access to trails and rivers. However, the Department's experience in the management of State Parks for a variety of often competing recreation and conservation activities has established that the prohibition of parking except in designated areas is necessary for the protection, safety and general welfare of all persons visiting the State Parks and for proper resource management.

N.J.A.C. 7:2-5.5

15. COMMENT: The Lake Hopatcong Protective Association commented that the prohibition of jet skis on inland waters as contained in N.J.A.C. 7:2-5.5(a) should not apply to Lake Hopatcong. Any such use on Lake Hopatcong should be in accordance with rules promulgated by the New Jersey Boat Regulation Commission.

RESPONSE: The Department agrees to revise N.J.A.C. 7:2-5.5(a) on adoption to allow the use of jet skis on Lake Hopatcong in accordance with rules promulgated by the New Jersey Boat Regulation Commission at N.J.A.C. 7:6. The Department is satisfied that the use of jet skis in compliance with N.J.A.C. 7:6 is consistent with the purpose of the proposed rules to provide for the safety, protection and general welfare of persons visiting State Parks.

N.J.A.C. 7:2-6.7

16. COMMENT: Joseph A. Higgins, Jr. commented that in providing that campsite and lean-to reservations shall be exactly for a one week (seven nights) period or a two week (14 nights) period, N.J.A.C. 7:2-6.7(b) should be revised to provide whether the one or two week period is a calendar week from Sunday through Saturday or can it be any consecutive seven or 14 night period.

RESPONSE: The Department agrees to revise N.J.A.C. 7:2-6.7(b), (c) and (d) on adoption to clarify that the one or two week period is any consecutive seven or 14 night period.

N.J.A.C. 7:2-8.7

17. COMMENT: The Lake Hopatcong Protective Association commented that the provision at N.J.A.C. 7:2-8.7(a) providing that a person shall not swim or dive from a pier or catwalk on waters under the jurisdiction of the State Park Service without the written approval of the area Officer-in-Charge should be revised to clarify that this provision applies only to State Park Service land bordering Lake Hopatcong. Although the waters of Lake Hopatcong are under the jurisdiction of the State Park Service, most of the approximately 43 miles of shoreline is developed as private residences or beach clubs. This provision should not prohibit swimming from private lands on the Lake.

**RESPONSE:** The Department agrees to clarify N.J.A.C. 7:2-8.7(a) on adoption to provide that a person shall not swim or dive from a pier, catwalk, bridge or tower located on lands comprising part of a State Park and administered for public recreation and/or conservation purposes without written approval by the area Officer-in-Charge.

N.J.A.C. 7:2-8.10

**18. COMMENT:** The Lake Hopatcong Protective Association commented that N.J.A.C. 7:2-8.10 should be revised to provide that ice boating is allowed on Lake Hopatcong.

**RESPONSE:** As stated in the response to comment number 11, the Department agrees to revise the proposed rules on adoption to allow ice boating on Lake Hopatcong and Greenwood Lake.

N.J.A.C. 7:2-8.20

**19. COMMENT:** The Lake Hopatcong Protective Association commented that the provision at N.J.A.C. 7:2-8.20 establishing a night boating speed limit of five nautical miles per hour should be revised to allow a minimum night boating speed limit of 10 nautical miles per hour on Lake Hopatcong. This revision would be consistent with the rules of the New Jersey Boat Regulation Commission at N.J.A.C. 7:6.

**RESPONSE:** The Department agrees to revise N.J.A.C. 7:2-8.20 on adoption to be consistent with the minimum night boating speed limit of 10 miles per hour established for Lake Hopatcong by the New Jersey Boat Regulation Commission at N.J.A.C. 7:6-4.5(a). Based on the Department's experience in the management of Lake Hopatcong for public recreation, the Department is satisfied that the operation of vessels in compliance with the minimum night boating speed established for Lake Hopatcong by the New Jersey Boat Regulation Commission is consistent with the purpose of the proposed rules to provide for the safety, protection and general welfare of persons visiting State Parks.

N.J.A.C. 7:2-8.21

**20. COMMENT:** The Lake Hopatcong Regional Planning Board and the Lake Hopatcong Protective Association support the adoption of N.J.A.C. 7:2-8.21 prohibiting the dumping of waste from a boat into the waters under the jurisdiction of the State Park Service.

**21. COMMENT:** The Lake Hopatcong Protective Association commented that N.J.A.C. 7:2-8.21(a) should be revised to provide that the prohibition of the dumping of waste from a boat into the waters under the jurisdiction of the State Park Service does not prohibit dumping bilge water.

**RESPONSE:** The Department agrees to revise N.J.A.C. 7:2-8.21(a) on adoption to clarify that the prohibition of the dumping of waste from a boat does not include bilge water.

N.J.A.C. 7:2-8.24

**22. COMMENT:** The Lake Hopatcong Regional Planning Board and the Lake Hopatcong Protective Association support the provision contained in N.J.A.C. 7:2-8.24 restricting the construction of a new dock or the replacement, expansion or extension of any existing dock in the waters of Lake Hopatcong should be adopted. This provision is in accordance with the Department's recently adopted Management Plan for Lake Hopatcong which was prepared in consultation with the Lake Hopatcong Regional Planning Board.

**RESPONSE:** The Department acknowledges this comment supporting the adoption of N.J.A.C. 7:2-8.24.

N.J.A.C. 7:2-12.3

**23. COMMENT:** Joseph A. Higgins, Jr. commented that it is not clear whether the provision at N.J.A.C. 7:2-12.3(b) providing that a person shall not leave a marked trail and enter upon adjacent property without permission of the owner is intended to apply to adjacent State Park property or the adjacent private property.

**RESPONSE:** N.J.A.C. 7:2-12.3(b) is intended to prohibit the use of land adjacent to hiking trails but not under the jurisdiction or control of the Department by trail users without permission of the owner. Therefore, the Department agrees to revise N.J.A.C. 7:2-12.3(b) on adoption to provide that a person shall not leave a marked trail and enter upon adjacent land not under the jurisdiction or control of the Department without permission of the owner.

**24. COMMENT:** Wally Tunison commented that the prohibition in N.J.A.C. 7:2-12.3(c) of the use of bicycles on hiking trails should be revised to allow the use of mountain bikes on hiking trails designated for such use.

**RESPONSE:** The Department acknowledges that the use of mountain bikes is a growing recreational activity. However, the Department's experience in the management of State Parks for a variety of often competing recreation and conservation activities has established that the use of mountain bikes on hiking trails is not consistent with the purpose of the rule to provide for the safety, protection and general welfare of all persons visiting the State Parks. The use of mountain bikes is allowed on all established State Park Service roads, and routes or paths designated for such use under N.J.A.C. 7:2-2.25(a).

#### Summary of Reviewer's Recommendations and Agency Responses:

Frank F. Guidotti of the State Park Service reviewed the written comments received. Mr. Guidotti recommended that the Department adopt: (i) the repeal of N.J.A.C. 7:2-1 through 10 and 13 through 16; (ii) the new rules N.J.A.C. 7:2; and (iii) the recodification N.J.A.C. 7:2-11 and 12 to 7:5A and 7:5B with the following changes:

1. The word "watercraft" should be replaced with the word "vessel" throughout the proposed new rules. Vessel is defined in N.J.A.C. 7:2-1.7 as including a boat or watercraft.

2. The word "deposit" should be added to N.J.A.C. 7:2-2.7 to clarify that the provision does not just prohibit the dumping of garbage.

3. N.J.A.C. 7:2-2.8(b) should be revised to provide that furred animals and pets do not have to be caged or leashed while on a vessel on waters under the jurisdiction of the State Park Service.

4. N.J.A.C. 7:2-2.12(a) should be revised to provide that small handwarming fires in areas designated for ice fishing under N.J.A.C. 7:2-2.18(e) are allowed subject to conditions posted by the Department.

5. N.J.A.C. 7:2-20(a) should be clarified to provide that a person shall not swim or bathe from land comprising part of a State Park and administered for public recreation and conservation purposes in waters under the jurisdiction of the State Park Service except in designated bathing areas open and staffed to allow this activity.

6. N.J.A.C. 7:2-20(i) should be added providing that land not comprising part of a State Park or not administered for public recreation and conservation purposes as part of a State Park and bordering waters under the jurisdiction of the State Park Service shall not be used for swimming or bathing in waters under the jurisdiction of the State Park Service on a commercial or membership basis without first obtaining the approval of the State Park Service.

7. N.J.A.C. 7:2-2.22a(8) should be revised to allow ice sailing and ice boating on Lake Hopatcong and Greenwood Lake.

8. N.J.A.C. 7:2-2.23 should be revised to provide that the State Park Service policy for the disposal of unclaimed articles shall be posted at each State Park.

9. N.J.A.C. 7:2-5.5 should be revised to allow the use of jet skis on Lake Hopatcong in accordance with rules promulgated by the New Jersey Boat Regulation Commission at N.J.A.C. 7:6.

10. N.J.A.C. 7:2-6.5(b) should be revised to provide that the State Park Service policy for the disposal of unclaimed articles shall be posted at each State Park.

11. N.J.A.C. 7:2-6.7 should be revised to clarify that the one or two week period is any consecutive seven or 14 night period.

12. N.J.A.C. 7:2-7.1(d) should be revised to provide that State Park Service policy for the disposal of unclaimed articles shall be posted at each State Park.

13. N.J.A.C. 7:2-8.7 should be revised to provide that a person shall not swim or dive from a pier, catwalk, bridge or tower located on lands comprising part of a State Park and administered for public recreation and conservation purposes without written approval of the area Officer-in-Charge.

14. N.J.A.C. 7:2-8.10 should be revised to allow ice boating and ice yachting on Lake Hopatcong and Greenwood Lake.

15. N.J.A.C. 7:2-8.20 should be revised to be consistent with the minimum night boating speed limit of 10 miles per hour established for Lake Hopatcong by the New Jersey Boat Regulation Commission at N.J.A.C. 7:6-4.5(a).

16. N.J.A.C. 7:2-8.21 should be revised on adoption to clarify that the prohibition of the dumping of waste from a boat does not include bilge water.

17. N.J.A.C. 7:2-12.3(b) should be revised to clarify that a person shall not leave a marked trail and enter upon land not under the jurisdiction or control of the Department without permission of the owner.

## ADOPTIONS

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 2 STATE PARK SERVICE CODE

#### SUBCHAPTER 1. GENERAL PROVISIONS

##### 7:2-1.1 Short title

The title of this chapter shall be known as the "State Park Service Code."

##### 7:2-1.2 Scope

This chapter shall constitute the rules of the State Park Service and shall govern the use of all State parks, forests, recreation areas, historic sites, natural areas, marinas, golf courses, botanical gardens, and other lands, waters and facilities under the jurisdiction of the Department of Environmental Protection and assigned to the State Park Service in the Division of Parks and Forestry.

##### 7:2-1.3 Construction

(a) These rules shall be liberally construed to permit the Department, the Division of Parks and Forestry, the State Park Service and its various agencies to discharge its statutory functions.

(b) The Commissioner, the Director of the Division of Parks and Forestry or the Assistant Director of the Division for the State Park Service may, in the public interest, or in an emergency, relax the application of these rules.

##### 7:2-1.4 Practice where rules do not govern

(a) The Commissioner may rescind, amend or expand these rules from time to time, as in accordance with the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq.

(b) The Commissioner, the Director of the Division of Parks and Forestry or the Assistant Director of the Division for the State Park Service shall exercise their authority in respect to any other matters not governed by these rules.

##### 7:2-1.5 Relationship to Federal and State law

The provisions of this chapter are not intended to and do not relieve any person of the duty to comply with all other valid governmental regulations governing activities regulated under this chapter, including rules of the Department of Environmental Protection, and other appropriate State and Federal agencies.

##### 7:2-1.6 Severability

If any section, subsection, provision, clause or portion of this chapter or the application thereof to any person or circumstance is adjudged invalid or unconstitutional by a court of competent jurisdiction, the remainder of this chapter or the application of such section, subsection, provision, clause or portion of this chapter to persons or circumstances, other than those which is held invalid or unenforceable, shall not be affected thereby.

##### 7:2-1.7 Definitions

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

"ATV" means a motor vehicle, designed to travel over any terrain, which is of a type possessing between three to six rubber tires, and powered by a gasoline with a piston displacement engine not exceeding 400 cubic centimeters, but shall not include golf carts.

"Bicycle" means a device upon which any person may ride propelled by human power through a belt, chain or gears, and having either two or three wheels in a tandem or tricycle arrangement.

"Boat" means a small open vessel or water craft propelled by human power by oars, rowing, paddling or pedaling.

"Camping" means the temporary placing of a tent, shelter, lean-to, sleeping bag, bedding material, or recreational mobile camping units of any type, on State Park Service property for sleeping overnight in an outdoor setting.

"Closed" means a complete prohibition of access except by authorized personnel.

## ENVIRONMENTAL PROTECTION

"Closed season" means the time during the year when fish, game, birds, or other animals, may not be captured, taken, killed or had in possession.

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

"Designated bathing area" means any swimming pool, wading pool or the area of a natural or artificially constructed pond, lake, stream, river, bay, tidal waters, ocean or other body of fresh or salt water, which is designated, developed, maintained and operated by the State Park Service for bathing and swimming purposes together with buildings, equipment, and appurtenances, if any, and the land area used in connection therewith.

"Department" means the Department of Environmental Protection.

"Division" means the Division of Parks and Forestry.

"Facilities" means the combination of all State Park Service resources designed or utilized for conservation, recreation, and environmental purposes.

"Family" means a husband, wife and their children.

"Fire" means the phenomenon of combustion manifested in light, flame and heat.

"Mobile sport fishing vehicle" means a four-wheel drive motor vehicle designed to be licensed and operated on the public roadways and highways of the State and capable of four-wheel drive operation when off the public roads on the beach. ATV's, golf carts and specialty vehicles are specifically excepted from this definition.

"Motor vehicle" means any vehicle propelled other than by muscular power, except motorized bicycles and vehicles that run only upon rails or tracks.

"Motorized bicycles" means a pedal bicycle having a helper motor characterized in that either the maximum piston displacement is less than 50 cubic centimeters or said motor is rated at no more than 1.5 brake horsepower and said bicycle is capable of no more than 25 miles per hour on a flat surface.

"Officer-in-Charge" means the area Park Superintendent, designated Chief Ranger or other designee of the Director of the Division of Parks and Forestry or the Assistant Director of the Division for the State Park Service.

"Open fire" means any fire built for cooking or recreational purposes on State Park Service property, outside the confines of a structure, or vehicle, which cannot be immediately shut off.

"Open season" means the time during the year when fish, game, birds, or other animals may be captured, taken, killed or had in possession.

"Overnight facilities" means any permanent cabin, shelter, lean-to, lodge or other State Park Service building or structure designated by the State Park Service for overnight use by the general public.

"Permission" means the written or verbal authority to engage in a use given by a person lawfully designated by the Director to grant such authority.

"Permit" means a formal request on forms supplied by the State Park Service, supported by all necessary data requested by reference on the form, for approval of a use, properly executed and signed by personnel of the State Park Service lawfully designated by the Director of the Division of Parks and Forestry or the Assistant Director of the Division for the State Park Service to approve such a use.

"Person" means any corporation, company, club, firm, association, society, partnership, joint stock company, governmental agency as well as an individual.

"Power boats" means a vessel or water craft of any type temporarily or permanently equipped with a motor.

"Public use" means a use or right of use available to the general public or some portion thereof for conservation and recreation purposes.

"Sailboat" means any boat whose sole source of propulsion is the natural elements (wind).

"Signs" means any object, device, display or structure, or part thereof, situated outdoors or indoors, which is used to advertise, identify, instruct, display, direct, or attract attention to an object, person, institution, organization, business, product, service, event or

location by any means, including words, letters, figures, designs, symbols, fixtures, colors, illumination, or projected images.

"Snowmobile" means any motor vehicle designed primarily to travel over ice or snow, or a motor vehicle which uses sled-type runners, skis, an endless belt, treads, cleats, or any combination of those or other similar means of contact with the surface upon which it is operated, but does not include any farm tractor, highway or other construction equipment or any military vehicle.

"Special event (motor vehicle)" means an organized race, exhibition or demonstration of limited duration which is conducted according to an approved prearranged schedule.

"State" means the State of New Jersey.

"State Park" means all State owned or leased lands, waters and facilities administered by the State Park Service including but not limited to, parks, forests, recreational areas, natural areas, marinas, golf courses, botanical gardens, and historic sites, but not including wildlife management areas or reservoir lands.

"State Park Service" means the agency within the Division of Parks and Forestry responsible for planning, designing, developing, operating, and managing State Parks for public recreation, conservation and interpretation.

"Vessel" means a boat or watercraft, other than a seaplane, used or capable of being used as a means of transportation on the water.

"Waters" means all waters within the jurisdiction of the State Park Service, both tidal and non-tidal, and the marginal sea adjacent to State Park Service property.

## SUBCHAPTER 2. GENERAL USE

### 7:2-2.1 Purpose/powers

(a) The rules of the State Park Service are essential for the protection of the natural and historical resources and improvements thereon and for the safety, protection and general welfare of visitors and personnel on properties under the jurisdiction of the State Park Service.

(b) Failure or refusal by any visitor to obey the provisions of this chapter or any other applicable State law shall be sufficient cause for removal and/or prosecution by duly authorized personnel of the State Park Service.

(c) The Director of the Division of Parks and Forestry shall designate by Division Administrative Order those State Park Service personnel to whom law enforcement authority is vested and who are empowered to warn, cite and/or arrest.

### 7:2-2.2 Designation of land use

The State Park Service shall designate or direct any and all recreational or other use on its lands and waters and within its facilities to such specific areas or locations within or upon said land, waters, and facilities as will be in the best interest of conservation, recreation, preservation and management of the natural and historic resources and the health, safety, and welfare of all persons concerned.

### 7:2-2.3 Limitation or closing of land and water use

The Director of the Division of Parks and Forestry or the Assistant Director of the Division for the State Park Service may limit or close to the public use, specific areas, lands, waters and facilities under its jurisdiction and control as part of a State Park whenever such action is deemed necessary for proper management and operation and/or in the best interest of health, safety and the general welfare of the public.

### 7:2-2.4 Posting, selling and soliciting

A person shall not post signs or notices, distribute advertisements, beg, solicit, sell or attempt to commit such acts on State Park Service property without the written permission of the Director of the Division of Parks and Forestry or the Assistant Director of the Division for the State Park Service or their designee.

### 7:2-2.5 Commercial use

A person shall not engage in commercial enterprise and activities on lands and waters under the jurisdiction of the State Park Service without a permit issued by the State Park Service or pursuant to a contract or lease entered into with the Department.

### 7:2-2.6 Alcoholic beverages prohibited

A person shall not possess and/or consume alcoholic beverages on lands and waters under the jurisdiction of the State Park Service except where the sale, use or possession is specifically approved by the Director of the Division of Parks and Forestry or the Assistant Director of the Division for the State Park Service.

### 7:2-2.7 Dumping, littering and garbage

(a) A person shall not **\*deposit,\*** dump or cause to be **\*deposited or\*** dumped any litter, trash, refuse, garbage, bottles, pollutants, or any other substances or liquids **\*[on the lands or waters under the jurisdiction or control of the State Park Service.]\*\*:**

**\*1. On the lands under the jurisdiction of the State Park Service; or**

**2. From lands or vessels on waters under the jurisdiction or control of the State Park Service.\***

(b) Every person shall place litter in the proper refuse or recycle containers provided.

(c) Garbage, sewage, refuse or waste, including fish or animal parts, shall be left only in the approved containers provided or removed from the area.

(d) Authorized State Park Service waste containers provided are solely for the benefit of the park user, and shall not be used for the deposit of waste or refuse generated in the home, business, or by commercial activities.

(e) A person shall not **\*deposit or\*** dump refuse in water fountains, or the plumbing fixtures or vaults of a toilet facility.

(f) A person shall not drain fluids or dump sewage waste or refuse from a trailer or other vehicle except in facilities provided for such purpose and then in accordance with posted instructions.

### 7:2-2.8 Furred animals and pets

(a) Except as provided in N.J.A.C. 7:2-2.9, all furred animals or other pets are prohibited from buildings, bathing beaches, bathing waters, all camping and overnight facilities, golf courses, and botanical gardens.

(b) Where allowed in areas not listed in (a) above, except as provided in **\*(c) below and\*** N.J.A.C. 7:2-2.9, the owner of any furred animal or pet shall keep the furred animal or pet caged or held on a leash (maximum length—six feet) and under the immediate control of the owner at all times.

**\*(c) Where allowed in areas not listed in (a) above, any furred animal or pet does not have to be caged or held on a leash while on a vessel on waters under the jurisdiction of the State Park Service but shall be under the immediate control of the owner at all times.\***

**\*[ (c) ]\*\* (d) \*** The owner shall be responsible for the animal's or pet's behavior. The owner shall be strictly liable for any nuisance, noise, damage or injury caused by furred animals or pets.

**\*[ (d) ]\*\* (e) \*** The owner shall be responsible for the prompt and sanitary disposal of the animal's or pet's waste.

**\*[ (e) ]\*\* (f) \*** The term "owner" as used in this section refers to the person that is responsible for the care of the animal or pet or that physically has control of the animal or pet on or within the State Park Service jurisdiction.

### 7:2-2.9 Seeing eye, companion and hunting dogs

(a) Seeing eye dogs and companion dogs for the hearing impaired are permitted in any location where their presence is necessary to perform the duty for which they are trained.

(b) Dogs used while hunting during open season, or while used in field trials in accordance with New Jersey fish, game and wildlife regulations, are exempt from the leashing requirement in N.J.A.C. 7:2-2.8(b).

### 7:2-2.10 Damage to property/tampering

(a) A person shall not abuse, mutilate, injure, destroy, move or remove any plant or animal or natural resource on lands and water under the jurisdiction or control of the State Park Service without having first obtained the permission of the area Officer-in-Charge. Authorized fish, game and wildlife activities excepted.

(b) A person shall not deface, damage, move or remove any furniture, equipment, structure, or physical feature of any kind on lands and waters under the jurisdiction or control of the State Park Service without the permission of the Officer-in-Charge.

## ADOPTIONS

(c) A person shall not dig up, deface, or remove any soil, rock, historic or fossil materials or artifacts without written permission of the Director of the Division of Parks and Forestry or the Assistant Director of the Division for the State Park Service.

(d) A person shall not disturb, remove, damage, destroy or interfere with the pumps, pipes, gates, wires, dams, works and equipment of the State Park Service incident to the flow of water.

(e) An unauthorized person shall not open or enter any manhole or confined space without the specific approval of the area Officer-in-Charge.

### 7:2-2.11 Conduct

(a) A person shall not engage in conduct or use language which disrupts, interferes with, is unduly annoying to or prevents the enjoyment or maintenance of State Park Service lands or waters by other visitors or State Park Service personnel.

(b) A person shall not harass livestock, wildlife, or animals lawfully allowed on State Park Service property.

(c) A person shall not use or operate any noise producing machine, vehicle, device, or instrument in a manner that in the judgment of the Officer-in-Charge, or designated law enforcement personnel, is disturbing to other park visitors or employees. In overnight facilities and campsites, the hours of 10:00 P.M. to 6:00 A.M. are designated "quiet hours."

(d) A person shall not block, obstruct or interfere with vehicular or pedestrian traffic on any road, parking area, trail, walkway, pathway, or common area.

(e) A person shall not occupy or interfere with access to any structure, office, lavatory, or other facility in a manner which interferes with the intended use or maintenance of such structure or facility by visitors or employees.

(f) A person shall not use a public address system on State Park Service property without the permission of the Officer-in-Charge.

(g) A person shall not smoke in areas where smoking is prohibited by posted regulations.

(h) A person shall not use threatening, abusive, boisterous, or insulting language or use indecent gestures towards another person on State Park Service property.

(i) A person shall not play a radio, television, stereophonic systems, musical instrument or other noise producing device in areas posted as "quiet zones."

(j) A person shall not play any audio device including radios, televisions, stereophonic systems or musical instruments when audible beyond their immediate vicinity to the annoyance of others. Consideration shall be given to the nature and purpose of the actor's conduct, impact on others, location and any other factor which would govern the actions of a reasonably prudent person under the circumstances.

(k) A person shall not throw stones, breakable articles or other missiles which might endanger others.

(l) A person shall not spit on walks, sidewalks, paths and structures of any type.

(m) A person shall not loiter in or about any comfort station or other public structure.

(n) A person shall not engage in fighting or other violent conduct which would threaten the well-being and tranquility of the public or State Park Service employees.

(o) A person shall not enter or remain in any State Park Service area between the daily closing and opening time as posted, authorized use excepted.

### 7:2-2.12 Fires, stoves and lanterns

(a) A person shall not start or maintain any open fire **\*except for small handwarming fires in areas designated for ice fishing under N.J.A.C. 7:2-2.18(e),\*** on any lands or frozen waters under the jurisdiction of the State Park Service unless specific approval is given by the Officer-in-Charge or his or her designee. Such approval may include conditions limiting the hours, location, and types of fuel to be used. **\*Small handwarming fires shall be allowed in designated ice fishing areas subject to conditions posted by the State Park Service.\***

## ENVIRONMENTAL PROTECTION

(b) All types of fire may be prohibited during periods of high forest fire danger, as determined by the State Forest Fire Warden or by Executive Order of the Governor.

(c) Lighting, tending or using a fire, stove or lantern in a manner that threatens, causes damage to or results in the burning of property, park resources or creates a public safety hazard is prohibited.

(d) On campsites, in overnight facilities and in picnic areas, wood fires shall be lighted only in an established place constructed for the convenience of the visitors, except when otherwise authorized by the area Officer-in-Charge or posted sign.

(e) Campers and visitors may use dead fallen timber for fuel when authorized by the Officer-in-Charge.

(f) For cooking purposes, portable charcoal grills, gasoline, kerosene, or propane gas stoves may be used in camping overnight facilities and picnic areas, unless otherwise posted or directed by the Officer-in-Charge.

(g) Live charcoal fires shall not be left unattended. All charcoal shall be extinguished and cool to the touch before being left unattended.

(h) A person shall not burn litter, trash, refuse, garbage, pollutants or, except as provided at (d), (e) and (f) above, any other substance or liquids on the lands and waters of the State Park Service without specific approval of the area Officer-in-Charge.

### 7:2-2.13 Posted signs; issued permits; verbal instructions

(a) A person shall not make use of the lands, waters, conveniences and facilities under the jurisdiction of the State Park Service contrary to posted signs, issued permits, leases or contracts, and written or verbal instructions.

(b) A person shall not enter designated restricted areas declared or posted "closed," "keep-out," "restricted area" or other verbal or posted warning.

### 7:2-2.14 Changing clothes; nudity

(a) All persons on State Park Service property shall be clothed sufficiently to conform with current commonly accepted standards of dress or recreational wearing apparel.

(b) A person shall not change clothes or disrobe except in the privacy of authorized changing areas, bathhouses, dressing rooms or such other facilities or private areas specifically designated for such purpose.

(c) A person shall not be nude in public on State Park Service property except in the privacy of designated changing areas, bathhouses, dressing rooms or such other private facilities and personal areas specifically designed or designated to allow this activity incidental to washing, showering, changing clothing or personal care.

### 7:2-2.15 Military use

(a) All use of lands and waters, under the jurisdiction of the State Park Service, for military maneuvers is prohibited except by specifically written authorization of the Director of the Division of Parks and Forestry or the Assistant Director of the Division for the State Park Service.

(b) Specific written authorization may include designated types of use permitted and may prohibit the use of all live or blank ammunition and pyrotechnics of any type.

### 7:2-2.16 Metal detectors

A person shall not use metal detectors or similar devices without a permit issued by the Officer-in-Charge. The permit may limit the location, hours, and days of use. Permits will not be issued for use in areas of significant historical or other value, or where such use would be incompatible with protection of the resource and/or interfere with public use of the facility.

### 7:2-2.17 Target practice; firearms; fireworks

(a) A person shall not engage in target practice with any type firearm or bow and arrow on State Park Service property, except with written permission of the Director of the Division of Parks and Forestry or Assistant Director of the Division for the State Park Service.

(b) A person shall not possess or discharge any firearm, pellet gun, bow and arrow, slingshot or other weapon capable of injuring

persons or wildlife while on State Park Service property without the specific approval of the area Officer-in-Charge. Hunters in compliance with the rules of the Division of Fish, Game and Wildlife and this chapter are excepted.

(c) A person shall not possess, or discharge or cause to be discharged any fireworks, firecrackers, explosives, torpedoes, rockets, or other substances which could be harmful to persons without the specific approval of the Director of the Division of Parks and Forestry or the Assistant Director of the Division for the State Park Service.

#### 7:2-2.18 Restrictions on hunting, fishing, and trapping

(a) A person shall not hunt, fish and/or trap, except on specifically designated lands and waters of the State Park Service. All such use shall comply with the Game Code, N.J.A.C. 7:25-5, and the Fish Code, N.J.A.C. 7:25-6, now in effect or as may subsequently be amended or changed.

(b) A person shall not hunt with a rifle. Hunting with a muzzle loading rifle shall be limited to the prescribed firearm deer season only or any additional special firearm deer season. Area Officers-in-Charge are authorized to allow squirrel and woodchuck hunting with muzzle loaders as conditions of safety warrant in accordance with the Game Code, N.J.A.C. 7:25-5, now in effect or as may subsequently be amended or changed.

(c) The building, erecting, use of or hunting from a permanent type tree stand or hunting blind is prohibited.

(d) Hunting from portable, temporary hunting tree stands or hunting blinds is permitted. However, the hunter using the portable temporary hunting tree stand or hunting blind shall remove it immediately after use.

(e) A person shall not ice fish except in areas specifically approved by the area Officer-in-Charge.

(f) Approved ice fishing shall be in compliance with the provisions of the Fish Code, N.J.A.C. 7:25-6, now in effect or as may subsequently be amended or changed.

(g) Spear fishing is prohibited in all waters under the jurisdiction or control of the State Park Service.

#### 7:2-2.19 Indecency; immorality; profanity

(a) Indecent exposure by any male or female of their genitals, pubic regions, buttocks or the female breast(s) where they may be seen by others is prohibited.

(b) Urinating or defecating in any area other than places designated for such purposes is prohibited.

(c) Addressing, soliciting or attempting to make the acquaintance of another person for immoral or indecent purposes is prohibited.

(d) The use of profanity and indecent language within hearing of another person or persons is prohibited.

#### 7:2-2.20 Swimming/bathing areas

(a) A person shall not swim or bathe in waters under the jurisdiction of the State Park Service **\*from land comprising part of a State Park and administered for public recreation and/or conservation purposes\*** except in designated bathing areas open and staffed to allow this activity.

(b) Designated bathing areas shall have posted hours of operation and a person shall not use a designated bathing area contrary to posted regulations.

(c) A person under the age of 12 years shall not be admitted to the swimming pool at Liberty State Park unless the person is accompanied by a person 12 years of age or older.

(d) A person shall not dive head first into any of the waters or pools under the jurisdiction or control of the State Park Service except in designated diving areas posted for this purpose.

(e) A person shall not intentionally give or transmit a false signal or false alarm of drowning in any water area or pool under the jurisdiction or control of the State Park Service.

(f) No motorized vehicles except emergency, maintenance, or law enforcement vehicles, shall be permitted in designated bathing areas during the hours of operation posted under (b) above.

(g) A person shall not use, operate or bring into a designated bathing area any inflatables or floating devices such as rubber innertubes, rubber crafts, surfboards, surfmats, buoys, kites, ex-

perimental crafts or any other floating device without the approval of the area Officer-in-Charge or his or her lifeguard designees. United States Coast Guard approved Personal Floatation Devices (PFDs) are excepted.

(h) The area Officer-in-Charge may authorize the temporary use of certain floatation devices on occasion where the use is deemed safe, or during special events, games, tests, experiments or to accommodate the handicapped.

**\*(i) A person shall not use land that does not comprise part of a State Park or is not administered by the State Park Service for public recreation or conservation purposes bordering waters under the jurisdiction of the State Park Service for swimming or bathing on a commercial or membership basis without first obtaining the written approval of the State Park Service.\***

#### 7:2-2.21 Horseback riding

(a) A person shall not ride horseback on property under the jurisdiction of the State Park Service except on designated trails and in areas where horseback riding is allowed.

(b) A horse shall not be hitched or confined in a manner that may cause damage to any tree, shrub, improvement or structure.

#### 7:2-2.22 Restricted recreational activities

(a) A person shall not engage in the following recreational activities on State Park Service lands and waters without specific approval of the Assistant Director of the State Park Service, or the Regional Superintendent or their designee:

1. Parachuting;
2. Hot air ballooning;
3. Hang gliding;
4. Musketry, flint-lock or black powder shooting;
5. Spelunking;
6. Rapelling;
7. Operating remote controlled model planes, boats, cars, or other mechanical devices;
8. Ice sailing/ice boating **\*except on Lake Hopatcong and Greenwood Lake\***;
9. Rocketry; or
10. Archeological, geological, botanical, zoological, or paleontological expeditions.

(b) All individuals and groups involved in recreational activities on State Park Service property are subject to the rules and regulations of the State Park Service, N.J.A.C. 7:2, and may be further restricted by the applicable rules and regulations of the Natural Areas System, N.J.A.C. 7:5A, the New Jersey Water Supply Authority, N.J.A.C. 7:11, and the Division of Fish, Game and Wildlife, N.J.A.C. 7:25.

(c) Activities listed in (a) above are not all inclusive. The Assistant Director of the Division for the State Park Service or the Regional Superintendent or their designee must approve any other activity not specifically regulated.

#### 7:2-2.23 Lost articles

All articles found **\*[must]\* \*shall\*** be turned over to the area Officer-in-Charge or his or her designee. Receipts shall be issued and the article shall be returned to the finder at the end of 90 days if the owner has not claimed the article. Articles not claimed shall be disposed of in accordance with established State Park Service policy. **\*The State Park service policy for the disposal of unclaimed articles shall be posted at each State Park.\***

#### 7:2-2.24 Winter activities restrictions

(a) Skiing, snowshoeing, ice skating, sledding, innertubing, tobogganing, dog sledding and similar winter sports are prohibited on park roads, and in parking areas open to motor vehicle traffic.

(b) Activities listed in (a) above may be approved in areas specifically designated by the Officer-in-Charge.

(c) The towing of persons on skis, sleds or other sliding devices by motor vehicle or snowmobile is prohibited.

**\*[7:7-2.25]\* \*7:2-2.25\*** Bicycles, roller skates, and skateboards

(a) Bicycle riding is allowed and encouraged on all established State Park Service roads, and routes or paths designated for such use, unless restricted by posted signs.

## ADOPTIONS

(b) Bicycles and riders shall comply with all applicable New Jersey motor vehicle and traffic laws.

(c) Bicycle riders shall ride as near to the right side of the roadway as practicable.

(d) Persons riding bicycles on a State Park Service road may travel no more than two abreast when traffic is not impeded, but otherwise shall ride in single file except on paths set aside for exclusive bicycle use.

(e) A person riding upon any bicycle shall not attach the bicycle or himself to a motor vehicle or motorized bicycle.

(f) A person shall not practice any tricks or fancy riding on a State Park Service roadway.

(g) Bicycle riders shall not ride other than upon or astride a permanent and regular seat attached to the bike.

(h) A bicycle shall not be used to carry more persons at one time than the number for which it is designed and equipped.

(i) Bicycles shall be equipped with brake and horn or bell.

(j) When used at night or during periods of low visibility, a bicycle shall emit lights front and rear in accordance with motor vehicle and traffic laws.

(k) Roller skates and skateboards are restricted to areas specifically designated by the Officer-in-Charge. The use of roller skates and skateboards on State Park Service roads and parking lots is prohibited.

(l) Bicycles are prohibited on historic sites, walkways, natural trails and hiking trails.

## SUBCHAPTER 3. MOTORIZED VEHICLES

### 7:2-3.1 Identification and license

(a) A person shall not operate any motor vehicle on lands under the jurisdiction of the State Park Service or on established roads under the control of the State Park Service unless the vehicle is properly licensed and registered before it is operated.

(b) A person shall not operate any motor vehicle on lands under the jurisdiction of the State Park Service unless the operator of the motor vehicle shall have in his or her possession a valid operator's license and other documentation required by the New Jersey Division of Motor Vehicles.

### 7:2-3.2 Unauthorized motor vehicle use

(a) A person shall not operate any motorized vehicle which does not require licensing and registration by the New Jersey Division of Motor Vehicles, on lands and waters under the jurisdiction of the State Park Service unless a permit for operation of said motorized vehicle is issued by the Director of the Division of Parks and Forestry or the Assistant Director of the Division for the State Park Service.

(b) Any permit granted pursuant to (a) above shall include designated hours and specific locations for operation.

(c) A person shall not operate a motor vehicle upon the ice-covered waters under the jurisdiction of the State Park Service at any time except for the operation of snowmobiles on routes designated by the State Park Service.

(d) A person shall not operate a motor vehicle upon State Park Service property while knowingly allowing any person riding upon any bicycle, coaster, skates, sled, skis, sliding device or toy vehicle to attach the same or himself to the motor vehicle.

### 7:2-3.3 Conformance to State laws

All motor vehicles operated on lands under the jurisdiction of the State Park Service shall be subject to Motor Vehicle Laws of the State of New Jersey, N.J.S.A. 39-1 et seq., all rules promulgated pursuant thereto, and this chapter.

### 7:2-3.4 Restriction on operation of motor vehicles

(a) A person shall not operate any motor vehicle on or over any lands under the jurisdiction of the State Park Service except on established public roads or in designated parking areas unless allowed otherwise by posted signs or this subchapter.

(b) A person shall not operate a motor vehicle at anytime on or over any road designated closed by signs or barriers.

## ENVIRONMENTAL PROTECTION

(c) A person shall not operate a motor vehicle on or over any cultivated or planted area, transmission line, survey line or in the woods, swamps, bogs, wetlands or fields unless a permit for said specific activity and location is issued by the area Officer-in-Charge.

(d) A person shall not operate an all-terrain vehicle, dirt bike, trail bike, or "off-road" motor vehicle on or over the lands and waters under the jurisdiction of the State Park Service at anytime except that, when an area is so designated by the State Park Service, permits may be granted for organized "special events" to operate on a pre-established course under prescribed conditions.

(e) A person or organization shall not conduct a motor vehicle race, rally, exhibition or demonstration of any type on State Park Service lands and waters without a permit issued by the Officer-in-Charge.

### 7:2-3.5 Snowmobiles

(a) All use of snowmobiles on lands and frozen waters under the jurisdiction of the State Park Service shall be in conformance with N.J.S.A. 39:3C-1 et seq., the Motor Vehicle laws of the State of New Jersey, the rules promulgated pursuant thereto, and this chapter.

(b) Snowmobiling is only allowed on areas and trails specifically designated for that purpose.

(c) Snowmobiles shall not be operated in a reckless or careless manner or at speeds which are dangerous to persons and/or property.

(d) A person shall not operate a snowmobile while under the influence of intoxicating liquors, narcotics, or hallucinogenic or habit forming drugs.

(e) All accidents involving personal injury or damage to property shall be reported to the Officer-in-Charge of the State park on which the accident occurred as soon as possible after the occurrence.

(f) Any race, rally or organized snowmobile activity shall require application for a use permit and/or scheduling at least five days in advance with the area Officer-in-Charge having jurisdiction over the property to be utilized. The application or request may be denied for reasonable cause.

(g) A person shall not fail or refuse to stop when ordered to do so by authorized enforcement personnel.

(h) On Lake Hopatcong, no snowmobiles shall be operated in excess of 15 miles per hour before 12:00 noon on Sunday.

### 7:2-3.6 Motor vehicle speed limits

(a) A person shall not travel by motor vehicle on improved roadways under the jurisdiction of the State Park Service at a speed greater than 35 miles per hour unless otherwise posted.

(b) A person shall not travel by motor vehicle on improved (dirt, gravel or sand) roadways at a speed greater than 20 miles per hour unless otherwise posted higher or lower.

### 7:2-3.7 Parking

(a) A person shall not park any motor vehicle, conveyance or other equipment except in areas designated for parking.

(b) A person shall not park any motor vehicle, conveyance or other equipment so as to block or impede traffic on roadways or paths.

(c) Parking shall be strictly confined to areas designated for that purpose. Temporary parking areas designated by the area Officer-in-Charge may be used to accommodate special functions.

### 7:2-3.8 Traffic direction

Operators of all motor vehicles, bicycles, equestrians, and pedestrians shall comply with all traffic signs and signals and direction by voice, hand or whistle by duly authorized personnel.

### 7:2-3.9 Motorized bicycle restrictions

(a) Motorized bicycles which meet the provisions of this subchapter are permitted on State Park Service roadways unless otherwise posted.

(b) In the interest of safety, the Officer-in-Charge is authorized to temporarily prohibit or limit the operation of motorized bicycles.

(c) A person shall not operate a motorized bicycle on any right-of-way of any operating railroad.

(d) A person under the age of 15 years shall not operate a motorized bicycle on State Park Service property.

(e) A person shall not operate a motorized bicycle unless the operator is in possession of a valid drivers license or a motorized bicycle license, a valid registration, a valid insurance identification card and displays a valid license plate. Non-resident motorized bicycle owners shall be required to have complied with registration and licensing laws of the operator's state and shall obey all other State Park Service and New Jersey motor vehicle and traffic laws.

(f) State Park Service rules applicable to bicycles shall apply whenever a motorized bicycle is operated on State Park Service property.

(g) A motorized bicycle shall carry only the operator.

(h) A person shall not operate a motorized bicycle unless the operator wears a protective helmet of a type approved by the New Jersey Division of Motor Vehicles.

#### SUBCHAPTER 4. (RESERVED)

#### SUBCHAPTER 5. OCEAN PARKS AND INLAND PARKS BEACH RESTRICTIONS

##### 7:2-5.1 Trespassing

(a) A person shall not be in, walk on, or travel over any ocean park sand dune, vegetation, or restricted or protected area without specific authorization of the Officer-in-Charge.

(b) A person shall not use areas other than designated trails or posted access paths when going from parking areas or roadways to the beaches.

(c) A person shall not trespass in designated restricted areas posted with "Keep Out," "No Trespassing," "Closed" or "Restricted Area" signs.

##### 7:2-5.2 Entry by boat or \*[other watercraft]\* \*vessel\*

(a) A person shall not enter a beach by boat or \*[any other watercraft]\* \*vessel\* except in areas specifically designated by the State Park Service for such use.

(b) A person shall not launch or land a boat or \*[any other watercraft]\* \*vessel\* except in areas specifically designated by the State Park Service for such use.

##### 7:2-5.3 Fires (open)

(a) A person shall not build or start an open fire on a beach without the approval of the Officer-in-Charge.

(b) A person shall not have a permitted open fire closer than 50 feet to a sand dune or a protected area.

(c) An open fire shall not be left unattended or permitted to cause damage to State Park Service facilities or areas. Every open fire shall be extinguished before users leave the area.

##### 7:2-5.4 Camping/erection of tents and shelters

(a) A person shall not camp on any beach under the jurisdiction of the State Park Service.

(b) A person shall not erect, maintain, use or occupy any temporary tent or shelter on any beach under the jurisdiction of the State Park Service unless there is an unobstructed view through such tent or shelter from at least two sides. Nothing herein contained shall be construed to authorize camping on any beach under the jurisdiction of the State Park Service.

##### 7:2-5.5 Restricted activities

**\*(a) Jet skiing shall be allowed on Lake Hopatcong, Lake Musconetcong, Cranberry Lake, and Greenwood Lake without the prior approval of the Officer-in-Charge. Jet skiing on Lake Hopatcong, Lake Musconetcong, Cranberry Lake, and Greenwood Lake shall be conducted in accordance with the rules of the New Jersey Boat Regulation Commission at N.J.A.C. 7:6 or as subsequently amended.\***

**\*[(a)]\*(b)\*** A person shall not jet ski, surfboard, wind sail, wind-surf, scuba dive, skin dive, or spear goggles dive in ocean parks or **\* , except as proved in (a) above, \*** inland waters under the jurisdiction of the State Park Service without the approval of the Officer-in-Charge.

**\*[(b)]\*(c)\*** All underwater diving activities approved under **\*[(a)]\* \*(b)\*** above shall be conducted in accordance with rules

promulgated by the New Jersey Boat Regulation Commission, N.J.A.C. 7:6 **\*or as subsequently amended\*.**

#### SUBCHAPTER 6. CAMPING

##### 7:2-6.1 Camping

(a) A person shall not camp on any State Park Service property, except in areas designated or marked for that purpose by the State Park Service.

(b) A person shall not camp without first having obtained a camping permit and/or site number assignment unless otherwise posted or directed by the Officer-in-Charge. The camping permit fee pursuant to N.J.A.C. 7:2-17.2(a) shall be paid in full and positive identification of the permittee shall be provided prior to issuance of the permit.

(c) A person under the age of 18 years shall not camp on State Park Service property except when accompanied by a parent, guardian or other responsible adult.

(d) A person shall not set up camping outside the designated campsite area.

(e) Digging or leveling the ground at campsites is prohibited unless specifically authorized by the Officer-in-Charge.

(f) Campers shall keep their camping area clean and free of safety or fire hazards.

##### 7:2-6.2 Campsite occupancy limits

(a) Not more than six people shall occupy a campsite unless they are all members of one family. The area Officer-in-Charge may temporarily authorize a greater or lesser number as conditions may warrant.

(b) Not more than two vehicles of any type shall be parked at a campsite. The area Officer-in-Charge may temporarily authorize a greater or lesser number as conditions may warrant.

(c) Vehicles in excess of the number permitted in (b) above shall be parked at parking areas designated by the Officer-in-Charge. The camper assumes liability for all such parking.

##### 7:2-6.3 Occupancy of campsites

(a) A campsite is considered occupied when it is being used or has been reserved for purposes of camping by a person or persons who have paid the camping permit fee pursuant to N.J.A.C. 7:2-17.2(a) within the applicable time limits. A person shall not take possession or maintain possession of a campsite when informed by a State Park Service sign or employee that such site is occupied or reserved for occupancy.

(b) All camping facilities shall be occupied by the permittee as of the starting time and date indicated on the permit and shall remain occupied by the permittee during the entire period of stay specified on the permit. Occupancy constitutes the payment of the camping permit fee pursuant to N.J.A.C. 7:2-17.2(a), assignment of a site and the posting at the site of the issued campsite identification card. Wilderness campsites are exempt from the campsite identification card requirement (see N.J.A.C. 7:2-6.9).

##### 7:2-6.4 Time limits; overnight camping

(a) In order to afford the public the greatest possible use of the State Park Service camping system, continuous occupancy by the same persons or equipment of any camping site is limited as follows:

1. A person or persons shall not occupy a campsite for more than 14 consecutive days.

2. A person or persons who have occupied a campsite for an initial 14 day limit shall not re-register until seven calendar days have elapsed.

3. Additional camping shall be permitted in intervals up to, but no more than, seven days at a time with a minimum of seven calendar days out-time required between each occupancy.

4. The total maximum camping days in any calendar year shall not exceed 40 days.

##### 7:2-6.5 Removal of equipment and personal property

(a) Occupants shall vacate the campsite by removing all their equipment and personal property prior to noon on the last day of assigned occupancy.

## ADOPTIONS

## ENVIRONMENTAL PROTECTION

(b) The Officer-in-Charge is authorized to inventory, remove and store for a period of 90 days or until the owner is found, whichever is shorter, any and all equipment and personal property on a camp site which has not been occupied by the owner of the equipment and personal property for any consecutive 24 hour period or which is being used in violation of this chapter or other State law. Payment of a removal fee and storage fee pursuant to N.J.A.C. 7:2-17.2(d) shall be required from the owner before the equipment and personal property is returned. Items not claimed within 90 days after they are removed from the campsite shall be disposed of in accordance with established State Park Service policy. **\*The State Park Service policy for the disposal of unclaimed articles shall be posted at each State Park.\***

### 7:2-6.6 Visitors in campsite

(a) Visitors are allowed in the campsites between the hours of 8:00 A.M. and 8:00 P.M. All visitors shall pay the day user parking fee when applicable pursuant to N.J.A.C. 7:2-17.1.

(b) A visitor shall not be allowed in a campsite between the hours of 8:00 P.M. and 8:00 A.M.

(c) The area Officer-in-Charge may temporarily extend or limit the visitation hours as conditions warrant.

### 7:2-6.7 Campsite, lean-to's, group campsite reservation procedures

(a) Applications for reservations of designated reserved campsites, lean-to's and group campsites shall be submitted on forms available from the State Park Service. Applications shall not be accepted if received or postmarked prior to November 1 of the year immediately preceding that in which the facility will be used. All applications for designated reserved campsites, lean-tos, and group campsites shall be acted upon on or about November 15 or the first working weekday thereafter. Reservations are not effective until confirmed in writing by the State Park Service. Reservations shall be confirmed on a first come first served basis subject to the availability of designated reserved campsites, lean-to's and group campsites on the dates for which reservations are requested.

(b) Reservations for a reserved campsite or a lean-to for the period of June 15 through and including Labor Day shall be for exactly a one week (seven nights) or a two week (14 nights) period **\*commencing on any weekday including Saturday and Sunday\***. **\*[No partial weeks permitted.]\***

(c) For the period from the day after Labor Day to June 14, reserved campsites or lean-to's may be reserved for a minimum of two consecutive nights to a maximum of 14 nights **\*commencing on any weekday including Saturday and Sunday\***.

(d) Group campsites may be reserved for a maximum period of 14 nights **\*commencing on any weekday including Saturday and Sunday\*** with no minimum.

(e) All applications for reserved campsites, lean-to's and group campsites, shall include full payment for the reserved period plus the required non-returnable reservation fee. The fees are set forth in N.J.A.C. 7:2-17.2.

(f) More than two non-consecutive reservations for camping shall not be in effect for any group or person.

### 7:2-6.8 Cancellations and refunds

(a) Reserved campsites, lean-to's and group campsites may be cancelled. A cancellation fee and the non-refundable reservation fee as set forth in N.J.A.C. 7:1-17.2(d) shall be deducted from any refund due.

(b) Refunds shall not be made to persons evicted as a result of violations of this chapter or other State law.

### 7:2-6.9 Wilderness campsites

(a) A person shall not have a motorized vehicle at designated wilderness campsites.

(b) Everything carried into the wilderness campsite shall be carried out or placed in authorized garbage containers, if provided.

### 7:2-6.10 Group campsites

(a) Group camping is restricted to areas specifically provided for this purpose.

(b) A camping group is designated as a minimum of seven persons with the maximum limit determined by the area Officer-in-Charge.

(c) If group campsites are not available during the period November 1 to March 31, groups may use up to 50 percent of the available campsites at a State Park, provided there is at least one adult per site, individual campsite rates are paid and the limitation of six persons per site is not exceeded.

### 7:2-6.11 Group camper supervisor requirements

(a) All groups of campers under 18 years of age shall have a minimum of one adult supervisor 18 years of age or older for each nine campers under 18 years of age in the group.

(b) Adult supervisors of group campers under 18 years of age shall be required to supply a roster of campers under 18 years of age under their supervision to the Officer-in-Charge upon request. The roster shall include each camper's name, address, age and the home phone number of the camper's parent or legal guardian.

### 7:2-6.12 Emergency transportation

Adult supervisors of group campers under 18 years of age shall have an automobile or other transportation readily available to transport children in the event of an emergency.

### 7:2-6.13 Emergency camping

The area Officer-in-Charge may permit emergency camping overnight for one night only in a day use area or a portion thereof when extreme conditions warrant. Persons permitted emergency camping shall leave by 8:00 A.M. the following morning and shall be charged the campsite fee pursuant to N.J.A.C. 7:2-17.2(a).

### 7:2-6.14 Abuse of the camping system

(a) The State Park Service camping system was designed and developed to provide the maximum number of people possible a quality outdoor recreational experience for their appreciation of our natural resources and for their personal relaxation. It is not for the use of persons or groups as a primary or secondary dwelling or as a mailing address.

(b) Camping by persons unable to prove their legal residence elsewhere is prohibited.

(c) Area Officers-in-Charge are authorized to limit or prohibit all camping or any other overnight use which, in their judgment, is contrary to the intended use stated in (a) above.

## SUBCHAPTER 7. OVERNIGHT FACILITIES USE

### 7:2-7.1 Overnight facilities

(a) A person shall not occupy any overnight facility without a permit or the approval of the area Officer-in-Charge.

(b) A person under the age of 18 years shall not occupy any overnight facility except when accompanied by a parent, guardian or other responsible adult.

(c) All overnight facilities shall be occupied on the starting time and date indicated on the permit. The area Officer-in-Charge may reassign any overnight facility not occupied for 24 hours after the prescribed starting time.

(d) The Officer-in-Charge is authorized to inventory, remove and store for a period of 90 days or until the owner is found, whichever is shorter, any and all equipment and personal property in an overnight facility which has not been occupied by the owner of the equipment and personal property for any consecutive 24 hour period or which is being used in violation of this chapter or any other State law. Payment of a removal fee and a storage fee pursuant to N.J.A.C. 7:2-17.2(d) shall be required from the owner before the equipment and personal property is returned. Items not claimed within 90 days after they are removed from the overnight facility shall be disposed of in accordance with established State Park Service policy. **\*The State Park Service policy for the disposal of unclaimed articles shall be posted at each State Park.\***

### 7:2-7.2 Overnight facilities reservation procedures

(a) All applications for reservations of cabins and camp shelters shall be submitted on forms available from the State Park Service. Applications shall be accepted if postmarked or received after January 2nd of the year in which the facilities are to be used. Residents of New Jersey shall have their applications acted upon

on a first-come first-served basis or a lottery system of selection, if the demand dictates. Reservations shall not be made by telephone.

(b) After the applications by New Jersey residents have been satisfied, out-of-state residents' applications shall be acted upon on a first-come first-serve basis or a lottery system of selection, if the demand dictates. All applications received after this process is completed shall be acted upon as received.

(c) Reservations for cabins and camp shelters for the use period from June 15 through and including Labor Day shall be only granted for seven consecutive nights or 14 consecutive nights.

(d) From April 1st to June 14th and from the day after Labor Day to October 31st, reservations for cabins and camp shelters shall be accepted for a minimum of two consecutive nights to a maximum of 14 consecutive nights.

(e) When overnight facilities become available for any reason, they may be made available to the general public up to a maximum of 14 nights as directed by the Officer-in-Charge.

(f) Reservations are not in effect until confirmed.

(g) A separate application shall be filed for each facility and period desired.

(h) More than two non-consecutive reservations for overnight facilities shall not be in effect for any person or group.

(i) A non-refundable reservation fee as provided in N.J.A.C. 7:2-17.2(d) shall be charged for each reservation.

(j) Full payment for the reserved period requested, in addition to the reservation fee, shall accompany the reservation application.

(k) Reservations for East Creek Lodge at Belleplain State Forest shall be made for a minimum of two nights to a maximum of 14 nights year round.

#### 7:2-7.3 Cancellation and refunds

(a) Reservations for cabins, shelters, lodges, and other designated State Park Service overnight facilities may be cancelled. A cancellation fee and the non-refundable reservation fee as set forth in N.J.A.C. 7:2-17.2(d) shall be deducted from any refund due.

(b) Refunds shall not be made to persons evicted for violation of this chapter or other State law.

#### 7:2-7.4 Visitors

(a) Visitors are allowed in overnight facilities between the hours of 8:00 A.M. and 8:00 P.M. All visitors shall pay the normal day user parking fee when applicable pursuant to N.J.A.C. 7:2-17.1.

(b) A visitor shall not be allowed in overnight facilities between the hours of 8:00 P.M. and 8:00 A.M. The area Officer-in-Charge may temporarily extend or limit the visitation hours as conditions warrant.

### SUBCHAPTER 8. BOATING/WATERCRAFT

#### 7:2-8.1 Launching of boats

(a) The launching of boats, canoes and other \*[watercraft]\* **\*vessels\*** is allowed at designated areas subject to posted \*[regulations]\* **\*conditions\*** and the payment of a launching fee where required pursuant to N.J.A.C. 7:2-17.1(f).

(b) A person shall not launch or beach a boat, canoe or other \*[watercraft]\* **\*vessel\*** or weigh anchor or cast off when the area Officer-in-Charge has, by posting or verbal direction, prohibited the same.

#### 7:2-8.2 Power boats and motorized jet skis use restrictions

(a) A person shall not operate a power boat or a motorized jet ski on non-tidal waters under the jurisdiction of the State Park Service, except:

1. Electric powered boats are allowed on non-tidal waters under the jurisdiction of the State Park Service.

2. Power boats and motorized jet skis are allowed on Cranberry Lake, Greenwood Lake, Lake Hopatcong and Lake Musconetcong.

(b) A person shall not operate a motorized jet ski on the Spruce Run, Round Valley or Monksville Reservoirs.

(c) Power boats are allowed on Spruce Run, Round Valley and Monksville Reservoirs subject to size restrictions in N.J.A.C. 7:2-8.3(b).

#### 7:2-8.3 Powerboat size restrictions

(a) Powerboats, where permitted on non-tidal waters, may temporarily be further restricted as to maximum horsepower and minimum and maximum boat length, such restrictions being determined by the Officer-in-Charge based on use and safety factors.

(b) A person shall not operate a power boat which has a motor size greater than 10 horsepower on the Spruce Run, Round Valley, or Monksville Reservoirs.

#### 7:2-8.4 Sailboats and ice sailboat masts height on the Round Valley and Spruce Run Recreation Reservoirs

A person shall not operate a sailboat or ice sailboat with a mast height of greater than 30 feet on the Round Valley or Spruce Run Reservoirs.

#### 7:2-8.5 Use of boat ramps

A person shall not use boat ramps in such a manner as to impede use of the ramp by others.

#### 7:2-8.6 Boating near bathing areas

(a) A person shall not operate a power boat, sailboat or sail board within 200 feet of a designated bathing area.

(b) A person shall not operate human powered slow moving watercraft such as rowboats, pedal boats, canoes, wind surfboard, or any other water borne mechanisms meeting this definition within 50 feet of a designated bathing area.

#### 7:2-8.7 Swimming and diving from objects, scuba diving, and skin diving

(a) A person shall not swim or dive from a pier, catwalk, bridge or tower **\*on lands comprising part of a State Park and administered by the State Park Service for public recreation and/or conservation purposes\*** or from any \*[watercraft]\* **\*vessel\*** on waters under the jurisdiction of the State Park Service without written approval by the area Officer-in-Charge.

(b) A person shall not scuba or skin dive in the waters under the jurisdiction or control of the State Park Service except in areas designated and posted for that purpose.

#### 7:2-8.8 Round Valley and Spruce Run wind speed notification systems

(a) A person shall not continue boating activities on the Round Valley or Spruce Run Reservoirs when the wind velocity reaches or exceeds 25 miles per hour.

(b) A person shall not continue boating activities on the Round Valley or Spruce Run Reservoirs when the flashing white warning lights are activated to warn boaters to discontinue boating.

(c) A person shall not continue boating activities on the Round Valley or Spruce Run Reservoirs when verbally directed to discontinue boating activities by the Officer-in-Charge or any employee authorized by the Officer-in-Charge to issue such warnings.

#### 7:2-8.9 Boat storage at the Spruce Run Recreation Area

(a) A limited number of boat storage spaces are available at Spruce Run Recreation Area during the season from April 1 through October 31. Fees shall be charged pursuant to N.J.A.C. 7:2-17.1(g) and non-transferable decals shall be assigned for this use. Decals shall be permanently affixed to the boat registered for storage as directed by the area Officer-in-Charge.

(b) Double-capacity trailers occupying a single storage space shall pay one and one-half times the normal season storage fee as provided in N.J.A.C. 7:2-17.1(g).

(c) Boats shall be removed from the water each night and placed in their assigned storage spaces.

(d) Possession of a boat storage permit does not guarantee entry to the launching area if it is filled to capacity.

#### 7:2-8.10 Ice boating

**\*(a) Ice boating and ice yachting shall be allowed on Lake Hopatcong and Greenwood Lake.\***

**\*(a) Ice]\* \*(b) Except as provided in (a) above, ice\* boating and ice yachting shall be allowed only on those waters specifically designated and posted by the State Park Service for ice boating and ice yachting.**

## ADOPTIONS

## ENVIRONMENTAL PROTECTION

\*[(b)]\*(c)\* Ice boating \*[or]\* **and** ice yachting shall be allowed **on the waters described in (a) above and** designated and posted under \*[(a)]\* **(b)** above provided individual use complies with the following:

1. A minimum of two craft shall be in use at all times;
2. Protective helmets shall be worn;
3. Life jackets or life belt shall be worn; and
4. Masts or riggings and any attachments thereto, may be restricted by the Officer-in-Charge or by any employee authorized by the Officer-in-Charge to issue such restrictions as determined by use or public safety.

### 7:2-8.11 Towing behind boats

A person shall not water ski, aquaplane or tow surf boards in non-tidal waters under the jurisdiction of the State Park Service except on Lake Hopatcong, Lake Musconetcong, Greenwood Lake and Cranberry Lake without the written approval of the area Officer-in-Charge.

### 7:2-8.12 Conformance with State boating laws

All boating use on waters under the jurisdiction or control of the State Park Service shall be subject to rules promulgated by the New Jersey Boat Regulation Commission, N.J.A.C. 7:6.

### 7:2-8.13 Lifejackets

(a) A person shall not operate or allow any person to operate any vessel in or on the waters under the jurisdiction or control of the State Park Service unless such vessel has a serviceable United States Coast Guard approved personal flotation device (PFD) for each person on board.

1. Such PFDs shall be of the type(s) required by the United States Coast Guard for a vessel of that class operating on navigable waters.

2. Such PFDs shall be readily accessible when the vessel is underway.

(b) The requirements of (a) above apply to all vessels except surfboards, racing shells, rowing sculls and racing kayaks.

### 7:2-8.14 Careless and negligent operations

(a) A person shall not operate a \*[boat]\* **vessel** in such a manner as to cause alarm, personal injury or property damage.

(b) Boaters shall comply with all posted regulatory signs.

(c) Boaters shall secure their \*[boats]\* **vessels** in a manner that will not cause personal injury or damage to private or State Park Service property.

### 7:2-8.15 Rules of the road

All vessels navigating the waters under the jurisdiction or control of the State Park Service shall comply with the inland rules of the road promulgated by the United States Coast Guard now in effect and as may hereafter be amended, supplemented, modified or changed, except where the international rules of the road are applicable. Copies of the current inland rules of the road may be obtained at any office of the United States Coast Guard or the New Jersey State Police Marine Bureau.

### 7:2-8.16 Speed

Power vessels shall at all times be operated at a speed to avoid danger of injury to life and all manner of craft whether floating, moored, anchored or underway, or to piers, wharves, bulkheads, draw spans or other waterfront construction, either directly or by the effect of the wash or wave raised by such power vessel through its speed or otherwise.

### 7:2-8.17 Obeying orders

A \*[boat]\* **vesel** shall not fail to stop when ordered to do so by any State Park Service law enforcement officer or other State Park Service employee authorized by the area Officer-in-Charge.

### 7:2-8.18 Exclusion of racing events

This subchapter shall not apply to boat racing activities which have been approved by the Director of the Division of Parks and Forestry or the Assistant Director of the Division for the State Park Service.

### 7:2-8.19 \*[Boating]\* **Vessel** use restrictions

The use of boats, canoes and \*[watercraft]\* **vessels** of all types on the waters under the jurisdiction or control of the State Park

Service shall be prohibited by the Officer-in-Charge whenever the safety, health or welfare of the public so dictates.

### 7:2-8.20 Operating \*[boats]\* **vessels** during nighttime

Where night boating is authorized, no person shall operate a \*[boat]\* **vessel** at speeds in excess of five nautical miles per hour **or in excess of speeds established by the New Jersey Boat Regulation Commission for Lake Hopatcong at N.J.A.C. 7:6-4.5, for Greenwood Lake at N.J.A.C. 7:6-4.7 and for Cranberry Lake at N.J.A.C. 7:6-4.8 or as subsequently amended**.

### 7:2-8.21 Disposal of waste from \*[boats]\* **vessels**

(a) A person shall not dump waste\*, **excluding bilge water**,\* from a \*[boat]\* **vessel** into the waters under the jurisdiction or control of the State Park Service.

(b) Any \*[boat]\* **vessel** equipped with a toilet, sink and/or shower shall not be operated on waters under the jurisdiction or control of the State Park Service unless the toilet, sink and/or shower systems are completely shut off or kept inoperative the entire time the \*[boat]\* **vessel** is in the State Park Service waters or unless the vessel is equipped with an operable holding tank.

(c) A person shall not discharge holding tank waste except in disposal facilities designed and provided for such waste.

### 7:2-8.22 Low water levels Round Valley, Spruce Run and Monksville Reservoirs

During periods of low water levels at the Round Valley, Spruce Run and Monksville Reservoirs as evidenced by increased exposure of mud flats, all restricted area fence lines shall be deemed to be extended to the waters' edge. This extension shall then be included in the restricted area limits and shall constitute the restricted area limits.

### 7:2-8.23 Scuba and skin diving at Round Valley and Spruce Run Recreation Areas

(a) Scuba and skin diving is permitted at Spruce Run and Round Valley Recreation Areas provided the diver notifies the park office by phone in advance of the dive, giving name, location and anticipated hours of diving. Before diving, the diver shall complete a registration form at the park office and notify the park office when the dive is complete.

(b) All provisions of the New Jersey Boat Regulation Commission, N.J.A.C. 7:6, shall be followed and a certification card is required.

### 7:2-8.24 Lake Hopatcong Dock Restrictions

(a) The construction of a new dock or the replacement, expansion, or extension of any existing dock in the waters of Lake Hopatcong shall, in addition to the requirement set forth in (b) below, be designed and constructed in accordance with the requirements of all Federal, State and local agencies having jurisdiction over the design and construction of the proposed new dock, replacement, expansion, or extension.

(b) New docks and the construction of a new replacement or the expansion or extension of any dock in existence in the waters of Lake Hopatcong on \*[the effective date of this new rule]\* **October 7, 1991**\* shall not exceed more than 50 feet in length into the waters of Lake Hopatcong from the mean high water line. Any dock in existence on the effective date of this new rule that exceeds 50 feet in length from the mean high water line may be improved, maintained and repaired but shall not be replaced, expanded or extended beyond the length of the dock from the mean high water line. The mean high water line shall be determined at the time of the proposal of the new dock or replacement, expansion or extension of any dock in the waters of Lake Hopatcong.

(c) Prior to the construction of any new dock or the replacement, expansion or extension of any dock in the waters of Lake Hopatcong, the owner of the dock shall submit to the Officer-in-Charge at Lake Hopatcong State Park a written notification of intent to construct. The notification of intent to construct shall include the following:

1. Transmittal letter signed by the owner of the dock;
2. Plans and specifications showing:
  - i. The location, size and design of the proposed new dock, replacement, expansion or extension; and

## ENVIRONMENTAL PROTECTION

ii. The mean high water line and the length of the proposed new dock, replacement or extension from the mean high water line into Lake Hopatcong; and

3. Copies of all permits, licenses, approvals, certifications and any other document issued by the appropriate Federal, State and local authorities having jurisdiction over the proposed new dock, replacement, expansion or extension.

(d) Upon receipt by the Officer-in-Charge of a complete notification of intent to construct under (c) above, the Officer-in-Charge shall have a period of 45 days to review the notification and approve the construction of any new dock or the replacement, expansion or extension of any dock in the waters of Lake Hopatcong based upon a determination that:

1. The owner of the dock has obtained all permits, licenses, approvals, certifications and any other document issued by the appropriate Federal, State and local authorities having jurisdiction over the proposed new dock, replacement, expansion or extension; and

2. The proposed new dock, replacement, expansion or extension is in compliance with (b) above.

### SUBCHAPTER 9. DAY USE GROUP

#### 7:2-9.1 Day use group reservation

(a) Groups of 20 or more persons using or visiting any lands or waters under the jurisdiction of the State Park Service for any purpose whatsoever shall make a reservation for such use or visitation.

(b) Reservations shall be made at the area office for the specific State Park, at least five days in advance of the use or visit.

#### 7:2-9.2 Failure to make a reservation

(a) The State Park Service shall refuse admittance to groups of 20 or more persons without reservations.

(b) The area Officer-in-Charge may temporarily waive day use group reservation requirements when field conditions dictate.

(c) Not more than three non-consecutive reservations for day use group facilities shall be in effect for any one person or group at an individual State park at one time.

#### 7:2-9.3 Adult supervision

Each day use group shall have a minimum ratio of one adult supervisor, 18 years of age or older, for each nine children under 18 years of age in the group.

#### 7:2-9.4 Group leader

Each day use group making reservations for visitation shall designate one responsible adult, 18 years of age or older, as group leader and his or her name and address shall be furnished to the Officer-in-Charge upon arrival.

#### 7:2-9.5 Day use group roster

(a) All day groups shall have available during the use or visit, and may, prior to the commencement of the use or visit, be required to supply a roster to the Officer-in-Charge. The roster shall contain the following information:

1. The name, address and phone number of the organization;
2. The name and address of the designated group leader; and
3. The names of all other persons in the group.

(b) Failure to supply the roster required in (a) above upon request by the Officer-in-Charge may be cause for refusing the group's admittance to, or removal of the group from, the park, forest, recreation area, historic site, marina, or natural area.

#### 7:2-9.6 Buses transporting day use groups

(a) All buses transporting day use groups shall remain at a parking location designated by the Officer-in-Charge for the entire period the group is present at the facility.

(b) Drivers of buses transporting day use groups shall remain in the immediate day use area at all times and are not to leave the area without specific approval of the Officer-in-Charge.

#### 7:2-9.7 Group picnicking and reservation procedures

(a) Group picnicking is restricted to areas specifically provided for this purpose.

(b) The number of people in any group using a group picnicking facility shall not exceed the capacity of the facility without first obtaining the approval of the area Officer-in-Charge and upon such conditions that the Officer-in-Charge may reasonably require to assure public safety and protection of State-owned property.

(c) Applications for reservation of group picnicking facilities shall:

1. Be submitted by mail to or in person at the area office for the specific State park in which the facility is located;

2. Be accompanied by payment of the non-refundable reservation fee pursuant to N.J.A.C. 7:2-17.3(a);

3. Include the following information:

i. The name of the group;

ii. The name, telephone number and address of the designated group leader; and

iii. The date for which reservation is requested;

4. Be received in the area office after January 2 of the year in which the facility is to be used; and

5. Not be effective until confirmed in writing by the State Park Service.

(d) The Officer-in-Charge shall post a sign at each group picnicking facility indicating that the facility has been reserved and the name of the group.

(e) If the group picnicking facility is not reserved, the facility may be used on a first-come, first-served basis.

#### 7:2-9.8 Group use of facilities on weekends and holidays

(a) Day group use of facilities on weekends or holidays is not permitted except as provided in (b) below.

(b) The Officer-in-Charge may temporarily authorize weekend or holiday day group use only when facility and staffing requirements allow.

### SUBCHAPTER 10. GOLF COURSES

#### 7:2-10.1 Local rules

(a) The use of caddies is not permitted except by specific approval of the golf course manager.

(b) Privately owned golf carts are prohibited.

(c) Everyone on the course shall play golf and have a paid receipt in his or her possession.

(d) Spectators are not permitted on the golf course. The golf course manager may temporarily waive this rule for tournament play or for unusual circumstances.

(e) All players shall have and use a golf bag with sufficient clubs to play the game including at least a driver or 3 wood, a 3, 5 and 7 iron, and a putter.

(f) Golf cart operators shall have a drivers license and be at least 17 years of age.

(g) Beverage or food coolers of any type are prohibited on the course. Upon request by tournament organizers, the golf course manager may waive this prohibition.

(h) Alcoholic beverages are prohibited on the course or driving range.

(i) Players shall be no less than 10 years old to play on the golf course.

(j) Players age 10 to 13 shall be accompanied by an adult.

(k) Proper attire shall be worn at all times while on the golf course. This includes a minimum of pants, shorts, skirts, or tops, tee-shirts and sneakers or golf shoes.

(l) The playing or use of radios, tape recorders, electronic or any other noise producing device is prohibited on the golf course without specific approval of the golf course manager.

(m) The following recreational activities are prohibited on the tees, fairways and greens of the golf course and adjacent State Park Service property without the written permission of the golf course manager.

1. Ice skating;
2. Skiing;
3. Sledding;
4. Snowmobiling;
5. Fishing;
6. Picnicking;

## ADOPTIONS

7. Horseback riding;
8. ATVs/bicycles;
9. Operating model or remote control planes, boats, cars, or other mechanical devices; and
10. Stopping of canoes for any reason except an emergency.

### 7:2-10.2 Reservations—golf course

(a) Golf course reservations shall be accepted by telephone only and are on a first-come, first-serve basis.

(b) Starting time reservations shall be accepted on Thursdays after 12:00 noon for weekend and holiday play.

(c) Tournament reservations shall be made 30 days in advance and are not effective until confirmed in writing by issuance of a special use permit by the State Park Service.

1. Approved tournaments are restricted to Tuesday or Thursday play only unless specifically approved by the golf course manager.

2. Tournament starting times shall be 11:00 A.M. unless specifically waived by the golf course manager.

3. Tournaments shall reserve for a minimum of 40 players up to a maximum of 80 players unless specifically waived by the golf course manager.

### 7:2-10.3 Fees

All fees for services provided and use of the golf course and driving range, in accordance with the fee schedule set forth in N.J.A.C. 7:2-17.1(j), shall be paid in full prior to the commencement of play.

### 7:2-10.4 United States Golf Association and local rules

Local rules at N.J.A.C. 7:2-10.1 and United States Golf Association rules shall govern all play. Local rules are printed on the score card and posted in the office.

### 7:2-10.5 Tournament restrictions

(a) Tournaments shall be conducted in accordance with the accepted standards of golf. Local restrictions are as follows:

1. No shot gun starts shall be allowed. Shot gun starts require that the golf course be shut down to allow one team of golfers on each tee to be started by a loud noise.

2. All tournaments shall start at the first tee.

### 7:2-10.6 School team practice

A golf team or member of a school team shall be allowed to practice on the golf course on weekdays only.

### 7:2-10.7 Driving range rules

(a) A person shall not use the driving range except during posted hours of operation.

(b) All persons using the driving range shall purchase a bucket of balls and produce the sales receipt upon request.

(c) Golfers are not permitted beyond the driving tee.

### 7:2-10.8 Golf etiquette

(a) The player who has the honor shall be allowed to play before his or her opponent or fellow competitor tees his or her ball.

(b) A person shall not move, talk or stand close to or directly behind the ball or the hole when a player is addressing the ball or making a stroke.

(c) Players searching for a ball shall signal the players behind them to pass as soon as it becomes apparent that the ball will not easily be found. They shall not continue play until the players following them have passed and are out of range.

(d) When the play of a hole has been completed, players shall immediately leave the putting green.

### 7:2-10.9 Priority on the course

(a) In the absence of special rules, two-ball matches shall have precedence over and be entitled to pass any three or four-ball match.

(b) A single player has no standing and shall give way to a match of any kind.

(c) Any match playing a whole round is entitled to pass a match playing a shorter round.

(d) If a match fails to keep in place on the course and loses more than one clear hole on the players in front, it shall allow the match following to pass.

## ENVIRONMENTAL PROTECTION

### 7:2-10.10 Care of the course

(a) Before leaving a bunker, a player shall carefully fill up and smooth over all holes and footprints made by the player.

(b) Through the green, a player shall ensure that any turf cut or displaced by the player is replaced at once and depressed down so that any damage to the putting green made by a ball is carefully repaired. Damage to the putting green caused by golf shoe spikes shall be repaired on completion of the hole.

(c) Players shall ensure that, when laying down bags or the flagstick, no damage is done to the putting green and that neither they nor their caddies damage the hole by standing close to it, in handling the flagstick or in removing the ball from the hole. The flagstick shall be properly replaced in the hole before the players leave the putting green. Players shall not damage the putting green by leaning on their putters, particularly when removing the ball from the hole.

(d) Local notices regulating the movement of golf carts shall be strictly observed.

(e) In taking practice swings, players shall avoid causing damage to the course, particularly the tees, by removing divots.

## SUBCHAPTER 11. (RESERVED)

## SUBCHAPTER 12. HIKING TRAILS

### 7:2-12.1 Scope

In addition to the applicable provisions of N.J.A.C. 7:2 and the applicable Federal regulations for that portion of the National Scenic Appalachian Trail which passes through land under the jurisdiction of the State Park Service, the following shall constitute the rules of the State Park Service hiking trails.

### 7:2-12.2 Hiking trail use

(a) The use of all designated hiking trails except for posted multi-use trails is restricted solely to foot travel and the legitimate activities associated with the pursuit of hiking.

(b) The Appalachian Trail shall not be used for special events or group activities that degrade the Trail's natural or cultural resources or social values. These activities include publicized spectator events, commercial or competitive activities or large group programs. Groups spending one or more nights on the Trail shall not exceed 10 persons in the same organization and day-use groups shall not exceed 25 persons in the same organization, unless otherwise designated in the New Jersey Appalachian Trail Management Plan.

### 7:2-12.3 Hiking trail restrictions

(a) Hiking trail use is limited to the routes marked or designated by the State Park Service for such use.

(b) A person shall not leave a marked trail and enter upon adjacent property **\*not under the jurisdiction or control of the Department\*** without permission of the owner.

(c) The use of bicycles and any motor vehicles except emergency vehicles on hiking trails is prohibited.

(d) The use of horse or pack animals on hiking trails is prohibited.

(e) Everything carried into a hiking trail or area shall be carried out by the hiker or placed in the proper trash receptacle, where provided.

(f) A person shall not molest or harass wildlife, livestock, pets or other domestic animals encountered along or adjacent to a trail.

(g) All furred animals or pets shall be caged or held on a leash and under the immediate control of the owner at all times.

(h) The possession and use of alcoholic beverages is prohibited.

(i) The cutting, digging, defacing and/or removal of any vegetation or physical features is prohibited.

### 7:2-12.4 Fires on hiking trails

(a) No open fires shall be started on any hiking trail under the jurisdiction or control of the State Park Service except at campsites designated and approved by the State Park Service for hiking trail users.

(b) No open fires shall be started at any campsite designated and approved by the State Park Service for hiking trail users under (a) above without first obtaining a permit for such purpose from the

State Park Service. The open fire shall be started and maintained in accordance with the permit which shall designate the campsite location, hours that an open fire may be started and maintained, and type of fuel.

(c) No open fires shall be started on the Appalachian Hiking Trail. Self-contained stoves may be used without a permit.

(d) Every person using a hiking trail under the jurisdiction or control of the State Park Service shall promptly report any uncontrolled fire thereon or any uncontrolled fire insight from the hiking trail to the nearest law enforcement or fire agency.

#### 7:2-12.5 Hiker camping

(a) Hiker camping shall mean the erection of a tent or shelter of natural or synthetic material and/or preparing a sleeping bag or other bedding material for the purpose of overnight stay.

(b) Hiker camping is permitted only as part of the hiking experience on a hiking trail under the jurisdiction or control of the State Park Service.

(c) Hiker camping is permitted in hiker camping areas or other established campsite areas designated and approved by the State Park Service for overnight camping.

(d) On the Appalachian Trail hiker camping is limited to one over-night stay at each designated hiker camping area.

(e) Maximum occupancy for each hiker campsite may be limited or expanded by the area Officer-in-Charge as conditions warrant.

### SUBCHAPTER 13. STATE MARINAS

#### 7:2-13.1 Scope

In addition to the applicable provisions of N.J.A.C. 7:2 and unless otherwise provided, this subchapter constitutes the rules for State marinas under the jurisdiction of the State Park Service.

#### 7:2-13.2 Application for vessel berth permits at State marinas

(a) Applications for a vessel berth permit at State marinas shall be categorized by the size of the berth for which a permit application is submitted and, except for the Senator Frank S. Farley State Marina, whether the applicant is a resident of New Jersey or a non-resident. The New Jersey resident category shall have complete priority over the non-resident category listing of applicants for the same berth size category at each State marina except for the Senator Frank S. Farley State Marina.

(b) Applications for a berth permit shall be submitted on forms available from the State Park Service and shall be accepted year-round at the marina office at the specific State marina in which a berth permit is requested. All berth permit applications shall be:

1. Completed and signed by the person(s) in whose name(s) the permit will be issued;
2. Accepted in the name of an individual(s) only. No application shall be accepted in the name of a corporation;
3. Completed, signed and not removed from the marina office at the specific State marina in which a berth permit is requested; and
4. Except for the Senator Frank S. Farley State Marina, accompanied by a New Jersey drivers license as proof of residency when the applicant claims to be a New Jersey resident.

i. If an applicant claiming to be a New Jersey resident demonstrates to the satisfaction of the Officer-in-Charge that the applicant does not have a New Jersey drivers license for good and sufficient reason, the State Park Service reserves the right to require other proofs that the applicant is a resident of New Jersey.

(c) Berth permits shall be issued in the name(s) of the persons that signed the original berth permit application and assignments shall be made from priority waiting lists based on the chronological order of the date on which each berth permit application is completed and received at the marina office at the specific State marina in which a berth permit is requested. A priority waiting list shall be maintained for and prominently posted for public review at each State marina. Except for the Senator Frank S. Farley State Marina, waiting lists shall be maintained in two categories: New Jersey resident and non-president for each berth size. Waiting lists shall be maintained at the Senator Frank S. Farley State Marina for each berth size without regard to residency.

(d) Each applicant must annually confirm that the applicant wants to remain on the applicant waiting list. Confirmation shall be made at the marina office no later than the second Saturday of January either by telephone from 8:00 A.M. to 4:00 P.M. Monday through Friday or by letter post marked not later than the second Saturday of January. Failure to notify the marina office as above provided shall result in cancellation of the application and removal of the applicant from the waiting list.

(e) Applicants purchasing a vessel of a different size category than that for which application was made who desire a berth for the new vessel shall submit an application for a berth in the category of the new vessel and shall be placed as a new applicant on the list of that category.

(f) If, for any reason, an applicant refuses or fails to accept two offered berth permits in accordance with the procedure in N.J.A.C. 7:2-13.3(b)6, the applicant's permit application shall be cancelled and the applicant's name shall be removed from the waiting list.

#### 7:2-13.3 Berth permits

(a) Seasonal or annual berth permits shall be issued at the Forked River State Marina, Leonardo State Marina, Fortescue State Marina, and Senator Frank S. Farley State Marina as follows:

1. Forked River State Marina, Senator Frank S. Farley State Marina, and Leonardo State Marina:
  - i. April 1 to October 31 (Summer);
  - ii. November 1 to March 31 of the subsequent year (Winter);
2. Fortescue State Marina:
  - i. April 1 to March 31 of the subsequent year (Annual);
  - ii. November 1 to March 31 of the subsequent year (Winter).

(b) Berth permits for the summer season from April 1 to October 31 shall be issued in accordance with the following procedure.

1. All summer berth permittees of record on October 31 shall be given an opportunity to renew their berth permit for the same size berth for the next summer season. A summer berth permit renewal form shall be forwarded to each permittee of record during the first week of December of the year preceding the permit period year or as soon thereafter as possible.

2. On or before February 1 of the permit year, the permittee of record shall return the following to the marina office:

- i. A permit renewal form signed by the permittee of record;
- ii. Payment in full for the berth offered;
- iii. A valid New Jersey vessel registration solely in the name of the permittee of record for the vessel owned by the permittee of record which will occupy the offered berth; and
- iv. A copy of the Certificate of Title to the vessel solely in the name of the permittee of record.

3. If the permittee of record does not return the documents and payment in full on or before February 1 as required in (b)2 above, the State Park Service shall on the first business day after the due date or as soon as possible thereafter give the permittee of record written notice by certified mail return receipt requested, to return the documents and payment to the marina office within 10 working days after the date of the notice.

4. If the documents and payment are not received in the marina office within 10 working days after the date of the written notice as provided in (b)3 above, the offer to renew the permit as provided in (b)1 above shall become void immediately upon expiration of the 10 day period and the subject berth permit immediately reassigned.

(c) Berth permits for the annual period from April 1 to March 31 shall be issued in accordance with the following procedure.

1. All annual berth permittees of record on October 31 shall be given an opportunity to renew their berth permit for the same size berth for the next annual season. An annual berth permit renewal form shall be forwarded to each permittee of record during the first week of December of the year preceding the permit period year or as soon thereafter as possible.

2. On or before February 1 of the permit year, the permittee of record shall return the following to the marina office:

- i. A permit renewal form signed by the permittee of record;
- ii. Payment in full for the berth offered;

## ADOPTIONS

iii. A valid New Jersey vessel registration in the name of the permittee of record only for the vessel owned by the permittee of record which will occupy the offered berth; and

iv. A copy of the Certificate of Title to the vessel solely in the name of the permittee of record.

3. If the permittee of record does not return the documents and payment in full on or before February 1 as required in (c)2 above, the marina operator shall on the first business day after the due date or as soon as possible thereafter give the permittee of record written notice by certified mail return receipt requested, to return the documents and payment to the marina office within 10 working days after the date of the notice.

4. If the documents and payment are not received in the marina office within 10 working days after the date of the written notice as provided in (c)3 above, the offer to renew the permit as provided in (c)1 above shall become void immediately upon expiration of the 10 day period and the subject berth permit immediately reassigned.

(d) Annual and summer berth permits shall be issued for all vacated berths in accordance with the following:

1. Permittees of record in the marina who have submitted a written request to transfer to another berth in the marina shall be given an opportunity to transfer to a vacated berth. Requests for transfer shall be prioritized based on the date the request is received in the marina office.

2. Except for the Senator Frank S. Farley State Marina, remaining vacant berths shall be offered to New Jersey resident applicants that are number one on the posted list of permit applicants for the size berths available. At the Senator Frank S. Farley State Marina, remaining vacant berths shall be offered to the applicants that are number one on the waiting lists for each berth size available.

3. When the New Jersey resident list is exhausted in any category, applicants on the non-resident list in that category shall be offered available berth(s).

4. In the event both resident and non-resident lists are exhausted in a given category, berths in that category shall be offered to applicants on the resident and then the non-resident berth application list for the next smaller berth size category.

5. In the event that the next smaller berth size category waiting lists described in (d)4 above are exhausted, the availability of the vacant berths shall be publicly posted at the marina. Permits for the vacant berths shall be issued upon receipt of a berth permit application in accordance with N.J.A.C. 7:2-13.2.

6. Permits for vacated berths shall be offered under (d)1 through 5 above to applicants by category and in numerical order within that category. A minimum of three documented attempts shall be made to notify the applicant of the availability of a berth by telephone during normal business hours. If the marina office is not able to contact the applicant, the berth shall be offered to the next applicant on the waiting list. Within 10 days after the offering, the applicant shall return the following to the marina office:

- i. A permit form signed by the permittee of record;
- ii. Payment in full for the berth offered; and
- iii. A valid New Jersey vessel registration and title for the vessel owned solely by the permittee of record and which is in the same size category as the berth offered.

(e) Berth permits for the winter season from November 1 to March 31 shall be issued in accordance with the following procedure:

1. On a first come first served basis to:
  - i. Permittees of record in the marina; and
  - ii. Other interested boaters.
2. Winter berth permits shall be effective:
  - i. Upon payment of the winter berth fee by permittee of record;

or

ii. Upon payment of the winter berth fee and execution of the non-renewable winter berth permit, by other interested boaters.

(f) At the Leonardo and the Forked River State Marinas, berth permits for the winter season from November 1 to March 31 shall, in addition to the applicable provisions of N.J.A.C. 7:2, be issued subject to the following conditions:

1. Vessels occupying a winter berth shall have electricity available each weekend during the winter season from 4:00 P.M. Friday to

## ENVIRONMENTAL PROTECTION

8:00 A.M. Monday. The use of electricity during any other period during the winter season shall be by the prior approval of the Officer-in-Charge.

2. The use of a thermostatically controlled de-icing system is subject to the prior approval of the Officer-in-Charge. Permittees shall place the de-icing unit in a location on the vessel that is in full view by marina personnel. The period of operation of de-icing units shall be determined by the Officer-in-Charge based on weather conditions.

(g) Berth permits shall not be issued for the following purposes:

1. Berthing of domicile type units including, but not limited to, powered and unpowered house type craft specifically designed for dockside living on other than a transient basis;

2. Condominium type berth leasing;

3. Use as a watersport activity center such as water skiing or parasailing;

4. Berthing of vessels to be utilized in time sharing ventures; or

5. Use of a vessel as a domicile, residence or habitat.

(h) Signature by the permittee on the permit constitutes agreement to abide by this chapter and any other pertinent State and Federal statutes, rules and regulations. Failure to comply with this chapter and pertinent State and Federal statutes, rules and regulations shall be cause for immediate cancellation of the permit, forfeiture of all fees paid and removal of the vessel from the Marina.

### 7:2-13.4 Berth assignment

(a) The State Park Service reserves the right to limit the number and category of use of berths whether seasonal or transient available for assignment within any State marina.

(b) A berth shall not be assigned for the summer or winter season unless a berth permit has first been issued for the season. The size of the berth assigned shall be based on the size category described in the permit and application.

(c) Berth assignments are made by the Officer-in-Charge.

(d) Transient berth assignments shall be available on a first come first served basis and shall be available on a monthly or daily basis at the discretion of the Officer-in-Charge subject to the following conditions:

1. Transient berth assignments shall become effective upon berth occupancy, payment of the applicable fee and execution of the transient registration card;

2. The daily transient period shall be from the time of occupancy to 12:00 noon of the following day; and

3. The monthly transient period shall be from the time of occupancy to 12:00 noon of the 30th day of occupancy.

(e) Any vessel occupying a berth without a valid seasonal permit shall be charged at the daily or appropriate transient rate for the duration of berth occupancy.

### 7:2-13.5 Berth reassignment

(a) The reassignment of berths within a State marina shall be made in accordance with the following procedures:

1. Reassignment shall be made only by the Officer-in-Charge.

2. In the event of the death of the permittee of record, the berth which is the subject of the permit, may be assigned by the Officer-in-Charge to the spouse of the deceased permittee of record.

3. A permittee of record shall be allowed to assign the rights granted under the permit subject to the following conditions:

i. The permittee of record shall submit a written request for assignment to the Officer-in-Charge;

ii. The assignment shall be limited to a period not to exceed the annual, summer or winter berthing season for which the assigned permit was issued;

iii. The assignment shall be administered solely by the Officer-in-Charge of the marina containing the affected berth;

iv. Assignments shall be obtained by the Officer-in-Charge from the application list for the berth category involved, beginning at the top of the list and continuing numerically, until the berth is re-assigned;

v. The permittee of record shall be liable for all fees to the end of the month in which berth reassignment is finalized;

## ENVIRONMENTAL PROTECTION

## ADOPTIONS

- vi. A cancellation fee as provided in N.J.A.C. 7:2-17.4(d)2 shall be assessed to the permittee of record;
- vii. No berth reassignment shall be considered unless payment, for the affected period, in full has been provided by the permittee of record;
- viii. A berth shall not be reassigned if the permittee of record is in his first year of occupancy;
- ix. Berth reassignment requests for an annual or summer berth permit shall not be honored if received after June 30th; and
- x. Berth reassignment requests for a winter berth permit shall not be honored.

### \*[7:12-13.6]\*\*7:2-13.6\* Multiple ownership of a vessel

- (a) A berth permit shall be issued in the names of multiple owners only if the vessel is owned by the multiple owners and they are named on the original berth application.
- (b) In the event that subsequent to berth assignment, a multiple ownership is formed or a person not identified on the original berth application acquires an ownership interest in the vessel identified in a berth permit, the new owner shall have no rights to the berth which is the subject of the permit. Rights to the subject berth must be acquired through the regular application procedure.

### 7:2-13.7 Marina regulations

- (a) Walkways and piers shall be kept clean at all times. Permittees are responsible for the cleanliness of their immediate berth areas.
- (b) Fuel tanks shall be filled only at the marina fuel station. Draining, cleaning and/or removal of fuel tanks and/or the use of gasoline or other flammable solvent as a cleaning agent is prohibited within the marina boundaries.
- (c) Boat toilets shall not be used while the boat is in the marina.
- (d) The State Park Service, through its representative, may arrange for the relocation or removal and hauling out of any boat which it determines to be in an unsafe or sinking condition, provided the owner is unavailable or fails to respond to notification of said unsafe conditions. All charges for said relocation or removal and hauling out shall be paid by the owner.
- (e) Major boat alterations or repairs shall not be undertaken while a boat is on marina property. Work shall not be undertaken by an outside contractor without specific permission from the Officer-in-Charge.
- (f) Additions or alterations shall not be made to piers, walkways or other marina property without the written consent of the Officer-in-Charge.
- (g) Any and all refund(s) for a berth fee shall be subject to a cancellation charge. Refunds shall not be paid prior to reassignment of the berth and collection of the berth fee. Refunds shall not be granted for transient berth assignments.
- (h) Berths are not transferable and shall be occupied only by the boat owned by the permittee of record as described on the permit.
- (i) The State Park Service reserves the right of reassigning a boat to a comparable berth other than the one originally assigned.
- (j) Dinghies stored in permittees' berths shall not exceed 10 feet in length and shall not encroach on adjacent berth space. Dinghies shall not be stored on or under piers, walkways or on land.
- (k) Boat berths shall be vacated immediately upon expiration of permit period.
- (l) All personal property, lines and gear shall be removed from marina piers and property at the expiration of the permit period. The Officer-in-Charge is authorized to inventory, remove and store for a period of 90 days or until the owner is found, whichever is shorter, any and all equipment and personal property from marina piers and property at the expiration of the permit period or which is being used in violation of this Chapter or any other applicable law. Payment of a removal fee and storage fee pursuant to N.J.A.C. 7:2-17.2(d) shall be required from the owner before the equipment and personal property is returned. Items not claimed within 90 days after they are removed from the pier shall be disposed of in accordance with established State Park Service policy.
- (m) Commercial boats are allowed only in designated areas.
- (n) Use of marina parking lots by camper, recreation or any other type of vehicle for the purpose of camping or storage is prohibited.

- (o) The parking of disabled vehicles on marina lands for a period in excess of 24 hours is prohibited.
- (p) Any condition on a vessel or any premises used by the permittee and comprising part of the marina declared to be a fire or safety hazard by the Officer-in-Charge shall be corrected immediately by the permittee.
- (q) Only berth permittees and their guests are permitted pier access between the hours of 10:00 P.M. and 8:00 A.M.
- (r) The State Park Service reserves the right to utilize, assign or reassign any berth.
- (s) A berth permittee shall advise the Officer-in-Charge whenever a vessel will be out of the marina for a period of 48 hours or more. When a berth will be vacant for 48 hours or more, the State Park Service may utilize the berth for any purpose it deems appropriate without reimbursement to the permittee of record.
- (t) The storage of flammable liquids or materials within dock boxes or other storage areas by permittee is prohibited.
- (u) A vessel shall not be removed from the marina prior to payment of all outstanding fees and charges.
- (v) A person shall not make noise that is unreasonable considering the nature and purpose of the actors conduct, locations, time of day and other factors that would govern the conduct of a reasonably prudent person under the circumstances.
- (w) Unattended property that interferes with public safety, orderly management of the marina or presents a threat to the resources may be impounded and stored by the Officer-in-Charge. After 90 days unclaimed articles may be disposed of in accordance with established State Park Service policy.
- (x) Dock boxes shall be installed only with the prior approval of the Officer-in-Charge.

### SUBCHAPTER 14. (RESERVED)

### SUBCHAPTER 15. (RESERVED)

### SUBCHAPTER 16. ISLAND BEACH STATE PARK RULES

#### 7:2-16.1 Scope

In addition to other applicable provisions of this chapter, this subchapter constitutes the rules of Island Beach State Park.

#### 7:2-16.2 Mobile sport fishing vehicles/permits/restrictions

- (a) Four-wheel drive mobile sport fishing vehicles (MSFV) are permitted on specifically designated areas of Island Beach State Park for the purpose of surf fishing from the open beach provided:
  - 1. An application for a MSFV permit is completed and approved through the Island Beach State Park office; and
  - 2. An approved permit, decal or placard for which the proper fee has been fully paid as provided in N.J.A.C. 7:2-17.3(d) is displayed on or from the MSFV as directed by the Officer-in-Charge when on Island Beach State Park.
- (b) The following minimum basic items of equipment or supplies shall be carried by the MSFV operator while on the open beach of Island Beach State Park:
  - 1. A spare tire;
  - 2. A tire gauge;
  - 3. A workable jack and board or other material for supporting the jack (3/4 inch by 12 inch by 12 inch plywood minimum);
  - 4. A tow chain or snatch line;
  - 5. A shovel;
  - 6. A flashlight—mandatory during hours of darkness;
  - 7. A fire extinguisher;
  - 8. An auto first aid kit;
  - 9. A litter bag; and
  - 10. At least a quarter tank of fuel.
- (c) MSFV permits are available for a calendar year or a three-day period. The permit grants entry to Island Beach State Park free of charge to the vehicle and operator complying with N.J.A.C. 7:2-16.3(b) and (c). All other occupants shall adhere to the current admission fee policy as provided in N.J.A.C. 7:2-17.1.
- (d) MSFV permits are non-refundable and non-transferable.

**ADOPTIONS**

(e) MSFV permits for a three-day period are available at the Island Beach Gate House. Annual MSFV permits are available through the Island Beach State Park office by mail or in person.

(f) The area Officer-in-Charge may limit the number of three-day MSFV permits which may be in effect at any one time. Three-day permits expire at midnight on the third full day after the day of issue. Three-day permits may be renewed only after a 24-hour waiting period.

(g) The number of MSFVs on the open beach at any one time, whether three-day or annual, may be limited by the area Officer-in-Charge in the interest of safety or responsible management of the resource.

**7:2-16.3 Surf fishing**

(a) Surf fishing is permitted only on the ocean side of Island Beach State Park in specifically designated areas approved by the area Officer-in-Charge. An annual surf fishing permit shall be issued upon:

1. Completion and approval of a surf fishing permit application at the Gate House at Island Beach State Park; and
2. Payment of the annual surf fishing permit fee as provided in N.J.A.C. 7:2-17.3(d)1.

(b) All persons over the age of 12 years on the beach under the authority of a MSFV or surf fishing permit shall have fishing gear or tackle (rod, reel, line, hooks, any bait or lures).

(c) All persons over the age of 12 years on the beach under the authority of a MSFV or surf fishing permit are restricted in their activities to the act of catching fish or trying to catch fish and those activities reasonably incidental thereto including: travel to and from a fishing location, setting up, time to stow gear, use of sanitary facilities and the like.

(d) The annual surf fishing permit allows fishermen to park their automobiles and walk to the designated surf fishing areas. The permit grants entry for the licensed vehicle and listed permit holder free of charge. All other occupants of the vehicle shall adhere to the admission fee policy as provided in N.J.A.C. 7:2-17.1.

**7:2-16.4 Mobile sport fishing vehicle regulations**

(a) The maximum speed limit for MSFVs is 10 miles per hour while on the open beach or sand access roads.

(b) Drivers shall yield to the right.

(c) Vehicles shall be parked facing away from the ocean to avoid moisture and salt spray on the windshield and ignition system.

(d) MSFV operators shall park so as to avoid obstructing access to other MSFV and administrative and operational vehicles.

(e) The MSFV shall be parked far enough from the water to avoid the incoming tide.

(f) MSFV operators shall use extreme caution when operating on the beach to avoid other beach users, fishing equipment, and any other paraphernalia lying in or about the sand.

(g) MSFV operators shall not drive on grasses or dunes.

(h) MSFV's shall be in good repair and shall not leak vehicle fluids.

**7:2-16.5 Island Beach State Park**

(a) Island Beach State Park shall be closed to all persons, excepting MSFV permit holders and persons surf fishing, between 8:00 P.M. and 8:00 A.M. from April 1 through October 31 and between 8:00 P.M. and 5:00 A.M. from November 1 through March 31 annually.

(b) Residents, leaseholders, and persons on official business are exempt from the closure specified in (a) above. Leaseholders are restricted to their leased premises between 12:00 midnight and 4:00 A.M., except as provided in (c) below.

(c) During the hours from 12:00 midnight to 4:00 A.M., all persons on the beach shall be actively engaged in surf fishing. MSFV permit holders not fishing may park and remain in designated MSFV parking locations posted or directed by the Officer-in-Charge. All others shall leave the park as soon as they stop surf fishing.

**ENVIRONMENTAL PROTECTION**

**7:2-16.6 MSFV suspension**

(a) The area Officer-in-Charge may suspend for up to 90 days the MSFV permit of any person found in violation of any law including this chapter.

(b) No refunds will be made when suspension occurs.

**SUBCHAPTER 17. FEES FOR SERVICES AND FACILITIES PROVIDED BY THE STATE PARK SERVICE**

**7:2-17.1 Day use fees for services and facilities provided by the State Park Service**

(a) Except as provided in (i) below, daily parking fees for automobiles at designated State parks, for the period beginning with Memorial Day weekend and ending on Labor Day inclusive, are as follows:

| AREA                    | WEEKDAYS | WEEKENDS AND HOLIDAYS |
|-------------------------|----------|-----------------------|
| 1. Allaire              | \$4.00   | \$5.00                |
| 2. Atsion               | \$5.00   | \$7.00                |
| 3. Barnegat Lighthouse  | \$5.00   | \$7.00                |
| 4. Bass River           | \$5.00   | \$7.00                |
| 5. Batsto               |          | \$5.00                |
| 6. Belleplain           | \$5.00   | \$7.00                |
| 7. Cheesequake          | \$5.00   | \$7.00                |
| 8. Hacklebarney         |          | \$4.00                |
| 9. High Point           | \$5.00   | \$7.00                |
| 10. Hopatcong           | \$5.00   | \$7.00                |
| 11. Island Beach        | \$6.00   | \$7.00                |
| 12. Lebanon             |          | \$5.00                |
| 13. Ringwood Manor      | \$4.00   | \$5.00                |
| 14. Skylands            |          | \$4.00                |
| 15. Shepard Lake        | \$5.00   | \$7.00                |
| 16. Round Valley        | \$5.00   | \$7.00                |
| 17. Spruce Run          | \$5.00   | \$7.00                |
| 18. Stokes (Stony Lake) | \$5.00   | \$7.00                |
| 19. Swartswood          | \$5.00   | \$7.00                |
| 20. Washington Crossing |          | \$4.00                |
| 21. Wawayanda           | \$5.00   | \$7.00                |

(b) Except as provided in (i) below, a daily day use parking fee of \$4.00 for automobiles shall be in effect at Island Beach State Park for the period commencing on the day after Labor Day and ending on the day before Memorial Day Weekend.

(c) Except as provided in (i) below, daily parking fees for motorcycles, mopeds and buses at State parks, forests and recreational areas are as follows:

| VEHICLE                      | DAILY FEE   |
|------------------------------|-------------|
| 1. Motorcycle                | \$ 2.00     |
| 2. Moped                     | \$ 1.00     |
| 3. Bus (out-of-State groups) | \$80.00/Bus |
| 4. Bus (in-State groups)     | \$40.00/Bus |

(d) The fee for an annual parking pass for automobiles, motorcycles, and mopeds at all State parks, forests and recreation areas is \$35.00.

(e) The daily or annual walk-in and bicycle fee for persons 12 years old and above at designated State parks, forests and recreation areas is as follows:

| AREA                    | DAILY FEE | ANNUAL WALK-IN AND BICYCLE PASS |
|-------------------------|-----------|---------------------------------|
| i. Atsion               | \$1.00    | \$35.00                         |
| ii. Barnegat Lighthouse | \$1.00    | \$35.00                         |
| iii. Bass River         | \$1.00    | \$35.00                         |
| iv. Hopatcong           | \$1.00    | \$35.00                         |
| v. Parvin               | \$1.00    | \$35.00                         |
| vi. Round Valley        | \$1.00    | \$35.00                         |
| vii. Spruce Run         | \$1.00    | \$35.00                         |

2. An annual walk-in and bicycle pass purchased at one of the State parks, forests and recreation areas listed in (e)1 above shall be honored for walk-in and bicycle admittance at any of the designated State parks, forests and recreation areas.

**ENVIRONMENTAL PROTECTION**

**ADOPTIONS**

(f) The daily or annual fee for boat launching at designated State parks and marinas is as follows:

| AREA                     | DAILY FEE     | ANNUAL FEE |
|--------------------------|---------------|------------|
| 1. Leonardo State Marina | \$8.00/launch | \$90.00    |
| 2. Liberty State Park    | \$8.00/launch | \$90.00    |

(g) The fee for dry boat storage permits at designated State parks and recreational areas for the period from April 1 to October 31, issued pursuant to N.J.A.C. 7:2-8.9, is as follows:

| AREA   | TYPE         | SEASONAL FEE |
|--|--------------|--------------|
| Spruce Run                                   | Single Boat  |              |
|  | Trailer      | \$125.00     |
| Spruce Run                                   | Double Deck  |              |
|  | Boat Trailer | \$187.50     |
| Corson's Inlet<br>(Half Rate After August 1) | Catamaran    | \$150.00     |

(h) No parking fee for automobiles, motorcycles and mopeds pursuant to (a), (b) and (c) above and no daily walk-in fee pursuant to (e) above shall be charged for New Jersey residents age 62 and over or who are totally disabled.

(i) No daily parking fee for automobiles, motorcycles and mopeds pursuant to (a), (b) and (c) above and no daily walk-in fee pursuant to (e) above shall be charged on Tuesday, except when a State designated holiday falls on a Tuesday.

(j) Fees for the Spring Meadow Golf Course are as follows:

| TYPE  | FEE             |
|---|-----------------|
| 1. Green fees:  |                 |
| i. Weekdays   | \$13.00;        |
| ii. Saturdays, Sundays, & State designated Holidays           | \$16.00         |
| iii. Senior citizens (weekdays only before 10:00 A.M.)        | \$ 7.00         |
| iv. Twilight, weekdays (three hours before closing)           | \$10.00         |
| v. Twilight, weekends & holidays (three hours before closing) | \$12.00         |
| 2. Tournament fee   | \$13.00/person  |
| 3. School team member practice                                | \$ 4.00/student |
| 4. Golf Carts:  |                 |
| i. Power (daily)  | \$20.00         |
| ii. Power (twilight—three hours before closing)               | \$16.00         |
| iii. Hand   | \$ 3.00         |
| 5. Club Rental  | \$11.00         |
| 6. Driving Range includes one club and one basket of balls    |                 |
| i. Small Basket   | \$ 3.00         |
| ii. Large Basket  | \$ 5.00         |

(k) Fees for the Batsto Historic Tour are as follows:

| AGE             | FEE                |
|-----------------|--------------------|
| 1. 6-11         | \$1.00/person; and |
| 2. 12 and above | \$2.00/person.     |

(l) Except when parking fees are in effect pursuant to (a) and (c) above, a fee of \$1.00 for each person age 12 and over shall be charged for admission to the Barnegat Lighthouse and High Point Monument.

(m) Daily fee per person for admission to the swimming pool at Liberty State Park for the period beginning on Memorial Day Weekend and ending on Labor Day inclusive is as follows:

| AGES  | WEEKDAY | WEEKEND & HOLIDAYS |
|---|---------|--------------------|
| 1. Adults (age 12 and over)                             | \$3.00  | \$4.00;            |
| 2. Children (age 6-11)                                  | \$2.00  | \$3.00;            |
| 3. Children (age 5 and under)                           | No Fee  | No Fee;            |
| 4. Senior citizens (New Jersey residents age 62 & over) | No Fee  | No Fee; and        |
| 5. Totally disabled                                     | No Fee  | No Fee.            |

7:2-17.2 Overnight use fees for services provided by the State Park Service

(a) Campsite permit fees shall be as follows:

| TYPE                      | FEE                      |
|---------------------------|--------------------------|
| 1. Group campsites:       |                          |
| i. With flush toilets     | \$1.00/person/night; and |
| ii. Without flush toilets | \$.75/person/night;      |
| 2. Family campsites:      |                          |
| i. With flush toilets     | \$10.00/night; and       |
| ii. Without flush toilets | \$ 8.00/night;           |
| 3. Wilderness campsites   | \$ 8.00/night;           |
| 4. Open lean-tos          | \$12.00/night;           |
| 5. Closed lean-tos        | \$15.00/night;           |
| 6. Camp shelter           | \$20.00/night.           |

(b) Campsite permits issued to any New Jersey resident who is 62 or more years of age or is totally disabled shall receive a \$2.00 per night reduction from the family campsite rates in (a)2 above.

(c) Cabin permit fees shall be as follows:

| SIZE AND TYPE             | FEE                 |
|---------------------------|---------------------|
| 1. Four bunks             | \$ 28.00/night;     |
| 2. Six bunks              | \$ 42.00/night;     |
| 3. Eight bunks            | \$ 56.00/night;     |
| 4. 12 bunks (group cabin) | \$ 70.00/night; and |
| 5. 24 bunks (lodge)       | \$100.00/night.     |

(d) Miscellaneous campsite and cabin fees.

| TYPE                     | FEE  |
|--------------------------|--|
| 1. Reservation fee       | \$ 7.00/reservation;                           |
| 2. Cancellation fee      | \$20.00 or two night's stay whichever is less; |
| 3. Equipment removal fee | \$25.00; and                                   |
| 4. Equipment storage fee | \$10.00/night.                                 |

7:2-17.3 Miscellaneous fees for services when and where provided by the State Park Service

(a) Miscellaneous fees for services when and where provided by the State Park Service shall be as follows:

| SERVICE  | FEE   |
|--|---|
| 1. Bait platforms  | \$100.00 each;  |
| 2. Bathhouse clothes locker  | \$ 0.25 person;   |
| 3. Campwood  | \$ 4.00/bundle (equals 1/24 cord);  |
| 4. Commercial photography  | \$250.00/day plus staff costs;  |
| 5. Cordwood  | \$ 15.00/cord;  |
| 6. Clothes dryer   | \$ 0.75;  |
| 7. Clothes washer  | \$ 0.75;  |
| 8. Organized group picnic:   |   |
| i. Operational toll booth  | \$ 25.00/day reservation fee plus applicable vehicle parking fee (reservation fee under 9 below (included)) |
| ii. No toll booth  | \$ 50.00/day (reservation fee under 9 below included)   |
| iii. During period from day after Labor Day to day before Memorial Day Weekend | \$ 50.00/day (reservation fee under 9 below included)   |
| 9. Reservation fee   | \$ 7.00/reservation;  |
| 10. Special use permit   | \$ 50.00;   |
| 11. Transient R/V trailer dumping fee  | \$ 5.00/dump;   |
| 12. Yarded cordwood  | \$ 35.00/cord; and  |
| 13. Employee rate charges for special permit uses                              | \$ 40.00/hour for each employee assigned.   |

(b) Miscellaneous fees for services provided by the State Park Service at Ringwood State Park are as follows:

| SERVICE   | FEE           |
|---|---------------|
| 1. Wedding and one rehearsal at Shepard Lake Chapel | \$100.00;     |
| 2. Functions at Skylands Manor House:               |               |
| i. Lunch  | \$ 75.00; and |
| ii. Dinner  | \$150.00.     |

**ADOPTIONS**

**ENVIRONMENTAL PROTECTION**

(c) Miscellaneous fees for services provided by the State Park Service at Wharton State Forest are as follows:

|   |                |
|---|----------------|
| SERVICE                                 | FEE            |
| Batsto stagecoach ride (age 6 and over) | \$1.00 person. |

(d) Miscellaneous fees for services provided by the State Park Service at Island Beach State Park are as follows:

|   |               |
|---|---------------|
| SERVICE   | FEE           |
| 1. Annual surf fishing permit                   | \$ 35.00      |
| 2. Annual mobile sportfishing vehicle permit    | \$125.00;     |
| 3. Three-day mobile sportfishing vehicle permit | \$ 25.00; and |
| 4. Second gate fee (Memorial Day to Labor Day)  | \$ 1.00/car.  |

(e) Miscellaneous fees for services provided by the State Park Service at Liberty State Park are as follows:

|   |   |
|---|---|
| SERVICE   | FEE   |
| 1. Fee for use of Interpretive Center                 | \$ 40.00/hour for each State Park Service employee assigned |
| 2. Fee for use of Terminal Building                   | \$1,000/day for each event                                  |
| 3. Boat Docking Fee for one arrival and one departure | \$250.00  |
| 4. Fee for use of North or South Field                | \$250.00/event  |

**7:2-17.4 Fees for services provided by the State Park Service at State marinas**

(a) Fees for services provided by the State Park Service at the Forked River State Marina are as follows:

1. Pleasure seasonal berthholder permit fee \$40.00/foot:

|                      |   |                                 |
|----------------------|---|---------------------------------|
|                      | SUMMER (April 1 to October 31)                  | WINTER (November 1 to March 31) |
| BERTH SIZE           |   | Occasional Electricity)         |
| i. Thirty feet       | \$1,200.00 minimum                              | \$18.00/foot length overall;    |
| ii. Thirty-five feet | \$1,400.00 minimum                              | \$18.00/foot length overall;    |
| iii. Forty feet      | \$1,600.00 minimum                              | \$18.00/foot length overall;    |
| iv. Forty-five feet  | \$1,800.00 minimum                              | \$18.00/foot length overall;    |
| v. Fifty feet        | \$2,000.00 minimum                              | \$18.00/foot length overall;    |
| vi. Over 50 feet     | \$40.00/foot length overall                     | \$18.00/foot length overall;    |
| vii. T-Head          | Fee equal to corresponding berth size rate; and |                                 |
| viii. Dockside       | Fee equal to corresponding berth size rate;     |                                 |

2. Transient berthholder fee:

|  |   |                                  |
|--|---|----------------------------------|
| BERTH SIZE                               | DAILY   | MONTHLY                          |
| i. Thirty feet through 40 feet           | \$0.75/foot length overall                      | \$15.00/foot length overall;     |
| ii. Forty-five feet through over 50 feet | \$1.00/foot length overall                      | \$20.00/foot length overall; and |
| iii. T-Head and dockside                 | fee equal to corresponding berth size rate; and |                                  |

3. Commercial berthholder fee:

|                                  |  |   |
|----------------------------------|--|---|
|                                  | CHARTER (6 passengers and under) (April 1 to October 31) | OTHER (April 1 to October 31)               |
| BERTH SIZE                       |  |   |
| Thirty feet through over 50 feet | 140 percent of seasonal rate for berth size              | 125 percent of seasonal rate for berth size |

(b) Fees for services provided by the State Park Service at the Leonardo State Marina shall be as follows:

1. Pleasure seasonal berthholder permit fee \$40.00/foot.

|                 |                                |                                  |
|-----------------|--------------------------------|----------------------------------|
|                 | SUMMER (April 1 to October 31) | WINTER (November 1 to March 31)  |
| BERTH SIZE      |                                | Occasional Electricity)          |
| i. Thirty feet  | \$1,200.00 minimum             | \$18.00/foot length overall;     |
| ii. Forty feet  | \$1,600.00 minimum             | \$18.00/foot length overall; and |
| iii. Fifty feet | \$2,000.00 minimum             | \$18.00/foot length overall;     |

2. Transient berthholder fee:

|                                |                             |                                  |
|--------------------------------|-----------------------------|----------------------------------|
| BERTH SIZE                     | DAILY                       | MONTHLY                          |
| i. Thirty feet through 40 feet | \$ 0.75/foot length overall | \$15.00/foot length overall;     |
| ii. Fifty feet                 | \$ 1.00/foot length overall | \$20.00/foot length overall; and |

3. Commercial berthholder fee:

|                             |  |   |
|-----------------------------|--|---|
|                             | CHARTER (6 Passengers and Under) (April 1 to October 31) | OTHER (April 1 to October 31)               |
| BERTH SIZE                  |  |   |
| Thirty through over 50 feet | 140 percent of seasonal rate for berth size              | 125 percent of seasonal rate for berth size |

(c) Miscellaneous fees for services provided by the State Park Service at State marinas shall be as follows:

1. Vessels exceeding the berth category size shall be charged a fee of \$40.00 per foot length overall;

2. A fee of \$50.00 shall be charged for each berth reassignment or cancellation; and

3. Organized events consisting of 20 vessels or more shall be charged a fee of \$100.00 a day for each event and the applicable daily transient fee for each vessel.

**7:2-17.5 Adjustment of fees for services and facilities provided by the State Park Service**

(a) Effective on January 1, 1991 and on each January 1 thereafter, the Department may increase the fees set forth in N.J.A.C. 7:2-17.1, 17.2, 17.3 and 17.4 above for services and facilities provided by the State Park Service if the inflation factor for the previous 12 month period ending on September 30 increases. The inflation factor is based upon the United States Department of Labor, Bureau of Labor Statistics data published in the monthly Consumer Price Index Report. The data shall be taken from the most recent report available on October 1 each year and the actual percentage used shall be the past year percent change for the United States city average, all items, all urban consumers.

(b) In the event that the Department increases the fees for services and facilities provided by the State Park Service as allowed in (a) above, the amount of the increase shall be determined by multiplying the annual inflation factor times the base fee set forth in N.J.A.C. 17.1, 17.2, 17.3 and 17.4 above for the type of service or facility provided.

(c) In the event that the Department does increase the fees for services and facilities provided by the State Park Service as allowed in (a) above, each adjusted fee shall be rounded off to the next quarter of a dollar.

(d) On or before December 1 of each year, the Department shall provide a public notice which shall set forth the increased fees, if any, established under (a) above and to be effective on the following January 1 for services and facilities provided by the State Park Service. The public notice shall be provided by the Department by publication of the notice in the New Jersey Register.

(e) In the event that the Department does not annually increase the fees for services and facilities provided by the State Park Service as allowed in (a) above, the annual percentage increase in the inflation factor, if any, shall be cumulative from year to year for a period not to exceed three years.

(f) The Department shall not use the procedure set forth in (a), (b), (c), (d) and (e) above to increase any fee for services and facilities provided by the State Park Service that has not been increased for a period exceeding three years.

Recodify existing N.J.A.C. 7:2-11 as 7:5A (No change in text.)

Recodify existing N.J.A.C. 7:2-12 as 7:5B (No change in text.)

## HEALTH

### (a)

#### EPIDEMIOLOGY AND COMMUNICABLE DISEASE CONTROL

#### Food Equipment and Utensils; Toilet Facilities, Community Residences and Bed and Breakfast Retail Food Establishments Temporary and Mobile Retail Food Establishments and Agricultural Markets

#### Adopted Amendments: N.J.A.C. 8:24-1.3, 8.13, 8.14, 13.9, 13.11, and 13.13

Proposed: July 15, 1991 at 23 N.J.R. 2088(a).

Adopted: September 16, 1991 by the Public Health Council, Louise C. Chut, Ph.D., M.P.H., Chairwoman.

Filed: September 16, 1991 as R.1991 d.507, 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. 26:1A-7.

Effective Date: October 7, 1991.

Operative Date: January 1, 1992.

Expiration Date: May 2, 1993.

#### Summary of Public Comments and Agency Responses:

The proposed amendments were published in the New Jersey Register on July 15, 1991 at 23 N.J.R. 2088(a). The proposal was mailed to all local health departments and the association representing the bed and breakfast industry. During the comment period, four comments were received, all from Robert Ingenito of the Ocean County Health Department. A public hearing in this matter was held on August 12, 1991, chaired by Kenneth Kolano, Chief of Food and Milk, State Department of Health. No comments were received at the public hearing, and no recommendations were made by the hearing officer.

N.J.A.C. 8:24-13.9(b)3, Food equipment and utensils

COMMENT: A comment was received identifying a misspelling of the word "residues" appearing as the word "residences" in this section which states that: "Equipment and utensils shall be rinsed of detergent and other residences with clean water".

RESPONSE: The Department agrees with the commenter and the section has been amended to correct this spelling error by changing the word "residences" to "residues."

N.J.A.C. 8:24-13.9(c), Food equipment and utensils

COMMENT: A comment was received requesting that this section be amended in order to require community residence and bed and breakfast retail food establishments to provide a three compartment sink for utensil and equipment washing and sanitization, as is required of other retail food establishments under N.J.A.C. 8:24-5.5(c). The commenter suggested that the rules should make no distinction between bed and breakfast establishments and community residences and other retail food establishments, such as delicatessens, which are required to comply with the full provisions of the Code. In addition, the commenter stated that any extra cost encountered from the installation of a three compartment sink would not constitute a hardship to the industry, because the cost of the modifications would be passed on to the consumer.

RESPONSE: The Department disagrees with the commenter's recommendations. The Department believes that the definitions of both bed and breakfast establishments and community residences, as stated in N.J.A.C. 8:24-1.3, provide specific limitations for the number of meals which are served in these types of retail food establishments. Further, N.J.A.C. 8:24-13.5(d) and (e) limit the types of food prepared, the methods of preparation, and prohibits the advanced preparation of potentially hazardous foods. The Department believes that the limited number of meals served and the added restrictions on the preparation methods are sufficient to permit a relaxation of the requirements for equipment washing and sanitizing as specified under N.J.A.C. 8:24-5.5(c) without compromising the protection of the public and makes it feasible for these establishments to adequately wash and sanitize all of the equipment used without the need for a three compartment sink. Other retail food establishments, such as delicatessens, have no such restrictions on either the number of patrons served or the types of foods prepared. In addition, the Department believes that the requirement for the installation of a three compartment sink in these types of establishments will, in many cases, create a hardship not only for the installation costs to purchase and install the three compartment sink, but also in making the structural modifications necessary for creating the additional space to accommodate the sinks in a "home style" kitchen where space is limited.

N.J.A.C. 8:24-1.3 Definitions

COMMENT: A commenter pointed out a technical error in subchapter 1, which was not being amended during this rule revision proposal. The error concerns the definition of "commissary" which, as written, would specifically apply only to commissaries supplying vending machines. The commenter pointed out that the term is also used in subchapter 8, Temporary and Mobile Retail Food Establishments and Agricultural Markets, and the current terminology used in the definition does not appear to be compatible.

RESPONSE: The Department agrees that the definition, as written, which makes specific reference to vending machine operations, would not be compatible when also applied to the base of operations for mobile food units under subchapter 8. This definition was formerly listed under subchapter 11, Sanitary Requirements for the Vending of Food and Beverages. The intention of the Department was to consolidate all definitions under subchapter 1, Definitions. A minor technical change is necessary which does not affect the overall intent of the definition. Once amended, this definition can then be consistently applied throughout the chapter. Therefore, the Department has revised the definition to delete the reference to vending machines in the first sentence of the definition.

N.J.A.C. 8:24-8.14(a), Servicing area

COMMENT: A second technical error was pointed out in subchapter 8, Temporary and Mobile Retail Food Establishments and Agricultural Markets. The commenter pointed out that there was an apparent misprint that inadvertently provided an exemption to the wrong type of mobile food units under requirements for servicing areas under N.J.A.C. 8:24-8.14(a).

RESPONSE: The Department agrees with the commenter that an error was made when this section was originally promulgated. The rule, as written, provides for an exemption for mobile food units to report to a servicing area when the units are provided with waste retention tanks. This is a technical error because the intent of the requirement is to ensure that units with such tanks properly dispose of such wastes at a servicing area. The exemption should be for mobile units which do not have waste retention tanks. The section was modeled after the U.S. Food and Drug Administration (FDA) Model Food Service Sanitation Ordinance and this model code properly reflects the exemption. The Department has amended the rule and the second sentence of N.J.A.C. 8:24-8.14(a) will read as follows: "This servicing area will not be required where only packaged food is placed on the mobile food unit or pushcart or where all mobile units do not contain waste retention tanks."

#### Summary of Agency-Initiated Changes:

In order to allow more time for training, the Department has advanced the amendments' operative date to January 1, 1992.

N.J.A.C. 8:24-8.13(b), Base of Operations

In a further review of subchapter 8, the Department discovered a technical error in N.J.A.C. 8:24-8.13(b). The specific requirements for a "base of operations" are not specifically identified in the rule. The

## ADOPTIONS

Department is correcting this oversight by including the specific rules that are applicable to commissaries and wholesale and retail food establishments supplying food to mobile food units.

Full text of the adoption follows (additions to proposal indicated in boldface with asterisks **\*thus\***; deletions from proposal indicated in brackets with asterisks **\*[thus]\***).

### 8:24-1.3 Definitions

For the purpose of this chapter, the following words, phrases, names, and terms shall have the following meanings, unless the context clearly indicates other use:

...  
"Commissary" means an eating establishment, restaurant, or other approved facility in which food, containers, or supplies are kept, handled, prepared, packaged, or stored. **\*[for use in vending machines]\***. The term shall not apply to an area or conveyance at a vending machine location used for the temporary storage of packaged foods or beverages.  
...

### 8:24-8.13 Base of operations

(a) (No change.)  
(b) The commissary or other fixed wholesale or retail food establishment used as a base of operation for mobile food units or pushcarts shall be constructed and operated in compliance with the requirements **\*set forth under N.J.A.C. 8:24-1 through 7 for retail food establishment and N.J.A.C. 8:21 for wholesale food establishments\***.

### 8:24-8.14 Servicing area

(a) A mobile food unit servicing area shall be provided and shall include at least overhead protection for any supplying, cleaning, or servicing operation. Within this servicing area, there shall be a location provided for the flushing and drainage of liquid wastes separate from the location provided for water servicing and for the loading and unloading of food and related supplies. This servicing area will not be required where only packaged food is placed on the mobile food unit or pushcart or where all mobile food units **\*do not\*** contain waste retention tanks.  
(b) (No change.)

### 8:24-13.9 Food equipment and utensils

(a) (No change.)  
(b) After each usage, all tableware, kitchenware and food contact surfaces of equipment shall be thoroughly cleaned to sight and touch by manual or machine washing to include the following sequence of steps:

1. (No change.)
2. Equipment and utensils shall be thoroughly washed with a detergent solution and clean warm water;
3. Equipment and utensils shall be rinsed of detergent and other **\*[residences]\* \*residues\*** with clean water;
4. Manual sanitization shall be accomplished in accordance with N.J.A.C. 8:24-5.5(c)1 through 6; and
5. Any mechanical dishwasher used shall be capable of sanitizing either by hot water with a minimum final rinse water temperature of 160 degrees Fahrenheit measured at the plate; or by chemical sanitization in accordance with the provisions of N.J.A.C. 8:24-5.5(d)7.

(c) When manual washing, rinsing and sanitizing methods are employed, at least a two compartment sink supplied with hot and cold potable water under pressure shall be provided, with a smooth, impervious and suitably sized basin for sanitizing all equipment and utensils.

(d) Equipment and utensils washed in mechanical dishwashers which cannot achieve sanitization requirements as specified in N.J.A.C. 8:24-13.9(b)5 shall be manually sanitized using methods in accordance with N.J.A.C. 8:24-5.5(c)1 through 6.

Recodify existing (d)-(e) as (e)-(f) (No change in text.)

### 8:24-13.11 Toilet facilities

(a)-(d) (No change.)

## HUMAN SERVICES

(e) Handwashing facilities shall be provided and located within or immediately adjacent to all toilet rooms.

1. Each handwashing facility shall be provided with hot and cold or tempered water (90 degrees Fahrenheit to 105 degrees Fahrenheit).

## HUMAN SERVICES

(a)

### DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

#### Independent Clinic Services Manual Partial Care

#### Adopted Amendments: N.J.A.C. 10:66-1.6 and 10:66-3

Proposed: August 5, 1991 at 23 N.J.R. 2213(a).

Adopted: September 16, 1991 by Alan J. Gibbs, Commissioner, Department of Human Services.

Filed: September 16, 1991 as R.1991 d.508, **without change**.

Authority: N.J.S.A. 30:4D-2,6b(3)(12), 30:4D-7, 7a, b and c; 42 CFR 440.90.

Effective Date: October 7, 1991.

Expiration Date: December 15, 1993.

#### Summary of Public Comments and Agency Responses:

The Division received one comment on the proposal from Jay Hershberg, Principal Fiscal Analyst, New Jersey State Legislature, Office of Legislative Services. The commenter questioned the source of the funding for the increase since the FY 1992 Appropriations Act did not provide additional funding to enable the Medicaid program to increase reimbursement for partial care programs. In addition, the commenter requested the amount of additional Medicaid reimbursement that providers of partial care services are anticipated to receive as a result of this increase.

This fee increase will not require an increase in State funds in order to implement these amendments. The fee increase will utilize existing State funds already appropriated to the Division of Mental Health and Hospitals as the State match. The amendments, therefore, intend to increase Federal funding for mental health services which are currently being funded with State, local or private dollars.

The fee increase will generate approximately \$2 million annually in additional Federal funding for community mental health services. This increase will be offset by reduced State funding for services which will now receive Federal funding. Therefore, for those services which are currently funded by State dollars, this offset will result in no additional reimbursement for community mental health dollars. It will represent a shift in funding from State to Federal dollars.

Full text of the adoption follows.

#### 10:66-1.6 Scope of service

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

(i) Mental health services rules are as follows:

1. Mental health clinics shall provide the following mental health services by, or under the direction of, a psychiatrist.

i.-ii. (No change.)

iii. Partial Care: For purposes of partial care, full-day means five or more hours participation in active programming exclusive of meals, and half-day means three or more hours of participation in active programming exclusive of meals. A Partial Care program shall provide a full system of services including:

- (1) Assessment and evaluation;
- (2) Service procurement;
- (3) Therapy;
- (4) Information and referral;
- (5) Counseling;
- (6) Daily living education;
- (7) Community organization;
- (8) Pre-vocational therapy;

**HUMAN SERVICES**

**ADOPTIONS**

- (9) Recreational therapy;
- (10) Health-related services.
- iv. (No change.)
- 2.-5. (No change.)
- (j)-(p) (No change.)

**10:66-3 HCFA COMMON PROCEDURE CODING SYSTEM (HCPCS)**

**APPENDIX A5**

| HCPCS Code | Description | Maximum Fee Allowance<br>\$ \$ NS |
|------------|-------------|-----------------------------------|
|------------|-------------|-----------------------------------|

Partial Care: A mental health service whose primary purpose is to maximize the client's independence and community living skills in order to reduce unnecessary hospitalization. It is directed toward the acute and chronically disabled individual. Partial Care programs shall provide, as listed below, a full system of services necessary to meet the comprehensive needs of the individual client. Services shall be provided or arranged for, to meet the individual needs of participating clients. These services shall include:

- Assessment and evaluation;
- Service procurement;
- Therapy\*;
- Information and referral;
- Counseling;
- Daily living education;
- Community organization;
- Pre-vocational therapy\*;
- Recreational therapy\*;
- Health-related services\*.

Partial Care programs shall be available daily for five days a week, with additional planned activities each week during evening and/or weekend hours as needed. Individual clients need not attend every day but as needed. Partial Care programs specifically developed for children may be available four days a week, with one evening and/or weekend activity(ies). The staff of the Partial Care program should include a Director who shall be a qualified professional from the specialties of psychiatry, psychology, social work, psychiatric nursing, vocational rehabilitation, or a related field with training and/or experience in direct service provision and administration. A qualified psychiatrist shall be available to the Partial Care program on a regularly-scheduled basis, for consultation. Other staff deemed necessary to implement a Partial Care program which meets the requirements of this section should include qualified mental health professionals, para-professionals and volunteers.

In order to qualify as an approved Partial Care program the program must be certified by the Department.

|       |  |       |       |
|-------|--|-------|-------|
| Z0170 | Partial Care, half-day (three or more hours of participation in active programming exclusive of meals) | 46.00 | 46.00 |
| Z0180 | Partial Care, full-day (five or more hours of participation in active programming exclusive of meals)  | 77.00 | 77.00 |

Note: Except for transportation these rates reflect full payments with a prohibition against multiple billing for more than one service to a Medicaid patient in a given day.

\*These services may be provided directly or arranged by Partial Care staff through other program elements or agencies, to avoid duplication.

**(a)**

**DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES**

**New Jersey Care . . . Special Medicaid Programs Manual**

**Expanded Eligibility for Newborns**

**Adopted Amendments: N.J.A.C. 10:72-2.5 and 3.4**

Proposed: June 17, 1991 at 23 N.J.R. 1889(a).

Adopted: August 28, 1991 by Alan J. Gibbs, Commissioner, Department of Human Services.

Filed: August 28, 1991 as R.1991 d.483, **without change.**

Authority: N.J.S.A. 30:4D-3i, 30:4D-7, 7a, b, and c; 4603 of P.L. 101-508, cited as 1902(e) of the Social Security Act, codified as 42 U.S.C. 1396a(e).

Effective Date: October 7, 1991.

Expiration Date: August 27, 1992.

**Summary of Public Comments and Agency Responses:**  
**No comments received.**

**Full text of the adoption follows.**

**10:72-2.5 Redetermination of eligibility**

(a) Eligibility for Medicaid under this chapter shall be re-determined, including a face-to-face interview and the completion of a new application form, as follows:

1. For a pregnant woman, eligibility need not be redetermined until the birth of her child. Upon the birth of the child, the newborn shall remain eligible for a period of not less than 60 days from his or her birth and up to one year, so long as the mother remains eligible, or would remain eligible if pregnant, and the child resides with her, whether or not application has been made.

2. For the eligibility of children, other than newborns, eligibility must be redetermined no later than six months following the month of initial eligibility or the last redetermination.

3. (No change.)

(b) (No change.)

**10:72-3.4 Eligible persons**

(a) The following persons who meet all eligibility criteria of this chapter are eligible for Medicaid benefits:

1.-2. (No change.)

3. The child born to a woman eligible under the provisions of this chapter (except to a presumptively eligible pregnant woman who has subsequently been found ineligible for the month the child was born) shall remain eligible for a period of not less than 60 days from his or her birth and up to one year, so long as the mother remains eligible for Medicaid, or would remain eligible if pregnant, whether or not application has been made, if the child lives with his or her mother.

4.-8. (No change.)

(a)

**DIVISION OF ECONOMIC ASSISTANCE**

**Notice of Administrative Correction**

**Public Assistance Manual  
Forms**

**N.J.A.C. 10:81 Appendix C**

Take notice that the Department of Human Services, Division of Economic Assistance, has requested, and the Office of Administrative Law has agreed to permit, the deletion of the current N.J.A.C. 10:81 Appendix C and its replacement with a new Appendix C reflecting the current forms utilized in the Public Assistance Manual. Since Appendix C is informational in nature, this change can be accomplished through a notice of administrative correction, pursuant to N.J.A.C. 1:30-2.7.

Full text of the current Appendix C being replaced through this notice may be found, pending its deletion, in the New Jersey Administrative Code at N.J.A.C. 10:81 Appendix C.

Full text of the new Appendix C follows:

APPENDIX C

LIST OF FORMS IDENTIFIED AT N.J.A.C. 10:81

| Form No.                     | Issuance or Latest Revision Date (if Applicable) | Title   |
|------------------------------|--|---|
| AR-3a                        |  | Alien Registration Receipt (Although listed, only used during 1941-1949)                        |
| CSP-109                      | Rev. 5/79  | Application for IRS Collection of Child Support   |
| CSP-111                      | 1/77   | Application for Non-Public Assistance Child Support and Paternity Service                       |
| CSP-122                      | 11/79  | Request for IRS Master File Information   |
| CSP-123                      | 11/79  | Request for IRS Return Information  |
| CSP-151                      | Rev. 6/89  | Batch Transmittal Tax Refund Offset   |
| CSP-152                      | Rev. 6/89  | N.J. CSP Programs—Tax Refund Offset Data Form   |
| CSP-166                      | 6/86   | Consumer Credit Request   |
| CSP-167                      | 6/86   | Credit Report   |
| CSP-169                      | 6/86   | Hearing Request   |
| DRS-1                        | Rev. 8/89  | Examining Physician's Report  |
| DRS-1A                       | Rev. 8/89  | Report of Eye Examination   |
| DRS-2                        | Rev. 4/89  | Medical-Social Information Report   |
| DRS-2A                       | Rev. 4/89  | Interim Medical-Social Report   |
| DRS-5                        | Rev. 4/89  | Cases for Medical Review Team Reevaluation Due During the Month of _____                        |
| DRS-8                        | Rev. 4/89  | Report of Findings by Psychiatric Diagnostic Group  |
| ED-6 (changed to CR-AA-0005) | 2/85   | Request and Authorization for Records Disposal  |
| Form 105 A & B               | Rev. 6/88  | System Input Documents  |
| FSP-903                      |  | Identification Card   |
| G-845                        | Rev. 4/26/88                                     | U.S. Department of Justice Immigration and Naturalization Service—Document Verification Request |
| I-94                         |  | Arrival-Departure Record (INS Form)   |
| I-151                        |  | Alien Registration Receipt (INS Form)   |
| I-181                        |  | Temporary Identification (INS Form)   |
| I-327                        |  | Re-entry Permit (INS Form)  |
| I-551                        |  | Resident Alien Card for Permanent Aliens (INS Form)   |
| I-571                        |  | Refugee Travel Document (INS Form)  |

|              |   |  |
|--------------|---|--|
| I-688        |   | Temporary Resident Card, Department of Justice, INS  |
| I-688A       |   | Employment Authorization Card, Department of Justice, INS  |
| I-689        |   | Fee Receipt Form (Issued under amnesty and special agricultural programs, (SAW))   |
| IRS-1040X    |   | Federal Income Tax Form  |
| MAP-1        |   | Medicaid Status File Transaction   |
| MAP-16       |   | Temporary Identification and Validation of Eligibility   |
| NJES-1A      | Rev. 10/90  | Interagency Information Report (Department of Labor Form)  |
| NJES-506     |   | Registration ID  |
| OS 546-01    |   | URES Action Request  |
| PA-1C        | Rev. 7/89   | Public Assistance Inquiry  |
| *PA-1J       | Rev. 10/89  | Application and Affidavit for Public Assistance  |
| PA-3A        | Rev. 5/83   | Worksheet and Authorization for Public Assistance  |
| PA-8 (DRS-3) | Rev. 4/89   | Record of Action: Medical Eligibility Factor   |
| PA-10D       | Rev. 7/86 (Pg. 1 of 2) Rev. 4/86 (Pg. 2 of 2)                   | Agreement to Repay (AFDC only)   |
| PA-11        | Rev. 11/86  | Mortuary Affidavit (and Petition for Payment)  |
| PA-12        | Rev. 11/68  | Referral by State Mental Institution to Public Assistance Agency   |
| PA-14        | Rev. 7/78   | Referral for Services  |
| *PA-15       | Rev. 3/88 (pp. 1-2 & 4-5) Rev. 5/88 (pg. 3) Rev. 11/89 (pg. 3a) | Notification Form  |
| PA-17B       | Rev. 10/75  | Notice to State Correctional Institution (AFDC Case)   |
| PA-17C       | Rev. 12/74  | Notice of CWA Action on AFDC Cases   |
| PA-22        | 3/83  | Employment Criteria for AFDC-F Families  |
| PA-24        | Rev. 7/89   | Verification of Unemployment/Disability Insurance  |
| PA-30        | Rev. 1/90   | Authorization for Reimbursement of Initial SSI Payment or Initial Post Eligibility Payment (PA-30) AFDC-N                |
| PA-30A       | 11/78   | Agreement to Repay Assistance from Initial SSI Payment   |
| PA-31        | Rev. 1/90   | Repayment of Interim Assistance Authorization (PA-31) AFDC-N Segment Assistance  |
| PA-33        | Rev. 4/90   | Investigation Initiation Sheet   |
| PA-34        | Rev. 5/80   | Investigation Disposition Sheet  |
| *PA-45       | 3/77  | Warning and Waiver of Rights   |
| *PA-46       | 1/79  | Requirement to Cooperate and Right to Claim Good Cause for Refusal to Cooperate in Child Support Enforcement             |
| *PA-47       | 1/79  | Second Notice to Client—Right to Claim Good Cause for Refusal to Cooperate in Child Support Enforcement                  |
| PA-48        | Rev. 2/80   | Summary of Good Cause Claims   |
| PA-48A       | 2/80  | Semiannual Report on Claims of Good Cause for Refusing to Cooperate in Establishing Paternity and Securing Child Support |
| PA-54        | 2/83  | Refugee Program—Interagency Referral   |
| PA-55        | 11/88   | County Welfare Agency Alien Referral to Social Security (SSA) District Office for Social Security Number Application     |
| PA-59A       | Rev. 4/89   | Request for Voluntary Restricted Payments  |
| PA-59B       | Rev. 4/89   | Request to Discontinue Voluntary Restricted Payment  |

**HUMAN SERVICES**

**ADOPTIONS**

|             |            |   |
|-------------|------------|---|
| PA-196      | 3/80       | Fair Hearings in the Aid to Families with Dependent Children Program (AFDC)   |
| *PA-197     | 1/80       | Your Rights and Responsibilities in the AFDC Program  |
| *R-3        | Rev. 9/90  | REACH Referral Form   |
| R-3A        | No date    | REACH Referral to IM (SG)   |
| R-7         | Rev. 9/90  | Record of Application of Sanction Procedures  |
| *R-8        | Rev. 10/89 | Second Referral Notice (SG)   |
| R-8A        | Rev. 9/90  | Conference Letter   |
| *R-10       | 8/88       | REACH Benefit Letter  |
| R-15        | 8/90       | REACH Sanction Reminder Notice  |
| R-20        | Rev. 3/90  | Notification of REACH Post-AFDC Child Care Fee  |
| SS-5        | 9/89       | Application for a Social Security Number Card   |
| SSA-1610    |            | Public Assistance Agency Information Sheet  |
| SSA-1610-U2 |            | Social Security—Public Assistance Agency Request for Information  |
| SSA-8125    |            | SSI Notice of Interim Assistance Reimbursement Eligibility and Accountability Report  |
| W-2         |            | Wage and Tax Statement  |
| WD-1A       | Rev. 4/75  | A Statement Concerning Obligations of Vendors Under the Civil Rights Act of 1964  |
| WD-1B       | Rev. 3/90  | A Statement Concerning Obligations of Personnel of Public Assistance Agencies Under the Civil Rights Act of 1964 and the Federal Rehabilitation Act of 1973 |

\*Forms available in English and Spanish  
(SG)—Systems Generated

**(a)**

**DIVISION OF ECONOMIC ASSISTANCE  
Food Stamp Program  
Notice of Food Stamp Income Eligibility, Deduction  
and Coupon Allotment Standards**

Take notice that, in accordance with N.J.A.C. 10:87-12, the Department of Human Services announces that the following food stamp income eligibility, deduction, and coupon allotment standards shall be utilized in the New Jersey Food Stamp Program for the period October 1, 1991 through September 30, 1992. This change is effective October 1, 1991.

**TABLE I**

| Income Deductions  |       |
|--|-------|
| Standard Deduction (N.J.A.C. 10:87-12.1(a))                | \$122 |
| Shelter Deduction (N.J.A.C. 10:87-12.1(b))                 | \$194 |
| Uniform Telephone Allowance (UTA) (N.J.A.C. 10:87-12.1(c)) | \$17  |
| Standard Utility Allowance (SUA) (N.J.A.C. 10:87-12.1(d))  | \$120 |
| Heating Utility Allowance (HUA) (N.J.A.C. 10:87-12.1(e))   | \$197 |

**TABLE II**

Maximum Coupon Allotment (MCA)  
(N.J.A.C. 10:87-12.2)

| Household Size         | MCA   |
|------------------------|-------|
| 1                      | \$111 |
| 2                      | 203   |
| 3                      | 292   |
| 4                      | 370   |
| 5                      | 440   |
| 6                      | 528   |
| 7                      | 584   |
| 8                      | 667   |
| 9                      | 750   |
| 10                     | 833   |
| Each Additional Member | + 83  |

**TABLE III**

Maximum Allowable Net Income  
(N.J.A.C. 10:87-12.3)

| Household Size         | Maximum Allowable Income |
|------------------------|--------------------------|
| 1                      | \$ 552                   |
| 2                      | 740                      |
| 3                      | 929                      |
| 4                      | 1117                     |
| 5                      | 1305                     |
| 6                      | 1494                     |
| 7                      | 1682                     |
| 8                      | 1870                     |
| 9                      | 2059                     |
| 10                     | 2248                     |
| Each Additional Member | + 189                    |

**TABLE IV**

Maximum Allowable Gross Income  
(N.J.A.C. 10:87-12.4)

| Hosehold Size          | Maximum Allowable Income |
|------------------------|--------------------------|
| 1                      | \$ 718                   |
| 2                      | 962                      |
| 3                      | 1207                     |
| 4                      | 1452                     |
| 5                      | 1697                     |
| 6                      | 1942                     |
| 7                      | 2187                     |
| 8                      | 2431                     |
| 9                      | 2676                     |
| 10                     | 2921                     |
| Each Additional Member | + 245                    |

**TABLE VII**

165 Percent of Poverty Level  
(N.J.A.C. 10:87-12.7)

| Household Size         | Maximum Allowable Income |
|------------------------|--------------------------|
| 1                      | \$ 911                   |
| 2                      | 1221                     |
| 3                      | 1532                     |
| 4                      | 1843                     |
| 5                      | 2154                     |
| 6                      | 2464                     |
| 7                      | 2775                     |
| 8                      | 3086                     |
| 9                      | 3397                     |
| 10                     | 3708                     |
| Each Additional Member | + 311                    |

## CORRECTIONS

(a)

## THE COMMISSIONER

Fiscal Management  
Inmate Accounts

## Adopted New Rules: N.J.A.C. 10A:2-2

Proposed: July 1, 1991 at 23 N.J.R. 1992(b).

Adopted: September 6, 1991 by William H. Fauver,  
Commissioner, Department of Corrections.Filed: September 12, 1991 as R.1991 d.494, with a technical  
change not requiring additional public notice and comment  
(see N.J.A.C. 1:30-4.3(c)).

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

Effective Date: October 7, 1991.

Expiration Date: February 5, 1995.

## Summary of Public Comments and Agency Responses:

No comments received.

## Summary of Change Upon Adoption:

The reference to N.J.S.A. 30:4-15 in N.J.A.C. 10A:2-2.2(b) has been deleted because N.J.S.A. 30:4-15 refers to profits from running a commissary. The money referred to in N.J.A.C. 10A:2-2.2(b) is from interest on inmate accounts.

Full text of the adoption follows (addition to proposal indicated in boldface with asterisks \*thus\*; deletions from proposal indicated in brackets with asterisks \*[thus]\*).

## SUBCHAPTER 2. INMATE ACCOUNTS

## 10A:2-2.1 Responsibility for inmate accounts

(a) The Business Manager of the correctional facility shall be responsible for maintaining inmate accounts and recordkeeping.

(b) The Business Manager shall be responsible for providing an inmate with a receipt for each financial transaction processed.

## 10A:2-2.2 Group deposits

(a) Inmate accounts of a correctional facility may be maintained in a group depository in an insured commercial bank or savings institution so long as the total fund on deposit does not exceed an amount insured by the F.D.I.C. or F.S.L.I.C.

(b) \*[Pursuant to N.J.S.A. 30:4-15, interest]\* **\*Interest\*** accruing on inmate accounts shall be transferred on a periodic basis, at least once annually, to the Inmate Welfare Fund.

(c) Accurate records of each inmate's account and spendable balance shall be maintained.

(d) Deductions from inmate accounts may be made by the Business Manager to pay court ordered penalty assessments, restitution, fines or other revenue obligations as permitted by N.J.S.A. 30:4-91.4, N.J.S.A. 2C:43-3.1 or N.J.S.A. 30:4-92.

## 10A:2-2.3 Individual savings accounts

(a) Inmates may establish individual savings accounts in commercial banks or savings institutions upon approval of the Superintendent. These accounts may take the form of:

1. Passbook savings;
2. Savings Bonds; or
3. Certificates of deposit.

(b) Subject to approval by the Superintendent, inmates may be permitted to retain passbooks, account statements and deposits slips.

(c) Bonds and certificates of deposit must be held for safekeeping by the Business Manager.

(d) Inmates shall not be permitted to possess withdrawal slips.

(e) Withdrawals may be permitted upon written approval of the Superintendent.

(f) All deposits and withdrawals shall be processed by the Business Manager or his or her designee.

## 10A:2-2.4 Written procedures

Each correctional facility shall develop written policies and procedures consistent with this subchapter.

(b)

## THE COMMISSIONER

## Security and Control

## Readoption with Amendments: N.J.A.C. 10A:3

Proposed: May 6, 1991 at 23 N.J.R. 1259(a).

Adopted: September 9, 1991 by William H. Fauver,  
Commissioner, Department of Corrections.Filed: September 16, 1991 as R.1991 d.503, 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. 30:1B-6 and 30:1B-10.

Effective Date: September 16, 1991, Readoption;  
October 7, 1991, Amendments.

Expiration Date: September 16, 1996.

## Summary of Public Comments and Agency Responses:

No comments received.

## Summary of Changes Upon Adoption:

The Department of Corrections has decided not to adopt the language of the amendment proposed at N.J.A.C. 10A:3-5.7(e) and to retain the current language "be present during" because the proposed language appears to cause confusion as it relates to present law on the subject of strip searching.

Full text of the adoption may be found in the New Jersey Administrative Code at N.J.A.C. 10A:3.

Full text of the adopted amendments follows (additions to the proposal indicated in boldface with asterisks \*thus\*; deletions from the proposal indicated in brackets with asterisks \*[thus]\*).

## 10A:3-4.1 Who may carry firearms while off-duty

(a) Firearms may be carried off-duty only by Department personnel holding the rank of Senior Correction Officer and higher who also meet the following requirements.

1. Have passed the firearms training course approved by the New Jersey State Police Training Commission, as set forth in N.J.S.A. 2C:39-6j;

2.-3. (No change.)

(b) Persons with the following Department of Corrections titles may be sworn as peace officers:

1.-2. (No change.)

3. East Jersey State Prison:  
Administrator Prison Complex  
Associate Administrator Prison Complex  
Assistant Superintendent 1, Corrections  
Assistant Superintendent 3, Corrections

4.-8. (No change.)

9. Albert C. Wagner Youth Correctional Facility:

Administrator, Corrections  
Assistant Superintendent 1, Corrections

10. Mountainview Youth Correctional Facility:

Administrator, Corrections  
Assistant Superintendent 1, Corrections

11. (No change.)

12. Southern State Correctional Facility:

Administrator, Corrections  
Assistant Superintendent 1, Corrections

13.-18. (No change.)

19. Vroom Readjustment Unit:

Superintendent III

20.-21. (No change.)

## 10A:3-5.7 Strip searches

(a)-(d) (No change.)

(e) All pat searches, strip searches and body cavity searches shall be conducted in a professional and dignified manner, with maximum courtesy and respect for the inmate's person. The number of officers present shall be only that number reasonably necessary to provide security. No member of the opposite sex shall \*[participate in]\* \*be present during\* strip searches and body cavity searches except medical staff persons as set forth in (d) above, and as set forth in (g) below.

(f)-(g) (No change.)

10A:3-5.10 Collection, storage and analysis of urine samples

(a) Each time a urine specimen is collected for the reasons stated in N.J.A.C. 10A:3-5.9(b), Form 172-I (Continuity of Evidence-Urine Specimen) shall be completed and submitted to the Internal Affairs Officer or the staff member responsible for maintaining custody of evidence.

(b) Urine samples taken from inmates shall be voided directly into an approved specimen bottle in the presence of at least one correction officer or staff member of the same sex as the inmate.

1. A minimum of 50 milliliters (two ounces) must be voided in order to provide an adequate sample.

Recodify existing 1.-2. as 2.-3. (No change in text.)

(c)-(i) (No change.)

10A:3-9.12 Medical transportation

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

(c) The use of mechanical restraints and equipment when transporting an inmate for hospitalization or treatment shall be governed by N.J.A.C. 10A:3-3.6 and the nature of the illness or injury.

(d) (No change.)

## COMMERCE AND ECONOMIC DEVELOPMENT

(a)

### DIVISION OF TRAVEL AND TOURISM

#### Notice of Deadline for Submission of Tourism Matching Grant Applications

Take notice that the Department of Commerce is hereby announcing October 31, 1991 as the deadline for the submission of Tourism Matching Grant Applications, pursuant to N.J.A.C. 12A:12-3.4(a), effective July 15, 1991.

All applications should be submitted to:

Carmine Pecorelli  
 Tourism Matching Grant Coordinator  
 New Jersey Department of Commerce and  
 Economic Development  
 Division of Travel and Tourism  
 CN 826  
 Trenton, New Jersey 08625-0826

## LAW AND PUBLIC SAFETY

(b)

### DIVISION OF CONSUMER AFFAIRS BOARD OF EXAMINERS OF MASTER PLUMBERS

#### Licensing Examination

##### Adopted Amendment: N.J.A.C. 13:32-1.3

Proposed: February 4, 1991 at 23 N.J.R. 288(a).

Adopted: August 22, 1991, by the Board of Examiners of Master Plumbers, Margaret Sieb, Chairman.

Filed: August 27, 1991 as R.1991 d.482, without change.

Authority: N.J.S.A. 45:14C-7.

Effective Date: October 7, 1991.

Expiration Date: October 23, 1992.

The Board of Examiners of Master Plumbers afforded all interested parties an opportunity to comment on the proposed amendment to N.J.A.C. 13:32-1.3, which changes the licensing examination from a two-part test to a three-part test, the third portion covering plumbing laws and regulations. The official comment period ended on March 6, 1991. Announcement of the opportunity to respond to the Board appeared in the New Jersey Register on February 4, 1991, at 23 N.J.R. 288(a). Announcements were also forwarded to the Star Ledger, the Trenton Times, the New Jersey League of Master Plumbers and the New Jersey Association of Plumbing-Heating-Cooling Contractors.

A full record of this opportunity to be heard can be inspected by contacting the Board of Examiners of Master Plumbers, Post Office Box 45008, Newark, New Jersey 07101.

#### Summary of Public Comment and Agency Response:

One comment in support of the proposal was received during the 30-day comment period. Renee Gast, Government Affairs Director of the New Jersey Association of Plumbing-Heating-Cooling Contractors, Inc., stated that the Association was pleased to see the Board require the applicant to have adequate knowledge of the laws and regulations governing the occupation and business of plumbing. The commenter stated, however, that she had heard the licensing examination may become an open book test, and that the Association would be opposed to that type of testing format.

The Board acknowledges the Association's support for the proposal and assures the Association that the licensing examination will not be an open book test.

Full text of the adoption follows.

13:32-1.3 Examinations

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

(c) Examinations may consist of three parts:

1. Written examination based on the National Standard Plumbing Code as adopted by the State of New Jersey pursuant to the Uniform Construction Act;
2. Practical by actual demonstration or oral examination; and
3. Written examination of laws and regulations governing the occupation and business of plumbing.

(c)

### ATTORNEY GENERAL

#### Chemical Breath Testing

##### Readoption with Amendments: N.J.A.C. 13:51

Proposed: August 5, 1991 at 23 N.J.R. 2248(b).

Adopted: September 11, 1991 by Robert J. Del Tufo, Attorney General.

Filed: September 16, 1991 as R.1991 d.505, with technical changes not requiring additional public notice and comment (see N.J.A.C. 1:30-4.3).

Authority: N.J.S.A. 39:4-50.3, 39:3-10.25 and 12:7-56.

Effective Date: September 16, 1991, Readoption;  
 October 7, 1991, Amendments.

Expiration Date: September 16, 1996.

#### Summary of Public Comments and Agency Responses:

The Attorney General received one public comment in response to the proposed readoption with amendments. A summary of the comment and the agency response follows:

COMMENT: The Staff Judge Advocate, U.S. Army, Military Traffic Management Command, Bayonne suggested a definition of the term "commercial motor vehicle" be included into the Chemical Breath Testing Regulations, in order to clarify the meaning of that term.

RESPONSE: The Division of Criminal Justice, on behalf of the Attorney General, responded by noting that the definition requested was already incorporated in the regulations through the authorizing statutes, in particular the Commercial Driver License Act, N.J.S.A. 39:3-10.9 et seq. More specifically, the discussion in the Summary Statement made reference to N.J.S.A. 19:3-10.11 of the Commercial Driver License Act which contains the applicable definition of "commercial motor vehicle." The response also noted that the definition referenced substantially

corresponded to the definition found at 49 App. U.S.C. 2716(6). In the opinion of the Division, the suggestion did not require further amendment of the proposed readoption with amendments.

Three technical corrections, pursuant to N.J.A.C. 1:30-4.3, have been made to correct typographic errors in the proposal.

Full text of the adoption follows.

#### SUBCHAPTER 1. BREATH TESTING OPERATORS

##### 13:51-1.1 Purpose of subchapter

This subchapter prescribes the requirements for certification of a person to conduct chemical analysis of the breath of a person arrested pursuant to N.J.S.A. 39:4-50 et seq., N.J.S.A. 39:3-10.13, N.J.S.A. 39:3-10.20, N.J.S.A. 39:3-10.24, N.J.S.A. 39:3-10.25, N.J.S.A. 12:7-34.19, N.J.S.A. 12:7-46, N.J.S.A. \*24\*\*2A\*4A-23 or N.J.S.A. 12:7-54 et seq., the conditions under which certification can occur and the general rules for holders of certificates, pursuant to the statutory requirements of P.L. 1966, c.142, Sec. 3, as amended by P.L. 1971, c.273, Sec. 1 (N.J.S.A. 39:4-50.3, hereinafter denoted as N.J.S.A. 39:4-50.3; or P.L. 1990, c.103, Sec. 17 (N.J.S.A. 39:3-10.25), hereinafter denoted as N.J.S.A. 39:3-10.25; or P.L. 1986, c.39, Sec. 8 (N.J.S.A. 12:7-56), hereinafter denoted as N.J.S.A. 12:7-56.

##### 13:51-1.2 Definitions

For the purpose of this chapter, and subchapters 1, 2 and 3 thereof, the terms set forth herein are defined as follows:

"Approved instrument" shall mean a device or instrument approved by the Attorney General at N.J.A.C. 13:51-3.5 for use in the chemical analysis of the breath of a person arrested pursuant to the provisions of N.J.S.A. 39:4-50 et seq., N.J.S.A. 39:3-10.13, N.J.S.A. 39:3-10.20, N.J.S.A. \*39:10.24\* \*39:3-10.24\*, N.J.S.A. 12:7-34.19, N.J.S.A. 12:7-46 or N.J.S.A. 2A:4A-23.

"Approved methods" shall mean those steps or operations approved by the Attorney General at N.J.A.C. 13:51-3.6 for use in the chemical analysis of the breath of a person arrested pursuant to the provisions of N.J.S.A. 39:4-50 et seq., N.J.S.A. 39:3-10.13, N.J.S.A. 39:3-10.20, N.J.S.A. 39:3-10.24, N.J.S.A. 12:7-34.19, N.J.S.A. 12:7-46 or N.J.S.A. 2A:4A-23 on an approved instrument.

"Certification" shall mean the approval by the Attorney General of a person as an operator, as herein defined, and shall mean said person is qualified and competent to perform chemical breath test analysis utilizing an approved method and an approved instrument as defined in this subchapter and as set forth at N.J.A.C. 13:51-3 as authorized by N.J.S.A. 39:4-50.3, N.J.S.A. 39:3-10.25 or N.J.S.A. 12:7-56.

"Operator" shall mean a person who is certified as a Chemical Breath Test Operator to perform analysis of an arrested person's breath utilizing an approved method and an approved instrument, as defined in this subchapter and as set forth at N.J.A.C. 13:51-3 and pursuant to the provisions of N.J.S.A. 39:4-50.3, N.J.S.A. 39:3-10.25 or N.J.S.A. 12:7-56.

##### 13:51-1.3 Certification

(a) For the purpose of prosecution, no operator may conduct a valid analysis of an arrested person's breath under the provisions of N.J.S.A. 39:4-50.3, N.J.S.A. 39:3-10.25 or N.J.S.A. 12:7-56, unless such operator has been issued a valid operator's certificate which is current at the time of the analysis of an arrested person's breath and which attests that such operator is then qualified and competent to conduct such analysis utilizing an approved method and an approved instrument as set forth at N.J.A.C. 13:51-3.

(b) (No change.)

#### SUBCHAPTER 3. APPROVED INSTRUMENTS AS METHODS OF CHEMICAL BREATH TESTING

##### 13:51-3.1 Purpose of subchapter

Pursuant to the provisions of P.L. 1966, c.142, Sec. 3, as amended by P.L. 1971, c.273, Sec. 1 (N.J.S.A. 39:4-50.3), P.L. 1990, c.103, Sec. 17 (N.J.S.A. 39:3-10.25) and P.L. 1986, c.39, Sec. 8 (N.J.S.A. 12:7-56);

hereinafter denoted N.J.S.A. 39:4-50.3, N.J.S.A. 39:3-10.25 or N.J.S.A. 12:7-56, respectively, the provisions of this subchapter set forth the instruments and methods approved by the Attorney General for the chemical analysis of the breath of a person arrested pursuant to the provisions of N.J.S.A. 39:4-50, et seq., N.J.S.A. 39:3-10.13, N.J.S.A. 39:3-10.20, N.J.S.A. 39:3-10.24, N.J.S.A. 12:7-34.19, N.J.S.A. 12:7-46 or N.J.S.A. 2A:4A-23.

##### 13:51-3.2 Application for approval

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

(d) Upon completion of evaluation of an instrument, method and/or operational function, the Superintendent shall recommend approval or rejection of the same to the Attorney General. The Attorney General, upon review of the recommendations, shall approve or reject the instrument, method and/or operational function pursuant to law (N.J.S.A. 39:4-50.3, N.J.S.A. 39:3-10.25 or N.J.S.A. 12:7-56).

##### 13:51-3.4 Periodic inspection of approved instruments

Periodic inspection of all approved instruments used in this State in connection with the prosecution of a person pursuant to the provisions of N.J.S.A. 39:4-50 et seq., N.J.S.A. 39:3-10.13, N.J.S.A. 39:3-10.20, N.J.S.A. 39:3-10.24, N.J.S.A. 12:7-34.19, N.J.S.A. 12:7-46 or N.J.S.A. 2A:4A-23 shall be made by a Breath Test Coordinator/Instructor. The results of such periodic inspections shall be recorded on forms provided by the Superintendent of State Police and the originals thereof shall be maintained by the Division of State Police.

##### 13:51-3.5 Approved instruments for performing chemical analysis of a person's breath

(a) The Breathalyzer, Model 900, is an instrument approved by the Attorney General pursuant to P.L. 1966, c.142, Sec. 3, as amended by P.L. 1971, c.273, Sec. 1 (N.J.S.A. 39:4-50.3), P.L. 1990, c.103, Sec. 17 (\*N.J.S.A. 39:3-10.25) and P.L. 1986, c.39, Sec. 8 (N.J.S.A. 12:7-56) and this subchapter, for the testing of a person's breath by chemical analysis.

(b) The Breathalyzer, Model 900A, is an instrument approved by the Attorney General pursuant to P.L. 1966, c.142, Sec.3, as amended by P.L. 1971, c.273, Sec. 1 (N.J.S.A. 39:4-50.3), P.L. 1990, c.103, Sec. 17 (N.J.S.A. 39:3-10.25) and P.L. 1986, c.39, Sec. 8 (N.J.S.A. 12:7-56) and this subchapter, for the testing of a person's breath by chemical analysis.

(c) The Dominator Albreath is an instrument approved by the Attorney General pursuant to P.L. 1966, c.142, Sec. 3 as amended by P.L. 1971, c.273, Sec. 1 (N.J.S.A. 39:4-50.3), P.L. 1990, c.103, Sec. 17 (N.J.S.A. 39:3-10.25) and P.L. 1986, c.39, Sec. 8 (N.J.S.A. 12:7-56) and this subchapter, for the testing of a person's breath by chemical analysis.

(d) The Alco-Tector is an instrument approved by the Attorney General pursuant to P.L. 1966, c.142, Sec. 3, as amended by P.L. 1971, c.273, Sec. 1 (N.J.S.A. 39:4-50.3), P.L. 1990, c.103 Sec. 17 (N.J.S.A. 39:3-10.25) and P.L. 1986, c.39 Sec. 8 (N.J.S.A. 12:7-56) and this subchapter, for the testing of a person's breath by chemical analysis.

(a)

#### NEW JERSEY RACING COMMISSION

##### Thoroughbred Rules Daily Double

##### Adopted Amendment: N.J.A.C. 13:70-29.48

Proposed: July 1, 1991 at 23 N.J.R. 2003(a).

Adopted: August 23, 1991 by the New Jersey Racing

Commission, Bruce H. Garland, Executive Director.

Filed: September 9, 1991 as R.1991 d.491, **without change.**

Authority: N.J.S.A. 5:5-30.

Effective Date: October 7, 1991.

Expiration Date: January 25, 1995.

**Summary of Public Comments and Agency Responses:**  
**No comments received.**

**Full text** of the adoption follows.

13:70-29.48 Daily double

(a)-(f) (No change.)

(g) If the purchaser of a daily double ticket fails to pick the winner of the first half of the daily double, his contract is void, unless circumstances occur as described in (n), (o), (p) and (q) below. If these conditions do not apply, then irrespective of what happens to the horse selected in the second half of the daily double, there is no refund because the patron has failed to fulfill the first half of the contract which is to pick the winner of the first half of the daily double.

(h)-(r) (No change.)

---

**(a)**

**NEW JERSEY RACING COMMISSION**

**Harness Rules**

**Daily Double**

**Adopted Amendment: N.J.A.C. 13:71-27.47**

Proposed: July 1, 1991 at 23 N.J.R. 2004(a).

Adopted: August 23, 1991 by the New Jersey Racing

Commission, Bruce H. Garland, Executive Director.

Filed: September 9, 1991 as R.1991 d.490, **without change.**

Authority: N.J.S.A. 5:5-30.

Effective Date: October 7, 1991.

Expiration Date: January 25, 1995.

**Summary of Public Comments and Agency Responses:**  
**No comments received.**

**Full text** of the adoption follows.

13:71-27.47 Daily double

(a)-(f) (No change.)

(g) If the purchaser of a daily double ticket fails to pick the winner of the first half of the daily double, his contract is void, unless circumstances occur as described in (n), (o), (p) and (q) below. If these conditions do not apply, then irrespective of what happens to the horse selected in the second half of the daily double, there is no refund because the patron has failed to fulfill the first half of the contract which is to pick the winner of the first half of the daily double.

(h)-(r) (No change.)

---

**(b)**

**VIOLENT CRIMES COMPENSATION BOARD**

**Compensable Damages; Lost Member Schedule;  
 Counseling Fees**

**Adopted Amendments: N.J.A.C. 13:75-1.7 and 1.27**

**Adopted Repeal: N.J.A.C. 13:75-1.23**

Proposed: August 5, 1991 at 23 N.J.R. 2269(b).

Adopted: September 5, 1991 by the Violent Crimes

Compensation Board, Jacob C. Toporek, Chairman.

Filed: September 10, 1991 as R.1991 d.492, **with technical changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-4.3).

Authority: N.J.S.A. 52:48-9.

Effective Date: October 7, 1991.

Expiration Date: June 5, 1994.

**Summary of Public Comments and Agency Responses:**  
**No comments received.**

Dates definite have been inserted at N.J.A.C. 13:75-1.7(a) and (j) and 1.27(d) and (d)1 to replace "effective date" references.

**Full text** of the adoption follows (additions to proposal indicated in boldface with asterisks **\*thus\***; deletions from proposal indicated in brackets with asterisks **\*[thus]\***).

13:75-1.7 Compensable damages

(a) The Board may enter an Order of Payment where the claimant has suffered a minimum out-of-pocket loss of \$100.00 as defined by N.J.S.A. 52:4B-18(d), or has lost at least two continuous weeks' earnings or support. For all claims closed on or after **\*[the effective date of this amendment]\* \*October 7, 1991\*** the Board shall make no award in an amount greater than 75 percent of the out-of-pocket unreimbursed or reimbursable medical expenses, loss of earnings or support or related pecuniary loss, incurred by the victim, claimant or secondary victim as defined by N.J.A.C. 13:75-1.28 and as verified by the Board's investigative staff, approved by the Commissioners and subject to limitations provided by these rules.

1. (No change.)

(b) The Board may order the payment of compensation for expenses incurred as a result of the personal injury or death of the victim. These expenses must represent a pecuniary loss to the claimant as defined by N.J.S.A. 52:4B-1 et seq., and these rules consisting of, but not limited to, work and earnings loss, dependents' loss of support in case of death, and other reasonable pecuniary loss incurred by claimant due to victim's death. The Board may also award payment for such allowable expenses which the Board determines to be reimbursable within these rules, such as reasonable charges for reasonably needed products and services, medical care, rehabilitation, rehabilitative occupational training, and other remedial treatment and care.

1. (No change.)

2. (No change in text.)

(c)-(i) (No change.)

(j) The Board shall award no compensation for chiropractic or physical therapy services for a period greater than 30 visitations for treatment related to the incident notwithstanding the nature of said treatments and visits. Where direct victims, claimants or secondary victims have been compensated for or attended more than 30 such visitations (as of **\*[the effective date of this amendment]\* \*October 7, 1991\***), the Board shall award no compensation for chiropractic or physical therapy services for an additional period greater than six sessions beyond the date of last service.

13:75-1.23 (Reserved)

13:75-1.27 Counseling fees

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

(c) Notwithstanding (a) and (b) above, in the case of residential counseling services the Board shall approve no more than one such period of counseling not exceeding 30 days in length and shall limit reimbursement to no more than 50 percent of the total cost of the service. Subsequent residential treatments shall not be compensated by the Board.

(d) The Board shall award no compensation for out-of-pocket unreimbursed or unreimbursable psychological counseling expenses related to the incident for a period greater than 50 sessions for any victim or claimant 18 years of age or older, and for no more than 100 sessions for any victim under the age of 18 (on **\*[the effective date of this amendment]\* \*October 7, 1991\***) notwithstanding the date upon which the application for compensation was filed.

1. For any claim wherein the Board has approved and awarded compensation for 50 sessions of counseling services for a victim or claimant 18 years of age or older or 100 sessions of counseling services for a victim under the age of 18 years, the Board shall award no more than 12 sessions beyond the date of last service (as of **\*[the effective date of this amendment]\* \*October 7, 1991\***).

(e) The term sessions as used in this section means a one hour session and includes individual, group or family therapy and the presence of a counselor in a legal proceeding as determined by the Board to be necessary for the emotional support of the direct victim, claimant or secondary victim. No award of compensation shall be made for an appearance or presence required to assist in prosecution of the offender or in a proceeding to prosecute a collateral legal right.

## PUBLIC UTILITIES

(a)

## BOARD OF REGULATORY COMMISSIONERS

## Telephone

## Readoption with Amendments: N.J.A.C. 14:10

Proposed: August 5, 1991 at 23 N.J.R. 2270(a).

Adopted: September 6, 1991 by the Board of Regulatory Commissioners, Dr. Edward H. Salmon, Chairman, and Jeremiah F. O'Connor and Carmen J. Armenti, Commissioners.

Filed: September 6, 1991 as R.1991 d.489, **without change.**

Authority: N.J.S.A. 48:2-13.

BRC Docket Number: TX91061090.

Effective Date: September 6, 1991, Readoption;  
October 7, 1991, Amendments.

Expiration Date: September 6, 1996.

## Summary of Public Comments and Agency Responses:

The official comment period ended on September 4, 1991. During that timeframe, comments were received only from George Finkelstein, General Attorney, AT&T, 32 Avenue of the Americas, New York, New York 10013. A summary of that comment follows:

COMMENT: AT&T has submitted comments that are related to the regulation of InterLATA Telecommunications Carriers which is provided for in N.J.A.C. 14:10-5. It is AT&T's recommendation that the Board should expand interexchange carrier (IXC) pricing and earnings flexibility so as to permit market forces to dictate IXC prices and services. These comments are supplemental to and incorporate those comments previously submitted to the Board by AT&T on October 17, 1990, within the context of Docket No. TX89090796. It is the contention of AT&T that the record in the previous docket has provided the Board with sufficient data to indicate that the New Jersey interexchange market is highly competitive.

RESPONSE: The Board of Regulatory Commissioners, prior to August 19, 1991 known as the Board of Public Utilities, would note that a Notice of Proposed Rulemaking for the "Regulation of InterLATA Telecommunications Carriers" was published in the November 20, 1989 New Jersey Register at 21 N.J.R. 3631(a). As a result of significant changes due to comments received, an additional Notice was published on September 17, 1990, at 22 N.J.R. 2887(a). Said proposal contained more flexibility with regard to pricing and earnings than that contained in the existing rules. Prior to the adoption of the re-proposed amendments, the Board was informed by the Office of the Attorney General that it lacked the jurisdiction to implement the rules as proposed. Accordingly, the rules contained in N.J.A.C. 14:10-5 have remained unchanged and in effect.

The Board would further note that it is its intention to re-evaluate, within its current jurisdictional framework, the pricing and earnings flexibility contained in N.J.A.C. 14:10-5. In doing so, the Board will take into consideration the comments submitted by AT&T as well as any other relevant comments that may have been previously presented to the Board with regard to this subject matter. Pending such re-evaluation, the Board is of the opinion that public policy demands that N.J.A.C. 14:10 be adopted as proposed and not allowed to lapse.

Full text of the readoption may be found in the New Jersey Administrative Code at N.J.A.C. 14:10.

Full text of the adopted amendments follows.

## 14:10-1.1 Service connections

(a) (No change.)

(b) If the length of service connection exceeds the requirements specified in (a) above, the customer may be required to pay for the cost of such excess.

(c) (No change.)

## 14:10-1.6 Held applications

(a) (No change.)

(b) When, because of shortage of facilities, a telephone utility is unable to supply main telephone service on dates requested by

applicants, priority shall be given to furnishing those services which are essential to public health and safety. In cases of prolonged shortage or other emergency, the Board may require establishment of a priority plan subject to its approval for clearing held orders, and may request periodic reports concerning the progress being made.

(c) (No change.)

## 14:10-1.9 Adequacy of service

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

(d) The telephone utility shall employ prudent management and engineering practices, including the employment of reliable procedures for forecasting future demand for service, conduct studies and maintain records to the end that reasonable margins of facilities and adequate personnel are available with the objective that service will meet all standards prescribed by the Board.

## 14:10-1.10 Service standards

(a) These standards establish service levels which would generally be provided by a telephone utility. Failure to attain these levels does not by itself indicate poor service and the liability of the telephone utility to its customers or other persons using its facilities for any such failure shall be governed by the applicable provisions of its tariff. Each telephone utility shall make measurements to determine the level of service for each item included in these standards. Each telephone utility shall provide the Board or its staff with the measurements and summaries thereof for any of the items included herein on request of the Board or its staff. Records of these measurements and summaries shall be retained by the utility as specified by the Board and monthly reports on all service measurements may be required by the Board. When a utility fails to meet any of the minimum service levels listed below in a reporting entity for three consecutive months, the service data for the standard not met in that entity shall be reported to the Board.

(b) The following are the minimum service levels referred to in (a) above:

1. Installation of service:

i. (No change.)

ii. Eighty-eight percent of the commitments to customers, with the exception of customer-caused delays, as to the date of installation of regular service, shall be met.

iii. (No change.)

2. (No change.)

3. Dial service: Sufficient central office capacity and equipment shall be provided to meet the following requirements:

i. Ninety-five percent of dialed local calls shall be completed without encountering an all trunk busy or equipment irregularity.

ii. (No change.)

4.-5. (No change.)

(c) (No change.)

## 14:10-2.1 Bills for service

(a) The customer's bill shall include as applicable:

1.-3. (No change.)

4. Total charge for calls outside local service area supported by statement;

5.-7. (No change.)

## 14:10-3.1 General provisions

These formulae shall not be binding on the parties but are suggested as a guide to customers and utilities. Parties are still free to exercise their rights under N.J.S.A. 48:2-27. When an applicant for an extension is dissatisfied with these suggested extension rules, he may petition the Board for a finding that the extension should be made without charge.

(b) (No change.)

## 14:10-3.4 Guaranty in lieu of deposit

Where the cost to the utility for an extension to individual permanent residential customers exceeds the amount which the utility must install without cost to the customer, in accordance with N.J.A.C. 14:10-3.2, the utility and the customer may agree that in lieu of requesting a deposit by the customer equal to the excess cost of

## PUBLIC UTILITIES

## ADOPTIONS

the extension, the customer will guarantee a monthly revenue. Such guarantee shall be not more than 1/60 of the total cost of the extension.

### 14:10-4.1 Applicability

(a) Extensions of telephone distribution lines installed after the effective date of this subchapter, and necessary to furnish permanent telephone service to new residential buildings and mobile homes within an approved subdivision having three or more building lots or to new multiple-occupancy buildings, shall be made underground, except for interconnecting points and pedestals.

(b) Such extensions of service shall be made by the utility in accordance with the provisions in this subchapter.

### 14:10-4.2 Definitions

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

...

“Board” means the Board of Public Utilities.

...

### 14:10-4.4 Installation of underground communication system within subdivision

(a) Upon receipt of a proper application the utility shall, after conditions in N.J.A.C. 14:10-4.3(b) have been met and after coordination with other utilities, install along new streets and along existing streets not already served by overhead facilities, using suitable materials, an underground telephone communication system reasonably equivalent to a comparable overhead system which will assure that the applicant will receive safe, adequate and proper service.

(b) Semiannually, each utility may submit a proposed tariff modifying existing undergrounding charges. The proposed tariffs shall be supported by unit costs of construction in a form as required for approval by the Board.

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

### 14:10-4.6 Advances by applicant

(a) Prior to the start of construction on a section of the subdivision, the utility may require from the applicant a deposit equivalent to the estimated amount of the charges payable to the utility in accordance with the tariff filed by the utility pursuant to N.J.A.C. 14:10-4.4 for the installation of the communication facilities shown on the subdivision map supplied to the utility by the applicant under the provisions of N.J.A.C. 14:10-4.3(d).

(b)-(e) (No change.)

### 14:10-4.7 Cooperation by applicant

(a) The charges specified in this subchapter are based on the premise that each applicant shall agree to cooperate with the utility in accordance with (b) below in an effort to keep the cost of construction and installation of the underground telephone communication system as low as possible. This includes the scheduling of construction to preclude the necessity of trenching in frozen soils or in land fill operations before soils have become stabilized.

(b) Should unusual circumstances arise which unreasonably would delay underground service, temporary wires may be installed in whatever manner is most practical under the circumstances, provided, however, that such temporary wires shall be replaced as soon as practicable with a permanent installation in accordance with the provisions of this subchapter.

(c) Requests for adjustments of charges, specified in the approved tariff of the utility to cover excess cost, if any, due to temporary installations, may be referred to the Board in accordance with N.J.A.C. 14:10-4.10.

### 14:10-4.9 Records

(a) Each telephone utility shall maintain on a calendar year basis for periodic review by, or upon request, submission to the Board the following records:

1. (No change.)

2. The number of subdivisions, the number of lots and the number of buildings of all types, including mobile homes, for which services was made available under this subchapter.

### 14:10-4.10 Special conditions or exemptions

When the application of this subchapter will result in extreme hardship or inequity, or be discriminatory to other customers, the utility or applicant may refer the matter to the Board for special exemptions or for approval of special conditions. The applicant invoking the jurisdiction of this Board, pursuant to this section, may be required to deposit in an escrow account as determined by the Board, prior to hearing, a deposit up to the estimated cost differential between underground and overhead service to be advanced to the utility in the event the Board determines an exemption is not warranted.

### 14:10-4.11 Prior regulations

Except for N.J.A.C. 14:3-8.1, 14:3-8.2 and 14:3-8.3 as otherwise provided herein, rules, regulations and standards heretofore promulgated with respect to the subject matter encompassed by this subchapter are hereby superseded and revoked.

### 14:10-4.12 Compliance

(a) This subchapter, having been enacted in the public interest, calls for cooperation by utilities, developers, builders and municipal bodies to achieve the desired underground telephone service in new residential subdivisions at the lowest reasonable cost consistent with system reliability and safety.

(b) Therefore, in accordance with N.J.S.A. 48:2-13, which grants general supervision and regulation of, and jurisdiction and control over, all public utilities to the Board, requirements in conflict with this subchapter which would prevent or interfere with telephone utilities' compliance with this subchapter shall not be imposed through municipal ordinances or regulations.

### 14:10-5.1 Scope

The rules in this subchapter govern the adjustment of rates by telecommunications interexchange carriers subject to the jurisdiction of the New Jersey Board of Public Utilities. The rules will apply to the adjustment of rates for only those services which are clearly competitive for all intrastate interLATA carriers, after initial tariffs have been approved by the Board. Connection, service discontinuance, and other matters, unless expressly stated herein, will continue to be governed by existing sections of Title 14 of the New Jersey Administrative Code.

### 14:10-5.3 Definitions

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

...

“Intrastate interLATA carriers” and “interexchange carriers” means AT&T Communications of New Jersey, MCI, US Sprint, Communications Services, Inc., Cable & Wireless Communications, Inc., Teleconnect Long Distance Services and Systems, WTG East & Central, Inc., RCI and other common carriers (OCC's) authorized by the Board to provide intrastate interLATA telecommunications service in New Jersey.

...

### 14:10-5.4 Initial rates

Initial rates for interexchange carriers currently authorized to operate in New Jersey shall be the rates in effect upon Board adoption of these rules. For any additional carriers that may subsequently be authorized to provide interstate interLATA service, initial rates shall be those contained in the initial tariffs approved by the Board. Initial rates, as used herein, shall be the midpoint of the range of rates approved for each interexchange carrier. The range of rates approved for each carrier is hereby determined to be plus or minus 25 percent over or under each individual initial rate approved by the Board.

### 14:10-5.8 Reporting requirements

Board, staff in conjunction with Rate Counsel and the interexchange carriers, shall develop appropriate reporting mechanisms to

**ADOPTIONS**

insure proper notification on and oversight of earnings, return on equity and the rate changes contemplated herein. These reporting mechanisms shall be placed upon the Board's Agenda for approval.

**TRANSPORTATION**

**(a)**

**DIVISION OF TRAFFIC ENGINEERING AND LOCAL AID  
BUREAU OF TRAFFIC ENGINEERING AND SAFETY PROGRAMS**

**Restricted Stopping and Parking  
Route U.S. 40 in Atlantic County**

**Adopted Amendment: N.J.A.C. 16:28A-1.28**

Proposed: July 15, 1991 at 23 N.J.R. 2101(a).  
Adopted: August 16, 1991 by Richard C. Dube, Director,  
Division of Traffic Engineering and Local Aid.  
Filed: September 12, 1991 as R.1991 d.496, **without change**.  
Authority: N.J.S.A. 27:1A-5, 27:1A-6 and 39:4-183.1.  
Effective Date: October 7, 1991.  
Expiration Date: June 1, 1993.

**Summary of Public Comments and Agency Responses:**  
**No comments received.**

Full text of the adoption follows.

**16:28A-1.28 Route U.S. 40**

(a) The certain parts of State highway Route U.S. 40 described in this subsection shall be designated and established as "no stopping or standing" zones where stopping or standing is prohibited at all times.

- 1.-4. (No change.)
- 5. No stopping or standing in Hamilton Township, Atlantic County:
  - i. Along both sides:
    - (1) (No change.)
    - (2) Beginning at the easterly side of Old Harding Highway and extending 1,500 feet east therefrom.
  - ii. (No change.)
- 6.-8. (No change.)
- (b) (No change.)

**(b)**

**DIVISION OF TRAFFIC ENGINEERING AND LOCAL AID  
BUREAU OF TRAFFIC ENGINEERING AND SAFETY PROGRAMS**

**Restricted Stopping and Parking  
Route N.J. 77 In Cumberland County**

**Adopted Amendment: N.J.A.C. 16:28A-1.41**

Proposed: July 15, 1991 at 23 N.J.R. 2101(b).  
Adopted: August 16, 1991 by Richard C. Dube, Director,  
Division of Traffic Engineering and Local Aid.  
Filed: September 12, 1991 as R.1991 d.497, **without change**.  
Authority: N.J.S.A. 27:1A-5, 27:1A-6 and 39:4-138.1.  
Effective Date: October 7, 1991.  
Expiration Date: June 1, 1993.

**Summary of Public Comments and Agency Responses:**  
**No comments received.**

Full text of the adoption follows.

**TRANSPORTATION**

**16:28A-1.41 Route 77**

(a) The certain parts of State highway Route 77 described in this section are designated and established as "no stopping or standing" zones.

- 1. No stopping or standing in Cumberland County:
  - i. In the City of Bridgeton:
    - (1) Southbound on the westerly side.
    - (A)-(I) (No change.)
    - (J) Beginning at the southerly curblin of Myrtle Street to a point 50 feet south therefrom.
    - (K)-(M) (No change.)
    - (N) Beginning at the northerly curblin of East Commerce Street to a point 50 feet north therefrom.
    - (O)-(P) (No change.)
    - (2) (No change.)
  - 2.-5. (No change.)
  - (b)-(d) (No change.)

**(c)**

**DIVISION OF TRANSPORTATION ASSISTANCE  
BUREAU OF FREIGHT SERVICES**

**Transportation of Hazardous Materials  
Appendix to the Regulations Regarding the  
Transportation of Hazardous Materials  
Qualification and Disqualification of Drivers**

**Adopted Amendment: N.J.A.C. 16:49—Appendix**

Proposed: July 15, 1991 at 23 N.J.R. 2102(a).  
Adopted: August 16, 1991 by Robert A. Innocenzi, Deputy  
Commissioner (State Transportation Engineer), Department  
of Transportation.  
Filed: August 30, 1991 as R.1991 d.485, **without change**.  
Authority: N.J.S.A. 27:1A-5, 27:1A-6, 39:5B-25, Hazardous  
Materials Transportation Act, P.L. 93-633, and 49 CFR 391  
et seq.

Effective Date: October 7, 1991.  
Expiration Date: February 8, 1995.

**Summary of Public Comments and Agency Responses:**  
The Department received a comment from Mr. Curtis S. Macysyn, Associate Director, Fuel Merchants Association of New Jersey. There were no other commenters to this rule proposal.

COMMENT: The Fuel Merchants Association wholeheartedly endorse the change to the existing regulations, and supports the amendments to 49 CFR 391.49.

RESPONSE: The Department thanked the commenter for its support in this matter.

Full text of the adoption follows.

**CHAPTER 49  
TRANSPORTATION OF HAZARDOUS MATERIALS  
APPENDIX TO THE REGULATIONS REGARDING THE  
TRANSPORTATION OF HAZARDOUS MATERIALS  
SUBCHAPTER C.—HAZARDOUS MATERIALS  
REGULATIONS**

**PART 171—PART 177 (No change.)**

**MOTOR CARRIER SAFETY REGULATIONS**

- PART 390 (No change.)
- PART 391—QUALIFICATIONS OF DRIVERS
  - Subpart A—Subpart D (No change.)
  - Subpart E—Physical Qualifications and Examinations
    - Section 391.41—Section 391.47 (No change.)
    - Section 391.49—Waiver of certain physical defects  
(Section 391.49(a) is revised to state the following:)

**TREASURY-GENERAL**

**ADOPTIONS**

(a) A person who is not physically qualified to drive under Section 391.41(b)(1) or (2), and who is otherwise qualified to drive a motor vehicle, may drive a motor vehicle, if that person has been granted a waiver pursuant to Title 49, Code of Federal Regulations, Section 391.49.

Subpart F—(No change.)

Subpart G—Limited Exemptions

Section 391.61—Section 391.67 (No change.)

Section 391.71 Intrastate drivers of vehicles transporting combustible liquids (Section 391.71(a) and (b) are revised to state the following:)

(a) (No change.)

(b) In addition to the exemptions provided in paragraph (a) of this section, a person who has been a regularly employed driver as defined in Section 390.5 as of January 1, 1991, but who is not physically qualified to drive under Section 391.41(b) and who is otherwise qualified under N.J.S.A. 39:3-10 to drive a motor vehicle, may continue to drive a motor vehicle provided that person is in possession of a valid New Jersey driver license issued prior to January 1, 1991, and continues to be a regularly employed driver of that motor carrier and drives a vehicle that:

(1)-(4) (No change.)

Subpart H—PART 180 (No change.)

**(a)**

**DIVISION OF TRANSPORTATION ASSISTANCE  
OFFICE OF REGULATORY AFFAIRS**

**Zone of Rate Freedom; Maximum Increases for 1992  
Adopted Amendment: N.J.A.C. 16:53D-1.1**

Proposed: July 1, 1991 at 23 N.J.R. 2004(a).

Adopted: August 16, 1991 by Robert A. Innocenzi, Deputy

Commissioner (State Transportation Engineer), Department of Transportation.

Filed: August 30, 1991 as R.1991 d.486, without change.

Authority: N.J.S.A. 27:1A-5, 27:1A-6, 48:2-21, and 48:4-2.20 through 2.25.

Effective Date: October 7, 1991.

Expiration Date: May 3, 1994.

**Summary of Public Comments and Agency Responses:**

A public hearing was held on July 16, 1991, before Randye Bloom, Esquire, of the Office of Administrative Law, in the Hearing Room, Office of Administrative Law, 9 Quakerbridge Plaza, Quakerbridge Road, Mercerville, New Jersey 08625. There were no commenters or participation from the public. Ms. Bloom, in her hearing report of August 1, 1991, recommended that N.J.A.C. 16:53D-1.1 be adopted.

Full text of the adoption follows.

**16:53D-1.1 General provisions**

(a) Any regular route autobus carrier operating within the State which seeks to revise its rates, fares or charges in effect as of the time of the promulgation of this rule shall not be required to conform with N.J.A.C. 16:51-3.10 (Tariff filings or petitions which do not propose increases in charges to consumers) or N.J.A.C. 16:51-3.11 (Tariff filings or petitions which propose increases in charges to customers), provided the increase or decrease in the rate, fare or charge, or the aggregate of increases and decreases in any single rate, fare or charge is not more than the maximum percentage increase or decrease as promulgated below, upgraded to the nearest \$.05.

1. The following chart sets forth the 1992 percentage maximum for increases to particular rates, fares or charges and the resultant amount as upgraded to the nearest \$.05:

| Present Fare   | % Of Increase | Increase Upgraded To Nearest \$.05 |
|----------------|---------------|------------------------------------|
| \$ .06 or less | 8.17%         | \$.05                              |
| \$ .65-\$1.20  | 8.17%         | \$.10                              |
| \$1.25-\$1.80  | 8.17%         | \$.15                              |
| \$1.85 upward  | 8.17%         | \$.20 +                            |

2. The following chart sets forth the 1992 percentage maximum for decrease to particular rates, fares or charges and the resultant amount as upgraded to the nearest \$.05:

| Present Fare   | % Of Decrease | Decrease Upgraded To Nearest \$.05 |
|----------------|---------------|------------------------------------|
| \$ .50 or less | 10%           | \$.05                              |
| \$ .55-\$1.00  | 10%           | \$.10                              |
| \$1.05 upward  | 10%           | \$.15 +                            |

**(b)**

**NEW JERSEY TRANSIT CORPORATION**

**Background Checks for Non-Criminal Matters**

**Readoption: N.J.A.C. 16:79**

Proposed: June 3, 1991 at 23 N.J.R. 1775(a).

Adopted: September 9, 1991 by New Jersey Transit Corporation, Shirley A. DeLibero, Executive Director.

Filed: September 12, 1991 as R.1991 d.495, without change.

Authority: N.J.S.A. 27:25-5(e) and 5(f); 27:25-15.

Effective Date: September 12, 1991.

Expiration Date: September 12, 1996.

**Summary of Public Comments and Agency Responses:**

No comments received.

Full text of the adoption can be found in the New Jersey Administrative Code at N.J.A.C. 16:79.

**TREASURY-GENERAL**

**(c)**

**DIVISION OF PURCHASE AND PROPERTY**

**Preference Laws; Out-of-State Vendors**

**Adopted Repeal and New Rule: N.J.A.C. 17:12-2.11**

Proposed: August 5, 1991 at 23 N.J.R. 2225(a).

Adopted: September 13, 1991 by Nathan B. Scovronick,

Executive Director, Department of the Treasury.

Filed: September 13, 1991 as R.1991 d.502, 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. 52:18A-30(d), 52:25, 52:27H-6(f), 52:34-12(d) and 52:32-1.4.

Effective Date: October 7, 1991.

Expiration Date: October 13, 1994.

**Summary of Public Comments and Agency Responses:**

The Division of Purchase and Property received one comment from Commissioner George R. Zoffinger of the Department of Commerce and Economic Development.

COMMENT: The commenter suggests that the Director's list of states having statutes, rules and/or regulations which grant in-State preferences which is made available to the public be updated annually.

RESPONSE: The Division of Purchase and Property concurs with the Department's comment. The recommended modification has been made.

COMMENT: The commenter suggests that the Director's waiving of reciprocal in-State preferences in cases where prices for goods and services would exceed reasonable estimates of the using agency or would otherwise be unreasonably high should be defined more specifically as to what is "unreasonably" high.

RESPONSE: The Division does not concur. While the Division understands the Commissioner's request to define unreasonable estimates, it would be difficult to state parameters of unreasonable estimates due to everyday fluctuation of prices and the competitive bidding process. Title 52 also permits the Director to make business decisions in the award of contracts, considering price and other factors.

COMMENT: The commenter questioned the Director's waiving of reciprocal in-State preference in cases where the State is entering into a long-term contract or a contract for large quantities of goods and services.

RESPONSE: The intent of this section is to provide flexibility to the Director in waiving reciprocal action in those cases when it is deemed to be in the best interest of the State.

#### Summary of Agency-Initiated Changes:

1. The following technical changes have been made to correct printing errors:

In proposed N.J.A.C. 17:12-2.11(b), the citation (N.J.S.A. 52:34-1.4 et seq.) has been changed to (N.J.S.A. 52:32-1.4 et seq.).

In proposed N.J.A.C. 17:12-2.11(f), the word "affect" has been changed to "effect".

2. In addition to the above comments and technical changes, the Division of Purchase and Property has added one sentence in N.J.A.C. 17:12-2.11(e). This sentence clarifies whenever any written evidence concerning the existence of residential preference statutes, rules, regulations or practices existing in political sub-divisions of a state is submitted by a bidder or bidders after the public bid opening for a specific procurement. The sentence is: "Written evidence that is not provided to the Director within five working days of the public bid opening will not be considered in the evaluation of that procurement, but will be retained and considered in the evaluation of subsequent procurements."

Full text of the adoption follows (additions to the proposal indicated in boldface with asterisks \*thus\*; deletions from the proposal indicated in brackets with asterisks \*[thus]\*).

#### 17:12-2.11 Preference laws; out-of-State vendors

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

"In-state preference" means a procedure established by statute, rule, regulation or practice whereby a state or local government procurement agency gives a bidder an advantage in the evaluation of bids based on whether the bidder maintains his principal place of business within the borders of the state or locality, and includes any advantage given to a bidder based on whether the goods or services offered in a bid were produced, manufactured, mined or grown within the borders of the state or locality.

"Out-of-state bidder" means a bidder who does not have a regular place of business in New Jersey.

"Principal place of business" means an office, factory, warehouse or other space of a bidder which is recognized by a state or local government as the basis for applying an in-state preference in favor of the bidder.

"Regular place of business" means a bona fide office, factory, warehouse or other space which is regularly maintained by the bidder, occupied by one or more of the bidder's employees and used in carrying on the bidder's business. The maintenance of a temporary job site or field office in New Jersey, the storage of goods in New Jersey, and the employment of an independent agent or subcontractor in New Jersey do not constitute regular place of business.

(b) Pursuant to the provisions of Public Law 1985, chapter 156 (N.J.S.A. 52:[34]\*32-1.4 et seq.), the Director, Division of Purchase and Property shall apply on a reciprocal basis against an out-of-State bidder any in-state preference which is applied in favor of that bidder by the state or locality in which the bidder maintains his principal place of business.

(c) The Director shall provide to prospective bidders notice of the State's intent as to in-state preference through appropriate language in the terms, conditions and/or specifications of the bid solicitation.

(d) For purposes of implementing these provisions, the Director shall maintain and make available for public inspection a list \*to be updated annually\* of states having statutes, rules and/or regula-

tions which grant in-state preferences in the competitive bidding for goods and services. The Director shall develop and maintain the list based on surveys conducted by the Division and/or by research conducted by national organizations of state and local governments, procurement agencies, government officials and purchasing agents, such as the National Association of State Purchasing Officials, the National Institute of Governmental Purchasing, and the Council of State Governments. In addition, the Director may receive and review information from prospective bidders which indicates that any state or local government agency outside of New Jersey applies an in-state preference in its procurement statutes, rules, regulations, ordinances, charters or practices.

(e) The Director shall also apply in-State preference in the evaluation of bids whenever a bid is received from an out-of-State bidder where residential preference statutes, rules, regulations, or practices exist in political sub-divisions of a state. It shall be the responsibility of the bidder or bidders for a specific procurement to provide written evidence to the Director of the existence of such local government preference rules, regulations, ordinances, charters, or practices either with the bidder's proposal or within five days working of the public bid opening. **\*Written evidence that is not provided to the Director within five working days of the public bid opening will not be considered in the evaluation of that procurement, but will be retained and considered in the evaluation of subsequent procurements.\***

(f) Consistent with the procedures and practices of the Division of Purchase and Property, the Director shall reasonably apply any reciprocal in-State preference in a similar manner and to similar \*[affect]\* **\*effect\*** as the other state or locality. Where an in-state preference is applied by another state or locality in the form of a percentage which is added to or subtracted from bidders' prices, markups or discounts, the Director shall similarly apply the same percentage against an affected out-of-State bidder. Where an in-state preference is applied by another state or a locality in the form of a categorical rejection of certain bids, the Director shall apply a similar categorical rejection against an affected out-of-State bidder.

(g) The bidder or bidders who would benefit by the imposition of in-state preference must otherwise be eligible for an award as a responsive and responsible bidder.

(h) The Director may consider waiving a reciprocal in-State preference on a specific procurement. The Director may waive the application of a reciprocal in-State preference where such waiver would be in the best interests of the State, including where the resulting prices for goods and services would exceed the reasonable estimate of the using agency or would otherwise be unreasonably high, or where the State is entering into a long-term contract or a contract for large quantities of goods or services.

(i) The Director shall waive a reciprocal in-State preference on procurements supported by Federal funds where Federal rules prohibit the use of residential preference.

(j) The Director shall waive reciprocal in-State preference when the action would result in an award to a vendor who has a poor record of complaints or contract terminations pursuant to N.J.A.C. 17:12-4.

(k) The Director shall waive reciprocal in-State preference when a public exigency requires the immediate delivery of articles or performance of the service.

(l) Nothing in these rules shall be deemed to modify or restrict the authority of the Director pursuant to N.J.S.A. 52:34-12 to award any contract to that bidder whose bid the Director determines is "most advantageous to the State, price and other factors considered."

(m) The Director shall annually prepare, following the close of the State's fiscal year, a report for the State Treasurer on the cost consequences to the State of applying the reciprocal in-State preference described in these rules.

(a)

**OFFICE OF THE STATE TREASURER****Local Public Employee Charitable Fund-Raising Campaign****Adopted Amendments: N.J.A.C. 17:29-2.3, 2.4, 2.6, 2.7, 3.2, 3.4, and 4.6****Adopted New Rule: N.J.A.C. 17:29-1.5**

Proposed: August 5, 1991 at 23 N.J.R. 2228(a).

Adopted: September 6, 1991 by Nathan B. Scovronick, Executive Director, Department of the Treasury.

Filed: September 10, 1991 as R.1991 d.493, **with substantive changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-4.3).

Authority: N.J.S.A. 52:14-15.9c1 and N.J.S.A. 52:18A-30.

Effective Date: October 7, 1991.

Expiration Date: September 26, 1995.

**Summary of Public Comments and Agency Responses:****No comments received.****Summary of Agency-Initiated Changes:**

In order to ensure that the restriction against individual advocacy by a fund-raising organization or charitable agency should not be construed to prevent public employees from receiving specific information about the purposes, programs or administration of any individual organization or agency, the term "describe or explain" has been added to the permissible activity of an organization or agency under adopted new rule N.J.A.C. 17:29-1.5.

**Full text** of the revised section follows (additions to proposal shown in boldface with asterisks **\*thus\***).

**17:29-1.5 Campaign management**

(a) No charitable agency or charitable fund-raising organization shall engage in any direct solicitation activity at the work site of employees of local units of government, except as a participant in a Campaign and in accordance with N.J.A.C. 17:29.

(b) No charitable agency shall participate in a Campaign as both an affiliated and an unaffiliated agency.

(c) All activities of the Campaign shall be conducted in a manner that promotes a unified solicitation on the behalf of all participants. While it is permissible to individually identify\*, **describe or explain,\*** the fund-raising organizations or charitable agencies in the Campaign for informational purposes, no person affiliated with the Campaign shall engage in any Campaign activity that is construed to either advocate or criticize any specific fund-raising organization or charitable agency.

(d) No official or employee of a local unit of government shall assume the duties and responsibilities of the Campaign Steering Committee, the Campaign Steering Committee Chairman, or the Campaign Manager. In the event of the inability of the Committee to function, or a continuing vacancy in the position of Chairman or Manager, the Chief Executive Officer of a local unit of government shall have the right to cancel the Campaign. The Chief Executive Officer may designate a local employee coordinator to assist the Campaign Steering Committee.

**17:29-2.3 Duties of Campaign Steering Committee**

(a) Each local Campaign Steering Committee shall:

1. Elect a chairman to conduct the meetings of the local Campaign Steering Committee. The chairman shall serve for a term of one year and shall continue to serve until the election of a successor. The chairman shall be eligible for re-election;

2. Elect and oversee a Campaign Manager, who shall demonstrate to the satisfaction of the Campaign Steering Committee the administrative, financial, technical and management capability to organize, publicize and operate an extensive fund-raising campaign in an efficient and equitable manner in accordance with N.J.A.C. 17:29; and

3. Establish policies and procedures in the operation and administration of the local unit of government Campaign, including the

hearing of any grievances concerning the operation and administration of the Campaign.

**17:29-2.4 Eligibility of fund-raising organizations**

(a) (No change.)

(b) Charitable fund-raising organizations found eligible to participate on the State Campaign, Steering Committee shall automatically be eligible to participate on a local Campaign Steering Committee upon application to the local unit of government. The letter of the State Campaign Steering Committee so stating eligibility shall be proof of such eligibility. See N.J.A.C. 17:28-6.

(c) (No change.)

**17:29-2.6 Appeal procedure**

(a) Any charitable fund-raising organization receiving notice of ineligibility shall have 10 days from receipt of such notice to submit to the Chief Executive Officer of the local unit of government any additional information addressing any deficiencies in the application.

(b) Within 20 days of receipt of any additional information, the Chief Executive Officer shall convene a special appeal panel consisting of the representatives of the employees or management and the representative of the Chief Executive Officer to review the charitable fund-raising organization's application and any additional documentation or information submitted by the charitable fund-raising organization to address any deficiency in the application as determined by the Chief Executive Officer.

(c) The special appeal panel shall conduct its review within 10 days and in that time notify the Chief Executive Officer of its decision. The decision of the special appeal panel shall be final.

**17:29-2.7 Application form/organization**

(a) (No change.)

(b) In addition to the background information required in (a) above, the applicant must submit:

1. With respect to the requirements set forth in N.J.S.A. 52:14-15.9c7a, b, and c, from the Internal Revenue Service a Letter of Determination or other proof from the Internal Revenue Service that the applicant:

i. Is exempt from Federal income tax under Section 501(c)(3) of the Internal Revenue Code;

ii. Qualifies for tax deductible contributions under Section 170(b)(1)(A)(vi) or (viii) of the Internal Revenue Code;

iii. Is not a private foundation as defined in Section 509(a) of the Internal Revenue Code; and

2. With respect to the requirements set forth in N.J.S.A. 52:14-15.9c7e, annual financial reports which demonstrates that the organization raised, in each of the two fiscal years preceding its application to participate in the local Campaign, at least \$15,000 from individual citizens of New Jersey;

3. With respect to N.J.S.A. 52:14-15.9c7g, annual financial reports which demonstrate that the organization raised at least \$25,000 and distributed that sum among a minimum of five charitable agencies (not necessarily located within the State) in each of its two fiscal years preceding its application to participate in a local Campaign;

4. A copy of the organization's Internal Revenue Service form 990 for each of the organization's two fiscal years preceding its application;

5. Documentary evidence that the organization is registered or exempt from registration pursuant to the provisions of Title 15 of the Revised Statutes or Title 15A of the New Jersey Statutes and the "Charitable Fund Raising Act of 1971" (P.L. 1971, c.469; N.J.S.A. 45:17A-1 et seq.);

6. A copy of the organization's independent auditor's report for each of the organization's two fiscal years preceding its application;

7. A copy of the organization's annual report for each of the organization's two fiscal years preceding its application;

8. A statement affirming that the organization is directed by a governing body whose members have no material conflict of interest in their service on the governing body, and a list of the members of the governing body and the identification of its officers;

9. A list of the affiliated charitable agencies to which the organization gave funds in its two fiscal years prior to the application and a list of the agencies to which it expects to give funds received in

the Campaign, and a description of the health, welfare or human care services that each provides;

10. A statement affirming that each of the organization's affiliated charitable agencies is:

i. Registered pursuant to the provisions of Title 15 of the Revised Statutes or Title 15A of the New Jersey Statutes and the "Charitable Fund Raising Act of 1971" (P.L. 1971, c.469; N.J.S.A. 45:17A-1 et seq.), except for an agency exempt from registration under the law; and

ii. Engaged in the provision of health, welfare or human care services; and

11. A statement affirming that the organization will be represented at meetings of the Campaign Steering Committee and providing the name of the representative.

(c) In order to meet its application requirement, each charitable fund-raising organization found eligible to participate on the State Campaign Steering Committee need only submit along with its request to participate in the Campaign the letter of the State Campaign Steering Committee so stating eligibility to participate in the State Campaign. Charitable fund-raising organizations which participated on the Local Campaign Steering Committee for the immediately preceding Campaign and which do not participate on the State Campaign Steering Committee need only submit the most recent information to update the information required in (b) above.

#### 17:29-3.2 Application procedure

(a) (No change.)

(b) The application procedure for charitable agencies is as follows:

1. At least 75 days prior to the local unit of government Campaign, the Chief Executive Officer of the local unit of government shall publish in one local newspaper (if one exists) and one Statewide newspaper notice of application for charitable agencies wishing to participate in the local unit of government Campaign. The Chief Executive Officer shall also notify the Campaign Steering Committee, through the State Treasurer, at least 20 days prior to the application deadline, that the local unit of government is taking applications.

2. No later than 10 days after the close of the application due date, the Chief Executive Officer of the local unit of government, with the advice of the local Campaign Steering Committee, shall review applications of unaffiliated charitable agencies wishing to participate in the local Campaign and shall notify each applicant of its eligibility or ineligibility to participate in the local Campaign. In cases of ineligibility, the notice shall set forth reasons for such ineligibility.

3. Any charitable agency receiving notice of ineligibility shall have 10 days from receipt of such notice to submit to the Chief Executive Officer of the local unit of government any additional information addressing any deficiency in the applicant.

4. No later than 20 days after receipt of any additional information, the Chief Executive Officer shall convene a special appeal panel consisting of the representatives of the employees or management and the representative of the Chief Executive Officer to review the charitable agency's application and any additional documentation or

information submitted by the charitable agency to address any deficiency in the application as determined by the Chief Executive Officer.

5. The special appeal panel shall conduct its review within 10 days and in that time notify the Chief Executive Officer of its decision. The decision of the special appeal panel shall be final.

#### 17:29-3.4 Application form/unaffiliated charitable agency

(a) (No change.)

(b) In addition to the background information required in (a) above, the applicant must submit:

1. With respect to the requirements set forth in N.J.S.A. 52:14-15.9c7a, b, and c, a Letter of Determination from the Internal Revenue Service or other proof from the Internal Revenue Service that the applicant:

i.-ii. (No change.)

iii. Is not a private foundation as defined in Section 509(a) of the Internal Revenue Code;

2. With respect to the requirements set forth in N.J.S.A. 52:14-15.9c7e, annual financial reports which demonstrates that the agency raised, in each of its two fiscal years preceding its application to participate in a local unit of government Campaign, at least \$15,000 from individual citizens of New Jersey;

3. A Copy of the agency's Internal Revenue Service form 990 for each of the agency's two fiscal years preceding its application;

4. Documentary evidence that the agency is registered or exempt from registration pursuant to the provisions of Title 15 of the Revised Statutes or Title 15A of the New Jersey Statutes and the "Charitable Fund Raising Act of 1971" (P.L.1971, c.469; N.J.S.A. 45:17A-1 et seq.);

5. A copy of the agency's independent auditor's report for each of the agency's two fiscal years preceding its application;

6. A copy of the agency's annual report for each of the agency's two fiscal years preceding its application;

7. A statement affirming that the agency provides health, welfare or human care services within New Jersey, and a description of the services; and

8. A statement affirming that the agency is directed by a governing body whose members have no material conflict of interest in their service on the governing body, and a list of the members of the governing body and the identification of its officers.

#### 17:29-4.6 Designated contributions

(a) Employees may designate, on a Campaign pledge/designation card, their contribution to a specific charitable fund-raising organization and/or charitable agency, and/or may select the undesignated option. For contributions through the payroll deduction there shall be a minimum of \$.50 per week (\$26.00 per year) per organization or agency designated. The minimum contribution requirement shall be met for each additional organization or agency designated.

(b) A campaign pledge/designation card shall be valid only for the calendar year of the Campaign. An employee who wishes to participate in a subsequent Campaign must file a new Campaign pledge/designation card valid for the subsequent Campaign.

# EMERGENCY ADOPTION

## HEALTH

### (a)

#### DIVISION OF HOSPITAL REIMBURSEMENT

#### Emergency Adopted and Concurrent Proposed Amendments: N.J.A.C. 8:31B-3.65 and 3.71

Emergency Amendments Adopted and Concurrent Proposed Amendments Authorized: September 16, 1991, by Frances J. Dunston, M.D., M.P.H., Commissioner, Department of Health.

Gubernatorial Approval (see N.J.S.A. 52:14B-4(c): September 12, 1991.

Emergency Adoption Filed: September 16, 1991 as R.1991 d.506. Authority: N.J.S.A. 26:2H-1 et seq., specifically 26:2H-1 et seq., specifically 26:2H-5b and 26:2H-18d.

Concurrent Proposal Number: PRN 1991-513.

Emergency Amendment Effective Date: September 16, 1991.

Emergency Amendment Expiration Date: November 15, 1991.

Submit comments by November 6, 1991 to:

Anne F. Weiss  
Director  
Hospital Reimbursement  
New Jersey Department of Health  
CN 360  
Trenton, N.J. 08625-0360

These amendments, adopted on an emergency basis, will become permanently effective upon acceptance for filing by the Office of Administrative Law (see N.J.S.A. 52:14B-4(c) as implemented by N.J.A.C. 1:30-4.4), if filed on or before the emergency period expiration date.

The agency concurrent proposal follows:

#### Summary

The Department of Health proposes adoption of amendments to N.J.A.C. 8:31B-3.65 and 3.71 of the Hospital Rate Setting Regulations. The proposed amendments are needed to prevent rate increases of 11 percent in one year, an increase of such magnitude that the financial stability of New Jersey's health care system would be compromised.

At issue is the payment schedule under which hospitals will receive the Commission-approved amount of \$960,654,877 for prior appeals, final reconciliation, and cash flow requests. Because this adjustment is so large, the Hospital Rate Setting Commission recommended that payments be based on a two-tiered cap: hospitals participating in the voluntary settlement program should have each year's payment capped at 6.5 percent of preliminary 1991 gross revenue requirements; hospitals not participating should have annual cash flow adjustments capped at three percent. As a result of implementation of this cap, hospitals received a total of \$507,757,942 in their 1991 rates. The remainder is scheduled to be paid in future years in accordance with the constraints of the annual cap.

In January 1991, three hospitals subject to the cap appealed from the HRSC's determination to the Appellate Division of the Superior Court challenging the decision on several grounds. On July 19, 1991, the Appellate Division issued a decision sustaining the Commission's imposition of the cap on all grounds except a procedural one. The Court decided that the cap should have been imposed through formal agency rulemaking. Consequently, the Department is proposing these amendments to the rate-setting regulations.

The amendments are necessary to continue the recommended payment schedule for the remaining \$452,896,935. The proposed language will also permit the use of similar payment schedules if needed in the future.

#### Social Impact

So long as hospital rates remain relatively stable, payers' costs will continue at predictable levels. If, however, rates increase dramatically, all patients in the State could ultimately feel the impact. Hospital patients will experience immediate cost increases, and others will feel the impact in higher health insurance premiums. Many consumers may be effectively

priced out of the health care market and, as a result, may fail to seek the health care they need.

#### Economic Impact

The immediate impact of the emergency rules will be continued financial stability for the health care system Statewide. Hospital rates will remain at current levels, and payers will not experience huge increases in their costs. If, on the contrary, this infusion were to occur, and the amount of \$452,896,935 that is scheduled for future payment were added to 1991 rates, it would effectively increase Chapter 83 hospital rates by 11 percent in one year. An accompanying rise in payment rates would require substantially larger payments than anticipated, and would require them to be made very quickly. As a result, private-pay patients would experience immediate cost increases; insured patients would experience increased costs in the form of higher deductibles and co-payments; and all citizens with health care insurance would experience higher coverage rates, or reduced coverage. Many consumers are likely to be unable to meet these higher costs, so that when they need health care and cannot pay for it, payments for these services would be made through the Uncompensated Care Trust Fund.

#### Regulatory Flexibility Statement

The proposed amendments apply only to the 85 hospitals that have rates established by the Hospital Rate Setting Commission. Each of these hospitals employs more than 100 full-time employees and, therefore, does not fall into the category of small business as defined in Section 2 of New Jersey Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq.

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

#### 8:31B-3.65 Schedule of Rates Adjustments

(a) For 1991 rates issued pursuant to these rules, except as modified, shall be effective as of January 1 of the rate year, except for fiscal year hospitals whose rates shall be effective as of the first day of the "fiscal" rate year. Unless a substantial danger to the ability of a needed hospital to provide adequate care shall result, adjustments or modifications which may be approved during the rate period shall be implemented through an appropriate adjustment to the Schedule of Rates for a given hospital, groups of hospitals, DRG or group of DRGs, and shall take effect at the beginning of the following rate year. At the direction of the Commission, the Commissioner shall make an appropriate adjustment to the Schedules of Rates for affected Diagnosis Related Group(s), indirect costs, revenue, or payer adjustments. The hospital(s) shall make an appropriate adjustment to its charge master(s), and third party payers shall make appropriate adjustments to their case-mix adjusted periodic intermittent payment. However, where appropriate, the Commission may order lump sum, pro rata, automatic, periodic or deferred adjustments. All adjustments shall be made prospectively. (See also N.J.A.C. 8:31B-3.42.)

(b) In making adjustments under this section, the Commission may consider their projected financial impact on hospitals, payers, consumers, and the health care system as a whole. Based on these projections, the Commission may authorize a payment schedule to minimize adverse impacts; it may stipulate a reasonable time period during which the adjustments will be paid, and the amounts to be paid in each time segment of the stated period; and the schedule may be applied statewide to similarly-situated hospitals. Accordingly, there will be a cap on adjustments due hospitals for rate year 1991 to reduce the impact of the almost \$1 billion increase in hospitals' rates occasioned by cash flow adjustments and settlement of outstanding rate appeals in 1990.

1. Hospitals not participating in the 1990 voluntary settlement program will have their 1991 cash flow adjustments capped at three percent of preliminary 1991 gross revenue requirements.

2. Hospitals participating in the 1990 voluntary settlement program will have their cash flow and settlement adjustments capped at 6.5 percent of preliminary 1991 gross revenue requirements.

Recodify (b) as (c) (No change in text.)

**EMERGENCY ADOPTION**

**HEALTH**

**8:31B-3.71 Reconciliation and Adjustment**

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

(c) Reconciliation of the Schedule of Rates shall take place pending calculation of actual experiences for a reporting period. Reports will be required from hospitals to monitor such reconciliations on a current basis and adjustments will be made on an annual basis

culminating in a flow of reports back to hospitals and a compliance adjustment to the Rate order determined by the Commissioner. **All reconciliation adjustments to/from hospitals will include adjustments pursuant to N.J.A.C. 8:31B-3.65(b), Schedule of Rates Adjustments.**

---

# PUBLIC NOTICES

## ENVIRONMENTAL PROTECTION AND ENERGY

(a)

### DIVISION OF PARKS AND FORESTRY

#### Notice of Public Hearing

#### Proposed Easement of Lands

#### Comprising Part of Delaware and Raritan Canal State Park

Take notice that the State of New Jersey, Department of Environmental Protection and Energy by the Division of Parks and Forestry, will hold a **public hearing** to seek comments on the proposed drainage easement on the following State-owned Delaware and Raritan Canal State Park land in order to provide a storm sewer outfall opportunity for Millstone Estates.

All that certain land at Delaware and Raritan Canal State Park containing approximately 4,334 square feet designated as a portion of Block 191, Lot 26-E on the current Tax Map of the Township of Hillsborough, County of Somerset, State of New Jersey appraised at \$850.00.

The proposed drainage easement will allow for storm water drainage access to the Millstone River. This is the only purpose of the easement and the area involved will be returned to its original existing condition after placement of the line and related structure.

The easement documents will be available for review at the Delaware and Raritan Canal State Park Office during regular office hours, Monday through Friday.

The proposed easement land and adjacent State-owned lands serve as a buffer between privately-owned lands and the Millstone River. The easement does not interfere with or affect the use of State-owned lands for this stated purpose.

The **public hearing** will be held on:

Wednesday, November 13, 1991 at 7:00 P.M.  
in the Hillsborough Township Municipal Building—  
Court Room  
555 Amwell Road  
Neshanic, New Jersey 08853

Persons wishing to make oral presentations are asked to limit their comments to a three to five minute time period. Presenters should bring a copy of their comments to the hearing for use by the Department. The hearing record will be kept open for a period of seven days following the date of the public hearing so that additional written comments can be received.

Interested persons may submit written comments until November 20, 1991, to:

Gregory A. Marshall  
Director  
Division of Parks and Forestry  
Department of Environmental Protection and Energy  
CN 404  
Trenton, New Jersey 08625

(b)

### DIVISION OF PARKS AND FORESTRY

#### Notice of Public Hearing

#### Proposed Easement of Lands

#### Comprising Part of Lake Musconetcong State Park held in Trust for the State of New Jersey by the Morris Canal and Banking Company

Take notice that the State of New Jersey, Department of Environmental Protection and Energy by the Division of Parks and Forestry, will hold a **public hearing** to seek comments on the proposed four-inch sewer lateral easement on the following State-owned Morris Canal and Banking Co. land in order to provide a sewer connection opportunity for Ms. Lillian Collari:

All that certain land at Lake Musconetcong State Park containing approximately 240 square feet designated as a portion of Block 10614, Lot 15 on the current Tax Map of the Borough of Stanhope, County of Sussex, State of New Jersey appraised at \$500.00.

The proposed sewer lateral easement will allow connection to an existing sewer easement to the main trunk line. This is the only purpose of the easement and the area involved will be returned to its original existing condition after placement of the line.

The easement documents will be available for review at Hopatcong State Park Administration Building during regular office hours, Monday through Friday.

The proposed easement land and adjacent State-owned lands serve as a buffer between privately-owned lands and Lake Musconetcong providing access to the lake. The easement does not interfere with or affect the use of State-owned lands for this stated purpose.

The **public hearing** will be held on:

Wednesday, November 20, 1991 at 7:00 P.M. at the  
Hopatcong State Park Administration Building  
Lakeside Blvd.  
Landing, New Jersey

Persons wishing to make oral presentations are asked to limit their comments to a three to five minute time period. Presenters should bring a copy of their comments to the hearing for use by the Department. The hearing record will be kept open for a period of seven days following the date of the public hearing so that additional written comments can be received.

Interested persons may submit written comments until December 2, 1991, to:

Gregory A. Marshall  
Director  
Division of Parks and Forestry  
Department of Environmental Protection and Energy  
CN 404  
Trenton, New Jersey 08625

(c)

### OFFICE OF REGULATORY POLICY

#### Amendment to the Northeast and Upper Raritan Water Quality Management Plans

#### Public Notice

Take notice that the New Jersey Department of Environmental Protection and Energy (NJDEPE) is seeking public comment on an amendment to the Northeast and Upper Raritan Water Quality Management (WQM) Plans. This amendment consists of a Wastewater Management Plan (WMP) for the Bernards Township Sewerage Authority, Somerset County. The WMP, which was proposed by the Bernards Township Sewerage Authority, provides for expansion of the sewer service area within Bernards Township served by the Environmental Disposal Corporation Sewage Treatment Plant (STP) located in Bedminster Township. The WMP also updates the delineation of the sewer service area of the Township of Bernards Sewerage Authority Harrison Brook STP and specifies an ultimate projected wastewater flow of 2.652 million gallons per day from this area.

In addition, the WMP delineates the area of Bernards Township which is currently served by the Warren Township Stage IV STP and proposed to be served by the Somerset Raritan Valley Sewerage Authority STP, and the sewer area of the Veterans Administration STP. The rest of Bernards Township is included in the individual subsurface sewage disposal system service area.

This notice is being given to inform the public that a plan amendment has been proposed for the Northeast and Upper Raritan WQM Plans. All information related to the two WQM Plans and the proposed amendment is located at the NJDEPE, Office of Regulatory Policy, 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. An appointment to inspect the documents may be arranged by calling the Bureau of Water Quality Planning at (609) 633-7026.

## HEALTH

(b)

HEALTH PLANNING AND RESOURCES  
DEVELOPMENTNotice of Action on Petition for Rulemaking  
Solicitation of Public Comment  
Elimination of the Base Year Challenge

N.J.A.C. 8:31A

Petitioner: Ivan J. Punchatz, Esq., representing the New Jersey  
Hospital Association.

Take notice that on August 2, 1991, the Department received a petition from Ivan J. Punchatz, Esq., representing the New Jersey Hospital Association, requesting that the Department amend N.J.A.C. 8:31A to delete the provision for a Minimum Base Year Challenge and to rebase the SHARE system (see 23 N.J.R. 2882(d)). The Department has reviewed the petition and is referring the matter for further action.

Because this issue will significantly affect health care costs and will differentially affect hospitals' revenues, the Department is hereby soliciting public comment for a period of 30 days, after which time the comments will be thoroughly reviewed and action taken by the Department within 30 days of the close of the comment period.

Submit comments by November 6, 1991 to:

Charles O'Donnell, Director  
Health Facilities Rate Setting  
New Jersey State Department of Health  
CN 360, Room 600  
Trenton, New Jersey 08625-0360

## HUMAN SERVICES

(c)

## OFFICE OF CHILD CARE DEVELOPMENT

Notice of Availability of Grant Funds  
Title IV-A "At Risk" Child Care and the Child Care  
and Development Block Grant  
Child Care Certificate Program for Essex County

Take notice that, in compliance with N.J.S.A. 52:14-34.4, 34.5 and 34.6, the New Jersey Department of Human Services hereby announces the availability of the following grant program funds:

**A. Name of Program:** Child Care Certificate Program for Essex County.

**B. Purpose:** The purpose for which the program funds are issued is to provide administration and services, through the use of certificates, to low income families in Essex County. These funds are for certificates and for the administration of this certificate system consistent with the Department of Human Services previously published guidelines (enclosed in a letter dated July 24, 1991 from Commissioner Gibbs to the Essex County Executive) for operation of a comprehensive child care certificate program. These guidelines are available upon request.

**C. Amount of available funding for the program:** \$2,230,700 in total (\$893,900 in Child Care and Development Block Grant funds, and \$1,336,800 in Title IV-A "At-Risk" funds)

**D. Organizations which may apply for funding under this program:** Agencies must be New Jersey based organizations or corporate bodies, non-profit or public entities who either are currently located within Essex County or who demonstrate that they would set up a permanent office within Essex County for the purpose of carrying out the administration of this child care certificate system.

**E. Qualifications which may apply for funding under this program:** Through written proposals, agencies must demonstrate the capacity to develop and carry out the proposed administration and service delivery of the child care certificate program as per the attached guidelines. Applicants must demonstrate their ability to work cooperatively or enter into cooperative agreements with all parties within the Essex child care community.

(a)

## OFFICE OF REGULATORY POLICY

Amendment to the Lower Delaware Water Quality  
Management Plan

## Public Notice

Take notice that the New Jersey Department of Environmental Protection and Energy (NJDEPE) is seeking public comments on an amendment to the Lower Delaware Water Quality Management (WQM) Plan proposed by the BF Goodrich Company. This amendment would identify an expansion to the existing BF Goodrich wastewater treatment facility (WTF) to serve the proposed Pedricktown Cogeneration Limited Partnership (PCLP) facility to be located on the BF Goodrich property at Block 38, Lot 3 of Oldmans Township, Salem County. The existing industrial WTF has a design capacity of 0.8 million gallons per day (MGD) with a discharge outfall to an unnamed stormwater drainage ditch which flows through an Army Corps of Engineers drainage canal to the Delaware River. The proposed amendment would identify an industrial WTF expansion to 2.1 MGD to serve the proposed PCLP facility, and to redirect the WTF discharge outfall to a 12 inch pipeline going directly from BF Goodrich to the Delaware River.

This notice is being given to inform the public that a plan amendment has been proposed for the Lower Delaware WQM Plan. All information related to the WQM Plan and the proposed amendment is located at the NJDEPE, Office of Regulatory Policy, Bureau of Water Quality Planning, 401 East State Street, 3rd Floor, CN-029, Trenton, N.J. 08625. It is available for inspection between 8:30 A.M. and 4:00 P.M., Monday through Friday. An appointment to inspect the documents may be arranged by calling the Bureau of Water Quality Planning at (609) 633-7026.

Interested persons may submit written comments on the proposed amendment to Mr. Ed Frankel, at the NJDEPE address cited above with a copy sent to Mr. Jim A. Kiel, The BF Goodrich Company, P.O. Box 400, Route 130 & Porcupine Road, Pedricktown, New Jersey 08067. 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 NJDEPE with respect to the amendment request.

Any interested persons may request in writing that NJDEPE 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. Frankel at the NJDEPE address cited above. If a public hearing for the amendment is held, the public comment period in this notice shall be extended to close 15 days after the public hearing.

**F. Procedure for eligible organizations to apply:** Agencies may request in writing a copy of the Request for Proposal from the Office of Child Care Development, New Jersey Department of Human Services, CN 700, Trenton, New Jersey 08625 or may call the Office of Child Care Development at (609) 984-0879.

**G. Address to which applications must be submitted:**

Kathy Krepcio  
New Jersey Department of Human Services  
Office of Child Care Development  
Capital Place One, 5th Floor  
CN 700  
Trenton, NJ 08625

**H. Deadline by which applications must be submitted:** November 1, 1991

**I. Date the applicant is to be notified of acceptance or rejection:** No later than November 20, 1991.

(a)

## OFFICE OF CHILD CARE DEVELOPMENT

### Notice of Availability of Grant Funds

#### Title IV-A "At Risk" Child Care and the Child Care Development Block Grant

#### Child Care Certificate Program for Middlesex County

Take notice that, in compliance with N.J.S.A. 52:14-34.4, 34.5 and 34.6, the New Jersey Department of Human Services hereby announces the availability of the following grant program funds:

**A. Name of Program:** Child Care Certificate Program for Middlesex County.

**B. Purpose:** The purpose for which the program funds are issued is to provide administration and services, through the use of certificates, to low income families in Middlesex County. These funds are for certificates and for the administration of this certificate system consistent with the Department of Human Services previously published guidelines (enclosed in a letter dated July 24, 1991 from Commissioner Gibbs to the Middlesex County Freeholder Director) for operation of a comprehensive child care certificate program. These guidelines are available upon request.

**C. Amount of available funding for the program:** \$790,700 in total (\$316,800 in Child Care and Development Block Grant funds, and \$473,800 in Title IV-A "At-Risk" funds)

**D. Organizations which may apply for funding under this program:** Agencies must be New Jersey based organizations or corporate bodies, non-profit or public entities who either are currently located within Middlesex County or who demonstrate that they would set up a permanent office within Middlesex County for the purpose of carrying out the administration of this child care certificate system.

**E. Qualifications which may apply for funding under this program:** Through written proposals, agencies must demonstrate the capacity to develop and carry out the proposed administration and service delivery of the child care certificate program as per the attached guidelines. Applicants must demonstrate their ability to work cooperatively or enter into cooperative agreements with all parties within the Middlesex child care community.

**F. Procedure for eligible organizations to apply:** Agencies may request in writing a copy of the Request for Proposal from the Office of Child Care Development, New Jersey Department of Human Services, CN 700, Trenton, New Jersey 08625 or may call the Office of Child Care Development at (609) 984-0879.

**G. Address to which applications must be submitted:**

Terri Buccarelli  
New Jersey Department of Human Services  
Office of Child Care Development  
Capital Place One, 5th Floor  
CN 700  
Trenton, NJ 08625

**H. Deadline by which applications must be submitted:** November 1, 1991

**I. Date the applicant is to be notified of acceptance or rejection:** No later than November 20, 1991.

(b)

## OFFICE FOR PREVENTION OF MENTAL RETARDATION AND DEVELOPMENTAL DISABILITIES

### Notice of Available Grant Funds

#### Advanced Research Fellowship Program (FY93)

Take notice that, in compliance with N.J.S.A. 52:14-34.4, 34.5 and 34.6, and P.L.1987, c.5, the Department of Human Services anticipates the following availability of funds.

**A. Name of the grant program that has funds available:** Advanced Research Fellowship Program (FY93).

**B. Purpose for which the grant program funds shall be used:** Department of Human Services, Office for Prevention of Mental Retardation and Developmental Disabilities (OPMRDD), anticipates the availability of funds to encourage and stimulate cooperative programs of research among State governmental departments and agencies, universities and private agencies. The purpose of the Advanced Research Fellowship Program is to attract and retain in New Jersey talented scientists who wish to pursue a career in research related to the prevention of mental retardation and other developmental disabilities. Fields of possible research include, but are not limited to, genetics, embryology, biochemistry, immunology, endocrinology, teratology, epidemiology, morphology, environmental, or other areas related to the causes of developmental disabilities.

**C. Amount of money in the grant program:** A maximum of four fellowships in the amount of \$25,000 per fellowship will be awarded. These funds can be used for stipend support only. Research costs for experimentation, data collection, fieldwork, computer searches and analyses, and equipment cannot be supported by these fellowships. Candidates must be prepared to begin their research on July 1, 1992 and to end on June 30, 1993.

**D. Groups or entities (citizens, counties, municipalities of a certain class, etc.) which may apply for the grant program:** Candidates must be residents of New Jersey and must be prepared to conduct their research in New Jersey-based institutions of higher learning or other non-profit or public research entities.

**E. Qualifications needed by an applicant to be considered for the grant program:** Candidates must have been awarded their doctorate or medical degree or a master's degree in a related field such as public health. Candidates must demonstrate established institutional relationships and support for the proposed research within the application process.

**F. Procedure for eligible entities to apply for fellowships:** Proposal packages may be requested from:

Deborah E. Cohen, Director  
Office for Prevention of Mental Retardation and  
Developmental Disabilities  
Department of Human Services  
222 South Warren Street, CN 700  
Trenton, New Jersey 08625  
(609) 984-3351

**G. Address of division, office or official receiving application:** Same as above.

**H. Deadline by which applications must be submitted to the office:** Proposals must be submitted by February 7, 1992.

**I. Date by which applicants shall be notified whether they will receive funds under the grant program:** Applicants shall receive notice of approval or disapproval by May 1, 1992.

(c)

## OFFICE FOR PREVENTION OF MENTAL RETARDATION AND DEVELOPMENTAL DISABILITIES

### Notice of Available Grant Funds

#### OPMRDD Public Information Project (FY93)

Take notice that, in compliance with N.J.S.A. 52:14-34.4, 34.5 and 34.6, the Department of Human Services anticipates the following availability of funds.

**PUBLIC NOTICES**

**LAW AND PUBLIC SAFETY**

**A. Name of the grant program that has funds available:** OPMRDD Public Information Project (FY93).

**B. Purpose for which the grant program funds shall be used:** The Department of Human Services, Office for Prevention of Mental Retardation and Developmental Disabilities (OPMRDD), anticipates the availability of State funds specific to the goal of public information relative to prevention of mental retardation and other developmental disabilities. The intent of this program is to increase the public and professional awareness of the preventability of many forms of disabilities, and to modify conditions of life, professional practices, or personal behaviors in such a way as to reduce the risk, and hence the incidence, of various kinds of mental and physical disabilities originating in early life.

**C. Amount of money in the grant program:** Approximately 15 grants will be awarded between the amounts of \$5,000 and \$25,000. The grants will be planned for initiation and completion between July 1, 1992 and June 30, 1993.

**D. Groups or entities (citizens, counties, municipalities of a certain class, etc.) which may apply for the grant program:** Agencies must be New Jersey based organizations, or corporate bodies, non-profit or public entities, which have demonstrated the capacity to carry out the proposed project.

**E. Qualifications needed by applicant to be considered for the grant program:** Agencies must have demonstrated experience in designing and implementing public education prevention projects.

**F. Procedure for eligible organizations to apply for grant funds:** Proposal packages may be requested from:

Deborah E. Cohen, Director  
Office for Prevention of Mental Retardation and  
Developmental Disabilities  
Department of Human Services  
222 South Warren Street, CN 700  
Trenton, New Jersey 08625  
(609) 984-3351

**G. Address of division, office or official receiving application:** Same as above.

**H. Deadline by which applications must be submitted to the office:** Proposals must be submitted by February 21, 1992.

**I. Date by which applicants shall be notified whether they will receive funds under the grant program:** Applicants shall receive notice of approval or disapproval by April 17, 1992.

**LAW AND PUBLIC SAFETY**

**(a)**

**OFFICE OF THE ATTORNEY GENERAL**

**Notice of the Availability of the Quarterly Report of Legislative Agents for the Second Quarter of 1991, ending June 30, 1991**

Take notice that Robert J. Del Tufo, Attorney General of the State of New Jersey, in compliance with N.J.S.A. 52:13C-23(h), hereby publishes Notice of Availability of the Quarterly Report of Legislative Agents for the Second Quarter of 1991, accompanied by a Summary of the Quarterly Report.

At the conclusion of the Second Quarter of 1991, the Notices of Representation filed with this office reflect that 534 individuals are registered as Legislative Agents. Legislative Agents are required by law to submit in writing a quarterly report of their activity in attempting to influence legislation during each calendar quarter. The aforesaid report shall be filed between the first and tenth days of each calendar quarter for such activity that occurred during the preceding calendar quarter. (N.J.S.A. 52:13C-22(b)).

A complete quarterly report of Legislative Agents, consisting of the summary and copies of all quarterly reports filed by Legislative Agents for the Second Calendar Quarter of 1991, has been filed separately for reference with the following offices: the Office of the Governor, the Office of the Attorney General, the Office of Legislative Services (Bill Room), the Office of Administrative Law, and the State Library. Each is available for inspection in accordance with the practices of those offices.

The Summary Report includes the following information:  
—The names of registered Agents, their registration numbers, their business addresses and whom they represent.

—A list of Agents who have filed quarterly reports by statutory and compilation deadlines for this quarter.

—A list of Agents whose quarterly reports were not received by the compilation deadline for this quarter.

Following is a listing of all new Legislative Agents who have filed Notices of Representation during the Second Calendar Quarter of 1991:

- No. 21 Ellen Edwards Mushinski representing NJ School Boards Assn
- No. 26 Alan S. Ashkinaze representing Hannoch Weisman
- No. 673 Tom Collier representing Hamilton Test Systems Inc
- No. 674 James Wyerman representing Defenders of Wildlife
- No. 675 William D. Payne representing William Payne & Associates
- No. 676 Scott C. Arnette Esq. representing Donington Karcher Leroc Salmond Luongo Ronan & Connell PA, O'Brien Energy Systems Inc and Robert Plan
- No. 677 Peter G. Stewart representing Carella Byrne Bain Gilfillan Cecchi & Stewart and American Coastal Industries
- No. 678 Ann E. Levine representing Choice PAC NJ
- No. 679 Paul C. Blume Jr. representing American Insurance Assn
- No. 680 Rosemarie Gnam representing Coalition to End the Wild Bird Trade
- No. 681 Hae-Jin Janice Lee representing NJ Common Cause
- No. 682 Linda M. Czipo representing Center for Non-Profit Corp Inc
- No. 683 Edward James Dolan Jr representing NJ Manufactured Housing Assn
- No. 684 Robert F. Corcoran representing State Troopers NCO Assn of NJ
- No. 685 Steven Edward Some representing Steve E Some Assoc, The Coastal Corp and PGE/Bechtel Generating Co
- No. 686 David G. Kostinas representing Health Team Public Affairs
- No. 687 Thomas J. Kelly representing Health Team Public Affairs
- No. 688 Carolyn Cobb representing American Council of Life Insurance

Following is a listing of all Legislative Agents who have filed Notices of Termination during the Second Calendar Quarter of 1991:

| Legislative Agent     | Registration Number |
|-----------------------|---------------------|
| Frederick A. Westphal | 19-5                |
| Lori A. Thompson      | 21                  |
| James P. Dugan, Esq.  | 26                  |
| Charles K. Allen      | 48                  |
| Rose C. Golden        | 81                  |
| Dennis M. Grady       | 91                  |
| John L. Williams      | 104                 |
| Martin E. Johnson     | 122                 |
| Percy A. Jarvis       | 167                 |
| Frank V. Hermo        | 207                 |
| Roberta Svarre        | 212                 |
| William H. Eames      | 228                 |
| Robert C. Welch       | 231                 |
| Francis W. Kenny      | 242                 |
| Gustav J. Schlaier    | 307                 |
| Anthony G. Dickson    | 320                 |
| Frederick L. Hipp     | 329                 |
| Donald A. Devereaux   | 426                 |
| Rena K. Plaxe         | 427                 |
| Katharine S. Pinneo   | 430                 |
| Cindy Simon           | 498                 |
| Carlton Louis Levine  | 520                 |
| Sheri B. Bango        | 536                 |
| Carl Zeitz            | 537                 |
| Bobby Jackson         | 550                 |
| Richard Bagger        | 564-2               |
| Michael Guariglia     | 564-3               |
| Joseph C. Small       | 564-5               |
| Robert A. Gaines      | 582                 |
| Paul D. Drobbin       | 626                 |
| David F. Snyder       | 637                 |
| Kathleer Charette     | 654                 |

For further information contact the Legislative Agents unit at (609) 984-9371.

# 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 August 5, 1991 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.1991 d.1 means the first rule adopted in 1991.

**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 JULY 15, 1991**

**NEXT UPDATE: SUPPLEMENT AUGUST 19, 1991**

**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 |
|------------------------------------|--|------------------------------------|--|
| 22 N.J.R. 3183 and 3274            | October 15, 1990   | 23 N.J.R. 1049 and 1226            | April 15, 1991   |
| 22 N.J.R. 3275 and 3420            | November 5, 1990   | 23 N.J.R. 1227 and 1482            | May 6, 1991  |
| 22 N.J.R. 3421 and 3606            | November 19, 1990  | 23 N.J.R. 1483 and 1722            | May 20, 1991   |
| 22 N.J.R. 3607 and 3666            | December 3, 1990   | 23 N.J.R. 1723 and 1854            | June 3, 1991   |
| 22 N.J.R. 3667 and 3896            | December 17, 1990  | 23 N.J.R. 1855 and 1980            | June 17, 1991  |
| 23 N.J.R. 1 and 144                | January 7, 1991  | 23 N.J.R. 1981 and 2071            | July 1, 1991   |
| 23 N.J.R. 145 and 248              | January 22, 1991   | 23 N.J.R. 2079 and 2204            | July 15, 1991  |
| 23 N.J.R. 249 and 332              | February 4, 1991   | 23 N.J.R. 2205 and 2446            | August 5, 1991   |
| 23 N.J.R. 333 and 636              | February 19, 1991  | 23 N.J.R. 2447 and 2560            | August 19, 1991  |
| 23 N.J.R. 637 and 798              | March 4, 1991  | 23 N.J.R. 2561 and 2806            | September 3, 1991  |
| 23 N.J.R. 799 and 924              | March 18, 1991   | 23 N.J.R. 2807 and 2898            | September 16, 1991   |
| 23 N.J.R. 925 and 1048             | April 1, 1991  | 23 N.J.R. 2899 and 3060            | October 7, 1991  |

| N.J.A.C. CITATION                 | PROPOSAL NOTICE (N.J.R. CITATION)  | DOCUMENT NUMBER   | ADOPTION NOTICE (N.J.R. CITATION) |
|-----------------------------------|--|-------------------|-----------------------------------|
| <b>ADMINISTRATIVE LAW—TITLE 1</b> |  |                   |                                   |
| 1:1-3.3                           | Return of contested cases: failure of party to appear at hearing           | 23 N.J.R. 1728(a) |                                   |
| 1:5                               | Council on Affordable Housing hearings                                     | 23 N.J.R. 2082(a) | 23 N.J.R. 2998(a)                 |
| 1:5                               | Council on Affordable Housing hearings: extension of comment period        | 23 N.J.R. 2497(a) |                                   |
| 1:10B                             | Medical Assistance and Health Services hearings                            | 23 N.J.R. 2083(b) | 23 N.J.R. 2998(b)                 |
| 1:13A-18.2                        | Lemon Law hearings: exception to initial decision                          | 23 N.J.R. 2208(a) |                                   |
| 1:14-14.1, 14.4                   | Board of Public Utility hearings: prefiled testimony; interlocutory review | 23 N.J.R. 2083(c) | 23 N.J.R. 2998(c)                 |

**Most recent update to Title 1: TRANSMITTAL 1991-4 (supplement July 15, 1991)**

|                            |  |                   |                   |
|----------------------------|--|-------------------|-------------------|
| <b>AGRICULTURE—TITLE 2</b> |  |                   |                   |
| 2:9-1                      | Avian influenza: indemnification of poultry losses | 23 N.J.R. 1485(a) | 23 N.J.R. 2498(a) |
| 2:18                       | Nursery inspection fees                            | 23 N.J.R. 1230(b) | 23 N.J.R. 2328(a) |
| 2:21-7                     | Fees for seed testing                              | 23 N.J.R. 1231(a) | 23 N.J.R. 2330(a) |
| 2:51                       | Milk prices to dairy farmers                       | 23 N.J.R. 1966(b) | 23 N.J.R. 2498(b) |
| 2:69-1.11                  | Commercial values of primary plant nutrients       | 23 N.J.R. 1728(b) | 23 N.J.R. 2499(a) |
| 2:73-2                     | Seal of Quality for Eggs program                   | 23 N.J.R. 1729(a) | 23 N.J.R. 2500(a) |

**Most recent update to Title 2: TRANSMITTAL 1991-5 (supplement July 15, 1991)**

|                             |  |                   |                   |
|-----------------------------|--|-------------------|-------------------|
| <b>BANKING—TITLE 3</b>      |  |                   |                   |
| 3:1-2.17                    | Closing of branch offices                          | 23 N.J.R. 801(a)  | 23 N.J.R. 2305(a) |
| 3:1-2.17                    | Closing of branch offices                          | 23 N.J.R. 2208(b) |                   |
| 3:1-16                      | Mortgage processing rules                          | 23 N.J.R. 2613(b) |                   |
| 3:1-19                      | Consumer checking accounts: preproposed new rules  | 23 N.J.R. 2617(a) |                   |
| 3:3-2.1                     | Department records designated nonpublic            | 23 N.J.R. 1858(a) |                   |
| 3:6-4.5, 4.6                | Banks and savings banks: reporting of crimes       | 23 N.J.R. 2209(a) |                   |
| 3:16-2.1                    | Pawnbroker service charges                         | 23 N.J.R. 1729(b) | 23 N.J.R. 2500(b) |
| 3:17-1.1, 1.4               | Consumer loan advertisements                       | 22 N.J.R. 2626(a) | Expired           |
| 3:18-10.3                   | Licensure of secondary mortgage lenders            | 23 N.J.R. 2210(a) |                   |
| 3:26-3.1, 3.2               | Savings and loan associations: reporting of crimes | 23 N.J.R. 2209(a) |                   |
| 3:29-1.1-1.4, 1.6, 1.7, 1.8 | Savings and loan associations: audit requirements  | 23 N.J.R. 1485(b) | 23 N.J.R. 2306(a) |
| 3:38-1.2, 1.4, 1.9, 2.1     | Mortgage banker and broker net worth standards     | 23 N.J.R. 2450(a) |                   |
| 3:38-1.3                    | Licensure of mortgage lenders                      | 23 N.J.R. 2210(a) |                   |

**Most recent update to Title 3: TRANSMITTAL 1991-6 (supplement July 15, 1991)**

## CIVIL SERVICE—TITLE 4

**Most recent update to Title 4: TRANSMITTAL 1990-3 (supplement July 16, 1990)**

|                           |  |                   |                   |
|---------------------------|--|-------------------|-------------------|
| <b>PERSONNEL—TITLE 4A</b> |  |                   |                   |
| 4A:4-2.11                 | Enforcement of residency requirements                                | 23 N.J.R. 1984(a) | 23 N.J.R. 2999(a) |
| 4A:4-7.11                 | Retention of rights by transferred employees                         | 23 N.J.R. 1984(b) |                   |
| 4A:5-2.1, 2.2             | Veterans and disabled veterans preference: administrative correction |                   | 23 N.J.R. 2500(c) |

**Most recent update to Title 4A: TRANSMITTAL 1991-1 (supplement May 20, 1991)**

| N.J.A.C. CITATION   |   | PROPOSAL NOTICE (N.J.R. CITATION) | DOCUMENT NUMBER | ADOPTION NOTICE (N.J.R. CITATION) |
|---|---|-----------------------------------|-----------------|-----------------------------------|
| <b>COMMUNITY AFFAIRS—TITLE 5</b>                          |   |                                   |                 |                                   |
| 5:14-1.1-1.6, 2.1, 2.2, 2.3, 3.1-3.12, 3A, 4.10, App. A-D | Neighborhood Preservation Balanced Housing Program  | 23 N.J.R. 1075(a)                 |                 |                                   |
| 5:18-1.4  | Uniform Fire Code: applicability of requirements  | 23 N.J.R. 2813(a)                 |                 |                                   |
| 5:18-2.4A, 2.4B, 2.4C, 2.4D, 2.7, 2.8                     | Uniform Fire Code: life hazard uses and permit fees   | 23 N.J.R. 2234(a)                 | R.1991 d.504    | 23 N.J.R. 2999(b)                 |
| 5:18-2.8  | Uniform Fire Code life hazard uses and permit fees: administrative correction and extension of comment period | 23 N.J.R. 2453(a)                 |                 |                                   |
| 5:18-2.19   | Uniform Fire Code: identifying emblems for structures with truss construction                                 | 23 N.J.R. 2618(a)                 |                 |                                   |
| 5:18-3.2  | Uniform Fire Code: hotel-casinos  | 23 N.J.R. 1237(a)                 | R.1991 d.480    | 23 N.J.R. 2861(a)                 |
| 5:18A-2.6   | Fire Code enforcement: life hazard uses and permit fees   | 23 N.J.R. 2234(a)                 | R.1991 d.504    | 23 N.J.R. 2999(b)                 |
| 5:18C-4.2   | Firefighter I certification   | 23 N.J.R. 2084(a)                 |                 |                                   |
| 5:20-1  | Meetings of governing board of a condominium association  | 23 N.J.R. 1901(a)                 | R.1991 d.455    | 23 N.J.R. 2633(a)                 |
| 5:23-2.8, 2.17A, 2.24, 2.32                               | Uniform Construction Code: approval of completed work   | 23 N.J.R. 2236(a)                 | R.1991 d.509    | 23 N.J.R. 3001(a)                 |
| 5:23-2.38   | Barrier Free Recreational Standards: appeals regarding facility noncompliance                                 | 23 N.J.R. 1730(a)                 | R.1991 d.428    | 23 N.J.R. 2500(d)                 |
| 5:23-3.14, 3.18, 3.20, 10.3                               | Uniform Construction Code: 1991 subcode references; Energy and Radon Hazard subcodes                          | 23 N.J.R. 1487(a)                 | R.1991 d.429    | 23 N.J.R. 2501(a)                 |
| 5:23-3.15, 3.21   | Uniform Construction Code: plumbing; one and two family dwelling subcodes                                     | 23 N.J.R. 2619(a)                 |                 |                                   |
| 5:23-4.14, 4A.17, 8.18                                    | Uniform Construction Code: pre-proposal regarding private enforcing agencies                                  | 23 N.J.R. 1985(a)                 |                 |                                   |
| 5:23-7.3, 7.11  | Barrier Free Subcode: exemptions and Use Group R-2 and R-3  | 23 N.J.R. 1902(a)                 | R.1991 d.479    | 23 N.J.R. 2861(b)                 |
| 5:23-7.6A   | Barrier-Free Subcode enforcement  | 23 N.J.R. 2620(a)                 |                 |                                   |
| 5:23-11   | Uniform Construction Code: Indoor Air Quality Subcode   | 23 N.J.R. 1730(b)                 |                 |                                   |
| 5:23-12.2   | Elevator Safety Subcode: referenced standards   | 23 N.J.R. 2046(a)                 |                 |                                   |
| 5:33-3  | Tenants' Property Tax Rebate Program  | 23 N.J.R. 2183(a)                 | R.1991 d.484    | 23 N.J.R. 3002(a)                 |
| 5:33-4  | Property tax and mortgage escrow account transactions   | 23 N.J.R. 1903(a)                 |                 |                                   |
| 5:80-2.2  | Housing and Mortgage Finance Agency: consultation with housing sponsors                                       | 22 N.J.R. 3669(b)                 | R.1991 d.408    | 23 N.J.R. 2306(b)                 |
| 5:80-29   | Housing and Mortgage Finance Agency: investment of surplus funds  | 23 N.J.R. 2621(a)                 |                 |                                   |
| 5:80-31   | Housing and Mortgage Finance Agency: attorney services  | 23 N.J.R. 2622(a)                 |                 |                                   |
| 5:91-15   | Council on Affordable Housing: municipal development fees   | 23 N.J.R. 2813(b)                 |                 |                                   |
| 5:92  | Council on Affordable Housing: preproposal regarding mandatory developers' fees                               | 23 N.J.R. 646(b)                  |                 |                                   |
| 5:92-1.3, 1.4, 8.4, 18                                    | Council on Affordable Housing: municipal development fees   | 23 N.J.R. 2813(b)                 |                 |                                   |
| 5:92-1.3, 6.1, 6.2, 6.3, 14.4                             | Council on Affordable Housing: credits for rehabilitation and new construction; rental housing                | 23 N.J.R. 1488(a)                 | R.1991 d.412    | 23 N.J.R. 2307(a)                 |
| 5:92-1.6  | Council on Affordable Housing: extension of certification period/judgment of repose                           | 23 N.J.R. 2084(b)                 |                 |                                   |

**Most recent update to Title 5: TRANSMITTAL 1991-7 (supplement July 15, 1991)**

**MILITARY AND VETERANS' AFFAIRS (formerly DEFENSE)—TITLE 5A**

|      |  |                   |  |  |
|------|--|-------------------|--|--|
| 5A:3 | Military service medals  | 23 N.J.R. 1490(a) |  |  |
| 5A:4 | Brigadier General William C. Doyle Veterans' Memorial Cemetery | 23 N.J.R. 1491(a) |  |  |

**Most recent update to Title 5A: TRANSMITTAL 1990-2 (supplement June 18, 1990)**

**EDUCATION—TITLE 6**

|  |   |                   |              |                   |
|--|---|-------------------|--------------|-------------------|
| 6:8-1.1, 6.1, 6.2, 6.3   | Preventive and remedial programs in reading, writing and mathematics  | 23 N.J.R. 2085(a) |              |                   |
| 6:11-6.2   | Early childhood instructional certificate   | 23 N.J.R. 2210(b) |              |                   |
| 6:20-2.12, 2.13, 2.14, 2A.10, 2A.11, 2A.12, 4.1, 5.3, 5.6, 8.3 | Financial management in local districts   | 23 N.J.R. 1733(a) | R.1991 d.459 | 23 N.J.R. 2634(a) |
| 6:20-2.13, 2A.11, 3.1, 3.3, 3.4, 5.8                           | Free balance and restricted appropriations; tuition rates for regular public and county schools; excess surplus calculation | 23 N.J.R. 2818(a) |              |                   |
| 6:21-7, 19   | Pupil transportation aid  | 23 N.J.R. 1737(a) | R.1991 d.460 | 23 N.J.R. 2636(a) |
| 6:22-1.2-1.7, 2, 3, 4, 5.4, 5.5, 6, 7, 8                       | School Facility Planning Service  | 23 N.J.R. 1238(a) | R.1991 d.443 | 23 N.J.R. 2502(a) |

| <b>N.J.A.C.<br/>CITATION</b>  |   | <b>PROPOSAL NOTICE<br/>(N.J.R. CITATION)</b> | <b>DOCUMENT<br/>NUMBER</b> | <b>ADOPTION NOTICE<br/>(N.J.R.CITATION)</b> |
|---|---|--|----------------------------|---|
| 6:30-4.4, 4.5   | Reporting of enrollments in adult high schools  | 23 N.J.R. 1243(a)                            | R.1991 d.401               | 23 N.J.R. 2330(b)                           |
| 6:39-1.3, 1.4   | Statewide assessment of pupil achievement: students with educational disabilities; State mandated tests   | 23 N.J.R. 1244(a)                            | R.1991 d.402               | 23 N.J.R. 2331(a)                           |
| 6:41  | Repeal Advisory Council   | 23 N.J.R. 1244(b)                            | R.1991 d.403               | 23 N.J.R. 2331(b)                           |
| 6:43-1.1, 1.2, 3.3, 7.1, 8.1  | Vocational and technical education: programs and standards  | 23 N.J.R. 1246(a)                            | R.1991 d.404               | 23 N.J.R. 2331(c)                           |
| 6:46-1.1, 2   | Local area vocational school districts  | 23 N.J.R. 1247(a)                            | R.1991 d.405               | 23 N.J.R. 2332(a)                           |
| 6:47  | Repeal Management Services  | 23 N.J.R. 1244(b)                            | R.1991 d.403               | 23 N.J.R. 2331(b)                           |
| 6:48  | Repeal Professional Services  | 23 N.J.R. 1244(b)                            | R.1991 d.403               | 23 N.J.R. 2331(b)                           |
| 6:49  | Repeal Occupational Research Development  | 23 N.J.R. 1244(b)                            | R.1991 d.403               | 23 N.J.R. 2331(b)                           |
| 6:50  | Repeal Urban Education and Manpower Training  | 23 N.J.R. 1244(b)                            | R.1991 d.403               | 23 N.J.R. 2331(b)                           |
| 6:51  | Vocational and technical education: administration and organization   | 23 N.J.R. 1250(a)                            | R.1991 d.406               | 23 N.J.R. 2333(a)                           |
| 6:52  | Repeal Residential Schools  | 23 N.J.R. 1244(b)                            | R.1991 d.403               | 23 N.J.R. 2331(b)                           |
| <b>Most recent update to Title 6: TRANSMITTAL 1991-6 (supplement July 15, 1991)</b> |   |  |                            |   |
| <b>ENVIRONMENTAL PROTECTION AND ENERGY—TITLE 7</b>                                  |   |  |                            |   |
| 7:1E  | Discharges of petroleum and other hazardous substances  | 23 N.J.R. 1335(a)                            | R.1991 d.465               | 23 N.J.R. 2656(a)                           |
| 7:1E-1.6, 1.9, 7, 8, 9, 10  | Discharges of petroleum and other hazardous substances: confidentiality of information  | 23 N.J.R. 2848(a)                            |                            |   |
| 7:1H  | County environmental health standards: request for public input concerning amendments to N.J.A.C. 7:1H  | 23 N.J.R. 2237(a)                            |                            |   |
| 7:11-3.3  | Sanitary Landfill Facility Contingency Fund: suspension of claims   | 22 N.J.R. 3675(a)                            |                            |   |
| 7:2   | State Park Service rules  | 22 N.J.R. 2652(a)                            | R.1991 d.487               | 23 N.J.R. 3005(a)                           |
| 7:2-11.3–11.9, 11.12–11.14  | Natural Areas and Natural Areas System  | 23 N.J.R. 1985(b)                            |                            |   |
| 7:4   | New Jersey Register of Historic Places: procedures for listing of historic places   | 23 N.J.R. 2103(a)                            |                            |   |
| 7:5C-1.4, 3.1, 5.1  | Endangered Plant Species Program  | 23 N.J.R. 812(a)                             | R.1991 d.446               | 23 N.J.R. 2507(b)                           |
| 7:7A  | Freshwater Wetlands Protection Act rules: water quality certification   | 23 N.J.R. 338(a)                             |                            |   |
| 7:8-1.1, 1.2, 1.5, 2.2, 2.3, 3.1, 3.4, 3.5, 3.6                                     | Stormwater management: Water Pollution Control Act compliance   | 23 N.J.R. 1926(a)                            |                            |   |
| 7:9-5.8   | Water pollution control: minimum treatment requirements   | 23 N.J.R. 1493(a)                            |                            |   |
| 7:9-6   | Ground water quality standards: request for comment on draft revisions  | 23 N.J.R. 1988(a)                            |                            |   |
| 7:13  | Flood hazard area control: opportunity to comment on draft revisions  | 23 N.J.R. 1989(a)                            |                            |   |
| 7:13-7.1  | Redelineation of Coles Brook in Hackensack and River Edge   | 23 N.J.R. 647(a)                             |                            |   |
| 7:13-7.1  | Redelineation of South Branch Raritan River in Hunterdon County   | 23 N.J.R. 647(b)                             |                            |   |
| 7:13-7.1  | Redelineation of Passaic River in Florham Park  | 23 N.J.R. 648(a)                             |                            |   |
| 7:13-7.1  | Redelineation of Lawrence and Heathcote Brooks in South Brunswick   | 23 N.J.R. 649(a)                             |                            |   |
| 7:14-8  | Clean Water Enforcement Act: civil administrative penalties and reporting requirements; methodology   | 23 N.J.R. 1089(a)                            | R.1991 d.378               | 23 N.J.R. 2366(a)                           |
| 7:14-8.2, 8.5   | Clean Water Enforcement Act: civil administrative penalties and reporting requirements  | 23 N.J.R. 2238(a)                            |                            |   |
| 7:14-8.13   | Water Pollution Control Act: request for public input regarding economic benefit derived from noncompliance and determination of civil administrative penalties | 23 N.J.R. 2241(a)                            |                            |   |
| 7:14A-1.8   | NJPDES fee schedule: administrative correction  | _____  | _____                      | 23 N.J.R. 2346(a)                           |
| 7:14A-1.9, 2.5, 3.10, 8.13  | Clean Water Enforcement Act: civil administrative penalties and reporting requirements; methodology   | 23 N.J.R. 1089(a)                            | R.1991 d.378               | 23 N.J.R. 2366(a)                           |
| 7:14A-1.9, 3.10   | Clean Water Enforcement Act: civil administrative penalties and reporting requirements  | 23 N.J.R. 2238(a)                            |                            |   |
| 7:14A-2.1   | NJPDES and DTW co-permittee requirements: notice of rule invalidation   | _____  | _____                      | 23 N.J.R. 2346(b)                           |
| 7:14A-15  | Industrial wastewater pretreatment: preproposed rules   | 23 N.J.R. 149(a)                             |                            |   |
| 7:14B-4.5, 9.1, 13.20   | Underground storage tank systems  | 23 N.J.R. 2854(a)                            |                            |   |
| 7:15-4.1  | DTW and NJPDES co-permittee requirements: notice of rule invalidation   | _____  | _____                      | 23 N.J.R. 2346(b)                           |
| 7:18  | Certification of laboratories analyzing drinking water and wastewater   | 23 N.J.R. 1109(a)                            | R.1991 d.385               | 23 N.J.R. 2346(c)                           |
| 7:18-6.6  | Clean Water Enforcement Act: civil administrative penalties and reporting requirements; methodology   | 23 N.J.R. 1089(a)                            | R.1991 d.378               | 23 N.J.R. 2366(a)                           |
| 7:25-5  | 1991-92 Game Code   | 23 N.J.R. 1494(a)                            | R.1991 d.416               | 23 N.J.R. 2347(a)                           |
| 7:25-6  | 1992-93 Fish Code   | 23 N.J.R. 2115(a)                            |                            |   |

| N.J.A.C. CITATION  |   | PROPOSAL NOTICE (N.J.R. CITATION) | DOCUMENT NUMBER | ADOPTION NOTICE (N.J.R.CITATION) |
|--|---|-----------------------------------|-----------------|----------------------------------|
| 7:25-18.1  | Taking of Atlantic sturgeon: preproposed amendment  | 23 N.J.R. 1111(a)                 |                 |                                  |
| 7:25-18.1, 18.12, 18.13  | Weakfish management program   | 23 N.J.R. 1989(b)                 |                 |                                  |
| 7:26-1.2, 1.4, 8.2, 8.13, 9.1, 9.4, 9.5, 9.7, 9.10, 10.4, 10.7, 10.8, 11.5, 12.1, 12.2, 12.4, 12.5, 12.9, 17.4 | Hazardous waste management  | 23 N.J.R. 2453(b)                 |                 |                                  |
| 7:26-2.4   | Small scale solid waste facility permits: request for comment on draft revisions to N.J.A.C. 7:26-2.4         | 23 N.J.R. 2458(a)                 |                 |                                  |
| 7:26-4A.3  | Fee schedule for hazardous waste generators, facilities, and transporters: correction to proposal             | 23 N.J.R. 1113(a)                 |                 |                                  |
| 7:26-4A.3, 4A.5  | Fee schedule for hazardous waste generators, facilities, and transporters                                     | 23 N.J.R. 814(a)                  |                 |                                  |
| 7:26-7.7, 8.2, 8.3, 8.4, 8.20, 9.1   | PCB hazardous waste   | 23 N.J.R. 2855(a)                 |                 |                                  |
| 7:26-8.1   | Mixtures of solid and listed hazardous wastes   | 23 N.J.R. 1113(b)                 | R.1991 d.420    | 23 N.J.R. 2360(a)                |
| 7:26-8.2, 8.8, 8.12  | Hazardous waste management: Toxicity Characteristic   | 23 N.J.R. 151(a)                  | R.1991 d.421    | 23 N.J.R. 2360(b)                |
| 7:26-8.2, 8.8, 8.12  | Hazardous waste management: reopening of comment period regarding Toxicity Characteristic of waste            | 23 N.J.R. 1401(a)                 |                 |                                  |
| 7:26-8.12  | Hazardous waste management: administrative correction   | _____                             | _____           | 23 N.J.R. 2880(a)                |
| 7:26-8.14  | Hazardous waste management: methyl bromide production wastes  | 23 N.J.R. 154(a)                  | R.1991 d.422    | 23 N.J.R. 2361(a)                |
| 7:26-8.14  | Hazardous waste management: reopening of comment period regarding listing of methyl bromide production wastes | 23 N.J.R. 1401(b)                 |                 |                                  |
| 7:26-8.15, 8.16  | Hazardous waste criteria, identification, and listing   | 23 N.J.R. 1114(a)                 | R.1991 d.472    | 23 N.J.R. 2874(a)                |
| 7:26-9.2, 10.6, 10.8, 11.3, 11.4, 12.2, 12.4   | Hazardous waste management  | 22 N.J.R. 3186(a)                 |                 |                                  |
| 7:26-9.2, 10.6, 10.8, 11.3, 11.4, 12.2, 12.4   | Hazardous waste management: extension of comment period   | 22 N.J.R. 3431(a)                 |                 |                                  |
| 7:26A  | Solid waste recycling   | 22 N.J.R. 3088(a)                 |                 |                                  |
| 7:27-8.1, 8.2, 8.11, 16, 17.1, 17.3-17.9, 23.2, 23.3, 23.5, 23.6, 25.2   | Air pollution by volatile organic compounds   | 23 N.J.R. 1858(b)                 |                 |                                  |
| 7:27-16.5  | Air pollution by volatile organic compounds: corrections to proposal and addresses for inspection of copies   | 23 N.J.R. 2119(a)                 |                 |                                  |
| 7:27-25.1, 25.2, 25.5, 25.7, 25.8  | Air pollution by vehicular fuels  | 23 N.J.R. 45(b)                   | R.1991 d.462    | 23 N.J.R. 2778(a)                |
| 7:27-25.1, 25.2, 25.5, 25.7, 25.8  | Vehicular fuel air pollution: extension of time to inspect copies of proposed amendments and new rules        | 23 N.J.R. 261(a)                  |                 |                                  |
| 7:27A-3.2, 3.10, 3.11  | Air pollution by volatile organic compounds: civil administrative penalties                                   | 23 N.J.R. 1858(b)                 |                 |                                  |
| 7:27B-3.1, 3.2, 3.4-3.12, 3.14, 3.15, 3.17, 3.18   | Air pollution by volatile organic compounds: sampling and analytical procedures                               | 23 N.J.R. 1858(b)                 |                 |                                  |
| 7:27B-3.10   | Air pollution by volatile organic compounds: corrections to proposal and addresses for inspection of copies   | 23 N.J.R. 2119(a)                 |                 |                                  |
| 7:28-1.4, 20   | Particle accelerators for industrial and research use   | 23 N.J.R. 1401(c)                 |                 |                                  |
| 7:28-3.5, 3.13, 4.19   | Fee schedules for possession and use of radioactive materials   | 22 N.J.R. 3300(a)                 | R.1991 d.417    | 23 N.J.R. 2362(a)                |
| 7:31-2.16  | Toxic Catastrophe Prevention Act Program: annual registration fees  | 23 N.J.R. 818(a)                  | R.1991 d.463    | 23 N.J.R. 2780(a)                |
| 7:50-2.11, 4.61-4.70, 5.27, 5.28, 5.30, 5.32, 6.13   | Pinelands Comprehensive Management Plan: waivers of strict compliance   | 23 N.J.R. 2458(b)                 |                 |                                  |
| 7:50-2.11, 4.66, 6.13  | Pinelands Comprehensive Management Plan: preproposed amendments   | 22 N.J.R. 3432(a)                 |                 |                                  |
| <b>Most recent update to Title 7: TRANSMITTAL 1991-7 (supplement July 15, 1991)</b>                            |   |                                   |                 |                                  |
| <b>HEALTH—TITLE 8</b>  |   |                                   |                 |                                  |
| 8:9-1.2, 1.4, 1.5  | Handling and disposition of human remains   | 23 N.J.R. 1508(a)                 | R.1991 d.410    | 23 N.J.R. 2334(a)                |
| 8:18-1.2, 1.4, 1.5, 1.7, 1.10, 1.11, 1.13-1.17   | Catastrophic Illness in Children Relief Fund Program  | 23 N.J.R. 2564(a)                 |                 |                                  |
| 8:20-1.2   | Birth Defects Registry: reporting requirements  | 23 N.J.R. 820(a)                  | R.1991 d.414    | 23 N.J.R. 2335(a)                |
| 8:21A  | Good drug manufacturing practices   | 22 N.J.R. 3189(a)                 |                 |                                  |

| N.J.A.C. CITATION  |   | PROPOSAL NOTICE (N.J.R. CITATION) | DOCUMENT NUMBER | ADOPTION NOTICE (N.J.R.CITATION) |
|--|---|-----------------------------------|-----------------|----------------------------------|
| 8:21A  | Good drug manufacturing practices: reopening of comment period  | 23 N.J.R. 1252(a)                 |                 |                                  |
| 8:22-1   | Campground sanitation   | 23 N.J.R. 1252(b)                 | R.1991 d.409    | 23 N.J.R. 2336(a)                |
| 8:24-2.1   | Retail food establishments: administrative correction   |                                   |                 | 23 N.J.R. 2337(a)                |
| 8:24-13.9, 13.11   | Sanitation in community residences and bed and breakfast establishments   | 23 N.J.R. 2088(a)                 | R.1991 d.507    | 23 N.J.R. 3026(a)                |
| 8:31A-1.1, 2.6, 7.4, 7.5, App. A, D  | SHARE Manual: patient day add-on; EDR and OPPM cost centers   | 23 N.J.R. 2242(a)                 |                 |                                  |
| 8:31B-3.65, 3.71   | Hospital reimbursement: Schedule of Rates adjustments and reconciliation  | Emergency (expires 11-15-91)      | R.1991 d.506    | 23 N.J.R. 3042(a)                |
| 8:31C-1.21, App. A   | Residential alcoholism treatment facilities: patient day add-on   | 23 N.J.R. 2243(a)                 |                 |                                  |
| 8:33-5.1   | Certificate of Need moratorium  | Emergency (expires 10-21-91)      | R.1991 d.474    | 23 N.J.R. 2881(a)                |
| 8:33I  | Megavoltage radiation oncology units  | 23 N.J.R. 1906(a)                 |                 |                                  |
| 8:33J-1.1, 1.2, 1.3, 1.6   | Magnetic Resonance Imaging (MRI) services   | 23 N.J.R. 1906(b)                 |                 |                                  |
| 8:33M-1.6  | Adult comprehensive rehabilitation services: bed need methodology   | 23 N.J.R. 1908(a)                 |                 |                                  |
| 8:40   | Licensure of invalid coach and ambulance services: waiver of expiration provision of Executive Order No. 66(1978) | 23 N.J.R. 2245(a)                 |                 |                                  |
| 8:40   | Invalid coach and ambulance services  | 23 N.J.R. 2566(a)                 |                 |                                  |
| 8:41A  | Emergency medical technician-defibrillation programs: certification and operation                                 | 23 N.J.R. 1254(a)                 |                 |                                  |
| 8:43G-4.1, 5.2, 5.3, 5.5, 5.7, 5.9, 5.12, 5.16, 5.18, 7.5, 7.16, 7.22, 7.23, 7.24, 7.26, 7.28, 7.32, 7.33, 7.34, 7.37, 7.40, 8.4, 8.7, 8.11, 9.7, 9.14, 9.19, 10.1, 10.4, 11.5, 12.2, 12.3, 12.7, 12.10, 13.4, 13.13, 14.1, 14.9, 15.2, 15.3, 16.1, 16.2, 16.6, 16.7, 18.4-18.7, 19.2, 19.5, 19.13, 19.14, 19.15, 19.17, 19.18, 19.22, 19.23, 19.33, 20.1, 20.2, 22.2, 22.3, 22.12, 22.17, 22.20, 23.1, 23.2, 23.6, 24.9, 24.13, 25.1, 26.2, 26.3, 26.9, 28.1, 28.8, 28.10, 29.13, 29.17, 30.1, 30.2, 30.3, 30.5, 30.6, 30.8, 30.11, 32.3, 32.5, 32.9, 32.12, 33.6, 35.2 | Hospital licensing standards  | 23 N.J.R. 2590(a)                 |                 |                                  |
| 8:43G-5.6  | Hospital licensure: reportable events   | 22 N.J.R. 3469(a)                 | R.1991 d.450    | 23 N.J.R. 2526(a)                |
| 8:43G-6  | Hospital licensure: anesthesia  | 22 N.J.R. 3470(a)                 | R.1991 d.451    | 23 N.J.R. 2527(a)                |
| 8:52   | Local boards of health: activities and standards  | 23 N.J.R. 2825(a)                 |                 |                                  |
| 8:57-2.2, 2.4, 2.6, 2.7  | Reporting of HIV infection with identifiers   | 23 N.J.R. 2089(a)                 |                 |                                  |
| 8:61   | AIDS prevention and control   | 23 N.J.R. 2245(b)                 |                 |                                  |
| 8:61   | AIDS prevention and control: extension of comment period  | 23 N.J.R. 2882(e)                 |                 |                                  |
| 8:61-2.1, 2.2, 2.3, 2.6  | Participation in AIDS Drug Distribution Program   | 23 N.J.R. 2247(a)                 |                 |                                  |
| 8:61-2   | Participation in AIDS Drug Distribution Program: extension of comment period                                      | 23 N.J.R. 2883(a)                 |                 |                                  |
| 8:65-2.4, 2.5, 6.6, 6.13, 6.16   | Controlled dangerous substances: handling of carfentanil, etorphine hydrochloride, and diprenorphine              | 23 N.J.R. 1911(a)                 |                 |                                  |
| 8:66   | Alcohol countermeasures: waiver of expiration provision of Executive Order No. 66(1978)                           | 23 N.J.R. 177(a)                  |                 |                                  |
| 8:71   | Interchangeable drug products (see 23 N.J.R. 206(b))  | 22 N.J.R. 3191(a)                 |                 |                                  |
| 8:71   | Interchangeable drug products (see 23 N.J.R. 1670(a), 2136(a))  | 23 N.J.R. 178(a)                  | R.1991 d.464    | 23 N.J.R. 2783(a)                |
| 8:71   | Interchangeable drug products: administrative correction  |                                   |                 | 23 N.J.R. 2338(a)                |

| N.J.A.C. CITATION |                               | PROPOSAL NOTICE (N.J.R. CITATION) | DOCUMENT NUMBER | ADOPTION NOTICE (N.J.R.CITATION) |
|-------------------|-------------------------------|-----------------------------------|-----------------|----------------------------------|
| 8:71              | Interchangeable drug products | 23 N.J.R. 1509(a)                 |                 |                                  |
| 8:71              | Interchangeable drug products | 23 N.J.R. 2610(a)                 |                 |                                  |

**Most recent update to Title 8: TRANSMITTAL 1991-7 (supplement July 15, 1991)**

**HIGHER EDUCATION—TITLE 9**

|          |  |                   |              |                   |
|----------|--|-------------------|--------------|-------------------|
| 9:4      | County community colleges  | 23 N.J.R. 2467(a) |              |                   |
| 9:4-3.12 | Noncredit courses at county community colleges   | 23 N.J.R. 1056(a) |              |                   |
| 9:7-4.2  | Garden State Scholarships: academic requirements                                       | 23 N.J.R. 2211(a) |              |                   |
| 9:9-7    | New Jersey College Loans to Assist State Students (NJCLASS) Program                    | 23 N.J.R. 1257(a) | R.1991 d.396 | 23 N.J.R. 2338(b) |
| 9:9-7.7  | New Jersey College Loans to Assist State Students (NJCLASS) Program: repayment of loan | 23 N.J.R. 2212(a) |              |                   |
| 9:11-1.5 | Educational Opportunity Fund: financial eligibility for undergraduate grants           | 23 N.J.R. 1739(a) |              |                   |

**Most recent update to Title 9: TRANSMITTAL 1991-4 (supplement July 15, 1991)**

**HUMAN SERVICES—TITLE 10**

|                                 |  |                             |              |                   |
|---------------------------------|--|-----------------------------|--------------|-------------------|
| 10:3-3                          | Contract administration: Request for Proposal (RFP) process  | 23 N.J.R. 957(a)            |              |                   |
| 10:3-4                          | Cognizant division contracting by community provider agencies                                      | 23 N.J.R. 1647(a)           | R.1991 d.442 | 23 N.J.R. 2534(a) |
| 10:36                           | Patient supervision at State psychiatric hospitals   | 23 N.J.R. 1652(a)           | R.1991 d.453 | 23 N.J.R. 2637(a) |
| 10:42                           | Use of mechanical restraints and safeguarding equipment on developmentally disabled individuals    | 23 N.J.R. 1653(a)           | R.1991 d.437 | 23 N.J.R. 2538(a) |
| 10:51 et al.                    | Bundled drug services reimbursement: public hearing  | 23 N.J.R. 1310(a)           |              |                   |
| 10:51-1.1, 1.14, 3.3, 3.12      | Bundled drug services  | 23 N.J.R. 281(a)            |              |                   |
| 10:51-5.6                       | PAAD: income eligibility limits  | 23 N.J.R. 2623(a)           |              |                   |
| 10:52-1.1, 1.22                 | Bundled drug services  | 23 N.J.R. 281(a)            |              |                   |
| 10:53-1.1, 1.17                 | Bundled drug services  | 23 N.J.R. 281(a)            |              |                   |
| 10:54-1.1, 1.16                 | Bundled drug services  | 23 N.J.R. 281(a)            |              |                   |
| 10:56                           | Dental Services Manual   | 23 N.J.R. 1992(a)           | R.1991 d.473 | 23 N.J.R. 2862(a) |
| 10:56-1.1, 1.4                  | Bundled drug services  | 23 N.J.R. 281(a)            |              |                   |
| 10:57-1.1, 1.18                 | Bundled drug services  | 23 N.J.R. 281(a)            |              |                   |
| 10:60-4.3                       | Home Care Expansion Program: cost sharing by beneficiaries   | 23 N.J.R. 2826(a)           |              |                   |
| 10:66-1.2, 1.10                 | Bundled drug services  | 23 N.J.R. 281(a)            |              |                   |
| 10:66-1.6, 3                    | Independent Clinic Services: partial care  | 23 N.J.R. 2213(a)           | R.1991 d.508 | 23 N.J.R. 3027(a) |
| 10:66-3                         | Medicaid program: personal care assistant services at independent clinics                          | 23 N.J.R. 2091(a)           | R.1991 d.481 | 23 N.J.R. 2862(b) |
| 10:68                           | Manual of Chiropractic Services  | 23 N.J.R. 1327(a)           | R.1991 d.377 | 23 N.J.R. 2309(a) |
| 10:69-5.1                       | HAAAD: income eligibility limits   | 23 N.J.R. 2623(a)           |              |                   |
| 10:69A-1.2, 5.3, 5.6, 6.2, 6.10 | PAAD: income eligibility limits  | 23 N.J.R. 2623(a)           |              |                   |
| 10:69A-6.11                     | PAAD program: release of eligibility files to Division of Motor Vehicles                           | 23 N.J.R. 7(a)              | R.1991 d.454 | 23 N.J.R. 2637(b) |
| 10:69B-4.2                      | Lifeline Credit Program: income eligibility limits   | 23 N.J.R. 2623(a)           |              |                   |
| 10:72-1.1, 4.1                  | Medicaid eligibility: pregnant women and children  | Emergency (expires 9-27-91) | R.1991 d.445 | 23 N.J.R. 2543(a) |
| 10:72-2.5, 3.4                  | Extended Medicaid eligibility for newborns   | 23 N.J.R. 1889(a)           | R.1991 d.483 | 23 N.J.R. 3028(a) |
| 10:72-6.1-6.5                   | New Jersey Care: presumptive eligibility process for pregnant women                                | 23 N.J.R. 2827(a)           |              |                   |
| 10:81-8.22, 8.23                | Extended Medicaid eligibility for newborns   | 23 N.J.R. 1657(a)           | R.1991 d.438 | 23 N.J.R. 2542(a) |
| 10:81-14.12, 14.18              | Public Assistance Manual: child care payment for AFDC families in REACH/JOBS program               | 23 N.J.R. 2214(a)           |              |                   |
| 10:81-15                        | Child Care Plus Demonstration  | 23 N.J.R. 8(a)              |              |                   |
| 10:81-App. C                    | Public Assistance Manual forms: administrative correction  |                             |              | 23 N.J.R. 3029(a) |
| 10:82-1.1A                      | AFDC Standard of Need  | 23 N.J.R. 285(a)            |              |                   |
| 10:82-1.1A                      | AFDC Standard of Need: public hearings and extension of comment period                             | 23 N.J.R. 967(a)            |              |                   |
| 10:82-2.8, 4.4, 5.3             | Assistance Standards Handbook: child care payment for AFDC families in REACH/JOBS program          | 23 N.J.R. 2217(a)           |              |                   |
| 10:82-3.1                       | Assistance Standards Handbook: bank account resources  | 23 N.J.R. 2625(a)           |              |                   |
| 10:82-4.9                       | Assistance Standards Handbook: DYFS monthly foster care rates                                      | 23 N.J.R. 2220(a)           |              |                   |
| 10:82-5.10                      | AFDC Emergency Assistance  | 23 N.J.R. 967(b)            |              |                   |
| 10:84-1                         | Efficiency and effectiveness of program operations   | 23 N.J.R. 1740(a)           |              |                   |
| 10:84-1                         | Efficiency and effectiveness of program operations: public hearing and extension of comment period | 23 N.J.R. 2220(b)           |              |                   |

| <b>N.J.A.C. CITATION</b>   |  | <b>PROPOSAL NOTICE (N.J.R. CITATION)</b> | <b>DOCUMENT NUMBER</b> | <b>ADOPTION NOTICE (N.J.R.CITATION)</b> |
|--|--|--|------------------------|---|
| 10:85-1.1, 1.2, 1.3, 2.1, 2.2, 2.5, 2.6, 3.2, 3.3, 3.5, 3.6, 4.2, 4.3, 5.3, 6.1-6.9, 7.2, 9.4, 12.1, 12.2  | General Assistance Program   | 23 N.J.R. 1741(a)                        |                        |   |
| 10:85-4.1  | General Assistance Program: Standard of Need   | 23 N.J.R. 286(a)                         |                        |   |
| 10:85-4.1  | General Assistance Standard of Need: public hearings and extension of comment period | 23 N.J.R. 967(a)                         |                        |   |
| 10:87-12   | Food Stamp Program: income eligibility, deductions, coupon allotments                | _____                                    | _____                  | 23 N.J.R. 3030(a)                       |
| 10:97-1.3, 1.4, 2.1-2.6, 3.1, 3.2, 3.4, 3.5, 4.1, 4.2, 4.6, 4.7, 4.8, 4.14, 4.15, 5.1, 5.3, 5.4, 6.1, 6.3, 6.4, 6.5, 7.1-7.4, 8.1, 8.2, 8.3, 9.1 | Commission for Blind and Visually Impaired: Business Enterprise Program              | 23 N.J.R. 1749(a)                        |                        |   |
| 10:120   | Youth and Family Services administration   | 23 N.J.R. 1658(a)                        | R.1991 d.397           | 23 N.J.R. 2309(b)                       |
| 10:123A  | Youth and Family Services: Personal Attendant Services Program                       | 23 N.J.R. 2091(b)                        |                        |   |
| 10:132   | Youth and Family Services: court actions and procedures                              | 23 N.J.R. 2099(a)                        |                        |   |

**Most recent update to Title 10: TRANSMITTAL 1991-7 (supplement July 15, 1991)**

**CORRECTIONS—TITLE 10A**

|                 |  |                   |              |                   |
|-----------------|--|-------------------|--------------|-------------------|
| 10A:2-2         | Inmate accounts  | 23 N.J.R. 1992(b) | R.1991 d.494 | 23 N.J.R. 3031(a) |
| 10A:2-5         | Reporting loss of funds  | 23 N.J.R. 1510(a) | R.1991 d.373 | 23 N.J.R. 2310(a) |
| 10A:2-8         | Inmate financial aid upon release from correctional facility                               | 23 N.J.R. 1511(a) | R.1991 d.372 | 23 N.J.R. 2310(b) |
| 10A:2-9         | Gifts to correctional facilities   | 23 N.J.R. 1754(a) | R.1991 d.449 | 23 N.J.R. 2509(a) |
| 10A:3           | Security and control   | 23 N.J.R. 1259(a) | R.1991 d.503 | 23 N.J.R. 3031(b) |
| 10A:10-3        | Interstate Corrections Compact   | 23 N.J.R. 2221(a) |              |                   |
| 10A:16-12       | Inmates at risk of suicide   | 23 N.J.R. 1756(a) | R.1991 d.439 | 23 N.J.R. 2510(a) |
| 10A:16-13       | Inmate commitment for psychiatric treatment  | 23 N.J.R. 1890(a) |              |                   |
| 10A:18-1.3, 2.7 | Inspection of inmate outgoing mail   | 23 N.J.R. 1758(a) | R.1991 d.413 | 23 N.J.R. 2312(a) |
| 10A:18-2.9      | Identification of inmate outgoing correspondence   | 23 N.J.R. 2468(a) |              |                   |
| 10A:22-2.5      | Inmate and parolee records: availability of information to correctional facility personnel | 23 N.J.R. 1512(a) | R.1991 d.415 | 23 N.J.R. 2312(b) |

**Most recent update to Title 10A: TRANSMITTAL 1991-6 (supplement July 15, 1991)**

**INSURANCE—TITLE 11**

|  |  |                   |              |                   |
|--|--|-------------------|--------------|-------------------|
| 11:1-1.1                                 | Organization of the Department   | Exempt            | R.1991 d.476 | 23 N.J.R. 2862(c) |
| 11:1-6                                   | New Jersey Property-Liability Insurance Guaranty Association: assessment premium surcharge | 23 N.J.R. 823(b)  | R.1991 d.461 | 23 N.J.R. 2638(a) |
| 11:2-17.7                                | Automobile insurance: payment of PIP claims  | 23 N.J.R. 2830(a) |              |                   |
| 11:2-35                                  | Relief from insurer obligations under FAIR Act   | 23 N.J.R. 660(a)  |              |                   |
| 11:3-10.5                                | Automobile damage repair confirmation and reporting  | 22 N.J.R. 3442(b) |              |                   |
| 11:3-36.2, 36.4, 36.5, 36.6, 36.7, 36.11 | Automobile physical damage coverage inspection procedures                                  | 23 N.J.R. 1262(a) |              |                   |
| 11:3-41                                  | Association Producer Voluntary Placement Plan  | 23 N.J.R. 2275(a) |              |                   |
| 11:3-42                                  | Association Producer Assignment Program  | 23 N.J.R. 2297(a) |              |                   |
| 11:12                                    | Legal services insurance   | 23 N.J.R. 2304(a) |              |                   |
| 11:13-7                                  | Commercial lines policy forms  | 23 N.J.R. 159(a)  | R.1991 d.411 | 23 N.J.R. 2340(a) |
| 11:16-3                                  | Automobile damage repair confirmation and reporting  | 22 N.J.R. 3442(b) |              |                   |
| 11:17A-1.3                               | Licensure of insurance producers and limited insurance representatives                     | 23 N.J.R. 1912(a) |              |                   |

**Most recent update to Title 11: TRANSMITTAL 1991-7 (supplement July 15, 1991)**

**LABOR—TITLE 12**

|                                  |   |                   |              |                   |
|----------------------------------|---|-------------------|--------------|-------------------|
| 12:15-1.3, 1.4, 1.5, 1.6, 1.7    | Unemployment and temporary disability insurance: 1992 rates   | 23 N.J.R. 2611(a) |              |                   |
| 12:51                            | Vocational Rehabilitation Services: waiver of expiration provision of Executive Order No. 66(1978)              | 23 N.J.R. 1893(a) |              |                   |
| 12:55-1.4                        | Voluntary wage deductions for repayment of debts to State   | 23 N.J.R. 1660(a) | R.1991 d.447 | 23 N.J.R. 2512(a) |
| 12:55-1.4                        | Voluntary wage deductions for repayment of debts to State: administrative correction                            | _____             | _____        | 23 N.J.R. 2864(a) |
| 12:90-4.13, 6.5, 7.2, 7.16, 7.19 | Boilers, pressure vessels, and refrigeration: administrative corrections concerning inspection and license fees | _____             | _____        | 23 N.J.R. 2512(b) |

| N.J.A.C. CITATION |   | PROPOSAL NOTICE (N.J.R. CITATION) | DOCUMENT NUMBER | ADOPTION NOTICE (N.J.R.CITATION) |
|-------------------|---|-----------------------------------|-----------------|----------------------------------|
| 12:235            | Workers' Compensation system              | 23 N.J.R. 1759(a)                 | R.1991 d.466    | 23 N.J.R. 2642(a)                |
| 12:235-1.6        | Workers' Compensation: 1992 maximum rates | 23 N.J.R. 2612(a)                 |                 |                                  |

**Most recent update to Title 12: TRANSMITTAL 1991-4 (supplement June 17, 1991)**

**COMMERCE AND ECONOMIC DEVELOPMENT—TITLE 12A**

|                 |   |                   |              |                   |
|-----------------|---|-------------------|--------------|-------------------|
| 12A:10-2.9      | Minority and female businesses: subcontracting targets  | 23 N.J.R. 395(b)  |              |                   |
| 12A:12-3.4      | Tourism Matching Grants: application deadline   |                   |              | 23 N.J.R. 3032(a) |
| 12A:31-1        | Development Authority for Small Businesses, Minorities' and Women's Enterprises: micro-loan program   | 23 N.J.R. 828(a)  | R.1991 d.393 | 23 N.J.R. 2313(a) |
| 12A:31-1, 2, 3  | Development Authority for Small Businesses, Minorities' and Women's Enterprises: extension of comment period on loan programs                                   | 23 N.J.R. 1769(a) |              |                   |
| 12A:31-1, 3     | Direct Loan Program for small, minority, and women's businesses   | 23 N.J.R. 2626(a) |              |                   |
| 12A:31-2        | Development Authority: loan guarantee program   | 23 N.J.R. 830(a)  | R.1991 d.394 | 23 N.J.R. 2314(a) |
| 12A:31-2.3, 2.7 | Loan Guarantee Program for small, minority, and women's businesses: financial statements  | 23 N.J.R. 2627(a) |              |                   |
| 12A:31-3        | Development Authority: direct loans   | 23 N.J.R. 832(a)  | R.1991 d.395 | 23 N.J.R. 2315(a) |
| 12A:100-1       | Commission on Science and Technology: Innovation Partnership Grant Program  | 23 N.J.R. 1515(a) | R.1991 d.419 | 23 N.J.R. 2513(a) |
| 12A:121-1.2, 2  | Urban Enterprise Zone program: extension of 50 percent sales tax exemption to qualified municipalities  | 23 N.J.R. 1893(b) |              |                   |
| 12A:121-1.2, 2  | Urban Enterprise Zone program: public hearing and reopening of comment period regarding extension of 50 percent sales tax exemption to qualified municipalities | 23 N.J.R. 2885(a) |              |                   |

**Most recent update to Title 12A: TRANSMITTAL 1991-2 (supplement July 15, 1991)**

**LAW AND PUBLIC SAFETY—TITLE 13**

|                        |  |                   |              |                   |
|------------------------|--|-------------------|--------------|-------------------|
| 13:14-1                | Family Leave Act rules   | 23 N.J.R. 1993(a) | R.1991 d.475 | 23 N.J.R. 2864(b) |
| 13:18-11.3, 11.4, 11.5 | Access to Division of Motor Vehicles records   | 23 N.J.R. 2857(a) |              |                   |
| 13:27-6.2-6.5          | Certified landscape architects: site planning services   | 23 N.J.R. 1516(a) |              |                   |
| 13:31-1.4              | Exempt electrical work and use of qualified journeyman electrician                                 | 23 N.J.R. 979(a)  |              |                   |
| 13:32-1.3              | Master plumbers licensing examination  | 23 N.J.R. 288(a)  | R.1991 d.482 | 23 N.J.R. 3032(b) |
| 13:32-1.8              | Licensed master plumber: scope of practice   | 23 N.J.R. 1062(a) |              |                   |
| 13:35-2.5              | Medical standards for screening and diagnostic testing offices                                     | 23 N.J.R. 2858(a) |              |                   |
| 13:35-3.6              | Bioanalytical laboratories: acceptance by director of requests for test of human material          | 23 N.J.R. 23(a)   |              |                   |
| 13:35-6.4, 6.16, 6.17  | Corporate medical practices and Medical Board licensees  | 23 N.J.R. 161(a)  |              |                   |
| 13:35-6.4, 6.16, 6.17  | Corporate medical practices and Medical Board licensees: public hearing                            | 23 N.J.R. 1063(a) |              |                   |
| 13:35-6.7              | Practice of medicine: prescribing of amphetamines and sympathomimetic amine drugs                  | 23 N.J.R. 2248(a) |              |                   |
| 13:35-8.9, 8.17        | Hearing Aid Dispensers Examining Committee: fee schedules; licensure reinstatement fee             | 23 N.J.R. 1895(a) | R.1991 d.458 | 23 N.J.R. 2651(a) |
| 13:36-7                | Board of Mortuary Science: practice regarding persons who died of infectious or contagious disease | 23 N.J.R. 1517(a) |              |                   |
| 13:36-10               | Mortuary science licensees: continuing education   | 23 N.J.R. 1277(a) |              |                   |
| 13:38-1.2, 1.3         | Practice of optometry: permissible advertising   | 23 N.J.R. 2002(a) |              |                   |
| 13:39-5.8              | Prescriptions and medication orders transmitted by technological devices                           | 23 N.J.R. 2469(a) |              |                   |
| 13:40-7.2-7.5          | Certified landscape architects: site planning services   | 23 N.J.R. 1516(a) |              |                   |
| 13:40A                 | Board of Real Estate Appraisers rules  | 23 N.J.R. 2628(a) |              |                   |
| 13:41-4.2-4.5          | Certified landscape architects; site planning services   | 23 N.J.R. 1516(a) |              |                   |
| 13:44D-2.4             | Advisory Board of Public Movers and Warehousemen: fee schedule                                     | 23 N.J.R. 1066(b) | R.1991 d.376 | 23 N.J.R. 2316(a) |
| 13:44E-1.1             | Scope of chiropractic practice   | 23 N.J.R. 2100(a) |              |                   |
| 13:44E-2.1             | Advertising of chiropractic services   | 23 N.J.R. 389(a)  | R.1991 d.440 | 23 N.J.R. 2513(b) |
| 13:44E-2.2             | Chiropractic patient records   | 23 N.J.R. 391(a)  | R.1991 d.441 | 23 N.J.R. 2515(a) |
| 13:44E-2.3             | Chiropractic practice: insurance claim forms   | 23 N.J.R. 1279(b) |              |                   |
| 13:44E-2.4             | Chiropractor of record: responsibility for patient care  | 23 N.J.R. 1280(a) | R.1991 d.427 | 23 N.J.R. 2517(a) |
| 13:44E-2.6             | Chiropractic practice identification   | 23 N.J.R. 1896(a) |              |                   |
| 13:45B                 | Employment and personnel services  | 23 N.J.R. 2470(a) |              |                   |
| 13:51                  | Chemical breath testing  | 23 N.J.R. 2248(b) | R.1991 d.505 | 23 N.J.R. 3032(c) |
| 13:54                  | Regulation of firearms   | 23 N.J.R. 2250(a) |              |                   |
| 13:63                  | Combat Auto Theft Program  | 23 N.J.R. 981(a)  | R.1991 d.423 | 23 N.J.R. 2518(a) |
| 13:70-1.31             | Thoroughbred racing: election of horsemen's organization   | 22 N.J.R. 3450(a) |              |                   |
| 13:70-2.1              | Thoroughbred racing: "advance wagers", "delay period", "early bird wagering"                       | 23 N.J.R. 2266(a) |              |                   |

| N.J.A.C. CITATION                       |   | PROPOSAL NOTICE (N.J.R. CITATION) | DOCUMENT NUMBER | ADOPTION NOTICE (N.J.R.CITATION) |
|---|---|-----------------------------------|-----------------|----------------------------------|
| 13:70-13A.1, 13A.2, 13A.3, 13A.5, 13A.7 | Thoroughbred racing: hearings regarding license suspensions             | 23 N.J.R. 1281(a)                 | R.1991 d.379    | 23 N.J.R. 2318(a)                |
| 13:70-29.48                             | Thoroughbred racing: daily double                                       | 23 N.J.R. 2003(a)                 | R.1991 d.491    | 23 N.J.R. 3033(a)                |
| 13:70-29.55                             | Thoroughbred racing: cash-sell wagering system                          | 23 N.J.R. 2266(b)                 |                 |                                  |
| 13:70-29.57                             | Thoroughbred racing: pick-seven wager on Breeders' Cup                  | 23 N.J.R. 1769(b)                 |                 |                                  |
| 13:70-29.59                             | Thoroughbred racing: cancellation of certain wagers                     | 23 N.J.R. 2267(a)                 |                 |                                  |
| 13:70-29.60                             | Thoroughbred racing: expiration of mutuel tickets and vouchers          | 23 N.J.R. 2267(b)                 |                 |                                  |
| 13:71-3                                 | Harness racing: hearings regarding license suspensions                  | 23 N.J.R. 1282(a)                 | R.1991 d.380    | 23 N.J.R. 2319(a)                |
| 13:71-4.1                               | Harness racing: "advance wagers", "delay period", "early-bird wagering" | 23 N.J.R. 2267(c)                 |                 |                                  |
| 13:71-27.47                             | Harness racing: daily double  | 23 N.J.R. 2004(a)                 | R.1991 d.490    | 23 N.J.R. 3034(a)                |
| 13:71-27.52                             | Harness racing: cash-sell wagering system                               | 23 N.J.R. 2268(a)                 |                 |                                  |
| 13:71-27.55                             | Harness racing: pick-eight wager on Breeders' Crown                     | 23 N.J.R. 1770(a)                 |                 |                                  |
| 13:71-27.57                             | Harness racing: cancellation of certain wagers                          | 23 N.J.R. 2268(b)                 |                 |                                  |
| 13:71-27.58                             | Harness racing: expiration of mutuel tickets and vouchers               | 23 N.J.R. 2269(a)                 |                 |                                  |
| 13:75-1.7, 1.23, 1.27                   | Violent Crimes Compensation Board: victim compensation                  | 23 N.J.R. 2269(b)                 | R.1991 d.492    | 23 N.J.R. 3034(b)                |
| 13:75-1.24                              | Violent crimes compensation: transportation costs                       | 23 N.J.R. 2482(a)                 |                 |                                  |

**Most recent update to Title 13: TRANSMITTAL 1991-7 (supplement July 15, 1991)**

**PUBLIC UTILITIES—TITLE 14**

|  |  |                   |              |                   |
|--|--|-------------------|--------------|-------------------|
| 14:1   | Rules of practice of Board of Public Utilities: waiver of expiration provision of Executive Order No. 66 (1978)                                  | 23 N.J.R. 24(b)   |              |                   |
| 14:1   | Rules of practice of Board of Public Utilities   | 23 N.J.R. 2487(a) |              |                   |
| 14:5   | Electric service   | 23 N.J.R. 1519(a) |              |                   |
| 14:5A  | Nuclear generating plant decommissioning: preproposed new rules regarding periodic cost review   | 23 N.J.R. 942(a)  |              |                   |
| 14:6   | Gas service  | 23 N.J.R. 944(a)  | R.1991 d.456 | 23 N.J.R. 2652(a) |
| 14:10  | Telephone utilities  | 23 N.J.R. 2270(a) | R.1991 d.489 | 23 N.J.R. 3035(a) |
| 14:10-5  | InterLATA telecommunications carriers  | 22 N.J.R. 2887(a) | Expired      |                   |
| 14:10-6  | Alternate operator service: preproposed amendments   | 23 N.J.R. 676(b)  |              |                   |
| 14:10-6, 7, 8  | Alternate operator service; resale of telecommunications services; customer provided pay telephone service: public hearings on preproposal rules | 23 N.J.R. 946(a)  |              |                   |
| 14:10-7  | Resale of telecommunications services: preproposed new rules   | 23 N.J.R. 679(a)  |              |                   |
| 14:10-8  | Customer provided pay telephone service: preproposed new rules   | 23 N.J.R. 680(a)  |              |                   |
| 14:10-8, 9   | Purchased water and sewerage treatment adjustment clauses  | 23 N.J.R. 946(b)  |              |                   |
| 14:12  | Demand side management   | 23 N.J.R. 1283(a) |              |                   |
| 14:12-6.1  | Release of customer lists and billing information for demand-side management projects  | 23 N.J.R. 1282(b) |              |                   |
| 14:17-6.22   | Cable television: petitions for approval to curtail service  | 22 N.J.R. 2889(a) | Expired      |                   |
| 14:18-7.6, 7.7   | Cable television: telephone system information and performance   | 22 N.J.R. 2895(a) | R.1991 d.375 | 23 N.J.R. 2342(a) |
| 14:18-7.7  | Cable television: telephone system performance   | 23 N.J.R. 2273(a) |              |                   |
| 14:38-1.2, 2.1-2.3, 3.1-3.3, 4.1, 5.6, 6.2, 7.1, 7.3, 7.6, 8.1-8.4, 9.1, 9.2 | Home Energy Savings Program  | 23 N.J.R. 1069(b) |              |                   |

**Most recent update to Title 14: TRANSMITTAL 1991-6 (supplement June 17, 1991)**

**ENERGY—TITLE 14A**

|          |   |                   |  |  |
|----------|---|-------------------|--|--|
| 14A:11-2 | Reporting of energy information by home heating oil suppliers | 23 N.J.R. 2830(b) |  |  |
|----------|---|-------------------|--|--|

**Most recent update to Title 14A: TRANSMITTAL 1991-4 (supplement April 15, 1991)**

**STATE—TITLE 15**

|        |   |                   |              |                   |
|--------|---|-------------------|--------------|-------------------|
| 15:2-4 | Commercial recording: designation of agent to accept service of process | 23 N.J.R. 2483(a) |              |                   |
| 15:3   | Management of public records  | 23 N.J.R. 1912(b) | R.1991 d.452 | 23 N.J.R. 2519(a) |

**Most recent update to Title 15: TRANSMITTAL 1991-1 (supplement April 15, 1991)**

**PUBLIC ADVOCATE—TITLE 15A**

**Most recent update to Title 15A: TRANSMITTAL 1990-3 (supplement August 20, 1990)**

| N.J.A.C. CITATION              |   | PROPOSAL NOTICE (N.J.R. CITATION) | DOCUMENT NUMBER | ADOPTION NOTICE (N.J.R.CITATION) |
|--------------------------------|---|-----------------------------------|-----------------|----------------------------------|
| <b>TRANSPORTATION—TITLE 16</b> |   |                                   |                 |                                  |
| 16:4-1                         | Construction subcontracting: disadvantaged and female-owned businesses  | 22 N.J.R. 2898(a)                 | R.1991 d.477    | 23 N.J.R. 2872(a)                |
| 16:28-1.41                     | Middle Township Elementary School zone along U.S. 9, Cape May County  | 23 N.J.R. 2831(a)                 |                 |                                  |
| 16:28-1.46                     | Speed limit zone along Cuthbert Boulevard in Cherry Hill  | 23 N.J.R. 1771(a)                 | R.1991 d.435    | 23 N.J.R. 2520(a)                |
| 16:28-1.67, 1.76, 1.129        | Speed limit zones along U.S. 202 in Somerset and Morris counties, Route 15 in Morris County, and Route 12 in Hunterdon County   | 23 N.J.R. 1293(a)                 | R.1991 d.433    | 23 N.J.R. 2520(b)                |
| 16:28-1.96                     | Speed limit zones along Route 45 in Salem and Gloucester counties   | 23 N.J.R. 1772(a)                 | R.1991 d.434    | 23 N.J.R. 2521(a)                |
| 16:28A-1.28                    | No stopping or standing zone along U.S. 40 in Hamilton Township, Atlantic County  | 23 N.J.R. 2101(a)                 | R.1991 d.496    | 23 N.J.R. 3037(a)                |
| 16:28A-1.31, 1.55              | Time limit parking zones along Route 45 in Harrison Township, and no stopping or standing zones along U.S. 202 in Morris Plains | 23 N.J.R. 2484(a)                 |                 |                                  |
| 16:28A-1.41                    | No stopping or standing zones along Route 77 in Bridgeton   | 23 N.J.R. 2101(b)                 | R.1991 d.497    | 23 N.J.R. 3037(b)                |
| 16:28A-1A.1                    | No stopping or standing zones on roads under reconstruction or repair   | 23 N.J.R. 1524(a)                 | R.1991 d.398    | 23 N.J.R. 2319(b)                |
| 16:31-1.6                      | Turn prohibitions along Route 88 in Ocean County  | 23 N.J.R. 1524(b)                 | R.1991 d.399    | 23 N.J.R. 2319(c)                |
| 16:32-3.1, 3.6                 | Operation of 53-foot semitrailers in State  | 23 N.J.R. 2485(a)                 |                 |                                  |
| 16:41-2.2                      | State Highway Access Management Code  | 23 N.J.R. 1525(a)                 |                 |                                  |
| 16:41-2.2                      | State Highway Access Management Code: public hearings and correction to proposal  | 23 N.J.R. 1913(a)                 |                 |                                  |
| 16:47                          | State Highway Access Management Code  | 23 N.J.R. 1525(a)                 |                 |                                  |
| 16:47                          | State Highway Access Management Code: public hearings and correction to proposal  | 23 N.J.R. 1913(a)                 |                 |                                  |
| 16:47-App. B, E, E1, J         | State Highway Access Management Code  | 23 N.J.R. 2831(b)                 |                 |                                  |
| 16:49-App.                     | Transportation of hazardous materials: physical qualifications of drivers   | 23 N.J.R. 2102(a)                 | R.1991 d.485    | 23 N.J.R. 3037(c)                |
| 16:53D-1.1                     | Zone of Rate Freedom for regular route autobus carriers: 1992 percentage maximums   | 23 N.J.R. 2004(b)                 | R.1991 d.486    | 23 N.J.R. 3038(a)                |
| 16:74                          | NJ TRANSIT: destructive competition claims procedure for private route bus carriers   | 23 N.J.R. 1773(a)                 |                 |                                  |
| 16:79                          | NJ TRANSIT: background checks of prospective employees  | 23 N.J.R. 1775(a)                 | R.1991 d.495    | 23 N.J.R. 3038(b)                |

**Most recent update to Title 16: TRANSMITTAL 1991-7 (supplement July 15, 1991)**

|   |   |                   |              |                   |
|---|---|-------------------|--------------|-------------------|
| <b>TREASURY-GENERAL—TITLE 17</b>                  |   |                   |              |                   |
| 17:1-12.9   | County and municipality early retirement incentive program: deadline for filing participation resolutions | 23 N.J.R. 2847(a) |              |                   |
| 17:3-5.6  | Teachers' Pension and Annuity Fund: methods of payment of service credit purchases                        | 23 N.J.R. 1073(a) | R.1991 d.444 | 23 N.J.R. 2522(a) |
| 17:5-4.3  | State Police Retirement System: purchases of service credit   | 23 N.J.R. 1896(b) |              |                   |
| 17:9-4.1, 4.5                                     | State Health Benefits Program: "appointive officer"   | 23 N.J.R. 2612(b) |              |                   |
| 17:12-2.11  | Preference laws and out-of-State vendors  | 23 N.J.R. 2225(a) | R.1991 d.502 | 23 N.J.R. 3038(c) |
| 17:14-1.9   | Minority and female businesses: subcontracting targets  | 23 N.J.R. 395(b)  |              |                   |
| 17:16-20.1, 20.2, 20.4                            | State Investment Council: international government and agency obligations                                 | 23 N.J.R. 1775(b) | R.1991 d.386 | 23 N.J.R. 2344(a) |
| 17:16-36  | SIC: guaranteed income contracts  | 23 N.J.R. 1776(a) | R.1991 d.387 | 23 N.J.R. 2344(b) |
| 17:16-41.3  | SIC: U.S. common and preferred stocks and issues convertible into common stocks                           | 23 N.J.R. 1776(b) | R.1991 d.388 | 23 N.J.R. 2344(c) |
| 17:16-44.3  | SIC: common and preferred stocks and issues convertible into common stock of international corporations   | 23 N.J.R. 1777(a) | R.1991 d.389 | 23 N.J.R. 2345(a) |
| 17:16-63.6  | Common Pension Fund B: date of valuation  | 23 N.J.R. 2103(a) | R.1991 d.478 | 23 N.J.R. 2868(a) |
| 17:16-67.7, 67.8, 67.12                           | SIC: Common Pension Fund D  | 23 N.J.R. 1777(b) | R.1991 d.390 | 23 N.J.R. 2345(b) |
| 17:16-81.2  | SIC: purchase and sale of international currency  | 23 N.J.R. 1778(a) | R.1991 d.391 | 23 N.J.R. 2345(c) |
| 17:25-1.1, 1.2, 1.3, 1.5, 1.11, 1.12              | Collection of debts owed NJHEAA by employees in certain State, county, and municipal jurisdictions        | 23 N.J.R. 2226(a) |              |                   |
| 17:28-1.5, 2.4, 2.6, 2.7, 2.8, 3.2, 3.3, 3.4, 4.6 | Public Employee Charitable Fund-Raising Campaign  | 23 N.J.R. 1897(a) | R.1991 d.436 | 23 N.J.R. 2522(b) |
| 17:29-1.5, 2.3, 2.4, 2.6, 2.7, 3.2, 3.4, 4.6      | Local Public Employee Charitable Fund-Raising Campaign  | 23 N.J.R. 2228(a) | R.1991 d.493 | 23 N.J.R. 3040(a) |

| N.J.A.C. CITATION |   | PROPOSAL NOTICE (N.J.R. CITATION) | DOCUMENT NUMBER | ADOPTION NOTICE (N.J.R.CITATION) |
|-------------------|---|-----------------------------------|-----------------|----------------------------------|
| 17:32-4.7, 5      | State Development and Redevelopment Plan: negotiation and issue resolution phases of cross-acceptance | 23 N.J.R. 1778(b)                 | R.1991 d.457    | 23 N.J.R. 2654(a)                |

**Most recent update to Title 17: TRANSMITTAL 1991-6 (supplement June 17, 1991)**

**TREASURY-TAXATION—TITLE 18**

|  |   |                   |              |                   |
|--|---|-------------------|--------------|-------------------|
| 18:2-2.7   | Abatement of penalty and interest for failure to pay tax or file return | 23 N.J.R. 1899(a) |              |                   |
| 18:7-5.1, 5.10, 14.17  | Corporation Business Tax: intercompany and shareholder transactions     | 23 N.J.R. 1522(a) |              |                   |
| 18:12-5.1  | Property tax appeals: extension of time to file due to late tax bills   | 23 N.J.R. 2230(a) |              |                   |
| 18:18A   | Petroleum Gross Receipts Tax  | 22 N.J.R. 3715(a) |              |                   |
| 18:24-9.11   | Sales and Use Tax: exempt organizations carrying on trade or business   | 23 N.J.R. 2004(a) |              |                   |
| 18:24-16.6, 16.7, 16.9, 17.1-17.4  | Vending machine sales   | 23 N.J.R. 396(a)  |              |                   |
| 18:26-2.14, 2.15, 3.4, 3.10, 7.10, 8.1, 8.2, 8.3, 8.6, 8.7, 8.8, 8.9, 8.11, 8.21, 9.1, 9.3, 9.4, 9.5, 9.6, 9.10, 10.1, 10.12, 11.4, 11.8, 11.15, 11.16 | Transfer Inheritance and Estate Tax: assessment and valuation           | 23 N.J.R. 188(b)  | R.1991 d.384 | 23 N.J.R. 2320(a) |
| 18:35-1.14, 1.25   | Gross Income Tax: partnerships  | 23 N.J.R. 950(b)  |              |                   |

**Most recent update to Title 18: TRANSMITTAL 1991-5 (supplement June 17, 1991)**

**TITLE 19—OTHER AGENCIES**

|                       |   |                   |              |                   |
|-----------------------|---|-------------------|--------------|-------------------|
| 19:3A-1.3             | Hackensack Meadowlands Development Commission: petitions for rulemaking                                     | 23 N.J.R. 1917(a) |              |                   |
| 19:4-6.27, 6.29, 6.30 | Hackensack Meadowlands Development Commission: District zoning and rule changes                             | 23 N.J.R. 1917(a) |              |                   |
| 19:12                 | PERC: negotiations and impasse procedure  | 23 N.J.R. 1296(b) | R.1991 d.424 | 23 N.J.R. 2524(a) |
| 19:16                 | PERC: labor disputes in public fire and police departments  | 23 N.J.R. 1298(a) | R.1991 d.425 | 23 N.J.R. 2525(a) |
| 19:16                 | Labor disputes in public fire and police departments: preproposal regarding compulsory interest arbitration | 23 N.J.R. 2486(a) |              |                   |
| 19:25-11.12           | ELEC: fundraising through use of 900 line telephone service   | 23 N.J.R. 956(a)  |              |                   |

**Most recent update to Title 19: TRANSMITTAL 1991-3 (supplement July 15, 1991)**

**TITLE 19 SUBTITLE K—CASINO CONTROL COMMISSION/CASINO REINVESTMENT DEVELOPMENT AUTHORITY**

|  |  |                   |              |                   |
|--|--|-------------------|--------------|-------------------|
| 19:41-8.8  | Reapplication by individuals for licensure, qualification or approval after denial or revocation | 23 N.J.R. 1301(a) | R.1991 d.382 | 23 N.J.R. 2322(a) |
| 19:41-11.1   | Filing of agreements   | 22 N.J.R. 3202(a) |              |                   |
| 19:41-11.1   | Vendor registration form   | 23 N.J.R. 2486(b) |              |                   |
| 19:43-1.2  | Determination of casino service industries   | 23 N.J.R. 1963(a) |              |                   |
| 19:45-1.1, 1.2, 1.46, 1.47                             | Complimentary distribution programs  | 23 N.J.R. 1308(a) |              |                   |
| 19:45-1.1, 1.3, 1.10, 1.11, 1.12                       | Management control standards and supervisory organization tables                                 | 23 N.J.R. 1302(a) | R.1991 d.381 | 23 N.J.R. 2323(a) |
| 19:45-1.7  | Filing of licensee's financial and statistical reports   | 23 N.J.R. 2006(a) | R.1991 d.470 | 23 N.J.R. 2868(b) |
| 19:45-1.11   | Casino licensee's organization   | 23 N.J.R. 2323(a) |              |                   |
| 19:45-1.11, 1.12                                       | Implementation of red dog  | 23 N.J.R. 2231(a) |              |                   |
| 19:45-1.37, 1.39, 1.40A                                | Progressive slot jackpots and jackpots of merchandise  | 23 N.J.R. 1306(a) |              |                   |
| 19:45-1.39   | Progressive slot machine submissions   | 23 N.J.R. 28(a)   |              |                   |
| 19:46-1.6  | Destruction of gaming chips, tokens and plaques  | 23 N.J.R. 1780(a) | R.1991 d.468 | 23 N.J.R. 2869(a) |
| 19:46-1.14, 1.17, 1.19                                 | Implementation of red dog  | 23 N.J.R. 2231(a) |              |                   |
| 19:46-1.26   | Progressive slot jackpots and jackpots of merchandise  | 23 N.J.R. 1306(a) |              |                   |
| 19:46-1.27   | Density of slot machines: alternatives   | 23 N.J.R. 192(a)  |              |                   |
| 19:47-1.3, 1.6, 2.3, 3.2, 4.2, 5.1, 5.6, 7.2, 8.2, 8.3 | Optional variations in rules of table games  | 23 N.J.R. 1784(b) |              |                   |
| 19:47-2.3  | Payout odds for blackjack  | 23 N.J.R. 1781(a) |              |                   |
| 19:47-2.3, 2.7   | Payout odds and payment of blackjack   | 23 N.J.R. 1781(b) |              |                   |
| 19:47-2.3, 2.16  | Blackjack: five cards totalling 21 rule  | 23 N.J.R. 28(b)   |              |                   |
| 19:47-2.6  | Dealing "hole" card in blackjack   | 23 N.J.R. 1782(a) |              |                   |
| 19:47-2.8  | Surrender option in blackjack  | 23 N.J.R. 1783(a) |              |                   |
| 19:47-2.11   | Splitting pairs in blackjack   | 23 N.J.R. 1783(b) |              |                   |

| <b>N.J.A.C.<br/>CITATION</b> |   | <b>PROPOSAL NOTICE<br/>(N.J.R. CITATION)</b> | <b>DOCUMENT<br/>NUMBER</b> | <b>ADOPTION NOTICE<br/>(N.J.R.CITATION)</b> |
|------------------------------|---|--|----------------------------|---|
| 19:47-2.14                   | Wagering on more than one box in blackjack                | 23 N.J.R. 1784(a)                            | R.1991 d.471               | 23 N.J.R. 2869(b)                           |
| 19:47-6, 8.2                 | Implementation of red dog                                 | 23 N.J.R. 2231(a)                            |                            |   |
| 19:47-8.2, 8.3               | Rules of the games: notice of changes                     | 23 N.J.R. 2613(a)                            |                            |   |
| 19:50-3.5                    | Casino hotel alcoholic beverage control: Type V locations | 23 N.J.R. 2006(b)                            | R.1991 d.469               | 23 N.J.R. 2869(c)                           |
| 19:51-1                      | Advertising by casino licensees                           | 23 N.J.R. 2007(a)                            | R.1991 d.467               | 23 N.J.R. 2870(a)                           |

**Most recent update to Title 19K: TRANSMITTAL 1991-6 (supplement June 17, 1991)**

---

**RULEMAKING IN THIS ISSUE—Continued**

|  |                   |                           |                    |
|--|-------------------|---------------------------|--------------------|
| <b>INDEX OF RULE PROPOSALS<br/>AND ADOPTIONS .....</b> | <b>3048</b>       | <b>Adoptions .....</b>    | <b>October 24</b>  |
|  |                   | <b>December 2 issue:</b>  |                    |
|  |                   | <b>Proposals .....</b>    | <b>October 29</b>  |
|  |                   | <b>Adoptions .....</b>    | <b>November 6</b>  |
| <b>November 4 issue:</b>                               |                   | <b>December 16 issue:</b> |                    |
| <b>Adoptions .....</b>                                 | <b>October 11</b> | <b>Proposals .....</b>    | <b>November 13</b> |
| <b>November 18 issue:</b>                              |                   | <b>Adoptions .....</b>    | <b>November 20</b> |
| <b>Proposals .....</b>                                 | <b>October 17</b> |                           |                    |

## NOTES



# OFFICE OF ADMINISTRATIVE LAW PUBLICATIONS

## NEW JERSEY ADMINISTRATIVE CODE

- FULL SET (INCLUDES ALL TITLES BELOW) ..... \$1600
- INDIVIDUAL TITLES**
- 1. Administrative Law ..... \$ 70
  - 2. Agriculture ..... \$ 70
  - 3. Banking ..... \$ 70
  - 4A. Personnel (formerly Civil Service) ..... \$ 70
  - 5. Community Affairs (two volumes) ..... \$140
  - 5A. Military and Veterans' Affairs ..... \$ 70
  - 6. Education (two volumes) ..... \$140
  - 7. Environmental Protection (six volumes; includes NJPDES) ..... \$420
  - 7:14A. NJPDES Program Rules only ..... \$ 70
  - 8. Health (four volumes) ..... \$280
  - 9. Higher Education ..... \$ 70
  - 10. Human Services (four volumes) ..... \$280
  - 10A. Corrections ..... \$ 70
  - 11. Insurance (two volumes) ..... \$140
  - 12. Labor (two volumes) ..... \$140
  - 12A. Commerce, Energy and Economic Development ... \$ 70
  - 13. Law and Public Safety (four volumes; includes ABC and AGC) ..... \$280
  - 13:2,3. Alcoholic Beverage Control and Amusement Games Control only ..... \$ 70
  - 14/14A. Public Utilities/Energy ..... \$ 70
  - 15. State ..... \$ 70
  - 15A. Public Advocate ..... \$ 70
  - 16. Transportation (two volumes) ..... \$140
  - 17. Treasury-General ..... \$ 70
  - 18. Treasury-Taxation (two volumes) ..... \$140
  - 19. Expressway Authority, Hackensack Meadowlands Commission, Highway Authority, Turnpike Authority, Public Employment Relations Commission, Sports and Exposition Authority, Election Law Enforcement Commission, Economic Development Authority, Public Broadcasting Authority, Executive Commission on Ethical Standards, Atlantic County Transportation Authority (two volumes) ..... \$140

- 19K. Casino Control Commission ..... \$ 70
- Gubernatorial Executive Orders ..... \$ 70
- Full Code Index ..... \$ 70

(Prices include first year of Update Service. Thereafter, Annual Update Service, \$40 per volume. Full Set, \$750.)

### New Jersey Register (one year, 24 issues)

By second class mail, \$125

By first class mail, \$215

## NEW JERSEY ADMINISTRATIVE REPORTS

Complete set of New Jersey Administrative Reports (1982-1991). Volumes 1 through 13, hardbound, each with *Table of Cases Reported*. Plus, *Cumulative Index* binder with Topical Index, table of statutes and rules cited, and cumulative listing of cases reported ..... \$299

Volumes (1-13) may be purchased separately ..... \$35 each

**Prepayment is required**  
for all subscriptions.

Please return form with your payment to:

OAL Publications  
9 Quakerbridge Plaza  
CN 049  
Trenton, New Jersey 08625

**Name and Delivery Address:**

\_\_\_\_\_  
\_\_\_\_\_

**Billing Address, if different:**

\_\_\_\_\_  
\_\_\_\_\_

Telephone Number \_\_\_\_\_

Amount Enclosed \_\_\_\_\_

If you want multiple copies of a Title, please specify on the "Amount Enclosed" line. Example: \$140 (two copies, Title 1).